

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

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8 SYNOPSIS: Under current law, the expiration date of  
9 the special assessment used to fund the Employment  
10 Security Enhancement Fund is September 30, 2010.

11 This bill would extend the expiration date  
12 of the special assessment until September 30, 2012.

13  
14 A BILL  
15 TO BE ENTITLED  
16 AN ACT

17  
18 To amend Sections 25-4-40.1 and 25-4-54, Code of  
19 Alabama 1975, relating to the Employment Security Enhancement  
20 Fund; to extend the expiration date of the special assessment.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

24 "§25-4-40.1.

25 "(a) Retroactive to April 1, 1992, and ending  
26 September 30, ~~2010~~ 2012, there is hereby placed upon all wages  
27 so defined in Section 25-4-16, paid to employees by employers

1 subject to pay contributions as provided in Sections 25-4-51  
2 and 25-4-54, except as is hereinafter provided in this  
3 section, a special assessment of 0.06% (six one-hundredths of  
4 one percent) of such wages. This assessment shall not apply to  
5 wages paid during any calendar quarter of any calendar year by  
6 any employer whose rate of contribution has been computed  
7 under the provisions of Section 25-4-54 to be at least 5.40%  
8 but not more than 5.45% for such calendar year, to any  
9 employer who for such calendar year has elected to make  
10 payments in lieu of contributions pursuant to the provisions  
11 contained in Section 25-4-51, nor to any employer who has not  
12 had sufficient unemployment experience to qualify for a rate  
13 determination under Section 25-4-54 for such calendar year.

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

22 "(2) The provisions of Sections 25-4-132 and  
23 25-4-133, relating to the assessment of interest and penalties  
24 for delinquent reporting or payments and the procedures for  
25 the collection of delinquent reports and payments shall apply  
26 to the assessment prescribed by this section. Any interest or  
27 penalty so assessed and collected shall be deposited or

1 transferred to the Special Employment Security Administration  
2 Fund provided for in subsection (b) of Section 25-4-142.

3 "(3) All moneys collected as assessments pursuant to  
4 the provisions of this section shall be promptly deposited in  
5 the clearing account of the Unemployment Compensation Fund  
6 only for the purpose of transfer and, as soon as practicable  
7 to do so, shall be transferred into the "Employment Security  
8 Enhancement Fund" in the State Treasury.

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

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

4           "(1) Special claimant assistance program.

5           "a. Moneys in this fund may be expended to  
6           supplement basic employment security services with special job  
7           search and job placement assistance designed to assist  
8           unemployment compensation claimants obtain employment.

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

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

25          "d. All members of this committee shall serve  
26          without remuneration, however, shall be reimbursed for any and  
27          all necessary expenses incurred during the performance of

1 their duties in the same manner and under the same regulations  
2 as apply to state employees. Such expenses are to be paid from  
3 the Employment Security Enhancement Fund.

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

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

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

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

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

27 "§25-4-54.

1           "(a) Determination of contribution rates.

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

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

23           "(b) Determination of individual benefit charges.

24           "(1) An individual's "benefit charges" shall be as  
25 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  
27 individual's benefit charges applicable to any one employer



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

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

13 "(c) Determination of employer benefit charges.

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

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

25 "(3) The director shall, after the close of each  
26 calendar quarter, furnish each employer with a statement of  
27 the benefits paid to his workers, or former workers, which

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

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

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

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

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

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

6            "c. The benefits are paid from the Alabama U.I.  
7 Trust Fund to claimants who would have been eligible for  
8 disaster unemployment assistance under this act, if they have  
9 not first received Alabama unemployment insurance benefits  
10 with respect to their unemployment.

11            "(d) Determination of employer benefit ratio.  
12 Effective January 1, 1997, and each year thereafter, the  
13 benefit ratio of each employer who qualifies for a rate  
14 determination under subdivision (a)(1) of this section and has  
15 been chargeable with benefits throughout the three most recent  
16 preceding fiscal years shall be a percentage obtained by  
17 dividing the total of his benefit charges for such three-year  
18 period by that part of his total taxable payroll for the same  
19 three-year period with respect to which contributions have  
20 been paid on or before July 31, next following such period,  
21 and the benefit ratio of each employer who qualifies for a  
22 rate determination under subdivision (a)(1) of this section,  
23 but who has not been subject to this chapter for a period of  
24 time sufficient to have been chargeable with benefits  
25 throughout the three most recent preceding fiscal years, shall  
26 be a percentage obtained by dividing the total of his benefit  
27 charges for the period throughout which he has been

1 chargeable, such period to be not less than the most recent  
2 preceding fiscal year by that part of his total taxable  
3 payroll for the same period with respect to which  
4 contributions have been paid on or before July 31 next  
5 following such period. The employers benefit ratio shall be  
6 computed to the fourth decimal and be used in determining each  
7 employer's contribution rate as prescribed in subsection (a)  
8 of this section for the next calendar year; except that:

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

18 "(e) Shared costs.

