

*As Amended by Senate Committee*

*Session of 2011*

**SENATE BILL No. 137**

By Committee on Utilities

2-8

1 AN ACT concerning the employment security law; relating to  
2 unemployment benefits for privately contracted school bus drivers;  
3 amending K.S.A. 2010 Supp. 44-706 and repealing the existing  
4 section.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2010 Supp. 44-706 is hereby amended to read as  
8 follows: 44-706. An individual shall be disqualified for benefits:

9 (a) If the individual left work voluntarily without good cause  
10 attributable to the work or the employer, subject to the other provisions  
11 of this subsection (a). Failure to return to work after expiration of  
12 approved personal or medical leave, or both, shall be considered a  
13 voluntary resignation. After a temporary job assignment, failure of an  
14 individual to affirmatively request an additional assignment on the next  
15 succeeding workday, if required by the employment agreement, after  
16 completion of a given work assignment, shall constitute leaving work  
17 voluntarily. The disqualification shall begin the day following the  
18 separation and shall continue until after the individual has become  
19 reemployed and has had earnings from insured work of at least three  
20 times the individual's weekly benefit amount. An individual shall not be  
21 disqualified under this subsection (a) if:

22 (1) The individual was forced to leave work because of illness or  
23 injury upon the advice of a licensed and practicing health care provider  
24 and, upon learning of the necessity for absence, immediately notified  
25 the employer thereof, or the employer consented to the absence, and  
26 after recovery from the illness or injury, when recovery was certified by  
27 a practicing health care provider, the individual returned to the  
28 employer and offered to perform services and the individual's regular  
29 work or comparable and suitable work was not available; as used in this  
30 paragraph (1) "health care provider" means any person licensed by the  
31 proper licensing authority of any state to engage in the practice of  
32 medicine and surgery, osteopathy, chiropractic, dentistry, optometry,  
33 podiatry or psychology;

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

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

5 (4) the individual left work because of the voluntary or  
6 involuntary transfer of the individual's spouse from one job to another  
7 job, which is for the same employer or for a different employer, at a  
8 geographic location which makes it unreasonable for the individual to  
9 continue work at the individual's job;

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

27 (6) the individual left work to enter training approved under  
28 section 236(a)(1) of the federal trade act of 1974, provided the work  
29 left is not of a substantially equal or higher skill level than the  
30 individual's past adversely affected employment (as defined for  
31 purposes of the federal trade act of 1974), and wages for such work are  
32 not less than 80% of the individual's average weekly wage as  
33 determined for the purposes of the federal trade act of 1974;

34 (7) the individual left work because of unwelcome harassment of  
35 the individual by the employer or another employee of which the  
36 employing unit had knowledge;

37 (8) the individual left work to accept better work; each  
38 determination as to whether or not the work accepted is better work  
39 shall include, but shall not be limited to, consideration of (A) the rate of

1 pay, the hours of work and the probable permanency of the work left as  
2 compared to the work accepted, (B) the cost to the individual of getting  
3 to the work left in comparison to the cost of getting to the work  
4 accepted, and (C) the distance from the individual's place of residence  
5 to the work accepted in comparison to the distance from the  
6 individual's residence to the work left;

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

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

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

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

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

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

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

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

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

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

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

38 (ii) a police record documenting the abuse; or

39 (iii) documentation that the abuser has been convicted of one or

1 more of the offenses enumerated in articles 34 and 35 of chapter 21 of  
2 the Kansas Statutes Annotated, and amendments thereto, where the  
3 victim was a family or household member; or

4 (iv) medical documentation of the abuse; or

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

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

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

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

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

38 (2) For the purposes of this subsection (b), the use of or  
39 impairment caused by alcoholic liquor, a cereal malt beverage or a

