

Substitute for HOUSE BILL No. 2105

By Committee on Commerce, Labor and Economic Development

2-26

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, 44-710a, 44-710b, 44-714, 44-719, 74-5602 and 75-5702 and
4 repealing the existing sections; also repealing K.S.A. 2012 Supp. 44-
5 704c.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

33 (2) "Average annual payroll" means the average of the annual
34 payrolls of any employer for the last three calendar years immediately

1 preceding the computation date as hereinafter defined if the employer has
2 been continuously subject to contributions during those three calendar
3 years and has paid some wages for employment during each of such years.
4 In determining contribution rates for the calendar year, if an employer has
5 not been continuously subject to contribution for the three calendar years
6 immediately preceding the computation date but has paid wages subject to
7 contributions during only the two calendar years immediately preceding
8 the computation date, such employer's "average annual payroll" shall be
9 the average of the payrolls for those two calendar years.

10 (3) "Total wages" means the total amount of wages paid or payable
11 by an employer during the calendar year, including that part of
12 remuneration in excess of the limitation prescribed as provided in
13 subsection (o)(1) of this section.

14 (b) "Base period" means the first four of the last five completed
15 calendar quarters immediately preceding the first day of an individual's
16 benefit year, except that the base period in respect to combined wage
17 claims means the base period as defined in the law of the paying state.

18 (1)-(A) If an individual lacks sufficient base period wages in order to
19 establish a benefit year in the ~~matter~~ *manner* set forth above and satisfies
20 the requirements of subsection (g) of K.S.A. 44-705 and subsection (hh) of
21 K.S.A. 44-703, and amendments thereto, the claimant shall have an
22 alternative base period substituted for the current base period so as not to
23 prevent establishment of a valid claim. For the purposes of this subsection,
24 "alternative base period" means the last four completed quarters
25 immediately preceding the date the qualifying injury occurred. In the event
26 the wages in the alternative base period have been used on a prior claim,
27 then they shall be excluded from the new alternative base period.

28 ~~(B) If an individual lacks sufficient base period wages in order to~~
29 ~~establish a benefit year in the manner set forth above the claimant shall~~
30 ~~have an alternative base period substituted for the current base period. For~~
31 ~~the purposes of this subsection, "alternative base period" means eligibility~~
32 ~~shall be determined using a base period that consists of the four most~~
33 ~~recently completed calendar quarters preceding the start of the benefit~~
34 ~~year.~~

35 (2) For the purposes of this chapter, the term "base period" includes
36 the alternative base period.

37 (c) (1) "Benefits" means the money payments payable to an
38 individual, as provided in this act, with respect to such individual's
39 unemployment.

40 (2) "Regular benefits" means benefits payable to an individual under
41 this act or under any other state law, including benefits payable to federal
42 civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85,
43 other than extended benefits.

1 (d) "Benefit year" with respect to any individual, means the period
2 beginning with the first day of the first week for which such individual
3 files a valid claim for benefits, and such benefit year shall continue for one
4 full year. In the case of a combined wage claim, the benefit year shall be
5 the benefit year of the paying state. Following the termination of a benefit
6 year, a subsequent benefit year shall commence on the first day of the first
7 week with respect to which an individual next files a claim for benefits.
8 When such filing occurs with respect to a week which overlaps the
9 preceding benefit year, the subsequent benefit year shall commence on the
10 first day immediately following the expiration date of the preceding
11 benefit year. Any claim for benefits made in accordance with subsection
12 (a) of K.S.A. 44-709, and amendments thereto, shall be deemed to be a
13 "valid claim" for the purposes of this subsection if the individual has been
14 paid wages for insured work as required under subsection (e) of K.S.A. 44-
15 705, and amendments thereto. Whenever a week of unemployment
16 overlaps two benefit years, such week shall, for the purpose of granting
17 waiting-period credit or benefit payment with respect thereto, be deemed
18 to be a week of unemployment within that benefit year in which the
19 greater part of such week occurs.

20 (e) "Commissioner" or "secretary" means the secretary of labor.

21 (f) (1) "Contributions" means the money payments to the state
22 employment security fund which are required to be made by employers on
23 account of employment under K.S.A. 44-710, and amendments thereto,
24 and voluntary payments made by employers pursuant to such statute.

25 (2) "Payments in lieu of contributions" means the money payments to
26 the state employment security fund from employers which are required to
27 make or which elect to make such payments under subsection (e) of
28 K.S.A. 44-710, and amendments thereto.

29 (g) "Employing unit" means any individual or type of organization,
30 including any partnership, association, limited liability company, agency
31 or department of the state of Kansas and political subdivisions thereof,
32 trust, estate, joint-stock company, insurance company or corporation,
33 whether domestic or foreign including nonprofit corporations, or the
34 receiver, trustee in bankruptcy, trustee or successor thereof, or the legal
35 representatives of a deceased person, which has in its employ one or more
36 individuals performing services for it within this state. All individuals
37 performing services within this state for any employing unit which
38 maintains two or more separate establishments within this state shall be
39 deemed to be employed by a single employing unit for all the purposes of
40 this act. Each individual employed to perform or to assist in performing
41 the work of any agent or employee of an employing unit shall be deemed
42 to be employed by such employing unit for all the purposes of this act,
43 whether such individual was hired or paid directly by such employing unit

1 or by such agent or employee, provided the employing unit had actual or
2 constructive knowledge of the employment.

3 (h) "Employer" means:

4 (1) (A) Any employing unit for which agricultural labor as defined in
5 subsection (w) of this section is performed and which during any calendar
6 quarter in either the current or preceding calendar year paid remuneration
7 in cash of \$20,000 or more to individuals employed in agricultural labor or
8 for some portion of a day in each of 20 different calendar weeks, whether
9 or not such weeks were consecutive, in either the current or the preceding
10 calendar year, employed in agricultural labor 10 or more individuals,
11 regardless of whether they were employed at the same moment of time.

12 (B) For the purpose of this subsection (h)(1), any individual who is a
13 member of a crew furnished by a crew leader to perform service in
14 agricultural labor for any other person shall be treated as an employee of
15 such crew leader if:

16 (i) Such crew leader holds a valid certificate of registration under the
17 federal migrant and seasonal agricultural workers protection act or
18 substantially all the members of such crew operate or maintain tractors,
19 mechanized harvesting or cropdusting equipment or any other mechanized
20 equipment, which is provided by such crew leader; and

21 (ii) such individual is not in the employment of such other person
22 within the meaning of subsection (i) of this section.

23 (C) For the purpose of this subsection (h)(1), in the case of any
24 individual who is furnished by a crew leader to perform service in
25 agricultural labor for any other person and who is not treated as an
26 employee of such crew leader:

27 (i) Such other person and not the crew leader shall be treated as the
28 employer of such individual; and

29 (ii) such other person shall be treated as having paid cash
30 remuneration to such individual in an amount equal to the amount of cash
31 remuneration paid to such individual by the crew leader, either on the crew
32 leader's own behalf or on behalf of such other person, for the service in
33 agricultural labor performed for such other person.

34 (D) For the purposes of this subsection (h)(1) "crew leader" means an
35 individual who:

36 (i) Furnishes individuals to perform service in agricultural labor for
37 any other person;

38 (ii) pays, either on such individual's own behalf or on behalf of such
39 other person, the individuals so furnished by such individual for the
40 service in agricultural labor performed by them; and

41 (iii) has not entered into a written agreement with such other person
42 under which such individual is designated as an employee of such other
43 person.

1 (2) (A) Any employing unit which for calendar year 2007 and each
2 calendar year thereafter: (i) In any calendar quarter in either the current or
3 preceding calendar year paid for service in employment wages of \$1,500
4 or more;; (ii) for some portion of a day in each of 20 different calendar
5 weeks, whether or not such weeks were consecutive, in either the current
6 or preceding calendar year, had in employment at least one individual,
7 whether or not the same individual was in employment in each such day;;
8 or (iii) elects to have an unemployment tax account established at the time
9 of initial registration in accordance with subsection (c) of K.S.A. 44-711,
10 and amendments thereto.

11 (B) Employment of individuals to perform domestic service or
12 agricultural labor and wages paid for such service or labor shall not be
13 considered in determining whether an employing unit meets the criteria of
14 this subsection (h)(2).

15 (3) Any employing unit for which service is employment as defined
16 in subsection (i)(3)(E) of this section.

17 (4) (A) Any employing unit, whether or not it is an employing unit
18 under subsection (g) of this section, which acquires or in any manner
19 succeeds to: (i) Substantially all of the employing enterprises,
20 organization, trade or business;; or (ii) substantially all the assets, of
21 another employing unit which at the time of such acquisition was an
22 employer subject to this act;

23 (B) any employing unit which is controlled substantially, either
24 directly or indirectly by legally enforceable means or otherwise, by the
25 same interest or interests, whether or not such interest or interests are an
26 employing unit under subsection (g) of this section, which acquires or in
27 any manner succeeds to a portion of an employer's annual payroll, which is
28 less than 100% of such employer's annual payroll, and which intends to
29 continue the acquired portion as a going business.

30 (5) Any employing unit which paid cash remuneration of \$1,000 or
31 more in any calendar quarter in the current or preceding calendar year to
32 individuals employed in domestic service as defined in subsection (aa) of
33 this section.

34 (6) Any employing unit which having become an employer under this
35 subsection (h) has not, under subsection (b) of K.S.A. 44-711, and
36 amendments thereto, ceased to be an employer subject to this act.

37 (7) Any employing unit which has elected to become fully subject to
38 this act in accordance with subsection (c) of K.S.A. 44-711, and
39 amendments thereto.

40 (8) Any employing unit not an employer by reason of any other
41 paragraph of this subsection (h), for which within either the current or
42 preceding calendar year services in employment are or were performed
43 with respect to which such employing unit is liable for any federal tax

1 against which credit may be taken for contributions required to be paid
2 into a state unemployment compensation fund; or which, as a condition for
3 approval of this act for full tax credit against the tax imposed by the
4 federal unemployment tax act, is required, pursuant to such act, to be an
5 "employer" under this act.

6 (9) Any employing unit described in section 501(c)(3) of the federal
7 internal revenue code of 1986 which is exempt from income tax under
8 section 501(a) of the code that had four or more individuals in
9 employment for some portion of a day in each of 20 different weeks,
10 whether or not such weeks were consecutive, within either the current or
11 preceding calendar year, regardless of whether they were employed at the
12 same moment of time.

13 (i) "Employment" means:

14 (1) Subject to the other provisions of this subsection, service,
15 including service in interstate commerce, performed by:

16 (A) Any active officer of a corporation; or

17 (B) any individual who, under the usual common law rules applicable
18 in determining the employer-employee relationship, has the status of an
19 employee subject to the provisions of subsection (i)(3)(D); or

20 (C) any individual other than an individual who is an employee under
21 subsection (i)(1)(A) or subsection (i)(1)(B) above who performs services
22 for remuneration for any person:

23 (i) As an agent-driver or commission-driver engaged in distributing
24 meat products, vegetable products, fruit products, bakery products,
25 beverages (other than milk), or laundry or dry-cleaning services, for such
26 individual's principal; or

27 (ii) as a traveling or city salesman, other than as an agent-driver or
28 commission-driver, engaged upon a full-time basis in the solicitation on
29 behalf of, and the transmission to, a principal (except for side-line sales
30 activities on behalf of some other person) of orders from wholesalers,
31 retailers, contractors, or operators of hotels, restaurants, or other similar
32 establishments for merchandise for resale or supplies for use in their
33 business operations.

34 For purposes of subsection (i)(1)(C), the term "employment" shall
35 include services described in paragraphs (i) and (ii) above only if:

36 (a) The contract of service contemplates that substantially all of the
37 services are to be performed personally by such individual;

38 (b) the individual does not have a substantial investment in facilities
39 used in connection with the performance of the services (other than in
40 facilities for transportation); and

41 (c) the services are not in the nature of a single transaction that is not
42 part of a continuing relationship with the person for whom the services are
43 performed.

1 (2) The term "employment" shall include an individual's entire
2 service within the United States, even though performed entirely outside
3 this state if:

4 (A) The service is not localized in any state; ~~and~~

5 (B) the individual is one of a class of employees who are required to
6 travel outside this state in performance of their duties; and

7 (C) the individual's base of operations is in this state, or if there is no
8 base of operations, then the place from which service is directed or
9 controlled is in this state.

10 (3) The term "employment" shall also include:

11 (A) Services performed within this state but not covered by the
12 provisions of subsection (i)(1) or subsection (i)(2) shall be deemed to be
13 employment subject to this act if contributions are not required and paid
14 with respect to such services under an unemployment compensation law of
15 any other state or of the federal government.

16 (B) Services performed entirely without this state, with respect to no
17 part of which contributions are required and paid under an unemployment
18 compensation law of any other state or of the federal government, shall be
19 deemed to be employment subject to this act only if the individual
20 performing such services is a resident of this state and the secretary
21 approved the election of the employing unit for whom such services are
22 performed that the entire service of such individual shall be deemed to be
23 employment subject to this act.

24 (C) Services covered by an arrangement pursuant to subsection (l) of
25 K.S.A. 44-714, and amendments thereto, between the secretary and the
26 agency charged with the administration of any other state or federal
27 unemployment compensation law, pursuant to which all services
28 performed by an individual for an employing unit are deemed to be
29 performed entirely within this state, shall be deemed to be employment if
30 the secretary has approved an election of the employing unit for whom
31 such services are performed, pursuant to which the entire service of such
32 individual during the period covered by such election is deemed to be
33 insured work.

34 (D) Services performed by an individual for wages or under any
35 contract of hire shall be deemed to be employment subject to this act if the
36 business for which activities of the individual are performed retains not
37 only the right to control the end result of the activities performed, but the
38 manner and means by which the end result is accomplished.

39 (E) Service performed by an individual in the employ of this state or
40 any instrumentality thereof, any political subdivision of this state or any
41 instrumentality thereof, or in the employ of an Indian tribe, as defined
42 pursuant to section 3306(u) of the federal unemployment tax act, any
43 instrumentality of more than one of the foregoing or any instrumentality

1 which is jointly owned by this state or a political subdivision thereof or
2 Indian tribes and one or more other states or political subdivisions of this
3 or other states, provided that such service is excluded from "employment"
4 as defined in the federal unemployment tax act by reason of section
5 3306(c)(7) of that act and is not excluded from "employment" under
6 subsection (i)(4)(A) of this section. For purposes of this section, the
7 exclusions from employment in subsections (i)(4)(A) and (i)(4)(L) shall
8 also be applicable to services performed in the employ of an Indian tribe.

9 (F) Service performed by an individual in the employ of a religious,
10 charitable, educational or other organization which is excluded from the
11 term "employment" as defined in the federal unemployment tax act solely
12 by reason of section 3306(c)(8) of that act, and is not excluded from
13 employment under paragraphs (I) through (M) of subsection (i)(4).

14 (G) The term "employment" shall include the service of an individual
15 who is a citizen of the United States, performed outside the United States
16 except in Canada, in the employ of an American employer (other than
17 service which is deemed "employment" under the provisions of subsection
18 (i)(2) or subsection (i)(3) or the parallel provisions of another state's law),
19 if:

20 (i) The employer's principal place of business in the United States is
21 located in this state; or

22 (ii) the employer has no place of business in the United States, but:

23 (a) The employer is an individual who is a resident of this state;

24 (b) the employer is a corporation which is organized under the laws
25 of this state; or

26 (c) the employer is a partnership or a trust and the number of the
27 partners or trustees who are residents of this state is greater than the
28 number who are residents of any other state; or

29 (iii) none of the criteria of paragraphs (i) and (ii) above of this
30 subsection (i)(3)(G) are met but the employer has elected coverage in this
31 state or, the employer having failed to elect coverage in any state, the
32 individual has filed a claim for benefits, based on such service, under the
33 law of this state.

34 (H) An "American employer," for purposes of subsection (i)(3)(G),
35 means a person who is:

36 (i) An individual who is a resident of the United States;

37 (ii) a partnership if $\frac{2}{3}$ or more of the partners are residents of the
38 United States;

39 (iii) a trust, if all of the trustees are residents of the United States; or

40 (iv) a corporation organized under the laws of the United States or of
41 any state.

42 (I) Notwithstanding subsection (i)(2) of this section, all service
43 performed by an officer or member of the crew of an American vessel or

1 American aircraft on or in connection with such vessel or aircraft, if the
2 operating office, from which the operations of such vessel or aircraft
3 operating within, or within and without, the United States are ordinarily
4 and regularly supervised, managed, directed and controlled is within this
5 state.

6 (J) Notwithstanding any other provisions of this subsection (i),
7 service with respect to which a tax is required to be paid under any federal
8 law imposing a tax against which credit may be taken for contributions
9 required to be paid into a state unemployment compensation fund or which
10 as a condition for full tax credit against the tax imposed by the federal
11 unemployment tax act is required to be covered under this act.

12 (K) Domestic service in a private home, local college club or local
13 chapter of a college fraternity or sorority performed for a person who paid
14 cash remuneration of \$1,000 or more in any calendar quarter in the current
15 calendar year or the preceding calendar year to individuals employed in
16 such domestic service.

17 (4) The term "employment" shall not include: (A) Service performed
18 in the employ of an employer specified in subsection (h)(3) of this section
19 if such service is performed by an individual in the exercise of duties:

- 20 (i) As an elected official;
21 (ii) as a member of a legislative body, or a member of the judiciary, of
22 a state, political subdivision or of an Indian tribe;
23 (iii) as a member of the state national guard or air national guard;
24 (iv) as an employee serving on a temporary basis in case of fire,
25 storm, snow, earthquake, flood or similar emergency;
26 (v) in a position which, under or pursuant to the laws of this state or
27 tribal law, is designated as a major nontenured policymaking or advisory
28 position or as a policymaking or advisory position the performance of the
29 duties of which ordinarily does not require more than eight hours per
30 week;

31 (B) service with respect to which unemployment compensation is
32 payable under an unemployment compensation system established by an
33 act of congress;

34 (C) service performed by an individual in the employ of such
35 individual's son, daughter or spouse, and service performed by a child
36 under the age of 21 years in the employ of such individual's father or
37 mother;

38 (D) service performed in the employ of the United States government
39 or an instrumentality of the United States exempt under the constitution of
40 the United States from the contributions imposed by this act, except that to
41 the extent that the congress of the United States shall permit states to
42 require any instrumentality of the United States to make payments into an
43 unemployment fund under a state unemployment compensation law, all of

1 the provisions of this act shall be applicable to such instrumentalities, and
2 to services performed for such instrumentalities, in the same manner, to the
3 same extent and on the same terms as to all other employers, employing
4 units, individuals and services. If this state shall not be certified for any
5 year by the federal security agency under section 3304(c) of the federal
6 internal revenue code of 1986, the payments required of such
7 instrumentalities with respect to such year shall be refunded by the
8 secretary from the fund in the same manner and within the same period as
9 is provided in subsection (f) of K.S.A. 44-717, and amendments thereto,
10 with respect to contributions erroneously collected;

11 (E) service covered by an arrangement between the secretary and the
12 agency charged with the administration of any other state or federal
13 unemployment compensation law pursuant to which all services performed
14 by an individual for an employing unit during the period covered by such
15 employing unit's duly approved election, are deemed to be performed
16 entirely within the jurisdiction of such other state or federal agency;

17 (F) service performed by an individual under the age of 18 in the
18 delivery or distribution of newspapers or shopping news, not including
19 delivery or distribution to any point for subsequent delivery or
20 distribution;

21 (G) service performed by an individual for an employing unit as an
22 insurance agent or as an insurance solicitor, if all such service performed
23 by such individual for such employing unit is performed for remuneration
24 solely by way of commission;

25 (H) service performed in any calendar quarter in the employ of any
26 organization exempt from income tax under section 501(a) of the federal
27 internal revenue code of 1986 (other than an organization described in
28 section 401(a) or under section 521 of such code) if the remuneration for
29 such service is less than \$50. In construing the application of the term
30 "employment," if services performed during $\frac{1}{2}$ or more of any pay period
31 by an individual for the person employing such individual constitute
32 employment, all the services of such individual for such period shall be
33 deemed to be employment; but if the services performed during more than
34 $\frac{1}{2}$ of any such pay period by an individual for the person employing such
35 individual do not constitute employment, then none of the services of such
36 individual for such period shall be deemed to be employment. As used in
37 this subsection (i)(4)(H) the term "pay period" means a period (of not more
38 than 31 consecutive days) for which a payment of remuneration is
39 ordinarily made to the individual by the person employing such individual.
40 This subsection (i)(4)(H) shall not be applicable with respect to services
41 with respect to which unemployment compensation is payable under an
42 unemployment compensation system established by an act of congress;

43 (I) services performed in the employ of a church or convention or

1 association of churches, or an organization which is operated primarily for
2 religious purposes and which is operated, supervised, controlled, or
3 principally supported by a church or convention or association of
4 churches;

5 (J) service performed by a duly ordained, commissioned, or licensed
6 minister of a church in the exercise of such individual's ministry or by a
7 member of a religious order in the exercise of duties required by such
8 order;

