

MINUTES OF THE House COMMITTEE ON Labor and Industry

Held in Room 521-S, at the Statehouse at 9:30 a. m. ~~5:00~~  
~~9:00~~

on February 3, 1983.

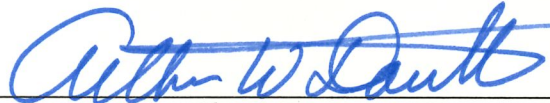
All members were present except:

All members were present.

The next meeting of the Committee will be held at 9:00 a. m. ~~9:00~~  
~~9:00~~

on February 4, 1983.

These minutes of the meeting held on \_\_\_\_\_, 19\_\_\_\_ were considered, corrected and approved.



Chairman

The conferees appearing before the Committee were:

- Mr. Arnold Berman
- Mr. Jim Wilson

Chairman Douville called the meeting to order at 9:00 a.m.

Attachment #1 was handed out to the committee. A new copy of the bill was handed out to the committee. The new copy has line numbers on each page. (Attachment #2)

Chairman Douville called Jim Wilson to the speakers stand to go over the bill with the committee section by section.

When Mr. Wilson finished going over the bill with the committee comments were made by the Department of Human Resources. The Department of Human Resources said that they would have more figures for the committee at the February 8th 1983 meeting.

The Advisory Council has a meeting scheduled for February 7, 1983 and will have further input for the committee at the February 8th meeting.

Chairman Douville adjourned the meeting at 10:15 a.m.



2-3-83

# Guest List

Rob Holzer	Topeka	KACG
Amy Carter	Topeka	Tony Hensley
Steve Goodman	Topeka	Dept. Human Resources
Arnold Berman	"	"
Dr. Harvey Ludwick	"	"
Ralph McCee		KS AFL - CIO
Wayne Maucher		Kans PA - CIO
Bill Abbott	Wichita	Beech
Jim Hegon	Wichita	Beech
Terry Webster	TOPEKA	WICHITA EAGLE

of risk-spreading. Both are important, and both must be addressed. How they are addressed, and what weight must be assigned to each, is naturally the responsibility of the Legislature, and the reason you are meeting today.

I'd now like to turn my remarks to some of the possible solutions to the problems we are facing with the unemployment compensation program in Kansas today. One proposal which KACI supported last year was contained in SB 786. This bill suggested the following three changes:

1. Increase the taxable wage base from the current \$6,000 per employee up to \$8,000
2. Increase the maximum tax rate from the current 3.8% up to 4.2% and eliminate the emergency provision allowing .1% increases above 3.8% up to a maximum of 4.3% when more than three groups were paying the maximum tax rate. (The 4.3% emergency rate is currently in effect.)
3. Increase from the current three years up to five years the period used to calculate average annual payroll.

Had the \$8,000 wage base and 4.2% maximum tax rate been in effect for calendar year 1982, there would have been a reduction in tax rates. (See Table I.) These changes also would have eliminated the bunching of tax brackets at the maximum tax rate. It is not possible to determine what the impact of using five years for calculating average annual wages would be on individual employers.

Atch. 1

TABLE I  
 Kansas  
 Employer Contribution Rates  
 \$8,000 Wage Base with a 4.2 Percent Maximum  
 Calendar Year 1982

Rate Groups	Actual \$6,000 Base	Proposed \$8,000 Base
1	.06%	.05%
2	.25	.19
3	.50	.37
4	.74	.56
5	.99	.75
6	1.24	.93
7	1.49	1.12
8	1.74	1.31
9	1.99	1.49
10	2.23	1.68
11	2.48	1.87
12	2.73	2.05
13	2.98	2.24
14	3.23	2.43
15	3.47	2.61
16	3.72	2.80
17	3.97	2.99
18	4.22	3.17
19	4.30	3.36
20	4.30	3.55
21	4.30	3.73
Negative Accounts	4.30	4.20

Research and Analysis Section  
 Division of Staff Services  
 Kansas Department of Human Resources

Although Table I is a good yardstick for determining what these changes would have meant this year, we are now operating under a new set of guidelines. As you will recall, the Legislature enacted a surcharge which will be assessed on negative account balance employers. Whether the combination of the elements proposed in SB 786

PROPOSED BILL NO. 1

For Consideration by Committee on Labor and Industry

AN ACT concerning the employment security law; relating to benefits and contributions; prescribing certain surcharges on employers; amending K.S.A. 44-703, 44-704, 44-711, 44-714 and 44-717 and K.S.A. 1982 Supp. 44-706 and 44-710a and repealing the existing sections.

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

1 Section 1. K.S.A. 44-703 is hereby amended to read as  
2 follows: 44-703. As used in this act, unless the context clearly  
3 requires otherwise: (a) (1) "Annual payroll" means the total  
4 amount of wages paid or payable by an employer during the  
5 calendar year.

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

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

24 (c) (1) "Benefits" means the money payments payable to an

Attch. 2

1 individual, as provided in this act, with respect to such  
2 individual's unemployment.

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

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

29 (e) "Commissioner" or "secretary" means the secretary of  
30 human resources.

31 (f) (1) "Contributions" means the money payments to the  
32 state employment security fund which are required to be made by  
33 employers on account of employment under K.S.A. 44-710 and  
34 amendments thereto, and voluntary payments made by employers



1 pursuant to said statute.

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

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

25 (h) "Employer" means:

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

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

5 (i) Such crew leader holds a valid certificate of  
6 registration under the farm labor contractor registration act of  
7 1963 or substantially all the members of such crew operate or  
8 maintain tractors, mechanized harvesting or cropdusting equipment  
9 or any other mechanized equipment, which is provided by such crew  
10 leader; and

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

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

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

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

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

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

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

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



1 (2) (A) Any employing unit which: (i) In any calendar  
2 quarter in either the current or preceding calendar year paid for  
3 service in employment wages of \$1,500 or more, or (ii) for some  
4 portion of a day in each of 20 different calendar weeks, whether  
5 or not such weeks were consecutive, in either the current or  
6 preceding calendar year, had in employment at least one  
7 individual, whether or not the same individual was in employment  
8 in each such day.

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

13 (3) Any employing unit for which service in employment as  
14 defined in subsection (i)(3)(E) of this section.

15 (4) Any employing unit, whether or not it is an employing  
16 unit under subsection (g) of this section, which acquired  
17 acquires or in any manner succeeds to (A) substantially all of  
18 the employing enterprises, organization, trade or business, or  
19 (B) substantially all the assets thereof, of another employing  
20 unit which at the time of such acquisition was an employer  
21 subject to this act.

22 (5) Any employing unit which paid cash remuneration of  
23 \$1,000 or more in any calendar quarter in the current or  
24 preceding calendar year to individuals employed in domestic  
25 service as defined in subsection (aa) of this section.

26 (6) Any employing unit which having become an employer  
27 under this subsection (h) has not, under subsection (b) of K.S.A.  
28 44-711 ~~or any~~ and amendments thereto, ceased to be an employer  
29 subject to this act.

30 (7) Any employing unit which has elected to become fully  
31 subject to this act in accordance with subsection (c) of K.S.A.  
32 44-711 and amendments thereto.

33 (8) Any employing unit not an employer by reason of any  
34 other paragraph of this subsection (h), for which within either  
35 the current or preceding calendar year services in employment are

1 or were performed with respect to which such employing unit is  
2 liable for any federal tax against which credit may be taken for  
3 contributions required to be paid into a state unemployment  
4 compensation fund; or which, as a condition for approval of this  
5 act for full tax credit against the tax imposed by the federal  
6 unemployment tax act, is required, pursuant to such act, to be an  
7 "employer" under this act.

8 (9) Any employing unit described in section 501(c)(3) of  
9 the federal internal revenue code of 1954 which is exempt from  
10 income tax under section 501(a) of the code that had four or more  
11 individuals in employment for some portion of a day in each of 20  
12 different weeks, whether or not such weeks were consecutive,  
13 within either the current or preceding calendar year, regardless  
14 of whether they were employed at the same moment of time.

15 (i) "Employment" means:

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

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

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

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

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

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

1 use in their business operations.

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

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

8 (b) The individual does not have a substantial investment  
9 in facilities used in connection with the performance of the  
10 services (other than in facilities for transportation); and

11 (c) The services are not in the nature of a single  
12 transaction that is not part of a continuing relationship with  
13 the person for whom the services are performed.

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

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

18 (B) The individual is one of a class of employees who are  
19 required to travel outside this state in performance of their  
20 duties, and

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

24 (3) The term "employment" shall also include:

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

31 (B) Services performed entirely without this state, with  
32 respect to no part of which contributions are required and paid  
33 under an unemployment compensation law of any other state or of  
34 the federal government, shall be deemed to be employment subject  
35 to this act only if the individual performing such services is a

1 resident of this state and the secretary approved the election of  
2 the employing unit for whom such services are performed that the  
3 entire service of such individual shall be deemed to be  
4 employment subject to this act.

5 (C) Services covered by an arrangement pursuant to  
6 subsection (1) of K.S.A. 44-714 and amendments thereto between  
7 the secretary and the agency charged with the administration of  
8 any other state or federal unemployment compensation law,  
9 pursuant to which all services performed by an individual for an  
10 employing unit are deemed to be performed entirely within this  
11 state, shall be deemed to be employment if the secretary has  
12 approved an election of the employing unit for whom such services  
13 are performed, pursuant to which the entire service of such  
14 individual during the period covered by such election is deemed  
15 to be insured work.

16 (D) Services performed by an individual for wages or under  
17 any contract of hire shall be deemed to be employment subject to  
18 this act unless and until it is shown to the satisfaction of the  
19 secretary that: (i) Such individual has been and will continue to  
20 be free from control or direction over the performance of such  
21 services, both under the individual's contract of hire and in  
22 fact; and (ii) such service is either outside the usual course of  
23 the business for which such service is performed or that such  
24 service is performed outside of all the places of business of the  
25 enterprise for which such service is performed.

26 (E) Service performed by an individual in the employ of  
27 this state or any instrumentality thereof, any political  
28 subdivision of this state or any instrumentality thereof, any  
29 instrumentality of more than one of the foregoing or any  
30 instrumentality which is jointly owned by this state or a  
31 political subdivision thereof and one or more other states or  
32 political subdivisions of this or other states, provided that  
33 such service is excluded from "employment" as defined in the  
34 federal unemployment tax act by reason of section 3306(c)(7) of  
35 that act and is not excluded from "employment" under subsection

1 (i)(4)(A) of this section.

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

8 (G) The term "employment" shall include the service of an  
9 individual who is a citizen of the United States, performed  
10 outside the United States (except in Canada or, prior to and  
11 including December 31 of the year in which the U.S. secretary of  
12 labor approves an unemployment compensation law submitted by the  
13 Virgin Islands), in the employ of an American employer (other  
14 than service which is deemed "employment" under the provisions of  
15 subsection (i)(2) or subsection (i)(3) or the parallel provisions  
16 of another state's law), if:

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

19 (ii) The employer has no place of business in the United  
20 States, but

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

23 (B) The employer is a corporation which is organized under  
24 the laws of this state; or

25 (C) The employer is a partnership or a trust and the number  
26 of the partners or trustees who are residents of this state is  
27 greater than the number who are residents of any other state; or

28 (iii) None of the criteria of paragraphs (i) and (ii) above  
29 of this subsection (i)(3)(G) ~~is~~ are met but the employer has  
30 elected coverage in this state or, the employer having failed to  
31 elect coverage in any state, the individual has filed a claim for  
32 benefits, based on such service, under the law of this state.

