

HOUSE BILL No. 2586

By Representative Patton

2-1

9 AN ACT concerning employment security law; relating to contribution
10 rates for new businesses; amending K.S.A. 2009 Supp. 44-710 and 44-
11 710a and repealing the existing sections.
12

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

14 Section 1. K.S.A. 2009 Supp. 44-710 is hereby amended to read as
15 follows: 44-710. (a) *Payment.* (1) Contributions shall accrue and be-
16 come payable by each contributing employer for each calendar year in
17 which the contributing employer is subject to the employment security
18 law with respect to wages paid for employment. Such contributions shall
19 become due and be paid by each contributing employer to the secretary
20 for the employment security fund in accordance with such rules and reg-
21 ulations as the secretary may adopt and shall not be deducted, in whole
22 or in part, from the wages of individuals in such employer's employ. In
23 the payment of any contributions, a fractional part of \$.01 shall be dis-
24 regarded unless it amounts to \$.005 or more, in which case it shall be
25 increased to \$.01. Should contributions for any calendar quarter be less
26 than \$5, no payment shall be required.

27 (2) *A new business in Kansas with 10 or fewer employees shall not*
28 *be considered a contributing employer or pay any contribution rate pur-*
29 *suant to K.S.A. 44-710a, and amendments thereto, until the company has*
30 *been in business for one year.*

31 (3) *Paragraph (2) shall not apply to a new business with 10 or fewer*
32 *employees wherein the new business employer has had an ownership in-*
33 *terest in a business of the same nature or character within the past 12*
34 *months prior to starting the new business.*

35 (b) *Rates and base of contributions.* (1) Except as provided in para-
36 graph (2) of this subsection, each contributing employer shall pay contri-
37 butions on wages paid by the contributing employer during each calendar
38 year with respect to employment as provided in K.S.A. 44-710a and
39 amendments thereto.

40 (2) (A) If the congress of the United States either amends or repeals
41 the Wagner-Peyser act, the federal unemployment tax act, the federal
42 social security act, or subtitle C of chapter 23 of the federal internal
43 revenue code of 1986, or any act or acts supplemental to or in lieu thereof,

1 or any part or parts of any such law, or if any such law, or any part or
2 parts thereof, are held invalid with the effect that appropriations of funds
3 by congress and grants thereof to the state of Kansas for the payment of
4 costs of administration of the employment security law are no longer
5 available for such purposes, or (B) if employers in Kansas subject to the
6 payment of tax under the federal unemployment tax act are granted full
7 credit against such tax for contributions or taxes paid to the secretary of
8 labor, then, and in either such case, beginning with the year in which the
9 unavailability of federal appropriations and grants for such purpose occurs
10 or in which such change in liability for payment of such federal tax occurs
11 and for each year thereafter, the rate of contributions of each contributing
12 employer shall be equal to the total of .5% and the rate of contributions
13 as determined for such contributing employer under K.S.A. 44-710a and
14 amendments thereto. The amount of contributions which each contrib-
15 uting employer becomes liable to pay under this paragraph (2) over the
16 amount of contributions which such contributing employer would be oth-
17 erwise liable to pay shall be credited to the employment security admin-
18 istration fund to be disbursed and paid out under the same conditions
19 and for the same purposes as other moneys are authorized to be paid
20 from the employment security administration fund, except that, if the
21 secretary determines that as of the first day of January of any year there
22 is an excess in the employment security administration fund over the
23 amount required to be disbursed during such year, an amount equal to
24 such excess as determined by the secretary shall be transferred to the
25 employment security fund.

26 (c) *Charging of benefit payments.* (1) The secretary shall maintain a
27 separate account for each contributing employer, and shall credit the
28 contributing employer's account with all the contributions paid on the
29 contributing employer's own behalf. Nothing in the employment security
30 law shall be construed to grant any employer or individuals in such em-
31 ployer's service prior claims or rights to the amounts paid by such em-
32 ployer into the employment security fund either on such employer's own
33 behalf or on behalf of such individuals. Benefits paid shall be charged
34 against the accounts of each base period employer in the proportion that
35 the base period wages paid to an eligible individual by each such employer
36 bears to the total wages in the base period. Benefits shall be charged to
37 contributing employers' accounts and rated governmental employers' ac-
38 counts upon the basis of benefits paid during each twelve-month period
39 ending on the computation date.

40 (2) (A) Benefits paid in benefit years established by valid new claims
41 shall not be charged to the account of a contributing employer or rated
42 governmental employer who is a base period employer if the examiner
43 finds that claimant was separated from the claimant's most recent em-

1 ployment with such employer under any of the following conditions: (i)
2 Discharged for misconduct or gross misconduct connected with the in-
3 dividual's work; or (ii) leaving work voluntarily without good cause attrib-
4 utable to the claimant's work or the employer.

5 (B) Where base period wage credits of a contributing employer or
6 rated governmental employer represent part-time employment and the
7 claimant continues in that part-time employment with that employer dur-
8 ing the period for which benefits are paid, then that employer's account
9 shall not be charged with any part of the benefits paid if the employer
10 provides the secretary with information as required by rules and regula-
11 tions. For the purposes of this subsection (c)(2)(B), "part-time employ-
12 ment" means any employment when an individual works concurrently for
13 two or more employers and also works less than full-time for at least one
14 of those employers because the individual's services are not required for
15 the customary, scheduled full-time hours prevailing at the work place or
16 the individual does not customarily work the regularly scheduled full-time
17 hours due to personal choice or circumstances.

