

110TH CONGRESS
2D SESSION

S. 2544

To provide for a program of temporary extended unemployment compensation.

IN THE SENATE OF THE UNITED STATES

JANUARY 22 (legislative day, JANUARY 3), 2008

Mr. KENNEDY (for himself, Mr. DODD, Mr. BINGAMAN, Mr. HARKIN, Mr. REED, Mrs. CLINTON, Mr. OBAMA, and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide for a program of temporary extended 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 Unemployment Compensation Extension 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. Temporary extended unemployment compensation account.

Sec. 4. Payments to States having agreements for the payment of temporary extended 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 temporary extended
11 unemployment 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 the date that is 1 year prior
16 to the date of enactment of this Act);

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

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

4 (4) filed an initial claim for regular compensa-
5 tion on or after the date that is 1 year prior to the
6 date of enactment of this Act.

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

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

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

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

22 (1) the amount of temporary extended unem-
23 ployment compensation which shall be payable to
24 any individual for any week of total unemployment
25 shall be equal to the sum of—

1 (A) the amount of the regular compensa-
2 tion (including dependents' allowances) payable
3 to such individual during such individual's ben-
4 efit year under the State law for a week of total
5 unemployment; and

6 (B) \$50;

7 (2) the terms and conditions of the State law
8 which apply to claims for regular compensation and
9 to the payment thereof shall apply to claims for tem-
10 porary extended unemployment compensation and
11 the payment thereof, except where otherwise incon-
12 sistent with the provisions of this Act or with the
13 regulations or operating instructions of the Sec-
14 retary promulgated to carry out this Act; and

15 (3) the maximum amount of temporary ex-
16 tended unemployment compensation payable to any
17 individual for whom a temporary extended unem-
18 ployment compensation account is established under
19 section 3 shall not exceed the amount established in
20 such account for such individual.

21 (e) ELECTION BY STATES.—Notwithstanding any
22 other provision of Federal law (and if State law permits),
23 the Governor of a State that is in an extended benefit pe-
24 riod may provide for the payment of temporary extended
25 unemployment compensation in lieu of extended com-

1 pensionation to individuals who otherwise meet the require-
2 ments of this section. Such an election shall not require
3 a State to trigger off an extended benefit period.

4 **SEC. 3. TEMPORARY EXTENDED UNEMPLOYMENT COM-**
5 **PENSATION ACCOUNT.**

6 (a) IN GENERAL.—Any agreement under this Act
7 shall provide that the State will establish, for each eligible
8 individual who files an application for temporary extended
9 unemployment compensation, a temporary extended un-
10 employment compensation account with respect to such in-
11 dividual's benefit year.

12 (b) AMOUNT IN ACCOUNT.—

13 (1) IN GENERAL.—The amount established in
14 an account under subsection (a) shall be equal to 20
15 times the individual's average weekly benefit amount
16 (as determined under paragraph (2)) for the benefit
17 year.

18 (2) WEEKLY BENEFIT AMOUNT.—For purposes
19 of paragraph (1) and subsection (c)(1), an individ-
20 ual's weekly benefit amount for any week is equal to
21 the sum of—

22 (A) the amount of regular compensation
23 (including dependents' allowances) under the
24 State law payable to such individual for such
25 week for total unemployment; and

1 (B) \$50.

2 (c) SPECIAL RULE.—

3 (1) IN GENERAL.—Notwithstanding any other
4 provision of this section, if, at the time that the indi-
5 vidual's account is exhausted, such individual's State
6 is in an extended benefit period (as determined
7 under paragraph (2)), then, such account shall be
8 augmented by an amount equal to 13 times the indi-
9 vidual's average weekly benefit amount (as deter-
10 mined under subsection (b)(2)) for the benefit year.

11 (2) EXTENDED BENEFIT PERIOD.—For pur-
12 poses of paragraph (1), a State shall be considered
13 to be in an extended benefit period if, at the time
14 of exhaustion (as described in paragraph (1)) or at
15 any time during the period beginning on the date of
16 enactment of this act and ending at the time of such
17 exhaustion—

18 (A) such a period is then in effect for such
19 State under the Federal-State Extended Unem-
20 ployment Compensation Act of 1970; or

21 (B) such a period would then be in effect
22 for such State under such Act if—

23 (i) section 203(f) of such Act was ap-
24 plied to such State (regardless of whether

1 the State by law had provided for such ap-
 2 plication); and

3 (ii) such section 203(f)—

4 (I) was applied by substituting
 5 “6.0” for “6.5” in paragraph
 6 (1)(A)(i); and

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

9 **SEC. 4. PAYMENTS TO STATES HAVING AGREEMENTS FOR**
 10 **THE PAYMENT OF TEMPORARY EXTENDED**
 11 **UNEMPLOYMENT COMPENSATION.**

12 (a) GENERAL RULE.—There shall be paid to each
 13 State which has entered into an agreement under this Act
 14 an amount equal to 100 percent of the temporary extended
 15 unemployment compensation paid to individuals by the
 16 State pursuant to such agreement.

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

1 tent the State is entitled to reimbursement under this Act
2 in respect of such compensation.