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

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



1 or

2 (ii) A partnership if 2/3 or more of the partners are  
3 residents of the United States; or

4 (iii) A trust, if all of the trustees are residents of the  
5 United States; or

6 (iv) A corporation organized under the laws of the United  
7 States, or of any state.

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

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

23 (K) Domestic service in a private home, local college club  
24 or local chapter of a college fraternity or sorority performed  
25 for a person who paid cash remuneration of \$1,000 or more in any  
26 calendar quarter in the current calendar year or the preceding  
27 calendar year to individuals employed in such domestic service.

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

32 (i) As an elected official;

33 (ii) as a member of a legislative body, or a member of the  
34 judiciary, of a state or political subdivision;

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

1 national guard;

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

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

9 (B) Service with respect to which unemployment compensation  
10 is payable under an unemployment compensation system established  
11 by an act of congress;

12 (C) Service performed by an individual in the employ of  
13 such individual's son, daughter or spouse, and service performed  
14 by a child under the age of 18 years in the employ of such  
15 individual's father or mother;

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

35 (E) Service covered by an arrangement between the secretary

1 and the agency charged with the administration of any other state  
2 or federal unemployment compensation law pursuant to which all  
3 services performed by an individual for an employing unit during  
4 the period covered by such employing unit's duly approved  
5 election, are deemed to be performed entirely within the  
6 jurisdiction of such other state or federal agency;

7 (F) Service performed by an individual under the age of 18  
8 in the delivery or distribution of newspapers or shopping news,  
9 not including delivery or distribution to any point for  
10 subsequent delivery or distribution;

11 (G) Service performed by an individual for an employing  
12 unit as an insurance agent or as an insurance solicitor, if all  
13 such service performed by such individual for such employing unit  
14 is performed for remuneration solely by way of commission;

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

1 (I) Services performed in the employ of a church or  
2 convention or association of churches, or an organization which  
3 is operated primarily for religious purposes and which is  
4 operated, supervised, controlled, or principally supported by a  
5 church or convention or association of churches;

6 (J) Service performed by a duly ordained, commissioned, or  
7 licensed minister of a church in the exercise of such  
8 individual's ministry or by a member of a religious order in the  
9 exercise of duties required by such order;

10 (K) Service performed in a facility conducted for the  
11 purpose of carrying out a program of:

12 (i) Rehabilitation for individuals whose earning capacity  
13 is impaired by age or physical or mental deficiency or injury, or

14 (ii) Providing remunerative work for individuals who  
15 because of their impaired physical or mental capacity cannot be  
16 readily absorbed in the competitive labor market, by an  
17 individual receiving such rehabilitation or remunerative work;

18 (L) Service performed as part of an employment work-relief  
19 or work-training program assisted or financed in whole or in part  
20 by any federal agency or an agency of a state or political  
21 subdivision thereof, by an individual receiving such work relief  
22 or work training;

23 (M) Service performed by an inmate of a custodial or  
24 correctional institution, unless such service is performed for a  
25 private, for-profit employer;

26 (N) Service performed, in the employ of a school, college,  
27 or university, if such service is performed by a student who is  
28 enrolled and is regularly attending classes at such school,  
29 college or university;

30 (O) Service performed by an individual under the age of 22  
31 who is enrolled at a nonprofit or public educational institution  
32 which normally maintains a regular faculty and curriculum and  
33 normally has a regularly organized body of students in attendance  
34 at the place where its educational activities are carried on as a  
35 student in a full-time program, taken for credit at such

1 institution, which combines academic instruction with work  
2 experience, if such service is an integral part of such program,  
3 and such institution has so certified to the employer, except  
4 that this subsection (i)(4)(0) shall not apply to service  
5 performed in a program established for or on behalf of an  
6 employer or group of employers;

7 (P) Service performed in the employ of a hospital licensed,  
8 certified or approved by the secretary of health and environment,  
9 if such service is performed by a patient of the hospital.

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

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

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

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

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

34 (o) "Wages" means all compensation for services, including  
35 commissions and bonuses and the cash value of all remuneration in



1 any medium other than cash. The reasonable cash value of  
2 remuneration in any medium other than cash, shall be estimated  
3 and determined in accordance with rules and regulations  
4 prescribed by the secretary. The term "wages" shall not include:

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

23 (2) The amount of any payment to, or on behalf of, an  
24 individual in its employ under a plan or system established by an  
25 employing unit which makes provisions for individuals in its  
26 employ generally or for a class or classes of such individuals  
27 (including any amount paid by an employing unit for insurance or  
28 annuities, or into a fund, to provide for any such payment) on  
29 account of (A) retirement, or (B) sickness or accident  
30 disability, or (C) medical and hospitalization expenses in  
31 connection with sickness or accident disability or (D) death. If  
32 the individual in its employ: (i) Has not the option to receive,  
33 instead of provisions for such death benefit any part of such  
34 payment or, if such death benefit is insured, any part of the  
35 premiums (or contributions to premiums) paid by such individual's

1 employing unit; and (ii) has not the right, under the provisions  
2 of the plan or system or policy of insurance providing for such  
3 death benefit, to assign such benefit, or to receive cash  
4 consideration in lieu of such benefit either upon such  
5 individual's withdrawal from the plan or system providing for  
6 such benefit or upon termination of such plan or system or policy  
7 of insurance or of such individual's services with such  
8 employment unit;

9 (3) The payment by an employing unit (without deduction  
10 from the remuneration of the employee) of the tax imposed upon an  
11 employee under section 3101 of the internal revenue code with  
12 respect to remuneration paid to an employee for domestic service  
13 in a private home of the employer or for agricultural labor.  
14 This paragraph (3) of subsection (o) will apply to all  
15 remuneration paid after December 31, 1980, except that this  
16 paragraph (3) of subsection (o) shall not apply to any payment  
17 made before January 1, 1984, by any governmental unit for  
18 positions of a kind for which all or a substantial portion of the  
19 social security employee taxes were paid by such governmental  
20 unit (without deduction from the remuneration of the employee)  
21 under the practices of such governmental unit in effect on  
22 October 1, 1980;

23 (4) ~~Irrespective of~~ Notwithstanding the foregoing  
24 provisions of this subsection (o), "total wages" mean the gross  
25 amount paid by an employer to such employer's employees with  
26 respect to a week, month, year or other period as required by  
27 subsection (e)(2) of K.S.A. 44-710, and amendments thereto.

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

31 (q) "Calendar quarter" means the period of three  
32 consecutive calendar months ending March 31, June 30, September  
33 30, or December 31, or the equivalent thereof as the secretary  
34 may by rules and regulations prescribe.

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

1           (s) "Approved training" means any vocational training  
2 course or course in basic education skills approved by the  
3 secretary or a person or persons designated by the secretary.

4           (t) "American vessel" or "American aircraft" means any  
5 vessel or aircraft documented or numbered or otherwise registered  
6 under the laws of the United States; and any vessel or aircraft  
7 which is neither documented or numbered or otherwise registered  
8 under the laws of the United States nor documented under the laws  
9 of any foreign country, if its crew performs service solely for  
10 one or more citizens or residents of the United States or  
11 corporations organized under the laws of the United States or of  
12 any state.

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

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

18           (2) Is legally authorized in this state to provide a  
19 program of education beyond high school;

20           (3) Provides an educational program for which it awards a  
21 bachelor's or higher degree, or provides a program which is  
22 acceptable for full credit toward such a degree, a program of  
23 post-graduate or post-doctoral studies, or a program of training  
24 to prepare students for gainful employment in a recognized  
25 occupation; and

26           (4) Is a public or other nonprofit institution;

27           (5) Notwithstanding any of the foregoing provisions of this  
28 subsection (u), all colleges and universities in this state are  
29 institutions of higher education for purposes of this section.

30           (v) "Educational institution" means any institution of  
31 higher education, as defined in subsection (u) of this section,  
32 or any institution in which participants, trainees or students  
33 are offered an organized course of study or training designed to  
34 transfer to them knowledge, skills, information, doctrines,  
35 attitudes or abilities from, by or under the guidance of an

1 instructor or teacher and which is approved, licensed or issued a  
2 permit to operate as a school by the state department of  
3 education or other government agency that is authorized within  
4 the state to approve, license or issue a permit for the operation  
5 of a school. The courses of study or training which an  
6 educational institution offers may be academic, technical, trade  
7 or preparation for gainful employment in a recognized occupation.

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

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

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

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

29 (D) (i) In the employ of the operator of a farm in  
30 handling, planting, drying, packing, packaging, processing,  
31 freezing, grading, storing, or delivering to storage or to market  
32 or to a carrier for transportation to market, in its  
33 unmanufactured state, any agricultural or horticultural  
34 commodity; but only if such operator produced more than 1/2 of  
35 the commodity with respect to which such service is performed;

1           (ii) In the employ of a group of operators of farms (or a  
2 cooperative organization of which such operators are members) in  
3 the performance of service described in paragraph (i) above of  
4 this subsection (w)(1)(D), but only if such operators produced  
5 more than 1/2 of the commodity with respect to which such service  
6 is performed;

7           (iii) The provisions of paragraphs (i) and (ii) above of  
8 this subsection (w)(1)(D) shall not be deemed to be applicable  
9 with respect to service performed in connection with commercial  
10 canning or commercial freezing or in connection with any  
11 agricultural or horticultural commodity after its delivery to a  
12 terminal market for distribution for consumption.

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

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

20           (3) As used in this subsection (w), the term "farm"  
21 includes stock, dairy, poultry, fruit, fur-bearing animal, and  
22 truck farms, plantations, ranches, nurseries, ranges,  
23 greenhouses, or other similar structures used primarily for the  
24 raising of agricultural or horticultural commodities, and  
25 orchards.

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

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

32           (z) "Wage combining plan" means a uniform national  
33 arrangement approved by the United States secretary of labor in  
34 consultation with the state unemployment compensation agencies  
35 and in which this state shall participate, whereby wages earned



1 in one or more states are transferred to another state, called  
2 the "paying state," and combined with wages in the paying state,  
3 if any, for the payment of benefits under the laws of the paying  
4 state and as provided by an arrangement so approved by the United  
5 States secretary of labor.

6 (aa) "Domestic service" means any service for a person in  
7 the operation and maintenance of a private household, local  
8 college club or local chapter of a college fraternity or  
9 sorority, as distinguished from service as an employee in the  
10 pursuit of an employer's trade, occupation, profession,  
11 enterprise or vocation.

12 (bb) "Rated governmental employer" means any governmental  
13 entity which elects to make payments as provided by K.S.A.  
14 44-710d and amendments thereto.

15 (cc) "Benefit cost payments" means payments made to the  
16 employment security fund by a governmental entity electing to  
17 become a rated governmental employer.

18 (dd) "Successor employer" means any employer, as described  
19 in subsection (h) of this section, which acquires or in any  
20 manner succeeds to (1) substantially all of the employing  
21 enterprises, organization, trade or business of another employer  
22 or (2) substantially all the assets of another employer.

23 (ee) "Predecessor employer" means an employer, as described  
24 in subsection (h) of this section, who has previously operated a  
25 business or portion of a business with employment to which  
26 another employer has succeeded.

