Order Code 95-742 EPW
Updated September 11, 2002

Unemployment Benefits: Legislative Issues in the 107th Congress

Celinda Franco
Specialist in Social Legislation
Domestic Social Policy Division

Summary

Changes in the federal-state unemployment compensation (UC) system are under consideration during the 107th Congress. Recent legislation has been introduced that would temporarily extend benefits for workers who exhaust their regular UC benefits. The Congress considered several stimulus packages before enacting H.R. 3090 (P.L. 107-147), which included a 13-week extension of UC benefits, a $8 billion distribution to states, and 13 additional weeks of extended UC benefits in high unemployment states. Recently introduced legislation would further extend temporary UC benefits provided under P.L. 107-147. (This report will be updated as legislative action occurs.)

Background

The UC system, funded by both federal and state payroll taxes, pays benefits to covered workers who become involuntarily unemployed for economic reasons and meet state-established eligibility rules. Federal administration of UC is under the U.S. Department of Labor (DoL). The UC system, established by the Social Security Act of 1935 (P.L. 74-271), operates in each state, the District of Columbia, Puerto Rico, and the Virgin Islands. Federal law sets broad rules that the 53 state programs must follow and levies a payroll tax on employers under the Federal Unemployment Tax Act (FUTA). States set most of the specific rules for eligibility, benefits, and financing. States also process the claims and pay the benefits. The UC system helps counter economic trends. When the economy grows, UC revenue rises and program spending falls, thereby slowing growth. In a recession, revenue falls and program spending rises, stimulating the economy. Benefits totaling $23.5 billion are expected to be paid to 7.5 million UC claimants in FY2001.

Coverage. Federal law defines the jobs a state UC program must cover to avoid its employers' having to pay the maximum FUTA tax rate (6.2%) on the first $7,000 of each employee's annual pay. If a state complies with all federal rules, the *net* FUTA tax rate is only 0.8%. A state must cover jobs in firms that pay at least $1,500 in wages during any calendar quarter or employ at least one worker in each of 20 weeks in the

current or prior year. The FUTA tax is not paid by governmental or nonprofit employers, but state programs must cover government workers and all workers in nonprofits that employ at least four workers in each of 20 weeks in the current or prior year.

Benefits. To receive unemployment compensation benefits, claimants must have enough recent earnings to meet their state's earnings requirements. States usually disqualify claimants who lost their jobs because of: inability to work or unavailability for work; voluntarily quitting without good cause; discharge for job-related misconduct; refusal of suitable work without good cause; or a labor dispute. Generally, benefits are based on wages in covered work over a 12-month period. Most state benefit formulas replace half of a claimant's average weekly wage up to a weekly maximum. Weekly maximums in 2001 range from $133 (Puerto Rico) to $478 (Washington), and, in states that provide dependents' allowances, up to $715 (Massachusetts). The average weekly benefit nationwide is estimated to be $224 for FY2001. Benefits are available for up to 26 weeks (30 weeks in Massachusetts and Washington). The average benefit duration in FY2001 is expected to be 14.0 weeks. A federal-state extended benefits (EB) program offers benefits for an additional 13 to 20 weeks in states with unemployment rates above certain threshold levels.

Financing. The 0.8% FUTA tax funds federal and state administration, the federal share of EB, loans to insolvent state UC accounts, and state employment services. States levy their own payroll taxes to fund UC benefits. State ceilings on taxable wages range from the $7,000 FUTA federal taxable wage ceiling (11 states) up to $28,400 (Hawaii). State UC tax rates are experience-rated. (Employers generating the fewest claimants have the lowest rates.) State tax rates averaged 1.8% of taxable wages and 0.6% of total wages in FY2000.

State UC revenue is deposited in U.S. Treasury accounts as federal revenue in the budget. State Unemployment Trust Fund accounts are credited for this revenue. These credits allow Treasury to reimburse states for their benefit payments without annual appropriations, but these reimbursements do count as federal budget outlays. If a state trust fund account becomes insolvent, a state may borrow federal funds. Unemployment Trust Fund revenue has exceeded outlays each year since FY1995 (**Table 1**).

