

114TH CONGRESS
2D SESSION

H. R. 5669

To provide emergency unemployment compensation to coal mining workers who lost their jobs due to Federal environmental regulations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 7, 2016

Mr. JENKINS of West Virginia introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To provide emergency unemployment compensation to coal mining workers who lost their jobs due to Federal environmental regulations, 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 “Creating Opportunities
5 for America’s Laid-off (COAL) Miners Act of 2016”.

6 **SEC. 2. FEDERAL-STATE AGREEMENTS.**

7 (a) IN GENERAL.—Any qualifying State which de-
8 sires to do so may enter into and participate in an agree-
9 ment under this Act with the Secretary of Labor (in this

1 Act referred to as the “Secretary”). Any State which is
2 a party to an agreement under this Act may, upon pro-
3 viding 30 days’ written notice to the Secretary, terminate
4 such agreement.

5 (b) QUALIFYING STATE.—For purposes of subsection
6 (a), a “qualifying State” means a State in which the coal
7 mining and related industries have been adversely im-
8 pacted by regulations promulgated by the Environmental
9 Protection Agency or the Department of the Interior, in-
10 cluding—

11 (1) Alabama;

12 (2) Illinois;

13 (3) Indiana;

14 (4) Kentucky;

15 (5) Ohio;

16 (6) Pennsylvania;

17 (7) Tennessee;

18 (8) Virginia;

19 (9) West Virginia;

20 (10) Wyoming; and

21 (11) any other State that the Secretary deter-
22 mines—

23 (A) has traditionally relied on coal mining
24 for a substantial portion of its economy; and

1 (B) has experienced a significant reduction
2 in coal mining-related activity over the 5-year
3 period preceding the determination, as dem-
4 onstrated by employment data, per capita in-
5 come, or other indicators of reduced economic
6 activity.

7 (c) PROVISIONS OF AGREEMENT.—Any agreement
8 under subsection (a) shall provide that the State agency
9 of the State will make payments of coal mining emergency
10 unemployment compensation to individuals who—

11 (1) have exhausted all rights to regular com-
12 pensation under the State law or under Federal law
13 with respect to a benefit year (excluding any benefit
14 year that ended before the date of the enactment of
15 this Act);

16 (2) have no rights to regular compensation with
17 respect to a week under such law or any other State
18 unemployment compensation law or to compensation
19 under any other Federal law;

20 (3) are not receiving compensation with respect
21 to such week under the unemployment compensation
22 law of Canada; and

23 (4) are able to work, available to work, and ac-
24 tively seeking work.

1 (d) EXHAUSTION OF BENEFITS.—For purposes of
2 subsection (c)(1), an individual shall be deemed to have
3 exhausted such individual's rights to regular compensation
4 under a State law when—

5 (1) no payments of regular compensation can
6 be made under such law because such individual has
7 received all regular compensation available to such
8 individual based on employment or wages during
9 such individual's base period; or

10 (2) such individual's rights to such compensa-
11 tion have been terminated by reason of the expira-
12 tion of the benefit year with respect to which such
13 rights existed.

14 (e) WEEKLY BENEFIT AMOUNT, ETC.—For purposes
15 of any agreement under subsection (a)—

16 (1) the amount of coal mining emergency unem-
17 ployment compensation which shall be payable to
18 any individual for any week of total unemployment
19 shall be equal to the amount of the regular com-
20 pensation (including dependents' allowances) payable
21 to such individual during such individual's benefit
22 year under the State law for a week of total unem-
23 ployment;

24 (2) the terms and conditions of the State law
25 which apply to claims for regular compensation and

1 to the payment thereof (including terms and condi-
2 tions relating to availability for work, active search
3 for work, and refusal to accept work) shall apply to
4 claims for coal mining emergency unemployment
5 compensation and the payment thereof, except—

6 (A) that an individual shall not be eligible
7 for coal mining emergency unemployment com-
8 pensation under this Act unless, in the base pe-
9 riod with respect to which the individual ex-
10 hausted all rights to regular compensation
11 under the State law, the individual had 20
12 weeks of full-time insured employment or the
13 equivalent in insured wages, as determined
14 under the provisions of the State law imple-
15 menting section 202(a)(5) of the Federal-State
16 Extended Unemployment Compensation Act of
17 1970 (26 U.S.C. 3304 note); and