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

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

1            "b. The total amount of the difference between the  
2 benefit charges to all employers during the fiscal year who  
3 are assigned the maximum rate of contribution under any one of  
4 the rate schedules for the calendar year next following such  
5 fiscal year and the total amount of contributions received  
6 from all such maximum rated employers during the same fiscal  
7 year; and

8            "c. Credits granted employers during such fiscal  
9 year because of the reason for separation (as provided in  
10 Section 25-4-78), continued part-time work, as provided by  
11 subdivision (b) (2) of this section, and relief from charges  
12 granted an employer under the provisions of subdivision (c) (4)  
13 of this section; and

14           "d. Benefit overpayments which have been declared  
15 uncollectible or have been waived by the director during the  
16 fiscal year pursuant to the applicable provisions of this  
17 chapter; and

18           "e. Contributions due from employers but not paid  
19 and which have been, during such fiscal year, declared  
20 uncollectible by the bankruptcy courts or official action by  
21 the director; and

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

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

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

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

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

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

26           "(5)a. Except as is hereinafter provided, the shared  
27 cost ratio as computed under the above provision for each

1 fiscal year shall, for the next calendar year, be assessed  
2 each employer eligible for a rate determination under the  
3 provision of subdivision (a)(1) of this section, in addition  
4 to the rate of contributions determined by the tables  
5 contained in subsection (f) of this section.

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

10 "2. Any employer whose rate of contribution has been  
11 determined to be the minimum rate allowed under Schedule B for  
12 a calendar year and whose experience rating account has not  
13 been charged with any benefits during the three immediately  
14 preceding fiscal years, shall be relieved of any shared cost  
15 assessment for that calendar year;

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

19 "b. The assessment for shared costs shall become due  
20 and payable at the same time and in the same manner as  
21 contributions.

22 "c. The authority of the director to enforce  
23 collection of any shared cost assessment shall be the same as  
24 is provided in this chapter for the enforcement of the  
25 collections of contributions.

26 "(f) Notice of contribution rate, etc.; maximum  
27 rate. The contribution rates (expressed as a percentage of



1 taxable wages) for each employer, as provided in subsection  
2 (a) of this section, shall be determined by the director and  
3 the director shall notify each employer of his benefit ratio  
4 and his contribution rate no later than 31 days after the ef-  
5 fective date of such rate. Such employer contribution rate for  
6 the tax rate years beginning January 1, 1991, shall be deter-  
7 mined from the appropriate rate schedule prescribed for that  
8 tax rate year by the provisions of subsection (g) of this sec-  
9 tion and shall be the rate which appears on the same horizon-  
10 tal line on which is found the employer's benefit ratio.

11 TAX RATE TABLE

12 EMPLOYER TAX RATE SCHEDULE:

13

14	LINE	IF THE				
15	NO.	EMPLOYER'S				
16		BENEFIT RATIO	A	B	C	D
16	1	0.00-0.39	0.20	0.35	0.50	0.65
17	2	0.40-0.59	0.35	0.50	0.65	0.80
18	3	0.60-0.79	0.50	0.70	0.90	1.00
19	4	0.80-0.99	0.70	0.90	1.10	1.20

1	5	1.00-1.19	0.85	1.10	1.30	1.40
2	6	1.20-1.39	1.00	1.30	1.55	1.65
3	7	1.40-1.59	1.15	1.50	1.75	1.90
4	8	1.60-1.79	1.30	1.70	1.95	2.15
5	9	1.80-1.99	1.45	1.90	2.15	2.40
6	10	2.00-2.19	1.60	2.10	2.40	2.65
7	11	2.20-2.39	1.75	2.30	2.60	2.85
8	12	2.40-2.59	1.90	2.50	2.80	3.10
9	13	2.60-2.79	2.05	2.70	3.05	3.35
10	14	2.80-2.99	2.20	2.90	3.25	3.60
11	15	3.00-3.19	2.35	3.10	3.50	3.85
12	16	3.20-3.59	2.50	3.40	3.80	4.20
13	17	3.60-3.99	2.80	3.80	4.25	4.70
14	18	4.00-4.39	3.10	4.20	4.70	5.20
15	19	4.40-4.79	3.40	4.60	5.10	5.70
16	20	4.80-5.19	3.70	5.00	5.50	6.20
17	21	5.20-5.59	4.00	5.40	6.00	6.70
18	22	5.60-5.99	4.30	5.40	6.00	6.70
19	23	6.00-6.39	4.60	5.40	6.10	6.80
20	24	6.40-6.79	4.90	5.40	6.10	6.80
21	25	6.80-7.19	5.20	5.40	6.10	6.80
22	26	7.20 or over	5.40	5.40	6.10	6.80