18 (C) No contributing employer or rated governmental employer's ac-
19 count shall be charged with any extended benefits paid in accordance
20 with the employment security law, except for weeks of unemployment
21 beginning after December 31, 1978, all contributing governmental em-
22 ployers and governmental rated employers shall be charged an amount
23 equal to all extended benefits paid.

24 (D) No contributing employer, rated governmental employer or re-
25 imbursement employer's account shall be charged for any additional benefits
26 paid during the period July 1, 2003 through June 30, 2004.

27 (E) No contributing employer or rated governmental employer's ac-
28 count will be charged for benefits paid a claimant while pursuing an ap-
29 proved training course as defined in subsection (s) of K.S.A. 44-703 and
30 amendments thereto.

31 (F) No contributing employer or rated governmental employer's ac-
32 count shall be charged with respect to the benefits paid to any individual
33 whose base period wages include wages for services not covered by the
34 employment security law prior to January 1, 1978, to the extent that the
35 employment security fund is reimbursed for such benefits pursuant to
36 section 121 of public law 94-566 (90 Stat. 2673).

37 (G) ~~With respect to weeks of unemployment beginning after Decem-~~
38 ~~ber 31, 1977,~~ Wages for insured work shall include wages paid for pre-
39 viously uncovered services. For the purposes of this subsection (c)(2)(G),
40 the term "previously uncovered services" means services which were not
41 covered employment, at any time during the one-year period ending De-
42 cember 31, 1975, except to the extent that assistance under title II of the
43 federal emergency jobs and unemployment assistance act of 1974 was

1 paid on the basis of such services, and which:

2 (i) Are agricultural labor as defined in subsection (w) of K.S.A. 44-
3 703, and amendments thereto, or domestic service as defined in subsec-
4 tion (aa) of K.S.A. 44-703, and amendments thereto, or

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

8 (iii) are services performed by an employee of a nonprofit educational
9 institution which is not an institution of higher education.

10 (H) No contributing employer or rated governmental employer's ac-
11 count shall be charged with respect to their pro rata share of benefit
12 charges if such charges are of \$100 or less.

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

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

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

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

11 (e) *Election to become reimbursing employer; payment in lieu of con-*
12 *tributions.* (1) Any governmental entity, Indian tribes or tribal units, (sub-
13 divisions, subsidiaries or business enterprises wholly owned by such In-
14 dian tribes), for which services are performed as described in subsection
15 (i)(3)(E) of K.S.A. 44-703, and amendments thereto, or any nonprofit
16 organization or group of nonprofit organizations described in section
17 501(c)(3) of the federal internal revenue code of 1986 which is exempt
18 from income tax under section 501(a) of such code, that becomes subject
19 to the employment security law may elect to become a reimbursing em-
20 ployer under this subsection (e)(1) and agree to pay the secretary for the
21 employment security fund an amount equal to the amount of regular
22 benefits and $\frac{1}{2}$ of the extended benefits paid that are attributable to
23 service in the employ of such reimbursing employer, except that each
24 reimbursing governmental employer, Indian tribes or tribal units shall
25 pay an amount equal to the amount of regular benefits and extended
26 benefits paid for weeks of unemployment beginning after December 31,
27 1978, for governmental employers and December 21, 2000, for Indian
28 tribes or tribal units to individuals for weeks of unemployment which
29 begin during the effective period of such election.

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

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

43 (C) Any employer identified in this subsection (e)(1) which has re-

1 maintained a contributing employer and has been paying contributions under
2 the employment security law for a period subsequent to January 1, 1972,
3 may change to a reimbursing employer by filing with the secretary not
4 later than 30 days prior to the beginning of any calendar year a written
5 notice of election to become a reimbursing employer. Such election shall
6 not be terminable by the employer for four complete calendar years.

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

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

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

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

39 (B) Payment of any bill rendered under paragraph (A) of this sub-
40 section (e)(2) shall be made not later than 30 days after such bill was
41 mailed to the last known address of the reimbursing employer, or oth-
42 erwise was delivered to such reimbursing employer, unless there has been
43 an application for review and redetermination in accordance with para-

1 graph (D) of this subsection (e)(2).

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

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

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

34 (F) Failure of the Indian tribe or any tribal unit thereof to make
35 required payments, including assessments of interest and penalties, after
36 all collection activities deemed necessary by the secretary have been ex-
37 hausted, will cause services performed by such tribe to not be treated as
38 employment for purposes of subsection (i)(3)(E) of K.S.A. 44-703 and
39 amendments thereto. If an Indian tribe fails to make payments required
40 under this section, including assessments of interest and penalties, within
41 90 days of a final notice of delinquency, the secretary shall immediately
42 notify the United States internal revenue service and the United States
43 department of labor. The secretary may determine that any Indian tribe

1 that loses coverage pursuant to this paragraph may have services per-
2 formed on behalf of such tribe again deemed “employment” if all con-
3 tributions, payments in lieu of contributions, penalties and interest have
4 been paid.

