

## CHAPTER 21

## ( HB 4 )

AN ACT relating to unemployment insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 341.005 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

- (1) *"Approved job training or certification program" means:*
- (a) *A program approved by the secretary that leads to a short-term certificate or credential, an industry-recognized certificate, diploma, or associate of applied science degree in one (1) of Kentucky's top five (5) high-demand workforce sectors identified by the Kentucky Workforce Innovation Board and the Education and Workforce Development Cabinet; or*
- (b) *A program approved and determined by the secretary to improve an individual's employability in a high-wage, high-demand occupation;*
- ~~(2)(+) "Cabinet" means the Education and Workforce Development Cabinet;~~
- (3) *"Commission" means the Unemployment Insurance Commission;*
- (4) *"Enhanced federal benefits" means any temporary federally funded or partially federally funded benefits, administered by the Commonwealth and payable through voluntary agreements between the Commonwealth and the United States Department of Labor, that supplement or increase weekly state benefit amounts. "Enhanced federal benefits" does not mean benefits such as, without limitation, benefits otherwise calculated and distributed in accordance with KRS 341.350 to 341.415, extended benefits provided for in KRS 341.700 to 341.740, or shared work benefits provided for in Sections 12 to 18 of this Act;*
- ~~(2) "Secretary" means the secretary of the Education and Workforce Development Cabinet or his or her duly authorized representative; and~~
- ~~(3) "Commission" means the unemployment insurance commission.~~
- (5) *"State average unemployment rate" means the seasonal adjusted statewide unemployment rate that applies to the six (6) month period in which the claim is filed. One six (6) month period shall begin on January 1 of each year and one six (6) month period shall begin on July 1 of each year. For the six (6) month period beginning on January 1, the state average unemployment rate shall be the average of Kentucky's seasonal adjusted unemployment rates for the preceding months of July, August, and September. For the six (6) month period beginning on July 1, the state average unemployment rate shall be the average of Kentucky's seasonal adjusted unemployment rates for the preceding months of January, February, and March. In calculating the state average unemployment rate, the cabinet shall utilize the most recent seasonal adjusted unemployment rate determined by the United States Department of Labor, Bureau of Labor Statistics; and*
- (6) *"Secretary" means the secretary of the Education and Workforce Development Cabinet or his or her duly authorized representative.*

➔Section 2. KRS 341.100 is amended to read as follows:

- (1) In determining for any purpose under this chapter whether or not any work is suitable for a worker the secretary shall consider, among other pertinent conditions, the degree of risk involved to his *or her* health, safety and morals; his *or her* physical fitness and prior training; his *or her* experience and prior earnings; his *or her* length of unemployment and prospects for securing local work in his *or her* customary occupation; and the distance of the available work from his *or her* residence.
- (2) For the purpose of this chapter, no work shall be suitable nor shall benefits be denied under this chapter to any otherwise eligible worker for refusing to accept new work or new conditions of work under one (1) or more of the following:
- (a) If the position offered is vacant due directly to a strike, lock-out or other labor dispute;

- (b) If the wages, hours, or other conditions of the work offered are substantially less favorable than those prevailing for similar work in the locality;
  - (c) If, as a condition of being employed, the worker would be required to join a company union or to resign from or refrain from joining any bona fide labor organization; *and*
  - (d) If the acceptance of such work would be prejudicial to the continuance of an established employer-employee relationship to which the worker is a party.
- (3) *Notwithstanding any other provision in this section, the secretary shall consider any employment offer to be suitable work for the purposes of this chapter:*
- (a) *That is offered to a worker who has received at least six (6) weeks of benefits during his or her present period of unemployment;*
  - (b) *For which the worker will be paid one hundred twenty percent (120%) of his or her weekly benefit amount;*
  - (c) *That is located within a distance of thirty (30) miles of the worker's residence, or is work that can be completed remotely on a permanent basis; and*
  - (d) *That the worker is able and qualified to perform, regardless of whether or not he or she has related experience or training.*

➔Section 3. KRS 341.270 is amended to read as follows:

- (1) Except as otherwise provided in this section, each employer's contribution rate shall be three percent (3%). Effective for employers who become subject to this chapter on or after January 1, 1999, except as otherwise provided in this section, each employer's contribution rate shall be two and seven-tenths percent (2.7%).
- (2) Except as otherwise provided in this section, no subject employer's contribution rate shall be less than two and seven-tenths percent (2.7%), unless he *or she* has been an employer subject to the provisions of this chapter for **four (4)**~~twelve (12)~~ consecutive calendar quarters ended as of the computation date. In any calendar year in which the rate schedule prescribed in paragraph (3)(a) of this section is in effect, no subject employer who was assigned an entry rate of three percent (3.0%) under the provisions of subsection (1) of this section prior to January 1, 1999, shall have a contribution rate less than two and eight hundred fifty-seven thousandths percent (2.857%), unless subject to this chapter for the minimum time period specified above.
- (3) For the calendar year 2001 and each calendar year thereafter, employer contribution rates shall be determined in accordance with "Table A" set out in subsection (4) of this section. For each calendar year, the secretary shall determine the rate schedule to be in effect based upon the "trust fund balance" as of September 30 of the preceding year. If the "trust fund balance":
  - (a) Equals or exceeds one and eighteen hundredths percent (1.18%) of the total wages paid in covered employment in the state during the state fiscal year ended as of June 30 of that year, the rates listed in the "Trust Fund Adequacy Rates" schedule of "Table A" shall be in effect;
  - (b) Equals or exceeds five hundred million dollars (\$500,000,000) but is less than the amount required to effectuate the "Trust Fund Adequacy Rates" schedule as provided in paragraph (a) of this subsection, the rates listed in "Schedule A" of "Table A" shall be in effect;
  - (c) Equals or exceeds three hundred fifty million dollars (\$350,000,000) but is less than five hundred million dollars (\$500,000,000), the rates listed in "Schedule B" of "Table A" shall be in effect;
  - (d) Equals or exceeds two hundred fifty million dollars (\$250,000,000) but is less than three hundred fifty million dollars (\$350,000,000), the rates listed in "Schedule C" of "Table A" shall be in effect;
  - (e) Equals or exceeds one hundred fifty million dollars (\$150,000,000) but is less than two hundred fifty million dollars (\$250,000,000), the rates listed in "Schedule D" of "Table A" shall be in effect; and
  - (f) Is less than one hundred fifty million dollars (\$150,000,000), the rates listed in "Schedule E" of "Table A" shall be in effect.
- (4) For the calendar year 1982 and each calendar year thereafter, contribution rates shall be determined upon the basis of an individual employer's reserve ratio as of the computation date and the schedule of rates established under subsection (3) of this section. Except as otherwise provided in this section, the contribution rate for each subject employer for the calendar year immediately following the computation date shall be the rate in that

"Schedule" of "Table A," as set out below, effective with respect to the calendar year, which appears on the same line as his *or her* reserve ratio as shown in the "Employer Reserve Ratio" column of the same table.

