

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5749

---

## AN ACT

To provide for a program of emergency unemployment  
compensation.

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

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

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Emergency Extended Unemployment Compensation Act  
4 of 2008”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Federal-State agreements.
- Sec. 3. Emergency unemployment compensation account.
- Sec. 4. Payments to States having agreements for the payment of emergency  
unemployment compensation.
- Sec. 5. Financing provisions.
- Sec. 6. Fraud and overpayments.
- Sec. 7. Definitions.
- Sec. 8. Applicability.

7 **SEC. 2. FEDERAL-STATE AGREEMENTS.**

8 (a) IN GENERAL.—Any State which desires to do so  
9 may enter into and participate in an agreement under this  
10 Act with the Secretary of Labor (in this Act referred to  
11 as the “Secretary”). Any State which is a party to an  
12 agreement under this Act may, upon providing 30 days’  
13 written notice to the Secretary, terminate such agreement.

14 (b) PROVISIONS OF AGREEMENT.—Any agreement  
15 under subsection (a) shall provide that the State agency  
16 of the State will make payments of emergency unemploy-  
17 ment compensation to individuals who—

18 (1) have exhausted all rights to regular com-  
19 pensation under the State law or under Federal law  
20 with respect to a benefit year (excluding any benefit  
21 year that ended before May 1, 2007);

1           (2) have no rights to regular compensation or  
2           extended compensation with respect to a week under  
3           such law or any other State unemployment com-  
4           pensation law or to compensation under any other  
5           Federal law (except as provided under subsection  
6           (e)); and

7           (3) are not receiving compensation with respect  
8           to such week under the unemployment compensation  
9           law of Canada.

10          (c) EXHAUSTION OF BENEFITS.—For purposes of  
11          subsection (b)(1), an individual shall be deemed to have  
12          exhausted such individual’s rights to regular compensation  
13          under a State law when—

14                (1) no payments of regular compensation can  
15                be made under such law because such individual has  
16                received all regular compensation available to such  
17                individual based on employment or wages during  
18                such individual’s base period; or

19                (2) such individual’s rights to such compensa-  
20                tion have been terminated by reason of the expira-  
21                tion of the benefit year with respect to which such  
22                rights existed.

23          (d) WEEKLY BENEFIT AMOUNT, ETC.—For purposes  
24          of any agreement under this Act—

1           (1) the amount of emergency unemployment  
2           compensation which shall be payable to any indi-  
3           vidual for any week of total unemployment shall be  
4           equal to the amount of the regular compensation  
5           (including dependents' allowances) payable to such  
6           individual during such individual's benefit year  
7           under the State law for a week of total unemploy-  
8           ment;

9           (2) the terms and conditions of the State law  
10          which apply to claims for regular compensation and  
11          to the payment thereof shall apply to claims for  
12          emergency unemployment compensation and the  
13          payment thereof, except where otherwise inconsistent  
14          with the provisions of this Act or with the regula-  
15          tions or operating instructions of the Secretary pro-  
16          mulgated to carry out this Act; and

17          (3) the maximum amount of emergency unem-  
18          ployment compensation payable to any individual for  
19          whom an emergency unemployment compensation  
20          account is established under section 3 shall not ex-  
21          ceed the amount established in such account for  
22          such individual.

23          (e) ELECTION BY STATES.—Notwithstanding any  
24          other provision of Federal law (and if State law permits),  
25          the Governor of a State that is in an extended benefit pe-

1 rioid may provide for the payment of emergency unemploy-  
2 ment compensation prior to extended compensation to in-  
3 dividuals who otherwise meet the requirements of this sec-  
4 tion.

5 (f) UNAUTHORIZED ALIENS INELIGIBLE.—A State  
6 shall require as a condition of eligibility for emergency un-  
7 employment compensation under this Act that each alien  
8 who receives such compensation must be legally authorized  
9 to work in the United States, as defined for purposes of  
10 the Federal Unemployment Tax Act (26 U.S.C. 3301 et  
11 seq.). In determining whether an alien meets the require-  
12 ments of this subsection, a State must follow the proce-  
13 dures provided in section 1137(d) of the Social Security  
14 Act (42 U.S.C. 1320b–7(d)).

15 **SEC. 3. EMERGENCY UNEMPLOYMENT COMPENSATION AC-**  
16 **COUNT.**

17 (a) IN GENERAL.—Any agreement under this Act  
18 shall provide that the State will establish, for each eligible  
19 individual who files an application for emergency unem-  
20 ployment compensation, an emergency unemployment  
21 compensation account with respect to such individual's  
22 benefit year.

23 (b) AMOUNT IN ACCOUNT.—

1           (1) IN GENERAL.—The amount established in  
2           an account under subsection (a) shall be equal to the  
3           lesser of—

4                   (A) 50 percent of the total amount of reg-  
5                   ular compensation (including dependents' allow-  
6                   ances) payable to the individual during the indi-  
7                   vidual's benefit year under such law, or

8                   (B) 13 times the individual's average week-  
9                   ly benefit amount for the benefit year.

