

HOUSE BILL No. 2265

By Committee on Commerce, Labor and Economic Development

2-6

1 AN ACT concerning the unemployment security law; relating to
2 unemployment benefits for privately contracted school bus drivers;
3 amending K.S.A. 2014 Supp. 44-706 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2014 Supp. 44-706 is hereby amended to read as
7 follows: 44-706. An individual shall be disqualified for benefits:

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

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

36 (2) the individual left temporary work to return to the regular

1 employer;

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

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

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

28 (6) the individual left work to enter training approved under section
29 236(a)(1) of the federal trade act of 1974, provided the work left is not of a
30 substantially equal or higher skill level than the individual's past adversely
31 affected employment, as defined for purposes of the federal trade act of
32 1974, and wages for such work are not less than 80% of the individual's
33 average weekly wage as determined for the purposes of the federal trade
34 act of 1974;

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

39 (8) the individual left work to accept better work; each determination
40 as to whether or not the work accepted is better work shall include, but
41 shall not be limited to, consideration of: (A) The rate of pay, the hours of
42 work and the probable permanency of the work left as compared to the
43 work accepted; (B) the cost to the individual of getting to the work left in

1 comparison to the cost of getting to the work accepted; and (C) the
2 distance from the individual's place of residence to the work accepted in
3 comparison to the distance from the individual's residence to the work left;

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

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

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

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

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

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

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

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

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

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

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

37 (ii) a police record documenting the abuse;

38 (iii) documentation that the abuser has been convicted of one or more
39 of the offenses enumerated in articles 34 and 35 of chapter 21 of the
40 Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of
41 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-
42 6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments
43 thereto, where the victim was a family or household member;

1 (iv) medical documentation of the abuse;

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

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

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

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

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

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

38 (B) For the purposes of this subsection, misconduct shall include, but
39 not be limited to, violation of the employer's reasonable attendance
40 expectations if the facts show:

41 (i) The individual was absent or tardy without good cause;

42 (ii) the individual had knowledge of the employer's attendance
43 expectation; and

1 (iii) the employer gave notice to the individual that future absence or
2 tardiness may or will result in discharge.

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

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

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

18 (i) The use of alcoholic liquor, cereal malt beverage or a
19 nonprescribed controlled substance by an individual while working;

20 (ii) the impairment caused by alcoholic liquor, cereal malt beverage
21 or a nonprescribed controlled substance by an individual while working;

22 (iii) a positive breath alcohol test or a positive chemical test,
23 provided:

24 (a) The test was either:

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

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

30 (3) requested pursuant to a written policy of the employer of which
31 the employee had knowledge and was a required condition of
32 employment;

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

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

38 (b) the test sample was collected either:

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

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

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

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

6 (5) at a time contemporaneous with the events establishing probable
7 cause;

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

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

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

23 (f) the breath alcohol test was administered by an individual trained to
24 perform breath tests, the breath testing instrument used was certified and
25 operated strictly according to a description provided by the manufacturers
26 and the reliability of the instrument performance was assured by testing
27 with alcohol standards; and

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

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

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

34 (b) the test was administered as part of an employee assistance
35 program or other drug or alcohol treatment program in which the
36 employee was participating voluntarily or as a condition of further
37 employment;

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

40 (d) the test was requested pursuant to a written policy of the employer
41 of which the employee had knowledge and was a required condition of
42 employment; or

43 (e) there was reasonable suspicion to believe that the individual used,

1 possessed or was impaired by alcoholic liquor, cereal malt beverage or a
2 nonprescribed controlled substance while working;

3 (v) an individual's dilution or other tampering of a chemical test.

4 (C) For purposes of this subsection:

5 (i) "Alcohol concentration" means the number of grams of alcohol per
6 210 liters of breath;

7 (ii) "alcoholic liquor" shall be defined as provided in K.S.A. 41-102,
8 and amendments thereto;

9 (iii) "cereal malt beverage" shall be defined as provided in K.S.A. 41-
10 2701, and amendments thereto;

11 (iv) "chemical test" shall include, but is not limited to, tests of urine,
12 blood or saliva;

13 (v) "controlled substance" shall be defined as provided in K.S.A.
14 2014 Supp. 21-5701, and amendments thereto;

15 (vi) "required by law" means required by a federal or state law, a
16 federal or state rule or regulation having the force and effect of law, a
17 county resolution or municipal ordinance, or a policy relating to public
18 safety adopted in an open meeting by the governing body of any special
19 district or other local governmental entity;

