

HOUSE BILL No. 2792

By Committee on Appropriations

4-26

1 AN ACT reconciling amendments to certain statutes and making certain
2 technical changes related thereto; amending K.S.A. 2011 Supp. 16-
3 1602, 21-5428, 21-6811, 22-3437, 22-4705, 44-703, 44-706, 59-2132,
4 65-516, as amended by section 5 of 2012 House Bill No. 2660, 65-
5 4915, as amended by section 51 of 2012 Substitute for Senate Bill No.
6 397, 65-6805, as amended by section 54 of 2012 Substitute for Senate
7 Bill No. 397, 68-1051, as amended by section 2 of 2012 House Bill No.
8 2441, 72-1397, 72-5445, 74-5602, as amended by section 2 of 2012
9 House Bill No. 2496, 75-2935, as amended by section 115 of 2012
10 Senate Bill No. 316, 75-37,121, as amended by section 117 of 2012
11 Senate Bill No. 316, 76-11a13, 77-421, as amended by section 38 of
12 2012 House Bill No. 2535, 79-201a, as amended by section 1 of 2012
13 House Bill No. 2769 and 79-3234, as amended by section 127 of 2012
14 Senate Bill No. 316 and repealing the existing sections; also repealing
15 K.S.A. 2011 Supp. 21-5428a, 21-6811a, 22-3437b, 22-4705a, 32-
16 1049a, as amended by section 64 of 2012 Senate Bill No. 316, 44-703a,
17 44-706b, 65-1436a, 65-4915, as amended by section 1 of 2012 House
18 Bill No. 2428, 65-6805, as amended by section 28 of 2012 House Bill
19 No. 2416, 68-1051, as amended by section 2 of 2012 House Bill No.
20 2509, 72-5445a, 74-4911f, as amended by section 95 of 2012 Senate
21 Bill No. 316, 74-5089, as amended by section 6 of 2012 Senate Bill
22 No. 417, 74-5602, as amended by section 105 of 2012 Senate Bill No.
23 316, 74-5602, as amended by section 2 of 2012 Senate Bill No. 424,
24 75-2935, as amended by section 28 of 2012 Senate Bill No. 417, 75-
25 3372, 75-37,121, as amended by section 33 of 2012 House Bill No.
26 2416, 77-415, as amended by section 1 of 2012 Senate Bill No. 252,
27 77-421, as amended by section 123 of 2012 Senate Bill No. 316, 77-
28 421, as amended by section 55 of 2012 House Bill No. 2416, 77-421,
29 as amended by section 2 of 2012 Senate Bill No. 252, 79-201a, as
30 amended by section 124 of 2012 Senate Bill No. 316 and 79-3234b, as
31 amended by section 128 of 2012 Senate Bill No. 316.

32

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

34 New Section 1. (a) The secretary of social and rehabilitation services
35 shall convey by quitclaim deed, without consideration, all of the rights,
36 title and interest in the following described real estate, and any

1 improvements thereon, located in Ellsworth county, Kansas, to the
2 evangelical lutheran good samaritan society:

3 A tract of land in the Southwest Quarter of Section 29, Township 15
4 South, Range 8 West of the 6th P.M. in Ellsworth County, Kansas,
5 described as follows: COMMENCING at the Southeast Corner of said
6 Quarter Section, thence on an assumed bearing of South 89 degrees 29
7 minutes 36 seconds West, 943.70 feet along the south line of said Quarter
8 Section to the POINT OF BEGINNING; FIRST COURSE, thence South
9 89 degrees 29 minutes 36 seconds West, 300.34 feet along the south line of
10 said Quarter Section; SECOND COURSE, thence North 02 degrees 04
11 minutes 45 seconds West, 1182.69 feet; THIRD COURSE, thence North
12 89 degrees 29 minutes 36 seconds East, 1286.17 feet to the east line of
13 said Quarter Section; FOURTH COURSE, thence South 00 degrees 02
14 minutes 18 seconds East, 723.78 feet along the east line of said Quarter
15 Section; FIFTH COURSE, thence South 89 degrees 59 minutes 12 seconds
16 West, 120.33 feet to the existing westerly K-14/K-156 right of way;
17 SIXTH COURSE, thence South 44 degrees 21 minutes 14 seconds West,
18 418.34 feet along said westerly right of way; SEVENTH COURSE, thence
19 South 78 degrees 21 minutes 59 seconds West, 499.13 feet along said
20 westerly right of way; EIGHTH COURSE, thence South 48 degrees 36
21 minutes 13 seconds West, 55.95 feet along said westerly right way to the
22 existing northerly township road right of way; NINTH COURSE, thence
23 South 00 degrees 30 minutes 24 seconds East, 30.00 feet to the south line
24 of said Quarter Section and the point of beginning.

25 The above described tract contains 29.641 acres, which includes 1.592
26 acres of existing right of way, resulting in a tract of 28.049 acres, more or
27 less.

28 (b) The deed conveying the real estate described in subsection (a)
29 shall be approved by the attorney general and executed by the secretary of
30 social and rehabilitation services.

31 (c) The deed to the real estate described in subsection (a) shall
32 provide for the retention by the state of Kansas of all mineral rights in and
33 under such property, except that any exercise of these rights shall be
34 without degradation, use or damage to the surface or any improvements
35 thereto in any manner.

36 (d) The conveyance of real property authorized by this section shall
37 not be subject to the provisions of K.S.A. 2011 Supp. 75-6609 or 75-6611,
38 and amendments thereto.

39 (e) In the event that the secretary of social and rehabilitation services
40 determines that the legal description of the parcel described by this section
41 is incorrect, the secretary of social and rehabilitation services may convey
42 the property utilizing the correct legal description but the deed conveying
43 the property shall be subject to the approval of the attorney general.

1 Sec. 2. K.S.A. 2011 Supp. 16-1602 is hereby amended to read as
2 follows: 16-1602. In this act:

3 (a) "Agreement" means the bargain of the parties in fact, as found in
4 their language or inferred from other circumstances and from rules,
5 regulations, and procedures given the effect of agreements under laws
6 otherwise applicable to a particular transaction.

7 (b) "Automated transaction" means a transaction conducted or
8 performed, in whole or in part, by electronic means or electronic records,
9 in which the acts or records of one or both parties are not reviewed by an
10 individual in the ordinary course in forming a contract, performing under
11 an existing contract or fulfilling an obligation required by the transaction.

12 (c) "Computer program" means a set of statements or instructions to
13 be used directly or indirectly in an information processing system in order
14 to bring about a certain result.

15 (d) "Contract" means the total legal obligation resulting from the
16 parties' agreement as affected by this act and other applicable law.

17 (e) "Digital signature" means a type of electronic signature consisting
18 of a transformation of an electronic message using an asymmetric crypto
19 system such that a person having the initial message and the signer's public
20 key can accurately determine whether:

21 (1) The transformation was created using the private key that
22 corresponds to the signer's public key; and

23 (2) the initial message has not been altered since the transformation
24 was made.

25 (f) "Electronic" means relating to technology having electrical,
26 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

27 (g) "Electronic agent" means a computer program or an electronic or
28 other automated means used independently to initiate an action or respond
29 to electronic records or performances in whole or in part, without review
30 or action by an individual.

31 (h) "Electronic record" means a record created, generated, sent,
32 communicated, received or stored by electronic means.

33 (i) "Electronic signature" means an electronic sound, symbol or
34 process attached to or logically associated with a record and executed or
35 adopted by a person with the intent to sign the record.

36 (j) "Governmental agency" means an executive, legislative, or
37 judicial agency, department, board, commission, authority, institution or
38 instrumentality of the federal government or of a state or of a county,
39 municipality or other political subdivision of a state.

40 (k) "Information" means data, text, images, sounds, codes, computer
41 programs, software, databases or the like.

42 (l) "Information processing system" means an electronic system for
43 creating, generating, sending, receiving, storing, displaying or processing

1 information.

2 (m) "Message" means a digital representation of information.

3 (n) "Person" means an individual, corporation, business trust, estate,
4 trust, partnership, limited liability company, association, joint venture,
5 governmental agency, public corporation or any other legal or commercial
6 entity.

7 (o) "Record" means information that is inscribed on a tangible
8 medium or that is stored in an electronic or other medium and is
9 retrievable in perceivable form.

10 (p) "Registered certification authority" means a person providing
11 certification of a digital signature who is, or is certified by, a member of
12 the group of certification authorities approved by and registered with the
13 secretary.

14 (q) "Secretary" means the Kansas secretary of state.

15 (r) "Security procedure" means a procedure employed for the purpose
16 of verifying that an electronic signature, record or performance is that of a
17 specific person or for detecting changes or errors in the information in an
18 electronic record. The term includes a procedure that requires the use of
19 algorithms or other codes, identifying words or numbers, encryption,
20 callback or other acknowledgment procedures.

21 (s) "State" means a state of the United States, the District of
22 Columbia, Puerto Rico, the United States Virgin Islands or any territory or
23 insular possession subject to the jurisdiction of the United States.

24 (t) "*Transaction*" means an action or set of actions occurring
25 between two or more persons relating to the conduct of business,
26 insurance, health care, commercial or governmental affairs.

27 Sec. 3. K.S.A. 2011 Supp. 21-5428 is hereby amended to read as
28 follows: 21-5428. (a) Blackmail is *intentionally* gaining or attempting to
29 gain anything of value or compelling or attempting to compel another to
30 act against such person's will, by threatening to:

31 (1) Communicate accusations or statements about any person that
32 would subject such person or any other person to public ridicule, contempt
33 or degradation; or

34 (2) disseminate any videotape, photograph, film, or image obtained in
35 violation of subsection (a)(6) of K.S.A. 2011 Supp. 21-6101, and
36 amendments thereto.

37 (b) Blackmail as defined in:

38 (1) Subsection (a)(1) is a severity level 7, nonperson felony; and

39 (2) subsection (a)(2) is a severity level 4, person felony.

40 Sec. 4. K.S.A. 2011 Supp. 21-6811 is hereby amended to read as
41 follows: 21-6811. In addition to the provisions of K.S.A. 2011 Supp. 21-
42 6810, and amendments thereto, the following shall apply in determining an
43 offender's criminal history classification as contained in the presumptive

1 sentencing guidelines grids:

2 (a) Every three prior adult convictions or juvenile adjudications of
3 class A and class B person misdemeanors in the offender's criminal history,
4 or any combination thereof, shall be rated as one adult conviction or one
5 juvenile adjudication of a person felony for criminal history purposes.
6 Every three prior adult convictions or juvenile adjudications of assault as
7 defined in K.S.A. 21-3408, prior to its repeal, or subsection (a) of K.S.A.
8 2011 Supp. 21-5412, and amendments thereto, occurring within a period
9 commencing three years prior to the date of conviction for the current
10 crime of conviction shall be rated as one adult conviction or one juvenile
11 adjudication of a person felony for criminal history purposes.

12 (b) A conviction of criminal possession of a firearm as defined in
13 subsection (a)(1) or (a)(5) of K.S.A. 21-4204, prior to its repeal, criminal
14 use of weapons as defined in subsection (a)(10) or (a)(11) of K.S.A. 2011
15 Supp. 21-6301, and amendments thereto, or unlawful possession of a
16 firearm as in effect on June 30, 2005, and as defined in K.S.A. 21-4218,
17 prior to its repeal, will be scored as a select class B nonperson
18 misdemeanor conviction or adjudication and shall not be scored as a
19 person misdemeanor for criminal history purposes.

20 (c) (1) If the current crime of conviction was committed before July
21 1, 1996, and is for subsection (b) of K.S.A. 21-3404, as in effect on June
22 30, 1996, involuntary manslaughter in the commission of driving under the
23 influence, then, each prior adult conviction or juvenile adjudication for
24 K.S.A. 8-1567, and amendments thereto, shall count as one person felony
25 for criminal history purposes.

26 (2) If the current crime of conviction was committed on or after July
27 1, 1996, and is for a violation of subsection (a)(3) of K.S.A. 2011 Supp.
28 21-5405, and amendments thereto, each prior adult conviction, diversion
29 in lieu of criminal prosecution or juvenile adjudication for: (A) An act
30 described in K.S.A. 8-1567, and amendments thereto; or (B) a violation of
31 a law of another state or an ordinance of any city, or resolution of any
32 county, which prohibits the act described in K.S.A. 8-1567, and
33 amendments thereto, shall count as one person felony for criminal history
34 purposes.

35 (d) Prior burglary adult convictions and juvenile adjudications will be
36 scored for criminal history purposes as follows:

37 (1) As a prior person felony if the prior conviction or adjudication
38 was classified as a burglary as defined in subsection (a) of K.S.A. 21-3715,
39 prior to its repeal, or subsection (a)(1) of K.S.A. 2011 Supp. 21-5807, and
40 amendments thereto.

41 (2) As a prior nonperson felony if the prior conviction or adjudication
42 was classified as a burglary as defined in subsection (b) or (c) of K.S.A.
43 21-3715, prior to its repeal, or subsection (a)(2) or (a)(3) of K.S.A. 2011

1 Supp. 21-5807, and amendments thereto.

2 The facts required to classify prior burglary adult convictions and
3 juvenile adjudications shall be established by the state by a preponderance
4 of the evidence.

5 (e) Out-of-state convictions and juvenile adjudications shall be used
6 in classifying the offender's criminal history. An out-of-state crime will be
7 classified as either a felony or a misdemeanor according to the convicting
8 jurisdiction. If a crime is a felony in another state, it will be counted as a
9 felony in Kansas. The state of Kansas shall classify the crime as person or
10 nonperson. In designating a crime as person or nonperson comparable
11 offenses shall be referred to. If the state of Kansas does not have a
12 comparable offense, the out-of-state conviction shall be classified as a
13 nonperson crime. Convictions or adjudications occurring within the federal
14 system, other state systems, the District of Columbia, foreign, tribal or
15 military courts are considered out-of-state convictions or adjudications.
16 The facts required to classify out-of-state adult convictions and juvenile
17 adjudications shall be established by the state by a preponderance of the
18 evidence.

19 (f) Except as provided in subsections (d)(4), (d)(5) or (d)(6) of K.S.A.
20 21-4710, prior to its repeal, or subsections (d)(3)(B), (d)(3)(C), (d)(3)(D)
21 and (d)(4) of K.S.A. 2011 Supp. 21-6810, and amendments thereto,
22 juvenile adjudications will be applied in the same manner as adult
23 convictions. Out-of-state juvenile adjudications will be treated as juvenile
24 adjudications in Kansas.

25 (g) A prior felony conviction of an attempt, a conspiracy or a
26 solicitation as provided in K.S.A. 21-3301, 21-3302 or 21-3303, prior to
27 their repeal, or K.S.A. 2011 Supp. 21-5301, 21-5302 or 21-5303, and
28 amendments thereto, to commit a crime shall be treated as a person or
29 nonperson crime in accordance with the designation assigned to the
30 underlying crime.

31 (h) Drug crimes are designated as nonperson crimes for criminal
32 history scoring.

33 (i) *If the current crime of conviction is for a violation of subsections*
34 *(b)(2) through (b)(4) of K.S.A. 8-1602, and amendments thereto, each of*
35 *the following prior convictions committed on or after July 1, 2011 shall*
36 *count as a person felony for criminal history purposes: K.S.A. 8-235, 8-*
37 *262, 8-287, 8-291, 8-1566, 8-1567, 8-1568, 8-1602, 8-1605 and 40-3104,*
38 *and amendments thereto, and subsection (a)(3) of K.S.A. 2011 Supp. 21-*
39 *5405 and 21-5406, and amendments thereto, or a violation of a city*
40 *ordinance or law of another state which would also constitute a violation*
41 *of such sections.*

42 Sec. 5. K.S.A. 2011 Supp. 22-3437 is hereby amended to read as
43 follows: 22-3437. (a) (1) In any hearing or trial, a report concerning

1 forensic examinations and certificate of forensic examination executed
2 pursuant to this section shall be admissible in evidence if the report and
3 certificate are prepared and attested by a criminalist or other employee of
4 the Kansas bureau of investigation, Kansas highway patrol, Johnson
5 County sheriff's laboratory, Sedgwick County regional forensic science
6 center, or any laboratory of the federal bureau of investigation, federal
7 postal inspection service, federal bureau of alcohol, tobacco and firearms
8 or federal drug enforcement administration. If the examination involves a
9 breath test for alcohol content, the report must also be admissible pursuant
10 to K.S.A. 8-1001, and amendments thereto, and be conducted by a law
11 enforcement officer or other person who is certified by the department of
12 health and environment as a breath test operator as provided by K.S.A. 65-
13 1,107 *et seq.*, and amendments thereto.

