

110TH CONGRESS  
1ST SESSION

# S. 1330

To amend the Social Security Act to provide for wage insurance for dislocated workers.

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IN THE SENATE OF THE UNITED STATES

MAY 8, 2007

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Social Security Act to provide for wage insurance for dislocated workers.

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 “Worker Empowerment Act”.

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

Sec. 1. Short title; table of contents.

**TITLE I—REEMPLOYMENT ADJUSTMENT ASSISTANCE**

Sec. 101. Establishment of programs.

Sec. 102. Administrative costs.

Sec. 103. Technical assistance.

Sec. 104. Reports to Congress.

Sec. 105. Effective date.

TITLE II—WAGE INSURANCE CONTRIBUTIONS

Sec. 201. Wage insurance contributions.

1           **TITLE I—REEMPLOYMENT**  
 2           **ADJUSTMENT ASSISTANCE**

3   **SEC. 101. ESTABLISHMENT OF PROGRAMS.**

4           (a) IN GENERAL.—Section 303 of the Social Security  
 5 Act (42 U.S.C. 503) is amended by adding at the end the  
 6 following:

7           “(1)(1) Each State (through the State agency charged  
 8 with the administration of the State law of such State)  
 9 shall, not earlier than January 1, 2009, and not later than  
 10 2 years after the date of the enactment of this subsection,  
 11 implement a reemployment adjustment assistance pro-  
 12 gram that provides the benefits described in paragraph  
 13 (2).

14           “(2)(A) A State shall use the funds provided to the  
 15 State under section 101(b) of the Worker Empowerment  
 16 Act to pay to an individual described in paragraph (3) the  
 17 amount equal to 50 percent of the amount by which—

18           “(i) the wages received by such individual at  
 19 the time of the separation described in paragraph  
 20 (3)(A), as certified by the State in accordance with  
 21 subparagraph (B), exceeds (if at all)

1           “(ii) the wages received by such individual from  
2           reemployment, as certified by the State in accord-  
3           ance with subparagraph (C).

4           “(B) For purposes of subparagraph (A)(i)—

5           “(i) the wages received by an individual at the  
6           time of separation shall be computed based on the  
7           wages received by such individual for the 52-week  
8           period ending before the date of separation; and

9           “(ii) a certification under subparagraph (A)(i)  
10          as to the amount of those wages so received shall be  
11          based on (I) information collected directly from the  
12          person or persons employing such individual during  
13          the 52-week period before the date of separation,  
14          (II) statements of earnings submitted by the indi-  
15          vidual (as provided to such individual by the person  
16          or persons referred to in subclause (I)), or (III) ap-  
17          plicable wage data collected by the State.

18          “(C) For purposes of subparagraph (A)(ii)—

19          “(i) the wages received by an individual from  
20          reemployment—

21                 “(I) shall be initially certified using wages  
22                 received for the individual’s first full week of re-  
23                 employment; and

1           “(II) shall thereafter be periodically recer-  
2           tified, to reflect any changes in wages, not more  
3           than quarterly; and

4           “(ii) a certification under subparagraph (A)(ii)  
5           as to the amount of wages received from reemploy-  
6           ment shall be based on (I) statements of earnings  
7           submitted by the individual (as provided by the re-  
8           employing entity) or (II) applicable wage data col-  
9           lected by the State.

10          “(D)(i) To the extent that a State makes its certifi-  
11          cations under subparagraph (A)(i) on the basis of infor-  
12          mation obtained pursuant to subparagraph (B)(ii)(I) or  
13          (II), the State shall regularly conduct random audits  
14          against relevant information obtained pursuant to sub-  
15          paragraph (B)(ii)(III).

16          “(ii) To the extent that a State makes its certifi-  
17          cations under subparagraph (A)(ii) on the basis of infor-  
18          mation obtained pursuant to subparagraph (C)(ii)(I), the  
19          State shall regularly conduct random audits against rel-  
20          evant information obtained pursuant to subparagraph  
21          (C)(ii)(II).

