

112TH CONGRESS  
1ST SESSION

# S. 1743

To consolidate certain Federal job training programs into a State-administered, market-delivered block grant program, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

OCTOBER 20, 2011

Mr. BROWN of Massachusetts introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To consolidate certain Federal job training programs into a State-administered, market-delivered block grant program, 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 “Learn to Earn Reem-  
5 ployment Training Improvement Act of 2011”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to establish a consolidated  
8 Learn to Earn program, described in section 4(a), which

1 shall replace the programs terminated or consolidated  
2 under section 5.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) **JOB TRAINING PROGRAM.**—The term “job  
6 training program” means a program that has as its  
7 primary purpose or is specifically designed to en-  
8 hance the specific job skills of individuals in order  
9 to increase their employability, identify job opportu-  
10 nities, or help individuals obtain employment. The  
11 term includes each of the 47 federally funded em-  
12 ployment and training programs examined in the  
13 March 2011 report of the Government Account-  
14 ability Office entitled “Opportunities to Reduce Po-  
15 tential Duplication in Government Programs, Save  
16 Tax Dollars, and Enhance Revenue” (GAO–11–  
17 318SP).

18 (2) **STATE.**—The term “State” has the mean-  
19 ing given the term in section 205 of the Federal-  
20 State Extended Unemployment Compensation Act of  
21 1970 (26 U.S.C. 3304 note).

22 **SEC. 4. ESTABLISHMENT OF LEARN TO EARN PROGRAM.**

23 (a) **IN GENERAL.**—There is established the Learn to  
24 Earn program, to be carried out by the Secretary of Labor  
25 in accordance with this Act, in order to facilitate the reem-

1 ployment of individuals who are receiving emergency un-  
 2 employment compensation under title IV of the Supple-  
 3 mental Appropriations Act, 2008 (Public Law 110–252;  
 4 26 U.S.C. 3304 note) (referred to individually in this Act  
 5 as an “EUC claimant”).

6 (b) **AUTHORIZATION AND APPROPRIATION FOR FIS-**  
 7 **CAL YEAR 2013 AND 2014.**—There is authorized to be  
 8 appropriated and there is appropriated for each of fiscal  
 9 years 2013 and 2014, out of any money in the general  
 10 fund of the Treasury not otherwise appropriated, a sum  
 11 equal to—

12 (1) the total of the amounts appropriated for  
 13 fiscal year 2011 for the programs terminated under  
 14 the legislation described in section 5(a); and

15 (2) the total of the savings per fiscal year, as  
 16 estimated by the Director of the Office of Manage-  
 17 ment and Budget under section 5(a)(1), from the  
 18 programs consolidated under that legislation.

19 **SEC. 5. TERMINATION AND CONSOLIDATION OF CERTAIN**  
 20 **EXISTING JOB TRAINING PROGRAMS.**

21 (a) **SELECTION OF ADDITIONAL PROGRAMS AND AC-**  
 22 **TIVITIES TO BE TERMINATED OR CONSOLIDATED.**—

23 (1) **ANALYSIS.**—The Director of the Office of  
 24 Management and Budget shall—

1 (A) analyze Federal job training programs,  
2 determine which of the programs are duplica-  
3 tive or ineffective, and recommend which of the  
4 programs should be terminated or consolidated  
5 with other Federal job training programs;

6 (B) determine the sum of—

7 (i) the total of the savings per fiscal  
8 year from the programs recommended  
9 under subparagraph (A) to be terminated,  
10 calculated as the total of the amounts ap-  
11 propriated for fiscal year 2011 for those  
12 programs; and

13 (ii) the total of the savings per fiscal  
14 year from the programs recommended  
15 under subparagraph (A) to be consoli-  
16 dated, as estimated by the Director;

17 (C) if the sum determined under subpara-  
18 graph (B) is less than \$100,000,000 per fiscal  
19 year, analyze Federal discretionary spending  
20 programs, determine which of the programs are  
21 duplicative or ineffective, and recommend which  
22 of the programs should be terminated or con-  
23 solidated with other Federal discretionary  
24 spending programs;

25 (D) determine the sum of—

1 (i) the total of the savings per fiscal  
2 year from the programs recommended  
3 under subparagraph (C) to be terminated,  
4 calculated as the total of the amounts ap-  
5 propriated for fiscal year 2011 for those  
6 programs; and

7 (ii) the total of the savings per fiscal  
8 year from the programs recommended  
9 under subparagraph (C) to be consoli-  
10 dated, as estimated by the Director; and

11 (E) ensure that the recommendations  
12 made under subparagraph (C) are sufficient to  
13 result in total savings recommended under this  
14 paragraph, per fiscal year, of not less than  
15 \$100,000,000.

