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# Unemployment Insurance: Legislative Issues in the 113th Congress

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**Abstract**

The 113th Congress may face 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 extended unemployment benefits continues at elevated levels. Congress deliberated multiple times on whether to extend the authorization for several key temporary unemployment insurance provisions in the 112th Congress and may do so again in the 113th Congress. The signing of P.L. 112-240 on January 2, 2013, now means that the EUC08 program expires the week ending on or before January 1, 2014. The 100% federal financing of the EB program expires on December 31, 2013. In addition, the option for states to use three-year EB trigger lookbacks (the period of time considered in determining an active EB program within a state) expires the week ending on or before December 31, 2013.

The 113th Congress will face these expirations as well as likely unemployment insurance policy issues, including unemployment insurance financing, integrity measures, and the appropriate length and availability 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 contains a brief explanation of how the EUC08 program, as well as some other UC-related payments, began to experience reductions in benefits as a result of the sequester order contained within the Budget Control Act of 2011 (P.L. 112-25).

This report also includes descriptions of the unemployment insurance provisions within H.R. 51, H.R. 188, H.R. 1172, H.R. 1229, H.R. 1277, H.R. 1502, H.R. 1530, H.R. 1617, H.R. 2177, H.R. 2448, H.R. 2821, H.R. 2826, H.R. 2889, S. 18, S. 803, and S. 1099, as well as the President's Budget Proposal for FY2014.

**Keywords**

unemployment insurance, Congress, Unemployment Compensation, Emergency Unemployment Compensation, Extended Benefits

**Comments**

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# Summary

The 113th Congress may face 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 extended unemployment benefits continues at elevated levels. Congress deliberated multiple times on whether to extend the authorization for several key temporary unemployment insurance provisions in the 112th Congress and may do so again in the 113th Congress. The signing of P.L. 112-240 on January 2, 2013, now means that the EUC08 program expires the week ending on or before January 1, 2014. The 100% federal financing of the EB program expires on December 31, 2013. In addition, the option for states to use three-year EB trigger lookbacks (the period of time considered in determining an active EB program within a state) expires the week ending on or before December 31, 2013.

