

HOUSE BILL No. 2703

By Committee on Commerce, Labor and Economic Development

2-11

1 AN ACT concerning employment security law; relating to the employment
2 security fund; employer contribution rates; revising the definition of
3 employment for conformity with federal law; making changes to the
4 my reemployment plan program including making the program
5 mandatory; providing that the secretary of labor is to request that
6 claimants create resumes in the Kansasworks system and that the
7 secretary of commerce shall provide assistance to claimants through
8 Kansasworks and may require claimants to participate in reemployment
9 services; providing claimants with additional time to respond;
10 providing the educational institution providing work skills training
11 shall monitor compliance and report to the secretary of commerce and
12 secretary of labor; amending K.S.A. 44-703, 44-710a and 44-775 and
13 repealing the existing sections.
14

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

16 Section 1. K.S.A. 44-703 is hereby amended to read as follows: 44-
17 703. As used in this act, unless the context clearly requires otherwise:

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

20 (2) "Average annual payroll" means the average of the annual
21 payrolls of any employer for the last three calendar years immediately
22 preceding the computation date as hereinafter defined if the employer has
23 been continuously subject to contributions during those three calendar
24 years and has paid some wages for employment during each of such years.
25 In determining contribution rates for the calendar year, if an employer has
26 not been continuously subject to contribution for the three calendar years
27 immediately preceding the computation date but has paid wages subject to
28 contributions during only the two calendar years immediately preceding
29 the computation date, such employer's "average annual payroll" shall be
30 the average of the payrolls for those two calendar years.

31 (3) "Total wages" means the total amount of wages paid or payable
32 by an employer during the calendar year, including that part of
33 remuneration in excess of the limitation prescribed as provided in
34 subsection (o)(1).

35 (b) "Base period" means the first four of the last five completed
36 calendar quarters immediately preceding the first day of an individual's

1 benefit year, except that the base period in respect to combined wage
2 claims means the base period as defined in the law of the paying state.

3 (1) If an individual lacks sufficient base period wages in order to
4 establish a benefit year in the manner set forth above and satisfies the
5 requirements of K.S.A. 44-705(g) and K.S.A. 44-703(hh), and
6 amendments thereto, the claimant shall have an alternative base period
7 substituted for the current base period so as not to prevent establishment of
8 a valid claim. For the purposes of this subsection, "alternative base period"
9 means the last four completed quarters immediately preceding the date the
10 qualifying injury occurred. In the event the wages in the alternative base
11 period have been used on a prior claim, then they shall be excluded from
12 the new alternative base period.

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

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

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

22 (d) "Benefit year" with respect to any individual, means the period
23 beginning with the first day of the first week for which such individual
24 files a valid claim for benefits, and such benefit year shall continue for one
25 full year. In the case of a combined wage claim, the benefit year shall be
26 the benefit year of the paying state. Following the termination of a benefit
27 year, a subsequent benefit year shall commence on the first day of the first
28 week with respect to which an individual next files a claim for benefits.
29 When such filing occurs with respect to a week that overlaps the preceding
30 benefit year, the subsequent benefit year shall commence on the first day
31 immediately following the expiration date of the preceding benefit year.
32 Any claim for benefits made in accordance with K.S.A. 44-709(a), and
33 amendments thereto, shall be deemed to be a "valid claim" for the
34 purposes of this subsection if the individual has been paid wages for
35 insured work as required under K.S.A. 44-705(e), and amendments
36 thereto. Whenever a week of unemployment overlaps two benefit years,
37 such week shall, for the purpose of granting waiting-period credit or
38 benefit payment with respect thereto, be deemed to be a week of
39 unemployment within that benefit year in which the greater part of such
40 week occurs.

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

42 (f) (1) "Contributions" means the money payments to the state
43 employment security fund that are required to be made by employers on

1 account of employment under K.S.A. 44-710, and amendments thereto,
2 and voluntary payments made by employers pursuant to such statute.

3 (2) "Payments in lieu of contributions" means the money payments to
4 the state employment security fund from employers that are required to
5 make or that elect to make such payments under K.S.A. 44-710(e), and
6 amendments thereto.

7 (g) "Employing unit" means any individual or type of organization,
8 including any partnership, association, limited liability company, agency
9 or department of the state of Kansas and political subdivisions thereof,
10 trust, estate, joint-stock company, insurance company or corporation,
11 whether domestic or foreign including nonprofit corporations, or the
12 receiver, trustee in bankruptcy, trustee or successor thereof, or the legal
13 representatives of a deceased person, that has in its employ one or more
14 individuals performing services for it within this state. All individuals
15 performing services within this state for any employing unit that maintains
16 two or more separate establishments within this state shall be deemed to be
17 employed by a single employing unit for all the purposes of this act. Each
18 individual employed to perform or to assist in performing the work of any
19 agent or employee of an employing unit shall be deemed to be employed
20 by such employing unit for all the purposes of this act, whether such
21 individual was hired or paid directly by such employing unit or by such
22 agent or employee, provided the employing unit had actual or constructive
23 knowledge of the employment.

24 (h) "Employer" means:

25 (1) (A) Any employing unit for which agricultural labor as defined in
26 subsection (w) is performed and during any calendar quarter in either the
27 current or preceding calendar year paid remuneration in cash of \$20,000 or
28 more to individuals employed in agricultural labor or for some portion of a
29 day in each of 20 different calendar weeks, whether or not such weeks
30 were consecutive, in either the current or the preceding calendar year,
31 employed in agricultural labor 10 or more individuals, regardless of
32 whether they were employed at the same moment of time.

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

37 (i) Such crew leader holds a valid certificate of registration under the
38 federal migrant and seasonal agricultural workers protection act or
39 substantially all the members of such crew operate or maintain tractors,
40 mechanized harvesting or cropdusting equipment or any other mechanized
41 equipment, that is provided by such crew leader; and

42 (ii) such individual is not in the employment of such other person
43 within the meaning of subsection (i).

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

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

7 (ii) such other person shall be treated as having paid cash
8 remuneration to such individual in an amount equal to the amount of cash
9 remuneration paid to such individual by the crew leader, either on the crew
10 leader's own behalf or on behalf of such other person, for the services in
11 agricultural labor performed for such other person.

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

14 (i) Furnishes individuals to perform services in agricultural labor for
15 any other person;

16 (ii) pays, either on such individual's own behalf or on behalf of such
17 other person, the individuals so furnished by such individual for the
18 services in agricultural labor performed by them; and

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

22 (2) (A) Any employing unit that for calendar year 2007 and each
23 calendar year thereafter: (i) In any calendar quarter in either the current or
24 preceding calendar year paid for services in employment wages of \$1,500
25 or more; (ii) for some portion of a day in each of 20 different calendar
26 weeks, whether or not such weeks were consecutive, in either the current
27 or preceding calendar year, had in employment at least one individual,
28 whether or not the same individual was in employment in each such day;
29 or (iii) elects to have an unemployment tax account established at the time
30 of initial registration in accordance with K.S.A. 44-711(c), and
31 amendments thereto.

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

36 (3) Any employing unit for which service is employment as defined
37 in subsection (i)(3)(E).

38 (4) (A) Any employing unit, whether or not it is an employing unit
39 under subsection (g), that acquires or in any manner succeeds to: (i)
40 Substantially all of the employing enterprises, organization, trade or
41 business; or (ii) substantially all the assets, of another employing unit that
42 at the time of such acquisition was an employer subject to this act;

43 (B) any employing unit that is controlled substantially, either directly

1 or indirectly by legally enforceable means or otherwise, by the same
2 interest or interests, whether or not such interest or interests are an
3 employing unit under subsection (g), acquires or in any manner succeeds
4 to a portion of an employer's annual payroll, is less than 100% of such
5 employer's annual payroll, and intends to continue the acquired portion as
6 a going business.

7 (5) Any employing unit that paid cash remuneration of \$1,000 or
8 more in any calendar quarter in the current or preceding calendar year to
9 individuals employed in domestic service as defined in subsection (aa).

10 (6) Any employing unit that having become an employer under this
11 subsection (h) has not, under K.S.A. 44-711(b), and amendments thereto,
12 ceased to be an employer subject to this act.

13 (7) Any employing unit that has elected to become fully subject to
14 this act in accordance with K.S.A. 44-711(c), and amendments thereto.

15 (8) Any employing unit not an employer by reason of any other
16 paragraph of this subsection (h), for which within either the current or
17 preceding calendar year services in employment are or were performed
18 with respect to which such employing unit is liable for any federal tax
19 against which credit may be taken for contributions required to be paid
20 into a state unemployment compensation fund; or that, as a condition for
21 approval of this act for full tax credit against the tax imposed by the
22 federal unemployment tax act, is required, pursuant to such act, to be an
23 "employer" under this act.

24 (9) Any employing unit described in section 501(c)(3) of the federal
25 internal revenue code of 1986 that is exempt from income tax under
26 section 501(a) of the code that had four or more individuals in
27 employment for some portion of a day in each of 20 different weeks,
28 whether or not such weeks were consecutive, within either the current or
29 preceding calendar year, regardless of whether they were employed at the
30 same moment of time.

31 (i) "Employment" means:

32 (1) Subject to the other provisions of this subsection, service,
33 including services in interstate commerce, performed by:

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

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

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

41 (i) As an agent-driver or commission-driver engaged in distributing
42 meat products, vegetable products, fruit products, bakery products,
43 beverages, other than milk, or laundry or dry-cleaning services, for such

1 individual's principal; or

2 (ii) as a traveling or city salesman, other than as an agent-driver or
3 commission-driver, engaged upon a full-time basis in the solicitation on
4 behalf of, and the transmission to, a principal, except for side-line sales
5 activities on behalf of some other person, of orders from wholesalers,
6 retailers, contractors, or operators of hotels, restaurants, or other similar
7 establishments for merchandise for resale or supplies for use in their
8 business operations.

