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Unemployment Insurance: Available Unemployment Benefits and Legislative Activity

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Summary

Various benefits may be available to unemployed workers to provide income support. When eligible workers lose their jobs, the Unemployment Compensation (UC) program may provide income support through the payment of regular UC benefits. UC benefits may be extended for additional weeks at the state level by the Extended Benefit (EB) program if certain economic situations within the state exist. In July 2008, a new temporary unemployment benefit, the Emergency Unemployment Compensation (EUC08) program, began. EUC08 now provides up to an additional 20 weeks of unemployment benefits. In addition, if certain economic conditions exist within the state, a second tier of EUC08 benefits may be available for up to an additional 13 weeks of EUC08 benefits. Certain groups of workers who lose their jobs because of international competition may qualify for additional or supplemental income support through Trade Adjustment Act (TAA) programs. Unemployed workers may be eligible to receive Disaster Unemployment Assistance (DUA) benefits if they are not eligible to receive UC benefits and if their unemployment may be directly attributed to a declared major disaster.

The American Recovery and Reinvestment Act of 2009, P.L. 111-5 (the 2009 stimulus package), contains several provisions affecting unemployment benefits. The stimulus package will increase unemployment benefits by $25 per week through December 2009. The supplemental $25 per week benefit will be available to all individuals receiving regular unemployment, Extended Benefits (EB), Emergency Unemployment Compensation (EUC08) benefits, Trade Adjustment Act (TAA) programs, and Disaster Unemployment Assistance (DUA), and will be grandfathered for individuals who are receiving benefits under one of these programs in the last week of December 2009. The stimulus package also extends the temporary EUC08 program through end-2009, to be financed by the U.S. Treasury through general revenues. The stimulus package provides for 100% federal financing of the EB program through January 1, 2010, and allows states the option of temporarily easing EB eligibility requirements. The stimulus package suspends income taxation on the first $2,400 of unemployment benefits received in 2009. In addition, states would not owe or accrue interest, through December 2010, on federal loans to states for the payment of unemployment benefits.

Finally, the 2009 stimulus package 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. In addition, the stimulus package would transfer a total of $500 million to the states for administering their unemployment programs. (For more information on unemployment provisions in the stimulus package, please see CRS Report R40368, *Unemployment Insurance Provisions in the American Recovery and Reinvestment Act of 2009*.)

The President's 2010 budget outline suggests that legislation is needed to make the UC system more responsive to changing economic conditions, with a focus on the EB program. In a letter transmitting the Views and Estimates of the House Committee on Ways and Means on aspects of the federal budget for FY2010, the Committee states that it will continue to monitor the effectiveness of the stimulus package (P.L. 111-5), including unemployment insurance programs.

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Introduction

A variety of benefits may be available to unemployed workers to provide them with income support during a spell of unemployment. The cornerstone of this income support is the joint federal-state Unemployment Compensation (UC) program, which may provide income support through the payment of UC benefits. Other programs that may provide workers with income support are more specialized. They may target special groups of workers, be automatically triggered by certain economic conditions, be temporarily created by Congress with a set expiration date, or target typically ineligible workers through a disaster declaration.

UC benefits may be extended at the state level by the Extended Benefit (EB) program if high unemployment exists within the state. Once regular unemployment benefits are exhausted, the EB program may provide up to an additional 13 or 20 weeks of benefits, depending on worker eligibility, state law, and economic conditions in the state. The EB program is funded 50% by the federal government and 50% by the states, but the 2009 stimulus package provides for 100% federal funding of the EB program through December 2009.

A new temporary unemployment insurance program, the Emergency Unemployment Compensation (EUC08) program, began in July 2008. This is the eighth time Congress has created a federal temporary program that has extended unemployment compensation during an economic slowdown.[1] The EUC08 benefit is 100% federally funded. State unemployment compensation (UC) agencies administer the EUC08 benefit along with regular UC benefits.

The EUC08 program provides two tiers of benefits. The first tier provides up to 20 additional weeks of unemployment benefits and is available to all workers who are still unemployed and who have exhausted regular UC (or EB depending on whether the state has elected to pay EUC08 or EB first). The second tier of EUC08 benefits is available to workers in states with high unemployment and provides up to a maximum of an additional 13 weeks of tier II EUC08 benefits (for up to a cumulative 33 weeks of EUC08 benefits).[2]

If an unemployed worker is not eligible to receive UC benefits and the worker's unemployment may be directly attributed to a declared major disaster, a worker may be eligible to receive Disaster Unemployment Assistance (DUA) benefits. The disaster declaration will include information on whether DUA benefits are available.

Certain groups of workers who lose their jobs because of international competition may qualify for additional or supplemental support through Trade Adjustment Act (TAA) programs or (for certain workers age 50 or older) through Reemployment Trade Adjustment Assistance (RTAA). This report does not describe the TAA or RTAA programs. Please see CRS Report RS22718, *Trade Adjustment Assistance for Workers (TAA) and Reemployment Trade Adjustment Assistance (RTAA)*, by John J. Topoleski, for information on these programs.

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[1] The other temporary programs became effective in 1958, 1961, 1972, 1975, 1982, 1991, and 2002. For details on these programs, see CRS Report RL34340, *Extending Unemployment Compensation Benefits During Recessions*, by Julie M. Whittaker.

[2] For a detailed explanation of the EUC08 program, see CRS Report RS22915, *Temporary Extension of Unemployment Benefits: Emergency Unemployment Compensation (EUC08)*, by Julie M. Whittaker and Alison M. Shelton.

This report describes four kinds of unemployment benefits: regular UC, EB, EUC08, and DUA. The report explains their basic eligibility requirements, benefits, and financing structure.

Unemployment Compensation (UC)

UC is a joint federal-state program financed by federal taxes under the Federal Unemployment Tax Act (FUTA) and by state payroll taxes under the State Unemployment Tax Acts (SUTA). The UC program has a direct impact on almost every business in the United States as most businesses are subject to state and federal unemployment taxes. An estimated $7.3 billion in federal unemployment taxes and $32.2 billion in state unemployment taxes were collected in FY2008. Approximately 133.4 million jobs are covered by the UC program. In December 2008, 5.1 million unemployed workers received UC benefits in a given week and the average weekly UC benefit amount was $297. In FY2008, states spent an estimated $38.1 billion on regular UC benefits and an additional $4.1 million on EB payments. In FY2008, the federal appropriation for administration of the UC program was $2.7 billion.

Originally, the intent of the UC program, among other things, was to help counter economic fluctuations such as recessions.[3] This intent is reflected in the current UC program's funding and benefit structure. When the economy grows, UC program revenue rises through increased tax revenues while UC program spending falls as fewer workers are unemployed. The effect of collecting more taxes than are spent dampens demand in the economy. This also creates a surplus of funds or a "cushion" of available funds for the UC program to draw upon during a recession. In a recession, UC tax revenue falls and UC program spending rises as more workers lose their jobs and receive UC benefits. The increased amount of UC payments to unemployed workers dampens the economic effect of earnings losses by injecting additional funds into the economy.

Authorization

The underlying framework of the UC system is contained in the Social Security Act (the Act). Title III of the Act authorizes grants to states for the administration of state UC laws, Title IX authorizes the various components of the federal Unemployment Trust Fund (UTF), and Title XII authorizes advances or loans to insolvent state UC programs.

