

House Bill 581 (COMMITTEE SUBSTITUTE)

By: Representatives Coan of the 101st, May of the 111th, Horne of the 71st, Marin of the 96th, Reese of the 98th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to
2 employment security, so as to protect the solvency of the Georgia Unemployment Trust Fund
3 by providing incentives to employers to comply with the Employment Security Law; to
4 protect existing jobs and to stimulate job creation; to reduce employer payment requirements
5 for de minimis tax amounts; to extend suspension of adjustments based upon the State-wide
6 Reserve Ratio; to provide for a reduced adjustment in contribution rates through a certain
7 time period; to reauthorize certain federal moneys for the administration of Chapter 8 of Title
8 34; to change a definition; to provide for additional weeks of benefits for persons in certain
9 types of job training for high-demand occupations; to provide for restrictions on disclosure
10 of confidential information; to change certain provisions relating to the base period; to
11 change certain provisions relating to eligibility requirements for extended benefits; to provide
12 for applicability; to provide for related matters; to provide for an effective date; to repeal
13 conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 This Act shall be known and may be cited as the "Georgia Works Job Creation and
17 Protection Act of 2009."

18 **SECTION 2.**

19 Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to employment
20 security, is amended by revising Code Section 34-8-150, relating to payment of contributions
21 by employers, to read as follows:

22 "34-8-150.

23 (a) Contributions shall accrue from each employer for each calendar year in which the
24 employer is subject to this chapter with respect to wages payable for employment, except
25 as provided in Code Sections 34-8-158 through 34-8-162. Except as otherwise provided

26 in this Code section, such Such contributions shall become due and be paid before the last
 27 day of the month next following the end of the calendar quarter to which they apply, in
 28 accordance with such regulations as the Commissioner may prescribe; provided, however,
 29 that with respect to employers as defined in paragraph (2) of subsection (a) of Code Section
 30 34-8-33, the Commissioner shall provide by regulation that such contributions shall
 31 become due and be paid on an annual basis not later than such date as shall be prescribed
 32 by resolution of the Commissioner. Such contributions shall become delinquent if not paid
 33 when due and shall not be deducted, in whole or in part, from the wages of individuals in
 34 such employer's employ.

35 (b)(1) For calendar quarters beginning on or after July 1, 2009, when the combined
 36 amount of contributions under this Code section and assessments under Code Section
 37 34-8-180 or 34-8-181 due from an employer for any calendar quarter does not exceed
 38 \$5.00, such amount may be regarded as a de minimis amount with respect to that calendar
 39 quarter.

40 (2) Payment of such de minimis amount for such calendar quarter, otherwise due before
 41 the last day of the month next following the end of the calendar quarter, may be deferred,
 42 at the option of the employer, until the January 31 reporting date next following, if the
 43 employer:

44 (A) Files all quarterly wage and tax reports, including a report of such de minimis
 45 amount due;

46 (B) Timely pays all other amounts due; and

47 (C) Makes full payment of any deferred de minimis amount by the January 31 report
 48 date next following.

49 (3) In the event that an employer fails to comply with paragraph (2) of this subsection,
 50 any such deferred de minimis amount shall become delinquent as of the date originally
 51 due under this Code section and Code Section 34-8-165, 34-8-180, or 34-8-181, as
 52 applicable, and the employer shall be subject to all the provisions thereof.

53 (b)(c) In the payment of any contributions, a fractional part of a cent shall be disregarded
 54 unless it amounts to one-half cent or more, in which case it shall be increased to one cent."

55 SECTION 3.

56 Said chapter is further amended by revising subparagraph (d)(4)(B) of Code Section
 57 34-8-156, relating to the State-wide Reserve Ratio for unemployment compensation, to read
 58 as follows:

59 "(B) Except for any year or portion of a year during which the provisions of
 60 paragraph (1) of subsection (f) of Code Section 34-8-155 apply, when the State-wide
 61 Reserve Ratio, as calculated above, is less than 1.7 percent, there shall be an overall

62 increase in the rate, as of the computation date, for each employer whose rate is
 63 computed under a rate table in Code Section 34-8-155 in accordance with the following
 64 table:

