

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ENROLLED, An Act,

To amend Sections 25-4-40.1 and 25-4-54, Code of Alabama 1975, relating to the Employment Security Enhancement Fund; to extend the expiration date of the special assessment; and to amend Section 24-4-75 of the Code of Alabama 1975, relating to allowing the extension of unemployment compensation benefits paid with federal funds; to repeal the expiration date.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 25-4-40.1, ~~and~~ 25-4-54, and 25-4-75, Code of Alabama 1975, are amended to read as follows:

"§25-4-40.1.

"(a) Retroactive to April 1, 1992, and ending September 30, ~~2010-2012~~ 2011, there is hereby placed upon all wages so defined in Section 25-4-16, paid to employees by employers subject to pay contributions as provided in Sections 25-4-51 and 25-4-54, except as is hereinafter provided in this section, a special assessment of 0.06% (six one-hundredths of one percent) of such wages. This assessment shall not apply to wages paid during any calendar quarter of any calendar year by any employer whose rate of contribution has been computed under the provisions of Section 25-4-54 to be at least 5.40% but not more than 5.45% for such calendar year, to any employer who for such calendar year has elected to make

1 payments in lieu of contributions pursuant to the provisions
2 contained in Section 25-4-51, nor to any employer who has not
3 had sufficient unemployment experience to qualify for a rate
4 determination under Section 25-4-54 for such calendar year.

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

13 "(2) The provisions of Sections 25-4-132 and
14 25-4-133, relating to the assessment of interest and penalties
15 for delinquent reporting or payments and the procedures for
16 the collection of delinquent reports and payments shall apply
17 to the assessment prescribed by this section. Any interest or
18 penalty so assessed and collected shall be deposited or
19 transferred to the Special Employment Security Administration
20 Fund provided for in subsection (b) of Section 25-4-142.

21 "(3) All moneys collected as assessments pursuant to
22 the provisions of this section shall be promptly deposited in
23 the clearing account of the Unemployment Compensation Fund
24 only for the purpose of transfer and, as soon as practicable

1 to do so, shall be transferred into the "Employment Security
 2 Enhancement Fund" in the State Treasury.

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

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

23 "(1) Special claimant assistance program.

24 "a. Moneys in this fund may be expended to
 25 supplement basic employment security services with special job

1 search and job placement assistance designed to assist
2 unemployment compensation claimants obtain employment.

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

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

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

1 "(3) If benefits paid to an individual are based on
2 wages paid by two or more employers, the amount of the
3 individual's benefit charges applicable to any one employer
4 shall be an amount which bears the same ratio to the total
5 benefit charges as the total base period wages paid by such
6 employer to the individual and used for the payment of
7 benefits bears to the total base period wages paid to the
8 individual by all his base period employers and used for the
9 payment of benefits.

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

16 "(c) Determination of employer benefit charges.

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

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

4 "(3) The director shall, after the close of each
5 calendar quarter, furnish each employer with a statement of
6 the benefits paid to his workers, or former workers, which
7 became his benefit charges in that calendar quarter, together
8 with the names of such workers, or former workers, and such
9 statement, in the absence of an application for a revision
10 thereof within 30 days of the mailing of such statement to the
11 employer's last known address, shall be conclusive and final
12 upon the employer for all purposes and in all proceedings
13 whatsoever. Such application for revision shall be in the form
14 and manner prescribed by regulation of the director. Upon
15 receipt of, within the time allowed, an application for
16 revision of such statement, the director shall allow such
17 application in whole or in part, or shall deny such
18 application and shall serve notice upon the employer of such
19 decision. Such decision of the director shall be final and
20 conclusive on the employer at the expiration of 30 days from
21 the date of service of such notice, unless the employer shall
22 within the 30-day period file with the director a written
23 protest and a petition for hearing, specifying his objections
24 thereto. Upon receipt of such petition the director shall fix
25 a time and place for a hearing and shall notify the employer

