

# CRS Report for Congress

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## Unemployment Benefits: Legislative Issues in the 108<sup>th</sup> Congress

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### Summary

Changes in the federal-state unemployment compensation (UC) system were considered during the 108<sup>th</sup> Congress as legislation was introduced to reform and expand the UC system. The 107<sup>th</sup> Congress enacted the *Temporary Extended Unemployment Compensation* (TEUC) program (P.L. 107-147), which included a 13-week extension of UC benefits, an \$8 billion distribution to states, and 13 additional weeks of extended UC benefits in high unemployment states. These temporary benefits were extended twice during the 108<sup>th</sup> Congress, (P.L. 108-1 and P.L. 108-26) extending eligibility through the week ending before December 31, 2003. The 108<sup>th</sup> Congress enacted special TEUC benefits for displaced airline related workers, known as TEUC-A (P.L. 108-11). The 108<sup>th</sup> Congress also enacted the SUTA Dumping Prevention Act of 2004 (P.L. 108-295). This report will not be updated.

### Background

The UC system, funded by both federal and state payroll taxes, pays benefits to covered workers who become involuntarily unemployed for economic reasons and meet state-established eligibility rules. Federal administration of UC is under the U.S. Department of Labor (DOL). The UC system, established by the Social Security Act of 1935 (P.L. 74-271), operates in each state, the District of Columbia, Puerto Rico, and the Virgin Islands. Federal law sets broad rules that the 53 state programs must follow and levies a payroll tax on employers under the Federal Unemployment Tax Act (FUTA). States set most of the specific rules for eligibility, benefits, and financing. States also process the claims and pay the benefits. The UC system helps counter economic trends. When the economy grows, UC revenue rises and program spending falls, thereby slowing growth. In a recession, revenue falls and program spending rises, stimulating the economy. Benefits totaling an estimated \$45.3 billion were paid to an estimated 10.2 million UC claimants in all programs during FY2004.

**Coverage.** Federal law defines the jobs a state UC program must cover to avoid its employers' having to pay the maximum FUTA tax rate (6.2%) on the first \$7,000 of

each employee's annual pay. If a state UC program complies with all federal rules, the *net* FUTA tax rate is only 0.8% for employers. A state must cover jobs in firms that pay at least \$1,500 in wages during any calendar quarter or employ at least one worker in each of 20 weeks in the current or prior year. The FUTA tax is not paid by governmental or nonprofit employers, but state programs must cover government workers and all workers in nonprofits that employ at least four workers in each of 20 weeks in the current or prior year (the states are reimbursed for the expenditures on federal workers by the federal government). **Table 1** lists the net FUTA tax rates and taxable wage ceilings from 1937 and later.

**Table 1. Net FUTA Tax Rates and Taxable Wage Ceilings**

Calendar Years	Net Tax Rate (%)	Taxable Wage Ceiling	Calendar Years	Net Tax Rate (%)	Taxable Wage Ceiling
1937-1939	0.3	none	1972	0.5	\$4,200
1940-1960	0.3	\$3,000	1973	0.58	4,200
1961	0.4	3,000	1974-1976	0.5	4,200
1962	0.8	3,000	1977	0.7	4,200
1963	0.65	3,000	1978-1982	0.7	6,000
1964-1969	0.4	3,000	1983-2007	0.8	7,000
1970-1971	0.5	3,000	2008 & later	0.6	7,000

**Source:** CRS compilation of Federal Unemployment Tax Act changes.

**Benefits.** To receive UC benefits, claimants must have enough recent earnings to meet their state's earnings requirements. States usually disqualify claimants who lost their jobs because of inability to work or unavailability for work; voluntarily quitting without good cause; discharge for job-related misconduct; refusal of suitable work without good cause; or a labor dispute. Generally, benefits are based on wages in covered work over a 12-month period. Most state benefit formulas replace half of a claimant's average weekly wage up to a weekly maximum. Weekly maximums in 2004 ranged from \$133 (Puerto Rico) to \$508 (Massachusetts) and, in states that provide dependents' allowances, up to \$762 (Massachusetts). The average weekly benefit nationwide was \$262 for FY2004. Benefits are available for up to 26 weeks (30 weeks in Massachusetts and Washington<sup>1</sup>). The average benefit duration in FY2004 was 16.4 weeks. A federal-state extended benefits (EB) program offers benefits for an additional 13 to 20 weeks in states with unemployment rates above certain levels.

