



# Unemployment Insurance Provisions in the American Recovery and Reinvestment Act of 2009

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## Summary

The American Recovery and Reinvestment Act of 2009 (P.L. 111-5, also known as ARRA or the 2009 stimulus package), contains several provisions affecting unemployment benefits, described below.

- ARRA increases unemployment benefits by \$25 per week for all recipients of regular unemployment compensation (UC), extended benefits (EB), emergency unemployment compensation (EUC08), Trade Adjustment Assistance (TAA) programs, and Disaster Unemployment Assistance (DUA). Supplemental compensation would be available from the time a state enters into an agreement with the Labor Secretary and ending before January 1, 2010 (with grandfathering).
- The act extends the temporary EUC08 program through December 26, 2009 (with grandfathering), to be financed by federal general revenues.
- It provides for 100% federal financing of the EB program to end before January 1, 2010 (with grandfathering), to be financed by the federal government through the Unemployment Trust Fund.
- ARRA allows states the option of changing temporarily the eligibility requirements for the EB program in order to expand the number of persons eligible for EB benefits, to end before June 1, 2010.
- It provides for an additional 13 weeks to the maximum amount of time railroad workers may receive extended unemployment benefits.
- The legislation suspends income taxation on the first \$2,400 of unemployment benefits received in 2009, for taxable years beginning after December 31, 2008.
- It provides relief to states from the payment and accrual of interest on federal loans to states for the payment of unemployment benefits, from enactment of the stimulus package on February 17, 2009 through December 31, 2010.
- ARRA provides for a special transfer of up to \$7 billion in federal monies to state unemployment programs as “incentive payments” for changing certain state UC laws. All incentive payments must be made before October 1, 2011. States do not need to repay these sums to the federal government. Any changes that states make to state unemployment programs as a result of ARRA’s modernization provisions would be permanent.
- Finally, the act transfers a total of \$500 million to the states for administering their unemployment programs, within 30 days of enactment of the 2009 stimulus package. States do not need to repay these sums to the federal government.

This report addresses some of the more common questions about unemployment insurance in the 2009 stimulus package. This report does not provide operational details of unemployment insurance programs such as UC, EB, or EUC08, nor does it address the TAA or DUA programs.

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## **Introduction**

The American Recovery and Reinvestment Act of 2009 (ARRA, P.L. 111-5), the 2009 stimulus package, contains several provisions affecting unemployment benefits. This report addresses some of the more common questions about unemployment insurance in the 2009 stimulus package. This report does not provide operational details of unemployment insurance programs such as regular unemployment compensation (UC), extended benefits (EB), emergency unemployment compensation (EUC08), Trade Adjustment Assistance (TAA) programs, and Disaster Unemployment Assistance (DUA).

## **How Are Individuals Affected by the Stimulus Provisions?**

### **\$25 Per Week Supplemental Unemployment Benefit: Federal Additional Compensation (FAC)**

ARRA creates an additional, federally funded \$25 weekly benefit for individuals currently receiving regular Unemployment Compensation (UC), Extended Benefits (EB), Emergency Unemployment Compensation (EUC08), Trade Adjustment Assistance (TAA) and Disaster Unemployment Assistance (DUA) benefits.<sup>1</sup> Unemployed railroad workers will not be eligible to receive the \$25 per week supplemental benefit.

The supplemental weekly benefit will be available to individuals the week after the state enters into an agreement with the Labor Secretary and ending before January 1, 2010. All states have signed agreements. The additional benefit will be payable either at the same time and in the same manner as other unemployment compensation payable for the week involved, or payable separately but on the same weekly basis as other unemployment compensation. States would not be allowed to alter computation of UC under state law in such a manner that the weekly benefit amount would be less than the benefit amount that would have been payable under state law as of December 31, 2008.

