

As Amended by House Committee

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 2011

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*

1 *hereby amended to read as follows: 44-703. As used in this act, unless the*
2 *context clearly requires otherwise:*

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

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

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

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

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

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

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

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

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

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

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

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

28 (2) *"Payments in lieu of contributions" means the money payments to*
29 *the state employment security fund from employers which are required to*
30 *make or which elect to make such payments under subsection (e) of K.S.A.*
31 *44-710, and amendments thereto.*

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

1 agent or employee of an employing unit shall be deemed to be employed by
2 such employing unit for all the purposes of this act, whether such individual
3 was hired or paid directly by such employing unit or by such agent or
4 employee, provided the employing unit had actual or constructive knowledge
5 of the employment.

6 (h) "Employer" means:

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

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

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

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

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

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

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

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

39 (i) Furnishes individuals to perform service in agricultural labor for
40 any other person;

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

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

4 (2) (A) *Any employing unit which for calendar year 2007 and each*
5 *calendar year thereafter: (i) In any calendar quarter in either the current or*
6 *preceding calendar year paid for service in employment wages of \$1,500 or*
7 *more, (ii) for some portion of a day in each of 20 different calendar weeks,*
8 *whether or not such weeks were consecutive, in either the current or*
9 *preceding calendar year, had in employment at least one individual, whether*
10 *or not the same individual was in employment in each such day, or (iii)*
11 *elects to have an unemployment tax account established at the time of initial*
12 *registration in accordance with subsection (c) of K.S.A. 44-711, and*
13 *amendments thereto.*

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

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

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

26 (B) *any employing unit which is controlled substantially, either directly*
27 *or indirectly by legally enforceable means or otherwise, by the same interest*
28 *or interests, whether or not such interest or interests are an employing unit*
29 *under subsection (g) of this section, which acquires or in any manner*
30 *succeeds to a portion of an employer's annual payroll, which is less than*
31 *100% of such employer's annual payroll, and which intends to continue the*
32 *acquired portion as a going business.*

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

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

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

43 (8) *Any employing unit not an employer by reason of any other*

1 *paragraph of this subsection (h), for which within either the current or*
2 *preceding calendar year services in employment are or were performed with*
3 *respect to which such employing unit is liable for any federal tax against*
4 *which credit may be taken for contributions required to be paid into a state*
5 *unemployment compensation fund; or which, as a condition for approval of*
6 *this act for full tax credit against the tax imposed by the federal*
7 *unemployment tax act, is required, pursuant to such act, to be an*
8 *"employer" under this act.*

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

15 *(i) "Employment" means:*

16 *(I) Subject to the other provisions of this subsection, service, including*
17 *service in interstate commerce, performed by*

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

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

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

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

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

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

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

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

43 *(c) the services are not in the nature of a single transaction that is not*

1 *part of a continuing relationship with the person for whom the services are*
2 *performed.*

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

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

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

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

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

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

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

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

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

43 *(E) Service performed by an individual in the employ of this state or*

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

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

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

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

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

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

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

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

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

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

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

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

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

43 *(iv) a corporation organized under the laws of the United States or of*

1 *any state.*

2 *(I) Notwithstanding subsection (i)(2) of this section, all service*
3 *performed by an officer or member of the crew of an American vessel or*
4 *American aircraft on or in connection with such vessel or aircraft, if the*
5 *operating office, from which the operations of such vessel or aircraft*
6 *operating within, or within and without, the United States are ordinarily and*
7 *regularly supervised, managed, directed and controlled is within this state.*

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

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

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

22 *(i) As an elected official;*
23 *(ii) as a member of a legislative body, or a member of the judiciary, of a*
24 *state, political subdivision or of an Indian tribe;*
25 *(iii) as a member of the state national guard or air national guard;*
26 *(iv) as an employee serving on a temporary basis in case of fire, storm,*
27 *snow, earthquake, flood or similar emergency;*

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

32 *(B) service with respect to which unemployment compensation is*
33 *payable under an unemployment compensation system established by an act*
34 *of congress;*

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

38 *(D) service performed in the employ of the United States government or*
39 *an instrumentality of the United States exempt under the constitution of the*
40 *United States from the contributions imposed by this act, except that to the*
41 *extent that the congress of the United States shall permit states to require*
42 *any instrumentality of the United States to make payments into an*
43 *unemployment fund under a state unemployment compensation law, all of*

1 *the provisions of this act shall be applicable to such instrumentalities, and to*
2 *services performed for such instrumentalities, in the same manner, to the*
3 *same extent and on the same terms as to all other employers, employing*
4 *units, individuals and services. If this state shall not be certified for any year*
5 *by the federal security agency under section 3304(c) of the federal internal*
6 *revenue code of 1986, the payments required of such instrumentalities with*
7 *respect to such year shall be refunded by the secretary from the fund in the*
8 *same manner and within the same period as is provided in subsection (f) of*
9 *K.S.A. 44-717, and amendments thereto, with respect to contributions*
10 *erroneously collected;*

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

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

20 *(G) service performed by an individual for an employing unit as an*
21 *insurance agent or as an insurance solicitor, if all such service performed by*
22 *such individual for such employing unit is performed for remuneration*
23 *solely by way of commission;*

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

42 *(I) services performed in the employ of a church or convention or*
43 *association of churches, or an organization which is operated primarily for*

1 *religious purposes and which is operated, supervised, controlled, or*
2 *principally supported by a church or convention or association of churches;*

3 *(J) service performed by a duly ordained, commissioned, or licensed*
4 *minister of a church in the exercise of such individual's ministry or by a*
5 *member of a religious order in the exercise of duties required by such order;*

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

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

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

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

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

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

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

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

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

41 *(i) Substantially all of the remuneration, whether or not paid in cash,*
42 *for the services performed by such individual as a real estate salesperson is*
43 *directly related to sales or other output, including the performance of*

1 *services, rather than to the number of hours worked; and*

2 *(ii) the services performed by the individual are performed pursuant to*
3 *a written contract between such individual and the person for whom the*
4 *services are performed and such contract provides that the individual will*
5 *not be treated as an employee with respect to such services for state tax*
6 *purposes;*

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

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

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

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

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

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

42 *(U) service which is performed by any person who is a member of a*
43 *limited liability company and which is performed as a member or manager*

1 *of that limited liability company; and*

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

4 *(i) Such person:*

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

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

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

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

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

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

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

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

1 *property; (ii) "licensed motor carrier" means any person, firm, corporation*
2 *or other business entity that holds a certificate of convenience and necessity*
3 *or a certificate of public service from the state corporation commission or is*
4 *required to register motor carrier equipment pursuant to 49 U.S.C. § 14504;*
5 *and (iii) "owner-operator" means a person, firm, corporation or other*
6 *business entity that is the owner of a single motor vehicle that is driven*
7 *exclusively by the owner under a lease agreement or contract with a licensed*
8 *motor carrier.*

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

12 *(k) "Fund" means the employment security fund established by this*
13 *act, to which all contributions and reimbursement payments required and*
14 *from which all benefits provided under this act shall be paid and including*
15 *all money received from the federal government as reimbursements*
16 *pursuant to section 204 of the federal-state extended compensation act of*
17 *1970, and amendments thereto.*

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

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

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

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

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

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

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

1 *accident disability, or (C) death;*

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

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

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

14 *(B) under or to an annuity plan which, at the time of such payment, is a*
15 *plan described in section 403(a) of the federal internal revenue code of*
16 *1986;*

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

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

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

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

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

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

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

41 *(7) remuneration paid to or on behalf of an employee if and to the*
42 *extent that at the time of the payment of such remuneration it is reasonable*
43 *to believe that a corresponding deduction is allowable under section 217 of*

1 *the federal internal revenue code of 1986 relating to moving expenses;*

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

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

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

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

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

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

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

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

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

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

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

1 1986.

