

[As Amended by House Committee of the Whole]

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[As Amended by Senate Committee of the Whole]

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Session of 2011

SENATE BILL No. 77

By Committee on Commerce

1-31

1 AN ACT concerning the employment security act; creating an assessment
2 for the payment of interest on advances received from the federal
3 government; removing the waiting week extension; pertaining to
4 benefits; **[allowing withholding of taxes from unemployment**
5 **compensation;]** amending K.S.A. 2010 Supp. 44-703, 44-704a, 44-
6 705, 44-706, ~~44-710~~, 44-710a and ~~44-717~~ **[44-712, 44-717 and 44-**
7 **718]** and repealing the existing sections.

8
9 *Be it enacted by the Legislature of the State of Kansas:*

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

1 ~~on or before June 30, 2012. A copy of the terms of the loan shall be~~
2 ~~submitted to the director of the legislative research department. Such~~
3 ~~loan shall not be deemed to be an indebtedness or debt of the state of~~
4 ~~Kansas within the meaning of section 6 of article 11 of the constitution~~
5 ~~of the state of Kansas.~~

6 ~~Sec. 2.~~ [Section 1.] ~~From and after July 1, 2011,~~ K.S.A. 2010 Supp.
7 44-703 is hereby amended to read as follows: 44-703. As used in this act,
8 unless the context clearly requires otherwise:

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

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

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

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

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

42 (B) If an individual lacks sufficient base period wages in order to
43 establish a benefit year in the manner set forth above the claimant shall

1 *have an alternative base period substituted for the current base period.*
2 *For the purposes of this subsection, "alternative base period" means*
3 *eligibility shall be determined using a base period that consists of the*
4 *four most recently completed calendar quarters preceding the start of the*
5 *benefit year.*

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

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

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

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

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

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

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

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

18 (h) *"Employer" means:*

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

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

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

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

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

43 (i) *Such other person and not the crew leader shall be treated as the*

1 *employer of such individual; and*

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

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

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

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

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

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

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

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

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

39 *(B) any employing unit which is controlled substantially, either*
40 *directly or indirectly by legally enforceable means or otherwise, by the*
41 *same interest or interests, whether or not such interest or interests are*
42 *an employing unit under subsection (g) of this section, which acquires*
43 *or in any manner succeeds to a portion of an employer's annual payroll,*

1 *which is less than 100% of such employer's annual payroll, and which*
2 *intends to continue the acquired portion as a going business.*

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

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

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

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

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

29 *(i) "Employment" means:*

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

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

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

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

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

43 *(ii) as a traveling or city salesman, other than as an agent-driver or*

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

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

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

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

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

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

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

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

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

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

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

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

40 *(C) Services covered by an arrangement pursuant to subsection (l)*
41 *of K.S.A. 44-714, and amendments thereto, between the secretary and*
42 *the agency charged with the administration of any other state or federal*
43 *unemployment compensation law, pursuant to which all services*

1 *performed by an individual for an employing unit are deemed to be*
2 *performed entirely within this state, shall be deemed to be employment if*
3 *the secretary has approved an election of the employing unit for whom*
4 *such services are performed, pursuant to which the entire service of*
5 *such individual during the period covered by such election is deemed to*
6 *be insured work.*

7 *(D) Services performed by an individual for wages or under any*
8 *contract of hire shall be deemed to be employment subject to this act*
9 *unless and until it is shown to the satisfaction of the secretary that: (i)*
10 *Such individual has been and will continue to be free from control or*
11 *direction over the performance of such services, both under the*
12 *individual's contract of hire and in fact; and (ii) such service is either*
13 *outside the usual course of the business for which such service is*
14 *performed or that such service is performed outside of all the places of*
15 *business of the enterprise for which such service is performed.*

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

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

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

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

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

- 1 (A) *The employer is an individual who is a resident of this state; or*
2 (B) *the employer is a corporation which is organized under the laws*
3 *of this state; or*
4 (C) *the employer is a partnership or a trust and the number of the*
5 *partners or trustees who are residents of this state is greater than the*
6 *number who are residents of any other state; or*
7 (iii) *none of the criteria of paragraphs (i) and (ii) above of this*
8 *subsection (i)(3)(G) are met but the employer has elected coverage in*
9 *this state or, the employer having failed to elect coverage in any state,*
10 *the individual has filed a claim for benefits, based on such service,*
11 *under the law of this state.*
12 (H) *An "American employer," for purposes of subsection (i)(3)(G),*
13 *means a person who is:*
14 (i) *An individual who is a resident of the United States; or*
15 (ii) *a partnership if $\frac{2}{3}$ or more of the partners are residents of the*
16 *United States; or*
17 (iii) *a trust, if all of the trustees are residents of the United States;*
18 *or*
19 (iv) *a corporation organized under the laws of the United States or*
20 *of any state.*
21 (I) *Notwithstanding subsection (i)(2) of this section, all service*
22 *performed by an officer or member of the crew of an American vessel or*
23 *American aircraft on or in connection with such vessel or aircraft, if the*
24 *operating office, from which the operations of such vessel or aircraft*
25 *operating within, or within and without, the United States are ordinarily*
26 *and regularly supervised, managed, directed and controlled is within this*
27 *state.*
28 (J) *Notwithstanding any other provisions of this subsection (i),*
29 *service with respect to which a tax is required to be paid under any*
30 *federal law imposing a tax against which credit may be taken for*
31 *contributions required to be paid into a state unemployment*
32 *compensation fund or which as a condition for full tax credit against the*
33 *tax imposed by the federal unemployment tax act is required to be*
34 *covered under this act.*
35 (K) *Domestic service in a private home, local college club or local*
36 *chapter of a college fraternity or sorority performed for a person who*
37 *paid cash remuneration of \$1,000 or more in any calendar quarter in*
38 *the current calendar year or the preceding calendar year to individuals*
39 *employed in such domestic service.*
40 (4) *The term "employment" shall not include: (A) Service*
41 *performed in the employ of an employer specified in subsection (h)(3) of*
42 *this section if such service is performed by an individual in the exercise*
43 *of duties:*

1 (i) *As an elected official;*

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

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

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

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

12 (B) *service with respect to which unemployment compensation is*
13 *payable under an unemployment compensation system established by an*
14 *act of congress;*

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

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

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

43 (F) *service performed by an individual under the age of 18 in the*

1 *delivery or distribution of newspapers or shopping news, not including*
2 *delivery or distribution to any point for subsequent delivery or*
3 *distribution;*

4 *(G) service performed by an individual for an employing unit as an*
5 *insurance agent or as an insurance solicitor, if all such service*
6 *performed by such individual for such employing unit is performed for*
7 *remuneration solely by way of commission;*

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

27 *(I) services performed in the employ of a church or convention or*
28 *association of churches, or an organization which is operated primarily*
29 *for religious purposes and which is operated, supervised, controlled, or*
30 *principally supported by a church or convention or association of*
31 *churches;*

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

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

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

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

1 (L) service performed as part of an employment work-relief or
2 work-training program assisted or financed in whole or in part by any
3 federal agency or an agency of a state or political subdivision thereof or
4 of an Indian tribe, by an individual receiving such work relief or work
5 training;

6 (M) service performed by an inmate of a custodial or correctional
7 institution;

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

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

21 (P) service performed in the employ of a hospital licensed, certified
22 or approved by the secretary of health and environment, if such service
23 is performed by a patient of the hospital;

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

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

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

39 (R) services performed for an employer by an extra in connection
40 with any phase of motion picture or television production or television
41 commercials for less than 14 days during any calendar year. As used in
42 this subsection, the term "extra" means an individual who pantomimes
43 in the background, adds atmosphere to the set and performs such

1 *actions without speaking and "employer" shall not include any*
2 *employer which is a governmental entity or any employer described in*
3 *section 501(c)(3) of the federal internal revenue code of 1986 which is*
4 *exempt from income taxation under section 501(a) of the code;*

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

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

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

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

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

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

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

37 *(i) Such person:*

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

42 *(b) is engaged in the trade or business of selling or soliciting the*
43 *sale of consumer products in the home or otherwise than in a permanent*

1 *retail establishment;*

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

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

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

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

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

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

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

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

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

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

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

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

1 *judgment of the secretary, would have been paid. The term "wages"*
2 *shall not include:*

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

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

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

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

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

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

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

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

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

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

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

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

38 (6) *remuneration paid in any medium other than cash to an*
39 *employee for service not in the course of the employer's trade or*
40 *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*
43 *reasonable to believe that a corresponding deduction is allowable under*

1 *section 217 of the federal internal revenue code of 1986 relating to*
2 *moving expenses;*

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

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

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

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

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

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

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

27 *(13) any benefit provided to or on behalf of an employee if at the*
28 *time such benefit is provided it is reasonable to believe that the employee*
29 *will be able to exclude such benefit from income under section 74(c),*
30 *117 or 132 of the federal internal revenue code of 1986;*

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

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

42 *Nothing in any paragraph of subsection (o), other than paragraph*
43 *(1), shall exclude from the term "wages": (1) Any employer contribution*

1 *under a qualified cash or deferred arrangement, as defined in section*
2 *401(k) of the federal internal revenue code of 1986, to the extent that*
3 *such contribution is not included in gross income by reason of section*
4 *402(a)(8) of the federal internal revenue code of 1986; or (2) any*
5 *amount treated as an employer contribution under section 414(h)(2) of*
6 *the federal internal revenue code of 1986.*

7 *Any amount deferred under a nonqualified deferred compensation*
8 *plan shall be taken into account for purposes of this section as of the*
9 *later of when the services are performed or when there is no substantial*
10 *risk of forfeiture of the rights to such amount. Any amount taken into*
11 *account as wages by reason of this paragraph, and the income*
12 *attributable thereto, shall not thereafter be treated as wages for purposes*
13 *of this section. For purposes of this paragraph, the term "nonqualified*
14 *deferred compensation plan" means any plan or other arrangement for*
15 *deferral of compensation other than a plan described in subsection (o)*
16 *(4).*

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

19 *(q) "Calendar quarter" means the period of three consecutive*
20 *calendar months ending March 31, June 30, September 30 or December*
21 *31, or the equivalent thereof as the secretary may by rules and*
22 *regulations prescribe.*

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

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

28 *(t) "American vessel" or "American aircraft" means any vessel or*
29 *aircraft documented or numbered or otherwise registered under the laws*
30 *of the United States; and any vessel or aircraft which is neither*
31 *documented or numbered or otherwise registered under the laws of the*
32 *United States nor documented under the laws of any foreign country, if*
33 *its crew performs service solely for one or more citizens or residents of*
34 *the United States or corporations organized under the laws of the United*
35 *States or of any state.*

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

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

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

43 *(3) provides an educational program for which it awards a*

1 *bachelor's or higher degree, or provides a program which is acceptable*
2 *for full credit toward such a degree, a program of postgraduate or*
3 *postdoctoral studies, or a program of training to prepare students for*
4 *gainful employment in a recognized occupation; and*

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

6 *Notwithstanding any of the foregoing provisions of this subsection*
7 *(u), all colleges and universities in this state are institutions of higher*
8 *education for purposes of this section, except that no college, university,*
9 *junior college or other postsecondary school or institution which is*
10 *operated by the federal government or any agency thereof shall be an*
11 *institution of higher education for purposes of the employment security*
12 *law.*

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

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

27 *(A) On a farm, in the employ of any person, in connection with*
28 *cultivating the soil, or in connection with raising or harvesting any*
29 *agricultural or horticultural commodity, including the raising, shearing,*
30 *feeding, caring for, training, and management of livestock, bees, poultry,*
31 *and furbearing animals and wildlife.*

