Unemployment Insurance: Legislative Issues in the 112th Congress

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Summary

The 112th Congress considered a number of issues related to currently available unemployment insurance programs: Unemployment Compensation (UC), temporary Emergency Unemployment Compensation (EUC08), and Extended Benefits (EB). With the national unemployment rate decreasing but still high, the weekly demand for regular and extended unemployment benefits continued at high levels. Congress deliberated multiple times on whether to extend the authorization for several key temporary unemployment insurance provisions. The EUC08 program, along with temporary provisions surrounding EB, had been set to expire at the end of 2012. The signing of H.R. 8 on January 2, 2013, now means that the EUC08 program is scheduled to expire the week ending on or before January 1, 2014. The 100% federal financing of the EB program will expire on December 31, 2013. In addition, the option for states to use three-year EB trigger lookbacks expires the week ending on or before December 31, 2013.

The 112th Congress faced these expirations as well as likely unemployment insurance policy issues, including unemployment insurance financing. In addition, a temporary 0.2% federal unemployment tax (FUTA) surtax expired at the end of June 2011. Among other items, policy discussions focused on the appropriate length and availability conditions of unemployment benefits.

This report provides a brief overview of the three unemployment insurance programs—UC, EUC08, and EB—that may currently pay benefits to eligible unemployed workers. This report discusses relevant legislation introduced in the 112th Congress: specifically, H.R. 1745, S. 386, H.R. 650, H.R. 589, H.R. 1663, H.R. 235, S. 310, H.R. 569, H.R. 2001, H.R. 2120, H.R. 2137, H.R. 2731, H.R. 2806, H.R. 2868, S. 1743, H.R. 3346, S. 1804, S. 1826, H.R. 3427, S. 1885, S. 1931, S. 1944, H.R. 3598, H.R. 3601, H.R. 3630, H.R. 3615, H.R. 3638, H.R. 3743, H.R. 494, S. 2095, S. 2081, a proposal outlined in the President's Budget Proposal for FY2013, as well as the President's American Jobs Act of 2011 proposal (introduced in Congress as S. 1549, H.R. 12, and S. 1660). This report also discusses the implications for the UI programs with respect to provisions in H.R. 2693, S.Amdt. 581 to S. 1323, P.L. 112-25, P.L. 112-40, P.L. 112-78, P.L. 112-96, and H.R. 8.

This report will not be updated.

Contents

Figures

The unemployment insurance (UI) system has two primary objectives: (1) to provide temporary, partial wage replacement for involuntarily unemployed workers; and (2) to stabilize the economy during recessions. In support of these goals, several UI programs may currently provide benefits for unemployed workers.

Overview of Unemployment Insurance Programs

In general, when eligible workers lose their jobs, the joint federal-state Unemployment Compensation (UC) program may provide up to 26 weeks of income support through the payment of regular UC benefits. UC benefits may be extended in two ways: (1) for up to 47 weeks by the temporarily authorized Emergency Unemployment Compensation (EUC08) program; and (2) for up to 13 or 20 weeks by the Extended Benefit (EB) program if certain economic situations exist within the state.[1]

Unemployment Compensation Program

The joint federal-state UC program, authorized by the Social Security Act of 1935 (P.L. 74-271), provides unemployment benefits for up to a maximum of 26 weeks.[2] Former U.S. military servicemembers may be eligible for unemployment benefits through the unemployment compensation for ex-servicemembers (UCX) program.[3] The Emergency Unemployment Compensation Act of 1991 (P.L. 102-164) provides that ex-servicemembers be treated the same as other unemployed workers with respect to benefit levels, the waiting period for benefits, and benefit duration.

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

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[1] For detailed information on each of these programs, see CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*, by Julie M. Whittaker and Katelin P. Isaacs. Certain groups of workers may qualify for income support from additional UI programs, including Trade Adjustment Assistance (TAA), Reemployment Trade Adjustment Assistance (RTAA), and Disaster Unemployment Assistance (DUA). Workers who lose their jobs because of international competition may qualify for income support through the TAA program or the RTAA (for certain workers aged 50 or older). Workers may be eligible to receive DUA benefits if they are not eligible for regular UC and their unemployment may be directly attributed to a declared natural disaster. For more information on the TAA and RTAA programs, see CRS Report R42012, *Trade Adjustment Assistance for Workers*, by Benjamin Collins.

[2] Arkansas and Illinois provide up to 25 weeks; Michigan, Missouri, and South Carolina provide up to 20 weeks; and the maximum duration of UC in Florida and Georgia is variable, based on the state unemployment rates. For more details on these states with less than 26 weeks of UC available, see CRS Report R41859, *Unemployment Insurance: Consequences of Changes in State Unemployment Compensation Laws*, by Katelin P. Isaacs. In addition, the maximum UC duration is 28 weeks in Montana and 30 weeks in Massachusetts. In conjunction with federal unemployment benefits, however, UC duration is capped at 26 weeks.

[3] For more information on the UCX program, see CRS Report RS22440, *Unemployment Compensation (Insurance) and Military Service*, by Julie M. Whittaker.

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

eligibility vary greatly. Most state benefit formulas replace approximately half of a claimant's average weekly wage up to a weekly maximum.

The UC program is financed by federal taxes under the Federal Unemployment Tax Act (FUTA) and by state payroll taxes under the State Unemployment Tax Acts (SUTA). The 0.6% effective net FUTA tax paid by employers on the first $7,000 of each employee's earnings ($42 per worker per year) funds both federal and state administrative costs, loans to insolvent state UC accounts, the federal share (50% under permanent law, 100% temporarily under current law) of EB payments, and state employment services.[5]

SUTA taxes on employers are limited by federal law to funding regular UC benefits and the state share (50% under permanent law, 0% temporarily under current law) of EB payments. Federal law requires that the state tax be on at least the first $7,000 of each employee's earnings (it may be more) and requires that the maximum state tax rate be at least 5.4%. Federal law also requires the state tax rate to be based on the amount of UC paid to former employees (known as "experience rating"). Within these broad requirements, states have great flexibility in determining the SUTA structure of their state. Generally, the more UC benefits paid out to its former employees, the higher the tax rate of the employer, up to a maximum established by state law. Funds from FUTA and SUTA are deposited in the appropriate accounts within the Unemployment Trust Fund (UTF).

Emergency Unemployment Compensation Program

On June 30, 2008, President George W. Bush signed the Supplemental Appropriations Act of 2008 (P.L. 110-252), which created a new temporary unemployment insurance program, the Emergency Unemployment Compensation (EUC08) program. This was the eighth time Congress had created a federal temporary program to extend unemployment compensation during an economic slowdown.[6] State UC agencies administer the EUC08 benefit along with regular UC benefits. The authorization for this program has been extended multiple times and currently is authorized through the week ending on or before January 1, 2014.

Current EUC08 Benefit Availability

The EUC08 program has been amended eleven times, most recently by H.R. 8.[7] The EUC08 benefit amount is equal to the eligible individual's weekly regular UC benefits and includes any applicable dependents' allowances. The most recent modifications to the underlying structure of

[5] FUTA imposes a 6.0% gross tax rate on the first $7,000 paid annually by employers to each employee. Employers in states with programs approved by the federal government and with no delinquent federal loans may credit 5.4 percentage points against the 6.0% tax rate, making the minimum net federal unemployment tax rate 0.6%. See CRS Report RS22954, *The Unemployment Trust Fund (UTF): State Insolvency and Federal Loans to States*, by Julie M. Whittaker, for details on how delinquent loans affect the net FUTA tax.

