

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 1970

By: Mazzei and Lamb of the  
Senate

3  
4 and

McNiel of the House

5  
6  
7  
8 ( Shared Work Unemployment Compensation Program -  
9 codification - effective date -

10 emergency )

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12  
13 AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
14 entire bill and insert

15 "( Shared Work Unemployment Compensation Program -  
16 codification - effective date -

17 emergency )

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21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 2-900 of Title 40, unless there  
24 is created a duplication in numbering, reads as follows:

1 This act shall be known and may be cited as the "Shared Work  
2 Unemployment Compensation Program".

3 SECTION 2. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 2-901 of Title 40, unless there  
5 is created a duplication in numbering, reads as follows:

6 As used in this act:

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

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

14 3. "Fund" means the Unemployment Trust Fund established by  
15 Section 3-605 of Title 40 of the Oklahoma Statutes;

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

20 5. "Participating employee" means an employee who works a  
21 reduced number of hours under a shared work plan;

22 6. "Participating employer" means an employer who has a shared  
23 work plan in effect;

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1 7. "Commission" has the same meaning as set out in Section 1-  
2 206 of Title 40 of the Oklahoma Statutes;

3 8. "Shared work benefit" means an unemployment compensation  
4 benefit that is payable to an individual in an affected unit because  
5 the individual works reduced hours under an approved shared work  
6 plan;

7 9. "Shared work plan" means a program for reducing unemployment  
8 under which employees who are members of an affected unit share the  
9 work remaining after a reduction in their normal weekly hours of  
10 work; and

11 10. "Shared Work Unemployment Compensation Program" means a  
12 program designed to reduce unemployment and stabilize the work force  
13 by allowing certain employees to collect unemployment compensation  
14 benefits if the employees share the work remaining after a reduction  
15 in the total number of hours of work and a corresponding reduction  
16 in wages.

17 SECTION 3. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 2-902 of Title 40, unless there  
19 is created a duplication in numbering, reads as follows:

20 A. The Oklahoma Employment Security Commission shall establish  
21 a voluntary Shared Work Unemployment Compensation Program as  
22 provided by this act. The Commission may adopt rules and establish  
23 procedures necessary to administer the program.

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1 B. An employer who wishes to participate in the Shared Work  
2 Unemployment Compensation Program must submit a written shared work  
3 plan to the Commission for approval. As a condition for approval, a  
4 participating employer must agree to furnish the Commission with  
5 reports relating to the operation of the shared work plan. The  
6 report shall be in a form prescribed by the Commission.

7 SECTION 4. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 2-903 of Title 40, unless there  
9 is created a duplication in numbering, reads as follows:

10 A. The Oklahoma Employment Security Commission may approve a  
11 shared work plan if:

12 1. The participating employer regularly employs at least one  
13 hundred employees;

14 2. The shared work plan applies to and identifies a specific  
15 affected unit or number of units;

16 3. The employees in the affected unit are identified by name  
17 and social security number;

18 4. The shared work plan reduces the normal weekly hours of work  
19 for an employee in the affected unit by not less than twenty percent  
20 (20%) and not more than forty percent (40%);

21 5. The shared work plan applies to at least ten percent (10%)  
22 of the employees in the affected unit and at least fifty employees  
23 within the company;

24

1       6. The shared work plan maintains the fringe benefits of each  
2 employee in the affected unit at the benefit level in effect before  
3 the shared work plan is implemented;

4       7. The employer certifies that the implementation of a shared  
5 work plan and the resulting reduction in work hours is in lieu of  
6 temporary layoffs that would affect at least ten percent (10%) of  
7 the employees in the affected unit and at least fifty employees  
8 within the company, and that would result in an equivalent reduction  
9 in work hours;

10       8. The employer has filed all reports required to be filed  
11 under the Employment Security Act of 1980 for all past and current  
12 periods, and has paid all contributions, interest, penalties and  
13 fees owing on the employer's account with the Commission; and

14       9. The employer must be eligible for a tax rate computation  
15 under Sections 3-101 through 3-118 of Title 40 of the Oklahoma  
16 Statutes; provided, any employer that is assigned an experience rate  
17 of five and four-tenths percent (5.4%) or greater for a calendar  
18 year shall be ineligible to participate in the Shared Work  
19 Unemployment Compensation Program provided by this act for that  
20 calendar year.