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

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

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

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

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

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

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

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

31 (4) *For the purpose of this section, if an employing unit does not*
32 *maintain sufficient records to separate agricultural labor from other*
33 *employment, all services performed during any pay period by an*
34 *individual for the person employing such individual shall be deemed to*
35 *be agricultural labor if services performed during ½ or more of such pay*
36 *period constitute agricultural labor; but if the services performed during*
37 *more than ½ of any such pay period by an individual for the person*
38 *employing such individual do not constitute agricultural labor, then*
39 *none of the services of such individual for such period shall be deemed*
40 *to be agricultural labor. As used in this subsection (w), the term "pay*
41 *period" means a period of not more than 31 consecutive days for which*
42 *a payment of remuneration is ordinarily made to the individual by the*
43 *person employing such individual.*

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

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

6 (z) *"Wage combining plan" means a uniform national*
7 *arrangement approved by the United States secretary of labor in*
8 *consultation with the state unemployment compensation agencies and in*
9 *which this state shall participate, whereby wages earned in one or more*
10 *states are transferred to another state, called the "paying state," and*
11 *combined with wages in the paying state, if any, for the payment of*
12 *benefits under the laws of the paying state and as provided by an*
13 *arrangement so approved by the United States secretary of labor.*

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

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

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

25 (dd) *"Successor employer" means any employer, as described in*
26 *subsection (h) of this section, which acquires or in any manner succeeds*
27 *to (1) substantially all of the employing enterprises, organization, trade*
28 *or business of another employer or (2) substantially all the assets of*
29 *another employer.*

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

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

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

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

1 Section 1. ~~Sec. 3~~ [2]. From and after July 1, 2011, K.S.A. 2010 Supp.
 2 44-704a is hereby amended to read as follows: 44-704a. (a) *Definitions*. As
 3 used in this section, unless the context clearly requires otherwise:

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

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

7 (B) ends with either of the following weeks, whichever occurs later:

8 (i) The third week after the first week for which there is an "off" indicator;

9 or (ii) the 13th consecutive week of such period, except that no extended

10 benefit period may begin by reason of an "on" indicator before the 14th

11 week following the end of a prior extended benefit period which was in

12 effect with respect to this state.

13 (2) For the purposes of this section:

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

15 of labor determines, in accordance with the regulations of the United

16 States secretary of labor, that, for the period consisting of such week and

17 the immediately preceding 12 weeks, the rate of insured unemployment

18 (not seasonally adjusted) under this act: (i) Equaled or exceeded 5% and

19 equaled or exceeded 120% of the average of such rates for the

20 corresponding 13-week period ending in each of the preceding two

21 calendar years; ~~or (ii) and the state of Kansas pays a portion of such~~

22 ~~benefits in accordance with the provisions of K.S.A. 44-710(c)(2)(C) and~~

23 ~~44-710(e), and amendments thereto; or (ii) equaled or exceeded 5% and~~

24 ~~equaled or exceeded 120% of the average of such rates for the~~

25 ~~corresponding 13-week period ending in any or all [each] of the preceding~~

26 ~~three calendar years and such benefits are funded entirely by the United~~

27 ~~States department of labor until on or before the earlier of the latest date~~

28 ~~permitted under federal law or the end of the fourth week prior to the~~

29 ~~last week for which federal sharing is provided as authorized by section~~

30 ~~2005(a) of public law 111-5 without regard to section 2005(c) of public~~

31 ~~law 111-5; or (iii) (iv) with respect to~~

32 benefits for weeks of unemployment beginning after March 6, 1993, (a)

33 the average rate of total unemployment (seasonally adjusted), as

34 determined by the United States secretary of labor, for the period

35 consisting of the most recent three months for which data for all states are

36 published before the close of such week equals or exceeds 6.5%, and (b)

37 the average rate of total unemployment for this state (seasonally adjusted),

38 as determined by the United States secretary of labor, for the three-month

39 period referred to in clause ~~(iii)(a)~~(iv)(a)(1), equals or exceeds 110% of

40 such average for either or both of the corresponding three-month periods

41 ending in the two preceding calendar years; or (2) equals or exceeds 110%

42 of such average for any or all of the corresponding three-month periods

43 ending in ~~any or all~~ [each] of the three preceding calendar years and such

1 ~~benefits are funded entirely by the United States department of labor~~ ***until***
2 ***on or before the earlier of the latest date permitted under federal law or***
3 ***the end of the fourth week prior to the last week for which federal***
4 ***sharing is provided as authorized by section 2005(a) of public law 111-5***
5 ***without regard to section 2005(c) of public law 111-5.***

6 (B) (i) There is an "off" indicator for this state for a week if the
7 secretary of labor determines, in accordance with the regulations of the
8 United States secretary of labor, that for the period consisting of such week
9 and the immediately preceding 12 weeks, the rate of insured
10 unemployment (not seasonally adjusted) under this act: (a) *(1) Was less*
11 *than 5% or less than 120% of the average of such rates for the*
12 *corresponding 13-week period ending in each of the preceding two*
13 *calendar years; or (2) was less than 5% or less than 120% of the average*
14 *of such rates for the corresponding 13-week period ending in any or all of*
15 *the three preceding calendar years and such benefits are funded entirely*
16 ~~by the United States department of labor~~ ***until on or before the earlier of***
17 ***the latest date permitted under federal law or the end of the fourth week***
18 ***prior to the last week for which federal sharing is provided as authorized***
19 ***by section 2005(a) of public law 111-5 without regard to section 2005(c)***
20 ***of public law 111-5;*** and (b) was less than 5%.

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

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

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

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

36 (4) "Extended entitlement period" of an individual means the period
37 consisting of the weeks of the individual's benefit year which begin in an
38 extended benefit period and, if the individual's benefit year ends within
39 such extended benefit period, any weeks thereafter which begin in such
40 period.

41 (5) "Extended benefits" means benefits (including benefits payable to
42 federal civilian employees and to ex-service personnel pursuant to 5
43 U.S.C.A. chapter 85) payable to an individual under the provisions of the

1 act for weeks of unemployment in the individual's extended entitlement
2 period.

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

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

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

19 (C) (i) has no right to unemployment benefits or allowances, as the
20 case may be, under the federal railroad unemployment insurance act and
21 such other federal laws as are specified in regulations issued by the United
22 States secretary of labor; and (ii) has not received and is not seeking
23 unemployment benefits under the unemployment compensation law of
24 Canada; but if the individual is seeking such benefits and the appropriate
25 agency finally determines that the individual is not entitled to benefits
26 under such law the individual is considered an exhaustee.

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

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

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

42 (2) Computations required by the provisions of subsection (a)(3) of
43 this section shall be made by the secretary of labor, in accordance with

1 regulations prescribed by the United States secretary of labor.

2 (d) *Weekly extended benefit amount.* The weekly extended benefit
3 amount payable to an individual for a week of total unemployment in the
4 individual's extended entitlement period shall be an amount equal to the
5 regular weekly benefit amount payable to the individual during the
6 individual's applicable benefit year, except that for any week during a
7 period in which federal payments to states under section 204 of the
8 federal-state extended unemployment compensation act of 1970 are
9 reduced pursuant to an order issued under section 252 of the federal
10 balanced budget and emergency deficit control act of 1985, the weekly
11 extended benefit amount payable to an individual for a week of total
12 unemployment in the individual's eligibility period shall be reduced by a
13 percentage amount which is equivalent to the reduction in the federal
14 payment. If such reduced weekly extended benefit amount is not a
15 multiple of \$1, it shall be reduced to the next lower multiple of \$1.

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

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

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

26 (2) Effective with respect to weeks beginning in a high
27 unemployment period, the provisions of subsection (e)(1) of this section
28 shall be applied by substituting "80%" for "50%" in subparagraph (A)
29 of that subsection (e)(1), and by substituting "20" for "13" in subparagraph
30 (B) of that subsection (e)(1). For purposes of this subsection (e)(2), the
31 term "high unemployment period" means any period during which an
32 extended benefit period would be in effect if the provisions of subsection
33 (a)(2)(A)(iii) of this section were applied after substituting "8%" for
34 "6.5%" in clause (a) of that subsection (a)(2)(A)(iii).

35 (3) During any fiscal year in which federal payments to states under
36 section 204 of the federal-state extended unemployment compensation act
37 of 1970 are reduced pursuant to an order issued under section 252 of the
38 federal balanced budget and emergency deficit control act of 1985, the
39 total extended benefit amount payable to an individual with respect to the
40 individual's applicable benefit year shall be reduced by an amount equal to
41 the total of all of the reductions under subsection (d) of this section in the
42 weekly extended benefit amounts paid to the individual.

43 (f) *Eligibility requirements for extended benefits.* An individual shall

1 be eligible to receive extended benefits with respect to any week of
2 unemployment in the individual's extended entitlement period only if the
3 secretary of labor, or a person or persons designated by the secretary, finds
4 that with respect to such week:

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

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

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

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

19 (g) *Limitation on amount of combined regular, extended and trade*
20 *readjustment act benefits received.* Notwithstanding any other provisions
21 of this section or K.S.A. 44-704b, and amendments thereto, if the benefit
22 year of any individual ends within an extended entitlement period, the
23 remaining balance of extended benefits that the individual would, but for
24 this section, be entitled to receive in that extended entitlement period, with
25 respect to weeks of unemployment beginning after the end of the benefit
26 year, shall be reduced (but not below zero) by the product of the number of
27 weeks for which the individual received any amounts as trade
28 readjustment allowances within that benefit year, multiplied by the
29 individual's weekly benefit amount for extended benefits.

30 ~~Sec. 2.~~ **[3].** From and after July 1, 2010, K.S.A. 2010 Supp. 44-705
31 is hereby amended to read as follows: 44-705. Except as provided by
32 K.S.A. 44-757, and amendments thereto, an unemployed individual shall
33 be eligible to receive benefits with respect to any week only if the
34 secretary, or a person or persons designated by the secretary, finds that:

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

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

43 (c) The claimant is able to perform the duties of such claimant's

1 customary occupation or the duties of other occupations for which the
2 claimant is reasonably fitted by training or experience, and is available for
3 work, as demonstrated by the claimant's pursuit of the full course of action
4 most reasonably calculated to result in the claimant's reemployment except
5 that, notwithstanding any other provisions of this section, an unemployed
6 claimant otherwise eligible for benefits shall not become ineligible for
7 benefits: (1) Because of the claimant's enrollment in and satisfactory
8 pursuit of approved training, including training approved under section
9 236(a)(1) of the trade act of 1974; or (2) solely because such individual is
10 seeking only part-time employment if the individual is available for a
11 number of hours per week that are comparable to the individual's part-time
12 work experience in the base period.

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

16 (d) (1) Except as provided further, the claimant has been unemployed
17 for a waiting period of one week or the claimant is unemployed and has
18 satisfied the requirement for a waiting period of one week under the shared
19 work unemployment compensation program as provided in subsection (k)
20 (4) of K.S.A. 44-757, and amendments thereto, which period of one week,
21 in either case, occurs within the benefit year which includes the week for
22 which the claimant is claiming benefits. No week shall be counted as a
23 week of unemployment for the purposes of this subsection (d):

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

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

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

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

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

43 (e) For benefit years established on and after the effective date of this

1 act, the claimant has been paid total wages for insured work in the
2 claimant's base period of not less than 30 times the claimant's weekly
3 benefit amount and has been paid wages in more than one quarter of the
4 claimant's base period, except that the wage credits of an individual earned
5 during the period commencing with the end of a prior base period and
6 ending on the date on which such individual filed a valid initial claim shall
7 not be available for benefit purposes in a subsequent benefit year unless, in
8 addition thereto, such individual has returned to work and subsequently
9 earned wages for insured work in an amount equal to at least eight times
10 the claimant's current weekly benefit amount.

