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3 HOUSE COMMERCE AND SMALL BUSINESS COMMITTEE SUBSTITUTE FOR
4 SB92, AS ENGROSSED

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9 SYNOPSIS: Under existing law, the maximum amount of
10 unemployment benefits payable to an individual in a
11 benefit year is the lesser of 26 times the
12 individual's weekly benefit amount or one-third of
13 the wages paid to the individual for insured work
14 during his or her base period.

15 This bill would revise the maximum amount of
16 unemployment benefits payable to an individual in a
17 benefit year contingent on the state's average
18 unemployment rate, but in no event would the
19 maximum amount of benefits exceed the lesser of 20
20 times the individual's weekly benefit amount or
21 one-fourth of the wages paid during his or her base
22 period.

23 This bill would revise the maximum weekly
24 unemployment benefit amount to an amount that is an
25 equal division of the current weeks compensated of
26 the average of the wages for insured work paid to
27 the individual during the two quarters of his or

1 her base period in which the total wages were the
2 highest.

3 This bill would revise the reductions in
4 unemployment benefit amounts due to
5 disqualification in certain circumstances.

6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to unemployment benefits, to amend Sections
12 25-4-72, 25-4-74, and 25-4-78, Code of Alabama 1975, to revise
13 the maximum amount of unemployment benefits payable to an
14 individual contingent on the state's average unemployment
15 rate; to revise the maximum weekly unemployment benefit
16 amount; and to revise the terms of losing unemployment
17 benefits due to disqualification.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Sections 25-4-72, 25-4-74, and 25-4-78,
20 Code of Alabama 1975, is amended to read as follows:

21 "§25-4-72.

22 "(a) For weeks of unemployment during benefit years
23 which begin before the effective date of subsection (b) of
24 this section, an individual's weekly benefit amount shall be
25 as prescribed by this section as amended through July 6, 1997.

26 "(b) For weeks of unemployment during benefit years
27 beginning on or after July 2, 2006, an individual's weekly

1 benefit amount shall be an amount ~~equal to one twenty-sixth of~~
2 ~~the average~~ based on an equal division of the current weeks
3 compensated of the wages for insured work paid to the
4 individual during the two quarters of his or her base period
5 in which the total wages were the highest; except, that:

6 "(1) If the amount thus derived is not a multiple of
7 one dollar (\$1), fractional parts of one dollar (\$1) in excess
8 of fifty cents (\$.50) shall be rounded to the next higher
9 multiple of one dollar (\$1) and fractional parts of one dollar
10 (\$1) which are fifty cents (\$.50) or less shall be dropped to
11 the next lower multiple of one dollar (\$1).

12 "(2) If the amount derived before the application of
13 subdivision (1) of this subsection is not in excess of
14 forty-four dollars fifty cents (\$44.50), there shall be no
15 weekly benefit amount.

16 "(3) Effective with benefit years beginning on or
17 after July 6, 2008, if the amount thus derived is more than
18 two hundred fifty-four dollars fifty cents (\$254.50), the
19 weekly maximum benefit amount shall be two hundred fifty-five
20 dollars (\$255).

21 "(4) Effective with benefit years beginning on or
22 after July 5, 2009, if the amount thus derived is more than
23 two hundred sixty-four dollars fifty cents (\$264.50), the
24 weekly maximum benefit shall be two hundred sixty-five dollars
25 (\$265).

26 "(5) Effective with benefit years beginning on or
27 after January 1, 2019, if the amount thus derived is more than

1 two hundred seventy-four dollars fifty cents (\$274.50), the
2 weekly maximum benefit shall be two hundred seventy-five
3 dollars (\$275).

4 "(c) If, as a condition for approval of this section
5 for full tax credit against the tax imposed by the federal
6 Unemployment Tax Act, federal law should require a greater
7 maximum weekly benefit amount than that provided herein, then
8 the maximum weekly benefit amount shall be the minimum
9 required by any such federal law for such approval.

10 "(d) Nothing herein shall serve to deprive any
11 individual of any benefit for which he or she had qualified in
12 any benefit year beginning prior to the effective date of the
13 provisions of subsection (b) of this section.