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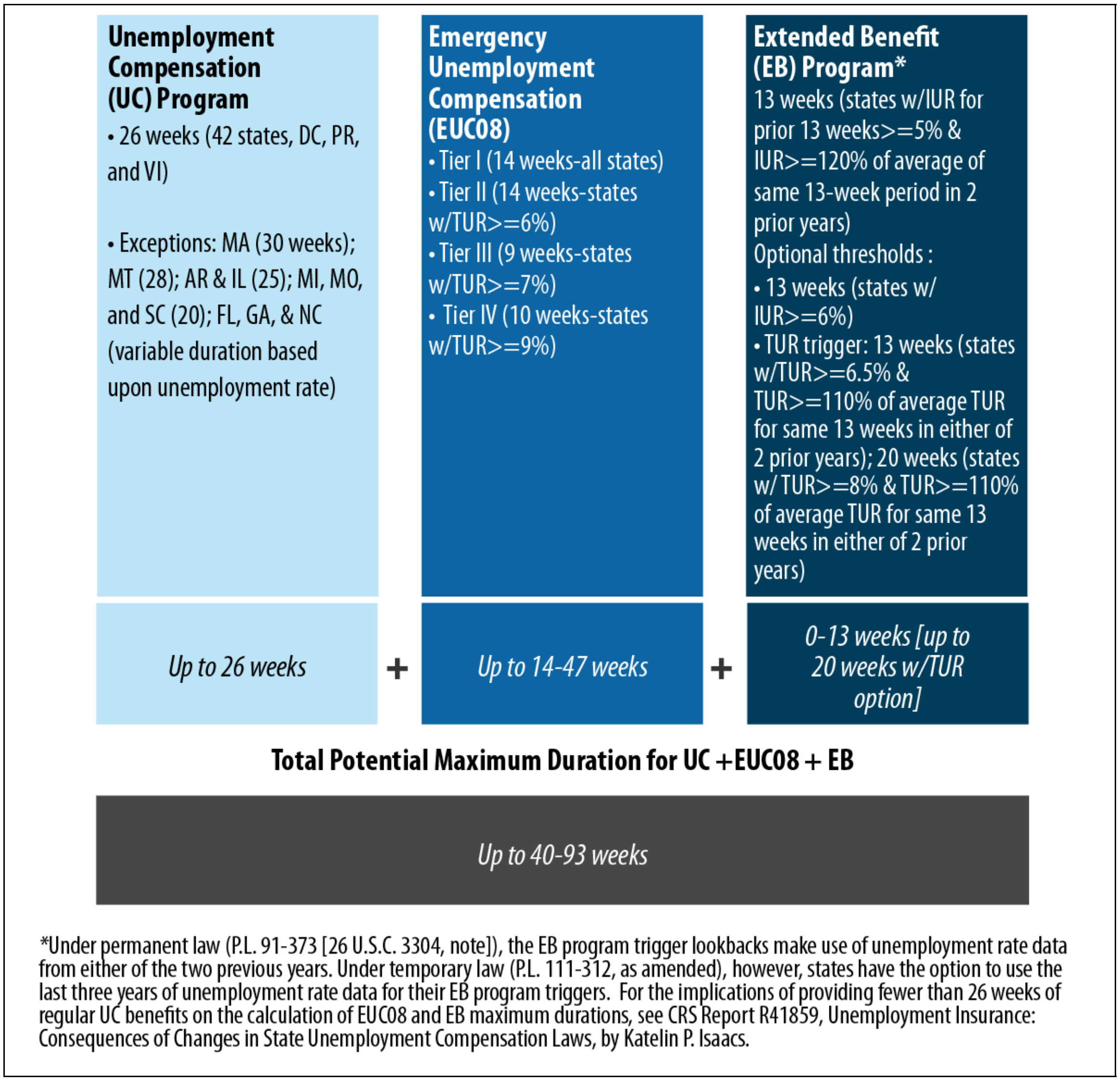
The unemployment insurance (UI) system has two primary objectives: (1) to provide temporary, partial wage replacement for involuntarily unemployed workers; and (2) to stabilize the economy during recessions. In support of these goals, several UI programs may currently provide benefits for unemployed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

[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.

**Figure 1. Sequence of Unemployment Benefits: UC, EUC08, and EB**




**Source:** Congressional Research Service.

## 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

[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, Georgia, and North Carolina 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 EB benefits, however, UC duration is capped at 26 weeks.

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 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 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

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[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.

[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 (continued...)

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 11 times, most recently by P.L. 112-240.[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 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 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.

(...continued)

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 P.L. 112-240. 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.

[8] See CRS Report R41662, *Unemployment Insurance: Legislative Issues in the 112th Congress,* 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.

## 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 are prohibited from reducing UC benefit amounts through changes to benefit calculation from February 2009 through December 2013.[11] One state, North Carolina, has implemented reductions in benefit amounts. As a result, the EUC08 agreement between North Carolina and the Secretary of the U.S. Department of Labor (DOL) has terminated. All tiers of EUC08 ended in North Carolina as of June 29, 2013. No EUC08 benefits have been available in that state since June 30, 2013.

The implementation of this "non-reduction" rule coincided with new state actions that reduced UC 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 duration for current federal unemployment benefits—each tier of the EUC08 program and any EB periods—is 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.

Eight 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

[11] An exception was made in P.L. 112-96 which maintained the "non-reduction 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 did not take effect before January 1, 2012. The "non-reduction" 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, 2012y, however, would not invalidate their EUC08 federal-state agreements.

[12] The current "non-reduction" rule was put into place when P.L. 111-205 amended P.L. 110-252. There was a similar, but programmatically distinct "non-reduction" 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 "non-reduction" rule expired.

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.
- **North Carolina** 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 20 weeks. Up to 12 weeks will be available if the state unemployment rate is 5.5% 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 9%. This benefit reduction became effective on July 1, 2013.
- **South Carolina** also decreased its UC maximum duration from 26 weeks to 20 weeks, effective June 14, 2011.

## 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.

[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.

