

DRAFT LEGISLATION – TUR TRIGGER

DISCUSSION

Below is suggested legislative language for states that choose to add a TUR EB trigger and make the first week of EB payable the week beginning February 22, 2009. (This is the first week most EB payments qualify for 100 percent Federal sharing. The exceptions to 100 percent Federal sharing are discussed in Q&As 4 and 5 in Attachment I to UIPL No. 12-09.) This language is identical to the suggested provisions in UIPL No. 45-92, Attachment II, with two exceptions. First, the date provided in paragraph (a)(2)(C) for the start of the TUR trigger differs. Second, two unnecessary words were deleted. States that choose to adopt a later date should edit the dates as appropriate.

States that do *not* want to make the TUR EB trigger permanent have requested assistance in developing two termination options. The first end date would be the last week that 100 percent Federal sharing is available for most EB payments (*i.e.*, the last week beginning before January 1, 2010). The second would be the last week of the phase-out (*i.e.*, the last week ending before June 1, 2010). As discussed above, the phase-out allows 100 percent Federal sharing to continue for individuals who were paid EB for a week of unemployment ending before January 1, 2010. The bolded language in the draft legislation offers two dates, depending on when the state chooses to terminate the TUR trigger. (The earlier date relates to the first option; the later to the second option.)

An alternative approach is based on the possibility that Congress will extend the termination dates for Federal sharing. Under this option, the expiration date is tied to the date that Congress selects. If the state chooses this approach, then, as above, it has two options.

- Under the first option, EB would terminate the last week 100 percent Federal sharing is available for most EB payments. State law could provide that the EB trigger will remain in effect “until the week ending four weeks prior to the last week of unemployment for which 100 percent federal sharing is available under Section 2005(a) of Public Law No. 111-5, without regard to the extension of Federal sharing for certain claims as provided under Section 2005(c) of such law.”
- Under the second option, EB would terminate the last week 100 percent Federal sharing is available under the phase-out. State law could provide that the trigger will remain in effect “until the week ending four weeks prior to the last week of unemployment for which 100 percent federal sharing is available for any claim under Section 2005(c) of Public Law No. 111-5.”

The draft language also implements the HUP trigger of 8 percent TUR (with lookback). States implementing the optional 6.5 percent TUR trigger must also implement the HUP trigger, which has the effect of increasing EB eligibility from 13 to 20 weeks. (See UIPL No. 45-92, Attachment 1, section I.B.2.)

States should consider whether it is necessary to enact amendments expanding EB eligibility provisions to cover certain individuals who have exhausted EUC08, as authorized under Public Law No. 111-5. (See UIPL No. 12-09, Q&As 6 and 7.) States choosing to enact such amendments may add language indicating that, notwithstanding anything in state law, an individual's eligibility period shall include any eligibility period provided for in section 2005(b) of Public Law No. 111-5.

DRAFT LANGUAGE

In the language of the state law pertaining to the "on" indicator, add the bolded language:

- (a)(2) There is a State "on" indicator for a week if--*
- (A) (i) the rate of insured unemployment under this Act for the period consisting of such week and the immediately preceding twelve weeks equaled or exceeded 120 percent of the average of such rates for the corresponding 13-week period ending in each of the preceding calendar years, and*
- (ii) equaled or exceeded 5 percent; or*
- (B) the rate of insured unemployment under this Act for the period consisting of such week and the immediately preceding twelve weeks equaled or exceeded 6 percent, regardless of the rate of insured unemployment in the two previous years; or*
- (C) with respect to weeks of unemployment beginning on or after February 1, 2009, and ending on or before December 5, 2009 [or May 1, 2010]--*
- (i) the average rate of total unemployment (seasonally adjusted), as determined by the United States Secretary of Labor, for the period consisting of the most recent 3 months for which data for all States are published before the close of such week equals or exceeds 6.5 percent, and*
- (ii) the average rate of total unemployment in the State (seasonally adjusted), as determined by the United States Secretary of Labor, for the 3-month period referred to in clause (i), equals or exceeds 110 percent of such average for either or both of the corresponding 3-month periods ending in the 2 preceding calendar years.*
- (3) There is a State "off" indicator for a week only if, for the period consisting of such week and the immediately preceding twelve weeks, none of the options specified in paragraph (2) result in an "on" indicator.*

In the language pertaining to the amount of EB payable, add the bolded language:

- (e) Total extended benefit amount. (1) The total extended benefit amount payable to any eligible individual with respect to the applicable benefit year shall be the least of the following amounts:*

(A) fifty percent of the total amount of regular benefits (including dependents' allowances)¹ which were payable to the individual under this Act in the individual's applicable benefit year;

(B) thirteen times his weekly benefit amount² (including dependents' allowances)¹ which was payable to an individual under this Act for a week of total unemployment in the applicable benefit year; or

(C)³ thirty-nine times the individual's weekly benefit amount² (including dependents allowances)¹ which was payable to such individual under this Act for a week of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits which were paid (or deemed paid) to such individual under this Act with respect to the benefit year.

(2) Provided,⁴ That the amount determined under subsection (1) shall be reduced by the total amount of additional benefits paid (or deemed paid) to the individual under the provisions of section __⁵ of this Act for weeks of unemployment in the individual's benefit year which began prior to the effective date of the extended benefit period which is current in the week for which the individual first claims extended benefits.

(3)(A) Effective with respect to weeks beginning in a high unemployment period, paragraph (1) shall be applied by substituting

(i) "eighty percent" for "fifty percent" in subparagraph (A),

(ii) "twenty" for "thirteen" in subparagraph (B), and

(iii) "forty-six" for "thirty-nine" in subparagraph (C)

(B) For purposes of subparagraph (A), the term "high unemployment period" means any period during which an extended benefit period would be in effect if subsection (a) (2) (C) were applied by substituting "8 percent" for "6.5 percent".

Notes on Draft Language

¹ In state laws with no provisions for payment of dependents' allowances, references to such allowances should be omitted.

² If, under the state law, the weekly benefit amount may fluctuate during the benefit year, the word "average" should be added before the words "weekly benefit amount."

³ This paragraph is necessary only in a state law under which regular benefits payable to an individual in a benefit year may exceed 26 times the weekly benefit amount.

⁴ This proviso is pertinent only in state law that provides for the payment of wholly state-financed additional benefits. Under Federal law, such states may (but are not required to) reduce the total EB amount payable to individuals by the amount of additional benefits which were paid (or deemed paid) to the individuals in their applicable benefit year before they become entitled to EB.

⁵ Include reference to section of state law under which wholly state-financed additional benefits are payable.