

HOUSE BILL No. 2105

By Committee on Commerce, Labor and Economic Development

1-28

Proposed Amendments for HB 2105  
February 25, 2013  
Prepared by Ken Wilke  
Office of the Revisor of Statutes

1 AN ACT concerning the employment security law; amending K.S.A. 44-  
2 702 and K.S.A. 2012 Supp. 44-703, 44-704, 44-705, 44-706, 44-709,  
3 44-710, 44-719, 74-5602 and 75-5702 and repealing the existing  
4 sections; also repealing K.S.A. 2012 Supp. 44-704c.

44-710a, 44-710b, 44-714,

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

6 Section 1. K.S.A. 44-702 is hereby amended to read as follows: 44-  
7 702. As a guide to the interpretation and application of this act, the public  
8 policy of this state is declared to be as follows: Economic insecurity, due  
9 to unemployment, is a serious menace to health, morals, and welfare of the  
10 people of this state. Involuntary unemployment is therefore a subject of  
11 general interest and concern which requires appropriate action by the  
12 legislature to prevent its spread and to lighten its burden which now so  
13 often falls with crushing force upon the unemployed worker and his  
14 family. The achievement of social security requires protection against this  
15 greatest hazard of our economic life. This can be provided by encouraging  
16 employers to provide more stable employment and by the systematic  
17 accumulation of funds during periods of employment to provide benefits  
18 for periods of unemployment, thus maintaining purchasing power and  
19 limiting the serious social consequences of poor-relief assistance. The  
20 legislature, therefore, declares that in its considered judgment the public  
21 good and the general welfare of the citizens of this state require the  
22 enactment of this measure, under the police powers of the state, for the  
23 compulsory setting aside of unemployment reserves to be used for the  
24 benefit of persons unemployed. *All persons and employers are entitled to  
25 a neutral interpretation of the employment security law.*

26 Sec. 2. K.S.A. 2012 Supp. 44-703 is hereby amended to read as  
27 follows: 44-703. As used in this act, unless the context clearly requires  
28 otherwise:  
29

30 (a) (1) "Annual payroll" means the total amount of wages paid or  
31 payable by an employer during the calendar year.

32 (2) "Average annual payroll" means the average of the annual  
33 payrolls of any employer for the last three calendar years immediately  
34 preceding the computation date as hereinafter defined if the employer has  
35 been continuously subject to contributions during those three calendar  
36 years and has paid some wages for employment during each of such years.

1 paid for service in employment by such member in such quarter bear to the  
 2 total wages paid during such quarter for service performed in the employ  
 3 of all members of the group. The secretary shall adopt such rules and  
 4 regulations as the secretary deems necessary with respect to applications  
 5 for establishment, maintenance and termination of group accounts that are  
 6 authorized by this subsection (e)(4), for addition of new members to, and  
 7 withdrawal of active members from such accounts, and for the  
 8 determination of the amounts that are payable under this subsection (e)(4)  
 9 by members of the group and the time and manner of such payments.

10 Sec. 8. K.S.A. 2012 Supp. 44-719 is hereby amended to read as  
 11 follows: 44-719. (a) Any person who makes a false statement or  
 12 representation knowing it to be false or knowingly fails to disclose a  
 13 material fact, to obtain or increase any benefit or other payment under this  
 14 act, either for such person or for any other person, shall be guilty of theft  
 15 and shall be punished in accordance with the provisions of K.S.A. 2012  
 16 Supp. 21-5801, and amendments thereto.

17 (b) Any employing unit or any officer or agent for any employing  
 18 unit or any other person who makes a false statement or representation  
 19 knowing it to be false, or who knowingly fails to disclose a material fact,  
 20 to prevent or reduce the payment of benefits to any individual entitled  
 21 thereto, or to avoid becoming or remaining subject hereto or to avoid or  
 22 reduce any contribution or other payment required from an employing unit  
 23 under this act, or who willfully fails or refuses to make any such  
 24 contributions or other payment or to furnish any reports required  
 25 hereunder or to produce or permit the inspection or copying of records as  
 26 required hereunder, shall be punished by a fine of not less than \$20 nor  
 27 more than \$200, or by imprisonment for not longer than 60 days, or both  
 28 such fine and imprisonment. Each such false statement or representation or  
 29 failure to disclose a material fact and each day of such failure or refusal  
 30 shall constitute a separate offense.

