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Unemployment Benefits: Legislative Issues in the 108th Congress

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Summary

Changes in the federal-state unemployment compensation (UC) system are likely to be considered during the 108th Congress. Legislation has been introduced to reform and expand the UC system. The 107th Congress enacted the *Temporary Extended Unemployment Compensation* (TEUC) program (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. These temporary benefits ended on December 28, 2002; however in the first law passed by the 108th Congress, the TEUC program was extended through the end of May 2003 (P.L. 108-1) and subsequently extend again through December 31, 2003 (P.L. 108-26). Several proposals have been introduced to extend or expand the TEUC program. Most recently, the Congress enacted special TEUC benefits for displaced airline related workers, known as TEUC-A (P.L. 108-11). (This report will be updated as legislative activity warrants.)

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 $53.2 billion are expected to be paid to 10.5 million UC claimants in all programs during FY2003.

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 (**Table 1**). 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.

Table 1. 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

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 2002 ranged from $133 (Puerto Rico) to $512 (Massachusetts), and, in states that provide dependents' allowances, up to $768 (Massachusetts). The average weekly benefit nationwide is estimated to be $259 for FY2003. Benefits are available for up to 26 weeks (30 weeks in Massachusetts and Washington). The average benefit duration in FY2003 is expected to be 19.6 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 $30,200 (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 FY2003. 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 exceeded outlays from FY1995- FY 2001, but outlays significantly exceeded trust fund revenue in FY 2002 and FY2003 (**Table 2**).

Table 2. Revenue and Spending Associated With Unemployment Compensation, FY1995-FY2003

(in billions of dollars)

	1995	1996	1997	1998	1999	2000	2001	2002	2003
UC revenue, total	**28.9**	**28.6**	**28.2**	**27.5**	**26.4**	**27.1**	**28.7**	**28.9**	**34.1**
FUTA tax	5.7	5.9	6.1	6.4	6.5	6.7	7.1	6.9	6.8
State UC taxes	23.2	22.7	22.1	21.1	19.9	20.4	21.6	22.0	27.3
UC outlays, total	**24.6**	**25.6**	**23.8**	**22.9**	**24.4**	**25.1**	**27.7**	**48.8**	**53.2**
Regular benefits	20.9	22.0	20.3	19.4	20.7	21.6	26.8	41.5	42.6
EB	*	*	*	*	*	*	*	0.1	0.54
Emergency UC	*	*	*	—	—	—	—	6.3	8.9
Administration	3.6	3.6	3.5	3.5	3.7	3.5	3.6	4.1	4.1

Source: U.S. Dept. of Labor. *UI Outlook,* January 2003.
* Less than $50 million.

Legislative Issues in the 108th 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]

The Temporary Extended Unemployment Compensation (TEUC) program was enacted on March 9, 2002, as part of the *Job Creation and Worker Assistance Act of 2002* (P.L. 107-147). 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 are provided in certain *high unemployment* states

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[1] For more information on extended UC benefits, see CRS Report RL31277, *Temporary Programs to Extend Unemployment Compensation*, by Jennifer E. Lake.

that have an IUR[2] of 4% or higher and meet certain other criteria (TEUC-X). P.L. 107-147 also provided for a one-time distribution of $8 billion to states in surplus federal unemployment funds, known as *Reed Act* funds.

TEUC benefits are payable, to individuals who, in addition to meeting other applicable state UC law provisions, (1) file an initial claim that was in effect during or after the week of March 15, 2001; (2) exhaust 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 had 20 weeks of full-time work, or the equivalent in wages, in their base periods.[4]

These temporary benefits ended on December 28, 2002, however in the first law passed by the 108th Congress, these benefits were extended through the end of May 2003 (P.L. 108-1).[5] Several bills have been introduced in the 108th Congress to further extend and expand the TEUC program. A number of bills were introduced during the first week of the session which, although they contained differing dates through which they would have extended the TEUC program, were superceded by P.L. 108-1. These include, H.R. 17, H.R. 19, H.R. 162, H.R. 209, and H.R. 228. Subsequently, other bills have also been introduced to extend and expand the TEUC program. Some would extend the program beyond the end of May 2003; some provide for additional weeks of benefits for unemployed who have exhausted their benefits; some would temporarily establish alternative triggers for qualifying states as high-unemployment for the TEUC-X program. Bills with some combination or all of these provisions include H.R. 682, H.R. 1239, H.R. 1652, S. 35, S. 225, S. 270, and S. 923. In addition, H.R. 1652, S. 270, and S. 923 would also temporarily expand regular UC eligibility in all states to include part-time unemployed workers seeking part-time jobs and the use of the most recent wages in determining benefit eligibility, while S. 270 would go further temporarily increase UC weekly benefit amounts by the greater of 15% or $25.

H.R. 2046 includes provisions similar to H.R. 1652 for extending and expanding the TEUC and TEUC-X programs. H.R. 2111 would extend the TEUC program through September 27, 2003, with a phaseout period through December 27, 2003, and provide an alternative trigger that used a seasonally adjusted TUR for fiscal year 2002. H.R. 2185 would extend the TEUC program through December 31, 2003, with a phaseout period through March 31, 2004. S. 1079 would extend the TEUC program through November 30, 2003, with a phaseout period through February 28, 2004. H.R. 2188 would also extend TEUC through November 30, 2003, with a phaseout period through February 28,

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[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 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.

