

108TH CONGRESS
1ST SESSION

H. R. 1802

To amend the Federal Unemployment Tax Act and the Social Security Act to modernize the unemployment insurance system, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 11, 2003

Mr. McDERMOTT (for himself, Mr. SANDERS, Ms. NORTON, Mr. NADLER, Ms. CARSON of Indiana, Mr. EVANS, Mr. OWENS, Ms. SOLIS, Mr. STARK, Mr. KUCINICH, Mr. LANTOS, Ms. LEE, and Mr. FRANK of Massachusetts) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Federal Unemployment Tax Act and the Social Security Act to modernize the unemployment insurance system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Keep America Working Act of 2003”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; etc.

TITLE I—RESTORING INSURANCE ELIGIBILITY IN AN EVOLVING
ECONOMY

- Sec. 101. Expansion of circumstances under which unemployment compensation is payable.
- Sec. 102. Expansion of unemployment tax wage base.
- Sec. 103. Determinations of whether individuals are employees for purposes of employment taxes.
- Sec. 104. Repeal of determination of employer's liability for certain employment taxes.
- Sec. 105. Effective dates.

TITLE II—ENCOURAGING JOB MOBILITY AND ADEQUATE
COMPENSATION

- Sec. 201. Separation from work due to a move relating to spouse's or domestic partner's new principal place of work not a bar to receiving unemployment compensation; replacement ratios for lower paid workers who become unemployed.

TITLE III—ENSURING SOLVENCY AND PREPARING FOR
RECESSION

- Sec. 301. Increase and decrease in earnings credited to State accounts when States meet or fail to meet funding goals.
- Sec. 302. Amendments to trigger provisions of extended benefit program.
- Sec. 303. Eliminate special Federal eligibility requirements for extended compensation.

TITLE IV—IMPROVING ADMINISTRATIVE FUNDING FOR THE
UNEMPLOYMENT SYSTEM

- Sec. 401. Funding for administration of State unemployment compensation, State systems of public employment offices and veterans employment service programs.

1 **TITLE I—RESTORING INSUR-**
2 **ANCE ELIGIBILITY IN AN**
3 **EVOLVING ECONOMY**

4 **SEC. 101. EXPANSION OF CIRCUMSTANCES UNDER WHICH**
5 **UNEMPLOYMENT COMPENSATION IS PAY-**
6 **ABLE.**

7 (a) IN GENERAL.—Subsection (a) of section 3304 of
8 the Internal Revenue Code of 1986 (relating to approval
9 of State unemployment compensation laws) is amended by
10 striking “and” at the end of paragraph (18), by redesignig-

1 nating paragraph (19) as paragraph (29), and by insert-
2 ing after paragraph (18) the following new paragraphs:

3 “(19) compensation shall not be denied to an
4 individual solely because such individual is seeking
5 only part-time work, if—

6 “(A) such individual otherwise qualifies for
7 unemployment compensation, based wholly or
8 mostly on part-time work; and

9 “(B) the part-time work sought by such in-
10 dividual generally requires at least 20 hours per
11 week;

12 “(20) compensation is payable to an eligible in-
13 dividual in an amount which is not less than the
14 amount determined by applying a base period ending
15 at the close of the calendar quarter most recently
16 completed before the date of the individual’s applica-
17 tion for benefits;

18 “(21) except as provided in paragraphs (6) and
19 (13), compensation shall not be denied in such State
20 to any otherwise eligible individual solely on the
21 basis that such individual is a seasonal worker;

22 “(22)(A) if any individual leaves employment
23 because of sexual harassment, for purposes of deter-
24 mining such individual’s eligibility for compensation
25 for any subsequent week for which such individual

1 meets the State law requirements relating to avail-
2 ability for work and active search for work, such in-
3 dividual shall be treated as having left such employ-
4 ment for good cause, and

5 “(B) for purposes of subparagraph (A), ‘sexual
6 harassment’ shall be considered to have been shown
7 upon the demonstration of facts sufficient to estab-
8 lish a prima facie case that the individual involved
9 was victimized by sexual harassment in violation of
10 title VII of the Civil Rights Act of 1964;

11 “(23) if any individual leaves employment be-
12 cause of loss of adequate child care for a dependent
13 child under the age of 13, for purposes of deter-
14 mining such individual’s eligibility for compensation
15 for any subsequent week for which such individual
16 meets the State law requirements relating to avail-
17 ability for work and active search for work—

18 “(A) such individual shall be treated as
19 having left such employment for good cause,
20 and