22          “(E)(i) Notwithstanding any other provision of this  
23          paragraph—

24                 “(I) for purposes of computing benefits in the  
25                 case of an individual to whom clause (ii) applies,

1       subparagraph (A) shall be applied by substituting  
2       the applicable percentage under clause (ii)(II) for  
3       ‘50 percent’; and

4               “(II) for purposes of computing benefits in the  
5       case of an individual to whom clause (iii) applies,  
6       subparagraph (A) shall be applied by substituting  
7       the applicable percentage under clause (iii)(II) for  
8       ‘50 percent’.

9       “(ii)(I) This clause applies in the case of any indi-  
10      vidual whose weekly wages at the time of separation (de-  
11      termined based on the amount most recently certified with  
12      respect to such individual under subparagraph (A)(i)) ex-  
13      ceed the contribution and benefit base (as determined  
14      under section 230 of the Social Security Act) which is ef-  
15      fective with respect to the year which includes the last day  
16      of the 52-week period on the basis of which weekly wages  
17      are computed.

18              “(II) The applicable percentage under this subclause  
19      is, with respect to any individual, the percentage obtained  
20      by subtracting from 50 percent the product of 2.5 times  
21      the lesser of the percentage by which the individual’s  
22      weekly wages at the time of separation (as described in  
23      subclause (I)) exceeds the contribution and benefit base  
24      (as so described) or 20 percent.

1       “(iii)(I) This clause applies in the case of any indi-  
2       vidual whose weekly wages from reemployment (deter-  
3       mined based on the amount most recently certified with  
4       respect to such individual under subparagraph (A)(ii)) are  
5       less than 50 percent of the median of weekly wages within  
6       the individual’s State (determined in accordance with any  
7       regulations prescribed by the Secretary of Labor), except  
8       as provided in subclause (III).

9       “(II) The applicable percentage under this subclause  
10      is, with respect to any individual, the percentage equal to  
11      the sum of 50 percent plus one-quarter of the number of  
12      percentage points by which the individual’s weekly wages  
13      from reemployment (as described in subclause (I) and ex-  
14      pressed as a percentage relative to the median of weekly  
15      wages within the individual’s State (as so described)) is  
16      less than 50 percent.

17      “(III) This clause shall not apply in the case of any  
18      individual who is subject to clause (ii).

19      “(F) Benefits under any program described in para-  
20      graph (1) shall be payable on at least a monthly basis.

21      “(3) An individual shall not be eligible for benefits  
22      under any program described in paragraph (1) unless such  
23      individual—

24              “(A) is separated from employment with an em-  
25      ployer that employed such individual continuously

1 for at least the 2-year period before the date of sep-  
2 aration either—

3 “(i) involuntarily (other than for cause); or

4 “(ii) voluntarily under circumstances which  
5 would, by virtue of the terms of a collective bar-  
6 gaining agreement, satisfy the relevant State  
7 law requirements relating to the type of separa-  
8 tion from employment that is required in order  
9 to be eligible for unemployment compensation;

10 “(B) is reemployed for substantially the same  
11 number of hours each pay period as at the time of  
12 separation; and

13 “(C) is not reemployed by the employer from  
14 which the individual was separated.

15 “(4) The benefits described in paragraph (2) shall  
16 not, in the case of any individual, be payable—

17 “(A) by virtue of any separation, beyond the  
18 date that occurs 2 years after the date of such sepa-  
19 ration; or

20 “(B) in an amount exceeding \$10,000 for either  
21 year of the 2-year period that begins on the date of  
22 such separation.

23 “(5) For purposes of this subsection—

1           “(A) the term ‘wages’ means all cash or cash  
2           equivalent remuneration (as defined by the Secretary  
3           of Labor) for employment, excluding any tips;

4           “(B) the term ‘employment’ means any service  
5           performed within the United States for an employer  
6           by an individual who is a citizen of the United  
7           States or who is authorized to work in the United  
8           States; and the term ‘United States’, when used in  
9           this subparagraph in a geographical sense, includes  
10          the States, the District of Columbia, the Common-  
11          wealth of Puerto Rico, and the Virgin Islands;

12          “(C) the term ‘employer’ includes each em-  
13          ployer, as defined by the State law of the State con-  
14          cerned; and

15          “(D) the term ‘pay period’, with respect to an  
16          individual, means a period (of not more than 31 con-  
17          secutive days) for which a payment of remuneration  
18          is ordinarily made to the individual by the person  
19          employing such individual.

