Approved: 4-29-94
Date

MINUTES OF THE HOUSE COMMITTEE ON LABOR AND INDUSTRY.

The meeting was called to order by Chairman David Heinemann at 9:00 a.m. on March 9, 1994, in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Jerry Ann Donaldson, Legislative Research Department
Jim Wilson, Revisor of Statutes
Kay Scarlett, Committee Secretary

Conferees appearing before the committee:

Senator Bob Vancrum
Representative Janice Pauls
Paul Bicknell, Chief of Contributions, Department of Human Resources
T. C. Anderson, Kansas Society of CPA's
Linda Tierce, Chief of Benefits, Department of Human Resources

Others attending: See attached list

Hearing on SB 523 - Amending employment security law definition of "employment."

Chairman Heinemann opened the hearing on SB 523 by welcoming Senator Bob Vancrum, co-sponsor of the bill. Senator Vancrum explained that limited liability companies are a rough cross between corporate structures and partnership structures, but are treated as partnerships for tax purposes. He was the House sponsor of the legislation which approved limited liability companies, but he has since discovered that these companies could be at a substantial disadvantage with corporate structures. As the law currently stands, it assesses a tax on the entire share of profits of a member of a LLC. This would be the same as levying unemployment tax on the owners of a corporation, not only on their salaries, but also on the entire profits of their business.

The original bill removed limited liability company members totally from the Employment Security Law. However, the Senate Commerce Committee amended the bill to still tax the salary portion of those members who are actually active in the business. Senator Vancrum concurred with the amendment. (Attachment 1)

Representative Pauls addressed the committee in support of SB 523. The need for a change in KSA 44-703 was brought to her attention by Bonnie Lewellen of the Tax Office in Hutchinson. (A copy of her letter is included with Representative Paul's testimony.) The 1992 law assessed tax on all the members of a limited liability company, thus placing an unemployment tax on the entire profits of a company, not just salaries. The Senate Commerce Committee amendment removes limited liability company members from the obligation to pay unemployment tax on profits, but still requires the unemployment tax to be paid on salaries paid to members who are active in the business. (Attachment 2)

Paul Bicknell, Chief of Contributions, Employment Security Division of the Kansas Department of Human Resources appeared neither as a proponent or opponent of SB 523, but to provide information as to its affect on the administration of the law. The language "any active member or manager of a limited liability company" was recommended by the Employment Security Advisory Council in 1992 for clarification purposes. Removal of this language will not change the fact that any active member or manager of a limited liability company will remain in covered employment.

The Senate Commerce Committee amendment added language removing from the definition of employment, "service which is performed by any person who is a member of a limited liability company and which is performed as a member or manager of that limited liability company." This amendment statutorily removes

member managers from covered employment as well as any members carrying out their duties as a member. He included with his testimony a memorandum from the U.S. Department of Labor stating possible affects of SB 523. There would be no conformity issue with the changes; however there could be a "certification issue" with LLC employers who are subject to the Federal Unemployment Act (FUTA). It is possible the Internal Revenue Service would consider these individuals to be "employees," and since there is no similar exclusion in Federal law, the employers subject to FUTA tax could be required to pay the full 6.2% of federal tax on the exempted services. He expected no significant impact on agency operations. (Attachment 3)

T. C. Anderson, Executive Director of the Kansas Society of Certified Public Accountants, testified in support of SB 523. Kansas law states that LLC's will not be treated as corporations for state law purposes. The IRS issued a determination letter in February, 1991, which stated that Kansas business entities that are partnerships for federal tax purposes would not lose the partnership status if they converted to LLC's. Kansas statutes state that partners are not considered employees of a partnership and not subject to the Employment Security Law. It is his understanding that the federal government does not subject the partners in a LLC to the federal employment security laws. This legislation will put LLC members on par with the partners in a partnership. (Attachment 4) This closed the hearing on SB 523.

Hearing on SB 738 - Employment security law, benefit eligibility and disqualification conditions, certification period for fund solvency.