21 “(B) any failure to return to such employ-
22 ment or to otherwise meet such State law re-
23 quirements, while the lack of such child care
24 continues, shall be disregarded;

1 “(24) if any individual leaves employment be-
2 cause the individual is a victim of domestic violence,
3 for purposes of determining such individual’s eligi-
4 bility for compensation for any subsequent week for
5 which such individual meets the State law require-
6 ments relating to availability for work and active
7 search for work—

8 “(A) such individual shall be treated as
9 having left such employment for good cause,
10 and

11 “(B) any failure to return to such employ-
12 ment or to otherwise meet such State law re-
13 quirements while the risk of further domestic
14 violence is significant shall be disregarded;

15 “(25) the State law provides for the distribution
16 to unemployed individuals information packets ex-
17 plaining unemployment insurance eligibility condi-
18 tions in that State;

19 “(26) the State periodically reviews and adopts
20 the best practices of other States in addressing con-
21 tract and temporary worker issues, including—

22 “(A) clarifying the definitions of employee
23 and independent contractor,

24 “(B) specifying employer liability for pay-
25 roll taxes,

1 “(C) licensing, bonding, or regulating the
2 employee leasing industry, and

3 “(D) the strategic targeting of audits;

4 “(27) compensation shall not be denied in such
5 State to any otherwise eligible individual solely on
6 the basis that such individual was employed at the
7 applicable minimum wage for not less than 20 hours
8 a week for 30 weeks in the base period;

9 “(28) compensation is payable to any individual
10 who is a parent of a child by blood or adoption and
11 who takes an unpaid leave of absence from the em-
12 ployer at any time during the first year after—

13 “(A) in the case of a child by blood, the
14 birth of such child, and

15 “(B) in the case of a child by adoption by
16 such individual, the adoption of such child;
17 and”.

18 (b) UNEMPLOYMENT COMPENSATION NOT REDUCED
19 BY EXEMPT TRUST ROLLOVERS.—Paragraph (15) of sec-
20 tion 3304(a) of such Code is amended by inserting “(other
21 than a rollover described in section 402(c), 403(a)(4),
22 403(b)(8), 408(d)(3), or 457(e)(16))” after “periodic pay-
23 ment” the first place it appears.

1 **SEC. 102. EXPANSION OF UNEMPLOYMENT TAX WAGE BASE.**

2 (a) IN GENERAL.—Paragraph (1) of section 3306(b)
3 of the Internal Revenue Code of 1986 is amended by strik-
4 ing “\$7,000” and inserting “the contribution and benefit
5 base (as determined under section 230 of the Social Secu-
6 rity Act)”.

7 (b) DECREASE IN FUTA TAX RATE.—Section 3301
8 of such Code is amended by striking “equal to—” and
9 all that follows through “thereafter;” and inserting “equal
10 to 5.59 percent”.

11 **SEC. 103. DETERMINATIONS OF WHETHER INDIVIDUALS**
12 **ARE EMPLOYEES FOR PURPOSES OF EM-**
13 **PLOYMENT TAXES.**

14 (a) REPEAL OF PRIOR AUDIT SAFE HARBOR WITH
15 RESPECT TO DETERMINATIONS OF EMPLOYMENT STA-
16 TUS.—

17 (1) IN GENERAL.—Paragraph (2) of section
18 530(a) of the Revenue Act of 1978 is amended by
19 striking subparagraph (B) and redesignating sub-
20 paragraph (C) as subparagraph (B).

21 (2) CONFORMING AMENDMENTS.—Section
22 530(e) of such Act is amended—

23 (A) in paragraph (2) by striking subpara-
24 graph (A) and redesignating subparagraphs (B)
25 and (C) as subparagraphs (A) and (B), respec-
26 tively,

1 (B) in paragraph (4)(B) by striking “sub-
2 paragraph (A), (B), or (C)” and inserting “sub-
3 paragraph (A) or (B)”.

4 (b) REPEAL OF PROHIBITION AGAINST REGULA-
5 TIONS AND RULINGS ON EMPLOYMENT STATUS.—Section
6 530 of the Revenue Act of 1978 is amended by striking
7 subsection (b).

8 **SEC. 104. REPEAL OF DETERMINATION OF EMPLOYER’S LI-**
9 **ABILITY FOR CERTAIN EMPLOYMENT TAXES.**

10 (a) IN GENERAL.—Section 3509 of the Internal Rev-
11 enue Code of 1986 is repealed.

