

House Substitute for SENATE BILL No. 416

By Committee on Commerce and Economic Development

3-19

1 AN ACT concerning powers and duties of the secretary of labor;
2 pertaining to the state workplace health and safety program; pertaining
3 to implementation and administration of the program; pertaining to
4 transfer of the program from the department of health and environment
5 to the department of labor; pertaining to the employment security law;
6 pertaining to workplace inspections; amending K.S.A. 2011 Supp. 44-
7 324, 44-575, 44-5,104, 44-634, 44-636, 44-704, 44-710a, 44-710b and
8 44-714 and replacing the existing sections; also repealing K.S.A. 44-
9 603, 44-617, 44-625 and 44-628, and K.S.A. 2011 Supp. 44-601b, 44-
10 607, 44-608, 44-609, 44-610, 44-611, 44-612, 44-614, 44-615, 44-616,
11 44-618, 44-619, 44-620, 44-621, 44-623, 44-624, 44-626 and 44-631.
12

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

14 New Section 1. (a) All of the powers, duties and functions of the
15 secretary of health and environment with regard to the state workplace
16 health and safety program established in K.S.A. 44-575, and amendments
17 thereto, are hereby transferred to and conferred and imposed upon the
18 secretary of labor.

19 (b) The secretary of labor shall be the successor in every way to the
20 powers, duties and functions of the secretary of health and environment
21 associated with the state workplace health and safety program established
22 in K.S.A. 44-575, and amendments thereto. Every act performed in the
23 exercise of such powers, duties and functions by or under the authority of
24 the secretary of labor shall be deemed to have the same force and effect as
25 if performed by the secretary of health and environment in whom such
26 powers, duties and functions were vested prior to the effective date of this
27 act.

28 (c) Whenever the department of health and environment, the state
29 workplace health and safety program, or words of like effect, are referred
30 to or designated by a statute, contract, memorandum of agreement or other
31 document, and such reference or designation is in regard to any of the
32 powers, duties and functions transferred pursuant to subsection (a), such
33 reference or designation shall be deemed to apply to the state workplace
34 health and safety program established within the department of labor.
35 Whenever the secretary of health and environment or words of like effect,
36 are referred to or designated by a statute, contract, memorandum of

1 agreement or other document, and such reference is in regard to any of the
2 powers, duties and functions transferred to the secretary of labor pursuant
3 to subsection (a), such reference shall be deemed to apply to the secretary
4 of labor.

5 (d) All rules and regulations, orders and directives of the secretary of
6 health and environment that relate to the workplace health and safety
7 program, or the powers, duties and functions transferred under subsection
8 (a), which are in effect on the effective date of this act shall continue to be
9 effective and shall be deemed to be rules and regulations, orders and
10 directives of the department of labor or the secretary of labor until revised,
11 amended, revoked or nullified pursuant to law.

12 (e) The secretary of labor shall have the legal custody of all records,
13 memoranda, writings, entries, prints, representations, electronic data or
14 combinations thereof of any act, transaction, occurrence or event of the
15 state workplace health and safety program in the legal custody of the
16 secretary of health and environment prior to the effective date of this act.

17 (f) The department of labor shall succeed to all property, property
18 rights and records which were used for or pertain to the performance of
19 powers, duties and functions transferred from the department of health and
20 environment to the department of labor pursuant to this act.

21 (g) All officers and employees of the department of health and
22 environment who, immediately prior to the effective date of this act, are
23 engaged in the performance of powers, duties or functions of the state
24 workplace health and safety program transferred by this act and who, in
25 the opinion of the secretary of labor, are necessary to perform the powers,
26 duties and functions of the state workplace health and safety program,
27 shall be transferred to, and shall become officers and employees of the
28 department of labor.

29 (h) Such transferred officers and employees of the department of
30 health and environment shall retain all retirement benefits and leave
31 balances and rights which had accrued or vested prior to the date of
32 transfer. The service of each such officer and employee so transferred shall
33 be deemed to have been continuous. All classified employees so
34 transferred shall retain their status as classified employees. All transfers,
35 layoffs or abolition of classified service positions under the Kansas civil
36 service act shall be made in accordance with the civil service laws and any
37 rules and regulations adopted thereunder. Nothing in this act shall affect
38 the classified status of any transferred person employed by the department
39 of health and environment prior to the date of transfer.

40 (i) No suit, action or other proceeding, judicial or administrative,
41 lawfully commenced, or which could have been commenced, by or against
42 any state agency or program mentioned in this act, or by or against any
43 officer of the state in such officer's official capacity or in relation to the

1 discharge of such officer's official duties, shall abate by reason of the
2 governmental reorganization effected under the provisions of this act. The
3 court may allow any such suit, action or other proceeding to be maintained
4 by or against the successor of any such state agency or any officer
5 affected.

6 (j) When any conflict arises as to the disposition of any property,
7 power, duty or function as a result of the transfer of powers, duties and
8 functions of the state workplace health and safety program pursuant to
9 subsection (a), such conflict shall be resolved by the governor, whose
10 decision shall be final.

11 Sec. 2. K.S.A. 2011 Supp. 44-575 is hereby amended to read as
12 follows: 44-575. (a) As used in K.S.A. 44-575 through 44-580, and
13 amendments thereto, "state agency" means the state, or any department or
14 agency of the state, but not including the Kansas turnpike authority, the
15 university of Kansas hospital authority, any political subdivision of the
16 state or the district court with regard to district court officers or employees
17 whose total salary is payable by counties.

18 (b) For the purposes of providing for the payment of compensation
19 for claims arising on and after July 1, 1974, and all other amounts required
20 to be paid by any state agency as a self-insured employer under the
21 workers compensation act and any amendments or additions thereto, there
22 is hereby established the state workers compensation self-insurance fund
23 in the state treasury. The name of the state workmen's compensation self-
24 insurance fund is hereby changed to the state workers compensation self-
25 insurance fund. Whenever the state workmen's compensation self-
26 insurance fund is referred to or designated by any statute, contract or other
27 document, such reference or designation shall be deemed to apply to the
28 state workers compensation self-insurance fund.

29 (c) The state workers compensation self-insurance fund shall be liable
30 to pay *the following*: (1) All compensation for claims arising on and after
31 July 1, 1974, and all other amounts required to be paid by any state agency
32 as a self-insured employer under the workers compensation act and any
33 amendments or additions thereto; (2) the amount that all state agencies are
34 liable to pay of the "carrier's share of expense" of the administration of the
35 office of the director of workers' compensation as provided in K.S.A. 74-
36 712 through 74-719, and amendments thereto, for each fiscal year; (3) all
37 compensation for claims remaining from the self-insurance program which
38 existed prior to July 1, 1974, for institutional employees of the division of
39 mental health and retardation services of the department of social and
40 rehabilitation services; (4) the cost of administering the state workers
41 compensation self-insurance fund including the defense of such fund and
42 any costs assessed to such fund in any proceeding to which it is a party;
43 and (5) the cost of establishing and operating the state workplace health

1 and safety program ~~under established~~ by subsection (f). For the purposes
2 of K.S.A. 44-575 through 44-580, and amendments thereto, all state
3 agencies are hereby deemed to be a single employer whose liabilities
4 specified in this section are hereby imposed solely upon the state workers
5 compensation self-insurance fund and such employer is hereby declared to
6 be a fully authorized and qualified self-insurer under K.S.A. 44-532, and
7 amendments thereto, but such employer shall not be required to make any
8 reports thereunder.

9 (d) The secretary of ~~administration~~ *health and environment* shall
10 administer the state workers compensation self-insurance fund and all
11 payments from such fund shall be upon warrants of the director of
12 accounts and reports issued pursuant to vouchers approved by the
13 secretary of ~~administration~~ *health and environment* or a person or persons
14 designated by the secretary. The director of accounts and reports may issue
15 warrants pursuant to vouchers approved by the secretary for payments
16 from the state workers compensation self-insurance fund notwithstanding
17 the fact that claims for such payments were not submitted or processed for
18 payment from money appropriated for the fiscal year in which the state
19 workers compensation self-insurance fund first became liable to make
20 such payments.