**Financing.** The 0.8% FUTA tax funds federal and state administration, the federal share of the EB program, loans to insolvent state UC accounts, and state employment services. States levy their own payroll taxes to fund regular UC benefits and the state share of the EB program. State ceilings on taxable wages in 2004 ranged from the \$7,000

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<sup>1</sup> The maximum duration of UC benefits in Washington for laid-off workers who file new claims on Apr. 4, 2004, or later was 26 weeks.

FUTA federal ceiling (11 states) up to \$31,000 (Hawaii). State UC tax rates are experience-rated where employers generating the fewest claimants have the lowest rates. State tax rates averaged 1.8% of taxable wages and 0.6% of total wages in FY2003. State UC revenue is deposited in U.S. Treasury accounts as federal revenue in the budget. State accounts in the Unemployment Trust Fund (UTF) are credited for this revenue. These credits allow Treasury to reimburse states for their benefit payments without annual appropriations, but these reimbursements do count as federal budget outlays. If a state trust fund account becomes insolvent, a state may borrow federal funds. State UTF revenue exceeded outlays from FY1995 to FY2000, but outlays significantly exceeded trust fund revenue in FY2001-FY2004 (**Table 2**).

**Table 2. Revenue and Spending Associated With Unemployment Compensation, FY1997-FY2004**  
(in billions of dollars)

	1997	1998	1999	2000	2001	2002	2003	2004 <sup>b</sup>
<b>UC revenue, total</b>	<b>28.2</b>	<b>27.4</b>	<b>26.3</b>	<b>27.1</b>	<b>27.8</b>	<b>27.5</b>	<b>33.2</b>	<b>37.1</b>
FUTA tax	6.1	6.4	6.5	6.9	6.9	6.6	6.5	6.7
State UC taxes	22.1	21.1	19.9	20.7	20.8	20.91	26.7	32.4
<b>UC outlays, total</b>	<b>23.7</b>	<b>22.9</b>	<b>24.5</b>	<b>23.7</b>	<b>31.0</b>	<b>53.8</b>	<b>57.4</b>	<b>45.32</b>
Regular benefits	20.3	19.4	20.7	20.2	27.3	42.0	42.0	39.9
Extended benefits	<sup>a</sup>	.02	.02	<sup>a</sup>	<sup>a</sup>	0.16	0.32	0.16
Emergency UC	<sup>a</sup>	—	—	—	—	7.9	11.0	4.13
Administration	3.5	3.5	3.7	3.5	3.6	3.7	4.1	4.0

**Source:** U.S. Department of Labor, *UI Outlook*, January 1997-January 2004.

a. Less than \$50 million.

b. Estimated for 2004.

## Legislative Issues in the 108<sup>th</sup> Congress

### Proposals to Extend Unemployment Compensation Benefits

The EB program provides for additional weeks of UC benefits up to a maximum of 13 weeks during periods of high unemployment, and up to a maximum of 20 weeks in certain states with extremely high unemployment. EB benefits are funded half (50%) by the federal UTF while states fund the other half (50%). The EB program is triggered when a state's insured unemployment rate (IUR<sup>2</sup>) or total unemployment rate (TUR<sup>3</sup>) reaches certain levels. Congress has acted five times — in 1971, 1974, 1982, 1991, and 2002 — to establish temporary programs of extended UC benefits.<sup>4</sup>

<sup>2</sup> The IUR is the ratio of UC claimants divided by individuals in UC covered jobs.

<sup>3</sup> The TUR is the ratio of unemployed workers to all workers in the labor market.

<sup>4</sup> For more information on extended UC benefits, see CRS Report RL31277, *Temporary* (continued...)

