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Jobs for Main Street Act: Education, Training and Direct Assistance Provisions

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Summary

The Obama Administration and Congress continue to grapple with high rates of unemployment despite some tentative signs of economic recovery. On December 8, 2009, President Obama outlined a series of proposals intended to accelerate job growth, focusing on incentives to small businesses, spending on infrastructure projects, and job creation through energy initiatives. The President also signaled support for the extension of some of the direct assistance provisions included in the American Recovery and Reinvestment Act (ARRA, P.L. 111-5), including Unemployment Compensation (UC) benefits and health insurance premium subsidies under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).

On December 16, 2009, the House passed the Jobs for Main Street Act (H.R. 2847), which would spend approximately $154 billion in three general areas: infrastructure investment, public service jobs, and emergency relief for families. Appropriations for infrastructure and jobs would total about $75 billion, to be offset by redirecting Troubled Asset Relief Program (TARP) funds. Emergency assistance (which are primarily entitlement or mandatory spending provisions) would total another $79 billion, as estimated by the Congressional Budget Office (CBO) on the date of House passage; however, this amount includes some spending for UC and COBRA provisions that were subsequently enacted into law through the FY2010 Defense Appropriations Act (P.L. 111-118).

This report focuses specifically on provisions in the House-passed bill that would support education and training or that would provide direct support to unemployed workers or low-income individuals. Education provisions include an Education Jobs Fund, which is similar in some respects to the State Fiscal Stabilization Fund created under ARRA; additional funding for the Federal Work-Study Program; and provisions for school construction bonds. Training provisions include additional funding for youth employment and training activities, particularly summer employment, and grants to support worker training and job placement in high-growth industries. Direct assistance includes a further extension of certain temporary UC benefits and COBRA health insurance premium subsidies; a temporary expansion of the child tax credit; a provision that would freeze federal poverty guidelines at 2009 levels to prevent a reduction in eligibility for certain means-tested programs; and a provision that would disregard income tax refunds as income or resources for determining eligibility or benefit levels under means-tested programs.

An amendment in the nature of a substitute to H.R. 2847 (S.Amdt. 3310) is pending in the Senate. This substitute would provide tax credits for hiring and retaining unemployed workers, extend a tax provision in ARRA related to expensing for small businesses, and reauthorize certain transportation authorities. Most of the provisions of the House-passed bill that are discussed in this report are not included in the Senate substitute, with the single exception of provisions for school construction bonds. As of the date of this report, legislation had not yet been introduced in the Senate to extend certain expiring provisions that would be extended under the House-passed bill, such as UC benefits and COBRA premium subsidies and enhanced Medicaid matching.

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Introduction

The Obama Administration and Congress continue to grapple with high rates of unemployment despite some tentative signs of economic recovery. On December 8, 2009, President Obama outlined a series of proposals intended to accelerate job growth, focusing on incentives to small businesses, spending on various infrastructure projects, and job creation through energy efficiency and clean energy initiatives. The President also signaled support for the extension of some of the direct assistance provisions included in the American Recovery and Reinvestment Act (ARRA, P.L. 111-5), including Unemployment Compensation (UC) benefits and health insurance premium subsidies under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).[1]

On December 16, 2009, the House passed the Jobs for Main Street Act (H.R. 2847), which would spend approximately $154 billion in three general areas: infrastructure investment, public service jobs, and emergency relief for families.[2] Appropriations for infrastructure and jobs would total about $75 billion, to be offset by redirecting Troubled Asset Relief Program (TARP) funds.[3] Emergency assistance (which are primarily entitlement or mandatory spending provisions) would total another $79 billion, as estimated by the Congressional Budget Office (CBO) on the date of House passage; however, this amount includes some spending for UC and COBRA provisions that were subsequently enacted into law under the FY2010 Defense Appropriations Act (P.L. 111-118).[4]

Infrastructure investments would include such projects as highways, public transit, Amtrak, airports, clean water, energy innovation, school renovation, and housing. Spending for public service jobs would be intended to stabilize the jobs of teachers, law enforcement officers, firefighters, and parks and forestry workers, as well as to provide training for youth, help college students stay in school through work-study jobs, and provide training in high-growth industries. Emergency assistance would provide extended UC and COBRA subsidies. Among other provisions, the bill would also extend enhanced Medicaid matching provisions established under ARRA, temporarily expand the child tax credit, and freeze federal poverty guidelines at 2009 levels to prevent a reduction in eligibility for certain means-tested programs. As passed by the House in December, H.R. 2847 would also extend surface transportation authorizations through FY2010.[5]

[1] For a broader discussion of the Obama Administration's proposals and the Jobs for Main Street Act, see CRS Report R41006, *Unemployment: Issues and Policies*, by Jane G. Gravelle, Thomas L. Hungerford, and Marc Labonte.

[2] Summary of Jobs for Main Street Act, posted on the website of House Speaker Nancy Pelosi: http://www.speaker.gov/newsroom/legislation?id=0351. Statement of Managers on the Jobs for Main Street Act, posted on House Appropriations Committee website: http://appropriations.house.gov/pdf/Jobs_For_Main_Street_Act_Explanatory_Statement.pdf.

[3] For a broader discussion of TARP and proposals to redirect funds, see CRS Report R41001, *Redirecting Troubled Asset Relief Program (TARP) Funds to Other Uses*, by Marc Labonte, Edward V. Murphy, and Baird Webel.

[4] The FY2010 Defense Appropriations Act (P.L. 111-118) was signed into law on December 19, 2009; however, the CBO cost-estimate of H.R. 2847 is based on current law as of December 16, 2009. See discussions later in this report.

[5] The House and Senate initially passed H.R. 2847 in June and November 2009, respectively, as the FY2010 appropriations bill for Commerce, Justice, Science and Related Agencies (C-J-S). However, the C-J-S appropriations were subsequently incorporated into the Consolidated Appropriations Act for FY2010 (P.L. 111-117), enacted on December 16, 2009. On the same day, the House voted to strike the previous language of H.R. 2847 and incorporate the provisions of the Jobs for Main Street Act. The House then cleared H.R. 2847, as amended, by a vote of 217-212.

This report focuses specifically on provisions in the House-passed bill that would support education and training or that would provide direct support to unemployed workers or low-income individuals. Certain overarching provisions included in the legislation also are discussed at the end of the report.

An amendment in the nature of a substitute to H.R. 2847 (S.Amdt. 3310) is pending in the Senate. This substitute would provide tax credits for hiring and retaining unemployed workers, extend a tax provision in ARRA related to expensing for small businesses, and reauthorize certain transportation authorities. Most of the provisions of the House-passed bill that are discussed in this report are not included in the Senate substitute, with the single exception of provisions for school construction bonds. As of the date of this report, legislation had not yet been introduced in the Senate to extend certain expiring provisions that would be extended under the House-passed bill, such as UC benefits and COBRA premium subsidies and enhanced Medicaid matching.

Education Provisions

The House-passed Jobs for Main Street Act includes several provisions related to programs administered by the U.S. Department of Education (ED). First, it would create an Education Jobs Fund that would be based on the State Fiscal Stabilization Fund created under the American Recovery and Reinvestment Act (ARRA, P.L. 111-5). Second, H.R. 2847 would provide additional funding for Federal Work-Study (FWS) programs authorized under Title IV, Part C of the Higher Education Act (HEA). Finally, H.R. 2847 (and the Senate amendment to H.R. 2847) would modify provisions related to Qualified Zone Academy Bonds and Qualified School Construction Bonds. Each of these provisions is discussed below.

Education Jobs Fund[6]

H.R. 2847 would provide $23 billion for an Education Jobs Fund. These funds would be provided in an attempt to offset potential job loss that may occur as a result of state budget shortfalls in the current economic climate. The Education Jobs Fund would be based on the State Fiscal Stabilization Fund created by ARRA. The first part of this discussion provides an overview of the State Fiscal Stabilization Fund, followed by an analysis of the proposed Education Jobs Fund and how it differs from the State Fiscal Stabilization Fund. Some emphasis is placed on issues related to the ways federal funds may be used to supplant state funds, because such issues have arisen with regard to the State Fiscal Stabilization Fund under ARRA and are already arising with regard to the proposed Education Jobs Fund. The section concludes with a discussion of estimates of state grants that would be provided under the Education Jobs Fund.