The \$25 per week supplemental benefit will be grandfathered for individuals who have not exhausted the right to unemployment compensation as of January 1, 2010. That is, individuals who were receiving unemployment compensation (UC, EB, EUC08, TAA, or EB) immediately before January 1, 2010, will continue to receive the \$25 supplemental benefit for the duration of

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<sup>1</sup> For more information on these unemployment programs, please see the following CRS reports:

CRS Report RL33362, *Unemployment Insurance: Available Unemployment Benefits and Legislative Activity*, by Alison M. Shelton and Julie M. Whittaker.

CRS Report RS22915, *Temporary Extension of Unemployment Benefits: Emergency Unemployment Compensation (EUC08)*, by Julie M. Whittaker and Alison M. Shelton.

CRS Report RL34383, *Trade Adjustment Assistance (TAA) for Workers: Current Issues and Legislation*, by John J. Topoleski.

the benefit. An individual who is grandfathered for payment of the supplemental weekly benefit into 2010 for one form of unemployment benefit (such as regular UC) would not receive the \$25 supplemental weekly benefit for subsequent unemployment benefits that begin after January 1, 2010 (such as EB or EUC08). No supplemental compensation would be payable for any week beginning after June 30, 2010.

As a practical matter, state unemployment systems may need three weeks, or more, after signing an agreement with DOL before they are administratively able to start providing the supplemental weekly benefit. However, benefits will begin to accrue to the unemployed in the week following the state having signed the agreement. These accrued benefits would be paid retroactively. No supplemental weekly benefits would be paid retroactively for weeks before the state signed an agreement with DOL.

### **Extension of Emergency Unemployment Compensation Program (EUC08) Benefits Through December 26, 2009**

The Emergency Unemployment Compensation (EUC08) program is a temporary, 100% federally-financed program that provides additional weeks of unemployment benefits at the state level. The 1<sup>st</sup> tier of EUC08 provides up to 20 additional weeks of unemployment compensation to all qualified workers who have exhausted regular unemployment compensation.<sup>2</sup> The 2<sup>nd</sup> tier of EUC08 provides up to an additional 13 weeks of benefits in states with high unemployment. DOL tracks unemployment rates in the states, and a state is said to trigger “on” to the EUC 2<sup>nd</sup> tier of benefits if unemployment conditions in the state reach certain thresholds.

ARRA extends the availability of EUC08 benefits through December 26, 2009.<sup>3</sup> Those unemployed individuals who had qualified for the tier I or tier II EUC08 benefit would continue to receive payments for the number of weeks they were deemed eligible. There are no new entrants into either the tier I or tier II EUC08 program after December 26, 2009. If an individual exhausts his or her *regular* unemployment compensation (UC) benefits (or EB benefits in a few states) after December 26, 2009, the individual would not be eligible for any EUC08 benefit.

Those beneficiaries receiving tier I or tier II EUC08 benefits on December 26, 2009, are “grandfathered” for their remaining weeks of eligibility. If eligible to continue to receive the tier I benefit after December 26, 2009, an individual would not be entitled to tier II benefits once those benefits were exhausted. Neither tier I nor tier II EUC08 benefits are payable for any week after June 6, 2010.<sup>4</sup>

### **Supplemental FAC \$25 Per Week Benefit Available to EUC08 Recipients**

ARRA provides a supplemental \$25 weekly benefit through December 2009 for recipients of unemployment compensation, including EUC08 recipients.

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<sup>2</sup> In addition to meeting the eligibility requirements for regular UC, claimants for EUC08 benefits must have first claimed regular UC benefits on or after May 7, 2006, exhausted the regular UC benefit, and have had at least 20 weeks of full-time insured employment or the equivalent in insured wages in their base period.

<sup>3</sup> December 27, 2009, for the state of New York.

<sup>4</sup> June 7, 2010, for the state of New York.

