

tria, where an amendment to the social insurance law mandating equal treatment of men and women went into effect on July 1, 1981. Under this legislation, both sexes are treated equally under the survivor programs, as dependents under the sickness and work injury programs, and for making voluntary pension contributions when out of the labor force for the purpose of caring for a child. Other developments concerning equalization of treatment took place in Japan and Kiribati. In Japan the payroll tax rate for women is gradually being increased to equal the rate for men. In Kiribati, women no longer have the right to withdraw pension contributions upon marriage. They had been allowed to do so because they were required to resign from employment when they married. This change was made to equalize the treatment of men and women.

## Unemployment Insurance Legislation, 1983\*

Two laws enacted in 1983 amended provisions of the unemployment insurance program. First, the Social Security Amendments of 1983 (Public Law 98-21), which was enacted in April, extended and modified the Federal Supplemental Compensation program and amended certain financing and coverage provisions of the unemployment insurance program. Second, the Federal Supplemental Compensation Amendments of 1983 (Public Law 98-135), which was enacted in October, further extended and modified the Federal Supplemental Compensation program as well as amended some unemployment insurance provisions.

This note briefly describes the unemployment insurance system, including the Federal Supplemental Compensation program in effect at the beginning of 1983, and explores the recent changes. It then outlines other changes in the unemployment insurance program that were included in the 1983 legislation.

### The Unemployment Insurance System

Unemployment insurance is a national program established by Titles III and IX of the Social Security Act of 1935. Each State operates its own program under its own law, within national guidelines promulgated under Federal law. Under the program, covered workers who are involuntarily unemployed receive partial wage replacement benefits for specified periods, generally up to 26 weeks. These benefits are financed from State taxes paid by employers on workers' earnings up to a set maximum.

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Funding for administration of the program is provided through a corresponding Federal tax. The law requires that employers pay a 3.5-percent Federal tax on covered earnings. However, employers may credit State contributions made under an approved law towards Federal payroll tax. They may also credit any savings on the State tax under an approved experience rating plan. The maximum credit is 2.7 percent of earnings. Hence, the net Federal tax rate paid by employers is 0.8 percent.

Since 1958, a number of Federal programs have been created to supplement the State-operated programs during economic downturns. In 1970, a permanent extended benefits (EB) program was enacted, financed half by the Federal unemployment payroll tax and half by State payroll taxes. Congress made various changes during the 1970's, including the creation of temporary supplements to the extended benefits provided under the 1970 act. The 1982 Federal Supplemental Compensation (FSC) program, modified in 1983, is the most recent of these supplemental programs.

Under the permanent program for extended benefits, workers exhausting their regular benefits are eligible for extended benefits at a weekly rate equal to that of their regular program benefit amount. The EB is payable for a maximum duration of the lesser of 13 weeks or half the regular benefit duration. Thus, regular program benefits of up to 26 weeks are payable, plus up to 13 weeks of EB, with a 39-week overall maximum of regular and extended benefits. EB becomes payable in a State when the insured unemployment rate is at least 5 percent and at least 120 percent of the corresponding rate 2 years earlier. Optionally, a State can initiate an EB period if the rate is at least 6 percent regardless of earlier levels. Once triggered, EB provisions remain in effect for at least 13 weeks. Further, once a benefit period ends, another statewide period cannot begin for at least 13 weeks.

### Federal Supplemental Compensation

#### Background

In response to higher unemployment rates in late 1981 and 1982, Congress enacted a temporary addition to the benefits payable to long-term unemployed workers—The Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97-248). This law established a special subtitle called the Federal Supplemental Compensation Act of 1982, which authorized a temporary program of extra benefits for unemployed workers who exhaust their entitlement for regular and extended benefits under the permanent program.

Effective September 12, 1982, through March 31, 1983, additional weeks of unemployment compensation were provided under agreements with each State. Workers were eligible for payments if their entitlement to

State benefits or extended benefits ended on or after June 1, 1982.