State Fiscal Stabilization Fund under ARRA

The State Fiscal Stabilization Fund provided general state fiscal stabilization grants to support education at the elementary, secondary, and postsecondary levels, as well as for "public safety and other government services."[7] It was funded at $53.6 billion in supplemental FY2009

[6] Prepared by Rebecca Skinner, rskinner@crs.loc.gov, 7-6600.

[7] For more information about ARRA funding provided to programs administered by ED, see CRS Report R40151, *Funding for Education in the American Recovery and Reinvestment Act of 2009 (P.L. 111-5)*, by Rebecca R. Skinner, (continued...)

appropriations. After set asides and reservations,[8] about $48.6 billion was available for grants to states. ED is required to allocate these funds to states according to a formula that incorporates two population measures: 61% of each state's grant is based on the state's relative share of the population of individuals ages 5 to 24, and 39% of each state's grant is based on the state's relative share of the total population. State Fiscal Stabilization Funds are being provided to states in two phases. Under the first phase, about two-thirds of the available funds were awarded to states beginning in April 2009. About $11.5 billion will be awarded to states in the second phase of state grants.[9] States were required to apply for these funds by January 11, 2010.

Once funds are received at the state level, the state's governor must use 81.8% of the state's allocation to support elementary, secondary, and postsecondary education, and, as applicable,[10] early childhood education programs and services. With these funds, the governor must provide, through the state's principal elementary and secondary education funding formula, the amount needed to restore state funding for elementary and secondary education in FY2009, FY2010, and FY2011 to the greater of the FY2008 or FY2009 levels.[11] The governor is required to use the remaining 18.2% of the state allocation for "public safety and other government services," which may include assistance for elementary and secondary education and public institutions of higher education (IHEs), and for modernization, renovation, and repair of public school facilities and IHEs' facilities.[12]

The State Fiscal Stabilization Fund includes specific provisions related to the use of funds by local educational agencies (LEAs) and IHEs. Funds for elementary and secondary education can be used for any activity authorized under the Elementary and Secondary Education Act (ESEA), Individuals with Disabilities Education Act (IDEA), the Adult and Family Literacy Act, or the Carl D. Perkins Career and Technical Education Act (Perkins Act), or for the modernization, renovation, and repair of school facilities, including modernization, renovation, and repairs that are consistent with a recognized green building system. Public IHEs that receive State Fiscal Stabilization Funds must use the funds for (1) education and general expenditures, and in such a way as "to mitigate the need to raise tuition and fees for in-State students," or (2) modernization,

(...continued)

David P. Smole, and Ann Lordeman.

[8] The Secretary was permitted to reserve up to 0.5% for the outlying areas. The Secretary was also permitted or required to make two additional reservations of funds. First, the Secretary was permitted to reserve up to $14 million for administration, oversight, and evaluation of the State Fiscal Stabilization Fund. Second, the Secretary was required to reserve $5 billion to provide State Incentive Grants and, at the Secretary's discretion, to establish an Innovation Fund. These programs are more commonly known as Race to the Top (RTTT) and Investing in Innovation (i3), respectively.

[9] For more information, see the Phase 2 application available online at http://www.ed.gov/programs/statestabilization/applicant.html.

[10] LEAs have considerable flexibility in using State Fiscal Stabilization funds to support early childhood programs and services as authorized activities under the ESEA. For more information, see Guidance on the State Fiscal Stabilization Fund available online at http://www.ed.gov/programs/statestabilization/guidance.pdf.

[11] Statutory language provides specific requirements that must be met if available funding is insufficient to restore state support to the required level or if funds remain after restoring funds to the required level. For more information, see CRS Report R40151, *Funding for Education in the American Recovery and Reinvestment Act of 2009 (P.L. 111-5)*, by Rebecca R. Skinner, David P. Smole, and Ann Lordeman.

[12] ED has noted that the 18.2% of funds made available for public safety and other government services may not be used by the governor to pay down past debt, as this type of expenditure "does not constitute the use of funds" for government services. For more information, see http://www.ed.gov/programs/statestabilization/guidance.pdf, section III-D-13.

renovation, or repair of IHE facilities that are primarily used for instruction, research, or student housing, including modernization, renovation, or repairs that are consistent with a recognized green building rating system.[13]

In applying for funds for Phase 1 and Phase 2 of the State Fiscal Stabilization Fund grants, states were required to submit applications to the Secretary that provided information required by the Secretary and provided five assurances focused on maintenance of effort requirements, equity in teacher distribution, data collection, standards and assessments, and support for struggling schools. In addition, states were required to provide baseline data demonstrating states' current status with respect to each of the five assurances and a discussion of how the State Fiscal Stabilization Funds will be used, including whether the state will use funds to meet ESEA and IDEA maintenance of effort requirements.[14] The application for the Phase 2 grants also required states to address the five assurances, but it required substantially more information, including detailed information about data collection and public reporting of data.

States receiving funds under the State Fiscal Stabilization Fund are required to submit a report to the Secretary based on a timetable established by the Secretary that discusses how funds were used, how funds were distributed, the estimated number of jobs saved or created using the State Fiscal Stabilization Fund,[15] tax increases that were averted, the state's progress in meeting the aforementioned assurances, increases in tuition and fees at public IHEs, changes in enrollment in public IHEs, and each modernization, renovation, and repair project funded.

Fiscal Accountability

A longstanding principle of federal aid to elementary and secondary education is that federal funding should add to, and not substitute for, state and local education funding. That is, federal funds are awarded to provide a net increase in financial resources for specific types of educational services (such as the education of disadvantaged student or students with disabilities), rather than effectively providing general subsidies to state and local governments. All of the fiscal accountability requirements included in federal elementary and secondary education programs are intended to provide that all federal funds represent a net increase in the level of financial resources available to serve eligible students, and that they do not ultimately replace funds that states or LEAs would provide in the absence of federal aid.

Two fiscal accountability requirements that apply to major federal K-12 education aid programs are also relevant to the State Fiscal Stabilization Fund. To meet the first requirement, *maintenance of effort (MOE)* recipient LEAs must have provided, from state and local sources, a level of funding (either aggregate or per student) in the preceding year that is at least a specified percentage of the amount in the second preceding year. A second fiscal accountability requirement provides that federal funds must be used to *supplement, not supplant (SNS)*, state and local funds that would otherwise be available for the education of students eligible to be served under the federal program in question. SNS provisions prohibit states and/or LEAs from using

[13] Non-public IHEs meeting specific criteria may receive funds from the 18.2% of state funds available for public safety and other government services at the governor's discretion.

[14] Both applications are available online at http://www.ed.gov/programs/statestabilization/applicant.html.

[15] For information on how jobs created or saved are to be counted, see the most recent guidance from the Office of Management and Budget, available online at http://www.recovery.gov/FAQ/recipient/Documents/m10-08%20Updated%20Guidance%2012182009.pdf.

federal funds (1) to provide services that state and/or local funds have provided or purchased in the past, (2) to provide services that are required to be provided under federal, state, or local law, or (3) to provide services for some students (e.g., those eligible under specific federal programs) that are provided to other students with non-federal funds.

For the State Fiscal Stabilization Fund, an FY2006 MOE based on state-source revenues for public K-12 education and higher education applies to states, but there is no SNS requirement at any level and no MOE requirement for LEAs with respect to funds provided under this program. The MOE requirement for the State Fiscal Stabilization Fund program can be waived or modified by the Secretary of Education for a state for any of FY2009-FY2011 if the Secretary determines that the *percentage* of the total state funds available for elementary and secondary education will not be lower than the percentage made available for the preceding fiscal year.

In addition, under ARRA, states or LEAs may, with prior approval of the Secretary, treat State Fiscal Stabilization Fund grants used for education as "non-federal funds" for purposes of meeting MOE requirements under *any* ED program[16] for FY2009, FY2010, or FY2011. In determining whether to provide approval to allow states and LEAs to use State Fiscal Stabilization Funds as non-federal funds to meet MOE requirements, ED has indicated that it would be "concerned" if a state has reduced the proportion of total state revenues that are spent on education.[17] If this proportion has been reduced, the Secretary will consider whether the reductions were due to exceptional or uncontrollable circumstances, the extent to which available financial resources have declined, and whether there have been changes in the demand for services.

