



# **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 UC benefits. Certain groups of workers who lose their jobs on account of international competition may qualify for additional or supplemental income support through Trade Adjustment Act (TAA) programs. UC benefits may be extended 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 to provide up to an additional 20 weeks of unemployment benefits. In addition, if certain economic conditions exist within the state, a second tier of benefits may be available of up to an additional 13 weeks of EUC08 benefits. 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.

H.R. 290, the Unemployment Insurance Modernization Act (UIMA). H.R. 290 would provide a special transfer of from the unemployment trust fund (UTF) through its federal unemployment account (FUA) of up to a total of \$7 billion to the state accounts within the UTF as “incentive payments” for changing certain state UC laws. The maximum incentive payment allowable for a state would be calculated using the methods used in Reed Act distributions. That is, funds would be distributed to the state UTF accounts based on each state’s share of estimated federal unemployment taxes made by the state’s employers. In addition, H.R. 290 would transfer a total of \$500 million from the federal employment security administration account (ESAA) to the state’s accounts in the UTF. The House stimulus plan, the American Economic Recovery and Reinvestment Plan has an almost identical provision. It is expected that the Senate stimulus proposal will also have a similar provision.

H.R. 291, the Unemployment Supplemental Assistance Act. H.R. 291 would temporarily add an additional \$50 weekly benefit to all UC, EB, and EUC08 benefits through the end of CY2009. The funds would be paid from general revenue and would not need to be repaid by the UTF. As proposed by the House of Representatives, the American Economic Recovery and Reinvestment Plan has a similar provision that would provide a weekly \$25 additional benefit. It is expected that the Senate stimulus proposal will also have a provision similar to the House proposal.

As proposed by the House of Representatives, The American Economic Recovery and Reinvestment Plan has a provision to extend the EUC08 program through the end of CY2009. The extension would be paid from general revenue and would not need to be repaid. The Senate stimulus proposal is expected to have a similar provision

Both H.R. 155 and S. 155 would temporarily suspend the federal income tax on unemployment benefits for 2009 and 2010.

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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.

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 or (for certain workers 50 years old and older) the Alternative Trade Adjustment Act (ATAA) program.

UC benefits may be extended at the state level by the Extended Benefit (EB) program if certain economic situations within the state exist. Currently the EB program is active in both North Carolina (up to 12 weeks of EB) and Rhode Island (up to 20 weeks of EB).

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.<sup>1</sup> The EUC08 benefit is 100% federally funded. State unemployment compensation (UC) agencies will administer the EUC08 benefit along with regular UC benefits.

The potential duration of the EUC08 benefit is for up to 20 additional weeks of unemployment. EUC08 also creates a second tier of benefits for workers in states with high unemployment of up to a maximum of an additional 13 weeks of tier II EUC08 benefits (for up to a cumulative 33 weeks of EUC08 benefits).<sup>2</sup>

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.

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

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<sup>1</sup> The other 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.

<sup>2</sup> 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.

## **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 billion 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.<sup>3</sup> 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, 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 billion for the federal share of EB payments.

### **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 program, the floor on the highest state unemployment tax rate to be imposed on employers (5.4%), and how the

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<sup>3</sup> 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>.

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 unemployment tax is calculated. The federal tax pays for both federal and state administrative costs, the federal share of the EB program, loans to insolvent state UC accounts, and state employment services.

## **UC Eligibility**

### **Broad Guidelines Result in Different 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).

### **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. Because base period employment and/or earnings are an imperfect proxy for labor market attachment, there are some instances when workers with substantial labor market attachment are ineligible for UC benefits. Federal law allows states to develop expanded definitions of the base period.

#### ***Alternative Base Period (ABP)***

A base period consisting of the first 4 of the last 5 completed calendar quarters results in a lag of up to five months between the end of the base period and the date a worker becomes unemployed. As a result, the worker's most recent work history is not used when making an eligibility determination. Thus, 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.

## **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.

## **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.<sup>4</sup> It does not appear that any state measures both hours of work and weeks of work in the base period.

## **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.

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<sup>4</sup> 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.