Appropriation

The federal government appropriates funds for federal and state UC program administration, the federal share of EB payments, the EUC08 program, and federal loans to insolvent state UC programs. In FY2008, the states received an estimated $2.73 billion from the federal government for the administration of their UC programs and $4.1 million for the federal share of EB payments.

[3] See, for example, President Franklin Roosevelt's remarks at the signing of the Social Security Act at http://www.ssa.gov/history/fdrstmts.html#signing.

Administration

The U.S. Department of Labor (DOL) administers the federal portion of the UC system, which operates in each state, the District of Columbia, Puerto Rico, and the Virgin Islands. Federal law sets broad rules that the 53 state programs must follow. These include the broad categories of workers that must be covered by the program, the method for triggering the EB and EUC08 programs, the floor on the highest state unemployment tax rate to be imposed on employers (5.4%), and how the states will repay UTF loans. If the states do not follow these rules, their employers may lose a portion of their state unemployment tax credit when their federal income tax is calculated. The federal tax pays for both federal and state administrative costs, the federal share of the EB program, the EUC08 program, loans to insolvent state UC accounts, and state employment services. The 2009 stimulus package provides a total of $500 million in additional funds to states to help with administrative costs of the regular UC program, the EB program, and the EUC08 program.

UC Eligibility

Broad Federal Guidelines Result in Different State Requirements

Whereas federal laws and regulations provide broad guidelines on UC benefit coverage, eligibility, and benefit determination, the specifics of regular UC benefits are determined by each state. This results in essentially 53 different programs. States determine UC benefit eligibility, payments, and duration through state laws and program regulations. Generally, UC eligibility is based on attaining qualified wages and employment in covered work over a 12-month period (called a base period) prior to unemployment.

Base Period

The base period is the time period during which wages earned and/or hours/weeks worked are examined to determine a worker's monetary entitlement to UC. Almost all states use the first 4 of the last 5 completed calendar quarters preceding the filing of the claim as their base period. This may result 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 there are some instances when workers with substantial labor market attachment are ineligible for UC benefits. In particular, recent entrants to the workforce, or re-entrants, may be ineligible under this definition. Federal law allows states to develop expanded definitions of the base period.

Alternative Base Period (ABP)

Several 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 4 of the last 5 completed calendar quarters, then the state might use wages and employment in the last 4 completed calendar quarters.

Extended Base Period (EBP)

Several states allow workers who have no wages in the current base period to use older wages and employment under certain conditions. These conditions typically involve illness or injury. For example, a worker who was injured on the job and who has collected workers' compensation benefits may use wages and employment preceding the date of the worker's injury to establish eligibility.

Base Period Provisions in the 2009 Stimulus Package

The 2009 stimulus package (P.L. 111-5) provides up to $7 billion to states as an incentive to make changes to their unemployment programs. One third of a state's share of this amount would be contingent on state law allowing use of a base period that includes the most recently completed calendar quarter before the start of the benefit year for the purpose of determining UC eligibility. The remaining two-thirds of a state's share of the $7 billion would be contingent on qualifying for the first 1/3 payment (by adopting an alternative base period definition), plus adopting two of four additional provisions (described on page 5).[4]

Qualifying Wages or Employment

All states require a worker to have earned a certain amount of wages or to have worked for a certain period of time (or both) within the base period to be monetarily eligible to receive any UC benefits. The methods that states use to determine monetary eligibility vary greatly.

Multiple of High-Quarter Wages. Under this method, workers must earn a certain dollar amount in the quarter with the highest earnings of their base period. Workers must also earn total base-period wages that are a multiple—typically 1.5—of the high-quarter wages. For example, if a worker earns $5,000 in the high quarter, the worker must earn at least another $2,500 in the rest of the base period. States require earnings in more than one quarter to minimize the likelihood that workers with high earnings in only one quarter receive benefits. Although the worker might be monetarily eligible through the earnings accrued in one quarter, these "multiple of high quarter wages" states do not deem those workers to be substantially attached to the labor market.

Multiple of Weekly Benefit Amount. Under this method, the state first computes the worker's weekly benefit amount. The worker must have earned a multiple—often 40—of this amount during the base period. For example, if a worker's weekly benefit amount equals $100, then the worker will need base period earnings of 40 times $100, or $4,000, before any UC would be paid. Most states also require wages in at least two quarters. Some states have weighted schedules that require varying multiples for varying weekly benefits.

Flat Qualifying Amount. States using this method require a certain dollar amount of total wages to be earned during the base period. This method is used by most states with an annual-wage requirement for determining the weekly benefit and by some states with a high-quarter wage/weekly benefit requirement.

Weeks/Hours of Employment. Under this method, the worker must have worked a certain number of weeks/hours at a certain weekly/hourly wage.

[4] For more information on unemployment modernization provisions in the American Recovery and Reinvestment Act of 2009, please see P.L. 111-5 CRS Report R40368, *Unemployment Insurance Provisions in the American Recovery and Reinvestment Act of 2009*, by Alison M. Shelton, Kathleen Romig, and Julie M. Whittaker.

2009 Stimulus Provisions Relating to Regular Unemployment Compensation

The American Recovery and Reinvestment Act of 2009 (P.L. 111-5, the 2009 stimulus package) provides for a supplementary benefit payment of $25 per week for unemployment compensation programs (regular UC, EB, EUC, TAA and DUA) through December 2009. The supplemental $25 weekly benefit will be grandfathered for individuals who have not exhausted regular compensation as of January 1, 2010, although no supplementary compensation will be payable for any week beginning after June 30, 2010. States will not be allowed to alter the method of computing unemployment compensation 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 weekly additional benefit will be financed by the federal government through general revenues.

The stimulus package also provides up to $7 billion to states as an incentive to make changes to their unemployment programs. One third of this amount will be contingent on states allowing use of a base period that includes the most recently completed calendar quarter before the start of the benefit year for the purpose of determining UC eligibility. The remaining two thirds of a state's share of the $7 billion will be contingent on the state qualifying for the first 1/3 payment, and state law containing at least two of four additional provisions. These additional provisions include:

1. making unemployment compensation available to workers seeking part-time work;
2. making unemployment compensation available to individuals who quit their jobs voluntarily for compelling family reasons (domestic violence, illness or disability of an immediate family member, spouse relocating for a new job);
3. providing at least 26 additional weeks of unemployment benefits to workers who have exhausted all rights to regular benefits but are enrolled and making satisfactory progress in a state-approved training program or in a job training program authorized under the Workforce investment Act of 1998; and
4. providing dependents' allowances to all individuals with a dependent at a level equal to at least $15 per dependent per week.

Data Collection Considerations

The wide variation seen in state UC program laws and regulations also exists among the states' data collections. All states collect information on earnings by quarter for each worker. A handful of states collect information on the number of weeks worked during the base period. Even fewer states collect information on the numbers of hours worked during a quarter. As a result, most states use information on quarters worked, quarterly earnings, and cumulative earnings in determining eligibility and the amount of benefit.[5] It does not appear that any state measures both hours of work and weeks of work in the base period.

[5] In the *2008 Comparison of State Unemployment Insurance Laws* the following states used the measure of "weeks" in determination of eligibility or benefit amount: New Jersey, Ohio, and Pennsylvania. Only Washington appears to use the number of hours worked in eligibility or benefit determination.

