

HOUSE BILL No. 2576

By Committee on Commerce, Labor and Economic Development

2-7

1 AN ACT concerning the employment security law; pertaining to rate;
2 amending K.S.A. 2013 Supp. 44-710a and repealing the existing
3 section.

4

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

6 Section 1. K.S.A. 2013 Supp. 44-710a is hereby amended to read as
7 follows: 44-710a. (a) *Classification of employers by the secretary.* The
8 term "employer" as used in this section refers to contributing employers.
9 The secretary shall classify employers in accordance with their actual
10 experience in the payment of contributions on their own behalf and with
11 respect to benefits charged against their accounts with a view of fixing
12 such contribution rates as will reflect such experience. If, as of the date
13 such classification of employers is made, the secretary finds that any
14 employing unit has failed to file any report required in connection
15 therewith, or has filed a report which the secretary finds incorrect or
16 insufficient, the secretary shall make an estimate of the information
17 required from such employing unit on the basis of the best evidence
18 reasonably available to the secretary at the time, and notify the employing
19 unit thereof by mail addressed to its last known address. Unless such
20 employing unit shall file the report or a corrected or sufficient report as the
21 case may be, within 15 days after the mailing of such notice, the secretary
22 shall compute such employing unit's rate of contributions on the basis of
23 such estimates, and the rate as so determined shall be subject to increase
24 but not to reduction on the basis of subsequently ascertained information.
25 The secretary shall determine the contribution rate of each employer in
26 accordance with the requirements of this section.

27 (1) *New employers.* (A) No employer will be eligible for a rate
28 computation until there have been 24 consecutive calendar months
29 immediately preceding the computation date throughout which benefits
30 could have been charged against such employer's account.

31 (B) (i) (a) For the rate years 2007 through 2013, each employer who
32 is not eligible for a rate contribution shall pay contributions equal to 4% of
33 wages paid during each calendar year with regard to employment except
34 such employers engaged in the construction industry shall pay a rate equal
35 to 6%.

36 (b) For the rate year 2014 and each rate year thereafter, except as

1 provided in subclause (c), each employer who is not eligible for a rate
2 contribution shall pay contributions equal to 4% of wages paid during each
3 calendar year with regard to employment, except such employers engaged
4 in the construction industry shall pay a rate equal to 6%.

5 (c) For the rate year 2014 and each rate year thereafter, except for the
6 construction industry, each employer who starts a new business and who is
7 not eligible for a rate contribution shall pay contributions equal to 2.7% of
8 wages paid during each calendar year with regard to employment.

9 (d) (1) *For the rate year 2015 and each rate year thereafter, an*
10 *employer who was not doing business in Kansas prior to July 1, 2014,*
11 *shall be eligible for either the new employer rate under subsection (a)(1)*
12 *(B)(i)(c) or the rate associated with the reserve ratio such employer*
13 *experienced in the state which such employer was formerly located, but in*
14 *no event less than 1% if such:*

15 (A) *Employer has been in operation in the other state or states for at*
16 *least the three years immediately preceding the date such employer*
17 *becomes a liable employer in Kansas;*

18 (B) *employer provides the authenticated account history from*
19 *information accumulated from operations of such employer in the other*
20 *state or all the other states necessary to compute a current Kansas rate;*
21 *and*

22 (C) *employer's business operations established in Kansas are of the*
23 *same nature, as defined by the North American industrial classification*
24 *system, as conducted by such employer in the other state or states.*

25 (2) *The election authorized in subsection (a)(1)(B)(i)(d) of this*
26 *section must be made in writing within 30 days after notice of Kansas*
27 *liability. A rate in accordance with subsection (a)(1)(B)(i)(c) will be*
28 *assigned unless a timely election has been made.*

29 (3) *If the election is made timely, the employer's account will receive*
30 *the rate elected for the remainder of that rate year. The rate assigned for*
31 *the next and subsequent years will be determined by the condition of the*
32 *account on the computation date.*

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

1 applicable to the new industry sector would become effective the
2 following January 1.

