Unemployment Insurance: Consequences of Changes in State Unemployment Compensation Laws

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Summary

This report analyzes several types of recent changes to state Unemployment Compensation (UC) programs. Three categories of UC state law issues are considered: (1) changes in the duration of state UC unemployment benefits; (2) changes in the maximum UC weekly benefit amount; and (3) the enactment into state law of two trigger options for the Extended Benefit (EB) program.

In 2011, several states enacted legislation to decrease the maximum number of weeks of regular state UC benefits. Until recently, all states paid at least up to 26 weeks of UC benefits to eligible, unemployed individuals. In 2011, however, six states passed legislation to decrease their maximum UC benefit durations. Arkansas, Missouri, and South Carolina have made state UC law changes that are already in effect. Michigan, Illinois, and Florida legislated state law changes that will be effective in January 2012.

Changes in UC benefit duration have consequences for the duration of federal unemployment benefits that may be available to unemployed workers. State UC benefit duration is an underlying factor in the calculation of duration for additional federal unemployment benefits. Thus, the reduction of the maximum duration of regular UC benefits reduces the number of weeks available to unemployed workers in the federal extended unemployment programs (including the Emergency Unemployment Compensation [EUC08] and EB).

States are temporarily prohibited from actively changing their methods of calculation for UC benefits if it would decrease weekly benefit amounts (under P.L. 111-205, as amended). Some states, however, make automatic adjustments to weekly benefit amounts under existing state law. Consequently, if these states experience certain conditions, such as a decrease in the average weekly wage used in the automatic adjustment calculation, their maximum weekly UC benefit amount may be decreased. Two states—New Jersey and Oklahoma—have recently experienced this type of reduction in their weekly UC benefit amounts. Such a benefit reduction also translates into reduced EUC08 and EB weekly benefit amounts as they are based upon the weekly benefit amount calculated by the regular state UC benefits.

Finally, there are various optional EB trigger components—authorized under permanent federal law (P.L. 91-373, as amended) and temporary federal law (P.L. 111-312 and P.L. 111-5, as amended)—that states may opt to enact under their state UC laws. Currently, 12 states have adopted an optional trigger for the EB program, based on a state's total unemployment rate (TUR), into permanent state law. An additional 26 states have enacted this EB TUR trigger temporarily, linking its expiration to the expiration of the temporary 100% federal financing of the EB program under federal law (P.L. 111-5, as amended). Thirty-three states have adopted a three-year lookback for this optional TUR trigger (temporarily authorized under P.L. 111-312) to continue to meet the trigger criteria and continue to pay EB benefits. In general, only states who have enacted at least one of these EB trigger options (i.e., the TUR trigger or the three-year lookback) are currently able to pay EB benefits.

Overall, these three changes to state UC laws and programs have consequences for the availability, duration, and amount of unemployment benefits. This report describes these changes and analyzes their consequences for UC, EUC08, and EB benefits. It will be updated, as needed, to reflect any additional state UC changes.

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Introduction

As a result of continued, high unemployment in the aftermath of the recent recession (December 2007-June 2009), many states have enacted changes to their Unemployment Compensation (UC) programs. These state UC changes seek to accomplish two goals. First, several states are attempting to reduce the costs of UC benefits, which are financed through state taxes on employers. This reduction in state UC benefit spending may be achieved through two types of state UC changes: (1) a reduction in the duration of state UC employment benefits and (2) a reduction in the state maximum UC weekly benefit amount.

Across several states, another major goal is to take advantage of additional, federal unemployment benefits available through the permanent-law Extended Benefit (EB) program because these benefits are temporarily 100% federally financed (through January 4, 2012, under current law). In support of this second major goal, many states have enacted permanent or temporary state laws to ensure that EB benefits are payable to eligible individuals.

This report first provides a brief overview of the unemployment compensation programs and benefits that may currently be available to eligible, unemployed individuals. Next, the three categories of UC state law issues are analyzed:

(1) changes in the duration of state UC unemployment benefits;

(2) changes in the maximum UC weekly benefit amount; and

(3) the enactment into state law of two trigger options for the EB program.

Overview of Current Unemployment Benefits

Several unemployment insurance (UI) programs may currently provide benefits to unemployed workers. When eligible workers lose their jobs, the UC program may provide up to 26 weeks of income support through the payment of regular state UC benefits.[1] These UC benefits may be extended in two ways: (1) for up to 53 weeks by the temporarily authorized Emergency Unemployment Compensation (EUC08) program;[2] and (2) for up to 13 or 20 weeks by the EB program if certain economic situations exist within the state.[3]

Provided below is a brief description of the benefits available through these three UI programs: UC, EUC08, and EB. For detailed information on each of these programs, including more details on the financing of each type of unemployment benefit, see CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*, by Katelin P. Isaacs and Julie M. Whittaker.

