AN ACT concerning drug screening; relating to recipients of cash assistance and unemployment benefits; amending K.S.A. 2012 Supp. 39-709e and 44-706 and repealing the existing sections.

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

Section 1. K.S.A. 2012 Supp. 39-709 is hereby amended to read as follows: 39-709. (a) General eligibility requirements for assistance for which federal moneys are expended. Subject to the additional requirements below, assistance in accordance with plans under which federal moneys are expended may be granted to any needy person who:

(1) Has insufficient income or resources to provide a reasonable subsistence compatible with decency and health. Where a husband and wife are living together, the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary, in determining need of any applicant for or recipient of assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of assistance unless such applicant or recipient is such individual's spouse or such individual's minor child or minor stepchild if the stepchild is living with such individual. The secretary in determining need of an individual may provide such income and resource exemptions as may be permitted by federal law. For purposes of eligibility for aid for families with dependent children, for food stamp assistance and for any other assistance provided through the department of social and rehabilitation services under which federal moneys are expended, the secretary of social and rehabilitation services shall consider one motor vehicle owned by the applicant for assistance, regardless of the value of such vehicle, as exempt personal property and shall consider any equity in any additional motor vehicle owned by the applicant for assistance to be a nonexempt resource of the applicant for assistance.

(2) Is a citizen of the United States or is an alien lawfully admitted to the United States and who is residing in the state of Kansas.

(b) Assistance to families with dependent children. Assistance may be granted under this act to any dependent child, or relative, subject to the general eligibility requirements as set out in subsection (a), who resides in the state of Kansas or whose parent or other relative with whom the child
is living resides in the state of Kansas. Such assistance shall be known as
aid to families with dependent children. Where husband and wife are
living together both shall register for work under the program
requirements for aid to families with dependent children in accordance
with criteria and guidelines prescribed by rules and regulations of the
secretary.

(c) Aid to families with dependent children; assignment of support
rights and limited power of attorney. By applying for or receiving aid to
families with dependent children such applicant or recipient shall be
deemed to have assigned to the secretary on behalf of the state any
accrued, present or future rights to support from any other person such
applicant may have in such person's own behalf or in behalf of any other
family member for whom the applicant is applying for or receiving aid. In
any case in which an order for child support has been established and the
legal custodian and obligee under the order surrenders physical custody of
the child to a caretaker relative without obtaining a modification of legal
custody and support rights on behalf of the child are assigned pursuant to
this section, the surrender of physical custody and the assignment shall
transfer, by operation of law, the child's support rights under the order to
the secretary on behalf of the state. Such assignment shall be of all
accrued, present or future rights to support of the child surrendered to the
caretaker relative. The assignment of support rights shall automatically
become effective upon the date of approval for or receipt of such aid
without the requirement that any document be signed by the applicant,
recipient or obligee. By applying for or receiving aid to families with
dependent children, or by surrendering physical custody of a child to a
caretaker relative who is an applicant or recipient of such assistance on the
child's behalf, the applicant, recipient or obligee is also deemed to have
appointed the secretary, or the secretary's designee, as an attorney in fact to
perform the specific act of negotiating and endorsing all drafts, checks,
money orders or other negotiable instruments representing support
payments received by the secretary in behalf of any person applying for,
receiving or having received such assistance. This limited power of
attorney shall be effective from the date the secretary approves the
application for aid and shall remain in effect until the assignment of
support rights has been terminated in full.

(d) Eligibility requirements for general assistance, the cost of which
is not shared by the federal government. (1) General assistance may be
granted to eligible persons who do not qualify for financial assistance in a
program in which the federal government participates and who satisfy the
additional requirements prescribed by or under this subsection (d).
(A) To qualify for general assistance in any form a needy person must
have insufficient income or resources to provide a reasonable subsistence
compatible with decency and health and, except as provided for
transitional assistance, be a member of a family in which a minor child or
a pregnant woman resides or be unable to engage in employment. The
secretary shall adopt rules and regulations prescribing criteria for
establishing when a minor child may be considered to be living with a
family and whether a person is able to engage in employment, including
such factors as age or physical or mental condition. Eligibility for general
assistance, other than transitional assistance, is limited to families in which
a minor child or a pregnant woman resides or to an adult or family in
which all legally responsible family members are unable to engage in
employment. Where a husband and wife are living together the combined
income or resources of both shall be considered in determining the
eligibility of either or both for such assistance unless otherwise prohibited
by law. The secretary in determining need of any applicant for or recipient
of general assistance shall not take into account the financial responsibility
of any individual for any applicant or recipient of general assistance unless
such applicant or recipient is such individual's spouse or such individual's
minor child or a minor stepchild if the stepchild is living with such
individual. In determining the need of an individual, the secretary may
provide for income and resource exemptions.

(B) To qualify for general assistance in any form a needy person must
be a citizen of the United States or an alien lawfully admitted to the United
States and must be residing in the state of Kansas.

(2) General assistance in the form of transitional assistance may be
granted to eligible persons who do not qualify for financial assistance in a
program in which the federal government participates and who satisfy the
additional requirements prescribed by or under this subsection (d), but who
do not meet the criteria prescribed by rules and regulations of the secretary
relating to inability to engage in employment or are not a member of a
family in which a minor or a pregnant woman resides.