65 If the State-wide Reserve Ratio:

66	Equals or	But Is	Overall
67	<u>Exceeds</u>	<u>Less Than</u>	<u>Increase</u>
68	1.5 percent	1.7 percent	25 percent
69	1.25 percent	1.5 percent	50 percent
70	0.75 percent	1.25 percent	75 percent
71	Under 0.75 percent		100 percent

72 provided, however, that for the periods of January 1 through December 31, 2004;
 73 January 1 through December 31, 2005; and January 1 through December 31, 2006, the
 74 overall increase in the rate required under this subparagraph shall be suspended and the
 75 provisions of this subparagraph shall be null and void, except in the event the
 76 State-wide Reserve Ratio, as calculated above, is less than 1.00 percent on the
 77 computation date with respect to rates applicable to calendar year 2004, 2005, or 2006,
 78 then for each such year the Commissioner of Labor shall have the option of imposing
 79 an increase in the overall rate of up to 35 percent, as of the computation date, for each
 80 employer whose rate is computed under a rate table in Code Section 34-8-155; and
 81 provided, further, that for the periods of January 1 through December 31, 2007, January
 82 1 through December 31, 2008, ~~and~~ January 1 through December 31, 2009, January 1
 83 through December 31, 2010, and January 1 through December 31, 2011, the overall
 84 increase in the rate required under this subparagraph shall be suspended and the
 85 provisions of this subparagraph shall be null and void, except in the event the
 86 State-wide Reserve Ratio, as calculated above, is less than 1.25 percent on the
 87 computation date with respect to rates applicable to calendar year 2007, 2008, ~~or~~ 2009,
 88 2010, or 2011, then for each such year the Commissioner of Labor shall have the option
 89 of imposing an increase in the overall rate of up to 35 percent, as of the computation
 90 date, for each employer whose rate is computed under a rate table in Code Section
 91 34-8-155."

92 **SECTION 4.**

93 There is appropriated to the Department of Labor out of funds credited to and held in this
 94 state's account in the Unemployment Trust Fund by the Secretary of the Treasury of the
 95 United States pursuant to and in accordance with Section 903 of the Social Security Act, as
 96 amended, an additional amount of \$1,885,551.11. Of said additional amount, the sum of

97 \$1,885,551.11 is authorized to be allocated for expenses incurred in the administration of
 98 Chapter 8 of Title 34 of the Official Code of Georgia Annotated, the "Employment Security
 99 Law" as amended, including personal services and operating and other expenses incurred in
 100 the administration of said law, as well as for the purchase or rental, either or both, of
 101 improvements, repairs, or alterations to and of offices, lands, buildings or parts of buildings,
 102 fixtures, furnishings, equipment, technology, data, reports and studies, supplies, and the
 103 construction of buildings or parts of buildings suitable for use in this state by the Department
 104 of Labor, and for the payment of expenses incurred for the acquisition, purchase, rental,
 105 construction, maintenance, improvements, repairs, or alterations of and to such real or
 106 personal property. Notwithstanding any other provision of this section, the amount
 107 appropriated in this section shall not exceed the amount in the Unemployment Trust Fund,
 108 which may be obligated for expenditure for such purposes as provided in Code Section
 109 34-8-85 of the Official Code of Georgia Annotated, relating to certain withdrawals from the
 110 Unemployment Trust Fund, and the amount which may be obligated shall not exceed the
 111 limitations provided in Code Section 34-8-85 of the Official Code of Georgia Annotated,
 112 relating to certain withdrawals from the Unemployment Trust Fund; provided, however, that
 113 said additional funds shall not be obligated for expenditure, as provided in this section, after
 114 the close of the two-year period which begins on the date of enactment of this section.

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SECTION 5.

116 Said chapter is further amended by revising Code Section 34-8-24, relating to an individual's
 117 status as bona fide in the labor market, which revision is intended to satisfy the requirements
 118 and conditions to qualify for incentive payments provided for as Special Transfers for
 119 Unemployment Compensation Modernization in Section 2003 of the American Recovery and
 120 Reinvestment Act of 2009, Public Law 111-5, to read as follows:

121 "34-8-24.