To qualify for Federal Supplemental Compensation, a worker must (1) have no rights to regular or other State benefits or extended benefits; (2) have worked 20 or more weeks in his or her base period (or earned an equivalent amount, measured as 40 times the weekly benefit or 1-1/2 times his or her high quarter wages); and (3) have continued to meet all the other State and extended benefits requirements for benefit eligibility. Unlike unemployment insurance benefits generally (which are financed by payroll taxes on employers), FSC benefits are financed entirely from general revenue.

The maximum duration of FSC established by Public Law 97-248 was one-half the length of the worker's regular entitlement (regular entitlement typically is variable up to 26 weeks), but was further subject to a variable maximum of 6-10 weeks determined by unemployment conditions in the State. The Surface Transportation Assistance Act (Public Law 97-424) increased FSC duration to 65 percent of the worker's regular entitlement, subject to individual State maximums, which varied from 8 to 16 weeks.

A State's maximum FSC depends on the severity of unemployment, as measured by the insured unemployment rate (IUR) in that State. This rate is defined in the permanent program of extended benefits. That is, the rate is the number of unemployed workers making a claim under the regular unemployment insurance program for a waiting week or a week of benefits, divided by the number of workers covered by the program in a specified lag period. For a given week, the insured unemployment rate is the average rate of unemployment for the 13-week period that ends 3 weeks earlier.

### 1983 Legislation

The Federal Supplemental Compensation program was extended from March 31, 1983, to September 30, 1983, by Title V of the Social Security Amendments of 1983 (Public Law 98-21, enacted April 21, 1983).<sup>1</sup> Besides continuing FSC beyond its earlier scheduled termination date, the new law also changed the weeks of potential benefit duration and provided additional "reach-back" benefits. It provided that individuals who began receiving FSC on April 1, 1983, or later were entitled to "basic" benefits for up to 65 percent of the number of weeks of their regular unemployment program benefits. This basic duration was also subject to their State's maximums which was determined by the insured unemployment rate (IUR) in that State. The relationship between a State's insured unemployment rate and maximum benefit duration is shown at the right:

<sup>1</sup> This title was also enacted as a separate law (Public Law 98-13) on March 29, 1983, in order to prevent FSC benefits from ending before the Social Security legislation could be passed.

Insured unemployment rate	Maximum weeks
Less than 4.0 percent	8
4.0-4.9 percent	10
5.0-5.9 percent	12
6.0 percent or more	14

Thus, a worker entitled to 24 weeks of regular program benefits in a given State with an IUR of 5.0 percent would be entitled to a maximum FSC duration of 12 weeks, rather than 65 percent of 24, or 15.6 weeks.

Individuals who had exhausted their basic FSC by April 1, 1983, could receive additional reach-back benefits. Reach-back benefits provided additional weeks of income to workers who had used up regular and extended unemployment benefits as well as FSC, and were still unemployed. Reach-back benefit duration was for up to three-fourths the number of weeks of basic FSC entitlement subject to the following State maximums:

Insured unemployment rate	Maximum weeks
Less than 4.0 percent	6
4.0-5.9 percent	8
6.0 percent or more	10

Workers who were still in the FSC program after April 1, 1983, were also provided additional weeks of benefits. That is, individuals who began receiving FSC before April 1, 1983, and who had FSC entitlement remaining after that date, could also receive reach-back benefits. However, their combined FSC entitlement after April 1 could not exceed the maximum number of weeks of basic FSC benefits payable in their State.

The law also provided additional benefits for those whose FSC entitlement was not exhausted by the time of the newly established termination date of the program, September 30, 1983. These claimants were made eligible for transitional benefits of 50 percent of their remaining FSC entitlement. Under the previous law, individual FSC benefits terminated when the program ended, regardless of any remaining eligibility.

Public Law 98-135—the Federal Supplemental Compensation Amendments of 1983—was signed into law on October 24, 1983. This law once again extended the FSC program—from the week of October 23, 1983, through the week of March 31, 1985.<sup>2</sup> Basic benefit durations, however, are shortened for some workers. Whereas beneficiaries previously were eligible for basic FSC benefit durations equal to 65 percent of their regular unemployment program entitlement, now those who made first application the week of October 23, 1983, or later are eligible only for 55 percent of their regular program duration.

