

1 SB11
2 113346-1
3 By Senator Smitherman
4 RFD: Business and Labor
5 First Read: 12-JAN-10
6 PFD: 05/22/2009

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8 SYNOPSIS: This bill would allow persons who do not
9 qualify for unemployment compensation to have their
10 eligibility re-determined using an alternate base
11 period.

12 This bill would expand unemployment
13 compensation benefits to persons seeking part-time
14 work or persons who leave employment for certain
15 compelling family reasons to receive unemployment
16 benefits.

17 This bill also provides up to an additional
18 26 weeks of unemployment compensation payable to a
19 person receiving approved training.

20
21 A BILL
22 TO BE ENTITLED
23 AN ACT
24

25 To amend Sections 25-4-1, 25-4-77, and 25-4-78, Code
26 of Alabama 1975, relating to the determination of base period
27 to allow persons to have their eligibility determined using an

1 alternate base period, relating to benefit eligibility
2 conditions to include part-time work and persons who leave
3 employment for certain compelling family reasons; and to
4 provide up to an additional 26 weeks of unemployment
5 compensation to persons receiving approved training.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Sections 25-4-1, 25-4-77, and 25-4-78,
8 Code of Alabama 1975, are amended to read as follows:

9 "§25-4-1.

10 "(a) "Base period," as used in this chapter, means
11 the first four of the last five completed calendar quarters
12 immediately preceding the first day of an individual benefit
13 year.

14 "(b) Alternate base period. For any individual who
15 fails to meet the eligibility requirements of subdivision (6)
16 of subsection (a) of Section 25-4-77 in the base period as
17 defined in subsection (a), the Department of Industrial
18 Relations shall re-determine the eligibility based on a base
19 period that consists of the last four completed quarters
20 immediately preceding the first day of the individual's
21 benefit year. This base period is known as the "alternate base
22 period."

23 "§25-4-77.

24 "(a) An unemployed individual shall be eligible to
25 receive benefits with respect to any week in a benefit year
26 which begins on or after January 1, 1989, only if the director
27 finds that:

1 "(1) He has made a claim for benefits with respect
2 to such week in accordance with such regulations as the
3 director may prescribe.

4 "(2) He has registered for work at, and thereafter
5 continued to report at, a state employment office in
6 accordance with such regulations as the director may
7 prescribe; except, that the director may by regulation waive
8 or alter either or both of the requirements of this
9 subdivision (2) as to individuals attached to regular jobs and
10 as to such other types of cases or situations with respect to
11 which he finds that compliance with such requirements would be
12 oppressive, or would be inconsistent with purposes of this
13 chapter.

14 "(3) He is physically and mentally able to perform
15 work of a character which he is qualified to perform by past
16 experience or training, and he is available for such work
17 either at a locality at which he earned wages for insured work
18 during his base period or at a locality where it may
19 reasonably be expected that such work may be available.
20 Notwithstanding any of the provisions of this subdivision, no
21 otherwise eligible individual shall be denied benefits for any
22 week because he or she is:

23 "a. Enrolled in a course of training with the
24 approval of the director. Such approval shall be conditioned
25 upon the following:

26 "1. The individual's skills are obsolete or such
27 that there are minimal opportunities for employment;

1 "2. Training is for an occupation for which there is
2 a substantial and recurring demand;

3 "3. Training is not a course of education for credit
4 toward a degree;

5 "4. The individual possesses aptitudes or skills
6 which can be supplemented by retraining within a reasonable
7 time; or

8 "5. The individual produces satisfactory evidence of
9 continued attendance and satisfactory progress;

10 "b. In training approved by the director under
11 Section 236 (a) (1) of the Trade Act of 1974, nor shall such
12 individual be denied benefits (any other provision of this
13 chapter requiring denial notwithstanding) by reason of leaving
14 work to enter such training; provided,

15 "1. The work left is not suitable employment as
16 defined in paragraph c. of this subdivision (3), or

17 "2. Because of the application to any such week in
18 training of provisions in this chapter (or any applicable
19 federal unemployment compensation law) relating to
20 availability for work, active search for work or refusal to
21 accept work.

22 "c. For purposes of paragraph b. of this subdivision
23 (3), and only therefor, the term "suitable employment" means
24 with respect to an individual, work of a substantially equal
25 or higher skill level than the individual's past adversely
26 affected employment (as defined for purposes of the Trade Act
27 of 1974), and wages for such work at not less than 80 percent

1 of the individual's average weekly wage as determined for the
2 purposes of the Trade Act of 1974.