21 (e) The secretary of ~~administration~~ *health and environment* shall
22 remit all moneys received by or for the secretary in the capacity as
23 administrator of the state workers compensation self-insurance fund, to the
24 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
25 amendments thereto. Upon receipt of each such remittance, the state
26 treasurer shall deposit the entire amount in the state treasury to the credit
27 of the state workers compensation self-insurance fund.

28 (f) (1) There is hereby established the state workplace health and
29 safety program ~~within the state workers compensation self-insurance~~
30 ~~program of the department of administration~~. The secretary of
31 ~~administration~~ *labor* shall implement and administer the state workplace
32 health and safety program for state agencies. The state workplace health
33 and safety program shall include, but not be limited to:

34 (1) (A) Workplace health and safety hazard surveys in all state
35 agencies, including onsite interviews with employees;

36 (2) (B) workplace health and safety hazard prevention services,
37 including inspection and consultation services;

38 (3) (C) procedures for identifying and controlling workplace hazards;

39 (4) (D) development and dissemination of health and safety
40 informational materials, plans, rules and work procedures; and

41 (5) (E) training for supervisors and employees in healthful and safe
42 work practices.

43 (2) *For purposes of establishing and operating the state workplace*

1 *health and safety program there is hereby established the state workplace*
2 *health and safety program fund in the state treasury. The state workplace*
3 *health and safety program fund shall be administered by the secretary of*
4 *labor. The secretary of labor shall certify to the secretary of health and*
5 *environment and the director of accounts and reports the amount*
6 *necessary to operate the state workplace health and safety program at*
7 *such times as agreed to by the secretary of labor and the secretary of*
8 *health and environment. Upon such certification, the director of accounts*
9 *and reports shall transfer such certified amount from the state workers*
10 *compensation self-insurance fund to the state workplace health and safety*
11 *program fund.*

12 **Sec. 3.** K.S.A. 2011 Supp. 44-324 is hereby amended to
13 read as follows: 44-324. (a) Any proceeding by one or more
14 employees to assert any claim arising under or pursuant to this
15 act may be brought in any court of competent jurisdiction.

16 ~~(b) Whenever the secretary determines under K.S.A. 44-322a, and~~
17 ~~amendments thereto, that an employee has a valid claim for unpaid wages~~
18 ~~and determines that the amount of the claim is less than \$10,000, the~~
19 ~~secretary, upon the written request of the employee, shall take an~~
20 ~~assignment of the claim in trust for such employee and shall take action~~
21 ~~appropriate to enforce or defend such claim. Whenever the secretary~~
22 ~~determines under K.S.A. 44-322a, and amendments thereto, that an~~
23 ~~employee has a valid claim for unpaid wages and determines that the~~
24 ~~amount of the claim is equal to or greater than \$10,000, the secretary, upon~~
25 ~~the written request of the employee, may take an assignment of the claim~~
26 ~~in trust for such employee and if the assessment is taken, shall take action~~
27 ~~appropriate to enforce or defend such claim. With the written consent of~~
28 ~~the assignor, the secretary may settle or adjust any claim assigned pursuant~~
29 ~~to this subsection. Whenever the secretary takes an assignment of a claim~~
30 ~~in trust for an employee under this section, the secretary shall charge and~~
31 ~~collect a fee therefor which fee shall be fixed by rules and regulations~~
32 ~~adopted by the secretary. The fee fixed by rules and regulations shall be in~~
33 ~~an amount of not more than \$25 per claim assigned under this section.~~

34 ~~(c) If the secretary prevails on behalf of the employee, the court shall~~
35 ~~award a judgment to the agency in an amount equal to the cost of~~
36 ~~reasonable attorney fees for such action.~~

37 ~~(d) There is hereby created the wage claims assignment fee fund. The~~
38 ~~secretary shall remit all moneys received for assignment and attorney fees~~
39 ~~charged and collected under this section to the state treasurer in~~
40 ~~accordance with the provisions of K.S.A. 75-4215, and amendments~~
41 ~~thereto. Upon receipt of each such remittance, the state treasurer shall~~
42 ~~deposit the entire amount in the state treasury. Ten percent of each such~~
43 ~~deposit shall be credited to the state general fund and the balance shall be~~

1 credited to the wage claims assignment fee fund. All expenditures from the
2 wage claims assignment fee fund shall be made in accordance with
3 appropriation acts upon warrants of the director of accounts and reports
4 issued pursuant to vouchers approved by the secretary or by a person or
5 persons designated by the secretary.

6 Sec. 4. K.S.A. 2011 Supp. 44-5,104 is hereby amended to read as
7 follows: 44-5,104. (a) Each insurance company or group-funded self-
8 insurance plan providing workers compensation insurance coverage in
9 Kansas shall maintain and shall provide accident prevention programs
10 upon request of the covered employer as a prerequisite for authority to
11 provide such insurance or coverage. The accident prevention programs
12 shall be adequate to furnish accident prevention services required by the
13 nature of the operations of the policyholders or other covered entities and
14 the accident prevention services shall include surveys, recommendations,
15 training programs, consultations, analyses of accident causes, industrial
16 hygiene and industrial health services to implement the program of
17 accident prevention services *at no cost to the insured*. The accident
18 prevention programs shall be staffed with field safety representatives. Each
19 field safety representative shall be a person who is: (1) A college graduate
20 who has a bachelor's degree in science, industrial hygiene, safety or loss
21 control, or engineering, (2) a registered professional engineer, (3) a
22 certified safety professional, who has attained the designation from the
23 board of certified safety professionals, (4) a certified industrial hygienist,
24 who has attained the designation from the American board of industrial
25 hygiene, (5) an individual with five years of experience in occupational
26 safety and health, (6) a person who is working under direct supervision of
27 a person who meets the qualification requirements of this section, (7) a
28 person who has attained the designation of associate in loss control
29 management or associate in risk management from the insurance institute
30 of America, who has attained the designation of occupational safety and
31 health technologist from the board of certified safety professionals, or who
32 has attained any other comparable designation or certification by a
33 recognized organization as determined by the secretary of labor, or (8) an
34 individual who has completed a certified training program in accident
35 prevention services approved by the secretary of labor. The insurance
36 company or group-funded self-insurance plan may employ qualified
37 personnel, retain qualified independent contractors, contract with the
38 policyholder to provide qualified accident prevention personnel and
39 services, or use a combination of such methods to fulfill the obligations
40 imposed by this section. Accident prevention personnel shall have the
41 qualifications required for field safety representatives.

42 (b) The secretary of labor may conduct such inspections as the
43 secretary deems necessary to determine the adequacy of the accident

1 prevention services required by subsection (a) for each insurance company
2 and group-funded self-insurance plan providing workers compensation
3 insurance coverage in Kansas, including, but not limited to, random
4 inspections and those based upon employer complaints. Documented
5 employer complaints shall be appropriately investigated and the results
6 shall be reported to the commissioner of insurance. The secretary shall not
7 be required by this section to inspect each insurance company or group-
8 funded self-insurance plan.

9 (c) A notice that accident prevention services are available to the
10 policyholder from the insurance company shall appear in no less than ten-
11 point boldface type on the front page of each workers compensation
12 insurance policy *or group-funded workers compensation self-insurance*
13 *plan certificate of coverage* delivered or issued for delivery in this state.

14 (d) At least once each year, each insurance company or group-funded
15 self-insurance plan providing workers compensation insurance in Kansas
16 shall submit to the director of ~~workers compensation~~ *industrial safety and*
17 *health* detailed information on the type of accident prevention programs
18 offered to the policyholders by the insurance company or to the covered
19 entities by the group-funded self-insurance plan, as the case may be. The
20 information shall include:

21 (1) The amount of money spent by the insurance company or group-
22 funded self-insured plan on accident prevention services;

23 (2) the names, number and qualifications of field safety
24 representatives employed;

25 (3) the number of site inspections performed;

26 (4) any accident prevention services made available under a
27 contractual arrangement;

28 (5) a specification and listing of the premium size of the risks to
29 which accident prevention services were actually provided;

30 (6) evidence of the effectiveness of and accomplishments in accident
31 prevention; and

32 (7) any additional information required by the director of ~~workers-~~
33 ~~compensation~~ *industrial safety and health*.

