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

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

Section 1. K.S.A. 2019 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 on the effective date of the claim 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 that
is for the same employer or for a different employer, at a geographic
location which that 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 that the
employing unit had knowledge of 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 that 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 that 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 that 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. 2019 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 on the effective date of the claim 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 that the individual was
discharged from 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 that the employee was participating in voluntarily or as a condition of further employment;
      (3) requested pursuant to a written policy of the employer of which that the employee had knowledge of 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 that the employee was participating in voluntarily or as a condition of further employment;

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

(4) as prescribed by a test which that was required by law and which that 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 that the employee was participating in 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 that the employee had knowledge of 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. 2019 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 that the employee was participating in voluntarily or as a condition of further employment, in which that 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 that the employee was participating in voluntarily or as a condition of further employment, in which that 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, 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 for; 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 that 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 where 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 that 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 where 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 that 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 on 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. The disqualification shall begin on the first day following the last week of unemployment that the individual received benefits for, or on the date the act was committed, whichever is later, and continue for five years, or until the claimant repays any resulting overpayment, penalty and interest, whichever is earlier. 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. The imposition of any such penalty shall be suspended during a state of disaster emergency proclaimed by the governor pursuant to K.S.A. 48-924 and 48-925, and amendments thereto, in response to the spread of the public health emergency of COVID-19.

(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 entitled to a retroactive payment of benefits for each week for which that individual filed a timely claim for benefits for which that 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,
anuity 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 that 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 that is established
and operated exclusively for the purpose of providing such services to one
or more educational institutions.

(o) 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.

(p) 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.

(q) 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.

(r) 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.

(4)(s) (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.

(4)(t) 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 on the effective date of the claim 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) (u) 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 that the individual is reasonably fitted by training or experience
for.

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

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