**The Temporary Extended Unemployment Compensation (TEUC) Program.** The TEUC program was enacted on March 9, 2002, as part of the Job Creation and Worker Assistance Act of 2002 (P.L. 107-147). The TEUC program provided up to 13 weeks of federally funded benefits for unemployed workers who had exhausted their regular UC benefits. In addition, up to an additional 13 weeks were provided in certain *high unemployment* states that had an IUR of 4% or higher and met certain other criteria (TEUC-X). P.L. 107-147 also provided for a one-time \$8 billion distribution to states known as *Reed Act* funds.<sup>5</sup> TEUC benefits were payable to individuals who, in addition to meeting other applicable state UC law provisions: (1) filed an initial claim that was in effect during or after the week of March 15, 2001; (2) exhausted regular benefits or had no benefit rights due to the expiration of a benefit year ending during or after the week of March 15, 2001; (3) had no rights to regular or extended benefits under any state or federal law; and, (4) were not receiving benefits under Canadian law.<sup>6</sup> In addition, individuals must also have had 20 weeks of full-time work, or the equivalent in wages, in their base periods.<sup>7</sup>

These temporary benefits ended on December 28, 2002; however, the 108<sup>th</sup> Congress extended TEUC twice (through P.L. 108-1<sup>8</sup> and P.L. 108-26). Thus, TEUC eligibility was possible through the week ending before December 31, 2003, and TEUC benefits were paid through the week of April 3, 2004.

A number of bills were introduced in the 108<sup>th</sup> Congress to further extend and expand the TEUC program. While some bills were superceded by P.L. 108-1, others went beyond the provisions of P.L. 108-1. Some would have extended the program beyond the end of May 2003; others would have provided for additional weeks of benefits for unemployed who have exhausted their benefits; some would have temporarily established alternative triggers for qualifying states as high-unemployment for the TEUC-X program. In addition, some bills would have also temporarily expanded regular UC eligibility in all states to include part-time and low-wage unemployed workers. After the enactment of P.L. 108-26 on May 28, 2003, several bills were introduced to further extend and expand TEUC.

On February 4, 2004, the House passed an amendment to the Community Services Block Grant program reauthorization bill, H.R. 3030 (H.Amdt. 462), administered by the Department of Health and Human Services, that would have provided a six-month

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<sup>4</sup> (...continued)

*Programs to Extend Unemployment Compensation*, by (name redacted).

<sup>5</sup> For more information on the Reed Act, see CRS Report RS22006, *The Unemployment Tax Fund and Reed Act Distributions*, by (name redacted).

<sup>6</sup> DOL, Unemployment Insurance Program Letter No. 17-02.

<sup>7</sup> A worker's benefit rights are determined on the basis of his/her employment in covered work over a prior period, called the base period. In most states, an individual's base period is a four-quarter, 52-week period that depends on when the worker first applies for benefits or first begins drawing benefits. However, several states lengthen the base period under specified conditions.

<sup>8</sup> See CRS Report RS21397, *Unemployment Benefits: Temporary Extended Unemployment Compensation (TEUC) Program*, by (name redacted) for additional details.

extension of TEUC benefits. It was received in the Senate and referred to the Committee on Health, Education, Labor, and Pensions. No further action was taken.

**Benefits for Certain Workers Unemployed by Terrorist Attack and The War on Iraq.** In response to the unemployment of airline and airline related workers resulting from the September 11, 2001 terrorist attacks, subsequent security measures taken, and the war with Iraq, P.L. 108-11, was signed into law on April 16, 2003. This temporary program provided up to 39 weeks of extended benefits to qualified individuals whose regular UC claim is based in whole, or in part, on qualifying employment with a certified air carrier, at a facility in an airport, or with a producer or supplier of products or services for an air carrier.<sup>9</sup> The program had two tiers of benefits, known as TEUC-A and TEUC-AX. These programs were authorized through the week ending before December 29, 2003, and there was a phaseout period for individuals with an existing claim that ran through the week ending before December 26, 2004. H.R. 3405, which did not pass either house, would have made employees of foreign air carriers eligible for TEUC-A and TEUC-AX.

## Other Proposals in Unemployment Compensation

**Tax Avoidance and Other Abuses of the UC system.** In 2004, the Administration proposed to require states to amend their state unemployment tax laws to deter schemes to avoid paying UC taxes through such means as transfers from businesses to shell companies (commonly referred to as State Unemployment Tax Acts, or SUTA, dumping) and to reduce UC benefit overpayments and fraud and abuse.