9 For purposes of subsection (i)(1)(C), the term "employment" includes
10 services described in paragraphs (i) and (ii) above only if:

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

13 (b) the individual does not have a substantial investment in facilities
14 used in connection with the performance of the services, other than in
15 facilities for transportation; and

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

19 (2) The term "employment" includes an individual's entire service
20 within the United States, even though performed entirely outside this state
21 if:

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

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

25 (C) the individual's base of operations is in this state, or if there is no
26 base of operations, then the place where service is directed or controlled is
27 in this state.

28 (3) The term "employment" also includes:

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

34 (B) Services performed entirely without this state, with respect to no
35 part of which contributions are required and paid under an unemployment
36 compensation law of any other state or of the federal government, shall be
37 deemed to be employment subject to this act only if the individual
38 performing such services is a resident of this state and the secretary
39 approved the election of the employing unit for whom such services are
40 performed that the entire service of such individual shall be deemed to be
41 employment subject to this act.

42 (C) Services covered by an arrangement pursuant to K.S.A. 44-
43 714(j), and amendments thereto, between the secretary and the agency

1 charged with the administration of any other state or federal
2 unemployment compensation law, pursuant to which all services
3 performed by an individual for an employing unit are deemed to be
4 performed entirely within this state, shall be deemed to be employment if
5 the secretary has approved an election of the employing unit for whom
6 such services are performed, pursuant to which the entire service of such
7 individual during the period covered by such election is deemed to be
8 insured work.

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

14 (E) Services performed by an individual in the employ of ~~this a~~ state
15 or any instrumentality thereof, any political subdivision of ~~this a~~ state or
16 any instrumentality thereof, or in the employ of an Indian tribe, as defined
17 pursuant to section 3306(u) of the federal unemployment tax act, any
18 instrumentality of more than one of the foregoing or any instrumentality
19 that is jointly owned by this state or a political subdivision thereof or
20 Indian tribes and one or more other states or political subdivisions of this
21 or other states, provided that such service is excluded from "employment"
22 as defined in the federal unemployment tax act by reason of section
23 3306(c)(7) of that act and is not excluded from "employment" under
24 subsection (i)(4)(A) of this section. For purposes of this section, the
25 exclusions from employment in subsections (i)(4)(A) and (i)(4)(L) shall
26 also be applicable to services performed in the employ of an Indian tribe.

27 (F) Services performed by an individual in the employ of a religious,
28 charitable, educational or other organization that is excluded from the term
29 "employment" as defined in the federal unemployment tax act solely by
30 reason of section 3306(c)(8) of that act, and is not excluded from
31 employment under subsection (i)(4)(I) through (M).

32 (G) The term "employment" includes the services of an individual
33 who is a citizen of the United States, performed outside the United States
34 except in Canada, in the employ of an American employer, other than
35 service that is deemed "employment" under the provisions of subsection (i)
36 (2) or subsection (i)(3) or the parallel provisions of another state's law, if:

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

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

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

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

43 (c) the employer is a partnership or a trust and the number of the

1 partners or trustees who are residents of this state is greater than the
2 number who are residents of any other state; or

3 (iii) none of the criteria of (i)(3)(G)(i) and (ii) are met but the
4 employer has elected coverage in this state or, the employer having failed
5 to elect coverage in any state, the individual has filed a claim for benefits,
6 based on such service, under the law of this state.

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

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

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

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

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

15 (I) Notwithstanding subsection (i)(2), all services performed by an
16 officer or member of the crew of an American vessel or American aircraft
17 on or in connection with such vessel or aircraft, if the operating office,
18 from which the operations of such vessel or aircraft operating within, or
19 within and without, the United States are ordinarily and regularly
20 supervised, managed, directed and controlled is within this state.

21 (J) Notwithstanding any other provisions of this subsection (i),
22 services with respect to which a tax is required to be paid under any
23 federal law imposing a tax against which credit may be taken for
24 contributions required to be paid into a state unemployment compensation
25 fund or that as a condition for full tax credit against the tax imposed by the
26 federal unemployment tax act is required to be covered under this act.

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

32 (4) The term "employment" does not include: (A) Services performed
33 in the employ of an employer specified in subsection (h)(3) if such service
34 is performed by an individual in the exercise of duties:

35 (i) As an elected official;

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

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

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

41 (v) in a position that, under or pursuant to the laws of this state or
42 tribal law, is designated as a major nontenured policymaking or advisory
43 position or as a policymaking or advisory position the performance of the

1 duties of which ordinarily does not require more than eight hours per
2 week;

3 (B) services with respect to which unemployment compensation is
4 payable under an unemployment compensation system established by an
5 act of congress;

6 (C) services performed by an individual in the employ of such
7 individual's son, daughter or spouse, and services performed by a child
8 under the age of 21 years in the employ of such individual's father or
9 mother;

10 (D) services performed in the employ of the United States
11 government or an instrumentality of the United States exempt under the
12 constitution of the United States from the contributions imposed by this
13 act, except that to the extent that the congress of the United States shall
14 permit states to require any instrumentality of the United States to make
15 payments into an unemployment fund under a state unemployment
16 compensation law, all of the provisions of this act shall be applicable to
17 such instrumentalities, and to services performed for such
18 instrumentalities, in the same manner, to the same extent and on the same
19 terms as to all other employers, employing units, individuals and services.
20 If this state shall not be certified for any year by the federal security
21 agency under section 3304(c) of the federal internal revenue code of 1986,
22 the payments required of such instrumentalities with respect to such year
23 shall be refunded by the secretary from the fund in the same manner and
24 within the same period as is provided in K.S.A. 44-717(h), and
25 amendments thereto, with respect to contributions erroneously collected;

26 (E) services covered by an arrangement between the secretary and the
27 agency charged with the administration of any other state or federal
28 unemployment compensation law pursuant to which all services performed
29 by an individual for an employing unit during the period covered by such
30 employing unit's duly approved election, are deemed to be performed
31 entirely within the jurisdiction of such other state or federal agency;

32 (F) services performed by an individual under the age of 18 in the
33 delivery or distribution of newspapers or shopping news, not including
34 delivery or distribution to any point for subsequent delivery or
35 distribution;

36 (G) services performed by an individual for an employing unit as an
37 insurance agent or as an insurance solicitor, if all such service performed
38 by such individual for such employing unit is performed for remuneration
39 solely by way of commission;

40 (H) services performed in any calendar quarter in the employ of any
41 organization exempt from income tax under section 501(a) of the federal
42 internal revenue code of 1986, other than an organization described in
43 section 401(a) or under section 521 of such code, if the remuneration for

1 such service is less than \$50. In construing the application of the term
2 "employment," if services performed during $\frac{1}{2}$ or more of any pay period
3 by an individual for the person employing such individual constitute
4 employment, all the services of such individual for such period shall be
5 deemed to be employment; but if the services performed during more than
6 $\frac{1}{2}$ of any such pay period by an individual for the person employing such
7 individual do not constitute employment, then none of the services of such
8 individual for such period shall be deemed to be employment. As used in
9 this subsection (i)(4)(H) the term "pay period" means a period, of not more
10 than 31 consecutive days, for which a payment of remuneration is
11 ordinarily made to the individual by the person employing such individual.
12 This subsection (i)(4)(H) shall not be applicable with respect to services
13 with respect to which unemployment compensation is payable under an
14 unemployment compensation system established by an act of congress;

15 (I) services performed in the employ of a church or convention or
16 association of churches, or an organization which is operated primarily for
17 religious purposes and which is operated, supervised, controlled, or
18 principally supported by a church or convention or association of
19 churches;

20 (J) services performed by a duly ordained, commissioned, or licensed
21 minister of a church in the exercise of such individual's ministry or by a
22 member of a religious order in the exercise of duties required by such
23 order;

24 (K) services performed in a facility conducted for the purpose of
25 carrying out a program of:

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

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

32 (L) services performed as part of an employment work-relief or
33 work-training program assisted or financed in whole or in part by any
34 federal agency or an agency of a state or political subdivision thereof or of
35 an Indian tribe, by an individual receiving such work relief or work
36 training;

37 (M) services performed by an inmate of a custodial or correctional
38 institution;

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

42 (O) services performed by an individual who is enrolled at a
43 nonprofit or public educational institution that normally maintains a

1 regular faculty and curriculum and normally has a regularly organized
2 body of students in attendance at the place where its educational activities
3 are carried on as a student in a full-time program, taken for credit at such
4 institution, that combines academic instruction with work experience, if
5 such service is an integral part of such program, and such institution has so
6 certified to the employer, except that this subsection (i)(4)(O) shall not
7 apply to service performed in a program established for or on behalf of an
8 employer or group of employers;

9 (P) services performed in the employ of a hospital licensed, certified
10 or approved by the secretary of health and environment, if such service is
11 performed by a patient of the hospital;

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

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

21 (ii) the services performed by the individual are performed pursuant
22 to a written contract between such individual and the person for whom the
23 services are performed and such contract provides that the individual will
24 not be treated as an employee with respect to such services for state tax
25 purposes;

