Unemployment Insurance: Recent Legislation

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New Federal legislation made all States eligible to provide temporary emergency unemployment compensation benefits, financed entirely by Federal funds, for 13 or 20 additional weeks to unemployed workers who had exhausted their benefits. The emergency benefits program is effective from November 17, 1991, to June 13, 1992. Liberalized provisions were also included for ex-servicemembers, nonprofessional school employees, and railroad workers. This legislation is Public Law 102-164, as amended, enacted on November 15 and December 4, 1991, respectively.

On February 7, 1992, further legislation was enacted (Public Law 102-244) that extended the expiration date of emergency benefits from June 13 to July 4, 1992, and provided an additional 13 weeks of federally funded benefits to workers eligible under Public Law 102-164, as amended.

Background

In the 1970's, a permanent Federal-State program of extended benefits was established for workers who exhaust their entitlement to regular State benefits during periods of high unemployment. The program is financed equally from Federal and State funds. Extended benefits are "triggered" into effect when a State's unemployment rate among insured workers averages 5 percent or more over a 13-week period and is at least 20 percent higher than the rate for the same period in the two preceding years. If the insured unemployment rate reaches 6 percent, a State may by law disregard the 20-percent requirement in initiating extended benefits. Once triggered, extended benefit provisions remain in effect for at least 13 weeks. When a State's benefit period ends, extended benefits to individual workers also end—even for workers who have received less than their potential entitlement and are still unemployed. Further, once a State's benefit period ends, another Statewide period cannot begin for at least 13 weeks.

Most eligibility conditions for extended benefits and the amount of weekly benefits payable are determined by State law. However, under Federal law, a claimant applying for extended benefits must have had 20 weeks in full-time employment (or the equivalent in insured wages) and must meet special work requirements. A worker who has exhausted his or her regular benefits is eligible for a 50-percent increase in duration of benefits for a maximum of 13 weeks of extended benefits. There is, however, an overall maximum of 39 weeks of regular and extended benefits. Extended benefits are payable at the same rate as the weekly amount under the regular State program. (For a more comprehensive overview of the unemployment insurance program, see "Social Security Programs in the United States," *Social Security Bulletin*, September 1991, pp. 20-28.).

1991-92 Legislation

Because of the way extended benefits are triggered into effect, only nine jurisdictions qualified for them during the economic downturn of 1991: Alaska, Maine, Massachusetts, Michigan, Oregon, Puerto Rico, Rhode Island, Vermont, and West Virginia. Thus, there was broad interest in considering legislation to change how the extended benefits program is activated.

The extended benefits program is based on the insured unemployment rate (IUR)—the number of unemployed workers eligible for benefits in a State as a percent of the number of persons in unemployment-insurance covered employment in that State. By definition, the IUR does not include workers who have exhausted their benefits but are still unemployed. It was thought that the IUR worked well until the proportion of unemployed persons receiving unemployment insurance dropped well below 100 percent—to about 80 percent. Another problem with the IUR is that it has the effect of deactivating extended benefits in a State when substantial numbers of workers are exhausting their benefits, which reduces insured unemployment and therefore the IUR.

To correct this situation, Congress considered legislation that would base extended benefits on the *total* unemployment rate (TUR), rather than the *insured* unemployment rate. The TUR is the number of unemployed workers in a State as a percent of the number of workers in the State's civilian labor force. Although the TUR has the disadvantage of including new labor force entrants and reentrants and job quitters in the numerator (workers who normally are ineligible for unemployment insurance), it has the advantage of more accurately measuring labor market conditions faced by long-term unemployed workers. The TUR is considered a better proxy measure of the probability that a long-term unemployed worker will not be able to find another job. If that probability is high, Federal extended compensation in a State would be activated, and the long-term unemployed who have exhausted their unemployment insurance would receive benefits.

