

111TH CONGRESS  
1ST SESSION

# S. 2831

To provide for additional emergency unemployment compensation and to keep Americans working, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 3, 2009

Mr. REED (for himself, Mr. SCHUMER, Mrs. SHAHEEN, Mr. LEAHY, Mr. KERRY, Mr. DODD, Mr. WHITEHOUSE, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To provide for additional emergency unemployment compensation and to keep Americans working, 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.**

4 This Act may be cited as the “Helping Unemployed  
5 Workers Act”.

6 **SEC. 2. EXTENSION OF EMERGENCY UNEMPLOYMENT COM-**  
7 **PENSATION PROGRAM.**

8 (a) IN GENERAL.—Section 4007 of the Supplemental  
9 Appropriations Act, 2008 (Public Law 110–252; 26

1 U.S.C. 3304 note), as amended by section 4 of the Unem-  
 2 ployment Compensation Extension Act of 2008 (Public  
 3 Law 110–449; 122 Stat. 5015) and section 2001(a) of the  
 4 Assistance for Unemployed Workers and Struggling Fami-  
 5 lies Act (Public Law 111–5; 123 Stat. 436), is amended—

6 (1) by striking “December 31, 2009” each  
 7 place it appears and inserting “December 31,  
 8 2010”;

9 (2) in the heading for subsection (b)(2), by  
 10 striking “DECEMBER 31, 2009” and inserting “DE-  
 11 CEMBER 31, 2010”; and

12 (3) in subsection (b)(3), by striking “May 31,  
 13 2010” and inserting “May 31, 2011”.

14 (b) FUNDING.—Section 4004(e)(1) of the Supple-  
 15 mental Appropriations Act, 2008 (Public Law 110–252;  
 16 26 U.S.C. 3304 note), as amended by section 6 of the  
 17 Worker, Homeownership, and Business Assistance Act of  
 18 2009 (Public Law 111–92), is amended by striking “by  
 19 reason of” and all that follows and inserting the following:  
 20 “by reason of—

21 “(A) the amendments made by section  
 22 2001(a) of the Assistance for Unemployed  
 23 Workers and Struggling Families Act;

1 “(B) the amendments made by sections 2  
 2 through 4 of the Worker, Homeownership, and  
 3 Business Assistance Act of 2009; and

4 “(C) the amendments made by section 2(a)  
 5 of the Helping Unemployed Workers Act; and”.

6 (c) EFFECTIVE DATE.—The amendments made by  
 7 subsections (a) and (b) shall take effect as if included in  
 8 the enactment of the Supplemental Appropriations Act,  
 9 2008.

10 **SEC. 3. EXTENSION OF INCREASE IN UNEMPLOYMENT COM-**  
 11 **PENSATION BENEFITS.**

12 (a) IN GENERAL.—Section 2002(e) of the Assistance  
 13 for Unemployed Workers and Struggling Families Act  
 14 (Public Law 111–5; 123 Stat. 438) is amended—

15 (1) in paragraph (1)(B), by striking “January  
 16 1, 2010” and inserting “January 1, 2011”;

17 (2) in the heading for paragraph (2), by strik-  
 18 ing “JANUARY 1, 2010” and inserting “JANUARY 1,  
 19 2011”; and

20 (3) in paragraph (3), by striking “June 30,  
 21 2010” and inserting “June 30, 2011”.

22 (b) EFFECTIVE DATE.—The amendments made by  
 23 this section shall take effect as if included in the enact-  
 24 ment of the Assistance for Unemployed Workers and  
 25 Struggling Families Act.

