



## GEORGIA DEPARTMENT OF LABOR

148 ANDREW YOUNG INTERNATIONAL BLVD., N.E. ♦ ATLANTA, GEORGIA 30303-1751

**MICHAEL L. THURMOND**  
COMMISSIONER

**TO:** Cheryl Atkinson  
Administrator  
Office of Workforce Security  
200 Constitution Avenue NW  
Room S-4231  
Washington, DC 20210

**DATE:** May 15, 2009

Via Email to [Atkinson.Cheryl@dol.gov](mailto:Atkinson.Cheryl@dol.gov)  
cc: [Hildebrand.Gerard@dol.gov](mailto:Hildebrand.Gerard@dol.gov),  
Regional Office

**RE: STATE OF GEORGIA AMENDED APPLICATION FOR 2009  
UI MODERNIZATION INCENTIVE FUNDS**

Please consider and approve the following Amended Application and request from the State of Georgia for UI Modernization Incentive Payments under Section 2003 of the American Recovery and Reinvestment Act of 2009 (the Act):

***I. Alternative Base Period Incentive Payment; 42 USC 1103(f)(1)(C)(i)***

The State of Georgia hereby makes application for the State's share (\$73.4 million) in modernization incentive payments for enactment and amendment of its Alternative Base Period (ABP) provision under Section 2003 of the Act, amending 42 U.S.C. 1103 at subsection (f) and providing for payment conditions at 1103(f)(1)(C)(i). Georgia enacted an ABP provision effective January 1, 2003 at O.C.G.A. 34-8-21(b). In 2009 House Bill 581, Georgia amended that provision to delete language in Georgia's ABP provision that limited payment for ABP claims to 2002 Reed Act funds only. See SECTION 8 of House Bill 581 attached. A separate copy of the amended provisions also attached. Governor Sonny Purdue signed HB 581 on April 21, 2009, at which time it became effective.

***II. Remainder Incentive Payments; 42 USC 1103(f)(1)(C)(ii)***

The State of Georgia also makes application for the remainder of this State's share (\$146.7 million) in modernization incentive payments for amending its state laws, as follows:

**1. Eliminating disqualification from benefits of part-time workers** who limit their work search to part-time employment only, in accordance with limitations and conditions imposed by UIPL 14-09 and applicable provisions of Section 2003 of the Act. The subject amendment regarding the work search and availability requirements in Georgia law appears at O.C.G.A. 34-8-24 (definition of "bona fide in the labor market"), as amended. See SECTION 5 of 2009 House Bill 581 attached. A separate copy of the amended provision is also attached. The amendment became effective with the signing of the HB 581 by Georgia's Governor on April 21, 2009; and

**2. Adding a new training benefit**, under specified conditions, for persons who lose their jobs in a reduction in force or from a declining occupation and enroll in certain categories of training for high demand occupations. The bill was modeled on instructions regarding such legislation found in UIPL 14-09 and applicable language in Section 2003 of the Act. The new training benefit law will be codified as an amendment to O.C.G.A. 34-8-193(d). See SECTION 6 of HB581 attached. A separate copy of the amended provision is also attached. The new extended benefit training will become effective on January 1, 2010.

***Status of Georgia Law Amendments:***

Each of the three Georgia law provisions, as amended, O.C.G.A. 34-8-21, 34-8-24, and 34-8-193, with the exception of the new extended training benefit provision in O.C.G.A. 34-8-193, is currently in effect *as permanent law* and not subject to discontinuation under any circumstances other than repeal by the Georgia legislature. The new extended training benefit will be in effect *as permanent law* on January 1, 2010, and is not subject to discontinuation under any circumstances other than repeal by the Georgia legislature. This should satisfy the U.S. Department of Labor's requirements regarding post-certification effective dates, as indicated in UIPL 14-09.

***Proposed Use of All Incentive Payments:***

The State of Georgia will use the incentive payments to pay unemployment insurance benefits. In 2009, unemployment claim costs in Georgia are at record levels, which is reducing Georgia's Unemployment Trust Fund balance at a rapid pace. The incentive payments are needed for benefit funding.

