

SENATE BILL No. 394

By Committee on Ways and Means

2-10

1 AN ACT concerning employment security law; relating to the number of
2 weeks a claimant is eligible for benefits; amending K.S.A. 2019 Supp.
3 44-704 and repealing the existing section.
4

5 WHEREAS, The amendments made to this section by this act shall be
6 known as the Workforce Protection Act.

7 Now, therefore:

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

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

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

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

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

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

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

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

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

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

1 (e) All claims qualifying for payment at the maximum weekly benefit
2 amount shall be paid at the maximum weekly benefit amount in effect
3 when the benefit year to which the claim relates was first established,
4 notwithstanding a subsequent change in the maximum weekly benefit
5 amount.

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

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

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

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

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

24 (A) Remuneration received for services performed on a public
25 assistance work project;

26 (B) severance pay, in lieu of notice, under the provisions of public
27 law 100-379, the federal worker adjustment and retraining notification act,
28 (29 U.S.C.A. §§ 2101 through 2109);

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

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

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

41 (g) *Duration of benefits.* Any otherwise eligible individual shall be
42 entitled during any benefit year to a total amount of benefits equal to
43 whichever is the lesser of 26 times such individual's weekly benefit

1 amount, or $\frac{1}{3}$ of such individual's wages for insured work paid during such
2 individual's base period. Such total amount of benefits, if not a multiple of
3 \$1, shall be reduced to the next lower multiple of \$1.

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

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

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

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

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

32 (j) ~~For weeks commencing on and after January 1, 2014, if at the~~
33 ~~beginning of the benefit year, the three month seasonally adjusted average~~
34 ~~unemployment rate for the state of Kansas is: (1) Less than 4.5%, a~~
35 ~~claimant shall be eligible for a maximum of 16 weeks of benefits; (2) at~~
36 ~~least 4.5% but less than [than] 6%, a claimant shall be eligible for a~~
37 ~~maximum of 20 weeks of benefits; or (3) at least 6%; A claimant shall be~~
38 eligible for a maximum of 26 weeks of benefits.

39 Sec. 2. K.S.A. 2019 Supp. 44-704 is hereby repealed.

40 Sec. 3. This act shall take effect and be in force from and after its
41 publication in the Kansas register.