

**HOUSE BILL No. 2154**

By Committee on Rural Revitalization

2-6

1 AN ACT concerning employment security law; relating to availability of  
2 benefits for certain public employees required to work but not receiving  
3 wages; establishing the federal and state essential employee assistance  
4 fund; amending K.S.A. 2018 Supp. 44-703, 44-704 and 44-705 and  
5 repealing the existing sections.  
6

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

8 New Section 1. (a) During fiscal years 2019 and 2020, the secretary  
9 of labor shall determine the amount of employment security benefits  
10 payable to applicants who are deemed unemployed by the secretary  
11 pursuant to K.S.A. 44-703(m)(2), and amendments thereto, and seeking  
12 benefits under the special circumstances described in K.S.A. 44-705(c)(2),  
13 and amendments thereto. The secretary shall certify to the director of  
14 accounts and reports the amount of moneys required to pay the  
15 employment security benefits, as determined by the secretary, on the 15<sup>th</sup>  
16 day of each month during fiscal years 2019 and 2020, following the  
17 enactment of this section. Upon receipt of a certification, the director of  
18 accounts and reports shall transfer the amount certified from the state  
19 general fund to the federal and state essential employee assistance fund.  
20 The secretary shall transmit a copy of each certification to the director of  
21 the budget and the director of legislative research.

22 (b) There is hereby established in the state treasury the federal and  
23 state essential employee assistance fund, which shall be administered by  
24 the secretary of labor. All expenditures from the federal and state essential  
25 employee assistance fund shall be for the payment of employment security  
26 benefits as provided in subsection (a). All expenditures from the federal  
27 and state essential employee assistance fund shall be made in accordance  
28 with appropriation acts upon warrants of the director of accounts and  
29 reports issued pursuant to vouchers approved by the secretary of labor or  
30 the secretary's designee.

31 (c) Benefits paid pursuant to this section shall be subject to the  
32 provisions of K.S.A. 44-706(s), and amendments thereto. All moneys  
33 received by the secretary pursuant to the provisions of K.S.A. 44-706(s),  
34 and amendments thereto, from applicants who have received benefits  
35 pursuant to subsection (a) shall be deposited in the state treasury in  
36 accordance with the provisions of K.S.A. 75-4215, and amendments

1 thereto, and credited to the state general fund.

2 (d) This section shall be a part of and supplemental to the  
3 employment security law.

4 Sec. 2. K.S.A. 2018 Supp. 44-703 is hereby amended to read as  
5 follows: 44-703. As used in this act, unless the context clearly requires  
6 otherwise:

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

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

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

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

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

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

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

43 (2) "Regular benefits" means benefits payable to an individual under

1 this act or under any other state law, including benefits payable to federal  
2 civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85,  
3 other than extended benefits.

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

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

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

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

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

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

6 (h) "Employer" means:

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

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

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

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

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

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

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

37 (D) For the purposes of ~~this subsection~~ ~~(h)~~ *paragraph* (1) "crew  
38 leader" means an individual who:

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

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

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

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

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

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

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

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

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

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

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

43 (8) Any employing unit not an employer by reason of any other

1 paragraph of this subsection~~(h)~~, for which within either the current or  
2 preceding calendar year services in employment are or were performed  
3 with respect to which such employing unit is liable for any federal tax  
4 against which credit may be taken for contributions required to be paid  
5 into a state unemployment compensation fund; or which, as a condition for  
6 approval of this act for full tax credit against the tax imposed by the  
7 federal unemployment tax act, is required, pursuant to such act, to be an  
8 "employer" under this act.

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

16 (i) "Employment" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (E) Service performed by an individual in the employ of this state or  
43 any instrumentality thereof, any political subdivision of this state or any

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

24 (i) As an elected official;

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

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

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

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

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

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

42 (D) service performed in the employ of the United States government  
43 or an instrumentality of the United States exempt under the constitution of

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

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

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

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

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

1 such individual. This ~~subsection (i)(4)(H)~~ *subparagraph* shall not be  
2 applicable with respect to services with respect to which unemployment  
3 compensation is payable under an unemployment compensation system  
4 established by an act of congress;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (ii) such individual was regularly employed, as determined under

1 subparagraph (T)(i), by such employer in the performance of such service  
2 during the preceding calendar quarter.

