

**As Amended by House Committee**

---

*Session of 2012*

**HOUSE BILL No. 2638**

By Committee on Commerce and Economic Development

2-6

---

1 AN ACT concerning the employment security law; pertaining to the state  
2 employee security advisory council; pertaining to benefits; pertaining  
3 to notice for experience ratings; pertaining to rates; amending K.S.A.  
4 2011 Supp. 44-704, 44-710a, 44-710b and 44-714 and repealing the  
5 existing sections.  
6

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

8 Section 1. K.S.A. 2011 Supp. 44-704 is hereby amended to read as  
9 follows: 44-704. (a) Payment of benefits. All benefits provided herein shall  
10 be payable from the fund. All benefits shall be paid through the secretary  
11 of labor, in accordance with such rules and regulations as the secretary  
12 may adopt. Benefits based on service in employment defined in  
13 subsections (i)(3)(E) and (i)(3)(F) of K.S.A. 44-703, and amendments  
14 thereto, shall be payable in the same amount, on the same terms and  
15 subject to the same conditions as compensation payable on the basis of  
16 other service subject to this act except as provided in subsection (e) of  
17 K.S.A. 44-705 and subsection (e)(2) of K.S.A. 44-711, and amendments  
18 thereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (h) (1) *Notwithstanding any other provisions of this section to the*  
37 *contrary, if the claimant has received a single lump-sum amount which is*  
38 *attributed to separation or severance pay, then the claimant's benefits*  
39 *shall be postponed for the number of weeks as determined in paragraph*  
40 *(2) after the week in which such separation or severance pay is received.*

41 ~~(2) (A) The lump-sum amount of separation pay or severance pay~~  
42 ~~received shall be divided by the amount of claimant's base period wages to~~  
43 ~~determine the number of weeks benefits shall be delayed.~~

1        ~~(b) If the result of the calculation in subparagraph (A) is not a whole~~  
2 ~~number of weeks, the result shall be rounded up to the next whole number~~  
3 ~~of weeks.~~ **On forms required by the secretary, the employer shall**  
4 **report to the secretary the lump-sum amount of severance pay or**  
5 **separation pay received by the employee and the number of weeks**  
6 **such lump-sum payment represents in reference to the employee's**  
7 **gross weekly wage or gross weekly salary.**

8        Sec. 2. K.S.A. 2011 Supp. 44-710a is hereby amended to read as  
9 follows: 44-710a. (a) Classification of employers by the secretary. The  
10 term "employer" as used in this section refers to contributing employers.  
11 The secretary shall classify employers in accordance with their actual  
12 experience in the payment of contributions on their own behalf and with  
13 respect to benefits charged against their accounts with a view of fixing  
14 such contribution rates as will reflect such experience. If, as of the date  
15 such classification of employers is made, the secretary finds that any  
16 employing unit has failed to file any report required in connection  
17 therewith, or has filed a report which the secretary finds incorrect or  
18 insufficient, the secretary shall make an estimate of the information  
19 required from such employing unit on the basis of the best evidence  
20 reasonably available to the secretary at the time, and notify the employing  
21 unit thereof by mail addressed to its last known address. Unless such  
22 employing unit shall file the report or a corrected or sufficient report as  
23 the case may be, within 15 days after the mailing of such notice, the secretary  
24 shall compute such employing unit's rate of contributions on the basis of  
25 such estimates, and the rate as so determined shall be subject to increase  
26 but not to reduction on the basis of subsequently ascertained information.  
27 The secretary shall determine the contribution rate of each employer in  
28 accordance with the requirements of this section.

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

33        (B) (i) ~~(a) For the rate year 2007 and each rate year thereafter years~~  
34 ~~2007 through 2012~~ **2013**, each employer who is not eligible for a rate  
35 contribution shall pay contributions equal to 4% of wages paid during each  
36 calendar year with regard to employment except such employers engaged  
37 in the construction industry shall pay a rate equal to 6%.

38        ~~(b) For the rate year 2013 2014 and each rate year thereafter, except~~  
39 ~~as provided in subclause (c), each employer who is not eligible for a rate~~  
40 ~~contribution shall pay contributions equal to 4% of wages paid during~~  
41 ~~each calendar year with regard to employment except such employers~~  
42 ~~engaged in the construction industry shall pay a rate equal to 6%.~~

43        ~~(c) For the rate year 2013 2014 and each rate year thereafter, except~~

1 *for the construction industry, each employer who starts a new business*  
2 *and who is not eligible for a rate contribution shall pay contributions*  
3 *equal to 2.7% of wages paid during each calendar year with regard to*  
4 *employment.*

5 (ii) For rate years prior to 2007, employers who are not eligible for a  
6 rate computation shall pay contributions at an assigned rate equal to the  
7 sum of 1% plus the greater of the average rate assigned in the preceding  
8 calendar year to all employers in such industry sector or the average rate  
9 assigned to all covered employers during the preceding calendar year,  
10 except that in no instance shall any such assigned rate be less than 2%.  
11 Employers engaged in more than one type of industrial activity shall be  
12 classified by principal activity. All rates assigned will remain in effect for a  
13 complete calendar year. If the sale or acquisition of a new establishment  
14 would require reclassification of the employer to a different industry  
15 sector, the employer would be promptly notified, and the contribution rate  
16 applicable to the new industry sector would become effective the  
17 following January 1.