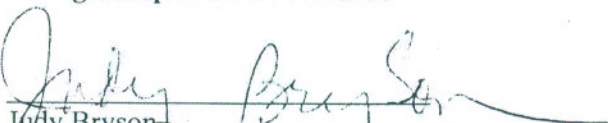
***Total Incentive Payment Requested:***

Total requested - **\$220.3 Million**, as outlined in UIPL 14-09.

***CERTIFICATION:***

*I hereby certify that this Amended Application for 2009 UI Modernization Incentive Funds, as authorized in Section 2003 of the American Recovery and Reinvestment Act of 2009, is made in good faith, all qualifying legislation having been enacted and/or amended with the intention of providing benefits to unemployed workers who meet the eligibility requirements on which the Application is based.*

**Georgia Department of Labor**

  
\_\_\_\_\_  
Judy Bryson  
Deputy Commissioner

May 18, 2009  
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***ATTACHMENTS:***

2009 House Bill 581, as Passed House and Senate, Georgia Legislature  
O.C.G.A. 34-8-21, as amended in SECTION 8, HB 581  
O.C.G.A. 34-8-24, as amended in SECTION 5, HB 581  
O.C.G.A. 34-8-193(d), as amended in SECTION 6, HB 581



House Bill 581 (AS PASSED HOUSE AND SENATE)

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

A BILL TO BE ENTITLED  
AN ACT

1 To amend Titles 34 and 50 of the Official Code of Georgia Annotated, relating to labor and  
2 industrial relations and state government, respectively, so as to provide for implementation  
3 of provisions allowing for stimulation of the economy and labor market within the state; to  
4 protect the solvency of the Georgia Unemployment Trust Fund by providing incentives to  
5 employers to comply with the Employment Security Law; to protect existing jobs and to  
6 stimulate job creation; to reduce employer payment requirements for de minimis tax  
7 amounts; to extend suspension of adjustments based upon the State-wide Reserve Ratio; to  
8 provide for a reduced adjustment in contribution rates through a certain time period; to  
9 reauthorize certain federal moneys for the administration of Chapter 8 of Title 34; to change  
10 a definition; to provide for additional weeks of benefits for persons in certain types of job  
11 training for high-demand occupations; to provide for restrictions on disclosure of confidential  
12 information; to change certain provisions relating to the base period; to change certain  
13 provisions relating to eligibility requirements for extended benefits; to change certain  
14 provisions relating to withdrawals from the Unemployment Trust Fund; to provide for  
15 applicability; to change certain provisions regarding powers of the Georgia State Financing  
16 and Investment Commission; to provide for related matters; to provide for an effective date;  
17 to repeal conflicting laws; and for other purposes.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 SECTION 1.

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

22 SECTION 2.

23 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,  
24 is amended by revising Code Section 34-8-150, relating to payment of contributions by  
25 employers, to read as follows:



26 \*34-8-150.

27 (a) Contributions shall accrue from each employer for each calendar year in which the  
28 employer is subject to this chapter with respect to wages payable for employment, except  
29 as provided in Code Sections 34-8-158 through 34-8-162. Except as otherwise provided  
30 in this Code section, such ~~Such~~ contributions shall become due and be paid before the last  
31 day of the month next following the end of the calendar quarter to which they apply, in  
32 accordance with such regulations as the Commissioner may prescribe; provided, however,  
33 that with respect to employers as defined in paragraph (2) of subsection (a) of Code Section  
34 34-8-33, the Commissioner shall provide by regulation that such contributions shall  
35 become due and be paid on an annual basis not later than such date as shall be prescribed  
36 by resolution of the Commissioner. Such contributions shall become delinquent if not paid  
37 when due and shall not be deducted, in whole or in part, from the wages of individuals in  
38 such employer's employ.