18 (B) where otherwise inconsistent with the
19 provisions of this Act or with the regulations or
20 operating instructions of the Secretary promul-
21 gated to carry out this Act; and

22 (3) the maximum amount of coal mining emer-
23 gency unemployment compensation payable to any
24 individual for whom a coal mining emergency unem-
25 ployment compensation account is established under

1 section 3 shall not exceed the amount established in
2 such account for such individual.

3 (f) COORDINATION RULE.—An agreement under sub-
4 section (a) shall apply with respect to a State only upon
5 a determination by the Secretary that, under the State
6 law or other applicable rules of such State, the payment
7 of extended compensation for which an individual is other-
8 wise eligible must be deferred until after the payment of
9 any coal mining emergency unemployment compensation
10 under section 3 for which the individual is concurrently
11 eligible.

12 (g) UNAUTHORIZED ALIENS INELIGIBLE.—A State
13 shall require as a condition of eligibility for coal mining
14 emergency unemployment compensation under this Act
15 that each alien who receives such compensation must be
16 legally authorized to work in the United States, as defined
17 for purposes of the Federal Unemployment Tax Act (26
18 U.S.C. 3301 et seq.). In determining whether an alien
19 meets the requirements of this subsection, a State must
20 follow the procedures provided in section 1137(d) of the
21 Social Security Act (42 U.S.C. 1320b–7(d)).

22 (h) ACTIVELY SEEKING WORK.—

23 (1) IN GENERAL.—For purposes of subsection
24 (c)(4), the term “actively seeking work” means, with
25 respect to any individual, that such individual—

1 (A) is registered for employment services
2 in such a manner and to such extent as pre-
3 scribed by the State agency;

4 (B) has engaged in an active search for
5 employment that is appropriate in light of the
6 employment available in the labor market, the
7 individual's skills and capabilities, and includes
8 a number of employer contacts that is con-
9 sistent with the standards communicated to the
10 individual by the State;

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

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

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

21 (i) PROVISION OF SERVICES AND ACTIVITIES.—

22 (1) IN GENERAL.—An agreement under sub-
23 section (a) shall require the following:

24 (A) The State which is party to such
25 agreement shall provide reemployment services

1 and reemployment and eligibility assessment ac-
2 tivities to each individual who receives coal min-
3 ing emergency unemployment compensation
4 under this Act, while such individual continues
5 to receive such compensation.

6 (B) As a condition of eligibility for coal
7 mining emergency unemployment compensation
8 for any week—

9 (i) a claimant who has been duly re-
10 ferred to reemployment services shall par-
11 ticipate in such services; and

12 (ii) a claimant shall be actively seek-
13 ing work (determined applying subsection
14 (g)).

15 (2) DESCRIPTION OF SERVICES AND ACTIVI-
16 TIES.—The reemployment services and in-person re-
17 employment and eligibility assessment activities pro-
18 vided to individuals receiving coal mining emergency
19 unemployment compensation described in paragraph
20 (1)—

21 (A) shall include—

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

24 (ii) an assessment of the skills of the
25 individual;

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

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

(B) may include the provision of—

(i) comprehensive and specialized assessments;

(ii) individual and group career counseling;

(iii) training services;

(iv) additional reemployment services;

and

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

(3) PARTICIPATION REQUIREMENT.—As a condition of continuing eligibility for coal mining emergency unemployment compensation for any week, an individual who has been referred to reemployment

1 services or reemployment and eligibility assessment
 2 activities under this subsection shall participate in
 3 such services or activities, unless the State agency
 4 responsible for the administration of State unem-
 5 ployment compensation law determines that—

6 (A) such individual has completed partici-
 7 pating in such services or activities; or

8 (B) there is justifiable cause for failure to
 9 participate or to complete participating in such
 10 services or activities, as determined in accord-
 11 ance with guidance to be issued by the Sec-
 12 retary.

