

## HOUSE BILL No. 2357

By Committee on Commerce, Labor and Economic Development

2-13

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1 AN ACT relating to the secretary of labor; concerning employment  
2 security law and administration; employment security personnel;  
3 amending K.S.A. 2014 Supp. 44-706, 44-709, 44-714 and 44-717 and  
4 repealing the existing sections.  
5

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

7 Section 1. K.S.A. 2014 Supp. 44-706 is hereby amended to read as  
8 follows: 44-706. *The secretary shall examine whether an individual has*  
9 *separated from employment for each week claimed. The secretary shall*  
10 *apply the provisions of this section to the individual's most recent*  
11 *employment prior to the week claimed.* An individual shall be disqualified  
12 for benefits:

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

30 (1) The individual was forced to leave work because of illness or  
31 injury upon the advice of a licensed and practicing health care provider  
32 and, upon learning of the necessity for absence, immediately notified the  
33 employer thereof, or the employer consented to the absence, and after  
34 recovery from the illness or injury, when recovery was certified by a  
35 practicing health care provider, the individual returned to the employer and  
36 offered to perform services and the individual's regular work or

1 comparable and suitable work was not available. As used in this paragraph  
2 "health care provider" means any person licensed by the proper licensing  
3 authority of any state to engage in the practice of medicine and surgery,  
4 osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

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

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

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

17 (5) the individual left work because of hazardous working conditions;  
18 in determining whether or not working conditions are hazardous for an  
19 individual, the degree of risk involved to the individual's health, safety and  
20 morals, the individual's physical fitness and prior training and the working  
21 conditions of workers engaged in the same or similar work for the same  
22 and other employers in the locality shall be considered; as used in this  
23 paragraph, "hazardous working conditions" means working conditions that  
24 could result in a danger to the physical or mental well-being of the  
25 individual; each determination as to whether hazardous working  
26 conditions exist shall include, but shall not be limited to, a consideration  
27 of: (A) The safety measures used or the lack thereof; and (B) the condition  
28 of equipment or lack of proper equipment; no work shall be considered  
29 hazardous if the working conditions surrounding the individual's work are  
30 the same or substantially the same as the working conditions generally  
31 prevailing among individuals performing the same or similar work for  
32 other employers engaged in the same or similar type of activity;

33 (6) the individual left work to enter training approved under section  
34 236(a)(1) of the federal trade act of 1974, provided the work left is not of a  
35 substantially equal or higher skill level than the individual's past adversely  
36 affected employment, as defined for purposes of the federal trade act of  
37 1974, and wages for such work are not less than 80% of the individual's  
38 average weekly wage as determined for the purposes of the federal trade  
39 act of 1974;

40 (7) the individual left work because of unwelcome harassment of the  
41 individual by the employer or another employee of which the employing  
42 unit had knowledge and that would impel the average worker to give up  
43 such worker's employment;

1 (8) the individual left work to accept better work; each determination  
2 as to whether or not the work accepted is better work shall include, but  
3 shall not be limited to, consideration of: (A) The rate of pay, the hours of  
4 work and the probable permanency of the work left as compared to the  
5 work accepted; (B) the cost to the individual of getting to the work left in  
6 comparison to the cost of getting to the work accepted; and (C) the  
7 distance from the individual's place of residence to the work accepted in  
8 comparison to the distance from the individual's residence to the work left;

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

13 (10) the individual left work because of a substantial violation of the  
14 work agreement by the employing unit and, before the individual left, the  
15 individual had exhausted all remedies provided in such agreement for the  
16 settlement of disputes before terminating. For the purposes of this  
17 paragraph, a demotion based on performance does not constitute a  
18 violation of the work agreement;

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

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

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

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

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

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

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

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

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

42 (ii) a police record documenting the abuse;

43 (iii) documentation that the abuser has been convicted of one or more

1 of the offenses enumerated in articles 34 and 35 of chapter 21 of the  
2 Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of  
3 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-  
4 6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments  
5 thereto, where the victim was a family or household member;

6 (iv) medical documentation of the abuse;

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

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

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

17 (b) If the individual has been discharged or suspended for misconduct  
18 connected with the individual's work. The disqualification shall begin the  
19 day following the separation and shall continue until after the individual  
20 becomes reemployed and in cases where the disqualification is due to  
21 discharge for misconduct has had earnings from insured work of at least  
22 three times the individual's determined weekly benefit amount, except that  
23 if an individual is discharged for gross misconduct connected with the  
24 individual's work, such individual shall be disqualified for benefits until  
25 such individual again becomes employed and has had earnings from  
26 insured work of at least eight times such individual's determined weekly  
27 benefit amount. In addition, all wage credits attributable to the  
28 employment from which the individual was discharged for gross  
29 misconduct connected with the individual's work shall be canceled. No  
30 such cancellation of wage credits shall affect prior payments made as a  
31 result of a prior separation.

32 (1) For the purposes of this subsection, "misconduct" is defined as a  
33 violation of a duty or obligation reasonably owed the employer as a  
34 condition of employment including, but not limited to, a violation of a  
35 company rule, including a safety rule, if: (A) The individual knew or  
36 should have known about the rule; (B) the rule was lawful and reasonably  
37 related to the job; and (C) the rule was fairly and consistently enforced.

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

43 (B) For the purposes of this subsection, misconduct shall include, but

1 not be limited to, violation of the employer's reasonable attendance  
2 expectations if the facts show:

- 3 (i) The individual was absent or tardy without good cause;
- 4 (ii) the individual had knowledge of the employer's attendance  
5 expectation; and
- 6 (iii) the employer gave notice to the individual that future absence or  
7 tardiness may or will result in discharge.

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

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

21 (B) For the purposes of this subsection, the following shall be  
22 conclusive evidence of gross misconduct:

- 23 (i) The use of alcoholic liquor, cereal malt beverage or a  
24 nonprescribed controlled substance by an individual while working;
- 25 (ii) the impairment caused by alcoholic liquor, cereal malt beverage  
26 or a nonprescribed controlled substance by an individual while working;
- 27 (iii) a positive breath alcohol test or a positive chemical test,  
28 provided:

29 (a) The test was either:

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

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

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

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

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

43 (b) the test sample was collected either:

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

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

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

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

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

13 (c) the collecting and labeling of a chemical test sample was  
14 performed by a licensed health care professional or any other individual  
15 certified pursuant to paragraph (b)(3)(A)(iii)(f) or authorized to collect or  
16 label test samples by federal or state law, or a federal or state rule or  
17 regulation having the force or effect of law, including law enforcement  
18 personnel;

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

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

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

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

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

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

39 (b) the test was administered as part of an employee assistance  
40 program or other drug or alcohol treatment program in which the  
41 employee was participating voluntarily or as a condition of further  
42 employment;