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

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

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

12 (i) Such person:

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

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

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

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

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

32 (W) service performed as an election official or election worker, if the  
33 amount of remuneration received by the individual during the calendar  
34 year for services as an election official or election worker is less than  
35 \$1,000;

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

39 (Y) service performed by an owner-operator of a motor vehicle that is  
40 leased or contracted to a licensed motor carrier with the services of a  
41 driver and is not treated under the terms of the lease agreement or contract  
42 with the licensed motor carrier as an employee for purposes of the federal  
43 insurance contribution act, 26 U.S.C. § 3101 et seq., the federal social

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

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

21 (k) "Fund" means the employment security fund established by this  
22 act, to which all contributions and reimbursement payments required and  
23 from which all benefits provided under this act shall be paid and including  
24 all money received from the federal government as reimbursements  
25 pursuant to section 204 of the federal-state extended compensation act of  
26 1970, and amendments thereto.

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

30 (m) (1) "Unemployment." An individual shall be deemed  
31 "unemployed" with respect to any week during which such individual  
32 performs no services and with respect to which no wages are payable to  
33 such individual, or with respect to any week of less than full-time work if  
34 the wages payable to such individual with respect to such week are less  
35 than such individual's weekly benefit amount.

36 (2) *An individual may be deemed "unemployed" by the secretary with*  
37 *respect to any week during which the individual is required to perform*  
38 *services without receiving pay by a federal or state public employer,*  
39 *whether or not wages will be paid to the individual for the services*  
40 *performed at some future date, as the result of a government shutdown, a*  
41 *state or federal lapse in appropriations or lack of funding. The secretary*  
42 *may adopt rules and regulations to implement this paragraph.*

43 (n) "Employment security administration fund" means the fund

1 established by this act, from which administrative expenses under this act  
2 shall be paid.

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

26 (1) That part of the remuneration which has been paid in a calendar  
27 year to an individual by an employer or such employer's predecessor in  
28 excess of \$3,000 for all calendar years prior to 1972, in excess of \$4,200  
29 for the calendar years 1972 to 1977, inclusive, in excess of \$6,000 for  
30 calendar years 1978 to 1982, inclusive, in excess of \$7,000 for the  
31 calendar year 1983, in excess of \$8,000 for the calendar years 1984 to  
32 2014, inclusive, and in excess of \$12,000 with respect to employment  
33 during calendar year 2015, and in excess of \$14,000 with respect to all  
34 calendar years thereafter, except that if the definition of the term "wages"  
35 as contained in the federal unemployment tax act is amended to include  
36 remuneration paid to an individual by an employer under the federal act in  
37 excess of \$8,000 for the calendar years 1984-2014, inclusive, and in  
38 excess of \$12,000 with respect to employment during calendar year 2015,  
39 and in excess of \$14,000 with respect to all calendar years thereafter,  
40 wages shall include remuneration paid in a calendar year to an individual  
41 by an employer subject to this act or such employer's predecessor with  
42 respect to employment during any calendar year up to an amount equal to  
43 the dollar limitation specified in the federal unemployment tax act. For the

1 purposes of this ~~subsection (e)(1)~~ *paragraph*, the term "employment" shall  
2 include service constituting employment under any employment security  
3 law of another state or of the federal government;

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

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

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

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

31 (B) under or to an annuity plan which, at the time of such payment, is  
32 a plan described in section 403(a) of the federal internal revenue code of  
33 1986;

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

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

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



1 1986;

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

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

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

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

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

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

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

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

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

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

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

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

1 (13) any benefit provided to or on behalf of an employee if at the time  
2 such benefit is provided it is reasonable to believe that the employee will  
3 be able to exclude such benefit from income under section 74(c), 117 or  
4 132 of the federal internal revenue code of 1986;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (B) In the employ of the owner or tenant or other operator of a farm,

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

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

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

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

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

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

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

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

40 (4) For the purpose of this section, if an employing unit does not  
41 maintain sufficient records to separate agricultural labor from other  
42 employment, all services performed during any pay period by an  
43 individual for the person employing such individual shall be deemed to be

1 agricultural labor if services performed during  $\frac{1}{2}$  or more of such pay  
2 period constitute agricultural labor; but if the services performed during  
3 more than  $\frac{1}{2}$  of any such pay period by an individual for the person  
4 employing such individual do not constitute agricultural labor, then none  
5 of the services of such individual for such period shall be deemed to be  
6 agricultural labor. As used in this subsection ~~(w)~~, the term "pay period"  
7 means a period of not more than 31 consecutive days for which a payment  
8 of remuneration is ordinarily made to the individual by the person  
9 employing such individual.

