

**HOUSE BILL No. 2092**

By Committee on Transportation

1-26

1 AN ACT concerning the employment security law; relating to  
2 unemployment benefits for privately contracted school bus drivers;  
3 amending K.S.A. 2010 Supp. 44-706 and repealing the existing  
4 section.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2010 Supp. 44-706 is hereby amended to read as  
8 follows: 44-706. An individual shall be disqualified for benefits:

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

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

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

36 (3) the individual left work to enlist in the armed forces of the

1 United States, but was rejected or delayed from entry;

2 (4) the individual left work because of the voluntary or involuntary  
3 transfer of the individual's spouse from one job to another job, which is  
4 for the same employer or for a different employer, at a geographic  
5 location which makes it unreasonable for the individual to continue work  
6 at the individual's job;

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

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

31 (7) the individual left work because of unwelcome harassment of the  
32 individual by the employer or another employee of which the employing  
33 unit had knowledge;

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

43 (9) the individual left work as a result of being instructed or

1 requested by the employer, a supervisor or a fellow employee to perform  
2 a service or commit an act in the scope of official job duties which is in  
3 violation of an ordinance or statute;

4 (10) the individual left work because of a violation of the work  
5 agreement by the employing unit and, before the individual left, the  
6 individual had exhausted all remedies provided in such agreement for the  
7 settlement of disputes before terminating;

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

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

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

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

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

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

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

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

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

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

32 (iii) documentation that the abuser has been convicted of one or  
33 more of the offenses enumerated in articles 34 and 35 of chapter 21 of the  
34 Kansas Statutes Annotated, and amendments thereto, where the victim  
35 was a family or household member; or

36 (iv) medical documentation of the abuse; or

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

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

43 (C) No evidence of domestic violence experienced by an individual,

1 including the individual's statement and corroborating evidence, shall be  
2 disclosed by the department of labor unless consent for disclosure is  
3 given by the individual.

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

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

26 (2) For the purposes of this subsection (b), the use of or impairment  
27 caused by alcoholic liquor, a cereal malt beverage or a nonprescribed  
28 controlled substance by an individual while working shall be conclusive  
29 evidence of misconduct and the possession of alcoholic liquor, a cereal  
30 malt beverage or a nonprescribed controlled substance by an individual  
31 while working shall be prima facie evidence of conduct which is a  
32 violation of a duty or obligation reasonably owed to the employer as a  
33 condition of employment. Alcoholic liquor shall be defined as provided in  
34 K.S.A. 41-102, and amendments thereto. Cereal malt beverage shall be  
35 defined as provided in K.S.A. 41-2701, and amendments thereto.  
36 Controlled substance shall be defined as provided in K.S.A. 2010 Supp.  
37 21-36a01, and amendments thereto. As used in this subsection (b)(2),  
38 "required by law" means required by a federal or state law, a federal or  
39 state rule or regulation having the force and effect of law, a county  
40 resolution or municipal ordinance, or a policy relating to public safety  
41 adopted in open meeting by the governing body of any special district or  
42 other local governmental entity. Chemical test shall include, but is not  
43 limited to, tests of urine, blood or saliva. A positive chemical test shall

1 mean a chemical result showing a concentration at or above the levels  
2 listed in K.S.A. 44-501, and amendments thereto, for the drugs or abuse  
3 listed therein. A positive breath test shall mean a test result showing an  
4 alcohol concentration of .04 or greater. Alcohol concentration means the  
5 number of grams of alcohol per 210 liters of breath. An individual's  
6 refusal to submit to a chemical test or breath alcohol test shall be  
7 conclusive evidence of misconduct if the test meets the standards of the  
8 drug free workplace act, 41 U.S.C. § 701 et seq.; the test was  
9 administered as part of an employee assistance program or other drug or  
10 alcohol treatment program in which the employee was participating  
11 voluntarily or as a condition of further employment; the test was  
12 otherwise required by law and the test constituted a required condition of  
13 employment for the individual's job; the test was requested pursuant to a  
14 written policy of the employer of which the employee had knowledge and  
15 was a required condition of employment; or there was probable cause to  
16 believe that the individual used, possessed or was impaired by alcoholic  
17 liquor, a cereal malt beverage or a controlled substance while working. A  
18 positive breath alcohol test or a positive chemical test shall be conclusive  
19 evidence to prove misconduct if the following conditions are met:

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

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

42 (C) the collecting and labeling of a chemical test sample was  
43 performed by a licensed health care professional or any other individual

1 certified pursuant to paragraph (b)(2)(F) or authorized to collect or label  
2 test samples by federal or state law, or a federal or state rule or regulation  
3 having the force or effect of law, including law enforcement personnel;

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

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

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

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

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

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

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

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

32 (iv) the employee had knowledge of the employer's written  
33 absenteeism policy.

34 (B) For the purposes of this subsection (b), if an employee disputes  
35 being absent without good cause, the employee shall present evidence  
36 that a majority of the employee's absences were for good cause. If the  
37 employee alleges that the employee's repeated absences were the result of  
38 health related issues, such evidence shall include documentation from a  
39 licensed and practicing health care provider as defined in subsection (a)  
40 (1).

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

43 (A) The employer discharged the individual after learning the

1 individual was seeking other work or when the individual gave notice of  
2 future intent to quit;

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

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

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

1 does not reasonably accommodate the individual's physical,  
2 psychological, safety, and/or legal needs relating to such domestic  
3 violence.

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

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

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

40 (g) For the period of one year beginning with the first day following  
41 the last week of unemployment for which the individual received  
42 benefits, or for one year from the date the act was committed, whichever  
43 is the later, if the individual, or another in such individual's behalf with



1 the knowledge of the individual, has knowingly made a false statement or  
2 representation, or has knowingly failed to disclose a material fact to  
3 obtain or increase benefits under this act or any other unemployment  
4 compensation law administered by the secretary of labor.

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

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

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

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

43 (l) For any week of unemployment on the basis of any services,

1 substantially all of which consist of participating in sports or athletic  
2 events or training or preparing to so participate, if such week begins  
3 during the period between two successive sport seasons or similar period  
4 if such individual performed services in the first of such seasons or  
5 similar periods and there is a reasonable assurance that such individual  
6 will perform such services in the later of such seasons or similar periods.

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

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

1 to the individual for such week shall be made under this subsection (n); or  
2 (4) whatever portion of contributions to such plan were provided by the  
3 base period employer, if the services performed for the employer by such  
4 individual during the base period, or remuneration received for the  
5 services, did not affect the individual's eligibility for, or increased the  
6 amount of, such pension, retirement or retired pay, annuity or other  
7 similar periodic payment, no reduction in the weekly benefit amount  
8 payable to the individual for such week shall be made under this  
9 subsection (n). No reduction shall be made for payments made under the  
10 social security act or railroad retirement act of 1974.

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

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

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

1 under section 501(a) of the code.

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

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

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

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

15 (s) For any week with respect to which an individual is receiving or  
16 has received remuneration in the form of a back pay award or settlement.  
17 The remuneration shall be allocated to the week or weeks in the manner  
18 as specified in the award or agreement, or in the absence of such  
19 specificity in the award or agreement, such remuneration shall be  
20 allocated to the week or weeks in which such remuneration, in the  
21 judgment of the secretary, would have been paid.

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

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

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

39 (u) If the individual was found not to have a disqualifying  
40 adjudication or conviction under K.S.A. 39-970, and amendments thereto,  
41 or K.S.A. 65-5117, and amendments thereto, was hired and then was  
42 subsequently convicted of a disqualifying felony under K.S.A. 39-970,  
43 and amendments thereto, or K.S.A. 65-5117, and amendments thereto,

1 and discharged pursuant to K.S.A. 39-970, and amendments thereto, or  
2 K.S.A. 65-5117, and amendments thereto. The disqualification shall  
3 begin the day following the separation and shall continue until after the  
4 individual becomes reemployed and has had earnings from insured work  
5 of at least three times the individual's determined weekly benefit amount.

6 Sec. 2. K.S.A. 2010 Supp. 44-706 is hereby repealed.

7 Sec. 3. This act shall take effect and be in force from and after its  
8 publication in the statute book.

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