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4 **SENATE BILL No. 269**

5  
6 By Committee on Ways and Means

7  
8 3-24

9  
10 AN ACT concerning the employment security law; benefits thereunder;  
11 amending K.S.A. 44-704 and 44-757 and **K.S.A. 2002 Supp. 44-710**  
12 **and** repealing the existing sections.

13  
14 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

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

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

39 (c) *Maximum weekly benefit amount.* On July 1 of each year, the  
40 secretary shall determine the maximum weekly benefit amount by computing  
41 60% of the average weekly wages paid to employees in insured  
42 work during the previous calendar year and shall prior to that date announce  
43 the maximum weekly benefit amount so determined, by publi-

1 cation in the Kansas register. Such computation shall be made by dividing  
2 the gross wages reported as paid for insured work during the previous  
3 calendar year by the product of the average of midmonth employment  
4 during such calendar year multiplied by 52. The maximum weekly benefit  
5 amount so determined and announced for the twelve-month period shall  
6 apply only to those claims filed in that period qualifying for maximum  
7 payment under the foregoing formula. All claims qualifying for payment  
8 at the maximum weekly benefit amount shall be paid at the maximum  
9 weekly benefit amount in effect when the benefit year to which the claim  
10 relates was first established, notwithstanding a change in the maximum  
11 benefit amount for a subsequent twelve-month period. If the computed  
12 maximum weekly benefit amount is not a multiple of \$1, then the com-  
13 puted maximum weekly benefit amount shall be reduced to the next lower  
14 multiple of \$1. ***One week of additional benefits will be payable to***  
15 ***claimants who exhaust regular benefits and any benefits under any***  
16 ***other federal or state extended benefits program during the period***  
17 ***July 1, 2003 through June 30, 2004. The benefit eligibility and dis-***  
18 ***qualification provisions of K.S.A. 44-705 and 44-706 shall apply to***  
19 ***the additional benefits program.***

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

32 (e) *Weekly benefit payable.* Each eligible individual who is unem-  
33 ployed with respect to any week, except as to final payment, shall be paid  
34 with respect to such week a benefit in an amount equal to such individ-  
35 ual's determined weekly benefit amount, less that part of the wage, if any,  
36 payable to such individual with respect to such week which is in excess  
37 of the amount which is equal to 25% of such individual's determined  
38 weekly benefit amount and if the resulting amount is not a multiple of  
39 \$1, it shall be reduced to the next lower multiple of \$1.

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

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

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

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

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

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

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

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

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

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

21 (3) For the purposes of this subsection (e), "employment benefits  
22 within the employer's control" means benefits offered by the employer  
23 to employees which are employee benefit plans as defined by section 3  
24 of the federal employee retirement income security act of 1974, as  
25 amended, (29 U.S.C. 1002) and which the employer has the option to  
26 continue to provide to the employee after the last day that the employee  
27 worked for that employer.

28 (f) *Duration of benefits.* Except as otherwise provided in this subsec-  
29 tion, any otherwise eligible individual shall be entitled during any benefit  
30 year to a total amount of benefits equal to whichever is the lesser of 26  
31 times such individual's weekly benefit amount, or  $\frac{1}{3}$  of such individual's  
32 wages for insured work paid during such individual's base period. For  
33 new claims filed during the period commencing on July 1, 2003, and  
34 ending on June 30, 2004, any otherwise eligible individual shall be entitled  
35 during the benefit year to a total amount of benefits equal to whichever  
36 is the lesser of 27 times such individual's weekly benefit amount, or  $\frac{1}{3}$  of  
37 such individual's wages for insured work paid during such individual's  
38 base period. Such total amount of benefits, if not a multiple of \$1, shall  
39 be reduced to the next lower multiple of \$1.

40 (g) For the purposes of this section, wages shall be counted as "wages  
41 for insured work" for benefit purposes with respect to any benefit year  
42 only if such benefit year begins subsequent to the date on which the  
43 employing unit by whom such wages were paid has satisfied the condi-

1 tions of subsection (h) of K.S.A. 44-703, and amendments thereto, with  
2 respect to becoming an employer.

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

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

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

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

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

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

20 (6) “Participating employer” means an employer who has a shared  
21 work plan in effect.

22 (7) “Secretary” means the secretary of human resources or the sec-  
23 retary’s designee.

