

1 HB279  
2 116499-3  
3 By Representative McDaniel  
4 RFD: Commerce  
5 First Read: 14-JAN-10



1 any employer whose rate of contribution has been computed  
2 under the provisions of Section 25-4-54 to be at least 5.40%  
3 but not more than 5.45% for such calendar year, to any  
4 employer who for such calendar year has elected to make  
5 payments in lieu of contributions pursuant to the provisions  
6 contained in Section 25-4-51, nor to any employer who has not  
7 had sufficient unemployment experience to qualify for a rate  
8 determination under Section 25-4-54 for such calendar year.

9 "(1) Assessments under this section shall become due  
10 and payable at the end of each calendar quarter which begins  
11 after March 31, 1992, and shall be paid in accordance with  
12 regulations as may be prescribed by the director at the same  
13 time and in the same manner as employers are required by this  
14 chapter to file reports and pay contributions and shall not be  
15 deducted, in whole or in part, from any remuneration of  
16 individuals in the employ of the employer.

17 "(2) The provisions of Sections 25-4-132 and  
18 25-4-133, relating to the assessment of interest and penalties  
19 for delinquent reporting or payments and the procedures for  
20 the collection of delinquent reports and payments shall apply  
21 to the assessment prescribed by this section. Any interest or  
22 penalty so assessed and collected shall be deposited or  
23 transferred to the Special Employment Security Administration  
24 Fund provided for in subsection (b) of Section 25-4-142.

25 "(3) All moneys collected as assessments pursuant to  
26 the provisions of this section shall be promptly deposited in

1 the clearing account of the Unemployment Compensation Fund  
2 only for the purpose of transfer and, as soon as practicable  
3 to do so, shall be transferred into the "Employment Security  
4 Enhancement Fund" in the State Treasury.

5 "(b) There is hereby created in the State Treasury a  
6 special fund, to be known as "the Employment Security  
7 Enhancement Fund," into which shall be deposited or  
8 transferred all funds collected retroactive to April 1, 1992,  
9 pursuant to the assessment made by the provisions of Section  
10 25-4-32. All moneys in this fund shall be deposited,  
11 administered, and disbursed in the same manner and under the  
12 same conditions and requirements as is provided by law for  
13 other special funds in the State Treasury. All moneys in this  
14 fund shall be continuously available to the director for  
15 expenditure in accordance with the provisions of this chapter,  
16 and shall not lapse at any time. These funds shall not be  
17 expended or made available for expenditure in any manner which  
18 would permit their substitution for federal funds, which  
19 would, in the absence of the moneys, be available to finance  
20 expenditures for the administration of the state unemployment  
21 compensation and employment service laws.

22 "(c) The moneys in the Employment Security  
23 Enhancement Fund are authorized and, are hereby appropriated,  
24 for use by the director as follows:

25 "(1) Special claimant assistance program.

1           "a. Moneys in this fund may be expended to  
2 supplement basic employment security services with special job  
3 search and job placement assistance designed to assist  
4 unemployment compensation claimants obtain employment.

5           "b. The director shall appoint an overview committee  
6 consisting of five (5) members and composed of the Director of  
7 Employment Service, the Director of Unemployment Compensation,  
8 and the Director of the Labor Market Information Division of  
9 the department, one member representing employers and selected  
10 by the Business Council of Alabama (or successor organization)  
11 and one member selected to represent employees by the Alabama  
12 Labor Council (or successor organization). The committee  
13 members shall be selected as soon after approval of this  
14 amendment as is practicable.

15           "c. The duties of the overview committee shall  
16 include the initial planning of the claimant assistance  
17 program as to content and procedures, the determination of  
18 standards, criteria, statistical requirements, and reporting  
19 needs, monitoring the progress of the program, and measuring  
20 the results and making recommendations to the director.

21           "d. All members of this committee shall serve  
22 without remuneration, however, shall be reimbursed for any and  
23 all necessary expenses incurred during the performance of  
24 their duties in the same manner and under the same regulations  
25 as apply to state employees. Such expenses are to be paid from  
26 the Employment Security Enhancement Fund.

1           "(2) General administration and enhancement of  
2 employment security. Necessary and appropriate costs of  
3 employment security enhancements, not in conflict with the  
4 foregoing or state or federal laws, rules or regulations, may  
5 be paid from this fund at the discretion of the director.

6           "(3) The costs of the collection of revenues, for  
7 the maintenance of the fund and the repayment of advances to  
8 the fund from other sources shall be paid from this fund.

9           "(4) The director shall submit a special report at  
10 the end of each calendar year to the Governor, Lieutenant  
11 Governor, and the Speaker of the House of Representatives  
12 giving an accounting of collections and expenditures, and an  
13 assessment of the success of programs funded from this source.

14           "(d) Any interest earned on money in this special  
15 fund shall accrue to the Employment Security Enhancement Fund.

16           "(e) In the event there is a cessation of the  
17 activities and purposes of the programs to be funded by moneys  
18 from this fund, all remaining moneys in the Employment  
19 Security Enhancement Fund, within 90 calendar days after all  
20 outstanding obligations of the director related to this fund  
21 have been fulfilled, shall be transferred into the state's  
22 Unemployment Compensation Trust Fund on deposit with the U.S.  
23 Treasury.

24           "§25-4-54.

25           "(a) Determination of contribution rates.

