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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) contained several provisions affecting unemployment benefits, described below.

- ARRA temporarily increased 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).
- The act extended the temporary EUC08 program through December 26, 2009 (with grandfathering), to be financed by federal general revenues. The EUC08 program's expiration date has since been further extended.
- It provided for temporary 100% federal financing of the EB program, to be financed by the federal government through the Unemployment Trust Fund.
- ARRA allowed states the option of changing temporarily the eligibility requirements for the EB program to expand the number of persons eligible for EB benefits, to end before June 1, 2010.
- It provided for an additional 13 weeks to the maximum amount of time railroad workers may receive extended unemployment benefits.
- The legislation suspended income taxation on the first \$2,400 of unemployment benefits received in 2009, for taxable years beginning after December 31, 2008.
- It provided 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 provided 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 transferred 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 as Congress approved it in February 2009. The 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.

Since ARRA's passage, certain elements of the package have been authorized for additional months and the EUC08 program has been expanded to include additional benefit tiers. For more information, see CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*, by Julie M. Whittaker and Katelin P. Isaacs. This report will not be updated.

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Introduction

The American Recovery and Reinvestment Act of 2009 (ARRA; P.L. 111-5), the 2009 stimulus package, contained 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 created a temporary, federally funded, \$25 weekly additional benefit for individuals currently receiving regular UC, EB, EUC08, TAA, and DUA benefits.¹ Unemployed railroad workers are not eligible to receive the \$25 per week supplemental benefit.

ARRA made the supplemental weekly benefit available to individuals on a temporary basis, beginning the week after the state entered into an agreement with the Labor Secretary. All states signed such agreements. The additional benefit is 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 are not 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 (i.e., prior to enactment of the supplemental benefit).

The \$25 per week supplemental benefit will be grandfathered for individuals who have not exhausted the right to all unemployment benefits as of the expiration date for this temporary program. An individual who is grandfathered for payment of the supplemental weekly benefit for one form of unemployment benefit (such as regular UC) would receive the \$25 supplemental weekly benefit for subsequent unemployment benefits after the program expires (such as EB or EUC08) until the individual has exhausted all entitlement to unemployment benefits based on the original claim or until the last date that current law allows the grandfathered payment.

As a practical matter, state unemployment systems sometimes needed three weeks, or more, after signing an agreement with the Department of Labor (DOL) before they were administratively able to start providing the supplemental weekly benefit. However, benefits began to accrue to the unemployed in the week following the signature of the state-DOL agreement. These accrued benefits were paid retroactively. No supplemental weekly benefits were paid retroactively for weeks before the state signed an agreement with DOL.

¹ For more information on these unemployment programs, please see

CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*, by Julie M. Whittaker and Katelin P. Isaacs, and Katelin P. Isaacs and CRS Report RS22915, *Temporary Extension of Unemployment Benefits: Emergency Unemployment Compensation (EUC08)*, by Katelin P. Isaacs and Julie M. Whittaker.

Extension of Emergency Unemployment Compensation Program Benefits Through December 26, 2009

The EUC08 program is a temporary, 100% federally financed program that provides additional weeks of unemployment benefits at the state level. At the time ARRA was passed, the first tier of EUC08 provided up to 20 additional weeks of unemployment compensation to all qualified workers who had exhausted regular unemployment compensation.² The second tier of EUC08 provided 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 EUC upper tier benefits if unemployment conditions in the state reach certain thresholds.

ARRA extended the availability of EUC08 benefits through December 26, 2009.³ After the expiration of the temporary EUC08 program, there will be no new entrants into any benefit tier. Those beneficiaries receiving any tier of EUC08 benefits at the time the program expires will be “grandfathered” and will receive their remaining weeks of benefits in that tier only.

Since the passage of ARRA, the EUC08 program has been extended beyond December 26, 2009, and EUC08 benefits have been expanded to include additional benefit tiers. For more information, see CRS Report RS22915, *Temporary Extension of Unemployment Benefits: Emergency Unemployment Compensation (EUC08)*, by Katelin P. Isaacs and Julie M. Whittaker.

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

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

Temporary Changes to the Extended Benefit Program

The 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 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.⁴ As the EB program has operated in the past, a beneficiary had to be *within his/her original “benefit year”*

² 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.