The hearing on SB 738 was opened with the introduction of Linda Tierce, Chief of Unemployment Insurance Benefits, Division of Employment Security, Department of Human Resources. The department supports three of the four amendments to the Employment Security Law contained in SB 738. The first two amendments were added to ensure that Kansas law conforms with the Federal Unemployment Tax Act. The language in the second amendment was provided by the U.S. Department of Labor, however, language pertaining to exceptions to this requirement was inadvertently omitted. The new draft was received too late to submit to the Senate, so she requested that this Committee consider amending this section to add the new language on Page 2, Line 28, following the word secretary, "unless the secretary determines that: (a) the individual has completed such services; or (b) there is justifiable cause for the claimant's failure to participate in such services." The fourth amendment adds language that more accurately reflects the state computation guidelines already in use.

The third amendment attempts to codify the 1986 Court of Appeals of Kansas decision, which is current law in the area of temporary job assignments. The Senate Commerce Committee struck the last six words of the amendment, "and when comparable work is available," found on Page 2, Lines 33-37. The department would like these six words reinserted in SB 738. An employee working for a temporary employment agency must call back to the agency on the next working day after completion of an assignment. The question is, does the employment agency need to prove that comparable work was actually available on that particular day if the employee failed to report so that unemployment benefits would not be charged to their account? Or, is the fact that the employee failed to call in, sufficient reason to deny payment of benefits. The department wants these six words in the law so further fact finding can assess whether the claimant is to be penalized for voluntarily leaving a job. (Attachment 5)

The hearing on SB 738 will continue tomorrow.

The meeting adjourned at 10:00 a.m. The next meeting is scheduled for March 10, 1994.

GUEST LIST

COMMITTEE: HOUSE LABOR AND INDUSTRY DATE: 3-9-94

NAME	ADDRESS	COMPANY/ORGANIZATION
Brent Downs	Wichita	KASB
Paul Bicknell	Topeka	KDHR
Sam Ornega	Topeka	KDHR
Robert Lierz	Topeka	KDHR
Linda Tierce	Topeka	KDHR
Bill Layes	Topeka	KDHR
Claude Lee	"	"
Jeff Chanay	Topeka	Entz & Chanay
Jicki Cunningham	Topeka	Manpower
Ray Schick	Topeka	SEC
Terry Leatherman	Topeka	KCCI
Anita Larson	Topeka	Security Benefit Group
Christy Young	Topeka	Topeka Chamber of Comm
Judy Ralston	Topeka	Security Benefit Group
John Strauss	Garden City	S.H.L.
Donald Snodgrass	Topeka	KFDA
Jim McHaff	Topeka	Kansas AFL-CIO
TOM & ANNA	TOPEKA	KEY PERSONNEL
J.C. ANDERSON	TOPEKA	KSCPA
JANET STUBBS	"	KBIA
[illegible] Brown	- -	KS. Gas Assoc

STATE OF KANSAS

BOB VANCRUM
SENATOR, ELEVENTH DISTRICT
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JOHNSON COUNTY
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SENATE CHAMBER
STATE CAPITOL
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COMMITTEE ASSIGNMENTS
VICE-CHAIRMAN: ENERGY AND NATURAL RESOURCES
MEMBER: WAYS AND MEANS
JUDICIARY
MEMBER: COMMERCE, LABOR AND REGULATIONS
COMMITTEE, NATIONAL CONFERENCE ON STATE LEGISLATURES
MEMBER: ENVIRONMENTAL TASK FORCE, COUNCIL ON STATE GOVERNMENTS

TESTIMONY FROM SENATOR BOB VANCRUM

TO

HOUSE LABOR AND INDUSTRY COMMITTEE

RE: SENATE BILL 523

For those committee members that are unfamiliar with limited liability companies, this is a type of business organization started fairly recently. In fact, Kansas in 1990 was the fourth state in the nation to authorize LLC's, which are treated as a partnership for tax purposes but have no general partner who has unlimited liability. I was the House sponsor of the legislation which approved LLC's. Now some 37 states have authorized the formation of these companies.

I discovered last summer that we passed a law in 1992 which potentially could be put these companies at a substantial disadvantage with corporate structures. I'm pretty certain that the law was passed without a full understanding of what a limited liability company is. In any event as the law currently stands, would it assess tax on the entire share of profits of a member of a limited liability company. This would be the equivalent of taxing the owners of a corporation not only on their salaries, but also levying an employment tax on the entire profits of their business.