14 "(e) There is hereby appropriated out of funds made
15 available to this state under Section 903 of the Social
16 Security Act, as amended by Title II, Section 209, "Special
17 Reed Act Transfer in Fiscal Year 2002," of the "Temporary
18 Extended Unemployment Compensation Act of 2002," as contained
19 in the "Job Creation and Worker Assistance Act of 2002," an
20 amount not to exceed 15 percent of the funds, or so much
21 thereof to be used as may be necessary, under the direction of
22 the State of Alabama, Department of Labor, for the expenses
23 incurred for the administration of this state's unemployment
24 compensation law and public employment offices.
25 Notwithstanding the foregoing, the additional amount of up to
26 \$7,940,119 of "Reed Act" funds may be withdrawn from the
27 Unemployment Compensation Trust Fund and used for

1 administrative purposes from May 29, 2008, until September 30,
2 2009. Furthermore, whatever amount is withdrawn during this
3 time period, that amount shall not change the Employer Tax
4 Schedules pursuant to Section 25-4-54 for the calendar year
5 beginning January 1, 2010.

6 "§25-4-74.

7 "(a) Any otherwise eligible individual shall be
8 entitled during any benefit year, beginning on or after July
9 3, 1983, to a total amount of benefits equal to whichever is
10 the lesser of ~~26~~ 14 times his or her weekly benefit amount, if
11 the state's average unemployment rate is at or below 6.5
12 percent, with an additional weekly benefit amount added for
13 each 0.5 percent increase in the state's average unemployment
14 rate above 6.5 percent up to a maximum of 20 times his or her
15 weekly benefit amount if the state's average unemployment rate
16 equals or exceeds 9.5 percent, and ~~one-third~~ one-fourth of the
17 wages paid to him or her for insured work during his or her
18 base period; provided, that such total amounts of benefits, if
19 not a multiple of \$1.00, shall be computed to the nearest
20 multiple of \$1.00.

21 "(b) For the purpose of this article, wages shall be
22 counted as "wages for insured work" with respect to any
23 benefit year only if ~~such~~ the wages were paid in the base
24 period immediately preceding ~~such~~ the benefit year; except,
25 that any lump sum payment of wages in lieu of notice,
26 dismissal, or severance allowance or "back pay" award shall be
27 prorated over the period or periods with respect to which ~~such~~

1 the payment is made and treated as though it had been paid in
2 ~~such~~ the period or periods.

3 "(c) In determining an individual's benefit rights,
4 remuneration payable but unpaid to ~~such~~ the individual shall,
5 to the extent that regulations promulgated by the secretary
6 prescribe, be deemed to be "wages paid" to ~~such~~ the
7 individual.

8 "(d) As used in this section, the term "state's
9 average unemployment rate" means the average of the three
10 months for the most recent third calendar quarter of the
11 seasonably adjusted statewide unemployment rate as published
12 by the Alabama Department of Labor.

13 ~~"(b)~~ (e) For benefit years beginning prior to July
14 3, 1983, any otherwise eligible individual shall be entitled
15 to a total amount of benefits as was provided in this section
16 prior to ~~such~~ that date.

17 "(f) Any otherwise eligible individual shall be
18 entitled during the current benefit year to an additional five
19 weeks after all regular benefits have exhausted under
20 subsection (a) of this section, and is enrolled and making
21 satisfactory progress in a job training or certification
22 program approved by the Alabama Department of Labor. Each
23 approved training program shall prepare individuals for entry
24 into a high wage, high demand occupation.

25 "(1) The amount of benefits payable under this
26 subsection shall equal the weekly benefit amount established
27 by the most recent benefit year.

1 "(2) Such compensation is not required to be paid to
2 an individual who is receiving similar benefits or other
3 training allowances from other unrelated sources.

4 "§25-4-78.

5 "An individual shall be disqualified for total or
6 partial unemployment for any of the following:

7 "(1) LABOR DISPUTE IN PLACE OF EMPLOYMENT. For any
8 week in which ~~his~~ an individual's total or partial
9 unemployment is directly due to a labor dispute still in
10 active progress in the establishment in which he or she is or
11 was last employed. For the purposes of this section only, the
12 term labor dispute includes any controversy concerning terms,
13 tenure, or conditions of employment, or concerning the
14 association or representation of persons in negotiating,
15 fixing, maintaining, changing, or seeking to arrange terms or
16 conditions of employment, regardless of whether the disputants
17 stand in the proximate relation of employer and employee. This
18 definition shall not relate to a dispute between an individual
19 worker and his or her employer.

