

## HOUSE BILL No. 2124

By Committee on Commerce, Labor and Economic Development

1-29

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1 AN ACT concerning the employment security law; pertaining to benefits;  
2 pertaining to disqualification from benefits; amending K.S.A. 2012  
3 Supp. 44-704, 44-706, 44-710a, 44-710b and 44-714 and repealing the  
4 existing sections.  
5

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

7 Section 1. K.S.A. 2012 Supp. 44-704 is hereby amended to read as  
8 follows: 44-704. (a) *Payment of benefits.* All benefits provided herein shall  
9 be payable from the fund. All benefits shall be paid through the secretary  
10 of labor, in accordance with such rules and regulations as the secretary  
11 may adopt. Benefits based on service in employment defined in  
12 subsections (i)(3)(E) and (i)(3)(F) of K.S.A. 44-703, and amendments  
13 thereto, shall be payable in the same amount, on the same terms and  
14 subject to the same conditions as compensation payable on the basis of  
15 other service subject to this act except as provided in subsection (e) of  
16 K.S.A. 44-705 and subsection (e)(2) of K.S.A. 44-711, and amendments  
17 thereto.

18 (b) *Determined weekly benefit amount.* An individual's determined  
19 weekly benefit amount shall be an amount equal to 4.25% of the  
20 individual's total wages for insured work paid during that calendar quarter  
21 of the individual's base period in which such total wages were highest,  
22 subject to the following limitations:

23 (1) If an individual's determined weekly benefit amount is less than  
24 the minimum weekly benefit amount, it shall be raised to such minimum  
25 weekly benefit amount;

26 (2) if the individual's determined weekly benefit amount is more than  
27 the maximum weekly benefit amount, it shall be reduced to the maximum  
28 weekly benefit amount; and

29 (3) if the individual's determined weekly benefit amount is not a  
30 multiple of \$1, it shall be reduced to the next lower multiple of \$1.

31 (c) *Maximum weekly benefit amount.* On July 1 of each year, the  
32 secretary shall determine the maximum weekly benefit amount by  
33 computing 60% of the average weekly wages paid to employees in insured  
34 work during the previous calendar year and shall prior to that date  
35 announce the maximum weekly benefit amount so determined, by  
36 publication in the Kansas register. Such computation shall be made by

1 dividing the gross wages reported as paid for insured work during the  
2 previous calendar year by the product of the average of midmonth  
3 employment during such calendar year multiplied by 52. The maximum  
4 weekly benefit amount so determined and announced for the twelve-month  
5 period shall apply only to those claims filed in that period qualifying for  
6 maximum payment under the foregoing formula. All claims qualifying for  
7 payment at the maximum weekly benefit amount shall be paid at the  
8 maximum weekly benefit amount in effect when the benefit year to which  
9 the claim relates was first established, notwithstanding a change in the  
10 maximum benefit amount for a subsequent twelve-month period. If the  
11 computed maximum weekly benefit amount is not a multiple of \$1, then  
12 the computed maximum weekly benefit amount shall be reduced to the  
13 next lower multiple of \$1.

14 (d) *Minimum weekly benefit amount.* The minimum weekly benefit  
15 amount payable to any individual shall be 25% of the maximum weekly  
16 benefit calculated in accordance with subsection (c) and shall be  
17 announced by the secretary in conjunction with the published  
18 announcement of the maximum weekly benefit, also as provided in  
19 subsection (c). The minimum weekly benefit amount so determined and  
20 announced for the twelve-month period beginning July 1 of each year shall  
21 apply only to those claims which establish a benefit year filed within that  
22 twelve-month period and shall apply through the benefit year of such  
23 claims notwithstanding a change in such amount in a subsequent twelve-  
24 month period. If the minimum weekly benefit amount is not a multiple of  
25 \$1 it shall be reduced to the next lower multiple of \$1.

26 (e) *Weekly benefit payable.* Each eligible individual who is  
27 unemployed with respect to any week, except as to final payment, shall be  
28 paid with respect to such week a benefit in an amount equal to such  
29 individual's determined weekly benefit amount, less that part of the wage,  
30 if any, payable to such individual with respect to such week which is in  
31 excess of the amount which is equal to 25% of such individual's  
32 determined weekly benefit amount and if the resulting amount is not a  
33 multiple of \$1, it shall be reduced to the next lower multiple of \$1.

34 (1) For the purposes of this section, remuneration received under the  
35 following circumstances shall be construed as wages:

36 (A) Vacation pay or holiday pay that was attributable to a week that  
37 the individual claimed benefits while work was temporarily interrupted;  
38 and

39 ~~(B) holiday pay that was payable with no condition of attendance on~~  
40 ~~other regularly scheduled day or days; and~~

41 ~~(C)~~ severance pay, if paid as scheduled, and all other employment  
42 benefits within the employer's control, as defined in subsection (e)(3), if  
43 continued as though the severance had not occurred, except as set out in

1 subsection ~~(e)(2)(D)~~ (e)(2)(C).

2 (2) For the purposes of this section, remuneration received under the  
3 following circumstances shall not be construed as wages:

4 (A) Remuneration received for services performed on a public  
5 assistance work project;

6 (B) vacation pay *or holiday pay*, except as set out in subsection (e)(1)  
7 (A) above;

8 ~~(C) holiday pay that was not payable unless the individual complied~~  
9 ~~with a condition of attendance on another regularly scheduled day or days;~~

10 ~~(D)~~ severance pay, in lieu of notice, under the provisions of public  
11 law 100-379, the federal worker adjustment and retraining notification act  
12 (29 U.S.C.A. §§ 2101 through 2109);

13 ~~(E)~~ (D) all other severance pay, separation pay, bonuses, wages in lieu  
14 of notice or remuneration of a similar nature that is payable after the  
15 severance of the employment relationship, except as set out in subsection  
16 ~~(e)(1)(C)~~ (e)(2)(B); and

17 ~~(F)~~ (E) moneys received as federal social security payments.

18 (3) For the purposes of this subsection (e), "employment benefits  
19 within the employer's control" means benefits offered by the employer to  
20 employees which are employee benefit plans as defined by section 3 of the  
21 federal employee retirement income security act of 1974, as amended, (29  
22 U.S.C. § 1002) and which the employer has the option to continue to  
23 provide to the employee after the last day that the employee worked for  
24 that employer.

25 (f) *Duration of benefits.* Any otherwise eligible individual shall be  
26 entitled during any benefit year to a total amount of benefits equal to  
27 whichever is the lesser of 26 times such individual's weekly benefit  
28 amount, or  $\frac{1}{3}$  of such individual's wages for insured work paid during such  
29 individual's base period. Such total amount of benefits, if not a multiple of  
30 \$1, shall be reduced to the next lower multiple of \$1.

31 (g) For the purposes of this section, wages shall be counted as "wages  
32 for insured work" for benefit purposes with respect to any benefit year  
33 only if such benefit year begins subsequent to the date on which the  
34 employing unit by whom such wages were paid has satisfied the  
35 conditions of subsection (h) of K.S.A. 44-703, and amendments thereto,  
36 with respect to becoming an employer.

37 (h) *Notwithstanding any other provisions of this section to the*  
38 *contrary, any benefit otherwise payable for any week shall be reduced by*  
39 *the amount of any separation, termination, severance or other similar*  
40 *payment paid to a claimant at the time of or after the claimant's*  
41 *separation from employment during the benefit year.*

42 (1) *If any payment pursuant to this subsection is paid with respect to*  
43 *a month then the amount deemed to be received with respect to any week*

1 *during such month shall be computed by multiplying such monthly amount*  
2 *by 12 and dividing the product by 52. If there is no designation of the*  
3 *period with respect to which payments to an individual are made under*  
4 *this section then an amount equal to such individual's normal weekly wage*  
5 *shall be attributed to and deemed paid with respect to the first and each*  
6 *succeeding week following the individual's separation from the*  
7 *employment of the employer making the payment until such amount so*  
8 *paid is exhausted.*

9 (2) *If benefits for any week, when reduced as provided in this*  
10 *subsection, result in an amount not a multiple of one dollar, such benefits*  
11 *shall be rounded to the next lower multiple of one dollar.*

12 (i) *If the unemployment rate for the state of Kansas is less than 6%, a*  
13 *claimant shall be eligible only for 20 weeks of benefits. If the*  
14 *unemployment rate for the state of Kansas is at least 6%, a claimant shall*  
15 *be eligible for only 26 weeks of benefits.*

16 Sec. 2. K.S.A. 2012 Supp. 44-706 is hereby amended to read as  
17 follows: 44-706. An individual shall be disqualified for benefits:

