

SENATE BILL No. 177

By Committee on Commerce

2-9

1 AN ACT concerning employment security; creating the unemployment
2 compensation modernization and improvement council; providing for
3 development of a new unemployment insurance information
4 technology system; claimant tax information; website publication of
5 trust fund data; maximum benefit period; charging of employer
6 accounts for benefits paid; employer contribution rate determination
7 and schedules; abolishing the employment security interest assessment
8 fund; crediting employer accounts for fraudulent or erroneous
9 payments; transferring moneys from the state general fund to the
10 unemployment insurance trust fund for improper benefit payments;
11 services performed by petroleum landmen; lessor employment unit
12 employee leasing restrictions; relating to other unemployment trust
13 fund provisions; shared work compensation program; amending K.S.A.
14 44-758 and K.S.A. 2020 Supp. 44-703, 44-704, 44-710, 44-710a, 44-
15 710b and 44-757 and repealing the existing sections.

16

17 *Be it enacted by the Legislature of the State of Kansas:*

18 New Section 1. (a) (1) There is hereby created the unemployment
19 compensation modernization and improvement council. The council shall
20 consist of 11 members appointed as follows:

21 (A) Two members who, on account of their vocation, employment or
22 affiliations, may be classed as representative of employers, to be selected
23 by the workers compensation and employment security boards nominating
24 committee established under K.S.A. 44-551, and amendments thereto, and
25 appointed by the governor;

26 (B) two members who, on account of their vocation, employment or
27 affiliation, may be classed as representative of employees, to be selected
28 by the workers compensation and employment security boards nominating
29 committee and appointed by the governor;

30 (C) the chairpersons of the standing committees of the senate and the
31 house of representatives to which legislation pertaining to the employment
32 security law is customarily referred, appointed by the president of the
33 senate and the speaker of the house of representatives, respectively;

34 (D) two members of the senate appointed by the president of the
35 senate, one of whom is a member of the majority party and one of whom is
36 a member of the minority party;

1 (E) two members of the house of representatives appointed by the
2 speaker of the house of representatives, one of whom is a member of the
3 majority party and one of whom is a member of the minority party; and

4 (F) the secretary of labor or a designee of the secretary who has
5 administrative responsibilities with respect to the unemployment insurance
6 compensation system of the department of labor.

7 (2) In the event the governor fails to appoint a member selected by
8 the workers compensation and employment security boards nominating
9 committee, the committee may replace that selection with another, subject
10 to the same appointment requirements. Members of the council appointed
11 by the governor shall serve for a term of four years, and each term shall
12 end on the same day as the date of their original appointment. When an
13 employer representative vacancy or employee representative vacancy on
14 the council occurs, the workers compensation and employment security
15 boards nominating committee shall convene and submit a nominee to the
16 governor for appointment.

17 (3) Legislative members shall serve during the legislative session in
18 which they are appointed to the council and shall remain members of the
19 legislature in order to retain membership on the council. Vacancies of
20 legislative members during a term shall be filled in the same manner as the
21 original appointment only for the unexpired part of the term.

22 (b) Each member of the council shall be entitled to receive
23 compensation for the member's services, together with the member's travel
24 and other necessary expenses actually incurred in the performance of the
25 member's official duties, in accordance with rules and regulations adopted
26 by the council. Members' compensation and expenses shall be paid from
27 the employment security administration fund or any account of the state
28 general fund of the department of labor, as designated by the secretary.

29 (c) The members who are the chairpersons of the standing
30 committees of the senate and the house of representatives to which
31 legislation pertaining to employment security law is customarily referred
32 shall jointly call the first meeting of the council. The council shall annually
33 organize itself and select a chairperson. Six members shall constitute a
34 quorum, and the council shall act only on the affirmative vote of six
35 members. A vacancy on the council shall not impair the right of a quorum
36 to exercise all the rights and perform all the duties of the council. The
37 council shall meet as often as necessary to perform its duties.

38 (d) The council shall examine and recommend changes to the
39 unemployment compensation system to include current limitations, new
40 features and benefits, system enhancements and dynamic, accurate
41 reporting for the benefit of both employers and individuals. The council
42 shall also examine the process by which an individual files a claim for and
43 receives benefits and any changes made to that process after the effective

1 date of this section. The scope of the council's examinations and
2 recommendations shall include, but not be limited to, the following:

3 (1) The technological infrastructure used to file and process claims
4 and pay benefits and the experience of individuals and employers
5 participating in the process;

6 (2) system improvements or upgrades that will maximize
7 responsiveness for individuals and employers;

8 (3) methods for information and data sharing across agency systems
9 related to unemployment compensation to maximize efficiency;

10 (4) system improvements or upgrades relating to system integrity by
11 reporting vulnerabilities and recommended system enhancements to
12 include identity verification and protection, social security administration
13 cross-match, systematic alien verification for entitlement, incarceration
14 cross-matches, interstate connection network, internet protocol address and
15 data mining and analytics to detect and prevent fraud. Such data mining
16 and analytics shall include current and future recommendations by the
17 United States department of labor and the national association of state
18 workforce agencies, including suspicious actor repository, suspicious
19 email domains, foreign IP addresses, multi-state cross-match, identity
20 verification, fraud alert system, and other assets provided by the
21 unemployment insurance integrity center; and

22 (5) methods for synergizing user experience across multiple programs
23 administered or supervised by the secretary of labor.

24 (e) The council shall not examine the solvency of the unemployment
25 compensation fund created by K.S.A. 44-710a, and amendments thereto,
26 or changes that would either increase or reduce benefits paid from the
27 fund.

28 (f) The secretary of labor shall appoint an executive secretary of the
29 council, and the executive secretary shall attend the meetings of the
30 council. The executive secretary's duties shall include:

31 (1) Maintaining council agendas and assisting in planning meetings
32 and conferences;

33 (2) attending meetings and keeping minutes;

34 (3) receiving and screening phone calls and redirecting phone calls
35 when appropriate;

36 (4) handling and prioritizing all official outgoing or incoming regular
37 mail or electronic correspondence;

38 (5) making travel arrangements for members related to council
39 business;

40 (6) handling confidential documents and ensuring they remain secure;

41 (7) maintaining electronic and paper records and ensuring such
42 information is organized and easily accessible; and

43 (8) conducting research and preparing presentations or reports as

1 assigned by the chairperson or the secretary of labor.

2 (g) (1) The council shall only have access to records of the
3 department of labor that are necessary for the administration and duties of
4 the council. The council shall not have access to any confidential or
5 personal identifying information. The council may request that the
6 secretary of labor, any department of labor employee or any private or
7 public employer or employee with information of value to the council
8 appear before the council and testify to matters within the council's
9 purview. At least once per year, the council shall allow members of the
10 public to appear before the council to testify on any such matters.

11 (2) Not later than six months after the council's first meeting, the
12 council shall issue an initial report that, at a minimum, describes the state
13 of the process by which an individual files a claim for and receives
14 benefits under the employment security law at the time the report is issued
15 and planned improvements to the process. The council may address other
16 matters within the council's purview in the report.

17 (3) The secretary of labor shall post all testimony and other relevant
18 materials discussed, presented to or produced for the council on a publicly
19 accessible website maintained by the secretary.

20 (h) The secretary of labor shall notify the chairperson of the council
21 of any unauthorized third-party access to or acquisition of records
22 maintained by the secretary that are necessary for the administration of the
23 employment security law. The secretary shall provide the notice not more
24 than five days after the secretary discovers or is notified of the
25 unauthorized access or acquisition.

26 (i) The secretary of labor shall notify the members of the council of
27 any substantial disruption in the process by which applications for
28 determination of benefit rights and claims for benefits are filed with the
29 secretary. The council shall, in cooperation with the secretary, adopt and
30 periodically review a definition of substantial disruption for purposes of
31 this subsection.

32 (j) (1) The secretary of labor shall, with the assistance of the council:

33 (A) Develop a written strategic staffing plan to be implemented
34 whenever there is a substantial increase or a substantial decrease in the
35 number of inquiries or claims for benefits and review the plan in
36 accordance with the provisions of subsection (k);

37 (B) create, in a single place on the website maintained by the
38 secretary, a list of all points of contact by which an applicant for or a
39 recipient of unemployment compensation benefits or an employer may
40 submit inquiries related to the employment security law; and

41 (C) adopt rules and regulations creating a uniform process through
42 which an applicant for or a recipient of benefits under the employment
43 security law or an employer may submit a complaint related to the service

1 the applicant, recipient or employer received.

2 (2) In the written strategic staffing plan required under paragraph (1)
3 (A), the secretary shall include an explanation of whether and in what
4 manner the secretary will utilize:

5 (A) Department employees who do not ordinarily perform services
6 related to unemployment compensation;

7 (B) employees employed by other state agencies; and

8 (C) employees provided by private entities.

9 (k) For purposes of subsection (j)(1)(A), the secretary of labor shall
10 develop the initial written strategic staffing plan not later than six months
11 after the first meeting of the council and provide such plan to the council,
12 the president of the senate, the speaker of the house of representatives and
13 the governor. The secretary shall review the plan at least once per year. If,
14 after reviewing the plan, the secretary determines that the plan should be
15 revised, the secretary shall revise the plan. After each review of the plan as
16 provided under this subsection, the secretary shall provide the most recent
17 version of the plan to the council, the president of the senate, the speaker
18 of the house of representatives and the governor. The secretary shall post
19 the most recent version of the plan on a publicly accessible website
20 maintained by the secretary.

21 (l) The council may adopt rules and regulations as necessary to
22 implement the provisions of this section.

23 (m) This section shall be a part of and supplemental to the
24 employment security law.

25 New Sec. 2. (a) It is the intent of the legislature that, in order to
26 accomplish the mission of collecting state employment security taxes,
27 processing unemployment insurance benefit claims and paying benefits,
28 the department of labor's information technology system shall be
29 continually developed, customized, enhanced and upgraded. The purpose
30 of this section is to ensure the state's unemployment insurance program is
31 utilizing current technology and features to protect the sensitive data
32 required in the unemployment insurance benefit and tax systems relating
33 to program integrity, system efficiency and customer service experience.

34 (b) The legislature finds that, as a result of the vulnerabilities exposed
35 in the legacy unemployment insurance system by the COVID-19 pandemic
36 unemployment insurance crisis, a new system shall be fully designed,
37 implemented and administered by the department of labor not later than
38 December 31, 2022.

39 (c) The information technology system, technology and platform
40 shall include the following components, as defined by the unemployment
41 compensation modernization and improvement council established by
42 section 1, and amendments thereto, in consultation with the secretary:

43 (1) Component-centric architecture;

- 1 (2) configurability;
- 2 (3) results-driven customer empowerment;
- 3 (4) extensibility;
- 4 (5) reporting;
- 5 (6) adaptable and scalable platform;
- 6 (7) enterprise service bus;
- 7 (8) version control;
- 8 (9) change control;
- 9 (10) multi-speed information technology;
- 10 (11) data migration or data architecture; and
- 11 (12) legacy integration.

12 (d) The new system shall include the following features and benefits,
13 as defined by the unemployment compensation modernization and
14 improvement council established by section 1, and amendments thereto, in
15 consultation with the secretary:

- 16 (1) Benefit claims and payment management, including:
 - 17 (A) Claims management;
 - 18 (B) eligibility and payment processes;
 - 19 (C) monetary and non-monetary determinations;
 - 20 (D) overpayment and collections management;
 - 21 (E) fraud prevention; and
 - 22 (F) accounting and auditing;
- 23 (2) integrated tax management functionality, including:
 - 24 (A) Account registration;
 - 25 (B) tax and wage reports;
 - 26 (C) adjustments and payments;
 - 27 (D) delinquencies and collections; and
 - 28 (E) tax audit assignments; and
- 29 (3) tax performance systems, including:
 - 30 (A) Comprehensive appeals filing and tracking;
 - 31 (B) appeal filing and management;
 - 32 (C) hearings and decisions;
 - 33 (D) correspondence and notices;
 - 34 (E) integrated workflow;
 - 35 (F) self-service features; and
 - 36 (G) federal reporting.

37 (e) The secretary shall implement and utilize all program integrity
38 elements and guidance issued by the United States department of labor and
39 the national association of state workforce agencies, including the integrity
40 data hub, within 60 days of the issuance of such guidance. The secretary
41 shall implement and utilize the following specific program integrity
42 elements:

- 43 (1) Social security administration cross-matching for the purpose of

- 1 validating social security numbers supplied by a claimant;
- 2 (2) checking of new hire records against the national directorate of
3 new hires to verify eligibility;
- 4 (3) verification of immigration status or citizenship and confirmation
5 of benefit applicant information through the systematic alien verification
6 for entitlement program;
- 7 (4) comparison of applicant information to local, state and federal
8 prison databases through incarceration cross-matches;
- 9 (5) detection of duplicate claims by applicants filed in other states or
10 other unemployment insurance programs through utilization of the
11 interstate connection network, interstate benefits cross-match, the state
12 identification inquiry state claims and overpayment file and the interstate
13 benefits 8606 application for overpayment recoveries for Kansas claims
14 filed from a state other than Kansas;
- 15 (6) identification of internet protocol addresses linked to multiple
16 claims or to claims filed outside of the United States; and
- 17 (7) use of data mining and data analytics to detect and prevent fraud
18 when a claim is filed, and on an ongoing basis throughout the lifecycle of a
19 claim, by using current and future functionalities to include suspicious
20 actor repository, suspicious email domains, foreign internet protocol
21 addresses, multi-state cross-match, identity verification, fraud alert
22 systems and other assets provided by the unemployment insurance
23 integrity center.
- 24 (f) The secretary, on a scheduled basis, shall cross check new and
25 active unemployment insurance claims against the cross-check programs
26 described in subsection (e). If the secretary receives information
27 concerning an individual approved for benefits that indicates a change in
28 circumstances that may affect eligibility, the secretary shall review the
29 individual's case and act in accordance with the law.
- 30 (g) The department of labor shall have the authority to execute a
31 memorandum of understanding with any department, agency or agency
32 division for information required to be shared between agencies pursuant
33 to the provisions of this act.
- 34 (h) The secretary of labor shall adopt rules and regulations necessary
35 for the purposes of carrying out this act.
- 36 (i) The secretary of labor shall provide an annual status update and
37 progress report regarding the requirements of this section to the
38 unemployment compensation modernization and improvement council and
39 the legislative coordinating council.
- 40 (j) This section shall be a part of and supplemental to the employment
41 security law.
- 42 New Sec. 3. (a) The secretary of labor shall include information on an
43 unemployment insurance benefit claimant's initial notice of determination

1 that informs the claimant of the federal and state tax consequences of any
2 unemployment compensation benefits that the claimant may receive. This
3 information shall include an explanation regarding the department of labor
4 income tax withholding agreement form designated as K-BEN 233 or a
5 successor form, tax withholding elections and the tax withholding process
6 and estimated weekly and maximum claim year federal and state tax
7 withholding amounts.

8 (b) This section shall be a part of and supplemental to the
9 employment security law.

10 New Sec. 4. (a) The secretary of labor shall post trust fund
11 computations and data as required by subsection (b) on a publicly
12 accessible website maintained by the secretary as follows:

13 (1) The secretary shall post and maintain the computations and data
14 for each of the most recent 20 fiscal years within 90 days of the effective
15 date of this act; and

16 (2) for the fiscal year beginning on July 1, 2021, and each fiscal year
17 thereafter, the secretary shall post the trust fund computations and data for
18 the fiscal year to the website within 90 days of such fiscal year's closing
19 date.

20 (b) The computations and data to be posted shall include:

21 (1) Distributions of taxable wages by experience factor for each state
22 fiscal year including the following information:

23 (A) The rate group;

24 (B) the reserve ratio lower limit;

25 (C) the number of accounts;

26 (D) the taxable wages by fiscal year;

27 (E) a summary of active positive eligible accounts with the number of
28 accounts and fiscal year taxable wages;

29 (F) a summary of active ineligible accounts with the number of
30 accounts and fiscal year taxable wages;

31 (G) a summary of active negative accounts with the number of
32 accounts and fiscal year taxable wages; and

33 (E) a summary of terminated and inactive accounts with the number
34 of accounts and fiscal year taxable wages; and

35 (2) an average high cost benefit rate summary, including:

36 (A) The average high cost benefit rate currently in effect; and

37 (B) the benefit cost rate for the fiscal years used to calculate the
38 average high benefit cost rate.

39 (c) This section shall be a part of and supplemental to the
40 employment security law.

41 Sec. 5. K.S.A. 2020 Supp. 44-703 is hereby amended to read as
42 follows: 44-703. As used in this act, unless the context clearly requires
43 otherwise:

1 (a) (1) "Annual payroll" means the total amount of wages paid or
2 payable by an employer during the calendar year.

3 (2) "Average annual payroll" means the average of the annual
4 payrolls of any employer for the last three calendar years immediately
5 preceding the computation date as hereinafter defined if the employer has
6 been continuously subject to contributions during those three calendar
7 years and has paid some wages for employment during each of such years.
8 In determining contribution rates for the calendar year, if an employer has
9 not been continuously subject to contribution for the three calendar years
10 immediately preceding the computation date but has paid wages subject to
11 contributions during only the two calendar years immediately preceding
12 the computation date, such employer's "average annual payroll" shall be
13 the average of the payrolls for those two calendar years.

14 (3) "Total wages" means the total amount of wages paid or payable
15 by an employer during the calendar year, including that part of
16 remuneration in excess of the limitation prescribed as provided in
17 subsection (o)(1) ~~of this section~~.

18 (b) "Base period" means the first four of the last five completed
19 calendar quarters immediately preceding the first day of an individual's
20 benefit year, except that the base period in respect to combined wage
21 claims means the base period as defined in the law of the paying state.

22 (1) If an individual lacks sufficient base period wages in order to
23 establish a benefit year in the manner set forth above and satisfies the
24 requirements of ~~subsection (g) of K.S.A. 44-705(g) and subsection (hh) of~~
25 K.S.A. 44-703(hh), and amendments thereto, the claimant shall have an
26 alternative base period substituted for the current base period so as not to
27 prevent establishment of a valid claim. For the purposes of this subsection,
28 "alternative base period" means the last four completed quarters
29 immediately preceding the date the qualifying injury occurred. In the event
30 the wages in the alternative base period have been used on a prior claim,
31 then they shall be excluded from the new alternative base period.

32 (2) For the purposes of this chapter, the term "base period" includes
33 the alternative base period.

34 (c) (1) "Benefits" means the money payments payable to an
35 individual, as provided in this act, with respect to such individual's
36 unemployment.

37 (2) "Regular benefits" means benefits payable to an individual under
38 this act or under any other state law, including benefits payable to federal
39 civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85,
40 other than extended benefits.

41 (d) "Benefit year" with respect to any individual, means the period
42 beginning with the first day of the first week for which such individual
43 files a valid claim for benefits, and such benefit year shall continue for one

1 full year. In the case of a combined wage claim, the benefit year shall be
2 the benefit year of the paying state. Following the termination of a benefit
3 year, a subsequent benefit year shall commence on the first day of the first
4 week with respect to which an individual next files a claim for benefits.
5 When such filing occurs with respect to a week ~~which~~ *that* overlaps the
6 preceding benefit year, the subsequent benefit year shall commence on the
7 first day immediately following the expiration date of the preceding
8 benefit year. Any claim for benefits made in accordance with ~~subsection~~
9 ~~(a)~~ of K.S.A. 44-709(a), and amendments thereto, shall be deemed to be a
10 "valid claim" for the purposes of this subsection if the individual has been
11 paid wages for insured work as required under ~~subsection (e)~~ of K.S.A. 44-
12 705(e), and amendments thereto. Whenever a week of unemployment
13 overlaps two benefit years, such week shall, for the purpose of granting
14 waiting-period credit or benefit payment with respect thereto, be deemed
15 to be a week of unemployment within that benefit year in which the
16 greater part of such week occurs.

17 (e) "Commissioner" or "secretary" means the secretary of labor.

18 (f) (1) "Contributions" means the money payments to the state
19 employment security fund ~~which~~ *that* are required to be made by
20 employers on account of employment under K.S.A. 44-710, and
21 amendments thereto, and voluntary payments made by employers pursuant
22 to such statute.

23 (2) "Payments in lieu of contributions" means the money payments to
24 the state employment security fund from employers ~~which~~ *that* are
25 required to make or ~~which~~ *that* elect to make such payments under
26 ~~subsection (e)~~ of K.S.A. 44-710(e), and amendments thereto.

27 (g) "Employing unit" means any individual or type of organization,
28 including any partnership, association, limited liability company, agency
29 or department of the state of Kansas and political subdivisions thereof,
30 trust, estate, joint-stock company, insurance company or corporation,
31 whether domestic or foreign including nonprofit corporations, or the
32 receiver, trustee in bankruptcy, trustee or successor thereof, or the legal
33 representatives of a deceased person, ~~which~~ *that* has in its employ one or
34 more individuals performing services for it within this state. All
35 individuals performing services within this state for any employing unit
36 ~~which~~ *that* maintains two or more separate establishments within this state
37 shall be deemed to be employed by a single employing unit for all the
38 purposes of this act. Each individual employed to perform or to assist in
39 performing the work of any agent or employee of an employing unit shall
40 be deemed to be employed by such employing unit for all the purposes of
41 this act, whether such individual was hired or paid directly by such
42 employing unit or by such agent or employee, provided the employing unit
43 had actual or constructive knowledge of the employment.