20 "(2) VOLUNTARILY QUITTING WORK. If ~~he~~ an individual
21 has left his or her most recent bona fide work voluntarily
22 without good cause connected with such work.

23 "a.1. However, ~~he~~ the individual shall not be
24 disqualified if he or she was forced to leave work because he
25 or she was sick or disabled, notified his or her employer of
26 the fact as soon as it was reasonably practicable so to do,
27 and returned to that employer and offered himself or herself

1 for work as soon as he or she was again able to work;
2 provided, however, this exception shall not apply if the
3 employer had an established leave-of-absence policy covering
4 sickness or disability and:

5 "(i) The individual fails to comply with same as
6 soon as it is reasonably practicable so to do; or

7 "(ii) Upon the expiration of a leave of absence
8 shall fail to return to the employer and offer himself or
9 herself for work, if ~~he~~ the individual shall then be able to
10 work, or if ~~he~~ the individual is not then able to work, he or
11 she fails to so notify his or her employer of that fact and
12 request an extension of his or her leave of absence as soon as
13 it is reasonably practicable so to do.

14 "2. In case of doubt that an individual was sick or
15 disabled, or as to the duration of any such sickness or
16 disability, the secretary may, or if the employer requests it,
17 the secretary shall require a doctor's certificate to
18 establish the fact or facts in doubt.

19 "3. An established leave-of-absence policy shall be
20 any leave-of-absence policy covering sickness and disability
21 communicated to the employee by the customary means used by
22 the employer for communicating with his or her employees.

23 "4. Nothing herein shall be construed or interpreted
24 as authorizing the payment of benefits to any ~~person~~
25 individual during, or for, unemployment due to sickness or
26 disability or during any period in which he or she is on a
27 leave of absence granted in accordance with an established

1 leave-of-absence policy, the duration of which leave was set
2 in accordance with ~~his~~ the individual's request or in
3 accordance with a collective bargaining agreement; except,
4 that if such leave of absence is on account of pregnancy and
5 extends beyond the tenth week following termination of such
6 pregnancy, the individual shall not be denied benefits under
7 the provisions of this subdivision (2) beyond such tenth week
8 if she has given the employer three weeks' notice of her
9 desire to return to work, is then able to work and has not
10 refused reinstatement to a job which under the provisions of
11 subdivision (5) of this section would be deemed suitable for
12 her.

13 "b. When an individual is disqualified under this
14 subdivision (2):

15 "1. He or she shall not be entitled to benefits for
16 the week in which the disqualifying event occurs or for any
17 week thereafter until:

18 "(i) He or she has reentered insured employment or
19 employment of the nature described in subdivisions (5), (6),
20 (7), (8), (9), (10), or (18) of subsection (b) of Section
21 25-4-10; and

22 "(ii) For which employment he or she has earned
23 wages equal to at least 10 times his or her weekly benefit
24 amount for the benefit year in which such disqualification is
25 assessed; and

26 "(iii) He or she has been separated from such
27 employment under nondisqualifying conditions.

1 "2. The total amount of benefits to which ~~he~~ the
2 individual may otherwise be entitled as determined in
3 accordance with Sections 25-4-74 and 25-4-75 shall be reduced
4 by an amount equal to not less than ~~six~~ three nor more than ~~12~~
5 nine times his or her weekly benefit amount.

6 "3. For the purpose of the experience rating
7 provisions of Section 25-4-54, no portion of the benefits
8 payable to ~~him~~ the individual, based upon wages paid to him or
9 her for the period of employment ending with the separation to
10 which the disqualification applies, shall be charged to the
11 employer's experience rating account. If the individual has
12 been separated from employment other than his or her most
13 recent bona fide work under conditions which would have been
14 disqualifying under this subdivision (2) had the separation
15 been from his or her most recent bona fide work and the
16 employer answers a notice of payment within 15 days after it
17 is mailed to ~~him~~ the individual detailing the facts in
18 connection with the separation, then no portion of any
19 benefits paid to him or her based upon wages for the period of
20 employment ending in such separation shall be charged to the
21 employer's experience rating account.

