

Calendar No. 121110TH CONGRESS
2D SESSION**S. 3688**

To provide for additional emergency unemployment compensation, to amend the Emergency Economic Stabilization Act of 2008 to authorize loans to automobile manufacturers and component suppliers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 17 (legislative day, SEPTEMBER 17), 2008

Mr. REID introduced the following bill; which was read the first time

NOVEMBER 18, 2008

Read the second time and placed on the calendar under authority of the order of the Senate of November 17 (legislative day, September 17), 2008

A BILL

To provide for additional emergency unemployment compensation, to amend the Emergency Economic Stabilization Act of 2008 to authorize loans to automobile manufacturers and component suppliers, 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,*

1 **TITLE I—UNEMPLOYMENT**
2 **COMPENSATION**

3 **SEC. 101. SHORT TITLE.**

4 This title may be cited as the “Unemployment Com-
5 pensation Extension Act of 2008”.

6 **SEC. 102. ADDITIONAL FIRST-TIER BENEFITS.**

7 Section 4002(b)(1) of the Supplemental Appropria-
8 tions Act, 2008 (26 U.S.C. 3304 note) is amended—

9 (1) in subparagraph (A), by striking “50” and
10 inserting “80”; and

11 (2) in subparagraph (B), by striking “13” and
12 inserting “20”.

13 **SEC. 103. SECOND-TIER BENEFITS.**

14 Section 4002 of the Supplemental Appropriations
15 Act, 2008 (26 U.S.C. 3304 note) is amended by adding
16 at the end the following:

17 “(c) SPECIAL RULE.—

18 “(1) IN GENERAL.—If, at the time that the
19 amount established in an individual’s account under
20 subsection (b)(1) is exhausted or at any time there-
21 after, such individual’s State is in an extended ben-
22 efit period (as determined under paragraph (2)),
23 such account shall be augmented by an amount
24 equal to the lesser of—

1 “(A) 50 percent of the total amount of
2 regular compensation (including dependents’ al-
3 lowances) payable to the individual during the
4 individual’s benefit year under the State law, or

5 “(B) 13 times the individual’s average
6 weekly benefit amount (as determined under
7 subsection (b)(2)) for the benefit year.

8 “(2) EXTENDED BENEFIT PERIOD.—For pur-
9 poses of paragraph (1), a State shall be considered
10 to be in an extended benefit period, as of any given
11 time, if—

12 “(A) such a period is then in effect for
13 such State under the Federal-State Extended
14 Unemployment Compensation Act of 1970;

15 “(B) such a period would then be in effect
16 for such State under such Act if section 203(d)
17 of such Act—

18 “(i) were applied by substituting ‘4’
19 for ‘5’ each place it appears; and

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

22 “(C) such a period would then be in effect
23 for such State under such Act if—

24 “(i) section 203(f) of such Act were
25 applied to such State (regardless of wheth-

1 er the State by law had provided for such
2 application); and

3 “(ii) such section 203(f)—

4 “(I) were applied by substituting
5 ‘6.0’ for ‘6.5’ in paragraph (1)(A)(i)
6 thereof; and

7 “(II) did not include the require-
8 ment under paragraph (1)(A)(ii)
9 thereof.

10 “(3) LIMITATION.—The account of an indi-
11 vidual may be augmented not more than once under
12 this subsection.”.

13 **SEC. 104. PHASEOUT PROVISIONS.**

14 Section 4007(b) of the Supplemental Appropriations
15 Act, 2008 (26 U.S.C. 3304 note) is amended—

16 (1) in paragraph (1), by striking “paragraph
17 (2),” and inserting “paragraphs (2) and (3),”; and

18 (2) by striking paragraph (2) and inserting the
19 following:

20 “(2) NO AUGMENTATION AFTER MARCH 31,
21 2009.—If the amount established in an individual’s
22 account under subsection (b)(1) is exhausted after
23 March 31, 2009, then section 4002(c) shall not
24 apply and such account shall not be augmented
25 under such section, regardless of whether such indi-

1 vidual’s State is in an extended benefit period (as
2 determined under paragraph (2) of such section).