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

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

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

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

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

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

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

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

43 (ff) "Lessor employing unit" means any independently established

1 business entity which engages in the business of providing leased  
2 employees to a client lessee.

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

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

10 Sec. 3. K.S.A. 2018 Supp. 44-704 is hereby amended to read as  
11 follows: 44-704. (a) *Payment of benefits*. All benefits provided herein shall  
12 be payable from the fund, *except as provided in section 1, and*  
13 *amendments thereto*. All benefits shall be paid through the secretary of  
14 labor, in accordance with such rules and regulations as the secretary may  
15 adopt. Benefits based on service in employment defined in K.S.A. 44-  
16 703(i)(3)(E) and (i)(3)(F), and amendments thereto, shall be payable in the  
17 same amount, on the same terms and subject to the same conditions as  
18 compensation payable on the basis of other service subject to this act  
19 except as provided in K.S.A. 44-705(e) and ~~K.S.A. 44-711(e)(2)~~, and  
20 amendments thereto.

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

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

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

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

34 (c) *Maximum weekly benefit amount*. (1) For initial claims effective  
35 prior to July 1, 2015, the maximum weekly benefit amount shall be  
36 determined as follows: On July 1 of each year, the secretary shall  
37 determine the maximum weekly benefit amount by computing 60% of the  
38 average weekly wages paid to employees in insured work during the  
39 previous calendar year and shall prior to that date announce the maximum  
40 weekly benefit amount so determined, by publication in the Kansas  
41 register. Such computation shall be made by dividing the gross wages  
42 reported as paid for insured work during the previous calendar year by the  
43 product of the average of mid-month employment during such calendar

1 year multiplied by 52. The maximum weekly benefit amount so  
2 determined and announced for the twelve-month period shall apply only to  
3 those claims filed in that period qualifying for maximum payment under  
4 the foregoing formula. All claims qualifying for payment at the maximum  
5 weekly benefit amount shall be paid at the maximum weekly benefit  
6 amount in effect when the benefit year to which the claim relates was first  
7 established, notwithstanding a change in the maximum benefit amount for  
8 a subsequent twelve-month period. If the computed maximum weekly  
9 benefit amount is not a multiple of \$1, then the computed maximum  
10 weekly benefit amount shall be reduced to the next lower multiple of \$1.

11 (2) For initial claims effective on or after July 1, 2015, the maximum  
12 weekly benefit amount shall be determined as follows: On July 1 of each  
13 year, the secretary shall determine the maximum weekly benefit amount by  
14 computing 55% of the average weekly wages paid to employees in insured  
15 work during the previous calendar year, but not to be less than \$474, and  
16 shall, prior to that date, announce the maximum weekly benefit amount so  
17 determined by publication in the Kansas register. Such computation shall  
18 be made by dividing the gross wages reported as paid for insured work  
19 during the previous calendar year by the product of the average of mid-  
20 month employment during such calendar year multiplied by 52. The  
21 maximum weekly benefit amount so determined and announced for the  
22 12-month period shall apply only to those claims filed in that period  
23 qualifying for maximum payment under the foregoing formula. All claims  
24 qualifying for payment at the maximum weekly benefit amount shall be  
25 paid at the maximum weekly benefit amount in effect when the benefit  
26 year to which the claim relates was first established, notwithstanding a  
27 change in the maximum benefit amount for a subsequent 12-month period.  
28 If the computed maximum weekly benefit amount is not a multiple of \$1,  
29 then the computed maximum weekly benefit amount shall be reduced to  
30 the next lower multiple of \$1.

31 (d) *Minimum weekly benefit amount.* The minimum weekly benefit  
32 amount payable to any individual shall be 25% of the maximum weekly  
33 benefit amount effective as of the beginning of the individual's benefit  
34 year. If the minimum weekly benefit amount is not a multiple of \$1 it shall  
35 be reduced to the next lower multiple of \$1. The minimum weekly benefit  
36 amount shall apply through the benefit year, notwithstanding a change in  
37 the minimum weekly benefit amount.

38 (e) All claims qualifying for payment at the maximum weekly benefit  
39 amount shall be paid at the maximum weekly benefit amount in effect  
40 when the benefit year to which the claim relates was first established,  
41 notwithstanding a subsequent change in the maximum weekly benefit  
42 amount.