1           "(1) For the 12-month period beginning on January 1  
2 of each year which begins after December 31, 1996, any  
3 employer whose experience rating account has been subject to  
4 benefit charges throughout at least the fiscal year, as  
5 defined in Section 25-4-4, immediately preceding such January  
6 1, shall have his rate determined by the Unemployment  
7 Compensation Fund's liability for benefits paid to his  
8 employees, modified by the fund's balance as of the most  
9 recent June 30. The employment record of an organization which  
10 has been making payments in lieu of contributions but which  
11 elects to change to payment of contributions shall be deemed  
12 to have been chargeable with benefits throughout the period  
13 (not to exceed three fiscal years) with respect to which it  
14 was making payments in lieu of contributions and its benefit  
15 charges and payrolls for such period shall be used in  
16 computing its benefit ratio pursuant to subsection (d) of this  
17 section.

18           "(2) For the 12-month period beginning on January 1  
19 of each calendar year which begins before January 1, 1997, the  
20 rates of contribution shall be determined as was prescribed by  
21 this section prior to January 1, 1997.

22           "(b) Determination of individual benefit charges.

23           "(1) An individual's "benefit charges" shall be as  
24 follows:

1           "a. For each week benefits are paid, an individual's  
2 "benefit charges" shall be equal to the amount of benefits he  
3 was paid for such week.

4           "b. For each week extended benefits pursuant to  
5 Section 25-4-75 are paid to an individual, the "benefit  
6 charges" shall be equal to the state's share of such benefits  
7 paid to him for such weeks; provided, however, where an  
8 individual's benefit charges for extended benefits are  
9 attributable to service in the employ of any governmental  
10 entity, as defined in paragraph (a)(2)b of Section 25-4-10,  
11 the individual's "benefit charges" shall be an amount equal to  
12 the benefits he was paid for such week.

13           "(2) Any benefits paid to an individual based on  
14 wages paid to an employee during his base period for part-time  
15 employment by an employer who continues to give the employee  
16 employment to the same extent while he is receiving benefits  
17 as he did during his base period shall not be determined to be  
18 the individual's benefit charges. The employer shall establish  
19 the continuation of work to the satisfaction of the director  
20 by submitting such information as the director may require  
21 within the time required by other provisions of this chapter  
22 after the date of notification or mailing of notice by the  
23 director that the employee has first filed a claim for  
24 benefits.

25           "(3) If benefits paid to an individual are based on  
26 wages paid by two or more employers, the amount of the



1 individual's benefit charges applicable to any one employer  
2 shall be an amount which bears the same ratio to the total  
3 benefit charges as the total base period wages paid by such  
4 employer to the individual and used for the payment of  
5 benefits bears to the total base period wages paid to the  
6 individual by all his base period employers and used for the  
7 payment of benefits.

8 "(4) When, in the determination of any individual's  
9 benefits, wages have been properly included once for one  
10 benefit year or for one base period, such wages shall not  
11 thereafter be included again in the computation of his  
12 benefits for any other benefit year or in his wages for any  
13 other base period respectively.

14 "(c) Determination of employer benefit charges.

15 "(1) An employer's benefit charges for each and  
16 every fiscal year shall be the total of the regular benefits  
17 and the state's share of the extended benefits paid during  
18 such fiscal year to all of his employees or former employees  
19 which are attributable to wages paid by such employer to his  
20 employees or former employees; except as is provided by  
21 paragraph a. of subdivision (a) (5) of Section 25-4-51 for  
22 governmental entities.

23 "(2) The director shall analyze the benefit payments  
24 in each fiscal year and determine each employer's benefit  
25 charges for each fiscal year.

1           "(3) The director shall, after the close of each  
2 calendar quarter, furnish each employer with a statement of  
3 the benefits paid to his workers, or former workers, which  
4 became his benefit charges in that calendar quarter, together  
5 with the names of such workers, or former workers, and such  
6 statement, in the absence of an application for a revision  
7 thereof within 30 days of the mailing of such statement to the  
8 employer's last known address, shall be conclusive and final  
9 upon the employer for all purposes and in all proceedings  
10 whatsoever. Such application for revision shall be in the form  
11 and manner prescribed by regulation of the director. Upon  
12 receipt of, within the time allowed, an application for  
13 revision of such statement, the director shall allow such  
14 application in whole or in part, or shall deny such  
15 application and shall serve notice upon the employer of such  
16 decision. Such decision of the director shall be final and  
17 conclusive on the employer at the expiration of 30 days from  
18 the date of service of such notice, unless the employer shall  
19 within the 30-day period file with the director a written  
20 protest and a petition for hearing, specifying his objections  
21 thereto. Upon receipt of such petition the director shall fix  
22 a time and place for a hearing and shall notify the employer  
23 thereof. At any hearing held as herein provided, the decision  
24 of the director shall be prima facie correct, and the burden  
25 shall be upon the protesting employer to prove it is  
26 incorrect. No employer shall have the right to object to the

1 benefit charges with respect to any worker as shown on such  
2 statement, unless he shall first show that such charges arose  
3 as a result of benefits paid to such worker in accordance with  
4 a determination, or a redetermination, to which such employer  
5 was a party entitled to notice thereof, as provided by Article  
6 5 of this chapter, and shall further show that he was not  
7 notified of such determination or redetermination in  
8 accordance with the requirements of Article 5 of this chapter.  
9 Nothing herein contained shall affect the right of any  
10 employer at such hearing to object to such statement of  
11 benefit charges on the ground that it is incorrect by reason  
12 of a clerical error made by the director or any of his  
13 employees. The employer shall be promptly notified by mail of  
14 the director's decision. Such decision shall be final and  
15 conclusive unless an appeal is taken therefrom in the manner  
16 and within the time prescribed in subsection (h) of this  
17 section.