Legislative Issues in the 107th Congress

Proposal to Extend Unemployment Compensation Benefits

The EB program provides for additional weeks of benefits up to a maximum of 13 weeks during periods of high unemployment, and up to a maximum of 20 weeks in certain states with extremely high unemployment. EB benefits are 50% federally funded, with states funding 50% from their trust funds. The benefits are triggered when a state's insured unemployment rate (IUR) or total unemployment rate (TUR) reaches certain levels. However, the EB program has been viewed by some as not being sufficiently sensitive to changes in the economy. The Congress has acted 4 times — in 1971, 1974, 1982, and 1991 — to establish temporary programs of extended UC benefits.[1]

---

[1] For more information on extended UC benefits, see CRS Report RL31277, *Temporary* (continued...)

Table 1. Revenue and Spending Associated With Unemployment Compensation, FY1993-FY2001

(in billions of dollars)

	1993	1994	1995	1996	1997	1998	1999	2000	2001
UC revenue, total	**25.2**	**28.0**	**28.9**	**28.6**	**28.2**	**27.5**	**26.4**	**27.1**	**28.7**
FUTA tax	4.2	5.5	5.7	5.9	6.1	6.4	6.5	6.7	7.1
State UC taxes	21.0	22.5	23.2	22.7	22.1	21.1	19.9	20.4	21.6
UC outlays, total	**38.9**	**29.6**	**24.6**	**25.6**	**23.8**	**22.9**	**24.4**	**25.1**	**27.7**
Regular benefits	21.9	21.7	20.9	22.0	20.3	19.4	20.7	21.6	26.8
EB	*	0.2	*	*	*	*	*	*	*
Emergency UC	13.2	4.2	*	*	*	—	—	—	—
Administration	3.8	3.5	3.6	3.6	3.5	3.5	3.7	3.5	3.6

Source: U.S. Dept. of Labor. *UI Outlook*, August 2001.
* Less than $50 million.

Several bills were introduced in the 107th Congress to establish a temporary program for extending benefits. After numerous attempts to reach agreement on an economic stimulus bill that included a temporary extension of UC benefits, the Congress passed the *Job Creation and Worker Assistance Act of 2002* (H.R. 3090), which was signed into law by the President on March 9, 2002 (P.L. 107-147). Title II of the new law provides for the Temporary Extended Unemployment Compensation (TEUC) program and distributes $8 billion to states in surplus federal unemployment funds, known as *Reed Act* funds.

The TEUC program provides up to 13 weeks of federally funded benefits for unemployed workers in all states who have exhausted their regular UC benefits. In addition, up to an additional 13 weeks may be provided in certain *high unemployment* states that have an IUR[2] of 4% or higher and meet the criteria to trigger the EB program.

According to DoL, TEUC is payable to individuals who, in addition to meeting other applicable state law provisions, (1) have filed an initial claim that was in effect during or after the week of March 15, 2001; (2) have exhausted regular benefits or have no benefit rights due to the expiration of a benefit year ending during or after the week of March 15, 2001; (3) have no rights to regular or extended benefits under any state or federal law; and (4) are not receiving benefits under Canadian law.[3] In addition, individuals must also have 20 weeks of full-time work, or the equivalent in wages, in their base periods.[4]

---

[1] (...continued)
Programs to Extend Unemployment Compensation, by Jennifer E. Lake.

[2] The IUR is computed by dividing the number of UC claimants by the number of individuals in jobs covered by UC.

[3] DoL, Unemployment Insurance Program Letter No. 17-02.

[4] A worker's benefit rights are determined on the basis of his/her employment in covered work (continued...)

