

PUBLIC LAW 112-96—FEB. 22, 2012

MIDDLE CLASS TAX RELIEF AND JOB  
CREATION ACT OF 2012

Public Law 112-96  
112th Congress

An Act

Feb. 22, 2012  
[H.R. 3630]

Middle Class Tax  
Relief and Job  
Creation Act  
of 2012.  
26 USC 1 note.

To provide incentives for the creation of jobs, and for other purposes.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Middle Class Tax Relief and Job Creation Act of 2012”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

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Sec. 1001. Extension of payroll tax reduction.

**TITLE II—UNEMPLOYMENT BENEFIT CONTINUATION AND PROGRAM IMPROVEMENT**

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 Sec. 3202. Rebase Medicare clinical laboratory payment rates.  
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Subtitle E—Next Generation 9-1-1 Advancement Act of 2012

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## TITLE I—EXTENSION OF PAYROLL TAX REDUCTION

### SEC. 1001. EXTENSION OF PAYROLL TAX REDUCTION.

(a) IN GENERAL.—Subsection (c) of section 601 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (26 U.S.C. 1401 note) is amended to read as follows:

“(c) PAYROLL TAX HOLIDAY PERIOD.—The term ‘payroll tax holiday period’ means calendar years 2011 and 2012.”

(b) CONFORMING AMENDMENTS.—Section 601 of such Act (26 U.S.C. 1401 note) is amended by striking subsections (f) and (g).

Definition.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to remuneration received, and taxable years beginning, after December 31, 2011. 26 USC 1401 note.

## **TITLE II—UNEMPLOYMENT BENEFIT CONTINUATION AND PROGRAM IMPROVEMENT**

Extended Benefits, Reemployment, and Program Integrity Improvement Act. State and local governments. 26 USC 1 note.

### **SEC. 2001. SHORT TITLE.**

This title may be cited as the “Extended Benefits, Reemployment, and Program Integrity Improvement Act”.

## **Subtitle A—Reforms of Unemployment Compensation to Promote Work and Job Creation**

### **SEC. 2101. CONSISTENT JOB SEARCH REQUIREMENTS.**

(a) **IN GENERAL.**—Section 303(a) of the Social Security Act is amended by adding at the end the following: 42 USC 503.

“(12) A requirement that, as a condition of eligibility for regular compensation for any week, a claimant must be able to work, available to work, and actively seeking work.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to weeks beginning after the end of the first session of the State legislature which begins after the date of enactment of this Act. 42 USC 503 note.

### **SEC. 2102. STATE FLEXIBILITY TO PROMOTE THE REEMPLOYMENT OF UNEMPLOYED WORKERS.**

Title III of the Social Security Act (42 U.S.C. 501 and following) is amended by adding at the end the following:

#### **“DEMONSTRATION PROJECTS**

“SEC. 305. (a) The Secretary of Labor may enter into agreements, with up to 10 States that submit an application described in subsection (b), for the purpose of allowing such States to conduct demonstration projects to test and evaluate measures designed— 42 USC 505.

“(1) to expedite the reemployment of individuals who have established a benefit year and are otherwise eligible to claim unemployment compensation under the State law of such State; or

“(2) to improve the effectiveness of a State in carrying out its State law with respect to reemployment.

“(b) The Governor of any State desiring to conduct a demonstration project under this section shall submit an application to the Secretary of Labor. Any such application shall include—

“(1) a general description of the proposed demonstration project, including the authority (under the laws of the State) for the measures to be tested, as well as the period of time during which such demonstration project would be conducted;

“(2) if a waiver under subsection (c) is requested, a statement describing the specific aspects of the project to which

the waiver would apply and the reasons why such waiver is needed;

“(3) a description of the goals and the expected programmatic outcomes of the demonstration project, including how the project would contribute to the objective described in subsection (a)(1), subsection (a)(2), or both;

“(4) assurances (accompanied by supporting analysis) that the demonstration project would operate for a period of at least 1 calendar year and not result in any increased net costs to the State’s account in the Unemployment Trust Fund;

“(5) a description of the manner in which the State—  
 “(A) will conduct an impact evaluation, using a methodology appropriate to determine the effects of the demonstration project, including on individual skill levels, earnings, and employment retention; and

“(B) will determine the extent to which the goals and outcomes described in paragraph (3) were achieved;

“(6) assurances that the State will provide any reports relating to the demonstration project, after its approval, as the Secretary of Labor may require; and

“(7) assurances that employment meets the State’s suitable work requirement and the requirements of section 3304(a)(5) of the Internal Revenue Code of 1986.

Waiver authority.

“(c) The Secretary of Labor may waive any of the requirements of section 3304(a)(4) of the Internal Revenue Code of 1986 or of paragraph (1) or (5) of section 303(a), to the extent and for the period the Secretary of Labor considers necessary to enable the State to carry out a demonstration project under this section.

“(d) A demonstration project under this section—

“(1) may be commenced any time after the date of enactment of this section;

Time period.

“(2) may not be approved for a period of time greater than 3 years; and

Deadline.

“(3) must be completed by not later than December 31, 2015.

“(e) Activities that may be pursued under a demonstration project under this section are limited to—

“(1) subsidies for employer-provided training, such as wage subsidies; and

“(2) direct disbursements to employers who hire individuals receiving unemployment compensation, not to exceed the weekly benefit amount for each such individual, to pay part of the cost of wages that exceed the unemployed individual’s prior benefit level.

Time periods.

“(f) The Secretary of Labor shall, in the case of any State for which an application is submitted under subsection (b)—

Notification.

“(1) notify the State as to whether such application has been approved or denied within 30 days after receipt of a complete application; and

Notice.

“(2) provide public notice of the decision within 10 days after providing notification to the State in accordance with paragraph (1).

Public notice under paragraph (2) may be provided through the Internet or other appropriate means. Any application under this section that has not been denied within the 30-day period described in paragraph (1) shall be deemed approved, and public notice of

any approval under this sentence shall be provided within 10 days thereafter.

“(g) The Secretary of Labor may terminate a demonstration project under this section if the Secretary determines that the State has violated the substantive terms or conditions of the project. Determination.

“(h) Funding certified under section 302(a) may be used for an approved demonstration project.”.

**SEC. 2103. IMPROVING PROGRAM INTEGRITY BY BETTER RECOVERY OF OVERPAYMENTS.**

(a) **USE OF UNEMPLOYMENT COMPENSATION TO REPAY OVERPAYMENTS.**—Section 3304(a)(4)(D) of the Internal Revenue Code of 1986 and section 303(g)(1) of the Social Security Act are each amended by striking “may” and inserting “shall”. 26 USC 3304; 42 USC 503.

(b) **USE OF UNEMPLOYMENT COMPENSATION TO REPAY FEDERAL ADDITIONAL COMPENSATION OVERPAYMENTS.**—Section 303(g)(3) of the Social Security Act is amended by inserting “Federal additional compensation,” after “trade adjustment allowances,”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to weeks beginning after the end of the first session of the State legislature which begins after the date of enactment of this Act. 26 USC 3304 note.

**SEC. 2104. DATA EXCHANGE STANDARDIZATION FOR IMPROVED INTEROPERABILITY.**

(a) **IN GENERAL.**—Title IX of the Social Security Act is amended by adding at the end the following:

“DATA EXCHANGE STANDARDIZATION FOR IMPROVED  
INTEROPERABILITY

“Data Exchange Standards

“SEC. 911. (a)(1) The Secretary of Labor, in consultation with an interagency work group which shall be established by the Office of Management and Budget, and considering State and employer perspectives, shall, by rule, designate a data exchange standard for any category of information required under title III, title XII, or this title. Establishment. Regulations. 42 USC 1111.

“(2) Data exchange standards designated under paragraph (1) shall, to the extent practicable, be nonproprietary and interoperable.

“(3) In designating data exchange standards under this subsection, the Secretary of Labor shall, to the extent practicable, incorporate—

“(A) interoperable standards developed and maintained by an international voluntary consensus standards body, as defined by the Office of Management and Budget, such as the International Organization for Standardization;

“(B) interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model; and

“(C) interoperable standards developed and maintained by Federal entities with authority over contracting and financial assistance, such as the Federal Acquisition Regulations Council.