34 (e) If the insurance company or group-funded self-insurance plan
35 does not maintain or provide the accident prevention services required by
36 this section, the director of ~~workers compensation~~ *industrial safety and*
37 *health* shall notify the commissioner of insurance. Upon receiving such
38 notification, the commissioner of insurance shall presume the insurance
39 company or group-funded self-insurance plan knew or reasonably should
40 have known of the violation and shall assess the penalty prescribed
41 therefore pursuant to K.S.A. 40-2,125, and amendments thereto. The
42 secretary shall send the information and results obtained pursuant to
43 subsection (d) to the insurance commissioner who shall widely

1 disseminate information about the program.

2 (f) The secretary of labor shall employ the personnel necessary to
3 enforce the provisions of this section and shall employ sufficient safety
4 inspectors to perform inspections at job sites or other work places and may
5 audit accident prevention programs of each insurance company or group-
6 funded self-insurance plan which is subject to this section to determine the
7 adequacy of the accident prevention services provided. The safety
8 inspectors shall have the qualifications required for field safety
9 representatives by subsection (a).

10 (g) The insurance company or group-funded self-insurance plan, and
11 any agent, servant, or employee thereof, shall have no liability with respect
12 to any accident based on the allegation that such accident was caused or
13 could have been prevented by a program, inspection or other activity or by
14 a service undertaken or not undertaken by the insurance company or
15 group-funded self-insurance plan for the prevention of accidents in
16 connection with operations of the employer. This immunity shall not affect
17 the liability of the insurance company or group-funded self-insurance plan
18 for compensation or as otherwise provided in this act.

19 Sec. 5. K.S.A. 2011 Supp. 44-634 is hereby amended to read as
20 follows: 44-634. It shall be the duty of the secretary of labor to collect,
21 assort, arrange and present in annual reports to the governor, to be
22 transmitted biennially by the governor to the legislature, statistical details
23 relating to all labor and industrial pursuits in the state; to the subjects of
24 cooperation, strikes and other labor difficulties; to trade unions and other
25 labor organizations and their effect upon labor and capital; to other matters
26 relating to the commercial, industrial, social, educational, moral and
27 sanitary conditions prevailing within the state; and the exploitation of such
28 other subjects as will tend to promote the permanent prosperity of the
29 respective industries of the state.

30 It shall also be the duty of the secretary of labor to cause to be enforced
31 all laws regulating the employment of children and minors; all laws
32 established for the protection of health, lives and limbs of operators in
33 workshops and factories, ~~on railroads~~, and other places; and all laws
34 enacted for the protection of the working classes now in force or that may
35 hereafter be enacted. In the annual report the secretary of labor shall also
36 give an account of all proceedings which have been taken in accordance
37 with the provisions of this act, or any of the other laws herein referred to,
38 and in addition thereto such remarks, suggestions and recommendations as
39 the secretary of labor may deem necessary for the information of the
40 legislature.

41 Sec. 6. K.S.A. 2011 Supp. 44-636 is hereby amended to read as
42 follows: 44-636. (a) The secretary of labor shall have power to enter ~~any~~
43 ~~factory or mill, workshop, private works, any~~ public works or state agency

1 or institution, ~~mercantile establishment, laundry or any other place of~~
2 ~~business where labor is or is intended to be performed for any purpose,~~
3 when the same are open or in operation, for the purpose of gathering facts
4 and statistics such as are contemplated by this act, and to examine into the
5 methods of protection from danger to employees and the sanitary
6 conditions in and around such buildings and places and to keep a record
7 thereof of such inspection.

8 If it shall be found upon such investigation that the heating, lighting,
9 ventilation, occupant capacity or sanitary arrangement of any such
10 establishment or place is such as to be injurious to the health of persons
11 employed or residing therein, or that the means of egress in case of fire or
12 other disaster are not sufficient, or that the belting, shafting, gearing,
13 ~~elevators,~~ drums, saws, cogs or machinery, in any such establishment or
14 place are so located or are in a condition so as to be dangerous, or are not
15 sufficiently guarded, or that the vats, pans or any other structures filled
16 with molten metal, hot liquid or hazardous materials or substances are not
17 surrounded with proper safeguards for preventing accidents, injury or
18 illness to those persons in, or near them, or that the construction or
19 condition of any building or buildings, or any boiler, machinery or other
20 appurtenances in or about any place as described in this section is such as
21 to be dangerous or injurious to the persons employed or residing therein,
22 or that the methods of operation are such as to be unnecessarily dangerous
23 or injurious to the persons employed or residing therein, or that any other
24 condition which is within the control of the owner, proprietor, agent,
25 administrator or lessee of any such building, establishment or place to be
26 found to be dangerous or injurious to any persons employed therein or to
27 any other person or persons, the secretary or the authorized agent of the
28 secretary after making such inspection shall notify in writing the owner,
29 proprietor, agent, administrator or lessee of such building, establishment,
30 or place. Such notification may also include an order that requires the
31 provisions of such safeguards or safety devices or the making of such
32 alterations or additions or changes in methods of operation or the taking of
33 any other measures the secretary may deem appropriate and necessary for
34 the safety and protection of the employees or other persons endangered by
35 such conditions and the amount of time granted by the secretary for
36 making any such alterations, additions, changes or taking such other
37 methods as required. Such amount of time shall not exceed 60 days after
38 service of the notice and the order unless an extension thereof is requested
39 for good cause shown by the person named in the order, and such
40 extension is granted by the secretary *or the authorized agent of the*
41 *secretary.*

42 (b) The notification required by subsection (a) shall include notice of
43 the right to a hearing concerning any order included therein. Any such

1 order shall become final unless within 15 days after service of the notice
2 and order, the person or persons named therein shall request in writing a
3 hearing by the secretary. If a request is made for a hearing the date of the
4 hearing shall not be more than 30 days after such request is made. Orders
5 under subsection (a), and hearings thereon, shall be subject to the
6 provisions of the Kansas administrative procedure act.

7 (c) No person, firm or corporation, nor any officer, agent or employee
8 thereof, shall remove or require to be removed, or made ineffective any
9 practical safeguard around or safety attachment to any machinery, vats,
10 pan, or other apparatus or device mentioned in this section while the same
11 is in use, ~~except for the purpose of immediately making repairs thereto,~~
12 ~~and all safeguards or safety attachments so removed shall be promptly~~
13 ~~replaced before the dangerous machine, apparatus or device is returned to~~
14 ~~normal use or operation. Except as otherwise provided,~~ No person shall
15 require or permit the operation of, or operate, the dangerous machine,
16 apparatus or device without the required safeguards or safety attachments.

17 (d) If the secretary of labor determines that conditions or products in
18 any place of employment are such that a danger exists which could
19 reasonably be expected to cause death or serious physical harm
20 immediately, or before such danger can be eliminated through the
21 enforcement provisions otherwise provided by law, the secretary may, in
22 accordance with the provisions of K.S.A. 77-536, and amendments
23 thereto, order the immediate taking of any steps necessary to avoid, correct
24 or remove such imminent danger and prohibit the employment or presence
25 of any individual in locations or under conditions where such imminent
26 danger exists, except individuals whose presence is necessary to avoid,
27 correct or remove such imminent danger or to prevent any avoidable loss
28 of production facilities or product.

29 (e) Upon issuance of the order authorized by subsection (d) ~~of this~~
30 ~~section~~ and upon the request of any party who is adversely affected
31 thereby, the secretary shall fix a place and time for a hearing to be held on
32 such order in accordance with the provisions of the Kansas administrative
33 procedure act.

34 (f) No person shall discharge or in any manner discriminate against
35 any employee because such employee has filed a complaint with, or
36 furnished information to, the secretary of labor concerning conditions or
37 situations alleged to be unsafe or hazardous or otherwise covered by the
38 provisions of this act.

39 (g) Any person who willfully violates any provision of this section or
40 any lawful order issued pursuant to this section shall be guilty of a
41 misdemeanor and shall be subject to a fine of not less than \$25 nor more
42 than \$100. Each day that such violation exists shall constitute a separate
43 offense.

