

1 SB588  
2 121202-1  
3 By Senators Smitherman, Coleman, Dunn, and Ross  
4 RFD: Business and Labor  
5 First Read: 01-APR-10

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

11 This bill would extend the expiration date  
12 of the special assessment until September 30, 2011.

13 Under existing law, the state unemployment  
14 compensation trust fund conformed to federal  
15 legislation, Public Law No. 111-5, to allow 100  
16 percent of the cost of extended benefits to be paid  
17 with federal funds through December 2009.

18 This bill would repeal the expiration date,  
19 December 2009.

20  
21 A BILL

22 TO BE ENTITLED

23 AN ACT

24  
25 To amend Sections 25-4-40.1, 25-4-54, and 25-4-75,  
26 Code of Alabama 1975, relating to the Employment Security  
27 Enhancement Fund; to extend the expiration date of the special

1 assessment; and to amend Section 24-4-75 of the Code of  
2 Alabama 1975, relating to allowing the extension of  
3 unemployment compensation benefits paid with federal funds; to  
4 repeal the expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

8 "§25-4-40.1.

9 "(a) Retroactive to April 1, 1992, and ending  
10 September 30, ~~2010~~ 2011, there is hereby placed upon all wages  
11 so defined in Section 25-4-16, paid to employees by employers  
12 subject to pay contributions as provided in Sections 25-4-51  
13 and 25-4-54, except as is hereinafter provided in this  
14 section, a special assessment of 0.06% (six one-hundredths of  
15 one percent) of such wages. This assessment shall not apply to  
16 wages paid during any calendar quarter of any calendar year by  
17 any employer whose rate of contribution has been computed  
18 under the provisions of Section 25-4-54 to be at least 5.40%  
19 but not more than 5.45% for such calendar year, to any  
20 employer who for such calendar year has elected to make  
21 payments in lieu of contributions pursuant to the provisions  
22 contained in Section 25-4-51, nor to any employer who has not  
23 had sufficient unemployment experience to qualify for a rate  
24 determination under Section 25-4-54 for such calendar year.

25 "(1) Assessments under this section shall become due  
26 and payable at the end of each calendar quarter which begins  
27 after March 31, 1992, and shall be paid in accordance with

1 regulations as may be prescribed by the director at the same  
2 time and in the same manner as employers are required by this  
3 chapter to file reports and pay contributions and shall not be  
4 deducted, in whole or in part, from any remuneration of  
5 individuals in the employ of the employer.

6 "(2) The provisions of Sections 25-4-132 and  
7 25-4-133, relating to the assessment of interest and penalties  
8 for delinquent reporting or payments and the procedures for  
9 the collection of delinquent reports and payments shall apply  
10 to the assessment prescribed by this section. Any interest or  
11 penalty so assessed and collected shall be deposited or  
12 transferred to the Special Employment Security Administration  
13 Fund provided for in subsection (b) of Section 25-4-142.

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

20 "(b) There is hereby created in the State Treasury a  
21 special fund, to be known as "the Employment Security  
22 Enhancement Fund," into which shall be deposited or  
23 transferred all funds collected retroactive to April 1, 1992,  
24 pursuant to the assessment made by the provisions of Section  
25 25-4-32. All moneys in this fund shall be deposited,  
26 administered, and disbursed in the same manner and under the  
27 same conditions and requirements as is provided by law for

1 other special funds in the State Treasury. All moneys in this  
2 fund shall be continuously available to the director for  
3 expenditure in accordance with the provisions of this chapter,  
4 and shall not lapse at any time. These funds shall not be  
5 expended or made available for expenditure in any manner which  
6 would permit their substitution for federal funds, which  
7 would, in the absence of the moneys, be available to finance  
8 expenditures for the administration of the state unemployment  
9 compensation and employment service laws.

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

13 "(1) Special claimant assistance program.

14 "a. Moneys in this fund may be expended to  
15 supplement basic employment security services with special job  
16 search and job placement assistance designed to assist  
17 unemployment compensation claimants obtain employment.

18 "b. The director shall appoint an overview committee  
19 consisting of five (5) members and composed of the Director of  
20 Employment Service, the Director of Unemployment Compensation,  
21 and the Director of the Labor Market Information Division of  
22 the department, one member representing employers and selected  
23 by the Business Council of Alabama (or successor organization)  
24 and one member selected to represent employees by the Alabama  
25 Labor Council (or successor organization). The committee  
26 members shall be selected as soon after approval of this  
27 amendment as is practicable.