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

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

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

16 (r) *"Insured work" means employment for employers.*

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

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

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

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

33 (2) *is legally authorized in this state to provide a program of education*
34 *beyond high school;*

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

40 (4) *is a public or other nonprofit institution.*

41 *Notwithstanding any of the foregoing provisions of this subsection (u),*
42 *all colleges and universities in this state are institutions of higher education*
43 *for purposes of this section, except that no college, university, junior college*

1 *or other postsecondary school or institution which is operated by the federal*
2 *government or any agency thereof shall be an institution of higher*
3 *education for purposes of the employment security law.*

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

17 (w) (I) *"Agricultural labor" means any remunerated service:*

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

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

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

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

41 (ii) *in the employ of a group of operators of farms (or a cooperative*
42 *organization of which such operators are members) in the performance of*
43 *service described in paragraph (i) above of this subsection (w)(I)(D), but*

1 *only if such operators produced more than ½ of the commodity with respect*
2 *to which such service is performed;*

3 *(iii) the provisions of paragraphs (i) and (ii) above of this subsection*
4 *(w)(1)(D) shall not be deemed to be applicable with respect to service*
5 *performed in connection with commercial canning or commercial freezing*
6 *or in connection with any agricultural or horticultural commodity after its*
7 *delivery to a terminal market for distribution for consumption.*

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

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

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

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

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

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

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

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

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

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

12 (dd) *"Successor employer" means any employer, as described in*
 13 *subsection (h) of this section, which acquires or in any manner succeeds to*
 14 *(1) substantially all of the employing enterprises, organization, trade or*
 15 *business of another employer or (2) substantially all the assets of another*
 16 *employer.*

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

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

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

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

30 Section 1. ~~Sec. 3. From and after July 1, 2011,~~ K.S.A. 2010 Supp. 44-
 31 704a is hereby amended to read as follows: 44-704a. (a) *Definitions.* As used
 32 in this section, unless the context clearly requires otherwise:

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

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

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

42 (2) For the purposes of this section:

43 (A) There is an "on" indicator for this state for a week if the secretary of

1 labor determines, in accordance with the regulations of the United States
 2 secretary of labor, that, for the period consisting of such week and the
 3 immediately preceding 12 weeks, the rate of insured unemployment (not
 4 seasonally adjusted) under this act: (i) Equaled or exceeded 5% and equaled or
 5 exceeded 120% of the average of such rates for the corresponding 13-week
 6 period ending in each of the preceding two calendar years; ~~or (ii) and the state~~
 7 ~~of Kansas pays a portion of such benefits in accordance with the provisions of~~
 8 ~~K.S.A. 44-710(c)(2)(C) and 44-710(e), and amendments thereto; or (ii)~~
 9 ~~equaled or exceeded 5% and equaled or exceeded 120% of the average of~~
 10 ~~such rates for the corresponding 13-week period ending in any or all of the~~
 11 ~~preceding three calendar years and such benefits are funded entirely by the~~
 12 ~~United States department of labor until on or before the earlier of the latest~~
 13 ~~date permitted under federal law or the end of the fourth week prior to the~~
 14 ~~last week for which federal sharing is provided as authorized by section~~
 15 ~~2005(a) of public law 111-5 without regard to section 2005(c) of public law~~
 16 ~~111-5; or (iii) equaled or exceeded 6%; or (iii)(iv) with respect to benefits for~~
 17 ~~weeks of unemployment beginning after March 6, 1993, (a) the average rate of~~
 18 ~~total unemployment (seasonally adjusted), as determined by the United States~~
 19 ~~secretary of labor, for the period consisting of the most recent three months for~~
 20 ~~which data for all states are published before the close of such week equals or~~
 21 ~~exceeds 6.5%, and (b) the average rate of total unemployment for this state~~
 22 ~~(seasonally adjusted), as determined by the United States secretary of labor,~~
 23 ~~for the three-month period referred to in clause (iii)(a)(iv)(a)(1), equals or~~
 24 ~~exceeds 110% of such average for either or both of the corresponding three-~~
 25 ~~month periods ending in the two preceding calendar years; or (2) equals or~~
 26 ~~exceeds 110% of such average for any or all of the corresponding three-month~~
 27 ~~periods ending in any or all of the three preceding calendar years and such~~
 28 ~~benefits are funded entirely by the United States department of labor until on~~
 29 ~~or before the earlier of the latest date permitted under federal law or the end~~
 30 ~~of the fourth week prior to the last week for which federal sharing is~~
 31 ~~provided as authorized by section 2005(a) of public law 111-5 without regard~~
 32 ~~to section 2005(c) of public law 111-5.~~

33 (B) (i) There is an "off" indicator for this state for a week if the secretary
 34 of labor determines, in accordance with the regulations of the United States
 35 secretary of labor, that for the period consisting of such week and the
 36 immediately preceding 12 weeks, the rate of insured unemployment (not
 37 seasonally adjusted) under this act: (a) (1) Was less than 5% or less than 120%
 38 of the average of such rates for the corresponding 13-week period ending in
 39 each of the preceding two calendar years; or (2) was less than 5% or less than
 40 120% of the average of such rates for the corresponding 13-week period
 41 ending in any or all of the three preceding calendar years and such benefits
 42 are funded entirely by the United States department of labor until on or before
 43 the earlier of the latest date permitted under federal law or the end of the

1 ***fourth week prior to the last week for which federal sharing is provided as***
2 ***authorized by section 2005(a) of public law 111-5 without regard to section***
3 ***2005(c) of public law 111-5; and (b) was less than 5%.***

4 (ii) There is an "off" indicator for this state for a week only if, for the
5 period consisting of such week and the immediately preceding 12 weeks, none
6 of the conditions specified in subsection (a)(2)(A) of this section result in an
7 "on" indicator.

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

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

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

17 (4) "Extended entitlement period" of an individual means the period
18 consisting of the weeks of the individual's benefit year which begin in an
19 extended benefit period and, if the individual's benefit year ends within such
20 extended benefit period, any weeks thereafter which begin in such period.

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

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

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

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

40 (C) (i) has no right to unemployment benefits or allowances, as the case
41 may be, under the federal railroad unemployment insurance act and such other
42 federal laws as are specified in regulations issued by the United States
43 secretary of labor; and (ii) has not received and is not seeking unemployment

1 benefits under the unemployment compensation law of Canada; but if the
2 individual is seeking such benefits and the appropriate agency finally
3 determines that the individual is not entitled to benefits under such law the
4 individual is considered an exhaustee.

5 (7) "State law" means the unemployment compensation law of any state,
6 approved by the United States secretary of labor under section 3304 of the
7 federal internal revenue code of 1986.

8 (b) *Payment of extended benefits.* Extended benefits shall be payable to
9 eligible individuals with respect to weeks of unemployment in their extended
10 entitlement periods. The extended benefits provided by this section and K.S.A.
11 44-704b, and amendments thereto, shall be payable from the fund. All
12 extended benefits shall be paid through the employment offices, in accordance
13 with such rules and regulations as the secretary of labor may adopt.

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

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

22 (d) *Weekly extended benefit amount.* The weekly extended benefit amount
23 payable to an individual for a week of total unemployment in the individual's
24 extended entitlement period shall be an amount equal to the regular weekly
25 benefit amount payable to the individual during the individual's applicable
26 benefit year, except that for any week during a period in which federal
27 payments to states under section 204 of the federal-state extended
28 unemployment compensation act of 1970 are reduced pursuant to an order
29 issued under section 252 of the federal balanced budget and emergency deficit
30 control act of 1985, the weekly extended benefit amount payable to an
31 individual for a week of total unemployment in the individual's eligibility
32 period shall be reduced by a percentage amount which is equivalent to the
33 reduction in the federal payment. If such reduced weekly extended benefit
34 amount is not a multiple of \$1, it shall be reduced to the next lower multiple of
35 \$1.

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

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

43 (B) thirteen times the individual's weekly benefit amount which was

1 payable to the individual under this act for a week of total unemployment in
2 the applicable benefit year.

3 (2) Effective with respect to weeks beginning in a high unemployment
4 period, the provisions of subsection (e)(1) of this section shall be applied by
5 substituting "80%" for "50%" in subparagraph (A) of that subsection (e)(1),
6 and by substituting "20" for "13" in subparagraph (B) of that subsection (e)(1).
7 For purposes of this subsection (e)(2), the term "high unemployment period"
8 means any period during which an extended benefit period would be in effect
9 if the provisions of subsection (a)(2)(A)(iii) of this section were applied after
10 substituting "8%" for "6.5%" in clause (a) of that subsection (a)(2)(A)(iii).