122 As used in this chapter, the term 'bona fide in the labor market' means that any person
 123 claiming benefits under this chapter must be available for full-time employment, as that
 124 term is generally understood in the trade or work classification involved, without regard
 125 to prior work restrictions, provided that no individual who is otherwise eligible shall be
 126 deemed ineligible for benefits solely because the individual seeks, applies for, or accepts
 127 only part-time work, instead of full-time work, provided the individual claiming benefits
 128 worked part-time during a majority of the weeks of work in the base period and the
 129 individual is available for part-time work for at least 20 hours per week."

SECTION 6.

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131 Said chapter is further amended by revising subsection (d) of Code Section 34-8-193, relating
132 to determination of weekly benefit amount, which revision is intended to satisfy the
133 requirements and conditions to qualify for incentive payments provided for as Special
134 Transfers for Unemployment Compensation Modernization in Section 2003 of the American
135 Recovery and Reinvestment Act of 2009, Public Law 111-5, to read as follows:

136 "(d)(1) Except as otherwise provided in this subsection, the ~~The~~ maximum benefits
137 payable to an individual in a benefit year shall be the lesser of 26 times the weekly
138 benefit amount or one-fourth of the base period wages. If the amount computed is not
139 a multiple of the weekly benefit amount, the total will be adjusted to the nearest multiple
140 of the weekly benefit amount. The duration of benefits shall be extended in accordance
141 with Code Section 34-8-197.

142 (2) In addition to and subsequent to payment of all benefits otherwise allowed under
143 paragraph (1) of this subsection and without restriction with respect to an individual's
144 benefit year, for claims filed on or after January 1, 2010, weekly unemployment
145 compensation shall be payable under this subsection to any individual who is
146 unemployed, has exhausted all rights to regular unemployment compensation under the
147 provisions of Article 7 of this chapter, and is enrolled and making satisfactory progress,
148 as determined by the Commissioner, in a training program approved by the department,
149 as described in subsection (d) of Code Section 34-8-195, or in a job training program
150 authorized under the Workforce Investment Act of 1998, Public Law 105-220, and not
151 receiving similar stipends or other training allowances for nontraining costs. Each such
152 training program approved by the department or job training program authorized under
153 the Workforce Investment Act of 1998 shall prepare individuals who have been separated
154 from a declining occupation, as designated by the department from time to time, or who
155 have been involuntarily and indefinitely separated from employment as a result of a
156 permanent reduction of operations at the individual's place of employment, for entry into
157 a high-demand occupation, as designated by the department from time to time. The
158 amount of unemployment compensation payable under this subsection to an individual
159 for a week of unemployment shall be equal to the individual's average weekly benefit
160 amount for the individual's most recent benefit year less deductible earnings, if any. The
161 total amount of unemployment compensation payable under this subsection to any
162 individual shall be equal to at least 26 times the individual's average weekly benefit
163 amount for the individual's most recent benefit year. Except when the result would be
164 inconsistent with other provisions of this subsection, all other provisions of Article 7 of
165 this chapter shall apply to the administration of the provisions of this subsection."

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SECTION 7.

Said chapter is further amended by revising Code Section 34-8-121, relating to information or records to be kept private and confidential, release of authorized maintenance of records, and destruction of outdated records, to read as follows:

"34-8-121.

(a) Any information or records concerning an individual or employing unit obtained by the department pursuant to the administration of this chapter or other federally funded programs for which the department has responsibility shall be private and confidential, except as otherwise provided in this article or by regulation. This article does not create a rule of evidence. Information or records may be released by the department when the release is required by the federal government in connection with, or as a condition of funding for, a program being administered by the department. The provisions of paragraphs (1) through (3) of subsection (a) of Code Section 34-8-125 shall not apply to such release.

(b)(1) Each employing unit shall keep true and accurate records containing such information as the Commissioner may prescribe. Such records shall be open to inspection and be subject to being copied by the Commissioner or an authorized representative of the Commissioner at any time and as often as may be necessary. In addition to information prescribed by the Commissioner, each employer shall keep records of and report to the Commissioner quarterly the street address of each establishment, branch, outlet, or office of such employer, the nature of the operation, the number of persons employed, and the wages paid at each establishment, branch, outlet, or office.

