

**HOUSE BILL No. 2746**

By Committee on Appropriations

2-14

1 AN ACT concerning employment security law; relating to unemployment  
2 benefits for privately contracted school bus drivers; amending K.S.A.  
3 2017 Supp. 44-706 and repealing the existing section.  
4

5 WHEREAS, The legislature recognizes that transportation of  
6 students is a significant aspect of the public school system in this state; and

7 WHEREAS, The safety of students being transported to and from  
8 school is of great importance to the citizens of this state; and

9 WHEREAS, It is well established that experience is one of the  
10 most significant factors in employing knowledgeable and safety-conscious  
11 school bus drivers; and

12 WHEREAS, Experience is best obtained through yearly retention  
13 of school bus drivers with excellent safe driving records; and

14 WHEREAS, Retaining school bus drivers is often difficult  
15 because drivers are not employed during the summer months, and yet, also  
16 are denied unemployment benefits under current state law; and

17 WHEREAS, Employment security for school bus drivers would  
18 substantially aid in the retention of school bus drivers with excellent safe  
19 driving records; and

20 WHEREAS, The provisions of K.S.A. 2017 Supp. 44-706, as  
21 amended by this act, shall be known and may be cited as the child school  
22 bus safety act.

23 Now, therefore:

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

25 Section 1. K.S.A. 2017 Supp. 44-706 is hereby amended to read as  
26 follows: 44-706. The secretary shall examine whether an individual has  
27 separated from employment for each week claimed. The secretary shall  
28 apply the provisions of this section to the individual's most recent  
29 employment prior to the week claimed. An individual shall be disqualified  
30 for benefits:

31 (a) If the individual left work voluntarily without good cause  
32 attributable to the work or the employer, subject to the other provisions of  
33 this subsection. For purposes of this subsection, "good cause" is cause of  
34 such gravity that would impel a reasonable, not supersensitive, individual  
35 exercising ordinary common sense to leave employment. Good cause  
36 requires a showing of good faith of the individual leaving work, including

1 the presence of a genuine desire to work. Failure to return to work after  
2 expiration of approved personal or medical leave, or both, shall be  
3 considered a voluntary resignation. After a temporary job assignment,  
4 failure of an individual to affirmatively request an additional assignment  
5 on the next succeeding workday, if required by the employment  
6 agreement, after completion of a given work assignment, shall constitute  
7 leaving work voluntarily. The disqualification shall begin the day  
8 following the separation and shall continue until after the individual has  
9 become reemployed and has had earnings from insured work of at least  
10 three times the individual's weekly benefit amount. An individual shall not  
11 be disqualified under this subsection if:

12 (1) The individual was forced to leave work because of illness or  
13 injury upon the advice of a licensed and practicing health care provider  
14 and, upon learning of the necessity for absence, immediately notified the  
15 employer thereof, or the employer consented to the absence, and after  
16 recovery from the illness or injury, when recovery was certified by a  
17 practicing health care provider, the individual returned to the employer and  
18 offered to perform services and the individual's regular work or  
19 comparable and suitable work was not available. As used in this paragraph  
20 "health care provider" means any person licensed by the proper licensing  
21 authority of any state to engage in the practice of medicine and surgery,  
22 osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

23 (2) the individual left temporary work to return to the regular  
24 employer;

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

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

35 (5) the individual left work because of hazardous working conditions;  
36 in determining whether or not working conditions are hazardous for an  
37 individual, the degree of risk involved to the individual's health, safety and  
38 morals, the individual's physical fitness and prior training and the working  
39 conditions of workers engaged in the same or similar work for the same  
40 and other employers in the locality shall be considered; as used in this  
41 paragraph, "hazardous working conditions" means working conditions that  
42 could result in a danger to the physical or mental well-being of the  
43 individual; each determination as to whether hazardous working

1 conditions exist shall include, but shall not be limited to, a consideration  
2 of: (A) The safety measures used or the lack thereof; and (B) the condition  
3 of equipment or lack of proper equipment; no work shall be considered  
4 hazardous if the working conditions surrounding the individual's work are  
5 the same or substantially the same as the working conditions generally  
6 prevailing among individuals performing the same or similar work for  
7 other employers engaged in the same or similar type of activity;

