

## House Substitute for SENATE BILL No. 27

By Committee on Commerce, Labor and Economic Development

3-17

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1 AN ACT concerning employment security law; relating to the maximum  
2 benefit eligibility period; compensation for the pre-payment waiting  
3 period; amending K.S.A. 2019 Supp. 44-704 and 44-705 and repealing  
4 the existing sections.

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

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

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

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

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

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

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

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

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

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

41 (e) All claims qualifying for payment at the maximum weekly benefit  
42 amount shall be paid at the maximum weekly benefit amount in effect  
43 when the benefit year to which the claim relates was first established,

1 notwithstanding a subsequent change in the maximum weekly benefit  
2 amount.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (k) *On and after the effective date of this act, a claimant shall be*  
38 *eligible for a maximum of 26 weeks of benefits. A claimant who filed a new*  
39 *claim on or after January 1, 2020, and before the effective date of this act*  
40 *shall be eligible for a maximum of 26 weeks of benefits including the*  
41 *number of weeks of benefits received after January 1, 2020, and before the*  
42 *effective date of this act. This subsection shall not apply to initial claims*  
43 *effective on and after April 1, 2021.*

1       Sec. 2. K.S.A. 2019 Supp. 44-705 is hereby amended to read as  
2 follows: 44-705. Except as provided by K.S.A. 44-757, and amendments  
3 thereto, an unemployed individual shall be eligible to receive benefits with  
4 respect to any week only if the secretary, or a person or persons designated  
5 by the secretary, finds that:

6       (a) The claimant has registered for work at and thereafter continued  
7 to report at an employment office in accordance with rules and regulations  
8 adopted by the secretary, except that, subject to the provisions of  
9 ~~subsection (a) of K.S.A. 44-704(a)~~, and amendments thereto, the secretary  
10 may adopt rules and regulations ~~which~~ *that* waive or alter either or both of  
11 the requirements of this subsection.

12       (b) The claimant has made a claim for benefits with respect to such  
13 week in accordance with rules and regulations adopted by the secretary.

14       (c) The claimant is able to perform the duties of such claimant's  
15 customary occupation or the duties of other occupations ~~for which~~ *that*  
16 the claimant is reasonably fitted by training or experience, and is available for  
17 work, as demonstrated by the claimant's pursuit of the full course of action  
18 most reasonably calculated to result in the claimant's reemployment except  
19 that, notwithstanding any other provisions of this section, an unemployed  
20 claimant otherwise eligible for benefits shall not become ineligible for  
21 benefits: (1) Because of the claimant's enrollment in and satisfactory  
22 pursuit of approved training, including training approved under section  
23 236(a)(1) of the trade act of 1974; or (2) solely because such individual is  
24 seeking only part-time employment if the individual is available for a  
25 number of hours per week that are comparable to the individual's part-time  
26 work experience in the base period.

27       For the purposes of this subsection, an inmate of a custodial or  
28 correctional institution shall be deemed to be unavailable for work and not  
29 eligible to receive unemployment compensation while incarcerated.

30       (d) (1) Except as provided further, the claimant has been unemployed  
31 for a waiting period of one week or the claimant is unemployed and has  
32 satisfied the requirement for a waiting period of one week under the shared  
33 work unemployment compensation program as provided in ~~subsection (k)~~  
34 ~~(4)~~ of K.S.A. 44-757(k)(4), and amendments thereto, ~~which~~ *and that*  
35 period of one week, in either case, occurs within the benefit year ~~which~~  
36 *that* includes the week for which the claimant is claiming benefits. No  
37 week shall be counted as a week of unemployment for the purposes of this  
38 subsection:

39       (A) If benefits have been paid for such week;

40       (B) if the individual fails to meet with the other eligibility  
41 requirements of this section; or

42       (C) if an individual is seeking unemployment benefits under the  
43 unemployment compensation law of any other state or of the United

1 States, except that if the appropriate agency of such state or of the United  
2 States finally determines that the claimant is not entitled to unemployment  
3 benefits under such other law, this subparagraph shall not apply.

4 (2) The waiting week requirement of paragraph (1) shall not apply to  
5 new claims, ~~filed on or after July 1, 2007~~, by claimants who become  
6 unemployed as a result of an employer terminating business operations  
7 within this state, declaring bankruptcy or initiating a work force reduction  
8 pursuant to public law 100-379, the federal worker adjustment and  
9 retraining notification act ~~(, 29 U.S.C. §§ 2101 through 2109)~~, as amended.  
10 The secretary shall adopt rules and regulations to administer the provisions  
11 of this paragraph.

12 (3) *A claimant shall become eligible to receive compensation for the*  
13 *waiting period of one week, pursuant to paragraph (1), upon completion*  
14 *of three weeks of unemployment consecutive to such waiting period. This*  
15 *paragraph shall not apply to initial claims effective on and after April 1,*  
16 *2021.*

17 (e) For benefit years established on and after the effective date of this  
18 act, the claimant has been paid total wages for insured work in the  
19 claimant's base period of not less than 30 times the claimant's weekly  
20 benefit amount and has been paid wages in more than one quarter of the  
21 claimant's base period, except that the wage credits of an individual earned  
22 during the period commencing with the end of a prior base period and  
23 ending on the date ~~on which~~ *that* such individual filed a valid initial claim  
24 shall not be available for benefit purposes in a subsequent benefit year  
25 unless, in addition thereto, such individual has returned to work and  
26 subsequently earned wages for insured work in an amount equal to at least  
27 eight times the claimant's current weekly benefit amount.

28 (f) The claimant participates in reemployment services, such as job  
29 search assistance services, if the individual has been determined to be  
30 likely to exhaust regular benefits and needs reemployment services  
31 pursuant to a profiling system established by the secretary, unless the  
32 secretary determines that: (1) The individual has completed such services;  
33 or (2) there is justifiable cause for the claimant's failure to participate in  
34 such services.

35 (g) The claimant is returning to work after a qualifying injury and has  
36 been paid total wages for insured work in the claimant's alternative base  
37 period of not less than 30 times the claimant's weekly benefit amount and  
38 has been paid wages in more than one quarter of the claimant's alternative  
39 base period if:

40 (1) The claimant has filed for benefits within four weeks of being  
41 released to return to work by a licensed and practicing health care  
42 provider;

43 (2) the claimant files for benefits within 24 months of the date the

1 qualifying injury occurred; and

2 (3) the claimant attempted to return to work with the employer where  
3 the qualifying injury occurred, but the individual's regular work or  
4 comparable and suitable work was not available.

5 Sec. 3. K.S.A. 2019 Supp. 44-704 and 44-705 are hereby repealed.

6 Sec. 4. This act shall take effect and be in force from and after its  
7 publication in the Kansas register.