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[1] Or, in the case of the six states described in the report section on "State Law Changes to UC Benefit Duration," UC pays fewer than up to 26 weeks—either currently or beginning in January 2012.

[2] See report section on "Calculation of Benefit Duration for EUC08 Tiers" for the calculation of EUC08 benefit durations in states that have reduced regular UC benefit duration.

[3] See report section on "Calculation of Benefit Duration for EB Payable Periods" for the calculation of EB benefit durations in states that have reduced regular UC benefit duration.

Unemployment Compensation Program

UC, authorized by the Social Security Act of 1935 (SSA; P.L. 74-271), is a joint federal-state program that provides unemployment benefits to eligible individuals. Although federal laws and regulations provide broad guidelines on UC benefit coverage, eligibility, and benefit determination, the specifics regarding UC benefits are determined by each state. This results in essentially 53 different programs.[4] Generally, UC eligibility is based on attaining qualified wages and employment in covered work over a 12-month period (called a base period) prior to unemployment. All states require a worker to have earned a certain amount of wages or to have worked for a certain period of time (or both) within the base period to be monetarily eligible to receive any UC benefits. The methods states use to determine monetary eligibility vary greatly. Most state benefit formulas replace approximately half of a claimant's average weekly wage up to a weekly maximum. State taxes paid by employers on UC-covered wages finance UC benefits.

Maximum UC Benefit Duration

Until the recent state law changes described in this report, UC programs in states had been paying unemployment benefits for up to a maximum duration of at least 26 weeks. There is nothing in federal law, however, that requires states to set their UC benefit duration maximum at 26 weeks. States have the discretion to set their own UC benefit durations via their state UC laws. In the early decades of the UC program, there was more variation in the maximum duration of UC benefits across states, which also tended to be lower than 26 weeks. Yet since the 1960s—and until the 2011 state law changes—states have chosen to provide up to at least 26 weeks of UC benefits to eligible individuals.[5] In 2010, the only exceptions to the 26 week UC benefit maximum were states that provided more than 26 weeks of UC benefits (Montana: up to 28 weeks; Massachusetts: up to 30 weeks).

Emergency Unemployment Compensation Program

On June 30, 2008, the Supplemental Appropriations Act of 2008 (P.L. 110-252) created a new temporary, federally financed unemployment insurance program, the EUC08 program. This was the eighth time Congress had created a federal temporary program to extend the number of potential weeks of unemployment compensation available to eligible, unemployed individuals during an economic slowdown.[6] State UC agencies administer the EUC08 benefit along with regular UC benefits. The authorization for this program continues until January 3, 2012.[7] EUC08 benefits are currently financed through general revenue from the U.S. Treasury.

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[4] The District of Columbia, Puerto Rico, and the Virgin Islands are considered to be states in UC law.

[5] Puerto Rico is an exception to this pattern of state convergence on 26 weeks as the maximum UC benefit duration in the 1960s. When it originally entered the federal-state UC system in 1961, Puerto Rico provided a lower maximum UC benefit duration (i.e., up to 16 weeks in 1961 and then up to 20 weeks for most of the 1970-1990 period). Puerto Rico did not provide up to 26 weeks of UC benefits until 1991. For more information on state UC benefit duration, including changes over time, see DOL's "Significant Provisions of State UI Laws," available at http://www.workforcesecurity.doleta.gov/unemploy/statelaws.asp#sigprouilaws.

[6] The other programs became effective in 1958, 1961, 1972, 1975, 1982, 1991, and 2002. See CRS Report RL34340, *Extending Unemployment Compensation Benefits During Recessions*, by Julie M. Whittaker and Katelin P. Isaacs.

[7] The EUC08 program has been amended eight times (P.L. 110-449, P.L. 111-5, P.L. 111-92, P.L. 111-118, P.L. 111-144, P.L. 111-157, P.L. 111-205, and P.L. 111-312). For more details on EUC08, including its legislative history, see CRS Report RS22915, *Temporary Extension of Unemployment Benefits: Emergency Unemployment Compensation (EUC08)*, by Katelin P. Isaacs and Julie M. Whittaker.

The EUC08 benefit amount is equal to the eligible individual's weekly regular UC benefits. There are four tiers of EUC08 benefits, which are all temporary and scheduled to expire the week ending on or before January 3, 2012. There will be no new entrants into the EUC08 program after December 31, 2011.[8] Those unemployed individuals who had qualified for a tier I, II, III, or IV EUC08 benefit by December 31, 2011, may be "grandfathered" for their remaining weeks of eligibility *for only that specific tier*, and would continue to receive payments for the number of weeks they were deemed eligible within that tier. No EUC08 benefits—regardless of tier—are payable for any week after June 9, 2012.