9 (K) service performed in a facility conducted for the purpose of
10 carrying out a program of:

11 (i) Rehabilitation for individuals whose earning capacity is impaired
12 by age or physical or mental deficiency or injury; or

13 (ii) providing remunerative work for individuals who because of their
14 impaired physical or mental capacity cannot be readily absorbed in the
15 competitive labor market, by an individual receiving such rehabilitation or
16 remunerative work;

17 (L) service performed as part of an employment work-relief or work-
18 training program assisted or financed in whole or in part by any federal
19 agency or an agency of a state or political subdivision thereof or of an
20 Indian tribe, by an individual receiving such work relief or work training;

21 (M) service performed by an inmate of a custodial or correctional
22 institution;

23 (N) service performed, in the employ of a school, college, or
24 university, if such service is performed by a student who is enrolled and is
25 regularly attending classes at such school, college or university;

26 (O) service performed by an individual who is enrolled at a nonprofit
27 or public educational institution which normally maintains a regular
28 faculty and curriculum and normally has a regularly organized body of
29 students in attendance at the place where its educational activities are
30 carried on as a student in a full-time program, taken for credit at such
31 institution, which combines academic instruction with work experience, if
32 such service is an integral part of such program, and such institution has so
33 certified to the employer, except that this subsection (i)(4)(O) shall not
34 apply to service performed in a program established for or on behalf of an
35 employer or group of employers;

36 (P) service performed in the employ of a hospital licensed, certified
37 or approved by the secretary of health and environment, if such service is
38 performed by a patient of the hospital;

39 (Q) services performed as a qualified real estate agent. As used in this
40 subsection (i)(4)(Q) the term "qualified real estate agent" means any
41 individual who is licensed by the Kansas real estate commission as a
42 salesperson under the real estate brokers' and salespersons' license act and
43 for whom:

1 (i) Substantially all of the remuneration, whether or not paid in cash,
2 for the services performed by such individual as a real estate salesperson is
3 directly related to sales or other output, including the performance of
4 services, rather than to the number of hours worked; and

5 (ii) the services performed by the individual are performed pursuant
6 to a written contract between such individual and the person for whom the
7 services are performed and such contract provides that the individual will
8 not be treated as an employee with respect to such services for state tax
9 purposes;

10 (R) services performed for an employer by an extra in connection
11 with any phase of motion picture or television production or television
12 commercials for less than 14 days during any calendar year. As used in this
13 subsection, the term "extra" means an individual who pantomimes in the
14 background, adds atmosphere to the set and performs such actions without
15 speaking and "employer" shall not include any employer which is a
16 governmental entity or any employer described in section 501(c)(3) of the
17 federal internal revenue code of 1986 which is exempt from income
18 taxation under section 501(a) of the code;

19 (S) services performed by an oil and gas contract pumper. As used in
20 this subsection (i)(4)(S), "oil and gas contract pumper" means a person
21 performing pumping and other services on one or more oil or gas leases, or
22 on both oil and gas leases, relating to the operation and maintenance of
23 such oil and gas leases, on a contractual basis for the operators of such oil
24 and gas leases and "services" shall not include services performed for a
25 governmental entity or any organization described in section 501(c)(3) of
26 the federal internal revenue code of 1986 which is exempt from income
27 taxation under section 501(a) of the code;

28 (T) service not in the course of the employer's trade or business
29 performed in any calendar quarter by an employee, unless the cash
30 remuneration paid for such service is \$200 or more and such service is
31 performed by an individual who is regularly employed by such employer
32 to perform such service. For purposes of this paragraph, an individual shall
33 be deemed to be regularly employed by an employer during a calendar
34 quarter only if:

35 (i) On each of some 24 days during such quarter such individual
36 performs for such employer for some portion of the day service not in the
37 course of the employer's trade or business; or

38 (ii) such individual was regularly employed, as determined under
39 subparagraph (i), by such employer in the performance of such service
40 during the preceding calendar quarter.

41 Such excluded service shall not include any services performed for an
42 employer which is a governmental entity or any employer described in
43 section 501(c)(3) of the federal internal revenue code of 1986 which is

1 exempt from income taxation under section 501(a) of the code;

2 (U) service which is performed by any person who is a member of a
3 limited liability company and which is performed as a member or manager
4 of that limited liability company; and

5 (V) services performed as a qualified direct seller. The term "direct
6 seller" means any person if:

7 (i) Such person:

8 (a) Is engaged in the trade or business of selling or soliciting the sale
9 of consumer products to any buyer on a buy-sell basis or a deposit-
10 commission basis for resale, by the buyer or any other person, in the home
11 or otherwise rather than in a permanent retail establishment; or

12 (b) is engaged in the trade or business of selling or soliciting the sale
13 of consumer products in the home or otherwise than in a permanent retail
14 establishment;

15 (ii) substantially all the remuneration whether or not paid in cash for
16 the performance of the services described in subparagraph (i) is directly
17 related to sales or other output including the performance of services rather
18 than to the number of hours worked;

19 (iii) the services performed by the person are performed pursuant to a
20 written contract between such person and the person for whom the services
21 are performed and such contract provides that the person will not be
22 treated as an employee for federal and state tax purposes;

23 (iv) for purposes of this act, a sale or a sale resulting exclusively from
24 a solicitation made by telephone, mail, or other telecommunications
25 method, or other nonpersonal method does not satisfy the requirements of
26 this subsection;

27 (W) service performed as an election official or election worker, if the
28 amount of remuneration received by the individual during the calendar
29 year for services as an election official or election worker is less than
30 \$1,000;

31 (X) service performed by agricultural workers who are aliens
32 admitted to the United States to perform labor pursuant to section 1101 (a)
33 (15)(H)(ii)(a) of the immigration and nationality act; and

34 (Y) service performed by an owner-operator of a motor vehicle that is
35 leased or contracted to a licensed motor carrier with the services of a
36 driver and is not treated under the terms of the lease agreement or contract
37 with the licensed motor carrier as an employee for purposes of the federal
38 insurance contribution act, 26 U.S.C. § 3101 et seq., the federal social
39 security act, 42 U.S.C. § 301 et seq., the federal unemployment tax act, 26
40 U.S.C. § 3301 et seq., and the federal statutes prescribing income tax
41 withholding at the source, 26 U.S.C. § 3401 et seq. Employees or agents of
42 the owner-operator shall not be considered employees of the licensed
43 motor carrier for purposes of employment security taxation or

1 compensation. As used in this subsection (Y), the following definitions
2 apply: (i) "Motor vehicle" means any automobile, truck-trailer, semitrailer,
3 tractor, motor bus or any other self-propelled or motor-driven vehicle used
4 upon any of the public highways of Kansas for the purpose of transporting
5 persons or property; (ii) "licensed motor carrier" means any person, firm,
6 corporation or other business entity that holds a certificate of convenience
7 and necessity or a certificate of public service from the state corporation
8 commission or is required to register motor carrier equipment pursuant to
9 49 U.S.C. § 14504; and (iii) "owner-operator" means a person, firm,
10 corporation or other business entity that is the owner of a single motor
11 vehicle that is driven exclusively by the owner under a lease agreement or
12 contract with a licensed motor carrier.

13 (j) "Employment office" means any office operated by this state and
14 maintained by the secretary of labor for the purpose of assisting persons to
15 become employed.

16 (k) "Fund" means the employment security fund established by this
17 act, to which all contributions and reimbursement payments required and
18 from which all benefits provided under this act shall be paid and including
19 all money received from the federal government as reimbursements
20 pursuant to section 204 of the federal-state extended compensation act of
21 1970, and amendments thereto.

22 (l) "State" includes, in addition to the states of the United States of
23 America, any dependency of the United States, the Commonwealth of
24 Puerto Rico, the District of Columbia and the Virgin Islands.

25 (m) "Unemployment." An individual shall be deemed "unemployed"
26 with respect to any week during which such individual performs no
27 services and with respect to which no wages are payable to such
28 individual, or with respect to any week of less than full-time work if the
29 wages payable to such individual with respect to such week are less than
30 such individual's weekly benefit amount.

31 (n) "Employment security administration fund" means the fund
32 established by this act, from which administrative expenses under this act
33 shall be paid.

34 (o) "Wages" means all compensation for services, including
35 commissions, bonuses, back pay and the cash value of all remuneration,
36 including benefits, paid in any medium other than cash. The reasonable
37 cash value of remuneration in any medium other than cash, shall be
38 estimated and determined in accordance with rules and regulations
39 prescribed by the secretary. Compensation payable to an individual which
40 has not been actually received by that individual within 21 days after the
41 end of the pay period in which the compensation was earned shall be
42 considered to have been paid on the 21st day after the end of that pay
43 period. Effective January 1, 1986, gratuities, including tips received from

1 persons other than the employing unit, shall be considered wages when
2 reported in writing to the employer by the employee. Employees must
3 furnish a written statement to the employer, reporting all tips received if
4 they total \$20 or more for a calendar month whether the tips are received
5 directly from a person other than the employer or are paid over to the
6 employee by the employer. This includes amounts designated as tips by a
7 customer who uses a credit card to pay the bill. Notwithstanding the other
8 provisions of this subsection (o), wages paid in back pay awards or
9 settlements shall be allocated to the week or weeks and reported in the
10 manner as specified in the award or agreement, or, in the absence of such
11 specificity in the award or agreement, such wages shall be allocated to the
12 week or weeks in which such wages, in the judgment of the secretary,
13 would have been paid. The term "wages" shall not include:

14 (1) That part of the remuneration which has been paid in a calendar
15 year to an individual by an employer or such employer's predecessor in
16 excess of \$3,000 for all calendar years prior to 1972, in excess of \$4,200
17 for the calendar years 1972 to 1977, inclusive, in excess of \$6,000 for
18 calendar years 1978 to 1982, inclusive, in excess of \$7,000 for the
19 calendar year 1983, *in excess of \$8,000 for the calendar years 1984 to*
20 *2014, inclusive, and in excess of ~~\$8,000~~ ~~\$16,000~~ **\$12,000** with respect to*
21 *employment during ~~any calendar year following 1983~~ **2014 calendar year***
22 ***2015, and in excess of \$14,000 with respect to all calendar years***
23 ***thereafter***, except that if the definition of the term "wages" as contained in
24 the federal unemployment tax act is amended to include remuneration ~~in~~
25 ~~excess of \$8,000~~ ~~\$16,000~~ paid to an individual by an employer under the
26 federal act ~~during any calendar year~~ *in excess of \$8,000 for the calendar*
27 *years 1984-2014, inclusive, and in excess of \$12,000 with respect to*
28 *employment during calendar year 2015, and in excess of \$14,000 with*
29 *respect to all calendar years thereafter*, wages shall include remuneration
30 paid in a calendar year to an individual by an employer subject to this act
31 or such employer's predecessor with respect to employment during any
32 calendar year up to an amount equal to the dollar limitation specified in the
33 federal unemployment tax act. For the purposes of this subsection (o)(1),
34 the term "employment" shall include service constituting employment
35 under any employment security law of another state or of the federal
36 government;

37 (2) the amount of any payment (including any amount paid by an
38 employing unit for insurance or annuities, or into a fund, to provide for
39 any such payment) made to, or on behalf of, an employee or any of such
40 employee's dependents under a plan or system established by an employer
41 which makes provisions for employees generally, for a class or classes of
42 employees or for such employees or a class or classes of employees and
43 their dependents, on account of: (A) Sickness or accident disability, except

1 in the case of any payment made to an employee or such employee's
2 dependents, this subparagraph shall exclude from the term "wages" only
3 payments which are received under a workers compensation law. Any third
4 party which makes a payment included as wages by reason of this
5 subparagraph (2)(A) shall be treated as the employer with respect to such
6 wages; or (B) medical and hospitalization expenses in connection with
7 sickness or accident disability; or (C) death;

8 (3) any payment on account of sickness or accident disability, or
9 medical or hospitalization expenses in connection with sickness or
10 accident disability, made by an employer to, or on behalf of, an employee
11 after the expiration of six calendar months following the last calendar
12 month in which the employee worked for such employer;

13 (4) any payment made to, or on behalf of, an employee or such
14 employee's beneficiary:

15 (A) From or to a trust described in section 401(a) of the federal
16 internal revenue code of 1986 which is exempt from tax under section
17 501(a) of the federal internal revenue code of 1986 at the time of such
18 payment unless such payment is made to an employee of the trust as
19 remuneration for services rendered as such employee and not as a
20 beneficiary of the trust;

21 (B) under or to an annuity plan which, at the time of such payment, is
22 a plan described in section 403(a) of the federal internal revenue code of
23 1986;

24 (C) under a simplified employee pension as defined in section 408(k)
25 (1) of the federal internal revenue code of 1986, other than any
26 contribution described in section 408(k)(6) of the federal internal revenue
27 code of 1986;

28 (D) under or to an annuity contract described in section 403(b) of the
29 federal internal revenue code of 1986, other than a payment for the
30 purchase of such contract which was made by reason of a salary reduction
31 agreement whether evidenced by a written instrument or otherwise;

32 (E) under or to an exempt governmental deferred compensation plan
33 as defined in section 3121(v)(3) of the federal internal revenue code of
34 1986;

35 (F) to supplement pension benefits under a plan or trust described in
36 any of the foregoing provisions of this subparagraph to take into account
37 some portion or all of the increase in the cost of living, as determined by
38 the secretary of labor, since retirement but only if such supplemental
39 payments are under a plan which is treated as a welfare plan under section
40 3(2)(B)(ii) of the federal employee retirement income security act of 1974;
41 or

42 (G) under a cafeteria plan within the meaning of section 125 of the
43 federal internal revenue code of 1986;

- 1 (5) the payment by an employing unit (without deduction from the
2 remuneration of the employee) of the tax imposed upon an employee
3 under section 3101 of the federal internal revenue code of 1986 with
4 respect to remuneration paid to an employee for domestic service in a
5 private home of the employer or for agricultural labor;
- 6 (6) remuneration paid in any medium other than cash to an employee
7 for service not in the course of the employer's trade or business;
- 8 (7) remuneration paid to or on behalf of an employee if and to the
9 extent that at the time of the payment of such remuneration it is reasonable
10 to believe that a corresponding deduction is allowable under section 217 of
11 the federal internal revenue code of 1986 relating to moving expenses;
- 12 (8) any payment or series of payments by an employer to an
13 employee or any of such employee's dependents which is paid:
 - 14 (A) Upon or after the termination of an employee's employment
15 relationship because of (i) death or (ii) retirement for disability; and
 - 16 (B) under a plan established by the employer which makes provisions
17 for employees generally, a class or classes of employees or for such
18 employees or a class or classes of employees and their dependents, other
19 than any such payment or series of payments which would have been paid
20 if the employee's employment relationship had not been so terminated;
- 21 (9) remuneration for agricultural labor paid in any medium other than
22 cash;
- 23 (10) any payment made, or benefit furnished, to or for the benefit of
24 an employee if at the time of such payment or such furnishing it is
25 reasonable to believe that the employee will be able to exclude such
26 payment or benefit from income under section 129 of the federal internal
27 revenue code of 1986 which relates to dependent care assistance programs;
- 28 (11) the value of any meals or lodging furnished by or on behalf of
29 the employer if at the time of such furnishing it is reasonable to believe
30 that the employee will be able to exclude such items from income under
31 section 119 of the federal internal revenue code of 1986;
- 32 (12) any payment made by an employer to a survivor or the estate of
33 a former employee after the calendar year in which such employee died;
- 34 (13) any benefit provided to or on behalf of an employee if at the time
35 such benefit is provided it is reasonable to believe that the employee will
36 be able to exclude such benefit from income under section 74(c), 117 or
37 132 of the federal internal revenue code of 1986;
- 38 (14) any payment made, or benefit furnished, to or for the benefit of
39 an employee, if at the time of such payment or such furnishing it is
40 reasonable to believe that the employee will be able to exclude such
41 payment or benefit from income under section 127 of the federal internal
42 revenue code of 1986 relating to educational assistance to the employee; or
- 43 (15) any payment made to or for the benefit of an employee if at the

1 time of such payment it is reasonable to believe that the employee will be
2 able to exclude such payment from income under section 106(d) of the
3 federal internal revenue code of 1986 relating to health savings accounts.

4 Nothing in any paragraph of subsection (o), other than paragraph (1),
5 shall exclude from the term "wages": (1) Any employer contribution under
6 a qualified cash or deferred arrangement, as defined in section 401(k) of
7 the federal internal revenue code of 1986, to the extent that such
8 contribution is not included in gross income by reason of section 402(a)(8)
9 of the federal internal revenue code of 1986; or (2) any amount treated as
10 an employer contribution under section 414(h)(2) of the federal internal
11 revenue code of 1986.

12 Any amount deferred under a nonqualified deferred compensation plan
13 shall be taken into account for purposes of this section as of the later of
14 when the services are performed or when there is no substantial risk of
15 forfeiture of the rights to such amount. Any amount taken into account as
16 wages by reason of this paragraph, and the income attributable thereto,
17 shall not thereafter be treated as wages for purposes of this section. For
18 purposes of this paragraph, the term "nonqualified deferred compensation
19 plan" means any plan or other arrangement for deferral of compensation
20 other than a plan described in subsection (o)(4).

21 (p) "Week" means such period or periods of seven consecutive
22 calendar days, as the secretary may by rules and regulations prescribe.

23 (q) "Calendar quarter" means the period of three consecutive calendar
24 months ending March 31, June 30, September 30 or December 31, or the
25 equivalent thereof as the secretary may by rules and regulations prescribe.

26 (r) "Insured work" means employment for employers.

27 (s) "Approved training" means any vocational training course or
28 course in basic education skills, including a job training program
29 authorized under the federal workforce investment act of 1998, approved
30 by the secretary or a person or persons designated by the secretary.

31 (t) "American vessel" or "American aircraft" means any vessel or
32 aircraft documented or numbered or otherwise registered under the laws of
33 the United States; and any vessel or aircraft which is neither documented
34 or numbered or otherwise registered under the laws of the United States
35 nor documented under the laws of any foreign country, if its crew performs
36 service solely for one or more citizens or residents of the United States or
37 corporations organized under the laws of the United States or of any state.

38 (u) "Institution of higher education," for the purposes of this section,
39 means an educational institution which:

40 (1) Admits as regular students only individuals having a certificate of
41 graduation from a high school, or the recognized equivalent of such a
42 certificate;

43 (2) is legally authorized in this state to provide a program of

1 education beyond high school;

2 (3) provides an educational program for which it awards a bachelor's
3 or higher degree, or provides a program which is acceptable for full credit
4 toward such a degree, a program of postgraduate or postdoctoral studies,
5 or a program of training to prepare students for gainful employment in a
6 recognized occupation; and

7 (4) is a public or other nonprofit institution.

8 Notwithstanding any of the foregoing provisions of this subsection (u),
9 all colleges and universities in this state are institutions of higher education
10 for purposes of this section, except that no college, university, junior
11 college or other postsecondary school or institution which is operated by
12 the federal government or any agency thereof shall be an institution of
13 higher education for purposes of the employment security law.

14 (v) "Educational institution" means any institution of higher
15 education, as defined in subsection (u) of this section, or any institution,
16 except private for profit institutions, in which participants, trainees or
17 students are offered an organized course of study or training designed to
18 transfer to them knowledge, skills, information, doctrines, attitudes or
19 abilities from, by or under the guidance of an instructor or teacher and
20 which is approved, licensed or issued a permit to operate as a school by the
21 state department of education or other government agency that is
22 authorized within the state to approve, license or issue a permit for the
23 operation of a school or to an Indian tribe in the operation of an
24 educational institution. The courses of study or training which an
25 educational institution offers may be academic, technical, trade or
26 preparation for gainful employment in a recognized occupation.

27 (w) (1) "Agricultural labor" means any remunerated service:

28 (A) On a farm, in the employ of any person, in connection with
29 cultivating the soil, or in connection with raising or harvesting any
30 agricultural or horticultural commodity, including the raising, shearing,
31 feeding, caring for, training, and management of livestock, bees, poultry,
32 and furbearing animals and wildlife.

33 (B) In the employ of the owner or tenant or other operator of a farm,
34 in connection with the operating, management, conservation,
35 improvement, or maintenance of such farm and its tools and equipment, or
36 in salvaging timber or clearing land of brush and other debris left by a
37 hurricane, if the major part of such service is performed on a farm.

38 (C) In connection with the production or harvesting of any
39 commodity defined as an agricultural commodity in section (15)(g) of the
40 agricultural marketing act, as amended (46 Stat. 1500, sec. 3; 12 U.S.C. §
41 1141j) or in connection with the ginning of cotton, or in connection with
42 the operation or maintenance of ditches, canals, reservoirs or waterways,
43 not owned or operated for profit, used exclusively for supplying and

1 storing water for farming purposes.