(2) The Commissioner or an authorized representative of the Commissioner may require from any employing unit any sworn or unsworn reports deemed necessary for the effective administration of this chapter. Any member of the board of review, any administrative hearing officer, or any field representative may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which are deemed necessary for the effective administration of this chapter.

(3) Information, statements, transcriptions of proceedings, transcriptions of recordings, electronic recordings, letters, memoranda, and other documents and reports thus obtained or obtained from any individual, claimant, employing unit, or employer pursuant to the administration of this chapter, except to the extent necessary for the proper administration and enforcement of this chapter, shall be held confidential and shall not be subject to subpoena in any civil action or proceeding, published, or open to public inspection, other than to public employees in the performance of their public duties, in any manner revealing the individual's or employing unit's identity; but any claimant, employer, or a duly authorized representative, at a hearing before an administrative hearing officer or

203 the board of review, shall be supplied with information from such records to the extent
 204 necessary for the proper presentation of his or her claim. Any person who violates any
 205 provision of this paragraph shall upon conviction be guilty of a misdemeanor.

206 (4) Notwithstanding the provisions of Code Sections 50-6-9 and 50-6-29 relating to the
 207 powers of the state auditor to disclose private and confidential information or records
 208 obtained by the department pursuant to the administration of this chapter or other
 209 federally funded programs for which the department has responsibility, such private and
 210 confidential information or records may be disclosed by the state auditor only in
 211 accordance with all provisions of this article and the requirements of 20 C.F.R. 603 and,
 212 after notice and review, upon the written direction of the Commissioner issued in advance
 213 of such disclosure.

214 ~~(4)~~(5) On orders of the Commissioner, any records or documents received or maintained
 215 by the Commissioner under the provisions of this chapter or the rules and regulations
 216 promulgated under this chapter may be destroyed under such safeguards as will protect
 217 their confidential nature two years after the date on which such records or documents last
 218 serve any useful, legal, or administrative purpose in the administration of this chapter or
 219 in the protection of the rights of anyone."

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SECTION 8.

221 Said chapter is further amended by revising Code Section 34-8-21, relating to base period,
 222 as follows:

223 "34-8-21.

224 (a) Except as provided in subsection (b) of this Code section, as used in this chapter, the
 225 term 'base period' means the first four of the last five completed calendar quarters
 226 immediately preceding the first day of an individual's benefit year; provided, however, that,
 227 in the case of a combined wage claim under Code Section 34-8-80, the base period shall
 228 be that applicable under the unemployment compensation law of the paying state.

229 (b) If an individual does not have sufficient wages to qualify for benefits under the
 230 definition of base period in subsection (a) of this Code section, then his or her base period
 231 shall be calculated using the last four completed quarters immediately preceding the first
 232 day of the individual's benefit year. Such base period shall be known as the 'alternative base
 233 period.' Applicants shall receive written notice of the alternative base period.
 234 Implementation of the alternative base period shall commence on January 1, 2003.
 235 Implementation of the alternative base period under this subsection shall be under such
 236 terms and conditions as the Commissioner may prescribe by rules and regulations. ~~All~~
 237 ~~benefit payments made under this subsection shall be paid exclusively from amounts~~
 238 ~~credited to the account of this state in the Unemployment Trust Fund by the secretary of~~

239 ~~the treasury of the United States pursuant to Section 903 of the federal Social Security Act,~~
 240 ~~as amended by the Job Creation and Worker Assistance Act of 2002 (P.L. 107-147)."~~

241 **SECTION 9.**

242 Said chapter is further amended by revising Code Section 34-8-197, relating to eligibility
 243 requirements for extended benefits, to read as follows:

244 "34-8-197.

245 (a) *Definitions.* As used in this Code section, the term:

246 (1) 'Eligibility period' of an individual means the period consisting of the weeks in his
 247 or her benefit year which begin in an extended benefit period and, if his or her benefit
 248 year ends within such extended benefit period, any weeks thereafter which begin in such
 249 period.