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

[7] The eleven amendments are 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, P.L. 111-312, P.L. 112-78, P.L. 112-96, and H.R. 8. Summary details on all of these laws are provided in Table 1 of CRS Report R42444, *Emergency Unemployment Compensation (EUC08): Current Status of Benefits*, by Julie M. Whittaker and Katelin P. Isaacs.

the EUC08 program were made by P.L. 112-96. These modifications included changes to the number of weeks available in each EUC08 tier as well as the state unemployment rates required to have an active tier in that state. These requirements were implemented during 2012 in three separate phases.[8] Currently the following weeks of benefits are available in the tiers listed below:

- **Tier I** is available in all states, with up to 14 weeks of EUC08 benefits provided to eligible individuals.
- **Tier II** is available if the state's total unemployment rate (TUR)[9] is at least 6%, with up to 14 weeks provided to eligible individuals in those states.
- **Tier III** is available if the state's TUR is at least 7% (or an insured unemployment rate, IUR,[10] of at least 4%), with up to 9 weeks of provided to eligible individuals in those states.
- **Tier IV** is if the state's TUR is at least 9% or the IUR is 5%, with up to 10 weeks provided to eligible individuals in those states.

Current EUC08 Program Expiration

All tiers of EUC08 benefits are temporary and expire in the week ending on or before January 1, 2014. Thus, on December 28, 2013 (December 29, 2013, for New York), the EUC08 program ends. There is no grandfathering of any EUC08 benefit after that date.

Impact of Federal "Non-Reduction" Rule on State UC Laws

In response to similar state UC financial stress following prior recessions, states 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 two temporary provisions in federal law, however, most states were prohibited from reducing UC benefit amounts through changes to benefit calculation from February 2009 through December 2013.[11] The implementation of this "non-reduction" rule coincided with new state actions that reduced UC

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[8] See CRS Report R42444, *Emergency Unemployment Compensation (EUC08): Current Status of Benefits*, by Julie M. Whittaker and Katelin P. Isaacs, for details on how these changes were implemented.

[9] 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 (BLS) and based on data from the BLS' monthly Current Population Survey.

[10] The IUR is the ratio of UC claimants divided by individuals in UC-covered jobs. The IUR is substantially different from the TUR because it 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.

[11] An exception was made P.L. 112-96 which maintains the "nonreduction rule" for the calculation of the regular UC benefit amount, except in the case of state legislation that was enacted before March 1, 2012, but would not have taken effect before January 1, 2012. The "nonreduction" rule prohibits states from decreasing average weekly benefit amounts without invalidating their EUC08 federal-state agreements. States that made changes to the regular UC benefit amount prior to March 1, 2012, however, would not invalidate their EUC08 federal-state agreements.

benefit duration as an alternative means to decrease total UC benefit payments.[12] As a result, these changes in state UC benefit duration may be a state response to state UC financing shortfall.

The durations 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.

Seven states have acted to decrease their maximum UC benefit durations after the non-reduction rule was enacted:

- **Arkansas** decreased its state UC maximum duration from 26 weeks to 25 weeks, effective March 30, 2011.
- **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%. This benefit reduction was effective January 1, 2012.
- **Georgia** decreased its UC maximum duration from 26 weeks to a variable maximum duration that ranges between 14 weeks and 20 weeks, depending on the unemployment rate in the state. A maximum UC duration of 14 weeks will be available if the state unemployment rate is 6.5% or less. Each 0.5% increase in the state unemployment rate above 6.5% will add additional weeks of UC benefit duration up to a maximum of 20 weeks of UC benefits if the state unemployment rate is at least 9%. This benefit reduction was effective May 2, 2012.
- **Illinois** decreased its UC maximum duration from 26 weeks to 25 weeks, effective January 1, 2012.
- **Michigan** decreased its UC maximum duration from 26 weeks to 20 weeks. This change was effective for individuals filing an initial claim for UC benefits on or after January 15, 2012.
- **Missouri** decreased its UC maximum duration from 26 weeks to 20 weeks, effective April 13, 2011.
- **South Carolina** also decreased its UC maximum duration from 26 weeks to 20 weeks, effective June 14, 2011.

[12] The current "nonreduction" rule was put into place when P.L. 111-205 amended P.L. 110-252. 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.

Extended Benefit Program

The EB program was established by the Federal-State Extended Unemployment Compensation Act of 1970 (EUCA), P.L. 91-373 (26 U.S.C. 3304, note). EUCA may extend receipt of unemployment benefits (extended benefits) at the state level if certain economic situations exist within the state.

The EB program is triggered when a state's insured unemployment rate (IUR) or total unemployment rate (TUR) reaches certain levels.[13] 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. 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 state's 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.

Each state's IUR and TUR are determined by the state of residence (agent state) of the unemployed worker rather than by the state of employment (liable state). EB benefits are not "grandfathered" when a state triggers "off" the program. When a state triggers "off" of an EB period, all EB benefit payments in the state cease immediately regardless of individual entitlement.[14]

Temporary EB Trigger Modifications in P.L. 111-312

P.L. 111-312 made some technical changes to certain triggers in the EB program. P.L. 111-312, as amended (most recently by H.R. 8), 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 of their EB periods in the near future despite high, sustained—but not increasing—unemployment rates.

[13] 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 (BLS) and based on data from the BLS' monthly Current Population Survey. The IUR is the ratio of UC claimants divided by individuals in UC-covered jobs. The IUR is substantially different from the TUR because it 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.

[14] EB benefits on interstate claims are limited to two extra weeks unless *both* the agent state (e.g., Texas) and liable state (e.g., Louisiana) are in an EB period.

States implement the lookback changes individually by amending their state UC laws. These state law changes must be written in such a way that if the two-year lookback is working and the state would have an active EB program, no action would be taken. But if a two-year lookback is not working 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. Most recently, H.R. 8 extended the authorization for the three-year EB trigger lookbacks. The authorization for the temporary EB trigger modifications now expires the week ending on or before December 31, 2013.

The EB benefit amount is equal to the eligible individual's weekly regular UC benefits. Under permanent law, FUTA finances half (50%) of the EB payments and 100% of EB administrative costs. States fund the other half (50%) of EB benefit costs through their SUTA. ARRA (P.L. 111-5, most recently amended by H.R. 8) temporarily changed the federal-state funding arrangement for the EB program. Currently, the FUTA finances 100% of EB benefits through December 31, 2013. The one exception to the 100% federal financing is for those EB benefits based on work in state and local government employment; those "non-sharable" benefits continue to be 100% financed by the former employers.

Enacted Legislation in 112th Congress

Budget Control Act of 2011 (P.L. 112-25)

On August 2, 2011, President Obama signed into law the most recent measure adjusting the public debt limit, as part of the Budget Control Act of 2011 (P.L. 112-25).[15] The Budget Control Act of 2011 establishes special procedures for congressional increases to the debt limit authorized by the act.[16] In certain situations these procedures may have an impact on unemployment insurance benefits.[17]

The law authorizes increases to the debt limit by at least $2.1 trillion (and up to $2.4 trillion) in three installments: (1) an initial increase of $400 billion; (2) an additional increase of $500 billion; and (3) an additional increase of an amount between $1.2 trillion and $1.5 trillion, depending on certain subsequent actions.

