

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

1 SB193

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3
4 ENROLLED, An Act,

5 Relating to unemployment benefits, to amend Sections
6 25-4-72, 25-4-74, and 25-4-78, Code of Alabama 1975, to revise
7 the maximum amount of unemployment benefits payable to an
8 individual contingent on the state's average unemployment
9 rate; to revise the maximum weekly unemployment benefit
10 amount; and to revise the terms of losing unemployment
11 benefits due to disqualification.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 25-4-72, 25-4-74, and 25-4-78 of
14 the Code of Alabama 1975, are amended to read as follows:

15 "§25-4-72.

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

20 "(b) For weeks of unemployment during benefit years
21 beginning on or after July 2, 2006, an individual's weekly
22 benefit amount shall be an amount ~~equal to one twenty-sixth of~~
23 ~~the average~~ based on an equal division of the current weeks
24 compensated of the wages for insured work paid to the

1 individual during the two quarters of his or her base period
2 in which the total wages were the highest; except, that:

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

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

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

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

23 "(5) Effective with benefit years beginning on or
24 after January 1, 2020, if the amount thus derived is more than
25 two hundred seventy-four dollars fifty cents (\$274.50), the

1 weekly maximum benefit shall be two hundred seventy-five
2 dollars (\$275).

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

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

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

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

7 "§25-4-74.

8 "(a) Any otherwise eligible individual shall be
9 entitled during any benefit year, beginning on or after July
10 3, 1983, to a total amount of benefits equal to whichever is
11 the lesser of ~~26~~ 14 times his or her weekly benefit amount, if
12 the state's average unemployment rate is at or below 6.5
13 percent, with an additional weekly benefit amount added for
14 each 0.5 percent increase in the state's average unemployment
15 rate above 6.5 percent up to a maximum of 20 times his or her
16 weekly benefit amount if the state's average unemployment rate
17 equals or exceeds 9.5 percent, and ~~one-third~~ one fourth of the
18 wages paid to him or her for insured work during his or her
19 base period; provided, that such total amounts of benefits, if
20 not a multiple of ~~\$1.00~~ one dollar (\$1), shall be computed to
21 the nearest multiple of ~~\$1.00~~ one dollar (\$1).

22 "(b) For the purpose of this article, wages shall be
23 counted as "wages for insured work" with respect to any
24 benefit year only if such wages were paid in the base period
25 immediately preceding such benefit year; except, that any lump

1 sum payment of wages in lieu of notice, dismissal, or
2 severance allowance or "back pay" award shall be prorated over
3 the period or periods with respect to which such payment is
4 made and treated as though it had been paid in such period or
5 periods.

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

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

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

20 "(f) Any otherwise eligible individual shall be
21 entitled during the current benefit year to an additional five
22 weeks after all regular benefits have exhausted under
23 subsection (a), and who is enrolled and making satisfactory
24 progress in a job training or certification program approved
25 by the Alabama Department of Labor. Each approved training

1 program shall prepare individuals for entry into a high wage,
2 high demand occupation.

3 "(1) The amount of benefits payable under this
4 subsection shall equal the weekly benefit amount established
5 by the most recent benefit year.

6 "(2) The compensation is not required to be paid to
7 an individual who is receiving similar benefits or other
8 training allowances from other unrelated sources.

9 "§25-4-78.

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

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

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

4 "a.1. However, ~~he~~ an individual shall not be
5 disqualified if he or she was forced to leave work because he
6 or she was sick or disabled, notified his or her employer of
7 the fact as soon as it was reasonably practicable so to do,
8 and returned to that employer and offered himself or herself
9 for work as soon as he or she was again able to work;
10 provided, however, this exception shall not apply if the
11 employer had an established ~~leave of absence~~ leave of absence
12 policy covering sickness or disability and:

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

15 "(ii) Upon the expiration of a leave of absence
16 shall fail to return to the employer and offer himself or
17 herself for work, if ~~he~~ the individual shall then be able to
18 work, or if he or she is not then able to work, he or she
19 fails to so notify his or her employer of that fact and
20 request an extension of his or her leave of absence as soon as
21 it is reasonably practicable so to do.

22 "2. In case of doubt that an individual was sick or
23 disabled, or as to the duration of any such sickness or
24 disability, the secretary may, or if the employer requests it,

1 the secretary shall require a doctor's certificate to
2 establish the fact or facts in doubt.

3 "3. An established ~~leave of absence~~ leave of absence
4 policy shall be any ~~leave of absence~~ leave of absence policy
5 covering sickness and disability communicated to the employee
6 by the customary means used by the employer for communicating
7 with his or her employees.

