



## 2023 South Dakota Legislature

# House Bill 1011

*Introduced by: The Committee on Commerce and Energy at the request of the Department of Labor and Regulation*

1 **An Act to to revise employer contribution rates.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 61-5-25 be AMENDED:**

4 **61-5-25.** If an employer has met the requirements of § 61-5-24 on the  
 5 computation date for the year, then the employer's contribution rate shall be the rate  
 6 appearing in Column "A" on the same line the employer's reserve ratio appears in Column  
 7 "B" of the rate schedule applicable to that year. The computation date for calendar year  
 8 2012 and each year thereafter is June thirtieth of the preceding year.

9 The rate schedule for each calendar year shall be determined based upon the South  
 10 Dakota average high cost multiplier ratio. The average high cost multiplier ratio is  
 11 calculated by dividing the amount in the unemployment compensation fund, as established  
 12 by § 61-4-1, as of June thirtieth of the preceding year, by the amount required in the  
 13 unemployment compensation fund that equals the average high cost multiple of 1.0, as  
 14 of December thirty-first of the last completed calendar year. The following rate schedules  
 15 apply:

16 (1) From January 1, 2018, to December 31, 2023, inclusive:

17 (a) Schedule A is in effect for any calendar year when the South Dakota average  
 18 high cost multiplier ratio is less than 1.60; and

19 (b) Schedule B is in effect for any calendar year when the South Dakota average  
 20 high cost multiplier ratio is greater than or equal to 1.60.

21 (2) Beginning January 1, 2024:

22 (a) Schedule A is in effect for any calendar year when the South Dakota average  
 23 high cost multiplier ratio is less than 1.30;

24 (b) Schedule B is in effect for any calendar year when the South Dakota average  
 25 high cost multiplier ratio is less than 1.50 and greater than or equal to 1.30;

26 and

1                   (c) Schedule C is in effect for any calendar year when the South Dakota average  
 2                   high cost multiplier ratio is greater than or equal to 1.50.

3                   For purposes of this section, the term, average high cost multiple, has the same  
 4                   meaning given in ~~Code of Federal Regulations, title 20, section 606.3~~ 20 C.F.R. § 606.3,  
 5                   as amended on September 17, 2010. An amount equal to an average high cost multiple  
 6                   of 1.0 is a federal measure of adequate reserves in relation to the state's current economy.

7                   **Section 2. That § 61-5-25.5 be AMENDED:**

8                   **61-5-25.5.** The employer's reserve ratio for calendar year 2020 ~~and each year~~  
 9                   ~~thereafter~~ to end of calendar year 2023 is the result of the balance of credits existing in  
 10                   the employer's experience-rating account as of June thirtieth preceding the year the rate  
 11                   is to be calculated, divided by the total taxable payroll of the employer for the preceding  
 12                   three fiscal years. The employer's experience-rating account balance for the purpose of  
 13                   this section is the balance on July thirty-first of the year preceding the year rates are  
 14                   calculated and is the difference between the contributions paid through July thirty-first  
 15                   and the benefits paid through the preceding June thirtieth.

	Column "A"		Column "B"
	Contribution Rate		Reserve Ratio
	Schedule A	Schedule B	
18	9.45%	9.30%	Less than -7.00%
19	8.95%	8.80%	-7.00% and Less than -6.50%
20	8.45%	8.30%	-6.50% and Less than -6.00%
21	7.95%	7.80%	-6.00% and Less than -5.50%
22	7.45%	7.30%	-5.50% and Less than -5.00%
23	6.95%	6.80%	-5.00% and Less than -4.50%
24	6.45%	6.30%	-4.50% and Less than -4.00%
25	5.95%	5.80%	-4.00% and Less than -3.50%
26	5.45%	5.30%	-3.50% and Less than -3.00%
27	4.95%	4.80%	-3.00% and Less than -2.50%
28	4.45%	4.30%	-2.50% and Less than -2.00%
29	3.95%	3.80%	-2.00% and Less than -1.50%
30			

