

EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1991

[Public Law 102-107]

[As Amended Through P.L. 102-318, Enacted July 3, 1992]

【Currency: This publication is a compilation of the text of Public Law 102-107. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

SECTION 1. SHORT TITLE.

This Act may be cited as the “Emergency Unemployment Compensation Act of 1991”.

TITLE I—EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM

SEC. 101. FEDERAL-STATE AGREEMENTS.

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this Act with the Secretary of Labor (hereafter in this Act referred to as the “Secretary”). Any State which is a party to an agreement under this Act may, upon providing 30 days written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—Any agreement under subsection (a) shall provide that the State agency of the State will make payments of emergency unemployment compensation—

(1) to individuals who—

(A) have exhausted all rights to regular compensation under the State law,

(B) have no rights to compensation (including both regular compensation and extended compensation) with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law (and are not paid or entitled to be paid any additional compensation under any State or Federal law), and

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada, and

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(2) for any week of unemployment which begins in the individual's period of eligibility (as defined in section 106(a)(2)).

(c) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1)(A), an individual shall be deemed to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual's base period, or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) WEEKLY BENEFIT AMOUNT.—For purposes of any agreement under this Act—

(1) the amount of emergency unemployment compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to such individual during such individual's benefit year under the State law for a week of total unemployment,

(2) the terms and conditions of the State law which apply to claims for extended compensation and to the payment thereof shall apply to claims for emergency unemployment compensation and the payment thereof, except where inconsistent with the provisions of this Act or with the regulations or operating instructions of the Secretary promulgated to carry out this Act, and

(3) the maximum amount of emergency unemployment compensation payable to any individual for whom an account is established under section 102 shall not exceed the amount established in such account for such individual.

(e) ELECTION BY STATES; WEEKS OF BENEFITS DURING PHASE-OUT.—

(1) ELECTION BY STATES.—Notwithstanding any other provision of Federal law (and if State law permits), the Governor of a State¹ is authorized to and may elect to trigger off an extended compensation period in order to provide payment of emergency unemployment compensation to individuals who have exhausted their rights to regular compensation under State law. The preceding sentence shall not be applicable with respect to any extended compensation period which begins after February 5, 1994, nor shall the special rule in section 203(b)(1)(B) of the Federal-State Extended Unemployment Compensation Act of 1970 (or the similar provision in any State law) operate to preclude the beginning of an extended compensation period after February 5, 1994, because of the ending of an earlier extended compensation period under the preceding sentence.

(2) WEEKS OF BENEFITS DURING PHASE-OUT.—Notwithstanding subsection (b)(1)(B) or any other provision of law, whenever an extended compensation period is beginning in a

¹Section 1(b)(1) of P.L. 102-244 (106 Stat. 3) instructed that section 101(e) is amended by striking "in a 20-week period or 13-week period, as defined in section 102,". The amendment probably should have included "a" before "13-week".

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State after February 5, 1994, an individual, who is entitled to extended compensation in the new extended compensation period (whether or not the individual applies therefor) and also has remaining entitlement to emergency unemployment compensation under this Act, shall be entitled to compensation under the program in which the individual's monetary entitlement (as of the beginning of the first week of the extended compensation period) is the greater.

SEC. 102. EMERGENCY UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) **IN GENERAL.**—Any agreement under this Act shall provide that the State will establish, for each eligible individual who files an application for emergency unemployment compensation, an emergency unemployment compensation account with respect to such individual's benefit year.

(b) **AMOUNT IN ACCOUNT.**—

(1) **IN GENERAL.**—The amount established in an account under subsection (a) shall be equal to the lesser of—

(A) 130 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual with respect to the benefit year (as determined under the State law) on the basis of which the individual most recently received regular compensation, or

(B) the applicable limit times the individual's average weekly benefit amount for the benefit year.

(2) **APPLICABLE LIMIT.**—For purposes of this section—

(A) **IN GENERAL.**—Except as otherwise provided in this paragraph—

(i) **IN GENERAL.**—

(I) In the case of weeks beginning during a high unemployment period, the applicable limit is 33.

(II) In the case of weeks not beginning in a high unemployment period, the applicable limit is 26.

(ii) **REDUCTION FOR WEEKS AFTER JUNE 13, 1992.**—In the case of weeks beginning after June 13, 1992—

(I) clause (i) of this subparagraph shall be applied by substituting "26" for "33", and by substituting "20" for "26", and

(II) subparagraph (A) of paragraph (1) shall be applied by substituting "100 percent" for "130 percent".

(iii) **REDUCTION FOR WEEKS IN 7-PERCENT PERIOD.**—In the case of weeks beginning in a 7-percent period—

(I) clause (ii) of this subparagraph shall not apply,

(II) clause (i) of this subparagraph shall be applied by substituting "15" for "33", and by substituting "10" for "26", and

(III) subparagraph (A) of paragraph (1) shall be applied by substituting "60 percent" for "130 percent".