39 (b)(1) For calendar quarters beginning on or after July 1, 2009, when the combined  
40 amount of contributions under this Code section and assessments under Code Section  
41 34-8-180 or 34-8-181 due from an employer for any calendar quarter does not exceed  
42 \$5.00, such amount may be regarded as a de minimis amount with respect to that calendar  
43 quarter.

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

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

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

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

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

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

## SECTION 3.

59  
60 Said title is further amended by revising subparagraph (d)(4)(B) of Code Section 34-8-156,  
61 relating to the State-wide Reserve Ratio for unemployment compensation, to read as follows:

62 "(B) Except for any year or portion of a year during which the provisions of  
63 paragraph (1) of subsection (f) of Code Section 34-8-155 apply, when the State-wide  
64 Reserve Ratio, as calculated above, is less than 1.7 percent, there shall be an overall  
65 increase in the rate, as of the computation date, for each employer whose rate is  
66 computed under a rate table in Code Section 34-8-155 in accordance with the following  
67 table:

68 If the State-wide Reserve Ratio:

69	Equals or	But Is	Overall
70	<u>Exceeds</u>	<u>Less Than</u>	<u>Increase</u>
71	1.5 percent	1.7 percent	25 percent
72	1.25 percent	1.5 percent	50 percent
73	0.75 percent	1.25 percent	75 percent
74	Under 0.75 percent		100 percent

75 provided, however, that for the periods of January 1 through December 31, 2004;  
76 January 1 through December 31, 2005; and January 1 through December 31, 2006, the  
77 overall increase in the rate required under this subparagraph shall be suspended and the  
78 provisions of this subparagraph shall be null and void, except in the event the  
79 State-wide Reserve Ratio, as calculated above, is less than 1.00 percent on the  
80 computation date with respect to rates applicable to calendar year 2004, 2005, or 2006,  
81 then for each such year the Commissioner of Labor shall have the option of imposing  
82 an increase in the overall rate of up to 35 percent, as of the computation date, for each  
83 employer whose rate is computed under a rate table in Code Section 34-8-155; and  
84 provided, further, that for the periods of January 1 through December 31, 2007, January  
85 1 through December 31, 2008, and January 1 through December 31, 2009, January 1  
86 through December 31, 2010, and January 1 through December 31, 2011, the overall  
87 increase in the rate required under this subparagraph shall be suspended and the  
88 provisions of this subparagraph shall be null and void, except in the event the  
89 State-wide Reserve Ratio, as calculated above, is less than 1.25 percent on the  
90 computation date with respect to rates applicable to calendar year 2007, 2008, or 2009,  
91 2010, or 2011, then for each such year the Commissioner of Labor shall have the option  
92 of imposing an increase in the overall rate of up to 35 percent, as of the computation  
93 date, for each employer whose rate is computed under a rate table in Code Section  
94 34-8-155."



95

**SECTION 4.**

96 There is appropriated to the Department of Labor out of funds credited to and held in this  
97 state's account in the Unemployment Trust Fund by the Secretary of the Treasury of the  
98 United States pursuant to and in accordance with Section 903 of the Social Security Act, as  
99 amended, an additional amount of \$1,885,551.11. Of said additional amount, the sum of  
100 \$1,885,551.11 is authorized to be allocated for expenses incurred in the administration of  
101 Chapter 8 of Title 34 of the Official Code of Georgia Annotated, the "Employment Security  
102 Law" as amended, including personal services and operating and other expenses incurred in  
103 the administration of said law, as well as for the purchase or rental, either or both, of  
104 improvements, repairs, or alterations to and of offices, lands, buildings or parts of buildings,  
105 fixtures, furnishings, equipment, technology, data, reports and studies, supplies, and the  
106 construction of buildings or parts of buildings suitable for use in this state by the Department  
107 of Labor, and for the payment of expenses incurred for the acquisition, purchase, rental,  
108 construction, maintenance, improvements, repairs, or alterations of and to such real or  
109 personal property. Notwithstanding any other provision of this section, the amount  
110 appropriated in this section shall not exceed the amount in the Unemployment Trust Fund,  
111 which may be obligated for expenditure for such purposes as provided in Code Section  
112 34-8-85 of the Official Code of Georgia Annotated, relating to certain withdrawals from the  
113 Unemployment Trust Fund, and the amount which may be obligated shall not exceed the  
114 limitations provided in Code Section 34-8-85 of the Official Code of Georgia Annotated,  
115 relating to certain withdrawals from the Unemployment Trust Fund; provided, however, that  
116 said additional funds shall not be obligated for expenditure, as provided in this section, after  
117 the close of the two-year period which begins on the date of enactment of this section.