UC Benefit Determination and Duration

Generally, benefits are based on wages for covered work over a 12-month period. Most state benefit formulas replace half of a claimant's average weekly wage up to a weekly maximum. All states disregard some earnings during unemployment as an incentive to take short-term or part-time work while searching for a permanent position. Generally, the worker's UI payment equals the difference between the weekly benefit amount and earnings.

Table 1 lists the minimum and maximum UC benefits for each state. Weekly maximums in January 2009 ranged from $230 (Mississippi) to $628 (Massachusetts) and, in states that provide dependents' allowances, up to $942 (Massachusetts). In December 2008, the average weekly benefit was $297. Benefits are available for up to 26 weeks (28 weeks in Montana and 30 weeks in Massachusetts). The average regular UC benefit duration in December 2008 was 15 weeks.[6] In December 2008, approximately 5.1 million unemployed workers received UC benefits in a given week.

Table 1. State Unemployment Compensation Benefits Amounts, January 2009

(in dollars)

	Minimum Weekly UC Benefit Amount	Minimum If Dependents' Allowance[a]	Maximum Weekly UC Benefit Amount[b]	Maximum If Dependents' Allowance[a]
Alabama	45		255	
Alaska	56	128	370	442
Arizona	60		240	
Arkansas	77		431	
California	40		450	
Colorado	25		431	475
Connecticut	15	30	519	594
Delaware	20		330	
District of Columbia	50		359	
Florida	32		275	
Georgia	44		330	
Hawaii	5		545	
Idaho	65		362	
Illinois	51	57	385	534
Indiana	50		390	
Iowa	53	65	361	443

[6] The permanent federal-state extended benefits (EB) program offers benefits for an additional 13 to 20 weeks in states with unemployment rates above certain levels. The temporary, federally-financed EUC08 program offers a first tier of benefits to all workers for up to an additional 20 weeks, and a second tier of benefits for up to an additional 13 weeks (for a total of up to 33 weeks of EUC08 benefits) for workers in states with certain economic conditions. The EB and EUC08 programs are discussed later in this report.

	Minimum Weekly UC Benefit Amount	Minimum If Dependents' Allowance[a]	Maximum Weekly UC Benefit Amount[b]	Maximum If Dependents' Allowance[a]
Kansas	105		423	
Kentucky	39		415	
Louisiana	10		284	
Maine	60	90	344	516
Maryland	25	65	380	
Massachusetts	34	51	628	942
Michigan	117	147	362	
Minnesota	38		351	566
Mississippi	30		230	
Missouri	35		320	
Montana	120		407	
Nebraska	30		308	
Nevada	16		393	
New Hampshire	32		427	
New Jersey	85	97	584	
New Mexico	67	100	359	459
New York	64		405	
North Carolina	42		494	
North Dakota	43		406	
Ohio	105		372	503
Oklahoma	16		409	
Oregon	113		482	
Pennsylvania	35	43	558	566
Rhode Island	68	118	528	660
South Carolina	20		326	
South Dakota	28		298	
Tennessee	30		275	
Texas	58		392	
Utah	28		444	
Vermont	64		425	
Virginia	54		378	
Washington	129		541	
West Virginia	24		424	
Wisconsin	54		363	
Wyoming	30		415	

Source: Congressional Research Service (CRS) table compiled from *Significant Provisions of State Unemployment Insurance Laws, January 2009*, U.S. Department of Labor, Employment and Training Administration, at http://www.ows.doleta.gov/unemploy/content/sigpros/2000-present/January2009.pdf.

a. The figures for minimum and maximum benefits include dependents' allowances for the maximum number of dependents.

b. If a state has dependents' allowances and only one amount is given, the maximum is the same with or without the allowance.

UC Benefit Financing: Unemployment Taxes on Employers

UC benefits are financed through employer taxes.[7] The federal taxes on employers are under the authority of the Federal Unemployment Tax Act (FUTA), and the state taxes are under the authority given by the State Unemployment Tax Acts (SUTA). These taxes are deposited in the appropriate accounts within the Unemployment Trust Fund (UTF).

Federal Unemployment Tax Act

If a state UC program complies with all federal rules, the net FUTA tax rate for employers is 0.8% (the 6.2% FUTA tax rate less the full 5.4% federal tax credit) on the first $7,000 of each worker's earnings. (Most recently, because New York had unpaid loan balances, the New York employers' rate was higher for 2004 and 2005.) The 0.8% FUTA tax funds both federal and state administrative costs as well as the federal share of the EB program, loans to insolvent state UC accounts, and state employment services. Federal law defines which jobs a state UC program must cover for the state's employers to avoid paying the maximum FUTA tax rate (6.2%) on the first $7,000 of each employee's annual pay.

Federal law requires that a state must cover jobs in firms that pay at least $1,500 in wages during any calendar quarter or employ at least one worker in each of 20 weeks in the current or prior year. The FUTA tax is not paid by government or nonprofit employers, but state programs must cover government workers and all workers in nonprofits that employ at least four workers in each of 20 weeks in the current or prior year. (States are reimbursed for expenditures related to federal workers by the federal government.)

An estimated $7.3 billion in FUTA taxes were collected in FY2008. After the payments to the state accounts for administrative expenses, the expected net balance in the UTF of the Employment Security Administration Account, the Extended Unemployment Compensation Account (for the EB and EUC08 programs), and the Federal Unemployment Account (for federal loans to the states) was $36.0 billion at the end of September 2008.

Expiring Provision: P.L. 110-343. At the end of CY2009, the effective FUTA tax on employers for each employee will decrease to 0.6% (down from 0.8%) on the first $7,000 of wages.

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[7] For a more detailed description of UC financing, see CRS Report RS22077, *Unemployment Compensation (UC) and the Unemployment Trust Fund (UTF): Funding UC Benefits*, by Julie M. Whittaker and Kathleen Romig.

ARRA Temporary Changes Federal Financing of Unemployment Benefits

The American Recovery and Reinvestment Act of 2009 (ARRA, P.L. 111-5) made several important, albeit temporary, changes to the federal role in financing unemployment benefit programs. Under ARRA, the federal government will use UTF monies to finance 100% of EB payments through 2009 (under permanent law EB payments are financed 50% by the federal government and 50% by states). The federal government will use UTF funds to finance a $500 million transfer to states for administering unemployment programs, and also for the $7 billion in incentive monies to states for undertaking modernization of their unemployment programs. ARRA also changes the financing of the EUC08 program, which from its implementation in July 2008 had been financed from the UTF, but starting with enactment of ARRA (on February 17, 2009) will be financed from general revenues of the Treasury through expiration of the EUC08 program on December 26, 2009. States will still finance regular unemployment compensation (UC) through SUTA revenues.

State Unemployment Tax Acts

States levy their own payroll taxes (SUTA taxes) on employers to fund regular UC benefits and the state share of the EB program. The state unemployment tax rate on an employer is "experience rated" in all states, that is, the SUTA rate is based on the amount of UC paid to former employees. Generally, the more UC benefits paid to its former employees, the higher the tax rate of the employer, up to a maximum established by state law. The experience rating is intended to ensure an equitable distribution of UC program taxes among employers and to encourage a stable workforce. State ceilings on taxable wages in January 2009 ranged from the $7,000 FUTA federal ceiling (eight states) to $35,700 (Washington). The minimum SUTA rates ranged from 0% (eight states) to 1.84% (Pennsylvania) in January 2009. Maximum SUTA rates ranged from 5.4% (15 states) to 10.96% (Massachusetts) in January 2009. Approximately $32.2 billion in SUTA taxes were collected in FY2008.