12 (b) CLERICAL AMENDMENT.—The table of sections
13 for chapter 25 of such Code is amended by striking the
14 item relating to section 3509.

15 **SEC. 105. EFFECTIVE DATES.**

16 (a) IN GENERAL.—Except as provided by subsection
17 (b), the amendments made by this title—

18 (1) shall take effect on January 1, 2004, and

19 (2) in the case of sections 103 and 104, shall
20 apply to periods beginning after December 31, 2003.

21 (b) EXCEPTION.—In the case of any State the legisla-
22 ture of which has not been in session for at least 30 cal-
23 endar days (whether or not successive) between the date
24 of the enactment of this Act and December 31, 2003, the
25 amendments made by section 101 shall take effect 30 cal-

1 endar days after the first day on which such legislature
 2 is in session on or after January 1, 2004.

3 **TITLE II—ENCOURAGING JOB**
 4 **MOBILITY AND ADEQUATE**
 5 **COMPENSATION**

6 **SEC. 201. SEPARATION FROM WORK DUE TO A MOVE RE-**
 7 **LATING TO SPOUSE'S OR DOMESTIC PART-**
 8 **NER'S NEW PRINCIPAL PLACE OF WORK NOT**
 9 **A BAR TO RECEIVING UNEMPLOYMENT COM-**
 10 **PENSATION; REPLACEMENT RATIOS FOR**
 11 **LOWER PAID WORKERS WHO BECOME UNEM-**
 12 **PLOYED.**

13 (a) REVENUES FROM INDIVIDUAL INCOME TAXES
 14 ATTRIBUTABLE TO UNEMPLOYMENT COMPENSATION TO
 15 BE CREDITED TO UNEMPLOYMENT ACCOUNTS OF QUALI-
 16 FYING STATES.—

17 (1) IN GENERAL.—There is hereby appro-
 18 priated to accounts of certified States in the Unem-
 19 ployment Trust Fund (as described in section 903 of
 20 the Social Security Act (42 U.S.C. 1103)) amounts
 21 equivalent to the amount of tax liabilities under
 22 chapter 1 of the Internal Revenue Code of 1986
 23 which is attributable to the application of section 85
 24 of such Code to payments from such accounts.

1 (2) TRANSFERS.—The amounts appropriated
2 by paragraph (1) to any such account shall be trans-
3 ferred from time to time (but not less frequently
4 than quarterly) from the general fund of the Treas-
5 ury on the basis of estimates made by the Secretary
6 of the Treasury, in consultation with the Secretary
7 of Labor, of the amounts referred to in such para-
8 graph. Any such quarterly payment shall be made on
9 the first day of such quarter and shall take into ac-
10 count unemployment compensation estimated to be
11 received from such account during such quarter.
12 Proper adjustments shall be made in the amounts
13 subsequently transferred to the extent prior esti-
14 mates were in excess of or less than the amounts re-
15 quired to be transferred.

16 (3) CERTIFIED STATES.—For purposes of this
17 subsection, the term ‘certified State’ means a State
18 for which a certification under subsection (d) is in
19 effect.

20 (4) REPORTS.—The Secretary of the Treasury
21 shall submit annual reports to the Congress on—

22 (A) the transfers made under this sub-
23 section during the year, and the methodology
24 used in determining the amount of such trans-
25 fers and the account to which made, and

1 (B) the anticipated operation of this sub-
2 section during the next 5 years.

3 (b) CONDITIONS FOR APPROVAL OF STATE LAWS.—

4 The Secretary of Labor shall (for purposes of this section)
5 approve any State law submitted to the Secretary under
6 this section, within 30 days of such submission, which the
7 Secretary finds provides that—

8 (1) compensation shall not be denied to any in-
9 dividual by reason of such individual's separating
10 from employment, if—

11 (A) that separation is related to a change
12 in such individual's spouse's place of residence
13 in connection with the commencement of work
14 by the spouse (as an employee or as a self-em-
15 ployed individual) at a new principal place of
16 work;

17 (B) the spouse's new principal place of
18 work satisfies the condition under subsection
19 (c)(1) of section 217 of the Internal Revenue
20 Code of 1986 (relating to the minimum dis-
21 tance required, between a taxpayer's former
22 residence and new principal place of work, in
23 order to qualify for a moving expenses deduc-
24 tion under such section); and

1 (C) the separating individual has both the
2 former residence and the new residence as his
3 principal place of abode; and