1 (h) An action brought pursuant to this section shall not constitute a
2 bar to enforcement of the provisions of this section by injunction or other
3 appropriate remedy, and upon request of the secretary of labor, the attorney
4 general shall have the power to institute and maintain in the name of the
5 state any and all appropriate enforcement procedures.

6 (i) *The provisions of this sections shall not apply to any employer or*
7 *place of employment that is subject to the provisions of the occupational*
8 *safety and health act of 1970, 29 U.S.C. § 651 et seq., except as provided*
9 *in 29 C.F.R. § 1908 et seq.*

10 Sec. 7. K.S.A. 2011 Supp. 44-704 is hereby amended to read as
11 follows: 44-704. (a) *Payment of benefits.* All benefits provided herein shall
12 be payable from the fund. All benefits shall be paid through the secretary
13 of labor, in accordance with such rules and regulations as the secretary
14 may adopt. Benefits based on service in employment defined in
15 subsections (i)(3)(E) and (i)(3)(F) of K.S.A. 44-703, and amendments
16 thereto, shall be payable in the same amount, on the same terms and
17 subject to the same conditions as compensation payable on the basis of
18 other service subject to this act except as provided in subsection (e) of
19 K.S.A. 44-705 and subsection (e)(2) of K.S.A. 44-711, and amendments
20 thereto.

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

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

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

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

34 (c) *Maximum weekly benefit amount.* On July 1 of each year, the
35 secretary shall determine the maximum weekly benefit amount by
36 computing 60% of the average weekly wages paid to employees in insured
37 work during the previous calendar year and shall prior to that date
38 announce the maximum weekly benefit amount so determined, by
39 publication in the Kansas register. Such computation shall be made by
40 dividing the gross wages reported as paid for insured work during the
41 previous calendar year by the product of the average of midmonth
42 employment during such calendar year multiplied by 52. The maximum
43 weekly benefit amount so determined and announced for the twelve-month

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

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

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

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

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

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

36 ~~(C) (B)~~ severance pay, if paid as scheduled, and all other employment
37 benefits within the employer's control, as defined in subsection (e)(3), if
38 continued as though the severance had not occurred, except as set out in
39 subsection ~~(e)(2)(D)~~ (e)(2)(C).

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

42 (A) Remuneration received for services performed on a public
43 assistance work project;

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

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

4 ~~(D)~~ severance pay, in lieu of notice, under the provisions of public
5 law 100-379, the federal worker adjustment and retraining notification act
6 (29 U.S.C.A. §§ 2101 through 2109);

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

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

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

19 (f) *Duration of benefits.* Any otherwise eligible individual shall be
20 entitled during any benefit year to a total amount of benefits equal to
21 whichever is the lesser of 26 times such individual's weekly benefit
22 amount, or $\frac{1}{3}$ of such individual's wages for insured work paid during such
23 individual's base period. Such total amount of benefits, if not a multiple of
24 \$1, shall be reduced to the next lower multiple of \$1.

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

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

36 (2) *On forms required by the secretary, the employer shall report to*
37 *the secretary the lump-sum amount of severance pay or separation pay*
38 *received by the employee and the number of weeks such lump-sum*
39 *payment represents in reference to the employee's gross weekly wage or*
40 *gross weekly salary.*

41 Sec. 8. K.S.A. 2011 Supp. 44-710a is hereby amended to read as
42 follows: 44-710a. (a) *Classification of employers by the secretary.* The
43 term "employer" as used in this section refers to contributing employers.

1 The secretary shall classify employers in accordance with their actual
2 experience in the payment of contributions on their own behalf and with
3 respect to benefits charged against their accounts with a view of fixing
4 such contribution rates as will reflect such experience. If, as of the date
5 such classification of employers is made, the secretary finds that any
6 employing unit has failed to file any report required in connection
7 therewith, or has filed a report which the secretary finds incorrect or
8 insufficient, the secretary shall make an estimate of the information
9 required from such employing unit on the basis of the best evidence
10 reasonably available to the secretary at the time, and notify the employing
11 unit thereof by mail addressed to its last known address. Unless such
12 employing unit shall file the report or a corrected or sufficient report as the
13 case may be, within 15 days after the mailing of such notice, the secretary
14 shall compute such employing unit's rate of contributions on the basis of
15 such estimates, and the rate as so determined shall be subject to increase
16 but not to reduction on the basis of subsequently ascertained information.
17 The secretary shall determine the contribution rate of each employer in
18 accordance with the requirements of this section.

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

23 (B) (i) (a) For the rate year ~~2007 and each rate year thereafter~~ *years*
24 *2007 through 2013*, each employer who is not eligible for a rate
25 contribution shall pay contributions equal to 4% of wages paid during each
26 calendar year with regard to employment except such employers engaged
27 in the construction industry shall pay a rate equal to 6%.

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

33 (c) *For the rate year 2014 and each rate year thereafter, except for*
34 *the construction industry, each employer who starts a new business and*
35 *who is not eligible for a rate contribution shall pay contributions equal to*
36 *2.7% of wages paid during each calendar year with regard to*
37 *employment.*

38 (ii) For rate years prior to 2007, employers who are not eligible for a
39 rate computation shall pay contributions at an assigned rate equal to the
40 sum of 1% plus the greater of the average rate assigned in the preceding
41 calendar year to all employers in such industry sector or the average rate
42 assigned to all covered employers during the preceding calendar year,
43 except that in no instance shall any such assigned rate be less than 2%.

1 Employers engaged in more than one type of industrial activity shall be
2 classified by principal activity. All rates assigned will remain in effect for a
3 complete calendar year. If the sale or acquisition of a new establishment
4 would require reclassification of the employer to a different industry
5 sector, the employer would be promptly notified, and the contribution rate
6 applicable to the new industry sector would become effective the
7 following January 1.

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

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

19 (2) *Eligible employers.* (A) A reserve ratio shall be computed for each
20 eligible employer by the following method: Total benefits charged to the
21 employer's account for all past years shall be deducted from all
22 contributions paid by such employer for all such years. The balance,
23 positive or negative, shall be divided by the employer's average annual
24 payroll, and the result shall constitute the employer reserve ratio.

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

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

36 (D) As of each computation date, the total of the taxable wages paid
37 during the ~~12-month~~ *twelve-month* period prior to the computation date by
38 all employers eligible for rate computation, except negative account
39 balance employers, shall be divided into 51 approximately equal parts
40 designated in column A of schedule I as "rate groups," except, with regard
41 to a year in which the taxable wage base changes. The taxable wages used
42 in the calculation for such a year and the following year shall be an
43 estimate of what the taxable wages would have been if the new taxable

1 wage base had been in effect during the entire twelve-month period prior
 2 to the computation date. The lowest numbered of such rate groups shall
 3 consist of the employers with the most favorable reserve ratios, as defined
 4 in this section, whose combined taxable wages paid are less than 1.96% of
 5 all taxable wages paid by all eligible employers. Each succeeding higher
 6 numbered rate group shall consist of employers with reserve ratios that are
 7 less favorable than those of employers in the preceding lower numbered
 8 rate groups and whose taxable wages when combined with the taxable
 9 wages of employers in all lower numbered rate groups equal the
 10 appropriate percentage of total taxable wages designated in column B of
 11 schedule I. Each eligible employer, other than a negative account balance
 12 employer, shall be assigned an experience factor designated under column
 13 C of schedule I in accordance with the rate group to which the employer is
 14 assigned on the basis of the employer's reserve ratio and taxable payroll. If
 15 an employer's taxable payroll falls into more than one rate group the
 16 employer shall be assigned the experience factor of the lower numbered
 17 rate group. If one or more employers have reserve ratios identical to that of
 18 the last employer included in the next lower numbered rate group, all such
 19 employers shall be assigned the experience factor designated to such last
 20 employer, notwithstanding the position of their taxable payroll in column
 21 B of schedule I.