31 (c) Any person who willfully violates any provision of this act or any  
 32 rule and regulation adopted by the secretary hereunder, the violation of  
 33 which is made unlawful or the observance of which is required under the  
 34 terms of this act, and for which a penalty is neither prescribed herein or  
 35 provided by any other applicable statute, shall be punished by a fine of not  
 36 less than \$20 nor more than \$200, or by imprisonment for not longer than  
 37 60 days, or by both such fine and imprisonment, and each day such  
 38 violation continues shall be deemed to be a separate offense.

39 (d) (1) Any person who has received any amount of money as  
 40 benefits under this act while any conditions for the receipt of benefits  
 41 imposed by this act were not fulfilled in such person's case, or while such  
 42 person was disqualified from receiving benefits, shall in the discretion of  
 43 the secretary, either be liable to have such amount of money deducted from

insert sections 3, 4 and 5 of HB  
 2124 as sections 8, 9 and 10

And by renumbering remaining sections

1 governor.

2 (b) (1) The secretary may:  
3 (A) Conduct public or private investigations within or outside of this  
4 state which the secretary or the secretary's designee considers necessary  
5 or appropriate to determine whether a person has violated, is violating, or  
6 is about to violate the employment security law act or a rule and  
7 regulation adopted or order issued under the employment security law, or  
8 to aid in the enforcement of the employment security law;

9 (B) require or permit a person to testify, file a statement, or produce  
10 a record, under oath or otherwise as the secretary or the secretary's  
11 designee determines, as to all the facts and circumstances concerning a  
12 matter to be investigated or about which an action or proceeding is to be  
13 instituted; and

14 (C) appoint one or more special investigators to aid in investigations  
15 conducted

16 pursuant to this act.

17 (2) Such special investigator's shall have authority to make arrests,  
18 serve subpoenas and all other process, conduct searches and seizures,  
19 store evidence, and carry firearms, concealed or otherwise while  
20 investigating violations of the employment security law act and to  
21 generally enforce all the criminal laws of the state as violations of those  
22 laws are encountered by such special investigators, except that no special  
23 investigator may carry firearms while performing such duties without  
24 having first successfully completed the training course prescribed for law  
25 enforcement officers under the Kansas law enforcement training act,  
26 K.S.A. 74-5601 et seq, and amendments thereto.

27 (c) The secretary of labor also may appoint such other officers and  
28 employees as are necessary to enable the secretary to carry out the duties  
29 of the office of the secretary and the department of labor.

30 (d) Except as otherwise specifically provided by law, such officers  
31 and employees shall be within the classified service under the Kansas civil  
32 service act. All personnel of the department of labor shall perform the  
33 duties and functions assigned to them such personnel by the secretary or  
34 prescribed for them such personnel by law and shall act for and exercise  
35 the powers of the secretary of labor to the extent authority to do so is  
36 delegated by the secretary.

37 Sec. 11. K.S.A. 44-702 and K.S.A. 2012 Supp. 44-703, 44-704, 44-  
38 704c, 44-705, 44-706, 44-709, 44-710, 44-719, 74-5602 and 75-5702 are  
39 hereby repealed.

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

44-710a, 44-710b, 44-714,

Sec. 3. K.S.A. 2012 Supp. 44-710a is hereby amended to read as follows: 44-710a. (a) *Classification of employers by the secretary.* The term "employer" as used in this section refers to contributing employers. The secretary shall classify employers in accordance with their actual experience in the payment of contributions on their own behalf and with respect to benefits charged against their accounts with a view of fixing such contribution rates as will reflect such experience. If, as of the date such classification of employers is made, the secretary finds that any employing unit has failed to file any report required in connection therewith, or has filed a report which the secretary finds incorrect or insufficient, the secretary shall make an estimate of the information required from such employing unit on the basis of the best evidence reasonably available to the secretary at the time, and notify the employing unit thereof by mail addressed to its last known address. Unless such employing unit shall file the report or a corrected or sufficient report as the case may be, within 15 days after the mailing of such notice, the secretary shall compute such employing unit's rate of contributions on the basis of such estimates, and the rate as so determined shall be subject to increase but not to reduction on the basis of subsequently ascertained information. The secretary shall determine the contribution rate of each employer in accordance with the requirements of this section.

