

HOUSE BILL No. 2379

By Committee on Commerce and Labor

2-2

9 AN ACT concerning employment security law; relating to disqualifica-
10 tion; amending K.S.A. 2006 Supp. 44-706 and repealing the existing
11 section.
12

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

14 Section 1. K.S.A. 2006 Supp. 44-706 is hereby amended to read as
15 follows: 44-706. An individual shall be disqualified for benefits:

16 (a) If the individual left work voluntarily without good cause attrib-
17 utable to the work or the employer, subject to the other provisions of this
18 subsection (a). Failure to return to work after expiration of approved
19 personal or medical leave, or both, shall be considered a voluntary res-
20 ignation. After a temporary job assignment, failure of an individual to
21 affirmatively request an additional assignment on the next succeeding
22 workday, if required by the employment agreement, after completion of
23 a given work assignment, shall constitute leaving work voluntarily. The
24 disqualification shall begin the day following the separation and shall con-
25 tinue until after the individual has become reemployed and has had earn-
26 ings from insured work of at least three times the individual's weekly
27 benefit amount. An individual shall not be disqualified under this sub-
28 section (a) if:

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

40 (2) the individual left temporary work to return to the regular
41 employer;

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

- 1 (4) the individual left work because of the voluntary or involuntary
2 transfer of the individual's spouse from one job to another job, which is
3 for the same employer or for a different employer, at a geographic loca-
4 tion which makes it unreasonable for the individual to continue work at
5 the individual's job;
- 6 (5) the individual left work because of hazardous working conditions;
7 in determining whether or not working conditions are hazardous for an
8 individual, the degree of risk involved to the individual's health, safety
9 and morals, the individual's physical fitness and prior training and the
10 working conditions of workers engaged in the same or similar work for
11 the same and other employers in the locality shall be considered; as used
12 in this paragraph (5), "hazardous working conditions" means working con-
13 ditions that could result in a danger to the physical or mental well-being
14 of the individual; each determination as to whether hazardous working
15 conditions exist shall include, but shall not be limited to, a consideration
16 of (A) the safety measures used or the lack thereof, and (B) the condition
17 of equipment or lack of proper equipment; no work shall be considered
18 hazardous if the working conditions surrounding the individual's work are
19 the same or substantially the same as the working conditions generally
20 prevailing among individuals performing the same or similar work for
21 other employers engaged in the same or similar type of activity;
- 22 (6) the individual left work to enter training approved under section
23 236(a)(1) of the federal trade act of 1974, provided the work left is not
24 of a substantially equal or higher skill level than the individual's past
25 adversely affected employment (as defined for purposes of the federal
26 trade act of 1974), and wages for such work are not less than 80% of the
27 individual's average weekly wage as determined for the purposes of the
28 federal trade act of 1974;
- 29 (7) the individual left work because of unwelcome harassment of the
30 individual by the employer or another employee of which the employing
31 unit had knowledge;
- 32 (8) the individual left work to accept better work; each determination
33 as to whether or not the work accepted is better work shall include, but
34 shall not be limited to, consideration of (A) the rate of pay, the hours of
35 work and the probable permanency of the work left as compared to the
36 work accepted, (B) the cost to the individual of getting to the work left
37 in comparison to the cost of getting to the work accepted, and (C) the
38 distance from the individual's place of residence to the work accepted in
39 comparison to the distance from the individual's residence to the work
40 left;
- 41 (9) the individual left work as a result of being instructed or requested
42 by the employer, a supervisor or a fellow employee to perform a service
43 or commit an act in the scope of official job duties which is in violation

1 of an ordinance or statute;

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

6 (11) after making reasonable efforts to preserve the work, the indi-
7 vidual left work due to a personal emergency of such nature and com-
8 pelling urgency that it would be contrary to good conscience to impose a
9 disqualification; or

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

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

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

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

18 (iv) the individual's need to leave employment as a condition of re-
19 ceiving services or shelter from an agency which provides support services
20 or shelter to victims of domestic violence; or

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

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

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

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

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

34 (iv) medical documentation of the abuse; or

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

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

41 (C) No evidence of domestic violence experienced by an individual,
42 including the individual's statement and corroborating evidence, shall be
43 disclosed by the department of labor unless consent for disclosure is given

1 by the individual.

