

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 2004

SENATE BILL No. 483

By Committee on Commerce

2-9

12 AN ACT concerning the employment security laws; relating to disqual-
13 ification from receipt of benefits; amending K.S.A. 2003 Supp. 44-706
14 and repealing the existing section.

15
16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. K.S.A. 2003 Supp. 44-706 is hereby amended to read as
18 follows: 44-706. An individual shall be disqualified for benefits:

19 (a) If the individual left work voluntarily without good cause attrib-
20 utable to the work or the employer, subject to the other provisions of this
21 subsection (a). ~~*Continued absence after exhaustion of FMLA benefits*~~
22 ***Failure to return to work after expiration of approved personal and/***
23 ***or medical leave shall be considered a voluntary resignation.*** After a
24 temporary job assignment, failure of an individual to affirmatively request
25 an additional assignment on the next succeeding workday, if required by
26 the employment agreement, after completion of a given work assignment,
27 shall constitute leaving work voluntarily. The disqualification shall begin
28 the day following the separation and shall continue until after the indi-
29 vidual has become reemployed and has had earnings from insured work
30 of at least three times the individual's weekly benefit amount. An indi-
31 vidual shall not be disqualified under this subsection (a) if:

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

43 (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 individual left work because of the voluntary or involuntary
5 transfer of the individual's spouse from one job to another job, which is
6 for the same employer or for a different employer, at a geographic loca-
7 tion which makes it unreasonable for the individual to continue work at
8 the individual's job;

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

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

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

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

- 1 (9) the individual left work as a result of being instructed or requested
2 by the employer, a supervisor or a fellow employee to perform a service
3 or commit an act in the scope of official job duties which is in violation
4 of an ordinance or statute;
- 5 (10) the individual left work because of a violation of the work agree-
6 ment by the employing unit and, before the individual left, the individual
7 had exhausted all remedies provided in such agreement for the settlement
8 of disputes before terminating;
- 9 (11) after making reasonable efforts to preserve the work, the indi-
10 vidual left work due to a personal emergency of such nature and com-
11 pelling urgency that it would be contrary to good conscience to impose a
12 disqualification; or
- 13 (12) the individual left work due to circumstances resulting from do-
14 mestic violence, including:
- 15 (A) The individual's reasonable fear of future domestic violence at or
16 en route to or from the individual's place of employment; or
- 17 (B) the individual's need to relocate to another geographic area in
18 order to avoid future domestic violence; or
- 19 (C) the individual's need to address the physical, psychological and
20 legal impacts of domestic violence; or
- 21 (D) the individual's need to leave employment as a condition of re-
22 ceiving services or shelter from an agency which provides support services
23 or shelter to victims of domestic violence; or
- 24 (E) the individual's reasonable belief that termination of employment
25 is necessary to avoid other situations which may cause domestic violence
26 and to provide for the future safety of the individual or the individual's
27 family.
- 28 (b) An individual may prove the existence of domestic violence by
29 providing one of the following:
- 30 (1) A restraining order or other documentation of equitable relief by
31 a court of competent jurisdiction; or
- 32 (2) a police record documenting the abuse; or
- 33 (3) documentation that the abuser has been convicted of one or more
34 of the offenses enumerated in articles 34 and 35 of chapter 21 of the
35 Kansas Statutes Annotated, and amendments thereto, where the victim
36 was a family or household member; or
- 37 (4) medical documentation of the abuse; or
- 38 (5) a statement provided by a counselor, social worker, health care
39 provider, clergy, shelter worker, legal advocate, domestic violence or sex-
40 ual assault advocate or other professional who has assisted the individual
41 in dealing with the effects of abuse on the individual or the individual's
42 family; or
- 43 (6) a sworn statement from the individual attesting to the abuse.

1 (c) No evidence of domestic violence experienced by an individual,
2 including the individual's statement and corroborating evidence, shall be
3 disclosed by the department of human resources unless consent for dis-
4 closure is given by the individual.

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

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

26 (2) For the purposes of this subsection (d), the use of or impairment
27 caused by an alcoholic beverage, a cereal malt beverage or a nonprescri-
28 bed controlled substance by an individual while working shall be conclu-
29 sive evidence of misconduct and the possession of an alcoholic beverage,
30 a cereal malt beverage or a nonprescribed controlled substance by an
31 individual while working shall be prima facie evidence of conduct which
32 is a violation of a duty or obligation reasonably owed to the employer as
33 a condition of employment. For purposes of this subsection (d), the dis-
34 qualification of an individual from employment which disqualification is
35 required by the provisions of the drug free workplace act, 41 U.S.C. 701
36 et seq. or is otherwise required by law because the individual refused to
37 submit to or failed a chemical test which was required by law, shall be
38 conclusive evidence of misconduct. Refusal to submit to a chemical test
39 administered pursuant to an employee assistance program or other drug
40 or alcohol treatment program in which the individual was participating
41 voluntarily or as a condition of further employment shall also be conclu-
42 sive evidence of misconduct. Alcoholic liquor shall be defined as provided
43 in K.S.A. 41-102 and amendments thereto. Cereal malt beverage shall be

