Legislative Analysis

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EXTENDED UNEMPLOYMENT INSURANCE BENEFITS

House Bill 4668 as introduced
Sponsor: Rep. Steven Lindberg

House Bill 4669 as introduced
Sponsor: Rep. Lesia Liss

House Bill 4670 (Substitute H-1)
Sponsor: Rep. Goeff Hansen

Committee: Labor

First Analysis (3-25-09)

BRIEF SUMMARY: The bills would extend unemployment insurance benefits for seven weeks, as provided under Section 2005 of the American Recovery and Reinvestment Act of 2009, customarily called the federal stimulus package.

FISCAL IMPACT: In general, there would be no net impact on the State Unemployment Trust Fund, as these additional benefits would be funded entirely by the federal government. Neither would there be a direct cost impact on Michigan employers subject to federal unemployment taxes, because the benefits are financed entirely by the federal government. There would be a cost to state and local governments, and some nonprofit organizations, since they are "reimbursing employers" who are not taxed, but who cover their displaced workers after they lose work. See *FISCAL INFORMATION*.

THE APPARENT PROBLEM:

The unemployment insurance (UI) program is a state-federal partnership administered by the Unemployment Insurance Agency, a Detroit-based office situated within the Michigan Department of Energy, Labor, and Economic Growth. The unemployment insurance program, itself, was created in the 1930s, and is now part of the U.S. Social Security Act, and also the Federal Unemployment Tax Act. In Michigan, the program is organized under the Michigan Employment Security Act.

The unemployment insurance program is administered somewhat differently in each state, but most states, including Michigan, provide working people recently unemployed through no fault of their own, 26 weeks of unemployment compensation. That compensation is paid for by federal and state taxes levied on employers. See *BACKGROUND INFORMATION*, below.

Since 1970, the federal law has provided for an extra 13 weeks of benefits (and sometimes 20 weeks in certain states with extremely high unemployment) beyond the basic 26. These extra weeks are called extended unemployment insurance benefits, or EB. The EB program is triggered in a state when a state's insured unemployment rate, or its total unemployment rate reaches certain levels. In Michigan, the EB program kicks in when the state's Insured Unemployment Rate (the number of UI claims divided by the number of insured employees) is five percent for a 13-week period, and 20 percent above the IUR rate for the same 13-week period in the two previous years. Michigan triggered on for an extra 13 weeks of benefits in January 2009.

Because these extended benefit program "triggers" are restrictive, states rarely qualify for EB, even during serious recessions. During economic recessions, the U.S. Congress creates a federal temporary program of extended benefits. In the past 50 years, Congress has acted eight times--in 1958, 1961, 1971, 1974, 1982, 1991, 2002, and 2008--to establish temporary programs of extended benefits. These programs have added from six to 33 weeks to the time an individual can claim unemployment compensation. Generally, the cost of the Extended Benefit Program is shared fifty-fifty by the states and federal government.

The Extended Benefit Program the U.S. Congress passed on June 30, 2008 is known as EUC08 (originally slated to expire on March 28, 2009, but now extended through most of 2009). This is a two-tier EB program fully financed by the federal government that provides additional weeks of unemployment benefits at the state level. The first tier of EUC08 provides up to 20 additional weeks of unemployment compensation to all qualified workers who have exhausted regular unemployment compensation. The second tier of EUC08 provides up to an additional 13 weeks of benefits in states with high unemployment.

The U. S. Department of Labor tracks unemployment rates in the states, and a state is said to trigger "on" to the EUC 2nd Tier of benefits if unemployment conditions in the state reach certain thresholds. Michigan triggered "on" in January 2009 for the additional 13 weeks. Currently, then, Michigan's displaced workers are eligible to receive 72 weeks of unemployment compensation: that is, 26 weeks (basic) + 13 weeks IUR triggered EB + 20 weeks EUC08 tier 1 EB + 13 weeks EUC08 tier 2 EB of unemployment compensation.

The federal stimulus plan--known as the American Recovery and Reinvestment Act--extends the availability of EUC08 benefits through December 26, 2009, and it temporarily shifts the costs of the EB program entirely to the federal government for the remainder of 2009 (phasing out in June 2010), so that states do not need to pay their customary 50 percent of the cost of EB benefits. The ARRA also allows states to adopt (temporarily or permanently) a Total Unemployment Rate (or TUR) Trigger to make more people eligible for unemployment compensation.

