

112TH CONGRESS
1ST SESSION

S. 386

To provide assistance to certain employers and States in 2011 and 2012, to improve the long-term solvency of the Unemployment Compensation program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 17, 2011

Mr. DURBIN (for himself, Mr. REED, and Mr. BROWN of Ohio) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide assistance to certain employers and States in 2011 and 2012, to improve the long-term solvency of the Unemployment Compensation program, and for other purposes.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Unemployment Insurance Solvency Act of 2011”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Extension of assistance for States with advances.
- Sec. 3. Reduction in the rate of employer taxes.

Sec. 4. Modifications of employer credit reductions.

Sec. 5. Increase in the taxable wage base.

Sec. 6. Voluntary State agreements to abate principal on Federal loans.

Sec. 7. Rewards and incentives for solvent States and employers in those States.

1 **SEC. 2. EXTENSION OF ASSISTANCE FOR STATES WITH AD-**
 2 **VANCES.**

3 (a) IN GENERAL.—Section 1202(b)(10)(A) of the So-
 4 cial Security Act (42 U.S.C. 1322(b)(10)(A)) is amended
 5 by striking “2010” and inserting “2012” in the matter
 6 preceding clause (i).

7 (b) EFFECTIVE DATE.—The amendment made by
 8 this section shall take effect as if included in the enact-
 9 ment of section 2004 of the Assistance for Unemployed
 10 Workers and Struggling Families Act (Public Law 111–
 11 5; 123 Stat. 443).

12 **SEC. 3. REDUCTION IN THE RATE OF EMPLOYER TAXES.**

13 (a) IN GENERAL.—Section 3301 of the Internal Rev-
 14 enue Code of 1986 is amended—

15 (1) in paragraph (1), by striking “2010 and the
 16 first 6 months of calendar year 2011” and inserting
 17 “2013”; and

18 (2) in paragraph (2), by striking “6.0 percent
 19 in the case of the remainder of calendar year 2011”
 20 and inserting “5.78 percent in the case of calendar
 21 year 2014”.

22 (b) EFFECTIVE DATE.—The amendments made by
 23 this section shall take effect on the earlier of—

1 (1) the date of the enactment of this Act; or

2 (2) July 1, 2011.

3 **SEC. 4. MODIFICATIONS OF EMPLOYER CREDIT REDUC-**
4 **TIONS.**

5 (a) **LIMIT ON TOTAL CREDITS.**—Section 3302(c) of
6 the Internal Revenue Code of 1986 is amended—

7 (1) in paragraph (1), by striking “90 percent of
8 the tax against which such credits are allowable”
9 and inserting “an amount equal to 5.4 percent of
10 the total wages (as defined in section 3306(b)) paid
11 by such taxpayer during the calendar year with re-
12 spect to employment (as defined in section
13 3306(e))”; and

14 (2) in paragraph (2)—

15 (A) by striking subparagraphs (B) and (C)
16 and the flush matter following subparagraph
17 (C);

18 (B) by striking “(2) If” and inserting
19 “(2)(A) If”;

20 (C) by striking “(A)(i) in” and inserting
21 “(i) in”;

22 (D) in clause (i) of subparagraph (A), as
23 redesignated by subparagraph (C), by striking
24 “5 percent of the tax imposed by section 3301
25 with respect to the wages paid by such taxpayer

1 during such taxable year which are attributable
2 to such State” and inserting “an amount equal
3 to 0.3 percent of the total wages (as defined in
4 section 3306(b)) paid by such taxpayer during
5 the calendar year with respect to employment
6 (as defined in section 3306(c))”;

7 (E) in clause (ii) of subparagraph (A)—

8 (i) by moving such clause 2 ems to
9 the left;

10 (ii) by striking “5 percent, for each
11 such succeeding taxable year, of the tax
12 imposed by section 3301 with respect to
13 the wages paid by such taxpayer during
14 such taxable year which are attributable to
15 such State;” and inserting “an amount
16 equal to 0.3 percent of the total wages (as
17 defined in section 3306(b)) paid by such
18 taxpayer during the calendar year with re-
19 spect to employment (as defined in section
20 3306(c)), for each succeeding taxable
21 year;”; and

