

## SENATE BILL No. 281

By Committee on Ways and Means

2-25

AN ACT concerning employment security law; relating to disqualification for benefits; disqualification begin dates; disqualification for illness or injury; disqualification for receipt of pension or retirement pay; allowing part-time employment for an educational institution; amending K.S.A. 2020 Supp. 44-706 and repealing the existing section.

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

Section 1. K.S.A. 2020 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~~

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:

31 (A) The safety measures used or the lack thereof; and

32 (B) the condition of equipment or lack of proper equipment; no work  
33 shall be considered hazardous if the working conditions surrounding the  
34 individual's work are the same or substantially the same as the working  
35 conditions generally prevailing among individuals performing the same or  
36 similar work for other employers engaged in the same or similar type of  
37 activity;

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

1 act of 1974;

2 (7) the individual left work because of unwelcome harassment of the  
3 individual by the employer or another employee ~~of which~~ *that* the  
4 employing unit had knowledge *of* and that would impel the average worker  
5 to give up such worker's employment;

6 (8) the individual left work to accept better work; each determination  
7 as to whether or not the work accepted is better work shall include, but  
8 shall not be limited to, consideration of:

9 (A) The rate of pay, the hours of work and the probable permanency  
10 of the work left as compared to the work accepted;

11 (B) the cost to the individual of getting to the work left in comparison  
12 to the cost of getting to the work accepted; and

13 (C) the distance from the individual's place of residence to the work  
14 accepted in comparison to the distance from the individual's residence to  
15 the work left;

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

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

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

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

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

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

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

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

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

1 individual's family.

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

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

6 (ii) a police record documenting the abuse;

7 (iii) documentation that the abuser has been convicted of one or more  
8 of the offenses enumerated in articles 34 and 35 of chapter 21 of the  
9 Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of  
10 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2020 Supp. 21-  
11 6104, 21-6325, 21-6326 or 21-6418 through 21-6422, and amendments  
12 thereto, where the victim was a family or household member;

13 (iv) medical documentation of the abuse;

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

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

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

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

39 (1) For the purposes of this subsection, "misconduct" is defined as a  
40 violation of a duty or obligation reasonably owed the employer as a  
41 condition of employment including, but not limited to, a violation of a  
42 company rule, including a safety rule, if:

43 (A) The individual knew or should have known about the rule;

1 (B) the rule was lawful and reasonably related to the job; and

2 (C) the rule was fairly and consistently enforced.

3 (2) (A) Failure of the employee to notify the employer of an absence  
4 and an individual's leaving work prior to the end of such individual's  
5 assigned work period without permission shall be considered prima facie  
6 evidence of a violation of a duty or obligation reasonably owed the  
7 employer as a condition of employment.

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

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

12 (ii) the individual had knowledge of the employer's attendance  
13 expectation; and

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

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

23 (3) (A) The term "gross misconduct" as used in this subsection shall  
24 be construed to mean conduct evincing extreme, willful or wanton  
25 misconduct as defined by this subsection. Gross misconduct shall include,  
26 but not be limited to:

27 (i) Theft;

28 (ii) fraud;

29 (iii) intentional damage to property;

30 (iv) intentional infliction of personal injury; or

31 (v) any conduct that constitutes a felony.

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

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

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

38 (iii) a positive breath alcohol test or a positive chemical test,  
39 provided:

40 (a) The test was either:

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

43 (2) administered as part of an employee assistance program or other

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

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

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

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

12 (b) the test sample was collected either:

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

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

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

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

24 (5) at a time contemporaneous with the events establishing probable  
25 cause;

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

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

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

41 (f) the breath alcohol test was administered by an individual trained  
42 to perform breath tests, the breath testing instrument used was certified  
43 and operated strictly according to a description provided by the

1 manufacturers and the reliability of the instrument performance was  
2 assured by testing with alcohol standards; and

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

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

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

9 (b) the test was administered as part of an employee assistance  
10 program or other drug or alcohol treatment program ~~in which~~ *that* the  
11 employee was *voluntarily* participating ~~voluntarily in~~ or as a condition of  
12 further employment;

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

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

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

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

22 (C) For purposes of this subsection:

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

25 (ii) "alcoholic liquor" ~~shall be defined as provided~~ *means the same as*  
26 *defined* in K.S.A. 41-102, and amendments thereto;

27 (iii) "cereal malt beverage" ~~shall be defined as provided~~ *means the*  
28 *same as defined* in K.S.A. 41-2701, and amendments thereto;

29 (iv) "chemical test" ~~shall include~~ *includes*, but is not limited to, tests  
30 of urine, blood or saliva;

31 (v) "controlled substance" ~~shall be defined as provided~~ *means the*  
32 *same as defined* in K.S.A. 2020 Supp. 21-5701, and amendments thereto;

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

38 (vii) "positive breath test" ~~shall mean~~ *means* a test result showing an  
39 alcohol concentration of 0.04 or greater, or the levels listed in 49 C.F.R.  
40 part 40, if applicable, 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 *voluntarily* participating ~~voluntarily in~~  
43 as a condition of further employment, ~~in which~~ *that* case "positive