8 (6) the individual left work to enter training approved under section  
9 236(a)(1) of the federal trade act of 1974, provided the work left is not of a  
10 substantially equal or higher skill level than the individual's past adversely  
11 affected employment, as defined for purposes of the federal trade act of  
12 1974, and wages for such work are not less than 80% of the individual's  
13 average weekly wage as determined for the purposes of the federal trade  
14 act of 1974;

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

19 (8) the individual left work to accept better work; each determination  
20 as to whether or not the work accepted is better work shall include, but  
21 shall not be limited to, consideration of: (A) The rate of pay, the hours of  
22 work and the probable permanency of the work left as compared to the  
23 work accepted; (B) the cost to the individual of getting to the work left in  
24 comparison to the cost of getting to the work accepted; and (C) the  
25 distance from the individual's place of residence to the work accepted in  
26 comparison to the distance from the individual's residence to the work left;

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

31 (10) the individual left work because of a substantial violation of the  
32 work agreement by the employing unit and, before the individual left, the  
33 individual had exhausted all remedies provided in such agreement for the  
34 settlement of disputes before terminating. For the purposes of this  
35 paragraph, a demotion based on performance does not constitute a  
36 violation of the work agreement;

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

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

43 (i) The individual's reasonable fear of future domestic violence at or

1 en route to or from the individual's place of employment;

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

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

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

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

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

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

17 (ii) a police record documenting the abuse;

18 (iii) documentation that the abuser has been convicted of one or more  
19 of the offenses enumerated in articles 34 and 35 of chapter 21 of the  
20 Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of  
21 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2017 Supp. 21-  
22 6104, 21-6325, 21-6326 or 21-6418 through 21-6422, and amendments  
23 thereto, where the victim was a family or household member;

24 (iv) medical documentation of the abuse;

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

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

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

35 (b) If the individual has been discharged or suspended for misconduct  
36 connected with the individual's work. The disqualification shall begin the  
37 day following the separation and shall continue until after the individual  
38 becomes reemployed and in cases where the disqualification is due to  
39 discharge for misconduct has had earnings from insured work of at least  
40 three times the individual's determined weekly benefit amount, except that  
41 if an individual is discharged for gross misconduct connected with the  
42 individual's work, such individual shall be disqualified for benefits until  
43 such individual again becomes employed and has had earnings from

1 insured work of at least eight times such individual's determined weekly  
2 benefit amount. In addition, all wage credits attributable to the  
3 employment from which the individual was discharged for gross  
4 misconduct connected with the individual's work shall be canceled. No  
5 such cancellation of wage credits shall affect prior payments made as a  
6 result of a prior separation.

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

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

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

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

22 (ii) the individual had knowledge of the employer's attendance  
23 expectation; and

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

26 (C) For the purposes of this subsection, if an employee disputes being  
27 absent or tardy without good cause, the employee shall present evidence  
28 that a majority of the employee's absences or tardiness were for good  
29 cause. If the employee alleges that the employee's repeated absences or  
30 tardiness were the result of health related issues, such evidence shall  
31 include documentation from a licensed and practicing health care provider  
32 as defined in subsection (a)(1).

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

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

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

43 (ii) the impairment caused by alcoholic liquor, cereal malt beverage

- 1 or a nonprescribed controlled substance by an individual while working;
- 2 (iii) a positive breath alcohol test or a positive chemical test,  
3 provided:
- 4 (a) The test was either:
- 5 (1) Required by law and was administered pursuant to the drug free  
6 workplace act, 41 U.S.C. § 701 et seq.;
- 7 (2) administered as part of an employee assistance program or other  
8 drug or alcohol treatment program in which the employee was  
9 participating voluntarily or as a condition of further employment;
- 10 (3) requested pursuant to a written policy of the employer of which  
11 the employee had knowledge and was a required condition of  
12 employment;
- 13 (4) required by law and the test constituted a required condition of  
14 employment for the individual's job; or
- 15 (5) there was reasonable suspicion to believe that the individual used,  
16 had possession of, or was impaired by alcoholic liquor, cereal malt  
17 beverage or a nonprescribed controlled substance while working;
- 18 (b) the test sample was collected either:
- 19 (1) As prescribed by the drug free workplace act, 41 U.S.C. § 701 et  
20 seq.;
- 21 (2) as prescribed by an employee assistance program or other drug or  
22 alcohol treatment program in which the employee was participating  
23 voluntarily or as a condition of further employment;
- 24 (3) as prescribed by the written policy of the employer of which the  
25 employee had knowledge and which constituted a required condition of  
26 employment;
- 27 (4) as prescribed by a test which was required by law and which  
28 constituted a required condition of employment for the individual's job; or
- 29 (5) at a time contemporaneous with the events establishing probable  
30 cause;
- 31 (c) the collecting and labeling of a chemical test sample was  
32 performed by a licensed health care professional or any other individual  
33 certified pursuant to paragraph (b)(3)(A)(iii)(f) or authorized to collect or  
34 label test samples by federal or state law, or a federal or state rule or  
35 regulation having the force or effect of law, including law enforcement  
36 personnel;
- 37 (d) the chemical test was performed by a laboratory approved by the  
38 United States department of health and human services or licensed by the  
39 department of health and environment, except that a blood sample may be  
40 tested for alcohol content by a laboratory commonly used for that purpose  
41 by state law enforcement agencies;
- 42 (e) the chemical test was confirmed by gas chromatography, gas  
43 chromatography-mass spectroscopy or other comparably reliable