27 Sec. 2. K.S.A. 44-704 is hereby amended to read as follows:  
28 44-704. (a) Payment of benefits. All benefits provided herein  
29 shall be payable from the fund. All benefits shall be paid  
30 through the secretary of human resources, in accordance with such  
31 rules and regulations as the secretary may adopt. Benefits based  
32 on service in employment defined in subsections (i)(3)(E) and  
33 (i)(3)(F) of K.S.A. 44-703 and amendments thereto, shall be  
34 payable in the same amount, on the same terms and subject to the  
35 same conditions as compensation payable on the basis of other

1 service subject to this act except as provided in subsection (e)  
2 of K.S.A. 44-705 and subsection (e)(2) of K.S.A. 44-711, and any  
3 amendments to these statutes.

4 (b) Determined weekly benefit amount. An individual's  
5 determined weekly benefit amount shall be an amount equal to ~~four~~  
6 ~~and one-quarter percent (4.25%)~~ 4.25% of ~~his or her~~ the  
7 individual's total wages for insured work paid during that  
8 calendar quarter of ~~his or her~~ the individual's base period in  
9 which such total wages were highest, subject to the following  
10 limitations:

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

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

17 (3) if the individual's determined weekly benefit amount is  
18 not a multiple of ~~one dollar (\$1)~~ \$1, it shall be ~~raised~~ reduced  
19 to the next ~~higher~~ lower multiple of ~~one dollar (\$1)~~ \$1.

20 (c) Maximum weekly benefit amount. On July 1 of each year,  
21 the secretary shall determine the maximum weekly benefit amount  
22 by computing ~~sixty percent (60%)~~ 60% of the average weekly wages  
23 paid to employees in insured work during the previous calendar  
24 year and shall prior to that date announce the maximum weekly  
25 benefit amount so determined, by publication in ~~at least one~~  
26 ~~newspaper of general circulation in this state~~ the Kansas  
27 register, except that the maximum weekly benefit amount for the  
28 twelve-month periods commencing on July 1, 1983, and July 1,  
29 1984, shall not be more than the maximum weekly benefit rate for  
30 the twelve-month period commencing on July 1, 1982. Such  
31 computation shall be made by dividing the gross wages reported as  
32 paid for insured work during the previous calendar year by the  
33 product of the average of midmonth employment during such  
34 calendar year multiplied by ~~fifty-two (52)~~ 52. The maximum weekly  
35 benefit amount so determined and announced for the twelve-month

1 period shall apply only to those claims filed in that period  
2 qualifying for maximum payment under the foregoing formula. All  
3 claims qualifying for payment at the maximum weekly benefit  
4 amount shall be paid at the maximum weekly benefit amount in  
5 effect when the benefit year to which the claim relates was first  
6 established, notwithstanding a change in ~~said~~ the maximum benefit  
7 amount for a subsequent twelve-month period. If the computed  
8 maximum weekly benefit amount is not a multiple of ~~one-dollar~~  
9 ~~(~~\$1~~)~~ \$1, then ~~said~~ the computed maximum weekly benefit amount  
10 shall be computed reduced to the nearest next lower multiple of  
11 ~~one-dollar-(~~\$1~~)~~ \$1.

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

27 (e) Weekly benefit payable. Each eligible individual who is  
28 unemployed with respect to any week shall, except as to final  
29 payment, be paid with respect to such week a benefit in an amount  
30 equal to ~~his-or-her~~ such individual's determined weekly benefit  
31 amount, less that part of the wage, if any, payable to such  
32 individual with respect to such week which is in excess of eight  
33 ~~dollars-(~~\$8~~)~~ \$8 and if the resulting amount is not a multiple of  
34 ~~one-dollar-(~~\$1~~)~~ \$1 it shall be computed reduced to the next  
35 ~~higher~~ lower multiple of ~~one-dollar-(~~\$1~~)~~ \$1. For the purpose of

1 this section, remuneration received for services performed on a  
2 public assistance work project shall not be construed as wages.

3 (f) Duration of benefits. Any otherwise eligible individual  
4 shall be entitled during any benefit year to a total amount of  
5 benefits equal to whichever is the lesser of ~~(1) twenty-six (26)~~  
6 26 times ~~his or her~~ such individual's weekly benefit amount, or  
7 ~~(2) one-third~~ 1/3 of ~~his or her~~ such individual's wages for  
8 insured work paid during ~~his or her~~ such individual's base  
9 period. Such total amount of benefits, if not a multiple of ~~one~~  
10 ~~dollar--(\$1)~~ \$1 shall be ~~computed at~~ reduced to the next higher  
11 lower multiple of ~~one-dollar--(\$1)~~ \$1.

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

19 Sec. 3. K.S.A. 1982 Supp. 44-706 is hereby amended to read  
20 as follows: 44-706. An individual shall be disqualified for  
21 benefits:

22 (a) Beginning with the week in which the valid initial  
23 claim is filed and for the 10 consecutive weeks which immediately  
24 follow such week and shall forfeit benefit entitlement equal to  
25 10 times the individual's determined weekly benefit amount, but  
26 not less than an amount equal to such individual's determined  
27 weekly benefit amount if the individual left the last work  
28 voluntarily without good cause. An individual shall have left  
29 work voluntarily with good cause for either work related or  
30 personal reasons, if:

31 (1) After pursuing all reasonable alternatives, the  
32 circumstances causing the separation were of such urgent,  
33 compelling or necessitous nature as to provide the individual  
34 with no alternative but to leave the work voluntarily; or

35 (2) the reasons for the separation were of such nature that

1 a reasonable and prudent individual would separate from the  
2 employment under the same circumstances. If an individual leaves  
3 work by the individual's own action because of domestic or family  
4 responsibilities, not including pregnancy, self-employment or to  
5 retire because of disability or old age, or to attend school such  
6 individual shall be disqualified for benefits until such  
7 individual again becomes employed and has had earnings of at  
8 least eight times such individual's weekly benefit amount. No  
9 individual shall be denied benefits for leaving work to enter  
10 training approved under section 236(a)(1) of the trade act of  
11 1974, provided the work left is not of a substantially equal or  
12 higher skill level than the individual's past adversely affected  
13 employment (as defined for purposes of the trade act of 1974),  
14 and wages for such work are not less than 80% of the individual's  
15 average weekly wage as determined for the purposes of the trade  
16 act of 1974.

17 (b) Beginning with the week in which the valid initial  
18 claim is filed and for the 10 consecutive weeks which immediately  
19 follow such week and shall forfeit benefit entitlement equal to  
20 10 times the individual's determined weekly benefit amount, but  
21 not less than an amount equal to such individual's determined  
22 weekly benefit amount if the individual has been discharged from  
23 the individual's last work for a breach of a duty connected with  
24 the individual's work reasonably owed an employer by an employee,  
25 except that if an individual is discharged for gross misconduct  
26 connected with the individual's work, such individual shall be  
27 disqualified for benefits until such individual again becomes  
28 employed and has had earnings of at least eight times such  
29 individual's weekly benefit amount. The term "gross misconduct"  
30 as used in this subsection shall be construed to mean conduct  
31 evincing willful and wanton disregard of an employer's interest  
32 or a carelessness or negligence of such degree or recurrence as  
33 to show an intentional or substantial disregard of the employer's  
34 interest.

35 (c) If the individual has failed, without good cause, to



1 either apply for suitable work when so directed by the employment  
2 office of the secretary of human resources, or to accept suitable  
3 work when offered to the individual by the employment office, the  
4 secretary of human resources, or an employer, such  
5 disqualification shall begin with the week in which such failure  
6 occurred and for the 10 consecutive weeks which immediately  
7 follow such week and shall forfeit benefit entitlement equal to  
8 10 times the individual's determined weekly benefit amount but  
9 not less than an amount equal to such individual's determined  
10 weekly benefit amount. In determining whether or not any work is  
11 suitable for an individual, the secretary of human resources, or  
12 a person or persons designated by the secretary, shall consider  
13 the degree of risk involved to health, safety, and morals,  
14 physical fitness and prior training, experience and prior  
15 earnings, length of unemployment and prospects for securing local  
16 work in the individual's customary occupation or work for which  
17 the individual is reasonably fitted by training or experience,  
18 and the distance of the available work from the individual's  
19 residence. Notwithstanding any other provisions of this act, an  
20 otherwise eligible individual shall not be disqualified for  
21 refusing an offer of suitable employment, or failing to apply for  
22 suitable employment when notified by an employment office, or for  
23 leaving the individual's most recent work accepted during  
24 approved training, including training approved under section  
25 236(a)(1) of the trade act of 1974, if the acceptance of or  
26 applying for suitable employment or continuing such work would  
27 require the individual to terminate approved training and no work  
28 shall be deemed suitable and benefits shall not be denied under  
29 this act to any otherwise eligible individual for refusing to  
30 accept new work under any of the following conditions: (1) If the  
31 position offered is vacant due directly to a strike, lockout, or  
32 other labor dispute; (2) if the remuneration, hours, or other  
33 conditions of the work offered are substantially less favorable  
34 to the individual than those prevailing for similar work in the  
35 locality; (3) if as a condition of being employed, the individual

1 would be required to join or to resign from or refrain from  
2 joining any labor organization.

3 (d) For any week with respect to which the secretary of  
4 human resources, or a person or persons designated by the  
5 secretary, finds that the individual's unemployment is due to a  
6 stoppage of work which exists because of a labor dispute or there  
7 would have been a work stoppage had normal operations not been  
8 maintained with other personnel previously and currently employed  
9 by the same employer at the factory, establishment, or other  
10 premises at which the individual is or was last employed, except  
11 that this subsection shall not apply if it is shown to the  
12 satisfaction of the secretary of human resources, or a person or  
13 persons designated by the secretary, that: (1) The individual is  
14 not participating in or financing or directly interested in the  
15 labor dispute which caused the stoppage of work; and (2) the  
16 individual does not belong to a grade or class of workers of  
17 which, immediately before the commencement of the stoppage, there  
18 were members employed at the premises at which the stoppage  
19 occurs any of whom are participating in or financing or directly  
20 interested in the dispute. If in any case separate branches of  
21 work which are commonly conducted as separate businesses in  
22 separate premises are conducted in separate departments of the  
23 same premises, each such department shall, for the purpose of  
24 this subsection, be deemed to be a separate factory,  
25 establishment, or other premises. For the purposes of this  
26 subsection, failure or refusal to cross a picket line or refusal  
27 for any reason during the continuance of such labor dispute to  
28 accept the individual's available and customary work at the  
29 factory, establishment, or other premises where the individual is  
30 or was last employed shall be considered as participation and  
31 interest in the labor dispute.

32 (e) For any week with respect to which or a part of which  
33 the individual has received or is seeking unemployment benefits  
34 under the unemployment compensation law of any other state or of  
35 the United States, except that if the appropriate agency of such

1 other state or the United States finally determines that the  
2 individual is not entitled to such unemployment benefits, this  
3 disqualification shall not apply.

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

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

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

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

1           (j) For any week of unemployment on the basis of service in  
2 any capacity other than service in an instructional, research, or  
3 administrative capacity in an educational institution other than  
4 an institution of higher education, as such terms are defined in  
5 subsections (u) and (v) of K.S.A. 44-703 and amendments thereto,  
6 if such week begins during the period between two successive  
7 academic years or during a similar period between two regular  
8 terms, whether or not successive, if the individual has a  
9 contract or contracts, or a reasonable assurance thereof, to  
10 perform services in any such capacity for any educational  
11 institution other than an institution of higher education for  
12 both such academic years or both such terms.