**Table 1** lists the minimum and maximum UC benefits for each state. Weekly maximums in July 2008 ranged from \$230 (Mississippi) to \$600 (Massachusetts) and, in states that provide dependents' allowances, up to \$900 (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.<sup>5</sup> In December 2008, approximately 5.1 million unemployed workers received UC benefits in a given week.

**Table 1. State Unemployment Compensation Benefits Amounts, July 2008**

(in dollars)

	<b>Minimum Weekly UC Benefit Amount</b>	<b>Minimum If Dependents' Allowance</b>	<b>Maximum Weekly UC Benefit Amount</b>	<b>Maximum If Dependents' Allowance</b>
Alabama	45		235	
Alaska	44	68	248	320
Arizona	60		240	
Arkansas	77		431	
California	40		450	
Colorado	25		413	475
Connecticut	15	30	501	576
Delaware	20		330	
District of Columbia	50		359	
Florida	32		275	
Georgia	44		330	
Hawaii	5		523	
Idaho	58		364	
Illinois	51	70	369	511
Indiana	50		390	
Iowa	53	65	361	443
Kansas	105		423	
Kentucky	39		415	
Louisiana	10		284	
Maine	60	90	344	516
Maryland	25	65	380	
Massachusetts	32	48	600	900
Michigan	113	143	362	
Minnesota	38		538	

<sup>5</sup> A federal-state extended benefits (EB) program offers benefits for an additional 13 to 20 weeks in states with unemployment rates above certain levels. The EB program is discussed later in this report.

	<b>Minimum Weekly UC Benefit Amount</b>	<b>Minimum If Dependents' Allowance</b>	<b>Maximum Weekly UC Benefit Amount</b>	<b>Maximum If Dependents' Allowance</b>
Mississippi	30		230	
Missouri	35		320	
Montana	120		407	
Nebraska	30		298	
Nevada	16		393	
New Hampshire	32		427	
New Jersey	85	97	560	
New Mexico	66	99	355	455
New York	64		405	
North Carolina	39		457	
North Dakota	43		406	
Ohio	103		365	493
Oklahoma	16		392	
Oregon	113		482	
Pennsylvania	35	43	539	547
Rhode Island	68	118	528	660
South Carolina	20		326	
South Dakota	28		298	
Tennessee	30		275	
Texas	57		378	
Utah	26		427	
Vermont	64		425	
Virginia	54		378	
Washington	129		541	
West Virginia	24		424	
Wisconsin	53		355	
Wyoming	30		415	

**Source:** Congressional Research Service (CRS) table compiled from *Significant Provisions of State Unemployment Insurance Laws, July 2008*, U.S. Department of Labor, Employment and Training Administration, at <http://www.workforcesecurity.doleta.gov/unemploy/pdf/sigprojul2008.pdf>.

## UC Benefit Financing: Unemployment Taxes on Employers

UC benefits are financed through employer taxes.<sup>6</sup> The federal taxes on employers are under the authority of the Federal Unemployment Tax Act (FUTA), and the state taxes are under the

<sup>6</sup> For a more detailed description of UC financing, see CRS Report RS22077, *Unemployment Compensation (UC) and* (continued...)

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% 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.

### ***State Unemployment Tax Acts***

States levy their own payroll taxes on employers to fund regular UC benefits and the state share of the EB program. These state UC tax rates are "experience-rated," in which employers generating the fewest claimants have the lowest rates. The state unemployment tax rate on an employer is, in most states, based on the amount of UC paid to former employees. Generally, in most states, 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 2008 ranged from the \$7,000 FUTA federal ceiling (eight states) to \$32,200 (Idaho). The minimum rates ranged from 0% (six states) to 1.69% (Rhode Island). The maximum rates ranged from 5.4% (17 states) to 10.96% (Massachusetts). 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

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*the Unemployment Trust Fund (UTF): Funding UC Benefits*, by Julie M. Whittaker and Kathleen Romig.