EUC08 benefits are paid out through four different tiers. The duration of EUC08 benefits from each tier is based on the duration of regular UC benefits. The consequences of recent state law changes to UC duration is discussed below. But, currently, for most states (i.e., those states with a UC maximum duration of up to 26 weeks), the duration of EUC08 benefit tiers is as follows:

- **Tier I** of the EUC08 program provides up to 20 additional weeks of unemployment benefits to certain workers who have exhausted their rights to regular UC benefits.
- **Tier II** provides up to an additional 14 weeks of benefits (for a total of 34 weeks of EUC08 benefits for all unemployed workers).
- **Tier III** is available in states with a total unemployment rate (TUR)[9] of at least 6% and provides up to an additional 13 weeks of EUC08 benefits (for a total of 47 weeks of EUC08 benefits in these states).
- **Tier IV** is available in states with a TUR of at least 8.5% and provides up to an additional six weeks of EUC08 benefits (for a total of 53 weeks of EUC08 benefits in theses states).[10]

Extended Benefit Program

The Federal-State Extended Unemployment Compensation Act of 1970, P.L. 91-373, established the EB program. The EB program provides extended unemployment benefits in states that meet certain economic criteria. In all states, EB is available when a state's insured unemployment rate (IUR)[11] or TUR[12] reaches certain levels.[13] For full details on state triggers for the EB program, see CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*, by Katelin P. Isaacs and Julie M. Whittaker.

The EB program imposes additional federal restrictions on individual eligibility for benefits beyond the state requirements for regular UC. In addition to all state requirements for regular UC

[8] January 1, 2012, for New York state.

[9] The TUR (the total unemployment rate) is the ratio of unemployed workers to all workers (employed and unemployed) in the labor market.

[10] Each week the U.S. Department of Labor (DOL) posts trigger notices for tiers III and IV of the EUC08 program, which are available online, at http://www.workforcesecurity.doleta.gov/unemploy/claims_arch.asp.

[11] The IUR (the insured unemployment rate) is the ratio of UC claimants divided by individuals in UC-covered jobs.

[12] The TUR (the total unemployment rate) is the ratio of unemployed workers to all workers (employed and unemployed) in the labor market.

[13] DOL's weekly trigger notices for the EB program are available online at http://www.workforcesecurity.doleta.gov/unemploy/claims_arch.asp.

eligibility, the EB program requires claimants to have at least 20 weeks of full-time insured employment or the equivalent in their base period, and to conduct a systematic and sustained work search. P.L. 110-252 allows states to determine which extended unemployment benefit—EUC08 or EB—is paid first. States balance the decision of which benefit to pay first by weighing the potential cost savings to the state against the potential loss of unemployment benefits for unemployed individuals in the state. Currently, all states except Alaska are paying EUC08 benefits before EB (although states have the discretion to adjust this arrangement).

Under permanent law, EB benefits are funded half (50%) by the federal government and half (50%) by states. The 2009 stimulus package (P.L. 111-5), as amended, temporarily changes the financing of EB benefits to be 100% federal funding through January 4, 2012.[14] The EB benefit amount is equal to the eligible individual's weekly regular UC benefits.

There are two types of payable periods for EB benefits. First, if it meets certain state economic criteria and has certain state law trigger options in place[15], a state may pay EB benefits through an *EB Unemployment Period*. As discussed below, the duration of an EB Unemployment Period is based on the duration of regular UC benefits. For most states (i.e., those states with a UC maximum duration of up to 26 weeks), the EB Unemployment Period may provide up to 13 additional weeks of unemployment benefits to eligible individuals.

Second, a state may pay benefits through an *EB High Unemployment Period* if that state meets certain state economic criteria and has certain state law trigger options in place.[16] Because the duration of an EB High Unemployment Period is based on the duration of regular UC benefits in most states (i.e., those states with a UC maximum duration of up to 26 weeks), up to 20 additional weeks of EB benefits may be available to eligible individuals.

State Law Changes to UC Benefit Duration

Regular state UC benefits are financed through state payroll taxes on employers. The state unemployment tax rate on employers in all states is "experience rated," that is, the state tax rate is based on the amount of UC paid to former employees. Generally, the more UC benefits paid to its former employees, the higher the tax rate of the employer, up to a maximum established by state law.

As a result of the most recent recession and its accompanying prolonged and high unemployment, states have paid out large amounts of UC benefits ($75.0 billion in FY2009 and $63.0 billion in FY2010 versus $30.2 billion in FY2006 and $31.4 billion in FY2007).[17] This increase in state expenditures on UC benefits has also led to large outstanding federal loans in many states[18] as well as increased employer tax rates in most states.

[14] This temporary 100% federal financing of EB benefits does not include "non-sharable" benefits (generally, these are former state and local employees' EB benefits).

[15] For details on these EB triggers, see report section on "State Law Enactment of EB Trigger Options."

[16] Ibid.

[17] For more details on revenues and expenditures associated with UC benefits, see CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*, by Katelin P. Isaacs and Julie M. Whittaker.