## “Data Exchange Standards for Reporting

“(b)(1) The Secretary of Labor, in consultation with an inter-agency work group established by the Office of Management and Budget, and considering State and employer perspectives, shall, by rule, designate data exchange standards to govern the reporting required under title III, title XII, or this title.

“(2) The data exchange standards required by paragraph (1) shall, to the extent practicable—

“(A) incorporate a widely accepted, nonproprietary, searchable, computer-readable format;

“(B) be consistent with and implement applicable accounting principles; and

“(C) be capable of being continually upgraded as necessary.

“(3) In designating reporting standards under this subsection, the Secretary of Labor shall, to the extent practicable, incorporate existing nonproprietary standards, such as the eXtensible Markup Language.”

42 USC 1111  
note.  
Time periods.

(b) EFFECTIVE DATES.—

(1) DATA EXCHANGE STANDARDS.—The Secretary of Labor shall issue a proposed rule under section 911(a)(1) of the Social Security Act (as added by subsection (a)) within 12 months after the date of the enactment of this section, and shall issue a final rule under such section 911(a)(1), after public comment, within 24 months after such date of enactment.

(2) DATA REPORTING STANDARDS.—The reporting standards required under section 911(b)(1) of such Act (as so added) shall become effective with respect to reports required in the first reporting period, after the effective date of the final rule referred to in paragraph (1) of this subsection, for which the authority for data collection and reporting is established or renewed under the Paperwork Reduction Act.

**SEC. 2105. DRUG TESTING OF APPLICANTS.**

42 USC 305.

Section 303 of the Social Security Act is amended by adding at the end the following:

“(1)(1) Nothing in this Act or any other provision of Federal law shall be considered to prevent a State from enacting legislation to provide for—

“(A) testing an applicant for unemployment compensation for the unlawful use of controlled substances as a condition for receiving such compensation, if such applicant—

“(i) was terminated from employment with the applicant’s most recent employer (as defined under the State law) because of the unlawful use of controlled substances; or

Regulations.

“(ii) is an individual for whom suitable work (as defined under the State law) is only available in an occupation that regularly conducts drug testing (as determined under regulations issued by the Secretary of Labor); or

“(B) denying such compensation to such applicant on the basis of the result of the testing conducted by the State under legislation described in subparagraph (A).

Definitions.

“(2) For purposes of this subsection—

“(A) the term ‘unemployment compensation’ has the meaning given such term in subsection (d)(2)(A); and



“(B) the term ‘controlled substance’ has the meaning given such term in section 102 of the Controlled Substances Act (21 U.S.C. 802).”.

## Subtitle B—Provisions Relating To Extended Benefits

Unemployment  
Benefits  
Extension Act  
of 2012.

26 USC 1 note.

### SEC. 2121. SHORT TITLE.

This subtitle may be cited as the “Unemployment Benefits Extension Act of 2012”.

### SEC. 2122. EXTENSION AND MODIFICATION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

(a) EXTENSION.—Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended—

(1) in subsection (a)—

(A) by striking “Except as provided in subsection (b), an” and inserting “An”; and

(B) by striking “March 6, 2012” and inserting “January 2, 2013”; and

(2) by striking subsection (b) and inserting the following:

“(b) TERMINATION.—No compensation under this title shall be payable for any week subsequent to the last week described in subsection (a).”.

(b) MODIFICATIONS RELATING TO TRIGGERS.—

(1) FOR SECOND-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.—Section 4002(c) of such Act is amended—

(A) in the subsection heading, by striking “SPECIAL RULE” and inserting “SECOND-TIER EMERGENCY UNEMPLOYMENT COMPENSATION”;

(B) in paragraph (1), by striking “At” and all that follows through “augmented by an amount” and inserting “If, at the time that the amount established in an individual’s account under subsection (b) is exhausted or at any time thereafter, such individual’s State is in an extended benefit period (as determined under paragraph (2)), such account shall be augmented by an amount (hereinafter ‘second-tier emergency unemployment compensation’)”;

(C) by redesignating paragraph (2) as paragraph (4); and

(D) by inserting after paragraph (1) the following:

“(2) EXTENDED BENEFIT PERIOD.—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if such a period would then be in effect for such State under such Act if—

“(A) section 203(f) of the Federal-State Extended Unemployment Compensation Act of 1970 were applied to such State (regardless of whether the State by law had provided for such application); and

“(B) such section 203(f)—

“(i) were applied by substituting the applicable percentage under paragraph (3) for ‘6.5 percent’ in paragraph (1)(A)(i) thereof; and

“(ii) did not include the requirement under paragraph (1)(A)(ii) thereof.

26 USC 3304  
note.

Applicability.

“(3) APPLICABLE PERCENTAGE.—The applicable percentage under this paragraph is, for purposes of determining if a State is in an extended benefit period as of a date occurring in a week ending—

“(A) before June 1, 2012, 0 percent; and

“(B) after the last week under subparagraph (A), 6 percent.”.

(2) FOR THIRD-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.—Section 4002(d) of such Act is amended—

(A) in paragraph (2)(A), by striking “under such Act” and inserting “under the Federal-State Extended Unemployment Compensation Act of 1970”;

(B) in paragraph (2)(B)(ii)(I), by striking the matter after “substituting” and before “in paragraph (1)(A)(i) thereof” and inserting “the applicable percentage under paragraph (3) for ‘6.5 percent’”;

(C) by redesignating paragraph (3) as paragraph (4); and

(D) by inserting after paragraph (2) the following:

“(3) APPLICABLE PERCENTAGE.—The applicable percentage under this paragraph is, for purposes of determining if a State is in an extended benefit period as of a date occurring in a week ending—

“(A) before June 1, 2012, 6 percent; and

“(B) after the last week under subparagraph (A), 7 percent.”.

(3) FOR FOURTH-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.—Section 4002(e) of such Act is amended—

(A) in paragraph (2)(A), by striking “under such Act” and inserting “under the Federal-State Extended Unemployment Compensation Act of 1970”;

(B) in paragraph (2)(B)(ii)(I), by striking the matter after “substituting” and before “in paragraph (1)(A)(i) thereof” and inserting “the applicable percentage under paragraph (3) for ‘6.5 percent’”;

(C) by redesignating paragraph (3) as paragraph (4); and

(D) by inserting after paragraph (2) the following:

“(3) APPLICABLE PERCENTAGE.—The applicable percentage under this paragraph is, for purposes of determining if a State is in an extended benefit period as of a date occurring in a week ending—

“(A) before June 1, 2012, 8.5 percent; and

“(B) after the last week under subparagraph (A), 9 percent.”.

26 USC 3304  
note.

(c) MODIFICATIONS RELATING TO WEEKS OF EMERGENCY UNEMPLOYMENT COMPENSATION.—

(1) NUMBER OF WEEKS IN FIRST TIER BEGINNING AFTER SEPTEMBER 2, 2012.—Section 4002(b) of such Act is amended—

(A) by redesignating paragraph (2) as paragraph (3);

and

(B) by inserting after paragraph (1) the following:

Applicability.

“(2) SPECIAL RULE RELATING TO AMOUNTS ESTABLISHED IN AN ACCOUNT AS OF A WEEK ENDING AFTER SEPTEMBER 2, 2012.—Notwithstanding any provision of paragraph (1), in the case of any account established as of a week ending after September 2, 2012—

“(A) paragraph (1)(A) shall be applied by substituting ‘54 percent’ for ‘80 percent’; and

“(B) paragraph (1)(B) shall be applied by substituting ‘14 weeks’ for ‘20 weeks’.”.