1 (h) "Employer" means:

2 (1) (A) Any employing unit for which agricultural labor as defined in
3 subsection (w) ~~of this section~~ is performed and ~~which~~ during any calendar
4 quarter in either the current or preceding calendar year paid remuneration
5 in cash of \$20,000 or more to individuals employed in agricultural labor or
6 for some portion of a day in each of 20 different calendar weeks, whether
7 or not such weeks were consecutive, in either the current or the preceding
8 calendar year, employed in agricultural labor 10 or more individuals,
9 regardless of whether they were employed at the same moment of time.

10 (B) For the purpose of this subsection (h)(1), any individual who is a
11 member of a crew furnished by a crew leader to perform ~~service services~~
12 in agricultural labor for any other person shall be treated as an employee of
13 such crew leader if:

14 (i) Such crew leader holds a valid certificate of registration under the
15 federal migrant and seasonal agricultural workers protection act or
16 substantially all the members of such crew operate or maintain tractors,
17 mechanized harvesting or cropdusting equipment or any other mechanized
18 equipment, ~~which that~~ is provided by such crew leader; and

19 (ii) such individual is not in the employment of such other person
20 within the meaning of subsection (i) ~~of this section~~.

21 (C) For the purpose of this subsection (h)(1), in the case of any
22 individual who is furnished by a crew leader to perform ~~service services~~ in
23 agricultural labor for any other person and who is not treated as an
24 employee of such crew leader:

25 (i) Such other person and not the crew leader shall be treated as the
26 employer of such individual; and

27 (ii) such other person shall be treated as having paid cash
28 remuneration to such individual in an amount equal to the amount of cash
29 remuneration paid to such individual by the crew leader, either on the crew
30 leader's own behalf or on behalf of such other person, for the ~~service-~~
31 ~~services~~ in agricultural labor performed for such other person.

32 (D) For the purposes of this subsection (h)(1) "crew leader" means an
33 individual who:

34 (i) Furnishes individuals to perform ~~service services~~ in agricultural
35 labor for any other person;

36 (ii) pays, either on such individual's own behalf or on behalf of such
37 other person, the individuals so furnished by such individual for the
38 ~~service services~~ in agricultural labor performed by them; and

39 (iii) has not entered into a written agreement with such other person
40 under which such individual is designated as an employee of such other
41 person.

42 (2) (A) Any employing unit ~~which that~~ for calendar year 2007 and
43 each calendar year thereafter: (i) In any calendar quarter in either the

1 current or preceding calendar year paid for ~~service~~ *services* in employment
2 wages of \$1,500 or more; (ii) for some portion of a day in each of 20
3 different calendar weeks, whether or not such weeks were consecutive, in
4 either the current or preceding calendar year, had in employment at least
5 one individual, whether or not the same individual was in employment in
6 each such day; or (iii) elects to have an unemployment tax account
7 established at the time of initial registration in accordance with ~~subsection~~
8 ~~(e)~~ of K.S.A. 44-711(c), and amendments thereto.

9 (B) Employment of individuals to perform domestic service or
10 agricultural labor and wages paid for such service or labor shall not be
11 considered in determining whether an employing unit meets the criteria of
12 this subsection (h)(2).

13 (3) Any employing unit for which service is employment as defined
14 in subsection (i)(3)(E) ~~of this section~~.

15 (4) (A) Any employing unit, whether or not it is an employing unit
16 under subsection (g) ~~of this section~~, ~~which~~ *that* acquires or in any manner
17 succeeds to: (i) Substantially all of the employing enterprises,
18 organization, trade or business; or (ii) substantially all the assets, of
19 another employing unit ~~which~~ *that* at the time of such acquisition was an
20 employer subject to this act;

21 (B) any employing unit ~~which~~ *that* is controlled substantially, either
22 directly or indirectly by legally enforceable means or otherwise, by the
23 same interest or interests, whether or not such interest or interests are an
24 employing unit under subsection (g) ~~of this section~~, ~~which~~ acquires or in
25 any manner succeeds to a portion of an employer's annual payroll, ~~which~~ is
26 less than 100% of such employer's annual payroll, and ~~which~~ intends to
27 continue the acquired portion as a going business.

28 (5) Any employing unit ~~which~~ *that* paid cash remuneration of \$1,000
29 or more in any calendar quarter in the current or preceding calendar year to
30 individuals employed in domestic service as defined in subsection (aa) ~~of~~
31 ~~this section~~.

32 (6) Any employing unit ~~which~~ *that* having become an employer
33 under this subsection (h) has not, under ~~subsection (b)~~ of K.S.A. 44-
34 711(b), and amendments thereto, ceased to be an employer subject to this
35 act.

36 (7) Any employing unit ~~which~~ *that* has elected to become fully
37 subject to this act in accordance with ~~subsection (e)~~ of K.S.A. 44-711(c),
38 and amendments thereto.

39 (8) Any employing unit not an employer by reason of any other
40 paragraph of this subsection (h), for which within either the current or
41 preceding calendar year services in employment are or were performed
42 with respect to which such employing unit is liable for any federal tax
43 against which credit may be taken for contributions required to be paid

1 into a state unemployment compensation fund; or—~~which~~ *that*, as a
2 condition for approval of this act for full tax credit against the tax imposed
3 by the federal unemployment tax act, is required, pursuant to such act, to
4 be an "employer" under this act.

5 (9) Any employing unit described in section 501(c)(3) of the federal
6 internal revenue code of 1986—~~which~~ *that* is exempt from income tax under
7 section 501(a) of the code that had four or more individuals in
8 employment for some portion of a day in each of 20 different weeks,
9 whether or not such weeks were consecutive, within either the current or
10 preceding calendar year, regardless of whether they were employed at the
11 same moment of time.

12 (i) "Employment" means:

13 (1) Subject to the other provisions of this subsection, service,
14 including ~~service~~ *services* in interstate commerce, performed by:

15 (A) Any active officer of a corporation; or

16 (B) any individual who, under the usual common law rules applicable
17 in determining the employer-employee relationship, has the status of an
18 employee subject to the provisions of subsection (i)(3)(D); or

19 (C) any individual other than an individual who is an employee under
20 subsection (i)(1)(A) or subsection (i)(1)(B) above who performs services
21 for remuneration for any person:

22 (i) As an agent-driver or commission-driver engaged in distributing
23 meat products, vegetable products, fruit products, bakery products,
24 beverages—~~(, other than milk)~~, or laundry or dry-cleaning services, for such
25 individual's principal; or

26 (ii) as a traveling or city salesman, other than as an agent-driver or
27 commission-driver, engaged upon a full-time basis in the solicitation on
28 behalf of, and the transmission to, a principal—~~(, except for side-line sales~~
29 ~~activities on behalf of some other person)~~, of orders from wholesalers,
30 retailers, contractors, or operators of hotels, restaurants, or other similar
31 establishments for merchandise for resale or supplies for use in their
32 business operations.

33 For purposes of subsection (i)(1)(C), the term "employment" shall
34 include services described in paragraphs (i) and (ii) above only if:

35 (a) The contract of service contemplates that substantially all of the
36 services are to be performed personally by such individual;

37 (b) the individual does not have a substantial investment in facilities
38 used in connection with the performance of the services—~~(, other than in~~
39 ~~facilities for transportation)~~; and

40 (c) the services are not in the nature of a single transaction that is not
41 part of a continuing relationship with the person for whom the services are
42 performed.

43 (2) The term "employment" shall include an individual's entire

1 service within the United States, even though performed entirely outside
2 this state if:

3 (A) The service is not localized in any state;

4 (B) the individual is one of a class of employees who are required to
5 travel outside this state in performance of their duties; and

6 (C) the individual's base of operations is in this state, or if there is no
7 base of operations, then the place ~~from which~~ *where* service is directed or
8 controlled is in this state.

9 (3) The term "employment" shall also include:

10 (A) Services performed within this state but not covered by the
11 provisions of subsection (i)(1) or subsection (i)(2) shall be deemed to be
12 employment subject to this act if contributions are not required and paid
13 with respect to such services under an unemployment compensation law of
14 any other state or of the federal government.

15 (B) Services performed entirely without this state, with respect to no
16 part of which contributions are required and paid under an unemployment
17 compensation law of any other state or of the federal government, shall be
18 deemed to be employment subject to this act only if the individual
19 performing such services is a resident of this state and the secretary
20 approved the election of the employing unit for whom such services are
21 performed that the entire service of such individual shall be deemed to be
22 employment subject to this act.

23 (C) Services covered by an arrangement pursuant to ~~subsection (f) of~~
24 K.S.A. 44-714(j), and amendments thereto, between the secretary and the
25 agency charged with the administration of any other state or federal
26 unemployment compensation law, pursuant to which all services
27 performed by an individual for an employing unit are deemed to be
28 performed entirely within this state, shall be deemed to be employment if
29 the secretary has approved an election of the employing unit for whom
30 such services are performed, pursuant to which the entire service of such
31 individual during the period covered by such election is deemed to be
32 insured work.

33 (D) Services performed by an individual for wages or under any
34 contract of hire shall be deemed to be employment subject to this act if the
35 business for which activities of the individual are performed retains not
36 only the right to control the end result of the activities performed, but the
37 manner and means by which the end result is accomplished.

38 (E) ~~Service~~Services performed by an individual in the employ of this
39 state or any instrumentality thereof, any political subdivision of this state
40 or any instrumentality thereof, or in the employ of an Indian tribe, as
41 defined pursuant to section 3306(u) of the federal unemployment tax act,
42 any instrumentality of more than one of the foregoing or any
43 instrumentality ~~which~~ *that* is jointly owned by this state or a political

1 subdivision thereof or Indian tribes and one or more other states or
 2 political subdivisions of this or other states, provided that such service is
 3 excluded from "employment" as defined in the federal unemployment tax
 4 act by reason of section 3306(c)(7) of that act and is not excluded from
 5 "employment" under subsection (i)(4)(A) ~~of this section~~. For purposes of
 6 this section, the exclusions from employment in subsections (i)(4)(A) and
 7 (i)(4)(L) shall also be applicable to services performed in the employ of an
 8 Indian tribe.

9 (F) ~~Service~~ *Services* performed by an individual in the employ of a
 10 religious, charitable, educational or other organization ~~which that~~ is
 11 excluded from the term "employment" as defined in the federal
 12 unemployment tax act solely by reason of section 3306(c)(8) of that act,
 13 and is not excluded from employment under ~~paragraphs (I) through (M)~~ of
 14 subsection (i)(4) *(I) through (M)*.

15 (G) The term "employment" shall include the ~~service~~ *services* of an
 16 individual who is a citizen of the United States, performed outside the
 17 United States except in Canada, in the employ of an American employer ~~;~~
 18 other than service ~~which that~~ is deemed "employment" under the
 19 provisions of subsection (i)(2) or subsection (i)(3) or the parallel
 20 provisions of another state's law), if:

21 (i) The employer's principal place of business in the United States is
 22 located in this state; or

23 (ii) the employer has no place of business in the United States, but:

24 (a) The employer is an individual who is a resident of this state;

25 (b) the employer is a corporation which is organized under the laws
 26 of this state; or

27 (c) the employer is a partnership or a trust and the number of the
 28 partners or trustees who are residents of this state is greater than the
 29 number who are residents of any other state; or

30 (iii) none of the criteria of paragraphs (i) and (ii) above of this
 31 subsection (i)(3)(G) are met but the employer has elected coverage in this
 32 state or, the employer having failed to elect coverage in any state, the
 33 individual has filed a claim for benefits, based on such service, under the
 34 law of this state.

35 (H) An "American employer," for purposes of subsection (i)(3)(G),
 36 means a person who is:

37 (i) An individual who is a resident of the United States;

38 (ii) a partnership if $\frac{2}{3}$ or more of the partners are residents of the
 39 United States;

40 (iii) a trust, if all of the trustees are residents of the United States; or

41 (iv) a corporation organized under the laws of the United States or of
 42 any state.

43 (I) Notwithstanding subsection (i)(2) ~~of this section~~, all ~~service~~

1 *services* performed by an officer or member of the crew of an American
2 vessel or American aircraft on or in connection with such vessel or aircraft,
3 if the operating office, from which the operations of such vessel or aircraft
4 operating within, or within and without, the United States are ordinarily
5 and regularly supervised, managed, directed and controlled is within this
6 state.

7 (J) Notwithstanding any other provisions of this subsection (i),
8 ~~service~~ *services* with respect to which a tax is required to be paid under
9 any federal law imposing a tax against which credit may be taken for
10 contributions required to be paid into a state unemployment compensation
11 fund or ~~which~~ *that* as a condition for full tax credit against the tax imposed
12 by the federal unemployment tax act is required to be covered under this
13 act.

14 (K) Domestic service in a private home, local college club or local
15 chapter of a college fraternity or sorority performed for a person who paid
16 cash remuneration of \$1,000 or more in any calendar quarter in the current
17 calendar year or the preceding calendar year to individuals employed in
18 such domestic service.

19 (4) The term "employment" shall not include: (A) ~~Service~~ *Services*
20 performed in the employ of an employer specified in subsection (h)(3) ~~of~~
21 ~~this section~~ if such service is performed by an individual in the exercise of
22 duties:

23 (i) As an elected official;

24 (ii) as a member of a legislative body, or a member of the judiciary, of
25 a state, political subdivision or of an Indian tribe;

26 (iii) as a member of the state national guard or air national guard;

27 (iv) as an employee serving on a temporary basis in case of fire,
28 storm, snow, earthquake, flood or similar emergency;

29 (v) in a position ~~which~~ *that*, under or pursuant to the laws of this state
30 or tribal law, is designated as a major nontenured policymaking or
31 advisory position or as a policymaking or advisory position the
32 performance of the duties of which ordinarily does not require more than
33 eight hours per week;

34 (B) ~~services~~ *services* with respect to which unemployment
35 compensation is payable under an unemployment compensation system
36 established by an act of congress;

37 (C) ~~services~~ *services* performed by an individual in the employ of such
38 individual's son, daughter or spouse, and ~~services~~ *services* performed by a
39 child under the age of 21 years in the employ of such individual's father or
40 mother;

41 (D) ~~services~~ *services* performed in the employ of the United States
42 government or an instrumentality of the United States exempt under the
43 constitution of the United States from the contributions imposed by this

1 act, except that to the extent that the congress of the United States shall
2 permit states to require any instrumentality of the United States to make
3 payments into an unemployment fund under a state unemployment
4 compensation law, all of the provisions of this act shall be applicable to
5 such instrumentalities, and to services performed for such
6 instrumentalities, in the same manner, to the same extent and on the same
7 terms as to all other employers, employing units, individuals and services.
8 If this state shall not be certified for any year by the federal security
9 agency under section 3304(c) of the federal internal revenue code of 1986,
10 the payments required of such instrumentalities with respect to such year
11 shall be refunded by the secretary from the fund in the same manner and
12 within the same period as is provided in ~~subsection (f)~~ of K.S.A. 44-
13 717(h), and amendments thereto, with respect to contributions erroneously
14 collected;

15 (E) ~~services~~services covered by an arrangement between the secretary
16 and the agency charged with the administration of any other state or
17 federal unemployment compensation law pursuant to which all services
18 performed by an individual for an employing unit during the period
19 covered by such employing unit's duly approved election, are deemed to
20 be performed entirely within the jurisdiction of such other state or federal
21 agency;

22 (F) ~~services~~services performed by an individual under the age of 18 in
23 the delivery or distribution of newspapers or shopping news, not including
24 delivery or distribution to any point for subsequent delivery or
25 distribution;

26 (G) ~~services~~services performed by an individual for an employing unit
27 as an insurance agent or as an insurance solicitor, if all such service
28 performed by such individual for such employing unit is performed for
29 remuneration solely by way of commission;

30 (H) ~~services~~services performed in any calendar quarter in the employ
31 of any organization exempt from income tax under section 501(a) of the
32 federal internal revenue code of 1986—(, other than an organization
33 described in section 401(a) or under section 521 of such code), if the
34 remuneration for such service is less than \$50. In construing the
35 application of the term "employment," if services performed during $\frac{1}{2}$ or
36 more of any pay period by an individual for the person employing such
37 individual constitute employment, all the services of such individual for
38 such period shall be deemed to be employment; but if the services
39 performed during more than $\frac{1}{2}$ of any such pay period by an individual for
40 the person employing such individual do not constitute employment, then
41 none of the services of such individual for such period shall be deemed to
42 be employment. As used in this subsection (i)(4)(H) the term "pay period"
43 means a period—(, of not more than 31 consecutive days), for which a

1 payment of remuneration is ordinarily made to the individual by the person
2 employing such individual. This subsection (i)(4)(H) shall not be
3 applicable with respect to services with respect to which unemployment
4 compensation is payable under an unemployment compensation system
5 established by an act of congress;

6 (I) services performed in the employ of a church or convention or
7 association of churches, or an organization which is operated primarily for
8 religious purposes and which is operated, supervised, controlled, or
9 principally supported by a church or convention or association of
10 churches;

11 (J) ~~services~~services performed by a duly ordained, commissioned, or
12 licensed minister of a church in the exercise of such individual's ministry
13 or by a member of a religious order in the exercise of duties required by
14 such order;

15 (K) ~~services~~services performed in a facility conducted for the purpose
16 of carrying out a program of:

17 (i) Rehabilitation for individuals whose earning capacity is impaired
18 by age or physical or mental deficiency or injury; or

19 (ii) providing remunerative work for individuals who because of their
20 impaired physical or mental capacity cannot be readily absorbed in the
21 competitive labor market, by an individual receiving such rehabilitation or
22 remunerative work;

23 (L) ~~services~~services performed as part of an employment work-relief
24 or work-training program assisted or financed in whole or in part by any
25 federal agency or an agency of a state or political subdivision thereof or of
26 an Indian tribe, by an individual receiving such work relief or work
27 training;

28 (M) ~~services~~services performed by an inmate of a custodial or
29 correctional institution;

30 (N) ~~services~~services performed, in the employ of a school, college, or
31 university, if such service is performed by a student who is enrolled and is
32 regularly attending classes at such school, college or university;

33 (O) ~~services~~services performed by an individual who is enrolled at a
34 nonprofit or public educational institution ~~which that~~ normally maintains a
35 regular faculty and curriculum and normally has a regularly organized
36 body of students in attendance at the place where its educational activities
37 are carried on as a student in a full-time program, taken for credit at such
38 institution, ~~which that~~ combines academic instruction with work
39 experience, if such service is an integral part of such program, and such
40 institution has so certified to the employer, except that this subsection (i)
41 (4)(O) shall not apply to service performed in a program established for or
42 on behalf of an employer or group of employers;

43 (P) ~~services~~services performed in the employ of a hospital licensed,

1 certified or approved by the secretary of health and environment, if such
2 service is performed by a patient of the hospital;

3 (Q) services performed as a qualified real estate agent. As used in this
4 subsection (i)(4)(Q) the term "qualified real estate agent" means any
5 individual who is licensed by the Kansas real estate commission as a
6 salesperson under the real estate brokers' and salespersons' license act and
7 for whom:

8 (i) Substantially all of the remuneration, whether or not paid in cash,
9 for the services performed by such individual as a real estate salesperson is
10 directly related to sales or other output, including the performance of
11 services, rather than to the number of hours worked; and

12 (ii) the services performed by the individual are performed pursuant
13 to a written contract between such individual and the person for whom the
14 services are performed and such contract provides that the individual will
15 not be treated as an employee with respect to such services for state tax
16 purposes;

17 (R) services performed for an employer by an extra in connection
18 with any phase of motion picture or television production or television
19 commercials for less than 14 days during any calendar year. As used in this
20 subsection, the term "extra" means an individual who pantomimes in the
21 background, adds atmosphere to the set and performs such actions without
22 speaking and "employer" shall not include any employer ~~which~~ that is a
23 governmental entity or any employer described in section 501(c)(3) of the
24 federal internal revenue code of 1986 ~~which~~ that is exempt from income
25 taxation under section 501(a) of the code;

26 (S) services performed by an oil and gas contract pumper. As used in
27 this subsection (i)(4)(S), "oil and gas contract pumper" means a person
28 performing pumping and other services on one or more oil or gas leases, or
29 on both oil and gas leases, relating to the operation and maintenance of
30 such oil and gas leases, on a contractual basis for the operators of such oil
31 and gas leases and "services" shall not include services performed for a
32 governmental entity or any organization described in section 501(c)(3) of
33 the federal internal revenue code of 1986 ~~which~~ that is exempt from
34 income taxation under section 501(a) of the code;

35 (T) service not in the course of the employer's trade or business
36 performed in any calendar quarter by an employee, unless the cash
37 remuneration paid for such service is \$200 or more and such service is
38 performed by an individual who is regularly employed by such employer
39 to perform such service. For purposes of this paragraph, an individual shall
40 be deemed to be regularly employed by an employer during a calendar
41 quarter only if:

42 (i) On each of some 24 days during such quarter such individual
43 performs for such employer for some portion of the day service not in the

1 course of the employer's trade or business; or

2 (ii) such individual was regularly employed, as determined under
3 subparagraph (i), by such employer in the performance of such service
4 during the preceding calendar quarter.