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

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

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

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

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

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

(C) "Computation date" means June 30 of each calendar year with respect to rates of contribution applicable to the calendar year beginning with the following January 1. In arriving

at contribution rates for each calendar year, contributions paid on or before July 31 following the computation date for employment occurring on or prior to the computation date shall be considered for each contributing employer who has been subject to this act for a sufficient period of time to have such employer's rate computed under this subsection (a).

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

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

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

(D) As of each computation date, the total of the taxable wages paid during the ~~12-month~~ twelve-month period prior to the computation date by all employers eligible for rate computation, except negative account balance employers, shall be divided into 51 approximately equal parts designated in column A of schedule I as "rate groups," except, with regard to a year in which the taxable wage base changes. The taxable wages used in the calculation for such a

year and the following year shall be an estimate of what the taxable wages would have been if the new taxable wage base had been in effect during the entire twelve-month period prior to the computation date. The lowest numbered of such rate groups shall consist of the employers with the most favorable reserve ratios, as defined in this section, whose combined taxable wages paid are less than 1.96% of all taxable wages paid by all eligible employers. Each succeeding higher numbered rate group shall consist of employers with reserve ratios that are less favorable than those of employers in the preceding lower numbered rate groups and whose taxable wages when combined with the taxable wages of employers in all lower numbered rate groups equal the appropriate percentage of total taxable wages designated in column B of schedule I. Each eligible employer, other than a negative account balance employer, shall be assigned an experience factor designated under column C of schedule I in accordance with the rate group to which the employer is assigned on the basis of the employer's reserve ratio and taxable payroll. If an employer's taxable payroll falls into more than one rate group the employer shall be assigned the experience factor of the lower numbered rate group. If one or more employers have reserve ratios identical to that of the last employer included in the next lower numbered rate group, all such employers shall be assigned the experience factor designated to such last employer, notwithstanding the position of their taxable payroll in column B of schedule I.

| Column A   | SCHEDULE I—Eligible Employers   |  | Column C                                    |
|------------|---------------------------------|--|---|
| Rate group | Column B                        |  | Experience factor<br>(Ratio to total wages) |
|            | Cumulative taxable payroll      |  |   |
| 1          | Less than 1.96% .....           |  | .025%                                       |
| 2          | 1.96% but less than 3.92 .....  |  | .40   |
| 3          | 3.92 but less than 5.88 .....   |  | .80   |
| 4          | 5.88 but less than 7.84 .....   |  | .12   |
| 5          | 7.84 but less than 9.80 .....   |  | .16   |
| 6          | 9.80 but less than 11.76 .....  |  | .20   |
| 7          | 11.76 but less than 13.72 ..... |  | .24   |
| 8          | 13.72 but less than 15.68 ..... |  | .28   |

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



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

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

calendar year thereafter, the surcharge rate for negative balance employers with a negative reserve ratio between 0.0% and 19.9% shall be as listed in schedule II column B1.

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

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

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

(v) if the amounts collected under this subsection are in excess of the amounts needed to pay interest due, the amounts in excess shall remain in the employment security interest assessment fund to be used to pay interest in future years. Whenever the secretary certifies all interest payments have been paid pursuant to this section, any excess funds remaining in the employment security interest assessment fund shall be transferred to the employment security trust fund for the purpose of paying any remaining principal amount due for advances described in this section. In the event that the amount transferred from the employment security interest

assessment fund exceeds such remaining amount of principal due, the balance shall be used for the purposes of the employment security trust fund.