TABLE A  
Rate Schedule

Employer Reserve Ratio	Trust Fund Adequacy Rates	A	B	C	D	E
8.0% and over	0.000%	0.30%	0.40%	0.50%	0.60%	1.00%
7.0% but under 8.0%	0.000%	0.40%	0.50%	0.60%	0.80%	1.05%
6.0% but under 7.0%	0.008%	0.50%	0.60%	0.70%	0.90%	1.10%
5.0% but under 6.0%	0.208%	0.70%	0.80%	1.00%	1.20%	1.40%
4.6% but under 5.0%	0.508%	1.00%	1.20%	1.40%	1.60%	1.80%
4.2% but under 4.6%	0.808%	1.30%	1.50%	1.80%	2.10%	2.30%
3.9% but under 4.2%	1.008%	1.50%	1.70%	2.20%	2.40%	2.70%
3.6% but under 3.9%	1.308%	1.80%	1.80%	2.40%	2.60%	3.00%
3.2% but under 3.6%	1.508%	2.00%	2.10%	2.50%	2.70%	3.10%
2.7% but under 3.2%	1.608%	2.10%	2.30%	2.60%	2.80%	3.20%
2.0% but under 2.7%	1.708%	2.20%	2.50%	2.70%	2.90%	3.30%
1.3% but under 2.0%	1.808%	2.30%	2.60%	2.80%	3.00%	3.40%
0.0% but under 1.3%	1.908%	2.40%	2.70%	2.90%	3.10%	3.50%
-0.5% but under -0.0%	6.500%	6.50%	6.75%	7.00%	7.25%	7.50%
-1.0% but under -0.5%	6.750%	6.75%	7.00%	7.25%	7.50%	7.75%
-1.5% but						

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under -1.0%	7.000%	7.00%	7.25%	7.50%	7.75%	8.00%
-2.0% but						
under -1.5%	7.250%	7.25%	7.50%	7.75%	8.00%	8.25%
-3.0% but						
under -2.0%	7.500%	7.50%	7.75%	8.00%	8.25%	8.50%
-4.0% but						
under -3.0%	7.750%	7.75%	8.00%	8.25%	8.50%	8.75%
-6.0% but						
under -4.0%	8.250%	8.25%	8.50%	8.75%	9.00%	9.25%
-8.0% but						
under -6.0%	8.500%	8.50%	8.75%	9.00%	9.25%	9.50%
Less						
than -8.0%.	9.000%	9.00%	9.25%	9.50%	9.75%	10.00%

(5) As used in this section and elsewhere in this chapter, unless the context clearly requires otherwise:

- (a) "Trust fund balance" means the amount of money in the unemployment insurance fund, less any unpaid advances made to the state under Section 1201 of the Social Security Act. In determining the amount in the fund as of a given date all money received by the Office of Unemployment Insurance, Department of Workforce Investment, on that date shall be considered as being in the fund on that date;
- (b) "Total wages" means all remuneration for services, as defined in KRS 341.030(1) to (7), paid by subject employers;
- (c) An employer's "reserve ratio" means the percentage ratio of his *or her* reserve account balance as of the computation date to his *or her* taxable payrolls for the **four (4)**~~twelve (12)~~ consecutive calendar quarters ended as of June 30 immediately preceding the computation date;
- (d) For the purposes of this section, an employer's "reserve account balance" means the amount of contributions credited to his *or her* reserve account as of the computation date, less the benefit charges through June 30 immediately preceding the computation date. If benefits charged to an account exceed contributions credited to the account, the account shall be considered as having a debit balance and a reserve ratio of "less than zero"; and
- (e) "Computation date" is July 31 of each calendar year prior to the effective date of new rates of contributions.

(6) Notwithstanding any other provisions of this chapter, for the calendar year 2021, the employer contribution rates shall be determined using the rates listed in Schedule A of Table A.

➔Section 4. KRS 341.272 is amended to read as follows:

(1) Notwithstanding any section of this chapter to the contrary, on or after July 15, 1984, any new domestic corporation, or any foreign corporation authorized to do business in this state, or any foreign corporation active in conjunction with a domestic corporation in a joint venture, partnership or other legal entity engaged in the contract construction trades shall pay contributions equal to the maximum rate of contributions payable under the rate schedule in effect for any given calendar year as determined by KRS 341.270; and, such maximum rate of contributions shall remain in effect until the employer has employed persons in this state for not less than **four (4)**~~twelve (12)~~ consecutive calendar quarters ending as of June 30 immediately preceding the computation date. Thereafter, such employer's contribution rate shall be determined in accordance with the provisions of subsection (4) of KRS 341.270.

(2) On or after January 1, 1989, any new domestic or foreign proprietorship or partnership engaged in the contract construction trades shall be subject to the provisions of subsection (1) of this section.

➔Section 5. KRS 341.350 is amended to read as follows:

An unemployed worker shall, except as provided in KRS 341.360 and 341.370, be eligible for benefits with respect to any week of unemployment only if:

- (1) He or she has made a claim for benefits;
- (2) For an initial claim made on or after January 1, 2012, he or she has served a waiting period of one (1) week, during which he or she has not received benefits. The waiting week period shall be the first compensable week of an initial claim for benefits for which he or she is eligible and qualified to receive benefits under this chapter. A waiting week period shall be required for each benefit year, whether or not consecutive. No more than one (1) waiting week period shall be required in any benefit year. The waiting week shall become compensable once the remaining balance on the claim is equal to or less than the compensable amount for the waiting week;
- (3)
  - (a) He or she has registered for work with respect to such week in accordance with administrative regulations promulgated by the secretary; ~~and~~
  - (b) He or she participates in reemployment services, such as job search assistance services, if pursuant to a profiling system established by the secretary, he or she has been determined to be likely to exhaust regular benefits unless:
    1. The claimant has completed the services to which he or she is referred; or
    2. There is justifiable cause for the claimant's failure to participate in the services. For the purpose of this section, "justifiable cause" shall be interpreted to mean what a reasonable person would do in like circumstances; **and**
  - (c) ***He or she engages in at least five (5) verifiable work search activities during each week in which he or she claims eligibility. At least three (3) of these activities each week shall consist of formally submitting an application for employment or interviewing for employment. "Work search activities" includes any of the following:***
    1. ***Formally submitting an application for employment, either in person or online;***
    2. ***Interviewing for employment virtually, in person, or online;***
    3. ***Job shadowing;***
    4. ***Attending a job fair or networking event hosted by state or local government or a business organization;***
    5. ***Participating in a job search skills workshop or seminar; and***
    6. ***Participating in official Kentucky Career Center or partner programs related to employment or the search for employment;***
- (4) He or she is physically and mentally able to work;
- (5) He or she is available for suitable work, and making such reasonable effort to obtain work as might be expected of a prudent person under like circumstances;
- (6) His or her base-period wages in that calendar quarter of his or her base period in which such wages were highest are equal to at least one thousand five hundred dollars (\$1,500), and his or her total base-period wages are not less than one and one-half (1-1/2) times the base-period wages paid to him or her in such quarter and he or she was paid base-period wages in the last six (6) months of his or her base period equal to at least eight (8) times his or her weekly benefit rate with a minimum of one thousand five hundred dollars (\$1,500) earned outside the high quarter. Beginning on January 1, 2020, and continuing on January 1 in even-numbered years thereafter, the secretary shall adjust the minimum base-period wages at a rate that is directly proportional to the average percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for the two (2) previous calendar years;
- (7) An otherwise eligible worker shall not be denied benefits under subsection (5) of this section or because of his or her failure to actively seek work ***under subsection (3) of this section***, nor disqualified under paragraph (a) of subsection (1) of KRS 341.370:
  - (a) ***With***~~with~~ respect to any week he or she is ***certified as being enrolled and making satisfactory progress in an approved job training or certification program***~~training with the approval of the secretary~~; ***or***
  - (b) ***If he or she has verified definite return-to-work or recall-to-work prospects within a period of sixteen (16) weeks from the date of filing of the initial or reopened claim.***

- (8) Notwithstanding any other provisions of this chapter, no otherwise eligible worker shall be denied benefits for any week because he or she is in training approved under 19 U.S.C. sec. 2296 (Section 236(a)(1) of the Trade Act of 1974), nor shall such worker be denied benefits by reason of leaving work to enter such training provided such work is not suitable employment, or because of the application to any such week in training of provisions in this law (or any applicable federal unemployment compensation law) relating to availability for work, active search for work, or refusal to accept work. For purpose of this subsection, the term "suitable employment" shall mean employment of a substantially equal or higher skill level than the worker's past adversely affected employment as defined in 19 U.S.C. sec. 2319 (Trade Act of 1974), and wages for such work are not less than eighty percent (80%) of the workers' average weekly wage as determined for purposes of the Trade Act of 1974.
- (9) The foregoing eligibility requirements and the conditions of benefit disqualifications imposed by KRS 341.370 shall be strictly construed. Nothing in this section, excepting subsection (6) of this section, nor in KRS 341.360 or 341.370 shall affect the establishment of a "benefit year."
- (10) ***The cabinet shall conduct randomized weekly audits of a number determined by the secretary as sufficient to evaluate compliance with the work search activity requirements of this section, and shall submit an annual report to the Governor and the Interim Joint Committee on Economic Development and Workforce Investment detailing:***
- (a) ***The percentage of audited claimants that failed to comply with the work search activity requirement outlined in this section;***
  - (b) ***The work search activities that were most commonly engaged in by audited claimants;***
  - (c) ***Recommendations to make the work search activity requirement more effective in assisting claimants in finding employment;***
  - (d) ***The number of claims audited each week and the total number of claims audited during the reporting period;***
  - (e) ***The percentage of total claims audited each week and percentage of total claims audited during the reporting period; and***
  - (f) ***A summary of the methodology used to conduct randomized auditing.***
- (11) ***The secretary shall promulgate regulations and standards for the verification of claimants' work search activities and the methods by which claimants shall submit work search activities and any associated documentation required by the secretary for verification.***

➔Section 6. KRS 341.380 is amended to read as follows:

- (1) All benefits shall be paid through employment offices, or such other agencies as may be designated by regulations of the secretary. Claims for all payments of benefits shall be made in accordance with regulations of the secretary.
- (2) The weekly benefit rate payable to an eligible worker for weeks of unemployment shall, except as provided in KRS 341.390, be an amount equal to one and three thousand seventy-eight ten-thousandths percent (1.3078%) of his ***or her*** total base-period wages, except that no worker's weekly benefit amount shall be less than thirty-nine dollars (\$39), nor more than the maximum rate as determined in accordance with subsection (3) of this section. For claims effective on or after January 1, 2012, the weekly benefit rate shall, except as provided in KRS 341.390, be one and one thousand nine hundred twenty-three ten-thousandths percent (1.1923%) of his ***or her*** total base-period wages, except that no worker's weekly benefit amount shall be less than thirty-nine dollars (\$39) nor more than the maximum rate as determined in accordance with subsection (3) of this section.
- (3) Prior to the first day of July of each year the secretary shall determine the average weekly wage for insured employment by dividing the average monthly employment, as obtained by dividing the total monthly employment reported by subject employers for the preceding calendar year by twelve (12), into the total wages reported by such employers for such calendar year and dividing by fifty-two (52). Fifty-five percent (55%) of the amount thus obtained, adjusted to the nearest multiple of one dollar (\$1), shall constitute the maximum weekly benefit rate for those workers whose benefit year commences on or after the first day of July of such year and prior to the first day of July of the next following year; beginning in calendar year 1999, or any subsequent year in which the increase in the weekly benefit rate calculation set forth in subsection (2) of this section should take effect, sixty-two percent (62%) of the average weekly wage, adjusted to the nearest multiple of one dollar (\$1), shall constitute the maximum weekly benefit rate for those workers whose benefit

year commences on or after the first day of July of that year and prior to the first day of July of the next following year; except that for the benefit years beginning on or after July 1, 1982, if the "trust fund balance" as of September 30 immediately preceding the benefit year is less than one hundred twenty million dollars (\$120,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate. If such "trust fund balance" as of September 30 immediately preceding the benefit year:

- (a) Equals or exceeds one hundred twenty million dollars (\$120,000,000), but is less than two hundred million dollars (\$200,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than six percent (6%). The rate thus determined shall be adjusted to the nearest multiple of one dollar (\$1);
  - (b) Equals or exceeds two hundred million dollars (\$200,000,000), but is less than three hundred million dollars (\$300,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than eight percent (8%). The rate thus determined shall be adjusted to the nearest multiple of one dollar (\$1);
  - (c) Equals or exceeds three hundred million dollars (\$300,000,000), but is less than four hundred million dollars (\$400,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than ten percent (10%). The rate thus determined shall be adjusted to the nearest multiple of one dollar (\$1);
  - (d) Equals or exceeds four hundred million dollars (\$400,000,000), but is less than five hundred million dollars (\$500,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than twelve percent (12%). The rate thus determined shall be adjusted to the nearest multiple of one dollar (\$1);
  - (e) Equals or exceeds five hundred million dollars (\$500,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than fifteen percent (15%). The rate thus determined shall be adjusted to the nearest multiple of one dollar (\$1); and
  - (f) Is such that it resulted in the establishment of an employer contribution rate schedule, as provided for in KRS 341.270, for the current calendar year which has a higher minimum rate than the schedule in effect for the immediately preceding calendar year, the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate.
- (4) The maximum amount of benefits payable to any worker within any benefit year shall be the amount equal to whichever is the lesser of:
- (a) *His or her weekly benefit rate times the applicable number of weeks for which benefits are available to him or her as calculated in Section 7 of this Act*~~{Twenty-six (26) times his weekly benefit rate}~~; or
  - (b) One-third (1/3) of his *or her* base-period wages, except that no worker's maximum amount shall be less than *twelve (12)*~~{fifteen (15)}~~ times his *or her* weekly benefit rate. Such maximum amount, if not a multiple of one dollar (\$1), shall be adjusted to the nearest multiple of one dollar (\$1).

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

- (1) *The duration of benefits available to each eligible recipient based upon the state average unemployment rate at the time of his or her application for benefits, up to a maximum of twenty-four (24) weeks, shall be as follows:*
- (a) *State average unemployment rate of less than or equal to four and one-half percent (4.5%): twelve (12) weeks of benefits available;*
  - (b) *State average unemployment rate of greater than four and one-half percent (4.5%) up to and including five percent (5%): thirteen (13) weeks of benefits available;*
  - (c) *State average unemployment rate of greater than five percent (5%) up to and including five and one-half percent (5.5%): fourteen (14) weeks of benefits available;*
  - (d) *State average unemployment rate of greater than five and one-half percent (5.5%) up to and including six percent (6%): fifteen (15) weeks of benefits available;*
  - (e) *State average unemployment rate of greater than six percent (6%) up to and including six and one-half percent (6.5%): sixteen (16) weeks of benefits available;*

- (f) *State average unemployment rate of greater than six and one-half percent (6.5%) up to and including seven percent (7%): seventeen (17) weeks of benefits available;*
  - (g) *State average unemployment rate of greater than seven percent (7%) up to and including seven and one-half percent (7.5%): eighteen (18) weeks of benefits available;*
  - (h) *State average unemployment rate of greater than seven and one-half percent (7.5%) up to and including eight percent (8%): nineteen (19) weeks of benefits available;*
  - (i) *State average unemployment rate of greater than eight percent (8%) up to and including eight and one-half percent (8.5%): twenty (20) weeks of benefits available;*
  - (j) *State average unemployment rate of greater than eight and one-half percent (8.5%) up to and including nine percent (9%): twenty-one (21) weeks of benefits available;*
  - (k) *State average unemployment rate of greater than nine percent (9%) up to and including nine and one-half percent (9.5%): twenty-two (22) weeks of benefits available;*
  - (l) *State average unemployment rate of greater than nine and one-half percent (9.5%) up to and including ten percent (10%): twenty-three (23) weeks of benefits available; and*
  - (m) *State average unemployment rate of greater than ten percent (10%): twenty-four (24) weeks of benefits available.*
- (2) *The classification system set forth in subsection (1) of this section shall not apply to claimants with verified definite return-to-work or recall-to-work prospects within a period of sixteen (16) weeks from the date of filing of the initial or reopened claim, who shall instead receive one hundred percent (100%) of the weekly benefit rate for each week that they are otherwise eligible, up to sixteen (16) weeks unless the state average unemployment rate is higher than six and one-half percent (6.5%), in which case the maximum duration of weeks for these claimants shall follow the classification system set forth in subsection (1) of this section.*
  - (3) *The classification system set forth in subsection (1) of this section shall apply to regular benefits and shall not affect the duration of shared work benefits as set forth in Sections 12 to 18 of this Act or to the duration of extended benefits set forth in KRS 341.700 to 341.740.*
  - (4) *A claimant, who has been classified with a group classification code by the agency that meets the requirements of subsection (1) of this section shall remain in this classification throughout the benefit year regardless of whether or not the claimant's classification changes.*
  - (5) *The secretary may, with the approval of the General Assembly, extend the maximum amount of regular benefits payable, not to exceed twenty-six (26) times the claimant's weekly benefit rate, if:*
    - (a) *An extension for benefits is authorized by the federal government, but only while federal funding is available; or*
    - (b) *During, but not exceeding, any extended benefit period as described in KRS 341.094.*
  - (6) *Any otherwise eligible individual who is certified as being enrolled and making satisfactory progress in an approved job training or certification program shall be entitled, during the current benefit year, to receive up to an additional five (5) weeks of benefits after all regular benefits have been exhausted under subsection (1) of this section.*
    - (a) *The amount of benefits payable under this subsection shall equal the weekly benefit amount established by the most recent benefit year.*
    - (b) *Benefits under this subsection shall not be paid to an individual who is receiving benefits of comparable value or other training allowances from other unrelated sources.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

- (1) *An employer may notify the secretary in writing or electronically of each worker who has declined to accept suitable work when offered or has failed to attend a first interview for suitable work, whether held in-person, virtually, or by phone. The notice shall contain:*
  - (a) *A statement that identifies a person or persons with knowledge of the information;*
  - (b) *The name and contact information of the person or persons with knowledge of the information; and*



(c) *Specific and detailed information regarding the decline of an offer of suitable work or the failure to attend a first interview regarding suitable work that may potentially disqualify the worker from receiving benefits.*

(2) *The information contained in the notice shall be considered when a determination of eligibility for benefits is made and may constitute grounds for ineligibility.*

(3) *The secretary shall provide a portal in which the notice in subsection (1) of this section can be made online.*

➔Section 9. KRS 341.370 is amended to read as follows:

(1) A worker shall be disqualified from receiving benefits for the duration of any period of unemployment with respect to which:

(a) He *or she* has failed without good cause either to apply for available, suitable work when so directed by the employment office or the secretary, *to accept an interview from a prospective employer offering suitable work*, or to accept suitable work when offered him *or her*, or to return to his *or her* customary self-employment when so directed by the secretary;~~[-or]~~

(b) He *or she* has been discharged for misconduct or dishonesty connected with his *or her* most recent work, or from any work which occurred after the first day of the worker's base period and which last preceded his *or her* most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct;~~[-or]~~

