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

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

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

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

(2) "Average annual payroll" means the average of the annual payrolls of any employer for the last three calendar years immediately preceding the computation date as hereinafter defined if the employer has been continuously subject to contributions during those three calendar years and has paid some wages for employment during each of such years.
In determining contribution rates for the calendar year, if an employer has not been continuously subject to contribution for the three calendar years immediately preceding the computation date but has paid wages subject to contributions during only the two calendar years immediately preceding the computation date, such employer's "average annual payroll" shall be the average of the payrolls for those two calendar years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) Any employing unit not an employer by reason of any other paragraph of this subsection (h), for which within either the current or preceding calendar year services in employment are or were performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund; or which, as a condition for approval of this act for full tax credit against the tax imposed by the
federal unemployment tax act, is required, pursuant to such act, to be an "employer" under this act.

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

(i) "Employment" means:

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

(A) Any active officer of a corporation; or

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

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

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

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

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

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

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

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

(2) The term "employment" shall include an individual's entire service within the United States, even though performed entirely outside this state if:
(A) The service is not localized in any state; and
(B) the individual is one of a class of employees who are required to travel outside this state in performance of their duties; and
(C) the individual's base of operations is in this state, or if there is no base of operations, then the place from which service is directed or controlled is in this state.

(3) The term "employment" shall also include:
(A) Services performed within this state but not covered by the provisions of subsection (i)(1) or subsection (i)(2) shall be deemed to be employment subject to this act if contributions are not required and paid with respect to such services under an unemployment compensation law of any other state or of the federal government.
(B) Services performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this act only if the individual performing such services is a resident of this state and the secretary approved the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this act.
(C) Services covered by an arrangement pursuant to subsection (l) of K.S.A. 44-714, and amendments thereto, between the secretary and the agency charged with the administration of any other state or federal unemployment compensation law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within this state, shall be deemed to be employment if the secretary has approved an election of the employing unit for whom such services are performed, pursuant to which the entire service of such individual during the period covered by such election is deemed to be insured work.
(D) Services performed by an individual for wages or under any contract of hire shall be deemed to be employment subject to this act if the business for which activities of the individual are performed retains not only the right to control the end result of the activities performed, but the manner and means by which the end result is accomplished.
(E) Service performed by an individual in the employ of this state or any instrumentality thereof, any political subdivision of this state or any instrumentality thereof, or in the employ of an Indian tribe, as defined pursuant to section 3306(u) of the federal unemployment tax act, any instrumentality of more than one of the foregoing or any instrumentality which is jointly owned by this state or a political subdivision thereof or Indian tribes and one or more other states or political subdivisions of this or other states, provided that such service is excluded from "employment"
as defined in the federal unemployment tax act by reason of section 3306(c)(7) of that act and is not excluded from "employment" under subsection (i)(4)(A) of this section. For purposes of this section, the exclusions from employment in subsections (i)(4)(A) and (i)(4)(L) shall also be applicable to services performed in the employ of an Indian tribe.

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

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

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

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

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

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

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

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

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

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

(ii) a partnership if ⅔ or more of the partners are residents of the United States;

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

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

(I) Notwithstanding subsection (i)(2) of this section, all service performed by an officer or member of the crew of an American vessel or American aircraft on or in connection with such vessel or aircraft, if the operating office, from which the operations of such vessel or aircraft operating within, or within and without, the United States are ordinarily
and regularly supervised, managed, directed and controlled is within this state.

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

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

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

(i) As an elected official;

(ii) as a member of a legislative body, or a member of the judiciary, of a state, political subdivision or of an Indian tribe;

(iii) as a member of the state national guard or air national guard;

(iv) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(v) in a position which, under or pursuant to the laws of this state or tribal law, is designated as a major nontenured policymaking or advisory position or as a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week;

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

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

(D) service performed in the employ of the United States government or an instrumentality of the United States exempt under the constitution of the United States from the contributions imposed by this act, except that to the extent that the congress of the United States shall permit states to require any instrumentality of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this act shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing
units, individuals and services. If this state shall not be certified for any
year by the federal security agency under section 3304(c) of the federal
internal revenue code of 1986, the payments required of such
instrumentalities with respect to such year shall be refunded by the
secretary from the fund in the same manner and within the same period as
is provided in subsection (f) of K.S.A. 44-717, and amendments thereto,
with respect to contributions erroneously collected;

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

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

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

(H) service performed in any calendar quarter in the employ of any
organization exempt from income tax under section 501(a) of the federal
internal revenue code of 1986 (other than an organization described in
section 401(a) or under section 521 of such code) if the remuneration for
such service is less than $50. In construing the application of the term
"employment," if services performed during ½ or more of any pay period
by an individual for the person employing such individual constitute
employment, all the services of such individual for such period shall be
deemed to be employment; but if the services performed during more than
½ of any such pay period by an individual for the person employing such
individual do not constitute employment, then none of the services of such
individual for such period shall be deemed to be employment. As used in
this subsection (i)(4)(H) the term "pay period" means a period (of not more
than 31 consecutive days) for which a payment of remuneration is
ordinarily made to the individual by the person employing such individual.
This subsection (i)(4)(H) shall not be applicable with respect to services
with respect to which unemployment compensation is payable under an
unemployment compensation system established by an act of congress;

(I) services performed in the employ of a church or convention or
association of churches, or an organization which is operated primarily for
religious purposes and which is operated, supervised, controlled, or
principally supported by a church or convention or association of
churches;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Such excluded service shall not include any services performed for an employer which is a governmental entity or any employer described in section 501(c)(3) of the federal internal revenue code of 1986 which is exempt from income taxation under section 501(a) of the code;

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

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

(i) Such person:

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

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

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

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

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

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

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

(Y) service performed by an owner-operator of a motor vehicle that is
leased or contracted to a licensed motor carrier with the services of a
driver and is not treated under the terms of the lease agreement or contract
with the licensed motor carrier as an employee for purposes of the federal
insurance contribution act, 26 U.S.C. § 3101 et seq., the federal social
security act, 42 U.S.C. § 301 et seq., the federal unemployment tax act, 26
U.S.C. § 3301 et seq., and the federal statutes prescribing income tax
withholding at the source, 26 U.S.C. § 3401 et seq. Employees or agents of
the owner-operator shall not be considered employees of the licensed
motor carrier for purposes of employment security taxation or
compensation. As used in this subsection (Y), the following definitions
apply: (i) "Motor vehicle" means any automobile, truck-trailer, semitrailer,
tractor, motor bus or any other self-propelled or motor-driven vehicle used
upon any of the public highways of Kansas for the purpose of transporting
persons or property; (ii) "licensed motor carrier" means any person, firm,
corporation or other business entity that holds a certificate of convenience
and necessity or a certificate of public service from the state corporation
commission or is required to register motor carrier equipment pursuant to
49 U.S.C. § 14504; and (iii) "owner-operator" means a person, firm,
corporation or other business entity that is the owner of a single motor
vehicle that is driven exclusively by the owner under a lease agreement or
contract with a licensed motor carrier.
(j) "Employment office" means any office operated by this state and
maintained by the secretary of labor for the purpose of assisting persons to
become employed.
(k) "Fund" means the employment security fund established by this
act, to which all contributions and reimbursement payments required and
from which all benefits provided under this act shall be paid and including
all money received from the federal government as reimbursements
pursuant to section 204 of the federal-state extended compensation act of
1970, and amendments thereto.
(l) "State" includes, in addition to the states of the United States of
America, any dependency of the United States, the Commonwealth of
Puerto Rico, the District of Columbia and the Virgin Islands.
(m) "Unemployment." An individual shall be deemed "unemployed"
with respect to any week during which such individual performs no
services and with respect to which no wages are payable to such
individual, or with respect to any week of less than full-time work if the
wages payable to such individual with respect to such week are less than
such individual's weekly benefit amount.
(n) "Employment security administration fund" means the fund
established by this act, from which administrative expenses under this act
shall be paid.
(o) "Wages" means all compensation for services, including
commissions, bonuses, back pay and the cash value of all remuneration,
including benefits, paid in any medium other than cash. The reasonable
cash value of remuneration in any medium other than cash, shall be
estimated and determined in accordance with rules and regulations
prescribed by the secretary. Compensation payable to an individual which
has not been actually received by that individual within 21 days after the
der end of the pay period in which the compensation was earned shall be
considered to have been paid on the 21st day after the end of that pay
period. Effective January 1, 1986, gratuities, including tips received from
persons other than the employing unit, shall be considered wages when
reported in writing to the employer by the employee. Employees must
furnish a written statement to the employer, reporting all tips received if
they total $20 or more for a calendar month whether the tips are received
directly from a person other than the employer or are paid over to the
employee by the employer. This includes amounts designated as tips by a
customer who uses a credit card to pay the bill. Notwithstanding the other
provisions of this subsection (o), wages paid in back pay awards or
settlements shall be allocated to the week or weeks and reported in the
manner as specified in the award or agreement, or, in the absence of such
specificity in the award or agreement, such wages shall be allocated to the
week or weeks in which such wages, in the judgment of the secretary,
would have been paid. The term "wages" shall not include:

(1) That part of the remuneration which has been paid in a calendar
year to an individual by an employer or such employer's predecessor in
excess of $3,000 for all calendar years prior to 1972, in excess of $4,200
for the calendar years 1972 to 1977, inclusive, in excess of $6,000 for
calendar years 1978 to 1982, inclusive, in excess of $7,000 for the
calendar year 1983, and in excess of $8,000 with respect to employment
during any calendar year following 1983, except that if the definition of
the term "wages" as contained in the federal unemployment tax act is
amended to include remuneration in excess of $8,000 paid to an individual
by an employer under the federal act during any calendar year, wages shall
include remuneration paid in a calendar year to an individual by an
employer subject to this act or such employer's predecessor with respect to
employment during any calendar year up to an amount equal to the dollar
limitation specified in the federal unemployment tax act. For the purposes
of this subsection (o)(1), the term "employment" shall include service
constituting employment under any employment security law of another
state or of the federal government;

(2) the amount of any payment (including any amount paid by an
employing unit for insurance or annuities, or into a fund, to provide for
any such payment) made to, or on behalf of, an employee or any of such
employee's dependents under a plan or system established by an employer
which makes provisions for employees generally, for a class or classes of
employees or for such employees or a class or classes of employees and
their dependents, on account of (A) sickness or accident disability, except
in the case of any payment made to an employee or such employee's
dependents, this subparagraph shall exclude from the term "wages" only
payments which are received under a workers compensation law. Any third
party which makes a payment included as wages by reason of this
subparagraph (2)(A) shall be treated as the employer with respect to such
wages, or (B) medical and hospitalization expenses in connection with
sickness or accident disability, or (C) death;

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

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

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

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

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

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

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

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

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

(5) the payment by an employing unit (without deduction from the remuneration of the employee) of the tax imposed upon an employee under section 3101 of the federal internal revenue code of 1986 with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor;

(6) remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business;

(7) remuneration paid to or on behalf of an employee if and to the extent that at the time of the payment of such remuneration it is reasonable
to believe that a corresponding deduction is allowable under section 217 of
the federal internal revenue code of 1986 relating to moving expenses;
(8) any payment or series of payments by an employer to an
employee or any of such employee's dependents which is paid:
(A) Upon or after the termination of an employee's employment
relationship because of (i) death or (ii) retirement for disability; and
(B) under a plan established by the employer which makes provisions
for employees generally, a class or classes of employees or for such
employees or a class or classes of employees and their dependents, other
than any such payment or series of payments which would have been paid
if the employee's employment relationship had not been so terminated;
(9) remuneration for agricultural labor paid in any medium other than
cash;
(10) any payment made, or benefit furnished, to or for the benefit of
an employee if at the time of such payment or such furnishing it is
reasonable to believe that the employee will be able to exclude such
payment or benefit from income under section 129 of the federal internal
revenue code of 1986 which relates to dependent care assistance programs;
(11) the value of any meals or lodging furnished by or on behalf of
the employer if at the time of such furnishing it is reasonable to believe
that the employee will be able to exclude such items from income under
section 119 of the federal internal revenue code of 1986;
(12) any payment made by an employer to a survivor or the estate of
a former employee after the calendar year in which such employee died;
(13) any benefit provided to or on behalf of an employee if at the time
such benefit is provided it is reasonable to believe that the employee will
be able to exclude such benefit from income under section 74(c), 117 or
132 of the federal internal revenue code of 1986;
(14) any payment made, or benefit furnished, to or for the benefit of
an employee, if at the time of such payment or such furnishing it is
reasonable to believe that the employee will be able to exclude such
payment or benefit from income under section 127 of the federal internal
revenue code of 1986 relating to educational assistance to the employee; or
(15) any payment made to or for the benefit of an employee if at the
time of such payment it is reasonable to believe that the employee will be
able to exclude such payment from income under section 106(d) of the
federal internal revenue code of 1986 relating to health savings accounts.
Nothing in any paragraph of subsection (o), other than paragraph (1),
shall exclude from the term "wages": (1) Any employer contribution under
a qualified cash or deferred arrangement, as defined in section 401(k) of
the federal internal revenue code of 1986, to the extent that such
contribution is not included in gross income by reason of section 402(a)(8)
of the federal internal revenue code of 1986; or (2) any amount treated as
an employer contribution under section 414(h)(2) of the federal internal revenue code of 1986.

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

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

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

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

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

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

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

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

(2) is legally authorized in this state to provide a program of education beyond high school;

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

(4) is a public or other nonprofit institution.