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

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

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

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

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

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

1	24	45.08 but less than 47.0492
2	25	47.04 but less than 49.0096
3	26	49.00 but less than 50.96	1.00
4	27	50.96 but less than 52.92	1.04
5	28	52.92 but less than 54.88	1.08
6	29	54.88 but less than 56.84	1.12
7	30	56.84 but less than 58.80	1.16
8	31	58.80 but less than 60.76	1.20
9	32	60.76 but less than 62.72	1.24
10	33	62.72 but less than 64.68	1.28
11	34	64.68 but less than 66.64	1.32
12	35	66.64 but less than 68.60	1.36
13	36	68.60 but less than 70.56	1.40
14	37	70.56 but less than 72.52	1.44
15	38	72.52 but less than 74.48	1.48
16	39	74.48 but less than 76.44	1.52
17	40	76.44 but less than 78.40	1.56
18	41	78.40 but less than 80.36	1.60
19	42	80.36 but less than 82.32	1.64
20	43	82.32 but less than 84.28	1.68
21	44	84.28 but less than 86.24	1.72
22	45	86.24 but less than 88.20	1.76
23	46	88.20 but less than 90.16	1.80
24	47	90.16 but less than 92.12	1.84
25	48	92.12 but less than 94.08	1.88
26	49	94.08 but less than 96.04	1.92
27	50	96.04 but less than 98.00	1.96
28	51	98.00 and over	2.00

29

30 (E) Negative account balance employers shall, in addition to paying
 31 the rate provided for in subsection (a)(2)(B) of this section, pay a
 32 surcharge based on the size of the employer's negative reserve ratio, the
 33 calculation which is provided for in subsection (a)(2) of this section. The
 34 amount of the surcharge shall be determined from column B2 of schedule
 35 II of this section for calendar years 2012, 2013, 2014 and from column B4
 36 of schedule II of this section for each calendar year after 2014. Each
 37 negative account balance employer who does not satisfy the requirements
 38 to have an average annual payroll, as defined by subsection (a)(2) of
 39 K.S.A. 44-703, and amendments thereto, shall be assigned a surcharge of
 40 equal to the maximum negative ratio surcharge from column B2 of
 41 schedule II of this section for calendar years 2012, 2013 and 2014. From
 42 calendar year 2015 forward, each negative account balance employer who
 43 does not satisfy the requirements to have an average annual payroll, as

1 defined by subsection (a)(2) of K.S.A. 44-703, and amendments thereto,
2 shall be assigned a surcharge equal to the maximum negative ratio
3 surcharge from column B4 of schedule II of this section. Funds from the
4 surcharge paid according to this subsection (a)(2)(E), and amendments
5 thereto, shall be used to pay principal and interest due on funds received
6 from the federal unemployment account under title XII of the social
7 security act, (42 U.S.C. §§ 1321 to 1324), in the following manner:

8 (i) For each calendar year 2012, 2013 and 2014, an additional 0.10%
9 of the taxable wages paid by all negative account balance employers with
10 a negative reserve ratio between 0.0% and 19.9% shall be designated an
11 interest assessment surcharge and paid into the employment security
12 interest assessment fund for the purpose of paying interest due and owing
13 on funds received from the federal unemployment account under title XII
14 of the social security act. The total surcharges assessed, including the
15 additional 0.10% surcharge mentioned above, on such employers are listed
16 in schedule II column B2. For the calendar year 2015, and each calendar
17 year thereafter, the surcharge rate for negative balance employers with a
18 negative reserve ratio between 0.0% and 19.9% shall be as listed in
19 schedule II column B4.

20 (ii) For the calendar years 2012, 2013 and 2014, an additional
21 surcharge on negative balance employers with a negative reserve ratio of
22 20.0% and higher shall be designated an interest assessment surcharge and
23 deposited in the employment security interest assessment fund. The
24 additional surcharge shall be used for the purposes of paying interest due
25 and owing on funds received from the federal unemployment account
26 under title XII of the social security act. The total surcharge including the
27 additional surcharge on such employers is listed in schedule II column B3
28 of this section.

29 (iii) For any succeeding year in which interest is due and owing on
30 funds received from the federal unemployment account under title XII of
31 the social security act, the secretary of labor may adjust the surcharge
32 amounts necessary to pay such interest;

33 (iv) the portion of such surcharge used for the payment of such
34 interest shall not be included in the calculation of such employers reserve
35 ratio pursuant to subsection (a)(2). The portion of such surcharge used for
36 the payment of principal shall be included in the calculation of such
37 employers reserve ratio pursuant to subsection (a)(2); and

38 (v) if the amounts collected under this subsection are in excess of the
39 amounts needed to pay interest due, the amounts in excess shall remain in
40 the employment security interest assessment fund to be used to pay interest
41 in future years. Whenever the secretary certifies all interest payments have
42 been paid pursuant to this section, any excess funds remaining in the
43 employment security interest assessment fund shall be transferred to the

1 employment security trust fund for the purpose of paying any remaining
 2 principal amount due for advances described in this section. In the event
 3 that the amount transferred from the employment security interest
 4 assessment fund exceeds such remaining amount of principal due, the
 5 balance shall be used for the purposes of the employment security trust
 6 fund.