(c) He *or she* has left his *or her* most recent suitable work or any other suitable work which occurred after the first day of the worker's base period and which last preceded his *or her* most recent work voluntarily without good cause attributable to the employment. No otherwise eligible worker shall be disqualified from receiving benefits for:

1. Leaving his *or her* next most recent suitable work which was concurrent with his *or her* most recent work;
2. Leaving work which is one hundred (100) road miles or more, as measured on a one (1) way basis, from his *or her* home to accept work which is less than one hundred (100) road miles from his *or her* home;
3. Accepting work which is a bona fide job offer with a reasonable expectation of continued employment; or
4. Leaving work to accompany the worker's spouse to a different state, military base of assignment, or duty station that is one hundred (100) road miles or more, as measured on a one (1) way basis, from the worker's home when the spouse is reassigned by the military; *or*

(d) *He or she fails to act in good faith to secure suitable work.*

(2) A worker shall be disqualified from receiving benefits for any week with respect to which he *or she* knowingly made a false statement to establish his *or her* right to or the amount of his *or her* benefits, and, within the succeeding twenty-four (24) months, for the additional weeks immediately following the date of discovery, not to exceed a total of fifty-two (52), as may be determined by the secretary.

(3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this section unless the employer, within a reasonable time as prescribed by regulations promulgated by the secretary, notifies the Education and Workforce Development Cabinet and the worker in writing of the alleged voluntary quitting or the discharge for misconduct. Nothing in this subsection shall restrict the right of the secretary to disqualify a worker whose employer has refused or failed to notify the Education and Workforce Development Cabinet of the alleged voluntary quitting or discharge for misconduct, if the alleged voluntary quitting or discharge for misconduct is known to the secretary prior to the time benefits are paid to the worker. The exercise of the right by the secretary, in the absence of timely notice from the employer, shall not relieve the employer's reserve account or reimbursing employer's account of benefit charges under the provisions of subsection (3) of KRS 341.530.

(4) As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding the week of

unemployment was seasonal, intermittent, or temporary in nature, most recent work may be construed as that work last preceding the seasonal, intermittent, or temporary work.

- (5) No worker shall be disqualified or held ineligible under the provisions of this section or KRS 341.350, who is separated from employment pursuant to a labor management contract or agreement, or pursuant to an established employer plan, program, or policy, which permits the employer to close the plant or facility for purposes of vacation or maintenance.
- (6) "Discharge for misconduct" as used in this section shall include but not be limited to, separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge; knowing violation of a reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if the worker cannot show good cause for absences or tardiness; damaging the employer's property through gross negligence; refusing to obey reasonable instructions; reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours; conduct endangering safety of self or co-workers; and incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction, which results in missing at least five (5) days work.
- (7) "Duration of any period of unemployment," as that term is used in this section, shall be the period of time beginning with the worker's discharge, voluntary quitting, or failure to apply for or accept suitable work and running until the worker has worked in each of ten (10) weeks, whether or not consecutive, and has earned ten (10) times his *or her* weekly benefit rate in employment covered under the provisions of this chapter or a similar law of another state or of the United States.

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

*The General Assembly of the Commonwealth of Kentucky may end the Commonwealth's participation in any enhanced federal benefit program in a manner consistent with any applicable federal laws at any time during the duration of the program.*

➔Section 11. KRS 341.096 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

- (1) *"Additional benefits" means benefits payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law;*
- (2) *"Affected group" means two (2) or more employees designated by an employer to participate in a shared work plan;*
- (3) *"Approved plan" means an employer's voluntary, written plan for reducing unemployment under which a specified group of employees shares the work remaining after their normal weekly hours of work are reduced, which plan meets the requirements of Section 12 of this Act and which plan has been approved in writing by the secretary;*

~~{(1) "Rate of insured unemployment" means the percentage derived by dividing:~~

~~(a) The weekly average number of weeks claimed in claims filed for regular benefits (not seasonally adjusted) in this state for weeks of unemployment with respect to the most recent thirteen (13) consecutive week period, as determined by the secretary on the basis of his report to the United States Secretary of Labor; by~~

~~(b) The average monthly employment covered under this chapter for the first four (4) of the most recent six (6) completed calendar quarters ending before the end of such thirteen (13) week period. Such computations shall be made by the secretary, in accordance with regulations prescribed by the United States Secretary of Labor;~~

~~(2) "Regular benefits" means benefits payable to a worker under this chapter or under an unemployment compensation law of any other state (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. ch. 85) other than extended benefits and additional benefits;~~

~~(3) "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. ch. 85) payable to a worker under the provisions of KRS 341.700 to 341.740 for weeks of unemployment in his eligibility period;~~

~~(4) "Additional benefits" means benefits payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law;}~~

- (4)~~(5)~~ "Eligibility period" of a worker means the period consisting of the weeks in his *or her* benefit year which begin in an extended benefit period and, if his *or her* benefit year ends within such extended benefit period, any weeks thereafter which begin in such period;~~and~~
- (5)~~(6)~~ "Exhaustee" means a worker who, with respect to any week of unemployment in his *or her* eligibility period:
- (a) Has received, prior to such week, all of the regular benefits that were available to him *or her* under this chapter or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. ch. 85) in his *or her* current benefit year that includes such week; provided, that, for the purposes of this paragraph, an individual shall be deemed to have received all of the regular benefits that were available to him *or her* although, as a result of a pending appeal with respect to wages and/or employment that were not considered in the original monetary determination in his *or her* benefit year, he *or she* may subsequently be determined to be entitled to added regular benefits; or
  - (b) His *or her* benefit year having expired prior to such week, has no, or insufficient, wages and/or employment on the basis of which he *or she* could establish a new benefit year that would include such week; and
  - (c) Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act or under such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada; but if the individual is seeking such benefits and the appropriate agency finally determines that the individual is not entitled to benefits under such law, the individual shall be considered an exhaustee if the other provisions of this definition are met;
- (6) *"Extended benefits" means benefits, including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. ch. 85, payable to a worker under the provisions of KRS 341.700 to 341.740 for weeks of unemployment in his or her eligibility period;*
- (7) *"Fringe benefits" includes advantages such as health insurance, retirement benefits, paid vacation and holidays, and sick leave, which are incidents of employment in addition to the cash remuneration earned;*
- (8) *"Normal weekly hours of work" means the normal hours of work for full-time and permanent part-time employees in the affected group when their employer is operating on its normal, full-time basis, not to exceed forty (40) hours and not including overtime;*
- (9) *"Rate of insured unemployment" means the percentage derived by dividing:*
- (a) *The weekly average number of weeks claimed in claims filed for regular benefits, not seasonally adjusted, in this state for weeks of unemployment with respect to the most recent thirteen (13) consecutive-week period, as determined by the secretary on the basis of his or her report to the United States Secretary of Labor; by*
  - (b) *The average monthly employment covered under this chapter for the first four (4) of the most recent six (6) completed calendar quarters ending before the end of such thirteen (13) week period. Such computations shall be made by the secretary, in accordance with regulations prescribed by the United States Secretary of Labor;*
- (10) *"Regular benefits" means benefits payable to a worker under this chapter or under an unemployment compensation law of any other state, including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. ch. 85, other than extended benefits and additional benefits;*
- (11) *"Shared work benefits" means the unemployment compensation benefits payable to employees in an affected group under an approved plan as distinguished from the unemployment benefits otherwise payable under other provisions of this chapter;*
- (12) *"Shared work employer" means an employer with a shared work plan in effect. An individual who, or an entity which, succeeds to or acquires an organization, corporation, partnership, limited liability company, or other business with a shared work plan in effect automatically becomes a shared work employer and adopts the plan if the individual or entity ratifies, in writing, the previously approved plan; and*
- (13) *"Subgroup" means a group of employees which constitutes at least ten percent (10%) of the employees in an affected group.*