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

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

29 (2) Eligible employers. (A) A reserve ratio shall be computed for each  
30 eligible employer by the following method: Total benefits charged to the  
31 employer's account for all past years shall be deducted from all  
32 contributions paid by such employer for all such years. The balance,  
33 positive or negative, shall be divided by the employer's average annual  
34 payroll, and the result shall constitute the employer reserve ratio.

35 (B) Negative account balance employers as defined in subsection (d)  
36 shall pay contributions at the rate of 5.4% for each calendar year.

37 (C) Eligible employers, other than negative account balance  
38 employers, who do not meet the average annual payroll requirements as  
39 stated in subsection (a)(2) of K.S.A. 44-703, and amendments thereto, will  
40 be issued the maximum rate indicated in subsection (a)(3)(C) of this  
41 section until such employer establishes a new period of 24 consecutive  
42 calendar months immediately preceding the computation date throughout  
43 which benefits could have been charged against such employer's account

1 by resuming the payment of wages. Contribution rates effective for each  
 2 calendar year thereafter shall be determined as prescribed below.

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

32 SCHEDULE I—Eligible Employers

33 Column A	Column B	Column C
34 Rate	Cumulative	Experience factor
35 group	taxable payroll	(Ratio to total wages)
36 1	Less than 1.96% .....	.025%
37 2	1.96% but less than 3.92 .....	.40
38 3	3.92 but less than 5.88 .....	.80
39 4	5.88 but less than 7.84 .....	.12
40 5	7.84 but less than 9.80 .....	.16
41 6	9.80 but less than 11.76 .....	.20
42 7	11.76 but less than 13.72 .....	.24
43 8	13.72 but less than 15.68 .....	.28

1	9	15.68 but less than 17.64 .....	.32
2	10	17.64 but less than 19.60 .....	.36
3	11	19.60 but less than 21.56 .....	.40
4	12	21.56 but less than 23.52 .....	.44
5	13	23.52 but less than 25.48 .....	.48
6	14	25.48 but less than 27.44 .....	.52
7	15	27.44 but less than 29.40 .....	.56
8	16	29.40 but less than 31.36 .....	.60
9	17	31.36 but less than 33.32 .....	.64
10	18	33.32 but less than 35.28 .....	.68
11	19	35.28 but less than 37.24 .....	.72
12	20	37.24 but less than 39.20 .....	.76
13	21	39.20 but less than 41.16 .....	.80
14	22	41.16 but less than 43.12 .....	.84
15	23	43.12 but less than 45.08 .....	.88
16	24	45.08 but less than 47.04 .....	.92
17	25	47.04 but less than 49.00 .....	.96
18	26	49.00 but less than 50.96 .....	1.00
19	27	50.96 but less than 52.92 .....	1.04
20	28	52.92 but less than 54.88 .....	1.08
21	29	54.88 but less than 56.84 .....	1.12
22	30	56.84 but less than 58.80 .....	1.16
23	31	58.80 but less than 60.76 .....	1.20
24	32	60.76 but less than 62.72 .....	1.24
25	33	62.72 but less than 64.68 .....	1.28
26	34	64.68 but less than 66.64 .....	1.32
27	35	66.64 but less than 68.60 .....	1.36
28	36	68.60 but less than 70.56 .....	1.40
29	37	70.56 but less than 72.52 .....	1.44
30	38	72.52 but less than 74.48 .....	1.48
31	39	74.48 but less than 76.44 .....	1.52
32	40	76.44 but less than 78.40 .....	1.56
33	41	78.40 but less than 80.36 .....	1.60
34	42	80.36 but less than 82.32 .....	1.64
35	43	82.32 but less than 84.28 .....	1.68
36	44	84.28 but less than 86.24 .....	1.72
37	45	86.24 but less than 88.20 .....	1.76
38	46	88.20 but less than 90.16 .....	1.80
39	47	90.16 but less than 92.12 .....	1.84
40	48	92.12 but less than 94.08 .....	1.88
41	49	94.08 but less than 96.04 .....	1.92
42	50	96.04 but less than 98.00 .....	1.96
43	51	98.00 and over .....	2.00

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

22 (i) For each calendar year 2012, 2013 and 2014, an additional 0.10%  
23 of the taxable wages paid by all negative account balance employers with  
24 a negative reserve ratio between 0.0% and 19.9% shall be designated an  
25 interest assessment surcharge and paid into the employment security  
26 interest assessment fund for the purpose of paying interest due and owing  
27 on funds received from the federal unemployment account under title XII  
28 of the social security act. The total surcharges assessed, including the  
29 additional 0.10% surcharge mentioned above, on such employers are listed  
30 in schedule II column B2. For the calendar year 2015, and each calendar  
31 year thereafter, the surcharge rate for negative balance employers with a  
32 negative reserve ratio between 0.0% and 19.9% shall be as listed in  
33 schedule II column B1.

34 (ii) For the calendar year 2012, and each calendar year thereafter, an  
35 additional surcharge on negative balance employers with negative reserve  
36 ratio of 20.0% and higher shall be designated an interest assessment  
37 surcharge and deposited in the employment security interest assessment  
38 fund. The additional surcharge shall be used for the purposes of paying  
39 interest due and owing on fund received from the federal unemployment  
40 account under title XII of the social security act. The total surcharge  
41 including the additional surcharge on such employers is listed in schedule  
42 II column B3 of this section.