14 (2) Upon the request of any law enforcement agency, such person as
15 provided in paragraph (1) performing the analysis shall prepare a
16 certificate. Such person shall sign the certificate under oath and shall
17 include in the certificate an attestation as to the result of the analysis. The
18 presentation of this certificate to a court by any party to a proceeding shall
19 be evidence that all of the requirements and provisions of this section have
20 been complied with. This certificate shall be supported by a written
21 declaration pursuant to K.S.A. 53-601, and amendments thereto, or shall
22 be sworn to before a notary public or other person empowered by law to
23 take oaths and shall contain a statement establishing the following: The
24 type of analysis performed; the result achieved; any conclusions reached
25 based upon that result; that the subscriber is the person who performed the
26 analysis and made the conclusions; the subscriber's training or experience
27 to perform the analysis; the nature and condition of the equipment used;
28 and the certification and foundation requirements for admissibility of
29 breath test results, when appropriate. When properly executed, the
30 certificate shall, subject to the provisions of paragraph (3) and
31 notwithstanding any other provision of law, be admissible evidence of the
32 results of the forensic examination of the samples or evidence submitted
33 for analysis and the court shall take judicial notice of the signature of the
34 person performing the analysis and of the fact that such person is that
35 person who performed the analysis.

36 (3) Whenever a party intends to proffer in a criminal or civil
37 proceeding, a certificate executed pursuant to this section, notice of an
38 intent to proffer that certificate and the reports relating to the analysis in
39 question, including a copy of the certificate, shall be conveyed to the
40 opposing party or parties at least ~~20~~ 21 days before the beginning of a
41 hearing where the proffer will be used. An opposing party who intends to
42 object to the admission into evidence of a certificate shall give notice of
43 objection and the grounds for the objection within ~~10~~ 14 days upon

1 receiving the adversary's notice of intent to proffer the certificate.
2 Whenever a notice of objection is filed, admissibility of the certificate
3 shall be determined not later than two days before the beginning of the
4 trial. A proffered certificate shall be admitted in evidence unless it appears
5 from the notice of objection and grounds for that objection that the
6 conclusions of the certificate, including the composition, quality or
7 quantity of the substance submitted to the laboratory for analysis or the
8 alcohol content of a blood or breath sample will be contested at trial. A
9 failure to comply with the time limitations regarding the notice of
10 objection required by this section shall constitute a waiver of any
11 objections to the admission of the certificate. The time limitations set forth
12 in this section may be extended upon a showing of good cause.

13 (b) (1) In any hearing or trial where there is a report concerning
14 forensic examinations from a person as provided in paragraph (1) of
15 subsection (a), district and municipal courts may, upon request of either
16 party, use two-way interactive video technology, including internet-based
17 videoconferencing, to take testimony from that person if the testimony is
18 in relation to the report.

19 (2) The use of any two-way interactive video technology must be in
20 accordance with any requirements and guidelines established by the office
21 of judicial administration, and all proceedings at which such technology is
22 used in a district court must be recorded verbatim by the court.

23 Sec. 6. K.S.A. 2011 Supp. 22-4705 is hereby amended to read as
24 follows: 22-4705. (a) The following events are reportable events under this
25 act:

- 26 (1) Issuance of an arrest warrant;
- 27 (2) an arrest;
- 28 (3) release of a person after arrest without the filing of a charge;
- 29 (4) *the filing of a charge*;
- 30 ~~(4)~~ (5) dismissal or quashing of an indictment or criminal
31 information;
- 32 ~~(5)~~ (6) an acquittal, conviction or other disposition at or following
33 trial, including a finding of probation before judgment;
- 34 ~~(6)~~ (7) imposition of a sentence;
- 35 ~~(7)~~ (8) commitment to a correctional facility, whether state or locally
36 operated;
- 37 ~~(8)~~ (9) release from detention or confinement;
- 38 ~~(9)~~ (10) an escape from confinement;
- 39 ~~(10)~~ (11) a pardon, reprieve, commutation of sentence or other change
40 in a sentence, including a change ordered by a court;
- 41 ~~(11)~~ (12) judgment of an appellate court that modifies or reverses the
42 lower court decision;
- 43 ~~(12)~~ (13) order of a court in a collateral proceeding that affects a

1 person's conviction, sentence or confinement, including any expungement
2 or annulment of arrests or convictions pursuant to state statute; and
3 ~~(13)~~ (14) any other event arising out of or occurring during the course
4 of criminal justice proceedings declared to be reportable by rule or
5 regulation of the director.

6 (b) There is hereby established a criminal justice information system
7 central repository for the collection, storage, and dissemination of criminal
8 history record information. The central repository shall be operated by the
9 Kansas bureau of investigation under the administrative control of the
10 director.

11 (c) Except as otherwise provided by this subsection, every criminal
12 justice agency shall report criminal history record information, whether
13 collected manually or by means of an automated system, to the central
14 repository, in accordance with rules and regulations adopted pursuant to
15 this act. A criminal justice agency shall report to the central repository
16 those reportable events involving a violation of a county resolution or city
17 ordinance only when required by rules and regulations adopted by the
18 director.

19 (d) Reporting methods may include:

20 (1) Submittal of criminal history record information by a criminal
21 justice agency directly to the central repository;

22 (2) if the information can readily be collected and reported through
23 the court system, submittal to the central repository by the administrative
24 office of the courts; or

25 (3) if the information can readily be collected and reported through
26 criminal justice agencies that are part of a geographically based
27 information system, submittal to the central repository by the agencies.

28 (e) Nothing in this section shall prevent a criminal justice agency
29 from maintaining more detailed information than is required to be reported
30 to the central repository. However, the dissemination of that criminal
31 history record information is governed by the provisions of this act.

32 (f) The director may determine, by rule and regulation, the reportable
33 events to be reported by each criminal justice agency, in order to avoid
34 duplication in reporting.

35 (g) Except as otherwise provided in this subsection, no court or
36 criminal justice agency may assess fees or charges against the central
37 repository for providing criminal history record information created prior
38 to, on or after July 1, 2011. A court or criminal justice agency may assess a
39 fee or charge against the central repository for providing criminal history
40 record information if such court or criminal justice agency has previously
41 provided such criminal history record information as required by law.

42 Sec. 7. K.S.A. 2011 Supp. 44-703 is hereby amended to read as
43 follows: 44-703. As used in this act, unless the context clearly requires

1 otherwise:

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

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

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

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

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

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

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

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

1 unemployment.

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

6 (d) "Benefit year" with respect to any individual, means the period
7 beginning with the first day of the first week for which such individual
8 files a valid claim for benefits, and such benefit year shall continue for one
9 full year. In the case of a combined wage claim, the benefit year shall be
10 the benefit year of the paying state. Following the termination of a benefit
11 year, a subsequent benefit year shall commence on the first day of the first
12 week with respect to which an individual next files a claim for benefits.
13 When such filing occurs with respect to a week which overlaps the
14 preceding benefit year, the subsequent benefit year shall commence on the
15 first day immediately following the expiration date of the preceding
16 benefit year. Any claim for benefits made in accordance with subsection
17 (a) of K.S.A. 44-709, and amendments thereto, shall be deemed to be a
18 "valid claim" for the purposes of this subsection if the individual has been
19 paid wages for insured work as required under subsection (e) of K.S.A. 44-
20 705, and amendments thereto. Whenever a week of unemployment
21 overlaps two benefit years, such week shall, for the purpose of granting
22 waiting-period credit or benefit payment with respect thereto, be deemed
23 to be a week of unemployment within that benefit year in which the
24 greater part of such week occurs.

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

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

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

34 (g) "Employing unit" means any individual or type of organization,
35 including any partnership, association, limited liability company, agency
36 or department of the state of Kansas and political subdivisions thereof,
37 trust, estate, joint-stock company, insurance company or corporation,
38 whether domestic or foreign including nonprofit corporations, or the
39 receiver, trustee in bankruptcy, trustee or successor thereof, or the legal
40 representatives of a deceased person, which has in its employ one or more
41 individuals performing services for it within this state. All individuals
42 performing services within this state for any employing unit which
43 maintains two or more separate establishments within this state shall be

1 deemed to be employed by a single employing unit for all the purposes of
2 this act. Each individual employed to perform or to assist in performing
3 the work of any agent or employee of an employing unit shall be deemed
4 to be employed by such employing unit for all the purposes of this act,
5 whether such individual was hired or paid directly by such employing unit
6 or by such agent or employee, provided the employing unit had actual or
7 constructive knowledge of the employment.

8 (h) "Employer" means:

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

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

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

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

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

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

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

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

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

43 (ii) pays, either on such individual's own behalf or on behalf of such

1 other person, the individuals so furnished by such individual for the
2 service in agricultural labor performed by them; and

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

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

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

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

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

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

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

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

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

1 amendments thereto.

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

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

18 (i) "Employment" means:

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

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

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

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

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

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

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

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

43 (b) the individual does not have a substantial investment in facilities

1 used in connection with the performance of the services (other than in
2 facilities for transportation); and

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

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

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

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

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

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

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

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

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

39 (D) Services performed by an individual for wages or under any
40 contract of hire shall be deemed to be employment subject to this act
41 ~~unless and until it is shown to the satisfaction of the secretary that: (i) Such~~
42 ~~individual has been and will continue to be free from control or direction~~
43 ~~over the performance of such services, both under the individual's contract~~

1 of hire and in fact; and (ii) such service is either outside the usual course of
 2 the business for which such service is performed or that such service is
 3 performed outside of all the places of business of the enterprise for which
 4 such service is performed if the business for which activities of the
 5 individual are performed retains not only the right to control the end result
 6 of the activities performed, but the manner and means by which the end
 7 result is accomplished.

8 (E) Service performed by an individual in the employ of this state or
 9 any instrumentality thereof, any political subdivision of this state or any
 10 instrumentality thereof, or in the employ of an Indian tribe, as defined
 11 pursuant to section 3306(u) of the federal unemployment tax act, any
 12 instrumentality of more than one of the foregoing or any instrumentality
 13 which is jointly owned by this state or a political subdivision thereof or
 14 Indian tribes and one or more other states or political subdivisions of this
 15 or other states, provided that such service is excluded from "employment"
 16 as defined in the federal unemployment tax act by reason of section
 17 3306(c)(7) of that act and is not excluded from "employment" under
 18 subsection (i)(4)(A) of this section. For purposes of this section, the
 19 exclusions from employment in subsections (i)(4)(A) and (i)(4)(L) shall
 20 also be applicable to services performed in the employ of an Indian tribe.

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

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

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

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

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

36 or

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

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

42 (iii) none of the criteria of paragraphs (i) and (ii) above of this
 43 subsection (i)(3)(G) are met but the employer has elected coverage in this

1 state or, the employer having failed to elect coverage in any state, the
2 individual has filed a claim for benefits, based on such service, under the
3 law of this state.

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

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

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

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

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

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

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

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

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

33 (i) As an elected official;

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

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

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

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

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

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

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

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

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

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

38 (H) service performed in any calendar quarter in the employ of any
39 organization exempt from income tax under section 501(a) of the federal
40 internal revenue code of 1986 (other than an organization described in
41 section 401(a) or under section 521 of such code) if the remuneration for
42 such service is less than \$50. In construing the application of the term
43 "employment," if services performed during ½ or more of any pay period

1 by an individual for the person employing such individual constitute
2 employment, all the services of such individual for such period shall be
3 deemed to be employment; but if the services performed during more than
4 ½ of any such pay period by an individual for the person employing such
5 individual do not constitute employment, then none of the services of such
6 individual for such period shall be deemed to be employment. As used in
7 this subsection (i)(4)(H) the term "pay period" means a period (of not more
8 than 31 consecutive days) for which a payment of remuneration is
9 ordinarily made to the individual by the person employing such individual.
10 This subsection (i)(4)(H) shall not be applicable with respect to services
11 with respect to which unemployment compensation is payable under an
12 unemployment compensation system established by an act of congress;

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

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

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

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

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

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

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

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

39 (O) service performed by an individual who is enrolled at a nonprofit
40 or public educational institution which normally maintains a regular
41 faculty and curriculum and normally has a regularly organized body of
42 students in attendance at the place where its educational activities are
43 carried on as a student in a full-time program, taken for credit at such

1 institution, which combines academic instruction with work experience, if
2 such service is an integral part of such program, and such institution has so
3 certified to the employer, except that this subsection (i)(4)(O) shall not
4 apply to service performed in a program established for or on behalf of an
5 employer or group of employers;

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

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

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

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

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

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

41 (T) service not in the course of the employer's trade or business
42 performed in any calendar quarter by an employee, unless the cash
43 remuneration paid for such service is \$200 or more and such service is

1 performed by an individual who is regularly employed by such employer
2 to perform such service. For purposes of this paragraph, an individual shall
3 be deemed to be regularly employed by an employer during a calendar
4 quarter only if:

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

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

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

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

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

20 (i) Such person:

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

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

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

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

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

40 (W) service performed as an election official or election worker, if the
41 amount of remuneration received by the individual during the calendar
42 year for services as an election official or election worker is less than
43 \$1,000;

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

4 (Y) service performed by an owner-operator of a motor vehicle that is
5 leased or contracted to a licensed motor carrier with the services of a
6 driver and is not treated under the terms of the lease agreement or contract
7 with the licensed motor carrier as an employee for purposes of the federal
8 insurance contribution act, 26 U.S.C. § 3101 *et seq.*, the federal social
9 security act, 42 U.S.C. § 301 *et seq.*, the federal unemployment tax act, 26
10 U.S.C. § 3301 *et seq.*, and the federal statutes prescribing income tax
11 withholding at the source, 26 U.S.C. § 3401 *et seq.* Employees or agents of
12 the owner-operator shall not be considered employees of the licensed
13 motor carrier for purposes of employment security taxation or
14 compensation. As used in this subsection (Y), the following definitions
15 apply: (i) "Motor vehicle" means any automobile, truck-trailer, semitrailer,
16 tractor, motor bus or any other self-propelled or motor-driven vehicle used
17 upon any of the public highways of Kansas for the purpose of transporting
18 persons or property; (ii) "licensed motor carrier" means any person, firm,
19 corporation or other business entity that holds a certificate of convenience
20 and necessity or a certificate of public service from the state corporation
21 commission or is required to register motor carrier equipment pursuant to
22 49 U.S.C. § 14504; and (iii) "owner-operator" means a person, firm,
23 corporation or other business entity that is the owner of a single motor
24 vehicle that is driven exclusively by the owner under a lease agreement or
25 contract with a licensed motor carrier.

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

29 (k) "Fund" means the employment security fund established by this
30 act, to which all contributions and reimbursement payments required and
31 from which all benefits provided under this act shall be paid and including
32 all money received from the federal government as reimbursements
33 pursuant to section 204 of the federal-state extended compensation act of
34 1970, and amendments thereto.

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

38 (m) "Unemployment." An individual shall be deemed "unemployed"
39 with respect to any week during which such individual performs no
40 services and with respect to which no wages are payable to such
41 individual, or with respect to any week of less than full-time work if the
42 wages payable to such individual with respect to such week are less than
43 such individual's weekly benefit amount.

