Approved January 30, 1991
Date

MINUTES OF THE House COMMITTEE ON Labor and Industry.

The meeting was called to order by Representative Anthony Hensley at
Chairperson

9:05 a.m./~~p.m.~~ on January 23, 1991 in room 526-S of the Capitol.

All members were present except:

Representative Douville - Excused
Representative Webb - Excused
Representative Cribbs - Excused

Committee staff present:

Jim Wilson, Revisor of Statutes' Office
Jerry Donaldson, Legislative Research Department
Barbara Dudney, Committee Secretary

Conferees appearing before the committee:

The meeting was called to order at 9:05 a.m. by the chairman, Rep. Anthony Hensley. He introduced Rep. Herman Dillon who will be taking the place of Rep. Darrel Webb until he returns to his legislative duties.

Chairman Hensley stated that the purpose of the meeting was to receive a report on the status of the Unemployment Trust Fund and other activities of the Kansas Department of Human Resources from its newly-appointed Secretary, Michael Johnston and his staff. The chairman introduced Mr. Johnston.

Secretary Johnston provided the committee with several documents pertaining to the Kansas unemployment compensation system: A memorandum on the status of the Employment Security Trust Fund (attachment #1), a diagram showing the Flow of State Unemployment Insurance Funds (attachment #2), a diagram showing the Flow of FUTA Funds Under Existing Federal Statutes (attachment #3), a list of definitions of unemployment rates (attachment #4), and a table on Recessionary Benefit Costs (attachment #5).

Secretary Johnston stated that he believes the unemployment trust fund in Kansas is sound and solvent. He stated that the Fund contains $519.2 million as of January 12, 1991, which should be an adequate fund balance to meet the demands to pay unemployment compensation to workers who may lose their jobs if the state's economy suffers due to a national recession. He pointed out that the greatest contributing factor to the current status of the Fund is that in the early 1980s the Legislature took steps to insure that the Fund remained solvent: unemployment benefits were frozen and a surcharge was added to employer contribution rates for a two-year period.

Secretary Johnston introduced A.J. Kotich, chief counsel of the Kansas Department of Human Resources, to present recommendations of the Kansas Employment Security Advisory Council. Mr. Kotich explained that the Employment Security Advisory Council is made up of four (4) representatives from labor, four (4) from business, and four (4) from the general public. The Advisory Council makes recommendations to the Legislature concerning changes in Kansas employment security laws. He introduced members of the Advisory Council who were present.

Mr. Kotich presented information from a memorandum entitled "Proposed Revisions to Kansas Statutes" (attachment #6). He also handed out the Advisory Council's annual report for 1990 (attachment #7).

The chairman announced that the Department would return to the committee at a future date to continue its presentation on the Advisory Council recommendations. He also announced that Secretary Johnston has agreed to having the committee tour the administrative office of the Department next Thursday, January 31, 1991.

Meeting adjourned at 9:58 a.m.

GUEST LIST

COMMITTEE: House Labor & Industry DATE: January 23, 1991

NAME	ADDRESS	COMPANY/ORGANIZATION
Jeff Montague		Budget
Terry Leatherman	Topeka	KCCI
[illegible] Kotich	TopEKA	DHR
Paul Bicknell	"	DHR
Sid Snider	"	DHR
John Hanna	Topeka	AP (Truth, Justice + the American Way)
Johnston	"	HR
R Weston	"	KTLA
DAN MORGAN	Kansas City	AGC
Tom Slattery	Top	AGC

Memorandum

Kansas Department of Human Resources

Date: January 18, 1991

To: Michael L. Johnston
Secretary of Human Resources

From: William H. Layes, Chief WHL
Labor Market Information Services

Subject: Status of Employment Security Trust Fund

The Kansas Employment Security Trust Fund is near a desired level of adequacy to withstand the level of potential benefit payments to unemployed insured workers during a recession. Although the number of unemployment claims filed in local offices has slightly exceeded estimates, the trend in claims and benefit payment activity is not unduly high for this time of year.

The Employment Security Trust Fund Balance was $519.2M as of January 12, 1991. The level of the fund compared to some relative measure provides an additional perspective regarding adequacy. A commonly applied comparison is the fund balance relative to total covered wages. The Actuarial Services of the U.S. Department of Labor suggests that a state's fund balance is adequate when it is 3.0 per cent of total wages.

As of June 30, 1990, the reserve fund ratio was 2.52 per cent. During the past decade this ratio fell to a low of 1.02 in 1982 and has increased annually since that time, comparing December 31 data for each year. This trend is illustrated on the attached Graph 1. The funding mechanism of the trust fund is structured to build the level of the fund during good economic times, so as to have sufficient funds and not overly burden employers during a recession.

Another measurement which uses total wages to gauge the adequacy of the trust fund projects the number of months the reserve fund would be able to cover benefit payments in a recession. The measure is called the High Cost Multiple, and compares the current capacity of the fund to a high benefit cost period, relative to total wages. The High Cost Multiple in Kansas is 1.4 as of June 30, 1990. This indicates the fund is expected to be sufficient for one year and four months of benefit costs during a recession. Graph 2 shows the trend of the High Cost Multiple during the last decade.

It has been customary for Labor Market Information Services to prepare a packet of materials for members of the House Labor and Industry and the Senate Labor, Industry and Small Business Committees relating to the status of the Employment Security Trust Fund. This Fall we prepared a 1990 annual report for the Employment

KESD 110 (Rev. 6-87)

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Security Advisory Council which is an expansion of the usual materials presented to the legislative committees. We had intended to distribute these reports in lieu of an abbreviated packet, and have copies available for this purpose. A copy of the annual report is enclosed.

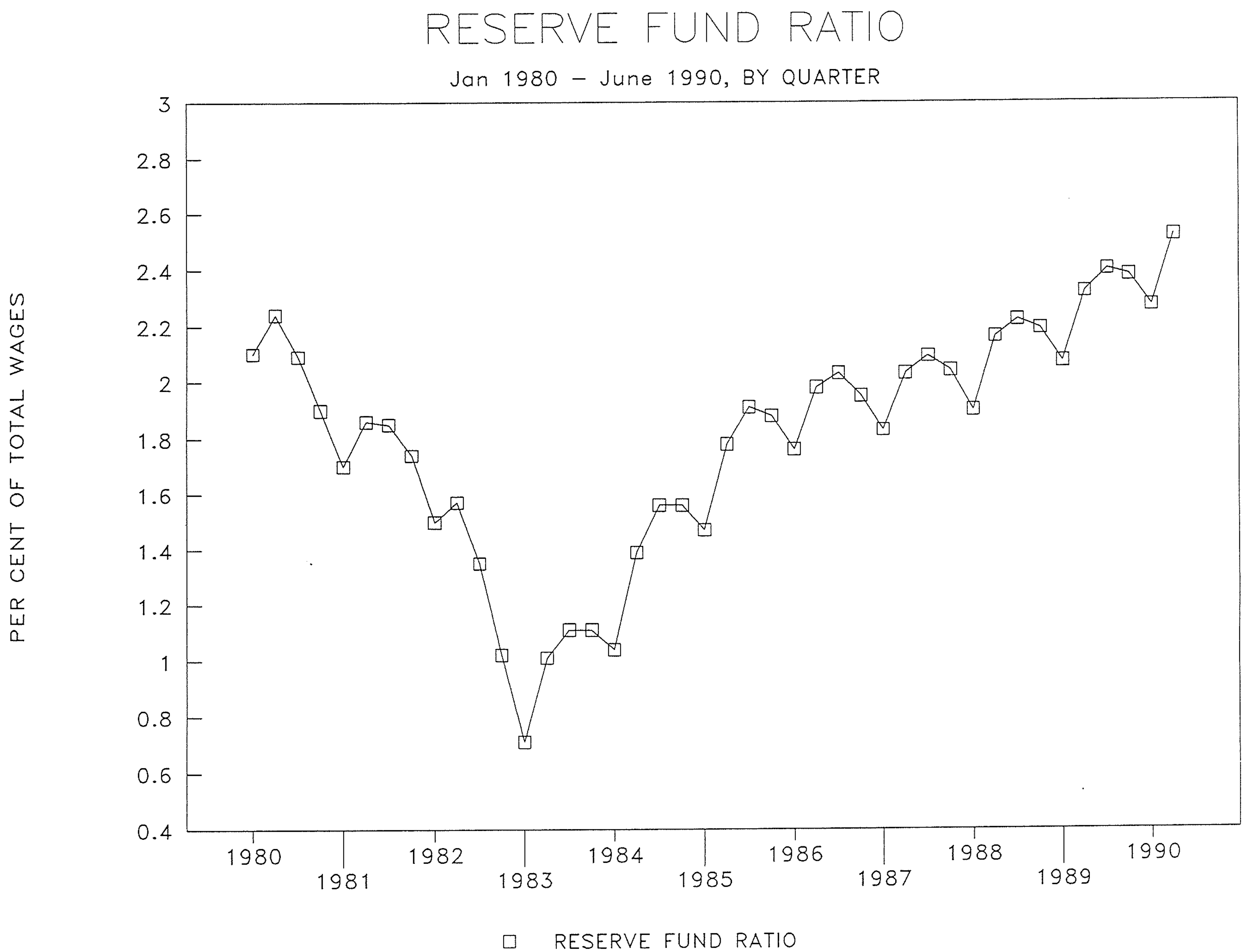
Please contact Tina Burghart if you have any questions, and if you want multiple copies of the Kansas Employment Security Advisory Council 1990 Annual Report for distribution to members of the House Labor and Industry Committee. We would be glad to provide additional information and assist you in any way.