250 (2) 'Exhaustee' means an individual who, with respect to any week of unemployment in
 251 his or her eligibility period:

252 (A) Has received, prior to such week, all of the regular benefits that were available to
 253 him or her under this chapter or any other state law, including dependents' allowances
 254 and benefits payable to federal civilian employees and ex-service personnel under 5
 255 U.S.C. Chapter 85, in his or her current benefit year that includes such week, provided
 256 that for the purposes of this subparagraph an individual shall be deemed to have
 257 received all of the regular benefits that were available to him or her, although, as a
 258 result of a pending appeal with respect to wages that were not considered in the original
 259 monetary determination in his or her benefit year, he or she may subsequently be
 260 determined to be entitled to added regular benefits;

261 (B) His or her benefit year having expired prior to such week, has no or insufficient
 262 wages on the basis of which he or she could establish a new benefit year that would
 263 include such week; and

264 (C)(i) Has no right to unemployment benefits or allowances under the Railroad
 265 Unemployment Insurance Act and such other federal laws as are specified in
 266 regulations issued by the United States secretary of labor.

267 (ii) Has not received and is not seeking unemployment benefits under the
 268 unemployment compensation law of Canada; but if he or she is seeking such benefits
 269 and the appropriate agency finally determines that he or she is not entitled to benefits
 270 under such law, he or she is considered an exhaustee.

271 (3)(A) 'Extended benefit period' means a period which:

272 ~~(A)(i)~~ Begins with the third week after a week for which there is a state 'on' indicator;
 273 and

274 ~~(B)(ii)~~ Ends with either of the following weeks, whichever occurs later:

- 275 ~~(i)(I)~~ The third week after the first week for which there is a state 'off' indicator; or
 276 ~~(ii)(II)~~ The thirteenth consecutive week of such period.

277 However, no extended benefit period may begin by reason of a state 'on' indicator before
 278 the fourteenth week following the end of a prior extended benefit period which was in
 279 effect with respect to this state. There is a state 'on' indicator for a week if, for the period
 280 consisting of such week and the immediately preceding 12 weeks, the rate of insured
 281 unemployment under the state law for the period equaled or exceeded 120 percent of the
 282 average of such rates for the corresponding 13 week period ending in each of the
 283 preceding two calendar years and equaled or exceeded 5 percent. ~~There is a state 'off'~~
 284 ~~indicator for a week if, for the period consisting of such week and the immediately~~
 285 ~~preceding 12 weeks, either of the above provisions is not satisfied.~~

286 (B)(i) With respect to weeks of unemployment beginning on or after February 1,
 287 2009, there is a state 'on' indicator for a week if:

288 (I) The average rate of total unemployment, seasonally adjusted, as determined by
 289 the United States secretary of labor, for the period consisting of the most recent
 290 three months for which data for all states are published before the close of such
 291 week equals or exceeds 6 1/2 percent; and

292 (II) The average rate of total unemployment in this state, seasonally adjusted, as
 293 determined by the United States secretary of labor, for the three-month period
 294 referred to in subdivision (I) of this subparagraph, equals or exceeds 110 percent of
 295 such average for either or both of the corresponding three-month periods ending in
 296 the two preceding calendar years.

297 (ii) This subparagraph shall apply only to the extent that full federal funding is
 298 available in accordance with Section 2005(a) of Public Law 111-5 or any extension
 299 thereof.

300 (C) There is a state 'off' indicator for a week if, for the period consisting of such week
 301 and the immediately preceding 12 weeks, none of the options specified in
 302 subparagraphs (A) and (B) of this paragraph are satisfied.

303 (4) 'Rate of insured unemployment,' for purposes of paragraph (3) of this subsection,
 304 means the percentage derived by dividing:

305 (A) The average weekly number of individuals filing claims in this state, not including
 306 individuals filing claims for extended benefits or regular benefits claimed by federal
 307 civilian employees and ex-service personnel, for weeks of unemployment with respect
 308 to the most recent 13 consecutive week period, as determined by the Commissioner on
 309 the basis of the Commissioner's reports to the United States secretary of labor; by

310 (B) The average monthly employment covered under this chapter for the first four of
311 the most recent six completed calendar quarters ending before the end of such 13 week
312 period.

313 (5) 'Regular benefits' means benefits payable to an individual under this chapter or under
314 any other state law, including benefits payable to federal civilian employees and to
315 ex-service personnel pursuant to 5 U.S.C. Chapter 85, other than extended benefits.

316 (6) 'State law' means the unemployment insurance law of any state approved by the
317 United States secretary of labor under Section 3304 of the Internal Revenue Code.

