

Senate Substitute for HOUSEHOUSE BILL No. 2154

By Committee on Commerce

5-21

1 AN ACT concerning the employment security law; relating to public
2 policy; eligibility for benefits; contribution rates; federal
3 reimbursement; employer notifications; shared work plan eligibility;
4 COVID-19 response; amending K.S.A. 2019 Supp. 44-702, 44-705, as
5 amended by section 2 of 2020 Senate Bill No. 27, 44-709, 44-710 and
6 44-757 and repealing the existing sections.
7

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

9 Section 1. K.S.A. 2019 Supp. 44-702 is hereby amended to read as
10 follows: 44-702. As a guide to the interpretation and application of this act,
11 the public policy of this state is declared to be as follows: Economic
12 insecurity, due to unemployment, is a serious menace to health, morals,
13 and welfare of the people of this state. Involuntary unemployment is
14 therefore a subject of general interest and concern—~~which~~ *that* requires
15 appropriate action by the legislature to prevent its spread and to lighten its
16 burden—~~which~~ *that* now so often falls with crushing force upon the
17 unemployed worker and such worker's family. The achievement of social
18 security requires protection against this greatest hazard of our economic
19 life. This can be provided by encouraging employers to provide more
20 stable employment and by the systematic accumulation of funds during
21 periods of employment to provide benefits for periods of unemployment,
22 thus maintaining purchasing power and limiting the serious social
23 consequences of poor-relief assistance. The legislature, therefore, declares
24 that in its considered judgment the public good and the general welfare of
25 the citizens of this state require the enactment of this measure, under the
26 police powers of the state, for the compulsory setting aside of
27 unemployment reserves to be used for the benefit of persons unemployed.
28 *The state of Kansas is committed to maintaining and strengthening access*
29 *to the unemployment compensation system, including through initial and*
30 *continuing claims.* All persons and employers are entitled to a neutral
31 interpretation of the employment security law.

32 Sec. 2. K.S.A. 2019 Supp. 44-705, as amended by section 2 of 2020
33 Senate Bill No. 27, is hereby amended to read as follows: 44-705. Except
34 as provided by K.S.A. 44-757, and amendments thereto, an unemployed
35 individual shall be eligible to receive benefits with respect to any week
36 only if the secretary, or a person or persons designated by the secretary,

1 finds that:

2 (a) The claimant has registered for work at and thereafter continued
3 to report at an employment office in accordance with rules and regulations
4 adopted by the secretary, except that, subject to the provisions of K.S.A.
5 44-704(a), and amendments thereto, the secretary may adopt rules and
6 regulations that waive or alter either or both of the requirements of this
7 subsection.

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

10 (c) The claimant is able to perform the duties of such claimant's
11 customary occupation or the duties of other occupations that the claimant
12 is reasonably fitted by training or experience, and is available for work, as
13 demonstrated by the claimant's pursuit of the full course of action most
14 reasonably calculated to result in the claimant's reemployment except that,
15 notwithstanding any other provisions of this section, an unemployed
16 claimant otherwise eligible for benefits shall not become ineligible for
17 benefits: (1) Because of the claimant's enrollment in and satisfactory
18 pursuit of approved training, including training approved under section
19 236(a)(1) of the trade act of 1974; ~~or~~ (2) solely because such individual is
20 seeking only part-time employment if the individual is available for a
21 number of hours per week that are comparable to the individual's part-time
22 work experience in the base period; *or* (3) *because a claimant is not*
23 *actively seeking work: (i) During a state of disaster emergency proclaimed*
24 *by the governor pursuant to K.S.A. 48-924 and 48-925, and amendments*
25 *thereto; (ii) in response to the spread of the public health emergency of*
26 *COVID-19; and (iii) the state's temporary waiver of the work search*
27 *requirement under the employment security law for such claimant is in*
28 *compliance with the families first coronavirus response act (Pub. L. No.*
29 *116-127).*

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

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

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

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

1 (C) if an individual is seeking unemployment benefits under the
2 unemployment compensation law of any other state or of the United
3 States, except that if the appropriate agency of such state or of the United
4 States finally determines that the claimant is not entitled to unemployment
5 benefits under such other law, this subparagraph shall not apply.

6 (2) (A) The waiting week requirement of paragraph (1) shall not
7 apply to:

8 (i) New claims by claimants who become unemployed as a result of
9 an employer terminating business operations within this state, declaring
10 bankruptcy or initiating a work force reduction pursuant to public law 100-
11 379, the federal worker adjustment and retraining notification act, 29
12 U.S.C. §§ 2101 through 2109, as amended; *or*

13 (ii) *new claims filed on or after April 5, 2020, through December 26,*
14 *2020, in accordance with the families first coronavirus response act (Pub.*
15 *L. No. 116-127) and the coronavirus aid, relief, and economic security act*
16 *(Pub. L. No. 116-136).*

17 (B) The secretary shall adopt rules and regulations to administer the
18 provisions of this paragraph.

19 (3) *If the waiting week requirement of paragraph (1) applies, a*
20 *claimant shall become eligible to receive compensation for the waiting*
21 *period of one week, pursuant to paragraph (1), upon completion of three*
22 *weeks of unemployment consecutive to such waiting period. This*
23 *paragraph shall not apply to initial claims effective on and after April 1,*
24 *2021.*

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

36 (f) The claimant participates in reemployment services, such as job
37 search assistance services, if the individual has been determined to be
38 likely to exhaust regular benefits and needs reemployment services
39 pursuant to a profiling system established by the secretary, unless the
40 secretary determines that: (1) The individual has completed such services;
41 or (2) there is justifiable cause for the claimant's failure to participate in
42 such services.