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

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

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

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

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

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

37 (g) *Limitation on amount of combined regular, extended and trade*
38 *readjustment act benefits received.* Notwithstanding any other provisions of
39 this section or K.S.A. 44-704b, and amendments thereto, if the benefit year of
40 any individual ends within an extended entitlement period, the remaining
41 balance of extended benefits that the individual would, but for this section, be
42 entitled to receive in that extended entitlement period, with respect to weeks of
43 unemployment beginning after the end of the benefit year, shall be reduced

1 (but not below zero) by the product of the number of weeks for which the
2 individual received any amounts as trade readjustment allowances within that
3 benefit year, multiplied by the individual's weekly benefit amount for extended
4 benefits.

5 ~~Sec. 2.~~ 4. From and after July 1, 2010, K.S.A. 2010 Supp. 44-705 is
6 hereby amended to read as follows: 44-705. Except as provided by K.S.A. 44-
7 757, and amendments thereto, an unemployed individual shall be eligible to
8 receive benefits with respect to any week only if the secretary, or a person or
9 persons designated by the secretary, finds that:

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

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

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

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

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

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

43 (B) if the individual fails to meet with the other eligibility requirements

1 of this section; or

2 (C) if an individual is seeking unemployment benefits under the
3 unemployment compensation law of any other state or of the United States,
4 except that if the appropriate agency of such state or of the United States
5 finally determines that the claimant is not entitled to unemployment benefits
6 under such other law, this subsection (d)(1)(C) shall not apply.

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

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

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

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

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

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

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

43 (3) The claimant attempted to return to work with the employer where the

1 qualifying injury occurred, but the individual's regular work or comparable
2 and suitable work was not available.

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

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

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

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

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

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

40 (5) the individual left work because of hazardous working conditions; in
41 determining whether or not working conditions are hazardous for an
42 individual, the degree of risk involved to the individual's health, safety and
43 morals, the individual's physical fitness and prior training and the working

1 conditions of workers engaged in the same or similar work for the same and
2 other employers in the locality shall be considered; as used in this paragraph
3 ~~(5)~~, "hazardous working conditions" means working conditions that could
4 result in a danger to the physical or mental well-being of the individual; each
5 determination as to whether hazardous working conditions exist shall include,
6 but shall not be limited to, a consideration of (A) the safety measures used or
7 the lack thereof, and (B) the condition of equipment or lack of proper
8 equipment; no work shall be considered hazardous if the working conditions
9 surrounding the individual's work are the same or substantially the same as the
10 working conditions generally prevailing among individuals performing the
11 same or similar work for other employers engaged in the same or similar type
12 of activity;

13 (6) the individual left work to enter training approved under section
14 236(a)(1) of the federal trade act of 1974, provided the work left is not of a
15 substantially equal or higher skill level than the individual's past adversely
16 affected employment (as defined for purposes of the federal trade act of 1974),
17 and wages for such work are not less than 80% of the individual's average
18 weekly wage as determined for the purposes of the federal trade act of 1974;

19 (7) the individual left work because of unwelcome harassment of the
20 individual by the employer or another employee of which the employing unit
21 had knowledge;

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

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

34 (10) the individual left work because of a violation of the work agreement
35 by the employing unit and, before the individual left, the individual had
36 exhausted all remedies provided in such agreement for the settlement of
37 disputes before terminating;

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

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

43 (i) The individual's reasonable fear of future domestic violence at or en

1 route to or from the individual's place of employment; or

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

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

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

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

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

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

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

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

22 (iv) medical documentation of the abuse; or

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

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

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

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

1 of a prior separation.

2 (1) For the purposes of this subsection ~~(b)~~, "misconduct" is defined as a
3 violation of a duty or obligation reasonably owed the employer as a condition
4 of employment. The term "gross misconduct" as used in this subsection ~~(b)~~
5 shall be construed to mean conduct evincing extreme, willful or wanton
6 misconduct as defined by this subsection ~~(b)~~. Failure of the employee to notify
7 the employer of an absence shall be considered prima facie evidence of a
8 violation of a duty or obligation reasonably owed the employer as a condition
9 of employment.

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

1 prove misconduct if the following conditions are met:

2 (A) Either (i) the test was required by law and was administered pursuant
3 to the drug free workplace act, 41 U.S.C. § 701 et seq., (ii) the test was
4 administered as part of an employee assistance program or other drug or
5 alcohol treatment program in which the employee was participating
6 voluntarily or as a condition of further employment, (iii) the test was requested
7 pursuant to a written policy of the employer of which the employee had
8 knowledge and was a required condition of employment, (iv) the test was
9 required by law and the test constituted a required condition of employment
10 for the individual's job, or (v) there was probable cause to believe that the
11 individual used, had possession of, or was impaired by alcoholic liquor, the
12 cereal malt beverage or the controlled substance while working;

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

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

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

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

36 (F) the breath alcohol test was administered by an individual trained to
37 perform breath tests, the breath testing instrument used was certified and
38 operated strictly according to description provided by the manufacturers and
39 the reliability of the instrument performance was assured by testing with
40 alcohol standards; and

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

43 (3) (A) For the purposes of this subsection ~~(b)~~, misconduct shall include,

1 but not be limited to repeated absence, including incarceration, resulting in
2 absence from work of three days or longer, excluding Saturdays, Sundays and
3 legal holidays, and lateness, from scheduled work if the facts show:

- 4 (i) The individual was absent without good cause;
5 (ii) the absence was in violation of the employer's written absenteeism
6 policy;
7 (iii) the employer gave or sent written notice to the individual, at the
8 individual's last known address, that future absence may or will result in
9 discharge; and
10 (iv) the employee had knowledge of the employer's written absenteeism
11 policy.

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

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

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

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

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

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

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

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

1 interest in the labor dispute.

2 (e) For any week with respect to which or a part of which the individual
3 has received or is seeking unemployment benefits under the unemployment
4 compensation law of any other state or of the United States, except that if the
5 appropriate agency of such other state or the United States finally determines
6 that the individual is not entitled to such unemployment benefits, this
7 disqualification shall not apply.

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

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

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

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

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

1 such services for the educational institution for the second of such academic
2 years or terms, such individual shall be entitled to a retroactive payment of
3 benefits for each week for which the individual filed a timely claim for
4 benefits and for which benefits were denied solely by reason of this subsection
5 (j).

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

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

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

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

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

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

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

43 (q) For any week of unemployment on the basis of services performed by

1 the individual in any capacity and under any of the circumstances described in
2 subsection (i), (j), (k) or (o) which are provided to or on behalf of an
3 educational institution, as defined in subsection (v) of K.S.A. 44-703, and
4 amendments thereto, while the individual is in the employ of an employer
5 which is a governmental entity, Indian tribe or any employer described in
6 section 501(c)(3) of the federal internal revenue code of 1986 which is exempt
7 from income under section 501(a) of the code.

8 (r) For any week in which an individual is registered at and attending an
9 established school, training facility or other educational institution, or is on
10 vacation during or between two successive academic years or terms. An
11 individual shall not be disqualified for benefits as provided in this subsection
12 (~~†~~) provided:

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

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

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

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

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

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

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

43 (u) If the individual was found not to have a disqualifying adjudication or

1 conviction under K.S.A. 39-970, and amendments thereto, or K.S.A. 65-5117,
2 and amendments thereto, was hired and then was subsequently convicted of a
3 disqualifying felony under K.S.A. 39-970, and amendments thereto, or K.S.A.
4 65-5117, and amendments thereto, and discharged pursuant to K.S.A. 39-970,
5 and amendments thereto, or K.S.A. 65-5117, and amendments thereto. The
6 disqualification shall begin the day following the separation and shall continue
7 until after the individual becomes reemployed and has had earnings from
8 insured work of at least three times the individual's determined weekly benefit
9 amount.