5 Such excluded service shall not include any services performed for an
6 employer ~~which~~ *that* is a governmental entity or any employer described in
7 section 501(c)(3) of the federal internal revenue code of 1986 ~~which~~ *that* is
8 exempt from income taxation under section 501(a) of the code;

9 (U) service ~~which~~ *that* is performed by any person who is a member
10 of a limited liability company and ~~which~~ *that* is performed as a member or
11 manager of that limited liability company; and

12 (V) services performed as a qualified direct seller. The term "direct
13 seller" means any person if:

14 (i) Such person:

15 (a) Is engaged in the trade or business of selling or soliciting the sale
16 of consumer products to any buyer on a buy-sell basis or a deposit-
17 commission basis for resale, by the buyer or any other person, in the home
18 or otherwise rather than in a permanent retail establishment; or

19 (b) is engaged in the trade or business of selling or soliciting the sale
20 of consumer products in the home or otherwise than in a permanent retail
21 establishment;

22 (ii) substantially all the remuneration whether or not paid in cash for
23 the performance of the services described in ~~subparagraph~~ *clause* (i) is
24 directly related to sales or other output including the performance of
25 services rather than to the number of hours worked;

26 (iii) the services performed by the person are performed pursuant to a
27 written contract between such person and the person for whom the services
28 are performed and such contract provides that the person will not be
29 treated as an employee for federal and state tax purposes;

30 (iv) for purposes of this act, a sale or a sale resulting exclusively from
31 a solicitation made by telephone, mail, or other telecommunications
32 method, or other nonpersonal method does not satisfy the requirements of
33 this subsection;

34 (W) ~~services~~ *services* performed as an election official or election
35 worker, if the amount of remuneration received by the individual during
36 the calendar year for services as an election official or election worker is
37 less than \$1,000;

38 (X) ~~services~~ *services* performed by agricultural workers who are aliens
39 admitted to the United States to perform labor pursuant to section 1101 (a)
40 (15)(H)(ii)(a) of the immigration and nationality act; ~~and~~

41 (Y) ~~services~~ *services* performed by an owner-operator of a motor
42 vehicle that is leased or contracted to a licensed motor carrier with the
43 services of a driver and is not treated under the terms of the lease

1 agreement or contract with the licensed motor carrier as an employee for
2 purposes of the federal insurance contribution act, 26 U.S.C. § 3101 et
3 seq., the federal social security act, 42 U.S.C. § 301 et seq., the federal
4 unemployment tax act, 26 U.S.C. § 3301 et seq., and the federal statutes
5 prescribing income tax withholding at the source, 26 U.S.C. § 3401 et seq.
6 Employees or agents of the owner-operator shall not be considered
7 employees of the licensed motor carrier for purposes of employment
8 security taxation or compensation. As used in this subsection (Y), the
9 following definitions apply: (i) "Motor vehicle" means any automobile,
10 truck-trailer, semitrailer, tractor, motor bus or any other self-propelled or
11 motor-driven vehicle used upon any of the public highways of Kansas for
12 the purpose of transporting persons or property; (ii) "licensed motor
13 carrier" means any person, firm, corporation or other business entity that
14 holds a certificate of convenience and necessity or a certificate of public
15 service from the state corporation commission or is required to register
16 motor carrier equipment pursuant to 49 U.S.C. § 14504; and (iii) "owner-
17 operator" means a person, firm, corporation or other business entity that is
18 the owner of a single motor vehicle that is driven exclusively by the owner
19 under a lease agreement or contract with a licensed motor carrier; and

20 *(Z) services performed by a petroleum landman on a contractual*
21 *basis. As used in this subparagraph, "petroleum landman" means an*
22 *individual performing services on a contractual basis that may include:*

23 *(i) Negotiating for the acquisition or divestiture of mineral rights;*

24 *(ii) negotiating business agreements that provide exploration for or*
25 *development of minerals;*

26 *(iii) determining ownership in minerals through the research of*
27 *public and private records;*

28 *(iv) reviewing the status of title, curing title defects, providing title*
29 *due diligence and otherwise reducing title risk associated with ownership*
30 *in minerals or the acquisition and divestiture of mineral properties;*

31 *(v) managing rights or obligations derived from ownership of*
32 *interests in minerals; or*

33 *(vi) unitizing or pooling of interests in minerals. For purposes of this*
34 *subparagraph, "minerals" includes oil, natural gas or petroleum.*

35 *"Services" does not include services performed for a governmental entity*
36 *or any organization described in section 501(c)(3) of the federal internal*
37 *revenue code of 1986 that is exempt from income taxation under section*
38 *501(a) of the code.*

39 (j) "Employment office" means any office operated by this state and
40 maintained by the secretary of labor for the purpose of assisting persons to
41 become employed.

42 (k) "Fund" means the employment security fund established by this
43 act, to which all contributions and reimbursement payments required and

1 from which all benefits provided under this act shall be paid and including
2 all money received from the federal government as reimbursements
3 pursuant to section 204 of the federal-state extended compensation act of
4 1970, and amendments thereto.

5 (l) "State" includes, in addition to the states of the United States of
6 America, any dependency of the United States, the Commonwealth of
7 Puerto Rico, the District of Columbia and the Virgin Islands.

8 (m) "Unemployment." An individual shall be deemed "unemployed"
9 with respect to any week during which such individual performs no
10 services and with respect to which no wages are payable to such
11 individual, or with respect to any week of less than full-time work if the
12 wages payable to such individual with respect to such week are less than
13 such individual's weekly benefit amount.

14 (n) "Employment security administration fund" means the fund
15 established by this act, from which administrative expenses under this act
16 shall be paid.

17 (o) "Wages" means all compensation for services, including
18 commissions, bonuses, back pay and the cash value of all remuneration,
19 including benefits, paid in any medium other than cash. The reasonable
20 cash value of remuneration in any medium other than cash, shall be
21 estimated and determined in accordance with rules and regulations
22 prescribed by the secretary. Compensation payable to an individual ~~which~~
23 *that* has not been actually received by that individual within 21 days after
24 the end of the pay period in which the compensation was earned shall be
25 considered to have been paid on the 21st day after the end of that pay
26 period. Effective January 1, 1986, gratuities, including tips received from
27 persons other than the employing unit, shall be considered wages when
28 reported in writing to the employer by the employee. Employees must
29 furnish a written statement to the employer, reporting all tips received if
30 they total \$20 or more for a calendar month whether the tips are received
31 directly from a person other than the employer or are paid over to the
32 employee by the employer. This includes amounts designated as tips by a
33 customer who uses a credit card to pay the bill. Notwithstanding the other
34 provisions of this subsection (o), wages paid in back pay awards or
35 settlements shall be allocated to the week or weeks and reported in the
36 manner as specified in the award or agreement, or, in the absence of such
37 specificity in the award or agreement, such wages shall be allocated to the
38 week or weeks in which such wages, in the judgment of the secretary,
39 would have been paid. The term "wages" ~~shall~~ *does* not include:

40 (1) That part of the remuneration ~~which~~ *that* has been paid in a
41 calendar year to an individual by an employer or such employer's
42 predecessor in excess of \$3,000 for all calendar years prior to 1972, in
43 excess of \$4,200 for the calendar years 1972 to 1977, inclusive, in excess

1 of \$6,000 for calendar years 1978 to 1982, inclusive, in excess of \$7,000
2 for the calendar year 1983, in excess of \$8,000 for the calendar years 1984
3 to 2014, inclusive, and in excess of \$12,000 with respect to employment
4 during calendar year 2015, and in excess of \$14,000 with respect to all
5 calendar years thereafter, except that if the definition of the term "wages"
6 as contained in the federal unemployment tax act is amended to include
7 remuneration paid to an individual by an employer under the federal act in
8 excess of \$8,000 for the calendar years 1984-2014, inclusive, and in
9 excess of \$12,000 with respect to employment during calendar year 2015,
10 and in excess of \$14,000 with respect to all calendar years thereafter,
11 wages shall include remuneration paid in a calendar year to an individual
12 by an employer subject to this act or such employer's predecessor with
13 respect to employment during any calendar year up to an amount equal to
14 the dollar limitation specified in the federal unemployment tax act. For the
15 purposes of this subsection (o)(1), the term "employment" shall include
16 service constituting employment under any employment security law of
17 another state or of the federal government;

18 (2) the amount of any payment~~—~~, including any amount paid by an
19 employing unit for insurance or annuities, or into a fund, to provide for
20 any such payment~~},~~ made to, or on behalf of, an employee or any of such
21 employee's dependents under a plan or system established by an employer
22 ~~which that~~ makes provisions for employees generally, for a class or classes
23 of employees or for such employees or a class or classes of employees and
24 their dependents, on account of: (A) Sickness or accident disability, except
25 in the case of any payment made to an employee or such employee's
26 dependents, this subparagraph shall exclude from the term "wages" only
27 payments~~—which that~~ are received under a workers compensation law. Any
28 third party~~—which that~~ makes a payment included as wages by reason of
29 this subparagraph (2)(A) shall be treated as the employer with respect to
30 such wages; or (B) medical and hospitalization expenses in connection
31 with sickness or accident disability; or (C) death;

32 (3) any payment on account of sickness or accident disability, or
33 medical or hospitalization expenses in connection with sickness or
34 accident disability, made by an employer to, or on behalf of, an employee
35 after the expiration of six calendar months following the last calendar
36 month in which the employee worked for such employer;

37 (4) any payment made to, or on behalf of, an employee or such
38 employee's beneficiary:

39 (A) From or to a trust described in section 401(a) of the federal
40 internal revenue code of 1986~~—which that~~ is exempt from tax under section
41 501(a) of the federal internal revenue code of 1986 at the time of such
42 payment unless such payment is made to an employee of the trust as
43 remuneration for services rendered as such employee and not as a

1 beneficiary of the trust;

2 (B) under or to an annuity plan—~~which~~ *that*, at the time of such
3 payment, is a plan described in section 403(a) of the federal internal
4 revenue code of 1986;

5 (C) under a simplified employee pension as defined in section 408(k)
6 (1) of the federal internal revenue code of 1986, other than any
7 contribution described in section 408(k)(6) of the federal internal revenue
8 code of 1986;

9 (D) under or to an annuity contract described in section 403(b) of the
10 federal internal revenue code of 1986, other than a payment for the
11 purchase of such contract—~~which~~ *that* was made by reason of a salary
12 reduction agreement whether evidenced by a written instrument or
13 otherwise;

14 (E) under or to an exempt governmental deferred compensation plan
15 as defined in section 3121(v)(3) of the federal internal revenue code of
16 1986;

17 (F) to supplement pension benefits under a plan or trust described in
18 any of the foregoing provisions of this subparagraph to take into account
19 some portion or all of the increase in the cost of living, as determined by
20 the secretary of labor, since retirement but only if such supplemental
21 payments are under a plan—~~which~~ *that* is treated as a welfare plan under
22 section 3(2)(B)(ii) of the federal employee retirement income security act
23 of 1974; or

24 (G) under a cafeteria plan within the meaning of section 125 of the
25 federal internal revenue code of 1986;

26 (5) the payment by an employing unit—(, without deduction from the
27 remuneration of the employee), of the tax imposed upon an employee
28 under section 3101 of the federal internal revenue code of 1986 with
29 respect to remuneration paid to an employee for domestic service in a
30 private home of the employer or for agricultural labor;

31 (6) remuneration paid in any medium other than cash to an employee
32 for service not in the course of the employer's trade or business;

33 (7) remuneration paid to or on behalf of an employee if and to the
34 extent that at the time of the payment of such remuneration it is reasonable
35 to believe that a corresponding deduction is allowable under section 217 of
36 the federal internal revenue code of 1986 relating to moving expenses;

37 (8) any payment or series of payments by an employer to an
38 employee or any of such employee's dependents—~~which~~ *that* is paid:

39 (A) Upon or after the termination of an employee's employment
40 relationship because of (i) death or (ii) retirement for disability; and

41 (B) under a plan established by the employer—~~which~~ *that* makes
42 provisions for employees generally, a class or classes of employees or for
43 such employees or a class or classes of employees and their dependents,

1 other than any such payment or series of payments ~~which~~ *that* would have
2 been paid if the employee's employment relationship had not been so
3 terminated;

4 (9) remuneration for agricultural labor paid in any medium other than
5 cash;

6 (10) any payment made, or benefit furnished, to or for the benefit of
7 an employee if at the time of such payment or such furnishing it is
8 reasonable to believe that the employee will be able to exclude such
9 payment or benefit from income under section 129 of the federal internal
10 revenue code of 1986 ~~which~~ *that* relates to dependent care assistance
11 programs;

12 (11) the value of any meals or lodging furnished by or on behalf of
13 the employer if at the time of such furnishing it is reasonable to believe
14 that the employee will be able to exclude such items from income under
15 section 119 of the federal internal revenue code of 1986;

16 (12) any payment made by an employer to a survivor or the estate of
17 a former employee after the calendar year in which such employee died;

18 (13) any benefit provided to or on behalf of an employee if at the time
19 such benefit is provided it is reasonable to believe that the employee will
20 be able to exclude such benefit from income under section 74(c), 117 or
21 132 of the federal internal revenue code of 1986;

22 (14) any payment made, or benefit furnished, to or for the benefit of
23 an employee, if at the time of such payment or such furnishing it is
24 reasonable to believe that the employee will be able to exclude such
25 payment or benefit from income under section 127 of the federal internal
26 revenue code of 1986 relating to educational assistance to the employee; or

27 (15) any payment made to or for the benefit of an employee if at the
28 time of such payment it is reasonable to believe that the employee will be
29 able to exclude such payment from income under section 106(d) of the
30 federal internal revenue code of 1986 relating to health savings accounts.

31 Nothing in any paragraph of subsection (o), other than paragraph (1),
32 shall exclude from the term "wages": ~~(1)~~ Any employer contribution under
33 a qualified cash or deferred arrangement, as defined in section 401(k) of
34 the federal internal revenue code of 1986, to the extent that such
35 contribution is not included in gross income by reason of section 402(a)(8)
36 of the federal internal revenue code of 1986; or ~~(2)~~ any amount treated as
37 an employer contribution under section 414(h)(2) of the federal internal
38 revenue code of 1986.

39 Any amount deferred under a nonqualified deferred compensation plan
40 shall be taken into account for purposes of this section as of the later of
41 when the services are performed or when there is no substantial risk of
42 forfeiture of the rights to such amount. Any amount taken into account as
43 wages by reason of this paragraph, and the income attributable thereto,

1 shall not thereafter be treated as wages for purposes of this section. For
2 purposes of this paragraph, the term "nonqualified deferred compensation
3 plan" means any plan or other arrangement for deferral of compensation
4 other than a plan described in subsection (o)(4).

5 (p) "Week" means such period or periods of seven consecutive
6 calendar days, as the secretary may by rules and regulations prescribe.

7 (q) "Calendar quarter" means the period of three consecutive calendar
8 months ending March 31, June 30, September 30 or December 31, or the
9 equivalent thereof as the secretary may by rules and regulations prescribe.

10 (r) "Insured work" means employment for employers.

11 (s) "Approved training" means any vocational training course or
12 course in basic education skills, including a job training program
13 authorized under the federal workforce investment act of 1998, approved
14 by the secretary or a person or persons designated by the secretary.

15 (t) "American vessel" or "American aircraft" means any vessel or
16 aircraft documented or numbered or otherwise registered under the laws of
17 the United States; and any vessel or aircraft ~~which~~ *that* is neither
18 documented or numbered or otherwise registered under the laws of the
19 United States nor documented under the laws of any foreign country, if its
20 crew performs service solely for one or more citizens or residents of the
21 United States or corporations organized under the laws of the United
22 States or of any state.

23 (u) "Institution of higher education," for the purposes of this section,
24 means an educational institution ~~which~~ *that*:

25 (1) Admits as regular students only individuals having a certificate of
26 graduation from a high school, or the recognized equivalent of such a
27 certificate;

28 (2) is legally authorized in this state to provide a program of
29 education beyond high school;

30 (3) provides an educational program for which it awards a bachelor's
31 or higher degree, or provides a program ~~which~~ *that* is acceptable for full
32 credit toward such a degree, a program of postgraduate or postdoctoral
33 studies, or a program of training to prepare students for gainful
34 employment in a recognized occupation; and

35 (4) is a public or other nonprofit institution.

36 Notwithstanding any of the foregoing provisions of this subsection (u),
37 all colleges and universities in this state are institutions of higher education
38 for purposes of this section, except that no college, university, junior
39 college or other postsecondary school or institution ~~which~~ *that* is operated
40 by the federal government or any agency thereof shall be an institution of
41 higher education for purposes of the employment security law.

42 (v) "Educational institution" means any institution of higher
43 education, as defined in subsection (u) ~~of this section~~, or any institution,

1 except private for profit institutions, in which participants, trainees or
2 students are offered an organized course of study or training designed to
3 transfer to them knowledge, skills, information, doctrines, attitudes or
4 abilities from, by or under the guidance of an instructor or teacher and
5 ~~which~~ *that* is approved, licensed or issued a permit to operate as a school
6 by the state department of education or other government agency that is
7 authorized within the state to approve, license or issue a permit for the
8 operation of a school or to an Indian tribe in the operation of an
9 educational institution. The courses of study or training—~~which~~ *that* an
10 educational institution offers may be academic, technical, trade or
11 preparation for gainful employment in a recognized occupation.

12 (w) (1) "Agricultural labor" means any remunerated service:

13 (A) On a farm, in the employ of any person, in connection with
14 cultivating the soil, or in connection with raising or harvesting any
15 agricultural or horticultural commodity, including the raising, shearing,
16 feeding, caring for, training, and management of livestock, bees, poultry,
17 and furbearing animals and wildlife.

18 (B) In the employ of the owner or tenant or other operator of a farm,
19 in connection with the operating, management, conservation,
20 improvement, or maintenance of such farm and its tools and equipment, or
21 in salvaging timber or clearing land of brush and other debris left by a
22 hurricane, if the major part of such service is performed on a farm.

23 (C) In connection with the production or harvesting of any
24 commodity defined as an agricultural commodity in section (15)(g) of the
25 agricultural marketing act, as amended—~~4~~, 46 Stat. 1500, sec. 3; 12 U.S.C. §
26 1141j), or in connection with the ginning of cotton, or in connection with
27 the operation or maintenance of ditches, canals, reservoirs or waterways,
28 not owned or operated for profit, used exclusively for supplying and
29 storing water for farming purposes.

30 (D) (i) In the employ of the operator of a farm in handling, planting,
31 drying, packing, packaging, processing, freezing, grading, storing, or
32 delivering to storage or to market or to a carrier for transportation to
33 market, in its unmanufactured state, any agricultural or horticultural
34 commodity; but only if such operator produced more than ½ of the
35 commodity with respect to which such service is performed;

36 (ii) in the employ of a group of operators of farms—~~4~~, or a cooperative
37 organization of which such operators are members), in the performance of
38 ~~service services~~ described in paragraph (i) ~~above of this subsection~~ (w)(1)
39 ~~(D)~~, but only if such operators produced more than ½ of the commodity
40 with respect to which such service is performed;

41 (iii) the provisions of paragraphs (i) and (ii) ~~above of this subsection~~
42 ~~(w)(1)(D)~~ shall not be deemed to be applicable with respect to ~~service~~
43 ~~services~~ performed in connection with commercial canning or commercial

1 freezing or in connection with any agricultural or horticultural commodity
2 after its delivery to a terminal market for distribution for consumption.

3 (E) On a farm operated for profit if such service is not in the course
4 of the employer's trade or business.

5 (2) "Agricultural labor" does not include ~~service~~ *services* performed
6 prior to January 1, 1980, by an individual who is an alien admitted to the
7 United States to perform service in agricultural labor pursuant to sections
8 214(c) and 101(a)(15)(H) of the federal immigration and nationality act.

9 (3) As used in this subsection ~~(w)~~, the term "farm" includes stock,
10 dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations,
11 ranches, nurseries, ranges, greenhouses, or other similar structures used
12 primarily for the raising of agricultural or horticultural commodities, and
13 orchards.

14 (4) For the purpose of this section, if an employing unit does not
15 maintain sufficient records to separate agricultural labor from other
16 employment, all services performed during any pay period by an
17 individual for the person employing such individual shall be deemed to be
18 agricultural labor if services performed during $\frac{1}{2}$ or more of such pay
19 period constitute agricultural labor; but if the services performed during
20 more than $\frac{1}{2}$ of any such pay period by an individual for the person
21 employing such individual do not constitute agricultural labor, then none
22 of the services of such individual for such period shall be deemed to be
23 agricultural labor. As used in this subsection ~~(w)~~, the term "pay period"
24 means a period of not more than 31 consecutive days for which a payment
25 of remuneration is ordinarily made to the individual by the person
26 employing such individual.

27 (x) "Reimbursing employer" means any employer who makes
28 payments in lieu of contributions to the employment security fund as
29 provided in ~~subsection (e)~~ of K.S.A. 44-710(e), and amendments thereto.

30 (y) "Contributing employer" means any employer other than a
31 reimbursing employer or rated governmental employer.

32 (z) "Wage combining plan" means a uniform national arrangement
33 approved by the United States secretary of labor in consultation with the
34 state unemployment compensation agencies and in which this state shall
35 participate, whereby wages earned in one or more states are transferred to
36 another state, called the "paying state," and combined with wages in the
37 paying state, if any, for the payment of benefits under the laws of the
38 paying state and as provided by an arrangement so approved by the United
39 States secretary of labor.

40 (aa) "Domestic service" means ~~any-service~~ *services* for a person in
41 the operation and maintenance of a private household, local college club or
42 local chapter of a college fraternity or sorority, as distinguished from
43 service as an employee in the pursuit of an employer's trade, occupation,

1 profession, enterprise or vocation.

2 (bb) "Rated governmental employer" means any governmental entity
3 ~~which~~ *that* elects to make payments as provided by K.S.A. 44-710d, and
4 amendments thereto.

5 (cc) "Benefit cost payments" means payments made to the
6 employment security fund by a governmental entity electing to become a
7 rated governmental employer.