(2) NUMBER OF WEEKS IN THIRD TIER BEGINNING AFTER SEPTEMBER 2, 2012.—Section 4002(d) of such Act is amended by adding after paragraph (4) (as so redesignated by subsection (b)(2)(C)) the following:

“(5) SPECIAL RULE RELATING TO AMOUNTS ADDED TO AN ACCOUNT AS OF A WEEK ENDING AFTER SEPTEMBER 2, 2012.—Notwithstanding any provision of paragraph (1), if augmentation under this subsection occurs as of a week ending after September 2, 2012—

“(A) paragraph (1)(A) shall be applied by substituting ‘35 percent’ for ‘50 percent’; and

“(B) paragraph (1)(B) shall be applied by substituting ‘9 times’ for ‘13 times’.”.

(3) NUMBER OF WEEKS IN FOURTH TIER.—Section 4002(e) of such Act is amended by adding after paragraph (4) (as so redesignated by subsection (b)(3)(C)) the following:

“(5) SPECIAL RULES RELATING TO AMOUNTS ADDED TO AN ACCOUNT.—

“(A) MARCH TO MAY OF 2012.—

“(i) SPECIAL RULE.—Notwithstanding any provision of paragraph (1) but subject to the following 2 sentences, if augmentation under this subsection occurs as of a week ending after the date of enactment of this paragraph and before June 1, 2012 (or if, as of such date of enactment, any fourth-tier amounts remain in the individual’s account)—

“(I) paragraph (1)(A) shall be applied by substituting ‘62 percent’ for ‘24 percent’; and

“(II) paragraph (1)(B) shall be applied by substituting ‘16 times’ for ‘6 times’.

The preceding sentence shall apply only if, at the time that the account would be augmented under this subparagraph, such individual’s State is not in an extended benefit period as determined under the Federal-State Extended Unemployment Compensation Act of 1970. In no event shall the total amount added to the account of an individual under this subparagraph cause, in the case of an individual described in the parenthetical matter in the first sentence of this clause, the sum of the total amount previously added to such individual’s account under this subsection (as in effect before the date of enactment of this paragraph) and any further amounts added as a result of the enactment of this clause, to exceed the total amount allowable under subclause (I) or (II), as the case may be.

“(ii) LIMITATION.—Notwithstanding any other provision of this title, the amounts added to the account of an individual under this subparagraph may not cause the sum of the amounts previously established in or added to such account, plus any weeks of extended benefits provided to such individual under the Federal-State Extended Unemployment Compensation Act of

1970 (based on the same exhaustion of regular compensation under section 4001(b)(1)), to in the aggregate exceed the lesser of—

“(I) 282 percent of the total amount of regular compensation (including dependents’ allowances) payable to the individual during the individual’s benefit year under the State law; or

“(II) 73 times the individual’s average weekly benefit amount (as determined under subsection (b)(3)) for the benefit year.

Applicability.

“(B) AFTER AUGUST OF 2012.—Notwithstanding any provision of paragraph (1), if augmentation under this subsection occurs as of a week ending after September 2, 2012—

“(i) paragraph (1)(A) shall be applied by substituting ‘39 percent’ for ‘24 percent’; and

“(ii) paragraph (1)(B) shall be applied by substituting ‘10 times’ for ‘6 times.’”.

26 USC 3304 note.

(d) ORDER OF PAYMENTS REQUIREMENT.—

(1) IN GENERAL.—Section 4001(e) of such Act is amended to read as follows:

Applicability.  
Determination.

“(e) COORDINATION RULE.—An agreement under this section shall apply with respect to a State only upon a determination by the Secretary that, under the State law or other applicable rules of such State, the payment of extended compensation for which an individual is otherwise eligible must be deferred until after the payment of any emergency unemployment compensation under section 4002, as amended by the Unemployment Benefits Extension Act of 2012, for which the individual is concurrently eligible.”.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 4001(b)(2) of such Act is amended—

(A) by striking “or extended compensation”; and

(B) by striking “law (except as provided under subsection (e));” and inserting “law;”.

26 USC 3304 note.

(e) FUNDING.—Section 4004(e)(1) of such Act is amended—

(1) in subparagraph (G), by striking “and” at the end; and

(2) by inserting after subparagraph (H) the following:

“(I) the amendments made by section 2122 of the Unemployment Benefits Extension Act of 2012; and”.

26 USC 3304 note.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (b), (c), and (d) shall take effect as of February 28, 2012, and shall apply with respect to weeks of unemployment beginning after that date.

(2) WEEK DEFINED.—For purposes of this subsection, the term “week” has the meaning given such term under section 4006 of the Supplemental Appropriations Act, 2008.

#### SEC. 2123. TEMPORARY EXTENSION OF EXTENDED BENEFIT PROVISIONS.

(a) IN GENERAL.—Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111-5 (26 U.S.C. 3304 note), is amended—

(1) by striking “March 7, 2012” each place it appears and inserting “December 31, 2012”; and

(2) in subsection (c), by striking “August 15, 2012” and inserting “June 30, 2013”.

(b) EXTENSION OF MATCHING FOR STATES WITH NO WAITING WEEK.—Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110-449; 26 U.S.C. 3304 note) is amended by striking “August 15, 2012” and inserting “June 30, 2013”.

(c) EXTENSION OF MODIFICATION OF INDICATORS UNDER THE EXTENDED BENEFIT PROGRAM.—Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) is amended—

(1) in subsection (d), by striking “February 29, 2012” and inserting “December 31, 2012”; and

(2) in subsection (f)(2), by striking “February 29, 2012” and inserting “December 31, 2012”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78).

26 USC 3304  
note.

**SEC. 2124. ADDITIONAL EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.**

(a) EXTENSION.—Section 2(c)(2)(D)(iii) of the Railroad Unemployment Insurance Act, as added by section 2006 of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) and as amended by section 9 of the Worker, Homeownership, and Business Assistance Act of 2009 (Public Law 111-92), section 505 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Public Law 111-312), and section 202 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78), is amended—

45 USC 352.

(1) by striking “August 31, 2011” and inserting “June 30, 2012”; and

(2) by striking “February 29, 2012” and inserting “December 31, 2012”.

(b) CLARIFICATION ON AUTHORITY TO USE FUNDS.—Funds appropriated under either the first or second sentence of clause (iv) of section 2(c)(2)(D) of the Railroad Unemployment Insurance Act shall be available to cover the cost of additional extended unemployment benefits provided under such section 2(c)(2)(D) by reason of the amendments made by subsection (a) as well as to cover the cost of such benefits provided under such section 2(c)(2)(D), as in effect on the day before the date of enactment of this Act.

(c) FUNDING FOR ADMINISTRATION.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Railroad Retirement Board \$500,000 for administrative expenses associated with the payment of additional extended unemployment benefits provided under section 2(c)(2)(D) of the Railroad Unemployment Insurance Act by reason of the amendments made by subsection (a), to remain available until expended.

Appropriation  
authorization.

## Subtitle C—Improving Reemployment Strategies Under the Emergency Unemployment Compensation Program

### SEC. 2141. IMPROVED WORK SEARCH FOR THE LONG-TERM UNEMPLOYED.

(a) IN GENERAL.—Section 4001(b) of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended—

(1) by striking “and” at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting “; and”; and

(3) by adding at the end the following:

“(4) are able to work, available to work, and actively seeking work.”

(b) ACTIVELY SEEKING WORK.—Section 4001 of such Act is amended by adding at the end the following:

“(h) ACTIVELY SEEKING WORK.—

Definition.

“(1) IN GENERAL.—For purposes of subsection (b)(4), the term ‘actively seeking work’ means, with respect to any individual, that such individual—

“(A) is registered for employment services in such a manner and to such extent as prescribed by the State agency;

“(B) has engaged in an active search for employment that is appropriate in light of the employment available in the labor market, the individual’s skills and capabilities, and includes a number of employer contacts that is consistent with the standards communicated to the individual by the State;

“(C) has maintained a record of such work search, including employers contacted, method of contact, and date contacted; and

“(D) when requested, has provided such work search record to the State agency.

Claims.

“(2) RANDOM AUDITING.—The Secretary shall establish for each State a minimum number of claims for which work search records must be audited on a random basis in any given week.”