4 (2) in the case of any individual who becomes
5 entitled to receive compensation from such State,
6 and whose average weekly wages (for the period on
7 the basis of which such individual qualifies for such
8 compensation, determined without any limitation on
9 amount) do not exceed 50 percent of the average
10 weekly wages subject (determined without any limi-
11 tation on amount) to contributions under the unem-
12 ployment compensation law of such State (as deter-
13 mined by the Secretary based on the data the Sec-
14 retary considers most appropriate), compensation
15 shall be computed in a manner that results in a
16 wage replacement ratio for such individual that is at
17 least equal to the sum of—

18 (A) 50 percent, plus

19 (B) $\frac{1}{4}$ of 1 percent times the percentage
20 by which such individual's average weekly
21 wages (for the aforementioned period) are less
22 than the average weekly wages subject to con-
23 tributions under the unemployment compensa-
24 tion law of such State (as so determined).

1 The condition under paragraph (2) shall not be considered
2 met if, in order to satisfy such paragraph, the State modi-
3 fies its State law in a way that, as determined by the Sec-
4 retary, has the general effect of reducing the replacement
5 ratio for individuals whose average weekly wages equal or
6 exceed the 50-percent threshold described in such para-
7 graph, except for good cause shown.

8 (c) NOTIFICATION.—The Secretary of Labor shall,
9 upon approving such law for purposes of this section, no-
10 tify the governor (or, if none, the chief executive officer)
11 of the State of the Secretary’s approval.

12 (d) CERTIFICATION.—On October 31 of each year,
13 the Secretary of Labor shall certify to the Secretary of
14 the Treasury each State whose law the Secretary of Labor
15 has previously approved for purposes of this section, ex-
16 cept that the Secretary of Labor shall not certify any
17 State which, after reasonable notice and opportunity for
18 hearing to the State agency, the Secretary of Labor finds
19 has amended its law so that it no longer contains the pro-
20 visions specified in subsection (b) or has with respect to
21 the 12-month period ending on such October 31 failed to
22 comply substantially with either provision of such sub-
23 section.

24 (e) NOTICE OF NONCERTIFICATION.—If at any time
25 the Secretary of Labor has reason to believe that a State

1 whose law the Secretary has previously approved for pur-
2 poses of this section may not be certified under subsection
3 (d), the Secretary shall promptly so notify the governor
4 (or, if none, the chief executive officer) of such State.

5 (f) DEFINITIONS.—For purposes of this section—

6 (1) the terms “State”, “State law”, “State
7 agency”, “compensation”, and “week” have the re-
8 spective meanings given such terms under section
9 205 of the Federal-State Extended Unemployment
10 Compensation Act of 1970;

11 (2) the terms “wages” and “contributions”
12 have the respective meanings given such terms under
13 section 3306 of the Internal Revenue Code of 1986;

14 (3) the term “wage replacement ratio” shall
15 have such meaning as the Secretary of Labor shall
16 by regulation prescribe consistent with the purposes
17 of this section; and

18 (4) the term “spouse” shall include a domestic
19 partner, as defined under regulations of the Sec-
20 retary of Labor.

1 **TITLE III—ENSURING SOLVENCY**
2 **AND PREPARING FOR RECES-**
3 **SION**

4 **SEC. 301. INCREASE AND DECREASE IN EARNINGS CRED-**
5 **ITED TO STATE ACCOUNTS WHEN STATES**
6 **MEET OR FAIL TO MEET FUNDING GOALS.**

7 (a) IN GENERAL.—Section 904 of the Social Security
8 Act (42 U.S.C. 1104) is amended by adding at the end
9 the following new subsection:

10 “Increase and Decrease in Amount of Earnings Allocated
11 to State Accounts When States Meet or Fail to Meet
12 Funding Goals

13 “(h)(1) If the average daily balance in a State ac-
14 count in the Unemployment Trust Fund for any calendar
15 quarter exceeds the funding goal of such State, the
16 amount otherwise creditable to such account under sub-
17 section (e) for such quarter shall be increased by the inter-
18 est premium on such excess. If the average daily balance
19 in such a State account for any calendar quarter is less
20 than the funding goal of such State, the amount otherwise
21 creditable to such account under subsection (e) for such
22 quarter shall be decreased by the interest penalty.

23 “(2) Paragraph (1) shall not apply with respect to
24 any interest premium or interest penalty to the extent that
25 such application would result in an increase or decrease

1 of more than \$2,500,000 in the amount creditable to any
2 State account for any calendar quarter.