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

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

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

17 (3) *Allocation of benefit costs.* The reimbursing account of each reim-
18 burying employer shall be charged the full amount of regular benefits
19 and $\frac{1}{2}$ of the amount of extended benefits paid except that each reim-
20 burying governmental employer's account shall be charged the full
21 amount of regular benefits and extended benefits paid for weeks of un-
22 employment beginning after December 31, 1978, to individuals whose
23 entire base period wage credits are from such employer. When benefits
24 received by an individual are based upon base period wage credits from
25 more than one employer then the reimbursing employer's or reimbursing
26 governmental employer's account shall be charged in the same ratio as
27 base period wage credits from such employer bear to the individual's total
28 base period wage credits. Notwithstanding any other provision of the
29 employment security law, no reimbursing employer's or reimbursing gov-
30 ernmental employer's account shall be charged for payments of extended
31 benefits which are wholly reimbursed to the state by the federal
32 government.

33 (A) *Proportionate allocation (when fewer than all reimbursing base*
34 *period employers are liable).* If benefits paid to an individual are based
35 on wages paid by one or more reimbursing employers and on wages paid
36 by one or more contributing employers or rated governmental employers,
37 the amount of benefits payable by each reimbursing employer shall be
38 an amount which bears the same ratio to the total benefits paid to the
39 individual as the total base period wages paid to the individual by such
40 employer bears to the total base period wages paid to the individual by
41 all of such individual's base period employers.

42 (B) *Proportionate allocation (when all base period employers are re-*
43 *imbursing employers).* If benefits paid to an individual are based on wages

1 paid by two or more reimbursing employers, the amount of benefits pay-
2 able by each such employer shall be an amount which bears the same
3 ratio to the total benefits paid to the individual as the total base period
4 wages paid to the individual by such employer bear to the total base
5 period wages paid to the individual by all of such individual's base period
6 employers.

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

34 Sec. 2. K.S.A. 2009 Supp. 44-710a is hereby amended to read as
35 follows: 44-710a. (a) *Classification of employers by the secretary.* The
36 term "employer" as used in this section refers to contributing employers,
37 *except that the employer of a new business in Kansas with 10 or fewer*
38 *employees shall not be considered a contributing employer for the first*
39 *year it is in business nor shall the secretary assign a contribution rate to*
40 *the employer of such new business during such business' first year in*
41 *business, as long as the employer of such small business has not had an*
42 *ownership interest in a business of the same nature or character within*
43 *the past 12 months prior to starting the new business.* The secretary shall

1 classify employers in accordance with their actual experience in the pay-
2 ment of contributions on their own behalf and with respect to benefits
3 charged against their accounts with a view of fixing such contribution rates
4 as will reflect such experience. If, as of the date such classification of
5 employers is made, the secretary finds that any employing unit has failed
6 to file any report required in connection therewith, or has filed a report
7 which the secretary finds incorrect or insufficient, the secretary shall
8 make an estimate of the information required from such employing unit
9 on the basis of the best evidence reasonably available to the secretary at
10 the time, and notify the employing unit thereof by mail addressed to its
11 last known address. Unless such employing unit shall file the report or a
12 corrected or sufficient report as the case may be, within 15 days after the
13 mailing of such notice, the secretary shall compute such employing unit's
14 rate of contributions on the basis of such estimates, and the rate as so
15 determined shall be subject to increase but not to reduction on the basis
16 of subsequently ascertained information. The secretary shall determine
17 the contribution rate of each employer in accordance with the require-
18 ments of this section.

19 (1) *New employers.* (A) No employer will be eligible for a rate com-
20 putation until there have been 24 consecutive calendar months immedi-
21 ately preceding the computation date throughout which benefits could
22 have been charged against such employer's account.

23 (B) (i) For the rate year ~~2007~~ 2010 and each rate year thereafter,
24 each employer who is not eligible for a rate contribution shall pay con-
25 tributions equal to 4% of wages paid during each calendar year with re-
26 gard to employment except *that: (1) Such employers engaged in the con-*
27 *struction industry shall pay a rate equal to 6% and (2) a new business*
28 *with 10 or fewer employees shall not pay a contribution rate during its*
29 *first year in business, as long as the employer of such new business has*
30 *not had an ownership interest in a business of the same nature or char-*
31 *acter within the past 12 months prior to starting the new business.*

32 (ii) For rate years prior to 2007, employers who are not eligible for a
33 rate computation shall pay contributions at an assigned rate equal to the
34 sum of 1% plus the greater of the average rate assigned in the preceding
35 calendar year to all employers in such industry sector or the average rate
36 assigned to all covered employers during the preceding calendar year,
37 except that in no instance shall any such assigned rate be less than 2%.
38 Employers engaged in more than one type of industrial activity shall be
39 classified by principal activity. All rates assigned will remain in effect for
40 a complete calendar year. If the sale or acquisition of a new establishment
41 would require reclassification of the employer to a different industry sec-
42 tor, the employer would be promptly notified, and the contribution rate
43 applicable to the new industry sector would become effective the follow-

1 ing January 1.

2 (iii) For purposes of this subsection (a), employers shall be classified
3 by industrial activity in accordance with standard procedures as set forth
4 in rules and regulations adopted by the secretary.

5 (C) "Computation date" means June 30 of each calendar year with
6 respect to rates of contribution applicable to the calendar year beginning
7 with the following January 1. In arriving at contribution rates for each
8 calendar year, contributions paid on or before July 31 following the com-
9 putation date for employment occurring on or prior to the computation
10 date shall be considered for each contributing employer who has been
11 subject to this act for a sufficient period of time to have such employer's
12 rate computed under this subsection (a).

13 (2) *Eligible employers.* (A) A reserve ratio shall be computed for each
14 eligible employer by the following method: Total benefits charged to the
15 employer's account for all past years shall be deducted from all contri-
16 butions paid by such employer for all such years. The balance, positive
17 or negative, shall be divided by the employer's average annual payroll,
18 and the result shall constitute the employer reserve ratio.