8 (dd) "Successor employer" means any employer, as described in
9 subsection (h) ~~of this section~~, ~~which~~ *that* acquires or in any manner
10 succeeds to: (1) Substantially all of the employing enterprises,
11 organization, trade or business of another employer; or (2) substantially all
12 the assets of another employer.

13 (ee) "Predecessor employer" means an employer, as described in
14 subsection (h) ~~of this section~~, who has previously operated a business or
15 portion of a business with employment to which another employer has
16 succeeded.

17 (ff) "Lessor employing unit" means any independently established
18 business entity ~~which~~ *that* engages in the business of providing leased
19 employees to a client lessee.

20 (gg) "Client lessee" means any individual, organization, partnership,
21 corporation or other legal entity leasing employees from a lessor
22 employing unit.

23 (hh) "Qualifying injury" means a personal injury by accident arising
24 out of and in the course of employment within the coverage of the Kansas
25 workers compensation act, K.S.A. 44-501 et seq., and amendments
26 thereto.

27 Sec. 6. K.S.A. 2020 Supp. 44-704 is hereby amended to read as
28 follows: 44-704. (a) *Payment of benefits*. All benefits provided herein shall
29 be payable from the fund. All benefits shall be paid through the secretary
30 of labor, in accordance with such rules and regulations as the secretary
31 may adopt. Benefits based on service in employment defined in K.S.A. 44-
32 703(i)(3)(E) and (i)(3)(F), and amendments thereto, shall be payable in the
33 same amount, on the same terms and subject to the same conditions as
34 compensation payable on the basis of other service subject to this act
35 except as provided in K.S.A. 44-705(e) and 44-711(e), and amendments
36 thereto.

37 (b) *Determined weekly benefit amount*. An individual's determined
38 weekly benefit amount shall be an amount equal to 4.25% of the
39 individual's total wages for insured work paid during that calendar quarter
40 of the individual's base period that such total wages were highest, subject
41 to the following limitations:

42 (1) If an individual's determined weekly benefit amount is less than
43 the minimum weekly benefit amount, it shall be raised to such minimum

1 weekly benefit amount;

2 (2) if the individual's determined weekly benefit amount is more than
3 the maximum weekly benefit amount, it shall be reduced to the maximum
4 weekly benefit amount; and

5 (3) if the individual's determined weekly benefit amount is not a
6 multiple of \$1, it shall be reduced to the next lower multiple of \$1.

7 (c) *Maximum weekly benefit amount.* (1) For initial claims effective
8 prior to July 1, 2015, the maximum weekly benefit amount shall be
9 determined as follows: On July 1 of each year, the secretary shall
10 determine the maximum weekly benefit amount by computing 60% of the
11 average weekly wages paid to employees in insured work during the
12 previous calendar year and shall, prior to that date, announce the
13 maximum weekly benefit amount so determined, by publication in the
14 Kansas register. Such computation shall be made by dividing the gross
15 wages reported as paid for insured work during the previous calendar year
16 by the product of the average of mid-month employment during such
17 calendar year multiplied by 52. The maximum weekly benefit amount so
18 determined and announced for the twelve-month period shall apply only to
19 those claims filed in that period qualifying for maximum payment under
20 the foregoing formula. All claims qualifying for payment at the maximum
21 weekly benefit amount shall be paid at the maximum weekly benefit
22 amount in effect when the benefit year to which the claim relates was first
23 established, notwithstanding a change in the maximum benefit amount for
24 a subsequent twelve-month period. If the computed maximum weekly
25 benefit amount is not a multiple of \$1, then the computed maximum
26 weekly benefit amount shall be reduced to the next lower multiple of \$1.

27 (2) For initial claims effective on or after July 1, 2015, the maximum
28 weekly benefit amount shall be determined as follows: On July 1 of each
29 year, the secretary shall determine the maximum weekly benefit amount by
30 computing 55% of the average weekly wages paid to employees in insured
31 work during the previous calendar year, but not to be less than \$474, and
32 shall, prior to that date, announce the maximum weekly benefit amount so
33 determined by publication in the Kansas register. Such computation shall
34 be made by dividing the gross wages reported as paid for insured work
35 during the previous calendar year by the product of the average of mid-
36 month employment during such calendar year multiplied by 52. The
37 maximum weekly benefit amount so determined and announced for the
38 12-month period shall apply only to those claims filed in that period
39 qualifying for maximum payment under the foregoing formula. All claims
40 qualifying for payment at the maximum weekly benefit amount shall be
41 paid at the maximum weekly benefit amount in effect when the benefit
42 year to which the claim relates was first established, notwithstanding a
43 change in the maximum benefit amount for a subsequent 12-month period.

1 If the computed maximum weekly benefit amount is not a multiple of \$1,
2 then the computed maximum weekly benefit amount shall be reduced to
3 the next lower multiple of \$1.

4 (d) *Minimum weekly benefit amount.* The minimum weekly benefit
5 amount payable to any individual shall be 25% of the maximum weekly
6 benefit amount effective as of the beginning of the individual's benefit
7 year. If the minimum weekly benefit amount is not a multiple of \$1 it shall
8 be reduced to the next lower multiple of \$1. The minimum weekly benefit
9 amount shall apply through the benefit year, notwithstanding a change in
10 the minimum weekly benefit amount.

11 (e) All claims qualifying for payment at the maximum weekly benefit
12 amount shall be paid at the maximum weekly benefit amount in effect
13 when the benefit year to which the claim relates was first established,
14 notwithstanding a subsequent change in the maximum weekly benefit
15 amount.

16 (f) *Weekly benefit payable.* Each eligible individual who is
17 unemployed with respect to any week, except as to final payment, shall be
18 paid with respect to such week a benefit in an amount equal to such
19 individual's determined weekly benefit amount, less that part of the wage,
20 if any, payable to such individual with respect to such week that is in
21 excess of the amount that is equal to 25% of such individual's determined
22 weekly benefit amount, and if the resulting amount is not a multiple of \$1,
23 it shall be reduced to the next lower multiple of \$1.

24 (1) For the purposes of this section, remuneration received under the
25 following circumstances shall be construed as wages:

26 (A) Vacation or holiday pay that was attributable to a week that the
27 individual claimed benefits; and

28 (B) severance pay, if paid as scheduled, and all other employment
29 benefits within the employer's control, as defined in subsection (f)(3), if
30 continued as though the severance had not occurred, except as set out in
31 subsection (f)(2)(C).

32 (2) For the purposes of this section, remuneration received under the
33 following circumstances shall not be construed as wages:

34 (A) Remuneration received for services performed on a public
35 assistance work project;

36 (B) severance pay, in lieu of notice, under the provisions of public
37 law 100-379, the federal worker adjustment and retraining notification act,
38 29 U.S.C. §§ 2101 through 2109;

39 (C) all other severance pay, separation pay, bonuses, wages in lieu of
40 notice or remuneration of a similar nature that is payable after the
41 severance of the employment relationship, except as set out in subsection
42 (f)(1)(B); and

43 (D) moneys received as federal social security payments.

1 (3) For the purposes of this subsection, "employment benefits within
2 the employer's control" means benefits offered by the employer to
3 employees that are employee benefit plans as defined by section 3 of the
4 federal employee retirement income security act of 1974, as amended, 29
5 U.S.C. § 1002, and that the employer has the option to continue to provide
6 to the employee after the last day that the employee worked for that
7 employer.

8 (g) *Duration of benefits.* Any otherwise eligible individual shall be
9 entitled during any benefit year to a total amount of benefits equal to
10 whichever is the lesser of 26 times such individual's weekly benefit
11 amount, or $\frac{1}{3}$ of such individual's wages for insured work paid during such
12 individual's base period. Such total amount of benefits, if not a multiple of
13 \$1, shall be reduced to the next lower multiple of \$1.

14 (h) For the purposes of this section, wages shall be counted as "wages
15 for insured work" for benefit purposes with respect to any benefit year
16 only if such benefit year begins subsequent to the date when the
17 employing unit by whom such wages were paid has satisfied the
18 conditions of K.S.A. 44-703(h), and amendments thereto, with respect to
19 becoming an employer.

20 (i) Notwithstanding any other provisions of this section to the
21 contrary, any benefit otherwise payable for any week shall be reduced by
22 the amount of any separation, termination, severance or other similar
23 payment paid to a claimant at the time of or after the claimant's separation
24 from employment during the benefit year.

25 (1) If any payment pursuant to this subsection is paid with respect to
26 a month, then the amount deemed to be received with respect to any week
27 during such month shall be computed by multiplying such monthly
28 amount by 12 and dividing the product by 52. If there is no designation of
29 the period with respect to which payments to an individual are made under
30 this section, then an amount equal to such individual's normal weekly
31 wage shall be attributed to and deemed paid with respect to the first and
32 each succeeding week following payment of the separation pay to the
33 individual until such amount so paid is exhausted.

34 (2) If benefits for any week, when reduced as provided in this
35 subsection, result in an amount that is not a multiple of \$1, such benefits
36 shall be rounded to the next lower multiple of \$1.

37 (3) Notwithstanding the reemployment provisions of K.S.A. 44-
38 705(e), and amendments thereto, any individual whose benefit amount is
39 completely reduced under this subsection for 52 or more weeks shall, upon
40 exhaustion of the separation pay, be entitled to a new benefit year based
41 upon entitlement from the base period of the claim that was reduced.

42 (j) Except as provided in subsection (k), for weeks commencing on
43 and after January 1, 2014, *and ending before April 1, 2021*, if at the

1 beginning of the benefit year, the three-month seasonally adjusted average
2 unemployment rate for the state of Kansas is: (1) Less than 4.5%, a
3 claimant shall be eligible for a maximum of 16 weeks of benefits; (2) at
4 least 4.5% but less than 6%, a claimant shall be eligible for a maximum of
5 20 weeks of benefits; or (3) at least 6%, a claimant shall be eligible for a
6 maximum of 26 weeks of benefits.

7 (k) On and after the effective date of this act, a claimant shall be
8 eligible for a maximum of 26 weeks of benefits. A claimant who filed a
9 new claim on or after January 1, 2020, and before the effective date of this
10 act shall be eligible for a maximum of 26 weeks of benefits including the
11 number of weeks of benefits received after January 1, 2020, and before the
12 effective date of this act. This subsection shall not apply to initial claims
13 effective on and after April 1, 2021.

14 (l) *For weeks commencing on and after April 1, 2021, if at the*
15 *beginning of the benefit year, the three-month seasonally adjusted average*
16 *employment rate for the state of Kansas is: (1) Less than 5%, a claimant*
17 *shall be eligible for a maximum of 16 weeks of benefits; (2) at least 5%*
18 *but less than 6%, a claimant shall be eligible for a maximum of 20 weeks*
19 *of benefits; or (3) at least 6%, a claimant shall be eligible for a maximum*
20 *of 26 weeks of benefits.*

21 Sec. 7. K.S.A. 2020 Supp. 44-710 is hereby amended to read as
22 follows: 44-710. (a) *Payment.* Contributions shall accrue and become
23 payable by each contributing employer for each calendar year that the
24 contributing employer is subject to the employment security law with
25 respect to wages paid for employment. Such contributions shall become
26 due and be paid by each contributing employer to the secretary for the
27 employment security fund in accordance with such rules and regulations as
28 the secretary may adopt and shall not be deducted, in whole or in part,
29 from the wages of individuals in such employer's employ. In the payment
30 of any contributions, a fractional part of \$.01 shall be disregarded unless it
31 amounts to \$.005 or more, in which case it shall be increased to \$.01.
32 Should contributions for any calendar quarter be less than \$5, no payment
33 shall be required.

34 (b) *Rates and base of contributions.* (1) Except as provided in
35 paragraph (2) ~~of this subsection~~, each contributing employer shall pay
36 contributions on wages paid by the contributing employer during each
37 calendar year with respect to employment as provided in K.S.A. 44-710a,
38 and amendments thereto. Except that, notwithstanding the federal law
39 requiring the secretary of labor to annually recalculate the contribution
40 rate, for calendar years 2010, 2011, 2012, 2013 and 2014, the secretary
41 shall charge each contributing employer in rate groups 1 through 32 the
42 contribution rate in the 2010 original tax rate computation table, with
43 contributing employers in rate groups 33 through 51 being capped at a

1 5.4% contribution rate. For calendar year 2021, unemployment tax rates
2 for eligible employers shall be limited to the standard rate schedule in
3 K.S.A. 44-710a, and amendments thereto. Therefore, no additional
4 solvency adjustment shall be applied.

5 (2) (A) If the congress of the United States either amends or repeals
6 the Wagner-Peyser act, the federal unemployment tax act, the federal
7 social security act, or subtitle C of chapter 23 of the federal internal
8 revenue code of 1986, or any act or acts supplemental to or in lieu thereof,
9 or any part or parts of any such law, or if any such law, or any part or parts
10 thereof, are held invalid with the effect that appropriations of funds by
11 congress and grants thereof to the state of Kansas for the payment of costs
12 of administration of the employment security law are no longer available
13 for such purposes; or (B) if employers in Kansas subject to the payment of
14 tax under the federal unemployment tax act are granted full credit against
15 such tax for contributions or taxes paid to the secretary of labor, then, and
16 in either such case, beginning with the year that the unavailability of
17 federal appropriations and grants for such purpose occurs or that such
18 change in liability for payment of such federal tax occurs and for each year
19 thereafter, the rate of contributions of each contributing employer shall be
20 equal to the total of 0.5% and the rate of contributions as determined for
21 such contributing employer under K.S.A. 44-710a, and amendments
22 thereto. The amount of contributions that each contributing employer
23 becomes liable to pay under this paragraph (2) over the amount of
24 contributions that such contributing employer would be otherwise liable to
25 pay shall be credited to the employment security administration fund to be
26 disbursed and paid out under the same conditions and for the same
27 purposes as other moneys are authorized to be paid from the employment
28 security administration fund, except that, if the secretary determines that as
29 of the first day of January of any year there is an excess in the employment
30 security administration fund over the amount required to be disbursed
31 during such year, an amount equal to such excess as determined by the
32 secretary shall be transferred to the employment security fund.

33 (c) *Charging of benefit payments.* (1) The secretary shall maintain a
34 separate account for each contributing employer, and shall credit the
35 contributing employer's account with all the contributions paid on the
36 contributing employer's own behalf. Nothing in the employment security
37 law shall be construed to grant any employer or individuals in such
38 employer's service prior claims or rights to the amounts paid by such
39 employer into the employment security fund either on such employer's
40 own behalf or on behalf of such individuals. Benefits paid shall be charged
41 against the accounts of each base period employer in the proportion that
42 the base period wages paid to an eligible individual by each such employer
43 bears to the total wages in the base period. Benefits shall be charged to

1 contributing employers' accounts and rated governmental employers'
2 accounts upon the basis of benefits paid during each twelve-month period
3 ending on the computation date.

4 (2) (A) Benefits paid in benefit years established by valid new claims
5 shall not be charged to the account of a contributing employer or rated
6 governmental employer who is a base period employer if the examiner
7 finds that claimant was separated from the claimant's most recent
8 employment with such employer under any of the following conditions: (i)
9 Discharged for misconduct or gross misconduct connected with the
10 individual's work; (ii) leaving work voluntarily without good cause
11 attributable to the claimant's work or the employer; or (iii) discharged from
12 an employer directly impacted by COVID-19 in accordance with the
13 families first coronavirus response act, public law 116-127.

14 (B) Where base period wage credits of a contributing employer or
15 rated governmental employer represent part-time employment and the
16 claimant continues in that part-time employment with that employer
17 during the period for which benefits are paid, then that employer's account
18 shall not be charged with any part of the benefits paid if the employer
19 provides the secretary with information as required by rules and
20 regulations. For the purposes of this subsection (c)(2)(B), "part-time
21 employment" means any employment when an individual works less than
22 full-time because the individual's services are not required for the
23 customary, scheduled full-time hours prevailing at the work place or the
24 individual does not customarily work the regularly scheduled full-time
25 hours due to personal choice or circumstances.

26 (C) No contributing employer or rated governmental employer's
27 account shall be charged with any extended benefits paid in accordance
28 with the employment security law, except for weeks of unemployment
29 beginning after December 31, 1978, all contributing governmental
30 employers and governmental rated employers shall be charged an amount
31 equal to all extended benefits paid.

32 (D) No contributing employer, rated governmental employer or
33 reimbursing employer's account shall be charged for any additional
34 benefits paid during the period July 1, 2003 through June 30, 2004.

35 (E) No contributing employer or rated governmental employer's
36 account will be charged for benefits paid a claimant while pursuing an
37 approved training course as defined in K.S.A. 44-703(s), and amendments
38 thereto.

39 (F) No contributing employer or rated governmental employer's
40 account shall be charged with respect to the benefits paid to any individual
41 whose base period wages include wages for services not covered by the
42 employment security law prior to January 1, 1978, to the extent that the
43 employment security fund is reimbursed for such benefits pursuant to

1 section 121 of public law 94-566 (90 Stat. 2673).

2 (G) With respect to weeks of unemployment beginning after
3 December 31, 1977, wages for insured work shall include wages paid for
4 previously uncovered services. For the purposes of this subsection (c)(2)
5 (G), the term "previously uncovered services" means services that were
6 not covered employment, at any time during the one-year period ending
7 December 31, 1975, except to the extent that assistance under title II of the
8 federal emergency jobs and unemployment assistance act of 1974 was paid
9 on the basis of such services, and that:

10 (i) Are agricultural labor as defined in K.S.A. 44-703(w), and
11 amendments thereto, or domestic service as defined in K.S.A. 44-703(aa),
12 and amendments thereto;

13 (ii) are services performed by an employee of this state or a political
14 subdivision thereof, as provided in K.S.A. 44-703(i)(3)(E), and
15 amendments thereto; or

16 (iii) are services performed by an employee of a nonprofit educational
17 institution that is not an institution of higher education.

18 (H) No contributing employer or rated governmental employer's
19 account shall be charged with respect to their pro rata share of benefit
20 charges if such charges are of \$100 or less.

21 (I) (i) *No contributing employer, rated governmental employer or*
22 *reimbursing employer's account shall be charged for any benefits paid*
23 *beginning on March 15, 2020, through December 31, 2021.*

24 (ii) *Contributing employers, rated governmental employers and*
25 *reimbursing employers shall be held harmless for and shall not be*
26 *required to reimburse the state for claims or benefits paid that have been*
27 *identified as fraudulent by the contributing employer, rated governmental*
28 *employer or reimbursing employer and reported to the secretary, unless*
29 *the secretary determines the claims are not fraudulent or improper as*
30 *provided by K.S.A. 44-710b(b)(2)(A), and amendments thereto. The time*
31 *limitation for disputing a claim or an appeal of a claim as provided by this*
32 *section, or by any other provision of the employment security law, shall*
33 *not apply to identifications of fraud reported to the secretary for claims or*
34 *benefits paid during the period beginning on March 15, 2020, through*
35 *December 31, 2022. Contributing employers, rated governmental*
36 *employers and reimbursing employers shall be refunded or credited, in the*
37 *discretion of the employer, as provided by K.S.A. 44-710b(b), and*
38 *amendments thereto, for any claims or benefits paid that have been*
39 *reported as fraudulent.*

40 (3) An employer's account shall not be relieved of charges relating to
41 a payment that was made erroneously if the secretary determines that:

42 (A) The erroneous payment was made because the employer, or the
43 agent of the employer, was at fault for failing to respond timely or

1 adequately to a written request from the secretary for information relating
2 to the claim for unemployment compensation; and

3 (B) the employer or agent has established a pattern of failing to
4 respond timely or adequately to requests for information.

5 (C) For purposes of this paragraph:

6 (i) "Erroneous payment" means a payment that but for the failure by
7 the employer or the employer's agent with respect to the claim for
8 unemployment compensation, would not have been made; and

9 (ii) "pattern of failure" means repeated documented failure on the part
10 of the employer or the agent of the employer to respond, taking into
11 consideration the number of instances of failure in relation to the total
12 volume of requests. An employer or employer's agent failing to respond as
13 described in (c)(3)(A) shall not be determined to have engaged in a
14 "pattern of failure" if the number of such failures during the year prior to
15 such request is fewer than two, or less than 2%, of such requests,
16 whichever is greater.

17 (D) Determinations of the secretary prohibiting the relief of charges
18 pursuant to this section shall be subject to appeal or protest as other
19 determinations of the agency with respect to the charging of employer
20 accounts.

21 (E) This paragraph shall apply to erroneous payments established on
22 and after the effective date of this act.

23 (4) The examiner shall notify any base period employer whose
24 account will be charged with benefits paid following the filing of a valid
25 new claim and a determination by the examiner based on all information
26 relating to the claim contained in the records of the division of
27 employment security. Such notice shall become final and benefits charged
28 to the base period employer's account in accordance with the claim unless
29 within 10 calendar days from the date the notice was sent, the base period
30 employer requests in writing that the examiner reconsider the
31 determination and furnishes any required information in accordance with
32 the secretary's rules and regulations. In a similar manner, a notice of an
33 additional claim followed by the first payment of benefits with respect to
34 the benefit year, filed by an individual during a benefit year after a period
35 in such year during which such individual was employed, shall be given to
36 any base period employer of the individual who has requested such a
37 notice within 10 calendar days from the date the notice of the valid new
38 claim was sent to such base period employer. For purposes of this
39 subsection (c)(3), if the required information is not submitted or
40 postmarked within a response time limit of 10 days after the base period
41 employer notice was sent, the base period employer shall be deemed to
42 have waived its standing as a party to the proceedings arising from the
43 claim and shall be barred from protesting any subsequent decisions about

1 the claim by the secretary, a referee, the board of review or any court,
2 except that the base period employer's response time limit may be waived
3 or extended by the examiner or upon appeal, if timely response was
4 impossible due to excusable neglect. The examiner shall notify the
5 employer of the reconsidered determination, which shall be subject to
6 appeal or further reconsideration, in accordance with the provisions of
7 K.S.A. 44-709, and amendments thereto.

