

110TH CONGRESS
2D SESSION

H. R. 5749

To provide for a program of emergency unemployment compensation.

IN THE HOUSE OF REPRESENTATIVES

APRIL 9, 2008

Mr. McDERMOTT (for himself and Mr. ENGLISH of Pennsylvania) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

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,*

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

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

7 (b) **TABLE OF CONTENTS.**—The table of contents of
8 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.

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

2 (a) IN GENERAL.—Any State which desires to do so
3 may enter into and participate in an agreement under this
4 Act with the Secretary of Labor (in this Act referred to
5 as the “Secretary”). Any State which is a party to an
6 agreement under this Act may, upon providing 30 days’
7 written notice to the Secretary, terminate such agreement.

8 (b) PROVISIONS OF AGREEMENT.—Any agreement
9 under subsection (a) shall provide that the State agency
10 of the State will make payments of emergency unemploy-
11 ment compensation to individuals who—

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

16 (2) have no rights to regular compensation or
17 extended compensation with respect to a week under
18 such law or any other State unemployment com-
19 pensation law or to compensation under any other
20 Federal law; and

21 (3) are not receiving compensation with respect
22 to such week under the unemployment compensation
23 law of Canada.

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

5 (1) no payments of regular compensation can
6 be made under such law because such individual has
7 received all regular compensation available to such
8 individual based on employment or wages during
9 such individual’s base period; or

10 (2) such individual’s rights to such compensa-
11 tion have been terminated by reason of the expira-
12 tion of the benefit year with respect to which such
13 rights existed.

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

16 (1) the amount of emergency unemployment
17 compensation which shall be payable to any indi-
18 vidual for any week of total unemployment shall be
19 equal to the amount of the regular compensation
20 (including dependents’ allowances) payable to such
21 individual during such individual’s benefit year
22 under the State law for a week of total unemploy-
23 ment;

24 (2) the terms and conditions of the State law
25 which apply to claims for regular compensation and

1 to the payment thereof shall apply to claims for
2 emergency unemployment compensation and the
3 payment thereof, except where otherwise inconsistent
4 with the provisions of this Act or with the regula-
5 tions or operating instructions of the Secretary pro-
6 mulgated to carry out this Act; and

7 (3) the maximum amount of emergency unem-
8 ployment compensation payable to any individual for
9 whom an emergency unemployment compensation
10 account is established under section 3 shall not ex-
11 ceed the amount established in such account for
12 such individual.

13 (e) ELECTION BY STATES.—Notwithstanding any
14 other provision of Federal law (and if State law permits),
15 the Governor of a State that is in an extended benefit pe-
16 riod may provide for the payment of emergency unemploy-
17 ment compensation prior to extended compensation to in-
18 dividuals who otherwise meet the requirements of this sec-
19 tion.

20 **SEC. 3. EMERGENCY UNEMPLOYMENT COMPENSATION AC-**
21 **COUNT.**

22 (a) IN GENERAL.—Any agreement under this Act
23 shall provide that the State will establish, for each eligible
24 individual who files an application for emergency unem-
25 ployment compensation, an emergency unemployment

1 compensation account with respect to such individual's
2 benefit year.

3 (b) AMOUNT IN ACCOUNT.—

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

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

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

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

19 (c) SPECIAL RULE.—

20 (1) IN GENERAL.—Notwithstanding any other
21 provision of this section, if, at the time that the indi-
22 vidual's account is exhausted, such individual's State
23 is in an extended benefit period (as determined
24 under paragraph (2)), then, such account shall be
25 augmented by an amount equal to the amount origi-

1 nally established in such account (as determined
2 under subsection (b)(1)).

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

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

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

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

15 (ii) did not include the requirement
16 under paragraph (1)(A); or

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

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

23 (ii) such section 203(f)—

1 (I) were applied by substituting
2 “6.0” for “6.5” in paragraph
3 (1)(A)(i); and

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

6 **SEC. 4. PAYMENTS TO STATES HAVING AGREEMENTS FOR**
7 **THE PAYMENT OF EMERGENCY UNEMPLOY-**
8 **MENT COMPENSATION.**

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

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

24 (c) DETERMINATION OF AMOUNT.—Sums payable to
25 any State by reason of such State having an agreement

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

13 **SEC. 5. FINANCING PROVISIONS.**

14 (a) IN GENERAL.—Funds in the extended unemploy-
15 ment compensation account (as established by section
16 905(a) of the Social Security Act (42 U.S.C. 1105(a)) of
17 the Unemployment Trust Fund (as established by section
18 904(a) of such Act (42 U.S.C. 1104(a)) shall be used for
19 the making of payments to States having agreements en-
20 tered into under this Act.

21 (b) CERTIFICATION.—The Secretary shall from time
22 to time certify to the Secretary of the Treasury for pay-
23 ment to each State the sums payable to such State under
24 this Act. The Secretary of the Treasury, prior to audit
25 or settlement by the Government Accountability Office,

1 shall make payments to the State in accordance with such
2 certification, by transfers from the extended unemploy-
3 ment compensation account (as so established) to the ac-
4 count of such State in the Unemployment Trust Fund (as
5 so established).

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

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

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

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

4 Amounts appropriated pursuant to the preceding sentence
5 shall not be required to be repaid.

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

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

15 (1) shall be ineligible for further emergency un-
16 employment compensation under this Act in accord-
17 ance with the provisions of the applicable State un-
18 employment compensation law relating to fraud in
19 connection with a claim for unemployment com-
20 pensation; and

21 (2) shall be subject to prosecution under section
22 1001 of title 18, United States Code.

23 (b) REPAYMENT.—In the case of individuals who
24 have received amounts of emergency unemployment com-
25 pensation under this Act to which they were not entitled,

1 the State shall require such individuals to repay the
2 amounts of such emergency unemployment compensation
3 to the State agency, except that the State agency may
4 waive such repayment if it determines that—

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

8 (2) such repayment would be contrary to equity
9 and good conscience.

10 (c) RECOVERY BY STATE AGENCY.—

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

1 the weekly benefit amount from which such deduc-
2 tion is made.

3 (2) OPPORTUNITY FOR HEARING.—No repay-
4 ment shall be required, and no deduction shall be
5 made, until a determination has been made, notice
6 thereof and an opportunity for a fair hearing has
7 been given to the individual, and the determination
8 has become final.

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

14 **SEC. 7. DEFINITIONS.**

15 In this Act, the terms “compensation”, “regular com-
16 pensation”, “extended compensation”, “additional com-
17 pensation”, “benefit year”, “base period”, “State”, “State
18 agency”, “State law”, and “week” have the respective
19 meanings given such terms under section 205 of the Fed-
20 eral-State Extended Unemployment Compensation Act of
21 1970 (26 U.S.C. 3304 note).

22 **SEC. 8. APPLICABILITY.**

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

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

3 (2) ending on or before February 1, 2009.

4 (b) TRANSITION FOR AMOUNT REMAINING IN AC-
5 COUNT.—

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

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

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

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