

As Amended by House Committee

Session of 2023

HOUSE BILL No. 2401

By Committee on Commerce, Labor and Economic Development

2-10

1 AN ACT concerning employment security law; relating to the definition of
2 "benefit year" and "temporary unemployment"; requiring electronic
3 filing of wage reports, contribution returns and payments and interest
4 assessments for employers with 25 or more employees; permitting the
5 exercise of discretion in the number of appointments and length of
6 terms with respect to the temporarily expanded employment security
7 board of review members; extending when the mandatory combination
8 of rates and the establishment of a new account due to a business
9 acquisition must occur from the beginning of the following quarter to
10 the beginning of the following year; **requiring the secretary to create**
11 **an audit process within the new unemployment insurance**
12 **information technology system to permit employers to submit**
13 **reports regarding work search, the my reemployment plan and**
14 **claimants who do not provide notification or appear for scheduled**
15 **interviews; providing for notices by the secretary to active**
16 **employers regarding work search noncompliance reporting**
17 **options; authorizing the legislative coordinating council to extend**
18 **the new unemployment insurance information technology system**
19 **implementation date as often as deemed appropriate by the**
20 **council, requiring the secretary to notify the council of the need for**
21 **an extension and permitting retroactive extension if necessary;**
22 **authorizing the secretary to extend temporary unemployment up to**
23 **four weeks upon request by employers; amending K.S.A. 44-705,**
24 **44-709 and, 44-717 and 44-772 and K.S.A. 2022 Supp. 44-703 and,**
25 **44-710a and 44-775 and repealing the existing sections.**

26
27 *Be it enacted by the Legislature of the State of Kansas:*

28 Section 1. K.S.A. 2022 Supp. 44-703 is hereby amended to read as
29 follows: 44-703. As used in this act, unless the context clearly requires
30 otherwise:

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

33 (2) "Average annual payroll" means the average of the annual
34 payrolls of any employer for the last three calendar years immediately
35 preceding the computation date as hereinafter defined if the employer has
36 been continuously subject to contributions during those three calendar

1 years and has paid some wages for employment during each of such years.
2 In determining contribution rates for the calendar year, if an employer has
3 not been continuously subject to contribution for the three calendar years
4 immediately preceding the computation date but has paid wages subject to
5 contributions during only the two calendar years immediately preceding
6 the computation date, such employer's "average annual payroll" shall be
7 the average of the payrolls for those two calendar years.

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

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

16 (1) If an individual lacks sufficient base period wages in order to
17 establish a benefit year in the manner set forth above and satisfies the
18 requirements of *subsection (hh) and K.S.A. 44-705(g) and K.S.A. 44-*
19 *703(hh)*, and amendments thereto, the claimant shall have an alternative
20 base period substituted for the current base period so as not to prevent
21 establishment of a valid claim. For the purposes of this subsection,
22 "alternative base period" means the last four completed quarters
23 immediately preceding the date the qualifying injury occurred. In the event
24 the wages in the alternative base period have been used on a prior claim,
25 then they shall be excluded from the new alternative base period.

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

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

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

35 (d) "Benefit year" with respect to any individual, means the period
36 beginning with the ~~first day~~ *Sunday* of the first week for which such
37 individual files a valid claim for benefits, and such benefit year shall
38 continue for one full year. In the case of a combined wage claim, the
39 benefit year shall be the benefit year of the paying state. Following the
40 termination of a benefit year, a subsequent benefit year shall commence on
41 the ~~first day~~ *Sunday* of the first week with respect to which an individual
42 next files a claim for benefits. ~~When such filing occurs with respect to a~~
43 ~~week that overlaps the preceding benefit year, the subsequent benefit year~~

1 shall commence on the first day immediately following the expiration date
2 of the preceding benefit year. Any claim for benefits made in accordance
3 with K.S.A. 44-709(a), and amendments thereto, shall be deemed to be a
4 "valid claim" for the purposes of this subsection if the individual has been
5 paid wages for insured work as required under K.S.A. 44-705(e), and
6 amendments thereto. ~~Whenever a week of unemployment overlaps two~~
7 ~~benefit years, such week shall, for the purpose of granting waiting period~~
8 ~~credit or benefit payment with respect thereto, be deemed to be a week of~~
9 ~~unemployment within that benefit year in which the greater part of such~~
10 ~~week occurs.~~

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

12 (f) (1) "Contributions" means the money payments to the state
13 employment security fund that are required to be made by employers on
14 account of employment under K.S.A. 44-710, and amendments thereto,
15 and voluntary payments made by employers pursuant to such statute.

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

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

37 (h) "Employer" means:

38 (1) (A) Any employing unit for which agricultural labor as defined in
39 subsection (w) is performed and during any calendar quarter in either the
40 current or preceding calendar year paid remuneration in cash of \$20,000 or
41 more to individuals employed in agricultural labor or for some portion of a
42 day in each of 20 different calendar weeks, whether or not such weeks
43 were consecutive, in either the current or the preceding calendar year,

1 employed in agricultural labor 10 or more individuals, regardless of
2 whether they were employed at the same moment of time.

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

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

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

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

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

20 (ii) such other person shall be treated as having paid cash
21 remuneration to such individual in an amount equal to the amount of cash
22 remuneration paid to such individual by the crew leader, either on the crew
23 leader's own behalf or on behalf of such other person, for the services in
24 agricultural labor performed for such other person.

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

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

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

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

35 (2) (A) Any employing unit that for calendar year 2007 and each
36 calendar year thereafter: (i) In any calendar quarter in either the current or
37 preceding calendar year paid for services in employment wages of \$1,500
38 or more; (ii) for some portion of a day in each of 20 different calendar
39 weeks, whether or not such weeks were consecutive, in either the current
40 or preceding calendar year, had in employment at least one individual,
41 whether or not the same individual was in employment in each such day;
42 or (iii) elects to have an unemployment tax account established at the time
43 of initial registration in accordance with K.S.A. 44-711(c), and

1 amendments thereto.

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

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

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

13 (B) any employing unit that is controlled substantially, either directly
14 or indirectly by legally enforceable means or otherwise, by the same
15 interest or interests, whether or not such interest or interests are an
16 employing unit under subsection (g), acquires or in any manner succeeds
17 to a portion of an employer's annual payroll, is less than 100% of such
18 employer's annual payroll, and intends to continue the acquired portion as
19 a going business.

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

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

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

28 (8) Any employing unit not an employer by reason of any other
29 paragraph of this subsection (h), for which within either the current or
30 preceding calendar year services in employment are or were performed
31 with respect to which such employing unit is liable for any federal tax
32 against which credit may be taken for contributions required to be paid
33 into a state unemployment compensation fund; or that, as a condition for
34 approval of this act for full tax credit against the tax imposed by the
35 federal unemployment tax act, is required, pursuant to such act, to be an
36 "employer" under this act.

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

1 (i) "Employment" means:

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

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

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

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

11 (i) As an agent-driver or commission-driver engaged in distributing
12 meat products, vegetable products, fruit products, bakery products,
13 beverages, other than milk, or laundry or dry-cleaning services, for such
14 individual's principal; or

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

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

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

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

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

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

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

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

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

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

42 (A) Services performed within this state but not covered by the
43 provisions of subsection (i)(1) or subsection (i)(2) shall be deemed to be

1 employment subject to this act if contributions are not required and paid
2 with respect to such services under an unemployment compensation law of
3 any other state or of the federal government.

4 (B) Services performed entirely without this state, with respect to no
5 part of which contributions are required and paid under an unemployment
6 compensation law of any other state or of the federal government, shall be
7 deemed to be employment subject to this act only if the individual
8 performing such services is a resident of this state and the secretary
9 approved the election of the employing unit for whom such services are
10 performed that the entire service of such individual shall be deemed to be
11 employment subject to this act.

12 (C) Services covered by an arrangement pursuant to K.S.A. 44-
13 714(j), and amendments thereto, between the secretary and the agency
14 charged with the administration of any other state or federal
15 unemployment compensation law, pursuant to which all services
16 performed by an individual for an employing unit are deemed to be
17 performed entirely within this state, shall be deemed to be employment if
18 the secretary has approved an election of the employing unit for whom
19 such services are performed, pursuant to which the entire service of such
20 individual during the period covered by such election is deemed to be
21 insured work.

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

27 (E) Services performed by an individual in the employ of a state or
28 any instrumentality thereof, any political subdivision of a state or any
29 instrumentality thereof, or in the employ of an Indian tribe, as defined
30 pursuant to section 3306(u) of the federal unemployment tax act, any
31 instrumentality of more than one of the foregoing or any instrumentality
32 that is jointly owned by this state or a political subdivision thereof or
33 Indian tribes and one or more other states or political subdivisions of this
34 or other states, provided that such service is excluded from "employment"
35 as defined in the federal unemployment tax act by reason of section
36 3306(c)(7) of that act and is not excluded from "employment" under
37 subsection (i)(4)(A) of this section. For purposes of this section, the
38 exclusions from employment in subsections (i)(4)(A) and (i)(4)(L) shall
39 also be applicable to services performed in the employ of an Indian tribe.

40 (F) Services performed by an individual in the employ of a religious,
41 charitable, educational or other organization that is excluded from the term
42 "employment" as defined in the federal unemployment tax act solely by
43 reason of section 3306(c)(8) of that act, and is not excluded from

1 employment under subsection (i)(4)(I) through (M).

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

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

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

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

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

13 (c) the employer is a partnership or a trust and the number of the
14 partners or trustees who are residents of this state is greater than the
15 number who are residents of any other state; or

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

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

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

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

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

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

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

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

40 (K) Domestic service in a private home, local college club or local
41 chapter of a college fraternity or sorority performed for a person who paid
42 cash remuneration of \$1,000 or more in any calendar quarter in the current
43 calendar year or the preceding calendar year to individuals employed in

1 such domestic service.