3 “(3) TERMINATION.—No compensation under
4 this title shall be payable for any week beginning
5 after August 27, 2009.”.

6 **SEC. 105. TEMPORARY FEDERAL MATCHING FOR THE**
7 **FIRST WEEK OF EXTENDED BENEFITS FOR**
8 **STATES WITH NO WAITING WEEK.**

9 With respect to weeks of unemployment beginning
10 after the date of the enactment of this Act and ending
11 on or before December 8, 2009, subparagraph (B) of sec-
12 tion 204(a)(2) of the Federal-State Extended Unemploy-
13 ment Compensation Act of 1970 (26 U.S.C. 3304 note)
14 shall not apply.

15 **SEC. 106. EFFECTIVE DATE.**

16 (a) IN GENERAL.—The amendments made by sec-
17 tions 102, 103, and 104 shall apply as if included in the
18 enactment of the Supplemental Appropriations Act, 2008,
19 subject to subsection (b).

20 (b) ADDITIONAL BENEFITS.—In applying the amend-
21 ments made by sections 102 and 103, any additional emer-
22 gency unemployment compensation made payable by such
23 amendments (which would not otherwise have been pay-
24 able if such amendments had not been enacted) shall be
25 payable only with respect to any week of unemployment

1 beginning on or after the date of the enactment of this
2 Act.

3 **TITLE II—AUTOMOBILE INDUS-**
4 **TRY EMERGENCY ASSIST-**
5 **ANCE**

6 **SEC. 201. DIRECT BRIDGE LOANS TO MANUFACTURERS**
7 **AND SUPPLIERS.**

8 (a) IN GENERAL.—The Emergency Economic Sta-
9 bilization Act of 2008 (division A of Public Law 110–343)
10 is amended by adding at the end the following:

11 **“TITLE IV—DIRECT BRIDGE**
12 **LOAN PROVISIONS**

13 **“SEC. 401. FINDINGS.**

14 “Congress finds that extraordinary and exigent cir-
15 cumstances have prevented the automobile industry from
16 securing essential credit and liquidity from other sources
17 and that the failure of the automobile industry to obtain
18 such credit and liquidity will have a systemic adverse ef-
19 fect on the economy.

20 **“SEC. 402. PURPOSES.**

21 “The purposes of this title are—

22 “(1) to clarify that authority and facilities are
23 available to be used immediately by the Secretary to
24 restore liquidity and stability to the automobile in-
25 dustry in the United States;

1 “(2) to ensure that such authority and such fa-
2 cilities are used in a manner that—

3 “(A) stimulates manufacturing and sales
4 of automobiles produced by automobile manu-
5 facturers in the United States;

6 “(B) enhances the ability and the capacity
7 of the domestic automobile industry to pursue
8 the timely and aggressive production of energy-
9 efficient advanced technology vehicles;

10 “(C) preserves and promotes the jobs of
11 355,000 workers in the United States directly
12 employed by the automobile industry and an
13 additional 4,500,000 workers in the United
14 States employed in related industries; and

15 “(D) safeguards the ability of the domestic
16 automobile industry to provide retirement and
17 health care benefits for 1,000,000 retirees and
18 their spouses and dependents; and

19 “(3) to reaffirm the purposes of section 2,
20 which include providing the Secretary with broad au-
21 thority to restore liquidity and stability to financial
22 institutions, including automobile finance companies.

23 **“SEC. 403. EMERGENCY DIRECT LOAN PROGRAM.**

24 “(a) IN GENERAL.—The Secretary shall make loans
25 in an aggregate amount equal to \$25,000,000,000, to

1 automobile manufacturers and component suppliers that
2 have—

3 “(1) submitted an application for a loan under
4 this title that includes a statement of need for Gov-
5 ernment funding under this title to prevent a sys-
6 temic adverse effect on the United States economy;

7 “(2) operated a manufacturing facility for the
8 purposes of producing automobiles or automobile
9 components in the United States throughout the 20-
10 year period ending on the date of enactment of this
11 title; and

12 “(3) operations in the United States the failure
13 of which would have a systemic adverse effect on the
14 overall United States economy, as determined by the
15 Secretary.