43 (iii) For any succeeding year in which interest is due and owing on



1 funds received from the federal unemployment account under title XII of  
 2 the social security act, the secretary of labor may adjust the surcharge  
 3 amounts necessary to pay such interest;

4 (iv) the portion of such surcharge used for the payment of such  
 5 interest shall not be included in the calculation of such employers reserve  
 6 ratio pursuant to subsection (a)(2). The portion of such surcharge used for  
 7 the payment of principal shall be included in the calculation of such  
 8 employers reserve ratio pursuant to subsection (a)(2); and

9 (v) if the amounts collected under this subsection are in excess of the  
 10 amounts needed to pay interest due, the amounts in excess shall remain in  
 11 the employment security interest assessment fund to be used to pay interest  
 12 in future years. Whenever the secretary certifies all interest payments have  
 13 been paid pursuant to this section, any excess funds remaining in the  
 14 employment security interest assessment fund shall be transferred to the  
 15 employment security trust fund for the purpose of paying any remaining  
 16 principal amount due for advances described in this section. In the event  
 17 that the amount transferred from the employment security interest  
 18 assessment fund exceeds such remaining amount of principal due, the  
 19 balance shall be used for the purposes of the employment security trust  
 20 fund.

21 SCHEDULE II—Surcharge on Negative Accounts

22 Column A	Column B1	Column B2	ColumnB3
23 Negative Reserve	Surcharge as a	Surcharge as a	Surcharge as a
24 Ratio	percent of	percent of	percent of
	taxable wages	taxable wages	taxable wages
26 Less than 2.0%.....	0.20%.....	0.30%	
27 2.0% but less than 4.0.....	0.40.....	0.50	
28 4.0 but less than 6.0.....	0.60.....	0.70	
29 6.0 but less than 8.0.....	0.80.....	0.90	
30 8.0 but less than 10.0.....	1.00.....	1.10	
31 10.0 but less than 12.0.....	1.20.....	1.30	
32 12.0 but less than 14.0.....	1.40.....	1.50	
33 14.0 but less than 16.0.....	1.60.....	1.70	
34 16.0 but less than 18.0.....	1.80.....	1.90	
35 18.0 but less than 20.0.....	2.00.....	2.10	
36 20.0 but less than 22.0.....	2.00.....		2.20
37 22.0 but less than 24.0.....	2.00.....		2.40
38 24.0 but less than 26.0.....	2.00.....		2.60
39 26.0 but less than 28.0.....	2.00.....		2.80
40 28.0 but less than 30.0.....	2.00.....		3.00
41 30.0 but less than 32.0.....	2.00.....		3.20
42 32.0 but less than 34.0.....	2.00.....		3.40
43 34.0 but less than 36.0.....	2.00.....		3.60

1	36.0 but less than 38.0.....	2.00.....	3.80
2	38.0 and over.....	2.00.....	4.00

3 (3) Planned yield. (A) The average required yield shall be determined  
 4 from schedule III of this section, and the planned yield on total wages in  
 5 column B of schedule III shall be determined by the reserve fund ratio in  
 6 column A of schedule III. The reserve fund ratio shall be determined by  
 7 dividing total assets in the employment security fund provided for in  
 8 subsection (a) of K.S.A. 44-712, and amendments thereto, excluding all  
 9 moneys credited to the account of this state pursuant to section 903 of the  
 10 federal social security act, as amended, which have been appropriated by  
 11 the state legislature, whether or not withdrawn from the trust fund, and  
 12 excluding contributions not yet paid on July 31 by total payrolls for  
 13 contributing employers for the preceding fiscal year which ended June 30.

14 SCHEDULE III—Fund Control

15 Ratios to Total Wages

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

1	3.700 but less than 3.750.....	0.26
2	3.650 but less than 3.700.....	0.27
3	3.600 but less than 3.650.....	0.28
4	3.550 but less than 3.600.....	0.29
5	3.500 but less than 3.550.....	0.30
6	3.450 but less than 3.500.....	0.31
7	3.400 but less than 3.450.....	0.32
8	3.350 but less than 3.400.....	0.33
9	3.300 but less than 3.350.....	0.34
10	3.250 but less than 3.300.....	0.35
11	3.200 but less than 3.250.....	0.36
12	3.150 but less than 3.200.....	0.37
13	3.100 but less than 3.150.....	0.38
14	3.050 but less than 3.100.....	0.39
15	3.000 but less than 3.050.....	0.40
16	2.950 but less than 3.000.....	0.41
17	2.900 but less than 2.950.....	0.42
18	2.850 but less than 2.900.....	0.43
19	2.800 but less than 2.850.....	0.44
20	2.750 but less than 2.800.....	0.45
21	2.700 but less than 2.750.....	0.46
22	2.650 but less than 2.700.....	0.47
23	2.600 but less than 2.650.....	0.48
24	2.550 but less than 2.600.....	0.49
25	2.500 but less than 2.550.....	0.50
26	2.450 but less than 2.500.....	0.51
27	2.400 but less than 2.450.....	0.52
28	2.350 but less than 2.400.....	0.53
29	2.300 but less than 2.350.....	0.54
30	2.250 but less than 2.300.....	0.55
31	2.200 but less than 2.250.....	0.56
32	2.150 but less than 2.200.....	0.57
33	2.100 but less than 2.150.....	0.58
34	2.050 but less than 2.100.....	0.59
35	2.000 but less than 2.050.....	0.60
36	1.975 but less than 2.000.....	0.61
37	1.950 but less than 1.975.....	0.62
38	1.925 but less than 1.950.....	0.63
39	1.900 but less than 1.925.....	0.64
40	1.875 but less than 1.900.....	0.65
41	1.850 but less than 1.875.....	0.66
42	1.825 but less than 1.850.....	0.67
43	1.800 but less than 1.825.....	0.68