(3) In addition to the other requirements prescribed under this
subsection (d), the secretary shall adopt rules and regulations which
establish community work experience program requirements for eligibility
for the receipt of general assistance in any form and which establish
penalties to be imposed when a work assignment under a community work
experience program requirement is not completed without good cause. The
secretary may adopt rules and regulations establishing exemptions from
any such community work experience program requirements. A first time
failure to complete such a work assignment requirement shall result in
ineligibility to receive general assistance for a period fixed by such rules
and regulations of not more than three calendar months. A subsequent
failure to complete such a work assignment requirement shall result in a
period fixed by such rules and regulations of ineligibility of not more than
six calendar months.

(4) If any person is found guilty of the crime of theft under the provisions of K.S.A. 39-720, and amendments thereto, such person shall thereby become forever ineligible to receive any form of general assistance under the provisions of this subsection (d) unless the conviction is the person's first conviction under the provisions of K.S.A. 39-720, and amendments thereto, or the law of any other state concerning welfare fraud. First time offenders convicted of a misdemeanor under the provisions of such statute shall become ineligible to receive any form of general assistance for a period of 12 calendar months from the date of conviction. First time offenders convicted of a felony under the provisions of such statute shall become ineligible to receive any form of general assistance for a period of 60 calendar months from the date of conviction. If any person is found guilty by a court of competent jurisdiction of any state other than the state of Kansas of a crime involving welfare fraud, such person shall thereby become forever ineligible to receive any form of general assistance under the provisions of this subsection (d) unless the conviction is the person's first conviction under the law of any other state concerning welfare fraud. First time offenders convicted of a misdemeanor under the law of any other state concerning welfare fraud shall become ineligible to receive any form of general assistance for a period of 12 calendar months from the date of conviction. First time offenders convicted of a felony under the law of any other state concerning welfare fraud shall become ineligible to receive any form of general assistance for a period of 60 calendar months from the date of conviction.

(e) Requirements for medical assistance for which federal moneys or state moneys or both are expended. (1) When the secretary has adopted a medical care plan under which federal moneys or state moneys or both are expended, medical assistance in accordance with such plan shall be granted to any person who is a citizen of the United States or who is an alien lawfully admitted to the United States and who is residing in the state of Kansas, whose resources and income do not exceed the levels prescribed by the secretary. In determining the need of an individual, the secretary may provide for income and resource exemptions and protected income and resource levels. Resources from inheritance shall be counted. A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and amendments thereto, shall constitute a transfer of resources. The secretary shall exempt principal and interest held in irrevocable trust pursuant to subsection (c) of K.S.A. 16-303, and amendments thereto, from the eligibility requirements of applicants for and recipients of medical assistance. Such assistance shall be known as medical assistance.

(2) For the purposes of medical assistance eligibility determinations on or after July 1, 2004, if an applicant or recipient owns property in joint
tenancy with some other party and the applicant or recipient of medical assistance has restricted or conditioned their interest in such property to a specific and discrete property interest less than 100%, then such designation will cause the full value of the property to be considered an available resource to the applicant or recipient.

(3) (A) Resources from trusts shall be considered when determining eligibility of a trust beneficiary for medical assistance. Medical assistance is to be secondary to all resources, including trusts, that may be available to an applicant or recipient of medical assistance.

(B) If a trust has discretionary language, the trust shall be considered to be an available resource to the extent, using the full extent of discretion, the trustee may make any of the income or principal available to the applicant or recipient of medical assistance. Any such discretionary trust shall be considered an available resource unless: (i) At the time of creation or amendment of the trust, the trust states a clear intent that the trust is supplemental to public assistance; and (ii) the trust: (a) Is funded from resources of a person who, at the time of such funding, owed no duty of support to the applicant or recipient of medical assistance; or (b) is funded not more than nominally from resources of a person while that person owed a duty of support to the applicant or recipient of medical assistance.

(C) For the purposes of this paragraph, "public assistance" includes, but is not limited to, medicaid, medical assistance or title XIX of the social security act.

(4) (A) When an applicant or recipient of medical assistance is a party to a contract, agreement or accord for personal services being provided by a nonlicensed individual or provider and such contract, agreement or accord involves health and welfare monitoring, pharmacy assistance, case management, communication with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits, or other related issues, any moneys paid under such contract, agreement or accord shall be considered to be an available resource unless the following restrictions are met: (i) The contract, agreement or accord must be in writing and executed prior to any services being provided; (ii) the moneys paid are in direct relationship with the fair market value of such services being provided by similarly situated and trained nonlicensed individuals; (iii) if no similarly situated nonlicensed individuals or situations can be found, the value of services will be based on federal hourly minimum wage standards; (iv) such individual providing the services will report all receipts of moneys as income to the appropriate state and federal governmental revenue agencies; (v) any amounts due under such contract, agreement or accord shall be paid after the services are rendered; (vi) the applicant or recipient shall have the power to revoke the contract, agreement or accord; and (vii) upon the death of the applicant
or recipient, the contract, agreement or accord ceases.