2 (D) (i) In the employ of the operator of a farm in handling, planting,
3 drying, packing, packaging, processing, freezing, grading, storing, or
4 delivering to storage or to market or to a carrier for transportation to
5 market, in its unmanufactured state, any agricultural or horticultural
6 commodity; but only if such operator produced more than $\frac{1}{2}$ of the
7 commodity with respect to which such service is performed;

8 (ii) in the employ of a group of operators of farms (or a cooperative
9 organization of which such operators are members) in the performance of
10 service described in paragraph (i) above of this subsection (w)(1)(D), but
11 only if such operators produced more than $\frac{1}{2}$ of the commodity with
12 respect to which such service is performed;

13 (iii) the provisions of paragraphs (i) and (ii) above of this subsection
14 (w)(1)(D) shall not be deemed to be applicable with respect to service
15 performed in connection with commercial canning or commercial freezing
16 or in connection with any agricultural or horticultural commodity after its
17 delivery to a terminal market for distribution for consumption.

18 (E) On a farm operated for profit if such service is not in the course
19 of the employer's trade or business.

20 (2) "Agricultural labor" does not include service performed prior to
21 January 1, 1980, by an individual who is an alien admitted to the United
22 States to perform service in agricultural labor pursuant to sections 214(c)
23 and 101(a)(15)(H) of the federal immigration and nationality act.

24 (3) As used in this subsection (w), the term "farm" includes stock,
25 dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations,
26 ranches, nurseries, ranges, greenhouses, or other similar structures used
27 primarily for the raising of agricultural or horticultural commodities, and
28 orchards.

29 (4) For the purpose of this section, if an employing unit does not
30 maintain sufficient records to separate agricultural labor from other
31 employment, all services performed during any pay period by an
32 individual for the person employing such individual shall be deemed to be
33 agricultural labor if services performed during $\frac{1}{2}$ or more of such pay
34 period constitute agricultural labor; but if the services performed during
35 more than $\frac{1}{2}$ of any such pay period by an individual for the person
36 employing such individual do not constitute agricultural labor, then none
37 of the services of such individual for such period shall be deemed to be
38 agricultural labor. As used in this subsection (w), the term "pay period"
39 means a period of not more than 31 consecutive days for which a payment
40 of remuneration is ordinarily made to the individual by the person
41 employing such individual.

42 (x) "Reimbursing employer" means any employer who makes
43 payments in lieu of contributions to the employment security fund as

1 provided in subsection (e) of K.S.A. 44-710, and amendments thereto.

2 (y) "Contributing employer" means any employer other than a
3 reimbursing employer or rated governmental employer.

4 (z) "Wage combining plan" means a uniform national arrangement
5 approved by the United States secretary of labor in consultation with the
6 state unemployment compensation agencies and in which this state shall
7 participate, whereby wages earned in one or more states are transferred to
8 another state, called the "paying state," and combined with wages in the
9 paying state, if any, for the payment of benefits under the laws of the
10 paying state and as provided by an arrangement so approved by the United
11 States secretary of labor.

12 (aa) "Domestic service" means any service for a person in the
13 operation and maintenance of a private household, local college club or
14 local chapter of a college fraternity or sorority, as distinguished from
15 service as an employee in the pursuit of an employer's trade, occupation,
16 profession, enterprise or vocation.

17 (bb) "Rated governmental employer" means any governmental entity
18 which elects to make payments as provided by K.S.A. 44-710d, and
19 amendments thereto.

20 (cc) "Benefit cost payments" means payments made to the
21 employment security fund by a governmental entity electing to become a
22 rated governmental employer.

23 (dd) "Successor employer" means any employer, as described in
24 subsection (h) of this section, which acquires or in any manner succeeds
25 to: (1) Substantially all of the employing enterprises, organization, trade or
26 business of another employer; or (2) substantially all the assets of another
27 employer.

28 (ee) "Predecessor employer" means an employer, as described in
29 subsection (h) of this section, who has previously operated a business or
30 portion of a business with employment to which another employer has
31 succeeded.

32 (ff) "Lessor employing unit" means any independently established
33 business entity which engages in the business of providing leased
34 employees to a client lessee.

35 (gg) "Client lessee" means any individual, organization, partnership,
36 corporation or other legal entity leasing employees from a lessor
37 employing unit.

38 (hh) "Qualifying injury" means a personal injury by accident arising
39 out of and in the course of employment within the coverage of the Kansas
40 workers compensation act, K.S.A. 44-501 et seq., and amendments
41 thereto.

42 Sec. 3. K.S.A. 2012 Supp. 44-704 is hereby amended to read as
43 follows: 44-704. (a) *Payment of benefits*. All benefits provided herein shall

1 be payable from the fund. All benefits shall be paid through the secretary
2 of labor, in accordance with such rules and regulations as the secretary
3 may adopt. Benefits based on service in employment defined in
4 subsections (i)(3)(E) and (i)(3)(F) of K.S.A. 44-703, and amendments
5 thereto, shall be payable in the same amount, on the same terms and
6 subject to the same conditions as compensation payable on the basis of
7 other service subject to this act except as provided in subsection (e) of
8 K.S.A. 44-705 and subsection (e)(2) of K.S.A. 44-711, and amendments
9 thereto.

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

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

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

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

23 (c) *Maximum weekly benefit amount.* On July 1 of each year, the
24 secretary shall determine the maximum weekly benefit amount by
25 computing 60% of the average weekly wages paid to employees in insured
26 work during the previous calendar year and shall prior to that date
27 announce the maximum weekly benefit amount so determined, by
28 publication in the Kansas register. Such computation shall be made by
29 dividing the gross wages reported as paid for insured work during the
30 previous calendar year by the product of the average of midmonth
31 employment during such calendar year multiplied by 52. The maximum
32 weekly benefit amount so determined and announced for the twelve-month
33 period shall apply only to those claims filed in that period qualifying for
34 maximum payment under the foregoing formula. All claims qualifying for
35 payment at the maximum weekly benefit amount shall be paid at the
36 maximum weekly benefit amount in effect when the benefit year to which
37 the claim relates was first established, notwithstanding a change in the
38 maximum benefit amount for a subsequent twelve-month period. If the
39 computed maximum weekly benefit amount is not a multiple of \$1, then
40 the computed maximum weekly benefit amount shall be reduced to the
41 next lower multiple of \$1.

42 (d) *Minimum weekly benefit amount.* The minimum weekly benefit
43 amount payable to any individual shall be 25% of the maximum weekly

1 benefit calculated in accordance with subsection (c) and shall be
2 announced by the secretary in conjunction with the published
3 announcement of the maximum weekly benefit, also as provided in
4 subsection (c). The minimum weekly benefit amount so determined and
5 announced for the twelve-month period beginning July 1 of each year shall
6 apply only to those claims which establish a benefit year filed within that
7 twelve-month period and shall apply through the benefit year of such
8 claims notwithstanding a change in such amount in a subsequent twelve-
9 month period. If the minimum weekly benefit amount is not a multiple of
10 \$1 it shall be reduced to the next lower multiple of \$1.

11 (e) *Weekly benefit payable.* Each eligible individual who is
12 unemployed with respect to any week, except as to final payment, shall be
13 paid with respect to such week a benefit in an amount equal to such
14 individual's determined weekly benefit amount, less that part of the wage,
15 if any, payable to such individual with respect to such week which is in
16 excess of the amount which is equal to 25% of such individual's
17 determined weekly benefit amount and if the resulting amount is not a
18 multiple of \$1, it shall be reduced to the next lower multiple of \$1.

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

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

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

25 (C) severance pay, if paid as scheduled, and all other employment
26 benefits within the employer's control, as defined in subsection (e)(3), if
27 continued as though the severance had not occurred, except as set out in
28 subsection (e)(2)(D) (e)(2)(C).

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

31 (A) Remuneration received for services performed on a public
32 assistance work project;

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

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

36 (D) severance pay, in lieu of notice, under the provisions of public
37 law 100-379, the federal worker adjustment and retraining notification act
38 (29 U.S.C.A. §§ 2101 through 2109);

39 (E) (C) all other severance pay, separation pay, bonuses, wages in lieu
40 of notice or remuneration of a similar nature that is payable after the
41 severance of the employment relationship, except as set out in subsection
42 (e)(1)(C) (e)(1)(B); and

43 (F) (D) moneys received as federal social security payments.

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

8 (f) *Duration of benefits.* Any otherwise eligible individual shall be
9 entitled during any benefit year to a total amount of benefits equal to
10 whichever is the lesser of 26 times such individual's weekly benefit
11 amount, or $\frac{1}{3}$ of such individual's wages for insured work paid during such
12 individual's base period. Such total amount of benefits, if not a multiple of
13 \$1, shall be reduced to the next lower multiple of \$1.

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

20 (h) *Notwithstanding any other provisions of this section to the*
21 *contrary, any benefit otherwise payable for any week shall be reduced by*
22 *the amount of any separation, termination, severance or other similar*
23 *payment paid to a claimant at the time of or after the claimant's*
24 *separation from employment during the benefit year.*

25 (1) *If any payment pursuant to this subsection is paid with respect to*
26 *a month, then the amount deemed to be received with respect to any week*
27 *during such month shall be computed by multiplying such monthly amount*
28 *by 12 and dividing the product by 52. If there is no designation of the*
29 *period with respect to which payments to an individual are made under*
30 *this section, then an amount equal to such individual's normal weekly*
31 *wage shall be attributed to and deemed paid with respect to the first and*
32 *each succeeding week following the individual's separation from the*
33 *employment of the employer making the payment until such amount so*
34 *paid is exhausted.*

35 (2) *If benefits for any week, when reduced as provided in this*
36 *subsection, result in an amount not a multiple of one dollar, such benefits*
37 *shall be rounded to the next lower multiple of one dollar.*

38 (i) ***For weeks commencing on and after January 1, 2014, if at the***
39 ***beginning of the benefit year, the three month seasonally adjusted***
40 ***average unemployment rate for the state of Kansas is: (1) Less than***
41 ***4.5%, a claimant shall be eligible for a maximum of 16 weeks of***
42 ***benefits; (2) at least 4.5% but less than 6%, a claimant shall be eligible***
43 ***for a maximum of 20 weeks of benefits; or (3) at least 6%, a claimant***

1 *shall be eligible for a maximum of 26 weeks of benefits.*

2 Sec. 4. K.S.A. 2012 Supp. 44-705 is hereby amended to read as
3 follows: 44-705. Except as provided by K.S.A. 44-757, and amendments
4 thereto, an unemployed individual shall be eligible to receive benefits with
5 respect to any week only if the secretary, or a person or persons designated
6 by the secretary, finds that:

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

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

15 (c) The claimant is able to perform the duties of such claimant's
16 customary occupation or the duties of other occupations for which the
17 claimant is reasonably fitted by training or experience, and is available for
18 work, as demonstrated by the claimant's pursuit of the full course of action
19 most reasonably calculated to result in the claimant's reemployment except
20 that, notwithstanding any other provisions of this section, an unemployed
21 claimant otherwise eligible for benefits shall not become ineligible for
22 benefits: (1) Because of the claimant's enrollment in and satisfactory
23 pursuit of approved training, including training approved under section
24 236(a)(1) of the trade act of 1974; or (2) solely because such individual is
25 seeking only part-time employment if the individual is available for a
26 number of hours per week that are comparable to the individual's part-time
27 work experience in the base period.

28 For the purposes of this subsection, an inmate of a custodial or
29 correctional institution shall be deemed to be unavailable for work and not
30 eligible to receive unemployment compensation while incarcerated.

31 (d) (1) Except as provided further, the claimant has been unemployed
32 for a waiting period of one week or the claimant is unemployed and has
33 satisfied the requirement for a waiting period of one week under the shared
34 work unemployment compensation program as provided in subsection (k)
35 (4) of K.S.A. 44-757, and amendments thereto, which period of one week,
36 in either case, occurs within the benefit year which includes the week for
37 which the claimant is claiming benefits. No week shall be counted as a
38 week of unemployment for the purposes of this subsection~~(d)~~:

39 (A) If benefits have been paid for such week;

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

42 (C) if an individual is seeking unemployment benefits under the
43 unemployment compensation law of any other state or of the United

1 States, except that if the appropriate agency of such state or of the United
2 States finally determines that the claimant is not entitled to unemployment
3 benefits under such other law, this ~~subsection (d)(1)(C)~~ *subparagraph*
4 shall not apply.

5 (2) The waiting week requirement of paragraph (1) shall not apply to
6 new claims, filed on or after July 1, 2007, by claimants who become
7 unemployed as a result of an employer terminating business operations
8 within this state, declaring bankruptcy or initiating a work force reduction
9 pursuant to public law 100-379, the federal worker adjustment and
10 retraining notification act (29 U.S.C. §§ 2101 through 2109), as amended.
11 The secretary shall adopt rules and regulations to administer the provisions
12 of this paragraph.

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

24 (f) The claimant participates in reemployment services, such as job
25 search assistance services, if the individual has been determined to be
26 likely to exhaust regular benefits and needs reemployment services
27 pursuant to a profiling system established by the secretary, unless the
28 secretary determines that: (1) The individual has completed such services;
29 or (2) there is justifiable cause for the claimant's failure to participate in
30 such services.

31 (g) The claimant is returning to work after a qualifying injury and has
32 been paid total wages for insured work in the claimant's alternative base
33 period of not less than 30 times the claimant's weekly benefit amount and
34 has been paid wages in more than one quarter of the claimant's alternative
35 base period if:

36 (1) The claimant has filed for benefits within four weeks of being
37 released to return to work by a licensed and practicing health care
38 provider;;

39 (2) the claimant files for benefits within 24 months of the date the
40 qualifying injury occurred; *and*

41 (3) the claimant attempted to return to work with the employer where
42 the qualifying injury occurred, but the individual's regular work or
43 comparable and suitable work was not available.

1 Sec. 5. K.S.A. 2012 Supp. 44-706 is hereby amended to read as
2 follows: 44-706. An individual shall be disqualified for benefits:

3 (a) If the individual left work voluntarily without good cause
4 attributable to the work or the employer, subject to the other provisions of
5 this subsection. *For purposes of this subsection, "good cause" is cause of*
6 *such gravity that would impel a reasonable, not supersensitive, individual*
7 *exercising ordinary common sense to leave employment. Good cause*
8 *requires a showing of good faith of the individual leaving work, including*
9 *the presence of a genuine desire to work. Failure to return to work after*
10 *expiration of approved personal or medical leave, or both, shall be*
11 *considered a voluntary resignation. After a temporary job assignment,*
12 *failure of an individual to affirmatively request an additional assignment*
13 *on the next succeeding workday, if required by the employment*
14 *agreement, after completion of a given work assignment, shall constitute*
15 *leaving work voluntarily. The disqualification shall begin the day*
16 *following the separation and shall continue until after the individual has*
17 *become reemployed and has had earnings from insured work of at least*
18 *three times the individual's weekly benefit amount. An individual shall not*
19 *be disqualified under this subsection if:*

20 (1) The individual was forced to leave work because of illness or
21 injury upon the advice of a licensed and practicing health care provider
22 and, upon learning of the necessity for absence, immediately notified the
23 employer thereof, or the employer consented to the absence, and after
24 recovery from the illness or injury, when recovery was certified by a
25 practicing health care provider, the individual returned to the employer and
26 offered to perform services and the individual's regular work or
27 comparable and suitable work was not available. As used in this paragraph
28 "health care provider" means any person licensed by the proper licensing
29 authority of any state to engage in the practice of medicine and surgery,
30 osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

31 (2) the individual left temporary work to return to the regular
32 employer;

33 (3) the individual left work to enlist in the armed forces of the United
34 States, but was rejected or delayed from entry;

35 (4) the spouse of an individual who is a member of the armed forces
36 of the United States who left work because of the voluntary or involuntary
37 transfer of the individual's spouse from one job to another job, which is for
38 the same employer or for a different employer, at a geographic location
39 which makes it unreasonable for the individual to continue work at the
40 individual's job. For the purposes of this provision the term "armed forces"
41 means active duty in the army, navy, marine corps, air force, coast guard or
42 any branch of the military reserves of the United States;

43 (5) the individual left work because of hazardous working conditions;

1 in determining whether or not working conditions are hazardous for an
2 individual, the degree of risk involved to the individual's health, safety and
3 morals, the individual's physical fitness and prior training and the working
4 conditions of workers engaged in the same or similar work for the same
5 and other employers in the locality shall be considered; as used in this
6 paragraph, "hazardous working conditions" means working conditions that
7 could result in a danger to the physical or mental well-being of the
8 individual; each determination as to whether hazardous working
9 conditions exist shall include, but shall not be limited to, a consideration
10 of: (A) The safety measures used or the lack thereof; and (B) the
11 condition of equipment or lack of proper equipment; no work shall be
12 considered hazardous if the working conditions surrounding the
13 individual's work are the same or substantially the same as the working
14 conditions generally prevailing among individuals performing the same or
15 similar work for other employers engaged in the same or similar type of
16 activity;

17 (6) the individual left work to enter training approved under section
18 236(a)(1) of the federal trade act of 1974, provided the work left is not of a
19 substantially equal or higher skill level than the individual's past adversely
20 affected employment (as defined for purposes of the federal trade act of
21 1974), and wages for such work are not less than 80% of the individual's
22 average weekly wage as determined for the purposes of the federal trade
23 act of 1974;

24 (7) the individual left work because of ~~persistent~~ unwelcome
25 harassment of the individual by the employer or another employee of
26 which the employing unit had knowledge *and that would impel the*
27 *average worker to give up such worker's employment*;

28 (8) the individual left work to accept better work; each determination
29 as to whether or not the work accepted is better work shall include, but
30 shall not be limited to, consideration of: (A) The rate of pay, the hours of
31 work and the probable permanency of the work left as compared to the
32 work accepted; (B) the cost to the individual of getting to the work left in
33 comparison to the cost of getting to the work accepted; and (C) the
34 distance from the individual's place of residence to the work accepted in
35 comparison to the distance from the individual's residence to the work left;

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

40 (10) the individual left work because of a *substantial* violation of the
41 work agreement by the employing unit and, before the individual left, the
42 individual had exhausted all remedies provided in such agreement for the
43 settlement of disputes before terminating. *For the purposes of this*

1 *paragraph, a demotion based on performance does not constitute a*
2 *violation of the work agreement;*

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

7 (12) (A) the individual left work due to circumstances resulting from
8 domestic violence, including:

9 (i) The individual's reasonable fear of future domestic violence at or
10 en route to or from the individual's place of employment;~~or~~

11 (ii) the individual's need to relocate to another geographic area in
12 order to avoid future domestic violence;~~or~~

13 (iii) the individual's need to address the physical, psychological and
14 legal impacts of domestic violence;~~or~~

15 (iv) the individual's need to leave employment as a condition of
16 receiving services or shelter from an agency which provides support
17 services or shelter to victims of domestic violence; or

18 (v) the individual's reasonable belief that termination of employment
19 is necessary to avoid other situations which may cause domestic violence
20 and to provide for the future safety of the individual or the individual's
21 family.

22 (B) An individual may prove the existence of domestic violence by
23 providing one of the following:

24 (i) A restraining order or other documentation of equitable relief by a
25 court of competent jurisdiction;~~or~~

26 (ii) a police record documenting the abuse;~~or~~

27 (iii) documentation that the abuser has been convicted of one or more
28 of the offenses enumerated in articles 34 and 35 of chapter 21 of the
29 Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of
30 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2012 Supp. 21-
31 6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments
32 thereto, where the victim was a family or household member;~~or~~

33 (iv) medical documentation of the abuse;~~or~~

34 (v) a statement provided by a counselor, social worker, health care
35 provider, clergy, shelter worker, legal advocate, domestic violence or
36 sexual assault advocate or other professional who has assisted the
37 individual in dealing with the effects of abuse on the individual or the
38 individual's family; or

39 (vi) a sworn statement from the individual attesting to the abuse.

40 (C) No evidence of domestic violence experienced by an individual,
41 including the individual's statement and corroborating evidence, shall be
42 disclosed by the department of labor unless consent for disclosure is given
43 by the individual.

1 (b) If the individual has been discharged *or suspended* for misconduct
2 connected with the individual's work. The disqualification shall begin the
3 day following the separation and shall continue until after the individual
4 becomes reemployed and *in cases where the disqualification is due to*
5 *discharge for misconduct* has had earnings from insured work of at least
6 three times the individual's determined weekly benefit amount, except that
7 if an individual is discharged for gross misconduct connected with the
8 individual's work, such individual shall be disqualified for benefits until
9 such individual again becomes employed and has had earnings from
10 insured work of at least eight times such individual's determined weekly
11 benefit amount. In addition, all wage credits attributable to the
12 employment from which the individual was discharged for gross
13 misconduct connected with the individual's work shall be canceled. No
14 such cancellation of wage credits shall affect prior payments made as a
15 result of a prior separation.

16 (1) For the purposes of this subsection, "misconduct" is defined as a
17 violation of a duty or obligation reasonably owed the employer as a
18 condition of employment. ~~The term "gross misconduct" as used in this~~
19 ~~subsection shall be construed to mean conduct evincing extreme, willful or~~
20 ~~wanton misconduct as defined by this subsection including, but not limited~~
21 ~~to, a violation of a company rule, including a safety rule, if: (A) The~~
22 ~~individual knew or should have known about the rule; (B) the rule was~~
23 ~~lawful and reasonably related to the job; and (C) the rule was fairly and~~
24 ~~consistently enforced.~~

25 (2) (A) Failure of the employee to notify the employer of an absence
26 and an individual's leaving work prior to the end of such individual's
27 assigned work period without permission shall be considered prima facie
28 evidence of a violation of a duty or obligation reasonably owed the
29 employer as a condition of employment.