Required levels of state and local funding in subsequent years, however, will not be reduced as a result of states using federal State Fiscal Stabilization Funds as "non-federal funds." Thus, for FY2009, FY2010, and FY2011, approved states may reduce their level of spending for K-12 education without jeopardizing their eligibility for funding for IDEA and ESEA programs. However, the potential impact of this authority is not fully clear, particularly since SNS requirements would continue to apply to ESEA Title I, Part A (Education for the Disadvantaged), IDEA, and other ED programs.

H.R. 2847 and the Education Jobs Fund

As has been noted, the House-passed version of H.R. 2847 includes provisions to create an Education Jobs Fund. The fund would be created by modifying certain statutory provisions for the State Fiscal Stabilization Fund authorized and funded under ARRA. These modifications, however, would represent a substantial deviation from the currently authorized uses of funds under the State Fiscal Stabilization Fund and the requirements related to receiving funds. The following discussion of the Education Jobs Fund is divided into two parts to mirror the preceding discussion of the State Fiscal Stabilization Fund. The first part examines the formula used to distribute funds, the uses of funds, and related requirements. The second part focuses specifically on fiscal accountability issues.

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[16] For a discussion of the MOE requirements pertaining to ESEA and IDEA, see CRS Report R40151, *Funding for Education in the American Recovery and Reinvestment Act of 2009 (P.L. 111-5)*, by Rebecca R. Skinner, David P. Smole, and Ann Lordeman.

[17] For more information, see http://www.ed.gov/programs/statestabilization/guidance.pdf, section VI-B-1.

Formula, Uses of Funds, and Related Provisions

The Education Jobs Fund would receive an appropriation of $23 billion, about half the amount that was appropriated for the State Fiscal Stabilization Fund. Funds appropriated for the Education Jobs Fund would remain available for obligation through September 30, 2010. These funds could be allotted only to states and the outlying areas based on the terms established under the State Fiscal Stabilization Fund.[18] No funds could be reserved by the Secretary for administration, oversight, or competitive grant programs (i.e., Race to the Top (RTTT) or the Investing in Innovation (i3) Fund).[19] While many federal education programs administered by ED also include a set aside for the Bureau of Indian Education, the State Fiscal Stabilization Fund did not include a set aside for this purpose, nor does the proposed Education Jobs Fund.

With respect to the use of state grants, the Education Jobs Fund is substantially different than the State Fiscal Stabilization Fund. As discussed above, state grants under the State Fiscal Stabilization Fund were provided to governors who had to use 81.8% of the funds to support elementary, secondary, and postsecondary education. The remaining 18.2% of the funds had to be used for "public safety and other government services," which could include education. Under the Education Jobs Fund, funds would be used for different purposes.[20] States would be permitted to reserve up to 5% of their grants for administrative costs related to the program, and for retaining or creating positions in the state educational agency (SEA) or the state agency responsible for higher education, and other state agency positions related to administering or supporting early childhood, elementary, secondary, or postsecondary education. However, funds used for administration could not exceed 1% of the state's total allocation under the Education Jobs Fund.

The Education Jobs Fund provisions specify that the states shall use the remaining funds only to make awards to LEAs and public IHEs to support elementary, secondary, and postsecondary education.[21] The governor would be required to determine how much funding to provide to elementary and secondary education and higher education based on the proportional reductions in state funding for these areas. This would be similar to the requirements of the State Fiscal Stabilization Fund, which required that the amount of funding going to elementary and secondary education versus postsecondary education be determined based on the amount needed to restore state support to the greater of the FY2008 or FY2009 levels. As with the State Fiscal Stabilization Fund, funding made available for elementary and secondary education would be distributed through the state's primary funding formulas for elementary and secondary education.

LEAs could use funds provided under the State Fiscal Stabilization Fund for any purpose authorized under several education acts or for modernization, renovation, or repair of public school facilities, and IHEs could use funds for education and general expenditures, mitigating the need to raise tuition and fees, and for modernization, renovation, or repair of facilities of higher education. Under the Education Jobs Fund, however, funds could only be used for the following purposes:

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[18] Funds would be distributed to states as follows: 61% of each state's grant would be based on the state's relative population of individuals ages 5 to 24, and 39% of each state's grant would be based on the state's relative total population.

[19] See footnote 8.

[20] The Education Jobs Fund provisions specifically state that Section 14002 of the State Fiscal Stabilization Fund, which provides for the use of state funds, does not apply.

[21] Early childhood education is not listed as an area of education that could be supported with these funds.

- compensation and benefits and other expenses, such as support services, necessary to retain existing employees;
- activities defined under Section 101(31) of the Workforce Investment Act (WIA), which provide wage subsidies to employers for individuals in on-the-job training programs;
- hiring of new employees to provide early childhood, elementary, secondary, or postsecondary educational and related services; or
- modernization, renovation, and repair of public school facilities and facilities of higher education.

With respect to the first and third uses of funds, it appears that instructional staff and support staff would be eligible for support. However, H.R. 2847 does not define “support services” or “educational or related services,” so it is unclear whether these funds could be used to retain or hire staff who have any association with early childhood, elementary, secondary, or postsecondary education (e.g., janitors, bus drivers, cafeteria workers) or whether the funds would be targeted for retaining and hiring any staff with a direct connection to the instructional process.

Activities defined under Section 101(31) of WIA provide wage subsidies to employers for on-the-job training. These subsidies are limited to 50% of the individual’s wage rate. In addition, these arrangements must be limited in duration. When these programs are initiated under WIA, generally the local Workforce Investment Board and the employer reach an agreement on the duration of the program. Under the Education Jobs Fund provisions, it is unclear how the decision to limit the duration of the use of funds would be made in an on-the-job training situation that is not coordinated through WIA.

Under the Education Jobs Fund, LEAs and IHEs could use funds for the modernization, renovation, and repair of public school facilities and facilities of higher education. The prohibitions related to the use of these funds under the State Fiscal Stabilization Fund (Sections 14003 and 14004, respectively) would apply to use of funds for these purposes under the Education Jobs Fund.

To receive funds under the Education Jobs Fund, a governor would still be required to submit an application to the Secretary containing information required by the Secretary based on a timeline established by the Secretary. The provisions governing the application process under the Education Jobs Fund would eliminate the assurances that states had to provide in their State Fiscal Stabilization Fund.[22] The Education Jobs Fund also would eliminate the requirement that the state provide baseline data related to the assurances.[23] A state would continue to be required to indicate how it intends to use available funds to meet MOE requirements under ESEA and IDEA and the amount of funds that would be used for these purposes.

[22] The five assurances involve MOE requirements, achieving equity in teacher distribution, improving the collection and use of data, standards and assessments, and supporting struggling schools.

[23] The Education Jobs Fund provisions did not specifically eliminate a provision in Section 14005(b)(1) of the State Fiscal Stabilization Fund that required states to meet the aforementioned five assurances. However, since the five assurances were specifically dropped in the Education Jobs Fund, the failure to indicate that Section 14005(b)(1) would not apply is probably moot.

If a governor does not submit an application to the Secretary by the prescribed deadline, the Secretary would have the authority to distribute the state's share of funds to another entity or entities in the state under terms and conditions established by the Secretary. The same terms and conditions that would apply to other grant recipients under the Education Jobs Fund would also apply to any entity or entities that receive funding in the aforementioned situation. The State Fiscal Stabilization Fund did not include a similar provision.

Provisions Retained from the State Fiscal Stabilization Fund

Under the Education Jobs Fund, states would be required to meet the same reporting requirements included under the State Fiscal Stabilization Fund. For example, states would be required to report on how the state used funding provided through the Education Jobs Fund and how many jobs were saved or created as a result of the receipt of funds.[24] As with the State Fiscal Stabilization Fund, the Secretary would be required to submit a report to the House Committee on Education and Labor, the Senate Health, Education, Labor, and Pensions Committee, and the Appropriations Committees in both the House and Senate. The Secretary would be required to report on the information provided through the state reports as well as information provided by states in their application on the use of funds to meet MOE requirements under ESEA and IDEA. In addition, all grant recipients would be prohibited from using funds provided under the Education Jobs Fund to provide financial assistance to students to attend elementary or secondary schools.[25] H.R. 2847 would also retain the definitions used under Section 14013 of the State Fiscal Stabilization Fund, although not all of the definitions would be relevant to the Education Jobs Fund.[26]

New Fiscal Accountability Provisions Proposed in the Education Jobs Fund

The Education Jobs Fund would include two new provisions related to fiscal accountability. The first provision would focus on supplement, not supplant (SNS) requirements regarding state rainy-day funds and the use of state grants for debt reduction. The second provision addresses fiscal assurances that LEAs must provide when participating in a program administered by ED.

