

SENATE BILL No. 551

By Committee on Ways and Means

2-19

9 AN ACT concerning the employment security law; creating an assess-
10 ment for the payment of interest on advances received from the federal
11 government; amending K.S.A. 2009 Supp. 44-717 and repealing the
12 existing section.
13

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

15 New Section 1. (a) If the secretary determines that interest payments
16 will have to be paid in the next tax year on advances received or expected
17 to be received from the federal unemployment account under title XII
18 of the social security act, then an interest payment assessment shall be
19 assessed for the next tax year pursuant to this section and amendments
20 thereto.

21 (b) Each employer who is subject to this act on the date a rate is
22 established under this section shall pay an interest payment assessment
23 to the employment security interest assessment fund at a rate established
24 by the secretary sufficient to pay interest due on advances received or to
25 be received from the federal unemployment account under title XII of
26 the social security act (42 U.S.C. 1321 to 1324). The secretary shall de-
27 termine the amount needed to pay interest that will be due on advances
28 received or to be received and then determine the interest payment as-
29 sessment rate to be assessed on all employers subject to this act in order
30 to collect the amount needed to pay interest. The interest payment as-
31 sessment rate shall be a flat percentage of each employer's current tax
32 rate. The interest payment assessment shall be applied against taxable
33 wages to determine the amount of interest payment assessment due. The
34 amount of the interest rate assessment shall be collected in addition to
35 employer contributions. Notice of this interest payment assessment and
36 its rate shall be sent to employers with their annual rate of contributions
37 pursuant to K.S.A. 44-710b and amendments thereto.

38 (c) If the amounts collected under this subsection are in excess of the
39 amounts needed to pay interest due, the amounts in excess shall remain
40 in the employment security interest assessment fund to be used to pay
41 interest in future years. After a time when the secretary certifies all in-
42 terest payments have been paid and no unpaid advances remain, any
43 excess funds remaining in the employment security interest assessment

1 fund shall be transferred to the employment security trust fund.

2 (d) This section shall be part of and supplemental to the employment
3 security law.

4 New Sec. 2. (a) There is hereby created in the state treasury the
5 employment security interest assessment fund which shall be adminis-
6 tered by the secretary. The secretary shall remit all moneys received from
7 employers pursuant to the interest payment assessment established in
8 section 1, and amendments thereto, to the state treasurer in accordance
9 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
10 receipt of each such remittance, the state treasurer shall deposit the entire
11 amount in the employment security interest assessment fund. All moneys
12 in this fund which are received from employers pursuant to the interest
13 payment assessment established in section 1, and amendments thereto,
14 shall be expended solely for the purposes and in the amounts found by
15 the secretary necessary to pay any interest due and owing the United
16 States department of labor resulting from any advancements made to the
17 Kansas employment security fund pursuant to the provisions of title XII
18 of the social security act (42 U.S.C. 1321 to 1324) except as may be
19 otherwise provided under section 1 and amendments thereto. All bal-
20 ances accrued from unpaid or canceled warrants issued pursuant to this
21 section, notwithstanding the provisions of K.S.A. 10-812, and amend-
22 ments thereto, shall remain in the employment security interest assess-
23 ment fund and be disbursed in accordance with the provisions of this act
24 relating to such fund. Notwithstanding any provision of this section, all
25 moneys received and credited to this fund pursuant to section 1, and
26 amendments thereto, shall remain part of the employment security in-
27 terest assessment fund and shall be used only in accordance with the
28 conditions specified in section 1 and amendments thereto.

29 (b) This section shall be part of and supplemental to the employment
30 security law.

31 Sec. 3. K.S.A. 2009 Supp. 44-717 is hereby amended to read as fol-
32 lows: 44-717. (a) (1) *Penalties on past-due reports, interest on past-due*
33 *contributions, payments in lieu of contributions and benefit cost pay-*
34 *ments, benefit cost payments and interest assessments made under section*
35 *1, and amendments thereto.* Any employer or any officer or agent of an
36 employer, who fails to file any wage report or contribution return by the
37 last day of the month following the close of each calendar quarter to which
38 they are related shall pay a penalty as provided by this subsection (a) for
39 each month or fraction of a month until the report or return is received
40 by the secretary of labor. The penalty for each month or fraction of a
41 month shall be an amount equal to .05% of the total wages paid by the
42 employer during the quarter, except that no penalty shall be less than \$25
43 nor more than \$200 for each such report or return not timely filed. Con-