(B) When an applicant or recipient of medical assistance is a party to a written contract for personal services being provided by a licensed health professional or facility and such contract involves health and welfare monitoring, pharmacy assistance, case management, communication with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits or other related issues, any moneys paid in advance of receipt of services for such contracts shall be considered to be an available resource.

(5) Any trust may be amended if such amendment is permitted by the Kansas uniform trust code.

(f) Eligibility for medical assistance of resident receiving medical care outside state. A person who is receiving medical care including long-term care outside of Kansas whose health would be endangered by the postponement of medical care until return to the state or by travel to return to Kansas, may be determined eligible for medical assistance if such individual is a resident of Kansas and all other eligibility factors are met. Persons who are receiving medical care on an ongoing basis in a long-term medical care facility in a state other than Kansas and who do not return to a care facility in Kansas when they are able to do so, shall no longer be eligible to receive assistance in Kansas unless such medical care is not available in a comparable facility or program providing such medical care in Kansas. For persons who are minors or who are under guardianship, the actions of the parent or guardian shall be deemed to be the actions of the child or ward in determining whether or not the person is remaining outside the state voluntarily.

(g) Medical assistance; assignment of rights to medical support and limited power of attorney; recovery from estates of deceased recipients. (1) Except as otherwise provided in K.S.A. 39-786 and 39-787, and amendments thereto, or as otherwise authorized on and after September 30, 1989, under section 303 and amendments thereto of the federal medicare catastrophic coverage act of 1988, whichever is applicable, by applying for or receiving medical assistance under a medical care plan in which federal funds are expended, any accrued, present or future rights to support and any rights to payment for medical care from a third party of an applicant or recipient and any other family member for whom the applicant is applying shall be deemed to have been assigned to the secretary on behalf of the state. The assignment shall automatically become effective upon the date of approval for such assistance without the requirement that any document be signed by the applicant or recipient. By applying for or receiving medical assistance the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing
all drafts, checks, money orders or other negotiable instruments,
representing payments received by the secretary in behalf of any person
applying for, receiving or having received such assistance. This limited
power of attorney shall be effective from the date the secretary approves
the application for assistance and shall remain in effect until the
assignment has been terminated in full. The assignment of any rights to
payment for medical care from a third party under this subsection shall not
prohibit a health care provider from directly billing an insurance carrier for
services rendered if the provider has not submitted a claim covering such
services to the secretary for payment. Support amounts collected on behalf
of persons whose rights to support are assigned to the secretary only under
this subsection and no other shall be distributed pursuant to subsection (d)
of K.S.A. 39-756, and amendments thereto, except that any amounts
designated as medical support shall be retained by the secretary for
repayment of the unreimbursed portion of assistance. Amounts collected
pursuant to the assignment of rights to payment for medical care from a
third party shall also be retained by the secretary for repayment of the
unreimbursed portion of assistance.

(2) The amount of any medical assistance paid after June 30, 1992,
under the provisions of subsection (e) is (A) a claim against the property or
any interest therein belonging to and a part of the estate of any deceased
recipient or, if there is no estate, the estate of the surviving spouse, if any,
shall be charged for such medical assistance paid to either or both, and (B)
a claim against any funds of such recipient or spouse in any account under
K.S.A. 9-1215, 9-1216, 17-2263, 17-2264, 17-5828 or 17-5829, and
amendments thereto. There shall be no recovery of medical assistance
correctly paid to or on behalf of an individual under subsection (e) except
after the death of the surviving spouse of the individual, if any, and only at
a time when the individual has no surviving child who is under 21 years of
age or is blind or permanently and totally disabled. Transfers of real or
personal property by recipients of medical assistance without adequate
consideration are voidable and may be set aside. Except where there is a
surviving spouse, or a surviving child who is under 21 years of age or is
blind or permanently and totally disabled, the amount of any medical
assistance paid under subsection (e) is a claim against the estate in any
guardianship or conservatorship proceeding. The monetary value of any
benefits received by the recipient of such medical assistance under long-
term care insurance, as defined by K.S.A. 40-2227, and amendments
thereto, shall be a credit against the amount of the claim provided for such
medical assistance under this subsection (g). The secretary is authorized to
enforce each claim provided for under this subsection (g). The secretary
shall not be required to pursue every claim, but is granted discretion to
determine which claims to pursue. All moneys received by the secretary
from claims under this subsection (g) shall be deposited in the social
welfare fund. The secretary may adopt rules and regulations for the
implementation and administration of the medical assistance recovery
program under this subsection (g).

(3) By applying for or receiving medical assistance under the
provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, such
individual or such individual's agent, fiduciary, guardian, conservator,
representative payee or other person acting on behalf of the individual
consents to the following definitions of estate and the results therefrom:

(A) If an individual receives any medical assistance before July 1,
2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
which forms the basis for a claim under subsection (g)(2), such claim is
limited to the individual's probatable estate as defined by applicable law;
and

(B) if an individual receives any medical assistance on or after July 1,
2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
which forms the basis for a claim under subsection (g)(2), such claim shall
apply to the individual's medical assistance estate. The medical assistance
estate is defined as including all real and personal property and other
assets in which the deceased individual had any legal title or interest
immediately before or at the time of death to the extent of that interest or
title. The medical assistance estate includes, without limitation assets
conveyed to a survivor, heir or assign of the deceased recipient through
joint tenancy, tenancy in common, survivorship, transfer-on-death deed,
payable-on-death contract, life estate, trust, annuities or similar
arrangement.