1	1.775 but less than 1.800.....	0.69
2	1.750 but less than 1.775.....	0.70
3	1.725 but less than 1.750.....	0.71
4	1.700 but less than 1.725.....	0.72
5	1.675 but less than 1.700.....	0.73
6	1.650 but less than 1.675.....	0.74
7	1.625 but less than 1.650.....	0.75
8	1.600 but less than 1.625.....	0.76
9	1.575 but less than 1.600.....	0.77
10	1.550 but less than 1.575.....	0.78
11	1.525 but less than 1.550.....	0.79
12	1.500 but less than 1.525.....	0.80
13	1.475 but less than 1.500.....	0.81
14	1.450 but less than 1.475.....	0.82
15	1.425 but less than 1.450.....	0.83
16	1.400 but less than 1.425.....	0.84
17	1.375 but less than 1.400.....	0.85
18	1.350 but less than 1.375.....	0.86
19	1.325 but less than 1.350.....	0.87
20	1.300 but less than 1.325.....	0.88
21	1.275 but less than 1.300.....	0.89
22	1.250 but less than 1.275.....	0.90
23	1.225 but less than 1.250.....	0.91
24	1.200 but less than 1.225.....	0.92
25	1.175 but less than 1.200.....	0.93
26	1.150 but less than 1.175.....	0.94
27	1.125 but less than 1.150.....	0.95
28	1.100 but less than 1.125.....	0.96
29	1.075 but less than 1.100.....	0.97
30	1.050 but less than 1.075.....	0.98
31	1.025 but less than 1.050.....	0.99
32	1.000 but less than 1.025.....	1.00
33	0.900 but less than 1.000.....	1.01
34	0.800 but less than 0.900.....	1.02
35	0.700 but less than 0.800.....	1.03
36	0.600 but less than 0.700.....	1.04
37	0.500 but less than 0.600.....	1.05
38	0.400 but less than 0.500.....	1.06
39	0.300 but less than 0.400.....	1.07
40	0.200 but less than 0.300.....	1.08
41	0.100 but less than 0.200.....	1.09
42	Less than 0.100%.....	1.10

43 (B) Adjustment to taxable wages. The planned yield as a percent of

1 total wages, as determined in this subsection (a)(3), shall be adjusted to  
2 taxable wages by multiplying by the ratio of total wages to taxable wages  
3 for all contributing employers for the preceding fiscal year ending June 30,  
4 except, with regard to a year in which the taxable wage base changes. The  
5 taxable wages used in the calculation for such a year and the following  
6 year shall be an estimate of what the taxable wages would have been if the  
7 new taxable wage base had been in effect during all of the preceding fiscal  
8 year ending June 30.

9 (C) Effective rates. (i) Except with regard to rates for negative  
10 account balance employers, employer contribution rates to be effective for  
11 the ensuing calendar year shall be computed by adjusting proportionately  
12 the experience factors from schedule I of this section to the required yield  
13 on taxable wages. For the purposes of this subsection (a)(3), all rates  
14 computed shall be rounded to the nearest .01% and for calendar year 1983  
15 and ensuing calendar years, the maximum effective contribution rate shall  
16 not exceed 5.4%.

17 (ii) For rate year 2007 and subsequent rate years, employers who are  
18 current in filing quarterly wage reports and in payment of all contributions  
19 due and owing, shall be issued a contribution rate based upon the  
20 following reduction: for rate groups 1 through 5, the rates would be  
21 reduced to 0.00%; for rate groups 6 through 28, the rates would be reduced  
22 by 50%; for rate groups 29 through 51, the rates would be reduced by  
23 40%.

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

28 (iv) In order to be eligible for the reduced rates for rate year ~~2008 and~~  
29 ~~subsequent rate years~~ *years 2008 through 2012* **2013**, employers must file  
30 all reports due and pay all contributions due and owing on or before  
31 January 31 of the applicable year, except that the reduced rates for  
32 otherwise eligible employers shall not be effective for any rate year if the  
33 average high cost multiple of the employment security trust fund balance  
34 falls below 1.2 as of the computation date of that year's rates. *In order to*  
35 *be eligible for the reduced rates for rate year 2013* **2014** *and subsequent*  
36 *rate years, employers must file all reports due and pay all contributions*  
37 *due and owing on or before January 31 of the applicable year, except that*  
38 *the reduced rates for otherwise eligible employers shall not be effective for*  
39 *any rate year if the average high cost multiple of the employment security*  
40 *trust fund balance falls below 1.0 as of the computation date of that year's*  
41 *rates.* For the purposes of this provision, the average high cost multiple is  
42 the reserve fund ratio, as defined by subsection (a)(3)(A), divided by the  
43 average high benefit cost rate. The average high benefit cost rate shall be

1 determined by averaging the three highest benefit cost rates over the last  
2 20 years from the preceding fiscal year which ended June 30. The high  
3 benefit cost rate is defined by dividing total benefits paid in the fiscal year  
4 by total payrolls for covered employers in the fiscal year.