18 "(4) Nothing contained in subdivision (3) of this  
19 subsection (c) shall be construed as limiting or affecting in  
20 any manner the right and authority of the director to remove  
21 benefit charges from any employer's account upon discovering  
22 or being aware of any such employer's workers or former  
23 workers having drawn benefits by reason of false  
24 representation of their earnings while filing claims for  
25 benefits nor to make any corrections resulting from any  
26 adjustment to benefits paid to the individual.

1           "(5) Any Alabama unemployment compensation benefits  
2 paid to any claimant under the following conditions shall not  
3 be charged to the account of a contributory base period  
4 employer(s) for the state fiscal year ending June 30, 1996,  
5 and each fiscal year thereafter, if:

6           "a. The benefits are paid for unemployment due  
7 directly to a major natural disaster, and

8           "b. The President has declared the event a disaster  
9 pursuant to the Disaster Relief Act of 1970, 42 USC § 4401, et  
10 seq., as amended, and

11           "c. The benefits are paid from the Alabama U.I.  
12 Trust Fund to claimants who would have been eligible for  
13 disaster unemployment assistance under this act, if they have  
14 not first received Alabama unemployment insurance benefits  
15 with respect to their unemployment.

16           "(d) Determination of employer benefit ratio.  
17 Effective January 1, 1997, and each year thereafter, the  
18 benefit ratio of each employer who qualifies for a rate  
19 determination under subdivision (a)(1) of this section and has  
20 been chargeable with benefits throughout the three most recent  
21 preceding fiscal years shall be a percentage obtained by  
22 dividing the total of his benefit charges for such three-year  
23 period by that part of his total taxable payroll for the same  
24 three-year period with respect to which contributions have  
25 been paid on or before July 31, next following such period,  
26 and the benefit ratio of each employer who qualifies for a

1 rate determination under subdivision (a)(1) of this section,  
2 but who has not been subject to this chapter for a period of  
3 time sufficient to have been chargeable with benefits  
4 throughout the three most recent preceding fiscal years, shall  
5 be a percentage obtained by dividing the total of his benefit  
6 charges for the period throughout which he has been  
7 chargeable, such period to be not less than the most recent  
8 preceding fiscal year by that part of his total taxable  
9 payroll for the same period with respect to which  
10 contributions have been paid on or before July 31 next  
11 following such period. The employers benefit ratio shall be  
12 computed to the fourth decimal and be used in determining each  
13 employer's contribution rate as prescribed in subsection (a)  
14 of this section for the next calendar year; except that:

15 "For tax rate year beginning January 1, 1991, the  
16 employer's benefit ratio shall be determined by the employer's  
17 actual benefit charges to his account for the fiscal year  
18 ending September 30, 1990, and for fiscal years ending  
19 September 30, 1988, and September 30, 1989, the employer's  
20 benefit charges shall be determined from data accumulated by  
21 the director during such years relative to benefit wage  
22 charges and converted to benefit charges, in such manner as  
23 the director shall prescribe.

24 "(e) Shared costs.

25 "(1) For the purposes of this subsection (e) and for  
26 the determination of an employer's rate of contribution

1 pursuant to subsection (f), "shared" or "socialized" cost for  
2 each fiscal year is defined to be:

3 "a. Benefit charges which cannot be effectively  
4 assigned to an individual employer's experience rating account  
5 during such fiscal year because of the employer becoming  
6 inactive (in accordance with Section 25-4-130); and

7 "b. The total amount of the difference between the  
8 benefit charges to all employers during the fiscal year who  
9 are assigned the maximum rate of contribution under any one of  
10 the rate schedules for the calendar year next following such  
11 fiscal year and the total amount of contributions received  
12 from all such maximum rated employers during the same fiscal  
13 year; and

14 "c. Credits granted employers during such fiscal  
15 year because of the reason for separation (as provided in  
16 Section 25-4-78), continued part-time work, as provided by  
17 subdivision (b)(2) of this section, and relief from charges  
18 granted an employer under the provisions of subdivision (c)(4)  
19 of this section; and

20 "d. Benefit overpayments which have been declared  
21 uncollectible or have been waived by the director during the  
22 fiscal year pursuant to the applicable provisions of this  
23 chapter; and

24 "e. Contributions due from employers but not paid  
25 and which have been, during such fiscal year, declared

1 uncollectible by the bankruptcy courts or official action by  
2 the director; and

3 "f. Cost resulting from the relief of charges for  
4 contributory employers under Section 25-4-54(c) (5) will be  
5 included in shared cost as defined in this section.

6 "(2) The total of the amounts determined under the  
7 provisions of subdivision (1) above shall be the statewide  
8 total shared cost for any fiscal year.

9 "(3) Net shared costs for any fiscal year shall be  
10 the statewide total of shared costs for that fiscal year  
11 reduced (but not below zero) by the amount of:

12 "a. Interest received by the fund from the U.S.  
13 Treasury during such fiscal year; and

14 "b. The total amount of the difference between the  
15 contributions received from all employers during such fiscal  
16 year who are assigned the minimum rate of contributions under  
17 any one of the rate schedules for the calendar year next  
18 following such fiscal year and the total of all benefit  
19 charges made to all such minimum rated employers during the  
20 same fiscal year.

21 "(4) To determine the "shared cost ratio" for any  
22 fiscal year, the net shared cost for such fiscal year shall be  
23 divided by the statewide total of taxable wages for the same  
24 fiscal year which have been reported by all contributory  
25 employers and upon which contributions have been timely paid  
26 (reduced by the total of the taxable wages reported and timely

1 paid on by any employer or employers for the same fiscal year,  
2 who by the provisions of subdivision (5) of this subsection  
3 (e) are relieved of the shared cost assessment). The resulting  
4 quotient adjusted to the nearest multiple of one-thousandth  
5 shall be the "shared cost ratio" applicable for assessment to  
6 all contributory employers for the next following calendar  
7 year.