318 (7) 'Suitable work' means, with respect to any individual, any work which is within such
319 individual's capabilities, provided that, if the individual furnishes evidence satisfactory
320 to the Commissioner that such individual's prospects for obtaining work in the customary
321 occupation of such individual within a reasonably short period are good, the
322 determination of whether any work is suitable work with respect to such individual shall
323 be made in accordance with this chapter.

324 (b) *Applicability of provisions as to regular benefits to claims for and payment of extended*
325 *benefits.* Except when the result would be inconsistent with the other provisions of this
326 Code section, as provided in the regulations of the Commissioner, the provisions of this
327 chapter which apply to claims for, or the payment of, regular benefits shall apply to claims
328 for, and the payment of, extended benefits. To establish entitlement to extended benefits,
329 an individual must have been paid in at least two quarters of the base period and total
330 wages in the base period must equal or exceed 150 percent of the highest quarter base
331 period wages. The alternative computation for entitlement as required by Code Section
332 34-8-193 shall not apply to extended benefits.

333 (c) *Eligibility requirements for extended benefits.* An individual shall be eligible to
334 receive extended benefits with respect to any week of unemployment in the eligibility
335 period of the individual only if the Commissioner finds that with respect to such week:

336 (1) He or she is an 'exhaustee' as defined in paragraph (2) of subsection (a) of this Code
337 section; and

338 (2) He or she has satisfied the requirements of this chapter for the receipt of regular
339 benefits that are applicable to individuals claiming extended benefits, including not being
340 subject to a disqualification for the receipt of benefits; provided, however, that the total
341 extended benefits otherwise payable to an individual who has filed an interstate claim
342 under the interstate benefit payment plan shall not exceed two weeks whenever an
343 extended benefit period is not in effect for such week in the state where the claim is filed;
344 provided, further, if an individual has been disqualified in his or her most recent benefit
345 year or on his or her extended benefit claim, only those who are required to return to
346 work and to earn additional insured wages in employment in order to terminate this

347 disqualification and who satisfy this requirement shall be eligible to receive extended
 348 benefits; provided, further, if the benefit year of a claimant ends within an extended
 349 benefit period, the number of weeks of extended benefits that such claimant would be
 350 entitled to in that extended benefit period, but for this subsection, shall be reduced, but
 351 not below zero, by the number of weeks for which the claimant was entitled to trade
 352 readjustment allowances during such benefit year. For purposes of this subsection, the
 353 terms 'benefit year' and 'extended benefit period' shall have the same respective meanings.

354 (d) *Weekly extended benefit amount.* The weekly extended benefit amount payable to an
 355 individual for a week of total unemployment in the eligibility period of such individual
 356 shall be an amount equal to the weekly benefit amount payable to him or her during his or
 357 her applicable benefit year.

358 (e) *Total extended benefit amount.* Except as provided in paragraph (1) of this section, the
 359 ~~The~~ total extended benefit amount payable to any eligible individual with respect to his or
 360 her applicable benefit year shall be the least of the following amounts:

361 (1) Fifty percent of the total amount of regular benefits which were payable to him or her
 362 under this chapter in his or her applicable benefit year;

363 (2) Thirteen times his or her weekly benefit amount which was payable to him or her
 364 under this chapter for a week of total unemployment in the applicable benefit year; or

365 (3) Thirty-nine times the individual's weekly benefit amount which was payable to the
 366 individual under this chapter for a week of total unemployment in the applicable benefit
 367 year, reduced by the total amount of regular benefits which were paid or deemed paid to
 368 him or her under this chapter with respect to the benefit year.

369 (f) *Notice as to beginning and termination of extended benefit period.* Whenever an
 370 extended benefit period is to become effective in this state as a result of the state 'on'
 371 indicator or whenever an extended benefit period is to be terminated in this state as a result
 372 of the state 'off' indicator, the Commissioner shall make an appropriate announcement.

373 (g) *Computations.* Computations required by paragraph (4) of subsection (a) of this Code
 374 section shall be made by the Commissioner in accordance with regulations prescribed by
 375 the United States secretary of labor.