13           (k) For any week of unemployment on the basis of service in  
14 an instructional, research or principal administrative capacity  
15 for an educational institution as defined in subsection (v) of  
16 K.S.A. 44-703 and amendments thereto, or for service in any other  
17 capacity in an educational institution other than an institution  
18 of higher education as defined in subsection (u) of K.S.A.  
19 44-703 and amendments thereto, if such week begins during an  
20 established and customary vacation period or holiday recess if  
21 the individual performs services in the period immediately before  
22 such vacation period or holiday recess and there is a reasonable  
23 assurance that such individual will perform such services in the  
24 period immediately following such vacation period or holiday  
25 recess.

26           (l) For any week of unemployment on the basis of any  
27 services, substantially all of which consist of participating in  
28 sports or athletic events or training or preparing to so  
29 participate, if such week begins during the period between two  
30 successive sport seasons or similar period if such individual  
31 performed services in the first of such seasons or similar  
32 periods and there is a reasonable assurance that such individual  
33 will perform such services in the later of such seasons or  
34 similar periods.

35           (m) For any week on the basis of services performed by an

1 alien unless such alien is an individual who was lawfully  
2 admitted for permanent residence at the time such services were  
3 performed, was lawfully present for purposes of performing such  
4 services, or was permanently residing in the United States under  
5 color of law at the time such services were performed, including  
6 an alien who was lawfully present in the United States as a  
7 result of the application of the provisions of section 203(a)(7)  
8 or section 212(d)(5) of the federal immigration and nationality  
9 act. Any data or information required of individuals applying for  
10 benefits to determine whether benefits are not payable to them  
11 because of their alien status shall be uniformly required from  
12 all applicants for benefits. In the case of an individual whose  
13 application for benefits would otherwise be approved, no  
14 determination that benefits to such individual are not payable  
15 because of such individual's alien status shall be made except  
16 upon a preponderance of the evidence.

17 (n) For any week in which an individual is receiving a  
18 governmental or other pension, retirement or retired pay, annuity  
19 or other similar periodic payment under a plan maintained by a  
20 base period employer and to which the entire contributions were  
21 provided by such employer, except that: (1) If the entire  
22 contributions to such plan were provided by the base period  
23 employer but such individual's weekly benefit amount exceeds such  
24 governmental or other pension, retirement or retired pay, annuity  
25 or other similar periodic payment attributable to such week, the  
26 weekly benefit amount payable to the individual shall be reduced  
27 (but not below zero) by an amount equal to the amount of such  
28 pension, retirement or retired pay, annuity or other similar  
29 periodic payment which is attributable to such week; or (2) if  
30 only a portion of contributions to such plan were provided by the  
31 base period employer, the weekly benefit amount payable to such  
32 individual for such week shall be reduced (but not below zero) by  
33 the prorated weekly amount of the pension, retirement or retired  
34 pay, annuity or other similar periodic payment after deduction of  
35 that portion of the pension, retirement or retired pay, annuity

1 or other similar periodic payment that is directly attributable  
2 to the percentage of the contributions made to the plan by such  
3 individual; or (3) if the entire contributions to the plan were  
4 provided by such individual, or by the individual and an employer  
5 (or any person or organization) who is not a base period  
6 employer, no reduction in the weekly benefit amount payable to  
7 the individual for such week shall be made under this subsection  
8 (n); or (4) whatever portion of contributions to such plan were  
9 provided by the base period employer, if the services performed  
10 for the employer by such individual during the base period, or  
11 remuneration received for the services, did not affect the  
12 individual's eligibility for, or increased the amount of, such  
13 pension, retirement or retired pay, annuity or other similar  
14 periodic payment, no reduction in the weekly benefit amount  
15 payable to the individual for such week shall be made under this  
16 subsection (n). The conditions specified in clause (4) of this  
17 subsection (n) shall not apply to payments made under the social  
18 security act or the railroad retirement act of 1974, or the  
19 corresponding provisions of prior law. Payments made under these  
20 acts shall be treated as otherwise provided in this subsection  
21 (n). If the reduced weekly benefit amount is not a multiple of  
22 \$1, it shall be ~~computed~~ reduced to the next ~~higher~~ lower  
23 multiple of \$1.

24 New Sec. 4. (a) (1) Each contributing employer, rated  
25 governmental employer and reimbursing employer shall pay an  
26 annual surcharge to the employment security fund for calendar  
27 year 1983 in an amount equal to 20% of the total estimated amount  
28 of contributions, benefit cost payments and payments in lieu of  
29 contributions that such employer will be required to pay into the  
30 employment security fund for calendar year 1983 as determined by  
31 the secretary of human resources based on the best information  
32 and evidence available to the secretary at the time. The amount  
33 of such annual surcharge for calendar year 1983 shall be paid by  
34 each contributing employer, rated governmental employee and  
35 reimbursing employer upon receipt of certification of the amount  
36 thereof by the secretary of human resources.

1 (2) Each contributing employer, rated governmental employer  
2 and reimbursing employer shall pay an annual surcharge to the  
3 employment security fund for calendar year 1984 in an amount  
4 equal to 20% of the total estimated amount of contributions,  
5 benefit cost payments and payments in lieu of contributions that  
6 such employer will be required to pay into the employment  
7 security fund for calendar year 1984 as determined for and  
8 certified to each such employer by the secretary of human  
9 resources on or after January 1, 1984, and based on the best  
10 information and evidence available to the secretary at the time.

11 (b) (1) At the end of each calendar quarter commencing  
12 after the effective date of this act and occurring in calendar  
13 year 1983 or 1984, the secretary of human resources shall prepare  
14 and adopt an estimate of the financial condition of the  
15 employment security fund during the ensuing calendar quarter,  
16 based on the best information and evidence available to the  
17 secretary at the time. Prior to adoption of such estimate for a  
18 calendar quarter, the secretary of human resources shall advise  
19 and consult thereon with the state employment security advisory  
20 council under subsection (d) of K.S.A. 44-714 and amendments  
21 thereto. If the estimate adopted by the secretary for a calendar  
22 quarter shows that the balance of money in the employment  
23 security fund which is available to pay benefits at the beginning  
24 of any month of such calendar quarter will be less than  
25 \$35,000,000, the secretary shall assess and collect a surcharge  
26 for that calendar quarter under this subsection (b) from each  
27 contributing employer, rated governmental employer and  
28 reimbursing employer. The total amount of the surcharge assessed  
29 for a calendar quarter under this subsection (b) shall be fixed  
30 by the secretary of human resources in an amount equal to the  
31 amount which is required to be paid into the employment security  
32 fund so that the total of the estimated ending balance in the  
33 employment security fund which is available to pay benefits at  
34 the end of that calendar quarter plus the total amount of the  
35 surcharge assessed for that calendar quarter is equal to  
36 \$35,000,000.

1 (2) The amount of the surcharge assessed against each  
2 contributing employer, rated governmental employer or reimbursing  
3 employer for a calendar quarter under this subsection (b) shall  
4 be fixed by the secretary of human resources and shall be equal  
5 to the amount which bears the same proportion to the total amount  
6 assessed against all such employers for ~~the~~<sup>such</sup> calendar quarter  
7 under this subsection<sup>(b)</sup><sub>A</sub> that the amount assessed against such  
8 employer under subsection (a) for the calendar year in which the  
9 calendar quarter occurs, bears to the total amount assessed  
10 against all such employers under subsection (a) for such calendar  
11 year. The secretary of human resources shall certify the amount  
12 of the surcharge assessed against each contributing employer,  
13 rated governmental employer or reimbursing employer for a  
14 calendar quarter under this subsection (b) to such employer and  
15 such employer shall pay such amount upon receipt of such  
16 certification.

17 (3) In accordance with this subsection<sup>(b)</sup><sub>A</sub>, the secretary of  
18 human resources may assess a separate surcharge under this  
19 subsection (b) for each calendar quarter commencing after the  
20 effective date of this act and occurring in calendar year 1983 or  
21 1984.

22 (c) This section shall be construed as part of the  
23 employment security law. The provisions of this section shall  
24 expire on July 1, 1985.

25 Sec. 5. K.S.A. 1982 Supp. 44-710a is hereby amended to read  
26 as follows: 44-710a. (a) Classification of employers by the  
27 secretary. The term "employer" as used in this section refers to  
28 contributing employers. The secretary shall classify employers in  
29 accordance with their actual experience in the payment of  
30 contributions on their own behalf and with respect to benefits  
31 charged against their accounts with a view of fixing such  
32 contribution rates as will reflect such experience. If, as of the  
33 date such classification of employers is made, the secretary  
34 finds that any employing unit has failed to file any report  
35 required in connection therewith, or has filed a report which the



1 secretary finds incorrect or insufficient, the secretary shall  
2 make an estimate of the information required from such employing  
3 unit on the basis of the best evidence reasonably available to  
4 the secretary at the time, and notify the employing unit thereof  
5 by mail addressed to its last-known address. Unless such  
6 employing unit shall file the report or a corrected or sufficient  
7 report as the case may be, within 15 days after the mailing of  
8 such notice, the secretary shall compute such employing unit's  
9 rate of contributions on the basis of such estimates, and the  
10 rate as so determined shall be subject to increase but not to  
11 reduction on the basis of subsequently ascertained information.  
12 The secretary shall determine the contribution rate of each  
13 employer in accordance with the requirements of this section.

14 (1) New employers. ~~For employer accounts established~~  
15 ~~subsequent to June 30, 1963,~~ (A) No employer will be eligible for  
16 a rate computation until there have been 24 consecutive calendar  
17 months immediately preceding the computation date throughout  
18 which benefits could have been charged against such employer's  
19 account.

20 ~~(A) For calendar years 1972 and 1973, each employer who has~~  
21 ~~not been subject to this act for a sufficient period of time to~~  
22 ~~have such employer's rate computed under this subsection and who~~  
23 ~~is determined to be an employer under the revised definition of~~  
24 ~~employer in section 3306 of the internal revenue code,~~ 26  
25 ~~U.S.C.A. 3306, as amended, may pay contributions at a rate, not~~  
26 ~~exceeding 2.7%, but which is the higher of (i) one percent or~~  
27 ~~(ii) the state's benefit cost rate for the five-year period~~  
28 ~~ending the June 30 prior to the calendar year to which the rate~~  
29 ~~applies. For purposes of this paragraph (A), the state's~~  
30 ~~five-year benefit cost rate shall be computed annually and shall~~  
31 ~~be derived by dividing the total dollar amount of benefits paid~~  
32 ~~to claimants under this act during the five consecutive fiscal~~  
33 ~~years immediately preceding the computation date by the total~~  
34 ~~dollar amount of wages subject to contributions under this act~~  
35 ~~during the same period.~~ (B) (i) Effective January 1, 1974 1983,

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

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

21 ~~For the purpose of this subsection, the rate assigned in~~  
22 ~~1978 and 1979 shall be calculated on the basis of wages as~~  
23 ~~defined in subsection (c) of K.S.A. 44-703.~~

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

33 (2) Eligible employers. (A) A reserve ratio shall be  
34 computed for each eligible employer by the following method:  
35 Total benefits charged to the employer's account for all past

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

5 (A) (3) Negative account balance employers as defined in  
6 subsection (d) shall pay contributions at the following rates:  
7 ~~For calendar year 1980, 3.6%; for calendar years 1981 and 1982,~~  
8 ~~3.8%;~~ rate of 5.4% for calendar year 1983 and all years  
9 thereafter 4%. ~~Such rates shall remain in effect in accordance~~  
10 ~~with the provisions of this subsection unless, upon calculation~~  
11 ~~of the yield requirement of the fund for any given year, the~~  
12 ~~secretary of human resources determines that any rate group other~~  
13 ~~than rate groups 19, 20 and 21 must pay contributions at a rate~~  
14 ~~equal to the maximum effective contribution rate in order to~~  
15 ~~achieve the required yield, in which case the secretary shall~~  
16 ~~implement a new maximum effective employer contribution rate,~~  
17 ~~augmented in increments of .1% until it is determined by the~~  
18 ~~secretary that only rate groups 19, 20 and 21 shall be required~~  
19 ~~to contribute at the maximum effective contribution rate to~~  
20 ~~achieve the required yield, except in no instance shall the~~  
21 ~~secretary authorize a maximum effective employer contribution~~  
22 ~~rate greater than 4.3%.~~

23 (B) (C) Eligible employers, other than negative account  
24 balance employers, who do not meet the average annual payroll  
25 requirements as stated in subsection (a)(2) of K.S.A. 44-703 and  
26 amendments thereto, will be issued the maximum rate indicated in  
27 subsection ~~(a)(3)(B)~~ (a)(3)(C) of this section until an average  
28 annual payroll can be obtained. Contribution rates effective for  
29 ~~calendar year 1974 and~~ each calendar year thereafter shall be  
30 determined as prescribed below.

