

111TH CONGRESS
2D SESSION

S. 3551

To provide a fully offset extension of emergency unemployment insurance assistance, enhanced Medicaid FMAP reimbursements, and summer employment for youth, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 30, 2010

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

A BILL

To provide a fully offset extension of emergency unemployment insurance assistance, enhanced Medicaid FMAP reimbursements, and summer employment for youth, 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 “Fiscally Responsible Relief for Our States Act of 2010”.

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

Sec. 1. Short title; table of contents.

TITLE I—UNEMPLOYMENT INSURANCE, MEDICAID FMAP, AND
SUMMER JOBS

Subtitle A—Unemployment Insurance and Other Assistance

Sec. 101. Extension of unemployment insurance provisions.

Sec. 102. Coordination of emergency unemployment compensation with regular compensation.

Subtitle B—Medicaid FMAP and Summer Jobs

Sec. 111. Extension of ARRA increase in FMAP.

Sec. 112. Summer employment for youth.

TITLE II—OFFSETS

Sec. 201. Use of stimulus funds to offset spending.

Sec. 202. Sunset of temporary increase in benefits under the supplemental nutrition assistance program.

Sec. 203. Elimination of advance refundability of earned income credit.

Sec. 204. Treatment of certain drugs for computation of Medicaid AMP.

Sec. 205. Rollovers from elective deferral plans to Roth designated accounts.

Sec. 206. Participants in government section 457 plans allowed to treat elective deferrals as Roth contributions.

Sec. 207. Rescinding unspent Federal funds.

TITLE III—BUDGETARY PROVISIONS

Sec. 301. Determination of budgetary effects.

1 TITLE I—UNEMPLOYMENT IN-
2 SURANCE, MEDICAID FMAP,
3 AND SUMMER JOBS

4 Subtitle A—Unemployment
5 Insurance and Other Assistance

6 SEC. 101. EXTENSION OF UNEMPLOYMENT INSURANCE
7 PROVISIONS.

8 (a) IN GENERAL.—(1) Section 4007 of the Supple-
9 mental Appropriations Act, 2008 (Public Law 110–252;
10 26 U.S.C. 3304 note) is amended—

11 (A) by striking “June 2, 2010” each place it
12 appears and inserting “November 30, 2010”;

1 (B) in the heading for subsection (b)(2), by
2 striking “JUNE 2, 2010” and inserting “NOVEMBER
3 30, 2010”; and

4 (C) in subsection (b)(3), by striking “November
5 6, 2010” and inserting “April 30, 2011”.

6 (2) Section 2005 of the Assistance for Unemployed
7 Workers and Struggling Families Act, as contained in
8 Public Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 444),
9 is amended—

10 (A) by striking “June 2, 2010” each place it
11 appears and inserting “December 1, 2010”; and

12 (B) in subsection (c), by striking “November 6,
13 2010” and inserting “May 1, 2011”.

14 (3) Section 5 of the Unemployment Compensation
15 Extension Act of 2008 (Public Law 110–449; 26 U.S.C.
16 3304 note) is amended by striking “November 6, 2010”
17 and inserting “April 30, 2011”.

18 (b) FUNDING.—Section 4004(e)(1) of the Supple-
19 mental Appropriations Act, 2008 (Public Law 110–252;
20 26 U.S.C. 3304 note) is amended—

21 (1) in subparagraph (D), by striking “and” at
22 the end; and

23 (2) by inserting after subparagraph (E) the fol-
24 lowing:

1 “(F) the amendments made by section
 2 101(a)(1) of the Fiscally Responsible Relief for
 3 Our States Act of 2010; and”.

4 (c) CONDITIONS FOR RECEIVING EMERGENCY UNEM-
 5 PLOYMENT COMPENSATION.—Section 4001(d)(2) of the
 6 Supplemental Appropriations Act, 2008 (Public Law 110–
 7 252; 26 U.S.C. 3304 note) is amended, in the matter pre-
 8 ceding subparagraph (A), by inserting before “shall
 9 apply” the following: “(including terms and conditions re-
 10 lating to availability for work, active search for work, and
 11 refusal to accept work)”.

