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Unemployment Compensation (Insurance) and Military Service

Julie M. Whittaker

Specialist in Income Security

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Summary

The Unemployment Compensation (UC) program contains several provisions relevant to current and former military service personnel and their families. The UC program does not provide benefits for military servicemembers on active duty. However, former active duty military personnel (and certain reservists) recently separated from active duty may be eligible for Unemployment Compensation for Ex-Servicemembers (UCX).

Spouses of military service personnel who voluntarily quit a job to accompany their spouses on account of a military transfer may be eligible for UC benefits, based on the laws of the state where the civilian spouse was employed.

Military service of business owners, employees, and employees' spouses may impact the state unemployment tax rate that certain employers face. States may choose to create provisions that remove or limit these tax increases in certain situations.

In addition to many other actions, P.L. 114-92 alters certain requirements for individuals to receive UCX. The new law prohibits the concurrent receipt of UCX and Post-9/11 Veterans Educational Assistance but does provide exceptions. In addition, the law doubles the number of days (from 90 to 180 continuous days) a reserve member of the Armed Forces would have to be on active duty to qualify for UCX.

Two proposals earlier in the 114th Congress, H.R. 1735 and S. 1376, had similar provisions, but did not include exceptions to the prohibition of concurrent receipt.

Individuals should contact their state's unemployment agency to obtain information on how to apply for and receive unemployment benefits based upon military service. The U.S. Department of Labor (DOL) maintains a website with links to each state's agency at <http://www.workforcesecurity.doleta.gov/map.asp>.

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Unemployment Compensation Benefit Eligibility for Former Military Personnel

Unemployment Compensation for Ex-Servicemembers (UCX)¹ provides income support to former active duty military personnel or reservists,² who were recently released from active duty, while they search for work. The Emergency Unemployment Compensation Act of 1991 (P.L. 102-164) provides that former servicemembers be treated the same as other unemployed workers with respect to benefit levels, the waiting period for benefits, and benefit duration.³

Once entitlement to regular unemployment benefits is exhausted, former servicemembers may qualify for the Extended Benefit (EB) payments if the program is active and available in their states. From July 2008 through December 2013, the temporary Emergency Unemployment Compensation (EUC08) benefit might have been available for additional weeks of unemployment benefits. The EUC08 program's authorization terminated on December 28, 2013, for all unemployed persons.⁴

UCX Financing: Reimbursable Employer

Unlike regular unemployment compensation (UC) benefits, UCX benefits and any subsequent EB benefits based on military service are not paid for by state unemployment taxes. Instead, the state submits the amount of benefits paid by the state to the former employing service (for example, the Air Force). Then, the service reimburses the state for the UCX benefits out of the service's operating budget.⁵

These UCX reimbursements flow as transfers from the appropriate military services' appropriated operating funds into the Unemployment Trust Fund (UTF) account for such reimbursements (the Federal Employees Compensation Account, FECA). Then, FECA transfers funds to the proper state account within the UTF.⁶

For example, if a former naval officer living in California claimed UCX benefits, the Navy would transfer funds from its operating budget into FECA. The funds would then be transferred to California's account within the UTF to reimburse California for those UCX benefit expenditures.⁷

¹ Established by the Ex-servicemen's Unemployment Act of 1958 (P.L. 85-848, 5 U.S.C. §§8521-8525) in 1958.

² In this report, the terms *reserves* or *reservists* include the Army and Air National Guard and their servicemembers.

³ Previously, in 1982, Congress had placed restrictions on benefits for former servicemembers (P.L. 97-362). In addition to a number of restrictive eligibility requirements, former servicemembers were required to wait four weeks from the date of their separation from the service before they could receive benefits. The maximum number of weeks of benefits a former servicemember could receive based on employment in the military was 13 (as compared with 26 weeks under the regular UC program for civilian workers).

⁴ For information on the EUC08 benefit, see CRS Report R42444, *Emergency Unemployment Compensation (EUC08): Status of Benefits Prior to Expiration*. For information on the Extended Benefit program, see CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*.