43 (c) the test was otherwise required by law and the test constituted a

- 1 required condition of employment for the individual's job;
- 2 (d) the test was requested pursuant to a written policy of the employer  
3 of which the employee had knowledge and was a required condition of  
4 employment; or
- 5 (e) there was reasonable suspicion to believe that the individual used,  
6 possessed or was impaired by alcoholic liquor, cereal malt beverage or a  
7 nonprescribed controlled substance while working;
- 8 (v) an individual's dilution or other tampering of a chemical test.
- 9 (C) For purposes of this subsection:
- 10 (i) "Alcohol concentration" means the number of grams of alcohol  
11 per 210 liters of breath;
- 12 (ii) "alcoholic liquor" shall be defined as provided in K.S.A. 41-102,  
13 and amendments thereto;
- 14 (iii) "cereal malt beverage" shall be defined as provided in K.S.A. 41-  
15 2701, and amendments thereto;
- 16 (iv) "chemical test" shall include, but is not limited to, tests of urine,  
17 blood or saliva;
- 18 (v) "controlled substance" shall be defined as provided in K.S.A.  
19 2014 Supp. 21-5701, and amendments thereto;
- 20 (vi) "required by law" means required by a federal or state law, a  
21 federal or state rule or regulation having the force and effect of law, a  
22 county resolution or municipal ordinance, or a policy relating to public  
23 safety adopted in an open meeting by the governing body of any special  
24 district or other local governmental entity;
- 25 (vii) "positive breath test" shall mean a test result showing an alcohol  
26 concentration of 0.04 or greater, or the levels listed in 49 C.F.R. part 40, if  
27 applicable, unless the test was administered as part of an employee  
28 assistance program or other drug or alcohol treatment program in which  
29 the employee was participating voluntarily or as a condition of further  
30 employment, in which case "positive chemical test" shall mean a test result  
31 showing an alcohol concentration at or above the levels provided for in the  
32 assistance or treatment program;
- 33 (viii) "positive chemical test" shall mean a chemical result showing a  
34 concentration at or above the levels listed in K.S.A. 44-501, and  
35 amendments thereto, or 49 C.F.R. part 40, as applicable, for the drugs or  
36 abuse listed therein, unless the test was administered as part of an  
37 employee assistance program or other drug or alcohol treatment program  
38 in which the employee was participating voluntarily or as a condition of  
39 further employment, in which case "positive chemical test" shall mean a  
40 chemical result showing a concentration at or above the levels provided for  
41 in the assistance or treatment program.
- 42 (4) An individual shall not be disqualified under this subsection if the  
43 individual is discharged under the following circumstances:

1 (A) The employer discharged the individual after learning the  
2 individual was seeking other work or when the individual gave notice of  
3 future intent to quit, except that the individual shall be disqualified after  
4 the time at which such individual intended to quit and any individual who  
5 commits misconduct after such individual gives notice to such individual's  
6 intent to quit shall be disqualified;

7 (B) the individual was making a good-faith effort to do the assigned  
8 work but was discharged due to: (i) Inefficiency; (ii) unsatisfactory  
9 performance due to inability, incapacity or lack of training or experience;  
10 (iii) isolated instances of ordinary negligence or inadvertence; (iv) good-  
11 faith errors in judgment or discretion; or (v) unsatisfactory work or  
12 conduct due to circumstances beyond the individual's control; or

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

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

1 condition of being employed, the individual would be required to join or to  
2 resign from or refrain from joining any labor organization; and (4) if the  
3 individual left employment as a result of domestic violence, and the  
4 position offered does not reasonably accommodate the individual's  
5 physical, psychological, safety, or legal needs relating to such domestic  
6 violence.

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

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

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

43 (g) For the period of five years beginning with the first day following

1 the last week of unemployment for which the individual received benefits,  
2 or for five years from the date the act was committed, whichever is the  
3 later, if the individual, or another in such individual's behalf with the  
4 knowledge of the individual, has knowingly made a false statement or  
5 representation, or has knowingly failed to disclose a material fact to obtain  
6 or increase benefits under this act or any other unemployment  
7 compensation law administered by the secretary of labor. In addition to the  
8 penalties set forth in K.S.A. 44-719, and amendments thereto, an  
9 individual who has knowingly made a false statement or representation or  
10 who has knowingly failed to disclose a material fact to obtain or increase  
11 benefits under this act or any other unemployment compensation law  
12 administered by the secretary of labor shall be liable for a penalty in the  
13 amount equal to 25% of the amount of benefits unlawfully received.  
14 Notwithstanding any other provision of law, such penalty shall be  
15 deposited into the employment security trust fund.

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

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

32 (j) For any week of unemployment on the basis of service in any  
33 capacity other than service in an instructional, research, or administrative  
34 capacity in an educational institution, as defined in ~~subsection (v)~~ of  
35 K.S.A. 44-703(v), and amendments thereto, if such week begins during the  
36 period between two successive academic years or terms if the individual  
37 performs such services in the first of such academic years or terms and  
38 there is a reasonable assurance that the individual will perform such  
39 services in the second of such academic years or terms, except that if  
40 benefits are denied to the individual under this subsection and the  
41 individual was not offered an opportunity to perform such services for the  
42 educational institution for the second of such academic years or terms,  
43 such individual shall be entitled to a retroactive payment of benefits for

1 each week for which the individual filed a timely claim for benefits and for  
2 which benefits were denied solely by reason of this subsection.

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

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

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

33 (n) For any week in which an individual is receiving a governmental  
34 or other pension, retirement or retired pay, annuity or other similar  
35 periodic payment under a plan maintained by a base period employer and  
36 to which the entire contributions were provided by such employer, except  
37 that: (1) If the entire contributions to such plan were provided by the base  
38 period employer but such individual's weekly benefit amount exceeds such  
39 governmental or other pension, retirement or retired pay, annuity or other  
40 similar periodic payment attributable to such week, the weekly benefit  
41 amount payable to the individual shall be reduced, but not below zero, by  
42 an amount equal to the amount of such pension, retirement or retired pay,  
43 annuity or other similar periodic payment which is attributable to such

1 week; or (2) if only a portion of contributions to such plan were provided  
2 by the base period employer, the weekly benefit amount payable to such  
3 individual for such week shall be reduced, but not below zero, by the  
4 prorated weekly amount of the pension, retirement or retired pay, annuity  
5 or other similar periodic payment after deduction of that portion of the  
6 pension, retirement or retired pay, annuity or other similar periodic  
7 payment that is directly attributable to the percentage of the contributions  
8 made to the plan by such individual; or (3) if the entire contributions to the  
9 plan were provided by such individual, or by the individual and an  
10 employer, or any person or organization, who is not a base period  
11 employer, no reduction in the weekly benefit amount payable to the  
12 individual for such week shall be made under this subsection; or (4)  
13 whatever portion of contributions to such plan were provided by the base  
14 period employer, if the services performed for the employer by such  
15 individual during the base period, or remuneration received for the  
16 services, did not affect the individual's eligibility for, or increased the  
17 amount of, such pension, retirement or retired pay, annuity or other similar  
18 periodic payment, no reduction in the weekly benefit amount payable to  
19 the individual for such week shall be made under this subsection. No  
20 reduction shall be made for payments made under the social security act or  
21 railroad retirement act of 1974.

22 (o) For any week of unemployment on the basis of services  
23 performed in any capacity and under any of the circumstances described in  
24 subsection (i), (j) or (k) which an individual performed in an educational  
25 institution while in the employ of an educational service agency. For the  
26 purposes of this subsection, the term "educational service agency" means a  
27 governmental agency or entity which is established and operated  
28 exclusively for the purpose of providing such services to one or more  
29 educational institutions.

30 (p) For any week of unemployment on the basis of service as a school  
31 bus or other motor vehicle driver employed by a private contractor to  
32 transport pupils, students and school personnel to or from school-related  
33 functions or activities for an educational institution, as defined in  
34 ~~subsection (v) of K.S.A. 44-703(v)~~, and amendments thereto, if such week  
35 begins during the period between two successive academic years or during  
36 a similar period between two regular terms, whether or not successive, if  
37 the individual has a contract or contracts, or a reasonable assurance  
38 thereof, to perform services in any such capacity with a private contractor  
39 for any educational institution for both such academic years or both such  
40 terms. An individual shall not be disqualified for benefits as provided in  
41 this subsection for any week of unemployment on the basis of service as a  
42 bus or other motor vehicle driver employed by a private contractor to  
43 transport persons to or from nonschool-related functions or activities.

