

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION EUC08 / FAC / EB
	CORRESPONDENCE SYMBOL OUI /DUI 0
	DATE July 23, 2010

ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 04-10, Change 3

TO: STATE WORKFORCE AGENCIES

FROM: JANE OATES /s/
Assistant Secretary

SUBJECT: Emergency Unemployment Compensation Program Extension and Modification, Extended Benefits Temporary Provisions Extension, and Expiration of Federal Additional Compensation

1. Purpose. To advise states of the extension of and modifications to the Emergency Unemployment Compensation, 2008 (EUC08) program, the extension of the temporary provisions for the federal-state Extended Benefits (EB) program, and the expiration of the Federal Additional Compensation (FAC) program.
2. References. The Unemployment Compensation Extension Act of 2010 (Extension Act), Public Law (P.L.) No. 111-205, enacted July 22, 2010; the Continuing Extension Act of 2010, P.L. No. 111-157; the Supplemental Appropriations Act of 2008, P.L. No. 110-252; Sections 2002 and 2005 of Division B, Title II, the Assistance for Unemployed Workers and Struggling Families Act, P.L. No. 111-5; and Unemployment Insurance Program Letter (UIPL) Nos. 23-08 and 23-08, Changes 1, 2, 3, 4, 5, and 6; No. 07-09; Nos. 11-09 and 11-09, Change 1; Nos. 12-09 and 12-09, Change 1; and Nos. 04-10 and 04-10, Changes 1 and 2.
3. Summary of Changes to EUC08 and EB, and Expiration of FAC. P.L. No. 111-205 extends the phase-out periods and expiration dates of EUC08 and makes certain other program modifications, extends the temporary EB provisions, and discontinues the FAC program. The changes made by P.L. No. 111-205 are outlined below:
 - a. EUC08 Program.
 - The end of the period during which an individual may initially establish eligibility for the First Tier of EUC08 is extended to weeks of unemployment ending on or before November 30, 2010.
 - The end of the period during which an EUC08 account may be augmented is extended. Individuals must exhaust First, Second, or Third Tier EUC08 on or before November 30, 2010, to qualify for the next higher EUC08 tier.
 - The expiration date of the EUC08 program (i.e., the end of the “phase-out” period) is extended. Under the new expiration date, no EUC08 First, Second,

RESCISSIONS None	EXPIRATION DATE Continuing
----------------------------	--------------------------------------

Third, or Fourth-Tier payments may be made for any week of unemployment beginning after April 30, 2011.

- The EUC08 agreement will no longer apply and EUC08 will not be payable in a state if the U.S. Department of Labor (the Department) determines that the method governing the computation of regular compensation under the state law has been modified in a manner such that the average weekly benefit amount of regular unemployment compensation (UC) which will be payable (not including any FAC) during the period of the agreement will be less than the average weekly benefit amount of regular compensation which would otherwise have been payable during such period under the state law, in effect on June 2, 2010.

b. EB Program—100 Percent Federal Funding and EB Eligibility Period.

- The Federal government will reimburse states for 100 percent of the benefit costs of sharable EB and sharable regular compensation for weeks of unemployment beginning before December 1, 2010.
- The phase-out period for states to receive 100 percent reimbursement for individuals who have established EB eligibility is extended. If an individual received EB with respect to one or more weeks of unemployment beginning after February 17, 2009, and before December 1, 2010, the Federal government will continue to pay 100 percent of the eligible (sharable) EB benefit costs for weeks of unemployment ending before May 1, 2011.
- The provision permitting certain individuals to qualify for EB following exhaustion of EUC08 (without an overlap between their benefit year and the EB period) is extended. States may continue to permit these individuals to qualify for EB after they have exhausted EUC08 during an EB period that began on or before the date the individuals exhausted EUC08, even if the benefit year of those individuals ended. (See UIPL No. 12-09, Q&A 6.) This option remains available to states for weeks of unemployment beginning after February 17, 2009, and before December 1, 2010.

c. EB Program – Sharing for First Week.