### SEC. 2142. REEMPLOYMENT SERVICES AND REEMPLOYMENT AND ELIGIBILITY ASSESSMENT ACTIVITIES.

(a) PROVISION OF SERVICES AND ACTIVITIES.—Section 4001 of such Act, as amended by section 2141(b), is further amended by adding at the end the following:

“(i) PROVISION OF SERVICES AND ACTIVITIES.—

“(1) IN GENERAL.—An agreement under this section shall require the following:

“(A) The State which is party to such agreement shall provide reemployment services and reemployment and eligibility assessment activities to each individual—

“(i) who, on or after the 30th day after the date of enactment of the Extended Benefits, Reemployment, and Program Integrity Improvement Act, begins receiving amounts described in subsections (b) and (c); and

“(ii) while such individual continues to receive emergency unemployment compensation under this title.

“(B) As a condition of eligibility for emergency unemployment compensation for any week—

“(i) a claimant who has been duly referred to reemployment services shall participate in such services; and

“(ii) a claimant shall be actively seeking work (determined applying subsection (i)).

“(2) DESCRIPTION OF SERVICES AND ACTIVITIES.—The reemployment services and in-person reemployment and eligibility assessment activities provided to individuals receiving emergency unemployment compensation described in paragraph (1)—

“(A) shall include—

“(i) the provision of labor market and career information;

“(ii) an assessment of the skills of the individual;

“(iii) orientation to the services available through the one-stop centers established under title I of the Workforce Investment Act of 1998; and

“(iv) review of the eligibility of the individual for emergency unemployment compensation relating to the job search activities of the individual; and

“(B) may include the provision of—

“(i) comprehensive and specialized assessments;

“(ii) individual and group career counseling;

“(iii) training services;

“(iv) additional reemployment services; and

“(v) job search counseling and the development or review of an individual reemployment plan that includes participation in job search activities and appropriate workshops.

“(3) PARTICIPATION REQUIREMENT.—As a condition of continuing eligibility for emergency unemployment compensation for any week, an individual who has been referred to reemployment services or reemployment and eligibility assessment activities under this subsection shall participate in such services or activities, unless the State agency responsible for the administration of State unemployment compensation law determines that—

“(A) such individual has completed participating in such services or activities; or

“(B) there is justifiable cause for failure to participate or to complete participating in such services or activities, as determined in accordance with guidance to be issued by the Secretary.”

(b) ISSUANCE OF GUIDANCE.—Not later than 30 days after the date of enactment of this Act, the Secretary shall issue guidance on the implementation of the reemployment services and reemployment and eligibility assessment activities required to be provided under the amendment made by subsection (a).

Deadline.  
26 USC 3304  
note.

(c) FUNDING.—

(1) IN GENERAL.—Section 4004(c) of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended—

(A) by striking “STATES.—There” and inserting the following: “STATES.—

“(1) ADMINISTRATION.—There”; and

(B) by adding at the end the following new paragraph:

“(2) REEMPLOYMENT SERVICES AND REEMPLOYMENT AND ELIGIBILITY ASSESSMENT ACTIVITIES.—

“(A) APPROPRIATION.—There are appropriated from the general fund of the Treasury, for the period of fiscal year 2012 through fiscal year 2013, out of the employment security administration account (as established by section 901(a) of the Social Security Act), such sums as determined by the Secretary of Labor in accordance with subparagraph (B) to assist States in providing reemployment services and reemployment and eligibility assessment activities described in section 4001(h)(2).

“(B) DETERMINATION OF TOTAL AMOUNT.—The amount referred to in subparagraph (A) is the amount the Secretary of Labor estimates is equal to—

“(i) the number of individuals who will receive reemployment services and reemployment eligibility and assessment activities described in section 4001(h)(2) in all States through the date specified in section 4007(b)(3); multiplied by

“(ii) \$85.

“(C) DISTRIBUTION AMONG STATES.—Of the amounts appropriated under subparagraph (A), the Secretary of Labor shall distribute amounts to each State, in accordance with section 4003(c), that the Secretary estimates is equal to—

“(i) the number of individuals who will receive reemployment services and reemployment and eligibility assessment activities described in section 4001(h)(2) in such State through the date specified in section 4007(b)(3); multiplied by

“(ii) \$85.”

(2) TRANSFER OF FUNDS.—Section 4004(e) of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended—

(A) in paragraph (1)(G), by striking “and” at the end;

(B) in paragraph (2), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following paragraph:

“(3) to the Employment Security Administration account (as established by section 901(a) of the Social Security Act) such sums as the Secretary of Labor determines to be necessary in accordance with subsection (c)(2) to assist States in providing reemployment services and reemployment eligibility and assessment activities described in section 4001(h)(2).”

**SEC. 2143. PROMOTING PROGRAM INTEGRITY THROUGH BETTER RECOVERY OF OVERPAYMENTS.**

Section 4005(c)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended—

(1) by striking “may” and inserting “shall”; and

(2) by striking “except that” and all that follows through “made” and inserting “in accordance with the same procedures



as apply to the recovery of overpayments of regular unemployment benefits paid by the State”.

**SEC. 2144. RESTORE STATE FLEXIBILITY TO IMPROVE UNEMPLOYMENT PROGRAM SOLVENCY.**

Subsection (g) of section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) shall not apply with respect to a State that has enacted a law before March 1, 2012, that, upon taking effect, would violate such subsection.

**Subtitle D—Short-Time Compensation Program**

Layoff  
Prevention Act  
of 2012.

**SEC. 2160. SHORT TITLE.**

This subtitle may be cited as the “Layoff Prevention Act of 2012”.

26 USC 1 note.

**SEC. 2161. TREATMENT OF SHORT-TIME COMPENSATION PROGRAMS.**

(a) DEFINITION.—

(1) IN GENERAL.—Section 3306 of the Internal Revenue Code of 1986 (26 U.S.C. 3306) is amended by adding at the end the following new subsection:

“(v) SHORT-TIME COMPENSATION PROGRAM.—For purposes of this part, the term ‘short-time compensation program’ means a program under which—

Definition.

- “(1) the participation of an employer is voluntary;
- “(2) an employer reduces the number of hours worked by employees in lieu of layoffs;
- “(3) such employees whose workweeks have been reduced by at least 10 percent, and by not more than the percentage, if any, that is determined by the State to be appropriate (but in no case more than 60 percent), are not disqualified from unemployment compensation;
- “(4) the amount of unemployment compensation payable to any such employee is a pro rata portion of the unemployment compensation which would otherwise be payable to the employee if such employee were unemployed;
- “(5) such employees meet the availability for work and work search test requirements while collecting short-time compensation benefits, by being available for their workweek as required by the State agency;
- “(6) eligible employees may participate, as appropriate, in training (including employer-sponsored training or worker training funded under the Workforce Investment Act of 1998) to enhance job skills if such program has been approved by the State agency;

“(7) the State agency shall require employers to certify that if the employer provides health benefits and retirement benefits under a defined benefit plan (as defined in section 414(j)) or contributions under a defined contribution plan (as defined in section 414(i)) to any employee whose workweek is reduced under the program that such benefits will continue to be provided to employees participating in the short-time compensation program under the same terms and conditions as though the workweek of such employee had not been reduced

Certification.

or to the same extent as other employees not participating in the short-time compensation program;

Plans.

“(8) the State agency shall require an employer to submit a written plan describing the manner in which the requirements of this subsection will be implemented (including a plan for giving advance notice, where feasible, to an employee whose workweek is to be reduced) together with an estimate of the number of layoffs that would have occurred absent the ability to participate in short-time compensation and such other information as the Secretary of Labor determines is appropriate;

“(9) the terms of the employer’s written plan and implementation shall be consistent with employer obligations under applicable Federal and State laws; and

“(10) upon request by the State and approval by the Secretary of Labor, only such other provisions are included in the State law that are determined to be appropriate for purposes of a short-time compensation program.”.