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

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

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

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

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

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

34 (a) If the individual left work voluntarily without good cause
35 attributable to the work or the employer, subject to the other provisions of
36 this subsection ~~(a)~~. Failure to return to work after expiration of approved
37 personal or medical leave, or both, shall be considered a voluntary
38 resignation. After a temporary job assignment, failure of an individual to
39 affirmatively request an additional assignment on the next succeeding
40 workday, if required by the employment agreement, after completion of a
41 given work assignment, shall constitute leaving work voluntarily. The
42 disqualification shall begin the day following the separation and shall
43 continue until after the individual has become reemployed and has had

1 earnings from insured work of at least three times the individual's weekly
2 benefit amount. An individual shall not be disqualified under this
3 subsection (~~Ⓢ~~) if:

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

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

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

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

29 (5) the individual left work because of hazardous working conditions;
30 in determining whether or not working conditions are hazardous for an
31 individual, the degree of risk involved to the individual's health, safety and
32 morals, the individual's physical fitness and prior training and the working
33 conditions of workers engaged in the same or similar work for the same
34 and other employers in the locality shall be considered; as used in this
35 paragraph (~~Ⓢ~~), "hazardous working conditions" means working conditions
36 that could result in a danger to the physical or mental well-being of the
37 individual; each determination as to whether hazardous working
38 conditions exist shall include, but shall not be limited to, a consideration of
39 (A) the safety measures used or the lack thereof, and (B) the condition of
40 equipment or lack of proper equipment; no work shall be considered
41 hazardous if the working conditions surrounding the individual's work are
42 the same or substantially the same as the working conditions generally
43 prevailing among individuals performing the same or similar work for

1 other employers engaged in the same or similar type of activity;

2 (6) the individual left work to enter training approved under section
3 236(a)(1) of the federal trade act of 1974, provided the work left is not of a
4 substantially equal or higher skill level than the individual's past adversely
5 affected employment (as defined for purposes of the federal trade act of
6 1974), and wages for such work are not less than 80% of the individual's
7 average weekly wage as determined for the purposes of the federal trade
8 act of 1974;

9 (7) the individual left work because of unwelcome harassment of the
10 individual by the employer or another employee of which the employing
11 unit had knowledge;

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

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

24 (10) the individual left work because of a violation of the work
25 agreement by the employing unit and, before the individual left, the
26 individual had exhausted all remedies provided in such agreement for the
27 settlement of disputes before terminating;

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

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

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

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

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

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

43 (v) the individual's reasonable belief that termination of employment

1 is necessary to avoid other situations which may cause domestic violence
2 and to provide for the future safety of the individual or the individual's
3 family.

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

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

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

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

15 (iv) medical documentation of the abuse; or

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

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

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

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

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

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

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

42 (A) Either (i) the test was required by law and was administered
43 pursuant to the drug free workplace act, 41 U.S.C. § 701 et seq., (ii) the

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

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

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

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

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

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

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

42 (3) (A) For the purposes of this subsection (~~b~~), misconduct shall
43 include, but not be limited to repeated absence, including incarceration,

1 resulting in absence from work of three days or longer, excluding
2 Saturdays, Sundays and legal holidays, and lateness, from scheduled work
3 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
6 absenteeism 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
11 absenteeism policy.

12 (B) For the purposes of this subsection ~~(b)~~, if an employee disputes
13 being absent without good cause, the employee shall present evidence that
14 a majority of the employee's absences were for good cause. If the
15 employee alleges that the employee's repeated absences were the result of
16 health related issues, such evidence shall include documentation from a
17 licensed and practicing health 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
21 individual was seeking other work or when the individual gave notice of
22 future intent to quit;

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

29 (C) the individual's refusal to perform work in excess of the contract
30 of 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
33 of 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
36 and shall continue until the individual becomes reemployed and has had
37 earnings from insured work of at least three times such individual's
38 determined weekly benefit amount. In determining whether or not any
39 work is suitable for an individual, the secretary of labor, or a person or
40 persons designated by the secretary, shall consider the degree of risk
41 involved to health, safety and morals, physical fitness and prior training,
42 experience and prior earnings, length of unemployment and prospects for
43 securing local work in the individual's customary occupation or work for

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

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

1 continuance of such labor dispute to accept the individual's available and
2 customary work at the factory, establishment or other premises where the
3 individual is or was last employed shall be considered as participation and
4 interest in the labor dispute.

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

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

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

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

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

40 (j) For any week of unemployment on the basis of service in any
41 capacity other than service in an instructional, research, or administrative
42 capacity in an educational institution, as defined in subsection (v) of
43 K.S.A. 44-703, and amendments thereto, if such week begins during the

1 period between two successive academic years or terms if the individual
2 performs such services in the first of such academic years or terms and
3 there is a reasonable assurance that the individual will perform such
4 services in the second of such academic years or terms, except that if
5 benefits are denied to the individual under this subsection (j) and the
6 individual was not offered an opportunity to perform such services for the
7 educational institution for the second of such academic years or terms,
8 such individual shall be entitled to a retroactive payment of benefits for
9 each week for which the individual filed a timely claim for benefits and for
10 which benefits were denied solely by reason of this subsection (j).

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

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

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

41 (n) For any week in which an individual is receiving a governmental
42 or other pension, retirement or retired pay, annuity or other similar
43 periodic payment under a plan maintained by a base period employer and

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

30 (o) For any week of unemployment on the basis of services
31 performed in any capacity and under any of the circumstances described in
32 subsection (i), (j) or (k) which an individual performed in an educational
33 institution while in the employ of an educational service agency. For the
34 purposes of this subsection (~~†~~), the term "educational service agency"
35 means a governmental agency or entity which is established and operated
36 exclusively for the purpose of providing such services to one or more
37 educational institutions.

38 (p) For any week of unemployment on the basis of service as a school
39 bus or other motor vehicle driver employed by a private contractor to
40 transport pupils, students and school personnel to or from school-related
41 functions or activities for an educational institution, as defined in
42 subsection (v) of K.S.A. 44-703, and amendments thereto, if such week
43 begins during the period between two successive academic years or during

1 a similar period between two regular terms, whether or not successive, if
2 the individual has a contract or contracts, or a reasonable assurance
3 thereof, to perform services in any such capacity with a private contractor
4 for any educational institution for both such academic years or both such
5 terms. An individual shall not be disqualified for benefits as provided in
6 this subsection (~~p~~) for any week of unemployment on the basis of service
7 as a bus or other motor vehicle driver employed by a private contractor to
8 transport persons to or from nonschool-related functions or activities.

9 (q) For any week of unemployment on the basis of services
10 performed by the individual in any capacity and under any of the
11 circumstances described in subsection (i), (j), (k) or (o) which are provided
12 to or on behalf of an educational institution, as defined in subsection (v) of
13 K.S.A. 44-703, and amendments thereto, while the individual is in the
14 employ of an employer which is a governmental entity, Indian tribe or any
15 employer described in section 501(c)(3) of the federal internal revenue
16 code of 1986 which is exempt from income under section 501(a) of the
17 code.

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

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

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

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

30 (s) For any week with respect to which an individual is receiving or
31 has received remuneration in the form of a back pay award or settlement.
32 The remuneration shall be allocated to the week or weeks in the manner as
33 specified in the award or agreement, or in the absence of such specificity
34 in the award or agreement, such remuneration shall be allocated to the
35 week or weeks in which such remuneration, in the judgment of the
36 secretary, would have been paid.

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

41 (2) If an employer chooses to withhold from a back pay award or
42 settlement, amounts paid to a claimant while they claimed unemployment
43 benefits, such employer shall pay the department the amount withheld.

1 With respect to such amount, the secretary shall have available all of the
2 collection remedies authorized or provided in K.S.A. 44-717, and
3 amendments thereto.

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

11 (u) If the individual was found not to have a disqualifying
12 adjudication or conviction under K.S.A. 39-970, and amendments thereto,
13 or K.S.A. 65-5117, and amendments thereto, was hired and then was
14 subsequently convicted of a disqualifying felony under K.S.A. 39-970, and
15 amendments thereto, or K.S.A. 65-5117, and amendments thereto, and
16 discharged pursuant to K.S.A. 39-970, and amendments thereto, or K.S.A.
17 65-5117, and amendments thereto. The disqualification shall begin the day
18 following the separation and shall continue until after the individual
19 becomes reemployed and has had earnings from insured work of at least
20 three times the individual's determined weekly benefit amount.

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

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

1 *computation table, with contributing employers in rate groups 33*
2 *through 51 being capped at a 5.4% contribution rate.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 *examiner or upon appeal, if timely response was impossible due to*
2 *excusable neglect. The examiner shall notify the employer of the*
3 *reconsidered determination which shall be subject to appeal, or further*
4 *reconsideration, in accordance with the provisions of K.S.A. 44-709, and*
5 *amendments thereto.*

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

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

20 *(e) Election to become reimbursing employer; payment in lieu of*
21 *contributions. (1) Any governmental entity, Indian tribes or tribal units,*
22 *(subdivisions, subsidiaries or business enterprises wholly owned by such*
23 *Indian tribes), for which services are performed as described in*
24 *subsection (i)(3)(E) of K.S.A. 44-703, and amendments thereto, or any*
25 *nonprofit organization or group of nonprofit organizations described in*
26 *section 501(c)(3) of the federal internal revenue code of 1986 which is*
27 *exempt from income tax under section 501(a) of such code, that becomes*
28 *subject to the employment security law may elect to become a*
29 *reimbursing employer under this subsection (e)(1) and agree to pay the*
30 *secretary for the employment security fund an amount equal to the*
31 *amount of regular benefits and ½ of the extended benefits paid that are*
32 *attributable to service in the employ of such reimbursing employer,*
33 *except that each reimbursing governmental employer, Indian tribes or*
34 *tribal units shall pay an amount equal to the amount of regular benefits*
35 *and extended benefits paid for weeks of unemployment beginning after*
36 *December 31, 1978, for governmental employers and December 21,*
37 *2000, for Indian tribes or tribal units to individuals for weeks of*
38 *unemployment which begin during the effective period of such election.*

39 *(A) Any employer identified in this subsection (e)(1) may elect to*
40 *become a reimbursing employer for a period encompassing not less than*
41 *four complete calendar years if such employer files with the secretary a*
42 *written notice of such election within the 30-day period immediately*
43 *following January 1 of any calendar year or within the 30-day period*

1 *immediately following the date on which a determination of subjectivity*
2 *to the employment security law is issued, whichever occurs later.*

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

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

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

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

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

39 *(A) At the end of each calendar quarter, or at the end of any other*
40 *period as determined by the secretary, the secretary shall bill each*
41 *reimbursing employer, except the state of Kansas, (i) an amount to be*
42 *paid which is equal to the full amount of regular benefits plus ½ of the*
43 *amount of extended benefits paid during such quarter or other*