(4) The secretary of social and rehabilitation services or the
secretary's designee is authorized to file and enforce a lien against the real
property of a recipient of medical assistance in certain situations, subject
to all prior liens of record. The lien must be filed in the office of the
register of deeds of the county where the real property is located and must
contain the legal description of all real property in the county subject to the
lien. This lien is for payments of medical assistance made by the
department of social and rehabilitation services to the recipient who is an
inpatient in a nursing home or other medical institution. Such lien may be
filed only after notice and an opportunity for a hearing has been given.
Such lien may be enforced only upon competent medical testimony that
the recipient cannot reasonably be expected to be discharged and returned
home. A six-month period of compensated inpatient care at a nursing
home, nursing homes or other medical institution shall constitute a
determination by the department of social and rehabilitation services that
the recipient cannot reasonably be expected to be discharged and returned
home. To return home means the recipient leaves the nursing or medical
facility and resides in the home on which the lien has been placed for a period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. The amount of the lien shall be for the amount of assistance paid by the department of social and rehabilitation services after the expiration of six months from the date the recipient became eligible for compensated inpatient care at a nursing home, nursing homes or other medical institution until the time of the filing of the lien and for any amount paid thereafter for such medical assistance to the recipient.

(5) The lien filed by the secretary or the secretary's designee for medical assistance correctly received may be enforced before or after the death of the recipient by the filing of an action to foreclose such lien in the Kansas district court or through an estate probate court action in the county where the real property of the recipient is located. However, it may be enforced only:

(A) After the death of the surviving spouse of the recipient;
(B) when there is no child of the recipient, natural or adopted, who is 20 years of age or less residing in the home;
(C) when there is no adult child of the recipient, natural or adopted, who is blind or disabled residing in the home; or
(D) when no brother or sister of the recipient is lawfully residing in the home, who has resided there for at least one year immediately before the date of the recipient's admission to the nursing or medical facility, and has resided there on a continuous basis since that time.

(6) The lien remains on the property even after a transfer of the title by conveyance, sale, succession, inheritance or will unless one of the following events occur:

(A) The lien is satisfied. The recipient, the heirs, personal representative or assigns of the recipient may discharge such lien at any time by paying the amount of the lien to the secretary or the secretary's designee;
(B) the lien is terminated by foreclosure of prior lien of record or settlement action taken in lieu of foreclosure;
(C) the value of the real property is consumed by the lien, at which time the secretary or the secretary's designee may force the sale for the real property to satisfy the lien; or
(D) after a lien is filed against the real property, it will be dissolved if the recipient leaves the nursing or medical facility and resides in the property to which the lien is attached for a period of more than 90 days without being readmitted as an inpatient to a nursing or medical facility, even though there may have been no reasonable expectation that this would occur. If the recipient is readmitted to a nursing or medical facility during this period, and does return home after being released, another 90 days must be completed before the lien can be dissolved.
(7) If the secretary of social and rehabilitation services or the secretary's designee has not filed an action to foreclose the lien in the Kansas district court in the county where the real property is located within 10 years from the date of the filing of the lien, then the lien shall become dormant, and shall cease to operate as a lien on the real estate of the recipient. Such dormant lien may be revived in the same manner as a dormant judgment lien is revived under K.S.A. 60-2403 et seq., and amendments thereto.

(h) Placement under the revised Kansas code for care of children or revised Kansas juvenile justice code; assignment of support rights and limited power of attorney. In any case in which the secretary of social and rehabilitation services pays for the expenses of care and custody of a child pursuant to K.S.A. 2012 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments thereto, including the expenses of any foster care placement, an assignment of all past, present and future support rights of the child in custody possessed by either parent or other person entitled to receive support payments for the child is, by operation of law, conveyed to the secretary. Such assignment shall become effective upon placement of a child in the custody of the secretary or upon payment of the expenses of care and custody of a child by the secretary without the requirement that any document be signed by the parent or other person entitled to receive support payments for the child. When the secretary pays for the expenses of care and custody of a child or a child is placed in the custody of the secretary, the parent or other person entitled to receive support payments for the child is also deemed to have appointed the secretary, or the secretary's designee, as attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary on behalf of the child. This limited power of attorney shall be effective from the date the assignment to support rights becomes effective and shall remain in effect until the assignment of support rights has been terminated in full.

(i) No person who voluntarily quits employment or who is fired from employment due to gross misconduct as defined by rules and regulations of the secretary or who is a fugitive from justice by reason of a felony conviction or charge shall be eligible to receive public assistance benefits in this state. Any recipient of public assistance who fails to timely comply with monthly reporting requirements under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary by rules and regulations.

(j) If the applicant or recipient of aid to families with dependent children is a mother of the dependent child, as a condition of the mother's eligibility for aid to families with dependent children the mother shall
identify by name and, if known, by current address the father of the
dependent child except that the secretary may adopt by rules and
regulations exceptions to this requirement in cases of undue hardship. Any
recipient of aid to families with dependent children who fails to cooperate
with requirements relating to child support enforcement under criteria and
guidelines prescribed by rules and regulations of the secretary shall be
subject to a penalty established by the secretary by rules and regulations
which penalty shall progress to ineligibility for the family after three
months of noncooperation.