1            "c. The duties of the overview committee shall  
2 include the initial planning of the claimant assistance  
3 program as to content and procedures, the determination of  
4 standards, criteria, statistical requirements, and reporting  
5 needs, monitoring the progress of the program, and measuring  
6 the results and making recommendations to the director.

7            "d. All members of this committee shall serve  
8 without remuneration, however, shall be reimbursed for any and  
9 all necessary expenses incurred during the performance of  
10 their duties in the same manner and under the same regulations  
11 as apply to state employees. Such expenses are to be paid from  
12 the Employment Security Enhancement Fund.

13            "(2) General administration and enhancement of  
14 employment security. Necessary and appropriate costs of  
15 employment security enhancements, not in conflict with the  
16 foregoing or state or federal laws, rules or regulations, may  
17 be paid from this fund at the discretion of the director.

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

21            "(4) The director shall submit a special report at  
22 the end of each calendar year to the Governor, Lieutenant  
23 Governor, and the Speaker of the House of Representatives  
24 giving an accounting of collections and expenditures, and an  
25 assessment of the success of programs funded from this source.

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

1           "(e) In the event there is a cessation of the  
2 activities and purposes of the programs to be funded by moneys  
3 from this fund, all remaining moneys in the Employment  
4 Security Enhancement Fund, within 90 calendar days after all  
5 outstanding obligations of the director related to this fund  
6 have been fulfilled, shall be transferred into the state's  
7 Unemployment Compensation Trust Fund on deposit with the U.S.  
8 Treasury.

9           "§25-4-54.

10          "(a) Determination of contribution rates.

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

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

5           "(b) Determination of individual benefit charges.

6           "(1) An individual's "benefit charges" shall be as  
7 follows:

8           "a. For each week benefits are paid, an individual's  
9 "benefit charges" shall be equal to the amount of benefits he  
10 was paid for such week.

11           "b. For each week extended benefits pursuant to  
12 Section 25-4-75 are paid to an individual, the "benefit  
13 charges" shall be equal to the state's share of such benefits  
14 paid to him for such weeks; provided, however, where an  
15 individual's benefit charges for extended benefits are  
16 attributable to service in the employ of any governmental  
17 entity, as defined in paragraph (a)(2)b of Section 25-4-10,  
18 the individual's "benefit charges" shall be an amount equal to  
19 the benefits he was paid for such week.

20           "(2) Any benefits paid to an individual based on  
21 wages paid to an employee during his base period for part-time  
22 employment by an employer who continues to give the employee  
23 employment to the same extent while he is receiving benefits  
24 as he did during his base period shall not be determined to be  
25 the individual's benefit charges. The employer shall establish  
26 the continuation of work to the satisfaction of the director  
27 by submitting such information as the director may require



1 within the time required by other provisions of this chapter  
2 after the date of notification or mailing of notice by the  
3 director that the employee has first filed a claim for  
4 benefits.

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

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

20 "(c) Determination of employer benefit charges.

21 "(1) An employer's benefit charges for each and  
22 every fiscal year shall be the total of the regular benefits  
23 and the state's share of the extended benefits paid during  
24 such fiscal year to all of his employees or former employees  
25 which are attributable to wages paid by such employer to his  
26 employees or former employees; except as is provided by

1 paragraph a. of subdivision (a) (5) of Section 25-4-51 for  
2 governmental entities.

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

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

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

22               "(4) Nothing contained in subdivision (3) of this  
23     subsection (c) shall be construed as limiting or affecting in  
24     any manner the right and authority of the director to remove  
25     benefit charges from any employer's account upon discovering  
26     or being aware of any such employer's workers or former  
27     workers having drawn benefits by reason of false

1 representation of their earnings while filing claims for  
2 benefits nor to make any corrections resulting from any  
3 adjustment to benefits paid to the individual.

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

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

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

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

19 "(d) Determination of employer benefit ratio.  
20 Effective January 1, 1997, and each year thereafter, the  
21 benefit ratio of each employer who qualifies for a rate  
22 determination under subdivision (a)(1) of this section and has  
23 been chargeable with benefits throughout the three most recent  
24 preceding fiscal years shall be a percentage obtained by  
25 dividing the total of his benefit charges for such three-year  
26 period by that part of his total taxable payroll for the same  
27 three-year period with respect to which contributions have

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

17                "For tax rate year beginning January 1, 1991, the  
18      employer's benefit ratio shall be determined by the employer's  
19      actual benefit charges to his account for the fiscal year  
20      ending September 30, 1990, and for fiscal years ending  
21      September 30, 1988, and September 30, 1989, the employer's  
22      benefit charges shall be determined from data accumulated by  
23      the director during such years relative to benefit wage  
24      charges and converted to benefit charges, in such manner as  
25      the director shall prescribe.