## **Temporary Changes to the Extended Benefit (EB) Program**

The Extended Benefit (EB) program is a permanent federal-state program that may provide additional weeks of unemployment benefits at the state level. The EB program provides up to a maximum of 13 weeks during periods of high unemployment and up to a maximum of 20 weeks in certain states with extremely high unemployment. DOL tracks unemployment rates in the state, and a state is said to trigger “on” to the EB program if unemployment conditions in the state meet specified conditions.

### **Supplemental FAC \$25 Per Week Benefit Available to EB Recipients**

ARRA provides a supplemental \$25 weekly benefit through December 2009, for recipients of unemployment compensation, including EB recipients.

### **Temporary Expansion in EB Eligibility, at States’ Option**

ARRA temporarily expands, at the option of the states, eligibility for the EB program.<sup>5</sup> As the EB program has operated in the past, a beneficiary had to be *within his/her original “benefit year” when the EB program triggered “on”* in the state in order to receive EB benefits. The benefit year is a one-year period during which a worker may receive benefits based on a previous period of unemployment. Thus, on the condition that the state triggered “on” during an individual’s benefit year, he or she could receive EB benefits during the benefit year, or even after the benefit year expired, i.e. at the time he/she exhausted regular unemployment compensation or EUC08 benefits even if this occurred after the expiration of the benefit year. However, *if the state’s most recent EB period triggered “on” after the individual’s benefit year ended*, the beneficiary would not receive EB. As a result, in states that have recently triggered “on” to EB because of rising unemployment rates, many individuals may be ineligible for EB benefits if their benefit years expired before the state triggered “on” to the EB program.

ARRA allows states the option of temporarily ignoring the benefit year requirement and instead using exhaustion of EUC08 benefits as an eligibility requirement for weeks of EB benefit payments that fall between enactment of the stimulus package and before January 1, 2010, and as long as the state is triggered “on” for EB during the period when the individual was receiving EUC08. This has the effect of allowing more individuals to be eligible for the EB program.<sup>6</sup>

One issue for states that are considering adopting the temporary expansion in eligibility is that while ARRA provides for 100% federal financing of EB during 2009, this federal financing does

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<sup>5</sup> The EB program imposes additional federal restrictions, beyond the state requirements for regular UC, on individual eligibility for EB benefits. These include the following: a worker must be actively searching and available for work; a worker may not refuse an offer of suitable work; claimants must have at least 20 weeks of full-time insured employment during their base period (the period during which wages earned and/or house/weeks worked are examined to determine a worker’s monetary entitlement to UC); and the worker must still be within his or her “benefit year”. ARRA temporarily suspends this last requirement, at the option of the states, as discussed above.

<sup>6</sup> Individuals who qualified for EUC08 benefits under the EUC08 “reachback” provision may have experienced particular difficulties in qualifying for EB under the “benefit year” provision, and therefore would benefit from their states adopting the alternative EB eligibility provision based on EUC08 exhaustion. Under the EUC08 “reachback” provision, EUC08 benefits were made available to individuals who had exhausted regular UC benefits with respect to a benefit year that expired during or after the week of May 6, 2007.

not apply to unemployed former state and local government employees. On the other hand, the dollar amounts gained by states through 100% federal financing of the EB program in 2009 are likely to be substantial.

### **Temporary Grandfathering of Expansion of EB Eligibility Beyond January 1, 2010, at States' Option**

ARRA also allows states to opt to grandfather this change in EB eligibility for those who exhaust their EUC08 benefits on or before January 1, 2010, and until the week ending on or before June 1, 2010. Those benefits would continue to be 100% federally financed (except for state and local workers).

### **Extension of Railroad Unemployment Insurance Benefits**

ARRA adds an additional 13 weeks to the maximum amount of time railroad workers may receive extended unemployment benefits, allowing for up to 26 weeks of extended benefits in addition to the 26 weeks of normal benefits provided under current law. The increase in extended benefits applies to all qualifying railroad employees, regardless of their years of service (i.e., it would apply to those with fewer than 10 years of service, who do not qualify for extended benefits under current law).