(k) By applying for or receiving child care benefits or food stamps,
the applicant or recipient shall be deemed to have assigned, pursuant to
K.S.A. 39-756 and amendments thereto, to the secretary on behalf of the
state only accrued, present or future rights to support from any other
person such applicant may have in such person's own behalf or in behalf of
any other family member for whom the applicant is applying for or
receiving aid. The assignment of support rights shall automatically become
effective upon the date of approval for or receipt of such aid without the
requirement that any document be signed by the applicant or recipient. By
applying for or receiving child care benefits or food stamps, the applicant
or recipient is also deemed to have appointed the secretary, or the
secretary's designee, as an attorney in fact to perform the specific act of
negotiating and endorsing all drafts, checks, money orders or other
negotiable instruments representing support payments received by the
secretary in behalf of any person applying for, receiving or having
received such assistance. This limited power of attorney shall be effective
from the date the secretary approves the application for aid and shall
remain in effect until the assignment of support rights has been terminated
in full. An applicant or recipient who has assigned support rights to the
secretary pursuant to this subsection shall cooperate in establishing and
enforcing support obligations to the same extent required of applicants for
or recipients of aid to families with dependent children.

(l) (1) A program of drug screening for applicants for cash assistance
as a condition of eligibility for cash assistance and persons receiving cash
assistance as a condition of continued receipt of cash assistance shall be
established, subject to applicable federal law, by the secretary for children
and families on or before January 1, 2014. Under such program of drug
screening, the secretary for children and families shall order a drug
screening of an applicant for or a recipient of cash assistance at any time
when reasonable suspicion exists that such applicant for or recipient of
cash assistance is using a controlled substance or controlled substance
analog. The secretary for children and families may use any information
obtained by the secretary for children and families to determine whether
such reasonable suspicion exists, including, but not limited to, an
applicant's or recipient's demeanor, missed appointments and arrest or other police records, previous employment or application for employment in an occupation or industry that regularly conducts drug screening, termination from previous employment due to use of a controlled substance or controlled substance analog or prior drug screening records of the applicant or recipient indicating use of a controlled substance or controlled substance analog.

(2) Any applicant for or recipient of cash assistance whose drug screening results in a positive test may request that the drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any applicant for or recipient of cash assistance who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening. Such applicant or recipient who took the additional drug screening and who tested negative for use of a controlled substance and controlled substance analog shall be reimbursed for the cost of such additional drug screening.

(3) Any applicant for or recipient of cash assistance who tests positive for use of a controlled substance or controlled substance analog shall be required to complete a substance abuse treatment program approved by the secretary for children and families, secretary of labor or secretary of commerce, and a job skills program approved by the secretary for children and families, secretary of labor or secretary of commerce. Subject to applicable federal laws, any applicant for or recipient of cash assistance who fails to complete or refuses to participate in the substance abuse treatment program or job skills program as required under this subsection shall be ineligible to receive cash assistance until completion of such substance abuse treatment and job skills programs. Upon completion of both substance abuse treatment and job skills programs, such applicant for or recipient of cash assistance may be subject to periodic drug screening, as determined by the secretary for children and families. Upon a second positive test for use of a controlled substance or controlled substance analog, a recipient of cash assistance shall be ordered to complete again a substance abuse treatment program and job skills program, and shall be terminated from cash assistance for a period of 12 months, or until such recipient of cash assistance completes both substance abuse treatment and job skills programs, whichever is later. Upon a third positive test for use of a controlled substance or controlled substance analog, a recipient of cash assistance shall be terminated from cash assistance, subject to applicable federal law.

(4) If an applicant for or recipient of cash assistance is ineligible for or terminated from cash assistance as a result of a positive test for use of a controlled substance or controlled substance analog, and such applicant for or recipient of cash assistance is the parent or legal guardian of a
minor child eligible for cash assistance, an appropriate protective payee shall be designated to receive cash assistance on behalf of such child. Such parent or legal guardian of the minor child may choose to designate an individual to receive cash assistance for such parent's or legal guardian's minor child, as approved by the secretary for children and families. Prior to the designated individual receiving any cash assistance, the secretary for children and families shall order a drug screening of the designated individual.

(A) In addition, any individual designated to receive cash assistance on behalf of an eligible minor child shall be subject to drug screening at any time when reasonable suspicion exists that such designated individual is using a controlled substance or controlled substance analog. The secretary for children and families may use any information obtained by the secretary for children and families to determine whether such reasonable suspicion exists, including, but not limited to, the designated individual's demeanor, missed appointments and arrest or other police records, previous employment or application for employment in an occupation or industry that regularly conducts drug screening, termination from previous employment due to use of a controlled substance or controlled substance analog or prior drug screening records of the designated individual indicating use of a controlled substance or controlled substance analog.

(B) Any designated individual whose drug screening results in a positive test may request that the drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any designated individual who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening. Such designated individual who took the additional drug screening and who tested negative for use of a controlled substance and controlled substance analog shall be reimbursed for the cost of such additional drug screening.

