

MINUTES OF THE SENATE BUSINESS AND LABOR COMMITTEE

The meeting was called to order by Chairman Susan Wagle at 8:30 a.m. on January 19, 2010 in Room 548-S of the Capitol.

All members were present except:

Senator Jay Emler - excused

Senator Tom Holland - excused.

Committee staff present:

Ms. Margaret Cianciarulo, Committee Assistant

Mr. Reed Holwegner, Kansas Legislative Research Department

Ms. Kathie Sparks, Kansas Legislative Research Department

Mr. Ken Wilke, Kansas Office of the Revisor of Statutes

Conferees appearing before the Committee:

Mr. Jim Garner, Secretary, Kansas Department of Labor

Others attending:

See attached list.

Continuation of Overview of the Kansas Unemployment Fund

Upon calling the meeting to order Chairman Wagle called on Mr. Jim Garner, Secretary, Kansas Department of Labor, and asked him to explain how they are calculating the tax rate number that just came out.

He began by referring the Committee to his handouts, the first being "A Guide to Understanding the Kansas Unemployment Insurance Tax Rates," was a power point presentation he would be walking the Committee through how this is done. He also again shared the two-page overview of 44-710a, and how KDOL goes about doing that entitled "A Guide to Understanding...2010 Kansas' Unemployment Insurance Tax Rates," And the third handout is a copy of the actual law (44-710a) that was discussed during the January 14, 2010 meeting, that deals with how taxes are calculated. Copies of the three handouts are (Attachment 1) attached and incorporated into the minutes as referenced. Highlights included:

Employer Tax Rate Contributions:

A. They are placed in the UI Trust Fund which is used only to make benefit payments to qualified unemployed individuals.

B. These rates are influenced by:

1. Length of time in the business and industry sector
2. Experience rating (use of unemployment system)
3. Average annual payrolls
4. Trust Fund balance

C. Legislation was passed in 2007 (**SB83**) that had an automatic trigger based on the solvency of the trust fund. If it maintained a certain level of solvency, then tax rates would be reduced on all positive balanced employers as has been the case for the past three years. The balance as of July 31, 2009 was looked at and since it was not adequate to meet the solvency measures, the reduced tax rates were not triggered for 2010 and reverted back to the standard tax rates.

Phase One: Planned Yield

The first thing they do, he said, is determine what the planned yield will be, how much money is going to be collected for unemployment tax purposes. The statute sets out a detailed formula for what it is going to be.

1. Compute the reserve fund ratio which is the Trust Fund Balance as of July 31 (\$348,964,208) divided by the total payroll of all contributing employers in the State (\$39,884,620,223) which gives us the percentage ratio (0,875%).

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2. Take the percentage ratio and using a table that is set out in statute, it will tell you what the uncontrolled ratio is going to be. He referred the Committee to page 4 of his handouts stating when you have a Reserve Fund Ratio of .875, the table shows the planned yield will be 1.02% of total wages in the State. (For comparison purposes, he stated the calculation of the formula last year has the formula rate at .75%, but because of the reduced tax rate, the effective tax yield was .49%.)

The Chair asked, if this is in accordance with the original law and will the percentages on the chart ever change? Secretary Garner stated the schedule and process have been around for decades but the percentages have changed many times.

Schedule III - Fund Control Ratio to Total Wages

He went on to say, as the Committee may recall they do not collect unemployment taxes on all wages paid, only on the first \$8K, so you determine what that would be in taxable wages. (The 1.02% of total wages are the equivalent of 4.37% of taxable wages on the first \$8K)

Planned Yield (summary)

With the taxable wages for FY 2009 at \$9.3 billion X 4.37% (the planned yield for 2010 based on the calculations, pursuant to the schedules & formulas) = \$407 million, which is what they know they have to collect for calendar year 2010. As a comparison, he stated the planned yield for 2009 was \$304 million but because they had the reduced tax rates in place that reduced the yield down to \$198 million.

The Chair asked Secretary Garner how much did they collect and how much did they pay out? His answer: In 2009, they collected \$198 million and \$766 million was paid out in regular unemployment benefits.

Senator Kelsey asked if they are operating on a fiscal year (7-1 to 6-30) or a calendar year (1-1 to 12-31)? Answer: Secretary Garners said the unemployment system operates on a calendar tax year.

Types of Employers

For unemployment tax purposes, employers are put in certain types of categories:

1. Ineligible - new employers who haven't been in existence long enough to have an experienced rate, meaning they need to have enough payroll for 24 consecutive months.
2. Positive balance employers - have been around long enough to have the experienced rating and through the life of their business they have paid in more in contributions in the UI Trust Fund than have been paid out in benefits.
3. Negative eligible employers - have been around long enough for the experience rating but have paid in less money into the trust fund than has been paid out to their former employees. (Paid out more in benefits than they paid in contributions.)

Employer Tax Rates

1. The ineligible employers have a flat rate set for them by statute. (Any new employer in the construction business pays a flat 6% on the first \$8k, but all other industries pay 4%.)
2. Regarding the positive balance employers, KDOL's rate is based on their experience rating. Based on this, they are placed in one of the 51 rate groups. The maximum rate by statute is 5.4% on the first \$8K.
3. Regarding the negative balance employers, they pay the maximum rate of 5.4% plus a surcharge based on their particular experience rating. (The surcharge can range from .02% to 2.0%.)

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Senator Kelsey commented on the percentage rates above saying the guys who have been around and doing a good job are actually going to pay more than those on the bottom. Answer: Secretary Garner stated that is a reflection of the situation this year because in the past new employers have generally been paying more.

The Chair asked, is this surcharge only on the first \$8K payroll and for instance, as an employer you had a very large layoff and you are capped at 7.4%, how would this affect the whole system? Answer: Yes to the surcharge but he would need to do some checking regarding the second part of the question but the Employment Security Advisory Council (ESAC) has discussed whether they should have more classes of negative balance to increase that burden on the negative balance employer.

Senator Reitz asked if a new business starts up and has plenty of employees, and in the first 24 months, he is bound by the State and required to pay 4% of the \$8K, but he is not considered a player in those whole sequence of events and some of his people leave because the business doesn't do well, are they subject getting some unemployment insurance money back? Answer: Absolutely.

Continuing on with "Employer Tax Rates"

By going through the statutory formula and identifying what the planned yield is for the fund (how much taxes are they going to collect that year) they can start dividing that yield across the different types of employers:

1. They estimate the amount that will be collected from the new eligible employers. (Make an estimation of how many are going to be in that classification for the next tax year, and determine how much taxes they will collect from that group of employers.)
2. Next they determine how many are going to be negative balance employers, based on patterns, and how much money are they going to raise from that classification of employers.
3. Then the remaining amount of money is to be collected from the positive balance experience rated employers across those 51 tax groups.

2010 Employer Tax Collection

Referring to the information on page 10, Secretary Garner said this gives the numbers behind what they have estimated for 2010. Regarding statutory calculations, they have estimated \$506.9 million:

1. \$13.8 from Ineligible Employers
2. \$72.2 from Negative Balance Employers
3. \$320 million, the remaining balance, is to be collected from the Positive Balance Employers.

Senator Lynn asked why there is such a huge gap between positive and negative? Answer: Secretary Garner said it is based on the number of employers that will be in those categories.

Chairman Wagle asked, if they have a general number of how many businesses in the State of Kansas pay into this fund and of those, how many would be negative? Answer: About 69K employers pay into the fund 51,544 are employers who have a positive balance and 25% are negative balance employers.

Senator Brownlee stated it might be possible to understand the numbers if you could provide the Committee with how many employees does the negative balance employer represent, as well as with the positive and the new. Answer: Secretary Garner said they would get that information to the Committee.

