

As Amended by House Committee

Session of 2007

**HOUSE BILL No. 2456**

By Committee on Federal and State Affairs

2-7

10 AN ACT concerning the employment security law; relating to contribu-  
11 tion rates; amending K.S.A. 2006 Supp. **44-703 and 44-710a** and re-  
12 pealing the existing ~~section~~ sections.  
13

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

15 **Section 1. K.S.A. 2006 Supp. 44-703 is hereby amended to**  
16 **read as follows: 44-703. As used in this act, unless the context**  
17 **clearly requires otherwise:**

18 (a) (1) **“Annual payroll” means the total amount of wages paid**  
19 **or payable by an employer during the calendar year.**

20 (2) **“Average annual payroll” means the average of the annual**  
21 **payrolls of any employer for the last three calendar years imme-**  
22 **diately preceding the computation date as hereinafter defined if**  
23 **the employer has been continuously subject to contributions dur-**  
24 **ing those three calendar years and has paid some wages for em-**  
25 **ployment during each of such years. In determining contribution**  
26 **rates for the calendar year, if an employer has not been continu-**  
27 **ously subject to contribution for the three calendar years imme-**  
28 **diately preceding the computation date but has paid wages subject**  
29 **to contributions during only the two calendar years immediately**  
30 **preceding the computation date, such employer’s “average annual**  
31 **payroll” shall be the average of the payrolls for those two calendar**  
32 **years.**

33 (3) **“Total wages” means the total amount of wages paid or pay-**  
34 **able by an employer during the calendar year, including that part**  
35 **of remuneration in excess of the limitation prescribed as provided**  
36 **in subsection (o)(1) of this section.**

37 (b) **“Base period” means the first four of the last five com-**  
38 **pleted calendar quarters immediately preceding the first day of**  
39 **an individual’s benefit year, except that the base period in respect**  
40 **to combined wage claims means the base period as defined in the**  
41 **law of the paying state.**

42 (1) **If an individual lacks sufficient base period wages in order**  
43 **to establish a benefit year in the matter set forth above and satisfies**

1 the requirements of subsection (g) of K.S.A. 44-705 and subsection  
2 (hh) of K.S.A. 44-703, and amendments thereto, the claimant shall  
3 have an alternative base period substituted for the current base  
4 period so as not to prevent establishment of a valid claim. For the  
5 purposes of this subsection, “alternative base period” means the  
6 last four completed quarters immediately preceding the date the  
7 qualifying injury occurred. In the event the wages in the alterna-  
8 tive base period have been used on a prior claim, then they shall  
9 be excluded from the new alternative base period.

10 (2) For the purposes of this chapter, the term “base period”  
11 includes the alternative base period.

12 (c) (1) “Benefits” means the money payments payable to an  
13 individual, as provided in this act, with respect to such individual’s  
14 unemployment.

15 (2) “Regular benefits” means benefits payable to an individual  
16 under this act or under any other state law, including benefits pay-  
17 able to federal civilian employees and to ex-servicemen pursuant  
18 to 5 U.S.C. chapter 85, other than extended benefits.

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

40 (e) “Commissioner” or “secretary” means the secretary of  
41 labor.

42 (f) (1) “Contributions” means the money payments to the state  
43 employment security fund which are required to be made by em-

1 ployers on account of employment under K.S.A. 44-710, and  
2 amendments thereto, and voluntary payments made by employers  
3 pursuant to such statute.

4 (2) “Payments in lieu of contributions” means the money pay-  
5 ments to the state employment security fund from employers  
6 which are required to make or which elect to make such payments  
7 under subsection (e) of K.S.A. 44-710 and amendments thereto.

8 (g) “Employing unit” means any individual or type of organi-  
9 zation, including any partnership, association, limited liability  
10 company, agency or department of the state of Kansas and political  
11 subdivisions thereof, trust, estate, joint-stock company, insurance  
12 company or corporation, whether domestic or foreign including  
13 nonprofit corporations, or the receiver, trustee in bankruptcy,  
14 trustee or successor thereof, or the legal representatives of a de-  
15 ceased person, which has in its employ one or more individuals  
16 performing services for it within this state. All individuals perform-  
17 ing services within this state for any employing unit which main-  
18 tains two or more separate establishments within this state shall  
19 be deemed to be employed by a single employing unit for all the  
20 purposes of this act. Each individual employed to perform or to  
21 assist in performing the work of any agent or employee of an em-  
22 ploying unit shall be deemed to be employed by such employing  
23 unit for all the purposes of this act, whether such individual was  
24 hired or paid directly by such employing unit or by such agent or  
25 employee, provided the employing unit had actual or constructive  
26 knowledge of the employment.

27 (h) “Employer” means:

28 (1) (A) Any employing unit for which agricultural labor as de-  
29 fined in subsection (w) of this section is performed and which dur-  
30 ing any calendar quarter in either the current or preceding cal-  
31 endar year paid remuneration in cash of \$20,000 or more to  
32 individuals employed in agricultural labor or for some portion of  
33 a day in each of 20 different calendar weeks, whether or not such  
34 weeks were consecutive, in either the current or the preceding  
35 calendar year, employed in agricultural labor 10 or more individ-  
36 uals, regardless of whether they were employed at the same mo-  
37 ment of time.

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

42 (i) Such crew leader holds a valid certificate of registration un-  
43 der the federal migrant and seasonal agricultural workers protec-

- 1 tion act or substantially all the members of such crew operate or  
 2 maintain tractors, mechanized harvesting or cropdusting equip-  
 3 ment or any other mechanized equipment, which is provided by  
 4 such crew leader; and
- 5 (ii) such individual is not in the employment of such other per-  
 6 son within the meaning of subsection (i) of this section.
- 7 (C) For the purpose of this subsection (h)(1), in the case of any  
 8 individual who is furnished by a crew leader to perform service in  
 9 agricultural labor for any other person and who is not treated as  
 10 an employee of such crew leader:
- 11 (i) Such other person and not the crew leader shall be treated  
 12 as the employer of such individual; and
- 13 (ii) such other person shall be treated as having paid cash re-  
 14 munerations to such individual in an amount equal to the amount  
 15 of cash remuneration paid to such individual by the crew leader,  
 16 either on the crew leader's own behalf or on behalf of such other  
 17 person, for the service in agricultural labor performed for such  
 18 other person.
- 19 (D) For the purposes of this subsection (h)(1) "crew leader"  
 20 means an individual who:
- 21 (i) Furnishes individuals to perform service in agricultural la-  
 22 bor for any other person;
- 23 (ii) pays, either on such individual's own behalf or on behalf of  
 24 such other person, the individuals so furnished by such individual  
 25 for the service in agricultural labor performed by them; and
- 26 (iii) has not entered into a written agreement with such other  
 27 person under which such individual is designated as an employee  
 28 of such other person.
- 29 (2) (A) **Any employing unit which:** *(i) For calendar year 2007 and*  
 30 *each calendar year thereafter, employs one or more individuals for some*  
 31 *portion of a day during a calendar year, (ii) for each calendar year prior*  
 32 *to 2007, each employing unit which in any calendar quarter in either*  
 33 **the current or preceding calendar year paid for service in em-**  
 34 **ployment wages of \$1,500 or more, or ~~(ii)~~ (iii) for some portion of**  
 35 **a day in each of 20 different calendar weeks, whether or not such**  
 36 **weeks were consecutive, in either the current or preceding cal-**  
 37 **endar year, had in employment at least one individual, whether or**  
 38 **not the same individual was in employment in each such day.**
- 39 (B) Employment of individuals to perform domestic service or  
 40 agricultural labor and wages paid for such service or labor shall  
 41 not be considered in determining whether an employing unit  
 42 meets the criteria of this subsection (h)(2).
- 43 (3) Any employing unit for which service is employment as de-