8 "(5)a. Except as is hereinafter provided, the shared  
9 cost ratio as computed under the above provision for each  
10 fiscal year shall, for the next calendar year, be assessed  
11 each employer eligible for a rate determination under the  
12 provision of subdivision (a)(1) of this section, in addition  
13 to the rate of contributions determined by the tables  
14 contained in subsection (f) of this section.

15 "1. Any employer whose rate of contribution has been  
16 determined to be the minimum rate allowed under Schedule A for  
17 a calendar year, shall be relieved of any shared cost  
18 assessment during that calendar year;

19 "2. Any employer whose rate of contribution has been  
20 determined to be the minimum rate allowed under Schedule B for  
21 a calendar year and whose experience rating account has not  
22 been charged with any benefits during the three immediately  
23 preceding fiscal years, shall be relieved of any shared cost  
24 assessment for that calendar year;





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EMPLOYER TAX RATE SCHEDULE:

IF THE EM-  
PLOYER'S BEN-

LINE NO.	EFIT RATIO IS:	A	B	C	D
1	0.00-0.39	0.20	0.35	0.50	0.65
2	0.40-0.59	0.35	0.50	0.65	0.80
3	0.60-0.79	0.50	0.70	0.90	1.00
4	0.80-0.99	0.70	0.90	1.10	1.20
5	1.00-1.19	0.85	1.10	1.30	1.40
6	1.20-1.39	1.00	1.30	1.55	1.65
7	1.40-1.59	1.15	1.50	1.75	1.90
8	1.60-1.79	1.30	1.70	1.95	2.15
9	1.80-1.99	1.45	1.90	2.15	2.40
10	2.00-2.19	1.60	2.10	2.40	2.65
11	2.20-2.39	1.75	2.30	2.60	2.85
12	2.40-2.59	1.90	2.50	2.80	3.10
13	2.60-2.79	2.05	2.70	3.05	3.35
14	2.80-2.99	2.20	2.90	3.25	3.60
15	3.00-3.19	2.35	3.10	3.50	3.85

1	16	3.20-3.59	2.50	3.40	3.80	4.20
2	17	3.60-3.99	2.80	3.80	4.25	4.70
3	18	4.00-4.39	3.10	4.20	4.70	5.20
4	19	4.40-4.79	3.40	4.60	5.10	5.70
5	20	4.80-5.19	3.70	5.00	5.50	6.20
6	21	5.20-5.59	4.00	5.40	6.00	6.70
7	22	5.60-5.99	4.30	5.40	6.00	6.70
8	23	6.00-6.39	4.60	5.40	6.10	6.80
9	24	6.40-6.79	4.90	5.40	6.10	6.80
10	25	6.80-7.19	5.20	5.40	6.10	6.80
11	26	7.20 or over	5.40	5.40	6.10	6.80

12           "The provisions of this subsection (f) to the con-  
13           trary notwithstanding, the rates of contribution shall, after  
14           having been determined as herein prescribed, be adjusted as  
15           follows for calendar quarters beginning after March 31, 1992  
16           and ending September 30, ~~2010-2012~~ 2011:

17	"If the rate of contribu-	
18	tion specified by the Tax	
19	Rate Table contained in	The employer's contribution rate
20	this section is:	shall be:
21	0.20	0.14

1	0.35	0.29
2	0.50	0.44
3	0.65	0.59
4	0.70	0.64
5	0.80	0.74
6	0.85	0.79
7	0.90	0.84
8	1.00	0.94
9	1.10	1.04
10	1.15	1.09
11	1.20	1.14
12	1.30	1.24
13	1.40	1.34
14	1.45	1.39
15	1.50	1.44
16	1.55	1.49
17	1.60	1.54
18	1.65	1.59
19	1.70	1.64
20	1.75	1.69
21	1.90	1.84
22	1.95	1.89

1	2.05	1.99
2	2.10	2.04
3	2.15	2.09
4	2.20	2.14
5	2.30	2.24
6	2.35	2.29
7	2.40	2.34
8	2.50	2.44
9	2.60	2.54
10	2.65	2.59
11	2.70	2.64
12	2.80	2.74
13	2.85	2.79
14	2.90	2.84
15	3.05	2.99
16	3.10	3.04
17	3.25	3.19
18	3.35	3.29
19	3.40	3.34
20	3.50	3.44
21	3.60	3.54
22	3.70	3.64

1	3.80	3.74
2	3.85	3.79
3	4.00	3.94
4	4.20	4.14
5	4.25	4.19
6	4.30	4.24
7	4.60	4.54
8	4.70	4.64
9	4.90	4.84
10	5.00	4.94
11	5.10	5.04
12	5.20	5.14
13	5.40	5.40
14	5.50	5.44
15	5.70	5.64
16	6.00	5.94
17	6.10	6.04
18	6.20	6.14
19	6.70	6.64
20	6.80	6.74

1           "The adjustment in rates of contributions as are  
2 herein provided shall apply only to those employers who are  
3 required to pay contributions by the provisions of Section  
4 25-4-51 and those nonprofit organizations, hospitals,  
5 educational institutions, agencies of the State of Alabama,  
6 and political subdivisions of the state who have, under the  
7 option permitted by Section 25-4-51, for that calendar year  
8 elected to pay contributions. The adjustment shall not apply  
9 to any employer who, because of insufficient unemployment  
10 experience, has not become eligible to have his rate of  
11 contribution determined by the method prescribed under this  
12 subsection (f); whose rate of contribution is determined to be  
13 5.4 percent, or is above 5.4 percent and by the application of  
14 the adjustment would become a rate less than 5.4 percent; and  
15 all employers who being eligible for such option have elected  
16 the option to make payments in lieu of contributions.

