Center on Budget and Policy Priorities

820 First Street NE, Suite 510
Washington, DC 20002

Tel: 202-408-1080
Fax: 202-408-1056

center@cbpp.org
www.cbpp.org

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HOUSE UNEMPLOYMENT INSURANCE PROPOSAL WOULD HARM JOBLESS WORKERS, WEAKEN ECONOMY, AND UNDERMINE UI SYSTEM

by Chad Stone and Hannah Shaw

The House Republican bill (H.R. 3630) to extend the payroll tax cut and federal emergency unemployment insurance (UI) through next year would sharply curtail the number of weeks of UI benefits available to the long-term unemployed, even though jobs remain scarce and long-term unemployment remains at unprecedented levels. In addition, it would institute numerous permanent changes to the UI system that would not only make it harder for workers who lose their jobs through no fault of their own to qualify for benefits, but also make the system more costly to administer.

For example, the bill would deny UI benefits to all workers who lack a high school diploma or certificate of General Educational Development (GED) and are not enrolled in classes to get one, regardless of their work history — even though employers would still pay UI taxes on the wages paid to these workers and those taxes would effectively come out of the workers' wages. The bill also would allow states to drug-test all UI applicants and condition eligibility on the results — a standard not used for other federal programs ranging from farm price supports to tax subsidies. And it would allow states to get waivers to institute policies that would use UI funds for purposes other than paying benefits, thereby undermining the fundamental purpose of UI since it was established in the 1930s, which is to provide financial assistance to workers who lose their jobs through no fault of their own while they look for a new job.

These and other punitive elements of the House Republican bill imply that unemployed workers aren't looking hard enough for a job and that too many of them are eligible for UI in the first place. In reality, there are about four jobless workers for every available position, so even if every available job were filled by an unemployed worker, nearly 10 million people would still be unemployed. Moreover, unemployed workers already must satisfy numerous requirements to claim UI benefits; largely as a result, only about 40 percent of the unemployed in a normal labor market receive UI.

Today's economic conditions, plus forecasts that unemployment will remain high for at least the next two years, justify continuing federal emergency UI as it is currently.

Shortening Federal Emergency UI Benefits Would Harm Jobless Workers and Economy

The House Republican bill would sharply reduce the duration of federal UI benefits for workers who exhaust their regular state UI benefits (which most states provide for up to 26 weeks) before they can find a job.

Unemployed workers looking for a job in high-unemployment states may currently receive up to 73 weeks of federally funded benefits — 53 weeks through the temporary Emergency Unemployment Compensation program (EUC) and 20 weeks through the extended benefits program (EB), a permanent state-federal program that temporarily receives full federal funding.[1] To receive this number of weeks of benefits, workers must be in a state where the unemployment rate exceeds 8.5 percent *and* the EB program is "triggered on."[2]

Federal UI Benefits Available Through EUC

	Unemployment Threshold	Additional Weeks
EUC under current policy		***up to 53***
	Tier 1: none	20
	Tier 2: none	14
	Tier 3: at least 6%	13
	Tier 4: at least 8.5%	6
EUC under House Republican bill		***up to 33***
	Tier 1: none	20
	Tier 2: at least 6%	13

Note: this table shows the number of weeks available in states that offer up to 26 weeks of regular UI benefits. The maximum duration of EUC is shorter if a state provides fewer weeks of regular benefits.

[1] For more detail on these programs, please see Hannah Shaw and Chad Stone, "Introduction to Unemployment Insurance," Center on Budget and Policy Priorities, April 16, 2010, http://www.cbpp.org/files/12-19-02ui.pdf.

The maximum number of weeks of federally funded benefits is less in states that have reduced the maximum number of weeks of *regular state* benefits below 26 weeks, because the number of weeks of federal benefits is reduced proportionately with the reduction in weeks of regular state benefits.

[2] States whose EB programs have been triggered on are those that have adopted the appropriate voluntary trigger and whose unemployment rate is significantly higher than it was in at least one of the previous three years. For more detail on the federal benefits currently available in each state, please see "Policy Basics: How Many Weeks of Unemployment Compensation Are Available," Center on Budget and Policy Priorities, http://www.cbpp.org/files/PolicyBasics_UI_Weeks.pdf.