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

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

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

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

40 (c) An employer who wishes to participate in the shared work un-  
41 employment compensation program must submit a written shared work  
42 plan to the secretary for the secretary’s approval. As a condition for ap-  
43 proval, a participating employer must agree to furnish the secretary with

1 reports relating to the operation of the shared work plan as requested by  
2 the secretary. The employer shall monitor and evaluate the operation of  
3 the established shared work plan as requested by the secretary and shall  
4 report the findings to the secretary.

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

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

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

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

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

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

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

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

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

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

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

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

1 notify the employer of the reasons for the denial.

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

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

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

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

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

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

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

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

1 claiming shared work benefits.

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

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

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

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

24 (p) The secretary may terminate a shared work plan for good cause  
25 if the secretary determines that the shared work plan is not being ex-  
26 ecuted according to the terms and intent of the shared work unemploy-  
27 ment compensation program.

28 (q) Notwithstanding any other provisions of this section, an individual  
29 shall not be eligible to receive shared work benefits for more than 26  
30 calendar weeks during the twelve-month period of the shared work plan,  
31 *except that for new claims filed during the period commencing on July 1,*  
32 *2003, and ending on June 30, 2004, an individual filing such a claim if*  
33 *otherwise eligible shall not be eligible to receive shared work benefits for*  
34 *more than 27 calendar weeks during the twelve-month period of the*  
35 *shared work plan* **one week of additional benefits shall be payable to**  
36 **claimants who exhaust regular benefits and any benefits under any**  
37 **other federal or state extended benefits program during the period**  
38 **July 1, 2003 through June 30, 2004.** No week shall be counted as a  
39 week for which an individual is eligible for shared work benefits for the  
40 purposes of this section unless the week occurs within the twelve-month  
41 period of the shared work plan.

42 (r) No shared work benefit payment shall be made under any shared  
43 work plan or this section for any week which commences before April 1,

1 1989.

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

4 **Sec. 3. K.S.A. 2002 Supp. 44-710 is hereby amended to read as**  
5 **follows: 44-710. (a) Payment. Contributions shall accrue and be-**  
6 **come payable by each contributing employer for each calendar**  
7 **year in which the contributing employer is subject to the employ-**  
8 **ment security law with respect to wages paid for employment. Such**  
9 **contributions shall become due and be paid by each contributing**  
10 **employer to the secretary for the employment security fund in ac-**  
11 **cordance with such rules and regulations as the secretary may**  
12 **adopt and shall not be deducted, in whole or in part, from the wages**  
13 **of individuals in such employer's employ. In the payment of any**  
14 **contributions, a fractional part of \$.01 shall be disregarded unless**  
15 **it amounts to \$.005 or more, in which case it shall be increased to**  
16 **\$.01. Should contributions for any calendar quarter be less than**  
17 **\$1, no payment shall be required.**

18 (b) Rates and base of contributions. (1) Except as provided in par-  
19 agraph (2) of this subsection, each contributing employer shall pay  
20 contributions on wages paid by the contributing employer during  
21 each calendar year with respect to employment as provided in  
22 K.S.A. 44-710a and amendments thereto.

23 (2) (A) If the congress of the United States either amends or  
24 repeals the Wagner-Peyser act, the federal unemployment tax act,  
25 the federal social security act, or subtitle C of chapter 23 of the  
26 federal internal revenue code of 1986, or any act or acts supple-  
27 mental to or in lieu thereof, or any part or parts of any such law,  
28 or if any such law, or any part or parts thereof, are held invalid  
29 with the effect that appropriations of funds by congress and grants  
30 thereof to the state of Kansas for the payment of costs of adminis-  
31 tration of the employment security law are no longer available for  
32 such purposes, or (B) if employers in Kansas subject to the payment  
33 of tax under the federal unemployment tax act are granted full  
34 credit against such tax for contributions or taxes paid to the secre-  
35 tary of human resources, then, and in either such case, beginning  
36 with the year in which the unavailability of federal appropriations  
37 and grants for such purpose occurs or in which such change in li-  
38 ability for payment of such federal tax occurs and for each year  
39 thereafter, the rate of contributions of each contributing employer  
40 shall be equal to the total of .5% and the rate of contributions as  
41 determined for such contributing employer under K.S.A. 44-710a  
42 and amendments thereto. The amount of contributions which each  
43 contributing employer becomes liable to pay under this paragraph



1 (2) over the amount of contributions which such contributing em-  
2 ployer would be otherwise liable to pay shall be credited to the  
3 employment security administration fund to be disbursed and paid  
4 out under the same conditions and for the same purposes as other  
5 moneys are authorized to be paid from the employment security  
6 administration fund, except that, if the secretary determines that as  
7 of the first day of January of any year there is an excess in the  
8 employment security administration fund over the amount required  
9 to be disbursed during such year, an amount equal to such excess  
10 as determined by the secretary shall be transferred to the employ-  
11 ment security fund.

