

110TH CONGRESS
1ST SESSION

S. 1871

To provide for special transfers of funds to States to promote certain improvements in State unemployment compensation laws.

IN THE SENATE OF THE UNITED STATES

JULY 25, 2007

Mr. KENNEDY (for himself, Ms. SNOWE, Mr. ROCKEFELLER, Mr. WARNER, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide for special transfers of funds to States to promote certain improvements in State unemployment compensation laws.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Unemployment Insur-
5 ance Modernization Act”.

1 **SEC. 2. SPECIAL TRANSFERS TO STATE ACCOUNTS IN THE**
2 **UNEMPLOYMENT TRUST FUND.**

3 (a) IN GENERAL.—Section 903 of the Social Security
4 Act (42 U.S.C. 1103) is amended by adding at the end
5 the following:

6 “Special Transfers in Fiscal Years 2008 Through 2012

7 “(f)(1)(A) In addition to any other amounts, the Sec-
8 retary of Labor shall provide for the making of unemploy-
9 ment compensation modernization incentive payments (in
10 this subsection referred to as ‘incentive payments’) to the
11 accounts of the States in the Unemployment Trust Fund,
12 by transfer from amounts reserved for that purpose in the
13 Federal unemployment account, in accordance with suc-
14 ceeding provisions of this subsection.

15 “(B) Subject to paragraph (5), the maximum incen-
16 tive payment allowable under this subsection with respect
17 to any State shall, as determined by the Secretary of
18 Labor, be equal to the amount obtained by multiplying
19 \$7,000,000,000 times the same ratio as is applicable
20 under subsection (a)(2)(B) for purposes of determining
21 such State’s share of any funds to be transferred under
22 subsection (a) as of October 1, 2007.

23 “(C) Of the maximum incentive payment determined
24 under subparagraph (B) with respect to a State—

25 “(i) one-third shall be transferred upon a cer-
26 tification under paragraph (4)(B) that the State law

1 of such State meets the requirements of paragraph
2 (2); and

3 “(ii) the remainder shall be transferred upon a
4 certification under paragraph (4)(B) that the State
5 law of such State meets the requirements of para-
6 graph (3).

7 “(2) The State law of a State meets the requirements
8 of this paragraph if such State law—

9 “(A) uses a base period that includes the most
10 recently completed calendar quarter before the start
11 of the benefit year for purposes of determining eligi-
12 bility for unemployment compensation; or

13 “(B) provides that, in the case of an individual
14 who would not otherwise be eligible for unemploy-
15 ment compensation under the State law because of
16 the use of a base period that does not include the
17 most recently completed calendar quarter before the
18 start of the benefit year, eligibility shall be deter-
19 mined using a base period that includes such cal-
20 endar quarter.

21 “(3) The State law of a State meets the requirements
22 of this paragraph if such law includes provisions to carry
23 out at least 2 of the following subparagraphs:

24 “(A) An individual shall not be denied com-
25 pensation under any State law provisions relating to

1 availability for work, active search for work, or re-
2 fusal to accept work, solely because such individual
3 is seeking only part-time (and not full-time) work,
4 except that such law may provide for the provisions
5 carrying out this subparagraph to require up to, but
6 not to exceed, a majority of weeks of work of such
7 individual's base period to consist of part-time em-
8 ployment.

9 “(B) An individual shall not be disqualified
10 from compensation for separating from work for
11 compelling family reasons, which, for purposes of
12 this subparagraph, shall include at least the fol-
13 lowing:

14 “(i) A separation from employment in
15 which domestic violence causes the individual
16 reasonably to believe that such separation is
17 necessary for the safety of the individual or the
18 individual's family, as verified by such reason-
19 able and confidential documentation that may
20 be required by the State.

21 “(ii) A separation from employment result-
22 ing from the illness or disability of a member
23 of the individual's immediate family.

1 “(iii) A separation from employment re-
2 sulting from the individual’s need to accompany
3 a spouse—

4 “(I) to a place from which it is im-
5 practical for such individual to commute;
6 and

7 “(II) due to a change in location of
8 the spouse’s employment.

9 “(C) Weekly unemployment compensation is
10 payable under this subparagraph to any individual
11 who is unemployed (as determined under the State
12 unemployment compensation law), has exhausted all
13 rights to regular and (if applicable) extended unem-
14 ployment compensation under the State law, and is
15 enrolled and making satisfactory progress in a
16 State-approved training program or in a job training
17 program authorized under the Workforce Investment
18 Act of 1998. Such program shall prepare individuals
19 who have been separated from a declining occupa-
20 tion, or who have been involuntarily and indefinitely
21 separated from employment as a result of a perma-
22 nent reduction of operations at the individual’s place
23 of employment, for entry into a high-demand occu-
24 pation. In addition, such program may prepare other
25 unemployed individuals deemed eligible by the State.