26 USC 3306  
note.

(2) EFFECTIVE DATE.—Subject to paragraph (3), the amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

26 USC 3306  
note.

(3) TRANSITION PERIOD FOR EXISTING PROGRAMS.—In the case of a State that is administering a short-time compensation program as of the date of the enactment of this Act and the State law cannot be administered consistent with the amendment made by paragraph (1), such amendment shall take effect on the earlier of—

(A) the date the State changes its State law in order to be consistent with such amendment; or

(B) the date that is 2 years and 6 months after the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS.—

(1) INTERNAL REVENUE CODE OF 1986.—

26 USC 3304.

(A) Subparagraph (E) of section 3304(a)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

“(E) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined under section 3306(v));”.

(B) Subsection (f) of section 3306 of the Internal Revenue Code of 1986 is amended—

(i) by striking paragraph (5) (relating to short-time compensation) and inserting the following new paragraph:

“(5) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined in subsection (v)); and”;

(ii) by redesignating paragraph (5) (relating to self-employment assistance program) as paragraph (6).

42 USC 503.

(2) SOCIAL SECURITY ACT.—Section 303(a)(5) of the Social Security Act is amended by striking “the payment of short-time compensation under a plan approved by the Secretary of Labor” and inserting “the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986)”.

Repeal.  
26 USC 3304  
note.

(3) UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1992.—Subsections (b) through (d) of section 401 of the Unemployment

Compensation Amendments of 1992 (26 U.S.C. 3304 note) are repealed.

**SEC. 2162. TEMPORARY FINANCING OF SHORT-TIME COMPENSATION PAYMENTS IN STATES WITH PROGRAMS IN LAW.**

26 USC 3304  
note.

(a) **PAYMENTS TO STATES.—**

(1) **IN GENERAL.—**Subject to paragraph (3), there shall be paid to a State an amount equal to 100 percent of the amount of short-time compensation paid under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a)) under the provisions of the State law.

(2) **TERMS OF PAYMENTS.—**Payments made to a State under paragraph (1) shall be payable by way of reimbursement in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(3) **LIMITATIONS ON PAYMENTS.—**

(A) **GENERAL PAYMENT LIMITATIONS.—**No payments shall be made to a State under this section for short-time compensation paid to an individual by the State during a benefit year in excess of 26 times the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for a week of total unemployment.

(B) **EMPLOYER LIMITATIONS.—**No payments shall be made to a State under this section for benefits paid to an individual by the State under a short-time compensation program if such individual is employed by the participating employer on a seasonal, temporary, or intermittent basis.

(b) **APPLICABILITY.—**

(1) **IN GENERAL.—**Payments to a State under subsection

(a) shall be available for weeks of unemployment—

(A) beginning on or after the date of the enactment of this Act; and

Effective date.

(B) ending on or before the date that is 3 years and 6 months after the date of the enactment of this Act.

Termination date.

(2) **THREE-YEAR FUNDING LIMITATION FOR COMBINED PAYMENTS UNDER THIS SECTION AND SECTION 2163.—**States may receive payments under this section and section 2163 with respect to a total of not more than 156 weeks.

(c) **TWO-YEAR TRANSITION PERIOD FOR EXISTING PROGRAMS.—**

During any period that the transition provision under section 2161(a)(3) is applicable to a State with respect to a short-time compensation program, such State shall be eligible for payments under this section. Subject to paragraphs (1)(B) and (2) of subsection (b), if at any point after the date of the enactment of this Act the State enacts a State law providing for the payment of short-time compensation under a short-time compensation program that meets the definition of such a program under section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a),

the State shall be eligible for payments under this section after the effective date of such enactment.

(d) FUNDING AND CERTIFICATIONS.—

Appropriation  
authorization.

(1) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary for purposes of carrying out this section.

(2) CERTIFICATIONS.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section.

(e) DEFINITIONS.—In this section:

(1) SECRETARY.—The term “Secretary” means the Secretary of Labor.

(2) STATE; STATE AGENCY; STATE LAW.—The terms “State”, “State agency”, and “State law” have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

26 USC 3304  
note.

**SEC. 2163. TEMPORARY FINANCING OF SHORT-TIME COMPENSATION AGREEMENTS.**

(a) FEDERAL-STATE AGREEMENTS.—

(1) IN GENERAL.—Any State which desires to do so may enter into, and participate in, an agreement under this section with the Secretary provided that such State’s law does not provide for the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a)).

Notice.

(2) ABILITY TO TERMINATE.—Any State which is a party to an agreement under this section may, upon providing 30 days’ written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF FEDERAL-STATE AGREEMENT.—

(1) IN GENERAL.—Any agreement under this section shall provide that the State agency of the State will make payments of short-time compensation under a plan approved by the State. Such plan shall provide that payments are made in accordance with the requirements under section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a).

(2) LIMITATIONS ON PLANS.—

(A) GENERAL PAYMENT LIMITATIONS.—A short-time compensation plan approved by a State shall not permit the payment of short-time compensation to an individual by the State during a benefit year in excess of 26 times the amount of regular compensation (including dependents’ allowances) under the State law payable to such individual for a week of total unemployment.

(B) EMPLOYER LIMITATIONS.—A short-time compensation plan approved by a State shall not provide payments to an individual if such individual is employed by the participating employer on a seasonal, temporary, or intermittent basis.

(3) EMPLOYER PAYMENT OF COSTS.—Any short-time compensation plan entered into by an employer must provide that the employer will pay the State an amount equal to one-half of the amount of short-time compensation paid under such plan. Such amount shall be deposited in the State’s unemployment fund and shall not be used for purposes of calculating

an employer's contribution rate under section 3303(a)(1) of the Internal Revenue Code of 1986.

(c) PAYMENTS TO STATES.—

(1) IN GENERAL.—There shall be paid to each State with an agreement under this section an amount equal to—

(A) one-half of the amount of short-time compensation paid to individuals by the State pursuant to such agreement; and

(B) any additional administrative expenses incurred by the State by reason of such agreement (as determined by the Secretary).

(2) TERMS OF PAYMENTS.—Payments made to a State under paragraph (1) shall be payable by way of reimbursement in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(3) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary for purposes of carrying out this section.

Appropriation authorization.

(4) CERTIFICATIONS.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section.

(d) APPLICABILITY.—

(1) IN GENERAL.—An agreement entered into under this section shall apply to weeks of unemployment—

(A) beginning on or after the date on which such agreement is entered into; and

Effective date.

(B) ending on or before the date that is 2 years and 13 weeks after the date of the enactment of this Act.

Termination date.

(2) TWO-YEAR FUNDING LIMITATION.—States may receive payments under this section with respect to a total of not more than 104 weeks.

(e) SPECIAL RULE.—If a State has entered into an agreement under this section and subsequently enacts a State law providing for the payment of short-time compensation under a short-time compensation program that meets the definition of such a program under section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a), the State—

(1) shall not be eligible for payments under this section for weeks of unemployment beginning after the effective date of such State law; and

(2) subject to paragraphs (1)(B) and (2) of section 2162(b), shall be eligible to receive payments under section 2162 after the effective date of such State law.

(f) DEFINITIONS.—In this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(2) STATE; STATE AGENCY; STATE LAW.—The terms "State", "State agency", and "State law" have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

26 USC 3304  
note.

**SEC. 2164. GRANTS FOR SHORT-TIME COMPENSATION PROGRAMS.**

(a) GRANTS.—

(1) FOR IMPLEMENTATION OR IMPROVED ADMINISTRATION.—The Secretary shall award grants to States that enact short-time compensation programs (as defined in subsection (i)(2)) for the purpose of implementation or improved administration of such programs.

(2) FOR PROMOTION AND ENROLLMENT.—The Secretary shall award grants to States that are eligible and submit plans for a grant under paragraph (1) for such States to promote and enroll employers in short-time compensation programs (as so defined).

(3) ELIGIBILITY.—

(A) IN GENERAL.—The Secretary shall determine eligibility criteria for the grants under paragraphs (1) and (2).