1 chemical test"—~~shall mean~~ *means* a test result showing an alcohol  
2 concentration at or above the levels provided for in the assistance or  
3 treatment program;

4 (viii) "positive chemical test"—~~shall mean~~ *means* a chemical result  
5 showing a concentration at or above the levels listed in K.S.A. 44-501, and  
6 amendments thereto, or 49 C.F.R. part 40, as applicable, for the drugs or  
7 abuse listed therein, unless the test was administered as part of an  
8 employee assistance program or other drug or alcohol treatment program  
9 ~~in which~~ *that* the employee was *voluntarily* participating—~~voluntarily in~~  
10 as a condition of further employment, ~~in which~~ *that* case "positive  
11 chemical test"—~~shall mean~~ *means* a chemical result showing a concentration  
12 at or above the levels provided for in the assistance or treatment program.

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

15 (A) The employer discharged the individual after learning the  
16 individual was seeking other work or when the individual gave notice of  
17 future intent to quit, except that the individual shall be disqualified after  
18 the time ~~at which~~ *when* such individual intended to quit and any individual  
19 who commits misconduct after such individual gives notice to such  
20 individual's intent to quit shall be disqualified;

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

- 23 (i) Inefficiency;  
24 (ii) unsatisfactory performance due to inability, incapacity or lack of  
25 training or experience;  
26 (iii) isolated instances of ordinary negligence or inadvertence;  
27 (iv) good-faith errors in judgment or discretion; or  
28 (v) unsatisfactory work or conduct due to circumstances beyond the  
29 individual's control; or

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

32 (c) If the individual has failed, without good cause, to either apply for  
33 suitable work when so directed by the employment office of the secretary  
34 of labor, or to accept suitable work when offered to the individual by the  
35 employment office, the secretary of labor, or an employer, such  
36 disqualification shall begin with the week ~~in which~~ *that* such failure  
37 occurred and shall continue until the individual becomes reemployed and  
38 has had earnings from insured work of at least three times such  
39 individual's determined weekly benefit amount. In determining whether or  
40 not any work is suitable for an individual, the secretary of labor, or a  
41 person or persons designated by the secretary, shall consider the degree of  
42 risk involved to health, safety and morals, physical fitness and prior  
43 training, experience and prior earnings, length of unemployment and



1 prospects for securing local work in the individual's customary occupation  
2 or work ~~for which~~ *that* the individual is reasonably fitted by training or  
3 experience ~~for~~; and the distance of the available work from the individual's  
4 residence. Notwithstanding any other provisions of this act, an otherwise  
5 eligible individual shall not be disqualified for refusing an offer of suitable  
6 employment, or failing to apply for suitable employment when notified by  
7 an employment office, or for leaving the individual's most recent work  
8 accepted during approved training, including training approved under  
9 section 236(a)(1) of the trade act of 1974, if the acceptance of or applying  
10 for suitable employment or continuing such work would require the  
11 individual to terminate approved training and no work shall be deemed  
12 suitable and benefits shall not be denied under this act to any otherwise  
13 eligible individual for refusing to accept new work under any of the  
14 following conditions:

15 (1) If the position offered is vacant due directly to a strike, lockout or  
16 other labor dispute;

17 (2) if the remuneration, hours or other conditions of the work offered  
18 are substantially less favorable to the individual than those prevailing for  
19 similar work in the locality;

20 (3) if as a condition of being employed, the individual would be  
21 required to join or to resign from or refrain from joining any labor  
22 organization; and

23 (4) if the individual left employment as a result of domestic violence,  
24 and the position offered does not reasonably accommodate the individual's  
25 physical, psychological, safety; or legal needs relating to such domestic  
26 violence.

27 (d) For any week with respect to which the secretary of labor, or a  
28 person or persons designated by the secretary, finds that the individual's  
29 unemployment is due to a stoppage of work ~~which~~ *that* exists because of a  
30 labor dispute or there would have been a work stoppage had normal  
31 operations not been maintained with other personnel previously and  
32 currently employed by the same employer at the factory, establishment or  
33 other premises ~~at which~~ *where* the individual is or was last employed,  
34 except that this subsection (d) shall not apply if it is shown to the  
35 satisfaction of the secretary of labor, or a person or persons designated by  
36 the secretary, that:

37 (1) The individual is not participating in or financing or directly  
38 interested in the labor dispute ~~which~~ *that* caused the stoppage of work; and

39 (2) the individual does not belong to a grade or class of workers of  
40 which, immediately before the commencement of the stoppage, there were  
41 members employed at the premises ~~at which~~ *where* the stoppage occurs  
42 any of whom are participating in or financing or directly interested in the  
43 dispute. If in any case separate branches of work ~~which~~ *that* are commonly

1 conducted as separate businesses in separate premises are conducted in  
2 separate departments of the same premises, each such department shall, for  
3 the purpose of this subsection be deemed to be a separate factory,  
4 establishment or other premises. For the purposes of this subsection,  
5 failure or refusal to cross a picket line or refusal for any reason during the  
6 continuance of such labor dispute to accept the individual's available and  
7 customary work at the factory, establishment or other premises where the  
8 individual is or was last employed shall be considered as participation and  
9 interest in the labor dispute.