376 (h) *Nonpayment of extended benefits for failure to seek or accept work.* Notwithstanding
 377 other provisions of this Code section, payment of extended benefits under this Code section
 378 shall not be made to any individual for any week of unemployment in his or her eligibility
 379 period during which he or she fails:

380 (1) To accept any offer of suitable work or fails to apply for any suitable work to which
 381 he or she was referred by the State Employment Service; or

382 (2) To engage actively in seeking work. For the purposes of this paragraph, an individual
 383 shall be treated as actively engaged in seeking work during any week if:

- 384 (A) The individual has engaged in a systematic and sustained effort to obtain work
 385 during such week; and
- 386 (B) The individual provides tangible evidence to the satisfaction of the Commissioner
 387 that he or she has engaged in such an effort during such week.
- 388 (i) *Period of nonpayment for extended benefits.* If any individual is ineligible for
 389 extended benefits for any week by reason of a failure described in paragraph (1) or (2) of
 390 subsection (h) of this Code section, the individual shall be ineligible to receive extended
 391 benefits for any week which begins during a period which:
- 392 (1) Begins with the week following the week in which such failure occurs; and
 393 (2) Does not end until such individual has been employed during at least four weeks
 394 which begin after such failure and for which the total of the remuneration in insured
 395 wages for services in employment earned by the individual for being so employed is not
 396 less than the product of four multiplied by the individual's weekly benefit amount for his
 397 or her benefit year.
- 398 (j) *Exceptions to subsection (h) of this Code section.* No individual shall be denied
 399 extended benefits under paragraph (1) of subsection (h) of this Code section for any week
 400 by reason of a failure to accept an offer of or apply for suitable work:
- 401 (1) If the gross average weekly remuneration payable to such individual for the position
 402 does not exceed the sum of:
- 403 (A) The individual's weekly benefit amount for such individual's benefit year; and
 404 (B) The amount, if any, of supplemental unemployment compensation benefits, as
 405 defined in Code Section 34-8-45, payable to such individual for such week;
- 406 (2) If the position was not offered to such individual in writing and was not listed with
 407 the State Employment Service;
- 408 (3) If such failure would not result in a denial of benefits under this chapter to the extent
 409 that such provisions are not inconsistent with paragraph (7) of subsection (a) of this Code
 410 section and the provisions of subsection (h) of this Code section which relate to
 411 individuals actively engaged in seeking work; or
- 412 (4) If the position pays wages less than the higher of:
- 413 (A) The minimum wage provided by Section 6(a)(1) of the Fair Labor Standards Act
 414 of 1938, without regard to any exemption; or
 415 (B) The Georgia minimum wage.
- 416 (k) *Referral of claimants to suitable work.* A claimant for extended benefits shall be
 417 referred to any suitable work as provided for in paragraph (7) of subsection (a) of this Code
 418 section which is not excluded by subsection (j) of this Code section.

419 (l) Effective with respect to weeks beginning in a high-unemployment period, the total
420 extended benefit amount payable to an eligible individual with respect to the applicable
421 benefit year shall be the least of the following amounts:

422 (1) Eighty percent of the total amount of regular benefits that were payable to the
423 individual pursuant to this chapter in the individual's applicable benefit year;

424 (2) Twenty times the individual's average weekly benefit amount that was payable to the
425 individual pursuant to this chapter for a week of total unemployment in the applicable
426 benefit year; or

427 (3) Forty-six times the individual's weekly benefit amount which was payable to the
428 individual under this chapter for a week of total unemployment in the applicable benefit
429 year, reduced by the total amount of regular benefits which were paid or deemed paid to
430 him or her under this chapter with respect to the benefit year.

431 (m) For purposes of subsection (l) of this Code section, 'high-unemployment period' means
432 a period during which an extended benefit period would be in effect if subdivision
433 (a)(3)(B)(i)(I) of this Code section were applied by substituting '8 percent' for '6 1/2
434 percent.'

435 (n) Subsections (l) and (m) of this Code section shall apply only to the extent that full
436 federal funding is available in accordance with Section 2005(a) of Public Law 111-5."

437 **SECTION 10.**

438 This Act shall become effective on July 1, 2009.

439 **SECTION 11.**

440 All laws and parts of laws in conflict with this Act are repealed.