1 **fined in subsection (i)(3)(E) of this section.**

2 **(4) (A) Any employing unit, whether or not it is an employing**  
3 **unit under subsection (g) of this section, which acquires or in any**  
4 **manner succeeds to (i) substantially all of the employing enter-**  
5 **prises, organization, trade or business, or (ii) substantially all the**  
6 **assets, of another employing unit which at the time of such acqui-**  
7 **sition was an employer subject to this act;**

8 **(B) any employing unit which is controlled substantially, either**  
9 **directly or indirectly by legally enforceable means or otherwise,**  
10 **by the same interest or interests, whether or not such interest or**  
11 **interests are an employing unit under subsection (g) of this section,**  
12 **which acquires or in any manner succeeds to a portion of an em-**  
13 **ployer's annual payroll, which is less than 100% of such employer's**  
14 **annual payroll, and which intends to continue the acquired portion**  
15 **as a going business.**

16 **(5) Any employing unit which paid cash remuneration of**  
17 **\$1,000 or more in any calendar quarter in the current or preceding**  
18 **calendar year to individuals employed in domestic service as de-**  
19 **finied in subsection (aa) of this section.**

20 **(6) Any employing unit which having become an employer under**  
21 **this subsection (h) has not, under subsection (b) of K.S.A. 44-**  
22 **711, and amendments thereto, ceased to be an employer subject**  
23 **to this act.**

24 **(7) Any employing unit which has elected to become fully sub-**  
25 **ject to this act in accordance with subsection (c) of K.S.A. 44-711**  
26 **and amendments thereto.**

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

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

- 1 (i) “Employment” means:
- 2 (1) Subject to the other provisions of this subsection, service,
- 3 including service 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 ap-
- 6 plicable in determining the employer-employee relationship, has
- 7 the status of an employee; or
- 8 (C) any individual other than an individual who is an employee
- 9 under subsection (i)(1)(A) or subsection (i)(1)(B) above who per-
- 10 forms services for remuneration for any person:
- 11 (i) As an agent-driver or commission-driver engaged in distrib-
- 12 uting meat products, vegetable products, fruit products, bakery
- 13 products, beverages (other than milk), or laundry or dry-cleaning
- 14 services, for such individual’s principal; or
- 15 (ii) as a traveling or city salesman, other than as an agent-driver
- 16 or commission-driver, engaged upon a full-time basis in the solici-
- 17 tation on behalf of, and the transmission to, a principal (except
- 18 for side-line sales activities on behalf of some other person) of or-
- 19 ders from wholesalers, retailers, contractors, or operators of ho-
- 20 tels, restaurants, or other similar establishments for merchandise
- 21 for resale or supplies for use in their business operations.
- 22 For purposes of subsection (i)(1)(D), the term “employment”
- 23 shall include services described in paragraphs (i) and (ii) above
- 24 only if:
- 25 (a) The contract of service contemplates that substantially all
- 26 of the services are to be performed personally by such individual;
- 27 (b) the individual does not have a substantial investment in fa-
- 28 cilities used in connection with the performance of the services
- 29 (other than in facilities for transportation); and
- 30 (c) the services are not in the nature of a single transaction that
- 31 is not part of a continuing relationship with the person for whom
- 32 the services are performed.
- 33 (2) The term “employment” shall include an individual’s entire
- 34 service within the United States, even though performed entirely
- 35 outside this state if,
- 36 (A) The service is not localized in any state, and
- 37 (B) the individual is one of a class of employees who are re-
- 38 quired to travel outside this state in performance of their duties,
- 39 and
- 40 (C) the individual’s base of operations is in this state, or if there
- 41 is no base of operations, then the place from which service is di-
- 42 rected or controlled is in this state.
- 43 (3) The term “employment” shall also include:

1 (A) Services performed within this state but not covered by the  
2 provisions of subsection (i)(1) or subsection (i)(2) shall be deemed  
3 to be employment subject to this act if contributions are not re-  
4 quired and paid with respect to such services under an unemploy-  
5 ment compensation law of any other state or of the federal  
6 government.

7 (B) Services performed entirely without this state, with respect  
8 to no part of which contributions are required and paid under an  
9 unemployment compensation law of any other state or of the fed-  
10 eral government, shall be deemed to be employment subject to  
11 this act only if the individual performing such services is a resident  
12 of this state and the secretary approved the election of the em-  
13 ploying unit for whom such services are performed that the entire  
14 service of such individual shall be deemed to be employment sub-  
15 ject to this act.

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

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

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

1 more other states or political subdivisions of this or other states,  
2 provided that such service is excluded from “employment” as de-  
3 fined in the federal unemployment tax act by reason of section  
4 3306(c)(7) of that act and is not excluded from “employment” un-  
5 der subsection (i)(4)(A) of this section. For purposes of this section,  
6 the exclusions from employment in subsections (i)(4)(A) and  
7 (i)(4)(L) shall also be applicable to services performed in the em-  
8 ploy of an Indian tribe.

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

15 (G) The term “employment” shall include the service of an in-  
16 dividual who is a citizen of the United States, performed outside  
17 the United States except in Canada, in the employ of an American  
18 employer (other than service which is deemed “employment” un-  
19 der the provisions of subsection (i)(2) or subsection (i)(3) or the  
20 parallel provisions of another state’s law), if:

21 (i) The employer’s principal place of business in the United  
22 States is located in this state; or

23 (ii) the employer has no place of business in the United States,  
24 but

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

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

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

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

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

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

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

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



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

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

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

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

22 (4) The term “employment” shall not include: (A) Service per-  
23 formed in the employ of an employer specified in subsection (h)(3)  
24 of this section if such service is performed by an individual in the  
25 exercise of duties:

26 (i) As an elected official;

27 (ii) as a member of a legislative body, or a member of the ju-  
28 diciary, of a state, political subdivision or of an Indian tribe;

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

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

33 (v) in a position which, under or pursuant to the laws of this  
34 state or tribal law, is designated as a major nontenured policy-  
35 making or advisory position or as a policymaking or advisory po-  
36 sition the performance of the duties of which ordinarily does not  
37 require more than eight hours per week;

38 (B) service with respect to which unemployment compensation  
39 is payable under an unemployment compensation system estab-  
40 lished by an act of congress;

41 (C) service performed by an individual in the employ of such  
42 individual's son, daughter or spouse, and service performed by a  
43 child under the age of 21 years in the employ of such individual's

1 father or mother;

