



STATE OF TENNESSEE
DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT

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PHIL BREDESEN
GOVERNOR

JAMES G. NEELEY
COMMISSIONER

June 25, 2009

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

Via email to: Atkinson.Cheryl@dol.gov
cc: Hildebrand.Gerard@dol.gov
Regional Office

RE: State of Tennessee Application for 2009 Unemployment Insurance Modernization Incentive Funds

Dear Ms. Atkinson,

Please consider and approve the following application and request from the State of Tennessee for Unemployment Insurance Modernization Incentive Payments under Section 2003 of the American Recovery and Reinvestment Act of 2009 (ARRA).

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

The State of Tennessee hereby makes application for the State's share, \$47,269,344, in modernization incentive payments for the enactment and amendment of its alternative base period provision under Section 2003 of the ARRA, amending 42 U.S.C. 1103 at subsection (f) and providing for payment conditions at 1103(f)(1)(C)(i). Tennessee enacted an alternate base period provision effective no later than a year from the date Governor Phil Bredesen signed House Bill 2324/Senate Bill 2315 into law, June 25, 2009. Tennessee's alternate base period provision becomes the last four completed calendar quarters if a claimant does not monetarily qualify for benefits under the current first four of the last five completed calendar quarter base period.

2. Remainder Incentive Payments; 42 USC 1103(F)(1)(C)(ii)

The State of Tennessee also makes application for the remainder of this State's share \$94,538,687 in modernization incentive payments for amending its state laws, as follows:

A. Eliminating disqualification from benefits for part time workers who limit their work search to part-time employment only, in accordance with limitations and conditions imposed in UIPL 14-09 and applicable provisions of Section 2003 of the Act. HB 2324/SB 2315 contained a provision which codified agency policy into law. A claimant is not disqualified for benefits provided he has made himself able and available for work for a minimum of twenty hours each week.

B. Adding dependant allowances for unemployment insurance claimants. A \$15 dollar per child, to a maximum of \$50, weekly dependent allowance was enacted by HB 2324, SB 2315.

All three of the above provisions are currently enacted as permanent law and not subject to discontinuation under any circumstance other than repeal by the Tennessee General Assembly. These three provisions will be implemented by the Tennessee Department of Labor no later than June 25, 2010.

The State of Tennessee will use the incentive payments to pay unemployment insurance benefits. Tennessee is experiencing a rapidly depleting unemployment trust fund. These funds will increase the likelihood that Tennessee's unemployment trust fund will weather the storm and not become insolvent while other measures are implemented to strengthen the fund.

Total Incentive Payment Request: \$141,808,031, as outlined in UIPL 14-09.

CERTIFICATION:

I hereby certify that this application for 2009 Unemployment Insurance 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 with the intention of providing benefits to unemployed workers who meet the eligibility requirements on which the application is based.

Tennessee Department of Labor and Workforce Development


James Neeley, Commissioner

STATE OF TENNESSEE
PUBLIC CHAPTER NO. 550
HOUSE BILL NO. 2324

**By Representatives Curtiss, Mike Turner, Roach, Montgomery, Harrison,
Eldridge**

Substituted for: Senate Bill No. 2315

By Senators Kyle, Henry, Marrero

AN ACT to amend Tennessee Code Annotated, Title 50, Chapter 7 and Title 62,
Chapter 43, relative to employment security law.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-7-213(a), is amended by deleting the language "seven thousand dollars (\$7,000)" in the second and third sentences and substituting instead the language "the taxable wage base, as defined in subsection (e) of this section."

SECTION 2. Tennessee Code Annotated, Section 50-7-213(b), is amended by deleting the language in the last sentence "seven thousand dollars (\$7,000) referred to in subsection (a)." and substituting instead "the taxable wage base, referred to herein as defined in subsection (e) of this section."

SECTION 3. Tennessee Code Annotated, Section 50-7-213, is amended by adding the following language as a new subsection (e):

(e) For purposes of this chapter, "taxable wage base" means:

(1) The first seven thousand dollars (\$7,000) paid to each individual employee during any period with respect to the calendar years beginning January 1, 1983, and ending December 31, 2008, and at any time after December 31, 2008, that the unemployment trust fund balance is greater than one billion dollars (\$1,000,000,000), as determined in accordance with § 50-7-403(j);

(2) The first eight thousand dollars (\$8,000) paid to each individual employee during any period after December 31, 2008, when the unemployment trust fund balance is greater than nine hundred million dollars (\$900,000,000) but lower than or equal to one billion dollars (\$1,000,000,000), as determined in accordance with § 50-7-403(j); and

(3) The first nine thousand dollars (\$9,000) paid to each individual employee during the period after December 31, 2008, and at any time after such date that the unemployment trust fund balance is lower than or

equal to nine hundred million dollars (\$900,000,000), as determined in accordance with § 50-7-403(j).

