Upcoming Unemployment Insurance Benefit Expirations

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Summary

Several key provisions related to extended federal unemployment benefits are temporary and, therefore, scheduled to expire.

The temporary 100% federal financing of the Extended Benefit (EB) program ends January 4, 2012.

The temporary option for states to use three-year lookbacks as part of their EB triggers expires the week on or before December 31, 2011.

Authorization for the temporary Emergency Unemployment Compensation (EUC08) program is scheduled to expire the week ending on or before January 3, 2012 (i.e., December 31, 2011, in all states except New York State, in which the program ends January 1, 2012).

This report describes the consequences of these expirations for the financing and availability of unemployment benefits in states. It also summarizes proposals to extend these expiring provisions, including the President's American Jobs Act of 2011 proposal (introduced in Congress as S. 1549, H.R. 12, and S. 1660); H.R. 3346; S. 1804; and S. 1885.

Upcoming Expiration of Federal Extended Unemployment Insurance Provisions

On December 17, 2010, the President signed P.L. 111-312, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010. P.L. 111-312 extends the authorization for several federal unemployment insurance (UI) laws. Despite this extension, these laws are temporary and scheduled to expire as follows:

- the 100% federal financing of the Extended Benefit (EB) program is scheduled to end on January 4, 2012; and
- the authorization for the temporary Emergency Unemployment Compensation (EUC08) program ends the week ending on or before January 3, 2012.

In addition, P.L. 111-312 provided for

- temporary authorization for states to use three-year lookbacks with their EB triggers, which expires the week on or before December 31, 2011.

Federal Programs to Extend UI Benefits: EB and EUC08[1]

Basic income support for unemployed workers is provided through the joint federal-state Unemployment Compensation (UC) program, which generally pays up to 26 weeks of unemployment benefits.[2]

EB Financing

Unemployment benefits may be extended at the state level by the permanent EB program if high unemployment exists within the state. Once regular unemployment benefits are exhausted, the EB program may provide up to an additional 13 or 20 weeks of benefits, depending on worker eligibility, state law, and state economic conditions. Under permanent law (P.L. 91-373), the EB program is funded 50% by the federal government and 50% by the states. The 2009 stimulus package (P.L. 111-5, as amended, most recently by P.L. 111-312) temporarily provides for 100% federal funding of the EB program until January 4, 2012.

EUC08

To supplement UC and EB benefits and respond to the most recent recession, Congress created a temporary unemployment insurance program, the EUC08 program. The EUC08 program began in July 2008. EUC08 has been amended by Congress eight times (most recently by P.L. 111-312), and it is scheduled to expire the week ending on or before January 3, 2012. Currently, the EUC08

[1] For additional details on all three of these UI programs (UC, EB, and EUC08), see CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*, by Katelin P. Isaacs and Julie M. Whittaker.

[2] Montana provides 28 weeks and Massachusetts provides 30 weeks of regular unemployment benefits. In addition, some states have passed laws to reduce the maximum duration of UC benefits. For details on reductions in state UC duration, see CRS Report R41859, *Unemployment Insurance: Consequences of Changes in State Unemployment Compensation Laws*, by Katelin P. Isaacs.

program provides up to four tiers of additional weeks of unemployment benefits to certain workers who have exhausted their rights to regular UC benefits. Tiers I (up to an additional 20 weeks) and II (up to an additional 14 weeks) are available in all states. Tier III (up to an additional 13 weeks) is available in states with a total unemployment rate of at least 6%. Tier IV (up to additional 6 weeks) is available in states with a total unemployment rate of at least 8.5%.[3]

Although the EUC08 program is scheduled to expire the week ending on or before January 3, 2012, EUC08 benefits will be "grandfathered" for some individuals who establish their entitlement to a tier of EUC08 benefits prior to program expiration, as described below.

Consequences of UI Expirations

Financing and Availability of EB Benefits

The 100% federal financing of EB benefits is scheduled to end January 4, 2012. In terms of financing, states will be responsible for 50% of the benefit costs for anyone *entering* into the EB program after January 4, 2012. Benefits for individuals *who are receiving EB on January 4, 2012*, however, will continue to be 100% federally financed through June 11, 2012.

The expiration of the 100% federal financing will have consequences for benefits in many states. Twenty-eight states elected a temporary trigger, based on a state's total unemployment rate (TUR), for the EB program—and that election was tied to the temporary federal 100% EB financing.[4] With the expiration of the 100% federal financing provision, the laws in these states require that the temporary trigger end; at which point, the federal EB law ends the period during which EB benefits may be paid. **Table 1** lists the states that adopted a temporary EB TUR trigger in this manner and may be affected by this expiration.

Table 1. States with Temporary EB TUR Trigger Provisions

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

Source: U.S. Department of Labor.

[3] For details on EUC08, including the program's legislative history, see CRS Report RS22915, *Temporary Extension of Unemployment Benefits: Emergency Unemployment Compensation (EUC08)*, by Katelin P. Isaacs and Julie M. Whittaker.

[4] In addition, 11 states have adopted this optional TUR EB trigger into permanent state law: Alaska, Connecticut, Kansas, Minnesota, New Hampshire, New Jersey, North Carolina, Oregon, Rhode Island, Vermont, and Washington. For more details on state EB trigger options, see CRS Report R41859, *Unemployment Insurance: Consequences of Changes in State Unemployment Compensation Laws*, by Katelin P. Isaacs.