12 (d) EFFECTIVE DATE.—The amendments made by
 13 this section shall take effect as if included in the enact-
 14 ment of the Continuing Extension Act of 2010 (Public
 15 Law 111–157).

16 **SEC. 102. COORDINATION OF EMERGENCY UNEMPLOY-**
 17 **MENT COMPENSATION WITH REGULAR COM-**
 18 **PENSATION.**

19 (a) CERTAIN INDIVIDUALS NOT INELIGIBLE BY REA-
 20 SON OF NEW ENTITLEMENT TO REGULAR BENEFITS.—
 21 Section 4002 of the Supplemental Appropriations Act,
 22 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is
 23 amended by adding at the end the following:

1 “(g) COORDINATION OF EMERGENCY UNEMPLOY-
 2 MENT COMPENSATION WITH REGULAR COMPENSA-
 3 TION.—

4 “(1) If—

5 “(A) an individual has been determined to
 6 be entitled to emergency unemployment com-
 7 pensation with respect to a benefit year,

8 “(B) that benefit year has expired,

9 “(C) that individual has remaining entitle-
 10 ment to emergency unemployment compensa-
 11 tion with respect to that benefit year, and

12 “(D) that individual would qualify for a
 13 new benefit year in which the weekly benefit
 14 amount of regular compensation is at least ei-
 15 ther \$100 or 25 percent less than the individ-
 16 ual’s weekly benefit amount in the benefit year
 17 referred to in subparagraph (A),

18 then the State shall determine eligibility for com-
 19 pensation as provided in paragraph (2).

20 “(2) For individuals described in paragraph (1),
 21 the State shall determine whether the individual is
 22 to be paid emergency unemployment compensation
 23 or regular compensation for a week of unemploy-
 24 ment using one of the following methods:

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

8 “(B) The State shall, if permitted by State
9 law, defer the establishment of a new benefit
10 year (which uses all the wages and employment
11 which would have been used to establish a ben-
12 efit year but for the application of this para-
13 graph), until exhaustion of all emergency unem-
14 ployment compensation payable with respect to
15 the benefit year referred to in paragraph
16 (1)(A);

17 “(C) The State shall pay, if permitted by
18 State law—

19 “(i) regular compensation equal to the
20 weekly benefit amount established under
21 the new benefit year, and

22 “(ii) emergency unemployment com-
23 pensation equal to the difference between
24 that weekly benefit amount and the weekly

1 benefit amount for the expired benefit
 2 year; or

3 “(D) The State shall determine rights to
 4 emergency unemployment compensation without
 5 regard to any rights to regular compensation if
 6 the individual elects to not file a claim for reg-
 7 ular compensation under the new benefit year.”.

8 (b) EFFECTIVE DATE.—The amendment made by
 9 this section shall apply to individuals whose benefit years,
 10 as described in section 4002(g)(1)(B) the Supplemental
 11 Appropriations Act, 2008 (Public Law 110–252; 26
 12 U.S.C. 3304 note), as amended by this section, expire
 13 after the date of enactment of this Act.

14 **Subtitle B—Medicaid FMAP and** 15 **Summer Jobs**

16 **SEC. 111. EXTENSION OF ARRA INCREASE IN FMAP.**

17 Section 5001 of the American Recovery and Reinvest-
 18 ment Act of 2009 (Public Law 111–5) is amended—

19 (1) in subsection (a)(3), by striking “first cal-
 20 endar quarter” and inserting “first 3 calendar quar-
 21 ters”;

22 (2) in subsection (b)—

23 (A) in paragraph (1), by striking “para-
 24 graph (2)” and inserting “paragraphs (2) and
 25 (3)”; and

1 (B) by adding at the end the following:

2 “(3) PHASE-DOWN OF GENERAL INCREASE.—

3 “(A) SECOND QUARTER OF FISCAL YEAR
4 2011.—For each State, for the second quarter of
5 fiscal year 2011, the FMAP percentage increase
6 for the State under paragraph (1) or (2) (as
7 applicable) shall be 3.2 percentage points.

