Session of 2016

Senate Substitute for HOUSE BILL No. 2285

By Committee on Ways and Means

4-28

AN ACT reconciling amendments to certain statutes; amending K.S.A. 2015 Supp. 44-706 and repealing the existing section; also repealing K.S.A. 2015 Supp. 17-7673b, 17-7674b, 17-7677b, 38-2310a, 44-706c, 59-29a24a and 65-2895a.

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

Section 1. K.S.A. 2015 Supp. 44-706 is hereby amended to read as follows: 44-706. The secretary shall examine whether an individual has separated from employment for each week claimed. The secretary shall apply the provisions of this section to the individual's most recent employment prior to the week claimed. 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. For purposes of this subsection, "good cause" is cause of such gravity that would impel a reasonable, not supersensitive, individual exercising ordinary common sense to leave employment. Good cause requires a showing of good faith of the individual leaving work, including the presence of a genuine desire to work. 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 act of 1974;

(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 and that would impel the average worker to give up such worker's employment;
(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 substantial 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. For the purposes of this paragraph, a demotion based on performance does not constitute a violation of the work agreement;

(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;
   (ii) the individual's need to relocate to another geographic area in order to avoid future domestic violence;
   (iii) the individual's need to address the physical, psychological and legal impacts of domestic violence;
   (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;
   (ii) a police record documenting the abuse;
   (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. 2015 Supp. 21-
6104, 21-6325, 21-6326 or 21-6418 through 21-6422, and
amendments thereto, where the victim was a family or household member;
(iv) medical documentation of the abuse;
(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 or suspended 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 in cases where the disqualification is due to
discharge for misconduct 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 including, but not limited to, a violation of a
company rule, including a safety rule, if: (A) The individual knew or
should have known about the rule; (B) the rule was lawful and reasonably
related to the job; and (C) the rule was fairly and consistently enforced.
(2) (A) Failure of the employee to notify the employer of an absence
and an individual's leaving work prior to the end of such individual's
assigned work period without permission shall be considered prima facie
evidence of a violation of a duty or obligation reasonably owed the
employer as a condition of employment.
(B) For the purposes of this subsection, misconduct shall include, but
not be limited to, violation of the employer's reasonable attendance
expectations if the facts show:
   (i) The individual was absent or tardy without good cause;
   (ii) the individual had knowledge of the employer's attendance
expectation; and
   (iii) the employer gave notice to the individual that future absence or
tardiness may or will result in discharge.
   (C) For the purposes of this subsection, if an employee disputes being
absent or tardy without good cause, the employee shall present evidence
that a majority of the employee's absences or tardiness were for good
cause. If the employee alleges that the employee's repeated absences or
tardiness 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).
   (3) (A) 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. Gross misconduct shall include,
but not be limited to: (i) Theft; (ii) fraud; (iii) intentional damage to
property; (iv) intentional infliction of personal injury; or (v) any conduct
that constitutes a felony.
   (B) For the purposes of this subsection, the following shall be
conclusive evidence of gross misconduct:
   (i) The use of alcoholic liquor, cereal malt beverage or a
nonprescribed controlled substance by an individual while working;
   (ii) the impairment caused by alcoholic liquor, cereal malt beverage
or a nonprescribed controlled substance by an individual while working;
   (iii) a positive breath alcohol test or a positive chemical test,
provided:
      (a) The test was either:
         (1) Required by law and was administered pursuant to the drug free
workplace act, 41 U.S.C. § 701 et seq.;
         (2) 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;
         (3) requested pursuant to a written policy of the employer of which
the employee had knowledge and was a required condition of
employment;
         (4) required by law and the test constituted a required condition of
employment for the individual's job; or
         (5) there was reasonable suspicion to believe that the individual used,
had possession of, or was impaired by alcoholic liquor, cereal malt
beverage or a nonprescribed controlled substance while working;
      (b) the test sample was collected either:
(1) As prescribed by the drug free workplace act, 41 U.S.C. § 701 et seq.;
(2) 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;
(3) as prescribed by the written policy of the employer of which the employee had knowledge and which constituted a required condition of employment;
(4) as prescribed by a test which was required by law and which constituted a required condition of employment for the individual's job; or
(5) 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)(3)(A)(iii)(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 a description provided by the manufacturers and the reliability of the instrument performance was assured by testing with alcohol standards; and
(g) the foundation evidence establishes, beyond a reasonable doubt, that the test results were from the sample taken from the individual;
(iv) an individual's refusal to submit to a chemical test or breath alcohol test, provided:
(a) The test meets the standards of the drug free workplace act, 41 U.S.C. § 701 et seq.;
(b) 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;
(c) the test was otherwise required by law and the test constituted a
required condition of employment for the individual's job;
(d) 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
(e) there was reasonable suspicion to believe that the individual used,
possessed or was impaired by alcoholic liquor, cereal malt beverage or a
nonprescribed controlled substance while working;
(v) an individual's dilution or other tampering of a chemical test.
(C) For purposes of this subsection:
(i) "Alcohol concentration" means the number of grams of alcohol
per 210 liters of breath;
(ii) "alcoholic liquor" shall be defined as provided in K.S.A. 41-102,
and amendments thereto;
(iii) "cereal malt beverage" shall be defined as provided in K.S.A. 41-
2701, and amendments thereto;
(iv) "chemical test" shall include, but is not limited to, tests of urine,
blood or saliva;
(v) "controlled substance" shall be defined as provided in K.S.A.
2015 Supp. 21-5701, and amendments thereto;
(vi) "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 an open meeting by the governing body of any special
district or other local governmental entity;
(vii) "positive breath test" shall mean a test result showing an alcohol
concentration of 0.04 or greater, or the levels listed in 49 C.F.R. part 40, if
applicable, unless 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, in which case "positive chemical test" shall mean a test result
showing an alcohol concentration at or above the levels provided for in the
assistance or treatment program;
(viii) "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, or 49 C.F.R. part 40, as applicable, for the drugs or
abuse listed therein, unless 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, in which case "positive chemical test" shall mean a
chemical result showing a concentration at or above the levels provided for
in the assistance or treatment program.
(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, except that the individual shall be disqualified after
the time at which such individual intended to quit and any individual who
commits misconduct after such individual gives notice to such individual's
intent to quit shall be disqualified;
(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,
xperience 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, 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 five years beginning with the first day following
the last week of unemployment for which the individual received benefits,
or for five years 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. In addition to the
penalties set forth in K.S.A. 44-719, and amendments thereto, an
individual who has knowingly made a false statement or representation or
who 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 shall be liable for a penalty in the
amount equal to 25% of the amount of benefits unlawfully received.
Notwithstanding any other provision of law, such penalty shall be
deposited into the employment security trust fund.

 (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 K.S.A. 44-703(v), 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 K.S.A. 44-703(v), 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
titled 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 K.S.A. 44-703(v), 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

(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 K.S.A.
44-703(v), 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 K.S.A. 44-703(v), 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;

(2) the individual is attending approved training as defined in K.S.A.
44-703(s), 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 K.S.A. 44-705(c), 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.

(t) (1) Any applicant for or recipient of unemployment benefits who
tests positive for unlawful 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
unlawful 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 unlawful 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 or 65-5117, and
amendments thereto, was hired and then was subsequently convicted of a
disqualifying felony under K.S.A. 39-970 or 65-5117, and amendments
thereto, and discharged pursuant to K.S.A. 39-970 or 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.

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

Sec. 2. K.S.A. 2015 Supp. 17-7673b, 17-7674b, 17-7677b, 38-2310a, 44-706, 44-706c, 59-29a24a and 65-2895a are hereby repealed.

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