12 (c) *Charging of benefit payments.* (1) *The secretary shall maintain*  
13 *a separate account for each contributing employer, and shall credit*  
14 *the contributing employer's account with all the contributions paid*  
15 *on the contributing employer's own behalf. Nothing in the employ-*  
16 *ment security law shall be construed to grant any employer or in-*  
17 *dividuals in such employer's service prior claims or rights to the*  
18 *amounts paid by such employer into the employment security fund*  
19 *either on such employer's own behalf or on behalf of such individ-*  
20 *uals. Benefits paid shall be charged against the accounts of each*  
21 *base period employer in the proportion that the base period wages*  
22 *paid to an eligible individual by each such employer bears to the*  
23 *total wages in the base period. Benefits shall be charged to contrib-*  
24 *uting employers' accounts and rated governmental employers' ac-*  
25 *counts upon the basis of benefits paid during each twelve-month*  
26 *period ending on the computation date.*

27 (2) (A) *Benefits paid in benefit years established by valid new*  
28 *claims shall not be charged to the account of a contributing em-*  
29 *ployer or rated governmental employer who is a base period em-*  
30 *ployer if the examiner finds that claimant was separated from the*  
31 *claimant's most recent employment with such employer under any*  
32 *of the following conditions: (i) Discharged for misconduct or gross*  
33 *misconduct connected with the individual's work; or (ii) leaving*  
34 *work voluntarily without good cause attributable to the claimant's*  
35 *work or the employer.*

36 (B) *Where base period wage credits of a contributing employer*  
37 *or rated governmental employer represent part-time employment*  
38 *and the claimant continues in that part-time employment with that*  
39 *employer during the period for which benefits are paid, then that*  
40 *employer's account shall not be charged with any part of the ben-*  
41 *efits paid if the employer provides the secretary with information*  
42 *as required by rules and regulations. For the purposes of this sub-*  
43 *section (c)(2)(B), "part-time employment" means any employment*

1 *when an individual works concurrently for two or more employers*  
2 *and also works less than full-time for at least one of those employers*  
3 *because the individual's services are not required for the custom-*  
4 *ary, scheduled full-time hours prevailing at the work place or the*  
5 *individual does not customarily work the regularly scheduled full-*  
6 *time hours due to personal choice or circumstances.*

7 (C) *No contributing employer or rated governmental em-*  
8 *ployer's account shall be charged with any extended or additional*  
9 *benefits paid in accordance with the employment security law, ex-*  
10 *cept for weeks of unemployment beginning after December 31,*  
11 *1978, all contributing governmental employers and governmental*  
12 *rated employers shall be charged an amount equal to all extended*  
13 *benefits paid.*

14 (D) *No contributing employer or rated governmental em-*  
15 *ployer's account will be charged for benefits paid a claimant while*  
16 *pursuing an approved training course as defined in subsection (s)*  
17 *of K.S.A. 44-703 and amendments thereto.*

18 (E) *No contributing employer or rated governmental em-*  
19 *ployer's account shall be charged with respect to the benefits paid*  
20 *to any individual whose base period wages include wages for serv-*  
21 *ices not covered by the employment security law prior to January*  
22 *1, 1978, to the extent that the employment security fund is reim-*  
23 *bursed for such benefits pursuant to section 121 of public law 94-*  
24 *566 (90 Stat. 2673).*

25 (F) *With respect to weeks of unemployment beginning after De-*  
26 *cember 31, 1977, wages for insured work shall include wages paid*  
27 *for previously uncovered services. For the purposes of this subsec-*  
28 *tion (c)(2)(F), the term "previously uncovered services" means serv-*  
29 *ices which were not covered employment, at any time during the*  
30 *one-year period ending December 31, 1975, except to the extent that*  
31 *assistance under title II of the federal emergency jobs and unem-*  
32 *ployment assistance act of 1974 was paid on the basis of such serv-*  
33 *ices, and which:*