1 **SEC. 4. EXTENSION OF FULL FEDERAL FUNDING OF EX-**  
 2 **TENDED UNEMPLOYMENT COMPENSATION**  
 3 **FOR A LIMITED PERIOD.**

4 (a) IN GENERAL.—Section 2005 of the Assistance for  
 5 Unemployed Workers and Struggling Families Act (Public  
 6 Law 111–5; 26 U.S.C. 3304 note) is amended—

7 (1) by striking “January 1, 2010” each place  
 8 it appears and inserting “January 1, 2011”; and

9 (2) in subsection (c), by striking “June 1,  
 10 2010” and inserting “June 1, 2011”.

11 (b) EXTENSION OF TEMPORARY FEDERAL MATCH-  
 12 ING FOR THE FIRST WEEK OF EXTENDED BENEFITS FOR  
 13 STATES WITH NO WAITING WEEK.—Section 5 of the Un-  
 14 employment Compensation Extension Act of 2008 (Public  
 15 Law 110–449; 26 U.S.C. 3304 note), as amended by sec-  
 16 tion 2005(d) of the Assistance for Unemployed Workers  
 17 and Struggling Families Act (Public Law 111–5; 26  
 18 U.S.C. 3304 note), is amended by striking “May 30,  
 19 2010” and inserting “May 30, 2011”.

20 (c) EFFECTIVE DATES.—

21 (1) IN GENERAL.—The amendments made by  
 22 subsection (a) shall take effect as if included in the  
 23 enactment of the Assistance for Unemployed Work-  
 24 ers and Struggling Families Act.

25 (2) FIRST WEEK.—The amendment made by  
 26 subsection (b) shall take effect as if included in the

1 enactment of the Unemployment Compensation Ex-  
2 tension Act of 2008.

3 **SEC. 5. MODIFICATION TO ELIGIBILITY REQUIREMENTS**  
4 **FOR EMERGENCY UNEMPLOYMENT COM-**  
5 **PENSATION.**

6 (a) INDIVIDUAL NOT INELIGIBLE BY REASON OF  
7 SUBSEQUENT ENTITLEMENT TO REGULAR BENEFITS.—  
8 Section 4001 of the Supplemental Appropriations Act,  
9 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is  
10 amended by adding at the end the following new sub-  
11 section:

12 “(g) CERTAIN RIGHTS TO REGULAR COMPENSATION  
13 DISREGARDED.—If an individual exhausted the individ-  
14 ual’s rights to regular compensation for any benefit year,  
15 such individual’s eligibility to receive emergency unem-  
16 ployment compensation under this title in respect of such  
17 benefit year shall be determined without regard to any  
18 rights to regular compensation for a subsequent benefit  
19 year if such individual does not file a claim for regular  
20 compensation for such subsequent benefit year.”.

21 (b) EFFECTIVE DATE.—

22 (1) IN GENERAL.—The amendment made by  
23 this section shall apply to weeks of unemployment  
24 beginning after the date of the enactment of this  
25 Act.

(2) TRANSITION RULES.—

(A) WAIVER OF RECOVERY OF CERTAIN OVERPAYMENTS.—On and after the date of the enactment of this Act, no repayment of any emergency unemployment compensation shall be required under section 4005 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) if the individual would have been entitled to receive such compensation had the amendment made by subsection (a) applied to all weeks beginning on or before the date of the enactment of this Act.

(B) WAIVER OF RIGHTS TO CERTAIN REGULAR BENEFITS.—If—

(i) before the date of the enactment of this Act, an individual exhausted the individual’s rights to regular compensation for any benefit year, and

(ii) after such exhaustion, such individual was not eligible to receive emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) by reason of being entitled to

1           regular compensation for a subsequent  
 2           benefit year,  
 3           such individual may elect to defer the individ-  
 4           ual's rights to regular compensation for such  
 5           subsequent benefit year with respect to weeks  
 6           beginning after such date of enactment until  
 7           such individual has exhausted the individual's  
 8           rights to emergency unemployment compensa-  
 9           tion in respect of the benefit year referred to in  
 10          clause (i), and such individual shall be entitled  
 11          to receive emergency unemployment compensa-  
 12          tion for such weeks in the same manner as if  
 13          the individual had not been entitled to the reg-  
 14          ular compensation to which the election applies.