- The suspension of the prohibition on Federal sharing for the first week of EB if state law permits individuals to be compensated for the first week of regular compensation eligibility at any time or under any circumstances is extended through weeks of unemployment ending on or before April 30, 2011.

d. Expiration of the FAC Program.

- Regular Compensation Claims. The FAC program was not extended and has already begun phasing out. FAC is payable during the phase-out to individuals who, as of June 2, 2010, had not yet exhausted all rights to regular compensation (including self-employment allowances and short-time compensation) with respect to a benefit year that began before that date.
- Federally Funded Compensation Claims. For Federally-funded claims (EUC08, Trade Readjustment Allowances (TRA), Extended Benefits (EB), Unemployment Compensation for Federal Employees, Unemployment Compensation for Ex-servicemembers, and Disaster Unemployment Assistance programs), individuals

are potentially eligible for FAC during the phase out if they had remaining entitlement on such claims on or before June 2, 2010.

- New EUC08, EB, or TRA Claims. Individuals qualifying for new EUC08, EB, or TRA claims on the basis of regular compensation on which FAC was paid on or before June 2, 2010 are potentially eligible for FAC during the phase out.
- Statutory FAC End Date. No FAC is payable for weeks of unemployment beginning after December 7, 2010. (This means the last week-ending date FAC is payable, in those states with a Saturday week-ending date, is December 11, 2010.)

4. Modification of EUC08 Requirements Regarding Subsequent Regular Compensation Entitlement. P.L. No. 111-205 modifies the EUC08 requirement that individuals must exhaust all regular compensation entitlement before receipt of EUC08. It provides for the continued payment of EUC08 where an individual qualifies for a subsequent benefit year if the regular weekly benefit amount payable on that subsequent benefit year is lower than the EUC08 weekly benefit amount, as specified below. (The Questions and Answers in Attachment 2 provide additional information on this change.) Individuals may be eligible to continue to receive EUC08 instead of regular compensation if the following criteria are met:
- a. The individual is entitled to EUC08 with respect to a benefit year;
 - b. The benefit year has expired after the date of the enactment of the Extension Act;
 - c. The individual has remaining entitlement to EUC08 benefits with respect to the benefit year; and
 - d. The individual would qualify for regular compensation in a subsequent (new) benefit year and the weekly benefit amount on the new benefit year would be at least either \$100 or 25 percent less than the weekly benefit amount payable on the individual's EUC08 claim.

The state(s) must determine whether these individuals will be paid EUC08 or regular compensation by selecting one of the following options (State EUC08 Options):

- a. Establish a new benefit year for the individual, but defer payment of regular compensation until the EUC08 claim has been exhausted;
- b. Defer the establishment of the new benefit year and “put on hold” the base period wages currently available for use in establishing the benefit year until the EUC08 claim has been exhausted;
- c. Establish the new benefit year, commence regular compensation payments, and augment the new weekly benefit amount of the regular compensation with remaining funds from the claimant's EUC08 account equal to the difference between the new regular compensation weekly benefit amount and the older EUC08 claim's weekly benefit amount; or
- d. Continue to pay the EUC08 claim if the individual elects not to file a claim for regular compensation under the new benefit year.

This amendment applies only to those individuals whose benefit years expire after the date of enactment of the Extension Act (July 22, 2010). The state must elect only one option and apply it to all eligible individuals. This election may not be changed other than if prompted by a new state law enactment, as explained in Attachment 2, Q&A E.1.

5. Program Continuation. These amendments were enacted on July 22, 2010, and are, except for the new State EUC Options described in item number 4, effective “as if included in [the UC amendments made by] the enactment of the Continuing Extension Act of 2010 (P.L. No. 111-157).” The Department interprets this to mean that implementation of the amendments is retroactive and, therefore, there is no gap between the expiration of the provisions as described in UIPL No. 04-10, Change 2, and the extension of such provisions by the Extension Act as described in this UIPL. Thus, benefits are payable retroactively to otherwise eligible individuals and the Department will reimburse states for the administrative costs of processing these claims.

Changes in the EUC and EB status for individual states are published weekly on the Department’s Web site at: http://oui.doleta.gov/unemploy/claims_arch.asp, and are included in a weekly email transmitting the trigger notices to states.

