

HOUSE BILL No. 2839

By Representative Swenson

2-11

9 AN ACT concerning employment security; amending K.S.A. 2003 Supp.
10 44-710a and repealing the existing section.

11

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

13 Section 1. K.S.A. 2003 Supp. 44-710a is hereby amended to read as
14 follows: 44-710a. (a) *Classification of employers by the secretary.* The
15 term “employer” as used in this section refers to contributing employers.
16 The secretary shall classify employers in accordance with their actual ex-
17 perience in the payment of contributions on their own behalf and with
18 respect to benefits charged against their accounts with a view of fixing
19 such contribution rates as will reflect such experience. If, as of the date
20 such classification of employers is made, the secretary finds that any em-
21 ploying unit has failed to file any report required in connection therewith,
22 or has filed a report which the secretary finds incorrect or insufficient,
23 the secretary shall make an estimate of the information required from
24 such employing unit on the basis of the best evidence reasonably available
25 to the secretary at the time, and notify the employing unit thereof by mail
26 addressed to its last known address. Unless such employing unit shall file
27 the report or a corrected or sufficient report as the case may be, within
28 15 days after the mailing of such notice, the secretary shall compute such
29 employing unit’s rate of contributions on the basis of such estimates, and
30 the rate as so determined shall be subject to increase but not to reduction
31 on the basis of subsequently ascertained information. The secretary shall
32 determine the contribution rate of each employer in accordance with the
33 requirements of this section.

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

38 (B) (i) Employers who are not eligible for a rate computation shall
39 pay contributions at an assigned rate equal to the sum of 1% plus the
40 greater of the average rate assigned in the preceding calendar year to all
41 employers in such industry sector or the average rate assigned to all cov-
42 ered employers during the preceding calendar year, except that in no
43

1 instance shall any such assigned rate be less than 2%. Employers engaged
 2 in more than one type of industrial activity shall be classified by principal
 3 activity. All rates assigned will remain in effect for a complete calendar
 4 year. If the sale or acquisition of a new establishment would require re-
 5 classification of the employer to a different industry sector, the employer
 6 would be promptly notified, and the contribution rate applicable to the
 7 new industry sector would become effective the following January 1. For
 8 rate years 1995, 1996, 1997, 1998 and 1999 all employers who are not
 9 eligible for rate computation shall pay contributions at the rate of 1%.
 10 However, for rate year 1996, 1997, 1998 and 1999 the 1% contribution
 11 rate for all employers who are not eligible for a rate computation shall
 12 not be effective if the reserve fund ratio in column A of schedule III as
 13 determined by this section is less than 1.75%.

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

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

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

31 (B) Negative account balance employers as defined in subsection (d)
 32 shall pay contributions at the rate of 5.4% for each calendar year. How-
 33 ever, for rate years 1996, 1997, 1998 and 1999 all negative account bal-
 34 ance eligible employers will be assigned rates and pay contributions in
 35 accordance with the following schedule.

36 SCHEDULE IIA

37 Rate Group	Reserve Ratio	Effective Rates
38	Negative Eligible Accounts	
39 1	Less than 0.00 but greater than -0.40	1.1
40 2	-0.40 but greater than -0.80	1.2
41 3	-0.80 but greater than -1.20	1.3
42 4	-1.20 but greater than -1.60	1.4