SECTION 4. Tennessee Code Annotated, Section 50-7-218, is amended by deleting the section in its entirety and substituting instead the following:

§ 50-7-218. "Base period" defined. - "Base period" means, with respect to each claimant, either the first four (4) of the last five (5) completed calendar quarters or the last four (4) completed calendar quarters immediately preceding the first day of the claimant's benefit year. For the purposes of establishing a base period, the department shall initially use the first four (4) of the last five (5) calendar quarters. If there are insufficient wages to monetarily qualify for benefits as defined in § 50-7-301(d)(3) or (4), the department shall use the last four (4) completed calendar quarters as the base period. Computations using the last four (4) completed calendar quarters shall be based upon all available wage items processed as of the close of business on the day preceding the date of application for unemployment benefits. The department shall promptly contact employers to request assistance in obtaining wage information for the last completed calendar quarter if it has not been reported at the time of the initial application for unemployment benefits. No benefits shall be payable utilizing the last four (4) completed calendar quarters as the base period until such time as the commissioner shall certify to the department of finance and administration that the mechanism and resources necessary for the prompt and efficient payment of such benefits are in place, except that in no event shall such certification fail to meet the deadline imposed by the American Recovery and Reinvestment Act of 2009 for the payment of such benefits in order to receive federal funding under the act.

SECTION 5. Tennessee Code Annotated, Section 50-7-301, is amended by inserting the following language as a new subsection (e):

(1) A claimant eligible for benefits shall be paid for each benefit week an additional sum of fifteen dollars (\$15.00), not to exceed a total of fifty dollars (\$50.00), for each un-emancipated minor child of the claimant who is in fact wholly or mainly supported by the claimant and is:

(A) Less than eighteen (18) years of age and un-married;

(B) Less than eighteen (18) years of age and in the claimant's custody pending the adjudication of a petition filed by the claimant for the adoption of the child in a court of competent jurisdiction; or

(C) Less than eighteen (18) years of age and for whom the claimant, pursuant to a decree or order from a court of competent jurisdiction, is required to contribute to the child's support and for whom no other person is receiving allowances under this subsection if the child is domiciled within the United States or its territories or possessions, the payment to be withheld and paid pursuant to § 50-7-611.

(2) The amount of dependency benefits determined as of the beginning of a claimant's benefit year shall not be reduced for the duration of the benefit

year; provided, however, that this provision does not prevent the transfer of dependents' benefits from one (1) spouse to another in accordance with this subsection. If both the husband and wife receive benefits with respect to a week of unemployment, only one (1) of them is entitled to a dependency allowance with respect to a child. Priority for the dependency allowance will be given to the custodial parent in cases where the parents are divorced or separated and to the first to file a claim for benefits in cases where the parents reside together. Dependency benefits shall not be paid unless the claimant submits documentation satisfactory to the division establishing the existence of the claimed dependent. If the provisions of this subsection are satisfied, an otherwise eligible claimant who has been appointed guardian of a dependent child by a court of competent jurisdiction shall be paid dependency benefits.

(3) No benefits shall be payable pursuant to this subsection (e) until such time as the commissioner shall certify to the department of finance and administration that the mechanism and resources necessary for the prompt and efficient payment of such benefits are in place, except that in no event shall such certification fail to meet the deadline imposed by the American Recovery and Reinvestment Act of 2009 for the payment of such benefits in order to receive federal funding under the act.

SECTION 6. Tennessee Code Annotated, Section 50-7-302(a)(4), is amended by adding the following language as a new subdivision (F):

(F) No claimant, who is otherwise eligible, shall be deemed ineligible for benefits solely for the reason that the claimant seeks, applies for, or accepts only part-time work, instead of full-time work, if the part-time work is for a minimum of twenty (20) hours per week.