Although the original bill removes limited liability company members totally from the statute, the Senate Committee amended the bill to still tax those members who are actually active in the business upon their salaries. That is fine with me.

If the committee does not act favorably on this legislation, it may really hurt Kansas competitive position as far as a place where limited liabilities companies are formed and actually lose revenue for our state

.

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Attachment 1
3-9-94

STATE OF KANSAS

JANICE L. PAULS
REPRESENTATIVE, DISTRICT 102
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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: JUDICIARY
LABOR AND INDUSTRY
TRANSPORTATION
JOINT SENATE AND HOUSE COMMITTEE ON
ADMINISTRATIVE RULES AND REGULATIONS

Testimony before the
House Labor and Industry Committee
Regarding
Senate Bill 523
by
Representative Janice L. Pauls
District 102

Mr. Chairman and members of the committee, thank you for this opportunity to appear before this committee on Senate Bill 523, sponsored by Senators Vancrum and Kerr.

The need for a change in KSA 44-703 was brought to my attention by Bonnie Lewellen of the Tax Office in Hutchinson, Kansas. I've attached to my testimony a letter from Mrs. Lewellen.

In 1992 we passed a law which assessed tax on all the members of a limited liability company. This placed unemployment tax on the entire profits of a company, not just salaries.

The two changes made in SB 523 are on page 5, line 28 and page 12, lines 30-32. This removes limited liability company members from the obligation to pay unemployment tax on profits, but still requires unemployment tax to be paid on salaries to members who are active in the business.

This bill was passed by the Senate on a 40 to 0 vote.

I will be glad to stand for any questions.

Janice L. Pauls
Representative
District 102

House Labor and Industry
Attachment 2
3-9-94

The Tax Office
Lewellen Professional Services, LC

Phone 316-662-8181

Bonnie Lewellen, E. A.
15 East 30th Street
Hutchinson, KS 67502

FAX 913-296-0251

ATTENTION JAN PAULS

Representative Jan Pauls
State Capitol Room 272 W
Topeka, Kansas 66612

RE: House Labor and Industry Committee Meeting
March 9 9 AM Capitol Building 526 South
Hearing on Amendment to SB 523 -- Provision of Employment Security Law
KSA 44-703(i) (C) -- Amendment (U)

When A Limited Liability Company of Kansas is recognized by the Federal Government as a partnership for accounting and tax purposes, members individually pay Federal Income Tax, self-employment tax and Kansas Income Tax on their designated share of income earned by the LLC

We believe the Employment Security Law KSA 44-703 (i) C calling any active member or manager of a LLC an employee is wrong and contrary to the intentions under which LLC rules were created.

It is an added tax burden to individuals who most likely will not receive any benefit.

It creates implications of possible tax due to Federal Unemployment and loss of self-employed pension plans for members.

We believe individuals who are active LLC members of a LLC recognized as a partnership by the Federal Government should be considered as self employed and be consistent with the treatment of general partners of a partnership.

Sincerely,
Lewellen Professional Services, LC

Bonnie Lewellen

Bonnie Lewellen, EA, member owner
Enrolled Agent
Accredited Tax Advisor

Bob Lewellen

Bob Lewellen, member owner
State Certified General Real Property Appraiser
State Licensed Real Estate Broker

HOUSE LABOR AND INDUSTRY COMMITTEE

March 9, 1994

Senate Bill 523

Mr. Chairman, members of the committee, my name is Paul Bicknell, Chief of Contributions of the Employment Security Division of the Kansas Department of Human Resources. I appear before you today, representing the agency with regard to the proposed amendment to the Kansas Employment Security Law as set forth in S.B. 523. The agency appears as neither a proponent or an opponent of the bill, but merely to provide some information as to its affect on the administration of the law.

S.B. 523 amends K.S.A. 44-703(i)(1)(C) on page 5, lines 28 and 29, by eliminating the language "any active member or manager of a limited liability company" from the definition of what employment means. This language was added by the 1992 Legislature by passage of S.B. 606 and became effective July 1, 1992. The committee may remember that the addition of this language was a recommendation of the Employment Security Advisory Council and was added merely for clarification and guidance for limited liability companies.