8 "4. Nothing herein shall be construed or interpreted
9 as authorizing the payment of benefits to any ~~person~~
10 individual during, or for, unemployment due to sickness or
11 disability or during any period in which he or she is on a
12 leave of absence granted in accordance with an established
13 ~~leave of absence~~ leave of absence policy, the duration of
14 which leave was set in accordance with his or her request or
15 in accordance with a collective bargaining agreement; except,
16 that if such leave of absence is on account of pregnancy and
17 extends beyond the tenth week following termination of such
18 pregnancy, the individual shall not be denied benefits under
19 ~~the provisions of~~ this subdivision (2) beyond such tenth week
20 if she has given the employer three weeks' notice of her
21 desire to return to work, is then able to work, and has not
22 refused reinstatement to a job which under ~~the provisions of~~
23 subdivision (5) ~~of this section~~ would be deemed suitable for
24 her.

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

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

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

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

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

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

21 "3. For the purpose of the experience rating
22 provisions of Section 25-4-54, no portion of the benefits
23 payable to ~~him~~ an individual, based upon wages paid to him or
24 her for the period of employment ending with the separation to
25 which the disqualification applies, shall be charged to the

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

12 "4. Any other provision of this chapter to the
13 contrary notwithstanding, effective October 21, 2013, the
14 unemployment compensation account of an employer shall be
15 charged when the unemployment compensation agency determines
16 that an overpayment has been made to a claimant as a result of
17 both of the following:

18 "(i) The overpayment occurred because the employer,
19 or an agent of the employer, failed to respond timely or
20 adequately to a request from the unemployment compensation
21 agency for information relating to an unemployment
22 compensation claim.

23 "(ii) The employer, or an agent of the employer, has
24 established a pattern of failing to respond timely or
25 adequately to a request from the unemployment compensation

1 agency for information relating to an unemployment
2 compensation claim on two or more occasions.

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

14 "d. For separation occurring on or after August 1,
15 2012, an individual shall not be disqualified if he or she
16 left his or her employment to permanently relocate as a result
17 of his or her active duty military-connected spouse's
18 permanent change of station orders, activation orders, or unit
19 deployment orders. When this exception is applied, any
20 benefits paid to the individual based upon wages paid for that
21 period of employment immediately preceding the separation to
22 which the exception is applied, which have not been heretofore
23 charged to the employer's experience rating account, shall not
24 be charged to the account of the employer.

1 "e. For the purposes of this subdivision (2) and
2 subdivision (3) of this section, the secretary in determining
3 the most recent bona fide work shall only consider employment
4 of the nature described in subsection (a) of Section 25-4-10.
5 The secretary shall also consider the duration of the most
6 recent job or jobs, the intent of the individual and his or
7 her 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~~ an individual was discharged or removed
14 from his or her work for a dishonest or criminal act committed
15 in connection with his or her work or for sabotage or an act
16 endangering the safety of others or for the use of illegal
17 drugs after previous warning or for the refusal to submit to
18 or cooperate with a blood or urine test after previous
19 warning. Disqualification under this paragraph may be applied
20 to separations prior to separation from the most recent bona
21 fide work only if the employer has filed a notice with the
22 secretary alleging that the separation was under conditions
23 described in this paragraph in such manner and within such
24 time as the secretary may prescribe.

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

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

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

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

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

20 "1. He or she shall not be entitled to benefits for
21 the week in which the disqualifying event occurs or for any
22 week thereafter until he or she has reentered insured
23 employment or employment of the nature described in
24 subdivisions (5), (6), (7), (8), (9), (10), or (18) of
25 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.

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

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

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

22 "2. The total amount of benefits to which ~~he~~ an
23 individual may otherwise be entitled as determined in
24 accordance with Sections 25-4-74 and 25-4-75 shall be reduced
25 by an amount equal to the product of the number of weeks for

1 which ~~he~~ an individual shall be disqualified multiplied by his
2 or her weekly benefit amount.

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

22 "d. If ~~he~~ an individual has been suspended as a
23 disciplinary measure connected with his or her work, or for
24 misconduct connected with his or her work, he or she shall be
25 disqualified from benefits for the week or weeks (not to

1 exceed four weeks) in which, or for which, he or she is so
2 suspended and the total amount of benefits to which he or she
3 may otherwise be entitled shall be reduced in the same manner
4 and to the same extent as provided in subparagraph 2. of
5 paragraph c. of this subdivision (3).

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

17 "a. The license, certificate, permit, bond, or
18 surety, or insurability, has been restored to him or her and
19 he or she has reapplied to his or her employer for employment;
20 or

21 "b. He or she has reentered insured employment or
22 employment of the nature described in subdivisions (5), (6),
23 (7), (8), (9), (10), or (18) of subsection (b) of Section
24 25-4-10, whichever is the earlier.

