

HOUSE BILL No. 2728

By Committee on Business, Commerce and Labor

1-29

AN ACT concerning the employment security law; relating to contributions and benefits payable thereunder; amending K.S.A. 44-704 and repealing the existing section.

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

Section 1. K.S.A. 44-704 is hereby amended to read as follows: 44-704. (a) *Payment of benefits.* All benefits provided herein shall be payable from the fund. All benefits shall be paid through the secretary of human resources, in accordance with such rules and regulations as the secretary may adopt. Benefits based on service in employment defined in subsections (i)(3)(E) and (i)(3)(F) of K.S.A. 44-703, and amendments thereto, shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this act except as provided in subsection (e) of K.S.A. 44-705 and subsection (e)(2) of K.S.A. 44-711, and ~~any amendments to these statutes thereto.~~

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

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

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

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

(c) *Maximum weekly benefit amount.* On July 1 of each year, the secretary shall determine the maximum weekly benefit amount by computing ~~60%~~ 100% of the average weekly wages paid to employees in insured work during the previous calendar year and shall prior to that date announce the maximum weekly benefit amount so determined, by publication in the Kansas register. Such computation shall be made by

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

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

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

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

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

38 (B) holiday pay that was payable with no condition of attendance on
39 other regularly scheduled day or days; and

40 (C) severance pay, if paid as scheduled, and all other employment
41 benefits within the employer's control, as defined in subsection (e)(3), if
42 continued as though the severance had not occurred, except as set out in
43 subsection (e)(2)(D).

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

3 (A) Remuneration received for services performed on a public assis-
4 tance work project;

5 (B) vacation pay, except as set out in subsection (e)(1)(A) above;

6 (C) holiday pay that was not payable unless the individual complied
7 with a condition of attendance on another regularly scheduled day or days;

8 (D) severance pay, in lieu of notice, under the provisions of public
9 law 100-379, the federal worker adjustment and retraining notification
10 act (29 U.S.C.A. 2101 through 2109); and

11 (E) all other severance pay, separation pay, bonuses, wages in lieu of
12 notice or remuneration of a similar nature that is payable after the sev-
13 erance of the employment relationship, except as set out in subsection
14 (e)(1)(C).

15 (3) For the purposes of this subsection (e), “employment benefits
16 within the employer’s control” means benefits offered by the employer
17 to employees which are employee benefit plans as defined by section 3
18 of the federal employee retirement income security act of 1974, as
19 amended, (29 U.S.C. 1002) and which the employer has the option to
20 continue to provide to the employee after the last day that the employee
21 worked for that employer.

22 (f) *Duration of benefits.* Any otherwise eligible individual shall be
23 entitled during any benefit year to a total amount of benefits equal to
24 whichever is the lesser of 26 times such individual’s weekly benefit
25 amount, or $\frac{1}{3}$ of such individual’s wages for insured work paid during
26 such individual’s base period. Such total amount of benefits, if not a mul-
27 tiple of \$1, shall be reduced to the next lower multiple of \$1.

28 (g) For the purposes of this section, wages shall be counted as “wages
29 for insured work” for benefit purposes with respect to any benefit year
30 only if such benefit year begins subsequent to the date on which the
31 employing unit by whom such wages were paid has satisfied the condi-
32 tions of subsection (h) of K.S.A. 44-703, and amendments thereto, with
33 respect to becoming an employer.

34 Sec. 2. K.S.A. 44-704 is hereby repealed.

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

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