1 tributions ~~and benefit cost payments~~, *benefit cost payments and interest*
2 *assessments made under section 1, and amendments thereto*, unpaid by
3 the last day of the month following the last calendar quarter to which
4 they are related and payments in lieu of contributions unpaid 30 days
5 after the mailing of the statement of benefit charges, shall bear interest
6 at the rate of 1% per month or fraction of a month until payment is
7 received by the secretary of labor except that an employing unit, which
8 is not theretofore subject to this law and which becomes an employer and
9 does not refuse to make the reports, returns and contributions, payments
10 in lieu of contributions and benefit cost payments required under this
11 law, shall not be liable for such penalty or interest if the wage reports and
12 contribution returns required are filed and the contributions, payments
13 in lieu of contributions or benefit cost payments required are paid within
14 10 days following notification by the secretary of labor that a determi-
15 nation has been made fixing its status as an employer subject to this law.
16 Upon written request and good cause shown, the secretary of labor may
17 abate any penalty or interest or portion thereof provided for by this sub-
18 section (a). Interest amounting to less than \$5 shall be waived by the
19 secretary of labor and shall not be collected. Penalties and interest col-
20 lected pursuant to this subsection shall be paid into the special employ-
21 ment security fund. For all purposes under this section, amounts assessed
22 as surcharges under subsection (j) or under K.S.A. 44-710a, and amend-
23 ments thereto, shall be considered to be contributions and shall be subject
24 to penalties and interest imposed under this section and to collection in
25 the manner provided by this section. *For all purposes under this section,*
26 *amounts assessed under section 1, and amendments thereto, shall be sub-*
27 *ject to penalties and interest imposed under this section and to collection*
28 *in the manner provided by this section.* For purposes of this subsection,
29 a wage report, a contribution return, a contribution, a payment in lieu of
30 contribution ~~or a benefit cost payment~~, *a benefit cost payment or an*
31 *interest assessment made under section 1, and amendments thereto*, is
32 deemed to be filed or paid as of the date it is placed in the United States
33 mail.

34 (2) Notices of payment and reporting delinquency to Indian tribes or
35 their tribal units shall include information that failure to make full pay-
36 ment within the prescribed time frame:

- 37 (i) will cause the Indian tribe to be liable for taxes under FUTA;
38 (ii) will cause the Indian tribe to lose the option to make payments
39 in lieu of contributions;
40 (iii) could cause the Indian tribe to be excepted from the definition
41 of "employer," as provided in paragraph (h)(3) of K.S.A. 44-703, and
42 amendments thereto, and services in the employ of the Indian tribe, as
43 provided in paragraph (i)(3)(E) of K.S.A. 44-703, and amendments

1 thereto, to be excepted from “employment.”

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

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

41 (3) The district courts of this state shall entertain, in the manner
42 provided in subsections (b)(1) and (b)(2), actions to collect contributions,
43 payments in lieu of contributions, benefit cost payments, *interest assess-*

1 *ments made under section 1, and amendments thereto*, and other amounts
2 owed including interest thereon for which liability has accrued under the
3 employment security law of any other state or of the federal government.

4 (c) *Priorities under legal dissolutions or distributions.* In the event of
5 any distribution of employer's assets pursuant to an order of any court
6 under the laws of this state, including but not limited to any probate
7 proceeding, interpleader, receivership, assignment for benefit of credi-
8 tors, adjudicated insolvency, composition or similar proceedings, contri-
9 ~~butions or payments in lieu of contributions~~, *payments in lieu of contri-*
10 *butions or interest assessments made under section 1, and amendments*
11 *thereto*, then or thereafter due shall be paid in full from the moneys which
12 shall first come into the estate, prior to all other claims, except claims for
13 wages of not more than \$250 to each claimant, earned within six months
14 of the commencement of the proceedings. In the event of an employer's
15 adjudication in bankruptcy, judicially confirmed extension proposal, or
16 composition, under the federal bankruptcy act of 1898, as amended, con-
17 tributions then or thereafter due shall be entitled to such priority as is
18 provided in that act for taxes due any state of the United States.

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

37 (e) (1) *Lien.* If any employer or person who is liable to pay contri-
38 butions, payments in lieu of contributions ~~or benefit cost payments~~, *ben-*
39 *efit cost payments or interest assessments made under section 1, and*
40 *amendments thereto*, neglects or refuses to pay the same after demand,
41 the amount, including interest and penalty, shall be a lien in favor of the
42 state of Kansas, secretary of labor, upon all property and rights to prop-
43 erty, whether real or personal, belonging to such employer or person.