26 (R) services performed for an employer by an extra in connection
27 with any phase of motion picture or television production or television
28 commercials for less than 14 days during any calendar year. As used in this
29 subsection, the term "extra" means an individual who pantomimes in the
30 background, adds atmosphere to the set and performs such actions without
31 speaking and "employer" shall not include any employer that is a
32 governmental entity or any employer described in section 501(c)(3) of the
33 federal internal revenue code of 1986 that is exempt from income taxation
34 under section 501(a) of the code;

35 (S) services performed by an oil and gas contract pumper. As used in
36 this subsection (i)(4)(S), "oil and gas contract pumper" means a person
37 performing pumping and other services on one or more oil or gas leases, or
38 on both oil and gas leases, relating to the operation and maintenance of
39 such oil and gas leases, on a contractual basis for the operators of such oil
40 and gas leases and "services" shall not include services performed for a
41 governmental entity or any organization described in section 501(c)(3) of
42 the federal internal revenue code of 1986 that is exempt from income
43 taxation under section 501(a) of the code;

1 (T) service not in the course of the employer's trade or business
2 performed in any calendar quarter by an employee, unless the cash
3 remuneration paid for such service is \$200 or more and such service is
4 performed by an individual who is regularly employed by such employer
5 to perform such service. For purposes of this paragraph, an individual shall
6 be deemed to be regularly employed by an employer during a calendar
7 quarter only if:

8 (i) On each of some 24 days during such quarter such individual
9 performs for such employer for some portion of the day service not in the
10 course of the employer's trade or business; or

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

14 Such excluded service shall not include any services performed for an
15 employer that is a governmental entity or any employer described in
16 section 501(c)(3) of the federal internal revenue code of 1986 that is
17 exempt from income taxation under section 501(a) of the code;

18 (U) service which is performed by any person who is a member of a
19 limited liability company and that is performed as a member or manager of
20 that limited liability company; and

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

23 (i) Such person:

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

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

31 (ii) substantially all the remuneration whether or not paid in cash for
32 the performance of the services described in subparagraph (i) is directly
33 related to sales or other output including the performance of services rather
34 than to the number of hours worked;

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

39 (iv) for purposes of this act, a sale or a sale resulting exclusively from
40 a solicitation made by telephone, mail, or other telecommunications
41 method, or other nonpersonal method does not satisfy the requirements of
42 this subsection;

43 (W) services performed as an election official or election worker, if

1 the amount of remuneration received by the individual during the calendar
2 year for services as an election official or election worker is less than
3 \$1,000;

4 (X) services performed by agricultural workers who are aliens
5 admitted to the United States to perform labor pursuant to section 1101(a)
6 (15)(H)(ii)(a) of the immigration and nationality act;

7 (Y) services performed by an owner-operator of a motor vehicle that
8 is leased or contracted to a licensed motor carrier with the services of a
9 driver and is not treated under the terms of the lease agreement or contract
10 with the licensed motor carrier as an employee for purposes of the federal
11 insurance contribution act, 26 U.S.C. § 3101 et seq., the federal social
12 security act, 42 U.S.C. § 301 et seq., the federal unemployment tax act, 26
13 U.S.C. § 3301 et seq., and the federal statutes prescribing income tax
14 withholding at the source, 26 U.S.C. § 3401 et seq. Employees or agents of
15 the owner-operator shall not be considered employees of the licensed
16 motor carrier for purposes of employment security taxation or
17 compensation. As used in this subsection (Y), the following definitions
18 apply: (i) "Motor vehicle" means any automobile, truck-trailer, semitrailer,
19 tractor, motor bus or any other self-propelled or motor-driven vehicle used
20 upon any of the public highways of Kansas for the purpose of transporting
21 persons or property; (ii) "licensed motor carrier" means any person, firm,
22 corporation or other business entity that holds a certificate of convenience
23 and necessity or a certificate of public service from the state corporation
24 commission or is required to register motor carrier equipment pursuant to
25 49 U.S.C. § 14504; and (iii) "owner-operator" means a person, firm,
26 corporation or other business entity that is the owner of a single motor
27 vehicle that is driven exclusively by the owner under a lease agreement or
28 contract with a licensed motor carrier; and

29 (Z) services performed by a petroleum landman on a contractual
30 basis. As used in this subparagraph, "petroleum landman" means an
31 individual performing services on a contractual basis who is not an
32 individual who is an active officer of a corporation as described in
33 subsection (i)(1)(A) that may include:

- 34 (i) Negotiating for the acquisition or divestiture of mineral rights;
35 (ii) negotiating business agreements that provide exploration for or
36 development of minerals;
37 (iii) determining ownership in minerals through the research of public
38 and private records;
39 (iv) reviewing the status of title, curing title defects, providing title
40 due diligence and otherwise reducing title risk associated with ownership
41 in minerals or the acquisition and divestiture of mineral properties;
42 (v) managing rights or obligations derived from ownership of
43 interests in minerals; or

1 (vi) unitizing or pooling of interests in minerals. For purposes of this
2 subparagraph, "minerals" includes oil, natural gas or petroleum. "Services"
3 does not include services performed for a governmental entity or any
4 organization described in section 501(c)(3) of the federal internal revenue
5 code of 1986, or a federally recognized Indian tribe that is exempt from
6 income taxation under section 501(a) of the code.

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

10 (k) "Fund" means the employment security fund established by this
11 act, to which all contributions and reimbursement payments required and
12 from which all benefits provided under this act shall be paid and including
13 all money received from the federal government as reimbursements
14 pursuant to section 204 of the federal-state extended compensation act of
15 1970, and amendments thereto.

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

19 (m) "Unemployment." An individual shall be deemed "unemployed"
20 with respect to any week during which such individual performs no
21 services and with respect to which no wages are payable to such
22 individual, or with respect to any week of less than full-time work if the
23 wages payable to such individual with respect to such week are less than
24 such individual's weekly benefit amount.

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

28 (o) "Wages" means all compensation for services, including
29 commissions, bonuses, back pay and the cash value of all remuneration,
30 including benefits, paid in any medium other than cash. The reasonable
31 cash value of remuneration in any medium other than cash, shall be
32 estimated and determined in accordance with rules and regulations
33 prescribed by the secretary. Compensation payable to an individual that
34 has not been actually received by that individual within 21 days after the
35 end of the pay period in which the compensation was earned shall be
36 considered to have been paid on the 21st day after the end of that pay
37 period. Effective January 1, 1986, gratuities, including tips received from
38 persons other than the employing unit, shall be considered wages when
39 reported in writing to the employer by the employee. Employees must
40 furnish a written statement to the employer, reporting all tips received if
41 they total \$20 or more for a calendar month whether the tips are received
42 directly from a person other than the employer or are paid over to the
43 employee by the employer. This includes amounts designated as tips by a

1 customer who uses a credit card to pay the bill. Notwithstanding the other
2 provisions of this subsection (o), wages paid in back pay awards or
3 settlements shall be allocated to the week or weeks and reported in the
4 manner as specified in the award or agreement, or, in the absence of such
5 specificity in the award or agreement, such wages shall be allocated to the
6 week or weeks in which such wages, in the judgment of the secretary,
7 would have been paid. The term "wages" shall not include:

8 (1) That part of the remuneration that has been paid in a calendar year
9 to an individual by an employer or such employer's predecessor in excess
10 of \$3,000 for all calendar years prior to 1972, in excess of \$4,200 for the
11 calendar years 1972 to 1977, inclusive, in excess of \$6,000 for calendar
12 years 1978 to 1982, inclusive, in excess of \$7,000 for the calendar year
13 1983, in excess of \$8,000 for the calendar years 1984 to 2014, inclusive,
14 and in excess of \$12,000 with respect to employment during calendar year
15 2015, and in excess of \$14,000 with respect to all calendar years thereafter,
16 except that if the definition of the term "wages" as contained in the federal
17 unemployment tax act is amended to include remuneration paid to an
18 individual by an employer under the federal act in excess of \$8,000 for the
19 calendar years 1984-2014, inclusive, and in excess of \$12,000 with respect
20 to employment during calendar year 2015, and in excess of \$14,000 with
21 respect to all calendar years thereafter, wages shall include remuneration
22 paid in a calendar year to an individual by an employer subject to this act
23 or such employer's predecessor with respect to employment during any
24 calendar year up to an amount equal to the dollar limitation specified in the
25 federal unemployment tax act. For the purposes of this subsection (o)(1),
26 the term "employment" shall include service constituting employment
27 under any employment security law of another state or of the federal
28 government;

29 (2) the amount of any payment, including any amount paid by an
30 employing unit for insurance or annuities, or into a fund, to provide for
31 any such payment, made to, or on behalf of, an employee or any of such
32 employee's dependents under a plan or system established by an employer
33 that makes provisions for employees generally, for a class or classes of
34 employees or for such employees or a class or classes of employees and
35 their dependents, on account of: (A) Sickness or accident disability, except
36 in the case of any payment made to an employee or such employee's
37 dependents, this subparagraph shall exclude from the term "wages" only
38 payments that are received under a workers compensation law. Any third
39 party that makes a payment included as wages by reason of this
40 subparagraph (2)(A) shall be treated as the employer with respect to such
41 wages; or (B) medical and hospitalization expenses in connection with
42 sickness or accident disability; or (C) death;

43 (3) any payment on account of sickness or accident disability, or

1 medical or hospitalization expenses in connection with sickness or
2 accident disability, made by an employer to, or on behalf of, an employee
3 after the expiration of six calendar months following the last calendar
4 month in which the employee worked for such employer;

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

7 (A) From or to a trust described in section 401(a) of the federal
8 internal revenue code of 1986 that is exempt from tax under section 501(a)
9 of the federal internal revenue code of 1986 at the time of such payment
10 unless such payment is made to an employee of the trust as remuneration
11 for services rendered as such employee and not as a beneficiary of the
12 trust;