As the table shows, EUC's 53 weeks of benefits are divided into four tiers, the first two of which (totaling 34 weeks) are available in all states. The House bill would both drop the maximum number of weeks of EUC benefits available in all states from 34 to 20, and reduce to 13 the number of additional weeks of EUC available in states where unemployment exceeds 6 percent.

In addition, it would allow the EB program to "trigger off" in most states now providing it over the first half of the year, thereby eliminating up to an additional 20 weeks of benefits in these states, which are the states hardest hit by the economic slump.[3] Finally, it would *abruptly* end EUC on January 31, 2012, eliminating the six-month phase-out provided in all prior extensions of the program.

These changes would shrink federal emergency UI expenditures for calendar year 2012 from $45 billion (which includes $1 billion to allow states to continue to provide EB) down to $34 billion. The result would be not only a reduction of up to 40 weeks in the UI benefits available to support unemployed job-seekers and their families, but also a substantial reduction in support for the U.S. economy. UI benefits are one of the highest — if not the highest — bang-for-the-buck stimulus programs that we have.

Changes That Undermine the UI System

The House Republican bill includes a number of provisions that would *permanently* damage the UI program by changing its fundamental nature and making it much harder for otherwise-qualified workers to receive benefits when they are laid off due to no fault of their own. It would also make changes to the temporary federal emergency UI programs that would reduce their effectiveness.

Permanent Changes to State UI Programs

Allowing states to use UI trust funds for purposes other than paying benefits. Each year, the bill would allow the Secretary of Labor to waive in ten states the basic requirement that money paid into states' UI trust funds be used solely to provide benefits to unemployed workers. These waivers would undermine the fundamental social insurance nature of UI, which is to provide financial support for job-seekers with established earnings histories who have lost their jobs through no fault of their own.

Imposing a minimum education requirement. A provision of the House bill would make laid-off workers ineligible for UI unless they had a high school diploma or a certificate of General Educational Development (GED) or were "enrolled and making satisfactory progress in classes" leading to one. This proposal would:

- *Restrict access to UI for laid-off workers with low education levels.* It is inequitable to single out workers with the lowest levels of educational attainment and target them for a denial of benefits after

[3] EB is triggered on in a state if the unemployment rate is above specified thresholds *and* is 10 percent higher than it was in any of the past three years. Since the current downturn has led to a protracted period of very high unemployment, most states will "trigger off" EB in the coming months because the unemployment rate in those states, though very high, will not be 10 percent *higher* than it was in the past three years. Policymakers could maintain the current EB program by increasing the duration of the "lookback" to four years or suspending it.

they have worked — often for years — and then been laid off due to no fault of their own. Moreover, many laid-off workers without a diploma or GED are in their 50s or 60s and have long employment records, therefore going back to high school makes little sense.[4]

- *Alter the essential nature of the UI program.* UI is a social insurance program in which eligibility is conditional on employment history. No individual is eligible for UI unless he or she has been actively employed, and the duration and level of a worker's benefits is determined by his or her work history. Adding in a minimum educational requirement would undermine the program's social insurance nature by conditioning eligibility on something other than work. Employers would still pay UI taxes on the wages paid to workers who lacked a high school diploma or GED, and those taxes would effectively come out of the workers' wages. Yet if the workers then lost their jobs, they would be denied UI.

- *Overwhelm already underfunded state and local adult education programs.* Workers not meeting the "minimum educational requirements" would have to enroll in adult education programs to qualify for UI. But state and local adult education programs are already underfunded and overwhelmed, and their budgets are being cut; a 2009-2010 survey reported waiting lists for adult education and ESL (English as a Second Language) programs in nearly every state and in over three-quarters of local programs.[5] As the National Employment Law Project has noted, "Shutting workers out of the UI system because they are under-educated will not magically educate them, but it will push them further into the margins of our economy and society."[6]

Permitting drug testing. States would be allowed to conduct drug tests on applicants for UI and condition eligibility on the results. (States currently may not base eligibility for UI on matters unrelated to a worker's employment.) Allowing states to conduct drug-testing on jobless workers who apply for UI would add burden (and insult) to workers who have been laid off. It also would be costly for states to administer.

