

EMERGENCY UNEMPLOYMENT COMPENSATION
EXTENSION ACT OF 1977

APRIL 4, 1977.—Ordered to be printed

Mr. ULLMAN, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 4800]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4800) to extend the Emergency Unemployment Compensation Act of 1974 for an additional year, to revise the trigger provisions in such act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of 13, 14, 15, 16, and 17.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 4, 18, 19, 20, 21, 22, 25, and 26; and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

(a) *GENERAL RULE.*—Section 102(f)(2) of the *Emergency Unemployment Compensation Act of 1974* is amended to read as follows:

“(2) No emergency compensation shall be payable to any individual under an agreement entered into under this Act—

“(A) for any week ending after October 31, 1977, or

“(B) in the case of an individual who (for a week ending after the beginning of his most recent benefit year and before October 31, 1977) had a week with respect to which emergency compensation was payable under such agreement, for any week ending after January 31, 1978.”

And the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SEC. 102. 13-WEEK MAXIMUM FOR THE EMERGENCY BENEFITS AND EMERGENCY BENEFIT PERIOD.

(a) *52-WEEK DURATION PERIOD FOR EMERGENCY BENEFITS.*—Subsection (e) of section 102 of the Emergency Unemployment Compensation Act of 1974 is amended—

(1) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

“(2) The amount established in such account for any individual shall be equal to the lesser of—

“(A) 50 per centum of the total amount of regular compensation (including dependents’ allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or

“(B) 13 times his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year.”;

(2) by redesignating paragraph (4) as paragraph (3); and

(3) by striking out “amounts determined under paragraphs (2) and (3) with respect to any individual shall each” in paragraph (3) (as so redesignated) and inserting in lieu thereof “amount determined under paragraph (2) with respect to any individual shall”.

(b) *EMERGENCY BENEFIT PERIOD.*—Section 102(c)(3)(A)(ii) of such Act is amended by striking out “26 consecutive weeks” and inserting in lieu thereof “13 consecutive weeks”.

(c) *CONFORMING AMENDMENTS.*—

(1) Section 105 of such Act is amended by striking out paragraph (5) and by redesignating paragraph (6), (7), and (8) as paragraphs (5), (6), and (7), respectively.

(2) Paragraph (2) of section 102(b) of such Act is amended—

(A) by striking out “section 105(2)” and inserting in lieu thereof “section 105(a)(2)”; and

(B) by striking out “section 105(4)” and inserting in lieu thereof “section 105(a)(4)”.

(d) *EFFECTIVE DATE.*—The amendments made by this section shall apply to weeks of unemployment ending after April 30, 1977. For purposes of determining an individual’s entitlement to emergency compensation for weeks ending after April 30, 1977, there shall be taken into account any emergency compensation paid to such individual for weeks which end after the beginning of the individual’s most recent benefit year and before May 1, 1977.

And the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SEC. 104. DENIAL OF EMERGENCY COMPENSATION TO INDIVIDUALS WHO REFUSE OFFERS OF SUITABLE WORK OR WHO ARE NOT ACTIVELY SEEKING WORK.

(a) *GENERAL RULE.*—Section 102 of the Emergency Unemployment Compensation Act of 1974 is amended by adding at the end thereof the following new subsection:

“(h) (1) In addition to any eligibility requirement of the applicable State law, emergency compensation shall not be payable for any week to any individual otherwise eligible to receive such compensation if during such week such individual—

“(A) fails to accept any offer of suitable work or to apply for any suitable work to which he was referred by the State agency, or

“(B) fails to actively engage in seeking work.

“(2) If any individual is ineligible for emergency compensation for any week by reason of a failure described in subparagraph (A) or (B) of paragraph (1), the individual shall be ineligible to receive emergency compensation for any week which begins during a period which—

“(A) begins with the week following the week in which such failure occurs, and

“(B) does not end until such individual has been employed during at least 4 weeks which begin after such failure and the total of the remuneration earned by the individual for being so employed is not less than the product of 4 multiplied by the individual's average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year.

“(3) Emergency compensation shall not be denied under paragraph (1) to any individual for any week by reason of a failure to accept an offer of, or apply for, suitable work—

“(A) if the gross average weekly remuneration payable to such individual for the position does not exceed the sum of—

“(i) the individual's average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year, plus

“(ii) the amount (if any) of supplemental unemployment compensation benefits (as defined in section 501(c)(17)(D) of the Internal Revenue Code of 1954) payable to such individual for such week;

“(B) if the position was not offered to such individual in writing and was not listed with the State employment service;

“(C) if such failure would not result in a denial of compensation under the provisions of the applicable State law to the extent that such provisions are not inconsistent with the provisions of paragraph (4); or

“(D) if the position pays wages less than the higher of—

“(i) the minimum wage provided by section 6(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption; or

“(ii) any applicable State or local minimum wage.