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

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

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

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

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

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

(D) (i) In the employ of the operator of a farm in handling, planting, drying, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than ½ of the commodity with respect to which such service is performed;

(ii) in the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of
service described in paragraph (i) above of this subsection (w)(1)(D), but
only if such operators produced more than ½ of the commodity with
respect to which such service is performed;
   (iii) the provisions of paragraphs (i) and (ii) above of this subsection
   (w)(1)(D) shall not be deemed to be applicable with respect to service
   performed in connection with commercial canning or commercial freezing
   or in connection with any agricultural or horticultural commodity after its
delivery to a terminal market for distribution for consumption.
   (E) On a farm operated for profit if such service is not in the course
of the employer's trade or business.
   (2) "Agricultural labor" does not include service performed prior to
January 1, 1980, by an individual who is an alien admitted to the United
States to perform service in agricultural labor pursuant to sections 214(c)
and 101(a)(15)(H) of the federal immigration and nationality act.
   (3) As used in this subsection (w), the term "farm" includes stock,
dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations,
ranches, nurseries, ranges, greenhouses, or other similar structures used
primarily for the raising of agricultural or horticultural commodities, and
orchards.
   (4) For the purpose of this section, if an employing unit does not
maintain sufficient records to separate agricultural labor from other
employment, all services performed during any pay period by an
individual for the person employing such individual shall be deemed to be
agricultural labor if services performed during ½ or more of such pay
period constitute agricultural labor; but if the services performed during
more than ½ of any such pay period by an individual for the person
employing such individual do not constitute agricultural labor, then none
of the services of such individual for such period shall be deemed to be
agricultural labor. As used in this subsection (w), the term "pay period"
means a period of not more than 31 consecutive days for which a payment
of remuneration is ordinarily made to the individual by the person
employing such individual.
   (x) "Reimbursing employer" means any employer who makes
payments in lieu of contributions to the employment security fund as
provided in subsection (e) of K.S.A. 44-710, and amendments thereto.
   (y) "Contributing employer" means any employer other than a
reimbursing employer or rated governmental employer.
   (z) "Wage combining plan" means a uniform national arrangement
approved by the United States secretary of labor in consultation with the
state unemployment compensation agencies and in which this state shall
participate, whereby wages earned in one or more states are transferred to
another state, called the "paying state," and combined with wages in the
paying state, if any, for the payment of benefits under the laws of the
paying state and as provided by an arrangement so approved by the United
States secretary of labor.

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

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

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

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

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

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

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

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

Sec. 3. K.S.A. 2012 Supp. 44-704 is hereby amended to read as
follows: 44-704. (a) Payment of benefits. All benefits provided herein shall
be payable from the fund. All benefits shall be paid through the secretary
of labor, in accordance with such rules and regulations as the secretary
may adopt. Benefits based on service in employment defined in
subsections (i)(3)(E) and (i)(3)(F) of K.S.A. 44-703, and amendments
thereto, shall be payable in the same amount, on the same terms and
subject to the same conditions as compensation payable on the basis of
other service subject to this act except as provided in subsection (e) of
K.S.A. 44-705 and subsection (e)(2) of K.S.A. 44-711, and amendments
thereto.
(b) **Determined weekly benefit amount.** An individual's determined weekly benefit amount shall be an amount equal to 4.25% of the individual's total wages for insured work paid during that calendar quarter of the individual's base period in which such total wages were highest, subject to the following limitations:

1. If an individual's determined weekly benefit amount is less than the minimum weekly benefit amount, it shall be raised to such minimum weekly benefit amount;
2. If the individual's determined weekly benefit amount is more than the maximum weekly benefit amount, it shall be reduced to the maximum weekly benefit amount; and
3. If the individual's determined weekly benefit amount is not a multiple of $1, it shall be reduced to the next lower multiple of $1.

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

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

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

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

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

(B) holiday pay that was payable with no condition of attendance on other regularly scheduled days attributable to a week that the individual claimed benefits; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) if an individual is seeking unemployment benefits under the unemployment compensation law of any other state or of the United States, except that if the appropriate agency of such state or of the United States finally determines that the claimant is not entitled to unemployment benefits under such other law, this subsection (d)(1)(C) subparagraph shall not apply.

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

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

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

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

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

(b) the claimant files for benefits within 24 months of the date the qualifying injury occurred; and

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

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

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

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

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

(3) the individual left work to enlist in the armed forces of the United
States, but was rejected or delayed from entry;
(4) the spouse of an individual who is a member of the armed forces
of the United States who left work because of the voluntary or involuntary
transfer of the individual's spouse from one job to another job, which is for
the same employer or for a different employer, at a geographic location
which makes it unreasonable for the individual to continue work at the
individual's job. For the purposes of this provision the term "armed forces"
means active duty in the army, navy, marine corps, air force, coast guard or
any branch of the military reserves of the United States;
(5) the individual left work because of hazardous working conditions;
in determining whether or not working conditions are hazardous for an
individual, the degree of risk involved to the individual's health, safety and
morals, the individual's physical fitness and prior training and the working
conditions of workers engaged in the same or similar work for the same
and other employers in the locality shall be considered; as used in this
paragraph, "hazardous working conditions" means working conditions that
could result in a danger to the physical or mental well-being of the
individual; each determination as to whether hazardous working
conditions exist shall include, but shall not be limited to, a consideration
of: (A) The safety measures used or the lack thereof; and (B) the
condition of equipment or lack of proper equipment; no work shall be
considered hazardous if the working conditions surrounding the
individual's work are the same or substantially the same as the working
conditions generally prevailing among individuals performing the same or
similar work for other employers engaged in the same or similar type of
activity;
(6) the individual left work to enter training approved under section
236(a)(1) of the federal trade act of 1974, provided the work left is not of a
substantially equal or higher skill level than the individual's past adversely
affected employment (as defined for purposes of the federal trade act of
1974), and wages for such work are not less than 80% of the individual's
average weekly wage as determined for the purposes of the federal trade
act of 1974;
(7) the individual left work because of persistent unwelcome
harassment of the individual by the employer or another employee of
which the employing unit had knowledge and that would impel the
average worker to give up such worker's employment;
(8) the individual left work to accept better work; each determination
as to whether or not the work accepted is better work shall include, but
shall not be limited to, consideration of: (A) The rate of pay, the hours of
work and the probable permanency of the work left as compared to the
work accepted; (B) the cost to the individual of getting to the work left in
comparison to the cost of getting to the work accepted; and (C) the
distance from the individual's place of residence to the work accepted in
comparison to the distance from the individual's residence to the work left;
(9) the individual left work as a result of being instructed or requested
by the employer, a supervisor or a fellow employee to perform a service or
commit an act in the scope of official job duties which is in violation of an
ordinance or statute;
(10) the individual left work because of a substantial violation of the
work agreement by the employing unit and, before the individual left, the
individual had exhausted all remedies provided in such agreement for the
settlement of disputes before terminating. For the purposes of this
paragraph, a demotion based on performance does not constitute a
violation of the work agreement;
(11) after making reasonable efforts to preserve the work, the
individual left work due to a personal emergency of such nature and
compelling urgency that it would be contrary to good conscience to
impose a disqualification; or
(12) (A) the individual left work due to circumstances resulting from
domestic violence, including:
   (i) The individual's reasonable fear of future domestic violence at or
   en route to or from the individual's place of employment;
   (ii) the individual's need to relocate to another geographic area in
   order to avoid future domestic violence;
   (iii) the individual's need to address the physical, psychological and
   legal impacts of domestic violence;
   (iv) the individual's need to leave employment as a condition of
   receiving services or shelter from an agency which provides support
   services or shelter to victims of domestic violence; or
   (v) the individual's reasonable belief that termination of employment
   is necessary to avoid other situations which may cause domestic violence
   and to provide for the future safety of the individual or the individual's
   family.
   (B) An individual may prove the existence of domestic violence by
   providing one of the following:
   (i) A restraining order or other documentation of equitable relief by a
court of competent jurisdiction;
   (ii) a police record documenting the abuse;
   (iii) documentation that the abuser has been convicted of one or more
   of the offenses enumerated in articles 34 and 35 of chapter 21 of the
   Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of
   chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2012 Supp. 21-
   6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments
   thereto, where the victim was a family or household member;
   (iv) medical documentation of the abuse;
(v) a statement provided by a counselor, social worker, health care provider, clergy, shelter worker, legal advocate, domestic violence or sexual assault advocate or other professional who has assisted the individual in dealing with the effects of abuse on the individual or the individual's family; or