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

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

34 ***(2) (A) If the congress of the United States either amends or repeals the***
35 ***Wagner-Peyser act, the federal unemployment tax act, the federal social***
36 ***security act, or subtitle C of chapter 23 of the federal internal revenue code***
37 ***of 1986, or any act or acts supplemental to or in lieu thereof, or any part or***
38 ***parts of any such law, or if any such law, or any part or parts thereof, are***
39 ***held invalid with the effect that appropriations of funds by congress and***
40 ***grants thereof to the state of Kansas for the payment of costs of***
41 ***administration of the employment security law are no longer available for***
42 ***such purposes, or (B) if employers in Kansas subject to the payment of tax***
43 ***under the federal unemployment tax act are granted full credit against such***

1 *tax for contributions or taxes paid to the secretary of labor, then, and in*
2 *either such case, beginning with the year in which the unavailability of*
3 *federal appropriations and grants for such purpose occurs or in which such*
4 *change in liability for payment of such federal tax occurs and for each year*
5 *thereafter, the rate of contributions of each contributing employer shall be*
6 *equal to the total of .5% and the rate of contributions as determined for such*
7 *contributing employer under K.S.A. 44-710a and amendments thereto. The*
8 *amount of contributions which each contributing employer becomes liable*
9 *to pay under this paragraph (2) over the amount of contributions which*
10 *such contributing employer would be otherwise liable to pay shall be*
11 *credited to the employment security administration fund to be disbursed and*
12 *paid out under the same conditions and for the same purposes as other*
13 *moneys are authorized to be paid from the employment security*
14 *administration fund, except that, if the secretary determines that as of the*
15 *first day of January of any year there is an excess in the employment*
16 *security administration fund over the amount required to be disbursed*
17 *during such year, an amount equal to such excess as determined by the*
18 *secretary shall be transferred to the employment security fund.*

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

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

41 *(B) Where base period wage credits of a contributing employer or rated*
42 *governmental employer represent part-time employment and the claimant*
43 *continues in that part-time employment with that employer during the period*

1 *for which benefits are paid, then that employer's account shall not be*
2 *charged with any part of the benefits paid if the employer provides the*
3 *secretary with information as required by rules and regulations. For the*
4 *purposes of this subsection (c)(2)(B), "part-time employment" means any*
5 *employment when an individual works concurrently for two or more*
6 *employers and also works less than full-time for at least one of those*
7 *employers because the individual's services are not required for the*
8 *customary, scheduled full-time hours prevailing at the work place or the*
9 *individual does not customarily work the regularly scheduled full-time hours*
10 *due to personal choice or circumstances.*

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

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

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

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

30 *(G) With respect to weeks of unemployment beginning after December*
31 *31, 1977, wages for insured work shall include wages paid for previously*
32 *uncovered services. For the purposes of this subsection (c)(2)(G), the term*
33 *"previously uncovered services" means services which were not covered*
34 *employment, at any time during the one-year period ending December 31,*
35 *1975, except to the extent that assistance under title II of the federal*
36 *emergency jobs and unemployment assistance act of 1974 was paid on the*
37 *basis of such services, and which:*

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

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

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

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

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

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

41 *(d) Pooled fund. All contributions and payments in lieu of*
42 *contributions and benefit cost payments to the employment security fund*
43 *shall be pooled and available to pay benefits to any individual entitled*

1 *thereto under the employment security law, regardless of the source of such*
2 *contributions or payments in lieu of contributions or benefit cost payments.*

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

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

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

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

42 *(D) The secretary may for good cause extend the period within which a*
43 *notice of election, or a notice of termination, must be filed and may permit*

1 *an election to be retroactive but not any earlier than with respect to benefits*
2 *paid after January 1 of the year such election is received.*

3 *(E) The secretary, in accordance with such rules and regulations as the*
4 *secretary may adopt, shall notify each employer identified in subsection (e)*
5 *(1) of any determination which the secretary may make of its status as an*
6 *employer and of the effective date of any election which it makes to become*
7 *a reimbursing employer and of any termination of such election. Such*
8 *determinations shall be subject to reconsideration, appeal and review in*
9 *accordance with the provisions of K.S.A. 44-710b, and amendments thereto.*

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

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

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

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

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

1 *amendments thereto.*

2 *(E) Past due payments of amounts certified by the secretary under this*
3 *section shall be subject to the same interest, penalties and actions required*
4 *by K.S.A. 44-717, and amendments thereto. (1) If any nonprofit organization*
5 *or group of nonprofit organizations described in section 501(c)(3) of the*
6 *federal internal revenue code of 1986 or governmental reimbursing*
7 *employer is delinquent in making payments of amounts certified by the*
8 *secretary under this section, the secretary may terminate such employer's*
9 *election to make payments in lieu of contributions as of the beginning of the*
10 *next calendar year and such termination shall be effective for such next*
11 *calendar year and the calendar year thereafter so that the termination is*
12 *effective for two complete calendar years. (2) Failure of the Indian tribe or*
13 *tribal unit to make required payments, including assessment of interest and*
14 *penalty within 90 days of receipt of the bill will cause the Indian tribe to lose*
15 *the option to make payments in lieu of contributions as described pursuant*
16 *to paragraph (e)(1) for the following tax year unless payment in full is*
17 *received before contribution rates for the next tax year are calculated. (3)*
18 *Any Indian tribe that loses the option to make payments in lieu of*
19 *contributions due to late payment or nonpayment, as described in paragraph*
20 *(2), shall have such option reinstated, if after a period of one year, all*
21 *contributions have been made on time and no contributions, payments in*
22 *lieu of contributions for benefits paid, penalties or interest remain*
23 *outstanding.*

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

37 *(G) In the discretion of the secretary, any employer who elects to*
38 *become liable for payments in lieu of contributions and any nonprofit*
39 *organization or group of nonprofit organizations described in section 501*
40 *(c)(3) of the federal internal revenue code of 1986 or governmental*
41 *reimbursing employer or Indian tribe or tribal unit who is delinquent in*
42 *filing reports or in making payments of amounts certified by the secretary*
43 *under this section shall be required within 60 days after the effective date of*

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

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

1 *rate which will be certified on the ensuing July 15. If total payments exceed*
2 *benefit charges, all or part of the excess may be refunded, at the discretion*
3 *of the secretary, from the fund or retained in the fund as part of the*
4 *payments which may be required for the next fiscal year.*

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

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

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

36 *(4) Group accounts. Two or more reimbursing employers may file a*
37 *joint application to the secretary for the establishment of a group account*
38 *for the purpose of sharing the cost of benefits paid that are attributable to*
39 *service in the employment of such reimbursing employers. Each such*
40 *application shall identify and authorize a group representative to act as the*
41 *group's agent for the purposes of this subsection (e)(4). Upon approval of*
42 *the application, the secretary shall establish a group account for such*
43 *employers effective as of the beginning of the calendar quarter in which the*

1 *secretary receives the application and shall notify the group's representative*
2 *of the effective date of the account. Such account shall remain in effect for*
3 *not less than four years and thereafter such account shall remain in effect*
4 *until terminated at the discretion of the secretary or upon application by the*
5 *group. Upon establishment of the account, each member of the group shall*
6 *be liable for payments in lieu of contributions with respect to each calendar*
7 *quarter in the amount that bears the same ratio to the total benefits paid in*
8 *such quarter that are attributable to service performed in the employ of all*
9 *members of the group as the total wages paid for service in employment by*
10 *such member in such quarter bear to the total wages paid during such*
11 *quarter for service performed in the employ of all members of the group.*
12 *The secretary shall adopt such rules and regulations as the secretary deems*
13 *necessary with respect to applications for establishment, maintenance and*
14 *termination of group accounts that are authorized by this subsection (e)(4),*
15 *for addition of new members to, and withdrawal of active members from*
16 *such accounts, and for the determination of the amounts that are payable*
17 *under this subsection (e)(4) by members of the group and the time and*
18 *manner of such payments.*

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

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

43 (B) (i) For the rate year 2007 and each rate year thereafter, each employer

1 who is not eligible for a rate contribution shall pay contributions equal to 4%
2 of wages paid during each calendar year with regard to employment except
3 such employers engaged in the construction industry shall pay a rate equal to
4 6%.

5 (ii) For rate years prior to 2007, employers who are not eligible for a rate
6 computation shall pay contributions at an assigned rate equal to the sum of 1%
7 plus the greater of the average rate assigned in the preceding calendar year to
8 all employers in such industry sector or the average rate assigned to all
9 covered employers during the preceding calendar year, except that in no
10 instance shall any such assigned rate be less than 2%. Employers engaged in
11 more than one type of industrial activity shall be classified by principal
12 activity. All rates assigned will remain in effect for a complete calendar year. If
13 the sale or acquisition of a new establishment would require reclassification of
14 the employer to a different industry sector, the employer would be promptly
15 notified, and the contribution rate applicable to the new industry sector would
16 become effective the following January 1.