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

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

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

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

25 *(E) Past due payments of amounts certified by the secretary under*
26 *this section shall be subject to the same interest, penalties and actions*
27 *required by K.S.A. 44-717, and amendments thereto. (1) If any nonprofit*
28 *organization or group of nonprofit organizations described in section*
29 *501(c)(3) of the federal internal revenue code of 1986 or governmental*
30 *reimbursing employer is delinquent in making payments of amounts*
31 *certified by the secretary under this section, the secretary may terminate*
32 *such employer's election to make payments in lieu of contributions as of*
33 *the beginning of the next calendar year and such termination shall be*
34 *effective for such next calendar year and the calendar year thereafter so*
35 *that the termination is effective for two complete calendar years. (2)*
36 *Failure of the Indian tribe or tribal unit to make required payments,*
37 *including assessment of interest and penalty within 90 days of receipt of*
38 *the bill will cause the Indian tribe to lose the option to make payments in*
39 *lieu of contributions as described pursuant to paragraph (e)(1) for the*
40 *following tax year unless payment in full is received before contribution*
41 *rates for the next tax year are calculated. (3) Any Indian tribe that loses*
42 *the option to make payments in lieu of contributions due to late payment*
43 *or nonpayment, as described in paragraph (2), shall have such option*

1 *reinstated, if after a period of one year, all contributions have been made*
2 *on time and no contributions, payments in lieu of contributions for*
3 *benefits paid, penalties or interest remain outstanding.*

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

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

1 *effective for the current and next calendar year.*

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

32 *(3) Allocation of benefit costs. The reimbursing account of each*
33 *reimbursing employer shall be charged the full amount of regular*
34 *benefits and ½ of the amount of extended benefits paid except that each*
35 *reimbursing governmental employer's account shall be charged the full*
36 *amount of regular benefits and extended benefits paid for weeks of*
37 *unemployment beginning after December 31, 1978, to individuals whose*
38 *entire base period wage credits are from such employer. When benefits*
39 *received by an individual are based upon base period wage credits from*
40 *more than one employer then the reimbursing employer's or*
41 *reimbursing governmental employer's account shall be charged in the*
42 *same ratio as base period wage credits from such employer bear to the*
43 *individual's total base period wage credits. Notwithstanding any other*

1 *provision of the employment security law, no reimbursing employer's or*
2 *reimbursing governmental employer's account shall be charged for*
3 *payments of extended benefits which are wholly reimbursed to the state*
4 *by the federal government.*

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

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

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

1 *for establishment, maintenance and termination of group accounts that*
2 *are authorized by this subsection (e)(4), for addition of new members to,*
3 *and withdrawal of active members from such accounts, and for the*
4 *determination of the amounts that are payable under this subsection (e)*
5 *(4) by members of the group and the time and manner of such payments.*

6 Sec. ~~4-7~~ [6]. K.S.A. 2010 Supp. 44-710a is hereby amended to read as
7 follows: 44-710a. (a) *Classification of employers by the secretary.* The
8 term "employer" as used in this section refers to contributing employers.
9 The secretary shall classify employers in accordance with their actual
10 experience in the payment of contributions on their own behalf and with
11 respect to benefits charged against their accounts with a view of fixing
12 such contribution rates as will reflect such experience. If, as of the date
13 such classification of employers is made, the secretary finds that any
14 employing unit has failed to file any report required in connection
15 therewith, or has filed a report which the secretary finds incorrect or
16 insufficient, the secretary shall make an estimate of the information
17 required from such employing unit on the basis of the best evidence
18 reasonably available to the secretary at the time, and notify the employing
19 unit thereof by mail addressed to its last known address. Unless such
20 employing unit shall file the report or a corrected or sufficient report as the
21 case may be, within 15 days after the mailing of such notice, the secretary
22 shall compute such employing unit's rate of contributions on the basis of
23 such estimates, and the rate as so determined shall be subject to increase
24 but not to reduction on the basis of subsequently ascertained information.
25 The secretary shall determine the contribution rate of each employer in
26 accordance with the requirements of this section.

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

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

36 (ii) For rate years prior to 2007, employers who are not eligible for a
37 rate computation shall pay contributions at an assigned rate equal to the
38 sum of 1% plus the greater of the average rate assigned in the preceding
39 calendar year to all employers in such industry sector or the average rate
40 assigned to all covered employers during the preceding calendar year,
41 except that in no instance shall any such assigned rate be less than 2%.
42 Employers engaged in more than one type of industrial activity shall be
43 classified by principal activity. All rates assigned will remain in effect for a

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

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

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

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

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

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

34 (D) As of each computation date, the total of the taxable wages paid
35 during the 12-month period prior to the computation date by all employers
36 eligible for rate computation, except negative account balance employers,
37 shall be divided into 51 approximately equal parts designated in column A
38 of schedule I as "rate groups," except, with regard to a year in which the
39 taxable wage base changes. The taxable wages used in the calculation for
40 such a year and the following year shall be an estimate of what the taxable
41 wages would have been if the new taxable wage base had been in effect
42 during the entire twelve-month period prior to the computation date. The
43 lowest numbered of such rate groups shall consist of the employers with

1 the most favorable reserve ratios, as defined in this section, whose
 2 combined taxable wages paid are less than 1.96% of all taxable wages paid
 3 by all eligible employers. Each succeeding higher numbered rate group
 4 shall consist of employers with reserve ratios that are less favorable than
 5 those of employers in the preceding lower numbered rate groups and
 6 whose taxable wages when combined with the taxable wages of employers
 7 in all lower numbered rate groups equal the appropriate percentage of total
 8 taxable wages designated in column B of schedule I. Each eligible
 9 employer, other than a negative account balance employer, shall be
 10 assigned an experience factor designated under column C of schedule I in
 11 accordance with the rate group to which the employer is assigned on the
 12 basis of the employer's reserve ratio and taxable payroll. If an employer's
 13 taxable payroll falls into more than one rate group the employer shall be
 14 assigned the experience factor of the lower numbered rate group. If one or
 15 more employers have reserve ratios identical to that of the last employer
 16 included in the next lower numbered rate group, all such employers shall
 17 be assigned the experience factor designated to such last employer,
 18 notwithstanding the position of their taxable payroll in column B of
 19 schedule I.

20

21 SCHEDULE I—Eligible Employers

22 Column A	Column B	Column C
23 Rate	Cumulative	Experience factor
24 group	taxable payroll	(Ratio to total wages)
25 1	Less than 1.96%.....	025%
26 2	1.96% but less than 3.92.....	40
27 3	3.92 but less than 5.88.....	80
28 4	5.88 but less than 7.84.....	12
29 5	7.84 but less than 9.80.....	16
30 6	9.80 but less than 11.76.....	20
31 7	11.76 but less than 13.72.....	24
32 8	13.72 but less than 15.68.....	28
33 9	15.68 but less than 17.64.....	32
34 10	17.64 but less than 19.60.....	36
35 11	19.60 but less than 21.56.....	40
36 12	21.56 but less than 23.52.....	44
37 13	23.52 but less than 25.48.....	48
38 14	25.48 but less than 27.44.....	52
39 15	27.44 but less than 29.40.....	56
40 16	29.40 but less than 31.36.....	60
41 17	31.36 but less than 33.32.....	64
42 18	33.32 but less than 35.28.....	68
43 19	35.28 but less than 37.24.....	72

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

33 (E) Negative account balance employers shall, in addition to paying
 34 the rate provided for in subsection (a)(2)(B) of this section, pay a
 35 surcharge based on the size of the employer's negative reserve ratio, the
 36 calculation which is provided for in subsection (a)(2) of this section. The
 37 amount of the surcharge shall be determined from ~~column B of schedule H~~
 38 ~~of this section~~ **column B2 of schedule II of this section for calendar**
 39 **years 2012, 2013, 2014 and from column B1 of schedule II of this**
 40 **section for each calendar year after 2014.** Each negative account balance
 41 employer who does not satisfy the requirements to have an average annual
 42 payroll, as defined by subsection (a)(2) of K.S.A. 44-703, and amendments
 43 thereto, shall be assigned a surcharge of **2% equal to the maximum**

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

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

23 [(i) For each calendar year 2012, 2013 and 2014, an additional
24 0.10% of the taxable wages paid by all negative account balance
25 employers with a negative reserve ratio between 0.0% and 19.9% shall
26 be designated an interest assessment surcharge and paid into the
27 employment security interest assessment fund for the purpose of
28 paying interest due and owing on funds received from the federal
29 unemployment account under title XII of the social security act. The
30 total surcharges assessed, including the additional 0.10% surcharge
31 mentioned above, on such employers are listed in schedule II column
32 B2. For the calendar year 2015, and each calendar year thereafter, the
33 surcharge rate for negative balance employers with a negative reserve
34 ratio between 0.0% and 19.9% shall be as listed in schedule II column
35 B1.

36 [(ii) For the calendar year 2012, and each calendar year thereafter,
37 an additional surcharge on negative balance employers with negative
38 reserve ratio of 20.0% and higher shall be designated an interest
39 assessment surcharge and deposited in the employment security
40 interest assessment fund. The additional surcharge shall be used for
41 the purposes of paying interest due and owing on fund received from
42 the federal unemployment account under title XII of the social
43 security act. The total surcharge including the additional surcharge

1 **on such employers is listed in schedule II column B3 of this section;**

2 ~~##~~**(iii)** for any succeeding year in which interest is due and owing
 3 on funds received from the federal unemployment account under title XII
 4 of the social security act, the secretary of labor may adjust the amount of
 5 such surcharge necessary to pay such interest;

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

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

23
 24 **SCHEDULE II—Surcharge on Negative Accounts**

25 Column A	Column B
26 Negative Reserve Ratio	27 Surcharge as a percent
	28 of taxable wages-
29 Less than 2.0%.....	0.20%
30 2.0% but less than 4.0.....	40
31 4.0 but less than 6.0.....	60
32 6.0 but less than 8.0.....	80
33 8.0 but less than 10.0.....	1.00
34 10.0 but less than 12.0.....	1.20
35 12.0 but less than 14.0.....	1.40
36 14.0 but less than 16.0.....	1.60
37 16.0 but less than 18.0.....	1.80
38 18.0 and over.....	2.00

39 Column A	Column B1	Column B2
40 Negative Reserve Ratio	Surcharge as a percent	Surcharge as a
41 percent		percent
	42 of taxable wages	of taxable wages

1			
2	<i>Less than 2.0%</i>	<i>0.20%</i>	<i>0.30%</i>
3	<i>2.0% but less than 4.0</i>	<i>0.40</i>	<i>0.50</i>
4	<i>4.0 but less than 6.0</i>	<i>0.60</i>	<i>0.70</i>
5	<i>6.0 but less than 8.0</i>	<i>0.80</i>	<i>0.90</i>
6	<i>8.0 but less than 10.0</i>	<i>1.00</i>	<i>1.10</i>
7	<i>10.0 but less than 12.0</i>	<i>1.20</i>	<i>1.30</i>
8	<i>12.0 but less than 14.0</i>	<i>1.40</i>	<i>1.50</i>
9	<i>14.0 but less than 16.0</i>	<i>1.60</i>	<i>1.70</i>
10	<i>16.0 but less than 18.0</i>	<i>1.80</i>	<i>1.90</i>
11	<i>18.0 but less than 20.0</i>	<i>2.00</i>	<i>2.10</i>
12	<i>20.0 but less than 22.0</i>	<i>2.20</i>	<i>2.20</i>
13	<i>22.0 but less than 24.0</i>	<i>2.40</i>	<i>2.40</i>
14	<i>24.0 but less than 26.0</i>	<i>2.60</i>	<i>2.60</i>
15	<i>26.0 but less than 28.0</i>	<i>2.80</i>	<i>2.80</i>
16	<i>28.0 but less than 30.0</i>	<i>3.00</i>	<i>3.00</i>
17	<i>30.0 but less than 32.0</i>	<i>3.20</i>	<i>3.20</i>
18	<i>32.0 but less than 34.0</i>	<i>3.40</i>	<i>3.40</i>
19	<i>34.0 but less than 36.0</i>	<i>3.60</i>	<i>3.60</i>
20	<i>36.0 but less than 38.0</i>	<i>3.80</i>	<i>3.80</i>
21	<i>38.0 and over</i>	<i>4.00</i>	<i>4.00</i>
22			