43

1	5	-1.60	but greater than	-2.00	1.5
2	6	-2.00	but greater than	-2.40	1.6
3	7	-2.40	but greater than	-2.80	1.7
4	8	-2.80	but greater than	-3.20	1.8
5	9	-3.20	but greater than	-3.60	1.9
6	10	-3.60	but greater than	-4.00	2.0
7	11	-4.00	but greater than	-4.40	2.1
8	12	-4.40	but greater than	-4.80	2.2
9	13	-4.80	but greater than	-5.20	2.3
10	14	-5.20	but greater than	-5.60	2.4
11	15	-5.60	but greater than	-6.00	2.5
12	16	-6.00	but greater than	-6.40	2.6
13	17	-6.40	but greater than	-6.80	2.7
14	18	-6.80	but greater than	-7.20	2.8
15	19	-7.20	but greater than	-7.60	2.9
16	20	-7.60	but greater than	-8.00	3.0
17	21	-8.00	but greater than	-8.40	3.1
18	22	-8.40	but greater than	-8.80	3.2
19	23	-8.80	but greater than	-9.20	3.3
20	24	-9.20	but greater than	-9.60	3.4
21	25	-9.60	but greater than	-10.00	3.5
22	26	-10.00	but greater than	-10.40	3.6
23	27	-10.40	but greater than	-10.80	3.7
24	28	-10.80	but greater than	-11.20	3.8
25	29	-11.20	but greater than	-11.60	3.9
26	30	-11.60	but greater than	-12.00	4.0
27	31	-12.00	but greater than	-12.40	4.1
28	32	-12.40	but greater than	-12.80	4.2
29	33	-12.80	but greater than	-13.20	4.3
30	34	-13.20	but greater than	-13.60	4.4
31	35	-13.60	but greater than	-14.00	4.5
32	36	-14.00	but greater than	-14.40	4.6
33	37	-14.40	but greater than	-14.80	4.7
34	38	-14.80	but greater than	-15.20	4.8
35	39	-15.20	but greater than	-15.60	4.9
36	40	-15.60	but greater than	-16.00	5.0
37	41	-16.00	but greater than	-16.40	5.1
38	42	-16.40	but greater than	-16.80	5.2
39	43	-16.80	but greater than	-17.20	5.3
40	44	-17.20	but greater than	-17.60	5.4
41	45	-17.60	but greater than	-18.00	5.5
42	46	-18.00	but greater than	-18.40	5.6
43					

1	47	-18.40 but greater than	-18.80	5.7
2	48	-18.80 but greater than	-19.20	5.8
3	49	-19.20 but greater than	-19.60	5.9
4	50	-19.60 and less		6.0

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

14 (D) As of each computation date, the total of the taxable wages paid
15 during the twelve-month period prior to the computation date by all em-
16 ployers eligible for rate computation, except negative account balance
17 employers, shall be divided into 51 approximately equal parts designated
18 in column A of schedule I as "rate groups," except, with regard to a year
19 in which the taxable wage base changes. The taxable wages used in the
20 calculation for such a year and the following year shall be an estimate of
21 what the taxable wages would have been if the new taxable wage base
22 had been in effect during the entire twelve-month period prior to the
23 computation date. The lowest numbered of such rate groups shall consist
24 of the employers with the most favorable reserve ratios, as defined in this
25 section, whose combined taxable wages paid are less than 1.96% of all
26 taxable wages paid by all eligible employers. Each succeeding higher
27 numbered rate group shall consist of employers with reserve ratios that
28 are less favorable than those of employers in the preceding lower num-
29 bered rate groups and whose taxable wages when combined with the
30 taxable wages of employers in all lower numbered rate groups equal the
31 appropriate percentage of total taxable wages designated in column B of
32 schedule I. Each eligible employer, other than a negative account balance
33 employer, shall be assigned an experience factor designated under col-
34 umn C of schedule I in accordance with the rate group to which the
35 employer is assigned on the basis of the employer's reserve ratio and
36 taxable payroll. If an employer's taxable payroll falls into more than one
37 rate group the employer shall be assigned the experience factor of the
38 lower numbered rate group. If one or more employers have reserve ratios
39 identical to that of the last employer included in the next lower numbered
40 rate group, all such employers shall be assigned the experience factor
41 designated to such last employer, notwithstanding the position of their
42 taxable payroll in column B of schedule I.