22 "4. Any other provision of this chapter to the
23 contrary notwithstanding, effective October 21, 2013, the
24 unemployment compensation account of an employer shall be
25 charged when the unemployment compensation agency determines
26 that an overpayment has been made to a claimant as a result of
27 both of the following:

1 "(i) The overpayment occurred because the employer,
2 or an agent of the employer, failed to respond timely or
3 adequately to a request from the unemployment compensation
4 agency for information relating to an unemployment
5 compensation claim.

6 "(ii) The employer, or an agent of the employer, has
7 established a pattern of failing to respond timely or
8 adequately to a request from the unemployment compensation
9 agency for information relating to an unemployment
10 compensation claim on two or more occasions.

11 "c. An individual shall not be disqualified if he or
12 she left his or her employment and immediately returned to
13 work with ~~his~~ the individual's regular employer or to
14 employment in which he or she had prior existing statutory or
15 contractual seniority or recall rights. When this exception is
16 applied, any benefits paid to ~~such~~ the individual based upon
17 wages paid for that period of employment immediately preceding
18 the separation to which the exception is applied, which have
19 not been heretofore charged to the employer's experience
20 rating account, shall not be charged to the account of ~~such~~
21 the employer.

22 "d. For separation occurring on or after August 1,
23 2012, an individual shall not be disqualified if he or she
24 left his or her employment to permanently relocate as a result
25 of his or her active duty military-connected spouse's
26 permanent change of station orders, activation orders, or unit
27 deployment orders. When this exception is applied, any

1 benefits paid to the individual based upon wages paid for that
2 period of employment immediately preceding the separation to
3 which the exception is applied, which have not been heretofore
4 charged to the employer's experience rating account, shall not
5 be charged to the account of the employer.

6 "e. For the purposes of this subdivision (2) and
7 subdivision (3) of this section, the secretary in determining
8 the most recent bona fide work shall only consider employment
9 of the nature described in subsection (a) of Section 25-4-10.
10 The secretary shall also consider the duration of the most
11 recent job or jobs, the intent of the individual and his or
12 her employer as to the permanence of such work and whether
13 separation from the immediately preceding employment was under
14 conditions which would be disqualifying in the event such
15 immediately preceding employment should be determined to be
16 the most recent bona fide work.

17 "(3) DISCHARGE FOR MISCONDUCT.

18 "a. If ~~he~~ an individual was discharged or removed
19 from his or her work for a dishonest or criminal act committed
20 in connection with his or her work or for sabotage or an act
21 endangering the safety of others or for the use of illegal
22 drugs after previous warning or for the refusal to submit to
23 or cooperate with a blood or urine test after previous
24 warning. Disqualification under this paragraph may be applied
25 to separations prior to separation from the most recent bona
26 fide work only if the employer has filed a notice with the
27 secretary alleging that the separation was under conditions

1 described in this paragraph in such manner and within such
2 time as the secretary may prescribe.

3 "(i) A confirmed positive drug test that is
4 conducted and evaluated according to standards set forth for
5 the conduct and evaluation of such tests by the U.S.
6 Department of Transportation in 49 C.F.R. Part 40 or standards
7 shown by the employer to be otherwise reliable shall be a
8 conclusive presumption of impairment by illegal drugs. No
9 unemployment compensation benefits shall be allowed to an
10 employee having a confirmed positive drug test if the employee
11 had been warned that such a positive test could result in
12 dismissal pursuant to a reasonable drug policy. A drug policy
13 shall be deemed reasonable if the employer shows that all
14 employees of the employer regardless of position or
15 classification, are subject to testing under the policy, and
16 in those instances in which the employer offers as the basis
17 for disqualification from unemployment compensation benefits
18 the results obtained pursuant to additional testing imposed on
19 some but not all classifications, if the employer can also
20 offer some rational basis for conducting such additional
21 testing. Further, no unemployment compensation benefits shall
22 be allowed if the employee refuses to submit to or cooperate
23 with a blood or urine test as set forth above, or if the
24 employee knowingly alters or adulterates the blood or urine
25 specimen.