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

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

(b) If the individual has been discharged or suspended for misconduct connected with the individual's work. The disqualification shall begin the day following the separation and shall continue until after the individual becomes reemployed and has had earnings from insured work of at least three times the individual's determined weekly benefit amount, except that if an individual is discharged for gross misconduct connected with the individual's work, such individual shall be disqualified for benefits until such individual again becomes employed and has had earnings from insured work of at least eight times such individual's determined weekly benefit amount. In addition, all wage credits attributable to the employment from which the individual was discharged for gross misconduct connected with the individual's work shall be canceled. No such cancellation of wage credits shall affect prior payments made as a result of a prior separation.

(1) For the purposes of this subsection, "misconduct" is defined as a violation of a duty or obligation reasonably owed the employer as a condition of employment including a violation of a company rule if: (A) The individual knew or should have known about the rule; (B) the rule was lawful and reasonably related to the job; and (C) the rule was fairly and consistently enforced. The term "gross misconduct" as used in this subsection shall be construed to mean conduct evincing extreme, willful or wanton misconduct as defined by this subsection.

(2) (A) Failure of the employee to notify the employer of an absence shall be considered prima facie evidence of a violation of a duty or obligation reasonably owed the employer as a condition of employment.

(2) (B) For the purposes of this subsection, the use of or impairment caused by alcoholic liquor, a cereal malt beverage or a nonprescribed controlled substance by an individual while working shall be conclusive evidence of misconduct and the possession of alcoholic liquor, a cereal malt beverage or a nonprescribed controlled substance by an individual while working shall be prima facie evidence of conduct which is a violation of a duty or obligation reasonably owed to the employer as a condition of employment. Alcoholic liquor shall be defined as provided in
K.S.A. 41-102, and amendments thereto. Cereal malt beverage shall be defined as provided in K.S.A. 41-2701, and amendments thereto. Controlled substance shall be defined as provided in K.S.A. 2012 Supp. 21-5701, and amendments thereto. As used in this paragraph, "required by law" means required by a federal or state law, a federal or state rule or regulation having the force and effect of law, a county resolution or municipal ordinance, or a policy relating to public safety adopted in open meeting by the governing body of any special district or other local governmental entity. Chemical test shall include, but is not limited to, tests of urine, blood or saliva. A positive chemical test shall mean a chemical result showing a concentration at or above the levels listed in K.S.A. 44-501, and amendments thereto, for the drugs or abuse listed therein. A positive breath test shall mean a test result showing an alcohol concentration of .04 or greater. Alcohol concentration means the number of grams of alcohol per 210 liters of breath. An individual's refusal to submit to a chemical test or breath alcohol test shall be conclusive evidence of misconduct if the test meets the standards of the drug free workplace act, 41 U.S.C. § 701 et seq.; the test was administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment; the test was otherwise required by law and the test constituted a required condition of employment for the individual's job; the test was requested pursuant to a written policy of the employer of which the employee had knowledge and was a required condition of employment; or there was probable cause to believe that the individual used, possessed or was impaired by alcoholic liquor, a cereal malt beverage or a controlled substance while working. A positive breath alcohol test or a positive chemical test shall be conclusive evidence to prove misconduct if the following conditions are met:

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

(B) the test sample was collected either (i) as prescribed by the drug free workplace act, 41 U.S.C. § 701 et seq., (ii) as prescribed by an
employee assistance program or other drug or alcohol treatment program to which the employee was participating voluntarily or as a condition of further employment, (iii) as prescribed by the written policy of the employer of which the employee had knowledge and which constituted a required condition of employment, (iv) as prescribed by a test which was required by law and which constituted a required condition of employment for the individual's job, or (v) at a time contemporaneous with the events establishing probable cause;

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

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

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

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

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

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

(i) The individual was absent or late without good cause;

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

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

(iv) the employee had knowledge of the employer's written—
absenteeism policy.

(B) (C) For the purposes of this subsection, if an employee disputes being absent or late without good cause, the employee shall present evidence that a majority of the employee's absences or lateness were for good cause. If the employee alleges that the employee's repeated absences or lateness were the result of health related issues, such evidence shall include documentation from a licensed and practicing health care provider as defined in subsection (a)(1).

(3) (A) For the purposes of this subsection, the following shall be conclusive evidence of gross misconduct:

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

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

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

(a) The test was either:

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

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

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

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

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

(b) the test sample was collected either:

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

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

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

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

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

(c) the collecting and labeling of a chemical test sample was
performed by a licensed health care professional or any other individual
certified pursuant to paragraph (b)(3)(A)(iii)(f) or authorized to collect or
label test samples by federal or state law, or a federal or state rule or
regulation having the force or effect of law, including law enforcement
personnel;
(d) the chemical test was performed by a laboratory approved by the
United States department of health and human services or licensed by the
department of health and environment, except that a blood sample may be
tested for alcohol content by a laboratory commonly used for that purpose
by state law enforcement agencies;
(e) the chemical test was confirmed by gas chromatography, gas
chromatography-mass spectroscopy or other comparably reliable
analytical method, except that no such confirmation is required for a
blood alcohol sample or a breath alcohol test;
(f) the breath alcohol test was administered by an individual trained
to perform breath tests, the breath testing instrument used was certified
and operated strictly according to a description provided by the
manufacturers and the reliability of the instrument performance was
assured by testing with alcohol standards; and
(g) the foundation evidence establishes, beyond a reasonable doubt,
that the test results were from the sample taken from the individual;
(iv) an individual's refusal to submit to a chemical test or breath
alcohol test, provided:
(a) The test meets the standards of the drug free workplace act, 41
U.S.C. § 701 et seq.;
(b) the test was administered as part of an employee assistance
program or other drug or alcohol treatment program in which the
employee was participating voluntarily or as a condition of further
employment;
(c) the test was otherwise required by law and the test constituted a
required condition of employment for the individual's job;
(d) the test was requested pursuant to a written policy of the
employer of which the employee had knowledge and was a required
condition of employment; or
(e) there was reasonable suspicion to believe that the individual used,
possessed or was impaired by alcoholic liquor, cereal malt beverage or
nonprescribed controlled substance while working;
(v) an individual's dilution or other tampering of a chemical test.
(B) For purposes of this subsection:
(i) "Alcohol concentration" means the number of grams of alcohol
per 210 liters of breath;
(ii) "alcoholic liquor" shall be defined as provided in K.S.A. 41-102,
and amendments thereto;
(iii) "cereal malt beverage" shall be defined as provided in K.S.A. 41-2701, and amendments thereto;
(iv) "chemical test" shall include, but is not limited to, tests of urine, blood or saliva;
(v) "controlled substance" shall be defined as provided in K.S.A. 2012 Supp. 21-5701, and amendments thereto;
(vi) "required by law" means required by a federal or state law, a federal or state rule or regulation having the force and effect of law, a county resolution or municipal ordinance, or a policy relating to public safety adopted in an open meeting by the governing body of any special district or other local governmental entity;
(vii) "positive breath test" shall mean a test result showing an alcohol concentration of .04 or greater; unless the test was administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment in which case "positive chemical test" shall mean a test result showing an alcohol concentration at or above the levels provided for in the assistance or treatment program;
(viii) "positive chemical test" shall mean a chemical result showing a concentration at or above the levels listed in K.S.A. 44-501, and amendments thereto, for the drugs or abuse listed therein, unless the test was administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment in which case "positive chemical test" shall mean a chemical result showing a concentration at or above the levels provided for in the assistance or treatment program.

(4) An individual shall not be disqualified under this subsection if the individual is discharged under the following circumstances:
(A) The employer discharged the individual after learning the individual was seeking other work or when the individual gave notice of future intent to quit;
(B) the individual was making a good-faith effort to do the assigned work but was discharged due to: (i) Inefficiency; (ii) unsatisfactory performance due to inability, incapacity or lack of training or experience; (iii) isolated instances of ordinary negligence or inadvertence; (iv) good-faith errors in judgment or discretion; or (v) unsatisfactory work or conduct due to circumstances beyond the individual's control; or
(C) the individual's refusal to perform work in excess of the contract of hire.
(c) If the individual has failed, without good cause, to either apply for suitable work when so directed by the employment office of the secretary
of labor, or to accept suitable work when offered to the individual by the employment office, the secretary of labor, or an employer, such disqualification shall begin with the week in which such failure occurred and shall continue until the individual becomes reemployed and has had earnings from insured work of at least three times such individual's determined weekly benefit amount. In determining whether or not any work is suitable for an individual, the secretary of labor, or a person or persons designated by the secretary, shall consider the degree of risk involved to health, safety and morals, physical fitness and prior training, experience and prior earnings, length of unemployment and prospects for securing local work in the individual's customary occupation or work for which the individual is reasonably fitted by training or experience, and the distance of the available work from the individual's residence. Notwithstanding any other provisions of this act, an otherwise eligible individual shall not be disqualified for refusing an offer of suitable employment, or failing to apply for suitable employment when notified by an employment office, or for leaving the individual's most recent work accepted during approved training, including training approved under section 236(a)(1) of the trade act of 1974, if the acceptance of or applying for suitable employment or continuing such work would require the individual to terminate approved training and no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (1) If the position offered is vacant due directly to a strike, lockout or other labor dispute; (2) if the remuneration, hours or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (3) if as a condition of being employed, the individual would be required to join or to resign from or refrain from joining any labor organization; and (4) if the individual left employment as a result of domestic violence, and the position offered does not reasonably accommodate the individual's physical, psychological, safety, and/or legal needs relating to such domestic violence.

(d) For any week with respect to which the secretary of labor, or a person or persons designated by the secretary, finds that the individual's unemployment is due to a stoppage of work which exists because of a labor dispute or there would have been a work stoppage had normal operations not been maintained with other personnel previously and currently employed by the same employer at the factory, establishment or other premises at which the individual is or was last employed, except that this subsection (d) shall not apply if it is shown to the satisfaction of the secretary of labor, or a person or persons designated by the secretary, that: (1) The individual is not participating in or financing or directly interested
in the labor dispute which caused the stoppage of work; and (2) the
individual does not belong to a grade or class of workers of which,
immediately before the commencement of the stoppage, there were
members employed at the premises at which the stoppage occurs any of
whom are participating in or financing or directly interested in the dispute.
If in any case separate branches of work which are commonly conducted
as separate businesses in separate premises are conducted in separate
departments of the same premises, each such department shall, for the
purpose of this subsection be deemed to be a separate factory,
establishment or other premises. For the purposes of this subsection,
failure or refusal to cross a picket line or refusal for any reason during the
continuance of such labor dispute to accept the individual's available and
customary work at the factory, establishment or other premises where the
individual is or was last employed shall be considered as participation and
interest in the labor dispute.

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

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

(g) For the period of one year beginning with the first day following
the last week of unemployment for which the individual received benefits,
or for one year from the date the act was committed, whichever is the later,
if the individual, or another in such individual's behalf with the knowledge
of the individual, has knowingly made a false statement or representation,
or has knowingly failed to disclose a material fact to obtain or increase
benefits under this act or any other unemployment compensation law
administered by the secretary of labor. In addition to the penalties set forth
in K.S.A. 44-719, and amendments thereto, an individual who has
knowingly made a false statement or representation or who has knowingly
failed to disclose a material fact to obtain or increase benefits under this
act or any other unemployment compensation law administered by the
secretary of labor shall be liable for a penalty in the amount equal to 25%
of the amount of benefits unlawfully received.

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

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

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

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

(l) For any week of unemployment on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, if such week begins during the period between two successive sport seasons or similar period if such individual performed services in the first of such seasons or similar periods and there is a reasonable assurance that such individual will perform such services in the later of such seasons or similar periods.