Enclosure

cc: Bob Molander
Sid Snider

WHL:JCG:csb

GRAPH 1

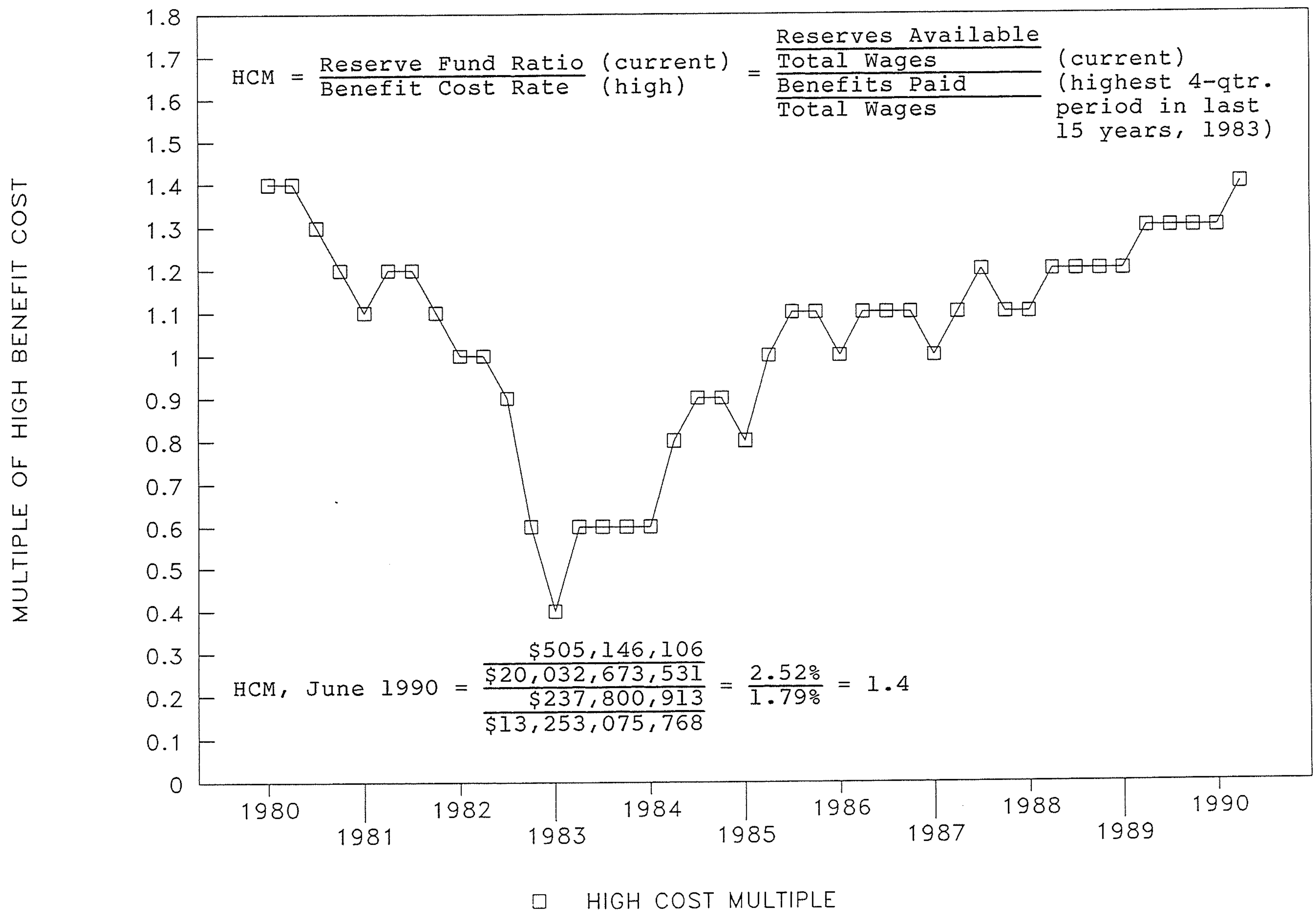

RESERVE FUND RATIO
Jan 1980 – June 1990, BY QUARTER
PER CENT OF TOTAL WAGES
3
2.8
2.6
2.4
2.2
2
1.8
1.6
1.4
1.2
1
0.8
0.6
0.4
1980
1981
1982
1983
1984
1985
1986
1987
1988
1989
1990
RESERVE FUND RATIO

91-15

GRAPH 2

HIGH COST MULTIPLE

Jan 1980 - June 1990, BY QUARTER



91-15

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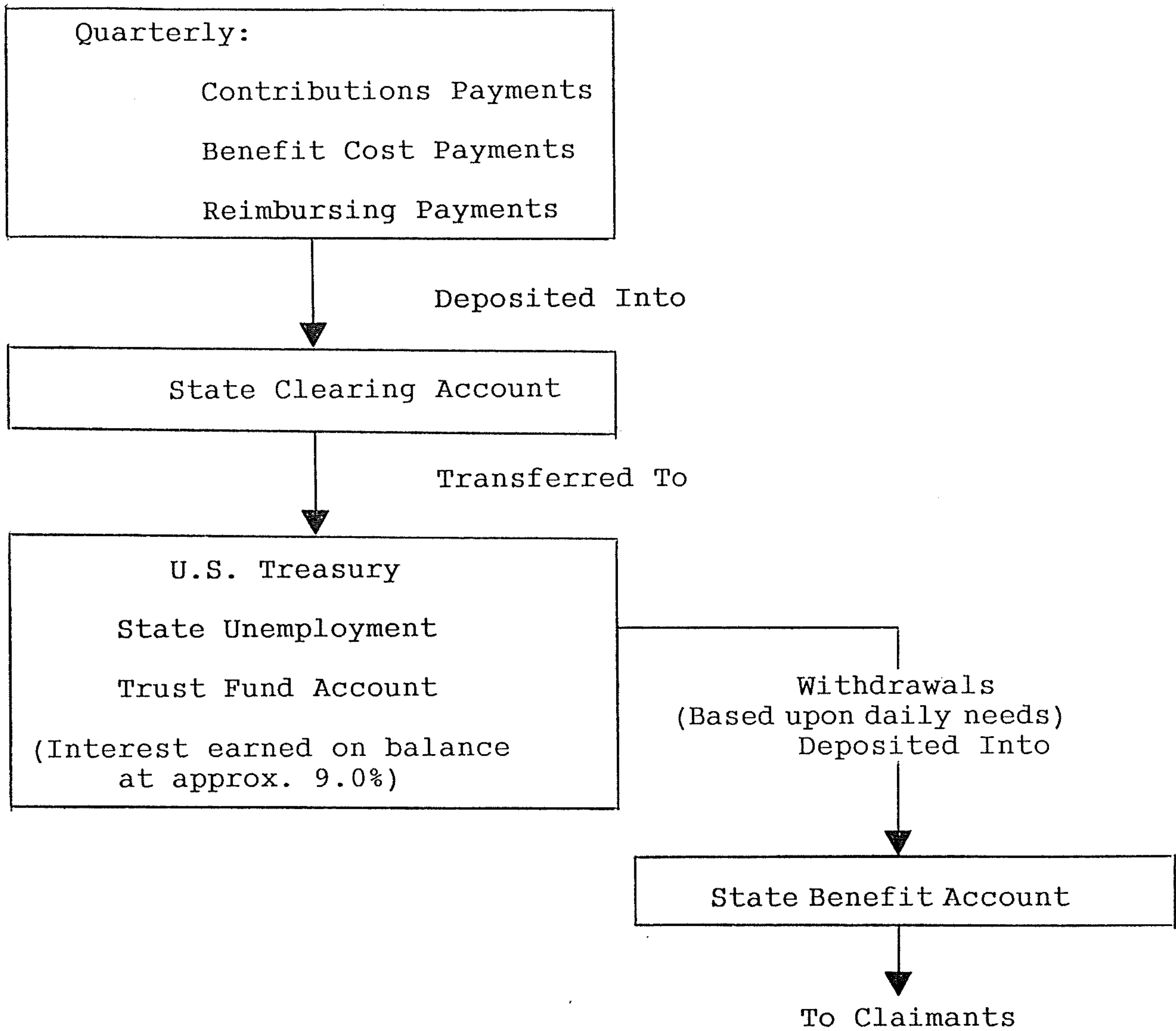
FLOW OF STATE UNEMPLOYMENT INSURANCE FUNDS



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attachment #2
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2-1

Flow of FUTA Funds Under Existing Federal Statutes

0.8% Employer Tax*

Monthly Transfers of All Net Collections

① EMPLOYMENT SECURITY ADMINISTRATION ACCOUNT (ESAA) for financing administrative costs of the employment security program. Monthly 0.52% of the 0.8% employer tax is to be retained in the ESAA account while 0.18% is to be transferred to ② and 0.1% to ③. Up to 95% after transfers to ② and ③ may be appropriated to finance State administrative costs; balance available to meet Federal administrative costs.

Statutory limit retained in this account at the beginning of a fiscal year is 40% of appropriation for the prior fiscal year.

Since January, 1988 monthly transfers = 22.5% of net collections

Excess if ② is over statutory limit on September 30 of any year

Excess if ① is over statutory limit on October 1 of any year and ② is not over its statutory limit

Excess if ③ is over statutory limit on September 30 of any year

Since January 1988 monthly transfers = 12.5% of net collections

② EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT (EUCA) for financing (triggered) extended UC and FSB programs

Statutory limit: 0.375% of total wages in covered employment in preceding calendar year

③ FEDERAL UNEMPLOYMENT ACCOUNT (FUA) for repayable advances to States with depleted reserves

Statutory limit: 0.625% of total wages in covered employment in preceding calendar year

Excess if ① ② and ③ are over statutory limit on Oct. 1 of any year

Distribution to State trust fund accounts when all 3 accounts are fully funded and no outstanding advances from General Revenue to either FUA or EUCA

*Effective tax, after 5.4 percent (2.7% prior to 1985) is offset against 6.2 percent (3.5% prior to 1985) Federal unemployment tax.

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attachment #3
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DEFINITION OF UNEMPLOYMENT RATES

Total Unemployment. Total unemployment figures are estimates of all persons who are unemployed--persons who aren't working, are looking for jobs, and who are available for work. The total unemployment estimates include not only persons who are receiving unemployment benefits but also persons who have exhausted benefits, persons who were disqualified from receiving benefits, persons who failed to file claims, and persons who were ineligible to receive benefits because of insufficient work history with covered employers. Total unemployment estimates are developed in accordance with procedures specified by the Bureau of Labor Statistics United States of Department of Labor.

Insured Unemployment. Workers eligible for unemployment insurance benefits are those covered under the Kansas Employment Security Act. The insured unemployment rate is a measure of the number of individuals claiming unemployment insurance benefits. When an individual is determined to be monetarily eligible to receive unemployment insurance benefits, the individual files a claim for waiting period credit or for a week of unemployment compensation. The sum of the waiting period weeks claimed and the compensable weeks claimed is the numerator of the insured unemployment rate fraction. The denominator is the covered employed workforce.

$$\text{Insured Unemployment Rate} = \frac{\text{Weeks Claimed (waiting period + compensable)}}{\text{Covered Workforce}}$$

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attachment #4
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Table 1
Recessionary Benefit Costs
State FY1983 (actual) and FY1991-1992 (estimated)

	Fiscal Year 1983 (actual)	Fiscal Year 1991 (est). Low	Moderate	High	Fiscal Year 1992 (est). Low	Moderate	High
Average Covered Employment	863,216	1,020,000	$1,020,000	1,020,000	1,030,000	1,030,000	1,030,000
Average Insured Unemployment Rate	4.1%	2.1%	2.4%	2.8%	3.6%	4.1%	4.6%
Average Weekly Insured Unemployed	35,521	21,400	24,500	28,600	37,000	42,000	47,000
Average Duration (weeks)	18.0	14.0	14.0	14.0	18.0	18.0	18.0
First Payments	95,597	72,800	83,300	97,200	100,000	113,000	126,000
Average WBA	$129.64	$175.00	$175.00	$175.00	$180.00	$180.00	$180.00
Total Benefits	$223,070,037	$178,000,000	$204,000,000	$238,000,000	$324,000,000	$366,000,000	$408,000,000
Trust Fund Balance-June 30	$134,480,947	$567,000,000	$541,000,000	$505,000,000	$385,000,000	$343,000,000	$301,000,000

House Labor & Industry
attachment # 5
1-23-91

Kansas Department of Human Resources
Division of Policy and Management Analysis
Labor Market Information Services
January 1991

KANSAS DEPARTMENT OF HUMAN RESOURCES

OFFICE OF THE SECRETARY
401 S.W. Topeka Boulevard, Topeka, Kansas 66603-3182
913-296-7474

~~Mike Hayden, Governor~~
Joan Finney, Governor

~~Ray D. Siehndel, Secretary~~
Michael L. Johnston, Secretary

M E M O R A N D U M

DATE: January 18, 1991

TO: Chairman and Members of Labor and Industry Committee

FROM: Michael L. Johnston, Secretary of Human Resources

SUBJECT: Proposed Revisions to Kansas Statutes

Please find the attached proposals which have been proposed by the Employment Security Advisory Council for your review.

[1.] K.S.A. 44-706(b)
Disqualification for Benefits

BACKGROUND

During the 1990 Legislative Session the House Labor and Industry Committee charged the Department of Human Resources with the responsibility for proposing changes to the Misconduct Law which would address denial of unemployment insurance benefits for persons using alcohol and controlled substances at the work place. In addition, the Employment Security Advisory Council addressed the issue of absenteeism under Misconduct.

Attachment "A" addresses proposed changes as outlined therein.

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Proposed K.S.A. 44-706(b)(2) sets out the definition of a controlled substance; the testing procedure; the standard of proof; the circumstances surrounding the necessity for the tests; the chain of custody; and confirmation of the results of the testing.

Proposed K.S.A. 44-706(b)(3) [Attachment "A"] is in response to employers' concerns that a more readily identifiable standard was needed in cases involving absenteeism and tardiness. The changes set forth in the standard place employers and employees on notice of the basis for disqualification.