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

4 (o) "Wages" means all compensation for services, including
5 commissions, bonuses, back pay and the cash value of all remuneration,
6 including benefits, paid in any medium other than cash. The reasonable
7 cash value of remuneration in any medium other than cash, shall be
8 estimated and determined in accordance with rules and regulations
9 prescribed by the secretary. Compensation payable to an individual which
10 has not been actually received by that individual within 21 days after the
11 end of the pay period in which the compensation was earned shall be
12 considered to have been paid on the 21st day after the end of that pay
13 period. Effective January 1, 1986, gratuities, including tips received from
14 persons other than the employing unit, shall be considered wages when
15 reported in writing to the employer by the employee. Employees must
16 furnish a written statement to the employer, reporting all tips received if
17 they total \$20 or more for a calendar month whether the tips are received
18 directly from a person other than the employer or are paid over to the
19 employee by the employer. This includes amounts designated as tips by a
20 customer who uses a credit card to pay the bill. Notwithstanding the other
21 provisions of this subsection (o), wages paid in back pay awards or
22 settlements shall be allocated to the week or weeks and reported in the
23 manner as specified in the award or agreement, or, in the absence of such
24 specificity in the award or agreement, such wages shall be allocated to the
25 week or weeks in which such wages, in the judgment of the secretary,
26 would have been paid. The term "wages" shall not include:

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

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

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

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

22 (A) From or to a trust described in section 401(a) of the federal
23 internal revenue code of 1986 which is exempt from tax under section
24 501(a) of the federal internal revenue code of 1986 at the time of such
25 payment unless such payment is made to an employee of the trust as
26 remuneration for services rendered as such employee and not as a
27 beneficiary of the trust;

28 (B) under or to an annuity plan which, at the time of such payment, is
29 a plan described in section 403(a) of the federal internal revenue code of
30 1986;

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

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

39 (E) under or to an exempt governmental deferred compensation plan
40 as defined in section 3121(v)(3) of the federal internal revenue code of
41 1986;

42 (F) to supplement pension benefits under a plan or trust described in
43 any of the foregoing provisions of this subparagraph to take into account

1 some portion or all of the increase in the cost of living, as determined by
2 the secretary of labor, since retirement but only if such supplemental
3 payments are under a plan which is treated as a welfare plan under section
4 3(2)(B)(ii) of the federal employee retirement income security act of 1974;
5 or

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

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

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

15 (7) remuneration paid to or on behalf of an employee if and to the
16 extent that at the time of the payment of such remuneration it is reasonable
17 to believe that a corresponding deduction is allowable under section 217 of
18 the federal internal revenue code of 1986 relating to moving expenses;

19 (8) any payment or series of payments by an employer to an
20 employee or any of such employee's dependents which is paid:

21 (A) Upon or after the termination of an employee's employment
22 relationship because of (i) death or (ii) retirement for disability; and

23 (B) under a plan established by the employer which makes provisions
24 for employees generally, a class or classes of employees or for such
25 employees or a class or classes of employees and their dependents, other
26 than any such payment or series of payments which would have been paid
27 if the employee's employment relationship had not been so terminated;

28 (9) remuneration for agricultural labor paid in any medium other than
29 cash;

30 (10) any payment made, or benefit furnished, to or for the benefit of
31 an employee if at the time of such payment or such furnishing it is
32 reasonable to believe that the employee will be able to exclude such
33 payment or benefit from income under section 129 of the federal internal
34 revenue code of 1986 which relates to dependent care assistance programs;

35 (11) the value of any meals or lodging furnished by or on behalf of
36 the employer if at the time of such furnishing it is reasonable to believe
37 that the employee will be able to exclude such items from income under
38 section 119 of the federal internal revenue code of 1986;

39 (12) any payment made by an employer to a survivor or the estate of
40 a former employee after the calendar year in which such employee died;

41 (13) any benefit provided to or on behalf of an employee if at the time
42 such benefit is provided it is reasonable to believe that the employee will
43 be able to exclude such benefit from income under section 74(c), 117 or

1 132 of the federal internal revenue code of 1986;

2 (14) any payment made, or benefit furnished, to or for the benefit of
3 an employee, if at the time of such payment or such furnishing it is
4 reasonable to believe that the employee will be able to exclude such
5 payment or benefit from income under section 127 of the federal internal
6 revenue code of 1986 relating to educational assistance to the employee; or

7 (15) any payment made to or for the benefit of an employee if at the
8 time of such payment it is reasonable to believe that the employee will be
9 able to exclude such payment from income under section 106(d) of the
10 federal internal revenue code of 1986 relating to health savings accounts.

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

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

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

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

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

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

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

1 corporations organized under the laws of the United States or of any state.

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

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

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

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

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

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

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

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

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

40 (B) In the employ of the owner or tenant or other operator of a farm,
41 in connection with the operating, management, conservation,
42 improvement, or maintenance of such farm and its tools and equipment, or
43 in salvaging timber or clearing land of brush and other debris left by a

1 hurricane, if the major part of such service is performed on a farm.

2 (C) In connection with the production or harvesting of any
3 commodity defined as an agricultural commodity in section (15)(g) of the
4 agricultural marketing act, as amended (46 Stat. 1500, sec. 3; 12 U.S.C. §
5 1141j) or in connection with the ginning of cotton, or in connection with
6 the operation or maintenance of ditches, canals, reservoirs or waterways,
7 not owned or operated for profit, used exclusively for supplying and
8 storing water for farming purposes.

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

15 (ii) in the employ of a group of operators of farms (or a cooperative
16 organization of which such operators are members) in the performance of
17 service described in paragraph (i) above of this subsection (w)(1)(D), but
18 only if such operators produced more than ½ of the commodity with
19 respect to which such service is performed;

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

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

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

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

36 (4) For the purpose of this section, if an employing unit does not
37 maintain sufficient records to separate agricultural labor from other
38 employment, all services performed during any pay period by an
39 individual for the person employing such individual shall be deemed to be
40 agricultural labor if services performed during ½ or more of such pay
41 period constitute agricultural labor; but if the services performed during
42 more than ½ of any such pay period by an individual for the person
43 employing such individual do not constitute agricultural labor, then none

1 of the services of such individual for such period shall be deemed to be
2 agricultural labor. As used in this subsection (w), the term "pay period"
3 means a period of not more than 31 consecutive days for which a payment
4 of remuneration is ordinarily made to the individual by the person
5 employing such individual.

6 (x) "Reimbursing employer" means any employer who makes
7 payments in lieu of contributions to the employment security fund as
8 provided in subsection (e) of K.S.A. 44-710, and amendments thereto.

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

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

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

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

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

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

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

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

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

1 employing unit.

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

6 Sec. 8. K.S.A. 2011 Supp. 44-706 is hereby amended to read as
7 follows: 44-706. An individual shall be disqualified for benefits:

8 (a) If the individual left work voluntarily without good cause
9 attributable to the work or the employer, subject to the other provisions of
10 this subsection. Failure to return to work after expiration of approved
11 personal or medical leave, or both, shall be considered a voluntary
12 resignation. After a temporary job assignment, failure of an individual to
13 affirmatively request an additional assignment on the next succeeding
14 workday, if required by the employment agreement, after completion of a
15 given work assignment, shall constitute leaving work voluntarily. The
16 disqualification shall begin the day following the separation and shall
17 continue until after the individual has become reemployed and has had
18 earnings from insured work of at least three times the individual's weekly
19 benefit amount. An individual shall not be disqualified under this
20 subsection if:

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

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

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

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

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

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

24 (7) the individual left work because of unwelcome harassment of the
25 individual by the employer or another employee of which the employing
26 unit had knowledge;

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

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

39 (10) the individual left work because of a violation of the work
40 agreement by the employing unit and, before the individual left, the
41 individual had exhausted all remedies provided in such agreement for the
42 settlement of disputes before terminating;

43 (11) after making reasonable efforts to preserve the work, the

1 individual left work due to a personal emergency of such nature and
2 compelling urgency that it would be contrary to good conscience to
3 impose a disqualification; or

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

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

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

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

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

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

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

21 (i) A restraining order or other documentation of equitable relief by a
22 court of competent jurisdiction; or

23 (ii) a police record documenting the abuse; or

24 (iii) documentation that the abuser has been convicted of one or more
25 of the offenses enumerated in ~~article~~ *articles 34 and 35 of chapter 21 of*
26 *the Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of*
27 *chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2011 Supp. 21-*
28 *6104, 21-6325, 21-6326 or 21-6418 through ~~2-6421~~ 21-6421, and*
29 *amendments thereto, where the victim was a family or household member;*
30 or

31 (iv) medical documentation of the abuse; or

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

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

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

42 (b) If the individual has been discharged for misconduct connected
43 with the individual's work. The disqualification shall begin the day

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

13 (1) For the purposes of this subsection, "misconduct" is defined as a
14 violation of a duty or obligation reasonably owed the employer as a
15 condition of employment. The term "gross misconduct" as used in this
16 subsection shall be construed to mean conduct evincing extreme, willful or
17 wanton misconduct as defined by this subsection. Failure of the employee
18 to notify the employer of an absence shall be considered *prima facie*
19 evidence of a violation of a duty or obligation reasonably owed the
20 employer as a condition of employment.

21 (2) For the purposes of this subsection, the use of or impairment
22 caused by alcoholic liquor, a cereal malt beverage or a nonprescribed
23 controlled substance by an individual while working shall be conclusive
24 evidence of misconduct and the possession of alcoholic liquor, a cereal
25 malt beverage or a nonprescribed controlled substance by an individual
26 while working shall be *prima facie* evidence of conduct which is a
27 violation of a duty or obligation reasonably owed to the employer as a
28 condition of employment. Alcoholic liquor shall be defined as provided in
29 K.S.A. 41-102, and amendments thereto. Cereal malt beverage shall be
30 defined as provided in K.S.A. 41-2701, and amendments thereto.
31 Controlled substance shall be defined as provided in K.S.A. 2011 Supp.
32 21-5701, and amendments thereto. As used in this paragraph, "required by
33 law" means required by a federal or state law, a federal or state rule or
34 regulation having the force and effect of law, a county resolution or
35 municipal ordinance, or a policy relating to public safety adopted in open
36 meeting by the governing body of any special district or other local
37 governmental entity. Chemical test shall include, but is not limited to, tests
38 of urine, blood or saliva. A positive chemical test shall mean a chemical
39 result showing a concentration at or above the levels listed in K.S.A. 44-
40 501, and amendments thereto, for the drugs or abuse listed therein. A
41 positive breath test shall mean a test result showing an alcohol
42 concentration of .04 or greater. Alcohol concentration means the number
43 of grams of alcohol per 210 liters of breath. An individual's refusal to

1 submit to a chemical test or breath alcohol test shall be conclusive
2 evidence of misconduct if the test meets the standards of the drug free
3 workplace act, 41 U.S.C. § 701 *et seq.*; the test was administered as part of
4 an employee assistance program or other drug or alcohol treatment
5 program in which the employee was participating voluntarily or as a
6 condition of further employment; the test was otherwise required by law
7 and the test constituted a required condition of employment for the
8 individual's job; the test was requested pursuant to a written policy of the
9 employer of which the employee had knowledge and was a required
10 condition of employment; or there was probable cause to believe that the
11 individual used, possessed or was impaired by alcoholic liquor, a cereal
12 malt beverage or a controlled substance while working. A positive breath
13 alcohol test or a positive chemical test shall be conclusive evidence to
14 prove misconduct if the following conditions are met:

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

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

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

42 (D) the chemical test was performed by a laboratory approved by the
43 United States department of health and human services or licensed by the

1 department of health and environment, except that a blood sample may be
2 tested for alcohol content by a laboratory commonly used for that purpose
3 by state law enforcement agencies;

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

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

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

15 (3) (A) For the purposes of this subsection, misconduct shall include,
16 but not be limited to, repeated absence, including incarceration, resulting
17 in absence from work of three days or longer, excluding Saturdays,
18 Sundays and legal holidays, and lateness, from scheduled work if the facts
19 show:

20 (i) The individual was absent without good cause;

21 (ii) the absence was in violation of the employer's written
22 absenteeism policy;

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

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

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

34 (4) An individual shall not be disqualified under this subsection if the
35 individual is discharged under the following circumstances:

36 (A) The employer discharged the individual after learning the
37 individual was seeking other work or when the individual gave notice of
38 future intent to quit;

39 (B) the individual was making a good-faith effort to do the assigned
40 work but was discharged due to: (i) Inefficiency, (ii) unsatisfactory
41 performance due to inability, incapacity or lack of training or experience,
42 (iii) isolated instances of ordinary negligence or inadvertence, (iv) good-
43 faith errors in judgment or discretion, or (v) unsatisfactory work or

1 conduct due to circumstances beyond the individual's control; or

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

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

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

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

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

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

32 (g) For the period of one year beginning with the first day following
33 the last week of unemployment for which the individual received benefits,
34 or for one year from the date the act was committed, whichever is the later,
35 if the individual, or another in such individual's behalf with the knowledge
36 of the individual, has knowingly made a false statement or representation,
37 or has knowingly failed to disclose a material fact to obtain or increase
38 benefits under this act or any other unemployment compensation law
39 administered by the secretary of labor.

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

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

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

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

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

42 (m) For any week on the basis of services performed by an alien
43 unless such alien is an individual who was lawfully admitted for

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

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

1 reduction shall be made for payments made under the social security act or
2 railroad retirement act of 1974.

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

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

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

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

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

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

43 (3) the individual is attending evening, weekend or limited day time

1 classes, which would not affect availability for work, and is otherwise
2 eligible under subsection (c) of K.S.A. 44-705, and amendments thereto.

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

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

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

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

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

37 Sec. 9. K.S.A. 2011 Supp. 59-2132 is hereby amended to read as
38 follows: 59-2132. (a) Except as provided in subsection (h), in independent
39 and agency adoptions, the court shall require the petitioner to obtain an
40 assessment of the advisability of the adoption by a court approved:

41 (1) (A) Licensed social worker, licensed specialist social worker,
42 licensed specialist clinical social worker, licensed masters social worker,
43 licensed baccalaureate social worker or licensed associate social worker

- 1 licensed by the behavioral sciences regulatory board;
- 2 (B) licensed clinical marriage and family therapist as defined in
3 K.S.A. 65-6402, and amendments thereto;
- 4 (C) licensed marriage and family therapist as defined in K.S.A. 65-
5 6402, and amendments thereto;
- 6 (D) licensed clinical professional counselor as defined in K.S.A. 65-
7 5802, and amendments thereto;
- 8 (E) licensed professional counselor as defined in K.S.A. 65-5802, and
9 amendments thereto;
- 10 (F) licensed psychologist as defined in K.S.A. 65-6319, and
11 amendments thereto;
- 12 (G) licensed masters level psychologist as defined in K.S.A. 74-5362,
13 and amendments thereto;
- 14 (H) licensed clinical psychotherapist as defined in K.S.A. 74-5363,
15 and amendments thereto; or
- 16 (I) a licensed child-placing agency.
- 17 (2) Any person performing an assessment pursuant to this subsection
18 shall:
- 19 (A) Possess a minimum of two years experience in adoption services
20 or be supervised by a person with such experience; or
- 21 (B) if licensed by the behavioral sciences regulatory board to
22 diagnose and treat mental disorders in independent practice, possess a
23 minimum of one year of experience in adoption services or be supervised
24 by a person with such experience.
- 25 (b) The petitioner shall file with the court, not less than 10 days
26 before the hearing on the petition, a report of the assessment and, if
27 necessary, confirmation or clarification of the information filed under
28 K.S.A. 59-2130, and amendments thereto.
- 29 (c) If there is no one authorized pursuant to this section available to
30 make the assessment and report to the court, the court may use the
31 department of social and rehabilitation services for that purpose.
- 32 (d) The costs of making the assessment and report may be assessed as
33 court costs in the case as provided in article 20 of chapter 60 of the Kansas
34 Statutes Annotated, and amendments thereto.
- 35 (e) In making the assessment, the person authorized pursuant to this
36 section or department of social and rehabilitation services is authorized to
37 observe the child in the petitioner's home, verify financial information of
38 the petitioner, shall clear the name of the petitioner with the child abuse
39 and neglect registry through the department of social and rehabilitation
40 services and, when appropriate, with a similar registry in another state or
41 nation, shall determine whether the petitioner has been convicted of a
42 felony for any act described in articles 34, 35 or 36 of chapter 21 of the
43 Kansas Statutes Annotated, prior to their repeal, or articles 54, 55 or 56 of

1 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2011 Supp. 21-
2 6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments
3 thereto, or, within the last five years been convicted of a felony violation
4 of K.S.A. 2010 Supp. 21-36a01 through 21-36a17, *prior to their transfer,*
5 *or article 57 of chapter 21 of the Kansas Statutes Annotated,* and
6 amendments thereto, or any felony violation of any provision of the
7 uniform controlled substances act prior to July 1, 2009, and, when
8 appropriate, any similar conviction in another jurisdiction, and to contact
9 the agency or individuals consenting to the adoption and confirm and, if
10 necessary, clarify any genetic and medical history filed with the petition.
11 This information shall be made a part of the report to the court. The report
12 to the court by any person authorized pursuant to this section to perform
13 this assessment shall include the results of the investigation of the
14 petitioner, the petitioner's home and the ability of the petitioner to care for
15 the child.

16 (f) In the case of a nonresident who is filing a petition to adopt a child
17 in Kansas, the assessment and report required by this section must be
18 completed in the petitioner's state of residence by a person authorized in
19 that state to conduct such assessments. Such report shall be filed with the
20 court not less than 10 days before the hearing on the petition.

21 (g) The assessment and report required by this section shall comply
22 with any applicable rules and regulations of the department of health and
23 environment and shall have been completed not more than one year prior
24 to the filing of the petition for adoption.

25 (h) The assessment and report required by this section may be waived
26 by the court upon: (1) Review of a petition requesting such waiver by a
27 relative of the child; or

28 (2) the court's own motion.

29 Sec. 10. K.S.A. 2011 Supp. 65-516, as amended by section 5 of 2012
30 House Bill No. 2660, is hereby amended to read as follows: 65-516. (a) No
31 person shall knowingly maintain a child care facility if, there resides,
32 works or regularly volunteers any person who in this state or in other states
33 or the federal government:

34 (1) (A) Has a felony conviction for a crime against persons; (B) has a
35 felony conviction under K.S.A. 2010 Supp. 21-36a01 through 21-36a17,
36 *prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes*
37 *Annotated,* and amendments thereto, or any felony violation of any
38 provision of the uniform controlled substances act prior to July 1, 2009;
39 (C) has a conviction of any act which is described in articles 34, 35 or 36
40 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or
41 article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or
42 K.S.A. 2011 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-
43 6421, and amendments thereto, or a conviction of an attempt under K.S.A.

