

SENATE BILL No. 529

By Committee on Ways and Means

2-3

9 AN ACT concerning the employment security law; pertaining to the max-
10 imum weekly benefit; amending K.S.A. 2009 Supp. 44-704 and re-
11 pealing the existing section.
12

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

14 Section 1. K.S.A. 2009 Supp. 44-704 is hereby amended to read as
15 follows: 44-704. (a) *Payment of benefits.* All benefits provided herein shall
16 be payable from the fund. All benefits shall be paid through the secretary
17 of labor, in accordance with such rules and regulations as the secretary
18 may adopt. Benefits based on service in employment defined in subsec-
19 tions (i)(3)(E) and (i)(3)(F) of K.S.A. 44-703, and amendments thereto,
20 shall be payable in the same amount, on the same terms and subject to
21 the same conditions as compensation payable on the basis of other service
22 subject to this act except as provided in subsection (e) of K.S.A. 44-705
23 and subsection (e)(2) of K.S.A. 44-711, and amendments thereto.

24 (b) *Determined weekly benefit amount.* An individual's determined
25 weekly benefit amount shall be an amount equal to 4.25% of the individ-
26 ual's total wages for insured work paid during that calendar quarter of
27 the individual's base period in which such total wages were highest, sub-
28 ject to the following limitations:

29 (1) If an individual's determined weekly benefit amount is less than
30 the minimum weekly benefit amount, it shall be raised to such minimum
31 weekly benefit amount;

32 (2) if the individual's determined weekly benefit amount is more than
33 the maximum weekly benefit amount, it shall be reduced to the maximum
34 weekly benefit amount; and

35 (3) if the individual's determined weekly benefit amount is not a mul-
36 tiple of \$1, it shall be reduced to the next lower multiple of \$1.

37 (c) *Maximum weekly benefit amount.* (1) *Except as provided in par-*
38 *agraph (2) of this subsection,* on July 1 of each year, the secretary shall
39 determine the maximum weekly benefit amount by computing 60% of
40 the average weekly wages paid to employees in insured work during the
41 previous calendar year and shall prior to that date announce the maximum
42 weekly benefit amount so determined, by publication in the Kansas reg-
43 ister. Such computation shall be made by dividing the gross wages re-

1 ported as paid for insured work during the previous calendar year by the
2 product of the average of midmonth employment during such calendar
3 year multiplied by 52. The maximum weekly benefit amount so deter-
4 mined and announced for the twelve-month period shall apply only to
5 those claims filed in that period qualifying for maximum payment under
6 the foregoing formula. All claims qualifying for payment at the maximum
7 weekly benefit amount shall be paid at the maximum weekly benefit
8 amount in effect when the benefit year to which the claim relates was
9 first established, notwithstanding a change in the maximum benefit
10 amount for a subsequent twelve-month period. If the computed maxi-
11 mum weekly benefit amount is not a multiple of \$1, then the computed
12 maximum weekly benefit amount shall be reduced to the next lower mul-
13 tiple of \$1.

14 (2) *For the years commencing on July 1, 2010, July 1, 2011, and July*
15 *1, 2012, the maximum weekly benefit shall be the maximum weekly benefit*
16 *determined by the secretary on July 1, 2009. The provisions of this par-*
17 *agraph shall expire on July 1, 2013, unless the legislature acts to reenact*
18 *such provisions. The provisions of this section shall be reviewed by the*
19 *legislature prior to July 1, 2013.*

20 (d) *Minimum weekly benefit amount.* The minimum weekly benefit
21 amount payable to any individual shall be 25% of the maximum weekly
22 benefit calculated in accordance with subsection (c) and shall be an-
23 nounced by the secretary in conjunction with the published announce-
24 ment of the maximum weekly benefit, also as provided in subsection (c).
25 The minimum weekly benefit amount so determined and announced for
26 the twelve-month period beginning July 1 of each year shall apply only
27 to those claims which establish a benefit year filed within that twelve-
28 month period and shall apply through the benefit year of such claims
29 notwithstanding a change in such amount in a subsequent twelve-month
30 period. If the minimum weekly benefit amount is not a multiple of \$1 it
31 shall be reduced to the next lower multiple of \$1.

32 (e) *Weekly benefit payable.* Each eligible individual who is unem-
33 ployed with respect to any week, except as to final payment, shall be paid
34 with respect to such week a benefit in an amount equal to such individ-
35 ual's determined weekly benefit amount, less that part of the wage, if any,
36 payable to such individual with respect to such week which is in excess
37 of the amount which is equal to 25% of such individual's determined
38 weekly benefit amount and if the resulting amount is not a multiple of
39 \$1, it shall be reduced to the next lower multiple of \$1.

40 (1) For the purposes of this section, remuneration received under
41 the following circumstances shall be construed as wages:

42 (A) Vacation pay that was attributable to a week that the individual
43 claimed benefits while work was temporarily interrupted;

- 1 (B) holiday pay that was payable with no condition of attendance on
2 other regularly scheduled day or days; and
- 3 (C) severance pay, if paid as scheduled, and all other employment
4 benefits within the employer's control, as defined in subsection (e)(3), if
5 continued as though the severance had not occurred, except as set out in
6 subsection (e)(2)(D).
- 7 (2) For the purposes of this section, remuneration received under
8 the following circumstances shall not be construed as wages:
- 9 (A) Remuneration received for services performed on a public assis-
10 tance work project;
- 11 (B) vacation pay, except as set out in subsection (e)(1)(A) above;
- 12 (C) holiday pay that was not payable unless the individual complied
13 with a condition of attendance on another regularly scheduled day or days;
- 14 (D) severance pay, in lieu of notice, under the provisions of public
15 law 100-379, the federal worker adjustment and retraining notification
16 act (29 U.S.C.A. 2101 through 2109);
- 17 (E) all other severance pay, separation pay, bonuses, wages in lieu of
18 notice or remuneration of a similar nature that is payable after the sev-
19 erance of the employment relationship, except as set out in subsection
20 (e)(1)(C); and
- 21 (F) moneys received as federal social security payments.
- 22 (3) For the purposes of this subsection (e), "employment benefits
23 within the employer's control" means benefits offered by the employer
24 to employees which are employee benefit plans as defined by section 3
25 of the federal employee retirement income security act of 1974, as
26 amended, (29 U.S.C. 1002) and which the employer has the option to
27 continue to provide to the employee after the last day that the employee
28 worked for that employer.
- 29 (f) *Duration of benefits.* Any otherwise eligible individual shall be
30 entitled during any benefit year to a total amount of benefits equal to
31 whichever is the lesser of 26 times such individual's weekly benefit
32 amount, or $\frac{1}{3}$ of such individual's wages for insured work paid during
33 such individual's base period. Such total amount of benefits, if not a mul-
34 tiple of \$1, shall be reduced to the next lower multiple of \$1.
- 35 (g) For the purposes of this section, wages shall be counted as "wages
36 for insured work" for benefit purposes with respect to any benefit year
37 only if such benefit year begins subsequent to the date on which the
38 employing unit by whom such wages were paid has satisfied the condi-
39 tions of subsection (h) of K.S.A. 44-703, and amendments thereto, with
40 respect to becoming an employer.
- 41 Sec. 2. K.S.A. 2009 Supp. 44-704 is hereby repealed.
- 42 Sec. 3. This act shall take effect and be in force from and after its
43 publication in the Kansas register.