16 (2) REPORT.—Not later than 45 days after the  
17 date of enactment of this Act, the Director shall  
18 submit to the appropriate officials a report con-  
19 taining—

20 (A) the results of each analysis under  
21 paragraph (1);

22 (B) the determinations, and recommenda-  
23 tions for terminations and consolidations, re-  
24 sulting from the analysis;

1 (C) proposed legislative language to carry  
2 out the recommendations, and transfer funds  
3 from the terminated and consolidated programs  
4 to the Secretary of Labor, to carry out this Act;  
5 and

6 (D) the total savings recommended under  
7 paragraph (1), per fiscal year.

8 (3) APPROPRIATE OFFICIALS.—For purposes of  
9 paragraph (2), the appropriate officials are the  
10 President, the Vice President, the Speaker of the  
11 House of Representatives, and the majority and mi-  
12 nority leaders of the House of Representatives and  
13 of the Senate.

14 (b) PROCESS FOR CONSIDERATION OF TERMINATION  
15 OR CONSOLIDATION OF ADDITIONAL PROGRAMS.—

16 (1) INTRODUCTION.—The proposed legislative  
17 language submitted pursuant to subsection (a)(2)  
18 (referred to in this subsection as the “job training  
19 bill”) shall be introduced in the Senate (by request)  
20 on the next day on which the Senate is in session  
21 by the majority leader of the Senate or by a Member  
22 of the Senate designated by the majority leader of  
23 the Senate and shall be introduced in the House of  
24 Representatives (by request) on the next legislative  
25 day by the majority leader of the House or by a

1 Member of the House designated by the majority  
2 leader of the House.

3 (2) CONSIDERATION IN THE HOUSE OF REP-  
4 REPRESENTATIVES.—

5 (A) REFERRAL AND REPORTING.—Any  
6 committee of the House of Representatives to  
7 which the job training bill is referred shall re-  
8 port it to the House without amendment not  
9 later than 60 days after the date of enactment  
10 of this Act. If a committee fails to report the  
11 job training bill within that period, it shall be  
12 in order to move that the House discharge the  
13 committee from further consideration of the  
14 bill. Such a motion shall not be in order after  
15 the last committee authorized to consider the  
16 bill reports it to the House or after the House  
17 has disposed of a motion to discharge the bill.  
18 The previous question shall be considered as or-  
19 dered on the motion to its adoption without in-  
20 tervening motion except 20 minutes of debate  
21 equally divided and controlled by the proponent  
22 and an opponent. If such a motion is adopted,  
23 the House shall proceed immediately to consider  
24 the job training bill in accordance with subpara-  
25 graphs (B) and (C). A motion to reconsider the

1 vote by which the motion is disposed of shall  
2 not be in order.

3 (B) PROCEEDING TO CONSIDERATION.—

4 After the last committee authorized to consider  
5 a job training bill reports it to the House or has  
6 been discharged (other than by motion) from its  
7 consideration, it shall be in order to move to  
8 proceed to consider the job training bill in the  
9 House. Such a motion shall not be in order  
10 after the House has disposed of a motion to  
11 proceed with respect to the job training bill.  
12 The previous question shall be considered as or-  
13 dered on the motion to its adoption without in-  
14 tervening motion. A motion to reconsider the  
15 vote by which the motion is disposed of shall  
16 not be in order.

17 (C) CONSIDERATION.—The job training  
18 bill shall be considered as read. All points of  
19 order against the job training bill and against  
20 its consideration are waived. The previous ques-  
21 tion shall be considered as ordered on the job  
22 training bill to its passage without intervening  
23 motion except 2 hours of debate equally divided  
24 and controlled by the proponent and an oppo-  
25 nent and one motion to limit debate on the job

1 training bill. A motion to reconsider the vote on  
2 passage of the job training bill shall not be in  
3 order.

