

SENATE BILL No. 77

By Committee on Commerce

1-31

1 AN ACT concerning the employment security act; creating an assessment for
2 the payment of interest on advances received from the federal government;
3 removing the waiting week extension; pertaining to benefits; amending
4 K.S.A. 2010 Supp. 44-703, 44-704a, 44-705, 44-706, 44-710, 44-710a and
5 44-717 and repealing the existing sections.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 ***New Section 1. To provide for the payment to the United States treasury***
9 ***from the state employment security interest assessment fund for interest on***
10 ***loans made to the state employment security fund, for the purpose of paying***
11 ***interest due and owing on funds received from the federal unemployment***
12 ***account under title XII of the social security act. The pooled money***
13 ***investment board is authorized and directed to loan to the department of***
14 ***labor sufficient funds therefor in an amount or amounts which in the***
15 ***aggregate shall not exceed \$3,000,000 and such moneys shall be deposited***
16 ***in the state employment security interest assessment fund. The pooled money***
17 ***investment board is authorized and directed to use any moneys in the***
18 ***operating accounts, investment accounts or other investments, of the state of***
19 ***Kansas to provide funds for such loan upon approval of such loan by the***
20 ***state finance council acting on this matter which is hereby characterized as***
21 ***a matter of legislative delegation and subject to the guidelines prescribed in***
22 ***subsection (c) of K.S.A. 75-3711c, and amendments thereto. The state***
23 ***finance council shall approve such loan on or before September 12, 2011.***
24 ***The pooled money investment board shall transfer the funds required by the***
25 ***department of labor on or before September 23, 2011, to allow the***
26 ***department of labor to make its interest payment on or before September 30,***
27 ***2011. The loan shall not bear interest and shall be repaid on or before June***
28 ***30, 2012. A copy of the terms of the loan shall be submitted to the director of***
29 ***the legislative research department. Such loan shall not be deemed to be an***
30 ***indebtedness or debt of the state of Kansas within the meaning of section 6***
31 ***of article 11 of the constitution of the state of Kansas.***

32 ***Sec. 2. From and after July 1, 2011, K.S.A. 2010 Supp. 44-703 is hereby***
33 ***amended to read as follows: 44-703. As used in this act, unless the context***
34 ***clearly requires otherwise:***

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

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

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

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

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

30 (B) *If an individual lacks sufficient base period wages in order to*
31 *establish a benefit year in the manner set forth above the claimant shall*
32 *have an alternative base period substituted for the current base period. For*
33 *the purposes of this subsection, "alternative base period" means eligibility*
34 *shall be determined using a base period that consists of the four most*
35 *recently completed calendar quarters preceding the start of the benefit year.*

36 (2) *For the purposes of this chapter, the term "base period" includes*
37 *the alternative base period.*

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

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

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

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

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

24 (2) *"Payments in lieu of contributions" means the money payments to*
25 *the state employment security fund from employers which are required to*
26 *make or which elect to make such payments under subsection (e) of K.S.A.*
27 *44-710, and amendments thereto.*

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

1 *of the employment.*

2 *(h) "Employer" means:*

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

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

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

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

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

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

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

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

35 *(i) Furnishes individuals to perform service in agricultural labor for*
36 *any other person;*

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

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

43 *(2) (A) Any employing unit which for calendar year 2007 and each*

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

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

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

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

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

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

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

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

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

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

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

11 (i) *"Employment" means:*

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

14 (A) *Any active officer of a corporation; or*

15 (B) *any individual who, under the usual common law rules applicable*
16 *in determining the employer-employee relationship, has the status of an*
17 *employee; or*

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

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

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

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

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

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

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

42 (2) *The term "employment" shall include an individual's entire service*
43 *within the United States, even though performed entirely outside this state if,*

1 (A) *The service is not localized in any state, and*

2 (B) *the individual is one of a class of employees who are required to*
3 *travel outside this state in performance of their duties, and*

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

7 (3) *The term "employment" shall also include:*

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

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

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

30 (D) *Services performed by an individual for wages or under any*
31 *contract of hire shall be deemed to be employment subject to this act unless*
32 *and until it is shown to the satisfaction of the secretary that: (i) Such*
33 *individual has been and will continue to be free from control or direction*
34 *over the performance of such services, both under the individual's contract*
35 *of hire and in fact; and (ii) such service is either outside the usual course of*
36 *the business for which such service is performed or that such service is*
37 *performed outside of all the places of business of the enterprise for which*
38 *such service is performed.*

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

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

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

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

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

21 *(ii) the employer has no place of business in the United States, but*

22 *(A) The employer is an individual who is a resident of this state; or*

23 *(B) the employer is a corporation which is organized under the laws of*
24 *this state; or*

25 *(C) the employer is a partnership or a trust and the number of the*
26 *partners or trustees who are residents of this state is greater than the*
27 *number who are residents of any other state; or*

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

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

35 *(i) An individual who is a resident of the United States; or*

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

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

39 *(iv) a corporation organized under the laws of the United States or of*
40 *any state.*

41 *(I) Notwithstanding subsection (i)(2) of this section, all service*
42 *performed by an officer or member of the crew of an American vessel or*
43 *American aircraft on or in connection with such vessel or aircraft, if the*

1 *operating office, from which the operations of such vessel or aircraft*
2 *operating within, or within and without, the United States are ordinarily and*
3 *regularly supervised, managed, directed and controlled is within this state.*

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

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

15 *(4) The term "employment" shall not include: (A) Service performed in*
16 *the employ of an employer specified in subsection (h)(3) of this section if*
17 *such service is performed by an individual in the exercise of duties:*

18 *(i) As an elected official;*

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

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

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

24 *(v) in a position which, under or pursuant to the laws of this state or*
25 *tribal law, is designated as a major nontenured policymaking or advisory*
26 *position or as a policymaking or advisory position the performance of the*
27 *duties of which ordinarily does not require more than eight hours per week;*

28 *(B) service with respect to which unemployment compensation is*
29 *payable under an unemployment compensation system established by an act*
30 *of congress;*

31 *(C) service performed by an individual in the employ of such*
32 *individual's son, daughter or spouse, and service performed by a child under*
33 *the age of 21 years in the employ of such individual's father or mother;*

34 *(D) service performed in the employ of the United States government or*
35 *an instrumentality of the United States exempt under the constitution of the*
36 *United States from the contributions imposed by this act, except that to the*
37 *extent that the congress of the United States shall permit states to require*
38 *any instrumentality of the United States to make payments into an*
39 *unemployment fund under a state unemployment compensation law, all of*
40 *the provisions of this act shall be applicable to such instrumentalities, and to*
41 *services performed for such instrumentalities, in the same manner, to the*
42 *same extent and on the same terms as to all other employers, employing*
43 *units, individuals and services. If this state shall not be certified for any year*

1 *by the federal security agency under section 3304(c) of the federal internal*
2 *revenue code of 1986, the payments required of such instrumentalities with*
3 *respect to such year shall be refunded by the secretary from the fund in the*
4 *same manner and within the same period as is provided in subsection (f) of*
5 *K.S.A. 44-717, and amendments thereto, with respect to contributions*
6 *erroneously collected;*

7 *(E) service covered by an arrangement between the secretary and the*
8 *agency charged with the administration of any other state or federal*
9 *unemployment compensation law pursuant to which all services performed*
10 *by an individual for an employing unit during the period covered by such*
11 *employing unit's duly approved election, are deemed to be performed*
12 *entirely within the jurisdiction of such other state or federal agency;*

13 *(F) service performed by an individual under the age of 18 in the*
14 *delivery or distribution of newspapers or shopping news, not including*
15 *delivery or distribution to any point for subsequent delivery or distribution;*

16 *(G) service performed by an individual for an employing unit as an*
17 *insurance agent or as an insurance solicitor, if all such service performed by*
18 *such individual for such employing unit is performed for remuneration*
19 *solely by way of commission;*

20 *(H) service performed in any calendar quarter in the employ of any*
21 *organization exempt from income tax under section 501(a) of the federal*
22 *internal revenue code of 1986 (other than an organization described in*
23 *section 401(a) or under section 521 of such code) if the remuneration for*
24 *such service is less than \$50. In construing the application of the term*
25 *"employment," if services performed during ½ or more of any pay period by*
26 *an individual for the person employing such individual constitute*
27 *employment, all the services of such individual for such period shall be*
28 *deemed to be employment; but if the services performed during more than ½*
29 *of any such pay period by an individual for the person employing such*
30 *individual do not constitute employment, then none of the services of such*
31 *individual for such period shall be deemed to be employment. As used in this*
32 *subsection (i)(4)(H) the term "pay period" means a period (of not more than*
33 *31 consecutive days) for which a payment of remuneration is ordinarily*
34 *made to the individual by the person employing such individual. This*
35 *subsection (i)(4)(H) shall not be applicable with respect to services with*
36 *respect to which unemployment compensation is payable under an*
37 *unemployment compensation system established by an act of congress;*

38 *(I) services performed in the employ of a church or convention or*
39 *association of churches, or an organization which is operated primarily for*
40 *religious purposes and which is operated, supervised, controlled, or*
41 *principally supported by a church or convention or association of churches;*

42 *(J) service performed by a duly ordained, commissioned, or licensed*
43 *minister of a church in the exercise of such individual's ministry or by a*

1 *member of a religious order in the exercise of duties required by such order;*

2 *(K) service performed in a facility conducted for the purpose of*
3 *carrying out a program of:*

4 *(i) Rehabilitation for individuals whose earning capacity is impaired by*
5 *age or physical or mental deficiency or injury, or*

6 *(ii) providing remunerative work for individuals who because of their*
7 *impaired physical or mental capacity cannot be readily absorbed in the*
8 *competitive labor market, by an individual receiving such rehabilitation or*
9 *remunerative work;*

10 *(L) service performed as part of an employment work-relief or work-*
11 *training program assisted or financed in whole or in part by any federal*
12 *agency or an agency of a state or political subdivision thereof or of an*
13 *Indian tribe, by an individual receiving such work relief or work training;*

14 *(M) service performed by an inmate of a custodial or correctional*
15 *institution;*

16 *(N) service performed, in the employ of a school, college, or university,*
17 *if such service is performed by a student who is enrolled and is regularly*
18 *attending classes at such school, college or university;*

19 *(O) service performed by an individual who is enrolled at a nonprofit or*
20 *public educational institution which normally maintains a regular faculty*
21 *and curriculum and normally has a regularly organized body of students in*
22 *attendance at the place where its educational activities are carried on as a*
23 *student in a full-time program, taken for credit at such institution, which*
24 *combines academic instruction with work experience, if such service is an*
25 *integral part of such program, and such institution has so certified to the*
26 *employer, except that this subsection (i)(4)(O) shall not apply to service*
27 *performed in a program established for or on behalf of an employer or*
28 *group of employers;*

29 *(P) service performed in the employ of a hospital licensed, certified or*
30 *approved by the secretary of health and environment, if such service is*
31 *performed by a patient of the hospital;*

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

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

41 *(ii) the services performed by the individual are performed pursuant to*
42 *a written contract between such individual and the person for whom the*
43 *services are performed and such contract provides that the individual will*

1 *not be treated as an employee with respect to such services for state tax*
2 *purposes;*

3 *(R) services performed for an employer by an extra in connection with*
4 *any phase of motion picture or television production or television*
5 *commercials for less than 14 days during any calendar year. As used in this*
6 *subsection, the term "extra" means an individual who pantomimes in the*
7 *background, adds atmosphere to the set and performs such actions without*
8 *speaking and "employer" shall not include any employer which is a*
9 *governmental entity or any employer described in section 501(c)(3) of the*
10 *federal internal revenue code of 1986 which is exempt from income taxation*
11 *under section 501(a) of the code;*

12 *(S) services performed by an oil and gas contract pumper. As used in*
13 *this subsection (i)(4)(S), "oil and gas contract pumper" means a person*
14 *performing pumping and other services on one or more oil or gas leases, or*
15 *on both oil and gas leases, relating to the operation and maintenance of*
16 *such oil and gas leases, on a contractual basis for the operators of such oil*
17 *and gas leases and "services" shall not include services performed for a*
18 *governmental entity or any organization described in section 501(c)(3) of the*
19 *federal internal revenue code of 1986 which is exempt from income taxation*
20 *under section 501(a) of the code;*

21 *(T) service not in the course of the employer's trade or business*
22 *performed in any calendar quarter by an employee, unless the cash*
23 *remuneration paid for such service is \$200 or more and such service is*
24 *performed by an individual who is regularly employed by such employer to*
25 *perform such service. For purposes of this paragraph, an individual shall be*
26 *deemed to be regularly employed by an employer during a calendar quarter*
27 *only if:*

28 *(i) On each of some 24 days during such quarter such individual*
29 *performs for such employer for some portion of the day service not in the*
30 *course of the employer's trade or business, or*

31 *(ii) such individual was regularly employed, as determined under*
32 *subparagraph (i), by such employer in the performance of such service*
33 *during the preceding calendar quarter.*

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

38 *(U) service which is performed by any person who is a member of a*
39 *limited liability company and which is performed as a member or manager*
40 *of that limited liability company; and*

41 *(V) services performed as a qualified direct seller. The term "direct*
42 *seller" means any person if:*

43 *(i) Such person:*

1 (a) *is engaged in the trade or business of selling or soliciting the sale of*
2 *consumer products to any buyer on a buy-sell basis or a deposit-commission*
3 *basis for resale, by the buyer or any other person, in the home or otherwise*
4 *rather than in a permanent retail establishment; or*

5 (b) *is engaged in the trade or business of selling or soliciting the sale of*
6 *consumer products in the home or otherwise than in a permanent retail*
7 *establishment;*

8 (ii) *substantially all the remuneration whether or not paid in cash for*
9 *the performance of the services described in subparagraph (i) is directly*
10 *related to sales or other output including the performance of services rather*
11 *than to the number of hours worked;*

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

16 (iv) *for purposes of this act, a sale or a sale resulting exclusively from a*
17 *solicitation made by telephone, mail, or other telecommunications method,*
18 *or other nonpersonal method does not satisfy the requirements of this*
19 *subsection;*

20 (W) *service performed as an election official or election worker, if the*
21 *amount of remuneration received by the individual during the calendar year*
22 *for services as an election official or election worker is less than \$1,000;*

23 (X) *service performed by agricultural workers who are aliens admitted*
24 *to the United States to perform labor pursuant to section 1101 (a)(15)(H)(ii)*
25 *(a) of the immigration and nationality act; and*

26 (Y) *service performed by an owner-operator of a motor vehicle that is*
27 *leased or contracted to a licensed motor carrier with the services of a driver*
28 *and is not treated under the terms of the lease agreement or contract with*
29 *the licensed motor carrier as an employee for purposes of the federal*
30 *insurance contribution act, 26 U.S.C. § 3101 et seq., the federal social*
31 *security act, 42 U.S.C. § 301 et seq., the federal unemployment tax act, 26*
32 *U.S.C. § 3301 et seq., and the federal statutes prescribing income tax*
33 *withholding at the source, 26 U.S.C. § 3401 et seq. Employees or agents of*
34 *the owner-operator shall not be considered employees of the licensed motor*
35 *carrier for purposes of employment security taxation or compensation. As*
36 *used in this subsection (Y), the following definitions apply: (i) "Motor*
37 *vehicle" means any automobile, truck-trailer, semitrailer, tractor, motor bus*
38 *or any other self-propelled or motor-driven vehicle used upon any of the*
39 *public highways of Kansas for the purpose of transporting persons or*
40 *property; (ii) "licensed motor carrier" means any person, firm, corporation*
41 *or other business entity that holds a certificate of convenience and necessity*
42 *or a certificate of public service from the state corporation commission or is*
43 *required to register motor carrier equipment pursuant to 49 U.S.C. § 14504;*

1 *and (iii) "owner-operator" means a person, firm, corporation or other*
2 *business entity that is the owner of a single motor vehicle that is driven*
3 *exclusively by the owner under a lease agreement or contract with a licensed*
4 *motor carrier.*

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

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

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

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

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

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

1 *or weeks and reported in the manner as specified in the award or agreement,*
2 *or, in the absence of such specificity in the award or agreement, such wages*
3 *shall be allocated to the week or weeks in which such wages, in the*
4 *judgment of the secretary, would have been paid. The term "wages" shall*
5 *not include:*

6 *(1) That part of the remuneration which has been paid in a calendar*
7 *year to an individual by an employer or such employer's predecessor in*
8 *excess of \$3,000 for all calendar years prior to 1972, in excess of \$4,200 for*
9 *the calendar years 1972 to 1977, inclusive, in excess of \$6,000 for calendar*
10 *years 1978 to 1982, inclusive, in excess of \$7,000 for the calendar year 1983,*
11 *and \$8,000 with respect to employment during any calendar year following*
12 *1983 in excess of \$8,000 for the calendar years from 1984 to 2011 inclusive, in*
13 *excess of \$9,000 for the calendar year 2012, in excess of \$10,000 for the*
14 *calendar year of 2013, and in excess of \$11,000 for each calendar year*
15 *following 2013, except that if the definition of the term "wages" as*
16 *contained in the federal unemployment tax act is amended to include*
17 *remuneration in excess of \$8,000 the amount stated herein paid to an*
18 *individual by an employer under the federal act during any calendar year,*
19 *wages shall include remuneration paid in a calendar year to an individual*
20 *by an employer subject to this act or such employer's predecessor with*
21 *respect to employment during any calendar year up to an amount equal to*
22 *the dollar limitation specified in the federal unemployment tax act. For the*
23 *purposes of this subsection (o)(1), the term "employment" shall include*
24 *service constituting employment under any employment security law of*
25 *another state or of the federal government;*