3 "d. The unemployment compensation payable under this
4 subdivision to any individual shall be up to an additional 26
5 weeks utilizing the individual's average weekly benefit amount
6 for the most recent benefit year.

7 "(4) He has been totally or partially unemployed in
8 such week.

9 "(5) He has made a reasonable and active effort to
10 secure work which he is qualified to perform by past
11 experience and training, unless such failure is because the
12 individual is before any court of the United States or any
13 state pursuant to a lawfully issued summons to appear for jury
14 duty. For the purposes of this subdivision (5), the
15 entitlement to regular or extended benefits of any individual
16 who is determined not to be actively engaged in seeking work
17 during any week for the aforesaid reason, shall be determined
18 pursuant to the provisions of subdivision (3) of this
19 subsection (a) without regard to the disqualification
20 provisions otherwise applicable under paragraph b. of
21 subdivision (i) (1) of Section 25-4-75 and subdivision (i) (2)
22 of Section 25-4-75. Further, for the purposes of this
23 subdivision (5), the term "jury duty" means the performance of
24 service as a juror, during all periods of time an individual
25 is engaged in such service, in any court of a state or the
26 United States pursuant to the law of the state or the United

1 States and the rules of the court in which the individual is
2 engaged in the performance of such service.

3 "(6) He has during his base period been paid wages
4 for insured work equal to or exceeding one and one-half times
5 the total of the wages for insured work paid to him in that
6 quarter of such base period in which such total wages were the
7 highest and in addition, qualifies for benefits under the
8 provisions of Section 25-4-72; provided, however, that no
9 otherwise eligible individual who shall have received benefits
10 in a preceding benefit year shall be eligible to receive
11 benefits in a succeeding benefit year unless and until such
12 otherwise eligible individual, subsequent to the beginning
13 date of the preceding benefit year, shall have worked in
14 insured employment for which work he earned wages equal to at
15 least eight times the weekly benefit amount established for
16 such individual in the preceding benefit year.

17 "(7) He has pursuant to Section 4 of Public Law
18 103-152 been selected and referred to reemployment services
19 and participates in reemployment services, such as job search
20 assistance services, if the individual has been determined to
21 be likely to exhaust regular benefits and need reemployment
22 services pursuant to a profiling system established by the
23 director unless it is determined by the director that:

24 "a. Such claimant has completed such services; or

25 "b. There is justifiable cause for such claimant's
26 failure to participate in such service.

1 "(8) An unemployed individual shall not be
2 disqualified for eligibility for unemployment compensation
3 benefits solely on the basis that the individual is only
4 available for part-time work. If an individual restricts his
5 or her eligibility to part-time work, the individual may be
6 considered able and available to work if it is determined
7 that:

8 "a. The individual is willing to work at least 20
9 hours per week; or

10 "b. The individual is able and available for and
11 actively seeking part-time work for at least the number of
12 hours in a week comparable to those customarily worked in
13 part-time employment during that individual's base period.

14 "(b) With respect to any week which begins prior to
15 January 1, 1989, an unemployed individual shall be eligible to
16 receive benefits as provided in this section prior to that
17 date.

18 "(c) The provisions of subdivision (5) of subsection
19 (a) shall be applied only to any week which begins on or after
20 March 22, 1984.

21 "§25-4-78.

22 "An individual shall be disqualified for total or
23 partial unemployment:

24 "(1) LABOR DISPUTE IN PLACE OF EMPLOYMENT. For any
25 week in which his total or partial unemployment is directly
26 due to a labor dispute still in active progress in the
27 establishment in which he is or was last employed. For the

1 purposes of this section only, the term "labor dispute"
2 includes any controversy concerning terms, tenure, or
3 conditions of employment, or concerning the association or
4 representation of persons in negotiating, fixing, maintaining,
5 changing, or seeking to arrange terms or conditions of
6 employment, regardless of whether the disputants stand in the
7 proximate relation of employer and employee. This definition
8 shall not relate to a dispute between an individual worker and
9 his employer.

10 "(2) VOLUNTARILY QUITTING WORK. If he has left his
11 most recent bona fide work voluntarily without good cause
12 connected with such work.