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

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

23 (2) For the purposes of this subsection (b), the use of or impairment
24 caused by alcoholic liquor, a cereal malt beverage or a nonprescribed
25 controlled substance by an individual while working shall be conclusive
26 evidence of misconduct and the possession of alcoholic liquor, a cereal
27 malt beverage or a nonprescribed controlled substance by an individual
28 while working shall be prima facie evidence of conduct which is a violation
29 of a duty or obligation reasonably owed to the employer as a condition of
30 employment. Alcoholic liquor shall be defined as provided in K.S.A. 41-
31 102 and amendments thereto. Cereal malt beverage shall be defined as
32 provided in K.S.A. 41-2701 and amendments thereto. Controlled sub-
33 stance shall be defined as provided in K.S.A. 65-4101 and amendments
34 thereto of the uniform controlled substances act. As used in this subsec-
35 tion (b)(2), "required by law" means required by a federal or state law, a
36 federal or state rule or regulation having the force and effect of law, a
37 county resolution or municipal ordinance, or a policy relating to public
38 safety adopted in open meeting by the governing body of any special
39 district or other local governmental entity. Chemical test shall include,
40 but is not limited to, tests of urine, blood or saliva. A positive chemical
41 test shall mean a chemical result showing a concentration at or above the
42 levels listed in K.S.A. 44-501, and amendments thereto, for the drugs or
43 abuse listed therein. A positive breath test shall mean a test result showing

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

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

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

39 (C) the collecting and labeling of a chemical test sample was per-
40 formed by a licensed health care professional or any other individual
41 certified pursuant to paragraph (b)(2)(F) or authorized to collect or label
42 test samples by federal or state law, or a federal or state rule or regulation
43 having the force or effect of law, including law enforcement personnel;

- 1 (D) the chemical test was performed by a laboratory approved by the
2 United States department of health and human services or licensed by
3 the department of health and environment, except that a blood sample
4 may be tested for alcohol content by a laboratory commonly used for that
5 purpose by state law enforcement agencies;
- 6 (E) the chemical test was confirmed by gas chromatography, gas
7 chromatography-mass spectroscopy or other comparably reliable analyt-
8 ical method, except that no such confirmation is required for a blood
9 alcohol sample or a breath alcohol test;
- 10 (F) the breath alcohol test was administered by an individual trained
11 to perform breath tests, the breath testing instrument used was certified
12 and operated strictly according to description provided by the manufac-
13 turers and the reliability of the instrument performance was assured by
14 testing with alcohol standards; and
- 15 (G) the foundation evidence must establish, beyond a reasonable
16 doubt, that the test results were from the sample taken from the
17 individual.
- 18 (3) *Notwithstanding the provisions of paragraph (4) (A), for purposes*
19 *of this subsection (b), prima facie evidence of misconduct shall include,*
20 *but not be limited to, failure of the individual to notify the employer of*
21 *the individual's intent to be absent from work.*
- 22 ~~(4)~~ (A) For the purposes of this subsection (b), misconduct shall
23 include, but not be limited to repeated absence, including incarceration,
24 resulting in absence from work of three days or longer, excluding Satur-
25 days, Sundays and legal holidays, and lateness, from scheduled work if
26 the facts show:
- 27 (i) The individual was absent without good cause;
- 28 (ii) the absence was in violation of the employer's written absenteeism
29 policy;
- 30 (iii) the employer gave ~~or sent~~ written notice to the individual, *or sent*
31 *written notice to the individual* at the individual's last known address, that
32 future absence may or will result in discharge; and
- 33 (iv) the employee had knowledge of the employer's written absen-
34 teeism policy.
- 35 (B) For the purposes of this subsection (b), if an employee disputes
36 being absent without good cause, the employee shall present evidence
37 that a majority of the employee's absences were for good cause. If the
38 employee alleges that the employee's repeated absences were the result
39 of health related issues, such evidence shall include documentation from
40 a licensed and practicing health care provider as defined in subsection
41 (a)(1).
- 42 ~~(4)~~ (5) An individual shall not be disqualified under this subsection if
43 the individual is discharged under the following circumstances:

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

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

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

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

1 accommodate the individual's physical, psychological, safety, and/or legal
2 needs relating to such domestic violence.

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

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

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

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

1 representation, or has knowingly failed to disclose a material fact to obtain
2 or increase benefits under this act or any other unemployment compen-
3 sation law administered by the secretary of labor.