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

(n) For any week in which an individual is receiving a governmental
or other pension, retirement or retired pay, annuity or other similar
periodic payment under a plan maintained by a base period employer and
to which the entire contributions were provided by such employer, except
that: (1) If the entire contributions to such plan were provided by the base
period employer but such individual's weekly benefit amount exceeds such
governmental or other pension, retirement or retired pay, annuity or other
similar periodic payment attributable to such week, the weekly benefit
amount payable to the individual shall be reduced-, but not below zero),
by an amount equal to the amount of such pension, retirement or retired
pay, annuity or other similar periodic payment which is attributable to such
week; or (2) if only a portion of contributions to such plan were provided
by the base period employer, the weekly benefit amount payable to such
individual for such week shall be reduced-, but not below zero), by the
prorated weekly amount of the pension, retirement or retired pay, annuity
or other similar periodic payment after deduction of that portion of the
pension, retirement or retired pay, annuity or other similar periodic payment
that is directly attributable to the percentage of the contributions
made to the plan by such individual; or (3) if the entire contributions to the
plan were provided by such individual, or by the individual and an
employer-(or any person or organization), who is not a base period
employer, no reduction in the weekly benefit amount payable to the
individual for such week shall be made under this subsection; or (4)
whatever portion of contributions to such plan were provided by the base
period employer, if the services performed for the employer by such
individual during the base period, or remuneration received for the
services, did not affect the individual's eligibility for, or increased the
amount of, such pension, retirement or retired pay, annuity or other similar
periodic payment, no reduction in the weekly benefit amount payable to
the individual for such week shall be made under this subsection. No
reduction shall be made for payments made under the social security act or
(o) For any week of unemployment on the basis of services
performed in any capacity and under any of the circumstances described in
subsection (i), (j) or (k) which an individual performed in an educational
institutions while in the employ of an educational service agency. For the
purposes of this subsection, the term "educational service agency" means a
governmental agency or entity which is established and operated
exclusively for the purpose of providing such services to one or more
educational institutions.
(p) For any week of unemployment on the basis of service as a school
bus or other motor vehicle driver employed by a private contractor to
transport pupils, students and school personnel to or from school-related
functions or activities for an educational institution, as defined in
subsection (v) of K.S.A. 44-703, and amendments thereto, if such week
begins during the period between two successive academic years or during
a similar period between two regular terms, whether or not successive, if
the individual has a contract or contracts, or a reasonable assurance
thereof, to perform services in any such capacity with a private contractor
for any educational institution for both such academic years or both such
terms. An individual shall not be disqualified for benefits as provided in
this subsection for any week of unemployment on the basis of service as a
bus or other motor vehicle driver employed by a private contractor to
transport persons to or from nonschool-related functions or activities.
(q) For any week of unemployment on the basis of services
performed by the individual in any capacity and under any of the
circumstances described in subsection (i), (j), (k) or (o) which are provided
to or on behalf of an educational institution, as defined in subsection (v) of
K.S.A. 44-703, and amendments thereto, while the individual is in the
employ of an employer which is a governmental entity, Indian tribe or any
employer described in section 501(c)(3) of the federal internal revenue
code of 1986 which is exempt from income under section 501(a) of the
code.
(r) For any week in which an individual is registered at and attending
an established school, training facility or other educational institution, or is
on vacation during or between two successive academic years or terms. An
individual shall not be disqualified for benefits as provided in this
subsection provided:
(1) The individual was engaged in full-time employment concurrent
with the individual's school attendance; or
(2) the individual is attending approved training as defined in
subsection (s) of K.S.A. 44-703, and amendments thereto; or
(3) the individual is attending evening, weekend or limited day time classes, which would not affect availability for work, and is otherwise eligible under subsection (c) of K.S.A. 44-705, and amendments thereto.

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

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

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

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

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

Sec. 6. K.S.A. 2012 Supp. 44-709 is hereby amended to read as follows: 44-709. (a) *Filing.* Claims for benefits shall be made in accordance with rules and regulations adopted by the secretary. The secretary shall furnish a copy of such rules and regulations to any individual requesting them. Each employer shall post and maintain printed statements furnished by the secretary without cost to the employer in
places readily accessible to individuals in the service of the employer.

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

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

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

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

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

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

(f) Board of review. (1) There is hereby created a board of review,
hereinafter referred to as the board, consisting of three members. Except as
provided by paragraph (2) of this subsection, each member of the board
shall be appointed for a term of four years as provided in this subsection.
Two members shall be appointed by the governor, subject to confirmation
by the senate as provided in K.S.A. 75-4315b, and amendments thereto.
Except as provided by K.S.A. 46-2601, and amendments thereto, no
person appointed to the board, whose appointment is subject to
confirmation by the senate, shall exercise any power, duty or function as a
member until confirmed by the senate. One member shall be representative
of employees, one member shall be representative of employers, and one
member shall be representative of the public in general. The appointment
of the employee representative member of the board shall be made by the
governor from a list of three nominations submitted by the Kansas A.F.L.-
C.I.O. The appointment of the employer representative member of the
board shall be made by the governor from a list of three nominations
submitted by the Kansas chamber of commerce and industry. The
appointment of the public representative member of the board, who,
because of vocation, occupation or affiliation may be deemed not to be representative of either management or labor, shall be made by the members appointed by the governor as employee representative and employer representative. If the two members do not agree and fail to make the appointment of the public member within 30 days after the expiration of the public member's term of office, the governor shall appoint the representative of the public. Not more than two members of the board shall belong to the same political party.

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

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

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

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

(6) The board, on its own motion, may affirm, modify or set aside any decision of a referee on the basis of the evidence previously submitted in the case; may direct the taking of additional evidence; or may permit any of the parties to initiate further appeal before it. The board shall permit such further appeal by any of the parties interested in a decision of a referee which overrules or modifies the decision of an examiner. The board may remove to itself the proceedings on any claim pending before a referee. Any proceedings so removed to the board shall be heard in
accordance with the requirements of subsection (c). The board shall promptly notify the interested parties of its findings and decision.

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

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

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

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

(j) Any finding of fact or law, judgment, determination, conclusion or final order made by the board of review or any examiner, special examiner, referee or other person with authority to make findings of fact or law pursuant to the employment security law is not admissible or binding in any separate or subsequent action or proceeding, between a person and a present or previous employer brought before an arbitrator, court or judge of the state or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts.

(k) In any proceeding or hearing conducted under this section, a party to the proceeding or hearing may appear before a referee or the board
either personally or by means of a designated representative to present

evidence and to state the position of the party. Hearings may be conducted

in person, by telephone or other means of electronic communication. The

hearing shall be conducted by telephone or other means of electronic

communication if none of the parties requests an in-person hearing. If only

one party requests an in-person hearing, the referee shall have the

discretion of requiring all parties to appear in person or allow the party not

requesting an in-person hearing to appear by telephone or other means of

electronic communication. The notice of hearing shall include notice to the

parties of their right to request an in-person hearing and instructions on

how to make the request.

Sec. 7. K.S.A. 2012 Supp. 44-710 is hereby amended to read as

follows: 44-710. (a) Payment. Contributions shall accrue and become

payable by each contributing employer for each calendar year in which the

contributing employer is subject to the employment security law with

respect to wages paid for employment. Such contributions shall become

due and be paid by each contributing employer to the secretary for the

employment security fund in accordance with such rules and regulations as

the secretary may adopt and shall not be deducted, in whole or in part,

from the wages of individuals in such employer's employ. In the payment

of any contributions, a fractional part of $.01 shall be disregarded unless it

amounts to $.005 or more, in which case it shall be increased to $.01.

