

*As Amended by Senate Committee*

*Session of 2012*

**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 1626, as amended by section 1 of 2012 Senate Bill No. 134**, 65-4915,  
6 as amended by section 51 of 2012 Substitute for Senate Bill No. 397,  
7 65-6805, as amended by section 54 of 2012 Substitute for Senate Bill  
8 No. 397, 68-1051, as amended by section 2 of 2012 House Bill No.  
9 2441, 72-1397, 72-5445, 74-5602, as amended by section 2 of 2012  
10 House Bill No. 2496, 75-2935, as amended by section 115 of 2012  
11 Senate Bill No. 316, 75-37,121, as amended by section 117 of 2012  
12 Senate Bill No. 316, 76-11a13, 77-421, as amended by section 38 of  
13 2012 House Bill No. 2535, 79-201a, as amended by section 1 of 2012  
14 House Bill No. 2769 and 79-3234, as amended by section 127 of 2012  
15 Senate Bill No. 316 and repealing the existing sections; also repealing  
16 K.S.A. 2011 Supp. 21-5428a, 21-6811a, 22-3437b, 22-4705a, 32-  
17 1049a, as amended by section 64 of 2012 Senate Bill No. 316, 44-703a,  
18 44-706b, 65-1436a, **65-1626, as amended by section 42 of 2012  
19 Substitute for Senate Bill No. 397**, 65-4915, as amended by section 1  
20 of 2012 House Bill No. 2428, 65-6805, as amended by section 28 of  
21 2012 House Bill No. 2416, 68-1051, as amended by section 2 of 2012  
22 House Bill No. 2509, 72-5445a, 74-4911f, as amended by section 95 of  
23 2012 Senate Bill No. 316, 74-5089, as amended by section 6 of 2012  
24 Senate Bill No. 417, 74-5602, as amended by section 105 of 2012  
25 Senate Bill No. 316, 74-5602, as amended by section 2 of 2012 Senate  
26 Bill No. 424, 75-2935, as amended by section 28 of 2012 Senate Bill  
27 No. 417, 75-3372, 75-37,121, as amended by section 33 of 2012 House  
28 Bill No. 2416, 77-415, as amended by section 1 of 2012 Senate Bill  
29 No. 252, 77-421, as amended by section 123 of 2012 Senate Bill No.  
30 316, 77-421, as amended by section 55 of 2012 House Bill No. 2416,  
31 77-421, as amended by section 2 of 2012 Senate Bill No. 252, 79-201a,  
32 as amended by section 124 of 2012 Senate Bill No. 316 and 79-3234b,  
33 as amended by section 128 of 2012 Senate Bill No. No. and 316.

34  
35 *Be it enacted by the Legislature of the State of Kansas:*

36 New Section 1. (a) The secretary of social and rehabilitation services

1 shall convey by quitclaim deed, without consideration, all of the rights,  
2 title and interest in the following described real estate, and any  
3 improvements thereon, located in Ellsworth county, Kansas, to the  
4 evangelical lutheran good samaritan society:

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

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

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

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

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

41 (e) In the event that the secretary of social and rehabilitation services  
42 determines that the legal description of the parcel described by this section  
43 is incorrect, the secretary of social and rehabilitation services may convey

1 the property utilizing the correct legal description but the deed conveying  
2 the property shall be subject to the approval of the attorney general.

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

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

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

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

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

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

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

25 (2) the initial message has not been altered since the transformation  
26 was made.

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

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

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

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

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

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

1 (l) "Information processing system" means an electronic system for  
2 creating, generating, sending, receiving, storing, displaying or processing  
3 information.

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

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

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

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

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

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

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

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

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

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

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

39 (b) Blackmail as defined in:

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

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

42 Sec. 4. K.S.A. 2011 Supp. 21-6811 is hereby amended to read as  
43 follows: 21-6811. In addition to the provisions of K.S.A. 2011 Supp. 21-

1 6810, and amendments thereto, the following shall apply in determining an  
2 offender's criminal history classification as contained in the presumptive  
3 sentencing guidelines grids:

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

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

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

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

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

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

43 (2) As a prior nonperson felony if the prior conviction or adjudication

1 was classified as a burglary as defined in subsection (b) or (c) of K.S.A.  
2 21-3715, prior to its repeal, or subsection (a)(2) or (a)(3) of K.S.A. 2011  
3 Supp. 21-5807, and amendments thereto.

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

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

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

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

33 (h) Drug crimes are designated as nonperson crimes for criminal  
34 history scoring.

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

1       Sec. 5. K.S.A. 2011 Supp. 22-3437 is hereby amended to read as  
2 follows: 22-3437. (a) (1) In any hearing or trial, a report concerning  
3 forensic examinations and certificate of forensic examination executed  
4 pursuant to this section shall be admissible in evidence if the report and  
5 certificate are prepared and attested by a criminalist or other employee of  
6 the Kansas bureau of investigation, Kansas highway patrol, Johnson  
7 County sheriff's laboratory, Sedgwick County regional forensic science  
8 center, or any laboratory of the federal bureau of investigation, federal  
9 postal inspection service, federal bureau of alcohol, tobacco and firearms  
10 or federal drug enforcement administration. If the examination involves a  
11 breath test for alcohol content, the report must also be admissible pursuant  
12 to K.S.A. 8-1001, and amendments thereto, and be conducted by a law  
13 enforcement officer or other person who is certified by the department of  
14 health and environment as a breath test operator as provided by K.S.A. 65-  
15 1,107 et seq., and amendments thereto.

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

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

1 object to the admission into evidence of a certificate shall give notice of  
2 objection and the grounds for the objection within ~~10~~ 14 days upon  
3 receiving the adversary's notice of intent to proffer the certificate.  
4 Whenever a notice of objection is filed, admissibility of the certificate  
5 shall be determined not later than two days before the beginning of the  
6 trial. A proffered certificate shall be admitted in evidence unless it appears  
7 from the notice of objection and grounds for that objection that the  
8 conclusions of the certificate, including the composition, quality or  
9 quantity of the substance submitted to the laboratory for analysis or the  
10 alcohol content of a blood or breath sample will be contested at trial. A  
11 failure to comply with the time limitations regarding the notice of  
12 objection required by this section shall constitute a waiver of any  
13 objections to the admission of the certificate. The time limitations set forth  
14 in this section may be extended upon a showing of good cause.

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

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

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

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



1 lower court decision;

2 ~~(12)~~ (13) order of a court in a collateral proceeding that affects a  
3 person's conviction, sentence or confinement, including any expungement  
4 or annulment of arrests or convictions pursuant to state statute; and

5 ~~(13)~~ (14) any other event arising out of or occurring during the course  
6 of criminal justice proceedings declared to be reportable by rule or  
7 regulation of the director.

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

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

21 (d) Reporting methods may include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (h) "Employer" means:

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

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

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

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

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

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

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

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

43 (i) Furnishes individuals to perform service in agricultural labor for

1 any other person;

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

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

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

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

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

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

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

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

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

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

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

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

20 (i) "Employment" means:

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

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

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

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

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

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

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

43 (a) The contract of service contemplates that substantially all of the

1 services are to be performed personally by such individual;

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

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

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

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

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

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

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

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

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

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

41 (D) Services performed by an individual for wages or under any  
42 contract of hire shall be deemed to be employment subject to this act  
43 ~~unless and until it is shown to the satisfaction of the secretary that: (i) Such~~

1 individual has been and will continue to be free from control or direction  
2 over the performance of such services, both under the individual's contract  
3 of hire and in fact; and (ii) such service is either outside the usual course of  
4 the business for which such service is performed or that such service is  
5 performed outside of all the places of business of the enterprise for which  
6 such service is performed *if the business for which activities of the*  
7 *individual are performed retains not only the right to control the end result*  
8 *of the activities performed, but the manner and means by which the end*  
9 *result is accomplished.*

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

35 (i) As an elected official;

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

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

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

41 (v) in a position which, under or pursuant to the laws of this state or  
42 tribal law, is designated as a major nontenured policymaking or advisory  
43 position or as a policymaking or advisory position the performance of the

1 duties of which ordinarily does not require more than eight hours per  
2 week;

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

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

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

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

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

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

40 (H) service performed in any calendar quarter in the employ of any  
41 organization exempt from income tax under section 501(a) of the federal  
42 internal revenue code of 1986 (other than an organization described in  
43 section 401(a) or under section 521 of such code) if the remuneration for

1 such service is less than \$50. In construing the application of the term  
2 "employment," if services performed during  $\frac{1}{2}$  or more of any pay period  
3 by an individual for the person employing such individual constitute  
4 employment, all the services of such individual for such period shall be  
5 deemed to be employment; but if the services performed during more than  
6  $\frac{1}{2}$  of any such pay period by an individual for the person employing such  
7 individual do not constitute employment, then none of the services of such  
8 individual for such period shall be deemed to be employment. As used in  
9 this subsection (i)(4)(H) the term "pay period" means a period (of not more  
10 than 31 consecutive days) for which a payment of remuneration is  
11 ordinarily made to the individual by the person employing such individual.  
12 This subsection (i)(4)(H) shall not be applicable with respect to services  
13 with respect to which unemployment compensation is payable under an  
14 unemployment compensation system established by an act of congress;

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

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

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

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

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

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

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

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

41 (O) service performed by an individual who is enrolled at a nonprofit  
42 or public educational institution which normally maintains a regular  
43 faculty and curriculum and normally has a regularly organized body of

1 students in attendance at the place where its educational activities are  
2 carried on as a student in a full-time program, taken for credit at such  
3 institution, which combines academic instruction with work experience, if  
4 such service is an integral part of such program, and such institution has so  
5 certified to the employer, except that this subsection (i)(4)(O) shall not  
6 apply to service performed in a program established for or on behalf of an  
7 employer or group of employers;

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

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

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

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

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

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

43 (T) service not in the course of the employer's trade or business

1 performed in any calendar quarter by an employee, unless the cash  
2 remuneration paid for such service is \$200 or more and such service is  
3 performed by an individual who is regularly employed by such employer  
4 to perform such service. For purposes of this paragraph, an individual shall  
5 be deemed to be regularly employed by an employer during a calendar  
6 quarter only if:

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

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

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

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

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

22 (i) Such person:

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

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

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

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

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

42 (W) service performed as an election official or election worker, if the  
43 amount of remuneration received by the individual during the calendar

1 year for services as an election official or election worker is less than \$1,000;

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

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

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

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

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

(m) "Unemployment." An individual shall be deemed "unemployed" with respect to any week during which such individual performs no services and with respect to which no wages are payable to such individual, or with respect to any week of less than full-time work if the

1 wages payable to such individual with respect to such week are less than  
2 such individual's weekly benefit amount.

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

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

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

1 constituting employment under any employment security law of another  
2 state or of the federal government;

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

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

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

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

30 (B) under or to an annuity plan which, at the time of such payment, is  
31 a plan described in section 403(a) of the federal internal revenue code of  
32 1986;

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

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

41 (E) under or to an exempt governmental deferred compensation plan  
42 as defined in section 3121(v)(3) of the federal internal revenue code of  
43 1986;



1 (F) to supplement pension benefits under a plan or trust described in  
2 any of the foregoing provisions of this subparagraph to take into account  
3 some portion or all of the increase in the cost of living, as determined by  
4 the secretary of labor, since retirement but only if such supplemental  
5 payments are under a plan which is treated as a welfare plan under section  
6 3(2)(B)(ii) of the federal employee retirement income security act of 1974;  
7 or

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

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

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

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

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

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

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

30 (9) remuneration for agricultural labor paid in any medium other than  
31 cash;

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

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

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

43 (13) any benefit provided to or on behalf of an employee if at the time

1 such benefit is provided it is reasonable to believe that the employee will  
2 be able to exclude such benefit from income under section 74(c), 117 or  
3 132 of the federal internal revenue code of 1986;

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

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

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

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

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

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

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

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

40 (t) "American vessel" or "American aircraft" means any vessel or  
41 aircraft documented or numbered or otherwise registered under the laws of  
42 the United States; and any vessel or aircraft which is neither documented  
43 or numbered or otherwise registered under the laws of the United States

1 nor documented under the laws of any foreign country, if its crew performs  
2 service solely for one or more citizens or residents of the United States or  
3 corporations organized under the laws of the United States or of any state.

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

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

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

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

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

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

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

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

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

42 (B) In the employ of the owner or tenant or other operator of a farm,  
43 in connection with the operating, management, conservation,

1 improvement, or maintenance of such farm and its tools and equipment, or  
2 in salvaging timber or clearing land of brush and other debris left by a  
3 hurricane, if the major part of such service is performed on a farm.