Positive Balance Employers

Secretary Garner went onto say they are arrayed across 51 rate groups. This process, again is another statutory formula to determine how they are assigned to one of the 51 rate groups. They determine another ratio, which is the employer's account balance minus the amount that has been paid out of that account,

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divided by their average annual payroll for the past three years. Based on that, the most favorable ratios are placed in lower numbered rate groups, with the goal of each rate group representing 1.96% of taxable wages in the state.

2010 Original Tax Rate Computation

Next, he offered a chart showing a straight spread across the 51 rate groups. However, he stated there were the two limitations: they cannot charge positive balance employers anything more than 5.4% and KDOL only collects on the first \$8K.

Tax Rate Compression

Next, Secretary Garner said they have to compress all those rate groups into a schedule that maxes out at 5.4%.

The Chair asked, do the lower rated employers in the positive rate group have a better experience with unemployment than the higher rate group? If yes, that means that they paid a lot more money into the system than they took out and so even though they may be having a greater experience with unemployment, they are not going to pay the 8.4% because the law caps it at 5.4%. Doesn't that place the burden down on employers who haven't had to lay off people?

Secretary Garner said this was one of the things he mentioned that would upset the people. He did mention another factor, it isn't just their experience with the system but it could also mean they have had a significant change in their payroll that may move them to a higher rate group as well.

Going back to the compression, he stated since we are capped at 5.4%, we have to then get all of those 51 rate groups that are above 5.4%, all those shown in the previous chart, and knock them down to 5.4% and the remaining has to be spread on all of the lower rate groups. Based on that, what they end up with is that 28 of the 51 rate groups will be at the maximum 5.4% in order to get the yield that is set out in the statute.

2010 Adjusted Tax Rates

He went on to say the next chart is the rate chart for 2010 for positive balance employers one through 51 rate groups and starting at rate group 23, they go to the maximum rate in order to be able to accommodate that cap on the tax amount and still be able to raise the \$432 million that is required from the positive balance employers.

Yearly Schedule

They start calculating in September and notices are sent out to employers in September that indicate all the benefit charges that KDOL has that have been against the employers' account for the past year. (All the individuals that have claimed benefits under the employer's account.) KDOL asks if they dispute these notices and if they do, KDOL has a process where they can appeal. Once the actual benefit charges are figured out, KDOL starts doing the calculating of rates, notices go out in mid-December to all employers, (positive & negative balances and the new) assigning them their particular rate group and what their tax rate is going to be for calendar year 2010. Once those determinations have been sent out, they have 15 days for a review of determination.

Employers are to pay taxes each quarter to the KDOL, with the first quarter ending March 31, 2010, and have 30 days to pay those taxes which are due by the end of April for the first quarter. And again, once they get the first \$8K for that employee, taxes are no longer collected on that employee.

The Chair asked what do you do in September and would that be for the calendar year? Answer: It would be for the fiscal year that ended June 30. When do you start recalculating? Answer: the end of October into November, primarily the first two weeks in November. She asked if the Secretary saw this coming? Answer:

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Yes, he stated in one of the quarterly reports KDOL sends out to employers, they included a notice stating they are not going to be at reduced tax rates in 2010, so employers can expect a significant increase in those tax rates.

Senator Reitz asked when did the history of this concept of unemployment insurance come into effect? Answer: 75 years ago, the National Employment Insurance system was a part of the Social Security Act.

Senator Brownlee asked when employers go before your hearing officers they may have due cause for someone being released from employment, for example, they were fired, but yet your hearing officers still grant them unemployment, how do we reconcile this? Answer: There are errors that happen, but one thing, 50% of the people that appear before our hearing panels are going to be unhappy with the decision that the agency makes. But there was an audit done on this issue back in 2007 which found that there was no bias. So whether you were a claimant or employer, your chance of winning was about 50%.

Senator Brownlee was also interested in KDOL's software upgrades stating it just seems like government computer programs that are redone are kind of a black hole cost wise, where are we at on this and also, had it been done, this whole process would have been so much easier? Answer: Wonderful if we had the new system instead of trying to keep hatching and keep this antiquated system operating but these are not small projects, and they are in the actual build and deploy phase of the project, where we are actually building the new system, deploying pieces of it every quarter, and are on track to have all of the information migrated off of the old mainframe system and onto our new web bases by the end of this year. And as for the funding, Secretary Garner said he has made it an absolute goal and commitment not to come back and ask for more money to get this system done because we do have the funds to get this system built.

In some of your research, Senator Brownlee asked, did you see what other states are spending when they do projects like this? Answer: We are on the front edge of new systems, many states are in the same situation of having old antiquated cobalt language mainframe systems. There have been a couple of states, I mean, we are in line, I think New Jersey was up to \$80 million.

Senator Kelsey asked, do employers ever win those appeals?

As it was nearing 9:30, the Chair stated they would be meeting next week with Secretary Garner. Also, the Committee has the new rates for positive balance employers and we have asked for the 2009 and 2010 for negative balance employers, 2009 and 2010 for positive balance employers and the number of employees in each category. The Chair asked about the nonprofit groups, what rates are they going to have to pay? Answer: Secretary Garner said he would provide the information as well at the next meeting because it would depend whether they become contributing or reimbursing, they (government entities and religious) have an option of choosing how they want to do that. The Chair asked if that was new? Answer: No, it has been around a long time. She asked if the State of Kansas is contributing to the US Fund? Answer: Yes, as reimbursing.

Adjournment

The meeting was adjourned at 9:30 a.m..

The next meeting is scheduled for January 26, 2010.

BUSINESS AND LABOR COMMITTEE GUEST LIST

DATE: Tues 1-19-10

NAME	REPRESENTING
Judy Macy	KSDOL/UT
JOE T. VINDICU	KDOL - COMVT.
Bob Lierz	KDOL
Rob Johnson	Federico Consulting
Eric Stoffel	AGC of KS
Ashley Shevard	Lenexa Chamber
Martin Hauver	Hauver's Capital Repor-
Natalie Bufa	KS-SHRM
Leslie Kaufman	Ks Crop Council
Natalie Haag	Security Benefit
John Donley	KS Lusk Ass'n
SEAN MILICE	CAPITOL STRATEGIES
Megan Bottenberg	KDOL
Angela Berland	KDOL
Inayat Normohamad	KDOL

38 in
attendance
+ committee

please pass to the next person for
signature.

after meeting please return
to Committee Secretary-

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A Guide to Understanding the Kansas Unemployment Insurance Tax Rates

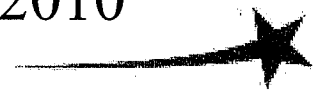
Labor Market Information Services
January, 2010


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Employer Tax Rate Contributions

- Tax rate contributions are placed in the UI Trust Fund
- The UI Trust Fund is used to make benefit payments to qualified unemployed individuals
- Tax rates are influenced by several factors:
 - Length of time in business and industry sector
 - Experience rating (use of unemployment system)
 - Average annual payroll
 - Trust Fund balance
- Reduced tax rates or Standard Tax rates – 2007 SB 83
- Reduced Tax Rates not triggered for 2010



Phase One: Planned Yield

- Planned yield – the amount of money to be raised pursuant to statutory formula with the goal of maintaining Trust Fund solvency
- Expressed in terms of Reserve Fund Ratio

$$= \frac{\text{Trust Fund Balance (July 31}^{\text{st}})}{\text{Total Payroll from Contributing Employers (FY)}}$$

$$2010 \text{ RFR} = \frac{\$348,964,208}{\$39,884,620,223} = 0.875\%$$

- RFR is translated into the percentage of total payroll required to generate the necessary yield using Schedule III (K.S.A. 44-710a)