118

**SECTION 5.**

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

124 \*34-8-24.

125 As used in this chapter, the term 'bona fide in the labor market' means that any person  
126 claiming benefits under this chapter must be available for full-time employment, as that  
127 term is generally understood in the trade or work classification involved, without regard  
128 to prior work restrictions, provided that no individual who is otherwise eligible shall be  
129 deemed ineligible for benefits solely because the individual seeks, applies for, or accepts



130 only part-time work, instead of full-time work, provided the individual claiming benefits  
131 worked part-time during a majority of the weeks of work in the base period and the  
132 individual is available for part-time work for at least 20 hours per week."

133

**SECTION 6.**

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

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

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

165 weekly benefit amount for the individual's most recent benefit year. The provisions of  
166 subsection (d) of Code Section 34-8-195 shall apply to eligibility for benefits under this  
167 subsection. Except when the result would be inconsistent with other provisions of this  
168 subsection, all other provisions of Article 7 of this chapter shall apply to the administration  
169 of the provisions of this subsection."

170

**SECTION 7.**

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

174 "34-8-121.

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

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

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

198 (3) Information, statements, transcriptions of proceedings, transcriptions of recordings,  
199 electronic recordings, letters, memoranda, and other documents and reports thus obtained



200 or obtained from any individual, claimant, employing unit, or employer pursuant to the  
201 administration of this chapter, except to the extent necessary for the proper administration  
202 and enforcement of this chapter, shall be held confidential and shall not be subject to  
203 subpoena in any civil action or proceeding, published, or open to public inspection, other  
204 than to public employees in the performance of their public duties, in any manner revealing  
205 the individual's or employing unit's identity; but any claimant, employer, or a duly authorized  
206 representative, at a hearing before an administrative hearing officer or the board of review,  
207 shall be supplied with information from such records to the extent necessary for the proper  
208 presentation of his or her claim. Any person who violates any provision of this paragraph  
209 shall upon conviction be guilty of a misdemeanor.

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

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

224 **SECTION 8.**

225 Said title is further amended by revising Code Section 34-8-21, relating to base period, as  
226 follows:

227 "34-8-21.

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

233 (b) If an individual does not have sufficient wages to qualify for benefits under the  
234 definition of base period in subsection (a) of this Code section, then his or her base period



235 shall be calculated using the last four completed quarters immediately preceding the first  
 236 day of the individual's benefit year. Such base period shall be known as the 'alternative base  
 237 period.' Applicants shall receive written notice of the alternative base period.  
 238 Implementation of the alternative base period shall commence on January 1, 2003.  
 239 Implementation of the alternative base period under this subsection shall be under such  
 240 terms and conditions as the Commissioner may prescribe by rules and regulations. ~~All~~  
 241 ~~benefit payments made under this subsection shall be paid exclusively from amounts~~  
 242 ~~credited to the account of this state in the Unemployment Trust Fund by the secretary of~~  
 243 ~~the treasury of the United States pursuant to Section 903 of the federal Social Security Act,~~  
 244 ~~as amended by the Job Creation and Worker Assistance Act of 2002 (P.L. 107-147)."~~

245 **SECTION 9.**

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

248 \*34-8-197.