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

- (1) *An employer wishing to participate in a shared work program shall submit a signed, written shared work compensation plan to the secretary for approval.*
- (2) *The secretary shall approve a shared work unemployment compensation plan if:*
  - (a) *The plan:*
    1. *Applies to and identifies the specified affected group; and*
    2. *Includes an estimate of the number of layoffs that might occur absent participation in the shared work program;*
  - (b) *The employees in the affected group or groups are identified by name, Social Security number, and by any other information required by the secretary;*
  - (c) *The normal weekly hours of work for employees in the affected group or groups are reduced by not less than ten percent (10%) and not more than forty percent (40%);*
  - (d) *Health benefits, retirement benefits, and other fringe benefits will continue to be provided to employees in the affected group or groups as though their work weeks had not been reduced. However, if the employer reduces the level of benefits for its employees who are not in the shared work group, the level of benefits may be reduced by a like amount for the employer's shared work employees;*
  - (e) *The plan certifies that the aggregate reduction in work hours is in lieu of all layoffs that would have affected at least ten percent (10%) of the employees in the affected group or groups to which the plan applies and that would have resulted in an equivalent reduction in work hours;*
  - (f) *During the previous four (4) months, the workforce in the affected group has not been reduced by temporary layoffs of more than ten percent (10%) of the workers;*
  - (g)
    1. *The plan applies to at least ten percent (10%) of the employees in the affected group;*
    2. *If the plan applies to all employees in the affected group, the plan provides equal treatment to all employees of the group; and*
    3. *If the affected group is divided into subgroups, the plan provides equal treatment to employees within each subgroup;*
  - (h)
    1. *The plan contains a certification by the employer that the employer has made the proposed plan available for inspection to each employee in the affected group; and*
    2. *The plan includes:*
      - a. *A description of how the plan was made available; and*
      - b. *If advance notice of the plan was not feasible, an explanation of why advance notice was not feasible;*
  - (i) *The plan includes a certified statement by the employer that the terms and implementation of the shared work plan are consistent with any obligations the employer has under applicable state and federal law;*
  - (j) *An employee who joins an affected group after the approval of the shared work plan is automatically covered under the previously approved plan, effective the week that the secretary receives written notice from the shared work employer that the employee has joined;*
  - (k) *The plan shall not serve as a subsidy to seasonal employers during the off season nor as a subsidy to employers who traditionally use part-time employees; and*
  - (l) *The employer agrees to:*
    1. *Furnish reports, if requested by the secretary, relating to the proper conduct of the plan;*
    2. *Provide the secretary or his or her authorized representatives all records necessary to evaluate the plan for approval; and*
    3. *Allow the secretary or his or her authorized representatives to evaluate application of the plan after approval.*

- (3) *The secretary shall create an application through which employers shall submit shared work plans for approval.*

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

- (1) *The secretary shall approve or reject a plan in writing within thirty (30) days of its receipt.*
- (2) *Only one (1) plan may be approved for any one (1) employer during any twelve (12) month period.*
- (3) *The reason for the rejection of any plan shall be final and nonappealable, but an employer whose plan was rejected shall be allowed to submit another plan for approval not earlier than fifteen (15) days from the date of the last rejection.*

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

- (1) *A plan shall take effect:*
- (a) *On the date of its approval by the secretary; or*
- (b) *On a date specified within the plan if that date occurs after its approval by the secretary.*
- (2) *Each plan:*
- (a) *Shall expire at the end of twelve (12) full calendar months after its effective date; or*
- (b) *If a plan is revoked by the secretary, shall terminate on the date specified in the secretary's written order of revocation.*
- (3) *A shared work employer may terminate an approved plan by providing the secretary and each employee in every affected group covered by the plan with a written notice. Such notice shall:*
- (a) *Contain a message indicating that the plan is being terminated;*
- (b) *Identify the date on which the termination will go into effect; and*
- (c) *Be delivered to the secretary and each employee in each affected group covered by the plan no less than thirty (30) days prior to the termination date.*

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

- (1) *For purposes of this section, "good cause" includes but is not limited to:*
- (a) *Failure to comply with the assurances given in the plan;*
- (b) *Unreasonable revision of productivity standards for the affected group;*
- (c) *Conduct or occurrences tending to defeat the intent and effective operation of the plan; and*
- (d) *Violation of any criteria on which approval of the plan was based.*
- (2) *The secretary may revoke approval of a plan:*
- (a) *For good cause; and*
- (b) *By issuing a revocation order, in writing, that specifies the date the revocation is effective and the reasons for the revocation.*
- (3) *The secretary may issue a revocation at any time upon his or her own motion or on motion of any of the affected group's employees.*
- (4) *The secretary shall review the operation of each approved employer plan at least once during the twelve (12) month period that the plan is in effect to ensure its compliance with the requirements of Sections 12 to 18 of this Act.*
- (5) *Revocation of a plan for good cause by the secretary shall preclude approval of any subsequent plan submitted by the revoked plan employer during the twelve (12) month period beginning on the date of the revocation order.*

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

- (1) *An individual is eligible to receive shared work unemployment compensation benefits with respect to any week only if the secretary finds that:*