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

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

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

35 (3) Whenever an employing unit, whether or not it is an "employing  
36 unit" within the meaning of subsection (g) of K.S.A. 44-703, and  
37 amendments thereto, acquires or in any manner succeeds to a percentage  
38 of an employer's annual payroll which is less than 100% and intends to  
39 continue the acquired percentage as a going business, the employing unit  
40 may acquire the same percentage of the predecessor's experience factors if:  
41 (A) The predecessor employer and successor employing unit make an  
42 application in writing on the form prescribed by the secretary; (B) the  
43 application is submitted within 120 days of the date of the transfer; (C)

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

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

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

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

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

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

41 (6) Whenever an employer's account has been terminated as provided  
42 in subsections (d) and (e) of K.S.A. 44-711, and amendments thereto, and  
43 the employer continues with employment to liquidate the business

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

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

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

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

42 (e) There is hereby established in the state treasury, separate and apart  
43 from all public moneys or funds of this state, an employment security



1 interest assessment fund, which shall be administered by the secretary as  
2 provided in this act. Moneys in the employment security fund established  
3 by K.S.A. 44-712, and amendments thereto, and employment security  
4 interest assessment fund established by 44-710, and amendments thereto,  
5 shall not be invested in the pooled money investment portfolio established  
6 under K.S.A. 75-4234, and amendments thereto. Notwithstanding the  
7 provisions of subsection (a) of K.S.A. 44-712, K.S.A. 44-716, K.S.A. 44-  
8 717 and K.S.A. 75-4234, and amendments thereto, or any like provision  
9 the secretary shall remit all moneys received from employers pursuant to  
10 the interest payment assessment established in section (a)(2)(E), and  
11 amendments thereto, to the state treasurer in accordance with the  
12 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
13 each such remittance, the state treasurer shall deposit the entire amount in  
14 the employment security interest assessment fund. All moneys in this fund  
15 which are received from employers pursuant to the interest payment  
16 assessment established in section (a)(2)(E), and amendments thereto, shall  
17 be expended solely for the purposes and in the amounts found by the  
18 secretary necessary to pay any principal and interest due and owing the  
19 United States department of labor resulting from any advancements made  
20 to the Kansas employment security fund pursuant to the provisions of title  
21 XII of the social security act (42 U.S.C. §§ 1321 to 1324) except as may  
22 be otherwise provided under section (a)(2)(E), and amendments thereto.  
23 Notwithstanding any provision of this section, all moneys received and  
24 credited to this fund pursuant to section (a)(2)(E), and amendments  
25 thereto, pursuant to section (a)(2)(E), and amendments thereto, shall  
26 remain part of the employment security interest assessment fund and shall  
27 be used only in accordance with the conditions specified in section (a)(2)  
28 (E), and amendments thereto.

29 (f) The secretary of labor shall annually prepare and submit a  
30 certification as to the solvency and adequacy of the amount credited to the  
31 state of Kansas' account in the federal employment security trust fund to  
32 the governor ~~and the employment security advisory council~~. The  
33 certification shall be submitted on or before December 1 of each calendar  
34 year and shall be for the ~~12-month~~ *twelve-month* period ending on June 30  
35 of that calendar year. In arriving at the certification contributions paid on  
36 or before July 31 following the ~~12-month~~ *twelve-month* period ending date  
37 of June 30 shall be considered. Each certification shall be used to  
38 determine the need for any adjustment to schedule III in subsection (a)(3)  
39 (A) and to assist in preparing legislation to accomplish any such  
40 adjustment.

41 Sec. 3. K.S.A. 2011 Supp. 44-710b is hereby amended to read as  
42 follows: 44-710b. (a) By the secretary of labor. The secretary of labor shall  
43 promptly notify each contributing employer of its rate of contributions,

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

27 (b) Judicial review. Any action of the secretary upon an employer's  
28 timely request for a review and redetermination of its rate of contributions  
29 or benefit liability, in accordance with subsection (a), is subject to review  
30 in accordance with the Kansas judicial review act. Any action for such  
31 review shall be heard in a summary manner and shall be given precedence  
32 over all other civil cases except cases arising under subsection (i) of  
33 K.S.A. 44-709, and amendments thereto, and the workmen's compensation  
34 act.

35 (c) Periodic notification of benefits charged. The secretary of labor  
36 may provide by rules and regulations for periodic notification to  
37 employers of benefits paid and chargeable to their accounts or of the status  
38 of such accounts, and any such notification, in the absence of an  
39 application for redetermination filed in such manner and within such  
40 period as the secretary of labor may prescribe, shall become conclusive  
41 and binding upon the employer for all purposes. Such redeterminations,  
42 made after notice and opportunity for hearing, and the secretary's findings  
43 of facts in connection therewith may be introduced in any subsequent

1 administrative or judicial proceedings involving the determination of the  
2 rate of contributions of any employer for any calendar year and shall be  
3 entitled to the same finality as is provided in this subsection with respect to  
4 the findings of fact made by the secretary of labor in proceedings to  
5 redetermine the contribution rate of an employer. The review or any other  
6 proceedings relating thereto as provided for in this section may be heard  
7 by any duly authorized employee of the secretary of labor and such action  
8 shall have the same effect as if heard by the secretary.