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Public Law 102-107

The 1991 Emergency Unemployment Compensation Act (Public Law 102-107) was enacted on August 17, 1991. Although it was law, the legislation did not go into effect. In order for it to become effective, the President had to submit to Congress a separate declaration of a budget emergency that, in effect, would have allowed off-budget financing. The President considered the legislation out of conformity with the 1990 budget agreement's pay-as-you-go requirement. So, although he signed the legislation into law, the President did not invoke the emergency declaration, and thus the new law was rendered inoperative.

Public Law 102-107 revised the program for extended benefits by allowing all States to provide emergency unemployment compensation (EUC) benefits between September 1, 1991, and July 4, 1992. The number of weeks of benefits payable to an unemployed worker was determined by the State's total unemployment rate during the preceding 6 months. There were four levels of weeks of eligibility for EUC benefits:

- 20 weeks—for States with a total unemployment rate equal to or exceeding 8 percent
- 13 weeks—for States with a total unemployment rate equal to or exceeding 7 percent but less than 8 percent
- 7 weeks—for States with a total unemployment rate equal to or exceeding 6 percent but less than 7 percent
- 4 weeks—for States with a total unemployment rate less than 6 percent

The legislation provided that once a State triggered on for an EUC benefit period of 7, 13, or 20 weeks, the State's program would remain triggered on for at least 13 weeks—even if the State's total unemployment rate dropped during that period. However, if a State's total unemployment rate increased during that period so that the State qualified for a higher number of weeks, workers in that State would qualify for additional benefits. Once an unemployed worker became eligible for 7, 13, or 20 weeks of EUC benefits, the worker would be paid for all the weeks to which he or she was entitled—even if the State "triggered off" or the program expired before the worker had received the full number of weeks of benefits.

One provision of the legislation specified that unemployed workers who had exhausted their benefits under the regular unemployment program between April 1 and September 1, 1991, would be eligible to receive EUC benefits in States that had a total unemployment rate of at least 6 percent and had triggered on to 7, 13, or 20 weeks of Federal benefits. The EUC benefits were to be federally funded from the Extended Unemployment Compensation Account of the Unemployment Trust Fund.

However, as stated above, Public Law 102-107 never became operative.

Senate Bill 1722

A second bill, S. 1722, was passed by Congress but never became law; it was vetoed by the President on October 11, 1991, and the Senate sustained the veto. This legislation waived the pay-as-you-go requirements of the budget law and provided that an emergency declaration would be automatically triggered either upon the President's signature, or, if the President vetoed the legislation, by Congress' overriding that veto.

Public Law 102-164

A third bill (H.R. 3575) was passed by Congress on November 15, 1991, and approved by the President the same day: it became Public Law 102-164—the Emergency Unemployment Compensation Act of 1991. This new law provided a three-tier system of 6, 13, or 20 weeks of emergency benefits and also provided for direct financing of unemployment benefits.

Public Law 102-182

During debate on H.R. 3575, several Senators indicated that they considered the formula unfair to their States because it would provide only 6 weeks of added benefits in 23 States; the remaining States would receive 13 or 20 weeks. To meet these concerns, a compromise was reached. Congress, wishing to expedite emergency unemployment benefits to workers who had exhausted their benefits, agreed to let H.R. 3575 become law. However, an amendment would be added to H.R. 1724—a trade bill—to allow jobless workers who had exhausted their regular benefits at any time after February 28, 1991, either 13 or 20 weeks of emergency benefits. On December 4, 1991, the trade bill was signed by the President: it became Public Law 102-182.

Public Law 102-244

The Emergency Unemployment Compensation Extension Act (H.R. 4095) was passed by Congress on February 4, 1992, and signed into law on February 7, 1992: it became Public Law 102-244. It continues the emergency unemployment compensation program from June 13 to July 4, 1992, and extends the period for which an unemployed worker can receive benefits by 13 weeks.

Provisions of the Major Legislation

Public Law 102-164, as amended, and Public Law 102-244 were the major legislative developments in the area of unemployment insurance during late 1991 and early 1992. A discussion of the detailed provisions of these new laws is given below.