1 (q) For any week of unemployment on the basis of services  
2 performed by the individual in any capacity and under any of the  
3 circumstances described in subsection (i), (j), (k) or (o) which are provided  
4 to or on behalf of an educational institution, as defined in ~~subsection (v) of~~  
5 K.S.A. 44-703(v), and amendments thereto, while the individual is in the  
6 employ of an employer which is a governmental entity, Indian tribe or any  
7 employer described in section 501(c)(3) of the federal internal revenue  
8 code of 1986 which is exempt from income under section 501(a) of the  
9 code.

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

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

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

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

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

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

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

40 (t) (1) Any applicant for or recipient of unemployment benefits who  
41 tests positive for unlawful use of a controlled substance or controlled  
42 substance analog shall be required to complete a substance abuse treatment  
43 program approved by the secretary of labor, secretary of commerce or

1 secretary for children and families, and a job skills program approved by  
2 the secretary of labor, secretary of commerce or the secretary for children  
3 and families. Subject to applicable federal laws, any applicant for or  
4 recipient of unemployment benefits who fails to complete or refuses to  
5 participate in the substance abuse treatment program or job skills program  
6 as required under this subsection shall be ineligible to receive  
7 unemployment benefits until completion of such substance abuse  
8 treatment and job skills programs. Upon completion of both substance  
9 abuse treatment and job skills programs, such applicant for or recipient of  
10 unemployment benefits may be subject to periodic drug screening, as  
11 determined by the secretary of labor. Upon a second positive test for  
12 unlawful use of a controlled substance or controlled substance analog, an  
13 applicant for or recipient of unemployment benefits shall be ordered to  
14 complete again a substance abuse treatment program and job skills  
15 program, and shall be terminated from unemployment benefits for a period  
16 of 12 months, or until such applicant for or recipient of unemployment  
17 benefits completes both substance abuse treatment and job skills programs,  
18 whichever is later. Upon a third positive test for unlawful use of a  
19 controlled substance or controlled substance analog, an applicant for or a  
20 recipient of unemployment benefits shall be terminated from receiving  
21 unemployment benefits, subject to applicable federal law.

22 (2) Any individual who has been discharged or refused employment  
23 for failing a preemployment drug screen required by an employer may  
24 request that the drug screening specimen be sent to a different drug testing  
25 facility for an additional drug screening. Any such individual who requests  
26 an additional drug screening at a different drug testing facility shall be  
27 required to pay the cost of drug screening.

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

37 (v) *Notwithstanding the provisions of any subsection, an individual*  
38 *shall not be disqualified for such week of part-time employment in a*  
39 *substitute capacity for an educational institution if such individual's most*  
40 *recent employment prior to the individual's benefit year begin date was for*  
41 *a non-educational institution and such individual demonstrates*  
42 *application for work in such individual's customary occupation or for*  
43 *work for which the individual is reasonably fitted by training or*

1 *experience.*

2 Sec. 2. K.S.A. 2014 Supp. 44-709 is hereby amended to read as  
3 follows: 44-709. (a) *Filing.* Claims for benefits shall be made in  
4 accordance with rules and regulations adopted by the secretary. The  
5 secretary shall furnish a copy of such rules and regulations to any  
6 individual requesting them. Each employer shall post and maintain printed  
7 statements furnished by the secretary without cost to the employer in  
8 places readily accessible to individuals in the service of the employer.

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

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

1 termination of the benefit year.

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

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

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

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

34 (f) *Board of review*. (1) There is hereby created an employment  
35 security board of review, hereinafter referred to as the board, consisting of  
36 three members. Each member of the board shall be appointed for a term of  
37 four years as provided in this subsection. Not more than two members of  
38 the board shall belong to the same political party.

39 (2) When a vacancy on the employment security board of review  
40 occurs, the workers compensation and employment security boards  
41 nominating committee established under K.S.A. 44-551, and amendments  
42 thereto, shall convene and submit a nominee to the governor for  
43 appointment to each vacancy on the employment security board of review,

1 subject to confirmation by the senate as provided by K.S.A. 75-4315b, and  
2 amendments thereto. The governor shall either: (A) Accept and submit to  
3 the senate for confirmation the person nominated by the nominating  
4 committee; or (B) reject the nomination and request the nominating  
5 committee to nominate another person for that position. Except as  
6 provided by K.S.A. 46-2601, and amendments thereto, no person  
7 appointed to the employment security board of review, whose appointment  
8 is subject to confirmation by the senate, shall exercise any power, duty or  
9 function as a member until confirmed by the senate.

10 (3) No member of the employment security board of review shall  
11 serve more than two consecutive terms.

12 (4) Each member of the employment security board shall serve until a  
13 successor has been appointed and confirmed. Any vacancy in the  
14 membership of the board occurring prior to expiration of a term shall be  
15 filled by appointment for the unexpired term in the same manner as  
16 provided for original appointment of the member.

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

24 (6) The employment security board of review shall organize annually  
25 by the election of a chairperson from among its members. The chairperson  
26 shall serve in that capacity for a term of one year and until a successor is  
27 elected. The board shall meet on the first Monday of each month or on the  
28 call of the chairperson or any two members of the board at the place  
29 designated. The secretary of labor shall appoint an executive secretary of  
30 the board and the executive secretary shall attend the meetings of the  
31 board.

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

43 (8) Two members of the employment security board of review shall

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

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

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

22 (i) ~~Court review~~ *Review of board action.* Any action of the  
23 employment security board of review ~~is subject to review~~ *may not be*  
24 *reconsidered after the mailing of the decision. An action of the board shall*  
25 *become final unless a petition for review in accordance with the Kansas*  
26 *judicial review act is filed within 16 calendar days after the date of the*  
27 *mailing of the decision. If an appeal has not been filed within 16 calendar*  
28 *days of the date of the mailing of the decision, the decision becomes final.*  
29 No bond shall be required for commencing an action for such review. ~~In~~  
30 ~~the absence of an action for such review, the action of such board shall~~  
31 ~~become final 16 calendar days after the date of the mailing of the decision.~~  
32 In addition to those persons having standing pursuant to K.S.A. 77-611,  
33 and amendments thereto, the examiner shall have standing to obtain  
34 judicial review of an action of such board. The review proceeding, and the  
35 questions of law certified, shall be heard in a summary manner and shall  
36 be given precedence over all other civil cases except cases arising under  
37 the workers compensation act.

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

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

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

17 Sec. 3. K.S.A. 2014 Supp. 44-714 is hereby amended to read as  
18 follows: 44-714. (a) *Duties and powers of secretary.* It shall be the duty of  
19 the secretary to administer this act and the secretary shall have power and  
20 authority to adopt, amend or revoke such rules and regulations, to employ  
21 such persons, make such expenditures, require such reports, make such  
22 investigations, and take such other action as the secretary deems necessary  
23 or suitable to that end. Such rules and regulations may be adopted,  
24 amended, or revoked by the secretary only after public hearing or  
25 opportunity to be heard thereon. The secretary shall determine the  
26 organization and methods of procedure in accordance with the provisions  
27 of this act, and shall have an official seal which shall be judicially noticed.  
28 The secretary shall make and submit reports for the administration of the  
29 employment security law in the manner prescribed by K.S.A. 75-3044 to  
30 75-3046, inclusive, and 75-3048, and amendments thereto. Whenever the  
31 secretary believes that a change in contribution or benefit rates will  
32 become necessary to protect the solvency of the fund, the secretary shall  
33 promptly so inform the governor and the legislature, and make  
34 recommendations with respect thereto.

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

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

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

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

35 (d) *Employment stabilization.* The secretary, with the advice and aid  
36 of the appropriate divisions of the department of labor, shall take all  
37 appropriate steps to reduce and prevent unemployment; to encourage and  
38 assist in the adoption of practical methods of vocational training, retraining  
39 and vocational guidance; to investigate, recommend, advise, and assist in  
40 the establishment and operation, by municipalities, counties, school  
41 districts and the state, of reserves for public works to be used in time of  
42 business depression and unemployment; to promote the reemployment of  
43 unemployed workers throughout the state in every other way that may be

1 feasible; and to these ends to carry on and publish the results of  
2 investigations and research studies.

