

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	<b>CLASSIFICATION</b> EUC08
	<b>CORRESPONDENCE SYMBOL</b> OUI/DUIO
	<b>DATE</b> March 5, 2012

**ADVISORY:**        **UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 04-10,  
Change 9**

**TO:**                STATE WORKFORCE AGENCIES

**FROM:**            JANE OATES /s/  
Assistant Secretary

**SUBJECT:**        Extension and Modification of Emergency Unemployment Compensation,  
2008 (EUC08) and Extension of Temporary Extended Benefits (EB)  
Provisions

**1. Purpose.** To advise state workforce agencies of the latest extension and modifications of the EUC08 program, and of the extension of the temporary EB provisions.

**2. References.**

- *Middle Class Tax Relief and Job Creation Act of 2012*, P.L.112-96 (February 22, 2012), Title II, secs. 2001-2184 (Extended Benefits, Reemployment and Program Integrity Improvement Act) (the Act);
- Temporary Payroll Tax Cut Continuation Act of 2011, (P.L. 112-78);
- Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Act), Public Law (P.L. 111-312);
- Unemployment Compensation Extension Act of 2010, (P.L. No. 111-205);
- Supplemental Appropriations Act, 2008, P.L. No. 110-252; Sections 2002 and 2005 of Division B, Title II, the Assistance for Unemployed Workers and Struggling Families Act, (P.L. No. 111-5);
- Federal-State Extended Unemployment Compensation Act of 1970 (P.L. 91-373);
- Public Information Collection Activities; Submission to Director; Approval and Delegation (44 USC § 3507)
- Public protection (44 USC § 3512)
- Unemployment Insurance Program Letter (UIPL) No. 23-08, *Supplemental Appropriation Act, 2008, Title IV—Emergency Unemployment Compensation*, and its Changes 1, 2, 3, 4, 5, and 6;
- UIPL No. 07-09; *Federal-State Extended Unemployment Compensation Act of 1970—Temporary Change in Federal Sharing for First Week of Extended Benefits*;
- UIPL No. 12-09; *Extended Benefits Program—Temporary Changes made by the Assistance for Unemployed Workers and Struggling Families Act*; and

<b>RESCISSIONS</b> None	<b>EXPIRATION DATE</b> Continuing
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- UIPL No. 04-10, *Extension of Temporary Provisions—Emergency Unemployment Compensation, 2008, Federal Additional Compensation, and Extended Benefits*, and its Changes 1, 2, 3, 4, 5, 6, 7, and 8.

**3. Summary of Provisions.** The Act extends the expiration dates of the EUC08 program and the temporary provisions of the EB program, and makes several changes to the EUC08 program tier structure. It also adds new eligibility requirements for individuals filing EUC08 claims, including new work search requirements, and required participation in reemployment services, and in reemployment and eligibility assessment activities.

#### **4. Changes to the EUC08 Program**

##### **A. Extension of EUC08 Program**

- The end of the period during which an individual may establish initial eligibility for EUC08 First Tier is extended to weeks of unemployment ending on or before January 2, 2013.
- The end of the period during which a EUC08 account may be augmented is extended. Individuals must exhaust a EUC08 tier before December 29, 2012 (in most states), to qualify for the next higher tier.
- The “phase-out” period (that is, the period during which individuals who have remaining amounts in their EUC08 accounts may collect those amounts) is eliminated. No EUC08 First, Second, Third, or Fourth-Tier payments may be made for any week of unemployment ending after January 2, 2013. (In most states, this means the week ending December 29, 2012, will be the final payable week of EUC08.)

##### **B. Modifications Relating to the Total Unemployment Rate Triggers**

- EUC08 First Tier: There are no changes. EUC08 First Tier continues to have no trigger and is available to eligible individuals in all states.
- EUC08 Second Tier: Effective for weeks of unemployment ending after June 1, 2012, a total unemployment rate (TUR) “trigger” is added.
  - For weeks of unemployment ending before June 1, 2012 (in most states, this is the week ending May 26, 2012), EUC08 Second Tier continues to have no trigger and is available to eligible individuals in all states.
  - For weeks of unemployment ending after June 1, 2012 (in most states, this is the week ending June 2, 2012), the state must have a 3 month seasonally adjusted TUR of at least six (6) percent in order for EUC08 Second Tier to be available in the state.
  - If EUC08 Second Tier is no longer available in a state after the trigger becomes effective, individuals who established EUC08 Second Tier entitlement before June 1, 2012, will (if otherwise eligible) continue to receive their remaining EUC08 Second Tier balance after June 1, 2012, and until exhaustion or until the final payable week of EUC08 (which must end on or before January 2, 2013), whichever happens first.