[18] For more details on federal loans to states to pay UC benefits, see CRS Report RS22954, *The Unemployment Trust Fund (UTF): State Insolvency and Federal Loans to States*, by Julie M. Whittaker.

In response to similar state UC financial stress following prior recessions, states have typically reduced the amount of UC benefits paid to individuals through reductions in the maximum benefit amount or through changes in the underlying benefit calculations. Under current federal law, however, most states are temporarily prohibited from reducing UC benefit amounts through changes to benefit calculation[19] and, therefore, have acted to reduce UC benefit duration as an alternative means to decrease total UC benefit payments. Therefore, these state UC benefit duration reductions are, in part, a response to UC financial crises facing states.

At the same time, however, the duration for current federal unemployment benefits—each tier of the EUC08 program and any EB periods—are calculated based on state UC benefit duration. Thus, states that have enacted laws to reduce the duration of regular UC benefits have also reduced the duration of EUC08 and EB benefits.

Currently, six states have acted to decrease their maximum UC benefit durations. As elaborated below, three of these states—Arkansas, Missouri, and South Carolina—adopted UC benefit duration reductions that are currently in effect. The three other states—Michigan, Illinois, and Florida—have effective dates for their UC benefit duration reductions in January 2012.[20]

Table 1 provides full details on these state changes to UC benefit duration.

Table 1. States with Unemployment Compensation (UC) Law Changes in 2011 That Decrease Benefit Duration

State	State Bill or Act Number	Prior Maximum UC Duration	New Maximum UC Duration	Effective Date of New Maximum UC Duration
Arkansas	Act 861, 88th General Assembly	26 weeks	25 weeks	Currently effective [Effective upon enactment (March 30, 2011)]
Missouri	House Bill No. 163, 96th General Assembly	26 weeks	20 weeks	Currently effective [Effective upon enactment (April 13, 2011)]
Michigan	Act No. 14, Public Acts of 2011	26 weeks	20 weeks	Effective for individuals filing an initial claim for UC benefits on or after January 15, 2012
Illinois	Public Act 097-0001, 97th General Assembly	26 weeks	25 weeks	Effective January 1, 2012

19 For a fuller discussion of this issue, including details on two states that have been able to reduce weekly UC benefit amounts, see the report section on "States with Reduced Maximum Weekly Benefit Amounts."

20 At least part of the significance of a January 2012 effective date is the expiration of two key federal unemployment insurance program expirations: (1) the expiration of the authorization of the EUC08 program (week ending on or before January 3, 2012) and (2) the expiration of the 100% federal financing of the EB program, which is authorized through January 4, 2012.

State	State Bill or Act Number	Prior Maximum UC Duration	New Maximum UC Duration	Effective Date of New Maximum UC Duration
Florida	Chapter 2011-235, Laws of Florida	26 weeks	Variable duration based on state unemployment rate: (1) 12 weeks if state unemployment rate is 5% or below (2) additional week added to 12 weeks for each 0.5% increase in state unemployment rate above 5% (3) 23 weeks if state unemployment rate is at least 10.5%	Effective January 1, 2012
South Carolina	Act No. 63, South Carolina General Assembly, 119th Session	26 weeks	20 weeks	Currently effective [Effective upon enactment (June 14, 2011)]

Source: Compiled by the Congressional Research Service.

States with UC Benefit Duration Changes Currently in Effect

- **Arkansas** decreased its state UC maximum duration from 26 weeks to 25 weeks. This state UC law change is currently effective.
- **Missouri** decreased its UC maximum duration from 26 weeks to 20, effective currently.
- **South Carolina** also decreased its UC maximum duration from 26 weeks to 20, effective currently.

States with UC Benefit Duration Changes in Effect in January 2012

- **Florida** decreased the maximum UC duration from 26 weeks to a variable maximum duration, depending on the state unemployment rate and ranging from 12 weeks up to 23 weeks. Up to 12 weeks will be available if the state unemployment rate is 5% or less. Each 0.5% increase in the state unemployment rate above 5% will add an additional week of UC benefit duration. Finally, up to 23 weeks of regular UC benefits will be available if the state unemployment rate is at least 10.5%.[21] This benefit reduction is effective January 1, 2012.
- **Illinois** decreased its UC maximum duration from 26 weeks to 25 weeks, effective January 1, 2012.

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[21] The three-month average, seasonally adjusted unemployment rate for Florida in May 2011 is 11.1%, as determined by the U.S. Department of Labor.

- **Michigan** decreased its UC maximum duration from 26 weeks to 20 weeks. This change is effective for individuals filing an initial claim for UC benefits on or after January 15, 2012.