1 21-3301, prior to its repeal, or K.S.A. 2011 Supp. 21-5301, and
2 amendments thereto, to commit any such act or a conviction of conspiracy
3 under K.S.A. 21-3302, prior to its repeal, or K.S.A. 2011 Supp. 21-5302,
4 and amendments thereto, to commit such act, or similar statutes of other
5 states or the federal government; or (D) has been convicted of any act
6 which is described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or
7 K.S.A. 2011 Supp. 21-6401, and amendments thereto, or similar statutes of
8 other states or the federal government;

9 (2) has been adjudicated a juvenile offender because of having
10 committed an act which if done by an adult would constitute the
11 commission of a felony and which is a crime against persons, is any act
12 described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes
13 Annotated, prior to their repeal, or article 54, 55 or 56 of chapter 21 of the
14 Kansas Statutes Annotated, or K.S.A. 2011 Supp. 21-6104, 21-6325, 21-
15 6326 or 21-6418 through 21-6421, and amendments thereto, or similar
16 statutes of other states or the federal government, or is any act described in
17 K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2011 Supp.
18 21-6401, and amendments thereto, or similar statutes of other states or the
19 federal government;

20 (3) has committed an act of physical, mental or emotional abuse or
21 neglect or sexual abuse and who is listed in the child abuse and neglect
22 registry maintained by the department of social and rehabilitation services
23 pursuant to K.S.A. 2011 Supp. 38-2226, and amendments thereto, and (A)
24 the person has failed to successfully complete a corrective action plan
25 which had been deemed appropriate and approved by the department of
26 social and rehabilitation services, or (B) the record has not been expunged
27 pursuant to rules and regulations adopted by the secretary of social and
28 rehabilitation services;

29 (4) has had a child removed from home based on a court order
30 pursuant to K.S.A. 2011 Supp. 38-2251, and amendments thereto, in this
31 state, or a court order in any other state based upon a similar statute that
32 finds the child to be deprived or a child in need of care based on a finding
33 of physical, mental or emotional abuse or neglect or sexual abuse and the
34 child has not been returned to the home or the child reaches majority
35 before being returned to the home and the person has failed to
36 satisfactorily complete a corrective action plan approved by the
37 department of health and environment;

38 (5) has had parental rights terminated pursuant to the Kansas juvenile
39 code or K.S.A. 2011 Supp. 38-2266 through 38-2270, and amendments
40 thereto, or a similar statute of other states;

41 (6) has signed a diversion agreement pursuant to K.S.A. 22-2906 *et*
42 *seq.*, and amendments thereto, or an immediate intervention agreement
43 pursuant to K.S.A. 2011 Supp. 38-2346, and amendments thereto,

1 involving a charge of child abuse or a sexual offense; or

2 (7) has an infectious or contagious disease.

3 (b) No person shall maintain a child care facility if such person has
4 been found to be a person in need of a guardian or a conservator, or both,
5 as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto.

6 (c) Any person who resides in a child care facility and who has been
7 found to be in need of a guardian or a conservator, or both, shall be
8 counted in the total number of children allowed in care.

9 (d) In accordance with the provisions of this subsection, the secretary
10 of health and environment shall have access to any court orders or
11 adjudications of any court of record, any records of such orders or
12 adjudications, criminal history record information including, but not
13 limited to, diversion agreements, in the possession of the Kansas bureau of
14 investigation and any report of investigations as authorized by K.S.A.
15 2011 Supp. 38-2226, and amendments thereto, in the possession of the
16 department of social and rehabilitation services or court of this state
17 concerning persons working, regularly volunteering or residing in a child
18 care facility. The secretary shall have access to these records for the
19 purpose of determining whether or not the home meets the requirements of
20 K.S.A. 59-2132, 65-503, 65-508 and 65-516, and amendments thereto.

21 (e) In accordance with the provisions of this subsection, the secretary
22 is authorized to conduct national criminal history record checks to
23 determine criminal history on persons residing, working or regularly
24 volunteering in a child care facility. In order to conduct a national criminal
25 history check the secretary shall require fingerprinting for identification
26 and determination of criminal history. The secretary shall submit the
27 fingerprints to the Kansas bureau of investigation and to the federal bureau
28 of investigation and receive a reply to enable the secretary to verify the
29 identity of such person and whether such person has been convicted of any
30 crime that would prohibit such person from residing, working or regularly
31 volunteering in a child care facility. The secretary is authorized to use
32 information obtained from the national criminal history record check to
33 determine such person's fitness to reside, work or regularly volunteer in a
34 child care facility.

35 (f) The secretary shall notify the child care applicant or licensee,
36 within seven days by certified mail with return receipt requested, when the
37 result of the national criminal history record check or other appropriate
38 review reveals unfitness specified in subsection (a)(1) through (7) with
39 regard to the person who is the subject of the review.

40 (g) No child care facility or the employees thereof, shall be liable for
41 civil damages to any person refused employment or discharged from
42 employment by reason of such facility's or home's compliance with the
43 provisions of this section if such home acts in good faith to comply with

1 this section.

2 (h) For the purpose of subsection (a)(3), a person listed in the child
3 abuse and neglect central registry shall not be prohibited from residing,
4 working or volunteering in a child care facility unless such person has: (1)
5 Had an opportunity to be interviewed and present information during the
6 investigation of the alleged act of abuse or neglect; and (2) been given
7 notice of the agency decision and an opportunity to appeal such decision to
8 the secretary and to the courts pursuant to the Kansas judicial review act.

9 (i) In regard to Kansas issued criminal history records:

10 (1) The secretary of health and environment shall provide in writing
11 information available to the secretary to each child placement agency
12 requesting information under this section, including the information
13 provided by the Kansas bureau of investigation pursuant to this section, for
14 the purpose of assessing the fitness of persons living, working or regularly
15 volunteering in a family foster home under the child placement agency's
16 sponsorship.

17 (2) The child placement agency is considered to be a governmental
18 entity and the designee of the secretary of health and environment for the
19 purposes of obtaining, using and disseminating information obtained under
20 this section.

21 (3) The information shall be provided to the child placement agency
22 regardless of whether the information discloses that the subject of the
23 request has been convicted of any offense.

24 (4) Whenever the information available to the secretary reveals that
25 the subject of the request has no criminal history on record, the secretary
26 shall provide notice thereof in writing to each child placement agency
27 requesting information under this section.

28 (5) Any staff person of a child placement agency who receives
29 information under this subsection shall keep such information confidential,
30 except that the staff person may disclose such information on a need-to-
31 know basis to: (A) The person who is the subject of the request for
32 information; (B) the applicant or operator of the family foster home in
33 which the person lives, works or regularly volunteers; (C) the department
34 of health and environment; (D) the department of social and rehabilitation
35 services; (E) the juvenile justice authority; and (F) the courts.

36 (6) A violation of the provisions of subsection (i)(5) shall be an
37 unclassified misdemeanor punishable by a fine of \$100 for each violation.

38 (j) No person shall maintain a day care facility unless such person is a
39 high school graduate or the equivalent thereof, except where extraordinary
40 circumstances exist, the secretary of health and environment may exercise
41 discretion to make exceptions to this requirement. The provisions of this
42 subsection shall not apply to any person who was maintaining a day care
43 facility on the day immediately prior to July 1, 2010 or who had an

1 application for an initial license or the renewal of an existing license
2 pending on July 1, 2010.

3 Sec. 11. K.S.A. 2011 Supp. 65-4915, as amended by section 51 of
4 2012 Substitute for Senate Bill No. 397, is hereby amended to read as
5 follows: 65-4915. (a) As used in this section:

6 (1) "Health care provider" means: (A) Those persons and entities
7 defined as a health care provider under K.S.A. 40-3401, and amendments
8 thereto; and (B) a dentist licensed by the Kansas dental board, a dental
9 hygienist licensed by the Kansas dental board, a professional nurse
10 licensed by the board of nursing, a practical nurse licensed by the board of
11 nursing, a mental health technician licensed by the board of nursing, a
12 physical therapist licensed by the state board of healing arts, a physical
13 therapist assistant certified by the state board of healing arts, an
14 occupational therapist licensed by the state board of healing arts, an
15 occupational therapy assistant licensed by the state board of healing arts, a
16 respiratory therapist licensed by the state board of healing arts, a physician
17 assistant licensed by the state board of healing arts and attendants and
18 ambulance services certified by the emergency medical services board.

19 (2) "Health care provider group" means:

20 (A) A state or local association of health care providers or one or
21 more committees thereof;

22 (B) the board of governors created under K.S.A. 40-3403, and
23 amendments thereto;

24 (C) an organization of health care providers formed pursuant to state
25 or federal law and authorized to evaluate medical and health care services;

26 (D) a review committee operating pursuant to K.S.A. 65-2840c, and
27 amendments thereto;

28 (E) an organized medical staff of a licensed medical care facility as
29 defined by K.S.A. 65-425, and amendments thereto, an organized medical
30 staff of a private psychiatric hospital licensed under K.S.A. 75-3307b, and
31 amendments thereto, or an organized medical staff of a state psychiatric
32 hospital or state institution for people with intellectual disability, as
33 follows: Larned state hospital, Osawatomie state hospital, Rainbow mental
34 health facility, Kansas neurological institute and Parsons state hospital and
35 training center;

36 (F) a health care provider;

37 (G) a professional society of health care providers or one or more
38 committees thereof;

39 (H) a Kansas corporation whose stockholders or members are health
40 care providers or an association of health care providers, which
41 corporation evaluates medical and health care services; ~~or~~

42 (I) an insurance company, health maintenance organization or
43 administrator of a health benefits plan which engages in any of the

1 functions defined as peer review under this section; *or*

2 (J) *the university of Kansas medical center.*

3 (3) "Peer review" means any of the following functions:

4 (A) Evaluate and improve the quality of health care services rendered
5 by health care providers;

6 (B) determine that health services rendered were professionally
7 indicated or were performed in compliance with the applicable standard of
8 care;

9 (C) determine that the cost of health care rendered was considered
10 reasonable by the providers of professional health services in this area;

11 (D) evaluate the qualifications, competence and performance of the
12 providers of health care or to act upon matters relating to the discipline of
13 any individual provider of health care;

14 (E) reduce morbidity or mortality;

15 (F) establish and enforce guidelines designed to keep within
16 reasonable bounds the cost of health care;

17 (G) conduct of research;

18 (H) determine if a hospital's facilities are being properly utilized;

19 (I) supervise, discipline, admit, determine privileges or control
20 members of a hospital's medical staff;

21 (J) review the professional qualifications or activities of health care
22 providers;

23 (K) evaluate the quantity, quality and timeliness of health care
24 services rendered to patients in the facility;

25 (L) evaluate, review or improve methods, procedures or treatments
26 being utilized by the medical care facility or by health care providers in a
27 facility rendering health care.

28 (4) "Peer review officer or committee" means:

29 (A) An individual employed, designated or appointed by, or a
30 committee of or employed, designated or appointed by, a health care
31 provider group and authorized to perform peer review; or

32 (B) a health care provider monitoring the delivery of health care at
33 correctional institutions under the jurisdiction of the secretary of
34 corrections.

35 (b) Except as provided by K.S.A. 60-437, and amendments thereto,
36 and by subsections (c) and (d), the reports, statements, memoranda,
37 proceedings, findings and other records submitted to or generated by peer
38 review committees or officers shall be privileged and shall not be subject
39 to discovery, subpoena or other means of legal compulsion for their release
40 to any person or entity or be admissible in evidence in any judicial or
41 administrative proceeding. Information contained in such records shall not
42 be discoverable or admissible at trial in the form of testimony by an
43 individual who participated in the peer review process. The peer review

1 officer or committee creating or initially receiving the record is the holder
2 of the privilege established by this section. This privilege may be claimed
3 by the legal entity creating the peer review committee or officer, or by the
4 commissioner of insurance for any records or proceedings of the board of
5 governors.

6 (c) Subsection (b) shall not apply to proceedings in which a health
7 care provider contests the revocation, denial, restriction or termination of
8 staff privileges or the license, registration, certification or other
9 authorization to practice of the health care provider. A licensing agency in
10 conducting a disciplinary proceeding in which admission of any peer
11 review committee report, record or testimony is proposed shall hold the
12 hearing in closed session when any such report, record or testimony is
13 disclosed. Unless otherwise provided by law, a licensing agency
14 conducting a disciplinary proceeding may close only that portion of the
15 hearing in which disclosure of a report or record privileged under this
16 section is proposed. In closing a portion of a hearing as provided by this
17 section, the presiding officer may exclude any person from the hearing
18 location except the licensee, the licensee's attorney, the agency's attorney,
19 the witness, the court reporter and appropriate staff support for either
20 counsel. The licensing agency shall make the portions of the agency record
21 in which such report or record is disclosed subject to a protective order
22 prohibiting further disclosure of such report or record. Such report or
23 record shall not be subject to discovery, subpoena or other means of legal
24 compulsion for their release to any person or entity. No person in
25 attendance at a closed portion of a disciplinary proceeding shall at a
26 subsequent civil, criminal or administrative hearing, be required to testify
27 regarding the existence or content of a report or record privileged under
28 this section which was disclosed in a closed portion of a hearing, nor shall
29 such testimony be admitted into evidence in any subsequent civil, criminal
30 or administrative hearing. A licensing agency conducting a disciplinary
31 proceeding may review peer review committee records, testimony or
32 reports but must prove its findings with independently obtained testimony
33 or records which shall be presented as part of the disciplinary proceeding
34 in open meeting of the licensing agency. Offering such testimony or
35 records in an open public hearing shall not be deemed a waiver of the peer
36 review privilege relating to any peer review committee testimony, records
37 or report.

38 (d) Nothing in this section shall limit the authority, which may
39 otherwise be provided by law, of the commissioner of insurance, the state
40 board of healing arts or other health care provider licensing or disciplinary
41 boards of this state to require a peer review committee or officer to report
42 to it any disciplinary action or recommendation of such committee or
43 officer; to transfer to it records of such committee's or officer's

1 proceedings or actions to restrict or revoke the license, registration,
2 certification or other authorization to practice of a health care provider; or
3 to terminate the liability of the fund for all claims against a specific health
4 care provider for damages for death or personal injury pursuant to
5 subsection (i) of K.S.A. 40-3403, and amendments thereto. Reports and
6 records so furnished shall not be subject to discovery, subpoena or other
7 means of legal compulsion for their release to any person or entity and
8 shall not be admissible in evidence in any judicial or administrative
9 proceeding other than a disciplinary proceeding by the state board of
10 healing arts or other health care provider licensing or disciplinary boards
11 of this state.

12 (e) A peer review committee or officer may report to and discuss its
13 activities, information and findings to other peer review committees or
14 officers or to a board of directors or an administrative officer of a health
15 care provider without waiver of the privilege provided by subsection (b)
16 and the records of all such committees or officers relating to such report
17 shall be privileged as provided by subsection (b).

18 (f) Nothing in this section shall be construed to prevent an insured
19 from obtaining information pertaining to payment of benefits under a
20 contract with an insurance company, a health maintenance organization or
21 an administrator of a health benefits plan.

22 Sec. 12. K.S.A. 2011 Supp. 65-6805, as amended by section 54 of
23 2012 Substitute for Senate Bill No. 397, is hereby amended to read as
24 follows: 65-6805. Each medical care facility as defined by subsection (h)
25 of K.S.A. 65-425, and amendments thereto; health care provider as defined
26 in K.S.A. 40-3401, and amendments thereto; providers of health care as
27 defined in subsection (f) of K.S.A. 65-5001, and amendments thereto;
28 health care personnel as defined in subsection (e) of K.S.A. 65-5001, and
29 amendments thereto; home health agency as defined by subsection (b) of
30 K.S.A. 65-5101, and amendments thereto; psychiatric hospitals licensed
31 under K.S.A. 75-3307b, and amendments thereto; state institutions for
32 people with intellectual disability; community facilities for people with
33 intellectual disability as defined under K.S.A. 65-4412, and amendments
34 thereto; community mental health center as defined under K.S.A. 65-4432,
35 and amendments thereto; adult care homes as defined by K.S.A. 39-923,
36 and amendments thereto; laboratories described in K.S.A. 65-1,107, and
37 amendments thereto; pharmacies; board of nursing; Kansas dental board;
38 board of examiners in optometry; state board of pharmacy; state board of
39 healing arts and third-party payors, including, but not limited to, licensed
40 insurers, medical and hospital service corporations, health maintenance
41 organizations, fiscal intermediaries for government-funded programs and
42 self-funded employee health plans, shall file health care data with the
43 ~~Kansas health policy authority~~ *department of health and environment* as

1 prescribed by the ~~authority~~ *secretary of health and environment*. The
2 provisions of this section shall not apply to any individual, facility or other
3 entity under this section which uses spiritual means through prayer alone
4 in accordance with the tenets and practices of a recognized church or
5 religious denomination for the treatment or cure of disease.