19 (B) Negative account balance employers as defined in subsection (d)
20 shall pay contributions at the rate of 5.4% for each calendar year.

21 (C) Eligible employers, other than negative account balance employ-
22 ers, who do not meet the average annual payroll requirements as stated
23 in subsection (a)(2) of K.S.A. 44-703, and amendments thereto, will be
24 issued the maximum rate indicated in subsection (a)(3)(C) of this section
25 until such employer establishes a new period of 24 consecutive calendar
26 months immediately preceding the computation date throughout which
27 benefits could have been charged against such employer's account by
28 resuming the payment of wages. Contribution rates effective for each
29 calendar year thereafter shall be determined as prescribed below.

30 (D) As of each computation date, the total of the taxable wages paid
31 during the 12-month period prior to the computation date by all em-
32 ployers eligible for rate computation, except negative account balance
33 employers, shall be divided into 51 approximately equal parts designated
34 in column A of schedule I as "rate groups," except, with regard to a year
35 in which the taxable wage base changes. The taxable wages used in the
36 calculation for such a year and the following year shall be an estimate of
37 what the taxable wages would have been if the new taxable wage base
38 had been in effect during the entire twelve-month period prior to the
39 computation date. The lowest numbered of such rate groups shall consist
40 of the employers with the most favorable reserve ratios, as defined in this
41 section, whose combined taxable wages paid are less than 1.96% of all
42 taxable wages paid by all eligible employers. Each succeeding higher
43 numbered rate group shall consist of employers with reserve ratios that

1 are less favorable than those of employers in the preceding lower num-
 2 bered rate groups and whose taxable wages when combined with the
 3 taxable wages of employers in all lower numbered rate groups equal the
 4 appropriate percentage of total taxable wages designated in column B of
 5 schedule I. Each eligible employer, other than a negative account balance
 6 employer, shall be assigned an experience factor designated under col-
 7 umn C of schedule I in accordance with the rate group to which the
 8 employer is assigned on the basis of the employer's reserve ratio and
 9 taxable payroll. If an employer's taxable payroll falls into more than one
 10 rate group the employer shall be assigned the experience factor of the
 11 lower numbered rate group. If one or more employers have reserve ratios
 12 identical to that of the last employer included in the next lower numbered
 13 rate group, all such employers shall be assigned the experience factor
 14 designated to such last employer, notwithstanding the position of their
 15 taxable payroll in column B of schedule I.

SCHEDULE I—Eligible Employers

| 17 | Column A | Column B | Column C |
|----|----------|---------------------------|------------------------|
| 18 | Rate | Cumulative | Experience factor |
| 19 | group | taxable payroll | (Ratio to total wages) |
| 20 | 1 | Less than 1.96% | .025% |
| 21 | 2 | 1.96% but less than 3.92 | .04 |
| 22 | 3 | 3.92 but less than 5.88 | .08 |
| 23 | 4 | 5.88 but less than 7.84 | .12 |
| 24 | 5 | 7.84 but less than 9.80 | .16 |
| 25 | 6 | 9.80 but less than 11.76 | .20 |
| 26 | 7 | 11.76 but less than 13.72 | .24 |
| 27 | 8 | 13.72 but less than 15.68 | .28 |
| 28 | 9 | 15.68 but less than 17.64 | .32 |
| 29 | 10 | 17.64 but less than 19.60 | .36 |
| 30 | 11 | 19.60 but less than 21.56 | .40 |
| 31 | 12 | 21.56 but less than 23.52 | .44 |
| 32 | 13 | 23.52 but less than 25.48 | .48 |
| 33 | 14 | 25.48 but less than 27.44 | .52 |
| 34 | 15 | 27.44 but less than 29.40 | .56 |
| 35 | 16 | 29.40 but less than 31.36 | .60 |
| 36 | 17 | 31.36 but less than 33.32 | .64 |
| 37 | 18 | 33.32 but less than 35.28 | .68 |
| 38 | 19 | 35.28 but less than 37.24 | .72 |
| 39 | 20 | 37.24 but less than 39.20 | .76 |
| 40 | 21 | 39.20 but less than 41.16 | .80 |
| 41 | 22 | 41.16 but less than 43.12 | .84 |
| 42 | 23 | 43.12 but less than 45.08 | .88 |
| 43 | 24 | 45.08 but less than 47.04 | .92 |