13 "a. However, he shall not be disqualified if in the
14 case of domestic violence, which shall be verified by
15 reasonable and confidential documentation, the individual
16 reasonably believed that the individual's continued employment
17 would jeopardize the safety of the individual or of any member
18 of the individual's immediate family. For purposes of this
19 act, reasonable and confidential documentation shall mean a
20 statement supporting recent domestic violence from a qualified
21 professional from whom the individual has sought assistance
22 such as a counselor, shelter worker, member of the clergy,
23 attorney, or health worker.

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

1 offered himself for work as soon as he 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 said employer and offer himself for
9 work, if he shall then be able to work, or if he is not then
10 able to work, he fails to so notify his employer of that fact
11 and request an extension of his said leave of absence as soon
12 as it is reasonably practicable so to do.

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

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

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

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

11 "b~~c~~. When an individual is disqualified under this
12 subdivision (2):

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

16 "(i) He 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; and

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

23 "(iii) He has been separated from such employment
24 under nondisqualifying conditions.

25 "2. The total amount of benefits to which he may
26 otherwise be entitled as determined in accordance with
27 Sections 25-4-74 and 25-4-75 shall be reduced by an amount

1 equal to not less than six nor more than 12 times his weekly
2 benefit amount.

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

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

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

12 "(3) DISCHARGE FOR MISCONDUCT.

13 "a. If he was discharged or removed from his work
14 for a dishonest or criminal act committed in connection with
15 his work or for sabotage or an act endangering the safety of
16 others or for the use of illegal drugs after previous warning
17 or for the refusal to submit to or cooperate with a blood or
18 urine test after previous warning. Disqualification under this
19 paragraph may be applied to separations prior to separation
20 from the most recent bona fide work only if the employer has
21 filed a notice with the director alleging that the separation
22 was under conditions described in this paragraph in such
23 manner and within such time as the director may prescribe.

24 "(i) A confirmed positive drug test that is
25 conducted and evaluated according to standards set forth for
26 the conduct and evaluation of such tests by the U.S.
27 Department of Transportation in 49 C.F.R. Part 40 or standards

1 shown by the employer to be otherwise reliable shall be a
2 conclusive presumption of impairment by illegal drugs. No
3 unemployment compensation benefits shall be allowed to an
4 employee having a confirmed positive drug test if the employee
5 had been warned that such a positive test could result in
6 dismissal pursuant to a reasonable drug policy. A drug policy
7 shall be deemed reasonable if the employer shows that all
8 employees of the employer regardless of position or
9 classification, are subject to testing under the policy, and
10 in those instances in which the employer offers as the basis
11 for disqualification from unemployment compensation benefits
12 the results obtained pursuant to additional testing imposed on
13 some but not all classifications, if the employer can also
14 offer some rational basis for conducting such additional
15 testing. Further, no unemployment compensation benefits shall
16 be allowed if the employee refuses to submit to or cooperate
17 with a blood or urine test as set forth above, or if the
18 employee knowingly alters or adulterates the blood or urine
19 specimen.

20 "(ii) For purposes of paragraph a. and item (i) of
21 paragraph a. of this subdivision, "warning" shall mean that
22 the employee has been advised in writing of the provisions of
23 the employer's drug policy and that either testing positive
24 pursuant to the standards referenced above or the refusal to
25 submit to or cooperate with a blood or urine test as set out
26 in the above referenced standards could result in termination
27 of employment. This written notification as herein described

1 shall constitute a "warning" as used in paragraph a. and item
2 (i) of paragraph a. of this subdivision.

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

12 "When an individual is disqualified under this
13 paragraph:

14 "1. He shall not be entitled to benefits for the
15 week in which the disqualifying event occurs or for any week
16 thereafter until he 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, has earned wages equal at least to 10 times his
20 weekly benefit amount and has been separated from such
21 employment for a nondisqualifying reason.

22 "2. He shall not thereafter be entitled to any
23 benefits under this chapter on account of wages paid to him
24 for the period of employment by the employer by whom he was
25 employed when the disqualifying event occurred.

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

1 "(i) No portion of any benefits based upon wages
2 paid to the individual for the period of employment by the
3 employer by whom he was employed when the disqualifying event
4 occurred shall be charged to the employer's experience rating
5 account.