22 (iii) by striking the semicolon at the
23 end and inserting a period; and

24 (F) by adding at the end the following new
25 subparagraph:

1 “(B) The provisions of subparagraph (A) shall
2 be applied with respect to the taxable year beginning
3 January 1, 2011, or any succeeding taxable year by
4 deeming January 1, 2013, to be the first January 1
5 occurring after January 1, 2010. For purposes of
6 subparagraph (A), consecutive taxable years in the
7 period commencing January 1, 2013, shall be deter-
8 mined as if the taxable year which begins on Janu-
9 ary 1, 2013, were the taxable year immediately suc-
10 ceeding the taxable year which began on January 1,
11 2010. No taxpayer shall be subject to credit reduc-
12 tions under this paragraph for taxable years begin-
13 ning January 1, 2011, and January 1, 2012.”.

14 (b) DEFINITIONS AND SPECIAL RULES.—Section
15 3302(d) of the Internal Revenue Code of 1986 is amend-
16 ed—

17 (1) by striking paragraphs (1), (4), (5), (6),
18 and (7); and

19 (2) by redesignating paragraphs (2) and (3) as
20 paragraphs (1) and (2), respectively.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect as if enacted on January 1,
23 2011.

1 **SEC. 5. INCREASE IN THE TAXABLE WAGE BASE.**

2 (a) IN GENERAL.—Section 3306 of the Internal Rev-
3 enue Code of 1986 is amended—

4 (1) in subsection (b), by striking “\$7,000” both
5 places it appears and inserting “the applicable wage
6 base amount (as defined in subsection (v)(1))”; and

7 (2) by adding at the end the following new sub-
8 section:

9 “(v) APPLICABLE WAGE BASE AMOUNT.—

10 “(1) IN GENERAL.—For purposes of subsection
11 (b)(1), the term ‘applicable wage base amount’
12 means—

13 “(A) for a calendar year before calendar
14 year 2014, \$7,000;

15 “(B) for calendar year 2014, \$15,000; and

16 “(C) for calendar years beginning on or
17 after January 1, 2015, the amount determined
18 under paragraph (2).

19 “(2) AMOUNT FOR CALENDAR YEAR 2015 AND
20 THEREAFTER.—

21 “(A) AMOUNT.—

22 “(i) IN GENERAL.—For purposes of
23 paragraph (1)(C), the amount determined
24 under this paragraph for a calendar year is
25 an amount equal to the product of—

1 “(I) the amount of average wage
2 growth for the year (as determined in
3 accordance with subparagraph (B));
4 and

5 “(II) the applicable wage base
6 amount for the preceding calendar
7 year.

8 “(ii) ROUNDING.—If the amount de-
9 termined under clause (i) is not a multiple
10 of \$100, such amount shall be rounded to
11 the next higher multiple of \$100.

12 “(B) AVERAGE WAGE GROWTH.—

13 “(i) IN GENERAL.—For purposes of
14 subparagraph (A), the amount of annual
15 wage growth for a calendar year shall be
16 determined by dividing the average annual
17 wage in the United States for the 12-
18 month period ending on the June 30 of the
19 preceding calendar year by the average an-
20 nual wage in the United States for the 12-
21 month period ending on the second prior
22 June 30, and rounding such ratio to the
23 fifth decimal place.

24 “(ii) AVERAGE ANNUAL WAGE.—For
25 purposes of clause (i), using data from the

1 Quarterly Census of Employment and
 2 Wages (or a successor program), the aver-
 3 age annual wage for a 12-month period
 4 shall be determined by dividing the total
 5 covered wages subject to contributions
 6 under all State unemployment compensa-
 7 tion laws for such period by the average
 8 covered employment subject to contribu-
 9 tions under all State unemployment com-
 10 pensation laws for such period, and round-
 11 ing the result to the nearest whole dollar.”.

12 (b) EFFECTIVE DATE.—The amendments made by
 13 this section shall take effect on the date of the enactment
 14 of this Act.