1	3.45%	3.30%	-1.50% and Less than -1.00%
2	2.95%	2.80%	-1.00% and Less than -0.75%
3	2.45%	2.30%	-0.75% and Less than -0.50%
4	1.95%	1.80%	-0.50% and Less than -0.25%
5	1.45%	1.30%	-0.25% and Less than 0.00%
6	0.95%	0.80%	0.00% and Less than 0.50%
7	0.70%	0.55%	0.50% and Less than 0.75%
8	0.55%	0.40%	0.75% and Less than 1.00%
9	0.35%	0.20%	1.00% and Less than 1.25%
10	0.25%	0.10%	1.25% and Less than 1.50%
11	0.15%	0.00%	1.50% and Less than 1.75%
12	0.05%	0.00%	1.75% and Less than 2.25%
13	0.00%	0.00%	2.25% and Over

14 The contribution rates provided in this section apply to taxable wages paid on and  
 15 after January 1, 2020, to December 31, 2023, inclusive.

16 **Section 3. That chapter 61-5 be amended with a NEW SECTION:**

17 The employer's reserve ratio for calendar year 2024 and each year thereafter is  
 18 the result of the balance of credits existing in the employer's experience-rating account  
 19 as of June thirtieth preceding the year the rate is to be calculated, divided by the total  
 20 taxable payroll of the employer for the preceding three fiscal years. The employer's  
 21 experience-rating account balance for the purpose of this section is the balance on July  
 22 thirty-first of the year preceding the year rates are calculated and is the difference  
 23 between the contributions paid through July thirty-first and the benefits paid through the  
 24 preceding June thirtieth.

	<u>Column "A"</u>			<u>Column "B"</u>
	<u>Contribution Rate</u>			<u>Reserve Ratio</u>
	<u>Schedule A</u>	<u>Schedule B</u>	<u>Schedule C</u>	
25				
26				
27				
28	<u>9.45%</u>	<u>9.30%</u>	<u>8.80%</u>	<u>Less than -7.00%</u>
29	<u>8.95%</u>	<u>8.80%</u>	<u>8.30%</u>	<u>-7.00% and Less than -6.50%</u>
30	<u>8.45%</u>	<u>8.30%</u>	<u>7.80%</u>	<u>-6.50% and Less than -6.00%</u>

Underscores indicate new language.  
 Overstrikes indicate deleted language.

1	<u>7.95%</u>	<u>7.80%</u>	<u>7.30%</u>	<u>-6.00% and Less than -5.50%</u>
2	<u>7.45%</u>	<u>7.30%</u>	<u>6.80%</u>	<u>-5.50% and Less than -5.00%</u>
3	<u>6.95%</u>	<u>6.80%</u>	<u>6.30%</u>	<u>-5.00% and Less than -4.50%</u>
4	<u>6.45%</u>	<u>6.30%</u>	<u>5.80%</u>	<u>-4.50% and Less than -4.00%</u>
5	<u>5.95%</u>	<u>5.80%</u>	<u>5.30%</u>	<u>-4.00% and Less than -3.50%</u>
6	<u>5.45%</u>	<u>5.30%</u>	<u>4.80%</u>	<u>-3.50% and Less than -3.00%</u>
7	<u>4.95%</u>	<u>4.80%</u>	<u>4.30%</u>	<u>-3.00% and Less than -2.50%</u>
8	<u>4.45%</u>	<u>4.30%</u>	<u>3.80%</u>	<u>-2.50% and Less than -2.00%</u>
9	<u>3.95%</u>	<u>3.80%</u>	<u>3.30%</u>	<u>-2.00% and Less than -1.50%</u>
10	<u>3.45%</u>	<u>3.30%</u>	<u>2.80%</u>	<u>-1.50% and Less than -1.00%</u>
11	<u>2.95%</u>	<u>2.80%</u>	<u>2.30%</u>	<u>-1.00% and Less than -0.75%</u>
12	<u>2.45%</u>	<u>2.30%</u>	<u>1.80%</u>	<u>-0.75% and Less than -0.50%</u>
13	<u>1.95%</u>	<u>1.80%</u>	<u>1.30%</u>	<u>-0.50% and Less than -0.25%</u>
14	<u>1.45%</u>	<u>1.30%</u>	<u>0.80%</u>	<u>-0.25% and Less than 0.00%</u>
15	<u>0.95%</u>	<u>0.80%</u>	<u>0.30%</u>	<u>0.00% and Less than 0.50%</u>
16	<u>0.70%</u>	<u>0.55%</u>	<u>0.05%</u>	<u>0.50% and Less than 0.75%</u>
17	<u>0.55%</u>	<u>0.40%</u>	<u>0.00%</u>	<u>0.75% and Less than 1.00%</u>
18	<u>0.35%</u>	<u>0.20%</u>	<u>0.00%</u>	<u>1.00% and Less than 1.25%</u>
19	<u>0.25%</u>	<u>0.10%</u>	<u>0.00%</u>	<u>1.25% and Less than 1.50%</u>
20	<u>0.15%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>1.50% and Less than 1.75%</u>
21	<u>0.05%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>1.75% and Less than 2.25%</u>
22	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>2.25% and Over</u>