(C) Upon any positive test for use of a controlled substance or controlled substance analog, the designated individual shall not receive cash assistance on behalf of the parent's or legal guardian's minor child, and another designated individual shall be selected by the secretary for children and families to receive cash assistance on behalf of such parent's or legal guardian's minor child.

(5) If a person has been convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction and which has as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog, and the date of conviction is on or after July 1, 2013, such person shall thereby become forever ineligible to receive any cash
assistance under this subsection unless such conviction is the person's first conviction. First-time offenders convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction and which has as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog, and the date of conviction is on or after July 1, 2013, such person shall become ineligible to receive cash assistance for five years from the date of conviction.

(6) Except for hearings before the Kansas department for children and families or criminal prosecutions, the results of any drug screening administered as part of the drug screening program authorized by this subsection shall be confidential and shall not be disclosed publicly.

(7) The secretary for children and families may adopt such rules and regulations as are necessary to carry out the provisions of this subsection.

(8) Any authority granted to the secretary for children and families under this subsection shall be in addition to any other penalties prescribed by law.

(9) As used in this subsection:

(A) "Cash assistance" means cash assistance provided to individuals under the provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations adopted pursuant to such statutes.

(B) "Controlled substance" means the same as in K.S.A. 2012 Supp. 21-5701, and amendments thereto, and 21 U.S.C. § 802.

(C) "Controlled substance analog" means the same as in K.S.A. 2012 Supp. 21-5701, and amendments thereto.

Sec. 2. K.S.A. 2012 Supp. 39-709e is hereby amended to read as follows: 39-709e. (a) Except as provided in section 1, and amendments thereto, under the authority of subsection (d)(1)(A) of 21 U.S.C. § 862a, the state of Kansas hereby exercises its option out of subsection (a) of 21 U.S.C. § 862a, which makes any individual ineligible for certain state and federal assistance if that individual has been convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction and which has as an element of such offense the possession, use or distribution of a controlled substance as defined by subsection (6) of 21 U.S.C. § 802, only if, after such conviction, such individual has:

(1) Been assessed by a licensed substance abuse treatment provider as not requiring substance abuse treatment; or

(2) been assessed by a licensed substance abuse treatment provider and such provider recommended substance abuse treatment and such individual:

(A) Is participating in a licensed substance abuse treatment program; or
(B) has successfully completed a licensed substance abuse treatment
program.
(b) An individual shall be disqualified for any state or federal
assistance permitted by this section if confirmation of illegal drug use is
found as a result of testing that occurs while the individual is on probation,
parole, conditional release or postrelease supervision or during required
substance abuse treatment. Thereafter, such disqualified individual may
reapply for assistance after 30 days.

New Sec. 3. (a) Each employer shall submit a report to the secretary
containing:
(1) The name and address of each employee who has been discharged
by reason of misconduct as such term is defined in K.S.A. 44-706(b)(2),
and amendments thereto; or
(2) the name and address of each job applicant who has refused
employment by reason of misconduct as such term is defined in K.S.A. 44-
706(b)(2), and amendments thereto; and
(3) such other information which may be required by the secretary.
(b) The report required by subsection (a) shall be submitted on a form
prescribed by the secretary. Such report shall be submitted in a manner
prescribed by the secretary.
(c) The secretary may adopt rules and regulations as are necessary to
carry out the provisions of this section.
(d) The secretary may use any report received pursuant to this section
to determine eligibility for unemployment benefits.
(e) This section shall be a part of and supplemental to the
employment security law.

Sec. 4. K.S.A. 2012 Supp. 44-706 is hereby amended to read as
follows: 44-706. An individual shall be disqualified for benefits:
(a) If the individual left work voluntarily without good cause
attributable to the work or the employer, subject to the other provisions of
this subsection. Failure to return to work after expiration of approved
personal or medical leave, or both, shall be considered a voluntary
resignation. After a temporary job assignment, failure of an individual to
affirmatively request an additional assignment on the next succeeding
workday, if required by the employment agreement, after completion of a
given work assignment, shall constitute leaving work voluntarily. The
disqualification shall begin the day following the separation and shall
continue until after the individual has become reemployed and has had
earnings from insured work of at least three times the individual's weekly
benefit amount. An individual shall not be disqualified under this
subsection if:
(1) The individual was forced to leave work because of illness or
injury upon the advice of a licensed and practicing health care provider
and, upon learning of the necessity for absence, immediately notified the
employer thereof, or the employer consented to the absence, and after
recovery from the illness or injury, when recovery was certified by a
practicing health care provider, the individual returned to the employer and
offered to perform services and the individual's regular work or
comparable and suitable work was not available. As used in this paragraph
"health care provider" means any person licensed by the proper licensing
authority of any state to engage in the practice of medicine and surgery,
osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;
(2) the individual left temporary work to return to the regular
employer;
(3) the individual left work to enlist in the armed forces of the United
States, but was rejected or delayed from entry;
(4) the spouse of an individual who is a member of the armed forces
of the United States who left work because of the voluntary or involuntary
transfer of the individual's spouse from one job to another job, which is for
the same employer or for a different employer, at a geographic location
which makes it unreasonable for the individual to continue work at the
individual's job. For the purposes of this provision the term "armed forces"
means active duty in the army, navy, marine corps, air force, coast guard or
any branch of the military reserves of the United States;
(5) the individual left work because of hazardous working conditions;
in determining whether or not working conditions are hazardous for an
individual, the degree of risk involved to the individual's health, safety and
morals, the individual's physical fitness and prior training and the working
conditions of workers engaged in the same or similar work for the same
and other employers in the locality shall be considered; as used in this
paragraph, "hazardous working conditions" means working conditions that
could result in a danger to the physical or mental well-being of the
individual; each determination as to whether hazardous working
conditions exist shall include, but shall not be limited to, a consideration of
(A) the safety measures used or the lack thereof, and (B) the condition of
equipment or lack of proper equipment; no work shall be considered
hazardous if the working conditions surrounding the individual's work are
the same or substantially the same as the working conditions generally
prevailing among individuals performing the same or similar work for
other employers engaged in the same or similar type of activity;
(6) the individual left work to enter training approved under section
236(a)(1) of the federal trade act of 1974, provided the work left is not of a
substantially equal or higher skill level than the individual's past adversely
affected employment (as defined for purposes of the federal trade act of
1974), and wages for such work are not less than 80% of the individual's
average weekly wage as determined for the purposes of the federal trade
(7) the individual left work because of unwelcome harassment of the individual by the employer or another employee of which the employing unit had knowledge;