The Trade Adjustment Assistance Extension Act of 2011 (P.L. 112-40)

On September 2, 2011, P.L. 112-40, an act to extend the Generalized System of Preferences, and for other purposes, was introduced by Representative Camp. Title II subsection C of the act requires (1) states to charge employers' account when UC overpayments are the fault (through

[15] For a detailed analysis of the Budget Control Act of 2011, see CRS Report R42506, *The Budget Control Act of 2011: The Effects on Spending and the Budget Deficit When the Automatic Spending Cuts Are Implemented*, by Mindy R. Levit and Marc Labonte.

[16] For details on how the public debt limit is increased, see CRS Report RS21519, *Legislative Procedures for Adjusting the Public Debt Limit: A Brief Overview*, by Bill Heniff Jr.

[17] For specifics of these implications on UC, EB, and EUC08 see the Unemployment Compensation section in CRS Report R42050, *Budget "Sequestration" and Selected Program Exemptions and Special Rules*, coordinated by Karen Spar.

action or inaction) of the employer, (2) states to assess a minimum 15% penalty on overpayments due to claimant fraud, and (3) employers to report any "rehired employee" to the Directory of New Hires. P.L. 112-40 was signed into law on October 21, 2011.

The Temporary Payroll Tax Cut Continuation Act of 2011 (P.L. 112-78)

P.L. 112-78, the Temporary Payroll Tax Cut Continuation Act of 2011, was introduced in the House (by Representative Camp), passed by the House and the Senate, and signed into law by President Obama on December 23, 2011. Among other provisions, P.L. 112-78 extended the expiring UI laws for two months. Under P.L. 112-78, the authorization for the EUC08 program was extended through the week ending on or before March 6, 2012; the 100% federal financing of the EB program was extended until March 7, 2012; and the three-year lookback trigger option for the EB program was extended until the week ending on or before February 29, 2012.

The Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96)

The Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96, signed on February 22, 2012) contained provisions that (1) made changes to the structure of the EUC08 program as well as maintained temporary EB provisions; (2) reformed the UC program; (3) provided additional reemployment services for EUC08 claimants; and (4) expanded the Short-Time Compensation and Self-Employment Assistance programs in states.

Unemployment Insurance Extensions in P.L. 112-96: Changes in EUC08 Structure and Maintenance of EB Provisions

Under P.L. 112-96, the potential duration of EUC08 benefits available to eligible individuals was altered. These changes are described in detail in CRS Report R42444, *Emergency Unemployment Compensation (EUC08): Current Status of Benefits*, by Julie M. Whittaker and Katelin P. Isaacs. Additionally, **Figure 1** provides a graphical summary of the changes to EUC08 under P.L. 112-96 as well as the total potential maximum duration for UC and EUC08 benefits resulting from these changes.

Extended EUC08 Program Expiration and Eliminated Phase-Down

P.L. 112-96 extended EUC08 through the week ending on or before January 2, 2013. The phase-down of the EUC08 program that had been available in previous extensions in the authorization of EUC08 was eliminated by P.L. 112-96. Thus, there is no grandfathering of any EUC08 benefit once the program's authorization has ended.

"Grandfathering" of EUC08 Benefits if Number of Weeks Available in Tier Subsequently Increases (or Decreases)

P.L. 112-96 continued to allow individuals to be grandfathered into the available weeks of a particular EUC08 tier at the date of entrance into that new tier even if the number of weeks available in that tier increased or decreased after that calendar date.[18]

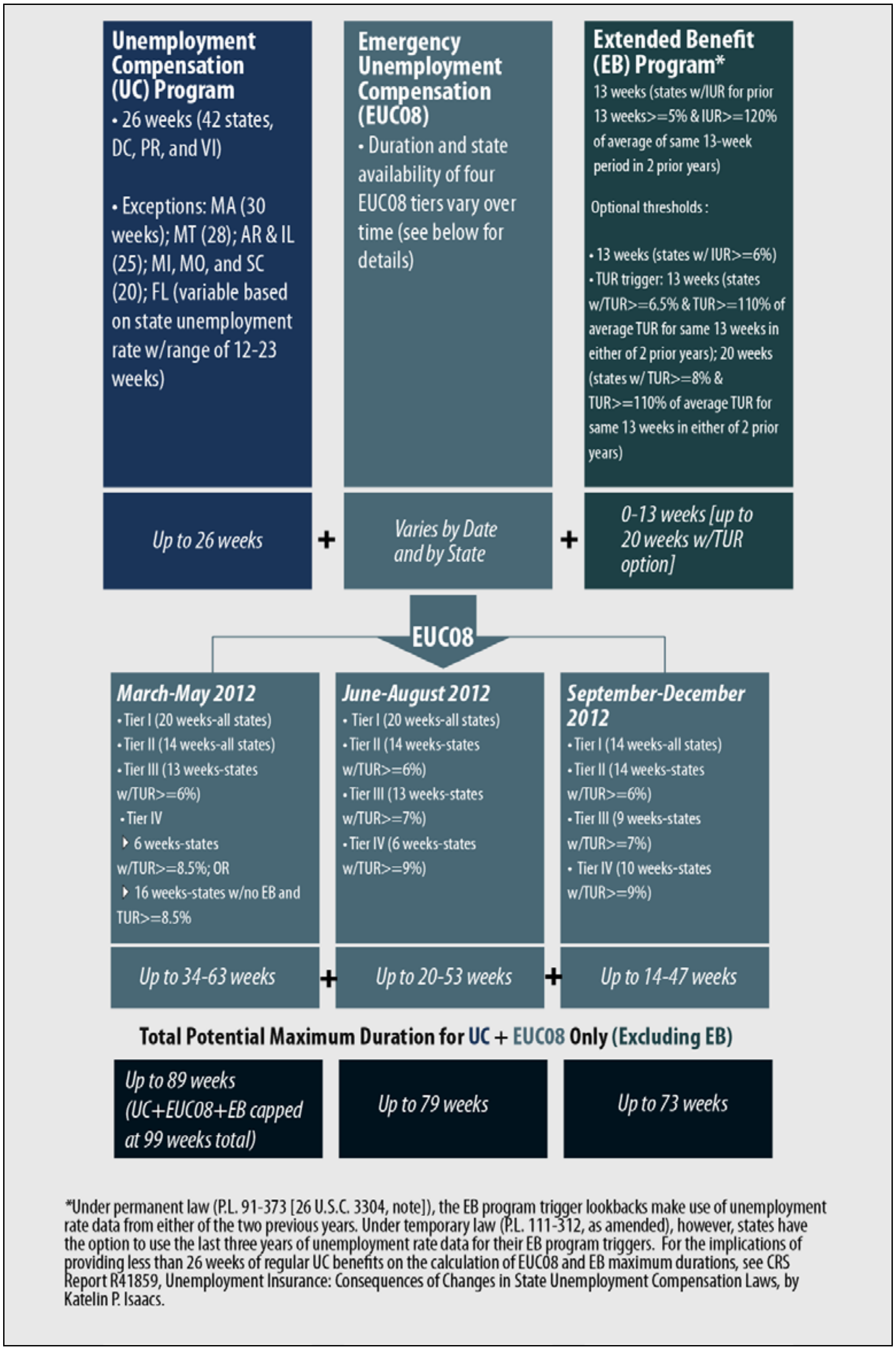
EB Financing and Railroad Benefits

P.L. 112-96 extended the 100% federal financing of EB through December 31, 2012, as well as the option for states to use three-year lookbacks in their EB triggers until the week ending on or before December 31, 2012.

P.L. 112-96 extended the temporary extended railroad unemployment benefits—authorized under the American Recovery and Reinvestment Act (ARRA; P.L. 111-5), as amended—through December 31, 2012, to be financed with funds still available under the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312).