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

5 (i) As an elected official;

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

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

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

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

16 (B) services with respect to which unemployment compensation is
17 payable under an unemployment compensation system established by an
18 act of congress;

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

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

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

1 entirely within the jurisdiction of such other state or federal agency;

2 (F) services performed by an individual under the age of 18 in the
3 delivery or distribution of newspapers or shopping news, not including
4 delivery or distribution to any point for subsequent delivery or
5 distribution;

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

10 (H) services performed in any calendar quarter in the employ of any
11 organization exempt from income tax under section 501(a) of the federal
12 internal revenue code of 1986, other than an organization described in
13 section 401(a) or under section 521 of such code, if the remuneration for
14 such service is less than \$50. In construing the application of the term
15 "employment," if services performed during $\frac{1}{2}$ or more of any pay period
16 by an individual for the person employing such individual constitute
17 employment, all the services of such individual for such period shall be
18 deemed to be employment; but if the services performed during more than
19 $\frac{1}{2}$ of any such pay period by an individual for the person employing such
20 individual do not constitute employment, then none of the services of such
21 individual for such period shall be deemed to be employment. As used in
22 this subsection (i)(4)(H) the term "pay period" means a period, of not more
23 than 31 consecutive days, for which a payment of remuneration is
24 ordinarily made to the individual by the person employing such individual.
25 This subsection (i)(4)(H) shall not be applicable with respect to services
26 with respect to which unemployment compensation is payable under an
27 unemployment compensation system established by an act of congress;

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

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

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

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

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

1 remunerative work;

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

7 (M) services performed by an inmate of a custodial or correctional
8 institution;

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

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

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

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

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

34 (ii) the services performed by the individual are performed pursuant
35 to a written contract between such individual and the person for whom the
36 services are performed and such contract provides that the individual will
37 not be treated as an employee with respect to such services for state tax
38 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 this
42 subsection, the term "extra" means an individual who pantomimes in the
43 background, adds atmosphere to the set and performs such actions without

1 speaking and "employer" shall not include any employer that is a
2 governmental entity or any employer described in section 501(c)(3) of the
3 federal internal revenue code of 1986 that is exempt from income taxation
4 under section 501(a) of the code;

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

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

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

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

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

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

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

36 (i) Such person:

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

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

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

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

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

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

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

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

42 (Z) services performed by a petroleum landman on a contractual
43 basis. As used in this subparagraph, "petroleum landman" means an

1 individual performing services on a contractual basis who is not an
2 individual who is an active officer of a corporation as described in
3 subsection (i)(1)(A) that may include:

4 (i) Negotiating for the acquisition or divestiture of mineral rights;
5 (ii) negotiating business agreements that provide exploration for or
6 development of minerals;
7 (iii) determining ownership in minerals through the research of public
8 and private records;

9 (iv) reviewing the status of title, curing title defects, providing title
10 due diligence and otherwise reducing title risk associated with ownership
11 in minerals or the acquisition and divestiture of mineral properties;

12 (v) managing rights or obligations derived from ownership of
13 interests in minerals; or

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

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

23 (k) "Fund" means the employment security fund established by this
24 act, to which all contributions and reimbursement payments required and
25 from which all benefits provided under this act shall be paid and including
26 all money received from the federal government as reimbursements
27 pursuant to section 204 of the federal-state extended compensation act of
28 1970, and amendments thereto.

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

32 (m) "Unemployment." An individual shall be deemed "unemployed"
33 with respect to any week during which such individual performs no
34 services and with respect to which no wages are payable to such
35 individual, or with respect to any week of less than full-time work if the
36 wages payable to such individual with respect to such week are less than
37 such individual's weekly benefit amount.

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

41 (o) "Wages" means all compensation for services, including
42 commissions, bonuses, back pay and the cash value of all remuneration,
43 including benefits, paid in any medium other than cash. The reasonable

1 cash value of remuneration in any medium other than cash, shall be
2 estimated and determined in accordance with rules and regulations
3 prescribed by the secretary. Compensation payable to an individual that
4 has not been actually received by that individual within 21 days after the
5 end of the pay period in which the compensation was earned shall be
6 considered to have been paid on the 21st day after the end of that pay
7 period. Effective January 1, 1986, gratuities, including tips received from
8 persons other than the employing unit, shall be considered wages when
9 reported in writing to the employer by the employee. Employees must
10 furnish a written statement to the employer, reporting all tips received if
11 they total \$20 or more for a calendar month whether the tips are received
12 directly from a person other than the employer or are paid over to the
13 employee by the employer. This includes amounts designated as tips by a
14 customer who uses a credit card to pay the bill. Notwithstanding the other
15 provisions of this subsection (o), wages paid in back pay awards or
16 settlements shall be allocated to the week or weeks and reported in the
17 manner as specified in the award or agreement, or, in the absence of such
18 specificity in the award or agreement, such wages shall be allocated to the
19 week or weeks in which such wages, in the judgment of the secretary,
20 would have been paid. The term "wages" shall not include:

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

42 (2) the amount of any payment, including any amount paid by an
43 employing unit for insurance or annuities, or into a fund, to provide for

1 any such payment, made to, or on behalf of, an employee or any of such
2 employee's dependents under a plan or system established by an employer
3 that makes provisions for employees generally, for a class or classes of
4 employees or for such employees or a class or classes of employees and
5 their dependents, on account of: (A) Sickness or accident disability, except
6 in the case of any payment made to an employee or such employee's
7 dependents, this subparagraph shall exclude from the term "wages" only
8 payments that are received under a workers compensation law. Any third
9 party that makes a payment included as wages by reason of this
10 subparagraph (2)(A) shall be treated as the employer with respect to such
11 wages; or (B) medical and hospitalization expenses in connection with
12 sickness or accident disability; or (C) death;

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

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

20 (A) From or to a trust described in section 401(a) of the federal
21 internal revenue code of 1986 that is exempt from tax under section 501(a)
22 of the federal internal revenue code of 1986 at the time of such payment
23 unless such payment is made to an employee of the trust as remuneration
24 for services rendered as such employee and not as a beneficiary of the
25 trust;

26 (B) under or to an annuity plan that, at the time of such payment, is a
27 plan described in section 403(a) of the federal internal revenue code of
28 1986;

29 (C) under a simplified employee pension as defined in section 408(k)
30 (1) of the federal internal revenue code of 1986, other than any
31 contribution described in section 408(k)(6) of the federal internal revenue
32 code of 1986;

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

37 (E) under or to an exempt governmental deferred compensation plan
38 as defined in section 3121(v)(3) of the federal internal revenue code of
39 1986;

40 (F) to supplement pension benefits under a plan or trust described in
41 any of the foregoing provisions of this subparagraph to take into account
42 some portion or all of the increase in the cost of living, as determined by
43 the secretary of labor, since retirement but only if such supplemental

1 payments are under a plan that is treated as a welfare plan under section
2 3(2)(B)(ii) of the federal employee retirement income security act of 1974;
3 or

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

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

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

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

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

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

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

26 (9) remuneration for agricultural labor paid in any medium other than
27 cash;

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

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

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

39 (13) any benefit provided to or on behalf of an employee if at the time
40 such benefit is provided it is reasonable to believe that the employee will
41 be able to exclude such benefit from income under section 74(c), 117 or
42 132 of the federal internal revenue code of 1986;

43 (14) any payment made, or benefit furnished, to or for the benefit of

1 an employee, if at the time of such payment or such furnishing it is
2 reasonable to believe that the employee will be able to exclude such
3 payment or benefit from income under section 127 of the federal internal
4 revenue code of 1986 relating to educational assistance to the employee; or

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

9 Nothing in any paragraph of subsection (o), other than paragraph (1),
10 shall exclude from the term "wages": (1) Any employer contribution under
11 a qualified cash or deferred arrangement, as defined in section 401(k) of
12 the federal internal revenue code of 1986, to the extent that such
13 contribution is not included in gross income by reason of section 402(a)(8)
14 of the federal internal revenue code of 1986; or (2) any amount treated as
15 an employer contribution under section 414(h)(2) of the federal internal
16 revenue code of 1986.

17 Any amount deferred under a nonqualified deferred compensation plan
18 shall be taken into account for purposes of this section as of the later of
19 when the services are performed or when there is no substantial risk of
20 forfeiture of the rights to such amount. Any amount taken into account as
21 wages by reason of this paragraph, and the income attributable thereto,
22 shall not thereafter be treated as wages for purposes of this section. For
23 purposes of this paragraph, the term "nonqualified deferred compensation
24 plan" means any plan or other arrangement for deferral of compensation
25 other than a plan described in subsection (o)(4).

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

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

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

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

36 (t) "American vessel" or "American aircraft" means any vessel or
37 aircraft documented or numbered or otherwise registered under the laws of
38 the United States; and any vessel or aircraft that is neither documented or
39 numbered or otherwise registered under the laws of the United States nor
40 documented under the laws of any foreign country, if its crew performs
41 service solely for one or more citizens or residents of the United States or
42 corporations organized under the laws of the United States or of any state.

43 (u) "Institution of higher education," for the purposes of this section,

1 means an educational institution that:

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

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

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

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

13 Notwithstanding any of the foregoing provisions of this subsection (u),
14 all colleges and universities in this state are institutions of higher education
15 for purposes of this section, except that no college, university, junior
16 college or other postsecondary school or institution that is operated by the
17 federal government or any agency thereof shall be an institution of higher
18 education for purposes of the employment security law.