2 (D) service performed in the employ of the United States gov-  
3 ernment or an instrumentality of the United States exempt under  
4 the constitution of the United States from the contributions im-  
5 posed by this act, except that to the extent that the congress of the  
6 United States shall permit states to require any instrumentality of  
7 the United States to make payments into an unemployment fund  
8 under a state unemployment compensation law, all of the provi-  
9 sions of this act shall be applicable to such instrumentalities, and  
10 to services performed for such instrumentalities, in the same man-  
11 ner, to the same extent and on the same terms as to all other em-  
12 ployers, employing units, individuals and services. If this state shall  
13 not be certified for any year by the federal security agency under  
14 section 3304(c) of the federal internal revenue code of 1986, the  
15 payments required of such instrumentalities with respect to such  
16 year shall be refunded by the secretary from the fund in the same  
17 manner and within the same period as is provided in subsection  
18 (f) of K.S.A. 44-717, and amendments thereto, with respect to con-  
19 tributions erroneously collected;

20 (E) service covered by an arrangement between the secretary  
21 and the agency charged with the administration of any other state  
22 or federal unemployment compensation law pursuant to which all  
23 services performed by an individual for an employing unit during  
24 the period covered by such employing unit's duly approved elec-  
25 tion, are deemed to be performed entirely within the jurisdiction  
26 of such other state or federal agency;

27 (F) service performed by an individual under the age of 18 in  
28 the delivery or distribution of newspapers or shopping news, not  
29 including delivery or distribution to any point for subsequent de-  
30 livery or distribution;

31 (G) service performed by an individual for an employing unit  
32 as an insurance agent or as an insurance solicitor, if all such service  
33 performed by such individual for such employing unit is per-  
34 formed for remuneration solely by way of commission;

35 (H) service performed in any calendar quarter in the employ  
36 of any organization exempt from income tax under section 501(a)  
37 of the federal internal revenue code of 1986 (other than an organ-  
38 ization described in section 401(a) or under section 521 of such  
39 code) if the remuneration for such service is less than \$50. In con-  
40 struing the application of the term "employment," if services per-  
41 formed during  $\frac{1}{2}$  or more of any pay period by an individual for  
42 the person employing such individual constitute employment, all  
43 the services of such individual for such period shall be deemed to

1 be employment; but if the services performed during more than  
2 ½ of any such pay period by an individual for the person employing  
3 such individual do not constitute employment, then none of the  
4 services of such individual for such period shall be deemed to be  
5 employment. As used in this subsection (i)(4)(H) the term “pay pe-  
6 riod” means a period (of not more than 31 consecutive days) for  
7 which a payment of remuneration is ordinarily made to the indi-  
8 vidual by the person employing such individual. This subsection  
9 (i)(4)(H) shall not be applicable with respect to services with re-  
10 spect to which unemployment compensation is payable under an  
11 unemployment compensation system established by an act of  
12 congress;

13 (I) services performed in the employ of a church or convention  
14 or association of churches, or an organization which is operated  
15 primarily for religious purposes and which is operated, supervised,  
16 controlled, or principally supported by a church or convention or  
17 association of churches;

18 (J) service performed by a duly ordained, commissioned, or  
19 licensed minister of a church in the exercise of such individual’s  
20 ministry or by a member of a religious order in the exercise of  
21 duties required by such order;

22 (K) service performed in a facility conducted for the purpose  
23 of carrying out a program of:

24 (i) Rehabilitation for individuals whose earning capacity is im-  
25 paired by age or physical or mental deficiency or injury, or

26 (ii) providing remunerative work for individuals who because  
27 of their impaired physical or mental capacity cannot be readily  
28 absorbed in the competitive labor market, by an individual receiv-  
29 ing such rehabilitation or remunerative work;

30 (L) service performed as part of an employment work-relief or  
31 work-training program assisted or financed in whole or in part by  
32 any federal agency or an agency of a state or political subdivision  
33 thereof or of an Indian tribe, by an individual receiving such work  
34 relief or work training;

35 (M) service performed by an inmate of a custodial or correc-  
36 tional institution;

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

41 (O) service performed by an individual who is enrolled at a  
42 nonprofit or public educational institution which normally main-  
43 tains a regular faculty and curriculum and normally has a regularly

- 1 organized body of students in attendance at the place where its  
2 educational activities are carried on as a student in a full-time pro-  
3 gram, taken for credit at such institution, which combines aca-  
4 demic instruction with work experience, if such service is an in-  
5 tegral part of such program, and such institution has so certified  
6 to the employer, except that this subsection (i)(4)(O) shall not apply  
7 to service performed in a program established for or on behalf of  
8 an employer or group of employers;
- 9 (P) service performed in the employ of a hospital licensed, cer-  
10 tified or approved by the secretary of health and environment, if  
11 such service is performed by a patient of the hospital;
- 12 (Q) services performed as a qualified real estate agent. As used  
13 in this subsection (i)(4)(Q) the term “qualified real estate agent”  
14 means any individual who is licensed by the Kansas real estate  
15 commission as a salesperson under the real estate brokers’ and  
16 salespersons’ license act and for whom:
- 17 (i) Substantially all of the remuneration, whether or not paid  
18 in cash, for the services performed by such individual as a real  
19 estate salesperson is directly related to sales or other output, in-  
20 cluding the performance of services, rather than to the number of  
21 hours worked; and
- 22 (ii) the services performed by the individual are performed  
23 pursuant to a written contract between such individual and the  
24 person for whom the services are performed and such contract  
25 provides that the individual will not be treated as an employee with  
26 respect to such services for state tax purposes;
- 27 (R) services performed for an employer by an extra in connec-  
28 tion with any phase of motion picture or television production or  
29 television commercials for less than 14 days during any calendar  
30 year. As used in this subsection, the term “extra” means an indi-  
31 vidual who pantomimes in the background, adds atmosphere to  
32 the set and performs such actions without speaking and “em-  
33 ployer” shall not include any employer which is a governmental  
34 entity or any employer described in section 501(c)(3) of the federal  
35 internal revenue code of 1986 which is exempt from income tax-  
36 ation under section 501(a) of the code;
- 37 (S) services performed by an oil and gas contract pumper. As  
38 used in this subsection (i)(4)(S), “oil and gas contract pumper”  
39 means a person performing pumping and other services on one or  
40 more oil or gas leases, or on both oil and gas leases, relating to  
41 the operation and maintenance of such oil and gas leases, on a con-  
42 tractual basis for the operators of such oil and gas leases and “serv-  
43 ices” shall not include services performed for a governmental en-

1 tity or any organization described in section 501(c)(3) of the  
2 federal internal revenue code of 1986 which is exempt from in-  
3 come taxation under section 501(a) of the code;

4 (T) service not in the course of the employer’s trade or business  
5 performed in any calendar quarter by an employee, unless the cash  
6 remuneration paid for such service is \$200 or more and such serv-  
7 ice is performed by an individual who is regularly employed by  
8 such employer to perform such service. For purposes of this par-  
9 agraph, an individual shall be deemed to be regularly employed  
10 by an employer during a calendar quarter only if:

11 (i) On each of some 24 days during such quarter such individ-  
12 ual performs for such employer for some portion of the day service  
13 not in the course of the employer’s trade or business, or

14 (ii) such individual was regularly employed, as determined un-  
15 der subparagraph (i), by such employer in the performance of such  
16 service during the preceding calendar quarter.