If a state does so, its displaced workers are eligible for another seven weeks of benefits when a state's unemployment rate reaches 8 percent. (Michigan's unemployment rate is currently 12 percent.) Michigan had a TUR trigger briefly in 2003, but currently uses the Insured Unemployment Rate Trigger (described above), rather that a TUR trigger.

Legislation has been introduced to amend Michigan's unemployment statute in order to provide the additional seven weeks of extended benefits to Michigan's displaced workers. Doing so, Unemployment Insurance Agency estimates that an estimated 213,829 Michigan workers who will exhaust their EUC08 benefits in calendar year 2009 will be eligible for seven additional weeks of federally-funded extended unemployment compensation.

THE CONTENT OF THE BILLS:

The bills would amend state statute to accommodate federal reimbursement for extended unemployment insurance benefits, as provided under Section 2005 of the American Recovery and Reinvestment Act of 2009 ("Recovery Act").

By adopting, temporarily, an alternate extended benefits trigger, based on total unemployment rate (TUR), the bills permit displaced Michigan workers to receive an additional seven weeks of EB benefits, beyond the 13 weeks for which state is already eligible based on its insured unemployment rate (IUR). See *FISCAL IMPACT*.

House Bill 4668 would amend Section 17 of the Michigan Employment Security Act (MCL 421.17) to strike the portion of the law that requires that extended benefits be charged to the non-chargeable benefits account of contributing employers during a period in which extended benefits are paid because of the state total unemployment rate.

House Bill 4669 would amend Section 20 of the Michigan Employment Security Act (MCL 421.20) to strike its reference to the provision, noted above, that House Bill 4668 proposes to eliminate.

House Bill 4670 (H-1) would amend Section 64 of the Michigan Employment Security Act (MCL 421.64), which specifies when eligible individuals may receive extended benefits. The bill would authorize certain extended benefits beginning from the time this bill goes into effect until the extended benefits are no longer funded under Section 2005 of the American Recovery and Reinvestment Act of 2009.

BACKGROUND INFORMATION:

Federal Unemployment Insurance Trust Fund. Generally, employers pay an effective federal tax rate of .8 percent on a portion of their payroll (a 6.2 percent tax on the first $7,000 of each employee's pay, offset by a 5.4 percent credit if a state's UI program is in conformity with the federal rules and regulations that govern the program). In addition, employers pay between .06 to 10.3 percent on the first $9,000 of each employee's pay, the exact amount depending upon the size of the employer's company, and the kind of industry (whether agriculture, forestry and fishing; mining; construction; manufacturing; wholesale and retail trade; finance, insurance and real estate; services; or government).

The money is collected nationwide and put into the federal Unemployment Insurance Trust Fund where each state has its own account based on its employers' contributions, known as employer experience accounts. The state's trust fund account is the source of UI benefits for unemployed workers, as states withdraw money from the fund in order to pay those who have lost their jobs during an economic downturn.

When states have very high unemployment rates for many consecutive months, some of their employers become "negative balance employers"--that is, the employers' unemployed workers are drawing more money from the trust fund in the form of unemployment benefits than the amount that has been paid in as state unemployment taxes, on their behalf, when they were working.

The federal Social Security Act allows states to get loans from the federal UI Trust Fund when their state unemployment trust fund accounts run out of money. When states borrow, they must repay their advances with interest. For example, because Michigan has had to request advances from the U.S. Department of Labor during its long economic downturn, the state's total outstanding loan balance is an estimated $1.68 billion as of March 20.

<u>Extended Unemployment Insurance Benefits.</u> For additional information on the Extended Benefit program see the following resources:

Extended Benefits in Michigan, UIA Fact Sheet #122 (February 2009), [www.michigan.gov/documents/uia/Extended_Benefits_in_Michigan_Fact_Sheet_122_267185_7.pdf]

Unemployment Insurance Provisions in the American Recovery and Reinvestment Act of 2009, Congressional Research Service report R40368 (February 27, 2009) by Alison Shelton, Kathleen Romig, and Julie M. Whittaker, available on-line at: [http://assets.opencrs.com/rpts/R40368_20080227.pdf].

Extending Unemployment Compensation Benefits During Recessions, Congressional Research Service Report RL34340 (December 2, 2008), by Julie M. Whittaker, available through a request from a member of Congress or on file with the HFA.

Question and Answer: The Economic Recovery Bill's New 'Extended Benefits' State Option, by the National Employment Law Project, available on-line at: [www.nelp.org/page/-/UI/extended.benefits.feb.09.pdf?nocdn=1].