6. Interpretation. The information in this document is issued to the states and cooperating state agencies as guidance provided by the Department in its role as the principal in the EUC08 program. As agents of the Federal government, the states and cooperating state agencies may not deviate from this guidance without the prior approval of the Department. To the extent that the prior guidance (as outlined in #2, *References* above) is inconsistent with this UIPL, this UIPL supersedes that guidance.

Action Requested. State Administrators are requested to: 1) provide this guidance to appropriate staff, and 2) advise the appropriate Regional Office of its selected State EUC Option.

7. Inquiries. Questions should be directed to the appropriate Regional Office.

8. Attachments.

Attachment 1—Key Dates for Temporary Federal UC Provisions of the Extension Act of 2010.

Attachment 2—Questions and Answers.

Attachment 3—Unemployment Compensation Extension Act of 2010.

Key Dates for Temporary Federal UC Provisions of the Extension Act of 2010				
Program	Last Date Eligibility May Be Established for New Participants		Last Date Payable/Sharable Under Phase-Out	
	Statutory End Date	Actual Week Ending Date ¹	Statutory End Date	Actual Week Ending Date
EUC08	November 30, 2010 ²	November 27, 2010 ^{3,4}	April 30, 2011 ⁵	April 30, 2011 ⁶
FAC	June 2, 2010 ²	May 29, 2010 ⁷	December 7, 2010 ⁵	December 11, 2010 ⁸
100% Federal sharing EB ⁹	December 1, 2010 ¹⁰	December 4, 2010 ¹¹	May 1, 2011 ¹²	April 30, 2011 ¹³
	Statutory End Date		Actual Week Ending Date	
Federal sharing 1 st week EB – compensable waiting week	April 30, 2011 ²		April 30, 2011 ¹³	

¹ For states where week of unemployment ends on Saturday.
² Weeks of unemployment ending on or before this date.
³ Last week of unemployment for which an individual may establish eligibility for EUC08. Individuals exhausting a tier of EUC08 on this date may have their accounts augmented with next higher tier.
⁴ For New York, where a week of unemployment ends on Sunday, actual week ending date is November 28, 2010.
⁵ No compensation for weeks of unemployment beginning after this date.
⁶ For New York, May 1, 2011.
⁷ For New York, May 30, 2010.
⁸ For New York, December 12, 2010.
⁹ Also applies to provision permitting states to extend an individual's EB eligibility period.
¹⁰ Weeks of unemployment beginning before this date.
¹¹ For New York, December 5, 2010.
¹² Weeks of unemployment ending before this date.
¹³ For New York, April 24, 2011.

Questions and Answers

A. General Information

- 1) **Question:** What is the effective date of the State EUC Options (providing continuing EUC08 eligibility for specified individuals despite their having qualified for a subsequent benefit year) under the provision of the Unemployment Compensation Extension Act of 2010 (Extension Act)?

Answer: The State EUC Options provision is applicable to individuals whose benefit years expire after the date of enactment of the Extension Act, which is July 22, 2010.

- 2) **Question:** States in an EB period began paying EB to individuals who could not qualify for EUC08 as of the week-ending June 5, 2010, because the EUC08 program had not yet been extended. May these states continue to pay EB to these individuals until exhaustion of these benefits rather than switching back to EUC08?

Answer: Yes, provided the state has determined that switching from EB back to the EUC08 claim would cause undue delays in the timely payment of benefits, the state may continue to pay EB until exhaustion and then pay EUC08.

- 3) **Question:** How should states report administrative activity for the recent gap in eligibility given the retroactive extension of coverage?

Answer: States will continue to follow existing guidance on reporting. There are no new reporting requirements as a result of this extension. Under current guidance, states report claims activity to reflect the weeks of unemployment experienced by the claimant, so data reported on the ETA 539 and ETA 5159 will be reported to coincide with the weeks of unemployment experienced by the claimant as opposed to when the state processes the claim. Reports that had been previously submitted must be amended to include any additional backdated claims activity. Reporting on the EUC specific and EB specific ETA 207, ETA 218, ETA 227, and ETA 5130 will continue to follow existing guidance.