“(4) For purposes of this subsection—

“(A) The term ‘suitable work’ means, with respect to any individual, any work which is within such individual’s capabilities; except that, if the individual furnishes evidence satisfactory to the State agency that such individual’s prospects for obtaining work in his customary occupation within a reasonably short period are good, the determination of whether any work is suitable work with respect to such individual shall be made in accordance with the applicable State law.

“(B) An individual shall be treated as actively engaged in seeking work during any week if—

“(i) the individual has engaged in a systematic and sustained effort to obtain work during such week, and

“(ii) the individual provides tangible evidence to the State agency that he has engaged in such an effort during such week.

“(5) Any agreement under subsection (a) shall provide that, in the administration of this Act, States shall make provision for referring applicants for benefits under this Act to any suitable work to which subparagraphs (A), (B), (C), and (D) of paragraph (3) would not apply.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to weeks of unemployment beginning after the date of the enactment of this Act.

And the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

(a) **GENERAL RULE.**—Section 105 of the Emergency Unemployment Compensation Act of 1974 is amended by inserting “(a)” after “Sec. 105.” and by adding at the end thereof the following new subsection:

And the Senate agree to the same.

Amendment numbered 8.

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: (b) (1)

And the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

(c) *DISQUALIFICATION OF TEACHERS.*—Section 3304 (a) (6) (A) of the Internal Revenue Code of 1954 (relating to approval of State unemployment laws) is amended—

(1) in clause (i)—

(A) by striking out “instructional research” and inserting in lieu thereof “instructional, research”; and

(B) by striking out “two successive academic years” and inserting in lieu thereof “two successive academic years or terms”;

(2) by striking out “and” at the end of clause (i); and

(3) by adding at the end thereof the following new clause:

“(iii) with respect to any services described in clause (i) or (ii), compensation payable on the basis of such services may be denied to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess, and”.

And the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

(d) *EFFECTIVE DATES.*—

(1) The amendment made by subsection (a) shall take effect as if included in the amendment made by section 314 of the Unemployment Compensation Amendments of 1976.

(2) The amendment made by subsection (b) shall take effect as if included in the amendments made by section 506 of the Unemployment Compensation Amendments of 1976.

(3) The amendments made by subsection (c) shall take effect as if included in the amendments made by section 115(c) of the Unemployment Compensation Amendments of 1976.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title, and agree to the same.

AL ULLMAN,
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 GUY VANDER JAOT,
 WILLIAM M. KETCHUM,

Managers on the Part of the House.

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 DANIEL P. MOYNIHAN,
 BOB DOLE,
 WILLIAM V. ROTH, Jr.,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4800) to extend the Emergency Unemployment Compensation Act of 1974 for an additional year, to revise the trigger provisions in such act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action (other than action of a merely technical nature) agreed upon by the managers and recommended in the accompanying conference report.

AMENDMENT NO. 1.—EXTENSION OF PROGRAM

House bill

The House bill extends the Emergency Unemployment Compensation Act of 1974 for an additional year.

Senate amendment

The Senate amendment extends the Emergency Unemployment Compensation Act of 1974 until September 30, 1977, with a phase out under which individuals eligible for emergency compensation before September 30, 1977, may continue to receive such benefits until December 31, 1977.

Conference agreement

The conference agreement extends the Emergency Unemployment Compensation Act of 1974 until October 31, 1977, with a phaseout under which individuals eligible for emergency compensation before October 31, 1977, may continue to receive such benefits until January 31, 1978.

AMENDMENT NO. 2.—AREA TRIGGERS AND DURATION OF EMERGENCY BENEFITS

House bill

The House bill provides for the payment of emergency compensation on the basis of State or area triggers. Under the House bill, emergency compensation will be payable in any area of a State if the rate of insured unemployment in such area or in the State in which such area is located is at least 5 percent and if there is an extended benefit period in effect for the State. The House bill defines an area as a labor market area or any part of a labor market area which is located within a single State and as all other parts of a State which are not located within a labor market area. The term "labor market area" means any area designated by the Secretary of Labor as being a contiguous population center with at least 250,000 individuals. The new area triggers take effect with the week beginning April 24, 1977.

The House bill also provides that the maximum duration of emergency compensation will be 13 weeks which results in a maximum duration of 52 weeks of unemployment compensation to any individual. This provision of the House bill applies to week of unemployment ending after March 31, 1977.