[18] For additional special considerations regarding the maximum potential weeks of EUC08 benefits available, see CRS Report R42444, *Emergency Unemployment Compensation (EUC08): Current Status of Benefits*, by Julie M. Whittaker and Katelin P. Isaacs.

Figure 1. P.L. 112-96 Changes to EUC08 Program



Source: Congressional Research Service

Unemployment Compensation Reforms in P.L. 112-96

Able, Available, and Actively Seeking Work Requirement Formalized

While all states had some type of requirements for the unemployed to be "able, available, and actively seeking work," federal law did not require states to have such laws. Under P.L. 112-96, federal law now stipulates that states must require all workers receiving UC to be "able, available, and actively seeking" work.

Demonstration Projects Using UC Funds

P.L. 112-96 authorized the U.S. Department of Labor to allow up to 10 states to conduct demonstration projects to improve and accelerate the reemployment of UC claimants—although these projects would have to operate for at least one year and would be prohibited from increasing the net costs to a state's account in the UTF. The demonstrations would only provide subsidies for employer-provided training, such as wage subsidies, or provide direct disbursements, not to exceed the weekly benefit amount of an individual, to employers who hire individuals receiving UC to pay part of the cost of wages that exceed the individual's prior benefit level. The U.S. Labor Secretary may waive the withdrawal standard if requested by the state (state UTF funds would be allowed to be used for purposes other than paying unemployment benefits). The U.S. Labor Secretary may also waive the merit employee requirement if requested by the state. No demonstration project may be approved for more than three years and all projects are required to end by December 31, 2015.[19] As of the publication date of this report, no state demonstration project has been approved.

Other Reforms

P.L. 112-96 required that states recover 100% of any erroneous overpayment by reducing up to 100% of the UC benefit in each week until the overpayment is fully recovered. This requirement allows states to waive such deduction if it would be contrary to equity and good conscience. It authorizes for states to recover Federal Additional Compensation (FAC) overpayments through deductions to regular UC benefits.

P.L. 112-96 required that the U.S. Labor Secretary designate standard data elements for any information required under title III or title IX of the Social Security Act (SSA).

P.L. 112-96 clarified federal law to allow (but does not require) states to engage in drug testing certain UC claimants under certain circumstances.

[19] See Unemployment Insurance Program Letter (UIPL) 15-12 for the U.S. Department of Labor's guidance to states to apply for permission to conduct a demonstration at http://wdr.doleta.gov/directives/attach/UIPL/uipl_15_12.pdf. For a list of applications and determinations, see the section on "Reemployment Demonstrations" at http://ows.doleta.gov/unemploy/jobcreact.asp.

Emergency Unemployment Compensation Reforms and Reemployment Strategies for Claimants in P.L. 112-96

P.L. 112-96 required that all individuals receiving EUC08 be "able, available, and actively seeking" work. An active work search for EUC08 claimants requires individuals (1) to register with reemployment services, as required by the state; (2) to actively search for work that is appropriate for the individual's skill level and labor market availability; (3) to maintain a record of work search activities; and (4) to provide work search activities records to the state when requested.

P.L. 112-96 required states to provide reemployment and eligibility assessments to certain EUC08 claimants. EUC08 claimants must participate in reemployment services if referred. P.L. 112-96 provides $85 in federal funding per EUC08 claimant who receives reemployment and eligibility assessments.

Under P.L. 112-96, if an individual received an EUC08 benefit overpayment, states must offset any unemployment benefit payable to that individual. Any offset must be made in the same manner (and subject to the same equity and good conscience criteria if applicable) as a regular UC overpayment offset under each state's law.

P.L. 112-96 maintained the "nonreduction rule" for the calculation of the regular UC benefit amount, except in the case of state legislation that was enacted before March 1, 2012. The "nonreduction" rule prohibits states from decreasing average weekly benefit amounts without invalidating their EUC08 federal-state agreements. Under P.L. 112-96, states that made changes to the regular UC benefit amount prior to March 1, 2012, however, would not invalidate their EUC08 federal-state agreements.

P.L. 112-96 required that states pay EUC08 benefits before EB benefits. Before the enactment of P.L. 112-96, states had the option to pay EB first. Alaska was the only state to pay EB first.

Short-Time Compensation and Self-Employment Assistance Provisions in P.L. 112-96

P.L. 112-96 clarified requirements related to short-time compensation (STC or "worksharing") programs and provides temporary federal financing to support state worksharing programs.[20] P.L. 112-96 temporarily federally finances 100% of STC benefits for up to three years and six months in states that meet the new definition of an STC program, with a transition period for states with existing STC programs that do not meet the new definition (currently 23 states and the District of Columbia have STC programs). States without existing STC programs may enter into an agreement with the U.S. Department of Labor (DOL) in order to receive federal reimbursement for administrative expenses, as well as temporary federal financing of 50% of STC payments to individuals for up to two years, with employers paying the other 50% of STC benefit costs. If a state enters into an agreement with the U.S. Secretary of Labor and then subsequently enacts a

[20] Worksharing is a program within the federal-state UC system that provides pro-rated unemployment benefits to workers whose hours have been reduced in lieu of a layoff. In a typical example of worksharing, a firm that needs to reduce its 100-person workforce by 20% would, in lieu of laying off 20 workers, instead reduce the work hours of the entire workforce by 20%, on a temporary basis. For additional details, see CRS Report R40689, *Compensated Work Sharing Arrangements (Short-Time Compensation) as an Alternative to Layoffs*, by Alison M. Shelton.

law providing for STC, that state would be eligible to receive 100% of federal financing. The Labor Secretary may award grants to eligible states, with one-third of each state's grant available for implementation and improved administration purposes and two-thirds of each state's grant available for program promotion and enrollment of employers. The maximum amount of all grants to states authorized under P.L. 112-96 was $100 million. An additional $1.5 million was provided for the U.S. DOL to submit a report to Congress and the President, within four years of enactment, on the implementation of this provision, including a description of states' best practices, analysis of significant challenges, and a survey of employers in all states to determine the level of interest in STC.

Under P.L. 112-96, states were authorized to set up Self-Employment Assistance (SEA) programs for individuals who (1) have at least 13 weeks of remaining benefit entitlement through the EUC08 and EB programs and (2) are participating in entrepreneurial training activities.[21] SEA benefits under these programs are available to up to 1% of all EB and EUC08 claimants in each participating state. The combined SEA benefits available from EB and EUC08 for any particular individual may not exceed 26 total weeks. SEA benefits available to EUC08 and EB claimants, as authorized by P.L. 112-96, are paid in the same amount as UC benefits and participants are exempt from any work availability and work search requirements. An individual receiving these SEA benefits is able to stop participation and receive any remaining EB or EUC08 benefits.

P.L. 112-96 provided $35 billion in SEA grant funding for FY2012 and FY2013 to be distributed to states based on applications to the U.S. DOL. These funds may be used for the purposes of establishing or improving administration of SEA programs for regular UC, EB, or EUC08 claimants as well as promoting and enrolling eligible individuals. These grants funds will be distributed to states with approved applications based on the percentage of unemployed individuals in that state relative to the percentage of unemployed individuals in all states. Finally, P.L. 112-96 required the U.S. DOL to establish model language for states that participate in SEA programs as well as requiring U.S. DOL to provide technical assistance to states and establish reporting requirements.

