

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5749, AS REPORTED
OFFERED BY MR. RANGEL OF NEW YORK**

Strike all after the enacting clause and insert the following:

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.

1 (b) PROVISIONS OF AGREEMENT.—Any agreement
2 under subsection (a) shall provide that the State agency
3 of the State will make payments of emergency unemploy-
4 ment 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
10 extended compensation with respect to a week under
11 such law or any other State unemployment com-
12 pensation law or to compensation under any other
13 Federal law (except as provided under subsection
14 (e)); and

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

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

22 (1) no payments of regular compensation can
23 be made under such law because such individual has
24 received all regular compensation available to such

1 individual based on employment or wages during
2 such individual's base period; or

3 (2) such individual's rights to such compensa-
4 tion have been terminated by reason of the expira-
5 tion of the benefit year with respect to which such
6 rights existed.

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

9 (1) the amount of emergency unemployment
10 compensation which shall be payable to any indi-
11 vidual for any week of total unemployment shall be
12 equal to the amount of the regular compensation
13 (including dependents' allowances) payable to such
14 individual during such individual's benefit year
15 under the State law for a week of total unemploy-
16 ment;

17 (2) the terms and conditions of the State law
18 which apply to claims for regular compensation and
19 to the payment thereof shall apply to claims for
20 emergency unemployment compensation and the
21 payment thereof, except where otherwise inconsistent
22 with the provisions of this Act or with the regula-
23 tions or operating instructions of the Secretary pro-
24 mulgated to carry out this Act; and

1 (3) the maximum amount of emergency unem-
2 ployment compensation payable to any individual for
3 whom an emergency unemployment compensation
4 account is established under section 3 shall not ex-
5 ceed the amount established in such account for
6 such individual.

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

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

1 **SEC. 3. EMERGENCY UNEMPLOYMENT COMPENSATION AC-**
2 **COUNT.**

3 (a) **IN GENERAL.**—Any agreement under this Act
4 shall provide that the State will establish, for each eligible
5 individual who files an application for emergency unem-
6 ployment compensation, an emergency unemployment
7 compensation account with respect to such individual's
8 benefit year.

9 (b) **AMOUNT IN ACCOUNT.**—

10 (1) **IN GENERAL.**—The amount established in
11 an account under subsection (a) shall be equal to the
12 lesser of—

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

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

19 (2) **WEEKLY BENEFIT AMOUNT.**—For purposes
20 of this subsection, an individual's weekly benefit
21 amount for any week is the amount of regular com-
22 pensation (including dependents' allowances) under
23 the State law payable to such individual for such
24 week for total unemployment.

25 (c) **SPECIAL RULE.**—

1 (1) IN GENERAL.—Notwithstanding any other
2 provision of this section, if, at the time that the indi-
3 vidual’s account is exhausted or at any time there-
4 after, such individual’s State is in an extended ben-
5 efit period (as determined under paragraph (2)),
6 then, such account shall be augmented by an
7 amount equal to the amount originally established in
8 such account (as determined under subsection
9 (b)(1)).

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

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

17 (B) such a period would then be in effect
18 for such State under such Act if section 203(d)
19 of such Act—

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

22 (ii) did not include the requirement
23 under paragraph (1)(A); or

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

1 (i) section 203(f) of such Act were ap-
2 plied to such State (regardless of whether
3 the State by law had provided for such ap-
4 plication); and

5 (ii) such section 203(f)—

6 (I) were applied by substituting
7 “6.0” for “6.5” in paragraph
8 (1)(A)(i); and

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

11 **SEC. 4. PAYMENTS TO STATES HAVING AGREEMENTS FOR**
12 **THE PAYMENT OF EMERGENCY UNEMPLOY-**
13 **MENT COMPENSATION.**

14 (a) **GENERAL RULE.**—There shall be paid to each
15 State that has entered into an agreement under this Act
16 an amount equal to 100 percent of the emergency unem-
17 ployment compensation paid to individuals by the State
18 pursuant to such agreement.

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

1 such chapter 85 in respect of any compensation to the ex-
2 tent the State is entitled to reimbursement under this Act
3 in respect of such compensation.

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

18 **SEC. 5. FINANCING PROVISIONS.**

19 (a) IN GENERAL.—Funds in the extended unemploy-
20 ment compensation account (as established by section
21 905(a) of the Social Security Act (42 U.S.C. 1105(a)))
22 of the Unemployment Trust Fund (as established by sec-
23 tion 904(a) of such Act (42 U.S.C. 1104(a))) shall be used
24 for the making of payments to States having agreements
25 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 emergency unemployment compensation under
18 this Act to which he was not entitled, such individual—

19 (1) shall be ineligible for further emergency un-
20 employment compensation under this Act in accord-
21 ance with the provisions of the applicable State un-
22 employment compensation law relating to fraud in
23 connection with a claim for unemployment com-
24 pensation; 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 emergency unemployment com-
5 pensation under this Act to which they were not entitled,
6 the State shall require such individuals to repay the
7 amounts of such emergency unemployment compensation
8 to the State agency, except that the State agency may
9 waive such repayment if it determines that—

10 (1) the payment of such emergency unemploy-
11 ment compensation was without fault on the part of
12 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 emergency unemployment
19 compensation payable to such individual under this
20 Act or from any unemployment compensation pay-
21 able to such individual under any State or Federal
22 unemployment compensation law administered by
23 the State agency or under any other Federal law ad-
24 ministered 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 emergency unemployment com-
4 pensation to which they were not entitled, except
5 that no single deduction may exceed 50 percent of
6 the weekly benefit amount from which such deduc-
7 tion 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 March 31, 2009.

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

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

23 (2) LIMIT ON AUGMENTATION.—If the account
24 of an individual is exhausted after the last day of
25 such last week (as so determined), then section 3(c)

1 shall not apply and such account shall not be aug-
2 mented under such section, regardless of whether
3 such individual's State is in an extended benefit pe-
4 riod (as determined under paragraph (2) of such
5 section).

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