Should contributions for any calendar quarter be less than $5, no payment

shall be required.

(b) Rates and base of contributions. (1) Except as provided in

paragraph (2) of this subsection, each contributing employer shall pay

contributions on wages paid by the contributing employer during each

calendar year with respect to employment as provided in K.S.A. 44-710a,

and amendments thereto. Except that, notwithstanding the federal law

requiring the secretary of labor to annually recalculate the contribution

rate, for calendar years 2010, 2011, 2012, 2013 and 2014, the secretary

shall charge each contributing employer in rate groups 1 through 32 the

contribution rate in the 2010 original tax rate computation table, with

contributing employers in rate groups 33 through 51 being capped at a

5.4% contribution rate.

(2) (A) If the congress of the United States either amends or repeals

the Wagner-Peyser act, the federal unemployment tax act, the federal

social security act, or subtitle C of chapter 23 of the federal internal

revenue code of 1986, or any act or acts supplemental to or in lieu thereof,

or any part or parts of any such law, or if any such law, or any part or parts

thereof, are held invalid with the effect that appropriations of funds by

congress and grants thereof to the state of Kansas for the payment of costs

of administration of the employment security law are no longer available
for such purposes, or (B) if employers in Kansas subject to the payment of
tax under the federal unemployment tax act are granted full credit against
such tax for contributions or taxes paid to the secretary of labor, then, and
in either such case, beginning with the year in which the unavailability of
federal appropriations and grants for such purpose occurs or in which such
change in liability for payment of such federal tax occurs and for each year
thereafter, the rate of contributions of each contributing employer shall be
equal to the total of .5% and the rate of contributions as determined for
such contributing employer under K.S.A. 44-710a, and amendments
thereto. The amount of contributions which each contributing employer
becomes liable to pay under this paragraph (2) over the amount of
contributions which such contributing employer would be otherwise liable
to pay shall be credited to the employment security administration fund to
be disbursed and paid out under the same conditions and for the same
purposes as other moneys are authorized to be paid from the employment
security administration fund, except that, if the secretary determines that as
of the first day of January of any year there is an excess in the employment
security administration fund over the amount required to be disbursed
during such year, an amount equal to such excess as determined by the
secretary shall be transferred to the employment security fund.

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

(2) (A) Benefits paid in benefit years established by valid new claims
shall not be charged to the account of a contributing employer or rated
governmental employer who is a base period employer if the examiner
finds that claimant was separated from the claimant's most recent
employment with such employer under any of the following conditions: (i)
Discharged for misconduct or gross misconduct connected with the
individual's work; or (ii) leaving work voluntarily without good cause
attributable to the claimant's work or the employer.

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

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

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

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

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

(G) With respect to weeks of unemployment beginning after
December 31, 1977, wages for insured work shall include wages paid for
previously uncovered services. For the purposes of this subsection (c)(2)
(G), the term "previously uncovered services" means services which were
not covered employment, at any time during the one-year period ending
December 31, 1975, except to the extent that assistance under title II of the
federal emergency jobs and unemployment assistance act of 1974 was paid
on the basis of such services, and which:

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

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

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

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

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

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

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

(C) For purposes of this paragraph:

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

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

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

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

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

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

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

(e) Election to become reimbursing employer; payment in lieu of
contributions. (1) Any governmental entity, Indian tribes or tribal units,
(subdivisions, subsidiaries or business enterprises wholly owned by such
Indian tribes), for which services are performed as described in subsection
(i)(3)(E) of K.S.A. 44-703, and amendments thereto, or any nonprofit
organization or group of nonprofit organizations described in section
501(c)(3) of the federal internal revenue code of 1986 which is exempt
from income tax under section 501(a) of such code, that becomes subject
to the employment security law may elect to become a reimbursing
employer under this subsection (e)(1) and agree to pay the secretary for the
employment security fund an amount equal to the amount of regular
benefits and ½ of the extended benefits paid that are attributable to service
in the employ of such reimbursing employer, except that each reimbursing
governmental employer, Indian tribes or tribal units shall pay an amount
equal to the amount of regular benefits and extended benefits paid for
weeks of unemployment beginning after December 31, 1978, for
governmental employers and December 21, 2000, for Indian tribes or
tribal units to individuals for weeks of unemployment which begin during
the effective period of such election.

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

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

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

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

(E) The secretary, in accordance with such rules and regulations as
the secretary may adopt, shall notify each employer identified in
subsection (e)(1) of any determination which the secretary may make of its
status as an employer and of the effective date of any election which it
makes to become a reimbursing employer and of any termination of such
election. Such determinations shall be subject to reconsideration, appeal
and review in accordance with the provisions of K.S.A. 44-710b, and
amendments thereto.

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

(A) At the end of each calendar quarter, or at the end of any other
period as determined by the secretary, the secretary shall bill each
reimbursing employer, except the state of Kansas, (i) an amount to be paid
which is equal to the full amount of regular benefits plus ½ of the amount
of extended benefits paid during such quarter or other prescribed period
that is attributable to service in the employ of such reimbursing employer;
and (ii) for weeks of unemployment beginning after December 31, 1978,
each reimbursing governmental employer and December 21, 2000, for
Indian tribes or tribal units shall be certified an amount to be paid which is
equal to the full amount of regular benefits and extended benefits paid
during such quarter or other prescribed period that is attributable to service
in the employ of such reimbursing governmental employer.

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

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

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

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

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

(G) In the discretion of the secretary, any employer who elects to become liable for payments in lieu of contributions and any nonprofit organization or group of nonprofit organizations described in section 501 (c)(3) of the federal internal revenue code of 1986 or governmental reimbursing employer or Indian tribe or tribal unit who is delinquent in filing reports or in making payments of amounts certified by the secretary under this section shall be required within 60 days after the effective date of such election, in the case of an eligible employer so electing, or after the date of notification to the delinquent employer under this subsection (e)(2) (G), in the case of a delinquent employer, to execute and file with the secretary a surety bond, except that the employer may elect, in lieu of a surety bond, to deposit with the secretary money or securities as approved by the secretary or to purchase and deliver to an escrow agent a certificate of deposit to guarantee payment. The amount of the bond, deposit or escrow agreement required by this subsection (e)(2)(G) shall not exceed 5.4% of the organization's taxable wages paid for employment by the eligible employer during the four calendar quarters immediately preceding the effective date of the election or the date of notification, in the case of a
delinquent employer. If the employer did not pay wages in each of such four calendar quarters, the amount of the bond or deposit shall be as determined by the secretary. Upon the failure of an employer to comply with this subsection (e)(2)(G) within the time limits imposed or to maintain the required bond or deposit, the secretary may terminate the election of such eligible employer or delinquent employer, as the case may be, to make payments in lieu of contributions, and such termination shall be effective for the current and next calendar year.