1	1.40	1.34
2	1.45	1.39
3	1.50	1.44
4	1.55	1.49
5	1.60	1.54
6	1.65	1.59
7	1.70	1.64
8	1.75	1.69
9	1.90	1.84
10	1.95	1.89
11	2.05	1.99
12	2.10	2.04
13	2.15	2.09
14	2.20	2.14
15	2.30	2.24
16	2.35	2.29
17	2.40	2.34
18	2.50	2.44
19	2.60	2.54
20	2.65	2.59
21	2.70	2.64
22	2.80	2.74

1	2.85	2.79
2	2.90	2.84
3	3.05	2.99
4	3.10	3.04
5	3.25	3.19
6	3.35	3.29
7	3.40	3.34
8	3.50	3.44
9	3.60	3.54
10	3.70	3.64
11	3.80	3.74
12	3.85	3.79
13	4.00	3.94
14	4.20	4.14
15	4.25	4.19
16	4.30	4.24
17	4.60	4.54
18	4.70	4.64
19	4.90	4.84
20	5.00	4.94
21	5.10	5.04
22	5.20	5.14

1	5.40	5.40
2	5.50	5.44
3	5.70	5.64
4	6.00	5.94
5	6.10	6.04
6	6.20	6.14
7	6.70	6.64
8	6.80	6.74

9           "The adjustment in rates of contributions as are  
10 herein provided shall apply only to those employers who are  
11 required to pay contributions by the provisions of Section  
12 25-4-51 and those nonprofit organizations, hospitals,  
13 educational institutions, agencies of the State of Alabama,  
14 and political subdivisions of the state who have, under the  
15 option permitted by Section 25-4-51, for that calendar year  
16 elected to pay contributions. The adjustment shall not apply  
17 to any employer who, because of insufficient unemployment  
18 experience, has not become eligible to have his rate of  
19 contribution determined by the method prescribed under this  
20 subsection (f); whose rate of contribution is determined to be  
21 5.4 percent, or is above 5.4 percent and by the application of  
22 the adjustment would become a rate less than 5.4 percent; and  
23 all employers who being eligible for such option have elected  
24 the option to make payments in lieu of contributions.

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

5           "(1) The "benefits payroll ratio" of the state for  
6           each fiscal year shall be determined by dividing the total of  
7           benefits paid, including the state's portion of benefits paid  
8           under any extended benefit program, from the unemployment  
9           compensation fund within the preceding fiscal year, less any  
10          benefits paid for which payments in lieu of contributions have  
11          been paid or are currently due to be paid, by the statewide  
12          total payrolls of all employers upon which contributions on  
13          the taxable portion thereof have been paid during the same  
14          fiscal year, and by adjusting the quotient to the nearest  
15          multiple of one-thousandth.

16          "(2) The desired level of unemployment compensation  
17          fund for each fiscal year shall be one and four-tenths times  
18          the amount determined by multiplying the highest statewide  
19          total of payrolls of all employers upon which contributions on  
20          the taxable portion thereof have been paid during any one of  
21          the three most recent preceding fiscal years by the highest  
22          benefits payroll ratio for any one of the 10 most recent  
23          preceding fiscal years.

24          "(3) The director shall, on or before the December 1  
25          next following the end of each fiscal year, declare effective  
26          for the 12-month period beginning with January 1 of the  
27          immediately succeeding calendar year, the desired level of the

1 fund and the schedule to be in effect for that 12-month  
2 period. The contribution rate for each employer for the next  
3 calendar year shall be determined by the director as provided  
4 in subsection (f) of this section on the basis of each  
5 employer's benefit ratio as determined under the provisions of  
6 subsection (d) of this section; and whenever at the end of any  
7 fiscal year, the fund balance is:

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

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

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

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

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



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

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

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

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

23           "(2) Furnishes to the director within 120 calendar  
24 days from the date of such acquisition a transcript of such  
25 total and taxable payrolls which correspond to the segregable  
26 portion acquired from his predecessor; provided further that  
27 in the event that within the intervening 120 days a notice of

1 his rate of contribution has been mailed to the partial  
2 successor, the 30-day finality provision set forth in  
3 subsection (h) of this section shall not prevail but, instead,  
4 be effective with respect to the subsequent notice computed on  
5 the basis of the benefit ratio and taxable payrolls of the  
6 acquired segregable portion."

7 Section 2. This act shall become effective on the  
8 first day of the third month following its passage and  
9 approval by the Governor, or its otherwise becoming law.