18 (a) If the individual left work voluntarily without good cause  
19 attributable to the work or the employer, subject to the other provisions of  
20 this subsection. Failure to return to work after expiration of approved  
21 personal or medical leave, or both, shall be considered a voluntary  
22 resignation. After a temporary job assignment, failure of an individual to  
23 affirmatively request an additional assignment on the next succeeding  
24 workday, if required by the employment agreement, after completion of a  
25 given work assignment, shall constitute leaving work voluntarily. The  
26 disqualification shall begin the day following the separation and shall  
27 continue until after the individual has become reemployed and has had  
28 earnings from insured work of at least three times the individual's weekly  
29 benefit amount. An individual shall not be disqualified under this  
30 subsection if:

31 (1) The individual was forced to leave work because of illness or  
32 injury upon the advice of a licensed and practicing health care provider  
33 and, upon learning of the necessity for absence, immediately notified the  
34 employer thereof, or the employer consented to the absence, and after  
35 recovery from the illness or injury, when recovery was certified by a  
36 practicing health care provider, the individual returned to the employer and  
37 offered to perform services and the individual's regular work or  
38 comparable and suitable work was not available. As used in this paragraph  
39 "health care provider" means any person licensed by the proper licensing  
40 authority of any state to engage in the practice of medicine and surgery,  
41 osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

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

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

3 (4) the spouse of an individual who is a member of the armed forces  
4 of the United States who left work because of the voluntary or involuntary  
5 transfer of the individual's spouse from one job to another job, which is for  
6 the same employer or for a different employer, at a geographic location  
7 which makes it unreasonable for the individual to continue work at the  
8 individual's job. For the purposes of this provision the term "armed forces"  
9 means active duty in the army, navy, marine corps, air force, coast guard or  
10 any branch of the military reserves of the United States;

11 (5) the individual left work because of hazardous working  
12 conditions. In determining whether or not working conditions are  
13 hazardous for an individual, the degree of risk involved to the individual's  
14 health, safety and morals, the individual's physical fitness and prior  
15 training and the working conditions of workers engaged in the same or  
16 similar work for the same and other employers in the locality shall be  
17 considered. As used in this paragraph, "hazardous working conditions"  
18 means working conditions that could result in a danger to the physical or  
19 mental well-being of the individual. Each determination as to whether  
20 hazardous working conditions exist shall include, but shall not be limited to,  
21 a consideration of: (A) The safety measures used or the lack thereof; and  
22 (B) the condition of equipment or lack of proper equipment. No work  
23 shall be considered hazardous if the working conditions surrounding the  
24 individual's work are the same or substantially the same as the working  
25 conditions generally prevailing among individuals performing the same or  
26 similar work for other employers engaged in the same or similar type of  
27 activity;

28 (6) the individual left work to enter training approved under section  
29 236(a)(1) of the federal trade act of 1974, provided the work left is not of a  
30 substantially equal or higher skill level than the individual's past adversely  
31 affected employment (as defined for purposes of the federal trade act of  
32 1974), and wages for such work are not less than 80% of the individual's  
33 average weekly wage as determined for the purposes of the federal trade  
34 act of 1974;

35 (7) the individual left work because of unwelcome harassment of the  
36 individual by the employer or another employee of which the employing  
37 unit had knowledge;

38 (8) the individual left work to accept better work. Each  
39 determination as to whether or not the work accepted is better work shall  
40 include, but shall not be limited to, consideration of: (A) The rate of pay,  
41 the hours of work and the probable permanency of the work left as  
42 compared to the work accepted; (B) the cost to the individual of getting to  
43 the work left in comparison to the cost of getting to the work accepted;

1 and (C) the distance from the individual's place of residence to the work  
2 accepted in comparison to the distance from the individual's residence to  
3 the work left;

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

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

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

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

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

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

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

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

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

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

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

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

36 (iii) documentation that the abuser has been convicted of one or more  
37 of the offenses enumerated in articles 34 and 35 of chapter 21 of the  
38 Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of  
39 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2012 Supp. 21-  
40 6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments  
41 thereto, where the victim was a family or household member; or

42 (iv) medical documentation of the abuse; or

43 (v) a statement provided by a counselor, social worker, health care

1 provider, clergy, shelter worker, legal advocate, domestic violence or  
2 sexual assault advocate or other professional who has assisted the  
3 individual in dealing with the effects of abuse on the individual or the  
4 individual's family; or

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

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

10 (b) If the individual has been discharged for misconduct connected  
11 with the individual's work. The disqualification shall begin the day  
12 following the separation and shall continue until after the individual  
13 becomes reemployed and has had earnings from insured work of at least  
14 three times the individual's determined weekly benefit amount, except that  
15 if an individual is discharged for gross misconduct connected with the  
16 individual's work, such individual shall be disqualified for benefits until  
17 such individual again becomes employed and has had earnings from  
18 insured work of at least eight times such individual's determined weekly  
19 benefit amount. In addition, all wage credits attributable to the  
20 employment from which the individual was discharged for gross  
21 misconduct connected with the individual's work shall be canceled. No  
22 such cancellation of wage credits shall affect prior payments made as a  
23 result of a prior separation.

24 (1) For the purposes of this subsection, "misconduct" is defined as a  
25 violation of a duty or obligation reasonably owed the employer as a  
26 condition of employment. The term "gross misconduct" as used in this  
27 subsection shall be construed to mean conduct evincing extreme, willful or  
28 wanton misconduct as defined by this subsection. *Gross misconduct shall*  
29 *include, but not be limited to: (A) Theft; (B) fraud; (C) intentional serious*  
30 *damage to property; (D) intentional infliction of personal injury; (E) any*  
31 *conduct that constitutes a felony; or (F) repeated incidents of either of the*  
32 *following after receiving a written warning regarding such an incident: (i)*  
33 *Unprovoked insubordination; or (ii) public use of profanity.* Failure of the  
34 employee to notify the employer of an absence shall be considered prima  
35 facie evidence of a violation of a duty or obligation reasonably owed the  
36 employer as a condition of employment.

37 (2) For the purposes of this subsection, the use of or impairment  
38 caused by alcoholic liquor, a cereal malt beverage or a nonprescribed  
39 controlled substance by an individual while working shall be conclusive  
40 evidence of misconduct and the possession of alcoholic liquor, a cereal  
41 malt beverage or a nonprescribed controlled substance by an individual  
42 while working shall be prima facie evidence of conduct which is a  
43 violation of a duty or obligation reasonably owed to the employer as a

1 condition of employment. Alcoholic liquor shall be defined as provided in  
2 K.S.A. 41-102, and amendments thereto. Cereal malt beverage shall be  
3 defined as provided in K.S.A. 41-2701, and amendments thereto.  
4 Controlled substance shall be defined as provided in K.S.A. 2012 Supp.  
5 21-5701, and amendments thereto. As used in this paragraph, "required by  
6 law" means required by a federal or state law, a federal or state rule or  
7 regulation having the force and effect of law, a county resolution or  
8 municipal ordinance, or a policy relating to public safety adopted in open  
9 meeting by the governing body of any special district or other local  
10 governmental entity. Chemical test shall include, but is not limited to, tests  
11 of urine, blood or saliva. A positive chemical test shall mean a chemical  
12 result showing a concentration at or above the levels listed in K.S.A. 44-  
13 501, and amendments thereto, for the drugs or abuse listed therein. A  
14 positive breath test shall mean a test result showing an alcohol  
15 concentration of .04 or greater. Alcohol concentration means the number  
16 of grams of alcohol per 210 liters of breath. An individual's refusal to  
17 submit to a chemical test or breath alcohol test shall be conclusive  
18 evidence of misconduct if the test meets the standards of the drug free  
19 workplace act, 41 U.S.C. § 701 et seq.; the test was administered as part of  
20 an employee assistance program or other drug or alcohol treatment  
21 program in which the employee was participating voluntarily or as a  
22 condition of further employment; the test was otherwise required by law  
23 and the test constituted a required condition of employment for the  
24 individual's job; the test was requested pursuant to a written policy of the  
25 employer of which the employee had knowledge and was a required  
26 condition of employment; or there was probable cause to believe that the  
27 individual used, possessed or was impaired by alcoholic liquor, a cereal  
28 malt beverage or a controlled substance while working. A positive breath  
29 alcohol test or a positive chemical test shall be conclusive evidence to  
30 prove misconduct if the following conditions are met:

31 (A) Either: (i) The test was required by law and was administered  
32 pursuant to the drug free workplace act, 41 U.S.C. § 701 et seq.; (ii) the  
33 test was administered as part of an employee assistance program or other  
34 drug or alcohol treatment program in which the employee was  
35 participating voluntarily or as a condition of further employment; (iii) the  
36 test was requested pursuant to a written policy of the employer of which  
37 the employee had knowledge and was a required condition of  
38 employment; (iv) the test was required by law and the test constituted a  
39 required condition of employment for the individual's job; or (v) there  
40 was probable cause to believe that the individual used, had possession of,  
41 or was impaired by alcoholic liquor, the cereal malt beverage or the  
42 controlled substance while working;