1 The amount of unemployment compensation payable
2 under this subparagraph to an individual for a week
3 of unemployment shall be equal to the individual's
4 average weekly benefit amount (including depend-
5 ents' allowances) for the most recent benefit year,
6 and the total amount of unemployment compensa-
7 tion payable under this subparagraph to any indi-
8 vidual shall be equal to at least 26 times the individ-
9 ual's average weekly benefit amount (including de-
10 pendents' allowances) for the most recent benefit
11 year.

12 “(D) The maximum amount of compensation—

13 “(i) payable to the individual during a ben-
14 efit year is equal to at least 26 times the indi-
15 vidual's weekly benefit amount; or

16 “(ii) the individual receives during a ben-
17 efit year exceeds half of the individual's total
18 wages during the base period.

19 A State shall not be considered to satisfy clause (i)
20 if it reduced the maximum weekly benefit amount of
21 compensation payable to an individual during a ben-
22 efit year below the amount that was in effect as of
23 the date of enactment of this subsection.

24 “(E) Dependents' allowances are provided to all
25 individuals with a dependent (as defined by State

1 law) equal to at least \$15 per dependent per week,
2 subject to any aggregate limitation on such allow-
3 ances which the State law may establish (but which
4 aggregate limitation on the total allowance for de-
5 pendants paid to an individual may not be less than
6 the lesser of \$50 for each week of unemployment or
7 50 percent of the individual's weekly benefit amount
8 for the benefit year).

9 “(4)(A) Any State seeking an incentive payment
10 under this subsection shall submit an application therefor
11 at such time and in such manner as the Secretary of
12 Labor shall by regulation prescribe. Such application shall
13 include information on how the State intends to use incen-
14 tive payments to improve or strengthen the State's unem-
15 ployment compensation program. The Secretary of Labor
16 shall, within 90 days after receiving any such application,
17 notify the State agency of the State as to the Secretary's
18 findings with respect to the requirements of paragraph (2)
19 or (3) (as the case may be).

20 “(B) If the Secretary of Labor finds that the State
21 law provisions (disregarding any State law provisions
22 which are not then currently in effect or which are subject
23 to discontinuation under certain conditions) meet the re-
24 quirements of paragraph (2) or (3) (as the case may be)
25 and that unemployment compensation claimants have

1 begun to qualify for benefits under such requirements, the
2 Secretary of Labor shall thereupon make a certification
3 to that effect to the Secretary of the Treasury, together
4 with a certification as to the amount of the incentive pay-
5 ment to be transferred to the State account pursuant to
6 that finding. The Secretary of the Treasury shall make
7 the appropriate transfer within 30 days after receiving
8 such certification.

9 “(C)(i) No certification of compliance with the re-
10 quirements of paragraph (2) or (3) may be made with re-
11 spect to any State whose State law is not otherwise eligible
12 for certification under section 303 or approvable under
13 section 3304 of the Federal Unemployment Tax Act.

14 “(ii) No certification of compliance with the require-
15 ments of paragraph (3) may be made with respect to any
16 State whose State law is not in compliance with the re-
17 quirements of paragraph (2).

18 “(iii) No application under subparagraph (A) may be
19 considered if submitted before October 1, 2007, or after
20 the latest date by which it must be submitted (as specified
21 by the Secretary of Labor in regulations) to ensure that
22 all incentive payments under this subsection are made be-
23 fore October 1, 2012.

24 “(5)(A) If the Secretary of Labor determines, within
25 30 days after the deadline described in paragraph

1 (4)(C)(iii), that there are amounts reserved for incentive
2 payments under paragraph (7) for which the Secretary of
3 the Treasury has not received a certification under para-
4 graph (4)(B), from such amounts—

5 “(i) first, 10 percent of such amounts shall be
6 made available for transfer to the accounts of States
7 under subsection (g); and

8 “(ii) second, from the remainder of such
9 amounts, incentive payments that are in addition to
10 those made under paragraph (1) shall be made to
11 States described in subparagraph (E).

12 “(B)(i) The amount of additional incentive payments
13 to a State under subparagraph (A)(ii) shall be an amount
14 equal to the sum of—

15 “(I) the amount obtained by multiplying the
16 total amount determined by the Secretary of Labor
17 under subparagraph (A) (after application of clause
18 (i) of such subparagraph) times the same ratio as is
19 applicable under subsection (a)(2)(B) for purposes
20 of determining such State’s share of any funds to be
21 transferred under subsection (a) as of October 1,
22 2007; and

23 “(II) an amount equal to the total amount de-
24 termined by the Secretary of Labor under subpara-
25 graph (A) (after application of clause (i) of such

1 subparagraph) less the total amount of additional in-
2 centive payments under subclause (I) for all States,
3 divided by the total number of States receiving addi-
4 tional incentive payments.

5 “(ii) In no case may the amount of an additional in-
6 centive payment transferred to a State under this para-
7 graph exceed an amount equal to 2 times the total amount
8 of the incentive payment transferred to the State under
9 paragraph (1)(C).