26 "(ii) For purposes of paragraph a. and item (i) of
27 paragraph a. of this subdivision, warning shall mean that the

1 employee has been advised in writing of the provisions of the
2 employer's drug policy and that either testing positive
3 pursuant to the standards referenced above or the refusal to
4 submit to or cooperate with a blood or urine test as set out
5 in the above referenced standards could result in termination
6 of employment. This written notification as herein described
7 shall constitute a warning as used in paragraph a. and item
8 (i) of paragraph a. of this subdivision.

9 "(iii) To the extent that the issue is a positive
10 drug test or the refusal to submit to or cooperate with a
11 blood or urine test, or if the employee knowingly alters or
12 adulterates the blood or urine sample, as distinguished from
13 some other aspect of the employer's drug policy, this
14 disqualification under paragraph a. and item (i) of paragraph
15 a. shall be the only disqualification to apply, in connection
16 with an individual's separation from employment. Other
17 non-separation disqualifications may apply.

18 "When an individual is disqualified under this
19 paragraph:

20 "1. ~~He~~ The individual shall not be entitled to
21 benefits for the week in which the disqualifying event occurs
22 or for any week thereafter until ~~he~~ the individual has
23 reentered insured employment or employment of the nature
24 described in subdivisions (5), (6), (7), (8), (9), (10), or
25 (18) of subsection (b) of Section 25-4-10, has earned wages
26 equal at least to 10 times his or her weekly benefit amount

1 and has been separated from such employment for a
2 nondisqualifying reason.

3 "2. ~~He~~ The individual shall not thereafter be
4 entitled to any benefits under this chapter on account of
5 wages paid to him or her for the period of employment by the
6 employer by whom he or she was employed when the disqualifying
7 event occurred.

8 "3. For the purposes of the experience rating
9 provisions of Section 25-4-54:

10 "(i) No portion of any benefits based upon wages
11 paid to the individual for the period of employment by the
12 employer by whom he or she was employed when the disqualifying
13 event occurred shall be charged to the employer's experience
14 rating account.

15 "(ii) In the case of a separation prior to the
16 separation from the most recent bona fide work, if the only
17 reason disqualification under this paragraph a. was not
18 assessed was the failure of the employer to properly file a
19 timely separation report with the secretary and the employer
20 files such a report within 15 days after the mailing of a
21 notice of payment, then no portion of any benefits paid based
22 upon the wages paid for the period of employment ending in
23 such prior separation shall be charged to the employer's
24 experience rating account.

25 "b. If ~~he~~ the individual was discharged from his or
26 her most recent bona fide work for actual or threatened
27 misconduct committed in connection with ~~his~~ the individual's

1 work (other than acts mentioned in paragraph a. of this
2 subdivision (3)) repeated after previous warning to the
3 individual. When an individual is disqualified under this
4 paragraph, or exempt from disqualification for a separation
5 under such conditions prior to his or her most recent bona
6 fide work, the effect shall be the same as provided in
7 paragraph b. of subdivision (2) of this section for
8 disqualification or exemption from disqualification
9 respectively.

10 "c. If ~~he~~ the individual was discharged from his or
11 her most recent bona fide work for misconduct connected with
12 his or her work [other than acts mentioned in paragraphs a.
13 and b. of this subdivision (3)]:

14 "1. He or she shall be disqualified from receipt of
15 benefits for the week in which he or she was discharged and
16 for not less than the ~~three~~ following week nor more than the
17 ~~seven~~ four next following weeks, as determined by the
18 secretary in each case according to the seriousness of the
19 conduct.

20 "2. The total amount of benefits to which he or she
21 may otherwise be entitled as determined in accordance with
22 Sections 25-4-74 and 25-4-75 shall be reduced by an amount
23 equal to the product of the number of weeks for which he or
24 she shall be disqualified multiplied by his or her weekly
25 benefit amount.