Schedule III - Fund Control Ratio to Total Wages

44-710a

Employment Security Law

44-710a

SCHEDULE III - Fund Control Ratio to Total Wages

Column A Reserve Fund Ratio	Column B Planned Yield	
4.500 and over.....	0.00	2.300 but less than 2.350..... 0.54
4.475 but less than 4.500.....	0.01	2.250 but less than 2.300..... 0.55
4.450 but less than 4.475.....	0.02	2.200 but less than 2.250..... 0.56
4.425 but less than 4.450.....	0.03	2.150 but less than 2.200..... 0.57
4.400 but less than 4.425.....	0.04	2.100 but less than 2.150..... 0.58
4.375 but less than 4.400.....	0.05	2.050 but less than 2.100..... 0.59
4.350 but less than 4.375.....	0.06	2.000 but less than 2.050..... 0.60
4.325 but less than 4.350.....	0.07	1.975 but less than 2.000..... 0.61
4.300 but less than 4.325.....	0.08	1.950 but less than 1.975..... 0.62
4.275 but less than 4.300.....	0.09	1.925 but less than 1.950..... 0.63
4.250 but less than 4.275.....	0.10	1.900 but less than 1.925..... 0.64
4.225 but less than 4.250.....	0.11	1.875 but less than 1.900..... 0.65
4.200 but less than 4.225.....	0.12	1.850 but less than 1.875..... 0.66
4.175 but less than 4.200.....	0.13	1.825 but less than 1.850..... 0.67
4.150 but less than 4.175.....	0.14	1.800 but less than 1.825..... 0.68
4.125 but less than 4.150.....	0.15	1.775 but less than 1.800..... 0.69
4.100 but less than 4.125.....	0.16	1.750 but less than 1.775..... 0.70
4.075 but less than 4.100.....	0.17	1.725 but less than 1.750..... 0.71
4.050 but less than 4.075.....	0.18	1.700 but less than 1.725..... 0.72
4.025 but less than 4.050.....	0.19	1.675 but less than 1.700..... 0.73
4.000 but less than 4.025.....	0.20	1.650 but less than 1.675..... 0.74
3.950 but less than 4.000.....	0.21	1.625 but less than 1.650..... 0.75
3.900 but less than 3.950.....	0.22	1.600 but less than 1.625..... 0.76
3.850 but less than 3.900.....	0.23	1.575 but less than 1.600..... 0.77
3.800 but less than 3.850.....	0.24	1.550 but less than 1.575..... 0.78
3.750 but less than 3.800.....	0.25	1.525 but less than 1.550..... 0.79
3.700 but less than 3.750.....	0.26	1.500 but less than 1.525..... 0.80
3.650 but less than 3.700.....	0.27	1.475 but less than 1.500..... 0.81
3.600 but less than 3.650.....	0.28	1.450 but less than 1.475..... 0.82
3.550 but less than 3.600.....	0.29	1.425 but less than 1.450..... 0.83
3.500 but less than 3.550.....	0.30	1.400 but less than 1.425..... 0.84
3.450 but less than 3.500.....	0.31	1.375 but less than 1.400..... 0.85
3.400 but less than 3.450.....	0.32	1.350 but less than 1.375..... 0.86
3.350 but less than 3.400.....	0.33	1.325 but less than 1.350..... 0.87
3.300 but less than 3.350.....	0.34	1.300 but less than 1.325..... 0.88
3.250 but less than 3.300.....	0.35	1.275 but less than 1.300..... 0.89
3.200 but less than 3.250.....	0.36	1.250 but less than 1.275..... 0.90
3.150 but less than 3.200.....	0.37	1.225 but less than 1.250..... 0.91
3.100 but less than 3.150.....	0.38	1.200 but less than 1.225..... 0.92
3.050 but less than 3.100.....	0.39	1.175 but less than 1.200..... 0.93
3.000 but less than 3.050.....	0.40	1.150 but less than 1.175..... 0.94
2.950 but less than 3.000.....	0.41	1.125 but less than 1.150..... 0.95
2.900 but less than 2.950.....	0.42	1.100 but less than 1.125..... 0.96
2.850 but less than 2.900.....	0.43	1.075 but less than 1.100..... 0.97
2.800 but less than 2.850.....	0.44	1.050 but less than 1.075..... 0.98
2.750 but less than 2.800.....	0.45	1.025 but less than 1.050..... 0.99
2.700 but less than 2.750.....	0.46	1.000 but less than 1.025..... 1.00
2.650 but less than 2.700.....	0.47	0.900 but less than 1.000..... 1.01
2.600 but less than 2.650.....	0.48	0.800 but less than 0.900..... 1.02
2.550 but less than 2.600.....	0.49	0.700 but less than 0.800..... 1.03
2.500 but less than 2.550.....	0.50	0.600 but less than 0.700..... 1.04
2.450 but less than 2.500.....	0.51	0.500 but less than 0.600..... 1.05
2.400 but less than 2.450.....	0.52	0.400 but less than 0.500..... 1.06
2.350 but less than 2.400.....	0.53	0.300 but less than 0.400..... 1.07
		0.200 but less than 0.300..... 1.08
		0.100 but less than 0.200..... 1.09
		Less than 0.100%..... 1.10

2010 RFR = .875

1.02% of total wages will provide the required yield

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Schedule III - Fund Control Ratio to Total Wages

- Schedule III provides the tax rate on total wages needed to generate the required yield
- Employers are not taxed based on total wages. Taxable wages are limited to the first \$8,000 of wages per employee

Average Tax Rate for 2010:

<u>Total Wages</u>	<u>Taxable Wages</u>
1.02%	4.37%



Planned Yield

- Taxable Wages for Fiscal Year 2009 were \$9,312,126,920
- Planned Yield for 2010 is determined by multiplying the taxable wages by the rate

$$\begin{aligned} &\text{Planned Yield for 2010:} \\ &\$9,312,126,920 \times 4.37\% = \$406,939,946 \end{aligned}$$

- The Planned Yield for 2009 was \$304 million, but reduced rates reduced the Yield to \$198 million
- This Planned Yield is collected from Kansas employers for deposit into the Unemployment Insurance Trust Fund to be used for UI benefit payment



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Types of Employers

- Ineligible – new employers who do not have 24 consecutive months of chargeability are not eligible for experience rating
- Positive eligible – employers who are eligible for experience rating who have paid in more money in contributions than the amount of benefits charged against their account
- Negative eligible – employers who are eligible for experience rating who have had more money charged against their account for benefits than they have paid in contributions



Employer Tax Rates

- Ineligible employers have set rates:
 - 6.0% - Construction industry
 - 4.0% - All other industries
- Positive balance employers:
 - Rate is determined based on their UI experience
 - Arrayed across 51 rate groups
 - Maximum rate is 5.4%
- Negative balance employers:
 - Rate is 5.4% plus a surcharge that is based on their account balance and average annual payroll
 - Surcharge ranges from 0.2% to 2.0%
 - Rates will range from 5.6% to 7.4%



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Employer Tax Rates

- Planned Yield is identified
- The estimated amount that will be obtained from ineligible employers paying 4.0% and 6.0% is deducted from the required amount
- The estimated amount that will be obtained from negative balance employers paying a minimum rate of 5.4% is deducted from the remaining required amount
- The remaining amount of money needed to be collected from positive balance employers is then used to compute the tax rates that will need to be charged to each experience rating group


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2010 Employer Tax Collection

2010 Planned Yield = \$406,939,946

Amount Collected from:

- Ineligible Employers = \$13,880,097
- Negative Balance Employers = \$72,721,140
- Positive Balance Employers = \$320,298,763

Total Estimated Yield = \$406,900,000



Positive Balance Employers

- Positive balanced employers arrayed across 51 rate groups
 - Based on individual employer's reserve ratio
 - Ratio of employer's account balance to employer's average annual payroll
- Employers with more favorable ratios are placed in the lower numbered rate groups
- Goal is to equally spread wages across each of 51 rate groups (1.96% of taxable wages in each rate group)