43 (B) the test sample was collected either: (i) As prescribed by the drug



1 free workplace act, 41 U.S.C. § 701 et seq.; (ii) as prescribed by an  
2 employee assistance program or other drug or alcohol treatment program  
3 in which the employee was participating voluntarily or as a condition of  
4 further employment; (iii) as prescribed by the written policy of the  
5 employer of which the employee had knowledge and which constituted a  
6 required condition of employment; (iv) as prescribed by a test which was  
7 required by law and which constituted a required condition of employment  
8 for the individual's job; or (v) at a time contemporaneous with the events  
9 establishing probable cause;

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

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

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

24 (F) the breath alcohol test was administered by an individual trained  
25 to perform breath tests, the breath testing instrument used was certified  
26 and operated strictly according to description provided by the  
27 manufacturers and the reliability of the instrument performance was  
28 assured by testing with alcohol standards; and

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

31 (3) (A) For the purposes of this subsection, misconduct shall include,  
32 but not be limited to: (i) *Tardiness*; (ii) *safety violations*; (iii) *any*  
33 *harassment in the workplace which would constitute a violation of K.S.A.*  
34 *44-1009(a)(7), and amendments thereto*; and (iv) repeated absence,  
35 including incarceration, resulting in absence from work of three days or  
36 longer, excluding Saturdays, Sundays and legal holidays, and lateness,  
37 from scheduled work if the facts show:

38 (†) (a) The individual was absent, *late or left work early prior to the*  
39 *end of such individual's assigned work period* without good cause;

40 (††) (b) the absence was in violation of the employer's written  
41 absenteeism *or attendance* policy;

42 (†††) (c) the employer gave or sent written notice to the individual, at  
43 the individual's last known address, that future absence *or attendance* may

1 or will result in discharge; and

2 ~~(iv)~~ (d) the employee had knowledge of the employer's written  
3 absenteeism *or attendance* policy.

4 *The establishment of absence or lateness from work pursuant to this*  
5 *subparagraph shall be conclusive evidence of misconduct.*

6 (B) For the purposes of this subsection, if an employee disputes being  
7 absent *or tardy* without good cause, the employee shall present evidence  
8 that a majority of the employee's absences *or tardiness* were for good  
9 cause. If the employee alleges that the employee's repeated absences *or*  
10 *tardiness* were the result of health-related issues, such evidence shall  
11 include documentation from a licensed and practicing health care provider  
12 as defined in subsection (a)(1).

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

15 (A) The employer discharged the individual after learning the  
16 individual was seeking other work or when the individual gave notice of  
17 future intent to quit, *except that the individual shall be disqualified after*  
18 *the time at which such individual intended to quit and any individual who*  
19 *commits misconduct after such individual gives notice to such individual's*  
20 *employer of such individual's intent to quit shall be disqualified;*

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

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

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

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

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

1 individual is or was last employed shall be considered as participation and  
2 interest in the labor dispute.

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (p) For any week of unemployment on the basis of service as a school  
38 bus or other motor vehicle driver employed by a private contractor to  
39 transport pupils, students and school personnel to or from school-related  
40 functions or activities for an educational institution, as defined in  
41 subsection (v) of K.S.A. 44-703, and amendments thereto, if such week  
42 begins during the period between two successive academic years or during  
43 a similar period between two regular terms, whether or not successive, if

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

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

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

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

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

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

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

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

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

1 collection remedies authorized or provided in K.S.A. 44-717, and  
2 amendments thereto.

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

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

20 Sec. 3. K.S.A. 2012 Supp. 44-710a is hereby amended to read as  
21 follows: 44-710a. (a) *Classification of employers by the secretary.* The  
22 term "employer" as used in this section refers to contributing employers.  
23 The secretary shall classify employers in accordance with their actual  
24 experience in the payment of contributions on their own behalf and with  
25 respect to benefits charged against their accounts with a view of fixing  
26 such contribution rates as will reflect such experience. If, as of the date  
27 such classification of employers is made, the secretary finds that any  
28 employing unit has failed to file any report required in connection  
29 therewith, or has filed a report which the secretary finds incorrect or  
30 insufficient, the secretary shall make an estimate of the information  
31 required from such employing unit on the basis of the best evidence  
32 reasonably available to the secretary at the time, and notify the employing  
33 unit thereof by mail addressed to its last known address. Unless such  
34 employing unit shall file the report or a corrected or sufficient report as the  
35 case may be, within 15 days after the mailing of such notice, the secretary  
36 shall compute such employing unit's rate of contributions on the basis of  
37 such estimates, and the rate as so determined shall be subject to increase  
38 but not to reduction on the basis of subsequently ascertained information.  
39 The secretary shall determine the contribution rate of each employer in  
40 accordance with the requirements of this section.

41 (1) *New employers.* (A) No employer will be eligible for a rate  
42 computation until there have been 24 consecutive calendar months  
43 immediately preceding the computation date throughout which benefits



1 could have been charged against such employer's account.

2 (B) (i) ~~(a) For the rate year 2007 and each rate year thereafter years~~  
3 ~~2007 through 2013~~, each employer who is not eligible for a rate  
4 contribution shall pay contributions equal to 4% of wages paid during each  
5 calendar year with regard to employment except such employers engaged  
6 in the construction industry shall pay a rate equal to 6%.

7 (b) *For the rate year 2014 and each rate year thereafter, except as*  
8 *provided in subclause (c), each employer who is not eligible for a rate*  
9 *contribution shall pay contributions equal to 4% of wages paid during*  
10 *each calendar year with regard to employment except such employers*  
11 *engaged in the construction industry shall pay a rate equal to 6%.*

12 (c) *For the rate year 2014 and each rate year thereafter, except for*  
13 *the construction industry, each employer who starts a new business and*  
14 *who is not eligible for a rate contribution shall pay contributions equal to*  
15 *2.7% of wages paid during each calendar year with regard to*  
16 *employment.*

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

30 (iii) For purposes of this subsection (a), employers shall be classified  
31 by industrial activity in accordance with standard procedures as set forth in  
32 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  
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 of 5.4% for each calendar year.

6 (C) Eligible employers, other than negative account balance  
7 employers, who do not meet the average annual payroll requirements as  
8 stated in subsection (a)(2) of K.S.A. 44-703, and amendments thereto, will  
9 be issued the maximum rate indicated in subsection (a)(3)(C) of this  
10 section until such employer establishes a new period of 24 consecutive  
11 calendar months immediately preceding the computation date throughout  
12 which benefits could have been charged against such employer's account  
13 by 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~~ *twelve-month* period prior to the computation date by  
17 all employers eligible for rate computation, except negative account  
18 balance employers, shall be divided into 51 approximately equal parts  
19 designated in column A of schedule I as "rate groups," except, with regard  
20 to a year in which the taxable wage base changes. The taxable wages used  
21 in the calculation for such a year and the following year shall be an  
22 estimate of what the taxable wages would have been if the new taxable  
23 wage base had been in effect during the entire twelve-month period prior  
24 to the computation date. The lowest numbered of such rate groups shall  
25 consist of the employers with the most favorable reserve ratios, as defined  
26 in this section, whose combined taxable wages paid are less than 1.96% of  
27 all taxable wages paid by all eligible employers. Each succeeding higher  
28 numbered rate group shall consist of employers with reserve ratios that are  
29 less favorable than those of employers in the preceding lower numbered  
30 rate groups and whose taxable wages when combined with the taxable  
31 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 column  
35 C of schedule I in accordance with the rate group to which the employer is  
36 assigned on the basis of the employer's reserve ratio and taxable payroll. If  
37 an employer's taxable payroll falls into more than one rate group the  
38 employer shall be assigned the experience factor of the lower numbered  
39 rate group. If one or more employers have reserve ratios identical to that of  
40 the last employer included in the next lower numbered rate group, all such  
41 employers shall be assigned the experience factor designated to such last  
42 employer, notwithstanding the position of their taxable payroll in column  
43 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)
1	1	Less than 1.96% .....	.025%
2			
3	2	1.96% but less than 3.92 .....	.40
4	3	3.92 but less than 5.88 .....	.80
5	4	5.88 but less than 7.84 .....	.12
6	5	7.84 but less than 9.80 .....	.16
7	6	9.80 but less than 11.76 .....	.20
8	7	11.76 but less than 13.72 .....	.24
9	8	13.72 but less than 15.68 .....	.28
10	9	15.68 but less than 17.64 .....	.32
11	10	17.64 but less than 19.60 .....	.36
12	11	19.60 but less than 21.56 .....	.40
13	12	21.56 but less than 23.52 .....	.44
14	13	23.52 but less than 25.48 .....	.48
15	14	25.48 but less than 27.44 .....	.52
16	15	27.44 but less than 29.40 .....	.56
17	16	29.40 but less than 31.36 .....	.60
18	17	31.36 but less than 33.32 .....	.64
19	18	33.32 but less than 35.28 .....	.68
20	19	35.28 but less than 37.24 .....	.72
21	20	37.24 but less than 39.20 .....	.76
22	21	39.20 but less than 41.16 .....	.80
23	22	41.16 but less than 43.12 .....	.84
24	23	43.12 but less than 45.08 .....	.88
25	24	45.08 but less than 47.04 .....	.92
26	25	47.04 but less than 49.00 .....	.96
27	26	49.00 but less than 50.96 .....	1.00
28	27	50.96 but less than 52.92 .....	1.04
29	28	52.92 but less than 54.88 .....	1.08
30	29	54.88 but less than 56.84 .....	1.12
31	30	56.84 but less than 58.80 .....	1.16
32	31	58.80 but less than 60.76 .....	1.20
33	32	60.76 but less than 62.72 .....	1.24
34	33	62.72 but less than 64.68 .....	1.28
35	34	64.68 but less than 66.64 .....	1.32
36	35	66.64 but less than 68.60 .....	1.36
37	36	68.60 but less than 70.56 .....	1.40
38	37	70.56 but less than 72.52 .....	1.44
39	38	72.52 but less than 74.48 .....	1.48
40			
41			
42			
43			