13 (B) under or to an annuity plan that, at the time of such payment, is a
14 plan described in section 403(a) of the federal internal revenue code of
15 1986;

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

20 (D) under or to an annuity contract described in section 403(b) of the
21 federal internal revenue code of 1986, other than a payment for the
22 purchase of such contract that was made by reason of a salary reduction
23 agreement whether evidenced by a written instrument or otherwise;

24 (E) under or to an exempt governmental deferred compensation plan
25 as defined in section 3121(v)(3) of the federal internal revenue code of
26 1986;

27 (F) to supplement pension benefits under a plan or trust described in
28 any of the foregoing provisions of this subparagraph to take into account
29 some portion or all of the increase in the cost of living, as determined by
30 the secretary of labor, since retirement but only if such supplemental
31 payments are under a plan that is treated as a welfare plan under section
32 3(2)(B)(ii) of the federal employee retirement income security act of 1974;
33 or

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

36 (5) the payment by an employing unit, without deduction from the
37 remuneration of the employee, of the tax imposed upon an employee under
38 section 3101 of the federal internal revenue code of 1986 with respect to
39 remuneration paid to an employee for domestic service in a private home
40 of the employer or for agricultural labor;

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

43 (7) remuneration paid to or on behalf of an employee if and to the

1 extent that at the time of the payment of such remuneration it is reasonable
2 to believe that a corresponding deduction is allowable under section 217 of
3 the federal internal revenue code of 1986 relating to moving expenses;

4 (8) any payment or series of payments by an employer to an
5 employee or any of such employee's dependents that is paid:

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

8 (B) under a plan established by the employer that makes provisions
9 for employees generally, a class or classes of employees or for such
10 employees or a class or classes of employees and their dependents, other
11 than any such payment or series of payments that would have been paid if
12 the employee's employment relationship had not been so terminated;

13 (9) remuneration for agricultural labor paid in any medium other than
14 cash;

15 (10) any payment made, or benefit furnished, to or for the benefit of
16 an employee if at the time of such payment or such furnishing it is
17 reasonable to believe that the employee will be able to exclude such
18 payment or benefit from income under section 129 of the federal internal
19 revenue code of 1986 that relates to dependent care assistance programs;

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

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

26 (13) any benefit provided to or on behalf of an employee if at the time
27 such benefit is provided it is reasonable to believe that the employee will
28 be able to exclude such benefit from income under section 74(c), 117 or
29 132 of the federal internal revenue code of 1986;

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

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

39 Nothing in any paragraph of subsection (o), other than paragraph (1),
40 shall exclude from the term "wages": (1) Any employer contribution under
41 a qualified cash or deferred arrangement, as defined in section 401(k) of
42 the federal internal revenue code of 1986, to the extent that such
43 contribution is not included in gross income by reason of section 402(a)(8)

1 of the federal internal revenue code of 1986; or (2) any amount treated as
2 an employer contribution under section 414(h)(2) of the federal internal
3 revenue code of 1986.

4 Any amount deferred under a nonqualified deferred compensation plan
5 shall be taken into account for purposes of this section as of the later of
6 when the services are performed or when there is no substantial risk of
7 forfeiture of the rights to such amount. Any amount taken into account as
8 wages by reason of this paragraph, and the income attributable thereto,
9 shall not thereafter be treated as wages for purposes of this section. For
10 purposes of this paragraph, the term "nonqualified deferred compensation
11 plan" means any plan or other arrangement for deferral of compensation
12 other than a plan described in subsection (o)(4).

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

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

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

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

23 (t) "American vessel" or "American aircraft" means any vessel or
24 aircraft documented or numbered or otherwise registered under the laws of
25 the United States; and any vessel or aircraft that is neither documented or
26 numbered or otherwise registered under the laws of the United States nor
27 documented under the laws of any foreign country, if its crew performs
28 service solely for one or more citizens or residents of the United States or
29 corporations organized under the laws of the United States or of any state.

30 (u) "Institution of higher education," for the purposes of this section,
31 means an educational institution that:

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

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

37 (3) provides an educational program for which it awards a bachelor's
38 or higher degree, or provides a program that is acceptable for full credit
39 toward such a degree, a program of postgraduate or postdoctoral studies,
40 or a program of training to prepare students for gainful employment in a
41 recognized occupation; and

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

43 Notwithstanding any of the foregoing provisions of this subsection (u),

1 all colleges and universities in this state are institutions of higher education
2 for purposes of this section, except that no college, university, junior
3 college or other postsecondary school or institution that is operated by the
4 federal government or any agency thereof shall be an institution of higher
5 education for purposes of the employment security law.

6 (v) "Educational institution" means any institution of higher
7 education, as defined in subsection (u), or any institution, except private
8 for profit institutions, in which participants, trainees or students are offered
9 an organized course of study or training designed to transfer to them
10 knowledge, skills, information, doctrines, attitudes or abilities from, by or
11 under the guidance of an instructor or teacher and that is approved,
12 licensed or issued a permit to operate as a school by the state department
13 of education or other government agency that is authorized within the state
14 to approve, license or issue a permit for the operation of a school or to an
15 Indian tribe in the operation of an educational institution. The courses of
16 study or training that an educational institution offers may be academic,
17 technical, trade or preparation for gainful employment in a recognized
18 occupation.

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

20 (A) On a farm, in the employ of any person, in connection with
21 cultivating the soil, or in connection with raising or harvesting any
22 agricultural or horticultural commodity, including the raising, shearing,
23 feeding, caring for, training, and management of livestock, bees, poultry,
24 and furbearing animals and wildlife.

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

30 (C) In connection with the production or harvesting of any
31 commodity defined as an agricultural commodity in section (15)(g) of the
32 agricultural marketing act, as amended, 46 Stat. 1500, sec. 3; 12 U.S.C. §
33 1141j, or in connection with the ginning of cotton, or in connection with
34 the operation or maintenance of ditches, canals, reservoirs or waterways,
35 not owned or operated for profit, used exclusively for supplying and
36 storing water for farming purposes.

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

43 (ii) in the employ of a group of operators of farms, or a cooperative

1 organization of which such operators are members, in the performance of
2 services described in paragraph (i), but only if such operators produced
3 more than ½ of the commodity with respect to which such service is
4 performed;

5 (iii) the provisions of paragraphs (i) and (ii) shall not be deemed to be
6 applicable with respect to services performed in connection with
7 commercial canning or commercial freezing or in connection with any
8 agricultural or horticultural commodity after its delivery to a terminal
9 market for distribution for consumption.

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

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

16 (3) As used in this subsection, the term "farm" includes stock, dairy,
17 poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches,
18 nurseries, ranges, greenhouses, or other similar structures used primarily
19 for the raising of agricultural or horticultural commodities, and orchards.

20 (4) For the purpose of this section, if an employing unit does not
21 maintain sufficient records to separate agricultural labor from other
22 employment, all services performed during any pay period by an
23 individual for the person employing such individual shall be deemed to be
24 agricultural labor if services performed during ½ or more of such pay
25 period constitute agricultural labor; but if the services performed during
26 more than ½ of any such pay period by an individual for the person
27 employing such individual do not constitute agricultural labor, then none
28 of the services of such individual for such period shall be deemed to be
29 agricultural labor. As used in this subsection, the term "pay period" means
30 a period of not more than 31 consecutive days for which a payment of
31 remuneration is ordinarily made to the individual by the person employing
32 such individual.

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

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

38 (z) "Wage combining plan" means a uniform national arrangement
39 approved by the United States secretary of labor in consultation with the
40 state unemployment compensation agencies and in which this state shall
41 participate, whereby wages earned in one or more states are transferred to
42 another state, called the "paying state," and combined with wages in the
43 paying state, if any, for the payment of benefits under the laws of the

1 paying state and as provided by an arrangement so approved by the United
2 States secretary of labor.

3 (aa) "Domestic service" means any services for a person in the
4 operation and maintenance of a private household, local college club or
5 local chapter of a college fraternity or sorority, as distinguished from
6 service as an employee in the pursuit of an employer's trade, occupation,
7 profession, enterprise or vocation.

8 (bb) "Rated governmental employer" means any governmental entity
9 that elects to make payments as provided by K.S.A. 44-710d, and
10 amendments thereto.

11 (cc) "Benefit cost payments" means payments made to the
12 employment security fund by a governmental entity electing to become a
13 rated governmental employer.

14 (dd) "Successor employer" means any employer, as described in
15 subsection (h), that acquires or in any manner succeeds to: (1)
16 Substantially all of the employing enterprises, organization, trade or
17 business of another employer; or (2) substantially all the assets of another
18 employer.

19 (ee) "Predecessor employer" means an employer, as described in
20 subsection (h), who has previously operated a business or portion of a
21 business with employment to which another employer has succeeded.

22 (ff) "Lessor employing unit" means any independently established
23 business entity that engages in the business of providing leased employees
24 to a client lessee.