- 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, as amended (most recently by P.L. 112-240), made some technical changes to certain triggers in the EB program. These changes allow states to temporarily use lookback calculations based on three years of unemployment rate data (rather than the permanent-law 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.

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, P.L. 112-240 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. P.L. 111-5, most recently amended by P.L. 112-240 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.

## Unemployment Benefits and the Sequester

The sequester order required by the Budget Control Act of 2011 (P.L. 112-25) and implemented on March 1, 2013 (delayed by P.L. 112-240), affects some but not all types of unemployment insurance expenditures. Regular UC, UCX, and UCFE payments are not subject to the sequester

[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.

reductions. EB, EUC08, and most forms of administrative funding are subject to the sequester reductions. Please see CRS Report R42050, *Budget "Sequestration" and Selected Program Exemptions and Special Rules*, coordinated by Karen Spar, for details as to what is meant by the term "sequester."

On March 8, 2013, the U.S. DOL released the details on how the sequester reductions to administrative grants, unemployment benefits, and other types of unemployment benefit expenditures will occur.[15] The reductions to UI expenditures generally began the week beginning on or after March 31, 2013. No unemployment benefits already paid to individuals will be recovered to satisfy the sequestration reductions. For details on the impact of sequestration on UI benefits, please see CRS Report R43133, *The Impact of Sequestration on Unemployment Insurance Benefits: Frequently Asked Questions.*

## EB and EUC08 Benefits Are Reduced

The sequestration percentage reductions apply to the budgetary resources provided for all of FY2013 (October 1, 2012, through September 30, 2013)—but the actual EB and EUC08 payment reductions began to be implemented the week beginning March 31, 2013. The Office of Management and Budget's sequester order requires a 5.1% reduction to be applied on all nonexempt nondefense mandatory expenditures.[16] Thus, EUC08 and EB payments would be reduced by 10.7% for benefits paid for weeks of unemployment beginning on March 31, 2013, to meet the 5.1% reduction target for FY2013.

## States May Have Trouble Implementing Reductions

In a letter jointly addressed to the House Committee on Ways and Means and to the Senate Committee on Finance, the National Association of Workforce Agencies asserted that due to older state computing systems handling unemployment benefits (averaging 25 years), many states anticipated difficulties in implementing the reductions.[17] The U.S. DOL's directive on the sequester (UIPL 13-13) recognized that there may be some states that are not able to implement these reductions by March 31, 2013. For states in this situation, the applicable reduction applied to benefits will increase the longer it takes for implementation to begin.[18]

[15] Employment and Training Administration, U.S. Department of Labor, *Unemployment Insurance Program Letter (UIPL) 13-13*, March 8, 2013, http://wdr.doleta.gov/directives/attach/UIPL/UIPL_13_013_Acc.pdf.

[16] Office of Management and Budget, *OMB Report to the Congress on the Joint Committee Sequestration for Fiscal Year 2013*, Washington, DC, March 1, 2013, http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/fy13ombjcsequestrationreport.pdf.

[17] National Organization of State Workforce Agencies, *Letter to Chairman Baucus, Vice Chairman Hatch, Chairman Camp and Ranking Member Levin*, March 1, 2013, http://www.naswa.org/assets/utilities/serve.cfm?gid=7c0482fb-3f93-4395-9866-c4841014e597.

[18] See pages 5 and 6 of UIPL 13-13, http://wdr.doleta.gov/directives/attach/UIPL/UIPL_13_013_Acc.pdf.

# Alleviating State Unemployment Compensation Stress

On December 31, 2012, 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 19 states face an increased net federal unemployment tax (FUTA) in 2012 because they had borrowed funds from the federal UTF loan account for two consecutive years.[19]

# President's Budget Proposal for FY2014

The President's Budget Proposal for FY2014 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 from 0.6% 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.

The FY2014 Budget also includes various program integrity measures: (1) additional funding for Reemployment and Eligibility Assessments; (2) required state participation in State Information Data Exchange System (SIDES); (3) expansion of state use of the Treasury Offset Program (TOP); and (4) required state cross-matching of UI claimants with Prisoner Update Processing System (PUPS).