| | | | | |
|----|----|---------------------------|-------|------|
| 1 | 25 | 47.04 but less than 49.00 | ..... | .96 |
| 2 | 26 | 49.00 but less than 50.96 | ..... | 1.00 |
| 3 | 27 | 50.96 but less than 52.92 | ..... | 1.04 |
| 4 | 28 | 52.92 but less than 54.88 | ..... | 1.08 |
| 5 | 29 | 54.88 but less than 56.84 | ..... | 1.12 |
| 6 | 30 | 56.84 but less than 58.80 | ..... | 1.16 |
| 7 | 31 | 58.80 but less than 60.76 | ..... | 1.20 |
| 8 | 32 | 60.76 but less than 62.72 | ..... | 1.24 |
| 9 | 33 | 62.72 but less than 64.68 | ..... | 1.28 |
| 10 | 34 | 64.68 but less than 66.64 | ..... | 1.32 |
| 11 | 35 | 66.64 but less than 68.60 | ..... | 1.36 |
| 12 | 36 | 68.60 but less than 70.56 | ..... | 1.40 |
| 13 | 37 | 70.56 but less than 72.52 | ..... | 1.44 |
| 14 | 38 | 72.52 but less than 74.48 | ..... | 1.48 |
| 15 | 39 | 74.48 but less than 76.44 | ..... | 1.52 |
| 16 | 40 | 76.44 but less than 78.40 | ..... | 1.56 |
| 17 | 41 | 78.40 but less than 80.36 | ..... | 1.60 |
| 18 | 42 | 80.36 but less than 82.32 | ..... | 1.64 |
| 19 | 43 | 82.32 but less than 84.28 | ..... | 1.68 |
| 20 | 44 | 84.28 but less than 86.24 | ..... | 1.72 |
| 21 | 45 | 86.24 but less than 88.20 | ..... | 1.76 |
| 22 | 46 | 88.20 but less than 90.16 | ..... | 1.80 |
| 23 | 47 | 90.16 but less than 92.12 | ..... | 1.84 |
| 24 | 48 | 92.12 but less than 94.08 | ..... | 1.88 |
| 25 | 49 | 94.08 but less than 96.04 | ..... | 1.92 |
| 26 | 50 | 96.04 but less than 98.00 | ..... | 1.96 |
| 27 | 51 | 98.00 and over | ..... | 2.00 |

28 (E) Negative account balance employers shall, in addition to paying
 29 the rate provided for in subsection (a)(2)(B) of this section, pay a sur-
 30 charge based on the size of the employer’s negative reserve ratio, the
 31 calculation which is provided for in subsection (a)(2) of this section. The
 32 amount of the surcharge shall be determined from column B of schedule
 33 II of this section. Each negative account balance employer who does not
 34 satisfy the requirements to have an average annual payroll, as defined by
 35 subsection (a)(2) of K.S.A. 44-703, and amendments thereto, shall be
 36 assigned a surcharge of 2%. Contribution payments made pursuant to this
 37 subsection (a)(2)(E) shall be credited to the appropriate account of such
 38 negative account balance employer.

39 SCHEDULE II—Surcharge on Negative Accounts

| | | |
|----|------------------------|------------------------|
| 40 | Column A | Column B |
| 41 | Negative Reserve Ratio | Surcharge as a percent |
| 42 | | of taxable wages |
| 43 | Less than 2.0% | 0.20% |

| | | |
|---|-------------------------------|------|
| 1 | 2.0% but less than 4.0 | .40 |
| 2 | 4.0 but less than 6.0 | .60 |
| 3 | 6.0 but less than 8.0 | .80 |
| 4 | 8.0 but less than 10.0 | 1.00 |
| 5 | 10.0 but less than 12.0 | 1.20 |
| 6 | 12.0 but less than 14.0 | 1.40 |
| 7 | 14.0 but less than 16.0 | 1.60 |
| 8 | 16.0 but less than 18.0 | 1.80 |
| 9 | 18.0 and over | 2.00 |

10 (3) *Planned yield.* (A) The average required yield shall be determined
11 from schedule III of this section, and the planned yield on total wages in
12 column B of schedule III shall be determined by the reserve fund ratio
13 in column A of schedule III. The reserve fund ratio shall be determined
14 by dividing total assets in the employment security fund provided for in
15 subsection (a) of K.S.A. 44-712, and amendments thereto, excluding all
16 moneys credited to the account of this state pursuant to section 903 of
17 the federal social security act, as amended, which have been appropriated
18 by the state legislature, whether or not withdrawn from the trust fund,
19 and excluding contributions not yet paid on July 31 by total payrolls for
20 contributing employers for the preceding fiscal year which ended June
21 30.

22 SCHEDULE III—Fund Control Ratios to Total Wages

| 23 | Column A | Column B |
|----|---------------------------------|---------------|
| 24 | Reserve Fund Ratio | Planned Yield |
| 25 | 4.500 and over | 0.00 |
| 26 | 4.475 but less than 4.500 | 0.01 |
| 27 | 4.450 but less than 4.475 | 0.02 |
| 28 | 4.425 but less than 4.450 | 0.03 |
| 29 | 4.400 but less than 4.425 | 0.04 |
| 30 | 4.375 but less than 4.400 | 0.05 |
| 31 | 4.350 but less than 4.375 | 0.06 |
| 32 | 4.325 but less than 4.350 | 0.07 |
| 33 | 4.300 but less than 4.325 | 0.08 |
| 34 | 4.275 but less than 4.300 | 0.09 |
| 35 | 4.250 but less than 4.275 | 0.10 |
| 36 | 4.225 but less than 4.250 | 0.11 |
| 37 | 4.200 but less than 4.225 | 0.12 |
| 38 | 4.175 but less than 4.200 | 0.13 |
| 39 | 4.150 but less than 4.175 | 0.14 |
| 40 | 4.125 but less than 4.150 | 0.15 |
| 41 | 4.100 but less than 4.125 | 0.16 |
| 42 | 4.075 but less than 4.100 | 0.17 |
| 43 | 4.050 but less than 4.075 | 0.18 |