3 “(3) For purposes of this subsection, the term ‘inter-
4 est premium’ means, for any calendar quarter—

5 “(A) with respect to the State with the largest
6 percentage value of excess of the average daily bal-
7 ance in the State account in the Unemployment
8 Trust Fund over the funding goal of such State,
9 one-half of one percent of the amount of such ex-
10 cess, and

11 “(B) with respect to each other State, the prod-
12 uct of—

13 “(i) the amount of the excess of the aver-
14 age daily balance in the State account in the
15 Unemployment Trust Fund over the funding
16 goal of such State, and

17 “(ii) the percentage which bears the same
18 ratio to one-half of one percent as—

19 “(I) the percentage value of such ex-
20 cess, bears to

21 “(II) the percentage value of the ex-
22 cess of the State referred to in subpara-
23 graph (A).

24 The Secretary shall make appropriate adjustments in the
25 interest premium for any calendar quarter if the aggregate

1 interest premiums payable for such quarter exceed the ag-
2 gregate interest penalties for such quarter.

3 “(4) For purposes of this subsection, the term ‘inter-
4 est penalty’ means, for any calendar quarter—

5 “(A) with respect to the State with the largest
6 percentage value of excess of the funding goal of
7 such State over the average daily balance in the
8 State account in the Unemployment Trust Fund,
9 one-half of one percent of the amount otherwise
10 creditable to such account under subsection (e), and

11 “(B) with respect to each other State, the prod-
12 uct of—

13 “(i) the amount otherwise creditable to
14 such account under subsection (e), and

15 “(ii) the percentage which bears the same
16 ratio to one-half of one percent as—

17 “(I) the percentage value of the excess
18 of the funding goal of the State over such
19 average daily balance of such State, bears
20 to

21 “(II) the percentage value of such ex-
22 cess of the State referred to in subpara-
23 graph (A).

24 “(5) For purposes of this subsection, the term ‘fund-
25 ing goal’ means, for any State for any calendar quarter,

1 the average of the unemployment insurance benefits paid
2 by such State during each of the 3 years, in the 20-year
3 period ending with the calendar year containing such cal-
4 endar quarter, during which the State paid the greatest
5 amount of unemployment benefits.

6 “(6) For purposes of this subsection, the term ‘per-
7 centage value’ means—

8 “(A) with respect to any excess of the average
9 daily balance in a State account in the Unemploy-
10 ment Trust Fund over the funding goal of such
11 State, the percentage which such excess bears to
12 such funding goal, and

13 “(B) with respect to any excess of such funding
14 goal over such average daily balance, the percentage
15 which such excess bears to such funding goal.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) AMOUNTS CREDITED TO STATE AC-
18 COUNTS.—Subsection (e) of section 904 of the So-
19 cial Security Act (42 U.S.C. 1104(e)) is amended in
20 the first sentence by inserting “(as modified by sub-
21 section (h))” after “a proportionate part”.

22 (2) INTEREST RATE ON REPAYMENT OF AD-
23 VANCES DETERMINED WITHOUT REGARD TO INTER-
24 EST PREMIUMS OR PENALTIES ON AMOUNTS CRED-
25 ITED TO STATE ACCOUNTS.—Subparagraph (A) of

1 section 1202(b)(4) of such Act (42 U.S.C.
2 1322(b)(4)) is amended by inserting “(determined
3 without regard to section 904(h))” after “preceding
4 calendar year”.

5 (c) REPORT.—Not later than 6 months after the date
6 of the enactment of this Act, the Secretary of Labor shall
7 submit to the Congress a report recommending sources of
8 funding for the crediting of interest premiums under sub-
9 section (h) of section 904 of the Social Security Act (42
10 U.S.C. 1104), as added by this section, in the event that
11 the imposition of interest penalties under such subsection
12 is insufficient to fund such premiums.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to calendar years beginning after
15 December 31, 2005.

16 **SEC. 302. AMENDMENTS TO TRIGGER PROVISIONS OF EX-**
17 **TENDED BENEFIT PROGRAM.**

18 (a) LOWERING OF EXTENDED BENEFIT “ON” INDI-
19 CATOR.—Section 203(d) of the Federal-State Extended
20 Unemployment Compensation Act of 1970 (26 U.S.C.
21 3304 note) is amended—

22 (1) in paragraph (1)(B), by striking “5 per cen-
23 tum” and inserting “4 per centum”, and

24 (2) in the first sentence following paragraph
25 (2)—

1 (A) by striking “5” and inserting “4”, and

2 (B) by striking “6” and inserting “5”.