4 (D) VOTE ON PASSAGE.—The vote on pas-  
5 sage of the job training bill shall occur not later  
6 than 75 days after the date of enactment of  
7 this Act.

8 (3) EXPEDITED PROCEDURE IN THE SENATE.—

9 (A) COMMITTEE CONSIDERATION.—A job  
10 training bill introduced in the Senate under  
11 paragraph (1) shall be jointly referred to the  
12 committee or committees of jurisdiction, which  
13 committees shall report the bill without any re-  
14 vision and with a favorable recommendation, an  
15 unfavorable recommendation, or without rec-  
16 ommendation, not later than 60 days after the  
17 date of enactment of this Act. If any committee  
18 fails to report the bill within that period, that  
19 committee shall be automatically discharged  
20 from consideration of the bill, and the bill shall  
21 be placed on the appropriate calendar.

22 (B) MOTION TO PROCEED.—Notwith-  
23 standing Rule XXII of the Standing Rules of  
24 the Senate, it is in order, not later than 2 days  
25 of session after the date on which a job training

1 bill is reported or discharged from all commit-  
2 tees to which it was referred, for the majority  
3 leader of the Senate or the majority leader's  
4 designee to move to proceed to the consider-  
5 ation of the job training bill. It shall also be in  
6 order for any Member of the Senate to move to  
7 proceed to the consideration of the job training  
8 bill at any time after the conclusion of such 2-  
9 day period. A motion to proceed is in order  
10 even though a previous motion to the same ef-  
11 fect has been disagreed to. All points of order  
12 against the motion to proceed to the job train-  
13 ing bill are waived. The motion to proceed is  
14 not debatable. The motion is not subject to a  
15 motion to postpone. A motion to reconsider the  
16 vote by which the motion is agreed to or dis-  
17 agreed to shall not be in order. If a motion to  
18 proceed to the consideration of the job training  
19 bill is agreed to, the job training bill shall re-  
20 main the unfinished business until disposed of.

21 (C) CONSIDERATION.—All points of order  
22 against the job training bill and against consid-  
23 eration of the job training bill are waived. Con-  
24 sideration of the job training bill and of all de-  
25 batable motions and appeals in connection

1           therewith shall not exceed a total of 30 hours  
2           which shall be divided equally between the ma-  
3           jority and minority leaders or their designees. A  
4           motion further to limit debate on the job train-  
5           ing bill is in order, shall require an affirmative  
6           vote of three-fifths of the Members duly chosen  
7           and sworn, and is not debatable. Any debatable  
8           motion or appeal is debatable for not to exceed  
9           1 hour, to be divided equally between those fa-  
10          voring and those opposing the motion or appeal.  
11          All time used for consideration of the job train-  
12          ing bill, including time used for quorum calls  
13          and voting, shall be counted against the total  
14          30 hours of consideration.

15                 (D) NO AMENDMENTS.—An amendment to  
16          the job training bill, or a motion to postpone,  
17          or a motion to proceed to the consideration of  
18          other business, or a motion to recommit the job  
19          training bill, is not in order.

20                 (E) VOTE ON PASSAGE.—If the Senate has  
21          voted to proceed to the job training bill, the  
22          vote on passage of the job training bill shall  
23          occur immediately following the conclusion of  
24          the debate on a job training bill, and a single  
25          quorum call at the conclusion of the debate if

1 requested. The vote on passage of the job train-  
2 ing bill shall occur not later than 75 days after  
3 the date of enactment of this Act.

4 (F) RULINGS OF THE CHAIR ON PROCE-  
5 DURE.—Appeals from the decisions of the Chair  
6 relating to the application of the rules of the  
7 Senate, as the case may be, to the procedure re-  
8 lating to a job training bill shall be decided  
9 without debate.

10 (4) AMENDMENT.—The job training bill shall  
11 not be subject to amendment in either the House of  
12 Representatives or the Senate.