Consequences of Reduced UC Benefit Duration for Federal Unemployment Programs

Calculation of Benefit Duration for EUC08 Tiers

The duration of each tier of benefits in the EUC08 program is calculated through a formula based on state UC benefit duration.[22] Therefore, states that have enacted laws to reduce the duration of regular UC benefits will also experience a reduction in the duration of EUC08 benefits.

Specific formulas for the duration of each tier of EUC08 are presented below. Examples of adjusted EUC08 benefit durations—based on a weekly benefit amount of $300 and a new maximum UC duration of 20 weeks—are also provided:[23]

- ***Tier I of EUC08***
    - Duration formula: 80% of the duration of an individual's total regular UC benefits in benefit year
    - Illustration of adjusted duration (formerly, up to 20 weeks at $300)
        - 80% of 20 weeks of UC=16 weeks; up to 16 weeks at weekly benefit amount of $300
- ***Tier II of EUC08***
    - Duration formula: 54% of the duration of an individual's total regular UC benefits in benefit year
    - Illustration of adjusted duration (formerly, up to 14 weeks at $300)
        - 54% of 20 weeks of UC=10.8 weeks; up to 10 weeks at weekly benefit amount of $300 and the last week prorated at $240 ($300/0.8=$240)
- ***Tier III of EUC08***
    - Duration formula: 50% of the duration of an individual's total regular UC benefits in benefit year

[22] Under current law, the duration of benefits for each tier of EUC08 (as well as any EB payable period) is set through calculations based on the lesser of (1) the *state benefit criteria*, which is a set percentage of the duration of regular UC benefits (e.g., 80% of the individual's total regular UC duration in a benefit year for Tier I of EUC08) or (2) the *maximum weekly amount criteria*, which is the multiple of an individual's average weekly benefit amount under the UC program (e.g., 20 times an individual's average weekly benefit amount in a benefit year for Tier I of EUC08). In the event of state reduction in UC benefit durations, the former calculation—the state benefit criteria—will be lower and, thus, applicable. Therefore, this report's discussion of the benefit duration calculation for all tiers of EUC08 and all payable periods of EB focuses on this state benefit criteria formula in its explanations and illustrations of duration calculations.

[23] The average weekly benefit amount is roughly $300 across all states for April 2011 (DOL). Michigan, Missouri, and South Carolina have enacted state laws to reduce their maximum UC benefit duration to 20 weeks.

- Illustration of adjusted duration (formerly, up to 13 weeks at $300)
    - 50% of 20 weeks of UC=10 weeks; up to 10 weeks at weekly benefit amount of $300
- ***Tier IV of EUC08***
    - Duration formula: 24% of the duration of an individual's total regular UC benefits in benefit year
    - Illustration of adjusted duration (formerly, up to 6 weeks at $300)
        - 24% of 20 weeks of UC=4.8 weeks; up to 4 weeks at weekly benefit amount of $300 and the last week prorated at $240 ($300/0.8=$240)

EUC08 tier duration calculations for each state that has enacted reduction in regular UC benefit duration are provided in **Table 2**.

Calculation of Benefit Duration for EB Payable Periods

The duration of benefits for the two types of EB payable periods are set through calculations similar in structure to the calculations for EUC08 tier durations.[24] As is the case with the EUC08 program, state reductions in UC benefit durations lead to proportional reductions in the duration of the EB payable periods.

The EB payable period duration calculations and illustration of adjusted EB durations (using $300 as the weekly benefit amount and a new UC maximum duration of 20 weeks)[25] are below:

- ***EB Unemployment Period***
    - Duration formula: 50% of the duration of individual's total regular UC benefits in benefit year
    - Illustration of adjusted duration (formerly up to 13 weeks at $300)
        - 50% of 20 weeks of UC=10 weeks); up to 10 weeks at weekly benefit amount of $300
- ***EB High Unemployment Period***
    - Duration formula: 80% of the duration individual's total regular UC benefits in benefit year
    - Illustration of adjusted duration (formerly up to 20 weeks at $300)
        - 80% of 20 weeks of UC=16 weeks; up to 16 weeks at weekly benefit amount of $300

Table 2 displays EB payable period duration calculations for each state that has enacted reduction in regular UC benefit duration.

[24] See footnote 22 for more technical details.

[25] See footnote 23 for rationale behind these data points.