(iv) REDUCTION FOR WEEKS IN 6.8-PERCENT PERIOD.—In the case of weeks beginning in a 6.8-percent period—

(I) clauses (ii) and (iii) of this subparagraph shall not apply,

(II) clause (i) of this subparagraph shall be applied by substituting “13” for “33”, and by substituting “7” for “26”, and

(III) subparagraph (A) of paragraph (1) shall be applied by substituting “50 percent” for “130 percent”.

(v) 7-PERCENT PERIOD; 6.8-PERCENT PERIOD.—For purposes of this subparagraph—

(I) A 7-percent period means a period which begins with the second week after the first week for which the requirements of subclause (II) are met and a 6.8 percent period means a period which begins with the second week after the first week for which the requirements of subclause (III) are met.

(II) The requirements of this subclause are met for any week if the average rate of total unemployment (seasonally adjusted) for all States for the period consisting of the most recent 2-calendar month period (for which data are published before the close of such week) is at least 6.8 percent, but less than 7 percent.

(III) The requirements of this subclause are met for any week if the average rate of total unemployment (seasonally adjusted) for all States for the period consisting of the most recent 2-calendar month period (for which data are published before the close of such week) is less than 6.8 percent.

In no event shall a 7-percent period occur after a 6.8-percent period occurs and a 6.8-percent period, once begun, shall continue in effect for all weeks for which benefits are provided under this Act.

(vi) REDUCTION OF WEEKS AFTER OCTOBER 2, 1993.—In the case of weeks beginning after October 2, 1993—

(I) clause (i) of this subparagraph shall be applied by substituting “13” for “33” and by substituting “7” for “26”,

(II) clauses (ii), (iii), (iv), and (v) of this subparagraph shall not apply, and

(III) subparagraph A of paragraph (1) shall be applied by substituting “50 percent” for “130 percent”.

(vii) LIMITATIONS ON REDUCTIONS.—In the case of an individual who is receiving emergency unemployment compensation for a week preceding the first week for which a reduction applies under clause (ii), (iii), (iv), or (vi) of this subparagraph, such reduction shall not apply to such individual for the first week of

such reduction or any week thereafter for which the individual meets the eligibility requirements of this Act.

(B) **APPLICABLE LIMIT NOT REDUCED.**—Except as provided in clauses (ii), (iii), (iv)¹ and (vi) of subparagraph (A), an individual's applicable limit for any week shall in no event be less than the highest applicable limit in effect for any prior week for which emergency unemployment compensation was payable to the individual from the account involved.

(C) **INCREASE IN APPLICABLE LIMIT.**—If the applicable limit in effect for any week is higher than the applicable limit for any prior week, the applicable limit shall be the higher applicable limit, reduced (but not below zero) by the number of prior weeks for which emergency unemployment compensation was paid to the individual from the account involved.

(3) **REDUCTION FOR EXTENDED BENEFITS.**—The amount in an account under paragraph (1) shall be reduced (but not below zero) by the aggregate amount of extended compensation (if any) received by such individual relating to the same benefit year under the Federal-State Extended Unemployment Compensation Act of 1970.

(4) **WEEKLY BENEFIT AMOUNT.**—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

(c) **HIGH UNEMPLOYMENT PERIOD.**—For purposes of this section—

(1) **IN GENERAL.**—The term “high unemployment period” means, with respect to any State, the period which—

(A) begins with the third week after the first week for which the requirements of paragraph (2) are satisfied, and

(B) ends with the third week after the first week for which the requirements of paragraph (2) are not satisfied.

(2) **REQUIREMENTS.**—For purposes of paragraph (1), the requirements of this paragraph are satisfied for any week if—

(A) the adjusted rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is at least 5 percent, or

(B) the average rate of total unemployment in such State for the period consisting of the most recent 6-calendar month period (for which data are published before the close of such week) is at least 9 percent.

[Subsection (d) - Repealed]

(e) **SPECIAL RULES.**—

(1) **MINIMUM DURATION.**—A high unemployment period shall last for not less than 13 weeks.

(2) **NOTIFICATION BY SECRETARY.**—When a determination has been made that a high unemployment period is beginning

¹ So in original. Probably should have a comma after “(iv)”.

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or ending with respect to a State, the Secretary shall cause notice of such determination to be published in the Federal Register.

(f) EFFECTIVE DATE.—

(1) **IN GENERAL.**—Except as provided in paragraphs (2) and (3), no emergency unemployment compensation shall be payable to any individual under this Act for any week—

(A) beginning before the later of—

(i) November 17, 1991, or

(ii) the first week following the week in which an agreement under this Act is entered into, or

(B) beginning after February 5, 1994.

