

**HOUSE BILL No. 2020**

By Representative Ousley

6-3

1 AN ACT concerning employment security law; relating to disqualification  
2 for benefits; disqualification begin dates, illness or injury, receipt of  
3 pension or retirement pay, part-time employment for an educational  
4 institution; penalties during declaration of state of disaster emergency;  
5 amending K.S.A. 2019 Supp. 44-706 and repealing the existing section.  
6

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

8 Section 1. K.S.A. 2019 Supp. 44-706 is hereby amended to read as  
9 follows: 44-706. The secretary shall examine whether an individual has  
10 separated from employment for each week claimed. The secretary shall  
11 apply the provisions of this section to the individual's most recent  
12 employment prior to the week claimed. An individual shall be disqualified  
13 for benefits:

14 (a) If the individual left work voluntarily without good cause  
15 attributable to the work or the employer, subject to the other provisions of  
16 this subsection. For purposes of this subsection, "good cause" is cause of  
17 such gravity that would impel a reasonable, not supersensitive, individual  
18 exercising ordinary common sense to leave employment. Good cause  
19 requires a showing of good faith of the individual leaving work, including  
20 the presence of a genuine desire to work. Failure to return to work after  
21 expiration of approved personal or medical leave, or both, shall be  
22 considered a voluntary resignation. After a temporary job assignment,  
23 failure of an individual to affirmatively request an additional assignment  
24 on the next succeeding workday, if required by the employment  
25 agreement, after completion of a given work assignment, shall constitute  
26 leaving work voluntarily. The disqualification shall begin ~~the day~~  
27 ~~following the separation~~ *on the effective date of the claim* and shall  
28 continue until after the individual has become reemployed and has had  
29 earnings from insured work of at least three times the individual's weekly  
30 benefit amount. An individual shall not be disqualified under this  
31 subsection if:

32 (1) The individual was forced to leave work because of illness or  
33 injury upon the advice of a licensed and practicing health care provider  
34 and, upon learning of the necessity for absence, immediately notified the  
35 employer thereof, or the employer consented to the absence, ~~and after~~  
36 ~~recovery from the illness or injury, when recovery was certified by a~~

1 ~~practicing health care provider, the individual returned to the employer and~~  
2 ~~offered to perform services and the individual's regular work or~~  
3 ~~comparable and suitable work was not available.~~ As used in this paragraph  
4 "health care provider" means any person licensed by the proper licensing  
5 authority of any state to engage in the practice of medicine and surgery,  
6 osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

7 (2) the individual left temporary work to return to the regular  
8 employer;

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

11 (4) the spouse of an individual who is a member of the armed forces  
12 of the United States who left work because of the voluntary or involuntary  
13 transfer of the individual's spouse from one job to another job, ~~which that~~  
14 is for the same employer or for a different employer, at a geographic  
15 location ~~which that~~ makes it unreasonable for the individual to continue  
16 work at the individual's job. For the purposes of this provision the term  
17 "armed forces" means active duty in the army, navy, marine corps, air  
18 force, coast guard or any branch of the military reserves of the United  
19 States;

20 (5) the individual left work because of hazardous working conditions;  
21 in determining whether or not working conditions are hazardous for an  
22 individual, the degree of risk involved to the individual's health, safety and  
23 morals, the individual's physical fitness and prior training and the working  
24 conditions of workers engaged in the same or similar work for the same  
25 and other employers in the locality shall be considered; as used in this  
26 paragraph, "hazardous working conditions" means working conditions that  
27 could result in a danger to the physical or mental well-being of the  
28 individual; each determination as to whether hazardous working  
29 conditions exist shall include, but shall not be limited to, a consideration  
30 of: (A) The safety measures used or the lack thereof; and (B) the condition  
31 of equipment or lack of proper equipment; no work shall be considered  
32 hazardous if the working conditions surrounding the individual's work are  
33 the same or substantially the same as the working conditions generally  
34 prevailing among individuals performing the same or similar work for  
35 other employers engaged in the same or similar type of activity;

36 (6) the individual left work to enter training approved under section  
37 236(a)(1) of the federal trade act of 1974, provided the work left is not of a  
38 substantially equal or higher skill level than the individual's past adversely  
39 affected employment, as defined for purposes of the federal trade act of  
40 1974, and wages for such work are not less than 80% of the individual's  
41 average weekly wage as determined for the purposes of the federal trade  
42 act of 1974;

43 (7) the individual left work because of unwelcome harassment of the

1 individual by the employer or another employee ~~of which~~ *that* the  
2 employing unit had knowledge *of* and that would impel the average worker  
3 to give up such worker's employment;

