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Expiring Unemployment Insurance Provisions

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Summary

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

- Authorization for the temporary Emergency Unemployment Compensation (EUC08) program is scheduled to expire the week ending on or before January 1, 2014 (i.e., December 28, 2013; or December 29, 2013, in New York state).
- The temporary 100% federal financing of the Extended Benefit (EB) program ends December 31, 2013.
- The temporary option for states to use three-year lookbacks as part of their EB triggers expires the week ending on or before December 31, 2013.

Once these federal unemployment provisions expire, only regular, state-financed unemployment benefits from the Unemployment Compensation (UC) program will generally be available. In most states, UC provides up to 26 weeks of benefits.

This report describes the consequences of these expirations for the financing and availability of unemployment benefits in states.

This report also summarizes current legislative proposals to extend these expiring provisions:

- Among other provisions, H.R. 2821, the American Jobs Act of 2013, would extend these temporary unemployment insurance provisions for two additional years (i.e., through December 2015).
- H.R. 3546 and S. 1747, the House and Senate versions of the Emergency Unemployment Compensation Extension Act of 2013, would extend the expiring unemployment insurance provisions for an additional year (i.e., through December 2014).
- S. 1797, also titled the Emergency Unemployment Compensation Extension Act of 2013, would extend the expiring unemployment insurance provisions through December 2014, while also permitting any state that terminated a EUC08 agreement in 2013 to reenter into an agreement to pay EUC08 benefits.
- H.R. 3773, the Unemployed Jobhunters Protection and Assistance Act of 2013, would extend the authorization for the EUC08 program for an additional year (i.e., through December 2014). It would not extend the expiring EB provisions.
- S. 1845, the Emergency Unemployment Compensation Extension Act, would extend the expiring unemployment insurance provisions for an additional three months (i.e., through March 2014). It would also allow any state that had legislatively lowered its UC benefit level before December 1, 2013, to be treated as not in violation of the EUC08 “nonreduction” rule.

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Expiration of Federal Extended Unemployment Insurance Provisions

Basic income support for unemployed workers is provided through the joint federal-state Unemployment Compensation (UC) program, which pays up to 26 weeks of unemployment benefits with some exceptions.¹

Currently, three temporary, federal unemployment insurance (UI) provisions impact extended unemployment benefits that may be available to eligible workers who have exhausted regular UC benefits.

These temporary, federal UI provisions were last authorized under P.L. 112-240, the American Taxpayer Relief Act of 2012, and are scheduled to expire at the end of calendar year 2013:

- Authorization for the temporary Emergency Unemployment Compensation (EUC08) program ends the week ending on or before January 1, 2014.
- The 100% federal financing of the Extended Benefit (EB) program is scheduled to end on December 31, 2013; and
- The temporary authorization for states to use three-year lookbacks with their EB triggers, which expires the week ending on or before December 31, 2013.

After these federal UI provisions expire, only regular, state-financed UC benefits will generally be available in states.

Federal Programs to Extend UI Benefits: EUC08 and EB²

EUC08

To supplement regular UC benefits and respond to the most recent recession, Congress created a temporary unemployment insurance program, the EUC08 program. The EUC08 program began in July 2008. EUC08 has been amended by Congress 11 times (most recently by P.L. 112-240). Currently, the EUC08 program provides up to four tiers of additional weeks of unemployment benefits to certain workers who have exhausted their rights to regular UC benefits. See “Availability of EUC08 Benefits” below for more details on EUC08 benefits.³

¹ UC currently pays up to 26 weeks of benefits in most states with the following exceptions: (1) Montana provides up to 28 weeks of UC; (2) Massachusetts provides up to 30 weeks of UC; and (3) several states have reduced their UC maximum durations: Arkansas (25 weeks); Michigan, Missouri, and South Carolina (20 weeks); Florida (variable duration based on state unemployment rate: 12-23 weeks); Georgia (variable duration based on state unemployment rate: 14-20 weeks); and North Carolina (variable duration based on state unemployment rate: 12-20 weeks). For details on reductions in state UC duration, see CRS Report R41859, *Unemployment Insurance: Consequences of Changes in State Unemployment Compensation Laws*, by Katelin P. Isaacs.

² For additional details on all three of these UI programs (UC, EB, and EUC08), see CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*, by Julie M. Whittaker and Katelin P. Isaacs.

³ For additional details on EUC08, including the program’s legislative history, see CRS Report R42444, *Emergency Unemployment Compensation (EUC08): Current Status of Benefits*, by Julie M. Whittaker and Katelin P. Isaacs.