20          “(6) Not later than December 31, 2008, the Sec-  
21          retary of Labor shall by regulation establish guidelines to  
22          provide for the uniform application of paragraph (3).”.

23          (b) PAYMENTS TO STATES.—

24                 (1) IN GENERAL.—There shall be paid to each  
25          State which has a reemployment adjustment assist-



1       ance program that (in the judgment of the Secretary  
2       of Labor) meets the requirements of section 303(l)  
3       of the Social Security Act, as amended by subsection  
4       (a), an amount equal to 100 percent of the benefits  
5       paid to individuals by such State under such pro-  
6       gram.

7               (2)   ESTIMATION,   FREQUENCY,   ETC.   OF  
8       AMOUNTS PAYABLE.—Sums payable to any State  
9       under this subsection shall be payable, either in ad-  
10      vance or by way of reimbursement (as determined by  
11      the Secretary of Labor), in such amounts as the  
12      Secretary estimates the State will be entitled to re-  
13      ceive under this subsection for each calendar month,  
14      reduced or increased, as the case may be, by any  
15      amount which the Secretary finds that the estimates  
16      of the Secretary for any prior calendar month were  
17      greater or less than the amounts which should have  
18      been paid to the State. Estimates shall be made on  
19      such basis as the Secretary considers appropriate.

20              (3)   CERTIFICATION   AND   PAYMENT   OF  
21      AMOUNTS.—The Secretary of Labor shall, from time  
22      to time, certify to the Secretary of the Treasury the  
23      sum payable to each State under this subsection.  
24      The Secretary of the Treasury, prior to audit and  
25      settlement by the Government Accountability Office,

1 shall make payments to the State in accordance with  
2 the certification from amounts available in the Wage  
3 Insurance Trust Fund under section 9511 of the In-  
4 ternal Revenue Code of 1986.

5 (4) LIMITATION ON USE OF AMOUNTS RE-  
6 CEIVED.—Money paid to a State under this sub-  
7 section may be used solely for the purpose of paying  
8 benefits described in paragraph (1). Money so paid  
9 which is not used for such purpose shall be returned,  
10 at the time specified by the Secretary of Labor, to  
11 the Treasury of the United States and credited to  
12 the Wage Insurance Trust Fund.

13 (5) STATE DEFINED.—For purposes of this  
14 subsection, the term “State” has the meaning given  
15 such term under section 205 of the Federal-State  
16 Extended Unemployment Compensation Act of  
17 1970.

18 (6) RULE OF CONSTRUCTION.—Nothing in this  
19 subsection shall prevent or limit any distribution of  
20 amounts from the Wage Insurance Trust Fund for  
21 reasonable costs associated with the implementation  
22 and operation of reemployment adjustment assist-  
23 ance programs (as described in section 303(l) of the  
24 Social Security Act) or for any other purpose (other

1 than the payment of benefits) allowable under sec-  
2 tion 9511 of the Internal Revenue Code of 1986.

3 (c) CONFORMING AMENDMENT.—Section 303(a) of  
4 the Social Security Act (42 U.S.C. 503(a)) is amended—

5 (1) by striking the period at the end of para-  
6 graph (10) and inserting “; and”; and

7 (2) by adding at the end the following:

8 “(11) A reemployment adjustment assistance  
9 program that meets the requirements of subsection  
10 (l).”.

11 **SEC. 102. ADMINISTRATIVE COSTS.**

12 Section 302(a) of the Social Security Act (42 U.S.C.  
13 502(a)) is amended by striking the period at the end of  
14 the first sentence and inserting “and 100 percent of so  
15 much of the reasonable expenditures of the State as are  
16 attributable to the costs of the implementation and oper-  
17 ation of its reemployment adjustment assistance program  
18 (as described in section 303(l)).”.

19 **SEC. 103. TECHNICAL ASSISTANCE.**

20 The Secretary of Labor shall provide technical assist-  
21 ance and advice to assist the States in implementing the  
22 reemployment adjustment assistance programs required  
23 under the amendments made by this title.