10          (2) WEEKLY BENEFIT AMOUNT.—For purposes  
11          of this subsection, an individual's weekly benefit  
12          amount for any week is the amount of regular com-  
13          pensation (including dependents' allowances) under  
14          the State law payable to such individual for such  
15          week for total unemployment.

16          (c) SPECIAL RULE.—

17               (1) IN GENERAL.—Notwithstanding any other  
18               provision of this section, if, at the time that the indi-  
19               vidual's account is exhausted or at any time there-  
20               after, such individual's State is in an extended ben-  
21               efit period (as determined under paragraph (2)),  
22               then, such account shall be augmented by an  
23               amount equal to the amount originally established in  
24               such account (as determined under subsection  
25               (b)(1)).

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

5                   (A) such a period is then in effect for such  
6           State under the Federal-State Extended Unem-  
7           ployment Compensation Act of 1970;

8                   (B) such a period would then be in effect  
9           for such State under such Act if section 203(d)  
10          of such Act—

11                          (i) were applied by substituting “4”  
12                          for “5” each place it appears; and

13                          (ii) did not include the requirement  
14                          under paragraph (1)(A); or

15                   (C) such a period would then be in effect  
16          for such State under such Act if—

17                          (i) section 203(f) of such Act were ap-  
18                          plied to such State (regardless of whether  
19                          the State by law had provided for such ap-  
20                          plication); and

21                          (ii) such section 203(f)—

22                                   (I) were applied by substituting  
23                                   “6.0” for “6.5” in paragraph  
24                                   (1)(A)(i); and

1 (II) did not include the require-  
2 ment under paragraph (1)(A)(ii).

3 **SEC. 4. PAYMENTS TO STATES HAVING AGREEMENTS FOR**  
4 **THE PAYMENT OF EMERGENCY UNEMPLOY-**  
5 **MENT COMPENSATION.**

6 (a) GENERAL RULE.—There shall be paid to each  
7 State that has entered into an agreement under this Act  
8 an amount equal to 100 percent of the emergency unem-  
9 ployment compensation paid to individuals by the State  
10 pursuant to such agreement.

11 (b) TREATMENT OF REIMBURSABLE COMPENSA-  
12 TION.—No payment shall be made to any State under this  
13 section in respect of any compensation to the extent the  
14 State is entitled to reimbursement in respect of such com-  
15 pensation under the provisions of any Federal law other  
16 than this Act or chapter 85 of title 5, United States Code.  
17 A State shall not be entitled to any reimbursement under  
18 such chapter 85 in respect of any compensation to the ex-  
19 tent the State is entitled to reimbursement under this Act  
20 in respect of such compensation.

21 (c) DETERMINATION OF AMOUNT.—Sums payable to  
22 any State by reason of such State having an agreement  
23 under this Act shall be payable, either in advance or by  
24 way of reimbursement (as may be determined by the Sec-  
25 retary), in such amounts as the Secretary estimates the

1 State will be entitled to receive under this Act for each  
2 calendar month, reduced or increased, as the case may be,  
3 by any amount by which the Secretary finds that the Sec-  
4 retary's estimates for any prior calendar month were  
5 greater or less than the amounts which should have been  
6 paid to the State. Such estimates may be made on the  
7 basis of such statistical, sampling, or other method as may  
8 be agreed upon by the Secretary and the State agency of  
9 the State involved.

10 **SEC. 5. FINANCING PROVISIONS.**

11 (a) IN GENERAL.—Funds in the extended unemploy-  
12 ment compensation account (as established by section  
13 905(a) of the Social Security Act (42 U.S.C. 1105(a)))  
14 of the Unemployment Trust Fund (as established by sec-  
15 tion 904(a) of such Act (42 U.S.C. 1104(a))) shall be used  
16 for the making of payments to States having agreements  
17 entered into under this Act.

18 (b) CERTIFICATION.—The Secretary shall from time  
19 to time certify to the Secretary of the Treasury for pay-  
20 ment to each State the sums payable to such State under  
21 this Act. The Secretary of the Treasury, prior to audit  
22 or settlement by the Government Accountability Office,  
23 shall make payments to the State in accordance with such  
24 certification, by transfers from the extended unemploy-  
25 ment compensation account (as so established) to the ac-

1 count of such State in the Unemployment Trust Fund (as  
2 so established).

3 (c) ASSISTANCE TO STATES.—There are appro-  
4 priated out of the employment security administration ac-  
5 count (as established by section 901(a) of the Social Secu-  
6 rity Act (42 U.S.C. 1101(a))) of the Unemployment Trust  
7 Fund, without fiscal year limitation, such funds as may  
8 be necessary for purposes of assisting States (as provided  
9 in title III of the Social Security Act (42 U.S.C. 501 et  
10 seq.)) in meeting the costs of administration of agree-  
11 ments under this Act.