13 **SEC. 3. COAL MINING EMERGENCY UNEMPLOYMENT COM-**
 14 **PENSATION ACCOUNT.**

15 (a) IN GENERAL.—Any agreement under this Act
 16 shall provide that the State will establish, for each eligible
 17 individual who files an application for coal mining emer-
 18 gency unemployment compensation, a coal mining emer-
 19 gency unemployment compensation account with respect
 20 to such individual's benefit year.

21 (b) AMOUNT IN ACCOUNT.—

22 (1) IN GENERAL.—The amount established in
 23 an account under subsection (a) shall be equal to the
 24 lesser of—

1 (A) 62 percent of the total amount of reg-
2 ular compensation (including dependents' allow-
3 ances) payable to the individual during the indi-
4 vidual's benefit year under such law, or

5 (B) 16 times the individual's average week-
6 ly benefit amount for the benefit year.

7 (2) WEEKLY BENEFIT AMOUNT.—For purposes
8 of this subsection, an individual's weekly benefit
9 amount for any week is the amount of regular com-
10 pensation (including dependents' allowances) under
11 the State law payable to such individual for such
12 week for total unemployment.

13 (c) COORDINATION OF COAL MINING EMERGENCY
14 UNEMPLOYMENT COMPENSATION WITH REGULAR COM-
15 PENSATION.—

16 (1) If—

17 (A) an individual has been determined to
18 be entitled to coal mining emergency unemploy-
19 ment compensation with respect to a benefit
20 year,

21 (B) that benefit year has expired,

22 (C) that individual has remaining entitle-
23 ment to coal mining emergency unemployment
24 compensation with respect to that benefit year,
25 and

1 (D) that individual would qualify for a new
2 benefit year in which the weekly benefit amount
3 of regular compensation is at least either \$100
4 or 25 percent less than the individual's weekly
5 benefit amount in the benefit year referred to
6 in subparagraph (A),
7 then the State shall determine eligibility for com-
8 pensation as provided in paragraph (2).

9 (2) For individuals described in paragraph (1),
10 the State shall determine whether the individual is
11 to be paid coal mining emergency unemployment
12 compensation or regular compensation for a week of
13 unemployment using one of the following methods:

14 (A) The State shall, if permitted by State
15 law, establish a new benefit year, but defer the
16 payment of regular compensation with respect
17 to that new benefit year until exhaustion of all
18 coal mining emergency unemployment com-
19 pensation payable with respect to the benefit
20 year referred to in paragraph (1)(A).

21 (B) The State shall, if permitted by State
22 law, defer the establishment of a new benefit
23 year (which uses all the wages and employment
24 which would have been used to establish a ben-
25 efit year but for the application of this para-

graph), until exhaustion of all coal mining emergency unemployment compensation payable with respect to the benefit year referred to in paragraph (1)(A).

(C) The State shall pay, if permitted by State law—

(i) regular compensation equal to the weekly benefit amount established under the new benefit year, and

(ii) coal mining emergency unemployment compensation equal to the difference between that weekly benefit amount and the weekly benefit amount for the expired benefit year.

(D) The State shall determine rights to coal mining emergency unemployment compensation without regard to any rights to regular compensation if the individual elects to not file a claim for regular compensation under the new benefit year.

**SEC. 4. PAYMENTS TO STATES HAVING AGREEMENTS FOR
THE PAYMENT OF COAL MINING EMERGENCY
UNEMPLOYMENT COMPENSATION.**

(a) GENERAL RULE.—There shall be paid to each State that has entered into an agreement under this Act

1 an amount equal to 100 percent of the coal mining emer-
2 gency unemployment compensation paid to individuals by
3 the State pursuant to such agreement.

4 (b) TREATMENT OF REIMBURSABLE COMPENSA-
5 TION.—No payment shall be made to any State under this
6 section in respect of any compensation to the extent the
7 State is entitled to reimbursement in respect of such com-
8 pensation under the provisions of any Federal law other
9 than this Act or chapter 85 of title 5, United States Code.
10 A State shall not be entitled to any reimbursement under
11 such chapter 85 in respect of any compensation to the ex-
12 tent the State is entitled to reimbursement under this Act
13 in respect of such compensation.