[5] See CRS Report RS21397, *Unemployment Benefits: Temporary Extended Unemployment Compensation (TEUC) Program*, for additional details.

2004, and would provide 8 additional weeks of TEUC benefits for individuals who had exhausted their TEUC benefits.

On May 22, 2003, the House passed H.R. 2185. The Senate unanimously passed the bill on May 23. The President signed the bill into law on May 28, 2003 (P.L. 108-26).

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 the 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 108th Congress, H.R. 1802, introduced on April 11, 2003, would require states to expand eligibility for UC benefits under certain circumstances. Under the bill, eligibility would be expanded to include individuals who would otherwise qualify except for the fact that they were seeking part-time work. States would be required to use an individual's most recent earnings in determining UC eligibility (often referred to as the *alternate base period*), which could make it easier for certain new or low-wage workers to qualify for UC benefits. States would be prohibited from denying UC benefits to individuals solely because they were seasonal workers, because they left employment because of sexual harassment, because of loss of adequate child are for children under age 13, or because the individual is a victim of domestic violence. States would be required to provide and distribute information explaining UC eligibility in the state; UC could not be denied to otherwise eligible individuals because the individual was employed at the minimum wage for at least 20 hours a week for 30 weeks in a base period; and UC benefits would be payable to individuals who are a parent of a newborn or adopted child and who takes unpaid leave from an employer in the first year after birth or adoption.

H.R. 1802 would expand the UC tax wage base from the first $7,000 of employee wages to the taxable wage base used for Social Security taxes ($87,000 in 2003), and lower the gross FUTA tax from 6.2% to 5.59%. The bill would require the Secretary of Labor to approve any state law which provides that UC benefits would not be denied to any individual because the individual had separated from employment to move with their spouse to a new place of residence due to the spouse starting a new job in a new location. The Secretary would also be required to approve a state law which provides for augmented UC benefits for individuals who qualify for UC and whose average weekly wages during their qualifying base period do not exceed 50% of the average weekly wages subject to contributions under the UC laws of the state. The bill also would increase or decrease the interest premiums credited to state unemployment accounts, subject to certain limits specified in the bill, if the state exceeded or failed to meet the funding goal of the state in a calendar quarter established under the bill. The bill would lower the EB insured unemployment rate (IUR) program triggers from 5% to 4% and from 6% to 5%, and eliminate certain federal requirements for EB.

H.R. 2188, in addition to extending and expanding TEUC (described briefly above), provides several reforms to the UC system. The bill would lower the permanent EB program's insured unemployment rate (IUR) triggers from 5% to 4%, would provide for variable earnings to be credited to state UC trust fund accounts depending on the state's ability to meet certain funding goals, and would provide interest-free advances to state UC accounts only to states who met certain funding goals. The bill would provide a two-year suspension of federal income tax on UC benefits for taxable years beginning after December 31, 2002, and permit states to collect FUTA taxes from employers in the state instead of FUTA taxes being sent to the Secretary of DoL for taxable years beginning after December 31, 2003. States would be required to distribute state-specific information packets to unemployed individuals explaining the eligibility requirements for UC benefits.

As part of the FY2004 budget request, the Administration proposes several reforms to the UC program. These included gradually shifting responsibility for financing the UC benefits and administration to states over a 5-year transition period beginning in January 2005; lowering the IUR trigger in the permanent EB program from 5% to 4%; and eliminating the federal requirements for EB eligibility so that state eligibility requirements for regular UC benefits would apply to EB.

Other Unemployment Compensation Issues

Benefits for Certain Workers Unemployed by Terrorist Attack and The War on Iraq. In response to the unemployment of airline and airline related workers caused by the September 11, 2001 terrorist attacks, subsequent security measures that have been taken, and the war with Iraq, P.L. 108-11, was signed into law on April 16, 2003. This temporary program provides up to 39 weeks of benefits to qualified individuals whose regular UC claim is based in whole, or in part, on qualifying employment with a certified air carrier, at a facility at an airport, or with a producer or supplier of products or services for an air carrier.[6] The program has two tiers of benefits, known as TEUC-A and TEUC-AX. Under TEUC-A, eligible workers could receive up to 39 weeks of benefits, while workers in a state classified as a high-unemployment state could receive up to an additional 13 weeks of benefits after exhausting TEUC-A. These programs are authorized through December 29, 2003, and there is a phaseout period for individuals with an existing claim that will run through December 26, 2004.

Excluding UC Benefits from Gross Income. Under current law, UC benefits are required to be included in gross income for tax purposes. H.R. 798, introduced on February 13, 2003, would repeal the inclusion in gross income of unemployment compensation. H.R. 1187, introduced on March 11, 2003, would impose a retroactive, 2-year moratorium on the inclusion of UC benefits from gross income for taxable years 2002 and 2003.

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[6] For more detailed information, see U.S. Department of Labor, *Special Temporary Extended Unemployment Compensation for Displaced Airline Related Workers*. [http://www.workforcesecurity.doleta.gov/unemploy/factsheetteuc_a.asp]