- EUC08 Third Tier: Effective for weeks of unemployment ending after June 1, 2012, the TUR trigger will increase.
  - For weeks of unemployment ending before June 1, 2012, a 3 month seasonally adjusted TUR of at least six (6) percent continues to be required for EUC08 Third Tier to be available in the state.
  - For weeks of unemployment ending after June 1, 2012, a 3 month seasonally adjusted TUR of at least 7 percent is required for EUC08 Third Tier to be available in the state.
  - If EUC08 Third Tier is no longer available in a state after the new trigger becomes effective, individuals who established EUC08 Third Tier entitlement before June 1, 2012, will (if otherwise eligible) continue to receive their EUC08 Third Tier balance until exhaustion or until the final payable week of EUC08, whichever happens first.
  
- EUC08 Fourth Tier: Effective for weeks of unemployment ending after June 1, 2012, the TUR trigger will increase.
  - For weeks of unemployment ending before June 1, 2012, a 3 month seasonally adjusted TUR of at least 8.5 percent continues to be required for EUC08 to be available in the state.
  - For weeks of unemployment ending after June 1, 2012, a 3 month seasonally adjusted TUR of at least nine (9) percent is required for EUC08 Fourth Tier to be available in the state.
  - If EUC08 Fourth Tier is no longer available in a state after the new trigger becomes effective, individuals who establish EUC08 Fourth Tier entitlement before June 1, 2012, will (if otherwise eligible) continue to receive the balance of their EUC08 Fourth Tier until exhaustion or the final payable week of EUC08, whichever happens first.

### C. Modifications Related to Maximum Entitlement to EUC08 Tiers

- EUC08 First Tier: Effective for weeks of unemployment ending after September 2, 2012, the maximum entitlement will be reduced.
  - For all new EUC08 First Tier claims established for a week ending after September 2, 2012 (in most states, this is the week ending September 8, 2012), the maximum entitlement is reduced to the lesser of 54 percent (from 80 percent) of the maximum regular Unemployment Compensation (UC) entitlement or 14 times (from 20 times) the regular UC weekly benefit amount.
  - Individuals whose accounts were established with EUC08 First Tier amounts before the maximum entitlement was reduced will (if otherwise eligible) continue to receive the balance of their EUC08 First Tier until exhaustion or the final payable week of EUC08, whichever happens first.

- EUC08 Second Tier: There are no changes.
  - The maximum entitlement to EUC08 Second Tier continues to be the lesser of 54 percent of the maximum regular UC entitlement or 14 times the regular UC weekly benefit amount.
- EUC08 Third Tier: Effective for weeks of unemployment ending after September 2, 2012, the maximum entitlement will be reduced.
  - For all new EUC08 Third Tier claims established for a week ending after September 2, 2012, the maximum entitlement is reduced to the lesser of 35 percent (from 50 percent) of the maximum regular UC entitlement or nine (9) times (from 13 times) the regular UC weekly benefit amount.
  - Individuals whose accounts were augmented with EUC08 Third Tier amounts before the maximum entitlement was reduced will (if otherwise eligible) continue to receive the balance of their EUC08 Third Tier until exhaustion or the final payable week of EUC08, whichever happens first.
- EUC08 Fourth Tier for weeks of unemployment ending after February 22, 2012 (in most states, this is the week ending February 25, 2012) and before June 1, 2012:

**States in an EB Period:** There are no changes.

- The maximum entitlement to EUC08 Fourth Tier continues to be the lesser of 24 percent of the maximum regular UC entitlement or six (6) times the regular UC weekly benefit amount.

**States not in an EB Period:** The maximum entitlement is increased.

- For all individuals with new EUC08 Fourth Tier claims, and for any individuals with remaining EUC08 Fourth Tier amounts in their accounts as of February 22, 2012, the maximum entitlement is the lesser of 62 percent (up from 24 percent) of the maximum regular UC entitlement or 16 times (up from 6 times) the regular UC weekly benefit amount.
- If the State is in an EB period (as determined under the Federal-State Extended Unemployment Compensation Act (EUCA)) on February 22, 2012, but later triggers “off,” then individuals with EUC08 Fourth Tier amounts in their accounts on February 22, 2012 will NOT have the additional amounts of EUC08 Fourth Tier added to their accounts when the State triggers “off.” (The additional amounts for individuals with remaining EUC08 Fourth Tier entitlement under the “old” law are only available for individuals who: 1) Have remaining EUC08 Fourth Tier entitlement on February 22, 2012, and 2) are claiming against States not in an EB period (as determined under EUCA) on February 22, 2012.)
- Individuals who exhausted EUC08 Fourth Tier amounts in their accounts with respect to weeks of unemployment ending before February 22, 2012 (in most states, the last such week is the week ending February 18, 2012) **may not** have the additional amounts of EUC08 Fourth Tier added to their accounts.