1 thereof. At any hearing held as herein provided, the decision
2 of the director shall be prima facie correct, and the burden
3 shall be upon the protesting employer to prove it is
4 incorrect. No employer shall have the right to object to the
5 benefit charges with respect to any worker as shown on such
6 statement, unless he shall first show that such charges arose
7 as a result of benefits paid to such worker in accordance with
8 a determination, or a redetermination, to which such employer
9 was a party entitled to notice thereof, as provided by Article
10 5 of this chapter, and shall further show that he was not
11 notified of such determination or redetermination in
12 accordance with the requirements of Article 5 of this chapter.
13 Nothing herein contained shall affect the right of any
14 employer at such hearing to object to such statement of
15 benefit charges on the ground that it is incorrect by reason
16 of a clerical error made by the director or any of his
17 employees. The employer shall be promptly notified by mail of
18 the director's decision. Such decision shall be final and
19 conclusive unless an appeal is taken therefrom in the manner
20 and within the time prescribed in subsection (h) of this
21 section.

22 "(4) Nothing contained in subdivision (3) of this
23 subsection (c) shall be construed as limiting or affecting in
24 any manner the right and authority of the director to remove
25 benefit charges from any employer's account upon discovering

1 or being aware of any such employer's workers or former
 2 workers having drawn benefits by reason of false
 3 representation of their earnings while filing claims for
 4 benefits nor to make any corrections resulting from any
 5 adjustment to benefits paid to the individual.

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

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

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

16 "c. The benefits are paid from the Alabama U.I.
 17 Trust Fund to claimants who would have been eligible for
 18 disaster unemployment assistance under this act, if they have
 19 not first received Alabama unemployment insurance benefits
 20 with respect to their unemployment.

21 "(d) Determination of employer benefit ratio.
 22 Effective January 1, 1997, and each year thereafter, the
 23 benefit ratio of each employer who qualifies for a rate
 24 determination under subdivision (a) (1) of this section and has
 25 been chargeable with benefits throughout the three most recent

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

21 "For tax rate year beginning January 1, 1991, the
22 employer's benefit ratio shall be determined by the employer's
23 actual benefit charges to his account for the fiscal year
24 ending September 30, 1990, and for fiscal years ending
25 September 30, 1988, and September 30, 1989, the employer's

1 benefit charges shall be determined from data accumulated by
2 the director during such years relative to benefit wage
3 charges and converted to benefit charges, in such manner as
4 the director shall prescribe.

5 "(e) Shared costs.

6 "(1) For the purposes of this subsection (e) and for
7 the determination of an employer's rate of contribution
8 pursuant to subsection (f), "shared" or "socialized" cost for
9 each fiscal year is defined to be:

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

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

21 "c. Credits granted employers during such fiscal
22 year because of the reason for separation (as provided in
23 Section 25-4-78), continued part-time work, as provided by
24 subdivision (b) (2) of this section, and relief from charges

1 granted an employer under the provisions of subdivision (c) (4)
2 of this section; and

3 "d. Benefit overpayments which have been declared
4 uncollectible or have been waived by the director during the
5 fiscal year pursuant to the applicable provisions of this
6 chapter; and

7 "e. Contributions due from employers but not paid
8 and which have been, during such fiscal year, declared
9 uncollectible by the bankruptcy courts or official action by
10 the director; and

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

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

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

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

22 "b. The total amount of the difference between the
23 contributions received from all employers during such fiscal
24 year who are assigned the minimum rate of contributions under
25 any one of the rate schedules for the calendar year next

1 following such fiscal year and the total of all benefit
2 charges made to all such minimum rated employers during the
3 same fiscal year.

4 "(4) To determine the "shared cost ratio" for any
5 fiscal year, the net shared cost for such fiscal year shall be
6 divided by the statewide total of taxable wages for the same
7 fiscal year which have been reported by all contributory
8 employers and upon which contributions have been timely paid
9 (reduced by the total of the taxable wages reported and timely
10 paid on by any employer or employers for the same fiscal year,
11 who by the provisions of subdivision (5) of this subsection
12 (e) are relieved of the shared cost assessment). The resulting
13 quotient adjusted to the nearest multiple of one-thousandth
14 shall be the "shared cost ratio" applicable for assessment to
15 all contributory employers for the next following calendar
16 year.