26                "(e) Shared costs.

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

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

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

16           "c. Credits granted employers during such fiscal  
17 year because of the reason for separation (as provided in  
18 Section 25-4-78), continued part-time work, as provided by  
19 subdivision (b) (2) of this section, and relief from charges  
20 granted an employer under the provisions of subdivision (c) (4)  
21 of this section; and

22           "d. Benefit overpayments which have been declared  
23 uncollectible or have been waived by the director during the  
24 fiscal year pursuant to the applicable provisions of this  
25 chapter; and

26           "e. Contributions due from employers but not paid  
27 and which have been, during such fiscal year, declared

1 uncollectible by the bankruptcy courts or official action by  
2 the director; and

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

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

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

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

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

21 "(4) To determine the "shared cost ratio" for any  
22 fiscal year, the net shared cost for such fiscal year shall be  
23 divided by the statewide total of taxable wages for the same  
24 fiscal year which have been reported by all contributory  
25 employers and upon which contributions have been timely paid  
26 (reduced by the total of the taxable wages reported and timely  
27 paid on by any employer or employers for the same fiscal year,

1 who by the provisions of subdivision (5) of this subsection  
2 (e) are relieved of the shared cost assessment). The resulting  
3 quotient adjusted to the nearest multiple of one-thousandth  
4 shall be the "shared cost ratio" applicable for assessment to  
5 all contributory employers for the next following calendar  
6 year.

7 "(5)a. Except as is hereinafter provided, the shared  
8 cost ratio as computed under the above provision for each  
9 fiscal year shall, for the next calendar year, be assessed  
10 each employer eligible for a rate determination under the  
11 provision of subdivision (a)(1) of this section, in addition  
12 to the rate of contributions determined by the tables  
13 contained in subsection (f) of this section.

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

18 "2. Any employer whose rate of contribution has been  
19 determined to be the minimum rate allowed under Schedule B for  
20 a calendar year and whose experience rating account has not  
21 been charged with any benefits during the three immediately  
22 preceding fiscal years, shall be relieved of any shared cost  
23 assessment for that calendar year;

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





IF THE EMPLOYER'S BENEFIT RATIO

LINE NO.	IS:	A	B	C	D
1	0.00-0.39	0.20	0.35	0.50	0.65
2	0.40-0.59	0.35	0.50	0.65	0.80
3	0.60-0.79	0.50	0.70	0.90	1.00
4	0.80-0.99	0.70	0.90	1.10	1.20
5	1.00-1.19	0.85	1.10	1.30	1.40
6	1.20-1.39	1.00	1.30	1.55	1.65
7	1.40-1.59	1.15	1.50	1.75	1.90
8	1.60-1.79	1.30	1.70	1.95	2.15
9	1.80-1.99	1.45	1.90	2.15	2.40
10	2.00-2.19	1.60	2.10	2.40	2.65
11	2.20-2.39	1.75	2.30	2.60	2.85
12	2.40-2.59	1.90	2.50	2.80	3.10
13	2.60-2.79	2.05	2.70	3.05	3.35
14	2.80-2.99	2.20	2.90	3.25	3.60
15	3.00-3.19	2.35	3.10	3.50	3.85
16	3.20-3.59	2.50	3.40	3.80	4.20
17	3.60-3.99	2.80	3.80	4.25	4.70
18	4.00-4.39	3.10	4.20	4.70	5.20
19	4.40-4.79	3.40	4.60	5.10	5.70

1	20	4.80-5.19	3.70	5.00	5.50	6.20
2	21	5.20-5.59	4.00	5.40	6.00	6.70
3	22	5.60-5.99	4.30	5.40	6.00	6.70
4	23	6.00-6.39	4.60	5.40	6.10	6.80
5	24	6.40-6.79	4.90	5.40	6.10	6.80
6	25	6.80-7.19	5.20	5.40	6.10	6.80
7	26	7.20 or over	5.40	5.40	6.10	6.80

8                    "The provisions of this subsection (f) to the con-  
9                    trary notwithstanding, the rates of contribution shall, after  
10                   having been determined as herein prescribed, be adjusted as  
11                   follows for calendar quarters beginning after March 31, 1992  
12                   and ending September 30, ~~2010~~ 2011:

13                   "If the rate of contribu-  
14                   tion specified by the Tax  
15                   Rate Table contained in                   The employer's contribution rate  
16                   this section is:                   shall be:

17	0.20	0.14
18	0.35	0.29
19	0.50	0.44
20	0.65	0.59
21	0.70	0.64
22	0.80	0.74

1	0.85	0.79
2	0.90	0.84
3	1.00	0.94
4	1.10	1.04
5	1.15	1.09
6	1.20	1.14
7	1.30	1.24
8	1.40	1.34
9	1.45	1.39
10	1.50	1.44
11	1.55	1.49
12	1.60	1.54
13	1.65	1.59
14	1.70	1.64
15	1.75	1.69
16	1.90	1.84
17	1.95	1.89
18	2.05	1.99
19	2.10	2.04
20	2.15	2.09
21	2.20	2.14
22	2.30	2.24

1	2.35	2.29
2	2.40	2.34
3	2.50	2.44
4	2.60	2.54
5	2.65	2.59
6	2.70	2.64
7	2.80	2.74
8	2.85	2.79
9	2.90	2.84
10	3.05	2.99
11	3.10	3.04
12	3.25	3.19
13	3.35	3.29
14	3.40	3.34
15	3.50	3.44
16	3.60	3.54
17	3.70	3.64
18	3.80	3.74
19	3.85	3.79
20	4.00	3.94
21	4.20	4.14
22	4.25	4.19

1	4.30	4.24
2	4.60	4.54
3	4.70	4.64
4	4.90	4.84
5	5.00	4.94
6	5.10	5.04
7	5.20	5.14
8	5.40	5.40
9	5.50	5.44
10	5.70	5.64
11	6.00	5.94
12	6.10	6.04
13	6.20	6.14
14	6.70	6.64
15	6.80	6.74

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

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

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

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

25 "(2) The desired level of unemployment compensation  
26 fund for each fiscal year shall be one and four-tenths times  
27 the amount determined by multiplying the highest statewide

1 total of payrolls of all employers upon which contributions on  
2 the taxable portion thereof have been paid during any one of  
3 the three most recent preceding fiscal years by the highest  
4 benefits payroll ratio for any one of the 10 most recent  
5 preceding fiscal years.

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

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

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

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

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



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

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

16           "(h) Review of contribution rate, etc. Any employer  
17 may apply to the director for and shall be entitled to a  
18 review as to the determination of his benefit ratio and his  
19 contribution rate as fixed by his benefit ratio, provided such  
20 application is filed within 30 days of the date of the mailing  
21 by the director to the employer of the notice of such  
22 determination. Pending such review, such employer shall make  
23 all contribution payments otherwise required by this chapter  
24 at contribution rates fixed by the determination sought to be  
25 reviewed and resulting overpayments or underpayments of  
26 contributions by the employer shall, upon any redetermination,  
27 be adjusted or refunded pursuant to Section 25-4-137. Any

1 employer may within 30 days after the date of mailing by the  
2 director to such employer of notice of the ruling of the  
3 director upon such application for review appeal such ruling  
4 to the circuit court of any county wherein the employer is  
5 engaged in doing business, upon such terms and upon giving  
6 such security for costs as the court may upon application  
7 prescribe. Trial in that court shall be de novo with respect  
8 to his benefit ratio.

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

1 as provided in subsection (f) of this section; provided, that  
2 he:

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

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

16 "§25-4-75.

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

21 "(b) Definitions. As used in this section, unless  
22 the context clearly requires otherwise, the following terms  
23 shall mean:

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

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

1                    "b. Ends with either of the following weeks,  
2 whichever occurs later:

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

5                    "2. The thirteenth consecutive week of such period;  
6 provided, that no extended benefit period may begin by reason  
7 of a state "on" indicator before the fourteenth week following  
8 the end of a prior extended benefit period which was in effect  
9 with respect to this state.

10                   "3. The eligibility period for the payment of  
11 extended benefits using the total unemployment rate begins on  
12 or after February 1, 2009, and ends ~~on or before December 5,~~  
13 ~~2009,~~ or four weeks prior to the last week for which 100  
14 percent federal sharing funding is available under Section  
15 2005(a) of Public Law No. 111-5, without regard to the  
16 extension of federal sharing for certain claims as provided  
17 under Section 2005(c) of such law.