2010 Original Tax Rate Computation

Rate Group	Experience Factor	Taxable Wages	Contribution Rate	Yield	Rate Group	Experience Factor	Taxable Wages	Contribution Rate	Yield
1	0.025	\$ 148,528,850	0.11	\$ 163,382	26	1.00	\$ 150,581,983	4.23	\$ 6,369,618
2	0.04	\$ 148,461,850	0.17	\$ 252,385	27	1.04	\$ 144,034,789	4.40	\$ 6,337,531
3	0.08	\$ 148,498,310	0.34	\$ 504,894	28	1.08	\$ 148,358,032	4.57	\$ 6,779,962
4	0.12	\$ 148,530,646	0.51	\$ 757,506	29	1.12	\$ 147,186,969	4.74	\$ 6,976,662
5	0.16	\$ 149,792,303	0.68	\$ 1,018,588	30	1.16	\$ 149,051,576	4.90	\$ 7,303,527
6	0.20	\$ 147,335,773	0.85	\$ 1,252,354	31	1.20	\$ 155,055,579	5.07	\$ 7,861,318
7	0.24	\$ 148,318,322	1.01	\$ 1,498,015	32	1.24	\$ 144,750,875	5.24	\$ 7,584,946
8	0.28	\$ 148,858,847	1.18	\$ 1,756,534	33	1.28	\$ 147,102,093	5.41	\$ 7,958,223
9	0.32	\$ 149,840,089	1.35	\$ 2,022,841	34	1.32	\$ 146,088,151	5.58	\$ 8,151,719
10	0.36	\$ 151,313,817	1.52	\$ 2,299,970	35	1.36	\$ 148,718,972	5.75	\$ 8,551,341
11	0.40	\$ 144,412,299	1.69	\$ 2,440,568	36	1.40	\$ 159,235,961	5.92	\$ 9,426,769
12	0.44	\$ 148,612,838	1.86	\$ 2,764,199	37	1.44	\$ 137,621,515	6.09	\$ 8,381,150
13	0.48	\$ 153,583,591	2.03	\$ 3,117,747	38	1.48	\$ 148,450,927	6.26	\$ 9,293,028
14	0.52	\$ 170,247,135	2.20	\$ 3,745,437	39	1.52	\$ 148,498,769	6.43	\$ 9,548,471
15	0.56	\$ 121,144,902	2.37	\$ 2,871,134	40	1.56	\$ 148,919,679	6.60	\$ 9,828,699
16	0.60	\$ 167,971,232	2.54	\$ 4,266,469	41	1.60	\$ 149,063,790	6.76	\$ 10,076,712
17	0.64	\$ 129,716,758	2.71	\$ 3,515,324	42	1.64	\$ 147,535,583	6.93	\$ 10,224,216
18	0.68	\$ 279,300,606	2.88	\$ 8,043,857	43	1.68	\$ 149,168,016	7.10	\$ 10,590,929
19	0.72	\$ 17,697,899	3.04	\$ 538,016	44	1.72	\$ 149,207,094	7.27	\$ 10,847,356
20	0.76	\$ 148,010,584	3.21	\$ 4,751,140	45	1.76	\$ 147,011,453	7.44	\$ 10,937,652
21	0.80	\$ 150,713,781	3.38	\$ 5,094,126	46	1.80	\$ 148,935,637	7.61	\$ 11,334,002
22	0.84	\$ 146,160,575	3.55	\$ 5,188,700	47	1.84	\$ 148,130,716	7.78	\$ 11,524,570
23	0.88	\$ 149,159,748	3.72	\$ 5,548,743	48	1.88	\$ 148,576,480	7.95	\$ 11,811,830
24	0.92	\$ 147,840,511	3.89	\$ 5,750,996	49	1.92	\$ 148,797,393	8.12	\$ 12,082,348
25	0.96	\$ 152,559,729	4.06	\$ 6,193,925	50	1.96	\$ 148,664,679	8.29	\$ 12,324,302
					51	2.00	\$ 150,889,857	8.46	\$ 12,765,282
									<u>\$ 320,229,013</u>

- The maximum rate calculated was 8.46%
- According to Employment Security Law, the maximum allowable tax rate is 5.4%
- All rate groups over that percentage must be recalculated and other groups' rates must be raised in order to generate the required yield

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Tax Rate Compression

- Any rate group with a tax rate exceeding 5.4% is adjusted to meet the maximum allowable tax rates
- Rates for employers with more positive experience ratings are raised accordingly so that the required yield can be obtained while no rate group exceeds 5.4%
- 29 of the 51 rate groups are at the 5.4% limit



2010 Adjusted Tax Rates

Rate Group	Experience Factor	Taxable Wages	Contribution Rate	Yield	Rate Group	Experience Factor	Taxable Wages	Contribution Rate	Yield
1	0.025	\$ 148,528,850	0.16	\$ 237,646	26	1.00	\$ 150,581,983	5.40	\$ 8,131,427
2	0.04	\$ 148,461,850	0.26	\$ 386,001	27	1.04	\$ 144,034,789	5.40	\$ 7,777,879
3	0.08	\$ 148,498,310	0.51	\$ 757,341	28	1.08	\$ 148,358,032	5.40	\$ 8,011,334
4	0.12	\$ 148,530,646	0.77	\$ 1,143,686	29	1.12	\$ 147,186,969	5.40	\$ 7,948,096
5	0.16	\$ 149,792,303	1.02	\$ 1,527,881	30	1.16	\$ 149,051,576	5.40	\$ 8,048,785
6	0.20	\$ 147,335,773	1.28	\$ 1,885,898	31	1.20	\$ 155,055,579	5.40	\$ 8,373,001
7	0.24	\$ 148,318,322	1.54	\$ 2,284,102	32	1.24	\$ 144,750,875	5.40	\$ 7,816,547
8	0.28	\$ 148,858,847	1.79	\$ 2,664,573	33	1.28	\$ 147,102,093	5.40	\$ 7,943,513
9	0.32	\$ 149,840,089	2.05	\$ 3,071,722	34	1.32	\$ 146,088,151	5.40	\$ 7,888,760
10	0.36	\$ 151,313,817	2.30	\$ 3,480,218	35	1.36	\$ 148,718,972	5.40	\$ 8,030,824
11	0.40	\$ 144,412,299	2.56	\$ 3,696,955	36	1.40	\$ 159,235,961	5.40	\$ 8,598,742
12	0.44	\$ 148,612,838	2.82	\$ 4,190,882	37	1.44	\$ 137,621,515	5.40	\$ 7,431,562
13	0.48	\$ 153,583,591	3.07	\$ 4,715,016	38	1.48	\$ 148,450,927	5.40	\$ 8,016,350
14	0.52	\$ 170,247,135	3.33	\$ 5,669,230	39	1.52	\$ 148,498,769	5.40	\$ 8,018,934
15	0.56	\$ 121,144,902	3.58	\$ 4,336,987	40	1.56	\$ 148,919,679	5.40	\$ 8,041,663
16	0.60	\$ 167,971,232	3.84	\$ 6,450,095	41	1.60	\$ 149,063,790	5.40	\$ 8,049,445
17	0.64	\$ 129,716,758	4.10	\$ 5,318,387	42	1.64	\$ 147,535,583	5.40	\$ 7,966,921
18	0.68	\$ 279,300,606	4.35	\$ 12,149,576	43	1.68	\$ 149,168,016	5.40	\$ 8,055,073
19	0.72	\$ 17,697,899	4.61	\$ 815,873	44	1.72	\$ 149,207,094	5.40	\$ 8,057,183
20	0.76	\$ 148,010,584	4.86	\$ 7,193,314	45	1.76	\$ 147,011,453	5.40	\$ 7,938,618
21	0.80	\$ 150,713,781	5.12	\$ 7,716,546	46	1.80	\$ 148,935,637	5.40	\$ 8,042,524
22	0.84	\$ 146,160,575	5.38	\$ 7,863,439	47	1.84	\$ 148,130,716	5.40	\$ 7,999,059
23	0.88	\$ 149,159,748	5.40	\$ 8,054,626	48	1.88	\$ 148,576,480	5.40	\$ 8,023,130
24	0.92	\$ 147,840,511	5.40	\$ 7,983,388	49	1.92	\$ 148,797,393	5.40	\$ 8,035,059
25	0.96	\$ 152,559,729	5.40	\$ 8,238,225	50	1.96	\$ 148,664,679	5.40	\$ 8,027,893
					51	2.00	\$ 150,889,857	5.40	\$ 8,148,052
									\$ 320,251,984