7 SCHEDULE II—Surcharge on Negative Accounts

8 Column A	Column B1	Column B2	Column B3	Column B4
9 Negative Reserve	Surcharge as a	Surcharge as a	Surcharge as a	Surcharge as a
10 ratio	percent of	percent of	percent of	percent of
	taxable wages	taxable wages	taxable wages	taxable wages
12 Less than 2.0%.....	0.20%.....	0.30%.....		0.10%
13 2.0% but less than 4.0.....	0.40.....	0.50.....		0.20
14 4.0 but less than 6.0.....	0.60.....	0.70.....		0.30
15 6.0 but less than 8.0.....	0.80.....	0.90.....		0.40
16 8.0 but less than 10.0....	1.00.....	1.10.....		0.50
17 10.0 but less than 12.0....	1.20.....	1.30.....		0.60
18 12.0 but less than 14.0....	1.40.....	1.50.....		0.70
19 14.0 but less than 16.0....	1.60.....	1.70.....		0.80
20 16.0 but less than 18.0....	1.80.....	1.90.....		0.90
21 18.0 but less than 20.0....	2.00.....	2.10.....		1.00
22 20.0 but less than 22.0....	2.00.....		2.20.....	1.10
23 22.0 but less than 24.0....	2.00.....		2.40.....	1.20
24 24.0 but less than 26.0....	2.00.....		2.60.....	1.30
25 26.0 but less than 28.0....	2.00.....		2.80.....	1.40
26 28.0 but less than 30.0....	2.00.....		3.00.....	1.50
27 30.0 but less than 32.0....	2.00.....		3.20.....	1.60
28 32.0 but less than 34.0....	2.00.....		3.40.....	1.70
29 34.0 but less than 36.0....	2.00.....		3.60.....	1.80
30 36.0 but less than 38.0....	2.00.....		3.80.....	1.90
31 38.0 and over.....	2.00.....		4.00.....	2.00

32
 33 (3) *Entering and expanding employer.* (A) Upon approval by the
 34 secretary, an eligible employer with a positive account balance as
 35 described in subsection (a)(2)(A) shall be eligible to qualify for the new
 36 employer rate as defined in subsection (a)(B)(i)(c) for four years if the
 37 following conditions are met:

38 (i) *There has been a 100% increase in such employer's taxable*
 39 *payroll over the previous year; and*

40 (ii) *there has been verification of a positive account balance in*
 41 *Kansas;*

42 (B) *employers eligible to qualify as an entering or expanding*
 43 *employer are not eligible for any additional discounts available under the*
 44 *employment security act.*

45 (3) (4) *Planned yield.* (A) The average required yield shall be
 46 determined from schedule III of this section, and the planned yield on total

1 wages in column B of schedule III shall be determined by the reserve fund
 2 ratio in column A of schedule III. The reserve fund ratio shall be
 3 determined by dividing total assets in the employment security fund
 4 provided for in subsection (a) of K.S.A. 44-712, and amendments thereto,
 5 excluding all moneys credited to the account of this state pursuant to
 6 section 903 of the federal social security act, as amended, which have been
 7 appropriated by the state legislature, whether or not withdrawn from the
 8 trust fund, and excluding contributions not yet paid on July 31 by total
 9 payrolls for contributing employers for the preceding fiscal year which
 10 ended June 30.