# Legislative Activity in the 113th Congress

## Unemployment Insurance Provisions in the American Jobs Act of 2013 (H.R. 2821)

Among its many proposals, Title III (Assistance for the Unemployed and Pathways Back to Work) of H.R. 2821 includes several provisions relating to unemployment insurance.

[19] 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.

## *Extension of Federal UI Provisions: EUC08, 100% EB Federal Financing, EB Three-Year Lookback Trigger Option, and Temporary Extended Railroad UI Benefits*

H.R. 2821 would provide a two-year extension of the EUC08 authorization and the 100% federal financing of EB through calendar year 2015. In addition, it would extend authorization for states to use a three-year lookback 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. H.R. 2821 would also extend the temporary extended railroad unemployment insurance benefits—authorized under the American Recovery and Reinvestment Act (P.L. 111-5), as amended—for an additional two years through June 30, 2015.

## *Reemployment NOW Program and Funding Opportunities*

H.R. 2821 would establish a "Reemployment NOW" program with $4 billion in federal appropriations. These 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 to the U.S. DOL describing the activities it would perform to reemploy eligible individuals, among other requirements (such as performance measures).

Reemployment NOW funds would be available for several allowable programs uses:[20]

- The "Bridge to Work" program, which would allow individuals to continue to receive EUC08 benefits as wages for work performed in a short-term work experience placement.
- Wage insurance, which would authorize states to provide an income supplement to EUC08 claimants who secure reemployment at a lower wage than their separated employment.
- Enhanced reemployment services, which 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 Self-Employment Assistance (SEA) state programs, which would authorize states to use funds for any administrative costs associated with the start-up of SEA agreements.

[20] For additional details on these Reemployment NOW allowable programs uses, see the summary of UI provisions in the President's American Jobs Act of 2011/S. 1549/H.R. 12/S. 1660 in the 112th Congress, which is available in CRS Report R41662, *Unemployment Insurance: Legislative Issues in the 112th Congress*, by Julie M. Whittaker and Katelin P. Isaacs, and CRS Report R42033, *American Jobs Act: Provisions for Hiring Targeted Groups, Preventing Layoffs, and for Unemployed and Low-Income Workers*, coordinated by Karen Spar. These proposals in the 112th Congress contain UI provisions similar to H.R. 2821.

- Additional innovative programs, which 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")*

H.R. 2821 would provide temporary 100% federal financing for up three years and six months after enactment for short-time compensation (STC) benefits in states with existing 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 and three months after enactment of and 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. 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 then be eligible to receive 100% of federal financing.

H.R. 2821 would also award grants of up to $700 million total 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. This proposal would also 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.

### *Long-Term Unemployed Work Opportunity Credits*

H.R. 2821 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 claim the credit for hiring long-term unemployed individuals.

## Exempting UI Benefits from the Sequester

H.R. 2177, the Unemployment Restoration Act, would make both EB and EUC08 exempt from sequestration. This exemption would be retroactive and would continue through FY2021. Any reduction of UI payments that occurred because of the sequester would be paid back retroactively.

## Integrity Proposals

H.R. 1502, the Social Security Disability Insurance and Unemployment Benefits Double Dip Elimination Act, would require that for any month that an individual is entitled to UC, he or she shall be deemed to have engaged in substantial gainful activity (SGA) and so be disqualified from receiving Social Security Disability Insurance (SSDI) benefits after a certain period has elapsed.

S. 1099, the Reducing Overlapping Payments Act, would require that for any month that an individual receives UC, no SSDI benefits would be paid.

H.R. 2826, the Permanently Ending Receipt by Prisoners Act, would require states to use the PUPS data compiled by the Social Security Administration. States would use PUPS to confirm that an individual is not confined in a jail, prison, or other penal institution or correctional facility. Any individual who is incarcerated would not be eligible for regular UC benefits since the individual would not be available for work.