Rainy-Day Funds and Debt Reduction.[27] States would be prohibited from using their funds to directly or indirectly establish, restore, or supplement a rainy-day fund. Further, states would be prohibited from using funds to reduce or retire state debt obligations. These prohibitions, however, would not apply to fund balances that are necessary to comply with state budget rules. The State Fiscal Stabilization Fund did not include these prohibitions.

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[24] While not explicitly dropped under the Education Jobs Fund, presumably, Sections 14006, 14007, and 14009 would not be relevant to the Education Jobs Fund, as H.R. 2847 would not appropriate any funds for Race to the Top or the Investing in Innovation Fund.

[25] Under the State Fiscal Stabilization Fund, LEAs were able to use funds for any purpose authorized under IDEA, so funds could be used to support the placement of students with disabilities in private elementary and secondary schools.

[26] The term "high-need local education agency" is not used in the Education Jobs Fund. In addition, Section 14013 of the State Fiscal Stabilization Fund defines an IHE as meeting the definition of such an institution in Section 101 of the Higher Education Act (HEA). The HEA definition includes both public and private nonprofit IHEs. The Education Jobs Fund, however, contains provisions that restrict the distribution of funds at the postsecondary level to public IHEs only.

[27] For additional information about the provisions discussed in this section, please contact Steve Maguire at 7-7841.

The term “rainy-day fund” is not defined in H.R. 2847. While there may be a general understanding of what this term means, the bill lacks a definition, making it difficult to predict how the prohibition would be applied across states. In addition, it is unclear which state-specific rules, constitutional or statutory, would be affected by the exception allowing states to meet balanced budget requirements with fund balances. Balanced budget rules vary by state, which also makes it difficult to predict how the exception may be applied from state to state. Further, balanced budget rules generally apply to the operating budget, not the capital budget.[28] Thus, the lack of specificity in the language creating the exception and the variety of budget rules across states would likely make it difficult to track how states use the authority granted to them through the exception.

The inclusion of prohibitions on the use of Education Jobs Funds for rainy-day funds or debt reduction may be in response to issues that arose during the implementation of the State Fiscal Stabilization Fund.[29] The fungibility of state revenue was one of the major issues that arose as states began to use their State Fiscal Stabilization Fund grants. Some states reduced their education funding to meet the MOE requirements for receiving funding and used the State Fiscal Stabilization Fund grants to backfill their education budgets. The funds the state would have spent on education were transferred to another purpose.[30] Thus, in some states, the provision of State Fiscal Stabilization Fund grants may not have represented a net gain in education funding. In addition, at least one state governor (South Carolina) indicated that he wanted to use the State Fiscal Stabilization Fund to reduce state debt.[31] While ED indicated that this would be illegal,[32] the inclusion of language related to debt reduction in the Education Jobs Fund may be intended to clarify congressional intent on fund use.

Fiscal Assurances. Under Section 442 of the General Education Provisions Act (GEPA), individual LEAs participating in a program to which GEPA applies are required to provide the state with an application containing assurances regarding the administration of the program, the control of funds, fiscal control and accounting procedures, reporting, participation in program planning and operation, making reports publicly available, requirements related to construction, procedures for disseminating relevant research to practitioners, and the acquisition of equipment. If an LEA provided such an application to the state for purposes of the State Fiscal Stabilization Fund, the LEA would not be required to submit a new application under the Education Jobs Fund. The assurances provided under the previous application would continue to apply to the Education Jobs Fund.

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[28] States may have rules on debt limits or on the amount of bond obligations.

[29] For more information about issues related to the spending of the State Fiscal Stabilization Funds and rainy-day funds and debt reduction, see Secretary Duncan’s letter to Pennsylvania regarding rainy-day funds: http://www.edweek.org/media/rendell.pdf; see the following article published in *The Dallas Morning News* regarding Texas’ use of State Fiscal Stabilization Funds: http://www.dallasnews.com/sharedcontent/dws/news/texassouthwest/legislature/stories/DN-stimulusmoney_18tex.ART.State.Edition1.510f6ed.html; and the following article from *Education Week* that provides an overview of how states shifted state funds for education in response to the State Fiscal Stabilization Fund grants: http://www.edweek.org/ew/articles/2009/03/27/27formula.h28.html.

[30] Michelle McNeil, “Stimulus Patching Budgets,” *Education Week*, April 9, 2009, available online at http://www.edweek.org/ew/articles/2009/03/27/27formula.h28.html.

[31] Additional information about the specifics related to Governor Sanford’s efforts to use State Fiscal Stabilization Fund money to reduce state debt is available online at http://www.staterecovery.org/south-carolina.

[32] For more information, see guidance provided by ED on the State Fiscal Stabilization Fund, item IV-7, available online at http://www.ed.gov/programs/statestabilization/guidance.pdf.

New State MOE Requirements

Under the State Fiscal Stabilization Fund, states were required to provide assurances regarding state MOE. The Education Jobs Fund would not include the same MOE requirements but, rather, would require the governor of each state to provide an assurance that the state will meet one of two sets of MOE requirements for FY2010 and for FY2011. One notable difference between the MOE assurances required under the Education Jobs Fund and the State Fiscal Stabilization Fund is that the MOE assurances under the State Fiscal Stabilization Fund had to be established separately for elementary and secondary education and for public higher education. Under the Education Jobs Fund, the MOE would be based on aggregate support for elementary, secondary, and public higher education.

More specifically, under the Education Jobs Fund, one option would require the state to maintain state support for elementary, secondary, and public higher education, in the aggregate in FY2010, at the level of such support for FY2009. Alternatively, the state could maintain state support for elementary, secondary, and public higher education for FY2010, in the aggregate, at a level no less than such support for FY2006. If the state chose to meet the latter criterion and enact a reduction to such aggregate level of FY2010 state support for elementary, secondary, and public higher education after December 12, 2009, the state must maintain state support for elementary, secondary, and public higher education for FY2010 at a percentage of the total revenues available to the state that is at least equal to the percentage provided for such purpose for FY2010 prior to December 12, 2009.

For FY2011, the state must also meet one of two sets of MOE requirements. The first requirement is identical to the first requirement for FY2010. That is, the state would be required to maintain state support for elementary, secondary, and public higher education, in the aggregate, at the level of such support for FY2009. Alternatively, the state could maintain state support for elementary, secondary, and public higher education, in the aggregate, at a percentage of the total revenues available to the state that is at least equal to the percentage provided for such purposes in FY2010.

Fiscal Relief Provisions Retained from the State Fiscal Stabilization Fund

The Education Jobs Fund would retain all of the provisions from the State Fiscal Stabilization Fund that were included for the purpose of providing fiscal relief for states and LEAs that have experienced a precipitous decline in their financial resources. The Secretary would be able to waive or modify any requirement under the Education Jobs Fund related to maintaining fiscal effort. As with the State Fiscal Stabilization Fund, these waivers could only be granted if the Secretary determines that the state or LEA requesting the waiver would maintain support for elementary and secondary education for the fiscal year under consideration at the same percentage of total revenues available to the state or LEA as was provided during the prior fiscal year. In addition, with prior approval from the Secretary, states and LEAs would be permitted to consider Education Jobs Fund grants that are used for elementary, secondary, or postsecondary education as non-federal funds for the purpose of meeting the requirement to maintain fiscal effort under any other program administered by the Secretary. Thus, states and LEAs could use the Education Jobs Fund money to meet MOE requirements for ESEA and IDEA programs, as they could under the State Fiscal Stabilization Fund.

Estimated State Grants

Table 1 presents estimates of state grant amounts that would be available under the Education Jobs Fund. Grants to states would be made on the same basis as they were made under the State Fiscal Stabilization Fund. That is, 61% of each state's grant would be based on the state's relative share of the population of individuals ages 5 to 24, and 39% of each state's grant would be based on the state's relative share of the total population. It is estimated that state grants would range from about $39 million (Wyoming) to $2.8 billion (California).