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

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

33 (A) On a farm, in the employ of any person, in connection with
34 cultivating the soil, or in connection with raising or harvesting any
35 agricultural or horticultural commodity, including the raising, shearing,
36 feeding, caring for, training, and management of livestock, bees, poultry,
37 and furbearing animals and wildlife.

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

43 (C) In connection with the production or harvesting of any

1 commodity defined as an agricultural commodity in section (15)(g) of the
2 agricultural marketing act, as amended, 46 Stat. 1500, sec. 3; 12 U.S.C. §
3 1141j, or in connection with the ginning of cotton, or in connection with
4 the operation or maintenance of ditches, canals, reservoirs or waterways,
5 not owned or operated for profit, used exclusively for supplying and
6 storing water for farming purposes.

7 (D) (i) In the employ of the operator of a farm in handling, planting,
8 drying, packing, packaging, processing, freezing, grading, storing, or
9 delivering to storage or to market or to a carrier for transportation to
10 market, in its unmanufactured state, any agricultural or horticultural
11 commodity; but only if such operator produced more than $\frac{1}{2}$ of the
12 commodity with respect to which such service is performed;

13 (ii) in the employ of a group of operators of farms, or a cooperative
14 organization of which such operators are members, in the performance of
15 services described in paragraph (i), but only if such operators produced
16 more than $\frac{1}{2}$ of the commodity with respect to which such service is
17 performed;

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

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

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

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

33 (4) For the purpose of this section, if an employing unit does not
34 maintain sufficient records to separate agricultural labor from other
35 employment, all services performed during any pay period by an
36 individual for the person employing such individual shall be deemed to be
37 agricultural labor if services performed during $\frac{1}{2}$ or more of such pay
38 period constitute agricultural labor; but if the services performed during
39 more than $\frac{1}{2}$ of any such pay period by an individual for the person
40 employing such individual do not constitute agricultural labor, then none
41 of the services of such individual for such period shall be deemed to be
42 agricultural labor. As used in this subsection, the term "pay period" means
43 a period of not more than 31 consecutive days for which a payment of

1 remuneration is ordinarily made to the individual by the person employing
2 such individual.

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

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

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

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

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

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

27 (dd) "Successor employer" means any employer, as described in
28 subsection (h), that acquires or in any manner succeeds to: (1)
29 Substantially all of the employing enterprises, organization, trade or
30 business of another employer; or (2) substantially all the assets of another
31 employer.

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

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

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

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

1 (ii) *"Temporary unemployment" means that the individual has been*
2 *laid off due to lack of work by an employing unit for which the individual*
3 *has worked full time and for which the individual reasonably expects to*
4 *resume full-time work at a future date, and that the individual's*
5 *employment with the employing unit, although temporarily suspended, has*
6 *not been terminated. Except as otherwise provided by the employment*
7 **security law or this subsection, "temporary unemployment" shall not**
8 *exceed eight consecutive weeks. An extension or extensions of up to a*
9 **total of four additional weeks of temporary employment at the request**
10 **of an employer for an individual may be granted by the secretary as**
11 **provided by K.S.A. 44-775(a)(2), and amendments thereto. The**
12 **maximum amount of temporary unemployment for an individual in a**
13 **benefit year, including any extensions granted by the secretary, shall**
14 **be 12 weeks.**

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

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

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

29 (c) (1) The claimant is able to perform the duties of such
30 claimant's customary occupation or the duties of other occupations
31 that the claimant is reasonably fitted by training or experience, and is
32 available for work, as demonstrated by the claimant's pursuit of the
33 full course of action most reasonably calculated to result in the
34 claimant's reemployment except that, notwithstanding any other
35 provisions of this section, an unemployed claimant otherwise eligible
36 for benefits shall not become ineligible for benefits:

37 (A) Because of the claimant's enrollment in and satisfactory
38 pursuit of approved training, including training approved under
39 section 236(a)(1) of the trade act of 1974;

40 (B) solely because such individual is seeking only part-time
41 employment if the individual is available for a number of hours per
42 week that are comparable to the individual's part-time work
43 experience in the base period; or

1 (C) because a claimant is not actively seeking work:

2 (i) During a state of disaster emergency proclaimed by the
3 governor pursuant to K.S.A. 48-924 and 48-925, and amendments
4 thereto;

5 (ii) in response to the spread of the public health emergency of
6 COVID-19; and

7 (iii) the state's temporary waiver of the work search requirement
8 under the employment security law for such claimant is in compliance
9 with the families first coronavirus response act, public law 116-127.

10 (2) The secretary shall develop and implement procedures to
11 address claimants who refuse to return to suitable work or refuse to
12 accept an offer of suitable work without good cause. Such procedures
13 shall include the receipt and processing of job refusal reports from
14 employers, the evaluation of such reports in consideration of the
15 claimant's work history and skills and suitability of the offered
16 employment and guidelines for a determination of whether the
17 claimant shall remain eligible for unemployment benefits or has failed
18 to meet the work search requirements of this subsection or the
19 requirements of K.S.A. 44-706(c), and amendments thereto. In
20 determining whether the employment offered is suitable, the
21 secretary's considerations shall include whether the employment
22 offers wages comparable to the claimant's recent employment and
23 work duties that correspond to the claimant's education level and
24 previous work experience. The secretary shall also consider whether
25 the employment offers wages of at least the amount of the claimant's
26 maximum weekly benefits.

27 (3) To facilitate the requirements of paragraph (2), the secretary
28 shall provide readily accessible means for employers to notify the
29 department when a claimant refuses to return to work or refuses an
30 offer of employment, including by telephone, email or an online web
31 portal. *The secretary shall create or cause to be created in the new
32 unemployment insurance information technology system as provided by
33 K.S.A. 44-772, and amendments thereto, an audit process for employers to
34 submit reports regarding activities related to the work search requirement
35 or to the my reemployment plan, established in K.S.A. 44-775, and
36 amendments thereto, and applicants that accept interview appointments
37 but do not participate or notify the interviewing employer of their inability
38 to participate in the scheduled interview. The secretary shall not be
39 required to implement such audit process prior to the completion of such
40 new unemployment insurance information technology system. **Nothing in
41 this subsection shall be construed as to require an employer to report
42 such job refusals to the department.***

43 (4) At the time of receipt of notice from an employer pursuant to

1 paragraph (3), the secretary shall, within 10 business days of receipt of
2 such notice from the employer, provide a notice to the claimant who
3 has refused to return to work or to accept an offer of suitable work
4 without good cause. The method of providing the notice to the
5 claimant shall be consistent with other correspondence from the
6 department to the claimant and may include mail, telephone, email or
7 through an online web portal. The notice shall, at minimum, include
8 the following information:

9 (A) A summary of state employment security law regarding a
10 claimant's duties to return to work or accept suitable work;

11 (B) a statement that the claimant has been or may be disqualified
12 and the claimant's right to collect benefits has been or may be
13 terminated for refusal to return to work or accept suitable work
14 without good cause, as provided by this subsection and K.S.A. 44-
15 706(c), and amendments thereto;

16 (C) an explanation of what constitutes suitable work under the
17 employment security law; and

18 (D) instructions for contesting a denial of a claim if the denial is
19 based upon a report by an employer that the claimant has refused to
20 return to work or has refused to accept an offer of suitable work.

21 (5) *The secretary shall include notices to all active employers*
22 *regarding work search noncompliance reporting options provided in*
23 *paragraph (3) in the department of labor's annual summary of benefit*
24 *charges pursuant to K.S.A. 44-710b(d), and amendments thereto, and in*
25 *the rate notices to employers pursuant to K.S.A. 44-710b(a), and*
26 *amendments thereto. The secretary shall not be required to implement*
27 *such notice requirements prior to the completion of the new unemployment*
28 *insurance information technology system, as provided by K.S.A. 44-772,*
29 *and amendments thereto.*

30 ~~(5)(6)~~ (6) For the purposes of this subsection, an inmate of a custodial
31 or correctional institution shall be deemed to be unavailable for work
32 and not eligible to receive unemployment compensation while
33 incarcerated.

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

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

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

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

9 (2) (A) The waiting week requirement of paragraph (1) shall not
10 apply to:

11 (i) New claims by claimants who become unemployed as a result
12 of an employer terminating business operations within this state,
13 declaring bankruptcy or initiating a work force reduction pursuant to
14 public law 100-379, the federal worker adjustment and retraining
15 notification act, 29 U.S.C. §§ 2101 through 2109, as amended; or

16 (ii) new claims filed on or after April 5, 2020, through December
17 26, 2020, in accordance with the families first coronavirus response
18 act, public law 116-127 and the federal CARES act, public law 116-
19 136.

20 (B) The secretary shall adopt rules and regulations to administer
21 the provisions of this paragraph.

22 (3) If the waiting week requirement of paragraph (1) applies, a
23 claimant shall become eligible to receive compensation for the waiting
24 period of one week, pursuant to paragraph (1), upon completion of
25 three weeks of unemployment consecutive to such waiting period. This
26 paragraph shall not apply to initial claims effective on and after April
27 1, 2021.

28 (e) For benefit years established on and after the effective date of
29 this act, the claimant has been paid total wages for insured work in the
30 claimant's base period of not less than 30 times the claimant's weekly
31 benefit amount and has been paid wages in more than one quarter of
32 the claimant's base period, except that the wage credits of an
33 individual earned during the period commencing with the end of a
34 prior base period and ending on the date that such individual filed a
35 valid initial claim shall not be available for benefit purposes in a
36 subsequent benefit year unless, in addition thereto, such individual
37 has returned to work and subsequently earned wages for insured
38 work in an amount equal to at least eight times the claimant's current
39 weekly benefit amount.