8 “(B) THIRD QUARTER OF FISCAL YEAR
9 2011.—For each State, for the third quarter of
10 fiscal year 2011, the FMAP percentage increase
11 for the State under paragraph (1) or (2) (as
12 applicable) shall be 1.2 percentage points.”;

13 (3) in subsection (c)—

14 (A) in paragraph (2)(B), by striking “July
15 1, 2010” and inserting “January 1, 2011”;

16 (B) in paragraph (3)(B)(i), by striking
17 “July 1, 2010” and inserting “January 1,
18 2011” each place it appears; and

19 (C) in paragraph (4)(C)(ii), by striking
20 “the 3-consecutive-month period beginning with
21 January 2010” and inserting “any 3-consecu-
22 tive-month period that begins after December
23 2009 and ends before January 2011”;

24 (4) in subsection (e), by adding at the end the
25 following:

1 “Notwithstanding paragraph (5), effective for payments
 2 made on or after January 1, 2010, the increases in the
 3 FMAP for a State under this section shall apply to pay-
 4 ments under title XIX of such Act that are attributable
 5 to expenditures for medical assistance provided to non-
 6 pregnant childless adults made eligible under a State plan
 7 under such title (including under any waiver under such
 8 title or under section 1115 of such Act (42 U.S.C. 1315))
 9 who would have been eligible for child health assistance
 10 or other health benefits under eligibility standards in ef-
 11 fect as of December 31, 2009, of a waiver of the State
 12 child health plan under the title XXI of such Act.”;

13 (5) in subsection (g)—

14 (A) in paragraph (1), by striking “Sep-
 15 tember 30, 2011” and inserting “March 31,
 16 2012”;

17 (B) in paragraph (2), by inserting “of such
 18 Act” after “1923”; and

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

20 “(3) CERTIFICATION BY CHIEF EXECUTIVE OF-
 21 FICER.—No additional Federal funds shall be paid
 22 to a State as a result of this section with respect to
 23 a calendar quarter occurring during the period be-
 24 ginning on January 1, 2011, and ending on June
 25 30, 2011, unless, not later than 45 days after the

1 date of enactment of this paragraph, the chief execu-
 2 tive officer of the State certifies that the State will
 3 request and use such additional Federal funds.”;
 4 and

5 (6) in subsection (h)(3), by striking “December
 6 31, 2010” and inserting “June 30, 2011”.

7 **SEC. 112. SUMMER EMPLOYMENT FOR YOUTH.**

8 There is appropriated, out of any funds in the Treas-
 9 ury not otherwise appropriated, for an additional amount
 10 for “Department of Labor—Employment and Training
 11 Administration—Training and Employment Services” for
 12 activities under the Workforce Investment Act of 1998
 13 (“WIA”), \$1,000,000,000 shall be available for obligation
 14 on the date of enactment of this Act for grants to States
 15 for youth activities, including summer employment for
 16 youth: *Provided*, That no portion of such funds shall be
 17 reserved to carry out section 127(b)(1)(A) of the WIA:
 18 *Provided further*, That for purposes of section
 19 127(b)(1)(C)(iv) of the WIA, funds available for youth ac-
 20 tivities shall be allotted as if the total amount available
 21 for youth activities in the fiscal year does not exceed
 22 \$1,000,000,000: *Provided further*, That with respect to the
 23 youth activities provided with such funds, section
 24 101(13)(A) of the WIA shall be applied by substituting
 25 “age 24” for “age 21”: *Provided further*, That the work

1 readiness performance indicator described in section
 2 136(b)(2)(A)(ii)(I) of the WIA shall be the only measure
 3 of performance used to assess the effectiveness of summer
 4 employment for youth provided with such funds: *Provided*
 5 *further*, That an amount that is not more than 1 percent
 6 of such amount may be used for the administration, man-
 7 agement, and oversight of the programs, activities, and
 8 grants carried out with such funds, including the evalua-
 9 tion of the use of such funds: *Provided further*, That funds
 10 available under the preceding proviso, together with funds
 11 described in section 801(a) of division A of the American
 12 Recovery and reinvestment Act of 2009 (Public Law 111–
 13 5), and funds provided in such Act under the heading
 14 “Department of Labor–Departmental Management–Sala-
 15 ries and Expenses”, shall remain available for obligation
 16 through September 30, 2011.