As before, the duration of basic FSC benefits is subject to the same State maximums specified above,

<sup>2</sup> To prevent FSC from ending before the provisions of Public Law 98-135 were agreed to and passed, Congress had enacted Public Law 98-118, which extended the then current program past the September 30, 1983, termination date through the week of October 16, 1983.

ranging from 8 to 14 weeks, with the maximums still determined by a moving 13-week average of the State's IUR. In addition, to assure that claimants in those States experiencing higher unemployment over a long period receive more benefits, a cumulative IUR was established as an alternative eligibility criterion for the 12- and 14-week maximum categories. The cumulative IUR is a long-period measure, averaging a State's IUR for the period starting with the week of January 1, 1982, through the second calendar quarter preceding the current one. Maximum statewide FSC durations under the cumulative IUR are given below:

Average cumulative IUR	Maximum weeks
4.5-5.4 percent . . . . .	12
5.5 percent or more . . . . .	14

Under the October 1983 law, individuals who first became eligible for FSC between April 1, 1983, and the week of October 16, 1983, are also entitled to certain extra benefits:

- (1) They are eligible for reach-back benefits of up to 5 weeks in addition to their basic FSC, provided they have exhausted FSC benefits before the week of October 23, 1983.
- (2) They are eligible for benefits of up to 4 weeks in States with 12- and 14-week basic maximums, or up to 2 weeks in all other States in addition to their basic FSC, provided they are still eligible for basic FSC after the week of October 16, 1983.

After October 23, 1983, individuals who qualify for these additional FSC weeks cannot receive more weeks in total than the maximum number of basic weeks payable as of that date in their State.

In order to stabilize the duration of FSC available over a period of time, the October legislation instituted certain limits in the rules under which changes in basic duration occur because of changes in the IUR. These limits begin with the week of October 23, 1983, and follow below:

- (1) The State maximum number of basic FSC weeks payable can be adjusted (up or down) no more often than once in 13 weeks.
- (2) No single adjustment in the length of the State maximum can exceed 2 weeks.
- (3) Individuals will be eligible for the maximum basic duration established when they first qualified for FSC regardless of subsequent changes in the statewide maximum.

As under previous law, interstate claimants receive the lesser duration of the weeks payable in the State where they receive benefits or in the State in which they acquired eligibility for regular State benefits. The new legislation requires the Department of Labor to submit reports by April 1, 1984, on the feasibility of targeting

FSC benefits to sub-State areas, and of identifying structurally unemployed workers at the time they apply for unemployment insurance. Structural unemployment is defined as that which results from relatively permanent changes in the quality and location of the demand for or supply of labor.

As reported by the Department of Labor, the actual cost of FSC under Public Law 98-21 for the period March 31 through September 1983 was \$3.1 billion. Under the newly enacted provisions, costs for FSC benefits during fiscal years 1984 and 1985 are projected at \$4.1 billion.<sup>3</sup>

## Other 1983 Changes in Unemployment Insurance

The 1983 unemployment insurance amendments focused primarily on alleviating the hardships of long-term unemployed workers. The legislation continued the FSC program beyond its original life and provided additional benefits to some workers. Also, these amendments made a number of changes in the regular unemployment insurance program. These changes affected Federal Unemployment Tax Act (FUTA) provisions, loan and interest provisions, and, in some cases, coverage and benefit eligibility provisions. The major unemployment insurance changes are discussed below.

### Social Security Amendments of 1983

**Financing provisions.** Under Title XII of the Social Security Act, States are eligible for loans from the Federal Unemployment Account when their benefit reserve funds cannot meet the estimated benefit payments for the following 3 months. If the loan is not entirely repaid by the second January 1 after its issuance, the FUTA tax credit<sup>4</sup> on employers in that State is reduced by 0.3 percentage points for that year, thereby raising the employer taxes by that figure. Additional 0.3 percent credit reductions are made for each year that the loan remains unpaid, and still other credit reductions are made in the third and following years of the unpaid loan, based on specified conditions.

