

Union Calendar No. 378

110TH CONGRESS
2^D SESSION

H. R. 5749

[Report No. 110-607]

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

APRIL 24, 2008

Additional sponsors: Mr. RANGEL, Mr. PORTER, Mr. STARK, Mr. YOUNG of Alaska, Mr. LEVIN, Mrs. MILLER of Michigan, Mr. LEWIS of Georgia, Mr. McCOTTER, Mrs. JONES of Ohio, Ms. BERKLEY, Mr. VAN HOLLEN, Mr. NADLER, Mr. SCOTT of Georgia, Mr. FARR, Mr. ELLISON, Mr. KIND, Mr. GORDON of Tennessee, Mr. BLUMENAUER, Mr. POMEROY, Mr. DINGELL, Mr. WILSON of Ohio, Mr. STUPAK, Mr. KILDEE, Mr. LOBIONDO, Mr. CROWLEY, Mr. DAVIS of Alabama, Mr. ROGERS of Michigan, Mr. SHERMAN, Ms. SCHAKOWSKY, Mr. WALBERG, Mr. TIM MURPHY of Pennsylvania, Ms. WATSON, Mr. AL GREEN of Texas, Mr. ANDREWS, and Ms. LEE

APRIL 24, 2008

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on April 9, 2008]

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 of*
6 *2008”.*

7 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
8 *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 un-
employment compensation.

Sec. 5. Financing provisions.

Sec. 6. Fraud and overpayments.

Sec. 7. Definitions.

Sec. 8. Applicability.

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

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

1 (b) *PROVISIONS OF AGREEMENT.*—Any agreement
2 under subsection (a) shall provide that the State agency of
3 the State will make payments of emergency unemployment
4 compensation to individuals who—

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

9 (2) have no rights to regular compensation or ex-
10 tended compensation with respect to a week under
11 such law or any other State unemployment compensa-
12 tion law or to compensation under any other Federal
13 law (except as provided under subsection (e)); and

14 (3) are not receiving compensation with respect
15 to such week under the unemployment compensation
16 law of Canada.

17 (c) *EXHAUSTION OF BENEFITS.*—For purposes of sub-
18 section (b)(1), an individual shall be deemed to have ex-
19 hausted such individual's rights to regular compensation
20 under a State law when—

21 (1) no payments of regular compensation can be
22 made under such law because such individual has re-
23 ceived all regular compensation available to such in-
24 dividual based on employment or wages during such
25 individual's base period; or

1 (2) *such individual's rights to such compensation*
2 *have been terminated by reason of the expiration of*
3 *the benefit year with respect to which such rights ex-*
4 *isted.*

5 (d) *WEEKLY BENEFIT AMOUNT, ETC.—For purposes*
6 *of any agreement under this Act—*

7 (1) *the amount of emergency unemployment*
8 *compensation which shall be payable to any indi-*
9 *vidual for any week of total unemployment shall be*
10 *equal to the amount of the regular compensation (in-*
11 *cluding dependents' allowances) payable to such indi-*
12 *vidual during such individual's benefit year under*
13 *the State law for a week of total unemployment;*

14 (2) *the terms and conditions of the State law*
15 *which apply to claims for regular compensation and*
16 *to the payment thereof shall apply to claims for emer-*
17 *gency unemployment compensation and the payment*
18 *thereof, except where otherwise inconsistent with the*
19 *provisions of this Act or with the regulations or oper-*
20 *ating instructions of the Secretary promulgated to*
21 *carry out this Act; and*

22 (3) *the maximum amount of emergency unem-*
23 *ployment compensation payable to any individual for*
24 *whom an emergency unemployment compensation ac-*
25 *count is established under section 3 shall not exceed*

1 *the amount established in such account for such indi-*
2 *vidual.*

3 (e) *ELECTION BY STATES.*—*Notwithstanding any*
4 *other provision of Federal law (and if State law permits),*
5 *the Governor of a State that is in an extended benefit period*
6 *may provide for the payment of emergency unemployment*
7 *compensation prior to extended compensation to individ-*
8 *uals who otherwise meet the requirements of this section.*

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

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

17 (b) *AMOUNT IN ACCOUNT.*—

18 (1) *IN GENERAL.*—*The amount established in an*
19 *account under subsection (a) shall be equal to the less-*
20 *er 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 of
4 this subsection, an individual's weekly benefit amount
5 for any week is the amount of regular compensation
6 (including dependents' allowances) under the State
7 law payable to such individual for such week for total
8 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 benefit
14 period (as determined under paragraph (2)), then,
15 such account shall be augmented by an amount equal
16 to the amount originally established in such account
17 (as determined under subsection (b)(1)).