40 (f) The claimant participates in reemployment services, such as
41 job search assistance services, if the individual has been determined to
42 be likely to exhaust regular benefits and needs reemployment services
43 pursuant to a profiling system established by the secretary, unless the

1 secretary determines that: (1) The individual has completed such
2 services; or (2) there is justifiable cause for the claimant's failure to
3 participate in such services.

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

9 (1) The claimant has filed for benefits within four weeks of being
10 released to return to work by a licensed and practicing health care
11 provider;

12 (2) the claimant files for benefits within 24 months of the date the
13 qualifying injury occurred; and

14 (3) the claimant attempted to return to work with the employer
15 where the qualifying injury occurred, but the individual's regular
16 work or comparable and suitable work was not available.}

17 Sec. 2. 3. K.S.A. 44-709 is hereby amended to read as follows: 44-
18 709. (a) *Filing*. Claims for benefits shall be made in accordance with rules
19 and regulations adopted by the secretary. The secretary shall furnish a copy
20 of such rules and regulations to any individual requesting them. Each
21 employer shall: (1) Post and maintain printed statements furnished by the
22 secretary without cost to the employer in places readily accessible to
23 individuals in the service of the employer; and (2) provide any other
24 notification to individuals in the service of the employer as required by the
25 secretary pursuant to the families first coronavirus response act, public law
26 116-127.

27 (b) *Determination*. (1) Except as otherwise provided in this
28 paragraph, a representative designated by the secretary, and hereinafter
29 referred to as an examiner, shall promptly examine the claim and, on the
30 basis of the facts found by the examiner, shall determine whether or not
31 the claim is valid. If the examiner determines that the claim is valid, the
32 examiner shall determine the first day of the benefit year, the weekly
33 benefit amount and the total amount of benefits payable with respect to the
34 benefit year. If the claim is determined to be valid, the examiner shall send
35 a notice to the last employing unit who shall respond within 10 days by
36 providing the examiner all requested information including all information
37 required for a decision under K.S.A. 44-706, and amendments thereto. The
38 information may be submitted by the employing unit in person at an
39 employment office of the secretary or by mail, by telefacsimile machine or
40 by electronic mail. If the required information is not submitted or
41 postmarked within a response time limit of 10 days after the examiner's
42 notice was sent, the employing unit shall be deemed to have waived its
43 standing as a party to the proceedings arising from the claim and shall be

1 barred from protesting any subsequent decisions about the claim by the
2 secretary, a referee, the employment security board of review or any court,
3 except that the employing unit's response time limit may be waived or
4 extended by the examiner or upon appeal, if timely response was
5 impossible due to excusable neglect. In any case in which the payment or
6 denial of benefits will be determined by the provisions of K.S.A. 44-
7 706(d), and amendments thereto, the examiner shall promptly transmit the
8 claim to a special examiner designated by the secretary to make a
9 determination on the claim after the investigation as the special examiner
10 deems necessary. The parties shall be promptly notified of the special
11 examiner's decision and any party aggrieved by the decision may appeal to
12 the referee as provided in subsection (c). The claimant and the claimant's
13 most recent employing unit shall be promptly notified of the examiner's or
14 special examiner's decision.

15 (2) The examiner may for good cause reconsider the examiner's
16 decision and shall promptly notify the claimant and the most recent
17 employing unit of the claimant, that the decision of the examiner is to be
18 reconsidered, except that no reconsideration shall be made after the
19 termination of the benefit year.

20 (3) Notwithstanding the provisions of any other statute, a decision of
21 an examiner or special examiner shall be final unless the claimant or the
22 most recent employing unit of the claimant files an appeal from the
23 decision as provided in subsection (c), except that the time limit for appeal
24 may be waived or extended by the referee or board of review if a timely
25 response was impossible due to excusable neglect. The appeal must be
26 filed within 16 calendar days after the mailing of notice to the last known
27 addresses of the claimant and employing unit or, if notice is not by mail,
28 within 16 calendar days after the delivery of the notice to the parties.

29 (c) *Appeals*. Unless the appeal is withdrawn, a referee, after affording
30 the parties reasonable opportunity for fair hearing, shall affirm or modify
31 the findings of fact and decision of the examiner or special examiner. The
32 parties shall be duly notified of the referee's decision, together with the
33 reasons for the decision. The decision shall be final, notwithstanding the
34 provisions of any other statute, unless a further appeal to the employment
35 security board of review is filed within 16 calendar days after the mailing
36 of the decision to the parties' last known addresses or, if notice is not by
37 mail, within 16 calendar days after the delivery of the decision, except that
38 the time limit for appeal may be waived or extended by the referee or
39 board of review if a timely response was impossible due to excusable
40 neglect.

41 (d) *Referees*. The secretary shall appoint, in accordance with K.S.A.
42 44-714(c), and amendments thereto, one or more referees to hear and
43 decide disputed claims.

1 (e) *Time, computation and extension.* In computing the period of time
2 for an employing unit response or for appeals under this section from the
3 examiner's or the special examiner's determination or from the referee's
4 decision, the day of the act, event or default from which the designated
5 period of time begins to run shall not be included. The last day of the
6 period shall be included unless it is a Saturday, Sunday or legal holiday, in
7 which event the period runs until the end of the next day that is not a
8 Saturday, Sunday or legal holiday.

9 (f) *Board of review.* There is hereby created an employment security
10 board of review, hereinafter referred to as the board.

11 (1) (A) Except as provided in subparagraph (B), the board shall
12 consist of three members. Each member of the board shall be appointed for
13 a term of four years as provided in this subsection. Not more than two
14 members of the board shall belong to the same political party.

15 (B) ~~On the effective date of this act,~~ The board shall consist of *up to*
16 ~~six~~ members. ~~The six-member~~ board shall consist of the following: (i)
17 Three members appointed under subparagraph (A); and (ii) *up to* three
18 members appointed for a term that shall expire ~~upon~~ *not later than* the
19 expiration of this subparagraph. Each member of the board appointed
20 under subparagraph (B)(ii) shall be appointed as provided in this
21 subsection. Not more than four members of ~~the~~ *a six-member board or*
22 *three members of a four or five-person board* shall belong to the same
23 political party. The provisions of this subparagraph shall expire on June
24 30, 2024.

25 (2) When a vacancy on the employment security board of review
26 occurs, the workers compensation and employment security boards
27 nominating committee established under K.S.A. 44-551, and amendments
28 thereto, shall convene and submit a nominee to the governor for
29 appointment to each vacancy on the employment security board of review,
30 subject to confirmation by the senate as provided by K.S.A. 75-4315b, and
31 amendments thereto. The governor shall either: (A) Accept and submit to
32 the senate for confirmation the person nominated by the nominating
33 committee; or (B) reject the nomination and request the nominating
34 committee to nominate another person for that position. Except as
35 provided by K.S.A. 46-2601, and amendments thereto, no person
36 appointed to the employment security board of review, whose appointment
37 is subject to confirmation by the senate, shall exercise any power, duty or
38 function as a member until confirmed by the senate.

39 (3) No member of the employment security board of review shall
40 serve more than two consecutive terms. This paragraph shall not apply to
41 members of the board appointed under subsection (f)(1)(B)(ii). The service
42 of a board member appointed under subsection (f)(1)(B)(ii) shall not
43 constitute a term as contemplated in this paragraph.

1 (4) Each member of the employment security board shall serve until a
2 successor has been appointed and confirmed. Any vacancy in the
3 membership of the board occurring prior to expiration of a term shall be
4 filled by appointment for the unexpired term in the same manner as
5 provided for original appointment of the member.

6 (5) Each member of the employment security board of review shall
7 be entitled to receive as compensation for the member's services at the rate
8 of \$15,000 per year, together with the member's travel and other necessary
9 expenses actually incurred in the performance of the member's official
10 duties in accordance with rules and regulations adopted by the secretary.
11 Members' compensation and expenses shall be paid from the employment
12 security administration fund.

13 (6) The employment security board of review shall organize annually
14 by the election of a chairperson from among its members. The chairperson
15 shall serve in that capacity for a term of one year and until a successor is
16 elected. For the purpose of hearing and determining cases, the board
17 members may sit in panels. A board panel shall consist of three members
18 with not more than two members belonging to the same political party.
19 The chairperson may sit as a member of a panel and shall preside over
20 such panel. When the chairperson is not a member of a hearing panel, the
21 chairperson shall appoint a member of the panel to preside. The board or
22 board panel shall meet on the first Monday of each month or on the call of
23 the chairperson or any two members of the board at the place designated.
24 The secretary of labor shall appoint an executive secretary of the board
25 and the executive secretary or the executive secretary's designee shall
26 attend the meetings of the board and board panels.

27 (7) The employment security board of review or board panel, on its
28 own motion, may affirm, modify or set aside any decision of a referee on
29 the basis of the evidence previously submitted in the case; may direct the
30 taking of additional evidence; or may permit any of the parties to initiate
31 further appeal before it. The board or board panel shall permit such further
32 appeal by any of the parties interested in a decision of a referee that
33 overrules or modifies the decision of an examiner. The board or board
34 panel may remove to itself the proceedings on any claim pending before a
35 referee. Any proceedings so removed to the board or board panel shall be
36 heard in accordance with the requirements of subsection (c). The board or
37 board panel shall promptly notify the interested parties of its findings and
38 decision.

39 (8) A simple majority of the members of the employment security
40 board of review or board panel shall constitute a quorum and no action of
41 the board or board panel shall be valid unless it has the concurrence of a
42 majority of its members. A vacancy on the board shall not impair the right
43 of a quorum to exercise all the rights and perform all the duties of the

1 board.