34 (i) *Are agricultural labor as defined in subsection (w) of K.S.A.*  
35 *44-703 and amendments thereto or domestic service as defined in*  
36 *subsection (aa) of K.S.A. 44-703 and amendments thereto, or*

37 (ii) *are services performed by an employee of this state or a*  
38 *political subdivision thereof, as provided in subsection (i)(3)(E) of*  
39 *K.S.A. 44-703 and amendments thereto, or*

40 (iii) *are services performed by an employee of a nonprofit ed-*  
41 *ucational institution which is not an institution of higher education.*

42 (G) *No contributing employer or rated governmental em-*  
43 *ployer's account shall be charged with respect to their pro rata*

1 *share of benefit charges if such charges are of \$100 or less.*

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

32 (4) *Time, computation and extension. In computing the period of*  
33 *time for a base period employer response or appeals under this sec-*  
34 *tion from the examiner's or the special examiner's determination or*  
35 *from the referee's decision, the day of the act, event or default from*  
36 *which the designated period of time begins to run shall not be in-*  
37 *cluded. The last day of the period shall be included unless it is a*  
38 *Saturday, Sunday or legal holiday, in which event the period runs*  
39 *until the end of the next day which is not a Saturday, Sunday or*  
40 *legal holiday.*

41 (d) *Pooled fund. All contributions and payments in lieu of con-*  
42 *tributions and benefit cost payments to the employment security*  
43 *fund shall be pooled and available to pay benefits to any individual*

1 *entitled thereto under the employment security law, regardless of*  
2 *the source of such contributions or payments in lieu of contribu-*  
3 *tions or benefit cost payments.*

4 *(e) Election to become reimbursing employer; payment in lieu of con-*  
5 *tributions. (1) Any governmental entity, Indian tribes or tribal units,*  
6 *(subdivisions, subsidiaries or business enterprises wholly owned by*  
7 *such Indian tribes), for which services are performed as described*  
8 *in subsection (i)(3)(E) of K.S.A. 44-703 and amendments thereto or*  
9 *any nonprofit organization or group of nonprofit organizations de-*  
10 *scribed in section 501(c)(3) of the federal internal revenue code of*  
11 *1986 which is exempt from income tax under section 501(a) of such*  
12 *code, that becomes subject to the employment security law may*  
13 *elect to become a reimbursing employer under this subsection (e)(1)*  
14 *and agree to pay the secretary for the employment security fund an*  
15 *amount equal to the amount of regular benefits and ½ of the ex-*  
16 *tended benefits paid that are attributable to service in the employ*  
17 *of such reimbursing employer, except that each reimbursing gov-*  
18 *ernmental employer, Indian tribes or tribal units shall pay an*  
19 *amount equal to the amount of regular benefits and extended ben-*  
20 *efits paid for weeks of unemployment beginning after December 31,*  
21 *1978, for governmental employers and December 21, 2000, for In-*  
22 *Indian tribes or tribal units to individuals for weeks of unemployment*  
23 *which begin during the effective period of such election.*

24 *(A) Any employer identified in this subsection (e)(1) may elect*  
25 *to become a reimbursing employer for a period encompassing not*  
26 *less than four complete calendar years if such employer files with*  
27 *the secretary a written notice of such election within the thirty-day*  
28 *period immediately following January 1 of any calendar year or*  
29 *within the thirty-day period immediately following the date on*  
30 *which a determination of subjectivity to the employment security*  
31 *law is issued, whichever occurs later.*

32 *(B) Any employer which makes an election to become a reim-*  
33 *bursing employer in accordance with subparagraph (A) of this sub-*  
34 *section (e)(1) will continue to be liable for payments in lieu of con-*  
35 *tributions until such employer files with the secretary a written*  
36 *notice terminating its election not later than 30 days prior to the*  
37 *beginning of the calendar year for which such termination shall first*  
38 *be effective.*

39 *(C) Any employer identified in this subsection (e)(1) which has*  
40 *remained a contributing employer and has been paying contribu-*  
41 *tions under the employment security law for a period subsequent*  
42 *to January 1, 1972, may change to a reimbursing employer by filing*  
43 *with the secretary not later than 30 days prior to the beginning of*