9 Sec. 4. K.S.A. 2011 Supp. 44-714 is hereby amended to read as  
10 follows: 44-714. (a) Duties and powers of secretary. It shall be the duty of  
11 the secretary to administer this act and the secretary shall have power and  
12 authority to adopt, amend or revoke such rules and regulations, to employ  
13 such persons, make such expenditures, require such reports, make such  
14 investigations, and take such other action as the secretary deems necessary  
15 or suitable to that end. Such rules and regulations may be adopted,  
16 amended, or revoked by the secretary only after public hearing or  
17 opportunity to be heard thereon. The secretary shall determine the  
18 organization and methods of procedure in accordance with the provisions  
19 of this act, and shall have an official seal which shall be judicially noticed.  
20 The secretary shall make and submit reports for the administration of the  
21 employment security law in the manner prescribed by K.S.A. 75-3044 to  
22 75-3046, inclusive, and 75-3048, and amendments thereto. Whenever the  
23 secretary believes that a change in contribution or benefit rates will  
24 become necessary to protect the solvency of the fund, the secretary shall  
25 promptly so inform the governor and the legislature, and make  
26 recommendations with respect thereto.

27 (b) Publication. The secretary shall cause to be printed for  
28 distribution to the public the text of this act, the secretary's rules and  
29 regulations and any other material the secretary deems relevant and  
30 suitable and shall furnish the same to any person upon application therefor.

31 (c) Personnel. (1) Subject to other provisions of this act, the secretary  
32 is authorized to appoint, fix the compensation, and prescribe the duties and  
33 powers of such officers, accountants, deputies, attorneys, experts and other  
34 persons as may be necessary in carrying out the provisions of this act. The  
35 secretary shall classify all positions and shall establish salary schedules  
36 and minimum personnel standards for the positions so classified. The  
37 secretary shall provide for the holding of examinations to determine the  
38 qualifications of applicants for the positions so classified, and, except to  
39 temporary appointments not to exceed six months in duration, shall  
40 appoint all personnel on the basis of efficiency and fitness as determined in  
41 such examinations. The secretary shall not appoint or employ any person  
42 who is an officer or committee member of any political party organization  
43 or who holds or is a candidate for a partisan elective public office. The

1 secretary shall adopt and enforce fair and reasonable rules and regulations  
2 for appointment, promotions and demotions, based upon ratings of  
3 efficiency and fitness and for terminations for cause. The secretary may  
4 delegate to any such person so appointed such power and authority as the  
5 secretary deems reasonable and proper for the effective administration of  
6 this act, and may in the secretary's discretion bond any person handling  
7 moneys or signing checks under the employment security law.

8 (2) No employee engaged in the administration of the employment  
9 security law shall directly or indirectly solicit or receive or be in any  
10 manner concerned with soliciting or receiving any assistance, subscription  
11 or contribution for any political party or political purpose, other than  
12 soliciting and receiving contributions for such person's personal campaign  
13 as a candidate for a nonpartisan elective public office, nor shall any  
14 employee engaged in the administration of the employment security law  
15 participate in any form of political activity except as a candidate for a  
16 nonpartisan elective public office, nor shall any employee champion the  
17 cause of any political party or the candidacy of any person other than such  
18 person's own personal candidacy for a nonpartisan elective public office.  
19 Any employee engaged in the administration of the employment security  
20 law who violates these provisions shall be immediately discharged. No  
21 person shall solicit or receive any contribution for any political purpose  
22 from any employee engaged in the administration of the employment  
23 security law and any such action shall be a misdemeanor and shall be  
24 punishable by a fine of not less than \$100 nor more than \$1,000 or by  
25 imprisonment in the county jail for not less than 30 days nor more than six  
26 months, or both.

27 ~~(d) Advisory councils. The secretary shall appoint a state employment~~  
28 ~~security advisory council and may appoint local advisory councils,~~  
29 ~~composed in each case of men and women which shall include an equal~~  
30 ~~number of employer representatives and employee representatives who~~  
31 ~~may fairly be regarded as representative because of their vocation,~~  
32 ~~employment, or affiliations, and of such members representing the general~~  
33 ~~public as the secretary may designate. Each such member shall serve a~~  
34 ~~four-year term. On July 1, 1996, the secretary shall designate term lengths~~  
35 ~~for seated members of the council. One-half of the seated members~~  
36 ~~representing employers, 1/2 of the seated members representing employees~~  
37 ~~and 1/2 of the members representing the general public shall be designated~~  
38 ~~by the secretary to serve two-year terms. The remaining seated members of~~  
39 ~~the council shall be designated to serve four-year terms. When the term of~~  
40 ~~any member expires, the secretary shall appoint the member's successor to~~  
41 ~~a four-year term. If a position on the council becomes vacant prior to the~~  
42 ~~expiration of the vacating member's term, the secretary may appoint an~~  
43 ~~otherwise qualified individual to fulfill the remainder of such unexpired~~

1 ~~term. Such councils shall aid the secretary in formulating policies and~~  
2 ~~discussing problems related to the administration of this act and in~~  
3 ~~securing impartiality and freedom from political influence in the solution~~  
4 ~~of such problems. Members of the state employment security advisory~~  
5 ~~council attending meetings of such council, or attending a subcommittee~~  
6 ~~meeting thereof authorized by such council, shall be paid amounts~~  
7 ~~provided in subsection (e) of K.S.A. 75-3223 and amendments thereto.~~  
8 ~~Service on the state employment security advisory council shall not in and~~  
9 ~~of itself be sufficient to cause any member of the state employment~~  
10 ~~security advisory council to be classified as a state officer or employee.~~