17           "(g) Determination of contribution rate schedule.  
18 Contribution rates for each employer, determined pursuant to  
19 subsection (f) of this section, shall nevertheless be subject  
20 to the contribution rate schedule as is hereinafter provided.

21           "(1) The "benefits payroll ratio" of the state for  
22 each fiscal year shall be determined by dividing the total of  
23 benefits paid, including the state's portion of benefits paid  
24 under any extended benefit program, from the unemployment  
25 compensation fund within the preceding fiscal year, less any

1 benefits paid for which payments in lieu of contributions have  
2 been paid or are currently due to be paid, by the statewide  
3 total payrolls of all employers upon which contributions on  
4 the taxable portion thereof have been paid during the same  
5 fiscal year, and by adjusting the quotient to the nearest  
6 multiple of one-thousandth.

7 "(2) The desired level of unemployment compensation  
8 fund for each fiscal year shall be one and four-tenths times  
9 the amount determined by multiplying the highest statewide  
10 total of payrolls of all employers upon which contributions on  
11 the taxable portion thereof have been paid during any one of  
12 the three most recent preceding fiscal years by the highest  
13 benefits payroll ratio for any one of the 10 most recent  
14 preceding fiscal years.

15 "(3) The director shall, on or before the December 1  
16 next following the end of each fiscal year, declare effective  
17 for the 12-month period beginning with January 1 of the  
18 immediately succeeding calendar year, the desired level of the  
19 fund and the schedule to be in effect for that 12-month  
20 period. The contribution rate for each employer for the next  
21 calendar year shall be determined by the director as provided  
22 in subsection (f) of this section on the basis of each  
23 employer's benefit ratio as determined under the provisions of  
24 subsection (d) of this section; and whenever at the end of any  
25 fiscal year, the fund balance is:



1            "a. One hundred twenty-five percent or more of the  
2            desired level computed for the fiscal year, contribution rates  
3            shall be determined under Schedule A;

4            "b. Equal to the desired level but is less than 125  
5            percent thereof, contribution rates shall be determined under  
6            Schedule B.

7            "c. Less than the desired level but is at least 70  
8            percent thereof, contribution rates shall be determined under  
9            Schedule C.

10           "d. Less than 70 percent of the desired level,  
11           contribution rates shall be determined under Schedule D.

12           "(4) Any amount credited to this state's account  
13           under Section 903 of the Social Security Act, as amended,  
14           which has been appropriated for expenses of administration,  
15           whether or not withdrawn from the trust fund, shall be  
16           included in the trust fund balance in determining whether or  
17           not such fund is greater or less than the desired level of the  
18           fund for a fiscal year; except, that any amount appropriated  
19           and withdrawn which will not be repaid to the fund shall not  
20           be included in such balances.

21           "(5) The director shall notify each employer of such  
22           declaration and of his benefit ratio and his contribution rate  
23           no later than 31 days after the effective date of the  
24           contribution rate. This subdivision (5) shall not apply to  
25           employers who, in lieu of contributions, reimburse the fund  
26           for benefits paid.

1           "(h) Review of contribution rate, etc. Any employer  
2 may apply to the director for and shall be entitled to a  
3 review as to the determination of his benefit ratio and his  
4 contribution rate as fixed by his benefit ratio, provided such  
5 application is filed within 30 days of the date of the mailing  
6 by the director to the employer of the notice of such  
7 determination. Pending such review, such employer shall make  
8 all contribution payments otherwise required by this chapter  
9 at contribution rates fixed by the determination sought to be  
10 reviewed and resulting overpayments or underpayments of  
11 contributions by the employer shall, upon any redetermination,  
12 be adjusted or refunded pursuant to Section 25-4-137. Any  
13 employer may within 30 days after the date of mailing by the  
14 director to such employer of notice of the ruling of the  
15 director upon such application for review appeal such ruling  
16 to the circuit court of any county wherein the employer is  
17 engaged in doing business, upon such terms and upon giving  
18 such security for costs as the court may upon application  
19 prescribe. Trial in that court shall be de novo with respect  
20 to his benefit ratio.

21           "(i) Contribution rate, etc., of successor employer.  
22 For the purpose of this section, an employer's benefit charges  
23 and that part of his taxable payroll with respect to which  
24 contributions have been paid, shall be deemed benefit charges  
25 and taxable payrolls of a successor employer and shall be  
26 taken into account in determining the contribution rate of

1 such successor employer as provided in subsection (f) of this  
2 section, if such successor succeeds the employer in any of the  
3 manners set out in paragraph (a) (4)a of Section 25-4-8;  
4 provided, that an employer subject to this chapter who becomes  
5 such in any of the manners set out in paragraph (a) (4)b of  
6 Section 25-4-8 may have that portion of his predecessor's  
7 benefit charges and that part of his predecessor's total  
8 taxable payroll, with respect to which contributions have been  
9 paid which correspond to the segregable portion of the  
10 business assets and payroll thereof, acquired from his  
11 predecessor, deemed to be his benefit charges and his payroll  
12 and such shall be taken into account in determining his rates,  
13 as provided in subsection (f) of this section; provided, that  
14 he:

15           "(1) Makes written application within 90 calendar  
16 days from the date of such acquisition; and

17           "(2) Furnishes to the director within 120 calendar  
18 days from the date of such acquisition a transcript of such  
19 total and taxable payrolls which correspond to the segregable  
20 portion acquired from his predecessor; provided further that  
21 in the event that within the intervening 120 days a notice of  
22 his rate of contribution has been mailed to the partial  
23 successor, the 30-day finality provision set forth in  
24 subsection (h) of this section shall not prevail but, instead,  
25 be effective with respect to the subsequent notice computed on

1 the basis of the benefit ratio and taxable payrolls of the  
2 acquired segregable portion."

