



# NELP

National Employment Law Project

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## Federal Stimulus Funding Produces Unprecedented Wave of State Unemployment Insurance Reforms

On February 17<sup>th</sup>, President Obama signed the American Recovery and Reinvestment Act (ARRA) into law, thus launching a bold new initiative to modernize state unemployment insurance programs with the help of \$7 billion in federal incentive funds. Four months later, the federal stimulus legislation has produced an unprecedented wave of state reforms, bringing tens of thousands of deserving workers into the unemployment system to get back on their feet and contribute to economic recovery.

While helping to close the gaps in the state unemployment programs, the ARRA also made it possible for many high unemployment states to provide additional weeks of federal extended benefits. That is because the ARRA covered 100 percent of the costs associated with the 13- to 20-week program of Extended Benefits, which is normally paid for 50 percent by the states. As a result of the additional federal funding, far more states were in a position to change their state laws to liberalize the rules that trigger on the EB program.

What follows is a summary of the unprecedented reforms thus far adopted by the states as a result of the ARRA, including these highlights:

- Half the states have already enacted unemployment insurance policies targeting those groups who have been left out of the system, including low-wage workers, women, part-time workers and the long-term unemployed.
- These reforms will help deliver unemployment benefits to tens of thousands of workers a year, and once certified by the U.S. Department of Labor, they will generate \$3.2 billion to support the state unemployment trust funds.
- 21 states changed their laws to provide Extended Benefits when their unemployment rates reached 6.5 percent, helping about one million workers who are exhausting their state and federal benefits.

These federal funds for modernization and extended benefits will make their way to the states just when they need the help most to pay benefits, boost the solvency of their unemployment insurance trust funds and limit employer tax increases.

## The ARRA's Unemployment Insurance Modernization Incentive Funding Program

The ARRA addresses the outdated gaps in the unemployment insurance program that have been documented for decades by leading authorities, including the bi-partisan Advisory Council on Unemployment Compensation that called for fundamental reform of the system in the 1990s.

Of special significance, the ARRA targets low-wage workers who are unfairly denied benefits in large numbers, not because they failed to work enough to qualify but simply because of the antiquated eligibility rules that ignore their most recent earnings. Indeed, low-wage workers are twice as likely as higher-wage workers to find themselves unemployed, but they are only one-third as likely to collect jobless benefits.

To remedy these and other inequities that have long plagued the unemployment insurance program, the ARRA created financial incentives for the states that adopt a set of proven policy reforms. Thus, to qualify for the first one-third of the ARRA's incentive funding, a state must adopt the "alternative base period," which allows workers to count their recent earnings when needed in order to qualify for unemployment benefits.

To qualify for the remaining two-thirds of the ARRA incentive funding, states are provided a menu of options that target other major groups who fall through the cracks of the unemployment system, including part-time workers, women with families, and the long-term unemployed. Specifically, to qualify for the additional ARRA incentive funds, a state must provide benefits to workers in a least two of the following four categories:

- Part-time workers who are denied benefits because they are required to actively seek full-time employment;
- Individuals who leave work for compelling family reasons, specifically including domestic violence, caring for a sick family member or moving because a spouse has relocated to another location for employment;
- Workers with dependent family members who would qualify for up to \$15 or more in weekly benefits per dependent (up to a total of \$50) to help cover the added expenses associated with dependent care;
- Permanently laid-off workers who require access to training in order to improve their skills with the help of an extra 26 weeks of additional unemployment benefits.

The states have until August 2011 to submit their applications to the U.S. Department of Labor to certify that they comply with these specific provisions of the ARRA's incentive funding program. Although the ARRA precludes the states from qualifying for the incentive funding if their required reforms are expressly limited in duration (or "sunset"), the states are not precluded from eventually repealing their laws after they receive the federal incentive funding.