(2) **TRANSITION.**—In the case of an individual who is receiving emergency unemployment compensation for a week prior to or including February 5, 1994, emergency unemployment compensation shall continue to be payable to such individual for any week thereafter for which the individual meets the eligibility requirements of this Act. No compensation shall be payable by reason of the preceding sentence for any week beginning after April 30, 1994.

(3) REACHBACK PROVISIONS.—

(A) **IN GENERAL.**—If any individual has a benefit year which ends after February 28, 1991, such individual shall be entitled to emergency unemployment compensation under this Act in the same manner as if such individual's benefit year ended no earlier than the last day of the first week following November 16, 1991.

(B) **LIMITATION OF BENEFITS.**—In the case of an individual who has exhausted such individual's rights to both regular and extended compensation, any emergency unemployment compensation payable under subparagraph (A) shall be reduced in accordance with subsection (b)(3).

(g) TRANSITIONAL RULES.—

(1) **IN GENERAL.**—For purposes of determining whether a high unemployment period is in effect with respect to any State for the 1st week for which emergency unemployment compensation may be payable under this title in such State, this Act shall be treated as having been in effect for all weeks ending on or after October 19, 1991.

(2) **SPECIAL RULES.**—A high unemployment period shall begin in any State with the 1st week for which emergency unemployment compensation may be payable in such State under this title if, on the basis of information submitted to the Committee on Ways and Means of the House of Representatives by the Department of Labor on November 7, 1991, the requirements of subsection (c)(2) are satisfied by such State for the week which ends October 19, 1991.

SEC. 103. PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF EMERGENCY UNEMPLOYMENT COMPENSATION.

(a) **GENERAL RULE.**—There shall be paid to each State which has entered into an agreement under this Act an amount equal to 100 percent of the emergency unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) TREATMENT OF REIMBURSABLE COMPENSATION.—No payment shall be made to any State under this section in respect of any compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this Act or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this Act in respect of such compensation.

(c) DETERMINATION OF AMOUNT.—Sums payable to any State by reason of such State having an agreement under this Act shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this Act for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

SEC. 104. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905 of the Social Security Act) of the Unemployment Trust Fund shall be used for the making of payments to States having agreements entered into under this Act.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this Act. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as established by section 905 of the Social Security Act) to the account of such State in the Unemployment Trust Fund.

(c) ASSISTANCE TO STATES.—There are hereby authorized to be appropriated, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act) in meeting the costs of administration of agreements under this Act.

(d) AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are authorized to be appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as established by section 905 of the Social Security Act) such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code, and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

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Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

(e) **TRANSFER OF FUNDS.**—Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated)—

(1) to the extended unemployment compensation account (as established by section 905 of the Social Security Act) such sums as are necessary to make payments to States under this Act by reason of the amendments made by sections 101 and 102 of the Unemployment Compensation Amendments of 1992, and

(2) to the employment security administration account (as established by section 901 of the Social Security Act) such sums as may be necessary for purposes of assisting States in meeting administrative costs by reason of the amendments made by sections 101, 102, 201, and 202 of the Unemployment Compensation Amendments of 1992.

There is hereby appropriated from such accounts the sums referred to in the preceding sentence and such sums shall not be required to be repaid.

SEC. 105. FRAUD AND OVERPAYMENTS.

(a) **IN GENERAL.**—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of emergency unemployment compensation under this Act to which he was not entitled, such individual—

(1) shall be ineligible for further emergency unemployment compensation under this Act in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation, and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) **REPAYMENT.**—In the case of individuals who have received amounts of emergency unemployment compensation under this Act to which they were not entitled, the State shall require such individuals to repay the amounts of such emergency unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such emergency unemployment compensation was without fault on the part of any such individual, and

(2) such repayment would be contrary to equity and good conscience.

(c) **RECOVERY BY STATE AGENCY.**—

(1) **IN GENERAL.**—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any emergency unemployment compensation payable to such individual under this Act or from any unemployment compensation payable to such individual under any Federal unem-

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ployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the emergency unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) **OPPORTUNITY FOR HEARING.**—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) **REVIEW.**—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 106. DEFINITIONS.

(a) **IN GENERAL.**—For purposes of this Act:

(1) **IN GENERAL.**—The terms “compensation”, “regular compensation”, “extended compensation”, “additional compensation”, “benefit year”, “base period”, “State”, “State agency”, “State law”, and “week” have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

(2) **PERIOD OF ELIGIBILITY.**—An individual’s period of eligibility consists of any week which begins on or after November 17, 1991, and which (except as provided in section 102(f)(2)) begins before February 5, 1994; except that an individual shall not have any period of eligibility unless his benefit year ends on or after November 16, 1991.