- (a) *The individual is employed as a member of an affected group under an approved plan that was approved by the secretary before the week and is in effect for the week;*
  - (b) *The individual is able to work and is available for the normal work week with the shared work employer; and*
  - (c) *The normal weekly hours of work of the individual are reduced by at least ten percent (10%) but not more than forty percent (40%), with a corresponding reduction in wages.*
- (2) *A worker shall not be denied shared work benefits if he or she is otherwise eligible for these benefits for any week by reason of the application of any provision of this chapter relating to availability for work, active search for work or participation in work search activities, or refusal to apply for or accept work from other than the worker's shared work employer.*
  - (3) *A worker shall not be denied shared work benefits if he or she is otherwise eligible for these benefits for any week because he or she is participating in training sponsored by, or at the direction of, the shared work employer.*
  - (4) *Notwithstanding any other provision in this chapter, a worker shall be deemed unemployed in any week for which compensation is payable to him or her, as an employee in an affected group, for less than his or her normal weekly hours of work in accordance with an approved plan in effect for the week.*

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

- (1) *The shared work weekly benefit amount shall be the product of the regular weekly unemployment compensation amount, as calculated under KRS 341.380, multiplied by the percentage of reduction of at least ten percent (10%) in the individual's usual weekly hours of work.*
- (2) *An individual may be eligible for shared work benefits or regular benefits, as appropriate, except that no individual shall be eligible for regular benefits, shared work benefits, or a combination of regular benefits and shared work benefits in any benefit year in an amount more than the maximum benefit amount established for regular benefits in KRS 341.380, nor shall an individual be paid shared work benefits for more than twenty-six (26) weeks, whether or not consecutive, in any benefit year pursuant to a shared work plan.*
- (3) *The shared work benefits paid to an individual shall be deducted from the maximum benefit amount established for his or her benefit year under KRS 341.380.*
- (4) *The secretary shall promulgate rules and procedures for the filing of claims for shared work benefits.*

➔SECTION 18. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

*An individual who has received all of the combined regular benefits and shared work benefits available in a benefit year shall be considered an exhaustee for purposes of extended benefits, as provided under KRS 341.700 to 341.740, and, if otherwise eligible under those provisions, shall be eligible to receive extended benefits.*

➔Section 19. KRS 341.530 is amended to read as follows:

- (1) The Office of Unemployment Insurance, Department of Workforce Investment, shall maintain a reserve account for each subject employer making contributions to the fund and a reimbursing employer account for each subject employer making payment in lieu of contributions, and shall, except as provided in KRS 341.590, credit to such account the total amount of all contributions or benefit reimbursement paid by the employer on his *or her* own behalf. Nothing in this section or elsewhere in this chapter shall be construed to grant any employer or individual who is or was in his *or her* employ prior claims or rights to the amounts paid by him *or her* into the fund.
- (2) Except as provided in subsection (3) of this section, all regular benefits paid to an eligible worker in accordance with KRS 341.380 plus the extended benefits paid in accordance with KRS 341.700 to 341.740, subject to the provisions of paragraphs (a) and (b) of this subsection, shall be charged against the reserve account or reimbursing employer account of his *or her* most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits are payable shall have worked for such employer in each of ten (10) weeks whether or not consecutive back to the beginning of the worker's base period. *Shared work benefits paid to an eligible worker in accordance with Sections 12 to 18 of this Act shall be charged against the reserve account or reimbursing employer account of the shared work employer.*

- (a) Subject employers, which are not governmental entities as defined in KRS 341.069, shall be charged one-half (1/2) of the extended benefits paid in accordance with KRS 341.700 to 341.740; and
  - (b) Subject employers which are governmental entities, as defined in KRS 341.069, shall be charged for all extended benefits paid in accordance with KRS 341.700 to 341.740 for compensable weeks occurring on or after January 1, 1979, and for one-half (1/2) of the extended benefits paid for compensable weeks occurring prior to such date.
- (3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an eligible worker and chargeable to a contributing employer's reserve account under such subsection shall be charged against the pooled account if such worker was discharged by such employer for misconduct connected with his *or her* most recent work for such employer, voluntarily left his *or her* most recent work with such employer without good cause attributable to the employment, or the employer has continued to provide part-time employment and wages, without interruption, to the same extent that was provided from the date of hire, and the employer within a reasonable time, as prescribed by regulation of the secretary, notifies the office, in writing, of the alleged voluntary quitting, discharge for misconduct or continuing part-time employment; provided, however, that no employer making payments to the fund in lieu of contributions shall be relieved of charges by reason of this subsection.
- (4) Notwithstanding the provisions of subsection (3) of this section, no contributing employer's reserve account shall be relieved of any charges for benefits relating to an improper benefit payment to a worker established after October 21, 2013, if:
- (a) The improper benefit payment was made because the employer, or an agent of the employer, was at fault for failing to respond timely or adequately to the request of the secretary for information relating to a claim for benefits; and
  - (b) The employer, or an agent of the employer, has a pattern of failing to respond timely or adequately to requests under paragraph (a) of this subsection. For purposes of this paragraph, a "pattern of failing" means at least six (6) failures occur in a calendar year or the failure to respond to two percent (2%) of such requests in a calendar year, whichever is greater.
- (5) Any determination under subsection (4) of this section shall be transmitted to the last known physical or electronic address provided by the employer and may be appealed in accordance with the provisions of KRS 341.420(2).
- (6) Each subject employer's reserve account or reimbursing account shall, unless terminated as of the computation date (as defined in subsection (5) of KRS 341.270), be charged with all benefits paid to eligible workers which are chargeable to such reserve account or reimbursing account under subsection (2) of this section. A subject employer's reserve account or reimbursing account shall be deemed to be terminated if he *or she* has ceased to be subject to this chapter, and his *or her* account has been closed and any balance remaining therein has been transferred to the fund's pooled account or to a successor's account as provided in KRS 341.540 or has been refunded if the employer is a reimbursing employer.
- (7) Notwithstanding subsection (1) of this section, two (2) or more nonprofit Internal Revenue Code sec. 501(c)(3) organizations may jointly request the secretary to establish a group reserve account or reimbursing account for such nonprofit organizations. Two (2) or more governmental entities may jointly request the secretary to establish a group reserve account or reimbursing account, and once established, such account shall remain in effect at least two (2) calendar years and thereafter until either dissolved at the discretion of the secretary or upon filing application for dissolution by the group members. Each member of a group shall be jointly and severally liable for all payments due under this chapter from each or all of such group members. The secretary shall prescribe such procedures as he *or she* deems necessary for the establishment, maintenance, and dissolution of a group reserve account or reimbursing account.
- (8) Any subject contributing employer may at any time on or before December 31, 2011, make voluntary payments to the fund, additional to the contributions required under KRS 341.260 and 341.270. Effective January 1, 2012, any subject contributing employer with a negative reserve account balance may make voluntary payments to the fund every other calendar year, in addition to the contributions required under KRS 341.260 and 341.270. Notwithstanding any other provision of this chapter, contributions paid on or before the computation date and voluntary payments made within twenty (20) days following the mailing of notices of new rates shall be credited to an employer's reserve account as of the computation date, provided no voluntary payments shall be used in computing an employer's rate unless the payment is made prior to the expiration of

one hundred and twenty (120) days after the beginning of the year for which the rate is effective. Voluntary payments by any employer shall not exceed any negative balance they may have in their reserve account as of the computation date. Any employer who is delinquent in the payment of contributions, penalties, or interest as of the computation date shall be entitled to make voluntary payments only after the amount of the delinquency is paid in full.