26 "3. Only one-half of the benefits paid to him or her
27 based upon wages for that period of employment immediately

1 preceding the separation to which the disqualification applies
2 shall be charged to the employer for the purposes of the
3 experience rating provisions of Section 25-4-54. If the
4 individual has been separated from employment, other than his
5 or her most recent bona fide work, under conditions which
6 would have been disqualifying under paragraph c. of this
7 subdivision (3), had the separation been from his or her most
8 recent bona fide work and the employer answers a notice of
9 payment within 15 days after it is mailed to him or her
10 detailing the facts in connection with the separation, then
11 only one-half of the benefits paid to him or her for that
12 period of employment immediately preceding the separation
13 shall be charged to the employer for the purposes of the
14 experience rating provisions of Section 25-4-54, unless the
15 employer, or an agent of the employer, failed to respond
16 timely or adequately to written requests pursuant to
17 subparagraph 4. of paragraph b. of subdivision (2).

18 "d. If ~~he~~ the individual has been suspended as a
19 disciplinary measure connected with his or her work, or for
20 misconduct connected with his or her work, ~~he~~ the individual
21 shall be disqualified from benefits for the week or weeks (not
22 to exceed four weeks) in which, or for which, he or she is so
23 suspended and the total amount of benefits to which he or she
24 may otherwise be entitled shall be reduced in the same manner
25 and to the same extent as provided in subparagraph 2 of
26 paragraph c. of this subdivision (3).

1 "(4) REVOCATION OR SUSPENSION OF REQUIRED LICENSE,
2 ETC. For the week in which ~~he~~ an individual has become
3 unemployed because a license, certificate, permit, bond,
4 surety, or insurability which is necessary for the performance
5 of such employment and which he or she is responsible to
6 maintain or supply has been revoked, suspended or otherwise
7 become lost to him or her for a cause other than one which
8 would fall within the meaning of subdivision (3) of this
9 section, but one which was within his or her power to control,
10 guard against, or prevent, and for each week thereafter until:

11 "a. The license, certificate, permit, bond, or
12 surety, or insurability, has been restored to ~~him~~ the
13 individual and ~~he~~ the individual has reapplied to his or her
14 employer for employment; or

15 "b. ~~He~~ The individual has reentered insured
16 employment or employment of the nature described in
17 subdivisions (5), (6), (7), (8), (9), (10), or (18) of
18 subsection (b) of Section 25-4-10, whichever is the earlier.

19 "c. Nothing in this subdivision shall be construed
20 as basis for disqualification of an individual who is without
21 fault and who has made a reasonable effort to obtain his or
22 her initial license, certificate, permit, bond, surety, or
23 insurability required for the performance of assigned duties.

24 "(5) FAILURE TO ACCEPT AVAILABLE SUITABLE WORK, ETC.
25 If ~~he~~ an individual fails, without good cause, either to apply
26 for or to accept available suitable work or to return to his
27 or her customary self-employment when so directed by the

1 secretary or when ~~he~~ the individual is notified of suitable
2 work or it is offered him or her through a state employment
3 office or the United States Employment Service, or directly or
4 by written notice or offer to any such employment office or
5 employment service by an employer by whom the individual was
6 formerly employed. Such disqualification shall be for a period
7 of not less than one nor more than ~~10~~ five weeks from the date
8 of failure. This disqualification shall not apply unless the
9 individual has an established benefit year, or is seeking to
10 establish one or is seeking extended benefits at the time he
11 or she fails without good cause, to do any of the acts set out
12 in this subdivision (5).

13 "a. In determining whether or not any work is
14 suitable for an individual, the secretary shall consider:

15 "1. The degree of risk involved to ~~his~~ the
16 individual's health, safety, and morals, and his or her
17 physical fitness and prior training,

18 "2. ~~His~~ The individual's experience and prior
19 earnings,

20 "3. ~~His~~ The individual's length of unemployment,

21 "4. ~~His~~ The individual's prospects for securing
22 local work in his or her customary occupation,

23 "5. The distance of the available work from ~~his~~ the
24 individual's residence; provided, that no work or employment
25 shall be deemed unsuitable because of its distance from the
26 individual's residence, if such work or employment is in the
27 same or substantially the same locality as was his or her last

1 previous regular place of employment and if the employee left
2 such voluntarily without good cause connected with such
3 employment.