8 (5) *Time, computation and extension.* In computing the period of time
9 for a base period employer response or appeals under this section from the
10 examiner's or the special examiner's determination or from the referee's
11 decision, the day of the act, event or default from which the designated
12 period of time begins to run shall not be included. The last day of the
13 period shall be included unless it is a Saturday, Sunday or legal holiday, in
14 which event the period runs until the end of the next day that is not a
15 Saturday, Sunday or legal holiday.

16 (d) *Pooled fund.* All contributions and payments in lieu of
17 contributions and benefit cost payments to the employment security fund
18 shall be pooled and available to pay benefits to any individual entitled
19 thereto under the employment security law, regardless of the source of
20 such contributions or payments in lieu of contributions or benefit cost
21 payments.

22 (e) *Election to become reimbursing employer; payment in lieu of*
23 *contributions.* (1) Any governmental entity, Indian tribes or tribal units,
24 (subdivisions, subsidiaries or business enterprises wholly owned by such
25 Indian tribes), for which services are performed as described in K.S.A. 44-
26 703(i)(3)(E), and amendments thereto, or any nonprofit organization or
27 group of nonprofit organizations described in section 501(c)(3) of the
28 federal internal revenue code of 1986 that is exempt from income tax
29 under section 501(a) of such code, that becomes subject to the
30 employment security law may elect to become a reimbursing employer
31 under this subsection (e)(1) and agree to pay the secretary for the
32 employment security fund an amount equal to the amount of regular
33 benefits and $\frac{1}{2}$ of the extended benefits paid that are attributable to service
34 in the employ of such reimbursing employer, except that each reimbursing
35 governmental employer, Indian tribes or tribal units shall pay an amount
36 equal to the amount of regular benefits and extended benefits paid for
37 weeks of unemployment beginning after December 31, 1978, for
38 governmental employers and December 21, 2000, for Indian tribes or
39 tribal units to individuals for weeks of unemployment that begin during the
40 effective period of such election.

41 (A) Any employer identified in this subsection (e)(1) may elect to
42 become a reimbursing employer for a period encompassing not less than
43 four complete calendar years if such employer files with the secretary a

1 written notice of such election within the 30-day period immediately
2 following January 1 of any calendar year or within the 30-day period
3 immediately following the date when a determination of subjectivity to the
4 employment security law is issued, whichever occurs later.

5 (B) Any employer that makes an election to become a reimbursing
6 employer in accordance with subparagraph (A) will continue to be liable
7 for payments in lieu of contributions until such employer files with the
8 secretary a written notice terminating its election not later than 30 days
9 prior to the beginning of the calendar year for which such termination shall
10 first be effective.

11 (C) Any employer identified in this subsection (e)(1) that has
12 remained a contributing employer and has been paying contributions under
13 the employment security law for a period subsequent to January 1, 1972,
14 may change to a reimbursing employer by filing with the secretary not
15 later than 30 days prior to the beginning of any calendar year a written
16 notice of election to become a reimbursing employer. Such election shall
17 not be terminable by the employer for four complete calendar years.

18 (D) The secretary may for good cause extend the period within which
19 a notice of election, or a notice of termination, must be filed and may
20 permit an election to be retroactive but not any earlier than with respect to
21 benefits paid after January 1 of the year such election is received.

22 (E) The secretary, in accordance with such rules and regulations as
23 the secretary may adopt, shall notify each employer identified in
24 subsection (e)(1) of any determination that the secretary may make of its
25 status as an employer and of the effective date of any election that it makes
26 to become a reimbursing employer and of any termination of such
27 election. Such determinations shall be subject to reconsideration, appeal
28 and review in accordance with the provisions of K.S.A. 44-710b, and
29 amendments thereto.

30 (2) *Reimbursement reports and payments.* Payments in lieu of
31 contributions shall be made in accordance with the provisions of
32 subparagraph (A) by all reimbursing employers except the state of Kansas.
33 Each reimbursing employer shall report total wages paid during each
34 calendar quarter by filing quarterly wage reports with the secretary that
35 shall be filed by the last day of the month following the close of each
36 calendar quarter. Wage reports are deemed filed as of the date they are
37 placed in the United States mail.

38 (A) At the end of each calendar quarter, or at the end of any other
39 period as determined by the secretary, the secretary shall bill each
40 reimbursing employer, except the state of Kansas: (i) An amount to be paid
41 that is equal to the full amount of regular benefits plus $\frac{1}{2}$ of the amount of
42 extended benefits paid during such quarter or other prescribed period that
43 is attributable to service in the employ of such reimbursing employer; and

1 (ii) for weeks of unemployment beginning after December 31, 1978, each
2 reimbursing governmental employer and December 21, 2000, for Indian
3 tribes or tribal units shall be certified an amount to be paid that is equal to
4 the full amount of regular benefits and extended benefits paid during such
5 quarter or other prescribed period that is attributable to service in the
6 employ of such reimbursing governmental employer.

7 (B) Payment of any bill rendered under subparagraph (A) shall be
8 made not later than 30 days after such bill was mailed to the last known
9 address of the reimbursing employer, or otherwise was delivered to such
10 reimbursing employer, unless there has been an application for review and
11 redetermination in accordance with subparagraph (D).

12 (C) Payments made by any reimbursing employer under the
13 provisions of this subsection (e)(2) shall not be deducted or deductible, in
14 whole or in part, from the remuneration of individuals in the employ of
15 such employer.

16 (D) The amount due specified in any bill from the secretary shall be
17 conclusive on the reimbursing employer, unless, not later than 15 days
18 after the bill was mailed to the last known address of such employer, or
19 was otherwise delivered to such employer, the reimbursing employer files
20 an application for redetermination in accordance with K.S.A. 44-710b, and
21 amendments thereto.

22 (E) Past due payments of amounts certified by the secretary under
23 this section shall be subject to the same interest, penalties and actions
24 required by K.S.A. 44-717, and amendments thereto. (1) If any nonprofit
25 organization or group of nonprofit organizations described in section
26 501(c)(3) of the federal internal revenue code of 1986 or governmental
27 reimbursing employer is delinquent in making payments of amounts
28 certified by the secretary under this section, the secretary may terminate
29 such employer's election to make payments in lieu of contributions as of
30 the beginning of the next calendar year and such termination shall be
31 effective for such next calendar year and the calendar year thereafter so
32 that the termination is effective for two complete calendar years. (2)
33 Failure of the Indian tribe or tribal unit to make required payments,
34 including assessment of interest and penalty within 90 days of receipt of
35 the bill will cause the Indian tribe to lose the option to make payments in
36 lieu of contributions as described pursuant to paragraph (e)(1) for the
37 following tax year unless payment in full is received before contribution
38 rates for the next tax year are calculated. (3) Any Indian tribe that loses the
39 option to make payments in lieu of contributions due to late payment or
40 nonpayment, as described in paragraph (2), shall have such option
41 reinstated, if after a period of one year, all contributions have been made
42 on time and no contributions, payments in lieu of contributions for benefits
43 paid, penalties or interest remain outstanding.

1 (F) Failure of the Indian tribe or any tribal unit thereof to make
2 required payments, including assessments of interest and penalties, after
3 all collection activities deemed necessary by the secretary have been
4 exhausted, will cause services performed by such tribe to not be treated as
5 employment for purposes of K.S.A. 44-703(i)(3)(E), and amendments
6 thereto. If an Indian tribe fails to make payments required under this
7 section, including assessments of interest and penalties, within 90 days of
8 a final notice of delinquency, the secretary shall immediately notify the
9 United States internal revenue service and the United States department of
10 labor. The secretary may determine that any Indian tribe that loses
11 coverage pursuant to this paragraph may have services performed on
12 behalf of such tribe again deemed "employment" if all contributions,
13 payments in lieu of contributions, penalties and interest have been paid.

14 (G) In the discretion of the secretary, any employer who elects to
15 become liable for payments in lieu of contributions and any nonprofit
16 organization or group of nonprofit organizations described in section
17 501(c)(3) of the federal internal revenue code of 1986 or governmental
18 reimbursing employer or Indian tribe or tribal unit who is delinquent in
19 filing reports or in making payments of amounts certified by the secretary
20 under this section shall be required within 60 days after the effective date
21 of such election, in the case of an eligible employer so electing, or after the
22 date of notification to the delinquent employer under this subsection (e)(2)
23 (G), in the case of a delinquent employer, to execute and file with the
24 secretary a surety bond, except that the employer may elect, in lieu of a
25 surety bond, to deposit with the secretary money or securities as approved
26 by the secretary or to purchase and deliver to an escrow agent a certificate
27 of deposit to guarantee payment. The amount of the bond, deposit or
28 escrow agreement required by this subsection (e)(2)(G) shall not exceed
29 5.4% of the organization's taxable wages paid for employment by the
30 eligible employer during the four calendar quarters immediately preceding
31 the effective date of the election or the date of notification, in the case of a
32 delinquent employer. If the employer did not pay wages in each of such
33 four calendar quarters, the amount of the bond or deposit shall be as
34 determined by the secretary. Upon the failure of an employer to comply
35 with this subsection (e)(2)(G) within the time limits imposed or to
36 maintain the required bond or deposit, the secretary may terminate the
37 election of such eligible employer or delinquent employer, as the case may
38 be, to make payments in lieu of contributions, and such termination shall
39 be effective for the current and next calendar year.

40 (H) The state of Kansas shall make reimbursement payments
41 quarterly at a fiscal year rate that shall be based upon: (i) The available
42 balance in the state's reimbursing account as of December 31 of each
43 calendar year; (ii) the historical unemployment experience of all covered

1 state agencies during prior years; (iii) the estimate of total covered wages
2 to be paid during the ensuing calendar year; (iv) the applicable fiscal year
3 rate of the claims processing and auditing fee under K.S.A. 75-3798, and
4 amendments thereto; and (v) actuarial and other information furnished to
5 the secretary by the secretary of administration. In accordance with K.S.A.
6 75-3798, and amendments thereto, the claims processing and auditing fees
7 charged to state agencies shall be deducted from the amounts collected for
8 the reimbursement payments under this paragraph (H) prior to making the
9 quarterly reimbursement payments for the state of Kansas. The fiscal year
10 rate shall be expressed as a percentage of covered total wages and shall be
11 the same for all covered state agencies. The fiscal year rate for each fiscal
12 year will be certified in writing by the secretary to the secretary of
13 administration on July 15 of each year and such certified rate shall become
14 effective on the July 1 immediately following the date of certification. A
15 detailed listing of benefit charges applicable to the state's reimbursing
16 account shall be furnished quarterly by the secretary to the secretary of
17 administration and the total amount of charges deducted from previous
18 reimbursing payments made by the state. On January 1 of each year, if it is
19 determined that benefit charges exceed the amount of prior reimbursing
20 payments, an upward adjustment shall be made therefor in the fiscal year
21 rate to be certified on the ensuing July 15. If total payments exceed benefit
22 charges, all or part of the excess may be refunded, at the discretion of the
23 secretary, from the fund or retained in the fund as part of the payments that
24 may be required for the next fiscal year.

25 (3) *Allocation of benefit costs.* The reimbursing account of each
26 reimbursing employer shall be charged the full amount of regular benefits
27 and ½ of the amount of extended benefits paid except that each
28 reimbursing governmental employer's account shall be charged the full
29 amount of regular benefits and extended benefits paid for weeks of
30 unemployment beginning after December 31, 1978, to individuals whose
31 entire base period wage credits are from such employer. When benefits
32 received by an individual are based upon base period wage credits from
33 more than one employer then the reimbursing employer's or reimbursing
34 governmental employer's account shall be charged in the same ratio as
35 base period wage credits from such employer bear to the individual's total
36 base period wage credits. Notwithstanding any other provision of the
37 employment security law, no reimbursing employer's or reimbursing
38 governmental employer's account shall be charged for payments of
39 extended benefits that are wholly reimbursed to the state by the federal
40 government. Payments of unemployment compensation that are wholly
41 reimbursed to the reimbursing employer by the federal government shall
42 be charged for the purpose of such reimbursement under the federal
43 CARES act, public law 116-136.

1 (A) *Proportionate allocation (when fewer than all reimbursing base*
2 *period employers are liable)*. If benefits paid to an individual are based on
3 wages paid by one or more reimbursing employers and on wages paid by
4 one or more contributing employers or rated governmental employers, the
5 amount of benefits payable by each reimbursing employer shall be an
6 amount that bears the same ratio to the total benefits paid to the individual
7 as the total base period wages paid to the individual by such employer
8 bears to the total base period wages paid to the individual by all of such
9 individual's base period employers.

10 (B) *Proportionate allocation (when all base period employers are*
11 *reimbursing employers)*. If benefits paid to an individual are based on
12 wages paid by two or more reimbursing employers, the amount of benefits
13 payable by each such employer shall be an amount that bears the same
14 ratio to the total benefits paid to the individual as the total base period
15 wages paid to the individual by such employer bear to the total base period
16 wages paid to the individual by all of such individual's base period
17 employers.

18 (4) *Group accounts*. Two or more reimbursing employers may file a
19 joint application to the secretary for the establishment of a group account
20 for the purpose of sharing the cost of benefits paid that are attributable to
21 service in the employment of such reimbursing employers. Each such
22 application shall identify and authorize a group representative to act as the
23 group's agent for the purposes of this ~~subsection (e)(4)~~ *paragraph*. Upon
24 approval of the application, the secretary shall establish a group account
25 for such employers effective as of the beginning of the calendar quarter in
26 which the secretary receives the application and shall notify the group's
27 representative of the effective date of the account. Such account shall
28 remain in effect for not less than four years and thereafter such account
29 shall remain in effect until terminated at the discretion of the secretary or
30 upon application by the group. Upon establishment of the account, each
31 member of the group shall be liable for payments in lieu of contributions
32 with respect to each calendar quarter in the amount that bears the same
33 ratio to the total benefits paid in such quarter that are attributable to service
34 performed in the employ of all members of the group as the total wages
35 paid for service in employment by such member in such quarter bear to the
36 total wages paid during such quarter for service performed in the employ
37 of all members of the group. The secretary shall adopt such rules and
38 regulations as the secretary deems necessary with respect to applications
39 for establishment, maintenance and termination of group accounts that are
40 authorized by this ~~subsection (e)(4)~~ *paragraph*, for addition of new
41 members to, and withdrawal of active members from such accounts, and
42 for the determination of the amounts that are payable under this ~~subsection~~
43 ~~(e)(4)~~ *paragraph* by members of the group and the time and manner of

1 such payments.

2 Sec. 8. K.S.A. 2020 Supp. 44-710a is hereby amended to read as
3 follows: 44-710a. (a) *Classification of employers by the secretary.* The
4 term "employer" as used in this section refers to contributing employers.
5 The secretary shall classify employers in accordance with their actual
6 experience in the payment of contributions on their own behalf and with
7 respect to benefits charged against their accounts with a view of fixing
8 such contribution rates as will reflect such experience. If, as of the date
9 such classification of employers is made, the secretary finds that any
10 employing unit has failed to file any report required in connection
11 therewith, or has filed a report which the secretary finds incorrect or
12 insufficient, the secretary shall make an estimate of the information
13 required from such employing unit on the basis of the best evidence
14 reasonably available to the secretary at the time, and notify the employing
15 unit thereof by mail addressed to its last known address. Unless such
16 employing unit shall file the report or a corrected or sufficient report as the
17 case may be, within 15 days after the mailing of such notice, the secretary
18 shall compute such employing unit's rate of contributions on the basis of
19 such estimates, and the rate as so determined shall be subject to increase
20 but not to reduction on the basis of subsequently ascertained information.
21 The secretary shall determine the contribution rate of each employer in
22 accordance with the requirements of this section.

23 (1) *New employers.* (A) No employer will be eligible for a rate
24 computation until there have been 24 consecutive calendar months
25 immediately preceding the computation date throughout which benefits
26 could have been charged against such employer's account.

27 (B) (i) (a) ~~For the rate year 2014 and each rate year thereafter, Each~~
28 employer who is not eligible for a rate contribution shall pay contributions
29 equal to 2.7% of wages paid during each calendar year with regard to
30 employment, except such employers engaged in the construction industry
31 shall pay a rate equal to 6%.

32 (b) (1) ~~For the rate year 2015 and each rate year thereafter, An~~
33 employer who was not doing business in Kansas prior to July 1, 2014,
34 shall be eligible for either the new employer rate under subsection (a)(1)
35 (B)(i)(a) or the rate associated with the reserve ratio such employer
36 experienced in the state which such employer was formerly located, but in
37 no event less than 1% if such:

38 (A) Employer has been in operation in the other state or states for at
39 least the three years immediately preceding the date such employer
40 becomes a liable employer in Kansas;

41 (B) employer provides the authenticated account history from
42 information accumulated from operations of such employer in the other
43 state or all the other states necessary to compute a current Kansas rate; and

1 (C) employer's business operations established in Kansas are of the
 2 same nature, as defined by the North American industrial classification
 3 system, as conducted by such employer in the other state or states.

4 (2) The election authorized in subsection (a)(1)(B)(i)(b) of this
 5 section must be made in writing within 30 days after notice of Kansas
 6 liability. A rate in accordance with subsection (a)(1)(B)(i)(a) will be
 7 assigned unless a timely election has been made.

8 (3) If the election is made timely, the employer's account will receive
 9 the rate elected for the remainder of that rate year. The rate assigned for
 10 the next and subsequent years will be determined by the condition of the
 11 account on the computation date.

12 (ii) For purposes of this subsection (a), employers shall be classified
 13 by industrial activity in accordance with standard procedures as set forth in
 14 rules and regulations adopted by the secretary. Employers engaged in more
 15 than one type of industrial activity shall be classified by principal activity.
 16 All rates assigned will remain in effect for a complete calendar year. If the
 17 sale or acquisition of a new establishment would require reclassification of
 18 the employer to a different industry sector, the employer would be
 19 promptly notified, and the contribution rate applicable to the new industry
 20 sector would become effective the following January 1.

21 (C) "Computation date" means June 30 of each calendar year with
 22 respect to rates of contribution applicable to the calendar year beginning
 23 with the following January 1. In arriving at contribution rates for each
 24 calendar year, contributions paid on or before July 31 following the
 25 computation date for employment occurring on or prior to the computation
 26 date shall be considered for each contributing employer who has been
 27 subject to this act for a sufficient period of time to have such employer's
 28 rate computed under this subsection (a).

29 (2) *Eligible employers.* (A) A reserve ratio shall be computed for each
 30 eligible employer by the following method: Total benefits charged to the
 31 employer's account for all past years shall be deducted from all
 32 contributions paid by such employer for all such years. The balance,
 33 positive or negative, shall be divided by the employer's average annual
 34 payroll, and the result shall constitute the employer reserve ratio.

35 ~~(B) (i) For rate year 2015 and prior rate years, negative account~~
 36 ~~balance employers, as defined in subsection (d), shall pay contributions at~~
 37 ~~the rate of 5.4% for each calendar year.~~

38 ~~(ii) For rate year 2016 and rate years thereafter, Negative account~~
 39 ~~balance employers, as defined in subsection (d), shall pay contributions at~~
 40 ~~the rate referenced in section subsection (a)(4)(D)(ii)(B).~~

41 (C) Eligible employers, other than negative account balance
 42 employers, who do not meet the average annual payroll requirements as
 43 stated in K.S.A. 44-703(a)(2), and amendments thereto, will be issued the

1 maximum rate indicated by the maximum rate group of standard rate
 2 schedule—standard schedule 7 in subsection (a)(4)(~~D~~)(B)(ii) of this
 3 section until such employer establishes a new period of 24 consecutive
 4 calendar months immediately preceding the computation date throughout
 5 which benefits could have been charged against such employer's account
 6 by resuming the payment of wages. Contribution rates effective for each
 7 calendar year thereafter shall be determined as prescribed below.