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

40 *(3) any payment on account of sickness or accident disability, or*
41 *medical or hospitalization expenses in connection with sickness or accident*
42 *disability, made by an employer to, or on behalf of, an employee after the*
43 *expiration of six calendar months following the last calendar month in*

1 *which the employee worked for such employer;*

2 *(4) any payment made to, or on behalf of, an employee or such*
3 *employee's beneficiary:*

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

9 *(B) under or to an annuity plan which, at the time of such payment, is a*
10 *plan described in section 403(a) of the federal internal revenue code of*
11 *1986;*

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

15 *(D) under or to an annuity contract described in section 403(b) of the*
16 *federal internal revenue code of 1986, other than a payment for the*
17 *purchase of such contract which was made by reason of a salary reduction*
18 *agreement whether evidenced by a written instrument or otherwise;*

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

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

27 *(G) under a cafeteria plan within the meaning of section 125 of the*
28 *federal internal revenue code of 1986;*

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

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

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

40 *(8) any payment or series of payments by an employer to an employee*
41 *or any of such employee's dependents which is paid:*

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

1 ***(B) under a plan established by the employer which makes provisions***
2 ***for employees generally, a class or classes of employees or for such***
3 ***employees or a class or classes of employees and their dependents, other***
4 ***than any such payment or series of payments which would have been paid if***
5 ***the employee's employment relationship had not been so terminated;***

6 ***(9) remuneration for agricultural labor paid in any medium other than***
7 ***cash;***

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

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

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

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

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

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

32 ***Nothing in any paragraph of subsection (o), other than paragraph (1),***
33 ***shall exclude from the term "wages": (1) Any employer contribution under***
34 ***a qualified cash or deferred arrangement, as defined in section 401(k) of the***
35 ***federal internal revenue code of 1986, to the extent that such contribution is***
36 ***not included in gross income by reason of section 402(a)(8) of the federal***
37 ***internal revenue code of 1986; or (2) any amount treated as an employer***
38 ***contribution under section 414(h)(2) of the federal internal revenue code of***
39 ***1986.***

40 ***Any amount deferred under a nonqualified deferred compensation plan***
41 ***shall be taken into account for purposes of this section as of the later of***
42 ***when the services are performed or when there is no substantial risk of***
43 ***forfeiture of the rights to such amount. Any amount taken into account as***

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 Section 1. ***Sec. 3.*** ~~From and after July 1, 2011,~~ K.S.A. 2010 Supp. 44-
26 704a is hereby amended to read as follows: 44-704a. (a) *Definitions.* As used
27 in this section, unless the context clearly requires otherwise:

28 (1) "Extended benefit period" means a period which:

29 (A) Begins with the third week after a week for which there is an "on"
30 indicator; and

31 (B) ends with either of the following weeks, whichever occurs later: (i)
32 The third week after the first week for which there is an "off" indicator; or (ii)
33 the 13th consecutive week of such period, except that no extended benefit
34 period may begin by reason of an "on" indicator before the 14th week
35 following the end of a prior extended benefit period which was in effect with
36 respect to this state.

37 (2) For the purposes of this section:

38 (A) There is an "on" indicator for this state for a week if the secretary of
39 labor determines, in accordance with the regulations of the United States
40 secretary of labor, that, for the period consisting of such week and the
41 immediately preceding 12 weeks, the rate of insured unemployment (not
42 seasonally adjusted) under this act: (i) Equaled or exceeded 5% and equaled or
43 exceeded 120% of the average of such rates for the corresponding 13-week

1 period ending in each of the preceding two calendar years; ~~or (ii) and the state~~
 2 ~~of Kansas pays a portion of such benefits in accordance with the provisions of~~
 3 ~~K.S.A. 44-710(c)(2)(C) and 44-710(e), and amendments thereto; or (ii)~~
 4 ~~equaled or exceeded 5% and equaled or exceeded 120% of the average of~~
 5 ~~such rates for the corresponding 13-week period ending in any or all of the~~
 6 ~~preceding three calendar years and such benefits are funded entirely by the~~
 7 ~~United States department of labor~~ **until on or before the earlier of the latest**
 8 **date permitted under federal law or the end of the fourth week prior to the**
 9 **last week for which federal sharing is provided as authorized by section**
 10 **2005(a) of public law 111-5 without regard to section 2005(c) of public law**
 11 **111-5; or (iii) equaled or exceeded 6%; or (iii)(iv) with respect to benefits for**
 12 **weeks of unemployment beginning after March 6, 1993, (a) the average rate of**
 13 **total unemployment (seasonally adjusted), as determined by the United States**
 14 **secretary of labor, for the period consisting of the most recent three months for**
 15 **which data for all states are published before the close of such week equals or**
 16 **exceeds 6.5%, and (b) the average rate of total unemployment for this state**
 17 **(seasonally adjusted), as determined by the United States secretary of labor,**
 18 **for the three-month period referred to in clause (iii)(a)(iv)(a)(1), equals or**
 19 **exceeds 110% of such average for either or both of the corresponding three-**
 20 **month periods ending in the two preceding calendar years; or (2) equals or**
 21 **exceeds 110% of such average for any or all of the corresponding three-month**
 22 **periods ending in any or all of the three preceding calendar years and such**
 23 **benefits are funded entirely by the United States department of labor** **until on**
 24 **or before the earlier of the latest date permitted under federal law or the end**
 25 **of the fourth week prior to the last week for which federal sharing is**
 26 **provided as authorized by section 2005(a) of public law 111-5 without regard**
 27 **to section 2005(c) of public law 111-5.**

28 (B) (i) There is an "off" indicator for this state for a week if the secretary
 29 of labor determines, in accordance with the regulations of the United States
 30 secretary of labor, that for the period consisting of such week and the
 31 immediately preceding 12 weeks, the rate of insured unemployment (not
 32 seasonally adjusted) under this act: (a) (1) Was less than 5% or less than 120%
 33 of the average of such rates for the corresponding 13-week period ending in
 34 each of the preceding two calendar years; or (2) was less than 5% or less than
 35 120% of the average of such rates for the corresponding 13-week period
 36 ending in any or all of the three preceding calendar years and ~~such benefits~~
 37 ~~are funded entirely by the United States department of labor~~ **until on or before**
 38 **the earlier of the latest date permitted under federal law or the end of the**
 39 **fourth week prior to the last week for which federal sharing is provided as**
 40 **authorized by section 2005(a) of public law 111-5 without regard to section**
 41 **2005(c) of public law 111-5; and (b) was less than 5%.**

42 (ii) There is an "off" indicator for this state for a week only if, for the
 43 period consisting of such week and the immediately preceding 12 weeks, none

1 of the conditions specified in subsection (a)(2)(A) of this section result in an
2 "on" indicator.

3 (3) "Rate of insured unemployment," for purposes of paragraphs (2)(A)
4 and (2)(B) of this subsection, means the percentage derived by dividing:

5 (A) The average weekly number of individuals filing claims for regular
6 benefits in this state for weeks of unemployment with respect to the most
7 recent 13-consecutive-week period, as determined by the secretary of labor on
8 the basis of reports to the United States secretary of labor; by

9 (B) the average monthly employment covered under this act for the first
10 four of the most recent six completed calendar quarters ending before the end
11 of such 13-week period.

12 (4) "Extended entitlement period" of an individual means the period
13 consisting of the weeks of the individual's benefit year which begin in an
14 extended benefit period and, if the individual's benefit year ends within such
15 extended benefit period, any weeks thereafter which begin in such period.

16 (5) "Extended benefits" means benefits (including benefits payable to
17 federal civilian employees and to ex-service personnel pursuant to 5 U.S.C.A.
18 chapter 85) payable to an individual under the provisions of the act for weeks
19 of unemployment in the individual's extended entitlement period.

20 (6) "Exhaustee" means an individual who, with respect to any week of
21 unemployment in the individual's extended entitlement period:

22 (A) Has received, prior to such week, all of the regular benefits that were
23 available to the individual under this act or any other state law (including
24 dependents' allowances and benefits payable to federal civilian employees and
25 ex-service personnel under 5 U.S.C.A. chapter 85) in the individual's current
26 benefit year that includes such week, provided that, for the purposes of this
27 paragraph (6)(A), an individual shall be deemed to have received all of the
28 regular benefits that were available to the individual although the individual
29 may subsequently be determined to be entitled to added regular benefits as a
30 result of a pending appeal with respect to wages that were not considered in
31 the original monetary determination of the individual's benefit year; or

32 (B) the individual's benefit year having expired prior to such week, has
33 no, or insufficient, wages on the basis of which the individual could establish a
34 new benefit year that would include such week; and

35 (C) (i) has no right to unemployment benefits or allowances, as the case
36 may be, under the federal railroad unemployment insurance act and such other
37 federal laws as are specified in regulations issued by the United States
38 secretary of labor; and (ii) has not received and is not seeking unemployment
39 benefits under the unemployment compensation law of Canada; but if the
40 individual is seeking such benefits and the appropriate agency finally
41 determines that the individual is not entitled to benefits under such law the
42 individual is considered an exhaustee.

43 (7) "State law" means the unemployment compensation law of any state,

1 approved by the United States secretary of labor under section 3304 of the
2 federal internal revenue code of 1986.

3 (b) *Payment of extended benefits.* Extended benefits shall be payable to
4 eligible individuals with respect to weeks of unemployment in their extended
5 entitlement periods. The extended benefits provided by this section and K.S.A.
6 44-704b, and amendments thereto, shall be payable from the fund. All
7 extended benefits shall be paid through the employment offices, in accordance
8 with such rules and regulations as the secretary of labor may adopt.

9 (c) *Beginning and termination of extended benefit period.* (1) Whenever
10 an extended benefit period is to become effective in this state as a result of an
11 "on" indicator, or an extended benefit period is to be terminated in this state as
12 a result of an "off" indicator, the secretary of labor shall make an appropriate
13 public announcement.

14 (2) Computations required by the provisions of subsection (a)(3) of this
15 section shall be made by the secretary of labor, in accordance with regulations
16 prescribed by the United States secretary of labor.

17 (d) *Weekly extended benefit amount.* The weekly extended benefit amount
18 payable to an individual for a week of total unemployment in the individual's
19 extended entitlement period shall be an amount equal to the regular weekly
20 benefit amount payable to the individual during the individual's applicable
21 benefit year, except that for any week during a period in which federal
22 payments to states under section 204 of the federal-state extended
23 unemployment compensation act of 1970 are reduced pursuant to an order
24 issued under section 252 of the federal balanced budget and emergency deficit
25 control act of 1985, the weekly extended benefit amount payable to an
26 individual for a week of total unemployment in the individual's eligibility
27 period shall be reduced by a percentage amount which is equivalent to the
28 reduction in the federal payment. If such reduced weekly extended benefit
29 amount is not a multiple of \$1, it shall be reduced to the next lower multiple of
30 \$1.

31 (e) *Total extended benefit amount.* (1) Except as otherwise provided in
32 subsection (e)(2) or (e)(3) of this section, the total extended benefit amount
33 payable to any eligible individual with respect to the individual's applicable
34 benefit year shall be the least of the following amounts:

35 (A) Fifty percent of the total amount of regular benefits which were
36 payable to the individual under this act in the individual's applicable benefit
37 year; or

38 (B) thirteen times the individual's weekly benefit amount which was
39 payable to the individual under this act for a week of total unemployment in
40 the applicable benefit year.

41 (2) Effective with respect to weeks beginning in a high unemployment
42 period, the provisions of subsection (e)(1) of this section shall be applied by
43 substituting "80%" for "50%" in subparagraph (A) of that subsection (e)(1),

1 and by substituting "20" for "13" in subparagraph (B) of that subsection (e)(1).
2 For purposes of this subsection (e)(2), the term "high unemployment period"
3 means any period during which an extended benefit period would be in effect
4 if the provisions of subsection (a)(2)(A)(iii) of this section were applied after
5 substituting "8%" for "6.5%" in clause (a) of that subsection (a)(2)(A)(iii).

6 (3) During any fiscal year in which federal payments to states under
7 section 204 of the federal-state extended unemployment compensation act of
8 1970 are reduced pursuant to an order issued under section 252 of the federal
9 balanced budget and emergency deficit control act of 1985, the total extended
10 benefit amount payable to an individual with respect to the individual's
11 applicable benefit year shall be reduced by an amount equal to the total of all
12 of the reductions under subsection (d) of this section in the weekly extended
13 benefit amounts paid to the individual.

14 (f) *Eligibility requirements for extended benefits.* An individual shall be
15 eligible to receive extended benefits with respect to any week of
16 unemployment in the individual's extended entitlement period only if the
17 secretary of labor, or a person or persons designated by the secretary, finds that
18 with respect to such week:

19 (1) The individual is an "exhaustee" as defined in subsection (a)(6) of this
20 section;

21 (2) the individual is qualified and eligible for extended benefits pursuant
22 to K.S.A. 44-704b, and amendments thereto;

23 (3) the individual is entitled to benefits pursuant to the provisions of this
24 act which apply to claims for, or the payment of regular benefits which are not
25 inconsistent with the provisions of K.S.A. 44-704b, and amendments thereto;
26 and

27 (4) the individual, during the base period, (A) was paid wages for insured
28 work equal to or greater than 1½ times the amount of total wages paid for the
29 quarter in which such wages were highest during the individual's base period;
30 or (B) has been paid an amount equal to or exceeding 40 times the individual's
31 most recent weekly benefit amount in the individual's base period.

32 (g) *Limitation on amount of combined regular, extended and trade*
33 *readjustment act benefits received.* Notwithstanding any other provisions of
34 this section or K.S.A. 44-704b, and amendments thereto, if the benefit year of
35 any individual ends within an extended entitlement period, the remaining
36 balance of extended benefits that the individual would, but for this section, be
37 entitled to receive in that extended entitlement period, with respect to weeks of
38 unemployment beginning after the end of the benefit year, shall be reduced
39 (but not below zero) by the product of the number of weeks for which the
40 individual received any amounts as trade readjustment allowances within that
41 benefit year, multiplied by the individual's weekly benefit amount for extended
42 benefits.

43 Sec. ~~2~~. 4. From and after July 1, 2010, K.S.A. 2010 Supp. 44-705 is

1 hereby amended to read as follows: 44-705. Except as provided by K.S.A. 44-
2 757, and amendments thereto, an unemployed individual shall be eligible to
3 receive benefits with respect to any week only if the secretary, or a person or
4 persons designated by the secretary, finds that:

5 (a) The claimant has registered for work at and thereafter continued to
6 report at an employment office in accordance with rules and regulations
7 adopted by the secretary, except that, subject to the provisions of subsection
8 (a) of K.S.A. 44-704, and amendments thereto, the secretary may adopt rules
9 and regulations which waive or alter either or both of the requirements of this
10 subsection (a).

11 (b) The claimant has made a claim for benefits with respect to such week
12 in accordance with rules and regulations adopted by the secretary.

13 (c) The claimant is able to perform the duties of such claimant's
14 customary occupation or the duties of other occupations for which the
15 claimant is reasonably fitted by training or experience, and is available for
16 work, as demonstrated by the claimant's pursuit of the full course of action
17 most reasonably calculated to result in the claimant's reemployment except
18 that, notwithstanding any other provisions of this section, an unemployed
19 claimant otherwise eligible for benefits shall not become ineligible for
20 benefits: (1) Because of the claimant's enrollment in and satisfactory pursuit of
21 approved training, including training approved under section 236(a)(1) of the
22 trade act of 1974; or (2) solely because such individual is seeking only part-
23 time employment if the individual is available for a number of hours per week
24 that are comparable to the individual's part-time work experience in the base
25 period.

26 For the purposes of this subsection, an inmate of a custodial or correctional
27 institution shall be deemed to be unavailable for work and not eligible to
28 receive unemployment compensation while incarcerated.

29 (d) (1) Except as provided further, the claimant has been unemployed for
30 a waiting period of one week or the claimant is unemployed and has satisfied
31 the requirement for a waiting period of one week under the shared work
32 unemployment compensation program as provided in subsection (k)(4) of
33 K.S.A. 44-757, and amendments thereto, which period of one week, in either
34 case, occurs within the benefit year which includes the week for which the
35 claimant is claiming benefits. No week shall be counted as a week of
36 unemployment for the purposes of this subsection (d):

37 (A) If benefits have been paid for such week;

38 (B) if the individual fails to meet with the other eligibility requirements
39 of this section; or

40 (C) if an individual is seeking unemployment benefits under the
41 unemployment compensation law of any other state or of the United States,
42 except that if the appropriate agency of such state or of the United States
43 finally determines that the claimant is not entitled to unemployment benefits

1 under such other law, this subsection (d)(1)(C) shall not apply.