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

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

21 ~~(g) For the period of five years beginning with the first day following~~  
22 ~~the last week of unemployment for which the individual received benefits,~~  
23 ~~or for five years from the date the act was committed, whichever is the~~  
24 ~~later. If the individual, or another in on such individual's behalf with the~~  
25 ~~knowledge of the individual, has knowingly made a false statement or~~  
26 ~~representation, or has knowingly failed to disclose a material fact to obtain~~  
27 ~~or increase benefits under this act or any other unemployment~~  
28 ~~compensation law administered by the secretary of labor. The~~  
29 ~~disqualification shall begin on the first day following the last week of~~  
30 ~~unemployment that the individual received benefits for; or on the date the~~  
31 ~~act was committed, whichever is later; and continue for one year; or until~~  
32 ~~the claimant repays any resulting overpayment, penalty and interest,~~  
33 ~~whichever is earlier.~~ In addition to the penalties set forth in K.S.A. 44-719,  
34 and amendments thereto, an individual who has knowingly made a false  
35 statement or representation or who has knowingly failed to disclose a  
36 material fact to obtain or increase benefits under this act or any other  
37 unemployment compensation law administered by the secretary of labor  
38 shall be liable for a penalty in the amount equal to 25% of the amount of  
39 benefits unlawfully received. Notwithstanding any other provision of law,  
40 such penalty shall be deposited into the employment security trust fund.

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

1 of the United States.

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

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

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

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

43 (m) For any week on the basis of services performed by an alien

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

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

1 ~~the individual for such week shall be made under this subsection. No~~  
2 ~~reduction shall be made for payments made under the social security act or~~  
3 ~~railroad retirement act of 1974.~~

4 ~~(e)~~—For any week of unemployment on the basis of services  
5 performed in any capacity and under any of the circumstances described in  
6 subsection (i), (j) or (k)—~~which~~ *that* an individual performed in an  
7 educational institution while in the employ of an educational service  
8 agency. For the purposes of this subsection, the term "educational service  
9 agency" means a governmental agency or entity—~~which~~ *that* is established  
10 and operated exclusively for the purpose of providing such services to one  
11 or more educational institutions.

12 ~~(p)~~(o) For any week of unemployment on the basis of service as a  
13 school bus or other motor vehicle driver employed by a private contractor  
14 to transport pupils, students and school personnel to or from school-related  
15 functions or activities for an educational institution, as defined in K.S.A.  
16 44-703(v), and amendments thereto, if such week begins during the period  
17 between two successive academic years or during a similar period between  
18 two regular terms, whether or not successive, if the individual has a  
19 contract or contracts, or a reasonable assurance thereof, to perform  
20 services in any such capacity with a private contractor for any educational  
21 institution for both such academic years or both such terms. An individual  
22 shall not be disqualified for benefits as provided in this subsection for any  
23 week of unemployment on the basis of service as a bus or other motor  
24 vehicle driver employed by a private contractor to transport persons to or  
25 from nonschool-related functions or activities.

26 ~~(q)~~(p) For any week of unemployment on the basis of services  
27 performed by the individual in any capacity and under any of the  
28 circumstances described in subsection (i), (j), (k) or ~~(e)~~—~~which~~ *(n) that* are  
29 provided to or on behalf of an educational institution, as defined in K.S.A.  
30 44-703(v), and amendments thereto, while the individual is in the employ  
31 of an employer—~~which~~ *that* is a governmental entity, Indian tribe or any  
32 employer described in section 501(c)(3) of the federal internal revenue  
33 code of 1986—~~which~~ *that* is exempt from income under section 501(a) of  
34 the code.

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

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

42 (2) the individual is attending approved training as defined in K.S.A.  
43 44-703(s), and amendments thereto; or

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

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

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

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

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

1 recipient of unemployment benefits shall be terminated from receiving  
2 unemployment benefits, subject to applicable federal law.

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

9 ~~(t)~~(i) If the individual was found not to have a disqualifying  
10 adjudication or conviction under K.S.A. 39-970 or 65-5117, and  
11 amendments thereto, was hired and then was subsequently convicted of a  
12 disqualifying felony under K.S.A. 39-970 or 65-5117, and amendments  
13 thereto, and discharged pursuant to K.S.A. 39-970 or 65-5117, and  
14 amendments thereto. The disqualification shall begin ~~the day following the~~  
15 ~~separation~~ *on the effective date of the claim* and shall continue until after  
16 the individual becomes reemployed and has had earnings from insured  
17 work of at least three times the individual's determined weekly benefit  
18 amount.

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

26 Sec. 2. K.S.A. 2020 Supp. 44-706 is hereby repealed.

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