Any limited liability company (LLC) can become an employer by hiring members or non-members to perform services for the LLC. The removal of this language in K.S.A. 44-703(i)(1)(C) will not alter that fact. Any active member or manager of a limited liability company will remain in covered employment by virtue of K.S.A. 44-703(i)(1)(B), "....any individual who, under the usual common law rules applicable in determining the employer-employee relationship has the status of an employee".

S.B. 523 was amended by the Senate Commerce Committee on page 12, lines 30, 31, and 32 by adding an additional subsection (U) to K.S.A. 44-703(i)(4). This language removes from the definition of employment, "....service which is performed by any person who is a member of a limited liability company and which is performed as a member or manager of that limited liability company."

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Attachment 3
3-9-94

As you can see, this amendment does statutorily remove member managers from covered employment as well as any members carrying out their duties as a member. For your review and understanding, I have attached a copy of a response from the U.S. Department of Labor which sets forth any possible affect of S.B. 523. There would be no conformity issue with the changes in S.B. 523; however, there may be a "certification issue" with those limited liability company employers who are subject to the Federal Unemployment Act (FUTA). It is possible that the Internal Revenue Service would consider these individuals to be "employees," and, since there is no similar exclusion in Federal law, the employers subject to FUTA tax would lose the credits against the tax and be required to pay the full 6.2% of federal tax on the exempted services.

The department feels that the passage of S.B. 523 will not have any significant impact on agency operations.

We do feel we need to monitor the change to make certain employers are applying the law as it is intended. The law will exclude from coverage a member of a limited liability company in the performance of its duties as a member; however, if that member performs services for the limited liability company over and above their duties as a member, the services would be in covered employment and taxable. We hope to avoid an employer from trying to eliminate their employment by making all their employees members.

Mr. Chairman, this concludes my testimony with regard to the affects of S.B. 523 on the administration of the Employment Security Law. I would be pleased to answer any questions you might have at this time.

T5 6 4

U.S. Department of Labor

Employment and Training Administration
200 Constitution Avenue, N.W
Washington, D.C. 20210

FEB 22 1994

MEMORANDUM FOR: WILLIAM H. HOOD
Acting Regional Administrator
Kansas City

FROM: BARBARA ANN FARMER
Administrator for
Regional Management

SUBJECT: Kansas Senate Bill 523 - Exclusion of Individuals from Definition of Employment

We have reviewed Kansas Senate Bill (SB) 523, which would no longer include in the definition of "employment" under the Kansas Employment Security Law (MESL), services performed by "any active member or manager of a limited liability company."

The only circumstances under which deletion of services from the State's definition of employment would conflict with Federal law requirements would be if the services are performed for a governmental entity or nonprofit organization. However, we believe no situation would ever occur under which "any active member or manager of a limited liability company" would be performing these services in that capacity for a governmental entity or a nonprofit organization. Therefore, we do not believe a conformity issue is raised by the proposal.

It has been brought to our attention that the current bill may not be adopted in favor of a new approach. Apparently, this is because, even if the amendment were enacted, Kansas' common law test would still consider the services to be in "employment." Therefore, there is discussion that services performed by "any active member or manager of a limited liability company" may instead be specifically excluded from the definition of employment under State law. Under this circumstance, it is possible that the Internal Revenue Service would consider these individuals to be "employees," and, since there is no similar exclusion in Federal law, the employers subject to the Federal unemployment tax would lose the credits against that tax and be required to pay the full tax on the exempted services.

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Kansas Society of
Certified Public Accountants

400 CROIX / P.O. BOX 5654 / TOPEKA, KANSAS 66605-0654 / 913-267-6460

FOUNDED OCTOBER 17, 1932

Testimony on SB 523

by

T.C. Anderson
Executive Director of the

Kansas Society of Certified Public Accountants

to the

House Labor and Industry Committee

March 9, 1994

House Labor and Industry
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3-9-94

Chairman Heinemann
Members of the House Labor and Industry Committee

I'm T.C. Anderson, Executive Director of the Kansas Society of Certified Public Accountants, and I appreciate the opportunity to appear before you today in support of SB 523 as amended in the Senate.