- In states whose EB periods (as determined under EUCA) will end before June 1, 2012, beginning the first week after the EB period ends, all individuals with new EUC08 Fourth Tier entitlement could qualify for the increased maximum benefit amounts.
- While individuals may continue to be eligible to receive any remaining EUC08 Fourth Tier amounts in their accounts after a state triggers off EUC08 Fourth Tier, if a state is NOT triggered on EUC08 Fourth Tier, additional amounts may not be added to individuals' accounts.

**Note:** The amounts added to an individual's account under the EUC Fourth Tier may not cause the sum of the amount in that account, plus any weeks of weeks of EB, to exceed the lesser of 282 percent of the total amount of regular UC (including dependents' allowances) or 73 times the individual's UC weekly benefit amount (including dependents' allowances) based on the applicable benefit year.

- EUC08 Fourth Tier for weeks of unemployment ending on or after June 1, 2012, and on or before September 2, 2012:

**States in an EB Period:** There are no changes.

- The maximum entitlement to EUC08 Fourth Tier continues to be the lesser of 24 percent of the maximum regular UC entitlement or six (6) times the regular UC weekly benefit amount.

**States not in an EB Period:** The maximum entitlement is reduced.

- For all new EUC08 Fourth Tier claims established for weeks of unemployment ending on or after June 1, 2012, through weeks of unemployment ending on or before September 2, 2012, the maximum entitlement is the lesser of 24 percent of the maximum regular UC entitlement or 6 times the regular UC weekly benefit amount.
  - Individuals whose accounts were augmented with EUC08 Fourth Tier amounts before the maximum entitlement was reduced may continue, if otherwise eligible, to receive the balance of their EUC08 Fourth Tier until exhaustion or January 2, 2013, whichever happens first.
- EUC08 Fourth Tier for weeks of unemployment ending after September 2, 2012 and on or before January 2, 2013:

**All States:** The maximum entitlement is increased.

- For all new EUC08 Fourth Tier claims established for a week ending after September 2, 2012, the maximum entitlement is the lesser of 39 percent (instead of 24 percent) of the maximum regular UC entitlement or 10 times (instead of 6 times) the regular UC weekly benefit amount.
- Any individual who established an EUC08 Fourth Tier claim with respect to weeks of unemployment ending before September 2, 2012 (in most states, the last such week is the week ending September 1, 2012) **may not** have the additional

amounts of EUC08 Fourth Tier available under this augmentation added to their accounts.

**Note:** There is no change to the Insured Unemployment Rate (IUR) triggers and these are not discussed in this UIPL since they rarely come into play.

#### **D. Work Search Requirements for EUC08 Recipients**

Prior to enactment of the Act, the applicable state law work search requirements, as well as the applicable state law employment service registration requirements, applied to the EUC08 program. In addition, there was previously no requirement that claimants maintain records of their work search efforts. The Act amended the eligibility provisions to require that individuals must be able to work, available for work, and actively seeking work in order to qualify for EUC08. Actively seeking work means that individuals must:

- Register for employment services as prescribed by the state;
- Engage in an active search for work and make appropriate employer contacts in light of the labor market, and their skills and capabilities;
- Maintain a detailed record of their employer contacts; and
- Provide their work search records to the state upon request.

Notification: States must immediately begin providing notification to all EUC claimants that they must meet the new EUC08 work search requirements. Such notification may be done via mail, Internet, or interactive voice response telephone systems.

The Act further requires states to review/audit a minimum number of claimants' work search records that are randomly selected to ensure that claimants receiving EUC08 are meeting the state's work search requirements. For individuals receiving EUC08 First and Second Tiers, the states' review/audit of individuals' work search documents may be conducted at the time the individual reports to the One-Stop Career Center for reemployment services and the continued eligibility assessment (see item E below). Further guidance will be provided to states regarding their responsibilities for conducting these audits.

#### **E. Participation in Reemployment Services and Reemployment and Eligibility Assessment Activities**

States are now required to provide reemployment services and in-person reemployment and eligibility assessments to those individuals establishing a new EUC08 First or Second Tier claim on or after the 30th day after the date of enactment, which is March 23, 2012. The following reemployment services and reemployment and eligibility assessment activities are required:

- 1) The provision of labor market and career information;
- 2) An assessment of the individual's skills;
- 3) Orientation to the services available through the One-Stop Career Centers established under title I of the Workforce Investment Act of 1998; and
- 4) Review of the eligibility of the individual for EUC08 relating to the job search activities of the individual.

Optional services to be provided include:

- 1) Comprehensive and specialized assessments;
- 2) Individual and group career counseling;
- 3) Training services;
- 4) Additional reemployment services; and
- 5) Job search counseling and the development or review of an individual reemployment plan that includes participation in job search activities and appropriate workshops and may include referrals to appropriate training services.

Participation in these reemployment services and continued eligibility assessment activities is required as a condition of eligibility for receipt of EUC08 unless there is good cause for the individual's failure to participate in or complete the services. Funding for these activities will be provided from the general fund of the Treasury in an amount equal to the estimated number of individuals who will be provided such services multiplied by \$85.