(3) **ADJUSTED RATE OF INSURED UNEMPLOYMENT.**—The adjusted rate of insured unemployment for any period shall be determined in the same manner as the rate of insured unemployment is determined under section 203 of the Federal-State Extended Unemployment Compensation Act of 1970; except that individuals exhausting their rights to regular compensation during the most recent 3 calendar months for which data are available before the close of the period for which such rate is being determined shall be taken into account as if they were individuals filing claims for regular compensation for each week during the period for which such rate is being determined.

(4) **RATE OF TOTAL UNEMPLOYMENT.**—The term “rate of total unemployment” means, with respect to any period, the average unadjusted total rate of unemployment (as determined by the Secretary) for a State for such period.

(b) **ROUNDING.**—For purposes of this Act, any rate determined under paragraph (3) or (4) of subsection (a) shall be rounded to the nearest $\frac{1}{10}$ th of a percent.

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TITLE V—RAILROAD UNEMPLOYMENT INSURANCE

SEC. 501. EXTENDED RAILROAD UNEMPLOYMENT INSURANCE BENEFITS DURING PERIODS OF HIGH NATIONAL UNEMPLOYMENT.

(a) **IN GENERAL.**—For purposes of section 2(h) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(h)(2)), a “period of high unemployment” includes any month during the period November 1991 through February 1994.

(b) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraphs (2) and (3), no employee shall have an extended benefit period under the second proviso of section 2(c) of the Railroad Unemployment Insurance Act beginning before November 17, 1991, or after February 5, 1994.

(2) **TRANSITION.**—If an employee has established an extended benefit period under the second proviso of section 2(c) of the Railroad Unemployment Insurance Act and the last day of such extended benefit period, as established, is after February 5, 1994, such employee shall continue to be entitled to extended unemployment benefits for days of unemployment in registration periods included in such extended benefit period, provided that such employee meets the eligibility requirements of this section and the Railroad Unemployment Insurance Act.

(3) **REACHBACK PROVISIONS.**—If an employee has exhausted that employee’s rights to normal unemployment benefits under section 2(c) of the Railroad Unemployment Insurance Act after February 28, 1991, but before November 17, 1991, such employee shall, for the purposes of the application of this section, be deemed to have exhausted such rights after November 17, 1991.

(c) **LIMITATION ON PAYMENT.**—Extended benefits under this section shall be payable for a maximum of 65 days of unemployment, including any extended benefits payable by reason of the application of the reachback provisions.

(d) **ENLARGEMENT OF BENEFITS.**—

(1) **GENERALLY.**—During the period that begins on the date of the enactment of this subsection—

(A) subsection (c) of this section shall be applied by substituting “130” for “65”;

(B) section 2(c) of the Railroad Unemployment Insurance Act shall be applied—

(i) by substituting “13 (but not more than 130 days)” for “7 (but not more than 65 days)” in the table; and

(ii) by substituting “but not by more than 130 days” for “but not by more than sixty-five days” in the second proviso; and

(C) section 2(h)(1) of the Railroad Unemployment Insurance Act shall be applied by substituting “13” for “seven”.

(2) **PHASE-OUT.**—

(A) BENEFITS ON OR AFTER JUNE 14, 1992.—Effective on and after June 14, 1992, paragraph (1) of this section shall be applied by substituting “100” for “130” each place it appears, and by substituting “10” for “13” each place it appears.

(B) REDUCTIONS UNDER EMERGENCY COMPENSATION EXTENSION PROVISIONS.—

(i) Effective on and after the date on which a reduction in benefits is imposed under section 102(b)(2)(A)(iii), subparagraph (A) of this paragraph and subparagraphs (B) and (C) of paragraph (1) shall not apply and subparagraph (A) of paragraph (1) shall be applied by substituting “50” for “130”.

(ii) Effective after October 2, 1993, subparagraph (A) of this paragraph and subparagraphs (B) and (C) of paragraph (1) shall not apply and subparagraph (A) of paragraph (1) shall be applied by substituting “35” for “130”.

(C) LIMITATIONS ON REDUCTIONS.—Notwithstanding subparagraphs (A) and (B), in the case of an individual who is receiving extended benefits under section 2(c) of the Railroad Unemployment Insurance Act for persons with 10 or more but less than 15 years of service, or extended benefits by reason of this section, for any day during a week which precedes a period for which a reduction under this paragraph takes effect, such reduction shall not apply for purposes of determining the amount of benefits payable to such individual for any day thereafter for which the individual meets the eligibility requirements of this section and the Railroad Unemployment Insurance Act.

(e) TERMINATION OF BENEFITS.—In the case of an individual who is receiving extended benefits by reason of this section on February 5, 1994, such benefits shall not continue to be payable to such individual after April 30, 1994.

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