| | | |
|----|---------------------------|------|
| 1 | 4.025 but less than 4.050 | 0.19 |
| 2 | 4.000 but less than 4.025 | 0.20 |
| 3 | 3.950 but less than 4.000 | 0.21 |
| 4 | 3.900 but less than 3.950 | 0.22 |
| 5 | 3.850 but less than 3.900 | 0.23 |
| 6 | 3.800 but less than 3.850 | 0.24 |
| 7 | 3.750 but less than 3.800 | 0.25 |
| 8 | 3.700 but less than 3.750 | 0.26 |
| 9 | 3.650 but less than 3.700 | 0.27 |
| 10 | 3.600 but less than 3.650 | 0.28 |
| 11 | 3.550 but less than 3.600 | 0.29 |
| 12 | 3.500 but less than 3.550 | 0.30 |
| 13 | 3.450 but less than 3.500 | 0.31 |
| 14 | 3.400 but less than 3.450 | 0.32 |
| 15 | 3.350 but less than 3.400 | 0.33 |
| 16 | 3.300 but less than 3.350 | 0.34 |
| 17 | 3.250 but less than 3.300 | 0.35 |
| 18 | 3.200 but less than 3.250 | 0.36 |
| 19 | 3.150 but less than 3.200 | 0.37 |
| 20 | 3.100 but less than 3.150 | 0.38 |
| 21 | 3.050 but less than 3.100 | 0.39 |
| 22 | 3.000 but less than 3.050 | 0.40 |
| 23 | 2.950 but less than 3.000 | 0.41 |
| 24 | 2.900 but less than 2.950 | 0.42 |
| 25 | 2.850 but less than 2.900 | 0.43 |
| 26 | 2.800 but less than 2.850 | 0.44 |
| 27 | 2.750 but less than 2.800 | 0.45 |
| 28 | 2.700 but less than 2.750 | 0.46 |
| 29 | 2.650 but less than 2.700 | 0.47 |
| 30 | 2.600 but less than 2.650 | 0.48 |
| 31 | 2.550 but less than 2.600 | 0.49 |
| 32 | 2.500 but less than 2.550 | 0.50 |
| 33 | 2.450 but less than 2.500 | 0.51 |
| 34 | 2.400 but less than 2.450 | 0.52 |
| 35 | 2.350 but less than 2.400 | 0.53 |
| 36 | 2.300 but less than 2.350 | 0.54 |
| 37 | 2.250 but less than 2.300 | 0.55 |
| 38 | 2.200 but less than 2.250 | 0.56 |
| 39 | 2.150 but less than 2.200 | 0.57 |
| 40 | 2.100 but less than 2.150 | 0.58 |
| 41 | 2.050 but less than 2.100 | 0.59 |
| 42 | 2.000 but less than 2.050 | 0.60 |
| 43 | 1.975 but less than 2.000 | 0.61 |

| | | |
|----|---------------------------|------|
| 1 | 1.950 but less than 1.975 | 0.62 |
| 2 | 1.925 but less than 1.950 | 0.63 |
| 3 | 1.900 but less than 1.925 | 0.64 |
| 4 | 1.875 but less than 1.900 | 0.65 |
| 5 | 1.850 but less than 1.875 | 0.66 |
| 6 | 1.825 but less than 1.850 | 0.67 |
| 7 | 1.800 but less than 1.825 | 0.68 |
| 8 | 1.775 but less than 1.800 | 0.69 |
| 9 | 1.750 but less than 1.775 | 0.70 |
| 10 | 1.725 but less than 1.750 | 0.71 |
| 11 | 1.700 but less than 1.725 | 0.72 |
| 12 | 1.675 but less than 1.700 | 0.73 |
| 13 | 1.650 but less than 1.675 | 0.74 |
| 14 | 1.625 but less than 1.650 | 0.75 |
| 15 | 1.600 but less than 1.625 | 0.76 |
| 16 | 1.575 but less than 1.600 | 0.77 |
| 17 | 1.550 but less than 1.575 | 0.78 |
| 18 | 1.525 but less than 1.550 | 0.79 |
| 19 | 1.500 but less than 1.525 | 0.80 |
| 20 | 1.475 but less than 1.500 | 0.81 |
| 21 | 1.450 but less than 1.475 | 0.82 |
| 22 | 1.425 but less than 1.450 | 0.83 |
| 23 | 1.400 but less than 1.425 | 0.84 |
| 24 | 1.375 but less than 1.400 | 0.85 |
| 25 | 1.350 but less than 1.375 | 0.86 |
| 26 | 1.325 but less than 1.350 | 0.87 |
| 27 | 1.300 but less than 1.325 | 0.88 |
| 28 | 1.275 but less than 1.300 | 0.89 |
| 29 | 1.250 but less than 1.275 | 0.90 |
| 30 | 1.225 but less than 1.250 | 0.91 |
| 31 | 1.200 but less than 1.225 | 0.92 |
| 32 | 1.175 but less than 1.200 | 0.93 |
| 33 | 1.150 but less than 1.175 | 0.94 |
| 34 | 1.125 but less than 1.150 | 0.95 |
| 35 | 1.100 but less than 1.125 | 0.96 |
| 36 | 1.075 but less than 1.100 | 0.97 |
| 37 | 1.050 but less than 1.075 | 0.98 |
| 38 | 1.025 but less than 1.050 | 0.99 |
| 39 | 1.000 but less than 1.025 | 1.00 |
| 40 | 0.900 but less than 1.000 | 1.01 |
| 41 | 0.800 but less than 0.900 | 1.02 |
| 42 | 0.700 but less than 0.800 | 1.03 |
| 43 | 0.600 but less than 0.700 | 1.04 |

| | | |
|---|---------------------------------|------|
| 1 | 0.500 but less than 0.600 | 1.05 |
| 2 | 0.400 but less than 0.500 | 1.06 |
| 3 | 0.300 but less than 0.400 | 1.07 |
| 4 | 0.200 but less than 0.300 | 1.08 |
| 5 | 0.100 but less than 0.200 | 1.09 |
| 6 | Less than 0.100% | 1.10 |