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, July 2008**

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<b>State</b>	<b>Wages Subject to Tax (\$)</b>	<b>Minimum State Unemployment Tax (%)</b>	<b>Maximum State Unemployment Tax (%)</b>
Alabama	8,000	0.44	6.04
Alaska	31,300	1.00	5.40
Arizona	7,000	0.02	5.40
Arkansas	10,000	0.10	10.00
California	7,000	1.30	5.40
Colorado	10,000	0.30	5.40
Connecticut	15,000	0.50	5.40
Delaware	10,500	0.30	8.20
DC	9,000	1.30	6.60
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	12,000	0.20	6.60
Indiana	7,000	1.10	5.60
Iowa	22,800	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	25,000	0.40	9.30
Mississippi	7,000	0.40	5.40
Missouri	12,000	0.00	6.00
Montana	23,800	0.00	6.12
Nebraska	9,000	0.00	5.40
Nevada	25,400	0.25	5.40
New Hampshire	8,000	0.10	6.50
New Jersey	27,700	0.18	5.40

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<b>State</b>	<b>Wages Subject to Tax (\$)</b>	<b>Minimum State Unemployment Tax (%)</b>	<b>Maximum State Unemployment Tax (%)</b>
New Mexico	19,900	0.03	5.40
New York	8,500	0.50	8.50
North Carolina	18,600	0.00	5.70
North Dakota	22,100	0.20	9.86
Ohio	9,000	0.50	9.20
Oklahoma	13,600	0.10	5.50
Oregon	30,200	0.70	5.40
Pennsylvania	8,000	0.30	9.20
Rhode Island	14,000	1.69	9.79
South Carolina	7,000	0.54	5.40
South Dakota	9,000	0.00	8.50
Tennessee	7,000	0.30	10.00
Texas	9,000	0.10	6.10
Utah	26,700	0.10	9.10
Vermont	8,000	1.10	7.70
Virginia	8,000	0.10	6.20
Washington	34,000	0.38	6.02
West Virginia	8,000	1.50	7.50
Wisconsin	10,500	0.00	8.90
Wyoming	20,100	0.27	9.03

**Source:** CRS table compiled from *Significant Provisions of State Unemployment Insurance Laws, July 2008*, U.S. Department of Labor, Employment and Training Administration, at <http://www.workforcesecurity.doleta.gov/unemploy/pdf/sigprojul2008.pdf>.

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. Beginning in FY2005, UC revenue exceeded total UC outlays. **Table 3** lists the total revenue and outlays associated with the UC program from FY2001 through FY2008 (estimated).

**Table 3. Revenue and Spending Associated With Unemployment Compensation,  
FY2001-FY2008**

(in billions of dollars)

	2001	2002	2003	2004	2005	2006	2007	2008 <sup>a</sup>
<b>UC revenue, total</b>	<b>27.8</b>	<b>27.5</b>	<b>33.2</b>	<b>39.3</b>	<b>41.8</b>	<b>43.0</b>	<b>41.2</b>	<b>30.5</b>
FUTA tax	6.9	6.6	6.5	6.6	6.7	7.1	7.3	7.3
State UC taxes	20.8	20.9	26.7	32.7	35.1	35.9	33.7	32.2
<b>UC outlays, total</b>	<b>31</b>	<b>53.8</b>	<b>57.4</b>	<b>40.9</b>	<b>35.0</b>	<b>34.3</b>	<b>34.7</b>	<b>37.3</b>
Regular benefits	27.3	42	42	36.9	31.2	30.2	31.4	38.1
Extended benefits	<sup>b</sup>	0.16	0.32	0.16	0.00	0.20	0.00	<sup>b</sup>
Emergency UC	—	7.9	11	4.1	—	—	—	5.0
Administration	3.6	3.7	4.1	3.9	3.8	3.9	3.7	3.7

**Source:** U.S. Department of Labor, *UI Outlook*, January 2001-February 2008, and updates.

a. Estimated for 2008.

b. Less than \$50 million.

### Outstanding Loans from the Federal Unemployment Account (FUA)

If a state trust fund account becomes insolvent, a state may borrow federal funds.<sup>7</sup> The Department of Labor maintains a list of all states with loans and includes the loan amounts. See <http://ows.doleta.gov/unemploy/pdf/tfloans.pdf>.

