

Detailed Summary of Unemployment Insurance Reform Discussion Draft

Proposed by Senator Ron Wyden and Senator Michael Bennet

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The COVID-19 pandemic has made it abundantly clear that the nation's unemployment insurance system is inadequate to protect workers from financial devastation when they lose a job. In March 2020, Congress stepped in to enhance unemployment insurance on an emergency basis through the CARES Act. While the CARES Act's emergency programs continue to be vital in helping unemployed workers keep a roof over their head and food on the table during the current economic downturn, they do nothing to fix the underlying problems facing our unemployment insurance system or prepare us for the next recession.

Senators Wyden and Bennet have developed a proposal that would update and expand unemployment insurance so that the program is ready to respond to the next recession and meet the needs of the modern workforce. First, the proposal would update the federal-state Extended Benefits program to make it a true automatic stabilizer that automatically adds additional weeks of benefits when unemployment rises. Second, it would establish new requirements for state unemployment programs to ensure that benefits are adequate and that more workers are covered when they lose a job. The proposal also would establish new permanent federal programs for unemployed workers, including a Jobseeker Allowance that would be available to any unemployed workers not covered by the traditional unemployment insurance system, such as self-employed workers and new entrants to the labor force. Finally, the proposal would upgrade unemployment insurance technology and make long overdue financing changes to ensure the solvency of the program.

A detailed summary of the proposal is below. Senators Wyden and Bennet welcome comments and feedback on this proposal as they continue to work to strengthen unemployment insurance.

Title I – Modernization of Extended Benefits. The Extended Benefits (EB) program makes additional weeks of unemployment benefits available in times of high unemployment. This title would reform EB to ensure additional benefits automatically become available during economic downturns.

Sec. 101. Increases federal financing of EB from 50 percent to 100 percent.

Sec. 102 and Sec. 103. Sections 102 and 103 reform the “triggers” used to determine whether additional weeks of benefits are available and how many weeks are available.

Under this proposal, a state will be in an EB period (which makes 13 additional weeks of benefits available) when it meets any of the following conditions:

- A. When the state or national three-month average total unemployment rate (seasonally adjusted) is at or above 5.5 percent.
- B. When the state or national augmented average rate of total unemployment is at or above 5.5 percent. “Augmented average rate of total unemployment” is defined as the state's three-month average total unemployment rate, plus any difference between that rate and

the average rate of total unemployment for any continuous three-month period in the preceding three years.

- C. When the three-month average rate of total unemployment (seasonally adjusted) at the state or national level is at least 0.5 percentage points higher than the lowest average rate of total unemployment for any continuous three-month period in the preceding 12 months.
- D. When the insured unemployment rate (IUR) trigger from current law is activated (when IUR is at least 5 percent and at least 20 percent greater than each of the same 13-week periods during the prior two years). The insured unemployment rate is the percentage of the labor force receiving unemployment benefits.

When the unemployment rate (based on any of the measures described in A or B above) rises above 6.5 percent, additional weeks of benefits may become available.

- When unemployment is at least 6.5 percent, 26 total weeks of EB are available.
- When unemployment is at least 7.5 percent, 39 total weeks of EB are available.
- When unemployment is at least 8.5 percent, 52 total weeks of EB are available.

Sec. 104. Changes the calculation of the total amount of an individual's EB entitlement to the greater of 50 percent of their total entitlement to regular unemployment compensation or 13 times their average weekly benefit amount.

Sec. 105. Allows individuals who are claiming EB when their state unemployment rate goes down to continue to claim EB until they exhaust the amount to which they were entitled.

Sec. 106. Creates a coordination rule to allow individuals to continue to claim EB even when they begin a new benefit year if their EB amount would be higher than their regular compensation amount.

Sec. 107. Clarifies coordination rules for individuals living or working in multiple states.

Sec. 108. Exempts EB from sequestration, effective as of date of enactment.

Sec. 109. The amendments made by this title (other than section 107) will be effective by January 1, 2023.

Title II – Modernization of Regular Unemployment. This title would ensure the adequacy of unemployment benefits and expand the number of workers they reach. Sections 201 through 212 create requirements that states must meet in order for employers in the state to claim the 5.4 percent tax credit against federal unemployment tax. Sections 213 and 214 amend other parts of federal unemployment insurance law. Sections 215 through 217 create new federally funded programs to provide additional benefits to certain workers in specific circumstances. All changes are effective as of the earlier of the date a state changes its laws or policies to comply and January 1, 2023.

Sec. 201. States must offer at least 26 weeks of benefits.

Sec. 202. Weekly benefit amounts must replace 75 percent of the claimant's average weekly earnings in the claimant's highest quarter of earnings during the base period, subject to the state's maximum benefit amount.

Sec. 203. The state maximum benefit amount must be equal to at least two-thirds of state's average weekly wage.

Sec. 204. States may not deny unemployment to an individual because their base period includes part-time work or because they are seeking part-time work. This section also sets limits on how much states may reduce benefits for individuals who are working part-time while continuing to receive benefits.

Sec. 205. States are required to use a base period or alternative base period that includes the most recently completed calendar quarter, and to use an extended base period that includes at least four additional quarters if the individual was incapable of work or took parental leave or other family leave with reduced or no pay during the base period.

Sec. 206. States cannot deny unemployment compensation to an individual if they quit their job for certain compelling reasons, including domestic violence or sexual harassment, illness or disability of a family member, relocation of the individual's workplace or the individual's spouse, loss of child care, unusual risk to health or safety, and irregular work schedules or unpredictable pay.