43 (g) The claimant is returning to work after a qualifying injury and has

1 been paid total wages for insured work in the claimant's alternative base
2 period of not less than 30 times the claimant's weekly benefit amount and
3 has been paid wages in more than one quarter of the claimant's alternative
4 base period if:

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

8 (2) the claimant files for benefits within 24 months of the date the
9 qualifying injury occurred; and

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

13 Sec. 3. K.S.A. 2019 Supp. 44-709 is hereby amended to read as
14 follows: 44-709. (a) *Filing*. Claims for benefits shall be made in
15 accordance with rules and regulations adopted by the secretary. The
16 secretary shall furnish a copy of such rules and regulations to any
17 individual requesting them. Each employer shall: (1) Post and maintain
18 printed statements furnished by the secretary without cost to the employer
19 in places readily accessible to individuals in the service of the employer;
20 and (2) *provide any other notification to individuals in the service of the*
21 *employer as required by the secretary pursuant to the families first*
22 *coronavirus response act (Pub. L. No. 116-127).*

23 (b) *Determination*. (1) Except as otherwise provided in this
24 paragraph, a representative designated by the secretary, and hereinafter
25 referred to as an examiner, shall promptly examine the claim and, on the
26 basis of the facts found by the examiner, shall determine whether or not
27 the claim is valid. If the examiner determines that the claim is valid, the
28 examiner shall determine the first day of the benefit year, the weekly
29 benefit amount and the total amount of benefits payable with respect to the
30 benefit year. If the claim is determined to be valid, the examiner shall send
31 a notice to the last employing unit who shall respond within 10 days by
32 providing the examiner all requested information including all information
33 required for a decision under K.S.A. 44-706, and amendments thereto. The
34 information may be submitted by the employing unit in person at an
35 employment office of the secretary or by mail, by telefacsimile machine or
36 by electronic mail. If the required information is not submitted or
37 postmarked within a response time limit of 10 days after the examiner's
38 notice was sent, the employing unit shall be deemed to have waived its
39 standing as a party to the proceedings arising from the claim and shall be
40 barred from protesting any subsequent decisions about the claim by the
41 secretary, a referee, the employment security board of review or any court,
42 except that the employing unit's response time limit may be waived or
43 extended by the examiner or upon appeal, if timely response was

1 impossible due to excusable neglect. In any case in which the payment or
2 denial of benefits will be determined by the provisions of K.S.A. 44-
3 706(d), and amendments thereto, the examiner shall promptly transmit the
4 claim to a special examiner designated by the secretary to make a
5 determination on the claim after the investigation as the special examiner
6 deems necessary. The parties shall be promptly notified of the special
7 examiner's decision and any party aggrieved by the decision may appeal to
8 the referee as provided in subsection (c). The claimant and the claimant's
9 most recent employing unit shall be promptly notified of the examiner's or
10 special examiner's decision.

11 (2) The examiner may for good cause reconsider the examiner's
12 decision and shall promptly notify the claimant and the most recent
13 employing unit of the claimant, that the decision of the examiner is to be
14 reconsidered, except that no reconsideration shall be made after the
15 termination of the benefit year.

16 (3) Notwithstanding the provisions of any other statute, a decision of
17 an examiner or special examiner shall be final unless the claimant or the
18 most recent employing unit of the claimant files an appeal from the
19 decision as provided in subsection (c), except that the time limit for appeal
20 may be waived or extended by the referee or board of review if a timely
21 response was impossible due to excusable neglect. The appeal must be
22 filed within 16 calendar days after the mailing of notice to the last known
23 addresses of the claimant and employing unit or, if notice is not by mail,
24 within 16 calendar days after the delivery of the notice to the parties.

25 (c) *Appeals.* Unless the appeal is withdrawn, a referee, after affording
26 the parties reasonable opportunity for fair hearing, shall affirm or modify
27 the findings of fact and decision of the examiner or special examiner. The
28 parties shall be duly notified of the referee's decision, together with the
29 reasons for the decision. The decision shall be final, notwithstanding the
30 provisions of any other statute, unless a further appeal to the employment
31 security board of review is filed within 16 calendar days after the mailing
32 of the decision to the parties' last known addresses or, if notice is not by
33 mail, within 16 calendar days after the delivery of the decision, except that
34 the time limit for appeal may be waived or extended by the referee or
35 board of review if a timely response was impossible due to excusable
36 neglect.

37 (d) *Referees.* The secretary shall appoint, in accordance with K.S.A.
38 44-714(c), and amendments thereto, one or more referees to hear and
39 decide disputed claims.

40 (e) *Time, computation and extension.* In computing the period of time
41 for an employing unit response or for appeals under this section from the
42 examiner's or the special examiner's determination or from the referee's
43 decision, the day of the act, event or default from which the designated

1 period of time begins to run shall not be included. The last day of the
2 period shall be included unless it is a Saturday, Sunday or legal holiday, in
3 which event the period runs until the end of the next day ~~which~~ that is not
4 a Saturday, Sunday or legal holiday.

5 (f) *Board of review.* (1) There is hereby created an employment
6 security board of review, hereinafter referred to as the board, consisting of
7 three members. Each member of the board shall be appointed for a term of
8 four years as provided in this subsection. Not more than two members of
9 the board shall belong to the same political party.

10 (2) When a vacancy on the employment security board of review
11 occurs, the workers compensation and employment security boards
12 nominating committee established under K.S.A. 44-551, and amendments
13 thereto, shall convene and submit a nominee to the governor for
14 appointment to each vacancy on the employment security board of review,
15 subject to confirmation by the senate as provided by K.S.A. 75-4315b, and
16 amendments thereto. The governor shall either: (A) Accept and submit to
17 the senate for confirmation the person nominated by the nominating
18 committee; or (B) reject the nomination and request the nominating
19 committee to nominate another person for that position. Except as
20 provided by K.S.A. 46-2601, and amendments thereto, no person
21 appointed to the employment security board of review, whose appointment
22 is subject to confirmation by the senate, shall exercise any power, duty or
23 function as a member until confirmed by the senate.

24 (3) No member of the employment security board of review shall
25 serve more than two consecutive terms.

26 (4) Each member of the employment security board shall serve until a
27 successor has been appointed and confirmed. Any vacancy in the
28 membership of the board occurring prior to expiration of a term shall be
29 filled by appointment for the unexpired term in the same manner as
30 provided for original appointment of the member.

31 (5) Each member of the employment security board of review shall
32 be entitled to receive as compensation for the member's services at the rate
33 of \$15,000 per year, together with the member's travel and other necessary
34 expenses actually incurred in the performance of the member's official
35 duties in accordance with rules and regulations adopted by the secretary.
36 Members' compensation and expenses shall be paid from the employment
37 security administration fund.

38 (6) The employment security board of review shall organize annually
39 by the election of a chairperson from among its members. The chairperson
40 shall serve in that capacity for a term of one year and until a successor is
41 elected. The board shall meet on the first Monday of each month or on the
42 call of the chairperson or any two members of the board at the place
43 designated. The secretary of labor shall appoint an executive secretary of

1 the board and the executive secretary shall attend the meetings of the
2 board.