17 Such excluded service shall not include any services performed  
18 for an employer which is a governmental entity or any employer  
19 described in section 501(c)(3) of the federal internal revenue code  
20 of 1986 which is exempt from income taxation under section 501(a)  
21 of the code;

22 (U) service which is performed by any person who is a member  
23 of a limited liability company and which is performed as a member  
24 or manager of that limited liability company; and

25 (V) services performed as a qualified direct seller. The term  
26 “direct seller” means any person if:

27 (i) Such person:

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

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

36 (ii) substantially all the remuneration whether or not paid in  
37 cash for the performance of the services described in subpara-  
38 graph (i) is directly related to sales or other output including the  
39 performance of services rather than to the number of hours  
40 worked;

41 (iii) the services performed by the person are performed pur-  
42 suant to a written contract between such person and the person  
43 for whom the services are performed and such contract provides

- 1 that the person will not be treated as an employee for federal and  
2 state tax purposes;
- 3 (iv) for purposes of this act, a sale or a sale resulting exclusively  
4 from a solicitation made by telephone, mail, or other telecommu-  
5 nications method, or other nonpersonal method does not satisfy  
6 the requirements of this subsection;
- 7 (W) service performed as an election official or election  
8 worker, if the amount of remuneration received by the individual  
9 during the calendar year for services as an election official or elec-  
10 tion worker is less than \$1,000; and
- 11 (X) service performed by agricultural workers who are aliens  
12 admitted to the United States to perform labor pursuant to section  
13 1101 (a)(15)(H)(ii)(a) of the immigration and nationality act.
- 14 (j) “Employment office” means any office operated by this  
15 state and maintained by the secretary of labor for the purpose of  
16 assisting persons to become employed.
- 17 (k) “Fund” means the employment security fund established  
18 by this act, to which all contributions and reimbursement pay-  
19 ments required and from which all benefits provided under this  
20 act shall be paid and including all money received from the federal  
21 government as reimbursements pursuant to section 204 of the fed-  
22 eral-state extended compensation act of 1970, and amendments  
23 thereto.
- 24 (l) “State” includes, in addition to the states of the United  
25 States of America, any dependency of the United States, the Com-  
26 monwealth of Puerto Rico, the District of Columbia and the Virgin  
27 Islands.
- 28 (m) “Unemployment.” An individual shall be deemed “unem-  
29 ployed” with respect to any week during which such individual  
30 performs no services and with respect to which no wages are pay-  
31 able to such individual, or with respect to any week of less than  
32 full-time work if the wages payable to such individual with respect  
33 to such week are less than such individual’s weekly benefit amount.
- 34 (n) “Employment security administration fund” means the  
35 fund established by this act, from which administrative expenses  
36 under this act shall be paid.
- 37 (o) “Wages” means all compensation for services, including  
38 commissions, bonuses, back pay and the cash value of all remu-  
39 neration, including benefits, paid in any medium other than cash.  
40 The reasonable cash value of remuneration in any medium other  
41 than cash, shall be estimated and determined in accordance with  
42 rules and regulations prescribed by the secretary. Compensation  
43 payable to an individual which has not been actually received by

1 that individual within 21 days after the end of the pay period in  
2 which the compensation was earned shall be considered to have  
3 been paid on the 21st day after the end of that pay period. Effec-  
4 tive January 1, 1986, gratuities, including tips received from per-  
5 sons other than the employing unit, shall be considered wages  
6 when reported in writing to the employer by the employee. Em-  
7 ployees must furnish a written statement to the employer, report-  
8 ing all tips received if they total \$20 or more for a calendar month  
9 whether the tips are received directly from a person other than  
10 the employer or are paid over to the employee by the employer.  
11 This includes amounts designated as tips by a customer who uses  
12 a credit card to pay the bill. Notwithstanding the other provisions  
13 of this subsection (o), wages paid in back pay awards or settlements  
14 shall be allocated to the week or weeks and reported in the manner  
15 as specified in the award or agreement, or, in the absence of such  
16 specificity in the award or agreement, such wages shall be allo-  
17 cated to the week or weeks in which such wages, in the judgment  
18 of the secretary, would have been paid. The term “wages” shall  
19 not include:

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

38 (2) the amount of any payment (including any amount paid by  
39 an employing unit for insurance or annuities, or into a fund, to  
40 provide for any such payment) made to, or on behalf of, an em-  
41 ployee or any of such employee’s dependents under a plan or sys-  
42 tem established by an employer which makes provisions for em-  
43 ployees generally, for a class or classes of employees or for such

1 employees or a class or classes of employees and their dependents,  
2 on account of (A) sickness or accident disability, except in the case  
3 of any payment made to an employee or such employee's depend-  
4 ents, this subparagraph shall exclude from the term "wages" only  
5 payments which are received under a workers compensation law.  
6 Any third party which makes a payment included as wages by rea-  
7 son of this subparagraph (2)(A) shall be treated as the employer  
8 with respect to such wages, or (B) medical and hospitalization ex-  
9 penses in connection with sickness or accident disability, or (C)  
10 death;

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

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

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

25 (B) under or to an annuity plan which, at the time of such pay-  
26 ment, is a plan described in section 403(a) of the federal internal  
27 revenue code of 1986;

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

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

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

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



- 1 but only if such supplemental payments are under a plan which is  
2 treated as a welfare plan under section 3(2)(B)(ii) of the federal  
3 employee retirement income security act of 1974; or
- 4 (G) under a cafeteria plan within the meaning of section 125  
5 of the federal internal revenue code of 1986;
- 6 (5) the payment by an employing unit (without deduction from  
7 the remuneration of the employee) of the tax imposed upon an  
8 employee under section 3101 of the federal internal revenue code  
9 of 1986 with respect to remuneration paid to an employee for do-  
10 mestic service in a private home of the employer or for agricultural  
11 labor;
- 12 (6) remuneration paid in any medium other than cash to an  
13 employee for service not in the course of the employer's trade or  
14 business;
- 15 (7) remuneration paid to or on behalf of an employee if and to  
16 the extent that at the time of the payment of such remuneration it  
17 is reasonable to believe that a corresponding deduction is allow-  
18 able under section 217 of the federal internal revenue code of  
19 1986 relating to moving expenses;
- 20 (8) any payment or series of payments by an employer to an  
21 employee or any of such employee's dependents which is paid:
- 22 (A) Upon or after the termination of an employee's employ-  
23 ment relationship because of (i) death or (ii) retirement for disa-  
24 bility; and
- 25 (B) under a plan established by the employer which makes pro-  
26 visions for employees generally, a class or classes of employees or  
27 for such employees or a class or classes of employees and their  
28 dependents, other than any such payment or series of payments  
29 which would have been paid if the employee's employment rela-  
30 tionship had not been so terminated;
- 31 (9) remuneration for agricultural labor paid in any medium  
32 other than cash;
- 33 (10) any payment made, or benefit furnished, to or for the ben-  
34 efit of an employee if at the time of such payment or such furnish-  
35 ing it is reasonable to believe that the employee will be able to  
36 exclude such payment or benefit from income under section 129  
37 of the federal internal revenue code of 1986 which relates to de-  
38 pendent care assistance programs;
- 39 (11) the value of any meals or lodging furnished by or on behalf  
40 of the employer if at the time of such furnishing it is reasonable  
41 to believe that the employee will be able to exclude such items  
42 from income under section 119 of the federal internal revenue  
43 code of 1986;