30 ~~(2) For the purposes of this subsection, the use of or impairment~~
31 ~~caused by alcoholic liquor, a cereal malt beverage or a nonprescribed~~
32 ~~controlled substance by an individual while working shall be conclusive~~
33 ~~evidence of misconduct and the possession of alcoholic liquor, a cereal~~
34 ~~malt beverage or a nonprescribed controlled substance by an individual~~
35 ~~while working shall be prima facie evidence of conduct which is a~~
36 ~~violation of a duty or obligation reasonably owed to the employer as a~~
37 ~~condition of employment. Alcoholic liquor shall be defined as provided in~~
38 ~~K.S.A. 41-102, and amendments thereto. Cereal malt beverage shall be~~
39 ~~defined as provided in K.S.A. 41-2701, and amendments thereto.~~
40 ~~Controlled substance shall be defined as provided in K.S.A. 2012 Supp.~~
41 ~~21-5701, and amendments thereto. As used in this paragraph, "required by~~
42 ~~law" means required by a federal or state law, a federal or state rule or~~
43 ~~regulation having the force and effect of law, a county resolution or~~

1 municipal ordinance, or a policy relating to public safety adopted in open
2 meeting by the governing body of any special district or other local
3 governmental entity. Chemical test shall include, but is not limited to, tests
4 of urine, blood or saliva. A positive chemical test shall mean a chemical
5 result showing a concentration at or above the levels listed in K.S.A. 44-
6 501, and amendments thereto, for the drugs or abuse listed therein. A
7 positive breath test shall mean a test result showing an alcohol
8 concentration of .04 or greater. Alcohol concentration means the number
9 of grams of alcohol per 210 liters of breath. An individual's refusal to
10 submit to a chemical test or breath alcohol test shall be conclusive
11 evidence of misconduct if the test meets the standards of the drug free
12 workplace act, 41 U.S.C. § 701 et seq.; the test was administered as part of
13 an employee assistance program or other drug or alcohol treatment
14 program in which the employee was participating voluntarily or as a
15 condition of further employment; the test was otherwise required by law
16 and the test constituted a required condition of employment for the
17 individual's job; the test was requested pursuant to a written policy of the
18 employer of which the employee had knowledge and was a required
19 condition of employment; or there was probable cause to believe that the
20 individual used, possessed or was impaired by alcoholic liquor, a cereal
21 malt beverage or a controlled substance while working. A positive breath
22 alcohol test or a positive chemical test shall be conclusive evidence to
23 prove misconduct if the following conditions are met:

24 (A) Either (i) the test was required by law and was administered
25 pursuant to the drug free workplace act, 41 U.S.C. § 701 et seq.; (ii) the
26 test was administered as part of an employee assistance program or other
27 drug or alcohol treatment program in which the employee was
28 participating voluntarily or as a condition of further employment, (iii) the
29 test was requested pursuant to a written policy of the employer of which
30 the employee had knowledge and was a required condition of employment,
31 (iv) the test was required by law and the test constituted a required
32 condition of employment for the individual's job, or (v) there was probable
33 cause to believe that the individual used, had possession of, or was
34 impaired by alcoholic liquor, the cereal malt beverage or the controlled
35 substance while working;

36 (B) the test sample was collected either (i) as prescribed by the drug
37 free workplace act, 41 U.S.C. § 701 et seq.; (ii) as prescribed by an
38 employee assistance program or other drug or alcohol treatment program
39 in which the employee was participating voluntarily or as a condition of
40 further employment, (iii) as prescribed by the written policy of the
41 employer of which the employee had knowledge and which constituted a
42 required condition of employment, (iv) as prescribed by a test which was
43 required by law and which constituted a required condition of employment

1 for the individual's job, or (v) at a time contemporaneous with the events
2 establishing probable cause;

3 ~~(C) the collecting and labeling of a chemical test sample was~~
4 ~~performed by a licensed health care professional or any other individual~~
5 ~~certified pursuant to paragraph (b)(2)(F) or authorized to collect or label~~
6 ~~test samples by federal or state law, or a federal or state rule or regulation~~
7 ~~having the force or effect of law, including law enforcement personnel;~~

8 ~~(D) the chemical test was performed by a laboratory approved by the~~
9 ~~United States department of health and human services or licensed by the~~
10 ~~department of health and environment, except that a blood sample may be~~
11 ~~tested for alcohol content by a laboratory commonly used for that purpose~~
12 ~~by state law enforcement agencies;~~

13 ~~(E) the chemical test was confirmed by gas chromatography, gas~~
14 ~~chromatography-mass spectrometry or other comparably reliable~~
15 ~~analytical method, except that no such confirmation is required for a blood~~
16 ~~alcohol sample or a breath alcohol test;~~

17 ~~(F) the breath alcohol test was administered by an individual trained~~
18 ~~to perform breath tests, the breath testing instrument used was certified~~
19 ~~and operated strictly according to description provided by the~~
20 ~~manufacturers and the reliability of the instrument performance was~~
21 ~~assured by testing with alcohol standards; and~~

22 ~~(G) the foundation evidence must establish, beyond a reasonable~~
23 ~~doubt, that the test results were from the sample taken from the individual.~~

24 ~~(3) (A) (B) For the purposes of this subsection, misconduct shall~~
25 ~~include, but not be limited to, repeated absence, including incarceration,~~
26 ~~resulting in absence from work of three days or longer, excluding~~
27 ~~Saturdays, Sundays and legal holidays, and lateness, from scheduled work~~
28 ~~violation of the employer's reasonable attendance expectations if the facts~~
29 ~~show:~~

30 (i) The individual was absent *or tardy* without good cause;

31 ~~(ii) the absence was in violation of the employer's written~~
32 ~~absenteeism policy; the individual had knowledge of the employer's~~
33 ~~attendance expectation; and~~

34 ~~(iii) the employer gave or sent written notice to the individual, at the~~
35 ~~individual's last known address, that future absence *or tardiness* may or~~
36 ~~will result in discharge; and~~

37 ~~(iv) the employee had knowledge of the employer's written~~
38 ~~absenteeism policy.~~

39 ~~(B) (C) For the purposes of this subsection, if an employee disputes~~
40 ~~being absent *or tardy* without good cause, the employee shall present~~
41 ~~evidence that a majority of the employee's absences *or tardiness* were for~~
42 ~~good cause. If the employee alleges that the employee's repeated absences~~
43 ~~*or tardiness* were the result of health related issues, such evidence shall~~

1 include documentation from a licensed and practicing health care provider
2 as defined in subsection (a)(1).

3 (3) (A) *The term "gross misconduct" as used in this subsection shall*
4 *be construed to mean conduct evincing extreme, willful or wanton*
5 *misconduct as defined by this subsection. Gross misconduct shall include,*
6 *but not be limited to: (i) Theft; (ii) fraud; (iii) intentional damage to*
7 *property; (iv) intentional infliction of personal injury; or (v) any conduct*
8 *that constitutes a felony.*

9 (B) *For the purposes of this subsection, the following shall be*
10 *conclusive evidence of gross misconduct:*

11 (i) *The use of alcoholic liquor, cereal malt beverage or a*
12 *nonprescribed controlled substance by an individual while working;*

13 (ii) *the impairment caused by alcoholic liquor, cereal malt beverage*
14 *or a nonprescribed controlled substance by an individual while working;*

15 (iii) *a positive breath alcohol test or a positive chemical test,*
16 *provided:*

17 (a) *The test was either:*

18 (1) *Required by law and was administered pursuant to the drug free*
19 *workplace act, 41 U.S.C. § 701 et seq.;*

20 (2) *administered as part of an employee assistance program or other*
21 *drug or alcohol treatment program in which the employee was*
22 *participating voluntarily or as a condition of further employment;*

23 (3) *requested pursuant to a written policy of the employer of which*
24 *the employee had knowledge and was a required condition of employment;*

25 (4) *required by law and the test constituted a required condition of*
26 *employment for the individual's job; or*

27 (5) *there was reasonable suspicion to believe that the individual used,*
28 *had possession of, or was impaired by alcoholic liquor, cereal malt*
29 *beverage or a nonprescribed controlled substance while working;*

30 (b) *the test sample was collected either:*

31 (1) *As prescribed by the drug free workplace act, 41 U.S.C. § 701 et*
32 *seq.;*

33 (2) *as prescribed by an employee assistance program or other drug*
34 *or alcohol treatment program in which the employee was participating*
35 *voluntarily or as a condition of further employment;*

36 (3) *as prescribed by the written policy of the employer of which the*
37 *employee had knowledge and which constituted a required condition of*
38 *employment;*

39 (4) *as prescribed by a test which was required by law and which*
40 *constituted a required condition of employment for the individual's job; or*

41 (5) *at a time contemporaneous with the events establishing probable*
42 *cause;*

43 (c) *the collecting and labeling of a chemical test sample was*

1 performed by a licensed health care professional or any other individual
2 certified pursuant to paragraph (b)(3)(A)(iii)(f) or authorized to collect or
3 label test samples by federal or state law, or a federal or state rule or
4 regulation having the force or effect of law, including law enforcement
5 personnel;

6 (d) the chemical test was performed by a laboratory approved by the
7 United States department of health and human services or licensed by the
8 department of health and environment, except that a blood sample may be
9 tested for alcohol content by a laboratory commonly used for that purpose
10 by state law enforcement agencies;

11 (e) the chemical test was confirmed by gas chromatography, gas
12 chromatography-mass spectroscopy or other comparably reliable
13 analytical method, except that no such confirmation is required for a
14 blood alcohol sample or a breath alcohol test;

15 (f) the breath alcohol test was administered by an individual trained
16 to perform breath tests, the breath testing instrument used was certified
17 and operated strictly according to a description provided by the
18 manufacturers and the reliability of the instrument performance was
19 assured by testing with alcohol standards; and

20 (g) the foundation evidence establishes, beyond a reasonable doubt,
21 that the test results were from the sample taken from the individual;

22 (iv) an individual's refusal to submit to a chemical test or breath
23 alcohol test, provided:

24 (a) The test meets the standards of the drug free workplace act, 41
25 U.S.C. § 701 et seq.;

26 (b) the test was administered as part of an employee assistance
27 program or other drug or alcohol treatment program in which the
28 employee was participating voluntarily or as a condition of further
29 employment;

30 (c) the test was otherwise required by law and the test constituted a
31 required condition of employment for the individual's job;

32 (d) the test was requested pursuant to a written policy of the
33 employer of which the employee had knowledge and was a required
34 condition of employment; or

35 (e) there was reasonable suspicion to believe that the individual used,
36 possessed or was impaired by alcoholic liquor, cereal malt beverage or a
37 nonprescribed controlled substance while working;

38 (v) an individual's dilution or other tampering of a chemical test.

39 (B) For purposes of this subsection:

40 (i) "Alcohol concentration" means the number of grams of alcohol
41 per 210 liters of breath;

42 (ii) "alcoholic liquor" shall be defined as provided in K.S.A. 41-102,
43 and amendments thereto;

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

3 (c) If the individual has failed, without good cause, to either apply for
4 suitable work when so directed by the employment office of the secretary
5 of labor, or to accept suitable work when offered to the individual by the
6 employment office, the secretary of labor, or an employer, such
7 disqualification shall begin with the week in which such failure occurred
8 and shall continue until the individual becomes reemployed and has had
9 earnings from insured work of at least three times such individual's
10 determined weekly benefit amount. In determining whether or not any
11 work is suitable for an individual, the secretary of labor, or a person or
12 persons designated by the secretary, shall consider the degree of risk
13 involved to health, safety and morals, physical fitness and prior training,
14 experience and prior earnings, length of unemployment and prospects for
15 securing local work in the individual's customary occupation or work for
16 which the individual is reasonably fitted by training or experience, and the
17 distance of the available work from the individual's residence.
18 Notwithstanding any other provisions of this act, an otherwise eligible
19 individual shall not be disqualified for refusing an offer of suitable
20 employment, or failing to apply for suitable employment when notified by
21 an employment office, or for leaving the individual's most recent work
22 accepted during approved training, including training approved under
23 section 236(a)(1) of the trade act of 1974, if the acceptance of or applying
24 for suitable employment or continuing such work would require the
25 individual to terminate approved training and no work shall be deemed
26 suitable and benefits shall not be denied under this act to any otherwise
27 eligible individual for refusing to accept new work under any of the
28 following conditions: (1) If the position offered is vacant due directly to a
29 strike, lockout or other labor dispute; (2) if the remuneration, hours or
30 other conditions of the work offered are substantially less favorable to the
31 individual than those prevailing for similar work in the locality; (3) if as a
32 condition of being employed, the individual would be required to join or to
33 resign from or refrain from joining any labor organization; and (4) if the
34 individual left employment as a result of domestic violence, and the
35 position offered does not reasonably accommodate the individual's
36 physical, psychological, safety, ~~and/or~~ or legal needs relating to such
37 domestic violence.

38 (d) For any week with respect to which the secretary of labor, or a
39 person or persons designated by the secretary, finds that the individual's
40 unemployment is due to a stoppage of work which exists because of a
41 labor dispute or there would have been a work stoppage had normal
42 operations not been maintained with other personnel previously and
43 currently employed by the same employer at the factory, establishment or

1 other premises at which the individual is or was last employed, except that
2 this subsection (d) shall not apply if it is shown to the satisfaction of the
3 secretary of labor, or a person or persons designated by the secretary, that:
4 (1) The individual is not participating in or financing or directly interested
5 in the labor dispute which caused the stoppage of work; and (2) the
6 individual does not belong to a grade or class of workers of which,
7 immediately before the commencement of the stoppage, there were
8 members employed at the premises at which the stoppage occurs any of
9 whom are participating in or financing or directly interested in the dispute.
10 If in any case separate branches of work which are commonly conducted
11 as separate businesses in separate premises are conducted in separate
12 departments of the same premises, each such department shall, for the
13 purpose of this subsection be deemed to be a separate factory,
14 establishment or other premises. For the purposes of this subsection,
15 failure or refusal to cross a picket line or refusal for any reason during the
16 continuance of such labor dispute to accept the individual's available and
17 customary work at the factory, establishment or other premises where the
18 individual is or was last employed shall be considered as participation and
19 interest in the labor dispute.

20 (e) For any week with respect to which or a part of which the
21 individual has received or is seeking unemployment benefits under the
22 unemployment compensation law of any other state or of the United
23 States, except that if the appropriate agency of such other state or the
24 United States finally determines that the individual is not entitled to such
25 unemployment benefits, this disqualification shall not apply.

26 (f) For any week with respect to which the individual is entitled to
27 receive any unemployment allowance or compensation granted by the
28 United States under an act of congress to ex-service men and women in
29 recognition of former service with the military or naval services of the
30 United States.

31 (g) For the period of ~~one year~~ *five years* beginning with the first day
32 following the last week of unemployment for which the individual
33 received benefits, or for ~~one year~~ *five years* from the date the act was
34 committed, whichever is the later, if the individual, or another in such
35 individual's behalf with the knowledge of the individual, has knowingly
36 made a false statement or representation, or has knowingly failed to
37 disclose a material fact to obtain or increase benefits under this act or any
38 other unemployment compensation law administered by the secretary of
39 labor. *In addition to the penalties set forth in K.S.A. 44-719, and*
40 *amendments thereto, an individual who has knowingly made a false*
41 *statement or representation or who has knowingly failed to disclose a*
42 *material fact to obtain or increase benefits under this act or any other*
43 *unemployment compensation law administered by the secretary of labor*

1 *shall be liable for a penalty in the amount equal to 25% of the amount of*
2 *benefits unlawfully received.*

3 (h) For any week with respect to which the individual is receiving
4 compensation for temporary total disability or permanent total disability
5 under the workmen's compensation law of any state or under a similar law
6 of the United States.

7 (i) For any week of unemployment on the basis of service in an
8 instructional, research or principal administrative capacity for an
9 educational institution as defined in subsection (v) of K.S.A. 44-703, and
10 amendments thereto, if such week begins during the period between two
11 successive academic years or terms or, when an agreement provides
12 instead for a similar period between two regular but not successive terms
13 during such period or during a period of paid sabbatical leave provided for
14 in the individual's contract, if the individual performs such services in the
15 first of such academic years or terms and there is a contract or a reasonable
16 assurance that such individual will perform services in any such capacity
17 for any educational institution in the second of such academic years or
18 terms.

19 (j) For any week of unemployment on the basis of service in any
20 capacity other than service in an instructional, research, or administrative
21 capacity in an educational institution, as defined in subsection (v) of
22 K.S.A. 44-703, and amendments thereto, if such week begins during the
23 period between two successive academic years or terms if the individual
24 performs such services in the first of such academic years or terms and
25 there is a reasonable assurance that the individual will perform such
26 services in the second of such academic years or terms, except that if
27 benefits are denied to the individual under this subsection and the
28 individual was not offered an opportunity to perform such services for the
29 educational institution for the second of such academic years or terms,
30 such individual shall be entitled to a retroactive payment of benefits for
31 each week for which the individual filed a timely claim for benefits and for
32 which benefits were denied solely by reason of this subsection.

33 (k) For any week of unemployment on the basis of service in any
34 capacity for an educational institution as defined in subsection (v) of
35 K.S.A. 44-703, and amendments thereto, if such week begins during an
36 established and customary vacation period or holiday recess, if the
37 individual performs services in the period immediately before such
38 vacation period or holiday recess and there is a reasonable assurance that
39 such individual will perform such services in the period immediately
40 following such vacation period or holiday recess.

41 (l) For any week of unemployment on the basis of any services,
42 substantially all of which consist of participating in sports or athletic
43 events or training or preparing to so participate, if such week begins during

1 the period between two successive sport seasons or similar period if such
2 individual performed services in the first of such seasons or similar periods
3 and there is a reasonable assurance that such individual will perform such
4 services in the later of such seasons or similar periods.

5 (m) For any week on the basis of services performed by an alien
6 unless such alien is an individual who was lawfully admitted for
7 permanent residence at the time such services were performed, was
8 lawfully present for purposes of performing such services, or was
9 permanently residing in the United States under color of law at the time
10 such services were performed, including an alien who was lawfully present
11 in the United States as a result of the application of the provisions of
12 section 212(d)(5) of the federal immigration and nationality act. Any data
13 or information required of individuals applying for benefits to determine
14 whether benefits are not payable to them because of their alien status shall
15 be uniformly required from all applicants for benefits. In the case of an
16 individual whose application for benefits would otherwise be approved, no
17 determination that benefits to such individual are not payable because of
18 such individual's alien status shall be made except upon a preponderance
19 of the evidence.

20 (n) For any week in which an individual is receiving a governmental
21 or other pension, retirement or retired pay, annuity or other similar
22 periodic payment under a plan maintained by a base period employer and
23 to which the entire contributions were provided by such employer, except
24 that: (1) If the entire contributions to such plan were provided by the base
25 period employer but such individual's weekly benefit amount exceeds such
26 governmental or other pension, retirement or retired pay, annuity or other
27 similar periodic payment attributable to such week, the weekly benefit
28 amount payable to the individual shall be reduced~~-(, but not below zero),~~
29 by an amount equal to the amount of such pension, retirement or retired
30 pay, annuity or other similar periodic payment which is attributable to such
31 week; or (2) if only a portion of contributions to such plan were provided
32 by the base period employer, the weekly benefit amount payable to such
33 individual for such week shall be reduced~~-(, but not below zero),~~ by the
34 prorated weekly amount of the pension, retirement or retired pay, annuity
35 or other similar periodic payment after deduction of that portion of the
36 pension, retirement or retired pay, annuity or other similar periodic
37 payment that is directly attributable to the percentage of the contributions
38 made to the plan by such individual; or (3) if the entire contributions to the
39 plan were provided by such individual, or by the individual and an
40 employer~~-(, or any person or organization),~~ who is not a base period
41 employer, no reduction in the weekly benefit amount payable to the
42 individual for such week shall be made under this subsection; or (4)
43 whatever portion of contributions to such plan were provided by the base

1 period employer, if the services performed for the employer by such
2 individual during the base period, or remuneration received for the
3 services, did not affect the individual's eligibility for, or increased the
4 amount of, such pension, retirement or retired pay, annuity or other similar
5 periodic payment, no reduction in the weekly benefit amount payable to
6 the individual for such week shall be made under this subsection. No
7 reduction shall be made for payments made under the social security act or
8 railroad retirement act of 1974.

9 (o) For any week of unemployment on the basis of services
10 performed in any capacity and under any of the circumstances described in
11 subsection (i), (j) or (k) which an individual performed in an educational
12 institution while in the employ of an educational service agency. For the
13 purposes of this subsection, the term "educational service agency" means a
14 governmental agency or entity which is established and operated
15 exclusively for the purpose of providing such services to one or more
16 educational institutions.