B. Individuals Affected by the State EUC Options

- 1) **Question:** Which individuals will be impacted by the State EUC Options to pay EUC08 instead of regular compensation?

Answer: Affected individuals are those who had already established and have remaining EUC08 entitlement, have a benefit year that expired after the date of enactment of the Extension Act, and qualify for a new benefit year with a weekly benefit amount (WBA) that is at least \$100 or 25 percent less than their EUC08 WBA.

Note: This provision is not retroactive and the individual's benefit year must have expired after July 22, 2010 (the date of enactment of the Extension Act).

- 2) **Question:** May a state include the FAC payment in the calculation to assess whether the individuals' WBA meets the criteria of having at least \$100 or 25 percent less than the EUC08 WBA?

Answer: No. States must calculate the regular compensation WBA and compare it against the EUC08 WBA. FAC is not included in the calculation.

C. Interstate Claims and Combined Wage Claims (CWC)

- 1) **Question:** An individual has an unexpired benefit year in State A and is receiving EUC08. A quarter check by State A reveals that s/he is eligible for regular compensation in State B and his/her WBA is determined to be at least \$100 or 25 percent less than his/her EUC08 WBA. Does the new state options provision apply to this individual?

Answer: No. The individual does not meet the criteria in the above example because the individual's benefit year has not expired; the individual is no longer eligible for EUC08 because s/he has regular compensation entitlement in State B.

- 2) **Question:** If an individual has worked in multiple states and has regular compensation entitlement in more than one state, does the individual have to meet the threshold criteria (i.e., having a WBA that is \$100 or 25 percent less than the current EUC08 WBA) in each state in order to be eligible to continue to receive EUC08 benefits?

Answer: Yes. If the individual does not meet the criteria in any one of the states where she has potential new regular compensation entitlement, s/he would be ineligible to continue to receive EUC08 benefits under the Extension Act and the state must stop paying EUC08 and, under the CWC procedures, advise the individual of his/her potential entitlement in a state in which the WBA would not be reduced below the \$100/25 percent threshold.

D. Regular Compensation Entitlement

- 1) **Question:** An individual is receiving First Tier EUC08 and his/her benefit year ends. The individual does not have sufficient wages to establish a new benefit year and thus begins receiving Second Tier EUC08. After the quarter changes, the individual has sufficient wages to qualify for regular compensation. Does the state option provision apply to this individual if s/he has a lower WBA that meets the criteria (\$100 or 25 percent less than the EUC08 WBA)?

Answer: Yes. At the time an individual becomes eligible for a new regular compensation claim while receiving EUC08, the new provision will apply, providing the individual's (applicable) benefit year expires after July 22, 2010.

E. State Selection of Options

- 1) **Question:** A state selects an option. Subsequently, the state's law is amended so that another option becomes permissible under its law. May the state then adopt that new option?

Answer: Yes, the state may select another option when it changes its law. Following the selection of the new option, the state must apply it uniformly to all affected individuals.

F. State EUC08 Options

The State EUC08 Options below apply to individuals whose benefit years expire following the date of enactment of the Extension Act (dated July 22, 2010). These State EUC Options apply to individuals meeting the criteria through the statutory expiration date of the EUC08 program.

Under the latest extension, the last week for which EUC08 may be paid is the week ending April 30, 2011. (In New York, where a week of unemployment is Monday to Sunday, the last week of EUC08 would be the week ending May 1, 2011).

Option A

The state will establish a new benefit year but defer payment of regular compensation on that benefit year until the exhaustion of all EUC08 based upon the prior benefit year.

1) **Question:** What will happen to an individual's regular compensation entitlement if a state elects Option A?

Answer: If the state elects Option A, eligible individuals will continue to receive EUC08 until exhaustion of their EUC08 accounts or until the expiration of the EUC08 program, whichever comes first. The state will then pay the individual any remaining regular compensation entitlement.

Option B

The state will defer the establishment of a new benefit year, putting on hold the wages that would otherwise be in the base period, until the exhaustion of all EUC08 benefits based on the prior benefit year.