6 "(ii) In the case of a separation prior to the
7 separation from the most recent bona fide work, if the only
8 reason disqualification under this paragraph a. was not
9 assessed was the failure of the employer to properly file a
10 timely separation report with the director and the employer
11 files such a report within 15 days after the mailing of a
12 notice of payment, then no portion of any benefits paid based
13 upon the wages paid for the period of employment ending in
14 such prior separation shall be charged to the employer's
15 experience rating account.

16 "b. If he was discharged from his most recent bona
17 fide work for actual or threatened misconduct committed in
18 connection with his work (other than acts mentioned in
19 paragraph a. of this subdivision (3)) repeated after previous
20 warning to the individual. When an individual is disqualified
21 under this paragraph, or exempt from disqualification for a
22 separation under such conditions prior to his most recent bona
23 fide work, the effect shall be the same as provided in
24 paragraph b. of subdivision (2) of this section for
25 disqualification or exemption from disqualification
26 respectively.

1 "c. If he was discharged from his most recent bona
2 fide work for misconduct connected with his work [other than
3 acts mentioned in paragraphs a. and b. of this subdivision
4 (3)]:

5 "1. He shall be disqualified from receipt of
6 benefits for the week in which he was discharged and for not
7 less than the three nor more than the seven next following
8 weeks, as determined by the director in each case according to
9 the seriousness of the conduct.

10 "2. The total amount of benefits to which he may
11 otherwise be entitled as determined in accordance with
12 Sections 25-4-74 and 25-4-75 shall be reduced by an amount
13 equal to the product of the number of weeks for which he shall
14 be disqualified multiplied by his weekly benefit amount.

15 "3. Only one-half of the benefits paid to him based
16 upon wages for that period of employment immediately preceding
17 the separation to which the disqualification applies shall be
18 charged to the employer for the purposes of the experience
19 rating provisions of Section 25-4-54. If the individual has
20 been separated from employment, other than his most recent
21 bona fide work, under conditions which would have been
22 disqualifying under paragraph c. of this subdivision (3), had
23 the separation been from his most recent bona fide work and
24 the employer answers a notice of payment within 15 days after
25 it is mailed to him detailing the facts in connection with the
26 separation, then only one-half of the benefits paid to him for
27 that period of employment immediately preceding the separation

1 shall be charged to the employer for the purposes of the
2 experience rating provisions of Section 25-4-54.

3 "d. If he has been suspended as a disciplinary
4 measure connected with his work, or for misconduct connected
5 with his work, he shall be disqualified from benefits for the
6 week or weeks (not to exceed four weeks) in which, or for
7 which, he is so suspended and the total amount of benefits to
8 which he may otherwise be entitled shall be reduced in the
9 same manner and to the same extent as provided in subparagraph
10 2 of paragraph c. of this subdivision (3).

11 "(4) REVOCATION OR SUSPENSION OF REQUIRED LICENSE,
12 ETC. For the week in which he has become unemployed because a
13 license, certificate, permit, bond, surety, or insurability
14 which is necessary for the performance of such employment and
15 which he is responsible to maintain or supply has been
16 revoked, suspended or otherwise become lost to him for a cause
17 other than one which would fall within the meaning of
18 subdivision (3) of this section, but one which was within his
19 power to control, guard against, or prevent, and for each week
20 thereafter until:

21 "a. Said license, certificate, permit, bond, or
22 surety, or insurability, has been restored to him and he has
23 reapplied to his employer for employment; or

24 "b. He has reentered insured employment or
25 employment of the nature described in subdivisions (5), (6),
26 (7), (8), (9), (10), or (18) of subsection (b) of Section
27 25-4-10, whichever is the earlier.

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

6 "(5) FAILURE TO ACCEPT AVAILABLE SUITABLE WORK, ETC.
7 If he fails, without good cause, either to apply for or to
8 accept available suitable work or to return to his customary
9 self-employment when so directed by the director or when he is
10 notified of suitable work or it is offered him through a state
11 employment office or the United States Employment Service, or
12 directly or by written notice or offer to any such employment
13 office or employment service by an employer by whom the
14 individual was formerly employed. Such disqualification shall
15 be for a period of not less than one nor more than 10 weeks
16 from the date of said failure. This disqualification shall not
17 apply unless the individual has an established benefit year,
18 or is seeking to establish one or is seeking extended benefits
19 at the time he fails without good cause, to do any of the acts
20 set out in this subdivision (5).