15 **SEC. 6. SUSPENSION OF TAX ON PORTION OF UNEMPLOY-**  
 16 **MENT COMPENSATION.**

17       (a) IN GENERAL.—Section 85(c) of the Internal Rev-  
 18       enue Code of 1986 is amended—

19           (1) by inserting “or 2010” after “in 2009”,  
 20       and

21           (2) by inserting “AND 2010” in the heading  
 22       after “2009”.

23       (b) EFFECTIVE DATE.—The amendment made by  
 24       this section shall apply to taxable years beginning after  
 25       December 31, 2009.

1 **SEC. 7. TREATMENT OF SHORT-TIME COMPENSATION PRO-**  
 2 **GRAMS.**

3 (a) IN GENERAL.—Section 3306 of the Internal Rev-  
 4 enue Code of 1986 is amended by adding at the end the  
 5 following new subsection:

6 “(v) SHORT-TIME COMPENSATION PROGRAM.—For  
 7 purposes of this chapter, the term ‘short-time compensa-  
 8 tion program’ means a program under which—

9 “(1) the participation of an employer is vol-  
 10 untary;

11 “(2) an employer reduces the number of hours  
 12 worked by employees through certifying that such  
 13 reductions are in lieu of temporary layoffs;

14 “(3) such employees whose workweeks have  
 15 been reduced by at least 10 percent are eligible for  
 16 unemployment compensation;

17 “(4) the amount of unemployment compensa-  
 18 tion payable to any such employee is a pro rata por-  
 19 tion of the unemployment compensation which would  
 20 be payable to the employee if such employee were to-  
 21 tally unemployed;

22 “(5) such employees are not expected to meet  
 23 the availability for work or work search test require-  
 24 ments while collecting short-time compensation bene-  
 25 fits, but are required to be available for their normal  
 26 workweek;

1           “(6) eligible employees may participate in an  
2           employer-sponsored training program to enhance job  
3           skills if such program has been approved by the  
4           State agency;

5           “(7) beginning on the date which is 2 years  
6           after the date of enactment of this subsection, the  
7           employer certifies that continuation of health bene-  
8           fits and retirement benefits under a defined benefit  
9           pension plan (as defined in section 3(35) of the Em-  
10          ployee Retirement Income Security Act of 1974) is  
11          not affected by participation in the program;

12          “(8) the employer (or an employer’s association  
13          which is party to a collective bargaining agreement)  
14          submits a written plan describing the manner in  
15          which the requirements of this subsection will be im-  
16          plemented and containing such other information as  
17          the Secretary of Labor determines is appropriate;

18          “(9) in the case of employees represented by a  
19          union, the appropriate official of the union has  
20          agreed to the terms of the employer’s written plan  
21          and implementation is consistent with employer obli-  
22          gations under the National Labor Relations Act; and

23          “(10) the program meets such other require-  
24          ments as the Secretary of Labor determines appro-  
25          priate.”.

1 (b) ASSISTANCE AND GUIDANCE IN IMPLEMENTING  
2 PROGRAMS.—

3 (1) ASSISTANCE AND GUIDANCE.—

4 (A) IN GENERAL.—In order to assist  
5 States in establishing, qualifying, and imple-  
6 menting short-time compensation programs, as  
7 defined in section 3306(v) of the Internal Rev-  
8 enue Code of 1986 (as added by subsection  
9 (a)), the Secretary of Labor (in this section re-  
10 ferred to as the “Secretary”) shall—

11 (i) develop model legislative language  
12 which may be used by States in developing  
13 and enacting short-time compensation pro-  
14 grams and shall periodically review and re-  
15 vise such model legislative language;

16 (ii) provide technical assistance and  
17 guidance in developing, enacting, and im-  
18 plementing such programs;

19 (iii) establish biannual reporting re-  
20 quirements for States, including number of  
21 averted layoffs, number of participating  
22 companies and workers, and retention of  
23 employees following participation; and

24 (iv) award start-up grants to State  
25 agencies under subparagraph (B).