Table 1. Estimated State Grants Under the Education Jobs Fund in H.R. 2847, as Passed by the House

State	Estimated grant amount
Alabama	$345,268,000
Alaska	$53,532,000
Arizona	$486,969,000
Arkansas	$210,057,000
California	$2,815,838,000
Colorado	$362,113,000
Connecticut	$255,601,000
Delaware	$63,828,000
District of Columbia	$42,333,000
Florida	$1,275,621,000
Georgia	$734,964,000
Hawaii	$91,093,000
Idaho	$117,175,000
Illinois	$972,718,000
Indiana	$475,767,000
Iowa	$223,167,000
Kansas	$212,927,000
Kentucky	$307,691,000
Louisiana	$339,048,000
Maine	$90,782,000
Maryland	$415,068,000
Massachusetts	$472,932,000
Michigan	$745,994,000
Minnesota	$384,976,000
Mississippi	$227,006,000
Missouri	$434,816,000
Montana	$70,409,000
Nebraska	$135,199,000

State	Estimated grant amount
Nevada	$188,746,000
New Hampshire	$94,275,000
New Jersey	$627,847,000
New Mexico	$150,290,000
New York	$1,430,450,000
North Carolina	$679,251,000
North Dakota	$49,192,000
Ohio	$843,772,000
Oklahoma	$273,631,000
Oregon	$270,059,000
Pennsylvania	$898,322,000
Puerto Rico	$304,152,000
Rhode Island	$77,425,000
South Carolina	$329,860,000
South Dakota	$60,373,000
Tennessee	$448,665,000
Texas	$1,896,075,000
Utah	$230,878,000
Vermont	$44,308,000
Virginia	$569,656,000
Washington	$475,931,000
West Virginia	$125,632,000
Wisconsin	$413,869,000
Wyoming	$39,445,000
Subtotal states, District of Columbia, and Puerto Rico	$22,885,000,000
Set aside for outlying areas	$115,000,000
Total	$23,000,000,000

Source: Estimates prepared by the Congressional Research Service (CRS), January 13, 2010, based on U.S. Census Bureau population estimates for 2008.

Notes: Under H.R. 2847, $23 billion would be appropriated for the Education Jobs Fund. Of this amount, 0.5% ($115 million) would be reserved for the outlying areas. After making this set aside, remaining funds would be distributed to states based on the following formula: 61% of each state's grant would be based on the state's relative population of individuals ages 5 to 24, and 39% of each state's grant would be based on the state's relative total population. Details may not add to totals due to rounding.

Notice: These are estimated grants only. These estimates are provided solely to assist in comparisons of the relative impact of alternative formulas and funding levels in the legislative process. They are not intended to predict specific amounts states would receive.

Federal Work-Study Program[33]

The FWS program is a need-based federal student aid program that provides undergraduate, graduate, and professional students the opportunity for paid employment in a field related to their course of study or in community service.[34] Students receive FWS aid as compensation for the hours they have worked. FWS aid may be provided to any student demonstrating financial need. Awards are typically based on factors such as each student's financial need, the availability of FWS funds, and whether a student requests FWS employment and is willing to work.

Federal funding for the FWS program is provided to IHEs for the purpose of making available need-based federal student aid to students enrolled at those IHEs. Funds are awarded to IHEs according to a complex two-stage procedure, with a portion of funds allocated based on what the IHE received in prior years, and a portion based on an institutional need-based allocation formula.[35] Under the FWS program, students are compensated with a combination of federal funding and a matching amount provided by the student's employer, which may be the IHE or another entity. In most instances, the maximum federal share of compensation is 75%. For FY2009, $980.5 million was provided for the FWS program. ARRA provided an additional $200 million in supplemental discretionary appropriations for the FWS program for FY2009. For FY2010, the program was level funded at the FY2009 amount provided through regular appropriations.

The House-passed version of H.R. 2847 would provide an additional $300 million for FWS for FY2010. The funds would remain available through September 30, 2011.

School Construction Bonds[36]

Under current law, state and local governments can issue Qualified Zone Academy Bonds (QZABs) and Qualified School Construction Bonds (QSCBs) to finance school renovation and construction.[37] These bonds are called "tax credit bonds." In contrast to tax-exempt bonds, most tax credit bonds (TCBs) allow the investor to claim a federal tax credit equal to a percentage of the bond's par value (face value) for a limited number of years. This tax credit percentage is set at the yield on taxable bonds at the time of issuance. Issuers of tax credit bonds typically pay no interest to bondholders. Thus, TCBs can deliver a larger federal subsidy to the issuer than do traditional municipal bonds. The subsidy to the issuer is the full taxable interest rate instead of the difference between the taxable rate and the lower tax-exempt rate as with traditional tax-exempt bonds.

[33] Prepared by Rebecca Skinner, rskinner@crs.loc.gov, 7-6600.

[34] The Federal Work-Study program is authorized under Title IV, Part C of the HEA. For additional information on the FWS program, see CRS Report RL31618, *Campus-Based Student Financial Aid Programs Under the Higher Education Act*, by David P. Smole.

[35] The allocation procedures for the FWS program are examined in CRS Report RL32775, *The Campus-Based Financial Aid Programs: A Review and Analysis of the Allocation of Funds to Institutions and the Distribution of Aid to Students*, by David P. Smole.

[36] Prepared by Steve Maguire, smaguire@crs.loc.gov, 7-7841.

[37] For a more detailed explanation of tax credit bonds, see CRS Report R40523, *Tax Credit Bonds: Overview and Analysis*, by Steven Maguire.

The government entity issuing the bond is obligated to repay only the principal of the bond. The federal government effectively makes "payments" to the investor through the tax credits. The tax credits delivered through the bonds are unlike typical tax credits because the credit is included in taxable income as if it were interest income. The tax credit bond rate is set with the intent of compensating for this taxability.

The House-passed version of H.R. 2847 includes a provision that would allow QZAB and QSCB issuers to receive a direct payment from the Treasury in lieu of the investor receiving a tax credit. This mechanism is most often used for the new Build America Bonds (BABs), which were created by ARRA (P.L. 111-5).[38] Critically, however, the BAB tax credit rate (or the direct payment, if the issuer chooses) is set at 35% of the interest cost, not 100% like QZABs and QSCBs. The higher tax credit rate for QZABs and QSCBs, coupled with the greater popularity of the direct payment mechanism with both investors and issuers, could generate a sizable tax loss for the federal government when compared to current law. H.R. 2847 would also remove the restriction that the bonds be issued before January 1, 2011.

The Senate amendment to H.R. 2847 (S.Amdt. 3310) also would expand the direct payment option for QZABs and QSCBs, although at a reduced credit rate.[39] For large jurisdictions, those that issue more than $30 million of bonds annually, the direct payment credit rate would be set at 45% (in contrast to the 100% credit rate for the investor credit option as under current law). For small issuers, the direct payment credit rate would be set at 65%. Thus, under the Senate amendment, issuers that choose the direct payment option would incur a higher interest cost than under the House-passed legislation. Nevertheless, the direct payment option under the Senate amendment would still provide a lower interest cost to issuers when compared to traditional tax-exempt bonds.

States are currently authorized to issue $2.8 billion of QZABs and $22 billion of QSCBs. QZAB allocations will be made through 2010 and may be carried forward up to two years. QSCB allocations will also be made through 2010 but can be carried forward indefinitely. On January 14, 2010, the credit rate on QZABs and QSCBs was 6.11% and the term 17 years. The Congressional Budget Office estimates that the proposal for QZABs and QSCBs in the House-passed version of H.R. 2847 would cost $9.028 billion over the FY2010-FY2019 budget window.[40]

Workforce Development Programs[41]

The Workforce Investment Act of 1998 (WIA; P.L. 105-220) provides job training and related services to unemployed and underemployed individuals. WIA programs are administered by the Department of Labor, primarily through its Employment and Training Administration (DOLETA). State and local WIA training and employment activities are provided through a system of One-

[38] Title 26, Section 54AA of the U.S. Code outlines the rules for BABs, including the issuer direct payment.

[39] The Senate amendment would also extend the direct payment option to new clean renewable energy bonds (26 U.S.C. 54C) and energy conservation bonds (26 U.S.C. 54D).

[40] Cost-estimate of H.R. 2847 as passed by the House on December 16, 2009; posted on the CBO website: http://www.cbo.gov/ftpdocs/108xx/doc10874/hr2847.pdf.