11 SCHEDULE III—Fund Control
 12 Ratios to Total Wages

13 Column A	13 Column B
14 Reserve Fund Ratio	14 Planned Yield
15 4.500 and over	0.00
16 4.475 but less than 4.500.....	0.01
17 4.450 but less than 4.475.....	0.02
18 4.425 but less than 4.450.....	0.03
19 4.400 but less than 4.425.....	0.04
20 4.375 but less than 4.400.....	0.05
21 4.350 but less than 4.375.....	0.06
22 4.325 but less than 4.350.....	0.07
23 4.300 but less than 4.325.....	0.08
24 4.275 but less than 4.300.....	0.09
25 4.250 but less than 4.275.....	0.10
26 4.225 but less than 4.250.....	0.11
27 4.200 but less than 4.225.....	0.12
28 4.175 but less than 4.200.....	0.13
29 4.150 but less than 4.175.....	0.14
30 4.125 but less than 4.150.....	0.15
31 4.100 but less than 4.125.....	0.16
32 4.075 but less than 4.100.....	0.17
33 4.050 but less than 4.075.....	0.18
34 4.025 but less than 4.050.....	0.19
35 4.000 but less than 4.025.....	0.20
36 3.950 but less than 4.000.....	0.21
37 3.900 but less than 3.950.....	0.22
38 3.850 but less than 3.900.....	0.23
39 3.800 but less than 3.850.....	0.24
40 3.750 but less than 3.800.....	0.25
41 3.700 but less than 3.750.....	0.26
42 3.650 but less than 3.700.....	0.27
43 3.600 but less than 3.650.....	0.28

1	3.550 but less than 3.600.....	0.29
2	3.500 but less than 3.550.....	0.30
3	3.450 but less than 3.500.....	0.31
4	3.400 but less than 3.450.....	0.32
5	3.350 but less than 3.400.....	0.33
6	3.300 but less than 3.350.....	0.34
7	3.250 but less than 3.300.....	0.35
8	3.200 but less than 3.250.....	0.36
9	3.150 but less than 3.200.....	0.37
10	3.100 but less than 3.150.....	0.38
11	3.050 but less than 3.100.....	0.39
12	3.000 but less than 3.050.....	0.40
13	2.950 but less than 3.000.....	0.41
14	2.900 but less than 2.950.....	0.42
15	2.850 but less than 2.900.....	0.43
16	2.800 but less than 2.850.....	0.44
17	2.750 but less than 2.800.....	0.45
18	2.700 but less than 2.750.....	0.46
19	2.650 but less than 2.700.....	0.47
20	2.600 but less than 2.650.....	0.48
21	2.550 but less than 2.600.....	0.49
22	2.500 but less than 2.550.....	0.50
23	2.450 but less than 2.500.....	0.51
24	2.400 but less than 2.450.....	0.52
25	2.350 but less than 2.400.....	0.53
26	2.300 but less than 2.350.....	0.54
27	2.250 but less than 2.300.....	0.55
28	2.200 but less than 2.250.....	0.56
29	2.150 but less than 2.200.....	0.57
30	2.100 but less than 2.150.....	0.58
31	2.050 but less than 2.100.....	0.59
32	2.000 but less than 2.050.....	0.60
33	1.975 but less than 2.000.....	0.61
34	1.950 but less than 1.975.....	0.62
35	1.925 but less than 1.950.....	0.63
36	1.900 but less than 1.925.....	0.64
37	1.875 but less than 1.900.....	0.65
38	1.850 but less than 1.875.....	0.66
39	1.825 but less than 1.850.....	0.67
40	1.800 but less than 1.825.....	0.68
41	1.775 but less than 1.800.....	0.69
42	1.750 but less than 1.775.....	0.70
43	1.725 but less than 1.750.....	0.71

1	1.700 but less than 1.725.....	0.72
2	1.675 but less than 1.700.....	0.73
3	1.650 but less than 1.675.....	0.74
4	1.625 but less than 1.650.....	0.75
5	1.600 but less than 1.625.....	0.76
6	1.575 but less than 1.600.....	0.77
7	1.550 but less than 1.575.....	0.78
8	1.525 but less than 1.550.....	0.79
9	1.500 but less than 1.525.....	0.80
10	1.475 but less than 1.500.....	0.81
11	1.450 but less than 1.475.....	0.82
12	1.425 but less than 1.450.....	0.83
13	1.400 but less than 1.425.....	0.84
14	1.375 but less than 1.400.....	0.85
15	1.350 but less than 1.375.....	0.86
16	1.325 but less than 1.350.....	0.87
17	1.300 but less than 1.325.....	0.88
18	1.275 but less than 1.300.....	0.89
19	1.250 but less than 1.275.....	0.90
20	1.225 but less than 1.250.....	0.91
21	1.200 but less than 1.225.....	0.92
22	1.175 but less than 1.200.....	0.93
23	1.150 but less than 1.175.....	0.94
24	1.125 but less than 1.150.....	0.95
25	1.100 but less than 1.125.....	0.96
26	1.075 but less than 1.100.....	0.97
27	1.050 but less than 1.075.....	0.98
28	1.025 but less than 1.050.....	0.99
29	1.000 but less than 1.025.....	1.00
30	0.900 but less than 1.000.....	1.01
31	0.800 but less than 0.900.....	1.02
32	0.700 but less than 0.800.....	1.03
33	0.600 but less than 0.700.....	1.04
34	0.500 but less than 0.600.....	1.05
35	0.400 but less than 0.500.....	1.06
36	0.300 but less than 0.400.....	1.07
37	0.200 but less than 0.300.....	1.08
38	0.100 but less than 0.200.....	1.09
39	Less than 0.100%.....	1.10