17 (p) For any week of unemployment on the basis of service as a school
18 bus or other motor vehicle driver employed by a private contractor to
19 transport pupils, students and school personnel to or from school-related
20 functions or activities for an educational institution, as defined in
21 subsection (v) of K.S.A. 44-703, and amendments thereto, if such week
22 begins during the period between two successive academic years or during
23 a similar period between two regular terms, whether or not successive, if
24 the individual has a contract or contracts, or a reasonable assurance
25 thereof, to perform services in any such capacity with a private contractor
26 for any educational institution for both such academic years or both such
27 terms. An individual shall not be disqualified for benefits as provided in
28 this subsection for any week of unemployment on the basis of service as a
29 bus or other motor vehicle driver employed by a private contractor to
30 transport persons to or from nonschool-related functions or activities.

31 (q) For any week of unemployment on the basis of services
32 performed by the individual in any capacity and under any of the
33 circumstances described in subsection (i), (j), (k) or (o) which are provided
34 to or on behalf of an educational institution, as defined in subsection (v) of
35 K.S.A. 44-703, and amendments thereto, while the individual is in the
36 employ of an employer which is a governmental entity, Indian tribe or any
37 employer described in section 501(c)(3) of the federal internal revenue
38 code of 1986 which is exempt from income under section 501(a) of the
39 code.

40 (r) For any week in which an individual is registered at and attending
41 an established school, training facility or other educational institution, or is
42 on vacation during or between two successive academic years or terms. An
43 individual shall not be disqualified for benefits as provided in this

1 subsection provided:

2 (1) The individual was engaged in full-time employment concurrent
3 with the individual's school attendance; ~~or~~

4 (2) the individual is attending approved training as defined in
5 subsection (s) of K.S.A. 44-703, and amendments thereto; or

6 (3) the individual is attending evening, weekend or limited day time
7 classes, which would not affect availability for work, and is otherwise
8 eligible under subsection (c) of K.S.A. 44-705, and amendments thereto.

9 (s) For any week with respect to which an individual is receiving or
10 has received remuneration in the form of a back pay award or settlement.
11 The remuneration shall be allocated to the week or weeks in the manner as
12 specified in the award or agreement, or in the absence of such specificity
13 in the award or agreement, such remuneration shall be allocated to the
14 week or weeks in which such remuneration, in the judgment of the
15 secretary, would have been paid.

16 (1) For any such weeks that an individual receives remuneration in
17 the form of a back pay award or settlement, an overpayment will be
18 established in the amount of unemployment benefits paid and shall be
19 collected from the claimant.

20 (2) If an employer chooses to withhold from a back pay award or
21 settlement, amounts paid to a claimant while they claimed unemployment
22 benefits, such employer shall pay the department the amount withheld.
23 With respect to such amount, the secretary shall have available all of the
24 collection remedies authorized or provided in K.S.A. 44-717, and
25 amendments thereto.

26 (t) If the individual has been discharged for failing a preemployment
27 drug screen required by the employer and if such discharge occurs not later
28 than seven days after the employer is notified of the results of such drug
29 screen. The disqualification shall begin the day following the separation
30 and shall continue until after the individual becomes reemployed and has
31 had earnings from insured work of at least three times the individual's
32 determined weekly benefit amount.

33 (u) If the individual was found not to have a disqualifying
34 adjudication or conviction under K.S.A. 39-970, and amendments thereto,
35 or K.S.A. 65-5117, and amendments thereto, was hired and then was
36 subsequently convicted of a disqualifying felony under K.S.A. 39-970, and
37 amendments thereto, or K.S.A. 65-5117, and amendments thereto, and
38 discharged pursuant to K.S.A. 39-970, and amendments thereto, or K.S.A.
39 65-5117, and amendments thereto. The disqualification shall begin the day
40 following the separation and shall continue until after the individual
41 becomes reemployed and has had earnings from insured work of at least
42 three times the individual's determined weekly benefit amount.

43 Sec. 6. K.S.A. 2012 Supp. 44-709 is hereby amended to read as

1 follows: 44-709. (a) *Filing*. Claims for benefits shall be made in
2 accordance with rules and regulations adopted by the secretary. The
3 secretary shall furnish a copy of such rules and regulations to any
4 individual requesting them. Each employer shall post and maintain printed
5 statements furnished by the secretary without cost to the employer in
6 places readily accessible to individuals in the service of the employer.

7 (b) *Determination*. (1) Except as otherwise provided in this
8 subsection ~~(b)(1) paragraph~~, a representative designated by the secretary,
9 and hereinafter referred to as an examiner, shall promptly examine the
10 claim and, on the basis of the facts found by the examiner, shall determine
11 whether or not the claim is valid. If the examiner determines that the claim
12 is valid, the examiner shall determine the first day of the benefit year, the
13 weekly benefit amount and the total amount of benefits payable with
14 respect to the benefit year. If the claim is determined to be valid, the
15 examiner shall send a notice to the last employing unit who shall respond
16 within 10 days by providing the examiner all requested information
17 including all information required for a decision under K.S.A. 44-706, and
18 amendments thereto. The information may be submitted by the employing
19 unit in person at an employment office of the secretary or by mail, by
20 telefacsimile machine or by electronic mail. If the required information is
21 not submitted or postmarked within a response time limit of 10 days after
22 the examiner's notice was sent, the employing unit shall be deemed to have
23 waived its standing as a party to the proceedings arising from the claim
24 and shall be barred from protesting any subsequent decisions about the
25 claim by the secretary, a referee, the board of review or any court, except
26 that the employing unit's response time limit may be waived or extended
27 by the examiner or upon appeal, if timely response was impossible due to
28 excusable neglect. In any case in which the payment or denial of benefits
29 will be determined by the provisions of subsection (d) of K.S.A. 44-706,
30 and amendments thereto, the examiner shall promptly transmit the claim to
31 a special examiner designated by the secretary to make a determination on
32 the claim after the investigation as the special examiner deems necessary.
33 The parties shall be promptly notified of the special examiner's decision
34 and any party aggrieved by the decision may appeal to the referee as
35 provided in subsection (c). The claimant and the claimant's most recent
36 employing unit shall be promptly notified of the examiner's or special
37 examiner's decision.

38 (2) The examiner may for good cause reconsider the examiner's
39 decision and shall promptly notify the claimant and the most recent
40 employing unit of the claimant, that the decision of the examiner is to be
41 reconsidered, except that no reconsideration shall be made after the
42 termination of the benefit year.

43 (3) Notwithstanding the provisions of any other statute, a decision of

1 an examiner or special examiner shall be final unless the claimant or the
2 most recent employing unit of the claimant files an appeal from the
3 decision as provided in subsection (c), *except that the time limit for appeal*
4 *may be waived or extended by the referee or board of review if a timely*
5 *response was impossible due to excusable neglect.* The appeal must be
6 filed within 16 calendar days after the mailing of notice to the last known
7 addresses of the claimant and employing unit or, if notice is not by mail,
8 within 16 calendar days after the delivery of the notice to the parties.

9 (c) *Appeals.* Unless the appeal is withdrawn, a referee, after affording
10 the parties reasonable opportunity for fair hearing, shall affirm or modify
11 the findings of fact and decision of the examiner or special examiner. The
12 parties shall be duly notified of the referee's decision, together with the
13 reasons for the decision. The decision shall be final, notwithstanding the
14 provisions of any other statute, unless a further appeal to the board of
15 review is filed within 16 calendar days after the mailing of the decision to
16 the parties' last known addresses or, if notice is not by mail, within 16
17 calendar days after the delivery of the decision, *except that the time limit*
18 *for appeal may be waived or extended by the referee or board of review if*
19 *a timely response was impossible due to excusable neglect.*

20 (d) *Referees.* The secretary shall appoint, in accordance with
21 subsection (c) of K.S.A. 44-714, and amendments thereto, one or more
22 referees to hear and decide disputed claims.

23 (e) *Time, computation and extension.* In computing the period of time
24 for an employing unit response or for appeals under this section from the
25 examiner's or the special examiner's determination or from the referee's
26 decision, the day of the act, event or default from which the designated
27 period of time begins to run shall not be included. The last day of the
28 period shall be included unless it is a Saturday, Sunday or legal holiday, in
29 which event the period runs until the end of the next day which is not a
30 Saturday, Sunday or legal holiday.

31 (f) *Board of review.* (1) There is hereby created a board of review,
32 hereinafter referred to as the board, consisting of three members. Except as
33 provided by paragraph (2) of this subsection, each member of the board
34 shall be appointed for a term of four years as provided in this subsection.
35 Two members shall be appointed by the governor, subject to confirmation
36 by the senate as provided in K.S.A. 75-4315b, and amendments thereto.
37 Except as provided by K.S.A. 46-2601, and amendments thereto, no
38 person appointed to the board, whose appointment is subject to
39 confirmation by the senate, shall exercise any power, duty or function as a
40 member until confirmed by the senate. One member shall be representative
41 of employees, one member shall be representative of employers, and one
42 member shall be representative of the public in general. The appointment
43 of the employee representative member of the board shall be made by the

1 governor from a list of three nominations submitted by the Kansas A.F.L.-
2 C.I.O. The appointment of the employer representative member of the
3 board shall be made by the governor from a list of three nominations
4 submitted by the Kansas chamber of commerce and industry. The
5 appointment of the public representative member of the board, who,
6 because of vocation, occupation or affiliation may be deemed not to be
7 representative of either management or labor, shall be made by the
8 members appointed by the governor as employee representative and
9 employer representative. If the two members do not agree and fail to make
10 the appointment of the public member within 30 days after the expiration
11 of the public member's term of office, the governor shall appoint the
12 representative of the public. Not more than two members of the board shall
13 belong to the same political party.

14 (2) The terms of members who are serving on the board on the
15 effective date of this act shall expire on March 15 of the year in which
16 such member's term would have expired under the provisions of this
17 section prior to amendment by this act. Thereafter, members shall be
18 appointed for terms of four years and until their successors are appointed
19 and confirmed.

20 (3) Each member of the board shall serve until a successor has been
21 appointed and confirmed. Any vacancy in the membership of the board
22 occurring prior to expiration of a term shall be filled by appointment for
23 the unexpired term in the same manner as provided for original
24 appointment of the member. Each member shall be appointed as
25 representative of the same special interest group represented by the
26 predecessor of the member.

27 (4) Each member of the board shall be entitled to receive as
28 compensation for the member's services at the rate of \$15,000 per year,
29 together with the member's travel and other necessary expenses actually
30 incurred in the performance of the member's official duties in accordance
31 with rules and regulations adopted by the secretary. Members'
32 compensation and expenses shall be paid from the employment security
33 administration fund.

34 (5) The board shall organize annually by the election of a chairperson
35 from among its members. The chairperson shall serve in that capacity for a
36 term of one year and until a successor is elected. The board shall meet on
37 the first Monday of each month or on the call of the chairperson or any
38 two members of the board at the place designated. The secretary of labor
39 shall appoint an executive secretary of the board and the executive
40 secretary shall attend the meetings of the board.

41 (6) The board, on its own motion, may affirm, modify or set aside any
42 decision of a referee on the basis of the evidence previously submitted in
43 the case; may direct the taking of additional evidence; or may permit any

1 of the parties to initiate further appeal before it. The board shall permit
2 such further appeal by any of the parties interested in a decision of a
3 referee which overrules or modifies the decision of an examiner. The board
4 may remove to itself the proceedings on any claim pending before a
5 referee. Any proceedings so removed to the board shall be heard in
6 accordance with the requirements of subsection (c). The board shall
7 promptly notify the interested parties of its findings and decision.

8 (7) Two members of the board shall constitute a quorum and no
9 action of the board shall be valid unless it has the concurrence of at least
10 two members. A vacancy on the board shall not impair the right of a
11 quorum to exercise all the rights and perform all the duties of the board.

12 (g) *Procedure.* The manner in which disputed claims are presented,
13 the reports on claims required from the claimant and from employers and
14 the conduct of hearings and appeals shall be in accordance with rules of
15 procedure prescribed by the board for determining the rights of the parties,
16 whether or not such rules conform to common law or statutory rules of
17 evidence and other technical rules of procedure. A full and complete
18 record shall be kept of all proceedings and decisions in connection with a
19 disputed claim. All testimony at any hearing upon a disputed claim shall be
20 recorded, but need not be transcribed unless the disputed claim is further
21 appealed. In the performance of its official duties, the board shall have
22 access to all of the records which pertain to the disputed claim and are in
23 the custody of the secretary of labor and shall receive the assistance of the
24 secretary upon request.

25 (h) *Witness fees.* Witnesses subpoenaed pursuant to this section shall
26 be allowed fees and necessary travel expenses at rates fixed by the board.
27 Such fees and expenses shall be deemed a part of the expense of
28 administering this act.

29 (i) *Court review.* Any action of the board is subject to review in
30 accordance with the Kansas judicial review act. No bond shall be required
31 for commencing an action for such review. In the absence of an action for
32 such review, the action of the board shall become final 16 calendar days
33 after the date of the mailing of the decision. In addition to those persons
34 having standing pursuant to K.S.A. 77-611, and amendments thereto, the
35 examiner shall have standing to obtain judicial review of an action of the
36 board. The review proceeding, and the questions of law certified, shall be
37 heard in a summary manner and shall be given precedence over all other
38 civil cases except cases arising under the workers compensation act.

39 (j) Any finding of fact or law, judgment, determination, conclusion or
40 final order made by the board of review or any examiner, special examiner,
41 referee or other person with authority to make findings of fact or law
42 pursuant to the employment security law is not admissible or binding in
43 any separate or subsequent action or proceeding, between a person and a

1 present or previous employer brought before an arbitrator, court or judge
2 of the state or the United States, regardless of whether the prior action was
3 between the same or related parties or involved the same facts.

4 (k) In any proceeding or hearing conducted under this section, a party
5 to the proceeding or hearing may appear before a referee or the board
6 either personally or by means of a designated representative to present
7 evidence and to state the position of the party. Hearings may be conducted
8 in person, by telephone or other means of electronic communication. The
9 hearing shall be conducted by telephone or other means of electronic
10 communication if none of the parties requests an in-person hearing. If only
11 one party requests an in-person hearing, the referee shall have the
12 discretion of requiring all parties to appear in person or allow the party not
13 requesting an in-person hearing to appear by telephone or other means of
14 electronic communication. The notice of hearing shall include notice to the
15 parties of their right to request an in-person hearing and instructions on
16 how to make the request.

17 Sec. 7. K.S.A. 2012 Supp. 44-710 is hereby amended to read as
18 follows: 44-710. (a) *Payment.* Contributions shall accrue and become
19 payable by each contributing employer for each calendar year in which the
20 contributing employer is subject to the employment security law with
21 respect to wages paid for employment. Such contributions shall become
22 due and be paid by each contributing employer to the secretary for the
23 employment security fund in accordance with such rules and regulations as
24 the secretary may adopt and shall not be deducted, in whole or in part,
25 from the wages of individuals in such employer's employ. In the payment
26 of any contributions, a fractional part of \$.01 shall be disregarded unless it
27 amounts to \$.005 or more, in which case it shall be increased to \$.01.
28 Should contributions for any calendar quarter be less than \$5, no payment
29 shall be required.

30 (b) *Rates and base of contributions.* (1) Except as provided in
31 paragraph (2) of this subsection, each contributing employer shall pay
32 contributions on wages paid by the contributing employer during each
33 calendar year with respect to employment as provided in K.S.A. 44-710a,
34 and amendments thereto. Except that, notwithstanding the federal law
35 requiring the secretary of labor to annually recalculate the contribution
36 rate, for calendar years 2010, 2011, 2012, 2013 and 2014, the secretary
37 shall charge each contributing employer in rate groups 1 through 32 the
38 contribution rate in the 2010 original tax rate computation table, with
39 contributing employers in rate groups 33 through 51 being capped at a
40 5.4% contribution rate.

41 (2) (A) If the congress of the United States either amends or repeals
42 the Wagner-Peyser act, the federal unemployment tax act, the federal
43 social security act, or subtitle C of chapter 23 of the federal internal

1 revenue code of 1986, or any act or acts supplemental to or in lieu thereof,
2 or any part or parts of any such law, or if any such law, or any part or parts
3 thereof, are held invalid with the effect that appropriations of funds by
4 congress and grants thereof to the state of Kansas for the payment of costs
5 of administration of the employment security law are no longer available
6 for such purposes; or (B) if employers in Kansas subject to the payment
7 of tax under the federal unemployment tax act are granted full credit
8 against such tax for contributions or taxes paid to the secretary of labor,
9 then, and in either such case, beginning with the year in which the
10 unavailability of federal appropriations and grants for such purpose occurs
11 or in which such change in liability for payment of such federal tax occurs
12 and for each year thereafter, the rate of contributions of each contributing
13 employer shall be equal to the total of .5% and the rate of contributions as
14 determined for such contributing employer under K.S.A. 44-710a, and
15 amendments thereto. The amount of contributions which each contributing
16 employer becomes liable to pay under this paragraph (2) over the amount
17 of contributions which such contributing employer would be otherwise
18 liable to pay shall be credited to the employment security administration
19 fund to be disbursed and paid out under the same conditions and for the
20 same purposes as other moneys are authorized to be paid from the
21 employment security administration fund, except that, if the secretary
22 determines that as of the first day of January of any year there is an excess
23 in the employment security administration fund over the amount required
24 to be disbursed during such year, an amount equal to such excess as
25 determined by the secretary shall be transferred to the employment
26 security fund.

27 (c) *Charging of benefit payments.* (1) The secretary shall maintain a
28 separate account for each contributing employer, and shall credit the
29 contributing employer's account with all the contributions paid on the
30 contributing employer's own behalf. Nothing in the employment security
31 law shall be construed to grant any employer or individuals in such
32 employer's service prior claims or rights to the amounts paid by such
33 employer into the employment security fund either on such employer's
34 own behalf or on behalf of such individuals. Benefits paid shall be charged
35 against the accounts of each base period employer in the proportion that
36 the base period wages paid to an eligible individual by each such employer
37 bears to the total wages in the base period. Benefits shall be charged to
38 contributing employers' accounts and rated governmental employers'
39 accounts upon the basis of benefits paid during each twelve-month period
40 ending on the computation date.

41 (2) (A) Benefits paid in benefit years established by valid new claims
42 shall not be charged to the account of a contributing employer or rated
43 governmental employer who is a base period employer if the examiner

1 finds that claimant was separated from the claimant's most recent
2 employment with such employer under any of the following conditions: (i)
3 Discharged for misconduct or gross misconduct connected with the
4 individual's work; or (ii) leaving work voluntarily without good cause
5 attributable to the claimant's work or the employer.

6 (B) Where base period wage credits of a contributing employer or
7 rated governmental employer represent part-time employment and the
8 claimant continues in that part-time employment with that employer
9 during the period for which benefits are paid, then that employer's account
10 shall not be charged with any part of the benefits paid if the employer
11 provides the secretary with information as required by rules and
12 regulations. For the purposes of this subsection (c)(2)(B), "part-time
13 employment" means any employment when an individual works
14 ~~concurrently for two or more employers and also works less than full-time~~
15 ~~for at least one of those employers~~ *less than full-time* because the
16 individual's services are not required for the customary, scheduled full-
17 time hours prevailing at the work place or the individual does not
18 customarily work the regularly scheduled full-time hours due to personal
19 choice or circumstances.

20 (C) No contributing employer or rated governmental employer's
21 account shall be charged with any extended benefits paid in accordance
22 with the employment security law, except for weeks of unemployment
23 beginning after December 31, 1978, all contributing governmental
24 employers and governmental rated employers shall be charged an amount
25 equal to all extended benefits paid.

26 (D) No contributing employer, rated governmental employer or
27 reimbursing employer's account shall be charged for any additional
28 benefits paid during the period July 1, 2003 through June 30, 2004.

29 (E) No contributing employer or rated governmental employer's
30 account will be charged for benefits paid a claimant while pursuing an
31 approved training course as defined in subsection (s) of K.S.A. 44-703,
32 and amendments thereto.

33 (F) No contributing employer or rated governmental employer's
34 account shall be charged with respect to the benefits paid to any individual
35 whose base period wages include wages for services not covered by the
36 employment security law prior to January 1, 1978, to the extent that the
37 employment security fund is reimbursed for such benefits pursuant to
38 section 121 of public law 94-566 (90 Stat. 2673).

39 (G) With respect to weeks of unemployment beginning after
40 December 31, 1977, wages for insured work shall include wages paid for
41 previously uncovered services. For the purposes of this subsection (c)(2)
42 (G), the term "previously uncovered services" means services which were
43 not covered employment, at any time during the one-year period ending

1 December 31, 1975, except to the extent that assistance under title II of the
2 federal emergency jobs and unemployment assistance act of 1974 was paid
3 on the basis of such services, and which:

4 (i) Are agricultural labor as defined in subsection (w) of K.S.A. 44-
5 703, and amendments thereto, or domestic service as defined in subsection
6 (aa) of K.S.A. 44-703, and amendments thereto;~~or;~~

7 (ii) are services performed by an employee of this state or a political
8 subdivision thereof, as provided in subsection (i)(3)(E) of K.S.A. 44-703,
9 and amendments thereto; or

10 (iii) are services performed by an employee of a nonprofit educational
11 institution which is not an institution of higher education.

