

SUPPLEMENTAL APPROPRIATIONS ACT, 2008

[Title IV of Public 110–252; 26 U.S.C. 3304 note]

[As Amended Through P.L. 112–240, Enacted January 2, 2013]

【Currency: This publication is a compilation of the text of title IV of Public Law 110-252. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

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TITLE IV—EMERGENCY UNEMPLOYMENT COMPENSATION

FEDERAL-STATE AGREEMENTS

SEC. 4001. (a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the “Secretary”). Any State which is a party to an agreement under this title may, upon providing 30 days’ written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—Any agreement under subsection (a) shall provide that the State agency of the State will make payments of emergency unemployment compensation to individuals who—

(1) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before May 1, 2007);

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

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

(4) are able to work, available to work, and actively seeking work.

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

(1) no payments of regular compensation can be made under such law because such individual has received all reg-

ular compensation available to such individual based on employment or wages during such individual's base period; or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) WEEKLY BENEFIT AMOUNT, ETC.—For purposes of any agreement under this title—

(1) the amount of emergency unemployment compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to such individual during such individual's benefit year under the State law for a week of total unemployment;

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof (including terms and conditions relating to availability for work, active search for work, and refusal to accept work) shall apply to claims for emergency unemployment compensation and the payment thereof, except—

(A) that an individual shall not be eligible for emergency unemployment compensation under this title unless, in the base period with respect to which the individual exhausted all rights to regular compensation under the State law, the individual had 20 weeks of full-time insured employment or the equivalent in insured wages, as determined under the provisions of the State law implementing section 202(a)(5) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note); and

(B) where otherwise inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of emergency unemployment compensation payable to any individual for whom an emergency unemployment compensation account is established under section 4002 shall not exceed the amount established in such account for such individual.

(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.

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

(g) NONREDUCTION RULE.—An agreement under this section shall not apply (or shall cease to apply) with respect to a State

upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been modified in a manner such that—

(1) the average weekly benefit amount of regular compensation which will be payable during the period of the agreement occurring on or after June 2, 2010 (determined disregarding any additional amounts attributable to the modification described in section 2002(b)(1) of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111-5 (26 U.S.C. 3304 note; 123 Stat. 438)), will be less than

(2) 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.

(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.

(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.
- (j) AUTHORITY TO CONDUCT SELF-EMPLOYMENT ASSISTANCE PROGRAM.—
- (1) IN GENERAL.—
- (A) ESTABLISHMENT.—Any agreement under subsection (a) may provide that the State agency of the State shall establish a self-employment assistance program, as described in paragraph (2), to provide for the payment of emergency unemployment compensation as self-employment assistance allowances to individuals who would otherwise satisfy the eligibility criteria specified in subsection (b).
- (B) PAYMENT OF ALLOWANCES.—Subject to subparagraph (C), the self-employment assistance allowance described in subparagraph (A) shall be paid to an eligible in-

dividual from such individual's emergency unemployment compensation account, as described in section 4002, and the amount in such account shall be reduced accordingly.

(C) LIMITATION ON SELF-EMPLOYMENT ASSISTANCE FOR INDIVIDUALS RECEIVING EXTENDED COMPENSATION AND EMERGENCY UNEMPLOYMENT COMPENSATION.—

(i) COMBINED ELIGIBILITY LIMIT.—Subject to clause (ii), for purposes of self-employment assistance programs established under this subsection and section 208 of the Federal-State Extended Unemployment Compensation Act of 1970, an individual shall be provided with self-employment assistance allowances under such programs for a total of not greater than 26 weeks (referred to in this subsection as the “combined eligibility limit”).

(ii) CARRYOVER RULE.—For purposes of an individual who is participating in a self-employment assistance program established under this subsection and has not reached the combined eligibility limit as of the date on which such individual exhausts all rights to extended compensation under this title, the individual shall be eligible to receive self-employment assistance allowances under a self-employment assistance program established under section 208 of the Federal-State Extended Unemployment Compensation Act of 1970 until such individual has reached the combined eligibility limit, provided that the individual otherwise satisfies the eligibility criteria described under title II of such Act.