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

250 (1) 'Eligibility period' of an individual means the period consisting of the weeks in his  
 251 or her benefit year which begin in an extended benefit period and, if his or her benefit  
 252 year ends within such extended benefit period, any weeks thereafter which begin in such  
 253 period; provided, however, that with respect to extended benefit periods established under  
 254 division (a)(3)(B)(i) of this Code section pertaining to Section 2005 of Public Law 111-5  
 255 and any extension thereof that does not impose any new condition upon receipt of such  
 256 federal funding, 'eligibility period' of an individual also means the period consisting of  
 257 the weeks during which such individual is eligible for Emergency Unemployment  
 258 Compensation provided for by the Supplemental Appropriations Act of 2008, Title IV  
 259 Emergency Unemployment Compensation, Public Law 110-252, and the Unemployment  
 260 Compensation Extension Act of 2008, Public Law 110-449, when such weeks begin in  
 261 that extended benefit period and, if his or her eligibility for such emergency  
 262 unemployment compensation ends within such extended benefit period, any weeks  
 263 thereafter which begin in such period, except as otherwise limited by the provisions in  
 264 division (a)(3)(B)(ii) of this Code section.

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

267 (A) Has received, prior to such week, all of the regular benefits that were available to  
 268 him or her under this chapter or any other state law, including dependents' allowances  
 269 and benefits payable to federal civilian employees and ex-service personnel under 5

270 U.S.C. Chapter 85, in his or her current benefit year that includes such week, provided  
 271 that for the purposes of this subparagraph an individual shall be deemed to have  
 272 received all of the regular benefits that were available to him or her, although, as a  
 273 result of a pending appeal with respect to wages that were not considered in the original  
 274 monetary determination in his or her benefit year, he or she may subsequently be  
 275 determined to be entitled to added regular benefits;

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

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

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

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

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

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

290 ~~(i)~~(I) The third week after the first week for which there is a state 'off' indicator; or

291 ~~(ii)~~(II) The thirteenth consecutive week of such period.

292 However, no extended benefit period may begin by reason of a state 'on' indicator before  
 293 the fourteenth week following the end of a prior extended benefit period which was in  
 294 effect with respect to this state. There is a state 'on' indicator for a week if, for the period  
 295 consisting of such week and the immediately preceding 12 weeks, the rate of insured  
 296 unemployment under the state law for the period equaled or exceeded 120 percent of the  
 297 average of such rates for the corresponding 13 week period ending in each of the  
 298 preceding two calendar years and equaled or exceeded 5 percent. ~~There is a state 'off'~~  
 299 ~~indicator for a week if, for the period consisting of such week and the immediately~~  
 300 ~~preceding 12 weeks, either of the above provisions is not satisfied:~~

301 (B)(i) With respect to weeks of unemployment beginning on or after February 1,  
 302 2009, there is a state 'on' indicator for a week if:

303 (1) The average rate of total unemployment, seasonally adjusted, as determined by  
 304 the United States secretary of labor, for the period consisting of the most recent



305 three months for which data for all states are published before the close of such  
306 week equals or exceeds 6 1/2 percent; and

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

312 (ii) This subparagraph shall apply through the week ending three weeks prior to the  
313 last week for which 100 percent federal funding is authorized and provided pursuant  
314 to either Section 2005(a) of Public Law 111-5 or any extension thereof that does not  
315 impose any new condition upon receipt of such federal funding.

316 (C) There is a state 'off' indicator for a week if, for the period consisting of such week  
317 and the immediately preceding 12 weeks, none of the options specified in  
318 subparagraphs (A) and (B) of this paragraph result in an 'on' indicator.

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

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

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

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

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

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



340 (b) *Applicability of provisions as to regular benefits to claims for and payment of extended*  
341 *benefits.* Except when the result would be inconsistent with the other provisions of this  
342 Code section, as provided in the regulations of the Commissioner, the provisions of this  
343 chapter which apply to claims for, or the payment of, regular benefits shall apply to claims  
344 for, and the payment of, extended benefits. To establish entitlement to extended benefits,  
345 an individual must have been paid in at least two quarters of the base period and total  
346 wages in the base period must equal or exceed 150 percent of the highest quarter base  
347 period wages. The alternative computation for entitlement as required by Code Section  
348 34-8-193 shall not apply to extended benefits.