[41] Prepared by David Bradley, dbradley@crs.loc.gov, 7-7352.

Stop Career Centers. Authorization of appropriations under WIA expired in FY2003, but funds have continued to be provided for WIA programs through annual appropriations acts.[42]

WIA authorizes numerous job training programs, including

- state formula grants for Youth, Adult, and Dislocated Worker Employment and Training Activities;
- Job Corps; and
- national programs, including the Native American Program, the Migrant and Seasonal Farmworker Program, the Veterans' Workforce Investment Program, Responsible Reintegration for Young Offenders, the Prisoner Reentry Program, Career Pathways Innovation Fund, and YouthBuild.

In FY2010, the WIA programs and activities noted above are funded at $5.5 billion, including $3.0 billion for state formula grants for Adult, Youth, and Dislocated Worker Activities. As described below, WIA programs also received funding under the American Recovery and Reinvestment Act (ARRA).

Under the House-passed Jobs for Main Street Act, $1.25 billion would be provided for existing workforce development and related programs administered by DOLETA. These funds would be in addition to amounts already appropriated for FY2010.[43]

Specifically, H.R. 2847 would provide:

- $500 million for Youth Activities under Title I-B of WIA, specifically summer employment programs; and
- $750 million for worker training in high growth and emerging industry sectors under Title I-D of WIA.

Youth Activities

The Youth Activities program provides training and related services to low-income youth ages 14-21. Under the program, formula grants are allocated to states, which, in turn, allocate funds to local entities.

H.R. 2847 would provide a total of $500 million for grants for Youth Activities, which would be available for obligation on the date of enactment through September 30, 2010. H.R. 2847 specifies that

- funding would be solely for summer employment programs for youth;[44]

[42] For additional information about programs for Title I of WIA, see CRS Report RL33687, *The Workforce Investment Act (WIA): Program-by-Program Overview and Funding of Title I Training Programs*, by David H. Bradley.

[43] See CRS Report R40730, *Labor, Health and Human Services, and Education: Highlights of FY2010 Budget and Appropriations*, coordinated by Pamela W. Smith.

[44] "Summer employment opportunities" are one of 10 program elements authorized under the Youth Activities section of WIA (Section 129(c)(2)).

- no portion of this additional funding would be available for Youth Opportunity Grants;[45]
- the formula allocation for grants provided under this section would remain the same as if the total allocation were less than $1 billion;[46]
- the only performance measure to be used in assessing the effectiveness of summer jobs for youth would be attainment of basic skills and, as appropriate, work readiness or occupational skills; and
- an in-school youth would meet the low-income eligibility requirement if such youth has met the eligibility requirements for free meals under the National School Lunch Act (42 U.S.C. 1751 *et seq.*) during the most recent school year.[47]

Under ARRA, Youth Activities had received an appropriation of $1.2 billion. Funding from ARRA was available for all activities authorized under grants for Youth Activities, including summer employment. ARRA also increased the age of "eligible youth" in these ARRA-funded programs from 21 to 24 years of age. Otherwise, the provisions in ARRA and in H.R. 2847 are the same.

High-Growth and Emerging Industries

Funds for this program, which would be available for obligation on the date of enactment through September 30, 2010, would be distributed through a competitive grant process to provide worker training and placement in high-growth and emerging industry sectors.

H.R. 2847 would provide a total of $750 million for these grants. Of the total proposed allotment, $275 million would be for job training projects that prepare workers for careers in the following energy efficiency and renewable energy industries:[48]

- energy-efficient building, construction, and retrofits industries;
- renewable electric power industry;
- energy-efficient and advanced drive-train vehicle industry;
- biofuels industry;
- deconstruction and materials use industry;
- energy efficiency assessment industry serving the residential, commercial, or industrial sectors; and

[45] Although the bill would specifically exclude funding for Youth Opportunity Grants, the most recent appropriation for these grants was FY2003. Funding for Youth Opportunity Grants is normally triggered when the amount allotted to Youth Activities exceeds $1 billion in a fiscal year. Funding has not exceeded this level since FY2003.

[46] As specified in the statutory formulas for state allotments for WIA Youth Activities, a total allotment in excess of $1 billion would trigger a change in the allocation formula; however, the act specifies the formula allocation is to remain the same as if the total allocation were less than $1 billion.

[47] One of the criteria for "eligible youth" in WIA Section 101(13)(B) is that a youth must be "low-income." The provision in H.R. 2847 means that a youth meets the low-income requirement if he or she qualifies for free meals at school (i.e., 135% of the federal poverty guidelines).

[48] These industries are specified in WIA Section 171(e)(1)(B)(ii), as amended by the Green Jobs Act of 2007 (Title X of P.L. 110-140).

- manufacturers that produce sustainable products using environmentally sustainable processes and materials.

Of the $275 million for worker training in energy efficiency and renewable energy careers, $225 million would be reserved for Pathways Out of Poverty projects.[49]

Finally, H.R. 2847 would direct the Secretary of Labor to give priority to projects that prepare workers for careers in the health care sector when granting the remaining funds—$475 million.

ARRA also provided $750 million for competitive grants for worker training in high-growth and emerging sectors. ARRA specified that $500 million of the total allotment was reserved for research, labor exchange, and job training projects that prepare workers for careers in energy efficiency and renewable energy industries (listed above) and that the Secretary of Labor should give priority to projects in the health care industry when granting the remaining $250 million. In addition, the ARRA allowed local workforce investment boards to award training contracts to an institution of higher education if such a choice would facilitate the training of multiple individuals in high-demand occupations.

Assistance to Unemployed Workers

Unemployment Compensation[50]

A variety of benefits are available to provide workers with income support during a spell of unemployment. A key component of this support is the joint federal-state Unemployment Compensation (UC) program, which may provide benefits to eligible workers for up to 26 weeks. Extended benefits may be available under permanent law in states with high unemployment rates; additionally, Congress may choose to enact temporary extensions of UC benefits in response to specific circumstances.

Section 3301 of the House-passed Jobs for Main Street Act would extend several existing temporary unemployment insurance provisions through June 2010. These provisions are the Emergency Unemployment Compensation (EUC08) benefit, the $25 Federal Additional Compensation (FAC) benefit, and the temporary 100% federal financing structure of the Extended Benefit (EB) program.[51] The Congressional Budget Office estimates the UC provisions of H.R. 2847 would cost $41 billion over the FY2010-FY2019 budget window. However, this estimate was based on current law as of the date of House passage (December 16, 2009) and includes some spending that occurred under the FY2010 Defense Appropriations Act, which was

[49] ARRA established the Pathways Out of Poverty competitive grant program. Details of this program are available in the solicitation for grant applications for the Pathways Out of Poverty Program. See Department of Labor SGA/DFA PY08-19, available at http://www.doleta.gov/grants/pdf/SGA-DFA-PY-08-19.pdf. H.R. 2847 does not specify if the funding provided for the Pathways Out of Poverty program would be for new grants or continuation grants.

[50] Prepared by Julie Whittaker, jwhittaker@crs.loc.gov, 7-2587.

[51] H.R. 2847 was passed before the enactment of P.L. 111-118, which extended each of these benefits. Thus, H.R. 2847 proposes extending the authorization of the EUC08 program from December 31, 2009, to June 30, 2010. It has similar (erroneous) beginning dates for the FAC and EB extensions. Since all three interventions are now authorized through February 2010, a reasonable expectation would be that the final version of the proposal would reflect current law and continue to extend these interventions through June 2010.

enacted on December 19, 2009, and extended these same provisions for part of the period that would otherwise be covered under H.R. 2847. [52]

Emergency Unemployment Compensation (EUC08) Extension

On July 2008, a new temporary unemployment benefit, Emergency Unemployment Compensation (EUC08), began. The EUC08 program was created by P.L. 110-252, and was amended by P.L. 110-449, P.L. 111-5, P.L. 111-92, and P.L. 111-118. The EUC08 program expires at the end of February 2010, although H.R. 2847 would extend the program through June 2010.[53]

The EUC08 program provides up to 53 weeks of additional unemployment benefits to certain workers through a series of four tiers of benefits.[54] All tiers of EUC08 benefits are temporary and expire on February 28, 2010. Those beneficiaries receiving tier I, II, III, or IV EUC08 benefits before February 28, 2010, are "grandfathered" for their remaining weeks of eligibility for that particular tier only. There will be no new entrants into any tier of the EUC08 program after February 28, 2010. That is, if an individual exhausts his or her regular UC benefits after February 28, 2010, the individual would not be eligible for any EUC08 benefit. If an individual is eligible to continue to receive his or her remaining tier I benefit after February 28, 2010, that individual would not be entitled to tier II benefits once those tier I benefits were exhausted. No EUC08 benefits—regardless of tier—are payable for any week after July 31, 2010.