12 (H) No contributing employer or rated governmental employer's
13 account shall be charged with respect to their pro rata share of benefit
14 charges if such charges are of \$100 or less.

15 (3) *An employer's account shall not be relieved of charges relating to*
16 *a payment that was made erroneously if the secretary determines that:*

17 (A) *The erroneous payment was made because the employer, or the*
18 *agent of the employer, was at fault for failing to respond timely or*
19 *adequately to a written request from the secretary for information relating*
20 *to the claim for unemployment compensation; and*

21 (B) *the employer or agent has established a pattern of failing to*
22 *respond timely or adequately to requests for information.*

23 (C) *For purposes of this paragraph:*

24 (i) *"Erroneous payment" means a payment that but for the failure by*
25 *the employer or the employer's agent with respect to the claim for*
26 *unemployment compensation, would not have been made; and*

27 (ii) *"pattern of failure" means repeated documented failure on the*
28 *part of the employer or the agent of the employer to respond, taking into*
29 *consideration the number of instances of failure in relation to the total*
30 *volume of requests. An employer or employer's agent failing to respond as*
31 *described in (c)(3)(A) shall not be determined to have engaged in a*
32 *"pattern of failure" if the number of such failures during the year prior to*
33 *such request is fewer than two, or less than 2%, of such requests,*
34 *whichever is greater.*

35 (C) *Determinations of the secretary prohibiting the relief of charges*
36 *pursuant to this section shall be subject to appeal or protest as other*
37 *determinations of the agency with respect to the charging of employer*
38 *accounts.*

39 (D) *This paragraph shall apply to erroneous payments established on*
40 *and after the effective date of this act.*

41 (4) The examiner shall notify any base period employer whose
42 account will be charged with benefits paid following the filing of a valid
43 new claim and a determination by the examiner based on all information

1 relating to the claim contained in the records of the division of
2 employment security. Such notice shall become final and benefits charged
3 to the base period employer's account in accordance with the claim unless
4 within 10 calendar days from the date the notice was sent, the base period
5 employer requests in writing that the examiner reconsider the
6 determination and furnishes any required information in accordance with
7 the secretary's rules and regulations. In a similar manner, a notice of an
8 additional claim followed by the first payment of benefits with respect to
9 the benefit year, filed by an individual during a benefit year after a period
10 in such year during which such individual was employed, shall be given to
11 any base period employer of the individual who has requested such a
12 notice within 10 calendar days from the date the notice of the valid new
13 claim was sent to such base period employer. For purposes of this
14 subsection (c)(3), if the required information is not submitted or
15 postmarked within a response time limit of 10 days after the base period
16 employer notice was sent, the base period employer shall be deemed to
17 have waived its standing as a party to the proceedings arising from the
18 claim and shall be barred from protesting any subsequent decisions about
19 the claim by the secretary, a referee, the board of review or any court,
20 except that the base period employer's response time limit may be waived
21 or extended by the examiner or upon appeal, if timely response was
22 impossible due to excusable neglect. The examiner shall notify the
23 employer of the reconsidered determination which shall be subject to
24 appeal, or further reconsideration, in accordance with the provisions of
25 K.S.A. 44-709, and amendments thereto.

26 ~~(4)~~ (5) *Time, computation and extension.* In computing the period of
27 time for a base period employer response or appeals under this section
28 from the examiner's or the special examiner's determination or from the
29 referee's decision, the day of the act, event or default from which the
30 designated period of time begins to run shall not be included. The last day
31 of the period shall be included unless it is a Saturday, Sunday or legal
32 holiday, in which event the period runs until the end of the next day which
33 is not a Saturday, Sunday or legal holiday.

34 (d) *Pooled fund.* All contributions and payments in lieu of
35 contributions and benefit cost payments to the employment security fund
36 shall be pooled and available to pay benefits to any individual entitled
37 thereto under the employment security law, regardless of the source of
38 such contributions or payments in lieu of contributions or benefit cost
39 payments.

40 (e) *Election to become reimbursing employer; payment in lieu of*
41 *contributions.* (1) Any governmental entity, Indian tribes or tribal units,
42 (subdivisions, subsidiaries or business enterprises wholly owned by such
43 Indian tribes), for which services are performed as described in subsection

1 (i)(3)(E) of K.S.A. 44-703, and amendments thereto, or any nonprofit
2 organization or group of nonprofit organizations described in section
3 501(c)(3) of the federal internal revenue code of 1986 which is exempt
4 from income tax under section 501(a) of such code, that becomes subject
5 to the employment security law may elect to become a reimbursing
6 employer under this subsection (e)(1) and agree to pay the secretary for the
7 employment security fund an amount equal to the amount of regular
8 benefits and $\frac{1}{2}$ of the extended benefits paid that are attributable to service
9 in the employ of such reimbursing employer, except that each reimbursing
10 governmental employer, Indian tribes or tribal units shall pay an amount
11 equal to the amount of regular benefits and extended benefits paid for
12 weeks of unemployment beginning after December 31, 1978, for
13 governmental employers and December 21, 2000, for Indian tribes or
14 tribal units to individuals for weeks of unemployment which begin during
15 the effective period of such election.

16 (A) Any employer identified in this subsection (e)(1) may elect to
17 become a reimbursing employer for a period encompassing not less than
18 four complete calendar years if such employer files with the secretary a
19 written notice of such election within the 30-day period immediately
20 following January 1 of any calendar year or within the 30-day period
21 immediately following the date on which a determination of subjectivity to
22 the employment security law is issued, whichever occurs later.

23 (B) Any employer which makes an election to become a reimbursing
24 employer in accordance with subparagraph (A) of this subsection (e)(1)
25 will continue to be liable for payments in lieu of contributions until such
26 employer files with the secretary a written notice terminating its election
27 not later than 30 days prior to the beginning of the calendar year for which
28 such termination shall first be effective.

29 (C) Any employer identified in this subsection (e)(1) which has
30 remained a contributing employer and has been paying contributions under
31 the employment security law for a period subsequent to January 1, 1972,
32 may change to a reimbursing employer by filing with the secretary not
33 later than 30 days prior to the beginning of any calendar year a written
34 notice of election to become a reimbursing employer. Such election shall
35 not be terminable by the employer for four complete calendar years.

36 (D) The secretary may for good cause extend the period within which
37 a notice of election, or a notice of termination, must be filed and may
38 permit an election to be retroactive but not any earlier than with respect to
39 benefits paid after January 1 of the year such election is received.

40 (E) The secretary, in accordance with such rules and regulations as
41 the secretary may adopt, shall notify each employer identified in
42 subsection (e)(1) of any determination which the secretary may make of its
43 status as an employer and of the effective date of any election which it

1 makes to become a reimbursing employer and of any termination of such
2 election. Such determinations shall be subject to reconsideration, appeal
3 and review in accordance with the provisions of K.S.A. 44-710b, and
4 amendments thereto.

5 (2) *Reimbursement reports and payments.* Payments in lieu of
6 contributions shall be made in accordance with the provisions of paragraph
7 (A) of this subsection (e)(2) by all reimbursing employers except the state
8 of Kansas. Each reimbursing employer shall report total wages paid during
9 each calendar quarter by filing quarterly wage reports with the secretary
10 which shall be filed by the last day of the month following the close of
11 each calendar quarter. Wage reports are deemed filed as of the date they
12 are placed in the United States mail.

13 (A) At the end of each calendar quarter, or at the end of any other
14 period as determined by the secretary, the secretary shall bill each
15 reimbursing employer, except the state of Kansas; (i) An amount to be
16 paid which is equal to the full amount of regular benefits plus $\frac{1}{2}$ of the
17 amount of extended benefits paid during such quarter or other prescribed
18 period that is attributable to service in the employ of such reimbursing
19 employer; and (ii) for weeks of unemployment beginning after December
20 31, 1978, each reimbursing governmental employer and December 21,
21 2000, for Indian tribes or tribal units shall be certified an amount to be
22 paid which is equal to the full amount of regular benefits and extended
23 benefits paid during such quarter or other prescribed period that is
24 attributable to service in the employ of such reimbursing governmental
25 employer.

26 (B) Payment of any bill rendered under paragraph (A) of this
27 subsection (e)(2) shall be made not later than 30 days after such bill was
28 mailed to the last known address of the reimbursing employer, or
29 otherwise was delivered to such reimbursing employer, unless there has
30 been an application for review and redetermination in accordance with
31 paragraph (D) of this subsection (e)(2).

32 (C) Payments made by any reimbursing employer under the
33 provisions of this subsection (e)(2) shall not be deducted or deductible, in
34 whole or in part, from the remuneration of individuals in the employ of
35 such employer.

36 (D) The amount due specified in any bill from the secretary shall be
37 conclusive on the reimbursing employer, unless, not later than 15 days
38 after the bill was mailed to the last known address of such employer, or
39 was otherwise delivered to such employer, the reimbursing employer files
40 an application for redetermination in accordance with K.S.A. 44-710b, and
41 amendments thereto.

42 (E) Past due payments of amounts certified by the secretary under
43 this section shall be subject to the same interest, penalties and actions

1 required by K.S.A. 44-717, and amendments thereto. (1) If any nonprofit
2 organization or group of nonprofit organizations described in section
3 501(c)(3) of the federal internal revenue code of 1986 or governmental
4 reimbursing employer is delinquent in making payments of amounts
5 certified by the secretary under this section, the secretary may terminate
6 such employer's election to make payments in lieu of contributions as of
7 the beginning of the next calendar year and such termination shall be
8 effective for such next calendar year and the calendar year thereafter so
9 that the termination is effective for two complete calendar years. (2)
10 Failure of the Indian tribe or tribal unit to make required payments,
11 including assessment of interest and penalty within 90 days of receipt of
12 the bill will cause the Indian tribe to lose the option to make payments in
13 lieu of contributions as described pursuant to paragraph (e)(1) for the
14 following tax year unless payment in full is received before contribution
15 rates for the next tax year are calculated. (3) Any Indian tribe that loses the
16 option to make payments in lieu of contributions due to late payment or
17 nonpayment, as described in paragraph (2), shall have such option
18 reinstated, if after a period of one year, all contributions have been made
19 on time and no contributions, payments in lieu of contributions for benefits
20 paid, penalties or interest remain outstanding.

21 (F) Failure of the Indian tribe or any tribal unit thereof to make
22 required payments, including assessments of interest and penalties, after
23 all collection activities deemed necessary by the secretary have been
24 exhausted, will cause services performed by such tribe to not be treated as
25 employment for purposes of subsection (i)(3)(E) of K.S.A. 44-703, and
26 amendments thereto. If an Indian tribe fails to make payments required
27 under this section, including assessments of interest and penalties, within
28 90 days of a final notice of delinquency, the secretary shall immediately
29 notify the United States internal revenue service and the United States
30 department of labor. The secretary may determine that any Indian tribe that
31 loses coverage pursuant to this paragraph may have services performed on
32 behalf of such tribe again deemed "employment" if all contributions,
33 payments in lieu of contributions, penalties and interest have been paid.

34 (G) In the discretion of the secretary, any employer who elects to
35 become liable for payments in lieu of contributions and any nonprofit
36 organization or group of nonprofit organizations described in section 501
37 (c)(3) of the federal internal revenue code of 1986 or governmental
38 reimbursing employer or Indian tribe or tribal unit who is delinquent in
39 filing reports or in making payments of amounts certified by the secretary
40 under this section shall be required within 60 days after the effective date
41 of such election, in the case of an eligible employer so electing, or after the
42 date of notification to the delinquent employer under this subsection (e)(2)
43 (G), in the case of a delinquent employer, to execute and file with the

1 secretary a surety bond, except that the employer may elect, in lieu of a
2 surety bond, to deposit with the secretary money or securities as approved
3 by the secretary or to purchase and deliver to an escrow agent a certificate
4 of deposit to guarantee payment. The amount of the bond, deposit or
5 escrow agreement required by this subsection (e)(2)(G) shall not exceed
6 5.4% of the organization's taxable wages paid for employment by the
7 eligible employer during the four calendar quarters immediately preceding
8 the effective date of the election or the date of notification, in the case of a
9 delinquent employer. If the employer did not pay wages in each of such
10 four calendar quarters, the amount of the bond or deposit shall be as
11 determined by the secretary. Upon the failure of an employer to comply
12 with this subsection (e)(2)(G) within the time limits imposed or to
13 maintain the required bond or deposit, the secretary may terminate the
14 election of such eligible employer or delinquent employer, as the case may
15 be, to make payments in lieu of contributions, and such termination shall
16 be effective for the current and next calendar year.

17 (H) The state of Kansas shall make reimbursement payments
18 quarterly at a fiscal year rate which shall be based upon: (i) The available
19 balance in the state's reimbursing account as of December 31 of each
20 calendar year; (ii) the historical unemployment experience of all covered
21 state agencies during prior years; (iii) the estimate of total covered wages
22 to be paid during the ensuing calendar year; (iv) the applicable fiscal year
23 rate of the claims processing and auditing fee under K.S.A. 75-3798, and
24 amendments thereto; and (v) actuarial and other information furnished to
25 the secretary by the secretary of administration. In accordance with K.S.A.
26 75-3798, and amendments thereto, the claims processing and auditing fees
27 charged to state agencies shall be deducted from the amounts collected for
28 the reimbursement payments under this paragraph (H) prior to making the
29 quarterly reimbursement payments for the state of Kansas. The fiscal year
30 rate shall be expressed as a percentage of covered total wages and shall be
31 the same for all covered state agencies. The fiscal year rate for each fiscal
32 year will be certified in writing by the secretary to the secretary of
33 administration on July 15 of each year and such certified rate shall become
34 effective on the July 1 immediately following the date of certification. A
35 detailed listing of benefit charges applicable to the state's reimbursing
36 account shall be furnished quarterly by the secretary to the secretary of
37 administration and the total amount of charges deducted from previous
38 reimbursing payments made by the state. On January 1 of each year, if it is
39 determined that benefit charges exceed the amount of prior reimbursing
40 payments, an upward adjustment shall be made therefor in the fiscal year
41 rate which will be certified on the ensuing July 15. If total payments
42 exceed benefit charges, all or part of the excess may be refunded, at the
43 discretion of the secretary, from the fund or retained in the fund as part of

1 the payments which may be required for the next fiscal year.

2 (3) *Allocation of benefit costs.* The reimbursing account of each
3 reimbursing employer shall be charged the full amount of regular benefits
4 and ½ of the amount of extended benefits paid except that each
5 reimbursing governmental employer's account shall be charged the full
6 amount of regular benefits and extended benefits paid for weeks of
7 unemployment beginning after December 31, 1978, to individuals whose
8 entire base period wage credits are from such employer. When benefits
9 received by an individual are based upon base period wage credits from
10 more than one employer then the reimbursing employer's or reimbursing
11 governmental employer's account shall be charged in the same ratio as
12 base period wage credits from such employer bear to the individual's total
13 base period wage credits. Notwithstanding any other provision of the
14 employment security law, no reimbursing employer's or reimbursing
15 governmental employer's account shall be charged for payments of
16 extended benefits which are wholly reimbursed to the state by the federal
17 government.

18 (A) *Proportionate allocation (when fewer than all reimbursing base*
19 *period employers are liable).* If benefits paid to an individual are based on
20 wages paid by one or more reimbursing employers and on wages paid by
21 one or more contributing employers or rated governmental employers, the
22 amount of benefits payable by each reimbursing employer shall be an
23 amount which bears the same ratio to the total benefits paid to the
24 individual as the total base period wages paid to the individual by such
25 employer bears to the total base period wages paid to the individual by all
26 of such individual's base period employers.

27 (B) *Proportionate allocation (when all base period employers are*
28 *reimbursing employers).* If benefits paid to an individual are based on
29 wages paid by two or more reimbursing employers, the amount of benefits
30 payable by each such employer shall be an amount which bears the same
31 ratio to the total benefits paid to the individual as the total base period
32 wages paid to the individual by such employer bear to the total base period
33 wages paid to the individual by all of such individual's base period
34 employers.

35 (4) *Group accounts.* Two or more reimbursing employers may file a
36 joint application to the secretary for the establishment of a group account
37 for the purpose of sharing the cost of benefits paid that are attributable to
38 service in the employment of such reimbursing employers. Each such
39 application shall identify and authorize a group representative to act as the
40 group's agent for the purposes of this subsection (e)(4). Upon approval of
41 the application, the secretary shall establish a group account for such
42 employers effective as of the beginning of the calendar quarter in which
43 the secretary receives the application and shall notify the group's

1 representative of the effective date of the account. Such account shall
2 remain in effect for not less than four years and thereafter such account
3 shall remain in effect until terminated at the discretion of the secretary or
4 upon application by the group. Upon establishment of the account, each
5 member of the group shall be liable for payments in lieu of contributions
6 with respect to each calendar quarter in the amount that bears the same
7 ratio to the total benefits paid in such quarter that are attributable to service
8 performed in the employ of all members of the group as the total wages
9 paid for service in employment by such member in such quarter bear to the
10 total wages paid during such quarter for service performed in the employ
11 of all members of the group. The secretary shall adopt such rules and
12 regulations as the secretary deems necessary with respect to applications
13 for establishment, maintenance and termination of group accounts that are
14 authorized by this subsection (e)(4), for addition of new members to, and
15 withdrawal of active members from such accounts, and for the
16 determination of the amounts that are payable under this subsection (e)(4)
17 by members of the group and the time and manner of such payments.

18 Sec. 8. K.S.A. 2012 Supp. 44-710a is hereby amended to read as
19 follows: 44-710a. (a) *Classification of employers by the secretary.* The
20 term "employer" as used in this section refers to contributing employers.
21 The secretary shall classify employers in accordance with their actual
22 experience in the payment of contributions on their own behalf and with
23 respect to benefits charged against their accounts with a view of fixing
24 such contribution rates as will reflect such experience. If, as of the date
25 such classification of employers is made, the secretary finds that any
26 employing unit has failed to file any report required in connection
27 therewith, or has filed a report which the secretary finds incorrect or
28 insufficient, the secretary shall make an estimate of the information
29 required from such employing unit on the basis of the best evidence
30 reasonably available to the secretary at the time, and notify the employing
31 unit thereof by mail addressed to its last known address. Unless such
32 employing unit shall file the report or a corrected or sufficient report as the
33 case may be, within 15 days after the mailing of such notice, the secretary
34 shall compute such employing unit's rate of contributions on the basis of
35 such estimates, and the rate as so determined shall be subject to increase
36 but not to reduction on the basis of subsequently ascertained information.
37 The secretary shall determine the contribution rate of each employer in
38 accordance with the requirements of this section.

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

43 (B) (i) (a) ~~For the rate-year 2007 and each rate-year thereafter years~~

1 2007 through 2013, each employer who is not eligible for a rate
2 contribution shall pay contributions equal to 4% of wages paid during each
3 calendar year with regard to employment except such employers engaged
4 in the construction industry shall pay a rate equal to 6%.

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

10 (c) For the rate year 2014 and each rate year thereafter, except for
11 the construction industry, each employer who starts a new business and
12 who is not eligible for a rate contribution shall pay contributions equal to
13 2.7% of wages paid during each calendar year with regard to
14 employment.

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

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

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

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

1 payroll, and the result shall constitute the employer reserve ratio.