2 (2) The waiting week requirement of paragraph (1) shall not apply to new
3 claims, filed on or after July 1, 2007, by claimants who become unemployed
4 as a result of an employer terminating business operations within this state,
5 declaring bankruptcy or initiating a work force reduction pursuant to public
6 law 100-379, the federal worker adjustment and retraining notification act (29
7 U.S.C. §§ 2101 through 2109), as amended. The secretary shall adopt rules
8 and regulations to administer the provisions of this paragraph.

9 ~~(3) a claimant shall become eligible to receive compensation for the~~
10 ~~waiting period of one week, pursuant to paragraph (1), upon completion of~~
11 ~~three weeks of unemployment consecutive to such waiting period.~~

12 (e) For benefit years established on and after the effective date of this act,
13 the claimant has been paid total wages for insured work in the claimant's base
14 period of not less than 30 times the claimant's weekly benefit amount and has
15 been paid wages in more than one quarter of the claimant's base period, except
16 that the wage credits of an individual earned during the period commencing
17 with the end of a prior base period and ending on the date on which such
18 individual filed a valid initial claim shall not be available for benefit purposes
19 in a subsequent benefit year unless, in addition thereto, such individual has
20 returned to work and subsequently earned wages for insured work in an
21 amount equal to at least eight times the claimant's current weekly benefit
22 amount.

23 (f) The claimant participates in reemployment services, such as job search
24 assistance services, if the individual has been determined to be likely to
25 exhaust regular benefits and needs reemployment services pursuant to a
26 profiling system established by the secretary, unless the secretary determines
27 that: (1) The individual has completed such services; or (2) there is justifiable
28 cause for the claimant's failure to participate in such services.

29 (g) The claimant is returning to work after a qualifying injury and has
30 been paid total wages for insured work in the claimant's alternative base period
31 of not less than 30 times the claimant's weekly benefit amount and has been
32 paid wages in more than one quarter of the claimant's alternative base period
33 if:

34 (1) The claimant has filed for benefits within four weeks of being
35 released to return to work by a licensed and practicing health care provider.

36 (2) The claimant files for benefits within 24 months of the date the
37 qualifying injury occurred.

38 (3) The claimant attempted to return to work with the employer where the
39 qualifying injury occurred, but the individual's regular work or comparable
40 and suitable work was not available.

41 ~~Sec. 3.~~ 5. From and after July 1, 2011, K.S.A. 2010 Supp. 44-706 is
42 hereby amended to read as follows: 44-706. An individual shall be disqualified
43 for benefits:

1 (a) If the individual left work voluntarily without good cause attributable
2 to the work or the employer, subject to the other provisions of this subsection
3 ~~(a)~~. Failure to return to work after expiration of approved personal or medical
4 leave, or both, shall be considered a voluntary resignation. After a temporary
5 job assignment, failure of an individual to affirmatively request an additional
6 assignment on the next succeeding workday, if required by the employment
7 agreement, after completion of a given work assignment, shall constitute
8 leaving work voluntarily. The disqualification shall begin the day following
9 the separation and shall continue until after the individual has become
10 reemployed and has had earnings from insured work of at least three times the
11 individual's weekly benefit amount. An individual shall not be disqualified
12 under this subsection ~~(a)~~ if:

13 (1) The individual was forced to leave work because of illness or injury
14 upon the advice of a licensed and practicing health care provider and, upon
15 learning of the necessity for absence, immediately notified the employer
16 thereof, or the employer consented to the absence, and after recovery from the
17 illness or injury, when recovery was certified by a practicing health care
18 provider, the individual returned to the employer and offered to perform
19 services and the individual's regular work or comparable and suitable work
20 was not available; As used in this paragraph ~~(1)~~ "health care provider" means
21 any person licensed by the proper licensing authority of any state to engage in
22 the practice of medicine and surgery, osteopathy, chiropractic, dentistry,
23 optometry, podiatry or psychology;

24 (2) the individual left temporary work to return to the regular employer;

25 (3) the individual left work to enlist in the armed forces of the United
26 States, but was rejected or delayed from entry;

27 (4) the ~~individual~~ *spouse of an individual who is a member of the armed*
28 *forces of the United States who left work because of the voluntary or*
29 *involuntary transfer of the individual's spouse from one job to another job,*
30 *which is for the same employer or for a different employer, at a geographic*
31 *location which makes it unreasonable for the individual to continue work at*
32 *the individual's job; For the purposes of this provision the term "armed*
33 *forces" means active duty in the army, navy, marine corps, air force, coast*
34 *guard or any branch of the military reserves of the United States;*

35 (5) the individual left work because of hazardous working conditions; in
36 determining whether or not working conditions are hazardous for an
37 individual, the degree of risk involved to the individual's health, safety and
38 morals, the individual's physical fitness and prior training and the working
39 conditions of workers engaged in the same or similar work for the same and
40 other employers in the locality shall be considered; as used in this paragraph
41 ~~(5)~~, "hazardous working conditions" means working conditions that could
42 result in a danger to the physical or mental well-being of the individual; each
43 determination as to whether hazardous working conditions exist shall include,

1 but shall not be limited to, a consideration of (A) the safety measures used or
2 the lack thereof, and (B) the condition of equipment or lack of proper
3 equipment; no work shall be considered hazardous if the working conditions
4 surrounding the individual's work are the same or substantially the same as the
5 working conditions generally prevailing among individuals performing the
6 same or similar work for other employers engaged in the same or similar type
7 of activity;

8 (6) the individual left work to enter training approved under section
9 236(a)(1) of the federal trade act of 1974, provided the work left is not of a
10 substantially equal or higher skill level than the individual's past adversely
11 affected employment (as defined for purposes of the federal trade act of 1974),
12 and wages for such work are not less than 80% of the individual's average
13 weekly wage as determined for the purposes of the federal trade act of 1974;

14 (7) the individual left work because of unwelcome harassment of the
15 individual by the employer or another employee of which the employing unit
16 had knowledge;

17 (8) the individual left work to accept better work; each determination as
18 to whether or not the work accepted is better work shall include, but shall not
19 be limited to, consideration of (A) the rate of pay, the hours of work and the
20 probable permanency of the work left as compared to the work accepted, (B)
21 the cost to the individual of getting to the work left in comparison to the cost
22 of getting to the work accepted, and (C) the distance from the individual's
23 place of residence to the work accepted in comparison to the distance from the
24 individual's residence to the work left;

25 (9) the individual left work as a result of being instructed or requested by
26 the employer, a supervisor or a fellow employee to perform a service or
27 commit an act in the scope of official job duties which is in violation of an
28 ordinance or statute;

29 (10) the individual left work because of a violation of the work agreement
30 by the employing unit and, before the individual left, the individual had
31 exhausted all remedies provided in such agreement for the settlement of
32 disputes before terminating;

33 (11) after making reasonable efforts to preserve the work, the individual
34 left work due to a personal emergency of such nature and compelling urgency
35 that it would be contrary to good conscience to impose a disqualification; or

36 (12) (A) the individual left work due to circumstances resulting from
37 domestic violence, including:

38 (i) The individual's reasonable fear of future domestic violence at or en
39 route to or from the individual's place of employment; or

40 (ii) the individual's need to relocate to another geographic area in order to
41 avoid future domestic violence; or

42 (iii) the individual's need to address the physical, psychological and legal
43 impacts of domestic violence; or

1 (iv) the individual's need to leave employment as a condition of receiving
2 services or shelter from an agency which provides support services or shelter
3 to victims of domestic violence; or

4 (v) the individual's reasonable belief that termination of employment is
5 necessary to avoid other situations which may cause domestic violence and to
6 provide for the future safety of the individual or the individual's family.

7 (B) An individual may prove the existence of domestic violence by
8 providing one of the following:

9 (i) A restraining order or other documentation of equitable relief by a
10 court of competent jurisdiction; or

11 (ii) a police record documenting the abuse; or

12 (iii) documentation that the abuser has been convicted of one or more of
13 the offenses enumerated in ~~articles 34 and 35 of chapter 21 of the Kansas~~
14 ~~Statutes Annotated sections 36 through 77, 174, 210, 211 or 229 through 231~~
15 ~~of chapter 136 of the 2010 Session Laws of Kansas~~, and amendments thereto,
16 where the victim was a family or household member; or

17 (iv) medical documentation of the abuse; or

18 (v) a statement provided by a counselor, social worker, health care
19 provider, clergy, shelter worker, legal advocate, domestic violence or sexual
20 assault advocate or other professional who has assisted the individual in
21 dealing with the effects of abuse on the individual or the individual's family; or

22 (vi) a sworn statement from the individual attesting to the abuse.

23 (C) No evidence of domestic violence experienced by an individual,
24 including the individual's statement and corroborating evidence, shall be
25 disclosed by the department of labor unless consent for disclosure is given by
26 the individual.

27 (b) If the individual has been discharged for misconduct connected with
28 the individual's work. The disqualification shall begin the day following the
29 separation and shall continue until after the individual becomes reemployed
30 and has had earnings from insured work of at least three times the individual's
31 determined weekly benefit amount, except that if an individual is discharged
32 for gross misconduct connected with the individual's work, such individual
33 shall be disqualified for benefits until such individual again becomes
34 employed and has had earnings from insured work of at least eight times such
35 individual's determined weekly benefit amount. In addition, all wage credits
36 attributable to the employment from which the individual was discharged for
37 gross misconduct connected with the individual's work shall be canceled. No
38 such cancellation of wage credits shall affect prior payments made as a result
39 of a prior separation.

40 (1) For the purposes of this subsection ~~(b)~~, "misconduct" is defined as a
41 violation of a duty or obligation reasonably owed the employer as a condition
42 of employment. The term "gross misconduct" as used in this subsection ~~(b)~~
43 shall be construed to mean conduct evincing extreme, willful or wanton

1 misconduct as defined by this subsection ~~(b)~~. Failure of the employee to notify
2 the employer of an absence shall be considered prima facie evidence of a
3 violation of a duty or obligation reasonably owed the employer as a condition
4 of employment.

5 (2) For the purposes of this subsection ~~(b)~~, the use of or impairment
6 caused by alcoholic liquor, a cereal malt beverage or a nonprescribed
7 controlled substance by an individual while working shall be conclusive
8 evidence of misconduct and the possession of alcoholic liquor, a cereal malt
9 beverage or a nonprescribed controlled substance by an individual while
10 working shall be prima facie evidence of conduct which is a violation of a duty
11 or obligation reasonably owed to the employer as a condition of employment.
12 Alcoholic liquor shall be defined as provided in K.S.A. 41-102, and
13 amendments thereto. Cereal malt beverage shall be defined as provided in
14 K.S.A. 41-2701, and amendments thereto. Controlled substance shall be
15 defined as provided in K.S.A. 2010 Supp. 21-36a01, and amendments thereto.
16 As used in this ~~subsection (b)(2)~~ *paragraph*, "required by law" means required
17 by a federal or state law, a federal or state rule or regulation having the force
18 and effect of law, a county resolution or municipal ordinance, or a policy
19 relating to public safety adopted in open meeting by the governing body of any
20 special district or other local governmental entity. Chemical test shall include,
21 but is not limited to, tests of urine, blood or saliva. A positive chemical test
22 shall mean a chemical result showing a concentration at or above the levels
23 listed in K.S.A. 44-501, and amendments thereto, for the drugs or abuse listed
24 therein. A positive breath test shall mean a test result showing an alcohol
25 concentration of .04 or greater. Alcohol concentration means the number of
26 grams of alcohol per 210 liters of breath. An individual's refusal to submit to a
27 chemical test or breath alcohol test shall be conclusive evidence of misconduct
28 if the test meets the standards of the drug free workplace act, 41 U.S.C. § 701
29 et seq.; the test was administered as part of an employee assistance program or
30 other drug or alcohol treatment program in which the employee was
31 participating voluntarily or as a condition of further employment; the test was
32 otherwise required by law and the test constituted a required condition of
33 employment for the individual's job; the test was requested pursuant to a
34 written policy of the employer of which the employee had knowledge and was
35 a required condition of employment; or there was probable cause to believe
36 that the individual used, possessed or was impaired by alcoholic liquor, a
37 cereal malt beverage or a controlled substance while working. A positive
38 breath alcohol test or a positive chemical test shall be conclusive evidence to
39 prove misconduct if the following conditions are met:

40 (A) Either (i) the test was required by law and was administered pursuant
41 to the drug free workplace act, 41 U.S.C. § 701 et seq., (ii) the test was
42 administered as part of an employee assistance program or other drug or
43 alcohol treatment program in which the employee was participating

1 voluntarily or as a condition of further employment, (iii) the test was requested
2 pursuant to a written policy of the employer of which the employee had
3 knowledge and was a required condition of employment, (iv) the test was
4 required by law and the test constituted a required condition of employment
5 for the individual's job, or (v) there was probable cause to believe that the
6 individual used, had possession of, or was impaired by alcoholic liquor, the
7 cereal malt beverage or the controlled substance while working;

8 (B) the test sample was collected either (i) as prescribed by the drug free
9 workplace act, 41 U.S.C. § 701 et seq., (ii) as prescribed by an employee
10 assistance program or other drug or alcohol treatment program in which the
11 employee was participating voluntarily or as a condition of further
12 employment, (iii) as prescribed by the written policy of the employer of which
13 the employee had knowledge and which constituted a required condition of
14 employment, (iv) as prescribed by a test which was required by law and which
15 constituted a required condition of employment for the individual's job, or (v)
16 at a time contemporaneous with the events establishing probable cause;

17 (C) the collecting and labeling of a chemical test sample was performed
18 by a licensed health care professional or any other individual certified pursuant
19 to paragraph (b)(2)(F) or authorized to collect or label test samples by federal
20 or state law, or a federal or state rule or regulation having the force or effect of
21 law, including law enforcement personnel;

22 (D) the chemical test was performed by a laboratory approved by the
23 United States department of health and human services or licensed by the
24 department of health and environment, except that a blood sample may be
25 tested for alcohol content by a laboratory commonly used for that purpose by
26 state law enforcement agencies;

27 (E) the chemical test was confirmed by gas chromatography, gas
28 chromatography-mass spectroscopy or other comparably reliable analytical
29 method, except that no such confirmation is required for a blood alcohol
30 sample or a breath alcohol test;

31 (F) the breath alcohol test was administered by an individual trained to
32 perform breath tests, the breath testing instrument used was certified and
33 operated strictly according to description provided by the manufacturers and
34 the reliability of the instrument performance was assured by testing with
35 alcohol standards; and

36 (G) the foundation evidence must establish, beyond a reasonable doubt,
37 that the test results were from the sample taken from the individual.

38 (3) (A) For the purposes of this subsection ~~(b)~~, misconduct shall include,
39 but not be limited to repeated absence, including incarceration, resulting in
40 absence from work of three days or longer, excluding Saturdays, Sundays and
41 legal holidays, and lateness, from scheduled work if the facts show:

42 (i) The individual was absent without good cause;

43 (ii) the absence was in violation of the employer's written absenteeism

1 policy;

2 (iii) the employer gave or sent written notice to the individual, at the
3 individual's last known address, that future absence may or will result in
4 discharge; and

5 (iv) the employee had knowledge of the employer's written absenteeism
6 policy.

7 (B) For the purposes of this subsection (~~b~~), if an employee disputes being
8 absent without good cause, the employee shall present evidence that a majority
9 of the employee's absences were for good cause. If the employee alleges that
10 the employee's repeated absences were the result of health related issues, such
11 evidence shall include documentation from a licensed and practicing health
12 care provider as defined in subsection (a)(1).

13 (4) An individual shall not be disqualified under this subsection if the
14 individual is discharged under the following circumstances:

15 (A) The employer discharged the individual after learning the individual
16 was seeking other work or when the individual gave notice of future intent to
17 quit;

18 (B) the individual was making a good-faith effort to do the assigned work
19 but was discharged due to: (i) Inefficiency, (ii) unsatisfactory performance due
20 to inability, incapacity or lack of training or experience, (iii) isolated instances
21 of ordinary negligence or inadvertence, (iv) good-faith errors in judgment or
22 discretion, or (v) unsatisfactory work or conduct due to circumstances beyond
23 the individual's control; or

24 (C) the individual's refusal to perform work in excess of the contract of
25 hire.