23	[Column A	Column B1	Column B2	Column
24	B3			
25	Negative Reserve Ratio	Surcharge as a percent	Surcharge as a percent	Surcharge as a
26	percent			percent
27		of taxable wages	of taxable wages	of taxable wages
28				
29	Less than 2.0%.....	0.20%.....	0.30%	
30	2.0% but less than 4.0	0.40.....	0.50	
31	4.0 but less than 6.0.....	0.60.....	0.70	
32	6.0 but less than 8.0.....	0.80.....	0.90	
33	8.0 but less than 10.0.....	1.00.....	1.10	
34	10.0 but less than 12.0.....	1.20.....	1.30	
35	12.0 but less than 14.0.....	1.40.....	1.50	
36	14.0 but less than 16.0.....	1.60.....	1.70	
37	16.0 but less than 18.0.....	1.80.....	1.90	
38	18.0 but less than 20.0.....	2.00.....	2.10	
39	20.0 but less than 22.0.....	2.00.....	2.20	2.20
40	22.0 but less than 24.0.....	2.00.....	2.40	2.40
41	24.0 but less than 26.0.....	2.00.....	2.60	2.60
42	26.0 but less than 28.0.....	2.00.....	2.80	2.80
43	28.0 but less than 30.0.....	2.00.....	3.00	3.00

1 30.0 but less than 32.0.....2.00.....3.20
 2 32.0 but less than 34.0.....2.00.....3.40
 3 34.0 but less than 36.0.....2.00.....3.60
 4 36.0 but less than 38.0.....2.00.....3.80
 5 38.0 and over.....2.00.....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
 14 the state legislature, whether or not withdrawn from the trust fund, and
 15 excluding contributions not yet paid on July 31 by total payrolls for
 16 contributing 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.....	22 0.00
23 4.475 but less than 4.500.....	23 0.01
24 4.450 but less than 4.475.....	24 0.02
25 4.425 but less than 4.450.....	25 0.03
26 4.400 but less than 4.425.....	26 0.04
27 4.375 but less than 4.400.....	27 0.05
28 4.350 but less than 4.375.....	28 0.06
29 4.325 but less than 4.350.....	29 0.07
30 4.300 but less than 4.325.....	30 0.08
31 4.275 but less than 4.300.....	31 0.09
32 4.250 but less than 4.275.....	32 0.10
33 4.225 but less than 4.250.....	33 0.11
34 4.200 but less than 4.225.....	34 0.12
35 4.175 but less than 4.200.....	35 0.13
36 4.150 but less than 4.175.....	36 0.14
37 4.125 but less than 4.150.....	37 0.15
38 4.100 but less than 4.125.....	38 0.16
39 4.075 but less than 4.100.....	39 0.17
40 4.050 but less than 4.075.....	40 0.18
41 4.025 but less than 4.050.....	41 0.19
42 4.000 but less than 4.025.....	42 0.20
43 3.950 but less than 4.000.....	43 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~~
 6 ~~clause (ii), the~~ The planned yield as a percent of total wages, as
 7 determined in this subsection (a)(3), shall be adjusted to taxable wages by
 8 multiplying by the ratio of total wages to taxable wages for all contributing
 9 employers for the preceding fiscal year ending June 30, ~~except, with~~
 10 ~~regard to a year in which the taxable wage base changes. The taxable~~
 11 ~~wages used in the calculation for such a year and the following year shall~~
 12 ~~be an estimate of what the taxable wages would have been if the new~~
 13 ~~taxable wage base had been in effect during all of the preceding fiscal year~~
 14 ~~ending June 30 , except, with regard to a year in which the taxable~~
 15 ~~wage base changes. The taxable wages used in the calculation for such~~
 16 ~~a year and the following year shall be an estimate of what the taxable~~
 17 ~~wages would have been if the new taxable wage base had been in effect~~
 18 ~~during all of the preceding fiscal year ending June 30.~~

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

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

35 (ii) For rate year 2007 and subsequent rate years, employers who are
 36 current in filing quarterly wage reports and in payment of all contributions
 37 due and owing, shall be issued a contribution rate based upon the
 38 following reduction: for rate groups 1 through 5, the rates would be
 39 reduced to 0.00%; for rate groups 6 through 28, the rates would be reduced
 40 by 50%; for rate groups 29 through 51, the rates would be reduced by
 41 40%.

42 (iii) In order to be eligible for the reduced rates for rate year 2007, the
 43 employer must file all late reports and pay all contributions due and owing

1 within a 30-day period following the date of mailing of the amended rate
2 notice.

3 (iv) In order to be eligible for the reduced rates for rate year 2008 and
4 subsequent rate years, employers must file all reports due and pay all
5 contributions due and owing on or before January 31 of the applicable
6 year, except that the reduced rates for otherwise eligible employers shall
7 not be effective for any rate year if the average high cost multiple of the
8 employment security trust fund balance falls below 1.2 as of the
9 computation date of that year's rates. For the purposes of this provision,
10 the average high cost multiple is the reserve fund ratio, as defined by
11 subsection (a)(3)(A), divided by the average high benefit cost rate. The
12 average high benefit cost rate shall be determined by averaging the three
13 highest benefit cost rates over the last 20 years from the preceding fiscal
14 year which ended June 30. The high benefit cost rate is defined by dividing
15 total benefits paid in the fiscal year by total payrolls for covered employers
16 in the fiscal year.

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

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

42 (2) A successor employer as defined by subsection (h)(4) or
43 subsection (dd) of K.S.A. 44-703, and amendments thereto, may receive

1 the experience rating factors of the predecessor employer if an application
2 is made to the secretary or the secretary's designee in writing within 120
3 days of the date of the transfer.

4 (3) Whenever an employing unit, whether or not it is an "employing
5 unit" within the meaning of subsection (g) of K.S.A. 44-703, and
6 amendments thereto, acquires or in any manner succeeds to a percentage
7 of an employer's annual payroll which is less than 100% and intends to
8 continue the acquired percentage as a going business, the employing unit
9 may acquire the same percentage of the predecessor's experience factors if:

10 (A) The predecessor employer and successor employing unit make an
11 application in writing on the form prescribed by the secretary, (B) the
12 application is submitted within 120 days of the date of the transfer, (C) the
13 successor employing unit is or becomes an employer subject to this act
14 immediately after the transfer, (D) the percentage of the experience rating
15 factors transferred shall not be thereafter used in computing the
16 contribution rate for the predecessor employer, and (E) the secretary finds
17 that such transfer will not tend to defeat or obstruct the object and
18 purposes of this act.

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

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

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

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

38 (5) Whenever an employing unit is not an employer at the time it
39 acquires the trade or business of an employer, the unemployment
40 experience factors of the acquired business shall not be transferred to such
41 employing unit if the secretary finds that such employing unit acquired the
42 business solely or primarily for the purpose of obtaining a lower rate of
43 contributions. Instead, such employing unit shall be assigned the

1 applicable industry rate for a "new employer" as described in subsection
2 (a)(1) of this section. In determining whether the business was acquired
3 solely or primarily for the purpose of obtaining a lower rate of
4 contributions, the secretary shall use objective factors which may include
5 the cost of acquiring the business, whether the employer continued the
6 business enterprise of the acquired business, how long such business
7 enterprise was continued, or whether a substantial number of new
8 employees were hired for performance of duties unrelated to the business
9 activity conducted prior to acquisition.

10 (6) Whenever an employer's account has been terminated as provided
11 in subsections (d) and (e) of K.S.A. 44-711, and amendments thereto, and
12 the employer continues with employment to liquidate the business
13 operations, that employer shall continue to be an "employer" subject to the
14 employment security law as provided in subsection (h)(8) of K.S.A. 44-
15 703, and amendments thereto. The rate of contribution from the date of
16 transfer to the end of the then current calendar year shall be the same as
17 the contribution rate prior to the date of the transfer. At the completion of
18 the then current calendar year, the rate of contribution shall be that of a
19 "new employer" as described in subsection (a)(1) of this section.

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

27 (c) *Voluntary contributions.* Notwithstanding any other provision of
28 the employment security law, any employer may make voluntary payments
29 for the purpose of reducing or maintaining a reduced rate in addition to the
30 contributions required under this section. Such voluntary payments may be
31 made only during the thirty-day period immediately following the date of
32 mailing of experience rating notices for a calendar year. All such voluntary
33 contribution payments shall be paid prior to the expiration of 120 days
34 after the beginning of the year for which such rates are effective. The
35 amount of voluntary contributions shall be credited to the employer's
36 account as of the next preceding computation date and the employer's rate
37 shall be computed accordingly, except that no employer's rate shall be
38 reduced more than five rate groups as provided in schedule I of this section
39 as the result of a voluntary payment. An employer not having a negative
40 account balance may have such employer's rate reduced not more than five
41 rate groups as provided in schedule I of this section as a result of a
42 voluntary payment. An employer having a negative account balance may
43 have such employer's rate reduced to that prescribed for rate group 51 of

1 schedule I of this section by making a voluntary payment in the amount of
2 such negative account balance or to that rate prescribed for rate groups 50
3 through 47 of schedule I of this section by making an additional voluntary
4 payment that would increase such employer's reserve ratio to the lower
5 limit required for such rate groups 50 through 47. Under no circumstances
6 shall voluntary payments be refunded in whole or in part.

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

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

41 (e) (f) The secretary of labor shall annually prepare and submit a
42 certification as to the solvency and adequacy of the amount credited to the
43 state of Kansas' account in the federal employment security trust fund to

1 the governor and the employment security advisory council. The
2 certification shall be submitted on or before December 1 of each calendar
3 year and shall be for the 12-month period ending on June 30 of that
4 calendar year. In arriving at the certification contributions paid on or
5 before July 31 following the 12-month period ending date of June 30 shall
6 be considered. Each certification shall be used to determine the need for
7 any adjustment to schedule III in subsection (a)(3)(A) and to assist in
8 preparing legislation to accomplish any such adjustment.