The American Taxpayer Relief Act of 2012, H.R. 8

The American Taxpayer Relief Act of 2012 (H.R. 8, signed on January 2, 2013), among other provisions, retroactively extended the authorization of the EUC08 program through the week ending on before January 1, 2014. Thus, on December 28, 2013 (December 29, 2013, for New York), the EUC08 program ends. H.R. 8 did not alter the elimination of the phase-down of the EUC08 program that was enacted by P.L. 112-96. Thus, there is no grandfathering of any EUC08 benefit after that date.

H.R. 8 also extended the 100% federal financing of EB through December 31, 2013, as well as the option for states to use three-year lookbacks in their EB triggers until the week ending on or before December 31, 2013.

H.R. 8 also extended the temporary extended railroad unemployment benefits—authorized under the American Recovery and Reinvestment Act (ARRA; P.L. 111-5), as amended—through December 31, 2013, to be financed with funds still available under the Tax Relief, Unemployment

[21] For more details on SEA, including SEA benefits authorized for UC claimants, see CRS Report R41253, *The Self-Employment Assistance (SEA) Program*, by Katelin P. Isaacs.

Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312). In addition, H.R. 8 appropriated $250,000 in general funds from the Treasury for administrative expenses.

Legislative Proposals

Unemployment Insurance Provisions in the President's American Jobs Act of 2011 Proposal (Title III, Subtitle A: Supporting Unemployed Workers Act of 2011)[22]/S. 1549/H.R. 12/S. 1660

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.

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 in some non-UI provisions proposed to offset the legislation.[23]

Extension of Federal UI Provisions: EUC08, 100% EB Federal Financing, and EB Three-Year Lookback Trigger Option

The President's American Jobs 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.)

Reemployment Services

The President's American Jobs Act of 2011 proposal would also impose new federal requirements and appropriate new federal funds for states to provide reemployment and eligibility assessments to certain EUC08 claimants. The proposal would require states to enter into agreements with the U.S. DOL and require new EUC08 claimants to report to or check in with their local One-Stop Career Centers. The President's plan would provide $200 per unemployed worker in federal funding for states to conduct Reemployment and Eligibility Assessments in order to review new EUC08 claimants' eligibility for benefits and provide an assessment of their work search efforts.

[22] Based on legislative language released on September 12, 2011 (available online at http://www.whitehouse.gov/sites/default/files/American_Jobs_Act.pdf).

[23] For a more complete analysis of the American Jobs Act, including non-UI provisions, see CRS Report R42033, *American Jobs Act: Provisions for Hiring Targeted Groups, Preventing Layoffs, and for Unemployed and Low-Income Workers*, coordinated by Karen Spar.

Self-Employment Assistance

The President's American Jobs Act of 2011 proposal would authorize states to enter into agreements with the U.S. DOL to pay Self-Employment Assistance (SEA) benefits for up to 26 weeks to eligible individuals who (1) have at least 26 weeks of remaining benefit entitlement through the EUC08 program and (2) are participating in entrepreneurial training activities. SEA benefits would be paid in the same amount as EUC08 benefits and participants would be exempt from the work availability and work search requirements under EUC08. SEA benefits would be available to up to 1% of all EUC08 claimants in each participating state. An individual receiving SEA benefits would be able to stop participation and receive any remaining EUC08 benefits. States with agreements to pay SEA benefits would be able to use Reemployment NOW funds (see description below) to finance SEA administrative, start-up costs, if specified in an approved state Reemployment NOW plan.[24]

Railroad Retirement Benefits

The President's American Jobs Act of 2011 proposal would extend the temporary extended railroad unemployment benefits—authorized under the American Recovery and Reinvestment Act (P.L. 111-5), as amended—for an additional year through June 30, 2012, to be financed with funds still available under the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312).[25]

Reemployment NOW Program and Funding Opportunities

The President's American Jobs Act of 2011 proposal would establish a "Reemployment NOW" program with $4 billion in appropriations from the general fund of the Treasury. These federal funds would be allotted to the states based on a two-part formula: (1) two-thirds would be distributed to the states based upon the state share of the U.S. total number of unemployed persons and (2) one-third would be distributed to the states based on the state share of the long-term unemployed (measured as unemployment spells of at least 27 weeks). Up to 1% of the funds would be available for program administration and evaluation.

To receive a Reemployment NOW allotment, a state would have to submit a plan describing (1) activities to assist the reemployment of eligible individuals; (2) performance measures; (3) coordination of efforts with Title I of the Workforce Investment Act of 1998, the Wagner-Peyser Act, and other appropriate federal programs; (4) timelines for implementation; (5) estimates of quarterly enrollments; (6) assurances that the state will provide appropriate reemployment services to any participating EUC08 claimants; and (7) assurances that the state will provide information to the U.S. DOL relating to the fiscal, performance, and other matters, including employment outcomes and program impacts that the U.S. DOL determines are necessary to effectively monitor the activities. The U.S. DOL would be required to provide Congress and the public with both guidance and program evaluation for activities conducted with Reemployment NOW funds.

[24] See CRS Report R41253, *The Self-Employment Assistance (SEA) Program*, by Katelin P. Isaacs, for additional information on the permanent-law state option to provide SEA benefits to individuals eligible for regular, state-financed UC.

[25] For more details on unemployment benefits for railroad workers, see CRS Report RS22350, *Railroad Retirement Board: Retirement, Survivor, Disability, Unemployment, and Sickness Benefits*, by Alison M. Shelton.

Allowable program uses of Reemployment NOW funds would include the following:

- The *"Bridge to Work" program* would allow individuals to continue to receive EUC08 benefits as wages for work performed in a short-term work experience placement. The Bridge to Work placement would last up to eight weeks and would be required to compensate claimants at a rate equivalent to the minimum wage. The state would be permitted to augment the EUC08 benefit with Reemployment NOW funds to meet this criteria (the EUC08 benefit would count as wages for that calculation). For individuals participating at least 25 hours per week in a Bridge to Work program, work search requirements would be suspended during the participation and wages paid would not offset EUC08 benefit amounts. Any earnings acquired during program participation would not be considered earnings for the purposes of employment taxes, but would be treated as unemployment benefits for tax purposes.
- *Wage insurance* would authorize states to provide an income supplement to EUC08 claimants who secure reemployment at a lower wage than their separated employment. The benefit level would be determined by the states, although it could not be more than 50% of the difference between the worker's wage at the time of separation and the worker's reemployment wage. States would also establish a maximum benefit amount that an individual could collect. The duration of wage insurance payments would be limited to two years. Wage insurance under this proposal would also be limited to individuals who (1) are at least 50 years of age; (2) earn not more than $50,000 per year from reemployment; (3) are employed on a full-time basis as defined by the state; and (4) are not employed by the same employer from which the individual was separated.
- *Enhanced reemployment services* would allow states to use funds to provide EUC08 claimants and individuals who have exhausted all entitlements to EUC08 benefits with reemployment services that are more intensive than any reemployment services provided by the states previously (for instance, one-on-one assessments, counseling, or case management).
- *Start-up of SEA state programs* would authorize states to use funds for any administrative costs associated with the start-up of SEA agreements (as described above).
- *Additional innovative programs* would allow states to use funds for programs other than the programs described above. These programs would be required to facilitate the reemployment of EUC08 claimants, among other requirements.