1 Such lien shall not be valid as against any mortgagee, pledgee, purchaser
2 or judgment creditor until notice thereof has been filed by the secretary
3 of labor in the office of register of deeds in any county in the state of
4 Kansas, in which such property is located, and when so filed shall be
5 notice to all persons claiming an interest in the property of the employer
6 or person against whom filed. The register of deeds shall enter such no-
7 tices in the financing statement record and shall also record the same in
8 full in miscellaneous record and index the same against the name of the
9 delinquent employer. The register of deeds shall accept, file, and record
10 such notice without prepayment of any fee, but lawful fees shall be added
11 to the amount of such lien and collected when satisfaction is presented
12 for entry. Such lien shall be satisfied of record upon the presentation of
13 a certificate of discharge by the state of Kansas, secretary of labor. Noth-
14 ing contained in this subsection (e) shall be construed as an invalidation
15 of any lien or notice filed in the name of the unemployment compensation
16 division or the employment security division and such liens shall be and
17 remain in full force and effect until satisfied as provided by this subsection
18 (e).

19 (2) *Authority of secretary or authorized representative.* If any em-
20 ployer or person who is liable to pay any contributions, payments in lieu
21 of contributions ~~or benefit cost payments~~, *benefit cost payments or inter-*
22 *est assessments made under section 1, and amendments thereto*, including
23 interest and penalty, neglects or refuses to pay the same within 10 days
24 after notice and demand therefor, the secretary or the secretary's au-
25 thorized representative may collect such contributions, payments in lieu
26 of contributions ~~or benefit cost payments~~, *benefit cost payments or inter-*
27 *est assessments made under section 1, and amendments thereto*, including
28 interest and penalty, and such further amount as is sufficient to cover the
29 expenses of the levy, by levy upon all property and rights to property
30 which belong to the employer or person or which have a lien created
31 thereon by this subsection (e) for the payment of such contributions,
32 payments in lieu of contributions ~~or benefit cost payments~~, *benefit cost*
33 *payments or interest assessments made under section 1, and amendments*
34 *thereto*, including interest and penalty. As used in this subsection (e),
35 "property" includes all real property and personal property, whether tan-
36 gible or intangible, except such property which is exempt under K.S.A.
37 60-2301 et seq. and amendments thereto. Levy may be made upon the
38 accrued salary or wages of any officer, employee or elected official of any
39 state or local governmental entity which is subject to K.S.A. 60-723, and
40 amendments thereto, by serving a notice of levy as provided in subsection
41 (d) of K.S.A. 60-304 and amendments thereto. If the secretary or the
42 secretary's authorized representative makes a finding that the collection
43 of the amount of such contributions, payments in lieu of contributions ~~or~~

1 ~~benefit cost payments~~, *benefit cost payments or interest assessments made*
2 *under section 1, and amendments thereto*, including interest and penalty,
3 is in jeopardy, notice and demand for immediate payment of such amount
4 may be made by the secretary or the secretary's authorized representative
5 and, upon failure or refusal to pay such amount, immediate collection of
6 such amount by levy shall be lawful without regard to the 10-day period
7 provided in this subsection (e).

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

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

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

37 (1) *Individual*. Service upon an individual, other than a minor or in-
38 capacitated person, shall be made by delivering a copy of the final notice
39 to the individual personally or by leaving a copy at such individual's dwell-
40 ing house or usual place of abode with some person of suitable age and
41 discretion then residing therein, by leaving a copy at the business estab-
42 lishment of the employer with an officer or employee of the establish-
43 ment, or by delivering a copy to an agent authorized by appointment or

1 by law to receive service of process, but if the agent is one designated by
2 a statute to receive service, such further notice as the statute requires
3 shall be given. If service as prescribed above cannot be made with due
4 diligence, the secretary or the secretary's designee may order service to
5 be made by leaving a copy of the final notice at the employer's dwelling
6 house, usual place of abode or business establishment.

7 (2) *Corporations and partnerships.* Service upon a domestic or for-
8 eign corporation or upon a partnership or other unincorporated associa-
9 tion, when by law it may be sued as such, shall be made by delivering a
10 copy of the final notice to an officer, partner or resident managing or
11 general agent thereof by leaving a copy at any business office of the em-
12 ployer with the person having charge thereof or by delivering a copy to
13 any other agent authorized by appointment or required by law to receive
14 service of process, if the agent is one authorized by law to receive service
15 and, if the law so requires, by also mailing a copy to the employer.