23           The contribution rates provided in this section apply to taxable wages paid on and  
24           after January 1, 2024.

25           **Section 4. That § 61-5-28 be AMENDED:**

26           **61-5-28.** If on the last day of any calendar quarter through December 31, 2023,  
27           the amount in the unemployment compensation fund, as established by § 61-4-1,  
28           including amounts receivable as federal reimbursements due the state for shareable  
29           benefit payments, is less than any amount appearing in Column A below, then all

1 employers' rates shall be increased by the amount appearing in Column B opposite the  
 2 lowest amount in Column A under which the fund has been reduced:

3	Column "A"	Column "B"
4	Balance in Fund	Rates
5	\$11,000,000	<u>0.1</u> %
6	10,500,000	<u>0.2</u> %
7	10,000,000	<u>0.3</u> %
8	9,500,000	<u>0.4</u> %
9	9,000,000	<u>0.5</u> %
10	8,500,000	<u>0.6</u> %
11	8,000,000	<u>0.7</u> %
12	7,500,000	<u>0.8</u> %
13	7,000,000	<u>0.9</u> %
14	6,500,000	1.0 %
15	6,000,000	1.25%
16	5,500,000	1.5 %

17 If on the last day of any calendar quarter beginning January 1, 2024, the average  
 18 high cost multiplier ratio ("AHCM"), as defined in § 61-5-25, calculated on the amount in  
 19 the unemployment compensation fund, as established by § 61-4-1, including amounts  
 20 receivable as federal reimbursements due the state for shareable benefit payments, is less  
 21 than any ratio appearing in Column A below, then all employers' rates must be increased  
 22 by the amount appearing in Column B opposite the lowest amount in Column A under  
 23 which the fund has been reduced:

24	<u>Column "A"</u>	<u>Column "B"</u>
25	<u>Balance in Fund</u>	<u>Rates</u>
26	<u>AHCM 0.75 and less than 0.60</u>	<u>0.1</u> %
27	<u>AHCM 0.60 and less than 0.50</u>	<u>0.2</u> %
28	<u>AHCM 0.50 and less than 0.40</u>	<u>0.3</u> %
29	<u>AHCM 0.40 and less than 0.30</u>	<u>0.4</u> %
30	<u>AHCM 0.30 and less than 0.20</u>	<u>0.5</u> %
31	<u>AHCM 0.20 and less than 0.00</u>	<u>1.0</u> %

Underscores indicate new language.  
 Overstrikes indicate deleted language.