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

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

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

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

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

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

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

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

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

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

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

(i) A restraining order or other documentation of equitable relief by a court of competent jurisdiction; or
(ii) a police record documenting the abuse; or

(iii) documentation that the abuser has been convicted of one or more of the offenses enumerated in articles 34 and 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2012 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, where the victim was a family or household member; or

(iv) medical documentation of the abuse; or

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

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

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

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

(1) For the purposes of this subsection, "misconduct" is defined as a violation of a duty or obligation reasonably owed the employer as a condition of employment. The term "gross misconduct" as used in this subsection shall be construed to mean conduct evincing extreme, willful or wanton misconduct as defined by this subsection. Failure of the employee to notify the employer of an absence shall be considered prima facie evidence of a violation of a duty or obligation reasonably owed the employer as a condition of employment.

(2) For the purposes of this subsection, the use of or impairment caused by alcoholic liquor, a cereal malt beverage or a nonprescribed controlled substance by an individual while working shall be conclusive
evidence of misconduct and the possession of alcoholic liquor, a cereal malt beverage or a nonprescribed controlled substance by an individual while working shall be prima facie evidence of conduct which is a violation of a duty or obligation reasonably owed to the employer as a condition of employment. Alcoholic liquor shall be defined as provided in K.S.A. 41-102, and amendments thereto. Cereal malt beverage shall be defined as provided in K.S.A. 41-2701, and amendments thereto. Controlled substance shall be defined as provided in K.S.A. 2012 Supp. 21-5701, and amendments thereto. As used in this paragraph, "required by law" means required by a federal or state law, a federal or state rule or regulation having the force and effect of law, a county resolution or municipal ordinance, or a policy relating to public safety adopted in open meeting by the governing body of any special district or other local governmental entity. Chemical test shall include, but is not limited to, tests of urine, blood or saliva. A positive chemical test shall mean a chemical result showing a concentration at or above the levels listed in K.S.A. 44-501, and amendments thereto, for the drugs or abuse listed therein. A positive breath test shall mean a test result showing an alcohol concentration of .04 or greater. Alcohol concentration means the number of grams of alcohol per 210 liters of breath. An individual's refusal to submit to a chemical test or breath alcohol test shall be conclusive evidence of misconduct if the test meets the standards of the drug free workplace act, 41 U.S.C. § 701 et seq.; the test was administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment; the test was otherwise required by law and the test constituted a required condition of employment for the individual's job; the test was requested pursuant to a written policy of the employer of which the employee had knowledge and was a required condition of employment; or there was probable cause to believe that the individual used, possessed or was impaired by alcoholic liquor, a cereal malt beverage or a controlled substance while working. A positive breath alcohol test or a positive chemical test shall be conclusive evidence to prove misconduct if the following conditions are met:

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

(B) the test sample was collected either (i) as prescribed by the drug free workplace act, 41 U.S.C. § 701 et seq., (ii) as prescribed by an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment, (iii) as prescribed by the written policy of the employer of which the employee had knowledge and which constituted a required condition of employment, (iv) as prescribed by a test which was required by law and which constituted a required condition of employment for the individual's job, or (v) at a time contemporaneous with the events establishing probable cause;

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

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

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

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

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

(3) (A) For the purposes of this subsection, misconduct shall include, but not be limited to, repeated absence, including incarceration, resulting in absence from work of three days or longer, excluding Saturdays, Sundays and legal holidays, and lateness, from scheduled work if the facts show:

(i) The individual was absent without good cause;

(ii) the absence was in violation of the employer's written absenteeism policy;

(iii) the employer gave or sent written notice to the individual, at the
individual's last known address, that future absence may or will result in discharge; and
(iv) the employee had knowledge of the employer's written absenteeism policy.