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

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

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

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

42 (l) For any week of unemployment on the basis of any services, sub-
43 stantially all of which consist of participating in sports or athletic events

1 or training or preparing to so participate, if such week begins during the
2 period between two successive sport seasons or similar period if such
3 individual performed services in the first of such seasons or similar per-
4 iods and there is a reasonable assurance that such individual will perform
5 such services in the later of such seasons or similar periods.

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

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

- 1 subsection (n); or (4) whatever portion of contributions to such plan were
2 provided by the base period employer, if the services performed for the
3 employer by such individual during the base period, or remuneration
4 received for the services, did not affect the individual's eligibility for, or
5 increased the amount of, such pension, retirement or retired pay, annuity
6 or other similar periodic payment, no reduction in the weekly benefit
7 amount payable to the individual for such week shall be made under this
8 subsection (n). No reduction shall be made for payments made under the
9 social security act or railroad retirement act of 1974.
- 10 (o) For any week of unemployment on the basis of services per-
11 formed in any capacity and under any of the circumstances described in
12 subsection (i), (j) or (k) which an individual performed in an educational
13 institution while in the employ of an educational service agency. For the
14 purposes of this subsection (o), the term "educational service agency"
15 means a governmental agency or entity which is established and operated
16 exclusively for the purpose of providing such services to one or more
17 educational institutions.
- 18 (p) For any week of unemployment on the basis of service as a school
19 bus or other motor vehicle driver employed by a private contractor to
20 transport pupils, students and school personnel to or from school-related
21 functions or activities for an educational institution, as defined in subsec-
22 tion (v) of K.S.A. 44-703, and amendments thereto, if such week begins
23 during the period between two successive academic years or during a
24 similar period between two regular terms, whether or not successive, if
25 the individual has a contract or contracts, or a reasonable assurance
26 thereof, to perform services in any such capacity with a private contractor
27 for any educational institution for both such academic years or both such
28 terms. An individual shall not be disqualified for benefits as provided in
29 this subsection (p) for any week of unemployment on the basis of service
30 as a bus or other motor vehicle driver employed by a private contractor
31 to transport persons to or from nonschool-related functions or activities.
- 32 (q) For any week of unemployment on the basis of services per-
33 formed by the individual in any capacity and under any of the circum-
34 stances described in subsection (i), (j), (k) or (o) which are provided to
35 or on behalf of an educational institution, as defined in subsection (v) of
36 K.S.A. 44-703, and amendments thereto, while the individual is in the
37 employ of an employer which is a governmental entity, Indian tribe or
38 any employer described in section 501(c)(3) of the federal internal rev-
39 enue code of 1986 which is exempt from income under section 501(a) of
40 the code.
- 41 (r) For any week in which an individual is registered at and attending
42 an established school, training facility or other educational institution, or
43 is on vacation during or between two successive academic years or terms.

1 An individual shall not be disqualified for benefits as provided in this
2 subsection (r) provided:

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

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

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

10 (s) For any week with respect to which an individual is receiving or
11 has received remuneration in the form of a back pay award or settlement.
12 The remuneration shall be allocated to the week or weeks in the manner
13 as specified in the award or agreement, or in the absence of such speci-
14 ficity in the award or agreement, such remuneration shall be allocated to
15 the week or weeks in which such remuneration, in the judgment of the
16 secretary, would have been paid.

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

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

27 (t) If the individual has been discharged for failing a preemployment
28 drug screen required by the employer and if such discharge occurs not
29 later than seven days after the employer is notified of the results of such
30 drug screen. The disqualification shall begin the day following the sepa-
31 ration and shall continue until after the individual becomes reemployed
32 and has had earnings from insured work of at least three times the indi-
33 vidual's determined weekly benefit amount.

34 (u) If the individual was found not to have a disqualifying adjudication
35 or conviction under K.S.A. 39-970, and amendments thereto, or K.S.A.
36 65-5117, and amendments thereto, was hired and then was subsequently
37 convicted of a disqualifying felony under K.S.A. 39-970, and amendments
38 thereto, or K.S.A. 65-5117, and amendments thereto, and discharged pur-
39 suant to K.S.A. 39-970, and amendments thereto, or K.S.A. 65-5117, and
40 amendments thereto. The disqualification shall begin the day following
41 the separation and shall continue until after the individual becomes reem-
42 ployed and has had earnings from insured work of at least three times
43 the individual's determined weekly benefit amount.

- 1 Sec. 2. K.S.A. 2006 Supp. 44-706 is hereby repealed.
- 2 Sec. 3. This act shall take effect and be in force from and after its
- 3 publication in the statute book.