However, there is a cap on the annual reductions in allowable FUTA tax credits on employers. For any taxable year beginning with 1981, the annual reduction in the FUTA tax credit to employers is limited to the higher of 0.6 percent or the State's actual rate of reduction

<sup>3</sup> Office of Management and Budget, *Budget of the United States Government, Fiscal Year 1985*, pages 5-125.

<sup>4</sup> Under FUTA, employers receive a credit (or discount) on a major part of the Federal tax due, so long as the State's unemployment insurance law meets Federal requirements. This credit is subject to reduction (that is, employers pay a higher Federal tax) if their State fails to repay loans as prescribed by Federal law.

in the credit for the previous year. This cap applies if the State meets several conditions primarily aimed at assuring that it is not reducing its effort to raise needed taxes and that there is no decrease in the solvency of its system.

Before the April 1983 legislation, temporary requirements had been established to charge interest to the States on Federal loans they made to cover benefit payments. The April changes made this provision permanent and also liberalized terms for payment of the interest. Interest due on State loans can now be deferred to a greater degree and with less interest to be paid, provided specified unemployment conditions exist and provided State agencies take certain actions to improve their financial status.

In a similar fashion, the 1983 law made permanent the previous cap on the reduction in FUTA employer tax credits imposed on States when they fail to repay loans on time. The new law also made the credit reduction less severe for a State if it meets at least some of the conditions for capping the reduction, even if it does not meet all of them.

In addition, the calculation of the average employer tax rate for a State is now based on total, not taxable, wages to determine whether it is below 2.7 percent and, if so, subject to further credit reduction because of loans not repaid on time. The 2.7-percent statutory rate is also adjusted for total instead of taxable wages. The adjusted State tax rate and the adjusted 2.7-percent rate are compared to determine if the State should be subject to further credit reduction.

The interest provisions were strengthened by imposing two penalties on States that do not pay interest when due:

- (1) Federal certification of the State's unemployment compensation program will be withdrawn, which means that employers in that State will not be able to receive any credit reduction from FUTA.
- (2) Federal unemployment compensation and employment service administrative funds will be withheld.

**Program changes.** Among the program changes instituted by the April 1983 legislation was a provision that nonprofessional employees of educational institutions must be denied unemployment insurance benefits be-

tween academic years or terms if they have reasonable assurance of returning to work in the next year or term. Thus, nonprofessional employees are now treated the same as teachers and other professionals. Individuals performing services on behalf of an educational institution or educational service agency (but who are not employed by that institution) optionally may be denied between-term benefits. Another program provision enacted by this law allows States to optionally deduct from unemployment insurance benefits an amount for paying health insurance premiums, if requested by the worker.

### **FSC Amendments of 1983**

A financing change included in this law provided that advances made from general revenues to the Federal Unemployment Account for loans to States, can be repaid directly from this account. Previously, advances were to be repaid only if the Federal Unemployment Account and another account (the Employment Security Account) exceeded their statutory limit, and only by transferring such excess to still another account. This amendment ultimately will allow for the full repayment of all outstanding general revenue advances made to the Federal Unemployment Account.

Several unemployment insurance program changes were made by the October legislation. The first change affects the exemption of certain alien farm workers from FUTA. Although originally due to expire at the end of 1983, it has now been extended to January 1, 1986. This change applies to foreign workers who are admitted to the States to work during temporary peak agricultural seasons and then return to their homeland.

In another change, the amendments attempt to reduce incorrect payment of unemployment insurance to Federal employees, retirees, and prisoners, by improving information available for determining eligibility. The new law requires the Secretary of Labor, the Attorney General, and the Director of the Office of Personnel Management to make available to the States information about Federal employees, retirees, and prisoners to help determine eligibility for unemployment insurance. The Secretary of Labor reported to Congress in January 1984 on the actions taken and recommended that no further legislation was needed to eliminate this problem.