18                   "(2) STATE "ON" INDICATOR. There is a "state 'on'  
19 indicator" for this state for a week if the director  
20 determines, in accordance with the regulations of the U.S.  
21 Secretary of Labor, that for the period consisting of such  
22 week and the immediately preceding 12 weeks, the rate of  
23 insured unemployment (not seasonally adjusted) under this  
24 section:

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

1            "b. For any week beginning on September 26, 1982, or  
2 thereafter:

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

6            "2. Equaled or exceeded five percent; provided, that  
7 with respect to benefits for weeks of unemployment beginning  
8 after September 25, 1982, the determination of whether there  
9 has been a "state 'on' indicator" beginning any extended  
10 benefit period shall be made under this paragraph b. as if  
11 this paragraph b. did not contain subparagraph 1 thereof and  
12 the "five" contained in subparagraph 2 thereof were "six"; or

13            "3. With respect to weeks of unemployment beginning  
14 on or after February 1, 2009, and remaining in effect until  
15 ~~the week ending on or before December 5, 2009,~~ or four weeks  
16 prior to the last week for which 100 percent federal sharing  
17 funding is available under Section 2005(a) of Public Law No.  
18 111-5, without regard to the extension of federal sharing for  
19 certain claims as provided under Section 2005(c) of such law:

20            "a. The average rate of total unemployment  
21 (seasonally adjusted), as determined by the United States  
22 Secretary of Labor, for the period consisting of the most  
23 recent 3 months for which data for all states are published  
24 before the close of such week equals or exceeds 6.5 percent.

25            "b. The average rate of total unemployment in the  
26 state (seasonally adjusted), as determined by the United  
27 States Secretary of Labor, for the 3-month period referred to

1 in paragraph a., equals or exceeds 110 percent of such average  
2 for either or both of the corresponding 3-month periods ending  
3 in the two preceding calendar years.

4 "c. For the purposes of this section, a "high  
5 unemployment period" exists during any period during which an  
6 extended benefit period would be in effect by substituting "8  
7 percent" for "6.5 percent" in paragraph a.

8 "(3) STATE "OFF" INDICATOR. There is a "state 'off'  
9 indicator" for this state for a week if the director  
10 determines, in accordance with the regulations of the U.S.  
11 Secretary of Labor, that for the period consisting of such  
12 week and the immediately preceding 12 weeks:

13 "a. For any weeks beginning prior to September 26,  
14 1982, the rate of insured unemployment under this section was  
15 less than that required by this section prior to such date.

16 "b. For any weeks beginning on September 26, 1982,  
17 or thereafter, the requirements of either subparagraph 1 or 2  
18 of paragraph (2)b. of this subsection (b) were not satisfied,  
19 except that the six percent provision does not apply in  
20 determining an "off" indicator.

21 "(4) RATE OF INSURED UNEMPLOYMENT. For the purpose  
22 of subdivisions (2) and (3) of this subsection (b), such term  
23 means the percentage derived by dividing:

24 "a. The average weekly number of individuals filing  
25 claims for regular state benefits in this state for weeks of  
26 unemployment with respect to the most recent

1 13-consecutive-week period, as determined by the director on  
2 the basis of his reports to the U.S. Secretary of Labor, by

3 "b. The average monthly employment covered under  
4 this chapter for the first four of the most recent six  
5 completed calendar quarters ending before the end of such  
6 13-week period.

7 "(5) REGULAR BENEFITS. Benefits payable to an  
8 individual under this chapter or under any other state law  
9 (including benefits payable to federal civilian employees and  
10 to ex-servicemen pursuant to 5 U.S.C. 85), other than extended  
11 benefits.

12 "(6) EXTENDED BENEFITS. Benefits (including benefits  
13 payable to federal civilian employees and to ex-servicemen  
14 pursuant to 5 U.S.C. 85) payable to an individual under the  
15 provisions of this subsection for weeks of unemployment in his  
16 eligibility period.

17 "(7) ELIGIBILITY PERIOD OF AN INDIVIDUAL. The period  
18 consisting of the weeks in his benefit year which begin in an  
19 extended benefit period and, if his benefit year ends within  
20 such extended benefit period, any weeks thereafter which begin  
21 in such extended benefit period or during an extended benefit  
22 period provided for in Section 2005(b) of Public Law No.  
23 111-5.