6 Sec. 13. K.S.A. 2011 Supp. 68-1051, as amended by section 2 of
7 2012 House Bill No. 2441, is hereby amended to read as follows: 68-1051.
8 The portion of United States highway 75 where it enters the state on the
9 Kansas-Nebraska border on the north then south to the junction with K-9
10 ~~then west to the junction of K-9 with K-62~~, then south *from the junction of*
11 *K-9 with K-62* to the junction of K-62 with K-16 then east to the junction
12 with United States highway 75 then south on United States highway 75 to
13 the southern city limits of Holton, then from the junction of United States
14 highway 75 and N.W. 46th street in Shawnee county then south on United
15 States highway 75 to the southern boundary of Osage county, then from
16 the northern boundary of Woodson county south on United States highway
17 75 to the Kansas-Oklahoma border, is hereby designated the purple
18 heart/combat wounded veterans highway. The secretary of transportation
19 shall place markers along the highway right-of-way at proper intervals to
20 indicate that the highway is the purple heart/combat wounded veterans
21 highway. The secretary of transportation may accept and administer gifts
22 and donations to aid in obtaining suitable highway signs bearing the proper
23 approved inscription.

24 Sec. 14. K.S.A. 2011 Supp. 72-1397 is hereby amended to read as
25 follows: 72-1397. (a) The state board of education shall not knowingly
26 issue a license to or renew the license of any person who has been
27 convicted of:

28 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
29 2011 Supp. 21-5503, and amendments thereto;

30 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
31 to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5506, and
32 amendments thereto;

33 (3) aggravated indecent liberties with a child, as defined in K.S.A.
34 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-
35 5506, and amendments thereto;

36 (4) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
37 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
38 2011 Supp. 21-5504, and amendments thereto;

39 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
40 to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5504, and
41 amendments thereto;

42 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
43 prior to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5508, and

1 amendments thereto;

2 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
3 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-
4 5508, and amendments thereto;

5 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
6 to its repeal, or K.S.A. 2011 Supp. 21-5510, and amendments thereto;

7 (9) aggravated incest, as defined in K.S.A. 21-3603, prior to its
8 repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5604, and amendments
9 thereto;

10 (10) aggravated endangering a child, as defined in K.S.A. 21-3608a,
11 prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5601, and
12 amendments thereto;

13 (11) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
14 or K.S.A. 2011 Supp. 21-5602, and amendments thereto;

15 (12) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
16 or K.S.A. 2011 Supp. 21-5401, and amendments thereto;

17 (13) murder in the first degree, as defined in K.S.A. 21-3401, prior to
18 its repeal, or K.S.A. 2011 Supp. 21-5402, and amendments thereto;

19 (14) murder in the second degree, as defined in K.S.A. 21-3402, prior
20 to its repeal, or K.S.A. 2011 Supp. 21-5403, and amendments thereto;

21 (15) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
22 its repeal, or K.S.A. 2011 Supp. 21-5404, and amendments thereto;

23 (16) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
24 its repeal, or K.S.A. 2011 Supp. 21-5405, and amendments thereto;

25 (17) involuntary manslaughter while driving under the influence of
26 alcohol or drugs, as defined in K.S.A. 21-3442, prior to its repeal;

27 (18) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
28 or subsection (a) of K.S.A. 2011 Supp. 21-5505, and amendments thereto,
29 when, at the time the crime was committed, the victim was less than 18
30 years of age or a student of the person committing such crime;

31 (19) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
32 its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5505, and
33 amendments thereto;

34 (20) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2011
35 Supp. 21-5301, and amendments thereto, to commit any act specified in
36 this subsection;

37 (21) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.
38 2011 Supp. 21-5302, and amendments thereto, to commit any act specified
39 in this subsection;

40 (22) an act in another state or by the federal government that is
41 comparable to any act described in this subsection; or

42 (23) an offense in effect at any time prior to the effective date of this
43 act that is comparable to an offense as provided in this subsection.

1 (b) Except as provided in subsection (c), the state board of education
2 shall not knowingly issue a license to or renew the license of any person
3 who has been convicted of, or has entered into a criminal diversion
4 agreement after having been charged with:

5 (1) A felony under K.S.A. 2010 Supp. 21-36a01 through 21-36a17,
6 *prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes*
7 *Annotated*, and amendments thereto, or any felony violation of any
8 provision of the uniform controlled substances act prior to July 1, 2009;

9 (2) a felony described in any section of article 34 of chapter 21 of the
10 Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21
11 of the Kansas Statutes Annotated, or K.S.A. 2011 Supp. 21-6104, 21-6325,
12 21-6326 or 21-6418, and amendments thereto, other than an act specified
13 in subsection (a), or a battery, as described in K.S.A. 21-3412, prior to its
14 repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5413, and amendments
15 thereto, or domestic battery, as described in K.S.A. 21-3412a, prior to its
16 repeal, or K.S.A. 2011 Supp. 21-5414, and amendments thereto, if the
17 victim is a minor or student;

18 (3) a felony described in any section of article 35 of chapter 21 of the
19 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21
20 of the Kansas Statutes Annotated, or K.S.A. 2011 Supp. 21-6419 through
21 21-6421, and amendments thereto, other than an act specified in
22 subsection (a);

23 (4) any act described in any section of article 36 of chapter 21 of the
24 Kansas Statutes Annotated, prior to their repeal, or article 56 of chapter 21
25 of the Kansas Statutes Annotated, and amendments thereto, other than an
26 act specified in subsection (a);

27 (5) a felony described in article 37 of chapter 21 of the Kansas
28 Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the
29 Kansas Statutes Annotated, or subsection (a)(6) of K.S.A. 2011 Supp. 21-
30 6412, and amendments thereto;

31 (6) promoting obscenity, as described in K.S.A. 21-4301, prior to its
32 repeal, or subsection (a) of K.S.A. 2011 Supp. 21-6401, and amendments
33 thereto, promoting obscenity to minors, as described in K.S.A. 21-4301a,
34 prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-6401, and
35 amendments thereto, or promoting to minors obscenity harmful to minors,
36 as described in K.S.A. 21-4301c, prior to its repeal, or K.S.A. 2011 Supp.
37 21-6402, and amendments thereto;

38 (7) endangering a child, as defined in K.S.A. 21-3608, prior to its
39 repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5601, and amendments
40 thereto;

41 (8) driving under the influence of alcohol or drugs in violation of
42 K.S.A. 8-1567 or 8-2,144, and amendments thereto, when the violation is
43 punishable as a felony;

1 (9) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2011
2 Supp. 21-5301, and amendments thereto, to commit any act specified in
3 this subsection;

4 (10) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.
5 2011 Supp. 21-5302, and amendments thereto, to commit any act specified
6 in this subsection; or

7 (11) an act committed in violation of a federal law or in violation of
8 another state's law that is comparable to any act described in this
9 subsection.

10 (c) The state board of education may issue a license to or renew the
11 license of a person who has been convicted of committing an offense or
12 act described in subsection (b) or who has entered into a criminal diversion
13 agreement after having been charged with an offense or act described in
14 subsection (b) if the state board determines, following a hearing, that the
15 person has been rehabilitated for a period of at least five years from the
16 date of conviction of the offense or commission of the act or, in the case of
17 a person who has entered into a criminal diversion agreement, that the
18 person has satisfied the terms and conditions of the agreement. The state
19 board of education may consider factors including, but not limited to, the
20 following in determining whether to grant a license:

21 (1) The nature and seriousness of the offense or act;

22 (2) the conduct of the person subsequent to commission of the
23 offense or act;

24 (3) the time elapsed since the commission of the offense or act;

25 (4) the age of the person at the time of the offense or act;

26 (5) whether the offense or act was an isolated or recurring incident;
27 and

28 (6) discharge from probation, pardon or expungement.

29 (d) Before any license is denied by the state board of education for
30 any of the offenses or acts specified in subsections (a) and (b), the person
31 shall be given notice and an opportunity for a hearing in accordance with
32 the provisions of the Kansas administrative procedure act.

33 (e) The county or district attorney shall file a report with the state
34 board of education indicating the name, address and social security
35 number of any person who has been determined to have committed any
36 offense or act specified in subsection (a) or (b) or to have entered into a
37 criminal diversion agreement after having been charged with any offense
38 or act specified in subsection (b). Such report shall be filed within 30 days
39 of the date of the determination that the person has committed any such act
40 or entered into any such diversion agreement.

41 (f) The state board of education shall not be liable for civil damages
42 to any person refused issuance or renewal of a license by reason of the
43 state board's compliance, in good faith, with the provisions of this section.

1 Sec. 15. K.S.A. 2011 Supp. 72-5445 is hereby amended to read as
2 follows: 72-5445. (a) (1) Subject to the provisions of subsections (b) and
3 (c), the provisions of K.S.A. 72-5438 through 72-5443, and amendments
4 thereto, apply only to: (A) Teachers who have completed not less than
5 three consecutive years of employment, and been offered a fourth contract,
6 in the school district, area vocational-technical school or community
7 college by which any such teacher is currently employed; and (B) teachers
8 who have completed not less than two consecutive years of employment,
9 and been offered a third contract, in the school district, area vocational-
10 technical school or community college by which any such teacher is
11 currently employed if at any time prior to the current employment the
12 teacher has completed the years of employment requirement of subpart (A)
13 in any school district, area vocational-technical school or community
14 college in this state.

15 (2) Any board may waive, at any time, the years of employment
16 requirements of provision (1) for any teacher employed by it.

17 (3) The provisions of this subsection are subject to the provisions of
18 K.S.A. 72-5446, and amendments thereto.

19 (b) The provisions of K.S.A. 72-5438 through 72-5443, and
20 amendments thereto, do not apply to any teacher whose license has been
21 nonrenewed or revoked by the state board of education for the reason that
22 the teacher: (1) Has been convicted of a felony under K.S.A. 2010 Supp.
23 21-36a01 through 21-36a17, *prior to their transfer, or article 57 of*
24 *chapter 21 of the Kansas Statutes Annotated*, and amendments thereto, or
25 any felony violation of any provision of the uniform controlled substances
26 act prior to July 1, 2009; (2) has been convicted of a felony described in
27 any section of article 34 of chapter 21 of the Kansas Statutes Annotated,
28 prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes
29 Annotated, *or* K.S.A. 2011 Supp. 21-6104, 21-6325, 21-6326 or 21-6418,
30 and amendments thereto, or an act described in K.S.A. 21-3412, *prior to*
31 *its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5413*, or K.S.A. 21-
32 3412a, prior to ~~their~~ *its* repeal, or K.S.A. 2011 Supp. ~~21-5413~~ *or* 21-5414,
33 and amendments thereto, if the victim is a minor or student; (3) has been
34 convicted of a felony described in any section of article 35 of chapter 21 of
35 the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter
36 21 of the Kansas Statutes Annotated, or K.S.A. 2011 Supp. 21-6419
37 through 21-6421, and amendments thereto, or has been convicted of an act
38 described in K.S.A. 21-3517, prior to its repeal, or *subsection (a) of* K.S.A.
39 2011 Supp. 21-5505, and amendments thereto, if the victim is a minor or
40 student; (4) has been convicted of any act described in any section of
41 article 36 of chapter 21 of the Kansas Statutes Annotated, prior to their
42 repeal, or article 56 of chapter 21 of the Kansas Statutes Annotated, and
43 amendments thereto; (5) has been convicted of a felony described in article

1 37 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or
2 article 58 of chapter 21 of the Kansas Statutes Annotated ~~and~~ *or* subsection
3 (a)(6) of K.S.A. 2011 Supp. 21-6412, and amendments thereto; (6) has
4 been convicted of an attempt under K.S.A. 21-3301, prior to ~~their~~ *its*
5 repeal, or K.S.A. 2011 Supp. 21-5301, and amendments thereto, to commit
6 any act specified in this subsection; (7) has been convicted of any act
7 which is described in K.S.A. 21-4301, 21-4301a or 21-4301c, prior to their
8 repeal, or K.S.A. 2011 Supp. 21-6401 or 21-6402, and amendments
9 thereto; (8) has been convicted in another state or by the federal
10 government of an act similar to any act described in this subsection; or (9)
11 has entered into a criminal diversion agreement after having been charged
12 with any offense described in this subsection.

13 (c) (1) The provisions of this subsection shall apply to a teacher
14 described in subsection (a)(1)(A) of this section. After a teacher has
15 completed not less than three consecutive years of employment and if the
16 requirements of paragraph (2) have been satisfied, the board of education
17 of the school district and the teacher may enter into an agreement under
18 which the school district may offer the teacher a contract of employment
19 for a fourth year or a fourth and fifth year and the teacher agrees that the
20 provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto,
21 shall not apply to such teacher unless a sixth contract is offered to the
22 teacher.

23 (2) A school district offering a contract pursuant to this subsection
24 shall prepare a written plan of assistance for the teacher being offered such
25 contract and shall submit such plan of assistance to the teacher at the time
26 such contract is offered. Prior to signing or rejecting a contract, the teacher
27 shall have not less than 48 hours from the time the contract is offered to
28 review and consider the contract and the plan of assistance. The plan of
29 assistance shall be written to address those areas of teacher performance
30 where the school district believes the teacher's performance is less than
31 satisfactory.

32 (3) If an agreement under this subsection is reached by the teacher
33 and the school district, then the school district shall file annually a report
34 with the state board of education which shall contain the following
35 information in subparagraphs (A) through (D):

36 (A) The number of teachers that were offered by the school district a
37 contract under subsection (a)(1)(A) of this section;

38 (B) the number of teachers that were offered by the school district an
39 agreement under this subsection;

40 (C) the number of teachers that accepted the agreement under this
41 subsection;

42 (D) the number of teachers that were not offered by the school district
43 either a contract under subsection (a)(1)(A) of this section or an agreement

1 under this subsection.

2 (4) In addition to the reports required under paragraph (3), each
3 school district shall report annually to the state board of education, the
4 committee on education of the senate and the committee on education of
5 the house of representatives the number of contracts issued under
6 subsection (a) which result in the application of K.S.A. 72-5438 through
7 72-5443, and amendments thereto, to the teachers who receive such
8 contracts and the year of employment for which the contract is issued.

9 (5) The provisions of this subsection shall expire on July 1, 2016.

10 Sec. 16. K.S.A. 2011 Supp. 74-5602, as amended by section 2 of
11 2012 House Bill No. 2496, is hereby amended to read as follows: 74-5602.
12 As used in the Kansas law enforcement training act:

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

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

19 (c) ~~"Dean Chancellor"~~ means the ~~dean of continuing education~~
20 *chancellor* of the university of Kansas, *or the chancellor's designee*.

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

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

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

28 (g) "Police officer" or "law enforcement officer" means a full-time or
29 part-time salaried officer or employee of the state, a county or a city,
30 whose duties include the prevention or detection of crime and the
31 enforcement of the criminal or traffic laws of this state or of any
32 municipality thereof. Such terms shall include, but not be limited to: The
33 sheriff, undersheriff and full-time or part-time salaried deputies in the
34 sheriff's office in each county; deputy sheriffs deputized pursuant to
35 K.S.A. 19-2858, and amendments thereto; conservation officers of the
36 Kansas department of wildlife, parks and tourism; university police
37 officers, as defined in K.S.A. 22-2401a, and amendments thereto; campus
38 police officers, as defined in K.S.A. 22-2401a, and amendments thereto;
39 law enforcement agents of the director of alcoholic beverage control; law
40 enforcement agents designated by the secretary of revenue pursuant to
41 K.S.A. 2011 Supp. 75-5157, and amendments thereto; law enforcement
42 agents of the Kansas lottery; law enforcement agents of the Kansas racing
43 commission; deputies and assistants of the state fire marshal having law

1 enforcement authority; capitol police, existing under the authority of
2 K.S.A. 75-4503, and amendments thereto; special investigators of the
3 juvenile justice authority; and law enforcement officers appointed by the
4 adjutant general pursuant to K.S.A. 48-204, and amendments thereto. Such
5 terms shall also include railroad policemen appointed pursuant to K.S.A.
6 66-524, and amendments thereto; school security officers designated as
7 school law enforcement officers pursuant to K.S.A. 72-8222, and
8 amendments thereto; the manager and employees of the horsethief
9 reservoir benefit district pursuant to K.S.A. 2011 Supp. 82a-2212, and
10 amendments thereto; and the director of the Kansas commission on peace
11 officers' standards and training and any other employee of such
12 commission designated by the director pursuant to K.S.A. 74-5603, and
13 amendments thereto, as a law enforcement officer. Such terms shall not
14 include any elected official, other than a sheriff, serving in the capacity of
15 a law enforcement or police officer solely by virtue of such official's
16 elected position; any attorney-at-law having responsibility for law
17 enforcement and discharging such responsibility solely in the capacity of
18 an attorney; any employee of the commissioner of juvenile justice who is
19 employed solely to perform correctional, administrative or operational
20 duties related to juvenile correctional facilities; any employee of the
21 secretary of corrections, any employee of the secretary of social and
22 rehabilitation services; any deputy conservation officer of the Kansas
23 department of wildlife, parks and tourism; or any employee of a city or
24 county who is employed solely to perform correctional duties related to
25 jail inmates and the administration and operation of a jail; or any full-time
26 or part-time salaried officer or employee whose duties include the issuance
27 of a citation or notice to appear provided such officer or employee is not
28 vested by law with the authority to make an arrest for violation of the laws
29 of this state or any municipality thereof, and is not authorized to carry
30 firearms when discharging the duties of such person's office or
31 employment. Such term shall include any officer appointed or elected on a
32 provisional basis.