- According to Employment Security Law, the maximum allowable tax rate is 5.4%
- All rate groups over that percentage must be recalculated and other groups' rates must be raised in order to generate the required yield



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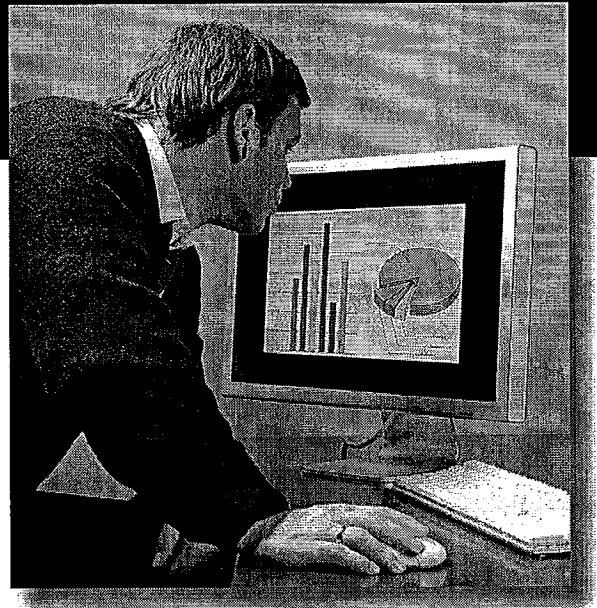
www.dol.ks.gov

Yearly Schedule

- Tax notices sent in mid-December
- Review and redetermination can be requested within 15 days
- Employers pay taxes each quarter
- First Quarterly Wage Report and payment of taxes due by end of April


KANSAS
DEPARTMENT OF LABOR





A Guide to Understanding . . .

2010 Kansas' Unemployment Insurance Tax Rates

The Kansas UI Trust Fund is funded by employers' contributions, through the UI tax rate. This year several factors have contributed to UI tax rate increases. At the close of each fiscal year, June 30, computations are begun on each contributing employer's tax rate for the succeeding calendar year. An explanation of all factors that establish the tax rates is provided in this guide.

Unemployment Insurance Taxes

There are two types of unemployment insurance taxes that employers pay.

- **FUTA** – This is the federal tax of 6.2% paid by employers. However, for states with qualifying programs, like Kansas has, there is a 5.4% credit. Thus, 0.8% on the first \$7,000 in wages is the effective FUTA rate for employers in Kansas.
- **SUTA** – This is the state tax and employers are charged between 0% and 5.4% on the first \$8,000 in wages. For negative balance experience rated employers, there is up to a 2.0% surcharge.

Determining Annual Planned Yield

Before any rates are established, we must determine the amount of funds needed the next year pursuant to the statutory formula. It's called the Annual Planned Yield. First, we determine the Reserve Fund Ratio.

$$\frac{\text{Trust Fund Balance}}{\text{Total of Payrolls}} = \text{Reserve Fund Ratio}$$

This calculation along with the tax table in K.S.A. 44-710a is used to determine the planned yield. The planned yield for 2010 is \$407 million. In 2009 it would have been \$304 million if not for the reduced tax rates. The reduced tax rates cut the 2009 Planned Yield to \$198 million. The average tax rate in 2009 was 0.49% of total wages, after the tax reductions were in place. The estimated tax rate for 2010, when reductions aren't in place, is 1.02% of total wages. In terms of taxable wages, the 2009 average tax rate was 2.02% and the 2010 estimated average tax rate on taxable wages is 4.37%. This can vary depending on each employer's experience.

How Annual Planned Yield is Collected

The Annual Planned Yield is collected from newly liable employers, positive balance experience rated eligible employers and negative balance experience rated eligible employers.

New Employers: New liable employers have less than 3 years of experience. They are assigned a rate of 4.0% except employers in the construction industry who are assigned a rate of 6.0%.

Experience Ratings

Each employer has their own experience rating. The experience rating is a procedure for varying employer rates and allocating costs of the UI program in relation to the employer's actual and potential risk with unemployment. Three key factors impact an employer's tax rate:

- Individual employer's history with UI
- Individual employer's average annual payroll
- Balance of UI Trust Fund

Here's how it's computed:

An employer's account balance indicates an employer's actual experience with unemployment for all prior years.

$$\text{Total Contributions Paid} - \text{Total Benefits Charged} = \text{Account Balance}$$

The average annual payroll indicates an employer's potential risk in regard to unemployment. It is the average of the taxable payrolls for the immediate past three calendar years.

Using these two figures, the Reserve Ratio is determined.

$$\frac{\text{Account Balance}}{\text{Average Annual Payroll}} \times 100 = \text{Reserve Ratio}$$

An employer's basic contribution rate is fixed according to the reserve ratio table in the law. The basic rate is then adjusted based on the need for contributions for the Trust Fund.

Positive Balance Experience Rated Employers:

Positive balance employers have contributed more in taxes than they have been charged in benefits. They are arrayed across 51 rate groups in accordance to the relative size of their reserve ratio in comparison to all other eligible positive balance employers. Each rate group contains approximately 1.96% of the taxable wages paid by all eligible employers. These employers are placed in order by reserve ratio with the highest placed in rate group 1 and the lowest at the bottom in rate group 51.

Parameters impacting the Positive Balance Experience Rated Employers:

- The rate is capped at 5.4%.
- Taxes are collected on only the first \$8,000 of wages paid.

This results in 28 of the 51 rate groups at the maximum rate of 5.4%.

Negative Balance Experience Rated Employers:

A negative balance employer has more benefits charged to the employer's account than the amount of taxes paid and credited to the account. Employers with a negative account balance are charged with the maximum rate provided in the law – 5.4%. In addition to the maximum rate, negative account balance employers are subject to a surcharge. The surcharge is based upon the size of the employer's negative reserve ratio with a minimum of 0.2% and a maximum of 2.0%. With the surcharge, the total rates range from 5.6% to 7.4%.

Tax Rate Notices

Tax rate notices are mailed to all contributing employers in December of each year. This notice provides each employer with information about the status of the employer's experience rating account and the contribution rate for the next calendar year. An employer has 15 days from the mailing date of the notice to request a review and redetermination and set forth in writing the reasons for the request.

Timeframe to Pay Taxes

Employers are required to pay taxes each quarter; the first of 2010 will occur at the end of April. The Quarterly Wage Report and Unemployment Tax Return is due on the last day of the month following the end of each calendar quarter and must be filed even if there were no reportable wages or contributions due for the quarter.

Sources of Additional Information

If you have more questions or seek more information about the UI tax rates, please contact KDOL at (785) 296-5000 or go to our Web site at www.dol.ks.gov.

total base period wage credits. Notwithstanding any other provision of the employment security law, no reimbursing employer's or reimbursing governmental employer's account shall be charged for payments of extended benefits which are wholly reimbursed to the state by the federal government.

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

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

(4) *Group accounts.* Two or more reimbursing employers may file a joint application to the secretary for the establishment of a group account, for the purpose of sharing the cost of benefits paid that are attributable to service in the employment of such reimbursing employers. Each such application shall identify and authorize a group representative to act as the group's agent for the purposes of this subsection (e)(4). Upon approval of the application, the secretary shall establish a group account for such employers effective as of the beginning of the calendar quarter in which the secretary receives the application and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than four years and thereafter such account shall remain in effect until terminated at the discretion of the secretary or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in such quarter that are attributable to service performed in the employ of all members of the group

as the total wages paid for service in employment by such member in such quarter bear to the total wages paid during such quarter for service performed in the employ of all members of the group. The secretary shall adopt such rules and regulations as the secretary deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this subsection (e) (4), for addition of new members to, and withdrawal of active members from such accounts, and for the determination of the amounts that are payable under this subsection (e)(4) by members of the group and the time and manner of such payments.