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

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

16 (10) the individual left work because of a substantial violation of the  
17 work agreement by the employing unit and, before the individual left, the  
18 individual had exhausted all remedies provided in such agreement for the  
19 settlement of disputes before terminating. For the purposes of this  
20 paragraph, a demotion based on performance does not constitute a  
21 violation of the work agreement;

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

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

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

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

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

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

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

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

43 (i) A restraining order or other documentation of equitable relief by a

1 court of competent jurisdiction;

2 (ii) a police record documenting the abuse;

3 (iii) documentation that the abuser has been convicted of one or more  
4 of the offenses enumerated in articles 34 and 35 of chapter 21 of the  
5 Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of  
6 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2019 Supp. 21-  
7 6104, 21-6325, 21-6326 or 21-6418 through 21-6422, and amendments  
8 thereto, where the victim was a family or household member;

9 (iv) medical documentation of the abuse;

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

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

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

20 (b) If the individual has been discharged or suspended for misconduct  
21 connected with the individual's work. The disqualification shall begin ~~the~~  
22 ~~day following the separation~~ *on the effective date of the claim* and shall  
23 continue until after the individual becomes reemployed and in cases where  
24 the disqualification is due to discharge for misconduct has had earnings  
25 from insured work of at least three times the individual's determined  
26 weekly benefit amount, except that if an individual is discharged for gross  
27 misconduct connected with the individual's work, such individual shall be  
28 disqualified for benefits until such individual again becomes employed and  
29 has had earnings from insured work of at least eight times such  
30 individual's determined weekly benefit amount. In addition, all wage  
31 credits attributable to the employment ~~from which~~ *that* the individual was  
32 discharged *from* for gross misconduct connected with the individual's work  
33 shall be canceled. No such cancellation of wage credits shall affect prior  
34 payments made as a result of a prior separation.

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

41 (2) (A) Failure of the employee to notify the employer of an absence  
42 and an individual's leaving work prior to the end of such individual's  
43 assigned work period without permission shall be considered prima facie

1 evidence of a violation of a duty or obligation reasonably owed the  
2 employer as a condition of employment.

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

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

7 (ii) the individual had knowledge of the employer's attendance  
8 expectation; and

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

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

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

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

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

28 (ii) the impairment caused by alcoholic liquor, cereal malt beverage  
29 or a nonprescribed controlled substance by an individual while working;

30 (iii) a positive breath alcohol test or a positive chemical test,  
31 provided:

32 (a) The test was either:

33 (1) Required by law and was administered pursuant to the drug free  
34 workplace act, 41 U.S.C. § 701 et seq.;

35 (2) administered as part of an employee assistance program or other  
36 drug or alcohol treatment program ~~in which~~ *that* the employee was  
37 participating *in* voluntarily or as a condition of further employment;

38 (3) requested pursuant to a written policy of the employer ~~of which~~  
39 *that* the employee had knowledge *of* and was a required condition of  
40 employment;

41 (4) required by law and the test constituted a required condition of  
42 employment for the individual's job; or

43 (5) there was reasonable suspicion to believe that the individual used,

1 had possession of, or was impaired by alcoholic liquor, cereal malt  
2 beverage or a nonprescribed controlled substance while working;

3 (b) the test sample was collected either:

4 (1) As prescribed by the drug free workplace act, 41 U.S.C. § 701 et  
5 seq.;

6 (2) as prescribed by an employee assistance program or other drug or  
7 alcohol treatment program ~~in which~~ *that* the employee was participating *in*  
8 voluntarily or as a condition of further employment;

9 (3) as prescribed by the written policy of the employer ~~of which~~ *that*  
10 the employee had knowledge *of* and ~~which~~ *that* constituted a required  
11 condition of employment;

12 (4) as prescribed by a test ~~which~~ *that* was required by law and ~~which~~  
13 *that* constituted a required condition of employment for the individual's  
14 job; or

15 (5) at a time contemporaneous with the events establishing probable  
16 cause;

17 (c) the collecting and labeling of a chemical test sample was  
18 performed by a licensed health care professional or any other individual  
19 certified pursuant to paragraph (b)(3)(A)(iii)(f) or authorized to collect or  
20 label test samples by federal or state law, or a federal or state rule or  
21 regulation having the force or effect of law, including law enforcement  
22 personnel;

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

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

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

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

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

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

43 (b) the test was administered as part of an employee assistance

1 program or other drug or alcohol treatment program ~~in which~~ *that* the  
2 employee was participating *in* voluntarily or as a condition of further  
3 employment;

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

6 (d) the test was requested pursuant to a written policy of the employer  
7 ~~of which~~ *that* the employee had knowledge *of* and was a required  
8 condition of employment; or

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

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

13 (C) For purposes of this subsection:

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

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

18 (iii) "cereal malt beverage" shall be defined as provided in K.S.A. 41-  
19 2701, and amendments thereto;

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

22 (v) "controlled substance" shall be defined as provided in K.S.A.  
23 2019 Supp. 21-5701, and amendments thereto;

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

29 (vii) "positive breath test" shall mean a test result showing an alcohol  
30 concentration of 0.04 or greater, or the levels listed in 49 C.F.R. part 40, if  
31 applicable, unless the test was administered as part of an employee  
32 assistance program or other drug or alcohol treatment program ~~in which~~  
33 *that* the employee was participating *in* voluntarily or as a condition of  
34 further employment, ~~in which~~ *that* case "positive chemical test" shall mean  
35 a test result showing an alcohol concentration at or above the levels  
36 provided for in the assistance or treatment program;

37 (viii) "positive chemical test" shall mean a chemical result showing a  
38 concentration at or above the levels listed in K.S.A. 44-501, and  
39 amendments thereto, or 49 C.F.R. part 40, as applicable, for the drugs or  
40 abuse listed therein, unless the test was administered as part of an  
41 employee assistance program or other drug or alcohol treatment program  
42 ~~in which~~ *that* the employee was participating *in* voluntarily or as a  
43 condition of further employment, ~~in which~~ *that* case "positive chemical

1 test" shall mean a chemical result showing a concentration at or above the  
2 levels provided for in the assistance or treatment program.

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

5 (A) The employer discharged the individual after learning the  
6 individual was seeking other work or when the individual gave notice of  
7 future intent to quit, except that the individual shall be disqualified after  
8 the time ~~at which~~ *when* such individual intended to quit and any individual  
9 who commits misconduct after such individual gives notice to such  
10 individual's intent to quit shall be disqualified;

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

13 (i) Inefficiency;

14 (ii) unsatisfactory performance due to inability, incapacity or lack of  
15 training or experience;

16 (iii) isolated instances of ordinary negligence or inadvertence;

17 (iv) good-faith errors in judgment or discretion; or

18 (v) unsatisfactory work or conduct due to circumstances beyond the  
19 individual's control; or

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

22 (c) If the individual has failed, without good cause, to either apply for  
23 suitable work when so directed by the employment office of the secretary  
24 of labor, or to accept suitable work when offered to the individual by the  
25 employment office, the secretary of labor, or an employer, such  
26 disqualification shall begin with the week ~~in which~~ *that* such failure  
27 occurred and shall continue until the individual becomes reemployed and  
28 has had earnings from insured work of at least three times such  
29 individual's determined weekly benefit amount. In determining whether or  
30 not any work is suitable for an individual, the secretary of labor, or a  
31 person or persons designated by the secretary, shall consider the degree of  
32 risk involved to health, safety and morals, physical fitness and prior  
33 training, experience and prior earnings, length of unemployment and  
34 prospects for securing local work in the individual's customary occupation  
35 or work ~~for which~~ *that* the individual is reasonably fitted by training or  
36 experience *for*, and the distance of the available work from the individual's  
37 residence. Notwithstanding any other provisions of this act, an otherwise  
38 eligible individual shall not be disqualified for refusing an offer of suitable  
39 employment, or failing to apply for suitable employment when notified by  
40 an employment office, or for leaving the individual's most recent work  
41 accepted during approved training, including training approved under  
42 section 236(a)(1) of the trade act of 1974, if the acceptance of or applying  
43 for suitable employment or continuing such work would require the



1 individual to terminate approved training and no work shall be deemed  
2 suitable and benefits shall not be denied under this act to any otherwise  
3 eligible individual for refusing to accept new work under any of the  
4 following conditions: (1) If the position offered is vacant due directly to a  
5 strike, lockout or other labor dispute; (2) if the remuneration, hours or  
6 other conditions of the work offered are substantially less favorable to the  
7 individual than those prevailing for similar work in the locality; (3) if as a  
8 condition of being employed, the individual would be required to join or to  
9 resign from or refrain from joining any labor organization; and (4) if the  
10 individual left employment as a result of domestic violence, and the  
11 position offered does not reasonably accommodate the individual's  
12 physical, psychological, safety, or legal needs relating to such domestic  
13 violence.

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

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

1 unemployment benefits, this disqualification shall not apply.