4 "b. Notwithstanding any other provisions of this
5 chapter, no work shall be deemed suitable and benefits shall
6 not be denied under this chapter to any otherwise eligible
7 individual for refusing to accept new work under any of the
8 following conditions:

9 "1. If the position offered is vacant due directly
10 to a strike, lockout, or other labor dispute;

11 "2. If the wages, hours, or other conditions of the
12 work offered are substantially less favorable to the
13 individual than those prevailing for similar work in the
14 locality; or

15 "3. If as a condition of being employed the
16 individual would be required to join a company union, or to
17 resign from or refrain from joining any bona fide labor
18 organization.

19 "c. Notwithstanding any other provisions of this
20 section, benefits shall not be denied an individual, by reason
21 of the application of the provisions of this subdivision (5),
22 with respect to any week in which he or she is in training
23 with the approval of the secretary as described in subdivision
24 (a) (3) of Section 25-4-77.

25 "(6) RECEIPT OF BACK PAY AWARD, ETC. For any week
26 with respect to which ~~he~~ an individual is receiving or has
27 received remuneration in the form of a back pay award.

1 Notwithstanding the provisions of Section 25-4-91 any benefits
2 previously paid for weeks of unemployment with respect to
3 which back pay awards are made shall constitute an overpayment
4 and such amounts shall be deducted from the award by the
5 employer prior to payment to the employee and shall be
6 transmitted promptly to the secretary by the employer for
7 application against the overpayment and credit to the
8 claimant's maximum benefit amount and prompt deposit into the
9 fund; provided, however, the removal of any charges made
10 against the employer as a result of such previously paid
11 benefits shall be applied to the calendar year and the
12 calendar quarter in which the overpayment is received by the
13 secretary and no attempt shall be made to relate such a credit
14 to the period to which the award applies. Any amount of
15 overpayment deducted by the employer shall be subject to the
16 same procedures for collection as is provided for
17 contributions by Section 25-4-134 of this chapter.

18 "(7) RECEIPT OF OR APPLICATION FOR UNEMPLOYMENT
19 COMPENSATION FROM ANOTHER STATE, ETC. For any week with
20 respect to which, or a part of which, ~~he~~ an individual has
21 received or is seeking unemployment benefits under an
22 unemployment compensation law of any other state or of the
23 United States; provided, that if the appropriate agency of
24 such other state or of the United States finally determines
25 that ~~he~~ the individual is not entitled to such unemployment
26 benefits this disqualification shall not apply.

1 "(8) RECEIPT OF PENSION PAYMENT. For any week with
2 respect to which, or a part of which, an individual has
3 received or has, except for the determination of an exact or
4 specific amount, been determined eligible to receive (during a
5 period for which benefits are being claimed) governmental or
6 other pension, retirement or retired pay, annuity, or similar
7 periodic payment which is based on the previous work of the
8 individual; except, that

9 " a. For weeks of unemployment which begin prior to
10 April 26, 1982, as was prescribed by this subsection prior to
11 such date, and

12 " b. For weeks of unemployment which begin on or
13 after April 26, 1982, the amount of any benefits payable to an
14 individual for any such week which begins in a period with
15 respect to which the disqualifying provisions of this
16 subdivision apply, shall be reduced (but not below zero) by an
17 amount equal to the amount of such pension, retirement or
18 retired pay, annuity, or other payment, which is reasonably
19 attributable to such week, provided, however, such reduction
20 required hereby shall apply to any pension, retirement or
21 retired pay, annuity, or other similar payment only if:

22 "1. Such payment is made under a plan that is
23 maintained (or contributed to) by a base period employer and
24 100 percent employer-financed and not contributed to by the
25 worker, and

26 "2. In the case of such a payment not made under the
27 Social Security Act or the Railroad Retirement Act of 1974 (or

1 the corresponding provisions of prior law), services performed
2 for such employer by the individual after the beginning of his
3 or her base period (or remuneration for such services) affect
4 eligibility for or increase the amount of, such payment.

5 "c. The other provisions of this subdivision to the
6 contrary notwithstanding, beginning with the weeks ending
7 October 7, 1995, the amount of any pension, retirement or
8 retired pay, annuity, or other similar periodic payment under
9 the Social Security Act or the Railroad Retirement Act shall
10 not result in a reduction of benefits under this subdivision.