1 nonprescribed controlled substance by an individual while working  
2 shall be conclusive evidence of misconduct and the possession of  
3 alcoholic liquor, a cereal malt beverage or a nonprescribed controlled  
4 substance by an individual while working shall be prima facie evidence  
5 of conduct which is a violation of a duty or obligation reasonably owed  
6 to the employer as a condition of employment. Alcoholic liquor shall be  
7 defined as provided in K.S.A. 41-102, and amendments thereto. Cereal  
8 malt beverage shall be defined as provided in K.S.A. 41-2701, and  
9 amendments thereto. Controlled substance shall be defined as provided  
10 in K.S.A. 2010 Supp. 21-36a01, and amendments thereto. As used in  
11 this subsection (b)(2), "required by law" means required by a federal or  
12 state law, a federal or state rule or regulation having the force and effect  
13 of law, a county resolution or municipal ordinance, or a policy relating  
14 to public safety adopted in open meeting by the governing body of any  
15 special district or other local governmental entity. Chemical test shall  
16 include, but is not limited to, tests of urine, blood or saliva. A positive  
17 chemical test shall mean a chemical result showing a concentration at  
18 or above the levels listed in K.S.A. 44-501, and amendments thereto,  
19 for the drugs or abuse listed therein. A positive breath test shall mean a  
20 test result showing an alcohol concentration of .04 or greater. Alcohol  
21 concentration means the number of grams of alcohol per 210 liters of  
22 breath. An individual's refusal to submit to a chemical test or breath  
23 alcohol test shall be conclusive evidence of misconduct if the test meets  
24 the standards of the drug free workplace act, 41 U.S.C. § 701 et seq.;  
25 the test was administered as part of an employee assistance program or  
26 other drug or alcohol treatment program in which the employee was  
27 participating voluntarily or as a condition of further employment; the  
28 test was otherwise required by law and the test constituted a required  
29 condition of employment for the individual's job; the test was requested  
30 pursuant to a written policy of the employer of which the employee had  
31 knowledge and was a required condition of employment; or there was  
32 probable cause to believe that the individual used, possessed or was  
33 impaired by alcoholic liquor, a cereal malt beverage or a controlled  
34 substance while working. A positive breath alcohol test or a positive  
35 chemical test shall be conclusive evidence to prove misconduct if the  
36 following conditions are met:

37 (A) Either (i) the test was required by law and was administered  
38 pursuant to the drug free workplace act, 41 U.S.C. § 701 et seq., (ii) the  
39 test was administered as part of an employee assistance program or

1 other drug or alcohol treatment program in which the employee was  
2 participating voluntarily or as a condition of further employment, (iii)  
3 the test was requested pursuant to a written policy of the employer of  
4 which the employee had knowledge and was a required condition of  
5 employment, (iv) the test was required by law and the test constituted a  
6 required condition of employment for the individual's job, or (v) there  
7 was probable cause to believe that the individual used, had possession  
8 of, or was impaired by alcoholic liquor, the cereal malt beverage or the  
9 controlled substance while working;

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

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

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

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

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

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

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

9 (i) The individual was absent without good cause;

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

12 (iii) the employer gave or sent written notice to the individual, at  
13 the individual's last known address, that future absence may or will  
14 result in discharge; and

15 (iv) the employee had knowledge of the employer's written  
16 absenteeism policy.

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

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

26 (A) The employer discharged the individual after learning the  
27 individual was seeking other work or when the individual gave notice  
28 of future intent to quit;

29 (B) the individual was making a good-faith effort to do the  
30 assigned work but was discharged due to: (i) Inefficiency, (ii)  
31 unsatisfactory performance due to inability, incapacity or lack of  
32 training or experience, (iii) isolated instances of ordinary negligence or  
33 inadvertence, (iv) good-faith errors in judgment or discretion, or (v)  
34 unsatisfactory work or conduct due to circumstances beyond the  
35 individual's control; or

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

38 (c) If the individual has failed, without good cause, to either apply  
39 for suitable work when so directed by the employment office of the