The National Employment Law Project has reported that "20 states explicitly deny benefits for any job loss connected to drug use or a failed drug test while the remaining states would also likely treat a drug-related discharge as disqualifying misconduct even though it is not explicitly referenced in their discharge statutes. Thus, states already restrict eligibility for workers whose job loss is related to drug use. But that is a far cry from allowing states to start engaging in witch hunts in which they test each and every UI applicant for drug use."[7]

Mandating full recovery of overpayments. States currently may make deductions from an individual's UI benefits to recover any overpayments, including overpayments that are not the individual's fault (overpayments can result from state agency errors). But states have the discretion

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[4] The provision would allow states to grant waivers where the requirement would be unduly burdensome, but it includes no standards for such waivers and there is no assurance that states would make significant use of them.

[5] National Council of State Directors of Adult Education, "Adult Student Waiting List Survey, 2009-2010, http://www.naepdc.org/publications/2010%20Adult%20Education%20Waiting%20List%20Report.pdf.

[6] National Employment Law Project, "House Leadership Bill Slashes Unemployment Insurance," December 12, 2011, http://www.nelp.org/page/-/UI/2011/Leg_Update_House_UI_Bill.pdf?nocdn=1.

[7] *Ibid.*

to grant waivers for individuals in cases of extreme hardship. The House bill would rewrite these provisions to *require* states to deduct payments from *all* individuals who had received an overpayment and *deny* states the right to grant waivers for serious hardship.

Imposing uniform federal job search requirements. Expecting UI recipients to look for work is eminently reasonable, and most states already have job search requirements in their UI programs. The House Republican bill, however, would require all UI applicants in all states to provide evidence *each week* of their job search activities, likely imposing major administrative burdens and costs on state UI systems that are already straining from the unprecedented workloads they face. Such a federal mandate would add extensive new paperwork and costs and be particularly ineffective at reducing unemployment at a time when the major barrier to finding work is a severe lack of jobs.

Changes to the Temporary Federal Emergency Unemployment Programs

Eliminating temporary protection against benefit cuts. Jobless workers are currently protected from state actions that would cut UI benefit levels: states that accept federal support for UI benefits for the long-term unemployed — as all states do — may not cut UI benefit levels while receiving that federal support. The House Republican bill, however, would eliminate this protection.

This would not only add to the hardship that workers and their families face but also weaken the economic recovery by encouraging states to respond to fiscal pressures by reducing the income of jobless workers. The purpose of this provision of the House bill appears to be to enable states that have underfunded their UI programs to address their solvency issues by cutting workers' UI benefits. The more appropriate policy is to encourage states to restore the proper financing of their UI trust funds over time, not to encourage them simply to cut benefits. The average weekly benefit nationally already is smaller (as a share of the average weekly wage) than it was 30 years ago. Moreover, states have let the share of wages that is subject to UI taxes plummet.

Requiring states to provide additional reemployment services and funding those services *from workers' benefit checks.* This provision is similar to one proposed by the President in the American Jobs Act (AJA), but with a "catch" — while the President provided additional funding for states to offer these services, the House Republican bill instead allows states to charge unemployed workers for the services by cutting their EUC benefits by $5 a week.[8] The average weekly UI benefit is only about $300 and replaces less than half of the average worker's previous wages.

Allowing states to provide services instead of EUC benefits. This provision would allow states to use federal funds for the long-term unemployed to provide services instead of UI benefits for a portion of the EUC participants in their state. The proposal references many of the reemployment services and activities included in the American Jobs Act,[9] but there is a fundamental

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[8] States would be required to provide labor market and career information, assess the skills of the individual, provide orientation describing the services available at WIA one-stop centers, and review job search activities to ensure individuals remain eligible for EUC. States would be allowed to provide comprehensive and specialized assessments, individual and career counseling, training, and reemployment services. Under the American Jobs Act, states would be *required* to provide individualized job search counseling; under the House Republican bill, they would simply be allowed to do so.

[9] Examples include: one-on-one assessments, self-employment assistance programs, work share, and subsidies for employer-provided training.

difference — the AJA provided *additional* funding for these services, while the House Republican bill would allow states to divert funds from paying EUC benefits to cover the cost of the services. The American Jobs Act also provided important protections for participants in these programs to ensure that basic, longstanding labor laws apply to their employment. For example, with approval from the Secretary of Labor, states could effectively allow employers to avoid paying even the minimum wage by offering employers free labor from UI claimants (or by requiring UI claimants to "work off" their benefits).

Imposing minimum educational requirements for EUC claimants. This is the same proposal as the House bill would impose on the permanent state UI system.