Unemployment Insurance Program Letter (UIPL) 12-09, February 23, 2009, Department of Labor-Employment and Training Administration (DOL-ETA), available on line at: [http://wdr.doleta.gov/directives/attach/UIPL/UIPL12-09.pdf]

FISCAL INFORMATION:

Extended unemployment insurance benefits (EB) are permanently authorized under the Federal-State Extended Compensation Act (EUCA) of 1970. The EB program provides individuals who have exhausted their right to regular benefits an additional 13 weeks of UI benefits (20 weeks in certain states with high unemployment), if certain economic conditions are met within an eligible individual's benefit year. The cost of providing EB benefits is shared 50-50 between states and the federal government.

Under the EUCA, states are required to pay 13 weeks of EB benefits when their *insured unemployment rate* (IUR) for the previous 13-week period is at least 5% and is 120% of the average rates for the same 13-week period in each of the previous two years.[1] States may also adopt two (one or both) of the following alternate EB triggers:

1. Providing up to 13 weeks of EB benefits when the state's IUR is at least 6% (irrespective of how the IUR compares to the IUR for the same 13-week period in the two previous years); or

2. Providing up to 13 weeks of EB benefits when the states *total unemployment rate* (TUR) for the most recent 13 week period is at least 6.5% and at least 110% of the TUR rate for the same 13-week period in either of the two previous years, and providing up to an additional 7 weeks (for a total of up to 20 weeks) if the TUR is at least 8% and at least 110% of the TUR in the same 13-week period in either of the previous two years. With these bills, Michigan will be adopting this second standard.

The Michigan Employment Security Act doesn't, at present, include either of the alternative EB triggers.[2] To be eligible for EB benefits and individual must, among other criteria, have at least one week of his or her benefit year within the EB period.[3]

The Recovery Act essentially makes three changes to the EB program[4]:

1. Temporarily providing that the EB benefits are to be financed 100% by the federal government from the date of enactment (February 17, 2009) through January 1, 2010 (with certain exceptions).[5]

2. Providing that states may provide that an individual is eligible for EB benefits if the individual exhausted emergency unemployment compensation (EUC08) during an EB period.[6]

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[1] See Section 203 of the EUCA. The IUR is, essentially, the ratio of (1) the average number of UI claims in a week and (2) covered employment.

[2] The state previously adopted the alternate TUR trigger with the enactment of 2003 PA 174 in order to provide unemployed individuals with Temporary Extended Unemployment Compensation (TEUC-X) benefits authorized under PL 107-147, PL 108-1, and PL 108-26, after the state triggered "off" for TEUC-X benefits based on the state's IUR.

[3] See Section 203 of the EUCA and Section 64 of the MESA, which states "[a]n individual's 'eligibility period' consists of the week in his or her benefit year that begin in an extended benefits period, and if his or her benefit year ends within the extended benefit period, any weeks thereafter that begin in the period.

[4] The UI provisions are contained in Subtitle A (Unemployment Insurance) of Title II (Assistance for Unemployed Workers and Struggling Families) of Division B (Tax, Unemployment, Health, State Fiscal Relief, and Other Provision) of the Recovery Act. See, also, the Joint Explanatory Statement of the Committee of Conference, [http://appropriations.house.gov/pdf/Recovery_JS_DivB.pdf].

[5] EB benefits provided to displaced workers from states and local governments are not, under the permanent EUCA or the Recovery Act, payable by the federal government.

[6] This potential change is not addressed in the legislation here. The temporary EUC08 benefit program provides individuals who exhaust regular benefits with up to 13 weeks of benefits (Tier 1) and additional 20 weeks (Tier 2) in states with high unemployment. (Michigan is a high unemployment state.) The program was established with the enactment of the Supplemental Appropriations Act of 2008 (PL 110-252). As amended by the Recovery Act,

3. Continuing to provide, temporarily, that the federal government will fully fund the first week of EB benefits in states that do not impose a waiting week.

By adopting, temporarily, the alternate TUR trigger, the bills permit displaced workers to receive an additional seven weeks of EB benefits, beyond the 13 weeks for which the state has already triggered based on its IUR.