Further guidance is under development and will be issued by the U.S. Department of Labor in the near future under separate cover through a Training and Employment Guidance Letter.

**F. Recovery of EUC08 Overpayments**

States are now required, in accordance with the same procedures as apply to the recovery of overpayments of regular UC paid by the state, to recover any EUC08 overpayments by offset when an individual is eligible for EUC08. Under prior law, states were permitted to recover such overpayments by offset and the offset was capped at 50 percent of the weekly benefit amount.

Note that states may not commence recovery of EUC08 overpayments until the individual has had an opportunity for a fair hearing and the determination has become final. While the offset is no longer capped, states are still permitted to waive recovery if the individual was not at fault and if the repayment would be contrary to equity and good conscience.

**G. Nonreduction Rule**

The Act modified the applicability of the nonreduction rule. The nonreduction rule discourages states from changing the method governing the computation of regular compensation under the state law in a manner such that the average weekly benefit amount of regular compensation during the period of the EUC08 agreement will be less than the average weekly benefit amount of regular compensation which would otherwise have been payable during such period under the state law as in effect on June 2, 2010. Upon a determination by the Secretary of Labor that a state violates this rule, its agreement to administer the EUC08 program would be terminated. However, the Act provides that the nonreduction rule "shall not apply with respect to a State that has enacted a law before March 1, 2012, that, upon taking effect, would violate" the

nonreduction rule. Thus, states that enacted such legislation before this date will be held harmless.

#### **H. Order of Payment**

The Act establishes a new coordination rule concerning the order of payment. Effective March 4, 2012, states must pay any EUC08 entitlement before the payment of any EB entitlement.

### **5. Changes Made to the Extended Benefit Program – Temporary Provisions**

#### **A. 100 Percent Federal Funding**

- The Federal government will reimburse states for 100 percent of the benefit costs of sharable EB and sharable regular compensation<sup>1</sup> for weeks of unemployment beginning before December 31, 2012.
- The phase-out period for states to receive 100 percent reimbursement for individuals who have established EB eligibility is extended. If an individual received EB with respect to one or more weeks of unemployment beginning after February 17, 2009, and before December 31, 2012, the Federal government will continue to pay 100 percent of the eligible (sharable) EB benefit costs for weeks of unemployment ending before June 30, 2013.

#### **B. Individual Eligibility Period**

- The provision permitting certain individuals to qualify for EB following exhaustion of EUC08 (without an overlap between their benefit year and the EB period<sup>2</sup>) is extended. States may continue to permit these individuals to qualify for EB after they have exhausted EUC08 during an EB period that began on or before the date the individuals exhausted EUC08, even if the benefit year of those individuals ended (See UIPL No. 12-09, Q&A 6). This option remains available to states for weeks of unemployment beginning after February 17, 2009, and before December 31, 2012.

#### **C. Federal Sharing for First Week**

- The suspension of the prohibition of Federal sharing for the first week of EB if state law permits individuals to be compensated for the first week of regular compensation

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<sup>1</sup> Sharable regular compensation is “[r]egular compensation paid to an eligible individual with respect to weeks of unemployment in the individual’s eligibility period, but only to the extent that the sum of such compensation, . . . exceeds 26 times and does not exceed 39 times the average weekly benefit amount (including allowances for dependents) for weeks of total unemployment payable to the individual under the State law” (20 CFR 615.2(i)(2))

<sup>2</sup> To initially qualify for EB under the permanent EB law, an individual must have at least one week in his/her benefit year that begins in an EB period. (20 CFR 615.2(h)) Section 2005 of P.L. 111-5 allows a state to, at its option, permit certain individuals to qualify for EB in cases where there is no overlap between the individual’s benefit year and the EB period. Specifically, the state may permit individuals to qualify for EB when the individuals have exhausted Emergency Unemployment Compensation (EUC08) during an EB period that began *on or before* the date the individual exhausted.” (See UIPL No. 12-09, Attachment 1 Question 6)



eligibility at any time or under any circumstances is extended through weeks of unemployment ending on or before June 30, 2013.

**D. Three-year Look-back**

- The authority for states to continue to use a three-year “look-back” in determining if the state remains in an EB period is extended through December 31, 2012.

**6. Required Reporting.** The current required reporting for the EUC08 program has not changed.

Compliance with the provisions of the Act (P.L. 112-96) will, however, necessitate additional reporting by state agencies regarding the provision of reemployment services and reemployment and eligibility assessment activities. The Department is in the process of submitting an Information Collection Request (ICR) to the Office of Management and Budget (OMB) requesting changes to existing collections and new collections. The Department notes that a Federal agency cannot conduct or sponsor a collection of information unless it is approved by OMB under the Paperwork Reduction Act (PRA), and displays a currently valid OMB control number, and the public is not required to respond to a collection of information unless it displays a currently valid OMB control number. See 44 U.S.C. § 3507. Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. See 44 U.S.C. § 3512. The Department will notify states of OMB’s decision upon review of the Department’s ICR, including any changes that may result from this review process.