7 (B) *Adjustment to taxable wages.* The planned yield as a percent of
8 total wages, as determined in this subsection (a)(3), shall be adjusted to
9 taxable wages by multiplying by the ratio of total wages to taxable wages
10 for all contributing employers for the preceding fiscal year ending June
11 30, except, with regard to a year in which the taxable wage base changes.
12 The taxable wages used in the calculation for such a year and the following
13 year shall be an estimate of what the taxable wages would have been if
14 the new taxable wage base had been in effect during all of the preceding
15 fiscal year ending June 30.

16 (C) *Effective rates.* (i) Except with regard to rates for negative ac-
17 count balance employers, employer contribution rates to be effective for
18 the ensuing calendar year shall be computed by adjusting proportionately
19 the experience factors from schedule I of this section to the required
20 yield on taxable wages. For the purposes of this subsection (a)(3), all rates
21 computed shall be rounded to the nearest .01% and for calendar year
22 1983 and ensuing calendar years, the maximum effective contribution rate
23 shall not exceed 5.4%.

24 (ii) For rate year 2007 and subsequent rate years, employers who are
25 current in filing quarterly wage reports and in payment of all contributions
26 due and owing, shall be issued a contribution rate based upon the follow-
27 ing reduction: for rate groups 1 through 5, the rates would be reduced
28 to 0.00%; for rate groups 6 through 28, the rates would be reduced by
29 50%; for rate groups 29 through 51, the rates would be reduced by 40%.

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

34 (iv) In order to be eligible for the reduced rates for rate year 2008
35 and subsequent rate years, employers must file all reports due and pay
36 all contributions due and owing on or before January 31 of the applicable
37 year, except that the reduced rates for otherwise eligible employers shall
38 not be effective for any rate year if the average high cost multiple of the
39 employment security trust fund balance falls below 1.2 as of the com-
40 putation date of that year's rates. For the purposes of this provision, the
41 average high cost multiple is the reserve fund ratio, as defined by sub-
42 section (a)(3)(A), divided by the average high benefit cost rate. The av-
43 erage high benefit cost rate shall be determined by averaging the three

1 highest benefit cost rates over the last 20 years from the preceding fiscal
2 year which ended June 30. The high benefit cost rate is defined by divid-
3 ing total benefits paid in the fiscal year by total payrolls for covered em-
4 ployers in the fiscal year.

5 (b) *Successor classification.* (1) (A) For the purposes of this subsec-
6 tion (b), whenever an employing unit, whether or not it is an “employing
7 unit” within the meaning of subsection (g) of K.S.A. 44-703, and amend-
8 ments thereto, becomes an employer pursuant to subsection (h)(4) of
9 K.S.A. 44-703, and amendments thereto, or is an employer at the time
10 of acquisition and meets the definition of a “successor employer” as de-
11 fined by subsection (dd) of K.S.A. 44-703, and amendments thereto, and
12 thereafter transfers its trade or business, or any portion thereof, to an-
13 other employer and, at the time of the transfer, there is substantially
14 common ownership, management or control of the two employers, then
15 the unemployment experience attributable to the transferred trade or
16 business shall be transferred to the employer to whom such business is
17 so transferred. These experience factors consist of all contributions paid,
18 benefit experience and annual payrolls of the predecessor employer. The
19 transfer of some or all of an employer’s workforce to another employer
20 shall be considered a transfer of trade or business when, as the result of
21 such transfer, the transferring employer no longer performs trade or busi-
22 ness with respect to the transferred workforce, and such trade or business
23 is performed by the employer to whom the workforce is transferred.

24 (B) If, following a transfer of experience under subparagraph (A), the
25 secretary determines that a substantial purpose of the transfer or business
26 was to obtain a reduced liability for contributions, then the experience
27 rating accounts of the employers involved shall be combined into a single
28 account and a single rate assigned to such account.

29 (2) A successor employer as defined by subsection (h)(4) or subsec-
30 tion (dd) of K.S.A. 44-703, and amendments thereto, may receive the
31 experience rating factors of the predecessor employer if an application is
32 made to the secretary or the secretary’s designee in writing within 120
33 days of the date of the transfer.

34 (3) Whenever an employing unit, whether or not it is an “employing
35 unit” within the meaning of subsection (g) of K.S.A. 44-703, and amend-
36 ments thereto, acquires or in any manner succeeds to a percentage of an
37 employer’s annual payroll which is less than 100% and intends to continue
38 the acquired percentage as a going business, the employing unit may
39 acquire the same percentage of the predecessor’s experience factors if:
40 (A) The predecessor employer and successor employing unit make an
41 application in writing on the form prescribed by the secretary, (B) the
42 application is submitted within 120 days of the date of the transfer, (C)
43 the successor employing unit is or becomes an employer subject to this

1 act immediately after the transfer, (D) the percentage of the experience
2 rating factors transferred shall not be thereafter used in computing the
3 contribution rate for the predecessor employer, and (E) the secretary
4 finds that such transfer will not tend to defeat or obstruct the object and
5 purposes of this act.