2 (g) *Procedure.* The manner that disputed claims are presented, the
3 reports on claims required from the claimant and from employers and the
4 conduct of hearings and appeals shall be in accordance with rules of
5 procedure prescribed by the employment security board of review for
6 determining the rights of the parties, whether or not such rules conform to
7 common law or statutory rules of evidence and other technical rules of
8 procedure. A full and complete record shall be kept of all proceedings and
9 decisions in connection with a disputed claim. All testimony at any hearing
10 upon a disputed claim shall be recorded, but need not be transcribed unless
11 the disputed claim is further appealed. In the performance of its official
12 duties, the board or board panel shall have access to all of the records that
13 pertain to the disputed claim and are in the custody of the secretary of
14 labor and shall receive the assistance of the secretary upon request.

15 (h) *Witness fees.* Witnesses subpoenaed pursuant to this section shall
16 be allowed fees and necessary travel expenses at rates fixed by the board.
17 Such fees and expenses shall be deemed a part of the expense of
18 administering this act.

19 (i) *Review of board action.* Any action of the employment security
20 board of review including that of a board panel, may not be reconsidered
21 after the mailing of the decision. An action of the board or board panel
22 shall become final unless a petition for review in accordance with the
23 Kansas judicial review act is filed within 16 calendar days after the date of
24 the mailing of the decision. If an appeal has not been filed within 16
25 calendar days of the date of the mailing of the decision, the decision
26 becomes final. No bond shall be required for commencing an action for
27 such review. In addition to those persons having standing pursuant to
28 K.S.A. 77-611, and amendments thereto, the examiner shall have standing
29 to obtain judicial review of an action of such board or board panel. The
30 review proceeding, and the questions of law certified, shall be heard in a
31 summary manner and shall be given precedence over all other civil cases
32 except cases arising under the workers compensation act.

33 (j) Any finding of fact or law, judgment, determination, conclusion or
34 final order made by the employment security board of review or board
35 panel or any examiner, special examiner, referee or other person with
36 authority to make findings of fact or law pursuant to the employment
37 security law is not admissible or binding in any separate or subsequent
38 action or proceeding, between a person and a present or previous employer
39 brought before an arbitrator, court or judge of the state or the United
40 States, regardless of whether the prior action was between the same or
41 related parties or involved the same facts.

42 (k) In any proceeding or hearing conducted under this section, a party
43 to the proceeding or hearing may appear before a referee or the

1 employment security board of review or board panel either personally or
2 by means of a designated representative to present evidence and to state
3 the position of the party. Hearings may be conducted in person, by
4 telephone or other means of electronic communication. The hearing shall
5 be conducted by telephone or other means of electronic communication if
6 none of the parties requests an in-person hearing. If a party requests an in-
7 person hearing, the referee or board or board panel shall have the
8 discretion to deny the request in the absence of good cause shown for the
9 request by the requesting party. If a request for an in-person hearing is
10 granted, the referee or board or board panel shall have the discretion to
11 require all parties to appear in person or allow the party not requesting an
12 in-person hearing to appear by telephone or other means of electronic
13 communication. The notice of hearing shall include notice to the parties of
14 their right to request an in-person hearing and instructions on how to make
15 the request.

16 ~~Sec. 3.~~ **4.** K.S.A. 2022 Supp. 44-710a is hereby amended to read as
17 follows: 44-710a. (a) *Classification of employers by the secretary.* The
18 term "employer" as used in this section refers to contributing employers.
19 The secretary shall classify employers in accordance with their actual
20 experience in the payment of contributions on their own behalf and with
21 respect to benefits charged against their accounts with a view of fixing
22 such contribution rates as will reflect such experience. If, as of the date
23 such classification of employers is made, the secretary finds that any
24 employing unit has failed to file any report required in connection
25 therewith, or has filed a report which the secretary finds incorrect or
26 insufficient, the secretary shall make an estimate of the information
27 required from such employing unit on the basis of the best evidence
28 reasonably available to the secretary at the time, and notify the employing
29 unit thereof by mail addressed to its last known address. Unless such
30 employing unit shall file the report or a corrected or sufficient report as the
31 case may be, within 15 days after the mailing of such notice, the secretary
32 shall compute such employing unit's rate of contributions on the basis of
33 such estimates, and the rate as so determined shall be subject to increase
34 but not to reduction on the basis of subsequently ascertained information.
35 The secretary shall determine the contribution rate of each employer in
36 accordance with the requirements of this section.

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

41 (B) (i) (a) Each employer who is not eligible for a rate contribution
42 shall pay contributions equal to 2.7% of wages paid during each calendar
43 year with regard to employment, except such employers engaged in the

1 construction industry shall pay a rate equal to 6%.

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

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

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

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

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

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

24 (ii) For purposes of this subsection (a), employers shall be classified
25 by industrial activity in accordance with standard procedures as set forth in
26 rules and regulations adopted by the secretary. Employers engaged in more
27 than one type of industrial activity shall be classified by principal activity.
28 All rates assigned will remain in effect for a complete calendar year. If the
29 sale or acquisition of a new establishment would require reclassification of
30 the employer to a different industry sector, the employer would be
31 promptly notified, and the contribution rate applicable to the new industry
32 sector would become effective the following January 1.

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

41 (2) *Eligible employers.* (A) A reserve ratio shall be computed for each
42 eligible employer by the following method: Total benefits charged to the
43 employer's account for all past years shall be deducted from all

1 contributions paid by such employer for all such years. The balance,
2 positive or negative, shall be divided by the employer's average annual
3 payroll, and the result shall constitute the employer reserve ratio.

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

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

16 (D) If the amounts collected from negative account balance
17 employers and paid into the employment security interest assessment fund
18 for the purpose of paying interest due and owing on funds received from
19 the federal unemployment account under title XII of the social security act
20 are in excess of the amounts needed to pay interest due, the amounts in
21 excess shall remain in the employment security interest assessment fund to
22 be used to pay interest in future years. Whenever the secretary certifies all
23 interest payments have been paid, any excess funds remaining in the
24 employment security interest assessment fund shall be transferred to the
25 employment security trust fund for the purpose of paying any remaining
26 principal amount due for advances described in this section. In the event
27 that the amount transferred from the employment security interest
28 assessment fund exceeds such remaining amount of principal due, the
29 balance shall be used for the purposes of the employment security trust
30 fund.

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

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

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

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

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

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

26 Fund Control Table A
 27 For Rate Years 2016-2021

28 Lower AHCM	Upper AHCM	Solvency Adjustment
29 Threshold	Threshold	to Rate per
		30 Standard Rate Schedule
31 -1,000.00000	0.19999	1.60%
32 0.20000	0.44999	1.40%
33 0.45000	0.59999	1.20%
34 0.60000	0.74999	1.00%
35 0.75000	1.14999	0.00%
36 1.15000	1,000.00000	-0.50%

37 Fund Control Table B

38 For Rate Year 2022 and Ensuing Calendar Years

39 KS SUTA	Lower	Upper	Solvency/Credit	Solvency/Credit	Solvency/Credit
40 Tax Rate	AHCM	AHCM	Adjustment to	Adjustment as a	Adjustment as a
41 Schedules	Threshold	Threshold	Maximum	Rate Group	Total % to
			Standard Rate	Multiplier to	Employer's
				Standard, Earned	Standard, Earned
				Rate Group	Rate Group
44 1	-1,000.00000	-0.00001	2.00%	0.05263%	26.32%

1		2	0.00000	0.24999	1.80%	0.04737%	23.68%
2	Solvency	3	0.25000	0.44999	1.60%	0.04211%	21.05%
3	Schedules	4	0.45000	0.59999	1.40%	0.03684%	18.42%
4	(1-6)	5	0.60000	0.69999	1.20%	0.03158%	15.79%
5		6	0.70000	0.74999	1.00%	0.02632%	13.16%
6	Standard						
7	Schedule	7	0.75000	1.24999	0.00%	0.00000%	0.00%
8	(7)						
9		8	1.25000	1.29999	-1.00%	-0.02632%	-13.16%
10	Credit	9	1.30000	1.39999	-1.20%	-0.03158%	-15.79%
11	Schedules	10	1.40000	1.54999	-1.40%	-0.03684%	-18.42%
12	(8-13)	11	1.55000	1.74999	-1.60%	-0.04211%	-21.05%
13		12	1.75000	1.99999	-1.80%	-0.04737%	-23.68%
14		13	2.00000	1,000.00000	-2.00%	-0.05263%	-26.32%

15 (ii) (a) Eligible employers shall be classified by rate group according
 16 to the standard rate schedule - standard rate schedule 7 in this section, for
 17 that rate year. Except as provided in subclause (b), for rate years 2016
 18 through 2021, the rate pursuant to the standard rate schedule as adjusted by
 19 fund control table A shall apply. Except as provided in subclause (b), for
 20 rate year 2022 and ensuing calendar years, the rate pursuant to standard
 21 rate schedule 7, solvency schedules 1 through 6 or credit schedules 8
 22 through 13 shall apply as provided by fund control table B.

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

28 (2) In the event the second transfer of up to \$250,000,000 is not made
 29 as provided in K.S.A. 2022 Supp. 75-5745, and amendments thereto, to the
 30 employment security fund on or before July 15, 2022, all contributing
 31 employers shall pay the rate as set forth in standard rate schedules -
 32 standard rate schedule 7 for the 2023 calendar year, unless it is determined
 33 by actual calculation pursuant to fund control table B that credit rate
 34 schedules (8-13) would apply based on the health of the unemployment
 35 insurance trust fund.