17 "(5)a. Except as is hereinafter provided, the shared
18 cost ratio as computed under the above provision for each
19 fiscal year shall, for the next calendar year, be assessed
20 each employer eligible for a rate determination under the
21 provision of subdivision (a)(1) of this section, in addition
22 to the rate of contributions determined by the tables
23 contained in subsection (f) of this section.

24 "1. Any employer whose rate of contribution has been
25 determined to be the minimum rate allowed under Schedule A for

1 a calendar year, shall be relieved of any shared cost
 2 assessment during that calendar year;

3 "2. Any employer whose rate of contribution has been
 4 determined to be the minimum rate allowed under Schedule B for
 5 a calendar year and whose experience rating account has not
 6 been charged with any benefits during the three immediately
 7 preceding fiscal years, shall be relieved of any shared cost
 8 assessment for that calendar year;

9 "3. No relief shall be granted to any employer for
 10 any portion of the shared cost assessment for a calendar year
 11 when either Schedule C or D is in effect.

12 "b. The assessment for shared costs shall become due
 13 and payable at the same time and in the same manner as
 14 contributions.

15 "c. The authority of the director to enforce
 16 collection of any shared cost assessment shall be the same as
 17 is provided in this chapter for the enforcement of the
 18 collections of contributions.

19 "(f) Notice of contribution rate, etc.; maximum
 20 rate. The contribution rates (expressed as a percentage of
 21 taxable wages) for each employer, as provided in subsection
 22 (a) of this section, shall be determined by the director and
 23 the director shall notify each employer of his benefit ratio
 24 and his contribution rate no later than 31 days after the ef-
 25 fective date of such rate. Such employer contribution rate for

1 the tax rate years beginning January 1, 1991, shall be deter-
 2 mined from the appropriate rate schedule prescribed for that
 3 tax rate year by the provisions of subsection (g) of this sec-
 4 tion and shall be the rate which appears on the same horizon-
 5 tal line on which is found the employer's benefit ratio.

6 TAX RATE TABLE

7 EMPLOYER TAX RATE SCHEDULE:

8

9	LINE	IF THE EM-				
10	NO.	PLOYER'S BEN-				
		EFIT RATIO	A	B	C	D
		IS:				
11	1	0.00-0.39	0.20	0.35	0.50	0.65
12	2	0.40-0.59	0.35	0.50	0.65	0.80
13	3	0.60-0.79	0.50	0.70	0.90	1.00
14	4	0.80-0.99	0.70	0.90	1.10	1.20
15	5	1.00-1.19	0.85	1.10	1.30	1.40
16	6	1.20-1.39	1.00	1.30	1.55	1.65
17	7	1.40-1.59	1.15	1.50	1.75	1.90

HB279

1	8	1.60-1.79	1.30	1.70	1.95	2.15
2	9	1.80-1.99	1.45	1.90	2.15	2.40
3	10	2.00-2.19	1.60	2.10	2.40	2.65
4	11	2.20-2.39	1.75	2.30	2.60	2.85
5	12	2.40-2.59	1.90	2.50	2.80	3.10
6	13	2.60-2.79	2.05	2.70	3.05	3.35
7	14	2.80-2.99	2.20	2.90	3.25	3.60
8	15	3.00-3.19	2.35	3.10	3.50	3.85
9	16	3.20-3.59	2.50	3.40	3.80	4.20
10	17	3.60-3.99	2.80	3.80	4.25	4.70
11	18	4.00-4.39	3.10	4.20	4.70	5.20
12	19	4.40-4.79	3.40	4.60	5.10	5.70
13	20	4.80-5.19	3.70	5.00	5.50	6.20
14	21	5.20-5.59	4.00	5.40	6.00	6.70
15	22	5.60-5.99	4.30	5.40	6.00	6.70
16	23	6.00-6.39	4.60	5.40	6.10	6.80
17	24	6.40-6.79	4.90	5.40	6.10	6.80
18	25	6.80-7.19	5.20	5.40	6.10	6.80
19	26	7.20 or over	5.40	5.40	6.10	6.80