21       B. If any of the employees who participate in a shared work  
22 plan pursuant to this act are covered by a collective bargaining  
23 agreement, the shared work plan must be approved in writing by the  
24 collective bargaining agent before approval by the Commission.

1 C. A shared work plan may not be implemented to subsidize  
2 seasonal employers during the off-season or to subsidize employers  
3 who have traditionally employed workers less than thirty-two (32)  
4 hours per week.

5 D. The Commission shall approve or deny a shared work plan no  
6 later than thirty (30) days after the day the shared work plan is  
7 received by the Commission. The Commission shall approve or deny a  
8 shared work plan in writing. If the plan is denied, the Commission  
9 shall notify the employer of the reasons for the denial.

10 E. The employer may appeal the denial of a shared work plan  
11 pursuant to the provisions of Section 3-115 of Title 40 of the  
12 Oklahoma Statutes.

13 SECTION 5. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 2-904 of Title 40, unless there  
15 is created a duplication in numbering, reads as follows:

16 A shared work plan is effective on the date it is approved by  
17 the Oklahoma Employment Security Commission. For good cause shown,  
18 the Commission may designate the effective date to be on any day  
19 within a period of fourteen (14) days prior to the date the plan is  
20 approved by the Commission. The shared work plan expires on the  
21 last day of the twelfth full calendar month after the effective date  
22 of the shared work plan. Shared work benefits shall be paid for a  
23 maximum of twenty-six (26) weeks during the twelve (12) consecutive  
24 calendar months that the shared work plan is in effect.

1           SECTION 6.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 2-905 of Title 40, unless there  
3 is created a duplication in numbering, reads as follows:

4           An employer may modify a shared work plan created pursuant to  
5 this act to meet changed conditions if the modification conforms to  
6 the basic provisions of the shared work plan as approved by the  
7 Oklahoma Employment Security Commission. The employer must report  
8 the changes made to the shared work plan in writing to the  
9 Commission before implementing the changes. If the original shared  
10 work plan is substantially modified, the Commission shall reevaluate  
11 the shared work plan and may approve the modified shared work plan  
12 if it meets the requirements for approval under Section 5 of this  
13 act. The approval of a modified shared work plan does not affect  
14 the expiration date originally set for that shared work plan. If  
15 substantial modifications cause the shared work plan to fail to meet  
16 the requirements for approval, the Commission shall deny approval to  
17 the modifications as provided by subsection D of Section 4 of this  
18 act.

19           SECTION 7.           NEW LAW           A new section of law to be codified  
20 in the Oklahoma Statutes as Section 2-906 of Title 40, unless there  
21 is created a duplication in numbering, reads as follows:

22           A. Notwithstanding any other provisions of the Employment  
23 Security Act of 1980, an individual is unemployed and is eligible  
24 for shared work benefits in any week in which the individual, as an

1 employee in an affected unit, works for less than the individual's  
2 normal weekly hours of work in accordance with an approved shared  
3 work plan in effect for that week. The Oklahoma Employment Security  
4 Commission may not deny shared work benefits for any week to an  
5 otherwise eligible individual by reason of the application of any  
6 provision of this title that relates to availability for work,  
7 active search for work or refusal to apply for or accept work with  
8 an employer other than the participating employer. The Oklahoma  
9 Employment Security Commission shall not deduct wages paid by the  
10 participating employer to the participating employee from the shared  
11 work benefit in any week the shared work plan is being implemented  
12 for the participating employee.