SCHEDULE II—Surcharge on Negative Accounts

| Column A<br>Negative Reserve<br>Ratio | Column B1<br>Surcharge as a<br>percent of<br>taxable wages | Column B2<br>Surcharge as a<br>percent of<br>taxable wages | Column B3<br>Surcharge as a<br>percent of<br>taxable wages |
|---------------------------------------|--|--|--|
| Less than 2.0%.....                   | 0.20% .....  | 0.30%  |  |
| 2.0% but less than 4.0 .....          | 0.40.....  | 0.50   |  |
| 4.0 but less than 6.0.....            | 0.60.....  | 0.70   |  |
| 6.0 but less than 8.0.....            | 0.80.....  | 0.90   |  |
| 8.0 but less than 10.0.....           | 1.00.....  | 1.10   |  |
| 10.0 but less than 12.0.....          | 1.20.....  | 1.30   |  |
| 12.0 but less than 14.0.....          | 1.40.....  | 1.50   |  |
| 14.0 but less than 16.0.....          | 1.60.....  | 1.70   |  |
| 16.0 but less than 18.0.....          | 1.80.....  | 1.90   |  |
| 18.0 but less than 20.0.....          | 2.00.....  | 2.10   |  |
| 20.0 but less than 22.0.....          | 2.00.....  | 2.20   |  |
| 22.0 but less than 24.0.....          | 2.00.....  | 2.40   |  |
| 24.0 but less than 26.0.....          | 2.00.....  | 2.60   |  |
| 26.0 but less than 28.0.....          | 2.00.....  | 2.80   |  |
| 28.0 but less than 30.0.....          | 2.00.....  | 3.00   |  |
| 30.0 but less than 32.0.....          | 2.00.....  | 3.20   |  |
| 32.0 but less than 34.0.....          | 2.00.....  | 3.40   |  |
| 34.0 but less than 36.0.....          | 2.00.....  | 3.60   |  |
| 36.0 but less than 38.0.....          | 2.00.....  | 3.80   |  |
| 38.0 and over.....                    | 2.00.....  | 4.00   |  |

(3) *Planned yield.* (A) The average required yield shall be determined from schedule III of this section, and the planned yield on total wages in column B of schedule III shall be determined by the reserve fund ratio in column A of schedule III. The reserve fund ratio shall be determined by dividing total assets in the employment security fund provided for in subsection (a) of K.S.A. 44-712, and amendments thereto, excluding all moneys credited to the account of this state pursuant to section 903 of the federal social security act, as amended, which have been appropriated by the state legislature, whether or not withdrawn from the trust fund, and

excluding contributions not yet paid on July 31 by total payrolls for contributing employers for the preceding fiscal year which ended June 30.

SCHEDULE III—Fund Control  
Ratios to Total Wages

| Column A<br>Reserve Fund Ratio | Column B<br>Planned Yield |
|--------------------------------|---------------------------|
| 4.500 and over .....           | 0.00                      |
| 4.475 but less than 4.500..... | 0.01                      |
| 4.450 but less than 4.475..... | 0.02                      |
| 4.425 but less than 4.450..... | 0.03                      |
| 4.400 but less than 4.425..... | 0.04                      |
| 4.375 but less than 4.400..... | 0.05                      |
| 4.350 but less than 4.375..... | 0.06                      |
| 4.325 but less than 4.350..... | 0.07                      |
| 4.300 but less than 4.325..... | 0.08                      |
| 4.275 but less than 4.300..... | 0.09                      |
| 4.250 but less than 4.275..... | 0.10                      |
| 4.225 but less than 4.250..... | 0.11                      |
| 4.200 but less than 4.225..... | 0.12                      |
| 4.175 but less than 4.200..... | 0.13                      |
| 4.150 but less than 4.175..... | 0.14                      |
| 4.125 but less than 4.150..... | 0.15                      |
| 4.100 but less than 4.125..... | 0.16                      |
| 4.075 but less than 4.100..... | 0.17                      |
| 4.050 but less than 4.075..... | 0.18                      |
| 4.025 but less than 4.050..... | 0.19                      |
| 4.000 but less than 4.025..... | 0.20                      |
| 3.950 but less than 4.000..... | 0.21                      |
| 3.900 but less than 3.950..... | 0.22                      |
| 3.850 but less than 3.900..... | 0.23                      |
| 3.800 but less than 3.850..... | 0.24                      |
| 3.750 but less than 3.800..... | 0.25                      |
| 3.700 but less than 3.750..... | 0.26                      |
| 3.650 but less than 3.700..... | 0.27                      |
| 3.600 but less than 3.650..... | 0.28                      |
| 3.550 but less than 3.600..... | 0.29                      |
| 3.500 but less than 3.550..... | 0.30                      |
| 3.450 but less than 3.500..... | 0.31                      |
| 3.400 but less than 3.450..... | 0.32                      |
| 3.350 but less than 3.400..... | 0.33                      |
| 3.300 but less than 3.350..... | 0.34                      |
| 3.250 but less than 3.300..... | 0.35                      |
| 3.200 but less than 3.250..... | 0.36                      |
| 3.150 but less than 3.200..... | 0.37                      |