3 (e) *Records and reports.* Each employing unit shall keep true and  
4 accurate work records, containing such information as the secretary may  
5 prescribe. Such records shall be open to inspection and subject to being  
6 copied by the secretary or the secretary's authorized representatives at any  
7 reasonable time and shall be preserved for a period of five years from the  
8 due date of the contributions or payments in lieu of contributions for the  
9 period to which they relate. Only one audit shall be made of any  
10 employer's records for any given period of time. Upon request the  
11 employing unit shall be furnished a copy of all findings by the secretary or  
12 the secretary's authorized representatives, resulting from such audit. A  
13 special inquiry or special examination made for a specific and limited  
14 purpose shall not be considered to be an audit for the purpose of this  
15 subsection. The secretary may require from any employing unit any sworn  
16 or unsworn reports, with respect to persons employed by it, which the  
17 secretary deems necessary for the effective administration of this act.  
18 Information thus obtained or obtained from any individual pursuant to the  
19 administration of this act shall be held confidential, except to the extent  
20 necessary for the proper presentation of a claim by an employer or  
21 employee under the employment security law, and shall not be published  
22 or be open to public inspection, other than to public employees in the  
23 performance of their public duties, in any manner revealing the  
24 individual's or employing unit's identity. The secretary may publish or  
25 otherwise disclose appeals records and decisions, and precedential  
26 determinations on coverage of employers, employment and wages,  
27 provided all social security numbers have been removed. Any claimant or  
28 employing unit or their representatives at a hearing before an appeal  
29 tribunal or the secretary shall be supplied with information from such  
30 records to the extent necessary for the proper presentation of the claim.  
31 The transcript made at any such benefits hearing shall not be discoverable  
32 or admissible in evidence in any other proceeding, hearing or  
33 determination of any kind or nature. In the event of any appeal of a  
34 benefits matter, the transcript shall be sealed by the hearing officer and  
35 shall be available only to any reviewing authority who shall reseal the  
36 transcript after making a review of it. In no event shall such transcript be  
37 deemed a public record. Nothing in this subsection~~(e)~~ shall be construed  
38 to prohibit disclosure of any information obtained under the employment  
39 security law, including hearing transcripts, upon request of either of the  
40 parties, for the purpose of administering or adjudicating a claim for  
41 benefits under the provisions of any other state program, except that any  
42 party receiving such information shall be prohibited from further  
43 disclosure and shall be subject to the same duty of confidentiality

1 otherwise imposed by this subsection~~(e)~~ and shall be subject to the  
2 penalties imposed by this subsection~~(e)~~ for violations of such duty of  
3 confidentiality. Nothing in this subsection~~(e)~~ shall be construed to prohibit  
4 disclosure of any information obtained under the employment security law,  
5 including hearing transcripts, for use as evidence in a criminal  
6 investigation or in open court in a criminal prosecution or at an appeal  
7 hearing under the employment security law. Nothing in this subsection  
8 shall be construed to prohibit disclosure of any information obtained under  
9 the employment security law, including hearing transcripts to an agent or  
10 contractor of a public official to whom disclosure is permissible under the  
11 employment security law, except that any party receiving such information  
12 shall be prohibited from further disclosure and shall be subject to the same  
13 duty of confidentiality otherwise imposed by this subsection and shall be  
14 subject to the penalties imposed by this subsection for violations of such  
15 duty of confidentiality. If the secretary or any officer or employee of the  
16 secretary violates any provisions of this subsection ~~(e)~~, the secretary or  
17 such officer or employee shall be fined not less than \$20 nor more than  
18 \$200 or imprisoned for not longer than 90 days, or both. Original records  
19 of the agency and original paid benefit warrants of the state treasurer may  
20 be made available to the employment security agency of any other state or  
21 the federal government to be used as evidence in prosecution of violations  
22 of the employment security law of such state or federal government.  
23 Photostatic copies of such records shall be made and where possible shall  
24 be substituted for original records introduced in evidence and the originals  
25 returned to the agency.

26 (f) *Oaths and witnesses.* In the discharge of the duties imposed by the  
27 employment security law, the chairperson of an appeal tribunal, an appeals  
28 referee, the secretary or any duly authorized representative of the secretary  
29 shall have power to administer oaths and affirmations, take depositions,  
30 issue interrogatories, certify to official acts, and issue subpoenas to compel  
31 the attendance of witnesses and the production of books, papers,  
32 correspondence, memoranda and other records deemed necessary as  
33 evidence in connection with a disputed claim or the administration of the  
34 employment security law.

35 (g) *Subpoenas, service.* Upon request, service of subpoenas shall be  
36 made by the sheriff of a county within that county, by the sheriff's deputy,  
37 by any other person who is not a party and is not less than 18 years of age  
38 or by some person specially appointed for that purpose by the secretary of  
39 labor or the secretary's designee. A person not a party as described above  
40 or a person specially appointed by the secretary or the secretary's designee  
41 to serve subpoenas may make service any place in the state. The subpoena  
42 shall be served as follows:

43 (1) *Individual.* Service upon an individual, other than a minor or

1 incapacitated person, shall be made: (A) By delivering a copy of the  
2 subpoena to the individual personally; (B) by leaving a copy at such  
3 individual's dwelling house or usual place of abode with some person of  
4 suitable age and discretion then residing therein; (C) by leaving a copy at  
5 the business establishment of the employer with an officer or employee of  
6 the establishment; (D) by delivering a copy to an agent authorized by  
7 appointment or by law to receive service of process, but if the agent is one  
8 designated by a statute to receive service, such further notice as the statute  
9 requires shall be given; or (E) if service as prescribed above in  
10 subparagraphs (A), (B), (C) or (D) cannot be made with due diligence, by  
11 leaving a copy of the subpoena at the individual's dwelling house, usual  
12 place of abode or usual business establishment, and by mailing a notice by  
13 first-class mail to the place that the copy has been left.

14 (2) *Corporations and partnerships.* Service upon a domestic or  
15 foreign corporation or upon a partnership or other unincorporated  
16 association, when by law it may be sued as such, shall be made by  
17 delivering a copy of the subpoena to an officer, partner or resident  
18 managing or general agent thereof, or by leaving the copy at any business  
19 office of the employer with the person having charge thereof or by  
20 delivering a copy to any other agent authorized by appointment or required  
21 by law to receive service of process, if the agent is one authorized by law  
22 to receive service and, if the law so requires, by also mailing a copy to the  
23 employer.

24 (3) *Refusal to accept service.* In all cases when the person to be  
25 served, or an agent authorized by such person to accept service of petitions  
26 and summonses shall refuse to receive copies of the subpoena, the offer of  
27 the duly authorized process server to deliver copies thereof and such  
28 refusal shall be sufficient service of such subpoena.

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

33 (B) If service of the subpoena is made by a person appointed by the  
34 secretary or the secretary's designee to make service, or any other person  
35 described in subsection (g) ~~of this section~~, such person shall make an  
36 affidavit as to the time, place and manner of service thereof in a form  
37 prescribed by the secretary or the secretary's designee.