22 SCHEDULE I—Eligible Employers

23

24	Column A	Column B	Column C
25	Rate	Cumulative	Experience factor
26	group	taxable payroll	(Ratio to total wages)
27	1	Less than 1.96% .....	.025%
28	2	1.96% but less than 3.92 .....	.40
29	3	3.92 but less than 5.88 .....	.80
30	4	5.88 but less than 7.84 .....	.12
31	5	7.84 but less than 9.80 .....	.16
32	6	9.80 but less than 11.76 .....	.20
33	7	11.76 but less than 13.72 .....	.24
34	8	13.72 but less than 15.68 .....	.28
35	9	15.68 but less than 17.64 .....	.32
36	10	17.64 but less than 19.60 .....	.36
37	11	19.60 but less than 21.56 .....	.40
38	12	21.56 but less than 23.52 .....	.44
39	13	23.52 but less than 25.48 .....	.48
40	14	25.48 but less than 27.44 .....	.52
41	15	27.44 but less than 29.40 .....	.56
42	16	29.40 but less than 31.36 .....	.60
43	17	31.36 but less than 33.32 .....	.64

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

35

36 (E) Negative account balance employers shall, in addition to paying
 37 the rate provided for in subsection (a)(2)(B) of this section, pay a
 38 surcharge based on the size of the employer's negative reserve ratio, the
 39 calculation which is provided for in subsection (a)(2) of this section. The
 40 amount of the surcharge shall be determined from column B2 of schedule
 41 II of this section for calendar years 2012, 2013, 2014 and from column B1
 42 of schedule II of this section for each calendar year after 2014. Each
 43 negative account balance employer who does not satisfy the requirements

1 to have an average annual payroll, as defined by subsection (a)(2) of
2 K.S.A. 44-703, and amendments thereto, shall be assigned a surcharge of
3 equal to the maximum negative ratio surcharge from column B2 of
4 schedule II of this section for calendar years 2012, 2013 and 2014. From
5 calendar year 2015 forward each negative account balance employer who
6 does not satisfy the requirements to have an average annual payroll, as
7 defined by subsection (a)(2) of K.S.A. 44-703, and amendments thereto,
8 shall be assigned a surcharge equal to the maximum negative ratio
9 surcharge from column B1 of schedule II of this section. Funds from the
10 surcharge paid according to this subsection (a)(2)(E), and amendments
11 thereto, shall be used to pay principal and interest due on funds received
12 from the federal unemployment account under title XII of the social
13 security act, (42 U.S.C. §§ 1321 to 1324), in the following manner:

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

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

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

39 (iv) the portion of such surcharge used for the payment of such
40 interest shall not be included in the calculation of such employers reserve
41 ratio pursuant to subsection (a)(2). The portion of such surcharge used for
42 the payment of principal shall be included in the calculation of such
43 employers reserve ratio pursuant to subsection (a)(2); and

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

13 SCHEDULE II—Surcharge on Negative Accounts

14 Column A	Column B1	Column B2	ColumnB3
15 Negative Reserve	Surcharge as a	Surcharge as a	Surcharge as a
16 Ratio	percent of	percent of	percent of
	taxable wages	taxable wages	taxable wages
17 Less than 2.0%.....	0.20%.....	0.30%	
18 2.0% but less than 4.0.....	0.40.....	0.50	
19 4.0 but less than 6.0.....	0.60.....	0.70	
20 6.0 but less than 8.0.....	0.80.....	0.90	
21 8.0 but less than 10.0.....	1.00.....	1.10	
22 10.0 but less than 12.0.....	1.20.....	1.30	
23 12.0 but less than 14.0.....	1.40.....	1.50	
24 14.0 but less than 16.0.....	1.60.....	1.70	
25 16.0 but less than 18.0.....	1.80.....	1.90	
26 18.0 but less than 20.0.....	2.00.....	2.10	
27 20.0 but less than 22.0.....	2.00.....		2.20
28 22.0 but less than 24.0.....	2.00.....		2.40
29 24.0 but less than 26.0.....	2.00.....		2.60
30 26.0 but less than 28.0.....	2.00.....		2.80
31 28.0 but less than 30.0.....	2.00.....		3.00
32 30.0 but less than 32.0.....	2.00.....		3.20
33 32.0 but less than 34.0.....	2.00.....		3.40
34 34.0 but less than 36.0.....	2.00.....		3.60
35 36.0 but less than 38.0.....	2.00.....		3.80
36 38.0 and over.....	2.00.....		4.00

37
 38 (3) *Planned yield.* (A) The average required yield shall be determined
 39 from schedule III of this section, and the planned yield on total wages in
 40 column B of schedule III shall be determined by the reserve fund ratio in
 41 column A of schedule III. The reserve fund ratio shall be determined by
 42 dividing total assets in the employment security fund provided for in
 43 subsection (a) of K.S.A. 44-712, and amendments thereto, excluding all

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

6 SCHEDULE III—Fund Control

7 Ratios to Total Wages

8 Column A	Column B
9 Reserve Fund Ratio	Planned Yield
10 4.500 and over .....	.00
11 4.475 but less than 4.500.....	.01
12 4.450 but less than 4.475.....	.02
13 4.425 but less than 4.450.....	.03
14 4.400 but less than 4.425.....	.04
15 4.375 but less than 4.400.....	.05
16 4.350 but less than 4.375.....	.06
17 4.325 but less than 4.350.....	.07
18 4.300 but less than 4.325.....	.08
19 4.275 but less than 4.300.....	.09
20 4.250 but less than 4.275.....	.10
21 4.225 but less than 4.250.....	.11
22 4.200 but less than 4.225.....	.12
23 4.175 but less than 4.200.....	.13
24 4.150 but less than 4.175.....	.14
25 4.125 but less than 4.150.....	.15
26 4.100 but less than 4.125.....	.16
27 4.075 but less than 4.100.....	.17
28 4.050 but less than 4.075.....	.18
29 4.025 but less than 4.050.....	.19
30 4.000 but less than 4.025.....	.20
31 3.950 but less than 4.000.....	.21
32 3.900 but less than 3.950.....	.22
33 3.850 but less than 3.900.....	.23
34 3.800 but less than 3.850.....	.24
35 3.750 but less than 3.800.....	.25
36 3.700 but less than 3.750.....	.26
37 3.650 but less than 3.700.....	.27
38 3.600 but less than 3.650.....	.28
39 3.550 but less than 3.600.....	.29
40 3.500 but less than 3.550.....	.30
41 3.450 but less than 3.500.....	.31
42 3.400 but less than 3.450.....	.32
43 3.350 but less than 3.400.....	.33

1	3.300 but less than 3.350.....	0.34
2	3.250 but less than 3.300.....	0.35
3	3.200 but less than 3.250.....	0.36
4	3.150 but less than 3.200.....	0.37
5	3.100 but less than 3.150.....	0.38
6	3.050 but less than 3.100.....	0.39
7	3.000 but less than 3.050.....	0.40
8	2.950 but less than 3.000.....	0.41
9	2.900 but less than 2.950.....	0.42
10	2.850 but less than 2.900.....	0.43
11	2.800 but less than 2.850.....	0.44
12	2.750 but less than 2.800.....	0.45
13	2.700 but less than 2.750.....	0.46
14	2.650 but less than 2.700.....	0.47
15	2.600 but less than 2.650.....	0.48
16	2.550 but less than 2.600.....	0.49
17	2.500 but less than 2.550.....	0.50
18	2.450 but less than 2.500.....	0.51
19	2.400 but less than 2.450.....	0.52
20	2.350 but less than 2.400.....	0.53
21	2.300 but less than 2.350.....	0.54
22	2.250 but less than 2.300.....	0.55
23	2.200 but less than 2.250.....	0.56
24	2.150 but less than 2.200.....	0.57
25	2.100 but less than 2.150.....	0.58
26	2.050 but less than 2.100.....	0.59
27	2.000 but less than 2.050.....	0.60
28	1.975 but less than 2.000.....	0.61
29	1.950 but less than 1.975.....	0.62
30	1.925 but less than 1.950.....	0.63
31	1.900 but less than 1.925.....	0.64
32	1.875 but less than 1.900.....	0.65
33	1.850 but less than 1.875.....	0.66
34	1.825 but less than 1.850.....	0.67
35	1.800 but less than 1.825.....	0.68
36	1.775 but less than 1.800.....	0.69
37	1.750 but less than 1.775.....	0.70
38	1.725 but less than 1.750.....	0.71
39	1.700 but less than 1.725.....	0.72
40	1.675 but less than 1.700.....	0.73
41	1.650 but less than 1.675.....	0.74
42	1.625 but less than 1.650.....	0.75
43	1.600 but less than 1.625.....	0.76

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

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

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

9 (ii) For rate year 2007 and subsequent rate years, employers who are
10 current in filing quarterly wage reports and in payment of all contributions
11 due and owing, shall be issued a contribution rate based upon the
12 following reduction: for rate groups 1 through 5, the rates would be
13 reduced to 0.00%; for rate groups 6 through 28, the rates would be reduced
14 by 50%; for rate groups 29 through 51, the rates would be reduced by
15 40%.