## Trade Adjustment Assistance (TAA): Unemployment Benefit Extensions for Workers Unemployed on Account of International Trade

The TAA program, established by the Trade Expansion Act of 1962 (P.L. 87-794) and now authorized by the Trade Act of 1974 (P.L. 93-618), as amended, extends UC benefits and provides job training for workers dislocated by import competition.<sup>8</sup>

### Expiring Authorization

The Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (P.L. 110-329), signed into law on September 30, 2008, funds TAA and ATAA through March 6, 2009.

<sup>7</sup> 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.

<sup>8</sup> For more information on the TAA program, see CRS Report RL34383, *Trade Adjustment Assistance (TAA) for Workers: Current Issues and Legislation*, by John J. Topoleski.

## **TAA Eligibility**

To be certified for TAA eligibility, a group of workers or their former employer petitions the DOL, and DOL investigates whether import competition “contributed importantly” to their job loss or whether their firm has shifted production of similar products to certain countries. The TAA also extends eligibility to secondary workers whose job loss results from the loss of business with a primary firm. Determinations should be completed within 40 days.

## **TAA Benefits and Duration**

The income support portion of the TAA is a trade readjustment allowance (TRA) benefit. The TRA benefit is identical to the UC benefit the worker would have received under the regular UC program of the worker’s state. The TRA benefit is available for 52 weeks, less any weeks in which regular UC or EB benefits are received, plus an additional 52 weeks for claimants still in approved job training after the basic TRA runs out. An additional 26-week extension is available to those in need of remedial education. Therefore, the total period of unemployment benefit receipt for a TAA certified unemployed worker—including regular and extended UC benefits, as well as the TRA benefits—may last as long as 130 weeks.

## **Other Benefits**

The Health Care Tax Credit (HCTC), a refundable and advanceable tax credit for 65% of health insurance premiums, is available to TAA and ATAA eligibles for the purchase of insurance through COBRA continuation coverage,<sup>9</sup> high-risk pools, state employee plans, or other means.<sup>10</sup> An allowance of up to \$1,250 may be paid to eligible workers who must search for work outside their commuting area. Another \$1,250 allowance may be paid for the cost of relocation to another job market.

An alternative TAA (ATAA) for older workers, which replaces up to 50% of the wage difference between the wages in a new job and the old one for up to two years, was established by the Trade Act of 2002 (P.L. 107-210). The ATAA program went into effect on August 6, 2003, and is intended to shorten transitions into new occupations or industries without requiring older workers to participate in training programs. Eligibility is limited to those over age 50 whose incomes are less than \$50,000 yearly, who work full time, and who find new jobs within 26 weeks after job separation. The total benefit cannot exceed \$10,000.

## **TAA Financing**

TRA and ATAA benefits are financed through the Federal Unemployment Benefit Account (FUBA). TRA and ATAA benefit administrative costs are paid from funds appropriated for TAA

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<sup>9</sup> Under Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA, P.L. 99-272), an employer with 20 or more employees must provide those employees and their families the option of continuing their coverage under the employer’s group health insurance plan in the case of certain events. For more details on the COBRA benefit, see CRS Report RL30626, *Health Insurance Continuation Coverage Under COBRA*, by Heidi G. Yacker.

<sup>10</sup> For more information on the Health Care Tax Credit, see CRS Report RL32620, *Health Coverage Tax Credit Authorized by the Trade Act of 2002*, by Bernadette Fernandez.

administration under the State Unemployment Insurance and Employment Services Operations (SUIESO) account.

## **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 currently active only in Alaska, North Carolina, Oregon (all up to 13 weeks) and Rhode Island (up to 20 weeks).

The EB program is triggered when a state's insured unemployment rate (IUR)<sup>11</sup> or total unemployment rate (TUR)<sup>12</sup> 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 2 previous years. There are two other optional thresholds that states may choose. (States may chose one, two, or none.) If the state has chosen the 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% 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 Eligibility**

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 be actively searching and available for work. Furthermore, the worker may not receive benefits if the worker refused an offer of suitable work. Finally, 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.