3 "§25-4-75.

4 "(a) Applicability of section. Notwithstanding any  
5 other provisions of this chapter, the duration of benefits as  
6 provided in Section 25-4-74 shall be extended as provided in  
7 this section.

8 "(b) Definitions. As used in this section, unless  
9 the context clearly requires otherwise, the following terms  
10 shall mean:

11 "(1) EXTENDED BENEFIT PERIOD. A period which:

12 "a. Begins with the third week after a week for  
13 which there is a state "on" indicator; and

14 "b. Ends with either of the following weeks,  
15 whichever occurs later:

16 "1. The third week after the first week for which  
17 there is a state "off" indicator; or

18 "2. The thirteenth consecutive week of such period;  
19 provided, that no extended benefit period may begin by reason  
20 of a state "on" indicator before the fourteenth week following  
21 the end of a prior extended benefit period which was in effect  
22 with respect to this state.

23 "3. The eligibility period for the payment of  
24 extended benefits using the total unemployment rate begins on  
25 or after February 1, 2009, and ends ~~on or before December 5,~~  
26 2009, or four weeks prior to the last week for which 100

1 percent federal sharing funding is available under Section  
2 2005(a) of Public Law No. 111-5, without regard to the  
3 extension of federal sharing for certain claims as provided  
4 under Section 2005(c) of such law.

5 "(2) STATE "ON" INDICATOR. There is a "state 'on'  
6 indicator" for this state for a week if the director  
7 determines, in accordance with the regulations of the U.S.  
8 Secretary of Labor, that for the period consisting of such  
9 week and the immediately preceding 12 weeks, the rate of  
10 insured unemployment (not seasonally adjusted) under this  
11 section:

12 "a. For any weeks beginning prior to September 26,  
13 1982, equaled or exceeded that required by this section prior  
14 to such date.

15 "b. For any week beginning on September 26, 1982, or  
16 thereafter:

17 "1. Equaled or exceeded 120 percent of the average  
18 of such rates for the corresponding 13-week period ending in  
19 each of the preceding two calendar years; and

20 "2. Equaled or exceeded five percent; provided, that  
21 with respect to benefits for weeks of unemployment beginning  
22 after September 25, 1982, the determination of whether there  
23 has been a "state 'on' indicator" beginning any extended  
24 benefit period shall be made under this paragraph b. as if  
25 this paragraph b. did not contain subparagraph 1 thereof and  
26 the "five" contained in subparagraph 2 thereof were "six"; or

1           "3. With respect to weeks of unemployment beginning  
2 on or after February 1, 2009, and remaining in effect until  
3 the week ending on or before December 5, 2009, or four weeks  
4 prior to the last week for which 100 percent federal sharing  
5 funding is available under Section 2005(a) of Public Law No.  
6 111-5, without regard to the extension of federal sharing for  
7 certain claims as provided under Section 2005(c) of such law:

8           "a. The average rate of total unemployment  
9 (seasonally adjusted), as determined by the United States  
10 Secretary of Labor, for the period consisting of the most  
11 recent 3 months for which data for all states are published  
12 before the close of such week equals or exceeds 6.5 percent.

13           "b. The average rate of total unemployment in the  
14 state (seasonally adjusted), as determined by the United  
15 States Secretary of Labor, for the 3-month period referred to  
16 in paragraph a., equals or exceeds 110 percent of such average  
17 for either or both of the corresponding 3-month periods ending  
18 in the two preceding calendar years.

19           "c. For the purposes of this section, a "high  
20 unemployment period" exists during any period during which an  
21 extended benefit period would be in effect by substituting "8  
22 percent" for "6.5 percent" in paragraph a.

23           "(3) STATE "OFF" INDICATOR. There is a "state 'off'  
24 indicator" for this state for a week if the director  
25 determines, in accordance with the regulations of the U.S.

1 Secretary of Labor, that for the period consisting of such  
2 week and the immediately preceding 12 weeks:

3 "a. For any weeks beginning prior to September 26,  
4 1982, the rate of insured unemployment under this section was  
5 less than that required by this section prior to such date.

6 "b. For any weeks beginning on September 26, 1982,  
7 or thereafter, the requirements of either subparagraph 1 or 2  
8 of paragraph (2)b. of this subsection (b) were not satisfied,  
9 except that the six percent provision does not apply in  
10 determining an "off" indicator.

11 (4) RATE OF INSURED UNEMPLOYMENT. For the purpose of  
12 subdivisions (2) and (3) of this subsection (b), such term  
13 means the percentage derived by dividing:

14 "a. The average weekly number of individuals filing  
15 claims for regular state benefits in this state for weeks of  
16 unemployment with respect to the most recent  
17 13-consecutive-week period, as determined by the director on  
18 the basis of his reports to the U.S. Secretary of Labor, by

19 "b. The average monthly employment covered under  
20 this chapter for the first four of the most recent six  
21 completed calendar quarters ending before the end of such  
22 13-week period.

23 "(5) REGULAR BENEFITS. Benefits payable to an  
24 individual under this chapter or under any other state law  
25 (including benefits payable to federal civilian employees and

1 to ex-servicemen pursuant to 5 U.S.C. 85), other than extended  
2 benefits.