26 (c) If the individual has failed, without good cause, to either apply for
27 suitable work when so directed by the employment office of the secretary of
28 labor, or to accept suitable work when offered to the individual by the
29 employment office, the secretary of labor, or an employer, such
30 disqualification shall begin with the week in which such failure occurred and
31 shall continue until the individual becomes reemployed and has had earnings
32 from insured work of at least three times such individual's determined weekly
33 benefit amount. In determining whether or not any work is suitable for an
34 individual, the secretary of labor, or a person or persons designated by the
35 secretary, shall consider the degree of risk involved to health, safety and
36 morals, physical fitness and prior training, experience and prior earnings,
37 length of unemployment and prospects for securing local work in the
38 individual's customary occupation or work for which the individual is
39 reasonably fitted by training or experience, and the distance of the available
40 work from the individual's residence. Notwithstanding any other provisions of
41 this act, an otherwise eligible individual shall not be disqualified for refusing
42 an offer of suitable employment, or failing to apply for suitable employment
43 when notified by an employment office, or for leaving the individual's most

1 recent work accepted during approved training, including training approved
2 under section 236(a)(1) of the trade act of 1974, if the acceptance of or
3 applying for suitable employment or continuing such work would require the
4 individual to terminate approved training and no work shall be deemed
5 suitable and benefits shall not be denied under this act to any otherwise
6 eligible individual for refusing to accept new work under any of the following
7 conditions: (1) If the position offered is vacant due directly to a strike, lockout
8 or other labor dispute; (2) if the remuneration, hours or other conditions of the
9 work offered are substantially less favorable to the individual than those
10 prevailing for similar work in the locality; (3) if as a condition of being
11 employed, the individual would be required to join or to resign from or refrain
12 from joining any labor organization; (4) if the individual left employment as a
13 result of domestic violence, and the position offered does not reasonably
14 accommodate the individual's physical, psychological, safety, and/or legal
15 needs relating to such domestic violence.

16 (d) For any week with respect to which the secretary of labor, or a person
17 or persons designated by the secretary, finds that the individual's
18 unemployment is due to a stoppage of work which exists because of a labor
19 dispute or there would have been a work stoppage had normal operations not
20 been maintained with other personnel previously and currently employed by
21 the same employer at the factory, establishment or other premises at which the
22 individual is or was last employed, except that this subsection (d) shall not
23 apply if it is shown to the satisfaction of the secretary of labor, or a person or
24 persons designated by the secretary, that: (1) The individual is not participating
25 in or financing or directly interested in the labor dispute which caused the
26 stoppage of work; and (2) the individual does not belong to a grade or class of
27 workers of which, immediately before the commencement of the stoppage,
28 there were members employed at the premises at which the stoppage occurs
29 any of whom are participating in or financing or directly interested in the
30 dispute. If in any case separate branches of work which are commonly
31 conducted as separate businesses in separate premises are conducted in
32 separate departments of the same premises, each such department shall, for the
33 purpose of this subsection (~~d~~) be deemed to be a separate factory,
34 establishment or other premises. For the purposes of this subsection (~~d~~), failure
35 or refusal to cross a picket line or refusal for any reason during the
36 continuance of such labor dispute to accept the individual's available and
37 customary work at the factory, establishment or other premises where the
38 individual is or was last employed shall be considered as participation and
39 interest in the labor dispute.

40 (e) For any week with respect to which or a part of which the individual
41 has received or is seeking unemployment benefits under the unemployment
42 compensation law of any other state or of the United States, except that if the
43 appropriate agency of such other state or the United States finally determines

1 that the individual is not entitled to such unemployment benefits, this
2 disqualification shall not apply.

3 (f) For any week with respect to which the individual is entitled to receive
4 any unemployment allowance or compensation granted by the United States
5 under an act of congress to ex-service men and women in recognition of
6 former service with the military or naval services of the United States.

7 (g) For the period of one year beginning with the first day following the
8 last week of unemployment for which the individual received benefits, or for
9 one year from the date the act was committed, whichever is the later, if the
10 individual, or another in such individual's behalf with the knowledge of the
11 individual, has knowingly made a false statement or representation, or has
12 knowingly failed to disclose a material fact to obtain or increase benefits under
13 this act or any other unemployment compensation law administered by the
14 secretary of labor.

15 (h) For any week with respect to which the individual is receiving
16 compensation for temporary total disability or permanent total disability under
17 the workmen's compensation law of any state or under a similar law of the
18 United States.

19 (i) For any week of unemployment on the basis of service in an
20 instructional, research or principal administrative capacity for an educational
21 institution as defined in subsection (v) of K.S.A. 44-703, and amendments
22 thereto, if such week begins during the period between two successive
23 academic years or terms or, when an agreement provides instead for a similar
24 period between two regular but not successive terms during such period or
25 during a period of paid sabbatical leave provided for in the individual's
26 contract, if the individual performs such services in the first of such academic
27 years or terms and there is a contract or a reasonable assurance that such
28 individual will perform services in any such capacity for any educational
29 institution in the second of such academic years or terms.

30 (j) For any week of unemployment on the basis of service in any capacity
31 other than service in an instructional, research, or administrative capacity in an
32 educational institution, as defined in subsection (v) of K.S.A. 44-703, and
33 amendments thereto, if such week begins during the period between two
34 successive academic years or terms if the individual performs such services in
35 the first of such academic years or terms and there is a reasonable assurance
36 that the individual will perform such services in the second of such academic
37 years or terms, except that if benefits are denied to the individual under this
38 subsection (j) and the individual was not offered an opportunity to perform
39 such services for the educational institution for the second of such academic
40 years or terms, such individual shall be entitled to a retroactive payment of
41 benefits for each week for which the individual filed a timely claim for
42 benefits and for which benefits were denied solely by reason of this subsection
43 (j).

1 (k) For any week of unemployment on the basis of service in any capacity
2 for an educational institution as defined in subsection (v) of K.S.A. 44-703,
3 and amendments thereto, if such week begins during an established and
4 customary vacation period or holiday recess, if the individual performs
5 services in the period immediately before such vacation period or holiday
6 recess and there is a reasonable assurance that such individual will perform
7 such services in the period immediately following such vacation period or
8 holiday recess.

9 (l) For any week of unemployment on the basis of any services,
10 substantially all of which consist of participating in sports or athletic events or
11 training or preparing to so participate, if such week begins during the period
12 between two successive sport seasons or similar period if such individual
13 performed services in the first of such seasons or similar periods and there is a
14 reasonable assurance that such individual will perform such services in the
15 later of such seasons or similar periods.

16 (m) For any week on the basis of services performed by an alien unless
17 such alien is an individual who was lawfully admitted for permanent residence
18 at the time such services were performed, was lawfully present for purposes of
19 performing such services, or was permanently residing in the United States
20 under color of law at the time such services were performed, including an alien
21 who was lawfully present in the United States as a result of the application of
22 the provisions of section 212(d)(5) of the federal immigration and nationality
23 act. Any data or information required of individuals applying for benefits to
24 determine whether benefits are not payable to them because of their alien
25 status shall be uniformly required from all applicants for benefits. In the case
26 of an individual whose application for benefits would otherwise be approved,
27 no determination that benefits to such individual are not payable because of
28 such individual's alien status shall be made except upon a preponderance of the
29 evidence.

30 (n) For any week in which an individual is receiving a governmental or
31 other pension, retirement or retired pay, annuity or other similar periodic
32 payment under a plan maintained by a base period employer and to which the
33 entire contributions were provided by such employer, except that: (1) If the
34 entire contributions to such plan were provided by the base period employer
35 but such individual's weekly benefit amount exceeds such governmental or
36 other pension, retirement or retired pay, annuity or other similar periodic
37 payment attributable to such week, the weekly benefit amount payable to the
38 individual shall be reduced (but not below zero) by an amount equal to the
39 amount of such pension, retirement or retired pay, annuity or other similar
40 periodic payment which is attributable to such week; or (2) if only a portion of
41 contributions to such plan were provided by the base period employer, the
42 weekly benefit amount payable to such individual for such week shall be
43 reduced (but not below zero) by the prorated weekly amount of the pension,

1 retirement or retired pay, annuity or other similar periodic payment after
2 deduction of that portion of the pension, retirement or retired pay, annuity or
3 other similar periodic payment that is directly attributable to the percentage of
4 the contributions made to the plan by such individual; or (3) if the entire
5 contributions to the plan were provided by such individual, or by the
6 individual and an employer (or any person or organization) who is not a base
7 period employer, no reduction in the weekly benefit amount payable to the
8 individual for such week shall be made under this subsection (~~n~~); or (4)
9 whatever portion of contributions to such plan were provided by the base
10 period employer, if the services performed for the employer by such individual
11 during the base period, or remuneration received for the services, did not affect
12 the individual's eligibility for, or increased the amount of, such pension,
13 retirement or retired pay, annuity or other similar periodic payment, no
14 reduction in the weekly benefit amount payable to the individual for such
15 week shall be made under this subsection (~~n~~). No reduction shall be made for
16 payments made under the social security act or railroad retirement act of 1974.

17 (o) For any week of unemployment on the basis of services performed in
18 any capacity and under any of the circumstances described in subsection (i), (j)
19 or (k) which an individual performed in an educational institution while in the
20 employ of an educational service agency. For the purposes of this subsection
21 (~~o~~), the term "educational service agency" means a governmental agency or
22 entity which is established and operated exclusively for the purpose of
23 providing such services to one or more educational institutions.

24 (p) For any week of unemployment on the basis of service as a school bus
25 or other motor vehicle driver employed by a private contractor to transport
26 pupils, students and school personnel to or from school-related functions or
27 activities for an educational institution, as defined in subsection (v) of K.S.A.
28 44-703, and amendments thereto, if such week begins during the period
29 between two successive academic years or during a similar period between
30 two regular terms, whether or not successive, if the individual has a contract or
31 contracts, or a reasonable assurance thereof, to perform services in any such
32 capacity with a private contractor for any educational institution for both such
33 academic years or both such terms. An individual shall not be disqualified for
34 benefits as provided in this subsection (~~p~~) for any week of unemployment on
35 the basis of service as a bus or other motor vehicle driver employed by a
36 private contractor to transport persons to or from nonschool-related functions
37 or activities.

38 (q) For any week of unemployment on the basis of services performed by
39 the individual in any capacity and under any of the circumstances described in
40 subsection (i), (j), (k) or (o) which are provided to or on behalf of an
41 educational institution, as defined in subsection (v) of K.S.A. 44-703, and
42 amendments thereto, while the individual is in the employ of an employer
43 which is a governmental entity, Indian tribe or any employer described in

1 section 501(c)(3) of the federal internal revenue code of 1986 which is exempt
2 from income under section 501(a) of the code.

3 (r) For any week in which an individual is registered at and attending an
4 established school, training facility or other educational institution, or is on
5 vacation during or between two successive academic years or terms. An
6 individual shall not be disqualified for benefits as provided in this subsection
7 (~~+~~) provided:

8 (1) The individual was engaged in full-time employment concurrent with
9 the individual's school attendance; or

10 (2) the individual is attending approved training as defined in subsection
11 (s) of K.S.A. 44-703, and amendments thereto; or

12 (3) the individual is attending evening, weekend or limited day time
13 classes, which would not affect availability for work, and is otherwise eligible
14 under subsection (c) of K.S.A. 44-705, and amendments thereto.

15 (s) For any week with respect to which an individual is receiving or has
16 received remuneration in the form of a back pay award or settlement. The
17 remuneration shall be allocated to the week or weeks in the manner as
18 specified in the award or agreement, or in the absence of such specificity in the
19 award or agreement, such remuneration shall be allocated to the week or
20 weeks in which such remuneration, in the judgment of the secretary, would
21 have been paid.

22 (1) For any such weeks that an individual receives remuneration in the
23 form of a back pay award or settlement, an overpayment will be established in
24 the amount of unemployment benefits paid and shall be collected from the
25 claimant.

26 (2) If an employer chooses to withhold from a back pay award or
27 settlement, amounts paid to a claimant while they claimed unemployment
28 benefits, such employer shall pay the department the amount withheld. With
29 respect to such amount, the secretary shall have available all of the collection
30 remedies authorized or provided in K.S.A. 44-717, and amendments thereto.

31 (t) If the individual has been discharged for failing a preemployment drug
32 screen required by the employer and if such discharge occurs not later than
33 seven days after the employer is notified of the results of such drug screen.
34 The disqualification shall begin the day following the separation and shall
35 continue until after the individual becomes reemployed and has had earnings
36 from insured work of at least three times the individual's determined weekly
37 benefit amount.

38 (u) If the individual was found not to have a disqualifying adjudication or
39 conviction under K.S.A. 39-970, and amendments thereto, or K.S.A. 65-5117,
40 and amendments thereto, was hired and then was subsequently convicted of a
41 disqualifying felony under K.S.A. 39-970, and amendments thereto, or K.S.A.
42 65-5117, and amendments thereto, and discharged pursuant to K.S.A. 39-970,
43 and amendments thereto, or K.S.A. 65-5117, and amendments thereto. The

1 disqualification shall begin the day following the separation and shall continue
2 until after the individual becomes reemployed and has had earnings from
3 insured work of at least three times the individual's determined weekly benefit
4 amount.

5 ***Sec. 6. From and after July 1, 2011, K.S.A. 2010 Supp. 44-710 is hereby***
6 ***amended to read as follows: 44-710. (a) Payment. Contributions shall***
7 ***accrue and become payable by each contributing employer for each***
8 ***calendar year in which the contributing employer is subject to the***
9 ***employment security law with respect to wages paid for employment. Such***
10 ***contributions shall become due and be paid by each contributing employer***
11 ***to the secretary for the employment security fund in accordance with such***
12 ***rules and regulations as the secretary may adopt and shall not be deducted,***
13 ***in whole or in part, from the wages of individuals in such employer's***
14 ***employ. In the payment of any contributions, a fractional part of \$.01 shall***
15 ***be disregarded unless it amounts to \$.005 or more, in which case it shall be***
16 ***increased to \$.01. Should contributions for any calendar quarter be less***
17 ***than \$5, no payment shall be required.***

18 ***(b) Rates and base of contributions. (1) Except as provided in***
19 ***paragraph (2) of this subsection, each contributing employer shall pay***
20 ***contributions on wages paid by the contributing employer during each***
21 ***calendar year with respect to employment as provided in K.S.A. 44-710a and***
22 ***amendments thereto. Except that, notwithstanding the federal law requiring***
23 ***the secretary of labor to annually recalculate the contribution rate, for***
24 ***calendar years 2010 and 2011, 2012, 2013 and 2014, the secretary shall***
25 ***charge each contributing employer in rate groups 1 through 32 the***
26 ***contribution rate in the 2010 original tax rate computation table, with***
27 ***contributing employers in rate groups 33 through 51 being capped at a 5.4%***
28 ***contribution rate.***

29 ***(2) (A) If the congress of the United States either amends or repeals the***
30 ***Wagner-Peyser act, the federal unemployment tax act, the federal social***
31 ***security act, or subtitle C of chapter 23 of the federal internal revenue code***
32 ***of 1986, or any act or acts supplemental to or in lieu thereof, or any part or***
33 ***parts of any such law, or if any such law, or any part or parts thereof, are***
34 ***held invalid with the effect that appropriations of funds by congress and***
35 ***grants thereof to the state of Kansas for the payment of costs of***
36 ***administration of the employment security law are no longer available for***
37 ***such purposes, or (B) if employers in Kansas subject to the payment of tax***
38 ***under the federal unemployment tax act are granted full credit against such***
39 ***tax for contributions or taxes paid to the secretary of labor, then, and in***
40 ***either such case, beginning with the year in which the unavailability of***
41 ***federal appropriations and grants for such purpose occurs or in which such***
42 ***change in liability for payment of such federal tax occurs and for each year***
43 ***thereafter, the rate of contributions of each contributing employer shall be***

1 *equal to the total of .5% and the rate of contributions as determined for such*
2 *contributing employer under K.S.A. 44-710a and amendments thereto. The*
3 *amount of contributions which each contributing employer becomes liable*
4 *to pay under this paragraph (2) over the amount of contributions which*
5 *such contributing employer would be otherwise liable to pay shall be*
6 *credited to the employment security administration fund to be disbursed and*
7 *paid out under the same conditions and for the same purposes as other*
8 *moneys are authorized to be paid from the employment security*
9 *administration fund, except that, if the secretary determines that as of the*
10 *first day of January of any year there is an excess in the employment*
11 *security administration fund over the amount required to be disbursed*
12 *during such year, an amount equal to such excess as determined by the*
13 *secretary shall be transferred to the employment security fund.*

14 *(c) Charging of benefit payments.(1) The secretary shall maintain a*
15 *separate account for each contributing employer, and shall credit the*
16 *contributing employer's account with all the contributions paid on the*
17 *contributing employer's own behalf. Nothing in the employment security law*
18 *shall be construed to grant any employer or individuals in such employer's*
19 *service prior claims or rights to the amounts paid by such employer into the*
20 *employment security fund either on such employer's own behalf or on*
21 *behalf of such individuals. Benefits paid shall be charged against the*
22 *accounts of each base period employer in the proportion that the base period*
23 *wages paid to an eligible individual by each such employer bears to the total*
24 *wages in the base period. Benefits shall be charged to contributing*
25 *employers' accounts and rated governmental employers' accounts upon the*
26 *basis of benefits paid during each twelve-month period ending on the*
27 *computation date.*