40

41 (B) *Adjustment to taxable wages.* The planned yield as a percent of
 42 total wages, as determined in this subsection (a)(3), shall be adjusted to
 43 taxable wages by multiplying by the ratio of total wages to taxable wages

1 for all contributing employers for the preceding fiscal year ending June 30,
2 except, with regard to a year in which the taxable wage base changes. The
3 taxable wages used in the calculation for such a year and the following
4 year shall be an estimate of what the taxable wages would have been if the
5 new taxable wage base had been in effect during all of the preceding fiscal
6 year ending June 30.

7 (C) *Effective rates.* (i) Except with regard to rates for negative
8 account balance employers, employer contribution rates to be effective for
9 the ensuing calendar year shall be computed by adjusting proportionately
10 the experience factors from schedule I of this section to the required yield
11 on taxable wages. For the purposes of this subsection (a)(3), all rates
12 computed shall be rounded to the nearest .01% and for calendar year 1983
13 and ensuing calendar years, the maximum effective contribution rate shall
14 not exceed 5.4%.

15 (ii) For rate year 2007 and subsequent rate years, employers who are
16 current in filing quarterly wage reports and in payment of all contributions
17 due and owing, shall be issued a contribution rate based upon the
18 following reduction: For rate groups 1 through 5, the rates would be
19 reduced to 0.00%; for rate groups 6 through 28, the rates would be reduced
20 by 50%; for rate groups 29 through 51, the rates would be reduced by
21 40%.

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

26 (iv) In order to be eligible for the reduced rates for rate years 2008
27 through 2013, employers must file all reports due and pay all contributions
28 due and owing on or before January 31 of the applicable year, except that
29 the reduced rates for otherwise eligible employers shall not be effective for
30 any rate year if the average high cost multiple of the employment security
31 trust fund balance falls below 1.2 as of the computation date of that year's
32 rates. In order to be eligible for the reduced rates for rate year 2014 and
33 subsequent rate years, employers must file all reports due and pay all
34 contributions due and owing on or before January 31 of the applicable
35 year, except that the reduced rates for otherwise eligible employers shall
36 not be effective for any rate year if the average high cost multiple of the
37 employment security trust fund balance falls below 1.0 as of the
38 computation date of that year's rates. For the purposes of this provision,
39 the average high cost multiple is the reserve fund ratio, as defined by
40 subsection (a)(3)(A), divided by the average high benefit cost rate. The
41 average high benefit cost rate shall be determined by averaging the three
42 highest benefit cost rates over the last 20 years from the preceding fiscal
43 year which ended June 30. The high benefit cost rate is defined by dividing

1 total benefits paid in the fiscal year by total payrolls for covered employers
2 in the fiscal year.

3 (v) For rate year 2015 and rate years thereafter, an eligible employer
4 other than a negative account balance employer, who has filed all reports
5 due and paid all contributions due and owing on or before January 31 of
6 the applicable year is entitled to a rate discount of 25% except as provided
7 in this subsection. This discount shall not be in effect if other reduced rates
8 pursuant to subsections (a)(3)(C)(i) through (iv) are in effect. This
9 discount shall not be available for a rate year if the average high cost
10 multiple of the employment security trust fund balance falls below 1.0 as
11 of the computation date of that year's rates, and this discount shall
12 thereafter cease to be in effect for all subsequent rate years. For the
13 purposes of this provision, the average high cost multiple is as defined by
14 subsection (a)(3)(C)(iv).