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|                                |      |
|--------------------------------|------|
| 3.100 but less than 3.150..... | 0.38 |
| 3.050 but less than 3.100..... | 0.39 |
| 3.000 but less than 3.050..... | 0.40 |
| 2.950 but less than 3.000..... | 0.41 |
| 2.900 but less than 2.950..... | 0.42 |
| 2.850 but less than 2.900..... | 0.43 |
| 2.800 but less than 2.850..... | 0.44 |
| 2.750 but less than 2.800..... | 0.45 |
| 2.700 but less than 2.750..... | 0.46 |
| 2.650 but less than 2.700..... | 0.47 |
| 2.600 but less than 2.650..... | 0.48 |
| 2.550 but less than 2.600..... | 0.49 |
| 2.500 but less than 2.550..... | 0.50 |
| 2.450 but less than 2.500..... | 0.51 |
| 2.400 but less than 2.450..... | 0.52 |
| 2.350 but less than 2.400..... | 0.53 |
| 2.300 but less than 2.350..... | 0.54 |
| 2.250 but less than 2.300..... | 0.55 |
| 2.200 but less than 2.250..... | 0.56 |
| 2.150 but less than 2.200..... | 0.57 |
| 2.100 but less than 2.150..... | 0.58 |
| 2.050 but less than 2.100..... | 0.59 |
| 2.000 but less than 2.050..... | 0.60 |
| 1.975 but less than 2.000..... | 0.61 |
| 1.950 but less than 1.975..... | 0.62 |
| 1.925 but less than 1.950..... | 0.63 |
| 1.900 but less than 1.925..... | 0.64 |
| 1.875 but less than 1.900..... | 0.65 |
| 1.850 but less than 1.875..... | 0.66 |
| 1.825 but less than 1.850..... | 0.67 |
| 1.800 but less than 1.825..... | 0.68 |
| 1.775 but less than 1.800..... | 0.69 |
| 1.750 but less than 1.775..... | 0.70 |
| 1.725 but less than 1.750..... | 0.71 |
| 1.700 but less than 1.725..... | 0.72 |
| 1.675 but less than 1.700..... | 0.73 |
| 1.650 but less than 1.675..... | 0.74 |
| 1.625 but less than 1.650..... | 0.75 |
| 1.600 but less than 1.625..... | 0.76 |
| 1.575 but less than 1.600..... | 0.77 |
| 1.550 but less than 1.575..... | 0.78 |
| 1.525 but less than 1.550..... | 0.79 |
| 1.500 but less than 1.525..... | 0.80 |
| 1.475 but less than 1.500..... | 0.81 |
| 1.450 but less than 1.475..... | 0.82 |
| 1.425 but less than 1.450..... | 0.83 |