The provision applies to employees who received normal unemployment benefits during the benefit year beginning July 1, 2008, and ending June 30, 2009. No extended benefits under the act may begin after December 31, 2009. If the additional extended benefits were to reach \$20 million in cost before December 31, 2009, the additional benefits would terminate.

### **\$2,400 Tax Exclusion for Unemployment Benefits**

All individuals who receive regular Unemployment Compensation (UC), Extended Benefits (EB), Emergency Unemployment Compensation (EUC08), Trade Adjustment Assistance (TAA), Disaster Unemployment Assistance (DUA), or Railroad Unemployment Insurance (RRUI) in 2009 may exclude from gross income up to \$2,400 in benefits received in 2009. To qualify, an individual must have received unemployment benefits (it is not sufficient to be unemployed). The exclusion is applicable for taxable years beginning after December 31, 2008. The Joint Committee on Taxation estimates this will reduce federal receipts by approximately \$4.7 billion.<sup>7</sup>

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<sup>7</sup> For more information, please see CRS Report RS21356, *Taxation of Unemployment Benefits*, by Julie M. Whittaker and Kathleen Romig.

## **How Are States Affected by the Stimulus Provisions?**

### **What Do States Need to Do to Receive the Federal Monies in ARRA for Unemployment Insurance?**

As of this writing, all states have signed the agreement with the Department of Labor that is required to receive the FAC \$25 supplemental weekly benefit in 2009. States must submit an application in order to receive the states' shares of the \$7 billion for modernization of state unemployment programs.

#### **FAC \$25 Weekly Supplemental Unemployment Benefit in 2009**

States must sign an agreement with the Department of Labor to receive the \$25 per week supplemental unemployment benefit. At the time of this writing, all states have entered into agreements with DOL. These agreements apply to weeks of unemployment in 2009 "beginning after the date on which such agreement is entered into." As a practical matter, state unemployment administrations may need three or more weeks from the time of enactment until they are able to begin the first supplemental payments.

#### **100% Federal Financing of EB Program in 2009**

The 100% federal financing of the EB program in 2009 does not require states to enter into an agreement with the Labor Secretary.

#### **Unemployment Modernization Provisions in ARRA**

ARRA provides for a special transfer of up to a total of \$7 billion from the federal unemployment account (FUA) within the UTF to the State accounts within the UTF<sup>8</sup> as "incentive payments" for changing certain state UC laws. These changes must be permanent and not subject to discontinuation under any circumstances other than repeal by the legislature. The maximum incentive payment allowable for a state would be calculated using the methods used in Reed Act distributions. That is, funds would be distributed to the state UTF accounts based on the state's share of estimated federal unemployment taxes (excluding reduced credit payments) made by the state's employers as estimated at the end of FY2008.

The Department of Labor has issued an advisory providing guidelines for applications, which it has posted at [http://wdr.doleta.gov/directives/corr\\_doc.cfm?docn=2715](http://wdr.doleta.gov/directives/corr_doc.cfm?docn=2715). After a state submits a completed application, DOL may take up to 30 days to make a determination as to whether a state qualifies (is certified) to receive the unemployment modernization incentive payment.

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<sup>8</sup> For more information, please see CRS Report RS22077, *Unemployment Compensation (UC) and the Unemployment Trust Fund (UTF): Funding UC Benefits*, by Julie M. Whittaker and Kathleen Romig.

Applications are due to DOL by August 22, 2011. All incentive payments must be made before October 1, 2011.

### ***State Law Requirements for One-third Payment***

For a state to receive one-third of its potential distribution it must first have enacted an alternative base period (ABP) to ensure the last completed quarter of a worker's employment is counted when determining eligibility for unemployment benefits.