(B) CLARIFICATION.—A State administering a short-time compensation program, including a program being administered by a State that is participating in the transition under the provisions of sections 301(a)(3) and 302(c), that does not meet the definition of a short-time compensation program under section 3306(v) of the Internal Revenue Code of 1986 (as added by 211(a)), and a State with an agreement under section 2163, shall not be eligible to receive a grant under this section until such time as the State law of the State provides for payments under a short-time compensation program that meets such definition and such law.

(b) AMOUNT OF GRANTS.—

(1) IN GENERAL.—The maximum amount available for making grants to a State under paragraphs (1) and (2) shall be equal to the amount obtained by multiplying \$100,000,000 (less the amount used by the Secretary under subsection (e)) by the same ratio as would apply under subsection (a)(2)(B) of section 903 of the Social Security Act (42 U.S.C. 1103) for purposes of determining such State's share of any excess amount (as described in subsection (a)(1) of such section) that would have been subject to transfer to State accounts, as of October 1, 2010, under the provisions of subsection (a) of such section.

(2) AMOUNT AVAILABLE FOR DIFFERENT GRANTS.—Of the maximum incentive payment determined under paragraph (1) with respect to a State—

(A) one-third shall be available for a grant under subsection (a)(1); and

(B) two-thirds shall be available for a grant under subsection (a)(2).

(c) GRANT APPLICATION AND DISBURSAL.—

(1) APPLICATION.—Any State seeking a grant under paragraph (1) or (2) of subsection (a) shall submit an application to the Secretary at such time, in such manner, and complete with such information as the Secretary may require. In no case may the Secretary award a grant under this section with respect to an application that is submitted after December 31, 2014.

Deadline.

Deadline.

(2) NOTICE.—The Secretary shall, within 30 days after receiving a complete application, notify the State agency of

the State of the Secretary's findings with respect to the requirements for a grant under paragraph (1) or (2) (or both) of subsection (a).

(3) CERTIFICATION.—If the Secretary finds that the State law provisions meet the requirements for a grant under subsection (a), the Secretary shall thereupon make a certification to that effect to the Secretary of the Treasury, together with a certification as to the amount of the grant payment to be transferred to the State account in the Unemployment Trust Fund (as established in section 904(a) of the Social Security Act (42 U.S.C. 1104(a))) pursuant to that finding. The Secretary of the Treasury shall make the appropriate transfer to the State account within 7 days after receiving such certification.

Deadline.

(4) REQUIREMENT.—No certification of compliance with the requirements for a grant under paragraph (1) or (2) of subsection (a) may be made with respect to any State whose—

(A) State law is not otherwise eligible for certification under section 303 of the Social Security Act (42 U.S.C. 503) or approvable under section 3304 of the Internal Revenue Code of 1986; or

(B) short-time compensation program is subject to discontinuation or is not scheduled to take effect within 12 months of the certification.

Time period.

(d) USE OF FUNDS.—The amount of any grant awarded under this section shall be used for the implementation of short-time compensation programs and the overall administration of such programs and the promotion and enrollment efforts associated with such programs, such as through—

(1) the creation or support of rapid response teams to advise employers about alternatives to layoffs;

(2) the provision of education or assistance to employers to enable them to assess the feasibility of participating in short-time compensation programs; and

(3) the development or enhancement of systems to automate—

(A) the submission and approval of plans; and

(B) the filing and approval of new and ongoing short-time compensation claims.

(e) ADMINISTRATION.—The Secretary is authorized to use 0.25 percent of the funds available under subsection (g) to provide for outreach and to share best practices with respect to this section and short-time compensation programs.

(f) RECOUPMENT.—The Secretary shall establish a process under which the Secretary shall recoup the amount of any grant awarded under paragraph (1) or (2) of subsection (a) if the Secretary determines that, during the 5-year period beginning on the first date that any such grant is awarded to the State, the State—

Determination.  
Time period.

(1) terminated the State's short-time compensation program; or

(2) failed to meet appropriate requirements with respect to such program (as established by the Secretary).

(g) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, to the Secretary, \$100,000,000 to carry out this section, to remain available without fiscal year limitation.

Appropriation  
authorization.

(h) REPORTING.—The Secretary may establish reporting requirements for States receiving a grant under this section in order to provide oversight of grant funds.

(i) DEFINITIONS.—In this section:

(1) SECRETARY.—The term “Secretary” means the Secretary of Labor.

(2) SHORT-TIME COMPENSATION PROGRAM.—The term “short-time compensation program” has the meaning given such term in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a).

(3) STATE; STATE AGENCY; STATE LAW.—The terms “State”, “State agency”, and “State law” have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

26 USC 3304  
note.

**SEC. 2165. ASSISTANCE AND GUIDANCE IN IMPLEMENTING PROGRAMS.**

(a) IN GENERAL.—In order to assist States in establishing, qualifying, and implementing short-time compensation programs (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a)), the Secretary of Labor (in this section referred to as the “Secretary”) shall—

(1) develop model legislative language which may be used by States in developing and enacting such programs and periodically review and revise such model legislative language;

(2) provide technical assistance and guidance in developing, enacting, and implementing such programs;

(3) establish reporting requirements for States, including reporting on—

(A) the number of estimated averted layoffs;

(B) the number of participating employers and workers;

and

(C) such other items as the Secretary of Labor determines are appropriate.

(b) MODEL LANGUAGE AND GUIDANCE.—The model language and guidance developed under subsection (a) shall allow sufficient flexibility by States and participating employers while ensuring accountability and program integrity.

(c) CONSULTATION.—In developing the model legislative language and guidance under subsection (a), and in order to meet the requirements of subsection (b), the Secretary shall consult with employers, labor organizations, State workforce agencies, and other program experts.

Requirements.

**SEC. 2166. REPORTS.**

(a) REPORT.—

(1) IN GENERAL.—Not later than 4 years after the date of the enactment of this Act, the Secretary of Labor shall submit to Congress and to the President a report or reports on the implementation of the provisions of this subtitle.

(2) REQUIREMENTS.—Any report under paragraph (1) shall at a minimum include the following:

(A) A description of best practices by States and employers in the administration, promotion, and use of short-time compensation programs (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a)).



(B) An analysis of the significant challenges to State enactment and implementation of short-time compensation programs.

(C) A survey of employers in all States to determine the level of interest in participating in short-time compensation programs.

(b) FUNDING.—There are appropriated, out of any moneys in the Treasury not otherwise appropriated, to the Secretary of Labor, \$1,500,000 to carry out this section, to remain available without fiscal year limitation.

Appropriation  
authorization.

## Subtitle E—Self-Employment Assistance

### SEC. 2181. STATE ADMINISTRATION OF SELF-EMPLOYMENT ASSISTANCE PROGRAMS.

(a) AVAILABILITY FOR INDIVIDUALS RECEIVING EXTENDED COMPENSATION.—Title II of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) is amended by inserting at the end the following new section:

#### “AUTHORITY TO CONDUCT SELF-EMPLOYMENT ASSISTANCE PROGRAMS

“SEC. 208. (a)(1) At the option of a State, for any weeks of unemployment beginning after the date of enactment of this section, the State agency of the State may establish a self-employment assistance program, as described in subsection (b), to provide for the payment of extended compensation as self-employment assistance allowances to individuals who would otherwise satisfy the eligibility criteria under this title.

“(2) Subject to paragraph (3), the self-employment assistance allowance described in paragraph (1) shall be paid to an eligible individual from such individual’s extended compensation account, as described in section 202(b), and the amount in such account shall be reduced accordingly.

“(3)(A) Subject to subparagraph (B), for purposes of self-employment assistance programs established under this section and section 4001(j) of the Supplemental Appropriations Act, 2008, an individual shall be provided with self-employment assistance allowances under such programs for a total of not greater than 26 weeks (referred to in this section as the ‘combined eligibility limit’).

“(B) For purposes of an individual who is participating in a self-employment assistance program established under this section and has not reached the combined eligibility limit as of the date on which such individual exhausts all rights to extended compensation under this title, the individual shall be eligible to receive self-employment assistance allowances under a self-employment assistance program established under section 4001(j) of the Supplemental Appropriations Act, 2008, until such individual has reached the combined eligibility limit, provided that the individual otherwise satisfies the eligibility criteria described under title IV of such Act.

