

HOUSE BILL No. 2614

By Representative Swenson

1-13

9 AN ACT concerning employment security law; regarding pensions;
10 amending K.S.A. 2005 Supp. 44-706 and repealing the existing section.

11

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

13 Section 1. K.S.A. 2005 Supp. 44-706 is hereby amended to read as
14 follows: 44-706. An individual shall be disqualified for benefits:

15 (a) If the individual left work voluntarily without good cause attrib-
16 utable to the work or the employer, subject to the other provisions of this
17 subsection (a). Failure to return to work after expiration of approved
18 personal or medical leave, or both, shall be considered a voluntary res-
19 ignation. After a temporary job assignment, failure of an individual to
20 affirmatively request an additional assignment on the next succeeding
21 workday, if required by the employment agreement, after completion of
22 a given work assignment, shall constitute leaving work voluntarily. The
23 disqualification shall begin the day following the separation and shall con-
24 tinue until after the individual has become reemployed and has had earn-
25 ings from insured work of at least three times the individual's weekly
26 benefit amount. An individual shall not be disqualified under this sub-
27 section (a) if:

28 (1) The individual was forced to leave work because of illness or injury
29 upon the advice of a licensed and practicing health care provider and,
30 upon learning of the necessity for absence, immediately notified the em-
31 ployer thereof, or the employer consented to the absence, and after re-
32 covery from the illness or injury, when recovery was certified by a prac-
33 ticing health care provider, the individual returned to the employer and
34 offered to perform services and the individual's regular work or compa-
35 rable and suitable work was not available; as used in this paragraph (1)
36 "health care provider" means any person licensed by the proper licensing
37 authority of any state to engage in the practice of medicine and surgery,
38 osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

39 (2) the individual left temporary work to return to the regular
40 employer;

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

43 (4) the individual left work because of the voluntary or involuntary

1 transfer of the individual's spouse from one job to another job, which is
2 for the same employer or for a different employer, at a geographic loca-
3 tion which makes it unreasonable for the individual to continue work at
4 the individual's job;

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

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

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

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

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

- 1 (10) the individual left work because of a violation of the work agree-
2 ment by the employing unit and, before the individual left, the individual
3 had exhausted all remedies provided in such agreement for the settlement
4 of disputes before terminating;
- 5 (11) after making reasonable efforts to preserve the work, the indi-
6 vidual left work due to a personal emergency of such nature and com-
7 pelling urgency that it would be contrary to good conscience to impose a
8 disqualification; or
- 9 (12) (A) the individual left work due to circumstances resulting from
10 domestic violence, including:
- 11 (i) The individual's reasonable fear of future domestic violence at or
12 en route to or from the individual's place of employment; or
- 13 (ii) the individual's need to relocate to another geographic area in
14 order to avoid future domestic violence; or
- 15 (iii) the individual's need to address the physical, psychological and
16 legal impacts of domestic violence; or
- 17 (iv) the individual's need to leave employment as a condition of re-
18 ceiving services or shelter from an agency which provides support services
19 or shelter to victims of domestic violence; or
- 20 (v) the individual's reasonable belief that termination of employment
21 is necessary to avoid other situations which may cause domestic violence
22 and to provide for the future safety of the individual or the individual's
23 family.
- 24 (B) An individual may prove the existence of domestic violence by
25 providing one of the following:
- 26 (i) A restraining order or other documentation of equitable relief by
27 a court of competent jurisdiction; or
- 28 (ii) a police record documenting the abuse; or
- 29 (iii) documentation that the abuser has been convicted of one or more
30 of the offenses enumerated in articles 34 and 35 of chapter 21 of the
31 Kansas Statutes Annotated, and amendments thereto, where the victim
32 was a family or household member; or
- 33 (iv) medical documentation of the abuse; or
- 34 (v) a statement provided by a counselor, social worker, health care
35 provider, clergy, shelter worker, legal advocate, domestic violence or sex-
36 ual assault advocate or other professional who has assisted the individual
37 in dealing with the effects of abuse on the individual or the individual's
38 family; or
- 39 (vi) a sworn statement from the individual attesting to the abuse.
- 40 (C) No evidence of domestic violence experienced by an individual,
41 including the individual's statement and corroborating evidence, shall be
42 disclosed by the department of labor unless consent for disclosure is given
43 by the individual.