3 "(6) EXTENDED BENEFITS. Benefits (including benefits  
4 payable to federal civilian employees and to ex-servicemen  
5 pursuant to 5 U.S.C. 85) payable to an individual under the  
6 provisions of this subsection for weeks of unemployment in his  
7 eligibility period.

8 "(7) ELIGIBILITY PERIOD OF AN INDIVIDUAL. The period  
9 consisting of the weeks in his benefit year which begin in an  
10 extended benefit period and, if his benefit year ends within  
11 such extended benefit period, any weeks thereafter which begin  
12 in such extended benefit period or during an extended benefit  
13 period provided for in Section 2005(b) of Public Law No.  
14 111-5.

15 "(8) EXHAUSTEE. An individual who, with respect to  
16 any week of unemployment in his eligibility period:

17 "a. Has received, prior to such week, all of the  
18 regular benefits that were available to him under this chapter  
19 or any other state law (including dependents' allowances and  
20 benefits payable to federal civilian employees and  
21 ex-servicemen under 5 U.S.C. 85) in his current benefit year  
22 that includes such week; provided, that for the purposes of  
23 this subdivision (8), an individual shall be deemed to have  
24 received all of the regular benefits that were available to  
25 him although as a result of a pending appeal with respect to  
26 wages and/or employment that were not considered in the



1 original monetary determination in his benefit year, he may  
2 subsequently be determined to be entitled to added regular  
3 benefits; or

4 "b. His benefit year having expired prior to such  
5 week, has no, or insufficient, wages on the basis of which he  
6 could establish a new benefit year that would include such  
7 week; and

8 "c.1. Has no right to unemployment benefits or  
9 allowances, as the case may be, under the Railroad  
10 Unemployment Insurance Act, the Trade Expansion Act of 1962,  
11 the Automotive Products Trade Act of 1965, and such other  
12 federal laws as are specified in regulations issued by the  
13 U.S. Secretary of Labor; and

14 "2. Has not received and is not seeking unemployment  
15 benefits under the unemployment compensation law of Canada;  
16 but, if he is seeking such benefits and the appropriate agency  
17 finally determines that he is not entitled to benefits under  
18 such law, he is considered an exhaustee.

19 "(9) STATE LAW. The unemployment insurance law of  
20 any state, approved by the U.S. Secretary of Labor under  
21 Section 3304 of the Internal Revenue Code of 1954.

22 "(c) Effect of state law provisions relating to  
23 regular benefits on claims for, and the payment of, extended  
24 benefits. Except when the result would be inconsistent with  
25 the other provisions of this section, as provided in the  
26 regulations of the director, the provisions of this chapter

1 which apply to claims for, or the payment of, regular benefits  
2 shall apply to claims for, and the payment of, extended  
3 benefits.

4 "(d) Eligibility requirements for extended benefits.  
5 An individual shall be eligible to receive extended benefits  
6 with respect to any week of unemployment in his eligibility  
7 period only if the director finds that with respect to such  
8 week:

9 "(1) He is an "exhaustee," as defined in subdivision  
10 (b) (8) of this section.

11 "(2) He has satisfied the requirements of this  
12 chapter for the receipt of regular benefits that are  
13 applicable to individuals claiming extended benefits,  
14 including not being subject to a disqualification for the  
15 receipts of benefits.

16 "(e) Weekly extended benefit amount. The weekly  
17 extended benefit amount payable to an individual for a week of  
18 total unemployment in his eligibility period shall be an  
19 amount equal to the weekly benefit amount payable to him  
20 during his applicable benefit year.

21 "(f) Total extended benefit amount. The total  
22 extended benefit amount payable to any eligible individual  
23 with respect to his applicable benefit year shall be the  
24 lesser of the following amounts:

1           "(1) 50 percent, rounded to the nearest multiple of  
2 \$1, of the total amount of regular benefits which were payable  
3 to him under this chapter in his applicable benefit year; or

4           "(2) Thirteen times the weekly benefit amount which  
5 was payable to an individual under this chapter for a week of  
6 total unemployment in the applicable benefit year.

7           "(3) Effective with respect for weeks in a high  
8 unemployment period, the total extended benefit amounts shall  
9 be applied by substituting "80 percent" for "50 percent" in  
10 subdivision (1) and "Twenty" for "Thirteen" in subdivision  
11 (2).

12           "(g) Beginning and termination of extended benefit  
13 period.

14           "(1) Whenever an extended benefit period is to  
15 become effective in this state, as a result of a state "on"  
16 indicator, or an extended benefit period is to be terminated  
17 in this state as a result of a state "off" indicator, the  
18 director shall make an appropriate public announcement.

19           "(2) Computations required by the provisions of  
20 subdivision (b)(4) of this section shall be made by the  
21 director, in accordance with regulations prescribed by the  
22 U.S. Secretary of Labor.

23           "(h) Cessation of extended benefits when paid under  
24 an interstate claim in a state where extended benefit period  
25 is not in effect.

1           "(1) Except as provided in subdivision (h) (2), an  
2 individual shall not be eligible for extended benefits for any  
3 week if:

4           "a. Extended benefits are payable for such week  
5 pursuant to an interstate claim filed in any state under the  
6 interstate benefit payment plan; and

7           "b. No extended benefit period is in effect for such  
8 week in such state.

9           "(2) The provisions of subdivision (h) (1) shall not  
10 apply with respect to the first two weeks for which extended  
11 benefits are payable (determined without regard to this  
12 subsection) pursuant to an interstate claim filed under the  
13 interstate benefit payment plan to the individual from his  
14 extended benefit amount established for the benefit year.