21 "a. In determining whether or not any work is
22 suitable for an individual, the director shall consider:

23 "1. The degree of risk involved to his health,
24 safety, and morals, his physical fitness and prior training,

25 "2. His experience and prior earnings,

26 "3. His length of unemployment,

1 "4. His prospects for securing local work in his
2 customary occupation,

3 "5. The distance of the available work from his
4 residence; provided, that no work or employment shall be
5 deemed unsuitable because of its distance from the
6 individual's residence, if such work or employment is in the
7 same or substantially the same locality as was his last
8 previous regular place of employment and if the employee left
9 such voluntarily without good cause connected with such
10 employment.

11 "b. Notwithstanding any other provisions of this
12 chapter, no work shall be deemed suitable and benefits shall
13 not be denied under this chapter to any otherwise eligible
14 individual for refusing to accept new work under any of the
15 following conditions:

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

18 "2. If the wages, hours, or other conditions of the
19 work offered are substantially less favorable to the
20 individual than those prevailing for similar work in the
21 locality; or

22 "3. If as a condition of being employed the
23 individual would be required to join a company union, or to
24 resign from or refrain from joining any bona fide labor
25 organization.

26 "c. Notwithstanding any other provisions of this
27 section, benefits shall not be denied an individual, by reason

1 of the application of the provisions of this subdivision (5),
2 with respect to any week in which he is in training with the
3 approval of the director as described in subdivision (a) (3) of
4 Section 25-4-77.

5 "(6) RECEIPT OF BACK PAY AWARD, ETC. For any week
6 with respect to which he is receiving or has received
7 remuneration in the form of a back pay award. Notwithstanding
8 the provisions of Section 25-4-91 any benefits previously paid
9 for weeks of unemployment with respect to which back pay
10 awards are made shall constitute an overpayment and such
11 amounts shall be deducted from the award by the employer prior
12 to payment to the employee and shall be transmitted promptly
13 to the director by the employer for application against the
14 overpayment and credit to the claimant's maximum benefit
15 amount and prompt deposit into the fund; provided, however,
16 the removal of any charges made against the employer as a
17 result of such previously paid benefits shall be applied to
18 the calendar year and the calendar quarter in which the
19 overpayment is received by the director and no attempt shall
20 be made to relate such a credit to the period to which the
21 award applies. Any amount of overpayment deducted by the
22 employer shall be subject to the same procedures for
23 collection as is provided for contributions by Section
24 25-4-134 of this chapter.

25 "(7) RECEIPT OF OR APPLICATION FOR UNEMPLOYMENT
26 COMPENSATION FROM ANOTHER STATE, ETC. For any week with
27 respect to which, or a part of which, he has received or is

1 seeking unemployment benefits under an unemployment
2 compensation law of any other state or of the United States;
3 provided, that if the appropriate agency of such other state
4 or of the United States finally determines that he is not
5 entitled to such unemployment benefits this disqualification
6 shall not apply.

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

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

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

1 "1. Such payment is made under a plan maintained (or
2 contributed to) by a base period employer, and

3 "2. In the case of such a payment not made under the
4 Social Security Act or the Railroad Retirement Act of 1974 (or
5 the corresponding provisions of prior law), services performed
6 for such employer by the individual after the beginning of his
7 base period (or remuneration for such services) affect
8 eligibility for or increase the amount of, such payment.

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

15 "d. If in accordance with this subdivision (8) any
16 individual is awarded pension payments retroactively covering
17 the same period for which the individual received benefits,
18 the retroactive payments shall constitute cause for
19 disqualification and any benefits paid during such period
20 shall be recovered.

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

1 the benefits which would otherwise be due under this chapter,
2 he shall be entitled to receive for such week, if otherwise
3 eligible, 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 is
11 self-employed and each week thereafter until he shall
12 establish that he is no longer self-employed.

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

1 the amount of such remuneration. It is further provided that
2 receipt of training allowances under the Trade Readjustment
3 Act shall not be cause for disqualification under this
4 subdivision.

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

15 "(14) ALIENS.

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

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

22 "2. Such alien was permanently residing in the
23 United States under color of law at the time such services
24 were performed (including an alien who is lawfully present in
25 the United States as a result of the application of the
26 provisions of Section 203(a)(7) or Section 212(d)(5) of the
27 Immigration and Nationality Act); or,

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

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

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

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