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

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

9 (14) any payment made, or benefit furnished, to or for the ben-  
10 efit of an employee, if at the time of such payment or such fur-  
11 nishing it is reasonable to believe that the employee will be able  
12 to exclude such payment or benefit from income under section 127  
13 of the federal internal revenue code of 1986 relating to educa-  
14 tional assistance to the employee; or

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

20 Nothing in any paragraph of subsection (o), other than para-  
21 graph (1), shall exclude from the term “wages”: (1) Any employer  
22 contribution under a qualified cash or deferred arrangement, as  
23 defined in section 401(k) of the federal internal revenue code of  
24 1986, to the extent that such contribution is not included in gross  
25 income by reason of section 402(a)(8) of the federal internal rev-  
26 enue code of 1986; or (2) any amount treated as an employer con-  
27 tribution under section 414(h)(2) of the federal internal revenue  
28 code of 1986.

29 Any amount deferred under a nonqualified deferred compen-  
30 sation plan shall be taken into account for purposes of this section  
31 as of the later of when the services are performed or when there  
32 is no substantial risk of forfeiture of the rights to such amount. Any  
33 amount taken into account as wages by reason of this paragraph,  
34 and the income attributable thereto, shall not thereafter be  
35 treated as wages for purposes of this section. For purposes of this  
36 paragraph, the term “nonqualified deferred compensation plan”  
37 means any plan or other arrangement for deferral of compensation  
38 other than a plan described in subsection (o)(4).

39 (p) “Week” means such period or periods of seven consecutive  
40 calendar days, as the secretary may by rules and regulations  
41 prescribe.

42 (q) “Calendar quarter” means the period of three consecutive  
43 calendar months ending March 31, June 30, September 30 or De-

1 cember 31, or the equivalent thereof as the secretary may by rules  
2 and regulations prescribe.

3 (r) “Insured work” means employment for employers.

4 (s) “Approved training” means any vocational training course  
5 or course in basic education skills approved by the secretary or a  
6 person or persons designated by the secretary.

7 (t) “American vessel” or “American aircraft” means any vessel  
8 or aircraft documented or numbered or otherwise registered un-  
9 der the laws of the United States; and any vessel or aircraft which  
10 is neither documented or numbered or otherwise registered under  
11 the laws of the United States nor documented under the laws of  
12 any foreign country, if its crew performs service solely for one or  
13 more citizens or residents of the United States or corporations or-  
14 ganized under the laws of the United States or of any state.

15 (u) “Institution of higher education,” for the purposes of this  
16 section, means an educational institution which:

17 (1) Admits as regular students only individuals having a certif-  
18 icate of graduation from a high school, or the recognized equiva-  
19 lent of such a certificate;

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

22 (3) provides an educational program for which it awards a  
23 bachelor’s or higher degree, or provides a program which is ac-  
24 ceptable for full credit toward such a degree, a program of post-  
25 graduate or postdoctoral studies, or a program of training to pre-  
26 pare students for gainful employment in a recognized occupation;  
27 and

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

29 Notwithstanding any of the foregoing provisions of this subsec-  
30 tion (u), all colleges and universities in this state are institutions of  
31 higher education for purposes of this section, except that no col-  
32 lege, university, junior college or other postsecondary school or  
33 institution which is operated by the federal government or any  
34 agency thereof shall be an institution of higher education for pur-  
35 poses of the employment security law.

36 (v) “Educational institution” means any institution of higher  
37 education, as defined in subsection (u) of this section, or any in-  
38 stitution, except private for profit institutions, in which partici-  
39 pants, trainees or students are offered an organized course of  
40 study or training designed to transfer to them knowledge, skills,  
41 information, doctrines, attitudes or abilities from, by or under the  
42 guidance of an instructor or teacher and which is approved, li-  
43 censed or issued a permit to operate as a school by the state de-

1 department of education or other government agency that is author-  
2 ized within the state to approve, license or issue a permit for the  
3 operation of a school or to an Indian tribe in the operation of an  
4 educational institution. The courses of study or training which an  
5 educational institution offers may be academic, technical, trade or  
6 preparation for gainful employment in a recognized occupation.

7 (w) (1) “Agricultural labor” means any remunerated service:

8 (A) On a farm, in the employ of any person, in connection with  
9 cultivating the soil, or in connection with raising or harvesting any  
10 agricultural or horticultural commodity, including the raising,  
11 shearing, feeding, caring for, training, and management of live-  
12 stock, bees, poultry, and furbearing animals and wildlife.

13 (B) In the employ of the owner or tenant or other operator of  
14 a farm, in connection with the operating, management, conserva-  
15 tion, improvement, or maintenance of such farm and its tools and  
16 equipment, or in salvaging timber or clearing land of brush and  
17 other debris left by a hurricane, if the major part of such service  
18 is performed on a farm.

19 (C) In connection with the production or harvesting of any  
20 commodity defined as an agricultural commodity in section (15)(g)  
21 of the agricultural marketing act, as amended (46 Stat. 1500, sec.  
22 3; 12 U.S.C. 1141j) or in connection with the ginning of cotton, or  
23 in connection with the operation or maintenance of ditches, canals,  
24 reservoirs or waterways, not owned or operated for profit, used  
25 exclusively for supplying and storing water for farming purposes.

26 (D) (i) In the employ of the operator of a farm in handling,  
27 planting, drying, packing, packaging, processing, freezing, grad-  
28 ing, storing, or delivering to storage or to market or to a carrier  
29 for transportation to market, in its unmanufactured state, any ag-  
30 ricultural or horticultural commodity; but only if such operator  
31 produced more than  $\frac{1}{2}$  of the commodity with respect to which  
32 such service is performed;

33 (ii) in the employ of a group of operators of farms (or a coop-  
34 erative organization of which such operators are members) in the  
35 performance of service described in paragraph (i) above of this  
36 subsection (w)(1)(D), but only if such operators produced more  
37 than  $\frac{1}{2}$  of the commodity with respect to which such service is  
38 performed;

39 (iii) the provisions of paragraphs (i) and (ii) above of this sub-  
40 section (w)(1)(D) shall not be deemed to be applicable with respect  
41 to service performed in connection with commercial canning or  
42 commercial freezing or in connection with any agricultural or hor-  
43 ticultural commodity after its delivery to a terminal market for

1 distribution for consumption.