20 (vii) "positive breath test" shall mean a test result showing an alcohol
21 concentration of 0.04 or greater, or the levels listed in 49 C.F.R. part 40, if
22 applicable, unless the test was administered as part of an employee
23 assistance program or other drug or alcohol treatment program in which
24 the employee was participating voluntarily or as a condition of further
25 employment, in which case "positive chemical test" shall mean a test result
26 showing an alcohol concentration at or above the levels provided for in the
27 assistance or treatment program;

28 (viii) "positive chemical test" shall mean a chemical result showing a
29 concentration at or above the levels listed in K.S.A. 44-501, and
30 amendments thereto, or 49 C.F.R. part 40, as applicable, for the drugs or
31 abuse listed therein, unless the test was administered as part of an
32 employee assistance program or other drug or alcohol treatment program
33 in which the employee was participating voluntarily or as a condition of
34 further employment, in which case "positive chemical test" shall mean a
35 chemical result showing a concentration at or above the levels provided for
36 in the assistance or treatment program.

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
40 individual was seeking other work or when the individual gave notice of
41 future intent to quit, except that the individual shall be disqualified after
42 the time at which such individual intended to quit and any individual who
43 commits misconduct after such individual gives notice to such individual's

1 intent to quit shall be disqualified;

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

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

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

1 violence.

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

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

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

38 (g) For the period of five years beginning with the first day following
39 the last week of unemployment for which the individual received benefits,
40 or for five years from the date the act was committed, whichever is the
41 later, if the individual, or another in such individual's behalf with the
42 knowledge of the individual, has knowingly made a false statement or
43 representation, or has knowingly failed to disclose a material fact to obtain

1 or increase benefits under this act or any other unemployment
2 compensation law administered by the secretary of labor. In addition to the
3 penalties set forth in K.S.A. 44-719, and amendments thereto, an
4 individual who has knowingly made a false statement or representation or
5 who has knowingly failed to disclose a material fact to obtain or increase
6 benefits under this act or any other unemployment compensation law
7 administered by the secretary of labor shall be liable for a penalty in the
8 amount equal to 25% of the amount of benefits unlawfully received.
9 Notwithstanding any other provision of law, such penalty shall be
10 deposited into the employment security trust fund.

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

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

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

41 (k) For any week of unemployment on the basis of service in any
42 capacity for an educational institution as defined in ~~subsection (v) of~~
43 K.S.A. 44-703(v), and amendments thereto, if such week begins during an

1 established and customary vacation period or holiday recess, if the
2 individual performs services in the period immediately before such
3 vacation period or holiday recess and there is a reasonable assurance that
4 such individual will perform such services in the period immediately
5 following such vacation period or holiday recess.

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

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

28 (n) For any week in which an individual is receiving a governmental
29 or other pension, retirement or retired pay, annuity or other similar
30 periodic payment under a plan maintained by a base period employer and
31 to which the entire contributions were provided by such employer, except
32 that: (1) If the entire contributions to such plan were provided by the base
33 period employer but such individual's weekly benefit amount exceeds such
34 governmental or other pension, retirement or retired pay, annuity or other
35 similar periodic payment attributable to such week, the weekly benefit
36 amount payable to the individual shall be reduced, but not below zero, by
37 an amount equal to the amount of such pension, retirement or retired pay,
38 annuity or other similar periodic payment which is attributable to such
39 week; or (2) if only a portion of contributions to such plan were provided
40 by the base period employer, the weekly benefit amount payable to such
41 individual for such week shall be reduced, but not below zero, by the
42 prorated weekly amount of the pension, retirement or retired pay, annuity
43 or other similar periodic payment after deduction of that portion of the

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

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

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

39 ~~(q) For any week of unemployment on the basis of services
40 performed by the individual in any capacity and under any of the
41 circumstances described in subsection (i), (j), (k) or (o) which are provided
42 to or on behalf of an educational institution, as defined in subsection (v) of
43 K.S.A. 44-703(v), and amendments thereto, while the individual is in the~~

1 employ of an employer which is a governmental entity, Indian tribe or any
2 employer described in section 501(c)(3) of the federal internal revenue
3 code of 1986 which is exempt from income under section 501(a) of the
4 code.

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

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

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

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

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

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

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

35 ~~(t)~~ (s) (1) Any applicant for or recipient of unemployment benefits
36 who tests positive for unlawful use of a controlled substance or controlled
37 substance analog shall be required to complete a substance abuse treatment
38 program approved by the secretary of labor, secretary of commerce or
39 secretary for children and families, and a job skills program approved by
40 the secretary of labor, secretary of commerce or the secretary for children
41 and families. Subject to applicable federal laws, any applicant for or
42 recipient of unemployment benefits who fails to complete or refuses to
43 participate in the substance abuse treatment program or job skills program

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

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

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

32 Sec. 2. K.S.A. 2014 Supp. 44-706 is hereby repealed.

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