1 analytical method, except that no such confirmation is required for a blood  
2 alcohol sample or a breath alcohol test;

3 (f) the breath alcohol test was administered by an individual trained  
4 to perform breath tests, the breath testing instrument used was certified  
5 and operated strictly according to a description provided by the  
6 manufacturers and the reliability of the instrument performance was  
7 assured by testing with alcohol standards; and

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

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

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

14 (b) the test was administered as part of an employee assistance  
15 program or other drug or alcohol treatment program in which the  
16 employee was participating voluntarily or as a condition of further  
17 employment;

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

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

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

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

27 (C) For purposes of this subsection:

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

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

32 (iii) "cereal malt beverage" shall be defined as provided in K.S.A. 41-  
33 2701, and amendments thereto;

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

36 (v) "controlled substance" shall be defined as provided in K.S.A.  
37 2017 Supp. 21-5701, and amendments thereto;

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

43 (vii) "positive breath test" shall mean a test result showing an alcohol

1 concentration of 0.04 or greater, or the levels listed in 49 C.F.R. part 40, if  
2 applicable, unless the test was administered as part of an employee  
3 assistance program or other drug or alcohol treatment program in which  
4 the employee was participating voluntarily or as a condition of further  
5 employment, in which case "positive chemical test" shall mean a test result  
6 showing an alcohol concentration at or above the levels provided for in the  
7 assistance or treatment program;

8 (viii) "positive chemical test" shall mean a chemical result showing a  
9 concentration at or above the levels listed in K.S.A. 44-501, and  
10 amendments thereto, or 49 C.F.R. part 40, as applicable, for the drugs or  
11 abuse listed therein, unless the test was administered as part of an  
12 employee assistance program or other drug or alcohol treatment program  
13 in which the employee was participating voluntarily or as a condition of  
14 further employment, in which case "positive chemical test" shall mean a  
15 chemical result showing a concentration at or above the levels provided for  
16 in the assistance or treatment program.

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

19 (A) The employer discharged the individual after learning the  
20 individual was seeking other work or when the individual gave notice of  
21 future intent to quit, except that the individual shall be disqualified after  
22 the time at which such individual intended to quit and any individual who  
23 commits misconduct after such individual gives notice to such individual's  
24 intent to quit shall be disqualified;

25 (B) the individual was making a good-faith effort to do the assigned  
26 work but was discharged due to:

- 27 (i) Inefficiency;  
28 (ii) unsatisfactory performance due to inability, incapacity or lack of  
29 training or experience;  
30 (iii) isolated instances of ordinary negligence or inadvertence;  
31 (iv) good-faith errors in judgment or discretion; or  
32 (v) unsatisfactory work or conduct due to circumstances beyond the  
33 individual's control; or

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

36 (c) If the individual has failed, without good cause, to either apply for  
37 suitable work when so directed by the employment office of the secretary  
38 of labor, or to accept suitable work when offered to the individual by the  
39 employment office, the secretary of labor, or an employer, such  
40 disqualification shall begin with the week in which such failure occurred  
41 and shall continue until the individual becomes reemployed and has had  
42 earnings from insured work of at least three times such individual's  
43 determined weekly benefit amount. In determining whether or not any