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

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

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

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

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

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

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

38 (4) For the purpose of this section, if an employing unit does not  
39 maintain sufficient records to separate agricultural labor from other  
40 employment, all services performed during any pay period by an  
41 individual for the person employing such individual shall be deemed to be  
42 agricultural labor if services performed during  $\frac{1}{2}$  or more of such pay  
43 period constitute agricultural labor; but if the services performed during

1 more than ½ of any such pay period by an individual for the person  
2 employing such individual do not constitute agricultural labor, then none  
3 of the services of such individual for such period shall be deemed to be  
4 agricultural labor. As used in this subsection (w), the term "pay period"  
5 means a period of not more than 31 consecutive days for which a payment  
6 of remuneration is ordinarily made to the individual by the person  
7 employing such individual.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (4) the spouse of an individual who is a member of the armed forces  
39 of the United States who left work because of the voluntary or involuntary  
40 transfer of the individual's spouse from one job to another job, which is for  
41 the same employer or for a different employer, at a geographic location  
42 which makes it unreasonable for the individual to continue work at the  
43 individual's job. For the purposes of this provision the term "armed forces"

1 means active duty in the army, navy, marine corps, air force, coast guard or  
2 any branch of the military reserves of the United States;

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

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

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

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

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

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

1 settlement of disputes before terminating;

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

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

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

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

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

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

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

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

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

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

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

33 (iv) medical documentation of the abuse; or

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

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

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



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

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

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

1 concentration of .04 or greater. Alcohol concentration means the number  
2 of grams of alcohol per 210 liters of breath. An individual's refusal to  
3 submit to a chemical test or breath alcohol test shall be conclusive  
4 evidence of misconduct if the test meets the standards of the drug free  
5 workplace act, 41 U.S.C. § 701 et seq.; the test was administered as part of  
6 an employee assistance program or other drug or alcohol treatment  
7 program in which the employee was participating voluntarily or as a  
8 condition of further employment; the test was otherwise required by law  
9 and the test constituted a required condition of employment for the  
10 individual's job; the test was requested pursuant to a written policy of the  
11 employer of which the employee had knowledge and was a required  
12 condition of employment; or there was probable cause to believe that the  
13 individual used, possessed or was impaired by alcoholic liquor, a cereal  
14 malt beverage or a controlled substance while working. A positive breath  
15 alcohol test or a positive chemical test shall be conclusive evidence to  
16 prove misconduct if the following conditions are met:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (B) the individual was making a good-faith effort to do the assigned  
42 work but was discharged due to: (i) Inefficiency, (ii) unsatisfactory  
43 performance due to inability, incapacity or lack of training or experience,

1 (iii) isolated instances of ordinary negligence or inadvertence, (iv) good-  
2 faith errors in judgment or discretion, or (v) unsatisfactory work or  
3 conduct due to circumstances beyond the individual's control; or

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

6 (c) If the individual has failed, without good cause, to either apply for  
7 suitable work when so directed by the employment office of the secretary  
8 of labor, or to accept suitable work when offered to the individual by the  
9 employment office, the secretary of labor, or an employer, such  
10 disqualification shall begin with the week in which such failure occurred  
11 and shall continue until the individual becomes reemployed and has had  
12 earnings from insured work of at least three times such individual's  
13 determined weekly benefit amount. In determining whether or not any  
14 work is suitable for an individual, the secretary of labor, or a person or  
15 persons designated by the secretary, shall consider the degree of risk  
16 involved to health, safety and morals, physical fitness and prior training,  
17 experience and prior earnings, length of unemployment and prospects for  
18 securing local work in the individual's customary occupation or work for  
19 which the individual is reasonably fitted by training or experience, and the  
20 distance of the available work from the individual's residence. Notwithstanding any other provisions of this act, an otherwise eligible  
21 individual shall not be disqualified for refusing an offer of suitable  
22 employment, or failing to apply for suitable employment when notified by  
23 an employment office, or for leaving the individual's most recent work  
24 accepted during approved training, including training approved under  
25 section 236(a)(1) of the trade act of 1974, if the acceptance of or applying  
26 for suitable employment or continuing such work would require the  
27 individual to terminate approved training and no work shall be deemed  
28 suitable and benefits shall not be denied under this act to any otherwise  
29 eligible individual for refusing to accept new work under any of the  
30 following conditions: (1) If the position offered is vacant due directly to a  
31 strike, lockout or other labor dispute; (2) if the remuneration, hours or  
32 other conditions of the work offered are substantially less favorable to the  
33 individual than those prevailing for similar work in the locality; (3) if as a  
34 condition of being employed, the individual would be required to join or to  
35 resign from or refrain from joining any labor organization; and (4) if the  
36 individual left employment as a result of domestic violence, and the  
37 position offered does not reasonably accommodate the individual's  
38 physical, psychological, safety, and/or legal needs relating to such  
39 domestic violence.  
40

41 (d) For any week with respect to which the secretary of labor, or a  
42 person or persons designated by the secretary, finds that the individual's  
43 unemployment is due to a stoppage of work which exists because of a

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

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

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

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

42 (h) For any week with respect to which the individual is receiving  
43 compensation for temporary total disability or permanent total disability

1 under the workmen's compensation law of any state or under a similar law  
2 of the United States.

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

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

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

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

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

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

1 periodic payment, no reduction in the weekly benefit amount payable to  
2 the individual for such week shall be made under this subsection. No  
3 reduction shall be made for payments made under the social security act or  
4 railroad retirement act of 1974.

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

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

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

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

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

43 (2) the individual is attending approved training as defined in



1 subsection (s) of K.S.A. 44-703, and amendments thereto; or

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

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

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

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

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

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

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

43 (1) (A) Licensed social worker, licensed specialist social worker,

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

1 felony for any act described in articles 34, 35 or 36 of chapter 21 of the  
2 Kansas Statutes Annotated, prior to their repeal, or articles 54, 55 or 56 of  
3 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2011 Supp. 21-  
4 6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments  
5 thereto, or, within the last five years been convicted of a felony violation  
6 of K.S.A. 2010 Supp. 21-36a01 through 21-36a17, *prior to their transfer;*  
7 *or article 57 of chapter 21 of the Kansas Statutes Annotated,* and  
8 amendments thereto, or any felony violation of any provision of the  
9 uniform controlled substances act prior to July 1, 2009, and, when  
10 appropriate, any similar conviction in another jurisdiction, and to contact  
11 the agency or individuals consenting to the adoption and confirm and, if  
12 necessary, clarify any genetic and medical history filed with the petition.  
13 This information shall be made a part of the report to the court. The report  
14 to the court by any person authorized pursuant to this section to perform  
15 this assessment shall include the results of the investigation of the  
16 petitioner, the petitioner's home and the ability of the petitioner to care for  
17 the child.

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

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

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

30 (2) the court's own motion.

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

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

1 K.S.A. 2011 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-  
2 6421, and amendments thereto, or a conviction of an attempt under K.S.A.  
3 21-3301, prior to its repeal, or K.S.A. 2011 Supp. 21-5301, and  
4 amendments thereto, to commit any such act or a conviction of conspiracy  
5 under K.S.A. 21-3302, prior to its repeal, or K.S.A. 2011 Supp. 21-5302,  
6 and amendments thereto, to commit such act, or similar statutes of other  
7 states or the federal government; or (D) has been convicted of any act  
8 which is described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or  
9 K.S.A. 2011 Supp. 21-6401, and amendments thereto, or similar statutes of  
10 other states or the federal government;

11 (2) has been adjudicated a juvenile offender because of having  
12 committed an act which if done by an adult would constitute the  
13 commission of a felony and which is a crime against persons, is any act  
14 described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes  
15 Annotated, prior to their repeal, or article 54, 55 or 56 of chapter 21 of the  
16 Kansas Statutes Annotated, or K.S.A. 2011 Supp. 21-6104, 21-6325, 21-  
17 6326 or 21-6418 through 21-6421, and amendments thereto, or similar  
18 statutes of other states or the federal government, or is any act described in  
19 K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2011 Supp.  
20 21-6401, and amendments thereto, or similar statutes of other states or the  
21 federal government;

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

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

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

43 (6) has signed a diversion agreement pursuant to K.S.A. 22-2906 et

1 seq., and amendments thereto, or an immediate intervention agreement  
2 pursuant to K.S.A. 2011 Supp. 38-2346, and amendments thereto,  
3 involving a charge of child abuse or a sexual offense; or

4 (7) has an infectious or contagious disease.

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

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

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

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

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

42 (g) No child care facility or the employees thereof, shall be liable for  
43 civil damages to any person refused employment or discharged from

1 employment by reason of such facility's or home's compliance with the  
2 provisions of this section if such home acts in good faith to comply with  
3 this section.

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

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

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

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

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

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

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

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

40 (j) No person shall maintain a day care facility unless such person is a  
41 high school graduate or the equivalent thereof, except where extraordinary  
42 circumstances exist, the secretary of health and environment may exercise  
43 discretion to make exceptions to this requirement. The provisions of this

1 subsection shall not apply to any person who was maintaining a day care  
2 facility on the day immediately prior to July 1, 2010 or who had an  
3 application for an initial license or the renewal of an existing license  
4 pending on July 1, 2010.

5 *Sec. 11. K.S.A. 2011 Supp. 65-1626, as amended by section 1 of*  
6 *2012 Senate Bill No. 134, is hereby amended to read as follows: 65-*  
7 *1626. For the purposes of this act:*

8 *(a) "Administer" means the direct application of a drug, whether*  
9 *by injection, inhalation, ingestion or any other means, to the body of a*  
10 *patient or research subject by:*

11 *(1) A practitioner or pursuant to the lawful direction of a*  
12 *practitioner;*

13 *(2) the patient or research subject at the direction and in the*  
14 *presence of the practitioner; or*

15 *(3) a pharmacist as authorized in K.S.A. 65-1635a, and*  
16 *amendments thereto.*

17 *(b) "Agent" means an authorized person who acts on behalf of or*  
18 *at the direction of a manufacturer, distributor or dispenser but shall not*  
19 *include a common carrier, public warehouseman or employee of the*  
20 *carrier or warehouseman when acting in the usual and lawful course of*  
21 *the carrier's or warehouseman's business.*

22 *(c) "Application service provider" means an entity that sells*  
23 *electronic prescription or pharmacy prescription applications as a*  
24 *hosted service where the entity controls access to the application and*  
25 *maintains the software and records on its server.*

26 *(d) "Authorized distributor of record" means a wholesale*  
27 *distributor with whom a manufacturer has established an ongoing*  
28 *relationship to distribute the manufacturer's prescription drug. An*  
29 *ongoing relationship is deemed to exist between such wholesale*  
30 *distributor and a manufacturer when the wholesale distributor,*  
31 *including any affiliated group of the wholesale distributor, as defined in*  
32 *section 1504 of the internal revenue code, complies with any one of the*  
33 *following: (1) The wholesale distributor has a written agreement*  
34 *currently in effect with the manufacturer evidencing such ongoing*  
35 *relationship; and (2) the wholesale distributor is listed on the*  
36 *manufacturer's current list of authorized distributors of record, which is*  
37 *updated by the manufacturer on no less than a monthly basis.*

38 *(e) "Board" means the state board of pharmacy created by K.S.A.*  
39 *74-1603, and amendments thereto.*

40 *(f) "Brand exchange" means the dispensing of a different drug*  
41 *product of the same dosage form and strength and of the same generic*  
42 *name as the brand name drug product prescribed.*

43 *(g) "Brand name" means the registered trademark name given to a*

1 *drug product by its manufacturer, labeler or distributor.*

2 *(h) "Chain pharmacy warehouse" means a permanent physical*  
3 *location for drugs or devices, or both, that acts as a central warehouse*  
4 *and performs intracompany sales or transfers of prescription drugs or*  
5 *devices to chain pharmacies that have the same ownership or control.*  
6 *Chain pharmacy warehouses must be registered as wholesale*  
7 *distributors.*

8 *(i) "Co-licensee" means a pharmaceutical manufacturer that has*  
9 *entered into an agreement with another pharmaceutical manufacturer*  
10 *to engage in a business activity or occupation related to the manufacture*  
11 *or distribution of a prescription drug and the national drug code on the*  
12 *drug product label shall be used to determine the identity of the drug*  
13 *manufacturer.*

14 *(j) "DEA" means the U.S. department of justice, drug enforcement*  
15 *administration.*

16 *(k) "Deliver" or "delivery" means the actual, constructive or*  
17 *attempted transfer from one person to another of any drug whether or*  
18 *not an agency relationship exists.*

19 *(l) "Direct supervision" means the process by which the*  
20 *responsible pharmacist shall observe and direct the activities of a*  
21 *pharmacy student or pharmacy technician to a sufficient degree to*  
22 *assure that all such activities are performed accurately, safely and*  
23 *without risk or harm to patients, and complete the final check before*  
24 *dispensing.*

25 *(m) "Dispense" means to deliver prescription medication to the*  
26 *ultimate user or research subject by or pursuant to the lawful order of a*  
27 *practitioner or pursuant to the prescription of a mid-level practitioner.*

28 *(n) "Dispenser" means a practitioner or pharmacist who dispenses*  
29 *prescription medication.*

30 *(o) "Distribute" means to deliver, other than by administering or*  
31 *dispensing, any drug.*

32 *(p) "Distributor" means a person who distributes a drug.*

33 *(q) "Drop shipment" means the sale, by a manufacturer, that*  
34 *manufacturer's co-licensee, that manufacturer's third party logistics*  
35 *provider, or that manufacturer's exclusive distributor, of the*  
36 *manufacturer's prescription drug, to a wholesale distributor whereby the*  
37 *wholesale distributor takes title but not possession of such prescription*  
38 *drug and the wholesale distributor invoices the pharmacy, the chain*  
39 *pharmacy warehouse, or other designated person authorized by law to*  
40 *dispense or administer such prescription drug, and the pharmacy, the*  
41 *chain pharmacy warehouse, or other designated person authorized by*  
42 *law to dispense or administer such prescription drug receives delivery of*  
43 *the prescription drug directly from the manufacturer, that*



1 *manufacturer's co-licensee, that manufacturer's third party logistics*  
2 *provider, or that manufacturer's exclusive distributor, of such*  
3 *prescription drug. Drop shipment shall be part of the "normal*  
4 *distribution channel."*

5 *(r) "Drug" means: (1) Articles recognized in the official United*  
6 *States pharmacopoeia, or other such official compendiums of the United*  
7 *States, or official national formulary, or any supplement of any of them;*  
8 *(2) articles intended for use in the diagnosis, cure, mitigation, treatment*  
9 *or prevention of disease in man or other animals; (3) articles, other than*  
10 *food, intended to affect the structure or any function of the body of man*  
11 *or other animals; and (4) articles intended for use as a component of*  
12 *any articles specified in clause (1), (2) or (3) of this subsection; but does*  
13 *not include devices or their components, parts or accessories, except that*  
14 *the term "drug" shall not include amygdalin (laetrile) or any livestock*  
15 *remedy, if such livestock remedy had been registered in accordance with*  
16 *the provisions of article 5 of chapter 47 of the Kansas Statutes*  
17 *Annotated, prior to its repeal.*

18 *(s) "Durable medical equipment" means technologically*  
19 *sophisticated medical devices that may be used in a residence, including*  
20 *the following: (1) Oxygen and oxygen delivery system; (2) ventilators;*  
21 *(3) respiratory disease management devices; (4) continuous positive*  
22 *airway pressure (CPAP) devices; (5) electronic and computerized*  
23 *wheelchairs and seating systems; (6) apnea monitors; (7)*  
24 *transcutaneous electrical nerve stimulator (TENS) units; (8) low air loss*  
25 *cutaneous pressure management devices; (9) sequential compression*  
26 *devices; (10) feeding pumps; (11) home phototherapy devices; (12)*  
27 *infusion delivery devices; (13) distribution of medical gases to end users*  
28 *for human consumption; (14) hospital beds; (15) nebulizers; or (16)*  
29 *other similar equipment determined by the board in rules and*  
30 *regulations adopted by the board.*