8 (D) ~~For rate year 2015 and prior rate years, as of each computation~~
 9 ~~date, the total of the taxable wages paid during the 12-month period prior~~
 10 ~~to the computation date by all employers eligible for rate computation,~~
 11 ~~except negative account balance employers, shall be divided into 51~~
 12 ~~approximately equal parts designated in column A of schedule I as "rate~~
 13 ~~groups," except, with regard to a year in which the taxable wage base~~
 14 ~~changes. The taxable wages used in the calculation for such a year and the~~
 15 ~~following year shall be an estimate of what the taxable wages would have~~
 16 ~~been if the new taxable wage base had been in effect during the entire~~
 17 ~~twelve-month period prior to the computation date. The lowest numbered~~
 18 ~~of such rate groups shall consist of the employers with the most favorable~~
 19 ~~reserve ratios, as defined in this section, whose combined taxable wages~~
 20 ~~paid are less than 1.96% of all taxable wages paid by all eligible~~
 21 ~~employers. Each succeeding higher numbered rate group shall consist of~~
 22 ~~employers with reserve ratios that are less favorable than those of~~
 23 ~~employers in the preceding lower numbered rate groups and whose taxable~~
 24 ~~wages when combined with the taxable wages of employers in all lower~~
 25 ~~numbered rate groups equal the appropriate percentage of total taxable~~
 26 ~~wages designated in column B of schedule I. Each eligible employer, other~~
 27 ~~than a negative account balance employer, shall be assigned an experience~~
 28 ~~factor designated under column C of schedule I in accordance with the rate~~
 29 ~~group to which the employer is assigned on the basis of the employer's~~
 30 ~~reserve ratio and taxable payroll. If an employer's taxable payroll falls into~~
 31 ~~more than one rate group the employer shall be assigned the experience~~
 32 ~~factor of the lower numbered rate group. If one or more employers have~~
 33 ~~reserve ratios identical to that of the last employer included in the next~~
 34 ~~lower numbered rate group, all such employers shall be assigned the~~
 35 ~~experience factor designated to such last employer, notwithstanding the~~
 36 ~~position of their taxable payroll in column B of schedule I.~~

37 SCHEDULE I—Eligible Employers

38 Column A	Column B	Column C
39 Rate	Cumulative	Experience factor
40 group	taxable payroll	(Ratio to total wages)
41 1	Less than 1.96%	.025%
42 2	1.96% but less than 3.92	.04
43 3	3.92 but less than 5.88	.08

1	— 4	5.88 but less than 7.84	.12
2	— 5	7.84 but less than 9.80	.16
3	— 6	9.80 but less than 11.76	.20
4	— 7	11.76 but less than 13.72	.24
5	— 8	13.72 but less than 15.68	.28
6	— 9	15.68 but less than 17.64	.32
7	— 10	17.64 but less than 19.60	.36
8	— 11	19.60 but less than 21.56	.40
9	— 12	21.56 but less than 23.52	.44
10	— 13	23.52 but less than 25.48	.48
11	— 14	25.48 but less than 27.44	.52
12	— 15	27.44 but less than 29.40	.56
13	— 16	29.40 but less than 31.36	.60
14	— 17	31.36 but less than 33.32	.64
15	— 18	33.32 but less than 35.28	.68
16	— 19	35.28 but less than 37.24	.72
17	— 20	37.24 but less than 39.20	.76
18	— 21	39.20 but less than 41.16	.80
19	— 22	41.16 but less than 43.12	.84
20	— 23	43.12 but less than 45.08	.88
21	— 24	45.08 but less than 47.04	.92
22	— 25	47.04 but less than 49.00	.96
23	— 26	49.00 but less than 50.96	1.00
24	— 27	50.96 but less than 52.92	1.04
25	— 28	52.92 but less than 54.88	1.08
26	— 29	54.88 but less than 56.84	1.12
27	— 30	56.84 but less than 58.80	1.16
28	— 31	58.80 but less than 60.76	1.20
29	— 32	60.76 but less than 62.72	1.24
30	— 33	62.72 but less than 64.68	1.28
31	— 34	64.68 but less than 66.64	1.32
32	— 35	66.64 but less than 68.60	1.36
33	— 36	68.60 but less than 70.56	1.40
34	— 37	70.56 but less than 72.52	1.44
35	— 38	72.52 but less than 74.48	1.48
36	— 39	74.48 but less than 76.44	1.52
37	— 40	76.44 but less than 78.40	1.56
38	— 41	78.40 but less than 80.36	1.60
39	— 42	80.36 but less than 82.32	1.64
40	— 43	82.32 but less than 84.28	1.68
41	— 44	84.28 but less than 86.24	1.72
42	— 45	86.24 but less than 88.20	1.76
43	— 46	88.20 but less than 90.16	1.80

1	—47	90.16 but less than 92.12	1.84
2	—48	92.12 but less than 94.08	1.88
3	—49	94.08 but less than 96.04	1.92
4	—50	96.04 but less than 98.00	1.96
5	—51	98.00 and over	2.00

6 ~~(E) For rate year 2015 and prior rate years, negative account balance~~
 7 ~~employers shall, in addition to paying the rate provided for in subsection~~
 8 ~~(a)(2)(B) of this section, pay a surcharge based on the size of the~~
 9 ~~employer's negative reserve ratio, the calculation which is provided for in~~
 10 ~~subsection (a)(2) of this section. The amount of the surcharge shall be~~
 11 ~~determined from column B2 of schedule II of this section for calendar~~
 12 ~~years 2012, 2013, 2014 and from column B4 of schedule II of this section~~
 13 ~~for each calendar year after 2014. Each negative account balance employer~~
 14 ~~who does not satisfy the requirements to have an average annual payroll,~~
 15 ~~as defined by K.S.A. 44-703(a)(2), and amendments thereto, shall be~~
 16 ~~assigned a surcharge of equal to the maximum negative ratio surcharge~~
 17 ~~from column B2 of schedule II of this section for calendar years 2012,~~
 18 ~~2013 and 2014. Funds from the surcharge paid according to this subsection~~
 19 ~~(a)(2)(E), and amendments thereto, shall be used to pay principal and~~
 20 ~~interest due on funds received from the federal unemployment account~~
 21 ~~under title XII of the social security act, (42 U.S.C. §§ 1321 to 1324), in~~
 22 ~~the following manner:~~

23 ~~(i) For each calendar year 2012, 2013 and 2014, an additional 0.10%~~
 24 ~~of the taxable wages paid by all negative account balance employers with~~
 25 ~~a negative reserve ratio between 0.0% and 19.9% shall be designated an~~
 26 ~~interest assessment surcharge and paid into the employment security~~
 27 ~~interest assessment fund for the purpose of paying interest due and owing~~
 28 ~~on funds received from the federal unemployment account under title XII~~
 29 ~~of the social security act. The total surcharges assessed, including the~~
 30 ~~additional 0.10% surcharge mentioned above, on such employers are listed~~
 31 ~~in schedule II column B2. For the calendar year 2015, the surcharge rate~~
 32 ~~for negative balance employers with a negative reserve ratio between 0.0%~~
 33 ~~and 19.9% shall be as listed in schedule II column B4.~~

34 ~~(ii) For the calendar years 2012, 2013 and 2014, an additional~~
 35 ~~surcharge on negative balance employers with a negative reserve ratio of~~
 36 ~~20.0% and higher shall be designated an interest assessment surcharge and~~
 37 ~~deposited in the employment security interest assessment fund. The~~
 38 ~~additional surcharge shall be used for the purposes of paying interest due~~
 39 ~~and owing on funds received from the federal unemployment account~~
 40 ~~under title XII of the social security act. The total surcharge including the~~
 41 ~~additional surcharge on such employers is listed in schedule II column B3~~
 42 ~~of this section.~~

43 ~~(iii) For any succeeding year in which interest is due and owing on~~

1 funds received from the federal unemployment account under title XII of
2 the social security act, the secretary of labor may adjust the surcharge
3 amounts necessary to pay such interest;

4 (iv) the portion of such surcharge used for the payment of such
5 interest shall not be included in the calculation of such employers reserve
6 ratio pursuant to subsection (a)(2). The portion of such surcharge used for
7 the payment of principal shall be included in the calculation of such
8 employers reserve ratio pursuant to subsection (a)(2); and

9 (v) if the amounts collected under this subsection are in excess of the
10 amounts needed to pay interest due, the amounts in excess shall remain in
11 the employment security interest assessment fund to be used to pay interest
12 in future years. Whenever the secretary certifies all interest payments have
13 been paid pursuant to this section, any excess funds remaining in the
14 employment security interest assessment fund shall be transferred to the
15 employment security trust fund for the purpose of paying any remaining
16 principal amount due for advances described in this section. In the event
17 that the amount transferred from the employment security interest
18 assessment fund exceeds such remaining amount of principal due, the
19 balance shall be used for the purposes of the employment security trust
20 fund.

21 SCHEDULE II—Surcharge on Negative Accounts

22 Column A	23 Column B1	24 Column B2	25 Column B3	26 Column B4
27 Negative	28 Surcharge as a	29 Surcharge as a	30 Surcharge as a	31 Surcharge as a
32 Reserve	33 percent of	34 percent of	35 percent of	36 percent of
37 Ratio	38 taxable wages	39 taxable wages	40 taxable wages	41 taxable wages
28 Less than 2.0%	29 0.20%	30 0.30%	31 0.10%	32 0.10%
29 2.0% but less than 4.0	30 0.40	31 0.50	32 0.20	33 0.20
30 4.0 but less than 6.0	31 0.60	32 0.70	33 0.30	34 0.30
31 6.0 but less than 8.0	32 0.80	33 0.90	34 0.40	35 0.40
32 8.0 but less than 10.0	33 1.00	34 1.10	35 0.50	36 0.50
33 10.0 but less than 12.0	34 1.20	35 1.30	36 0.60	37 0.60
34 12.0 but less than 14.0	35 1.40	36 1.50	37 0.70	38 0.70
35 14.0 but less than 16.0	36 1.60	37 1.70	38 0.80	39 0.80
36 16.0 but less than 18.0	37 1.80	38 1.90	39 0.90	40 0.90
37 18.0 but less than 20.0	38 2.00	39 2.10	40 1.00	41 1.00
38 20.0 but less than 22.0	39 2.00	40 2.20	41 1.00	42 1.00
39 20.0 but less than 22.0	40 2.00	41 2.20	42 1.00	43 1.00

1	.....	1.10	
2	22.0 but less than 24.0.....	2.00	2.40
3	.....	1.20	
4	24.0 but less than 26.0.....	2.00	2.60
5	.....	1.30	
6	26.0 but less than 28.0.....	2.00	2.80
7	.....	1.40	
8	28.0 but less than 30.0.....	2.00	3.00
9	.....	1.50	
10	30.0 but less than 32.0.....	2.00	3.20
11	.....	1.60	
12	32.0 but less than 34.0.....	2.00	3.40
13	.....	1.70	
14	34.0 but less than 36.0.....	2.00	3.60
15	.....	1.80	
16	36.0 but less than 38.0.....	2.00	3.80
17	.....	1.90	
18	38.0 and over.....	2.00	4.00
			2.00

19 (3) *Entering and expanding employer.* (A) The secretary, as a method
 20 of providing for a reduced rate of contributions to an employer shall verify
 21 the qualifications in this statute that bear a direct relation to unemployment
 22 risk for that employer.

23 (B) If, as of the computation date, an eligible, positive balance
 24 employer's reserve ratio is significantly affected due to an increase in the
 25 employer's taxable payroll of at least 100% and such increase is
 26 attributable to a growth in employment, and not to a change in the taxable
 27 wage base from the previous year, the secretary shall assign a reduced rate
 28 of contributions for a period of three years.

29 (i) Such reduced rate of contributions shall be the new employer rate
 30 described in subsection (a)(1)(B)(i)(a), or a rate based on the employer's
 31 demonstrated risk as reflected in the employer's reserve fund ratio history.

32 (ii) To be eligible for such reduced rate, the employer must maintain a
 33 positive account balance throughout the reduced-rate period and must have
 34 an increase in account balance for each year.

35 (4) — *Planned yield.* (A) For rate year 2015 and prior rate years, the
 36 average required yield shall be determined from schedule III of this
 37 section, and the planned yield on total wages in column B of schedule III
 38 shall be determined by the reserve fund ratio in column A of schedule III.
 39 The reserve fund ratio shall be determined by dividing total assets in the
 40 employment security fund provided for in K.S.A. 44-712(a), and
 41 amendments thereto, excluding all moneys credited to the account of this
 42 state pursuant to section 903 of the federal social security act, as amended,
 43 which have been appropriated by the state legislature, whether or not

1 withdrawn from the trust fund, and excluding contributions not yet paid on
2 July 31 by total payrolls for contributing employers for the preceding
3 fiscal year which ended June 30.

4 (B) For the *each* rate year ~~2016~~ and rate years thereafter, the
5 contribution schedule in effect shall be determined by the *applicable* fund
6 control table and rate schedule table of subsection (a)(4)~~(D)~~(B).

7 SCHEDULE III — Fund Control
8 Ratios to Total Wages

9 Column A	Column B
10 Reserve Fund Ratio	Planned Yield
11 4.500 and over	0.00
12 4.475 but less than 4.500.....	0.01
13 4.450 but less than 4.475.....	0.02
14 4.425 but less than 4.450.....	0.03
15 4.400 but less than 4.425.....	0.04
16 4.375 but less than 4.400.....	0.05
17 4.350 but less than 4.375.....	0.06
18 4.325 but less than 4.350.....	0.07
19 4.300 but less than 4.325.....	0.08
20 4.275 but less than 4.300.....	0.09
21 4.250 but less than 4.275.....	0.10
22 4.225 but less than 4.250.....	0.11
23 4.200 but less than 4.225.....	0.12
24 4.175 but less than 4.200.....	0.13
25 4.150 but less than 4.175.....	0.14
26 4.125 but less than 4.150.....	0.15
27 4.100 but less than 4.125.....	0.16
28 4.075 but less than 4.100.....	0.17
29 4.050 but less than 4.075.....	0.18
30 4.025 but less than 4.050.....	0.19
31 4.000 but less than 4.025.....	0.20
32 3.950 but less than 4.000.....	0.21
33 3.900 but less than 3.950.....	0.22
34 3.850 but less than 3.900.....	0.23
35 3.800 but less than 3.850.....	0.24
36 3.750 but less than 3.800.....	0.25
37 3.700 but less than 3.750.....	0.26
38 3.650 but less than 3.700.....	0.27
39 3.600 but less than 3.650.....	0.28
40 3.550 but less than 3.600.....	0.29
41 3.500 but less than 3.550.....	0.30
42 3.450 but less than 3.500.....	0.31
43 3.400 but less than 3.450.....	0.32

1	3.350 but less than 3.400.....	0.33
2	3.300 but less than 3.350.....	0.34
3	3.250 but less than 3.300.....	0.35
4	3.200 but less than 3.250.....	0.36
5	3.150 but less than 3.200.....	0.37
6	3.100 but less than 3.150.....	0.38
7	3.050 but less than 3.100.....	0.39
8	3.000 but less than 3.050.....	0.40
9	2.950 but less than 3.000.....	0.41
10	2.900 but less than 2.950.....	0.42
11	2.850 but less than 2.900.....	0.43
12	2.800 but less than 2.850.....	0.44
13	2.750 but less than 2.800.....	0.45
14	2.700 but less than 2.750.....	0.46
15	2.650 but less than 2.700.....	0.47
16	2.600 but less than 2.650.....	0.48
17	2.550 but less than 2.600.....	0.49
18	2.500 but less than 2.550.....	0.50
19	2.450 but less than 2.500.....	0.51
20	2.400 but less than 2.450.....	0.52
21	2.350 but less than 2.400.....	0.53
22	2.300 but less than 2.350.....	0.54
23	2.250 but less than 2.300.....	0.55
24	2.200 but less than 2.250.....	0.56
25	2.150 but less than 2.200.....	0.57
26	2.100 but less than 2.150.....	0.58
27	2.050 but less than 2.100.....	0.59
28	2.000 but less than 2.050.....	0.60
29	1.975 but less than 2.000.....	0.61
30	1.950 but less than 1.975.....	0.62
31	1.925 but less than 1.950.....	0.63
32	1.900 but less than 1.925.....	0.64
33	1.875 but less than 1.900.....	0.65
34	1.850 but less than 1.875.....	0.66
35	1.825 but less than 1.850.....	0.67
36	1.800 but less than 1.825.....	0.68
37	1.775 but less than 1.800.....	0.69
38	1.750 but less than 1.775.....	0.70
39	1.725 but less than 1.750.....	0.71
40	1.700 but less than 1.725.....	0.72
41	1.675 but less than 1.700.....	0.73
42	1.650 but less than 1.675.....	0.74
43	1.625 but less than 1.650.....	0.75

1	1.600 but less than 1.625.....	0.76
2	1.575 but less than 1.600.....	0.77
3	1.550 but less than 1.575.....	0.78
4	1.525 but less than 1.550.....	0.79
5	1.500 but less than 1.525.....	0.80
6	1.475 but less than 1.500.....	0.81
7	1.450 but less than 1.475.....	0.82
8	1.425 but less than 1.450.....	0.83
9	1.400 but less than 1.425.....	0.84
10	1.375 but less than 1.400.....	0.85
11	1.350 but less than 1.375.....	0.86
12	1.325 but less than 1.350.....	0.87
13	1.300 but less than 1.325.....	0.88
14	1.275 but less than 1.300.....	0.89
15	1.250 but less than 1.275.....	0.90
16	1.225 but less than 1.250.....	0.91
17	1.200 but less than 1.225.....	0.92
18	1.175 but less than 1.200.....	0.93
19	1.150 but less than 1.175.....	0.94
20	1.125 but less than 1.150.....	0.95
21	1.100 but less than 1.125.....	0.96
22	1.075 but less than 1.100.....	0.97
23	1.050 but less than 1.075.....	0.98
24	1.025 but less than 1.050.....	0.99
25	1.000 but less than 1.025.....	1.00
26	0.900 but less than 1.000.....	1.01
27	0.800 but less than 0.900.....	1.02
28	0.700 but less than 0.800.....	1.03
29	0.600 but less than 0.700.....	1.04
30	0.500 but less than 0.600.....	1.05
31	0.400 but less than 0.500.....	1.06
32	0.300 but less than 0.400.....	1.07
33	0.200 but less than 0.300.....	1.08
34	0.100 but less than 0.200.....	1.09
35	Less than 0.100%.....	1.10

36 (C) *Adjustment to taxable wages.* For rate year 2015 and prior rate
 37 years, the planned yield as a percent of total wages, as determined in this
 38 subsection (a)(4), shall be adjusted to taxable wages by multiplying by the
 39 ratio of total wages to taxable wages for all contributing employers for the
 40 preceding fiscal year ending June 30, except, with regard to a year in
 41 which the taxable wage base changes. The taxable wages used in the
 42 calculation for such a year and the following year shall be an estimate of
 43 what the taxable wages would have been if the new taxable wage base had

1 been in effect during all of the preceding fiscal year ending June 30.

2 ~~(D)~~(B) *Effective rates.* (i) ~~For rate year 2016 and ensuing rate years,~~
 3 Employer contribution rates to be effective for ~~the ensuing~~ each calendar
 4 year shall be determined by the *applicable rate schedule in clause (ii) and*
 5 *the fund control table for the rate year as specified* contained in this
 6 ~~section~~ *clause*. The average high cost multiple of the trust fund as of the
 7 computation date shall determine the contribution schedule in effect for the
 8 next rate year. For purposes of subsection (a)(4)~~(D)~~(B)(i) ~~and (v)~~, the
 9 average high cost multiple is the reserve fund ratio, ~~as defined by~~
 10 ~~subsection (a)(4)(A)~~, divided by the average high benefit cost rate. The
 11 average high benefit cost rate shall be determined by averaging the three
 12 highest benefit cost rates over the last 20 years from the preceding fiscal
 13 year which ended June 30. The high benefit cost rate is defined by dividing
 14 total benefits paid in the fiscal year by total payrolls for covered employers
 15 in the fiscal year. *The reserve fund ratio shall be determined by dividing*
 16 *total assets in the employment security fund provided for in K.S.A. 44-*
 17 *712(a), and amendments thereto, excluding all moneys credited to the*
 18 *account of this state pursuant to section 903 of the federal social security*
 19 *act, as amended, that have been appropriated by the legislature, whether*
 20 *or not withdrawn from the trust fund, and excluding contributions not yet*
 21 *paid on July 31, by total payrolls for contributing employers for the*
 22 *preceding fiscal year that ended on June 30.*

23 Fund Control Table A

24 For Rate Years 2016-2021

25 Lower AHCM	Upper AHCM	Solvency Adjustment
26 Threshold	Threshold	to Standard Rate per
		27 Standard Rate Schedule
28 1000.00000 -1,000.000000	0.19999	1.60%
29 0.20000	0.44999	1.40%
30 0.45000	0.59999	1.20%
31 0.60000	0.74999	1.00%
32 0.75000	1.14999	0.00%
33 1.15000	1000.00000 1,000.00000	-0.50%

34 Fund Control Table B

35 For Rate Year 2022 and Ensuing Calendar Years

36 KS SUTA	Lower	Upper	Solvency/Credit	Solvency/Credit
37 Solvency/Credit				
38 Tax Rate	AHCM	AHCM	Adjustment to	Adjustment as a
39 as				a
40 Schedules	Threshold	Threshold	Maximum	Rate Group
41			Standard Rate	Total % to
42			Multiplier to	Employer's
43			Standard, Earned	Standard,
44	Earned			

				Rate Group	Rate Group
1					
2		1-1,000.00000-0.00001	2.00%	0.05263%	26.32%
3		2 0.00000 0.24999	1.80%	0.04737%	23.68%
4	Solvency3	0.25000 0.44999	1.60%	0.04211%	21.05%
5	Schedules	4 0.45000	0.59999	1.40%	0.03684%
6		18.42%			
7	(1-6) 5	0.60000 0.69999	1.20%	0.03158%	15.79%
8		6 0.70000 0.74999	1.00%	0.02632%	13.16%
9	Standard				
10	Schedule7	0.75000 1.24999	0.00%	0.00000%	0.00%
11	(7)				
12		8 1.25000 1.29999	-1.00%	-0.02632%	-13.16%
13	Credit 9	1.30000 1.39999	-1.20%	-0.03158%	-15.79%
14	Schedules	10 1.40000	1.54999	-1.40%	-0.03684%
15		-18.42%			
16	(8-13) 11	1.55000 1.74999	-1.60%	-0.04211%	-21.05%
17		12 1.75000 1.99999	-1.80%	-0.04737%	-23.68%
18		13 2.00000 1,000.00000	-2.00%	-0.05263%	-26.32%