13 (5) CONSIDERATION BY THE OTHER HOUSE.—

14 (A) IN GENERAL.—If, before passing the  
15 job training bill, one House receives from the  
16 other a job training bill—

17 (i) the job training bill of the other  
18 House shall not be referred to a com-  
19 mittee; and

20 (ii) the procedure in the receiving  
21 House shall be the same as if no job train-  
22 ing bill had been received from the other  
23 House until the vote on passage, when the  
24 job training bill received from the other

1           House shall supplant the job training bill  
2           of the receiving House.

3           (B) REVENUE MEASURE.—This paragraph  
4           shall not apply to the House of Representatives  
5           if the job training bill received from the Senate  
6           is a revenue measure.

7           (6) RULES TO COORDINATE ACTION WITH  
8           OTHER HOUSE.—

9           (A) TREATMENT OF JOB TRAINING BILL  
10          OF OTHER HOUSE.—If the Senate fails to intro-  
11          duce or consider a job training bill under this  
12          subsection, the job training bill of the House  
13          shall be entitled to expedited floor procedures  
14          under this subsection.

15          (B) TREATMENT OF COMPANION MEAS-  
16          URES IN THE SENATE.—If following passage of  
17          the job training bill in the Senate, the Senate  
18          then receives the job training bill from the  
19          House of Representatives, the House-passed job  
20          training bill shall not be debatable. The vote on  
21          passage of the job training bill in the Senate  
22          shall be considered to be the vote on passage of  
23          the job training bill received from the House of  
24          Representatives.

1 (C) VETOES.—If the President vetoes the  
2 job training bill, debate on a veto message in  
3 the Senate under this subsection shall be 1  
4 hour equally divided between the majority and  
5 minority leaders or their designees.

6 (7) LOSS OF PRIVILEGE.—The provisions of  
7 this subsection shall cease to apply to the job train-  
8 ing bill if—

9 (A) the Director of the Office of Manage-  
10 ment and Budget fails to submit the report or  
11 proposed legislative language required under  
12 section 5(a)(2) not later than 45 days after the  
13 date of enactment of this Act; or

14 (B) the job training bill does not pass both  
15 Houses not later than 75 days after the date of  
16 enactment of this Act.

17 **SEC. 6. DISTRIBUTION OF FUNDS.**

18 (a) IN GENERAL.—Using the funds appropriated  
19 under section 4 for a fiscal year to carry out this Act,  
20 the Secretary of Labor shall—

21 (1) reserve up to 1 percent for the costs of Fed-  
22 eral administration and for carrying out rigorous  
23 evaluations of the activities conducted under this  
24 Act; and

1           (2) allot the remainder of the funds not re-  
2           served under paragraph (1) in accordance with the  
3           requirements of subsection (b) and (c) to States that  
4           have approved plans under section 7.

5           (b) ALLOTMENT FORMULA.—

6           (1) FORMULA FACTORS.—The Secretary of  
7           Labor shall use the remainder described in sub-  
8           section (a)(2) to make allotments to such States for  
9           a fiscal year as follows:

10           (A) Two-thirds of such remainder shall be  
11           allotted on the basis of the relative number of  
12           unemployed individuals in each such State,  
13           compared to the total number of unemployed  
14           individuals in all such States.

15           (B) One-third of such remainder shall be  
16           allotted on the basis of the relative number of  
17           individuals in each such State who have been  
18           unemployed for 27 weeks or more, compared to  
19           the total number of individuals in all such  
20           States who have been unemployed for 27 weeks  
21           or more.

22           (2) CALCULATION.—For purposes of paragraph  
23           (1), the number of unemployed individuals and the  
24           number of individuals unemployed for 27 weeks or

1 more shall be based on the data for the most recent  
2 12-month period, as determined by the Secretary.

3 (c) REALLOTMENT.—

4 (1) FAILURE TO IMPLEMENT ACTIVITIES ON A  
5 TIMELY BASIS.—The Secretary of Labor may, in ac-  
6 cordance with procedures and criteria established by  
7 the Secretary, recapture the portion of a State allot-  
8 ment made for a fiscal year under this Act that re-  
9 mains unobligated if the Secretary determines that  
10 the funds made available through the allotment are  
11 not being obligated at a rate sufficient to meet the  
12 objectives of this Act. The Secretary shall reallocate  
13 such recaptured funds to other States that are not  
14 subject to recapture, on the basis of the relative  
15 amount of the allotment received by each such State  
16 (as determined by the Secretary under subsection  
17 (b)), compared to the total amount of such allot-  
18 ments received by all such States.