Senate amendment

The Senate amendment strikes out the area trigger provisions of the House bill. The Senate amendment retains the provision of the House bill which provides for a maximum duration of 13 weeks for emergency compensation; except that the Senate amendment allows the existing maximum duration of 26 weeks which applies to certain States to remain in effect until April 30, 1977. The Senate amendment provides for a 13-week minimum duration for the emergency benefit period.

Conference agreement

The conference agreement strikes the area trigger provisions, provides for a maximum duration of 13 weeks for emergency compensation, allows the existing maximum duration of 26 weeks which applies to certain States to remain in effect until April 30, 1977, and provides for a 13-week minimum duration for the emergency benefit period.

AMENDMENT NO. 3.—FINANCING OF EMERGENCY UNEMPLOYMENT COMPENSATION FROM GENERAL FUNDS

House bill

The House bill provides that emergency compensation will be financed from general funds rather than from funds in the Unemployment Trust Fund. This provision of the House bill applies to benefits paid for weeks of unemployment ending after March 31, 1977.

Senate amendment

Except for some technical changes in the House bill, the Senate amendment also provides for financing of emergency compensation from general funds.

Conference agreement

The conference agreement follows the Senate amendment. Under this amendment, funds in the Extended Unemployment Account derived from the Federal unemployment tax shall be used to meet the costs of the extended benefit program. After March 31, 1977, the full amount of benefit payments under the emergency unemployment compensation program will be derived from nonrepayable general fund advances.

AMENDMENT NO. 5.—DENIAL OF EMERGENCY COMPENSATION TO INDIVIDUALS WHO REFUSE OFFERS OF SUITABLE WORK OR WHO ARE NOT ACTIVELY SEEKING WORK

House bill

The House bill provides that an individual will be denied emergency compensation for any week if during such week—

- (1) such individual fails to accept any offer of suitable work or to apply for any suitable work to which he was referred by the State agency, or

(2) such individual fails to actively engage in seeking work. This disqualification would continue until the individual has been employed during at least four weeks and has earned an amount for being so employed equal to at least four times his weekly benefit amount.

Under the House bill, an individual would not be disqualified by reason of any failure to accept an offer of, or apply for, suitable work—

(1) if the average weekly wage for the position does not exceed the sum of 120 percent of the individual's weekly benefit amount plus the amount of any supplemental unemployment compensation benefits to which such individual is entitled,

(2) if the position was not offered to such individual in writing and was not listed with the State employment service,

(3) if such failure would not result in a denial of compensation under the applicable State law to the extent that such law is not inconsistent with the new provisions of the House bill, or

(4) if the position does not pay wages equal to the higher of the Federal minimum wage or any applicable State or local minimum wage.

The House bill defines suitable work as any work for which an individual is reasonably fitted by training and experience and any other work for which an individual lacks the required skills and training if in connection with the job the individual would be provided with the necessary training to perform the work. If the State agency determines that an individual's prospects for obtaining work in his customary occupation are poor, the determination of whether any work is suitable work for the individual shall be made without regard to whether the work involves lower pay or lesser skills than the individual's customary occupation.

Under the House bill, an individual would be treated as actively engaged in seeking work if the individual engaged in a systematic and sustained effort to obtain work during any week and if the individual provided tangible evidence to the State agency that he engaged in such an effort.

The provisions of the House bill apply to weeks of unemployment beginning after the date of the enactment of the bill.

Senate amendment

Under the Senate amendment, an individual would be disqualified from emergency compensation for refusing to accept, or apply for, any bona fide offer of employment which is within the individual's capabilities and which meets the conditions of present Federal law unless—

(1) the worksite of the position is located at an unreasonably great distance from the individual's residence,

(2) the position involves an unacceptably high risk to the health, safety, or morals of the individual, or

(3) the gross average weekly remuneration payable to the individual for the position does not exceed the individual's average weekly benefit amount.

Under the Senate amendment, failure to comply with the new eligibility requirements would disqualify an individual from receiving emergency benefits for the duration of his eligibility period.

The Senate amendment also provides that an individual would be ineligible to receive emergency benefits for any week if he fails to actively engage in seeking work during such week.

The Senate amendment also requires States to refer applicants for emergency compensation to any jobs which are within their capabilities.

The provisions of the Senate amendment apply to weeks of unemployment beginning after the date of the enactment of the bill.