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

23 (f) (e) Records and reports. Each employing unit shall keep true and  
24 accurate work records, containing such information as the secretary may  
25 prescribe. Such records shall be open to inspection and subject to being  
26 copied by the secretary or the secretary's authorized representatives at any  
27 reasonable time and shall be preserved for a period of five years from the  
28 due date of the contributions or payments in lieu of contributions for the  
29 period to which they relate. Only one audit shall be made of any  
30 employer's records for any given period of time. Upon request the  
31 employing unit shall be furnished a copy of all findings by the secretary or  
32 the secretary's authorized representatives, resulting from such audit. A  
33 special inquiry or special examination made for a specific and limited  
34 purpose shall not be considered to be an audit for the purpose of this  
35 subsection. The secretary may require from any employing unit any sworn  
36 or unsworn reports, with respect to persons employed by it, which the  
37 secretary deems necessary for the effective administration of this act.  
38 Information thus obtained or obtained from any individual pursuant to the  
39 administration of this act shall be held confidential, except to the extent  
40 necessary for the proper presentation of a claim by an employer or  
41 employee under the employment security law, and shall not be published  
42 or be open to public inspection, other than to public employees in the  
43 performance of their public duties, in any manner revealing the

1 individual's or employing unit's identity. Any claimant or employing unit  
2 or their representatives at a hearing before an appeal tribunal or the  
3 secretary shall be supplied with information from such records to the  
4 extent necessary for the proper presentation of the claim. The transcript  
5 made at any such benefits hearing shall not be discoverable or admissible  
6 in evidence in any other proceeding, hearing or determination of any kind  
7 or nature. In the event of any appeal of a benefits matter, the transcript  
8 shall be sealed by the hearing officer and shall be available only to any  
9 reviewing authority who shall reseal the transcript after making a review  
10 of it. In no event shall such transcript be deemed a public record. Nothing  
11 in this subsection (~~†~~) (e) shall be construed to prohibit disclosure of any  
12 information obtained under the employment security law, including  
13 hearing transcripts, upon request of either of the parties, for the purpose of  
14 administering or adjudicating a claim for benefits under the provisions of  
15 any other state program, except that any party receiving such information  
16 shall be prohibited from further disclosure and shall be subject to the same  
17 duty of confidentiality otherwise imposed by this subsection (~~†~~) (e) and  
18 shall be subject to the penalties imposed by this subsection (~~†~~) (e) for  
19 violations of such duty of confidentiality. Nothing in this subsection (~~†~~) (e)  
20 shall be construed to prohibit disclosure of any information obtained under  
21 the employment security law, including hearing transcripts, for use as  
22 evidence in open court in a criminal prosecution for perjury at an appeal  
23 hearing under the employment security law or for any criminal violation of  
24 the employment security law. If the secretary or any officer or employee of  
25 the secretary violates any provisions of this subsection (~~†~~) (e), the secretary  
26 or such officer or employee shall be fined not less than \$20 nor more than  
27 \$200 or imprisoned for not longer than 90 days, or both. Original records  
28 of the agency and original paid benefit warrants of the state treasurer may  
29 be made available to the employment security agency of any other state or  
30 the federal government to be used as evidence in prosecution of violations  
31 of the employment security law of such state or federal government.  
32 Photostatic copies of such records shall be made and where possible shall  
33 be substituted for original records introduced in evidence and the originals  
34 returned to the agency.

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

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

9       (1) Individual. Service upon an individual, other than a minor or  
10 incapacitated person, shall be made: (A) By delivering a copy of the  
11 subpoena to the individual personally; (B) by leaving a copy at such  
12 individual's dwelling house or usual place of abode with some person of  
13 suitable age and discretion then residing therein; (C) by leaving a copy at  
14 the business establishment of the employer with an officer or employee of  
15 the establishment; (D) by delivering a copy to an agent authorized by  
16 appointment or by law to receive service of process, but if the agent is one  
17 designated by a statute to receive service, such further notice as the statute  
18 requires shall be given; or (E) if service as prescribed above in ~~clauses~~  
19 *subparagraphs* (A), (B), (C) or (D) cannot be made with due diligence, by  
20 leaving a copy of the subpoena at the individual's dwelling house, usual  
21 place of abode or usual business establishment, and by mailing a notice by  
22 first-class mail to the place that the copy has been left.

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

32       (3) Refusal to accept service. In all cases when the person to be  
33 served, or an agent authorized by such person to accept service of petitions  
34 and summonses shall refuse to receive copies of the subpoena, the offer of  
35 the duly authorized process server to deliver copies thereof and such  
36 refusal shall be sufficient service of such subpoena.

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

41       (B) If service of the subpoena is made by a person appointed by the  
42 secretary or the secretary's designee to make service, or any other person  
43 described in subsection (h) of this section, such person shall make an

1 affidavit as to the time, place and manner of service thereof in a form  
2 prescribed by the secretary or the secretary's designee.

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

9 ~~(h)~~ (h) Subpoenas, enforcement. In case of contumacy by or refusal to  
10 obey a subpoena issued to any person, any court of this state within the  
11 jurisdiction of which the inquiry is carried on or within the jurisdiction of  
12 which such person guilty of contumacy or refusal to obey is found, resides  
13 or transacts business, upon application by the secretary or the secretary's  
14 duly authorized representative, shall have jurisdiction to issue to such  
15 person an order requiring such person to appear before the secretary, or the  
16 secretary's duly authorized representative, to produce evidence, if so  
17 ordered, or to give testimony relating to the matter under investigation or  
18 in question. Failure to obey such order of the court may be punished by the  
19 court as a contempt thereof. Any person who, without just cause, shall fail  
20 or refuse to attend and testify or to answer any lawful inquiry or to  
21 produce books, papers, correspondence, memoranda or other records in  
22 obedience to the subpoena of the secretary or the secretary's duly  
23 authorized representative shall be punished by a fine of not less than \$200  
24 or by imprisonment of not longer than 60 days, or both, and each day such  
25 violation continued shall be deemed to be a separate offense.

