

HOUSE BILL No. 2642

By Representatives Hoheisel, Bergquist, Bishop, Burris, Capps, Carmichael, B. Carpenter, W. Carpenter, Delperdang, Erickson, Finney, Helgerson, Helmer, Hodge, Howard, Huebert, Humphries, Landwehr, Moore, Ohaebosim, Owens, Probst, Rhiley, Sawyer, Seiwert, Victors, Ward, Williams and Yeager

2-12

1 AN ACT concerning employment security law; relating to the maximum
2 benefit eligibility period; amending K.S.A. 2019 Supp. 44-704 and
3 repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2019 Supp. 44-704 is hereby amended to read as
7 follows: 44-704. (a) *Payment of benefits.* All benefits provided herein shall
8 be payable from the fund. All benefits shall be paid through the secretary
9 of labor, in accordance with such rules and regulations as the secretary
10 may adopt. Benefits based on service in employment defined in K.S.A. 44-
11 703(i)(3)(E) and (i)(3)(F), and amendments thereto, shall be payable in the
12 same amount, on the same terms and subject to the same conditions as
13 compensation payable on the basis of other service subject to this act
14 except as provided in K.S.A. 44-705(e) and ~~K.S.A. 44-711(e)(2)~~, and
15 amendments thereto.

16 (b) *Determined weekly benefit amount.* An individual's determined
17 weekly benefit amount shall be an amount equal to 4.25% of the
18 individual's total wages for insured work paid during that calendar quarter
19 of the individual's base period ~~in which~~ *that* such total wages were highest,
20 subject to the following limitations:

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

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

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

29 (c) *Maximum weekly benefit amount.* (1) For initial claims effective
30 prior to July 1, 2015, the maximum weekly benefit amount shall be
31 determined as follows: On July 1 of each year, the secretary shall
32 determine the maximum weekly benefit amount by computing 60% of the
33 average weekly wages paid to employees in insured work during the
34 previous calendar year and shall, prior to that date, announce the

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

15 (2) For initial claims effective on or after July 1, 2015, the maximum
16 weekly benefit amount shall be determined as follows: On July 1 of each
17 year, the secretary shall determine the maximum weekly benefit amount by
18 computing 55% of the average weekly wages paid to employees in insured
19 work during the previous calendar year, but not to be less than \$474, and
20 shall, prior to that date, announce the maximum weekly benefit amount so
21 determined by publication in the Kansas register. Such computation shall
22 be made by dividing the gross wages reported as paid for insured work
23 during the previous calendar year by the product of the average of mid-
24 month employment during such calendar year multiplied by 52. The
25 maximum weekly benefit amount so determined and announced for the
26 12-month period shall apply only to those claims filed in that period
27 qualifying for maximum payment under the foregoing formula. All claims
28 qualifying for payment at the maximum weekly benefit amount shall be
29 paid at the maximum weekly benefit amount in effect when the benefit
30 year to which the claim relates was first established, notwithstanding a
31 change in the maximum benefit amount for a subsequent 12-month period.
32 If the computed maximum weekly benefit amount is not a multiple of \$1,
33 then the computed maximum weekly benefit amount shall be reduced to
34 the next lower multiple of \$1.

35 (d) *Minimum weekly benefit amount.* The minimum weekly benefit
36 amount payable to any individual shall be 25% of the maximum weekly
37 benefit amount effective as of the beginning of the individual's benefit
38 year. If the minimum weekly benefit amount is not a multiple of \$1 it shall
39 be reduced to the next lower multiple of \$1. The minimum weekly benefit
40 amount shall apply through the benefit year, notwithstanding a change in
41 the minimum weekly benefit amount.

42 (e) All claims qualifying for payment at the maximum weekly benefit
43 amount shall be paid at the maximum weekly benefit amount in effect

1 when the benefit year to which the claim relates was first established,
2 notwithstanding a subsequent change in the maximum weekly benefit
3 amount.

4 (f) *Weekly benefit payable.* Each eligible individual who is
5 unemployed with respect to any week, except as to final payment, shall be
6 paid with respect to such week a benefit in an amount equal to such
7 individual's determined weekly benefit amount, less that part of the wage,
8 if any, payable to such individual with respect to such week ~~which~~ that is
9 in excess of the amount ~~which~~ that is equal to 25% of such individual's
10 determined weekly benefit amount, and if the resulting amount is not a
11 multiple of \$1, it shall be reduced to the next lower multiple of \$1.