1 (B) GRANTS.—

2 (i) IN GENERAL.—The Secretary shall  
3 award start-up grants to State agencies  
4 that apply not later than June 30, 2011,  
5 in States that enact short-time compensa-  
6 tion programs after the date of enactment  
7 of this Act for the purpose of creating such  
8 programs. The amount of such grants shall  
9 be awarded depending on the costs of im-  
10 plementing such programs.

11 (ii) ELIGIBILITY.—In order to receive  
12 a grant under clause (i) a State agency  
13 shall meet requirements established by the  
14 Secretary, including any reporting require-  
15 ments under clause (iii). Each State agen-  
16 cy shall be eligible to receive not more than  
17 one such grant.

18 (iii) REPORTING.—The Secretary may  
19 establish reporting requirements for State  
20 agencies receiving a grant under clause (i)  
21 in order to provide oversight of grant  
22 funds used by States for the creation of  
23 short-time compensation programs.

24 (iv) FUNDING.—There are appro-  
25 priated, out of any moneys in the Treasury

1 not otherwise appropriated, to the Sec-  
2 retary, such sums as the Secretary certifies  
3 as necessary for the period of fiscal years  
4 2010 and 2011 to carry out this subpara-  
5 graph.

6 (2) TIMEFRAME.—The initial model legislative  
7 language referred to in paragraph (1)(A) shall be  
8 developed not later than 60 days after the date of  
9 enactment of this Act.

10 (c) REPORTS.—

11 (1) INITIAL REPORT.—Not later than 4 years  
12 after the date of enactment of this Act, the Sec-  
13 retary shall submit to Congress and to the President  
14 a report or reports on the implementation of this  
15 section. Such report or reports shall include—

16 (A) a study of short-time compensation  
17 programs;

18 (B) an analysis of the significant impedi-  
19 ments to State enactment and implementation  
20 of such programs; and

21 (C) such recommendations as the Sec-  
22 retary determines appropriate.

23 (2) SUBSEQUENT REPORTS.—After the submis-  
24 sion of the report under paragraph (1), the Sec-  
25 retary may submit such additional reports on the

1 implementation of short-time compensation pro-  
 2 grams as the Secretary deems appropriate.

3 (3) FUNDING.—There are appropriated, out of  
 4 any moneys in the Treasury not otherwise appro-  
 5 priated, to the Secretary, \$1,500,000 to carry out  
 6 this subsection, to remain available without fiscal  
 7 year limitation.

8 (d) CONFORMING AMENDMENTS.—

9 (1) INTERNAL REVENUE CODE OF 1986.—

10 (A) Subparagraph (E) of section  
 11 3304(a)(4) of the Internal Revenue Code of  
 12 1986 is amended to read as follows:

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

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

19 (i) by striking paragraph (5) (relating  
 20 to short-term compensation) and inserting  
 21 the following new paragraph:

22 “(5) amounts may be withdrawn for the pay-  
 23 ment of short-time compensation under a short-time  
 24 compensation program (as defined in subsection  
 25 (v));”, and

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

4 (2) SOCIAL SECURITY ACT.—Section 303(a)(5)  
 5 of the Social Security Act is amended by striking  
 6 “the payment of short-time compensation under a  
 7 plan approved by the Secretary of Labor” and in-  
 8 serting “the payment of short-time compensation  
 9 under a short-time compensation program (as de-  
 10 fined in section 3306(v) of the Internal Revenue  
 11 Code of 1986)”.

12 (3) REPEAL.—Subsections (b) through (d) of  
 13 section 401 of the Unemployment Compensation  
 14 Amendments of 1992 (26 U.S.C. 3304 note) are re-  
 15 pealed.