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<sup>11</sup> 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; 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.

<sup>12</sup> The TUR is the ratio of unemployed workers to all workers in the labor market. The TUR is essentially a weekly version of the unemployment rate published by the Bureau of Labor Statistics: that is, the ratio of the total number of unemployed persons divided by the total number of employed and unemployed persons.



## **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 requirements for receipt of regular UC benefits *and* do not allow for exceptions to those requirements do not need to establish that the worker met the 20 weeks full-time insured employment.<sup>13</sup> The three methods are listed below.

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

## **EB Benefits 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.

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.

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<sup>13</sup> 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.

## **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.<sup>14</sup>

## **Emergency Unemployment Compensation (EUC08) Program**

### **Emergency Unemployment Compensation (EUC08)**

The Emergency Unemployment Compensation (EUC08) program was created by P.L. 110-252 and has been amended by P.L. 110-449. This new temporary unemployment insurance program provides up to 20 additional weeks of unemployment benefits to certain workers who have exhausted their rights to regular unemployment compensation (UC) benefits.<sup>15</sup> A second tier of benefits exists in states with a total unemployment rate of at least 6% and provides up to an additional 13 weeks of EUC08 benefits (for a total of 33 weeks of EUC08 benefits.) The program effectively began July 6, 2008, and will terminate on March 28, 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.<sup>16</sup> 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 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.

#### **Tier I**

The maximum number of weeks an individual may be eligible for these 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.

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<sup>14</sup> States that do not require a one-week UC waiting period, or have an exception for any reason to the waiting period, pay 100% of the first week of EB. Twenty-five states, including Rhode Island and North Carolina, do not require a one-week UC waiting period in all cases. P.L. 110-449 suspended this requirement until December 2009.

<sup>15</sup> For details on the EUC08 program, see CRS Report RS22915, *Temporary Extension of Unemployment Benefits: Emergency Unemployment Compensation (EUC08)*, by Julie M. Whittaker.

<sup>16</sup> For more information on these programs, see CRS Report RL34340, *Extending Unemployment Compensation Benefits During Recessions*, by Julie M. Whittaker.

## **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 (6% or higher). 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 March 28, 2009**

Both tiers of EUC08 benefits are temporary and expire in March 2009. Those unemployed individuals who had qualified for the tier I or tier II EUC08 benefit would continue to receive payments for the number of weeks they were deemed eligible. If an individual exhausts his or her *regular* unemployment compensation (UC) benefits<sup>17</sup> (or EB benefits in a few states) after March 28, 2009, the individual would not be eligible for any EUC08 benefit. That is, there are no new entrants into either the tier I or tier II EUC08 program after March 28, 2009.

Those beneficiaries receiving tier I or tier II EUC08 benefits on March 28, 2009 are “grandfathered” for their remaining weeks of eligibility. If eligible to continue to receive the tier I benefit after March 28, 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 August 29, 2009.<sup>18</sup>

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

If an individual had exhausted the EUC08 benefit before November 23, 2008, administratively the individual will mostly likely not have exhausted the tier I EUC08 benefit. As a result of P.L. 110-449, these individuals now may have up to 7 additional weeks of EUC08 benefits available. 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.

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<sup>17</sup> March 29, 2009, for New York.

<sup>18</sup> August 30, 2009, for New York.

### ***No Retroactive Payments for Special Case***

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 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.<sup>19</sup> For most states, this would apply to individuals who had filed UC claims with an 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.<sup>20</sup>

### **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. This results in 53 different programs.<sup>21</sup> In particular, states determine UC benefit eligibility, amount, and duration through state laws and program regulations.

Generally, regular UC eligibility is based on attaining qualified wages and employment in covered work over a 12-month period (called a base period). Conditional on earnings amounts and number of quarters worked in the base period, an individual may qualify for as little as one week of UC benefits in some states or as many as 26 weeks in other states. Individuals with higher earnings and multiple quarters of work history will generally receive higher UC benefits for a longer period of time.<sup>22</sup>

### **“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 earlier in the Extended Benefit (EB) Program portion of this report.