The base period is the time period during which a worker's employment history is examined to determine his or her monetary entitlement to UC. Most states use the first four of the last five completed calendar quarters preceding the filing of the claim as their base period. Such a base period results in a lag of up to five months between the end of the base period and the date a worker becomes unemployed. As a result, the worker's most recent work history is not used when making an eligibility determination. Thus, some states use an alternative base period (ABP) for workers failing to qualify under the regular base period. For example, if the worker fails to qualify using wages and employment in the first four of the last five completed calendar quarters, then the state might use wages and employment in the last four completed calendar quarters.

### ***State Law Requirements for Remaining Two-thirds Payment***

The remaining two-thirds of the \$7 billion would be distributed to states contingent on their qualifying for the first one-third, plus state law containing at least two of the following four provisions:

- (1) permit former part-time workers to seek part-time work;
- (2) permit voluntary separations from employment for compelling family reasons, which must include (i) domestic violence, (ii) illness or disability or an immediate family member, and (iii) the need to accompany a spouse who is relocating for employment;
- (3) provide extended compensation to UC recipients in qualifying training programs for high demand occupations; or
- (4) provide dependents allowances to UC recipients with dependents.

### ***States That Already Have an ABP or Have One or More of the Optional Modernization Provisions***

Because DOL must certify each state unemployment program, it is not possible to provide a list of states that already qualify for modernization monies at this time. All states must apply to the Department of Labor for certification to receive the first third and remaining two-thirds of the state's share of the \$7 billion for modernization of state unemployment compensation programs. DOL will certify any existing or new legislation within 30 days of application.

If certified by DOL, states that already meet the requirements for either the one-third or full incentive payment prior to enactment of ARRA will not need to enact additional state legislation. DOL has advised that it will not certify any state provisions that contain restrictions, such as state ABP contingencies related to low balances in the state account of the Unemployment Trust

Funds, and will disregard any state law provisions which are subject to discontinuation under any circumstances other than repeal by the state legislature. State laws do not have to be active when the state applies to DOL for certification, but must become active within one year to qualify.

### *Considerations for State Participation in Unemployment Stimulus Modernization*

The UI modernization provisions have been controversial in some states. For 2009, the ARRA UI modernization provisions represent potentially substantial amounts of “free” federal money for unemployed workers in the states. Further, economists estimate that additional spending on unemployment benefits gets more “bang for the buck” than most other types of economic stimulus.<sup>9</sup>

State finances may, however, be affected by adoption of unemployment modernization provisions to the extent that states will be responsible for the long-term costs of any changes to state unemployment programs after the modernization monies run out. In addition, the publicity given to ARRA provisions, particularly the \$25 weekly supplemental benefit in 2009, might prompt more workers to apply for unemployment benefits who previously wouldn’t have applied.

### **Transfer of \$500 Million for Administration of State Unemployment Programs**

ARRA designates a total of \$500 million for the administration of state unemployment programs. The transfer, from the federal Employment Security Administration Account (ESAA) to the states’ accounts within the UTF, will be made automatically within 30 days of ARRA’s enactment using Reed Act distribution calculations. States do not need to do pass legislation or file an application with DOL.

## **How is Financing of Unemployment Compensation Affected by the Stimulus Provisions?**

ARRA provides for federal financing of several elements of the stimulus package. For the Emergency Unemployment Compensation (EUC08) program, ARRA continues 100% federal financing but changes the source of the federal financing. For the Extended Benefits (EB) program, ARRA temporarily replaces 50% state, 50% federal financing with 100% federal financing.

The following ARRA provisions will be 100% financed with general funds from the U.S. Treasury:

- **\$25 weekly supplemental unemployment benefit** payable from the week after state signature of an agreement with the U.S. Labor Secretary and ending before January 1, 2010.

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<sup>9</sup> For more information, please see CRS Report R40104, *Economic Stimulus: Issues and Policies*, by Jane G. Gravelle, Thomas L. Hungerford, and Marc Labonte.