31 *(t) "Electronic prescription" means an electronically prepared*  
32 *prescription that is authorized and transmitted from the prescriber to the*  
33 *pharmacy by means of electronic transmission.*

34 *(u) "Electronic prescription application" means software that is*  
35 *used to create electronic prescriptions and that is intended to be installed*  
36 *on the prescriber's computers and servers where access and records are*  
37 *controlled by the prescriber.*

38 *(v) "Electronic signature" means a confidential personalized*  
39 *digital key, code, number or other method for secure electronic data*  
40 *transmissions which identifies a particular person as the source of the*  
41 *message, authenticates the signatory of the message and indicates the*  
42 *person's approval of the information contained in the transmission.*

43 *(w) "Electronic transmission" means the transmission of an*

1 *electronic prescription, formatted as an electronic data file, from a*  
2 *prescriber's electronic prescription application to a pharmacy's*  
3 *computer, where the data file is imported into the pharmacy prescription*  
4 *application.*

5 (x) *"Electronically prepared prescription" means a prescription*  
6 *that is generated using an electronic prescription application.*

7 (y) *"Exclusive distributor" means any entity that: (1) Contracts*  
8 *with a manufacturer to provide or coordinate warehousing, wholesale*  
9 *distribution or other services on behalf of a manufacturer and who takes*  
10 *title to that manufacturer's prescription drug, but who does not have*  
11 *general responsibility to direct the sale or disposition of the*  
12 *manufacturer's prescription drug; (2) is registered as a wholesale*  
13 *distributor under the pharmacy act of the state of Kansas; and (3) to be*  
14 *considered part of the normal distribution channel, must be an*  
15 *authorized distributor of record.*

16 (z) *"Facsimile transmission" or "fax transmission" means the*  
17 *transmission of a digital image of a prescription from the prescriber or*  
18 *the prescriber's agent to the pharmacy. "Facsimile transmission"*  
19 *includes but is not limited to transmission of a written prescription*  
20 *between the prescriber's fax machine and the pharmacy's fax machine;*  
21 *transmission of an electronically prepared prescription from the*  
22 *prescriber's electronic prescription application to the pharmacy's fax*  
23 *machine, computer or printer; or transmission of an electronically*  
24 *prepared prescription from the prescriber's fax machine to the*  
25 *pharmacy's fax machine, computer or printer.*

26 (aa) *"Generic name" means the established chemical name or*  
27 *official name of a drug or drug product.*

28 (bb) (1) *"Institutional drug room" means any location where*  
29 *prescription-only drugs are stored and from which prescription-only*  
30 *drugs are administered or dispensed and which is maintained or*  
31 *operated for the purpose of providing the drug needs of:*

32 (A) *Inmates of a jail or correctional institution or facility;*

33 (B) *residents of a juvenile detention facility, as defined by the*  
34 *revised Kansas code for care of children and the revised Kansas juvenile*  
35 *justice code;*

36 (C) *students of a public or private university or college, a*  
37 *community college or any other institution of higher learning which is*  
38 *located in Kansas;*

39 (D) *employees of a business or other employer; or*

40 (E) *persons receiving inpatient hospice services.*

41 (2) *"Institutional drug room" does not include:*

42 (A) *Any registered pharmacy;*

43 (B) *any office of a practitioner; or*

1       (C) *a location where no prescription-only drugs are dispensed and*  
2 *no prescription-only drugs other than individual prescriptions are stored*  
3 *or administered.*

4       (cc) *"Intermediary" means any technology system that receives and*  
5 *transmits an electronic prescription between the prescriber and the*  
6 *pharmacy.*

7       (dd) *"Intracompany transaction" means any transaction or*  
8 *transfer between any division, subsidiary, parent or affiliated or related*  
9 *company under common ownership or control of a corporate entity, or*  
10 *any transaction or transfer between co-licensees of a co-licensed*  
11 *product.*

12       (ee) *"Medical care facility" shall have the meaning provided in*  
13 *K.S.A. 65-425, and amendments thereto, except that the term shall also*  
14 *include facilities licensed under the provisions of K.S.A. 75-3307b, and*  
15 *amendments thereto, except community mental health centers and*  
16 *facilities for the mentally-retarded people with intellectual disability.*

17       (ff) *"Manufacture" means the production, preparation,*  
18 *propagation, compounding, conversion or processing of a drug either*  
19 *directly or indirectly by extraction from substances of natural origin,*  
20 *independently by means of chemical synthesis or by a combination of*  
21 *extraction and chemical synthesis and includes any packaging or*  
22 *repackaging of the drug or labeling or relabeling of its container, except*  
23 *that this term shall not include the preparation or compounding of a*  
24 *drug by an individual for the individual's own use or the preparation,*  
25 *compounding, packaging or labeling of a drug by:*

26       (1) *A practitioner or a practitioner's authorized agent incident to*  
27 *such practitioner's administering or dispensing of a drug in the course*  
28 *of the practitioner's professional practice;*

29       (2) *a practitioner, by a practitioner's authorized agent or under a*  
30 *practitioner's supervision for the purpose of, or as an incident to,*  
31 *research, teaching or chemical analysis and not for sale; or*

32       (3) *a pharmacist or the pharmacist's authorized agent acting under*  
33 *the direct supervision of the pharmacist for the purpose of, or incident*  
34 *to, the dispensing of a drug by the pharmacist.*

35       (gg) *"Manufacturer" means a person licensed or approved by the*  
36 *FDA to engage in the manufacture of drugs and devices.*

37       (hh) *"Mid-level practitioner" means an advanced practice*  
38 *registered nurse issued a license pursuant to K.S.A. 65-1131, and*  
39 *amendments thereto, who has authority to prescribe drugs pursuant to a*  
40 *written protocol with a responsible physician under K.S.A. 65-1130, and*  
41 *amendments thereto, or a physician assistant licensed pursuant to the*  
42 *physician assistant licensure act who has authority to prescribe drugs*  
43 *pursuant to a written protocol with a responsible physician under K.S.A.*

1 65-28a08, and amendments thereto.

2 (ii) "Normal distribution channel" means a chain of custody for a  
3 prescription-only drug that goes from a manufacturer of the  
4 prescription-only drug, from that manufacturer to that manufacturer's  
5 co-licensed partner, from that manufacturer to that manufacturer's  
6 third-party logistics provider, or from that manufacturer to that  
7 manufacturer's exclusive distributor, directly or by drop shipment, to:

8 (1) A pharmacy to a patient or to other designated persons  
9 authorized by law to dispense or administer such drug to a patient;

10 (2) a wholesale distributor to a pharmacy to a patient or other  
11 designated persons authorized by law to dispense or administer such  
12 drug to a patient;

13 (3) a wholesale distributor to a chain pharmacy warehouse to that  
14 chain pharmacy warehouse's intracompany pharmacy to a patient or  
15 other designated persons authorized by law to dispense or administer  
16 such drug to a patient; or

17 (4) a chain pharmacy warehouse to the chain pharmacy  
18 warehouse's intracompany pharmacy to a patient or other designated  
19 persons authorized by law to dispense or administer such drug to a  
20 patient.

21 (jj) "Person" means individual, corporation, government,  
22 governmental subdivision or agency, partnership, association or any  
23 other legal entity.

24 (kk) "Pharmacist" means any natural person licensed under this  
25 act to practice pharmacy.

26 (ll) "Pharmacist-in-charge" means the pharmacist who is  
27 responsible to the board for a registered establishment's compliance with  
28 the laws and regulations of this state pertaining to the practice of  
29 pharmacy, manufacturing of drugs and the distribution of drugs. The  
30 pharmacist-in-charge shall supervise such establishment on a full-time  
31 or a part-time basis and perform such other duties relating to  
32 supervision of a registered establishment as may be prescribed by the  
33 board by rules and regulations. Nothing in this definition shall relieve  
34 other pharmacists or persons from their responsibility to comply with  
35 state and federal laws and regulations.

36 (mm) "Pharmacist intern" means: (1) A student currently enrolled  
37 in an accredited pharmacy program; (2) a graduate of an accredited  
38 pharmacy program serving an internship; or (3) a graduate of a  
39 pharmacy program located outside of the United States which is not  
40 accredited and who has successfully passed equivalency examinations  
41 approved by the board.

42 (nn) "Pharmacy," "drugstore" or "apothecary" means premises,  
43 laboratory, area or other place: (1) Where drugs are offered for sale

1 *where the profession of pharmacy is practiced and where prescriptions*  
2 *are compounded and dispensed; or (2) which has displayed upon it or*  
3 *within it the words "pharmacist," "pharmaceutical chemist,"*  
4 *"pharmacy," "apothecary," "drugstore," "druggist," "drugs," "drug*  
5 *sundries" or any of these words or combinations of these words or*  
6 *words of similar import either in English or any sign containing any of*  
7 *these words; or (3) where the characteristic symbols of pharmacy or the*  
8 *characteristic prescription sign "Rx" may be exhibited. As used in this*  
9 *subsection, premises refers only to the portion of any building or*  
10 *structure leased, used or controlled by the licensee in the conduct of the*  
11 *business registered by the board at the address for which the registration*  
12 *was issued.*

13 *(oo) "Pharmacy prescription application" means software that is*  
14 *used to process prescription information, is installed on a pharmacy's*  
15 *computers or servers, and is controlled by the pharmacy.*

16 *(pp) "Pharmacy technician" means an individual who, under the*  
17 *direct supervision and control of a pharmacist, may perform packaging,*  
18 *manipulative, repetitive or other nondiscretionary tasks related to the*  
19 *processing of a prescription or medication order and who assists the*  
20 *pharmacist in the performance of pharmacy related duties, but who does*  
21 *not perform duties restricted to a pharmacist.*

22 *(qq) "Practitioner" means a person licensed to practice medicine*  
23 *and surgery, dentist, podiatrist, veterinarian, optometrist or scientific*  
24 *investigator or other person authorized by law to use a prescription-only*  
25 *drug in teaching or chemical analysis or to conduct research with*  
26 *respect to a prescription-only drug.*

27 *(rr) "Preceptor" means a licensed pharmacist who possesses at*  
28 *least two years' experience as a pharmacist and who supervises students*  
29 *obtaining the pharmaceutical experience required by law as a condition*  
30 *to taking the examination for licensure as a pharmacist.*

31 *(ss) "Prescriber" means a practitioner or a mid-level practitioner.*

32 *(tt) "Prescription" or "prescription order" means: (1) An order to*  
33 *be filled by a pharmacist for prescription medication issued and signed*  
34 *by a prescriber in the authorized course of such prescriber's*  
35 *professional practice; or (2) an order transmitted to a pharmacist*  
36 *through word of mouth, note, telephone or other means of*  
37 *communication directed by such prescriber, regardless of whether the*  
38 *communication is oral, electronic, facsimile or in printed form.*

39 *(uu) "Prescription medication" means any drug, including label*  
40 *and container according to context, which is dispensed pursuant to a*  
41 *prescription order.*

42 *(vv) "Prescription-only drug" means any drug whether intended*  
43 *for use by man or animal, required by federal or state law  $\xi$  including 21*

1 U.S.C. § 353}, to be dispensed only pursuant to a written or oral  
2 prescription or order of a practitioner or is restricted to use by  
3 practitioners only.

4 (ww) "Probation" means the practice or operation under a  
5 temporary license, registration or permit or a conditional license,  
6 registration or permit of a business or profession for which a license,  
7 registration or permit is granted by the board under the provisions of the  
8 pharmacy act of the state of Kansas requiring certain actions to be  
9 accomplished or certain actions not to occur before a regular license,  
10 registration or permit is issued.

11 (xx) "Professional incompetency" means:

12 (1) One or more instances involving failure to adhere to the  
13 applicable standard of pharmaceutical care to a degree which  
14 constitutes gross negligence, as determined by the board;

15 (2) repeated instances involving failure to adhere to the applicable  
16 standard of pharmaceutical care to a degree which constitutes ordinary  
17 negligence, as determined by the board; or

18 (3) a pattern of pharmacy practice or other behavior which  
19 demonstrates a manifest incapacity or incompetence to practice  
20 pharmacy.

21 (yy) "Readily retrievable" means that records kept by automatic  
22 data processing applications or other electronic or mechanized record-  
23 keeping systems can be separated out from all other records within a  
24 reasonable time not to exceed 48 hours of a request from the board or  
25 other authorized agent or that hard-copy records are kept on which  
26 certain items are asterisked, redlined or in some other manner visually  
27 identifiable apart from other items appearing on the records.

28 (zz) "Retail dealer" means a person selling at retail  
29 nonprescription drugs which are prepackaged, fully prepared by the  
30 manufacturer or distributor for use by the consumer and labeled in  
31 accordance with the requirements of the state and federal food, drug and  
32 cosmetic acts. Such nonprescription drugs shall not include: (1) A  
33 controlled substance; (2) a prescription-only drug; or (3) a drug  
34 intended for human use by hypodermic injection.

35 (aaa) "Secretary" means the executive secretary of the board.

36 (bbb) "Third party logistics provider" means an entity that: (1)  
37 Provides or coordinates warehousing, distribution or other services on  
38 behalf of a manufacturer, but does not take title to the prescription drug  
39 or have general responsibility to direct the prescription drug's sale or  
40 disposition; (2) is registered as a wholesale distributor under the  
41 pharmacy act of the state of Kansas; and (3) to be considered part of the  
42 normal distribution channel, must also be an authorized distributor of  
43 record.