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

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

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

42 SCHEDULE I—Eligible Employers
43

	Column A	Column B	Column C
	Rate	Cumulative	Experience factor
	group	taxable payroll	(Ratio to total wages)
1	1	Less than 1.96% .....	.025%
2	2	1.96% but less than 3.92 .....	.40
3	3	3.92 but less than 5.88 .....	.80
4	4	5.88 but less than 7.84 .....	.12
5	5	7.84 but less than 9.80 .....	.16
6	6	9.80 but less than 11.76 .....	.20
7	7	11.76 but less than 13.72 .....	.24
8	8	13.72 but less than 15.68 .....	.28
9	9	15.68 but less than 17.64 .....	.32
10	10	17.64 but less than 19.60 .....	.36
11	11	19.60 but less than 21.56 .....	.40
12	12	21.56 but less than 23.52 .....	.44
13	13	23.52 but less than 25.48 .....	.48
14	14	25.48 but less than 27.44 .....	.52
15	15	27.44 but less than 29.40 .....	.56
16	16	29.40 but less than 31.36 .....	.60
17	17	31.36 but less than 33.32 .....	.64
18	18	33.32 but less than 35.28 .....	.68
19	19	35.28 but less than 37.24 .....	.72
20	20	37.24 but less than 39.20 .....	.76
21	21	39.20 but less than 41.16 .....	.80
22	22	41.16 but less than 43.12 .....	.84
23	23	43.12 but less than 45.08 .....	.88
24	24	45.08 but less than 47.04 .....	.92
25	25	47.04 but less than 49.00 .....	.96
26	26	49.00 but less than 50.96	1.00
27	27	50.96 but less than 52.92	1.04
28	28	52.92 but less than 54.88	1.08
29	29	54.88 but less than 56.84	1.12
30	30	56.84 but less than 58.80	1.16
31	31	58.80 but less than 60.76	1.20
32	32	60.76 but less than 62.72	1.24
33	33	62.72 but less than 64.68	1.28
34	34	64.68 but less than 66.64	1.32
35	35	66.64 but less than 68.60	1.36
36	36	68.60 but less than 70.56	1.40
37	37	70.56 but less than 72.52	1.44
38	38	72.52 but less than 74.48	1.48
39	39	74.48 but less than 76.44	1.52
40	40	76.44 but less than 78.40	1.56

1	41	78.40 but less than 80.36	1.60
2	42	80.36 but less than 82.32	1.64
3	43	82.32 but less than 84.28	1.68
4	44	84.28 but less than 86.24	1.72
5	45	86.24 but less than 88.20	1.76
6	46	88.20 but less than 90.16	1.80
7	47	90.16 but less than 92.12	1.84
8	48	92.12 but less than 94.08	1.88
9	49	94.08 but less than 96.04	1.92
10	50	96.04 but less than 98.00	1.96
11	51	98.00 and over	2.00

12

13 (E) Negative account balance employers shall, in addition to paying
 14 the rate provided for in subsection (a)(2)(B) of this section, pay a
 15 surcharge based on the size of the employer's negative reserve ratio, the
 16 calculation which is provided for in subsection (a)(2) of this section. The
 17 amount of the surcharge shall be determined from column B2 of schedule
 18 II of this section for calendar years 2012, 2013, 2014 and from column ~~B1~~
 19 *B4* of schedule II of this section for each calendar year after 2014. Each
 20 negative account balance employer who does not satisfy the requirements
 21 to have an average annual payroll, as defined by subsection (a)(2) of
 22 K.S.A. 44-703, and amendments thereto, shall be assigned a surcharge of
 23 equal to the maximum negative ratio surcharge from column B2 of
 24 schedule II of this section for calendar years 2012, 2013 and 2014. From
 25 calendar year 2015 forward, each negative account balance employer who
 26 does not satisfy the requirements to have an average annual payroll, as
 27 defined by subsection (a)(2) of K.S.A. 44-703, and amendments thereto,
 28 shall be assigned a surcharge equal to the maximum negative ratio
 29 surcharge from column ~~B1~~ *B4* of schedule II of this section. Funds from
 30 the surcharge paid according to this subsection (a)(2)(E), and amendments
 31 thereto, shall be used to pay principal and interest due on funds received
 32 from the federal unemployment account under title XII of the social
 33 security act, (42 U.S.C. §§ 1321 to 1324), in the following manner:

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

1 negative reserve ratio between 0.0% and 19.9% shall be as listed in
 2 schedule II column ~~B1~~ *B4*.

3 (ii) For the calendar year ~~2012, and each calendar year thereafter~~
 4 *years 2012, 2013 and 2014*, an additional surcharge on negative balance
 5 employers with negative reserve ratio of 20.0% and higher shall be
 6 designated an interest assessment surcharge and deposited in the
 7 employment security interest assessment fund. The additional surcharge
 8 shall be used for the purposes of paying interest due and owing on fund
 9 received from the federal unemployment account under title XII of the
 10 social security act. The total surcharge including the additional surcharge
 11 on such employers is listed in schedule II column B3 of this section.

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

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

21 (v) if the amounts collected under this subsection are in excess of the
 22 amounts needed to pay interest due, the amounts in excess shall remain in
 23 the employment security interest assessment fund to be used to pay interest
 24 in future years. Whenever the secretary certifies all interest payments have
 25 been paid pursuant to this section, any excess funds remaining in the
 26 employment security interest assessment fund shall be transferred to the
 27 employment security trust fund for the purpose of paying any remaining
 28 principal amount due for advances described in this section. In the event
 29 that the amount transferred from the employment security interest
 30 assessment fund exceeds such remaining amount of principal due, the
 31 balance shall be used for the purposes of the employment security trust
 32 fund.

33 SCHEDULE II—Surcharge on Negative Accounts

34 Column A	Column B1	Column B2	Column B3
35 <i>Column B4</i>			
36 Negative Reserve	Surcharge as a	Surcharge as a	Surcharge as a
37 <i>Surcharge as a</i>			
38 Ratio	percent of	percent of	percent of
39 <i>percent of</i>			
40	taxable wages	taxable wages	taxable wages
41 <i>taxable wages</i>			
42 Less than 2.0%.....	0.20%.....	0.30%.....	
43	0.10%		

1	2.0% but less than 4.0.....	0.40.....	0.50.....
2	.....	0.20	
3	4.0 but less than 6.0.....	0.60.....	0.70.....
4	.....	0.30	
5	6.0 but less than 8.0.....	0.80.....	0.90.....
6	.....	0.40	
7	8.0 but less than 10.0.....	1.00.....	1.10.....
8	.....	0.50	
9	10.0 but less than 12.0.....	1.20.....	1.30.....
10	.....	0.60	
11	12.0 but less than 14.0.....	1.40.....	1.50.....
12	.....	0.70	
13	14.0 but less than 16.0.....	1.60.....	1.70.....
14	.....	0.80	
15	16.0 but less than 18.0.....	1.80.....	1.90.....
16	.....	0.90	
17	18.0 but less than 20.0.....	2.00.....	2.10.....
18	.....	1.00	
19	20.0 but less than 22.0.....	2.00.....	2.20.....
20	.....	1.10	
21	22.0 but less than 24.0.....	2.00.....	2.40.....
22	.....	1.20	
23	24.0 but less than 26.0.....	2.00.....	2.60.....
24	.....	1.30	
25	26.0 but less than 28.0.....	2.00.....	2.80.....
26	.....	1.40	
27	28.0 but less than 30.0.....	2.00.....	3.00.....
28	.....	1.50	
29	30.0 but less than 32.0.....	2.00.....	3.20.....
30	.....	1.60	
31	32.0 but less than 34.0.....	2.00.....	3.40.....
32	.....	1.70	
33	34.0 but less than 36.0.....	2.00.....	3.60.....
34	.....	1.80	
35	36.0 but less than 38.0.....	2.00.....	3.80.....
36	.....	1.90	
37	38.0 and over.....	2.00.....	4.00.....
38	.....	2.00	

39
 40 (3) *Planned yield.* (A) The average required yield shall be determined
 41 from schedule III of this section, and the planned yield on total wages in
 42 column B of schedule III shall be determined by the reserve fund ratio in
 43 column A of schedule III. The reserve fund ratio shall be determined by

1 dividing total assets in the employment security fund provided for in
 2 subsection (a) of K.S.A. 44-712, and amendments thereto, excluding all
 3 moneys credited to the account of this state pursuant to section 903 of the
 4 federal social security act, as amended, which have been appropriated by
 5 the state legislature, whether or not withdrawn from the trust fund, and
 6 excluding contributions not yet paid on July 31 by total payrolls for
 7 contributing employers for the preceding fiscal year which ended June 30.

8 SCHEDULE III—Fund Control

9 Ratios to Total Wages

10 Column A	Column B
11 Reserve Fund Ratio	Planned Yield
12 4.500 and over	0.00
13 4.475 but less than 4.500.....	0.01
14 4.450 but less than 4.475.....	0.02
15 4.425 but less than 4.450.....	0.03
16 4.400 but less than 4.425.....	0.04
17 4.375 but less than 4.400.....	0.05
18 4.350 but less than 4.375.....	0.06
19 4.325 but less than 4.350.....	0.07
20 4.300 but less than 4.325.....	0.08
21 4.275 but less than 4.300.....	0.09
22 4.250 but less than 4.275.....	0.10
23 4.225 but less than 4.250.....	0.11
24 4.200 but less than 4.225.....	0.12
25 4.175 but less than 4.200.....	0.13
26 4.150 but less than 4.175.....	0.14
27 4.125 but less than 4.150.....	0.15
28 4.100 but less than 4.125.....	0.16
29 4.075 but less than 4.100.....	0.17
30 4.050 but less than 4.075.....	0.18
31 4.025 but less than 4.050.....	0.19
32 4.000 but less than 4.025.....	0.20
33 3.950 but less than 4.000.....	0.21
34 3.900 but less than 3.950.....	0.22
35 3.850 but less than 3.900.....	0.23
36 3.800 but less than 3.850.....	0.24
37 3.750 but less than 3.800.....	0.25
38 3.700 but less than 3.750.....	0.26
39 3.650 but less than 3.700.....	0.27
40 3.600 but less than 3.650.....	0.28
41 3.550 but less than 3.600.....	0.29
42 3.500 but less than 3.550.....	0.30
43 3.450 but less than 3.500.....	0.31

1	3.400 but less than 3.450.....	0.32
2	3.350 but less than 3.400.....	0.33
3	3.300 but less than 3.350.....	0.34
4	3.250 but less than 3.300.....	0.35
5	3.200 but less than 3.250.....	0.36
6	3.150 but less than 3.200.....	0.37
7	3.100 but less than 3.150.....	0.38
8	3.050 but less than 3.100.....	0.39
9	3.000 but less than 3.050.....	0.40
10	2.950 but less than 3.000.....	0.41
11	2.900 but less than 2.950.....	0.42
12	2.850 but less than 2.900.....	0.43
13	2.800 but less than 2.850.....	0.44
14	2.750 but less than 2.800.....	0.45
15	2.700 but less than 2.750.....	0.46
16	2.650 but less than 2.700.....	0.47
17	2.600 but less than 2.650.....	0.48
18	2.550 but less than 2.600.....	0.49
19	2.500 but less than 2.550.....	0.50
20	2.450 but less than 2.500.....	0.51
21	2.400 but less than 2.450.....	0.52
22	2.350 but less than 2.400.....	0.53
23	2.300 but less than 2.350.....	0.54
24	2.250 but less than 2.300.....	0.55
25	2.200 but less than 2.250.....	0.56
26	2.150 but less than 2.200.....	0.57
27	2.100 but less than 2.150.....	0.58
28	2.050 but less than 2.100.....	0.59
29	2.000 but less than 2.050.....	0.60
30	1.975 but less than 2.000.....	0.61
31	1.950 but less than 1.975.....	0.62
32	1.925 but less than 1.950.....	0.63
33	1.900 but less than 1.925.....	0.64
34	1.875 but less than 1.900.....	0.65
35	1.850 but less than 1.875.....	0.66
36	1.825 but less than 1.850.....	0.67
37	1.800 but less than 1.825.....	0.68
38	1.775 but less than 1.800.....	0.69
39	1.750 but less than 1.775.....	0.70
40	1.725 but less than 1.750.....	0.71
41	1.700 but less than 1.725.....	0.72
42	1.675 but less than 1.700.....	0.73
43	1.650 but less than 1.675.....	0.74

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

37

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

1 year shall be an estimate of what the taxable wages would have been if the
2 new taxable wage base had been in effect during all of the preceding fiscal
3 year ending June 30.

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

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

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

23 (iv) In order to be eligible for the reduced rates for rate ~~year 2008 and~~
24 ~~subsequent rate years 2008 through 2013~~, employers must file all reports
25 due and pay all contributions due and owing on or before January 31 of the
26 applicable year, except that the reduced rates for otherwise eligible
27 employers shall not be effective for any rate year if the average high cost
28 multiple of the employment security trust fund balance falls below 1.2 as
29 of the computation date of that year's rates. *In order to be eligible for the*
30 *reduced rates for rate year 2014 and subsequent rate years, employers*
31 *must file all reports due and pay all contributions due and owing on or*
32 *before January 31 of the applicable year, except that the reduced rates for*
33 *otherwise eligible employers shall not be effective for any rate year if the*
34 *average high cost multiple of the employment security trust fund balance*
35 *falls below 1.0 as of the computation date of that year's rates.* For the
36 purposes of this provision, the average high cost multiple is the reserve
37 fund ratio, as defined by subsection (a)(3)(A), divided by the average high
38 benefit cost rate. The average high benefit cost rate shall be determined by
39 averaging the three highest benefit cost rates over the last 20 years from
40 the preceding fiscal year which ended June 30. The high benefit cost rate is
41 defined by dividing total benefits paid in the fiscal year by total payrolls
42 for covered employers in the fiscal year.

43 (v) *For rate year 2015 and rate years thereafter, an eligible*

1 *employer other than a negative account balance employer, who has filed*
2 *all reports due and paid all contributions due and owing on or before*
3 *January 31 of the applicable year is entitled to a rate discount of 20%*
4 *except as provided in this subsection. This discount shall not be in effect*
5 *if other reduced rates pursuant to subsections (a)(3)(C)(i) through (iv)*
6 *are in effect. This discount shall not be available for a rate year if the*
7 *average high cost multiple of the employment security trust fund balance*
8 *falls below 1.0 as of the computation date of that year's rates, and this*
9 *discount shall thereafter cease to be in effect for all subsequent rate*
10 *years. For the purposes of this provision, the average high cost multiple*
11 *is as defined by subsection (a)(3)(C)(iv).*

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

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

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

42 (3) Whenever an employing unit, whether or not it is an "employing
43 unit" within the meaning of subsection (g) of K.S.A. 44-703, and

1 amendments thereto, acquires or in any manner succeeds to a percentage
2 of an employer's annual payroll which is less than 100% and intends to
3 continue the acquired percentage as a going business, the employing unit
4 may acquire the same percentage of the predecessor's experience factors if:
5 (A) The predecessor employer and successor employing unit make an
6 application in writing on the form prescribed by the secretary;; (B) the
7 application is submitted within 120 days of the date of the transfer;; (C)
8 the successor employing unit is or becomes an employer subject to this act
9 immediately after the transfer;; (D) the percentage of the experience rating
10 factors transferred shall not be thereafter used in computing the
11 contribution rate for the predecessor employer;; and (E) the secretary finds
12 that such transfer will not tend to defeat or obstruct the object and
13 purposes of this act.

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

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

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

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

33 (5) Whenever an employing unit is not an employer at the time it
34 acquires the trade or business of an employer, the unemployment
35 experience factors of the acquired business shall not be transferred to such
36 employing unit if the secretary finds that such employing unit acquired the
37 business solely or primarily for the purpose of obtaining a lower rate of
38 contributions. Instead, such employing unit shall be assigned the
39 applicable industry rate for a "new employer" as described in subsection
40 (a)(1) of this section. In determining whether the business was acquired
41 solely or primarily for the purpose of obtaining a lower rate of
42 contributions, the secretary shall use objective factors which may include
43 the cost of acquiring the business, whether the employer continued the

1 business enterprise of the acquired business, how long such business
2 enterprise was continued, or whether a substantial number of new
3 employees were hired for performance of duties unrelated to the business
4 activity conducted prior to acquisition.

5 (6) Whenever an employer's account has been terminated as provided
6 in subsections (d) and (e) of K.S.A. 44-711, and amendments thereto, and
7 the employer continues with employment to liquidate the business
8 operations, that employer shall continue to be an "employer" subject to the
9 employment security law as provided in subsection (h)(8) of K.S.A. 44-
10 703, and amendments thereto. The rate of contribution from the date of
11 transfer to the end of the then current calendar year shall be the same as
12 the contribution rate prior to the date of the transfer. At the completion of
13 the then current calendar year, the rate of contribution shall be that of a
14 "new employer" as described in subsection (a)(1) of this section.

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

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

1 shall voluntary payments be refunded in whole or in part.

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

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

36 (f) The secretary of labor shall annually prepare and submit a
37 certification as to the solvency and adequacy of the amount credited to the
38 state of Kansas' account in the federal employment security trust fund to
39 the governor and the ~~employment security advisory~~ *legislative*
40 *coordinating* council. The certification shall be submitted on or before
41 December 1 of each calendar year and shall be for the 12-month period
42 ending on June 30 of that calendar year. In arriving at the certification
43 contributions paid on or before July 31 following the 12-month period

1 ending date of June 30 shall be considered. Each certification shall be used
2 to determine the need for any adjustment to schedule III in subsection (a)
3 (3)(A) and to assist in preparing legislation to accomplish any such
4 adjustment.

5 Sec. 9. K.S.A. 2012 Supp. 44-710b is hereby amended to read as
6 follows: 44-710b. (a) *By the secretary of labor.* The secretary of labor shall
7 promptly notify each contributing employer of its rate of contributions,
8 each rated governmental employer of its benefit cost rate and each
9 reimbursing employer of its benefit liability as determined for any
10 calendar year pursuant to K.S.A. 44-710 and 44-710a, and amendments
11 thereto, *on or before November 30 of the calendar year immediately*
12 *preceding the calendar year in which such rate takes effect.* Such
13 determination shall become conclusive and binding upon the employer
14 unless, within 15 days after the mailing of notice thereof to the employer's
15 last known address or in the absence of mailing, within 15 days after the
16 delivery of such notice, the employer files an application for review and
17 redetermination, setting forth the reasons therefor. If the secretary of labor
18 grants such review, the employer shall be promptly notified thereof and
19 shall be granted an opportunity for a fair hearing, but no employer shall
20 have standing, in any proceeding involving the employer's rate of
21 contributions or benefit liability, to contest the chargeability to the
22 employer's account of any benefits paid in accordance with a
23 determination, redetermination or decision pursuant to subsection (c) of
24 K.S.A. 44-710, and amendments thereto, except upon the ground that the
25 services on the basis of which such benefits were found to be chargeable
26 did not constitute services performed in employment for the employer and
27 only in the event that the employer was not a party to such determination,
28 redetermination or decision or to any other proceedings under this act in
29 which the character of such services was determined. Any such hearing
30 conducted pursuant to this section shall be heard in the county where the
31 contributing employer maintains its principle place of business. The
32 hearing officer shall render a decision concerning all matters at issue in the
33 hearing within 90 days.

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

42 (c) *Periodic notification of benefits charged.* The secretary of labor
43 may provide by rules and regulations for periodic notification to

1 employers of benefits paid and chargeable to their accounts or of the status
2 of such accounts, and any such notification, in the absence of an
3 application for redetermination filed in such manner and within such
4 period as the secretary of labor may prescribe, shall become conclusive
5 and binding upon the employer for all purposes. Such redeterminations,
6 made after notice and opportunity for hearing, and the secretary's findings
7 of facts in connection therewith may be introduced in any subsequent
8 administrative or judicial proceedings involving the determination of the
9 rate of contributions of any employer for any calendar year and shall be
10 entitled to the same finality as is provided in this subsection with respect to
11 the findings of fact made by the secretary of labor in proceedings to
12 redetermine the contribution rate of an employer. The review or any other
13 proceedings relating thereto as provided for in this section may be heard
14 by any duly authorized employee of the secretary of labor and such action
15 shall have the same effect as if heard by the secretary.

16 Sec. 10. K.S.A. 2012 Supp. 44-714 is hereby amended to read as
17 follows: 44-714. (a) *Duties and powers of secretary.* It shall be the duty of
18 the secretary to administer this act and the secretary shall have power and
19 authority to adopt, amend or revoke such rules and regulations, to employ
20 such persons, make such expenditures, require such reports, make such
21 investigations, and take such other action as the secretary deems necessary
22 or suitable to that end. Such rules and regulations may be adopted,
23 amended, or revoked by the secretary only after public hearing or
24 opportunity to be heard thereon. The secretary shall determine the
25 organization and methods of procedure in accordance with the provisions
26 of this act, and shall have an official seal which shall be judicially noticed.
27 The secretary shall make and submit reports for the administration of the
28 employment security law in the manner prescribed by K.S.A. 75-3044 to
29 75-3046, inclusive, and 75-3048, and amendments thereto. Whenever the
30 secretary believes that a change in contribution or benefit rates will
31 become necessary to protect the solvency of the fund, the secretary shall
32 promptly so inform the governor and the legislature, and make
33 recommendations with respect thereto.

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

38 (c) *Personnel.* (1) Subject to other provisions of this act, the secretary
39 is authorized to appoint, fix the compensation, and prescribe the duties and
40 powers of such officers, accountants, deputies, attorneys, experts and other
41 persons as may be necessary in carrying out the provisions of this act. The
42 secretary shall classify all positions and shall establish salary schedules
43 and minimum personnel standards for the positions so classified. The

1 secretary shall provide for the holding of examinations to determine the
2 qualifications of applicants for the positions so classified, and, except to
3 temporary appointments not to exceed six months in duration, shall
4 appoint all personnel on the basis of efficiency and fitness as determined in
5 such examinations. The secretary shall not appoint or employ any person
6 who is an officer or committee member of any political party organization
7 or who holds or is a candidate for a partisan elective public office. The
8 secretary shall adopt and enforce fair and reasonable rules and regulations
9 for appointment, promotions and demotions, based upon ratings of
10 efficiency and fitness and for terminations for cause. The secretary may
11 delegate to any such person so appointed such power and authority as the
12 secretary deems reasonable and proper for the effective administration of
13 this act, and may in the secretary's discretion bond any person handling
14 moneys or signing checks under the employment security law.