Short-time Compensation Programs ("Worksharing")

The President's American Jobs Act of 2011 proposal would clarify requirements related to short-time compensation (STC or "worksharing") programs and provide temporary federal financing to support state worksharing programs.[26] This proposal would temporarily federally finance 100%

[26] Worksharing is a program within the federal-state UC system that provides pro-rated unemployment benefits to workers whose hours have been reduced in lieu of a layoff. In a typical example of worksharing, a firm that needs to reduce its 100-person workforce by 20% would, in lieu of laying off 20 workers, instead reduce the work hours of the entire workforce by 20%, on a temporary basis. For additional details, see CRS Report R40689, *Compensated Work* (continued...)

of STC benefits for up to three years in states that meet the new definition of an STC program, with a transition period for states with existing STC programs that do not meet the new definition (currently 23 states and the District of Columbia have STC programs). States without existing STC programs would be allowed to enter into an agreement with the U.S. DOL for up to two years in order to receive federal reimbursement for administrative expenses, as well as temporary federal financing of 50% of STC payments to individuals, with employers paying the other 50% of STC costs. Under this proposal, if a state enters into an agreement with the U.S. Secretary of Labor and then subsequently enacts a law providing for STC, that state would be eligible to receive 100% of federal financing. The President's proposal would award U.S. DOL grants to eligible states, with one-third of each state's grant available for implementation and improved administration purposes and two-thirds of each state's grant available for program promotion and enrollment of employers. The maximum amount of all grants to states would be $700 million. Finally, this proposal would provide $1.5 million for the U.S. DOL to submit a report to Congress and the President, within four years of enactment, on the implementation of this provision, including a description of states' best practices, analysis of significant challenges, and a survey of employers in states without STC programs.

Long-Term Unemployed Work Opportunity Credits

The President's American Jobs Act of 2011 proposal would add a targeted group for purposes of the Work Opportunity Tax Credit (WOTC) for individuals who have been unemployed for six months or more during the one-year period prior to being hired. For those long-term unemployed who are hired and remain on a firm's payroll at least 400 hours, an employer would be able to claim a non-refundable income tax credit of 40% of the first $10,000 in wages paid during the worker's first year of employment. For eligible hires who remain employed for 120 hours to 399 hours, the credit rate would be 25%. Under certain circumstances, tax-exempt employers may take the credit for hiring long-term unemployed individuals. The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) extended the authorization of WOTC through December 31, 2011.[27]

The Emergency Unemployment Compensation Extension Act of 2011 (H.R. 3346/S. 1804)

H.R. 3346 and S. 1804—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 statute, regulation, or other issuance having the force and effect of law," through the end of calendar year 2012. H.R. 3346 and S. 1804 would also extend the temporary extended railroad unemployment

(...continued)

Sharing Arrangements (Short-Time Compensation) as an Alternative to Layoffs, by Alison M. Shelton.

[27] For more information on the Work Opportunity Tax Credit, see CRS Report RL30089, *The Work Opportunity Tax Credit (WOTC)*, by Christine Scott.

benefits (authorized under P.L. 111-5, as amended) for an additional year (i.e., through June 30, 2012) using existing funds from P.L. 111-312.

H.R. 3346 and S. 1804 would also allow states to enter into an agreement with the U.S. DOL to temporarily suspend the accrual of interest for loans to the states for FY2012. In addition, states that otherwise have employers facing a decreased state tax credit on federal unemployment taxes would be able to opt to suspend the reduction in credit for tax year 2012. To have these options available to the state, the state would be required to continue to calculate regular unemployment benefit entitlements (both in weekly amount and total weeks available) as required by state law on the date of enactment of this proposal. States with no outstanding unemployment loans within the Unemployment Trust Fund (UTF) would earn an additional two percentage points in interest on the (positive) average daily balance in the state's UTF account.

Other Legislative Proposals to Extend Expiring UI Provisions

In addition to the President's American Jobs Act of 2011 proposal, S. 1549/H.R. 12/S. 1660, and H.R. 3346/S. 1804, there have been several other legislative proposals to address UI expirations.

For instance, Subtitle F of H.R. 3638 proposes a one-year extension (i.e., through calendar year 2012) of the three expiring UI provisions: the authorization for the EUC08 program, the 100% federal financing of the EB program, and the three-year lookback option for EB triggers. Additionally, H.R. 3638 would add 14 weeks to the current duration of Tier I of the EUC08 program, amending Tier I of EUC08 to provide up to 34 weeks of unemployment benefits rather than the current up to 20 weeks of benefits.

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.

H.R. 3743 would have extended the EB and EUC08 provisions until the week ending on or before March 6, 2012.

H.R. 1745, the JOBS Act of 2011

Representative Camp introduced H.R. 1745, the Jobs, Opportunity, Benefits, and Services Act of 2011 (the JOBS Act of 2011), on May 5, 2011. H.R. 1745 proposes a number of changes to (1) state UC eligibility requirements and (2) the funding of federal unemployment benefits (i.e., EUC08 and EB). For instance, it would create new federal requirements related to work availability and work search activities that would require changes in state UC laws. In order to satisfy the new "actively seeking work" federal requirement, H.R. 1745 would require individuals receiving regular state UC benefits to (1) register for employment services within 14 days of initial UC claim; (2) post a resume, record, or other employment application on a database as required by each state; and (3) apply for work that is similar to an individual's previous job and that pays comparable wages for similar work in the local labor market where an individual resides or is actively seeking work. H.R. 1745 would also impose new federal educational requirements (i.e., high school degree, GED or equivalent, or progress toward GED) for UC claimants in state programs. This bill would allow states to create and conduct demonstration projects to improve and accelerate the reemployment of UC claimants, although these projects would not be able to increase the net costs to a state's account in the UTF.

H.R. 1745 would also transform the financing of federal unemployment benefits (including EUC08 benefits) from a mandatory, individual entitlement to a block grant to states for FY2011 and FY2012 ($31 billion over both years) in an amount proportional to federal benefit payments in each state during the previous 12 months. H.R. 1745 would allow states to use block grant funds to pay federal unemployment benefits (i.e., EUC08 and EB benefits) or, if states pass their own legislation to do so, to use the funds to pay any type of unemployment benefit (including regular UC), to repay outstanding federal loans (including interest payments on federal loans), or to provide additional reemployment services. H.R. 1745 would end the 100% federal financing of the EUC08 and EB programs, effective July 6, 2011. States would continue to pay EUC08 benefits with block grant funds. Under current law, a state has the option to terminate the federal-state EUC08 agreement with 30 days notice to the U.S. DOL, and this termination would not impact the state's share of the block grant. States would continue to pay EB if the program were still active (i.e., triggered "on").

Alleviating State Unemployment Compensation Stress

The broader financial crisis facing the states is mirrored in the states' accounts within the UTF. On December 30, 2010, 31 states owed a cumulative $40.8 billion to the federal accounts within the UTF. ARRA temporarily stopped the accrual of interest charges on loans through December 31, 2010, but those charges are once again accruing. States currently are prohibited from actively legislating a decrease in regular benefits (restricted for the duration of the EUC08 program); as a result, state unemployment taxes on employers are likely to increase. At the same time, employers in 21 states face an increased net federal unemployment tax (FUTA) in 2011 because they have borrowed funds from the federal UTF loan account for two consecutive years.[28]

President's Budget Proposal for FY2013

The President's Budget Proposal for FY2013 attempts to address some of these concerns. The proposal includes extending the suspension of interest accrual through 2014 and temporarily suspending net FUTA tax increases through 2015. Currently, the U.S. DOL projects that states accrued $1.22 billion in interest charges in FY2011 and $1.79 billion in FY2012 without these suspensions.