15 (b) *Successor classification.* (1) (A) For the purposes of this
16 subsection (b), whenever an employing unit, whether or not it is an
17 "employing unit" within the meaning of subsection (g) of K.S.A. 44-703,
18 and amendments thereto, becomes an employer pursuant to subsection (h)
19 (4) of K.S.A. 44-703, and amendments thereto, or is an employer at the
20 time of acquisition and meets the definition of a "successor employer" as
21 defined by subsection (dd) of K.S.A. 44-703, and amendments thereto, and
22 thereafter transfers its trade or business, or any portion thereof, to another
23 employer and, at the time of the transfer, there is substantially common
24 ownership, management or control of the two employers, then the
25 unemployment experience attributable to the transferred trade or business
26 shall be transferred to the employer to whom such business is so
27 transferred. These experience factors consist of all contributions paid,
28 benefit experience and annual payrolls of the predecessor employer. The
29 transfer of some or all of an employer's workforce to another employer
30 shall be considered a transfer of trade or business when, as the result of
31 such transfer, the transferring employer no longer performs trade or
32 business with respect to the transferred workforce, and such trade or
33 business is performed by the employer to whom the workforce is
34 transferred.

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

40 (2) A successor employer as defined by subsection (h)(4) or
41 subsection (dd) of K.S.A. 44-703, and amendments thereto, may receive
42 the experience rating factors of the predecessor employer if an application
43 is made to the secretary or the secretary's designee in writing within 120

1 days of the date of the transfer.

2 (3) Whenever an employing unit, whether or not it is an "employing
3 unit" within the meaning of subsection (g) of K.S.A. 44-703, and
4 amendments thereto, acquires or in any manner succeeds to a percentage
5 of an employer's annual payroll which is less than 100% and intends to
6 continue the acquired percentage as a going business, the employing unit
7 may acquire the same percentage of the predecessor's experience factors if:
8 (A) The predecessor employer and successor employing unit make an
9 application in writing on the form prescribed by the secretary; (B) the
10 application is submitted within 120 days of the date of the transfer; (C) the
11 successor employing unit is or becomes an employer subject to this act
12 immediately after the transfer; (D) the percentage of the experience rating
13 factors transferred shall not be thereafter used in computing the
14 contribution rate for the predecessor employer; and (E) the secretary finds
15 that such transfer will not tend to defeat or obstruct the object and
16 purposes of this act.

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

21 (B) If a successor employer is determined to be qualified under
22 paragraph (2) or (3) of this subsection to receive the experience rating
23 factors of the predecessor employer, the rate assigned to the successor
24 employer for the remainder of the contributions year shall be determined
25 by the following:

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

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

36 (5) Whenever an employing unit is not an employer at the time it
37 acquires the trade or business of an employer, the unemployment
38 experience factors of the acquired business shall not be transferred to such
39 employing unit if the secretary finds that such employing unit acquired the
40 business solely or primarily for the purpose of obtaining a lower rate of
41 contributions. Instead, such employing unit shall be assigned the
42 applicable industry rate for a "new employer" as described in subsection
43 (a)(1) of this section. In determining whether the business was acquired

1 solely or primarily for the purpose of obtaining a lower rate of
2 contributions, the secretary shall use objective factors which may include
3 the cost of acquiring the business, whether the employer continued the
4 business enterprise of the acquired business, how long such business
5 enterprise was continued, or whether a substantial number of new
6 employees were hired for performance of duties unrelated to the business
7 activity conducted prior to acquisition.

8 (6) Whenever an employer's account has been terminated as provided
9 in subsections (d) and (e) of K.S.A. 44-711, and amendments thereto, and
10 the employer continues with employment to liquidate the business
11 operations, that employer shall continue to be an "employer" subject to the
12 employment security law as provided in subsection (h)(8) of K.S.A. 44-
13 703, and amendments thereto. The rate of contribution from the date of
14 transfer to the end of the then current calendar year shall be the same as
15 the contribution rate prior to the date of the transfer. At the completion of
16 the then current calendar year, the rate of contribution shall be that of a
17 "new employer" as described in subsection (a)(1) of this section.

18 (7) No rate computation will be permitted an employing unit
19 succeeding to the experience of another employing unit pursuant to this
20 section for any period subsequent to such succession except in accordance
21 with rules and regulations adopted by the secretary. Any such regulations
22 shall be consistent with federal requirements for additional credit
23 allowance in section 3303 of the federal internal revenue code of 1986,
24 and consistent with the provisions of this act.