|                                |      |
|--------------------------------|------|
| 1.400 but less than 1.425..... | 0.84 |
| 1.375 but less than 1.400..... | 0.85 |
| 1.350 but less than 1.375..... | 0.86 |
| 1.325 but less than 1.350..... | 0.87 |
| 1.300 but less than 1.325..... | 0.88 |
| 1.275 but less than 1.300..... | 0.89 |
| 1.250 but less than 1.275..... | 0.90 |
| 1.225 but less than 1.250..... | 0.91 |
| 1.200 but less than 1.225..... | 0.92 |
| 1.175 but less than 1.200..... | 0.93 |
| 1.150 but less than 1.175..... | 0.94 |
| 1.125 but less than 1.150..... | 0.95 |
| 1.100 but less than 1.125..... | 0.96 |
| 1.075 but less than 1.100..... | 0.97 |
| 1.050 but less than 1.075..... | 0.98 |
| 1.025 but less than 1.050..... | 0.99 |
| 1.000 but less than 1.025..... | 1.00 |
| 0.900 but less than 1.000..... | 1.01 |
| 0.800 but less than 0.900..... | 1.02 |
| 0.700 but less than 0.800..... | 1.03 |
| 0.600 but less than 0.700..... | 1.04 |
| 0.500 but less than 0.600..... | 1.05 |
| 0.400 but less than 0.500..... | 1.06 |
| 0.300 but less than 0.400..... | 1.07 |
| 0.200 but less than 0.300..... | 1.08 |
| 0.100 but less than 0.200..... | 1.09 |
| Less than 0.100%.....          | 1.10 |

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

(C) *Effective rates.* (i) Except with regard to rates for negative account balance employers, employer contribution rates to be effective for the ensuing calendar year shall be

computed by adjusting proportionately the experience factors from schedule I of this section to the required yield on taxable wages. For the purposes of this subsection (a)(3), all rates computed shall be rounded to the nearest .01% and for calendar year 1983 and ensuing calendar years, the maximum effective contribution rate shall not exceed 5.4%.

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

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

(iv) In order to be eligible for the reduced rates for ~~rate year 2008 and subsequent rate years 2008 through 2013~~, employers must file all reports due and pay all contributions due and owing on or before January 31 of the applicable year, except that the reduced rates for otherwise eligible employers shall not be effective for any rate year if the average high cost multiple of the employment security trust fund balance falls below 1.2 as of the computation date of that year's rates. In order to be eligible for the reduced rates for rate year 2014 and subsequent rate years, employers must file all reports due and pay all contributions due and owing on or before January 31 of the applicable year, except that the reduced rates for otherwise eligible employers shall not be effective for any rate year if the average high cost multiple of the employment security trust fund balance falls below 1.0 as of the computation date of that year's rates. For the purposes of this provision, the average high cost multiple is the reserve fund ratio, as defined by subsection

(a)(3)(A), divided by the average high benefit cost rate. The average high benefit cost rate shall be determined by averaging the three highest benefit cost rates over the last 20 years from the preceding fiscal year which ended June 30. The high benefit cost rate is defined by dividing total benefits paid in the fiscal year by total payrolls for covered employers in the fiscal year.

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

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



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

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

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

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

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

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

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

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

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

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

(c) *Voluntary contributions.* Notwithstanding any other provision of the employment security law, any employer may make voluntary payments for the purpose of reducing or maintaining a reduced rate in addition to the contributions required under this section. Such voluntary payments may be made only during the thirty-day period immediately following the date of mailing of experience rating notices for a calendar year. All such voluntary contribution payments shall be paid prior to the expiration of 120 days after the beginning of the year for which such rates are effective. The amount of voluntary contributions shall be credited to the employer's account as of the next preceding computation date and the employer's rate shall be computed accordingly, except that no employer's rate shall be reduced more than five rate groups as provided in schedule I of this section as the result of a voluntary payment. An employer not having a negative account balance may have such employer's rate reduced not more than five rate groups as provided in schedule I of this section as a result of a voluntary payment. An

employer having a negative account balance may have such employer's rate reduced to that prescribed for rate group 51 of schedule I of this section by making a voluntary payment in the amount of such negative account balance or to that rate prescribed for rate groups 50 through 47 of schedule I of this section by making an additional voluntary payment that would increase such employer's reserve ratio to the lower limit required for such rate groups 50 through 47. Under no circumstances shall voluntary payments be refunded in whole or in part.