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

34 ~~(d) Advisory councils. The secretary shall appoint a state employment~~
35 ~~security advisory council and may appoint local advisory councils,~~
36 ~~composed in each case of men and women which shall include an equal~~
37 ~~number of employer representatives and employee representatives who~~
38 ~~may fairly be regarded as representative because of their vocation,~~
39 ~~employment, or affiliations, and of such members representing the general~~
40 ~~public as the secretary may designate. Each such member shall serve a~~
41 ~~four-year term. On July 1, 1996, the secretary shall designate term lengths~~
42 ~~for seated members of the council. One-half of the seated members~~
43 ~~representing employers, ¹/₂ of the seated members representing employees~~

1 and $\frac{1}{2}$ of the members representing the general public shall be designated
2 by the secretary to serve two-year terms. The remaining seated members of
3 the council shall be designated to serve four-year terms. When the term of
4 any member expires, the secretary shall appoint the member's successor to
5 a four-year term. If a position on the council becomes vacant prior to the
6 expiration of the vacating member's term, the secretary may appoint an
7 otherwise qualified individual to fulfill the remainder of such unexpired
8 term. Such councils shall aid the secretary in formulating policies and
9 discussing problems related to the administration of this act and in
10 securing impartiality and freedom from political influence in the solution
11 of such problems. Members of the state employment security advisory
12 council attending meetings of such council, or attending a subcommittee
13 meeting thereof authorized by such council, shall be paid amounts
14 provided in subsection (c) of K.S.A. 75-3223, and amendments thereto.
15 Service on the state employment security advisory council shall not in and
16 of itself be sufficient to cause any member of the state employment
17 security advisory council to be classified as a state officer or employee.

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

30 (f) (e) *Records and reports.* Each employing unit shall keep true and
31 accurate work records, containing such information as the secretary may
32 prescribe. Such records shall be open to inspection and subject to being
33 copied by the secretary or the secretary's authorized representatives at any
34 reasonable time and shall be preserved for a period of five years from the
35 due date of the contributions or payments in lieu of contributions for the
36 period to which they relate. Only one audit shall be made of any
37 employer's records for any given period of time. Upon request the
38 employing unit shall be furnished a copy of all findings by the secretary or
39 the secretary's authorized representatives, resulting from such audit. A
40 special inquiry or special examination made for a specific and limited
41 purpose shall not be considered to be an audit for the purpose of this
42 subsection. The secretary may require from any employing unit any sworn
43 or unsworn reports, with respect to persons employed by it, which the

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

42 ~~(g)~~ (f) *Oaths and witnesses.* In the discharge of the duties imposed by
43 the employment security law, the chairperson of an appeal tribunal, an

1 appeals referee, the secretary or any duly authorized representative of the
2 secretary shall have power to administer oaths and affirmations, take
3 depositions, issue interrogatories, certify to official acts, and issue
4 subpoenas to compel the attendance of witnesses and the production of
5 books, papers, correspondence, memoranda and other records deemed
6 necessary as evidence in connection with a disputed claim or the
7 administration of the employment security law.

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

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

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

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

1 refusal shall be sufficient service of such subpoena.

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

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

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

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

34 ~~(i)~~ (i) *State-federal cooperation.* In the administration of this act, the
35 secretary shall cooperate to the fullest extent consistent with the provisions
36 of this act, with the federal security agency, shall make such reports, in
37 such form and containing such information as the federal security
38 administrator may from time to time require, and shall comply with such
39 provisions as the federal security administrator may from time to time find
40 necessary to assure the correctness and verification of such reports; and
41 shall comply with the regulations prescribed by the federal security agency
42 governing the expenditures of such sums as may be allotted and paid to
43 this state under title III of the social security act for the purpose of

1 assisting in the administration of this act. Upon request therefor the
2 secretary shall furnish to any agency of the United States charged with the
3 administration of public works or assistance through public employment,
4 the name, address, ordinary occupation, and employment status of each
5 recipient of benefits and such recipient's rights to further benefits under
6 this act.

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

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

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

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

35 (4) wages or services, upon the basis of which an individual may
36 become entitled to benefits under an unemployment compensation law of
37 another state or of the federal government, shall be deemed to be wages
38 for insured work for the purpose of determining such individual's rights to
39 benefits under this act, and wages for insured work, on the basis of which
40 an individual may become entitled to benefits under this act, shall be
41 deemed to be wages or services on the basis of which unemployment
42 compensation under such law of another state or of the federal government
43 is payable, but no such arrangement shall be entered into unless it contains

1 provisions for reimbursements to the fund for such of the benefits paid
2 under this act upon the basis of such wages or services, and provisions for
3 reimbursements from the fund for such of the compensation paid under
4 such other law upon the basis of wages for insured work, as the secretary
5 finds will be fair and reasonable as to all affected interests; and

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

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

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

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

42 ~~(k)~~ *(k)* *Records available.* The secretary may furnish the railroad
43 retirement board, at the expense of such board, such copies of the records

1 as the railroad retirement board deems necessary for its purposes.

2 ~~(m)~~ (l) *Destruction of records, reproduction and disposition.* The
3 secretary may provide for the destruction, reproduction, temporary or
4 permanent retention, and disposition of records, reports and claims in the
5 secretary's possession pursuant to the administration of the employment
6 security law provided that prior to any destruction of such records, reports
7 or claims the secretary shall comply with K.S.A. 75-3501 to 75-3514,
8 inclusive, and amendments thereto.

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

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

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

32 (b) Any employing unit or any officer or agent for any employing
33 unit or any other person who makes a false statement or representation
34 knowing it to be false, or who knowingly fails to disclose a material fact,
35 to prevent or reduce the payment of benefits to any individual entitled
36 thereto, or to avoid becoming or remaining subject hereto or to avoid or
37 reduce any contribution or other payment required from an employing unit
38 under this act, or who willfully fails or refuses to make any such
39 contributions or other payment or to furnish any reports required
40 hereunder or to produce or permit the inspection or copying of records as
41 required hereunder, shall be punished by a fine of not less than \$20 nor
42 more than \$200, or by imprisonment for not longer than 60 days, or both
43 such fine and imprisonment. Each such false statement or representation or

1 failure to disclose a material fact and each day of such failure or refusal
2 shall constitute a separate offense.

3 (c) Any person who willfully violates any provision of this act or any
4 rule and regulation adopted by the secretary hereunder, the violation of
5 which is made unlawful or the observance of which is required under the
6 terms of this act, and for which a penalty is neither prescribed herein or
7 provided by any other applicable statute, shall be punished by a fine of not
8 less than \$20 nor more than \$200, or by imprisonment for not longer than
9 60 days, or by both such fine and imprisonment, and each day such
10 violation continues shall be deemed to be a separate offense.

11 (d) (1) Any person who has received any amount of money as
12 benefits under this act while any conditions for the receipt of benefits
13 imposed by this act were not fulfilled in such person's case, or while such
14 person was disqualified from receiving benefits, shall in the discretion of
15 the secretary, either be liable to have such amount of money deducted from
16 any future benefits payable to such person under this act or shall be liable
17 to repay to the secretary for the employment security fund an amount of
18 money equal to the amount so received by such person. After a period of
19 five years, the secretary may waive the collection of any such amount of
20 money when the secretary has determined that the payment of such
21 amount of money was not due to fraud, misrepresentation, or willful
22 nondisclosure on the part of the person receiving such amount of money,
23 and the collection thereof would be against equity or would cause extreme
24 hardship with regard to such person. The collection of benefit
25 overpayments which were made in the absence of fraud, misrepresentation
26 or willful nondisclosure of required information on the part of the person
27 who received such overpayments, may be waived by the secretary at any
28 time if such person met all eligibility requirements of the employment
29 security law during the weeks in which the overpayments were made.

30 (2) Any benefit erroneously paid which is not repaid shall bear
31 interest at the rate of 1.5% per month or fraction of a month. If the benefit
32 was received as a result of fraud, misrepresentation or willful
33 nondisclosure of required information, interest shall accrue from the date
34 of the final determination of overpayment until repayment plus interest is
35 received by the secretary. If the overpayment was without fraud,
36 misrepresentation or willful nondisclosure of required information, interest
37 shall accrue upon any balance which remains unpaid two years after the
38 final determination of overpayment is made and shall continue until
39 payment plus accrued interest is received by the secretary. Interest
40 collected pursuant to this section shall be paid into the special employment
41 security fund, except that interest collected on federal administrative
42 programs shall be returned to the federal government. Upon written
43 request and for good cause shown, the secretary may abate any interest or

1 portion thereof provided for by this subsection (d)(2). Interest accrued may
2 not be paid by money deducted from any future benefits payable to such
3 persons liable for any overpayment.

4 (3) Unless collection is waived by the secretary, any such amount
5 shall be collectible in the manner provided in ~~subsection (b)~~ of K.S.A. 44-
6 717, and amendments thereto, for the collection of past due contributions.
7 The courts of this state shall in like manner entertain actions to collect
8 amounts of money erroneously paid as benefits, or unlawfully obtained,
9 for which liability has accrued under the employment security law of any
10 other state or of the federal government.

11 (4) *In cases involving the collection of debts arising from the*
12 *employment security law, the actual amount received from the United*
13 *States department of treasury under the treasury offset program or its*
14 *successor shall be credited to the overpayment and any fee charged by the*
15 *department of treasury shall be borne by the debtor.*

16 (e) Any employer or person who willfully fails or refuses to pay
17 contributions, payments in lieu of contributions or benefit cost payments
18 or attempts in any manner to evade or defeat any such contributions,
19 payments in lieu of contributions or benefit cost payments or the payment
20 thereof, shall be liable for the payment of such contributions, payments in
21 lieu of contributions or benefit cost payments and, in addition to any other
22 penalties provided by law, shall be liable to pay a penalty equal to the total
23 amount of the contributions, payments in lieu of contributions or benefit
24 cost payments evaded or not paid.

25 (f) (1) It shall be unlawful for an employing unit to knowingly obtain
26 or attempt to obtain a reduced liability for contributions under subsection
27 (b)(1) of K.S.A. 44-710a, and amendments thereto, through manipulation
28 of the employer's workforce, or for an employing unit that is not an
29 employing unit at the time it acquires the trade or business, to knowingly
30 obtain or attempt to obtain a reduced liability for contributions under
31 subsection (b)(5) of K.S.A. 44-710a, and amendments thereto, or any other
32 provision of K.S.A. 44-710a, and amendments thereto, related to
33 determining the assignment of a contribution rate, when the sole or
34 primary purpose of the business acquisition was for the purpose of
35 obtaining a lower rate of contributions, or for a person to knowingly advise
36 an employing unit in such a way that results in such a violation, such
37 employing unit or person shall be subject to the following penalties:

38 (A) If the person is an employer, then such employer shall be
39 assigned the highest rate assignable under K.S.A. 44-710a, and
40 amendments thereto, for the rate year during which such violation or
41 attempted violation occurred and the three rate years immediately
42 following this rate year. However, if the employer's business is already at
43 such highest rate for any year, or if the amount of increase in the

1 employer's rate would be less than 2% for such year, then a penalty rate of
2 contributions of 2% of taxable wages shall be imposed for such year. Any
3 moneys resulting from the difference of the computed rate and the penalty
4 rate shall be remitted to the state treasurer in accordance with the
5 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
6 each such remittance, the state treasurer shall deposit the entire amount in
7 the state treasury to the credit of the special employment security fund.

8 (B) If the person is not an employer, such person shall be subject to a
9 civil money penalty of not more than \$5,000. All fines assessed and
10 collected under this section shall be remitted to the state treasurer in
11 accordance with the provisions of K.S.A. 75-4215, and amendments
12 thereto. Upon receipt of each such remittance, the state treasurer shall
13 deposit the entire amount in the state treasury to the credit of the special
14 employment security fund.

15 (2) For purposes of this subsection, the term "knowingly" means
16 having actual knowledge of or acting with deliberate ignorance or reckless
17 disregard for the prohibition involved.

18 (3) For purposes of this subsection, the term "violates or attempts to
19 violate" includes, but is not limited to, any intent to evade,
20 misrepresentation or willful nondisclosure.

21 (4) (A) In addition to, or in lieu of, any civil penalty imposed by
22 paragraph (1) if, the director of employment security or a special assistant
23 attorney general assigned to the department of labor, has probable cause to
24 believe that a violation of this subsection (f) should be prosecuted as a
25 crime, a copy of any order, all investigative reports and any evidence in the
26 possession of the division of employment security which relates to such
27 violation, may be forwarded to the prosecuting attorney in the county in
28 which the act or any of the acts were performed which constitute a
29 violation of this subsection (f). Any case which a county or district
30 attorney fails to prosecute within 90 days shall be returned promptly to the
31 director of employment security. The special assistant attorney general
32 assigned to the Kansas department of labor shall then prosecute the case,
33 if, in the opinion of the special assistant attorney general, the acts or
34 practices involved still warrant prosecution.

35 (B) Violation of this subsection (f) shall be a level 9, nonperson
36 felony.

37 (5) The secretary shall establish procedures to identify the transfer or
38 acquisition of a business for purposes of this section.

39 (6) For purposes of subsection (f):

40 (A) "Person" has the meaning given such term by section 7701(a)(1)
41 of the internal revenue code of 1986;

42 (B) "trade or business" shall include the employer's workforce; and

43 (C) the provisions of K.S.A. 2012 Supp. 21-5211 and 5212, and

1 amendments thereto, shall apply.

2 (7) This subsection (f) shall be interpreted and applied in such a
3 manner as to meet the minimum requirements contained in any guidance
4 or regulation issued by the United States department of labor.

5 Sec. 12. K.S.A. 2012 Supp. 74-5602 is hereby amended to read as
6 follows: 74-5602. As used in the Kansas law enforcement training act:

7 (a) "Training center" means the law enforcement training center
8 within the university of Kansas, created by K.S.A. 74-5603, and
9 amendments thereto.

10 (b) "Commission" means the Kansas commission on peace officers'
11 standards and training, created by K.S.A. 74-5606, and amendments
12 thereto, or the commission's designee.

13 (c) "Chancellor" means the chancellor of the university of Kansas, or
14 the chancellor's designee.

15 (d) "Director of police training" means the director of police training
16 at the law enforcement training center.

17 (e) "Director" means the executive director of the Kansas commission
18 on peace officers' standards and training.

19 (f) "Law enforcement" means the prevention or detection of crime
20 and the enforcement of the criminal or traffic laws of this state or of any
21 municipality thereof.

22 (g) "Police officer" or "law enforcement officer" means a full-time or
23 part-time salaried officer or employee of the state, a county or a city,
24 whose duties include the prevention or detection of crime and the
25 enforcement of the criminal or traffic laws of this state or of any
26 municipality thereof. Such terms shall include, but not be limited to: The
27 sheriff, undersheriff and full-time or part-time salaried deputies in the
28 sheriff's office in each county; deputy sheriffs deputized pursuant to
29 K.S.A. 19-2858, and amendments thereto; conservation officers of the
30 Kansas department of wildlife, parks and tourism; university police
31 officers, as defined in K.S.A. 22-2401a, and amendments thereto; campus
32 police officers, as defined in K.S.A. 22-2401a, and amendments thereto;
33 law enforcement agents of the director of alcoholic beverage control; law
34 enforcement agents designated by the secretary of revenue pursuant to
35 K.S.A. 2012 Supp. 75-5157, and amendments thereto; law enforcement
36 agents of the Kansas lottery; law enforcement agents of the Kansas racing
37 commission; deputies and assistants of the state fire marshal having law
38 enforcement authority; capitol police, existing under the authority of
39 K.S.A. 75-4503, and amendments thereto; special investigators of the
40 juvenile justice authority; *special investigators designated by the secretary*
41 *of labor* and law enforcement officers appointed by the adjutant general
42 pursuant to K.S.A. 48-204, and amendments thereto. Such terms shall also
43 include railroad policemen appointed pursuant to K.S.A. 66-524, and

1 amendments thereto; school security officers designated as school law
2 enforcement officers pursuant to K.S.A. 72-8222, and amendments
3 thereto; the manager and employees of the horsethief reservoir benefit
4 district pursuant to K.S.A. 2012 Supp. 82a-2212, and amendments thereto;
5 and the director of the Kansas commission on peace officers' standards and
6 training and any other employee of such commission designated by the
7 director pursuant to K.S.A. 74-5603, and amendments thereto, as a law
8 enforcement officer. Such terms shall not include any elected official,
9 other than a sheriff, serving in the capacity of a law enforcement or police
10 officer solely by virtue of such official's elected position; any attorney-at-
11 law having responsibility for law enforcement and discharging such
12 responsibility solely in the capacity of an attorney; any employee of the
13 commissioner of juvenile justice who is employed solely to perform
14 correctional, administrative or operational duties related to juvenile
15 correctional facilities; any employee of the secretary of corrections, any
16 employee of the secretary of social and rehabilitation services; any deputy
17 conservation officer of the Kansas department of wildlife, parks and
18 tourism; or any employee of a city or county who is employed solely to
19 perform correctional duties related to jail inmates and the administration
20 and operation of a jail; or any full-time or part-time salaried officer or
21 employee whose duties include the issuance of a citation or notice to
22 appear provided such officer or employee is not vested by law with the
23 authority to make an arrest for violation of the laws of this state or any
24 municipality thereof, and is not authorized to carry firearms when
25 discharging the duties of such person's office or employment. Such term
26 shall include any officer appointed or elected on a provisional basis.

27 (h) "Full-time" means employment requiring at least 1,000 hours of
28 law enforcement related work per year.

29 (i) "Part-time" means employment on a regular schedule or
30 employment which requires a minimum number of hours each payroll
31 period, but in any case requiring less than 1,000 hours of law enforcement
32 related work per year.

33 (j) "Misdemeanor crime of domestic violence" means a violation of
34 domestic battery as provided by K.S.A. 21-3412a, prior to its repeal, or
35 K.S.A. 2012 Supp. 21-5414, and amendments thereto, or any other
36 misdemeanor under federal, municipal or state law that has as an element
37 the use or attempted use of physical force, or the threatened use of a
38 deadly weapon, committed by a current or former spouse, parent, or
39 guardian of the victim, by a person with whom the victim shares a child in
40 common, by a person who is cohabiting with or has cohabited with the
41 victim as a spouse, parent or guardian, or by a person similarly situated to
42 a spouse, parent or guardian of the victim.

43 (k) "Auxiliary personnel" means members of organized nonsalaried

1 groups who operate as an adjunct to a police or sheriff's department,
2 including reserve officers, posses and search and rescue groups.

3 (l) "Active law enforcement certificate" means a certificate which
4 attests to the qualification of a person to perform the duties of a law
5 enforcement officer and which has not been suspended or revoked by
6 action of the Kansas commission on peace officers' standards and training
7 and has not lapsed by operation of law as provided in K.S.A. 74-5622, and
8 amendments thereto.

9 Sec. 13. K.S.A. 2012 Supp. 75-5702 is hereby amended to read as
10 follows: 75-5702. (a) The secretary of labor may appoint, with the consent
11 of the governor, one public information officer, one or more division
12 directors, one personal secretary and one special assistant, all of whom
13 shall serve at the pleasure of the secretary of labor, shall be in the
14 unclassified service under the Kansas civil service act and shall receive an
15 annual salary fixed by the secretary of labor with the approval of the
16 governor.

17 (b) (1) *The secretary may:*

18 (A) *Conduct public or private investigations within or outside of this*
19 *state which the secretary or the secretary's designee considers necessary*
20 *or appropriate to determine whether a person has violated, is violating, or*
21 *is about to violate the employment security law act or a rule and*
22 *regulation adopted or order issued under the employment security law, or*
23 *to aid in the enforcement of the employment security law;*

24 (B) *require or permit a person to testify, file a statement, or produce*
25 *a record, under oath or otherwise as the secretary or the secretary's*
26 *designee determines, as to all the facts and circumstances concerning a*
27 *matter to be investigated or about which an action or proceeding is to be*
28 *instituted; and*

29 (C) *appoint one or more special investigators to aid in investigations*
30 *conducted pursuant to this act.*

31 (2) *Such special investigators shall have authority to make arrests,*
32 *serve subpoenas and all other process, conduct searches and seizures,*
33 *store evidence, and carry firearms, concealed or otherwise while*
34 *investigating violations of the employment security law act and to*
35 *generally enforce all the criminal laws of the state as violations of those*
36 *laws are encountered by such special investigators, except that no special*
37 *investigator may carry firearms while performing such duties without*
38 *having first successfully completed the training course prescribed for law*
39 *enforcement officers under the Kansas law enforcement training act,*
40 *K.S.A. 74-5601 et seq., and amendments thereto.*

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

1 (d) Except as otherwise specifically provided by law, such officers
2 and employees shall be within the classified service under the Kansas civil
3 service act. All personnel of the department of labor shall perform the
4 duties and functions assigned to ~~them~~ *such personnel* by the secretary or
5 prescribed for ~~them~~ *such personnel* by law and shall act for and exercise
6 the powers of the secretary of labor to the extent authority to do so is
7 delegated by the secretary.

8 Sec. 14. K.S.A. 44-702 and K.S.A. 2012 Supp. 44-703, 44-704, 44-
9 704c, 44-705, 44-706, 44-709, 44-710, 44-710a, 44-710b, 44-714, 44-719,
10 74-5602 and 75-5702 are hereby repealed.

11 Sec. 15. This act shall take effect and be in force from and after its
12 publication in the statute book.

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