Shared Work Programs and Other Recession Legislation

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UI Modernization Provisions

- Alternate Base Period
- Part-time Worker Eligibility
- Dependency Allowance ($15 minimum)
- Extended Benefits for Training (26 weeks)
- Separation: Compelling Family Reasons
  - Relocation for spouse’s employment
  - Escape domestic violence
  - Care for ill or disabled family member (spouse, child, parent minimum)
Increase and Index Benefits to Wages

- Average benefit in US: $295
- Replaces 34% of average weekly wage
- Many states index maximum weekly benefit rate to a percent of the state’s average weekly wage
- Monetary formula for calculating weekly benefit rate should be calibrated to approximate 50% of claimant’s average weekly wage
Eliminate or Suspend the “Waiting Week”

- All but 14 states require workers who qualify for UI to serve a one-week waiting period before collecting first UI check.
- Some states reimburse claimants if unemployed several weeks.
- Waiting week serves no public policy other than reducing employer costs.
- Case for suspending waiting week may be stronger in recession.
Reduce Offsets against Benefits

- Severance Pay: Severance packages that are conditioned on a waiver or release of legal rights or claims against the employer are not really payments for lost wages.

- Because these payments are actually consideration for what the employee is giving up, state UI laws should characterize these payments as a form of payment that is not subject to offset and is not disqualifying.

- While federal law does require some offset for pensions attributable to base period employment, state UI laws can be drafted to treat Social Security pensions as non-disqualifying. 19 states have eliminated or reduced the Social Security offset in their UI laws.
Voluntary Incentives and Golden Handshakes

- Many states reduce or deny benefits when workers accept early retirement or lump-sum incentive packages during mass layoffs or workplace closings.
- These states typically rely on signed release as evidence of voluntary leaving.
- State laws should recognize that workers taking such incentives in the face of probable layoff are not really leaving employment voluntarily.
- State laws should acknowledge these downsizing practices and only disqualify when it is clear that the worker is not under any threat of involuntary unemployment.
Improve Partial Unemployment Benefit Formulas

- 7.8 million “underemployed” US workers

- All states have UI laws that allow workers to collect partial benefits while working part-time.

- Benefits substantially offset against wages.

- Income disregards vary widely: 100% (PR), 50% (ID, ILL, NE), 20% (NH, NM, OH, RI).

- Disregards should encourage claimants to seek and accept part-time employment.
Optional Triggers for Extended Benefits

- Total Unemployment Rate (TUR) of 6.5% (13 weeks) and 8.0% (7 weeks)
- About half the states have adopted the TUR triggers but only for so long as the Recovery Act provides 100% federal funding
- 9 states could still qualify for federally – funded EB programs by adopting the optional TUR triggers.
Liberalize Approved Training Standards

- Federal law requires states to waive able & available and work search requirements for claimants in training approved by the state agency.

- State standards for what qualifies as approved training vary widely.

- Obama administration/ USDOL urging states to adopt more liberal standards that encourage unemployed workers to take advantage of Pell grants and community college opportunities.
Short-Time Compensation and Shared Work Programs

- Voluntary program which serves as an alternative to layoffs during a temporary decline in business.
- Employers may reduce hours and wages of all or some employees.
- Employees may then receive partial unemployment benefits to supplement lost wages under a formula not otherwise available under regular UI rules.
- Currently, 17 states with active programs.
How it Works– One Day Reduction

- The work schedule of an ABC Corp. employee participating in the Shared Work Program who normally works a 40-hour work week (and earns $900) is reduced by 20%.

- Assuming a weekly benefit rate of $450, the employee is entitled to a Shared Work benefit of $90 (20% of benefit rate) in addition to the 32 hours of wages earned from the employer during the week.

  \[ $900 \times 80\% = $720 + $90 = $810 \]
Benefits to Employers

- Retain skilled, trained workers.
- Maintain continuity in workforce.
- Remain in ready mode and avoid need to retrain employees when business upswing occurs.
- Increase morale and job security among employees.
Benefits to Employees

- Retain job and financial security.
- Retain health insurance and retirement benefits.
- Avoid economic and emotional hardships caused by layoff and the stress of looking for new job.
- Wages earned from employment other than the Shared Work employment do not factor into the calculation of the Shared Work benefit.
- An added bonus: Shared Work employees are eligible for the federally-funded $25 FAC supplement.
The Helping Unemployed Americans Act (S. 2831/ HR4183)

- Temporary funding for state STC programs
- Introduced by Senator Jack Reed (RI) as part of bill proposing reauthorization of EUC, 100% federal funding of EB and the Federal Additional Compensation (FAC) program.
- House version introduced by Rep. McDermott (WA) has less detailed program requirements.
Program Requirements (Reed)

1) Employer participation voluntary
2) Employer certifies reduction in hours “in lieu of temporary layoffs”
3) Hour reduction of at least 10%
4) Pro rata share of UI weekly benefit rate
5) No able/available requirement or work search test
6) May participate in employer-sponsored /state-approved training
7) Beginning 2 years after enactment, state shall require employer to certify that continuation of health and retirement benefits is not affected by STC participation.
8) Written plan
9) Consent to plan by union
10) Other DOL requirements
Program Requirements (McDermott)

- Employer must submit written plan
- Employer must certify that continuation of health and retirement benefits under defined ERISA benefits plan will not be affected by STC participation
- Where employees represented by union. Union has agreed to written plan and implementation consistent with NLRA
Temporary Financing of STC Programs

- Once state enacts federally-approved STC program (which must include health and retirement benefits guarantee), USDOL certifies compliance authorizing federal payments to state’s unemployment trust fund.

- Reimburse 100% of total amount of STC benefits paid to state trust fund. Covers payments made before December 31, 2011. (Note: This is not relief of charges for employers.)
Limitations on Federal Payments

No federal payments to states if STC employer:

- Reduced workforce by more than 20% in prior three months.
- Employs individual on seasonal, temporary or intermittent basis.
- Engaged in a labor dispute.
Plan Compliance

- USDOL establishes by regulation oversight and monitoring process for states to insure plan compliance.
- Employer must comply with terms of plan to retain participating employees (McDermott) and act in good faith re: retention (Reed).
- Reed bill has extensive reporting and study requirements.