

**SENATE BILL No. 433**

By Senator Hensley

2-9

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1 AN ACT concerning employment security law; relating to the waiting  
2 week; benefits; amending K.S.A. 2015 Supp. 44-705 and 44-706 and  
3 repealing the existing sections; also repealing K.S.A. 2015 Supp. 44-  
4 706c.

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

7 Section 1. K.S.A. 2015 Supp. 44-705 is hereby amended to read as  
8 follows: 44-705. Except as provided by K.S.A. 44-757, and amendments  
9 thereto, an unemployed individual shall be eligible to receive benefits with  
10 respect to any week only if the secretary, or a person or persons designated  
11 by the secretary, finds that:

12 (a) The claimant has registered for work at and thereafter continued  
13 to report at an employment office in accordance with rules and regulations  
14 adopted by the secretary, except that, subject to the provisions of  
15 subsection (a) of K.S.A. 44-704(a), and amendments thereto, the secretary  
16 may adopt rules and regulations which waive or alter either or both of the  
17 requirements of this subsection.

18 (b) The claimant has made a claim for benefits with respect to such  
19 week in accordance with rules and regulations adopted by the secretary.

20 (c) The claimant is able to perform the duties of such claimant's  
21 customary occupation or the duties of other occupations for which the  
22 claimant is reasonably fitted by training or experience, and is available for  
23 work, as demonstrated by the claimant's pursuit of the full course of action  
24 most reasonably calculated to result in the claimant's reemployment except  
25 that, notwithstanding any other provisions of this section, an unemployed  
26 claimant otherwise eligible for benefits shall not become ineligible for  
27 benefits: (1) Because of the claimant's enrollment in and satisfactory  
28 pursuit of approved training, including training approved under section  
29 236(a)(1) of the trade act of 1974; or (2) solely because such individual is  
30 seeking only part-time employment if the individual is available for a  
31 number of hours per week that are comparable to the individual's part-time  
32 work experience in the base period.

33 For the purposes of this subsection, an inmate of a custodial or  
34 correctional institution shall be deemed to be unavailable for work and not  
35 eligible to receive unemployment compensation while incarcerated.

36 (d) (1) Except as provided further, the claimant has been unemployed

1 for a waiting period of one week or the claimant is unemployed and has  
2 satisfied the requirement for a waiting period of one week under the shared  
3 work unemployment compensation program as provided in ~~subsection (k)~~  
4 ~~(4)~~ of K.S.A. 44-757(k)(4), and amendments thereto, which period of one  
5 week, in either case, occurs within the benefit year which includes the  
6 week for which the claimant is claiming benefits. No week shall be  
7 counted as a week of unemployment for the purposes of this subsection:

8 (A) If benefits have been paid for such week;

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

11 (C) if an individual is seeking unemployment benefits under the  
12 unemployment compensation law of any other state or of the United  
13 States, except that if the appropriate agency of such state or of the United  
14 States finally determines that the claimant is not entitled to unemployment  
15 benefits under such other law, this subparagraph shall not apply.

16 (2) The waiting week requirement of paragraph (1) shall not apply to  
17 new claims, filed on or after July 1, 2007, by claimants who become  
18 unemployed as a result of an employer terminating business operations  
19 within this state, declaring bankruptcy or initiating a work force reduction  
20 pursuant to public law 100-379, the federal worker adjustment and  
21 retraining notification act (29 U.S.C. §§ 2101 through 2109), as amended.  
22 The secretary shall adopt rules and regulations to administer the provisions  
23 of this paragraph.

24 (3) *A claimant shall become eligible to receive compensation for the*  
25 *waiting period of one week, pursuant to paragraph (1), upon completion*  
26 *of three weeks of unemployment consecutive to such waiting period.*

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

38 (f) The claimant participates in reemployment services, such as job  
39 search assistance services, if the individual has been determined to be  
40 likely to exhaust regular benefits and needs reemployment services  
41 pursuant to a profiling system established by the secretary, unless the  
42 secretary determines that: (1) The individual has completed such services;  
43 or (2) there is justifiable cause for the claimant's failure to participate in

1 such services.