⁵ See CRS Report RS22077, *Unemployment Compensation (UC) and the Unemployment Trust Fund (UTF): Funding UC Benefits*, for an explanation of how funds are transferred.

⁶ The expired EUC08 benefits were paid from general funds from the U.S. Treasury and were not paid out of the former employer's operating budget.

⁷ Former federal worker unemployment benefits (UCFE) are reimbursed in the similar way. For example, a former civilian Department of Defense (DOD) worker's UCFE benefit would be paid from a transfer of funds from DOD to the appropriate state account within the UTF. One substantial difference in benefit determination for UCFE as compared to UCX is that an individual's UCFE benefit would be based upon where the individual had worked rather (continued...)

A former servicemember may receive a combined unemployment benefit (UC and UCX) if the unemployment benefit is based upon a period that included military service as well as other employment. In general, based upon each state's law, only the amount of the benefit that is attributable to military service would be charged to the agency.

For FY2015, approximately \$474 billion in unemployment benefits were distributed to former military personnel based upon military service. (See **Table 1** for details.) All of the \$474 billion was for UCX and EB benefits (and thus, paid by the former employing service).

UCX Eligibility and Benefit Level

Former servicemembers may apply for UCX benefits in any state. Generally they would apply in the state where they are searching for employment. (This is different than in the regular UC program, where benefits are required to be filed based on the work location of the unemployed worker's previous employment.) UC eligibility criteria and benefits vary by state. Former servicemembers must meet the same criteria that civilian workers are required to meet for their UC benefit eligibility. Thus, two former servicemembers with the same earnings and work history may qualify for different amounts of benefits if they file for UCX in different states. The equivalent military measurement of wages and time in service are used to determine eligibility and benefit levels.⁸

Active Duty and UCX

Active military personnel are considered to be working and thus cannot qualify for UCX or regular state UC benefits.

Conditions for UCX Eligibility

If the former servicemember was originally in the active duty military, he or she must have left military service under honorable conditions and either completed a full term of service or have been released early under a qualifying reason.⁹

If the former servicemember was a reservist formerly on active duty, he or she must have been on active duty for at least 180 continuous days.¹⁰

(...continued)

than where the individual has chosen to file for unemployment benefits.

⁸The state in which the former servicemember files for a claim determines the UCX benefit level and duration. The weekly and maximum amounts of UCX payable to an individual under the UCX program are determined under the applicable state laws. The UCX benefit is required to be the same amount, on the same terms, and subject to the same conditions as the state UC that would be payable to the individual under the applicable state law. The individual's federal military service and federal military wages (including the value of housing) are assigned or transferred as employment and wages covered by that state law, subject to the use of the applicable Schedule of Remuneration. That is, for claims purposes, military wages are determined by the pay grade at separation from military service. A wage table is provided by the federal government to calculate the equivalent civilian wages for each military pay grade. These tables are provided early in each calendar year. For the 2016 schedule, see Unemployment Insurance Program Letter 19-15, found at https://wdr.doleta.gov/directives/attach/TEN/TEN_19-15.pdf.

⁹ For details on the acceptable qualifying reasons for separation for UCX purposes, see attachment 2 (http://wdr.doleta.gov/directives/attach/UIPL/UIPL27-06_Att2.pdf) of Unemployment Insurance Program Letter 27-06, http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2253.

¹⁰ P.L. 114-92 changed this requirement to 180 days from the previous requirement of 90 days.

