

Calendar No. 780

110TH CONGRESS
2D SESSION**H. R. 5749**

IN THE SENATE OF THE UNITED STATES

JUNE 12, 2008

Received and read the first time

JUNE 13, 2008

Considered to have been read a second time and placed on the calendar
pursuant to the order of June 12, 2008

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,*

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 for
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 (except as provided under subsection
21 (e)); and

1 (3) are not receiving compensation with respect
2 to such week under the unemployment compensation
3 law of Canada.

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

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

13 (2) such individual's rights to such compensa-
14 tion have been terminated by reason of the expira-
15 tion of the benefit year with respect to which such
16 rights existed.

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

19 (1) the amount of emergency unemployment
20 compensation which shall be payable to any indi-
21 vidual for any week of total unemployment shall be
22 equal to the amount of the regular compensation
23 (including dependents' allowances) payable to such
24 individual during such individual's benefit year

1 under the State law for a week of total unemploy-
2 ment;

3 (2) the terms and conditions of the State law
4 which apply to claims for regular compensation and
5 to the payment thereof shall apply to claims for
6 emergency unemployment compensation and the
7 payment thereof, except where otherwise inconsistent
8 with the provisions of this Act or with the regula-
9 tions or operating instructions of the Secretary pro-
10 mulgated to carry out this Act; and

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

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

24 (f) UNAUTHORIZED ALIENS INELIGIBLE.—A State
25 shall require as a condition of eligibility for emergency un-

1 employment compensation under this Act that each alien
2 who receives such compensation must be legally authorized
3 to work in the United States, as defined for purposes of
4 the Federal Unemployment Tax Act (26 U.S.C. 3301 et
5 seq.). In determining whether an alien meets the require-
6 ments of this subsection, a State must follow the proce-
7 dures provided in section 1137(d) of the Social Security
8 Act (42 U.S.C. 1320b-7(d)).

9 **SEC. 3. EMERGENCY UNEMPLOYMENT COMPENSATION AC-**
10 **COUNT.**

11 (a) IN GENERAL.—Any agreement under this Act
12 shall provide that the State will establish, for each eligible
13 individual who files an application for emergency unem-
14 ployment compensation, an emergency unemployment
15 compensation account with respect to such individual's
16 benefit year.

17 (b) AMOUNT IN ACCOUNT.—

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

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

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

3 (2) WEEKLY BENEFIT AMOUNT.—For purposes
4 of this subsection, an individual's weekly benefit
5 amount for any week is the amount of regular com-
6 pensation (including dependents' allowances) under
7 the State law payable to such individual for such
8 week for total unemployment.

9 (c) SPECIAL RULE.—

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

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

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

1 (B) such a period would then be in effect
 2 for such State under such Act if section 203(d)
 3 of such Act—

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

6 (ii) did not include the requirement
 7 under paragraph (1)(A); or

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

10 (i) section 203(f) of such Act were ap-
 11 plied to such State (regardless of whether
 12 the State by law had provided for such ap-
 13 plication); and

14 (ii) such section 203(f)—

15 (I) were applied by substituting
 16 “6.0” for “6.5” in paragraph
 17 (1)(A)(i); and

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

20 **SEC. 4. PAYMENTS TO STATES HAVING AGREEMENTS FOR**
 21 **THE PAYMENT OF EMERGENCY UNEMPLOY-**
 22 **MENT COMPENSATION.**

23 (a) GENERAL RULE.—There shall be paid to each
 24 State that has entered into an agreement under this Act
 25 an amount equal to 100 percent of the emergency unem-

1 ployment compensation paid to individuals by the State
2 pursuant to such agreement.

3 (b) TREATMENT OF REIMBURSABLE COMPENSA-
4 TION.—No payment shall be made to any State under this
5 section in respect of any compensation to the extent the
6 State is entitled to reimbursement in respect of such com-
7 pensation under the provisions of any Federal law other
8 than this Act or chapter 85 of title 5, United States Code.
9 A State shall not be entitled to any reimbursement under
10 such chapter 85 in respect of any compensation to the ex-
11 tent the State is entitled to reimbursement under this Act
12 in respect of such compensation.

13 (c) DETERMINATION OF AMOUNT.—Sums payable to
14 any State by reason of such State having an agreement
15 under this Act shall be payable, either in advance or by
16 way of reimbursement (as may be determined by the Sec-
17 retary), in such amounts as the Secretary estimates the
18 State will be entitled to receive under this Act for each
19 calendar month, reduced or increased, as the case may be,
20 by any amount by which the Secretary finds that the Sec-
21 retary's estimates for any prior calendar month were
22 greater or less than the amounts which should have been
23 paid to the State. Such estimates may be made on the
24 basis of such statistical, sampling, or other method as may

1 be agreed upon by the Secretary and the State agency of
2 the State involved.

3 **SEC. 5. FINANCING PROVISIONS.**

4 (a) IN GENERAL.—Funds in the extended unemploy-
5 ment compensation account (as established by section
6 905(a) of the Social Security Act (42 U.S.C. 1105(a)))
7 of the Unemployment Trust Fund (as established by sec-
8 tion 904(a) of such Act (42 U.S.C. 1104(a))) shall be used
9 for the making of payments to States having agreements
10 entered into under this Act.