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

1 (h) *Subpoenas, enforcement.* In case of contumacy by or refusal to  
2 obey a subpoena issued to any person, any court of this state within the  
3 jurisdiction of which the inquiry is carried on or within the jurisdiction of  
4 which such person guilty of contumacy or refusal to obey is found, resides  
5 or transacts business, upon application by the secretary or the secretary's  
6 duly authorized representative, shall have jurisdiction to issue to such  
7 person an order requiring such person to appear before the secretary, or the  
8 secretary's duly authorized representative, to produce evidence, if so  
9 ordered, or to give testimony relating to the matter under investigation or  
10 in question. Failure to obey such order of the court may be punished by the  
11 court as a contempt thereof. Any person who, without just cause, shall fail  
12 or refuse to attend and testify or to answer any lawful inquiry or to  
13 produce books, papers, correspondence, memoranda or other records in  
14 obedience to the subpoena of the secretary or the secretary's duly  
15 authorized representative shall be punished by a fine of not less than \$200  
16 or by imprisonment of not longer than 60 days, or both, and each day such  
17 violation continued shall be deemed to be a separate offense.

18 (i) *State-federal cooperation.* In the administration of this act, the  
19 secretary shall cooperate to the fullest extent consistent with the provisions  
20 of this act, with the federal security agency, shall make such reports, in  
21 such form and containing such information as the federal security  
22 administrator may from time to time require, and shall comply with such  
23 provisions as the federal security administrator may from time to time find  
24 necessary to assure the correctness and verification of such reports; and  
25 shall comply with the regulations prescribed by the federal security agency  
26 governing the expenditures of such sums as may be allotted and paid to  
27 this state under title III of the social security act for the purpose of  
28 assisting in the administration of this act. Upon request therefor the  
29 secretary shall furnish to any agency of the United States charged with the  
30 administration of public works or assistance through public employment,  
31 the name, address, ordinary occupation, and employment status of each  
32 recipient of benefits and such recipient's rights to further benefits under  
33 this act.

34 (j) *Reciprocal arrangements.* The secretary shall participate in  
35 making reciprocal arrangements with appropriate and duly authorized  
36 agencies of other states or of the federal government, or both, whereby:

37 (1) Services performed by an individual for a single employing unit  
38 for which services are customarily performed in more than one state shall  
39 be deemed to be services performed entirely within any one of the states:  
40 (A) In which any part of such individual's service is performed; (B) in  
41 which such individual maintains residence; or (C) in which the employing  
42 unit maintains a place of business, provided there is in effect as to such  
43 services, an election, approved by the agency charged with the

1 administration of such state's unemployment compensation law, pursuant  
2 to which all the services performed by such individual for such employing  
3 units are deemed to be performed entirely within such state;

4 (2) service performed by not more than three individuals, on any  
5 portion of a day but not necessarily simultaneously, for a single employing  
6 unit which customarily operates in more than one state shall be deemed to  
7 be service performed entirely within the state in which such employing  
8 unit maintains the headquarters of its business; provided that there is in  
9 effect, as to such service, an approved election by an employing unit with  
10 the affirmative consent of each such individual, pursuant to which service  
11 performed by such individual for such employing unit is deemed to be  
12 performed entirely within such state;

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

19 (4) wages or services, upon the basis of which an individual may  
20 become entitled to benefits under an unemployment compensation law of  
21 another state or of the federal government, shall be deemed to be wages  
22 for insured work for the purpose of determining such individual's rights to  
23 benefits under this act, and wages for insured work, on the basis of which  
24 an individual may become entitled to benefits under this act, shall be  
25 deemed to be wages or services on the basis of which unemployment  
26 compensation under such law of another state or of the federal government  
27 is payable, but no such arrangement shall be entered into unless it contains  
28 provisions for reimbursements to the fund for such of the benefits paid  
29 under this act upon the basis of such wages or services, and provisions for  
30 reimbursements from the fund for such of the compensation paid under  
31 such other law upon the basis of wages for insured work, as the secretary  
32 finds will be fair and reasonable as to all affected interests; and

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

41 (B) reimbursements paid from the fund pursuant to subsection (j)(4)  
42 ~~of this section~~ shall be deemed to be benefits for the purpose of K.S.A. 44-  
43 704 and 44-712, and amendments thereto; the secretary is authorized to

1 make to other state or federal agencies, and to receive from such other  
2 state or federal agencies, reimbursements from or to the fund, in  
3 accordance with arrangements entered into pursuant to the provisions of  
4 this section or any other section of the employment security law;

5 (C) the administration of this act and of other state and federal  
6 unemployment compensation and public employment service laws will be  
7 promoted by cooperation between this state and such other states and the  
8 appropriate federal agencies in exchanging services and in making  
9 available facilities and information; the secretary is therefore authorized to  
10 make such investigations, secure and transmit such information, make  
11 available such services and facilities and exercise such of the other powers  
12 provided herein with respect to the administration of this act as the  
13 secretary deems necessary or appropriate to facilitate the administration of  
14 any such unemployment compensation or public employment service law  
15 and, in like manner, to accept and utilize information, service and facilities  
16 made available to this state by the agency charged with the administration  
17 of any such other unemployment compensation or public employment  
18 service law; and

19 (D) to the extent permissible under the laws and constitution of the  
20 United States, the secretary is authorized to enter into or cooperate in  
21 arrangements whereby facilities and services provided under this act and  
22 facilities and services provided under the unemployment compensation  
23 law of any foreign government may be utilized for the taking of claims and  
24 the payment of benefits under the employment security law of this state or  
25 under a similar law of such government.

26 (k) *Records available.* The secretary may furnish the railroad  
27 retirement board, at the expense of such board, such copies of the records  
28 as the railroad retirement board deems necessary for its purposes.

29 (l) *Destruction of records, reproduction and disposition.* The  
30 secretary may provide for the destruction, reproduction, temporary or  
31 permanent retention, and disposition of records, reports and claims in the  
32 secretary's possession pursuant to the administration of the employment  
33 security law provided that prior to any destruction of such records, reports  
34 or claims the secretary shall comply with K.S.A. 75-3501 to 75-3514,  
35 inclusive, and amendments thereto.

36 (m) *Federal cooperation.* The secretary may afford reasonable  
37 cooperation with every agency of the United States charged with  
38 administration of any unemployment insurance law.

39 (n) The secretary is hereby authorized to fix, charge and collect fees  
40 for copies made of public documents, as defined by ~~subsection (c) of~~  
41 K.S.A. 45-217(c), and amendments thereto, by xerographic, thermographic  
42 or other photocopying or reproduction process, in order to recover all or  
43 part of the actual costs incurred, including any costs incurred in certifying

1 such copies. All moneys received from fees charged for copies of such  
2 documents shall be remitted to the state treasurer in accordance with the  
3 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
4 each such remittance, the state treasurer shall deposit the entire amount in  
5 the state treasury to the credit of the employment security administration  
6 fund. No such fees shall be charged or collected for copies of documents  
7 that are made pursuant to a statute which requires such copies to be  
8 furnished without expense.