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

7 ~~(g) For the period of five years beginning with the first day following~~  
8 ~~the last week of unemployment for which the individual received benefits,~~  
9 ~~or for five years from the date the act was committed, whichever is the~~  
10 ~~later.~~ If the individual, or another ~~in~~ *on* such individual's behalf with the  
11 knowledge of the individual, has knowingly made a false statement or  
12 representation, or has knowingly failed to disclose a material fact to obtain  
13 or increase benefits under this act or any other unemployment  
14 compensation law administered by the secretary of labor. *The*  
15 *disqualification shall begin on the first day following the last week of*  
16 *unemployment that the individual received benefits for, or on the date the*  
17 *act was committed, whichever is later, and continue for five years, or until*  
18 *the claimant repays any resulting overpayment, penalty and interest,*  
19 *whichever is earlier.* In addition to the penalties set forth in K.S.A. 44-719,  
20 and amendments thereto, an individual who has knowingly made a false  
21 statement or representation or who has knowingly failed to disclose  
22 a material fact to obtain or increase benefits under this act or any other  
23 unemployment compensation law administered by the secretary of labor  
24 shall be liable for a penalty in the amount equal to 25% of the amount of  
25 benefits unlawfully received. Notwithstanding any other provision of law,  
26 such penalty shall be deposited into the employment security trust fund.  
27 *The imposition of any such penalty shall be suspended during a state of*  
28 *disaster emergency proclaimed by the governor pursuant to K.S.A. 48-924*  
29 *and 48-925, and amendments thereto, in response to the spread of the*  
30 *public health emergency of COVID-19.*

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

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

1 assurance that such individual will perform services in any such capacity  
2 for any educational institution in the second of such academic years or  
3 terms.

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

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

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

33 (m) For any week on the basis of services performed by an alien  
34 unless such alien is an individual who was lawfully admitted for  
35 permanent residence at the time such services were performed, was  
36 lawfully present for purposes of performing such services, or was  
37 permanently residing in the United States under color of law at the time  
38 such services were performed, including an alien who was lawfully present  
39 in the United States as a result of the application of the provisions of  
40 section 212(d)(5) of the federal immigration and nationality act. Any data  
41 or information required of individuals applying for benefits to determine  
42 whether benefits are not payable to them because of their alien status shall  
43 be uniformly required from all applicants for benefits. In the case of an

1 individual whose application for benefits would otherwise be approved, no  
2 determination that benefits to such individual are not payable because of  
3 such individual's alien status shall be made except upon a preponderance  
4 of the evidence.

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

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

1 or more educational institutions.

2 ~~(p)~~(o) For any week of unemployment on the basis of service as a  
3 school bus or other motor vehicle driver employed by a private contractor  
4 to transport pupils, students and school personnel to or from school-related  
5 functions or activities for an educational institution, as defined in K.S.A.  
6 44-703(v), and amendments thereto, if such week begins during the period  
7 between two successive academic years or during a similar period between  
8 two regular terms, whether or not successive, if the individual has a  
9 contract or contracts, or a reasonable assurance thereof, to perform  
10 services in any such capacity with a private contractor for any educational  
11 institution for both such academic years or both such terms. An individual  
12 shall not be disqualified for benefits as provided in this subsection for any  
13 week of unemployment on the basis of service as a bus or other motor  
14 vehicle driver employed by a private contractor to transport persons to or  
15 from nonschool-related functions or activities.

16 ~~(q)~~(p) For any week of unemployment on the basis of services  
17 performed by the individual in any capacity and under any of the  
18 circumstances described in subsection (i), (j), (k) or ~~(o)~~ ~~which~~ (n) that are  
19 provided to or on behalf of an educational institution, as defined in K.S.A.  
20 44-703(v), and amendments thereto, while the individual is in the employ  
21 of an employer ~~which~~ that is a governmental entity, Indian tribe or any  
22 employer described in section 501(c)(3) of the federal internal revenue  
23 code of 1986 ~~which~~ that is exempt from income under section 501(a) of  
24 the code.

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

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

32 (2) the individual is attending approved training as defined in K.S.A.  
33 44-703(s), and amendments thereto; or

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

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

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

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

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

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

42 ~~(+)~~(t) If the individual was found not to have a disqualifying  
43 adjudication or conviction under K.S.A. 39-970 or 65-5117, and

1 amendments thereto, was hired and then was subsequently convicted of a  
 2 disqualifying felony under K.S.A. 39-970 or 65-5117, and amendments  
 3 thereto, and discharged pursuant to K.S.A. 39-970 or 65-5117, and  
 4 amendments thereto. The disqualification shall begin ~~the day following the~~  
 5 ~~separation~~ *on the effective date of the claim* and shall continue until after  
 6 the individual becomes reemployed and has had earnings from insured  
 7 work of at least three times the individual's determined weekly benefit  
 8 amount.

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

17 Sec. 2. K.S.A. 2019 Supp. 44-706 is hereby repealed.

18 Sec. 3. This act shall take effect and be in force from and after its  
 19 publication in the Kansas register.