11 (b) CERTIFICATION.—The Secretary shall from time
12 to time certify to the Secretary of the Treasury for pay-
13 ment to each State the sums payable to such State under
14 this Act. The Secretary of the Treasury, prior to audit
15 or settlement by the Government Accountability Office,
16 shall make payments to the State in accordance with such
17 certification, by transfers from the extended unemploy-
18 ment compensation account (as so established) to the ac-
19 count of such State in the Unemployment Trust Fund (as
20 so established).

21 (c) ASSISTANCE TO STATES.—There are appro-
22 priated out of the employment security administration ac-
23 count (as established by section 901(a) of the Social Secu-
24 rity Act (42 U.S.C. 1101(a))) of the Unemployment Trust
25 Fund, without fiscal year limitation, such funds as may

1 be necessary for purposes of assisting States (as provided
2 in title III of the Social Security Act (42 U.S.C. 501 et
3 seq.)) in meeting the costs of administration of agree-
4 ments under this Act.

5 (d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—

6 There are appropriated from the general fund of the
7 Treasury, without fiscal year limitation, to the extended
8 unemployment compensation account (as so established)
9 of the Unemployment Trust Fund (as so established) such
10 sums as the Secretary estimates to be necessary to make
11 the payments under this section in respect of—

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

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

17 Amounts appropriated pursuant to the preceding sentence
18 shall not be required to be repaid.

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

20 (a) IN GENERAL.—If an individual knowingly has
21 made, or caused to be made by another, a false statement
22 or representation of a material fact, or knowingly has
23 failed, or caused another to fail, to disclose a material fact,
24 and as a result of such false statement or representation
25 or of such nondisclosure such individual has received an

1 amount of emergency unemployment compensation under
2 this Act to which he was not entitled, such individual—

3 (1) shall be ineligible for further emergency un-
4 employment compensation under this Act in accord-
5 ance with the provisions of the applicable State un-
6 employment compensation law relating to fraud in
7 connection with a claim for unemployment com-
8 pensation; and

9 (2) shall be subject to prosecution under section
10 1001 of title 18, United States Code.

11 (b) REPAYMENT.—In the case of individuals who
12 have received amounts of emergency unemployment com-
13 pensation under this Act to which they were not entitled,
14 the State shall require such individuals to repay the
15 amounts of such emergency unemployment compensation
16 to the State agency, except that the State agency may
17 waive such repayment if it determines that—

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

21 (2) such repayment would be contrary to equity
22 and good conscience.

23 (c) RECOVERY BY STATE AGENCY.—

24 (1) IN GENERAL.—The State agency may re-
25 cover the amount to be repaid, or any part thereof,

1 by deductions from any emergency unemployment
2 compensation payable to such individual under this
3 Act or from any unemployment compensation pay-
4 able to such individual under any State or Federal
5 unemployment compensation law administered by
6 the State agency or under any other Federal law ad-
7 ministered by the State agency which provides for
8 the payment of any assistance or allowance with re-
9 spect to any week of unemployment, during the 3-
10 year period after the date such individuals received
11 the payment of the emergency unemployment com-
12 pensation to which they were not entitled, except
13 that no single deduction may exceed 50 percent of
14 the weekly benefit amount from which such deduc-
15 tion is made.

16 (2) OPPORTUNITY FOR HEARING.—No repay-
17 ment shall be required, and no deduction shall be
18 made, until a determination has been made, notice
19 thereof and an opportunity for a fair hearing has
20 been given to the individual, and the determination
21 has become final.

22 (d) REVIEW.—Any determination by a State agency
23 under this section shall be subject to review in the same
24 manner and to the same extent as determinations under

1 the State unemployment compensation law, and only in
2 that manner and to that extent.

3 **SEC. 7. DEFINITIONS.**

4 In this Act, the terms “compensation”, “regular com-
5 pensation”, “extended compensation”, “benefit year”,
6 “base period”, “State”, “State agency”, “State law”, and
7 “week” have the respective meanings given such terms
8 under section 205 of the Federal-State Extended Unem-
9 ployment Compensation Act of 1970 (26 U.S.C. 3304
10 note).

11 **SEC. 8. APPLICABILITY.**

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

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

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

18 (b) TRANSITION FOR AMOUNT REMAINING IN AC-
19 COUNT.—

20 (1) IN GENERAL.—Subject to paragraphs (2)
21 and (3), in the case of an individual who has
22 amounts remaining in an account established under
23 section 3 as of the last day of the last week (as de-
24 termined in accordance with the applicable State
25 law) ending on or before March 31, 2009, emergency

1 unemployment compensation shall continue to be
2 payable to such individual from such amounts for
3 any week beginning after such last day for which the
4 individual meets the eligibility requirements of this
5 Act.

6 (2) LIMIT ON AUGMENTATION.—If the account
7 of an individual is exhausted after the last day of
8 such last week (as so determined), then section 3(c)
9 shall not apply and such account shall not be aug-
10 mented under such section, regardless of whether
11 such individual's State is in an extended benefit pe-
12 riod (as determined under paragraph (2) of such
13 section).

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

Passed the House of Representatives June 12, 2008.

Attest: LORRAINE C. MILLER,
Clerk.

By ROBERT F. REEVES,
Deputy Clerk.

Calendar No. 780

110TH CONGRESS
2^D SESSION

H. R. 5749

AN ACT

To provide for a program of emergency
unemployment compensation.

JUNE 13, 2008

Considered to have been read a second time and placed
on the calendar pursuant to the order of June 12, 2008