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

20 (iv) In order to be eligible for the reduced rates for rate year 2008 and
21 subsequent rate years, employers must file all reports due and pay all
22 contributions due and owing on or before January 31 of the applicable
23 year, except that the reduced rates for otherwise eligible employers shall
24 not be effective for any rate year if the average high cost multiple of the
25 employment security trust fund balance falls below 1.2 as of the
26 computation date of that year's rates. For the purposes of this provision,
27 the average high cost multiple is the reserve fund ratio, as defined by
28 subsection (a)(3)(A), divided by the average high benefit cost rate. The
29 average high benefit cost rate shall be determined by averaging the three
30 highest benefit cost rates over the last 20 years from the preceding fiscal
31 year which ended June 30. The high benefit cost rate is defined by dividing
32 total benefits paid in the fiscal year by total payrolls for covered employers
33 in the fiscal year.

34 (b) *Successor classification.* (1) (A) For the purposes of this
35 subsection (b), whenever an employing unit, whether or not it is an
36 "employing unit" within the meaning of subsection (g) of K.S.A. 44-703,
37 and amendments thereto, becomes an employer pursuant to subsection (h)
38 (4) of K.S.A. 44-703, and amendments thereto, or is an employer at the
39 time of acquisition and meets the definition of a "successor employer" as
40 defined by subsection (dd) of K.S.A. 44-703, and amendments thereto, and
41 thereafter transfers its trade or business, or any portion thereof, to another
42 employer and, at the time of the transfer, there is substantially common
43 ownership, management or control of the two employers, then the

1 unemployment experience attributable to the transferred trade or business
2 shall be transferred to the employer to whom such business is so
3 transferred. These experience factors consist of all contributions paid,
4 benefit experience and annual payrolls of the predecessor employer. The
5 transfer of some or all of an employer's workforce to another employer
6 shall be considered a transfer of trade or business when, as the result of
7 such transfer, the transferring employer no longer performs trade or
8 business with respect to the transferred workforce, and such trade or
9 business is performed by the employer to whom the workforce is
10 transferred.

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

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

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

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

40 (B) If a successor employer is determined to be qualified under
41 paragraph (2) or (3) of this subsection to receive the experience rating
42 factors of the predecessor employer, the rate assigned to the successor
43 employer for the remainder of the contributions year shall be determined

1 by the following:

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

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

12 (5) Whenever an employing unit is not an employer at the time it
13 acquires the trade or business of an employer, the unemployment
14 experience factors of the acquired business shall not be transferred to such
15 employing unit if the secretary finds that such employing unit acquired the
16 business solely or primarily for the purpose of obtaining a lower rate of
17 contributions. Instead, such employing unit shall be assigned the
18 applicable industry rate for a "new employer" as described in subsection
19 (a)(1) of this section. In determining whether the business was acquired
20 solely or primarily for the purpose of obtaining a lower rate of
21 contributions, the secretary shall use objective factors which may include
22 the cost of acquiring the business, whether the employer continued the
23 business enterprise of the acquired business, how long such business
24 enterprise was continued, or whether a substantial number of new
25 employees were hired for performance of duties unrelated to the business
26 activity conducted prior to acquisition.

27 (6) Whenever an employer's account has been terminated as provided
28 in subsections (d) and (e) of K.S.A. 44-711, and amendments thereto, and
29 the employer continues with employment to liquidate the business
30 operations, that employer shall continue to be an "employer" subject to the
31 employment security law as provided in subsection (h)(8) of K.S.A. 44-
32 703, and amendments thereto. The rate of contribution from the date of
33 transfer to the end of the then current calendar year shall be the same as
34 the contribution rate prior to the date of the transfer. At the completion of
35 the then current calendar year, the rate of contribution shall be that of a
36 "new employer" as described in subsection (a)(1) of this section.

37 (7) No rate computation will be permitted an employing unit
38 succeeding to the experience of another employing unit pursuant to this
39 section for any period subsequent to such succession except in accordance
40 with rules and regulations adopted by the secretary. Any such regulations
41 shall be consistent with federal requirements for additional credit
42 allowance in section 3303 of the federal internal revenue code of 1986,
43 and consistent with the provisions of this act.

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

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

28 (e) There is hereby established in the state treasury, separate and apart
29 from all public moneys or funds of this state, an employment security
30 interest assessment fund, which shall be administered by the secretary as
31 provided in this act. Moneys in the employment security fund established
32 by K.S.A. 44-712, and amendments thereto, and employment security
33 interest assessment fund established by 44-710, and amendments thereto,
34 shall not be invested in the pooled money investment portfolio established
35 under K.S.A. 75-4234, and amendments thereto. Notwithstanding the
36 provisions of ~~subsection (a) of K.S.A. 44-712, K.S.A. 44-716, K.S.A. 44-~~
37 ~~717 and K.S.A. 75-4234~~ K.S.A. 44-712(a), 44-716, 44-717 and 75-4234,
38 and amendments thereto, or any like provision the secretary shall remit all
39 moneys received from employers pursuant to the interest payment
40 assessment established in section (a)(2)(E), and amendments thereto, to the
41 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
42 amendments thereto. Upon receipt of each such remittance, the state
43 treasurer shall deposit the entire amount in the employment security

1 interest assessment fund. All moneys in this fund which are received from
2 employers pursuant to the interest payment assessment established in
3 section (a)(2)(E), and amendments thereto, shall be expended solely for
4 the purposes and in the amounts found by the secretary necessary to pay
5 any principal and interest due and owing the United States department of
6 labor resulting from any advancements made to the Kansas employment
7 security fund pursuant to the provisions of title XII of the social security
8 act (42 U.S.C. §§ 1321 to 1324) except as may be otherwise provided
9 under section (a)(2)(E), and amendments thereto. Notwithstanding any
10 provision of this section, all moneys received and credited to this fund
11 pursuant to section (a)(2)(E), and amendments thereto, pursuant to section
12 (a)(2)(E), and amendments thereto, shall remain part of the employment
13 security interest assessment fund and shall be used only in accordance with
14 the conditions specified in section (a)(2)(E), and amendments thereto.

15 (f) The secretary of labor shall annually prepare and submit a
16 certification as to the solvency and adequacy of the amount credited to the
17 state of Kansas' account in the federal employment security trust fund to
18 the governor ~~and the employment security advisory council~~. The
19 certification shall be submitted on or before December 1 of each calendar
20 year and shall be for the ~~12-month~~ *twelve-month* period ending on June 30
21 of that calendar year. In arriving at the certification contributions paid on
22 or before July 31 following the ~~12-month~~ *twelve-month* period ending date
23 of June 30 shall be considered. Each certification shall be used to
24 determine the need for any adjustment to schedule III in subsection (a)(3)
25 (A) and to assist in preparing legislation to accomplish any such
26 adjustment.