History: L. 1937, ch. 265, § 10; L. 1941, ch. 264, § 7; L. 1943, ch. 190, § 5; L. 1945, ch. 220, § 5; L. 1947, ch. 292, § 1; L. 1949, ch. 288, § 5; L. 1953, ch. 247, § 1; L. 1963, ch. 276, § 1; L. 1970, ch. 191, § 6; L. 1971, ch. 180, § 4; L. 1972, ch. 192, § 2; L. 1973, ch. 205, § 6; L. 1974, ch. 205, § 1; L. 1975, ch. 261, § 1; L. 1976, ch. 370, § 62; L. 1977, ch. 181, § 4; L. 1979, ch. 159, § 4; L. 1981, ch. 205, § 1; L. 1982, ch. 216, § 2; L. 1984, ch. 184, § 3; L. 1987, ch. 191, § 5; L. 1988, ch. 343, § 1; L. 1989, ch. 150, § 3; L. 1990, ch. 186, § 4; L. 1996, ch. 232, § 3; L. 1997, ch. 191, § 2; L. 1998, ch. 167, § 1; L. 2001, ch. 139, § 3; L. 2002, ch. 84, § 5; L. 2003, ch. 96 § 4; July 1; L. 2004, Ch. 105 § 4, Ch. 179 § 59; July 1.

44-710a. Same; classification of employers; establishment and assignment of annual rates; successor classifications; voluntary contributions; surcharge on negative accounts; annual certification of Kansas account balance. (a) *Classification of employers by the secretary.* The term "employer" as used in this section refers to contributing employers. The secretary shall classify employers in accordance with their actual experience in the payment of contributions on their own behalf and with respect to benefits charged against their accounts with a view of fixing such contribution rates as will reflect such experience. If, as of the date such classification of employers is made, the secretary finds that any employing unit has failed to file any report required in connection therewith, or has filed a report which the secretary finds incorrect or insufficient, the secretary shall make an estimate of the information required from such employing unit on the basis of the best evidence reasonably available to the secretary at the time, and notify the employing unit thereof by mail addressed to its last known address. Unless such employing unit shall file the report or a corrected or sufficient report as the case may be, within 15 days after the mailing of such notice, the secretary shall compute such

employing unit's rate of contributions on the basis of such estimates, and the rate as so determined shall be subject to increase but not to reduction on the basis of subsequently ascertained information. The secretary shall determine the contribution rate of each employer in accordance with the requirements of this section.

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

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

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

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

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

(2) *Eligible employers.* (A) A reserve ratio shall be computed for each eligible employer by the following method: Total benefits charged to the employer's account for all past years shall be deducted from all contributions

paid by such employer for all such years. The balance, positive or negative, shall be divided by the employer's average annual payroll, and the result shall constitute the employer reserve ratio.

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

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

(D) As of each computation date, the total of the taxable wages paid during the twelve-month period prior to the computation date by all employers eligible for rate computation, except negative account balance employers, shall be divided into 51 approximately equal parts designated in column A of schedule I as "rate groups," except, with regard to a year in which the taxable wage base changes. The taxable wages used in the calculation for such a year and the following year shall be an estimate of what the taxable wages would have been if the new taxable wage base had been in effect during the entire twelve-month period prior to the computation date. The lowest numbered of such rate groups shall consist of the employers with the most favorable reserve ratios, as defined in this section, whose combined taxable wages paid are less than 1.96% of all taxable wages paid by all eligible employers. Each succeeding higher numbered rate group shall consist of employers with reserve ratios that are less favorable than those of employers in the preceding lower numbered rate groups and whose taxable wages when combined with the taxable wages of employers in all lower numbered rate groups equal the appropriate percentage of total taxable wages designated in column B of schedule I. Each eligible employer, other than a negative account balance employer, shall be assigned an experience factor designated under column C of schedule I in accordance with the rate group to which the employer is assigned on the basis of the employer's reserve ratio and taxable payroll. If an employer's taxable payroll falls into more than one rate group the employer shall be assigned the experience factor of the lower numbered

rate group. If one or more employers have reserve ratios identical to that of the last employer included in the next lower numbered rate group, all such employers shall be assigned the experience factor designated to such last employer, notwithstanding the position of their taxable payroll in column B of schedule I.

SCHEDULE I – Eligible Employers

Column A Rate Group	Column B Cumulative Taxable Payroll	Column C Experience Factor (Ratio to total wages)
1	Less than 1.96% .....	.025%
2	1.96% but less than 3.92 .....	.04
3	3.92 but less than 5.88 .....	.08
4	5.88 but less than 7.84 .....	.12
5	7.84 but less than 9.80 .....	.16
6	9.80 but less than 11.76 .....	.20
7	11.76 but less than 13.72 .....	.24
8	13.72 but less than 15.68 .....	.28
9	15.68 but less than 17.64 .....	.32
10	17.64 but less than 19.60 .....	.36
11	19.60 but less than 21.56 .....	.40
12	21.56 but less than 23.52 .....	.44
13	23.52 but less than 25.48 .....	.48
14	25.48 but less than 27.44 .....	.52
15	27.44 but less than 29.40 .....	.56
16	29.40 but less than 31.36 .....	.60
17	31.36 but less than 33.32 .....	.64
18	33.32 but less than 35.28 .....	.68
19	35.28 but less than 37.24 .....	.72
20	37.24 but less than 39.20 .....	.76
21	39.20 but less than 41.16 .....	.80
22	41.16 but less than 43.12 .....	.84
23	43.12 but less than 45.08 .....	.88
24	45.08 but less than 47.04 .....	.92
25	47.04 but less than 49.00 .....	.96
26	49.00 but less than 50.96	1.00
27	50.96 but less than 52.92	1.04
28	52.92 but less than 54.88	1.08
29	54.88 but less than 56.84	1.12
30	56.84 but less than 58.80	1.16
31	58.80 but less than 60.76	1.20
32	60.76 but less than 62.72	1.24
33	62.72 but less than 64.68	1.28
34	64.68 but less than 66.64	1.32
35	66.64 but less than 68.60	1.36
36	68.60 but less than 70.56	1.40
37	70.56 but less than 72.52	1.44
38	72.52 but less than 74.48	1.48
39	74.48 but less than 76.44	1.52
40	76.44 but less than 78.40	1.56
41	78.40 but less than 80.36	1.60
42	80.36 but less than 82.32	1.64
43	82.32 but less than 84.28	1.68
44	84.28 but less than 86.24	1.72
45	86.24 but less than 88.20	1.76
46	88.20 but less than 90.16	1.80

47	90.16 but less than 92.12	1.84
48	92.12 but less than 94.08	1.88
49	94.08 but less than 96.04	1.92
50	96.04 but less than 98.00	1.96
51	98.00 and over	2.00

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

SCHEDULE II Surcharge on Negative Accounts

Column A Negative Reserve Ratio:	Column B Surcharge as a Percent of Taxable Wages:
Less than 2.0%	0.20%
2.0% but less than 4.0 .....	.40
4.0 but less than 6.0 .....	.60
6.0 but less than 8.0 .....	.80
8.0 but less than 10.0	1.00
10.0 but less than 12.0	1.20
12.0 but less than 14.0	1.40
14.0 but less than 16.0	1.60
16.0 but less than 18.0	1.80
18.0 and over	2.00

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

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**SCHEDULE III – Fund Control
Ratio to Total Wages**