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

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

39 (j) "Misdemeanor crime of domestic violence" means a violation of
40 domestic battery as provided by K.S.A. 21-3412a, prior to its repeal, or
41 K.S.A. 2011 Supp. 21-5414, and amendments thereto, or any other
42 misdemeanor under federal, municipal or state law that has as an element
43 the use or attempted use of physical force, or the threatened use of a

1 deadly weapon, committed by a current or former spouse, parent, or
2 guardian of the victim, by a person with whom the victim shares a child in
3 common, by a person who is cohabiting with or has cohabited with the
4 victim as a spouse, parent or guardian, or by a person similarly situated to
5 a spouse, parent or guardian of the victim.

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

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

15 Sec. 17. K.S.A. 2011 Supp. 75-2935, as amended by section 115 of
16 2012 Senate Bill No. 316, is hereby amended to read as follows: 75-2935.
17 The civil service of the state of Kansas is hereby divided into the
18 unclassified and the classified services.

19 (1) The unclassified service comprises positions held by state officers
20 or employees who are:

21 (a) Chosen by election or appointment to fill an elective office;

22 (b) members of boards and commissions, heads of departments
23 required by law to be appointed by the governor or by other elective
24 officers, and the executive or administrative heads of offices, departments,
25 divisions and institutions specifically established by law;

26 (c) except as otherwise provided under this section, one personal
27 secretary to each elective officer of this state, and in addition thereto, 10
28 deputies, clerks or employees designated by such elective officer;

29 (d) all employees in the office of the governor;

30 (e) officers and employees of the senate and house of representatives
31 of the legislature and of the legislative coordinating council and all officers
32 and employees of the office of revisor of statutes, of the legislative
33 research department, of the division of legislative administrative services,
34 of the division of post audit and the legislative counsel;

35 (f) chancellor, president, deans, administrative officers, student health
36 service physicians, pharmacists, teaching and research personnel, health
37 care employees and student employees in the institutions under the state
38 board of regents, the executive officer of the board of regents and the
39 executive officer's employees other than clerical employees, and, at the
40 discretion of the state board of regents, directors or administrative officers
41 of departments and divisions of the institution and county extension
42 agents, except that this subsection (1)(f) shall not be construed to include
43 the custodial, clerical or maintenance employees, or any employees

1 performing duties in connection with the business operations of any such
2 institution, except administrative officers and directors; as used in this
3 subsection (1)(f), "health care employees" means employees of the
4 university of Kansas medical center who provide health care services at
5 the university of Kansas medical center and who are medical technicians
6 or technologists or respiratory therapists, who are licensed professional
7 nurses or licensed practical nurses, or who are in job classes which are
8 designated for this purpose by the chancellor of the university of Kansas
9 upon a finding by the chancellor that such designation is required for the
10 university of Kansas medical center to recruit or retain personnel for
11 positions in the designated job classes; and employees of any institution
12 under the state board of regents who are medical technologists;

13 (g) operations, maintenance and security personnel employed to
14 implement agreements entered into by the adjutant general and the federal
15 national guard bureau, and officers and enlisted persons in the national
16 guard and the naval militia;

17 (h) persons engaged in public work for the state but employed by
18 contractors when the performance of such contract is authorized by the
19 legislature or other competent authority;

20 (i) persons temporarily employed or designated by the legislature or
21 by a legislative committee or commission or other competent authority to
22 make or conduct a special inquiry, investigation, examination or
23 installation;

24 (j) officers and employees in the office of the attorney general and
25 special counsel to state departments appointed by the attorney general,
26 except that officers and employees of the division of the Kansas bureau of
27 investigation shall be in the classified or unclassified service as provided
28 in K.S.A. 75-711, and amendments thereto;

29 (k) all employees of courts;

30 (l) client, patient and inmate help in any state facility or institution;

31 (m) all attorneys for boards, commissions and departments;

32 (n) the secretary and assistant secretary of the Kansas state historical
33 society;

34 (o) physician specialists, dentists, dental hygienists, pharmacists,
35 medical technologists and long term care workers employed by the
36 department of social and rehabilitation services;

37 (p) physician specialists, dentists and medical technologists employed
38 by any board, commission or department or by any institution under the
39 jurisdiction thereof;

40 (q) student employees enrolled in public institutions of higher
41 learning;

42 (r) administrative officers, directors and teaching personnel of the
43 state board of education and the state department of education and of any

1 institution under the supervision and control of the state board of
2 education, except that this subsection (1)(r) shall not be construed to
3 include the custodial, clerical or maintenance employees, or any
4 employees performing duties in connection with the business operations of
5 any such institution, except administrative officers and directors;

6 (s) all officers and employees in the office of the secretary of state;

7 (t) one personal secretary and one special assistant to the following:
8 The secretary of administration, the secretary of aging, the secretary of
9 agriculture, the secretary of commerce, the secretary of corrections, the
10 secretary of health and environment, the superintendent of the Kansas
11 highway patrol, the secretary of labor, the secretary of revenue, the
12 secretary of social and rehabilitation services, the secretary of
13 transportation, the secretary of wildlife, parks and tourism and the
14 commissioner of juvenile justice;

15 (u) one personal secretary and one special assistant to the chancellor
16 and presidents of institutions under the state board of regents;

17 (v) one personal secretary and one special assistant to the executive
18 vice chancellor of the university of Kansas medical center;

19 (w) one public information officer and one chief attorney for the
20 following: The department of administration, the department on aging, the
21 department of agriculture, the department of commerce, the department of
22 corrections, the department of health and environment, the department of
23 labor, the department of revenue, the department of social and
24 rehabilitation services, the department of transportation, the Kansas
25 department of wildlife, parks and tourism and the commissioner of
26 juvenile justice;

27 (x) civil service examination monitors;

28 (y) one executive director, one general counsel and one director of
29 public affairs and consumer protection in the office of the state corporation
30 commission;

31 (z) specifically designated by law as being in the unclassified service;

32 (aa) ~~all officers and employees of Kansas, Inc.;~~

33 ~~(bb)~~ any position that is classified as a position in the information
34 resource manager job class series, that is the chief position responsible for
35 all information resources management for a state agency, and that becomes
36 vacant on or after the effective date of this act. Nothing in this section shall
37 affect the classified status of any employee in the classified service who is
38 employed on the date immediately preceding the effective date of this act
39 in any position that is a classified position in the information resource
40 manager job class series and the unclassified status as prescribed by this
41 subsection shall apply only to a person appointed to any such position on
42 or after the effective date of this act that is the chief position responsible
43 for all information resources management for a state agency; and

1 (ee) (bb) positions at state institutions of higher education that have
2 been converted to unclassified positions pursuant to K.S.A. 2011 Supp. 76-
3 715a, and amendments thereto.

4 (2) The classified service comprises all positions now existing or
5 hereafter created which are not included in the unclassified service.
6 Appointments in the classified service shall be made according to merit
7 and fitness from eligible pools which so far as practicable shall be
8 competitive. No person shall be appointed, promoted, reduced or
9 discharged as an officer, clerk, employee or laborer in the classified
10 service in any manner or by any means other than those prescribed in the
11 Kansas civil service act and the rules adopted in accordance therewith.

12 (3) For positions involving unskilled, or semiskilled duties, the
13 secretary of administration, as provided by law, shall establish rules and
14 regulations concerning certifications, appointments, layoffs and
15 reemployment which may be different from the rules and regulations
16 established concerning these processes for other positions in the classified
17 service.

18 (4) Officers authorized by law to make appointments to positions in
19 the unclassified service, and appointing officers of departments or
20 institutions whose employees are exempt from the provisions of the
21 Kansas civil service act because of the constitutional status of such
22 departments or institutions shall be permitted to make appointments from
23 appropriate pools of eligibles maintained by the division of personnel
24 services.

25 Sec. 18. K.S.A. 2011 Supp. 75-37,121, as amended by section 117 of
26 2012 Senate Bill No. 316, is hereby amended to read as follows: 75-
27 37,121. (a) There is created the office of administrative hearings within the
28 department of administration, to be headed by a director appointed by the
29 secretary of administration. The director shall be in the unclassified service
30 under the Kansas civil service act.

31 (b) The office may employ or contract with presiding officers, court
32 reporters and other support personnel as necessary to conduct proceedings
33 required by the Kansas administrative procedure act for adjudicative
34 proceedings of the state agencies, boards and commissions specified in
35 subsection (h). The office shall conduct adjudicative proceedings of any
36 state agency which is specified in subsection (h) when requested by such
37 agency. Only a person admitted to practice law in this state or a person
38 directly supervised by a person admitted to practice law in this state may
39 be employed as a presiding officer. The office may employ regular part-
40 time personnel. Persons employed by the office shall be under the
41 classified civil service.

42 (c) If the office cannot furnish one of its presiding officers within 60
43 days in response to a requesting agency's request, the director shall

1 designate in writing a full-time employee of an agency other than the
2 requesting agency to serve as presiding officer for the proceeding, but only
3 with the consent of the employing agency. The designee must possess the
4 same qualifications required of presiding officers employed by the office.

5 (d) The director may furnish presiding officers on a contract basis to
6 any governmental entity to conduct any proceeding other than a
7 proceeding as provided in subsection (h).

8 (e) The secretary of administration may adopt rules and regulations:

9 (1) To establish procedures for agencies to request and for the
10 director to assign presiding officers. An agency may neither select nor
11 reject any individual presiding officer for any proceeding except in
12 accordance with the Kansas administrative procedure act;

13 (2) to establish procedures and adopt forms, consistent with the
14 Kansas administrative procedure act, the model rules of procedure, and
15 other provisions of law, to govern presiding officers; and

16 (3) to facilitate the performance of the responsibilities conferred upon
17 the office by the Kansas administrative procedure act.

18 (f) The director may implement the provisions of this section and
19 rules and regulations adopted under its authority.

20 (g) The secretary of administration may adopt rules and regulations to
21 establish fees to charge a state agency for the cost of using a presiding
22 officer.

23 (h) The following state agencies, boards and commissions shall
24 utilize the office of administrative hearings for conducting adjudicative
25 hearings under the Kansas administrative procedures act in which the
26 presiding officer is not the agency head or one or more members of the
27 agency head:

28 (1) On and after July 1, 2005: Department of social and rehabilitation
29 services, juvenile justice authority, department on aging, department of
30 health and environment, Kansas public employees retirement system,
31 Kansas water office, Kansas animal health department and Kansas
32 insurance department.

33 (2) On and after July 1, 2006: Emergency medical services board,
34 emergency medical services council, ~~Kansas health policy authority~~ and
35 Kansas human rights commission.

36 (3) On and after July 1, 2007: Kansas lottery, Kansas racing and
37 gaming commission, state treasurer, pooled money investment board,
38 Kansas department of wildlife, parks and tourism and state court of tax
39 appeals.

40 (4) On and after July 1, 2008: Department of human resources, state
41 corporation commission, state conservation commission, agricultural labor
42 relations board, department of administration, department of revenue,
43 board of adult care home administrators, Kansas state grain inspection

1 department, board of accountancy and Kansas wheat commission.

2 (5) On and after July 1, 2009, all other Kansas administrative
3 procedure act hearings not mentioned in subsections (1), (2), (3) and (4).

4 (i) (1) Effective July 1, 2005, any presiding officer in agencies
5 specified in subsection (h)(1) which conduct hearings pursuant to the
6 Kansas administrative procedure act, except those exempted pursuant to
7 K.S.A. 77-551, and amendments thereto, and support personnel for such
8 presiding officers, shall be transferred to and shall become employees of
9 the office of administrative hearings. Such personnel shall retain all rights
10 under the state personnel system and retirement benefits under the laws of
11 this state which had accrued to or vested in such personnel prior to the
12 effective date of this section. Such person's services shall be deemed to
13 have been continuous. All transfers of personnel positions in the classified
14 service under the Kansas civil service act shall be in accordance with civil
15 service laws and any rules and regulations adopted thereunder. This
16 section shall not affect any matter pending before an administrative
17 hearing officer at the time of the effective date of the transfer, and such
18 matter shall proceed as though no transfer of employment had occurred.

19 (2) Effective July 1, 2006, any presiding officer in agencies specified
20 in subsection (h)(2) which conduct hearings pursuant to the Kansas
21 administrative procedure act, except those exempted pursuant to K.S.A.
22 77-551, and amendments thereto, and support personnel for such presiding
23 officers, shall be transferred to and shall become employees of the office
24 of administrative hearings. Such personnel shall retain all rights under the
25 state personnel system and retirement benefits under the laws of this state
26 which had accrued to or vested in such personnel prior to the effective date
27 of this section. Such person's services shall be deemed to have been
28 continuous. All transfers of personnel positions in the classified service
29 under the Kansas civil service act shall be in accordance with civil service
30 laws and any rules and regulations adopted thereunder. This section shall
31 not affect any matter pending before an administrative hearing officer at
32 the time of the effective date of the transfer, and such matter shall proceed
33 as though no transfer of employment had occurred.

34 (3) Effective July 1, 2007, any presiding officer in agencies specified
35 in subsection (h)(3) which conduct hearings pursuant to the Kansas
36 administrative procedure act, except those exempted pursuant to K.S.A.
37 77-551, and amendments thereto, and support personnel for such presiding
38 officers, shall be transferred to and shall become employees of the office
39 of administrative hearings. Such personnel shall retain all rights under the
40 state personnel system and retirement benefits under the laws of this state
41 which had accrued to or vested in such personnel prior to the effective date
42 of this section. Such person's services shall be deemed to have been
43 continuous. All transfers of personnel positions in the classified service

1 under the Kansas civil service act shall be in accordance with civil service
2 laws and any rules and regulations adopted thereunder. This section shall
3 not affect any matter pending before an administrative hearing officer at
4 the time of the effective date of the transfer, and such matter shall proceed
5 as though no transfer of employment had occurred.

6 (4) Effective July 1, 2008, any full-time presiding officer in agencies
7 specified in subsection (h)(4) which conduct hearings pursuant to the
8 Kansas administrative procedure act, except those exempted pursuant to
9 K.S.A. 77-551, and amendments thereto, and support personnel for such
10 presiding officers, shall be transferred to and shall become employees of
11 the office of administrative hearings. Such personnel shall retain all rights
12 under the state personnel system and retirement benefits under the laws of
13 this state which had accrued to or vested in such personnel prior to the
14 effective date of this section. Such person's services shall be deemed to
15 have been continuous. All transfers of personnel positions in the classified
16 service under the Kansas civil service act shall be in accordance with civil
17 service laws and any rules and regulations adopted thereunder. This
18 section shall not affect any matter pending before an administrative
19 hearing officer at the time of the effective date of the transfer, and such
20 matter shall proceed as though no transfer of employment had occurred.

21 (5) Effective July 1, 2009, any full-time presiding officer in agencies
22 specified in subsection (h)(5) which conduct hearings pursuant to the
23 Kansas administrative procedure act, except those exempted pursuant to
24 K.S.A. 77-551, and amendments thereto, and support personnel for such
25 presiding officers, shall be transferred to and shall become employees of
26 the office of administrative hearings. Such personnel shall retain all rights
27 under the state personnel system and retirement benefits under the laws of
28 this state which had accrued to or vested in such personnel prior to the
29 effective date of this section. Such person's services shall be deemed to
30 have been continuous. All transfers of personnel positions in the classified
31 service under the Kansas civil service act shall be in accordance with civil
32 service laws and any rules and regulations adopted thereunder. This
33 section shall not affect any matter pending before an administrative
34 hearing officer at the time of the effective date of the transfer, and such
35 matter shall proceed as though no transfer of employment occurred.

36 Sec. 19. K.S.A. 2011 Supp. 76-11a13 is hereby amended to read as
37 follows: 76-11a13. (a) (1) Subject to the provisions of subsection (b), the
38 provisions of K.S.A. 76-11a06 through 76-11a11, and amendments thereto,
39 apply only to: (A) Teachers who have completed not less than three
40 consecutive years of employment, and been offered a contract for a fourth
41 year of employment, at the state school in which the teacher is currently
42 employed; and (B) teachers who have completed not less than two
43 consecutive years of employment, and been offered a contract for a third

1 year of employment, at the state school in which the teacher is currently
2 employed if at any time prior to the current employment the teacher has
3 completed the years of employment requirement of subpart (A) at the other
4 state school.

5 (2) The state board may waive, at any time, the years of employment
6 requirements of provision (1) for any teachers employed at a state school.

7 (3) The provisions of this subsection are subject to the provisions of
8 K.S.A. 76-11a14, and amendments thereto.