As passed by the House, H.R. 2847 would extend the availability of EUC08 benefits for four additional months, through the end of June 2010 with the final "grandfathered" payments ending by November 30, 2010.

Federal Additional Compensation (FAC) Extension

The American Recovery and Reinvestment Act (P.L. 111-5), as amended by P.L. 111-118, created the federally funded $25 FAC weekly benefit for individuals currently receiving regular UC, Extended Benefits (EB), EUC08, Trade Adjustment Assistance (TAA), and Disaster Unemployment Assistance (DUA) benefits.[55]

The FAC is temporary and its authorization ends on February 28, 2010. The $25 per week supplemental benefit will be grandfathered for individuals who have not exhausted the right to unemployment insurance as of February 28, 2010. That is, individuals who were receiving

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[52] Cost-estimate of H.R. 2847 as passed by the House on December 16, 2009; posted on the CBO website: http://www.cbo.gov/ftpdocs/108xx/doc10874/hr2847.pdf.

[53] For detailed information 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.

[54] The maximum number of weeks for which an individual may be eligible under tier I EUC08 benefits is capped at 20 weeks. Once an individual has exhausted tier I benefits, a second tier is available that provides up to 14 additional weeks of EUC08 benefits. Once an individual has exhausted tier II benefits, a third tier may be available if the individual *worked* in a state with a three-month average total unemployment rate of 6% or higher. The maximum number of weeks of tier III benefits is capped at 13 additional weeks (for a total of 47 weeks of EUC08 benefits). Once an individual has exhausted tier III benefits, a fourth tier may be available if the individual *worked* in a state with a three-month average unemployment rate of 8.5% or higher. The maximum number of weeks of tier IV benefits is capped at six weeks (for a total of 53 weeks of EUC08 benefits).

[55] For more information on the FAC benefit, see CRS Report RL33362, *Unemployment Insurance: Available Unemployment Benefits and Legislative Activity*, by Julie M. Whittaker and Alison M. Shelton.

unemployment insurance (UC, EB, EUC08, TAA, or EB) on February 28, 2010, will continue to receive the $25 supplemental benefit for the duration of that particular benefit. An individual who is grandfathered for payment of the supplemental weekly benefit for one form of unemployment benefit (such as regular UC) would not receive the $25 supplemental weekly benefit for subsequent unemployment benefits that begin after February 28, 2010 (such as EB). No supplemental compensation would be payable for any week beginning after August 31, 2010.

H.R. 2847 would extend the availability of FAC benefits for four additional months, through the end of June 2010, with the final “grandfathered” payments ending by November 30, 2010.

Extension of 100% Federal Financing of Extended Benefit (EB) Program

ARRA, as amended by P.L. 111-118, provides for 100% federal financing of the EB program to end the week ending before February 28, 2010.[56] For individuals who are receiving EB payments during that last week, the federal government will continue to pay 100% of EB benefits for the duration of these individuals’ benefits (but not for new entrants to the EB program starting on or after March 1, 2010). Regardless, the 100% federal financing would end the first week ending before July 31, 2010.

Under permanent law, states that do not require a one-week waiting period before unemployed individuals are eligible for UC benefits, or have an exception for any reason to the waiting period, pay 100% of the first week of EB. P.L. 110-252, as amended by P.L. 110-449 and P.L. 111-8, suspended the waiting-week requirement for federal funding for that first week of EB until July 31, 2010.

H.R. 2847 would extend 100% federal financing of EB benefits through June 2010. Additionally, H.R. 2847 would continue to suspend the one-week waiting period provision through December 2010.

COBRA Premium Subsidies[57]

When workers lose their jobs, they can also lose their health insurance. Under Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA, P.L. 99-272), a private sector employer with 20 or more employees who offers health insurance to its employees must also offer continued health insurance coverage at group rates to qualified employees and their families faced with a loss of coverage due to unemployment and other qualifying events.[58] However, employers may charge unemployed workers 100% of the COBRA premium cost, plus an additional 2% administrative fee.

[56] Permanent EB law splits the cost of the EB program in two halves, with the federal government paying 50% of the benefits and the states paying the other 50% share. Permanent EB law requires that states pay for 100% financing for EB benefits for unemployed former state and local government employees; ARRA did not change this provision, so states continue to finance 100% of these “state and local” beneficiaries. The federal government has always paid 100% of EB administrative costs, and ARRA did not change this. For more information on the EB financing structure, see CRS Report RL33362, *Unemployment Insurance: Available Unemployment Benefits and Legislative Activity*, by Julie M. Whittaker and Alison M. Shelton.

[57] Prepared by Janemarie Mulvey, jmulvey@crs.loc.gov, 7-6928.

[58] See CRS Report R40142, *Health Insurance Continuation Coverage Under COBRA*, by Janet Kinzer and Meredith Peterson.

Since most employers subsidize health insurance premiums for their workers, the 102% COBRA premium may be prohibitive for the unemployed, especially when compared to what they receive as unemployment compensation. In 2009, an average COBRA premium was about $410 per month for individual coverage ($4,920 annually) and $1,137 per month for family coverage ($13,644 annually).[59] Average weekly unemployment benefits were $307 in 2009.[60] When converted to a monthly basis of $1,330 a month, these premiums may consume a large share of one's monthly unemployment benefits, especially for those purchasing family coverage. Section 3302 of the Jobs for Main Street Act would extend an existing provision intended to help make these premiums more affordable.

The first session of the 111th Congress acted twice to temporarily address this issue. First, the American Recovery and Reinvestment Act of 2009 (ARRA, P.L. 111-5), enacted in February 2009, included a premium subsidy for COBRA continuation coverage. Under ARRA, individuals involuntarily terminated from September 1, 2008, through December 31, 2009, were eligible for a 65% subsidy against their COBRA premiums. The subsidy was available for nine months.

By December 2009, many of the COBRA subsidy provisions under ARRA were set to expire. After December 31, 2009, those who became unemployed would not be eligible for the subsidy. Furthermore, some of those who were unemployed were experiencing durations of unemployment longer than the available subsidy of nine months. To address this issue, on December 19, 2009, Congress extended the COBRA subsidy for unemployed workers that was initially enacted under ARRA. As part of the FY2010 Defense Appropriations Act (P.L. 111-118), the eligibility period for the COBRA premium reduction was extended for an additional two months (through February 28, 2010) and the maximum period for receiving the subsidy was extended for an additional six months (from nine to 15 months). In addition, these provisions were made retroactive for individuals whose COBRA subsidy expired October 31, 2009.

Section 3302 of the House-passed Jobs for Main Street Act would extend the COBRA subsidy even further and would include those who are involuntarily terminated through June 30, 2010. The Congressional Budget Office estimates this proposal would cost $12.3 billion over the FY2010-FY2019 budget window. However, this estimate was based on current law as of the date of House passage (December 16, 2009) and includes some spending that occurred under P.L. 111-118, which was enacted on December 19, 2009, and extended COBRA premium subsidies for part of the period that would otherwise be covered under H.R. 2847.[61]

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[59] CRS estimate based on data from Kaiser Family Foundation, *Worker and Employer Contributions for Premiums, Employer Health Benefits 2009 Annual Survey*.

[60] CRS estimate based on average weekly unemployment for the past 12 months from Department of Labor, Employment and Training Administration, *Unemployed Insurance Data Summary for Third Quarter 2009*.

[61] Cost-estimate of H.R. 2847 as passed by the House on December 16, 2009; posted on the CBO website: http://www.cbo.gov/ftpdocs/108xx/doc10874/hr2847.pdf.