19 (2) RECAPTURE OF FUNDS.—Funds recaptured  
20 under paragraph (1) during a fiscal year shall re-  
21 main available for reobligation through December 31  
22 of the following year.

23 **SEC. 7. STATE PLAN.**

24 (a) IN GENERAL.—For a State to be eligible to re-  
25 ceive an allotment under section 6, a State shall submit

1 to the Secretary of Labor a State plan in such form and  
2 containing such information as the Secretary may require,  
3 which at a minimum shall include—

4           (1) a description of the activities to be carried  
5 out by the State to assist, through the State’s Learn  
6 to Earn program, in the reemployment of eligible in-  
7 dividuals to be served in accordance with this Act,  
8 including information describing which of the activi-  
9 ties authorized in section 8 the State intends to  
10 carry out and an estimate of the amounts the State  
11 intends to allocate to the activities, respectively;

12           (2) a description of the performance outcomes  
13 to be achieved by the State through the activities  
14 carried out under this Act, including the employ-  
15 ment outcomes to be achieved by participants, and  
16 the processes the State will use to track the per-  
17 formance, consistent with guidance provided by the  
18 Secretary of Labor regarding such performance out-  
19 comes and processes;

20           (3) a description of how the State will coordi-  
21 nate activities to be carried out under this Act with  
22 activities under title I of the Workforce Investment  
23 Act of 1998 (29 U.S.C. 2801 et seq.), the Wagner-  
24 Peyser Act (29 U.S.C. 49 et seq.), and other appro-  
25 priate Federal programs;

1           (4) the timelines for implementation of the ac-  
2           tivities described in the plan and the number of eli-  
3           gible EUC claimants expected to be enrolled in such  
4           activities, by calendar quarter;

5           (5) assurances that the State will participate in  
6           the evaluation activities carried out by the Secretary  
7           of Labor under this Act;

8           (6) assurances that the State will provide ap-  
9           propriate reemployment services, including coun-  
10          seling, to any EUC claimant who participates in any  
11          program authorized under this Act; and

12          (7) assurances that the State will report such  
13          information as the Secretary may require relating to  
14          fiscal, performance, and other matters, including  
15          employment outcomes and effects, that the Secretary  
16          determines is necessary to effectively monitor the ac-  
17          tivities carried out under this Act.

18          (b) PLAN SUBMISSION AND APPROVAL.—A State  
19          shall submit a State plan under this section to the Sec-  
20          retary of Labor for approval not later than 30 days after  
21          the Secretary issues guidance relating to submission of  
22          such a plan. The Secretary shall approve such a plan if  
23          the Secretary determines that the plan meets the require-  
24          ments of this Act and is appropriate and adequate to carry  
25          out the objectives of this Act.

1 (c) PLAN MODIFICATIONS.—A State may submit  
2 modifications to a State plan that has been approved  
3 under this Act, and the Secretary of Labor may approve  
4 such modifications, if the plan as modified would meet the  
5 requirements of this Act and be appropriate and adequate  
6 to carry out the objectives of this Act.

7 **SEC. 8. LEARN TO EARN PROGRAM.**

8 (a) IN GENERAL.—A State shall use funds allotted  
9 to the State under this Act to establish and administer  
10 a State Learn to Earn program described in this section.

11 (b) DESCRIPTION OF PROGRAM.—In order to in-  
12 crease individuals' opportunities to move to permanent  
13 employment, the State shall administer the State Learn  
14 to Earn program by providing an eligible EUC claimant  
15 with short-term work experience placements with an eligi-  
16 ble employer, during which such individual—

17 (1) shall receive emergency unemployment com-  
18 pensation (as described under title IV of the Supple-  
19 mental Appropriations Act, 2008 (Public Law 110-  
20 252; 26 U.S.C. 3304 note)), as wages for the work  
21 performed for the employer, as specified in sub-  
22 sections (c) and (d);

23 (2) shall be provided with any additional  
24 amount required pursuant to subsection (f) as aug-  
25 mented wages for the work performed; and

1           (3) may be provided with compensation in addi-  
2           tion to the amounts described in paragraphs (1) and  
3           (2) by the State or by the employer as wages for the  
4           work performed, as described in subsection  
5           (e)(2)(B).