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

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

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

14 (4) For the purpose of this section, if an employing unit does  
15 not maintain sufficient records to separate agricultural labor from  
16 other employment, all services performed during any pay period  
17 by an individual for the person employing such individual shall be  
18 deemed to be agricultural labor if services performed during  $\frac{1}{2}$   
19 or more of such pay period constitute agricultural labor; but if the  
20 services performed during more than  $\frac{1}{2}$  of any such pay period by  
21 an individual for the person employing such individual do not con-  
22 stitute agricultural labor, then none of the services of such indi-  
23 vidual for such period shall be deemed to be agricultural labor. As  
24 used in this subsection (w), the term "pay period" means a period  
25 of not more than 31 consecutive days for which a payment of re-  
26 munerations is ordinarily made to the individual by the person em-  
27 ploying such individual.

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

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

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

43 (aa) "Domestic service" means any service for a person in the

1 operation and maintenance of a private household, local college  
2 club or local chapter of a college fraternity or sorority, as distin-  
3 guished from service as an employee in the pursuit of an em-  
4 ployer’s trade, occupation, profession, enterprise or vocation.

5 (bb) “Rated governmental employer” means any govern-  
6 mental entity which elects to make payments as provided by K.S.A.  
7 44-710d and amendments thereto.

8 (cc) “Benefit cost payments” means payments made to the em-  
9 ployment security fund by a governmental entity electing to be-  
10 come a rated governmental employer.

11 (dd) “Successor employer” means any employer, as described  
12 in subsection (h) of this section, which acquires or in any manner  
13 succeeds to (1) substantially all of the employing enterprises, or-  
14 ganization, trade or business of another employer or (2) substan-  
15 tially all the assets of another employer.

16 (ee) “Predecessor employer” means an employer, as described  
17 in subsection (h) of this section, who has previously operated a  
18 business or portion of a business with employment to which an-  
19 other employer has succeeded.

20 (ff) “Lessor employing unit” means any independently estab-  
21 lished business entity which engages in the business of providing  
22 leased employees to a client lessee.

23 (gg) “Client lessee” means any individual, organization, part-  
24 nership, corporation or other legal entity leasing employees from  
25 a lessor employing unit.

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

30 Section ~~1~~ 2. K.S.A. 2006 Supp. 44-710a is hereby amended to read  
31 as follows: 44-710a. (a) *Classification of employers by the secretary*. The  
32 term “employer” as used in this section refers to contributing employers.  
33 The secretary shall classify employers in accordance with their actual ex-  
34 perience in the payment of contributions on their own behalf and with  
35 respect to benefits charged against their accounts with a view of fixing  
36 such contribution rates as will reflect such experience. If, as of the date  
37 such classification of employers is made, the secretary finds that any em-  
38 ploying unit has failed to file any report required in connection therewith,  
39 or has filed a report which the secretary finds incorrect or insufficient,  
40 the secretary shall make an estimate of the information required from  
41 such employing unit on the basis of the best evidence reasonably available  
42 to the secretary at the time, and notify the employing unit thereof by mail  
43 addressed to its last known address. Unless such employing unit shall file

1 the report or a corrected or sufficient report as the case may be, within  
2 15 days after the mailing of such notice, the secretary shall compute such  
3 employing unit's rate of contributions on the basis of such estimates, and  
4 the rate as so determined shall be subject to increase but not to reduction  
5 on the basis of subsequently ascertained information. The secretary shall  
6 determine the contribution rate of each employer in accordance with the  
7 requirements of this section.

8 (1) *New employers.* (A) No employer will be eligible for a rate com-  
9 putation until there have been 24 consecutive calendar months immedi-  
10 ately preceding the computation date throughout which benefits could  
11 have been charged against such employer's account.

12 (B) (i) ~~Employers~~ **For the rate year 2007 and each rate year**  
13 **thereafter, each employer shall pay contributions equal to 4% of**  
14 **wages paid during each calendar year with regard to employment**  
15 **except those employers engaged in the construction industry shall**  
16 **pay a rate equal to 6%.**

17 (ii) **For rate years prior to 2007, employers** who are not eligible  
18 for a rate computation shall pay contributions at an assigned rate equal  
19 to the sum of 1% plus the greater of the average rate assigned in the  
20 preceding calendar year to all employers in such industry sector or the  
21 average rate assigned to all covered employers during the preceding cal-  
22 endar year, except that in no instance shall any such assigned rate be less  
23 than 2%. Employers engaged in more than one type of industrial activity  
24 shall be classified by principal activity. All rates assigned will remain in  
25 effect for a complete calendar year. If the sale or acquisition of a new  
26 establishment would require reclassification of the employer to a different  
27 industry sector, the employer would be promptly notified, and the con-  
28 tribution rate applicable to the new industry sector would become effec-  
29 tive the following January 1.

30 ~~(ii)~~ (iii) For purposes of this subsection (a), employers shall be clas-  
31 sified by industrial activity in accordance with standard procedures as set  
32 forth in rules and regulations adopted by the secretary.

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 com-  
37 putation 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 contri-

1 butions paid by such employer for all such years. The balance, positive  
2 or negative, shall be divided by the employer's average annual payroll,  
3 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 of 5.4% for each calendar year.

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

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



SCHEDULE I—Eligible Employers			
	Column A	Column B	Column C
	Rate	Cumulative	Experience factor
	group	taxable payroll	(Ratio to total wages)
5	1	Less than 1.96% .....	.025%
6	2	1.96% but less than 3.92 .....	.04
7	3	3.92 but less than 5.88 .....	.08
8	4	5.88 but less than 7.84 .....	.12
9	5	7.84 but less than 9.80 .....	.16
10	6	9.80 but less than 11.76 .....	.20
11	7	11.76 but less than 13.72 .....	.24
12	8	13.72 but less than 15.68 .....	.28
13	9	15.68 but less than 17.64 .....	.32
14	10	17.64 but less than 19.60 .....	.36
15	11	19.60 but less than 21.56 .....	.40
16	12	21.56 but less than 23.52 .....	.44
17	13	23.52 but less than 25.48 .....	.48
18	14	25.48 but less than 27.44 .....	.52
19	15	27.44 but less than 29.40 .....	.56
20	16	29.40 but less than 31.36 .....	.60
21	17	31.36 but less than 33.32 .....	.64
22	18	33.32 but less than 35.28 .....	.68
23	19	35.28 but less than 37.24 .....	.72
24	20	37.24 but less than 39.20 .....	.76
25	21	39.20 but less than 41.16 .....	.80
26	22	41.16 but less than 43.12 .....	.84
27	23	43.12 but less than 45.08 .....	.88
28	24	45.08 but less than 47.04 .....	.92
29	25	47.04 but less than 49.00 .....	.96
30	26	49.00 but less than 50.96 .....	1.00
31	27	50.96 but less than 52.92 .....	1.04
32	28	52.92 but less than 54.88 .....	1.08
33	29	54.88 but less than 56.84 .....	1.12
34	30	56.84 but less than 58.80 .....	1.16
35	31	58.80 but less than 60.76 .....	1.20
36	32	60.76 but less than 62.72 .....	1.24
37	33	62.72 but less than 64.68 .....	1.28
38	34	64.68 but less than 66.64 .....	1.32
39	35	66.64 but less than 68.60 .....	1.36
40	36	68.60 but less than 70.56 .....	1.40
41	37	70.56 but less than 72.52 .....	1.44
42	38	72.52 but less than 74.48 .....	1.48
43	39	74.48 but less than 76.44 .....	1.52