27 Sec. 9. K.S.A. 2011 Supp. 44-710b is hereby amended to read as
28 follows: 44-710b. (a) *By the secretary of labor*. The secretary of labor shall
29 promptly notify each contributing employer of its rate of contributions,
30 each rated governmental employer of its benefit cost rate and each
31 reimbursing employer of its benefit liability as determined for any
32 calendar year pursuant to K.S.A. 44-710 and 44-710a, and amendments
33 thereto, *on or before November 15 of the calendar year immediately*
34 *preceding the calendar year in which such rate takes effect*. Such
35 determination shall become conclusive and binding upon the employer
36 unless, within 15 days after the mailing of notice thereof to the employer's
37 last known address or in the absence of mailing, within 15 days after the
38 delivery of such notice, the employer files an application for review and
39 redetermination, setting forth the reasons therefor. If the secretary of labor
40 grants such review, the employer shall be promptly notified thereof and
41 shall be granted an opportunity for a fair hearing, but no employer shall
42 have standing, in any proceeding involving the employer's rate of
43 contributions or benefit liability, to contest the chargeability to the

1 employer's account of any benefits paid in accordance with a
2 determination, redetermination or decision pursuant to subsection (c) of
3 K.S.A. 44-710, and amendments thereto, except upon the ground that the
4 services on the basis of which such benefits were found to be chargeable
5 did not constitute services performed in employment for the employer and
6 only in the event that the employer was not a party to such determination,
7 redetermination or decision or to any other proceedings under this act in
8 which the character of such services was determined. Any such hearing
9 conducted pursuant to this section shall be heard in the county where the
10 contributing employer maintains its principle place of business. The
11 hearing officer shall render a decision concerning all matters at issue in the
12 hearing within 90 days.

13 (b) *Judicial review.* Any action of the secretary upon an employer's
14 timely request for a review and redetermination of its rate of contributions
15 or benefit liability, in accordance with subsection (a), is subject to review
16 in accordance with the Kansas judicial review act. Any action for such
17 review shall be heard in a summary manner and shall be given precedence
18 over all other civil cases except cases arising under subsection (i) of
19 K.S.A. 44-709, and amendments thereto, and the workmen's compensation
20 act.

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

38 Sec. 10. K.S.A. 2011 Supp. 44-714 is hereby amended to read as
39 follows: 44-714. (a) *Duties and powers of secretary.* It shall be the duty of
40 the secretary to administer this act and the secretary shall have power and
41 authority to adopt, amend or revoke such rules and regulations, to employ
42 such persons, make such expenditures, require such reports, make such
43 investigations, and take such other action as the secretary deems necessary

1 or suitable to that end. Such rules and regulations may be adopted,
2 amended, or revoked by the secretary only after public hearing or
3 opportunity to be heard thereon. The secretary shall determine the
4 organization and methods of procedure in accordance with the provisions
5 of this act, and shall have an official seal which shall be judicially noticed.
6 The secretary shall make and submit reports for the administration of the
7 employment security law in the manner prescribed by K.S.A. 75-3044 to
8 75-3046, inclusive, and 75-3048, and amendments thereto. Whenever the
9 secretary believes that a change in contribution or benefit rates will
10 become necessary to protect the solvency of the fund, the secretary shall
11 promptly so inform the governor and the legislature, and make
12 recommendations with respect thereto.

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

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

37 (2) No employee engaged in the administration of the employment
38 security law shall directly or indirectly solicit or receive or be in any
39 manner concerned with soliciting or receiving any assistance, subscription
40 or contribution for any political party or political purpose, other than
41 soliciting and receiving contributions for such person's personal campaign
42 as a candidate for a nonpartisan elective public office, nor shall any
43 employee engaged in the administration of the employment security law

1 participate in any form of political activity except as a candidate for a
2 nonpartisan elective public office, nor shall any employee champion the
3 cause of any political party or the candidacy of any person other than such
4 person's own personal candidacy for a nonpartisan elective public office.
5 Any employee engaged in the administration of the employment security
6 law who violates these provisions shall be immediately discharged. No
7 person shall solicit or receive any contribution for any political purpose
8 from any employee engaged in the administration of the employment
9 security law and any such action shall be a misdemeanor and shall be
10 punishable by a fine of not less than \$100 nor more than \$1,000 or by
11 imprisonment in the county jail for not less than 30 days nor more than six
12 months, or both.

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

40 (e) *Employment stabilization.* The secretary, with the advice and aid
41 of the secretary's advisory councils and through the appropriate divisions
42 of the department of labor, shall take all appropriate steps to reduce and
43 prevent unemployment; to encourage and assist in the adoption of practical

1 methods of vocational training, retraining and vocational guidance; to
2 investigate, recommend, advise, and assist in the establishment and
3 operation, by municipalities, counties, school districts and the state, of
4 reserves for public works to be used in time of business depression and
5 unemployment; to promote the reemployment of unemployed workers
6 throughout the state in every other way that may be feasible; and to these
7 ends to carry on and publish the results of investigations and research
8 studies.

9 ~~(f)~~ (e) *Records and reports.* Each employing unit shall keep true and
10 accurate work records, containing such information as the secretary may
11 prescribe. Such records shall be open to inspection and subject to being
12 copied by the secretary or the secretary's authorized representatives at any
13 reasonable time and shall be preserved for a period of five years from the
14 due date of the contributions or payments in lieu of contributions for the
15 period to which they relate. Only one audit shall be made of any
16 employer's records for any given period of time. Upon request the
17 employing unit shall be furnished a copy of all findings by the secretary or
18 the secretary's authorized representatives, resulting from such audit. A
19 special inquiry or special examination made for a specific and limited
20 purpose shall not be considered to be an audit for the purpose of this
21 subsection. The secretary may require from any employing unit any sworn
22 or unsworn reports, with respect to persons employed by it, which the
23 secretary deems necessary for the effective administration of this act.
24 Information thus obtained or obtained from any individual pursuant to the
25 administration of this act shall be held confidential, except to the extent
26 necessary for the proper presentation of a claim by an employer or
27 employee under the employment security law, and shall not be published
28 or be open to public inspection, other than to public employees in the
29 performance of their public duties, in any manner revealing the
30 individual's or employing unit's identity. Any claimant or employing unit
31 or their representatives at a hearing before an appeal tribunal or the
32 secretary shall be supplied with information from such records to the
33 extent necessary for the proper presentation of the claim. The transcript
34 made at any such benefits hearing shall not be discoverable or admissible
35 in evidence in any other proceeding, hearing or determination of any kind
36 or nature. In the event of any appeal of a benefits matter, the transcript
37 shall be sealed by the hearing officer and shall be available only to any
38 reviewing authority who shall reseal the transcript after making a review
39 of it. In no event shall such transcript be deemed a public record. Nothing
40 in this subsection ~~(f)~~ (e) shall be construed to prohibit disclosure of any
41 information obtained under the employment security law, including
42 hearing transcripts, upon request of either of the parties, for the purpose of
43 administering or adjudicating a claim for benefits under the provisions of

1 any other state program, except that any party receiving such information
2 shall be prohibited from further disclosure and shall be subject to the same
3 duty of confidentiality otherwise imposed by this subsection ~~(f)~~ (e) and
4 shall be subject to the penalties imposed by this subsection ~~(f)~~ (e) for
5 violations of such duty of confidentiality. Nothing in this subsection ~~(f)~~ (e)
6 shall be construed to prohibit disclosure of any information obtained under
7 the employment security law, including hearing transcripts, for use as
8 evidence in open court in a criminal prosecution for perjury at an appeal
9 hearing under the employment security law or for any criminal violation of
10 the employment security law. If the secretary or any officer or employee of
11 the secretary violates any provisions of this subsection ~~(f)~~ (e), the secretary
12 or such officer or employee shall be fined not less than \$20 nor more than
13 \$200 or imprisoned for not longer than 90 days, or both. Original records
14 of the agency and original paid benefit warrants of the state treasurer may
15 be made available to the employment security agency of any other state or
16 the federal government to be used as evidence in prosecution of violations
17 of the employment security law of such state or federal government.
18 Photostatic copies of such records shall be made and where possible shall
19 be substituted for original records introduced in evidence and the originals
20 returned to the agency.

