

QUESTION & ANSWER

THE ECONOMIC RECOVERY BILL'S NEW "EXTENDED BENEFITS" STATE OPTION- 840,000 WORKERS MAY QUALIFY FOR AN EXTRA 13 TO 20 WEEKS OF JOBLESS BENEFITS WHEN THEY RUN OUT OF THE FEDERAL EMERGENCY EXTENSION

What follows is a Q&A explaining a new option available under the American Recovery and Reinvestment Act of 2009 which allows high unemployment states to provide up to 13 to 20 weeks of additional extended benefits to workers who run out of their federal Emergency Unemployment Compensation. The EUC program currently provides 20 to 33 weeks of benefits to workers who run out of their state unemployment benefits. If adopted by all the states with unemployment rates exceeding the 6.5 percent threshold, as many as 840,000 workers would qualify for additional weeks of 100% federally-funded assistance.

1. What is the Federal Extended Benefits (EB) Program and how does it relate to Emergency Unemployment Compensation?

The "Extended Benefits" (EB) program is a permanent program, started in 1970, that provides 13-20 weeks of extended unemployment benefits to states experiencing high levels of unemployment, as defined by certain "triggers." Because the EB triggers are so restrictive, states rarely qualify for EB even during serious recessions. Thus, Congress has frequently stepped in to create temporary federal extended benefits programs, including the Emergency Unemployment Compensation (EUC) program enacted in July 2009 (providing 20 to 33 weeks of extended benefits, depending on the state's unemployment rate).

In states that meet the EB program's requirements, workers are entitled to both EUC and EB consecutively and states are allowed to choose in which order they pay out benefits. Because EB costs are typically shared 50/50 between the states and the federal government, all states have chosen to pay EB after workers have exhausted EUC. EB acts as an additional benefit for workers who still cannot find work after receiving the EUC extension. However, EB benefits were not likely to be available to most EUC recipients.

2. How did the American Recovery and Reinvestment Act (ARRA) make it possible for more workers to collect EB after their EUC benefits run out?

The ARRA (Section 2005) made two key temporary changes to the EB program, allowing more workers to collect benefits under the EB program after their EUC benefits run out.

First, the ARRA temporarily shifts the costs of the EB program entirely to the federal government for the remainder of 2009 (and phasing out through June 2010), thus removing the requirement that states pay 50% of EB benefits.¹

Second, the ARRA suspends a federal eligibility rule that prevents many workers who are now collecting EUC from receiving EB. To qualify for EB under the old rules, a worker had to have filed for state unemployment benefits within one year of when the state reached the required level of unemployment to “trigger” on to the EB program.

Now, as a result of the ARRA, EB is available to anyone who exhausts his or her EUC benefits during an EB high-unemployment period, not just those workers who applied for state unemployment benefits one year before the EB period began.ⁱⁱ Without this provision, large numbers of workers now collecting EUC would not qualify for any weeks of EB because they started collecting state unemployment benefits more than one year ago. Indeed, most workers in high unemployment states are able to collect 59 weeks of unemployment benefits, including 26 weeks of state benefits and 33 weeks of EUC, which means they first filed for state benefits more than one year before they would be eligible to receive EB.

3. What is the necessary unemployment rate required for a state to “trigger on” to EB and what does the state have to do to adopt the trigger?

To qualify for EB under the 1970 federal law, a state must exceed either of the following unemployment levels, thus allowing the state to “trigger on” to EB benefits:

- **Insured Unemployment Rate Trigger:** The insured unemployment rate (IUR) is the number of workers receiving state unemployment benefits in the past 13 weeks divided by the total number of employed workers. If a state’s insured unemployment rate exceeds 5.0%, EB benefits trigger on. Under this requirement, which automatically applies to all states under the EB law, the state’s insured unemployment rate must also be on the rise. A state can only trigger on to EB if the current IUR is 20% higher than it was during the same period in both of the prior two years.
- **Optional Total Unemployment Rate Trigger:** States can also trigger on to EB benefits if the total unemployment rate (TUR)—the standard unemployment rate published by the Bureau of Labor Statistics every month—exceeds 6.5% over a three-month period. Like the IUR requirement, the TUR has to be increasing, but only by 10% over each of the past two years. If the state exceeds the 6.5% TUR, workers are entitled to an extra 13 weeks of EB. If the state exceeds 8.0% unemployment, workers are entitled to 20 weeks of EB. In contrast to the IUR trigger, the TUR trigger only applies to those states that have passed a law adopting the more generous EB option. Currently, only eleven states have adopted the optional TUR trigger rule to access EB (Table 1).

4. Which states currently qualify for EB benefits and which states could qualify if they changed their state laws to take advantage of the new ARRA provisions?