[2.] K.S.A. 44-714

The proposed change [Attachment "B"] of language was submitted by the Legal branch to the Advisory Council and was approved by the Council.

Subsection (g) simply adds the words "issue interrogatories" to the powers and duties of the Secretary. The reason for this is a DHR hearing officer stated the Secretary did not have the power to issue interrogatories. The purpose of interrogatories is to simplify the trying of cases and to eliminate expense when routine matters can be inquired of by interrogatory rather than by using the more formal route of the deposition.

In regard to subsection (h) service of subpoenas, at the present time subpoenas can be "tacked on" the premises of the person to be subpoenaed if the Chief of Contributions makes a finding that this can be done because the person attempting to serve the subpoena has used due diligence in attempting to make service, but was unsuccessful in doing so. The proposed language has been drafted following the format of K.S.A. 60-304(a) which deals with service of process in civil actions.

The purpose is to bring the language of K.S.A. 44-714(h) into conformity with K.S.A. 60-304(a) so that the rationale used in Chapter 60 cases could be applied with equal force to Chapter 44 and would also eliminate the necessity of requiring the Chief of Contributions to make an individual determination in regard to service. There is no reason to make the service of agency subpoenas any more stringent than that used in the district court.

K.S.A. 44-718

The Appeals branch submitted the proposed language [Attachment "C"] amending K.S.A. 44-718 for the purpose of allowing the Secretary to approve the fees of attorneys and "authorized agents". The Advisory Council approved the change.

The first part of the statute provides that no person (claimant) shall be charged fees of any kind. This would appear to include fees by "authorized agents" as well as attorneys.

However, if the claimant wished to be represented, the portion allowing legal representation by an attorney or authorized "agent" allows such representation at the claimant's expense, if the claimant files a request for fee approval.

The statute thereafter states that counsel or agent may not require the payment of any fee in excess of the amount approved by the Secretary of Human Resources.

The intent appears to be to allow the Secretary of Human Resources to control fees by placing a cap on the amount of fee that an attorney or "authorized agent" may charge and collect.

Kansas Workers Compensation and the Federal Social Security Administration have similar fee approval statutes.

K.S.A. 44-719(d)

Benefit Payment Control branch submitted the following amendment to the Advisory Council which approved it.

The purpose of this language [Attachment "D"] was to permit the agency to charge interest on benefit overpayments. At the present time Contributions is allowed to collect interest on underpayment of contributions taxes in the amount of 1 1/2 percent per month or fraction of a month. This would have the effect of allowing the fund to collect interest from both employers and claimants.

The law has two emphases, depending upon whether the overpayment was received as a result of fraud, misrepresentation or willful disclosure, rather than one which was without fraud, misrepresentation or willful disclosure.

In the event of fraud, the interest accrues from the date of the final determination of overpayment until the repayment plus interest is received by the Secretary.

If the overpayment was without fraud, the interest shall accrue upon any balance unpaid two years after the final determination of overpayment is made and shall continue until payment of the underpayment plus accrued interest is received by the Secretary.

Interest collected would be paid into the special Employment Security Fund.

Upon a written request and for good cause shown, the Secretary may abate any interest provided for by this subsection. Furthermore accrued interest may not be paid by money deducted from future benefits payable to the person liable for the overpayment.

The intent of the amendment is to collect appropriate interest, and to assess interest immediately in cases of fraud, but allowing a two year grace period for those overpayments which are not a result of fraud.

[5.] K.S.A. 44-757
Work Sharing

The Chief of the Benefits branch submitted the following amendment to the Advisory Council which approved it.

The proposed change of language would eliminate the April 1, 1992, sunset provision. In addition, the Secretary's designee would be permitted to approve work-sharing plans.

In the past if the Secretary was unavailable, the plans could not be processed.

Since this section of the Employment Security law was previously amended by 1990 SB 612, the current language of K.S.A. 44-757 is found at Ch. 189 of the 1990 Session Laws.

K.S.A. 44-757(a)(7) proposed language is: "'Secretary' means the secretary of human resources or the secretary's designee."

In addition, K.S.A. 44-757(r) should be repealed in its entirety. The current language states: "(r) No shared work benefit payment shall be made under any shared work plan or this section for any week which commences before April 1, 1989, or for any week which commences after April 1, 1992."

Subsection (r) should be repealed, as beginning and ending times for the shared work program are no longer needed in the statute.

44-705. Benefit eligibility conditions. An unemployed individual shall be eligible to receive benefits with respect to any week only if the secretary, or a person or persons designated by the secretary, finds that:

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

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

(c) The claimant is able to perform the duties of such claimant's customary occupation or the duties of other occupations for which the claimant is reasonably fitted by training or experience, and is available for work, as demonstrated by the claimant's pursuit of the full course of action most reasonably calculated to result in the claimant's reemployment except that, notwithstanding any other provisions of this section, an unemployed claimant otherwise eligible for benefits shall not become ineligible for benefits because of the claimant's enrollment in and satisfactory pursuit of approved training, including training approved under section 236(a)(1) of the trade act of 1974.

(d) The claimant has been unemployed for a waiting period of one week or the claimant is unemployed and has satisfied the requirement for a waiting period of one week under the shared work unemployment compensation program as provided in subsection (k)(4) of section 1, which period of one week, in either case, occurs within the benefit year which includes the week for which the claimant is claiming benefits. No week shall be counted as a week of unemployment for the purposes of this subsection (d):

(1) If benefits have been paid for such week;

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

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

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

History: L. 1937, ch. 255, § 5; L. 1941, ch. 264, § 3; L. 1943, ch. 190, § 2; L. 1945, ch. 220, § 3; L. 1949, ch. 288, § 4; L. 1955, ch. 251, § 3; L. 1959, ch. 223, § 2; L. 1961, ch. 245, § 1; L. 1970, ch. 191, § 3; L. 1971, ch. 180, § 3; L. 1971, ch. 181, § 1; L. 1973, ch. 205, § 4; L. 1976, ch. 226, § 3; L. 1976, ch. 370, § 59; L. 1977, ch. 181, § 3; L. 1979, ch. 159, § 2; L. 1982, ch. 214, § 3; L. 1988, ch. 172, § 2; July 1.

44-706. Disqualification for benefits. An individual shall be disqualified for benefits:

(a) If the individual left work voluntari-

Attachment (A) 6-7

of pay, the hours of work and the probable permanency of the work left as compared to the work accepted, (B) the cost to the individual of getting to the work left in comparison to the cost of getting to the work accepted, and (C) the distance from the individual's place of residence to the work accepted in comparison to the distance from the individual's residence to the work left;

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

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

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

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

(1) For the purposes of this subsection (b), "misconduct" is defined as a violation of a duty or obligation reasonably owed the employer as a condition of employment. In order to sustain a finding that such a duty or obligation has been violated, the facts must show: (A) Willful and intentional action which is substantially adverse to the employer's interests, or (B) carelessness or negligence of such degree or recurrence as to show wrongful intent or evil design. The term "gross misconduct" as used in this subsection (b) shall be construed to mean conduct evincing extreme, willful or wanton misconduct as defined by this subsection (b). (2)

(4) ~~(2)~~ An individual shall not be disqualified under this subsection (b) if the individual is discharged under the following circumstances: (3)

(A) The employer discharged the individual after learning the individual was seeking other work or when the individual gave notice of future intent to quit;

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

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

(c) If the individual has failed, without good cause, to either apply for suitable work when so directed by the employ-

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K.S.A. 44-706(b)

(2) For the purposes of this subsection, the use of, possession of, or impairment caused by a non-prescribed controlled substance by an individual while working shall be prima facie *evidence of conduct which was substantially adverse to the employer's interests. A controlled substance is defined as alcohol or those substances specified in 21 U.S.C. 812, Schedules I, II, III, IV, and V as amended. An individual's refusal to submit to a chemical test shall not be admissable evidence to prove misconduct unless there was probable cause to believe that the individual used, possessed, or was impaired by a controlled substance while working. The results of a chemical test shall not be admissable evidence to prove misconduct unless the following conditions were met:*

(A) there was probable cause to believe that the individual used, had possession of, or was impaired by the controlled substance while working; and

(B) the test sample was collected at a time contemporaneous with the events establishing probable cause; and

(C) the collecting and labeling of the test sample was performed by an independent health care professional; and

(D) the test was performed by a laboratory approved by the U.S. Department of Health and Human Services; provided, however, that a blood sample may be tested for alcohol content by a laboratory commonly used for that purpose by state law enforcement agencies; and

(E) the test was confirmed by gas chromatography, gas chromatography-mass spectroscopy, or other comparably reliable analytical method; provided, however, that no such confirmation is required for a blood alcohol

sample; and

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

(3) *For the purposes of this subsection, misconduct shall include, but not be limited to repeated absence, including lateness, from scheduled work if the facts show:*

(A) *the individual was absent without good cause, and*

(B) *the absence was substantially adverse to the employer's interests, and*

(C) *the employer gave written notice to the individual that future absence may result in discharge, and*

(D) *the individual continued the pattern of absence without good cause.*

K.S.A. 44-714

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

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

(1) Individual. Service upon an individual, other than a minor or incapacitated

ATTACHMENT B

person, shall be made *(A)* by delivering a copy of the subpoena to the individual personally, or *(B)* by leaving a copy at such individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, *or (C)* by leaving a copy at the business establishment of the employer with an officer or employee of the establishment, *or (D)* by delivering a copy to an agent authorized by appointment or by law to receive service of process, but if the agent is one designated by a statute to receive service, such further notice as the statute requires shall be given, *or (E)* if service as prescribed cannot be made with due diligence, *in accordance with (A) (B) (C) or (D),* ~~the secretary or the secretary's designee may order service to be made~~ by leaving a copy of the subpoena at the ~~employer's~~ *individual's* dwelling house, usual place of abode, or *usual* business establishment, *and mailing a notice by first class mail to such place that such copy has been left.*

K.S.A. 44-718

(b) *Limitation of fees.* No individual claiming benefits shall be ~~charged~~ *required to pay* fees of any kind in any proceeding under this act by the secretary of human resources or representatives of the secretary or by any court or any officer thereof. Any individual claiming benefits in any proceeding before the secretary of human resources or a court may be represented by counsel or other duly authorized agent *at the individual's expense, if the individual files a request for fee approval*, ~~but no~~ such counsel or agents shall ~~either charge or receive for such services more than an amount~~ *not require payment of fees in excess of the amount* approved by the secretary of human resources. Any person who violates any provision of this subsection shall, for each such offense, be fined not less than $50 nor more than $500, or imprisoned for not more than six months, or both.

ATTACHMENT ( )

K.S.A. 44-719(d)

Any benefit erroneously paid which is not repaid shall bear interest at the rate of 1.5% per month or fraction of a month. If the benefit was received as a result of fraud, misrepresentation or willful nondisclosure of required information, interest accrues from the date of the final determination of overpayment until repayment plus interest is received by the secretary. If the overpayment was without fraud, misrepresentation or willful nondisclosure of required information interest shall accrue upon any balance unpaid two years after the final determination of overpayment is made and shall continue until payment plus accrued interest is received by the secretary. Interest collected pursuant to this section shall be paid into the special employment security fund. Upon written request and for good cause shown, the secretary may abate any interest or portion thereof provided for by this subsection. Interest accrued may not be paid by money deducted from any future benefits payable to such persons liable for any overpayment.