9 Sec. 4. K.S.A. 2014 Supp. 44-717 is hereby amended to read as  
10 follows: 44-717. (a) (1) *Penalties on past-due reports, interest on past-due*  
11 *contributions, payments in lieu of contributions, benefit cost payments and*  
12 *interest assessments made under K.S.A. 44-710a, and amendments thereto.*  
13 Any employer or any officer or agent of an employer, who fails to file any  
14 wage report or contribution return by the last day of the month following  
15 the close of each calendar quarter to which they are related shall pay a  
16 penalty as provided by this subsection for each month or fraction of a  
17 month until the report or return is received by the secretary of labor except  
18 that for calendar years 2010 and 2011 an employer or any officer or agent  
19 of the employer shall have up to 90 days past the due date for any of the  
20 first three calendar quarters in a calendar year to pay such employer's  
21 contribution without being charged any interest, however, when the 90 day  
22 period has passed, the provisions of this section shall apply. The penalty  
23 for each month or fraction of a month shall be an amount equal to .05% of  
24 the total wages paid by the employer during the quarter, except that no  
25 penalty shall be less than \$25 nor more than \$200 for each such report or  
26 return not timely filed. Contributions, benefit cost payments and interest  
27 assessments made pursuant to K.S.A. 44-710a, and amendments thereto,  
28 unpaid by the last day of the month following the last calendar quarter to  
29 which they are related and payments in lieu of contributions unpaid 30  
30 days after the mailing of the statement of benefit charges, shall bear  
31 interest at the rate of 1% per month or fraction of a month until payment is  
32 received by the secretary of labor except that an employing unit, which is  
33 not theretofore subject to this law and which becomes an employer and  
34 does not refuse to make the reports, returns and contributions, payments in  
35 lieu of contributions and benefit cost payments required under this law,  
36 shall not be liable for such penalty or interest if the wage reports and  
37 contribution returns required are filed and the contributions, payments in  
38 lieu of contributions or benefit cost payments required are paid within 10  
39 days following notification by the secretary of labor that a determination  
40 has been made fixing its status as an employer subject to this law. Upon  
41 written request and good cause shown, the secretary of labor may abate  
42 any penalty or interest or portion thereof provided for by this subsection.  
43 Interest amounting to less than \$5 shall be waived by the secretary of labor

1 and shall not be collected. Penalties and interest collected pursuant to this  
2 subsection shall be paid into the special employment security fund. For all  
3 purposes under this section, amounts assessed as surcharges under  
4 subsection (j) or under K.S.A. 44-710a, and amendments thereto, shall be  
5 considered to be contributions and shall be subject to penalties and interest  
6 imposed under this section and to collection in the manner provided by  
7 this section. For all purposes under this section, amounts assessed under  
8 K.S.A. 44-710a, and amendments thereto, shall be subject to penalties and  
9 interest imposed under this section and to collection in the manner  
10 provided in this section. For purposes of this subsection, a wage report, a  
11 contribution return, a contribution, a payment in lieu of contribution, a  
12 benefit cost payment or an interest assessment made pursuant to K.S.A.  
13 44-710a, and amendments thereto, is deemed to be filed or paid as of the  
14 date it is placed in the United States mail.

15 (2) Notices of payment and reporting delinquency to Indian tribes or  
16 their tribal units shall include information that failure to make full payment  
17 within the prescribed time frame:

18 (i) Will cause the Indian tribe to be liable for taxes under FUTA;

19 (ii) will cause the Indian tribe to lose the option to make payments in  
20 lieu of contributions;

21 (iii) could cause the Indian tribe to be excepted from the definition of  
22 "employer," as provided in ~~paragraph (h)(3)~~ of K.S.A. 44-703(h)(3), and  
23 amendments thereto, and services in the employ of the Indian tribe, as  
24 provided in ~~paragraph (i)(3)(E)~~ of K.S.A. 44-703(i)(3)(E), and  
25 amendments thereto, to be excepted from "employment."

26 (b) *Collection.* (1) If, after due notice, any employer defaults in  
27 payment of any penalty, contributions, payments in lieu of contributions,  
28 benefit cost payments, interest assessments made pursuant to K.S.A. 44-  
29 710a, and amendments thereto, or interest thereon the amount due may be  
30 collected by civil action in the name of the secretary of labor and the  
31 employer adjudged in default shall pay the cost of such action. Civil  
32 actions brought under this section to collect contributions, payments in lieu  
33 of contributions, benefit cost payments, interest assessments made  
34 pursuant to K.S.A. 44-710a, and amendments thereto, penalties, or interest  
35 thereon from an employer shall be heard by the district court at the earliest  
36 possible date and shall be entitled to preference upon the calendar of the  
37 court over all other civil actions except petitions for judicial review under  
38 this act and cases arising under the workmen's compensation act. All  
39 liability determinations of contributions due, payments in lieu of  
40 contributions, benefit cost payments and interest assessments made  
41 pursuant to K.S.A. 44-710a, and amendments thereto, due shall be made  
42 within a period of five years from the date such contributions, payments in  
43 lieu of contributions, benefit cost payments and interest assessments made

1 pursuant to K.S.A. 44-710a, and amendments thereto, were due except  
2 such determinations may be made for any time when an employer has filed  
3 fraudulent reports with intent to evade liability.

4 (2) Any employing unit which is not a resident of this state and which  
5 exercises the privilege of having one or more individuals perform service  
6 for it within this state and any resident employing unit which exercises that  
7 privilege and thereafter removes from this state, shall be deemed thereby  
8 to appoint the secretary of state as its agent and attorney for the acceptance  
9 of process in any civil action under this subsection. In instituting such an  
10 action against any such employing unit the secretary of labor shall cause  
11 such process or notice to be filed with the secretary of state and such  
12 service shall be sufficient service upon such employing unit and shall be of  
13 the same force and validity as if served upon it personally within this state.  
14 The secretary of labor shall send notice immediately of the service of such  
15 process or notice, together with a copy thereof, by registered or certified  
16 mail, return receipt requested, to such employing unit at its last-known  
17 address and such return receipt, the affidavit of compliance of the secretary  
18 of labor with the provisions of this section, and a copy of the notice of  
19 service, shall be appended to the original of the process filed in the court in  
20 which such civil action is pending.

21 (3) The district courts of this state shall entertain, in the manner  
22 provided in subsections (b)(1) and (b)(2), actions to collect contributions,  
23 payments in lieu of contributions, interest assessments made pursuant to  
24 K.S.A. 44-710a, and amendments thereto, and other amounts owed  
25 including interest thereon for which liability has accrued under the  
26 employment security law of any other state or of the federal government.

27 (c) *Priorities under legal dissolutions or distributions.* In the event of  
28 any distribution of employer's assets pursuant to an order of any court  
29 under the laws of this state, including but not limited to any probate  
30 proceeding, interpleader, receivership, assignment for benefit of creditors,  
31 adjudicated insolvency, composition or similar proceedings, contributions  
32 payments in lieu of contributions or interest assessments made under  
33 K.S.A. 44-710a, and amendments thereto, then or thereafter due shall be  
34 paid in full from the moneys which shall first come into the estate, prior to  
35 all other claims, except claims for wages of not more than \$250 to each  
36 claimant, earned within six months of the commencement of the  
37 proceedings. In the event of an employer's adjudication in bankruptcy,  
38 judicially confirmed extension proposal, or composition, under the federal  
39 bankruptcy act of 1898, as amended, contributions then or thereafter due  
40 shall be entitled to such priority as is provided in that act for taxes due any  
41 state of the United States.

42 (d) *Assessments.* If any employer fails to file a report or return  
43 required by the secretary of labor for the determination of contributions, or

1 payments in lieu of contributions, or benefit cost payments, the secretary  
2 of labor may make such reports or returns or cause the same to be made,  
3 on the basis of such information as the secretary may be able to obtain and  
4 shall collect the contributions, payments in lieu of contributions or benefit  
5 cost payments as determined together with any interest due under this act.  
6 The secretary of labor shall immediately forward to the employer a copy  
7 of the assessment by registered or certified mail to the employer's address  
8 as it appears on the records of the agency, and such assessment shall be  
9 final unless the employer protests such assessment and files a corrected  
10 report or return for the period covered by the assessment within 15 days  
11 after the mailing of the copy of assessment. Failure to receive such notice  
12 shall not invalidate the assessment. Notice in writing shall be presumed to  
13 have been given when deposited as certified or registered matter in the  
14 United States mail, addressed to the person to be charged with notice at  
15 such person's address as it appears on the records of the agency.