Sec. 207. Eliminates the "waiting week" policies that deny individuals unemployment compensation during their first week of unemployment.

Sec. 208. States must consider the completion of a temporary work assignment to be an involuntary layoff.

Sec 209. States are required to waive overpayment recovery in cases where the overpayment was not the fault of the individual and such repayment would be contrary to equity and good conscience.

Sec. 210. Requires states to operate a short-time compensation (work share) program and makes workers who have lost up to 80% of their hours potentially eligible for short-time compensation.

Sec. 211. Requires states to cover individuals who have at least \$1,000 of covered wages in the high quarter and at least \$1,500 in the base period.

Sec. 212. Requires states use the "ABC test" for the purpose of determining whether a worker is considered a UI-eligible employee.

Sec. 213. Expands UI eligibility to certain student workers who are not eligible under current law.

Sec. 214. Requires state systems to meet certain accessibility requirements to make it easier for claimants and employers to interact with unemployment insurance programs.

Sec. 215. Jobseeker Allowance

This new program would provide a federal weekly benefit to unemployed workers who are seeking work but are not covered by unemployment insurance or are eligible for only a small unemployment insurance payment. This would include coverage for workers newly entering the labor force and self-employed workers. The Jobseeker Allowance is 100 percent federally financed.

To be eligible for a Jobseeker Allowance, workers must:

- Be unemployed or partially unemployed
- Have no rights to regular unemployment compensation or be eligible for unemployment compensation in an amount less than the amount of the Jobseeker's Allowance
- Be able to work, available to work, and actively seeking work
- Be at least 19 years of age (or at least 18 in the case of foster youth), or have earned a high school diploma or equivalent
- Have adjusted gross income (AGI) less than the Social Security taxable wage base

The amount of the Jobseeker Allowance is \$250 per week (indexed annually for inflation), minus any weekly unemployment benefit for which the individual is eligible. For individuals seeking work for less than 20 hours per week, the maximum amount of the weekly Jobseeker Allowance is reduced by 50 percent. Individuals are entitled to 26 times the weekly benefit amount (meaning most individuals will qualify for 26 weeks of Jobseeker Allowance payments). The number of weeks that the Jobseeker Allowance is available can increase in times of high unemployment in a similar manner as Extended Benefits.

When unemployment is above 7.5 percent, individuals claiming a Jobseeker Allowance who have a documented history of self-employment may claim a supplement to their weekly Jobseeker Allowance such that their total Jobseeker Allowance replaces roughly 75% of their average weekly earned income in the most recently completed tax year.

Sec. 216. Dependents' Allowance

Provides an additional federal benefit of \$25 per dependent per week for individuals with dependents claiming unemployment compensation.

Sec. 217. Emergency Enhanced Unemployment Compensation

Increases the wage replacement rate of unemployment benefits to 100 percent during public health emergencies or other major disasters or emergencies. The benefit increase is federally funded.

Title III —Modernization of Unemployment Insurance Technology

Sec. 301. Federal technology modernization

This section includes the text of Senator Wyden's [*Unemployment Insurance Technology Modernization Act*](#), which requires the Department of Labor to develop federal technology

capabilities for administering unemployment compensation programs. The language specifies that the technology capabilities must include capabilities to administer the Jobseeker Allowance.

Unemployment Insurance Financing Reform [Not included in legislative text]

Federal Unemployment Taxes (FUTA)

The federal unemployment tax (FUTA tax) is a federal payroll tax on employers that finances the administration of unemployment insurance programs as well as the payment of federal Extended Benefits in times of high unemployment.

Under current law, the FUTA tax is 6 percent on the first \$7,000 of each employee's wages. However, employers receive a 5.4 percent credit against that tax if their state's unemployment compensation program complies with federal requirements, resulting in a net FUTA tax rate of 0.6 percent. The \$7,000 taxable wage base has not been increased since 1983.

Senators Wyden and Bennet are considering significantly broadening the FUTA taxable wage base and reducing the net FUTA tax rate. The new taxable wage base would be indexed for inflation. The levels of the taxable wage base and net FUTA rate would be determined such that the revenue would be sufficient to cover both administrative costs and Extended Benefits payments.

State Unemployment Taxes (SUTA)

The payment of regular unemployment compensation is financed by state unemployment taxes (SUTA taxes). States deposit revenue from SUTA taxes in their account of the federal Unemployment Trust Fund.

Unfortunately, many states have failed to keep their Unemployment Trust Fund accounts solvent, even prior to the current economic downturn. This has led to many states needing to take out significant loans from the federal government to pay the benefits to which unemployed workers are entitled.

Senators Wyden and Bennet are considering new solvency requirements for state Unemployment Trust Fund accounts. For example, states could be required to have an "average high-cost multiple"—a measure of solvency that takes into account the amounts that were needed to pay benefits during previous recessions—of at least 1.0 when the economy is strong. This would help ensure that states are prepared to continue to pay unemployment compensation in the event of an increase in claims during an economic downturn.

Additional Funding for Modernization

Senators Wyden and Bennet are considering providing additional funding to supplement state Unemployment Trust Fund accounts to ease the transition to a more generous benefit structure.

Additional Funding for Administration

Senators Wyden and Bennet are considering modernizing the funding formulas for administrative funding to ensure that states have sufficient funds to administer their unemployment insurance programs.