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

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

32 Sec. 2. K.S.A. 44-710a is hereby amended to read as follows: 44-
33 710a. (a) *Classification of employers by the secretary.* The term
34 "employer" as used in this section refers to contributing employers. The
35 secretary shall classify employers in accordance with their actual
36 experience in the payment of contributions on their own behalf and with
37 respect to benefits charged against their accounts with a view of fixing
38 such contribution rates as will reflect such experience. If, as of the date
39 such classification of employers is made, the secretary finds that any
40 employing unit has failed to file any report required in connection
41 therewith, or has filed a report which the secretary finds incorrect or
42 insufficient, the secretary shall make an estimate of the information
43 required from such employing unit on the basis of the best evidence

1 reasonably available to the secretary at the time, and notify the employing
2 unit thereof by mail addressed to its last known address. Unless such
3 employing unit shall file the report or a corrected or sufficient report as the
4 case may be, within 15 days after the mailing of such notice, the secretary
5 shall compute such employing unit's rate of contributions on the basis of
6 such estimates, and the rate as so determined shall be subject to increase
7 but not to reduction on the basis of subsequently ascertained information.
8 The secretary shall determine the contribution rate of each employer in
9 accordance with the requirements of this section.

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

14 (B) (i) (a) Each employer who is not eligible for a rate contribution
15 shall pay contributions equal to 2.7% of wages paid during each calendar
16 year with regard to employment, except such employers engaged in the
17 construction industry shall pay a rate equal to 6%.

18 (b) (1) An employer who was not doing business in Kansas prior to
19 July 1, 2014, shall be eligible for either the new employer rate under
20 subsection (a)(1)(B)(i)(a) or the rate associated with the reserve ratio such
21 employer experienced in the state which such employer was formerly
22 located, but in no event less than 1% if such:

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

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

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

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

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

40 (ii) For purposes of this subsection (a), employers shall be classified
41 by industrial activity in accordance with standard procedures as set forth in
42 rules and regulations adopted by the secretary. Employers engaged in more
43 than one type of industrial activity shall be classified by principal activity.

1 All rates assigned will remain in effect for a complete calendar year. If the
2 sale or acquisition of a new establishment would require reclassification of
3 the employer to a different industry sector, the employer would be
4 promptly notified, and the contribution rate applicable to the new industry
5 sector would become effective the following January 1.

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

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

20 (B) Negative account balance employers, as defined in subsection (d),
21 shall pay contributions at the rate referenced in subsection (a)(4)(B).

22 (C) Eligible employers, other than negative account balance
23 employers, who do not meet the average annual payroll requirements as
24 stated in K.S.A. 44-703(a)(2), and amendments thereto, will be issued the
25 maximum rate indicated by the maximum rate group of standard rate
26 schedule—standard schedule 7 in subsection (a)(4)(B)(ii) until such
27 employer establishes a new period of 24 consecutive calendar months
28 immediately preceding the computation date throughout which benefits
29 could have been charged against such employer's account by resuming the
30 payment of wages. Contribution rates effective for each calendar year
31 thereafter shall be determined as prescribed below.

32 (D) If the amounts collected from negative account balance
33 employers and paid into the employment security interest assessment fund
34 for the purpose of paying interest due and owing on funds received from
35 the federal unemployment account under title XII of the social security act
36 are in excess of the amounts needed to pay interest due, the amounts in
37 excess shall remain in the employment security interest assessment fund to
38 be used to pay interest in future years. Whenever the secretary certifies all
39 interest payments have been paid, any excess funds remaining in the
40 employment security interest assessment fund shall be transferred to the
41 employment security trust fund for the purpose of paying any remaining
42 principal amount due for advances described in this section. In the event
43 that the amount transferred from the employment security interest

1 assessment fund exceeds such remaining amount of principal due, the
2 balance shall be used for the purposes of the employment security trust
3 fund.

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

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

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

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

20 (4) (A) For each rate year, the contribution schedule in effect shall be
21 determined by the applicable fund control table and rate schedule table of
22 subsection (a)(4)(B).

23 (B) *Effective rates.* (i) Employer contribution rates to be effective for
24 each calendar year shall be determined by the applicable rate schedule in
25 clause (ii) and the fund control table for the rate year as specified
26 contained in this clause. The average high cost multiple of the trust fund as
27 of the computation date shall determine the contribution schedule in effect
28 for the next rate year. For purposes of subsection (a)(4)(B)(i), the average
29 high cost multiple is the reserve fund ratio divided by the average high
30 benefit cost rate. The average high benefit cost rate shall be determined by
31 averaging the three highest benefit cost rates over the last 20 years from
32 the preceding fiscal year which ended June 30. The high benefit cost rate is
33 defined by dividing total benefits paid in the fiscal year by total payrolls
34 for covered employers in the fiscal year. The reserve fund ratio shall be
35 determined by dividing total assets in the employment security fund
36 provided for in K.S.A. 44-712(a), and amendments thereto, excluding all
37 moneys credited to the account of this state pursuant to section 903 of the
38 federal social security act, as amended, that have been appropriated by the
39 legislature, whether or not withdrawn from the trust fund, and excluding
40 contributions not yet paid on July 31, by total payrolls for contributing
41 employers for the preceding fiscal year that ended on June 30.

42 Fund Control Table A

43 For Rate Years 2016-2021

	Lower AHCM Threshold	Upper AHCM Threshold	Solvency Adjustment to Rate per Standard Rate Schedule
1	-1,000.00000	0.19999	1.60%
2	0.20000	0.44999	1.40%
3	0.45000	0.59999	1.20%
4	0.60000	0.74999	1.00%
5	0.75000	1.14999	0.00%
6	1.15000	1,000.00000	-0.50%

10 Fund Control Table B

11 For Rate Year 2022 and Ensuing Calendar Years

12	KS SUTA Tax Rate Schedules	13 Lower AHCM Threshold	14 Upper AHCM Threshold	15 Solvency/Credit Adjustment to Maximum Standard Rate	16 Solvency/Credit Adjustment as a Rate Group Multiplier to Standard, Earned Rate Group	17 Solvency/Credit Adjustment as a Total % to Employer's Standard, Earned Rate Group
18	1	-1,000.00000	-0.00001	2.00%	0.05263%	26.32%
19	2	0.00000	0.24999	1.80%	0.04737%	23.68%
20	Solvency Schedules (1-6)	3 0.25000	4 0.44999	5 1.60%	6 0.04211%	21.05%
21		4 0.45000	5 0.59999	6 1.40%	0.03684%	18.42%
22		5 0.60000	6 0.69999	1.20%	0.03158%	15.79%
23		6 0.70000	0.74999	1.00%	0.02632%	13.16%
24	Standard Schedule (7)	7 0.75000	1.24999	0.00%	0.00000%	0.00%
25		8 1.25000	1.29999	-1.00%	-0.02632%	-13.16%
26	Credit Schedules (8-13)	9 1.30000	1.39999	-1.20%	-0.03158%	-15.79%
27		10 1.40000	1.54999	-1.40%	-0.03684%	-18.42%
28		11 1.55000	1.74999	-1.60%	-0.04211%	-21.05%
29		12 1.75000	1.99999	-1.80%	-0.04737%	-23.68%
30		13 2.00000	1,000.00000	-2.00%	-0.05263%	-26.32%

33 (ii) (a) Eligible employers shall be classified by rate group according
 34 to the standard rate schedule - standard rate schedule 7 in this section, for
 35 that rate year. Except as provided in subclause (b), for rate years 2016
 36 through 2021, the rate pursuant to the standard rate schedule as adjusted by
 37 fund control table A shall apply. Except as provided in subclause (b), for
 38 rate year 2022 and ensuing calendar years, the rate pursuant to standard
 39 rate schedule 7, solvency schedules 1 through 6 or credit schedules 8
 40 through 13 shall apply as provided by fund control table B.

41 (b) (1) In the event the full transfer of \$250,000,000 is not made as
 42 provided in K.S.A. 2021 Supp. 75-5745, and amendments thereto, to the
 43 employment security fund on or before July 15, 2021, all contributing
 44 employers shall pay the rate as set forth in standard rate schedule -
 45 standard rate schedule 7 for the 2022 calendar year.

46 (2) In the event the second transfer of up to \$250,000,000 is not made

1 as provided in K.S.A. 2021 Supp. 75-5745, and amendments thereto, to the
 2 employment security fund on or before July 15, 2022, all contributing
 3 employers shall pay the rate as set forth in standard rate schedules -
 4 standard rate schedule 7 for the 2023 calendar year.

5 STANDARD RATE SCHEDULE -

6 STANDARD RATE SCHEDULE 7

7	RateLower Reserve	Upper Reserve	Standard	
8	Group	Ratio Limit	Ratio Limit	Rate
9	1	18.590	1,000,000.000	0.20%
10	2	17.875	18.589	0.40%
11	3	17.160	17.874	0.60%
12	4	16.445	17.159	0.80%
13	5	15.730	16.444	1.00%
14	6	15.015	15.729	1.20%
15	7	14.300	15.014	1.40%
16	8	13.585	14.299	1.60%
17	9	12.870	13.584	1.80%
18	10	12.155	12.869	2.00%
19	11	11.440	12.154	2.20%
20	12	10.725	11.439	2.40%
21	13	10.010	10.724	2.60%
22	14	9.295	10.009	2.80%
23	15	8.580	9.294	3.00%
24	16	7.865	8.579	3.20%
25	17	7.150	7.864	3.40%
26	18	6.435	7.149	3.60%
27	19	5.720	6.434	3.80%
28	20	5.005	5.719	4.00%
29	21	4.290	5.004	4.20%
30	22	3.575	4.289	4.40%
31	23	2.860	3.574	4.60%
32	24	2.145	2.859	4.80%
33	25	1.430	2.144	5.00%
34	26	0.715	1.429	5.20%
35	27	0.000	0.714	5.40%
36	N1	-0.714	-0.001	5.60%
37	N2	-1.429	-0.715	5.80%
38	N3	-2.144	-1.430	6.00%
39	N4	-2.859	-2.145	6.20%
40	N5	-3.574	-2.860	6.40%
41	N6	-4.289	-3.575	6.60%
42	N7	-5.004	-4.290	6.80%
43	N8	-5.719	-5.005	7.00%