28 *(2) (A) Benefits paid in benefit years established by valid new claims*
29 *shall not be charged to the account of a contributing employer or rated*
30 *governmental employer who is a base period employer if the examiner finds*
31 *that claimant was separated from the claimant's most recent employment*
32 *with such employer under any of the following conditions: (i) Discharged*
33 *for misconduct or gross misconduct connected with the individual's work; or*
34 *(ii) leaving work voluntarily without good cause attributable to the*
35 *claimant's work or the employer.*

36 *(B) Where base period wage credits of a contributing employer or rated*
37 *governmental employer represent part-time employment and the claimant*
38 *continues in that part-time employment with that employer during the period*
39 *for which benefits are paid, then that employer's account shall not be*
40 *charged with any part of the benefits paid if the employer provides the*
41 *secretary with information as required by rules and regulations. For the*
42 *purposes of this subsection (c)(2)(B), "part-time employment" means any*
43 *employment when an individual works concurrently for two or more*

1 *employers and also works less than full-time for at least one of those*
2 *employers because the individual's services are not required for the*
3 *customary, scheduled full-time hours prevailing at the work place or the*
4 *individual does not customarily work the regularly scheduled full-time hours*
5 *due to personal choice or circumstances.*

6 *(C) No contributing employer or rated governmental employer's*
7 *account shall be charged with any extended benefits paid in accordance with*
8 *the employment security law, except for weeks of unemployment beginning*
9 *after December 31, 1978, all contributing governmental employers and*
10 *governmental rated employers shall be charged an amount equal to all*
11 *extended benefits paid.*

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

15 *(E) No contributing employer or rated governmental employer's*
16 *account will be charged for benefits paid a claimant while pursuing an*
17 *approved training course as defined in subsection (s) of K.S.A. 44-703, and*
18 *amendments thereto.*

19 *(F) No contributing employer or rated governmental employer's*
20 *account shall be charged with respect to the benefits paid to any individual*
21 *whose base period wages include wages for services not covered by the*
22 *employment security law prior to January 1, 1978, to the extent that the*
23 *employment security fund is reimbursed for such benefits pursuant to*
24 *section 121 of public law 94-566 (90 Stat. 2673).*

25 *(G) With respect to weeks of unemployment beginning after December*
26 *31, 1977, wages for insured work shall include wages paid for previously*
27 *uncovered services. For the purposes of this subsection (c)(2)(G), the term*
28 *"previously uncovered services" means services which were not covered*
29 *employment, at any time during the one-year period ending December 31,*
30 *1975, except to the extent that assistance under title II of the federal*
31 *emergency jobs and unemployment assistance act of 1974 was paid on the*
32 *basis of such services, and which:*

33 *(i) Are agricultural labor as defined in subsection (w) of K.S.A. 44-703,*
34 *and amendments thereto, or domestic service as defined in subsection (aa)*
35 *of K.S.A. 44-703, and amendments thereto, or*

36 *(ii) are services performed by an employee of this state or a political*
37 *subdivision thereof, as provided in subsection (i)(3)(E) of K.S.A. 44-703, and*
38 *amendments thereto, or*

39 *(iii) are services performed by an employee of a nonprofit educational*
40 *institution which is not an institution of higher education.*

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

1 (3) *The examiner shall notify any base period employer whose account*
2 *will be charged with benefits paid following the filing of a valid new claim*
3 *and a determination by the examiner based on all information relating to*
4 *the claim contained in the records of the division of employment security.*
5 *Such notice shall become final and benefits charged to the base period*
6 *employer's account in accordance with the claim unless within 10 calendar*
7 *days from the date the notice was sent, the base period employer requests in*
8 *writing that the examiner reconsider the determination and furnishes any*
9 *required information in accordance with the secretary's rules and*
10 *regulations. In a similar manner, a notice of an additional claim followed by*
11 *the first payment of benefits with respect to the benefit year, filed by an*
12 *individual during a benefit year after a period in such year during which*
13 *such individual was employed, shall be given to any base period employer of*
14 *the individual who has requested such a notice within 10 calendar days from*
15 *the date the notice of the valid new claim was sent to such base period*
16 *employer. For purposes of this subsection (c)(3), if the required information*
17 *is not submitted or postmarked within a response time limit of 10 days after*
18 *the base period employer notice was sent, the base period employer shall be*
19 *deemed to have waived its standing as a party to the proceedings arising*
20 *from the claim and shall be barred from protesting any subsequent decisions*
21 *about the claim by the secretary, a referee, the board of review or any court,*
22 *except that the base period employer's response time limit may be waived or*
23 *extended by the examiner or upon appeal, if timely response was impossible*
24 *due to excusable neglect. The examiner shall notify the employer of the*
25 *reconsidered determination which shall be subject to appeal, or further*
26 *reconsideration, in accordance with the provisions of K.S.A. 44-709, and*
27 *amendments thereto.*

28 (4) *Time, computation and extension. In computing the period of time*
29 *for a base period employer response or appeals under this section from the*
30 *examiner's or the special examiner's determination or from the referee's*
31 *decision, the day of the act, event or default from which the designated*
32 *period of time begins to run shall not be included. The last day of the period*
33 *shall be included unless it is a Saturday, Sunday or legal holiday, in which*
34 *event the period runs until the end of the next day which is not a Saturday,*
35 *Sunday or legal holiday.*

36 (d) *Pooled fund. All contributions and payments in lieu of*
37 *contributions and benefit cost payments to the employment security fund*
38 *shall be pooled and available to pay benefits to any individual entitled*
39 *thereto under the employment security law, regardless of the source of such*
40 *contributions or payments in lieu of contributions or benefit cost payments.*

41 (e) *Election to become reimbursing employer; payment in lieu of*
42 *contributions. (1) Any governmental entity, Indian tribes or tribal units,*
43 *(subdivisions, subsidiaries or business enterprises wholly owned by such*

1 *Indian tribes), for which services are performed as described in subsection*
2 *(i)(3)(E) of K.S.A. 44-703, and amendments thereto, or any nonprofit*
3 *organization or group of nonprofit organizations described in section 501(c)*
4 *(3) of the federal internal revenue code of 1986 which is exempt from*
5 *income tax under section 501(a) of such code, that becomes subject to the*
6 *employment security law may elect to become a reimbursing employer under*
7 *this subsection (e)(1) and agree to pay the secretary for the employment*
8 *security fund an amount equal to the amount of regular benefits and ½ of*
9 *the extended benefits paid that are attributable to service in the employ of*
10 *such reimbursing employer, except that each reimbursing governmental*
11 *employer, Indian tribes or tribal units shall pay an amount equal to the*
12 *amount of regular benefits and extended benefits paid for weeks of*
13 *unemployment beginning after December 31, 1978, for governmental*
14 *employers and December 21, 2000, for Indian tribes or tribal units to*
15 *individuals for weeks of unemployment which begin during the effective*
16 *period of such election.*

17 *(A) Any employer identified in this subsection (e)(1) may elect to*
18 *become a reimbursing employer for a period encompassing not less than*
19 *four complete calendar years if such employer files with the secretary a*
20 *written notice of such election within the 30-day period immediately*
21 *following January 1 of any calendar year or within the 30-day period*
22 *immediately following the date on which a determination of subjectivity to*
23 *the employment security law is issued, whichever occurs later.*

24 *(B) Any employer which makes an election to become a reimbursing*
25 *employer in accordance with subparagraph (A) of this subsection (e)(1) will*
26 *continue to be liable for payments in lieu of contributions until such*
27 *employer files with the secretary a written notice terminating its election not*
28 *later than 30 days prior to the beginning of the calendar year for which such*
29 *termination shall first be effective.*

30 *(C) Any employer identified in this subsection (e)(1) which has*
31 *remained a contributing employer and has been paying contributions under*
32 *the employment security law for a period subsequent to January 1, 1972,*
33 *may change to a reimbursing employer by filing with the secretary not later*
34 *than 30 days prior to the beginning of any calendar year a written notice of*
35 *election to become a reimbursing employer. Such election shall not be*
36 *terminable by the employer for four complete calendar years.*

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

41 *(E) The secretary, in accordance with such rules and regulations as the*
42 *secretary may adopt, shall notify each employer identified in subsection (e)*
43 *(I) of any determination which the secretary may make of its status as an*

1 *employer and of the effective date of any election which it makes to become*
2 *a reimbursing employer and of any termination of such election. Such*
3 *determinations shall be subject to reconsideration, appeal and review in*
4 *accordance with the provisions of K.S.A. 44-710b, and amendments thereto.*

5 *(2) Reimbursement reports and payments. Payments in lieu of*
6 *contributions shall be made in accordance with the provisions of paragraph*
7 *(A) of this subsection (e)(2) by all reimbursing employers except the state of*
8 *Kansas. Each reimbursing employer shall report total wages paid during*
9 *each calendar quarter by filing quarterly wage reports with the secretary*
10 *which shall be filed by the last day of the month following the close of each*
11 *calendar quarter. Wage reports are deemed filed as of the date they are*
12 *placed in the United States mail.*

13 *(A) At the end of each calendar quarter, or at the end of any other*
14 *period as determined by the secretary, the secretary shall bill each*
15 *reimbursing employer, except the state of Kansas, (i) an amount to be paid*
16 *which is equal to the full amount of regular benefits plus ½ of the amount of*
17 *extended benefits paid during such quarter or other prescribed period that is*
18 *attributable to service in the employ of such reimbursing employer; and (ii)*
19 *for weeks of unemployment beginning after December 31, 1978, each*
20 *reimbursing governmental employer and December 21, 2000, for Indian*
21 *tribes or tribal units shall be certified an amount to be paid which is equal to*
22 *the full amount of regular benefits and extended benefits paid during such*
23 *quarter or other prescribed period that is attributable to service in the*
24 *employ of such reimbursing governmental employer.*

25 *(B) Payment of any bill rendered under paragraph (A) of this*
26 *subsection (e)(2) shall be made not later than 30 days after such bill was*
27 *mailed to the last known address of the reimbursing employer, or otherwise*
28 *was delivered to such reimbursing employer, unless there has been an*
29 *application for review and redetermination in accordance with paragraph*
30 *(D) of this subsection (e)(2).*

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

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

40 *(E) Past due payments of amounts certified by the secretary under this*
41 *section shall be subject to the same interest, penalties and actions required*
42 *by K.S.A. 44-717, and amendments thereto. (1) If any nonprofit organization*
43 *or group of nonprofit organizations described in section 501(c)(3) of the*

1 *federal internal revenue code of 1986 or governmental reimbursing*
2 *employer is delinquent in making payments of amounts certified by the*
3 *secretary under this section, the secretary may terminate such employer's*
4 *election to make payments in lieu of contributions as of the beginning of the*
5 *next calendar year and such termination shall be effective for such next*
6 *calendar year and the calendar year thereafter so that the termination is*
7 *effective for two complete calendar years. (2) Failure of the Indian tribe or*
8 *tribal unit to make required payments, including assessment of interest and*
9 *penalty within 90 days of receipt of the bill will cause the Indian tribe to lose*
10 *the option to make payments in lieu of contributions as described pursuant*
11 *to paragraph (e)(1) for the following tax year unless payment in full is*
12 *received before contribution rates for the next tax year are calculated. (3)*
13 *Any Indian tribe that loses the option to make payments in lieu of*
14 *contributions due to late payment or nonpayment, as described in paragraph*
15 *(2), shall have such option reinstated, if after a period of one year, all*
16 *contributions have been made on time and no contributions, payments in*
17 *lieu of contributions for benefits paid, penalties or interest remain*
18 *outstanding.*

19 *(F) Failure of the Indian tribe or any tribal unit thereof to make*
20 *required payments, including assessments of interest and penalties, after all*
21 *collection activities deemed necessary by the secretary have been exhausted,*
22 *will cause services performed by such tribe to not be treated as employment*
23 *for purposes of subsection (i)(3)(E) of K.S.A. 44-703, and amendments*
24 *thereto. If an Indian tribe fails to make payments required under this*
25 *section, including assessments of interest and penalties, within 90 days of a*
26 *final notice of delinquency, the secretary shall immediately notify the United*
27 *States internal revenue service and the United States department of labor.*
28 *The secretary may determine that any Indian tribe that loses coverage*
29 *pursuant to this paragraph may have services performed on behalf of such*
30 *tribe again deemed "employment" if all contributions, payments in lieu of*
31 *contributions, penalties and interest have been paid.*

32 *(G) In the discretion of the secretary, any employer who elects to*
33 *become liable for payments in lieu of contributions and any nonprofit*
34 *organization or group of nonprofit organizations described in section 501*
35 *(c)(3) of the federal internal revenue code of 1986 or governmental*
36 *reimbursing employer or Indian tribe or tribal unit who is delinquent in*
37 *filing reports or in making payments of amounts certified by the secretary*
38 *under this section shall be required within 60 days after the effective date of*
39 *such election, in the case of an eligible employer so electing, or after the*
40 *date of notification to the delinquent employer under this subsection (e)(2)*
41 *(G), in the case of a delinquent employer, to execute and file with the*
42 *secretary a surety bond, except that the employer may elect, in lieu of a*
43 *surety bond, to deposit with the secretary money or securities as approved by*

1 *the secretary or to purchase and deliver to an escrow agent a certificate of*
2 *deposit to guarantee payment. The amount of the bond, deposit or escrow*
3 *agreement required by this subsection (e)(2)(G) shall not exceed 5.4% of the*
4 *organization's taxable wages paid for employment by the eligible employer*
5 *during the four calendar quarters immediately preceding the effective date*
6 *of the election or the date of notification, in the case of a delinquent*
7 *employer. If the employer did not pay wages in each of such four calendar*
8 *quarters, the amount of the bond or deposit shall be as determined by the*
9 *secretary. Upon the failure of an employer to comply with this subsection (e)*
10 *(2)(G) within the time limits imposed or to maintain the required bond or*
11 *deposit, the secretary may terminate the election of such eligible employer or*
12 *delinquent employer, as the case may be, to make payments in lieu of*
13 *contributions, and such termination shall be effective for the current and*
14 *next calendar year.*

15 *(H) The state of Kansas shall make reimbursement payments quarterly*
16 *at a fiscal year rate which shall be based upon: (i) The available balance in*
17 *the state's reimbursing account as of December 31 of each calendar year;*
18 *(ii) the historical unemployment experience of all covered state agencies*
19 *during prior years; (iii) the estimate of total covered wages to be paid during*
20 *the ensuing calendar year; (iv) the applicable fiscal year rate of the claims*
21 *processing and auditing fee under K.S.A. 75-3798, and amendments thereto;*
22 *and (v) actuarial and other information furnished to the secretary by the*
23 *secretary of administration. In accordance with K.S.A. 75-3798, and*
24 *amendments thereto, the claims processing and auditing fees charged to*
25 *state agencies shall be deducted from the amounts collected for the*
26 *reimbursement payments under this paragraph (H) prior to making the*
27 *quarterly reimbursement payments for the state of Kansas. The fiscal year*
28 *rate shall be expressed as a percentage of covered total wages and shall be*
29 *the same for all covered state agencies. The fiscal year rate for each fiscal*
30 *year will be certified in writing by the secretary to the secretary of*
31 *administration on July 15 of each year and such certified rate shall become*
32 *effective on the July 1 immediately following the date of certification. A*
33 *detailed listing of benefit charges applicable to the state's reimbursing*
34 *account shall be furnished quarterly by the secretary to the secretary of*
35 *administration and the total amount of charges deducted from previous*
36 *reimbursing payments made by the state. On January 1 of each year, if it is*
37 *determined that benefit charges exceed the amount of prior reimbursing*
38 *payments, an upward adjustment shall be made therefor in the fiscal year*
39 *rate which will be certified on the ensuing July 15. If total payments exceed*
40 *benefit charges, all or part of the excess may be refunded, at the discretion*
41 *of the secretary, from the fund or retained in the fund as part of the*
42 *payments which may be required for the next fiscal year.*

43 *(3) Allocation of benefit costs. The reimbursing account of each*

1 *reimbursing employer shall be charged the full amount of regular benefits*
2 *and ½ of the amount of extended benefits paid except that each reimbursing*
3 *governmental employer's account shall be charged the full amount of*
4 *regular benefits and extended benefits paid for weeks of unemployment*
5 *beginning after December 31, 1978, to individuals whose entire base period*
6 *wage credits are from such employer. When benefits received by an*
7 *individual are based upon base period wage credits from more than one*
8 *employer then the reimbursing employer's or reimbursing governmental*
9 *employer's account shall be charged in the same ratio as base period wage*
10 *credits from such employer bear to the individual's total base period wage*
11 *credits. Notwithstanding any other provision of the employment security law,*
12 *no reimbursing employer's or reimbursing governmental employer's*
13 *account shall be charged for payments of extended benefits which are*
14 *wholly reimbursed to the state by the federal government.*