Provisions of Public Law 102-164, as Amended

Under Public Law 102-164 (but before it was amended by Public Law 102-182), all States became eligible to provide EUC benefits to unemployed workers who exhausted their unemployment benefits under existing programs. There were three levels of eligibility. The number of weeks of benefits payable to an unemployed worker in a particular State was determined by a combination of the State's adjusted insured unemployment rate (AIUR), its exhaustion rate (ER), and its total unemployment rate (TUR). Definitions of these terms follow:

- The AIUR for a State adjusts the insured unemployment rate by adding to the numerator the number of workers who have exhausted their regular State benefits in the past 3 months.

- The ER is the percentage obtained by dividing the average monthly number of workers who have exhausted their regular State benefits during the past 12 months by the average monthly number of individuals filing initial claims for regular State benefits during the past 12-month period ending 6 months earlier.
- The TUR is the ratio of all unemployed workers in a State to all workers in that State's labor force during the past 6 months for which data are available.

Under Public Law 102-164, States can receive 6, 13, or 20 weeks of emergency benefits, as follows:

- All States can provide at least 6 weeks.
- States with an AIUR of at least 4 percent, or an AIUR of at least 2.5 percent *and* an ER of at least 29 percent can provide at least 13 weeks.
- States with an AIUR of at least 5 percent or a TUR of at least 9 percent can provide 20 weeks.

Once a State has triggered on for a period of 6, 13, or 20 weeks of EUC benefits, the State remains in that tier for at least 13 weeks—even if the State drops to a lower tier during that period. If a State moves to a higher tier during that period, workers in the State qualify for the additional benefits. Also, once an unemployed worker becomes eligible for 6, 13, or 20 weeks of EUC benefits, the worker is paid for all weeks to which he or she is entitled—even if the State drops to a lower tier or the program expires before the worker has received the full number of weeks of benefits.

Unemployed workers who have exhausted their benefits under the regular unemployment program between March 1 and November 16, 1991 (the 8.5-month period prior to enactment of EUC benefits), are eligible to receive EUC benefits in States that qualify as 13- or 20-week States or that have an AIUR of at least 3 percent. This is known as the "reachback" provision. Qualifying States are eligible for a minimum of 6 weeks of reachback benefits. However, States on the second and third tiers are eligible to pay for 13 or 20 weeks, respectively.

Public Law 102-182 amended Public Law 102-164. It replaced the three-tier system of 6, 13, and 20 weeks of emergency unemployment compensation with a two-tier system of 13 and 20 weeks, and it changed the expiration date for the Emergency Unemployment Compensation Act from July 4 to June 13, 1992.

As of February 3, 1992, there were 16 jurisdictions whose unemployed workers could receive 20 weeks of benefits: Alaska, Arkansas, California, Connecticut, Maine, Massachusetts, Michigan, Mississippi, New Jersey, Oregon, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Washington, and West Virginia. These jurisdictions had total unemployment rates of at least 9 percent or adjusted insured unemployment rates of at least 5 percent. Unemployed workers in the remaining States, the District of Columbia, and the Virgin Islands are qualified to receive 13 weeks of benefits. In addition, reachback coverage was added for all States so that 18 States and the Virgin Islands, which did not receive these benefits before, would now be eligible to provide them.

Provisions of Public Law 102-244

As described earlier, Public Law 102-164, as amended, is effective from November 17, 1991, through June 13, 1992. It provides for 13 or 20 additional weeks of emergency benefits beyond the 26 weeks of benefits available under the regular State unemployment insurance programs.

Public Law 102-244 increases by 13 the number of weeks of emergency benefits payable to unemployed workers qualifying through June 13. Therefore, a total of 33 weeks of emergency benefits can be paid to workers in States that were previously eligible for 20 weeks. Workers in all other States are entitled to a total of 26 weeks of emergency benefits. This legislation extended the emergency benefits program from June 13 to July 4, 1992.