1) **Question:** If an individual exhausts EUC08 entitlement based upon an existing benefit year, is the state permitted to backdate the effective date of the new regular compensation claim (if there is a delay in filing that new regular claim)?

Answer: Under this option, states must establish the new benefit year with an effective date following the exhaustion of the EUC08 claim. The individual's benefit year will be based on the wages that would have been used had the state not paid EUC08 first. States must not pay EUC08 and regular compensation for the same weeks.

2) **Question:** For how long may the establishment of a new benefit year for an individual be deferred?

Answer: States must, at a minimum, permit the deferment of the benefit year through the statutory end of the EUC08 program.

Option C

The state will pay the new regular compensation claim and pay the difference between the prior EUC08 WBA and the new regular compensation WBA with funds from the claimant's EUC08 account.

- 1) **Question:** If a state chooses Option C, may the individual's regular compensation claim continue to be augmented with EUC08 until exhaustion of that regular compensation?

Answer: No. Augmentation of the new regular compensation claim would continue (providing the claimant is eligible) until exhaustion of the remaining funds in the individual's EUC08 account, or until the end of the EUC08 program (the week ending April 30, 2011, in most states), whichever comes first.

If, for example, an individual exhausts his/her EUC08 account but still has 10 weeks remaining on his/her regular compensation claim, s/he would, if eligible, continue receipt of regular compensation at the original WBA established under the regular compensation benefit year for that claim.

- 2) **Question:** If an individual exhausts his/her regular compensation entitlement before exhausting the EUC08 balance, will s/he continue to receive the remaining EUC08?

Answer: Yes, provided individuals are otherwise eligible for EUC08 on the prior claim, they will continue to receive any remaining EUC08.

Note: If an individual establishes a new (second) EUC08 claim based on a subsequent (second) regular compensation benefit year, the EUC08 WBA on the second claim will be the same as the individual's WBA on the second regular compensation claim (including any dependents' allowances).

- 3) **Question:** Under Option C, if a state law requires that regular compensation overpayments be offset at 100 percent, may the state apply its own law in offsetting any resulting overpayment(s) where the regular compensation is supplemented by EUC08?

Answer: No, under section 4005(c)(1) of the EUC08 statute, no single deduction from EUC08 may exceed 50 percent of the weekly benefit amount from which the deduction is made. Thus, the state must limit the offset of the EUC08 portion of a weekly benefit payment to no more than 50 percent of that payment. The state will offset the regular compensation portion of the weekly benefit payment according to its state law.

Option D

The state will continue to pay EUC08 to an otherwise eligible individual if s/he elects not to file a claim for regular compensation under a new benefit year.

- 1) **Question:** Under Option D, states will offer individuals the choice of continuing receipt of EUC08 or establishing a new regular compensation benefit year. If the individual elects to

continue EUC08, must the state offer the individual the option of switching to a regular compensation claim each subsequent calendar quarter?

Answer: No. The state must offer individuals the choice between EUC08 and regular compensation when s/he first becomes eligible for regular compensation. The state must advise individuals that they may be eligible for regular compensation every new calendar quarter (see the question below).

Once an individual makes an informed choice to continue receiving EUC08, the state will continue to pay EUC08 (if the individual is eligible) until exhaustion. If an individual subsequently elects to establish a new regular compensation benefit year, even though s/he still has remaining EUC08 entitlement, the state must stop payments of EUC08 and establish the new benefit year. Once a new regular compensation benefit year has been established, the choice no longer applies; the individual may not revert to EUC08 while s/he has remaining regular compensation entitlement, because the EUC08 statute requires exhaustion of regular compensation before an individual may be eligible for EUC08.

2) **Question:** Under Option D, what must the state do to notify affected individuals that they may elect to continue receiving EUC08 instead of establishing a new benefit year?