The proposal would increase the FUTA taxable wage base from $7,000 to $15,000 in 2015 while increasing the FUTA tax rate to 0.8% for FY2013 and FY2014 and then decreasing the FUTA tax rate from 0.6% to 0.38%. Beginning in 2015, the FUTA tax base would be indexed to wage growth. Under federal law, the taxable wage base for SUTA taxes in states must be at least the taxable wage base for FUTA. Therefore, the proposed increase in the FUTA taxable wage in the President's Budget Proposal would have the effect of requiring states to have a SUTA taxable wage base of at least $15,000 in 2014 and indexed to wage growth beginning in 2015.

[28] See CRS Report RS22954, *The Unemployment Trust Fund (UTF): State Insolvency and Federal Loans to States*, by Julie M. Whittaker for more information on the interest calculation and the net FUTA increases in some states.

Additionally, the proposal included up to $4 billion in funds for certain reemployment activities similar to what was described earlier in the "Reemployment NOW Program and Funding Opportunities" subsection under the description of the President's American Jobs Act of 2011 proposal.

Other Proposals to Alleviate State Unemployment Compensation Stress

S. 386 would extend the suspension of interest accrual on federal loans to states through 2012; temporarily suspend net FUTA tax increases through 2012; increase the FUTA taxable wage base from $7,000 to $15,000 in 2014 while lowering the net FUTA tax rate to 0.38%; and index the FUTA taxable wage base to wage growth after 2014. Unlike the President's Budget Proposal for FY2013, S. 386 would forgive a certain percentage (20%, 40%, or 60%) of the outstanding federal loan to the state based upon a state-level need-based measure as of December 31, 2010. (This measure was originally constructed for temporarily increasing the Medicaid Federal Medical Assistance Percentages (FMAP) in P.L. 111-5.) States without an outstanding federal loan would receive an additional 0.5% in interest compared with what they would otherwise receive on their state UTF account balances. Employers in states that maintain a programmatic measure of sufficient reserves would face a net FUTA tax rate that was 0.1 percentage point less than it would otherwise have been. In addition, S. 386 would require that any state taking advantage of the provisions in S. 386 submit a "reasonable" plan to the U.S. DOL explaining how the state would repay any outstanding federal loans and how the state would attain a programmatic measure of sufficient reserves within a "reasonable" time.

H.R. 650 would extend the suspension of interest accrual on federal loans to states through 2012.

Additional Benefits for UI Exhaustees

Recent congressional hearings have raised the issue of how to aid long-term unemployed workers, especially those individuals who have exhausted all available unemployment benefits.[29] As of July 2012, about 41% of unemployed individuals had been without a job for more than 26 weeks.[30] These long-term unemployed workers are at risk of exhausting current benefits while remaining unemployed.[31]

One policy strategy to address the needs of unemployment insurance benefit exhaustees is to create additional federal benefits. H.R. 589 and H.R. 3638 would add up to 14 additional weeks

[29] House Subcommittee on Human Resources Hearing on "Improving Efforts to Help Unemployed Americans Find Jobs," held on February 10, 2011 (Hearing advisory and witness testimony available at http://waysandmeans.house.gov/Calendar/EventSingle.aspx?EventID=223512); Senate Committee on Finance Hearing on "Using Unemployment Insurance to Help Americans Get Back to Work: Creating Opportunities and Overcoming Challenges," held on April 14, 2010 (Member statements and witness testimony available at http://finance.senate.gov/hearings/hearing/?id=868a8e37-5056-a032-5297-a991437cea80); House Subcommittee on Income Security and Family Support Hearing on "Responding to Long-Term Unemployment," held on June 10, 2010 (Member statements and witness testimony available at http://democrats.waysandmeans.house.gov/Hearings/hearingDetails.aspx?NewsID=11201).

[30] U.S. Department of Labor, "Employment Situation Summary," Table A-12, April 6, 2012.

[31] For more information on long-term unemployment, see CRS Report R41179, *Long-Term Unemployment and Recessions*, by Gerald Mayer and Linda Levine.

of unemployment benefits to the existing tier I of the EUC08 program, amending tier I of EUC08 to provide up to 34 weeks of unemployment benefits to eligible individuals.

H.R. 494 would create a Civilian Conservation Corps to employ unemployed or underemployed U.S. citizens in the construction, maintenance, and carrying on of works of a public nature, such as forestation of U.S. and state lands, prevention of forest fires, floods, and soil erosion, and construction and repair of National Park System paths and trails. The proposal would require placement preference to the employment of additional persons in the Corps in the following order: (1) unemployed Armed Forces veterans (including Reserve members); (2) unemployed U.S. citizens who have exhausted their unemployment compensation; (3) unemployed U.S. citizens who are eligible for unemployment compensation immediately before employment in the Corps, including any additional compensation or extended compensation; and (4) other unemployed or underemployed U.S. citizens.

Other Legislation

Drug Testing

H.R. 3615 would create a new federal requirement for states to drug test all UC claimants as a condition of benefit eligibility. If an individual tests positive for certain controlled substances (in the absence of a valid prescription or as otherwise authorized under a state's laws), he or she would be required to retake a drug test after a 30-day period and test negative in order to be eligible for UC benefits.

H.R. 3601 would add a new federal requirement that individuals undergo a substance abuse risk assessment for each benefit year as a condition of eligibility for UC in all states. This new federal requirement would also require individuals deemed to be at high risk for substance abuse—based on the assessment results—to test negatively for controlled substances within one week after the assessment to qualify for UC benefits.

H.R. 2001 would create a new federal requirement that individuals be deemed ineligible for UC benefits based on previous employment from which they were separated due to an employment-related drug or alcohol offense. This proposal would require states to amend their state UC laws.

Electronic Benefit Transfer Fees

H.R. 3598 would define any fee associated with Electronic Benefit Transfer (EBT) cards used by states to distribute unemployment benefits as administrative expenses under federal law. Such a federal definition would prohibit states from deducting EBT fees from unemployment benefit payments made with state unemployment tax (SUTA) funds. Under this proposal, any EBT fees would need to be financed through state administrative funds rather than an individual's unemployment benefit payment.

Unemployment Insurance and Millionaires

Several bills have been introduced that have the intent to restrict or recover unemployment insurance benefits paid to high income individuals or households.[32]

S. 1944 would create a new income tax on unemployment benefit income for any taxpayer filing jointly with an adjusted gross income (AGI) of at least $1 million (and $500,000 in the case of an individual filing a single tax return). The tax rate for this unemployment benefit income would be 55% in tax years 2011 and 2012 and then 50% for tax years after 2012. (The UI income would continue to be used in the calculation of AGI and thus subject to “regular” federal income tax.)

Among other provisions, S. 1931 would create a new tax on unemployment benefit income for certain high-income taxpayers. For individual taxpayers with more than $1 million in AGI ($2 million for joint filers), any income from unemployment benefits would be taxed at an additional 100% rate. (The UI income would continue to be used in the calculation of AGI and thus subject to “regular” federal income tax.) Under this proposal, individual filers with an AGI of at least $750,000 (and $1.5 million for joint filers) would also face the new tax on unemployment benefit income with the rate proportional to AGI over these limits and the maximum rate set at 100%. Any tax receipts collected from this new federal income tax on unemployment benefits from a particular state would be transferred into that state’s account in the federal UTF.

Among other provisions, H.R. 235 would prohibit the use of federal funds—from the EUC08 and EB programs—to pay unemployment benefits to anyone with resources of at least $1 million in the preceding year. An individual’s resources would be determined in the same way as the resource test for the Medicare Part D drug benefit subsidy. This provision would be effective for any weeks of unemployment benefits beginning on or after January 1, 2011.