1	40	76.44 but less than 78.40	1.56
2	41	78.40 but less than 80.36	1.60
3	42	80.36 but less than 82.32	1.64
4	43	82.32 but less than 84.28	1.68
5	44	84.28 but less than 86.24	1.72
6	45	86.24 but less than 88.20	1.76
7	46	88.20 but less than 90.16	1.80
8	47	90.16 but less than 92.12	1.84
9	48	92.12 but less than 94.08	1.88
10	49	94.08 but less than 96.04	1.92
11	50	96.04 but less than 98.00	1.96
12	51	98.00 and over	2.00

13 (E) Negative account balance employers shall, in addition to paying  
14 the rate provided for in subsection (a)(2)(B) of this section, pay a sur-  
15 charge based on the size of the employer’s negative reserve ratio, the  
16 calculation which is provided for in subsection (a)(2) of this section. The  
17 amount of the surcharge shall be determined from column B of schedule  
18 II of this section. Each negative account balance employer who does not  
19 satisfy the requirements to have an average annual payroll, as defined by  
20 subsection (a)(2) of K.S.A. 44-703, and amendments thereto, shall be  
21 assigned a surcharge of 2%. Contribution payments made pursuant to this  
22 subsection (a)(2)(E) shall be credited to the appropriate account of such  
23 negative account balance employer.

24 SCHEDULE II—Surcharge on Negative Accounts

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

38 (3) *Planned yield.* (A) The average required yield shall be determined  
39 from schedule III of this section, and the planned yield on total wages in  
40 column B of schedule III shall be determined by the reserve fund ratio  
41 in column A of schedule III. The reserve fund ratio shall be determined  
42 by dividing total assets in the employment security fund provided for in  
43 subsection (a) of K.S.A. 44-712, and amendments thereto, excluding all

1 moneys credited to the account of this state pursuant to section 903 of  
 2 the federal social security act, as amended, which have been appropriated  
 3 by the state legislature, whether or not withdrawn from the trust fund,  
 4 and excluding contributions not yet paid on July 31 by total payrolls for  
 5 contributing employers for the preceding fiscal year which ended June  
 6 30.

7 SCHEDULE III—Fund Control

8 Ratios to Total Wages

9	Column A	Column B
10	Reserve Fund Ratio	Planned Yield
11	4.500 and over .....	0.00
12	4.475 but less than 4.500 .....	0.01
13	4.450 but less than 4.475 .....	0.02
14	4.425 but less than 4.450 .....	0.03
15	4.400 but less than 4.425 .....	0.04
16	4.375 but less than 4.400 .....	0.05
17	4.350 but less than 4.375 .....	0.06
18	4.325 but less than 4.350 .....	0.07
19	4.300 but less than 4.325 .....	0.08
20	4.275 but less than 4.300 .....	0.09
21	4.250 but less than 4.275 .....	0.10
22	4.225 but less than 4.250 .....	0.11
23	4.200 but less than 4.225 .....	0.12
24	4.175 but less than 4.200 .....	0.13
25	4.150 but less than 4.175 .....	0.14
26	4.125 but less than 4.150 .....	0.15
27	4.100 but less than 4.125 .....	0.16
28	4.075 but less than 4.100 .....	0.17
29	4.050 but less than 4.075 .....	0.18
30	4.025 but less than 4.050 .....	0.19
31	4.000 but less than 4.025 .....	0.20
32	3.950 but less than 4.000 .....	0.21
33	3.900 but less than 3.950 .....	0.22
34	3.850 but less than 3.900 .....	0.23
35	3.800 but less than 3.850 .....	0.24
36	3.750 but less than 3.800 .....	0.25
37	3.700 but less than 3.750 .....	0.26
38	3.650 but less than 3.700 .....	0.27
39	3.600 but less than 3.650 .....	0.28
40	3.550 but less than 3.600 .....	0.29
41	3.500 but less than 3.550 .....	0.30
42	3.450 but less than 3.500 .....	0.31
43	3.400 but less than 3.450 .....	0.32

1	3.350 but less than 3.400 .....	0.33
2	3.300 but less than 3.350 .....	0.34
3	3.250 but less than 3.300 .....	0.35
4	3.200 but less than 3.250 .....	0.36
5	3.150 but less than 3.200 .....	0.37
6	3.100 but less than 3.150 .....	0.38
7	3.050 but less than 3.100 .....	0.39
8	3.000 but less than 3.050 .....	0.40
9	2.950 but less than 3.000 .....	0.41
10	2.900 but less than 2.950 .....	0.42
11	2.850 but less than 2.900 .....	0.43
12	2.800 but less than 2.850 .....	0.44
13	2.750 but less than 2.800 .....	0.45
14	2.700 but less than 2.750 .....	0.46
15	2.650 but less than 2.700 .....	0.47
16	2.600 but less than 2.650 .....	0.48
17	2.550 but less than 2.600 .....	0.49
18	2.500 but less than 2.550 .....	0.50
19	2.450 but less than 2.500 .....	0.51
20	2.400 but less than 2.450 .....	0.52
21	2.350 but less than 2.400 .....	0.53
22	2.300 but less than 2.350 .....	0.54
23	2.250 but less than 2.300 .....	0.55
24	2.200 but less than 2.250 .....	0.56
25	2.150 but less than 2.200 .....	0.57
26	2.100 but less than 2.150 .....	0.58
27	2.050 but less than 2.100 .....	0.59
28	2.000 but less than 2.050 .....	0.60
29	1.975 but less than 2.000 .....	0.61
30	1.950 but less than 1.975 .....	0.62
31	1.925 but less than 1.950 .....	0.63
32	1.900 but less than 1.925 .....	0.64
33	1.875 but less than 1.900 .....	0.65
34	1.850 but less than 1.875 .....	0.66
35	1.825 but less than 1.850 .....	0.67
36	1.800 but less than 1.825 .....	0.68
37	1.775 but less than 1.800 .....	0.69
38	1.750 but less than 1.775 .....	0.70
39	1.725 but less than 1.750 .....	0.71
40	1.700 but less than 1.725 .....	0.72
41	1.675 but less than 1.700 .....	0.73
42	1.650 but less than 1.675 .....	0.74
43	1.625 but less than 1.650 .....	0.75

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

36 (B) *Adjustment to taxable wages.* The planned yield as a percent of  
 37 total wages, as determined in this subsection (a)(3), shall be adjusted to  
 38 taxable wages by multiplying by the ratio of total wages to taxable wages  
 39 for all contributing employers for the preceding fiscal year ending June  
 40 30, except, with regard to a year in which the taxable wage base changes.  
 41 The taxable wages used in the calculation for such a year and the following  
 42 year shall be an estimate of what the taxable wages would have been if  
 43 the new taxable wage base had been in effect during all of the preceding

1 fiscal year ending June 30.

2 (C) *Effective rates.* (i) Except with regard to rates for negative ac-  
3 count balance employers, employer contribution rates to be effective for  
4 the ensuing calendar year shall be computed by adjusting proportionately  
5 the experience factors from schedule I of this section to the required  
6 yield on taxable wages. For the purposes of this subsection (a)(3), all rates  
7 computed shall be rounded to the nearest .01% and for calendar year  
8 1983 and ensuing calendar years, the maximum effective contribution rate  
9 shall not exceed 5.4%.