1       (ccc) *"Unprofessional conduct" means:*

2       (1) *Fraud in securing a registration or permit;*

3       (2) *intentional adulteration or mislabeling of any drug, medicine,*  
4 *chemical or poison;*

5       (3) *causing any drug, medicine, chemical or poison to be*  
6 *adulterated or mislabeled, knowing the same to be adulterated or*  
7 *mislabeled;*

8       (4) *intentionally falsifying or altering records or prescriptions;*

9       (5) *unlawful possession of drugs and unlawful diversion of drugs to*  
10 *others;*

11       (6) *willful betrayal of confidential information under K.S.A. 65-*  
12 *1654, and amendments thereto;*

13       (7) *conduct likely to deceive, defraud or harm the public;*

14       (8) *making a false or misleading statement regarding the licensee's*  
15 *professional practice or the efficacy or value of a drug;*

16       (9) *commission of any act of sexual abuse, misconduct or*  
17 *exploitation related to the licensee's professional practice; or*

18       (10) *performing unnecessary tests, examinations or services which*  
19 *have no legitimate pharmaceutical purpose.*

20       (ddd) *"Vaccination protocol" means a written protocol, agreed to*  
21 *by a pharmacist and a person licensed to practice medicine and surgery*  
22 *by the state board of healing arts, which establishes procedures and*  
23 *recordkeeping and reporting requirements for administering a vaccine*  
24 *by the pharmacist for a period of time specified therein, not to exceed*  
25 *two years.*

26       (eee) *"Valid prescription order" means a prescription that is issued*  
27 *for a legitimate medical purpose by an individual prescriber licensed by*  
28 *law to administer and prescribe drugs and acting in the usual course of*  
29 *such prescriber's professional practice. A prescription issued solely on*  
30 *the basis of an internet-based questionnaire or consultation without an*  
31 *appropriate prescriber-patient relationship is not a valid prescription*  
32 *order.*

33       (fff) *"Veterinary medical teaching hospital pharmacy" means any*  
34 *location where prescription-only drugs are stored as part of an*  
35 *accredited college of veterinary medicine and from which prescription-*  
36 *only drugs are distributed for use in treatment of or administration to a*  
37 *nonhuman.*

38       (ggg) *"Wholesale distributor" means any person engaged in*  
39 *wholesale distribution of prescription drugs or devices in or into the*  
40 *state, including, but not limited to, manufacturers, repackagers, own-*  
41 *label distributors, private-label distributors, jobbers, brokers,*  
42 *warehouses, including manufacturers' and distributors' warehouses, co-*  
43 *licensees, exclusive distributors, third party logistics providers, chain*

1 *pharmacy warehouses that conduct wholesale distributions, and*  
2 *wholesale drug warehouses, independent wholesale drug traders and*  
3 *retail pharmacies that conduct wholesale distributions. Wholesale*  
4 *distributor shall not include persons engaged in the sale of durable*  
5 *medical equipment to consumers or patients.*

6 *(hhh) "Wholesale distribution" means the distribution of*  
7 *prescription drugs or devices by wholesale distributors to persons other*  
8 *than consumers or patients, and includes the transfer of prescription*  
9 *drugs by a pharmacy to another pharmacy if the total number of units of*  
10 *transferred drugs during a twelve-month period does not exceed 5% of*  
11 *the total number of all units dispensed by the pharmacy during the*  
12 *immediately preceding twelve-month period. Wholesale distribution does*  
13 *not include:*

14 *(1) The sale, purchase or trade of a prescription drug or device, an*  
15 *offer to sell, purchase or trade a prescription drug or device or the*  
16 *dispensing of a prescription drug or device pursuant to a prescription;*

17 *(2) the sale, purchase or trade of a prescription drug or device or an*  
18 *offer to sell, purchase or trade a prescription drug or device for*  
19 *emergency medical reasons;*

20 *(3) intracompany transactions, as defined in this section, unless in*  
21 *violation of own use provisions;*

22 *(4) the sale, purchase or trade of a prescription drug or device or an*  
23 *offer to sell, purchase or trade a prescription drug or device among*  
24 *hospitals, chain pharmacy warehouses, pharmacies or other health care*  
25 *entities that are under common control;*

26 *(5) the sale, purchase or trade of a prescription drug or device or*  
27 *the offer to sell, purchase or trade a prescription drug or device by a*  
28 *charitable organization described in 503(c)(3) of the internal revenue*  
29 *code of 1954 to a nonprofit affiliate of the organization to the extent*  
30 *otherwise permitted by law;*

31 *(6) the purchase or other acquisition by a hospital or other similar*  
32 *health care entity that is a member of a group purchasing organization*  
33 *of a prescription drug or device for its own use from the group*  
34 *purchasing organization or from other hospitals or similar health care*  
35 *entities that are members of these organizations;*

36 *(7) the transfer of prescription drugs or devices between*  
37 *pharmacies pursuant to a centralized prescription processing*  
38 *agreement;*

39 *(8) the sale, purchase or trade of blood and blood components*  
40 *intended for transfusion;*

41 *(9) the return of recalled, expired, damaged or otherwise non-*  
42 *salable prescription drugs, when conducted by a hospital, health care*  
43 *entity, pharmacy, chain pharmacy warehouse or charitable institution in*



1 *accordance with the board's rules and regulations;*

2 *(10) the sale, transfer, merger or consolidation of all or part of the*  
3 *business of a retail pharmacy or pharmacies from or with another retail*  
4 *pharmacy or pharmacies, whether accomplished as a purchase and sale*  
5 *of stock or business assets, in accordance with the board's rules and*  
6 *regulations;*

7 *(11) the distribution of drug samples by manufacturers' and*  
8 *authorized distributors' representatives;*

9 *(12) the sale of minimal quantities of drugs by retail pharmacies to*  
10 *licensed practitioners for office use; or*

11 *(13) the sale or transfer from a retail pharmacy or chain pharmacy*  
12 *warehouse of expired, damaged, returned or recalled prescription drugs*  
13 *to the original manufacturer, originating wholesale distributor or to a*  
14 *third party returns processor in accordance with the board's rules and*  
15 *regulations.*

16 Sec. ~~11~~ 12. K.S.A. 2011 Supp. 65-4915, as amended by section 51 of  
17 2012 Substitute for Senate Bill No. 397, is hereby amended to read as  
18 follows: 65-4915. (a) As used in this section:

19 (1) "Health care provider" means: (A) Those persons and entities  
20 defined as a health care provider under K.S.A. 40-3401, and amendments  
21 thereto; and (B) a dentist licensed by the Kansas dental board, a dental  
22 hygienist licensed by the Kansas dental board, a professional nurse  
23 licensed by the board of nursing, a practical nurse licensed by the board of  
24 nursing, a mental health technician licensed by the board of nursing, a  
25 physical therapist licensed by the state board of healing arts, a physical  
26 therapist assistant certified by the state board of healing arts, an  
27 occupational therapist licensed by the state board of healing arts, an  
28 occupational therapy assistant licensed by the state board of healing arts, a  
29 respiratory therapist licensed by the state board of healing arts, a physician  
30 assistant licensed by the state board of healing arts and attendants and  
31 ambulance services certified by the emergency medical services board.

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

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

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

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

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

41 (E) an organized medical staff of a licensed medical care facility as  
42 defined by K.S.A. 65-425, and amendments thereto, an organized medical  
43 staff of a private psychiatric hospital licensed under K.S.A. 75-3307b, and

- 1 amendments thereto, or an organized medical staff of a state psychiatric  
2 hospital or state institution for people with intellectual disability, as  
3 follows: Larned state hospital, Osawatomie state hospital, Rainbow mental  
4 health facility, Kansas neurological institute and Parsons state hospital and  
5 training center;
- 6 (F) a health care provider;
- 7 (G) a professional society of health care providers or one or more  
8 committees thereof;
- 9 (H) a Kansas corporation whose stockholders or members are health  
10 care providers or an association of health care providers, which  
11 corporation evaluates medical and health care services; ~~or~~
- 12 (I) an insurance company, health maintenance organization or  
13 administrator of a health benefits plan which engages in any of the  
14 functions defined as peer review under this section; *or*
- 15 (J) *the university of Kansas medical center.*
- 16 (3) "Peer review" means any of the following functions:
- 17 (A) Evaluate and improve the quality of health care services rendered  
18 by health care providers;
- 19 (B) determine that health services rendered were professionally  
20 indicated or were performed in compliance with the applicable standard of  
21 care;
- 22 (C) determine that the cost of health care rendered was considered  
23 reasonable by the providers of professional health services in this area;
- 24 (D) evaluate the qualifications, competence and performance of the  
25 providers of health care or to act upon matters relating to the discipline of  
26 any individual provider of health care;
- 27 (E) reduce morbidity or mortality;
- 28 (F) establish and enforce guidelines designed to keep within  
29 reasonable bounds the cost of health care;
- 30 (G) conduct of research;
- 31 (H) determine if a hospital's facilities are being properly utilized;
- 32 (I) supervise, discipline, admit, determine privileges or control  
33 members of a hospital's medical staff;
- 34 (J) review the professional qualifications or activities of health care  
35 providers;
- 36 (K) evaluate the quantity, quality and timeliness of health care  
37 services rendered to patients in the facility;
- 38 (L) evaluate, review or improve methods, procedures or treatments  
39 being utilized by the medical care facility or by health care providers in a  
40 facility rendering health care.
- 41 (4) "Peer review officer or committee" means:
- 42 (A) An individual employed, designated or appointed by, or a  
43 committee of or employed, designated or appointed by, a health care

1 provider group and authorized to perform peer review; or

2 (B) a health care provider monitoring the delivery of health care at  
3 correctional institutions under the jurisdiction of the secretary of  
4 corrections.

5 (b) Except as provided by K.S.A. 60-437, and amendments thereto,  
6 and by subsections (c) and (d), the reports, statements, memoranda,  
7 proceedings, findings and other records submitted to or generated by peer  
8 review committees or officers shall be privileged and shall not be subject  
9 to discovery, subpoena or other means of legal compulsion for their release  
10 to any person or entity or be admissible in evidence in any judicial or  
11 administrative proceeding. Information contained in such records shall not  
12 be discoverable or admissible at trial in the form of testimony by an  
13 individual who participated in the peer review process. The peer review  
14 officer or committee creating or initially receiving the record is the holder  
15 of the privilege established by this section. This privilege may be claimed  
16 by the legal entity creating the peer review committee or officer, or by the  
17 commissioner of insurance for any records or proceedings of the board of  
18 governors.

19 (c) Subsection (b) shall not apply to proceedings in which a health  
20 care provider contests the revocation, denial, restriction or termination of  
21 staff privileges or the license, registration, certification or other  
22 authorization to practice of the health care provider. A licensing agency in  
23 conducting a disciplinary proceeding in which admission of any peer  
24 review committee report, record or testimony is proposed shall hold the  
25 hearing in closed session when any such report, record or testimony is  
26 disclosed. Unless otherwise provided by law, a licensing agency  
27 conducting a disciplinary proceeding may close only that portion of the  
28 hearing in which disclosure of a report or record privileged under this  
29 section is proposed. In closing a portion of a hearing as provided by this  
30 section, the presiding officer may exclude any person from the hearing  
31 location except the licensee, the licensee's attorney, the agency's attorney,  
32 the witness, the court reporter and appropriate staff support for either  
33 counsel. The licensing agency shall make the portions of the agency record  
34 in which such report or record is disclosed subject to a protective order  
35 prohibiting further disclosure of such report or record. Such report or  
36 record shall not be subject to discovery, subpoena or other means of legal  
37 compulsion for their release to any person or entity. No person in  
38 attendance at a closed portion of a disciplinary proceeding shall at a  
39 subsequent civil, criminal or administrative hearing, be required to testify  
40 regarding the existence or content of a report or record privileged under  
41 this section which was disclosed in a closed portion of a hearing, nor shall  
42 such testimony be admitted into evidence in any subsequent civil, criminal  
43 or administrative hearing. A licensing agency conducting a disciplinary

1 proceeding may review peer review committee records, testimony or  
2 reports but must prove its findings with independently obtained testimony  
3 or records which shall be presented as part of the disciplinary proceeding  
4 in open meeting of the licensing agency. Offering such testimony or  
5 records in an open public hearing shall not be deemed a waiver of the peer  
6 review privilege relating to any peer review committee testimony, records  
7 or report.

8 (d) Nothing in this section shall limit the authority, which may  
9 otherwise be provided by law, of the commissioner of insurance, the state  
10 board of healing arts or other health care provider licensing or disciplinary  
11 boards of this state to require a peer review committee or officer to report  
12 to it any disciplinary action or recommendation of such committee or  
13 officer; to transfer to it records of such committee's or officer's  
14 proceedings or actions to restrict or revoke the license, registration,  
15 certification or other authorization to practice of a health care provider; or  
16 to terminate the liability of the fund for all claims against a specific health  
17 care provider for damages for death or personal injury pursuant to  
18 subsection (i) of K.S.A. 40-3403, and amendments thereto. Reports and  
19 records so furnished shall not be subject to discovery, subpoena or other  
20 means of legal compulsion for their release to any person or entity and  
21 shall not be admissible in evidence in any judicial or administrative  
22 proceeding other than a disciplinary proceeding by the state board of  
23 healing arts or other health care provider licensing or disciplinary boards  
24 of this state.

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

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

35 **Sec. ~~12~~ 13.** K.S.A. 2011 Supp. 65-6805, as amended by section 54 of  
36 2012 Substitute for Senate Bill No. 397, is hereby amended to read as  
37 follows: 65-6805. Each medical care facility as defined by subsection (h)  
38 of K.S.A. 65-425, and amendments thereto; health care provider as defined  
39 in K.S.A. 40-3401, and amendments thereto; providers of health care as  
40 defined in subsection (f) of K.S.A. 65-5001, and amendments thereto;  
41 health care personnel as defined in subsection (e) of K.S.A. 65-5001, and  
42 amendments thereto; home health agency as defined by subsection (b) of  
43 K.S.A. 65-5101, and amendments thereto; psychiatric hospitals licensed

1 under K.S.A. 75-3307b, and amendments thereto; state institutions for  
 2 people with intellectual disability; community facilities for people with  
 3 intellectual disability as defined under K.S.A. 65-4412, and amendments  
 4 thereto; community mental health center as defined under K.S.A. 65-4432,  
 5 and amendments thereto; adult care homes as defined by K.S.A. 39-923,  
 6 and amendments thereto; laboratories described in K.S.A. 65-1,107, and  
 7 amendments thereto; pharmacies; board of nursing; Kansas dental board;  
 8 board of examiners in optometry; state board of pharmacy; state board of  
 9 healing arts and third-party payors, including, but not limited to, licensed  
 10 insurers, medical and hospital service corporations, health maintenance  
 11 organizations, fiscal intermediaries for government-funded programs and  
 12 self-funded employee health plans, shall file health care data with the  
 13 ~~Kansas health policy authority~~ *department of health and environment* as  
 14 prescribed by the ~~authority~~ *secretary of health and environment*. The  
 15 provisions of this section shall not apply to any individual, facility or other  
 16 entity under this section which uses spiritual means through prayer alone  
 17 in accordance with the tenets and practices of a recognized church or  
 18 religious denomination for the treatment or cure of disease.