6 (4) (A) The rate of both employers in a full or partial successorship
7 under paragraph (1) of this subsection shall be recalculated and made
8 effective on the first day of the next calendar quarter following the date
9 of transfer of trade or business.

10 (B) If a successor employer is determined to be qualified under par-
11 agraph (2) or (3) of this subsection to receive the experience rating factors
12 of the predecessor employer, the rate assigned to the successor employer
13 for the remainder of the contributions year shall be determined by the
14 following:

15 (i) If the acquiring employing unit was an employer subject to this
16 act prior to the date of the transfer, the rate of contribution shall be the
17 same as the contribution rate of the acquiring employer on the date of
18 the transfer.

19 (ii) If the acquiring employing unit was not an employer subject to
20 this act prior to the date of the transfer, the successor employer shall have
21 a newly computed rate for the remainder of the contribution year which
22 shall be based on the transferred experience rating factors as they existed
23 on the most recent computation date immediately preceding the date of
24 acquisition. These experience rating factors consist of all contributions
25 paid, benefit experience and annual payrolls.

26 (5) Whenever an employing unit is not an employer at the time it
27 acquires the trade or business of an employer, the unemployment expe-
28 rience factors of the acquired business shall not be transferred to such
29 employing unit if the secretary finds that such employing unit acquired
30 the business solely or primarily for the purpose of obtaining a lower rate
31 of contributions. Instead, such employing unit shall be assigned the ap-
32 plicable industry rate for a "new employer" as described in subsection
33 (a)(1) of this section. In determining whether the business was acquired
34 solely or primarily for the purpose of obtaining a lower rate of contribu-
35 tions, the secretary shall use objective factors which may include the cost
36 of acquiring the business, whether the employer continued the business
37 enterprise of the acquired business, how long such business enterprise
38 was continued, or whether a substantial number of new employees were
39 hired for performance of duties unrelated to the business activity con-
40 ducted prior to acquisition.

41 (6) Whenever an employer's account has been terminated as pro-
42 vided in subsections (d) and (e) of K.S.A. 44-711, and amendments
43 thereto, and the employer continues with employment to liquidate the

1 business operations, that employer shall continue to be an “employer”
2 subject to the employment security law as provided in subsection (h)(8)
3 of K.S.A. 44-703 and amendments thereto. The rate of contribution from
4 the date of transfer to the end of the then current calendar year shall be
5 the same as the contribution rate prior to the date of the transfer. At the
6 completion of the then current calendar year, the rate of contribution
7 shall be that of a “new employer” as described in subsection (a)(1) of this
8 section.

9 (7) No rate computation will be permitted an employing unit suc-
10 ceeding to the experience of another employing unit pursuant to this
11 section for any period subsequent to such succession except in accordance
12 with rules and regulations adopted by the secretary. Any such regulations
13 shall be consistent with federal requirements for additional credit allow-
14 ance in section 3303 of the federal internal revenue code of 1986, and
15 consistent with the provisions of this act.

16 (c) *Voluntary contributions.* Notwithstanding any other provision of
17 the employment security law, any employer may make voluntary pay-
18 ments for the purpose of reducing or maintaining a reduced rate in ad-
19 dition to the contributions required under this section. Such voluntary
20 payments may be made only during the thirty-day period immediately
21 following the date of mailing of experience rating notices for a calendar
22 year. All such voluntary contribution payments shall be paid prior to the
23 expiration of 120 days after the beginning of the year for which such rates
24 are effective. The amount of voluntary contributions shall be credited to
25 the employer’s account as of the next preceding computation date and
26 the employer’s rate shall be computed accordingly, except that no em-
27 ployer’s rate shall be reduced more than five rate groups as provided in
28 schedule I of this section as the result of a voluntary payment. An em-
29 ployer not having a negative account balance may have such employer’s
30 rate reduced not more than five rate groups as provided in schedule I of
31 this section as a result of a voluntary payment. An employer having a
32 negative account balance may have such employer’s rate reduced to that
33 prescribed for rate group 51 of schedule I of this section by making a
34 voluntary payment in the amount of such negative account balance or to
35 that rate prescribed for rate groups 50 through 47 of schedule I of this
36 section by making an additional voluntary payment that would increase
37 such employer’s reserve ratio to the lower limit required for such rate
38 groups 50 through 47. Under no circumstances shall voluntary payments
39 be refunded in whole or in part.

40 (d) As used in this section, “negative account balance employer”
41 means an eligible employer whose total benefits charged to such em-
42 ployer’s account for all past years have exceeded all contributions paid by
43 such employer for all such years.

1 (e) The secretary of labor shall annually prepare and submit a certi-
2 fication as to the solvency and adequacy of the amount credited to the
3 state of Kansas' account in the federal employment security trust fund to
4 the governor and the employment security advisory council. The certifi-
5 cation shall be submitted on or before December 1 of each calendar year
6 and shall be for the 12-month period ending on June 30 of that calendar
7 year. In arriving at the certification contributions paid on or before July
8 31 following the 12-month period ending date of June 30 shall be con-
9 sidered. Each certification shall be used to determine the need for any
10 adjustment to schedule III in subsection (a)(3)(A) and to assist in pre-
11 paring legislation to accomplish any such adjustment.
12 Sec. 3. K.S.A. 2009 Supp. 44-710 and 44-710a are hereby repealed.
13 Sec. 4. This act shall take effect and be in force from and after its
14 publication in the statute book.