1 pursuant to § 61-5-25.4 through calendar year 2019, ~~and~~ pursuant to § 61-5-25.5 for  
 2 calendar year 2020 through calendar year 2023, and pursuant to section 3 of this Act for  
 3 calendar year 2024 and each year thereafter, is less than two and one-quarter percent,  
 4 an administrative fee of two ~~hundredths~~ percent shall be paid by the employer.

5 The terms and conditions of this title that apply to the payment and collection of  
 6 contributions also apply to the payment and collection of the administrative fee. Proceeds  
 7 from the administrative fee ~~shall~~ must be deposited in the clearing account of the  
 8 unemployment compensation fund for clearance only and may not become part of the  
 9 fund. After clearance, the money derived from the administrative fee payments, less  
 10 refunds made pursuant to the provisions of this title, ~~shall~~ must be deposited in the  
 11 employment security administration fund for expenditure as provided in § 61-3-24. No  
 12 administrative fee payment may be credited to the employer's ~~experience rating~~  
 13 experience rating account nor may be deducted in whole or in part by any employer from  
 14 the wages of individuals in its employ.

15 The administrative fee provided in this section applies to taxable wages paid on  
 16 and after January 1, 2018.

17 **Section 6. That § 61-5-29 be AMENDED:**

18 **61-5-29.** Employers required by this title to pay contributions, except employers  
 19 pursuant to chapter 61-5A, that reimburse the unemployment compensation trust fund  
 20 for benefits paid in lieu of contributions, shall also pay an employer's investment in South  
 21 Dakota's future fee, hereinafter referred to as the, investment fee, on wages as defined  
 22 by this title. The fee rate for employers not eligible for experience rating, as defined in  
 23 § 61-5-24, ~~shall~~ must be seventy hundredths percent through calendar year 2006 and  
 24 fifty-five hundredths percent on and after January 1, 2007. If an employer is eligible for  
 25 experience rating, the employer's reserve ratio ~~shall~~ must be determined pursuant to  
 26 § 61-5-25.3 through calendar year 2017, pursuant to § 61-5-25.4 for calendar years 2018  
 27 and 2019, ~~and~~ pursuant to § 61-5-25.5 for calendar year 2020 through calendar year  
 28 2023, and pursuant to section 3 of this Act for calendar year 2024 and each year  
 29 thereafter, and the employer's investment fee rate ~~shall~~ must be the rate appearing in  
 30 column "A" on the same line the employer's reserve ratio appears in column "B" of the  
 31 following rate schedule:

	Column "A"	Column "B"
	Investment Fee Rate	Reserve Ratio

Underscores indicate new language.  
 Overstrikes indicate deleted language.

1	0.53%	Less than 1.00%
2	0.50%	1.00% and Less than 1.20%
3	0.40%	1.20% and Less than 1.30%
4	0.30%	1.30% and Less than 1.40%
5	0.20%	1.40% and Less than 1.50%
6	0.10%	1.50% and Less than 1.60%
7	0.00%	1.60% and Over

8           The terms and conditions of this title that apply to the payment and collection of  
9 contributions also apply to the payment and collection of the investment fee. Proceeds  
10 from the investment fee ~~shall~~ must be deposited in the clearing account of the  
11 unemployment compensation fund for clearance only and may not become part of the  
12 fund. After clearance, the money derived from the investment fee payments, less refunds  
13 made pursuant to the provisions of this title, ~~shall~~ must be deposited in the employer's  
14 investment in South Dakota's future ~~special revenue~~ fund as provided for in § 61-5-29.1.  
15 No investment fee payment may be credited to the employer's experience-rating account  
16 nor may the payment be deducted in whole or in part by any employer from the wages of  
17 individuals in its employ.

18           The investment fee rate may not be increased over the applicable 1987 investment  
19 fee rate for any employer with a positive balance in the employer's experience-rating  
20 account on the computation date, as established in rules promulgated by the secretary of  
21 labor and regulation pursuant to chapter 1-26, for the current year and the year preceding  
22 the current year.

23           The investment rates provided in this section apply to and are retroactive to taxable  
24 wages paid on and after January 1, 1993.