(ii) ~~For rate year 2016 and ensuing rate years,~~ Eligible employers shall be classified by rate group according to the standard rate schedule—standard rate schedule 7 in this section, ~~subject to any adjustment pursuant to the effective rate schedule~~ for that rate year. *For rate years 2016 through 2021, the rate pursuant to the standard rate schedule as adjusted by fund control table A shall apply. For rate year 2022 and ensuing calendar years, the rate pursuant to standard rate schedule 7, solvency schedules 1 through 6 or credit schedules 8 through 13 shall apply as provided by fund control table B.*

STANDARD RATE SCHEDULE S

Rate Group	Lower Reserve Ratio Limit	Upper Reserve Ratio Limit	Standard Rate
1	18.590	1,000,000.000	0.20%
2	17.875	18.589	0.40%
3	17.160	17.874	0.60%
4	16.445	17.159	0.80%
5	15.730	16.444	1.00%
6	15.015	15.729	1.20%
7	14.300	15.014	1.40%
8	13.585	14.299	1.60%
9	12.870	13.584	1.80%
10	12.155	12.869	2.00%
11	11.440	12.154	2.20%
12	10.725	11.439	2.40%
13	10.010	10.724	2.60%

1	14	9.295	10.009	2.80%
2	15	8.580	9.294	3.00%
3	16	7.865	8.579	3.20%
4	17	7.150	7.864	3.40%
5	18	6.435	7.149	3.60%
6	19	5.720	6.434	3.80%
7	20	5.005	5.719	4.00%
8	21	4.290	5.004	4.20%
9	22	3.575	4.289	4.40%
10	23	2.860	3.574	4.60%
11	24	2.145	2.859	4.80%
12	25	1.430	2.144	5.00%
13	26	0.715	1.429	5.20%
14	27	0.000	0.714	5.40%
15	N1	-0.714	-0.001	5.60%
16	N2	-1.429	-0.715	5.80%
17	N3	-2.144	-1.430	6.00%
18	N4	-2.859	-2.145	6.20%
19	N5	-3.574	-2.860	6.40%
20	N6	-4.289	-3.575	6.60%
21	N7	-5.004	-4.290	6.80%
22	N8	-5.719	-5.005	7.00%
23	N9	-6.434	-5.720	7.20%
24	N10	-7.149	-6.435	7.40%
25	N11	-1,000,000.000	-7.150	7.60%

26 (iii) ~~For all rate years prior to 2016, except with regard to rates for~~
27 ~~negative account balance employers, employer contribution rates to be~~
28 ~~effective for the ensuing calendar year shall be computed by adjusting~~
29 ~~proportionately the experience factors from schedule I of this section to the~~
30 ~~required yield on taxable wages. For the purposes of this subsection (a)(4),~~
31 ~~all rates computed shall be rounded to the nearest .01% and for calendar~~
32 ~~year 1983 and ensuing calendar years, the maximum effective contribution~~
33 ~~rate shall not exceed 5.4%.~~

34 (iv) ~~For rate years 2007 through 2015, employers who are current in~~
35 ~~filing quarterly wage reports and in payment of all contributions due and~~
36 ~~owing, shall be issued a contribution rate based upon the following~~
37 ~~reduction: For rate groups 1 through 5, the rates would be reduced to~~
38 ~~0.00%; for rate groups 6 through 28, the rates would be reduced by 50%;~~
39 ~~for rate groups 29 through 51, the rates would be reduced by 40%.~~

40 (v) ~~For rate year 2014 and rate years thereafter, an eligible employer~~
41 ~~other than a negative account balance employer, who has filed all reports~~
42 ~~due and paid all contributions due and owing on or before January 31 of~~
43 ~~the applicable year is entitled to a rate discount of 15% except as provided~~

1 in this subsection. For rate year 2015 and rate years thereafter, an eligible
 2 employer other than a negative account balance employer, who has filed
 3 all reports due and paid all contributions due and owing on or before
 4 January 31 of the applicable year is entitled to a rate discount of 25%
 5 except as provided in this subsection. This discount shall not be in effect if
 6 other reduced rates pursuant to subsections (a)(4)(D)(i) through (iv) are in
 7 effect. This discount shall not be available for a rate year if the average
 8 high cost multiple, as defined in subsection (a)(4)(D)(i), of the
 9 employment security trust fund balance falls below 1.0 as of the
 10 computation date of that year's rates, and this discount shall thereafter
 11 cease to be in effect for all subsequent rate years.

12	<i>Rate SOLVENCY RATE SCHEDULES (1-6)</i>						
13	<i>Group 1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	
14	1	0.252632%	0.247375%	0.24211%	0.23684%	0.23158%	0.22632%
15	2	0.505263%	0.49474%	0.48421%	0.47368%	0.46316%	0.45263%
16	3	0.757895%	0.74211%	0.72632%	0.71053%	0.69474%	0.67895%
17	4	1.010526%	0.98947%	0.96842%	0.94737%	0.92632%	0.90526%
18	5	1.263158%	1.23684%	1.21053%	1.18421%	1.15789%	1.13158%
19	6	1.515789%	1.48421%	1.45263%	1.42105%	1.38947%	1.35789%
20	7	1.768421%	1.73158%	1.69474%	1.65789%	1.62105%	1.58421%
21	8	2.021053%	1.97895%	1.93684%	1.89474%	1.85263%	1.81053%
22	9	2.273684%	2.22632%	2.17895%	2.13158%	2.08421%	2.03684%
23	10	2.526316%	2.47368%	2.42105%	2.36842%	2.31579%	2.26316%
24	11	2.778947%	2.72105%	2.66316%	2.60526%	2.54737%	2.48947%
25	12	3.031579%	2.96842%	2.90526%	2.84211%	2.77895%	2.71579%
26	13	3.284211%	3.21579%	3.14737%	3.07895%	3.01053%	2.94211%
27	14	3.536842%	3.46316%	3.38947%	3.31579%	3.24211%	3.16842%
28	15	3.789474%	3.71053%	3.63158%	3.55263%	3.47368%	3.39474%
29	16	4.042105%	3.95789%	3.87368%	3.78947%	3.70526%	3.62105%
30	17	4.294737%	4.20526%	4.11579%	4.02632%	3.93684%	3.84737%
31	18	4.547368%	4.45263%	4.35789%	4.26316%	4.16842%	4.07368%
32	19	4.800000%	4.70000%	4.60000%	4.50000%	4.40000%	4.30000%
33	20	5.052632%	4.94737%	4.84211%	4.73684%	4.63158%	4.52632%
34	21	5.305263%	5.19474%	5.08421%	4.97368%	4.86316%	4.75263%
35	22	5.557895%	5.44211%	5.32632%	5.21053%	5.09474%	4.97895%
36	23	5.810526%	5.68947%	5.56842%	5.44737%	5.32632%	5.20526%
37	24	6.063158%	5.93684%	5.81053%	5.68421%	5.55789%	5.43158%
38	25	6.315789%	6.18421%	6.05263%	5.92105%	5.78947%	5.65789%
39	26	6.568421%	6.43158%	6.29474%	6.15789%	6.02105%	5.88421%
40	27	6.821053%	6.67895%	6.53684%	6.39474%	6.25263%	6.11053%
41	N1	7.073684%	6.92632%	6.77895%	6.63158%	6.48421%	6.33684%
42	N2	7.326316%	7.17368%	7.02105%	6.86842%	6.71579%	6.56316%
43	N3	7.578947%	7.42105%	7.26316%	7.10526%	6.94737%	6.78947%

1	N47.831579%	7.66842%	7.50526%	7.34211%	7.17895%	7.01579%
2	N58.084211%	7.91579%	7.74737%	7.57895%	7.41053%	7.24211%
3	N68.336842%	8.16316%	7.98947%	7.81579%	7.64211%	7.46842%
4	N78.589474%	8.41053%	8.23158%	8.05263%	7.87368%	7.69474%
5	N88.842105%	8.65789%	8.47368%	8.28947%	8.10526%	7.92105%
6	N99.094737%	8.90526%	8.71579%	8.52632%	8.33684%	8.14737%
7	N109.347368%	9.15263%	8.95789%	8.76316%	8.56842%	8.37368%
8	N119.600000%	9.40000%	9.20000%	9.00000%	8.80000%	8.60000%

9

10 *Rate* *CREDIT RATE SCHEDULES (8-13)*

11 *Group* *8* *9* *10* *11* *12* *13*

12	1	0.173684%	0.16842%	0.16316%	0.15789%	0.15263%	0.14737%
13	2	0.347368%	0.33684%	0.32632%	0.31579%	0.30526%	0.29474%
14	3	0.521053%	0.50526%	0.48947%	0.47368%	0.45789%	0.44211%
15	4	0.694737%	0.67368%	0.65263%	0.63158%	0.61053%	0.58947%
16	5	0.868421%	0.84211%	0.81579%	0.78947%	0.76316%	0.73684%
17	6	1.042105%	1.01053%	0.97895%	0.94737%	0.91579%	0.88421%
18	7	1.215789%	1.17895%	1.14211%	1.10526%	1.06842%	1.03158%
19	8	1.389474%	1.34737%	1.30526%	1.26316%	1.22105%	1.17895%
20	9	1.563158%	1.51579%	1.46842%	1.42105%	1.37368%	1.32632%
21	10	1.736842%	1.68421%	1.63158%	1.57895%	1.52632%	1.47368%
22	11	1.910526%	1.85263%	1.79474%	1.73684%	1.67895%	1.62105%
23	12	2.084211%	2.02105%	1.95789%	1.89474%	1.83158%	1.76842%
24	13	2.257895%	2.18947%	2.12105%	2.05263%	1.98421%	1.91579%
25	14	2.431579%	2.35789%	2.28421%	2.21053%	2.13684%	2.06316%
26	15	2.605263%	2.52632%	2.44737%	2.36842%	2.28947%	2.21053%
27	16	2.778947%	2.69474%	2.61053%	2.52632%	2.44211%	2.35789%
28	17	2.952632%	2.86316%	2.77368%	2.68421%	2.59474%	2.50526%
29	18	3.126316%	3.03158%	2.93684%	2.84211%	2.74737%	2.65263%
30	19	3.300000%	3.20000%	3.10000%	3.00000%	2.90000%	2.80000%
31	20	3.473684%	3.36842%	3.26316%	3.15789%	3.05263%	2.94737%
32	21	3.647368%	3.53684%	3.42632%	3.31579%	3.20526%	3.09474%
33	22	3.821053%	3.70526%	3.58947%	3.47368%	3.35789%	3.24211%
34	23	3.994737%	3.87368%	3.75263%	3.63158%	3.51053%	3.38947%
35	24	4.168421%	4.04211%	3.91579%	3.78947%	3.66316%	3.53684%
36	25	4.342105%	4.21053%	4.07895%	3.94737%	3.81579%	3.68421%
37	26	4.515789%	4.37895%	4.24211%	4.10526%	3.96842%	3.83158%
38	27	4.689474%	4.54737%	4.40526%	4.26316%	4.12105%	3.97895%
39	N1	4.863158%	4.71579%	4.56842%	4.42105%	4.27368%	4.12632%
40	N2	5.036842%	4.88421%	4.73158%	4.57895%	4.42632%	4.27368%
41	N3	5.210526%	5.05263%	4.89474%	4.73684%	4.57895%	4.42105%
42	N4	5.384211%	5.22105%	5.05789%	4.89474%	4.73158%	4.56842%
43	N5	5.557895%	5.38947%	5.22105%	5.05263%	4.88421%	4.71579%

1 N65.731579% 5.55789% 5.38421% 5.21053% 5.03684% 4.86316%
 2 N75.905263% 5.72632% 5.54737% 5.36842% 5.18947% 5.01053%
 3 N86.078947% 5.89474% 5.71053% 5.52632% 5.34211% 5.15789%
 4 N96.252632% 6.06316% 5.87368% 5.68421% 5.49474% 5.30526%
 5 N106.426316% 6.23158% 6.03684% 5.84211% 5.64737% 5.45263%
 6 N116.600000% 6.40000% 6.20000% 6.00000% 5.80000% 5.60000%

7 (b) *Successor classification.* (1) (A) For the purposes of this
 8 subsection—(b), whenever an employing unit, whether or not it is an
 9 "employing unit" within the meaning of of K.S.A. 44-703(g), and
 10 amendments thereto, becomes an employer pursuant to K.S.A. 44-703(h)
 11 (4), and amendments thereto, or is an employer at the time of acquisition
 12 and meets the definition of a "successor employer" as defined by K.S.A.
 13 44-703(dd), and amendments thereto, and thereafter transfers its trade or
 14 business, or any portion thereof, to another employer and, at the time of
 15 the transfer, there is substantially common ownership, management or
 16 control of the two employers, then the unemployment experience
 17 attributable to the transferred trade or business shall be transferred to the
 18 employer to whom such business is so transferred. These experience
 19 factors consist of all contributions paid, benefit experience and annual
 20 payrolls of the predecessor employer. The transfer of some or all of an
 21 employer's workforce to another employer shall be considered a transfer of
 22 trade or business when, as the result of such transfer, the transferring
 23 employer no longer performs trade or business with respect to the
 24 transferred workforce, and such trade or business is performed by the
 25 employer to whom the workforce is transferred.

26 (B) If, following a transfer of experience under subparagraph (A), the
 27 secretary determines that a substantial purpose of the transfer or business
 28 was to obtain a reduced liability for contributions, then the experience
 29 rating accounts of the employers involved shall be combined into a single
 30 account and a single rate assigned to such account.

31 (2) A successor employer as defined by K.S.A. 44-703(h)(4) or (dd),
 32 and amendments thereto, may receive the experience rating factors of the
 33 predecessor employer if an application is made to the secretary or the
 34 secretary's designee in writing within 120 days of the date of the transfer.

35 (3) Whenever an employing unit, whether or not it is an "employing
 36 unit" within the meaning of K.S.A. 44-703(g), and amendments thereto,
 37 acquires or in any manner succeeds to a percentage of an employer's
 38 annual payroll which is less than 100% and intends to continue the
 39 acquired percentage as a going business, the employing unit may acquire
 40 the same percentage of the predecessor's experience factors if: (A) The
 41 predecessor employer and successor employing unit make an application
 42 in writing on the form prescribed by the secretary; (B) the application is
 43 submitted within 120 days of the date of the transfer; (C) the successor

1 employing unit is or becomes an employer subject to this act immediately
2 after the transfer; (D) the percentage of the experience rating factors
3 transferred shall not be thereafter used in computing the contribution rate
4 for the predecessor employer; and (E) the secretary finds that such transfer
5 will not tend to defeat or obstruct the object and purposes of this act.

6 (4) (A) The rate of both employers in a full or partial successorship
7 under paragraph (1) ~~of this subsection~~ shall be recalculated and made
8 effective on the first day of the next calendar quarter following the date of
9 transfer of trade or business.

10 (B) If a successor employer is determined to be qualified under
11 paragraph (2) or (3) ~~of this subsection~~ to receive the experience rating
12 factors of the predecessor employer, the rate assigned to the successor
13 employer for the remainder of the contributions year shall be determined
14 by the following:

15 (i) If the acquiring employing unit was an employer subject to this act
16 prior to the date of the transfer, the rate of contribution shall be the same as
17 the contribution rate of the acquiring employer on the date of the transfer.

18 (ii) If the acquiring employing unit was not an employer subject to
19 this act prior to the date of the transfer, the successor employer shall have a
20 newly computed rate for the remainder of the contribution year which shall
21 be based on the transferred experience rating factors as they existed on the
22 most recent computation date immediately preceding the date of
23 acquisition. These experience rating factors consist of all contributions
24 paid, benefit experience and annual payrolls.

25 (5) Whenever an employing unit is not an employer at the time it
26 acquires the trade or business of an employer, the unemployment
27 experience factors of the acquired business shall not be transferred to such
28 employing unit if the secretary finds that such employing unit acquired the
29 business solely or primarily for the purpose of obtaining a lower rate of
30 contributions. Instead, such employing unit shall be assigned the
31 applicable industry rate for a "new employer" as described in subsection
32 (a)(1). In determining whether the business was acquired solely or
33 primarily for the purpose of obtaining a lower rate of contributions, the
34 secretary shall use objective factors which may include the cost of
35 acquiring the business, whether the employer continued the business
36 enterprise of the acquired business, how long such business enterprise was
37 continued, or whether a substantial number of new employees were hired
38 for performance of duties unrelated to the business activity conducted
39 prior to acquisition.

40 (6) Whenever an employer's account has been terminated as provided
41 in K.S.A. 44-711(d) and (e), and amendments thereto, and the employer
42 continues with employment to liquidate the business operations, that
43 employer shall continue to be an "employer" subject to the employment

1 security law as provided in K.S.A. 44-703(h)(8), and amendments thereto.
2 The rate of contribution from the date of transfer to the end of the then
3 current calendar year shall be the same as the contribution rate prior to the
4 date of the transfer. At the completion of the then current calendar year, the
5 rate of contribution shall be that of a "new employer" as described in
6 subsection (a)(1).

7 (7) No rate computation will be permitted an employing unit
8 succeeding to the experience of another employing unit pursuant to this
9 section for any period subsequent to such succession except in accordance
10 with rules and regulations adopted by the secretary. Any such regulations
11 shall be consistent with federal requirements for additional credit
12 allowance in section 3303 of the federal internal revenue code of 1986,
13 and consistent with the provisions of this act.

14 (c) *Voluntary contributions.* Notwithstanding any other provision of
15 the employment security law, any employer may make voluntary payments
16 for the purpose of reducing or maintaining a reduced rate in addition to the
17 contributions required under this section. Such voluntary payments may be
18 made only during the thirty-day period immediately following the date of
19 mailing of experience rating notices for a calendar year. All such voluntary
20 contribution payments shall be paid prior to the expiration of 120 days
21 after the beginning of the year for which such rates are effective. The
22 amount of voluntary contributions shall be credited to the employer's
23 account as of the next preceding computation date and the employer's rate
24 shall be computed accordingly. Under no circumstances shall voluntary
25 payments be refunded in whole or in part.

26 (d) As used in this section, "negative account balance employer"
27 means an eligible employer whose total benefits charged to such
28 employer's account for all past years have exceeded all contributions paid
29 by such employer for all such years.

30 ~~(e) There is hereby established in the state treasury, separate and apart~~
31 ~~from all public moneys or funds of this state, an employment security~~
32 ~~interest assessment fund, which shall be administered by the secretary as~~
33 ~~provided in this act. Moneys in the employment security fund established~~
34 ~~by K.S.A. 44-712, and amendments thereto, and employment security~~
35 ~~interest assessment fund established by K.S.A. 44-710, and amendments~~
36 ~~thereto, shall not be invested in the pooled money investment portfolio~~
37 ~~established under K.S.A. 75-4234, and amendments thereto.~~
38 ~~Notwithstanding the provisions of K.S.A. 44-712(a), K.S.A. 44-716,~~
39 ~~K.S.A. 44-717 and K.S.A. 75-4234, and amendments thereto, or any like~~
40 ~~provision the secretary shall remit all moneys received from employers~~
41 ~~pursuant to the interest payment assessment established in subsection (a)~~
42 ~~(2)(E), to the state treasurer in accordance with the provisions of K.S.A.~~
43 ~~75-4215, and amendments thereto. Upon receipt of each such remittance,~~

1 the state treasurer shall deposit the entire amount in the employment
2 security interest assessment fund. All moneys in this fund which are
3 received from employers pursuant to the interest payment assessment
4 established in subsection (a)(2)(E), shall be expended solely for the
5 purposes and in the amounts found by the secretary necessary to pay any
6 principal and interest due and owing the United States department of labor
7 resulting from any advancements made to the Kansas employment security
8 fund pursuant to the provisions of title XII of the social security act (42
9 U.S.C. §§ 1321 to 1324) except as may be otherwise provided under
10 subsection (a)(2)(E). Notwithstanding any provision of this section, all
11 moneys received and credited to this fund pursuant to subsection (a)(2)(E),
12 shall remain part of the employment security interest assessment fund and
13 shall be used only in accordance with the conditions specified in
14 subsection (a)(2)(E) *On July 1, 2021, the director of accounts and reports
15 shall transfer all moneys in the employment security interest assessment
16 fund to the employment security trust fund. On July 1, 2021, all liabilities
17 of the employment security interest assessment fund are hereby transferred
18 to and imposed on the employment security trust fund, and the employment
19 security interest assessment fund is hereby abolished.*

20 (f) The secretary of labor shall annually prepare and submit a
21 certification as to the solvency and adequacy of the amount credited to the
22 state of Kansas' account in the federal employment security trust fund to
23 the governor and the legislative coordinating council. The certification
24 shall be submitted on or before December 1 of each calendar year and
25 shall be for the 12-month period ending on June 30 of that calendar year.
26 In arriving at the certification contributions paid on or before July 31
27 following the 12-month period ending date of June 30 shall be considered.
28 Each certification shall be used to determine the need for any adjustment
29 to schedule III in subsection (a)(4)(B) and to assist in preparing legislation
30 to accomplish any such adjustment.