1	39	74.48 but less than 76.44 .....	1.52
2	40	76.44 but less than 78.40 .....	1.56
3	41	78.40 but less than 80.36 .....	1.60
4	42	80.36 but less than 82.32 .....	1.64
5	43	82.32 but less than 84.28 .....	1.68
6	44	84.28 but less than 86.24 .....	1.72
7	45	86.24 but less than 88.20 .....	1.76
8	46	88.20 but less than 90.16 .....	1.80
9	47	90.16 but less than 92.12 .....	1.84
10	48	92.12 but less than 94.08 .....	1.88
11	49	94.08 but less than 96.04 .....	1.92
12	50	96.04 but less than 98.00 .....	1.96
13	51	98.00 and over .....	2.00

14

15 (E) Negative account balance employers shall, in addition to paying  
 16 the rate provided for in subsection (a)(2)(B) of this section, pay a  
 17 surcharge based on the size of the employer's negative reserve ratio, the  
 18 calculation which is provided for in subsection (a)(2) of this section. The  
 19 amount of the surcharge shall be determined from column B2 of schedule  
 20 II of this section for calendar years 2012, 2013, 2014 and from column B1  
 21 of schedule II of this section for each calendar year after 2014. Each  
 22 negative account balance employer who does not satisfy the requirements  
 23 to have an average annual payroll, as defined by subsection (a)(2) of  
 24 K.S.A. 44-703, and amendments thereto, shall be assigned a surcharge of  
 25 equal to the maximum negative ratio surcharge from column B2 of  
 26 schedule II of this section for calendar years 2012, 2013 and 2014. From  
 27 calendar year 2015 forward each negative account balance employer who  
 28 does not satisfy the requirements to have an average annual payroll, as  
 29 defined by subsection (a)(2) of K.S.A. 44-703, and amendments thereto,  
 30 shall be assigned a surcharge equal to the maximum negative ratio  
 31 surcharge from column B1 of schedule II of this section. Funds from the  
 32 surcharge paid according to this subsection (a)(2)(E), and amendments  
 33 thereto, shall be used to pay principal and interest due on funds received  
 34 from the federal unemployment account under title XII of the social  
 35 security act, (42 U.S.C. §§ 1321 to 1324), in the following manner:

36 (i) For each calendar year 2012, 2013 and 2014, an additional 0.10%  
 37 of the taxable wages paid by all negative account balance employers with  
 38 a negative reserve ratio between 0.0% and 19.9% shall be designated an  
 39 interest assessment surcharge and paid into the employment security  
 40 interest assessment fund for the purpose of paying interest due and owing  
 41 on funds received from the federal unemployment account under title XII  
 42 of the social security act. The total surcharges assessed, including the  
 43 additional 0.10% surcharge mentioned above, on such employers are listed

1 in schedule II column B2. For the calendar year 2015, and each calendar  
2 year thereafter, the surcharge rate for negative balance employers with a  
3 negative reserve ratio between 0.0% and 19.9% shall be as listed in  
4 schedule II column B1.

5 (ii) For the calendar year 2012, and each calendar year thereafter, an  
6 additional surcharge on negative balance employers with negative reserve  
7 ratio of 20.0% and higher shall be designated an interest assessment  
8 surcharge and deposited in the employment security interest assessment  
9 fund. The additional surcharge shall be used for the purposes of paying  
10 interest due and owing on fund received from the federal unemployment  
11 account under title XII of the social security act. The total surcharge  
12 including the additional surcharge on such employers is listed in schedule  
13 II column B3 of this section.

14 (iii) For any succeeding year in which interest is due and owing on  
15 funds received from the federal unemployment account under title XII of  
16 the social security act, the secretary of labor may adjust the surcharge  
17 amounts necessary to pay such interest;

18 (iv) the portion of such surcharge used for the payment of such  
19 interest shall not be included in the calculation of such employers reserve  
20 ratio pursuant to subsection (a)(2). The portion of such surcharge used for  
21 the payment of principal shall be included in the calculation of such  
22 employers reserve ratio pursuant to subsection (a)(2); and

23 (v) if the amounts collected under this subsection are in excess of the  
24 amounts needed to pay interest due, the amounts in excess shall remain in  
25 the employment security interest assessment fund to be used to pay interest  
26 in future years. Whenever the secretary certifies all interest payments have  
27 been paid pursuant to this section, any excess funds remaining in the  
28 employment security interest assessment fund shall be transferred to the  
29 employment security trust fund for the purpose of paying any remaining  
30 principal amount due for advances described in this section. In the event  
31 that the amount transferred from the employment security interest  
32 assessment fund exceeds such remaining amount of principal due, the  
33 balance shall be used for the purposes of the employment security trust  
34 fund.

35 SCHEDULE II—Surcharge on Negative Accounts

36 Column A	Column B1	Column B2	ColumnB3
37 Negative Reserve	Surcharge as a	Surcharge as a	Surcharge as a
38 Ratio	percent of	percent of	percent of
39	taxable wages	taxable wages	taxable wages
40 Less than 2.0%.....	0.20%.....	0.30%	
41 2.0% but less than 4.0.....	0.40.....	0.50	
42 4.0 but less than 6.0.....	0.60.....	0.70	
43 6.0 but less than 8.0.....	0.80.....	0.90	

1	8.0 but less than 10.0.....	1.00.....	1.10
2	10.0 but less than 12.0....	1.20.....	1.30
3	12.0 but less than 14.0....	1.40.....	1.50
4	14.0 but less than 16.0....	1.60.....	1.70
5	16.0 but less than 18.0....	1.80.....	1.90
6	18.0 but less than 20.0....	2.00.....	2.10
7	20.0 but less than 22.0....	2.00.....	2.20
8	22.0 but less than 24.0....	2.00.....	2.40
9	24.0 but less than 26.0....	2.00.....	2.60
10	26.0 but less than 28.0....	2.00.....	2.80
11	28.0 but less than 30.0....	2.00.....	3.00
12	30.0 but less than 32.0....	2.00.....	3.20
13	32.0 but less than 34.0....	2.00.....	3.40
14	34.0 but less than 36.0....	2.00.....	3.60
15	36.0 but less than 38.0....	2.00.....	3.80
16	38.0 and over.....	2.00.....	4.00

17

18 (3) *Planned yield.* (A) The average required yield shall be determined  
 19 from schedule III of this section, and the planned yield on total wages in  
 20 column B of schedule III shall be determined by the reserve fund ratio in  
 21 column A of schedule III. The reserve fund ratio shall be determined by  
 22 dividing total assets in the employment security fund provided for in  
 23 subsection (a) of K.S.A. 44-712, and amendments thereto, excluding all  
 24 moneys credited to the account of this state pursuant to section 903 of the  
 25 federal social security act, as amended, which have been appropriated by  
 26 the state legislature, whether or not withdrawn from the trust fund, and  
 27 excluding contributions not yet paid on July 31 by total payrolls for  
 28 contributing employers for the preceding fiscal year which ended June 30.