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

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

solely for the purposes and in the amounts found by the secretary necessary to pay any principal and interest due and owing the United States department of labor resulting from any advancements made to the Kansas employment security fund pursuant to the provisions of title XII of the social security act (42 U.S.C. §§ 1321 to 1324) except as may be otherwise provided under section (a)(2)(E), and amendments thereto. Notwithstanding any provision of this section, all moneys received and credited to this fund pursuant to section (a)(2)(E), and amendments thereto, pursuant to section (a)(2)(E), and amendments thereto, shall remain part of the employment security interest assessment fund and shall be used only in accordance with the conditions specified in section (a)(2)(E), and amendments thereto.

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

Sec. . K.S.A. 2012 Supp. 44-710b is hereby amended to read as follows: 44-710b. (a) *By the secretary of labor.* The secretary of labor shall promptly notify each contributing employer of its rate of contributions, each rated governmental employer of its benefit cost rate and each reimbursing employer of its benefit liability as determined for any calendar year pursuant to K.S.A. 44-710 and 44-710a, and amendments thereto, on or before November 15 of

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

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

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

Sec. 5. K.S.A. 2012 Supp. 44-714 is hereby amended to read as follows: 44-714. (a) *Duties and powers of secretary.* It shall be the duty of the secretary to administer this act and the secretary shall have power and authority to adopt, amend or revoke such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as the secretary deems necessary or suitable to that end. Such rules and regulations may be adopted, amended, or revoked by the secretary only after public hearing or opportunity to be heard thereon. The secretary shall determine the organization and methods of procedure in accordance with the provisions of this act, and shall have an official seal which shall be judicially noticed. The secretary shall make and submit reports for the administration of the employment security law in the manner prescribed by K.S.A. 75-3044 to 75-3046, inclusive,

and 75-3048, and amendments thereto. Whenever the secretary believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, the secretary shall promptly so inform the governor and the legislature, and make recommendations with respect thereto.

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

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



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

~~(d) Advisory councils. The secretary shall appoint a state employment security advisory council and may appoint local advisory councils, composed in each case of men and women which shall include an equal number of employer representatives and employee representatives who may fairly be regarded as representative because of their vocation, employment, or affiliations, and of such members representing the general public as the secretary may designate. Each such member shall serve a four year term. On July 1, 1996, the secretary shall designate term lengths for seated members of the council. One half of the seated members representing employers,  $\frac{1}{2}$  of the seated members representing employees and  $\frac{1}{2}$  of the members representing the general public shall be designated by the secretary to serve two year~~

~~terms. The remaining seated members of the council shall be designated to serve four year terms. When the term of any member expires, the secretary shall appoint the member's successor to a four year term. If a position on the council becomes vacant prior to the expiration of the vacating member's term, the secretary may appoint an otherwise qualified individual to fulfill the remainder of such unexpired term. Such councils shall aid the secretary in formulating policies and discussing problems related to the administration of this act and in securing impartiality and freedom from political influence in the solution of such problems. Members of the state employment security advisory council attending meetings of such council, or attending a subcommittee meeting thereof authorized by such council, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223, and amendments thereto. Service on the state employment security advisory council shall not in and of itself be sufficient to cause any member of the state employment security advisory council to be classified as a state officer or employee.~~