**7. Interpretation.** The information in this document is issued to the states and cooperating state agencies as guidance provided by the Department in its role as the principal in the EUC08 program. As agents of the Federal government, the states and cooperating state agencies may not deviate from this guidance without the prior approval of the Department. To the extent that the prior guidance (as outlined in #2, *References* above) is inconsistent with this UIPL, this UIPL supersedes that guidance.

**8. Action Requested.** Administrators are to provide this guidance to the appropriate staff.

**9. Inquiries.** Questions should be directed to the appropriate Regional Office.

**10. Attachments.**

Attachment 1—Key Dates for the Act.

Attachment 2—Relevant statutory provisions in the Act.

## Key Dates for UI Programs Following Enactment of Middle Class Tax Relief and Job Creation Act of 2012, P.L. 112-96

Program		Statutory End Date		Actual Week Ending Date <sup>1</sup>
EUC08		January 2, 2013 <sup>2</sup>		December 29, 2012 <sup>3,4</sup>
Tier	Duration and TUR	Through week ending May 26, 2012 <sup>5</sup>	Week ending June 2, 2012 through week ending September 1, 2012 <sup>6</sup>	Week ending September 8, 2012 through week ending December 29, 2012 <sup>7</sup>
I	Weeks of benefits	20	20	14
	TUR required	n/a	n/a	n/a
II	Weeks of benefits	14	14	14
	TUR required	n/a	6%	6%
III	Weeks of benefits	13	13	9
	TUR required	6%	7%	7%
IV	Weeks of benefits	16 if not on EB 6 if on EB	6	10
	TUR required	8.5%	9%	9%

Provision	Statutory End Date	Actual Week Ending Date <sup>1</sup>
Federal sharing 1 <sup>st</sup> week EB – compensable waiting week	June 30, 2013 <sup>2</sup>	June 29, 2013 <sup>8</sup>
Three-year lookback option for EB triggers	December 31, 2012 <sup>2</sup>	December 29, 2012 <sup>4</sup>

Provision	Last Date Eligibility May Be Established for New Participants		Last Date Sharable Under Phase-Out	
	Statutory End Date	Actual Week Ending Date <sup>1</sup>	Statutory End Date	Actual Week Ending Date
100% Federal sharing EB <sup>9</sup>	December 31, 2012 <sup>10</sup>	January 5, 2013 <sup>4</sup>	June 30, 2013 <sup>11</sup>	June 29, 2013 <sup>12</sup>

<sup>1</sup> For states where week of unemployment ends on Saturday.

<sup>2</sup> Weeks of unemployment ending on or before this date.

<sup>3</sup> Last week of unemployment for which an individual may receive EUC08. No EUC08 will be payable after this week.

<sup>4</sup> For New York, where week of unemployment ends on Sunday, actual week ending date is December 30, 2012.

<sup>5</sup> For New York, through week ending May 27, 2012.

<sup>6</sup> For New York, week ending June 3, 2012 through week ending September 2, 2012.

<sup>7</sup> For New York, week ending September 9, 2012 through week ending December 30, 2012.

<sup>8</sup> For New York, June 30, 2013.

<sup>9</sup> Also applies to provision permitting states to extend an individual's EB eligibility period.

<sup>10</sup> Weeks of unemployment beginning before this date.

<sup>11</sup> Weeks of unemployment ending before this date.

<sup>12</sup> For New York, June 23, 2013.

**H.R.3630**

**Middle Class Tax Relief and Job Creation Act of 2012 (Enrolled Bill [Final as Passed Both House and Senate] - ENR)**

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

- (a) Short Title- This Act may be cited as the 'Middle Class Tax Relief and Job Creation Act of 2012'.  
 (b) Table of Contents- The table of contents for this Act is as follows:  
 Sec. 1. Short title; table of contents.

**TITLE I--EXTENSION OF PAYROLL TAX REDUCTION**

Sec. 1001. Extension of payroll tax reduction.

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

Sec. 2001. Short title.

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

- Sec. 2101. Consistent job search requirements.  
 Sec. 2102. State flexibility to promote the reemployment of unemployed workers.  
 Sec. 2103. Improving program integrity by better recovery of overpayments.  
 Sec. 2104. Data exchange standardization for improved interoperability.  
 Sec. 2105. Drug testing of applicants.

**Subtitle B--Provisions Relating To Extended Benefits**

- Sec. 2121. Short title.  
 Sec. 2122. Extension and modification of emergency unemployment compensation program.  
 Sec. 2123. Temporary extension of extended benefit provisions.  
 Sec. 2124. Additional extended unemployment benefits under the Railroad Unemployment Insurance Act.