State UC revenue is deposited in the U.S. Treasury. These deposits are counted as federal revenue in the budget. State accounts within the UTF are credited for this revenue. The U.S. Treasury reimburses states from the appropriate UTF state accounts for their benefit payments. These payments do not require an annual appropriation, but the reimbursements do count as federal budget outlays.

Table 2. State Unemployment Taxes: Taxable Wage Base and Rates, January 2009

State	Wages Subject to Tax ($)	Minimum State Unemployment Tax (%)[a]	Maximum State Unemployment Tax (%)[a]
Alabama	8,000	0.44	6.04
Alaska	32,700	1.00	5.40
Arizona	7,000	0.02	5.40
Arkansas	10,000	0.80	6.70
California	7,000	1.50	6.20
Colorado	10,000	0.00	5.40
Connecticut	15,000	1.20	6.10

State	Wages Subject to Tax ($)	Minimum State Unemployment Tax (%)[a]	Maximum State Unemployment Tax (%)[a]
Delaware	10,500	0.10	8.00
DC	9,000	1.50	6.80
Florida	7,000	0.10	5.40
Georgia	8,500	0.03	5.40
Hawaii	13,000	0.00	5.40
Idaho	32,200	0.26	5.40
Illinois	12,300	0.80	7.20
Indiana	7,000	1.10	5.60
Iowa	23,700	0.00	8.00
Kansas	8,000	0.00	7.40
Kentucky	8,000	0.60	9.75
Louisiana	7,000	0.10	6.20
Maine	12,000	0.42	5.40
Maryland	8,500	0.30	7.50
Massachusetts	14,000	1.12	10.96
Michigan	9,000	0.06	10.30
Minnesota	26,000	0.56	10.70
Mississippi	7,000	0.70	5.40
Missouri	12,500	0.00	9.10
Montana	25,100	0.13	6.50
Nebraska	9,000	0.24	5.40
Nevada	26,600	0.25	5.40
New Hampshire	8,000	0.10	6.50
New Jersey	28,900	0.30	5.40
New Mexico	20,900	0.03	5.40
New York	8,500	0.50	8.50
North Carolina	19,300	0.00	6.84
North Dakota	23,700	0.20	9.86
Ohio	9,000	0.50	9.20
Oklahoma	14,200	0.10	5.50
Oregon	31,300	0.70	5.40
Pennsylvania	8,000	1.84	9.98
Rhode Island	18,000	1.69	8.59
South Carolina	7,000	1.24	6.10
South Dakota	9,500	0.00	8.50
Tennessee	7,000	0.40	10.00

State	Wages Subject to Tax ($)	Minimum State Unemployment Tax (%)[a]	Maximum State Unemployment Tax (%)[a]
Texas	9,000	0.22	6.22
Utah	27,800	0.10	9.10
Vermont	8,000	0.80	6.50
Virginia	8,000	0.12	6.22
Washington	35,700	0.00	5.40
West Virginia	8,000	1.50	7.50
Wisconsin	12,000	0.05	9.80
Wyoming	21,500	0.27	9.03

Source: CRS table compiled from *Significant Provisions of State Unemployment Insurance Laws, January 2009*, U.S. Department of Labor, Employment and Training Administration, at http://www.ows.doleta.gov/unemploy/contentsigpros/2000-present/January2009.pdf.

a. Tax rates apply only to experience-rated employers; states apply different rates to new employers.

Generally, during economic expansions, FUTA and SUTA revenue collections will exceed UC outlays. During economic recessions, revenues generally will be less than UC outlays. For example, UTF outlays significantly exceeded trust fund revenue in FY2001-FY2004. From FY2005 to FY2007, UC revenue exceeded total UC outlays. **Table 3** lists the total revenue and outlays associated with the UC program from FY2001 through FY2009 (estimated).

Table 3. Revenue and Spending Associated With Unemployment Compensation, FY2001-FY2009

(in billions of dollars)

	2001	2002	2003	2004	2005	2006	2007	2008[a]	2009[a]
UC revenue, total	**27.8**	**27.5**	**33.2**	**39.3**	**41.8**	**43.0**	**41.2**	**41.4**	**44.3**
FUTA tax	6.9	6.6	6.5	6.6	6.7	7.1	7.3	7.3	6.2
State UC taxes	20.8	20.9	26.7	32.7	35.1	35.9	33.7	34.1	38.1
UC outlays, total	**31**	**53.8**	**57.4**	**40.9**	**35.0**	**34.3**	**34.7**	**44.2**	**52.3**
Regular benefits	27.3	42	42	36.9	31.2	30.2	31.4	38.4	44.7
Extended benefits	[b]	0.16	0.32	0.16	0.00	0.20	0.00	[b]	0.16
Emergency UC	—	7.9	11	4.1	—	—	—	4.4	5.8
Administrative Costs	**3.6**	**3.7**	**4.1**	**3.9**	**3.8**	**3.9**	**3.7**	**3.9**	**3.9**

Source: U.S. Department of Labor, *UI Outlook*, January 2001-March 2009, and updates.

a. Estimated for 2008 and 2009.

b. Less than $5 million.

Outstanding Loans from the Federal Unemployment Account (FUA)

If a state trust fund account becomes insolvent, a state may borrow federal funds.[8] The Department of Labor maintains a list of all states with loans and includes the loan amounts.[9] States are charged interest on loans that are not repaid by the end of the fiscal year in which they were obtained.

The American Recovery and Reinvestment Act of 2009 (P.L. 111-5, the 2009 stimulus package) temporarily waives interest payments, and no interest will accrue, on interest payments that come due from the time the stimulus package was enacted (February 17, 2009) until December 31, 2010. Although states will not need to pay interest during this period, they must still repay the principal on the underlying loans. If a state does not pay back loaned funds within the prescribed amount of time or make good progress as determined by the U.S. Secretary of Labor, the state unemployment tax credit will be reduced.

Extended Benefit (EB) Program

The Extended Benefit program was established by the Federal-State Extended Unemployment Compensation Act of 1970 (EUCA), P.L. 91-373 (26 U.S.C. 3304, note). EUCA may extend receipt of unemployment benefits (extended benefits) at the state level if certain economic situations exist within the state.

The EB program is triggered when a state's insured unemployment rate (IUR)[10] or total unemployment rate (TUR)[11] reaches certain levels. All states must pay up to 13 weeks of EB if the IUR for the previous 13 weeks is at least 5% and is 120% of the average of the rates for the same 13-week period in each of the two previous years. There are two other optional thresholds that states may choose. (States may chose one, two, or none.) If the state has chosen a given option, they would provide the following:

- Option 1: an additional 13 weeks of benefits if the state's IUR is at least 6%, regardless of previous years' averages.
- Option 2: an additional 13 weeks of benefits if the state's TUR is at least 6.5% and is at least 110% of the state's average TUR for the same 13 weeks in either of the previous two years; an additional 20 weeks of benefits if the TUR is at least

[8] For detailed information on loans to the states within the UTF, see CRS Report RS22954, *The Unemployment Trust Fund (UTF): State Insolvency and Federal Loans to States*, by Kathleen Romig and Julie M. Whittaker.