SECTION 7. Tennessee Code Annotated, Section 50-7-305(a), is amended by deleting subdivision (6) in its entirety and by substituting instead the following language:

(6)

(A) There is a state "on" indicator for a week if:

(i) The rate of insured unemployment under the state law for the period consisting of that week and the immediately preceding twelve (12) weeks:

(a) Equaled or exceeded one hundred twenty percent (120%) of the average of the rates for the corresponding thirteen-week period ending in each of the preceding calendar years; and

(b) Equaled or exceeded five percent (5%); or

(ii) The rate of insured unemployment under the state law for the period consisting of that week and the immediately preceding twelve (12) weeks equaled or exceeded six percent

(6%) regardless of the rate of insured unemployment in the previous (2) years; or

(iii) With respect to weeks of unemployment beginning on or after February 1, 2009 and ending on or before December 5, 2009, or until the week ending four (4) weeks prior to the last week of unemployment for which one hundred percent (100%) federal sharing is available under Section 2005(a) of Public Law No.111-5, without regard to the extension of federal sharing for certain claims as provided under Section 2005(c) of such law:

(a) The average rate of total unemployment (seasonally adjusted), as determined by the United States Secretary of Labor, for the period consisting of the most recent three (3) months for which data for all states are published before the close of such week equals or exceeds six and one-half percent (6.5%), and

(b) The average rate of total unemployment in the state (seasonally adjusted), as determined by the United States Secretary of Labor, for the three-month period referred to in subdivision (i), exceeds one hundred and ten percent (110%) of such average for either or both of the corresponding 3-month periods ending in the two (2) preceding calendar years.

(B) There is a state "off" indicator for a week only if, for the period consisting of such week and the immediately preceding twelve (12) weeks, none of the options specified in subdivision (A) of this subdivision (6) result in an "on" indicator.

(C) Notwithstanding any provision of this section, any week for which there would otherwise be a state "on" indicator shall continue to be such a week and shall not be determined to be a week for which there is a state "off" indicator;

(D) No benefits shall be payable hereunder based upon the average rate of total unemployment unless the American Recovery and Reinvestment Act of 2009 provides full federal funding of extended unemployment compensation and until such time as the commissioner of labor and workforce development shall certify to the department of finance and administration that the mechanism and resources necessary for the prompt and efficient payment of such benefits are in place, except that in no event shall such certification fail to meet the deadline imposed by the American Recovery and Reinvestment Act of 2009 for the payment of such benefits in order to receive federal funding under the act.

SECTION 8. Tennessee Code Annotated, Section 50-7-403(b)(1)(A), is amended by deleting the language "1, 2, 3, 4, 5, 6a, and 6b" in the last sentence and substituting instead the language "1, 2, 3, 4, 5, or 6."

SECTION 9. Tennessee Code Annotated, Section 50-7-403(b)(1)(B)(i), is amended by deleting the language "1, 2, 3, 4, 5, 6a, and 6b" in the penultimate sentence of the subdivision and substituting instead the language "1, 2, 3, 4, 5, or 6."

SECTION 10. Tennessee Code Annotated, Section 50-7-403(b)(1)(B)(ii), is amended by deleting the language "1, 2, 3, 4, 5, 6a, and 6b" in the second sentence of the first paragraph and substituting instead the language "1, 2, 3, 4, 5, or 6".

SECTION 11. Tennessee Code Annotated, Section 50-7-403(g), is amended by deleting the first paragraph prior to the first table in its entirety and substituting instead the following:

(g) Variations from the standard rate of premiums for employers other than those referred to in § 50-7-207(b)(3)(A) and (B) shall be determined, beginning January 1, 2009, by the reserve ratio of each employer in accordance with premium rate table 1, 2, 3, 4, 5, or 6 as set forth below, depending on the provisions of subsection (j); provided, however, that beginning January 1, 2009, there shall be imposed an additional premium of six-tenths of one percent (0.6%) on all rates in Tables 1, 2, and 3, until such time the unemployment trust fund balance equals or exceeds six hundred fifty million dollars (\$650,000,000), as determined in accordance with subsection (j), at which time such additional premium shall expire.

SECTION 12. Tennessee Code Annotated, Section 50-7-403(g), is amended by deleting the chart entitled "Premium Rate Chart for Nongovernmental Employers" and substituting instead the following new chart of the same title:

Premium Rate Chart for Nongovernmental Employers

Reserve Ratio Percent	Trust Fund	Premium Table 1	Premium Table 2	Premium Table 3	Premium Table 4	Premium Table 5	Premium Table 6
		Trust Fund	Trust Fund	Trust Fund	Trust Fund	Trust Fund	Trust Fund
	under \$450 million	\$450 to \$525 million	\$525 to \$650 million	\$650 to \$750 million	\$750 to \$850 million	\$850 million and over	
20.0-	and over	0.50	0.45	0.40	0.30	0.15	0.01
18.0	and less than 20.0	0.70	0.65	0.55	0.35	0.20	0.05
16.0	and less than 18.0	0.90	0.70	0.65	0.40	0.25	0.10
14.0	and less than 16	1.10	0.75	0.70	0.45	0.32	0.17
12.0	and less than 14	1.30	1.20	1.00	0.50	0.40	0.25
11.0	and less than 12	1.60	1.40	1.20	0.75	0.60	0.30

