

HOUSE BILL No. 2638

By Committee on Commerce and Economic Development

2-6

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **(b)** *If the result of the calculation in subparagraph (A) is not a whole*
2 *number of weeks, the result shall be rounded up to the next whole number*
3 *of weeks.*

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

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

29 (B) (i) ~~(a) For the rate year 2007 and each rate year thereafter years~~
30 *2007 through 2012, each employer who is not eligible for a rate*
31 *contribution shall pay contributions equal to 4% of wages paid during each*
32 *calendar year with regard to employment except such employers engaged*
33 *in the construction industry shall pay a rate equal to 6%.*

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

39 **(c)** *For the rate year 2013 and each rate year thereafter, except for*
40 *the construction industry, each employer who starts a new business and*
41 *who is not eligible for a rate contribution shall pay contributions equal to*
42 *2.7% of wages paid during each calendar year with regard to*
43 *employment.*

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

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

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

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

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

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

42 (D) As of each computation date, the total of the taxable wages paid
43 during the ~~12-month~~ *twelve-month* period prior to the computation date by

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

28 SCHEDULE I—Eligible Employers

| 29 | Column A | Column B | Column C |
|----|----------|---------------------------|------------------------|
| 30 | Rate | Cumulative | Experience factor |
| 31 | group | taxable payroll | (Ratio to total wages) |
| 32 | 1 | Less than 1.96% | .025% |
| 33 | 2 | 1.96% but less than 3.92 | .40 |
| 34 | 3 | 3.92 but less than 5.88 | .80 |
| 35 | 4 | 5.88 but less than 7.84 | .12 |
| 36 | 5 | 7.84 but less than 9.80 | .16 |
| 37 | 6 | 9.80 but less than 11.76 | .20 |
| 38 | 7 | 11.76 but less than 13.72 | .24 |
| 39 | 8 | 13.72 but less than 15.68 | .28 |
| 40 | 9 | 15.68 but less than 17.64 | .32 |
| 41 | 10 | 17.64 but less than 19.60 | .36 |
| 42 | 11 | 19.60 but less than 21.56 | .40 |
| 43 | 12 | 21.56 but less than 23.52 | .44 |
| 44 | 13 | 23.52 but less than 25.48 | .48 |
| 45 | 14 | 25.48 but less than 27.44 | .52 |
| 46 | 15 | 27.44 but less than 29.40 | .56 |
| 47 | 16 | 29.40 but less than 31.36 | .60 |

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

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
 44 to have an average annual payroll, as defined by subsection (a)(2) of
 45 K.S.A. 44-703, and amendments thereto, shall be assigned a surcharge of
 46 equal to the maximum negative ratio surcharge from column B2 of
 47 schedule II of this section for calendar years 2012, 2013 and 2014. From
 48 calendar year 2015 forward each negative account balance employer who
 49 does not satisfy the requirements to have an average annual payroll, as
 50 defined by subsection (a)(2) of K.S.A. 44-703, and amendments thereto,

1 shall be assigned a surcharge equal to the maximum negative ratio
2 surcharge from column B1 of schedule II of this section. Funds from the
3 surcharge paid according to this subsection (a)(2)(E), and amendments
4 thereto, shall be used to pay principal and interest due on funds received
5 from the federal unemployment account under title XII of the social
6 security act, (42 U.S.C. §§ 1321 to 1324), in the following manner:

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

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

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

32 (iv) the portion of such surcharge used for the payment of such
33 interest shall not be included in the calculation of such employers reserve
34 ratio pursuant to subsection (a)(2). The portion of such surcharge used for
35 the payment of principal shall be included in the calculation of such
36 employers reserve ratio pursuant to subsection (a)(2); and

37 (v) if the amounts collected under this subsection are in excess of the
38 amounts needed to pay interest due, the amounts in excess shall remain in
39 the employment security interest assessment fund to be used to pay interest
40 in future years. Whenever the secretary certifies all interest payments have
41 been paid pursuant to this section, any excess funds remaining in the
42 employment security interest assessment fund shall be transferred to the
43 employment security trust fund for the purpose of paying any remaining

1 principal amount due for advances described in this section. In the event
 2 that the amount transferred from the employment security interest
 3 assessment fund exceeds such remaining amount of principal due, the
 4 balance shall be used for the purposes of the employment security trust
 5 fund.