43

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

1	40	76.44 but less than 78.40	1.56
2	41	78.40 but less than 80.36	1.60
3	42	80.36 but less than 82.32	1.64
4	43	82.32 but less than 84.28	1.68
5	44	84.28 but less than 86.24	1.72
6	45	86.24 but less than 88.20	1.76
7	46	88.20 but less than 90.16	1.80
8	47	90.16 but less than 92.12	1.84
9	48	92.12 but less than 94.08	1.88
10	49	94.08 but less than 96.04	1.92
11	50	96.04 but less than 98.00	1.96
12	51	98.00 and over	2.00

13 (E) Negative account balance employers shall, in addition to paying
 14 the rate provided for in subsection (a)(2)(B) of this section, except for
 15 rate years 1996, 1997, 1998 and 1999, pay a surcharge based on the size
 16 of the employer's negative reserve ratio, the calculation which is provided
 17 for in subsection (a)(2) of this section. The amount of the surcharge shall
 18 be determined from column B of schedule II of this section. Each neg-
 19 ative account balance employer who does not satisfy the requirements to
 20 have an average annual payroll, as defined by subsection (a)(2) of K.S.A.
 21 44-703 and amendments thereto, shall be assigned a surcharge of 2%.
 22 Contribution payments made pursuant to this subsection (a)(2)(E) shall
 23 be credited to the appropriate account of such negative account balance
 24 employer.

25 SCHEDULE II—Surcharge on Negative Accounts

26 Column A	Column B
27 Negative Reserve Ratio	Surcharge as a percent
28	of taxable wages
29 Less than 2.0%	0.20%
30 2.0% but less than 4.0 .....	.40
31 4.0 but less than 6.0 .....	.60
32 6.0 but less than 8.0 .....	.80
33 8.0 but less than 10.0	1.00
34 10.0 but less than 12.0	1.20
35 12.0 but less than 14.0	1.40
36 14.0 but less than 16.0	1.60
37 16.0 but less than 18.0	1.80
38 18.0 and over	2.00

39 (3) *Planned yield.* (A) For rate year 1995, and all years thereafter, the
 40 average required yield shall be determined from schedule III of this sec-
 41 tion, and the planned yield on total wages in column B of schedule III
 42 shall be determined by the reserve fund ratio in column A of schedule
 43 III. The reserve fund ratio shall be determined by dividing total assets in

1 the employment security fund provided for in subsection (a) of K.S.A.
 2 44-712 and amendments thereto, excluding all moneys credited to the
 3 account of this state pursuant to section 903 of the federal social security
 4 act, as amended, which have been appropriated by the state legislature,
 5 whether or not withdrawn from the trust fund, and excluding contribu-
 6 tions not yet paid on July 31 by total payrolls for contributing employers
 7 for the preceding fiscal year which ended June 30. For rate years 2000,
 8 2001 and 2002, schedule IIIA shall apply.

9 SCHEDULE IIIA—Fund Control

10 Ratios to Total Wages

11	Column A	Column B
12	Reserve Fund Ratio	Planned Yield
13	4.250 and over	0.00
14	4.225 but less than 4.250	0.01
15	4.200 but less than 4.225	0.02
16	4.175 but less than 4.200	0.03
17	4.150 but less than 4.175	0.04
18	4.125 but less than 4.150	0.05
19	4.100 but less than 4.125	0.06
20	4.075 but less than 4.100	0.07
21	4.050 but less than 4.075	0.08
22	4.025 but less than 4.050	0.09
23	4.000 but less than 4.025	0.10
24	3.950 but less than 4.000	0.11
25	3.900 but less than 3.950	0.12
26	3.850 but less than 3.900	0.13
27	3.800 but less than 3.850	0.14
28	3.750 but less than 3.800	0.15
29	3.700 but less than 3.750	0.16
30	3.650 but less than 3.700	0.17
31	3.600 but less than 3.650	0.18
32	3.550 but less than 3.600	0.19
33	3.500 but less than 3.550	0.20
34	3.450 but less than 3.500	0.21
35	3.400 but less than 3.450	0.22
36	3.350 but less than 3.400	0.23
37	3.300 but less than 3.350	0.24
38	3.250 but less than 3.300	0.25
39	3.200 but less than 3.250	0.26
40	3.150 but less than 3.200	0.27
41	3.100 but less than 3.150	0.28
42	3.050 but less than 3.100	0.29
43	3.000 but less than 3.050	0.30