16 “(b) ALLOCATION.—In allocating loan amounts
17 under this title, the Secretary shall prioritize the distribu-
18 tion of loans under this section based on the magnitude
19 of the impact of the manufacturing operations of the ap-
20 plicant in the United States on the overall economy of the
21 United States and other segments of the automobile in-
22 dustry, including the impact on levels of employment, do-
23 mestic manufacturing of automobiles and automobile com-
24 ponents, and automobile dealerships.

1 “(c) PLAN FOR LONG-TERM FINANCIAL VIABIL-
2 ITY.—At the time of application for a loan under this title,
3 an automobile manufacturer or component supplier shall
4 submit to the Secretary a detailed plan on how the Gov-
5 ernment funds requested will be utilized to ensure the
6 long-term financial posture of the company, and how such
7 funds will stimulate automobile production in the United
8 States and improve the capacity of the company to pursue
9 the timely and aggressive production of energy-efficient
10 advanced technology vehicles.

11 **“SEC. 404. FUNDING FROM THIRD TRANCHE; TREATMENT**
12 **OF LOAN AMOUNTS.**

13 “The costs incurred by the Federal Government in
14 making loans under this title, including credit subsidy
15 costs and administrative expenses, shall be covered out of
16 the funds made available to the Secretary generally under
17 section 118 and, specifically, not from funds which are de-
18 scribed in paragraph (1) or (2) of section 115(a), but with
19 respect to the availability of which the reporting and pro-
20 cedural requirements contained in paragraph (3) of such
21 section and section 115(c) shall not apply.

22 **“SEC. 405. TIMING OF DISBURSEMENTS.**

23 “(a) APPLICATIONS.—On and after the date that is
24 3 days after the date of enactment of this title, the Sec-
25 retary shall accept applications for loans under this title.

1 “(b) DETERMINATION OF ELIGIBILITY.—Not later
2 than 15 days after the date on which the Secretary re-
3 ceives an application for a loan under subsection (a), the
4 Secretary shall make a determination regarding the eligi-
5 bility of the applicant, based on whether the applicant
6 meets the requirements of section 403(a).

7 “(c) DISBURSEMENT.—The Secretary shall begin dis-
8 bursement of the proceeds of a loan under this title to
9 an eligible applicant not later than 7 days after the date
10 on which the Secretary receives a disbursal request from
11 the applicant, upon a determination of the Secretary that
12 the applicant is eligible under subsection (b).

13 **“SEC. 406. TERMS AND CONDITIONS.**

14 “(a) TERM TO MATURITY.—The term to maturity of
15 any loan made under this title shall be 10 years, or such
16 longer period as the Secretary may determine with respect
17 to such loan.

18 “(b) RATE OF INTEREST.—The annual rate of inter-
19 est for a loan under this title shall be—

20 “(1) 5 percent during the 5-year period begin-
21 ning on the date on which the Secretary disburses
22 the loan; and

23 “(2) 9 percent after the end of the period de-
24 scribed in paragraph (1).

1 “(c) WARRANTS AND DEBT INSTRUMENTS.—The
2 Secretary may not make a loan under this title unless the
3 Secretary receives from the automobile manufacturer or
4 component supplier a warrant or senior debt instrument
5 made in accordance with the requirements for a warrant
6 or senior debt instrument by a financial institution under
7 section 113(d).

8 “(d) NO PREPAYMENT PENALTY.—A loan made
9 under this title shall be prepayable without penalty at any
10 time.

11 “(e) EXECUTIVE COMPENSATION.—

12 “(1) STANDARDS REQUIRED.—The Secretary
13 shall require any recipient of a loan under this title
14 to meet appropriate standards for executive com-
15 pensation and corporate governance.

16 “(2) SPECIFIC REQUIREMENTS.—The standards
17 established under paragraph (1) shall include the
18 following:

19 “(A) Limits on compensation that exclude
20 incentives for senior executive officers of a re-
21 cipient of a loan under this title to take unnec-
22 essary and excessive risks that threaten the
23 value of such recipient during the period that
24 the loan is outstanding.