17 **TITLE II—OFFSETS**

18 **SEC. 201. USE OF STIMULUS FUNDS TO OFFSET SPENDING.**

19 In order to offset the net increase in spending result-
 20 ing from the provisions of, and amendments made by, title
 21 I, the unobligated balance of each amount appropriated
 22 or made available under division A of the American Recov-
 23 ery and Reinvestment Act of 2009 (Public Law 111–5)
 24 (other than under title X of such division) is rescinded.
 25 Not later than 30 days after the date of enactment of this

1 Act, the Director of the Office of Management and Budget
2 shall report to each congressional committee the amounts
3 so rescinded within the jurisdiction of such committee.

4 **SEC. 202. SUNSET OF TEMPORARY INCREASE IN BENEFITS**
5 **UNDER THE SUPPLEMENTAL NUTRITION AS-**
6 **SISTANCE PROGRAM.**

7 Section 101(a) of title I of division A of Public Law
8 111–5 (123 Stat. 120) is amended—

9 (1) in paragraph (1), by inserting before the pe-
10 riod, “, if the value of such benefits and block grants
11 would thereby be greater than in the absence of this
12 subsection”; and

13 (2) by striking paragraph (2) and inserting the
14 following:

15 “(2) TERMINATION.—The authority provided by
16 this subsection shall terminate after May 31,
17 2014.”.

18 **SEC. 203. ELIMINATION OF ADVANCE REFUNDABILITY OF**
19 **EARNED INCOME CREDIT.**

20 (a) IN GENERAL.—The following provisions are re-
21 pealed:

22 (1) Section 3507 of the Internal Revenue Code
23 of 1986.

24 (2) Subsection (g) of section 32 of such Code.

1 (3) Paragraph (7) of section 6051(a) of such
2 Code.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 6012(a) of such Code is amended
5 by striking paragraph (8) and by redesignating
6 paragraph (9) as paragraph (8).

7 (2) Section 6302 of such Code is amended by
8 striking subsection (i).

9 (3) The table of sections for chapter 25 of such
10 Code is amended by striking the item relating to sec-
11 tion 3507.

12 (c) EFFECTIVE DATE.—The repeals and amend-
13 ments made by this section shall apply to taxable years
14 beginning after December 31, 2010.

15 **SEC. 204. TREATMENT OF CERTAIN DRUGS FOR COMPUTA-**
16 **TION OF MEDICAID AMP.**

17 Effective as if included in the enactment of Public
18 Law 111–148, section 1927(k)(1)(B)(i)(IV) of the Social
19 Security Act (42 U.S.C. 1396r–8(k)(1)(B)(i)(IV)), as
20 amended by section 2503(a)(2)(B) of Public Law 111–148
21 and section 1101(c)(2) of Public Law 111–152, is amend-
22 ed by adding at the end the following: “, unless the drug
23 is an inhalation, infusion, or injectable drug that is not
24 dispensed through a retail community pharmacy; and”.

1 **SEC. 205. ROLLOVERS FROM ELECTIVE DEFERRAL PLANS**
 2 **TO ROTH DESIGNATED ACCOUNTS.**

3 (a) IN GENERAL.—Section 402A(c) of the Internal
 4 Revenue Code of 1986 is amended by adding at the end
 5 the following new paragraph:

6 “(4) TAXABLE ROLLOVERS TO DESIGNATED
 7 ROTH ACCOUNTS.—

8 “(A) IN GENERAL.—Notwithstanding sec-
 9 tions 402(c), 403(b)(8), and 457(e)(16), in the
 10 case of any distribution to which this paragraph
 11 applies—

12 “(i) there shall be included in gross
 13 income any amount which would be includ-
 14 ible were it not part of a qualified rollover
 15 contribution,

16 “(ii) section 72(t) shall not apply, and

17 “(iii) unless the taxpayer elects not to
 18 have this clause apply, any amount re-
 19 quired to be included in gross income for
 20 any taxable year beginning in 2010 by rea-
 21 son of this paragraph shall be so included
 22 ratably over the 2-taxable-year period be-
 23 ginning with the first taxable year begin-
 24 ning in 2011.