The Legislature passed the Kansas Limited Liability Company Act in 1990 and further amended it in 1991 to provide that LLCs would not be treated as corporations for state law purposes.

In addition, the Internal Revenue Service issued a determination letter in February of 1991 which in effect said Kansas business entities that are partnerships for federal tax purposes would not lose the partnership status if they converted to LLCs.

Today, 9 Kansas CPA firms have registered as LLCs. All the firms that existed prior to 1991 were partnerships prior to their conversions.

According to Commerce Clearing House 22 states including Kansas provide in statutes that partners are not considered employees of a partnership and thus not subject to the employment security law. It is our understanding the federal government does not subject the partners in a LLC to the federal employment security laws.

For these reasons we would ask that you support SB 523 as amended, which if enacted into law, would exempt any active member or manager, who also is a member, of a limited liability company from the employment security law, and put those members on par with the partners in a partnership.

Thank you and I'll be happy to stand for questions.

TESTIMONY

HOUSE LABOR AND INDUSTRY COMMITTEE

Senate Bill 738

Mr. Chairman, Members of the Committee, my name is Linda Tierce. I am the Chief of Unemployment Insurance Benefits representing the Kansas Department of Human Resources, Division of Employment Security. I appear before you today in support of three of the four amendments contained within Senate Bill 738. There are four amendments to the Employment Security Law contained within Senate Bill 738 and I would like to address them in sequential order as they appear in the Bill.

The first amendment can be found on Page 2, Line 22, where we have inserted the words "*returned to work*". This language was inserted to ensure, in accordance with federal UI law, that a claimant returns to insured work after completing one benefit year in order to qualify for benefits in the next benefit year. This issue was discussed at the Employment Security Advisory Council meeting in early September and received the Council's approval to forward this measure to the 1994 Legislature with a positive recommendation.

The second amendment can be found on Page 2, Lines 25-28 This amendment establishes a new subsection (f) under 44-705 as part of a federal conformity issue. On November 24, 1993, the President signed into law the Unemployment Compensation Amendments of 1993, Public Law 103-152. Public Law 103-152 extended the Emergency Unemployment Compensation Program, and amended the Social Security Act to require states, as a condition of receiving administrative

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grants, to establish and utilize a system of profiling all new claimants for regular unemployment compensation. Profiling is designed to identify claimants who are likely to exhaust unemployment compensation and who might need job service assistance to make a successful transition to new employment. The Social Security Act was further amended to require states to disqualify any individual identified by this profiling system, when and if the individual fails to participate in reemployment services. Since we are required to have this in effect by November 24, 1994, and since this Legislative session would have been the only means to codify this language, we submitted this amendment and contacted our Regional Federal Office to inform them of our efforts to meet compliance.

The language before you was provided by the U.S. Department of Labor. However, in their effort to rush the draft language to the states, they inadvertently omitted language pertaining to exceptions to this requirement. The new draft language was received too late to submit to the Senate Commerce Committee, so I would request that this Committee consider amending this section to incorporate the new language. Lines 25, 26, and 27 on Page 2 would remain the same. However, at the end of Line 28, the period after the word *secretary* would be replaced by a comma and the following language inserted, "*unless the secretary determines that: (a) the individual has completed such services; or (b) there is justifiable cause for the claimant's failure to participate in such services.*" I have taken the liberty of attaching a balloon version of this new language for your consideration.

The third amendment can be found on Page 2, Lines 33-37. This amendment falls under the disqualification section of K.S.A. 44-706, and before the last six words were struck, represents language that was supported and recommended by the Employment Security Advisory Council. The amendment primarily addresses the area of temporary job assignments and what shall constitute a voluntary quit.

As a little background information on this amendment, last session, a somewhat similar amendment was proposed under K.S.A. 44-710(c) to codify the 1986 Court of Appeals of Kansas decision, Manpower, Inc., of Wichita v. State of Kansas Employment Security Board of Review and John Sutton.

The Manpower decision required that a temporary employment contractor receive a noncharge of benefits if there was a failure on the part of the employee of this temporary employment contractor to report for work when assignments were available. It was held that this was a leaving of work voluntarily without good cause attributable to the claimant's employment under K.S.A. 44-710(c)(2)(A). Under such circumstances, any Unemployment Insurance benefits paid to the claimant would not be charged to the account of the base period employer, that is, the temporary employment contractor.

