

Public Law 102-107
102d Congress

An Act

To provide emergency unemployment compensation, and for other purposes.

Aug. 17, 1991
[H.R. 3201]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. 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

(2) for any week of unemployment which begins in the individual's period of eligibility (as defined in section 7(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

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compensation (including dependent's 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 3 shall not exceed the amount established in such account for such individual.

(e) **ELECTION.**—Notwithstanding any other provision of Federal law (and if State law permits), the Governor of a State in a 7-percent period or an 8-percent period, as defined in section 3(c), 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.

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SEC. 3. 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) 100 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 provided in this paragraph, the applicable limit shall be determined under the following table:

In the case of weeks beginning during a:	The applicable limit is:
8-percent period.....	20
7-percent period.....	13
6-percent period.....	7
Other period	4.

(B) **APPLICABLE LIMIT NOT REDUCED.**—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) **DETERMINATION OF PERIODS.**—

(1) **IN GENERAL.**—For purposes of this section, the terms "8-percent period", "7-percent period", "6-percent period", and "other period" mean, with respect to any State, the period which—

(A) begins with the second Sunday of the month after the first month during which the applicable trigger for such period is on, and

(B) ends with the Saturday immediately preceding the second Sunday of the month after the first month during which the applicable trigger for such period is off.

(2) **APPLICABLE TRIGGER.**—In the case of an 8-percent period, 7-percent period, 6-percent period, or other period, as the case may be, the applicable trigger is on for any week with respect to any such period if the average rate of total unemployment in the State for the period consisting of the most recent 6-calendar month period for which data are available—

(A) equals or exceeds 6 percent, and

(B) falls within the applicable range (as defined in paragraph (3)).

Subparagraph (A) shall only apply in the case of an 8-percent period, 7-percent period, or 6-percent period.

(3) **APPLICABLE RANGE.**—For purposes of this subsection, the applicable range is as follows:

In the case of a:	The applicable range is:
8-percent period.....	A rate equal to or exceeding 8 percent.
7-percent period.....	A rate equal to or exceeding 7 percent but less than 8 percent.
6-percent period.....	A rate equal to or exceeding 6 percent but less than 7 percent.
Other period.....	A rate less than 6 percent.

(4) **SPECIAL RULES FOR DETERMINING PERIODS.**—

(A) **MINIMUM PERIOD.**—Except as provided in subparagraph (B), if for any week beginning after August 31, 1991, an 8-percent period, 7-percent period, 6-percent period, or other period, as the case may be, is triggered on with respect to such State, such period shall last for not less than 13 weeks.

(B) **EXCEPTION IF APPLICABLE RANGE INCREASES.**—If, but for subparagraph (A), another period with a higher applicable range would be in effect for such State, such other period shall take effect without regard to subparagraph (A).

(5) **NOTIFICATION BY SECRETARY.**—When a determination has been made that an 8-percent period, 7-percent period, 6-percent

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

(d) **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) September 1, 1991, or

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

(B) beginning after July 4, 1992.

(2) **TRANSITION.**—In the case of an individual who is receiving emergency unemployment compensation for a week which includes July 4, 1992, such compensation shall continue to be payable to such individual in accordance with subsection (b) for any week beginning in a period of consecutive weeks for each of which the individual meets the eligibility requirements of this Act.

(3) **REACHBACK PROVISIONS.**—(A) **IN GENERAL.**—If—

(i) any individual exhausted such individual's rights to regular compensation (or extended compensation) under the State law after March 31, 1991, and before the first week following August 31, 1991 (or, if later, the week following the week in which the agreement under this Act is entered into), and

(ii) a period described in subsection (c)(2)(A) is in effect with respect to the State for the first week following August 31, 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 such following week.

(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).

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SEC. 4. 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 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 his 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. 5. FINANCING PROVISIONS.

26 USC 3304
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(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.

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SEC. 6. FRAUD AND OVERPAYMENTS.

26 USC 3304
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(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 unemployment 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.

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SEC. 7. DEFINITIONS.

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 meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

(2) **ELIGIBILITY PERIOD.**—An individual’s eligibility period shall consist of the weeks in the individual’s benefit year which begin in an 8-percent period, 7-percent period, 6-percent period, or other period under this Act and, if the individual’s benefit year ends on or after August 31, 1991, any weeks thereafter which begin in any such period. In no event shall an individual’s period of eligibility include any weeks after the 39th week after the end of the benefit year for which the individual exhausted his rights to regular compensation or extended compensation.