[9] See http://www.workforcesecurity.doleta.gov/unemploy/budget.asp#tfloans.

[10] The IUR is the ratio of UC claimants divided by individuals in UC-covered jobs. The IUR is substantially different than the TUR because it excludes several important groups: self-employed workers, unpaid family workers, workers in certain not-for-profit organizations, and several other, primarily seasonal, categories of workers. In addition to those unemployed workers whose last jobs were in the excluded employment, the insured unemployed rate excludes the following: those who have exhausted their UC benefits (even if they receive EB or EUC08 benefits); new entrants or reentrants to the labor force; disqualified workers whose unemployment is considered to have resulted from their own actions rather than from economic conditions; and, eligible unemployed persons who do not file for benefits.

[11] The TUR is the ratio of unemployed workers to all workers (employed and unemployed) in the labor market. The TUR is essentially a weekly version of the unemployment rate published by the Bureau of Labor Statistics and based on data from the BLS' monthly Current Population Survey.

8% and is at least 110% of the state's average TUR for the same 13 weeks in either of the previous two years.

Each state's IUR and TUR are determined by the state of residence (agent state) of the unemployed worker rather than by the state of employment (liable state). EB benefits are not "grandfathered" when a state triggers "off" the program; that is, EB benefit payments in the state cease immediately.

EB Triggers May be Reviewed in 2010

The President's 2010 budget outline suggested the EB program be modified in order to make the UC system more responsive to changing economic conditions. The current EB triggers have been criticized for deploying in many states long after a recession has started, for not deploying at all in some states with high unemployment, and for triggering off too quickly in some states. Analysts cite several reasons for this: (a) a secular decline in unemployment rates has made the current triggers irrelevant; (b) the rate and lookback provisions work against each other; and (c) amendments to the program in the early 1980s changed the IUR calculation in a way that made EB activation less likely.[12]

At the same time, analysts and legislators have also questioned the use of emergency extended programs (such as EUC08) because these temporary programs can be subject to delays related to the recognition of a recession and legislative activity. As a result, there is interest in modifying the EB program, and especially the EB triggers, so that the EB program can deliver timely and well-targeted benefits.

Some of the issues concerning the EB trigger include national- versus state-level triggers, use of the IUR versus the TUR, and the use of lookbacks that compare current unemployment with conditions one and two years earlier.

The EB trigger is composed of two components, a *level* and a *lookback*. (The EUC08 trigger also consists of these two components). The EB is said to be triggered "on" in a state when both components have met or exceeded the thresholds. The *level* component of a trigger is a threshold rate, such as the IUR or the TUR. The *lookback* component compares the current period's level (rate) to the level in the same period in some reference time such as the previous two years.

A national trigger may seem appropriate since the definition of a recession is that it is national in scope, and the federal government's interest in reversing an economic decline is national as well. On the other hand, recessions have often been primarily regional in impact, with the result that a national trigger could cause extended benefits to be paid to individuals in states that do not face unusually weak labor markets. Regional or sub-regional triggers have also been suggested as a means to improve the targeting of benefits, because labor markets can span state boundaries or be confined to rural or urban areas within a state (especially where a single industry is involved). It would be very difficult, however, to define appropriate regional or sub-state boundaries. There is also concern about data accuracy and availability at regional or sub-state levels. With the EUC08 program, Congress opted for a combination of national- and state-level triggers: EUC08 tier I

[12] The Omnibus Budget Reconciliation Act of 1981 redefined the IUR to remove UC exhaustees and EB beneficiaries from the numerator. The Act also eliminated the national IUR trigger, and raised the states' trigger to 5%.

provides benefits to all unemployed workers, and EUC08 tier II provides additional weeks of benefits to unemployed workers in states that face high unemployment.

The IUR and the TUR have been used as triggers for the EB and EUC08 programs, and each has merits as well as drawbacks. The calculation of the IUR is the ratio of the number of people claiming regular UC benefits to the number of insured workers. The IUR is arguably the more accurate indication of actual demand for EB. The IUR's numerator can change with non-economic factors such as state eligibility rules and administrative practices, however, and this in turn can affect whether the EB triggers on in a particular state. The TUR is defined as the number of all unemployed individuals divided by the size of the civilian labor force (employed and unemployed). The TUR represents a larger population because it includes uninsured workers (such as the self-employed) and because it includes all unemployed workers, including those who failed to qualify for regular UC benefits or who have exhausted regular UC. Recent studies have found that whether an IUR or TUR trigger is used, the secular decline in unemployment over the past several decades means that the current trigger levels are too high.

Lookbacks (e.g. the EB requirement that the IUR requirement be at least 120% of the average of the rates for the same 13-week period in the each of the previous two years) are useful for measuring changes in unemployment relative to a baseline, but have also been controversial. The EB lookback has been criticized for forcing the trigger off too quickly, before the end of a recession. This can occur, for example, when high unemployment rates reach a—still high—plateau and the rate change from the reference period falls below 20% (in the case of a lookback requirement of 120%). Some analysts have proposed that the trigger not include a lookback; others have suggested that the trigger refer to a fixed point in time at some date before the declaration of a recession.

The Advisory Council on Unemployment Compensation recommended in 1994 that the EB program use a state TUR of 6.5%, and that the EB program not use a lookback.

Other potential EB triggers could include the increase in the number of unemployed over a period such as the previous year; the increase the number of long-term unemployed (unemployed for over 26 weeks); or changes in the number of UC exhaustees. Although the UC exhaustion rate is intuitively appealing, potential problems with this trigger include inaccurate data and a built-in delay of up to 26 weeks until benefit exhaustion that could prevent timely launch of the EB program.

It would be important in any reform to build in a mechanism for reviewing and updating EB triggers.

EB Eligibility Requirements Beyond Requirements for Regular UC

The EB program imposes additional federal restrictions on individual eligibility for benefits beyond the state requirements for regular UC. The EB program requires that a worker make a "systematic and sustained" work search. Furthermore, the worker may not receive benefits if he or she refused an offer of "suitable" work, which is defined as "any work within such individual's capabilities". In addition, P.L. 97-35, among other items, amended the EUCA to require that claimants work at least 20 weeks of full-time insured employment or equivalent in insured wages during their base period.

The 2009 stimulus package affects a further requirement for EB eligibility. As the EB program has operated in the past, a beneficiary had to be *within their original "benefit year"*[13] *when the EB program triggered "on"* in their state in order to receive EB benefits. 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 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. 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. For example, if an individual's benefit year expired in July 2008, this person would be ineligible for EB benefits if his or her state triggered "on" for EB in November 2008.

Under the 2009 stimulus package, however, states have the option of ignoring the benefit year requirement and instead using EUC08 exhaustion as an eligibility requirement, as long as the state's EB period falls between enactment of the stimulus package and December 2009. This has the effect of allowing more individuals to be eligible for the EB program. In addition, states can opt to grandfather those who exhaust their EUC08 benefits after December 31, 2009.[14]

As described below, the EUC08 program contains a "reachback" clause under which 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. Before the stimulus package, many individuals who had exhausted EUC08 benefits would have been ineligible for EB benefits if the state triggered "on" for EB after their benefit year expired. Under the stimulus package, however, all individuals who have exhausted EUC08 benefits would be eligible for EB benefits, regardless of the timing of their benefit years.