31 Sec. 9. K.S.A. 2020 Supp. 44-710b is hereby amended to read as
32 follows: 44-710b. (a) *By the secretary of labor.* The secretary of labor shall
33 promptly notify each contributing employer of its rate of contributions,
34 each rated governmental employer of its benefit cost rate and each
35 reimbursing employer of its benefit liability as determined for any
36 calendar year pursuant to K.S.A. 44-710 and 44-710a, and amendments
37 thereto, on or before November 30 of the calendar year immediately
38 preceding the calendar year in which such rate takes effect. Such
39 determination shall become conclusive and binding upon the employer
40 unless, within 15 days after the mailing of notice thereof to the employer's
41 last known address or in the absence of mailing, within 15 days after the
42 delivery of such notice, the employer files an application for review and
43 redetermination, setting forth the reasons therefor. If the secretary of labor

1 grants such review, the employer shall be promptly notified thereof and
2 shall be granted an opportunity for a fair hearing, but no employer shall
3 have standing, in any proceeding involving the employer's rate of
4 contributions or benefit liability, to contest the chargeability to the
5 employer's account of any benefits paid in accordance with a
6 determination, redetermination or decision pursuant to ~~subsection (e) of~~
7 K.S.A. 44-710(c), and amendments thereto, except upon the ground that
8 the services on the basis of which such benefits were found to be
9 chargeable did not constitute services performed in employment for the
10 employer and only in the event that the employer was not a party to such
11 determination, redetermination or decision or to any other proceedings
12 under this act in which the character of such services was determined. Any
13 such hearing conducted pursuant to this section shall be heard in the
14 county where the contributing employer maintains its principle place of
15 business. The hearing officer shall render a decision concerning all matters
16 at issue in the hearing within 90 days.

17 (b) (1) *The secretary shall, without necessity of a request by an*
18 *employer or a hearing, immediately and fully credit an employer's account*
19 *for any benefits paid upon a determination by the secretary that such*
20 *benefits were paid to any person who received such benefits: (A) By fraud;*
21 *or (B) in error where any conditions imposed by this act for the receipt of*
22 *benefits were not fulfilled or where the recipient was not qualified to or*
23 *disqualified from receiving such benefits.*

24 (2) (A) *Contributing employers, rated governmental employers and*
25 *reimbursing employers shall be held harmless for and shall not be*
26 *required to reimburse the state for any benefits paid that have been*
27 *identified by the employer as fraudulent and reported to the secretary*
28 *unless the secretary determines that such benefits were received properly*
29 *and not: (i) By fraud; or (ii) in error where any conditions imposed by this*
30 *act for the receipt of benefits were not fulfilled or where the recipient was*
31 *not qualified to or disqualified from receiving such benefits. Any such*
32 *determination by the secretary shall be subject to appeal as provided by*
33 *the employment security law.*

34 (B) *Reimbursing employers shall be refunded immediately, without*
35 *necessity of a request or a hearing, for reimbursements made to the state*
36 *for any claims or benefits paid on or after March 15, 2020, that are or*
37 *have been reported to the secretary as fraudulent. Amounts refunded shall*
38 *become due, subject to appeal as provided by the employment security*
39 *law, upon a determination by the secretary, as provided by subparagraph*
40 *(A), that the benefits were paid properly and not by fraud or in error.*

41 (C) *For the time period of March 15, 2020, through December 31,*
42 *2022, identifications of fraud reported to the secretary pursuant to*
43 *subparagraphs (A) and (B) shall not be subject to any time limitation for*

1 *disputing a claim or for appeal pursuant to K.S.A. 44-710, and*
2 *amendments thereto, or pursuant to any other provision of the employment*
3 *security law.*

4 (3) *The secretary shall review all reimbursing employer accounts for*
5 *the 20-year period preceding July 1, 2021, and shall apply credit for any*
6 *benefits previously paid by fraud or in error, as provided by paragraph*
7 *(1), that have been charged against a reimbursing employer's account and*
8 *have not yet been recovered through normal recovery efforts.*

9 (c) *Judicial review.* Any action of the secretary upon an employer's
10 timely request for a review and redetermination of its rate of contributions
11 or benefit liability, in accordance with subsection (a), is subject to review
12 in accordance with the Kansas judicial review act. Any action for such
13 review shall be heard in a summary manner and shall be given precedence
14 over all other civil cases except cases arising under ~~subsection (i) of~~
15 K.S.A. 44-709(i), and amendments thereto, and the workmen's
16 compensation act.

17 ~~(e)~~(d) *Periodic notification of benefits charged.* The secretary of labor
18 may provide by rules and regulations for periodic notification to
19 employers of benefits paid and chargeable to their accounts or of the status
20 of such accounts, and any such notification, in the absence of an
21 application for redetermination filed in such manner and within such
22 period as the secretary of labor may prescribe, shall become conclusive
23 and binding upon the employer for all purposes. Such redeterminations,
24 made after notice and opportunity for hearing, and the secretary's findings
25 of facts in connection therewith may be introduced in any subsequent
26 administrative or judicial proceedings involving the determination of the
27 rate of contributions of any employer for any calendar year and shall be
28 entitled to the same finality as is provided in this subsection with respect
29 to the findings of fact made by the secretary of labor in proceedings to
30 redetermine the contribution rate of an employer. The review or any other
31 proceedings relating thereto as provided for in this section may be heard
32 by any duly authorized employee of the secretary of labor and such action
33 shall have the same effect as if heard by the secretary.

34 (e) (1) *The secretary shall review the information reported by the*
35 *United States department of labor pursuant to the payment integrity*
36 *information act of 2019, public law 116-117, and any other relevant*
37 *information available from the United States department of labor and any*
38 *relevant information held by the department of labor available to the*
39 *secretary regarding improper payment amounts for the state of Kansas for*
40 *the period beginning on March 15, 2020, through December 31, 2022. The*
41 *secretary shall determine the amount of such improper payments within 60*
42 *days of any such information becoming available for any portion of such*
43 *period and shall immediately certify such amount for such time period to*

1 *the director of accounts and reports. The secretary shall certify any*
2 *additional amount for any such time period within 60 days of information*
3 *supporting an additional amount becoming available. At the same time*
4 *that the secretary certifies the amount to the director of accounts and*
5 *reports, the secretary shall transmit a copy of each such certification to*
6 *the director of the budget and the director of legislative research. Upon*
7 *receipt of each such certification, the director of accounts and reports*
8 *shall transfer an amount equal to the amount certified from the state*
9 *general fund to the unemployment insurance trust fund. If the governor*
10 *determines that it is prudent for the transfer to be from a different fund in*
11 *the state treasury, the governor, with the approval of the state finance*
12 *council acting on this matter, which is hereby characterized as a matter of*
13 *legislative delegation and subject to the guidelines prescribed in K.S.A.*
14 *75-3711c(c), and amendments thereto, may authorize the transfer from*
15 *such different fund.*

16 (2) *For purposes of this subsection, "improper payment amounts" or*
17 *"improper payments" means any payment that should not have been made*
18 *or that was made in an incorrect amount under statutory, contractual,*
19 *administrative or other legally applicable requirements and includes any*
20 *payment to an ineligible recipient.*

21 (f) *If the legislature finds that, subject to federal law, it is prudent for*
22 *the unemployment insurance trust fund to be appropriated an allocation of*
23 *any federal funds received after January 1, 2021, in response to any*
24 *pandemic, the legislature shall approve of such appropriation by an act of*
25 *the legislature.*

26 (g) *Any federal unemployment insurance benefit program established*
27 *as a result of COVID-19 or any pandemic shall not be continued after the*
28 *ending date of the federal program through the use of Kansas state*
29 *unemployment insurance fund contributions made by Kansas employers.*

30 Sec. 10. K.S.A. 2020 Supp. 44-757 is hereby amended to read as
31 follows: 44-757. *Shared work unemployment compensation program.* (a)
32 As used in this section:

33 (1) "Affected unit" means a specified department, shift or other unit
34 of two or more employees that is designated by an employer to participate
35 in a shared work plan.

36 (2) "Fringe benefit" means health insurance, a retirement benefit
37 received under a pension plan, a paid vacation day, a paid holiday, sick
38 leave, and any other analogous employee benefit that is provided by an
39 employer.

40 (3) "Fund" has the meaning ascribed thereto by K.S.A. 44-703(k),
41 and amendments thereto.

42 (4) "Normal weekly hours of work" means the lesser of 40 hours or
43 the average obtained by dividing the total number of hours worked per

1 week during the preceding twelve-week period by the number 12.

2 (5) "Participating employee" means an employee who works a
3 reduced number of hours under a shared work plan *initiated by their*
4 *employer and approved by the secretary.*

5 (6) "Participating employer" means an employer who has *applied to*
6 *and been approved by the secretary for a shared work plan that is in effect.*

7 (7) "Secretary" means the secretary of labor or the secretary's
8 designee.

9 (8) "Shared work benefit" means an unemployment compensation
10 benefit that is payable to an individual in an affected unit because the
11 individual works reduced hours under an approved shared work plan.

12 (9) "Shared work plan" means a *short-term compensation* program
13 ~~for reducing unemployment under which employees who are members of~~
14 ~~an affected unit share the work remaining after a reduction in their normal~~
15 ~~weekly hours of work.~~

16 ~~(10) "Shared work unemployment compensation program" means a~~
17 ~~program designed to reduce unemployment and stabilize the work force by~~
18 ~~allowing certain employees to collect unemployment compensation~~
19 ~~benefits if the employees share the work remaining after a reduction in the~~
20 ~~total number of hours of work and a corresponding reduction in~~
21 ~~wages."Short-term compensation program" means a shared work plan~~
22 ~~program designed to provide an alternative to layoffs for employers~~
23 ~~experiencing a reduction in available work. A "short-term compensation~~
24 ~~program" preserves employees' jobs and an employer's trained workforce~~
25 ~~during times of lowered economic activity by allowing an employer to~~
26 ~~reduce hours of work for employees rather than laying off some employees~~
27 ~~while others continue to work full time. Under a "short-term compensation~~
28 ~~program," employees experiencing a reduction in hours are allowed to~~
29 ~~collect a pro-rata share of their unemployment compensation benefits to~~
30 ~~replace a portion of the employee's lost wages.~~

31 (b) The secretary shall establish a voluntary ~~shared work~~
32 ~~unemployment~~ short-term compensation program as provided by this
33 section. The secretary may adopt rules and regulations and establish
34 procedures necessary to administer the ~~shared work unemployment~~ short-
35 term compensation program.

36 (c) *The secretary shall create and manage an annual promotional*
37 *campaign for the short-term compensation program to encourage and*
38 *improve business participation. The promotional campaign shall include*
39 *the following elements:*

40 (A) *Engagement in proactive educational communications with other*
41 *state agencies and stakeholders, including the governor's office,*
42 *legislators, workforce investment boards and local, regional or state*
43 *chambers of commerce;*

1 (B) a dedicated department of labor employee or team to efficiently
2 and timely answer employer's questions about the short-term
3 compensation program;

4 (C) presentation materials that provide consistency of messaging
5 about the benefits of using a short-term compensation program to provide
6 stakeholders for distribution to employer groups, workforce investment
7 boards or other interested parties;

8 (D) proactive engagement with employers experiencing economic
9 stress or layoffs to share the benefits of the short-term compensation
10 program and to ensure such employers are aware of the program; and

11 (E) an automated application, claims and weekly certification
12 process for participating employers designed to facilitate participation,
13 reduce an employer's administrative burden and promote the use of the
14 short-term compensation program.

15 (d) An employer who wishes to participate in the ~~shared work~~
16 ~~unemployment~~ short-term compensation program must submit a written
17 shared work plan to the secretary for the secretary's approval. As a
18 condition for approval, a participating employer must agree to furnish the
19 secretary with reports relating to the operation of the shared work plan as
20 requested by the secretary. The employer shall monitor and evaluate the
21 operation of the established shared work plan as requested by the secretary
22 and shall report the findings to the secretary.

23 ~~(d)~~(e) The secretary may approve a shared work plan if:

24 (1) The shared work plan applies to and identifies a specific affected
25 unit;

26 (2) the employees in the affected unit are identified by name and
27 social security number;

28 (3) the shared work plan reduces the normal weekly hours of work
29 for an employee, including regular part-time employees, in the affected
30 unit by not less than ~~20%~~ 10% and not more than ~~40%~~ 50%;

31 (4) the shared work plan applies to at least 10% of the employees in
32 the affected unit;

33 (5) the shared work plan describes the manner that the participating
34 employer treats the fringe benefits of each employee in the affected unit
35 and the employer certifies that if the employer provides health benefits and
36 retirement benefits under a defined benefit plan, as defined in 26 U.S.C. §
37 414(j), or contributions under a defined contribution plan, as defined in 26
38 U.S.C. § 414(i), to any employee whose workweek is reduced under the
39 program that such benefits will continue to be provided to employees
40 participating in the ~~shared work~~ short-term compensation program under
41 the same terms and conditions as though the workweek of such employee
42 had not been reduced or to the same extent as other employees not
43 participating in the shared work program;

1 (6) the employer certifies that the implementation of a shared work
2 plan and the resulting reduction in work hours is in lieu of layoffs that
3 would affect at least 10% of the employees in the affected unit and that
4 would result in an equivalent reduction in work hours;

5 (7) the employer has filed all reports required to be filed under the
6 employment security law for all past and current periods and has paid all
7 contributions, benefit cost payments, or if a reimbursing employer has
8 made all payments in lieu of contributions due for all past and current
9 periods;

10 (8) (A) a contributing employer must be eligible for a rate
11 computation under K.S.A. 44-710a(a)(2), and amendments thereto, and the
12 contributing employer, as determined by the secretary, does not adversely
13 impact the state's eligibility under section 2108 of the federal CARES act,
14 public law 116-136;

15 (B) *if section 2108 of the federal CARES act, public law 116-136, is*
16 *no longer in effect, a contributing employer eligible for a rate computation*
17 *under K.S.A. 44-710(a)(2), and amendments thereto, that is a negative*
18 *account balance employer as defined by K.S.A. 44-710a(d), and*
19 *amendments thereto, may only submit an application within 12 months of*
20 *the date of an announcement by the secretary of a recession in Kansas.*
21 *The secretary shall make such an announcement, for purposes of the*
22 *short-term compensation program, upon a determination by the secretary*
23 *that Kansas has entered a recession. The employer may be approved for*
24 *participation for not more than one plan year during any five-year period*
25 *of time;*

26 (C) a rated governmental employer must be eligible for a rate
27 computation under K.S.A. 44-710d(g), and amendments thereto;

28 (9) eligible employees may participate, as appropriate, in training,
29 including without limitation, employer-sponsored training or worker
30 training funded under the workforce investment act of 1998, to enhance
31 job skills if such program has been approved by the state of Kansas;

32 (10) the employer includes a plan for giving advance notice, where
33 feasible, to an employee whose workweek is to be reduced together with
34 an estimate of the number of layoffs that would have occurred absent the
35 ability to participate in shared work compensation and such other
36 information as the secretary of labor determines is appropriate; and

37 (11) the terms of the employer's written plan and implementation are
38 consistent with employer obligations under applicable federal and Kansas
39 laws.

40 ~~(e)~~(f) If any of the employees who participate in a shared work plan
41 under this section are covered by a collective bargaining agreement, the
42 shared work plan must be approved in writing by the collective bargaining
43 agent.

1 ~~(f)~~(g) A shared work plan may not be implemented to subsidize
2 seasonal employers during the off-season.

3 ~~(g)~~(h) The secretary shall approve or deny a shared work plan no later
4 than the 30th day after the day the shared work plan is received by the
5 secretary. The secretary shall approve or deny a shared work plan in
6 writing. If the secretary denies a shared work plan, the secretary shall
7 notify the employer of the reasons for the denial.

8 ~~(h)~~(i) A shared work plan is effective on the date it is approved by the
9 secretary, except for good cause a shared work plan may be effective at
10 any time within a period of 14 days prior to the date such plan is approved
11 by the secretary. The shared work plan expires on the last day of the 12th
12 full calendar month after the effective date of the shared work plan.

13 ~~(i)~~(j) An employer may modify a shared work plan created under this
14 section to meet changed conditions if the modification conforms to the
15 basic provisions of the shared work plan as approved by the secretary. The
16 employer must report the changes made to the shared work plan in writing
17 to the secretary before implementing the changes. If the original shared
18 work plan is substantially modified, the secretary shall reevaluate the
19 shared work plan and may approve the modified shared work plan if it
20 meets the requirements for approval under subsection (d). The approval of
21 a modified shared work plan does not affect the expiration date originally
22 set for that shared work plan. If substantial modifications cause the shared
23 work plan to fail to meet the requirements for approval, the secretary shall
24 deny approval to the modifications as provided by subsection (g).

25 ~~(j)~~(k) Notwithstanding any other provisions of the employment
26 security law, an individual is unemployed and is eligible for shared work
27 benefits in any week in which the individual, as an employee in an affected
28 unit, works for less than the individual's normal weekly hours of work in
29 accordance with an approved shared work plan in effect for that week. The
30 secretary may not deny shared work benefits for any week to an otherwise
31 eligible individual by reason of the application of any provision of the
32 employment security law that relates to availability for work, active search
33 for work or refusal to apply for or accept work with an employer other
34 than the participating employer.

35 ~~(k)~~(l) An individual is eligible to receive shared work benefits with
36 respect to any week in which the secretary finds that:

37 (1) *The employee is determined to be eligible for unemployment*
38 *compensation, except that while receiving shared work benefits, an*
39 *employee shall not be required to meet work availability or work search*
40 *requirements but shall be required to be available for the employee's*
41 *normal work week;*

42 (2) The individual is employed as a member of an affected unit
43 subject to a shared work plan that was approved before the week in

1 question and is in effect for that week;

2 ~~(2)~~(3) the individual is able to work and is available for additional
3 hours of work or full-time work with the participating employer;

4 ~~(3)~~(4) the individual's normal weekly hours of work have been
5 reduced by at least ~~20%~~ 10% but not more than ~~40%~~ 50%, with a
6 corresponding reduction in wages; and

7 ~~(4)~~(5) the individual's normal weekly hours of work and wages have
8 been reduced as described in subsection (k)~~(3)~~(4) for a waiting period of
9 one week that occurs within the period the shared work plan is in effect,
10 which period includes the week for which the individual is claiming shared
11 work benefits.

12 ~~(h)~~(m) The secretary shall pay an individual who is eligible for shared
13 work benefits under this section a weekly shared work benefit amount
14 equal to the individual's regular weekly benefit amount for a period of total
15 unemployment multiplied by the nearest full percentage of reduction of the
16 individual's hours as set forth in the employer's shared work plan. If the
17 shared benefit amount is not a multiple of \$1, the secretary shall reduce the
18 amount to the next lowest multiple of \$1. All shared work benefits under
19 this section shall be payable from the fund.

20 ~~(m)~~(n) An individual may not receive shared work benefits and
21 regular unemployment compensation benefits in an amount that exceeds
22 the maximum total amount of benefits payable to that individual in a
23 benefit year as provided by K.S.A. 44-704(g), and amendments thereto.

24 ~~(n)~~(o) An individual who has received all of the shared work benefits
25 and regular unemployment compensation benefits available in a benefit
26 year is an exhaustee under K.S.A. 44-704a and 44-704b, and amendments
27 thereto, and is entitled to receive extended benefits under such statutes if
28 the individual is otherwise eligible under such statutes.

29 ~~(o)~~(p) The secretary may terminate a shared work plan for good cause
30 if the secretary determines that the shared work plan is not being executed
31 according to the terms and intent of the shared work unemployment
32 compensation program.

33 ~~(p)~~(q) Notwithstanding any other provisions of this section, an
34 individual shall not be eligible to receive shared work benefits for more
35 than ~~26~~ 52 calendar weeks during the 12-month period of the shared work
36 plan, ~~except that two weeks of additional benefits shall be payable to~~
37 ~~claimants who exhaust regular benefits and any benefits under any other~~
38 ~~federal or state extended benefits program during the period July 1, 2003~~
39 ~~through June 30, 2004.~~ No week shall be counted as a week for which an
40 individual is eligible for shared work benefits for the purposes of this
41 section unless the week occurs within the 12-month period of the shared
42 work plan.

43 ~~(q)~~(r) No shared work benefit payment shall be made under any

1 shared work plan or this section for any week that commences before April
2 1, 1989.

3 ~~(+)~~(s) This section shall be construed as part of the employment
4 security law.

5 Sec. 11. K.S.A. 44-758 is hereby amended to read as follows: 44-758.

6 (a) Any employer or any individual, organization, partnership, corporation
7 or other legal entity ~~which~~ that is a lessor employing unit, as defined by
8 ~~subsection (ff) of K.S.A. 44-703(ff)~~, and amendments thereto, shall be
9 liable for contributions on wages paid by the lessor employing unit to
10 individuals performing services for client lessees. ~~For the purposes of the~~
11 ~~employment security law, no client lessee shall lease an individual~~
12 ~~proprietor, partner or corporate officer, who is a shareholder or a member~~
13 ~~of the board of directors of the corporation, from any lessor employing~~
14 ~~unit.~~ Any client lessee shall be jointly and severally liable for any unpaid
15 contributions, interest and penalties due under this law from any lessor
16 employing unit attributable to wages for services performed for the client
17 lessee by employees leased to the client lessee. The lessor employing unit
18 shall keep separate records and submit separate quarterly contributions and
19 wage reports for each client lessee.

20 (b) Any lessor employing unit ~~which~~ that is currently engaged in the
21 business of leasing employees to client lessees shall comply with the
22 provisions of subsection (a) prior to October 1, 1990.

23 (c) The provisions of this section shall not be applicable to private
24 employment agencies ~~which~~ that provide temporary workers to employers
25 on a temporary help basis, provided the private employment agencies are
26 liable as employers for the payment of contributions on wages paid to
27 temporary workers so employed.

28 (d) This section shall be construed as part of the employment security
29 law.

30 Sec. 12. K.S.A. 44-758 and K.S.A. 2020 Supp. 44-703, 44-704, 44-
31 710, 44-710a, 44-710b and 44-757 are hereby repealed.

32 Sec. 13. This act shall take effect and be in force from and after its
33 publication in the statute book.