1	1.20	1.14
2	1.30	1.24
3	1.40	1.34
4	1.45	1.39
5	1.50	1.44
6	1.55	1.49
7	1.60	1.54
8	1.65	1.59
9	1.70	1.64
10	1.75	1.69
11	1.90	1.84
12	1.95	1.89
13	2.05	1.99
14	2.10	2.04
15	2.15	2.09
16	2.20	2.14
17	2.30	2.24
18	2.35	2.29
19	2.40	2.34
20	2.50	2.44

1	2.60	2.54
2	2.65	2.59
3	2.70	2.64
4	2.80	2.74
5	2.85	2.79
6	2.90	2.84
7	3.05	2.99
8	3.10	3.04
9	3.25	3.19
10	3.35	3.29
11	3.40	3.34
12	3.50	3.44
13	3.60	3.54
14	3.70	3.64
15	3.80	3.74
16	3.85	3.79
17	4.00	3.94
18	4.20	4.14
19	4.25	4.19
20	4.30	4.24

1	4.60	4.54
2	4.70	4.64
3	4.90	4.84
4	5.00	4.94
5	5.10	5.04
6	5.20	5.14
7	5.40	5.40
8	5.50	5.44
9	5.70	5.64
10	6.00	5.94
11	6.10	6.04
12	6.20	6.14
13	6.70	6.64
14	6.80	6.74

15 "The adjustment in rates of contributions as are
16 herein provided shall apply only to those employers who are
17 required to pay contributions by the provisions of Section
18 25-4-51 and those nonprofit organizations, hospitals,
19 educational institutions, agencies of the State of Alabama,
20 and political subdivisions of the state who have, under the

1 option permitted by Section 25-4-51, for that calendar year
2 elected to pay contributions. The adjustment shall not apply
3 to any employer who, because of insufficient unemployment
4 experience, has not become eligible to have his rate of
5 contribution determined by the method prescribed under this
6 subsection (f); whose rate of contribution is determined to be
7 5.4 percent, or is above 5.4 percent and by the application of
8 the adjustment would become a rate less than 5.4 percent; and
9 all employers who being eligible for such option have elected
10 the option to make payments in lieu of contributions.

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

15 "(1) The "benefits payroll ratio" of the state for
16 each fiscal year shall be determined by dividing the total of
17 benefits paid, including the state's portion of benefits paid
18 under any extended benefit program, from the unemployment
19 compensation fund within the preceding fiscal year, less any
20 benefits paid for which payments in lieu of contributions have
21 been paid or are currently due to be paid, by the statewide
22 total payrolls of all employers upon which contributions on
23 the taxable portion thereof have been paid during the same
24 fiscal year, and by adjusting the quotient to the nearest
25 multiple of one-thousandth.

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

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

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

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

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

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

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

15 "(5) The director shall notify each employer of such
16 declaration and of his benefit ratio and his contribution rate
17 no later than 31 days after the effective date of the
18 contribution rate. This subdivision (5) shall not apply to
19 employers who, in lieu of contributions, reimburse the fund
20 for benefits paid.

21 "(h) Review of contribution rate, etc. Any employer
22 may apply to the director for and shall be entitled to a
23 review as to the determination of his benefit ratio and his
24 contribution rate as fixed by his benefit ratio, provided such
25 application is filed within 30 days of the date of the mailing

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

16 "(i) Contribution rate, etc., of successor employer.
17 For the purpose of this section, an employer's benefit charges
18 and that part of his taxable payroll with respect to which
19 contributions have been paid, shall be deemed benefit charges
20 and taxable payrolls of a successor employer and shall be
21 taken into account in determining the contribution rate of
22 such successor employer as provided in subsection (f) of this
23 section, if such successor succeeds the employer in any of the
24 manners set out in paragraph (a) (4)a of Section 25-4-8;
25 provided, that an employer subject to this chapter who becomes

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

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

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

24 "§25-4-75.