- **Extension of Emergency Unemployment Compensation (EUC08) benefits through December 26, 2008.** The EUC08 program has been 100% federally financed since its creation in July 2008. ARRA changes the source of federal financing, however. Prior to February 17, 2009, EUC08 benefits were financed from the extended unemployment account (EUCA) in the Unemployment Trust Fund (UTF). As a result of ARRA, EUC08 benefits through expiration of the EUC08 program in December 2009 will be financed from general revenues of the Treasury.

The following ARRA provisions will be 100% financed by the federal government through the Unemployment Trust Fund (UTF):

- **\$7 billion in “incentive” payments for modernization of state unemployment programs.** The maximum incentive payment allowable for a state will be calculated using the methods used for Reed Act distributions, and do not need to be repaid. The federal monies will be transferred from the Federal Unemployment Account (FUA) in the UTF to the state accounts in the UTF upon DOL certification that a state’s unemployment program meets the requirements for the incentive transfers. States will be responsible, however, for the immediate and long-term costs of any changes to state unemployment compensation programs.
- **\$500 million transfer to states for administrative costs.** Payments to states will be calculated using the methods prescribed for Reed Act distributions, and do not need to be repaid by states. The federal monies will be transferred from the Employment Security Administration Account (ESAA) in the UTF to the state accounts in the UTF within 30 days of ARRA’s enactment.
- **The Extended Benefits (EB) program** will be 100% federally financed through the Extended Unemployment Compensation Account (EUCA) of the Unemployment Trust Fund (UTF), for weeks of EB benefits before January 1, 2010. EB requires that states pay for 100% financing for EB benefits for unemployed former state and local government employees;<sup>10</sup> ARRA does not change this provision, so that states will continue to finance 100% of these “state and local” beneficiaries. The federal government has always paid 100% of EB *administrative* costs, and ARRA does not change this. For individuals who were receiving EB payments during the last week of 2009, the federal government would continue to pay 100% of EB benefits for the duration of these individuals’ benefits (but not for new entrants to the EB program starting on or after January 1, 2010). The stimulus package also continues the temporary suspension of the waiting week requirement for federal funding until the week ending before May 30, 2010.<sup>11</sup>

States will still finance regular unemployment compensation (UC) through the State Unemployment Tax Acts (SUTA) revenues. The federal government will continue to pay for federal and state administration of UC programs.

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<sup>10</sup> Section 204(a)(3) of the Federal-State Unemployment Compensation Act of 1970, as amended.

<sup>11</sup> States that do not require a one-week UC waiting period, or have an exception for any reason to the waiting period, pay 100% of the first week of EB. Twenty-five states, including Rhode Island and North Carolina, do not require a one-week UC waiting period in all cases. P.L. 110-449 suspended this requirement until December 2009.

## **How Are Federal Loans to State Unemployment Programs Affected by the Stimulus Provisions?**

UC benefits are an entitlement, and states are legally required to pay benefits even if the state account is insolvent. Some states may borrow funds from the Federal Unemployment Account (FUA) within the Unemployment Trust Fund (UTF) in order to meet unemployment benefit obligations.

### **ARRA Waives Interest Payments and Interest Accrual on Federal Loans to State Unemployment Accounts During 2009 and 2010**

ARRA temporarily waives interest payments and the accrual of interest on federal advances to state unemployment funds. The interest payments that come due beginning February 17, 2009, the date of enactment for the stimulus package, until December 31, 2010, are deemed to have been made by the state (and are not capitalized in to the principal of the loan). No interest on advances accrues during the period.

### **ARRA's Interest Provision Does Not Reduce the Underlying Loan Principal**

ARRA does not affect the underlying loan balance. States will still owe the full principal of any outstanding loan. If a state does not pay back funds within the prescribed amount of time or make good progress as determined by the U.S. Labor Secretary, the 5.4% federal tax credit to employers in the state would be reduced, effectively increasing in the federal unemployment tax on employers in that state.

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