1	N9	-6.434		-5.720		7.20%
2	N10	-7.149		-6.435		7.40%
3	N11	-1,000,000.000		-7.150		7.60%
4	SOLVENCY RATE SCHEDULES (1-6)					
5	Rate					
6	Group	1	2	3	4	5
7	1	0.252632%	0.247375%	0.24211%	0.23684%	0.23158%
8		0.25%	0.25%	0.24%	0.24%	0.23%
9	2	0.505263%	0.49474%	0.48421%	0.47368%	0.46316%
10		0.51%	0.49%	0.48%	0.47%	0.45%
11	3	0.757895%	0.74211%	0.72632%	0.71053%	0.69474%
12		0.76%	0.74%	0.73%	0.71%	0.68%
13	4	1.010526%	0.98947%	0.96842%	0.94737%	0.92632%
14		1.01%	0.99%	0.97%	0.95%	0.93%
15	5	1.263158%	1.23684%	1.21053%	1.18421%	1.15789%
16		1.26%	1.24%	1.21%	1.18%	1.13%
17	6	1.515789%	1.48421%	1.45263%	1.42105%	1.38947%
18		1.52%	1.48%	1.45%	1.42%	1.36%
19	7	1.768421%	1.73158%	1.69474%	1.65789%	1.62105%
20		1.77%	1.73%	1.69%	1.66%	1.58%
21	8	2.021053%	1.97895%	1.93684%	1.89474%	1.85263%
22		2.02%	1.98%	1.94%	1.89%	1.81%
23	9	2.273684%	2.22632%	2.17895%	2.13158%	2.08421%
24		2.27%	2.23%	2.18%	2.13%	2.04%
25	10	2.526316%	2.47368%	2.42105%	2.36842%	2.31579%
26		2.53%	2.47%	2.42%	2.37%	2.26%
27	11	2.778947%	2.72105%	2.66316%	2.60526%	2.54737%
28		2.78%	2.72%	2.66%	2.61%	2.49%
29	12	3.031579%	2.96842%	2.90526%	2.84211%	2.77895%
30		3.03%	2.97%	2.91%	2.84%	2.72%
31	13	3.284211%	3.21579%	3.14737%	3.07895%	3.01053%
32		3.28%	3.22%	3.15%	3.08%	2.94%
33	14	3.536842%	3.46316%	3.38947%	3.31579%	3.24211%
34		3.54%	3.46%	3.39%	3.32%	3.17%
35	15	3.789474%	3.71053%	3.63158%	3.55263%	3.47368%
36		3.79%	3.71%	3.63%	3.55%	3.39%
37	16	4.042105%	3.95789%	3.87368%	3.78947%	3.70526%
38		4.04%	3.96%	3.87%	3.79%	3.62%
39	17	4.294737%	4.20526%	4.11579%	4.02632%	3.93684%
40		4.29%	4.21%	4.12%	4.03%	3.85%
41	18	4.547368%	4.45263%	4.35789%	4.26316%	4.16842%
42		4.55%	4.45%	4.36%	4.26%	4.07%
43	19	4.800000%	4.70000%	4.60000%	4.50000%	4.40000%
44		4.80%	4.70%	4.60%	4.50%	4.30%

1	20	5.052632%	4.94737%	4.84211%	4.73684%	4.63158%	4.52632%
2		5.05%	4.95%	4.84%	4.74%	4.63%	4.53%
3	21	5.305263%	5.19474%	5.08421%	4.97368%	4.86316%	4.75263%
4		5.31%	5.19%	5.08%	4.97%	4.86%	4.75%
5	22	5.557895%	5.44211%	5.32632%	5.21053%	5.09474%	4.97895%
6		5.56%	5.44%	5.33%	5.21%	5.09%	4.98%
7	23	5.810526%	5.68947%	5.56842%	5.44737%	5.32632%	5.20526%
8		5.81%	5.69%	5.57%	5.45%	5.33%	5.21%
9	24	6.063158%	5.93684%	5.81053%	5.68421%	5.55789%	5.43158%
10		6.06%	5.94%	5.81%	5.68%	5.56%	5.43%
11	25	6.315789%	6.18421%	6.05263%	5.92105%	5.78947%	5.65789%
12		6.32%	6.18%	6.05%	5.92%	5.79%	5.66%
13	26	6.568421%	6.43158%	6.29474%	6.15789%	6.02105%	5.88421%
14		6.57%	6.43%	6.29%	6.16%	6.02%	5.88%
15	27	6.821053%	6.67895%	6.53684%	6.39474%	6.25263%	6.11053%
16		6.82%	6.68%	6.54%	6.39%	6.25%	6.11%
17	N1	7.073684%	6.92632%	6.77895%	6.63158%	6.48421%	6.33684%
18		7.07%	6.93%	6.78%	6.63%	6.48%	6.34%
19	N2	7.326316%	7.17368%	7.02105%	6.86842%	6.71579%	6.56316%
20		7.33%	7.17%	7.02%	6.87%	6.72%	6.56%
21	N3	7.578947%	7.42105%	7.26316%	7.10526%	6.94737%	6.78947%
22		7.58%	7.42%	7.26%	7.11%	6.95%	6.79%
23	N4	7.831579%	7.66842%	7.50526%	7.34211%	7.17895%	7.01579%
24		7.83%	7.67%	7.51%	7.34%	7.18%	7.02%
25	N5	8.084211%	7.91579%	7.74737%	7.57895%	7.41053%	7.24211%
26		8.08%	7.92%	7.75%	7.58%	7.41%	7.24%
27	N6	8.336842%	8.16316%	7.98947%	7.81579%	7.64211%	7.46842%
28		8.34%	8.16%	7.99%	7.82%	7.64%	7.47%
29	N7	8.589474%	8.41053%	8.23158%	8.05263%	7.87368%	7.69474%
30		8.59%	8.41%	8.23%	8.05%	7.87%	7.69%
31	N8	8.842105%	8.65789%	8.47368%	8.28947%	8.10526%	7.92105%
32		8.84%	8.66%	8.47%	8.29%	8.11%	7.92%
33	N9	9.094737%	8.90526%	8.71579%	8.52632%	8.33684%	8.14737%
34		9.09%	8.91%	8.72%	8.53%	8.34%	8.15%
35	N10	9.347368%	9.15263%	8.95789%	8.76316%	8.56842%	8.37368%
36		9.35%	9.15%	8.96%	8.76%	8.57%	8.37%
37	N11	9.600000%	9.40000%	9.20000%	9.00000%	8.80000%	8.60000%
38		9.60%	9.40%	9.20%	9.00%	8.80%	8.60%

CREDIT RATE SCHEDULES (8-13)

39							
40	Rate						
41	Group	8	9	10	11	12	13
42	1	0.173684%	0.16842%	0.16316%	0.15789%	0.15263%	0.14737%
43		0.17%	0.17%	0.16%	0.16%	0.15%	0.15%
44	2	0.347368%	0.33684%	0.32632%	0.31579%	0.30526%	0.29474%