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

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

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

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

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

1 determined as prescribed below.

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

29
30 SCHEDULE I—Eligible Employers

31 Column A	Column B	Column C
32 Rate	Cumulative	Experience factor
33 group	taxable payroll	(Ratio to total wages)
34 1	Less than 1.96%.....	025%
35 2	1.96% but less than 3.92.....	40
36 3	3.92 but less than 5.88.....	80
37 4	5.88 but less than 7.84.....	12
38 5	7.84 but less than 9.80.....	16
39 6	9.80 but less than 11.76.....	20
40 7	11.76 but less than 13.72.....	24
41 8	13.72 but less than 15.68.....	28
42 9	15.68 but less than 17.64.....	32
43 10	17.64 but less than 19.60.....	36

1	11	19.60 but less than 21.56.....	40
2	12	21.56 but less than 23.52.....	44
3	13	23.52 but less than 25.48.....	48
4	14	25.48 but less than 27.44.....	52
5	15	27.44 but less than 29.40.....	56
6	16	29.40 but less than 31.36.....	60
7	17	31.36 but less than 33.32.....	64
8	18	33.32 but less than 35.28.....	68
9	19	35.28 but less than 37.24.....	72
10	20	37.24 but less than 39.20.....	76
11	21	39.20 but less than 41.16.....	80
12	22	41.16 but less than 43.12.....	84
13	23	43.12 but less than 45.08.....	88
14	24	45.08 but less than 47.04.....	92
15	25	47.04 but less than 49.00.....	96
16	26	49.00 but less than 50.96.....	1.00
17	27	50.96 but less than 52.92.....	1.04
18	28	52.92 but less than 54.88.....	1.08
19	29	54.88 but less than 56.84.....	1.12
20	30	56.84 but less than 58.80.....	1.16
21	31	58.80 but less than 60.76.....	1.20
22	32	60.76 but less than 62.72.....	1.24
23	33	62.72 but less than 64.68.....	1.28
24	34	64.68 but less than 66.64.....	1.32
25	35	66.64 but less than 68.60.....	1.36
26	36	68.60 but less than 70.56.....	1.40
27	37	70.56 but less than 72.52.....	1.44
28	38	72.52 but less than 74.48.....	1.48
29	39	74.48 but less than 76.44.....	1.52
30	40	76.44 but less than 78.40.....	1.56
31	41	78.40 but less than 80.36.....	1.60
32	42	80.36 but less than 82.32.....	1.64
33	43	82.32 but less than 84.28.....	1.68
34	44	84.28 but less than 86.24.....	1.72
35	45	86.24 but less than 88.20.....	1.76
36	46	88.20 but less than 90.16.....	1.80
37	47	90.16 but less than 92.12.....	1.84
38	48	92.12 but less than 94.08.....	1.88
39	49	94.08 but less than 96.04.....	1.92
40	50	96.04 but less than 98.00.....	1.96
41	51	98.00 and over.....	2.00

42
43 (E) Negative account balance employers shall, in addition to paying the

1 rate provided for in subsection (a)(2)(B) of this section, pay a surcharge based
 2 on the size of the employer's negative reserve ratio, the calculation which is
 3 provided for in subsection (a)(2) of this section. The amount of the surcharge
 4 shall be determined from ~~column B of schedule II of this section~~ **column B2**
 5 **of schedule II of this section for calendar years 2012, 2013, 2014 and from**
 6 **column B1 of schedule II of this section for each calendar year after 2014.**

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

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

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

35 (iii) **the portion of such surcharge used for the payment of such interest**
 36 **shall not be included in the calculation of such employers reserve ratio**
 37 **pursuant to subsection (a)(2). The portion of such surcharge used for the**
 38 **payment of principal shall be included in the calculation of such employers**
 39 **reserve ratio pursuant to subsection (a)(2); and**

40 (iv) **if the amounts collected under this subsection are in excess of the**
 41 **amounts needed to pay interest due, the amounts in excess shall remain in the**
 42 **employment security interest assessment fund to be used to pay interest in**
 43 **future years. Whenever the secretary certifies all interest payments have been**

1 *paid pursuant to this section, any excess funds remaining in the employment*
 2 *security interest assessment fund shall be transferred to the employment*
 3 *security trust fund for the purpose of paying any remaining principal amount*
 4 *due for advances described in this section. In the event that the amount*
 5 *transferred from the employment security interest assessment fund exceeds*
 6 *such remaining amount of principal due, the balance shall be used for the*
 7 *purposes of the employment security trust fund.*

8
 9 **SCHEDULE II—Surcharge on Negative Accounts**

Column A	Column B
Negative Reserve Ratio	Surcharge as a percent
	of taxable wages
Less than 2.0%.....	0.20%
2.0% but less than 4.0.....	40
4.0 but less than 6.0.....	60
6.0 but less than 8.0.....	80
8.0 but less than 10.0.....	1.00
10.0 but less than 12.0.....	1.20
12.0 but less than 14.0.....	1.40
14.0 but less than 16.0.....	1.60
16.0 but less than 18.0.....	1.80
18.0 and over.....	2.00

Column A	Column B1	Column B2
Negative Reserve Ratio	Surcharge as a percent	Surcharge as a percent
	of taxable wages	of taxable wages
<i>Less than 2.0%.....</i>	<i>0.20%.....</i>	<i>0.30%</i>
<i>2.0% but less than 4.0.....</i>	<i>0.40.....</i>	<i>0.50</i>
<i>4.0 but less than 6.0.....</i>	<i>0.60.....</i>	<i>0.70</i>
<i>6.0 but less than 8.0.....</i>	<i>0.80.....</i>	<i>0.90</i>
<i>8.0 but less than 10.0.....</i>	<i>1.00.....</i>	<i>1.10</i>
<i>10.0 but less than 12.0.....</i>	<i>1.20.....</i>	<i>1.30</i>
<i>12.0 but less than 14.0.....</i>	<i>1.40.....</i>	<i>1.50</i>
<i>14.0 but less than 16.0.....</i>	<i>1.60.....</i>	<i>1.70</i>
<i>16.0 but less than 18.0.....</i>	<i>1.80.....</i>	<i>1.90</i>
<i>18.0 but less than 20.0.....</i>	<i>2.00.....</i>	<i>2.10</i>
<i>20.0 but less than 22.0.....</i>	<i>2.20.....</i>	<i>2.20</i>
<i>22.0 but less than 24.0.....</i>	<i>2.40.....</i>	<i>2.40</i>
<i>24.0 but less than 26.0.....</i>	<i>2.60.....</i>	<i>2.60</i>
<i>26.0 but less than 28.0.....</i>	<i>2.80.....</i>	<i>2.80</i>
<i>28.0 but less than 30.0.....</i>	<i>3.00.....</i>	<i>3.00</i>

1 **30.0 but less than 32.0.....3.20.....3.20**
 2 **32.0 but less than 34.0.....3.40.....3.40**
 3 **34.0 but less than 36.0.....3.60.....3.60**
 4 **36.0 but less than 38.0.....3.80.....3.80**
 5 **38.0 and over.....4.00.....4.00**

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

17
 18 **SCHEDULE III—Fund Control**
 19 **Ratios to Total Wages**

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

1	3.900 but less than 3.950.....	0.22
2	3.850 but less than 3.900.....	0.23
3	3.800 but less than 3.850.....	0.24
4	3.750 but less than 3.800.....	0.25
5	3.700 but less than 3.750.....	0.26
6	3.650 but less than 3.700.....	0.27
7	3.600 but less than 3.650.....	0.28
8	3.550 but less than 3.600.....	0.29
9	3.500 but less than 3.550.....	0.30
10	3.450 but less than 3.500.....	0.31
11	3.400 but less than 3.450.....	0.32
12	3.350 but less than 3.400.....	0.33
13	3.300 but less than 3.350.....	0.34
14	3.250 but less than 3.300.....	0.35
15	3.200 but less than 3.250.....	0.36
16	3.150 but less than 3.200.....	0.37
17	3.100 but less than 3.150.....	0.38
18	3.050 but less than 3.100.....	0.39
19	3.000 but less than 3.050.....	0.40
20	2.950 but less than 3.000.....	0.41
21	2.900 but less than 2.950.....	0.42
22	2.850 but less than 2.900.....	0.43
23	2.800 but less than 2.850.....	0.44
24	2.750 but less than 2.800.....	0.45
25	2.700 but less than 2.750.....	0.46
26	2.650 but less than 2.700.....	0.47
27	2.600 but less than 2.650.....	0.48
28	2.550 but less than 2.600.....	0.49
29	2.500 but less than 2.550.....	0.50
30	2.450 but less than 2.500.....	0.51
31	2.400 but less than 2.450.....	0.52
32	2.350 but less than 2.400.....	0.53
33	2.300 but less than 2.350.....	0.54
34	2.250 but less than 2.300.....	0.55
35	2.200 but less than 2.250.....	0.56
36	2.150 but less than 2.200.....	0.57
37	2.100 but less than 2.150.....	0.58
38	2.050 but less than 2.100.....	0.59
39	2.000 but less than 2.050.....	0.60
40	1.975 but less than 2.000.....	0.61
41	1.950 but less than 1.975.....	0.62
42	1.925 but less than 1.950.....	0.63
43	1.900 but less than 1.925.....	0.64