1	2.950 but less than 3.000	0.31
2	2.900 but less than 2.950	0.32
3	2.850 but less than 2.900	0.33
4	2.800 but less than 2.850	0.34
5	2.750 but less than 2.800	0.35
6	2.700 but less than 2.750	0.36
7	2.650 but less than 2.700	0.37
8	2.600 but less than 2.650	0.38
9	2.550 but less than 2.600	0.39
10	2.500 but less than 2.550	0.40
11	2.450 but less than 2.500	0.41
12	2.400 but less than 2.450	0.42
13	2.350 but less than 2.400	0.43
14	2.300 but less than 2.350	0.44
15	2.250 but less than 2.300	0.45
16	2.200 but less than 2.250	0.46
17	2.150 but less than 2.200	0.47
18	2.100 but less than 2.150	0.48
19	2.050 but less than 2.100	0.49
20	2.000 but less than 2.050	0.50
21	1.975 but less than 2.000	0.51
22	1.950 but less than 1.975	0.52
23	1.925 but less than 1.950	0.53
24	1.900 but less than 1.925	0.54
25	1.875 but less than 1.900	0.55
26	1.850 but less than 1.875	0.56
27	1.825 but less than 1.850	0.57
28	1.800 but less than 1.825	0.58
29	1.775 but less than 1.800	0.59
30	1.750 but less than 1.775	0.60
31	1.725 but less than 1.750	0.61
32	1.700 but less than 1.725	0.62
33	1.675 but less than 1.700	0.63
34	1.650 but less than 1.675	0.64
35	1.625 but less than 1.650	0.65
36	1.600 but less than 1.625	0.66
37	1.575 but less than 1.600	0.67
38	1.550 but less than 1.575	0.68
39	1.525 but less than 1.550	0.69
40	1.500 but less than 1.525	0.70
41	1.475 but less than 1.500	0.71
42	1.450 but less than 1.475	0.72
43	1.425 but less than 1.450	0.73

1	1.400 but less than 1.425	0.74
2	1.375 but less than 1.400	0.75
3	1.350 but less than 1.375	0.76
4	1.325 but less than 1.350	0.77
5	1.300 but less than 1.325	0.78
6	1.275 but less than 1.300	0.79
7	1.250 but less than 1.275	0.80
8	1.225 but less than 1.250	0.81
9	1.200 but less than 1.225	0.82
10	1.175 but less than 1.200	0.83
11	1.150 but less than 1.175	0.84
12	1.125 but less than 1.150	0.85
13	1.100 but less than 1.125	0.86
14	1.075 but less than 1.100	0.87
15	1.050 but less than 1.075	0.88
16	1.025 but less than 1.050	0.89
17	1.000 but less than 1.025	0.90
18	0.900 but less than 1.000	0.91
19	0.800 but less than 0.900	0.92
20	0.700 but less than 0.800	0.93
21	0.600 but less than 0.700	0.94
22	0.500 but less than 0.600	0.95
23	0.400 but less than 0.500	0.96
24	0.300 but less than 0.400	0.97
25	0.200 but less than 0.300	0.98
26	0.100 but less than 0.200	0.99
27	Less than 0.100%	1.00

SCHEDULE III—Fund Control

Ratios to Total Wages

30	Column A	Column B
31	Reserve Fund Ratio	Planned Yield
32	4.500 and over	0.00
33	4.475 but less than 4.500	0.01
34	4.450 but less than 4.475	0.02
35	4.425 but less than 4.450	0.03
36	4.400 but less than 4.425	0.04
37	4.375 but less than 4.400	0.05
38	4.350 but less than 4.375	0.06
39	4.325 but less than 4.350	0.07
40	4.300 but less than 4.325	0.08
41	4.275 but less than 4.300	0.09
42	4.250 but less than 4.275	0.10
43	4.225 but less than 4.250	0.11