Table 2. Adjusted Maximum EUC08 and EB Benefit Duration Resulting from Changes to State Maximum UC Benefit Duration

State	Adjusted Maximum UC Duration	Adjusted Maximum EUC08 Tier I Duration	Adjusted Maximum EUC08 Tier II Duration	Adjusted Maximum EUC08 Tier III Duration	Adjusted Maximum EUC08 Tier IV Duration	Adjusted Maximum EB Unemployment Period Duration	Adjusted Maximum EB High Unemployment Period Duration	Effective Date for Adjusted UC Durations	Adjusted Benefit Duration Maximum from All Programs
Arkansas	25 weeks	20 weeks	13 weeks and 1 week at 0.5xWBA	12 weeks and 1 week at 0.5xWBA	6 weeks	12 weeks and 1 week at 0.5xWBA	20 weeks	Currently effective	97 weeks
Missouri	20 weeks	16 weeks	10 weeks and 1 week at 0.8xWBA	10 weeks	4 weeks and 1 week at 0.8xWBA	10 weeks	16 weeks	Currently effective	77 weeks and 1 week at 0.6xWBA
Michigan	20 weeks	16 weeks	10 weeks and 1 week at 0.8xWBA	10 weeks	4 weeks and 1 week at 0.8xWBA	10 weeks	16 weeks	Effective for individuals filing initial claims for UC benefits on or after 1/15/12	77 weeks and 1 week at 0.6xWBA
Illinois	25 weeks	20 weeks	13 weeks and 1 week at 0.5xWBA	12 weeks and 1 week at 0.5xWBA	6 weeks	12 weeks and 1 week at 0.5xWBA	20 weeks	Effective 1/1/12	97 weeks

State	Adjusted Maximum UC Duration	Adjusted Maximum EUC08 Tier I Duration	Adjusted Maximum EUC08 Tier II Duration	Adjusted Maximum EUC08 Tier III Duration	Adjusted Maximum EUC08 Tier IV Duration	Adjusted Maximum EB Unemployment Period Duration	Adjusted Maximum EB High Unemployment Period Duration	Effective Date for Adjusted UC Durations	Adjusted Benefit Duration Maximum from All Programs
Florida	Variable duration based on state unemployment rate: (1) 12 weeks if state unemployment rate is 5% or below (2) additional week added to 12 weeks for each 0.5% increase in state unemployment rate above 5%	With 12 week UC duration: 9 weeks and 1 week at 0.6xWBA	With 12 week UC duration: 6 weeks and 1 week at 0.48xWBA	With 12 week UC duration: 6 weeks	With 12 week UC duration: 2 weeks and 1 week at 0.88xWBA	With 12 week UC duration: 6 weeks at WBA	With 12 week UC duration: 9 weeks at WBA and 1 week at 0.6xWBA	Effective 1/1/12	With 12 week UC duration: 46 weeks and 1 week at WBAx0.56
	(3) 23 weeks if state unemployment rate is at least 10.5%	With 23 week UC duration: 18 weeks and 1 week at 0.4xWBA	With 23 week UC duration: 12 weeks and 1 week at 0.42xWBA	With 23 week UC duration: 11 weeks and 1 week at 0.5xWBA	With 23 week UC duration: 5 weeks and 1 week at 0.52xWBA	With 23 week UC duration: 11 weeks at WBA and 1 week at 0.5xWBA	With 23 week UC duration: 18 weeks at WBA and 1 week at 0.4xWBA		With 23 week UC duration: 89 weeks and 1 week at WBAx.0.24
South Carolina	20 weeks	16 weeks	10 weeks and 1 week at 0.8xWBA	10 weeks	4 weeks and 1 week at 0.8xWBA	10 weeks	16 weeks	Currently effective	77 weeks and 1 week at 0.6xWBA

Source: Compiled by Congressional Research Service.

Notes: WBA: weekly benefit amount. All weeks of benefits are paid out in terms of full WBA unless a pro-rated WBA calculation is provided.

The adjusted maximum benefit durations listed in the table for EUC08 and EB (and the maximum duration from all programs, which had previously been 99 weeks) apply to beneficiaries who file an initial claim for UC benefits after the effective date for adjusted UC durations. Individuals who received or are receiving UC benefits prior to the effective date for the state reduction in maximum UC benefits maintain the previous, unreduced UC, EUC08, and EB benefit durations.

Under current law, the authorization for the EUC08 program expires the week ending on or before January 3, 2012. Consequently, there will be no new entrants into any tier of EUC08 after December 31, 2011 (January 1, 2012, in New York state). Individuals receiving EUC08 benefits prior to the program's expiration may finish out their current tier of EUC08 benefit only and may not enter another tier.

States with Reduced Maximum Weekly Benefit Amounts

The Unemployment Compensation Extension Act of 2010 (P.L. 111-205), as amended, temporarily prevents states from actively changing the method of calculation of the UC weekly benefit amount in such a way as to decrease this average weekly benefit amount. This "nonreduction" rule is a condition of the Emergency Unemployment Compensation (EUC08) federal-state agreement, as amended by P.L. 111-205. States are not permitted to pay an average weekly UC benefit amount that is less than what would have been paid under state law prior to what was in effect as of June 2, 2010.[26] However, states may reduce weekly benefits if that reduction happens automatically in certain circumstances as required by a state law that was in place before the enactment of P.L. 111-5.