1	1.875 but less than 1.900.....	0.65
2	1.850 but less than 1.875.....	0.66
3	1.825 but less than 1.850.....	0.67
4	1.800 but less than 1.825.....	0.68
5	1.775 but less than 1.800.....	0.69
6	1.750 but less than 1.775.....	0.70
7	1.725 but less than 1.750.....	0.71
8	1.700 but less than 1.725.....	0.72
9	1.675 but less than 1.700.....	0.73
10	1.650 but less than 1.675.....	0.74
11	1.625 but less than 1.650.....	0.75
12	1.600 but less than 1.625.....	0.76
13	1.575 but less than 1.600.....	0.77
14	1.550 but less than 1.575.....	0.78
15	1.525 but less than 1.550.....	0.79
16	1.500 but less than 1.525.....	0.80
17	1.475 but less than 1.500.....	0.81
18	1.450 but less than 1.475.....	0.82
19	1.425 but less than 1.450.....	0.83
20	1.400 but less than 1.425.....	0.84
21	1.375 but less than 1.400.....	0.85
22	1.350 but less than 1.375.....	0.86
23	1.325 but less than 1.350.....	0.87
24	1.300 but less than 1.325.....	0.88
25	1.275 but less than 1.300.....	0.89
26	1.250 but less than 1.275.....	0.90
27	1.225 but less than 1.250.....	0.91
28	1.200 but less than 1.225.....	0.92
29	1.175 but less than 1.200.....	0.93
30	1.150 but less than 1.175.....	0.94
31	1.125 but less than 1.150.....	0.95
32	1.100 but less than 1.125.....	0.96
33	1.075 but less than 1.100.....	0.97
34	1.050 but less than 1.075.....	0.98
35	1.025 but less than 1.050.....	0.99
36	1.000 but less than 1.025.....	1.00
37	0.900 but less than 1.000.....	1.01
38	0.800 but less than 0.900.....	1.02
39	0.700 but less than 0.800.....	1.03
40	0.600 but less than 0.700.....	1.04
41	0.500 but less than 0.600.....	1.05
42	0.400 but less than 0.500.....	1.06
43	0.300 but less than 0.400.....	1.07

1 0.200 but less than 0.300.....1.08
 2 0.100 but less than 0.200.....1.09
 3 Less than 0.100%.....1.10

4

5 (B) *Adjustment to taxable wages.* The ~~(i) Except as provided in clause~~
 6 ~~(ii), the~~ The planned yield as a percent of total wages, as determined in this
 7 subsection (a)(3), shall be adjusted to taxable wages by multiplying by the
 8 ratio of total wages to taxable wages for all contributing employers for the
 9 preceding fiscal year ending June 30, ~~except, with regard to a year in which~~
 10 ~~the taxable wage base changes. The taxable wages used in the calculation for~~
 11 ~~such a year and the following year shall be an estimate of what the taxable~~
 12 ~~wages would have been if the new taxable wage base had been in effect during~~
 13 ~~all of the preceding fiscal year ending June 30 , except, with regard to a year~~
 14 ~~in which the taxable wage base changes. The taxable wages used in the~~
 15 ~~calculation for such a year and the following year shall be an estimate of~~
 16 ~~what the taxable wages would have been if the new taxable wage base had~~
 17 ~~been in effect during all of the preceding fiscal year ending June 30.~~

18 ~~(ii) For the calendar years 2012, 2013 and 2014, the planned yield as~~
 19 ~~a percent of total wages, as determined in this subsection (a)(3), shall be~~
 20 ~~adjusted to taxable wages by multiplying by the ratio of total wages to~~
 21 ~~taxable wages for all contributing employers at the taxable wage base of~~
 22 ~~\$8,000. Any revenue generated by increasing the taxable wage base above~~
 23 ~~\$8,000 shall be in addition to the planned yield established pursuant to~~
 24 ~~schedule III of this section. The provisions of this clause shall expire on~~
 25 ~~December 31, 2014.~~

26

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

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

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

(iv) In order to be eligible for the reduced rates for rate year 2008 and

1 subsequent rate years, employers must file all reports due and pay all
2 contributions due and owing on or before January 31 of the applicable year,
3 except that the reduced rates for otherwise eligible employers shall not be
4 effective for any rate year if the average high cost multiple of the employment
5 security trust fund balance falls below 1.2 as of the computation date of that
6 year's rates. For the purposes of this provision, the average high cost multiple
7 is the reserve fund ratio, as defined by subsection (a)(3)(A), divided by the
8 average high benefit cost rate. The average high benefit cost rate shall be
9 determined by averaging the three highest benefit cost rates over the last 20
10 years from the preceding fiscal year which ended June 30. The high benefit
11 cost rate is defined by dividing total benefits paid in the fiscal year by total
12 payrolls for covered employers in the fiscal year.

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

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

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

41 (3) Whenever an employing unit, whether or not it is an "employing unit"
42 within the meaning of subsection (g) of K.S.A. 44-703, and amendments
43 thereto, acquires or in any manner succeeds to a percentage of an employer's

1 annual payroll which is less than 100% and intends to continue the acquired
2 percentage as a going business, the employing unit may acquire the same
3 percentage of the predecessor's experience factors if: (A) The predecessor
4 employer and successor employing unit make an application in writing on the
5 form prescribed by the secretary, (B) the application is submitted within 120
6 days of the date of the transfer, (C) the successor employing unit is or becomes
7 an employer subject to this act immediately after the transfer, (D) the
8 percentage of the experience rating factors transferred shall not be thereafter
9 used in computing the contribution rate for the predecessor employer, and (E)
10 the secretary finds that such transfer will not tend to defeat or obstruct the
11 object and purposes of this act.

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

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

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

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

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

1 (6) Whenever an employer's account has been terminated as provided in
2 subsections (d) and (e) of K.S.A. 44-711, and amendments thereto, and the
3 employer continues with employment to liquidate the business operations, that
4 employer shall continue to be an "employer" subject to the employment
5 security law as provided in subsection (h)(8) of K.S.A. 44-703, and
6 amendments thereto. The rate of contribution from the date of transfer to the
7 end of the then current calendar year shall be the same as the contribution rate
8 prior to the date of the transfer. At the completion of the then current calendar
9 year, the rate of contribution shall be that of a "new employer" as described in
10 subsection (a)(1) of this section.

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

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

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

1 such years.