6 SCHEDULE II—Surcharge on Negative Accounts

| 7 Column A | Column B1 | Column B2 | ColumnB3 |
|---------------------------------|----------------|----------------|----------------|
| 8 Negative Reserve | Surcharge as a | Surcharge as a | Surcharge as a |
| 9 Ratio | percent of | percent of | percent of |
| | taxable wages | taxable wages | taxable wages |
| 11 Less than 2.0%..... | 0.20%..... | 0.30% | |
| 12 2.0% but less than 4.0..... | 0.40..... | 0.50 | |
| 13 4.0 but less than 6.0..... | 0.60..... | 0.70 | |
| 14 6.0 but less than 8.0..... | 0.80..... | 0.90 | |
| 15 8.0 but less than 10.0..... | 1.00..... | 1.10 | |
| 16 10.0 but less than 12.0..... | 1.20..... | 1.30 | |
| 17 12.0 but less than 14.0..... | 1.40..... | 1.50 | |
| 18 14.0 but less than 16.0..... | 1.60..... | 1.70 | |
| 19 16.0 but less than 18.0..... | 1.80..... | 1.90 | |
| 20 18.0 but less than 20.0..... | 2.00..... | 2.10 | |
| 21 20.0 but less than 22.0..... | 2.00..... | | 2.20 |
| 22 22.0 but less than 24.0..... | 2.00..... | | 2.40 |
| 23 24.0 but less than 26.0..... | 2.00..... | | 2.60 |
| 24 26.0 but less than 28.0..... | 2.00..... | | 2.80 |
| 25 28.0 but less than 30.0..... | 2.00..... | | 3.00 |
| 26 30.0 but less than 32.0..... | 2.00..... | | 3.20 |
| 27 32.0 but less than 34.0..... | 2.00..... | | 3.40 |
| 28 34.0 but less than 36.0..... | 2.00..... | | 3.60 |
| 29 36.0 but less than 38.0..... | 2.00..... | | 3.80 |
| 30 38.0 and over..... | 2.00..... | | 4.00 |

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

42 SCHEDULE III—Fund Control

43 Ratios to Total Wages

| 44 Column A | Column B |
|-----------------------------------|---------------|
| 45 Reserve Fund Ratio | Planned Yield |
| 46 4.500 and over | 0.00 |
| 47 4.475 but less than 4.500..... | 0.01 |
| 48 4.450 but less than 4.475..... | 0.02 |
| 49 4.425 but less than 4.450..... | 0.03 |
| 50 4.400 but less than 4.425..... | 0.04 |

| | | |
|----|--------------------------------|------|
| 1 | 4.375 but less than 4.400..... | 0.05 |
| 2 | 4.350 but less than 4.375..... | 0.06 |
| 3 | 4.325 but less than 4.350..... | 0.07 |
| 4 | 4.300 but less than 4.325..... | 0.08 |
| 5 | 4.275 but less than 4.300..... | 0.09 |
| 6 | 4.250 but less than 4.275..... | 0.10 |
| 7 | 4.225 but less than 4.250..... | 0.11 |
| 8 | 4.200 but less than 4.225..... | 0.12 |
| 9 | 4.175 but less than 4.200..... | 0.13 |
| 10 | 4.150 but less than 4.175..... | 0.14 |
| 11 | 4.125 but less than 4.150..... | 0.15 |
| 12 | 4.100 but less than 4.125..... | 0.16 |
| 13 | 4.075 but less than 4.100..... | 0.17 |
| 14 | 4.050 but less than 4.075..... | 0.18 |
| 15 | 4.025 but less than 4.050..... | 0.19 |
| 16 | 4.000 but less than 4.025..... | 0.20 |
| 17 | 3.950 but less than 4.000..... | 0.21 |
| 18 | 3.900 but less than 3.950..... | 0.22 |
| 19 | 3.850 but less than 3.900..... | 0.23 |
| 20 | 3.800 but less than 3.850..... | 0.24 |
| 21 | 3.750 but less than 3.800..... | 0.25 |
| 22 | 3.700 but less than 3.750..... | 0.26 |
| 23 | 3.650 but less than 3.700..... | 0.27 |
| 24 | 3.600 but less than 3.650..... | 0.28 |
| 25 | 3.550 but less than 3.600..... | 0.29 |
| 26 | 3.500 but less than 3.550..... | 0.30 |
| 27 | 3.450 but less than 3.500..... | 0.31 |
| 28 | 3.400 but less than 3.450..... | 0.32 |
| 29 | 3.350 but less than 3.400..... | 0.33 |
| 30 | 3.300 but less than 3.350..... | 0.34 |
| 31 | 3.250 but less than 3.300..... | 0.35 |
| 32 | 3.200 but less than 3.250..... | 0.36 |
| 33 | 3.150 but less than 3.200..... | 0.37 |
| 34 | 3.100 but less than 3.150..... | 0.38 |
| 35 | 3.050 but less than 3.100..... | 0.39 |
| 36 | 3.000 but less than 3.050..... | 0.40 |
| 37 | 2.950 but less than 3.000..... | 0.41 |
| 38 | 2.900 but less than 2.950..... | 0.42 |
| 39 | 2.850 but less than 2.900..... | 0.43 |
| 40 | 2.800 but less than 2.850..... | 0.44 |
| 41 | 2.750 but less than 2.800..... | 0.45 |
| 42 | 2.700 but less than 2.750..... | 0.46 |
| 43 | 2.650 but less than 2.700..... | 0.47 |
| 44 | 2.600 but less than 2.650..... | 0.48 |
| 45 | 2.550 but less than 2.600..... | 0.49 |
| 46 | 2.500 but less than 2.550..... | 0.50 |
| 47 | 2.450 but less than 2.500..... | 0.51 |
| 48 | 2.400 but less than 2.450..... | 0.52 |
| 49 | 2.350 but less than 2.400..... | 0.53 |
| 50 | 2.300 but less than 2.350..... | 0.54 |
| 51 | 2.250 but less than 2.300..... | 0.55 |
| 52 | 2.200 but less than 2.250..... | 0.56 |
| 53 | 2.150 but less than 2.200..... | 0.57 |
| 54 | 2.100 but less than 2.150..... | 0.58 |