³ December 27, 2009, for the state of New York.

⁴ 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

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, that is, at the time he or 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, under law prior to ARRA. 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. Instead, states can choose to use exhaustion of EUC08 benefits as an eligibility requirement, for weeks of EB benefit payments that fall between ARRA’s enactment and expiration of 100% federal funding of the EB program, and as long as the state was 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.⁵

One issue for states considering adopting the temporary expansion in eligibility is that while ARRA provides for temporary 100% federal financing of EB, this federal financing does 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 are likely to be substantial.

Temporary Grandfathering of Expansion of EB Eligibility, at States’ Option

ARRA also allows states to opt to grandfather this change in EB eligibility for those who enter the EB program on or before the expiration of 100% federal financing of the EB program. Grandfathered EB benefits would continue to be 100% federally financed until they are exhausted (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 applied to employees who received normal unemployment benefits during the benefit year beginning July 1, 2008, and ending June 30, 2009. Subsequent legislation authorized these extended unemployment benefits for additional months. For more information, see CRS

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.

⁵ 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.

Report RS22350, *Railroad Retirement Board: Retirement, Survivor, Disability, Unemployment, and Sickness Benefits*, by Scott Szymendera.

\$2,400 Tax Exclusion for Unemployment Benefits

All individuals who received regular UC, EB, EUC08, TAA, 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 estimated this would reduce federal receipts by approximately \$4.7 billion.⁶

How Are States Affected by the Stimulus Provisions?

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

All states signed the agreement with DOL that is required to receive the FAC \$25 supplemental weekly benefit. States must submit an application to receive the states' shares of the \$7 billion for modernization of state unemployment programs.

FAC \$25 Weekly Supplemental Unemployment Benefit

States must sign an agreement with DOL to receive the \$25 per week supplemental unemployment benefit. All states entered into such agreements with DOL. These agreements apply to weeks of unemployment "beginning after the date on which such agreement is entered into." As a practical matter, state unemployment administrations sometimes needed three or more weeks from the time of enactment until they were 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 UTF⁷ 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

⁶ For more information, please see CRS Report RS21356, *Taxation of Unemployment Benefits*, by Julie M. Whittaker.

⁷ For more information, please see CRS Report RS22077, *Unemployment Compensation (UC) and the Unemployment Trust Fund (UTF): Funding UC Benefits*, by Julie M. Whittaker.

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.

DOL has issued an advisory providing guidelines for applications, which it has posted at 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. 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 six 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 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 Meet Requirements for the One-third or Two-Thirds Payments

All states must apply to DOL 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. 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 UTFs, 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.

States that already met, prior to enactment of ARRA, the requirements for either the one-third or full incentive payments need to seek DOL certification of their existing programs. If certified, these states will not need to enact additional state legislation.

DOL maintains a record of ARRA modernization money disbursements, totals and by state, at this link under the header “UI Modernization Incentive Payments”:
<http://workforcesecurity.doleta.gov/unemploy/laws.asp#modern>.

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.⁸

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 designated 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, was to be made automatically within 30 days of ARRA’s enactment using Reed Act distribution calculations. States did 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 EUC08 program, ARRA continues 100% federal financing but changes the source of the federal financing. For the 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.
- **Extension of Emergency Unemployment Compensation benefits.** 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

⁸ For more information, please see CRS Report R40104, *Economic Stimulus: Issues and Policies*, by Jane G. Gravelle, Thomas L. Hungerford, and Marc Labonte.

(EUCA) in the UTF. As a result of ARRA, EUC08 benefits through expiration of the EUC08 program will be financed from general revenues of the Treasury.

The following ARRA provisions will be 100% financed by the federal government through the 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 does not need to be repaid. The federal monies will be transferred from the 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 ESAA in the UTF to the state accounts in the UTF within 30 days of ARRA’s enactment.
- **The EB program** will temporarily be 100% federally financed through the EUCA of the UTF. EB requires that states pay for 100% financing for EB benefits for unemployed former state and local government employees;⁹ 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. The stimulus package also continues the temporary suspension of the waiting week requirement for federal funding until the week ending before May 30, 2010.¹⁰

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

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 FUA within the UTF 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

⁹ Section 204(a)(3) of the Federal-State Unemployment Compensation Act of 1970, as amended.

¹⁰ 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.

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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