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

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

41 ~~Sec.-5:~~ **8.** *K.S.A. 2010 Supp. 44-717 is hereby amended to read as*
42 *follows: 44-717. (a) (1) Penalties on past-due reports, interest on past-due*
43 *contributions, payments in lieu of contributions and benefit-cost payments,*

1 *benefit cost payments and interest assessments made under K.S.A. 44-710a,*
2 *and amendments thereto.* Any employer or any officer or agent of an employer,
3 who fails to file any wage report or contribution return by the last day of the
4 month following the close of each calendar quarter to which they are related
5 shall pay a penalty as provided by this subsection ~~(a)~~ for each month or
6 fraction of a month until the report or return is received by the secretary of
7 labor except that for calendar years 2010 and 2011 an employer or any officer
8 or agent of the employer shall have up to 90 days past the due date for any of
9 the first three calendar quarters in a calendar year to pay such employer's
10 contribution without being charged any interest, however, when the 90 day
11 period has passed, the provisions of this section shall apply. The penalty for
12 each month or fraction of a month shall be an amount equal to .05% of the
13 total wages paid by the employer during the quarter, except that no penalty
14 shall be less than \$25 nor more than \$200 for each such report or return not
15 timely filed. Contributions ~~and benefit cost payments,~~ *benefit cost payments*
16 *and interest assessments made pursuant to K.S.A. 44-710a, and amendments*
17 *thereto,* unpaid by the last day of the month following the last calendar quarter
18 to which they are related and payments in lieu of contributions unpaid 30 days
19 after the mailing of the statement of benefit charges, shall bear interest at the
20 rate of 1% per month or fraction of a month until payment is received by the
21 secretary of labor except that an employing unit, which is not theretofore
22 subject to this law and which becomes an employer and does not refuse to
23 make the reports, returns and contributions, payments in lieu of contributions
24 and benefit cost payments required under this law, shall not be liable for such
25 penalty or interest if the wage reports and contribution returns required are
26 filed and the contributions, payments in lieu of contributions or benefit cost
27 payments required are paid within 10 days following notification by the
28 secretary of labor that a determination has been made fixing its status as an
29 employer subject to this law. Upon written request and good cause shown, the
30 secretary of labor may abate any penalty or interest or portion thereof provided
31 for by this subsection ~~(a)~~. Interest amounting to less than \$5 shall be waived
32 by the secretary of labor and shall not be collected. Penalties and interest
33 collected pursuant to this subsection shall be paid into the special employment
34 security fund. For all purposes under this section, amounts assessed as
35 surcharges under subsection (j) or under K.S.A. 44-710a, and amendments
36 thereto, shall be considered to be contributions and shall be subject to penalties
37 and interest imposed under this section and to collection in the manner
38 provided by this section. *For all purposes under this section, amounts*
39 *assessed under K.S.A. 44-710a, and amendments thereto, shall be subject to*
40 *penalties and interest imposed under this section and to collection in the*
41 *manner provided in this section.* For purposes of this subsection, a wage
42 report, a contribution return, a contribution, a payment in lieu of contribution
43 ~~or a benefit cost payment,~~ *a benefit cost payment or an interest assessment*

1 *made pursuant to K.S.A. 44-710a, and amendments thereto,* is deemed to be
2 filed or paid as of the date it is placed in the United States mail.

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

6 (i) Will cause the Indian tribe to be liable for taxes under FUTA;

7 (ii) will cause the Indian tribe to lose the option to make payments in lieu
8 of contributions;

9 (iii) could cause the Indian tribe to be excepted from the definition of
10 "employer," as provided in paragraph (h)(3) of K.S.A. 44-703, and
11 amendments thereto, and services in the employ of the Indian tribe, as
12 provided in paragraph (i)(3)(E) of K.S.A. 44-703, and amendments thereto, to
13 be excepted from "employment."

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

35 (2) Any employing unit which is not a resident of this state and which
36 exercises the privilege of having one or more individuals perform service for it
37 within this state and any resident employing unit which exercises that privilege
38 and thereafter removes from this state, shall be deemed thereby to appoint the
39 secretary of state as its agent and attorney for the acceptance of process in any
40 civil action under this subsection. In instituting such an action against any such
41 employing unit the secretary of labor shall cause such process or notice to be
42 filed with the secretary of state and such service shall be sufficient service
43 upon such employing unit and shall be of the same force and validity as if

1 served upon it personally within this state. The secretary of labor shall send
2 notice immediately of the service of such process or notice, together with a
3 copy thereof, by registered or certified mail, return receipt requested, to such
4 employing unit at its last-known address and such return receipt, the affidavit
5 of compliance of the secretary of labor with the provisions of this section, and
6 a copy of the notice of service, shall be appended to the original of the process
7 filed in the court in which such civil action is pending.

8 (3) The district courts of this state shall entertain, in the manner provided
9 in subsections (b)(1) and (b)(2), actions to collect contributions, payments in
10 lieu of contributions, ~~benefit cost payments~~ *interest assessments made*
11 *pursuant to K.S.A. 44-710a, and amendments thereto*, and other amounts owed
12 including interest thereon for which liability has accrued under the
13 employment security law of any other state or of the federal government.

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

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

1 to be charged with notice at such person's address as it appears on the records
2 of the agency.

3 (e) (1) *Lien.* If any employer or person who is liable to pay contributions,
4 payments in lieu of contributions ~~or benefit cost payments~~, *benefit cost*
5 *payments and interest assessments made pursuant to K.S.A. 44-710a, and*
6 *amendments thereto*, neglects or refuses to pay the same after demand, the
7 amount, including interest and penalty, shall be a lien in favor of the state of
8 Kansas, secretary of labor, upon all property and rights to property, whether
9 real or personal, belonging to such employer or person. Such lien shall not be
10 valid as against any mortgagee, pledgee, purchaser or judgment creditor until
11 notice thereof has been filed by the secretary of labor in the office of register
12 of deeds in any county in the state of Kansas, in which such property is
13 located, and when so filed shall be notice to all persons claiming an interest in
14 the property of the employer or person against whom filed. The register of
15 deeds shall enter such notices in the financing statement record and shall also
16 record the same in full in miscellaneous record and index the same against the
17 name of the delinquent employer. The register of deeds shall accept, file, and
18 record such notice without prepayment of any fee, but lawful fees shall be
19 added to the amount of such lien and collected when satisfaction is presented
20 for entry. Such lien shall be satisfied of record upon the presentation of a
21 certificate of discharge by the state of Kansas, secretary of labor. Nothing
22 contained in this subsection (e) shall be construed as an invalidation of any
23 lien or notice filed in the name of the unemployment compensation division or
24 the employment security division and such liens shall be and remain in full
25 force and effect until satisfied as provided by this subsection (e).

26 (2) *Authority of secretary or authorized representative.* If any employer
27 or person who is liable to pay any contributions, payments in lieu of
28 contributions ~~or benefit cost payments~~, *benefit cost payments and interest*
29 *assessments made pursuant to K.S.A. 44-710a, and amendments thereto*,
30 including interest and penalty, neglects or refuses to pay the same within 10
31 days after notice and demand therefor, the secretary or the secretary's
32 authorized representative may collect such contributions, payments in lieu of
33 contributions ~~or benefit cost payments~~, *benefit cost payments and interest*
34 *assessments made pursuant to K.S.A. 44-710a, and amendments thereto*,
35 including interest and penalty, and such further amount as is sufficient to cover
36 the expenses of the levy, by levy upon all property and rights to property
37 which belong to the employer or person or which have a lien created thereon
38 by this subsection (e) for the payment of such contributions, payments in lieu
39 of contributions ~~or benefit cost payments~~, *benefit cost payments and interest*
40 *assessments made pursuant to K.S.A. 44-710a, and amendments thereto*,
41 including interest and penalty. As used in this subsection (e), "property"
42 includes all real property and personal property, whether tangible or intangible,
43 except such property which is exempt under K.S.A. 60-2301 et seq., and

1 amendments thereto. Levy may be made upon the accrued salary or wages of
2 any officer, employee or elected official of any state or local governmental
3 entity which is subject to K.S.A. 60-723, and amendments thereto, by serving
4 a notice of levy as provided in subsection (d) of K.S.A. 60-304, and
5 amendments thereto. If the secretary or the secretary's authorized
6 representative makes a finding that the collection of the amount of such
7 contributions, payments in lieu of contributions ~~or benefit cost payments,~~
8 *benefit cost payments and interest assessments made pursuant to K.S.A. 44-*
9 *710a, and amendments thereto,* including interest and penalty, is in jeopardy,
10 notice and demand for immediate payment of such amount may be made by
11 the secretary or the secretary's authorized representative and, upon failure or
12 refusal to pay such amount, immediate collection of such amount by levy shall
13 be lawful without regard to the 10-day period provided in this subsection (e).

14 (3) *Seizure and sale of property.* The authority to levy granted under this
15 subsection (e) includes the power of seizure by any means. A levy shall extend
16 only to property possessed and obligations existing at the time thereof. In any
17 case in which the secretary or the secretary's authorized representative may
18 levy upon property or rights to property, the secretary or the secretary's
19 authorized representative may seize and sell such property or rights to
20 property.