16 (e) EFFECTIVE DATE.—The amendments made by  
 17 this section shall take effect on the date of enactment of  
 18 this Act.

19 **SEC. 8. TEMPORARY FINANCING OF CERTAIN SHORT-TIME**  
 20 **COMPENSATION PROGRAMS.**

21 (a) PAYMENTS TO STATES WITH CERTIFIED PRO-  
 22 GRAMS.—

23 (1) IN GENERAL.—Not later than 30 days after  
 24 the date of enactment of this Act, the Secretary  
 25 shall establish a program under which the Secretary

1 shall make payments to any State unemployment  
2 trust fund to be used for the payment of unemploy-  
3 ment compensation if the Secretary approves an ap-  
4 plication for certification submitted under paragraph  
5 (3) for such State to operate a short-time compensa-  
6 tion program (as defined in section 3306(v) of the  
7 Internal Revenue Code of 1986 (as added by section  
8 7(a))) which requires the maintenance of health and  
9 retirement employee benefits as described in para-  
10 graph (7) of such section 3306(v), in addition to  
11 other requirements of this Act and notwithstanding  
12 the otherwise effective date of such requirement.

13 (2) REIMBURSEMENT.—Subject to subsection  
14 (d), the payment to a State under paragraph (1)  
15 shall be an amount equal to 100 percent of the total  
16 amount of benefits paid to individuals by the State  
17 pursuant to the short-time compensation program  
18 during the weeks of unemployment—

19 (A) beginning on or after the date the cer-  
20 tification is issued by the Secretary with respect  
21 to such program; and

22 (B) ending on or before December 31,  
23 2011.

24 (3) CERTIFICATION REQUIREMENTS.—

1           (A) IN GENERAL.—Any State seeking full  
2 reimbursement under this subsection shall sub-  
3 mit an application for certification at such time,  
4 in such manner, and complete with such infor-  
5 mation as the Secretary may require (whether  
6 by regulation or otherwise), including informa-  
7 tion relating to compliance with the require-  
8 ments of paragraph (7) of such section 3306(v).  
9 The Secretary shall, within 30 days after receiv-  
10 ing a complete application, notify the State  
11 agency of the State of the Secretary's findings  
12 with respect to the requirements of such para-  
13 graph (7).

14           (B) FINDINGS.—If the Secretary finds  
15 that the short-time compensation program oper-  
16 ated by the State meets the requirements of  
17 such paragraph (7), the Secretary shall certify  
18 such State's short-time compensation program  
19 thereby making such State eligible for reim-  
20 bursement under this subsection.

21       (b) TIMING OF APPLICATION SUBMITTALS.—No ap-  
22 plication under subsection (a)(3) may be considered if sub-  
23 mitted before the date of enactment of this Act or after  
24 the latest date necessary (as specified by the Secretary)

1 to ensure that all payments under this section are made  
2 before December 31, 2011.

3 (c) TERMS OF PAYMENTS.—Payments made to a  
4 State under subsection (a)(1) shall be payable by way of  
5 reimbursement in such amounts as the Secretary esti-  
6 mates the State will be entitled to receive under this sec-  
7 tion for each calendar month, reduced or increased, as the  
8 case may be, by any amount by which the Secretary finds  
9 that the Secretary's estimates for any prior calendar  
10 month were greater or less than the amounts which should  
11 have been paid to the State. Such estimates may be made  
12 on the basis of such statistical, sampling, or other method  
13 as may be agreed upon by the Secretary and the State  
14 agency of the State involved.

15 (d) LIMITATIONS.—

16 (1) GENERAL PAYMENT LIMITATIONS.—No  
17 payments shall be made to a State under this sec-  
18 tion for benefits paid to an individual by the State  
19 in excess of 26 weeks of benefits.