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

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

354 (2) He or she has satisfied the requirements of this chapter for the receipt of regular  
355 benefits that are applicable to individuals claiming extended benefits, including not being  
356 subject to a disqualification for the receipt of benefits; provided, however, that the total  
357 extended benefits otherwise payable to an individual who has filed an interstate claim  
358 under the interstate benefit payment plan shall not exceed two weeks whenever an  
359 extended benefit period is not in effect for such week in the state where the claim is filed;  
360 provided, further, if an individual has been disqualified in his or her most recent benefit  
361 year or on his or her extended benefit claim, only those who are required to return to  
362 work and to earn additional insured wages in employment in order to terminate this  
363 disqualification and who satisfy this requirement shall be eligible to receive extended  
364 benefits; provided, further, if the benefit year of a claimant ends within an extended  
365 benefit period, the number of weeks of extended benefits that such claimant would be  
366 entitled to in that extended benefit period, but for this subsection, shall be reduced, but  
367 not below zero, by the number of weeks for which the claimant was entitled to trade  
368 readjustment allowances during such benefit year. For purposes of this subsection, the  
369 terms 'benefit year' and 'extended benefit period' shall have the same respective meanings.

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

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

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

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

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

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

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

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

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

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

400 (A) The individual has engaged in a systematic and sustained effort to obtain work  
401 during such week; and

402 (B) The individual provides tangible evidence to the satisfaction of the Commissioner  
403 that he or she has engaged in such an effort during such week.

404 (i) *Period of nonpayment for extended benefits.* If any individual is ineligible for  
405 extended benefits for any week by reason of a failure described in paragraph (1) or (2) of  
406 subsection (h) of this Code section, the individual shall be ineligible to receive extended  
407 benefits for any week which begins during a period which:

408 (1) Begins with the week following the week in which such failure occurs; and



409 (2) Does not end until such individual has been employed during at least four weeks  
410 which begin after such failure and for which the total of the remuneration in insured  
411 wages for services in employment earned by the individual for being so employed is not  
412 less than the product of four multiplied by the individual's weekly benefit amount for his  
413 or her benefit year.

414 (j) *Exceptions to subsection (h) of this Code section.* No individual shall be denied  
415 extended benefits under paragraph (1) of subsection (h) of this Code section for any week  
416 by reason of a failure to accept an offer of or apply for suitable work:

417 (1) If the gross average weekly remuneration payable to such individual for the position  
418 does not exceed the sum of:

419 (A) The individual's weekly benefit amount for such individual's benefit year; and

420 (B) The amount, if any, of supplemental unemployment compensation benefits, as  
421 defined in Code Section 34-8-45, payable to such individual for such week;

422 (2) If the position was not offered to such individual in writing and was not listed with  
423 the State Employment Service;

424 (3) If such failure would not result in a denial of benefits under this chapter to the extent  
425 that such provisions are not inconsistent with paragraph (7) of subsection (a) of this Code  
426 section and the provisions of subsection (h) of this Code section which relate to  
427 individuals actively engaged in seeking work; or

428 (4) If the position pays wages less than the higher of:

429 (A) The minimum wage provided by Section 6(a)(1) of the Fair Labor Standards Act  
430 of 1938, without regard to any exemption; or

431 (B) The Georgia minimum wage.

432 (k) *Referral of claimants to suitable work.* A claimant for extended benefits shall be  
433 referred to any suitable work as provided for in paragraph (7) of subsection (a) of this Code  
434 section which is not excluded by subsection (j) of this Code section.

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

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

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

443 (3) Forty-six times the individual's weekly benefit amount which was payable to the  
444 individual under this chapter for a week of total unemployment in the applicable benefit



445 year, reduced by the total amount of regular benefits which were paid or deemed paid to  
446 him or her under this chapter with respect to the benefit year.