1		<i>0.35%</i>	<i>0.34%</i>	<i>0.33%</i>	<i>0.32%</i>	<i>0.31%</i>	<i>0.29%</i>
2	3	0.521053%	0.50526%	0.48947%	0.47368%	0.45789%	0.44211%
3		<i>0.52%</i>	<i>0.51%</i>	<i>0.49%</i>	<i>0.47%</i>	<i>0.46%</i>	<i>0.44%</i>
4	4	0.694737%	0.67368%	0.65263%	0.63158%	0.61053%	0.58947%
5		<i>0.69%</i>	<i>0.67%</i>	<i>0.65%</i>	<i>0.63%</i>	<i>0.61%</i>	<i>0.59%</i>
6	5	0.868421%	0.84211%	0.81579%	0.78947%	0.76316%	0.73684%
7		<i>0.87%</i>	<i>0.84%</i>	<i>0.82%</i>	<i>0.79%</i>	<i>0.76%</i>	<i>0.74%</i>
8	6	1.042105%	1.01053%	0.97895%	0.94737%	0.91579%	0.88421%
9		<i>1.04%</i>	<i>1.01%</i>	<i>0.98%</i>	<i>0.95%</i>	<i>0.92%</i>	<i>0.88%</i>
10	7	1.215789%	1.17895%	1.14211%	1.10526%	1.06842%	1.03158%
11		<i>1.22%</i>	<i>1.18%</i>	<i>1.14%</i>	<i>1.11%</i>	<i>1.07%</i>	<i>1.03%</i>
12	8	1.389474%	1.34737%	1.30526%	1.26316%	1.22105%	1.17895%
13		<i>1.39%</i>	<i>1.35%</i>	<i>1.31%</i>	<i>1.26%</i>	<i>1.22%</i>	<i>1.18%</i>
14	9	1.563158%	1.51579%	1.46842%	1.42105%	1.37368%	1.32632%
15		<i>1.56%</i>	<i>1.52%</i>	<i>1.47%</i>	<i>1.42%</i>	<i>1.37%</i>	<i>1.33%</i>
16	10	1.736842%	1.68421%	1.63158%	1.57895%	1.52632%	1.47368%
17		<i>1.74%</i>	<i>1.68%</i>	<i>1.63%</i>	<i>1.58%</i>	<i>1.53%</i>	<i>1.47%</i>
18	11	1.910526%	1.85263%	1.79474%	1.73684%	1.67895%	1.62105%
19		<i>1.91%</i>	<i>1.85%</i>	<i>1.79%</i>	<i>1.74%</i>	<i>1.68%</i>	<i>1.62%</i>
20	12	2.084211%	2.02105%	1.95789%	1.89474%	1.83158%	1.76842%
21		<i>2.08%</i>	<i>2.02%</i>	<i>1.96%</i>	<i>1.89%</i>	<i>1.83%</i>	<i>1.77%</i>
22	13	2.257895%	2.18947%	2.12105%	2.05263%	1.98421%	1.91579%
23		<i>2.26%</i>	<i>2.19%</i>	<i>2.12%</i>	<i>2.05%</i>	<i>1.98%</i>	<i>1.92%</i>
24	14	2.431579%	2.35789%	2.28421%	2.21053%	2.13684%	2.06316%
25		<i>2.43%</i>	<i>2.36%</i>	<i>2.28%</i>	<i>2.21%</i>	<i>2.14%</i>	<i>2.06%</i>
26	15	2.605263%	2.52632%	2.44737%	2.36842%	2.28947%	2.21053%
27		<i>2.61%</i>	<i>2.53%</i>	<i>2.45%</i>	<i>2.37%</i>	<i>2.29%</i>	<i>2.21%</i>
28	16	2.778947%	2.69474%	2.61053%	2.52632%	2.44211%	2.35789%
29		<i>2.78%</i>	<i>2.69%</i>	<i>2.61%</i>	<i>2.53%</i>	<i>2.44%</i>	<i>2.36%</i>
30	17	2.952632%	2.86316%	2.77368%	2.68421%	2.59474%	2.50526%
31		<i>2.95%</i>	<i>2.86%</i>	<i>2.77%</i>	<i>2.68%</i>	<i>2.59%</i>	<i>2.51%</i>
32	18	3.126316%	3.03158%	2.93684%	2.84211%	2.74737%	2.65263%
33		<i>3.13%</i>	<i>3.03%</i>	<i>2.94%</i>	<i>2.84%</i>	<i>2.75%</i>	<i>2.65%</i>
34	19	3.300000%	3.20000%	3.10000%	3.00000%	2.90000%	2.80000%
35		<i>3.30%</i>	<i>3.20%</i>	<i>3.10%</i>	<i>3.00%</i>	<i>2.90%</i>	<i>2.80%</i>
36	20	3.473684%	3.36842%	3.26316%	3.15789%	3.05263%	2.94737%
37		<i>3.47%</i>	<i>3.37%</i>	<i>3.26%</i>	<i>3.16%</i>	<i>3.05%</i>	<i>2.95%</i>
38	21	3.647368%	3.53684%	3.42632%	3.31579%	3.20526%	3.09474%
39		<i>3.65%</i>	<i>3.54%</i>	<i>3.43%</i>	<i>3.32%</i>	<i>3.21%</i>	<i>3.09%</i>
40	22	3.821053%	3.70526%	3.58947%	3.47368%	3.35789%	3.24211%
41		<i>3.82%</i>	<i>3.71%</i>	<i>3.59%</i>	<i>3.47%</i>	<i>3.36%</i>	<i>3.24%</i>
42	23	3.994737%	3.87368%	3.75263%	3.63158%	3.51053%	3.38947%
43		<i>3.99%</i>	<i>3.87%</i>	<i>3.75%</i>	<i>3.63%</i>	<i>3.51%</i>	<i>3.39%</i>

1	24	4.168421%	4.04211%	3.91579%	3.78947%	3.66316%	3.53684%
2		4.17%	4.04%	3.92%	3.79%	3.66%	3.54%
3	25	4.342105%	4.21053%	4.07895%	3.94737%	3.81579%	3.68421%
4		4.34%	4.21%	4.08%	3.95%	3.82%	3.68%
5	26	4.515789%	4.37895%	4.24211%	4.10526%	3.96842%	3.83158%
6		4.52%	4.38%	4.24%	4.11%	3.97%	3.83%
7	27	4.689474%	4.54737%	4.40526%	4.26316%	4.12105%	3.97895%
8		4.69%	4.55%	4.41%	4.26%	4.12%	3.98%
9	N1	4.863158%	4.71579%	4.56842%	4.42105%	4.27368%	4.12632%
10		4.86%	4.72%	4.57%	4.42%	4.27%	4.13%
11	N2	5.036842%	4.88421%	4.73158%	4.57895%	4.42632%	4.27368%
12		5.04%	4.88%	4.73%	4.58%	4.43%	4.27%
13	N3	5.210526%	5.05263%	4.89474%	4.73684%	4.57895%	4.42105%
14		5.21%	5.05%	4.89%	4.74%	4.58%	4.42%
15	N4	5.384211%	5.22105%	5.05789%	4.89474%	4.73158%	4.56842%
16		5.38%	5.22%	5.06%	4.89%	4.73%	4.57%
17	N5	5.557895%	5.38947%	5.22105%	5.05263%	4.88421%	4.71579%
18		5.56%	5.39%	5.22%	5.05%	4.88%	4.72%
19	N6	5.731579%	5.55789%	5.38421%	5.21053%	5.03684%	4.86316%
20		5.73%	5.56%	5.38%	5.21%	5.04%	4.86%
21	N7	5.905263%	5.72632%	5.54737%	5.36842%	5.18947%	5.01053%
22		5.91%	5.73%	5.55%	5.37%	5.19%	5.01%
23	N8	6.078947%	5.89474%	5.71053%	5.52632%	5.34211%	5.15789%
24		6.08%	5.89%	5.71%	5.53%	5.34%	5.16%
25	N9	6.252632%	6.06316%	5.87368%	5.68421%	5.49474%	5.30526%
26		6.25%	6.06%	5.87%	5.68%	5.49%	5.31%
27	N10	6.426316%	6.23158%	6.03684%	5.84211%	5.64737%	5.45263%
28		6.43%	6.23%	6.04%	5.84%	5.65%	5.45%
29	N11	6.600000%	6.40000%	6.20000%	6.00000%	5.80000%	5.60000%
30		6.60%	6.40%	6.20%	6.00%	5.80%	5.60%

31 (b) *Successor classification.* (1) (A) For the purposes of this
 32 subsection, whenever an employing unit, whether or not it is an
 33 "employing unit" within the meaning of ~~of~~ K.S.A. 44-703(g), and
 34 amendments thereto, becomes an employer pursuant to K.S.A. 44-703(h)
 35 (4), and amendments thereto, or is an employer at the time of acquisition
 36 and meets the definition of a "successor employer" as defined by K.S.A.
 37 44-703(dd), and amendments thereto, and thereafter transfers its trade or
 38 business, or any portion thereof, to another employer and, at the time of
 39 the transfer, there is substantially common ownership, management or
 40 control of the two employers, then the unemployment experience
 41 attributable to the transferred trade or business shall be transferred to the
 42 employer to whom such business is so transferred. These experience
 43 factors consist of all contributions paid, benefit experience and annual

1 payrolls of the predecessor employer. The transfer of some or all of an
2 employer's workforce to another employer shall be considered a transfer of
3 trade or business when, as the result of such transfer, the transferring
4 employer no longer performs trade or business with respect to the
5 transferred workforce, and such trade or business is performed by the
6 employer to whom the workforce is transferred.

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

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

16 (3) Whenever an employing unit, whether or not it is an "employing
17 unit" within the meaning of K.S.A. 44-703(g), and amendments thereto,
18 acquires or in any manner succeeds to a percentage of an employer's
19 annual payroll which is less than 100% and intends to continue the
20 acquired percentage as a going business, the employing unit may acquire
21 the same percentage of the predecessor's experience factors if: (A) The
22 predecessor employer and successor employing unit make an application
23 in writing on the form prescribed by the secretary; (B) the application is
24 submitted within 120 days of the date of the transfer; (C) the successor
25 employing unit is or becomes an employer subject to this act immediately
26 after the transfer; (D) the percentage of the experience rating factors
27 transferred shall not be thereafter used in computing the contribution rate
28 for the predecessor employer; and (E) the secretary finds that such transfer
29 will not tend to defeat or obstruct the object and purposes of this act.

30 (4) (A) The rate of both employers in a full or partial successorship
31 under paragraph (1) shall be recalculated and made effective on the first
32 day of the next calendar quarter following the date of transfer of trade or
33 business.

34 (B) If a successor employer is determined to be qualified under
35 paragraph (2) or (3) to receive the experience rating factors of the
36 predecessor employer, the rate assigned to the successor employer for the
37 remainder of the contributions year shall be determined by the following:

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

41 (ii) If the acquiring employing unit was not an employer subject to
42 this act prior to the date of the transfer, the successor employer shall have a
43 newly computed rate for the remainder of the contribution year which shall

1 be based on the transferred experience rating factors as they existed on the
2 most recent computation date immediately preceding the date of
3 acquisition. These experience rating factors consist of all contributions
4 paid, benefit experience and annual payrolls.

5 (5) Whenever an employing unit is not an employer at the time it
6 acquires the trade or business of an employer, the unemployment
7 experience factors of the acquired business shall not be transferred to such
8 employing unit if the secretary finds that such employing unit acquired the
9 business solely or primarily for the purpose of obtaining a lower rate of
10 contributions. Instead, such employing unit shall be assigned the
11 applicable industry rate for a "new employer" as described in subsection
12 (a)(1). In determining whether the business was acquired solely or
13 primarily for the purpose of obtaining a lower rate of contributions, the
14 secretary shall use objective factors which may include the cost of
15 acquiring the business, whether the employer continued the business
16 enterprise of the acquired business, how long such business enterprise was
17 continued, or whether a substantial number of new employees were hired
18 for performance of duties unrelated to the business activity conducted
19 prior to acquisition.