More recently, legislation has been introduced to extend the TEUC benefits. S. 2714 and H.R. 5089 would extend the first tier of TEUC benefits to equal the lesser of the number of weeks an individual received under regular UC or 26 times the individual's average weekly benefit amount. S. 2892 would provide all eligible TEUC recipients with 26 weeks of first tier benefits and would reduce the TEUC-X benefits (second tier) in high-unemployment states to 7 weeks. All three bills would extend the program until June 30, 2003.

Proposals to Reform Unemployment Compensation

In recent years, calls for reforming the UC program have emerged from various interest groups, including labor, employers, and state employment agencies. These groups argue that changes in the economy and the workforce since th The bills also extend the program until June 30, 2003. e program was enacted in the 1930s have led to inefficiencies and inequities in the UC program that need to be reformed. Today more women are in the workforce. They, and many new entrants into the labor force are often employed in part-time, temporary or short-term jobs that can leave them ineligible for UC during periods of unemployment. Many see the declines in UC recipiency as due, in part, to stricter state eligibility requirements related to earnings minimums and reduced growth in manufacturing. Employers see inefficiencies in the administration of the program, including complex tax forms, multiple tax filing requirements, and complex record keeping requirements.

In the 107th Congress, H.R. 3024, introduced by Representative English, would provide for state collection of the FUTA tax. The bill would provide for interest premiums or penalties based on whether states exceed or fail to meet state funding goals during a quarter. States would also be provided interest-free advances to state accounts if they met their funding goals. The bill would also lower the EB program trigger from 5% to 4%. In addition, states would be required to distribute state-specific information packets to unemployed individuals that would explain UC eligibility requirements. H.R. 773, the *Parity for Part-Time Workers Act*, a bill of more limited scope, would expand UC eligibility to part-time workers. As part of the FY 2003 budget request, the Administration proposed several reforms to the UC program. These include gradually shifting responsibility for financing the UC benefits and administration to states over a 5 year transition period; repealing the FUTA surtax as of January 1, 2003; and lowering the IUR trigger in the permanent EB program from 5% to 4%.

H.R. 4373, introduced by Representative McDermott on April 16, 2002, would expand UC eligibility to include certain part-time workers, workers who would qualify for UC under an alternative wage base period; certain seasonal workers; workers who leave employment because of sexual harassment; workers who leave employment because of loss of adequate child care for dependent children under age 13; and workers who leave employment because they are victims of domestic violence. H.R. 4373 would increase

---

[4] (...continued)
over a prior period, called the base period. In most states, an individual's base period is a four quarter, 52-week period that depends on when the worker first applies for benefits or first begins drawing benefits. However, several states lengthen the base period under specified conditions.

the unemployment taxable wage base from the first $7,000 of an employees wages to the wage base established for the Social Security program ($84,900 in 2002), and lower the FUTA tax to 5.59%. The bill would increase job mobility by providing that the amounts of federal individual income taxes attributable to UC be credited to the trust funds of qualifying states that provide the following: UC benefits would not be denied to individuals who are separated from employment because their spouse or domestic partner had to move in connection with starting a new job, and provide a higher UC weekly benefit to individuals whose average weekly wages do not exceed 50% of average weekly wages subject to UC taxes under state law. H.R. 4373 would increase and decrease earnings on trust fund balances credited to state UC trust fund accounts when states met or failed to meet funding goals provided by the bill, would lower the IUR triggers for the permanent EB program from 5% to 4% and from 6% to 5%, and would eliminate certain EB eligibility requirements.

Repeal of the FUTA Surtax Extension

Though the net FUTA tax rate is 0.8%, the *permanent* tax rate is only 0.6% (**Table 2**). The 0.2% "surtax" was adopted in 1976 to repay loans made to the Unemployment Trust Fund during the 1974 recession. That debt was paid off in 1987, but Congress extended the surtax in 1987, 1990, 1991, and 1993. While the added revenue raised trust fund balances, the main reason for the extensions was to offset costs of new spending for unrelated federal programs. Budget rules that require pay-as-you-go funding, often prompt changes in other programs, such as increased taxes or decreased spending for other entitlements.