UCX and Training/Education

UCX benefits are not payable during periods in which the former servicemember is eligible to receive certain allowances or educational assistance allowances from the Survivors' and Dependents' Educational Assistance Program, the Department of Veterans' Affairs Vocational Rehabilitation and Education Program, or Post-9/11 Veterans Educational Assistance. Participation in the Montgomery GI bill does not preclude receipt of UCX benefits; however, having student status does limit UC benefit eligibility in most states, and these limitations would extend to those workers receiving UCX benefits. Many states exclude workers while they attend school, and some states include vacation periods in that exclusion.¹¹

Self-Employed and Sole Proprietor Ex-Servicemembers

When a former servicemember was previously self-employed or was a sole-proprietor, the worker would have been excluded from receiving UC benefits. After active duty, if the former servicemember is unemployed, the former servicemember would qualify for UCX benefits based on military service. However, most states require that the worker be searching for employment and would not pay benefits to a worker who was reestablishing self-employment or a small business.¹²

Expenditures Associated with UCX

Table 1 contains the total unemployment benefit expenditures associated with former military service from FY2000 through FY2015. In addition, the expenditures are separated into benefits that were charged back to the service unit and those (temporary) unemployment benefits that were paid directly out of the General Fund of the Treasury.

The years of high of unemployment during the most recent recession rapidly increased expenditures associated with former military servicemembers from 2009 through 2011.¹³ In addition, in the Army and Marine Corps began to increase separations from the services as part of the drawdown efforts that began in 2011.¹⁴

In 2007, approximately \$462 million in UCX benefits were paid to former servicemembers. With the authorization and subsequent expansions of the temporary Emergency Unemployment Compensation of 2008 (EUC08; first authorized by P.L. 110-252, expired December 28, 2013),

¹¹ For more information on the states' approaches on UC eligibility for students, see Table 5-13, Chapter 5 "Nonmonetary Eligibility" of the U.S. Department of Labor, Employment and Training Administration, *Comparison of State Unemployment Laws 2016*, Washington, DC, 2016, <http://ows.doleta.gov/unemploy/pdf/uilawcompar/2016/nonmonetary.pdf>.

¹² An exception to this is those states that offer a Self-Employment Assistance (SEA) program. See CRS Report R41253, *The Self-Employment Assistance (SEA) Program*.

¹³ For a discussion on recent employment trends, see CRS Report R43476, *Returning to Full Employment: What Do the Indicators Tell Us?*

¹⁴ The drawdown of the Army and Marine Corps over the past several years has increased the number of separations from those services. The Army has decreased the number of active duty personnel from a peak of about 571,000 in 2011 to approximately 492,000 in April 2015, a reduction of 79,000 soldiers. The Marine Corps has decreased the number of active duty personnel from a peak of about 205,000 in 2010 to approximately 183,000, a reduction of 22,000 marines. The Air Force and Navy have seen a gradual decrease in personnel strength since 2001, with the Navy reducing personnel by approximately 47,000 sailors and the Air Force reducing its personnel strength by about 46,000 airmen in that time. For some background on the Army drawdown see CRS Report R42493, *Army Drawdown and Restructuring: Background and Issues for Congress*.

the temporary provisions allowing more states the option to provide EB, and an additional \$25/week payment (Federal Additional Compensation, FAC; first authorized by P.L. 111-5, expired June 2, 2010), the unemployment expenditures associated with former military service rapidly increased.¹⁵

By 2011, almost \$1.9 billion of unemployment benefits were spent on former servicemembers based upon their service records. Just over half (\$948 million) was spent on UCX and EB for former servicemembers.¹⁶ An additional \$920 million was paid out as EUC08 and FAC benefits.¹⁷

Beginning in 2012, the expenditures began to decline (partially attributable to changes in the EUC08 program, which was legislatively reduced in size by P.L. 112-96 in three phases) but remained substantially above pre-recessionary levels. By FY2014, EUC08 benefits were only available for the first quarter of the fiscal year and total unemployment benefit expenditures attributable to military service decreased to just over \$700 million. In FY2015, total UCX expenditures had dropped to \$474 million.

Table I. Expenditures Associated Unemployment Compensation for Former Servicemembers (UCX), FY2000-FY2015

(millions of dollars)

Fiscal Year (FY)	UCX and EB (Charged to Service Unit)	Other Benefits ^a (Not Charged to Service Unit)	Total
2000	\$172	\$0	\$172
2001	190	0	190
2002	247	43	290
2003	329	78	407
2004	476	30	506
2005	507	0	507
2006	523	0	523
2007	462	0	462
2008	451	38	489
2009	625	317	942
2010	882	827	1,709
2011	948	920	1,868
2012	940	830	1,770
2013	788	571	1,359
2014	598	108	706
2015	474	0	474

¹⁵ For details on EUC08, see CRS Report R42444, *Emergency Unemployment Compensation (EUC08): Status of Benefits Prior to Expiration*. For an explanation of FAC, see CRS Report R40368, *Unemployment Insurance Provisions in the American Recovery and Reinvestment Act of 2009*.