(2) DEFINITION OF “SELF-EMPLOYMENT ASSISTANCE PROGRAM”.—For the purposes of this section, the term “self-employment assistance program” means a program as defined under section 3306(t) of the Internal Revenue Code of 1986, except as follows:

(A) all references to “regular unemployment compensation under the State law” shall be deemed to refer instead to “emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008”;

(B) paragraph (3)(B) shall not apply;

(C) clause (i) of paragraph (3)(C) shall be deemed to state as follows:

“(i) include any entrepreneurial training that the State or non-profit organizations may provide in coordination with programs of training offered by the Small Business Administration, which may include business counseling, mentorship for participants, access to small business development resources, and technical assistance; and”;

(D) the reference to “5 percent” in paragraph (4) shall be deemed to refer instead to “1 percent”; and

(E) paragraph (5) shall not apply.

(3) AVAILABILITY OF SELF-EMPLOYMENT ASSISTANCE ALLOWANCES.—In the case of an individual who is eligible to receive emergency unemployment compensation payment under this

title, such individual shall not receive self-employment assistance allowances under this subsection unless the State agency has a reasonable expectation that such individual will be entitled to at least 13 times the individual's average weekly benefit amount of extended compensation and emergency unemployment compensation.

(4) PARTICIPANT OPTION TO TERMINATE PARTICIPATION IN SELF-EMPLOYMENT ASSISTANCE PROGRAM.—

(A) TERMINATION.—An individual who is participating in a self-employment assistance program established under this subsection may elect to discontinue participation in such program at any time.

(B) CONTINUED ELIGIBILITY FOR EMERGENCY UNEMPLOYMENT COMPENSATION.—For purposes of an individual whose participation in the self-employment assistance program established under this subsection is terminated pursuant to paragraph (1)(C) or who has discontinued participation in such program, if the individual continues to satisfy the eligibility requirements for emergency unemployment compensation under this title, the individual shall receive emergency unemployment compensation payments with respect to subsequent weeks of unemployment, to the extent that amounts remain in the account established for such individual under section 4002(b) or to the extent that such individual commences receiving the amounts described in subsections (c), (d), or (e) of such section, respectively.

EMERGENCY UNEMPLOYMENT COMPENSATION ACCOUNT

SEC. 4002. (a) IN GENERAL.—Any agreement under this title shall provide that the State will establish, for each eligible individual who files an application for emergency unemployment compensation, an emergency unemployment compensation account with respect to such individual's benefit year.

(b) AMOUNT IN ACCOUNT.—

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

(A) 80 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under such law, or

(B) 20 times the individual's average weekly benefit amount for the benefit year.

(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".

(3) WEEKLY BENEFIT AMOUNT.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

(c) SECOND-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.—

(1) IN GENERAL.—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") equal to the lesser of—

(A) 54 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

(B) 14 times the individual's average weekly benefit amount (as determined under subsection (b)(2)) for the benefit year.

(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.

(4) LIMITATION.—The account of an individual may be augmented not more than once under this subsection.

(d) THIRD-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.—

(1) IN GENERAL.—If, at the time that the amount added to an individual's account under subsection (c)(1) (hereinafter "third-tier emergency unemployment compensation") 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 further augmented by an amount (hereinafter "third-tier emergency unemployment compensation") equal to the lesser of—