The FUTA surtax had been set to expire in January 1999. Employers argued that the need for this surtax had vanished. However, the Balanced Budget Act of 1997 (P.L. 105-33), included the FUTA surtax extension through 2007 in order to anticipate the demands of the next recession. Extension, coupled with changes in certain account ceilings, was estimated to contribute to budget balancing by increasing federal revenue by $6.4 billion for FY1998-FY2002. In the 107th Congress, S. 189, and H.R. 1037 would repeal the FUTA surtax effective after December 31, 2000. H.R. 3097 would repeal the FUTA surtax effective after December 31, 2001.

Other Pending Unemployment Compensation Issues

Benefits for Certain Workers Unemployed by Terrorist Attack and Its Consequences. In response to the unemployment of workers in certain industries caused by the September 11, 2001 terrorist attacks and subsequent security measures that have been taken, several bills were introduced. S. 1454, H.R. 2946, and H.R. 2955, introduced by Senator Carnahan, Representative Hastings of Florida, and Representative Gephardt, respectively, would provide assistance for employees who are totally or partially separated from employment as a result of reductions in service by air carriers and airport closures caused the terrorist attacks. H.R. 3008, as passed by the House on December 6, 2001, would establish a new program to provide additional assistance for workers separated from employment due to the terrorist attack.

Table 2. FUTA Tax Rates and Taxable Wage Ceilings

Calendar years	Net tax rate (%)	Taxable wage ceiling	Calendar years	Net tax rate (%)	Taxable wage ceiling
1937-1939	0.3	none	1972	0.5	$4,200
1940-1960	0.3	$3,000	1973	0.58	4,200
1961	0.4	3,000	1974-1976	0.5	4,200
1962	0.8	3,000	1977	0.7	4,200
1963	0.65	3,000	1978-1982	0.7	6,000
1964-1969	0.4	3,000	1983-2007	0.8	7,000
1970-1971	0.5	3,000	2008 & later	0.6	7,000

In addition, to the UC and EB programs, the President's declaration of a 'major disaster' on September 11, 2001, triggered Disaster Unemployment Assistance (DUA) in New York City and Arlington, Virginia. DUA provides assistance to individuals whose employment or self-employment has been lost or interrupted as a direct result of a major disaster and who are **not** eligible for regular UC benefits.[5] On March 20, 2002, the Congress passed H.R. 3986, a bill to extend by 13 weeks DUA benefits for workers directly affect by the September 11 terrorist attacks. The measure is awaiting the President's signature.

Exemption for Agricultural Labor. Under current law, farmers who employ agricultural labor and pay less than $20,000 for that labor in a calendar quarter are exempt from FUTA taxes. That payroll amount has not been increased since 1976. During the 107th Congress, H.R. 1003, introduced by Representative Schaffer, would increase the payroll dollar threshold to $50,000 and provide for annual cost of-living adjustments.

Excluding UC Benefits from Gross Income. Under current law, UC benefits are required to be included in gross income for tax purposes. H.R. 886, H.R. 2254, S. 1599, and H.R. 3687 would exclude UC benefits from gross income.

Ensuring UC Benefits for Individuals Experiencing Domestic Violence. States determine whether an individual is ineligible for UC benefits because they left their jobs without good cause, committed misconduct in connection with their work, or refused suitable jobs. States restrict "good cause" only to causes connected with the work or the employer, and good personal cause is not ordinarily considered enough justification for leaving a job. H.R. 592 would provide that an individual who leaves employment because of sexual harassment or loss of child care would be considered "good cause" for determining UC eligibility. Similarly, H.R. 2670 would not allow states to deny UC benefits to individuals who were unemployed because of domestic or sexual violence.

---

[5] For more information on the DUA program, see CRS Report RS21023, *Disaster Unemployment Assistance (DUA)*, by Jennifer Lake.