| | | |
|----|--------------------------------|------|
| 1 | 2.050 but less than 2.100..... | 0.59 |
| 2 | 2.000 but less than 2.050..... | 0.60 |
| 3 | 1.975 but less than 2.000..... | 0.61 |
| 4 | 1.950 but less than 1.975..... | 0.62 |
| 5 | 1.925 but less than 1.950..... | 0.63 |
| 6 | 1.900 but less than 1.925..... | 0.64 |
| 7 | 1.875 but less than 1.900..... | 0.65 |
| 8 | 1.850 but less than 1.875..... | 0.66 |
| 9 | 1.825 but less than 1.850..... | 0.67 |
| 10 | 1.800 but less than 1.825..... | 0.68 |
| 11 | 1.775 but less than 1.800..... | 0.69 |
| 12 | 1.750 but less than 1.775..... | 0.70 |
| 13 | 1.725 but less than 1.750..... | 0.71 |
| 14 | 1.700 but less than 1.725..... | 0.72 |
| 15 | 1.675 but less than 1.700..... | 0.73 |
| 16 | 1.650 but less than 1.675..... | 0.74 |
| 17 | 1.625 but less than 1.650..... | 0.75 |
| 18 | 1.600 but less than 1.625..... | 0.76 |
| 19 | 1.575 but less than 1.600..... | 0.77 |
| 20 | 1.550 but less than 1.575..... | 0.78 |
| 21 | 1.525 but less than 1.550..... | 0.79 |
| 22 | 1.500 but less than 1.525..... | 0.80 |
| 23 | 1.475 but less than 1.500..... | 0.81 |
| 24 | 1.450 but less than 1.475..... | 0.82 |
| 25 | 1.425 but less than 1.450..... | 0.83 |
| 26 | 1.400 but less than 1.425..... | 0.84 |
| 27 | 1.375 but less than 1.400..... | 0.85 |
| 28 | 1.350 but less than 1.375..... | 0.86 |
| 29 | 1.325 but less than 1.350..... | 0.87 |
| 30 | 1.300 but less than 1.325..... | 0.88 |
| 31 | 1.275 but less than 1.300..... | 0.89 |
| 32 | 1.250 but less than 1.275..... | 0.90 |
| 33 | 1.225 but less than 1.250..... | 0.91 |
| 34 | 1.200 but less than 1.225..... | 0.92 |
| 35 | 1.175 but less than 1.200..... | 0.93 |
| 36 | 1.150 but less than 1.175..... | 0.94 |
| 37 | 1.125 but less than 1.150..... | 0.95 |
| 38 | 1.100 but less than 1.125..... | 0.96 |
| 39 | 1.075 but less than 1.100..... | 0.97 |
| 40 | 1.050 but less than 1.075..... | 0.98 |
| 41 | 1.025 but less than 1.050..... | 0.99 |
| 42 | 1.000 but less than 1.025..... | 1.00 |
| 43 | 0.900 but less than 1.000..... | 1.01 |
| 44 | 0.800 but less than 0.900..... | 1.02 |
| 45 | 0.700 but less than 0.800..... | 1.03 |
| 46 | 0.600 but less than 0.700..... | 1.04 |
| 47 | 0.500 but less than 0.600..... | 1.05 |
| 48 | 0.400 but less than 0.500..... | 1.06 |
| 49 | 0.300 but less than 0.400..... | 1.07 |
| 50 | 0.200 but less than 0.300..... | 1.08 |
| 51 | 0.100 but less than 0.200..... | 1.09 |
| 52 | Less than 0.100%..... | 1.10 |

53 (B) *Adjustment to taxable wages.* The planned yield as a percent of
 54 total wages, as determined in this subsection (a)(3), shall be adjusted to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (e) There is hereby established in the state treasury, separate and apart
42 from all public moneys or funds of this state, an employment security
43 interest assessment fund, which shall be administered by the secretary as

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (~~h~~) (g) *Subpoenas, service.* Upon request, service of subpoenas shall

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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