ATTACHMENT
(10)

KANSAS EMPLOYMENT SECURITY

ADVISORY COUNCIL REPORT

OCTOBER 1990

The Honorable Mike Hayden
Governor
State of Kansas

Ray D. Siehndel, Secretary
Department of Human Resources

Sandy Duncan, Director
Division of Policy & Management Analysis

A. J. Kotich, Director
Division of Administration & Legal Services

Labor Market Information Services
Division of Policy and Management Analysis
Kansas Department of Human Resources
401 SW Topeka Boulevard
Topeka, Kansas 66603-3182

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Preface

The Employment Security Advisory Council is composed of representatives from industry, labor, and the public to advise the Secretary of the Department of Human Resources for the purpose of meeting the goals of the Department. The current members of the Council are noted page iii. In accordance with the Employment Security Law, the Council "...aid(s) the Secretary in formulating policies, and discussing problems related to the administration of (the) act and in securing impartiality and freedom from political influence in the solution of such problems".

Prior to and during the 1990 Kansas Legislative Session, the Council met four times. A list of changes made to the Kansas Employment Security Law by the 1990 Legislature is found on page iv. All of these changes were discussed and acted upon by the Council, with the exception of the amendment to the Shared Work Plan. The description of law changes is from an insert included in the Handbook for Employers published by the Department.

Each year the Advisory Council reviews the status of the Employment Security Trust Fund for adequacy in meeting benefit costs. This report focuses on factors which impact on the trust fund. The first section highlights trends in the level of the fund and benefit costs. Latter sections provide information about employer tax rates, and claimant benefit provisions and charges. The data selected in this report represents the last decade of experience with the unemployment insurance program in Kansas.

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EMPLOYMENT SECURITY LAW
1990 LEGISLATIVE CHANGES

The 1990 Legislature made changes to the Kansas Employment Security Law through the passage of Senate Bills 612, 645, 679, and 806. A brief explanation of the major changes resulting from these bills, plus the effective date of change is provided below:

Total Wages
K.S.A. 44-703(a)(3)

Effective July 1, 1990, total wages is defined as "the total amount of wages paid or payable by an employer during the calendar year, including that part of remuneration in excess of the limitation prescribed as provided in subsection (o)(1) of this section".

Service Not in the Course of Trade or Business (Casual Labor)
K.S.A. 44-703(i)(4)(T)

Effective July 1, 1990, service not in the course of the employer's trade or business is exempt employment unless the employee is paid $200 or more cash remuneration in the calendar quarter for such service or the employee is regularly employed by the employer to perform such service. An individual is considered regularly employed if the individual works some portion of 24 days during the quarter for the employer performing service not in the course of the employer's trade or business or the individual was regularly employed during the preceding calendar quarter. The exemption does not apply to governmental entities or any employer described in section 501(c)(3) of the federal internal revenue code of 1986 which is exempt from income taxation under section 501(a) of the code.

Employee Leasing
K.S.A. 44-703(ff) and (gg) and K.S.A. 44-758

Effective July 1, 1990, a lessor employing unit is liable for Kansas unemployment tax on wages paid by the lessor employing unit to individuals performing services for client lessees. The lessor employing unit shall keep separate records and submit separate quarterly unemployment tax and wage reports for each client lessee. The reporting provision must be complied with prior to October 1, 1990. The client lessees shall be jointly and severally liable for any unpaid unemployment tax, interest and penalties due from the lessor employing unit attributable to wages for services performed for the client lessee by employees leased to the client lessee.

Board of Review
K.S.A. 44-709(f)

Effective July 1, 1990, each member of the board shall be appointed for a term of four years. If the board members do not agree and fail to make the appointment of the public member, the governor shall appoint the public representative.

Experience Rates
K.S.A. 44-710a(a)(2)(D)

Effective July 1, 1990, the number of rate groups in the experience rating computation are increased from 21 to 51.

Voluntary Contributions
K.S.A. 44-710a(c)

Effective July 1, 1990, the number of voluntary payment options available to eligible employers is increased from two to five.

Shared Work Plan
K.S.A. 44-757(h)

Effective April 12, 1990, for good cause, a shared work plan may become effective within 14 days prior to the date the plan is approved by the Secretary of Human Resources.

SECTION ONE
KANSAS EMPLOYMENT SECURITY LAW

The Kansas Employment Security Law was enacted in 1937 in concurrence with the Federal Social Security Act of 1935. The Social Security Act created a federal unemployment tax, gave credit to employers against federal tax for taxes paid under certified state laws, provided for federal financing of administrative costs of state agencies, and gave autonomy over substantive elements of unemployment compensation programs to the individual states. The Kansas law was enacted to "...(encourage) employers to provide more stable employment and by systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of poor-relief assistance", K.S.A. 44-702.

Although most state unemployment insurance laws have the same purpose, every state takes a different approach to meet the goal. In general, the same groups of employees and employers are covered in all states. Coverage provisions of state laws are heavily influenced by the taxing provisions of the Social Security Act and by those of the Federal Unemployment Tax Act. It is the methods of collecting taxes, paying benefits, and determining eligibility that generally differ from state to state. Various methods, though, may be the same in all states to comply with conformity and certification provisions of the federal laws.

Only information about the Regular Kansas program is discussed in this report. Kansas District Unemployment Insurance Offices and their itinerate offices also administer programs for unemployed federal and military employees which are covered under Unemployment Compensation for Federal Employees and Unemployment Compensation for Ex-Servicemen, respectively. In addition, there exists a reciprocal arrangements among state employment security agencies (SESAs) which allow local Kansas offices to process joint claims and claims of other SESAs. Certain employers are approved for coverage of unemployment benefits under the Trade Readjustment Act, P.L 97-35. Data for these claims are also included.

Coverage of Kansas employees under the Employment Security Law varied from 73.6 per cent of the total employment in 1983 to 78.5 percent in 1989 during the ten year period 1980-1989, as shown on Table 1. A comparison of total unemployment and insured unemployment rates for the same span of years is presented in Table 2 and depicted on Graph 1.

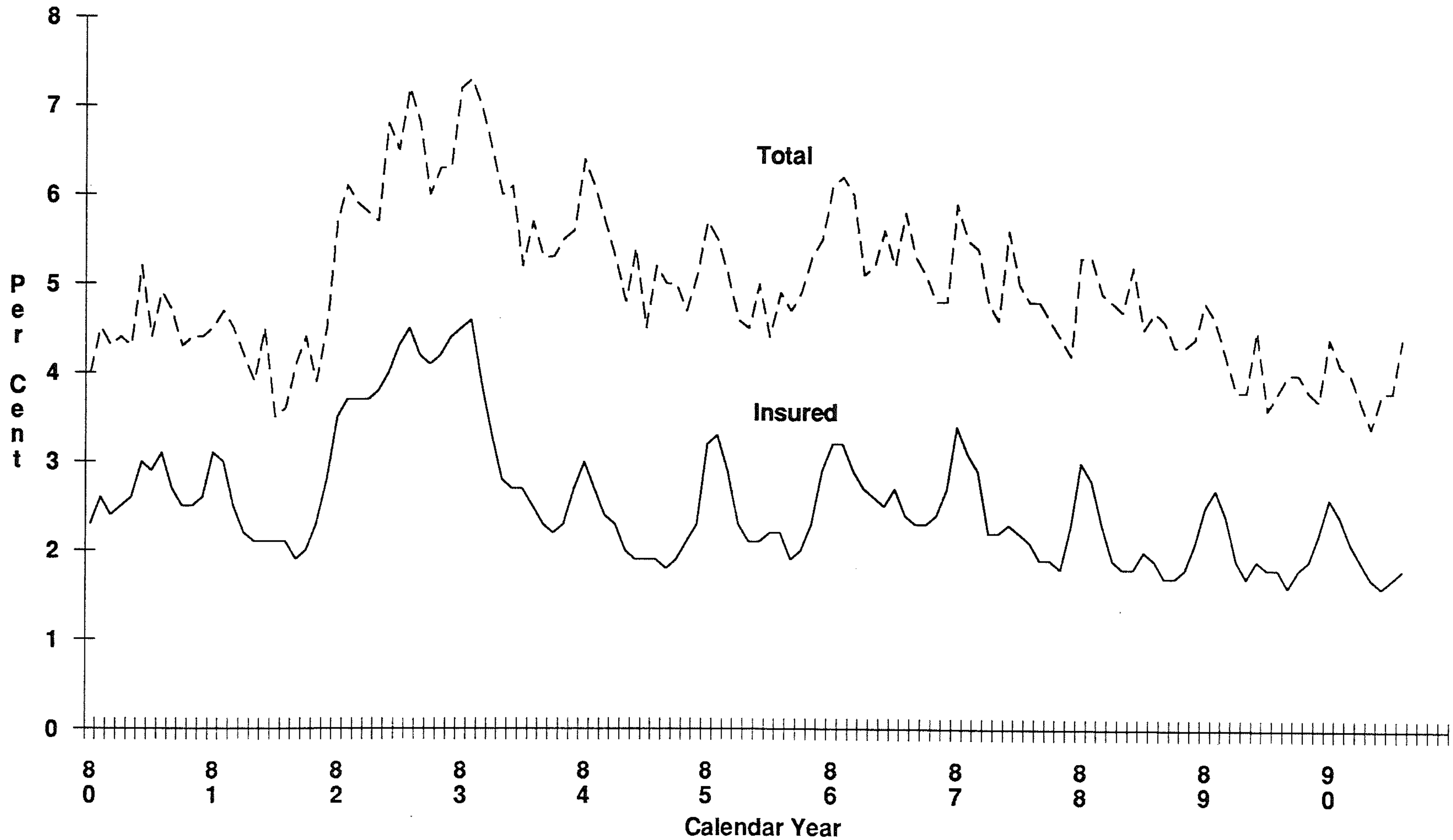
Table 1
Total Employment
and Covered Employment
Annual Average
CY 1980 - 1989

Year	Employment Total	Employment Covered	Per Cent of Covered to Total
1980	1,184,000	889,498	75.1
1981	1,190,000	896,805	75.4
1982	1,185,000	873,058	73.7
1983	1,186,000	873,067	73.6
1984	1,196,000	910,118	76.1
1985	1,237,000	912,273	74.2
1986	1,237,000	932,274	75.4
1987	1,268,000	951,861	75.1
1988	1,282,000	980,856	76.5
1989	1,284,000	1,007,399	78.5

Table 2
Total Unemployment and
Insured Unemployment
Average Annual
CY 1980 - 1989

Year	Total Number	Total Rate	Insured Number	Insured Rate
1980	53,000	4.5	23,147	2.6
1981	50,000	4.2	20,911	2.3
1982	74,000	6.3	35,669	4.1
1983	72,000	6.1	27,004	3.1
1984	63,000	5.2	19,048	2.1
1985	62,000	5.0	21,979	2.4
1986	67,000	5.4	24,378	2.6
1987	63,000	4.9	22,393	2.4
1988	61,000	4.8	19,522	2.0
1989	52,000	4.0	19,769	2.0

Graph 1
Unemployment Rates - Total and Insured
Jan 1980 - Aug 1990, By Month



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SECTION TWO
EMPLOYMENT SECURITY TRUST FUND

Provision for the Trust Fund

The Kansas Employment Security Fund is an account provided for in section 44-712 of the Kansas Employment Security Law. It is a special fund consisting of contributions collected from employers, interest earned, Reed Act funds, and properties and securities acquired. All monies in this fund are mingled and undivided. Money credited to this account is used primarily for the payment of claimant benefits. The Reed Act funds may be used for administrative expenses if specifically appropriated by the Kansas Legislature.

Monies in the Kansas Employment Security Fund are deposited with the Secretary of the Treasury of the United States of America to be credited to the state's account in the Federal Unemployment Insurance Fund. Interest is earned quarterly on the federal fund with each state's account credited with a pro rata share. The monies to pay benefits are requisitioned from the state's account in the federal fund on a daily basis.

