

1 SB193  
2 197516-1  
3 By Senator Orr  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 02-APR-19

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

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

22 This bill would revise the maximum weekly  
23 unemployment benefit amount to an amount that is an  
24 equal division of the current weeks compensated of  
25 the average of the wages for insured work paid to  
26 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 also revise the reductions  
4 in 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 of  
20 the Code of Alabama 1975, are 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, 2020, 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~~ before the effective date  
13 ~~of the 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~~ one dollar (\$1), shall be computed to  
20 the nearest multiple of ~~\$1.00~~ one dollar (\$1).

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 wages were paid in the base period  
24 immediately preceding such benefit year; except, that any lump  
25 sum payment of wages in lieu of notice, dismissal, or  
26 severance allowance or "back pay" award shall be prorated over  
27 the period or periods with respect to which such payment is

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

3 "(c) In determining an individual's benefit rights,  
4 remuneration payable but unpaid to such individual ~~shall~~, to  
5 the extent that regulations promulgated by the secretary  
6 prescribe, shall be deemed to be "wages paid" to such  
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)~~ (e) For benefit years beginning ~~prior to~~ before  
14 July 3, 1983, any otherwise eligible individual shall be  
15 entitled to a total amount of benefits as was provided in this  
16 section ~~prior to such~~ before 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), and who is enrolled and making satisfactory  
21 progress in a job training or certification program approved  
22 by the Alabama Department of Labor. Each approved training  
23 program shall prepare individuals for entry into a high wage,  
24 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) The 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~~ an 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~~ leave of absence  
4 policy covering 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 or she is not then able to work, he or she  
11 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~~ leave of absence  
20 policy shall be any ~~leave-of-absence~~ leave of absence policy  
21 covering sickness and disability communicated to the employee  
22 by the customary means used by the employer for communicating  
23 with his or her employees.

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

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

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

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

19 "(i) He or she has reentered insured employment or  
20 employment of the nature described in subdivisions (5), (6),  
21 (7), (8), (9), (10), or (18) of subsection (b) of Section  
22 25-4-10; and

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

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

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

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

24           "4. Any other provision of this chapter to the  
25 contrary notwithstanding, effective October 21, 2013, the  
26 unemployment compensation account of an employer shall be  
27 charged when the unemployment compensation agency determines

1 that an overpayment has been made to a claimant as a result of  
2 both of the following:

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

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

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

24 "d. For separation occurring on or after August 1,  
25 2012, an individual shall not be disqualified if he or she  
26 left his or her employment to permanently relocate as a result  
27 of his or her active duty military-connected spouse's

1 permanent change of station orders, activation orders, or unit  
2 deployment orders. When this exception is applied, any  
3 benefits paid to the individual based upon wages paid for that  
4 period of employment immediately preceding the separation to  
5 which the exception is applied, which have not been heretofore  
6 charged to the employer's experience rating account, shall not  
7 be charged to the account of the employer.

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

19 "(3) DISCHARGE FOR MISCONDUCT.

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

1 fide work only if the employer has filed a notice with the  
2 secretary alleging that the separation was under conditions  
3 described in this paragraph in such manner and within such  
4 time as the secretary may prescribe.

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

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

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

20           "When an individual is disqualified under this  
21 paragraph:

22           "1. He or she shall not be entitled to benefits for  
23 the week in which the disqualifying event occurs or for any  
24 week thereafter until he or she has reentered insured  
25 employment or employment of the nature described in  
26 subdivisions (5), (6), (7), (8), (9), (10), or (18) of  
27 subsection (b) of Section 25-4-10, has earned wages equal at

1 least to 10 times his or her weekly benefit amount, and has  
2 been separated from such employment for a nondisqualifying  
3 reason.

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

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

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

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

26 "b. If ~~he~~ an individual was discharged from his or  
27 her most recent bona fide work for actual or threatened



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

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

26 "3. Only one-half of the benefits paid to ~~him~~ an  
27 individual based upon wages for that period of employment

1 immediately preceding the separation to which the  
2 disqualification applies shall be charged to the employer for  
3 the purposes of the experience rating provisions of Section  
4 25-4-54. If the individual has been separated from employment,  
5 other than his or her most recent bona fide work, under  
6 conditions which would have been disqualifying under paragraph  
7 c. of this subdivision (3), had the separation been from his  
8 or her most recent bona fide work and the employer answers a  
9 notice of payment within 15 days after it is mailed to him or  
10 her detailing the facts in connection with the separation,  
11 then 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~~ an 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 or she shall be  
21 disqualified from benefits for the week or weeks (not to  
22 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~~ his or her employment and which he or she is  
6 responsible to maintain or supply has been revoked, suspended,  
7 or otherwise become lost to him or her for a cause other than  
8 one which would fall within the meaning of subdivision (3) of  
9 this section, but one which was within his or her power to  
10 control, guard against, or prevent, and for each week  
11 thereafter until:

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

16           "b. He or she has reentered insured employment or  
17 employment of the nature described in subdivisions (5), (6),  
18 (7), (8), (9), (10), or (18) of subsection (b) of Section  
19 25-4-10, whichever is the earlier.

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

26           "(5) FAILURE TO ACCEPT AVAILABLE SUITABLE WORK, ETC.  
27 If ~~he~~ an individual fails, without good cause, either to apply

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

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

17 "1. The degree of risk involved to his or her  
18 health, safety, and morals, his or her physical fitness, and  
19 his or her prior training<sub>7.</sub>

20 "2. His or her experience and prior earnings<sub>7.</sub>

21 "3. His or her length of unemployment<sub>7.</sub>

22 "4. His or her prospects for securing local work in  
23 his or her customary occupation<sub>7.</sub>

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

1 same or substantially the same locality as was his or her last  
2 previous regular place of employment and if the employee left  
3 such voluntarily without good cause connected with such  
4 employment.

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

10 "1. If the position offered is vacant due directly  
11 to a strike, lockout, or other labor dispute~~7~~.

12 "2. If the wages, hours, or other conditions of the  
13 work offered are substantially less favorable to the  
14 individual than those prevailing for similar work in the  
15 locality~~7~~~~or~~.

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

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

26 "(6) RECEIPT OF BACK PAY AWARD, ETC. For any week  
27 with respect to which ~~he~~ an individual is receiving or has

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

19 "(7) RECEIPT OF OR APPLICATION FOR UNEMPLOYMENT  
20 COMPENSATION FROM ANOTHER STATE, ETC. For any week with  
21 respect to which, or a part of which, ~~he~~ an individual has  
22 received or is seeking unemployment benefits under an  
23 unemployment compensation law of any other state or of the  
24 United States; provided, that if the appropriate agency of  
25 such other state or of the United States finally determines  
26 that ~~he~~ the individual is not entitled to such unemployment  
27 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~~ the individual shall  
2 be 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 or she shall establish that he or she is no longer  
13 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~~ an 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 or she shall be entitled to receive, if  
2 otherwise eligible, weekly benefits reduced by the amount of  
3 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 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, 2020, following its passage and approval by the  
18 Governor, or its otherwise becoming law.