36 STANDARD RATE SCHEDULE -
 37 STANDARD RATE SCHEDULE 7

38	Rate Lower Reserve	Upper Reserve	Standard	
39	Group	Ratio Limit	Ratio Limit	Rate
40	1	18.590	1,000,000.000	0.20%
41	2	17.875	18.589	0.40%
42	3	17.160	17.874	0.60%
43	4	16.445	17.159	0.80%
44	5	15.730	16.444	1.00%
45	6	15.015	15.729	1.20%
46	7	14.300	15.014	1.40%

1	8	13.585	14.299	1.60%
2	9	12.870	13.584	1.80%
3	10	12.155	12.869	2.00%
4	11	11.440	12.154	2.20%
5	12	10.725	11.439	2.40%
6	13	10.010	10.724	2.60%
7	14	9.295	10.009	2.80%
8	15	8.580	9.294	3.00%
9	16	7.865	8.579	3.20%
10	17	7.150	7.864	3.40%
11	18	6.435	7.149	3.60%
12	19	5.720	6.434	3.80%
13	20	5.005	5.719	4.00%
14	21	4.290	5.004	4.20%
15	22	3.575	4.289	4.40%
16	23	2.860	3.574	4.60%
17	24	2.145	2.859	4.80%
18	25	1.430	2.144	5.00%
19	26	0.715	1.429	5.20%
20	27	0.000	0.714	5.40%
21	N1	-0.714	-0.001	5.60%
22	N2	-1.429	-0.715	5.80%
23	N3	-2.144	-1.430	6.00%
24	N4	-2.859	-2.145	6.20%
25	N5	-3.574	-2.860	6.40%
26	N6	-4.289	-3.575	6.60%
27	N7	-5.004	-4.290	6.80%
28	N8	-5.719	-5.005	7.00%
29	N9	-6.434	-5.720	7.20%
30	N10	-7.149	-6.435	7.40%
31	N11	-1,000,000.000	-7.150	7.60%

SOLVENCY RATE SCHEDULES (1-6)

Rate Group	1	2	3	4	5	6	
35	1	0.25%	0.25%	0.24%	0.24%	0.23%	0.23%
36	2	0.51%	0.49%	0.48%	0.47%	0.46%	0.45%
37	3	0.76%	0.74%	0.73%	0.71%	0.69%	0.68%
38	4	1.01%	0.99%	0.97%	0.95%	0.93%	0.91%
39	5	1.26%	1.24%	1.21%	1.18%	1.16%	1.13%
40	6	1.52%	1.48%	1.45%	1.42%	1.39%	1.36%
41	7	1.77%	1.73%	1.69%	1.66%	1.62%	1.58%
42	8	2.02%	1.98%	1.94%	1.89%	1.85%	1.81%
43	9	2.27%	2.23%	2.18%	2.13%	2.08%	2.04%
44	10	2.53%	2.47%	2.42%	2.37%	2.32%	2.26%
45	11	2.78%	2.72%	2.66%	2.61%	2.55%	2.49%
46	12	3.03%	2.97%	2.91%	2.84%	2.78%	2.72%

1	13	3.28%	3.22%	3.15%	3.08%	3.01%	2.94%
2	14	3.54%	3.46%	3.39%	3.32%	3.24%	3.17%
3	15	3.79%	3.71%	3.63%	3.55%	3.47%	3.39%
4	16	4.04%	3.96%	3.87%	3.79%	3.71%	3.62%
5	17	4.29%	4.21%	4.12%	4.03%	3.94%	3.85%
6	18	4.55%	4.45%	4.36%	4.26%	4.17%	4.07%
7	19	4.80%	4.70%	4.60%	4.50%	4.40%	4.30%
8	20	5.05%	4.95%	4.84%	4.74%	4.63%	4.53%
9	21	5.31%	5.19%	5.08%	4.97%	4.86%	4.75%
10	22	5.56%	5.44%	5.33%	5.21%	5.09%	4.98%
11	23	5.81%	5.69%	5.57%	5.45%	5.33%	5.21%
12	24	6.06%	5.94%	5.81%	5.68%	5.56%	5.43%
13	25	6.32%	6.18%	6.05%	5.92%	5.79%	5.66%
14	26	6.57%	6.43%	6.29%	6.16%	6.02%	5.88%
15	27	6.82%	6.68%	6.54%	6.39%	6.25%	6.11%
16	N1	7.07%	6.93%	6.78%	6.63%	6.48%	6.34%
17	N2	7.33%	7.17%	7.02%	6.87%	6.72%	6.56%
18	N3	7.58%	7.42%	7.26%	7.11%	6.95%	6.79%
19	N4	7.83%	7.67%	7.51%	7.34%	7.18%	7.02%
20	N5	8.08%	7.92%	7.75%	7.58%	7.41%	7.24%
21	N6	8.34%	8.16%	7.99%	7.82%	7.64%	7.47%
22	N7	8.59%	8.41%	8.23%	8.05%	7.87%	7.69%
23	N8	8.84%	8.66%	8.47%	8.29%	8.11%	7.92%
24	N9	9.09%	8.91%	8.72%	8.53%	8.34%	8.15%
25	N10	9.35%	9.15%	8.96%	8.76%	8.57%	8.37%
26	N11	9.60%	9.40%	9.20%	9.00%	8.80%	8.60%

CREDIT RATE SCHEDULES (8-13)

28	Rate						
29	Group	8	9	10	11	12	13
30	1	0.17%	0.17%	0.16%	0.16%	0.15%	0.15%
31	2	0.35%	0.34%	0.33%	0.32%	0.31%	0.29%
32	3	0.52%	0.51%	0.49%	0.47%	0.46%	0.44%
33	4	0.69%	0.67%	0.65%	0.63%	0.61%	0.59%
34	5	0.87%	0.84%	0.82%	0.79%	0.76%	0.74%
35	6	1.04%	1.01%	0.98%	0.95%	0.92%	0.88%
36	7	1.22%	1.18%	1.14%	1.11%	1.07%	1.03%
37	8	1.39%	1.35%	1.31%	1.26%	1.22%	1.18%
38	9	1.56%	1.52%	1.47%	1.42%	1.37%	1.33%
39	10	1.74%	1.68%	1.63%	1.58%	1.53%	1.47%
40	11	1.91%	1.85%	1.79%	1.74%	1.68%	1.62%
41	12	2.08%	2.02%	1.96%	1.89%	1.83%	1.77%
42	13	2.26%	2.19%	2.12%	2.05%	1.98%	1.92%
43	14	2.43%	2.36%	2.28%	2.21%	2.14%	2.06%
44	15	2.61%	2.53%	2.45%	2.37%	2.29%	2.21%
45	16	2.78%	2.69%	2.61%	2.53%	2.44%	2.36%
46	17	2.95%	2.86%	2.77%	2.68%	2.59%	2.51%
47	18	3.13%	3.03%	2.94%	2.84%	2.75%	2.65%
48	19	3.30%	3.20%	3.10%	3.00%	2.90%	2.80%
49	20	3.47%	3.37%	3.26%	3.16%	3.05%	2.95%
50	21	3.65%	3.54%	3.43%	3.32%	3.21%	3.09%
51	22	3.82%	3.71%	3.59%	3.47%	3.36%	3.24%
52	23	3.99%	3.87%	3.75%	3.63%	3.51%	3.39%
53	24	4.17%	4.04%	3.92%	3.79%	3.66%	3.54%
54	25	4.34%	4.21%	4.08%	3.95%	3.82%	3.68%

1	26	4.52%	4.38%	4.24%	4.11%	3.97%	3.83%
2	27	4.69%	4.55%	4.41%	4.26%	4.12%	3.98%
3	N1	4.86%	4.72%	4.57%	4.42%	4.27%	4.13%
4	N2	5.04%	4.88%	4.73%	4.58%	4.43%	4.27%
5	N3	5.21%	5.05%	4.89%	4.74%	4.58%	4.42%
6	N4	5.38%	5.22%	5.06%	4.89%	4.73%	4.57%
7	N5	5.56%	5.39%	5.22%	5.05%	4.88%	4.72%
8	N6	5.73%	5.56%	5.38%	5.21%	5.04%	4.86%
9	N7	5.91%	5.73%	5.55%	5.37%	5.19%	5.01%
10	N8	6.08%	5.89%	5.71%	5.53%	5.34%	5.16%
11	N9	6.25%	6.06%	5.87%	5.68%	5.49%	5.31%
12	N10	6.43%	6.23%	6.04%	5.84%	5.65%	5.45%
13	N11	6.60%	6.40%	6.20%	6.00%	5.80%	5.60%

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

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

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

42 (3) Whenever an employing unit, whether or not it is an "employing
 43 unit" within the meaning of K.S.A. 44-703(g), and amendments thereto,
 44 acquires or in any manner succeeds to a percentage of an employer's
 45 annual payroll which is less than 100% and intends to continue the
 46 acquired percentage as a going business, the employing unit may acquire

1 the same percentage of the predecessor's experience factors if: (A) The
2 predecessor employer and successor employing unit make an application
3 in writing on the form prescribed by the secretary; (B) the application is
4 submitted within 120 days of the date of the transfer; (C) the successor
5 employing unit is or becomes an employer subject to this act immediately
6 after the transfer; (D) the percentage of the experience rating factors
7 transferred shall not be thereafter used in computing the contribution rate
8 for the predecessor employer; and (E) the secretary finds that such transfer
9 will not tend to defeat or obstruct the object and purposes of this act.

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

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

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

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

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

43 (6) Whenever an employer's account has been terminated as provided

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

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

17 (c) *Voluntary contributions.* Notwithstanding any other provision of
18 the employment security law, any employer may make voluntary payments
19 for the purpose of reducing or maintaining a reduced rate in addition to the
20 contributions required under this section. Such voluntary payments may be
21 made only during the thirty-day period immediately following the date of
22 mailing of experience rating notices for a calendar year. All such voluntary
23 contribution payments shall be paid prior to the expiration of 120 days
24 after the beginning of the year for which such rates are effective. The
25 amount of voluntary contributions shall be credited to the employer's
26 account as of the next preceding computation date and the employer's rate
27 shall be computed accordingly. Under no circumstances shall voluntary
28 payments be refunded in whole or in part.