15 *(A) Proportionate allocation (when fewer than all reimbursing base*
16 *period employers are liable). If benefits paid to an individual are based on*
17 *wages paid by one or more reimbursing employers and on wages paid by one*
18 *or more contributing employers or rated governmental employers, the*
19 *amount of benefits payable by each reimbursing employer shall be an*
20 *amount which bears the same ratio to the total benefits paid to the individual*
21 *as the total base period wages paid to the individual by such employer bears*
22 *to the total base period wages paid to the individual by all of such*
23 *individual's base period employers.*

24 *(B) Proportionate allocation (when all base period employers are*
25 *reimbursing employers). If benefits paid to an individual are based on wages*
26 *paid by two or more reimbursing employers, the amount of benefits payable*
27 *by each such employer shall be an amount which bears the same ratio to the*
28 *total benefits paid to the individual as the total base period wages paid to the*
29 *individual by such employer bear to the total base period wages paid to the*
30 *individual by all of such individual's base period employers.*

31 *(4) Group accounts. Two or more reimbursing employers may file a*
32 *joint application to the secretary for the establishment of a group account*
33 *for the purpose of sharing the cost of benefits paid that are attributable to*
34 *service in the employment of such reimbursing employers. Each such*
35 *application shall identify and authorize a group representative to act as the*
36 *group's agent for the purposes of this subsection (e)(4). Upon approval of*
37 *the application, the secretary shall establish a group account for such*
38 *employers effective as of the beginning of the calendar quarter in which the*
39 *secretary receives the application and shall notify the group's representative*
40 *of the effective date of the account. Such account shall remain in effect for*
41 *not less than four years and thereafter such account shall remain in effect*
42 *until terminated at the discretion of the secretary or upon application by the*
43 *group. Upon establishment of the account, each member of the group shall*

1 *be liable for payments in lieu of contributions with respect to each calendar*
2 *quarter in the amount that bears the same ratio to the total benefits paid in*
3 *such quarter that are attributable to service performed in the employ of all*
4 *members of the group as the total wages paid for service in employment by*
5 *such member in such quarter bear to the total wages paid during such*
6 *quarter for service performed in the employ of all members of the group.*
7 *The secretary shall adopt such rules and regulations as the secretary deems*
8 *necessary with respect to applications for establishment, maintenance and*
9 *termination of group accounts that are authorized by this subsection (e)(4),*
10 *for addition of new members to, and withdrawal of active members from*
11 *such accounts, and for the determination of the amounts that are payable*
12 *under this subsection (e)(4) by members of the group and the time and*
13 *manner of such payments.*

14 Sec.—4.7. K.S.A. 2010 Supp. 44-710a is hereby amended to read as
15 follows: 44-710a. (a) *Classification of employers by the secretary.* The term
16 "employer" as used in this section refers to contributing employers. The
17 secretary shall classify employers in accordance with their actual experience in
18 the payment of contributions on their own behalf and with respect to benefits
19 charged against their accounts with a view of fixing such contribution rates as
20 will reflect such experience. If, as of the date such classification of employers
21 is made, the secretary finds that any employing unit has failed to file any
22 report required in connection therewith, or has filed a report which the
23 secretary finds incorrect or insufficient, the secretary shall make an estimate of
24 the information required from such employing unit on the basis of the best
25 evidence reasonably available to the secretary at the time, and notify the
26 employing unit thereof by mail addressed to its last known address. Unless
27 such employing unit shall file the report or a corrected or sufficient report as
28 the case may be, within 15 days after the mailing of such notice, the secretary
29 shall compute such employing unit's rate of contributions on the basis of such
30 estimates, and the rate as so determined shall be subject to increase but not to
31 reduction on the basis of subsequently ascertained information. The secretary
32 shall determine the contribution rate of each employer in accordance with the
33 requirements of this section.

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

38 (B) (i) For the rate year 2007 and each rate year thereafter, each employer
39 who is not eligible for a rate contribution shall pay contributions equal to 4%
40 of wages paid during each calendar year with regard to employment except
41 such employers engaged in the construction industry shall pay a rate equal to
42 6%.

43 (ii) For rate years prior to 2007, employers who are not eligible for a rate

1 computation shall pay contributions at an assigned rate equal to the sum of 1%
2 plus the greater of the average rate assigned in the preceding calendar year to
3 all employers in such industry sector or the average rate assigned to all
4 covered employers during the preceding calendar year, except that in no
5 instance shall any such assigned rate be less than 2%. Employers engaged in
6 more than one type of industrial activity shall be classified by principal
7 activity. All rates assigned will remain in effect for a complete calendar year. If
8 the sale or acquisition of a new establishment would require reclassification of
9 the employer to a different industry sector, the employer would be promptly
10 notified, and the contribution rate applicable to the new industry sector would
11 become effective the following January 1.

12 (iii) For purposes of this subsection (a), employers shall be classified by
13 industrial activity in accordance with standard procedures as set forth in rules
14 and regulations adopted by the secretary.

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

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

29 (B) Negative account balance employers as defined in subsection (d)
30 shall pay contributions at the rate of 5.4% for each calendar year.

31 (C) Eligible employers, other than negative account balance employers,
32 who do not meet the average annual payroll requirements as stated in
33 subsection (a)(2) of K.S.A. 44-703, and amendments thereto, will be issued the
34 maximum rate indicated in subsection (a)(3)(C) of this section until such
35 employer establishes a new period of 24 consecutive calendar months
36 immediately preceding the computation date throughout which benefits could
37 have been charged against such employer's account by resuming the payment
38 of wages. Contribution rates effective for each calendar year thereafter shall be
39 determined as prescribed below.

40 (D) As of each computation date, the total of the taxable wages paid
41 during the 12-month period prior to the computation date by all employers
42 eligible for rate computation, except negative account balance employers, shall
43 be divided into 51 approximately equal parts designated in column A of

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

SCHEDULE I—Eligible Employers

26 Column A	Column B	Column C
27 Rate	Cumulative	Experience factor
28 group	taxable payroll	(Ratio to total wages)
29 1	Less than 1.96%.....	025%
30 2	1.96% but less than 3.92.....	40
31 3	3.92 but less than 5.88.....	80
32 4	5.88 but less than 7.84.....	12
33 5	7.84 but less than 9.80.....	16
34 6	9.80 but less than 11.76.....	20
35 7	11.76 but less than 13.72.....	24
36 8	13.72 but less than 15.68.....	28
37 9	15.68 but less than 17.64.....	32
38 10	17.64 but less than 19.60.....	36
39 11	19.60 but less than 21.56.....	40
40 12	21.56 but less than 23.52.....	44
41 13	23.52 but less than 25.48.....	48
42 14	25.48 but less than 27.44.....	52
43 15	27.44 but less than 29.40.....	56

1	16	29.40 but less than 31.36.....	60
2	17	31.36 but less than 33.32.....	64
3	18	33.32 but less than 35.28.....	68
4	19	35.28 but less than 37.24.....	72
5	20	37.24 but less than 39.20.....	76
6	21	39.20 but less than 41.16.....	80
7	22	41.16 but less than 43.12.....	84
8	23	43.12 but less than 45.08.....	88
9	24	45.08 but less than 47.04.....	92
10	25	47.04 but less than 49.00.....	96
11	26	49.00 but less than 50.96.....	1.00
12	27	50.96 but less than 52.92.....	1.04
13	28	52.92 but less than 54.88.....	1.08
14	29	54.88 but less than 56.84.....	1.12
15	30	56.84 but less than 58.80.....	1.16
16	31	58.80 but less than 60.76.....	1.20
17	32	60.76 but less than 62.72.....	1.24
18	33	62.72 but less than 64.68.....	1.28
19	34	64.68 but less than 66.64.....	1.32
20	35	66.64 but less than 68.60.....	1.36
21	36	68.60 but less than 70.56.....	1.40
22	37	70.56 but less than 72.52.....	1.44
23	38	72.52 but less than 74.48.....	1.48
24	39	74.48 but less than 76.44.....	1.52
25	40	76.44 but less than 78.40.....	1.56
26	41	78.40 but less than 80.36.....	1.60
27	42	80.36 but less than 82.32.....	1.64
28	43	82.32 but less than 84.28.....	1.68
29	44	84.28 but less than 86.24.....	1.72
30	45	86.24 but less than 88.20.....	1.76
31	46	88.20 but less than 90.16.....	1.80
32	47	90.16 but less than 92.12.....	1.84
33	48	92.12 but less than 94.08.....	1.88
34	49	94.08 but less than 96.04.....	1.92
35	50	96.04 but less than 98.00.....	1.96
36	51	98.00 and over.....	2.00

37

38 (E) Negative account balance employers shall, in addition to paying the
 39 rate provided for in subsection (a)(2)(B) of this section, pay a surcharge based
 40 on the size of the employer's negative reserve ratio, the calculation which is
 41 provided for in subsection (a)(2) of this section. The amount of the surcharge
 42 shall be determined from ~~column B of schedule II of this section~~ **column B2**
 43 **of schedule II of this section for calendar years 2012, 2013, 2014 and from**

1 **column B1 of schedule II of this section for each calendar year after 2014.**

2 Each negative account balance employer who does not satisfy the
3 requirements to have an average annual payroll, as defined by subsection (a)
4 (2) of K.S.A. 44-703, and amendments thereto, shall be assigned a surcharge
5 of ~~2%~~ **equal to the maximum negative ratio surcharge from column B2 of**
6 **schedule II of this section for calendar years 2012, 2013 and 2014. From**
7 **calendar year 2015 forward each negative account balance employer who**
8 **does not satisfy the requirements to have an average annual payroll, as**
9 **defined by subsection (a)(2) of K.S.A. 44-703, and amendments thereto,**
10 **shall be assigned a surcharge equal to the maximum negative ratio**
11 **surcharge from column B1 of schedule II of this section. Contribution-**
12 ~~payments made pursuant to this subsection (a)(2)(E) shall be credited to the~~
13 ~~appropriate account of such negative account balance employer.~~**Funds from**
14 **the surcharge paid according to this subsection (a)(2)(E), and amendments**
15 **thereto, shall be used to pay principal and interest due on funds received from**
16 **the federal unemployment account under title XII of the social security act, (42**
17 **U.S.C. § 1321 to 1324), in the following manner:**

18 (i) ~~For the calendar~~ **calendar year 2011, 50% of any such surcharge shall**
19 **be designated an interest assessment surcharge and paid into the**
20 **employment security interest assessment fund for the purpose of paying**
21 **interest due and owing on funds received from the federal unemployment**
22 **account under title XII of the social security act. The remaining surcharge**
23 **shall be used to retire the principal on funds received from the federal**
24 **unemployment account under title XII of the social security act and shall be**
25 **deposited in the Kansas unemployment insurance trust fund;**

26 (ii) **for any succeeding year in which interest is due and owing on funds**
27 **received from the federal unemployment account under title XII of the social**
28 **security act, the secretary of labor may adjust the amount of such surcharge**
29 **necessary to pay such interest;**

30 (iii) **the portion of such surcharge used for the payment of such interest**
31 **shall not be included in the calculation of such employers reserve ratio**
32 **pursuant to subsection (a)(2). The portion of such surcharge used for the**
33 **payment of principal shall be included in the calculation of such employers**
34 **reserve ratio pursuant to subsection (a)(2); and**

35 (iv) **if the amounts collected under this subsection are in excess of the**
36 **amounts needed to pay interest due, the amounts in excess shall remain in the**
37 **employment security interest assessment fund to be used to pay interest in**
38 **future years. Whenever the secretary certifies all interest payments have been**
39 **paid pursuant to this section, any excess funds remaining in the employment**
40 **security interest assessment fund shall be transferred to the employment**
41 **security trust fund for the purpose of paying any remaining principal amount**
42 **due for advances described in this section. In the event that the amount**
43 **transferred from the employment security interest assessment fund exceeds**

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

3
 4 SCHEDULE II—Surcharge on Negative Accounts

5 Column A	6 Column B
7 Negative Reserve Ratio	8 Surcharge as a percent 9 of taxable wages
10 Less than 2.0%	0.20%
11 2.0% but less than 4.0	40
12 4.0 but less than 6.0	60
13 6.0 but less than 8.0	80
14 8.0 but less than 10.0	1.00
15 10.0 but less than 12.0	1.20
16 12.0 but less than 14.0	1.40
17 14.0 but less than 16.0	1.60
18 16.0 but less than 18.0	1.80
19 18.0 and over	2.00

20 Column A	21 Column B1	22 Column B2
23 Negative Reserve Ratio	24 Surcharge as a percent 25 of taxable wages	26 Surcharge as a percent 27 of taxable wages
28 Less than 2.0%	0.20%	0.30%
29 2.0% but less than 4.0	0.40	0.50
30 4.0 but less than 6.0	0.60	0.70
31 6.0 but less than 8.0	0.80	0.90
32 8.0 but less than 10.0	1.00	1.10
33 10.0 but less than 12.0	1.20	1.30
34 12.0 but less than 14.0	1.40	1.50
35 14.0 but less than 16.0	1.60	1.70
36 16.0 but less than 18.0	1.80	1.90
37 18.0 but less than 20.0	2.00	2.10
38 20.0 but less than 22.0	2.20	2.20
39 22.0 but less than 24.0	2.40	2.40
40 24.0 but less than 26.0	2.60	2.60
41 26.0 but less than 28.0	2.80	2.80
42 28.0 but less than 30.0	3.00	3.00
43 30.0 but less than 32.0	3.20	3.20
32.0 but less than 34.0	3.40	3.40
34.0 but less than 36.0	3.60	3.60
36.0 but less than 38.0	3.80	3.80
38.0 and over	4.00	4.00

1 (3) *Planned yield.* (A) The average required yield shall be determined
 2 from schedule III of this section, and the planned yield on total wages in
 3 column B of schedule III shall be determined by the reserve fund ratio in
 4 column A of schedule III. The reserve fund ratio shall be determined by
 5 dividing total assets in the employment security fund provided for in
 6 subsection (a) of K.S.A. 44-712, and amendments thereto, excluding all
 7 moneys credited to the account of this state pursuant to section 903 of the
 8 federal social security act, as amended, which have been appropriated by the
 9 state legislature, whether or not withdrawn from the trust fund, and excluding
 10 contributions not yet paid on July 31 by total payrolls for contributing
 11 employers for the preceding fiscal year which ended June 30.

12
 13 SCHEDULE III—Fund Control
 14 Ratios to Total Wages

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

1	3.650 but less than 3.700.....	0.27
2	3.600 but less than 3.650.....	0.28
3	3.550 but less than 3.600.....	0.29
4	3.500 but less than 3.550.....	0.30
5	3.450 but less than 3.500.....	0.31
6	3.400 but less than 3.450.....	0.32
7	3.350 but less than 3.400.....	0.33
8	3.300 but less than 3.350.....	0.34
9	3.250 but less than 3.300.....	0.35
10	3.200 but less than 3.250.....	0.36
11	3.150 but less than 3.200.....	0.37
12	3.100 but less than 3.150.....	0.38
13	3.050 but less than 3.100.....	0.39
14	3.000 but less than 3.050.....	0.40
15	2.950 but less than 3.000.....	0.41
16	2.900 but less than 2.950.....	0.42
17	2.850 but less than 2.900.....	0.43
18	2.800 but less than 2.850.....	0.44
19	2.750 but less than 2.800.....	0.45
20	2.700 but less than 2.750.....	0.46
21	2.650 but less than 2.700.....	0.47
22	2.600 but less than 2.650.....	0.48
23	2.550 but less than 2.600.....	0.49
24	2.500 but less than 2.550.....	0.50
25	2.450 but less than 2.500.....	0.51
26	2.400 but less than 2.450.....	0.52
27	2.350 but less than 2.400.....	0.53
28	2.300 but less than 2.350.....	0.54
29	2.250 but less than 2.300.....	0.55
30	2.200 but less than 2.250.....	0.56
31	2.150 but less than 2.200.....	0.57
32	2.100 but less than 2.150.....	0.58
33	2.050 but less than 2.100.....	0.59
34	2.000 but less than 2.050.....	0.60
35	1.975 but less than 2.000.....	0.61
36	1.950 but less than 1.975.....	0.62
37	1.925 but less than 1.950.....	0.63
38	1.900 but less than 1.925.....	0.64
39	1.875 but less than 1.900.....	0.65
40	1.850 but less than 1.875.....	0.66
41	1.825 but less than 1.850.....	0.67
42	1.800 but less than 1.825.....	0.68
43	1.775 but less than 1.800.....	0.69