Column A <u>Reserve Fund Ratio</u>	Column B <u>Planned Yield</u>	
4.500 and over.....	0.00	2.300 but less than 2.350..... 0.54
4.475 but less than 4.500.....	0.01	2.250 but less than 2.300..... 0.55
4.450 but less than 4.475.....	0.02	2.200 but less than 2.250..... 0.56
4.425 but less than 4.450.....	0.03	2.150 but less than 2.200..... 0.57
4.400 but less than 4.425.....	0.04	2.100 but less than 2.150..... 0.58
4.375 but less than 4.400.....	0.05	2.050 but less than 2.100..... 0.59
4.350 but less than 4.375.....	0.06	2.000 but less than 2.050..... 0.60
4.325 but less than 4.350.....	0.07	1.975 but less than 2.000..... 0.61
4.300 but less than 4.325.....	0.08	1.950 but less than 1.975..... 0.62
4.275 but less than 4.300.....	0.09	1.925 but less than 1.950..... 0.63
4.250 but less than 4.275.....	0.10	1.900 but less than 1.925..... 0.64
4.225 but less than 4.250.....	0.11	1.875 but less than 1.900..... 0.65
4.200 but less than 4.225.....	0.12	1.850 but less than 1.875..... 0.66
4.175 but less than 4.200.....	0.13	1.825 but less than 1.850..... 0.67
4.150 but less than 4.175.....	0.14	1.800 but less than 1.825..... 0.68
4.125 but less than 4.150.....	0.15	1.775 but less than 1.800..... 0.69
4.100 but less than 4.125.....	0.16	1.750 but less than 1.775..... 0.70
4.075 but less than 4.100.....	0.17	1.725 but less than 1.750..... 0.71
4.050 but less than 4.075.....	0.18	1.700 but less than 1.725..... 0.72
4.025 but less than 4.050.....	0.19	1.675 but less than 1.700..... 0.73
4.000 but less than 4.025.....	0.20	1.650 but less than 1.675..... 0.74
3.950 but less than 4.000.....	0.21	1.625 but less than 1.650..... 0.75
3.900 but less than 3.950.....	0.22	1.600 but less than 1.625..... 0.76
3.850 but less than 3.900.....	0.23	1.575 but less than 1.600..... 0.77
3.800 but less than 3.850.....	0.24	1.550 but less than 1.575..... 0.78
3.750 but less than 3.800.....	0.25	1.525 but less than 1.550..... 0.79
3.700 but less than 3.750.....	0.26	1.500 but less than 1.525..... 0.80
3.650 but less than 3.700.....	0.27	1.475 but less than 1.500..... 0.81
3.600 but less than 3.650.....	0.28	1.450 but less than 1.475..... 0.82
3.550 but less than 3.600.....	0.29	1.425 but less than 1.450..... 0.83
3.500 but less than 3.550.....	0.30	1.400 but less than 1.425..... 0.84
3.450 but less than 3.500.....	0.31	1.375 but less than 1.400..... 0.85
3.400 but less than 3.450.....	0.32	1.350 but less than 1.375..... 0.86
3.350 but less than 3.400.....	0.33	1.325 but less than 1.350..... 0.87
3.300 but less than 3.350.....	0.34	1.300 but less than 1.325..... 0.88
3.250 but less than 3.300.....	0.35	1.275 but less than 1.300..... 0.89
3.200 but less than 3.250.....	0.36	1.250 but less than 1.275..... 0.90
3.150 but less than 3.200.....	0.37	1.225 but less than 1.250..... 0.91
3.100 but less than 3.150.....	0.38	1.200 but less than 1.225..... 0.92
3.050 but less than 3.100.....	0.39	1.175 but less than 1.200..... 0.93
3.000 but less than 3.050.....	0.40	1.150 but less than 1.175..... 0.94
2.950 but less than 3.000.....	0.41	1.125 but less than 1.150..... 0.95
2.900 but less than 2.950.....	0.42	1.100 but less than 1.125..... 0.96
2.850 but less than 2.900.....	0.43	1.075 but less than 1.100..... 0.97
2.800 but less than 2.850.....	0.44	1.050 but less than 1.075..... 0.98
2.750 but less than 2.800.....	0.45	1.025 but less than 1.050..... 0.99
2.700 but less than 2.750.....	0.46	1.000 but less than 1.025..... 1.00
2.650 but less than 2.700.....	0.47	0.900 but less than 1.000..... 1.01
2.600 but less than 2.650.....	0.48	0.800 but less than 0.900..... 1.02
2.550 but less than 2.600.....	0.49	0.700 but less than 0.800..... 1.03
2.500 but less than 2.550.....	0.50	0.600 but less than 0.700..... 1.04
2.450 but less than 2.500.....	0.51	0.500 but less than 0.600..... 1.05
2.400 but less than 2.450.....	0.52	0.400 but less than 0.500..... 1.06
2.350 but less than 2.400.....	0.53	0.300 but less than 0.400..... 1.07
		0.200 but less than 0.300..... 1.08
		0.100 but less than 0.200..... 1.09
		Less than 0.100%..... 1.10

(B) Adjustment to taxable wages. The planned yield

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

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

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

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

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

in the fiscal year by total payrolls for covered employers in the fiscal year.

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

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

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

(3) Whenever an employing unit, whether or not it is an "employing unit" within the meaning of subsection (g) of K.S.A. 44-703 and amendments thereto, acquires or in any manner succeeds to a percentage of an employer's annual payroll which is less than 100% and intends to continue the acquired percentage as a going business, the employing unit may acquire the same percentage of the predecessor's experience factors if: (A) The predecessor employer and successor employing unit make an application in writing on the form prescribed by the secretary, (B) the application is submitted within

120 days of the date of the transfer, (C) the successor employing unit is or becomes an employer subject to this act immediately after the transfer, (D) the percentage of the experience rating factors transferred shall not be thereafter used in computing the contribution rate for the predecessor employer, and (E) the secretary finds that such transfer will not tend to defeat or obstruct the object and purposes of this act.

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

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

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

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

(5) Whenever an employing unit is not an employer at the time it acquires the trade or business of an employer, the unemployment experience factors of the acquired business shall not be transferred to such employing unit if the secretary finds that such employing unit acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions. Instead, such employing unit shall be assigned the applicable industry rate for a "new employer" as described in subsection (a) (1) of this section. In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the secretary shall use objective factors which may include the cost of acquiring the business, whether the employer continued the business enterprise of the acquired business, how long such business enterprise was continued, or whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition.

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

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

(c) *Voluntary contributions.* Notwithstanding any other provision of the employment security law, any employer may make voluntary payments for the purpose of reducing or maintaining a reduced rate in addition to the contributions required under this section. Such voluntary payments may be made only during the thirty-day period immediately following the date of mailing of experience rating notices for a calendar year. All such voluntary contribution payments shall be paid prior to the expiration of 120 days after the beginning of the year for which such rates are effective. The amount of voluntary contributions shall be credited to the employer's account as of the next preceding computation date and the employer's rate shall be computed accordingly, except that no employer's rate shall be reduced more than five rate groups as provided in schedule I of this section as the result of a voluntary payment. An employer not having a negative account balance may have such employer's rate reduced not more than five rate groups as provided in schedule I of this section as a result of a voluntary payment. An employer having a negative account balance may have such employer's rate reduced to that prescribed for rate group 51 of schedule I of this section by making a voluntary payment in the amount of such negative account balance or to that rate prescribed for rate groups 50 through 47 of schedule I of this section by making an additional voluntary payment that would increase such employer's reserve ratio to the lower limit

required for such rate groups 50 through 47. Under no circumstances shall voluntary payments be refunded in whole or in part.