26 ~~(i)~~ (i) State-federal cooperation. In the administration of this act, the  
27 secretary shall cooperate to the fullest extent consistent with the provisions  
28 of this act, with the federal security agency, shall make such reports, in  
29 such form and containing such information as the federal security  
30 administrator may from time to time require, and shall comply with such  
31 provisions as the federal security administrator may from time to time find  
32 necessary to assure the correctness and verification of such reports; and  
33 shall comply with the regulations prescribed by the federal security agency  
34 governing the expenditures of such sums as may be allotted and paid to  
35 this state under title III of the social security act for the purpose of  
36 assisting in the administration of this act. Upon request therefor the  
37 secretary shall furnish to any agency of the United States charged with the  
38 administration of public works or assistance through public employment,  
39 the name, address, ordinary occupation, and employment status of each  
40 recipient of benefits and such recipient's rights to further benefits under  
41 this act.

42 ~~(j)~~ (j) Reciprocal arrangements. The secretary shall participate in  
43 making reciprocal arrangements with appropriate and duly authorized



1 agencies of other states or of the federal government, or both, whereby:

2 (1) Services performed by an individual for a single employing unit  
3 for which services are customarily performed in more than one state shall  
4 be deemed to be services performed entirely within any one of the states:  
5 (A) In which any part of such individual's service is performed; (B) in  
6 which such individual maintains residence; or (C) in which the employing  
7 unit maintains a place of business, provided there is in effect as to such  
8 services, an election, approved by the agency charged with the  
9 administration of such state's unemployment compensation law, pursuant  
10 to which all the services performed by such individual for such employing  
11 units are deemed to be performed entirely within such state;

12 (2) service performed by not more than three individuals, on any  
13 portion of a day but not necessarily simultaneously, for a single employing  
14 unit which customarily operates in more than one state shall be deemed to  
15 be service performed entirely within the state in which such employing  
16 unit maintains the headquarters of its business; provided that there is in  
17 effect, as to such service, an approved election by an employing unit with  
18 the affirmative consent of each such individual, pursuant to which service  
19 performed by such individual for such employing unit is deemed to be  
20 performed entirely within such state;

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

27 (4) wages or services, upon the basis of which an individual may  
28 become entitled to benefits under an unemployment compensation law of  
29 another state or of the federal government, shall be deemed to be wages  
30 for insured work for the purpose of determining such individual's rights to  
31 benefits under this act, and wages for insured work, on the basis of which  
32 an individual may become entitled to benefits under this act, shall be  
33 deemed to be wages or services on the basis of which unemployment  
34 compensation under such law of another state or of the federal government  
35 is payable, but no such arrangement shall be entered into unless it contains  
36 provisions for reimbursements to the fund for such of the benefits paid  
37 under this act upon the basis of such wages or services, and provisions for  
38 reimbursements from the fund for such of the compensation paid under  
39 such other law upon the basis of wages for insured work, as the secretary  
40 finds will be fair and reasonable as to all affected interests; and

41 (5) (A) contributions due under this act with respect to wages for  
42 insured work shall be deemed for the purposes of K.S.A. 44-717, and  
43 amendments thereto, to have been paid to the fund as of the date payment

1 was made as contributions therefor under another state or federal  
2 unemployment compensation law, but no such arrangement shall be  
3 entered into unless it contains provisions for such reimbursements to the  
4 fund of such contributions and the actual earnings thereon as the secretary  
5 finds will be fair and reasonable as to all affected interests;

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

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

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

34 (†) (k) Records available. The secretary may furnish the railroad  
35 retirement board, at the expense of such board, such copies of the records  
36 as the railroad retirement board deems necessary for its purposes.

37 (†) (l) Destruction of records, reproduction and disposition. The  
38 secretary may provide for the destruction, reproduction, temporary or  
39 permanent retention, and disposition of records, reports and claims in the  
40 secretary's possession pursuant to the administration of the employment  
41 security law provided that prior to any destruction of such records, reports  
42 or claims the secretary shall comply with K.S.A. 75-3501 to 75-3514,  
43 inclusive, and amendments thereto.

1       ~~(m)~~ (m) Federal cooperation. The secretary may afford reasonable  
2 cooperation with every agency of the United States charged with  
3 administration of any unemployment insurance law.

4       ~~(n)~~ (n) The secretary is hereby authorized to fix, charge and collect  
5 fees for copies made of public documents, as defined by subsection (c) of  
6 K.S.A. 45-204, and amendments thereto, by xerographic, thermographic or  
7 other photocopying or reproduction process, in order to recover all or part  
8 of the actual costs incurred, including any costs incurred in certifying such  
9 copies. All moneys received from fees charged for copies of such  
10 documents shall be remitted to the state treasurer in accordance with the  
11 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
12 each such remittance, the state treasurer shall deposit the entire amount in  
13 the state treasury to the credit of the employment security administration  
14 fund. No such fees shall be charged or collected for copies of documents  
15 that are made pursuant to a statute which requires such copies to be  
16 furnished without expense.

17       Sec. 5. K.S.A. 2011 Supp. 44-704, 44-710a, 44-710b and 44-714 are  
18 hereby repealed.

19       Sec. 6. This act shall take effect and be in force from and after its  
20 publication in the statute book.

21