1	1.750 but less than 1.775.....	0.70
2	1.725 but less than 1.750.....	0.71
3	1.700 but less than 1.725.....	0.72
4	1.675 but less than 1.700.....	0.73
5	1.650 but less than 1.675.....	0.74
6	1.625 but less than 1.650.....	0.75
7	1.600 but less than 1.625.....	0.76
8	1.575 but less than 1.600.....	0.77
9	1.550 but less than 1.575.....	0.78
10	1.525 but less than 1.550.....	0.79
11	1.500 but less than 1.525.....	0.80
12	1.475 but less than 1.500.....	0.81
13	1.450 but less than 1.475.....	0.82
14	1.425 but less than 1.450.....	0.83
15	1.400 but less than 1.425.....	0.84
16	1.375 but less than 1.400.....	0.85
17	1.350 but less than 1.375.....	0.86
18	1.325 but less than 1.350.....	0.87
19	1.300 but less than 1.325.....	0.88
20	1.275 but less than 1.300.....	0.89
21	1.250 but less than 1.275.....	0.90
22	1.225 but less than 1.250.....	0.91
23	1.200 but less than 1.225.....	0.92
24	1.175 but less than 1.200.....	0.93
25	1.150 but less than 1.175.....	0.94
26	1.125 but less than 1.150.....	0.95
27	1.100 but less than 1.125.....	0.96
28	1.075 but less than 1.100.....	0.97
29	1.050 but less than 1.075.....	0.98
30	1.025 but less than 1.050.....	0.99
31	1.000 but less than 1.025.....	1.00
32	0.900 but less than 1.000.....	1.01
33	0.800 but less than 0.900.....	1.02
34	0.700 but less than 0.800.....	1.03
35	0.600 but less than 0.700.....	1.04
36	0.500 but less than 0.600.....	1.05
37	0.400 but less than 0.500.....	1.06
38	0.300 but less than 0.400.....	1.07
39	0.200 but less than 0.300.....	1.08
40	0.100 but less than 0.200.....	1.09
41	Less than 0.100%.....	1.10

42
43

(B) *Adjustment to taxable wages. The (i) Except as provided in clause*

1 ***(ii), the*** planned yield as a percent of total wages, as determined in this
2 subsection (a)(3), shall be adjusted to taxable wages by multiplying by the
3 ratio of total wages to taxable wages for all contributing employers for the
4 preceding fiscal year ending June 30, ~~except, with regard to a year in which~~
5 ~~the taxable wage base changes. The taxable wages used in the calculation for~~
6 ~~such a year and the following year shall be an estimate of what the taxable~~
7 ~~wages would have been if the new taxable wage base had been in effect during~~
8 ~~all of the preceding fiscal year ending June 30.~~

9 ***(ii) For the calendar years 2012, 2013 and 2014, the planned yield as a***
10 ***percent of total wages, as determined in this subsection (a)(3), shall be***
11 ***adjusted to taxable wages by multiplying by the ratio of total wages to***
12 ***taxable wages for all contributing employers at the taxable wage base of***
13 ***\$8,000. Any revenue generated by increasing the taxable wage base above***
14 ***\$8,000 shall be in addition to the planned yield established pursuant to***
15 ***schedule III of this section. The provisions of this clause shall expire on***
16 ***December 31, 2014.***

17 (C) *Effective rates.* (i) Except with regard to rates for negative account
18 balance employers, employer contribution rates to be effective for the ensuing
19 calendar year shall be computed by adjusting proportionately the experience
20 factors from schedule I of this section to the required yield on taxable wages.
21 For the purposes of this subsection (a)(3), all rates computed shall be rounded
22 to the nearest .01% and for calendar year 1983 and ensuing calendar years, the
23 maximum effective contribution rate shall not exceed 5.4%.

24 (ii) For rate year 2007 and subsequent rate years, employers who are
25 current in filing quarterly wage reports and in payment of all contributions due
26 and owing, shall be issued a contribution rate based upon the following
27 reduction: for rate groups 1 through 5, the rates would be reduced to 0.00%;
28 for rate groups 6 through 28, the rates would be reduced by 50%; for rate
29 groups 29 through 51, the rates would be reduced by 40%.

30 (iii) In order to be eligible for the reduced rates for rate year 2007, the
31 employer must file all late reports and pay all contributions due and owing
32 within a 30-day period following the date of mailing of the amended rate
33 notice.

34 (iv) In order to be eligible for the reduced rates for rate year 2008 and
35 subsequent rate years, employers must file all reports due and pay all
36 contributions due and owing on or before January 31 of the applicable year,
37 except that the reduced rates for otherwise eligible employers shall not be
38 effective for any rate year if the average high cost multiple of the employment
39 security trust fund balance falls below 1.2 as of the computation date of that
40 year's rates. For the purposes of this provision, the average high cost multiple
41 is the reserve fund ratio, as defined by subsection (a)(3)(A), divided by the
42 average high benefit cost rate. The average high benefit cost rate shall be
43 determined by averaging the three highest benefit cost rates over the last 20

1 years from the preceding fiscal year which ended June 30. The high benefit
2 cost rate is defined by dividing total benefits paid in the fiscal year by total
3 payrolls for covered employers in the fiscal year.

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

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

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

32 (3) Whenever an employing unit, whether or not it is an "employing unit"
33 within the meaning of subsection (g) of K.S.A. 44-703, and amendments
34 thereto, acquires or in any manner succeeds to a percentage of an employer's
35 annual payroll which is less than 100% and intends to continue the acquired
36 percentage as a going business, the employing unit may acquire the same
37 percentage of the predecessor's experience factors if: (A) The predecessor
38 employer and successor employing unit make an application in writing on the
39 form prescribed by the secretary, (B) the application is submitted within 120
40 days of the date of the transfer, (C) the successor employing unit is or becomes
41 an employer subject to this act immediately after the transfer, (D) the
42 percentage of the experience rating factors transferred shall not be thereafter
43 used in computing the contribution rate for the predecessor employer, and (E)

1 the secretary finds that such transfer will not tend to defeat or obstruct the
2 object and purposes of this act.

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

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

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

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

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

35 (6) Whenever an employer's account has been terminated as provided in
36 subsections (d) and (e) of K.S.A. 44-711, and amendments thereto, and the
37 employer continues with employment to liquidate the business operations, that
38 employer shall continue to be an "employer" subject to the employment
39 security law as provided in subsection (h)(8) of K.S.A. 44-703, and
40 amendments thereto. The rate of contribution from the date of transfer to the
41 end of the then current calendar year shall be the same as the contribution rate
42 prior to the date of the transfer. At the completion of the then current calendar
43 year, the rate of contribution shall be that of a "new employer" as described in

1 subsection (a)(1) of this section.

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

9 (c) *Voluntary contributions.* Notwithstanding any other provision of the
10 employment security law, any employer may make voluntary payments for the
11 purpose of reducing or maintaining a reduced rate in addition to the
12 contributions required under this section. Such voluntary payments may be
13 made only during the thirty-day period immediately following the date of
14 mailing of experience rating notices for a calendar year. All such voluntary
15 contribution payments shall be paid prior to the expiration of 120 days after
16 the beginning of the year for which such rates are effective. The amount of
17 voluntary contributions shall be credited to the employer's account as of the
18 next preceding computation date and the employer's rate shall be computed
19 accordingly, except that no employer's rate shall be reduced more than five
20 rate groups as provided in schedule I of this section as the result of a voluntary
21 payment. An employer not having a negative account balance may have such
22 employer's rate reduced not more than five rate groups as provided in schedule
23 I of this section as a result of a voluntary payment. An employer having a
24 negative account balance may have such employer's rate reduced to that
25 prescribed for rate group 51 of schedule I of this section by making a
26 voluntary payment in the amount of such negative account balance or to that
27 rate prescribed for rate groups 50 through 47 of schedule I of this section by
28 making an additional voluntary payment that would increase such employer's
29 reserve ratio to the lower limit required for such rate groups 50 through 47.
30 Under no circumstances shall voluntary payments be refunded in whole or in
31 part.

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

36 (e) *There is hereby established in the state treasury, separate and apart*
37 *from all public moneys or funds of this state, an employment security interest*
38 *assessment fund, which shall be administered by the secretary as provided in*
39 *this act. Moneys in the employment security fund established by K.S.A 44-712,*
40 *and amendments thereto, and employment security interest assessment fund*
41 *established by 44-710, and amendments thereto, shall not be invested in the*
42 *pooled money investment portfolio established under K.S.A 75-4234, and*
43 *amendments thereto. Notwithstanding the provisions of subsection (a) of*

1 K.S.A. 44-712, K.S.A. 44-716, K.S.A. 44-717 and K.S.A. 75-4234, and
2 amendments thereto, or any like provision the secretary shall remit all moneys
3 received from employers pursuant to the interest payment assessment
4 established in section (a)(2)(E), and amendments thereto, to the state treasurer
5 in accordance with the provisions of K.S.A. 75-4215, and amendments thereto.
6 Upon receipt of each such remittance, the state treasurer shall deposit the
7 entire amount in the employment security interest assessment fund. All moneys
8 in this fund which are received from employers pursuant to the interest
9 payment assessment established in section (a)(2)(E), and amendments thereto,
10 shall be expended solely for the purposes and in the amounts found by the
11 secretary necessary to pay any principal and interest due and owing the
12 United States department of labor resulting from any advancements made to
13 the Kansas employment security fund pursuant to the provisions of title XII of
14 the social security act (42 U.S.C. § 1321 to 1324) except as may be otherwise
15 provided under section (a)(2)(E), and amendments thereto. Notwithstanding
16 any provision of this section, all moneys received and credited to this fund
17 pursuant to section (a)(2)(E), and amendments thereto, pursuant to section (a)
18 (2)(E), and amendments thereto, shall remain part of the employment security
19 interest assessment fund and shall be used only in accordance with the
20 conditions specified in section (a)(2)(E), and amendments thereto.

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

32 ~~Sec. 5.~~ 8. K.S.A. 2010 Supp. 44-717 is hereby amended to read as
33 follows: 44-717. (a) (1) *Penalties on past-due reports, interest on past-due*
34 *contributions, payments in lieu of contributions and benefit cost payments,*
35 *benefit cost payments and interest assessments made under K.S.A. 44-710a,*
36 *and amendments thereto.* Any employer or any officer or agent of an employer,
37 who fails to file any wage report or contribution return by the last day of the
38 month following the close of each calendar quarter to which they are related
39 shall pay a penalty as provided by this subsection (a) for each month or
40 fraction of a month until the report or return is received by the secretary of
41 labor except that for calendar years 2010 and 2011 an employer or any officer
42 or agent of the employer shall have up to 90 days past the due date for any of
43 the first three calendar quarters in a calendar year to pay such employer's

1 contribution without being charged any interest, however, when the 90 day
2 period has passed, the provisions of this section shall apply. The penalty for
3 each month or fraction of a month shall be an amount equal to .05% of the
4 total wages paid by the employer during the quarter, except that no penalty
5 shall be less than \$25 nor more than \$200 for each such report or return not
6 timely filed. ~~Contributions and benefit cost payments,~~ *benefit cost payments*
7 *and interest assessments made pursuant to K.S.A. 44-710a, and amendments*
8 *thereto*, unpaid by the last day of the month following the last calendar quarter
9 to which they are related and payments in lieu of contributions unpaid 30 days
10 after the mailing of the statement of benefit charges, shall bear interest at the
11 rate of 1% per month or fraction of a month until payment is received by the
12 secretary of labor except that an employing unit, which is not theretofore
13 subject to this law and which becomes an employer and does not refuse to
14 make the reports, returns and contributions, payments in lieu of contributions
15 and benefit cost payments required under this law, shall not be liable for such
16 penalty or interest if the wage reports and contribution returns required are
17 filed and the contributions, payments in lieu of contributions or benefit cost
18 payments required are paid within 10 days following notification by the
19 secretary of labor that a determination has been made fixing its status as an
20 employer subject to this law. Upon written request and good cause shown, the
21 secretary of labor may abate any penalty or interest or portion thereof provided
22 for by this subsection ~~(a)~~. Interest amounting to less than \$5 shall be waived
23 by the secretary of labor and shall not be collected. Penalties and interest
24 collected pursuant to this subsection shall be paid into the special employment
25 security fund. For all purposes under this section, amounts assessed as
26 surcharges under subsection (j) or under K.S.A. 44-710a, and amendments
27 thereto, shall be considered to be contributions and shall be subject to penalties
28 and interest imposed under this section and to collection in the manner
29 provided by this section. *For all purposes under this section, amounts*
30 *assessed under K.S.A. 44-710a, and amendments thereto, shall be subject to*
31 *penalties and interest imposed under this section and to collection in the*
32 *manner provided in this section.* For purposes of this subsection, a wage
33 report, a contribution return, a contribution, a payment in lieu of contribution
34 ~~or a benefit cost payment,~~ *a benefit cost payment or an interest assessment*
35 *made pursuant to K.S.A. 44-710a, and amendments thereto,* is deemed to be
36 filed or paid as of the date it is placed in the United States mail.

37 (2) Notices of payment and reporting delinquency to Indian tribes or their
38 tribal units shall include information that failure to make full payment within
39 the prescribed time frame:

- 40 (i) Will cause the Indian tribe to be liable for taxes under FUTA;
41 (ii) will cause the Indian tribe to lose the option to make payments in lieu
42 of contributions;
43 (iii) could cause the Indian tribe to be excepted from the definition of

1 "employer," as provided in paragraph (h)(3) of K.S.A. 44-703, and
2 amendments thereto, and services in the employ of the Indian tribe, as
3 provided in paragraph (i)(3)(E) of K.S.A. 44-703, and amendments thereto, to
4 be excepted from "employment."

5 (b) *Collection.* (1) If, after due notice, any employer defaults in payment
6 of any penalty, contributions, payments in lieu of contributions, benefit cost
7 payments, *interest assessments made pursuant to K.S.A. 44-710a, and*
8 *amendments thereto*, or interest thereon the amount due may be collected by
9 civil action in the name of the secretary of labor and the employer adjudged in
10 default shall pay the cost of such action. Civil actions brought under this
11 section to collect contributions, payments in lieu of contributions, benefit cost
12 payments, *interest assessments made pursuant to K.S.A. 44-710a, and*
13 *amendments thereto*, penalties, or interest thereon from an employer shall be
14 heard by the district court at the earliest possible date and shall be entitled to
15 preference upon the calendar of the court over all other civil actions except
16 petitions for judicial review under this act and cases arising under the
17 workmen's compensation act. All liability determinations of contributions due,
18 payments in lieu of contributions ~~or benefit cost payments~~, *benefit cost*
19 *payments and interest assessments made pursuant to K.S.A. 44-710a, and*
20 *amendments thereto*, due shall be made within a period of five years from the
21 date such contributions, payments in lieu of contributions ~~or benefit cost~~
22 ~~payments~~, *benefit cost payments and interest assessments made pursuant to*
23 *K.S.A. 44-710a, and amendments thereto*, were due except such determinations
24 may be made for any time when an employer has filed fraudulent reports with
25 intent to evade liability.

26 (2) Any employing unit which is not a resident of this state and which
27 exercises the privilege of having one or more individuals perform service for it
28 within this state and any resident employing unit which exercises that privilege
29 and thereafter removes from this state, shall be deemed thereby to appoint the
30 secretary of state as its agent and attorney for the acceptance of process in any
31 civil action under this subsection. In instituting such an action against any such
32 employing unit the secretary of labor shall cause such process or notice to be
33 filed with the secretary of state and such service shall be sufficient service
34 upon such employing unit and shall be of the same force and validity as if
35 served upon it personally within this state. The secretary of labor shall send
36 notice immediately of the service of such process or notice, together with a
37 copy thereof, by registered or certified mail, return receipt requested, to such
38 employing unit at its last-known address and such return receipt, the affidavit
39 of compliance of the secretary of labor with the provisions of this section, and
40 a copy of the notice of service, shall be appended to the original of the process
41 filed in the court in which such civil action is pending.

42 (3) The district courts of this state shall entertain, in the manner provided
43 in subsections (b)(1) and (b)(2), actions to collect contributions, payments in

1 lieu of contributions, ~~benefit cost payments~~ *interest assessments made*
2 *pursuant to K.S.A. 44-710a, and amendments thereto*, and other amounts owed
3 including interest thereon for which liability has accrued under the
4 employment security law of any other state or of the federal government.

5 (c) *Priorities under legal dissolutions or distributions.* In the event of any
6 distribution of employer's assets pursuant to an order of any court under the
7 laws of this state, including but not limited to any probate proceeding,
8 interpleader, receivership, assignment for benefit of creditors, adjudicated
9 insolvency, composition or similar proceedings, contributions ~~or payments in~~
10 ~~lieu of contributions~~ *payments in lieu of contributions or interest assessments*
11 *made under K.S.A. 44-710a, and amendments thereto*, then or thereafter due
12 shall be paid in full from the moneys which shall first come into the estate,
13 prior to all other claims, except claims for wages of not more than \$250 to
14 each claimant, earned within six months of the commencement of the
15 proceedings. In the event of an employer's adjudication in bankruptcy,
16 judicially confirmed extension proposal, or composition, under the federal
17 bankruptcy act of 1898, as amended, contributions then or thereafter due shall
18 be entitled to such priority as is provided in that act for taxes due any state of
19 the United States.