Other Direct Assistance Provisions

Child Tax Credit[62]

The child tax credit was initially enacted in 1997 to address concerns that the tax structure did not adequately reflect a family's reduced ability to pay taxes as family size increased.[63] Over time, the credit has been amended and recent provisions have expanded the credit's refundability. As passed by the House, Section 3304 of the Jobs for Main Street Act would, for tax year 2010 only, make the credit refundable for up to 15% of a taxpayer's earned income without an income threshold. The Congressional Budget Office estimates the cost of this provision would be $2.3 billion over the FY2010-FY2019 budget period.[64]

The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA, P.L. 107-16) made the child tax credit refundable for taxpayers with less than three children, and for up to 10% of a taxpayer's income above a $10,000 income threshold (indexed for inflation). The Working Families Tax Relief Act of 2004 (WFTRA, P.L. 108-311) increased the refund percentage for the credit from 10% to 15% beginning in tax year 2004. The American Recovery and Reinvestment Act of 2009 (ARRA, P.L. 111-5) lowered this income threshold to $3,000 for tax years 2009 and 2010.

The EGTRRA changes to the child tax credit will expire for tax years beginning after December 31, 2010, at which time the tax credit will be refundable only to taxpayers with three or more children.

Federal Poverty Guidelines[65]

The federal poverty guidelines, issued by the Secretary of Health and Human Services (HHS), or multiples of them, are used in determining individual, family, and household income eligibility and benefit levels under a number of means-tested federal and state programs. Under current law, the poverty guidelines are adjusted annually based on the percentage change in the Consumer Price Index for all Urban Consumers (CPI-U).[66] Normally, the CPI-U adjustment results in an annual increase in poverty guidelines from one year to the next due to price inflation. However, in 2009, the economic recession resulted in price deflation from 2008 to 2009[67], which under current law would result in lower poverty income guidelines for 2010 than for 2009. This could potentially cause some individuals, families, or households to lose eligibility, or have their benefits reduced, under programs that use the guidelines for these purposes.

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[62] Prepared by Christine Scott, cscott@crs.loc.gov, 7-7366.

[63] For additional information on the child tax credit, see CRS Report RL34715, *The Child Tax Credit*, by Maxim Shvedov.

[64] Cost-estimate of H.R. 2847 as passed by the House on December 16, 2009; posted on the CBO website: http://www.cbo.gov/ftpdocs/108xx/doc10874/hr2847.pdf.

[65] Prepared by Tom Gabe, tgabe@crs.loc.gov, 7-7357.

[66] 42 C.F.R. § 9902(2).

[67] In 2009, the annual average CPI-U was 214.537, compared to 215.303 in 2008, or 0.36% lower.

The FY2010 Defense Appropriations Act (P.L. 111-118) contains a provision prohibiting the Secretary of HHS from publishing updated poverty guidelines for 2010 before March 1, 2010, and requiring that the 2009 guidelines, which were issued on January 23, 2009, must remain in effect until the new guidelines are published. Section 3305 of H.R. 2847, as passed by the House, would further provide that the poverty guidelines issued for 2010 may not be lower than those issued on January 23, 2009. The Congressional Budget Office (CBO) estimates that this provision would have a cost of $305 million over the FY2010-FY2019 budget window.[68]

Applying the methodology used by HHS to update the poverty guidelines,[69] CRS estimates that for 2010, poverty guidelines for a family of four for the 48 contiguous states and the District of Columbia would be $100 lower than in 2009; for Hawaii they would be $120 lower, and for Alaska, $140 lower under current law (see **Table 2**). As described above, Section 3305 of the Jobs for Main Street Act would maintain the 2010 guidelines at their 2009 level; however, the provision would have no effect on poverty guidelines issued for subsequent years.

[68] Cost-estimate of H.R. 2847 as passed by the House on December 16, 2009; posted on the CBO website: http://www.cbo.gov/ftpdocs/108xx/doc10874/hr2847.pdf.

[69] The methods used by HHS to update 2008 poverty guidelines to 2009 are described at http://aspe.hhs.gov/poverty/09computations.shtml. CRS applied the same method to estimate 2010 guidelines under current law using the change in the annual average CPI-U from 2008 to 2009.

Table 2. Poverty Guidelines for 2009 and Estimated Guidelines for 2010, based on 2009 Price Deflation

	2009 Poverty Guidelines Issued by HHS			Estimated 2010 Poverty Guidelines Based on 2009 Price Deflation			Estimated Change in Poverty Guidelines		
Persons in Unit	48 Contiguous States and the District of Columbia	Alaska	Hawaii	48 Contiguous States and the District of Columbia	Alaska	Hawaii	48 Contiguous States and the District of Columbia	Alaska	Hawaii
1	$10,830	$13,530	$12,460	$10,730	$13,430	$12,380	-$100	-$100	-$80
2	$14,570	$18,210	$16,760	$14,470	$18,100	$16,670	-$100	-$110	-$90
3	$18,310	$22,890	$21,060	$18,210	$22,770	$20,960	-$100	-$120	-$100
4	$22,050	$27,570	$25,360	$21,950	$27,440	$25,250	-$100	-$130	-$110
5	$25,790	$32,250	$29,660	$25,690	$32,110	$29,540	-$100	-$140	-$120
6	$29,530	$36,930	$33,960	$29,430	$36,780	$33,830	-$100	-$150	-$130
7	$33,270	$41,610	$38,260	$33,170	$41,450	$38,120	-$100	-$160	-$140
8	$37,010	$46,290	$42,560	$36,910	$46,120	$42,410	-$100	-$170	-$150
Amount added for each additional member	$3,740	$4,680	$4,300	$3,740	$4,670	$4,290	$0	-$10	-$10

Source: Table prepared by the Congressional Research Service (CRS). 2009 guidelines are those issued by the Department of Health and Human Services (HHS): Department of Health and Human Services, "Annual Update of the HHS Poverty Guidelines," 74 *Federal Register* 4199-4201, January 23, 2009. 2010 Guidelines are CRS estimates based on HHS methodology for updating poverty guidelines, using the average annual change in the CPI-U from 2008 to 2009.

Tax Refund Disregard

Certain means-tested programs treat income tax refunds, including advance payments of refundable tax credits, as income or resources for purposes of determining eligibility and benefit levels. Section 3306 of the House-passed Jobs for Main Street Act would provide that tax refunds or advance payments would be disregarded as income or resources under any federal program or state or local program receiving federal funds for the month in which the refund or advance payment is received, plus the subsequent 11 months. This provision would apply only to amounts received after December 31, 2009, and before January 1, 2011.

Priority for Certain Workers

As noted in the introduction to this report, the House-passed Jobs for Main Street Act would provide appropriations for infrastructure investments intended to save or create jobs. Some of these appropriations would be made to programs administered by the Departments of the Interior and Agriculture. These programs are not discussed in this report but include resource management activities of the Bureau of Land Management, U.S. Fish and Wildlife Service, National Park Service, and National Forest Service. Section 1402 of H.R. 2847 directs the Secretaries of the Interior and Agriculture, in administering these funds, to use—to the maximum extent practicable—the Public Land Corps, Youth Conservation Corps, Student Conservation Association, Job Corps, Corps Network members, and other partnerships with federal, state, local, tribal, or nonprofit organizations that serve young adults, underserved and minority populations, veterans, and special needs individuals.

Application of Overarching ARRA Provisions

Certain overarching or general provisions included in the American Recovery and Reinvestment Act would also apply to the Jobs for Main Street Act, as passed by the House. For example, Section 1702 of H.R. 2847 would maintain ARRA's prohibition on the use of funds for casinos or other gambling establishments, aquariums, zoos, golf courses, or swimming pools.

The bill would also provide that any funds made available under the act would be subject to the same reporting, transparency, and oversight requirements established by Title XV of Division A of ARRA. Likewise, funds provided under ARRA to agency Inspectors General or the Recovery Accountability and Transparency Board would be available to oversee activities under the Jobs for Main Street Act as well (Section 1703(a) and (b)).[70]

Finally, Section 4002 of H.R. 2847 would require that any funds provided under the act be subject to the "Buy American" provisions included in ARRA.[71]

[70] For a discussion of the reporting and oversight provisions of ARRA, see CRS Report R40572, *General Oversight Provisions in the American Recovery and Reinvestment Act of 2009 (ARRA): Requirements and Related Issues*, by Clinton T. Brass.

[71] For background on the Buy American Act, see CRS Report 97-765, *The Buy American Act: Requiring Government Procurements to Come from Domestic Sources*, by John R. Luckey.

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