3 (b) ALTERNATIVE TRIGGER.—Section 203(f) of such
4 Act is amended—

5 (1) by striking “(f)(1)” and all that follows
6 through “section—” and inserting the following:

7 “(f)(1) Effective with respect to compensation for
8 weeks of unemployment beginning after December 31,
9 2003, for purposes of this section—”; and

10 (2) in the last sentence of paragraph (1), by
11 striking “Notwithstanding the provision of any State
12 law described in this paragraph,” and inserting
13 “Notwithstanding any other provision of this sub-
14 section,”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply for purposes of determining wheth-
17 er there are State “on” or “off” indicators for weeks be-
18 ginning on or after January 1, 2004.

19 **SEC. 303. ELIMINATE SPECIAL FEDERAL ELIGIBILITY RE-**
20 **QUIREMENTS FOR EXTENDED COMPENSA-**
21 **TION.**

22 (a) IN GENERAL.—Section 202(a) of the Federal-
23 State Extended Unemployment Compensation Act of 1970
24 (26 U.S.C. 3304 note) is amended by striking paragraphs
25 (3) through (7).

1 (b) CONFORMING AMENDMENT.—Section 202(a)(2)
2 of such Act is amended by striking “Except” and all that
3 follows through “title, the” and inserting “The”.

4 (c) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), the amendments made by this section
7 shall apply in the case of compensation paid to indi-
8 viduals during eligibility periods beginning on or
9 after January 1, 2004.

10 (2) SPECIAL RULE FOR CERTAIN STATES.—In
11 the case of any State the legislature of which has
12 not been in session for at least 30 calendar days
13 (whether or not successive) between the date of the
14 enactment of this Act and January 1, 2004, the
15 amendments made by this section shall apply in the
16 case of compensation paid to individuals during eli-
17 gibility periods beginning after the end of the first
18 session of the State legislature which begins on or
19 after January 1, 2004.

1 **TITLE IV—IMPROVING ADMINIS-**
2 **TRATIVE FUNDING FOR THE**
3 **UNEMPLOYMENT SYSTEM**

4 **SEC. 401. FUNDING FOR ADMINISTRATION OF STATE UNEM-**
5 **PLOYMENT COMPENSATION, STATE SYSTEMS**
6 **OF PUBLIC EMPLOYMENT OFFICES AND VET-**
7 **ERANS EMPLOYMENT SERVICE PROGRAMS.**

8 (a) IN GENERAL.—Paragraph (1) of section 901(c)
9 of the Social Security Act (42 U.S.C. 1101(c)(1)) is
10 amended by striking all that precedes clause (i) of sub-
11 paragraph (B) and inserting the following:

12 “(c)(1)(A) There are hereby appropriated out of the
13 employment security administration account for each fis-
14 cal year—

15 “(i) the amount determined under subsection
16 (g) for such year for assisting the States in the ad-
17 ministration of their unemployment compensation
18 laws as provided in title III (including administra-
19 tion pursuant to agreements under any Federal un-
20 employment compensation law),

21 “(ii) the amount determined under subsection
22 (h) for such year for providing reemployment serv-
23 ices, including administering the work test for the
24 State unemployment compensation system and pro-

1 viding job finding and placement services, to unem-
2 ployment compensation claimants,

3 “(iii) the amount determined under subsection
4 (i) for such year for the establishment and mainte-
5 nance of systems of public employment offices in ac-
6 cordance with the Wagner-Peyser Act (29 U.S.C. 49
7 et seq.), and

8 “(iv) the amounts determined under sections
9 4103A(a)(1) and 4104(a)(1) of title 38 of the
10 United States Code for such year for carrying out
11 sections 4103A and 4104 of such title, respectively.

12 The Secretary of Labor may reserve not more than 0.4
13 percent of the funds appropriated under clauses (i) and
14 (ii), respectively, for any fiscal year to carry out national
15 activities that benefit the Federal-State unemployment
16 compensation system as a whole, are interstate or
17 multistate in nature, or are more efficiently and effectively
18 performed on a centralized basis.

19 “(B) There are hereby authorized to be made avail-
20 able for expenditure out of the employment security ad-
21 ministration account for each fiscal year such amounts
22 (not in excess of the limit provided by paragraph (4) with
23 respect to subparagraph (A)(iii)) as the Congress may
24 deem appropriate for the necessary expenses of the De-

1 partment of Labor for the performance of its functions
2 under—”.