14 (c) DETERMINATION OF AMOUNT.—Sums payable to
15 any State by reason of such State having an agreement
16 under this Act shall be payable, either in advance or by
17 way of reimbursement (as may be determined by the Sec-
18 retary), in such amounts as the Secretary estimates the
19 State will be entitled to receive under this Act for each
20 calendar month, reduced or increased, as the case may be,
21 by any amount by which the Secretary finds that the Sec-
22 retary's estimates for any prior calendar month were
23 greater or less than the amounts which should have been
24 paid to the State. Such estimates may be made on the
25 basis of such statistical, sampling, or other method as may

1 be agreed upon by the Secretary and the State agency of
2 the State involved.

3 **SEC. 5. FINANCING PROVISIONS.**

4 (a) IN GENERAL.—Funds in the extended unemploy-
5 ment compensation account (as established by section
6 905(a) of the Social Security Act (42 U.S.C. 1105(a)))
7 of the Unemployment Trust Fund (as established by sec-
8 tion 904(a) of such Act (42 U.S.C. 1104(a))) shall be used
9 for the making of payments to States having agreements
10 entered into under this Act.

11 (b) CERTIFICATION.—The Secretary shall from time
12 to time certify to the Secretary of the Treasury for pay-
13 ment to each participating State the sums payable to such
14 State under this Act. The Secretary of the Treasury, prior
15 to audit or settlement by the Government Accountability
16 Office, shall make payments to the State in accordance
17 with such certification, by transfers from the extended un-
18 employment compensation account (as so established) to
19 the account of such State in the Unemployment Trust
20 Fund (as so established).

21 (c) ASSISTANCE TO STATES.—

22 (1) ADMINISTRATION.—There are appropriated
23 out of the employment security administration ac-
24 count (as established by section 901(a) of the Social
25 Security Act (42 U.S.C. 1101(a))) of the Unemploy-

ment Trust Fund, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act (42 U.S.C. 501 et seq.)) in meeting the costs of administration of agreements under this Act.

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

(A) APPROPRIATION.—There are appropriated from the general fund of the Treasury, out of the employment security administration account (as established by section 901(a) of the Social Security Act), without fiscal year limitation, such sums as determined by the Secretary of Labor in accordance with subparagraph (B) to assist participating States in providing reemployment services and reemployment and eligibility assessment activities described in section 2(i).

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

(i) the number of individuals who will receive reemployment services and reem-

1 ployment eligibility and assessment activi-
 2 ties described in section 2(i) in all partici-
 3 pating States through the date specified in
 4 section 8(a)(2); multiplied by
 5 (ii) \$85.

6 (C) DISTRIBUTION AMONG STATES.—Of
 7 the amounts appropriated under subparagraph
 8 (A), the Secretary of Labor shall distribute
 9 amounts to each participating State, in accord-
 10 ance with section 4(c), that the Secretary esti-
 11 mates is equal to—

12 (i) the number of individuals who will
 13 receive reemployment services and reem-
 14 ployment and eligibility assessment activi-
 15 ties described in section (2)(i) in such
 16 State through the date specified in section
 17 8(a)(2); multiplied by
 18 (ii) \$85.

19 (d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—

20 There are appropriated from the general fund of the
 21 Treasury, without fiscal year limitation, to the extended
 22 unemployment compensation account (as so established)
 23 of the Unemployment Trust Fund (as so established) such
 24 sums as the Secretary estimates to be necessary to make
 25 the payments under this section in respect of—

1 (1) compensation payable under chapter 85 of
2 title 5, United States Code; and

3 (2) compensation payable on the basis of serv-
4 ices to which section 3309(a)(1) of the Internal Rev-
5 enue Code of 1986 applies.