20 (d) *Assessments.* If any employer fails to file a report or return required
21 by the secretary of labor for the determination of contributions, or payments in
22 lieu of contributions, or benefit cost payments, the secretary of labor may
23 make such reports or returns or cause the same to be made, on the basis of
24 such information as the secretary may be able to obtain and shall collect the
25 contributions, payments in lieu of contributions or benefit cost payments as
26 determined together with any interest due under this act. The secretary of labor
27 shall immediately forward to the employer a copy of the assessment by
28 registered or certified mail to the employer's address as it appears on the
29 records of the agency, and such assessment shall be final unless the employer
30 protests such assessment and files a corrected report or return for the period
31 covered by the assessment within 15 days after the mailing of the copy of
32 assessment. Failure to receive such notice shall not invalidate the assessment.
33 Notice in writing shall be presumed to have been given when deposited as
34 certified or registered matter in the United States mail, addressed to the person
35 to be charged with notice at such person's address as it appears on the records
36 of the agency.

37 (e) (1) *Lien.* If any employer or person who is liable to pay contributions,
38 payments in lieu of contributions ~~or benefit cost payments~~, *benefit cost*
39 *payments and interest assessments made pursuant to K.S.A. 44-710a, and*
40 *amendments thereto*, neglects or refuses to pay the same after demand, the
41 amount, including interest and penalty, shall be a lien in favor of the state of
42 Kansas, secretary of labor, upon all property and rights to property, whether
43 real or personal, belonging to such employer or person. Such lien shall not be

1 valid as against any mortgagee, pledgee, purchaser or judgment creditor until
2 notice thereof has been filed by the secretary of labor in the office of register
3 of deeds in any county in the state of Kansas, in which such property is
4 located, and when so filed shall be notice to all persons claiming an interest in
5 the property of the employer or person against whom filed. The register of
6 deeds shall enter such notices in the financing statement record and shall also
7 record the same in full in miscellaneous record and index the same against the
8 name of the delinquent employer. The register of deeds shall accept, file, and
9 record such notice without prepayment of any fee, but lawful fees shall be
10 added to the amount of such lien and collected when satisfaction is presented
11 for entry. Such lien shall be satisfied of record upon the presentation of a
12 certificate of discharge by the state of Kansas, secretary of labor. Nothing
13 contained in this subsection (~~e~~) shall be construed as an invalidation of any
14 lien or notice filed in the name of the unemployment compensation division or
15 the employment security division and such liens shall be and remain in full
16 force and effect until satisfied as provided by this subsection (~~e~~).

17 (2) *Authority of secretary or authorized representative.* If any employer
18 or person who is liable to pay any contributions, payments in lieu of
19 contributions ~~or benefit cost payments~~, *benefit cost payments and interest*
20 *assessments made pursuant to K.S.A. 44-710a, and amendments thereto*,
21 including interest and penalty, neglects or refuses to pay the same within 10
22 days after notice and demand therefor, the secretary or the secretary's
23 authorized representative may collect such contributions, payments in lieu of
24 contributions ~~or benefit cost payments~~, *benefit cost payments and interest*
25 *assessments made pursuant to K.S.A. 44-710a, and amendments thereto*,
26 including interest and penalty, and such further amount as is sufficient to cover
27 the expenses of the levy, by levy upon all property and rights to property
28 which belong to the employer or person or which have a lien created thereon
29 by this subsection (~~e~~) for the payment of such contributions, payments in lieu
30 of contributions ~~or benefit cost payments~~, *benefit cost payments and interest*
31 *assessments made pursuant to K.S.A. 44-710a, and amendments thereto*,
32 including interest and penalty. As used in this subsection (~~e~~), "property"
33 includes all real property and personal property, whether tangible or intangible,
34 except such property which is exempt under K.S.A. 60-2301 et seq., and
35 amendments thereto. Levy may be made upon the accrued salary or wages of
36 any officer, employee or elected official of any state or local governmental
37 entity which is subject to K.S.A. 60-723, and amendments thereto, by serving
38 a notice of levy as provided in subsection (d) of K.S.A. 60-304, and
39 amendments thereto. If the secretary or the secretary's authorized
40 representative makes a finding that the collection of the amount of such
41 contributions, payments in lieu of contributions ~~or benefit cost payments~~,
42 *benefit cost payments and interest assessments made pursuant to K.S.A. 44-*
43 *710a, and amendments thereto*, including interest and penalty, is in jeopardy,

1 notice and demand for immediate payment of such amount may be made by
2 the secretary or the secretary's authorized representative and, upon failure or
3 refusal to pay such amount, immediate collection of such amount by levy shall
4 be lawful without regard to the 10-day period provided in this subsection (e).

5 (3) *Seizure and sale of property.* The authority to levy granted under this
6 subsection (e) includes the power of seizure by any means. A levy shall extend
7 only to property possessed and obligations existing at the time thereof. In any
8 case in which the secretary or the secretary's authorized representative may
9 levy upon property or rights to property, the secretary or the secretary's
10 authorized representative may seize and sell such property or rights to
11 property.

12 (4) *Successive seizures.* Whenever any property or right to property upon
13 which levy has been made under this subsection (e) is not sufficient to satisfy
14 the claim of the secretary for which levy is made, the secretary or the
15 secretary's authorized representative may proceed thereafter and as often as
16 may be necessary, to levy in like manner upon any other property or rights to
17 property which belongs to the employer or person against whom such claim
18 exists or upon which a lien is created by this subsection (e) until the amount
19 due from the employer or person, together with all expenses, is fully paid.

20 (f) *Warrant.* In addition or as an alternative to any other remedy provided
21 by this section and provided that no appeal or other proceeding for review
22 permitted by this law shall then be pending and the time for taking thereof
23 shall have expired, the secretary of labor or an authorized representative of the
24 secretary may issue a warrant certifying the amount of contributions, payments
25 in lieu of contributions, benefit cost payments, interest or penalty, and the
26 name of the employer liable for same after giving 15 days prior notice. Upon
27 request, service of final notices shall be made by the sheriff within the sheriff's
28 county, by the sheriff's deputy or some person specially appointed by the
29 secretary for that purpose, or by the secretary's designee. A person specially
30 appointed by the secretary or the secretary's designee to serve final notices
31 may make service any place in the state. Final notices shall be served as
32 follows:

33 (1) *Individual.* Service upon an individual, other than a minor or
34 incapacitated person, shall be made by delivering a copy of the final notice to
35 the individual personally or by leaving a copy at such individual's dwelling
36 house or usual place of abode with some person of suitable age and discretion
37 then residing therein, by leaving a copy at the business establishment of the
38 employer with an officer or employee of the establishment, or by delivering a
39 copy to an agent authorized by appointment or by law to receive service of
40 process, but if the agent is one designated by a statute to receive service, such
41 further notice as the statute requires shall be given. If service as prescribed
42 above cannot be made with due diligence, the secretary or the secretary's
43 designee may order service to be made by leaving a copy of the final notice at

1 the employer's dwelling house, usual place of abode or business establishment.

2 (2) *Corporations and partnerships.* Service upon a domestic or foreign
3 corporation or upon a partnership or other unincorporated association, when
4 by law it may be sued as such, shall be made by delivering a copy of the final
5 notice to an officer, partner or resident managing or general agent thereof by
6 leaving a copy at any business office of the employer with the person having
7 charge thereof or by delivering a copy to any other agent authorized by
8 appointment or required by law to receive service of process, if the agent is
9 one authorized by law to receive service and, if the law so requires, by also
10 mailing a copy to the employer.

11 (3) *Refusal to accept service.* In all cases when the person to be served, or
12 an agent authorized by such person to accept service of petitions and
13 summonses, shall refuse to receive copies of the final notice, the offer of the
14 duly authorized process server to deliver copies thereof and such refusal shall
15 be sufficient service of such notice.

16 (4) *Proof of service.* (A) Every officer to whom a final notice or other
17 process shall be delivered for service within or without the state, shall make
18 return thereof in writing stating the time, place and manner of service of such
19 writ, and shall sign such officer's name to such return.

20 (B) If service of the notice is made by a person appointed by the secretary
21 or the secretary's designee to make service, such person shall make an affidavit
22 as to the time, place and manner of service thereof in a form prescribed by the
23 secretary or the secretary's designee.

24 (5) *Time for return.* The officer or other person receiving a final notice
25 shall make a return of service promptly and shall send such return to the
26 secretary or the secretary's designee in any event within 10 days after the
27 service is effected. If the final notice cannot be served it shall be returned to
28 the secretary or the secretary's designee within 30 days after the date of issue
29 with a statement of the reason for the failure to serve the same. The original
30 return shall be attached to and filed with any warrant thereafter filed.

31 (6) *Service by mail.* (A) Upon direction of the secretary or the secretary's
32 designee, service by mail may be effected by forwarding a copy of the notice
33 to the employer by registered or certified mail to the employer's address as it
34 appears on the records of the agency. A copy of the return receipt shall be
35 attached to and filed with any warrant thereafter filed.

36 (B) The secretary of labor or an authorized representative of the secretary
37 may file the warrant for record in the office of the clerk of the district court in
38 the county in which the employer owing such contributions, payments in lieu
39 of contributions, benefit cost payments, *interest assessments made pursuant to*
40 *K.S.A. 44-710a, and amendments thereto*, interest, or penalty has business
41 property. The warrant shall certify the amount of contributions, payments in
42 lieu of contributions, benefit cost payments, interest and penalty due, and the
43 name of the employer liable for such amount. It shall be the duty of the clerk

1 of the district court to file such warrant of record and enter the warrant in the
2 records of the district court for judgment and decrees under the procedure
3 prescribed for filing transcripts of judgment.

4 (C) The clerk shall enter, on the day the warrant is filed, the case on the
5 appearance docket, together with the amount and the time of filing the warrant.
6 From the time of filing such warrant, the amount of the contributions,
7 payments in lieu of contributions, benefit cost payments, *interest assessments*
8 *made pursuant to K.S.A. 44-710a, and amendments thereto*, interest, and
9 penalty, certified therein, shall have the force and effect of a judgment of the
10 district court until the same is satisfied by the secretary of labor or an
11 authorized representative or attorney for the secretary. Execution shall be
12 issuable at the request of the secretary of labor, an authorized representative or
13 attorney for the secretary, as is provided in the case of other judgments.

14 (D) Postjudgment procedures shall be the same as for judgments
15 according to the code of civil procedure.

16 (E) Warrants shall be satisfied of record by payment to the clerk of the
17 district court of the contributions, payments in lieu of contributions, benefit
18 cost payments, *interest assessments made pursuant to K.S.A. 44-710a, and*
19 *amendments thereto*, penalty, interest to date, and court costs. Warrants may
20 also be satisfied of record by payment to the clerk of the district court of all
21 court costs accrued in the case and by filing a certificate by the secretary of
22 labor, certifying that the contributions, payments in lieu of contributions,
23 benefit cost payments, *interest assessments made pursuant to K.S.A. 44-710a,*
24 *and amendments thereto*, interest and penalty have been paid.

25 (g) *Remedies cumulative.* The foregoing remedies shall be cumulative
26 and no action taken shall be construed as an election on the part of the state or
27 any of its officers to pursue any remedy or action under this section to the
28 exclusion of any other remedy or action for which provision is made.

29 (h) *Refunds.* If any individual, governmental entity or organization makes
30 application for refund or adjustment of any amount paid as contributions,
31 benefit cost payments, *interest assessments made pursuant to K.S.A. 44-710a,*
32 *and amendments thereto*, or interest under this law and the secretary of labor
33 determines that such amount or any portion thereof was erroneously collected,
34 except for amounts less than \$5, the secretary of labor shall allow such
35 individual or organization to make an adjustment thereof, in connection with
36 subsequent contribution payments, or if such adjustment cannot be made the
37 secretary of labor shall refund the amount, except for amounts less than \$5,
38 from the employment security fund, except that all interest erroneously
39 collected which has been paid into the special employment security fund shall
40 be refunded out of the special employment security fund. No adjustment or
41 refund shall be allowed with respect to a payment as contributions, ~~benefit cost~~
42 ~~payments~~, *interest assessments made pursuant to K.S.A. 44-710a, and*
43 *amendments thereto*, or interest unless an application therefor is made on or

1 before whichever of the following dates is later: (1) One year from the date on
2 which such payment was made; or (2) three years from the last day of the
3 period with respect to which such payment was made. For like cause and
4 within the same period adjustment or refund may be so made on the secretary's
5 own initiative. The secretary of labor shall not be required to refund any
6 contributions, payments in lieu of contributions or benefit cost payments based
7 upon wages paid which have been used as base-period wages in a
8 determination of a claimant's benefit rights when justifiable and correct
9 payments have been made to the claimant as the result of such determination.
10 For all taxable years commencing after December 31, 1997, interest at the rate
11 prescribed in K.S.A. 79-2968, and amendments thereto, shall be allowed on a
12 contribution or benefit cost payment which the secretary has determined was
13 erroneously collected pursuant to this section.

14 (i) (1) *Cash deposit or bond.* If any contributing employer is delinquent
15 in making payments under the employment security law during any two
16 quarters of the most recent four-quarter period, the secretary or the secretary's
17 authorized representative shall have the discretionary power to require such
18 contributing employer either to deposit cash or to file a bond with sufficient
19 sureties to guarantee the payment of contributions, *interest assessments made*
20 *pursuant to K.S.A. 44-710a, and amendments thereto,* penalty and interest
21 owed by such employer.

22 (2) The amount of such cash deposit or bond shall be not less than the
23 largest total amount of contributions, *interest assessments made pursuant to*
24 *K.S.A. 44-710a, and amendments thereto,* penalty and interest reported by the
25 employer in two of the four calendar quarters preceding any delinquency. Such
26 cash deposit or bond shall be required until the employer has shown timely
27 filing of reports and payment of contributions *and interest assessments made*
28 *pursuant to K.S.A. 44-710a, and amendments thereto,* for four consecutive
29 calendar quarters.

30 (3) Failure to file such cash deposit or bond shall subject the employer to
31 a surcharge of 2.0% which shall be in addition to the rate of contributions
32 assigned to the employer under K.S.A. 44-710a, and amendments thereto.
33 Contributions paid as a result of this surcharge shall not be credited to the
34 employer's experience rating account. This surcharge shall be effective during
35 the next full calendar year after its imposition and during each full calendar
36 year thereafter until the employer has filed the required cash deposit or bond
37 or has shown timely filing of reports and payment of contributions for four
38 consecutive calendar quarters.

39 (j) Any officer, major stockholder or other person who has charge of the
40 affairs of an employer, which is an employing unit described in section 501(c)
41 (3) of the federal internal revenue code of 1954 or which is any other corporate
42 organization or association, or any member or manager of a limited liability
43 company, or any public official, who willfully fails to pay the amount of

1 contributions, payments in lieu of contributions ~~or benefit cost payments,~~
2 *benefit cost payments and interest assessments made pursuant to K.S.A. 44-*
3 *710a, and amendments thereto,* required to be paid under the employment
4 security law on the date on which such amount becomes delinquent, shall be
5 personally liable for the total amount of the contributions, payments in lieu of
6 contributions ~~or benefit cost payments,~~ *benefit cost payments and interest*
7 *assessments made pursuant to K.S.A. 44-710a, and amendments thereto,* and
8 any penalties and interest due and unpaid by such employing unit. The
9 secretary or the secretary's authorized representative may assess such person
10 for the total amount of contributions, payments in lieu of contributions ~~or~~
11 ~~benefit cost payments,~~ *benefit cost payments and interest assessments made*
12 *pursuant to K.S.A. 44-710a, and amendments thereto,* and any penalties, and
13 interest computed as due and owing. With respect to such persons and such
14 amounts assessed, the secretary shall have available all of the collection
15 remedies authorized or provided by this section.

16 (k) *Electronic filing of wage report and contribution return and electronic*
17 *payment of contributions, benefit cost payments ~~or~~ reimbursing payments or*
18 *interest assessments under K.S.A. 44-710a, and amendments thereto.* The
19 following employers or third party administrators shall file all wage reports
20 and contribution returns and make payment of contributions, benefit cost
21 payments or reimbursing payments electronically as follows:

22 (1) Wage reports, contribution returns and payments due after June 30,
23 2008, for those employers with 250 or more employees or third party
24 administrators with 250 or more client employees at the time such filing or
25 payment is first due;

26 (2) wage reports, contribution returns and payments due after June 30,
27 2009, for those employers with 100 or more employees or third party
28 administrators with 100 or more client employees at the time such filing or
29 payment is first due; and

30 (3) wage reports, contribution returns ~~and payments,~~ *payments and*
31 *interest assessments made pursuant to K.S.A. 44-710a, and amendments*
32 *thereto,* due after June 30, 2010, for those third party administrators with 50 or
33 more client employees at the time such filing or payment is first due.

34 The requirements of this subsection may be waived by the secretary for an
35 employer if the employer demonstrates a hardship in complying with this
36 subsection.

37 ~~Sec.-6.~~ **9.** K.S.A. 2010 Supp. 44-704a, 44-710a and 44-717 are hereby
38 repealed.

39 ~~Sec.-7.~~ **10.** On July 1, 2011, K.S.A. 2010 Supp. ~~44-705 and 44-706~~
40 ~~44-703, 44-705, 44-706 and 44-710~~ are hereby repealed.

41 ~~Sec.-8.~~ **11.** This act shall take effect and be in force from and after its
42 publication in the Kansas register.