31 (D) As of ~~the computation date for calendar year 1974 and~~  
32 ~~as of~~ each computation date thereafter, the total of the taxable  
33 wages paid during the twelve-month period prior to the  
34 computation date by all employers eligible for rate computation,  
35 except negative account balance employers, shall be divided into

21 approximately equal parts designated in column A of schedule I  
 2 as "rate groups." The lowest numbered of such rate groups shall  
 3 consist of the employers with the most favorable reserve ratios,  
 4 as defined in this section, whose combined taxable wages paid  
 5 equal are less than 4.76% of all taxable wages paid by all  
 6 eligible employers. Each succeeding higher numbered rate group  
 7 shall consist of employers with reserve ratios that are less  
 8 favorable than those of employers in the preceding lower numbered  
 9 rate groups and whose taxable wages when combined with the  
 10 taxable wages of employers in all lower numbered rate groups  
 11 equal the appropriate percentage of total taxable wages  
 12 designated in column B of schedule I. Each eligible employer,  
 13 other than a negative account balance employer, shall be assigned  
 14 an experience factor designated under column C of schedule I in  
 15 accordance with the rate group to which the employer is assigned  
 16 on the basis of the employer's reserve ratio and taxable payroll.  
 17 If an employer's taxable payroll falls into more than one rate  
 18 group the employer shall be assigned the experience factor of the  
 19 lower numbered rate group. If one or more employers have reserve  
 20 ratios identical to that of the last employer included in the  
 21 next lower numbered rate group, all such employers shall be  
 22 assigned the experience factor designated to such last employer,  
 23 notwithstanding the position of their taxable payroll in column B  
 24 of schedule I.

SCHEDULE I — Eligible Employers

Column A	Column B	Column C
Rate group	Cumulative taxable payroll	Experience factor (Ratio to total wages)
1	Less than 4.76%	.025%
2	4.76% but less than 9.52	.1
3	9.52 but less than 14.28	.2
4	14.28 but less than 19.04	.3
5	19.04 but less than 23.80	.4
6	23.80 but less than 28.56	.5

1	7	28.56 but less than 33.32 .....	.6
2	8	33.32 but less than 38.08 .....	.7
3	9	38.08 but less than 42.84 .....	.8
4	10	42.84 but less than 47.60.....	.9
5	11	47.60 but less than 52.36.....	1.0
6	12	52.36 but less than 57.12.....	1.1
7	13	57.12 but less than 61.88.....	1.2
8	14	61.88 but less than 66.64.....	1.3
9	15	66.64 but less than 71.40.....	1.4
10	16	71.40 but less than 76.16.....	1.5
11	17	76.16 but less than 80.92.....	1.6
12	18	80.92 but less than 85.68.....	1.7
13	19	85.68 but less than 90.44.....	1.8
14	20	90.44 but less than 95.20.....	1.9
15	21	95.20 and over .....	2.0

16           ~~(E)~~ (E) Negative account balance employers shall, in  
 17 addition to paying the rates provided for in subsection (a)(2)(A)  
 18 of this section, pay a surcharge based on the size of the  
 19 employer's negative reserve ratio, the calculation which is  
 20 provided for in subsection (a)(2) of this section. The amount of  
 21 the surcharge shall be determined from Column B of Schedule II of  
 22 this section. Contribution payments made pursuant to this  
 23 subsection ~~(a)(2)(E)~~ (a)(2)(E) shall be credited to the  
 24 appropriate account of such negative account balance employer.

25                           SCHEDULE II - Surcharge on Negative Accounts

26	Column A	Column B
27	Negative Reserve Ratio	Surcharge as a percent
28		of taxable wages
29	Less than 2.0% .....	.10%
30	2.0% but less than 4.0 .....	.20
31	4.0 but less than 6.0 .....	.30
32	6.0 but less than 8.0 .....	.40
33	8.0 but less than 10.0 .....	.50
34	10.0 but less than 12.0 .....	.60



1	<u>4.00 but less than 4.25.....</u>	<u>.80</u>
2	<u>3.75 but less than 4.00.....</u>	<u>.85</u>
3	<u>3.50 but less than 3.75.....</u>	<u>.90</u>
4	<u>3.25 but less than 3.50.....</u>	<u>.95</u>
5	<u>3.00 but less than 3.25.....</u>	<u>1.00</u>
6	<u>2.75 but less than 3.00.....</u>	<u>1.05</u>
7	<u>2.50 but less than 2.75.....</u>	<u>1.10</u>
8	<u>2.25 but less than 2.50.....</u>	<u>1.15</u>
9	<u>2.00 but less than 2.25.....</u>	<u>1.20</u>
10	<u>1.75 but less than 2.00.....</u>	<u>1.30</u>
11	<u>1.50 but less than 1.75.....</u>	<u>1.40</u>
12	<u>1.25 but less than 1.50.....</u>	<u>1.50</u>
13	<u>1.00 but less than 1.25.....</u>	<u>1.60</u>
14	<u>Less than 1.00%.....</u>	<u>1.70</u>

15       (A) (B) Adjustment to taxable wages. The planned yield as a  
16 percent of total wages, as determined in this paragraph-(3)  
17 subsection (a)(3), shall be adjusted to taxable wages by  
18 multiplying by the ratio of total wages to taxable wages for all  
19 contributing employers for the preceding fiscal year ending June  
20 30.

21       (B) (C) Effective rates. Except with regard to rates for  
22 negative account balance employers, employer contribution rates  
23 to be effective for the ensuing calendar year shall be computed  
24 by adjusting proportionately the experience factors from schedule  
25 I of this section to the required yield on taxable wages. In  
26 computing--such--rates--for--calendar-year-1978-and-1979,--taxable  
27 wages--shall--be--determined--on--the--basis--of--wages--as--defined--in  
28 subsection--(e)--of--K-S-A--44-703. For the purposes of this  
29 subsection--(i) (a)(3), all rates computed shall be rounded to  
30 the nearest .01%--(ii)--for--calendar-year-1980,--rates--computed  
31 shall--not--exceed--an--effective--employer--contribution--rate--of--3-6%  
32 (iii)--for--calendar--years--1981--and--1982,--rates--computed--shall--not  
33 exceed--an--effective--employer--contribution--rate--of--3-8%--(iv) and  
34 for calendar year 1983 and ensuing calendar years, the maximum

1 effective contribution rate shall not exceed 4% 5.4%; ~~(v)~~ such  
2 effective rates shall remain in effect in accordance with  
3 provisions ~~(ii)~~, ~~(iii)~~ and ~~(iv)~~ unless, upon calculation of the  
4 yield requirement of the fund for any given year, the secretary  
5 of human resources determines that any rate group other than rate  
6 groups 19, 20 and 21 must pay contributions at a rate equal to  
7 the maximum effective contribution rate in order to achieve the  
8 required yield, in which case the secretary shall implement a new  
9 maximum effective employer contribution rate, augmented in  
10 increments of .1% until it is determined by the secretary that  
11 only rate groups 19, 20 and 21 shall be required to contribute at  
12 the maximum effective contribution rate to achieve the required  
13 yield; and ~~(vi)~~ in no instance shall the secretary authorize a  
14 maximum effective employer contribution rate greater than 4.3%.

15 (b) Successor classification. ~~(i)~~ For the purposes of this  
16 subsection whenever any employing unit (whether or not an  
17 "employing unit" within the meaning of paragraph (g) of K.S.A.  
18 44-703 and amendments thereto), acquires or in any manner  
19 succeeds to substantially all the employing enterprises,  
20 organization, trade or business or substantially all the assets  
21 of an employer, excepting in any such case any assets retained by  
22 such employer incident to the liquidation of such employer's  
23 obligations and who intends to continue such organization, trade  
24 or business, shall acquire the experience rating account of the  
25 predecessor employer consisting of the predecessor's actual  
26 contribution and benefit experience and annual payrolls. If the  
27 successor employing unit was an employer subject to this act  
28 prior to the date of the acquisition, such employer's rate of  
29 contribution for the period from such date to the end of the then  
30 current contribution year shall be the same as the rate with  
31 respect to the period immediately preceding the date of  
32 acquisition. If the successor was not an employer prior to the  
33 date of acquisition, the employer's rate shall be the rate  
34 applicable to the predecessor employer or employers with respect  
35 to the period immediately preceding the date of acquisition



1 provided there was only one predecessor or there were only  
2 predecessors with identical rates; in the event that the  
3 predecessors' rates are not identical, the successor's rate shall  
4 be a newly computed rate based upon the combined experience of  
5 the predecessors as of the computation date immediately preceding  
6 the date of acquisition.

7 (2) Whenever any employing unit (whether or not an  
8 "employing unit" within the meaning of subsection (g) of K.S.A.  
9 44-703 and amendments thereto), acquires or in any manner  
10 succeeds to all of the organization's trade, business or assets of  
11 an employer at one or more separate and distinct establishments  
12 which are less than all the employer's separate and distinct  
13 establishments, and intends to continue the acquired operations  
14 of the predecessor as a going business, such acquiring employing  
15 unit shall acquire that percentage consisting of annual  
16 payrolls, contributions and benefit experience of such employer  
17 as reflected by the annual payrolls applicable to such  
18 establishment or establishments if: (i) the acquiring employing  
19 unit is or becomes an employer subject to this act immediately  
20 after such acquisition; (ii) the predecessor and the successor  
21 employing units submit a joint application for such transfer  
22 within 30 days after the date of such acquisition together with  
23 evidence sufficient for the secretary to determine which  
24 percentage of the experience rating account of the predecessor is  
25 applicable to the acquired operations; (iii) the percentage of  
26 the experience rating account so transferred including  
27 contributions, benefits and payrolls shall not thereafter be used  
28 in computing the contribution rate for the predecessor employer;  
29 and (iv) the secretary finds that such transfer will not tend to  
30 defeat or obstruct the object and purposes of this act. If the  
31 acquiring employing unit was an employer subject to the act prior  
32 to the date of the acquisition, the employer's rate of  
33 contribution for the period from such date to the end of the then  
34 current contribution year shall be the same as the employer's  
35 rate with respect to the period immediately preceding the date of

1 ~~acquisition. If the successor was not an employer prior to the~~  
2 ~~date of acquisition, and the secretary finds the successor to be~~  
3 ~~in compliance with the provisions of (i) through (iv), inclusive,~~  
4 ~~above the employer's rate shall be a newly computed rate based~~  
5 ~~upon the identifiable experience of the acquired establishment or~~  
6 ~~establishments as of the computation date immediately preceding~~

7 (1) For the purposes of this subsection  
8 (b), whenever an employing unit, whether or not it is an  
9 "employing unit" within the meaning of subsection (q) of K.S.A.  
10 44-703 and amendments thereto, becomes an employer pursuant to  
11 subsection (h)(4) of K.S.A. 44-703 and amendments thereto or is  
12 an employer at the time of acquisition and meets the definition  
13 of a "successor employer" as defined by subsection (dd) of K.S.A.  
14 44-703 and amendments thereto and is controlled substantially  
15 either directly or indirectly by legally enforceable means or  
16 otherwise by the same interest or interests, shall acquire the  
17 experience rating factors of the predecessor employer. These  
18 factors consist of all contributions paid, benefit experience and  
19 annual payrolls of the predecessor employer.

