

## HOUSE BILL No. 2452

By Committee on Appropriations

3-21

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AN ACT concerning the employment security law; relating to eligibility for benefits; suspension of waiting period for certain claims; amending K.S.A. 44-757 and K.S.A. 2002 Supp. 44-705 and repealing the existing sections.

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

Section 1. K.S.A. 2002 Supp. 44-705 is hereby amended to read as follows: 44-705. Except as provided by K.S.A. 44-757 and amendments thereto, an unemployed individual shall be eligible to receive benefits with respect to any week only if the secretary, or a person or persons designated by the secretary, finds that:

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

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

(c) The claimant is able to perform the duties of such claimant's customary occupation or the duties of other occupations for which the claimant is reasonably fitted by training or experience, and is available for work, as demonstrated by the claimant's pursuit of the full course of action most reasonably calculated to result in the claimant's reemployment except that, notwithstanding any other provisions of this section, an unemployed claimant otherwise eligible for benefits shall not become ineligible for benefits because of the claimant's enrollment in and satisfactory pursuit of approved training, including training approved under section 236(a)(1) of the trade act of 1974.

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

(d) The claimant has been unemployed for a waiting period of one week or the claimant is unemployed and has satisfied the requirement for a waiting period of one week under the shared work unemployment

1 compensation program as provided in subsection (k)(4) of K.S.A. 44-757  
2 and amendments thereto, which period of one week, in either case, occurs  
3 within the benefit year which includes the week for which the claimant  
4 is claiming benefits. *The waiting period requirement of this subsection (d)*  
5 *shall not apply to new claims filed during the period commencing on July*  
6 *1, 2003, and ending with June 30, 2004.* No week shall be counted as a  
7 week of unemployment for the purposes of this subsection (d):

8 (1) If benefits have been paid for such week;

9 (2) if the individual fails to meet with the other eligibility require-  
10 ments of this section; or

11 (3) if an individual is seeking unemployment benefits under the un-  
12 employment compensation law of any other state or of the United States,  
13 except that if the appropriate agency of such state or of the United States  
14 finally determines that the claimant is not entitled to unemployment ben-  
15 efits under such other law, this subsection (d)(3) shall not apply.

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

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

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

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

42 (2) The claimant files for benefits within 24 months of the date the  
43 qualifying injury occurred.

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

4 Sec. 2. K.S.A. 44-757 is hereby amended to read as follows: 44-757.  
5 *Shared work unemployment compensation program.* (a) As used in this  
6 section:

7 (1) "Affected unit" means a specified department, shift or other unit  
8 of two or more employees that is designated by an employer to participate  
9 in a shared work plan.

10 (2) "Fringe benefit" means health insurance, a retirement benefit  
11 received under a pension plan, a paid vacation day, a paid holiday, sick  
12 leave, and any other analogous employee benefit that is provided by an  
13 employer.

14 (3) "Fund" has the meaning ascribed thereto by subsection (k) of  
15 K.S.A. 44-703 and amendments thereto.

16 (4) "Normal weekly hours of work" means the lesser of 40 hours or  
17 the average obtained by dividing the total number of hours worked per  
18 week during the preceding twelve-week period by the number 12.

19 (5) "Participating employee" means an employee who works a re-  
20 duced number of hours under a shared work plan.

21 (6) "Participating employer" means an employer who has a shared  
22 work plan in effect.

23 (7) "Secretary" means the secretary of human resources or the sec-  
24 retary's designee.

25 (8) "Shared work benefit" means an unemployment compensation  
26 benefit that is payable to an individual in an affected unit because the  
27 individual works reduced hours under an approved shared work plan.

28 (9) "Shared work plan" means a program for reducing unemployment  
29 under which employees who are members of an affected unit share the  
30 work remaining after a reduction in their normal weekly hours of work.