1 **SEC. 104. REPORTS TO CONGRESS.**

2 (a) INITIAL REPORT.—Not later than 3 years after  
3 the date of the enactment of this Act, the Secretary of  
4 Labor shall submit to Congress a report on the operation  
5 and effectiveness of the reemployment adjustment assist-  
6 ance programs required under the amendments made by  
7 this title.

8 (b) ANNUAL REPORTS.—Not later than 4 years after  
9 the date of the enactment of this Act, the Secretary of  
10 Labor shall submit to Congress the first of 5 annual re-  
11 ports. Each such report shall include a detailed analysis  
12 of the following:

13 (1) The average annual income from wages that  
14 individuals receiving reemployment adjustment as-  
15 sistance from programs under section 303(l) of the  
16 Social Security Act (hereinafter “beneficiaries of the  
17 Worker Empowerment Act”) earned in the 2 years  
18 prior to employment dislocation, and the average  
19 quarterly income of such individuals in the 2 years  
20 following reemployment.

21 (2) The average amount of quarterly benefits  
22 provided to beneficiaries of the Worker Empower-  
23 ment Act from programs under section 303(l) of the  
24 Social Security Act, and the average duration of  
25 those benefits.

1           (3) The average duration of unemployment ex-  
2           perienced by beneficiaries of the Worker Empower-  
3           ment Act before becoming eligible for benefits de-  
4           scribed in paragraph (2).

5           (4) Whether beneficiaries of the Worker Em-  
6           powerment Act accepted lower-wage employment  
7           that they would otherwise have refused (if this Act  
8           had not been enacted), and whether such employ-  
9           ment would have been refused in the absence of the  
10          receipt of unemployment compensation.

11          (5) To what extent beneficiaries of the Worker  
12          Empowerment Act displaced lower-skilled workers  
13          seeking the same job.

14          (6) To what extent employers paid lower wages  
15          than they would otherwise have because of the im-  
16          plementation of the reemployment adjustment assist-  
17          ance programs described in section 303(l) of the So-  
18          cial Security Act.

19 **SEC. 105. EFFECTIVE DATE.**

20          Nothing in this title or in any amendment made by  
21          this title shall be considered to permit or require the pay-  
22          ment of reemployment adjustment assistance benefits—

23                 (1) based on any separation from employment  
24          taking effect before January 1, 2009; or

1           (2) to supplement remuneration for employment  
 2 performed in any pay period beginning before the  
 3 commencement date of the program under which  
 4 such benefits would be payable.

5           **TITLE II—WAGE INSURANCE**  
 6                           **CONTRIBUTIONS**

7   **SEC. 201. WAGE INSURANCE CONTRIBUTIONS.**

8           (a) IN GENERAL.—Subtitle C of the Internal Rev-  
 9 enue Code of 1986 (relating to employment taxes) is  
 10 amended by adding at the end the following new chapter:

11                   **“CHAPTER 26—WAGE INSURANCE**  
 12                                   **CONTRIBUTIONS**

                          “CHAPTER 26—WAGE INSURANCE CONTRIBUTIONS

                          “Sec. 3601. Rate of tax.

13   **“SEC. 3601. RATE OF TAX.**

14           “(a) IN GENERAL.—In addition to other taxes, there  
 15 is hereby imposed on every employer an excise tax, with  
 16 respect to having individuals in his employ, equal to 0.06  
 17 percent of the wages (as defined in section 3401(a)) paid  
 18 by him with respect to employment.

19           “(b) LIMITATION.—The amount of wages taken into  
 20 account under subsection (a) with respect to an employee  
 21 for a calendar year shall not exceed the contribution and  
 22 benefit base (as determined under section 230 of the So-  
 23 cial Security Act) which is effective with respect to such  
 24 year.

1       “(c) APPLICABLE RULES.—For purposes of this  
2 chapter, rules similar to the rules of sections 3122, 3123,  
3 3125, 3126, and 3127 shall apply.”.