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

451 (n) Subsections (l) and (m) of this Code section shall apply through the week ending three  
452 weeks prior to the last week for which 100 percent federal funding is authorized and  
453 provided pursuant to either Section 2005(a) of Public Law 111-5 or any extension thereof  
454 that does not impose any new condition upon receipt of such federal funding."

455 **SECTION 10.**

456 Said title is further amended by revising paragraph (5) of Code Section 34-8-85, relating to  
457 withdrawals from the Unemployment Trust Fund for expenditures under chapter, as follows:

458 "(5) APPROPRIATIONS TO DEPARTMENT OF LABOR. There is authorized to be appropriated  
459 by the General Assembly to the Department of Labor any part of or all moneys credited  
460 to the account of this state in the Unemployment Trust Fund by the secretary of the  
461 treasury of the United States pursuant to Section 903 of the federal Social Security Act,  
462 as amended, and as provided in this Code section; provided, however, that  
463 notwithstanding any other provisions of this Code section to the contrary, moneys  
464 credited with respect to federal fiscal years 1999, 2000, and 2001, and moneys credited  
465 with respect to the special transfer made under Section 903(g) of said Act, shall be used  
466 solely for the administration of the unemployment insurance program in Georgia and are  
467 not subject to appropriations by the General Assembly."

468 **SECTION 11.**

469 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended  
470 by revising subsection (d) of Code Section 50-17-22, relating to powers of the Georgia State  
471 Financing and Investment Commission, as follows:

472 "(d) Powers. The commission shall have those powers set forth in the Constitution and the  
473 powers necessary and incidental thereto. In addition to such powers, the commission shall  
474 have power:

- 475 (1) To have a seal and alter the same at pleasure;  
476 (2) To make contracts and to execute all instruments necessary or convenient, including  
477 contracts with any and all political subdivisions, institutions, or agencies of the state and  
478 state authorities, upon such terms and for such purposes as it deems advisable; and such

479 political subdivisions, institutions, or agencies of the state and state authorities are  
480 authorized and empowered to enter into and perform such contracts;

481 (3) To employ such other experts, agents, and employees as may be in the commission's  
482 judgment necessary to carry on properly the business of the commission; to fix the  
483 compensation for such officers, experts, agents, and employees and to promote and  
484 discharge the same;

485 (4) To do and perform all things necessary or convenient to carry out the powers  
486 conferred upon the commission by this article; ~~and~~

487 (5) To make reasonable regulations or adopt the standard specifications or regulations  
488 of the Department of Transportation or the state authorities, or parts thereof, for the  
489 construction, reconstruction, building, rebuilding, renovating, surfacing, resurfacing,  
490 acquiring, leasing, maintaining, repairing, removing, installing, planning, or disposing of  
491 projects for which public debt has been authorized, or for such other purposes as deemed  
492 necessary by the commission; and

493 (6)(A) To apply for, arrange for, accept, and administer federal funds for capital outlay  
494 and construction related services and for authorization or payment of public debt.

495 (B) Without limitation, the commission may:

496 (i) Deposit, or arrange for, federal funds to be deposited into the State of Georgia  
497 General Obligation Debt Sinking Fund or into the State of Georgia Guaranteed  
498 Revenue Debt Common Reserve Fund, and the fiscal officer of the state shall accept  
499 such deposits;

500 (ii) Arrange for the disbursement of federal funds directly to trustees, paying agents,  
501 or other persons for the payment of public debt;

502 (iii) Cooperate with any public agency, authority, or officer in applying for,  
503 accepting, and administering federal funds for public purposes mutual to the  
504 commission and any other agency, authority, or officer;

505 (iv) Apply or arrange to participate in and take all actions the commission determines  
506 appropriate to obtain the benefits of federal programs which provide tax credits,  
507 incentives, or other inducements to the state or to holders of public debt;