6           (c) PROGRAM ELIGIBILITY.—For purposes of the  
7           State Learn to Earn program described in subsection (b),  
8           an individual shall be considered to be an eligible EUC  
9           claimant for purposes of this Act and shall receive emer-  
10          gency unemployment compensation as wages for the work  
11          performed during the individual’s voluntary participation  
12          in the program if such individual—

13                (1) is otherwise eligible to receive emergency  
14                unemployment compensation payments under title  
15                IV of the Supplemental Appropriations Act, 2008;

16                (2) elects to participate in the program; and

17                (3) is a national of the United States, or alien  
18                lawfully admitted for permanent residence (as those  
19                terms are defined in section 101(a) of the Immigra-  
20                tion and Nationality Act (8 U.S.C. 1101(a)).

21          (d) PROGRAM REQUIREMENTS.—

22                (1) IN GENERAL.—For purposes of the State  
23                Learn to Earn program described in subsection  
24                (b)—

1 (A) the wages payable to an individual  
2 under subsection (c) shall be paid from the  
3 emergency unemployment compensation account  
4 for such individual as described in section 4002  
5 of the Supplemental Appropriations Act, 2008,  
6 and the amount in that account shall be re-  
7 duced accordingly;

8 (B) the wages payable to an individual  
9 under subsection (c) shall be payable in the  
10 same amount, at the same intervals, on the  
11 same terms, and subject to the same conditions  
12 as under title IV of the Supplemental Approp-  
13 riations Act, 2008, except that—

14 (i) State requirements applied under  
15 such Act relating to disqualifying income  
16 are not applicable to compensation de-  
17 scribed in subsection (b) if, subject to the  
18 limitations described in subparagraph (C),  
19 such individual participates in the program  
20 for not less than 300 hours;

21 (ii) State requirements relating to  
22 availability for work, active search for  
23 work, and refusal to accept work are not  
24 applicable to such individuals, and such in-  
25 dividuals shall be considered to be unem-

1           employed for purposes of Federal and State  
2           laws applicable to emergency unemploy-  
3           ment compensation; and

4           (iii) State requirements applied under  
5           such Act relating to an individual's accept-  
6           ance of an offer of employment shall not  
7           apply with regard to an offer of employ-  
8           ment for a period of 26 weeks or greater  
9           from a participating employer made to an  
10          individual who is participating in the pro-  
11          gram in a work experience provided by  
12          such employer if the offer of employment is  
13          expected to commence or commences at the  
14          conclusion of the period described in sub-  
15          paragraph (C)(i);

16          (C) the program shall be structured so  
17          that individuals described in subsection (e) may  
18          participate in the program for—

19                  (i) not more than 10 weeks; and

20                  (ii) not more than 38 hours for each  
21                  such week;

22          (D) the State shall ensure that all individ-  
23          uals participating in the program are covered  
24          by a workers' compensation insurance program;  
25          and

1           (E) the program shall meet such other re-  
2           quirements as established by the Secretary of  
3           Labor through guidance (as described in section  
4           9).

5           (2) CERTIFICATION OF ELIGIBLE EMPLOYER.—  
6           A State may certify as eligible for participation in  
7           the program under this Act any employer that meets  
8           the eligibility criteria established by the Secretary of  
9           Labor through guidance (as described in section 9),  
10          except that an employer shall not be certified as eli-  
11          gible for participation in the State program—

12           (A) if such employer—

13           (i) is a Federal, State, or local govern-  
14           ment agency:

15           (ii) would engage an eligible individual  
16           in work activities under any employer's  
17           grant (including a subgrant) or contract  
18           (including a subcontract) with a Federal,  
19           State, or local government agency, except  
20           with regard to work activities under any  
21           employer's contract for goods;

22           (iii) is delinquent with respect to any  
23           taxes or employer contributions under sec-  
24           tion 3301 or 3303(a)(1) of the Internal

1 Revenue Code of 1986 or with respect to  
2 any related reporting requirements;

3 (iv) is engaged in the business of sup-  
4 plying workers to other employers and  
5 would participate in the program for the  
6 purpose of supplying individuals partici-  
7 pating in the program to other employers;  
8 or

9 (v) has previously participated in the  
10 program and the State has determined  
11 that such employer has failed to meet any  
12 of the requirements specified in subsection  
13 (h) or (i), or any other requirements that  
14 the Secretary may establish for employers  
15 under paragraph (1)(E); and

16 (B) unless such employer provides assur-  
17 ances that the employer will not participate in  
18 the program in a manner that violates the re-  
19 quirements of subsection (h).