9 (b) The provisions of K.S.A. 76-11a06 through 76-11a11, and
10 amendments thereto, do not apply to any teacher whose certificate has
11 been nonrenewed or revoked by the state board for the reason that the
12 teacher: (1) Has been convicted of a felony under K.S.A. 2010 Supp. 21-
13 36a01 through 21-36a17, *prior to their transfer; or article 57 of chapter 21*
14 *of the Kansas Statutes Annotated*, and amendments thereto, or any felony
15 violation of any provision of the uniform controlled substances act prior to
16 July 1, 2009; (2) has been convicted of a felony described in any section of
17 article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their
18 repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, or
19 K.S.A. 2011 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and
20 amendments thereto, or an act described in K.S.A. 21-3412, prior to its
21 repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5413, and amendments
22 thereto, if the victim is a minor or student; (3) has been convicted of a
23 felony described in any section of article 35 of chapter 21 of the Kansas
24 Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the
25 Kansas Statutes Annotated, or K.S.A. 2011 Supp. 21-6419 through 21-
26 6421, and amendments thereto, or has been convicted of an act described
27 in K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2011
28 Supp. 21-5505, and amendments thereto, if the victim is a minor or
29 student; (4) has been convicted of any act described in any section of
30 article 36 of chapter 21 of the Kansas Statutes Annotated, prior to their
31 repeal, or article 56 of chapter 21 of the Kansas Statutes Annotated, and
32 amendments thereto, (5) has been convicted of a felony described in article
33 37 of chapter 21 of the Kansas Statutes Annotated; prior to their repeal, or
34 article 58 of chapter 21 of the Kansas Statutes Annotated, or subsection (a)
35 (6) of K.S.A. 2011 Supp. 21-6412, and amendments thereto; (6) has been
36 convicted of an attempt under K.S.A. 21-3301, prior to its repeal, or
37 K.S.A. 2011 Supp. 21-5301, and amendments thereto, to commit any act
38 specified in this subsection; (7) has been convicted of any act which is
39 described in K.S.A. 21-4301, 21-4301a or 21-4301c, prior to their repeal,
40 or K.S.A. 2011 Supp. 21-6401 or 21-6402, and amendments thereto; (8)
41 has been convicted in another state or by the federal government of an act
42 similar to any act described in this subsection; or (9) has entered into a
43 criminal diversion agreement after having been charged with any offense

1 described in this subsection.

2 Sec. 20. K.S.A. 2011 Supp. 77-421, as amended by section 38 of
3 2012 House Bill No. 2535, is hereby amended to read as follows: 77-421.
4 (a) (1) Except as provided by subsection (a)(2), subsection (a)(3) or
5 subsection (a)(4), prior to the adoption of any permanent rule and
6 regulation or any temporary rule and regulation which is required to be
7 adopted as a temporary rule and regulation in order to comply with the
8 requirements of the statute authorizing the same and after any such rule
9 and regulation has been approved by the secretary of administration and
10 the attorney general, the adopting state agency shall give at least 60 days'
11 notice of its intended action in the Kansas register and to the secretary of
12 state and to the joint committee on administrative rules and regulations
13 established by K.S.A. 77-436, and amendments thereto. The notice shall
14 be provided to the secretary of state and to the chairperson, vice
15 chairperson, ranking minority member of the joint committee and
16 legislative research department and shall be published in the Kansas
17 register. A complete copy of all proposed rules and regulations and the
18 complete economic impact statement required by K.S.A. 77-416, and
19 amendments thereto, shall accompany the notice sent to the secretary of
20 state. The notice shall contain:

21 (A) A summary of the substance of the proposed rules and
22 regulations;

23 (B) a summary of the economic impact statement indicating the
24 estimated economic impact on governmental agencies or units, persons
25 subject to the proposed rules and regulations and the general public;

26 (C) a summary of the environmental benefit statement, if applicable,
27 indicating the need for the proposed rules and regulations;

28 (D) the address where a complete copy of the proposed rules and
29 regulations, the complete economic impact statement, the environmental
30 benefit statement, if applicable, required by K.S.A. 77-416, and
31 amendments thereto, may be obtained;

32 (E) the time and place of the public hearing to be held; the manner in
33 which interested parties may present their views; and

34 (F) a specific statement that the period of 60 days' notice constitutes a
35 public comment period for the purpose of receiving written public
36 comments on the proposed rules and regulations and the address where
37 such comments may be submitted to the state agency. Publication of such
38 notice in the Kansas register shall constitute notice to all parties affected
39 by the rules and regulations.

40 (2) Prior to adopting any rule and regulation which establishes
41 seasons and fixes bag, creel, possession, size or length limits for the taking
42 or possession of wildlife and after such rule and regulation has been
43 approved by the secretary of administration and the attorney general, the

1 secretary of wildlife, parks and tourism shall give at least 30 days' notice
2 of its intended action in the Kansas register and to the secretary of state
3 and to the joint committee on administrative rules and regulations created
4 pursuant to K.S.A. 77-436, and amendments thereto. All other provisions
5 of subsection (a)(1) shall apply to such rules and regulations, except that
6 the statement required by subsection (a)(1)(E) shall state that the period of
7 30 days' notice constitutes a public comment period on such rules and
8 regulations.

9 (3) Prior to adopting any rule and regulation which establishes any
10 permanent prior authorization on a prescription-only drug pursuant to
11 K.S.A. 39-7,120, and amendments thereto, or which concerns coverage or
12 reimbursement for pharmaceuticals under the pharmacy program of the
13 state medicaid plan, and after such rule and regulation has been approved
14 by the secretary of administration and the attorney general, the ~~Kansas~~
15 ~~health policy authority~~ *secretary of health and environment* shall give at
16 least 30 days' notice of its intended action in the Kansas register and to the
17 secretary of state and to the joint committee on administrative rules and
18 regulations created pursuant to K.S.A. 77-436, and amendments thereto.
19 All other provisions of subsection (a)(1) shall apply to such rules and
20 regulations, except that the statement required by subsection (a)(1)(E)
21 shall state that the period of 30 days' notice constitutes a public comment
22 period on such rules and regulations.

23 (4) Prior to adopting any rule and regulation pursuant to subsection
24 (c), the state agency shall give at least ~~30~~ 60 days' notice of its intended
25 action in the Kansas register and to the secretary of state and to the joint
26 committee on administrative rules and regulations created pursuant to
27 K.S.A. 77-436, and amendments thereto. All other provisions of
28 subsection (a)(1) shall apply to such rules and regulations, except that the
29 statement required by subsection (a)(1)(E) shall state that the period of
30 notice constitutes a public comment period on such rules and regulations.

31 (b) (1) On the date of the hearing, all interested parties shall be given
32 reasonable opportunity to present their views or arguments on adoption of
33 the rule and regulation, either orally or in writing. At the time it adopts or
34 amends a rule and regulation, the state agency shall prepare a concise
35 statement of the principal reasons for adopting the rule and regulation or
36 amendment thereto, including:

37 (A) The agency's reasons for not accepting substantial arguments
38 made in testimony and comments; and

39 (B) the reasons for any substantial change between the text of the
40 proposed adopted or amended rule and regulation contained in the
41 published notice of the proposed adoption or amendment of the rule and
42 regulation and the text of the rule and regulation as finally adopted.

43 (2) Whenever a state agency is required by any other statute to give

1 notice and hold a hearing before adopting, amending, reviving or revoking
2 a rule and regulation, the state agency, in lieu of following the
3 requirements or statutory procedure set out in such other law, may give
4 notice and hold hearings on proposed rules and regulations in the manner
5 prescribed by this section.

6 (3) Notwithstanding the other provisions of this section, the secretary
7 of corrections may give notice or an opportunity to be heard to any inmate
8 in the custody of the secretary with regard to the adoption of any rule and
9 regulation.

10 (c) (1) The agency shall initiate new rulemaking proceedings under
11 this act, if a state agency proposes to adopt a final rule and regulation that:

12 (A) Differs in subject matter or effect in any material respect from the
13 rule and regulation as originally proposed; and

14 (B) is not a logical outgrowth of the rule and regulation as originally
15 proposed.

16 (2) ~~In accordance with subsection (a), the period for public comment~~
17 ~~required by K.S.A. 77-421, and amendments thereto, may be shortened to~~
18 ~~not less than 30 days.~~

19 (3) For the purposes of this provision, a rule and regulation is not the
20 logical outgrowth of the rule and regulation as originally proposed if a
21 person affected by the final rule and regulation was not put on notice that
22 such person's interests were affected in the rulemaking.

23 (d) When, pursuant to this or any other statute, a state agency holds a
24 hearing on the adoption of a proposed rule and regulation, the agency shall
25 cause written minutes or other records, including a record maintained on
26 sound recording tape or on any electronically accessed media or any
27 combination of written or electronically accessed media records of the
28 hearing to be made. If the proposed rule and regulation is adopted and
29 becomes effective, the state agency shall maintain, for not less than three
30 years after its effective date, such minutes or other records, together with
31 any recording, transcript or other record made of the hearing and a list of
32 all persons who appeared at the hearing and who they represented, any
33 written testimony presented at the hearing and any written comments
34 submitted during the public comment period.

35 (e) No rule and regulation shall be adopted by a board, commission,
36 authority or other similar body except at a meeting which is open to the
37 public and notwithstanding any other provision of law to the contrary, no
38 rule and regulation shall be adopted by a board, commission, authority or
39 other similar body unless it receives approval by roll call vote of a
40 majority of the total membership thereof.

41 Sec. 21. K.S.A. 2011 Supp. 79-201a, as amended by section 1 of
42 2012 House Bill No. 2769, is hereby amended to read as follows: 79-201a.
43 The following described property, to the extent herein specified, shall be

1 exempt from all property or *ad valorem* taxes levied under the laws of the
2 state of Kansas:

3 *First.* All property belonging exclusively to the United States, except
4 property which congress has expressly declared to be subject to state and
5 local taxation.

6 *Second.* All property used exclusively by the state or any municipality
7 or political subdivision of the state. All property owned, being acquired
8 pursuant to a lease-purchase agreement or operated by the state or any
9 municipality or political subdivision of the state, including property which
10 is vacant or lying dormant, which is used or is to be used for any
11 governmental or proprietary function and for which bonds may be issued
12 or taxes levied to finance the same, shall be considered to be used
13 exclusively by the state, municipality or political subdivision for the
14 purposes of this section. The lease by a municipality or political
15 subdivision of the state of any real property owned or being acquired
16 pursuant to a lease-purchase agreement for the purpose of providing office
17 space necessary for the performance of medical services by a person
18 licensed to practice medicine and surgery or osteopathic medicine by the
19 board of healing arts pursuant to K.S.A. 65-2801 *et seq.*, and amendments
20 thereto, dentistry services by a person licensed by the Kansas dental board
21 pursuant to K.S.A. 65-1401 *et seq.*, and amendments thereto, optometry
22 services by a person licensed by the board of examiners in optometry
23 pursuant to K.S.A. 65-1501 *et seq.*, and amendments thereto, or K.S.A. 74-
24 1501 *et seq.*, and amendments thereto, podiatry services by a person
25 licensed by the board of healing arts pursuant to K.S.A. 65-2001 *et seq.*,
26 and amendments thereto, or the practice of psychology by a person
27 licensed by the behavioral sciences regulatory board pursuant to K.S.A.
28 74-5301 *et seq.*, and amendments thereto, shall be construed to be a
29 governmental function, and such property actually and regularly used for
30 such purpose shall be deemed to be used exclusively for the purposes of
31 this paragraph. The lease by a municipality or political subdivision of the
32 state of any real property, or portion thereof, owned or being acquired
33 pursuant to a lease-purchase agreement to any entity for the exclusive use
34 by it for an exempt purpose, including the purpose of displaying or
35 exhibiting personal property by a museum or historical society, if no
36 portion of the lease payments include compensation for return on the
37 investment in such leased property shall be deemed to be used exclusively
38 for the purposes of this paragraph. All property leased, other than motor
39 vehicles leased for a period of at least one year and property being
40 acquired pursuant to a lease-purchase agreement, to the state or any
41 municipality or political subdivision of the state by any private entity shall
42 not be considered to be used exclusively by the state or any municipality
43 or political subdivision of the state for the purposes of this section except

1 that the provisions of this sentence shall not apply to any such property
2 subject to lease on the effective date of this act until the term of such lease
3 expires but property taxes levied upon any such property prior to tax year
4 1989, shall not be abated or refunded. Any property constructed or
5 purchased with the proceeds of industrial revenue bonds issued prior to
6 July 1, 1963, as authorized by K.S.A. 12-1740 through 12-1749, and
7 amendments thereto, or purchased with proceeds of improvement district
8 bonds issued prior to July 1, 1963, as authorized by K.S.A. 19-2776, and
9 amendments thereto, or with proceeds of bonds issued prior to July 1,
10 1963, as authorized by K.S.A. 19-3815a and 19-3815b, and amendments
11 thereto, or any property improved, purchased, constructed, reconstructed
12 or repaired with the proceeds of revenue bonds issued prior to July 1,
13 1963, as authorized by K.S.A. 13-1238 to 13-1245, inclusive, and
14 amendments thereto, or any property improved, reimproved, reconstructed
15 or repaired with the proceeds of revenue bonds issued after July 1, 1963,
16 under the authority of K.S.A. 13-1238 to 13-1245, inclusive, and
17 amendments thereto, which had previously been improved, reconstructed
18 or repaired with the proceeds of revenue bonds issued under such act on or
19 before July 1, 1963, shall be exempt from taxation for so long as any of the
20 revenue bonds issued to finance such construction, reconstruction,
21 improvement, repair or purchase shall be outstanding and unpaid. Any
22 property constructed or purchased with the proceeds of any revenue bonds
23 authorized by K.S.A. 13-1238 to 13-1245, inclusive, *and amendments*
24 *thereto*, 19-2776, 19-3815a and 19-3815b, and amendments thereto, issued
25 on or after July 1, 1963, shall be exempt from taxation only for a period of
26 10 calendar years after the calendar year in which the bonds were issued.
27 Any property, all or any portion of which is constructed or purchased with
28 the proceeds of revenue bonds authorized by K.S.A. 12-1740 to 12-1749,
29 inclusive, and amendments thereto, issued on or after July 1, 1963 and
30 prior to July 1, 1981, shall be exempt from taxation only for a period of 10
31 calendar years after the calendar year in which the bonds were issued.
32 Except as hereinafter provided, any property constructed or purchased
33 wholly with the proceeds of revenue bonds issued on or after July 1, 1981,
34 under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and
35 amendments thereto, shall be exempt from taxation only for a period of 10
36 calendar years after the calendar year in which the bonds were issued.
37 Except as hereinafter provided, any property constructed or purchased in
38 part with the proceeds of revenue bonds issued on or after July 1, 1981,
39 under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and
40 amendments thereto, shall be exempt from taxation to the extent of the
41 value of that portion of the property financed by the revenue bonds and
42 only for a period of 10 calendar years after the calendar year in which the
43 bonds were issued. The exemption of that portion of the property

1 constructed or purchased with the proceeds of revenue bonds shall
2 terminate upon the failure to pay all taxes levied on that portion of the
3 property which is not exempt and the entire property shall be subject to
4 sale in the manner prescribed by K.S.A. 79-2301 *et seq.*, and amendments
5 thereto. Property constructed or purchased in whole or in part with the
6 proceeds of revenue bonds issued on or after January 1, 1995, under the
7 authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments
8 thereto, and used in any retail enterprise identified under NAICS sectors
9 44 and 45, except facilities used exclusively to house the headquarters or
10 back office operations of such retail enterprises identified thereunder, shall
11 not be exempt from taxation. For the purposes of the preceding provision
12 "NAICS" means the North American industry classification system, as
13 developed under the authority of the office of management and budget of
14 the office of the president of the United States. "Headquarters or back
15 office operations" means a facility from which the enterprise is provided
16 direction, management, administrative services, or distribution or
17 warehousing functions in support of transactions made by the enterprise.
18 Property purchased, constructed, reconstructed, equipped, maintained or
19 repaired with the proceeds of industrial revenue bonds issued under the
20 authority of K.S.A. 12-1740 *et seq.*, and amendments thereto, which is
21 located in a redevelopment project area established under the authority of
22 K.S.A. 12-1770 *et seq.*, and amendments thereto, shall not be exempt from
23 taxation. Property purchased, acquired, constructed, reconstructed,
24 improved, equipped, furnished, repaired, enlarged or remodeled with all or
25 any part of the proceeds of revenue bonds issued under authority of K.S.A.
26 12-1740 to 12-1749a, inclusive, and amendments thereto, for any poultry
27 confinement facility on agricultural land which is owned, acquired,
28 obtained or leased by a corporation, as such terms are defined by K.S.A.
29 17-5903, and amendments thereto, shall not be exempt from such taxation.
30 Property purchased, acquired, constructed, reconstructed, improved,
31 equipped, furnished, repaired, enlarged or remodeled with all or any part
32 of the proceeds of revenue bonds issued under the authority of K.S.A. 12-
33 1740 to 12-1749a, inclusive, and amendments thereto, for a rabbit
34 confinement facility on agricultural land which is owned, acquired,
35 obtained or leased by a corporation, as such terms are defined by K.S.A.
36 17-5903, and amendments thereto, shall not be exempt from such taxation.