Adequacy of the Trust Fund

At the close of the 1989 calendar year, the balance of the Kansas Employment Security Fund was $461.7M. By September, 1990, this had reached $526.9M. The end-of-the-year balance has grown steadily since the 1982-1983 recession as have two common measures of fund solvency, the reserve fund ratio and the high cost multiple. The reserve fund ratio is the percentage of the fund balance at a given time to wages for the preceding 12-month period. Graph 2 depicts the trend of the reserve fund ratio from 1980 to 1989. The high cost multiple is a parameter comparing the reserve fund ratio to the highest benefit cost rate during the past 15 years. Adequate levels for the reserve fund ratio and high cost multiple are considered to be 3.00 per cent, and 1.50, respectively. A comparison of the fund balance and adequacy measures is shown on Table 3 on Page 6.

Graph 2
Reserve Fund Ratio
Jan 1980 - Dec 1989, By Quarter

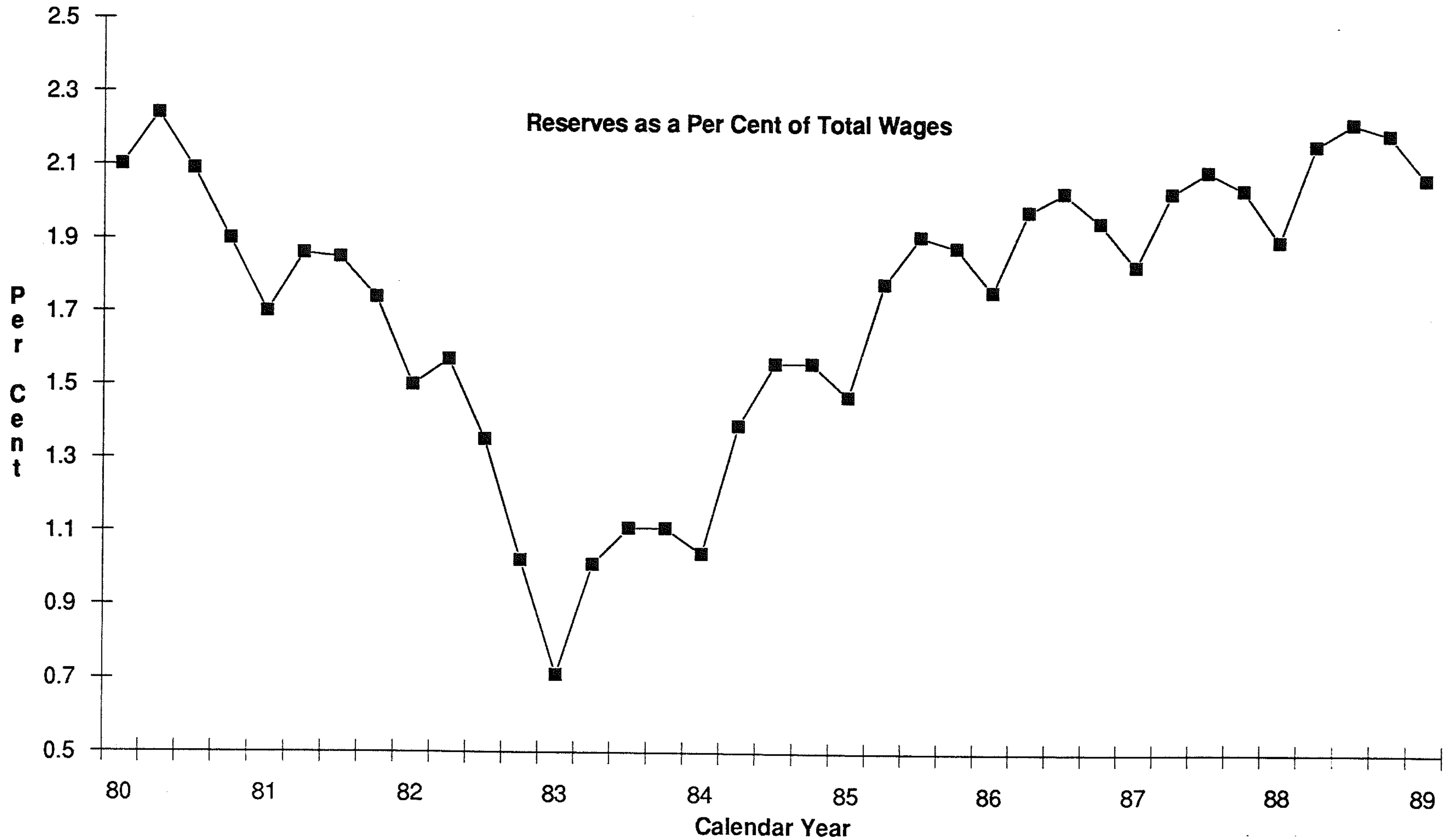

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Table 3
End of Year Fund Balance
and Adequacy Measures
1980 - 1989

Calendar Year	Total Wages (000,000's)	Reserve Fund Balance (000,000's)	Reserve Fund Ratio	High Cost Multiple
1980	$11,507.7	$218.7	1.90%	1.2
1981	12,706.3	220.8	1.74	1.1
1982	13,214.9	135.1	1.02	0.6
1983	13,751.1	152.5	1.11	0.6
1984	15,009.4	234.7	1.56	0.9
1985	15,770.7	295.7	1.87	1.1
1986	16,552.8	322.7	1.95	1.1
1987	17,386.8	355.0	2.04	1.1
1988	18,437.0	404.5	2.19	1.2
1989	19,421.5	461.7	2.38	1.3

The high cost multiple compares current capacity of the trust fund, represented by the reserve fund ratio, with the experience of actual benefit costs in recent years. The latter is weighed according to benefit costs incurred during the recession of the early 1980's.

In recent years the reserve fund ratio has been the significant factor in the high cost multiple formula. The following equation illustrates the derivation of the high cost multiple.

$$\text{High Cost Multiple} = \frac{\text{Reserve Fund Ratio(current)}}{\text{Benefit Cost Rate(high)}} = \frac{\frac{\text{Reserves Available}}{\text{Total Wages}}\text{(current)}}{\frac{\text{Benefits Paid}}{\text{Total Wages}}\text{(High)}}$$

The benefit cost rate in effect at this time is 1.79. This figure is the benefit cost rate of the 12 month period ending the first quarter of 1983, the period of the highest outlay of benefits to total wages within 15 years. The benefit cost rate will not change unless: 1) a four quarter period with a higher benefit cost rate occurs, or 2) 15 years has elapsed since the 1983 high benefit cost rate went into effect. If the latter occurs, a new high benefit cost rate will be calculated in 1998.

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If the reserve fund ratio and the benefit cost rate were the same, then the high cost multiple would be 1.0.

$$\text{High Cost Multiple} = \frac{\text{Reserve Fund Ratio (current)}}{\text{Benefit Cost Rate (high)}} = \frac{1.79}{1.79} = 1.0$$

In essence, if the high cost multiple were 1.0, the reserves available would be equal to a 12 month period, or 1.0 year, of high benefit costs relative to total wages. The high cost multiple at the end of CY 1989 was 1.3, indicating the reserves available at that time could withstand 16 months of high benefit costs, relative to total wages. Graph 3 depicts the high cost multiple from 1980 to 1989.

The reserve fund ratio is considered to be at a desirable level at 3.0--when the reserves available are three per cent of total wages. The minimum safe level for the high cost multiple is 1.5. At these desired levels, reserves would be considered sufficient for high benefit cost rates up to and including 2.0 per cent. The Kansas trust fund financing method is based on an annually calculated planned yield to bring the reserve fund ratio to 3.0 per cent.

Fund Balance Movements

The 1980's commenced with a relatively stable fund balance. With the onset of the recession of 1982-1983, the balance dropped dramatically. Law changes enacted by the 1983 Legislature, using recommendations of the Advisory Council, checked the downward movement that year. Since the recession, the fund has experienced steady growth with contributions exceeding benefits, and interest earned averaging $30.0M per year. In the last two complete calendar years, 1988 and 1989, the fund balance grew approximately $107.0M. Nearly 65 per cent of this two-year growth was due to interest earned. Table 4 shows the amount of benefits, contributions, interest earned and the average interest rate from 1980 to 1990. The proportion of contributions and interest from 1980 to 1990 are illustrated on Graph 4. The level of benefits to annual contributions and interest earned is shown on Graph 5.

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Graph 3
High Cost Multiple
Jan 1980 - Dec 1989, By Quarter