“(b) For the purposes of this section, the term ‘self-employment assistance program’ means a program as defined under section 3306(t) of the Internal Revenue Code of 1986, except as follows:

“(1) all references to ‘regular unemployment compensation under the State law’ shall be deemed to refer instead to

'extended compensation under title II of the Federal-State Extended Unemployment Compensation Act of 1970';

"(2) paragraph (3)(B) shall not apply;

"(3) clause (i) of paragraph (3)(C) shall be deemed to state as follows:

"(i) include any entrepreneurial training that the State or non-profit organizations may provide in coordination with programs of training offered by the Small Business Administration, which may include business counseling, mentorship for participants, access to small business development resources, and technical assistance; and';

"(4) the reference to '5 percent' in paragraph (4) shall be deemed to refer instead to '1 percent'; and

"(5) paragraph (5) shall not apply.

"(c) In the case of an individual who is eligible to receive extended compensation under this title, such individual shall not receive self-employment assistance allowances under this section unless the State agency has a reasonable expectation that such individual will be entitled to at least 13 times the individual's average weekly benefit amount of extended compensation and emergency unemployment compensation.

"(d)(1) An individual who is participating in a self-employment assistance program established under this section may elect to discontinue participation in such program at any time.

"(2) For purposes of an individual whose participation in a self-employment assistance program established under this section is terminated pursuant to subsection (a)(3) or who has discontinued participation in such program, if the individual continues to satisfy the eligibility requirements for extended compensation under this title, the individual shall receive extended compensation payments with respect to subsequent weeks of unemployment, to the extent that amounts remain in the account established for such individual under section 202(b)."

(b) AVAILABILITY FOR INDIVIDUALS RECEIVING EMERGENCY UNEMPLOYMENT COMPENSATION.—Section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), as amended by sections 2141(b) and 2142(a), is further amended by inserting at the end the following new subsection:

"(j) AUTHORITY TO CONDUCT SELF-EMPLOYMENT ASSISTANCE PROGRAM.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—Any agreement under subsection (a) may provide that the State agency of the State shall establish a self-employment assistance program, as described in paragraph (2), to provide for the payment of emergency unemployment compensation as self-employment assistance allowances to individuals who would otherwise satisfy the eligibility criteria specified in subsection (b).

"(B) PAYMENT OF ALLOWANCES.—Subject to subparagraph (C), the self-employment assistance allowance described in subparagraph (A) shall be paid to an eligible individual from such individual's emergency unemployment compensation account, as described in section 4002, and the amount in such account shall be reduced accordingly.

“(C) LIMITATION ON SELF-EMPLOYMENT ASSISTANCE FOR INDIVIDUALS RECEIVING EXTENDED COMPENSATION AND EMERGENCY UNEMPLOYMENT COMPENSATION.—

“(i) COMBINED ELIGIBILITY LIMIT.—Subject to clause (ii), for purposes of self-employment assistance programs established under this subsection and section 208 of the Federal-State Extended Unemployment Compensation Act of 1970, an individual shall be provided with self-employment assistance allowances under such programs for a total of not greater than 26 weeks (referred to in this subsection as the ‘combined eligibility limit’).

“(ii) CARRYOVER RULE.—For purposes of an individual who is participating in a self-employment assistance program established under this subsection and has not reached the combined eligibility limit as of the date on which such individual exhausts all rights to extended compensation under this title, the individual shall be eligible to receive self-employment assistance allowances under a self-employment assistance program established under section 208 of the Federal-State Extended Unemployment Compensation Act of 1970 until such individual has reached the combined eligibility limit, provided that the individual otherwise satisfies the eligibility criteria described under title II of such Act.

“(2) DEFINITION OF ‘SELF-EMPLOYMENT ASSISTANCE PROGRAM’.—For the purposes of this section, the term ‘self-employment assistance program’ means a program as defined under section 3306(t) of the Internal Revenue Code of 1986, except as follows:

“(A) all references to ‘regular unemployment compensation under the State law’ shall be deemed to refer instead to ‘emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008’;

“(B) paragraph (3)(B) shall not apply;

“(C) clause (i) of paragraph (3)(C) shall be deemed to state as follows:

“(i) include any entrepreneurial training that the State or non-profit organizations may provide in coordination with programs of training offered by the Small Business Administration, which may include business counseling, mentorship for participants, access to small business development resources, and technical assistance; and’;

“(D) the reference to ‘5 percent’ in paragraph (4) shall be deemed to refer instead to ‘1 percent’; and

“(E) paragraph (5) shall not apply.

“(3) AVAILABILITY OF SELF-EMPLOYMENT ASSISTANCE ALLOWANCES.—In the case of an individual who is eligible to receive emergency unemployment compensation payment under this title, such individual shall not receive self-employment assistance allowances under this subsection unless the State agency has a reasonable expectation that such individual will be entitled to at least 13 times the individual’s average weekly benefit amount of extended compensation and emergency unemployment compensation.

“(4) PARTICIPANT OPTION TO TERMINATE PARTICIPATION IN SELF-EMPLOYMENT ASSISTANCE PROGRAM.—

“(A) TERMINATION.—An individual who is participating in a self-employment assistance program established under this subsection may elect to discontinue participation in such program at any time.

“(B) CONTINUED ELIGIBILITY FOR EMERGENCY UNEMPLOYMENT COMPENSATION.—For purposes of an individual whose participation in the self-employment assistance program established under this subsection is terminated pursuant to paragraph (1)(C) or who has discontinued participation in such program, if the individual continues to satisfy the eligibility requirements for emergency unemployment compensation under this title, the individual shall receive emergency unemployment compensation payments with respect to subsequent weeks of unemployment, to the extent that amounts remain in the account established for such individual under section 4002(b) or to the extent that such individual commences receiving the amounts described in subsections (c), (d), or (e) of such section, respectively.”.

26 USC 3304  
note.

**SEC. 2182. GRANTS FOR SELF-EMPLOYMENT ASSISTANCE PROGRAMS.**

(a) IN GENERAL.—

(1) ESTABLISHMENT OR IMPROVED ADMINISTRATION.—Subject to the requirements established under subsection (b), the Secretary shall award grants to States for the purposes of—

(A) improved administration of self-employment assistance programs that have been established, prior to the date of the enactment of this Act, pursuant to section 3306(t) of the Internal Revenue Code of 1986 (26 U.S.C. 3306(t)), for individuals who are eligible to receive regular unemployment compensation;

(B) development, implementation, and administration of self-employment assistance programs that are established, subsequent to the date of the enactment of this Act, pursuant to section 3306(t) of the Internal Revenue Code of 1986, for individuals who are eligible to receive regular unemployment compensation; and

(C) development, implementation, and administration of self-employment assistance programs that are established pursuant to section 208 of the Federal-State Extended Unemployment Compensation Act of 1970 or section 4001(j) of the Supplemental Appropriations Act, 2008, for individuals who are eligible to receive extended compensation or emergency unemployment compensation.

(2) PROMOTION AND ENROLLMENT.—Subject to the requirements established under subsection (b), the Secretary shall award additional grants to States that submit approved applications for a grant under paragraph (1) for such States to promote self-employment assistance programs and enroll unemployed individuals in such programs.

(b) APPLICATION AND DISBURSAL.—

(1) APPLICATION.—Any State seeking a grant under paragraph (1) or (2) of subsection (a) shall submit an application to the Secretary at such time, in such manner, and containing such information as is determined appropriate by the Secretary.

In no case shall the Secretary award a grant under this section with respect to an application that is submitted after December 31, 2013. Deadline.

(2) NOTICE.—Not later than 30 days after receiving an application described in paragraph (1) from a State, the Secretary shall notify the State agency as to whether a grant has been approved for such State for the purposes described in subsection (a). Deadline.