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

33 (e) There is hereby established in the state treasury, separate and apart
34 from all public moneys or funds of this state, an employment security
35 interest assessment fund, which shall be administered by the secretary as
36 provided in this act. Moneys in the employment security fund established
37 by K.S.A. 44-712, and amendments thereto, ~~and employment security~~
38 ~~interest assessment fund established by K.S.A. 44-710, and amendments~~
39 ~~thereto,~~ shall not be invested in the pooled money investment portfolio
40 established under K.S.A. 75-4234, and amendments thereto.
41 Notwithstanding the provisions of K.S.A. 44-712(a), 44-716, 44-717 and
42 75-4234, and amendments thereto, or any like provision the secretary shall
43 remit all moneys received from employers pursuant to the interest payment

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

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

24 Sec.-4. 5. K.S.A. 44-717 is hereby amended to read as follows: 44-
25 717. (a) (1) *Penalties on past-due reports, interest on past-due*
26 *contributions, payments in lieu of contributions, benefit cost payments and*
27 *interest assessments made under K.S.A. 44-710a, and amendments thereto.*
28 Any employer or any officer or agent of an employer, who fails to file any
29 wage report or contribution return by the last day of the month following
30 the close of each calendar quarter to which they are related shall pay a
31 penalty as provided by this subsection for each month or fraction of a
32 month until the report or return is received by the secretary of labor ~~except~~
33 ~~that for calendar years 2010 and 2011 an employer or any officer or agent~~
34 ~~of the employer shall have up to 90 days past the due date for any of the~~
35 ~~first three calendar quarters in a calendar year to pay such employer's~~
36 ~~contribution without being charged any interest, however, when the 90 day~~
37 ~~period has passed, the provisions of this section shall apply.~~ The penalty
38 for each month or fraction of a month shall be an amount equal to .05% of
39 the total wages paid by the employer during the quarter, except that no
40 penalty shall be less than \$25 nor more than \$200 for each such report or
41 return not timely filed. Contributions, benefit cost payments and interest
42 assessments made pursuant to K.S.A. 44-710a, and amendments thereto,
43 unpaid by the last day of the month following the last calendar quarter to

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

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

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

42 (b) *Collection.* (1) If, after due notice, any employer defaults in
43 payment of any penalty, contributions, payments in lieu of contributions,

1 benefit cost payments, interest assessments made pursuant to K.S.A. 44-
2 710a, and amendments thereto, or interest thereon the amount due may be
3 collected by civil action in the name of the secretary of labor and the
4 employer adjudged in default shall pay the cost of such action. Civil
5 actions brought under this section to collect *such* contributions, payments
6 in lieu of contributions, benefit cost payments, interest assessments ~~made~~
7 ~~pursuant to K.S.A. 44-710a, and amendments thereto~~, penalties; or interest
8 thereon from an employer shall be heard by the district court at the earliest
9 possible date and shall be entitled to preference upon the calendar of the
10 court over all other civil actions except petitions for judicial review under
11 this act and cases arising under the workmen's compensation act. All
12 liability determinations of contributions due, payments in lieu of
13 contributions, benefit cost payments and interest assessments made
14 pursuant to K.S.A. 44-710a, and amendments thereto, due shall be made
15 within a period of five years from the date such contributions, payments in
16 lieu of contributions, benefit cost payments and interest assessments ~~made~~
17 ~~pursuant to K.S.A. 44-710a, and amendments thereto~~, were due except
18 such determinations may be made for any time when an employer has filed
19 fraudulent reports with intent to evade liability.

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

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

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

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

33 (e) (1) *Lien.* If any employer or person who is liable to pay
34 contributions, payments in lieu of contributions, benefit cost payments and
35 interest assessments made pursuant to K.S.A. 44-710a, and amendments
36 thereto, neglects or refuses to pay the same after demand, the amount,
37 including interest and penalty, shall be a lien in favor of the state of
38 Kansas, secretary of labor, upon all property and rights to property,
39 whether real or personal, belonging to such employer or person. Such lien
40 shall not be valid as against any mortgagee, pledgee, purchaser or
41 judgment creditor until notice thereof has been filed by the secretary of
42 labor in the office of register of deeds in any county in the state of Kansas;
43 ~~in which~~ *where* such property is located, and when so filed shall be notice

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

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

1 or refusal to pay such amount, immediate collection of such amount by
2 levy shall be lawful without regard to the 10-day period provided in this
3 subsection.

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

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

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

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

1 with due diligence, the secretary or the secretary's designee may order
2 service to be made by leaving a copy of the final notice at the employer's
3 dwelling house, usual place of abode or business establishment.

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

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

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

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

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

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

41 (B) The secretary of labor or an authorized representative of the
42 secretary may file the warrant for record in the office of the clerk of the
43 district court in the county in which the employer owing such

1 contributions, payments in lieu of contributions, benefit cost payments,
2 interest assessments made pursuant to K.S.A. 44-710a, and amendments
3 thereto, interest, or penalty has business property. The warrant shall certify
4 the amount of contributions, payments in lieu of contributions, benefit cost
5 payments, interest and penalty due, and the name of the employer liable
6 for such amount. It shall be the duty of the clerk of the district court to file
7 such warrant of record and enter the warrant in the records of the district
8 court for judgment and decrees under the procedure prescribed for filing
9 transcripts of judgment.

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

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

23 (E) Warrants shall be satisfied of record by payment to the clerk of
24 the district court of the contributions, payments in lieu of contributions,
25 benefit cost payments, interest assessments made pursuant to K.S.A. 44-
26 710a, and amendments thereto, penalty, interest to date; and court costs.
27 Warrants may also be satisfied of record by payment to the clerk of the
28 district court of all court costs accrued in the case and by filing a
29 certificate by the secretary of labor, certifying that ~~the such~~ contributions,
30 payments in lieu of contributions, benefit cost payments, interest
31 assessments ~~made pursuant to K.S.A. 44-710a, and amendments thereto,~~
32 interest and penalty have been paid.

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

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

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

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

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

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

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

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

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

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

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

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

1 assessments made pursuant to K.S.A. 44-710a, and amendments thereto,
2 due after June 30, 2010, for those employers with 50 or more employees
3 and for those third party administrators with 50 or more client employees
4 at the time such filing or payment is first due; *and*

5 *(4) wage reports, contribution returns, payments and interest*
6 *assessments made pursuant to K.S.A. 44-710a, and amendments thereto,*
7 *due after June 30, 2023, for all employers with 25 or more employees and*
8 *those third-party administrators with 25 or more client employees at the*
9 *time such filing or payment is first due.*

10 The requirements of this subsection may be waived by the secretary for
11 an employer if the employer demonstrates a hardship in complying with
12 this subsection.

13 **Sec. 6. K.S.A. 44-772 is hereby amended to read as follows: 44-**
14 **772. (a) It is the intent of the legislature that, in order to accomplish**
15 **the mission of collecting state employment security taxes, processing**
16 **unemployment insurance benefit claims and paying benefits, the**
17 **department of labor's information technology system shall be**
18 **continually developed, customized, enhanced and upgraded. The**
19 **purpose of this section is to ensure the state's unemployment**
20 **insurance program is utilizing current technology and features to**
21 **protect the sensitive data required in the unemployment insurance**
22 **benefit and tax systems relating to program integrity, system**
23 **efficiency and customer service experience.**

24 **(b) The legislature finds that, as a result of the vulnerabilities**
25 **exposed in the legacy unemployment insurance system by the COVID-**
26 **19 pandemic unemployment insurance crisis, a new system shall be**
27 **fully designed, implemented and administered by the department of**
28 **labor not later than December 31, 2022. The legislative coordinating**
29 **council, upon consultation with the unemployment compensation**
30 **modernization and improvement council established by K.S.A. 44-771,**
31 **and amendments thereto, may extend the deadline to a date certain and**
32 ~~may further extend the deadline to another date certain at any time as often~~
33 ~~as the legislative coordinating council deems appropriate. The secretary of~~
34 ~~labor shall provide written notice to the legislative coordinating council~~
35 ~~and the unemployment compensation modernization and improvement~~
36 ~~council at least 30 days prior to the expiration of a deadline advising~~
37 ~~whether the secretary seeks an extension of the deadline and, if so, the~~
38 ~~basis therefor. The failure of the secretary to provide such notice shall not~~
39 ~~affect the authority of the legislative coordinating council to act as~~
40 ~~provided by this subsection. For purposes of this subsection,~~
41 ~~"consultation" means an appearance before, or written statement provided~~
42 ~~to, the legislative coordinating council by the chairman of the~~
43 ~~unemployment compensation modernization and improvement council or~~

1 *the chairman's designee. Any member of the unemployment compensation*
2 *modernization and improvement council may also provide a written*
3 *statement. A report to the legislative coordinating council by the*
4 *unemployment compensation modernization and improvement council may*
5 *be provided but shall not be required. If any deadline expires before the*
6 *legislative coordinating council extends that deadline, the council may*
7 *subsequently meet as soon as reasonably possible and may retroactively*
8 *extend any deadline as otherwise provided by this subsection.*

9 **(c) The information technology system, technology and platform**
10 **shall include, but not be limited to, any components as specified and**
11 **defined by the unemployment compensation modernization and**
12 **improvement council established by K.S.A. 44-771, and amendments**
13 **thereto, in consultation with the secretary.**

14 **(d) The new system shall include, but not be limited to, any**
15 **features and benefits as specified and defined by the unemployment**
16 **compensation modernization and improvement council established by**
17 **K.S.A. 44-771, and amendments thereto, in consultation with the**
18 **secretary.**