10 “(C) For each State described in subparagraph (E),
11 the Secretary shall make a certification to that effect to
12 the Secretary of the Treasury, together with a certification
13 as to the amount of the additional incentive payment to
14 be transferred to the State account pursuant this para-
15 graph. The Secretary of the Treasury shall make the ap-
16 propriate transfer within 30 days after receiving such cer-
17 tification.

18 “(D) The Secretary of Labor shall certify to the Sec-
19 retary of the Treasury the amount to be made available
20 for transfer under subparagraph (A)(i).

21 “(E) For purposes of subparagraph (A), a State is
22 described in this subparagraph if the Secretary of the
23 Treasury received a certification under paragraph (4)(B)
24 that the State law of such State meets the requirements
25 of paragraphs (2) and (3).

1 “(6)(A) Except as provided in subparagraph (B),
2 amounts transferred to a State account pursuant to para-
3 graphs (4)(B) and (5)(C) may be used only in the pay-
4 ment of cash benefits to individuals with respect to their
5 unemployment.

6 “(B) A State may, subject to the same conditions as
7 set forth in subsection (c)(2) (excluding subparagraph (B)
8 thereof, and deeming the reference to ‘subsections (a) and
9 (b)’ in subparagraph (D) thereof to include this sub-
10 section), use any amount transferred to the account of
11 such State under paragraphs (4)(B) and (5)(C) for the
12 administration of its unemployment compensation law and
13 public employment offices.

14 “(7) Out of any money in the Federal unemployment
15 account not otherwise appropriated, the Secretary of the
16 Treasury shall reserve \$7,000,000,000 to carry out this
17 subsection. For purposes of section 902, the net balance
18 in the Federal unemployment account as of any time is
19 the amount in such account as of such time reduced by
20 an amount equal to the total amount so reserved less the
21 total of the incentive payments transferred under this sub-
22 section (and the total amount transferred under para-
23 graph (5)(A)(i)) as of such time.

1 “Special Transfers in Fiscal Years 2008 Through 2012

2 “(g)(1) Notwithstanding any other provision of this
3 section, the total amount available for transfer to the ac-
4 counts of the States pursuant to subsection (a) as of the
5 beginning of each of fiscal years 2008, 2009, 2010, 2011,
6 and 2012 shall be equal to the total amount which (dis-
7 regarding this subsection) would otherwise be so available,
8 increased by \$100,000,000 (or, in the case of fiscal year
9 2012, \$100,000,000 plus the amount made available for
10 transfer under subsection (f)(5)(A)(i)).

11 “(2) Each State’s share of any additional amount
12 made available by this subsection shall be determined, cer-
13 tified, and computed in the same manner as described in
14 subsection (a)(2) and shall be subject to the same limita-
15 tions on transfers as described in subsection (b). For pur-
16 poses of applying subsection (b)(2), the balance of any ad-
17 vances made to a State under section 1201 shall be cred-
18 ited against, and operate to reduce (but not below zero)—

19 “(A) first, any additional amount which, as a
20 result of the enactment of this subsection, is to be
21 transferred to the account of such State in a fiscal
22 year; and

23 “(B) second, any amount which (disregarding
24 this subsection) is otherwise to be transferred to the

1 account of such State pursuant to subsections (a)
2 and (b) in such fiscal year.

3 “(3) Any additional amount transferred to the ac-
4 count of a State as a result of the enactment of this sub-
5 section—

6 “(A) may be used by the State agency of such
7 State only in the payment of expenses incurred by
8 it for—

9 “(i) the administration of the provisions of
10 its State law carrying out the purposes of sub-
11 section (f)(2) or any subparagraph of sub-
12 section (f)(3);

13 “(ii) improved outreach to individuals who
14 might be eligible for compensation by virtue of
15 any provisions of the State law which are de-
16 scribed in clause (i);

17 “(iii) the improvement of unemployment
18 benefit and unemployment tax operations; and

19 “(iv) staff-assisted reemployment services
20 for unemployment insurance claimants; and

21 “(B) shall be excluded from the application of
22 subsection (c).

23 “(4) The total additional amount made available by
24 this subsection in a fiscal year shall be taken out of the
25 amounts remaining in the employment security adminis-

1 tration account after subtracting the total amount which
2 (disregarding this subsection) is otherwise required to be
3 transferred from such account in such fiscal year pursuant
4 to subsections (a) and (b).”.

5 (b) REGULATIONS.—The Secretary of Labor may
6 prescribe any regulations necessary to carry out the
7 amendment made by subsection (a).

8 **SEC. 3. EXTENSION OF FUTA TAX.**

9 Section 3301 of the Internal Revenue Code of 1986
10 (relating to rate of tax) is amended—

11 (1) by striking “2007” in paragraph (1) and in-
12 serting “2012”, and

13 (2) by striking “2008” in paragraph (2) and in-
14 serting “2013”.

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