4       (b) ESTABLISHMENT OF WAGE INSURANCE TRUST  
5 FUND.—Subchapter A of chapter 98 of such Code (relat-  
6 ing to trust fund code) is amended by adding at the end  
7 the following:

8       **“SEC. 9511. WAGE INSURANCE TRUST FUND.**

9       “(a) CREATION OF TRUST FUND.—There is estab-  
10 lished in the Treasury of the United States a trust fund  
11 to be known as the ‘Wage Insurance Trust Fund’ (re-  
12 ferred to in this section as the ‘Trust Fund’), consisting  
13 of such amounts as may be appropriated or credited to  
14 the Trust Fund as provided in this section or section  
15 9602(b).

16       “(b) TRANSFERS TO TRUST FUND.—There is hereby  
17 appropriated to the Trust Fund an amount equivalent to  
18 the taxes received in the Treasury under section 3601.

19       “(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—  
20 Amounts in the Trust Fund shall be available without fur-  
21 ther appropriation to make expenditures to carry out—

22               “(1) section 303(l), and so much of section  
23       302(a), of the Social Security Act as relates to the  
24       implementation and operation of the program under  
25       such section 303(l), and

1           “(2) the Worker Empowerment Act.

2           “(d) AUTHORITY TO BORROW.—

3           “(1) IN GENERAL.—There are authorized to be  
4           appropriated to the Trust Fund, as repayable ad-  
5           vances, such sums as may be necessary to carry out  
6           the purposes of the Trust Fund.

7           “(2) LIMITATION ON AGGREGATE ADVANCES.—

8           The maximum aggregate amount of repayable ad-  
9           vances to the Trust Fund which is outstanding at  
10          any one time shall not exceed an amount equal to  
11          the amount which the Secretary estimates will be  
12          equal to the sum of the amounts appropriated to the  
13          Trust Fund under subsection (b) during the fol-  
14          lowing 24 months.

15          “(3) REPAYMENT OF ADVANCES.—

16                 “(A) IN GENERAL.—Advances made to the  
17                 Trust Fund shall be repaid, and interest on  
18                 such advances shall be paid, to the general fund  
19                 of the Treasury when the Secretary determines  
20                 that moneys are available for such purposes in  
21                 the Trust Fund. Any amount transferred as a  
22                 repayment under this subsection shall be cred-  
23                 ited against, and shall operate to reduce, any  
24                 balance of advances repayable under this sub-  
25                 section.



1           “(B) RATE OF INTEREST.—Interest on ad-  
2           vances made to the Trust Fund shall be—

3                   “(i) at a rate determined by the Sec-  
4                   retary (as of the close of the calendar  
5                   month preceding the month in which the  
6                   advance is made) to be equal to the cur-  
7                   rent average market yield on outstanding  
8                   marketable obligations of the United  
9                   States with remaining periods to maturity  
10                  comparable to the anticipated period dur-  
11                  ing which the advance will be outstanding,  
12                  and

13                   “(ii) compounded annually.”.

14           (c) CONFORMING AMENDMENTS.—

15                   (1) Section 6302(b) of such Code is amended  
16                   by inserting “26,” after “21,”.

17                   (2) Section 6513(c) of such Code is amended by  
18                   striking “or 24” and inserting “24, or 26”.

19                   (3) Section 7507(d) of such Code is amended is  
20                   amended by striking “chapter 21 or chapter 23” and  
21                   inserting “chapter 21, 23, or 26”.

22                   (4) Section 7509 of such Code by adding at the  
23                   end the following new sentence: “The preceding sen-  
24                   tence shall apply with respect to the tax imposed by  
25                   chapter 26 in the same manner as such sentence ap-

1 plies to the tax imposed with respect to chapter  
2 21.”.

3 (d) CLERICAL AMENDMENTS.—

4 (1) The table of chapters for subtitle C of such  
5 Code is amended by adding at the end the following  
6 new item:

“CHAPTER 26. WAGE INSURANCE CONTRIBUTIONS.”.

7 (2) CONFORMING AMENDMENT.—The table of  
8 sections for subchapter A of chapter 98 of such  
9 Code is amended by adding at the end the following:

“Sec. 9511. Wage Insurance Trust Fund.”.

10 (e) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to wages paid after December 31,  
12 2007.

○