24 "(8) EXHAUSTEE. An individual who, with respect to  
25 any week of unemployment in his eligibility period:

26 "a. Has received, prior to such week, all of the  
27 regular benefits that were available to him under this chapter

1 or any other state law (including dependents' allowances and  
2 benefits payable to federal civilian employees and  
3 ex-servicemen under 5 U.S.C. 85) in his current benefit year  
4 that includes such week; provided, that for the purposes of  
5 this subdivision (8), an individual shall be deemed to have  
6 received all of the regular benefits that were available to  
7 him although as a result of a pending appeal with respect to  
8 wages and/or employment that were not considered in the  
9 original monetary determination in his benefit year, he may  
10 subsequently be determined to be entitled to added regular  
11 benefits; or

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

16 "c.1. Has no right to unemployment benefits or  
17 allowances, as the case may be, under the Railroad  
18 Unemployment Insurance Act, the Trade Expansion Act of 1962,  
19 the Automotive Products Trade Act of 1965, and such other  
20 federal laws as are specified in regulations issued by the  
21 U.S. Secretary of Labor; and

22 "2. Has not received and is not seeking unemployment  
23 benefits under the unemployment compensation law of Canada;  
24 but, if he is seeking such benefits and the appropriate agency  
25 finally determines that he is not entitled to benefits under  
26 such law, he is considered an exhaustee.



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

4           "(c) Effect of state law provisions relating to  
5 regular benefits on claims for, and the payment of, extended  
6 benefits. Except when the result would be inconsistent with  
7 the other provisions of this section, as provided in the  
8 regulations of the director, the provisions of this chapter  
9 which apply to claims for, or the payment of, regular benefits  
10 shall apply to claims for, and the payment of, extended  
11 benefits.

12           "(d) Eligibility requirements for extended benefits.  
13 An individual shall be eligible to receive extended benefits  
14 with respect to any week of unemployment in his eligibility  
15 period only if the director finds that with respect to such  
16 week:

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

19           "(2) He has satisfied the requirements of this  
20 chapter for the receipt of regular benefits that are  
21 applicable to individuals claiming extended benefits,  
22 including not being subject to a disqualification for the  
23 receipts of benefits.

24           "(e) Weekly extended benefit amount. The weekly  
25 extended benefit amount payable to an individual for a week of  
26 total unemployment in his eligibility period shall be an

1 amount equal to the weekly benefit amount payable to him  
2 during his applicable benefit year.

3 "(f) Total extended benefit amount. The total  
4 extended benefit amount payable to any eligible individual  
5 with respect to his applicable benefit year shall be the  
6 lesser of the following amounts:

7 "(1) 50 percent, rounded to the nearest multiple of  
8 \$1, of the total amount of regular benefits which were payable  
9 to him under this chapter in his applicable benefit year; or

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

13 "(3) Effective with respect for weeks in a high  
14 unemployment period, the total extended benefit amounts shall  
15 be applied by substituting "80 percent" for "50 percent" in  
16 subdivision (1) and "Twenty" for "Thirteen" in subdivision  
17 (2).

18 "(g) Beginning and termination of extended benefit  
19 period.

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

25 "(2) Computations required by the provisions of  
26 subdivision (b) (4) of this section shall be made by the

1 director, in accordance with regulations prescribed by the  
2 U.S. Secretary of Labor.

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

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

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

12 "b. No extended benefit period is in effect for such  
13 week in such state.

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

20 "(i) Restrictions on entitlement during eligibility  
21 period.

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

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

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

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

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

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

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

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

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

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

7           "1. the individual's extended weekly benefit amount  
8 for the benefit year plus

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

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

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

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

24           "(5) For purposes of this subsection (i), an  
25 individual shall be treated as actively engaged in seeking  
26 work during any week if the individual has engaged in a  
27 systematic and sustained effort to obtain work during such

1 week, and provides tangible evidence to the director that he  
2 has engaged in such effort during such week.

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

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

19 "(l) Effective date of added provisions. The  
20 provisions of subsections (h), (i), (j), (k), and (l) of this  
21 section shall apply to weeks of unemployment which begin after  
22 March 31, 1981, except the provisions of subsection (i), (j),  
23 and (k) shall not apply to claims for weeks of unemployment  
24 beginning after March 6, 1993, and before January 1, 1995.  
25 During this period, the provisions of this chapter applicable  
26 to claims for regular compensation shall apply. For weeks

1 beginning on or after January 1, 1995, the provisions of  
2 subsections (i), (j), and (k) shall apply.

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

15 Section 2. This act shall become effective  
16 immediately following its passage and approval by the  
17 Governor, or its otherwise becoming law.