20 (6) Whenever an employer's account has been terminated as provided
21 in K.S.A. 44-711(d) and (e), and amendments thereto, and the employer
22 continues with employment to liquidate the business operations, that
23 employer shall continue to be an "employer" subject to the employment
24 security law as provided in K.S.A. 44-703(h)(8), and amendments thereto.
25 The rate of contribution from the date of transfer to the end of the then
26 current calendar year shall be the same as the contribution rate prior to the
27 date of the transfer. At the completion of the then current calendar year, the
28 rate of contribution shall be that of a "new employer" as described in
29 subsection (a)(1).

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

37 (c) *Voluntary contributions.* Notwithstanding any other provision of
38 the employment security law, any employer may make voluntary payments
39 for the purpose of reducing or maintaining a reduced rate in addition to the
40 contributions required under this section. Such voluntary payments may be
41 made only during the thirty-day period immediately following the date of
42 mailing of experience rating notices for a calendar year. All such voluntary
43 contribution payments shall be paid prior to the expiration of 120 days

1 after the beginning of the year for which such rates are effective. The
2 amount of voluntary contributions shall be credited to the employer's
3 account as of the next preceding computation date and the employer's rate
4 shall be computed accordingly. Under no circumstances shall voluntary
5 payments be refunded in whole or in part.

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

10 (e) There is hereby established in the state treasury, separate and apart
11 from all public moneys or funds of this state, an employment security
12 interest assessment fund, which shall be administered by the secretary as
13 provided in this act. Moneys in the employment security fund established
14 by K.S.A. 44-712, and amendments thereto, and employment security
15 interest assessment fund established by K.S.A. 44-710, and amendments
16 thereto, shall not be invested in the pooled money investment portfolio
17 established under K.S.A. 75-4234, and amendments thereto.
18 Notwithstanding the provisions of K.S.A. 44-712(a), K.S.A. 44-716,
19 K.S.A. 44-717 and K.S.A. 75-4234, and amendments thereto, or any like
20 provision the secretary shall remit all moneys received from employers
21 pursuant to the interest payment pursuant to law, to the state treasurer in
22 accordance with the provisions of K.S.A. 75-4215, and amendments
23 thereto. Upon receipt of each such remittance, the state treasurer shall
24 deposit the entire amount in the employment security interest assessment
25 fund. All moneys in this fund which are received from employers pursuant
26 to the interest payment assessments shall be expended solely for the
27 purposes and in the amounts found by the secretary necessary to pay any
28 principal and interest due and owing the United States department of labor
29 resulting from any advancements made to the Kansas employment security
30 fund pursuant to the provisions of title XII of the social security act (42
31 U.S.C. §§ 1321 to 1324) except as may be otherwise provided under
32 subsection (a)(2)(D). Notwithstanding any provision of this section, all
33 moneys received and credited to this fund shall remain part of the
34 employment security interest assessment fund and shall be used only in
35 accordance with the conditions specified.

36 (f) The secretary of labor shall annually prepare and submit a
37 certification as to the solvency and adequacy of the amount credited to the
38 state of Kansas' account in the federal employment security trust fund to
39 the governor and the legislative coordinating council. The certification
40 shall be submitted on or before December 1 of each calendar year and
41 shall be for the 12-month period ending on June 30 of that calendar year.
42 In arriving at the certification contributions paid on or before July 31
43 following the 12-month period ending date of June 30 shall be considered.

1 Sec. 3. K.S.A. 44-775 is hereby amended to read as follows: 44-775.

2 (a) (1) The secretary of labor and the secretary of commerce shall jointly
3 establish and implement the my reemployment plan as provided in this
4 section. For purposes of this section, "my reemployment plan" means a
5 program jointly established and implemented by the Kansas department of
6 labor and the Kansas department of commerce that provides enhanced
7 reemployment services, including workforce services provided by the
8 department of commerce, to Kansans receiving unemployment insurance
9 benefits. The program shall be ~~available to~~ *required for* all claimants
10 except claimants ~~in the shared work program or trade readjustment~~
11 ~~assistance program or claimants on temporary layoff with a return-to-work~~
12 ~~date that are exempt from the work search requirement and claimants no~~
13 ~~longer residing in Kansas in the shared work program, trade adjustment~~
14 ~~assistance and trade readjustment assistance program, claimants on~~
15 ~~temporary layoff with a return-to-work date, claimants that are currently~~
16 ~~employed or that no longer reside in Kansas, claimants that are current~~
17 ~~reemployment services and eligibility assessment participants, claimants~~
18 ~~that are members of a placement union or claimants that are engaged in~~
19 ~~a training program.~~ The program shall be implemented on or before June
20 1, 2021.

21 (2) The secretary of labor shall provide the secretary of commerce
22 with the names and contact information of claimants that have claimed
23 ~~three continuous weeks a third week~~ of benefits in the current benefit year.
24 The secretary of ~~commerce labor~~ shall request the claimant to upload or
25 create a complete resume or work history, a skills list in the Kansasworks
26 workforce system, and complete a job search plan ~~from the claimants and~~
27 ~~that includes a skills assessment component.~~ The secretary of commerce
28 shall offer and provide, when requested, assistance to the claimants in
29 developing the documents or plan through collaboration by the secretary
30 with the ~~Kansas works~~ Kansasworks workforce system. *The secretary of*
31 *commerce may require claimants to participate in reemployment services.*
32 The claimant shall have ~~seven~~ 14 calendar days to respond to the secretary
33 of commerce. The secretary of commerce shall report any failure to
34 respond by the claimant to the secretary of labor.

35 (3) The secretary of labor shall share labor market information and
36 current available job positions with the secretary of commerce. The
37 secretary of labor may collaborate with Kansasworks or other state or
38 federal agencies with job availability information in obtaining or sharing
39 such information.

40 (4) The secretary of commerce shall match open job positions with
41 claimants based on skills, work history and job location that is a
42 reasonable commute from the claimant's residence and communicate the
43 match information to the claimant and to the employer. The secretary of

1 labor and the secretary of commerce shall consider whether the claimant or
2 a Kansas employer would benefit from the claimant's participation in a
3 work skills training or retraining program as provided by subsection (b)
4 and, if so, provide such information to the employer, if applicable, and the
5 claimant. Claimants who fail to respond within ~~two weeks~~ *14 calendar*
6 *days* after contact by Kansasworks or the department of commerce shall be
7 reported by the secretary of commerce to the secretary of labor.

8 ~~(5) The secretary of commerce shall facilitate and oversee the~~
9 ~~claimant and employer interview process.~~ The secretary of commerce and
10 the secretary of labor shall monitor the result of job matches and share
11 information regarding any claimant who did not attend an interview or did
12 not accept a position that was a reasonable match for the claimant's work
13 history and skills and was within a reasonable commute from the
14 claimant's residence. The secretary of commerce shall contact the claimant
15 and report the contact to the secretary of labor. The secretary of labor shall
16 consider whether the claimant has failed to meet work search requirements
17 and if the claimant should continue to receive benefits.

18 (b) The secretary of commerce shall ~~develop and implement~~ *refer*
19 *claimants to* a work skills training or retraining program ~~for claimants in~~
20 ~~collaboration with the Kansasworks workforce system, the secretary of~~
21 ~~labor, employers and other state or federal agencies or organizations as~~
22 *appropriate*. The secretary of commerce shall seek to obtain or utilize any
23 available federal funds for the program, and to the extent feasible, may
24 make current work skills training and retraining programs available to
25 claimants. The secretary of labor may allow claimants to participate in
26 such a program offered by the secretary of commerce or by another state
27 or federal agency in lieu of requiring the claimant to meet job search
28 requirements and the requirements of the my reemployment plan until the
29 number of allowed benefit weeks has expired. A claimant shall participate
30 in such a program for not less than 25 hours per week. ~~The secretary of~~
31 ~~commerce shall monitor claimants who are participating in the program to~~
32 ~~ensure attendance and progress.~~

33 (c) Claimants who participate in the my reemployment plan or the
34 work skills training or retraining program shall meet attendance or
35 progress requirements established by the ~~secretary of commerce~~
36 *educational institution* to continue eligibility for unemployment insurance
37 benefits. Non-compliant claimants shall be reported by the *educational*
38 *institution to the* secretary of commerce ~~to~~ and the secretary of labor. The
39 secretary of labor shall disqualify such claimants from further benefits
40 within five business days of receiving the report, unless or until the
41 claimant demonstrates compliance to the secretary of commerce, and shall
42 communicate the disqualification and the reason for the disqualification to
43 the claimant. The secretary of commerce shall report to the secretary of

1 labor when the claimant has reestablished compliance. The secretary of
2 labor may continue benefits or reinstate a claimant's eligibility for benefits
3 upon a showing of good cause by the claimant for the failure to meet
4 attendance or progress requirements or my reemployment plan
5 participation requirements.

6 (d) The secretary of labor and the secretary of commerce shall
7 provide an annual status update and progress report for the my
8 reemployment plan to the standing committee on commerce, labor and
9 economic development of the house of representatives and the standing
10 committee on commerce of the senate during the first month of the 2022
11 regular legislative session and the first month of each regular legislative
12 session thereafter.

13 (e) This section shall be a part of and supplemental to the
14 employment security law.

15 Sec. 4. K.S.A. 44-703, 44-710a and 44-775 are hereby repealed.

16 Sec. 5. This act shall take effect and be in force from and after its
17 publication in the statute book.