2 (g) The claimant is returning to work after a qualifying injury and has  
3 been paid total wages for insured work in the claimant's alternative base  
4 period of not less than 30 times the claimant's weekly benefit amount and  
5 has been paid wages in more than one quarter of the claimant's alternative  
6 base period if:

7 (1) The claimant has filed for benefits within four weeks of being  
8 released to return to work by a licensed and practicing health care  
9 provider;

10 (2) the claimant files for benefits within 24 months of the date the  
11 qualifying injury occurred; and

12 (3) the claimant attempted to return to work with the employer where  
13 the qualifying injury occurred, but the individual's regular work or  
14 comparable and suitable work was not available.

15 Sec. 2. K.S.A. 2015 Supp. 44-706 is hereby amended to read as  
16 follows: 44-706. The secretary shall examine whether an individual has  
17 separated from employment for each week claimed. The secretary shall  
18 apply the provisions of this section to the individual's most recent  
19 employment prior to the week claimed. An individual shall be disqualified  
20 for benefits:

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

38 (1) The individual was forced to leave work because of illness or  
39 injury upon the advice of a licensed and practicing health care provider  
40 and, upon learning of the necessity for absence, immediately notified the  
41 employer thereof, or the employer consented to the absence, and after  
42 recovery from the illness or injury, when recovery was certified by a  
43 practicing health care provider, the individual returned to the employer and

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

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

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

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

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

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

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

1 such worker's employment;

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

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

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

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

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

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

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

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

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

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

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

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

43 (ii) a police record documenting the abuse;

1 (iii) documentation that the abuser has been convicted of one or more  
2 of the offenses enumerated in articles 34 and 35 of chapter 21 of the  
3 Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of  
4 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2015 Supp. 21-  
5 6104, 21-6325, 21-6326 or 21-6418 through ~~21-6421~~ 21-6422, and  
6 amendments thereto, where the victim was a family or household member;

7 (iv) medical documentation of the abuse;

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (iii) a positive breath alcohol test or a positive chemical test,  
29 provided:

30 (a) The test was either:

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

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

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

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

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

1 (b) the test sample was collected either:

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

6 (e) there was reasonable suspicion to believe that the individual used,  
7 possessed or was impaired by alcoholic liquor, cereal malt beverage or a  
8 nonprescribed controlled substance while working;

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

10 (C) For purposes of this subsection:

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

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

15 (iii) "cereal malt beverage" shall be defined as provided in K.S.A. 41-  
16 2701, and amendments thereto;

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

19 (v) "controlled substance" shall be defined as provided in K.S.A.  
20 2015 Supp. 21-5701, and amendments thereto;

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

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

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

43 (4) An individual shall not be disqualified under this subsection if the

1 individual is discharged under the following circumstances:

- 2 (A) The employer discharged the individual after learning the  
3 individual was seeking other work or when the individual gave notice of  
4 future intent to quit, except that the individual shall be disqualified after  
5 the time at which such individual intended to quit and any individual who  
6 commits misconduct after such individual gives notice to such individual's  
7 intent to quit shall be disqualified;
- 8 (B) the individual was making a good-faith effort to do the assigned  
9 work but was discharged due to
- 10 (i) Inefficiency;
- 11 (ii) unsatisfactory performance due to inability, incapacity or lack of  
12 training or experience;
- 13 (iii) isolated instances of ordinary negligence or inadvertence;
- 14 (iv) good-faith errors in judgment or discretion; or
- 15 (v) unsatisfactory work or conduct due to circumstances beyond the  
16 individual's control; or
- 17 (C) the individual's refusal to perform work in excess of the contract  
18 of hire.
- 19 (c) If the individual has failed, without good cause, to either apply for  
20 suitable work when so directed by the employment office of the secretary  
21 of labor, or to accept suitable work when offered to the individual by the  
22 employment office, the secretary of labor, or an employer, such  
23 disqualification shall begin with the week in which such failure occurred  
24 and shall continue until the individual becomes reemployed and has had  
25 earnings from insured work of at least three times such individual's  
26 determined weekly benefit amount. In determining whether or not any  
27 work is suitable for an individual, the secretary of labor, or a person or  
28 persons designated by the secretary, shall consider the degree of risk  
29 involved to health, safety and morals, physical fitness and prior training,  
30 experience and prior earnings, length of unemployment and prospects for  
31 securing local work in the individual's customary occupation or work for  
32 which the individual is reasonably fitted by training or experience, and the  
33 distance of the available work from the individual's residence.  
34 Notwithstanding any other provisions of this act, an otherwise eligible  
35 individual shall not be disqualified for refusing an offer of suitable  
36 employment, or failing to apply for suitable employment when notified by  
37 an employment office, or for leaving the individual's most recent work  
38 accepted during approved training, including training approved under  
39 section 236(a)(1) of the trade act of 1974, if the acceptance of or applying  
40 for suitable employment or continuing such work would require the  
41 individual to terminate approved training and no work shall be deemed  
42 suitable and benefits shall not be denied under this act to any otherwise  
43 eligible individual for refusing to accept new work under any of the