(3) **RATE OF TOTAL UNEMPLOYMENT.**—The term “rate of total unemployment” means the average unadjusted total rate of unemployment (as determined by the Secretary) for a State for the period consisting of the most recent 6-calendar month period for which data are available.

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SEC. 8. PAYMENTS OF UNEMPLOYMENT COMPENSATION TO FORMER MEMBERS OF THE ARMED FORCES.

(a) **REPEAL OF CERTAIN LIMITATIONS.**—Subsection (c) of section 8521 of title 5, United States Code, is hereby repealed.

(b) **REDUCTION IN LENGTH OF REQUIRED ACTIVE DUTY BY RESERVES.**—Paragraph (1) of section 8521(a) of such title 5 is amended by striking “180 days” and inserting “90 days”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to weeks of unemployment beginning on or after the date of the enactment of this Act.

5 USC 8521
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SEC. 9. ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION.

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42 USC 1108.

Section 908 of the Social Security Act is amended to read as follows:

“ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION

“SEC. 908. (a) ESTABLISHMENT.—Not later than February 1, 1992, and every 4th year thereafter (but not before February 1 of such 4th year), the Secretary of Labor shall establish an advisory council to be known as the Advisory Council on Unemployment Compensation (referred to in this section as the ‘Council’).

“(b) FUNCTION.—It shall be the function of each Council to evaluate the unemployment compensation program, including the purpose, goals, countercyclical effectiveness, coverage, benefit adequacy, trust fund solvency, funding of State administrative costs, administrative efficiency, and any other aspects of the program and to make recommendations for improvement.

“(c) MEMBERS.—

“(1) IN GENERAL.—Each Council shall consist of 11 members as follows:

“(A) 5 members appointed by the President, to include representatives of business, labor, State government, and the public.

“(B) 3 members appointed by the President pro tempore of the Senate, in consultation with the Chairman and ranking member of the Committee on Finance.

“(C) 3 members appointed by the Speaker of the House, in consultation with the Chairman and ranking member of the Committee on Ways and Means.

“(2) QUALIFICATIONS.—In appointing members under subparagraphs (B) and (C), the President pro tempore of the Senate and the Speaker of the House shall each appoint—

“(A) 1 representative of the interests of business,

“(B) 1 representative of the interests of labor, and

“(C) 1 representative of the interests of State governments.

“(3) VACANCIES.—A vacancy in any Council shall be filled in the manner in which the original appointment was made.

“(4) CHAIRMAN.—The President shall appoint the Chairman. President.

“(d) STAFF AND OTHER ASSISTANCE.—

“(1) IN GENERAL.—Each council may engage any technical assistance (including actuarial services) required by the Council to carry out its functions under this section.

“(2) ASSISTANCE FROM SECRETARY OF LABOR.—The Secretary of Labor shall provide each Council with any staff, office facilities, and other assistance, and any data prepared by the Department of Labor, required by the Council to carry out its functions under this section.

“(e) COMPENSATION.—Each member of any Council—

“(1) shall be entitled to receive compensation at the rate of pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties vested in the Council, and

“(2) while engaged in the performance of such duties away from such member's home or regular place of business, shall be allowed travel expenses (including per diem in lieu of subsist-

ence) as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

“(f) REPORT.—

“(1) IN GENERAL.—Not later than February 1 of the second year following the year in which any Council is required to be established under subsection (a), the Council shall submit to the President and the Congress a report setting forth the findings and recommendations of the Council as a result of its evaluation of the unemployment compensation program under this section.

“(2) REPORT OF FIRST COUNCIL.—The Council shall include in its February 1, 1994, report findings and recommendations with respect to determining eligibility for extended unemployment benefits on the basis of unemployment statistics for regions, States, or subdivisions of States.”.

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SEC. 10. EMERGENCY DESIGNATION.

(a) **EMERGENCY DESIGNATION.**—Pursuant to sections 251(b)(2)(D)(i) and 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985, the Congress hereby designates all direct spending amounts provided by this Act (for all fiscal years) and all appropriations authorized by this Act (for all fiscal years) as emergency requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) **EFFECTIVENESS.**—Notwithstanding any other provision of law or any other provision of this Act, none of the preceding sections of this Act shall take effect unless, not later than the date of the enactment of this Act, the President submits to the Congress a written designation of all direct spending amounts provided by this Act (for all fiscal years) and all appropriations authorized by this Act (for all fiscal years) as emergency requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

Approved August 17, 1991.

LEGISLATIVE HISTORY—H.R. 3201:

HOUSE REPORTS: No. 102-184 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 137 (1991):

Aug. 2, considered and passed House and Senate.