508 (v) Apply or arrange to participate in federal programs which require the allocation  
509 of funds or bonding authority among geographical areas, governmental jurisdictions  
510 and entities, or other categories, and perform such allocation unless another officer,  
511 agency, or instrumentality is explicitly authorized by state law to perform such  
512 allocation and all officers, agencies, or instrumentalities are required to provide such  
513 assistance, cooperation, and information as the commission directs related to any  
514 federal programs; and



515 (vi) Apply or arrange to participate in any other federal program which provides  
516 benefits consistent with state law and supportive of functions of the commission.  
517 (C) The use of federal funds as part of the authorization for the issuance of general  
518 obligation debt or the issuance of guaranteed revenue debt shall be by appropriation as  
519 provided by law. The payment of federal funds into the sinking fund to pay annual debt  
520 service requirements shall be by appropriation or by direction of the commission in the  
521 absence of appropriation. The payment of federal funds into the State of Georgia  
522 Guaranteed Revenue Debt Common Reserve Fund as part of the common reserve shall  
523 be by appropriation or by direction of the commission in the absence of appropriation.  
524 (D) The commission may delegate to the fiscal officer of the state its authority to  
525 arrange for and accept federal funds as provided in this Code section."

526 **SECTION 12.**

527 This Act shall become effective upon its approval by the Governor or upon its becoming law  
528 without such approval; provided, however, that the Commissioner of Labor may delay the  
529 implementation of Section 9 of this Act for a period of time not to extend beyond May 25,  
530 2009, if the Commissioner of Labor determines that it is not reasonably practicable to  
531 commence implementation of such section as of the effective date.

532 **SECTION 13.**

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

## SECTION 8.

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

"34-8-21.

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

(b) If an individual does not have sufficient wages to qualify for benefits under the definition of base period in subsection (a) of this Code section, then his or her base period shall be calculated using the last four completed quarters immediately preceding the first day of the individual's benefit year. Such base period shall be known as the 'alternative base period.' Applicants shall receive written notice of the alternative base period. Implementation of the alternative base period shall commence on January 1, 2003. Implementation of the alternative base period under this subsection shall be under such terms and conditions as the Commissioner may prescribe by rules and regulations. ~~All benefit payments made under this subsection shall be paid exclusively from amounts credited to the account of this state in the Unemployment Trust Fund by the secretary of the treasury of the United States pursuant to Section 903 of the federal Social Security Act, as amended by the Job Creation and Worker Assistance Act of 2002 (P.L. 107-147).~~"



## SECTION 5.

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

"34-8-24.

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

## SECTION 6.

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

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

(2) In addition to and subsequent to payment of all benefits otherwise allowed under paragraph (1) of this subsection and without restriction with respect to an individual's benefit year, for claims filed on or after January 1, 2010, weekly unemployment compensation shall be payable under this subsection to any individual who is unemployed, has exhausted all rights to regular unemployment compensation under the provisions of Article 7 of this chapter, and is enrolled and making satisfactory progress, as determined by the Commissioner, in a training program approved by the department, or in a job training program authorized under the Workforce Investment Act of 1998, Public Law 105-220, and not receiving similar stipends or other training allowances for nontraining costs. Each such training program approved by the department or job training program authorized under the Workforce Investment Act of 1998 shall prepare individuals who have been separated from a declining occupation, as designated by the department from time to time, or who have been involuntarily and



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indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment, for entry into a high-demand occupation, as designated by the department from time to time. The amount of unemployment compensation payable under this subsection to an individual for a week of unemployment shall be equal to the individual's weekly benefit amount for the individual's most recent benefit year less deductible earnings, if any. The total amount of unemployment compensation payable under this subsection to any individual shall be equal to at least 26 times the individual's weekly benefit amount for the individual's most recent benefit year. The provisions of subsection (d) of Code Section 34-8-195 shall apply to eligibility for benefits under this subsection. Except when the result would be inconsistent with other provisions of this subsection, all other provisions of Article 7 of this chapter shall apply to the administration of the provisions of this subsection."