19 ~~Sec. 13.~~ **14.** K.S.A. 2011 Supp. 68-1051, as amended by section 2 of  
 20 2012 House Bill No. 2441, is hereby amended to read as follows: 68-1051.  
 21 The portion of United States highway 75 where it enters the state on the  
 22 Kansas-Nebraska border on the north then south to the junction with K-9  
 23 ~~then west to the junction of K-9 with K-62~~, then south *from the junction of*  
 24 *K-9 with K-62* to the junction of K-62 with K-16 then east to the junction  
 25 with United States highway 75 then south on United States highway 75 to  
 26 the southern city limits of Holton, then from the junction of United States  
 27 highway 75 and N.W. 46<sup>th</sup> street in Shawnee county then south on United  
 28 States highway 75 to the southern boundary of Osage county, then from  
 29 the northern boundary of Woodson county south on United States highway  
 30 75 to the Kansas-Oklahoma border, is hereby designated the purple  
 31 heart/combat wounded veterans highway. The secretary of transportation  
 32 shall place markers along the highway right-of-way at proper intervals to  
 33 indicate that the highway is the purple heart/combat wounded veterans  
 34 highway. The secretary of transportation may accept and administer gifts  
 35 and donations to aid in obtaining suitable highway signs bearing the proper  
 36 approved inscription.

37 ~~Sec. 14.~~ **15.** K.S.A. 2011 Supp. 72-1397 is hereby amended to read as  
 38 follows: 72-1397. (a) The state board of education shall not knowingly  
 39 issue a license to or renew the license of any person who has been  
 40 convicted of:

- 41 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.  
 42 2011 Supp. 21-5503, and amendments thereto;
- 43 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior

- 1 to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5506, and  
2 amendments thereto;
- 3 (3) aggravated indecent liberties with a child, as defined in K.S.A.  
4 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-  
5 5506, and amendments thereto;
- 6 (4) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of  
7 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.  
8 2011 Supp. 21-5504, and amendments thereto;
- 9 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior  
10 to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5504, and  
11 amendments thereto;
- 12 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,  
13 prior to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5508, and  
14 amendments thereto;
- 15 (7) aggravated indecent solicitation of a child, as defined in K.S.A.  
16 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-  
17 5508, and amendments thereto;
- 18 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior  
19 to its repeal, or K.S.A. 2011 Supp. 21-5510, and amendments thereto;
- 20 (9) aggravated incest, as defined in K.S.A. 21-3603, prior to its  
21 repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5604, and amendments  
22 thereto;
- 23 (10) aggravated endangering a child, as defined in K.S.A. 21-3608a,  
24 prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-5601, and  
25 amendments thereto;
- 26 (11) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,  
27 or K.S.A. 2011 Supp. 21-5602, and amendments thereto;
- 28 (12) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,  
29 or K.S.A. 2011 Supp. 21-5401, and amendments thereto;
- 30 (13) murder in the first degree, as defined in K.S.A. 21-3401, prior to  
31 its repeal, or K.S.A. 2011 Supp. 21-5402, and amendments thereto;
- 32 (14) murder in the second degree, as defined in K.S.A. 21-3402, prior  
33 to its repeal, or K.S.A. 2011 Supp. 21-5403, and amendments thereto;
- 34 (15) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to  
35 its repeal, or K.S.A. 2011 Supp. 21-5404, and amendments thereto;
- 36 (16) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to  
37 its repeal, or K.S.A. 2011 Supp. 21-5405, and amendments thereto;
- 38 (17) involuntary manslaughter while driving under the influence of  
39 alcohol or drugs, as defined in K.S.A. 21-3442, prior to its repeal;
- 40 (18) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,  
41 or subsection (a) of K.S.A. 2011 Supp. 21-5505, and amendments thereto,  
42 when, at the time the crime was committed, the victim was less than 18  
43 years of age or a student of the person committing such crime;

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

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

7 (21) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.  
8 2011 Supp. 21-5302, and amendments thereto, to commit any act specified  
9 in this subsection;

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

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

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

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

22 (2) a felony described in any section of article 34 of chapter 21 of the  
23 Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21  
24 of the Kansas Statutes Annotated, or K.S.A. 2011 Supp. 21-6104, 21-6325,  
25 21-6326 or 21-6418, and amendments thereto, other than an act specified  
26 in subsection (a), or a battery, as described in K.S.A. 21-3412, prior to its  
27 repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5413, and amendments  
28 thereto, or domestic battery, as described in K.S.A. 21-3412a, prior to its  
29 repeal, or K.S.A. 2011 Supp. 21-5414, and amendments thereto, if the  
30 victim is a minor or student;

31 (3) a felony described in any section of article 35 of chapter 21 of the  
32 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21  
33 of the Kansas Statutes Annotated, or K.S.A. 2011 Supp. 21-6419 through  
34 21-6421, and amendments thereto, other than an act specified in  
35 subsection (a);

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

40 (5) a felony described in article 37 of chapter 21 of the Kansas  
41 Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the  
42 Kansas Statutes Annotated, or subsection (a)(6) of K.S.A. 2011 Supp. 21-  
43 6412, and amendments thereto;

1 (6) promoting obscenity, as described in K.S.A. 21-4301, prior to its  
2 repeal, or subsection (a) of K.S.A. 2011 Supp. 21-6401, and amendments  
3 thereto, promoting obscenity to minors, as described in K.S.A. 21-4301a,  
4 prior to its repeal, or subsection (b) of K.S.A. 2011 Supp. 21-6401, and  
5 amendments thereto, or promoting to minors obscenity harmful to minors,  
6 as described in K.S.A. 21-4301c, prior to its repeal, or K.S.A. 2011 Supp.  
7 21-6402, and amendments thereto;

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

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

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

17 (10) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.  
18 2011 Supp. 21-5302, and amendments thereto, to commit any act specified  
19 in this subsection; or

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

23 (c) The state board of education may issue a license to or renew the  
24 license of a person who has been convicted of committing an offense or  
25 act described in subsection (b) or who has entered into a criminal diversion  
26 agreement after having been charged with an offense or act described in  
27 subsection (b) if the state board determines, following a hearing, that the  
28 person has been rehabilitated for a period of at least five years from the  
29 date of conviction of the offense or commission of the act or, in the case of  
30 a person who has entered into a criminal diversion agreement, that the  
31 person has satisfied the terms and conditions of the agreement. The state  
32 board of education may consider factors including, but not limited to, the  
33 following in determining whether to grant a license:

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

35 (2) the conduct of the person subsequent to commission of the  
36 offense or act;

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

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

39 (5) whether the offense or act was an isolated or recurring incident;  
40 and

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

42 (d) Before any license is denied by the state board of education for  
43 any of the offenses or acts specified in subsections (a) and (b), the person



1 shall be given notice and an opportunity for a hearing in accordance with  
2 the provisions of the Kansas administrative procedure act.

3 (e) The county or district attorney shall file a report with the state  
4 board of education indicating the name, address and social security  
5 number of any person who has been determined to have committed any  
6 offense or act specified in subsection (a) or (b) or to have entered into a  
7 criminal diversion agreement after having been charged with any offense  
8 or act specified in subsection (b). Such report shall be filed within 30 days  
9 of the date of the determination that the person has committed any such act  
10 or entered into any such diversion agreement.

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

14 ~~Sec. 15.~~ **16.** K.S.A. 2011 Supp. 72-5445 is hereby amended to read as  
15 follows: 72-5445. (a) (1) Subject to the provisions of subsections (b) and  
16 (c), the provisions of K.S.A. 72-5438 through 72-5443, and amendments  
17 thereto, apply only to: (A) Teachers who have completed not less than  
18 three consecutive years of employment, and been offered a fourth contract,  
19 in the school district, area vocational-technical school or community  
20 college by which any such teacher is currently employed; and (B) teachers  
21 who have completed not less than two consecutive years of employment,  
22 and been offered a third contract, in the school district, area vocational-  
23 technical school or community college by which any such teacher is  
24 currently employed if at any time prior to the current employment the  
25 teacher has completed the years of employment requirement of subpart (A)  
26 in any school district, area vocational-technical school or community  
27 college in this state.

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

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

32 (b) The provisions of K.S.A. 72-5438 through 72-5443, and  
33 amendments thereto, do not apply to any teacher whose license has been  
34 nonrenewed or revoked by the state board of education for the reason that  
35 the teacher: (1) Has been convicted of a felony under K.S.A. 2010 Supp.  
36 21-36a01 through 21-36a17, *prior to their transfer, or article 57 of*  
37 *chapter 21 of the Kansas Statutes Annotated*, and amendments thereto, or  
38 any felony violation of any provision of the uniform controlled substances  
39 act prior to July 1, 2009; (2) has been convicted of a felony described in  
40 any section of article 34 of chapter 21 of the Kansas Statutes Annotated,  
41 prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes  
42 Annotated, *or* K.S.A. 2011 Supp. 21-6104, 21-6325, 21-6326 or 21-6418,  
43 and amendments thereto, or an act described in K.S.A. 21-3412, *prior to*

1 *its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5413, or K.S.A. 21-*  
2 *3412a, prior to their repeal, or K.S.A. 2011 Supp. 21-5413 or 21-5414,*  
3 *and amendments thereto, if the victim is a minor or student; (3) has been*  
4 *convicted of a felony described in any section of article 35 of chapter 21 of*  
5 *the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter*  
6 *21 of the Kansas Statutes Annotated, or K.S.A. 2011 Supp. 21-6419*  
7 *through 21-6421, and amendments thereto, or has been convicted of an act*  
8 *described in K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A.*  
9 *2011 Supp. 21-5505, and amendments thereto, if the victim is a minor or*  
10 *student; (4) has been convicted of any act described in any section of*  
11 *article 36 of chapter 21 of the Kansas Statutes Annotated, prior to their*  
12 *repeal, or article 56 of chapter 21 of the Kansas Statutes Annotated, and*  
13 *amendments thereto; (5) has been convicted of a felony described in article*  
14 *37 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or*  
15 *article 58 of chapter 21 of the Kansas Statutes Annotated and or subsection*  
16 *(a)(6) of K.S.A. 2011 Supp. 21-6412, and amendments thereto; (6) has*  
17 *been convicted of an attempt under K.S.A. 21-3301, prior to their repeal,*  
18 *or K.S.A. 2011 Supp. 21-5301, and amendments thereto, to commit*  
19 *any act specified in this subsection; (7) has been convicted of any act*  
20 *which is described in K.S.A. 21-4301, 21-4301a or 21-4301c, prior to their*  
21 *repeal, or K.S.A. 2011 Supp. 21-6401 or 21-6402, and amendments*  
22 *thereto; (8) has been convicted in another state or by the federal*  
23 *government of an act similar to any act described in this subsection; or (9)*  
24 *has entered into a criminal diversion agreement after having been charged*  
25 *with any offense described in this subsection.*

26 (c) (1) The provisions of this subsection shall apply to a teacher  
27 described in subsection (a)(1)(A) of this section. After a teacher has  
28 completed not less than three consecutive years of employment and if the  
29 requirements of paragraph (2) have been satisfied, the board of education  
30 of the school district and the teacher may enter into an agreement under  
31 which the school district may offer the teacher a contract of employment  
32 for a fourth year or a fourth and fifth year and the teacher agrees that the  
33 provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto,  
34 shall not apply to such teacher unless a sixth contract is offered to the  
35 teacher.

36 (2) A school district offering a contract pursuant to this subsection  
37 shall prepare a written plan of assistance for the teacher being offered such  
38 contract and shall submit such plan of assistance to the teacher at the time  
39 such contract is offered. Prior to signing or rejecting a contract, the teacher  
40 shall have not less than 48 hours from the time the contract is offered to  
41 review and consider the contract and the plan of assistance. The plan of  
42 assistance shall be written to address those areas of teacher performance  
43 where the school district believes the teacher's performance is less than

1 satisfactory.

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

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

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

10 (C) the number of teachers that accepted the agreement under this  
11 subsection;

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

15 (4) In addition to the reports required under paragraph (3), each  
16 school district shall report annually to the state board of education, the  
17 committee on education of the senate and the committee on education of  
18 the house of representatives the number of contracts issued under  
19 subsection (a) which result in the application of K.S.A. 72-5438 through  
20 72-5443, and amendments thereto, to the teachers who receive such  
21 contracts and the year of employment for which the contract is issued.