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

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

(A) The employer discharged the individual after learning the individual was seeking other work or when the individual gave notice of future intent to quit;
(B) the individual was making a good-faith effort to do the assigned work but was discharged due to: (i) inefficiency; (ii) unsatisfactory performance due to inability, incapacity or lack of training or experience; (iii) isolated instances of ordinary negligence or inadvertence; (iv) good-faith errors in judgment or discretion; or (v) unsatisfactory work or conduct due to circumstances beyond the individual's control; or
(C) the individual's refusal to perform work in excess of the contract of hire.

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

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

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

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

(g) For the period of one year beginning with the first day following the last week of unemployment for which the individual received benefits, or for one year from the date the act was committed, whichever is the later, if the individual, or another in such individual's behalf with the knowledge of the individual, has knowingly made a false statement or representation, or has knowingly failed to disclose a material fact to obtain or increase benefits under this act or any other unemployment compensation law administered by the secretary of labor.

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

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

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

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

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

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

(n) For any week in which an individual is receiving a governmental
or other pension, retirement or retired pay, annuity or other similar
periodic payment under a plan maintained by a base period employer and
to which the entire contributions were provided by such employer, except
that: (1) If the entire contributions to such plan were provided by the base
period employer but such individual's weekly benefit amount exceeds such
governmental or other pension, retirement or retired pay, annuity or other
similar periodic payment attributable to such week, the weekly benefit
amount payable to the individual shall be reduced (but not below zero) by
an amount equal to the amount of such pension, retirement or retired pay,
annuity or other similar periodic payment which is attributable to such week; or (2) if only a portion of contributions to such plan were provided by the base period employer, the weekly benefit amount payable to such individual for such week shall be reduced (but not below zero) by the prorated weekly amount of the pension, retirement or retired pay, annuity or other similar periodic payment after deduction of that portion of the pension, retirement or retired pay, annuity or other similar periodic payment that is directly attributable to the percentage of the contributions made to the plan by such individual; or (3) if the entire contributions to the plan were provided by such individual, or by the individual and an employer (or any person or organization) who is not a base period employer, no reduction in the weekly benefit amount payable to the individual for such week shall be made under this subsection; or (4) whatever portion of contributions to such plan were provided by the base period employer, if the services performed for the employer by such individual during the base period, or remuneration received for the services, did not affect the individual's eligibility for, or increased the amount of, such pension, retirement or retired pay, annuity or other similar periodic payment, no reduction in the weekly benefit amount payable to the individual for such week shall be made under this subsection. No reduction shall be made for payments made under the social security act or railroad retirement act of 1974.

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

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

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

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

1. The individual was engaged in full-time employment concurrent with the individual's school attendance; or
2. the individual is attending approved training as defined in subsection (s) of K.S.A. 44-703, and amendments thereto; or
3. the individual is attending evening, weekend or limited day time classes, which would not affect availability for work, and is otherwise eligible under subsection (c) of K.S.A. 44-705, and amendments thereto.

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

1. For any such weeks that an individual receives remuneration in the form of a back pay award or settlement, an overpayment will be established in the amount of unemployment benefits paid and shall be collected from the claimant.
2. If an employer chooses to withhold from a back pay award or settlement, amounts paid to a claimant while they claimed unemployment benefits, such employer shall pay the department the amount withheld. With respect to such amount, the secretary shall have available all of the collection remedies authorized or provided in K.S.A. 44-717, and amendments thereto.

1. If the individual has been discharged for failing a preemployment drug screen required by the employer and if such discharge occurs not later than seven days after the employer is notified of the results of such drug screen. The disqualification shall begin the day following the separation.
and shall continue until after the individual becomes reemployed and has
had earnings from insured work of at least three times the individual's
determined weekly benefit amount.

(1) Any applicant for or recipient of unemployment benefits who tests
positive for use of a controlled substance or controlled substance analog
shall be required to complete a substance abuse treatment program
approved by the secretary of labor, secretary of commerce or secretary for
children and families, and a job skills program approved by the secretary
of labor, secretary of commerce or the secretary for children and families.
Subject to applicable federal laws, any applicant for or recipient of
unemployment benefits who fails to complete or refuses to participate in
the substance abuse treatment program or job skills program as required
under this subsection shall be ineligible to receive unemployment benefits
until completion of such substance abuse treatment and job skills
programs. Upon completion of both substance abuse treatment and job
skills programs, such applicant for or recipient of unemployment benefits
may be subject to periodic drug screening, as determined by the secretary
of labor. Upon a second positive test for use of a controlled substance or
controlled substance analog, an applicant for or recipient of unemployment
benefits shall be ordered to complete again a substance
abuse treatment program and job skills program, and shall be terminated
from unemployment benefits for a period of 12 months, or until such
applicant for or recipient of unemployment benefits completes both
substance abuse treatment and job skills programs, whichever is later.
Upon a third positive test for use of a controlled substance or
controlled substance analog, an applicant for or a recipient of unemployment
benefits shall be terminated from receiving unemployment benefits, subject
to applicable federal law.

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

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

Sec. 5. K.S.A. 2012 Supp. 39-709, 39-709e and 44-706 are hereby repealed.

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