3 (7) The employment security board of review, on its own motion,
4 may affirm, modify or set aside any decision of a referee on the basis of
5 the evidence previously submitted in the case; may direct the taking of
6 additional evidence; or may permit any of the parties to initiate further
7 appeal before it. The board shall permit such further appeal by any of the
8 parties interested in a decision of a referee ~~which~~ *that* overrules or
9 modifies the decision of an examiner. The board may remove to itself the
10 proceedings on any claim pending before a referee. Any proceedings so
11 removed to the board shall be heard in accordance with the requirements
12 of subsection (c). The board shall promptly notify the interested parties of
13 its findings and decision.

14 (8) Two members of the employment security board of review shall
15 constitute a quorum and no action of the board shall be valid unless it has
16 the concurrence of at least two members. A vacancy on the board shall not
17 impair the right of a quorum to exercise all the rights and perform all the
18 duties of the board.

19 (g) *Procedure.* The manner ~~in which~~ *that* disputed claims are
20 presented, the reports on claims required from the claimant and from
21 employers and the conduct of hearings and appeals shall be in accordance
22 with rules of procedure prescribed by the employment security board of
23 review for determining the rights of the parties, whether or not such rules
24 conform to common law or statutory rules of evidence and other technical
25 rules of procedure. A full and complete record shall be kept of all
26 proceedings and decisions in connection with a disputed claim. All
27 testimony at any hearing upon a disputed claim shall be recorded, but need
28 not be transcribed unless the disputed claim is further appealed. In the
29 performance of its official duties, the board shall have access to all of the
30 records ~~which~~ *that* pertain to the disputed claim and are in the custody of
31 the secretary of labor and shall receive the assistance of the secretary upon
32 request.

33 (h) *Witness fees.* Witnesses subpoenaed pursuant to this section shall
34 be allowed fees and necessary travel expenses at rates fixed by the board.
35 Such fees and expenses shall be deemed a part of the expense of
36 administering this act.

37 (i) *Review of board action.* Any action of the employment security
38 board of review may not be reconsidered after the mailing of the decision.
39 An action of the board shall become final unless a petition for review in
40 accordance with the Kansas judicial review act is filed within 16 calendar
41 days after the date of the mailing of the decision. If an appeal has not been
42 filed within 16 calendar days of the date of the mailing of the decision, the
43 decision becomes final. No bond shall be required for commencing an

1 action for such review. In addition to those persons having standing
2 pursuant to K.S.A. 77-611, and amendments thereto, the examiner shall
3 have standing to obtain judicial review of an action of such board. The
4 review proceeding, and the questions of law certified, shall be heard in a
5 summary manner and shall be given precedence over all other civil cases
6 except cases arising under the workers compensation act.

7 (j) Any finding of fact or law, judgment, determination, conclusion or
8 final order made by the employment security board of review or any
9 examiner, special examiner, referee or other person with authority to make
10 findings of fact or law pursuant to the employment security law is not
11 admissible or binding in any separate or subsequent action or proceeding,
12 between a person and a present or previous employer brought before an
13 arbitrator, court or judge of the state or the United States, regardless of
14 whether the prior action was between the same or related parties or
15 involved the same facts.

16 (k) In any proceeding or hearing conducted under this section, a party
17 to the proceeding or hearing may appear before a referee or the
18 employment security board of review either personally or by means of a
19 designated representative to present evidence and to state the position of
20 the party. Hearings may be conducted in person, by telephone or other
21 means of electronic communication. The hearing shall be conducted by
22 telephone or other means of electronic communication if none of the
23 parties requests an in-person hearing. If only one party requests an in-
24 person hearing, the referee shall have the discretion of requiring all parties
25 to appear in person or allow the party not requesting an in-person hearing
26 to appear by telephone or other means of electronic communication. The
27 notice of hearing shall include notice to the parties of their right to request
28 an in-person hearing and instructions on how to make the request.

29 Sec. 4. K.S.A. 2019 Supp. 44-710 is hereby amended to read as
30 follows: 44-710. (a) *Payment*. Contributions shall accrue and become
31 payable by each contributing employer for each calendar year ~~in which~~
32 *that* the contributing employer is subject to the employment security law
33 with respect to wages paid for employment. Such contributions shall
34 become due and be paid by each contributing employer to the secretary for
35 the employment security fund in accordance with such rules and
36 regulations as the secretary may adopt and shall not be deducted, in whole
37 or in part, from the wages of individuals in such employer's employ. In the
38 payment of any contributions, a fractional part of \$.01 shall be disregarded
39 unless it amounts to \$.005 or more, in which case it shall be increased to
40 \$.01. Should contributions for any calendar quarter be less than \$5, no
41 payment shall be required.

42 (b) *Rates and base of contributions*. (1) Except as provided in
43 paragraph (2) of this subsection, each contributing employer shall pay

1 contributions on wages paid by the contributing employer during each
2 calendar year with respect to employment as provided in K.S.A. 44-710a,
3 and amendments thereto. Except that, notwithstanding the federal law
4 requiring the secretary of labor to annually recalculate the contribution
5 rate, for calendar years 2010, 2011, 2012, 2013 and 2014, the secretary
6 shall charge each contributing employer in rate groups 1 through 32 the
7 contribution rate in the 2010 original tax rate computation table, with
8 contributing employers in rate groups 33 through 51 being capped at a
9 5.4% contribution rate. *For calendar year 2021, unemployment tax rates*
10 *for eligible employers shall be limited to the standard rate schedule in*
11 *K.S.A. 44-710a, and amendments thereto. Therefore, no additional*
12 *solvency adjustment shall be applied.*