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

23 ~~Sec. 16.17.~~ K.S.A. 2011 Supp. 74-5602, as amended by section 2 of  
24 2012 House Bill No. 2496, is hereby amended to read as follows: 74-5602.  
25 As used in the Kansas law enforcement training act:

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

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

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

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

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

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

41 (g) "Police officer" or "law enforcement officer" means a full-time or  
42 part-time salaried officer or employee of the state, a county or a city,  
43 whose duties include the prevention or detection of crime and the

1 enforcement of the criminal or traffic laws of this state or of any  
2 municipality thereof. Such terms shall include, but not be limited to: The  
3 sheriff, undersheriff and full-time or part-time salaried deputies in the  
4 sheriff's office in each county; deputy sheriffs deputized pursuant to  
5 K.S.A. 19-2858, and amendments thereto; conservation officers of the  
6 Kansas department of wildlife, parks and tourism; university police  
7 officers, as defined in K.S.A. 22-2401a, and amendments thereto; campus  
8 police officers, as defined in K.S.A. 22-2401a, and amendments thereto;  
9 law enforcement agents of the director of alcoholic beverage control; law  
10 enforcement agents designated by the secretary of revenue pursuant to  
11 K.S.A. 2011 Supp. 75-5157, and amendments thereto; law enforcement  
12 agents of the Kansas lottery; law enforcement agents of the Kansas racing  
13 commission; deputies and assistants of the state fire marshal having law  
14 enforcement authority; capitol police, existing under the authority of  
15 K.S.A. 75-4503, and amendments thereto; special investigators of the  
16 juvenile justice authority; and law enforcement officers appointed by the  
17 adjutant general pursuant to K.S.A. 48-204, and amendments thereto. Such  
18 terms shall also include railroad policemen appointed pursuant to K.S.A.  
19 66-524, and amendments thereto; school security officers designated as  
20 school law enforcement officers pursuant to K.S.A. 72-8222, and  
21 amendments thereto; the manager and employees of the horsethief  
22 reservoir benefit district pursuant to K.S.A. 2011 Supp. 82a-2212, and  
23 amendments thereto; and the director of the Kansas commission on peace  
24 officers' standards and training and any other employee of such  
25 commission designated by the director pursuant to K.S.A. 74-5603, and  
26 amendments thereto, as a law enforcement officer. Such terms shall not  
27 include any elected official, other than a sheriff, serving in the capacity of  
28 a law enforcement or police officer solely by virtue of such official's  
29 elected position; any attorney-at-law having responsibility for law  
30 enforcement and discharging such responsibility solely in the capacity of  
31 an attorney; any employee of the commissioner of juvenile justice who is  
32 employed solely to perform correctional, administrative or operational  
33 duties related to juvenile correctional facilities; any employee of the  
34 secretary of corrections, any employee of the secretary of social and  
35 rehabilitation services; any deputy conservation officer of the Kansas  
36 department of wildlife, parks and tourism; or any employee of a city or  
37 county who is employed solely to perform correctional duties related to  
38 jail inmates and the administration and operation of a jail; or any full-time  
39 or part-time salaried officer or employee whose duties include the issuance  
40 of a citation or notice to appear provided such officer or employee is not  
41 vested by law with the authority to make an arrest for violation of the laws  
42 of this state or any municipality thereof, and is not authorized to carry  
43 firearms when discharging the duties of such person's office or

1 employment. Such term shall include any officer appointed or elected on a  
2 provisional basis.

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

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

9 (j) "Misdemeanor crime of domestic violence" means a violation of  
10 domestic battery as provided by K.S.A. 21-3412a, prior to its repeal, or  
11 K.S.A. 2011 Supp. 21-5414, and amendments thereto, or any other  
12 misdemeanor under federal, municipal or state law that has as an element  
13 the use or attempted use of physical force, or the threatened use of a  
14 deadly weapon, committed by a current or former spouse, parent, or  
15 guardian of the victim, by a person with whom the victim shares a child in  
16 common, by a person who is cohabiting with or has cohabited with the  
17 victim as a spouse, parent or guardian, or by a person similarly situated to  
18 a spouse, parent or guardian of the victim.

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

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

28 ~~Sec. 17.~~ **18.** K.S.A. 2011 Supp. 75-2935, as amended by section 115  
29 of 2012 Senate Bill No. 316, is hereby amended to read as follows: 75-  
30 2935. The civil service of the state of Kansas is hereby divided into the  
31 unclassified and the classified services.

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

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

35 (b) members of boards and commissions, heads of departments  
36 required by law to be appointed by the governor or by other elective  
37 officers, and the executive or administrative heads of offices, departments,  
38 divisions and institutions specifically established by law;

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

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

43 (e) officers and employees of the senate and house of representatives

1 of the legislature and of the legislative coordinating council and all officers  
2 and employees of the office of revisor of statutes, of the legislative  
3 research department, of the division of legislative administrative services,  
4 of the division of post audit and the legislative counsel;

5 (f) chancellor, president, deans, administrative officers, student health  
6 service physicians, pharmacists, teaching and research personnel, health  
7 care employees and student employees in the institutions under the state  
8 board of regents, the executive officer of the board of regents and the  
9 executive officer's employees other than clerical employees, and, at the  
10 discretion of the state board of regents, directors or administrative officers  
11 of departments and divisions of the institution and county extension  
12 agents, except that this subsection (1)(f) shall not be construed to include  
13 the custodial, clerical or maintenance employees, or any employees  
14 performing duties in connection with the business operations of any such  
15 institution, except administrative officers and directors; as used in this  
16 subsection (1)(f), "health care employees" means employees of the  
17 university of Kansas medical center who provide health care services at  
18 the university of Kansas medical center and who are medical technicians  
19 or technologists or respiratory therapists, who are licensed professional  
20 nurses or licensed practical nurses, or who are in job classes which are  
21 designated for this purpose by the chancellor of the university of Kansas  
22 upon a finding by the chancellor that such designation is required for the  
23 university of Kansas medical center to recruit or retain personnel for  
24 positions in the designated job classes; and employees of any institution  
25 under the state board of regents who are medical technologists;

26 (g) operations, maintenance and security personnel employed to  
27 implement agreements entered into by the adjutant general and the federal  
28 national guard bureau, and officers and enlisted persons in the national  
29 guard and the naval militia;

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

33 (i) persons temporarily employed or designated by the legislature or  
34 by a legislative committee or commission or other competent authority to  
35 make or conduct a special inquiry, investigation, examination or  
36 installation;

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

42 (k) all employees of courts;

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

- 1 (m) all attorneys for boards, commissions and departments;
- 2 (n) the secretary and assistant secretary of the Kansas state historical  
3 society;
- 4 (o) physician specialists, dentists, dental hygienists, pharmacists,  
5 medical technologists and long term care workers employed by the  
6 department of social and rehabilitation services;
- 7 (p) physician specialists, dentists and medical technologists employed  
8 by any board, commission or department or by any institution under the  
9 jurisdiction thereof;
- 10 (q) student employees enrolled in public institutions of higher  
11 learning;
- 12 (r) administrative officers, directors and teaching personnel of the  
13 state board of education and the state department of education and of any  
14 institution under the supervision and control of the state board of  
15 education, except that this subsection (1)(r) shall not be construed to  
16 include the custodial, clerical or maintenance employees, or any  
17 employees performing duties in connection with the business operations of  
18 any such institution, except administrative officers and directors;
- 19 (s) all officers and employees in the office of the secretary of state;
- 20 (t) one personal secretary and one special assistant to the following:  
21 The secretary of administration, the secretary of aging, the secretary of  
22 agriculture, the secretary of commerce, the secretary of corrections, the  
23 secretary of health and environment, the superintendent of the Kansas  
24 highway patrol, the secretary of labor, the secretary of revenue, the  
25 secretary of social and rehabilitation services, the secretary of  
26 transportation, the secretary of wildlife, parks and tourism and the  
27 commissioner of juvenile justice;
- 28 (u) one personal secretary and one special assistant to the chancellor  
29 and presidents of institutions under the state board of regents;
- 30 (v) one personal secretary and one special assistant to the executive  
31 vice chancellor of the university of Kansas medical center;
- 32 (w) one public information officer and one chief attorney for the  
33 following: The department of administration, the department on aging, the  
34 department of agriculture, the department of commerce, the department of  
35 corrections, the department of health and environment, the department of  
36 labor, the department of revenue, the department of social and  
37 rehabilitation services, the department of transportation, the Kansas  
38 department of wildlife, parks and tourism and the commissioner of  
39 juvenile justice;
- 40 (x) civil service examination monitors;
- 41 (y) one executive director, one general counsel and one director of  
42 public affairs and consumer protection in the office of the state corporation  
43 commission;

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

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

3 ~~(bb)~~ any position that is classified as a position in the information  
4 resource manager job class series, that is the chief position responsible for  
5 all information resources management for a state agency, and that becomes  
6 vacant on or after the effective date of this act. Nothing in this section shall  
7 affect the classified status of any employee in the classified service who is  
8 employed on the date immediately preceding the effective date of this act  
9 in any position that is a classified position in the information resource  
10 manager job class series and the unclassified status as prescribed by this  
11 subsection shall apply only to a person appointed to any such position on  
12 or after the effective date of this act that is the chief position responsible  
13 for all information resources management for a state agency; and

14 ~~(ee)~~ (bb) positions at state institutions of higher education that have  
15 been converted to unclassified positions pursuant to K.S.A. 2011 Supp. 76-  
16 715a, and amendments thereto.

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

25 (3) For positions involving unskilled, or semiskilled duties, the  
26 secretary of administration, as provided by law, shall establish rules and  
27 regulations concerning certifications, appointments, layoffs and  
28 reemployment which may be different from the rules and regulations  
29 established concerning these processes for other positions in the classified  
30 service.

31 (4) Officers authorized by law to make appointments to positions in  
32 the unclassified service, and appointing officers of departments or  
33 institutions whose employees are exempt from the provisions of the  
34 Kansas civil service act because of the constitutional status of such  
35 departments or institutions shall be permitted to make appointments from  
36 appropriate pools of eligibles maintained by the division of personnel  
37 services.

38 ~~Sec. 18.~~ **19.** K.S.A. 2011 Supp. 75-37,121, as amended by section 117  
39 of 2012 Senate Bill No. 316, is hereby amended to read as follows: 75-  
40 37,121. (a) There is created the office of administrative hearings within the  
41 department of administration, to be headed by a director appointed by the  
42 secretary of administration. The director shall be in the unclassified service  
43 under the Kansas civil service act.



1 (b) The office may employ or contract with presiding officers, court  
2 reporters and other support personnel as necessary to conduct proceedings  
3 required by the Kansas administrative procedure act for adjudicative  
4 proceedings of the state agencies, boards and commissions specified in  
5 subsection (h). The office shall conduct adjudicative proceedings of any  
6 state agency which is specified in subsection (h) when requested by such  
7 agency. Only a person admitted to practice law in this state or a person  
8 directly supervised by a person admitted to practice law in this state may  
9 be employed as a presiding officer. The office may employ regular part-  
10 time personnel. Persons employed by the office shall be under the  
11 classified civil service.

12 (c) If the office cannot furnish one of its presiding officers within 60  
13 days in response to a requesting agency's request, the director shall  
14 designate in writing a full-time employee of an agency other than the  
15 requesting agency to serve as presiding officer for the proceeding, but only  
16 with the consent of the employing agency. The designee must possess the  
17 same qualifications required of presiding officers employed by the office.

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

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

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

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

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

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

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

36 (h) The following state agencies, boards and commissions shall  
37 utilize the office of administrative hearings for conducting adjudicative  
38 hearings under the Kansas administrative procedures act in which the  
39 presiding officer is not the agency head or one or more members of the  
40 agency head:

41 (1) On and after July 1, 2005: Department of social and rehabilitation  
42 services, juvenile justice authority, department on aging, department of  
43 health and environment, Kansas public employees retirement system,

1 Kansas water office, Kansas animal health department and Kansas  
2 insurance department.

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

6 (3) On and after July 1, 2007: Kansas lottery, Kansas racing and  
7 gaming commission, state treasurer, pooled money investment board,  
8 Kansas department of wildlife, parks and tourism and state court of tax  
9 appeals.

10 (4) On and after July 1, 2008: Department of human resources, state  
11 corporation commission, state conservation commission, agricultural labor  
12 relations board, department of administration, department of revenue,  
13 board of adult care home administrators, Kansas state grain inspection  
14 department, board of accountancy and Kansas wheat commission.

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

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

32 (2) Effective July 1, 2006, any presiding officer in agencies specified  
33 in subsection (h)(2) which conduct hearings pursuant to the Kansas  
34 administrative procedure act, except those exempted pursuant to K.S.A.  
35 77-551, and amendments thereto, and support personnel for such presiding  
36 officers, shall be transferred to and shall become employees of the office  
37 of administrative hearings. Such personnel shall retain all rights under the  
38 state personnel system and retirement benefits under the laws of this state  
39 which had accrued to or vested in such personnel prior to the effective date  
40 of this section. Such person's services shall be deemed to have been  
41 continuous. All transfers of personnel positions in the classified service  
42 under the Kansas civil service act shall be in accordance with civil service  
43 laws and any rules and regulations adopted thereunder. This section shall

1 not affect any matter pending before an administrative hearing officer at  
2 the time of the effective date of the transfer, and such matter shall proceed  
3 as though no transfer of employment had occurred.

4 (3) Effective July 1, 2007, any presiding officer in agencies specified  
5 in subsection (h)(3) which conduct hearings pursuant to the Kansas  
6 administrative procedure act, except those exempted pursuant to K.S.A.  
7 77-551, and amendments thereto, and support personnel for such presiding  
8 officers, shall be transferred to and shall become employees of the office  
9 of administrative hearings. Such personnel shall retain all rights under the  
10 state personnel system and retirement benefits under the laws of this state  
11 which had accrued to or vested in such personnel prior to the effective date  
12 of this section. Such person's services shall be deemed to have been  
13 continuous. All transfers of personnel positions in the classified service  
14 under the Kansas civil service act shall be in accordance with civil service  
15 laws and any rules and regulations adopted thereunder. This section shall  
16 not affect any matter pending before an administrative hearing officer at  
17 the time of the effective date of the transfer, and such matter shall proceed  
18 as though no transfer of employment had occurred.

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

34 (5) Effective July 1, 2009, any full-time presiding officer in agencies  
35 specified in subsection (h)(5) which conduct hearings pursuant to the  
36 Kansas administrative procedure act, except those exempted pursuant to  
37 K.S.A. 77-551, and amendments thereto, and support personnel for such  
38 presiding officers, shall be transferred to and shall become employees of  
39 the office of administrative hearings. Such personnel shall retain all rights  
40 under the state personnel system and retirement benefits under the laws of  
41 this state which had accrued to or vested in such personnel prior to the  
42 effective date of this section. Such person's services shall be deemed to  
43 have been continuous. All transfers of personnel positions in the classified

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

6 ~~Sec. 19.~~ **20.** K.S.A. 2011 Supp. 76-11a13 is hereby amended to read  
7 as follows: 76-11a13. (a) (1) Subject to the provisions of subsection (b),  
8 the provisions of K.S.A. 76-11a06 through 76-11a11, and amendments  
9 thereto, apply only to: (A) Teachers who have completed not less than  
10 three consecutive years of employment, and been offered a contract for a  
11 fourth year of employment, at the state school in which the teacher is  
12 currently employed; and (B) teachers who have completed not less than  
13 two consecutive years of employment, and been offered a contract for a  
14 third year of employment, at the state school in which the teacher is  
15 currently employed if at any time prior to the current employment the  
16 teacher has completed the years of employment requirement of subpart (A)  
17 at the other state school.