Thus, despite the "nonreduction" rule, two states—New Jersey and Oklahoma—have reduced the maximum amount of their UC weekly benefits since the rule became law. The weekly benefit reductions in these states do not violate the current federal prohibition as New Jersey and Oklahoma are two of 36 states with prior state laws that calculate the maximum weekly UC benefit via *automatic* adjustments based on the average weekly wage in a state.[27]

Because (1) the average weekly wage declined in both New Jersey and Oklahoma since the "nonreduction" rule provision of P.L. 111-205 was enacted and (2) this UC benefit calculation was already in state law, New Jersey and Oklahoma experienced the following UC benefit decreases:

- **New Jersey**—decline in maximum weekly UC benefit from $600 as of July 1, 2010, to $598 as of January 1, 2011
- **Oklahoma**—decline in maximum weekly UC benefit from $430 as of July 1, 2010, to $358 as of January 1, 2011

These state UC benefit reductions also reduce weekly amounts for EUC08 and EB benefits, which are paid out in the same amount.

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[26] There was a similar, but programmatically distinct "nonreduction" rule in P.L. 111-5, as amended, which prevented states from actively changing the method of calculation of the UC weekly benefit amount to pay UC benefit amounts less than what would have been paid under state law prior to December 31, 2008. No states acted to decrease UC benefit amounts between December 31, 2008, and June 2, 2010, when the federal authorization for this earlier "nonreduction" rule expired.

[27] The other 34 states that calculate benefit amounts using automatic adjustments under prior state law are Arkansas, Colorado, Connecticut, District of Columbia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Montana, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Virgin Island, Washington, West Virginia, Wisconsin, and Wyoming.

It is possible that these 34 states could also experience reductions in UC weekly benefit amounts similar to New Jersey and Oklahoma if (1) the average weekly wages in states declined and the corresponding methods of calculation formula resulted in a benefit decrease (for specific information regarding these state-specific methods of benefit calculation, see DOL's "Comparison of State Unemployment Laws," Chapter 3: Monetary Eligibility, Table 3.6, pp. 13-14, available at http://www.workforcesecurity.doleta.gov/unemploy/pdf/uilawcompar/2010/monetary.pdf) and (2) the state did not otherwise prevent this benefit amount reduction through enactment of new state legislation.

State Law Enactment of EB Trigger Options

The EB program is triggered and pays unemployment benefits when a state's insured unemployment rate (IUR)[28] or total unemployment rate (TUR)[29] reaches certain levels. All states must pay up to 13 weeks of EB if the IUR for the previous 13 weeks is at least 5% and is 120% of the average of the rates for the same 13-week period in each of the two previous years (a two-year lookback). There are two other optional thresholds that states may choose. (States may choose one, two, or none.) If the state has chosen a given option, they would provide the following:

- Option 1: an additional 13 weeks of benefits if the state's IUR is at least 6%, regardless of previous years' averages.
- Option 2: an additional 13 weeks of benefits if the state's TUR is at least 6.5% and is at least 110% of the state's average TUR for the same 13 weeks in either of the previous two years; an additional 20 weeks of benefits if the TUR is at least 8% and is at least 110% of the state's average TUR for the same 13 weeks in either of the previous two years.

In addition to the optional EB triggers themselves, P.L. 111-312 (signed December 17, 2010) made technical changes to certain triggers in the EB program. P.L. 111-312 allows states to temporarily use lookback calculations based on three years of unemployment rate data (rather than the current lookback of two years of data) as part of their mandatory IUR and optional TUR triggers if states would otherwise trigger off or not be on a period of EB benefits. Using a two-year versus a three-year EB trigger lookback is an important adjustment because some states are likely to trigger off their EB periods in the near future despite high, sustained—but not increasing—unemployment rates.

For states to implement EB trigger lookback changes, each state had to individually opt to amend its state UC laws. These state law changes must be written in such a way that if the two-year lookback has the effect that the state would have an active EB program, no action would be taken. But if a two-year lookback is not effective as part of an EB trigger and the state is not triggered on to an EB period, then the state would be able to use a three-year lookback. This temporary option to use three-year EB trigger lookbacks expires the week on or before December 31, 2011.

With few exceptions, only states who have enacted the TUR trigger of these EB trigger options (in either permanent or temporary law) and also have enacted the temporary three-year lookback have an active EB program paying benefits.

[28] The IUR is the ratio of UC claimants divided by individuals in UC-covered jobs. The IUR excludes several important groups: self-employed workers, unpaid family workers, workers in certain not-for-profit organizations, and several other, primarily seasonal, categories of workers. In addition to those unemployed workers whose last jobs were in the excluded employment, the insured unemployed rate excludes the following: those who have exhausted their UC benefits (even if they receive EB or EUC08 benefits); new entrants or reentrants to the labor force; disqualified workers whose unemployment is considered to have resulted from their own actions rather than from economic conditions; and, eligible unemployed persons who do not file for benefits.