13 (2) (A) If the congress of the United States either amends or repeals
14 the Wagner-Peysner act, the federal unemployment tax act, the federal
15 social security act, or subtitle C of chapter 23 of the federal internal
16 revenue code of 1986, or any act or acts supplemental to or in lieu thereof,
17 or any part or parts of any such law, or if any such law, or any part or parts
18 thereof, are held invalid with the effect that appropriations of funds by
19 congress and grants thereof to the state of Kansas for the payment of costs
20 of administration of the employment security law are no longer available
21 for such purposes; or (B) if employers in Kansas subject to the payment of
22 tax under the federal unemployment tax act are granted full credit against
23 such tax for contributions or taxes paid to the secretary of labor, then, and
24 in either such case, beginning with the year ~~in which~~ *that* the unavailability
25 of federal appropriations and grants for such purpose occurs or ~~in which~~
26 *that* such change in liability for payment of such federal tax occurs and for
27 each year thereafter, the rate of contributions of each contributing
28 employer shall be equal to the total of 0.5% and the rate of contributions as
29 determined for such contributing employer under K.S.A. 44-710a, and
30 amendments thereto. The amount of contributions ~~which~~ *that* each
31 contributing employer becomes liable to pay under this paragraph (2) over
32 the amount of contributions ~~which~~ *that* such contributing employer would
33 be otherwise liable to pay shall be credited to the employment security
34 administration fund to be disbursed and paid out under the same conditions
35 and for the same purposes as other moneys are authorized to be paid from
36 the employment security administration fund, except that, if the secretary
37 determines that as of the first day of January of any year there is an excess
38 in the employment security administration fund over the amount required
39 to be disbursed during such year, an amount equal to such excess as
40 determined by the secretary shall be transferred to the employment
41 security fund.

42 (c) *Charging of benefit payments.* (1) The secretary shall maintain a
43 separate account for each contributing employer, and shall credit the

1 contributing employer's account with all the contributions paid on the
2 contributing employer's own behalf. Nothing in the employment security
3 law shall be construed to grant any employer or individuals in such
4 employer's service prior claims or rights to the amounts paid by such
5 employer into the employment security fund either on such employer's
6 own behalf or on behalf of such individuals. Benefits paid shall be charged
7 against the accounts of each base period employer in the proportion that
8 the base period wages paid to an eligible individual by each such employer
9 bears to the total wages in the base period. Benefits shall be charged to
10 contributing employers' accounts and rated governmental employers'
11 accounts upon the basis of benefits paid during each twelve-month period
12 ending on the computation date.

13 (2) (A) Benefits paid in benefit years established by valid new claims
14 shall not be charged to the account of a contributing employer or rated
15 governmental employer who is a base period employer if the examiner
16 finds that claimant was separated from the claimant's most recent
17 employment with such employer under any of the following conditions: (i)
18 Discharged for misconduct or gross misconduct connected with the
19 individual's work; ~~or~~ (ii) leaving work voluntarily without good cause
20 attributable to the claimant's work or the employer; *or (iii) discharged*
21 *from an employer directly impacted by COVID-19 in accordance with the*
22 *families first coronavirus response act (Pub. L. No. 116-127).*

23 (B) Where base period wage credits of a contributing employer or
24 rated governmental employer represent part-time employment and the
25 claimant continues in that part-time employment with that employer
26 during the period for which benefits are paid, then that employer's account
27 shall not be charged with any part of the benefits paid if the employer
28 provides the secretary with information as required by rules and
29 regulations. For the purposes of this subsection (c)(2)(B), "part-time
30 employment" means any employment when an individual works less than
31 full-time because the individual's services are not required for the
32 customary, scheduled full-time hours prevailing at the work place or the
33 individual does not customarily work the regularly scheduled full-time
34 hours due to personal choice or circumstances.

35 (C) No contributing employer or rated governmental employer's
36 account shall be charged with any extended benefits paid in accordance
37 with the employment security law, except for weeks of unemployment
38 beginning after December 31, 1978, all contributing governmental
39 employers and governmental rated employers shall be charged an amount
40 equal to all extended benefits paid.

41 (D) No contributing employer, rated governmental employer or
42 reimbursing employer's account shall be charged for any additional
43 benefits paid during the period July 1, 2003 through June 30, 2004.

1 (E) No contributing employer or rated governmental employer's
2 account will be charged for benefits paid a claimant while pursuing an
3 approved training course as defined in ~~subsection (s)~~ of K.S.A. 44-703(s),
4 and amendments thereto.

5 (F) No contributing employer or rated governmental employer's
6 account shall be charged with respect to the benefits paid to any individual
7 whose base period wages include wages for services not covered by the
8 employment security law prior to January 1, 1978, to the extent that the
9 employment security fund is reimbursed for such benefits pursuant to
10 section 121 of public law 94-566 (90 Stat. 2673).

11 (G) With respect to weeks of unemployment beginning after
12 December 31, 1977, wages for insured work shall include wages paid for
13 previously uncovered services. For the purposes of this subsection (c)(2)
14 (G), the term "previously uncovered services" means services ~~which that~~
15 were not covered employment, at any time during the one-year period
16 ending December 31, 1975, except to the extent that assistance under title
17 II of the federal emergency jobs and unemployment assistance act of 1974
18 was paid on the basis of such services, and ~~which that~~:

19 (i) Are agricultural labor as defined in ~~subsection (w)~~ of K.S.A. 44-
20 703(w), and amendments thereto, or domestic service as defined in
21 ~~subsection (aa)~~ of K.S.A. 44-703(aa), and amendments thereto;

22 (ii) are services performed by an employee of this state or a political
23 subdivision thereof, as provided in ~~subsection (i)(3)(E)~~ of K.S.A. 44-
24 703(i)(3)(E), and amendments thereto; or

25 (iii) are services performed by an employee of a nonprofit educational
26 institution ~~which that~~ is not an institution of higher education.

27 (H) No contributing employer or rated governmental employer's
28 account shall be charged with respect to their pro rata share of benefit
29 charges if such charges are of \$100 or less.

30 (3) An employer's account shall not be relieved of charges relating to
31 a payment that was made erroneously if the secretary determines that:

32 (A) The erroneous payment was made because the employer, or the
33 agent of the employer, was at fault for failing to respond timely or
34 adequately to a written request from the secretary for information relating
35 to the claim for unemployment compensation; and

36 (B) the employer or agent has established a pattern of failing to
37 respond timely or adequately to requests for information.

38 (C) For purposes of this paragraph:

39 (i) "Erroneous payment" means a payment that but for the failure by
40 the employer or the employer's agent with respect to the claim for
41 unemployment compensation, would not have been made; and

42 (ii) "pattern of failure" means repeated documented failure on the part
43 of the employer or the agent of the employer to respond, taking into

1 consideration the number of instances of failure in relation to the total
2 volume of requests. An employer or employer's agent failing to respond as
3 described in (c)(3)(A) shall not be determined to have engaged in a
4 "pattern of failure" if the number of such failures during the year prior to
5 such request is fewer than two, or less than 2%, of such requests,
6 whichever is greater.