Conference agreement

The conference agreement includes the following:

In addition to any eligibility requirements of the applicable State law, an individual would be disqualified from receiving emergency benefits for failing to actively seek work; failing to apply for any suitable work to which he or she was referred by the State agency; or failing to accept any offer of suitable work.

To meet the "actively seeking work" requirement for any week the claimant would have to engage in a systematic and sustained effort to obtain work during such week, and provide tangible evidence to the State agency that he or she has actively sought work for such week.

For the purposes of the emergency benefits program, any work would be considered suitable if it:

- was within the capabilities of the claimant;

- met the conditions of present Federal law;

- met the conditions of State law and practices pertaining to suitable or disqualifying work that are not inconsistent with the provisions of this section, such as not requiring an individual to take a job that involves traveling an unreasonable distance to work or poses an unreasonable threat to the individual's morals, health or safety;

- paid wages at least equal to the Federal or, if higher, any applicable State or local minimum wage;

- paid gross average weekly remuneration equal to the individual's weekly unemployment compensation benefit, plus any "Supplemental Unemployment Benefits" (SUB) to which the individual might be entitled because of agreements with previous employers; and

- was listed with the State employment service or offered in writing. (A written job offer would involve a written statement as to the availability of the job and the hours and wages it involved. It would not have to include other details such as a description of fringe benefits.)

State agencies would be required to refer claimants of emergency benefits to any job that would be considered suitable for the individual under the provisions of this section.

If, however, an individual furnishes satisfactory evidence to the State agency that his or her prospects for obtaining work within a reasonably short period in his customary occupation are good, the determination of whether any work is suitable for the individual would be made in accordance with State law and practices pertaining to suitable or disqualifying work rather than the provisions of this section pertaining to suitable work. An example of the type of evidence required would be a recall notice from a former employer.

Failure to "actively seek work" or to apply for or accept an offer of "suitable work", as defined above, would disqualify an individual from receiving emergency benefits until he had worked at least 4 weeks and earned 4 times his or her weekly unemployment compensation amount.

AMENDMENT No. 18.—TERMINATION OF INDIVIDUAL ENTITLEMENT FOR EMERGENCY COMPENSATION

House bill

No provision.

Senate amendment

Under the Senate amendment, an individual's eligibility for emergency compensation would expire 2 years after the end of the most recent benefit year for which regular benefits were paid.

Conference agreement

The conference agreement includes the Senate amendment.

AMENDMENT No. 22.—DISQUALIFICATION OF ILLEGAL ALIENS

House bill

The House bill would allow the payment of unemployment compensation to nonresident aliens who are lawfully present in the United States for the purpose of performing the work on which the benefits are based.

Senate amendment

The Senate amendment modifies the House provision to make it clear that unemployment compensation will not be paid on the basis of services performed by aliens unless such services are performed by aliens during periods in which they were lawfully present in the United States.

Conference agreement

The conference agreement includes the Senate version of the amendment.

AMENDMENT No. 23.—PAYMENT OF UNEMPLOYMENT COMPENSATION TO EMPLOYEES OF EDUCATIONAL INSTITUTIONS

House bill

The House bill corrects a clerical error in existing law and provides that teachers will be denied unemployment compensation for periods between successive academic terms as well as between academic years.

Senate amendment

The Senate amendment contains the provisions of the House bill and also provides 2 additional provisions. The first additional provision allows States the option of denying unemployment compensation to school employees during any established and customary vacation period or holiday recess if there is a reasonable assurance of employment following the vacation or recess period. The second additional provision allows States the option of denying unemployment compensation based on services performed as a substitute teacher if the individual is paid for such services on a per diem basis and has performed such services less than 45 days during his base period.

Conference agreement

The conference agreement includes the provisions of the House bill and the first provision of the Senate amendment (relating to unemployment compensation to school employees during an established and customary vacation period or holiday recess); the conference agreement does not include the second Senate amendment (relating to substitute teachers).

AMENDMENT No. 25.—REDUCTION OF UNEMPLOYMENT COMPENSATION FOR RETIREMENT BENEFITS

House bill

No provision.

Senate amendment

The Senate amendment delays for 6 months the effective date of the provision which requires States to reduce unemployment compensation payable to any individual by the amount of retirement benefits the individual receives.

Conference agreement

The conference agreement includes the Senate amendment.

AMENDMENT No. 26.—FEDERAL SALARY ACT AMENDMENT

House bill

No provision.

Senate amendment

The Senate amendment would require that all future pay increases for Members of Congress, Federal judges, and other senior Federal officials be subject to a rollcall vote in both the House and Senate.

Conference agreement

The conference agreement includes the Senate amendment.

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Managers on the Part of the Senate.