37 *Third.* All works, machinery and fixtures used exclusively by any rural
38 water district or township water district for conveying or production of
39 potable water in such rural water district or township water district, and all
40 works, machinery and fixtures used exclusively by any entity which
41 performed the functions of a rural water district on and after January 1,
42 1990, and the works, machinery and equipment of which were exempted
43 hereunder on March 13, 1995.

1 *Fourth.* All fire engines and other implements used for the
2 extinguishment of fires, with the buildings used exclusively for the
3 safekeeping thereof, and for the meeting of fire companies, whether
4 belonging to any rural fire district, township fire district, town, city or
5 village, or to any fire company organized therein or therefor.

6 *Fifth.* All property, real and personal, owned by county fair associations
7 organized and operating under the provisions of K.S.A. 2-125 *et seq.*, and
8 amendments thereto.

9 *Sixth.* Property acquired and held by any municipality under the
10 municipal housing law, K.S.A. 17-2337 *et seq.*, and amendments thereto,
11 except that such exemption shall not apply to any portion of the project
12 used by a nondwelling facility for profit making enterprise.

13 *Seventh.* All property of a municipality, acquired or held under and for
14 the purposes of the urban renewal law, K.S.A. 17-4742 *et seq.*, and
15 amendments thereto, except that such tax exemption shall terminate when
16 the municipality sells, leases or otherwise disposes of such property in an
17 urban renewal area to a purchaser or lessee which is not a public body
18 entitled to tax exemption with respect to such property.

19 *Eighth.* All property acquired and held by the Kansas armory board for
20 armory purposes under the provisions of K.S.A. 48-317, and amendments
21 thereto.

22 *Ninth.* All property acquired and used by the Kansas turnpike authority
23 under the authority of K.S.A. 68-2001 *et seq.*, and amendments thereto,
24 K.S.A. 68-2030 *et seq.*, and amendments thereto, K.S.A. 68-2051 *et seq.*,
25 and amendments thereto, and K.S.A. 68-2070 *et seq.*, and amendments
26 thereto.

27 *Tenth.* All property acquired and used for state park purposes by the
28 Kansas department of wildlife ~~and parks~~, *parks and tourism*.

29 *Eleventh.* The state office building constructed under authority of
30 K.S.A. 75-3607 *et seq.*, and amendments thereto, and the site upon which
31 such building is located.

32 *Twelfth.* All buildings erected under the authority of K.S.A. 76-6a01 *et*
33 *seq.*, and amendments thereto, and all other student union buildings and
34 student dormitories erected upon the campus of any institution mentioned
35 in K.S.A. 76-6a01, and amendments thereto, by any other nonprofit
36 corporation.

37 *Thirteenth.* All buildings, as the same is defined in subsection (c) of
38 K.S.A. 76-6a13, and amendments thereto, which are erected, constructed
39 or acquired under the authority of K.S.A. 76-6a13 *et seq.*, and amendments
40 thereto, and building sites acquired therefor.

41 *Fourteenth.* All that portion of the waterworks plant and system of the
42 city of Kansas City, Missouri, now or hereafter located within the territory
43 of the state of Kansas pursuant to the compact and agreement adopted by

1 K.S.A. 79-205, and amendments thereto.

2 *Fifteenth.* All property, real and personal, owned by a groundwater
3 management district organized and operating pursuant to K.S.A. 82a-1020,
4 and amendments thereto.

5 *Sixteenth.* All property, real and personal, owned by the joint water
6 district organized and operating pursuant to K.S.A. 80-1616 *et seq.*, and
7 amendments thereto.

8 *Seventeenth.* All property, including interests less than fee ownership,
9 acquired for the state of Kansas by the secretary of transportation or a
10 predecessor in interest which is used in the administration, construction,
11 maintenance or operation of the state system of highways, regardless of
12 how or when acquired.

13 *Eighteenth.* Any building used primarily as an industrial training center
14 for academic or vocational education programs designed for and operated
15 under contract with private industry, and located upon a site owned, leased
16 or being acquired by or for an area vocational school, an area vocational-
17 technical school, a technical college, or a community college, as defined
18 by K.S.A. 72-4412, and amendments thereto, and the site upon which any
19 such building is located.

20 *Nineteenth.* For all taxable years commencing after December 31,
21 1997, all buildings of an area vocational school, an area vocational-
22 technical school, a technical college or a community college, as defined by
23 K.S.A. 72-4412, and amendments thereto, which are owned and operated
24 by any such school or college as a student union or dormitory and the site
25 upon which any such building is located.

26 *Twentieth.* For all taxable years commencing after December 31, 1997,
27 all personal property which is contained within a dormitory that is exempt
28 from property taxation and which is necessary for the accommodation of
29 the students residing therein.

30 *Twenty-First.* All real property from and after the date of its transfer by
31 the city of Olathe, Kansas, to the Kansas state university foundation, all
32 buildings and improvements thereafter erected and located on such
33 property, and all tangible personal property, which is held, used or
34 operated for educational and research purposes at the Kansas state
35 university Olathe innovation campus located in the city of Olathe, Kansas.

36 *Twenty-Second.* All real property, and all tangible personal property,
37 owned by postsecondary educational institutions, as that term is defined in
38 K.S.A. 74-3201b, and amendments thereto, or by the board of regents on
39 behalf of the postsecondary educational institutions, which is leased by a
40 for profit company and is actually and regularly used exclusively for
41 research and development purposes so long as any rental income received
42 by such postsecondary educational institution or the board of regents from
43 such a company is used exclusively for educational or scientific purposes.

1 Any such lease or occupancy described in this section shall be for a term
2 of no more than five years.

3 *Twenty-Third.* Any and all housing developments and related
4 improvements located on United States department of defense military
5 installations in the State of Kansas, which are developed pursuant to the
6 military housing privatization initiative, 10 U.S.C. § 2871 *et seq.*, or any
7 successor thereto, and which are provided exclusively or primarily for use
8 by military personnel of the United States and their families.

9 Except as otherwise specifically provided, the provisions of this section
10 shall apply to all taxable years commencing after December 31, 2010.

11 Sec. 22. K.S.A. 2011 Supp. 79-3234, as amended by section 127 of
12 2012 Senate Bill No. 316 is hereby amended to read as follows: 79-3234.

13 (a) All reports and returns required by this act shall be preserved for three
14 years and thereafter until the director orders them to be destroyed.

15 (b) Except in accordance with proper judicial order, or as provided in
16 subsection (c) or in K.S.A. 17-7511, subsection (g) of K.S.A. 46-1106,
17 K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall be
18 unlawful for the secretary, the director, any deputy, agent, clerk or other
19 officer, employee or former employee of the department of revenue or any
20 other state officer or employee or former state officer or employee to
21 divulge, or to make known in any way, the amount of income or any
22 particulars set forth or disclosed in any report, return, federal return or
23 federal return information required under this act; and it shall be unlawful
24 for the secretary, the director, any deputy, agent, clerk or other officer or
25 employee engaged in the administration of this act to engage in the
26 business or profession of tax accounting or to accept employment, with or
27 without consideration, from any person, firm or corporation for the
28 purpose, directly or indirectly, of preparing tax returns or reports required
29 by the laws of the state of Kansas, by any other state or by the United
30 States government, or to accept any employment for the purpose of
31 advising, preparing material or data, or the auditing of books or records to
32 be used in an effort to defeat or cancel any tax or part thereof that has been
33 assessed by the state of Kansas, any other state or by the United States
34 government.

35 (c) The secretary or the secretary's designee may: (1) Publish
36 statistics, so classified as to prevent the identification of particular reports
37 or returns and the items thereof;

38 (2) allow the inspection of returns by the attorney general or other
39 legal representatives of the state;

40 (3) provide the post auditor access to all income tax reports or returns
41 in accordance with and subject to the provisions of subsection (g) of
42 K.S.A. 46-1106 or K.S.A. 46-1114, and amendments thereto;

43 (4) disclose taxpayer information from income tax returns to persons

1 or entities contracting with the secretary of revenue where the secretary
2 has determined disclosure of such information is essential for completion
3 of the contract and has taken appropriate steps to preserve confidentiality;

4 (5) disclose to the secretary of commerce the following: (A) Specific
5 taxpayer information related to financial information previously submitted
6 by the taxpayer to the secretary of commerce concerning or relevant to any
7 income tax credits, for purposes of verification of such information or
8 evaluating the effectiveness of any tax credit or economic incentive
9 program administered by the secretary of commerce; (B) the amount of
10 payroll withholding taxes an employer is retaining pursuant to K.S.A.
11 2011 Supp. 74-50,212, and amendments thereto; (C) information received
12 from businesses completing the form required by K.S.A. 2011 Supp. 74-
13 50,217, and amendments thereto; and (D) findings related to a compliance
14 audit conducted by the department of revenue upon the request of the
15 secretary of commerce pursuant to K.S.A. 2011 Supp. 74-50,215, and
16 amendments thereto;

17 (6) disclose income tax returns to the state gaming agency to be used
18 solely for the purpose of determining qualifications of licensees of and
19 applicants for licensure in tribal gaming. Any information received by the
20 state gaming agency shall be confidential and shall not be disclosed except
21 to the executive director, employees of the state gaming agency and
22 members and employees of the tribal gaming commission;

23 (7) disclose the taxpayer's name, last known address and residency
24 status to the Kansas department of wildlife ~~and parks~~, *parks and tourism* to
25 be used solely in its license fraud investigations;

26 (8) disclose the name, residence address, employer or Kansas
27 adjusted gross income of a taxpayer who may have a duty of support in a
28 title IV-D case to the secretary of the Kansas department of social and
29 rehabilitation services for use solely in administrative or judicial
30 proceedings to establish, modify or enforce such support obligation in a
31 title IV-D case. In addition to any other limits on use, such use shall be
32 allowed only where subject to a protective order which prohibits
33 disclosure outside of the title IV-D proceeding. As used in this section,
34 "title IV-D case" means a case being administered pursuant to part D of
35 title IV of the federal social security act (42 U.S.C. § 651 *et seq.*), and
36 amendments thereto. Any person receiving any information under the
37 provisions of this subsection shall be subject to the confidentiality
38 provisions of subsection (b) and to the penalty provisions of subsection
39 (e);

40 (9) permit the commissioner of internal revenue of the United States,
41 or the proper official of any state imposing an income tax, or the
42 authorized representative of either, to inspect the income tax returns made
43 under this act and the secretary of revenue may make available or furnish

1 to the taxing officials of any other state or the commissioner of internal
2 revenue of the United States or other taxing officials of the federal
3 government, or their authorized representatives, information contained in
4 income tax reports or returns or any audit thereof or the report of any
5 investigation made with respect thereto, filed pursuant to the income tax
6 laws, as the secretary may consider proper, but such information shall not
7 be used for any other purpose than that of the administration of tax laws of
8 such state, the state of Kansas or of the United States;

9 (10) communicate to the executive director of the Kansas lottery
10 information as to whether a person, partnership or corporation is current in
11 the filing of all applicable tax returns and in the payment of all taxes,
12 interest and penalties to the state of Kansas, excluding items under formal
13 appeal, for the purpose of determining whether such person, partnership or
14 corporation is eligible to be selected as a lottery retailer;

15 (11) communicate to the executive director of the Kansas racing
16 commission as to whether a person, partnership or corporation has failed
17 to meet any tax obligation to the state of Kansas for the purpose of
18 determining whether such person, partnership or corporation is eligible for
19 a facility owner license or facility manager license pursuant to the Kansas
20 parimutuel racing act;

21 (12) provide such information to the executive director of the Kansas
22 public employees retirement system for the purpose of determining that
23 certain individuals' reported compensation is in compliance with the
24 Kansas public employees retirement act, K.S.A. 74-4901 *et seq.*, and
25 amendments thereto;

26 (13) (i) provide taxpayer information of persons suspected of
27 violating K.S.A. 2011 Supp. 44-766, and amendments thereto, to the
28 secretary of labor or such secretary's designee for the purpose of
29 determining compliance by any person with the provisions of *subsection*
30 *(i)(3)(D)* of K.S.A. 44-703~~(i)(3)(D)~~ and K.S.A. 2011 Supp. 44-766, and
31 amendments thereto. The information to be provided shall include all
32 relevant information in the possession of the department of revenue
33 necessary for the secretary of labor to make a proper determination of
34 compliance with the provisions of *subsection (i)(3)(D)* of K.S.A. 44-703~~(i)~~
35 ~~(3)(D)~~ and K.S.A. 2011 Supp. 44-766, and amendments thereto, and to
36 calculate any unemployment contribution taxes due. Such information to
37 be provided by the department of revenue shall include, but not be limited
38 to, withholding tax and payroll information, the identity of any person that
39 has been or is currently being audited or investigated in connection with
40 the administration and enforcement of the withholding and declaration of
41 estimated tax act, K.S.A. 79-3294 *et seq.*, and amendments thereto, and the
42 results or status of such audit or investigation-;

43 (ii) any person receiving tax information under the provisions of this

1 paragraph shall be subject to the same duty of confidentiality imposed by
2 law upon the personnel of the department of revenue and shall be subject
3 to any civil or criminal penalties imposed by law for violations of such
4 duty of confidentiality; *and*

5 (iii) each of the secretary of labor and the secretary of revenue may
6 adopt rules and regulations necessary to effect the provisions of this
7 paragraph; *and*

8 (14) *provide such information to the state treasurer for the sole*
9 *purpose of carrying out the provisions of K.S.A. 58-3934, and amendments*
10 *thereto. Such information shall be limited to current and prior addresses*
11 *of taxpayers or associated persons who may have knowledge as to the*
12 *location of an owner of unclaimed property. For the purposes of this*
13 *paragraph, "associated persons" includes spouses or dependents listed on*
14 *income tax returns.*

15 (d) Any person receiving information under the provisions of
16 subsection (c) shall be subject to the confidentiality provisions of
17 subsection (b) and to the penalty provisions of subsection (e).

18 (e) Any violation of subsection (b) or (c) is a class A nonperson
19 misdemeanor and, if the offender is an officer or employee of the state,
20 such officer or employee shall be dismissed from office.

21 (f) Nothing in this section shall be construed to allow disclosure of
22 the amount of income or any particulars set forth or disclosed in any
23 report, return, federal return or federal return information, where such
24 disclosure is prohibited by the federal internal revenue code as in effect on
25 September 1, 1996, and amendments thereto, related federal internal
26 revenue rules or regulations, or other federal law.

27 Sec. 23. KK.S.A. 2011 Supp. 16-1602, 21-5428, 21-5428a, 21-6811,
28 21-6811a, 22-3437, 22-3437b, 22-4705, 22-4705a, 32-1049a, as amended
29 by section 64 of 2012 Senate Bill No. 316, 44-703, 44-703a, 44-706, 44-
30 706b, 59-2132, 65-516, as amended by section 5 of 2012 House Bill No.
31 2660, 65-1436a, 65-4915, as amended by section 1 of 2012 House Bill No.
32 2428, 65-4915, as amended by section 51 of 2012 Substitute for Senate
33 Bill No. 397, 65-6805, as amended by section 28 of 2012 House Bill No.
34 2416, 65-6805, as amended by section 54 of 2012 Substitute for Senate
35 Bill No. 397, 68-1051, as amended by section 2 of 2012 House Bill No.
36 2441, 68-1051, as amended by section 2 of 2012 House Bill No. 2509, 72-
37 1397, 72-5445, 72-5445a, 74-4911f, as amended by section 95 of 2012
38 Senate Bill No. 316, 74-5089, as amended by section 6 of 2012 Senate Bill
39 No. 417, 74-5602, as amended by section 105 of 2012 Senate Bill No. 316,
40 74-5602, as amended by section 2 of 2012 House Bill No. 2496, 74-5602,
41 as amended by section 2 of 2012 Senate Bill No. 424, 75-2935, as
42 amended by section 115 of 2012 Senate Bill No. 316, 75-2935, as
43 amended by section 28 of 2012 Senate Bill No. 417, 75-3372, 75-37,121,

1 as amended by section 117 of 2012 Senate Bill No. 316, 75-37,121, as
2 amended by section 33 of 2012 House Bill No. 2416, 76-11a13, 77-415, as
3 amended by section 1 of 2012 Senate Bill No. 252, 77-421, as amended by
4 section 123 of 2012 Senate Bill No. 316, 77-421, as amended by section 2
5 of 2012 Senate Bill No. 252, 77-421, as amended by section 38 of 2012
6 House Bill No. 2535, 77-421, as amended by section 55 of 2012 House
7 Bill No. 2416, 79-201a, as amended by section 1 of 2012 House Bill No.
8 2769, 79-201a, as amended by section 124 of 2012 Senate Bill No. 316,
9 79-3234, as amended by section 127 of 2012 Senate Bill No. 316 and 79-
10 3234b, as amended by section 128 of 2012 Senate Bill No. 316 are hereby
11 repealed.

12 Sec. 24. This act shall take effect and be in force from and after its
13 publication in the statute book.

14