31 (10) "Shared work unemployment compensation program" means a  
32 program designed to reduce unemployment and stabilize the work force  
33 by allowing certain employees to collect unemployment compensation  
34 benefits if the employees share the work remaining after a reduction in  
35 the total number of hours of work and a corresponding reduction in  
36 wages.

37 (b) The secretary shall establish a voluntary shared work unemploy-  
38 ment compensation program as provided by this section. The secretary  
39 may adopt rules and regulations and establish procedures necessary to  
40 administer the shared work unemployment compensation program.

41 (c) An employer who wishes to participate in the shared work un-  
42 employment compensation program must submit a written shared work  
43 plan to the secretary for the secretary's approval. As a condition for ap-

1 proval, a participating employer must agree to furnish the secretary with  
2 reports relating to the operation of the shared work plan as requested by  
3 the secretary. The employer shall monitor and evaluate the operation of  
4 the established shared work plan as requested by the secretary and shall  
5 report the findings to the secretary.

6 (d) The secretary may approve a shared work plan if:

7 (1) The shared work plan applies to and identifies a specific affected  
8 unit;

9 (2) the employees in the affected unit are identified by name and  
10 social security number;

11 (3) the shared work plan reduces the normal weekly hours of work  
12 for an employee in the affected unit by not less than 20% and not more  
13 than 40%;

14 (4) the shared work plan applies to at least 10% of the employees in  
15 the affected unit;

16 (5) the shared work plan describes the manner in which the partici-  
17 pating employer treats the fringe benefits of each employee in the af-  
18 fected unit;

19 (6) the employer certifies that the implementation of a shared work  
20 plan and the resulting reduction in work hours is in lieu of temporary  
21 layoffs that would affect at least 10% of the employees in the affected  
22 unit and that would result in an equivalent reduction in work hours;

23 (7) the employer has filed all reports required to be filed under the  
24 employment security law for all past and current periods and has paid all  
25 contributions, benefit cost payments, or if a reimbursing employer has  
26 made all payments in lieu of contributions due for all past and current  
27 periods; and

28 (8) (A) a contributing employer must be eligible for a rate compu-  
29 tation under subsection (a)(2) of K.S.A. 44-710a and amendments thereto  
30 and is not a negative account employer as defined by subsection (d) of  
31 K.S.A. 44-710a and amendments thereto; (B) a rated governmental em-  
32 ployer must be eligible for a rate computation under subsection (g) of  
33 K.S.A. 44-710d and amendments thereto.

34 (e) If any of the employees who participate in a shared work plan  
35 under this section are covered by a collective bargaining agreement, the  
36 shared work plan must be approved in writing by the collective bargaining  
37 agent.

38 (f) A shared work plan may not be implemented to subsidize seasonal  
39 employers during the off-season or to subsidize employers who have tra-  
40 ditionally used part-time employees.

41 (g) The secretary shall approve or deny a shared work plan no later  
42 than the 30th day after the day the shared work plan is received by the  
43 secretary. The secretary shall approve or deny a shared work plan in

1 writing. If the secretary denies a shared work plan, the secretary shall  
2 notify the employer of the reasons for the denial.

3 (h) A shared work plan is effective on the date it is approved by the  
4 secretary, except for good cause a shared work plan may be effective at  
5 any time within a period of 14 days prior to the date such plan is approved  
6 by the secretary. The shared work plan expires on the last day of the 12th  
7 full calendar month after the effective date of the shared work plan.

8 (i) An employer may modify a shared work plan created under this  
9 section to meet changed conditions if the modification conforms to the  
10 basic provisions of the shared work plan as approved by the secretary.  
11 The employer must report the changes made to the shared work plan in  
12 writing to the secretary before implementing the changes. If the original  
13 shared work plan is substantially modified, the secretary shall reevaluate  
14 the shared work plan and may approve the modified shared work plan if  
15 it meets the requirements for approval under subsection (d). The approval  
16 of a modified shared work plan does not affect the expiration date origi-  
17 nally set for that shared work plan. If substantial modifications cause the  
18 shared work plan to fail to meet the requirements for approval, the sec-  
19 retary shall deny approval to the modifications as provided by subsection  
20 (g).