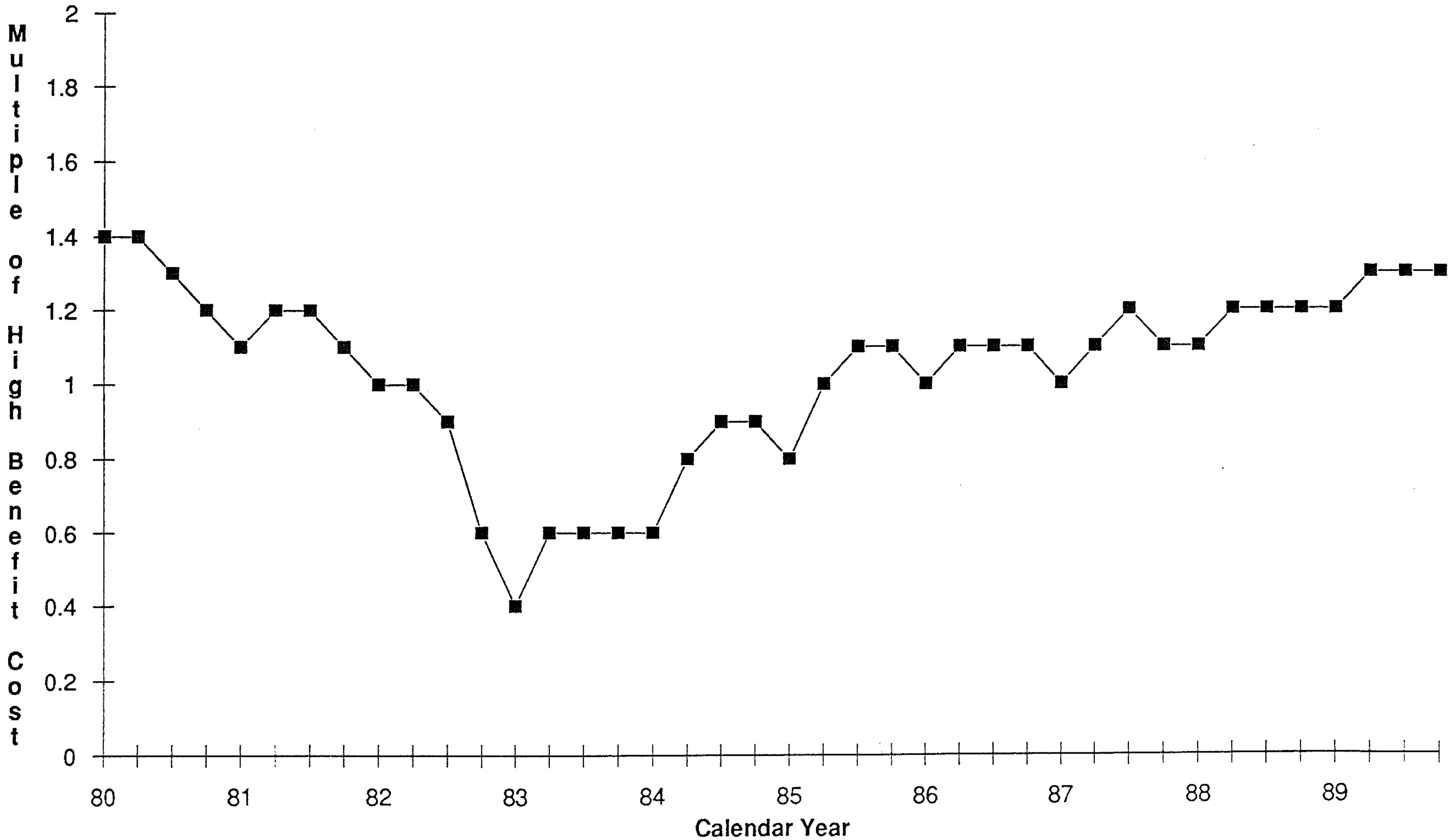

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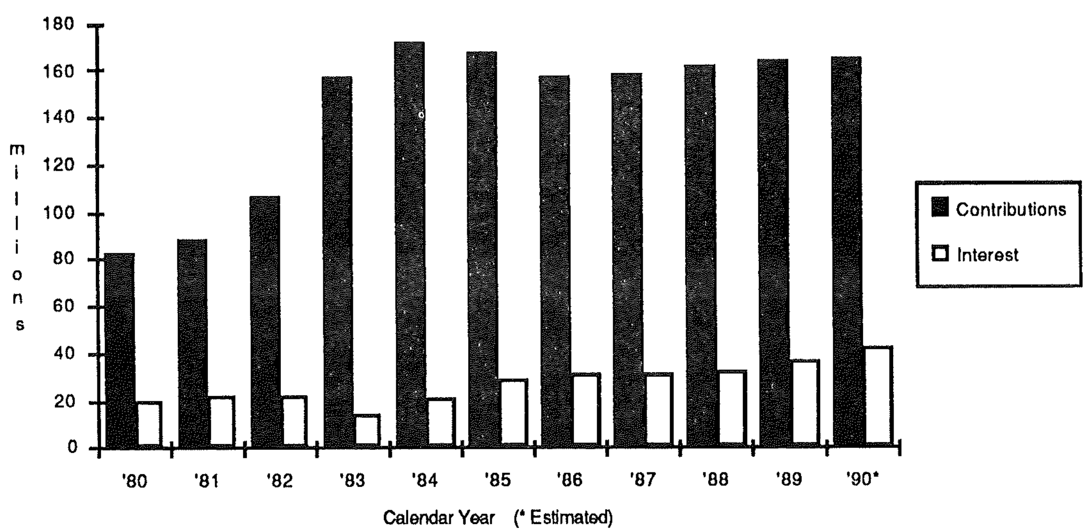
Table 4
Benefits, Contributions, and Interest
CY 1980 - 1990

Calendar Year	Reserve Fund Balance (Dec.31)	Benefits Paid (000,000's)	Contributions Received (000,000's)	Interest Earned (000,000's)	Average Interest Rate
TOTAL	N/A	$1,653.0	$1,580.4	$298.5	9.61%
1980	218.7	117.7	83.3	20.0	8.53%
1981	220.8	112.3	88.2	22.1	9.99
1982	135.1	217.8	105.7	21.4	11.29
1983	152.5	165.9	157.5	14.0	10.44
1984	234.7	112.8	172.2	20.6	10.18
1985	295.7	139.7	167.9	28.2	10.34
1986	322.7	168.4	157.0	31.1	9.77
1987	355.0	166.1	158.3	30.3	9.05
1988	404.5	148.9	161.7	31.9	8.50
1989	461.7	153.4	163.6	36.9	8.66
1990 (est.)	525.0	150.0	165.0	42.0	8.94

N/A Not Applicable.

Graph 4
Contributions and Interest
CY 1980 - 1990



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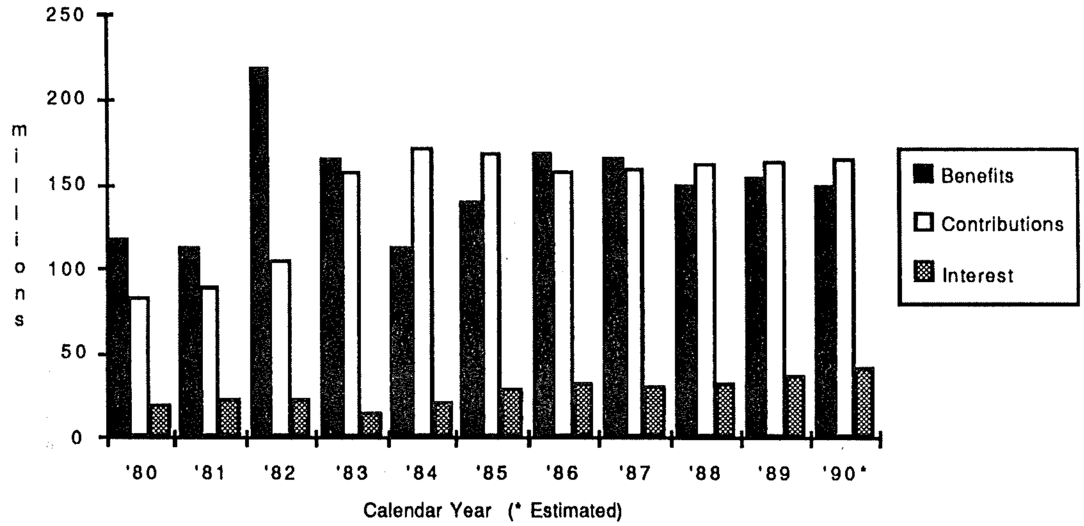
Graph 5
Benefits,Contributions, and Interest
CY 1980 - 1990



The movement of the trust fund balance by month for calendar years 1988, 1989 and the completed portion of calendar year 1990 is presented on Graph 6. The fund level tends to peak in the second and third calendar quarters when the majority of contributions are received. Contributions are based on the first $8,000 of an individual's annual salary and are due on or before the 25th day following the close of the calendar quarter. With the average annual wage in Kansas at more than $19,000, a majority of individuals have earned $8,000 in the first two calendar quarters. Therefore, the greatest amount of contributions are received during those periods. The end of calendar year balance is usually used as a measure for year to year movement of the fund level.

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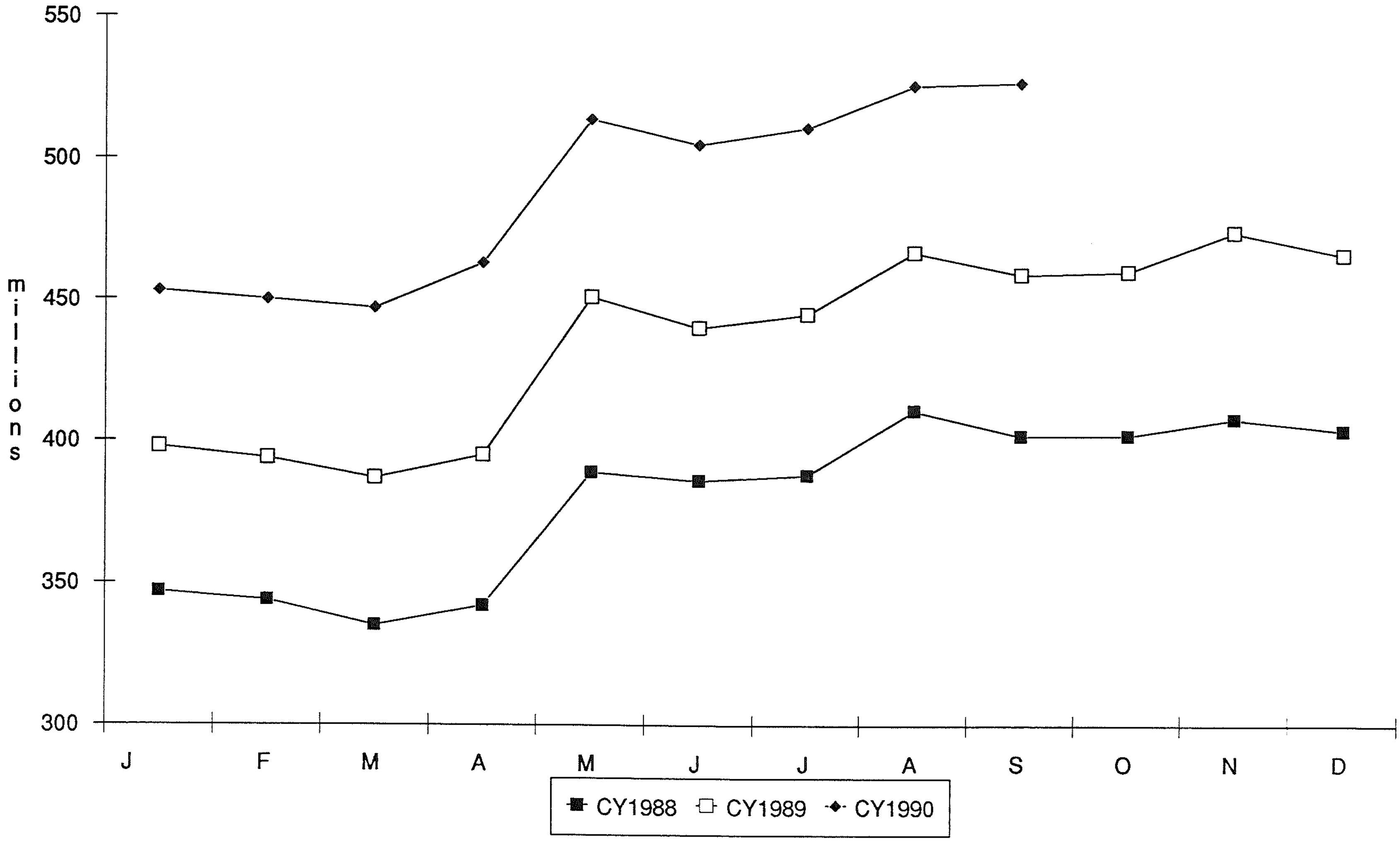
Graph 6
End of Month Trust Fund Balance



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Fund Balance Projections

There are three principal components affecting the fund balance: benefits paid, contributions received, and interest earned. In the state budgets for fiscal years 1991 and 1992, the insured unemployment rates are projected to be 2.1 per cent and 2.3 per cent, respectively. These rates will require an estimated $178.0M in benefits to be paid in fiscal year 1991 and $202.0M in fiscal year 1992. These compare to $151.0M in fiscal year 1990.

To finance benefits paid to claimants, taxes, generally referred to as contributions, are collected from employers. In fiscal year 1991 contributions are projected to be $151.1M. Total payments made by reimbursing and rated governmental employers are not as easily projected as those from contributing employers, but generally are approximately $3.0M per year. Additional income to the fund will come from interest earned on the fund balance, an estimated $45.0M to $50.0M.

In fiscal year 1992, contributions are expected to be $156.8M while interest earned and other payments are nearly the same amounts as in 1991. With the fund balance of $505.1M at the end of fiscal year 1990 the above figures would yield estimated balances at the end of fiscal year 1991 and fiscal year 1992 of $525.0M to $530.0M and $530.0M to $535.0M, respectively.

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SECTION THREE
KANSAS FINANCE PLAN

Introduction

The finance method in Kansas for the Employment Security Fund is based on the reserve ratio system of experience rating. The reserve ratio system is the most common method of experience rating, and is used by 32 other states. This section includes a description of the three types of employer accounts for purposes of financing the trust fund. It also describes how an annual planned yield is determined and how employer taxes are derived. The latter portion presents a ten year trend of taxable wages, the taxable wage base, and tax rates for contributing employer accounts.

Employer Accounts

The principal source of income for the unemployment insurance trust fund is taxes paid by employers. In Kansas they are collected from three groups of employers generally classified as contributing, reimbursing, and rated governmental .

1. Regular Contributing Accounts. These are the "experience rated" accounts which have rates computed based on the position of the reserve ratio of the individual account relative to the reserve ratios of all contributing accounts. Employer accounts in this category make up approximately 95 per cent of all accounts under Kansas law. .

2. Reimbursing. These employer accounts must be either private nonprofit organizations as defined by the Internal Revenue Code, Section 501(c)(3) or governmental units of this state or one of its political subdivisions. Employers participating under this provision are required to reimburse the state trust fund for benefit charges, dollar for dollar.

