

Proposed Amendment
SUB HB 2105
SENATE COMMERCE COM
Charles Reimer
Asst Revisor
3-22-2013

Sub. HB 2105

15

1 furnish a written statement to the employer, reporting all tips received if
2 they total \$20 or more for a calendar month whether the tips are received
3 directly from a person other than the employer or are paid over to the
4 employee by the employer. This includes amounts designated as tips by a
5 customer who uses a credit card to pay the bill. Notwithstanding the other
6 provisions of this subsection (o), wages paid in back pay awards or
7 settlements shall be allocated to the week or weeks and reported in the
8 manner as specified in the award or agreement, or, in the absence of such
9 specificity in the award or agreement, such wages shall be allocated to the
10 week or weeks in which such wages, in the judgment of the secretary,
11 would have been paid. The term "wages" shall not include:

12 (1) That part of the remuneration which has been paid in a calendar
13 year to an individual by an employer or such employer's predecessor in
14 excess of \$3,000 for all calendar years prior to 1972, in excess of \$4,200
15 for the calendar years 1972 to 1977, inclusive, in excess of \$6,000 for
16 calendar years 1978 to 1982, inclusive, in excess of \$7,000 for the
17 calendar year 1983, in excess of \$8,000 for the calendar years 1984 to
18 2014, inclusive, and in excess of ~~\$8,000~~ [16,000] with respect to
19 employment during any calendar year following 1983 2014, except that if
20 the definition of the term "wages" as contained in the federal
21 unemployment tax act is amended to include remuneration in excess of
22 ~~\$8,000~~ \$16,000 paid to an individual by an employer under the federal act
23 during any calendar year, wages shall include remuneration paid in a
24 calendar year to an individual by an employer subject to this act or such
25 employer's predecessor with respect to employment during any calendar
26 year up to an amount equal to the dollar limitation specified in the federal
27 unemployment tax act. For the purposes of this subsection (o)(1), the term
28 "employment" shall include service constituting employment under any
29 employment security law of another state or of the federal government;

30 (2) the amount of any payment (including any amount paid by an
31 employing unit for insurance or annuities, or into a fund, to provide for
32 any such payment) made to, or on behalf of, an employee or any of such
33 employee's dependents under a plan or system established by an employer
34 which makes provisions for employees generally, for a class or classes of
35 employees or for such employees or a class or classes of employees and
36 their dependents, on account of: (A) Sickness or accident disability, except
37 in the case of any payment made to an employee or such employee's
38 dependents, this subparagraph shall exclude from the term "wages" only
39 payments which are received under a workers compensation law. Any third
40 party which makes a payment included as wages by reason of this
41 subparagraph (2)(A) shall be treated as the employer with respect to such
42 wages; or (B) medical and hospitalization expenses in connection with
43 sickness or accident disability; or (C) death;

calendar
year
2015,

\$ 12,000
and in
excess of
\$16,000 with
respect to
all calendar
years
thereafter

Senate Commerce Committee
Date: 3-22-13
Attachment: 2

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

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

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

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

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

Sec. 4. K.S.A. 2012 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.

(i) For weeks commencing on and after January 1, 2014, if at the beginning of the benefit year, the three month seasonally adjusted average unemployment rate for the State of Kansas is: (1) less than 4.5%, a claimant shall be eligible for a maximum of 16 weeks of benefits; (2) ~~at least 4.5% but less than 6%~~, ^{at least 4.5% but less than 6%}, a claimant shall be eligible for a maximum of 20 weeks of benefits; or (3) at least 6%, a claimant shall be eligible for a maximum of 26 weeks of benefits.

by 50%, for rate groups 29 through 51, the rates would be reduced by 40%.

(iii) In order to be eligible for the reduced rates for rate year 2007, the employer must file all late reports and pay all contributions due and owing within a 30-day period following the date of mailing of the amended rate notice.

(iv) In order to be eligible for the reduced rates for rate-year ~~2008~~ and subsequent ~~the~~ years 2008 through 2013, employers must file all reports due and pay all contributions due and owing on or before January 31 of the applicable year, except that the reduced rates for otherwise eligible employers shall not be effective for any rate year if the average high cost multiple of the employment security trust fund balance falls below 1.2 as of the computation date of that year's rates. In order to be eligible for the reduced rates for rate year 2014 and subsequent rate years, employers must file all reports due and pay all contributions due and owing on or before January 31 of the applicable year, except that the reduced rates for otherwise eligible employers shall not be effective for any rate year if the average high cost multiple of the employment security trust fund balance falls below 1.0 as of the computation date of that year's rates. For the purposes of this provision, the average high cost multiple is the reserve fund ratio, as defined by subsection (a)(3)(A), divided by the average high benefit cost rate. The average high benefit cost rate shall be determined by averaging the three highest benefit cost rates over the last 20 years from the preceding fiscal year which ended June 30. The high benefit cost rate is defined by dividing total benefits paid in the fiscal year by total payrolls for covered employers in the fiscal year.

(b) *Successor classification.* (1) (A) For the purposes of this subsection

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Insert new section (v), attached.

(b), whenever an employing unit, whether or not it is an "employing unit" within the meaning of subsection (g) of K.S.A. 44-703, and amendments thereto, becomes an employer pursuant to subsection (h)(4) of K.S.A. 44-703, and amendments thereto, or is an employer at the time of acquisition and meets the definition of a "successor employer" as defined by subsection (dd) of K.S.A. 44-703, and amendments thereto, and thereafter transfers its trade or business, or any portion thereof, to another employer and, at the time of the transfer, there is substantially common ownership, management or control of the two employers, then the unemployment experience attributable to the transferred trade or business shall be transferred to the employer to whom such business is so transferred. These experience factors consist of all contributions paid, benefit experience and annual payrolls of the predecessor employer. The transfer of some or all of an employer's workforce to another employer shall be considered a transfer of trade or business when, as the result of such transfer, the transferring employer no longer performs trade or

(v) A positive balance employer who has filed all reports due and paid all contributions due and owing on or before January 31 of the applicable year is entitled to a rate discount of 20% except as provided in this subsection. This discount shall not be in effect if other discounts pursuant to subsections (a)(3)(C)(i) through (iv) are in effect. This discount shall not be available for a rate year if the average high cost multiple of the employment security trust fund balance falls below 1.0 as of the computation date of that year's rates, and this discount shall thereafter cease to be in effect for all subsequent rate years. For the purposes of this provision, the average high cost multiple is the reserve fund ratio, as defined by subsection (a)(3)(A), divided by the average high benefit cost rate. The average high benefit cost rate shall be determined by averaging the three highest benefit cost rates over the last 20 years from the preceding fiscal year which ended June 30. The high benefit cost rate is defined by dividing total benefits paid in the fiscal year by total payrolls for covered employers in the fiscal year.