9.5	and less than 11	2.10	1.80	1.50	1.00	0.80	0.50
8.0	and less than 9.5	2.50	2.10	1.80	1.20	1.00	0.70
7.0	and less than 8	2.90	2.50	2.10	1.50	1.30	1.00
6.0	and less than 7	3.30	2.80	2.40	1.80	1.60	1.30
5.0	and less than 6	3.80	3.20	2.65	2.10	1.90	1.60
2.7	and less than 5	4.10	3.50	3.00	2.40	2.20	1.90
0.0	and less than 2.7	4.50	3.90	3.30	3.00	2.60	2.30
Less	than 0.0						
	and more than -2.0	5.00	5.00	5.00	5.00	5.00	5.00
-2.0	and more than -4.0	5.50	5.50	5.50	5.50	5.50	5.50
-4.0	and more than -6.0	6.00	6.00	6.00	6.00	6.00	6.00
-6.0	and more than -8.0	6.50	6.50	6.50	6.50	6.50	6.50
-8.0	and more than -10.0	7.00	7.00	7.00	7.00	7.00	7.00
-10.0	and more than -12.0	7.50	7.50	7.50	7.50	7.50	7.50
-12.0	and more than -14.0	8.00	8.00	8.00	8.00	8.00	8.00
-14.0	and more than -16.0	8.50	8.50	8.50	8.50	8.50	8.50
-16.0	and more than -18.0	9.00	9.00	9.00	9.00	9.00	9.00
-18.0	and more than -20.0	9.50	9.50	9.50	9.50	9.50	9.50
-20.0	and under	10.00	10.00	10.00	10.00	10.00	10.00

SECTION 13. Tennessee Code Annotated, Section 50-7-451, is amended by deleting subsection (b) in its entirety and renumbering the remainder of the subsection accordingly.

SECTION 14. Tennessee Code Annotated, Section 50-7-451(c)(2)(A), is amended by deleting this subdivision in its entirety and substituting instead the following:

(A) Money transferred into the Tennessee job skills fund from Tennessee job skills fees collected for calendar quarters occurring through December 31, 2001;

SECTION 15. Tennessee Code Annotated, Title 50, Chapter 7, Part 1, is amended by adding the following as a new section:

50-7-108. The commissioner of labor and workforce development shall report to the general assembly concerning the condition of the unemployment trust fund during the first week of January and the first week of July of each year.

SECTION 16. Tennessee Code Annotated, Section 50-7-305, by deleting subsection (f) in its entirety and substituting instead the following language as a new subsection (f):

(f) Total extended benefit amount

(1) The total extended benefit amount payable to any eligible individual with respect to the applicable benefit year shall be the least of the following amounts:

(A) Fifty percent (50%) of the total amount of regular benefits (including dependents' allowances) which were payable to an eligible claimant in the eligible claimant's applicable benefit year;

(B) Thirteen (13) times the eligible claimant's weekly benefit amount (including dependents' allowances) which was payable to an eligible claimant for a week of total unemployment in the applicable benefit year; or

(2)

(A) Effective with respect to weeks beginning in a high unemployment period, subdivision (1) shall be applied by substituting:

(i) The amount "Eighty percent (80%)" for the amount "Fifty percent (50%)" in subdivision (A), and

(ii) The figure "twenty" for the figure "thirteen" in subdivision (B).

(B) For purposes of this subdivision (2), the term "high unemployment period" means any period during which an extended benefit period would be in effect if subdivision (6)(A)(iii) were applied by substituting the amount "eight percent (8%)" for the amount "six and one-half percent (6.5%)".

(3) Notwithstanding subdivision (a)(1) of this section, for purposes of this subsection (f) an individual's eligibility period shall include any eligibility period provided for in section 2005(b) of Public Law No. 111-5.

(4) Total extended benefits payable on an interstate claim filed under the interstate benefit payment plan shall be limited to the first two


(2) weeks of the interstate claim, unless both the agent state and the liable state are in an extended benefit period.

SECTION 17. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: June 16, 2009

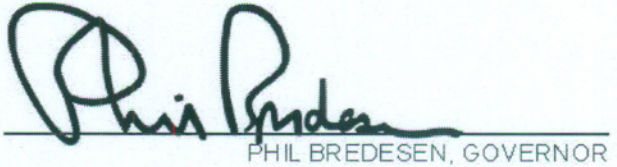


KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES



RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 25th day of June 2009



PHIL BREDESEN, GOVERNOR