Nine states and Puerto Rico currently qualify for EB, either using the IUR formula (Idaho, Michigan, Pennsylvania, Puerto Rico) or the optional TUR formula (Connecticut, North Carolina, Oregon, Rhode Island, Washington), and another two states—Wisconsin (IUR) and New Jersey (TUR)—are likely trigger on to EB shortly under current rules. As a result, about 319,000 workers will qualify for EB when their EUC benefits expire (Table 2).

It is far more difficult for a state to trigger on under the IUR rule than the TUR because the IUR requires a large percentage of unemployed workers to actually be collecting benefits, which is not the case in many states. Indeed, another 15 states could now trigger on to EB using the TUR option if they adopt the required EB law.

As of February 15th, these states include Arizona (qualifying for 13 weeks of EB), California (qualifying for 20 weeks), District of Columbia (20 weeks), Florida (13 weeks), Georgia (13 weeks), Illinois (13 weeks), Indiana (13 weeks), Indiana (13 weeks), Kentucky (13 weeks), Mississippi (13 weeks), Missouri (13 weeks), Nevada (20 weeks), Ohio (13 weeks), South Carolina (20 weeks), Tennessee (13 weeks) and the Virgin Islands (13 weeks). If all these states adopted the optional TUR trigger, another 518,000 workers would qualify for EB after exhausting their EUC benefits, or a total of over 800,000 when combined with those workers in states that have already adopted the optional EB trigger (Table 2).

5. How can states take advantage of the new EB rules without being required to spend state dollars?

These states (and others whose unemployment rates exceed 6.5% over the next several months) can adopt the optional EB trigger without incurring any additional costs for workers beginning EB benefit periods this year. This will enable workers who will exhaust their EUC to receive 100% federal-funded EB benefits. If states are especially concerned about the long-term financial impact of the EB trigger, they can also sunset the legislation in 2010 as 100% EB funding will only be eligible for workers and their families who exhaust EUC in 2009.

However, it is vital for the states to act quickly to take up the EB option. Large numbers of workers who qualified for the full 33-week extension of EUC benefits will begin running out of benefits in March and April 2009. By moving expeditiously to pass the required state legislation, states can ensure that these workers do not reach the end of their emergency unemployment benefits in the depths of an extremely difficult job market. Attached is model legislation for states to enact the optional EB trigger formula.

6. Where can workers find out whether their state qualifies for EB under the different “trigger” formulas in order to collect EB after running out of EUC benefits?

On a weekly basis, the U.S. Department of Labor (DOL) provides an update of which states have reached the required unemployment level to trigger on to EB. The most recent notice is summarized in Table 1, and the weekly DOL notice can be found at http://ows.doleta.gov/unemploy/claims_arch.asp by selecting extended benefits trigger notice.

Model Legislation to Implement State Extended Benefit Triggers
US DOL Unemployment Insurance Program Letter 45-92

(2) There is a State "on" indicator for a week if--

(A) (i) the rate of insured unemployment under this Act for the period consisting of such week and the immediately preceding twelve weeks equaled or exceeded 120 percent of the average of such rates for the corresponding 13-week period ending in each of the preceding calendar years, and

(ii) equaled or exceeded 5 percent; or

(B) the rate of insured unemployment under this Act for the period consisting of such week and the immediately preceding twelve weeks equaled or exceeded 6 percent, regardless of the rate of insured unemployment in the two previous years; or

(C) with respect to benefits for weeks of unemployment beginning after January 1, 2009

(i) the average rate of total unemployment (seasonally adjusted), as determined by the United States Secretary of Labor, for the period consisting of the most recent 3 months for which data for all States are published before the close of such week equals or exceeds 6.5 percent, and

(ii) the average rate of total unemployment in the State (seasonally adjusted), as determined by the United States Secretary of Labor, for the 3-month period referred to in clause (i), equals or exceeds 110 percent of such average for either or both of the corresponding 3-month periods ending in the 2 preceding calendar years.

(3) There is a State "off" indicator for a week only if, for the period consisting of such week and the immediately preceding twelve weeks, none of the options specified in paragraph (2) result in an "on" indicator.

.... (3)(A) Effective with respect to weeks beginning in a high unemployment period, paragraph (1) shall be applied by substituting

(i) "eighty percent" for "fifty percent" in subparagraph (A),

(ii) "twenty" for "thirteen" in subparagraph (B), and

(iii) "forty-six" for "thirty-nine" in subparagraph (C)

(B) For purposes of subparagraph (A), the term "high unemployment period" means any period during which an extended benefit period would be in effect if subsection (a) (2) (C) were applied by substituting "8 percent" for "6.5 percent".

ⁱ The ARRA specifies that the federal government will pay 100% EB through to June 2010 as long as such workers begin in 2009.