Answer: States must provide individuals with sufficient information to allow them to make an informed choice. Notifications must include:

- The individual's potential entitlement on a new regular compensation claim;
- The consequences of remaining on EUC08 versus filing a new claim; use of wages to qualify for regular compensation will generally diminish every quarter an individual remains on EUC08, because they are no longer in the base period.
- Information that individuals have the option to switch to a regular compensation claim during any subsequent quarter, providing there are sufficient base period wages to support a new regular compensation claim.
- Instructions on how the individuals can advise the state of their election.
- Information on scheduling interviews to provide the appropriate information and to offer an opportunity to make an election.

3) **Question:** Are states required to use a specified method for the notifications to the individual regarding the availability of this choice?

Answer: No. States may determine an appropriate method to provide the notification based on the state's filing procedures, provided that individuals have sufficient information to make an informed choice. Appropriate methods may include, but are not limited to:

- a. Providing written notification to the affected individuals by mail.

- b. Providing appropriate information via the Internet to allow individuals to make an election via the Internet, for example, through a state's Internet continued claims filing system.

4) Question: If an individual does not respond to an election notice, must the state continue to pay the individual EUC08 (assuming s/he's otherwise eligible)?

Answer: Yes. However, the notice must include information that advises individuals that failure to respond to the notice within a specified time (to be determined by the state) will constitute an election to stay on EUC08. This notice might also indicate that any future continued claim certifications for EUC08 also constitutes the individual's agreement to continue receiving EUC08.

5) Question: If an individual elects to continue to receive EUC08 before establishing a new benefit year under Option D and the final week payable of EUC08 is not a full WBA, may the state augment the partial EUC08 week with regular compensation funds based on a new benefit year?

Answer: No. EUC08 and regular compensation remain separate programs and benefits must be paid separately on the EUC08 or regular compensation claim.

G. FAC Phase Out

1) Question: An individual received FAC on his/her regular compensation claim and later qualifies for EB sometime after June 2, 2010 and during FAC phase-out. Does the individual qualify for FAC on the EB claim?

Answer: Yes. UIPL No. 11-09, Attachment A, section C.2, provided that "individuals qualifying for Trade Readjustment Allowances (TRA), EUC08, or EB on the basis of regular compensation on which FAC was paid [before the phase out date, now June 2, 2010] are potentially eligible for FAC during the 'phase-out' period." This is true even if the EB, EUC08, or TRA claim was effective May 30, 2010 or later. The individual would qualify for FAC providing s/he is otherwise eligible and the EB, EUC08, or TRA claim was based on a claim on which FAC was paid before June 2, 2010.

2) Question: Individuals are receiving FAC on claims for EUC08 based upon eligibility established before June 2, 2010. If these individuals exhaust the current tier of EUC08 after June 2, 2010 and are otherwise eligible to receive the next tier of EUC08, do the FAC payments continue?

Answer: Yes. Once the individual has received FAC on an EUC08 claim based upon eligibility established before June 2, 2010, s/he will continue to receive FAC on any subsequent tiers of EUC08 that may be paid through the phase-out of the FAC program.

H.R.4213 -- Unemployment Compensation Extension Act of 2010 (Enrolled Bill [Final as Passed Both House and Senate] - ENR)

SEC. 1. SHORT TITLE.

This Act may be cited as the `Unemployment Compensation Extension Act of 2010'.

SEC. 2. EXTENSION OF UNEMPLOYMENT INSURANCE PROVISIONS.

(a) In General- (1) Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended--

(A) by striking `June 2, 2010' each place it appears and inserting `November 30, 2010';

(B) in the heading for subsection (b)(2), by striking `JUNE 2, 2010' and inserting `NOVEMBER 30, 2010'; and

(C) in subsection (b)(3), by striking `November 6, 2010' and inserting `April 30, 2011'.

(2) Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111-5 (26 U.S.C. 3304 note; 123 Stat. 444), is amended--

(A) by striking `June 2, 2010' each place it appears and inserting `December 1, 2010'; and

(B) in subsection (c), by striking `November 6, 2010' and inserting `May 1, 2011'.

(3) Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110-449; 26 U.S.C. 3304 note) is amended by striking `November 6, 2010' and inserting `April 30, 2011'.