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<sup>19</sup> 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 UC claims before July 2006 would be eligible to receive EUC08 benefits.

<sup>20</sup> 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.

<sup>21</sup> The 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands provide UC benefits to their workers.

<sup>22</sup> 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.

## **Tier II EUC08 Eligibility Requirements**

### **Exhausted Tier I EUC08 Benefit**

The right to tier I EUC08 benefits must be exhausted to be eligible for the tier II EUC08 benefits.

### **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 for the purposes of the EUC08 program. If at the time of tier I exhaustion the state has a TUR of less than 6%, the individual would not be eligible for tier II benefits. However, if the state later has a TUR of at least 6%, a still unemployed tier I benefit exhaustee would be eligible for tier II benefits at that time.

Each Monday the Department of Labor issues its “Emergency Unemployment Compensation Trigger Notice” at [http://atlas.doleta.gov/unemploy/claims\\_arch.asp](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 Payments***

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**

The EUC08 program is fully funded through the federal government.

## **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. The EB program is permanently authorized and applies only to certain states on the basis of state economic 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. It may be less costly for the state to choose to pay for the EUC08 benefit first, as the EUC08 benefit is 100% federally financed (whereas the EB benefit is 50% state financed).<sup>23</sup> However, if the state opts to pay EUC08 first, individuals in

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<sup>23</sup> 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.

the state might receive less in total unemployment benefits if the EB program triggers off before the individuals exhaust their EUC08 benefits.

North Carolina, Oregon, and Rhode Island have opted to pay EUC08 benefits before EB. Alaska has opted to pay EB before EUC08 benefits.

## **Disaster Unemployment Assistance (DUA)<sup>24</sup>**

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

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<sup>24</sup> See CRS Report RS22022, *Disaster Unemployment Assistance (DUA)*, by Julie M. Whittaker for more information on this program.

- 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 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.

## **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**

### **111<sup>th</sup> Congress**

#### **Stimulus Proposals**

##### ***Unemployment Compensation Modernization***

On January 9, 2009, Representative McDermott introduced H.R. 290, the Unemployment Insurance Modernization Act (UIMA). H.R. 290 would provide a special transfer of UTF funds from the federal unemployment account (FUA) of up to a total of \$7 billion to the state accounts within the UTF as "incentive payments" for changing certain state UC laws. The maximum incentive payment allowable for a state would be calculated using the methods used in Reed Act distributions. That is, funds would be distributed to the state UTF accounts based on each state's share of estimated federal unemployment taxes (excluding reduced credit payments) made by the state's employers. In addition, H.R. 290 would transfer a total of \$500 million from the federal employment security administration account (ESAA) to the state's accounts in the UTF.

As proposed by the House of Representatives, The American Economic Recovery and Reinvestment Plan has an almost identical provision. It is expected that the Senate stimulus proposal will also have a similar provision.

### ***Supplemental Unemployment Benefit***

On January 9, 2009, Representative McDermott introduced H.R. 291, the Unemployment Supplemental Assistance Act. H.R. 291 would temporarily add an additional \$50 weekly benefit to all UC, EB, and EUC08 benefits through the end of CY2009. The funds would be paid from general revenue and would not need to be repaid by funds from the UTF.

As proposed by the House of Representatives, The American Economic Recovery and Reinvestment Plan has a similar provision that would provide a weekly \$25 additional benefit. It is expected that the Senate stimulus proposal will also have a provision similar to the House proposal.

### ***Extension of EUC08 Program***

As proposed by the House of Representatives, The American Economic Recovery and Reinvestment Plan has a provision to extend the EUC08 program through the end of CY2009. The extension would be paid from general revenue and would not need to be repaid.

### **Other Proposals in the 111<sup>th</sup> Congress**

#### ***Temporary Suspension of Federal Income Tax on Unemployment Benefits***

Both H.R. 155 (McHugh) S. 155 (Snowe) would temporarily suspend the federal income tax on unemployment benefits for 2009 and 2010.

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