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

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

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

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

(4) Group accounts. Two or more reimbursing employers may file a
joint application to the secretary for the establishment of a group account
for the purpose of sharing the cost of benefits paid that are attributable to
service in the employment of such reimbursing employers. Each such
application shall identify and authorize a group representative to act as the
group's agent for the purposes of this subsection (e)(4). Upon approval of
the application, the secretary shall establish a group account for such
employers effective as of the beginning of the calendar quarter in which
the secretary receives the application and shall notify the group's
representative of the effective date of the account. Such account shall
remain in effect for not less than four years and thereafter such account
shall remain in effect until terminated at the discretion of the secretary or
upon application by the group. Upon establishment of the account, each
member of the group shall be liable for payments in lieu of contributions
with respect to each calendar quarter in the amount that bears the same
ratio to the total benefits paid in such quarter that are attributable to service
performed in the employ of all members of the group as the total wages
paid for service in employment by such member in such quarter bear to the
total wages paid during such quarter for service performed in the employ-
of all members of the group. The secretary shall adopt such rules and
regulations as the secretary deems necessary with respect to applications
for establishment, maintenance and termination of group accounts that are
authorized by this subsection (e)(4), for addition of new members to, and
withdrawal of active members from such accounts, and for the
determination of the amounts that are payable under this subsection (e)(4)
by members of the group and the time and manner of such payments.

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

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

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

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

(2) Any benefit erroneously paid which is not repaid shall bear
interest at the rate of 1.5% per month or fraction of a month. If the benefit
was received as a result of fraud, misrepresentation or willful
 nondisclosure of required information, interest shall accrue from the date
of the final determination of overpayment until repayment plus interest is
received by the secretary. If the overpayment was without fraud,
 misrepresentation or willful nondisclosure of required information, interest
shall accrue upon any balance which remains unpaid two years after the
final determination of overpayment is made and shall continue until
payment plus accrued interest is received by the secretary. Interest
collected pursuant to this section shall be paid into the special employment
security fund, except that interest collected on federal administrative
programs shall be returned to the federal government. Upon written
request and for good cause shown, the secretary may abate any interest or
portion thereof provided for by this subsection (d)(2). Interest accrued may
not be paid by money deducted from any future benefits payable to such
persons liable for any overpayment.

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

(4) In cases involving the collection of debts arising from the
employment security law, the actual amount received from the United
States department of treasury under the treasury offset program or its
successor shall be credited to the overpayment and any fee charged by the
department of treasury shall be borne by the debtor.
(e) Any employer or person who willfully fails or refuses to pay contributions, payments in lieu of contributions or benefit cost payments or attempts in any manner to evade or defeat any such contributions, payments in lieu of contributions or benefit cost payments or the payment thereof, shall be liable for the payment of such contributions, payments in lieu of contributions or benefit cost payments and, in addition to any other penalties provided by law, shall be liable to pay a penalty equal to the total amount of the contributions, payments in lieu of contributions or benefit cost payments evaded or not paid.

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

(A) If the person is an employer, then such employer shall be assigned the highest rate assignable under K.S.A. 44-710a, and amendments thereto, for the rate year during which such violation or attempted violation occurred and the three rate years immediately following this rate year. However, if the employer's business is already at such highest rate for any year, or if the amount of increase in the employer's rate would be less than 2% for such year, then a penalty rate of contributions of 2% of taxable wages shall be imposed for such year. Any moneys resulting from the difference of the computed rate and the penalty rate shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the special employment security fund.

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

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

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

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

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

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

(6) For purposes of subsection (f):

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

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

(C) the provisions of K.S.A. 2012 Supp. 21-5211 and 5212, and
amendments thereto, shall apply.

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

Sec. 9. K.S.A. 2012 Supp. 74-5602 is hereby amended to read as
follows: 74-5602. As used in the Kansas law enforcement training act:

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

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

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

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

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

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

(g) "Police officer" or "law enforcement officer" means a full-time or part-time salaried officer or employee of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof. Such terms shall include, but not be limited to: The sheriff, undersheriff and full-time or part-time salaried deputies in the sheriff's office in each county; deputy sheriffs deputized pursuant to K.S.A. 19-2858, and amendments thereto; conservation officers of the Kansas department of wildlife, parks and tourism; university police officers, as defined in K.S.A. 22-2401a, and amendments thereto; campus police officers, as defined in K.S.A. 22-2401a, and amendments thereto; law enforcement agents of the director of alcoholic beverage control; law enforcement agents designated by the secretary of revenue pursuant to K.S.A. 2012 Supp. 75-5157, and amendments thereto; law enforcement agents of the Kansas lottery; law enforcement agents of the Kansas racing commission; deputies and assistants of the state fire marshal having law enforcement authority; capitol police, existing under the authority of K.S.A. 75-4503, and amendments thereto; special investigators of the juvenile justice authority; special investigators designated by the secretary of labor and law enforcement officers appointed by the adjutant general pursuant to K.S.A. 48-204, and amendments thereto. Such terms shall also include railroad policemen appointed pursuant to K.S.A. 66-524, and amendments thereto; school security officers designated as school law enforcement officers pursuant to K.S.A. 72-8222, and amendments thereto; the manager and employees of the horsethief reservoir benefit district pursuant to K.S.A. 2012 Supp. 82a-2212, and amendments thereto; and the director of the Kansas commission on peace officers' standards and training and any other employee of such commission designated by the director pursuant to K.S.A. 74-5603, and amendments thereto, as a law enforcement officer. Such terms shall not include any elected official, other than a sheriff, serving in the capacity of a law enforcement or police officer solely by virtue of such official's elected position; any attorney-at-law having responsibility for law enforcement and discharging such responsibility solely in the capacity of an attorney; any employee of the commissioner of juvenile justice who is employed solely to perform correctional, administrative or operational duties related to juvenile correctional facilities; any employee of the secretary of corrections, any
employee of the secretary of social and rehabilitation services; any deputy
conservation officer of the Kansas department of wildlife, parks and
tourism; or any employee of a city or county who is employed solely to
perform correctional duties related to jail inmates and the administration
and operation of a jail; or any full-time or part-time salaried officer or
employee whose duties include the issuance of a citation or notice to
appear provided such officer or employee is not vested by law with the
authority to make an arrest for violation of the laws of this state or any
municipality thereof, and is not authorized to carry firearms when
discharging the duties of such person's office or employment. Such term
shall include any officer appointed or elected on a provisional basis.

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

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

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

(k) "Auxiliary personnel" means members of organized nonsalaried
groups who operate as an adjunct to a police or sheriff's department,
including reserve officers, posses and search and rescue groups.

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

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

(b) (1) The secretary may:

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

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

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

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

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

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

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

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