**Subtitle C--Improving Reemployment Strategies Under the Emergency Unemployment Compensation Program**

- Sec. 2141. Improved work search for the long-term unemployed.  
 Sec. 2142. Reemployment services and reemployment and eligibility assessment activities.  
 Sec. 2143. Promoting program integrity through better recovery of overpayments.  
 Sec. 2144. Restore State flexibility to improve unemployment program solvency.

**TITLE I--EXTENSION OF PAYROLL TAX REDUCTION**

SEC. 1001. EXTENSION OF PAYROLL TAX REDUCTION.

- (a) In General- Subsection (c) of section 601 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (26 U.S.C. 1401 note) is amended to read as follows:  
 '(c) Payroll Tax Holiday Period- The term 'payroll tax holiday period' means calendar years 2011 and 2012.'  
 (b) Conforming Amendments- Section 601 of such Act (26 U.S.C. 1401 note) is amended by striking subsections (f) and (g).  
 (c) Effective Date- The amendments made by this section shall apply to remuneration received, and taxable years beginning, after December 31, 2011.

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

SEC. 2001. SHORT TITLE.

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

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

SEC. 2101. CONSISTENT JOB SEARCH REQUIREMENTS.

(a) In General- Section 303(a) of the Social Security Act is amended by adding at the end the following:

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

(b) Effective Date- The amendment made by subsection (a) shall apply to weeks beginning after the end of the first session of the State legislature which begins after the date of enactment of this Act.

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

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

### “DEMONSTRATION PROJECTS

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

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

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

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

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

“(2) if a waiver under subsection (c) is requested, a statement describing the specific aspects of the project to which the waiver would apply and the reasons why such waiver is needed;

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

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

“(5) a description of the manner in which the State--

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

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

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

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

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

“(d) A demonstration project under this section--

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

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

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

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

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

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

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

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

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

Public notice under paragraph (2) may be provided through the Internet or other appropriate means. Any application under this section that has not been denied within the 30-day period described in paragraph (1) shall be deemed approved, and public notice of any approval under this sentence shall be provided within 10 days thereafter.

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

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

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

- (a) Use of Unemployment Compensation to Repay Overpayments- Section 3304(a)(4)(D) of the Internal Revenue Code of 1986 and section 303(g)(1) of the Social Security Act are each amended by striking `may' and inserting `shall'.
- (b) Use of Unemployment Compensation to Repay Federal Additional Compensation Overpayments- Section 303(g)(3) of the Social Security Act is amended by inserting `Federal additional compensation,' after `trade adjustment allowances,'.
- (c) Effective Date- The amendments made by this section shall apply to weeks beginning after the end of the first session of the State legislature which begins after the date of enactment of this Act.

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

(a) In General- Title IX of the Social Security Act is amended by adding at the end the following:

### **`DATA EXCHANGE STANDARDIZATION FOR IMPROVED INTEROPERABILITY**

#### **`Data Exchange Standards**

- `Sec. 911. (a)(1) The Secretary of Labor, in consultation with an interagency work group which shall be established by the Office of Management and Budget, and considering State and employer perspectives, shall, by rule, designate a data exchange standard for any category of information required under title III, title XII, or this title.
- `(2) Data exchange standards designated under paragraph (1) shall, to the extent practicable, be nonproprietary and interoperable.
- `(3) In designating data exchange standards under this subsection, the Secretary of Labor shall, to the extent practicable, incorporate--
- `(A) interoperable standards developed and maintained by an international voluntary consensus standards body, as defined by the Office of Management and Budget, such as the International Organization for Standardization;
  - `(B) interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model; and
  - `(C) interoperable standards developed and maintained by Federal entities with authority over contracting and financial assistance, such as the Federal Acquisition Regulations Council.

#### **`Data Exchange Standards for Reporting**

- `(b)(1) The Secretary of Labor, in consultation with an interagency work group established by the Office of Management and Budget, and considering State and employer perspectives, shall, by rule, designate data exchange standards to govern the reporting required under title III, title XII, or this title.
- `(2) The data exchange standards required by paragraph (1) shall, to the extent practicable--
- `(A) incorporate a widely accepted, nonproprietary, searchable, computer-readable format;
  - `(B) be consistent with and implement applicable accounting principles; and
  - `(C) be capable of being continually upgraded as necessary.
- `(3) In designating reporting standards under this subsection, the Secretary of Labor shall, to the extent practicable, incorporate existing nonproprietary standards, such as the eXtensible Markup Language.'
- (b) Effective Dates-
- (1) DATA EXCHANGE STANDARDS- The Secretary of Labor shall issue a proposed rule under section 911(a)(1) of the Social Security Act (as added by subsection (a)) within 12 months after the date of the enactment of this section, and shall issue a final rule under such section 911(a)(1), after public comment, within 24 months after such date of enactment.
  - (2) DATA REPORTING STANDARDS- The reporting standards required under section 911(b)(1) of such Act (as so added) shall become effective with respect to reports required in the first reporting period, after the effective date of the final rule referred to in paragraph (1) of this subsection, for which the authority for data collection and reporting is established or renewed under the Paperwork Reduction Act.