3. `Rated Governmental. These employers must be government units. Government employers electing this option receive a rate based on an individual experience factor, which is benefits charged divided by two years of total wages. This factor, expressed as a decimal, is then adjusted by the benefit cost rate of all government employers.

Contributions from reimbursing and rated governmental employers offset identical or nearly identical amounts of benefit payments. Total contributions from all contributing employers varies depending on several factors, including the amount of total wages of Kansas employers and the balance of the Kansas Employment Security Fund.

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Experience Rating

Experience rating is a method of assigning unemployment insurance tax rates to individual employers based on some measure of the level of unemployment experienced by employees. The reserve ratio method of experience rating used in Kansas is essentially cost accounting with a bookkeeping account kept for each employer. Each employer record contains all contributions paid, all benefits charged, and the employer's payroll. A reserve ratio is calculated by subtracting total benefits charged from total contributions paid and dividing the difference, positive or negative, by the employer's average annual payroll. This average annual payroll is for the last three calendar years, or two if the employer has not been continuously subject to contributions.

$$\text{Reserve Ratio} = \frac{\begin{matrix}\text{Contributions} \\ \text{all past years}\end{matrix} - \begin{matrix}\text{Benefits} \\ \text{all past years}\end{matrix}}{\text{Average Annual Payroll last three or two years}}$$

Contribution Rates

For the purpose of tax rate computation in Kansas, contributing employers may be basically classified as new employers and eligible employers. New, or ineligible employers, have had less than 24 consecutive months immediately preceding the annual June 30 computation date throughout which benefits could have been charged to the employer's account. Tax rates of new employers are calculated as one per cent plus the higher of 1) the average rate for all employers, or 2) the average for employers in the same industry division during the calendar year prior to the computation date, but not less than two per cent. The following table shows tax rates for new employers for calendar year 1990.

Table 5
New Employer Tax Rates
CY 1990

Industry	Tax Rate
Mining	4.66%
Contract Construction	5.11
Manufacturing	3.78
All other Employers	3.45

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When a firm has been subject to the law for the required period of time, it is classified as eligible for a tax rate based on a reserve ratio of the individual employer account. If an eligible employer's total benefits charged have exceeded total contributions paid, the employer is defined as a negative balance employer. The tax rate of a negative balance employer is set by statute as 5.40 per cent plus a surcharge dependent upon the size of the employer's negative reserve ratio. Table 6 gives the schedule of negative balance employer account rates. This schedule is unchanged from year-to-year unless amended by the legislature.

Table 6
Negative Balance Account Rates

Negative Reserve Ratio	Maximum Rate	Surcharge	Effective Rate
Less than 2.0%	5.40%	0.10%	5.50%
2.0 but less than 4.0	5.40	0.20	5.60
4.0 but less than 6.0	5.40	0.30	5.70
6.0 but less than 8.0	5.40	0.40	5.80
8.0 but less than 10.0	5.40	0.50	5.90
10.0 but less than 12.0	5.40	0.60	6.00
12.0 but less than 14.0	5.40	0.70	6.10
14.0 but less than 16.0	5.40	0.80	6.20
16.0 but less than 18.0	5.40	0.90	6.30
18.0 and over	5.40	1.00	6.40

If an eligible employer's contributions exceed benefits charged, the employer is classified as positive eligible. For the purpose of assigning tax rates, positive eligible employers are divided into equal groups based on taxable wages and the reserve ratio of the individual employers. For calendar year 1990 and prior years, the number of groups was 21. Starting with rate year 1991, the number of groups will be expanded to 51. Tables 7 and 8 give the contribution rates for 1990 under the law in effect at the time of computation, 21 rate groups, and the estimated rates if the 51 rate groups would have been in effect for calendar year 1990.

Rate groups are provided for in Schedule I - Eligible Employers, K.S.A. 44-710 a(1)(D). This schedule is centered at an experience factor of 1.00. The contribution rate for each group is determined by multiplying the respective experience factor times the average percentage of required contributions on taxable wages of positive eligible employers. For rate year 1990, the average percentage of required contributions on taxable wages was 2.205 per cent.

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Table 7
Tax Rates for CY 1990
21 Rate Groups

Rate Group	Reserve Ratio (lower limit)	Experience Factor	Number of Employers	Contribution Rate
1	.19135	.025%	7,426	.06%
2	.18140	0.1	2,683	.22
3	.17476	0.2	2,758	.44
4	.17077	0.3	2,646	.66
5	.16792	0.4	1,637	.88
6	.16521	0.5	1,535	1.10
7	.16345	0.6	919	1.32
8	.16121	0.7	1,111	1.54
9	.15895	0.8	1,088	1.76
10	.15781	0.9	544	1.98
11	.15499	1.0	1,266	2.20
12	.15264	1.1	891	2.43
13	.14838	1.2	1,485	2.65
14	.14421	1.3	1,456	2.87
15	.13882	1.4	1,689	3.09
16	.13203	1.5	1,829	3.31
17	.12453	1.6	1,660	3.53
18	.11183	1.7	1,964	3.75
19	.09622	1.8	1,975	3.97
20	.06685	1.9	2,547	4.19
21	.00000	2.0	3,352	4.41

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Table 8
Estimated Tax Rates for CY 1990 a/
51 Rate Groups

Rate Group	Reserve Ratio (lower limit)	Experience Factor	Number of Employers	Contribution Rate
1	.22278	.025%	3,877	.06%
2	.19665	.04	2,657	.09
3	.18793	.08	1,689	.18
4	.18284	.12	1,423	.26
5	.18105	.16	590	.35
6	.17769	.20	1,280	.44
7	.17510	.24	1,158	.53
8	.17334	.28	1,041	.62
9	.17174	.32	1,135	.71
10	.17052	.36	817	.79
11	.16924	.40	720	.88
12	.16822	.44	598	.97
13	.16690	.48	762	1.06
14	.16604	.52	490	1.15
15	.16488	.56	622	1.23
16	.16424	.60	323	1.32
17	.16346	.64	416	1.41
18	.16247	.68	515	1.50
19	.16160	.72	417	1.59
20	.16038	.76	581	1.68
21	.15930	.80	506	1.76
22	.15895	.84	186	1.85
23	.15895	.88	0	1.94
24	.15822	.92	345	2.03
25	.15682	.96	668	2.12
26	.15561	1.00	547	2.20
27	.15485	1.04	320	2.29
28	.15383	1.08	364	2.38
29	.15272	1.12	415	2.47
30	.15101	1.16	627	2.56
31	.14960	1.20	504	2.65
32	.14739	1.24	723	2.73
33	.14604	1.28	530	2.82
34	.14423	1.32	594	2.91
35	.14203	1.36	726	3.00
36	.13947	1.40	801	3.09
37	.13691	1.44	687	3.18
38	.13394	1.48	824	3.26
39	.13182	1.52	531	3.35
40	.12908	1.56	651	3.44
41	.12578	1.60	721	3.53
42	.12024	1.64	986	3.62
43	.11616	1.68	610	3.70
44	.11001	1.72	818	3.79
45	.10442	1.76	849	3.88
46	.09735	1.80	796	3.97
47	.08917	1.84	946	4.06
48	.07629	1.88	1,120	4.15
49	.05873	1.92	986	4.23
50	.03594	1.96	803	4.32
51	.00000	2.00	2,166	4.41

a/ This schedule would have applied during CY 1990 if the 51 groups had been in effect.

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Planned Yield for Contributing Accounts

A total amount of contributions, or planned yield for contributing employer accounts is estimated each year prior to rate calculations. Due to the offset nature of reimbursing and rated governmental accounts, the estimate is not relevant to these accounts. The following steps describe the manner in which an annual planned yield is determined:

- A reserve fund ratio is calculated by dividing the balance of the trust fund as of July 31 by the total wages of contributing employers for the preceding fiscal year.

- Using Schedule III, Fund Control Ratios to Total Wages, K.S.A. 44-710 a(3)(A), a planned yield of the percentage of total wages is selected respective to the reserve fund ratio. Schedule III is centered to yield 1.0 per cent of total wages at a reserve fund ratio of 3.0 percent.

- The planned yield on total wages is adjusted to taxable wages by using the ratio of total to taxable wages.

The following steps describe the manner in which an annual planned yield for positive eligible accounts is determined:

- Estimates of contributions from ineligible accounts are deducted from the total planned yield.

- Estimates of contributions from negative balance accounts are deducted from the total planned yield.

Contribution rates for ineligible and negative balance accounts are for the most part "fixed" and set by statute. The remainder of the planned yield establishes the basis for derivation of the contribution rates for positive eligible accounts. An average contribution rate for positive eligible accounts is calculated by dividing the remaining amount of planned yield by the taxable wages of positive eligible accounts. This percentage is adjusted by the average estimated yield of the wage groups, or array of taxable accounts.

The following table illustrates the figures used in calculating the planned yield for the CY 1990 rate year:

Table 9
Planned Yield
Contributing Employer Account
CY 1990 Rate Year

A. Reserve fund balance, July 31, 1989. . . . . $468,612,558

B. Payrolls, fiscal year ended June 30, 1989
   1. Total. $15,276,553,973
   2. Taxable. $6,217,906,856

C. Ratio of fund balance to total payrolls.. . . . . 3.068%

D. Required total yield for 1990
   1. Ratio of total wages (From Schedule III, K.S.A. 44-710(a)(3)). 0.99%
   2. Ratio of total wages to taxable wages. 2.45%
   3. Average rate for taxable wages (all accounts) 2.43%
   4. Total planned yield. $151,100,000

E. Required yield for positive eligible accounts
   1. Total planned yield. $151,000,000
   2. Estimated yield - Ineligible accounts. . . . .-$11,252,981
   3. Estimated yield - negative balance accounts. . . . . -$19,025,080
   4. Planned yield - positive eligible accounts. $120,431,939

F. Rate adjustment, positive eligible accounts
   1. Taxable payrolls, active accounts. $5,472,433,714
   2. Required contributions. $120,431,939
   3. Average Rate Required. 2.201%
   4. Average estimated yield (array). 0.998%a/
   5. Adjustment factor. 2.205%

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a/ This is a calculated estimate of the average yield corresponding to wage groups.

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Taxable Wages and Tax Rates

Since 1984, the taxable wage base in Kansas for the unemployment insurance program has been the first $8,000 of wages of covered work for an individual. The federal tax base is $7,000. By public law, states must have a tax base at least equal to the federal base. Table 10 summarizes the changes in the taxable wage base from 1940. The average annual wage for covered employees is shown on Table 10 to provide a relative measure for the size of the wage base.

Total and taxable wages from 1980 to 1989 are listed on Table 11 for all covered employers and the portion attributable to contributing employers. Since 1984 there has been a decline in the percentage of taxable wages to total wages.

Tax rates for contributing employer accounts from 1980 to 1990 are on Table 12. The minimum rate applies to all contributing accounts. The maximum rate of 6.40 applies only to contributing accounts with a negative balance. Tax rates for contributing employers during the 1980's ranged from a low minimum rate of 0.05 per cent to a high maximum rate of 6.40 per cent as shown in Table 10. The lowest overall rates of the decade were during the first two years. Rates started to rise significantly in 1982 and generally peaked during 1983. The maximum rate for all employers was increased by law each year from 1981 through 1984. Though the maximum rate increased each year, the number of employers paying the maximum rate declined as the problem of "stacking" several rate groups at the maximum rate was eliminated. Various other amendments to the Kansas Employment Security Law also affected the rate computation, and rates remained high through 1985. During the latter portion of the decade, 1986-1990, little fluctuation has occurred in the tax rate. The average rate for all contributing employers spanned from 2.54 to 2.43 during the latter period. Similarly, the average tax rate for positive eligible accounts had little variation, with a range of 2.248 to 2.195.