7 (D) Determinations of the secretary prohibiting the relief of charges
8 pursuant to this section shall be subject to appeal or protest as other
9 determinations of the agency with respect to the charging of employer
10 accounts.

11 (E) This paragraph shall apply to erroneous payments established on
12 and after the effective date of this act.

13 (4) The examiner shall notify any base period employer whose
14 account will be charged with benefits paid following the filing of a valid
15 new claim and a determination by the examiner based on all information
16 relating to the claim contained in the records of the division of
17 employment security. Such notice shall become final and benefits charged
18 to the base period employer's account in accordance with the claim unless
19 within 10 calendar days from the date the notice was sent, the base period
20 employer requests in writing that the examiner reconsider the
21 determination and furnishes any required information in accordance with
22 the secretary's rules and regulations. In a similar manner, a notice of an
23 additional claim followed by the first payment of benefits with respect to
24 the benefit year, filed by an individual during a benefit year after a period
25 in such year during which such individual was employed, shall be given to
26 any base period employer of the individual who has requested such a
27 notice within 10 calendar days from the date the notice of the valid new
28 claim was sent to such base period employer. For purposes of this
29 subsection (c)(3), if the required information is not submitted or
30 postmarked within a response time limit of 10 days after the base period
31 employer notice was sent, the base period employer shall be deemed to
32 have waived its standing as a party to the proceedings arising from the
33 claim and shall be barred from protesting any subsequent decisions about
34 the claim by the secretary, a referee, the board of review or any court,
35 except that the base period employer's response time limit may be waived
36 or extended by the examiner or upon appeal, if timely response was
37 impossible due to excusable neglect. The examiner shall notify the
38 employer of the reconsidered determination, which shall be subject to
39 appeal; or further reconsideration, in accordance with the provisions of
40 K.S.A. 44-709, and amendments thereto.

41 (5) *Time, computation and extension.* In computing the period of time
42 for a base period employer response or appeals under this section from the
43 examiner's or the special examiner's determination or from the referee's

1 decision, the day of the act, event or default from which the designated
2 period of time begins to run shall not be included. The last day of the
3 period shall be included unless it is a Saturday, Sunday or legal holiday, in
4 which event the period runs until the end of the next day ~~which~~ that is not
5 a Saturday, Sunday or legal holiday.

6 (d) *Pooled fund.* All contributions and payments in lieu of
7 contributions and benefit cost payments to the employment security fund
8 shall be pooled and available to pay benefits to any individual entitled
9 thereto under the employment security law, regardless of the source of
10 such contributions or payments in lieu of contributions or benefit cost
11 payments.

12 (e) *Election to become reimbursing employer; payment in lieu of*
13 *contributions.* (1) Any governmental entity, Indian tribes or tribal units,
14 (subdivisions, subsidiaries or business enterprises wholly owned by such
15 Indian tribes), for which services are performed as described in ~~subsection~~
16 ~~(i)(3)(E)~~ of K.S.A. 44-703(i)(3)(E), and amendments thereto, or any
17 nonprofit organization or group of nonprofit organizations described in
18 section 501(c)(3) of the federal internal revenue code of 1986 ~~which~~ that is
19 exempt from income tax under section 501(a) of such code, that becomes
20 subject to the employment security law may elect to become a reimbursing
21 employer under this subsection (e)(1) and agree to pay the secretary for the
22 employment security fund an amount equal to the amount of regular
23 benefits and ½ of the extended benefits paid that are attributable to service
24 in the employ of such reimbursing employer, except that each reimbursing
25 governmental employer, Indian tribes or tribal units shall pay an amount
26 equal to the amount of regular benefits and extended benefits paid for
27 weeks of unemployment beginning after December 31, 1978, for
28 governmental employers and December 21, 2000, for Indian tribes or
29 tribal units to individuals for weeks of unemployment ~~which~~ that begin
30 during the effective period of such election.

31 (A) Any employer identified in this subsection (e)(1) may elect to
32 become a reimbursing employer for a period encompassing not less than
33 four complete calendar years if such employer files with the secretary a
34 written notice of such election within the 30-day period immediately
35 following January 1 of any calendar year or within the 30-day period
36 immediately following the date ~~on which~~ when a determination of
37 subjectivity to the employment security law is issued, whichever occurs
38 later.

39 (B) Any employer ~~which~~ that makes an election to become a
40 reimbursing employer in accordance with subparagraph (A) ~~of this~~
41 ~~subsection (e)(1)~~ will continue to be liable for payments in lieu of
42 contributions until such employer files with the secretary a written notice
43 terminating its election not later than 30 days prior to the beginning of the

1 calendar year for which such termination shall first be effective.

2 (C) Any employer identified in this subsection (e)(1) ~~which that~~ has
3 remained a contributing employer and has been paying contributions under
4 the employment security law for a period subsequent to January 1, 1972,
5 may change to a reimbursing employer by filing with the secretary not
6 later than 30 days prior to the beginning of any calendar year a written
7 notice of election to become a reimbursing employer. Such election shall
8 not be terminable by the employer for four complete calendar years.

9 (D) The secretary may for good cause extend the period within which
10 a notice of election, or a notice of termination, must be filed and may
11 permit an election to be retroactive but not any earlier than with respect to
12 benefits paid after January 1 of the year such election is received.

13 (E) The secretary, in accordance with such rules and regulations as
14 the secretary may adopt, shall notify each employer identified in
15 subsection (e)(1) of any determination ~~which that~~ the secretary may make
16 of its status as an employer and of the effective date of any election ~~which~~
17 *that* it makes to become a reimbursing employer and of any termination of
18 such election. Such determinations shall be subject to reconsideration,
19 appeal and review in accordance with the provisions of K.S.A. 44-710b,
20 and amendments thereto.

21 (2) *Reimbursement reports and payments.* Payments in lieu of
22 contributions shall be made in accordance with the provisions of ~~paragraph~~
23 *subparagraph (A) of this subsection (e)(2)* by all reimbursing employers
24 except the state of Kansas. Each reimbursing employer shall report total
25 wages paid during each calendar quarter by filing quarterly wage reports
26 with the secretary ~~which that~~ shall be filed by the last day of the month
27 following the close of each calendar quarter. Wage reports are deemed
28 filed as of the date they are placed in the United States mail.