Methods for Determining 20 Weeks of Full-Time Insured Employment

States use one, two, or three different methods for determining an "equivalent" to 20 weeks of full-time insured employment. These methods are described in both law (Section 202(a)(5) of the EUCA) and regulation (20 CFR 615.4(b)). In practice, states that require any of these three methods for receipt of regular UC benefits *and* do not allow for exceptions to those requirements do not need to establish that the worker meets the 20 weeks full-time insured employment.[15] The three methods are listed below.

- earnings in the base period equal to at least 1.5 times the high-quarter wages; or

[13] The benefit year is a one-year period during which a worker may receive benefits based on a previous period of unemployment. In all states, the beginning date of the benefit year depends on when a worker first files a valid claim, meaning the worker meets minimal wage and employment requirements.

[14] States would once again be responsible for 50% of the cost of new entrants to the EB benefit program after December 2009, however, as 100% federal financing of the EB plan ends in December, 2009. The federal government would continue to pay 100% of EB benefits for individuals who were receiving EB during the last week of 2009, for the duration of their EB receipt.

[15] According to the *2008 Comparison of State Unemployment Insurance Laws* the following states require at least one of the "20 weeks" requirements for regular UC benefits: Alabama, Colorado, Connecticut, Florida, Georgia, Kentucky, Louisiana, Michigan, Mississippi, Missouri, New York, North Dakota, Ohio, South Carolina, South Dakota, Tennessee, and Utah.

- earnings in the base period of at least 40 times the most recent weekly benefit amount, and if this alternative is adopted, it shall use the weekly benefit amount (including dependents' allowances) payable for a week of total unemployment (before any reduction because of earnings, pensions or other requirements) that applied to the most recent week of regular benefits; or
- earnings in the base period equal to at least 20 weeks of full-time insured employment, and if this alternative is adopted, the term "full-time" shall have the meaning provided by the state law.

The base period may be the regular base period or, if applicable in the state, the period may be the alternative base period or the extended base period if that determined the regular UC benefit.

The underlying reasoning behind the requirements seems to be the following:

- Because there are 13 weeks in a quarter, 1.5 times the high-quarter wage is roughly equivalent to 1.5 times 13 weeks of wages or about 20 weeks of wages. (Many states require high quarterly earnings of under $2,000, which works out to less than $4/hour under full-time assumptions. This is less than the federal minimum wage of $5.85/hour.)
- Similarly, because the weekly benefit amount is roughly equivalent to half the average weekly wage, 40 times the weekly benefit amount is roughly equivalent to 20 weeks of wages.

2009 Stimulus Provisions Affecting EB Level and Duration

The EB program provides for additional weeks of UC benefits, 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. The 2009 stimulus package provides a supplemental $25 weekly benefit through 2009 for recipients of unemployment compensation, including EB recipients.

EB benefits on interstate claims are limited to two extra weeks unless both the agent state (e.g., Texas) and liable state (e.g., Louisiana) are both in an EB period.

2009 Stimulus Provisions Affecting EB Financing

EB benefits are funded half (50%) by the federal government through its account for that purpose in the UTF. States fund the other half (50%) through their state accounts in the UTF. The federal government pays 100% of EB *administrative* costs.

The 2009 stimulus package temporarily changes the federal-state funding arrangement. The federal government would finance 100% of EB benefits through the end of 2009, through the Extended Unemployment Compensation Account (EUCA) of the Unemployment Trust Fund (UTF), with the exception of state and local employees' EB benefits. As a result, some states may be reluctant to adopt the stimulus provision that allows them to use EUC08 exhaustion rather than benefit year as a requirement for EB eligibility. 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 in January, 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.[16]

Emergency Unemployment Compensation (EUC08) Program

The Emergency Unemployment Compensation (EUC08) program was created by P.L. 110-252 on June 30, 2008. This temporary unemployment insurance program initially provided up to 13 additional weeks of unemployment benefits to workers who had exhausted regular UC benefits. On November 21, 2008, the President signed P.L. 110-449 into law, extending the EUC08 program through March 2009, and increasing the duration of EUC08 benefits from the original maximum of 13 weeks to a maximum of 20 weeks (referred to as EUC08 tier I benefits). P.L. 110-499 also created a second tier of EUC08 benefits that provides up to 13 additional weeks of unemployment benefits to workers in states with a total unemployment rate of at least 6% (or an IUR of at least 4%). The two tiers of EUC08 benefits provide up to a cumulative 33 weeks of EUC08 benefits. ARRA extends the termination date of the EUC08 program through December 26, 2009.[17]

EUC08 benefits have been financed from the Extended Unemployment Compensation Account (EUCA) in the Unemployment Trust fund. Starting from enactment of the 2009 stimulus package, however, EUC08 benefits will be financed from general revenues through the termination of the EUC08 program in December 2009.

Previous Temporary Unemployment Compensation Extensions

Previously, Congress acted seven times—in 1958, 1961, 1971, 1974, 1982, 1991, and 2002—to establish similar temporary programs of extended UC benefits. These programs extended the period an individual might claim UC benefits (ranging from an additional 6 to 33 weeks) and had expiration dates.[18] Some extensions took into account state economic conditions; many temporary programs considered the state's total TUR or the state's IUR or both.

EUC08 Benefits Tiers and Duration

The amount of the EUC08 benefit is the equivalent of the eligible individual's weekly regular UC benefit and includes any applicable dependents' allowances. The 2009 stimulus package provides a federally-financed, supplemental $25 per week benefit for unemployment compensation, including EUC08 tier 1 and tier 2 benefits, through December, 2009.

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[16] 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.

[17] For details on the EUC08 program, see CRS Report RS22915, *Temporary Extension of Unemployment Benefits: Emergency Unemployment Compensation (EUC08)*, by Julie M. Whittaker and Alison M. Shelton.

[18] For more information on these programs, see CRS Report RL34340, *Extending Unemployment Compensation Benefits During Recessions*, by Julie M. Whittaker.

Tier I

The maximum number of weeks an individual may be eligible for tier I EUC08 benefits is capped at 20 weeks. Some individuals may be eligible for fewer weeks of the tier I EUC08 benefits if their regular UC benefit entitlement was less than 26 weeks.

Tier II

Once an individual has exhausted tier I benefits, a second tier of EUC08 benefits may be available if the individual *worked* in a state with high unemployment (a TUR of at least 6% or an IUR of at least 4%). The maximum number of weeks of tier II benefits is capped at 13 additional weeks (for a maximum of 33 weeks of EUC08 benefits).

Began July 6, 2008

States were required to enter into an agreement with the U.S. Department of Labor (DOL) to provide the EUC08 benefit to unemployed individuals in the state. Once the agreement was signed, the EUC08 benefit began the following week.

All states have signed agreements with DOL, and EUC08 benefits are now available beginning for weeks of qualifying unemployment on or after July 6, 2008. EUC08 benefits for that first week began to be disbursed the week of July 13, 2008.

Terminates December 26, 2009

Both tiers of EUC08 benefits are temporary and expire on December 26, 2009.[19] Those beneficiaries receiving tier I or tier II EUC08 benefits before December 26, 2009, are “grandfathered” for their remaining weeks of eligibility. There are no new entrants into either the tier I or tier II EUC08 program after December 26, 2009. That is, 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. 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.[20]

Tier I EUC08 Eligibility Requirements

First Claimed Regular UC Benefits On or After May 7, 2006

Applicants must have been eligible for regular UC benefits and have exhausted their rights to regular UC compensation with respect to a benefit year that expired during or after the week of May 6, 2007.[21] For most states, this would apply to individuals who had filed UC claims with an

[19] December 27, 2009 for New York state.