20 (e) AUTHORIZED ACTIVITIES.—A State that receives  
21 an allotment under this Act for a State Learn to Earn  
22 program—

23 (1) shall use the funds made available through  
24 the allotment to—

1 (A) recruit employers for participation in  
2 the program;

3 (B) review and certify eligible employers  
4 for the program, including employers identified  
5 by eligible individuals seeking to participate in  
6 the program;

7 (C) ensure that reemployment and coun-  
8 seling services are available for participants, in-  
9 cluding services describing the State program  
10 prior to an individual's participation in such  
11 program;

12 (D) establish and implement processes to  
13 monitor the progress and performance of indi-  
14 vidual participants for the duration of the pro-  
15 gram;

16 (E) prevent misuse of the program; and

17 (F) provide augmented wages to partici-  
18 pants pursuant to subsection (f); and

19 (2) may use the funds made available through  
20 the allotment—

21 (A) to pay workers' compensation insur-  
22 ance premiums to cover all participants in the  
23 program, except that, if a State opts not to  
24 make such payments directly to a State admin-  
25 istered workers' compensation program, the

1 State involved shall describe in the State plan  
2 the means by which such State shall ensure  
3 workers' compensation or equivalent coverage  
4 for all participants in the program;

5 (B) to provide compensation to a partici-  
6 pant in addition to the amounts described in  
7 subsections (c) and (f) as wages for work per-  
8 formed during participation in the program;

9 (C) to provide supportive services, such as  
10 transportation, child care, and dependent care,  
11 to enable individuals to participate in the pro-  
12 gram;

13 (D) for the administration and oversight of  
14 the program; and

15 (E) to fulfill additional program require-  
16 ments included in the approved State plan.

17 (f) PROVISION OF AUGMENTED WAGES IF NEC-  
18 ESSARY.—In a case in which the wages described in sub-  
19 section (c) for a participant are not sufficient to equal or  
20 exceed an amount (referred to in this subsection as the  
21 “applicable minimum wages amount”) equal to the min-  
22 imum wages that are required to be paid by an employer  
23 under section 6(a)(1) of the Fair Labor Standards Act  
24 of 1938 (29 U.S.C. 206(a)(1)) or the minimum wages that  
25 are so required under the applicable State or local min-

1 imum wage law, whichever are higher, a State shall pro-  
2 vide augmented wages to a participant in any amount nec-  
3 essary to cover the difference between—

4 (1) the applicable minimum wages amount; and

5 (2) the wages payable under subsection (c).

6 (g) EFFECT OF WAGES ON ELIGIBILITY FOR OTHER  
7 PROGRAMS.—None of the amounts provided under this  
8 section shall be considered as income for the purposes of  
9 determining eligibility for and the amount of financial as-  
10 sistance and in-kind aid furnished under any Federal or  
11 federally assisted program based on income.

12 (h) NONDISPLACEMENT OF EMPLOYEES.—

13 (1) PROHIBITION.—A participating employer  
14 shall not use a participant to displace (including a  
15 partial displacement, such as a reduction in the  
16 hours of nonovertime work, wages, or employment  
17 benefits) any current employee (as of the date of the  
18 participation).

19 (2) OTHER PROHIBITIONS.—A participating  
20 employer shall not permit a participant to perform  
21 work activities related to any job if—

22 (A) any other individual is on layoff from  
23 the same or any substantially equivalent job;

24 (B) the employer has terminated the em-  
25 ployment of any employee or otherwise reduced

1 the workforce of the employer with the inten-  
2 tion of filling (including partially filling) the va-  
3 cancy so created with a participant performing  
4 work activities;

5 (C) there is a strike or lockout at the  
6 worksite that is the participant's workplace; or

7 (D) the job is created in a manner that  
8 will infringe in any way upon the promotional  
9 opportunities of currently employed individuals  
10 (as of the date of the participation).