(b) Funding- Section 4004(e)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended--

(1) in subparagraph (D), by striking `and' at the end; and

(2) by inserting after subparagraph (E) the following:

`(F) the amendments made by section 2(a)(1) of the Unemployment Compensation Extension Act of 2010; and'.

(c) Conditions for Receiving Emergency Unemployment Compensation- Section 4001(d)(2) of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended, in the matter preceding subparagraph (A), by inserting before `shall apply' the following: `(including terms and conditions relating to availability for work, active search for work, and refusal to accept work)'.

(d) Effective Date- The amendments made by this section shall take effect as if included in the enactment of the Continuing Extension Act of 2010 (Public Law 111-157).

SEC. 3. COORDINATION OF EMERGENCY UNEMPLOYMENT COMPENSATION WITH REGULAR COMPENSATION.

(a) Certain Individuals Not Ineligible by Reason of New Entitlement to Regular Benefits- Section 4002 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended by adding at the end the following:

(g) Coordination of Emergency Unemployment Compensation With Regular Compensation-

(1) If--

(A) an individual has been determined to be entitled to emergency unemployment compensation with respect to a benefit year,

(B) that benefit year has expired,

(C) that individual has remaining entitlement to emergency unemployment compensation with respect to that benefit year, and

(D) that individual would qualify for a new benefit year in which the weekly benefit amount of regular compensation is at least either \$100 or 25 percent less than the individual's weekly benefit amount in the benefit year referred to in subparagraph (A),

then the State shall determine eligibility for compensation as provided in paragraph (2).

(2) For individuals described in paragraph (1), the State shall determine whether the individual is to be paid emergency unemployment compensation or regular compensation for a week of unemployment using one of the following methods:

(A) The State shall, if permitted by State law, establish a new benefit year, but defer the payment of regular compensation with respect to that new benefit year until exhaustion of all emergency unemployment compensation payable with respect to the benefit year referred to in paragraph (1)(A);

(B) The State shall, if permitted by State law, defer the establishment of a new benefit year (which uses all the wages and employment which would have been used to establish a benefit year but for the application of this paragraph), until exhaustion of all emergency unemployment compensation payable with respect to the benefit year referred to in paragraph(1)(A);

`(C) The State shall pay, if permitted by State law--

`(i) regular compensation equal to the weekly benefit amount established under the new benefit year, and

`(ii) emergency unemployment compensation equal to the difference between that weekly benefit amount and the weekly benefit amount for the expired benefit year; or

`(D) The State shall determine rights to emergency unemployment compensation without regard to any rights to regular compensation if the individual elects to not file a claim for regular compensation under the new benefit year.'

(b) Effective Date- The amendment made by this section shall apply to individuals whose benefit years, as described in section 4002(g)(1)(B) the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), as amended by this section, expire after the date of enactment of this Act.

SEC. 4. REQUIRING STATES TO NOT REDUCE REGULAR COMPENSATION IN ORDER TO BE ELIGIBLE FOR FUNDS UNDER THE EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

Section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended by adding at the end the following new subsection:

`(g) Nonreduction Rule- An agreement under this section shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been modified in a manner such that--

`(1) the average weekly benefit amount of regular compensation which will be payable during the period of the agreement occurring on or after June 2, 2010 (determined disregarding any additional amounts attributable to the modification described in section 2002(b)(1) of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111-5 (26 U.S.C. 3304 note; 123 Stat. 438)), will be less than

`(2) the average weekly benefit amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on June 2, 2010.'

SEC. 5. BUDGETARY PROVISIONS.

(a) Statutory Paygo- The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled 'Budgetary Effects of PAYGO Legislation' for this Act, jointly submitted

for printing in the Congressional Record by the Chairmen of the House and Senate Budget Committees, provided that such statement has been submitted prior to the vote on passage in the House acting first on this conference report or amendment between the Houses.

(b) Emergency Designations- Sections 2 and 3--

(1) are designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111-139; 2 U.S.C. 933(g));

(2) in the House of Representatives, are designated as an emergency for purposes of pay-as-you-go principles; and

(3) in the Senate, are designated as an emergency requirement pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.