16 (e) (1) *Lien*. If any employer or person who is liable to pay  
17 contributions, payments in lieu of contributions, benefit cost payments and  
18 interest assessments made pursuant to K.S.A. 44-710a, and amendments  
19 thereto, neglects or refuses to pay the same after demand, the amount,  
20 including interest and penalty, shall be a lien in favor of the state of  
21 Kansas, secretary of labor, upon all property and rights to property,  
22 whether real or personal, belonging to such employer or person. Such lien  
23 shall not be valid as against any mortgagee, pledgee, purchaser or  
24 judgment creditor until notice thereof has been filed by the secretary of  
25 labor in the office of register of deeds in any county in the state of Kansas,  
26 in which such property is located, and when so filed shall be notice to all  
27 persons claiming an interest in the property of the employer or person  
28 against whom filed. The register of deeds shall enter such notices in the  
29 financing statement record and shall also record the same in full in  
30 miscellaneous record and index the same against the name of the  
31 delinquent employer. The register of deeds shall accept, file, and record  
32 such notice without prepayment of any fee, but lawful fees shall be added  
33 to the amount of such lien and collected when satisfaction is presented for  
34 entry. Such lien shall be satisfied of record upon the presentation of a  
35 certificate of discharge by the state of Kansas, secretary of labor. Nothing  
36 contained in this subsection shall be construed as an invalidation of any  
37 lien or notice filed in the name of the unemployment compensation  
38 division or the employment security division and such liens shall be and  
39 remain in full force and effect until satisfied as provided by this  
40 subsection.

41 (2) *Authority of secretary or authorized representative*. If any  
42 employer or person who is liable to pay any contributions, payments in  
43 lieu of contributions, benefit cost payments and interest assessments made

1 pursuant to K.S.A. 44-710a, and amendments thereto, including interest  
2 and penalty, neglects or refuses to pay the same within 10 days after notice  
3 and demand therefor, the secretary or the secretary's authorized  
4 representative may collect such contributions, payments in lieu of  
5 contributions, benefit cost payments and interest assessments made  
6 pursuant to K.S.A. 44-710a, and amendments thereto, including interest  
7 and penalty, and such further amount as is sufficient to cover the expenses  
8 of the levy, by levy upon all property and rights to property which belong  
9 to the employer or person or which have a lien created thereon by this  
10 subsection for the payment of such contributions, payments in lieu of  
11 contributions, benefit cost payments and interest assessments made  
12 pursuant to K.S.A. 44-710a, and amendments thereto, including interest  
13 and penalty. As used in this subsection, "property" includes all real  
14 property and personal property, whether tangible or intangible, except such  
15 property which is exempt under K.S.A. 60-2301 et seq., and amendments  
16 thereto. Levy may be made upon the accrued salary or wages of any  
17 officer, employee or elected official of any state or local governmental  
18 entity which is subject to K.S.A. 60-723, and amendments thereto, by  
19 serving a notice of levy as provided in ~~subsection (d)~~ of K.S.A. 60-304(d),  
20 and amendments thereto. If the secretary or the secretary's authorized  
21 representative makes a finding that the collection of the amount of such  
22 contributions, payments in lieu of contributions, benefit cost payments and  
23 interest assessments made pursuant to K.S.A. 44-710a, and amendments  
24 thereto, including interest and penalty, is in jeopardy, notice and demand  
25 for immediate payment of such amount may be made by the secretary or  
26 the secretary's authorized representative and, upon failure or refusal to pay  
27 such amount, immediate collection of such amount by levy shall be lawful  
28 without regard to the 10-day period provided in this subsection.

29 (3) *Seizure and sale of property.* The authority to levy granted under  
30 this subsection includes the power of seizure by any means. A levy shall  
31 extend only to property possessed and obligations existing at the time  
32 thereof. In any case in which the secretary or the secretary's authorized  
33 representative may levy upon property or rights to property, the secretary  
34 or the secretary's authorized representative may seize and sell such  
35 property or rights to property.

36 (4) *Successive seizures.* Whenever any property or right to property  
37 upon which levy has been made under this subsection is not sufficient to  
38 satisfy the claim of the secretary for which levy is made, the secretary or  
39 the secretary's authorized representative may proceed thereafter and as  
40 often as may be necessary, to levy in like manner upon any other property  
41 or rights to property which belongs to the employer or person against  
42 whom such claim exists or upon which a lien is created by this subsection  
43 until the amount due from the employer or person, together with all

1 expenses, is fully paid.

2 (f) *Warrant.* In addition or as an alternative to any other remedy  
3 provided by this section and provided that no appeal or other proceeding  
4 for review permitted by this law shall then be pending and the time for  
5 taking thereof shall have expired, the secretary of labor or an authorized  
6 representative of the secretary may issue a warrant certifying the amount  
7 of contributions, payments in lieu of contributions, benefit cost payments,  
8 interest or penalty, and the name of the employer liable for same after  
9 giving 15 days prior notice. Upon request, service of final notices shall be  
10 made by the sheriff within the sheriff's county, by the sheriff's deputy or  
11 some person specially appointed by the secretary for that purpose, or by  
12 the secretary's designee. A person specially appointed by the secretary or  
13 the secretary's designee to serve final notices may make service any place  
14 in the state. Final notices shall be served as follows:

15 (1) *Individual.* Service upon an individual, other than a minor or  
16 incapacitated person, shall be made by delivering a copy of the final notice  
17 to the individual personally or by leaving a copy at such individual's  
18 dwelling house or usual place of abode with some person of suitable age  
19 and discretion then residing therein, by leaving a copy at the business  
20 establishment of the employer with an officer or employee of the  
21 establishment, or by delivering a copy to an agent authorized by  
22 appointment or by law to receive service of process, but if the agent is one  
23 designated by a statute to receive service, such further notice as the statute  
24 requires shall be given. If service as prescribed above cannot be made with  
25 due diligence, the secretary or the secretary's designee may order service  
26 to be made by leaving a copy of the final notice at the employer's dwelling  
27 house, usual place of abode or business establishment.

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

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

42 (4) *Proof of service.* (A) Every officer to whom a final notice or other  
43 process shall be delivered for service within or without the state, shall

1 make return thereof in writing stating the time, place and manner of  
2 service of such writ, and shall sign such officer's name to such return.

3 (B) If service of the notice is made by a person appointed by the  
4 secretary or the secretary's designee to make service, such person shall  
5 make an affidavit as to the time, place and manner of service thereof in a  
6 form prescribed by the secretary or the secretary's designee.

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

15 (6) *Service by mail.* (A) Upon direction of the secretary or the  
16 secretary's designee, service by mail may be effected by forwarding a copy  
17 of the notice to the employer by registered or certified mail to the  
18 employer's address as it appears on the records of the agency. A copy of  
19 the return receipt shall be attached to and filed with any warrant thereafter  
20 filed.

21 (B) The secretary of labor or an authorized representative of the  
22 secretary may file the warrant for record in the office of the clerk of the  
23 district court in the county in which the employer owing such  
24 contributions, payments in lieu of contributions, benefit cost payments,  
25 interest assessments made pursuant to K.S.A. 44-710a, and amendments  
26 thereto, interest, or penalty has business property. The warrant shall certify  
27 the amount of contributions, payments in lieu of contributions, benefit cost  
28 payments, interest and penalty due, and the name of the employer liable  
29 for such amount. It shall be the duty of the clerk of the district court to file  
30 such warrant of record and enter the warrant in the records of the district  
31 court for judgment and decrees under the procedure prescribed for filing  
32 transcripts of judgment.

33 (C) The clerk shall enter, on the day the warrant is filed, the case on  
34 the appearance docket, together with the amount and the time of filing the  
35 warrant. From the time of filing such warrant, the amount of the  
36 contributions, payments in lieu of contributions, benefit cost payments,  
37 interest assessments made pursuant to K.S.A. 44-710a, and amendments  
38 thereto, interest, and penalty, certified therein, shall have the force and  
39 effect of a judgment of the district court until the same is satisfied by the  
40 secretary of labor or an authorized representative or attorney for the  
41 secretary. Execution shall be issuable at the request of the secretary of  
42 labor, an authorized representative or attorney for the secretary, as is  
43 provided in the case of other judgments.