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

(f) (e) *Records and reports.* Each employing unit shall keep true and accurate work records, containing such information as the secretary may prescribe. Such records shall be open

to inspection and subject to being copied by the secretary or the secretary's authorized representatives at any reasonable time and shall be preserved for a period of five years from the due date of the contributions or payments in lieu of contributions for the period to which they relate. Only one audit shall be made of any employer's records for any given period of time. Upon request the employing unit shall be furnished a copy of all findings by the secretary or the secretary's authorized representatives, resulting from such audit. A special inquiry or special examination made for a specific and limited purpose shall not be considered to be an audit for the purpose of this subsection. The secretary may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the secretary deems necessary for the effective administration of this act. Information thus obtained or obtained from any individual pursuant to the administration of this act shall be held confidential, except to the extent necessary for the proper presentation of a claim by an employer or employee under the employment security law, and shall not be published or be open to public inspection, other than to public employees in the performance of their public duties, in any manner revealing the individual's or employing unit's identity. Any claimant or employing unit or their representatives at a hearing before an appeal tribunal or the secretary shall be supplied with information from such records to the extent necessary for the proper presentation of the claim. The transcript made at any such benefits hearing shall not be discoverable or admissible in evidence in any other proceeding, hearing or determination of any kind or nature. In the event of any appeal of a benefits matter, the transcript shall be sealed by the hearing officer and shall be available only to any reviewing authority who shall reseal the transcript after making a review of it. In no event shall such transcript be deemed a public record. Nothing in this subsection—~~(f)~~ (e) shall be construed to prohibit disclosure of any information obtained under the employment security law,

including hearing transcripts, upon request of either of the parties, for the purpose of administering or adjudicating a claim for benefits under the provisions of any other state program, except that any party receiving such information shall be prohibited from further disclosure and shall be subject to the same duty of confidentiality otherwise imposed by this subsection-~~(f)~~ (e) and shall be subject to the penalties imposed by this subsection-~~(f)~~ (e) for violations of such duty of confidentiality. Nothing in this subsection-~~(f)~~ (e) shall be construed to prohibit disclosure of any information obtained under the employment security law, including hearing transcripts, for use as evidence in open court in a criminal prosecution for perjury at an appeal hearing under the employment security law or for any criminal violation of the employment security law. If the secretary or any officer or employee of the secretary violates any provisions of this subsection-~~(f)~~ (e), the secretary or such officer or employee shall be fined not less than \$20 nor more than \$200 or imprisoned for not longer than 90 days, or both. Original records of the agency and original paid benefit warrants of the state treasurer may be made available to the employment security agency of any other state or the federal government to be used as evidence in prosecution of violations of the employment security law of such state or federal government. Photostatic copies of such records shall be made and where possible shall be substituted for original records introduced in evidence and the originals returned to the agency.

~~(g)~~ (f) *Oaths and witnesses.* In the discharge of the duties imposed by the employment security law, the chairperson of an appeal tribunal, an appeals referee, the secretary or any duly authorized representative of the secretary shall have power to administer oaths and affirmations, take depositions, issue interrogatories, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and

other records deemed necessary as evidence in connection with a disputed claim or the administration of the employment security law.

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

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

(2) *Corporations and partnerships.* Service upon a domestic or foreign corporation or upon a partnership or other unincorporated association, when by law it may be sued as such, shall be made by delivering a copy of the subpoena to an officer, partner or resident managing or general agent thereof, or by leaving the copy at any business office of the employer with the

person having charge thereof or by delivering a copy to any other agent authorized by appointment or required by law to receive service of process, if the agent is one authorized by law to receive service and, if the law so requires, by also mailing a copy to the employer.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

~~(m)~~ (l) *Destruction of records, reproduction and disposition.* The secretary may provide for the destruction, reproduction, temporary or permanent retention, and disposition of records, reports and claims in the secretary's possession pursuant to the administration of the employment

security law provided that prior to any destruction of such records, reports or claims the secretary shall comply with K.S.A. 75-3501 to 75-3514, inclusive, and amendments thereto.

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

~~(e)~~ (n) The secretary is hereby authorized to fix, charge and collect fees for copies made of public documents, as defined by subsection (c) of K.S.A. ~~45-204~~ 45-217, and amendments thereto, by xerographic, thermographic or other photocopying or reproduction process, in order to recover all or part of the actual costs incurred, including any costs incurred in certifying such copies. All moneys received from fees charged for copies of such documents shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the employment security administration fund. No such fees shall be charged or collected for copies of documents that are made pursuant to a statute which requires such copies to be furnished without expense.