1 secretary of labor, or to accept suitable work when offered to the  
2 individual by the employment office, the secretary of labor, or an  
3 employer, such disqualification shall begin with the week in which  
4 such failure occurred and shall continue until the individual becomes  
5 reemployed and has had earnings from insured work of at least three  
6 times such individual's determined weekly benefit amount. In  
7 determining whether or not any work is suitable for an individual, the  
8 secretary of labor, or a person or persons designated by the secretary,  
9 shall consider the degree of risk involved to health, safety and morals,  
10 physical fitness and prior training, experience and prior earnings, length  
11 of unemployment and prospects for securing local work in the  
12 individual's customary occupation or work for which the individual is  
13 reasonably fitted by training or experience, and the distance of the  
14 available work from the individual's residence. Notwithstanding any  
15 other provisions of this act, an otherwise eligible individual shall not be  
16 disqualified for refusing an offer of suitable employment, or failing to  
17 apply for suitable employment when notified by an employment office,  
18 or for leaving the individual's most recent work accepted during  
19 approved training, including training approved under section 236(a)(1)  
20 of the trade act of 1974, if the acceptance of or applying for suitable  
21 employment or continuing such work would require the individual to  
22 terminate approved training and no work shall be deemed suitable and  
23 benefits shall not be denied under this act to any otherwise eligible  
24 individual for refusing to accept new work under any of the following  
25 conditions: (1) If the position offered is vacant due directly to a strike,  
26 lockout or other labor dispute; (2) if the remuneration, hours or other  
27 conditions of the work offered are substantially less favorable to the  
28 individual than those prevailing for similar work in the locality; (3) if  
29 as a condition of being employed, the individual would be required to  
30 join or to resign from or refrain from joining any labor organization; (4)  
31 if the individual left employment as a result of domestic violence, and  
32 the position offered does not reasonably accommodate the individual's  
33 physical, psychological, safety, and/or legal needs relating to such  
34 domestic violence.

35 (d) For any week with respect to which the secretary of labor, or a  
36 person or persons designated by the secretary, finds that the individual's  
37 unemployment is due to a stoppage of work which exists because of a  
38 labor dispute or there would have been a work stoppage had normal  
39 operations not been maintained with other personnel previously and

1 currently employed by the same employer at the factory, establishment  
2 or other premises at which the individual is or was last employed,  
3 except that this subsection (d) shall not apply if it is shown to the  
4 satisfaction of the secretary of labor, or a person or persons designated  
5 by the secretary, that: (1) The individual is not participating in or  
6 financing or directly interested in the labor dispute which caused the  
7 stoppage of work; and (2) the individual does not belong to a grade or  
8 class of workers of which, immediately before the commencement of  
9 the stoppage, there were members employed at the premises at which  
10 the stoppage occurs any of whom are participating in or financing or  
11 directly interested in the dispute. If in any case separate branches of  
12 work which are commonly conducted as separate businesses in separate  
13 premises are conducted in separate departments of the same premises,  
14 each such department shall, for the purpose of this subsection (d) be  
15 deemed to be a separate factory, establishment or other premises. For  
16 the purposes of this subsection (d), failure or refusal to cross a picket  
17 line or refusal for any reason during the continuance of such labor  
18 dispute to accept the individual's available and customary work at the  
19 factory, establishment or other premises where the individual is or was  
20 last employed shall be considered as participation and interest in the  
21 labor dispute.

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

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

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

1 unemployment compensation law administered by the secretary of  
2 labor.

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

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

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

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

1 that such individual will perform such services in the period  
2 immediately following such vacation period or holiday recess.