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

30 ~~(f)~~ (g) *Subpoenas, service.* Upon request, service of subpoenas shall
31 be made by the sheriff of a county within that county, by the sheriff's
32 deputy, by any other person who is not a party and is not less than 18 years
33 of age or by some person specially appointed for that purpose by the
34 secretary of labor or the secretary's designee. A person not a party as
35 described above or a person specially appointed by the secretary or the
36 secretary's designee to serve subpoenas may make service any place in the
37 state. The subpoena shall be served as follows:

38 (1) *Individual.* Service upon an individual, other than a minor or
39 incapacitated person, shall be made: (A) By delivering a copy of the
40 subpoena to the individual personally; (B) by leaving a copy at such
41 individual's dwelling house or usual place of abode with some person of
42 suitable age and discretion then residing therein; (C) by leaving a copy at
43 the business establishment of the employer with an officer or employee of

1 the establishment; (D) by delivering a copy to an agent authorized by
2 appointment or by law to receive service of process, but if the agent is one
3 designated by a statute to receive service, such further notice as the statute
4 requires shall be given; or (E) if service as prescribed above in ~~clauses~~
5 *subparagraphs* (A), (B), (C) or (D) cannot be made with due diligence, by
6 leaving a copy of the subpoena at the individual's dwelling house, usual
7 place of abode or usual business establishment, and by mailing a notice by
8 first-class mail to the place that the copy has been left.

9 (2) *Corporations and partnerships.* Service upon a domestic or
10 foreign corporation or upon a partnership or other unincorporated
11 association, when by law it may be sued as such, shall be made by
12 delivering a copy of the subpoena to an officer, partner or resident
13 managing or general agent thereof, or by leaving the copy at any business
14 office of the employer with the person having charge thereof or by
15 delivering a copy to any other agent authorized by appointment or required
16 by law to receive service of process, if the agent is one authorized by law
17 to receive service and, if the law so requires, by also mailing a copy to the
18 employer.

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

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

28 (B) If service of the subpoena is made by a person appointed by the
29 secretary or the secretary's designee to make service, or any other person
30 described in subsection (h) of this section, such person shall make an
31 affidavit as to the time, place and manner of service thereof in a form
32 prescribed by the secretary or the secretary's designee.

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

39 (†) (h) *Subpoenas, enforcement.* In case of contumacy by or refusal to
40 obey a subpoena issued to any person, any court of this state within the
41 jurisdiction of which the inquiry is carried on or within the jurisdiction of
42 which such person guilty of contumacy or refusal to obey is found, resides
43 or transacts business, upon application by the secretary or the secretary's

1 duly authorized representative, shall have jurisdiction to issue to such
2 person an order requiring such person to appear before the secretary, or the
3 secretary's duly authorized representative, to produce evidence, if so
4 ordered, or to give testimony relating to the matter under investigation or
5 in question. Failure to obey such order of the court may be punished by the
6 court as a contempt thereof. Any person who, without just cause, shall fail
7 or refuse to attend and testify or to answer any lawful inquiry or to
8 produce books, papers, correspondence, memoranda or other records in
9 obedience to the subpoena of the secretary or the secretary's duly
10 authorized representative shall be punished by a fine of not less than \$200
11 or by imprisonment of not longer than 60 days, or both, and each day such
12 violation continued shall be deemed to be a separate offense.

13 ~~(h)~~ (i) *State-federal cooperation.* In the administration of this act, the
14 secretary shall cooperate to the fullest extent consistent with the provisions
15 of this act, with the federal security agency, shall make such reports, in
16 such form and containing such information as the federal security
17 administrator may from time to time require, and shall comply with such
18 provisions as the federal security administrator may from time to time find
19 necessary to assure the correctness and verification of such reports; and
20 shall comply with the regulations prescribed by the federal security agency
21 governing the expenditures of such sums as may be allotted and paid to
22 this state under title III of the social security act for the purpose of
23 assisting in the administration of this act. Upon request therefor the
24 secretary shall furnish to any agency of the United States charged with the
25 administration of public works or assistance through public employment,
26 the name, address, ordinary occupation, and employment status of each
27 recipient of benefits and such recipient's rights to further benefits under
28 this act.

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

32 (1) Services performed by an individual for a single employing unit
33 for which services are customarily performed in more than one state shall
34 be deemed to be services performed entirely within any one of the states:
35 (A) In which any part of such individual's service is performed; (B) in
36 which such individual maintains residence; or (C) in which the employing
37 unit maintains a place of business, provided there is in effect as to such
38 services, an election, approved by the agency charged with the
39 administration of such state's unemployment compensation law, pursuant
40 to which all the services performed by such individual for such employing
41 units are deemed to be performed entirely within such state;

42 (2) service performed by not more than three individuals, on any
43 portion of a day but not necessarily simultaneously, for a single employing

1 unit which customarily operates in more than one state shall be deemed to
2 be service performed entirely within the state in which such employing
3 unit maintains the headquarters of its business; provided that there is in
4 effect, as to such service, an approved election by an employing unit with
5 the affirmative consent of each such individual, pursuant to which service
6 performed by such individual for such employing unit is deemed to be
7 performed entirely within such state;

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

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

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

36 (B) reimbursements paid from the fund pursuant to subsection (k)(4)
37 of this section shall be deemed to be benefits for the purpose of K.S.A. 44-
38 704 and 44-712, and amendments thereto; the secretary is authorized to
39 make to other state or federal agencies, and to receive from such other
40 state or federal agencies, reimbursements from or to the fund, in
41 accordance with arrangements entered into pursuant to the provisions of
42 this section or any other section of the employment security law;

43 (C) the administration of this act and of other state and federal

1 unemployment compensation and public employment service laws will be
2 promoted by cooperation between this state and such other states and the
3 appropriate federal agencies in exchanging services and in making
4 available facilities and information; the secretary is therefore authorized to
5 make such investigations, secure and transmit such information, make
6 available such services and facilities and exercise such of the other powers
7 provided herein with respect to the administration of this act as the
8 secretary deems necessary or appropriate to facilitate the administration of
9 any such unemployment compensation or public employment service law
10 and, in like manner, to accept and utilize information, service and facilities
11 made available to this state by the agency charged with the administration
12 of any such other unemployment compensation or public employment
13 service law; and

14 (D) to the extent permissible under the laws and constitution of the
15 United States, the secretary is authorized to enter into or cooperate in
16 arrangements whereby facilities and services provided under this act and
17 facilities and services provided under the unemployment compensation
18 law of any foreign government may be utilized for the taking of claims and
19 the payment of benefits under the employment security law of this state or
20 under a similar law of such government.

21 ~~(H)~~ (k) *Records available.* The secretary may furnish the railroad
22 retirement board, at the expense of such board, such copies of the records
23 as the railroad retirement board deems necessary for its purposes.

24 ~~(H)~~ (l) *Destruction of records, reproduction and disposition.* The
25 secretary may provide for the destruction, reproduction, temporary or
26 permanent retention, and disposition of records, reports and claims in the
27 secretary's possession pursuant to the administration of the employment
28 security law provided that prior to any destruction of such records, reports
29 or claims the secretary shall comply with K.S.A. 75-3501 to 75-3514,
30 inclusive, and amendments thereto.

31 ~~(H)~~ (m) *Federal cooperation.* The secretary may afford reasonable
32 cooperation with every agency of the United States charged with
33 administration of any unemployment insurance law.

34 ~~(H)~~ (n) The secretary is hereby authorized to fix, charge and collect
35 fees for copies made of public documents, as defined by subsection (c) of
36 K.S.A. 45-204, and amendments thereto, by xerographic, thermographic or
37 other photocopying or reproduction process, in order to recover all or part
38 of the actual costs incurred, including any costs incurred in certifying such
39 copies. All moneys received from fees charged for copies of such
40 documents shall be remitted to the state treasurer in accordance with the
41 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
42 each such remittance, the state treasurer shall deposit the entire amount in
43 the state treasury to the credit of the employment security administration

1 fund. No such fees shall be charged or collected for copies of documents
2 that are made pursuant to a statute which requires such copies to be
3 furnished without expense.

4 Sec. 11. K.S.A. 44-603, 44-617, 44-625 and 44-628 and K.S.A. 2011
5 Supp. 44-324, 44-575, 44-5,104, 44-601b, 44-607, 44-608, 44-609, 44-
6 610, 44-611, 44-612, 44-614, 44-615, 44-616, 44-618, 44-619, 44-620, 44-
7 621, 44-623, 44-624, 44-626, 44-631, 44-634, 44-636, 44-704, 44-710a,
8 44-710b and 44-714 are hereby repealed.

9 Sec. 12. This act shall take effect and be in force from and after its
10 publication in the statute book.

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