1	4.200 but less than 4.225	0.12
2	4.175 but less than 4.200	0.13
3	4.150 but less than 4.175	0.14
4	4.125 but less than 4.150	0.15
5	4.100 but less than 4.125	0.16
6	4.075 but less than 4.100	0.17
7	4.050 but less than 4.075	0.18
8	4.025 but less than 4.050	0.19
9	4.000 but less than 4.025	0.20
10	3.950 but less than 4.000	0.21
11	3.900 but less than 3.950	0.22
12	3.850 but less than 3.900	0.23
13	3.800 but less than 3.850	0.24
14	3.750 but less than 3.800	0.25
15	3.700 but less than 3.750	0.26
16	3.650 but less than 3.700	0.27
17	3.600 but less than 3.650	0.28
18	3.550 but less than 3.600	0.29
19	3.500 but less than 3.550	0.30
20	3.450 but less than 3.500	0.31
21	3.400 but less than 3.450	0.32
22	3.350 but less than 3.400	0.33
23	3.300 but less than 3.350	0.34
24	3.250 but less than 3.300	0.35
25	3.200 but less than 3.250	0.36
26	3.150 but less than 3.200	0.37
27	3.100 but less than 3.150	0.38
28	3.050 but less than 3.100	0.39
29	3.000 but less than 3.050	0.40
30	2.950 but less than 3.000	0.41
31	2.900 but less than 2.950	0.42
32	2.850 but less than 2.900	0.43
33	2.800 but less than 2.850	0.44
34	2.750 but less than 2.800	0.45
35	2.700 but less than 2.750	0.46
36	2.650 but less than 2.700	0.47
37	2.600 but less than 2.650	0.48
38	2.550 but less than 2.600	0.49
39	2.500 but less than 2.550	0.50
40	2.450 but less than 2.500	0.51
41	2.400 but less than 2.450	0.52
42	2.350 but less than 2.400	0.53
43	2.300 but less than 2.350	0.54

1	2.250 but less than 2.300	0.55
2	2.200 but less than 2.250	0.56
3	2.150 but less than 2.200	0.57
4	2.100 but less than 2.150	0.58
5	2.050 but less than 2.100	0.59
6	2.000 but less than 2.050	0.60
7	1.975 but less than 2.000	0.61
8	1.950 but less than 1.975	0.62
9	1.925 but less than 1.950	0.63
10	1.900 but less than 1.925	0.64
11	1.875 but less than 1.900	0.65
12	1.850 but less than 1.875	0.66
13	1.825 but less than 1.850	0.67
14	1.800 but less than 1.825	0.68
15	1.775 but less than 1.800	0.69
16	1.750 but less than 1.775	0.70
17	1.725 but less than 1.750	0.71
18	1.700 but less than 1.725	0.72
19	1.675 but less than 1.700	0.73
20	1.650 but less than 1.675	0.74
21	1.625 but less than 1.650	0.75
22	1.600 but less than 1.625	0.76
23	1.575 but less than 1.600	0.77
24	1.550 but less than 1.575	0.78
25	1.525 but less than 1.550	0.79
26	1.500 but less than 1.525	0.80
27	1.475 but less than 1.500	0.81
28	1.450 but less than 1.475	0.82
29	1.425 but less than 1.450	0.83
30	1.400 but less than 1.425	0.84
31	1.375 but less than 1.400	0.85
32	1.350 but less than 1.375	0.86
33	1.325 but less than 1.350	0.87
34	1.300 but less than 1.325	0.88
35	1.275 but less than 1.300	0.89
36	1.250 but less than 1.275	0.90
37	1.225 but less than 1.250	0.91
38	1.200 but less than 1.225	0.92
39	1.175 but less than 1.200	0.93
40	1.150 but less than 1.175	0.94
41	1.125 but less than 1.150	0.95
42	1.100 but less than 1.125	0.96
43	1.075 but less than 1.100	0.97

1	1.050 but less than 1.075	0.98
2	1.025 but less than 1.050	0.99
3	1.000 but less than 1.025	1.00
4	0.900 but less than 1.000	1.01
5	0.800 but less than 0.900	1.02
6	0.700 but less than 0.800	1.03
7	0.600 but less than 0.700	1.04
8	0.500 but less than 0.600	1.05
9	0.400 but less than 0.500	1.06
10	0.300 but less than 0.400	1.07
11	0.200 but less than 0.300	1.08
12	0.100 but less than 0.200	1.09
13	Less than 0.100%	1.10