[20] June 7, 2010 for New York state.

[21] Arkansas has a unique approach to calculating a benefit year. In Arkansas, the benefit year begins the first day of the quarter in which an individual files a valid UC claim. Thus, it is unlikely that many individuals in Arkansas who filed (continued...)

effective date of May 7, 2006, or later. For the state of New York this would apply to original claims filed with an effective date of May 1, 2006, or later.[22]

Exhausted Regular UC Benefit

The right to regular UC benefits for an individual must be exhausted to be eligible for EUC08 benefits. Although federal laws and regulations provide broad guidelines on regular UC benefit coverage and eligibility determination, the specifics of regular UC benefits are determined by each state. As noted earlier, this results in 53 different programs.[23] In particular, states determine UC benefit eligibility, amount, and duration through state laws and program regulations.[24]

"20 Weeks" of Full-Time Insured Employment or Equivalent

In addition to all state requirements for regular UC eligibility, the EUC08 program requires claimants to have at least 20 weeks of full-time insured employment or the equivalent in insured wages in their base period. The definition of "20 weeks" is discussed in the Extended Benefit (EB) Program section of this report.

Eligibility Special Case: Exhausted EUC08 Benefits Before November 23, 2008

If an individual had exhausted the EUC08 benefit before November 23, 2008, it is likely that the enactment of P.L. 110-449 would result in additional weeks of EUC08 benefits for this person. P.L. 110-449 extended the duration of EUC08 benefits to 20 weeks, from 13 weeks in the original law. Once the new full entitlement (of up to a total of 20 weeks) of tier I EUC08 benefits has been completed, the individual will then be considered to have exhausted the newly expanded tier I EUC08 benefit. There is no payment for the weeks of unemployment during the period when the individual had exhausted the earlier EUC08 benefit and November 23, 2008.

Tier II EUC08 Eligibility Requirements

Exhausted Tier I EUC08 Benefit

Tier I EUC08 benefits must be exhausted as a condition of eligibility for the tier II EUC08 benefits.

(...continued)

UC claims before July 2006 would be eligible to receive EUC08 benefits.

[22] Note that the effective date is not necessarily the actual date when an individual filed for UC. A claim filed on May 10, 2006, may have had an earlier effective date if a state allows retroactive claims.

[23] The 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands provide UC benefits to their workers.

[24] Individuals in the Massachusetts and Montana UC programs may have regular UC durations that exceed 26 weeks. Those additional weeks are not used to calculate EUC08 duration.

At or After the Period of Tier I EUC08 Exhaustion, the State Must Currently Have High Unemployment

The individual must have worked in a state currently considered to have high unemployment (TUR of at least 6% or IUR of at least 4%) for the purposes of the EUC08 program. If at the time of tier I exhaustion the state does not meet the TUR or IUR thresholds, the individual would not be eligible for tier II benefits. However, tier II benefits do not need to be continuous with tier I benefits. Thus, if the state later has a TUR of at least 6% or IUR of at least 4%, a still unemployed tier I benefit exhaustee would be eligible for tier II benefits at that later time.

Each Monday the Department of Labor issues its "Emergency Unemployment Compensation Trigger Notice" at http://atlas.doleta.gov/unemploy/claims_arch.asp. If the status column within the notice is "on" for a particular state's row, that state is considered to be high unemployment for the purposes of EUC08.

No retroactive tier II payments exist for the period during which the individual had exhausted tier I benefits but the state did not meet the high unemployment criteria.

EUC08 Financing

Until February 16, 2009, the EUC08 program was federally financed from the extended unemployment compensation account (EUCA) within the Unemployment Trust Fund (UTF). With the passage of the 2009 stimulus package (P.L. 111-5), however, EUC08 is now financed from general funds of the U.S. Treasury through the expiration of the EUC08 program in December 2009. States do not need to repay these funds.

EUC08 and EB Interactions

The EUC08 program should not be confused with the similarly named EB program. The EUC08 program is temporary and tier 1 of EUC08 applies to all states while tier II of EUC08 applies to states with high unemployment. The EB program is permanently authorized and applies only to certain states on the basis of state unemployment conditions specified in law.

The EUC08 program allows states to determine which benefit is paid first. Thus, states may choose to pay EUC08 before EB or vice versa. States balance the decision of which benefit to pay first by comparing the potential cost savings to the state to the potential loss of unemployment benefits for unemployed individuals in the state.[25] Because EB benefits are conditioned on high unemployment in the state but the first tier of EUC08 is not, if the state opts to pay EUC08 first, individuals in the state might receive less in total unemployment benefits if the EB program triggers off before the individuals exhaust their EUC08 benefits.

Most states have opted to pay EUC08 benefits before EB. Alaska has opted to pay EB before EUC08 benefits.

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[25] The EUC08 program is 100% federally financed for the duration of the program. For the EB program, 100% federal financing is available for 2009 only. Thus in 2008, and again in 2010, it may be less costly for the state to choose to offer the EUC08 benefit first. Also, some recipients may find jobs before becoming eligible for EB. In addition, the state may trigger off of the EB program before some recipients exhaust EUC.

Disaster Unemployment Assistance (DUA)[26]

DUA benefits were created in 1970 by the Robert T. Stafford Disaster Relief and Emergency Relief Act (the Stafford Act, P.L. 91-606). The Stafford Act authorizes the President to issue a major disaster declaration after state and local government resources have been overwhelmed by a natural catastrophe or "regardless of cause, any fire, flood, or explosion in any part of the United States" (42 U.S.C. 5122(2)). On the basis of the request of the affected state's governor, the President may declare that a major disaster exists.

The declaration identifies the areas in the state eligible for assistance. The declaration of a major disaster provides the full range of disaster assistance available under the Stafford Act, including, but not limited to, the repair, replacement, or reconstruction of public and nonprofit facilities; cash grants for the personal needs of victims; housing; and unemployment assistance related to job loss from the disaster.

DUA Eligibility

DUA benefits are available to individuals who have become unemployed as a direct result of a declared major disaster. Workers who do not qualify for UC benefits may be eligible for DUA benefits for 26 weeks. Also, if a worker qualified for fewer than 26 weeks of UC benefits, the worker may qualify for DUA benefits for the remaining weeks if the worker is unemployed for reasons directly attributable to the disaster. A worker may not receive DUA and UC benefits at the same time.

The DUA regulation defines eligible unemployed workers to include:

- the self-employed;
- workers who experience a "week of unemployment" following the date the major disaster began, when such unemployment is a direct result of the major disaster;
- workers unable to reach the place of employment as a direct result of the major disaster and workers who were to begin employment and who do not have a job or are unable to reach the job as a direct result of the major disaster;
- individuals who have become the breadwinner or major support for a household because the head of the household has died as a direct result of the major disaster; and
- workers who cannot work because of injuries caused as a direct result of the disaster.