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

25 (3) Whenever an employing unit, whether or not it is an  
26 "employing unit" within the meaning of subsection (q) of K.S.A.  
27 44-703 and amendments thereto, acquires or in any manner succeeds  
28 to a percentage of an employer's annual payroll which is less  
29 than 100% and intends to continue the acquired percentage as a  
30 going business, may acquire the same percentage of the  
31 predecessor's experience factors if: (A) The predecessor employer  
32 and successor employing unit make an application in writing on  
33 the form prescribed by the secretary, (B) the application is  
34 submitted within 120 days of the date of the transfer, (C) the  
35 successor employing unit is or becomes an employer subject to

1 this act immediately after the transfer, (D) the percentage of  
2 the experience rating factors transferred shall not be thereafter  
3 used in computing the contribution rate for the predecessor  
4 employer, and (E) the secretary finds that such transfer will not  
5 tend to defeat or obstruct the object and purposes of this act.

6 (4) If the acquiring employing unit was an employer subject  
7 to this act prior to the date of the transfer, the rate of  
8 contribution for the period from such date to the end of the then  
9 current contribution year shall be the same as the contribution  
10 rate prior to the date of the transfer. An employing unit which  
11 was not subject to this act prior to the date of the transfer  
12 shall have a newly computed rate based on the transferred  
13 experience rating factors as of the computation date immediately  
14 preceding the date of acquisition. These experience rating  
15 factors consist of all contributions paid, benefit experience and  
16 annual payrolls.

17 (5) Whenever an employer's account has been terminated as  
18 provided in subsections (d) and (e) of K.S.A. 44-711 and  
19 amendments thereto and the employer continues with employment to  
20 liquidate the business operations, that employer shall continue  
21 to be an "employer" subject to the employment security law as  
22 provided in subsection (h)(8) of K.S.A. 44-703 and amendments  
23 thereto. The rate of contribution from the date of transfer to  
24 the end of the then current calendar year shall be the same as  
25 the contribution rate prior to the date of the transfer. At the  
26 completion of the then current calendar year, the rate of  
27 contribution shall be that of a "new employer" as described in  
28 subsection (a)(1) of K.S.A. 44-710a and amendments thereto.

29 ~~(3)~~ (6) No rate computation will be permitted an employing  
30 unit succeeding to the experience of another employing unit  
31 pursuant to this section for any period subsequent to such  
32 succession except in accordance with rules and regulations  
33 adopted by the secretary. Any such regulations shall be  
34 consistent with federal requirements for additional credit  
35 allowance in section 3303 of the internal revenue code, and

1 consistent with the provisions of this act.

2 (c) Voluntary contributions. Notwithstanding any provision  
3 of this act or the act of which this act is amendatory, any  
4 employer may make voluntary payments for the purpose of reducing  
5 or maintaining a reduced rate in addition to the contributions  
6 required under this section. Such voluntary payments may be made  
7 only during the thirty-day period immediately following the date  
8 of mailing of experience rating notices for a calendar year. All  
9 such voluntary contribution payments shall be paid prior to the  
10 expiration of 120 days after the beginning of the year for which  
11 such rates are effective. The amount of voluntary contributions  
12 shall be credited to the employer's account as of the next  
13 preceding computation date and the employer's rate shall be  
14 computed accordingly, except that no employer's rate shall be  
15 reduced more than one rate group as provided in schedule I of  
16 this section as the result of a voluntary payment. An employer  
17 not having a negative account balance may have such employer's  
18 rate reduced not more than one ~~+~~ rate group as provided in  
19 schedule I of this section as a result of a voluntary payment. An  
20 employer having a negative account balance may have such  
21 employer's rate reduced to that prescribed for rate group 21 of  
22 schedule I of this section by making a voluntary payment in the  
23 amount of such negative account balance. Under no circumstances  
24 shall voluntary payments be refunded in whole or in part.

25 (d) As used in this section, negative account balance  
26 employer means an eligible employer whose total benefits charged  
27 to such employer's account for all past years have exceeded all  
28 contributions paid by such employer for all such years.

29 Sec. 6. K.S.A. 44-711 is hereby amended to read as follows:  
30 44-711. (a) Period of liability for contributions. Any employing  
31 unit which is or becomes an employer subject to this act within  
32 any calendar year shall be subject for all wages paid during the  
33 whole of such calendar year.

34 (b) Termination of liability. Except as otherwise provided  
35 in subsection (c) of this section, an employing unit shall cease

1 to be an employer subject to this act only as of the first day of  
2 January of any calendar year, if it files with the secretary of  
3 human resources, prior to the first day of May of such calendar  
4 year, a written application for termination of coverage and the  
5 secretary of human resources finds that within the preceding  
6 calendar year the employing unit would not have been subject to  
7 this act except for paragraph (6) of subsection (h) of K.S.A.  
8 44-703 and amendments thereto, and has been covered by this act  
9 throughout the most recently completed calendar year. The  
10 secretary of human resources may at any time on ~~his or her~~ the  
11 secretary's own initiative terminate the status of any employing  
12 unit as an employer subject to this law when satisfied that such  
13 employer has had no individuals in employment at any time during  
14 the three ~~(3)~~ preceding calendar years.

15 (c) Election and termination. (1) An employing unit, not  
16 otherwise subject to this act, which files with the secretary of  
17 human resources its written election to become an employer  
18 subject hereto for not less than two ~~(2)~~ calendar years shall,  
19 with approval of such election by the secretary of human  
20 resources, become an employer subject hereto to the same extent  
21 as all other employers, as of the date stated in such approval,  
22 and shall cease to be subject hereto as of January 1 of any  
23 calendar year subsequent to such two ~~(2)~~ calendar years only if  
24 prior to the first day of May of such year it has filed with the  
25 secretary of human resources a written application for  
26 termination.

27 (2) Any employing unit, for which services that do not  
28 constitute employment as defined in this act are performed, may  
29 file with the secretary of human resources a written election  
30 that all such services performed by individuals in its employ in  
31 one or more distinct establishments or places of business shall  
32 be deemed to constitute employment for all the purposes of this  
33 act for not less than two ~~(2)~~ calendar years. Upon approval of  
34 such election by the secretary of human resources, such services  
35 shall be deemed to constitute employment subject to this act from

1 and after the date stated in such approval. Such services shall  
2 cease to be deemed employment subject hereto as of January 1 of  
3 any calendar year subsequent to such two ~~(2)~~ calendar years, only  
4 if prior to the first day of May of such year such employing unit  
5 has filed with the secretary of human resources a written  
6 application for termination.

7 (d) Termination upon total transfer of experience rating.  
8 Notwithstanding the provisions of subsection (a) herein of this  
9 section, upon transfer of an experience rating account in  
10 accordance with ~~K.S.A. 44-710a(b)(1)~~ subsections (b)(1) or  
11 (b)(2) of K.S.A. 44-710a and amendments thereto, the predecessor  
12 employer shall automatically cease to be an employer subject to  
13 this act as of the date of transfer to the successor.

14 (e) Termination of account due to successorship.  
15 Notwithstanding the provisions of subsection (a) of this section,  
16 an employer's account shall be terminated when the business is  
17 acquired by a successor as provided in subsection (h)(4) of  
18 K.S.A. 44-703 and amendments thereto or by a nonemploying unit.  
19 The account will be terminated as of the date of the acquisition.

20 Sec. 7. K.S.A. 44-714 is hereby amended to read as follows:  
21 44-714. (a) Duties and powers of secretary. It shall be the duty  
22 of the secretary to administer this act, and the secretary shall  
23 have power and authority to adopt, amend, or ~~repeal~~ revoke such  
24 rules and regulations, to employ such persons, make such  
25 expenditures, require such reports, make such investigations, and  
26 take such other action as ~~he or she~~ the secretary deems necessary  
27 or suitable to that end. Such rules and regulations may be  
28 adopted, amended, or revoked by the secretary only after public  
29 hearing or opportunity to be heard thereon. The secretary shall  
30 determine ~~his or her own~~ the organization and methods of  
31 procedure in accordance with the provisions of this act, and  
32 shall have an official seal which shall be judicially noticed.  
33 The secretary shall make and submit reports for the  
34 administration of the employment security law in the manner  
35 prescribed by K.S.A. 75-3044 to 75-3046, inclusive, and 75-3048

1 and amendments thereto. Whenever the secretary believes that a  
2 change in contribution or benefit rates will become necessary to  
3 protect the solvency of the fund, ~~he or she~~ the secretary shall  
4 promptly so inform the governor and the legislature, and make  
5 recommendations with respect thereto.

6 (b) Publication. The secretary shall cause to be printed  
7 for distribution to the public the text of this act, the  
8 secretary's rules and regulations, ~~his or her biennial reports to~~  
9 ~~the governor,~~ and any other material the secretary deems relevant  
10 and suitable and shall furnish the same to any person upon  
11 application therefor.

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

1 law.

2       (2) No employee engaged in the administration of the  
3 employment security law shall directly or indirectly solicit or  
4 receive or be in any manner concerned with soliciting or  
5 receiving any assistance, subscription or contribution for any  
6 political party or political purpose; nor shall any employee  
7 engaged in the administration of the employment security law  
8 participate in any form of political activity, nor shall any  
9 employee champion the cause of any political party or the  
10 candidacy of any person. Any employee engaged in the  
11 administration of the employment security law who violates these  
12 provisions shall be immediately discharged. No person shall  
13 solicit or receive any contribution for any political purpose  
14 from any employee engaged in the administration of the employment  
15 security law and any such action shall be a misdemeanor and shall  
16 be punishable by a fine of not less than ~~one-hundred-dollars~~  
17 ~~(\$100)~~ \$100 or more than ~~one-thousand-dollars-(\$1,000)~~ \$1,000 or  
18 by imprisonment in the county jail for not less than ~~thirty-(30)~~  
19 30 days nor more than six ~~(6)~~ months, or both.

20       (d) Advisory councils. The secretary shall appoint a state  
21 employment security advisory council and may appoint local  
22 advisory councils, composed in each case of men and women which  
23 shall include an equal number of employer representatives and  
24 employee representatives who may fairly be regarded as  
25 representative because of their vocation, employment, or  
26 affiliations, and of such members representing the general public  
27 as the secretary may designate. Such councils shall aid the  
28 secretary in formulating policies and discussing problems related  
29 to the administration of this act and in securing impartiality  
30 and freedom from political influence in the solution of such  
31 problems. Members of the state employment security advisory  
32 council attending meetings of such council, or attending a  
33 subcommittee meeting thereof authorized by such council, shall be  
34 paid amounts provided in subsection (e) of K.S.A. 75-3223 and  
35 amendments thereto. Service on the state employment security



1 advisory council shall not in and of itself be sufficient to  
2 cause any member of the state employment security advisory  
3 council to be classified as a state officer or employee.