#### SEC. 2105. DRUG TESTING OF APPLICANTS.

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

- `(l)(1) Nothing in this Act or any other provision of Federal law shall be considered to prevent a State from enacting legislation to provide for--
- `(A) testing an applicant for unemployment compensation for the unlawful use of controlled substances as a condition for receiving such compensation, if such applicant--

- (i) was terminated from employment with the applicant's most recent employer (as defined under the State law) because of the unlawful use of controlled substances; or
    - (ii) is an individual for whom suitable work (as defined under the State law) is only available in an occupation that regularly conducts drug testing (as determined under regulations issued by the Secretary of Labor); or
  - (B) denying such compensation to such applicant on the basis of the result of the testing conducted by the State under legislation described in subparagraph (A).
- (2) For purposes of this subsection--
- (A) the term 'unemployment compensation' has the meaning given such term in subsection (d)(2)(A); and
  - (B) the term 'controlled substance' has the meaning given such term in section 102 of the Controlled Substances Act (21 U.S.C. 802).'

### **Subtitle B--Provisions Relating To Extended Benefits**

#### SEC. 2121. SHORT TITLE.

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

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

- (a) Extension- Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended--
- (1) in subsection (a)--
    - (A) by striking 'Except as provided in subsection (b), an' and inserting 'An'; and
    - (B) by striking 'March 6, 2012' and inserting 'January 2, 2013'; and
  - (2) by striking subsection (b) and inserting the following:
- (b) Termination- No compensation under this title shall be payable for any week subsequent to the last week described in subsection (a).'
- (b) Modifications Relating to Triggers-
- (1) FOR SECOND-TIER EMERGENCY UNEMPLOYMENT COMPENSATION- Section 4002(c) of such Act is amended--
    - (A) in the subsection heading, by striking 'Special Rule' and inserting 'Second-tier Emergency Unemployment Compensation';
    - (B) in paragraph (1), by striking 'At' and all that follows through 'augmented by an amount' and inserting 'If, at the time that the amount established in an individual's account under subsection (b) is exhausted or at any time thereafter, such individual's State is in an extended benefit period (as determined under paragraph (2)), such account shall be augmented by an amount (hereinafter 'second-tier emergency unemployment compensation')';
    - (C) by redesignating paragraph (2) as paragraph (4); and
    - (D) by inserting after paragraph (1) the following:
  - (2) EXTENDED BENEFIT PERIOD- For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if such a period would then be in effect for such State under such Act if--
    - (A) section 203(f) of the Federal-State Extended Unemployment Compensation Act of 1970 were applied to such State (regardless of whether the State by law had provided for such application); and
    - (B) such section 203(f)--
      - (i) were applied by substituting the applicable percentage under paragraph (3) for '6.5 percent' in paragraph (1)(A)(i) thereof; and
      - (ii) did not include the requirement under paragraph (1)(A)(ii) thereof.
  - (3) APPLICABLE PERCENTAGE- The applicable percentage under this paragraph is, for purposes of determining if a State is in an extended benefit period as of a date occurring in a week ending--
    - (A) before June 1, 2012, 0 percent; and
    - (B) after the last week under subparagraph (A), 6 percent.'
  - (2) FOR THIRD-TIER EMERGENCY UNEMPLOYMENT COMPENSATION- Section 4002(d) of such Act is amended--
    - (A) in paragraph (2)(A), by striking 'under such Act' and inserting 'under the Federal-State Extended Unemployment Compensation Act of 1970';
    - (B) in paragraph (2)(B)(ii)(I), by striking the matter after 'substituting' and before 'in paragraph (1)(A)(i) thereof' and inserting 'the applicable percentage under paragraph (3) for '6.5 percent';
    - (C) by redesignating paragraph (3) as paragraph (4); and
    - (D) by inserting after paragraph (2) the following:

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

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

`(B) after the last week under subparagraph (A), 7 percent.'

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

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

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

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

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

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

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

`(B) after the last week under subparagraph (A), 9 percent.'

(c) Modifications Relating to Weeks of Emergency Unemployment Compensation-

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

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

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

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

`(A) paragraph (1)(A) shall be applied by substituting `54 percent' for `80 percent'; and

`(B) paragraph (1)(B) shall be applied by substituting `14 weeks' for `20 weeks'.'

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

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

`(A) paragraph (1)(A) shall be applied by substituting `35 percent' for `50 percent'; and

`(B) paragraph (1)(B) shall be applied by substituting `9 times' for `13 times'.'