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

(e) The secretary of labor shall annually prepare and submit a certification as to the solvency and adequacy of the amount credited to the state of Kansas' account in the federal employment security trust fund to the governor and the employment security advisory council. The certification shall be submitted on or before December 1 of each calendar year and shall be for the twelve-month period ending on June 30 of that calendar year. In arriving at the certification contributions paid on or before July 31 following the twelve-month period ending date of June 30 shall be considered. Each certification shall be used to determine the need for any adjustment to schedule III in subsection (a)(3)(A) and to assist in preparing legislation to accomplish any such adjustment.

History: L. 1945, ch. 220, § 6; L. 1947, ch. 291, § 4; L. 1949, ch. 288, § 6; L. 1955, ch. 251, § 4; L. 1957, ch. 296, § 1; L. 1959, ch. 223, § 5; L. 1963, ch. 277, § 1; L. 1971, ch. 180, § 5; L. 1972, ch. 192, § 3; L. 1973, ch. 205, § 7; L. 1974, ch. 205, § 2; L. 1975, ch. 261, § 2; L. 1976, ch. 370, § 63; L. 1978, ch. 192, § 1; L. 1978, ch. 193, § 1; L. 1979, ch. 160, § 1; L. 1982, ch. 215, § 3; L. 1983, ch. 169, § 5; L. 1983, ch. 170, § 3; L. 1984, ch. 183, § 3; L. 1984, ch. 184, § 6; L. 1987, ch. 191, § 6; L. 1989, ch. 150, § 4; L. 1990, ch. 186, § 5; L. 1993, ch. 251, § 6; L. 1995, ch. 71, § 1; L. 1995, ch. 239, § 1; L. 1996, ch. 21, § 1; L. 1997, ch. 43, § 1; L. 1998, ch. 33, § 1; L. 1999, ch. 167, § 3; L. 2001, ch. 139, § 4; July 1; L. 2004, Ch. 105 § 5, Ch. 179 § 60; L. 2005 ch. 138 § 2; Jan. 1, 2006.

44-710b. Rate of contributions, benefit cost rate and benefit liability, notification; review and redetermination; judicial review; periodic notification of benefits charged. (a) *By the secretary of labor.* The secretary of labor shall promptly notify each contributing employer of its rate of contributions, each rated governmental employer of its benefit cost rate and each reimbursing employer of its benefit liability as determined for any calendar year pursuant to K.S.A. 44-710 and 44-710a, and amendments thereto. Such determination shall become conclusive and binding upon the employer unless, within 15 days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within 15 days after the delivery of such notice, the employer files an application for review and redetermination, setting forth the reasons therefor. If

the secretary of labor grants such review, the employer shall be promptly notified thereof and shall be granted an opportunity for a fair hearing, but no employer shall have standing, in any proceeding involving the employer's rate of contributions or benefit liability, to contest the chargeability to the employer's account of any benefits paid in accordance with a determination, redetermination or decision pursuant to subsection (c) of K.S.A. 44-710 and amendments thereto, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for the employer and only in the event that the employer was not a party to such determination, redetermination or decision or to any other proceedings under this act in which the character of such services was determined. Any such hearing conducted pursuant to this section shall be heard in the county where the contributing employer maintains its principle place of business. The hearing officer shall render a decision concerning all matters at issue in the hearing within 90 days.

(b) *Judicial review.* Any action of the secretary upon an employer's timely request for a review and redetermination of its rate of contributions or benefit liability, in accordance with subsection (a), is subject to review in accordance with the act for judicial review and civil enforcement of agency actions. Any action for such review shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under subsection (i) of K.S.A. 44-709 and amendments thereto, and the workmen's compensation act.

(c) *Periodic notification of benefits charged.* The secretary of labor may provide by rules and regulations for periodic notification to employers of benefits paid and chargeable to their accounts or of the status of such accounts, and any such notification, in the absence of an application for redetermination filed in such manner and within such period as the secretary of labor may prescribe, shall become conclusive and binding upon the employer for all purposes. Such redeterminations, made after notice and opportunity for hearing, and the secretary's findings of facts in connection therewith may be introduced in any subsequent administrative or judicial proceedings involving the determination of the rate of contributions of any employer for any calendar year and shall be entitled to the same finality as is provided in this subsection with respect to the findings of fact made by the secretary of labor in proceedings to redetermine the contribution rate of an employer. The review or any other proceedings relating thereto

as provided for in this section may be heard by any duly authorized employee of the secretary of labor and such action shall have the same effect as if heard by the secretary.

History: L. 1945, ch. 220, § 7; L. 1971, ch. 180, § 6; L. 1973, ch. 205, § 8; L. 1976, ch. 370, § 64; L. 1977, ch. 181, § 5; L. 1986, ch. 318, § 60; L. 1997, ch. 182, § 80; July 3; L. 2004, Ch. 179 § 61; July 1.

44-710c.

History: L. 1951, ch. 307, § 4; Repealed, L. 1955, ch. 251, § 6; July 1.

44-710d. Governmental entities; election, mode of payment; rated governmental employer; rate computation; notice. (a) Governmental entities described in subsection (h)(3) of K.S.A. 44-703 and amendments thereto may elect to finance benefit payments as (1) a contributing employer, (2) a reimbursing employer or (3) a rated governmental employer.

(b) Any governmental entity identified in this section may elect to become a rated governmental employer for a period encompassing not less than four complete calendar years if such employer files with the secretary a written notice of such election within the thirty-day period immediately following January 1 of any calendar year or within a like period immediately following the date on which a determination of subjectivity to this act is issued, whichever occurs later.

(c) Any employer electing to become a rated governmental employer shall continue to be liable as a rated governmental employer until such employer files with the secretary a written notice terminating its election and not later than 30 days prior to the beginning of the calendar year for which such termination shall first be effective.

(d) A rated governmental employer shall report and make benefit cost payments based upon total wages paid during each calendar quarter.

(e) No rated governmental employer shall be eligible for a rate computed under subsection (g) of this section until there have been 24 consecutive calendar months immediately preceding the computation date throughout which benefits could have been charged against such employer's account.

(f) Each employer who has not been subject to this act for a sufficient period of time to have a rate computed under this subsection shall make quarterly payments at a calendar year rate expressed as a percentage of total wages and shall be the same for all rated governmental employers not eligible for a computed rate. The rate

for rated governmental employers not eligible for a computed rate will be based upon the actual cost experience (benefits paid divided by total wages) of all rated governmental employers during the prior fiscal year ending March 31.

(g) Rated governmental employers eligible for a rate computation shall make quarterly payments at a calendar year rate determined by the experience of all rated governmental employers and the individual employer's experience. The rate shall be computed by the following method:

(1) An adjustment factor rounded to two decimal places shall be computed for all rated governmental employers by dividing total benefits paid by total benefits charged, reported by all rated governmental employers for the preceding fiscal year ending March 31;

(2) An experience factor, stated as a percent rounded to two decimal places, shall be computed for each eligible rated governmental employer by dividing benefits charged to such employer's account for the preceding fiscal year ending March 31, by the average of such employer's total wages reported for the two preceding fiscal years ending March 31;

(3) Benefit cost rates to be effective for the ensuing calendar year shall be computed by multiplying the experience factor determined in paragraph (2) of this subsection, by the adjustment factor determined in paragraph (1) of this subsection, rounding to the nearest .01%, except that no rated governmental employer's rate for any calendar year will be less than .1%.

(h) Whenever any governmental entity which acquires or in any manner succeeds to all the employment of another governmental entity and both the predecessor and successor have selected the same payment option, the successor shall acquire the experience rating account factors of the predecessor employer. Contributing employer's experience rating account factors consist of the actual contribution and benefit experience and annual payrolls while the rated governmental employer's experience rating account factors consist of the actual benefit experience and annual payrolls. If the successor employing unit was an employer subject to this act prior to the date of acquisition, the contribution rate or benefit cost rate for the period from such date to the end of the then current calendar year shall be the same as the rate with respect to the period immediately preceding the date of acquisition. If the successor was not an employer prior to the date of acquisition, the rate shall be the rate applicable to the predecessor employer or employers with respect to the period immediately