29

SCHEDULE III—Fund Control

30

Ratios to Total Wages

31

Column A

Column B

32

Reserve Fund Ratio

Planned Yield

33

4.500 and over ..... 0.00

34

4.475 but less than 4.500..... 0.01

35

4.450 but less than 4.475..... 0.02

36

4.425 but less than 4.450..... 0.03

37

4.400 but less than 4.425..... 0.04

38

4.375 but less than 4.400..... 0.05

39

4.350 but less than 4.375..... 0.06

40

4.325 but less than 4.350..... 0.07

41

4.300 but less than 4.325..... 0.08

42

4.275 but less than 4.300..... 0.09

43

4.250 but less than 4.275..... 0.10

1	4.225 but less than 4.250.....	0.11
2	4.200 but less than 4.225.....	0.12
3	4.175 but less than 4.200.....	0.13
4	4.150 but less than 4.175.....	0.14
5	4.125 but less than 4.150.....	0.15
6	4.100 but less than 4.125.....	0.16
7	4.075 but less than 4.100.....	0.17
8	4.050 but less than 4.075.....	0.18
9	4.025 but less than 4.050.....	0.19
10	4.000 but less than 4.025.....	0.20
11	3.950 but less than 4.000.....	0.21
12	3.900 but less than 3.950.....	0.22
13	3.850 but less than 3.900.....	0.23
14	3.800 but less than 3.850.....	0.24
15	3.750 but less than 3.800.....	0.25
16	3.700 but less than 3.750.....	0.26
17	3.650 but less than 3.700.....	0.27
18	3.600 but less than 3.650.....	0.28
19	3.550 but less than 3.600.....	0.29
20	3.500 but less than 3.550.....	0.30
21	3.450 but less than 3.500.....	0.31
22	3.400 but less than 3.450.....	0.32
23	3.350 but less than 3.400.....	0.33
24	3.300 but less than 3.350.....	0.34
25	3.250 but less than 3.300.....	0.35
26	3.200 but less than 3.250.....	0.36
27	3.150 but less than 3.200.....	0.37
28	3.100 but less than 3.150.....	0.38
29	3.050 but less than 3.100.....	0.39
30	3.000 but less than 3.050.....	0.40
31	2.950 but less than 3.000.....	0.41
32	2.900 but less than 2.950.....	0.42
33	2.850 but less than 2.900.....	0.43
34	2.800 but less than 2.850.....	0.44
35	2.750 but less than 2.800.....	0.45
36	2.700 but less than 2.750.....	0.46
37	2.650 but less than 2.700.....	0.47
38	2.600 but less than 2.650.....	0.48
39	2.550 but less than 2.600.....	0.49
40	2.500 but less than 2.550.....	0.50
41	2.450 but less than 2.500.....	0.51
42	2.400 but less than 2.450.....	0.52
43	2.350 but less than 2.400.....	0.53

1	2.300 but less than 2.350.....	0.54
2	2.250 but less than 2.300.....	0.55
3	2.200 but less than 2.250.....	0.56
4	2.150 but less than 2.200.....	0.57
5	2.100 but less than 2.150.....	0.58
6	2.050 but less than 2.100.....	0.59
7	2.000 but less than 2.050.....	0.60
8	1.975 but less than 2.000.....	0.61
9	1.950 but less than 1.975.....	0.62
10	1.925 but less than 1.950.....	0.63
11	1.900 but less than 1.925.....	0.64
12	1.875 but less than 1.900.....	0.65
13	1.850 but less than 1.875.....	0.66
14	1.825 but less than 1.850.....	0.67
15	1.800 but less than 1.825.....	0.68
16	1.775 but less than 1.800.....	0.69
17	1.750 but less than 1.775.....	0.70
18	1.725 but less than 1.750.....	0.71
19	1.700 but less than 1.725.....	0.72
20	1.675 but less than 1.700.....	0.73
21	1.650 but less than 1.675.....	0.74
22	1.625 but less than 1.650.....	0.75
23	1.600 but less than 1.625.....	0.76
24	1.575 but less than 1.600.....	0.77
25	1.550 but less than 1.575.....	0.78
26	1.525 but less than 1.550.....	0.79
27	1.500 but less than 1.525.....	0.80
28	1.475 but less than 1.500.....	0.81
29	1.450 but less than 1.475.....	0.82
30	1.425 but less than 1.450.....	0.83
31	1.400 but less than 1.425.....	0.84
32	1.375 but less than 1.400.....	0.85
33	1.350 but less than 1.375.....	0.86
34	1.325 but less than 1.350.....	0.87
35	1.300 but less than 1.325.....	0.88
36	1.275 but less than 1.300.....	0.89
37	1.250 but less than 1.275.....	0.90
38	1.225 but less than 1.250.....	0.91
39	1.200 but less than 1.225.....	0.92
40	1.175 but less than 1.200.....	0.93
41	1.150 but less than 1.175.....	0.94
42	1.125 but less than 1.150.....	0.95
43	1.100 but less than 1.125.....	0.96



1	1.075 but less than 1.100.....	0.97
2	1.050 but less than 1.075.....	0.98
3	1.025 but less than 1.050.....	0.99
4	1.000 but less than 1.025.....	1.00
5	0.900 but less than 1.000.....	1.01
6	0.800 but less than 0.900.....	1.02
7	0.700 but less than 0.800.....	1.03
8	0.600 but less than 0.700.....	1.04
9	0.500 but less than 0.600.....	1.05
10	0.400 but less than 0.500.....	1.06
11	0.300 but less than 0.400.....	1.07
12	0.200 but less than 0.300.....	1.08
13	0.100 but less than 0.200.....	1.09
14	Less than 0.100%.....	1.10

15

16 (B) *Adjustment to taxable wages.* The planned yield as a percent of  
 17 total wages, as determined in this subsection (a)(3), shall be adjusted to  
 18 taxable wages by multiplying by the ratio of total wages to taxable wages  
 19 for all contributing employers for the preceding fiscal year ending June 30,  
 20 except, with regard to a year in which the taxable wage base changes. The  
 21 taxable wages used in the calculation for such a year and the following  
 22 year shall be an estimate of what the taxable wages would have been if the  
 23 new taxable wage base had been in effect during all of the preceding fiscal  
 24 year ending June 30.

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

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

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

1 (iv) In order to be eligible for the reduced rates for rate-year ~~2008 and~~  
2 ~~subsequent rate~~ years *2008 through 2013*, employers must file all reports  
3 due and pay all contributions due and owing on or before January 31 of the  
4 applicable year, except that the reduced rates for otherwise eligible  
5 employers shall not be effective for any rate year if the average high cost  
6 multiple of the employment security trust fund balance falls below 1.2 as  
7 of the computation date of that year's rates. *In order to be eligible for the*  
8 *reduced rates for rate year 2014 and subsequent rate years, employers*  
9 *must file all reports due and pay all contributions due and owing on or*  
10 *before January 31 of the applicable year, except that the reduced rates for*  
11 *otherwise eligible employers shall not be effective for any rate year if the*  
12 *average high cost multiple of the employment security trust fund balance*  
13 *falls below 1.0 as of the computation date of that year's rates.* For the  
14 purposes of this provision, the average high cost multiple is the reserve  
15 fund ratio, as defined by subsection (a)(3)(A), divided by the average high  
16 benefit cost rate. The average high benefit cost rate shall be determined by  
17 averaging the three highest benefit cost rates over the last 20 years from  
18 the preceding fiscal year which ended June 30. The high benefit cost rate is  
19 defined by dividing total benefits paid in the fiscal year by total payrolls  
20 for covered employers in the fiscal year.

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

41 (B) If, following a transfer of experience under subparagraph (A), the  
42 secretary determines that a substantial purpose of the transfer or business  
43 was to obtain a reduced liability for contributions, then the experience

1 rating accounts of the employers involved shall be combined into a single  
2 account and a single rate assigned to such account.

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

8 (3) Whenever an employing unit, whether or not it is an "employing  
9 unit" within the meaning of subsection (g) of K.S.A. 44-703, and  
10 amendments thereto, acquires or in any manner succeeds to a percentage  
11 of an employer's annual payroll which is less than 100% and intends to  
12 continue the acquired percentage as a going business, the employing unit  
13 may acquire the same percentage of the predecessor's experience factors if:  
14 (A) The predecessor employer and successor employing unit make an  
15 application in writing on the form prescribed by the secretary;; (B) the  
16 application is submitted within 120 days of the date of the transfer;; (C)  
17 the successor employing unit is or becomes an employer subject to this act  
18 immediately after the transfer;; (D) the percentage of the experience rating  
19 factors transferred shall not be thereafter used in computing the  
20 contribution rate for the predecessor employer;; and (E) the secretary finds  
21 that such transfer will not tend to defeat or obstruct the object and  
22 purposes of this act.