12 (d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—  
13 There are appropriated from the general fund of the  
14 Treasury, without fiscal year limitation, to the extended  
15 unemployment compensation account (as so established)  
16 of the Unemployment Trust Fund (as so established) such  
17 sums as the Secretary estimates to be necessary to make  
18 the payments under this section in respect of—

19 (1) compensation payable under chapter 85 of  
20 title 5, United States Code; and

21 (2) compensation payable on the basis of serv-  
22 ices to which section 3309(a)(1) of the Internal Rev-  
23 enue Code of 1986 applies.

24 Amounts appropriated pursuant to the preceding sentence  
25 shall not be required to be repaid.

1 **SEC. 6. FRAUD AND OVERPAYMENTS.**

2 (a) IN GENERAL.—If an individual knowingly has  
3 made, or caused to be made by another, a false statement  
4 or representation of a material fact, or knowingly has  
5 failed, or caused another to fail, to disclose a material fact,  
6 and as a result of such false statement or representation  
7 or of such nondisclosure such individual has received an  
8 amount of emergency unemployment compensation under  
9 this Act to which he was not entitled, such individual—

10 (1) shall be ineligible for further emergency un-  
11 employment compensation under this Act in accord-  
12 ance with the provisions of the applicable State un-  
13 employment compensation law relating to fraud in  
14 connection with a claim for unemployment com-  
15 pensation; and

16 (2) shall be subject to prosecution under section  
17 1001 of title 18, United States Code.

18 (b) REPAYMENT.—In the case of individuals who  
19 have received amounts of emergency unemployment com-  
20 pensation under this Act to which they were not entitled,  
21 the State shall require such individuals to repay the  
22 amounts of such emergency unemployment compensation  
23 to the State agency, except that the State agency may  
24 waive such repayment if it determines that—

1           (1) the payment of such emergency unemploy-  
2           ment compensation was without fault on the part of  
3           any such individual; and

4           (2) such repayment would be contrary to equity  
5           and good conscience.

6           (c) RECOVERY BY STATE AGENCY.—

7           (1) IN GENERAL.—The State agency may re-  
8           cover the amount to be repaid, or any part thereof,  
9           by deductions from any emergency unemployment  
10          compensation payable to such individual under this  
11          Act or from any unemployment compensation pay-  
12          able to such individual under any State or Federal  
13          unemployment compensation law administered by  
14          the State agency or under any other Federal law ad-  
15          ministered by the State agency which provides for  
16          the payment of any assistance or allowance with re-  
17          spect to any week of unemployment, during the 3-  
18          year period after the date such individuals received  
19          the payment of the emergency unemployment com-  
20          pensation to which they were not entitled, except  
21          that no single deduction may exceed 50 percent of  
22          the weekly benefit amount from which such deduc-  
23          tion is made.

24          (2) OPPORTUNITY FOR HEARING.—No repay-  
25          ment shall be required, and no deduction shall be

1       made, until a determination has been made, notice  
2       thereof and an opportunity for a fair hearing has  
3       been given to the individual, and the determination  
4       has become final.

5       (d) REVIEW.—Any determination by a State agency  
6       under this section shall be subject to review in the same  
7       manner and to the same extent as determinations under  
8       the State unemployment compensation law, and only in  
9       that manner and to that extent.

10 **SEC. 7. DEFINITIONS.**

11       In this Act, the terms “compensation”, “regular com-  
12       pensation”, “extended compensation”, “benefit year”,  
13       “base period”, “State”, “State agency”, “State law”, and  
14       “week” have the respective meanings given such terms  
15       under section 205 of the Federal-State Extended Unem-  
16       ployment Compensation Act of 1970 (26 U.S.C. 3304  
17       note).

18 **SEC. 8. APPLICABILITY.**

19       (a) IN GENERAL.—Except as provided in subsection  
20       (b), an agreement entered into under this Act shall apply  
21       to weeks of unemployment—

22               (1) beginning after the date on which such  
23       agreement is entered into; and

24               (2) ending on or before March 31, 2009.

1 (b) TRANSITION FOR AMOUNT REMAINING IN AC-  
2 COUNT.—

3 (1) IN GENERAL.—Subject to paragraphs (2)  
4 and (3), in the case of an individual who has  
5 amounts remaining in an account established under  
6 section 3 as of the last day of the last week (as de-  
7 termined in accordance with the applicable State  
8 law) ending on or before March 31, 2009, emergency  
9 unemployment compensation shall continue to be  
10 payable to such individual from such amounts for  
11 any week beginning after such last day for which the  
12 individual meets the eligibility requirements of this  
13 Act.

14 (2) LIMIT ON AUGMENTATION.—If the account  
15 of an individual is exhausted after the last day of  
16 such last week (as so determined), then section 3(c)  
17 shall not apply and such account shall not be aug-  
18 mented under such section, regardless of whether  
19 such individual's State is in an extended benefit pe-  
20 riod (as determined under paragraph (2) of such  
21 section).

1           (3) LIMIT ON COMPENSATION.—No compensa-  
2           tion shall be payable by reason of paragraph (1) for  
3           any week beginning after June 30, 2009.

Passed the House of Representatives June 12, 2008.

Attest:

*Clerk.*

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 5749**

---

**AN ACT**

To provide for a program of emergency  
unemployment compensation.