Mandating full recovery of overpayments. This provision, too, is akin to the one discussed above as a permanent change to state UI programs, although it is even harsher. Unlike current law, which specifies that a deduction cannot *exceed* 50 percent of a worker's weekly benefit, it would require that the deductions be equal to *no less than* 50 percent of the worker's weekly EUC benefit (unless the overpayment was smaller than that) and allow the deduction to equal 100 percent of a worker's benefit. And like the recovery provision discussed above, it would bar states from granting waivers for severe hardship.

Economic Conditions Warrant Continuing Current Federal Program

Current economic conditions justify continuing federal emergency UI as it is, which would entail making an adjustment to keep EB available in high-unemployment states. The U.S. economy continues to suffer from protracted high unemployment. The drop in the unemployment rate to 8.6 percent in November is much more likely to have been a statistical anomaly than a harbinger of further large reductions in the unemployment rate anytime soon. CBO forecasts that the unemployment rate will average 8.7 percent in both 2012 and 2013 and jobs will continue to be hard to find.[10]

In addition, two-fifths of the unemployed have been looking for work for over six months, a larger share than at any time in the last 60 years (prior to the current downturn). Data from the Pew Economic Policy Group indicate that over half of the long-term unemployed have been out of work for over a year. More than two years after the economy hit bottom and started to grow again, there are still four unemployed workers looking for a job for every available job opening.

Furthermore, CBO ranks UI as the highest "bang-for-the-buck" program among the 11 it considered in its latest evaluation of policies to increase growth and employment.[11] Thus, UI not only helps unemployed workers struggling to find a job in a weak economy but also helps strengthen the recovery.

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[10] Congressional Budget Office, "The Budget and Economic Outlook: An Update," August 2011, http://www.cbo.gov/doc.cfm?index=12316.

[11] Congressional Budget Office, "Policies for Increasing Economic Growth and Employment in 2012 and 2013," November 15, 2011, http://www.cbo.gov/ftpdocs/124xx/doc12437/11-15-Outlook_Stimulus_Testimony.pdf.

It also is important to understand that the amount of support that federal emergency UI programs provide will decline automatically as the economy improves and states' unemployment rates drop. States will lose the fourth tier of EUC (6 weeks) when their unemployment rate drops below 8.5 percent, and EB will drop from 20 weeks to 13 weeks when their unemployment rate falls below 8 percent. EB ends altogether when a state's unemployment rate falls below 6.5 percent, and states lose the third tier of EUC (13 weeks) when their unemployment rate drops below 6 percent. Federal emergency UI programs have always been temporary, although Congress has never let them expire until the economy was considerably stronger than it is now; Congress has never let federal emergency unemployment insurance programs expire until the unemployment rate has fallen to 7.2 percent or less.

Notwithstanding claims to the contrary from those who want to substantially cut back federal emergency UI, most careful studies find that very little of the increase in unemployment since 2007 can be attributed to the additional weeks of benefits provided through EUC and EB. In a recent study, for example, Berkeley economist Jesse Rothstein concludes that "in the absence of unemployment insurance extensions, the unemployment rate in December 2010 would have been about 0.3 percentage points lower and the long-term share of unemployment would have been about 1.6 percentage points lower."[12] Moreover, Rothstein finds that more than half of that effect was due to the beneficial effect of UI's keeping unemployed workers in the labor force looking for work rather than dropping out in discouragement, which would have reduced the unemployment rate but not helped them or the economy or resulted in more workers having jobs.

Conclusion

Unemployment is high *not* because the UI system is paying benefits to too many unemployed workers for too long but because we are still climbing out of the worst recession in half a century. Policymakers should protect the integrity of the UI program by declining to accept dangerous "reforms" and by continuing to provide federal UI benefits in 2012 that give critical support to the economy and to the record numbers of long-term unemployed workers.

Policymakers should invest in workers and offer services to improve their capacity — and hence the capacity of the economy as a whole — over the long term, but these investments should complement the UI system, not come at its expense. Allowing permanent changes to the UI system that restrict access and eligibility and allow states to divert to other purposes funding that is intended for UI benefits is an ill-advised approach that will have detrimental effects on the economy and American workers now and in the future.

[12] Jesse Rothstein, Unemployment Insurance and Job Search in the Great Recession, National Bureau of Economic Research, Working Paper No. 17534, October 2011, http://www.nber.org/papers/w17534.pdf.