4 (e) Employment stabilization. The secretary, with the  
5 advice and aid of ~~his or her~~ the secretary's advisory councils,  
6 and through ~~his or her~~ the appropriate divisions of the  
7 department of human resources, shall take all appropriate steps  
8 to reduce and prevent unemployment; to encourage and assist in  
9 the adoption of practical methods of vocational training,  
10 retraining and vocational guidance; to investigate, recommend,  
11 advise, and assist in the establishment and operation, by  
12 municipalities, counties, school districts, and the state, of  
13 reserves for public works to be used in time of business  
14 depression and unemployment; to promote the reemployment of  
15 unemployed workers throughout the state in every other way that  
16 may be feasible; and to these ends to carry on and publish the  
17 results of investigations and research studies.

18 (f) Records and reports. Each employing unit shall keep  
19 true and accurate work records, containing such information as  
20 the secretary may prescribe. Such records shall be open to  
21 inspection and subject to being copied by the secretary or ~~his or~~  
22 ~~her~~ the secretary's authorized representatives at any reasonable  
23 time and shall be preserved for a period of five ~~(5)~~ years from  
24 the due date of the contributions or payments in lieu of  
25 contributions for the period to which they relate. Only one ~~(1)~~  
26 audit shall be made of any employer's records for any given  
27 period of time. Upon request the employing unit shall be  
28 furnished a copy of all findings by the secretary or ~~his or her~~  
29 the secretary's authorized representatives, resulting from such  
30 audit. A special inquiry or special examination made for a  
31 specific and limited purpose shall not be considered to be an  
32 audit for the purpose of this subsection. The secretary may  
33 require from any employing unit any sworn or unsworn reports,  
34 with respect to persons employed by it, which the secretary deems  
35 necessary for the effective administration of this act.

1 Information thus obtained or obtained from any individual  
2 pursuant to the administration of this act, shall, except to the  
3 extent necessary for the proper presentation of a claim, be held  
4 confidential, and shall not be published or be open to public  
5 inspection (other than to public employees in the performance of  
6 their public duties) in any manner revealing the individual's or  
7 employing unit's identity, but any claimant or employing unit or  
8 their representatives at a hearing before an appeal tribunal or  
9 the secretary shall be supplied with information from such  
10 records to the extent necessary for the proper presentation of  
11 the claim. If the secretary or any officer or employee of the  
12 secretary violates any provisions of this section--he--or--she  
13 subsection (f), the secretary or such officer or employee shall  
14 be fined not less than ~~twenty-dollars-(\$20)~~ \$20 nor more than ~~two~~  
15 ~~hundred-dollars-(\$200)~~ \$200 or imprisoned for not longer than  
16 ~~ninety-(90)~~ 90 days, or both. Original records of the agency and  
17 original paid benefit warrants of the state treasurer may be made  
18 available to the employment security agency of any other state or  
19 the federal government to be used as evidence in prosecution of  
20 violations of the employment security law of such state or  
21 federal government. Photostatic copies of such records shall be  
22 made and where possible shall be substituted for original records  
23 introduced in evidence and the originals returned to the agency.

24 (g) Oaths and witnesses. In the discharge of the duties  
25 imposed by the employment security law, the chairperson of an  
26 appeal tribunal, an appeals referee, the secretary or any duly  
27 authorized representative of the secretary shall have power to  
28 administer oaths and affirmations, take depositions, certify to  
29 official acts, and issue subpoenas to compel the attendance of  
30 witnesses and the production of books, papers, correspondence,  
31 memoranda and other records deemed necessary as evidence in  
32 connection with a disputed claim or the administration of the  
33 employment security law.

34 (h) Subpoenas, service. Upon request, service of subpoenas  
35 shall be made by the sheriff of a county within ~~his--or--her~~ that

1 county, by the sheriff's deputy, by any other person who is not a  
2 party and is not less than ~~eighteen (18)~~ 18 years of age or by  
3 some person specially appointed for that purpose by the secretary  
4 of human resources or the secretary's designee. A person not a  
5 party as described above or a person specially appointed by the  
6 secretary or the secretary's designee to serve subpoenas may make  
7 service any place in the state. The subpoena shall be served as  
8 follows:

9 (1) Individual. Service upon an individual, other than a  
10 minor or incapacitated person, shall be made by delivering a copy  
11 of the subpoena to the individual personally or by leaving a copy  
12 at such individual's dwelling house or usual place of abode with  
13 some person of suitable age and discretion then residing therein,  
14 by leaving a copy at the business establishment of the employer  
15 with an officer or employee of the establishment, or by  
16 delivering a copy to an agent authorized by appointment or by law  
17 to receive service of process, but if the agent is one designated  
18 by a statute to receive service, such further notice as the  
19 statute requires shall be given. If service as prescribed above  
20 cannot be made with due diligence, the secretary or the  
21 secretary's designee may order service to be made by leaving a  
22 copy of the subpoena at the employer's dwelling house, usual  
23 place of abode or business establishment.

24 (2) Corporations and partnerships. Service upon a domestic  
25 or foreign corporation or upon a partnership or other  
26 unincorporated association, when by law it may be sued as such,  
27 shall be made by delivering a copy of the subpoena to an officer,  
28 partner or resident managing or general agent thereof, or by  
29 leaving the copy at any business office of the employer with the  
30 person having charge thereof or by delivering a copy to any other  
31 agent authorized by appointment or required by law to receive  
32 service of process, if the agent is one authorized by law to  
33 receive service and, if the law so requires, by also mailing a  
34 copy to the employer.

35 (3) Refusal to accept service. In all cases when the person

1 to be served, or an agent authorized by such person to accept  
2 service of petitions and summonses shall refuse to receive copies  
3 of the subpoena, the offer of the duly authorized process server  
4 to deliver copies thereof and such refusal shall be sufficient  
5 service of such subpoena.

6 (4) Proof of service. (A) Every officer to whom a subpoena  
7 or other process shall be delivered for service within or without  
8 the state, shall make return thereof in writing stating the time,  
9 place and manner of service of such writ and shall sign ~~his~~  
10 ~~her~~ such officer's name to such return.

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

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

25 (i) Subpoenas, enforcement. In case of contumacy by or  
26 refusal to obey a subpoena issued to any person, any court of  
27 this state within the jurisdiction of which the inquiry is  
28 carried on or within the jurisdiction of which such person guilty  
29 of contumacy or refusal to obey is found, resides or transacts  
30 business, upon application by the secretary or the secretary's  
31 duly authorized representative, shall have jurisdiction to issue  
32 to such person an order requiring such person to appear before  
33 the secretary, or the secretary's duly authorized representative,  
34 to produce evidence, if so ordered, or to give testimony relating  
35 to the matter under investigation or in question. Failure to obey

1 such order of the court may be punished by said court as a  
2 contempt thereof. Any person who, without just cause, shall fail  
3 or refuse to attend and testify or to answer any lawful inquiry  
4 or to produce books, papers, correspondence, memoranda or other  
5 records in obedience to the subpoena of the secretary or the  
6 secretary's duly authorized representative shall be punished by a  
7 fine of not less than ~~two hundred dollars~~ ~~(\$200)~~ \$200 or by  
8 imprisonment of not longer than ~~sixty~~ ~~(60)~~ 60 days, or both, and  
9 each day such violation continued shall be deemed to be a  
10 separate offense.

11 (j) Protection against self-incrimination. No person shall  
12 be excused from attending and testifying or from producing books,  
13 papers, correspondence, memoranda and other records before the  
14 secretary or ~~his--or--her~~ the secretary's duly authorized  
15 representative or in obedience to the subpoena of the secretary  
16 or any duly authorized representative of the secretary in any  
17 cause or proceeding before the secretary, on the ground that the  
18 testimony or evidence, documentary or otherwise, required ~~by him~~  
19 ~~or her~~ of such person may tend to incriminate ~~him--or--her~~ such  
20 person or subject ~~him--or--her~~ such person to a penalty or  
21 forfeiture; but no individual shall be prosecuted or subjected to  
22 any penalty or forfeiture for or on account of any transaction,  
23 matter or thing concerning which ~~he--or--she~~ such individual is  
24 compelled, after having claimed ~~his--or--her~~ the privilege against  
25 self-incrimination, to testify or produce evidence, documentary  
26 or otherwise, except that such individual so testifying shall not  
27 be exempt from prosecution and punishment for perjury committed  
28 in so testifying.

29 (k) State-federal cooperation. In the administration of  
30 this act, the secretary shall cooperate to the fullest extent  
31 consistent with the provisions of this act, with the federal  
32 security agency, shall make such reports, in such form and  
33 containing such information as the federal security administrator  
34 may from time to time require, and shall comply with such  
35 provisions as the federal security administrator may from time to

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

12 (1) Reciprocal arrangements. The secretary shall  
13 participate in making reciprocal arrangements with appropriate  
14 and duly authorized agencies of other states or of the federal  
15 government, or both, whereby:

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

28 (2) Service performed by not more than three ~~(3)~~  
29 individuals, on any portion of a day but not necessarily  
30 simultaneously, for a single employing unit which customarily  
31 operates in more than one state shall be deemed to be service  
32 performed entirely within the state in which such employing unit  
33 maintains the headquarters of its business; provided that there  
34 is in effect, as to such service, an approved election by an  
35 employing unit with the affirmative consent of each such

1 individual, pursuant to which service performed by such  
2 individual for such employing unit is deemed to be performed  
3 entirely within such state;

4 (3) Potential rights to benefits accumulated under the  
5 employment compensation laws of one or more states or under one  
6 or more such laws of the federal government, or both, may  
7 constitute the basis for the payments of benefits through a  
8 single appropriate agency under terms which the secretary finds  
9 will be fair and reasonable as to all affected interests and will  
10 not result in any substantial loss to the fund;

11 (4) Wages or services, upon the basis of which an  
12 individual may become entitled to benefits under an unemployment  
13 compensation law of another state or of the federal government,  
14 shall be deemed to be wages for insured work for the purpose of  
15 determining ~~his or her~~ such individual's rights to benefits under  
16 this act, and wages for insured work, on the basis of which an  
17 individual may become entitled to benefits under this act, shall  
18 be deemed to be wages or services on the basis of which  
19 unemployment compensation under such law of another state or of  
20 the federal government is payable, but no such arrangement shall  
21 be entered into unless it contains provisions for reimbursements  
22 to the fund for such of the benefits paid under this act upon the  
23 basis of such wages or services, and provisions for  
24 reimbursements from the fund for such of the compensation paid  
25 under such other law upon the basis of wages for insured work, as  
26 the secretary finds will be fair and reasonable as to all  
27 affected interests; and

28 (5) (A) Contributions due under this act with respect to  
29 wages for insured work shall for the purposes of K.S.A. 44-717,  
30 and amendments thereto, be deemed to have been paid to the fund  
31 as of the date payment was made as contributions therefor under  
32 another state or federal unemployment compensation law, but no  
33 such arrangement shall be entered into unless it contains  
34 provisions for such reimbursements to the fund of such  
35 contributions and the actual earnings thereon as the secretary

1 finds will be fair and reasonable as to all affected interests.