1 following conditions: (1) If the position offered is vacant due directly to a  
2 strike, lockout or other labor dispute; (2) if the remuneration, hours or  
3 other conditions of the work offered are substantially less favorable to the  
4 individual than those prevailing for similar work in the locality; (3) if as a  
5 condition of being employed, the individual would be required to join or to  
6 resign from or refrain from joining any labor organization; and (4) if the  
7 individual left employment as a result of domestic violence, and the  
8 position offered does not reasonably accommodate the individual's  
9 physical, psychological, safety, or legal needs relating to such domestic  
10 violence.

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

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

42 (f) For any week with respect to which the individual is entitled to  
43 receive any unemployment allowance or compensation granted by the

1 United States under an act of congress to ex-service men and women in  
2 recognition of former service with the military or naval services of the  
3 United States.

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

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

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

36 (j) For any week of unemployment on the basis of service in any  
37 capacity other than service in an instructional, research, or administrative  
38 capacity in an educational institution, as defined in K.S.A. 44-703(v), and  
39 amendments thereto, if such week begins during the period between two  
40 successive academic years or terms if the individual performs such  
41 services in the first of such academic years or terms and there is a  
42 reasonable assurance that the individual will perform such services in the  
43 second of such academic years or terms, except that if benefits are denied

1 to the individual under this subsection and the individual was not offered  
2 an opportunity to perform such services for the educational institution for  
3 the second of such academic years or terms, such individual shall be  
4 entitled to a retroactive payment of benefits for each week for which the  
5 individual filed a timely claim for benefits and for which benefits were  
6 denied solely by reason of this subsection.

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

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

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

37 (n) For any week in which an individual is receiving a governmental  
38 or other pension, retirement or retired pay, annuity or other similar  
39 periodic payment under a plan maintained by a base period employer and  
40 to which the entire contributions were provided by such employer, except  
41 that: (1) If the entire contributions to such plan were provided by the base  
42 period employer but such individual's weekly benefit amount exceeds such  
43 governmental or other pension, retirement or retired pay, annuity or other

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

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

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

1 shall not be disqualified for benefits as provided in this subsection for any  
2 week of unemployment on the basis of service as a bus or other motor  
3 vehicle driver employed by a private contractor to transport persons to or  
4 from nonschool-related functions or activities.

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

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

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

20 (2) the individual is attending approved training as defined in K.S.A.  
21 44-703(s), and amendments thereto; or

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

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

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

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

42 (t) (1) Any applicant for or recipient of unemployment benefits who  
43 tests positive for unlawful use of a controlled substance or controlled

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

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

30 (u) If the individual was found not to have a disqualifying  
31 adjudication or conviction under K.S.A. 39-970 or 65-5117, and  
32 amendments thereto, was hired and then was subsequently convicted of a  
33 disqualifying felony under K.S.A. 39-970 or 65-5117, and amendments  
34 thereto, and discharged pursuant to K.S.A. 39-970 or 65-5117, and  
35 amendments thereto. 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 times  
38 the individual's determined weekly benefit amount.

39 (v) Notwithstanding the provisions of any subsection, an individual  
40 shall not be disqualified for such week of part-time employment in a  
41 substitute capacity for an educational institution if such individual's most  
42 recent employment prior to the individual's benefit year begin date was for  
43 a non-educational institution and such individual demonstrates application



1 for work in such individual's customary occupation or for work for which  
2 the individual is reasonably fitted by training or experience.

3 Sec. 3. K.S.A. 2015 Supp. 44-705, 44-706 and 44-706c are hereby  
4 repealed.

5 Sec. 4. This act shall take effect and be in force from and after its  
6 publication in the statute book.