- (A) 50 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
- (B) 13 times the individual's average weekly benefit amount (as determined under subsection (b)(2)) for the benefit year.
- (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—
- (A) such a period would then be in effect for such State under the Federal-State Extended Unemployment Compensation Act of 1970 if section 203(d) of such Act—
- (i) were applied by substituting “4” for “5” each place it appears; and
- (ii) did not include the requirement under paragraph (1)(A) thereof; or
- (B) such a period would then be in effect for such State under such Act if—
- (i) section 203(f) of such Act were applied to such State (regardless of whether the State by law had provided for such application); and
- (ii) 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, 6 percent; and
- (B) after the last week under subparagraph (A), 7 percent.
- (4) LIMITATION.—The account of an individual may be augmented not more than once under this subsection.
- (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”.
- (e) FOURTH-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.—
- (1) IN GENERAL.—If, at the time that the amount added to an individual's account under subsection (d)(1) (third-tier emergency unemployment compensation) 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 further augmented by an amount (hereinafter “fourth-

tier emergency unemployment compensation”) equal to the lesser of—

(A) 24 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

(B) 6 times the individual’s average weekly benefit amount (as determined under subsection (b)(2)) for the benefit year.

(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—

(A) such a period would then be in effect for such State under the Federal-State Extended Unemployment Compensation Act of 1970 if section 203(d) of such Act—

(i) were applied by substituting “6” for “5” each place it appears; and

(ii) did not include the requirement under paragraph (1)(A) thereof; or

(B) such a period would then be in effect for such State under such Act if—

(i) section 203(f) of such Act were applied to such State (regardless of whether the State by law had provided for such application); and

(ii) 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, 8.5 percent; and

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

(4) LIMITATION.—The account of an individual may be augmented not more than once under this subsection.

(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".

(f) **COORDINATION RULES.**—

(1) **COORDINATION WITH EXTENDED COMPENSATION.**—Notwithstanding an election under section 4001(e) by a State to provide for the payment of emergency unemployment compensation prior to extended compensation, such State may pay extended compensation to an otherwise eligible individual prior to any emergency unemployment compensation under subsection (c), (d), or (e) (by reason of the amendments made by sections 2, 3, and 4 of the Worker, Homeownership, and Business Assistance Act of 2009), if such individual claimed extended compensation for at least 1 week of unemployment after the exhaustion of emergency unemployment compensa-

tion under subsection (b) (as such subsection was in effect on the day before the date of the enactment of this subsection).

(2) COORDINATION WITH TIERS II, III, AND IV.—If a State determines that implementation of the increased entitlement to second-tier emergency unemployment compensation by reason of the amendments made by section 2 of the Worker, Homeownership, and Business Assistance Act of 2009 would unduly delay the prompt payment of emergency unemployment compensation under this title by reason of the amendments made by such Act, such State may elect to pay third-tier emergency unemployment compensation prior to the payment of such increased second-tier emergency unemployment compensation until such time as such State determines that such increased second-tier emergency unemployment compensation may be paid without such undue delay. If a State makes the election under the preceding sentence, then, for purposes of determining whether an account may be augmented for fourth-tier emergency unemployment compensation under subsection (e), such State shall treat the date of exhaustion of such increased second-tier emergency unemployment compensation as the date of exhaustion of third-tier emergency unemployment compensation, if such date is later than the date of exhaustion of the third-tier emergency unemployment compensation.

(g) COORDINATION OF EMERGENCY UNEMPLOYMENT COMPENSATION WITH REGULAR COMPENSATION.—

(1) If—

(A) an individual has been determined to be entitled to emergency unemployment compensation with respect to a benefit year,

(B) that benefit year has expired,

(C) that individual has remaining entitlement to emergency unemployment compensation with respect to that benefit year, and

(D) that individual would qualify for a new benefit year in which the weekly benefit amount of regular compensation is at least either \$100 or 25 percent less than the individual's weekly benefit amount in the benefit year referred to in subparagraph (A),

then the State shall determine eligibility for compensation as provided in paragraph (2).

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

(A) The State shall, if permitted by State law, establish a new benefit year, but defer the payment of regular compensation with respect to that new benefit year until exhaustion of all emergency unemployment compensation payable with respect to the benefit year referred to in paragraph (1)(A);

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

graph), until exhaustion of all 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) emergency unemployment compensation equal to the difference between that weekly benefit amount and the weekly benefit amount for the expired benefit year; or

(D) The State shall determine rights to 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.

PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF
EMERGENCY UNEMPLOYMENT COMPENSATION

SEC. 4003. (a) GENERAL RULE.—There shall be paid to each State that has entered into an agreement under this title an amount equal to 100 percent of the emergency unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) TREATMENT OF REIMBURSABLE COMPENSATION.—No payment shall be made to any State under this section in respect of any compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this title or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this title in respect of such compensation.

(c) DETERMINATION OF AMOUNT.—Sums payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

FINANCING PROVISIONS

SEC. 4004. (a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a)) of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a))) shall be used for the making of payments to States having agreements entered into under this title.

(b) **CERTIFICATION.**—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the Government Accountability Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as so established) to the account of such State in the Unemployment Trust Fund (as so established).

(c) **ASSISTANCE TO STATES.**—

(1) **ADMINISTRATION.**—There are appropriated out of the employment security administration account (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a)) of the Unemployment 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 title.

(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 2014, 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.

(d) **APPROPRIATIONS FOR CERTAIN PAYMENTS.**—There are appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as so established) of the Unemployment Trust Fund (as so established) such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

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

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

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

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

(1) to the extended unemployment compensation account (as established by section 905 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary to make payments to States under this title by reason of—

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

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

(C) the amendments made by section 1009(a)(1) of the Department of Defense Appropriations Act, 2010;

(D) the amendments made by section 2(a)(1) of the Temporary Extension Act of 2010;

(E) the amendments made by section 2(a)(1) of the Continuing Extension Act of 2010;

(F) the amendments made by section 2(a)(1) of the Unemployment Compensation Extension Act of 2010;

(G) the amendments made by section 501(a)(1) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010;

(H) the amendments made by section 201(a)(1) of the Temporary Payroll Tax Cut Continuation Act of 2011;

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

(J) the amendments made by section 501(a) of the American Taxpayer Relief Act of 2012;

(2) to the employment security administration account (as established by section 901 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary for purposes of assisting States in meeting administrative costs by reason of the amendments referred to in paragraph (1); and

(3)¹ 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).

¹The placement of paragraph (3) reflects the probable intent of Congress. Section 2142(c)(2)(C) of Public Law 112-96 adds this paragraph at the end of subsection (e) but probably should have been to insert the new paragraph after paragraph (2) because such subsection contains continuation text at the end.

There are appropriated from the general fund of the Treasury, without fiscal year limitation, the sums referred to in the preceding sentence and such sums shall not be required to be repaid.

FRAUD AND OVERPAYMENTS

SEC. 4005. (a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of emergency unemployment compensation under this title to which such individual was not entitled, such individual—

(1) shall be ineligible for further emergency unemployment compensation under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

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

(b) REPAYMENT.—In the case of individuals who have received amounts of emergency unemployment compensation under this title to which they were not entitled, the State shall require such individuals to repay the amounts of such emergency unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such emergency unemployment compensation was without fault on the part of any such individual; and

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

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency shall recover the amount to be repaid, or any part thereof, by deductions from any emergency unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any State or Federal unemployment compensation law administered by the State agency or under any other State or Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the emergency unemployment compensation to which they were not entitled, in accordance with the same procedures as apply to the recovery of overpayments of regular unemployment benefits paid by the State.

(2) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the

same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

DEFINITIONS

SEC. 4006. In this title, the terms “compensation”, “regular compensation”, “extended compensation”, “benefit year”, “base period”, “State”, “State agency”, “State law”, and “week” have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

APPLICABILITY

SEC. 4007. (a) IN GENERAL.—An agreement entered into under this title shall apply to weeks of unemployment—

- (1) beginning after the date on which such agreement is entered into; and
- (2) ending on or before January 1, 2014.

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