1 *any calendar year a written notice of election to become a reim-*  
2 *bursing employer. Such election shall not be terminable by the em-*  
3 *ployer for four complete calendar years.*

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

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

17 *(2) Reimbursement reports and payments. Payments in lieu of con-*  
18 *tributions shall be made in accordance with the provisions of par-*  
19 *agraph (A) of this subsection (e)(2) by all reimbursing employers*  
20 *except the state of Kansas. Each reimbursing employer shall report*  
21 *total wages paid during each calendar quarter by filing quarterly*  
22 *wage reports with the secretary which shall be filed by the last day*  
23 *of the month following the close of each calendar quarter. Wage*  
24 *reports are deemed filed as of the date they are placed in the United*  
25 *States mail.*

26 *(A) At the end of each calendar quarter, or at the end of any*  
27 *other period as determined by the secretary, the secretary shall bill*  
28 *each reimbursing employer, except the state of Kansas, (i) an*  
29 *amount to be paid which is equal to the full amount of regular*  
30 *benefits plus ½ of the amount of extended benefits paid during such*  
31 *quarter or other prescribed period that is attributable to service in*  
32 *the employ of such reimbursing employer; and (ii) for weeks of un-*  
33 *employment beginning after December 31, 1978, each reimbursing*  
34 *governmental employer and December 21, 2000, for Indian tribes*  
35 *or tribal units shall be certified an amount to be paid which is equal*  
36 *to the full amount of regular benefits and extended benefits paid*  
37 *during such quarter or other prescribed period that is attributable*  
38 *to service in the employ of such reimbursing governmental*  
39 *employer.*

40 *(B) Payment of any bill rendered under paragraph (A) of this*  
41 *subsection (e)(2) shall be made not later than 30 days after such*  
42 *bill was mailed to the last known address of the reimbursing em-*  
43 *ployer, or otherwise was delivered to such reimbursing employer,*

1 *unless there has been an application for review and redetermination*  
2 *in accordance with paragraph (D) of this subsection (e)(2).*

3 *(C) Payments made by any reimbursing employer under the*  
4 *provisions of this subsection (e)(2) shall not be deducted or de-*  
5 *ductible, in whole or in part, from the remuneration of individuals*  
6 *in the employ of such employer.*

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

13 *(E) Past due payments of amounts certified by the secretary un-*  
14 *der this section shall be subject to the same interest, penalties and*  
15 *actions required by K.S.A. 44-717 and amendments thereto. (1) If*  
16 *any nonprofit organization or group of nonprofit organizations de-*  
17 *scribed in section 501(c)(3) of the federal internal revenue code of*  
18 *1986 or governmental reimbursing employer is delinquent in mak-*  
19 *ing payments of amounts certified by the secretary under this sec-*  
20 *tion, the secretary may terminate such employer's election to make*  
21 *payments in lieu of contributions as of the beginning of the next*  
22 *calendar year and such termination shall be effective for such next*  
23 *calendar year and the calendar year thereafter so that the termi-*  
24 *nation is effective for two complete calendar years. (2) Failure of*  
25 *the Indian tribe or tribal unit to make required payments, including*  
26 *assessment of interest and penalty within 90 days of receipt of the*  
27 *bill will cause the Indian tribe to lose the option to make payments*  
28 *in lieu of contributions as described pursuant to paragraph (e)(1)*  
29 *for the following tax year unless payment in full is received before*  
30 *contribution rates for the next tax year are calculated. (3) Any In-*  
31 *Indian tribe that loses the option to make payments in lieu of contri-*  
32 *butions due to late payment or nonpayment, as described in para-*  
33 *graph (2), shall have such option reinstated, if after a period of one*  
34 *year, all contributions have been made on time and no contribu-*  
35 *tions, payments in lieu of contributions for benefits paid, penalties*  
36 *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,*  
39 *after all collection activities deemed necessary by the secretary*  
40 *have been exhausted, will cause services performed by such tribe*  
41 *to not be treated as employment for purposes of subsection (i)(3)(E)*  
42 *of K.S.A. 44-703 and amendments thereto. If an Indian tribe fails*  
43 *to make payments required under this section, including assess-*

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

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

38 *(H) The state of Kansas shall make reimbursement payments*  
39 *quarterly at a fiscal year rate which shall be based upon: (i) The*  
40 *available balance in the state’s reimbursing account as of December*  
41 *31 of each calendar year; (ii) the historical unemployment experi-*  
42 *ence of all covered state agencies during prior years; (iii) the esti-*  
43 *mate of total covered wages to be paid during the ensuing calendar*