EUC08 benefits are no longer available in North Carolina. North Carolina enacted legislation in February 2013 that included a provision to actively reduce UC weekly benefit amounts in the state. Effective on or after July 1, 2013, this state law provision violated the “nonreduction” rule and, therefore, terminated the EUC08 agreement between North Carolina and the Secretary of the U.S. Department of Labor.⁴

The EUC08 program is authorized until the week ending on or before January 1, 2014. There is no grandfathering of EUC08 benefits after that date. Individuals who have not completed a tier of EUC08 would not continue to receive those benefits after the week ending on or before January 1, 2014 (i.e., December 28, 2013; December 29, 2013, in New York state). States are required to pay individuals any entitlement to EUC08 benefits before any entitlement to EB benefits.

EB

Unemployment benefits may be extended at the state level by the permanent EB program if high unemployment exists within the state. Once regular unemployment benefits are exhausted, the EB program may provide up to an additional 13 or 20 weeks of benefits, depending on worker eligibility, state law, and state economic conditions. Under permanent law (P.L. 91-373), the EB program is funded 50% by the federal government and 50% by the states. The 2009 stimulus package (P.L. 111-5, as amended, most recently by P.L. 112-240) temporarily provides for 100% federal funding of the EB program until December 31, 2013.

As of the week of December 22, 2013, however, no state meets the requirements to be in an EB period; therefore, EB benefits are not currently available in any state.

Consequences of UI Expirations

Availability of EUC08 Benefits

EUC08 benefits are currently available in all states, except North Carolina. All tiers of EUC08 benefits are temporary and expire the week ending on or before January 1, 2014. There is no grandfathering of EUC08 benefits after that date. Therefore, individuals would not continue to receive EUC08 benefits after December 28, 2013; or after December 29, 2013, when the program ends in New York state.

P.L. 112-96, the Middle Class Tax Relief and Job Creation Act of 2012, altered the duration or the state availability of each tier of the EUC08 program during three separate periods: March-May 2012, June-August 2012, and September-December 2012.⁵ P.L. 112-240 extended EUC08 authorization with the tier structure in place as of December 2012, through the week ending on or before January 1, 2014.⁶

⁴ For more information on the “nonreduction” rule of EUC08, see CRS Report R41859, *Unemployment Insurance: Consequences of Changes in State Unemployment Compensation Laws*, by Katelin P. Isaacs.

⁵ For more details on the legislative history of EUC08, including changes to benefit structure over time, see CRS Report R42444, *Emergency Unemployment Compensation (EUC08): Current Status of Benefits*, by Julie M. Whittaker and Katelin P. Isaacs.

⁶ The U.S. Department of Labor (DOL) posts weekly “Trigger Notices” for the EUC08 program online at http://www.workforcesecurity.doleta.gov/unemploy/claims_arch.asp. These “Trigger Notices” announce which tiers of (continued...)

- **Tier I:** available in all states, except North Carolina, up to 14 weeks.
- **Tier II:** available in states with a total unemployment rate (TUR)⁷ of at least 6%, up to 14 weeks (not available in North Carolina).
- **Tier III:** available in states with a TUR of at least 7%, up to 9 weeks (not available in North Carolina).
- **Tier IV:** available in states with a TUR of at least 9%, up to 10 weeks (not available in North Carolina).

Financing of EB Benefits

No state meets the requirements to be in an EB period as of the week of December 22, 2013. Therefore, unless state economic conditions change and EB benefits become available, the expiring UI provisions would not alter the availability of EB themselves. Rather, the expiring UI provisions would impact EB financing and the adoption of certain EB trigger components by states. EB is a permanent-law program and will continue to be authorized regardless of the upcoming UI expirations.⁸

The 100% federal financing of EB benefits is scheduled to end December 31, 2013. In terms of financing, states will be responsible for 50% of the benefit costs for anyone *entering* into the EB program after December 31, 2013. Benefits for individuals *who are receiving EB on December 31, 2013*, however, will continue to be 100% federally financed through June 30, 2014.

EB Trigger Components

Twenty-eight states have elected a temporary trigger, based on a state's total unemployment rate (TUR), for the EB program—and that election was tied to the temporary federal 100% EB financing.⁹ With the expiration of the 100% federal financing provision, the laws in these states require that the temporary trigger end; at which point, the federal EB law ends the period during which EB benefits may be paid. **Table 1** lists the states that adopted a temporary EB TUR trigger in this manner and may be affected by this expiration.

(...continued)

EUC08 are available in which states.

⁷ 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.

⁸ The U.S. DOL posts weekly "Trigger Notices" for the EB program online at http://www.workforcesecurity.doleta.gov/unemploy/claims_arch.asp. These "Trigger Notices" announce whether states are in an EB period.

⁹ In addition, 11 states have adopted this optional TUR EB trigger into permanent state law: Alaska, Connecticut, Kansas, Minnesota, New Hampshire, New Jersey, North Carolina, Oregon, Rhode Island, Vermont, and Washington. For more details on state EB trigger options, see CRS Report R41859, *Unemployment Insurance: Consequences of Changes in State Unemployment Compensation Laws*, by Katelin P. Isaacs.