21 (j) Notwithstanding any other provisions of the employment security  
22 law, an individual is unemployed and is eligible for shared work benefits  
23 in any week in which the individual, as an employee in an affected unit,  
24 works for less than the individual's normal weekly hours of work in ac-  
25 cordance with an approved shared work plan in effect for that week. The  
26 secretary may not deny shared work benefits for any week to an otherwise  
27 eligible individual by reason of the application of any provision of the  
28 employment security law that relates to availability for work, active search  
29 for work or refusal to apply for or accept work with an employer other  
30 than the participating employer.

31 (k) An individual is eligible to receive shared work benefits with re-  
32 spect to any week in which the secretary finds that:

33 (1) The individual is employed as a member of an affected unit sub-  
34 ject to a shared work plan that was approved before the week in question  
35 and is in effect for that week;

36 (2) the individual is able to work and is available for additional hours  
37 of work or full-time work with the participating employer;

38 (3) the individual's normal weekly hours of work have been reduced  
39 by at least 20% but not more than 40%, with a corresponding reduction  
40 in wages; and

41 (4) the individual's normal weekly hours of work and wages have been  
42 reduced as described in paragraph (3) of this subsection (k) for a waiting  
43 period of one week which occurs within the period the shared work plan

1 is in effect, which period includes the week for which the individual is  
2 claiming shared work benefits. *The waiting period requirement of this*  
3 *subsection (k)(4) shall not apply to new claims filed during the period*  
4 *commencing on July 1, 2003, and ending with June 30, 2004.*

5 (l) The secretary shall pay an individual who is eligible for shared  
6 work benefits under this section a weekly shared work benefit amount  
7 equal to the individual's regular weekly benefit amount for a period of  
8 total unemployment multiplied by the nearest full percentage of reduction  
9 of the individual's hours as set forth in the employer's shared work  
10 plan. If the shared benefit amount is not a multiple of \$1, the secretary  
11 shall reduce the amount to the next lowest multiple of \$1. All shared work  
12 benefits under this section shall be payable from the fund.

13 (m) The secretary may not pay an individual shared work benefits for  
14 any week in which the individual performs paid work for the participating  
15 employer in excess of the reduced hours established under the shared  
16 work plan.

17 (n) An individual may not receive shared work benefits and regular  
18 unemployment compensation benefits in an amount that exceeds the  
19 maximum total amount of benefits payable to that individual in a benefit  
20 year as provided by subsection (f) of K.S.A. 44-704 and amendments  
21 thereto.

22 (o) An individual who has received all of the shared work benefits  
23 and regular unemployment compensation benefits available in a benefit  
24 year is an exhaustee under K.S.A. 44-704a and 44-704b and amendments  
25 thereto and is entitled to receive extended benefits under such statutes  
26 if the individual is otherwise eligible under such statutes.

27 (p) The secretary may terminate a shared work plan for good cause  
28 if the secretary determines that the shared work plan is not being executed  
29 according to the terms and intent of the shared work unemployment  
30 compensation program.

31 (q) Notwithstanding any other provisions of this section, an individual  
32 shall not be eligible to receive shared work benefits for more than 26  
33 calendar weeks during the twelve-month period of the shared work plan.  
34 No week shall be counted as a week for which an individual is eligible  
35 for shared work benefits for the purposes of this section unless the week  
36 occurs within the twelve-month period of the shared work plan.

37 (r) No shared work benefit payment shall be made under any shared  
38 work plan or this section for any week which commences before April 1,  
39 1989.

40 (s) This section shall be construed as part of the employment security  
41 law.

42 Sec. 3. K.S.A. 44-757 and K.S.A. 2002 Supp. 44-705 are hereby  
43 repealed.

1       Sec. 4. This act shall take effect and be in force from and after its  
2 publication in the statute book.  
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