- (9) Notwithstanding any other provisions of this chapter, any benefits paid to an eligible worker for reasons related to a state or federal state of emergency or disaster declaration shall be paid from the pooled account provided in KRS 341.550 and not from the reserve account of the employer of that individual. The reserve account shall not be charged for benefits related to a state of emergency or disaster declaration. Payments shall be accounted for separately to allow the secretary to seek reimbursement from the federal government.

➔Section 20. KRS 341.080 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

- (1) Except in so far as the Education and Workforce Development Cabinet by regulation prescribes the equivalent thereof to meet particular conditions:
- (a) "Calendar year" means a year beginning on January 1; and
  - (b) "Calendar quarter" means three (3) consecutive months beginning on January 1, April 1, July 1, or October 1;
- (2) "Week" means such period of seven (7) consecutive calendar days as the Education and Workforce Development Cabinet regulation prescribes; and
- (3) "Week of unemployment" means any period of seven (7) consecutive days, as prescribed by the Education and Workforce Development Cabinet in administrative regulations, during which a worker performed less than full-time work and earned less than an amount equal to one and one-fourth (1-1/4) times the benefit rate determined for him *or her* in accordance with the provisions of subsection (2) of KRS 341.380 ***except for any week he or she received shared work benefits in accordance with Sections 12 to 18 of this Act.***

➔Section 21. KRS 341.127 is amended to read as follows:

- (1) By December 1, 2021, and annually thereafter until December 1, 2025, the cabinet shall report to the Governor and the Interim Joint Committee on Economic Development and Workforce Investment:
- (a) The status of the unemployment trust fund, including any federal advances required for trust fund solvency;
  - (b) The average claim duration for individuals receiving unemployment benefits; and
  - (c) The average weekly wage for individuals receiving unemployment benefits.
- (2) By December 1, 2021, the cabinet shall report to the Governor and the Interim Joint Committee on Economic Development and Workforce Investment a review of the amount of wages subject to tax. The review shall include:
- (a) An analysis of the equitable treatment of employers based on the amount of wages subject to tax;
  - (b) A comparison of the percentage of wages subject to tax for small, medium, and large businesses; and
  - (c) Examples of how changes to the amount of wages subject to tax would impact trust fund balances and employer contributions.
- (3) ***By December 1, 2022, and annually thereafter until December 1, 2025, the cabinet shall report to the Governor and the Interim Joint Committee on Economic Development and Workforce Investment and provide analysis of the impact of the shared work benefits described in Sections 12 to 18 of this Act, the unemployment trust fund, and unemployment insurance taxes paid by employers.***
- (4)~~(3)~~ This section expires on January 31, 2026.

➔SECTION 22. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

***Any reports required by Sections 5 and 21 of this Act may be combined by the cabinet and submitted as one (1) to the Governor and the Interim Joint Committee on Economic Development and Workforce Investment.***

➔Section 23. KRS 341.710 is amended to read as follows:



- (1) A worker shall be eligible to receive extended benefits with respect to any week of unemployment in his *or her* eligibility period only if the secretary finds that with respect to such week:
  - (a) He *or she* is an "exhaustee" as defined in subsection (5)~~((6))~~ of KRS 341.096; and
  - (b) He *or she* has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to workers claiming extended benefits, including not being subject to a disqualification for the receipt of benefits.
- (2) A worker shall not be eligible for extended benefits for any week if:
  - (a) Extended benefits are payable for such week pursuant to an interstate claim filed in any state under the interstate benefit payment plan, and no extended benefit period is in effect for such week in such state. However, this provision shall not apply with respect to the first two (2) weeks for which extended benefits are payable to a worker pursuant to an interstate claim filed under the interstate benefit payment plan; or
  - (b) The secretary finds that during such period:
    1. He *or she* failed to accept any offer of suitable work (as required for extended benefits), or he *or she* failed to apply for any suitable work to which he *or she* was referred by the secretary; or
    2. He *or she* failed to actively engage in seeking work as defined in this section.
- (3) Any individual who has been found ineligible for extended benefits by reason of the provisions set forth in this section shall be denied benefits for the week in which such failure occurred and thereafter until he *or she* has been employed in each of four (4) subsequent weeks (whether or not consecutive) and has earned at least four (4) times his *or her* weekly benefit rate in bona fide full-time covered employment.
- (4) For the purpose of this section, a worker shall be treated as actively engaged in seeking work during any week if:
  - (a) Such worker has engaged in a systematic and sustained effort to obtain work during such week; and
  - (b) Such worker furnishes tangible evidence that he *or she* has engaged in such effort during such week.
- (5) The secretary shall refer any claimant entitled to receive extended benefits to any suitable work which meets the criteria as required in KRS 341.712 for workers claiming extended benefits.
- (6) Notwithstanding any other provisions of this chapter, if the benefit year of any worker ends within an extended benefit period, the remaining balance of extended benefits that such worker would, but for this section, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not below zero (0)) by the product of the number of weeks for which the worker received any amounts as trade adjustment allowances within that benefit year, multiplied by the worker's weekly benefit amount for extended benefits.

➔Section 24. The provisions of this Act shall not be construed to limit access for eligible claimants to Disaster Unemployment Assistance benefits authorized under the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act, sec. 410, Pub. L. No. 100-707, 42 U.S.C. sec. 5177, or any amendments thereto, and regulated under 20 C.F.R. pt. 625.

➔Section 25. If any provision of this Act or the application thereof to any person or circumstance is held invalid, unconstitutional, or in violation of any federal law:

- (1) The invalid provision shall be null and void; and
- (2) Its invalidity shall not affect other provisions or application of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

➔Section 26. This Act may be cited as the Unemployment Insurance Sustainability Act of 2022.

➔Section 27. The provisions of this Act take effect on January 1, 2023.

**Veto Overridden and Signed by Secretary of State March 22, 2022.**