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

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

22 (b) The provisions of K.S.A. 76-11a06 through 76-11a11, and  
23 amendments thereto, do not apply to any teacher whose certificate has  
24 been nonrenewed or revoked by the state board for the reason that the  
25 teacher: (1) Has been convicted of a felony under K.S.A. 2010 Supp. 21-  
26 36a01 through 21-36a17, *prior to their transfer, or article 57 of chapter 21*  
27 *of the Kansas Statutes Annotated*, and amendments thereto, or any felony  
28 violation of any provision of the uniform controlled substances act prior to  
29 July 1, 2009; (2) has been convicted of a felony described in any section of  
30 article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their  
31 repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, or  
32 K.S.A. 2011 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and  
33 amendments thereto, or an act described in K.S.A. 21-3412, prior to its  
34 repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5413, and amendments  
35 thereto, if the victim is a minor or student; (3) has been convicted of a  
36 felony described in any section of article 35 of chapter 21 of the Kansas  
37 Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the  
38 Kansas Statutes Annotated, or K.S.A. 2011 Supp. 21-6419 through 21-  
39 6421, and amendments thereto, or has been convicted of an act described  
40 in K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2011  
41 Supp. 21-5505, and amendments thereto, if the victim is a minor or  
42 student; (4) has been convicted of any act described in any section of  
43 article 36 of chapter 21 of the Kansas Statutes Annotated, prior to their

1 repeal, or article 56 of chapter 21 of the Kansas Statutes Annotated, and  
2 amendments thereto, (5) has been convicted of a felony described in article  
3 37 of chapter 21 of the Kansas Statutes Annotated; prior to their repeal, or  
4 article 58 of chapter 21 of the Kansas Statutes Annotated, or subsection (a)  
5 (6) of K.S.A. 2011 Supp. 21-6412, and amendments thereto; (6) has been  
6 convicted of an attempt under K.S.A. 21-3301, prior to its repeal, or  
7 K.S.A. 2011 Supp. 21-5301, and amendments thereto, to commit any act  
8 specified in this subsection; (7) has been convicted of any act which is  
9 described in K.S.A. 21-4301, 21-4301a or 21-4301c, prior to their repeal,  
10 or K.S.A. 2011 Supp. 21-6401 or 21-6402, and amendments thereto; (8)  
11 has been convicted in another state or by the federal government of an act  
12 similar to any act described in this subsection; or (9) has entered into a  
13 criminal diversion agreement after having been charged with any offense  
14 described in this subsection.

15 ~~Sec. 20.~~ **21.** K.S.A. 2011 Supp. 77-421, as amended by section 38 of  
16 2012 House Bill No. 2535, is hereby amended to read as follows: 77-421.  
17 (a) (1) Except as provided by subsection (a)(2), subsection (a)(3) or  
18 subsection (a)(4), prior to the adoption of any permanent rule and  
19 regulation or any temporary rule and regulation which is required to be  
20 adopted as a temporary rule and regulation in order to comply with the  
21 requirements of the statute authorizing the same and after any such rule  
22 and regulation has been approved by the secretary of administration and  
23 the attorney general, the adopting state agency shall give at least 60 days'  
24 notice of its intended action in the Kansas register and to the secretary of  
25 state and to the joint committee on administrative rules and regulations  
26 established by K.S.A. 77-436, and amendments thereto. The notice shall  
27 be provided to the secretary of state and to the chairperson, vice  
28 chairperson, ranking minority member of the joint committee and  
29 legislative research department and shall be published in the Kansas  
30 register. A complete copy of all proposed rules and regulations and the  
31 complete economic impact statement required by K.S.A. 77-416, and  
32 amendments thereto, shall accompany the notice sent to the secretary of  
33 state. The notice shall contain:

34 (A) A summary of the substance of the proposed rules and  
35 regulations;

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

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

41 (D) the address where a complete copy of the proposed rules and  
42 regulations, the complete economic impact statement, the environmental  
43 benefit statement, if applicable, required by K.S.A. 77-416, and

1 amendments thereto, may be obtained;

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

4 (F) a specific statement that the period of 60 days' notice constitutes a  
5 public comment period for the purpose of receiving written public  
6 comments on the proposed rules and regulations and the address where  
7 such comments may be submitted to the state agency. Publication of such  
8 notice in the Kansas register shall constitute notice to all parties affected  
9 by the rules and regulations.

10 (2) Prior to adopting any rule and regulation which establishes  
11 seasons and fixes bag, creel, possession, size or length limits for the taking  
12 or possession of wildlife and after such rule and regulation has been  
13 approved by the secretary of administration and the attorney general, the  
14 secretary of wildlife, parks and tourism shall give at least 30 days' notice  
15 of its intended action in the Kansas register and to the secretary of state  
16 and to the joint committee on administrative rules and regulations created  
17 pursuant to K.S.A. 77-436, and amendments thereto. All other provisions  
18 of subsection (a)(1) shall apply to such rules and regulations, except that  
19 the statement required by subsection (a)(1)(E) shall state that the period of  
20 30 days' notice constitutes a public comment period on such rules and  
21 regulations.

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

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

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

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

9 (B) the reasons for any substantial change between the text of the  
10 proposed adopted or amended rule and regulation contained in the  
11 published notice of the proposed adoption or amendment of the rule and  
12 regulation and the text of the rule and regulation as finally adopted.

13 (2) Whenever a state agency is required by any other statute to give  
14 notice and hold a hearing before adopting, amending, reviving or revoking  
15 a rule and regulation, the state agency, in lieu of following the  
16 requirements or statutory procedure set out in such other law, may give  
17 notice and hold hearings on proposed rules and regulations in the manner  
18 prescribed by this section.

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

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

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

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

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

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

36 (d) When, pursuant to this or any other statute, a state agency holds a  
37 hearing on the adoption of a proposed rule and regulation, the agency shall  
38 cause written minutes or other records, including a record maintained on  
39 sound recording tape or on any electronically accessed media or any  
40 combination of written or electronically accessed media records of the  
41 hearing to be made. If the proposed rule and regulation is adopted and  
42 becomes effective, the state agency shall maintain, for not less than three  
43 years after its effective date, such minutes or other records, together with

1 any recording, transcript or other record made of the hearing and a list of  
2 all persons who appeared at the hearing and who they represented, any  
3 written testimony presented at the hearing and any written comments  
4 submitted during the public comment period.

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

11 ~~Sec. 21.~~ **22.** K.S.A. 2011 Supp. 79-201a, as amended by section 1 of  
12 2012 House Bill No. 2769, is hereby amended to read as follows: 79-201a.  
13 The following described property, to the extent herein specified, shall be  
14 exempt from all property or ad valorem taxes levied under the laws of the  
15 state of Kansas:

16 First. All property belonging exclusively to the United States, except  
17 property which congress has expressly declared to be subject to state and  
18 local taxation.

19 Second. All property used exclusively by the state or any municipality  
20 or political subdivision of the state. All property owned, being acquired  
21 pursuant to a lease-purchase agreement or operated by the state or any  
22 municipality or political subdivision of the state, including property which  
23 is vacant or lying dormant, which is used or is to be used for any  
24 governmental or proprietary function and for which bonds may be issued  
25 or taxes levied to finance the same, shall be considered to be used  
26 exclusively by the state, municipality or political subdivision for the  
27 purposes of this section. The lease by a municipality or political  
28 subdivision of the state of any real property owned or being acquired  
29 pursuant to a lease-purchase agreement for the purpose of providing office  
30 space necessary for the performance of medical services by a person  
31 licensed to practice medicine and surgery or osteopathic medicine by the  
32 board of healing arts pursuant to K.S.A. 65-2801 et seq., and amendments  
33 thereto, dentistry services by a person licensed by the Kansas dental board  
34 pursuant to K.S.A. 65-1401 et seq., and amendments thereto, optometry  
35 services by a person licensed by the board of examiners in optometry  
36 pursuant to K.S.A. 65-1501 et seq., and amendments thereto, or K.S.A. 74-  
37 1501 et seq., and amendments thereto, podiatry services by a person  
38 licensed by the board of healing arts pursuant to K.S.A. 65-2001 et seq.,  
39 and amendments thereto, or the practice of psychology by a person  
40 licensed by the behavioral sciences regulatory board pursuant to K.S.A.  
41 74-5301 et seq., and amendments thereto, shall be construed to be a  
42 governmental function, and such property actually and regularly used for  
43 such purpose shall be deemed to be used exclusively for the purposes of



1 this paragraph. The lease by a municipality or political subdivision of the  
2 state of any real property, or portion thereof, owned or being acquired  
3 pursuant to a lease-purchase agreement to any entity for the exclusive use  
4 by it for an exempt purpose, including the purpose of displaying or  
5 exhibiting personal property by a museum or historical society, if no  
6 portion of the lease payments include compensation for return on the  
7 investment in such leased property shall be deemed to be used exclusively  
8 for the purposes of this paragraph. All property leased, other than motor  
9 vehicles leased for a period of at least one year and property being  
10 acquired pursuant to a lease-purchase agreement, to the state or any  
11 municipality or political subdivision of the state by any private entity shall  
12 not be considered to be used exclusively by the state or any municipality  
13 or political subdivision of the state for the purposes of this section except  
14 that the provisions of this sentence shall not apply to any such property  
15 subject to lease on the effective date of this act until the term of such lease  
16 expires but property taxes levied upon any such property prior to tax year  
17 1989, shall not be abated or refunded. Any property constructed or  
18 purchased with the proceeds of industrial revenue bonds issued prior to  
19 July 1, 1963, as authorized by K.S.A. 12-1740 through 12-1749, and  
20 amendments thereto, or purchased with proceeds of improvement district  
21 bonds issued prior to July 1, 1963, as authorized by K.S.A. 19-2776, and  
22 amendments thereto, or with proceeds of bonds issued prior to July 1,  
23 1963, as authorized by K.S.A. 19-3815a and 19-3815b, and amendments  
24 thereto, or any property improved, purchased, constructed, reconstructed  
25 or repaired with the proceeds of revenue bonds issued prior to July 1,  
26 1963, as authorized by K.S.A. 13-1238 to 13-1245, inclusive, and  
27 amendments thereto, or any property improved, reimproved, reconstructed  
28 or repaired with the proceeds of revenue bonds issued after July 1, 1963,  
29 under the authority of K.S.A. 13-1238 to 13-1245, inclusive, and  
30 amendments thereto, which had previously been improved, reconstructed  
31 or repaired with the proceeds of revenue bonds issued under such act on or  
32 before July 1, 1963, shall be exempt from taxation for so long as any of the  
33 revenue bonds issued to finance such construction, reconstruction,  
34 improvement, repair or purchase shall be outstanding and unpaid. Any  
35 property constructed or purchased with the proceeds of any revenue bonds  
36 authorized by K.S.A. 13-1238 to 13-1245, inclusive, *and amendments*  
37 *thereto*, 19-2776, 19-3815a and 19-3815b, and amendments thereto, issued  
38 on or after July 1, 1963, shall be exempt from taxation only for a period of  
39 10 calendar years after the calendar year in which the bonds were issued.  
40 Any property, all or any portion of which is constructed or purchased with  
41 the proceeds of revenue bonds authorized by K.S.A. 12-1740 to 12-1749,  
42 inclusive, and amendments thereto, issued on or after July 1, 1963 and  
43 prior to July 1, 1981, shall be exempt from taxation only for a period of 10

1 calendar years after the calendar year in which the bonds were issued.  
2 Except as hereinafter provided, any property constructed or purchased  
3 wholly with the proceeds of revenue bonds issued on or after July 1, 1981,  
4 under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and  
5 amendments thereto, shall be exempt from taxation only for a period of 10  
6 calendar years after the calendar year in which the bonds were issued.  
7 Except as hereinafter provided, any property constructed or purchased in  
8 part with the proceeds of revenue bonds issued on or after July 1, 1981,  
9 under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and  
10 amendments thereto, shall be exempt from taxation to the extent of the  
11 value of that portion of the property financed by the revenue bonds and  
12 only for a period of 10 calendar years after the calendar year in which the  
13 bonds were issued. The exemption of that portion of the property  
14 constructed or purchased with the proceeds of revenue bonds shall  
15 terminate upon the failure to pay all taxes levied on that portion of the  
16 property which is not exempt and the entire property shall be subject to  
17 sale in the manner prescribed by K.S.A. 79-2301 et seq., and amendments  
18 thereto. Property constructed or purchased in whole or in part with the  
19 proceeds of revenue bonds issued on or after January 1, 1995, under the  
20 authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments  
21 thereto, and used in any retail enterprise identified under NAICS sectors  
22 44 and 45, except facilities used exclusively to house the headquarters or  
23 back office operations of such retail enterprises identified thereunder, shall  
24 not be exempt from taxation. For the purposes of the preceding provision  
25 "NAICS" means the North American industry classification system, as  
26 developed under the authority of the office of management and budget of  
27 the office of the president of the United States. "Headquarters or back  
28 office operations" means a facility from which the enterprise is provided  
29 direction, management, administrative services, or distribution or  
30 warehousing functions in support of transactions made by the enterprise.  
31 Property purchased, constructed, reconstructed, equipped, maintained or  
32 repaired with the proceeds of industrial revenue bonds issued under the  
33 authority of K.S.A. 12-1740 et seq., and amendments thereto, which is  
34 located in a redevelopment project area established under the authority of  
35 K.S.A. 12-1770 et seq., and amendments thereto, shall not be exempt from  
36 taxation. Property purchased, acquired, constructed, reconstructed,  
37 improved, equipped, furnished, repaired, enlarged or remodeled with all or  
38 any part of the proceeds of revenue bonds issued under authority of K.S.A.  
39 12-1740 to 12-1749a, inclusive, and amendments thereto, for any poultry  
40 confinement facility on agricultural land which is owned, acquired,  
41 obtained or leased by a corporation, as such terms are defined by K.S.A.  
42 17-5903, and amendments thereto, shall not be exempt from such taxation.  
43 Property purchased, acquired, constructed, reconstructed, improved,

1 equipped, furnished, repaired, enlarged or remodeled with all or any part  
2 of the proceeds of revenue bonds issued under the authority of K.S.A. 12-  
3 1740 to 12-1749a, inclusive, and amendments thereto, for a rabbit  
4 confinement facility on agricultural land which is owned, acquired,  
5 obtained or leased by a corporation, as such terms are defined by K.S.A.  
6 17-5903, and amendments thereto, shall not be exempt from such taxation.