25 (c) *Voluntary contributions.* Notwithstanding any other provision of
26 the employment security law, any employer may make voluntary payments
27 for the purpose of reducing or maintaining a reduced rate in addition to the
28 contributions required under this section. Such voluntary payments may be
29 made only during the thirty-day period immediately following the date of
30 mailing of experience rating notices for a calendar year. All such voluntary
31 contribution payments shall be paid prior to the expiration of 120 days
32 after the beginning of the year for which such rates are effective. The
33 amount of voluntary contributions shall be credited to the employer's
34 account as of the next preceding computation date and the employer's rate
35 shall be computed accordingly, ~~except that no employer's rate shall be~~
36 ~~reduced more than five rate groups as provided in schedule I of this section~~
37 ~~as the result of a voluntary payment. An employer not having a negative~~
38 ~~account balance may have such employer's rate reduced not more than five~~
39 ~~rate groups as provided in schedule I of this section as a result of a~~
40 ~~voluntary payment. An employer having a negative account balance may~~
41 ~~have such employer's rate reduced to that prescribed for rate group 51 of~~
42 ~~schedule I of this section by making a voluntary payment in the amount of~~
43 ~~such negative account balance or to that rate prescribed for rate groups 50~~

1 through 47 of schedule I of this section by making an additional voluntary
2 payment that would increase such employer's reserve ratio to the lower
3 limit required for such rate groups 50 through 47. Under no circumstances
4 shall voluntary payments be refunded in whole or in part.

5 (d) As used in this section, "negative account balance employer"
6 means an eligible employer whose total benefits charged to such
7 employer's account for all past years have exceeded all contributions paid
8 by such employer for all such years.

9 (e) There is hereby established in the state treasury, separate and apart
10 from all public moneys or funds of this state, an employment security
11 interest assessment fund, which shall be administered by the secretary as
12 provided in this act. Moneys in the employment security fund established
13 by K.S.A. 44-712, and amendments thereto, and employment security
14 interest assessment fund established by K.S.A. 44-710, and amendments
15 thereto, shall not be invested in the pooled money investment portfolio
16 established under K.S.A. 75-4234, and amendments thereto.
17 Notwithstanding the provisions of subsection (a) of K.S.A. 44-712, K.S.A.
18 44-716, K.S.A. 44-717 and K.S.A. 75-4234, and amendments thereto, or
19 any like provision the secretary shall remit all moneys received from
20 employers pursuant to the interest payment assessment established in
21 ~~section subsection (a)(2)(E), and amendments thereto,~~ to the state treasurer
22 in accordance with the provisions of K.S.A. 75-4215, and amendments
23 thereto. Upon receipt of each such remittance, the state treasurer shall
24 deposit the entire amount in the employment security interest assessment
25 fund. All moneys in this fund which are received from employers pursuant
26 to the interest payment assessment established in ~~section subsection (a)(2)~~
27 ~~(E), and amendments thereto,~~ shall be expended solely for the purposes
28 and in the amounts found by the secretary necessary to pay any principal
29 and interest due and owing the United States department of labor resulting
30 from any advancements made to the Kansas employment security fund
31 pursuant to the provisions of title XII of the social security act (42 U.S.C.
32 §§ 1321 to 1324) except as may be otherwise provided under ~~section~~
33 ~~subsection (a)(2)(E), and amendments thereto.~~ Notwithstanding any
34 provision of this section, all moneys received and credited to this fund
35 pursuant to ~~section subsection (a)(2)(E), and amendments thereto,~~ pursuant
36 to ~~section subsection (a)(2)(E), and amendments thereto,~~ shall remain part
37 of the employment security interest assessment fund and shall be used only
38 in accordance with the conditions specified in ~~section subsection (a)(2)(E);~~
39 ~~and amendments thereto.~~

40 (f) The secretary of labor shall annually prepare and submit a
41 certification as to the solvency and adequacy of the amount credited to the
42 state of Kansas' account in the federal employment security trust fund to
43 the governor and the legislative coordinating council. The certification

- 1 shall be submitted on or before December 1 of each calendar year and
2 shall be for the 12-month period ending on June 30 of that calendar year.
3 In arriving at the certification contributions paid on or before July 31
4 following the 12-month period ending date of June 30 shall be considered.
5 Each certification shall be used to determine the need for any adjustment
6 to schedule III in subsection (a)(3)(A) and to assist in preparing legislation
7 to accomplish any such adjustment.
- 8 Sec. 2. K.S.A. 2013 Supp. 44-710a is hereby repealed.
- 9 Sec. 3. This act shall take effect and be in force from and after its
10 publication in the statute book.