14 (B) *Adjustment to taxable wages.* The planned yield as a percent of
15 total wages, as determined in this subsection (a)(3), shall be adjusted to
16 taxable wages by multiplying by the ratio of total wages to taxable wages
17 for all contributing employers for the preceding fiscal year ending June
18 30, except, with regard to a year in which the taxable wage base changes.
19 The taxable wages used in the calculation for such a year and the following
20 year shall be an estimate of what the taxable wages would have been if
21 the new taxable wage base had been in effect during all of the preceding
22 fiscal year ending June 30.

23 (C) *Effective rates.* Except with regard to rates for negative account
24 balance employers, employer contribution rates to be effective for the
25 ensuing calendar year shall be computed by adjusting proportionately the
26 experience factors from schedule I of this section to the required yield
27 on taxable wages. For the purposes of this subsection (a)(3), all rates
28 computed shall be rounded to the nearest .01% and for calendar year
29 1983 and ensuing calendar years, the maximum effective contribution rate
30 shall not exceed 5.4%. For rate years 1995, 1996, 1997, 1998 and 1999,
31 employers, who are current in filing of all reports and in payment of all
32 contributions due, shall be issued a contributions rate of 0%. To be eli-
33 gible for the 0% rate for rate year 1995, an employer must file all delin-
34 quent reports and pay all contributions due within a 30-day period fol-
35 lowing the date of mailing of the amended rating notice. For rate year
36 1996, 1997, 1998 and 1999 in order to be eligible for the 0% rate, em-
37 ployers must file all reports due and pay all contributions due on or before
38 January 31, 1996, January 31, 1997, January 31, 1998 and January 31,
39 1999, respectively. However, for rate year 1996, 1997, 1998 and 1999 the
40 0% contribution rate for such eligible employers shall not be effective if
41 the reserve fund ratio in column A of schedule III as determined by this
42 section is less than 1.75%. For rate years 1996, 1997, 1998 and 1999 the
43 rates in schedule IIA shall apply unless the reserve fund ratio in column

1 A of schedule III as determined by this section is less than 1.75%. On
2 January 15 of 2000, 2001 and 2002, the secretary shall report to the leg-
3 islatre concerning the adequacy of the fund. On July 15 of 2000, 2001
4 and 2002, the secretary shall make the same report to the legislative co-
5 ordinating council. As a part of such report, the secretary shall include
6 any recommendations for adjustment of schedule IIIA.

7 (b) *Successor classification.* (1) For the purposes of this subsection
8 (b), whenever an employing unit, whether or not it is an “employing unit”
9 within the meaning of subsection (g) of K.S.A. 44-703 and amendments
10 thereto, becomes an employer pursuant to subsection (h)(4) of K.S.A. 44-
11 703 and amendments thereto or is an employer at the time of acquisition
12 and meets the definition of a “successor employer” as defined by sub-
13 section (dd) of K.S.A. 44-703 and amendments thereto and is controlled
14 substantially either directly or indirectly by legally enforceable means or
15 otherwise by the same interest or interests, shall acquire the experience
16 rating factors of the predecessor employer. These factors consist of all
17 contributions paid, benefit experience and annual payrolls of the prede-
18 cessor employer.

19 (2) A successor employer as defined by subsection (h)(4) or subsec-
20 tion (dd) of K.S.A. 44-703 and amendments thereto may receive the ex-
21 perience rating factors of the predecessor employer if an application is
22 made to the secretary or the secretary’s designee in writing within 120
23 days of the date of the transfer.