15           "(i) Restrictions on entitlement during eligibility  
16 period.

17           "(1) Notwithstanding the other provisions of this  
18 section, payment of any extended benefits under this section  
19 shall not be made to any individual for any week of  
20 unemployment in his eligibility period:

21           "a. during which he fails to accept any offer of  
22 suitable work as defined in subdivision (i) (3) or fails to  
23 apply for any such suitable work to which he was referred by  
24 the director; or

25           "b. during which he fails to actively seek work,  
26 except as provided in subdivision (a) (5) of Section 25-4-77,

1 but only with regard to the exception for the appearance for  
2 jury duty as provided therein.

3 "(2) If any individual is ineligible for extended  
4 benefits for any week by reason of a failure described in  
5 subdivision (i)(1), the individual shall be ineligible to  
6 receive extended benefits for any week during a period which:

7 "a. begins with the week following the week in which  
8 such failure occurs and

9 "b. does not end until such individual has been  
10 employed in at least four weeks which begin after such failure  
11 and the total of the remuneration earned by the individual for  
12 being so employed is not less than four times his extended  
13 weekly benefit amount for his benefit year.

14 "(3) For the purposes of this subsection (i), the  
15 term "suitable work" means, with respect to any individual,  
16 any work which is within such individual's capabilities;  
17 except that, if the individual furnishes evidence satisfactory  
18 to the director that such individual's prospects for obtaining  
19 work in his customary occupation within a reasonably short  
20 period are good, the determination of whether any work is  
21 suitable work shall be made in accordance with other  
22 provisions of this chapter.

23 "(4) Extended benefits shall not be denied under  
24 paragraph a. of subdivision (i)(1) to any individual for any  
25 week by reason of a failure to accept an offer of, or apply  
26 for, suitable work:

1           "a. If the gross average weekly remuneration payable  
2 to such individual for the position does not exceed the sum of

3           "1. the individual's extended weekly benefit amount  
4 for the benefit year plus

5           "2. the amount if any of supplemental unemployment  
6 benefits (as defined in 26 U.S.C. 501(c)(17)(D)) payable to  
7 such individual for such week;

8           "b. if the position was not offered to such  
9 individual in writing or was not listed with the state  
10 employment service;

11           "c. if such failure would not result in a denial of  
12 benefits under the other provisions of this chapter to the  
13 extent that such provisions are not inconsistent with  
14 subdivisions (4) and (5) of this subsection (i); or

15           "d. if the position pays wages less than the higher  
16 of the minimum wages provided under Section 6 (a)(1) of the  
17 Fair Labor Standards Act of 1938, as amended, without regard  
18 to any exemption or the applicable state or local minimum  
19 wage, if any.

20           "(5) For purposes of this subsection (i), an  
21 individual shall be treated as actively engaged in seeking  
22 work during any week if the individual has engaged in a  
23 systematic and sustained effort to obtain work during such  
24 week, and provides tangible evidence to the director that he  
25 has engaged in such effort during such week.

1           "(j) Referral of extended claimant to job. Extended  
2 benefit claimants shall be referred to any available suitable  
3 work to which the definition in subdivision (i) (4) does not  
4 apply.

5           "(k) Employment required after involuntary  
6 separation. No provision of Section 25-4-78 which terminates a  
7 disqualification for regular or extended benefits because he  
8 or she has voluntarily left employment, was suspended or  
9 discharged for misconduct (in any of the degrees defined in  
10 Section 25-4-78) or failed to accept an offer of or apply for  
11 suitable work shall apply for purposes of determining  
12 eligibility for extended benefits unless the disqualification  
13 imposed has been terminated based upon employment in four  
14 weeks and remuneration of an amount which equals or exceeds  
15 four times the individual's weekly benefit amount subsequent  
16 to the effective date of such disqualification.

17           "(l) Effective date of added provisions. The  
18 provisions of subsections (h), (i), (j), (k), and (l) of this  
19 section shall apply to weeks of unemployment which begin after  
20 March 31, 1981, except the provisions of subsection (i), (j),  
21 and (k) shall not apply to claims for weeks of unemployment  
22 beginning after March 6, 1993, and before January 1, 1995.  
23 During this period, the provisions of this chapter applicable  
24 to claims for regular compensation shall apply. For weeks  
25 beginning on or after January 1, 1995, the provisions of  
26 subsections (i), (j), and (k) shall apply.

1                   "(m) Effect of receipt of trade readjustment  
2 allowances. Notwithstanding any other provisions of this  
3 section, if the benefit year of any individual ends within an  
4 extended benefit period, the remaining balance of extended  
5 benefits that such individual would, but for this subsection  
6 (m), be entitled to receive in that extended benefit period,  
7 with respect to weeks of unemployment beginning after the end  
8 of the benefit year, shall be reduced (but not below zero) by  
9 the product of the number of weeks for which the individual  
10 received any amounts as trade readjustment allowances within  
11 that benefit year, multiplied by the individual's weekly  
12 benefit amount for extended benefits."

13                   ~~Section 2. This act shall become effective on the~~  
14 ~~first day of the third month following its passage and~~  
15 ~~approval by the Governor, or its otherwise becoming law. This~~  
16 act shall become effective immediately following its passage  
17 and approval by the Governor, or its otherwise becoming law.



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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Commerce ..... 14-JAN-10

Read for the second time and placed  
on the calendar ..... 21-JAN-10

Read for the third time and passed  
as amended ..... 01-APR-10

Yeas 101, Nays 0, Abstains 0

Greg Pappas  
Clerk