9 ~~Sec. 5. § [7].~~ K.S.A. 2010 Supp. 44-717 is hereby amended to read as
10 follows: 44-717. (a) (1) *Penalties on past-due reports, interest on past-due*
11 *contributions, payments in lieu of contributions ~~and benefit cost payments,~~*
12 *benefit cost payments and interest assessments made under K.S.A. 44-*
13 *710a, and amendments thereto.* Any employer or any officer or agent of an
14 employer, who fails to file any wage report or contribution return by the
15 last day of the month following the close of each calendar quarter to which
16 they are related shall pay a penalty as provided by this subsection ~~(a)~~
17 for each month or fraction of a month until the report or return is received by
18 the secretary of labor except that for calendar years 2010 and 2011 an
19 employer or any officer or agent of the employer shall have up to 90 days
20 past the due date for any of the first three calendar quarters in a calendar
21 year to pay such employer's contribution without being charged any
22 interest, however, when the 90 day period has passed, the provisions of
23 this section shall apply. The penalty for each month or fraction of a month
24 shall be an amount equal to .05% of the total wages paid by the employer
25 during the quarter, except that no penalty shall be less than \$25 nor more
26 than \$200 for each such report or return not timely filed. ~~Contributions and~~
27 ~~benefit cost payments,~~ *benefit cost payments and interest assessments*
28 *made pursuant to K.S.A. 44-710a, and amendments thereto,* unpaid by the
29 last day of the month following the last calendar quarter to which they are
30 related and payments in lieu of contributions unpaid 30 days after the
31 mailing of the statement of benefit charges, shall bear interest at the rate of
32 1% per month or fraction of a month until payment is received by the
33 secretary of labor except that an employing unit, which is not theretofore
34 subject to this law and which becomes an employer and does not refuse to
35 make the reports, returns and contributions, payments in lieu of
36 contributions and benefit cost payments required under this law, shall not
37 be liable for such penalty or interest if the wage reports and contribution
38 returns required are filed and the contributions, payments in lieu of
39 contributions or benefit cost payments required are paid within 10 days
40 following notification by the secretary of labor that a determination has
41 been made fixing its status as an employer subject to this law. Upon
42 written request and good cause shown, the secretary of labor may abate
43 any penalty or interest or portion thereof provided for by this subsection

1 (~~¶~~). Interest amounting to less than \$5 shall be waived by the secretary of
2 labor and shall not be collected. Penalties and interest collected pursuant to
3 this subsection shall be paid into the special employment security fund.
4 For all purposes under this section, amounts assessed as surcharges under
5 subsection (j) or under K.S.A. 44-710a, and amendments thereto, shall be
6 considered to be contributions and shall be subject to penalties and interest
7 imposed under this section and to collection in the manner provided by
8 this section. *For all purposes under this section, amounts assessed under*
9 *K.S.A. 44-710a, and amendments thereto, shall be subject to penalties and*
10 *interest imposed under this section and to collection in the manner*
11 *provided in this section.* For purposes of this subsection, a wage report, a
12 contribution return, a contribution, a payment in lieu of contribution ~~or a~~
13 ~~benefit cost payment~~, *a benefit cost payment or an interest assessment*
14 *made pursuant to K.S.A. 44-710a, and amendments thereto,* is deemed to
15 be filed or paid as of the date it is placed in the United States mail.

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

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

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

22 (iii) could cause the Indian tribe to be excepted from the definition of
23 "employer," as provided in paragraph (h)(3) of K.S.A. 44-703, and
24 amendments thereto, and services in the employ of the Indian tribe, as
25 provided in paragraph (i)(3)(E) of K.S.A. 44-703, and amendments
26 thereto, to be excepted from "employment."

27 (b) *Collection.* (1) If, after due notice, any employer defaults in
28 payment of any penalty, contributions, payments in lieu of contributions,
29 benefit cost payments, *interest assessments made pursuant to K.S.A. 44-*
30 *710a, and amendments thereto,* or interest thereon the amount due may be
31 collected by civil action in the name of the secretary of labor and the
32 employer adjudged in default shall pay the cost of such action. Civil
33 actions brought under this section to collect contributions, payments in lieu
34 of contributions, benefit cost payments, *interest assessments made*
35 *pursuant to K.S.A. 44-710a, and amendments thereto,* penalties, or interest
36 thereon from an employer shall be heard by the district court at the earliest
37 possible date and shall be entitled to preference upon the calendar of the
38 court over all other civil actions except petitions for judicial review under
39 this act and cases arising under the workmen's compensation act. All
40 liability determinations of contributions due, payments in lieu of
41 contributions ~~or benefit cost payments~~, *benefit cost payments and interest*
42 *assessments made pursuant to K.S.A. 44-710a, and amendments thereto,*
43 due shall be made within a period of five years from the date such

1 contributions, payments in lieu of contributions ~~or benefit cost payments,~~
2 *benefit cost payments and interest assessments made pursuant to K.S.A.*
3 *44-710a, and amendments thereto,* were due except such determinations
4 may be made for any time when an employer has filed fraudulent reports
5 with intent to evade liability.

6 (2) Any employing unit which is not a resident of this state and which
7 exercises the privilege of having one or more individuals perform service
8 for it within this state and any resident employing unit which exercises that
9 privilege and thereafter removes from this state, shall be deemed thereby
10 to appoint the secretary of state as its agent and attorney for the acceptance
11 of process in any civil action under this subsection. In instituting such an
12 action against any such employing unit the secretary of labor shall cause
13 such process or notice to be filed with the secretary of state and such
14 service shall be sufficient service upon such employing unit and shall be of
15 the same force and validity as if served upon it personally within this state.
16 The secretary of labor shall send notice immediately of the service of such
17 process or notice, together with a copy thereof, by registered or certified
18 mail, return receipt requested, to such employing unit at its last-known
19 address and such return receipt, the affidavit of compliance of the secretary
20 of labor with the provisions of this section, and a copy of the notice of
21 service, shall be appended to the original of the process filed in the court in
22 which such civil action is pending.

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

30 (c) *Priorities under legal dissolutions or distributions.* In the event of
31 any distribution of employer's assets pursuant to an order of any court
32 under the laws of this state, including but not limited to any probate
33 proceeding, interpleader, receivership, assignment for benefit of creditors,
34 adjudicated insolvency, composition or similar proceedings, contributions
35 ~~or payments in lieu of contributions~~ *payments in lieu of contributions or*
36 *interest assessments made under K.S.A. 44-710a, and amendments thereto,*
37 then or thereafter due shall be paid in full from the moneys which shall
38 first come into the estate, prior to all other claims, except claims for wages
39 of not more than \$250 to each claimant, earned within six months of the
40 commencement of the proceedings. In the event of an employer's
41 adjudication in bankruptcy, judicially confirmed extension proposal, or
42 composition, under the federal bankruptcy act of 1898, as amended,
43 contributions then or thereafter due shall be entitled to such priority as is

1 provided in that act for taxes due any state of the United States.

2 (d) *Assessments.* If any employer fails to file a report or return
3 required by the secretary of labor for the determination of contributions, or
4 payments in lieu of contributions, or benefit cost payments, the secretary
5 of labor may make such reports or returns or cause the same to be made,
6 on the basis of such information as the secretary may be able to obtain and
7 shall collect the contributions, payments in lieu of contributions or benefit
8 cost payments as determined together with any interest due under this act.
9 The secretary of labor shall immediately forward to the employer a copy
10 of the assessment by registered or certified mail to the employer's address
11 as it appears on the records of the agency, and such assessment shall be
12 final unless the employer protests such assessment and files a corrected
13 report or return for the period covered by the assessment within 15 days
14 after the mailing of the copy of assessment. Failure to receive such notice
15 shall not invalidate the assessment. Notice in writing shall be presumed to
16 have been given when deposited as certified or registered matter in the
17 United States mail, addressed to the person to be charged with notice at
18 such person's address as it appears on the records of the agency.

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

1 (2) *Authority of secretary or authorized representative.* If any
2 employer or person who is liable to pay any contributions, payments in
3 lieu of contributions ~~or benefit cost payments~~, *benefit cost payments and*
4 *interest assessments made pursuant to K.S.A. 44-710a, and amendments*
5 *thereto*, including interest and penalty, neglects or refuses to pay the same
6 within 10 days after notice and demand therefor, the secretary or the
7 secretary's authorized representative may collect such contributions,
8 payments in lieu of contributions ~~or benefit cost payments~~, *benefit cost*
9 *payments and interest assessments made pursuant to K.S.A. 44-710a, and*
10 *amendments thereto*, including interest and penalty, and such further
11 amount as is sufficient to cover the expenses of the levy, by levy upon all
12 property and rights to property which belong to the employer or person or
13 which have a lien created thereon by this subsection (~~e~~) for the payment of
14 such contributions, payments in lieu of contributions ~~or benefit cost~~
15 ~~payments~~, *benefit cost payments and interest assessments made pursuant*
16 *to K.S.A. 44-710a, and amendments thereto*, including interest and penalty.
17 As used in this subsection (~~e~~), "property" includes all real property and
18 personal property, whether tangible or intangible, except such property
19 which is exempt under K.S.A. 60-2301 et seq., and amendments thereto.
20 Levy may be made upon the accrued salary or wages of any officer,
21 employee or elected official of any state or local governmental entity
22 which is subject to K.S.A. 60-723, and amendments thereto, by serving a
23 notice of levy as provided in subsection (d) of K.S.A. 60-304, and
24 amendments thereto. If the secretary or the secretary's authorized
25 representative makes a finding that the collection of the amount of such
26 contributions, payments in lieu of contributions ~~or benefit cost payments~~,
27 *benefit cost payments and interest assessments made pursuant to K.S.A.*
28 *44-710a, and amendments thereto*, including interest and penalty, is in
29 jeopardy, notice and demand for immediate payment of such amount may
30 be made by the secretary or the secretary's authorized representative and,
31 upon failure or refusal to pay such amount, immediate collection of such
32 amount by levy shall be lawful without regard to the 10-day period
33 provided in this subsection (~~e~~).

34 (3) *Seizure and sale of property.* The authority to levy granted under
35 this subsection (~~e~~) includes the power of seizure by any means. A levy
36 shall extend only to property possessed and obligations existing at the time
37 thereof. In any case in which the secretary or the secretary's authorized
38 representative may levy upon property or rights to property, the secretary
39 or the secretary's authorized representative may seize and sell such
40 property or rights to property.

41 (4) *Successive seizures.* Whenever any property or right to property
42 upon which levy has been made under this subsection (~~e~~) is not sufficient
43 to satisfy the claim of the secretary for which levy is made, the secretary or

1 the secretary's authorized representative may proceed thereafter and as
2 often as may be necessary, to levy in like manner upon any other property
3 or rights to property which belongs to the employer or person against
4 whom such claim exists or upon which a lien is created by this subsection
5 ~~(e)~~ until the amount due from the employer or person, together with all
6 expenses, is fully paid.

7 (f) *Warrant.* In addition or as an alternative to any other remedy
8 provided by this section and provided that no appeal or other proceeding
9 for review permitted by this law shall then be pending and the time for
10 taking thereof shall have expired, the secretary of labor or an authorized
11 representative of the secretary may issue a warrant certifying the amount
12 of contributions, payments in lieu of contributions, benefit cost payments,
13 interest or penalty, and the name of the employer liable for same after
14 giving 15 days prior notice. Upon request, service of final notices shall be
15 made by the sheriff within the sheriff's county, by the sheriff's deputy or
16 some person specially appointed by the secretary for that purpose, or by
17 the secretary's designee. A person specially appointed by the secretary or
18 the secretary's designee to serve final notices may make service any place
19 in the state. Final notices shall be served as follows:

20 (1) *Individual.* Service upon an individual, other than a minor or
21 incapacitated person, shall be made by delivering a copy of the final notice
22 to the individual personally or by leaving a copy at such individual's
23 dwelling house or usual place of abode with some person of suitable age
24 and discretion then residing therein, by leaving a copy at the business
25 establishment of the employer with an officer or employee of the
26 establishment, or by delivering a copy to an agent authorized by
27 appointment or by law to receive service of process, but if the agent is one
28 designated by a statute to receive service, such further notice as the statute
29 requires shall be given. If service as prescribed above cannot be made
30 with due diligence, the secretary or the secretary's designee may order
31 service to be made by leaving a copy of the final notice at the employer's
32 dwelling house, usual place of abode or business establishment.