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

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

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

1 "1. The degree of risk involved to his or her
2 health, safety, and morals, his or her physical fitness, and
3 his or her prior training7.

4 "2. His or her experience and prior earnings7.

5 "3. His or her length of unemployment7.

6 "4. His or her prospects for securing local work in
7 his or her customary occupation7.

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

16 "b. Notwithstanding any other provisions of this
17 chapter, no work shall be deemed suitable and benefits shall
18 not be denied under this chapter to any otherwise eligible
19 individual for refusing to accept new work under any of the
20 following conditions:

21 "1. If the position offered is vacant due directly
22 to a strike, lockout, or other labor dispute7.

23 "2. If the wages, hours, or other conditions of the
24 work offered are substantially less favorable to the

1 individual than those prevailing for similar work in the
2 locality; ~~or.~~

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

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

13 "(6) RECEIPT OF BACK PAY AWARD, ETC. For any week
14 with respect to which ~~he~~ an individual is receiving or has
15 received remuneration in the form of a back pay award.
16 Notwithstanding the provisions of Section 25-4-91 any benefits
17 previously paid for weeks of unemployment with respect to
18 which back pay awards are made shall constitute an overpayment
19 and such amounts shall be deducted from the award by the
20 employer prior to payment to the employee and shall be
21 transmitted promptly to the secretary by the employer for
22 application against the overpayment and credit to the
23 claimant's maximum benefit amount and prompt deposit into the
24 fund; provided, however, the removal of any charges made
25 against the employer as a result of such previously paid

1 benefits shall be applied to the calendar year and the
2 calendar quarter in which the overpayment is received by the
3 secretary and no attempt shall be made to relate such a credit
4 to the period to which the award applies. Any amount of
5 overpayment deducted by the employer shall be subject to the
6 same procedures for collection as is provided for
7 contributions by Section 25-4-134 ~~of this chapter~~.

8 "(7) RECEIPT OF OR APPLICATION FOR UNEMPLOYMENT
9 COMPENSATION FROM ANOTHER STATE, ETC. For any week with
10 respect to which, or a part of which, ~~he~~ an individual has
11 received or is seeking unemployment benefits under an
12 unemployment compensation law of any other state or of the
13 United States; provided, that if the appropriate agency of
14 such other state or of the United States finally determines
15 that ~~he~~ the individual is not entitled to such unemployment
16 benefits this disqualification shall not apply.

17 "(8) RECEIPT OF PENSION PAYMENT. For any week with
18 respect to which, or a part of which, an individual has
19 received or has, except for the determination of an exact or
20 specific amount, been determined eligible to receive (during a
21 period for which benefits are being claimed) governmental or
22 other pension, retirement or retired pay, annuity, or similar
23 periodic payment which is based on the previous work of the
24 individual; except, that

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

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

14 "1. Such payment is made under a plan that is
15 maintained (or contributed to) by a base period employer and
16 100 percent employer-financed and not contributed to by the
17 worker, and

18 "2. In the case of such a payment not made under the
19 Social Security Act or the Railroad Retirement Act of 1974 (or
20 the corresponding provisions of prior law), services performed
21 for such employer by the individual after the beginning of his
22 or her base period (or remuneration for such services) affect
23 eligibility for or increase the amount of, such payment.

24 "c. The other provisions of this subdivision to the
25 contrary notwithstanding, beginning with the weeks ending

1 October 7, 1995, the amount of any pension, retirement or
2 retired pay, annuity, or other similar periodic payment under
3 the Social Security Act or the Railroad Retirement Act shall
4 not result in a reduction of benefits under this subdivision.

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

14 "(9) RECEIPT OF OR APPLICATION FOR WORKERS'
15 COMPENSATION. For any week with respect to which, or a part of
16 which, ~~he~~ an individual has received or is seeking
17 compensation for temporary disability under any workers'
18 compensation law; provided, that if it is finally determined
19 ~~he~~ the individual is not entitled to such compensation, this
20 disqualification shall not apply; and provided further, that
21 if such compensation is less than the benefits which would
22 otherwise be due under this chapter, ~~he~~ the individual shall
23 be entitled to receive for such week, if otherwise eligible,
24 benefits reduced by the amount of such payment.

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

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

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

1 otherwise eligible, weekly benefits reduced by the amount of
2 such remuneration. It is further provided that receipt of
3 training allowances under the Trade Readjustment Act shall not
4 be cause for disqualification under this 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

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.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB193

Senate 23-APR-19

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris,
Secretary.

House of Representatives
Passed: 14-MAY-19

By: Senator Orr