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

5 "(b) Definitions. As used in this section, unless
6 the context clearly requires otherwise, the following terms
7 shall mean:

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

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

11 "b. Ends with either of the following weeks,
12 whichever occurs later:

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

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

20 "3. The eligibility period for the payment of
21 extended benefits using the total unemployment rate begins on
22 or after February 1, 2009, and ends ~~on or before December 5,~~
23 ~~2009,~~ or four weeks prior to the last week for which 100
24 percent federal sharing funding is available under Section
25 2005(a) of Public Law No. 111-5, without regard to the

1 extension of federal sharing for certain claims as provided
 2 under Section 2005(c) of such law.

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

10 "a. For any weeks beginning prior to September 26,
 11 1982, equaled or exceeded that required by this section prior
 12 to such date.

13 "b. For any week beginning on September 26, 1982, or
 14 thereafter:

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

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

1 wages and/or employment that were not considered in the
2 original monetary determination in his benefit year, he may
3 subsequently be determined to be entitled to added regular
4 benefits; or

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

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

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

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

23 "(c) Effect of state law provisions relating to
24 regular benefits on claims for, and the payment of, extended
25 benefits. Except when the result would be inconsistent with

1 the other provisions of this section, as provided in the
2 regulations of the director, the provisions of this chapter
3 which apply to claims for, or the payment of, regular benefits
4 shall apply to claims for, and the payment of, extended
5 benefits.

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

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

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

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

23 "(f) Total extended benefit amount. The total
24 extended benefit amount payable to any eligible individual

1 with respect to his applicable benefit year shall be the
2 lesser of the following amounts:

3 "(1) 50 percent, rounded to the nearest multiple of
4 \$1, of the total amount of regular benefits which were payable
5 to him under this chapter in his applicable benefit year; or

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

9 "(3) Effective with respect for weeks in a high
10 unemployment period, the total extended benefit amounts shall
11 be applied by substituting "80 percent" for "50 percent" in
12 subdivision (1) and "Twenty" for "Thirteen" in subdivision
13 (2).

14 "(g) Beginning and termination of extended benefit
15 period.

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

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

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

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

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

10 "b. No extended benefit period is in effect for such
11 week in such state.

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

18 "(i) Restrictions on entitlement during eligibility
19 period.

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

24 "a. during which he fails to accept any offer of
25 suitable work as defined in subdivision (i) (3) or fails to

1 apply for any such suitable work to which he was referred by
2 the director; or

3 "b. during which he fails to actively seek work,
4 except as provided in subdivision (a) (5) of Section 25-4-77,
5 but only with regard to the exception for the appearance for
6 jury duty as provided therein.

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

11 "a. begins with the week following the week in which
12 such failure occurs and

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

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

1 suitable work shall be made in accordance with other
2 provisions of this chapter.

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

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

9 "1. the individual's extended weekly benefit amount
10 for the benefit year plus

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

14 "b. if the position was not offered to such
15 individual in writing or was not listed with the state
16 employment service;

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

21 "d. if the position pays wages less than the higher
22 of the minimum wages provided under Section 6 (a)(1) of the
23 Fair Labor Standards Act of 1938, as amended, without regard
24 to any exemption or the applicable state or local minimum
25 wage, if any.

1 "(5) For purposes of this subsection (i), an
 2 individual shall be treated as actively engaged in seeking
 3 work during any week if the individual has engaged in a
 4 systematic and sustained effort to obtain work during such
 5 week, and provides tangible evidence to the director that he
 6 has engaged in such effort during such week.

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

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

23 "(l) Effective date of added provisions. The
 24 provisions of subsections (h), (i), (j), (k), and (l) of this
 25 section shall apply to weeks of unemployment which begin after

1 March 31, 1981, except the provisions of subsection (i), (j),
2 and (k) shall not apply to claims for weeks of unemployment
3 beginning after March 6, 1993, and before January 1, 1995.
4 During this period, the provisions of this chapter applicable
5 to claims for regular compensation shall apply. For weeks
6 beginning on or after January 1, 1995, the provisions of
7 subsections (i), (j), and (k) shall apply.

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

20 Section 2. This act shall become effective on the
21 first day of the third month following its passage and
22 approval by the Governor, or its otherwise becoming law. This
23 act shall become effective immediately following its passage
24 and approval by the Governor, or its otherwise becoming law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 01-APR-10, as amended.

Greg Pappas
Clerk

Senate

14-APR-10

Passed