11 "d. If in accordance with this subdivision (8) any
12 individual is awarded pension payments retroactively covering
13 the same period for which the individual received benefits,
14 the retroactive payments shall constitute cause for
15 disqualification and any benefits paid during such period
16 shall be recovered only if the retroactive pension payments
17 were made under a plan that is maintained (or contributed to)
18 by a base period employer, 100 percent employer-financed, and
19 not contributed to by the worker.

20 "(9) RECEIPT OF OR APPLICATION FOR WORKERS'
21 COMPENSATION. For any week with respect to which, or a part of
22 which, ~~he~~ an individual has received or is seeking
23 compensation for temporary disability under any workers'
24 compensation law; provided, that if it is finally determined
25 ~~he~~ the individual is not entitled to such compensation, this
26 disqualification shall not apply; and provided further, that
27 if such compensation is less than the benefits which would

1 otherwise be due under this chapter, he or she shall be
2 entitled to receive for such week, if otherwise eligible,
3 benefits reduced by the amount of such payment.

4 "(10) EMPLOYMENT BY PUBLIC WORKS AGENCY, ETC. For
5 any week that such individual is engaged or employed by the
6 Works Progress Administration, the National Youth
7 Administration or any federal or state unit, agency or
8 instrumentality in charge of public works, assistance through
9 public employment or work relief.

10 "(11) SELF-EMPLOYMENT. For any week in which ~~he~~ an
11 individual is self-employed and each week thereafter until ~~he~~
12 ~~shall establish~~ the individual establishes that he or she is
13 no longer self-employed.

14 "(12) RECEIPT OF, OR APPLICATION FOR, TRAINING
15 ALLOWANCE, ETC. For any week with respect to which, or a part
16 of which, an individual who is enrolled in a course of
17 training with the approval of the secretary, within the
18 meaning of subdivision (a) (3) of Section 25-4-77, has applied
19 for, or is entitled to receive, any wage or subsistence or
20 training allowance or other form of remuneration, other than
21 reimbursement for travel expenses, for a course of training
22 under any public or private training program; provided, that
23 if it is finally determined that ~~he~~ the individual is not
24 entitled to such remuneration, this disqualification shall not
25 apply. If the remuneration, the receipt of which is
26 disqualifying under this subdivision (12), is less than the
27 weekly benefits which he or she would otherwise be due under

1 this chapter ~~he~~ the individual shall be entitled to receive,
2 if otherwise eligible, weekly benefits reduced by the amount
3 of such remuneration. It is further provided that receipt of
4 training allowances under the Trade Readjustment Act shall not
5 be cause for disqualification under this subdivision.

6 "(13) PARTICIPATION IN PROFESSIONAL SPORTS. For any
7 week which commences during the period between two successive
8 sport seasons (or similar periods) to any individual for which
9 benefits claimed are on the basis of any services,
10 substantially all of which consist of participating in sports
11 or athletic events or training or preparing to so participate,
12 if ~~such~~ the individual performed such services in the first of
13 such seasons (or similar periods) and there is a reasonable
14 assurance that such individual will perform such services in
15 the later of such seasons (or similar periods).

16 "(14) ALIENS.

17 "a. For any week for which benefits claimed are on
18 the basis of services performed by an alien unless:

19 "1. Such alien is an individual who was lawfully
20 admitted for permanent residence at the time such services
21 were performed, and was lawfully present for purposes of
22 performing such services; or,

23 "2. Such alien was permanently residing in the
24 United States under color of law at the time such services
25 were performed (including an alien who is lawfully present in
26 the United States as a result of the application of the

1 provisions of Section 203(a)(7) or Section 212(d)(5) of the
2 Immigration and Nationality Act); or,

3 "3. Such alien was lawfully admitted for temporary
4 residence as provided for under the provisions of Section
5 245A(a) of the Immigration Reform and Control Act of 1986 (PL
6 99-603).

7 "b. Any data or information required of individuals
8 applying for benefits to determine whether benefits are not
9 payable to them because of their alien status shall be
10 uniformly required from all applicants for benefits.

11 "c. In the case of an individual whose application
12 for benefits would otherwise be approved, no determination
13 that benefits to such individual are not payable because of
14 his or her alien status shall be made except upon a
15 preponderance of the evidence."

16 Section 2. This act shall become effective on
17 January 1, 2019, following its passage and approval by the
18 Governor, or its otherwise becoming law.