1 “(B) A provision for the recovery by such
2 recipient of any bonus or incentive compensa-
3 tion paid to a senior executive officer based on
4 statements of earnings, gains, or other criteria
5 that are later found to be materially inaccurate.

6 “(C) A prohibition on such recipient mak-
7 ing any golden parachute payment to a senior
8 executive officer during the period that the loan
9 under this title is outstanding.

10 “(D) A prohibition on such recipient pay-
11 ing or accruing any bonus or incentive com-
12 pensation during the period that the loan is
13 outstanding to any executive whose annual base
14 compensation exceeds \$250,000 (which amount
15 shall be adjusted by the Secretary for inflation).

16 “(E) A prohibition on any compensation
17 plan that could encourage manipulation of the
18 reported earnings of the recipient to enhance
19 the compensation of any of its employees.

20 “(3) DEFINITIONS.—For purposes of this sub-
21 section, the following definitions shall apply:

22 “(A) SENIOR EXECUTIVE OFFICER.—The
23 term ‘senior executive officer’ means an indi-
24 vidual who is 1 of the top 5 most highly paid
25 executives of a public company, whose com-

1 pensation is required to be disclosed pursuant
 2 to the Securities Exchange Act of 1934, and
 3 any regulations issued thereunder, and non-
 4 public company counterparts.

5 “(B) GOLDEN PARACHUTE PAYMENT.—
 6 The term ‘golden parachute payment’ means
 7 any payment to a senior executive officer for
 8 departure from a company for any reason.

9 “(f) PROHIBITION ON PAYMENT OF DIVIDENDS.—No
 10 common stock dividends may be paid by any recipient of
 11 a loan under this title for the duration of the loan.

12 **“SEC. 407. OVERSIGHT.**

13 “(a) IN GENERAL.—The provisions of sections 105,
 14 116, 121, and 125 shall apply with respect to any loans
 15 made under this title, to the extent possible, in the same
 16 manner and to the same extent as such sections apply to
 17 transactions made under the authority of title I.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

19 (1) TABLE OF CONTENTS.—The table of con-
 20 tents in section 1(b) of the Emergency Economic
 21 Stabilization Act of 2008 (division A of Public Law
 22 110–343) is amended—

23 (A) by inserting after the item relating to
 24 section 3 the following new item:

“Sec. 4. References.”

25 ; and

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

“TITLE IV—DIRECT BRIDGE LOAN PROVISIONS

“Sec. 401. Findings.

“Sec. 402. Purposes.

“Sec. 403. Emergency direct loan program.

“Sec. 404. Funding from third tranche; treatment of loan amounts.

“Sec. 405. Timing of disbursements.

“Sec. 406. Terms and conditions.

“Sec. 407. Oversight.”

2 ; and

3 (2) REFERENCES.—The Emergency Economic
4 Stabilization Act of 2008 (division A of Public Law
5 110–343) is amended by inserting after section 3
6 the following new section:

7 **“SEC. 4. REFERENCES.**

8 “Any reference—

9 “(1) in this division to ‘this Act’ or any subdivi-
10 sion thereof is a reference to this division A or any
11 subdivision thereof;

12 “(2) in division (B) to ‘this Act’ or any subdivi-
13 sion thereof is a reference to division B or any sub-
14 division thereof; and

15 “(3) in division (C) to ‘this Act’ or any subdivi-
16 sion thereof is a reference to division C or any sub-
17 division thereof.”.

1 **TITLE III—EMERGENCY**
2 **TREATMENT**

3 **SEC. 301. EMERGENCY TREATMENT.**

4 All provisions of this Act and the amendments made
5 by this Act are designated as an emergency requirement
6 and necessary to meet emergency needs pursuant to sec-
7 tion 204(a) of S. Con. Res 21 (110th Congress), the con-
8 current resolution on the budget for fiscal year 2008.

Calendar No. 121

110TH CONGRESS
2^D SESSION
S. 3688

A BILL

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NOVEMBER 18, 2008

Read the second time and placed on the calendar