19 **(e) The secretary shall implement and utilize all program**
20 **integrity elements, as specified and defined by the unemployment**
21 **compensation modernization and improvement council established by**
22 **K.S.A. 44-771, and amendments thereto, in consultation with the**
23 **secretary, including, but not limited to:**

24 **(1) Social security administration cross-matching for the purpose**
25 **of validating social security numbers supplied by a claimant;**

26 **(2) checking of new hire records against the national directorate**
27 **of new hires to verify eligibility;**

28 **(3) verification of immigration status or citizenship and**
29 **confirmation of benefit applicant information through the systematic**
30 **alien verification for entitlement program;**

31 **(4) comparison of applicant information to local, state and**
32 **federal prison databases through incarceration cross-matches;**

33 **(5) detection of duplicate claims by applicants filed in other states**
34 **or other unemployment insurance programs through utilization of the**
35 **interstate connection network, interstate benefits cross-match, the**
36 **state identification inquiry state claims and overpayment file and the**
37 **interstate benefits 8606 application for overpayment recoveries for**
38 **Kansas claims filed from a state other than Kansas;**

39 **(6) identification of internet protocol addresses linked to multiple**
40 **claims or to claims filed outside of the United States; and**

41 **(7) use of data mining and data analytics to detect and prevent**
42 **fraud when a claim is filed, and on an ongoing basis throughout the**
43 **lifecycle of a claim, by using current and future functionalities to**

1 include suspicious actor repository, suspicious email domains, foreign
2 internet protocol addresses, multi-state cross-match, identity
3 verification, fraud alert systems and other assets provided by the
4 unemployment insurance integrity center.

5 (f) If the unemployment compensation modernization and
6 improvement council becomes inactive or is dissolved and the new
7 information technology system modernization project has been
8 completed, the secretary shall implement and utilize all new program
9 integrity elements and guidance issued by the United States
10 department of labor and the national association of state workforce
11 agencies, including the integrity data hub, within 60 days of the
12 issuance of any such guidance.

13 (g) The secretary, on a scheduled basis, shall cross check new and
14 active unemployment insurance claims against the cross-check
15 programs described in subsection (e). If the secretary receives
16 information concerning an individual approved for benefits that
17 indicates a change in circumstances that may affect eligibility, the
18 secretary shall review the individual's case and act in accordance with
19 the law.

20 (h) The department of labor shall have the authority to execute a
21 memorandum of understanding with any department, agency or
22 agency division for information required to be shared between
23 agencies pursuant to the provisions of this section.

24 (i) The secretary of labor shall adopt rules and regulations
25 necessary for the purposes of carrying out this section. Such rules and
26 regulations shall be adopted within 12 months of the effective date of
27 this act.

28 (j) The secretary of labor shall provide an annual status update
29 and progress report regarding the requirements of this section to the
30 unemployment compensation modernization and improvement
31 council and the legislative coordinating council.

32 (k) This section shall be a part of and supplemental to the
33 employment security law.}

34 Sec. 7. K.S.A. 2022 Supp. 44-775 is hereby amended to read as
35 follows: 44-775. (a) (1) The secretary of labor and the secretary of
36 commerce shall jointly establish and implement the my reemployment
37 plan as provided in this section. For purposes of this section, "my
38 reemployment plan" means a program jointly established and
39 implemented by the Kansas department of labor and the Kansas
40 department of commerce that provides enhanced reemployment
41 services, including workforce services provided by the department of
42 commerce, to Kansans receiving unemployment insurance benefits.
43 The program shall be required for all claimants except claimants in

1 the shared work program, trade adjustment assistance and trade
2 readjustment assistance program, claimants on temporary layoff with
3 a return-to-work date but such claimants shall only be excepted
4 during any first 8 consecutive weeks of benefits, claimants that are
5 currently employed, claimants that are current reemployment services
6 and eligibility assessment participants, claimants that are active
7 members in good standing of a placement union ~~or~~, claimants that are
8 engaged in a training program. ~~The program shall be implemented on or~~
9 ~~before June 1, 2021 or claimants that are on temporary unemployment as~~
10 ~~defined in K.S.A. 44-703(ii), and amendments thereto.~~

11 (2) Rated employers seeking an extension of temporary
12 unemployment with respect to an individual shall submit a written request
13 to the secretary. The total maximum of temporary unemployment for an
14 individual in a benefit year, including any extensions as provided by this
15 paragraph, shall be 12 weeks. As a condition of approval by the secretary,
16 a rated employer shall agree to furnish the secretary with reports relating
17 to the temporary unemployment extension request as the secretary may
18 require. The secretary may approve one or more extensions of up to a total
19 of four weeks of additional temporary unemployment for an individual, if
20 the secretary determines the requesting employer is a contributing
21 employer eligible for a rate computation under K.S.A. 44-710a(a)(2), and
22 amendments thereto, and is a:

23 (A) Rated employer that has filed all reports required to be filed
24 under the employment security law for all past and current periods and
25 has paid all contributions; and

26 (B) (i) positive account employer as defined by K.S.A. 44-710a(d),
27 and amendments thereto; or

28 (ii) negative account employer as defined by K.S.A. 44-710a(d), and
29 amendments thereto, and the negative account employer's most recent
30 calculated reserve ratio has improved from the reserve ratio of such
31 employer for the previous reporting year.

32 ~~(2)~~(3) The secretary of labor shall provide the secretary of
33 commerce with the names and contact information of claimants that
34 have claimed a third week of benefits in the current benefit year. The
35 secretary of labor shall request the claimant to upload or create a
36 complete resume in the Kansasworks workforce system, and complete
37 a job search plan that includes a skills assessment component. The
38 secretary of commerce shall offer and provide, when requested,
39 assistance to the claimants in developing the documents or plan
40 through collaboration by the secretary with the Kansasworks
41 workforce system. The secretary of commerce may require claimants
42 to participate in reemployment services. The claimant shall have 14
43 calendar days to respond to the secretary of commerce. The secretary

1 of commerce shall report any failure to respond by the claimant to the
2 secretary of labor.

3 ~~(3)~~(4) The secretary of labor shall share labor market
4 information and current available job positions with the secretary of
5 commerce. The secretary of labor may collaborate with Kansasworks
6 or other state or federal agencies with job availability information in
7 obtaining or sharing such information.

8 ~~(4)~~(5) The secretary of commerce shall match open job positions
9 with claimants based on skills, work history and job location that is a
10 reasonable commute from the claimant's residence and communicate
11 the match information to the claimant and to the employer. The
12 secretary of labor and the secretary of commerce shall consider
13 whether the claimant or a Kansas employer would benefit from the
14 claimant's participation in a work skills training or retraining
15 program as provided by subsection (b) and, if so, provide such
16 information to the employer, if applicable, and the claimant.
17 Claimants who fail to respond within 14 calendar days after contact
18 by Kansasworks or the department of commerce shall be reported by
19 the secretary of commerce to the secretary of labor.

20 ~~(5)~~(6) The secretary of commerce and the secretary of labor shall
21 monitor the result of job matches and share information regarding
22 any claimant who did not attend an interview or did not accept a
23 position that was a reasonable match for the claimant's work history
24 and skills and was within a reasonable commute from the claimant's
25 residence. The secretary of commerce shall contact the claimant and
26 report the contact to the secretary of labor. The secretary of labor
27 shall consider whether the claimant has failed to meet work search
28 requirements and if the claimant should continue to receive benefits.

29 (b) The secretary of commerce shall refer claimants to a work
30 skills training or retraining program as appropriate. The secretary of
31 commerce shall seek to obtain or utilize any available federal funds for
32 the program, and to the extent feasible, may make current work skills
33 training and retraining programs available to claimants. The
34 secretary of labor may allow claimants to participate in such a
35 program offered by the secretary of commerce or by another state or
36 federal agency in lieu of requiring the claimant to meet job search
37 requirements and the requirements of the my reemployment plan
38 until the number of allowed benefit weeks has expired. A claimant
39 shall participate in such a program for not less than 25 hours per
40 week. The secretary of commerce shall monitor those my
41 reemployment plan claimants participating in training managed by
42 the workforce centers to ensure compliance.

43 (c) Claimants who participate in the my reemployment plan or

1 the work skills training or retraining program shall meet attendance
2 or progress requirements established by the secretary of commerce to
3 continue eligibility for unemployment insurance benefits. Non -
4 compliant claimants shall be reported by the secretary of commerce to
5 the secretary of labor. The secretary of labor shall disqualify such
6 claimants from further benefits within five business days of receiving
7 the report, unless or until the claimant demonstrates compliance to
8 the secretary of commerce, and shall communicate the disqualification
9 and the reason for the disqualification to the claimant. The secretary
10 of commerce shall report to the secretary of labor when the claimant
11 has reestablished compliance. The secretary of labor may continue
12 benefits or reinstate a claimant's eligibility for benefits upon a
13 showing of good cause by the claimant for the failure to meet
14 attendance or progress requirements or my reemployment plan
15 participation requirements.

16 (d) The secretary of labor and the secretary of commerce shall
17 provide an annual status update and progress report for the my
18 reemployment plan to the standing committee on commerce, labor
19 and economic development of the house of representatives and the
20 standing committee on commerce of the senate during the first month
21 of the 2022 regular legislative session and the first month of each
22 regular legislative session thereafter.

23 (e) This section shall be a part of and supplemental to the
24 employment security law.}

25 Sec.-5: 8. K.S.A. 44-705, 44-709~~and~~, 44-717 and 44-772 and K.S.A.
26 2022 Supp. 44-703~~and~~, 44-710a and 44-775 are hereby repealed.

27 Sec.-6: 9. This act shall take effect and be in force from and after its
28 publication in the statute book.