1 work is suitable for an individual, the secretary of labor, or a person or  
2 persons designated by the secretary, shall consider the degree of risk  
3 involved to health, safety and morals, physical fitness and prior training,  
4 experience and prior earnings, length of unemployment and prospects for  
5 securing local work in the individual's customary occupation or work for  
6 which the individual is reasonably fitted by training or experience, and the  
7 distance of the available work from the individual's residence.  
8 Notwithstanding any other provisions of this act, an otherwise eligible  
9 individual shall not be disqualified for refusing an offer of suitable  
10 employment, or failing to apply for suitable employment when notified by  
11 an employment office, or for leaving the individual's most recent work  
12 accepted during approved training, including training approved under  
13 section 236(a)(1) of the trade act of 1974, if the acceptance of or applying  
14 for suitable employment or continuing such work would require the  
15 individual to terminate approved training and no work shall be deemed  
16 suitable and benefits shall not be denied under this act to any otherwise  
17 eligible individual for refusing to accept new work under any of the  
18 following conditions: (1) If the position offered is vacant due directly to a  
19 strike, lockout or other labor dispute; (2) if the remuneration, hours or  
20 other conditions of the work offered are substantially less favorable to the  
21 individual than those prevailing for similar work in the locality; (3) if as a  
22 condition of being employed, the individual would be required to join or to  
23 resign from or refrain from joining any labor organization; and (4) if the  
24 individual left employment as a result of domestic violence, and the  
25 position offered does not reasonably accommodate the individual's  
26 physical, psychological, safety, or legal needs relating to such domestic  
27 violence.

28 (d) For any week with respect to which the secretary of labor, or a  
29 person or persons designated by the secretary, finds that the individual's  
30 unemployment is due to a stoppage of work which exists because of a  
31 labor dispute or there would have been a work stoppage had normal  
32 operations not been maintained with other personnel previously and  
33 currently employed by the same employer at the factory, establishment or  
34 other premises at which the individual is or was last employed, except that  
35 this subsection (d) shall not apply if it is shown to the satisfaction of the  
36 secretary of labor, or a person or persons designated by the secretary, that:  
37 (1) The individual is not participating in or financing or directly interested  
38 in the labor dispute which caused the stoppage of work; and (2) the  
39 individual does not belong to a grade or class of workers of which,  
40 immediately before the commencement of the stoppage, there were  
41 members employed at the premises at which the stoppage occurs any of  
42 whom are participating in or financing or directly interested in the dispute.  
43 If in any case separate branches of work which are commonly conducted

1 as separate businesses in separate premises are conducted in separate  
2 departments of the same premises, each such department shall, for the  
3 purpose of this subsection be deemed to be a separate factory,  
4 establishment or other premises. For the purposes of this subsection,  
5 failure or refusal to cross a picket line or refusal for any reason during the  
6 continuance of such labor dispute to accept the individual's available and  
7 customary work at the factory, establishment or other premises where the  
8 individual is or was last employed shall be considered as participation and  
9 interest in the labor dispute.

10 (e) For any week with respect to which or a part of which the  
11 individual has received or 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 other state or the  
14 United States finally determines that the individual is not entitled to such  
15 unemployment benefits, this disqualification shall not apply.

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

21 (g) For the period of five years beginning with the first day following  
22 the last week of unemployment for which the individual received benefits,  
23 or for five years from the date the act was committed, whichever is the  
24 later, if the individual, or another in such individual's behalf with the  
25 knowledge of the individual, has knowingly made a false statement or  
26 representation, or has knowingly failed to disclose a material fact to obtain  
27 or increase benefits under this act or any other unemployment  
28 compensation law administered by the secretary of labor. In addition to the  
29 penalties set forth in K.S.A. 44-719, and amendments thereto, an  
30 individual who has knowingly made a false statement or representation or  
31 who has knowingly failed to disclose a material fact to obtain or increase  
32 benefits under this act or any other unemployment compensation law  
33 administered by the secretary of labor shall be liable for a penalty in the  
34 amount equal to 25% of the amount of benefits unlawfully received.  
35 Notwithstanding any other provision of law, such penalty shall be  
36 deposited into the employment security trust fund.

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

41 (i) For any week of unemployment on the basis of service in an  
42 instructional, research or principal administrative capacity for an  
43 educational institution as defined in K.S.A. 44-703(v), and amendments

1 thereto, if such week begins during the period between two successive  
2 academic years or terms or, when an agreement provides instead for a  
3 similar period between two regular but not successive terms during such  
4 period or during a period of paid sabbatical leave provided for in the  
5 individual's contract, if the individual performs such services in the first of  
6 such academic years or terms and there is a contract or a reasonable  
7 assurance that such individual will perform services in any such capacity  
8 for any educational institution in the second of such academic years or  
9 terms.