2 (B) Reimbursements paid from the fund pursuant to ~~paragraph~~  
3 ~~4~~ of subsection ~~(k)~~ (1)(4) of this section shall be deemed to be  
4 benefits for the purpose of K.S.A. 44-704 and 44-712 and  
5 amendments thereto. The secretary is authorized to make to other  
6 state or federal agencies, and to receive from such other state  
7 or federal agencies, reimbursements from or to the fund, in  
8 accordance with arrangements entered into pursuant to the  
9 provisions of this section or any other section of the employment  
10 security law.

11 (C) The administration of this act and of other state and  
12 federal unemployment compensation and public employment service  
13 laws will be promoted by cooperation between this state and such  
14 other states and the appropriate federal agencies in exchanging  
15 services, and making available facilities and information. The  
16 secretary is therefore authorized to make such investigations,  
17 secure and transmit such information, make available such  
18 services and facilities and exercise such of the other powers  
19 provided herein with respect to the administration of this act as  
20 ~~he or she~~ the secretary deems necessary or appropriate to  
21 facilitate the administration of any such unemployment  
22 compensation or public employment service law, and in like manner  
23 to accept and utilize information, service and facilities made  
24 available to this state by the agency charged with the  
25 administration of any such other unemployment compensation or  
26 public employment service law.

27 (D) To the extent permissible under the laws and  
28 constitution of the United States, the secretary is authorized to  
29 enter into or cooperate in arrangements whereby facilities and  
30 services provided under this act and facilities and services  
31 provided under the unemployment compensation law of any foreign  
32 government, may be utilized for the taking of claims and the  
33 payment of benefits under the employment security law of this  
34 state or under a similar law of such government.

35 (m) Records available. The secretary may furnish the



1 railroad retirement board, at the expense of such board, such  
2 copies of the records as the railroad retirement board deems  
3 necessary for its purposes.

4 (n) Destruction of records, reproduction and disposition.  
5 The secretary may provide for the destruction, reproduction,  
6 temporary or permanent retention, and disposition of records,  
7 reports and claims in ~~his--or--her~~ the secretary's possession  
8 pursuant to the administration of the employment security law  
9 provided that prior to any destruction of such records, reports  
10 or claims ~~he--or--she~~ the secretary shall comply with K.S.A.  
11 75-3501 through to 75-3514, inclusive, and amendments thereto.

12 (o) Federal cooperation. The secretary may afford  
13 reasonable cooperation with every agency of the United States  
14 charged with administration of any unemployment insurance law.

15 (p) The secretary is hereby authorized to fix, charge and  
16 collect fees for copies made of public documents, as defined by  
17 subsection (c) of K.S.A. 45-204 and amendments thereto, by  
18 xerographic, thermographic or other photocopying or reproduction  
19 process, in order to recover all or part of the actual costs  
20 incurred, including any costs incurred in certifying such copies.  
21 All moneys received from fees charged for copies of such  
22 documents shall be remitted to the state treasurer at least  
23 monthly. Upon receipt of each such remittance, the state  
24 treasurer shall deposit the entire amount thereof in the state  
25 treasury to the credit of the employment security administration  
26 fund. No such fees shall be charged or collected for copies of  
27 documents that are made pursuant to a statute which requires such  
28 copies to be furnished without expense.

29 Sec. 8. K.S.A. 44-717 is hereby amended to read as follows:  
30 44-717. (a) Penalties on past-due reports, interest on past-due  
31 contributions and past-due payments in lieu of contributions. Any  
32 employer or any officer or agent of an employer, who shall fail  
33 to file any wage report or contribution return when due, as  
34 required by the secretary of human resources, or within a  
35 five-day grace period, shall be subject to a penalty of \$5 for

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

31 (b) Collection. (1) If, after due notice, any employer  
32 defaults in payment of any penalty, contributions, payments in  
33 lieu of contributions, benefit cost payments, or interest thereon  
34 the amount due may be collected by civil action in the name of  
35 the secretary of human resources and the employer adjudged in

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

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

1 court in which such civil action is pending.

2 (3) Any contractor, who is or becomes an employer under the  
3 provisions of this act, who contracts with any subcontractor, who  
4 also is or becomes an employer under the provisions of this act,  
5 shall withhold sufficient moneys on the contract to guarantee  
6 that all contributions, penalties and interest are paid upon  
7 completion of the contract, or shall require of the subcontractor  
8 a good and sufficient bond guaranteeing payment of all  
9 contributions, penalties and interest due or to become due with  
10 respect to wages paid for employment on the contract. Failure to  
11 comply with the provisions of this section shall render the  
12 contractor directly liable for such contributions, penalties and  
13 interest due from the subcontractor and the secretary of human  
14 resources shall have all of the remedies of collection against  
15 the contractor under the provisions of this act as though the  
16 services in question were performed directly for the contractor.  
17 For the purpose of ~~this clause (3)~~ of this subsection (b)(3), the  
18 words, "contractor" and "subcontractor" mean and include  
19 individuals, partnerships, firms or corporations, or other  
20 associations of persons engaged in the business of the  
21 construction, alteration, repairing, dismantling or demolition of  
22 buildings, roads, bridges, viaducts, sewers, water and gas mains,  
23 streets, disposal plants, water filters, tanks and towers,  
24 airports, dams, levees and canals, oil and gas wells, water  
25 wells, pipelines, and every other type of structure, project,  
26 development or improvement coming within the definition of real  
27 property.

28 (4) The district courts of this state shall entertain, in  
29 the manner provided in subsections (b)(1), (b)(2) and (b)(3) of  
30 this section, actions to collect contributions, payments in lieu  
31 of contributions, benefit cost payments and other amounts owed  
32 including interest thereon for which liability has accrued under  
33 the employment security law of any other state or of the federal  
34 government.

35 (c) Priorities under legal dissolutions or distributions.

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

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

1 appears on the records of the agency.

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

29 (f) Warrant. In addition or as an alternative to any other  
30 remedy provided by this section and provided that no appeal or  
31 other proceeding for review permitted by this law shall then be  
32 pending and the time for taking thereof shall have expired, the  
33 secretary of human resources or an authorized representative of  
34 the secretary may issue a warrant certifying the amount of  
35 contributions, payments in lieu of contributions, benefit cost

1 payments, interest or penalty, and the name of the employer  
2 liable for same after giving 15 days prior notice. Upon request,  
3 service of final notices shall be made by the sheriff within the  
4 sheriff's county, by the sheriff's deputy or some person  
5 specially appointed by the secretary for that purpose, or by the  
6 secretary's designee. A person specially appointed by the  
7 secretary or the secretary's designee to serve final notices may  
8 make service any place in the state. Final notices shall be  
9 served as follows:

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

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

1           (3) Refusal to accept service. In all cases when the person  
2 to be served, or an agent authorized by such person to accept  
3 service of petitions and summonses, shall refuse to receive  
4 copies of the final notice, the offer of the duly authorized  
5 process server to deliver copies thereof and such refusal shall  
6 be sufficient service of such notice.

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

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

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

26           (6) Service by mail. (A) Upon direction of the secretary or  
27 the secretary's designee, service by mail may be effected by  
28 forwarding a copy of the notice to the employer by registered or  
29 certified mail to the employer's address as it appears on the  
30 records of the agency. A copy of the return receipt shall be  
31 attached to and filed with any warrant thereafter filed.

32           (B) The secretary of human resources or an authorized  
33 representative of the secretary may file the warrant for record  
34 in the office of the clerk of the district court in the county in  
35 which the employer owing ~~said~~ such contributions, payments in



1 lieu of contributions, benefit cost payments, interest, or  
2 penalty has business property. The warrant shall certify the  
3 amount of contributions, payments in lieu of contributions,  
4 benefit cost payments, interest and penalty due, and the name of  
5 the employer liable for ~~same~~ such amount. It shall be the duty of  
6 the clerk of the district court to file such warrant of record  
7 and enter the ~~same~~ warrant in the records of the district court  
8 for judgment and decrees under the procedure prescribed for  
9 filing transcripts of judgment.

10 (C) The clerk shall enter, on the day ~~on which the same~~  
11 ~~shall be~~ the warrant is filed, the case on the appearance and  
12 judgment docket, together with the amount and the time of filing  
13 the warrant. From the time of filing such warrant, the amount of  
14 the contributions, payments in lieu of contributions, benefit  
15 cost payments, interest, and penalty, certified therein, shall  
16 have the force and effect of a judgment of the district court  
17 until the same is satisfied by the secretary of human resources  
18 or an authorized representative or attorney for the secretary.  
19 Execution shall be issuable at the request of the secretary of  
20 human resources, an authorized representative or attorney for the  
21 secretary, as is provided in the case of other judgments.

22 (D) Post-judgment procedures shall be the same as for  
23 judgments according to the code of civil procedure.

24 (E) Warrants shall be satisfied of record by payment to the  
25 clerk of the district court of the contributions, payments in  
26 lieu of contributions, benefit cost payments, penalty, interest  
27 to date, and court costs. Warrants may also be satisfied of  
28 record by payment to the clerk of the district court of all court  
29 costs accrued in the case and by filing a certificate by the  
30 secretary of human resources, certifying that the contributions,  
31 payments in lieu of contributions, benefit cost payments,  
32 interest and penalty, have been paid.

33 (g) Remedies cumulative. The foregoing remedies shall be  
34 cumulative and no action taken shall be construed as an election  
35 on the part of the state or any of its officers to pursue any

1 remedy or action ~~hereunder~~ under this section to the exclusion of  
2 any other remedy or action for which provision is made.

3 (h) Refunds. If any individual, governmental entity or  
4 organization makes application for refund or adjustment of any  
5 amount paid as contributions, benefit cost payments or interest  
6 under this law and the secretary of human resources shall  
7 determine that such amount or any portion thereof was erroneously  
8 collected, except for amounts less than \$1, the secretary of  
9 human resources shall allow such individual or organization to  
10 make an adjustment thereof without interest, in connection with  
11 subsequent contribution payments, or if such adjustment cannot be  
12 made the secretary of human resources shall refund the amount,  
13 except for amounts less than \$1, without interest, from the  
14 employment security fund, except that all interest erroneously  
15 collected which has been paid into the special employment  
16 security fund shall be refunded out of the special employment  
17 security fund. No adjustment or refund shall be allowed with  
18 respect to a payment as contributions, benefit cost payments or  
19 interest unless an application therefor ~~shall be~~ is made on or  
20 before whichever of the following dates is later: (1) One year  
21 from the date on which such payment was made; or (2) three years  
22 from the last day of the period with respect to which such  
23 payment was made. For like cause and within the same period  
24 adjustment or refund may be so made on the secretary's own  
25 initiative. The secretary of human resources shall not be  
26 required to refund any contributions, payments in lieu of  
27 contributions or benefit cost payments based upon wages paid  
28 which have been used as base-period wages in a determination of a  
29 claimant's benefit rights when justifiable and correct payments  
30 have been made to the claimant as the result of such  
31 determination.

32 (i) Refund for reimbursing employer. Upon termination of an  
33 employer's business or termination of any election to make  
34 payments in lieu of contributions, a reimbursing employer may  
35 file for a refund of any payments made to the fund which are in

1 excess of any regular or extended benefits which have been  
2 charged or could become chargeable to the reimbursing employer's  
3 account. No refund may be made within a twenty-four-month period  
4 following termination of a reimbursing employer's business or  
5 election for payments in lieu of contributions.

6 Sec. 9. K.S.A. 44-703, 44-704, 44-711, 44-714 and 44-717  
7 and K.S.A. 1982 Supp. 44-706 and 44-710a are hereby repealed.

8 Sec. 10. This act shall take effect and be in force from  
9 and after its publication in the Kansas register.