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

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

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

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

42 (5) Whenever an employing unit is not an employer at the time it  
43 acquires the trade or business of an employer, the unemployment

1 experience factors of the acquired business shall not be transferred to such  
2 employing unit if the secretary finds that such employing unit acquired the  
3 business solely or primarily for the purpose of obtaining a lower rate of  
4 contributions. Instead, such employing unit shall be assigned the  
5 applicable industry rate for a "new employer" as described in subsection  
6 (a)(1) of this section. In determining whether the business was acquired  
7 solely or primarily for the purpose of obtaining a lower rate of  
8 contributions, the secretary shall use objective factors which may include  
9 the cost of acquiring the business, whether the employer continued the  
10 business enterprise of the acquired business, how long such business  
11 enterprise was continued, or whether a substantial number of new  
12 employees were hired for performance of duties unrelated to the business  
13 activity conducted prior to acquisition.

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

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

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

1 account balance may have such employer's rate reduced not more than five  
2 rate groups as provided in schedule I of this section as a result of a  
3 voluntary payment. An employer having a negative account balance may  
4 have such employer's rate reduced to that prescribed for rate group 51 of  
5 schedule I of this section by making a voluntary payment in the amount of  
6 such negative account balance or to that rate prescribed for rate groups 50  
7 through 47 of schedule I of this section by making an additional voluntary  
8 payment that would increase such employer's reserve ratio to the lower  
9 limit required for such rate groups 50 through 47. Under no circumstances  
10 shall voluntary payments be refunded in whole or in part.

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

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

1 (E), and amendments thereto.

2 (f) The secretary of labor shall annually prepare and submit a  
3 certification as to the solvency and adequacy of the amount credited to the  
4 state of Kansas' account in the federal employment security trust fund to  
5 the governor and the ~~employment security advisory~~ *legislative*  
6 *coordinating* council . The certification shall be submitted on or before  
7 December 1 of each calendar year and shall be for the ~~12-month~~ *twelve-*  
8 *month* period ending on June 30 of that calendar year. In arriving at the  
9 certification contributions paid on or before July 31 following the ~~12-~~  
10 ~~month~~ *twelve-month* period ending date of June 30 shall be considered.  
11 Each certification shall be used to determine the need for any adjustment  
12 to schedule III in subsection (a)(3)(A) and to assist in preparing legislation  
13 to accomplish any such adjustment.

14 Sec. 4. K.S.A. 2012 Supp. 44-710b is hereby amended to read as  
15 follows: 44-710b. (a) *By the secretary of labor.* The secretary of labor shall  
16 promptly notify each contributing employer of its rate of contributions,  
17 each rated governmental employer of its benefit cost rate and each  
18 reimbursing employer of its benefit liability as determined for any  
19 calendar year pursuant to K.S.A. 44-710 and 44-710a, and amendments  
20 thereto, *on or before November 15 of the calendar year immediately*  
21 *preceding the calendar year in which such rate takes effect.* Such  
22 determination shall become conclusive and binding upon the employer  
23 unless, within 15 days after the mailing of notice thereof to the employer's  
24 last known address or in the absence of mailing, within 15 days after the  
25 delivery of such notice, the employer files an application for review and  
26 redetermination, setting forth the reasons therefor. If the secretary of labor  
27 grants such review, the employer shall be promptly notified thereof and  
28 shall be granted an opportunity for a fair hearing, but no employer shall  
29 have standing, in any proceeding involving the employer's rate of  
30 contributions or benefit liability, to contest the chargeability to the  
31 employer's account of any benefits paid in accordance with a  
32 determination, redetermination or decision pursuant to subsection (c) of  
33 K.S.A. 44-710, and amendments thereto, except upon the ground that the  
34 services on the basis of which such benefits were found to be chargeable  
35 did not constitute services performed in employment for the employer and  
36 only in the event that the employer was not a party to such determination,  
37 redetermination or decision or to any other proceedings under this act in  
38 which the character of such services was determined. Any such hearing  
39 conducted pursuant to this section shall be heard in the county where the  
40 contributing employer maintains its principle place of business. The  
41 hearing officer shall render a decision concerning all matters at issue in the  
42 hearing within 90 days.

43 (b) *Judicial review.* Any action of the secretary upon an employer's

1 timely request for a review and redetermination of its rate of contributions  
2 or benefit liability, in accordance with subsection (a), is subject to review  
3 in accordance with the Kansas judicial review act. Any action for such  
4 review shall be heard in a summary manner and shall be given precedence  
5 over all other civil cases except cases arising under subsection (i) of  
6 K.S.A. 44-709, and amendments thereto, and the workmen's compensation  
7 act.

8 (c) *Periodic notification of benefits charged.* The secretary of labor  
9 may provide by rules and regulations for periodic notification to  
10 employers of benefits paid and chargeable to their accounts or of the status  
11 of such accounts, and any such notification, in the absence of an  
12 application for redetermination filed in such manner and within such  
13 period as the secretary of labor may prescribe, shall become conclusive  
14 and binding upon the employer for all purposes. Such redeterminations,  
15 made after notice and opportunity for hearing, and the secretary's findings  
16 of facts in connection therewith may be introduced in any subsequent  
17 administrative or judicial proceedings involving the determination of the  
18 rate of contributions of any employer for any calendar year and shall be  
19 entitled to the same finality as is provided in this subsection with respect to  
20 the findings of fact made by the secretary of labor in proceedings to  
21 redetermine the contribution rate of an employer. The review or any other  
22 proceedings relating thereto as provided for in this section may be heard  
23 by any duly authorized employee of the secretary of labor and such action  
24 shall have the same effect as if heard by the secretary.

25 Sec. 5. K.S.A. 2012 Supp. 44-714 is hereby amended to read as  
26 follows: 44-714. (a) *Duties and powers of secretary.* It shall be the duty of  
27 the secretary to administer this act and the secretary shall have power and  
28 authority to adopt, amend or revoke such rules and regulations, to employ  
29 such persons, make such expenditures, require such reports, make such  
30 investigations, and take such other action as the secretary deems necessary  
31 or suitable to that end. Such rules and regulations may be adopted,  
32 amended, or revoked by the secretary only after public hearing or  
33 opportunity to be heard thereon. The secretary shall determine the  
34 organization and methods of procedure in accordance with the provisions  
35 of this act, and shall have an official seal which shall be judicially noticed.  
36 The secretary shall make and submit reports for the administration of the  
37 employment security law in the manner prescribed by K.S.A. 75-3044 to  
38 75-3046, inclusive, and 75-3048, and amendments thereto. Whenever the  
39 secretary believes that a change in contribution or benefit rates will  
40 become necessary to protect the solvency of the fund, the secretary shall  
41 promptly so inform the governor and the legislature, and make  
42 recommendations with respect thereto.

43 (b) *Publication.* The secretary shall cause to be printed for

1 distribution to the public the text of this act, the secretary's rules and  
2 regulations and any other material the secretary deems relevant and  
3 suitable and shall furnish the same to any person upon application therefor.

4 (c) *Personnel.* (1) Subject to other provisions of this act, the secretary  
5 is authorized to appoint, fix the compensation, and prescribe the duties and  
6 powers of such officers, accountants, deputies, attorneys, experts and other  
7 persons as may be necessary in carrying out the provisions of this act. The  
8 secretary shall classify all positions and shall establish salary schedules  
9 and minimum personnel standards for the positions so classified. The  
10 secretary shall provide for the holding of examinations to determine the  
11 qualifications of applicants for the positions so classified, and, except to  
12 temporary appointments not to exceed six months in duration, shall  
13 appoint all personnel on the basis of efficiency and fitness as determined in  
14 such examinations. The secretary shall not appoint or employ any person  
15 who is an officer or committee member of any political party organization  
16 or who holds or is a candidate for a partisan elective public office. The  
17 secretary shall adopt and enforce fair and reasonable rules and regulations  
18 for appointment, promotions and demotions, based upon ratings of  
19 efficiency and fitness and for terminations for cause. The secretary may  
20 delegate to any such person so appointed such power and authority as the  
21 secretary deems reasonable and proper for the effective administration of  
22 this act, and may in the secretary's discretion bond any person handling  
23 moneys or signing checks under the employment security law.

24 (2) No employee engaged in the administration of the employment  
25 security law shall directly or indirectly solicit or receive or be in any  
26 manner concerned with soliciting or receiving any assistance, subscription  
27 or contribution for any political party or political purpose, other than  
28 soliciting and receiving contributions for such person's personal campaign  
29 as a candidate for a nonpartisan elective public office, nor shall any  
30 employee engaged in the administration of the employment security law  
31 participate in any form of political activity except as a candidate for a  
32 nonpartisan elective public office, nor shall any employee champion the  
33 cause of any political party or the candidacy of any person other than such  
34 person's own personal candidacy for a nonpartisan elective public office.  
35 Any employee engaged in the administration of the employment security  
36 law who violates these provisions shall be immediately discharged. No  
37 person shall solicit or receive any contribution for any political purpose  
38 from any employee engaged in the administration of the employment  
39 security law and any such action shall be a misdemeanor and shall be  
40 punishable by a fine of not less than \$100 nor more than \$1,000 or by  
41 imprisonment in the county jail for not less than 30 days nor more than six  
42 months, or both.