20 (2) EMPLOYER LIMITATIONS.—No payments  
21 shall be made to a State under this section for bene-  
22 fits paid to an individual by the State pursuant to  
23 a short-time compensation program if such indi-  
24 vidual is employed by an employer—

1 (A) whose workforce during the 3 months  
2 preceding the date of the submission of the em-  
3 ployer's short-time compensation plan has been  
4 reduced by temporary layoffs of more than 20  
5 percent; or

6 (B) on a seasonal, temporary, or intermit-  
7 tent basis.

8 (3) PROGRAM PAYMENT LIMITATION.—In mak-  
9 ing any payments to a State under this section pur-  
10 suant to a short-time compensation program, the  
11 Secretary may limit the frequency of employer par-  
12 ticipation in such program.

13 (e) RETENTION REQUIREMENT.—

14 (1) IN GENERAL.—A participating employer  
15 under this section is required to comply with the  
16 terms of the written plan approved by the State  
17 agency and act in good faith to retain participating  
18 employees.

19 (2) OVERSIGHT AND MONITORING.—The Sec-  
20 retary shall establish an oversight and monitoring  
21 process by which State agencies will ensure that par-  
22 ticipating employers comply with the requirements of  
23 paragraph (1).

24 (f) FUNDING.—There are appropriated, from time to  
25 time, out of any moneys in the Treasury not otherwise

1 appropriated, to the Secretary, such sums as the Secretary  
 2 certifies are necessary to carry out this section (including  
 3 to reimburse any additional administrative expenses by  
 4 reason of the provision of, and amendments made by, this  
 5 Act that are incurred by the States in operating such  
 6 short-time compensation programs).

7 (g) DEFINITION OF STATE.—In this section, the term  
 8 “State” includes the District of Columbia, the Common-  
 9 wealth of Puerto Rico, and the Virgin Islands.

10 (h) SUNSET.—The provisions of this section shall not  
 11 apply after December 31, 2011.

12 **SEC. 9. STUDY AND REPORTS ON THE EMERGENCY UNEM-**  
 13 **EMPLOYMENT COMPENSATION PROGRAM.**

14 (a) STUDY.—The Secretary of Labor (in this section  
 15 referred to as the “Secretary”) shall conduct a study on  
 16 the implementation of the emergency unemployment com-  
 17 pensation program under title IV of the Supplemental Ap-  
 18 propriations Act, 2008 (Public Law 110–252; 26 U.S.C.  
 19 3304 note), as amended by section 2 and the Worker,  
 20 Homeownership, and Business Assistance Act of 2009  
 21 (Public Law 111–92). Such study shall include an analysis  
 22 of—

- 23 (1) the different tiers under such program;
- 24 (2) the number of initial claims under such pro-
- 25 gram, the average duration of benefits under the

1 program, the average sum of benefits under the pro-  
2 gram, and other areas that demonstrate who re-  
3 ceived benefits under the program;

4 (3) any significant impediments to State imple-  
5 mentation of such program;

6 (4) the significant administration weaknesses  
7 and strengths of such programs; and

8 (5) other areas determined appropriate by the  
9 Secretary.

10 (b) REPORTS.—

11 (1) IN GENERAL.—Not later than 4 years after  
12 the date of the enactment of this Act, the Secretary  
13 shall submit to Congress and the President a report  
14 (or multiple reports) on the study conducted under  
15 subsection (a), together with such recommendations  
16 as the Secretary determines appropriate.

17 (2) SUBSEQUENT REPORTS.—After the Sec-  
18 retary submits the report (or reports) required  
19 under paragraph (1), the Secretary may submit such  
20 additional reports on the implementation of emer-  
21 gency unemployment compensation programs as the  
22 Secretary deems appropriate.

23 (c) FUNDING.—There are appropriated, out of any  
24 moneys in the Treasury not otherwise appropriated, to the

- 1 Secretary, \$1,250,000 to carry out this section, to remain
- 2 available without fiscal year limitation.