The total number of weeks of emergency benefits payable to unemployed workers who first become eligible for benefits after June 13 remains 13 or 20 weeks. Unemployed workers who qualify for benefits before the July 4 expiration will receive the full number of weeks to which they are entitled—even if some of those weeks come after the expiration date.

Including the 26 weeks of benefits payable under the regular unemployment program, unemployed workers in jurisdictions with high unemployment can receive a maximum of 59 weeks of benefits, and those in all other jurisdictions can receive a maximum of 52 weeks.

Financing

Emergency benefits are federally funded from the Extended Unemployment Compensation Account of the Unemployment Trust Fund. However, Public Law 102-164, as amended, has several provisions for financing benefits in accordance with the 1990 budget legislation. These provisions are intended to increase Federal revenues to the extent needed to offset the cost of providing emergency unemployment benefits. These provisions include: extending the Federal unemployment surtax of 0.2 percent for one year (from 1995 through 1996); making estimated tax payments conform more closely to a taxpayer's actual tax liability; making permanent the tax refund offset program for collecting non-tax debts owed to the Federal Government; and improving the collection of guaranteed student loans in default. Additional financing provisions were included in Public Law 102-244.

Coverage and Benefit Extensions

Several groups of workers were provided with coverage and benefit extensions by the recent legislation. Details are discussed below.

Ex-Servicemembers

Public Law 102-164, as amended, makes a permanent change to provide unemployment benefits to ex-servicemembers on the same basis as benefits provided to unemployed civilians. In addition, reserve members who have been called to active duty may receive benefits after serving a continuous period of 90 days (instead of having to meet the previous 180-day requirement).

Railroad Workers and Nonprofessional School Employees

Workers in the railroad industry are eligible for coverage under a separate unemployment compensation program that provides benefits basically equivalent to those under regular State unemployment compensation programs. Railroad employees with less than 10 years of service in the industry were not eligible for any extended benefits due to a statutory flaw in the trigger mechanism. Public Law 102-164, as amended, provides up to 13 weeks of extended benefits, including reachback benefits, for those who have exhausted their regular railroad unemployment benefits, effective for the period November 17, 1991, through June 13, 1992. Public Law 102-244 provides an additional 13 weeks of extended benefits to railroad workers.

Another provision of Public Law 102-164, as amended, allows States the option to pay benefits to nonprofessional employees of educational institutions between academic years or terms, providing that these persons are eligible otherwise. Such benefits will not be payable until States pass amendments to their unemployment insurance laws to authorize this coverage.

Other Provisions

Public Law 102-164, as amended, provides for a new quadrennial Advisory Council on Unemployment Insurance. The legislation specifies that the Secretary of Labor must establish the first Advisory Council not later than February 1, 1992; subsequent Advisory Councils are to be appointed every fourth year. Each Advisory Council will consist of 11 persons: 3 members appointed by the President pro tempore of the Senate (in consultation with the Chairman and Ranking Member of the Committee on Finance); 3 members appointed by the Speaker of the House (in consultation with the Chairman and Ranking Member of the Committee on Ways and Means); and 5 members appointed by the President. The President will also appoint the Chairman. On January 31, 1992, the Advisory Council was officially established with a formal filing of the Charter with the Library of Congress and the Administrator for General Services.

The function of each Advisory Council is to evaluate and recommend improvements in the unemployment compensation program—including the purpose, goals, countercyclical effectiveness, coverage, benefit adequacy, trust fund solvency, funding of State administrative costs, administrative efficiency, and any other aspects of the program.

The first Advisory Council's report is due in February 1994. The Council has been directed to include in this report its findings and recommendations with respect to determining eligibility for extended unemployment benefits on the basis of unemployment statistics for regions, States, and subdivisions of States.

Other provisions of Public Law 102-164, as amended, authorize a three-State job search demonstration project and a Department of Labor report analyzing the methods for allocating unemployment insurance administrative funds to the States.