## Income Restrictions ("Millionaires")

Section 401 of S. 18, the Sequester Replacement and Spending Reduction Act of 2013, and H.R. 2448, the Ending Unemployment Payments to Jobless Millionaires Act of 2013, both would prohibit any individual reporting more than $1 million in adjusted gross income (AGI) in the preceding year from receiving federal unemployment compensation, including EB and EUC08 payments.[21]

## Vouchers

H.R. 51, the Hire Just One Act of 2013, would create an employment assistance voucher program and would allow states to use UC funds to pay for the vouchers. Instead of paying UC directly to the unemployed worker, if an eligible individual is issued an employment assistance voucher and is hired by a participating employer, the employer would receive a subsidy from the state for the wages paid to the employee. The individual must have been unemployed for at least six months and would otherwise be eligible for UC, EB, or EUC08 and must have been profiled as likely to exhaust UC benefits.

## Job Training/Education

H.R. 1530, the Opportunity KNOCKs Act, would require that states allow UC beneficiaries to participate in a Workforce Investment Act (WIA) authorized job training program and remain eligible for benefits. If the UC beneficiary has been profiled to exhaust regular benefits the individual may be enrolled in any coursework necessary to attain a recognized postsecondary credential.

## Drug Testing[22]

H.R. 1172 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. The bill would deny benefits to anyone who (1) is discharged from employment for alcohol/drug use; (2) is in possession of controlled substance at place of employment; (3) refuses drug testing by employer; or (4) tests positive on employer drug test for illegal or controlled substances. This proposal would require states to amend their state UC laws.

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[21] See CRS Report R42643, *Receipt of Unemployment Insurance by Higher-Income Unemployed Workers ("Millionaires")*, by Katelin P. Isaacs and Julie M. Whittaker, for implications of imposing income limitations on UC benefit receipt.

[22] See CRS Report R42326, *Constitutional Analysis of Suspicionless Drug Testing Requirements for the Receipt of Governmental Benefits*, by David H. Carpenter, for information on what types of drug testing may have constitutionally imposed restrictions.

H.R. 1277, the Accountability in Unemployment Act of 2013, 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.

## Aid for Hurricane Sandy States

S. 803, Superstorm Sandy Unemployment Relief Act of 2013, would allow 13 additional weeks of Disaster Unemployment Assistance (DUA) for unemployment as a result of the disaster declaration made for Hurricane Sandy after October 20, 2012, to make such assistance available for 39 weeks after the date of the declaration (currently limited to 26 weeks). In addition, the bill would reimburse states 100% of the amount UC paid under state law to affected individuals in each affected state or any area within it. Payments would be available until July 28, 2013.

## Rehiring Unemployment Benefit Exhaustees

Several proposals have attempted to target the rehiring of workers who have exhausted unemployment benefits. In addition to the measures described above in the "Unemployment Insurance Provisions in the American Jobs Act of 2013" section, H.R. 188, H.R. 1617, and H.R. 2889 give priority to those workers who have exhausted regular UC benefits.

# 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).[23] The Budget Control Act of 2011 establishes special procedures for congressional increases to the debt limit authorized by the act.[24] In certain situations these procedures may have an impact on unemployment insurance benefits.[25]

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.

[23] 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* , by Mindy R. Levit and Marc Labonte.

[24] 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.

[25] 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.

## 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 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 (STC) and Self-Employment Assistance (SEA) 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. In addition, **Figure 2** 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.[26]