Any election under clause (iii) for any distributions during a taxable year may not be changed after the due date for such taxable year.

“(B) DISTRIBUTIONS TO WHICH PARAGRAPH APPLIES.—In the case of an applicable retirement plan which includes a qualified Roth contribution program, this paragraph shall apply to a distribution from such plan other than from a designated Roth account which is contributed in a qualified rollover contribution to the designated Roth account maintained under such plan for the benefit of the individual to whom the distribution is made.

“(C) OTHER RULES.—The rules of subparagraphs (D), (E), and (F) of section 408A(d)(3) (as in effect for taxable years beginning after 2009) shall apply for purposes of this paragraph.”.

SEC. 206. PARTICIPANTS IN GOVERNMENT SECTION 457 PLANS ALLOWED TO TREAT ELECTIVE DEFERRALS AS ROTH CONTRIBUTIONS.

(a) IN GENERAL.—Section 402A(e)(1) of the Internal Revenue Code of 1986 (defining applicable retirement plan) is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subpara-

1 graph (B) and inserting “, and”, and by adding at the
 2 end the following:

3 “(C) an eligible deferred compensation
 4 plan (as defined in section 457(b)) of an eligible
 5 employer described in section 457(e)(1)(A).”.

6 (b) ELECTIVE DEFERRALS.—Section 402A(e)(2) of
 7 such Code (defining elective deferral) is amended to read
 8 as follows:

9 “(2) ELECTIVE DEFERRAL.—The term ‘elective
 10 deferral’ means—

11 “(A) any elective deferral described in sub-
 12 paragraph (A) or (C) of section 402(g)(3), and

13 “(B) any elective deferral of compensation
 14 by an individual under an eligible deferred com-
 15 pensation plan (as defined in section 457(b)) of
 16 an eligible employer described in section
 17 457(e)(1)(A).”.

18 (c) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to taxable years beginning after
 20 December 31, 2010.

21 **SEC. 207. RESCINDING UNSPENT FEDERAL FUNDS.**

22 (a) IN GENERAL.—Notwithstanding any other provi-
 23 sion of law, of all available unobligated Federal funds,
 24 \$4,000,000,000 in appropriated discretionary unexpired
 25 funds are rescinded.

1 (b) IMPLEMENTATION.—Not later than 60 days after
 2 the date of enactment of this Act, the Director of the Of-
 3 fice of Management and Budget shall—

4 (1) identify the accounts and amounts rescinded
 5 to implement subsection (a); and

6 (2) submit a report to the Secretary of the
 7 Treasury and Congress of the accounts and amounts
 8 identified under paragraph (1) for rescission.

9 (c) EXCEPTION.—This section shall not apply to the
 10 unobligated Federal funds of the Department of Defense
 11 or the Department of Veterans Affairs.

12 **TITLE III—BUDGETARY** 13 **PROVISIONS**

14 **SEC. 301. DETERMINATION OF BUDGETARY EFFECTS.**

15 (a) IN GENERAL.—The budgetary effects of this Act,
 16 for the purpose of complying with the Statutory Pay-As-
 17 You-Go Act of 2010, shall be determined by reference to
 18 the latest statement titled “Budgetary Effects of PAYGO
 19 Legislation” for this Act, submitted for printing in the
 20 Congressional Record by the Chairman of the Senate
 21 Budget Committee, provided that such statement has been
 22 submitted prior to the vote on passage.

23 (b) EMERGENCY DESIGNATION FOR CONGRESSIONAL
 24 ENFORCEMENT.—In the House of Representatives, this
 25 Act is designated as an emergency for purposes of pay-

1 as-you-go principles. In the Senate, this Act is designated
2 as an emergency requirement pursuant to section 403(a)
3 of S. Con. Res. 13 (111th Congress), the concurrent reso-
4 lution on the budget for fiscal year 2010.

5 (c) EMERGENCY DESIGNATION FOR STATUTORY
6 PAYGO.—This Act is designated as an emergency re-
7 quirement pursuant to section 4(g) of the Statutory Pay-
8 As-You-Go Act of 2010 (Public Law 111–139; 2 U.S.C.
9 933(g)).

○