1 *year; (iv) the applicable fiscal year rate of the claims processing*  
2 *and auditing fee under K.S.A. 75-3798 and amendments thereto; and*  
3 *(v) actuarial and other information furnished to the secretary by*  
4 *the secretary of administration. In accordance with K.S.A. 75-3798*  
5 *and amendments thereto, the claims processing and auditing fees*  
6 *charged to state agencies shall be deducted from the amounts col-*  
7 *lected for the reimbursement payments under this paragraph (H)*  
8 *prior to making the quarterly reimbursement payments for the state*  
9 *of Kansas. The fiscal year rate shall be expressed as a percentage*  
10 *of covered total wages and shall be the same for all covered state*  
11 *agencies. The fiscal year rate for each fiscal year will be certified*  
12 *in writing by the secretary to the secretary of administration on*  
13 *July 15 of each year and such certified rate shall become effective*  
14 *on the July 1 immediately following the date of certification. A de-*  
15 *tailed listing of benefit charges applicable to the state's reimbursing*  
16 *account shall be furnished quarterly by the secretary to the secre-*  
17 *tary of administration and the total amount of charges deducted*  
18 *from previous reimbursing payments made by the state. On January*  
19 *1 of each year, if it is determined that benefit charges exceed the*  
20 *amount of prior reimbursing payments, an upward adjustment shall*  
21 *be made therefor in the fiscal year rate which will be certified on*  
22 *the ensuing July 15. If total payments exceed benefit charges, all or*  
23 *part of the excess may be refunded, at the discretion of the secretary,*  
24 *from the fund or retained in the fund as part of the payments which*  
25 *may be required for the next fiscal year.*

26 (3) *Allocation of benefit costs. The reimbursing account of each*  
27 *reimbursing employer shall be charged the full amount of regular*  
28 *benefits and 1/2 of the amount of extended benefits paid except that*  
29 *each reimbursing governmental employer's account shall be*  
30 *charged the full amount of regular benefits and extended benefits*  
31 *paid for weeks of unemployment beginning after December 31,*  
32 *1978, to individuals whose entire base period wage credits are from*  
33 *such employer. When benefits received by an individual are based*  
34 *upon base period wage credits from more than one employer then*  
35 *the reimbursing employer's or reimbursing governmental em-*  
36 *ployer's account shall be charged in the same ratio as base period*  
37 *wage credits from such employer bear to the individual's total base*  
38 *period wage credits. Notwithstanding any other provision of the*  
39 *employment security law, no reimbursing employer's or reimburs-*  
40 *ing governmental employer's account shall be charged for payments*  
41 *of extended benefits which are wholly reimbursed to the state by*  
42 *the federal government.*

43 (A) *Proportionate allocation (when fewer than all reimbursing base*



1 *period employers are liable). If benefits paid to an individual are based*  
2 *on wages paid by one or more reimbursing employers and on wages*  
3 *paid by one or more contributing employers or rated governmental*  
4 *employers, the amount of benefits payable by each reimbursing em-*  
5 *ployer shall be an amount which bears the same ratio to the total*  
6 *benefits paid to the individual as the total base period wages paid*  
7 *to the individual by such employer bears to the total base period*  
8 *wages paid to the individual by all of such individual's base period*  
9 *employers.*

10 *(B) Proportionate allocation (when all base period employers are re-*  
11 *imbursing employers). If benefits paid to an individual are based on*  
12 *wages paid by two or more reimbursing employers, the amount of*  
13 *benefits payable by each such employer shall be an amount which*  
14 *bears the same ratio to the total benefits paid to the individual as*  
15 *the total base period wages paid to the individual by such employer*  
16 *bear to the total base period wages paid to the individual by all of*  
17 *such individual's base period employers.*

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

1 ***from such accounts, and for the determination of the amounts that***  
2 ***are payable under this subsection (e)(4) by members of the group***  
3 ***and the time and manner of such payments.***

4 Sec. ~~4~~. K.S.A. 44-704 and 44-757 ***and K.S.A. 2002 Supp. 44-710***  
5 are hereby repealed.

6 Sec. **4 5**. This act shall take effect and be in force from and after its  
7 publication in the statute book.

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