43 (d) ~~*Advisory councils.* The secretary shall appoint a state employment~~



1 security advisory council and may appoint local advisory councils,  
2 composed in each case of men and women which shall include an equal  
3 number of employer representatives and employee representatives who  
4 may fairly be regarded as representative because of their vocation,  
5 employment, or affiliations, and of such members representing the general  
6 public as the secretary may designate. Each such member shall serve a  
7 four-year term. On July 1, 1996, the secretary shall designate term lengths  
8 for seated members of the council. One-half of the seated members  
9 representing employers,  $\frac{1}{2}$  of the seated members representing employees  
10 and  $\frac{1}{2}$  of the members representing the general public shall be designated  
11 by the secretary to serve two-year terms. The remaining seated members of  
12 the council shall be designated to serve four-year terms. When the term of  
13 any member expires, the secretary shall appoint the member's successor to  
14 a four-year term. If a position on the council becomes vacant prior to the  
15 expiration of the vacating member's term, the secretary may appoint an  
16 otherwise qualified individual to fulfill the remainder of such unexpired  
17 term. Such councils shall aid the secretary in formulating policies and  
18 discussing problems related to the administration of this act and in  
19 securing impartiality and freedom from political influence in the solution  
20 of such problems. Members of the state employment security advisory  
21 council attending meetings of such council, or attending a subcommittee  
22 meeting thereof authorized by such council, shall be paid amounts  
23 provided in subsection (c) of K.S.A. 75-3223, and amendments thereto.  
24 Service on the state employment security advisory council shall not in and  
25 of itself be sufficient to cause any member of the state employment  
26 security advisory council to be classified as a state officer or employee.

27 (e) *Employment stabilization.* The secretary, with the advice and aid  
28 of the secretary's advisory councils and through the appropriate divisions  
29 of the department of labor, shall take all appropriate steps to reduce and  
30 prevent unemployment; to encourage and assist in the adoption of practical  
31 methods of vocational training, retraining and vocational guidance; to  
32 investigate, recommend, advise, and assist in the establishment and  
33 operation, by municipalities, counties, school districts and the state, of  
34 reserves for public works to be used in time of business depression and  
35 unemployment; to promote the reemployment of unemployed workers  
36 throughout the state in every other way that may be feasible; and to these  
37 ends to carry on and publish the results of investigations and research  
38 studies.

39 (f) (e) *Records and reports.* Each employing unit shall keep true and  
40 accurate work records, containing such information as the secretary may  
41 prescribe. Such records shall be open to inspection and subject to being  
42 copied by the secretary or the secretary's authorized representatives at any  
43 reasonable time and shall be preserved for a period of five years from the

1 due date of the contributions or payments in lieu of contributions for the  
2 period to which they relate. Only one audit shall be made of any  
3 employer's records for any given period of time. Upon request the  
4 employing unit shall be furnished a copy of all findings by the secretary or  
5 the secretary's authorized representatives, resulting from such audit. A  
6 special inquiry or special examination made for a specific and limited  
7 purpose shall not be considered to be an audit for the purpose of this  
8 subsection. The secretary may require from any employing unit any sworn  
9 or unsworn reports, with respect to persons employed by it, which the  
10 secretary deems necessary for the effective administration of this act.  
11 Information thus obtained or obtained from any individual pursuant to the  
12 administration of this act shall be held confidential, except to the extent  
13 necessary for the proper presentation of a claim by an employer or  
14 employee under the employment security law, and shall not be published  
15 or be open to public inspection, other than to public employees in the  
16 performance of their public duties, in any manner revealing the  
17 individual's or employing unit's identity. Any claimant or employing unit  
18 or their representatives at a hearing before an appeal tribunal or the  
19 secretary shall be supplied with information from such records to the  
20 extent necessary for the proper presentation of the claim. The transcript  
21 made at any such benefits hearing shall not be discoverable or admissible  
22 in evidence in any other proceeding, hearing or determination of any kind  
23 or nature. In the event of any appeal of a benefits matter, the transcript  
24 shall be sealed by the hearing officer and shall be available only to any  
25 reviewing authority who shall reseal the transcript after making a review  
26 of it. In no event shall such transcript be deemed a public record. Nothing  
27 in this subsection~~(f)~~ (e) shall be construed to prohibit disclosure of any  
28 information obtained under the employment security law, including  
29 hearing transcripts, upon request of either of the parties, for the purpose of  
30 administering or adjudicating a claim for benefits under the provisions of  
31 any other state program, except that any party receiving such information  
32 shall be prohibited from further disclosure and shall be subject to the same  
33 duty of confidentiality otherwise imposed by this subsection~~(f)~~ (e) and  
34 shall be subject to the penalties imposed by this subsection~~(f)~~ (e) for  
35 violations of such duty of confidentiality. Nothing in this subsection~~(f)~~ (e)  
36 shall be construed to prohibit disclosure of any information obtained under  
37 the employment security law, including hearing transcripts, for use as  
38 evidence in open court in a criminal prosecution for perjury at an appeal  
39 hearing under the employment security law or for any criminal violation of  
40 the employment security law. If the secretary or any officer or employee of  
41 the secretary violates any provisions of this subsection~~(f)~~ (e), the secretary  
42 or such officer or employee shall be fined not less than \$20 nor more than  
43 \$200 or imprisoned for not longer than 90 days, or both. Original records

1 of the agency and original paid benefit warrants of the state treasurer may  
2 be made available to the employment security agency of any other state or  
3 the federal government to be used as evidence in prosecution of violations  
4 of the employment security law of such state or federal government.  
5 Photostatic copies of such records shall be made and where possible shall  
6 be substituted for original records introduced in evidence and the originals  
7 returned to the agency.

8 ~~(e)~~ (f) *Oaths and witnesses.* In the discharge of the duties imposed by  
9 the employment security law, the chairperson of an appeal tribunal, an  
10 appeals referee, the secretary or any duly authorized representative of the  
11 secretary shall have power to administer oaths and affirmations, take  
12 depositions, issue interrogatories, certify to official acts, and issue  
13 subpoenas to compel the attendance of witnesses and the production of  
14 books, papers, correspondence, memoranda and other records deemed  
15 necessary as evidence in connection with a disputed claim or the  
16 administration of the employment security law.

17 ~~(h)~~ (g) *Subpoenas, service.* Upon request, service of subpoenas shall  
18 be made by the sheriff of a county within that county, by the sheriff's  
19 deputy, by any other person who is not a party and is not less than 18 years  
20 of age or by some person specially appointed for that purpose by the  
21 secretary of labor or the secretary's designee. A person not a party as  
22 described above or a person specially appointed by the secretary or the  
23 secretary's designee to serve subpoenas may make service any place in the  
24 state. The subpoena shall be served as follows:

25 (1) *Individual.* Service upon an individual, other than a minor or  
26 incapacitated person, shall be made: (A) By delivering a copy of the  
27 subpoena to the individual personally; (B) by leaving a copy at such  
28 individual's dwelling house or usual place of abode with some person of  
29 suitable age and discretion then residing therein; (C) by leaving a copy at  
30 the business establishment of the employer with an officer or employee of  
31 the establishment; (D) by delivering a copy to an agent authorized by  
32 appointment or by law to receive service of process, but if the agent is one  
33 designated by a statute to receive service, such further notice as the statute  
34 requires shall be given; or (E) if service as prescribed above in ~~clauses~~  
35 *subparagraphs* (A), (B), (C) or (D) cannot be made with due diligence, by  
36 leaving a copy of the subpoena at the individual's dwelling house, usual  
37 place of abode or usual business establishment, and by mailing a notice by  
38 first-class mail to the place that the copy has been left.

39 (2) *Corporations and partnerships.* Service upon a domestic or  
40 foreign corporation or upon a partnership or other unincorporated  
41 association, when by law it may be sued as such, shall be made by  
42 delivering a copy of the subpoena to an officer, partner or resident  
43 managing or general agent thereof, or by leaving the copy at any business

1 office of the employer with the person having charge thereof or by  
2 delivering a copy to any other agent authorized by appointment or required  
3 by law to receive service of process, if the agent is one authorized by law  
4 to receive service and, if the law so requires, by also mailing a copy to the  
5 employer.

6 (3) *Refusal to accept service.* In all cases when the person to be  
7 served, or an agent authorized by such person to accept service of petitions  
8 and summonses shall refuse to receive copies of the subpoena, the offer of  
9 the duly authorized process server to deliver copies thereof and such  
10 refusal shall be sufficient service of such subpoena.

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

15 (B) If service of the subpoena is made by a person appointed by the  
16 secretary or the secretary's designee to make service, or any other person  
17 described in subsection~~(h)~~ (g) of this section, such person shall make an  
18 affidavit as to the time, place and manner of service thereof in a form  
19 prescribed by the secretary or the secretary's designee.