Table 10
Taxable Wage Base
Kansas 1940 - Present

Time Period	Taxable Wage Base	Average Annual Wage, 1st Year	Wage Base as Per Cent of Average Annual Wage
1940 - 1971	$3,000	$1,201	249.8%
1972 - 1977	4,200	6,949	60.4
1978 - 1982	6,000	10,986	54.6
1983	7,000	15,750	44.4
1984 - 1989	8,000	16,547	48.3
1989a/	8,000	19,249	41.6

a/ 1989 data are provided for purposes of comparison.

Table 11
Total and Taxable Wages
Total and Contributing Employers
1980 - 1989
(000,000's)

	All Employers			Contributing Employers		
		Taxable			Taxable	
Calendar Year	Total	Amount	Per Cent of Total	Total	Amount	Per Cent of Total
1980	$11,507.7	$6,258.8	54.4%	$9,537.0	$4,313.2	45.2%
1981	12,706.3	6,593.5	51.9	10,499.2	4,409.7	42.0
1982	13,214.9	6,668.7	50.5	10,821.0	4,285.4	39.6
1983	13,751.1	7,295.9	53.1	11,232.9	4,782.5	42.6
1984	15,009.4	7,396.5	49.3	12,336.4	5,601.8	45.4
1985	15,710.7	7,261.5	46.2	12,838.5	5,616.6	43.7
1986	16,552.8	7,484.3	45.2	13,475.5	5,719.7	42.4
1987	17,386.8	7,712.5	44.4	14,178.5	5,876.3	41.4
1988	18,437.0	7,965.2	43.2	15,049.3	6,023.3	40.0
1989	19,421.5	8,294.2	42.7	15,706.1	6,220.3	39.6

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Table 12
Tax Rates of Accounts
for Contributing Employers
CY 1980 - 1990

		Maximum Rate		Average Rate	
CY	Minimum Rate	All	Positive Eligible	All	Positive Eligible 1/
1980	0.05%	3.60%	3.60%	1.92%	1.857%
1981	0.05	3.80	3.80	2.07	1.989
1982	0.06	4.30	4.30	2.49	2.420
1983	0.07a/	5.40a/	5.40a/	2.94a/	2.786a/
1984	0.06	6.40	5.13	2.87	2.567
1985	0.06	6.40	4.80	2.74	2.398
1986	0.06	6.40	4.40	2.54	2.204
1987	0.06	6.40	4.42	2.50	2.209
1988	0.05	6.40	4.40	2.48	2.195
1989	0.06	6.40	4.50	2.51	2.248
1990	0.06	6.40	4.41	2.43	2.201

1/ The average rate for positive eligible accounts is shown at the three-digit level used in the actual computation of rates.

a/ Does not include temporary 20 per cent surcharge. With surcharge; 0.08%, 6.48% 6.48%, 3.53%, and 3.343%, respectively.

SECTION FOUR
UNEMPLOYMENT INSURANCE BENEFITS

Weekly Benefit Amount (WBA)

Payments made to claimants entitled to unemployment insurance are generally known as benefits and are payable on a weekly basis. A claimant is paid a weekly benefit amount computed as 4.25 per cent of wages for the quarter of the base period with the highest amount of insured earnings. A base period is the first four of the last five completed calendar quarters. The determined weekly benefit amount has maximum and minimum limits prescribed by law. The maximum weekly benefit amount is set each fiscal year as 60 per cent of the statewide average weekly wage for the immediately preceding calendar year. The minimum is 25 per cent of the maximum. Table 13 shows the minimum, maximum, and average benefit amounts from 1980 to 1990.

Table 13
Weekly Benefit Amount
Minimum, Maximum, and Average
FY 1980 - 1990

Fiscal	Weekly Benefit Amount		
Year	Minimum	Maximum	Average
1980	$30.00	$123.00	$99.95
1981	34.00	136.00	107.99
1982	37.00	149.00	118.64
1983	40.00	163.00	129.64
1984	40.00	163.00a/	126.41
1985	43.00	175.00a/	131.87
1986	47.00	190.00a/	142.78
1987	49.00	197.00	151.75
1988	51.00	204.00	159.25
1989	52.00	210.00	161.77
1990	54.00	216.00	166.27

a/ A temporary freeze on the maximum weekly benefit amount was in effect in 1984, 1985 and 1986. The 1986 calculation was at the maximum allowable amount.

The minimum, maximum, and average weekly benefit amounts have grown steadily over the last decade except from FY 1983 to FY 1984. At that time, a temporary freeze was placed on the maximum to allow the fund balance to recover following the 1982-1983 recession. From 1980 to 1990 the minimum

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was up 80.0 per cent; the maximum, 75.6 per cent; and the average, 66.4 per cent. The average has increased at a slower rate than the maximum, in part due to a decrease in the percentage of claimants eligible for the maximum benefit. In 1980, more than 50 per cent of all claimants were eligible for the maximum payment compared to less than 40 per cent in 1990.

Benefit Entitlement and Eligibility

All determinations of entitlement and eligibility are based on an individual's employment history. To be eligible for benefits, an individual must have earned wages in two or more quarters in a base period and have had total wages in the base period of at least 30 times the individual's determined weekly benefit amount. The base period is the first four of the last five completed calendar quarters. A claimant must also satisfy a requirement of one waiting week of unemployment prior to receiving a benefit payment. Any covered wages earned during a claimed week reduces the benefit payment on a dollar-for-dollar basis.

The total amount of wages in the base period determines the potential duration or number of weeks of entitlement. This potential duration is calculated as the lessor of 26 times the weekly benefit amount, or one-third of the wages for insured work paid during the base period. A majority of claimants return to work before exhausting their entire entitlement, thus becoming ineligible for benefits. Many claimants are laid off for only a short period of time and receive only a week or two of benefits. Some are off work for only one week and satisfy the waiting period requirement but never receive benefits. As a result of these short term layoffs, a gap exists between the potential and actual duration as shown in Table 14 on the following page. Included in Table 14 is the average weekly duration of claimants who exhausted their benefit payments. The difference between the potential and actual duration tends to be fairly steady but did lessen when the actual duration increased during the 1982-1983 recessionary period.

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Table 14
Average Duration (weeks)
Potential, Actual, and Exhaustees
1980 - 1989

Calendar Year	Average Potential Duration	Average Actual Duration	
		All Claimants	Exhaustees
1980	22.9	12.8	21.3
1981	22.6	13.7	21.7
1982	23.1	15.2	21.7
1983	22.5	16.7	22.0
1984	22.5	12.8	21.3
1985	22.6	12.7	21.1
1986	22.7	13.8	21.5
1987	22.6	14.6	22.0
1988	22.6	13.2	21.5
1989	22.8	13.5	21.4

Annual Trend in Benefit Payments

In the last decade, a total of approximately $1.5B was paid in unemployment insurance benefits to workers covered by the regular state program of the Kansas Employment Security Law. The total amount of annual benefits is dependent on several factors. The most significant is the number of individuals claiming unemployment insurance benefits, as measured by the insured unemployment rate. Other major factors include the average duration of unemployment and the average weekly benefit amount. Table 15 on the following page lists the annual benefit amounts from 1980 to 1989 and factors which influence the total amount.

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During the last 10 completed calendar years, the highest annual benefit outlay occurred during 1982. This was a direct result of the 4.1 average insured unemployment rate, the highest rate of the 1980's. The average duration did not peak until the following year. In 1983, claimants drew benefit payments an average of 16.7 weeks. The average weekly benefit amount grew over the period with the exception of 1982-1984. During portions of 1982-1984 a freeze was in effect on the maximum weekly benefit amount. This was the major reason the average weekly benefit amount shows little change during these three years.

Table 15
Selected Statistics of Insured Workers
CY 1980 - 1989

Year	Total Benefits	Covered Employees	Average Insured Unemployment Rate	Average Duration (weeks)	Average Benefit Amount
1980	$117,679,850	889,498	2.6%	12.8	$104.31
1981	112,339,532	896,805	2.3	13.7	111.24
1982	217,803,226	873,058	4.1	15.2	126.09
1983	165,894,893	873,067	3.1	16.7	128.65
1984	112,824,942	910,118	2.1	12.8	127.02
1985	139,744,391	917,273	2.4	12.7	136.45
1986	168,446,515	932,274	2.6	13.8	147.42
1987	166,061,153	951,861	2.4	14.6	156.26
1988	148,872,693	980,856	2.0	13.2	159.24
1989	153,437,954	1,007,399	2.0	13.5	164.12

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A measure which is used to gauge the replacement of regular wages with unemployment insurance benefits is a comparison of the average weekly benefit amount to the average weekly wage. This comparison is shown as a percentage on Table 16. The range of replacement of wages with benefits was 39.9 per cent to 44.5 per cent during 1980 to 1989. In 1984 the largest deviation occurred; a freeze on the maximum weekly benefit amount was a contributing factor.

Table 16
Average Weekly Benefit Amount
and Average Weekly Wage
CY 1980 - 1989

Year	Average Weekly Benefit Amount (WBA)	Average Weekly Wage 1/	Per Cent of Average WBA to Average Weekly Wage	Annual Change of Per Cent
1980	$104.31	$248.79	41.9%	---
1981	111.24	272.47	40.8	-1.1%
1982	126.09	291.08	43.3	2.5
1983	128.65	302.89	42.5	-0.8
1984	127.02	318.22	39.9	-2.6
1985	136.45	329.37	41.4	1.5
1986	147.42	341.45	43.2	1.8
1987	156.26	351.27	44.5	1.3
1988	159.24	361.57	44.0	-0.5
1989	164.12	370.75	44.3	0.3

1/ The average weekly wage calculation, according to K.S.A. 44-704(c) is for a 12-month period commencing July 1 of each year. The average weekly wage is computed by dividing gross wages for insured work during the calendar year prior to the calculation date by the product of the average of mid-month employment during the calendar year multiplied by 52. For example, for state fiscal year 1990 which commenced July 1, 1989, calendar year 1988 data was used to derive the average weekly wage.

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Charged and Noncharged Benefits

Unemployment insurance benefits paid to claimants are generally chargeable to the account of former employers. These charges are in proportion to the wages paid to the claimant by base period employers. Under various circumstances an employer's reserve account is not charged. Table 17 breaks out benefit payments by the amount charged and noncharged by fiscal year. Benefits which are not charged to specific employer accounts must be financed by all employers on a socialized basis. The following types of benefits are not charged to an individual employer's account:

1. The claimant was discharged for misconduct or gross misconduct connected with the individual's work.
2. The claimant left work voluntarily without good cause attributable to the claimant's work or the employer.
3. The claimant was a part-time employee prior to filing for benefits and continued in that part-time employment during the period for which benefits are paid.
4. Extended benefits.
5. Benefits paid during a period an individual is pursuing an approved training course.

Table 17
Benefit Payments
Charged and Noncharged
FY 1980 - 1989

Fiscal Year	Total 1/	Charged Amount	Charged Per Cent	Noncharged Amount	Noncharged Per Cent
1980	$83,997,032	$51,310,673	61.1%	$32,686,359	38.9%
1981	123,151,200	77,155,986	62.7	45,995,214	37.3
1982	140,127,784	100,132,372	71.5	39,995,412	28.5
1983	221,152,936	181,641,591	82.1	39,511,345	17.9
1984	125,969,962	90,159,651	71.6	35,810,311	28.4
1985	117,471,928	91,684,747	78.0	25,787,181	22.0
1986	143,570,463	117,310,717	81.7	26,259,746	18.3
1987	160,484,767	136,764,325	85.2	23,720,442	14.8
1988	146,151,230	126,109,027	86.3	20,042,203	13.7
1989	137,361,679	116,766,687	85.0	20,594,992	15.0

1/ Extended benefits were paid in 1981-1985. The $21,708,859 of extended benefits is not included in the total.