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

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

42 (1) *Individual.* Service upon an individual, other than a minor or
43 incapacitated person, shall be made by delivering a copy of the final notice to

1 the individual personally or by leaving a copy at such individual's dwelling
2 house or usual place of abode with some person of suitable age and discretion
3 then residing therein, by leaving a copy at the business establishment of the
4 employer with an officer or employee of the establishment, or by delivering a
5 copy to an agent authorized by appointment or by law to receive service of
6 process, but if the agent is one designated by a statute to receive service, such
7 further notice as the statute requires shall be given. If service as prescribed
8 above cannot be made with due diligence, the secretary or the secretary's
9 designee may order service to be made by leaving a copy of the final notice at
10 the employer's dwelling house, usual place of abode or business establishment.

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

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

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

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

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

40 (6) *Service by mail.* (A) Upon direction of the secretary or the secretary's
41 designee, service by mail may be effected by forwarding a copy of the notice
42 to the employer by registered or certified mail to the employer's address as it
43 appears on the records of the agency. A copy of the return receipt shall be

1 attached to and filed with any warrant thereafter filed.

2 (B) The secretary of labor or an authorized representative of the secretary
3 may file the warrant for record in the office of the clerk of the district court in
4 the county in which the employer owing such contributions, payments in lieu
5 of contributions, benefit cost payments, *interest assessments made pursuant to*
6 *K.S.A. 44-710a, and amendments thereto*, interest, or penalty has business
7 property. The warrant shall certify the amount of contributions, payments in
8 lieu of contributions, benefit cost payments, interest and penalty due, and the
9 name of the employer liable for such amount. It shall be the duty of the clerk
10 of the district court to file such warrant of record and enter the warrant in the
11 records of the district court for judgment and decrees under the procedure
12 prescribed for filing transcripts of judgment.

13 (C) The clerk shall enter, on the day the warrant is filed, the case on the
14 appearance docket, together with the amount and the time of filing the warrant.
15 From the time of filing such warrant, the amount of the contributions,
16 payments in lieu of contributions, benefit cost payments, *interest assessments*
17 *made pursuant to K.S.A. 44-710a, and amendments thereto*, interest, and
18 penalty, certified therein, shall have the force and effect of a judgment of the
19 district court until the same is satisfied by the secretary of labor or an
20 authorized representative or attorney for the secretary. Execution shall be
21 issuable at the request of the secretary of labor, an authorized representative or
22 attorney for the secretary, as is provided in 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 the
26 district court of the contributions, payments in lieu of contributions, benefit
27 cost payments, *interest assessments made pursuant to K.S.A. 44-710a, and*
28 *amendments thereto*, penalty, interest to date, and court costs. Warrants may
29 also be satisfied of record by payment to the clerk of the district court of all
30 court costs accrued in the case and by filing a certificate by the secretary of
31 labor, certifying that the contributions, payments in lieu of contributions,
32 benefit cost payments, *interest assessments made pursuant to K.S.A. 44-710a,*
33 *and amendments thereto*, interest and penalty have been 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 state or
36 any of its officers to pursue any remedy or action under this section to the
37 exclusion of any other remedy or action for which provision is made.

38 (h) *Refunds.* If any individual, governmental entity or organization makes
39 application for refund or adjustment of any amount paid as contributions,
40 benefit cost payments, *interest assessments made pursuant to K.S.A. 44-710a,*
41 *and amendments thereto*, or interest under this law and the secretary of labor
42 determines that such amount or any portion thereof was erroneously collected,
43 except for amounts less than \$5, the secretary of labor shall allow such

1 individual or organization to make an adjustment thereof, in connection with
2 subsequent contribution payments, or if such adjustment cannot be made the
3 secretary of labor shall refund the amount, except for amounts less than \$5,
4 from the employment security fund, except that all interest erroneously
5 collected which has been paid into the special employment security fund shall
6 be refunded out of the special employment security fund. No adjustment or
7 refund shall be allowed with respect to a payment as contributions, ~~benefit cost~~
8 ~~payments~~, *interest assessments made pursuant to K.S.A. 44-710a, and*
9 *amendments thereto*, or interest unless an application therefor is made on or
10 before whichever of the following dates is later: (1) One year from the date on
11 which such payment was made; or (2) three years from the last day of the
12 period with respect to which such payment was made. For like cause and
13 within the same period adjustment or refund may be so made on the secretary's
14 own initiative. The secretary of labor shall not be required to refund any
15 contributions, payments in lieu of contributions or benefit cost payments based
16 upon wages paid which have been used as base-period wages in a
17 determination of a claimant's benefit rights when justifiable and correct
18 payments have been made to the claimant as the result of such determination.
19 For all taxable years commencing after December 31, 1997, interest at the rate
20 prescribed in K.S.A. 79-2968, and amendments thereto, shall be allowed on a
21 contribution or benefit cost payment which the secretary has determined was
22 erroneously collected pursuant to this section.

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

31 (2) The amount of such cash deposit or bond shall be not less than the
32 largest total amount of contributions, *interest assessments made pursuant to*
33 *K.S.A. 44-710a, and amendments thereto*, penalty and interest reported by the
34 employer in two of the four calendar quarters preceding any delinquency. Such
35 cash deposit or bond shall be required until the employer has shown timely
36 filing of reports and payment of contributions *and interest assessments made*
37 *pursuant to K.S.A. 44-710a, and amendments thereto*, for four consecutive
38 calendar quarters.

39 (3) Failure to file such cash deposit or bond shall subject the employer to
40 a surcharge of 2.0% which shall be in addition to the rate of contributions
41 assigned to the employer under K.S.A. 44-710a, and amendments thereto.
42 Contributions paid as a result of this surcharge shall not be credited to the
43 employer's experience rating account. This surcharge shall be effective during

1 the next full calendar year after its imposition and during each full calendar
2 year thereafter until the employer has filed the required cash deposit or bond
3 or has shown timely filing of reports and payment of contributions for four
4 consecutive calendar quarters.

5 (j) Any officer, major stockholder or other person who has charge of the
6 affairs of an employer, which is an employing unit described in section 501(c)
7 (3) of the federal internal revenue code of 1954 or which is any other corporate
8 organization or association, or any member or manager of a limited liability
9 company, or any public official, who willfully fails to pay the amount of
10 contributions, payments in lieu of contributions ~~or benefit cost payments,~~
11 *benefit cost payments and interest assessments made pursuant to K.S.A. 44-*
12 *710a, and amendments thereto,* required to be paid under the employment
13 security law on the date on which such amount becomes delinquent, shall be
14 personally liable for the total amount of the contributions, payments in lieu of
15 contributions ~~or benefit cost payments,~~ *benefit cost payments and interest*
16 *assessments made pursuant to K.S.A. 44-710a, and amendments thereto,* and
17 any penalties and interest due and unpaid by such employing unit. The
18 secretary or the secretary's authorized representative may assess such person
19 for the total amount of contributions, payments in lieu of contributions ~~or~~
20 ~~benefit cost payments,~~ *benefit cost payments and interest assessments made*
21 *pursuant to K.S.A. 44-710a, and amendments thereto,* and any penalties, and
22 interest computed as due and owing. With respect to such persons and such
23 amounts assessed, the secretary shall have available all of the collection
24 remedies authorized or provided by this section.

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

31 (1) Wage reports, contribution returns and payments due after June 30,
32 2008, for those employers with 250 or more employees or third party
33 administrators with 250 or more client employees at the time such filing or
34 payment is first due;

35 (2) wage reports, contribution returns and payments due after June 30,
36 2009, for those employers with 100 or more employees or third party
37 administrators with 100 or more client employees at the time such filing or
38 payment is first due; and

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

43 The requirements of this subsection may be waived by the secretary for an

1 employer if the employer demonstrates a hardship in complying with this
2 subsection.

3 ~~Sec. 6. 9.~~ K.S.A. 2010 Supp. ~~44-704a, 44-710a~~ **44-703, 44-704a, 44-710,**
4 **44-710a** and 44-717 are hereby repealed.

5 ~~Sec. 7. 10.~~ On July 1, 2011, K.S.A. 2010 Supp. ~~44-705 and 44-706~~ **44-**
6 **703, 44-705, 44-706 and 44-710** **44-705 and 44-706** are hereby repealed.

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

9