24 (3) Whenever an employing unit, whether or not it is an “employing
25 unit” within the meaning of subsection (g) of K.S.A. 44-703 and amend-
26 ments thereto, acquires or in any manner succeeds to a percentage of an
27 employer’s annual payroll which is less than 100% and intends to continue
28 the acquired percentage as a going business, (A) shall acquire the same
29 percentage of the predecessor’s experience factors if the employer is con-
30 trolled substantially, either directly or indirectly or by legally enforceable
31 means or otherwise, by the same interest or interests or (B) may acquire
32 the same percentage of the predecessor’s experience factors if: (i) The
33 predecessor employer and successor employing unit make an application
34 in writing on the form prescribed by the secretary, (ii) the application is
35 submitted within 120 days of the date of the transfer, (iii) the successor
36 employing unit is or becomes an employer subject to this act immediately
37 after the transfer, (iv) the percentage of the experience rating factors
38 transferred shall not be thereafter used in computing the contribution
39 rate for the predecessor employer, and (v) the secretary finds that such
40 transfer will not tend to defeat or obstruct the object and purposes of this
41 act.

42 (4) If the acquiring employing unit was an employer subject to this
43 act prior to the date of the transfer, the rate of contribution for the period

1 from such date to the end of the then current contribution year shall be
2 the same as the contribution rate prior to the date of the transfer. An
3 employing unit which was not subject to this act prior to the date of the
4 transfer shall have a newly computed rate based on the transferred ex-
5 perience rating factors as of the computation date immediately preceding
6 the date of acquisition. These experience rating factors consist of all con-
7 tributions paid, benefit experience and annual payrolls.

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

18 (6) No rate computation will be permitted an employing unit suc-
19 ceeding 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 allow-
23 ance in section 3303 of the federal internal revenue code of 1986, and
24 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 pay-
27 ments for the purpose of reducing or maintaining a reduced rate in ad-
28 dition to the contributions required under this section. Such voluntary
29 payments may be made only during the thirty-day period immediately
30 following the date of mailing of experience rating notices for a calendar
31 year. All such voluntary contribution payments shall be paid prior to the
32 expiration of 120 days after the beginning of the year for which such rates
33 are effective. The amount of voluntary contributions shall be credited to
34 the employer's account as of the next preceding computation date and
35 the employer's rate shall be computed accordingly, except that no em-
36 ployer's rate shall be reduced more than five rate groups as provided in
37 schedule I of this section as the result of a voluntary payment. An em-
38 ployer not having a negative account balance may have such employer's
39 rate reduced not more than five rate groups as provided in schedule I of
40 this section as a result of a voluntary payment. An employer having a
41 negative account balance may have such employer's rate reduced to that
42 prescribed for rate group 51 of schedule I of this section by making a
43 voluntary payment in the amount of such negative account balance or to

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

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

10 (e) The secretary of human resources shall annually prepare and sub-
11 mit a certification as to the solvency and adequacy of the amount credited
12 to the state of Kansas' account in the federal employment security trust
13 fund to the governor and the employment security advisory council. Com-
14 mencing in calendar year 1994, the certification shall be submitted on or
15 before December 1 of each calendar year and shall be for the twelve-
16 month period ending on June 30 of that calendar year. In arriving at the
17 certification contributions paid on or before July 31 following the twelve-
18 month period ending date of June 30 shall be considered. Each certifi-
19 cation shall be used to determine the need for any adjustment to schedule
20 III in subsection (a)(3)(A) and to assist in preparing legislation to accom-
21 plish any such adjustment.

22 (f) *In addition to any other contribution or surcharge paid by an*
23 *employer under the employment security law, each employer in this state*
24 *who contracts out or procures services from a location outside the United*
25 *States which results in the loss of employment for workers of such em-*
26 *ployer in this state shall pay a surcharge for five calendar years subse-*
27 *quent to the time any such loss of employment occurs of an amount equal*
28 *to 150% of the total annual contributions paid by the employer under the*
29 *employment security law. The provisions of this subsection shall not be*
30 *effective unless approved by the secretary of the United States department*
31 *of labor as meeting federal employment security conformity requirements.*

32 Sec. 2. K.S.A. 2003 Supp. 44-710a is hereby repealed.

33 Sec. 3. This act shall take effect and be in force from and after its
34 publication in the statute book.