29 (A) At the end of each calendar quarter, or at the end of any other
30 period as determined by the secretary, the secretary shall bill each
31 reimbursing employer, except the state of Kansas: (i) An amount to be paid
32 ~~which that~~ is equal to the full amount of regular benefits plus $\frac{1}{2}$ of the
33 amount of extended benefits paid during such quarter or other prescribed
34 period that is attributable to service in the employ of such reimbursing
35 employer; and (ii) for weeks of unemployment beginning after December
36 31, 1978, each reimbursing governmental employer and December 21,
37 2000, for Indian tribes or tribal units shall be certified an amount to be
38 paid ~~which that~~ is equal to the full amount of regular benefits and extended
39 benefits paid during such quarter or other prescribed period that is
40 attributable to service in the employ of such reimbursing governmental
41 employer.

42 (B) Payment of any bill rendered under ~~paragraph subparagraph (A)~~
43 ~~of this subsection (e)(2)~~ shall be made not later than 30 days after such bill

1 was mailed to the last known address of the reimbursing employer, or
2 otherwise was delivered to such reimbursing employer, unless there has
3 been an application for review and redetermination in accordance with
4 ~~paragraph subparagraph (D) of this subsection (e)(2).~~

5 (C) Payments made by any reimbursing employer under the
6 provisions of this subsection (e)(2) shall not be deducted or deductible, in
7 whole or in part, from the remuneration of individuals in the employ of
8 such employer.

9 (D) The amount due specified in any bill from the secretary shall be
10 conclusive on the reimbursing employer, unless, not later than 15 days
11 after the bill was mailed to the last known address of such employer, or
12 was otherwise delivered to such employer, the reimbursing employer files
13 an application for redetermination in accordance with K.S.A. 44-710b, and
14 amendments thereto.

15 (E) Past due payments of amounts certified by the secretary under
16 this section shall be subject to the same interest, penalties and actions
17 required by K.S.A. 44-717, and amendments thereto. (1) If any nonprofit
18 organization or group of nonprofit organizations described in section
19 501(c)(3) of the federal internal revenue code of 1986 or governmental
20 reimbursing employer is delinquent in making payments of amounts
21 certified by the secretary under this section, the secretary may terminate
22 such employer's election to make payments in lieu of contributions as of
23 the beginning of the next calendar year and such termination shall be
24 effective for such next calendar year and the calendar year thereafter so
25 that the termination is effective for two complete calendar years. (2)
26 Failure of the Indian tribe or tribal unit to make required payments,
27 including assessment of interest and penalty within 90 days of receipt of
28 the bill will cause the Indian tribe to lose the option to make payments in
29 lieu of contributions as described pursuant to paragraph (e)(1) for the
30 following tax year unless payment in full is received before contribution
31 rates for the next tax year are calculated. (3) Any Indian tribe that loses the
32 option to make payments in lieu of contributions due to late payment or
33 nonpayment, as described in paragraph (2), shall have such option
34 reinstated, if after a period of one year, all contributions have been made
35 on time and no contributions, payments in lieu of contributions for benefits
36 paid, penalties or interest remain outstanding.

37 (F) Failure of the Indian tribe or any tribal unit thereof to make
38 required payments, including assessments of interest and penalties, after
39 all collection activities deemed necessary by the secretary have been
40 exhausted, will cause services performed by such tribe to not be treated as
41 employment for purposes of ~~subsection (i)(3)(E)~~ of K.S.A. 44-703(i)(3)
42 (E), and amendments thereto. If an Indian tribe fails to make payments
43 required under this section, including assessments of interest and penalties,

1 within 90 days of a final notice of delinquency, the secretary shall
2 immediately notify the United States internal revenue service and the
3 United States department of labor. The secretary may determine that any
4 Indian tribe that loses coverage pursuant to this paragraph may have
5 services performed on behalf of such tribe again deemed "employment" if
6 all contributions, payments in lieu of contributions, penalties and interest
7 have been paid.

8 (G) In the discretion of the secretary, any employer who elects to
9 become liable for payments in lieu of contributions and any nonprofit
10 organization or group of nonprofit organizations described in section 501
11 (c)(3) of the federal internal revenue code of 1986 or governmental
12 reimbursing employer or Indian tribe or tribal unit who is delinquent in
13 filing reports or in making payments of amounts certified by the secretary
14 under this section shall be required within 60 days after the effective date
15 of such election, in the case of an eligible employer so electing, or after the
16 date of notification to the delinquent employer under this subsection (e)(2)
17 (G), in the case of a delinquent employer, to execute and file with the
18 secretary a surety bond, except that the employer may elect, in lieu of a
19 surety bond, to deposit with the secretary money or securities as approved
20 by the secretary or to purchase and deliver to an escrow agent a certificate
21 of deposit to guarantee payment. The amount of the bond, deposit or
22 escrow agreement required by this subsection (e)(2)(G) shall not exceed
23 5.4% of the organization's taxable wages paid for employment by the
24 eligible employer during the four calendar quarters immediately preceding
25 the effective date of the election or the date of notification, in the case of a
26 delinquent employer. If the employer did not pay wages in each of such
27 four calendar quarters, the amount of the bond or deposit shall be as
28 determined by the secretary. Upon the failure of an employer to comply
29 with this subsection (e)(2)(G) within the time limits imposed or to
30 maintain the required bond or deposit, the secretary may terminate the
31 election of such eligible employer or delinquent employer, as the case may
32 be, to make payments in lieu of contributions, and such termination shall
33 be effective for the current and next calendar year.