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

17 **SEC. 5. FINANCING PROVISIONS.**

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

1 (b) CERTIFICATION.—The Secretary shall from time
2 to time certify to the Secretary of the Treasury for pay-
3 ment to each State the sums payable to such State under
4 this Act. The Secretary of the Treasury, prior to audit
5 or settlement by the Government Accountability Office,
6 shall make payments to the State in accordance with such
7 certification, by transfers from the extended unemploy-
8 ment compensation account (as so established) to the ac-
9 count of such State in the Unemployment Trust Fund (as
10 so established).

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

20 (d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—
21 There are appropriated from the general fund of the
22 Treasury, without fiscal year limitation, to the extended
23 unemployment compensation account (as so established)
24 of the Unemployment Trust Fund (as so established) such

1 sums as the Secretary estimates to be necessary to make
2 the payments under this section in respect of—

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

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

8 Amounts appropriated pursuant to the preceding sentence
9 shall not be required to be repaid.

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

11 (a) IN GENERAL.—If an individual knowingly has
12 made, or caused to be made by another, a false statement
13 or representation of a material fact, or knowingly has
14 failed, or caused another to fail, to disclose a material fact,
15 and as a result of such false statement or representation
16 or of such nondisclosure such individual has received an
17 amount of temporary extended unemployment compensa-
18 tion under this Act to which the individual was not enti-
19 tled, such individual—

20 (1) shall be ineligible for further temporary ex-
21 tended unemployment compensation under this Act
22 in accordance with the provisions of the applicable
23 State unemployment compensation law relating to
24 fraud in connection with a claim for unemployment
25 compensation; and

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

3 (b) REPAYMENT.—In the case of individuals who
4 have received amounts of temporary extended unemploy-
5 ment compensation under this Act to which they were not
6 entitled, the State shall require such individuals to repay
7 the amounts of such temporary extended unemployment
8 compensation to the State agency, except that the State
9 agency may waive such repayment if it determines that—

10 (1) the payment of such temporary extended
11 unemployment compensation was without fault on
12 the part of any such individual; and

13 (2) such repayment would be contrary to equity
14 and good conscience.

15 (c) RECOVERY BY STATE AGENCY.—

16 (1) IN GENERAL.—The State agency may re-
17 cover the amount to be repaid, or any part thereof,
18 by deductions from any temporary extended unem-
19 ployment compensation payable to such individual
20 under this Act or from any unemployment com-
21 pensation payable to such individual under any Fed-
22 eral unemployment compensation law administered
23 by the State agency or under any other Federal law
24 administered by the State agency which provides for
25 the payment of any assistance or allowance with re-

1 spect to any week of unemployment, during the 3-
2 year period after the date such individuals received
3 the payment of the temporary extended unemploy-
4 ment compensation to which they were not entitled,
5 except that no single deduction may exceed 50 per-
6 cent of the weekly benefit amount from which such
7 deduction is made.

8 (2) OPPORTUNITY FOR HEARING.—No repay-
9 ment shall be required, and no deduction shall be
10 made, until a determination has been made, notice
11 thereof and an opportunity for a fair hearing has
12 been given to the individual, and the determination
13 has become final.

14 (d) REVIEW.—Any determination by a State agency
15 under this section shall be subject to review in the same
16 manner and to the same extent as determinations under
17 the State unemployment compensation law, and only in
18 that manner and to that extent.

19 **SEC. 7. DEFINITIONS.**

20 In this Act, the terms “compensation”, “regular com-
21 pensation”, “extended compensation”, “benefit year”,
22 “base period”, “State”, “State agency”, “State law”, and
23 “week” have the respective meanings given such terms
24 under section 205 of the Federal-State Extended Unem-

1 ployment Compensation Act of 1970 (26 U.S.C. 3304
2 note).

3 **SEC. 8. APPLICABILITY.**

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

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

9 (2) ending on or before the date that is 1 year
10 after the date of enactment of this Act.

11 (b) TRANSITION FOR AMOUNT REMAINING IN AC-
12 COUNT.—

13 (1) IN GENERAL.—Subject to paragraphs (2)
14 and (3), in the case of an individual who has
15 amounts remaining in an account established under
16 section 3 as of the date that is 1 year after the date
17 of enactment of this Act, temporary extended unem-
18 ployment compensation shall continue to be payable
19 to such individual from such amounts for any week
20 beginning after the date that is 1 year after the date
21 of enactment of this Act for which the individual
22 meets the eligibility requirements of this Act.

23 (2) NO AUGMENTATION AFTER 1 YEAR AFTER
24 THE DATE OF ENACTMENT OF THIS ACT.—If the ac-
25 count of an individual is exhausted after the date

1 that is 1 year after the date of enactment of this
2 Act, then section 3(c) shall not apply and such ac-
3 count shall not be augmented under such section, re-
4 gardless of whether such individual's State is in an
5 extended benefit period (as determined under para-
6 graph (2) of such section).

7 (3) LIMITATION.—No compensation shall be
8 payable by reason of paragraph (1) for any week be-
9 ginning after the date that is 18 months after the
10 date of enactment of this Act.

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