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

`(5) SPECIAL RULES RELATING TO AMOUNTS ADDED TO AN ACCOUNT-

`(A) MARCH TO MAY OF 2012-

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

`(I) paragraph (1)(A) shall be applied by substituting `62 percent' for `24 percent'; and

`(II) paragraph (1)(B) shall be applied by substituting `16 times' for `6 times'.

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

`(ii) LIMITATION- Notwithstanding any other provision of this title, the amounts added to the account of an individual under this subparagraph may not cause the sum of the amounts previously established in or added to such account, plus any weeks of extended benefits provided to such individual under the Federal-State Extended Unemployment Compensation Act of 1970 (based on the same exhaustion of regular compensation under section 4001(b)(1)), to in the aggregate exceed the lesser of--

`(I) 282 percent of the total amount of regular compensation (including dependents'

allowances) payable to the individual during the individual's benefit year under the State law; or

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

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

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

(ii) paragraph (1)(B) shall be applied by substituting '10 times' for '6 times'.

(d) Order of Payments Requirement-

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

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

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

(A) by striking 'or extended compensation'; and

(B) by striking 'law (except as provided under subsection (e));' and inserting 'law';

(e) Funding- Section 4004(e)(1) of such Act is amended--

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

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

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

(f) Effective Dates-

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

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

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

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

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

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

(b) Extension of Matching for States With No Waiting Week- Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110-449; 26 U.S.C. 3304 note) is amended by striking 'August 15, 2012' and inserting 'June 30, 2013'.

(c) Extension of Modification of Indicators Under the Extended Benefit Program- Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) is amended--

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

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

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

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

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

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

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

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

(c) Funding for Administration- Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Railroad Retirement Board \$500,000 for administrative expenses associated with the payment of additional extended



unemployment benefits provided under section 2(c)(2)(D) of the Railroad Unemployment Insurance Act by reason of the amendments made by subsection (a), to remain available until expended.

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

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

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

- (1) by striking `and' at the end of paragraph (2);
- (2) by striking the period at the end of paragraph (3) and inserting `; and'; and
- (3) by adding at the end the following:
- (4) are able to work, available to work, and actively seeking work.'

(b) Actively Seeking Work- Section 4001 of such Act is amended by adding at the end the following:

(h) Actively Seeking Work-

(1) IN GENERAL- For purposes of subsection (b)(4), the term `actively seeking work' means, with respect to any individual, that such individual--

- (A) is registered for employment services in such a manner and to such extent as prescribed by the State agency;
- (B) has engaged in an active search for employment that is appropriate in light of the employment available in the labor market, the individual's skills and capabilities, and includes a number of employer contacts that is consistent with the standards communicated to the individual by the State;
- (C) has maintained a record of such work search, including employers contacted, method of contact, and date contacted; and
- (D) when requested, has provided such work search record to the State agency.

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

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

(a) Provision of Services and Activities- Section 4001 of such Act, as amended by section 2141(b), is further amended by adding at the end the following:

(i) Provision of Services and Activities-

(1) IN GENERAL- An agreement under this section shall require the following:

- (A) The State which is party to such agreement shall provide reemployment services and reemployment and eligibility assessment activities to each individual--
  - (i) who, on or after the 30th day after the date of enactment of the Extended Benefits, Reemployment, and Program Integrity Improvement Act, begins receiving amounts described in subsections (b) and (c); and
  - (ii) while such individual continues to receive emergency unemployment compensation under this title.
- (B) As a condition of eligibility for emergency unemployment compensation for any week--
  - (i) a claimant who has been duly referred to reemployment services shall participate in such services; and
  - (ii) a claimant shall be actively seeking work (determined applying subsection (i)).

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

(A) shall include--

- (i) the provision of labor market and career information;
- (ii) an assessment of the skills of the individual;
- (iii) orientation to the services available through the one-stop centers established under title I of the Workforce Investment Act of 1998; and
- (iv) review of the eligibility of the individual for emergency unemployment compensation relating to the job search activities of the individual; and

(B) may include the provision of--

- (i) comprehensive and specialized assessments;
- (ii) individual and group career counseling;
- (iii) training services;
- (iv) additional reemployment services; and

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

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

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

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

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

(c) Funding-

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

(A) by striking 'States- There' and inserting the following: 'States-

(1) ADMINISTRATION- There'; and

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

(2) REEMPLOYMENT SERVICES AND REEMPLOYMENT AND ELIGIBILITY ASSESSMENT ACTIVITIES-

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

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

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

(ii) \$85.

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

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

(ii) \$85.!

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

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

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

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

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

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

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

(1) by striking 'may' and inserting 'shall'; and

(2) by striking 'except that' and all that follows through 'made' and inserting 'in accordance with the same procedures as apply to the recovery of overpayments of regular unemployment benefits paid by the State'.

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

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