13 B. An individual is eligible to receive shared work benefits  
14 with respect to any week in which the Commission finds that:

15 1. The individual is employed as a member of an affected unit  
16 subject to a shared work plan that was approved and is in effect for  
17 that week;

18 2. The individual is able to work and is available for  
19 additional hours of work or full-time work with the participating  
20 employer;

21 3. The individual's normal weekly hours of work have been  
22 reduced by at least twenty percent (20%) but not more than forty  
23 percent (40%) with a corresponding reduction in wages; and  
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1           4. The individual's normal weekly hours of work and wages have  
2 been reduced as described in paragraph 3 of this subsection for a  
3 waiting period of one (1) week which occurs within the period the  
4 shared work plan is in effect, which period includes the week for  
5 which the individual is claiming shared work benefits.

6           C. The participating employer shall be responsible for the  
7 filing of the weekly claims for shared work benefits on behalf of  
8 the participating employee. The participating employer shall  
9 provide the Oklahoma Employment Security Commission with the name  
10 and social security number of each participating employee along with  
11 any other information necessary to complete the claim. The  
12 participating employer shall certify that the participating employee  
13 is qualified to receive the shared work benefit.

14           SECTION 8.           NEW LAW           A new section of law to be codified  
15 in the Oklahoma Statutes as Section 2-907 of Title 40, unless there  
16 is created a duplication in numbering, reads as follows:

17           A. The Oklahoma Employment Security Commission shall pay an  
18 individual who is eligible for shared work benefits a weekly shared  
19 work benefit amount equal to the individual's regular weekly benefit  
20 amount, calculated pursuant to Section 2-106 of Title 40 of the  
21 Oklahoma Statutes, for a period of total unemployment multiplied by  
22 the nearest full percentage of reduction of the individual's hours  
23 as set forth in the employer's shared work plan. If the shared  
24 benefit amount is not a multiple of One Dollar (\$1.00), the

1 Commission shall reduce the amount to the next lowest multiple of  
2 One Dollar (\$1.00). All shared work benefits under this act shall  
3 be payable from the Unemployment Compensation Fund.

4 B. The Commission may not pay an individual shared work  
5 benefits for any week in which the individual performs paid work for  
6 the participating employer in excess of the reduced hours  
7 established under the shared work plan.

8 C. An individual shall not receive shared work benefits or  
9 regular unemployment compensation benefits or both, in an amount  
10 that exceeds the maximum benefit amount payable to that individual,  
11 pursuant to Section 2-106 of Title 40 of the Oklahoma Statutes, in  
12 the benefit year that shall begin as of the effective date of the  
13 shared work plan.

14 D. An individual who has received all of the shared work  
15 benefits and regular unemployment compensation benefits available in  
16 a benefit year has exhausted his or her benefits and may be entitled  
17 to receive extended benefits, if extended benefits are available and  
18 if the individual is otherwise eligible.

19 SECTION 9. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 2-908 of Title 40, unless there  
21 is created a duplication in numbering, reads as follows:

22 Shared work benefit wages paid under a shared work plan shall be  
23 charged to the participating employer as provided in Section 3-106  
24 of Title 40 of the Oklahoma Statutes.

1           SECTION 10.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 2-909 of Title 40, unless there  
3 is created a duplication in numbering, reads as follows:

4           The Oklahoma Employment Security Commission may terminate a  
5 shared work plan for good cause if the Commission determines that  
6 the shared work plan is not being executed according to the terms  
7 and intent of the Shared Work Unemployment Compensation Program.

8           SECTION 11.           NEW LAW           A new section of law to be codified  
9 in the Oklahoma Statutes as Section 2-910 of Title 40, unless there  
10 is created a duplication in numbering, reads as follows:

11           No shared work benefit payment shall be made under any shared  
12 work plan for any week which commences before January 1, 2011.

13           SECTION 12.   This act shall become effective July 1, 2010.

14           SECTION 13.   It being immediately necessary for the preservation  
15 of the public peace, health and safety, an emergency is hereby  
16 declared to exist, by reason whereof this act shall take effect and  
17 be in full force from and after its passage and approval."

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1 Passed the House of Representatives the 19th day of April, 2010.

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4 Presiding Officer of the House of  
Representatives  
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6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2010.

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9 Presiding Officer of the Senate  
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