(3) CERTIFICATION.—If the Secretary determines that a State has met the requirements for a grant under subsection (a), the Secretary shall make a certification to that effect to the Secretary of the Treasury, as well as a certification as to the amount of the grant payment to be transferred to the State account in the Unemployment Trust Fund under section 904 of the Social Security Act (42 U.S.C. 1104). The Secretary of the Treasury shall make the appropriate transfer to the State account not later than 7 days after receiving such certification. Determination.  
  
Transfer authority.  
Deadline.

(c) ALLOTMENT FACTORS.—For purposes of allotting the funds available under subsection (d) to States that have met the requirements for a grant under this section, the amount of the grant provided to each State shall be determined based upon the percentage of unemployed individuals in the State relative to the percentage of unemployed individuals in all States. Determination.

(d) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, \$35,000,000 for the period of fiscal year 2012 through fiscal year 2013 for purposes of carrying out the grant program under this section, Appropriation authorization.

**SEC. 2183. ASSISTANCE AND GUIDANCE IN IMPLEMENTING SELF-EMPLOYMENT ASSISTANCE PROGRAMS.** 26 USC 3304 note.

(a) MODEL LANGUAGE AND GUIDANCE.—For purposes of assisting States in establishing, improving, and administering self-employment assistance programs, the Secretary shall—

(1) develop model language that may be used by States in enacting such programs, as well as periodically review and revise such model language; and Review.

(2) provide technical assistance and guidance in establishing, improving, and administering such programs.

(b) REPORTING AND EVALUATION.—

(1) REPORTING.—The Secretary shall establish reporting requirements for States that have established self-employment assistance programs, which shall include reporting on—

(A) the total number of individuals who received unemployment compensation and—

(i) were referred to a self-employment assistance program;

(ii) participated in such program; and

(iii) received an allowance under such program;

(B) the total amount of allowances provided to individuals participating in a self-employment assistance program;

(C) the total income (as determined by survey or other appropriate method) for businesses that have been established by individuals participating in a self-employment assistance program, as well as the total number of individuals employed through such businesses; and

(D) any additional information, as determined appropriate by the Secretary.

Deadline.

(2) EVALUATION.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall submit to Congress a report that evaluates the effectiveness of self-employment assistance programs established by States, including—

(A) an analysis of the implementation and operation of self-employment assistance programs by States;

(B) an evaluation of the economic outcomes for individuals who participated in a self-employment assistance program as compared to individuals who received unemployment compensation and did not participate in a self-employment assistance program, including a comparison as to employment status, income, and duration of receipt of unemployment compensation or self-employment assistance allowances; and

(C) an evaluation of the state of the businesses started by individuals who participated in a self-employment assistance program, including information regarding—

(i) the type of businesses established;

(ii) the sustainability of the businesses;

(iii) the total income collected by the businesses;

(iv) the total number of individuals employed through such businesses; and

(v) the estimated Federal and State tax revenue collected from such businesses and their employees.

(c) FLEXIBILITY AND ACCOUNTABILITY.—The model language, guidance, and reporting requirements developed by the Secretary under subsections (a) and (b) shall—

(1) allow sufficient flexibility for States and participating individuals; and

(2) ensure accountability and program integrity.

(d) CONSULTATION.—For purposes of developing the model language, guidance, and reporting requirements described under subsections (a) and (b), the Secretary shall consult with employers, labor organizations, State agencies, and other relevant program experts.

(e) ENTREPRENEURIAL TRAINING PROGRAMS.—The Secretary shall utilize resources available through the Department of Labor and coordinate with the Administrator of the Small Business Administration to ensure that adequate funding is reserved and made available for the provision of entrepreneurial training to individuals participating in self-employment assistance programs.

Definition.

(f) SELF-EMPLOYMENT ASSISTANCE PROGRAM.—For purposes of this section, the term “self-employment assistance program” means a program established pursuant to section 3306(t) of the Internal Revenue Code of 1986 (26 U.S.C. 3306(t)), section 208 of the Federal-State Extended Unemployment Compensation Act of 1970, or section 4001(j) of the Supplemental Appropriations Act, 2008, for individuals who are eligible to receive regular unemployment compensation, extended compensation, or emergency unemployment compensation.

26 USC 3304  
note.

**SEC. 2184. DEFINITIONS.**

In this subtitle:

(1) SECRETARY.—The term “Secretary” means the Secretary of Labor.

(2) STATE; STATE AGENCY.—The terms “State” and “State agency” have the meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

## TITLE III—MEDICARE AND OTHER HEALTH PROVISIONS

### Subtitle A—Medicare Extensions

#### SEC. 3001. EXTENSION OF MMA SECTION 508 RECLASSIFICATIONS.

(a) IN GENERAL.—Section 106(a) of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395 note), as amended by section 117 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173), section 124 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), sections 3137(a) and 10317 of the Patient Protection and Affordable Care Act (Public Law 111-148), section 102(a) of the Medicare and Medicaid Extenders Act of 2010 (Public Law 111-309), and section 302(a) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78), is amended by striking “November 30, 2011” and inserting “March 31, 2012”.

42 USC 1395ww  
note.

(b) SPECIAL RULE.—

(1) IN GENERAL.—Subject to paragraph (2), for purposes of implementation of the amendment made by subsection (a), including for purposes of the implementation of paragraph (2) of section 117(a) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173), for the period beginning on December 1, 2011, and ending on March 31, 2012, the Secretary of Health and Human Services shall use the hospital wage index that was promulgated by the Secretary of Health and Human Services in the Federal Register on August 18, 2011 (76 Fed. Reg. 51476), and any subsequent corrections.

42 USC 1395ww  
note.  
Time period.

(2) EXCEPTION.—In determining the wage index applicable to hospitals that qualify for wage index reclassification, the Secretary shall, for the period described in paragraph (1), include the average hourly wage data of hospitals whose reclassification was extended pursuant to the amendment made by subsection (a) only if including such data results in a higher applicable reclassified wage index. Any revision to hospital wage indexes made as a result of this paragraph shall not be effected in a budget neutral manner.

(c) TIMEFRAME FOR PAYMENTS.—

(1) IN GENERAL.—The Secretary shall make payments required under subsections (a) and (b) by not later than June 30, 2012.

42 USC 1395ww  
note.

(2) OCTOBER 2011 AND NOVEMBER 2011 CONFORMING CHANGE.—Section 302(c) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78) is amended by striking “December 31, 2012” and inserting “June 30, 2012”.

42 USC 1395ww  
note.

## TITLE VII—MISCELLANEOUS PROVISIONS

26 USC 6655  
note.

### SEC. 7001. REPEAL OF CERTAIN SHIFTS IN THE TIMING OF CORPORATE ESTIMATED TAX PAYMENTS.

The following provisions of law (and any modification of any such provision which is contained in any other provision of law) shall not apply with respect to any installment of corporate estimated tax:

(1) Section 201(b) of the Corporate Estimated Tax Shift Act of 2009.

(2) Section 561 of the Hiring Incentives to Restore Employment Act.

(3) Section 505 of the United States-Korea Free Trade Agreement Implementation Act.

(4) Section 603 of the United States-Colombia Trade Promotion Agreement Implementation Act.

(5) Section 502 of the United States-Panama Trade Promotion Agreement Implementation Act.

### SEC. 7002. REPEAL OF REQUIREMENT RELATING TO TIME FOR REMITTING CERTAIN MERCHANDISE PROCESSING FEES.

19 USC 58c note.

(a) REPEAL.—The Trade Adjustment Assistance Extension Act of 2011 (title II of Public Law 112-40; 125 Stat. 402) is amended by striking section 263.

(b) CLERICAL AMENDMENT.—The table of contents for such Act is amended by striking the item relating to section 263.

### SEC. 7003. TREATMENT FOR PAYGO PURPOSES.

The budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

Approved February 22, 2012.

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#### LEGISLATIVE HISTORY—H.R. 3630:

HOUSE REPORTS: No. 112-399 (Comm. of Conference).

#### CONGRESSIONAL RECORD:

Vol. 157 (2011): Dec. 13, considered and passed House.

Dec. 17, considered and passed Senate, amended.

Vol. 158 (2012): Feb. 17, House and Senate agreed to conference report.