DUA Benefit Determination and Duration

When a reasonable comparative earnings history can be constructed, DUA benefits are determined in a similar manner to regular state UC benefit rules. For example, self-employed persons would be expected to bring in their tax records to prove a level of earnings for the

[26] See CRS Report RS22022, *Disaster Unemployment Assistance (DUA)*, by Julie M. Whittaker and Alison M. Shelton.

previous two years. These records would take the place of the employer-reported wage data that are used in UC benefit determination. Likewise, workers who would otherwise be eligible for UC benefits except for injuries directly resulting from the disaster that make them unavailable for work would receive DUA benefits in an amount equivalent to what they would have received under the UC system if they were not injured and available to work. *In all cases*, workers will receive a DUA benefit that is at least half of the average UC benefit for that state and cannot receive more than the maximum UC benefit available in that state.

The 2009 stimulus package provides for an additional $25 per week benefit through December 2009 that is federally funded and is available to recipients of unemployment benefits, including DUA benefits.

DUA Financing

DUA benefits are federally funded through the Federal Emergency Management Agency (FEMA) and administered by DOL through each state's UC agency. The states report the amount of DUA benefits that were attributable to the disaster. DOL then transfers funds to the states from the Federal Unemployment Benefit and Allowance (FUBA) account. DOL is reimbursed for these funds by FEMA.

Legislative Issues

111th Congress

2010 Budget

The President's 2010 budget outline suggests that legislation is needed to make the UC system more responsive to changing economic conditions, both as an automatic stabilizer and as an effective social safety net. In a letter transmitting the Views and Estimates of the House Committee on Ways and Means concerning 2010 budget issues within its purview, the Committee states that it will continue to monitor the effectiveness of the 2009 stimulus package (ARRA), including unemployment provisions in the package.

An ongoing question concerns whether the EB program can be altered so that it makes benefits available more quickly to long-term unemployed workers, thereby avoiding the delays associated with legislation to create special, temporary extended unemployment programs. Although specifics are not yet available, reforms may center around the EB program and its trigger mechanism. Potential issues may include the appropriateness of national versus state or regional triggers, the use of the IUR versus the TUR, the trigger level, and the use of "lookbacks" to unemployment in a reference period. (These issues are discussed in more detail in the EB section of this report.)

American Recovery and Reinvestment Act of 2009

The American Recovery and Reinvestment Act of 2009 (P.L. 111-5, the 2009 stimulus package) contains a number of important provisions that affect unemployment benefits. These provisions include extension of the EUC08 program through December 2009; temporary 100% federal financing of the EB program; up to $7 billion for modernization of state unemployment programs; a temporary $25 per week supplemental benefit for regular UC, EB, EUC08, TAA and DUA benefits; temporary tax relief for unemployment benefits; and a temporary suspension of interest accrual on loans to insolvent state UTF funds.[27]

Unemployment Compensation Modernization

The 2009 stimulus package 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. The funds would be transferred from the federal unemployment account (FUA) in the UTF to the state accounts within the UTF. The maximum incentive payment allowable for a state would be calculated using the methods used in Reed Act distributions.

For a state to receive one-third of its potential distribution it must enact an alternative base period, which ensures the last completed quarter of a worker's employment is counted when determining eligibility for unemployment benefits.

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; (3) provide extended compensation to UC recipients in training programs for high demand occupations; or (4) provide dependents allowances to UC recipients with dependents.

In addition to the $7 billion in conditional transfers, the package immediately transfers a total of $500 million to the states for the administration of UC programs, without conditions. These funds may be used to pay for: (1) administration of the new provisions, if any, enacted in order to receive shares of the $7 billion in special incentive payments; (2) improved outreach to individuals who might be eligible for regular unemployment compensation by virtue of the expansion provisions; (3) improvement of unemployment benefit and tax operations, including responding to increased demand for unemployment compensation; and (4) staff-assisted reemployment services for unemployment compensation claimants.

Supplemental Unemployment Benefit

The 2009 stimulus package will increase benefits by $25 per week through December 2009. This supplemental benefit will be available to all individuals receiving regular unemployment (UC), Extended Benefits (EB), Emergency Unemployment Compensation (EUC08), Disaster Unemployment Assistance (DUA) and Trade Adjustment Act (TAA) benefits. This supplemental benefit will be grandfathered for individuals who have not exhausted the right to unemployment compensation as of January 1, 2010; however, no additional compensation would be payable for any week beginning after June 30, 2010. The supplemental benefit would be financed by the federal government from general revenues and would not need to be repaid.

[27] For additional information on unemployment provisions in the 2009 stimulus package, please see CRS Report R40368, *Unemployment Insurance Provisions in the American Recovery and Reinvestment Act of 2009*, by Alison M. Shelton, Kathleen Romig, and Julie M. Whittaker

H.R. 291 (McDermott), Unemployment Supplemental Assistance Act contained a similar additional (albeit more generous) $50 weekly benefit.

Extension of EUC08 Program

The 2009 stimulus package also extends the temporary EUC08 program through December 26, 2009. The program would be grandfathered for those receiving EUC08 benefits on December 26, 2009; however, no benefits would be payable after June 6, 2010. Following enactment of the stimulus package, the extension of EUC08 benefits will be paid from the general funds of the U.S. Treasury and will not need to be repaid.

Temporary Waiver of Interest Payments and the Accrual of Interest on Advances to State Unemployment Funds

The stimulus package provides temporary relief to states that borrow from the Federal Unemployment Account of the Unemployment Trust Fund. The interest payments due from enactment of the stimulus package (February 17, 2009) until December 31, 2010, would be deemed to have been made by the state. In addition, no interest on advances would accrue during the period.

Temporary 100% EB Financing and Changes to EB Eligibility

The 2009 stimulus package temporarily changes the federal-state funding arrangement for the EB program. The federal government will finance 100% of EB benefits through the end of 2009, with the exception of state and local government employees' EB benefits. The federal financing of EB benefits in 2009 would be through the Extended Unemployment Compensation Account (EUCA) in the Unemployment Trust Fund (UTF). In January 2010, EB financing would revert to 50% state financing and 50% federal financing, unless the individual had been receiving EB when financing was at 100% federal financing. Consistent with this change in financing requirements, the stimulus package also continues the temporary suspension of the waiting week requirement for federal funding until the week ending before May 30, 2010. Under the waiting week requirement, now temporarily suspended, 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.

The 2009 stimulus package also temporarily allows states the option of expanding EB eligibility, by ignoring the benefit year requirement and instead using EUC08 exhaustion as an eligibility requirement for EB (as long as the state is triggered "on" for EB) during 2009. As the EB program has operated in the past, a beneficiary had to be within his or her original "benefit year" when the EB program triggered "on" in the state in order to receive EB benefits. Even though a number of states triggered "on" for EB in the second half of 2008, the benefit year requirement cause numerous individuals to be ineligible for EB because their benefit years had expired before the state triggered "on." Allowing states to use EUC08 exhaustion as an eligibility requirement instead will cause more individuals to be eligible for the EB program. In addition, states can opt to grandfather those who exhaust their EUC08 benefits after December 31, 2009 (although as 100% federal financing of the EB plan also ends with the end of 2009, states would be responsible for 50% of the cost of these grandfathered EB payments).

Temporary Suspension of Federal Income Tax on Unemployment Benefits

Tax relief would be provided to the unemployed through the exemption of the first $2,400 of benefits from income taxation in tax year 2009. S. 155 and H.R. 155 proposed all unemployment benefits be exempt.

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