34 (H) The state of Kansas shall make reimbursement payments
35 quarterly at a fiscal year rate ~~which~~ *that* shall be based upon: (i) The
36 available balance in the state's reimbursing account as of December 31 of
37 each calendar year; (ii) the historical unemployment experience of all
38 covered state agencies during prior years; (iii) the estimate of total covered
39 wages to be paid during the ensuing calendar year; (iv) the applicable
40 fiscal year rate of the claims processing and auditing fee under K.S.A. 75-
41 3798, and amendments thereto; and (v) actuarial and other information
42 furnished to the secretary by the secretary of administration. In accordance
43 with K.S.A. 75-3798, and amendments thereto, the claims processing and

1 auditing fees charged to state agencies shall be deducted from the amounts
2 collected for the reimbursement payments under this paragraph (H) prior
3 to making the quarterly reimbursement payments for the state of Kansas.
4 The fiscal year rate shall be expressed as a percentage of covered total
5 wages and shall be the same for all covered state agencies. The fiscal year
6 rate for each fiscal year will be certified in writing by the secretary to the
7 secretary of administration on July 15 of each year and such certified rate
8 shall become effective on the July 1 immediately following the date of
9 certification. A detailed listing of benefit charges applicable to the state's
10 reimbursing account shall be furnished quarterly by the secretary to the
11 secretary of administration and the total amount of charges deducted from
12 previous reimbursing payments made by the state. On January 1 of each
13 year, if it is determined that benefit charges exceed the amount of prior
14 reimbursing payments, an upward adjustment shall be made therefor in the
15 fiscal year rate ~~which will~~ to be certified on the ensuing July 15. If total
16 payments exceed benefit charges, all or part of the excess may be
17 refunded, at the discretion of the secretary, from the fund or retained in the
18 fund as part of the payments ~~which~~ that may be required for the next fiscal
19 year.

20 (3) *Allocation of benefit costs.* The reimbursing account of each
21 reimbursing employer shall be charged the full amount of regular benefits
22 and ½ of the amount of extended benefits paid except that each
23 reimbursing governmental employer's account shall be charged the full
24 amount of regular benefits and extended benefits paid for weeks of
25 unemployment beginning after December 31, 1978, to individuals whose
26 entire base period wage credits are from such employer. When benefits
27 received by an individual are based upon base period wage credits from
28 more than one employer then the reimbursing employer's or reimbursing
29 governmental employer's account shall be charged in the same ratio as
30 base period wage credits from such employer bear to the individual's total
31 base period wage credits. Notwithstanding any other provision of the
32 employment security law, no reimbursing employer's or reimbursing
33 governmental employer's account shall be charged for payments of
34 extended benefits ~~which that~~ are wholly reimbursed to the state by the
35 federal government. *Payments of unemployment compensation that are*
36 *wholly reimbursed to the reimbursing employer by the federal government*
37 *shall be charged for the purpose of such reimbursement under the*
38 *coronavirus aid, relief, and economic security act (Pub. L. No. 116-136).*

39 (A) *Proportionate allocation (when fewer than all reimbursing base*
40 *period employers are liable).* If benefits paid to an individual are based on
41 wages paid by one or more reimbursing employers and on wages paid by
42 one or more contributing employers or rated governmental employers, the
43 amount of benefits payable by each reimbursing employer shall be an

1 amount—~~which~~ *that* bears the same ratio to the total benefits paid to the
2 individual as the total base period wages paid to the individual by such
3 employer bears to the total base period wages paid to the individual by all
4 of such individual's base period employers.

5 (B) *Proportionate allocation (when all base period employers are*
6 *reimbursing employers)*. If benefits paid to an individual are based on
7 wages paid by two or more reimbursing employers, the amount of benefits
8 payable by each such employer shall be an amount—~~which~~ *that* bears the
9 same ratio to the total benefits paid to the individual as the total base
10 period wages paid to the individual by such employer bear to the total base
11 period wages paid to the individual by all of such individual's base period
12 employers.

13 (4) *Group accounts*. Two or more reimbursing employers may file a
14 joint application to the secretary for the establishment of a group account
15 for the purpose of sharing the cost of benefits paid that are attributable to
16 service in the employment of such reimbursing employers. Each such
17 application shall identify and authorize a group representative to act as the
18 group's agent for the purposes of this subsection (e)(4). Upon approval of
19 the application, the secretary shall establish a group account for such
20 employers effective as of the beginning of the calendar quarter in which
21 the secretary receives the application and shall notify the group's
22 representative of the effective date of the account. Such account shall
23 remain in effect for not less than four years and thereafter such account
24 shall remain in effect until terminated at the discretion of the secretary or
25 upon application by the group. Upon establishment of the account, each
26 member of the group shall be liable for payments in lieu of contributions
27 with respect to each calendar quarter in the amount that bears the same
28 ratio to the total benefits paid in such quarter that are attributable to service
29 performed in the employ of all members of the group as the total wages
30 paid for service in employment by such member in such quarter bear to the
31 total wages paid during such quarter for service performed in the employ
32 of all members of the group. The secretary shall adopt such rules and
33 regulations as the secretary deems necessary with respect to applications
34 for establishment, maintenance and termination of group accounts that are
35 authorized by this subsection (e)(4), for addition of new members to, and
36 withdrawal of active members from such accounts, and for the
37 determination of the amounts that are payable under this subsection (e)(4)
38 by members of the group and the time and manner of such payments.

39 Sec. 5. K.S.A. 2019 Supp. 44-757 is hereby amended to read as
40 follows: 44-757. *Shared work unemployment compensation program*. (a)
41 As used in this section:

42 (1) "Affected unit" means a specified department, shift or other unit
43 of two or more employees that is designated by an employer to participate

1 in a shared work plan.

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

6 (3) "Fund" has the meaning ascribed thereto by K.S.A. 44-703(k),
7 and amendments thereto.

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

11 (5) "Participating employee" means an employee who works a
12 reduced number of hours under a shared work plan.

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

15 (7) "Secretary" means the secretary of labor or the secretary's
16 designee.

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

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

23 (10) "Shared work unemployment compensation program" means a
24 program designed to reduce unemployment and stabilize the work force by
25 allowing certain employees to collect unemployment compensation
26 benefits if the employees share the work remaining after a reduction in the
27 total number of hours of work and a corresponding reduction in wages.

28 (b) The secretary shall establish a voluntary shared work
29 unemployment compensation program as provided by this section. The
30 secretary may adopt rules and regulations and establish procedures
31 necessary to administer the shared work unemployment compensation
32 program.

33 (c) An employer who wishes to participate in the shared work
34 unemployment compensation program must submit a written shared work
35 plan to the secretary for the secretary's approval. As a condition for
36 approval, a participating employer must agree to furnish the secretary with
37 reports relating to the operation of the shared work plan as requested by
38 the secretary. The employer shall monitor and evaluate the operation of the
39 established shared work plan as requested by the secretary and shall report
40 the findings to the secretary.