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

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

1 (B) such a period would then be in effect for
2 such State under such Act if section 203(d) of
3 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 for
9 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” or “6.5” in paragraph (1)(A)(i);
17 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 unemploy-

1 *ment compensation paid to individuals by the State pursu-*
2 *ant 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 *ensation 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 extent*
11 *the State is entitled to reimbursement under this Act in*
12 *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 cal-*
19 *endar month, reduced or increased, as the case may be, by*
20 *any amount by which the Secretary finds that the Sec-*
21 *retary's estimates for any prior calendar month were great-*
22 *er or less than the amounts which should have been paid*
23 *to the State. Such estimates may be made on the basis of*
24 *such statistical, sampling, or other method as may be agreed*

1 upon by the Secretary and the State agency of the State
2 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))) of
7 the Unemployment Trust Fund (as established by section
8 904(a) of such Act (42 U.S.C. 1104(a))) shall be used for
9 the making of payments to States having agreements en-
10 tered into under this Act.

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

20 (c) *ASSISTANCE TO STATES.*—There are appropriated
21 out of the employment security administration account (as
22 established by section 901(a) of the Social Security Act (42
23 U.S.C. 1101(a))) of the Unemployment Trust Fund, with-
24 out fiscal year limitation, such funds as may be necessary
25 for purposes of assisting States (as provided in title III of

1 *the Social Security Act (42 U.S.C. 501 et seq.) in meeting*
2 *the costs of administration of agreements under this Act.*

3 (d) *APPROPRIATIONS FOR CERTAIN PAYMENTS.—*

4 *There are appropriated from the general fund of the Treas-*
5 *ury, without fiscal year limitation, to the extended unem-*
6 *ployment compensation account (as so established) of the*
7 *Unemployment Trust Fund (as so established) such sums*
8 *as the Secretary estimates to be necessary to make the pay-*
9 *ments under this section in respect of—*

10 (1) *compensation payable under chapter 85 of*
11 *title 5, United States Code; and*

12 (2) *compensation payable on the basis of services*
13 *to which section 3309(a)(1) of the Internal Revenue*
14 *Code of 1986 applies.*

15 *Amounts appropriated pursuant to the preceding sentence*
16 *shall not be required to be repaid.*

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

18 (a) *IN GENERAL.—If an individual knowingly has*
19 *made, or caused to be made by another, a false statement*
20 *or representation of a material fact, or knowingly has*
21 *failed, or caused another to fail, to disclose a material fact,*
22 *and as a result of such false statement or representation*
23 *or of such nondisclosure such individual has received an*
24 *amount of emergency unemployment compensation under*
25 *this Act to which he was not entitled, such individual—*

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

7 (2) *shall be subject to prosecution under section*
8 *1001 of title 18, United States Code.*

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

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

19 (2) *such repayment would be contrary to equity*
20 *and good conscience.*

21 (c) *RECOVERY BY STATE AGENCY.*—

22 (1) *IN GENERAL.*—*The State agency may recover*
23 *the amount to be repaid, or any part thereof, by de-*
24 *ductions from any emergency unemployment com-*
25 *pen-sation payable to such individual under this Act*

1 *or from any unemployment compensation payable to*
2 *such individual under any State or Federal unem-*
3 *ployment compensation law administered by the*
4 *State agency or under any other Federal law admin-*
5 *istered by the State agency which provides for the*
6 *payment of any assistance or allowance with respect*
7 *to any week of unemployment, during the 3-year pe-*
8 *riod after the date such individuals received the pay-*
9 *ment of the emergency unemployment compensation*
10 *to which they were not entitled, except that no single*
11 *deduction may exceed 50 percent of the weekly benefit*
12 *amount from which such deduction is made.*

13 *(2) OPPORTUNITY FOR HEARING.—No repayment*
14 *shall be required, and no deduction shall be made,*
15 *until a determination has been made, notice thereof*
16 *and an opportunity for a fair hearing has been given*
17 *to the individual, and the determination has become*
18 *final.*

19 *(d) REVIEW.—Any determination by a State agency*
20 *under this section shall be subject to review in the same*
21 *manner and to the same extent as determinations under*
22 *the State unemployment compensation law, and only in*
23 *that manner and to that extent.*

1 **SEC. 7. DEFINITIONS.**

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

9 **SEC. 8. APPLICABILITY.**

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

13 *(1) beginning after the date on which such agree-*
14 *ment is entered into; and*

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

16 *(b) TRANSITION FOR AMOUNT REMAINING IN AC-*
17 *COUNT.—*

18 *(1) IN GENERAL.—Subject to paragraphs (2) and*
19 *(3), in the case of an individual who has amounts re-*
20 *maining in an account established under section 3 as*
21 *of the last day of the last week (as determined in ac-*
22 *cordance with the applicable State law) ending on or*
23 *before February 1, 2009, emergency unemployment*
24 *compensation shall continue to be payable to such in-*
25 *dividual from such amounts for any week beginning*

1 *after such last day for which the individual meets the*
2 *eligibility requirements of this Act.*

3 (2) *LIMIT ON AUGMENTATION.—If the account of*
4 *an individual is exhausted after the last day of such*
5 *last week (as so determined), then section 3(c) shall*
6 *not apply and such account shall not be augmented*
7 *under such section, regardless of whether such indi-*
8 *vidual's State is in an extended benefit period (as de-*
9 *termined under paragraph (2) of such section).*

10 (3) *LIMIT ON COMPENSATION.—No compensation*
11 *shall be payable by reason of paragraph (1) for any*
12 *week beginning after April 30, 2009.*

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unemployment compensation.

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