7 Third. All works, machinery and fixtures used exclusively by any rural  
8 water district or township water district for conveying or production of  
9 potable water in such rural water district or township water district, and all  
10 works, machinery and fixtures used exclusively by any entity which  
11 performed the functions of a rural water district on and after January 1,  
12 1990, and the works, machinery and equipment of which were exempted  
13 hereunder on March 13, 1995.

14 Fourth. All fire engines and other implements used for the  
15 extinguishment of fires, with the buildings used exclusively for the  
16 safekeeping thereof, and for the meeting of fire companies, whether  
17 belonging to any rural fire district, township fire district, town, city or  
18 village, or to any fire company organized therein or therefor.

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

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

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

32 Eighth. All property acquired and held by the Kansas armory board for  
33 armory purposes under the provisions of K.S.A. 48-317, and amendments  
34 thereto.

35 Ninth. All property acquired and used by the Kansas turnpike authority  
36 under the authority of K.S.A. 68-2001 et seq., and amendments thereto,  
37 K.S.A. 68-2030 et seq., and amendments thereto, K.S.A. 68-2051 et seq.,  
38 and amendments thereto, and K.S.A. 68-2070 et seq., and amendments  
39 thereto.

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

42 Eleventh. The state office building constructed under authority of  
43 K.S.A. 75-3607 et seq., and amendments thereto, and the site upon which

1 such building is located.

2 Twelfth. All buildings erected under the authority of K.S.A. 76-6a01 et  
3 seq., and amendments thereto, and all other student union buildings and  
4 student dormitories erected upon the campus of any institution mentioned  
5 in K.S.A. 76-6a01, and amendments thereto, by any other nonprofit  
6 corporation.

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

11 Fourteenth. All that portion of the waterworks plant and system of the  
12 city of Kansas City, Missouri, now or hereafter located within the territory  
13 of the state of Kansas pursuant to the compact and agreement adopted by  
14 K.S.A. 79-205, and amendments thereto.

15 Fifteenth. All property, real and personal, owned by a groundwater  
16 management district organized and operating pursuant to K.S.A. 82a-1020,  
17 and amendments thereto.

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

21 Seventeenth. All property, including interests less than fee ownership,  
22 acquired for the state of Kansas by the secretary of transportation or a  
23 predecessor in interest which is used in the administration, construction,  
24 maintenance or operation of the state system of highways, regardless of  
25 how or when acquired.

26 Eighteenth. Any building used primarily as an industrial training center  
27 for academic or vocational education programs designed for and operated  
28 under contract with private industry, and located upon a site owned, leased  
29 or being acquired by or for an area vocational school, an area vocational-  
30 technical school, a technical college, or a community college, as defined  
31 by K.S.A. 72-4412, and amendments thereto, and the site upon which any  
32 such building is located.

33 Nineteenth. For all taxable years commencing after December 31,  
34 1997, all buildings of an area vocational school, an area vocational-  
35 technical school, a technical college or a community college, as defined by  
36 K.S.A. 72-4412, and amendments thereto, which are owned and operated  
37 by any such school or college as a student union or dormitory and the site  
38 upon which any such building is located.

39 Twentieth. For all taxable years commencing after December 31, 1997,  
40 all personal property which is contained within a dormitory that is exempt  
41 from property taxation and which is necessary for the accommodation of  
42 the students residing therein.

43 Twenty-First. All real property from and after the date of its transfer by

1 the city of Olathe, Kansas, to the Kansas state university foundation, all  
2 buildings and improvements thereafter erected and located on such  
3 property, and all tangible personal property, which is held, used or  
4 operated for educational and research purposes at the Kansas state  
5 university Olathe innovation campus located in the city of Olathe, Kansas.

6 Twenty-Second. All real property, and all tangible personal property,  
7 owned by postsecondary educational institutions, as that term is defined in  
8 K.S.A. 74-3201b, and amendments thereto, or by the board of regents on  
9 behalf of the postsecondary educational institutions, which is leased by a  
10 for profit company and is actually and regularly used exclusively for  
11 research and development purposes so long as any rental income received  
12 by such postsecondary educational institution or the board of regents from  
13 such a company is used exclusively for educational or scientific purposes.  
14 Any such lease or occupancy described in this section shall be for a term  
15 of no more than five years.

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

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

24 Sec. ~~22~~. 23. K.S.A. 2011 Supp. 79-3234, as amended by section 127  
25 of 2012 Senate Bill No. 316 is hereby amended to read as follows: 79-  
26 3234. (a) All reports and returns required by this act shall be preserved for  
27 three years and thereafter until the director orders them to be destroyed.

28 (b) Except in accordance with proper judicial order, or as provided in  
29 subsection (c) or in K.S.A. 17-7511, subsection (g) of K.S.A. 46-1106,  
30 K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall be  
31 unlawful for the secretary, the director, any deputy, agent, clerk or other  
32 officer, employee or former employee of the department of revenue or any  
33 other state officer or employee or former state officer or employee to  
34 divulge, or to make known in any way, the amount of income or any  
35 particulars set forth or disclosed in any report, return, federal return or  
36 federal return information required under this act; and it shall be unlawful  
37 for the secretary, the director, any deputy, agent, clerk or other officer or  
38 employee engaged in the administration of this act to engage in the  
39 business or profession of tax accounting or to accept employment, with or  
40 without consideration, from any person, firm or corporation for the  
41 purpose, directly or indirectly, of preparing tax returns or reports required  
42 by the laws of the state of Kansas, by any other state or by the United  
43 States government, or to accept any employment for the purpose of

1 advising, preparing material or data, or the auditing of books or records to  
2 be used in an effort to defeat or cancel any tax or part thereof that has been  
3 assessed by the state of Kansas, any other state or by the United States  
4 government.

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

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

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

13 (4) disclose taxpayer information from income tax returns to persons  
14 or entities contracting with the secretary of revenue where the secretary  
15 has determined disclosure of such information is essential for completion  
16 of the contract and has taken appropriate steps to preserve confidentiality;

17 (5) disclose to the secretary of commerce the following: (A) Specific  
18 taxpayer information related to financial information previously submitted  
19 by the taxpayer to the secretary of commerce concerning or relevant to any  
20 income tax credits, for purposes of verification of such information or  
21 evaluating the effectiveness of any tax credit or economic incentive  
22 program administered by the secretary of commerce; (B) the amount of  
23 payroll withholding taxes an employer is retaining pursuant to K.S.A.  
24 2011 Supp. 74-50,212, and amendments thereto; (C) information received  
25 from businesses completing the form required by K.S.A. 2011 Supp. 74-  
26 50,217, and amendments thereto; and (D) findings related to a compliance  
27 audit conducted by the department of revenue upon the request of the  
28 secretary of commerce pursuant to K.S.A. 2011 Supp. 74-50,215, and  
29 amendments thereto;

30 (6) disclose income tax returns to the state gaming agency to be used  
31 solely for the purpose of determining qualifications of licensees of and  
32 applicants for licensure in tribal gaming. Any information received by the  
33 state gaming agency shall be confidential and shall not be disclosed except  
34 to the executive director, employees of the state gaming agency and  
35 members and employees of the tribal gaming commission;

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

39 (8) disclose the name, residence address, employer or Kansas  
40 adjusted gross income of a taxpayer who may have a duty of support in a  
41 title IV-D case to the secretary of the Kansas department of social and  
42 rehabilitation services for use solely in administrative or judicial  
43 proceedings to establish, modify or enforce such support obligation in a

1 title IV-D case. In addition to any other limits on use, such use shall be  
2 allowed only where subject to a protective order which prohibits  
3 disclosure outside of the title IV-D proceeding. As used in this section,  
4 "title IV-D case" means a case being administered pursuant to part D of  
5 title IV of the federal social security act (42 U.S.C. § 651 et seq.), and  
6 amendments thereto. Any person receiving any information under the  
7 provisions of this subsection shall be subject to the confidentiality  
8 provisions of subsection (b) and to the penalty provisions of subsection  
9 (e);

10 (9) permit the commissioner of internal revenue of the United States,  
11 or the proper official of any state imposing an income tax, or the  
12 authorized representative of either, to inspect the income tax returns made  
13 under this act and the secretary of revenue may make available or furnish  
14 to the taxing officials of any other state or the commissioner of internal  
15 revenue of the United States or other taxing officials of the federal  
16 government, or their authorized representatives, information contained in  
17 income tax reports or returns or any audit thereof or the report of any  
18 investigation made with respect thereto, filed pursuant to the income tax  
19 laws, as the secretary may consider proper, but such information shall not  
20 be used for any other purpose than that of the administration of tax laws of  
21 such state, the state of Kansas or of the United States;

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

28 (11) communicate to the executive director of the Kansas racing  
29 commission as to whether a person, partnership or corporation has failed  
30 to meet any tax obligation to the state of Kansas for the purpose of  
31 determining whether such person, partnership or corporation is eligible for  
32 a facility owner license or facility manager license pursuant to the Kansas  
33 parimutuel racing act;

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

39 (13) (i) provide taxpayer information of persons suspected of  
40 violating K.S.A. 2011 Supp. 44-766, and amendments thereto, to the  
41 secretary of labor or such secretary's designee for the purpose of  
42 determining compliance by any person with the provisions of *subsection*  
43 *(i)(3)(D)* of K.S.A. 44-703~~(i)(3)(D)~~ and K.S.A. 2011 Supp. 44-766, and

1 amendments thereto. The information to be provided shall include all  
2 relevant information in the possession of the department of revenue  
3 necessary for the secretary of labor to make a proper determination of  
4 compliance with the provisions of *subsection (i)(3)(D) of K.S.A. 44-703(+)*  
5 ~~(+)(D)~~ and K.S.A. 2011 Supp. 44-766, and amendments thereto, and to  
6 calculate any unemployment contribution taxes due. Such information to  
7 be provided by the department of revenue shall include, but not be limited to,  
8 withholding tax and payroll information, the identity of any person that  
9 has been or is currently being audited or investigated in connection with  
10 the administration and enforcement of the withholding and declaration of  
11 estimated tax act, K.S.A. 79-3294 et seq., and amendments thereto, and the  
12 results or status of such audit or investigation;

13 (ii) any person receiving tax information under the provisions of this  
14 paragraph shall be subject to the same duty of confidentiality imposed by  
15 law upon the personnel of the department of revenue and shall be subject  
16 to any civil or criminal penalties imposed by law for violations of such  
17 duty of confidentiality; *and*

18 (iii) each of the secretary of labor and the secretary of revenue may  
19 adopt rules and regulations necessary to effect the provisions of this  
20 paragraph; *and*

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

28 (d) Any person receiving information under the provisions of  
29 subsection (c) shall be subject to the confidentiality provisions of  
30 subsection (b) and to the penalty provisions of subsection (e).

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

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

40 ~~Sec. 23. 24. K.S.A.~~ ~~K.S.A.~~ K.S.A. 2011 Supp. 16-1602, 21-5428, 21-5428a,  
41 21-6811, 21-6811a, 22-3437, 22-3437b, 22-4705, 22-4705a, 32-1049a, as  
42 amended by section 64 of 2012 Senate Bill No. 316, 44-703, 44-703a, 44-  
43 706, 44-706b, 59-2132, 65-516, as amended by section 5 of 2012 House



1 Bill No. 2660, 65-1436a, **65-1626, as amended by section 1 of 2012**  
2 **Senate Bill No. 134, 65-1626, as amended by section 42 of 2012**  
3 **Substitute for Senate Bill No. 397**, 65-4915, as amended by section 1 of  
4 2012 House Bill No. 2428, 65-4915, as amended by section 51 of 2012  
5 Substitute for Senate Bill No. 397, 65-6805, as amended by section 28 of  
6 2012 House Bill No. 2416, 65-6805, as amended by section 54 of 2012  
7 Substitute for Senate Bill No. 397, 68-1051, as amended by section 2 of  
8 2012 House Bill No. 2441, 68-1051, as amended by section 2 of 2012  
9 House Bill No. 2509, 72-1397, 72-5445, 72-5445a, 74-4911f, as amended  
10 by section 95 of 2012 Senate Bill No. 316, 74-5089, as amended by  
11 section 6 of 2012 Senate Bill No. 417, 74-5602, as amended by section  
12 105 of 2012 Senate Bill No. 316, 74-5602, as amended by section 2 of  
13 2012 House Bill No. 2496, 74-5602, as amended by section 2 of 2012  
14 Senate Bill No. 424, 75-2935, as amended by section 115 of 2012 Senate  
15 Bill No. 316, 75-2935, as amended by section 28 of 2012 Senate Bill No.  
16 417, 75-3372, 75-37,121, as amended by section 117 of 2012 Senate Bill  
17 No. 316, 75-37,121, as amended by section 33 of 2012 House Bill No.  
18 2416, 76-11a13, 77-415, as amended by section 1 of 2012 Senate Bill No.  
19 252, 77-421, as amended by section 123 of 2012 Senate Bill No. 316, 77-  
20 421, as amended by section 2 of 2012 Senate Bill No. 252, 77-421, as  
21 amended by section 38 of 2012 House Bill No. 2535, 77-421, as amended  
22 by section 55 of 2012 House Bill No. 2416, 79-201a, as amended by  
23 section 1 of 2012 House Bill No. 2769, 79-201a, as amended by section  
24 124 of 2012 Senate Bill No. 316, 79-3234, as amended by section 127 of  
25 2012 Senate Bill No. 316 and 79-3234b, as amended by section 128 of  
26 2012 Senate Bill No. 316 are hereby repealed.

27 Sec. ~~24~~. 25. This act shall take effect and be in force from and after  
28 its publication in the statute book.  
29