10 ~~(ii) Effective for rate year 2007, and continuing each rate year there-~~  
11 ~~after, employers who are current in filing quarterly wage reports and in~~  
12 ~~payment of all contributions due and owing, shall be issued a contribution~~  
13 ~~rate based upon a 40% reduction of the rate specified in clause (i). Such~~  
14 ~~reduction shall be suspended if, at any time, the balance of the employ-~~  
15 ~~ment security trust fund equals or is less than \$435 million and shall~~  
16 ~~remain suspended until such time as the balance of the employment se-~~  
17 ~~curity trust fund equals or exceeds \$601 million, at which time such re-~~  
18 ~~duction shall resume in effect.~~

19 ~~—(iii) In order to be eligible for the rate reduction specified in clause~~  
20 ~~(ii) for rate year 2007, the employer must file all late reports and pay all~~  
21 ~~contributions due and owing within a 30-day period following the date~~  
22 ~~of mailing of the amended rate notice.~~

23 ~~—(iv) In order to be eligible for the rate reduction specified in clause~~  
24 ~~(ii) for each successive rate year wherein such reduction is in effect, the~~  
25 ~~employer must file all reports due and pay all contributions due and owing~~  
26 ~~on or before January 31 of that rate year.~~

27 **(ii) For rate years 2007 and 2008, employers who are current**  
28 **in filing quarterly wage reports and in payment of all contributions**  
29 **due and owing, shall be issued a contribution rate based upon the**  
30 **following reduction: For rate groups 1 through 10, the rates would**  
31 **be reduced to 0.00%; for rate groups 11 through 20, the rates**  
32 **would be reduced by 75%; for rate groups 21 through 30, the rates**  
33 **would be reduced by 50%; and for rate groups 31 through 51, the**  
34 **rates would be reduced by 25%.**

35 **(iii) In order to be eligible for the reduced rates for rate year**  
36 **2007, the employer must file all late reports and pay all contri-**  
37 **butions due and owing within a 30-day period following the date**  
38 **of mailing of the amended rate notice.**

39 **(iv) In order to be eligible for the reduced rates for rate year**  
40 **2008, employers must file all reports due and pay all contributions**  
41 **due and owing on or before January 31, 2008, except that the re-**  
42 **duced rates for otherwise eligible employers shall not be effective**  
43 **if the average high cost multiple of the employment security trust**

1 **fund balance falls below 1.2. For the purposes of this provision,**  
2 **the average high cost multiple is the reserve fund ratio, as defined**  
3 **by subsection (a)(3)(A), divided by the average high benefit cost**  
4 **rate. The average high benefit cost rate shall be determined by**  
5 **averaging the three highest benefit cost rates over the last 20 years**  
6 **from the preceding fiscal year which ended June 30. The high**  
7 **benefit cost rate is defined by dividing total benefits paid in the**  
8 **fiscal year by total payrolls for covered employers in the fiscal year.**

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

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

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

38 (3) Whenever an employing unit, whether or not it is an “employing  
39 unit” within the meaning of subsection (g) of K.S.A. 44-703, and amend-  
40 ments thereto, acquires or in any manner succeeds to a percentage of an  
41 employer’s annual payroll which is less than 100% and intends to continue  
42 the acquired percentage as a going business, the employing unit may  
43 acquire the same percentage of the predecessor’s experience factors if:

- 1 (A) The predecessor employer and successor employing unit make an  
2 application in writing on the form prescribed by the secretary, (B) the  
3 application is submitted within 120 days of the date of the transfer, (C)  
4 the successor employing unit is or becomes an employer subject to this  
5 act immediately after the transfer, (D) the percentage of the experience  
6 rating factors transferred shall not be thereafter used in computing the  
7 contribution rate for the predecessor employer, and (E) the secretary  
8 finds that such transfer will not tend to defeat or obstruct the object and  
9 purposes of this act.
- 10 (4) (A) The rate of both employers in a full or partial successorship  
11 under paragraph (1) of this subsection shall be recalculated and made  
12 effective on the first day of the next calendar quarter following the date  
13 of transfer of trade or business.
- 14 (B) If a successor employer is determined to be qualified under par-  
15 agraph (2) or (3) of this subsection to receive the experience rating factors  
16 of the predecessor employer, the rate assigned to the successor employer  
17 for the remainder of the contributions year shall be determined by the  
18 following:
- 19 (i) If the acquiring employing unit was an employer subject to this  
20 act prior to the date of the transfer, the rate of contribution shall be the  
21 same as the contribution rate of the acquiring employer on the date of  
22 the transfer.
- 23 (ii) If the acquiring employing unit was not an employer subject to  
24 this act prior to the date of the transfer, the successor employer shall have  
25 a newly computed rate for the remainder of the contribution year which  
26 shall be based on the transferred experience rating factors as they existed  
27 on the most recent computation date immediately preceding the date of  
28 acquisition. These experience rating factors consist of all contributions  
29 paid, benefit experience and annual payrolls.
- 30 (5) Whenever an employing unit is not an employer at the time it  
31 acquires the trade or business of an employer, the unemployment expe-  
32 rience factors of the acquired business shall not be transferred to such  
33 employing unit if the secretary finds that such employing unit acquired  
34 the business solely or primarily for the purpose of obtaining a lower rate  
35 of contributions. Instead, such employing unit shall be assigned the ap-  
36 plicable industry rate for a “new employer” as described in subsection  
37 (a)(1) of this section. In determining whether the business was acquired  
38 solely or primarily for the purpose of obtaining a lower rate of contribu-  
39 tions, the secretary shall use objective factors which may include the cost  
40 of acquiring the business, whether the employer continued the business  
41 enterprise of the acquired business, how long such business enterprise  
42 was continued, or whether a substantial number of new employees were  
43 hired for performance of duties unrelated to the business activity con-



1 ducted prior to acquisition.

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

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

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

1 (d) As used in this section, “negative account balance employer”  
2 means an eligible employer whose total benefits charged to such em-  
3 ployer’s account for all past years have exceeded all contributions paid by  
4 such employer for all such years.

5 (e) The secretary of labor shall annually prepare and submit a certi-  
6 fication as to the solvency and adequacy of the amount credited to the  
7 state of Kansas’ account in the federal employment security trust fund to  
8 the governor and the employment security advisory council. The certifi-  
9 cation shall be submitted on or before December 1 of each calendar year  
10 and shall be for the 12-month period ending on June 30 of that calendar  
11 year. In arriving at the certification contributions paid on or before July  
12 31 following the 12-month period ending date of June 30 shall be con-  
13 sidered. Each certification shall be used to determine the need for any  
14 adjustment to schedule III in subsection (a)(3)(A) and to assist in pre-  
15 paring legislation to accomplish any such adjustment.

16 Sec. ~~2~~ **3**. K.S.A. 2006 Supp. ~~44-703 and 44-710a~~ **is are** hereby re-  
17 pealed.

18 Sec. ~~3~~ **4**. This act shall take effect and be in force from and after its  
19 publication in the Kansas register.