15 **SEC. 6. VOLUNTARY STATE AGREEMENTS TO ABATE PRIN-**
 16 **CIPAL ON FEDERAL LOANS.**

17 (a) IN GENERAL.—Section 1203 of the Social Secu-
 18 rity Act (42 U.S.C. 1323) is amended—

19 (1) by inserting “(a) ADVANCES.—” after
 20 “1203”; and

21 (2) by adding at the end the following new sub-
 22 section:

23 “(b) VOLUNTARY ABATEMENT AGREEMENTS.—

24 “(1) IN GENERAL.—The governor of any State
 25 that has outstanding repayable advances from the

1 Federal unemployment account pursuant to sub-
2 section (a) may apply to the Secretary of Labor to
3 enter into a voluntary principal abatement agree-
4 ment.

5 “(2) CONTENTS OF APPLICATION.—An applica-
6 tion described in paragraph (1) shall include a plan
7 that, based upon reasonable economic projections,
8 describes how the State will, within a reasonable pe-
9 riod of time—

10 “(A) repay the outstanding principal on its
11 remaining advance to the Federal unemploy-
12 ment account, less the amount of the principal
13 abatement pursuant to paragraph (4); and

14 “(B) restore the solvency of the State’s ac-
15 count in the Unemployment Trust Fund to an
16 average high cost multiple of 1.0, as calculated
17 and defined by the United States Department
18 of Labor.

19 “(3) REQUIREMENT FOR PLAN.—A plan de-
20 scribed in paragraph (2) shall be premised on the
21 existing unemployment compensation law of the
22 State and may take into consideration the enactment
23 of any changes in law scheduled to become effective
24 during the life of the plan.

1 “(4) AGREEMENT.—Upon review of the applica-
2 tion and satisfaction that the State’s plan will meet
3 the repayment and solvency goals described in para-
4 graph (2), the Secretary of Labor may enter into a
5 principal abatement agreement with the State. Such
6 an agreement shall be for a period of no more than
7 7 years.

8 “(5) CALCULATION.—Under any voluntary
9 abatement agreement under this subsection, the
10 amount of principal abatement shall be calculated as
11 follows:

12 “(A) The State’s repayable advances as of
13 the date of the enactment of this subsection or
14 December 31, 2011, whichever is earlier, shall
15 be multiplied by a loan forgiveness multiplier.

16 “(B) The State’s loan forgiveness multi-
17 plier shall be calculated on the same basis as
18 the temporary increase of Medicaid FMAP
19 under section 5001(c)(2)(A) of division B of the
20 American Recovery and Reinvestment Act of
21 2009, using the State’s additional FMAP tier
22 as of December 31, 2010. In the case of a State
23 that meets the criteria described in—

1 “(i) clause (i) of such section
2 5001(c)(2)(A), the loan multiplier shall be
3 0.2;

4 “(ii) clause (ii) of such section
5 5001(c)(2)(A), the loan multiplier shall be
6 0.4; and

7 “(iii) clause (iii) of such section
8 5001(c)(2)(A), the loan multiplier shall be
9 0.6.

10 “(C) The annual amount of principal
11 abatement shall equal one-seventh of the total
12 amount of principal abatement.

13 “(6) CERTIFICATION.—Under any voluntary
14 abatement agreement under this subsection, the
15 State shall certify that during the period of the
16 agreement—

17 “(A) the method governing the computa-
18 tion of regular unemployment compensation
19 under the State law of the State will not be
20 modified in a manner such that the average
21 weekly benefit amount of regular unemployment
22 compensation which will be payable during the
23 period of the agreement will be less than the av-
24 erage weekly benefit amount of regular unem-
25 ployment compensation which would have other-

1 wise been payable under the State law as in ef-
2 fect on the date of the enactment of this sub-
3 section;

4 “(B) State law will not be modified in a
5 manner such that any unemployed individual
6 who would be eligible for regular unemployment
7 compensation under the State law in effect on
8 such date of enactment would be ineligible for
9 regular unemployment compensation during the
10 period of the agreement or would be subject to
11 any disqualification during the period of the
12 agreement that the individual would not have
13 been subject to under the State law in effect on
14 such date of enactment;