ⁱⁱ Section 2005 (b) (1) and (2)

Table 1

**State Provisions Required to Access Additional 13 to 20 Weeks of Federal
"Extended Benefits"
National Employment Law Project
February 2009**

State	EB Triggered ON, by Provision*		Total Unemployment Rate (TUR)		
			TUR Trigger Option Exists in Law	3-Month TUR, Seasonally Adjusted	Qualifies for EB If State Adopts Optional TUR Trigger (# Weeks)
Alabama				6.1	
Alaska	X	TUR	X	7.3	
Arizona				6.5	X (13)
Arkansas				5.7	
California				8.7	X (20)
Colorado				5.9	
Connecticut	X	TUR	X	6.8	
Delaware				5.7	
District of Columbia				8.0	X (20)
Florida				7.5	X (13)
Georgia				7.5	X (13)
Hawaii				5.0	
Idaho	X	IUR		5.8	
Illinois				7.4	X (13)
Indiana				7.3	X (13)
Iowa				4.4	
Kansas			X	5.0	
Kentucky				7.2	X (13)
Louisiana				5.6	
Maine				6.3	
Maryland				5.3	
Massachusetts				6.1	
Michigan	X	IUR		9.8	
Minnesota				6.4	
Mississippi				7.4	X (13)
Missouri				6.8	X (13)
Montana				5.0	
Nebraska				3.8	
Nevada				8.3	X (20)
New Hampshire			X	4.3	
New Jersey	#	TUR	X	6.4	
New Mexico			X	4.5	
New York				6.2	
North Carolina	X	TUR	X	7.9	
North Dakota				3.4	
Ohio				7.4	X (13)
Oklahoma				4.6	
Oregon**	X	TUR	X	8.1	
Pennsylvania	X	IUR		6.2	
Puerto Rico	X	IUR		12.7	
Rhode Island**	X	TUR	X	9.5	
South Carolina				8.6	X (20)
South Dakota				3.5	
Tennessee				7.3	X (13)
Texas				5.8	
Utah				3.9	
Vermont			X	5.7	
Virgin Islands				6.8	X (13)
Virginia				4.8	
Washington	X	TUR	X	6.6	
West Virginia				4.7	
Wisconsin	#	IUR		5.7	
Wyoming				3.3	
Total:	12	IUR: 5 TUR: 7	11		15

Indicates states that have not yet triggered on but are projected to do so under existing law.

Note: TUR reflects average seasonally adjusted TUR for 3 month period ending December 2008.
IUR reflects 13-week period ending January 24, 2009.

Source: US DOL ETA Extended Benefits Trigger Notice, Effective February 8, 2009
http://ows.doleta.gov/unemploy/trigger/2009/trig_021509.html

Table 2

Potential Impact of the Federal Extended Benefit Provisions of the Economic Recovery Legislation

National Employment Law Project
February 2009

	Workers Exhausting EUC Benefits (Jan-June)	Estimated Numbers Potentially Eligible for EB After Exhausting EUC (Jan-June 2009)
Alabama	12,126	0
Alaska	5,011	5,011
Arizona	15,040	15,040
Arkansas	8,339	0
California**	168,505	168,505
Colorado	18,322	0
Connecticut	16,293	16,293
Delaware	4,547	0
District of Columbia**	2,722	2,722
Florida	83,537	83,537
Georgia	40,752	40,752
Hawaii	4,632	0
Idaho	4,784	4,784
Illinois	52,472	52,472
Indiana	27,841	27,841
Iowa	14,424	0
Kansas	11,102	0
Kentucky	10,245	10,245
Louisiana	13,490	0
Maine	3,150	0
Maryland	20,575	0
Massachusetts	27,362	0
Michigan**	65,680	65,680
Minnesota	18,556	0
Mississippi	7,802	7,802
Missouri	15,641	15,641
Montana	3,638	0
Nebraska	5,642	0
Nevada	13,545	13,545
New Hampshire	2,853	0
New Jersey	58,947	58,947
New Mexico	6,924	0
New York	70,616	0
North Carolina	43,866	43,866
North Dakota	1,839	0
Ohio	35,058	35,058
Oklahoma	7,682	0
Oregon**	15,082	15,082
Pennsylvania	62,575	62,575
Puerto Rico	2,511	2,511
Rhode Island**	6,335	6,335
South Carolina**	22,604	22,604
South Dakota	511	0
Tennessee	21,899	21,899
Texas	62,973	0
Utah	5,627	0
Vermont	2,433	0
Virgin Islands	348	348
Virginia	20,467	0
Washington	14,167	14,167
West Virginia	5,176	0
Wisconsin	24,110	24,110
Wyoming	797	0
United States	1,191,175	837,374

States in Bold Need to Enact Legislation to Take Advantage of EB