11 (i) PROHIBITION ON IMPAIRMENT OF CONTRACTS.—

12 A participating employer shall not, by participating in the  
13 program described in subsection (b), impair an existing  
14 contract for services or collective bargaining agreement,  
15 and no such activity that would be inconsistent with the  
16 terms of a collective bargaining agreement shall be under-  
17 taken without the written concurrence of the labor organi-  
18 zation that is the signatory to the collective bargaining  
19 agreement.

20 (j) FAILURE TO MEET PROGRAM REQUIREMENTS.—

21 If a State makes a determination based on information  
22 provided to the State, or acquired by the State by means  
23 of its administration and oversight functions, that a par-  
24 ticipating employer under this section has violated a re-  
25 quirement of this section, the State shall bar such em-

1 ployer from further participation in the program. The  
2 State shall establish a process under which an individual  
3 described in subsection (c), or any other affected indi-  
4 vidual or entity, may file a complaint with the State relat-  
5 ing to a violation of any requirement (including a prohibi-  
6 tion) of this section.

7 (k) PARTICIPANT OPTION TO TERMINATE PARTICI-  
8 PATION IN LEARN TO EARN PROGRAM.—

9 (1) TERMINATION.—An individual who is par-  
10 ticipating in a program described in subsection (b)  
11 may elect to discontinue participation in such pro-  
12 gram.

13 (2) CONTINUED ELIGIBILITY FOR EMERGENCY  
14 UNEMPLOYMENT COMPENSATION.—In the case of an  
15 individual who elects to discontinue participation in  
16 such program, is terminated from such program by  
17 a participating employer, or who has completed par-  
18 ticipation in such program pursuant to subsection  
19 (d)(1)(C)(i), if such individual continues to satisfy  
20 the eligibility requirements for emergency unemploy-  
21 ment compensation under title IV of the Supple-  
22 mental Appropriations Act, 2008, the individual  
23 shall receive emergency unemployment compensation  
24 payments with respect to subsequent weeks of unem-  
25 ployment, to the extent that amounts remain in the

1 account established for such individual under section  
2 4002(b) of such Act or to the extent that such indi-  
3 vidual commences receiving the amounts described  
4 in subsections (c), (d), or (e) of such section, respec-  
5 tively.

6 (l) EFFECT OF OTHER LAWS.—Unless otherwise pro-  
7 vided in this section, nothing in this section shall be con-  
8 strued to alter or affect the rights or obligations under  
9 any Federal, State, or local law with respect to any indi-  
10 vidual described in subsection (c) or with respect to any  
11 participating employer under this section.

12 (m) TREATMENT OF PAYMENTS.—All wages or other  
13 payments to an individual under this section shall be treat-  
14 ed as payments of unemployment insurance for purposes  
15 of section 209 of the Social Security Act (42 U.S.C. 409)  
16 and for purposes of subtitle A and sections 3101 and 3111  
17 of the Internal Revenue Code of 1986.

18 **SEC. 9. GUIDANCE AND ADDITIONAL REQUIREMENTS.**

19 The Secretary of Labor may establish through guid-  
20 ance, without regard to the requirements of section 553  
21 of title 5, United States Code, such additional require-  
22 ments, including reporting requirements, as the Secretary  
23 determines to be necessary to ensure fiscal integrity, effec-  
24 tive monitoring, and appropriate and prompt implementa-  
25 tion of the activities under this Act.

1 **SEC. 10. EMERGENCY DESIGNATIONS.**

2 (a) EMERGENCY DESIGNATION FOR CONGRESSIONAL  
3 ENFORCEMENT.—This Act is designated as an emergency  
4 for purposes of pay-as-you-go principles. In the Senate,  
5 this Act is designated as an emergency requirement pursu-  
6 ant to sections 403(a) and 423(b) of S. Con. Res. 13  
7 (111th Congress), the concurrent resolution on the budget  
8 for fiscal year 2010.

9 (b) EMERGENCY DESIGNATION FOR STATUTORY  
10 PAYGO.—This Act is designated as an emergency re-  
11 quirement pursuant to section 4(g) of the Statutory Pay-  
12 As-You-Go Act of 2010 (2 U.S.C. 933(g)).

13 **SEC. 11. TERMINATION.**

14 This Act shall terminate on October 1, 2015.

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