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

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

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

3 (3) the shared work plan reduces the normal weekly hours of work
4 for an employee, including regular part-time employees, in the affected
5 unit by not less than 20% and not more than 40%;

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

8 (5) the shared work plan describes the manner ~~in which~~ *that* the
9 participating employer treats the fringe benefits of each employee in the
10 affected unit and the employer certifies that if the employer provides
11 health benefits and retirement benefits under a defined benefit plan, as
12 defined in 26 U.S.C. § 414(j), or contributions under a defined
13 contribution plan, as defined in 26 U.S.C. § 414(i), to any employee whose
14 workweek is reduced under the program that such benefits will continue to
15 be provided to employees participating in the shared work compensation
16 program under the same terms and conditions as though the workweek of
17 such employee had not been reduced or to the same extent as other
18 employees not participating in the shared work program;

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 layoffs that
21 would affect at least 10% of the employees in the affected unit and that
22 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;

28 (8) (A) a contributing employer must be eligible for a rate
29 computation under K.S.A. 44-710a(a)(2), and amendments thereto, ~~and is~~
30 ~~not a negative account employer as defined by K.S.A. 44-710a(d), and~~
31 ~~amendments thereto~~ *and the contributing employer, as determined by the*
32 *secretary, does not adversely impact the state's eligibility under section*
33 *2108 of the coronavirus aid, relief, and economic security act (Pub. L. No.*
34 *116-136);* (B) a rated governmental employer must be eligible for a rate
35 computation under K.S.A. 44-710d(g), and amendments thereto;

36 (9) eligible employees may participate, as appropriate, in training,
37 including without limitation, employer-sponsored training or worker
38 training funded under the workforce investment act of 1998, to enhance
39 job skills if such program has been approved by the state of Kansas;

40 (10) the employer includes a plan for giving advance notice, where
41 feasible, to an employee whose workweek is to be reduced together with
42 an estimate of the number of layoffs that would have occurred absent the
43 ability to participate in shared work compensation and such other

1 information as the secretary of labor determines is appropriate; and

2 (11) the terms of the employer's written plan and implementation are
3 consistent with employer obligations under applicable federal and Kansas
4 laws.

5 (e) If any of the employees who participate in a shared work plan
6 under this section are covered by a collective bargaining agreement, the
7 shared work plan must be approved in writing by the collective bargaining
8 agent.

9 (f) A shared work plan may not be implemented to subsidize seasonal
10 employers during the off-season.

11 (g) The secretary shall approve or deny a shared work plan no later
12 than the 30th day after the day the shared work plan is received by the
13 secretary. The secretary shall approve or deny a shared work plan in
14 writing. If the secretary denies a shared work plan, the secretary shall
15 notify the employer of the reasons for the denial.

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

21 (i) An employer may modify a shared work plan created under this
22 section to meet changed conditions if the modification conforms to the
23 basic provisions of the shared work plan as approved by the secretary. The
24 employer must report the changes made to the shared work plan in writing
25 to the secretary before implementing the changes. If the original shared
26 work plan is substantially modified, the secretary shall reevaluate the
27 shared work plan and may approve the modified shared work plan if it
28 meets the requirements for approval under subsection (d). The approval of
29 a modified shared work plan does not affect the expiration date originally
30 set for that shared work plan. If substantial modifications cause the shared
31 work plan to fail to meet the requirements for approval, the secretary shall
32 deny approval to the modifications as provided by subsection (g).

33 (j) Notwithstanding any other provisions of the employment security
34 law, an individual is unemployed and is eligible for shared work benefits
35 in any week in which the individual, as an employee in an affected unit,
36 works for less than the individual's normal weekly hours of work in
37 accordance with an approved shared work plan in effect for that week. The
38 secretary may not deny shared work benefits for any week to an otherwise
39 eligible individual by reason of the application of any provision of the
40 employment security law that relates to availability for work, active search
41 for work or refusal to apply for or accept work with an employer other
42 than the participating employer.

43 (k) An individual is eligible to receive shared work benefits with

1 respect to any week in which the secretary finds that:

2 (1) The individual is employed as a member of an affected unit
3 subject to a shared work plan that was approved before the week in
4 question and is in effect for that week;

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

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

10 (4) the individual's normal weekly hours of work and wages have
11 been reduced as described in subsection (k)(3) for a waiting period of one
12 week ~~which~~ that occurs within the period the shared work plan is in effect,
13 which period includes the week for which the individual is claiming shared
14 work benefits.

15 (l) The secretary shall pay an individual who is eligible for shared
16 work benefits under this section a weekly shared work benefit amount
17 equal to the individual's regular weekly benefit amount for a period of total
18 unemployment multiplied by the nearest full percentage of reduction of the
19 individual's hours as set forth in the employer's shared work plan. If the
20 shared benefit amount is not a multiple of \$1, the secretary shall reduce the
21 amount to the next lowest multiple of \$1. All shared work benefits under
22 this section shall be payable from the fund.

23 (m) An individual may not receive shared work benefits and regular
24 unemployment compensation benefits in an amount that exceeds the
25 maximum total amount of benefits payable to that individual in a benefit
26 year as provided by K.S.A. 44-704(g), and amendments thereto.

27 (n) An individual who has received all of the shared work benefits
28 and regular unemployment compensation benefits available in a benefit
29 year is an exhaustee under K.S.A. 44-704a and 44-704b, and amendments
30 thereto, and is entitled to receive extended benefits under such statutes if
31 the individual is otherwise eligible under such statutes.

32 (o) The secretary may terminate a shared work plan for good cause if
33 the secretary determines that the shared work plan is not being executed
34 according to the terms and intent of the shared work unemployment
35 compensation program.

36 (p) Notwithstanding any other provisions of this section, an
37 individual shall not be eligible to receive shared work benefits for more
38 than 26 calendar weeks during the 12-month period of the shared work
39 plan, except that two weeks of additional benefits shall be payable to
40 claimants who exhaust regular benefits and any benefits under any other
41 federal or state extended benefits program during the period July 1, 2003
42 through June 30, 2004. No week shall be counted as a week for which an
43 individual is eligible for shared work benefits for the purposes of this

1 section unless the week occurs within the 12-month period of the shared
2 work plan.

3 (q) No shared work benefit payment shall be made under any shared
4 work plan or this section for any week ~~which~~ that commences before April
5 1, 1989.

6 (r) This section shall be construed as part of the employment security
7 law.

8 Sec. 6. K.S.A. 2019 Supp. 44-702, 44-705, as amended by section 2
9 of 2020 Senate Bill No. 27, 44-709, 44-710 and 44-757 are hereby
10 repealed.

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