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

14 (A) Vacation or holiday pay that was attributable to a week that the
15 individual claimed benefits; and

16 (B) severance pay, if paid as scheduled, and all other employment
17 benefits within the employer's control, as defined in subsection (f)(3), if
18 continued as though the severance had not occurred, except as set out in
19 subsection (f)(2)(C).

20 (2) For the purposes of this section, remuneration received under the
21 following circumstances shall not be construed as wages:

22 (A) Remuneration received for services performed on a public
23 assistance work project;

24 (B) severance pay, in lieu of notice, under the provisions of public
25 law 100-379, the federal worker adjustment and retraining notification act,
26 ~~(29 U.S.C.A. U.S.C. §§ 2101 through 2109);~~

27 (C) all other severance pay, separation pay, bonuses, wages in lieu of
28 notice or remuneration of a similar nature that is payable after the
29 severance of the employment relationship, except as set out in subsection
30 (f)(1)(B); and

31 (D) moneys received as federal social security payments.

32 (3) For the purposes of this subsection ~~(f)~~, "employment benefits
33 within the employer's control" means benefits offered by the employer to
34 employees ~~which~~ that are employee benefit plans as defined by section 3
35 of the federal employee retirement income security act of 1974, as
36 amended, (29 U.S.C. § 1002), and ~~which~~ that the employer has the option
37 to continue to provide to the employee after the last day that the employee
38 worked for that employer.

39 (g) *Duration of benefits.* Any otherwise eligible individual shall be
40 entitled during any benefit year to a total amount of benefits equal to
41 whichever is the lesser of 26 times such individual's weekly benefit
42 amount, or $\frac{1}{3}$ of such individual's wages for insured work paid during such
43 individual's base period. Such total amount of benefits, if not a multiple of

1 \$1, shall be reduced to the next lower multiple of \$1.

2 (h) For the purposes of this section, wages shall be counted as "wages
3 for insured work" for benefit purposes with respect to any benefit year
4 only if such benefit year begins subsequent to the date ~~on which~~ when the
5 employing unit by whom such wages were paid has satisfied the
6 conditions of K.S.A. 44-703(h), and amendments thereto, with respect to
7 becoming an employer.

8 (i) Notwithstanding any other provisions of this section to the
9 contrary, any benefit otherwise payable for any week shall be reduced by
10 the amount of any separation, termination, severance or other similar
11 payment paid to a claimant at the time of or after the claimant's separation
12 from employment during the benefit year.

13 (1) If any payment pursuant to this subsection is paid with respect to
14 a month, then the amount deemed to be received with respect to any week
15 during such month shall be computed by multiplying such monthly
16 amount by 12 and dividing the product by 52. If there is no designation of
17 the period with respect to which payments to an individual are made under
18 this section, then an amount equal to such individual's normal weekly
19 wage shall be attributed to and deemed paid with respect to the first and
20 each succeeding week following payment of the separation pay to the
21 individual until such amount so paid is exhausted.

22 (2) If benefits for any week, when reduced as provided in this
23 subsection, result in an amount *that is* not a multiple of ~~one dollar~~ \$1, such
24 benefits shall be rounded to the next lower multiple of ~~one dollar~~ \$1.

25 (3) Notwithstanding the reemployment provisions of K.S.A. 44-
26 705(e), and amendments thereto, any individual whose benefit amount is
27 completely reduced under this subsection for 52 or more weeks shall, upon
28 exhaustion of the separation pay, be entitled to a new benefit year based
29 upon entitlement from the base period of the claim that was reduced.

30 (j) *Except as provided in subsection (k)*, for weeks commencing on
31 and after January 1, 2014, if at the beginning of the benefit year, the ~~three~~
32 ~~month~~ *three-month* seasonally adjusted average unemployment rate for the
33 state of Kansas is: (1) Less than 4.5%, a claimant shall be eligible for a
34 maximum of 16 weeks of benefits; (2) at least 4.5% but less ~~that than~~ 6%,
35 a claimant shall be eligible for a maximum of 20 weeks of benefits; or (3)
36 at least 6%, a claimant shall be eligible for a maximum of 26 weeks of
37 benefits.

38 (k) *On and after the effective date of this act, a claimant shall be*
39 *eligible for a maximum of 26 weeks of benefits. This subsection shall not*
40 *apply to initial claims effective on and after April 1, 2021.*

41 Sec. 2. K.S.A. 2019 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.