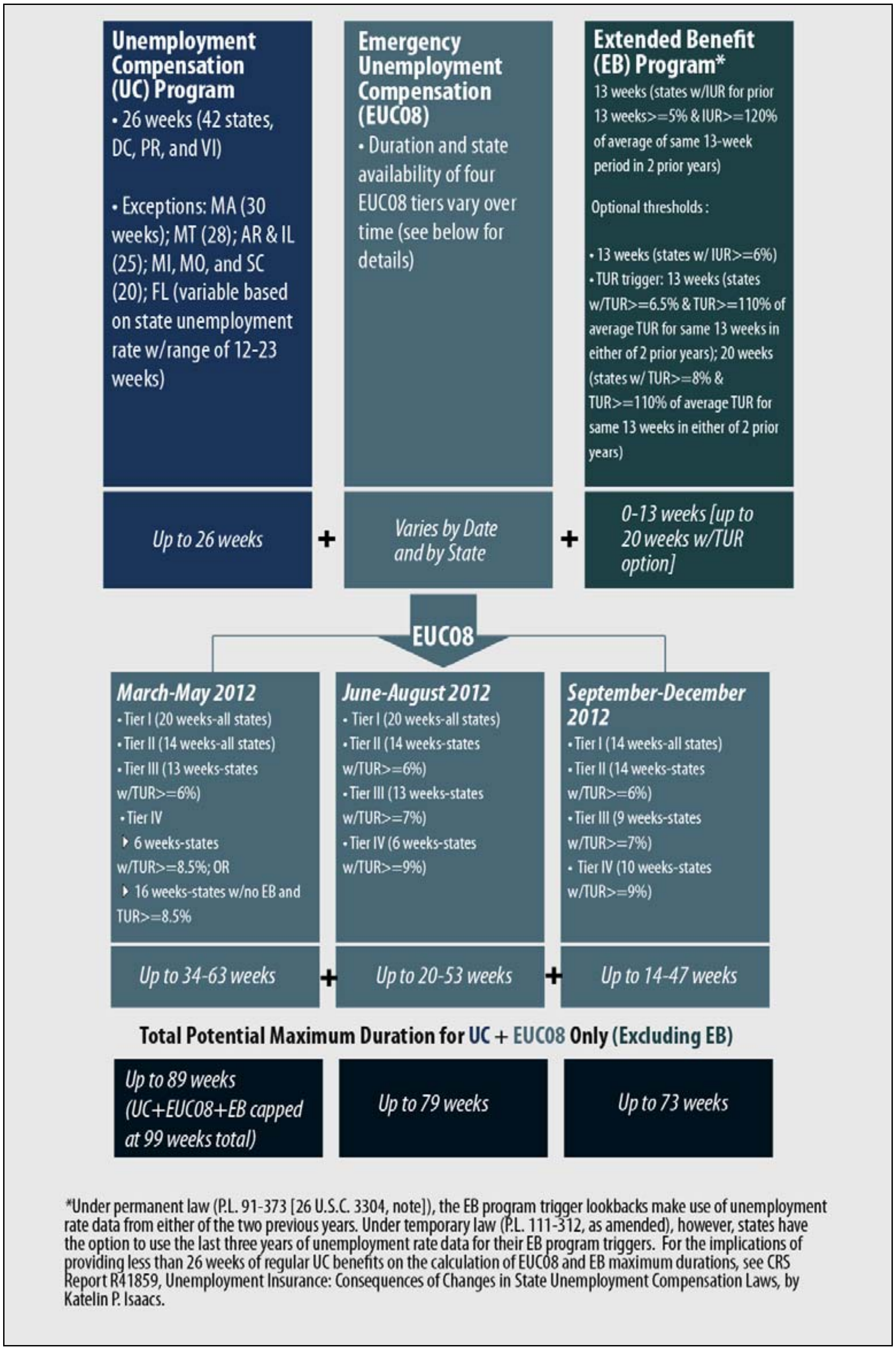
### *EB and Railroad Benefits*

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).

[26] 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 2. 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*

Although 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. DOL 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.[27] 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 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.

[27] 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 a 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 "non-reduction 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 "non-reduction" rule prohibits states from decreasing average weekly benefit amounts without invalidating their EUC08 federal-state agreements. Under P.L. 112-92, 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.[28] 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. DOL 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 law providing for STC, that state

[28] 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 Julie M. Whittaker.

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.[29] 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 (P.L. 112-240)

The American Taxpayer Relief Act of 2012 (P.L. 112-240, signed on January 2, 2013), among other provisions, retroactively extended the authorization of the EUC08 program through the week ending on or before January 1, 2014. Thus, on December 28, 2013 (December 29, 2013, for New York), the EUC08 program ends. P.L. 112-240 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.

P.L. 112-240 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.

P.L. 112-240 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

[29] 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, P.L. 112-240 appropriated $250,000 in general funds from the Treasury for administrative expenses.

P.L. 112-240 also postponed from January 2, 2013, until March 1, 2013, the sequestration required under the Budget Control Act of 2011 if a joint committee bill achieving a deficit reduction greater than $1.2 trillion was not enacted by January 15, 2012.

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