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

42 (3) *Refusal to accept service.* In all cases when the person to be
43 served, or an agent authorized by such person to accept service of petitions

1 and summonses, shall refuse to receive copies of the final notice, the offer
2 of the duly authorized process server to deliver copies thereof and such
3 refusal shall be sufficient service of such notice.

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

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

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

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

26 (B) The secretary of labor or an authorized representative of the
27 secretary may file the warrant for record in the office of the clerk of the
28 district court in the county in which the employer owing such
29 contributions, payments in lieu of contributions, benefit cost payments,
30 *interest assessments made pursuant to K.S.A. 44-710a, and amendments*
31 *thereto*, interest, or penalty has business property. The warrant shall certify
32 the amount of contributions, payments in lieu of contributions, benefit cost
33 payments, interest and penalty due, and the name of the employer liable
34 for such amount. It shall be the duty of the clerk of the district court to file
35 such warrant of record and enter the warrant in the records of the district
36 court for judgment and decrees under the procedure prescribed for filing
37 transcripts of judgment.

38 (C) The clerk shall enter, on the day the warrant is filed, the case on
39 the appearance docket, together with the amount and the time of filing the
40 warrant. From the time of filing such warrant, the amount of the
41 contributions, payments in lieu of contributions, benefit cost payments,
42 *interest assessments made pursuant to K.S.A. 44-710a, and amendments*
43 *thereto*, interest, and penalty, certified therein, shall have the force and

1 effect of a judgment of the district court until the same is satisfied by the
2 secretary of labor or an authorized representative or attorney for the
3 secretary. Execution shall be issuable at the request of the secretary of
4 labor, an authorized representative or attorney for the secretary, as is
5 provided in the case of other judgments.

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

8 (E) Warrants shall be satisfied of record by payment to the clerk of
9 the district court of the contributions, payments in lieu of contributions,
10 benefit cost payments, *interest assessments made pursuant to K.S.A. 44-*
11 *710a, and amendments thereto*, penalty, interest to date, and court costs.
12 Warrants may also be satisfied of record by payment to the clerk of the
13 district court of all court costs accrued in the case and by filing a
14 certificate by the secretary of labor, certifying that the contributions,
15 payments in lieu of contributions, benefit cost payments, *interest*
16 *assessments made pursuant to K.S.A. 44-710a, and amendments thereto*,
17 interest and penalty have been paid.

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

23 (h) *Refunds.* If any individual, governmental entity or organization
24 makes application for refund or adjustment of any amount paid as
25 contributions, benefit cost payments, *interest assessments made pursuant*
26 *to K.S.A. 44-710a, and amendments thereto*, or interest under this law and
27 the secretary of labor determines that such amount or any portion thereof
28 was erroneously collected, except for amounts less than \$5, the secretary
29 of labor shall allow such individual or organization to make an adjustment
30 thereof, in connection with subsequent contribution payments, or if such
31 adjustment cannot be made the secretary of labor shall refund the amount,
32 except for amounts less than \$5, from the employment security fund,
33 except that all interest erroneously collected which has been paid into the
34 special employment security fund shall be refunded out of the special
35 employment security fund. No adjustment or refund shall be allowed with
36 respect to a payment as contributions, ~~benefit cost payments~~, *interest*
37 *assessments made pursuant to K.S.A. 44-710a, and amendments thereto*, or
38 interest unless an application therefor is made on or before whichever of
39 the following dates is later: (1) One year from the date on which such
40 payment was made; or (2) three years from the last day of the period with
41 respect to which such payment was made. For like cause and within the
42 same period adjustment or refund may be so made on the secretary's own
43 initiative. The secretary of labor shall not be required to refund any

1 contributions, payments in lieu of contributions or benefit cost payments
2 based upon wages paid which have been used as base-period wages in a
3 determination of a claimant's benefit rights when justifiable and correct
4 payments have been made to the claimant as the result of such
5 determination. For all taxable years commencing after December 31, 1997,
6 interest at the rate prescribed in K.S.A. 79-2968, and amendments thereto,
7 shall be allowed on a contribution or benefit cost payment which the
8 secretary has determined was erroneously collected pursuant to this
9 section.

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

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

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

35 (j) Any officer, major stockholder or other person who has charge of
36 the affairs of an employer, which is an employing unit described in section
37 501(c)(3) of the federal internal revenue code of 1954 or which is any
38 other corporate organization or association, or any member or manager of
39 a limited liability company, or any public official, who willfully fails to
40 pay the amount of contributions, payments in lieu of contributions ~~or~~
41 ~~benefit cost payments~~, *benefit cost payments and interest assessments*
42 *made pursuant to K.S.A. 44-710a, and amendments thereto*, required to be
43 paid under the employment security law on the date on which such amount

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

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

19 (1) Wage reports, contribution returns and payments due after June
20 30, 2008, for those employers with 250 or more employees or third party
21 administrators with 250 or more client employees at the time such filing or
22 payment is first due;

23 (2) wage reports, contribution returns and payments due after June
24 30, 2009, for those employers with 100 or more employees or third party
25 administrators with 100 or more client employees at the time such filing or
26 payment is first due; and

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

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

35 **[Sec. 8. K.S.A. 2010 Supp. 44-712 is hereby amended to read as**
36 **follows: 44-712. (a) *Establishment and control.* There is hereby**
37 **established as a special fund in the state treasury, separate and apart**
38 **from all public moneys or funds of this state, an employment security**
39 **fund, which shall be administered by the secretary as provided in this**
40 **act. This fund shall consist of: (1) All contributions collected under**
41 **this act; (2) interest earned upon any moneys in the fund; (3) all**
42 **moneys credited to this state's account in the federal unemployment**
43 **trust fund, pursuant to section 903 of the social security act, 42**

1 U.S.C.A. § 1103, as amended; (4) any property or securities acquired
2 through the use of moneys belonging to the fund, and all other moneys
3 received for the fund from any other source; (5) all earnings of such
4 property or securities. All moneys in this fund shall be mingled and
5 undivided.

6 (b) *Accounts and deposits.* The state treasurer shall be ex officio
7 custodian of the fund. Payments from the fund, and for the purposes
8 of this act deposits with the secretary of the treasury of the United
9 States shall not be deemed to be payments from the fund, shall be
10 made by any commercially-accepted means approved by the secretary.
11 There shall be maintained within the fund three separate accounts: (1)
12 A clearing account; (2) an unemployment trust fund account, and (3) a
13 benefit account. All money payable to the fund upon receipt thereof by
14 the secretary, shall be remitted to the state treasurer in accordance
15 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
16 receipt of each such remittance, the state treasurer shall deposit the
17 entire amount in the state treasury to the credit of the clearing
18 account of the fund. Refunds payable pursuant to K.S.A. 44-717, and
19 amendments thereto, may be paid from the clearing account of the
20 fund by any commercially-accepted means approved by the secretary.
21 After clearance thereof, all other moneys in the clearing account of the
22 fund shall be immediately deposited with the secretary of the treasury
23 of the United States of America to the credit of the account of this state
24 in the federal unemployment trust fund established and maintained
25 pursuant to section 904 of the social security act, 42 U.S.C.A. § 1104, as
26 amended, any provisions of law in this state relating to the deposit,
27 administration, release, or disbursement of moneys in the possession
28 or custody of this state to the contrary notwithstanding. The benefit
29 account of the fund shall consist of all moneys requisitioned from this
30 state's account in the federal unemployment trust fund. Except as
31 herein otherwise provided, moneys in the clearing and benefit
32 accounts of the fund may be deposited by the state treasurer in any
33 bank or public depository as is now provided by law for the deposit of
34 general funds of the state, but no public deposit insurance charge or
35 premium shall be paid out of the fund. Moneys in the clearing and
36 benefit accounts of the fund shall not be commingled with other state
37 funds and shall be maintained in separate bank accounts.

38 (c) *Withdrawals.* Moneys shall be requisitioned from this state's
39 account in the federal unemployment trust fund solely for the
40 payment of benefits and in accordance with the provisions of this act
41 and the rules and regulations adopted by the secretary, except that
42 moneys credited to this state's account pursuant to section 903 of the
43 social security act, 42 U.S.C.A. § 1103, as amended, shall be used

1 exclusively as provided in subsection (d) of this section. The secretary
2 shall from time to time requisition from the federal unemployment
3 trust fund such amounts, not exceeding the amounts standing to its
4 account therein, as deemed necessary for the payment of benefits for a
5 reasonable future period. Upon receipt thereof the state treasurer shall
6 deposit such moneys in the benefit account of the fund and payments
7 of benefits shall be charged solely against such benefit account of the
8 fund. Expenditures of such moneys in the benefit account and refunds
9 from the clearing account of the fund shall not be subject to any
10 provisions of law requiring specific appropriations. Any balance of
11 moneys requisitioned from the federal unemployment trust fund
12 which remains unclaimed or unpaid in the benefit account of the fund
13 after the expiration of the period for which such sums were
14 requisitioned shall either be deducted from estimates for, and may be
15 utilized for the payment of benefits during succeeding periods, or, in
16 the discretion of the secretary shall be directed to be redeposited with
17 the secretary of the treasury of the United States of America, to the
18 credit of this state's account in the federal unemployment trust fund,
19 as provided in subsection (b) of this section. All balances accrued from
20 unpaid or canceled warrants issued pursuant to this section,
21 notwithstanding the provisions of K.S.A. 10-812, and amendments
22 thereto, shall remain in the benefit account of the fund, and be
23 disbursed in accordance with the provisions of this act relating to such
24 account.

25 (d) *Administrative use.* (1) Money credited to the account of this
26 state in the federal unemployment trust fund by the secretary of the
27 treasury of the United States of America, pursuant to section 903
28 of the social security act, 42 U.S.C.A. §1103, as amended, may be
29 requisitioned and used for the payment of expenses incurred in the
30 administration of this act pursuant to a specific appropriation by the
31 legislature, if expenses are incurred and the money is requisitioned
32 after the enactment of an appropriation law which: (A) Specifies the
33 purposes for which such money is appropriated and the amounts
34 appropriated therefor, (B) limits the period within which such money
35 may be obligated to a period ending not more than two years after the
36 date of the enactment of the appropriation law, and (C) limits the
37 amount which may be obligated during a twelve-month period
38 beginning on July 1 and ending on the next June 30 to an amount
39 which does not exceed the amount by which (i) the aggregate of the
40 amounts credited to the account of this state pursuant to section 903
41 of the social security act, 42 U.S.C.A. §1103, as amended, (ii) the
42 aggregate of the amounts obligated pursuant to this subsection and
43 amounts paid out for benefits and charged against the amounts

1 credited to the account of this state. For the purposes of this
2 subsection, amounts obligated during any such twelve-month period
3 shall be charged against equivalent amounts which were first credited
4 and which are not already so charged.

5 (2) Money credited to the account of this state pursuant to section
6 903 of the social security act, 42 U.S.C.A. § 1103, as amended, may not
7 be withdrawn or obligated except for the payment of benefits and for
8 the payment of expenses for the administration of this act and of
9 public employment offices pursuant to this subsection (d).

10 (3) Money appropriated as provided by this subsection (d) for the
11 payment of expenses of administration shall be requisitioned as
12 needed for the payment of obligations incurred under such
13 appropriation and, upon requisition shall be deposited in the state
14 treasury to the credit of the employment security administration fund
15 from which such payments shall be made. Money so deposited and
16 credited shall, until expended, remain a part of the federal
17 unemployment trust fund, and, if it will not be expended, shall be
18 returned promptly to the account of this state in the federal
19 unemployment trust fund.