1 defined as provided in K.S.A. 41-2701 and amendments thereto. Con-
2 trolled substance shall be defined as provided in K.S.A. 65-4101 and
3 amendments thereto of the uniform controlled substances act. As used
4 in this subsection (d)(2), “required by law” means required by a federal
5 or state law, a federal or state rule or regulation having the force and
6 effect of law, a county resolution or municipal ordinance, or a policy
7 relating to public safety adopted in open meeting by the governing body
8 of any special district or other local governmental entity. An individual’s
9 refusal to submit to a chemical test shall not be admissible evidence to
10 prove misconduct unless the test is required by and meets the standards
11 of the drug free workplace act, 41 U.S.C. 701 et seq., the test was ad-
12 ministered as part of an employee assistance program or other drug or
13 alcohol treatment program in which the employee was participating vol-
14 untarily or as a condition of further employment, the test was otherwise
15 required by law and the test constituted a required condition of employ-
16 ment for the individual’s job, or, there was probable cause to believe that
17 the individual used, possessed or was impaired by an alcoholic beverage,
18 a cereal malt beverage or a controlled substance while working. The re-
19 sults of a chemical test shall not be admissible evidence to prove miscon-
20 duct unless the following conditions were met:

21 (A) Either (i) the test was required by law, the test was administered
22 pursuant to the drug free workplace act, 41 U.S.C. 701 et seq., (ii) the
23 test was administered as part of an employee assistance program or other
24 drug or alcohol treatment program in which the employee was partici-
25 pating voluntarily or as a condition of further employment, (iii) the test
26 was required by law and the test constituted a required condition of em-
27 ployment for the individual’s job, or (iv) there was probable cause to
28 believe that the individual used, had possession of, or was impaired by
29 the alcoholic beverage, the cereal malt beverage or the controlled sub-
30 stance while working;

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

39 (C) the collecting and labeling of the test sample was performed by
40 a licensed health care professional or any other individual authorized to
41 collect or label test samples by federal or state law, or a federal or state
42 rule or regulation having the force and effect of law, including law en-
43 forcement personnel;

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

6 (E) the test was confirmed by gas chromatography, gas chromatog-
7 raphy-mass spectroscopy or other comparably reliable analytical method,
8 except that no such confirmation is required for a blood alcohol sample;
9 and

10 (F) the foundation evidence must establish, beyond a reasonable
11 doubt, that the test results were from the sample taken from the
12 individual.

13 (3) (A) For the purposes of this subsection (d), misconduct shall in-
14 clude, but not be limited to repeated absence, including ~~incarceration,~~
15 ~~resulting in absence from work of one week or longer,~~ and lateness, from
16 scheduled work if the facts show:

17 ~~(A)~~ (i) The individual was absent without good cause;

18 ~~(B)~~ (ii) the absence was in violation of the employer's written absen-
19 teeism policy;

20 ~~(C)~~ (iii) the employer gave or sent written notice to the individual,
21 at the individual's last known address, that future absence may or will
22 result in discharge; **and**

23 ~~(D)~~ (iv) the employee had knowledge of the employer's written ab-
24 senteeism policy; ~~and~~

25 ~~(E)~~ (B) **For the purposes of this subsection (d),** if an employee
26 disputes being absent without good cause, the employee shall present
27 evidence that a majority of the employee's absences were for good cause.
28 ~~Such evidence shall include documentation from the treatment provider~~
29 ~~regarding repeated absences and tardiness due to illness or treatment, or~~
30 ~~in the event of a no call no show situation, documentation regarding the~~
31 ~~medical inability of the employee to notify the employer of such absence~~
32 **If the employee alleges the absence was [their repeated absences**
33 **were] the result of health related issues, such evidence shall include**
34 **documentation from a licensed and practicing health care profes-**
35 **sional as defined in subsection (a)(1). Incarceration shall not be**
36 **considered good cause for absence or tardiness.**

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

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

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

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

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

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

42 (f) For any week with respect to which the secretary of human re-
43 sources, or a person or persons designated by the secretary, finds that the

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

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

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

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

43 (j) For any week with respect to which the individual is receiving

1 compensation for temporary total disability or permanent total disability
2 under the workmen's compensation law of any state or under a similar
3 law of the United States.

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

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

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

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

1 such services in the later of such seasons or similar periods.

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

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

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

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

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

27 (s) For any week of unemployment on the basis of services performed
28 by the individual in any capacity and under any of the circumstances
29 described in subsection (k), (l), (m) or (q) which are provided to or on
30 behalf of an educational institution, as defined in subsection (v) of K.S.A.
31 44-703 and amendments thereto, while the individual is in the employ of
32 an employer which is a governmental entity, Indian tribe or any employer
33 described in section 501(c)(3) of the federal internal revenue code of 1986
34 which is exempt from income under section 501(a) of the code.

35 (t) For any week in which an individual is registered at and attending
36 an established school, training facility or other educational institution, or
37 is on vacation during or between two successive academic years or terms.
38 An individual shall not be disqualified for benefits as provided in this
39 subsection (t) provided:

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

42 (2) the individual is attending approved training as defined in sub-
43 section (s) of K.S.A. 44-703 and amendments thereto; or

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

4 (u) For any week with respect to which an individual is receiving or
5 has received remuneration in the form of a back pay award or settlement.
6 The remuneration shall be allocated to the week or weeks in the manner
7 as specified in the award or agreement, or in the absence of such speci-
8 ficity in the award or agreement, such remuneration shall be allocated to
9 the week or weeks in which such remuneration, in the judgment of the
10 secretary, would have been paid.

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

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

21 Sec. 2. K.S.A. 2003 Supp. 44-706 is hereby repealed.

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