3 (b) FUNDING FORMULAS.—Section 901 of the Social
4 Security Act (42 U.S.C. 1101) is amended by adding at
5 the end the following:

6 “Amounts Appropriated for Administrative Costs of
7 State Unemployment Compensation Programs

8 “(g)(1) For fiscal year 2004 and each fiscal year
9 thereafter, the amount appropriated for funding costs of
10 administering State unemployment compensation pro-
11 grams under subsection (c)(1)(A)(i), shall be the sum of—

12 “(A)(i) the amount determined under this
13 clause for the prior fiscal year (except that in deter-
14 mining funding for fiscal year 2004, the amount for
15 the prior fiscal year shall equal \$789) multiplied by
16 the projected change in the gross domestic product
17 price index for the fiscal year for which the deter-
18 mination is being made, multiplied by

19 “(ii) the projected average weekly number of in-
20 dividuals filing claims for compensation (within the
21 meaning of section 85(b) of the Internal Revenue
22 Code of 1986) for such fiscal year, except that an
23 individual shall not be included in such number sole-
24 ly by reason of filing a claim for assistance under
25 section 410(a) of the Robert T. Stafford Disaster

1 Relief and Emergency Assistance Act (42 U.S.C.
2 5177(a)); and

3 “(B)(i) the amount determined under this
4 clause for the prior fiscal year (except that in deter-
5 mining the funding for fiscal year 2004, the amount
6 for the prior fiscal year shall equal \$138) multiplied
7 by the projected change in the gross domestic prod-
8 uct price index for the fiscal year for which the de-
9 termination is being made, multiplied by

10 “(ii) the average quarterly number of employers
11 subject to State unemployment compensation laws
12 projected for such fiscal year.

13 “(2) In addition to the amounts determined under
14 paragraph (1) for a fiscal year, if the weekly average of
15 insured unemployed individuals for such fiscal year (as
16 projected using the economic assumptions released by the
17 President during such fiscal year under section 1106 of
18 title 31, United States Code, and excluding the same
19 claimants as are excluded under paragraph (1)(A)(ii)) ex-
20 ceeds the projection used in such paragraph (1)(A)(ii),
21 then additional amounts shall be appropriated under sub-
22 section (c)(1)(A)(i) for funding the costs of administering
23 the State unemployment compensation programs equal
24 to—

1 viding reemployment services to unemployment compensa-
2 tion claimants under subsection (c)(1)(A)(ii) shall be—

3 “(1) the amount determined under this para-
4 graph for the prior fiscal year (except that in deter-
5 mining funding for fiscal year 2004, the amount for
6 the prior fiscal year shall equal \$11.10) multiplied
7 by the projected change in the gross domestic prod-
8 uct price index for the fiscal year for which the de-
9 termination is being made, multiplied by

10 “(2) the projected number of payments of un-
11 employment compensation representing first weeks
12 compensated in a benefit year for such fiscal year.

13 “Amounts Appropriated for Administration of State
14 Public Employment Offices

15 “(i) For fiscal year 2004 and each fiscal year there-
16 after, the amount appropriated for funding the costs of
17 administering the State system of public employment of-
18 fices under subsection (c)(1)(A)(iii) shall be—

19 “(1) the amount determined under this para-
20 graph for the prior fiscal year (except that in deter-
21 mining funding for fiscal year 2004, the amount for
22 the prior fiscal year shall equal \$7.30) multiplied by
23 the projected change in the gross domestic product
24 price index for the fiscal year for which the deter-
25 mination is being made, multiplied by

1 the States through the end of the second fiscal year fol-
2 lowing the fiscal year in which such funds are appro-
3 priated.

4 “(2) Amounts reserved by the Secretary of Labor
5 under the second sentence of subsection (e)(1)(A) may be
6 obligated in contracts, grants, or agreements with non-
7 State entities.

8 “(3) Amounts appropriated under paragraph (1)(A)
9 and paragraph (6) of subsection (c) may be used by the
10 States to fund integrated employment service and unem-
11 ployment compensation automation efforts notwith-
12 standing the cost allocation principles prescribed under
13 Office of Management and Budget Circular No. A-87.”.

14 (c) FUNDING FOR IMPROVED TECHNOLOGY TO AS-
15 SIST IN DETERMINING BENEFIT ELIGIBILITY.—Section
16 901(c) of the Social Security Act (42 U.S.C. 1101(c)) is
17 amended by adding at the end the following new para-
18 graph:

19 “(6) In addition to amounts provided under para-
20 graph (1)(A)(i)–(ii), there is hereby appropriated out of
21 the employment security administration account
22 \$60,000,000 for fiscal year 2004 for the purpose of assist-
23 ing States in funding technology and other costs that ac-
24 celerate access to wage and employment information in

1 order to determine eligibility for unemployment compensa-
2 tion.”.