15 “(C) State law will not be modified in a
16 manner such that the maximum amount of reg-
17 ular unemployment compensation that any un-
18 employed individual would be eligible to receive
19 in a benefit year during the period of the agree-
20 ment will be less than the maximum amount of
21 regular unemployment compensation that the
22 individual would have been eligible to receive
23 during a benefit year under the State law in ef-
24 fect on such date of enactment; and

1 “(D) upon a determination by the Sec-
2 retary of Labor that the State has modified
3 State law in a manner inconsistent with the
4 certification described in the preceding provi-
5 sions of this paragraph or has failed to comply
6 with any certifications required by this para-
7 graph, the State shall be liable for any principal
8 previously abated under the agreement.

9 “(7) TRANSFER.—Under a voluntary abatement
10 agreement under this subsection, a transfer of the
11 annual amount of the principal abatement shall be
12 made to the State’s account in the Unemployment
13 Trust Fund on December 31st of the year in which
14 the agreement is executed so long as the State has
15 complied with the terms of the agreement. For each
16 subsequent year that the Secretary of Labor certifies
17 that the State is in compliance with the terms of the
18 agreement, the annual amount of the State’s prin-
19 cipal abatement will be credited to its outstanding
20 loan balance. If the loan balance reaches zero while
21 the State still has a remaining principal abatement
22 amount, the remaining amount shall be made as a
23 positive balance transfer to the State’s account in
24 the Unemployment Trust Fund.

1 “(8) REGULATIONS.—The Secretary of Labor
2 shall promulgate such regulations as are necessary
3 to implement this subsection. Such regulations shall
4 include—

5 “(A) standards prescribing a reasonable
6 period of time for a State plan to reach a sol-
7 vency level equal to an average high cost mul-
8 tiple of 1.0, taking into account the economic
9 conditions and level of insolvency of the State;
10 and

11 “(B) guidelines for insuring progress to-
12 ward solvency for States with agreements that
13 include plans that require more than 7 years to
14 reach an average high cost multiple of 1.0.”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect on the date of the enactment
17 of this Act.

18 **SEC. 7. REWARDS AND INCENTIVES FOR SOLVENT STATES**

19 **AND EMPLOYERS IN THOSE STATES.**

20 (a) INCREASED INTEREST FOR SOLVENT STATES.—

21 (1) IN GENERAL.—Section 904(e) of the Social
22 Security Act (42 U.S.C. 1104(e)) is amended by
23 adding at the end the following new flush sentences:
24 “The separate book account for each State agency shall
25 be augmented by 0.5 percent over the rate of interest pro-

1 vided in subsection (b) when the State maintains reserves
 2 in the account that equal or exceed an average high cost
 3 multiple of 1.0 as defined by the Secretary of Labor as
 4 of December 31st of the preceding year. The State may
 5 apply the additional funds to support State administration
 6 pursuant to the requirements in section 903(c).”.

7 (b) LOWER RATE OF TAX FOR SOLVENT STATES.—

8 (1) IN GENERAL.—Section 3301 of the Internal
 9 Revenue Code of 1986, as amended by section 3, is
 10 amended by adding at the end the following new
 11 sentence: “For the second 6-month period of 2011
 12 or for each calendar year thereafter, in the case of
 13 a State that maintains reserves in the State’s sepa-
 14 rate book account that equal or exceed an average
 15 high cost multiple of 1.0 as of December 31st of the
 16 year preceding the period or year involved, para-
 17 graph (1) shall be applied for such period or year in
 18 the State by substituting ‘6.0 percent’ for ‘6.2 per-
 19 cent’ or, as the case may be, paragraph (2) shall be
 20 applied for such period or year in the State by sub-
 21 stituting ‘5.68 percent’ for ‘5.78 percent’.”.

22 (2) EFFECTIVE DATE.—The amendment made
 23 by this subsection shall take effect on the earlier
 24 of—

1 (A) the date of the enactment of this Act;

2 or

3 (B) July 1, 2011.

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