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

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

32 (l) For any week of unemployment on the basis of any services,  
33 substantially all of which consist of participating in sports or athletic  
34 events or training or preparing to so participate, if such week begins during  
35 the period between two successive sport seasons or similar period if such  
36 individual performed services in the first of such seasons or similar periods  
37 and there is a reasonable assurance that such individual will perform such  
38 services in the later of such seasons or similar periods.

39 (m) For any week on the basis of services performed by an alien  
40 unless such alien is an individual who was lawfully admitted for  
41 permanent residence at the time such services were performed, was  
42 lawfully present for purposes of performing such services, or was  
43 permanently residing in the United States under color of law at the time

1 such services were performed, including an alien who was lawfully present  
2 in the United States as a result of the application of the provisions of  
3 section 212(d)(5) of the federal immigration and nationality act. Any data  
4 or information required of individuals applying for benefits to determine  
5 whether benefits are not payable to them because of their alien status shall  
6 be uniformly required from all applicants for benefits. In the case of an  
7 individual whose application for benefits would otherwise be approved, no  
8 determination that benefits to such individual are not payable because of  
9 such individual's alien status shall be made except upon a preponderance  
10 of the evidence.

11 (n) For any week in which an individual is receiving a governmental  
12 or other pension, retirement or retired pay, annuity or other similar  
13 periodic payment under a plan maintained by a base period employer and  
14 to which the entire contributions were provided by such employer, except  
15 that: (1) If the entire contributions to such plan were provided by the base  
16 period employer but such individual's weekly benefit amount exceeds such  
17 governmental or other pension, retirement or retired pay, annuity or other  
18 similar periodic payment attributable to such week, the weekly benefit  
19 amount payable to the individual shall be reduced, but not below zero, by  
20 an amount equal to the amount of such pension, retirement or retired pay,  
21 annuity or other similar periodic payment which is attributable to such  
22 week; or (2) if only a portion of contributions to such plan were provided  
23 by the base period employer, the weekly benefit amount payable to such  
24 individual for such week shall be reduced, but not below zero, by the  
25 prorated weekly amount of the pension, retirement or retired pay, annuity  
26 or other similar periodic payment after deduction of that portion of the  
27 pension, retirement or retired pay, annuity or other similar periodic  
28 payment that is directly attributable to the percentage of the contributions  
29 made to the plan by such individual; or (3) if the entire contributions to the  
30 plan were provided by such individual, or by the individual and an  
31 employer, or any person or organization, who is not a base period  
32 employer, no reduction in the weekly benefit amount payable to the  
33 individual for such week shall be made under this subsection; or (4)  
34 whatever portion of contributions to such plan were provided by the base  
35 period employer, if the services performed for the employer by such  
36 individual during the base period, or remuneration received for the  
37 services, did not affect the individual's eligibility for, or increased the  
38 amount of, such pension, retirement or retired pay, annuity or other similar  
39 periodic payment, no reduction in the weekly benefit amount payable to  
40 the individual for such week shall be made under this subsection. No  
41 reduction shall be made for payments made under the social security act or  
42 railroad retirement act of 1974.

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

1 performed in any capacity and under any of the circumstances described in  
2 subsection (i), (j) or (k) which an individual performed in an educational  
3 institution while in the employ of an educational service agency. For the  
4 purposes of this subsection, the term "educational service agency" means a  
5 governmental agency or entity which is established and operated  
6 exclusively for the purpose of providing such services to one or more  
7 educational institutions.

8 ~~(p) For any week of unemployment on the basis of service as a school  
9 bus or other motor vehicle driver employed by a private contractor to  
10 transport pupils, students and school personnel to or from school-related  
11 functions or activities for an educational institution, as defined in K.S.A.  
12 44-703(v), and amendments thereto, if such week begins during the period  
13 between two successive academic years or during a similar period between  
14 two regular terms, whether or not successive, if the individual has a  
15 contract or contracts, or a reasonable assurance thereof, to perform  
16 services in any such capacity with a private contractor for any educational  
17 institution for both such academic years or both such terms. An individual  
18 shall not be disqualified for benefits as provided in this subsection for any  
19 week of unemployment on the basis of service as a bus or other motor  
20 vehicle driver employed by a private contractor to transport persons to or  
21 from non-school-related functions or activities.~~

22 ~~(q)~~ For any week of unemployment on the basis of services  
23 performed by the individual in any capacity and under any of the  
24 circumstances described in subsection (i), (j), (k) or (o) which are provided  
25 to or on behalf of an educational institution, as defined in K.S.A. 44-  
26 703(v), and amendments thereto, while the individual is in the employ of  
27 an employer which is a governmental entity, Indian tribe or any employer  
28 described in section 501(c)(3) of the federal internal revenue code of 1986  
29 which is exempt from income under section 501(a) of the code.