In general, there would be no net impact on the State Unemployment Trust Fund, as these additional benefits would be funded entirely by the federal government (or paid by reimbursing employers). In general, EB benefits would be payable to individuals who exhaust regular benefits (up to 26 weeks) and EUC08 benefits (up to 33 weeks). The Unemployment Insurance Agency estimates there would be 213,829 individuals potentially receiving EB benefits in calendar year 2009. Based on that figure, the estimated amount of additional benefits provided to displaced Michigan workers under the bills would be approximately $451.6 million.[7]

While the 65,680 figure is just an estimate, one factor that would limit the number of individuals receiving EB benefits is whether an individual has at least one week in his or her benefit year within the EB period, a requirement under the EUCA and the MESA. Under PL 110-252 EUC08, benefits were payable to individuals who had a benefit year that ended during or after the week of May 6, 2007. It is possible that many individuals who may soon exhaust EUC08 benefits do not have a benefit year that overlaps with the EB period (established at the end of January). Under the Recovery Act, states may provide EB benefits to individuals who exhaust EUC08 benefits during an EB period. [8]

Moreover, the bills would have no direct cost impact on Michigan employers subject to federal unemployment taxes because the benefits are financed entirely by the federal government. Under the Federal Unemployment Tax Act, employers pay a tax of 6.2% on the first $7,000 in wages, with employers in compliance with the act receiving a credit equal to 5.4%, in effect reducing the FUTA tax rate to 0.8%. By contrast, the Michigan unemployment tax varies based on an employer's "experience rating" where, in general, employers that have more former employees receiving UI benefit have a higher tax burden than employers that have fewer former employees receiving UI benefits.

The bills, however, would have a direct cost impact on the state and local governmental units (including schools), to the extent that they have former employees receiving the

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EUC08 benefits are available to individuals exhausting benefits before December 31, 2009. Individuals who exhaust regular benefits before the end of 2009 are eligible for the 13 weeks of Tier 1 EUC08 benefits. Individuals who exhaust Tier 1 benefits before the end of 2009 are eligible for the 20 weeks of Tier 2 benefits. Individuals who exhaust regular benefits or Tier 1 benefits after the end of 2009 are not eligible for EUC08 benefits. EUC08 benefits are paid for entirely by the federal government.

[7] 213,829 multiplied by 7 weeks (the additional number of weeks provided through adoption of the TUR trigger), multiplied by $301.73 (the average EUC08 weekly benefit amount for July 2008 through December 2008 [$276.73] plus $25 in Federal Additional Compensation). For claims and wage data on the EUC08 program see, [http://ows.doleta.gov/unemploy/euc.asp].

[8] Under Section 46 of the Michigan Employment Security Act (MCL 421.46) a "benefit year" is the period of 52 consecutive calendar weeks beginning the first calendar week in which an individual files a claim.

additional seven weeks of EB benefits. Under the Section 204 of the EUCA, the federal government does not share the cost of providing EB benefits to former employees of these "reimbursing employers." (Employers that pay UI taxes are "contributing employers"; employers that do not pay UI taxes, but instead reimburse the state for the actual cost of benefits provided are "reimbursing employers.") This includes the state, most local governments, most schools, as well as some nonprofit organizations. (See Sections 13c, 13g, and 13k of the Michigan Employment Security Act.) Section 204 is not affected by the amendments in the Recovery Act. Under the Michigan Employment Security Act, the State Unemployment Trust Fund is reimbursed by these reimbursing employers for the cost of providing benefits, including extended benefits. Section 13g of the act (MCL 421.13g) provides that actual cost of benefits is charged to each state department against the funds available for the payment of salaries and wages.

ARGUMENTS:

For:

At 12 percent, Michigan's unemployment rate is the highest in the nation. This legislation leverages the American Recovery and Reinvestment Act of 2009--customarily called the federal stimulus package--for the benefit of Michigan's unemployed workers. The bill amends Michigan's unemployment statute in order to provide an additional seven weeks of extended benefits fully funded by the federal government. The temporary amendment adopts a "total unemployment rate" (or TUR) trigger, so that seven more weeks of unemployment compensation can be offered to more Michigan workers. Doing so, the National Employment Law Project estimates that an estimated 65,680 Michigan workers who will exhaust their EUC08 benefits between January and June 2009 will be eligible for seven additional weeks of federally-funded extended unemployment compensation.

Against:

No arguments against the bill were advanced by the members of the House Labor Committee or those offering testimony.

POSITIONS:

The Department of Energy, Labor, and Economic Growth supports the bills. (3-25-09)
The Michigan Labor Council supports the bills. (3-25-09)
The Economic Alliance of Michigan supports the bills. (3-25-09)
The AFL-CIO supports the bills. (3-25-09)
The Michigan Township Association is neutral on the bills. (3-25-09)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.