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

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

22 (2) For the purposes of this subsection (b), the use of or impairment
23 caused by alcoholic liquor, a cereal malt beverage or a nonprescribed
24 controlled substance by an individual while working shall be conclusive
25 evidence of misconduct and the possession of alcoholic liquor, a cereal
26 malt beverage or a nonprescribed controlled substance by an individual
27 while working shall be prima facie evidence of conduct which is a violation
28 of a duty or obligation reasonably owed to the employer as a condition of
29 employment. Alcoholic liquor shall be defined as provided in K.S.A. 41-
30 102 and amendments thereto. Cereal malt beverage shall be defined as
31 provided in K.S.A. 41-2701 and amendments thereto. Controlled sub-
32 stance shall be defined as provided in K.S.A. 65-4101 and amendments
33 thereto of the uniform controlled substances act. As used in this subsec-
34 tion (b)(2), "required by law" means required by a federal or state law, a
35 federal or state rule or regulation having the force and effect of law, a
36 county resolution or municipal ordinance, or a policy relating to public
37 safety adopted in open meeting by the governing body of any special
38 district or other local governmental entity. Chemical test shall include,
39 but is not limited to, tests of urine, blood or saliva. A positive chemical
40 test shall mean a chemical result showing a concentration at or above the
41 levels listed in K.S.A. 44-501, and amendments thereto, for the drugs or
42 abuse listed therein. A positive breath test shall mean a test result showing
43 an alcohol concentration of .04 or greater. Alcohol concentration means

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

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

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

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

43 (D) the chemical test was performed by a laboratory approved by the

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

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

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

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

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

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

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

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

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

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

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

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

42 (B) the individual was making a good-faith effort to do the assigned
43 work but was discharged due to: (i) Inefficiency, (ii) unsatisfactory per-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (2) the individual is attending approved training as defined in sub-
2 section (s) of K.S.A. 44-703 and amendments thereto; or
- 3 (3) the individual is attending evening, weekend or limited day time
4 classes, which would not affect availability for work, and is otherwise
5 eligible under subsection (c) of K.S.A. 44-705 and amendments thereto.
- 6 ~~(s)~~ (r) For any week with respect to which an individual is receiving
7 or has received remuneration in the form of a back pay award or settle-
8 ment. The remuneration shall be allocated to the week or weeks in the
9 manner as specified in the award or agreement, or in the absence of such
10 specificity in the award or agreement, such remuneration shall be allo-
11 cated to the week or weeks in which such remuneration, in the judgment
12 of the secretary, would have been paid.
- 13 (1) For any such weeks that an individual receives remuneration in
14 the form of a back pay award or settlement, an overpayment will be
15 established in the amount of unemployment benefits paid and shall be
16 collected from the claimant.
- 17 (2) If an employer chooses to withhold from a back pay award or
18 settlement, amounts paid to a claimant while they claimed unemployment
19 benefits, such employer shall pay the department the amount withheld.
20 With respect to such amount, the secretary shall have available all of the
21 collection remedies authorized or provided in K.S.A. 44-717 and amend-
22 ments thereto.
- 23 ~~(s)~~ (s) If the individual has been discharged for failing a preemploy-
24 ment drug screen required by the employer and if such discharge occurs
25 not later than seven days after the employer is notified of the results of
26 such drug screen. The disqualification shall begin the day following the
27 separation and shall continue until after the individual becomes reem-
28 ployed and has had earnings from insured work of at least three times
29 the individual's determined weekly benefit amount.
- 30 ~~(t)~~ (t) If the individual was found not to have a disqualifying adju-
31 dication or conviction under K.S.A. 39-970, and amendments thereto, or
32 K.S.A. 65-5117, and amendments thereto, was hired and then was sub-
33 sequently convicted of a disqualifying felony under K.S.A. 39-970, and
34 amendments thereto, or K.S.A. 65-5117, and amendments thereto, and
35 discharged pursuant to K.S.A. 39-970, and amendments thereto, or K.S.A.
36 65-5117, and amendments thereto. The disqualification shall begin the
37 day following the separation and shall continue until after the individual
38 becomes reemployed and has had earnings from insured work of at least
39 three times the individual's determined weekly benefit amount.
- 40 Sec. 2. K.S.A. 2005 Supp. 44-706 is hereby repealed.
- 41 Sec. 3. This act shall take effect and be in force from and after its
42 publication in the statute book.