On August 28, 2004, the SUTA Dumping Prevention Act of 2004 (P.L. 108-295) was enacted. The law amended Title III of the Social Security Act (SSA), requiring the states to amend their UC laws to provide substantial penalties for SUTA Dumping Activities. It directed the Secretary of Labor to study and report on implementation of the requirement. P.L. 108-295 also revised Title IV part D of the SSA, directing the Secretary of Health and Human Services to disclose information on individuals and their employers in the National Directory of New Hires to a state agency for purposes of UC administration. The Secretary is to provide states access to the directory of the names and Social Security account numbers for faster detection of individuals who have gone back to work, but who continue to collect UC benefits.

**Personal Reemployment Accounts.** The Bush Administration initially proposed Personal Reemployment Accounts<sup>10</sup> (PRAs) in its 2003 economic stimulus package. On January 29, 2003, H.R. 444, the Back to Work Incentive Act was introduced. A \$3.6 billion proposal, this would have amended the Workforce Investment Act (WIA) of 1998 and authorized the Secretary of Labor to establish a personal reemployment accounts (PRAs) grant program. A voucher program, it would have made

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<sup>9</sup> For more detailed information, see U.S. Department of Labor, *Special Temporary Extended Unemployment Compensation for Displaced Airline Related Workers*, at [[http://www.workforcesecurity.doleta.gov/unemploy/factsheetteuc\\_a.asp](http://www.workforcesecurity.doleta.gov/unemploy/factsheetteuc_a.asp)].

<sup>10</sup> For more information on PRAs and subsequent activity in the 108<sup>th</sup> Congress, see CRS Report RL31825, *Personal Reemployment Accounts: Results from Bonus Experiments*, by (name redacted) and (name redacted).

individuals eligible for a PRA who (1) were identified as likely to exhaust UC benefits and in need of job search assistance to make a successful transition to new employment; (2) were receiving regular UC under any federal or state UC program administered by the state; and, (3) were eligible for at least 20 weeks of regular UC benefits. It would have allowed PRAs to be used to purchase intensive services, training services, or supportive services through the existing Employment Service's one-stop delivery system on a fee-for-service basis, or through other providers. It would have provided cash reemployment bonuses consisting of 60% of the balance of their PRAs, to recipients who obtained full-time employment before the end of the 13<sup>th</sup> week of unemployment for which UC benefits were paid, and the remaining 40% if recipients remained in those jobs for six months.

On March 20, 2004, H.R. 4444, Worker Reemployment Accounts Act of 2004, was introduced. The bill amended WIA to authorize the Secretary of Labor to establish and implement a demonstration project on PRAs. H.R. 444 was amended by the Committee on Education and the Workforce by substituting the language of H.R. 4444. Also inserted in H.R. 444, as passed by the House, were the texts of H.R. 4409 (Teacher Training Enhancement Act) and H.R. 4411 (Priorities for Graduate Studies Act). On June 3, 2004, the House passed H.R. 444 as amended by H.R. 4444. The bill was received in the Senate and referred to the Committee on Health, Education, Labor, and Pensions. No further action was taken.

**Expansion of Eligibility.** H.R. 1802, introduced on April 11, 2003, would have required states to expand eligibility for UC benefits to workers seeking part-time work and to use an individual's most recent earnings in determining UC eligibility (often referred to as the *alternate base period*), which would have made it easier for certain new or low-wage workers to qualify for UC benefits. States would have been prohibited from denying UC benefits to individuals solely because they were seasonal workers, because they left employment due to sexual harassment, because of loss of adequate child care for children under age 13, or because the individual was a victim of domestic violence. The bill expanded the UC tax wage base from the first \$7,000 of employee wages to the taxable wage base used for Social Security taxes (\$87,000 in 2003), and lowered the gross FUTA tax from 6.2% to 5.59%. No action on the bill was taken.

H.R. 2188 (in addition to extending and expanding TEUC ) would have provided several reforms to the UC system. The bill would have lowered the permanent EB program's insured unemployment rate (IUR) triggers from 5% to 4%, provided for variable earnings to be credited to state UC trust fund accounts depending on the state's ability to meet certain funding goals, and provided interest-free advances to state UC accounts only to states which met certain funding goals. The bill would have also provided a two-year suspension of federal income tax on UC benefits for taxable years beginning after December 31, 2002, and permitted states to collect FUTA taxes from employers in the state instead of FUTA taxes being sent to the Secretary of Labor for taxable years beginning after December 31, 2003. No action on the bill was taken.

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