In addition to the temporary 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 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 would need 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.

As of the week of November 6, 2011, there are 34 states that have enacted a three-year EB trigger lookback option (as temporarily authorized under P.L. 111-312). **Table 2** lists these states.

Table 2. States with Temporary EB Three-Year Lookback Provisions

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

Source: U.S. Department of Labor.

With few exceptions, only states that have enacted the TUR EB trigger option (in either permanent or temporary law) and the temporary three-year lookback have an active EB program paying benefits. When either of a state's temporary EB trigger components—the TUR trigger or the three-year lookback—expires, as currently scheduled, that state would be at risk of ending its EB period.

EB benefits are not grandfathered. Therefore, there will be no active EB program or payments after an EB period has ended in these states.

The U.S. Department of Labor posts weekly "Trigger Notices" for the EB (and EUC08 program) online at http://www.workforcesecurity.doleta.gov/unemploy/claims_arch.asp.

Availability of EUC08 Benefits

All tiers of EUC08 benefits are temporary and expire in the week ending on or before January 3, 2012. No new entrants into any tier of the EUC08 program will be permitted after December 31, 2011.[5] Therefore, to be eligible for an EUC08 tier I benefit, an individual must exhaust his or her regular UC benefits before or during the week ending December 24[6] in order to enter the first tier of EUC08 benefits during the week ending December 31, 2011.

Those unemployed individuals who qualify 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 are deemed eligible within that tier. Once that tier is complete, however, they will not be able to advance to the next tier. For example, if an individual is eligible to continue to receive the tier I benefit after December 31, 2011, that individual would not be entitled to tier II benefits once those tier I benefits are exhausted. No EUC08 benefits, regardless of tier, will be payable for any week after June 9, 2012.

Legislation to Extend Expiring UI Provisions

P.L. 111-312, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, was signed into law on December 17, 2010. As explained above, P.L. 111-312 extends the authorization of the EUC08 program until the week ending on or before January 3, 2012, and the 100% federal financing of the EB program until January 4, 2012. P.L. 111-312 also authorizes the temporary option for states to use three-year lookbacks with their EB triggers (scheduled to expire the week on or before December 31, 2011).

Other Proposals to Extend Expiring UI Provisions

Senator Heller introduced S. 1885, the Responsible Unemployment Extension Act, on November 17, 2011. S. 1885 would extend the EUC08 authorization and the 100% federal financing of the EB program for another year (i.e., through calendar year 2012). S. 1885 would not, however, extend the authorization for states to use three-year lookbacks in their EB triggers. S. 1885 proposes to offset the UI extensions using $44 billion in unobligated, federal discretionary funds.

On November 3, 2011, Representative Doggett introduced H.R. 3346 and Senator Reed introduced S. 1804. These companion bills—both named the Emergency Unemployment Compensation Extension Act of 2011—propose to extend expiring UI provisions and make various changes, including to the financing of UI benefits. H.R. 3346 and S. 1804 would provide a year-long extension of the EUC08 program, the 100% federal financing of the EB program, and the authorization for states to use three-year lookbacks for state EB triggers through calendar year 2012. These bills also propose to allow states to temporarily suspend the lookback for the EB triggers, "by statue, regulation, or other issuance having the force and effect of law," through calendar year 2012.[7]

[5] January 1, 2012, in New York State.

[6] December 25, 2011, in New York State.

[7] In addition to these provisions to extend the expiring UI provisions, H.R. 3346 and S. 1804 also propose some other UI-related changes; for instance, related to state financing of unemployment benefits. For a description of these other (continued...)

The President's American Jobs of Act of 2011 proposal would provide a year-long extension of the EUC08 authorization and the 100% federal financing of EB through calendar year 2012. In addition, it would extend authorization for states to use three-year lookbacks for state EB triggers during this period. It would not expand the number of weeks of unemployment benefits available to the unemployed beyond what is currently available. (The proposal does not include a "tier V" of EUC08 benefits.)[8]

On September 13, 2011, Senator Reid introduced S. 1549, the American Jobs Act of 2011, by request, which contains the legislative language of the President's American Jobs Act of 2011 proposal. Also by request, Representative Larson introduced H.R. 12, the House companion version of the American Jobs Act of 2011, on September 21, 2011.

Senator Reid introduced S. 1660 on October 5, 2011. S. 1660 contains the same UI provisions found in the President's American Jobs Act of 2011, S. 1549, and H.R. 12. S. 1660 differs from the President's American Jobs Act of 2011, S. 1549, and H.R. 12, however, in some non-UI provisions proposed to offset the legislation.

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UI provisions, see CRS Report R41662, *Unemployment Insurance: Legislative Issues in the 112th Congress*, by Katelin P. Isaacs and Julie M. Whittaker.

8 This summary is based on legislative language from the President's American Jobs Act of 2011 proposal (Title III, Subtitle A: Supporting Unemployed Workers Act of 2011), released on September 12, 2011 (available online at http://www.whitehouse.gov/sites/default/files/American_Jobs_Act.pdf).