S. 310 would prohibit any EUC08 or EB benefit payments to individuals with resources in the preceding year of at least $1 million, as determined through the resource test for the Medicare Part D drug benefit subsidy. For the purposes of the drug benefit subsidy, resources are defined by the individual states and include savings and investments but do not include the value of a primary residence or the value of a car. Unlike H.R. 235, the prohibition provision in S. 310 would be effective on or after the date of enactment of this legislation.

H.R. 569 is a House companion bill to S. 310 and contains the same legislative language.

Self-Employment Assistance

H.R. 3427 and S. 1826 are companion bills that, among other provisions, would authorize states to create Self-Employment Assistance (SEA) programs available to recipients of EUC08 and EB benefits. SEA allowances would be paid in lieu of (and in the same amount as) unemployment benefits under the EUC08 and EB programs for up to 26 total weeks to eligible individuals who (1) have at least 13 weeks of remaining benefit entitlement through the EUC08 and EB programs and (2) are participating in entrepreneurial training activities. SEA participants would be exempt from the work availability and work search requirements under EUC08 and EB. Under H.R. 3427 and S. 1826, SEA benefits would be available to up to 1% of all EUC08 and EB claimants in each

[32] See CRS Report R42643, *Receipt of Unemployment Insurance by Higher-Income Unemployed Workers (“Millionaires”),* by Donald Hirasuna for background and analysis of the proposals.

participating state. Participants would be able to discontinue SEA participation at any time and receive any remaining entitlement to EUC08 or EB benefits. Under current law, states are authorized to set up SEA programs for recipients of regular UC benefits, but not recipients of EUC08 or EB benefits, as proposed by H.R. 3427 and S. 1826.[33]

H.R. 3427 and S. 1826 would also provide federal funds to states that submit approved applications to be used for (1) the creation, development, and administration of the proposed SEA programs and (2) the promotion and enrollment of EUC08 and EB recipients in SEA programs. Appropriated funds for these grants to states would total $35 billion for each FY2012 through FY2014.

The SEA provisions in H.R. 3427 and S. 1826 are substantively similar to the SEA provisions that were included in P.L. 112-96.

Demonstration Projects

S. 1743 would give states the option to create a "Learn to Earn" program, if approved by the U.S. DOL. All Learn to Earn state programs would be authorized for FY2013 and FY2014 only. A Learn to Earn program (which is similar to the "Bridge to Work" program proposed in the American Jobs Act [S. 1549, S. 1660, H.R. 12]) would allow individuals to continue to receive EUC08 benefits as wages for work performed in a short-term work experience placement of up to 10 weeks for not more than 38 hours per week. Learn to Earn state programs would be required to compensate claimants at a rate equivalent to the minimum wage, with the EUC08 benefit payment counted as wages for that calculation. The state would be permitted to augment the EUC08 benefit. For individuals participating in a Learn to Earn program, work search requirements would be suspended during the participation and additional wages paid by the program would not offset EUC08 benefit amounts. Any earnings acquired during program participation would not be considered earnings for the purposes of employment taxes, but would be treated as unemployment benefits for tax purposes.

Under S. 1743, federal funding for states to establish Learn to Earn programs would come from savings determined by the Office of Management and Budget (OMB) through the termination and consolidation of existing job training programs deemed by OMB to be "duplicative or ineffective." These federal funds would be allotted to the states based on a two-part formula: (1) two-thirds would be distributed to the states based on the state share of the U.S. total number unemployed persons and (2) one-third would be distributed to the states based on the state share of the long-term unemployed (measured as unemployment spells of at least 27 weeks). Up to 1% of the funds would be available for program administration and evaluation.

H.R. 2731 would allow states to enter into agreements with the U.S. DOL to set up reemployment demonstration projects. Reemployment demonstration projects in states would be approved for no more than three years and could be conducted no later than five years after enactment of the legislation. H.R. 2731 would prohibit these state reemployment demonstration projects from using any funds from the state's account in the federal UTF. This legislation would be effective for weeks beginning after September 30, 2011.

[33] For more details on the current-law option for states to set up SEA programs for individuals eligible for state-financed UC benefits, see CRS Report R41253, *The Self-Employment Assistance (SEA) Program*, by Katelin P. Isaacs.

H.R. 2137 would provide the authority, over the five years following enactment, for states to set up a particular type of demonstration project within their UC programs—an Employment Assistance Voucher Program. This Employment Assistance Voucher Program would allow states to use their state UC funds to provide subsidies to employers who hire individuals eligible for state UC benefits and likely to exhaust those unemployment benefits in lieu of paying unemployment benefits to such individuals. H.R. 2137 would provide no additional federal funding to states that participate in this UC demonstration project.

Suspending Taxation of Unemployment Benefits

H.R. 2868 would eliminate employer Social Security payroll taxes on the earnings of newly hired individuals employed for at least 30 hours a week if those individuals had been receiving any unemployment benefits (e.g., UC, EUC08, EB, UCX, and DUA) or had exhausted any of these unemployment benefits as of the day prior to the new employment start date.

H.R. 2806 would repeal the federal income taxation of unemployment benefits and any trade adjustment assistance payments. It would also eliminate the penalty for early distributions from a qualified retirement plan to an individual after separation from employment if the individual had received at least 24 weeks of UC. The bill would apply to benefits received after December 31, 2010.

Tax Credits for Hiring UI Exhaustees

H.R. 2120 proposes to expand the definition of a targeted group for purposes of the Work Opportunity Tax Credit to include individuals who have exhausted entitlement to EUC08. For those EUC08 exhaustees who are hired and remain on a firm's payroll at least 400 hours, an employer would be able to claim an income tax credit of 40% of the first $10,000 in wages paid during the worker's first year of employment. For eligible hires who remain employed from 120 hours to 399 hours, the subsidy rate would be 25%. In the second year of employment, an employer would be able to claim an additional income tax credit of up to 25% of the first $10,000 in wages paid to that eligible worker during the second year. The income tax credit would be refundable.

H.R. 1663 proposes a temporary tax credit for certain small businesses that hire eligible, unemployed workers. This hiring credit would be calculated following Section 51 of the Internal Revenue Code of 1986. It would be available to businesses with gross receipts in the previous taxable year of no more than $20 million (among other requirements) that hire unemployed individuals who (1) have received unemployment benefits—either regular UC or other federal benefits, including EUC08 and EB—for at least four weeks during the year prior to the hiring date and (2) reside in a "high unemployment zone" (defined as any county with an unemployment rate that exceeds both the national unemployment rate and 4%). The hiring credit proposed in H.R. 1663 would be temporarily authorized for individuals starting work for an employer after December 31, 2011, and until December 31, 2013.

Training and Unemployment Insurance

S. 2095 would expand the types of training that may be considered approved training while an individual is receiving unemployment compensation to specifically include any coursework necessary to attain a recognized postsecondary credential if that individual is likely to exhaust his or her regular unemployment compensation, and the credential can be attained within a certain time period. The proposal defines "recognized postsecondary credential" as a credential consisting of an industry-recognized certificate, a certificate of completion of an apprenticeship, or an associate or baccalaureate degree.

Work Search and Unemployment Insurance Eligibility

S. 2081 would require an individual receiving extended unemployment compensation to perform at least 20 hours of public service each week and engage in at least 20 hours of active job searching each week.