Last session, the U.S. Department of Labor issued a memorandum to this agency stating that the proposed amendment was not consistent with the experience rating requirements under the Federal Unemployment Tax Act and that passage would cause a certification problem.

They suggested that to rectify this situation the law be rewritten by adding a provision which is broader than the previously suggested amendment and which omits any reference to temporary help employers and would be applicable to all employers. They further provided draft language which the department submitted to the Employment Security Advisory Council. Last November, the Advisory Council voted 6-4 with one abstention to forward the recommendation to this Legislature for consideration.

One final note on this section. The Senate Committee amended this bill by striking the words on Line 37 of Page 2, "*and when comparable work is available*". These words generated a lot of discussion both at the Employment Security Advisory Council level and at the Senate Committee hearings. In our testimony before the Senate Committee, we did not make it clear that this language came from the 1986 Court of Appeals decision. I am not sure what impact this knowledge might have had on the Committee members had they known. The 1986 Manpower case has references to work being available and comparable work at comparable pay at least 13 times. In a more recent lower court case here in Shawnee County, District Court Judge James P. Buchele stated that whether or not the employer has work available is secondary and is a moot question if the employee has not reported for work. However, this was only one case with a specific set of facts that does not necessarily dictate the definitive way all cases are to be adjudicated.

At the recent Senate Committee hearings, two temporary employment agencies testified that keeping records on what jobs were available on each day was a burdensome task. However,

we suspect that like most good businesses do, they keep those kinds of records in their computer files anyway. Department staff is concerned that if the employee states that he called in for an assignment the next day and the employer states that he did not call in, it boils down to who is most credible. Whereas, if the condition that "*comparable work is available*" is in the Law, further fact finding can more impartially assess whether the claimant is to be penalized for voluntarily leaving a job. In other words, did a job actually exist when the claimant quit. Therefore, department staff, and by majority vote, the Employment Security Advisory Council, supports this amendment as it was recommended to the Senate Commerce Committee before the words "*and when comparable work is available*" were stricken.

The last proposed amendment can be found on Page 22, Line 43 and Page 23, Lines 1-2. Last year, the Chief of Labor Market Information Services brought to our attention the necessity to add language to the current subsection in order to meet our own State computation guidelines to accurately reflect the actual year end trust fund balances. Each year when contribution rates are computed for eligible employers, we use contributions paid on or before July 31 following the 12 month period which ends on June 30. This allows us to consider the amount of taxes that are due and paid on those wages and reported for the 12 month period. We therefore submitted the amendment which basically provides that the certification is to cover a 12 month period ending on June 30 to ensure an accurate reflection of trust fund balances.

This concludes my testimony on Senate Bill 738. I thank you for your time and would be more than willing to answer any questions you might have.

cludes the week for which the claimant is claiming benefits. No week shall be counted as a week of unemployment for the purposes of this subsection (d):

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

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

(3) if an individual is seeking unemployment benefits under the unemployment compensation law of any other state or of the United States, except that if the appropriate agency of such state or of the United States finally determines that the claimant is not entitled to unemployment benefits under such other law, this subsection (d)(3) shall not apply.

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

(f) The claimant participates in reemployment services, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and needs reemployment services pursuant to a profiling system established by the secretary~~.~~, *unless the secretary determines that:*

(a) the individual has completed such services; or

(b) there is justifiable cause for the claimant's failure to participate in such services.

Sec. 2. K.S.A. 44-706 is hereby amended to read as follows: 44-706. An individual shall be disqualified for benefits:

(a) If the individual left work voluntarily without good cause attributable to the work or the employer, subject to the other provisions of this subsection (a). *After a temporary job assignment, failure of an individual to affirmatively request an additional assignment on the next succeeding work day, if required by the employment agreement, after completion of a given work assignment* ~~*and when comparable work is available,*~~ shall constitute leaving work voluntarily. The disqualification shall begin the day following the separation and shall continue until after the individual has become reemployed and has had earnings from insured work of at least three times the individual's weekly benefit amount. An individual shall not be disqualified under this subsection (a) if:

(1) The individual was forced to leave work because of illness or

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