[29] The TUR is the ratio of unemployed workers to all workers (employed and unemployed) in the labor market. The TUR is essentially a weekly version of the unemployment rate published by the Bureau of Labor Statistics and based on data from the BLS' monthly Current Population Survey.

Currently, 11 states have adopted the optional TUR EB trigger (i.e., Option 2 above) into permanent state law:

- *Alaska*, *Connecticut*, *Kansas*, *Minnesota*, *New Hampshire*, *New Jersey*, *North Carolina*, *Oregon*, *Rhode Island*, *Vermont*, and *Washington*

In addition, 27 states have temporarily adopted the TUR trigger into state law, linking the expiration of this optional EB trigger to the expiration of the 100% federal financing of EB, which is currently authorized through January 4, 2012 (under P.L. 111-312):[30,]

- *Alabama*, *Arizona*, *California*, *Colorado*, *Delaware*, *District of Columbia*, *Florida*, *Georgia*, *Idaho*, *Illinois*, *Indiana*, *Kentucky*, *Maine*, *Massachusetts*, *Michigan*, *Missouri*, *Nevada*, *New Mexico*, *New York*, *Ohio*, *Pennsylvania*, *South Carolina*, *Tennessee*, *Texas*, *Virginia*, *West Virginia*, and *Wisconsin*

As of August 7, 2011, there are 33 states that have enacted a three-year EB trigger lookback option (as temporarily authorized under P.L. 111-312):[31]

- *Alabama*, *California*, *Colorado*, *Connecticut*, *Delaware*, *District of Columbia*, *Florida*, *Georgia*, *Idaho*, *Illinois*, *Indiana*, *Kansas*, *Kentucky*, *Maine*, *Massachusetts*, *Michigan*, *Minnesota*, *Missouri*, *Nevada*, *New Jersey*, *New Mexico*, *New York*, *North Carolina*, *Ohio*, *Oregon*, *Pennsylvania*, *Rhode Island*, *South Carolina*, *Tennessee*, *Texas*, *Washington*, *West Virginia*, and *Wisconsin*

Table 3 compiles enactment information for all three EB trigger options described above by state.

Table 3. Extended Benefit (EB) Trigger Components Enacted by States

State	Permanent TUR Trigger	Temporary TUR Trigger	Three-Year Lookback
Alabama		X	X
Alaska	X		
Arizona		X	
Arkansas			
California		X	X
Colorado		X	X
Connecticut	X		X
Delaware		X	X
District of Columbia		X	X
Florida		X	X

[30] Under permanent law (P.L. 91-373), EB benefits are funded half (50%) by the federal government and half (50%) by states. The 2009 stimulus package (P.L. 111-5), as amended, temporarily changes the financing of EB benefits to be 100% federal funding until January 4, 2012. Maryland has a temporary TUR trigger authorized under current state law, but it does not go into effect until October 1, 2011. Therefore, Maryland is not counted in the list of 27 states with effective, temporary TUR triggers.

[31] Maryland also adopted a three-year lookback option, effective October 1, 2011. Since this three-year lookback is not yet in effect, Maryland is not counted in the list of 33 states with active three-year lookback options.

State	Permanent TUR Trigger	Temporary TUR Trigger	Three-Year Lookback
Georgia		X	X
Hawaii			
Idaho		X	X
Illinois		X	X
Indiana		X	X
Iowa			
Kansas	X		X
Kentucky		X	X
Louisiana			
Maine		X	X
Maryland		X (effective 10/1/11)	X (effective 10/1/11)
Massachusetts		X	X
Michigan		X	X
Minnesota	X		X
Mississippi			
Missouri		X	X
Montana			
Nebraska			
Nevada		X	X
New Hampshire	X		
New Jersey	X		X
New Mexico		X	X
New York		X	X
North Carolina	X		X
North Dakota			
Ohio		X	X
Oklahoma			
Oregon	X		X
Pennsylvania		X	X
Puerto Rico			
Rhode Island	X		X
South Carolina		X	X
South Dakota			
Tennessee		X	X
Texas		X	X
Utah			

State	Permanent TUR Trigger	Temporary TUR Trigger	Three-Year Lookback
Vermont	X		
Virgin Islands			
Virginia		X	
Washington	X		X
West Virginia		X	X
Wisconsin		X	X
Wyoming			
Total Number of States with EB Trigger Component	**11**	**27**	**33**

Source: Compiled by Congressional Research Service based on U.S. Department of Labor, Extended Benefit Trigger Notice No. 2011-30, effective August 7, 2011 (available at http://www.workforcesecurity.doleta.gov/unemploy/trigger/2011/trig_080711.html).

Notes: Maryland has both a temporary TUR trigger and a three-year lookback option authorized under current state law, but they do not go into effect until October 1, 2011. Therefore, Maryland is not counted in the list of 27 states with effective, temporary TUR triggers or in the list of 33 states with effective, three-year lookback options.