¹⁶ These benefits were charged to the liable service unit.

¹⁷ These benefits were paid out of the General Fund of the Treasury and were not charged to the service units.

Source: U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, Division of Fiscal and Actuarial Services.

- a. Includes Temporary Emergency Unemployment Compensation (TEUC, 2002-2004), Emergency Unemployment Compensation of 2008 (EUC08, 2008-2013), and Federal Additional Compensation (FAC, 2009-2010).

Civilian Spouses Who Quit Employment Because of Military Spouse Transfers

Treatment of civilian spouses who quit their employment because their military spouse was transferred varies greatly among the states. In the majority of states, a quit to follow a transferred spouse may be deemed a “good personal” cause and the newly unemployed worker may receive UC benefits. However, some state UC programs do not award UC benefits to workers who quit their jobs because a spouse was transferred, deeming this as a “voluntary quit.” The laws of the state may go further and include a specific disqualification for claimants who quit work to relocate with a spouse until certain additional income is generated.

The disqualification following a “voluntary quit” continues until the claimant returns to work, completes a specified duration of work, and earns wages of a specified amount. In other states, the disqualification is time-limited. These states penalize the worker for quitting, but recognize that economic conditions may be such that even a person who diligently seeks work may find none. The reasoning is that beyond a certain point, if a diligent job seeker is still unemployed, such continuing unemployment is attributable to labor market conditions rather than their decision to quit. Thus, spouses relocating to areas of high unemployment or limited opportunities may become eligible for benefits even if initially disqualified.

Twenty-seven states and the District of Columbia allow UC benefits if a worker quits to accompany a spouse who has been transferred regardless of military status (labeled “Y” in **Table 2**). In addition, another 20 states have special exceptions for workers who quit to follow their transferred military spouse (labeled as “Military only”). Only Idaho, Louisiana, and North Dakota do not consider quitting to follow a military spouse a voluntary quit “good cause.”

Table 2. Unemployment Compensation Benefit Eligibility for Workers Who Voluntarily Quit Because of a Spousal Transfer

State	Spouse Transfer	State	Spouse Transfer
Alabama	Military Only	Montana	Military only
Alaska	Y	Nebraska	Y
Arizona	Y	Nevada	Y
Arkansas	Y	New Hampshire	Y
California	Y	New Jersey	Military only
Colorado	Y	New Mexico	Military only
Connecticut	Y	New York	Y
Delaware	Y	North Carolina	Military only
District of Columbia	Y	North Dakota	N
Florida	Military only	Ohio	Y
Georgia	Military only	Oklahoma	Y
Hawaii	Y	Oregon	Y
Idaho	N	Pennsylvania	Y
Illinois	Y	Rhode Island	Y
Indiana	Y	South Carolina	Y
Iowa	Military only	South Dakota	Military only
Kansas	Military only	Tennessee	Military only
Kentucky	Military only	Texas	Military only
Louisiana	N	Utah	Military only
Maine	Y	Vermont	Y
Maryland	Military only	Virginia	Y
Massachusetts	Y	Washington	Y
Michigan	Military only	West Virginia	Military only
Minnesota	Y	Wisconsin	Y
Mississippi	Military only	Wyoming	Military only
Missouri	Military only		

Source: CRS compilation from Table 5.6 in the *Comparison of State Unemployment Insurance Laws, 2016*, U.S. Department of Labor, Employment and Training Administration, Office of Workforce Security, 2016, <http://ows.doleta.gov/unemploy/pdf/uilawcompar/2016/nonmonetary.pdf>. Additional requirements may be imposed to qualify for these exceptions.