16 (3) *Refusal to accept service.* In all cases when the person to be
17 served, or an agent authorized by such person to accept service of peti-
18 tions and summonses, shall refuse to receive copies of the final notice,
19 the offer of the duly authorized process server to deliver copies thereof
20 and such refusal shall be sufficient service of such notice.

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

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

29 (5) *Time for return.* The officer or other person receiving a final no-
30 tice shall make a return of service promptly and shall send such return
31 to the secretary or the secretary's designee in any event within 10 days
32 after the service is effected. If the final notice cannot be served it shall
33 be returned to the secretary or the secretary's designee within 30 days
34 after the date of issue with a statement of the reason for the failure to
35 serve the same. The original return shall be attached to and filed with
36 any warrant thereafter filed.

37 (6) *Service by mail.* (A) Upon direction of the secretary or the sec-
38 retary's designee, service by mail may be effected by forwarding a copy
39 of the notice to the employer by registered or certified mail to the em-
40 ployer's address as it appears on the records of the agency. A copy of the
41 return receipt shall be attached to and filed with any warrant thereafter
42 filed.

43 (B) The secretary of labor or an authorized representative of the sec-

1 retary may file the warrant for record in the office of the clerk of the
2 district court in the county in which the employer owing such contribu-
3 tions, payments in lieu of contributions, benefit cost payments, or *interest*
4 *assessments made under section 1, and amendments thereto*, interest, or
5 penalty has business property. The warrant shall certify the amount of
6 contributions, payments in lieu of contributions, benefit cost payments,
7 interest and penalty due, and the name of the employer liable for such
8 amount. It shall be the duty of the clerk of the district court to file such
9 warrant of record and enter the warrant in the records of the district
10 court for judgment and decrees under the procedure prescribed for filing
11 transcripts of judgment.

12 (C) The clerk shall enter, on the day the warrant is filed, the case on
13 the appearance docket, together with the amount and the time of filing
14 the warrant. From the time of filing such warrant, the amount of the
15 contributions, *interest assessments made under section 1, and amend-*
16 *ments thereto*, payments in lieu of contributions, benefit cost payments,
17 interest, and penalty, certified therein, shall have the force and effect of
18 a judgment of the district court until the same is satisfied by the secretary
19 of labor or an authorized representative or attorney for the secretary.
20 Execution shall be issuable at the request of the secretary of labor, an
21 authorized representative or attorney for the secretary, as is provided in
22 the case of other judgments.

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

25 (E) Warrants shall be satisfied of record by payment to the clerk of
26 the district court of the contributions, payments in lieu of contributions,
27 benefit cost payments, *interest assessments made under section 1, and*
28 *amendments thereto*, penalty, interest to date, and court costs. Warrants
29 may also be satisfied of record by payment to the clerk of the district
30 court of all court costs accrued in the case and by filing a certificate by
31 the secretary of labor, certifying that the contributions, payments in lieu
32 of contributions, benefit cost payments, interest and penalty have been
33 paid.

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

39 (h) *Refunds.* If any individual, governmental entity or organization
40 makes application for refund or adjustment of any amount paid as con-
41 tributions, benefit cost payments, *interest assessments made under section*
42 *1, and amendments thereto*, or interest under this law and the secretary
43 of labor determines that such amount or any portion thereof was erro-

1 neously collected, except for amounts less than \$5, the secretary of labor
2 shall allow such individual or organization to make an adjustment thereof,
3 in connection with subsequent contribution payments, or if such adjust-
4 ment cannot be made the secretary of labor shall refund the amount,
5 except for amounts less than \$5, from the employment security fund,
6 except that all interest erroneously collected which has been paid into the
7 special employment security fund shall be refunded out of the special
8 employment security fund. No adjustment or refund shall be allowed with
9 respect to a payment as contributions, benefit cost payments, *interest*
10 *assessments made under section 1, and amendments thereto*, or interest
11 unless an application therefor is made on or before whichever of the
12 following dates is later: (1) One year from the date on which such payment
13 was made; or (2) three years from the last day of the period with respect
14 to which such payment was made. For like cause and within the same
15 period adjustment or refund may be so made on the secretary's own
16 initiative. The secretary of labor shall not be required to refund any con-
17 tributions, payments in lieu of contributions or benefit cost payments
18 based upon wages paid which have been used as base-period wages in a
19 determination of a claimant's benefit rights when justifiable and correct
20 payments have been made to the claimant as the result of such deter-
21 mination. For all taxable years commencing after December 31, 1997,
22 interest at the rate prescribed in K.S.A. 79-2968, and amendments
23 thereto, shall be allowed on a contribution or benefit cost payment which
24 the secretary has determined was erroneously collected pursuant to this
25 section.