30 ~~(r)~~ (q) For any week in which an individual is registered at and  
31 attending an established school, training facility or other educational  
32 institution, or is on vacation during or between two successive academic  
33 years or terms. An individual shall not be disqualified for benefits as  
34 provided in this subsection provided:

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

37 (2) the individual is attending approved training as defined in K.S.A.  
38 44-703(s), and amendments thereto; or

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

42 ~~(s)~~ (r) For any week with respect to which an individual is receiving  
43 or has received remuneration in the form of a back pay award or

1 settlement. The remuneration shall be allocated to the week or weeks in  
2 the manner as specified in the award or agreement, or in the absence of  
3 such specificity in the award or agreement, such remuneration shall be  
4 allocated to the week or weeks in which such remuneration, in the  
5 judgment of the secretary, would have been paid.

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

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

16 ~~(1)~~ (s) (1) Any applicant for or recipient of unemployment benefits  
17 who tests positive for unlawful use of a controlled substance or controlled  
18 substance analog shall be required to complete a substance abuse treatment  
19 program approved by the secretary of labor, secretary of commerce or  
20 secretary for children and families, and a job skills program approved by  
21 the secretary of labor, secretary of commerce or the secretary for children  
22 and families. Subject to applicable federal laws, any applicant for or  
23 recipient of unemployment benefits who fails to complete or refuses to  
24 participate in the substance abuse treatment program or job skills program  
25 as required under this subsection shall be ineligible to receive  
26 unemployment benefits until completion of such substance abuse  
27 treatment and job skills programs. Upon completion of both substance  
28 abuse treatment and job skills programs, such applicant for or recipient of  
29 unemployment benefits may be subject to periodic drug screening, as  
30 determined by the secretary of labor. Upon a second positive test for  
31 unlawful use of a controlled substance or controlled substance analog, an  
32 applicant for or recipient of unemployment benefits shall be ordered to  
33 complete again a substance abuse treatment program and job skills  
34 program, and shall be terminated from unemployment benefits for a period  
35 of 12 months, or until such applicant for or recipient of unemployment  
36 benefits completes both substance abuse treatment and job skills programs,  
37 whichever is later. Upon a third positive test for unlawful use of a  
38 controlled substance or controlled substance analog, an applicant for or a  
39 recipient of unemployment benefits shall be terminated from receiving  
40 unemployment benefits, subject to applicable federal law.

41 (2) Any individual who has been discharged or refused employment  
42 for failing a preemployment drug screen required by an employer may  
43 request that the drug screening specimen be sent to a different drug testing

1 facility for an additional drug screening. Any such individual who requests  
2 an additional drug screening at a different drug testing facility shall be  
3 required to pay the cost of drug screening.

4 ~~(t)~~ (t) If the individual was found not to have a disqualifying  
5 adjudication or conviction under K.S.A. 39-970 or 65-5117, and  
6 amendments thereto, was hired and then was subsequently convicted of a  
7 disqualifying felony under K.S.A. 39-970 or 65-5117, and amendments  
8 thereto, and discharged pursuant to K.S.A. 39-970 or 65-5117, and  
9 amendments thereto. The disqualification shall begin the day following the  
10 separation and shall continue until after the individual becomes  
11 reemployed and has had earnings from insured work of at least three times  
12 the individual's determined weekly benefit amount.

13 ~~(u)~~ (u) Notwithstanding the provisions of any subsection, an  
14 individual shall not be disqualified for such week of part-time employment  
15 in a substitute capacity for an educational institution if such individual's  
16 most recent employment prior to the individual's benefit year begin date  
17 was for a non-educational institution and such individual demonstrates  
18 application for work in such individual's customary occupation or for work  
19 for which the individual is reasonably fitted by training or experience.

20 Sec. 2. K.S.A. 2017 Supp. 44-706 is hereby repealed.

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