20 (4) Notwithstanding paragraph (1), money credited with respect
21 to federal fiscal years 1999, 2000 and 2001, shall be used solely for the
22 administration of the UC program, and such money shall not
23 otherwise be subject to the requirements of paragraph (1) when
24 appropriated by the legislature.

25 (e) *Management of funds upon discontinuance of federal*
26 *unemployment trust fund.* The provisions of subsections (a), (b), (c) and
27 (d) of this section, to the extent that they relate to the federal
28 unemployment trust fund, shall be operative only so long as such
29 unemployment trust fund continues to exist and so long as the
30 secretary of the treasury of the United States of America continues to
31 maintain for this state a separate book account of all funds deposited
32 therein by this state for benefit purposes, together with this state's
33 proportionate share of the earnings of such unemployment trust fund,
34 from which no other state is permitted to make withdrawals. If and
35 when such unemployment trust fund ceases to exist, or such separate
36 book account is no longer maintained, all moneys, properties or
37 securities therein, belonging to the employment security fund of this
38 state, shall be transferred to the state treasurer, to be administered by
39 the secretary as a trust fund for the purpose of paying benefits under
40 this act, and the director of investments upon the direction of the
41 secretary shall have authority to hold, invest, transfer, sell, deposit,
42 and release such moneys, and any properties, securities, or earnings
43 acquired as an incident to such administration.

1 (f) *Loans from the pooled money investment board, when authorized.*
2 (1) *Pursuant to K.S.A. 2010 Supp. 75-4209(d), and amendments thereto,*
3 *the pooled money investment board is hereby authorized and directed to*
4 *make loans as requested by the secretary of labor to fund debt obligations*
5 *to the federal government as may have been, or continue to be, incurred*
6 *by the employment security fund.*

7 (A) *The line of credit so extended shall be at an interest rate not to*
8 *exceed 2%; and*

9 (B) *shall remain in effect for a period of three years from the date of*
10 *the first loan requested. The pooled money investment board may*
11 *reauthorize this line of credit following the initial three year period if*
12 *deemed mutually beneficial by the board and the secretary of labor.*

13 (2) *The secretary of labor is hereby authorized to request and receive*
14 *loans from the pooled money investment fund for the purposes described*
15 *herein.*

16 (3) *The outstanding balances of such loans in the aggregate shall not*
17 *exceed the limit imposed by K.S.A. 2010 Supp. 75-4209(d), and*
18 *amendments thereto.*

19 (4) *Any such loan shall not be deemed to be an indebtedness or debt*
20 *of the state of Kansas within the meaning of section 6 of article 11 of the*
21 *constitution of the state of Kansas.*

22 (5) *The pooled money investment board, secretary of labor, and state*
23 *treasurer shall coordinate as needed to make the appropriate transfers*
24 *and payment of moneys anticipated hereunder.*

25 **Sec. 9. K.S.A. 2010 Supp. 44-718 is hereby amended to read as**
26 **follows: 44-718. (a) Waiver of rights void. No agreement by an**
27 **individual to waive, release or commute such individual's rights to**
28 **benefits or any other rights under this act shall be valid. No agreement**
29 **by any individual in the employ of any person or concern to pay all or**
30 **any portion of an employer's contribution or payments in lieu of**
31 **contributions required under this act from such employer, shall be**
32 **valid. No employer shall directly or indirectly make or require or**
33 **accept any deduction from remuneration to finance the employer's**
34 **contributions required from such employer, or require or accept any**
35 **waiver of any right hereunder by any individual in such employer's**
36 **employ. Any employer or officer or agent of an employer who violates**
37 **any provision of this subsection shall, for each offense, be fined not**
38 **less than \$100 nor more than \$1,000 or be imprisoned for not more**
39 **than six months, or both.**

40 **(b) Limitation of fees. No individual claiming benefits shall be**
41 **charged fees of any kind in any proceeding under this act by the**
42 **secretary of labor or representatives of the secretary or by any court**
43 **or any officer thereof. Any individual claiming benefits in any**

1 proceeding before the secretary of labor or a court may be represented
2 by counsel or other duly authorized agent, but no such counsel or
3 agents shall either charge or receive for such services more than an
4 amount approved by the secretary of labor. Any person who violates
5 any provision of this subsection shall, for each such offense, be fined
6 not less than \$50 nor more than \$500, or imprisoned for not more than
7 six months, or both.

8 (c) *No assignment of benefits; exemptions.* No assignment, pledge
9 or encumbrance of any right to benefits which are or may become due
10 or payable under this act shall be valid; and such rights to benefits
11 shall be exempt from levy, except in accordance with section 6331 of
12 the federal internal revenue code of 1986, and shall be exempt from,
13 execution, attachment, or any other remedy whatsoever provided for
14 the collection of debt; and benefits received by an individual, so long
15 as they are not mingled with other funds of the recipient, shall be
16 exempt from any remedy whatsoever for the collection of all debts
17 except debts incurred for necessities furnished to such individual or
18 such individual's spouse or dependents during the time when such
19 individual was unemployed. No waiver of any exemption provided for
20 in this subsection shall be valid.

21 (d) *Support exception.*(1) An individual filing a new claim for
22 unemployment compensation shall, at the time of filing such claim,
23 disclose whether or not the individual owes support obligations as
24 defined under paragraph (7). If any such individual discloses that such
25 individual owes support obligations, and is determined to be eligible
26 for unemployment compensation, the secretary shall notify the state or
27 local support enforcement agency enforcing such obligation that the
28 individual has been determined to be eligible for unemployment
29 compensation.

30 (2) The secretary shall deduct and withhold from any
31 unemployment compensation payable to an individual that owes
32 support obligations as defined under paragraph (7):

33 (A) The amount specified by the individual to the secretary to be
34 deducted and withheld under this subsection, if neither (B) nor (C) is
35 applicable; or

36 (B) the amount, if any, determined pursuant to an agreement
37 submitted to the secretary under section 454(20)(B)(i) of the social
38 security act by the state or local support enforcement agency, unless
39 subparagraph (C) is applicable; or

40 (C) any amount otherwise required to be so deducted and
41 withheld from such unemployment compensation pursuant to legal
42 process (as that term is defined in section 459(i)(5) of the social
43 security act) properly served upon the secretary.

1 **(3) Any amount deducted and withheld under paragraph (2) shall**
2 **be paid by the secretary to the appropriate state or local support**
3 **enforcement agency.**

4 **(4) Any amount deducted and withheld under paragraph (2) shall**
5 **for all purposes be treated as if it were paid to the individual as**
6 **unemployment compensation and paid by such individual to the state**
7 **or local support enforcement agency in satisfaction of the individual's**
8 **support obligations.**

9 **(5) For purposes of paragraphs (1) through (4), "unemployment**
10 **compensation" means any compensation payable under the**
11 **employment security law after application of the recoupment**
12 **provisions of subsection (d) of K.S.A. 44-719, and amendments**
13 **thereto, (including amounts payable by the secretary pursuant to an**
14 **agreement under any federal law providing for compensation,**
15 **assistance or allowances with respect to unemployment).**

16 **(6) This subsection applies only if appropriate arrangements have**
17 **been made for imbursement by the state or local support enforcement**
18 **agency for the administrative costs incurred by the secretary under**
19 **this section which are attributable to support obligations being**
20 **enforced by the state or local support enforcement agency.**

21 **(7) For the purposes of this subsection, "support obligations"**
22 **means only those obligations which are being enforced pursuant to a**
23 **plan described in section 454 of the federal social security act which**
24 **has been approved by the secretary of health and human services**
25 **under part D of title IV of the federal social security act.**

26 **(8) For the purposes of this subsection, "state or local support**
27 **enforcement agency" means any agency of this state or a political**
28 **subdivision thereof operating pursuant to a plan described in**
29 **paragraph (7).**

30 **(e) (1) An individual filing a new claim for unemployment**
31 **compensation shall, at the time of filing such claim, be advised that:**

32 **(A) Unemployment compensation is subject to federal, state and**
33 **local income tax;**

34 **(B) requirements exist pertaining to estimated tax payments;**

35 **(C) the individual may elect to have federal income tax deducted**
36 **and withheld from the individual's payment of unemployment**
37 **compensation at the amount specified in the federal internal revenue**
38 **code;**

39 **(D) the individual may elect to have state income tax deducted and**
40 **withheld at the rate of 3.5% from the individual's payment of**
41 **unemployment compensation; and**

42 ~~(D)~~ **(E) the individual shall be permitted to change a previously**
43 **elected withholding status.**

1 (2) Amounts deducted and withheld from unemployment
2 compensation shall remain in the unemployment fund until
3 transferred to the federal *or state* taxing authority as a payment of
4 income tax.

5 (3) The secretary shall follow all procedures specified by the
6 United States department of labor and the federal internal revenue
7 service pertaining to the deducting and withholding of income tax.

8 (4) Amounts shall be deducted and withheld under this section
9 only after amounts are deducted and withheld for any overpayments
10 of unemployment compensation, child support obligations, food stamp
11 overissuances or any other amounts required to be deducted and
12 withheld under this act.

13 (f) (1) An individual filing a new claim for unemployment
14 compensation at the time of filing such claim, shall disclose whether or
15 not such individual owes an uncollected overissuance (as defined in
16 section 13(c)(1) of the Food Stamp Act of 1977) of food stamp coupons.
17 The secretary shall notify the state food stamp agency enforcing such
18 obligation of any individual who discloses that such individual owes an
19 uncollected overissuance of food stamps and who is determined to be
20 eligible for unemployment compensation.

21 (2) The secretary shall deduct and withhold from any
22 unemployment compensation payable to an individual who owes an
23 uncollected overissuance:

24 (A) The amount specified by the individual to the secretary to be
25 deducted and withheld under this clause;

26 (B) the amount (if any) determined pursuant to an agreement
27 submitted to the state food stamp agency under section 13(c)(3)(A) of
28 the Food Stamp Act of 1977; or

29 (C) any amount otherwise required to be deducted and withheld
30 from unemployment compensation pursuant to section 13(c)(3)(B) of
31 such act.

32 (3) Any amount deducted and withheld under this section shall be
33 paid by the secretary to the appropriate state food stamp agency.

34 (4) Any amount deducted and withheld under subsection (b) shall
35 for all purposes be treated as if it were paid to the individual as
36 unemployment compensation and paid by such individual to the state
37 food stamp agency as repayment of the individual's uncollected
38 overissuance.

39 (5) For purposes of this section, the term "unemployment
40 compensation" means any compensation payable under this act
41 including amounts payable by the secretary pursuant to an agreement
42 under any federal law providing for compensation, assistance, or
43 allowances with respect to unemployment.

1 **(6) This section applies only if arrangements have been made for**
2 **reimbursement by the state food stamp agency for the administrative**
3 **costs incurred by the secretary under this section which are**
4 **attributable to the repayment of uncollected overissuances to the state**
5 **food stamp agency.]**

6 ~~Sec. 6. **9** [10].~~ K.S.A. 2010 Supp. ~~44-704a, 44-710a~~ **44-703, 44-704a,**
7 **44-710, 44-710a and 44-717**], **44-712, 44-717 and 44-718**] are hereby
8 repealed.

9 ~~Sec. 7. **10** [11].~~ On July 1, 2011, K.S.A. 2010 Supp. ~~44-705 and 44-~~
10 ~~706~~ **44-703, 44-705, 44-706 and 44-710** **44-705 and 44-706** are hereby
11 repealed.

12 ~~Sec. 8. **11** [12].~~ This act shall take effect and be in force from and
13 after its publication in the Kansas register.

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