6 Amounts appropriated pursuant to the preceding sentence
7 shall not be required to be repaid.

8 (e) TRANSFER OF FUNDS.—Notwithstanding any
9 other provision of law, the Secretary of the Treasury shall
10 transfer from the general fund of the Treasury (from
11 funds not otherwise appropriated)—

12 (1) to the extended unemployment compensa-
13 tion account (as established by section 905 of the
14 Social Security Act) such sums as the Secretary of
15 Labor estimates to be necessary to make payments
16 to participating States under this Act; and

17 (2) to the employment security administration
18 account (as established by section 901 of the Social
19 Security Act) such sums as the Secretary of Labor
20 estimates to be necessary—

21 (A) in accordance with subsection (c)(1),
22 to assist such States in meeting the costs of ad-
23 ministration of agreements under this Act; and

24 (B) in accordance with subsection (c)(2),
25 to assist such States in providing reemployment

1 services and reemployment eligibility and as-
2 sessment activities described in section 2(h)(2).

3 **SEC. 6. FRAUD AND OVERPAYMENTS.**

4 (a) IN GENERAL.—If an individual knowingly has
5 made, or caused to be made by another, a false statement
6 or representation of a material fact, or knowingly has
7 failed, or caused another to fail, to disclose a material fact,
8 and as a result of such false statement or representation
9 or of such nondisclosure such individual has received an
10 amount of coal mining emergency unemployment com-
11 pensation under this Act to which such individual was not
12 entitled, such individual—

13 (1) shall be ineligible for further emergency un-
14 employment compensation under this Act in accord-
15 ance with the provisions of the applicable State un-
16 employment compensation law relating to fraud in
17 connection with a claim for unemployment com-
18 pensation; and

19 (2) shall be subject to prosecution under section
20 1001 of title 18, United States Code.

21 (b) REPAYMENT.—In the case of individuals who
22 have received amounts of coal mining emergency unem-
23 ployment compensation under this Act to which they were
24 not entitled, the State shall require such individuals to
25 repay the amounts of such coal mining emergency unem-

1 ployment compensation to the State agency, except that
2 the State agency may waive such repayment if it deter-
3 mines that—

4 (1) the payment of such coal mining emergency
5 unemployment compensation was without fault on
6 the part of any such individual; and

7 (2) such repayment would be contrary to equity
8 and good conscience.

9 (c) RECOVERY BY STATE AGENCY.—

10 (1) IN GENERAL.—The State agency shall re-
11 cover the amount to be repaid, or any part thereof,
12 by deductions from any coal mining emergency un-
13 employment compensation payable to such individual
14 under this Act or from any unemployment com-
15 pensation payable to such individual under any State
16 or Federal unemployment compensation law admin-
17 istered by the State agency or under any other State
18 or Federal law administered by the State agency
19 which provides for the payment of any assistance or
20 allowance with respect to any week of unemploy-
21 ment, during the 3-year period after the date such
22 individuals received the payment of the coal mining
23 emergency unemployment compensation to which
24 they were not entitled, in accordance with the same

1 procedures as apply to the recovery of overpayments
2 of regular unemployment benefits paid by the State.

3 (2) OPPORTUNITY FOR HEARING.—No repay-
4 ment shall be required, and no deduction shall be
5 made, until a determination has been made, notice
6 thereof and an opportunity for a fair hearing has
7 been given to the individual, and the determination
8 has become final.

9 (d) REVIEW.—Any determination by a State agency
10 under this section shall be subject to review in the same
11 manner and to the same extent as determinations under
12 the State unemployment compensation law, and only in
13 that manner and to that extent.

14 **SEC. 7. DEFINITIONS.**

15 In this Act, the terms “compensation”, “regular com-
16 pensation”, “extended compensation”, “benefit year”,
17 “base period”, “State”, “State agency”, “State law”, and
18 “week” have the respective meanings given such terms
19 under section 205 of the Federal-State Extended Unem-
20 ployment Compensation Act of 1970 (26 U.S.C. 3304
21 note).

22 **SEC. 8. APPLICABILITY.**

23 (a) IN GENERAL.—An agreement entered into under
24 this Act shall apply to weeks of unemployment—

1 (1) beginning after the date on which such
2 agreement is entered into; and

3 (2) ending on or before the date that is 24
4 months after the date of the enactment of this Act.

5 (b) TERMINATION.—No compensation under this title
6 shall be payable for any week subsequent to the last week
7 described in subsection (a)(2).

○