3 (d) CONFORMING AMENDMENTS.—

4 (1) PAYMENTS TO STATES FOR REEMPLOYMENT
5 SERVICES.—Section 302 of the Social Security Act
6 (42 U.S.C. 502) is amended by adding at the end
7 the following:

8 “(d) The Secretary of Labor shall from time to time
9 certify to the Secretary of the Treasury for payment to
10 each State such amounts as the Secretary of Labor deter-
11 mines appropriate for providing reemployment services, in-
12 cluding administering the work test for the State unem-
13 ployment compensation system and providing job finding
14 and placement services, to claimants for unemployment
15 compensation.”.

16 (2) EXPENDITURE OF FUNDS FOR REEMPLOY-
17 MENT SERVICES.—Section 303(a)(8) of the Social
18 Security Act (42 U.S.C. 503(a)(8)) is amended—

19 (A) by inserting “subsections (a) and (b)
20 of” after “pursuant to”; and

21 (B) by inserting before the semicolon at
22 the end the following: “and the expenditure of
23 all moneys received pursuant to section 302(d)
24 of this title solely for the purposes and in the
25 amounts found necessary by the Secretary of

1 Labor for providing reemployment services to
2 claimants for unemployment compensation”.

3 (3) REPLENISHMENT OF FUNDS NOT USED FOR
4 REEMPLOYMENT SERVICES.—Section 303(a)(9) of
5 the Social Security Act (42 U.S.C. 503(a)(9)) is
6 amended—

7 (A) by inserting “subsections (a) and (b)
8 of” after “pursuant to”; and

9 (B) by inserting before the semicolon at
10 the end the following: “and the replacement,
11 within a reasonable time, of any moneys re-
12 ceived pursuant to section 302(d) of this title
13 which, because of any action or contingency,
14 have been lost or have been expended for pur-
15 poses other than, or in amounts in excess of,
16 those found necessary by the Secretary of
17 Labor for providing reemployment services to
18 claimants for unemployment compensation”.

19 (4) REPEALS.—The following provisions of the
20 Social Security Act are repealed:

21 (A) Paragraph (3) of section 901(c).

22 (B) The second sentence of section
23 901(f)(3)(A).

24 (5) AMOUNT OF AUTHORIZATION UNDER THE
25 WAGNER-PEYSER ACT.—

1 (A) Section 901(c)(4) of the Social Secu-
2 rity Act (42 U.S.C. 1101(c)(4)) is amended—

3 (i) by striking “paragraphs (1)(A)(ii)
4 and” and inserting “paragraph”;

5 (ii) by striking “the proportion of the
6 total cost of administering the system of
7 public employment offices in accordance
8 with the Act of June 6, 1933, as amended,
9 and of”;

10 (iii) by striking the last sentence.

11 (B) Section 901(c)(1)(B) of the Social Se-
12 curity Act (42 U.S.C. 1101(c)(1)(B)) is amend-
13 ed by moving clauses (i) through (v) 2 ems to
14 the left, and by striking clause (iii) and insert-
15 ing the following:

16 “(iii) the Wagner-Peyser Act (29 U.S.C. 49 et
17 seq.),”.

18 (6) APPROPRIATION REFERENCE IN THE WAG-
19 NER-PEYSER ACT.—Section 5 of the Wagner-Peyser
20 Act (29 U.S.C. 49d) is amended—

21 (A) by striking all that precedes subsection

22 (b) and inserting the following:

23 “SEC. 5. (a) The amounts available to carry out sec-
24 tions 1 through 13 of this Act shall be appropriated in
25 accordance with section 901 of the Social Security Act.”;

1 (B) by striking subsection (b); and

2 (C) by redesignating subsection (e) as sub-
3 section (b).

4 (e) BUDGET JUSTIFICATION.—No funds may be ex-
5 pended under the amendments made by this section unless
6 the Secretary of Labor includes in the Department of La-
7 bor’s annual budget justification to Congress a detailed
8 description of the specific activities for which the funds
9 made available by such amendments have been used in the
10 prior and current years (if applicable) and the activities
11 and costs planned for the budget year.

12 (f) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to fiscal year 2004 and subsequent
14 fiscal years.

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