Table 1. States with Temporary EB TUR Trigger Provisions

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

Source: U.S. Department of Labor.

In addition to the temporary EB triggers themselves, P.L. 111-312, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, (as amended by P.L. 112-240) made technical changes to certain triggers in the EB program. P.L. 111-312, as amended, allows states to temporarily use lookback calculations based on three years of unemployment rate data (rather than the current lookback of two years of data) as part of their triggers if states would otherwise trigger off or not be on a period of EB benefits. Using a two-year versus a three-year EB trigger lookback is an important adjustment because some states are likely to trigger off their EB periods in the near future despite high, sustained—but not increasing—unemployment rates.

For states to implement EB trigger lookback changes, each state would need to individually opt to amend its state UC laws. These state law changes must be written in such a way that if the two-year lookback has the effect that the state would have an active EB program, no action would be taken. But if a two-year lookback is not effective as part of an EB trigger and the state is not triggered on to an EB period, then the state would be able to use a three-year lookback. This temporary option to use three-year EB trigger lookbacks expires the week ending on or before December 31, 2013.

As of the week of December 22, 2013, there are 31 states that have enacted a three-year EB trigger lookback option (as temporarily authorized). **Table 2** lists these states.

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

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

Source: U.S. Department of Labor.

Since the federal authorization of these temporary EB provision, with few exceptions, only states that have enacted the TUR EB trigger option (in either permanent or temporary law) and the temporary three-year lookback currently have had an active EB program paying benefits. As of the week of December 22, 2013, however, no state meets the EB trigger criteria using the TUR trigger and three-year lookback to be able to pay EB benefits.¹⁰ Future increases in state unemployment rates and/or a reversal of the current trend of decreasing unemployment rates would be required in order to trigger on EB based on the TUR trigger and lookback requirement. When either of a state's temporary EB trigger components—the TUR trigger or the three-year lookback—expires, as currently scheduled, any state taking advantage of the TUR trigger and three-year lookback options to be able to pay EB benefits would be at risk of ending its EB period.

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

Legislation to Extend Temporary UI Provisions

On July 24, 2013, the American Jobs Act of 2013 (H.R. 2821) was introduced in the House. Among other provisions H.R. 2821 would extend the authorization of the EUC08 program for two years until the week ending on or before January 1, 2016 (i.e., December 26, 2015, in all states except New York State, in which the program would end December 27, 2015). H.R. 2821 would also extend the 100% federal financing of EB and the three-year lookback EB trigger option for two years until December 31, 2015.

House (H.R. 3546) and Senate (S. 1747) versions of the Emergency Unemployment Compensation Extension Act of 2013 were introduced on November 20, 2013. H.R. 3546 and S. 1747 would extend authorization for the EUC08 program for an additional year until the week ending on or before January 1, 2015 (i.e., December 27, 2014, in all states except New York State, in which the program would end December 28, 2014). These two bills would also extend for another year—until December 31, 2014—the 100% federal financing of EB and the three-year lookback EB trigger option.

S. 1797, also titled the Emergency Unemployment Compensation Extension Act of 2013, was introduced on December 11, 2013. S. 1797 would extend the expiring unemployment insurance provisions for an additional year (i.e., through December 2014). S. 1797 would also permit any state that terminated a EUC08 agreement in 2013 to reenter into an agreement with the Secretary of the U.S. Department of Labor to pay EUC08 benefits.¹¹

H.R. 3773, the Unemployed Jobhunters Protection and Assistance Act of 2013, was introduced on December 16, 2013. H.R. 3773 would extend the authorization for the EUC08 program for an additional year (i.e., through December 2014). H.R. 3773 would not, however, extend the expiring EB provisions.

¹⁰ See U.S. Department of Labor, Employment and Training Administration, Extended Benefit Trigger Notice No. 2013-49, Effective December 22, 2013, available online at http://www.workforcesecurity.doleta.gov/unemploy/trigger/2013/trig_122213.html.

¹¹ North Carolina is the only state that terminated a EUC08 agreement in 2013.

S. 1845, the Emergency Unemployment Compensation Extension Act, was introduced on December 17, 2013. S. 1845 would extend the expiring unemployment insurance provisions for an additional three months (i.e., through March 2014). S. 1845 would also allow any state that had legislatively lowered its UC benefit level before December 1, 2013, to be treated as not in violation of the “nonreduction” rule required by federal-state EUC08 agreements.¹²

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¹² For more information on the EUC08 “nonreduction” rule, see CRS Report R41859, *Unemployment Insurance: Consequences of Changes in State Unemployment Compensation Laws*, by Katelin P. Isaacs.