43 (f) *Weekly benefit payable.* Each eligible individual who is

1 unemployed with respect to any week, except as to final payment, shall be  
2 paid with respect to such week a benefit in an amount equal to such  
3 individual's determined weekly benefit amount, less that part of the wage,  
4 if any, payable to such individual with respect to such week which is in  
5 excess of the amount which is equal to 25% of such individual's  
6 determined weekly benefit amount and if the resulting amount is not a  
7 multiple of \$1, it shall be reduced to the next lower multiple of \$1.

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

10 (A) Vacation or holiday pay that was attributable to a week that the  
11 individual claimed benefits; and

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

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

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

20 (B) severance pay, in lieu of notice, under the provisions of public  
21 law 100-379, the federal worker adjustment and retraining notification act,  
22 (29 U.S.C.A. §§ 2101 through 2109);

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

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

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

35 (g) *Duration of benefits.* Any otherwise eligible individual shall be  
36 entitled during any benefit year to a total amount of benefits equal to  
37 whichever is the lesser of 26 times such individual's weekly benefit  
38 amount, or  $\frac{1}{3}$  of such individual's wages for insured work paid during such  
39 individual's base period. Such total amount of benefits, if not a multiple of  
40 \$1, shall be reduced to the next lower multiple of \$1.

41 (h) For the purposes of this section, wages shall be counted as "wages  
42 for insured work" for benefit purposes with respect to any benefit year  
43 only if such benefit year begins subsequent to the date on which the



1 employing unit by whom such wages were paid has satisfied the  
2 conditions of K.S.A. 44-703(h), and amendments thereto, with respect to  
3 becoming an employer.

4 (i) Notwithstanding any other provisions of this section to the  
5 contrary, any benefit otherwise payable for any week shall be reduced by  
6 the amount of any separation, termination, severance or other similar  
7 payment paid to a claimant at the time of or after the claimant's separation  
8 from employment during the benefit year.

9 (1) If any payment pursuant to this subsection is paid with respect to  
10 a month, then the amount deemed to be received with respect to any week  
11 during such month shall be computed by multiplying such monthly  
12 amount by 12 and dividing the product by 52. If there is no designation of  
13 the period with respect to which payments to an individual are made under  
14 this section, then an amount equal to such individual's normal weekly  
15 wage shall be attributed to and deemed paid with respect to the first and  
16 each succeeding week following payment of the separation pay to the  
17 individual until such amount so paid is exhausted.

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

21 (3) Notwithstanding the reemployment provisions of K.S.A. 44-  
22 705(e), and amendments thereto, any individual whose benefit amount is  
23 completely reduced under this subsection for 52 or more weeks shall, upon  
24 exhaustion of the separation pay, be entitled to a new benefit year based  
25 upon entitlement from the base period of the claim that was reduced.

26 (j) For weeks commencing on and after January 1, 2014, if at the  
27 beginning of the benefit year, the three month seasonally adjusted average  
28 unemployment rate for the state of Kansas is: (1) Less than 4.5%, a  
29 claimant shall be eligible for a maximum of 16 weeks of benefits; (2) at  
30 least 4.5% but less ~~that~~ than 6%, a claimant shall be eligible for a  
31 maximum of 20 weeks of benefits; or (3) at least 6%, a claimant shall be  
32 eligible for a maximum of 26 weeks of benefits.

33 Sec. 4. K.S.A. 2018 Supp. 44-705 is hereby amended to read as  
34 follows: 44-705. Except as provided by K.S.A. 44-757, and amendments  
35 thereto, an unemployed individual shall be eligible to receive benefits with  
36 respect to any week only if the secretary, or a person or persons designated  
37 by the secretary, finds that:

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

1 *regulations that waive or alter either or both of the requirements of this*  
2 *subsection to address special circumstances as described in subsection (c)*  
3 *(2).*

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

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

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

22 (2) *The secretary may adopt rules and regulations that waive or alter*  
23 *the requirements of this subsection to address special circumstances where*  
24 *an individual is required to work without receiving pay by a federal or*  
25 *state public employer, whether or not wages will be paid to the individual*  
26 *for the work performed at a future date, as the result of a government*  
27 *shutdown, state or federal lapse in appropriations or lack of funding.*

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

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

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

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

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

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

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

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

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

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

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

40 Sec. 5. K.S.A. 2018 Supp. 44-703, 44-704 and 44-705 are hereby  
41 repealed.

42 Sec. 6. This act shall take effect and be in force from and after its  
43 publication in the Kansas register.