26 (i) (1) *Cash deposit or bond*. If any contributing employer is delin-
27 quent in making payments under the employment security law during any
28 two quarters of the most recent four-quarter period, the secretary or the
29 secretary's authorized representative shall have the discretionary power
30 to require such contributing employer either to deposit cash or to file a
31 bond with sufficient sureties to guarantee the payment of contributions,
32 *interest assessments made under section 1, and amendments thereto*, pen-
33 alty and interest owed by such employer.

34 (2) The amount of such cash deposit or bond shall be not less than
35 the largest total amount of contributions, *interest assessments made under*
36 *section 1, and amendments thereto*, penalty and interest reported by the
37 employer in two of the four calendar quarters preceding any delinquency.
38 Such cash deposit or bond shall be required until the employer has shown
39 timely filing of reports and payment of contributions *and interest assess-*
40 *ments made under section 1, and amendments thereto*, for four consec-
41 utive calendar quarters.

42 (3) Failure to file such cash deposit or bond shall subject the em-
43 ployer to a surcharge of 2.0% which shall be in addition to the rate of

1 contributions assigned to the employer under K.S.A. 44-710a and amend-
2 ments thereto. Contributions paid as a result of this surcharge shall not
3 be credited to the employer's experience rating account. This surcharge
4 shall be effective during the next full calendar year after its imposition
5 and during each full calendar year thereafter until the employer has filed
6 the required cash deposit or bond or has shown timely filing of reports
7 and payment of contributions for four consecutive calendar quarters.

8 (j) Any officer, major stockholder or other person who has charge of
9 the affairs of an employer, which is an employing unit described in section
10 501(c)(3) of the federal internal revenue code of 1954 or which is any
11 other corporate organization or association, or any member or manager
12 of a limited liability company, or any public official, who willfully fails to
13 pay the amount of contributions, payments in lieu of contributions ~~or~~
14 ~~benefit cost payments, benefit cost payments or interest assessments made~~
15 ~~under section 1, and amendments thereto~~, required to be paid under the
16 employment security law on the date on which such amount becomes
17 delinquent, shall be personally liable for the total amount of the contri-
18 butions, payments in lieu of contributions ~~or benefit cost payments, ben-~~
19 ~~efit cost payments or interest assessments made under section 1, and~~
20 ~~amendments thereto~~, and any penalties and interest due and unpaid by
21 such employing unit. The secretary or the secretary's authorized repre-
22 sentative may assess such person for the total amount of contributions,
23 payments in lieu of contributions or benefit cost payments and any pen-
24 alties, and interest computed as due and owing. With respect to such
25 persons and such amounts assessed, the secretary shall have available all
26 of the collection remedies authorized or provided by this section.

27 (k) ~~Electronic filing of wage report and contribution return and elec-~~
28 ~~tronic payment of contributions, benefit cost payments or reimbursing~~
29 ~~payments, reimbursing payments or interest assessments made under sec-~~
30 ~~tion 1, and amendments thereto~~. The following employers or third party
31 administrators shall file all wage reports and contribution returns and
32 make payment of contributions, benefit cost payments ~~or reimbursing~~
33 ~~payments, reimbursing payments or interest assessments made under sec-~~
34 ~~tion 1, and amendments thereto~~, electronically as follows:

35 (1) Wage reports, contribution returns and payments due after June
36 30, 2008, for those employers with 250 or more employees or third party
37 administrators with 250 or more client employees at the time such filing
38 or payment is first due;

39 (2) wage reports, contribution returns and payments due after June
40 30, 2009, for those employers with 100 or more employees or third party
41 administrators with 100 or more client employees at the time such filing
42 or payment is first due; and

43 (3) wage reports, contribution returns ~~and payments, payments and~~

1 *interest assessments made under section 1, and amendments thereto*, due
2 after June 30, 2010, for those third party administrators with 50 or more
3 client employees at the time such filing or payment is first due.

4 The requirements of this subsection may be waived by the secretary
5 for an employer if the employer demonstrates a hardship in complying
6 with this subsection.

7 Sec. 4. K.S.A. 2009 Supp. 44-717 is hereby repealed.

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