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

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

26 (n) For any week in which an individual is receiving a  
27 governmental or other pension, retirement or retired pay, annuity or  
28 other similar periodic payment under a plan maintained by a base  
29 period employer and to which the entire contributions were provided by  
30 such employer, except that: (1) If the entire contributions to such plan  
31 were provided by the base period employer but such individual's  
32 weekly benefit amount exceeds such governmental or other pension,  
33 retirement or retired pay, annuity or other similar periodic payment  
34 attributable to such week, the weekly benefit amount payable to the  
35 individual shall be reduced (but not below zero) by an amount equal to  
36 the amount of such pension, retirement or retired pay, annuity or other  
37 similar periodic payment which is attributable to such week; or (2) if  
38 only a portion of contributions to such plan were provided by the base  
39 period employer, the weekly benefit amount payable to such individual

1 for such week shall be reduced (but not below zero) by the prorated  
2 weekly amount of the pension, retirement or retired pay, annuity or  
3 other similar periodic payment after deduction of that portion of the  
4 pension, retirement or retired pay, annuity or other similar periodic  
5 payment that is directly attributable to the percentage of the  
6 contributions made to the plan by such individual; or (3) if the entire  
7 contributions to the plan were provided by such individual, or by the  
8 individual and an employer (or any person or organization) who is not a  
9 base period employer, no reduction in the weekly benefit amount  
10 payable to the individual for such week shall be made under this  
11 subsection (n); or (4) whatever portion of contributions to such plan  
12 were provided by the base period employer, if the services performed  
13 for the employer by such individual during the base period, or  
14 remuneration received for the services, did not affect the individual's  
15 eligibility for, or increased the amount of, such pension, retirement or  
16 retired pay, annuity or other similar periodic payment, no reduction in  
17 the weekly benefit amount payable to the individual for such week shall  
18 be made under this subsection (n). No reduction shall be made for  
19 payments made under the social security act or railroad retirement act  
20 of 1974.

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

29 ~~(p) For any week of unemployment on the basis of service as a  
30 school bus or other motor vehicle driver employed by a private  
31 contractor directly by a school district to transport pupils, students and  
32 school personnel to or from school-related functions or activities for an  
33 educational institution, as defined in subsection (v) of K.S.A. 44-703,  
34 and amendments thereto, if such week begins during the period  
35 between two successive academic years or during a similar period  
36 between two regular terms, whether or not successive, if the individual  
37 has a contract or contracts, or a reasonable assurance thereof, to  
38 perform services in any such capacity with a private contractor for any  
39 educational institution for both such academic years or both such terms.~~

1 ~~An individual shall not be disqualified for benefits as provided in this~~  
2 ~~subsection (p) for any week of unemployment on the basis of service as~~  
3 ~~a bus or other motor vehicle driver employed by a private contractor to~~  
4 ~~transport persons to or from: (A) School-related functions or activities~~  
5 ~~for an educational institution, as defined in subsection (v) of K.S.A. 44-~~  
6 ~~703, and amendments thereto; and (B) non-school-related functions or~~  
7 ~~activities.~~

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

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

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

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

26 (3) the individual is attending evening, weekend or limited ~~day-~~  
27 ~~time~~ *daytime* classes, which would not affect availability for work, and  
28 is otherwise eligible under subsection (c) of K.S.A. 44-705, and  
29 amendments thereto.

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

37 (1) For any such weeks that an individual receives remuneration in  
38 the form of a back pay award or settlement, an overpayment will be  
39 established in the amount of unemployment benefits paid and shall be

1 collected from the claimant.

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

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

16 ~~(t)~~ (t) If the individual was found not to have a disqualifying  
17 adjudication or conviction under K.S.A. 39-970, and amendments  
18 thereto, or K.S.A. 65-5117, and amendments thereto, was hired and  
19 then was subsequently convicted of a disqualifying felony under K.S.A.  
20 39-970, and amendments thereto, or K.S.A. 65-5117, and amendments  
21 thereto, and discharged pursuant to K.S.A. 39-970, and amendments  
22 thereto, or K.S.A. 65-5117, and amendments thereto. The  
23 disqualification shall begin the day following the separation and shall  
24 continue until after the individual becomes reemployed and has had  
25 earnings from insured work of at least three times the individual's  
26 determined weekly benefit amount.

27 Sec. 2. K.S.A. 2010 Supp. 44-706 is hereby repealed.

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

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