20 (5) *Time for return.* The officer or other person receiving a subpoena  
21 shall make a return of service promptly and shall send such return to the  
22 secretary or the secretary's designee in any event within 10 days after the  
23 service is effected. If the subpoena cannot be served it shall be returned to  
24 the secretary or the secretary's designee within 30 days after the date of  
25 issue with a statement of the reason for the failure to serve the same.

26 ~~(h)~~ (h) *Subpoenas, enforcement.* In case of contumacy by or refusal to  
27 obey a subpoena issued to any person, any court of this state within the  
28 jurisdiction of which the inquiry is carried on or within the jurisdiction of  
29 which such person guilty of contumacy or refusal to obey is found, resides  
30 or transacts business, upon application by the secretary or the secretary's  
31 duly authorized representative, shall have jurisdiction to issue to such  
32 person an order requiring such person to appear before the secretary, or the  
33 secretary's duly authorized representative, to produce evidence, if so  
34 ordered, or to give testimony relating to the matter under investigation or  
35 in question. Failure to obey such order of the court may be punished by the  
36 court as a contempt thereof. Any person who, without just cause, shall fail  
37 or refuse to attend and testify or to answer any lawful inquiry or to  
38 produce books, papers, correspondence, memoranda or other records in  
39 obedience to the subpoena of the secretary or the secretary's duly  
40 authorized representative shall be punished by a fine of not less than \$200  
41 or by imprisonment of not longer than 60 days, or both, and each day such  
42 violation continued shall be deemed to be a separate offense.

43 ~~(i)~~ (i) *State-federal cooperation.* In the administration of this act, the

1 secretary shall cooperate to the fullest extent consistent with the provisions  
2 of this act, with the federal security agency, shall make such reports, in  
3 such form and containing such information as the federal security  
4 administrator may from time to time require, and shall comply with such  
5 provisions as the federal security administrator may from time to time find  
6 necessary to assure the correctness and verification of such reports; and  
7 shall comply with the regulations prescribed by the federal security agency  
8 governing the expenditures of such sums as may be allotted and paid to  
9 this state under title III of the social security act for the purpose of  
10 assisting in the administration of this act. Upon request therefor the  
11 secretary shall furnish to any agency of the United States charged with the  
12 administration of public works or assistance through public employment,  
13 the name, address, ordinary occupation, and employment status of each  
14 recipient of benefits and such recipient's rights to further benefits under  
15 this act.

16 ~~(k)~~ (j) *Reciprocal arrangements.* The secretary shall participate in  
17 making reciprocal arrangements with appropriate and duly authorized  
18 agencies of other states or of the federal government, or both, whereby:

19 (1) Services performed by an individual for a single employing unit  
20 for which services are customarily performed in more than one state shall  
21 be deemed to be services performed entirely within any one of the states:  
22 (A) In which any part of such individual's service is performed;; (B) in  
23 which such individual maintains residence;; or (C) in which the employing  
24 unit maintains a place of business, provided there is in effect as to such  
25 services, an election, approved by the agency charged with the  
26 administration of such state's unemployment compensation law, pursuant  
27 to which all the services performed by such individual for such employing  
28 units are deemed to be performed entirely within such state;

29 (2) service performed by not more than three individuals, on any  
30 portion of a day but not necessarily simultaneously, for a single employing  
31 unit which customarily operates in more than one state shall be deemed to  
32 be service performed entirely within the state in which such employing  
33 unit maintains the headquarters of its business; provided that there is in  
34 effect, as to such service, an approved election by an employing unit with  
35 the affirmative consent of each such individual, pursuant to which service  
36 performed by such individual for such employing unit is deemed to be  
37 performed entirely within such state;

38 (3) potential rights to benefits accumulated under the employment  
39 compensation laws of one or more states or under one or more such laws  
40 of the federal government, or both, may constitute the basis for the  
41 payments of benefits through a single appropriate agency under terms  
42 which the secretary finds will be fair and reasonable as to all affected  
43 interests and will not result in any substantial loss to the fund;

1 (4) wages or services, upon the basis of which an individual may  
2 become entitled to benefits under an unemployment compensation law of  
3 another state or of the federal government, shall be deemed to be wages  
4 for insured work for the purpose of determining such individual's rights to  
5 benefits under this act, and wages for insured work, on the basis of which  
6 an individual may become entitled to benefits under this act, shall be  
7 deemed to be wages or services on the basis of which unemployment  
8 compensation under such law of another state or of the federal government  
9 is payable, but no such arrangement shall be entered into unless it contains  
10 provisions for reimbursements to the fund for such of the benefits paid  
11 under this act upon the basis of such wages or services, and provisions for  
12 reimbursements from the fund for such of the compensation paid under  
13 such other law upon the basis of wages for insured work, as the secretary  
14 finds will be fair and reasonable as to all affected interests; and

15 (5) (A) contributions due under this act with respect to wages for  
16 insured work shall be deemed for the purposes of K.S.A. 44-717, and  
17 amendments thereto, to have been paid to the fund as of the date payment  
18 was made as contributions therefor under another state or federal  
19 unemployment compensation law, but no such arrangement shall be  
20 entered into unless it contains provisions for such reimbursements to the  
21 fund of such contributions and the actual earnings thereon as the secretary  
22 finds will be fair and reasonable as to all affected interests;

23 (B) reimbursements paid from the fund pursuant to subsection ~~(k)(4)~~  
24 *(j)(4)* of this section shall be deemed to be benefits for the purpose of  
25 K.S.A. 44-704 and 44-712, and amendments thereto; the secretary is  
26 authorized to make to other state or federal agencies, and to receive from  
27 such other state or federal agencies, reimbursements from or to the fund, in  
28 accordance with arrangements entered into pursuant to the provisions of  
29 this section or any other section of the employment security law;

30 (C) the administration of this act and of other state and federal  
31 unemployment compensation and public employment service laws will be  
32 promoted by cooperation between this state and such other states and the  
33 appropriate federal agencies in exchanging services and in making  
34 available facilities and information; the secretary is therefore authorized to  
35 make such investigations, secure and transmit such information, make  
36 available such services and facilities and exercise such of the other powers  
37 provided herein with respect to the administration of this act as the  
38 secretary deems necessary or appropriate to facilitate the administration of  
39 any such unemployment compensation or public employment service law  
40 and, in like manner, to accept and utilize information, service and facilities  
41 made available to this state by the agency charged with the administration  
42 of any such other unemployment compensation or public employment  
43 service law; and

1 (D) to the extent permissible under the laws and constitution of the  
2 United States, the secretary is authorized to enter into or cooperate in  
3 arrangements whereby facilities and services provided under this act and  
4 facilities and services provided under the unemployment compensation  
5 law of any foreign government may be utilized for the taking of claims and  
6 the payment of benefits under the employment security law of this state or  
7 under a similar law of such government.

8 ~~(j)~~ (k) *Records available.* The secretary may furnish the railroad  
9 retirement board, at the expense of such board, such copies of the records  
10 as the railroad retirement board deems necessary for its purposes.

11 ~~(m)~~ (l) *Destruction of records, reproduction and disposition.* The  
12 secretary may provide for the destruction, reproduction, temporary or  
13 permanent retention, and disposition of records, reports and claims in the  
14 secretary's possession pursuant to the administration of the employment  
15 security law provided that prior to any destruction of such records, reports  
16 or claims the secretary shall comply with K.S.A. 75-3501 to 75-3514,  
17 inclusive, and amendments thereto.

18 ~~(n)~~ (m) *Federal cooperation.* The secretary may afford reasonable  
19 cooperation with every agency of the United States charged with  
20 administration of any unemployment insurance law.

21 ~~(o)~~ (n) The secretary is hereby authorized to fix, charge and collect  
22 fees for copies made of public documents, as defined by subsection (c) of  
23 K.S.A.—~~45-204~~ 45-217, and amendments thereto, by xerographic,  
24 thermographic or other photocopying or reproduction process, in order to  
25 recover all or part of the actual costs incurred, including any costs incurred  
26 in certifying such copies. All moneys received from fees charged for  
27 copies of such documents shall be remitted to the state treasurer in  
28 accordance with the provisions of K.S.A. 75-4215, and amendments  
29 thereto. Upon receipt of each such remittance, the state treasurer shall  
30 deposit the entire amount in the state treasury to the credit of the  
31 employment security administration fund. No such fees shall be charged or  
32 collected for copies of documents that are made pursuant to a statute  
33 which requires such copies to be furnished without expense.

34 Sec. 6. K.S.A. 2012 Supp. 44-704, 44-706, 44-710a, 44-710b and 44-  
35 714 are hereby repealed.

36 Sec. 7. This act shall take effect and be in force from and after its  
37 publication in the statute book.