Impact of Military Service on Employers' State Unemployment Taxes

State unemployment taxes are levied on employers based on a combination of established rates and the employer's past history of its workers using the UC system. Generally, employers with a greater history of unemployed workers would have a worse experience rating and would pay higher state unemployment taxes. Military service of business owners or employees may impact the tax rate that certain employers face. Furthermore, if workers who quit to join a transferred military spouse receive UC benefits, this may impact the overall state unemployment tax burden of most, if not all, of the state's employers. Below are some examples of these situations:

- A business owner, if called up for active military service, may need to lay off some or all of the business's workers. Once the business owner returns from military service, the revival of the business may mean that the small business may face a new, higher state unemployment tax rate.
- If the servicemember serves for less than two years, some of the worker's UCX benefit may be based on nonmilitary work. (These workers receive a hybrid UC/UCX benefit.) In some states, their former (civilian) employers may face a state unemployment tax increase as a result.
- Workers who quit their jobs and move to accompany their military spouse may receive UC benefits in many states as listed in **Table 2**. These states do not charge UC benefits to employer accounts when workers voluntarily quit their jobs to accompany a transferred military spouse. The benefits paid to a worker accompanying a military spouse generally would not increase the state unemployment taxes of the worker's former employer. However, these benefits are still charged to the state's account within the UTF. As a result, the cost of benefits is passed on to the state's employers as a socialized cost and may increase the overall state unemployment tax rate.

States may choose to create provisions that remove or limit these tax increases in certain situations. For example:

- In Illinois, business owners who are called to active duty from the reserves and had to close their firms are not charged for the increases attributable to UC benefits for the workers who lose their jobs on account of the closure. When the business owner returns and reopens his or her business, the business's state unemployment tax rate is not increased.
- Some states provide for the non-charging of benefits for unemployment directly resulting from reinstatement of another employee upon his or her completion of uniformed service duty.

Legislative Activity

Senator Ron Johnson sponsored S. 1356, which was enacted as the National Defense Authorization Act for Fiscal Year 2016, P.L. 114-92. In addition to many other actions, the law altered certain conditions for individuals to receive UCX. The law generally prohibits the concurrent receipt of UCX and Post-9/11 Veterans Educational Assistance but did provide

exceptions.¹⁸ In addition, the law doubled the number of days (from 90 to 180 continuous days) a reserve member of the Armed Forces would have to be on active duty to qualify for UCX.

Two earlier proposals had similar provisions, but did not include exceptions to the prohibition of concurrent receipt. Representative Mac Thornberry sponsored H.R. 1735, the National Defense Authorization Act for Fiscal Year 2016 (vetoed by President Obama on October 22, 2015). The bill contained two provisions regarding unemployment compensation for former servicemembers. Section 535 of S. 1376 includes a provision that would prohibit the concurrent receipt of unemployment benefits for former military servicemembers (UCX) and Post-9/11 Veterans Educational Assistance. Section 592 of the bill would double the number of days a reserve member of the armed forces would have to be on active duty to qualify for UCX (from 90 to 180). Senator John McCain sponsored an identically named bill (S. 1376) that contained similar provisions.¹⁹

Author Contact Information

Julie M. Whittaker
Specialist in Income Security
jwhittaker@crs.loc.gov, 7-2587

¹⁸ 5 U.S.C. §8525(a). For information on Post-9/11 Veterans Educational Assistance see CRS Report R42755, *The Post-9/11 Veterans Educational Assistance Act of 2008 (Post-9/11 GI Bill): Primer and Issues*.

¹⁹ The Congressional Budget Office estimated the UCX provisions in S. 1376 would reduce discretionary costs by \$293 billion for FY2016-FY2020. Congressional Budget Office, *Cost Estimate for S. 1376, National Defense Authorization Act for Fiscal Year 2016*, As reported by the Senate Committee on Armed Services on May 19, 2015, Washington, DC, June 3, 2015, p. 11, Table 3, <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/costestimate/s13761.pdf>.