1 (D) Postjudgment procedures shall be the same as for judgments  
2 according to the code of civil procedure.

3 (E) Warrants shall be satisfied of record by payment to the clerk of  
4 the district court of the contributions, payments in lieu of contributions,  
5 benefit cost payments, interest assessments made pursuant to K.S.A. 44-  
6 710a, and amendments thereto, penalty, interest to date, and court costs.  
7 Warrants may also be satisfied of record by payment to the clerk of the  
8 district court of all court costs accrued in the case and by filing a  
9 certificate by the secretary of labor, certifying that the contributions,  
10 payments in lieu of contributions, benefit cost payments, interest  
11 assessments made pursuant to K.S.A. 44-710a, and amendments thereto,  
12 interest and penalty have been paid.

13 (g) *Remedies cumulative.* The foregoing remedies shall be cumulative  
14 and no action taken shall be construed as an election on the part of the  
15 state or any of its officers to pursue any remedy or action under this  
16 section to the exclusion of any other remedy or action for which provision  
17 is made.

18 (h) *Refunds.* If any individual, governmental entity or organization  
19 makes application for refund or adjustment of any amount paid as  
20 contributions, benefit cost payments, interest assessments made pursuant  
21 to K.S.A. 44-710a, and amendments thereto, or interest under this law and  
22 the secretary of labor determines that such amount or any portion thereof  
23 was erroneously collected, except for amounts less than \$5, the secretary  
24 of labor shall allow such individual or organization to make an adjustment  
25 thereof, in connection with subsequent contribution payments, or if such  
26 adjustment cannot be made the secretary of labor shall refund the amount,  
27 except for amounts less than \$5, from the employment security fund,  
28 except that all interest erroneously collected which has been paid into the  
29 special employment security fund shall be refunded out of the special  
30 employment security fund. No adjustment or refund shall be allowed with  
31 respect to a payment as contributions, interest assessments made pursuant  
32 to K.S.A. 44-710a, and amendments thereto, or interest unless an  
33 application therefor is made on or before whichever of the following dates  
34 is later: (1) One year from the date on which such payment was made; or  
35 (2) three years from the last day of the period with respect to which such  
36 payment was made. For like cause and within the same period adjustment  
37 or refund may be so made on the secretary's own initiative. The secretary  
38 of labor shall not be required to refund any contributions, payments in lieu  
39 of contributions or benefit cost payments based upon wages paid which  
40 have been used as base-period wages in a determination of a claimant's  
41 benefit rights when justifiable and correct payments have been made to the  
42 claimant as the result of such determination. For all taxable years  
43 commencing after December 31, 1997, interest at the rate prescribed in

1 K.S.A. 79-2968, and amendments thereto, shall be allowed on a  
2 contribution or benefit cost payment which the secretary has determined  
3 was erroneously collected pursuant to this section.

4 (i) (1) *Cash deposit or bond.* If any contributing employer is  
5 delinquent in making payments under the employment security law during  
6 any two quarters of the most recent four-quarter period, the secretary or  
7 the secretary's authorized representative shall have the discretionary power  
8 to require such contributing employer either to deposit cash or to file a  
9 bond with sufficient sureties to guarantee the payment of contributions,  
10 interest assessments made pursuant to K.S.A. 44-710a, and amendments  
11 thereto, penalty and interest owed by such employer.

12 (2) The amount of such cash deposit or bond shall be not less than the  
13 largest total amount of contributions, interest assessments made pursuant  
14 to K.S.A. 44-710a, and amendments thereto, penalty and interest reported  
15 by the employer in two of the four calendar quarters preceding any  
16 delinquency. Such cash deposit or bond shall be required until the  
17 employer has shown timely filing of reports and payment of contributions  
18 and interest assessments made pursuant to K.S.A. 44-710a, and  
19 amendments thereto, for four consecutive calendar quarters.

20 (3) Failure to file such cash deposit or bond shall subject the  
21 employer to a surcharge of 2.0% which shall be in addition to the rate of  
22 contributions assigned to the employer under K.S.A. 44-710a, and  
23 amendments thereto. Contributions paid as a result of this surcharge shall  
24 not be credited to the employer's experience rating account. This surcharge  
25 shall be effective during the next full calendar year after its imposition and  
26 during each full calendar year thereafter until the employer has filed the  
27 required cash deposit or bond or has shown timely filing of reports and  
28 payment of contributions for four consecutive calendar quarters.

29 (j) Any officer, major stockholder or other person who has charge of  
30 the affairs of an employer, which is an employing unit described in section  
31 501(c)(3) of the federal internal revenue code of 1954 or which is any  
32 other corporate organization or association, or any member or manager of  
33 a limited liability company, or any public official, who willfully fails to  
34 pay the amount of contributions, payments in lieu of contributions, benefit  
35 cost payments and interest assessments made pursuant to K.S.A. 44-710a,  
36 and amendments thereto, required to be paid under the employment  
37 security law on the date on which such amount becomes delinquent, shall  
38 be personally liable for the total amount of the contributions, payments in  
39 lieu of contributions, benefit cost payments and interest assessments made  
40 pursuant to K.S.A. 44-710a, and amendments thereto, and any penalties  
41 and interest due and unpaid by such employing unit. The secretary or the  
42 secretary's authorized representative may assess such person for the total  
43 amount of contributions, payments in lieu of contributions, benefit cost

1 payments and interest assessments made pursuant to K.S.A. 44-710a, and  
2 amendments thereto, and any penalties, and interest computed as due and  
3 owing. With respect to such persons and such amounts assessed, the  
4 secretary shall have available all of the collection remedies authorized or  
5 provided by this section.

6 (k) *Electronic filing of wage report and contribution return and*  
7 *electronic payment of contributions, benefit cost payments, reimbursing*  
8 *payments or interest assessments under K.S.A. 44-710a, and amendments*  
9 *thereto.* The following employers or third party administrators shall file all  
10 wage reports and contribution returns and make payment of contributions,  
11 benefit cost payments or reimbursing payments electronically as follows:

12 (1) ~~Wage reports, contribution returns and payments due after June~~  
13 ~~30, 2008, for those employers with 250 or more employees or third party~~  
14 ~~administrators with 250 or more client employees at the time such filing or~~  
15 ~~payment is first due;~~

16 (2) ~~wage reports, contribution returns and payments due after June~~  
17 ~~30, 2009, for those employers with 100 or more employees or third party~~  
18 ~~administrators with 100 or more client employees at the time such filing or~~  
19 ~~payment is first due; and~~

20 (3) ~~Wage reports, contribution returns, payments and interest~~  
21 ~~assessments made pursuant to K.S.A. 44-710a, and amendments thereto,~~  
22 ~~due after June 30, 2010, for those employers with 50 or more employees~~  
23 ~~and for those third party administrators with 50 or more client employees~~  
24 ~~at the time such filing or payment is first due; and~~

25 (2) *wage reports, contribution returns, payments and interest*  
26 *assessments made pursuant to K.S.A. 44-710a, and amendments thereto,*  
27 *due after June 30, 2016, for all employers and third party administrators.*

28 The requirements of this subsection may be waived by the secretary for  
29 an employer if the employer demonstrates a hardship in complying with  
30 this subsection.

31 Sec. 5. K.S.A. 2014 Supp. 44-706, 44-709, 44-714 and 44-717 are  
32 hereby repealed.

33 Sec. 6. This act shall take effect and be in force from and after its  
34 publication in the statute book.