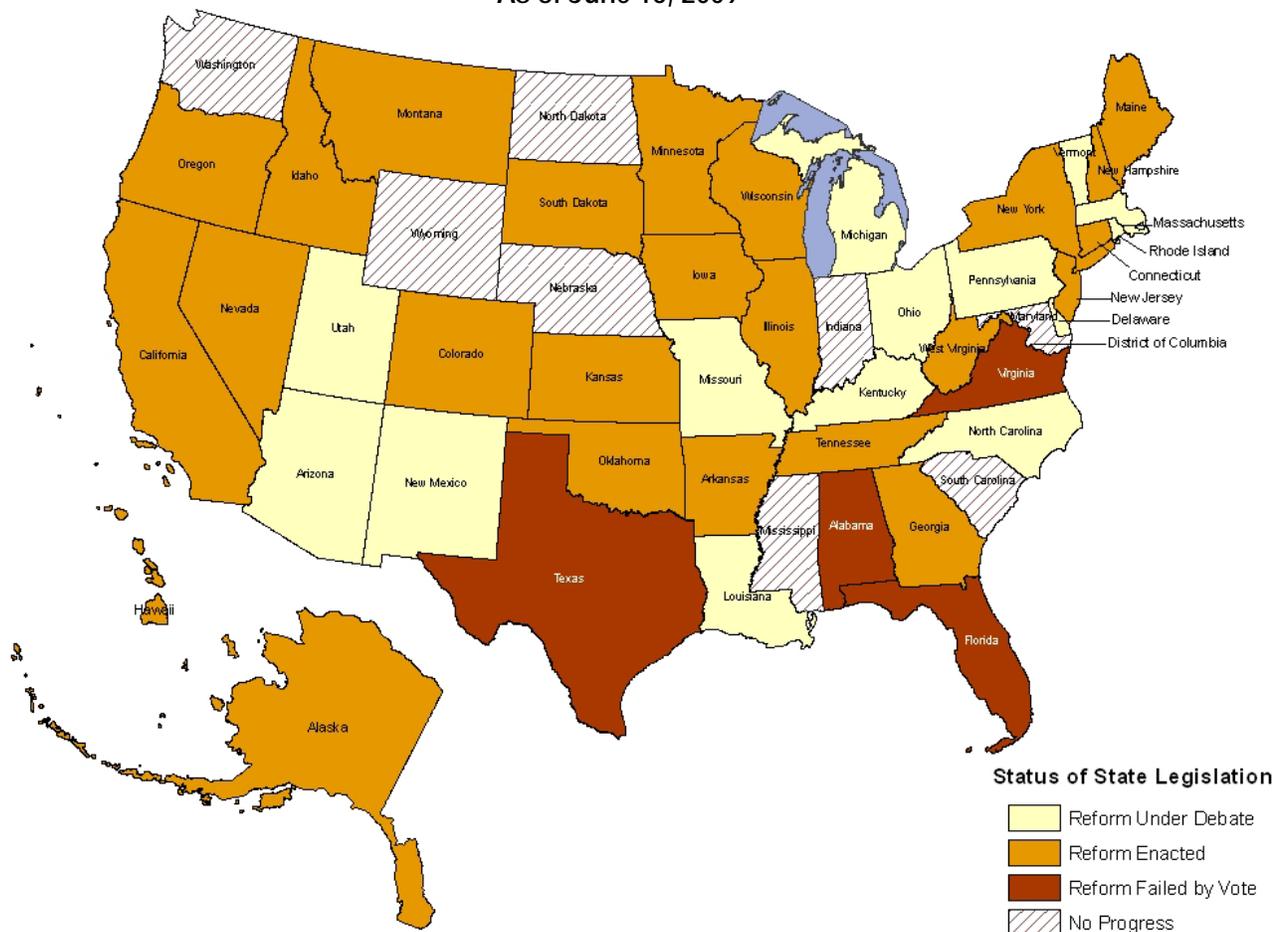
### With Broad Bi-Partisan Support, Half the States Enacted Incentive Funding Reforms

- Over the past four months, 25 states have enacted unemployment insurance reforms that qualify for incentive funding, representing every region of the U.S., from the Western states (Alaska, California, Hawaii, Idaho, Nevada, Oregon) to the Central states (Colorado, Kansas, Montana, Oklahoma, South Dakota), to the Midwest (Illinois, Iowa, Minnesota, Wisconsin), to the South (Arkansas, Georgia, Tennessee), and to the Northeast (Connecticut, Maine, New Hampshire, New York, New Jersey, Vermont, West Virginia).<sup>1</sup> (See Map 1.)

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<sup>1</sup> Missouri also passed a law enacting the ARRA reforms, but its law contained a sunset provision which prevents the U.S. Department of Labor from certifying the measure to receive federal incentive funds.

Map 1: Status of State ARRA Incentive Funding Legislation  
As of June 16, 2009



- Despite opposition to the ARRA unemployment insurance incentive funding initially expressed by a very small but vocal group of governors (primarily from Louisiana, South Carolina, and Texas), when the time came to seriously debate the reforms, most governors and state legislatures crossed party lines take up the reforms.
- Significantly, nine Republican governors have signed legislation enacting the ARRA reforms. In addition, both the governors' offices and the legislatures were Republican-controlled in three of the states (Georgia, Idaho, and South Dakota).
- In addition to these 25 states, eight states and the District of Columbia had adopted the "alternative base period" before the ARRA took effect. Thus, these states will qualify for at least one-third of their incentive funds. As a result, at least 34 states are now positioned to qualify for full or partial incentive funding under the ARRA once certified by the U.S. Department of Labor (DOL). Thus far, 19 states have been certified by DOL for all or part of their ARRA incentive funding.
- About a dozen states are still actively debating measures to enact the required reforms to qualify for ARRA funding, including Delaware, Louisiana, Massachusetts, Michigan, North Carolina, and Rhode Island, where bills have passed at least one chamber of the state legislature or required committees. Kentucky and Utah have called on state commissions to study the issue and make recommendations to the legislature.

- The incentive funding proposals were defeated in four state legislatures, including Alabama, Florida, Texas, and Virginia. However, they were defeated by narrow margins. Indeed, the measures passed one chamber of the legislature in Texas and Virginia, while the governors supported the bills in Florida and Virginia.
- In several other states, the ARRA incentive funding measures were never introduced or brought up for committee or floor votes, and the sessions have now ended for the year unless the state reconvenes a special session (Maryland, Mississippi, Nebraska, North Dakota, South Carolina, Washington, and Wyoming).<sup>2</sup>

### Unemployment Insurance Incentive Funding Produces Fundamental Reform & Major Influx of Federal Funding When the States Need the Help Most (Table 1)

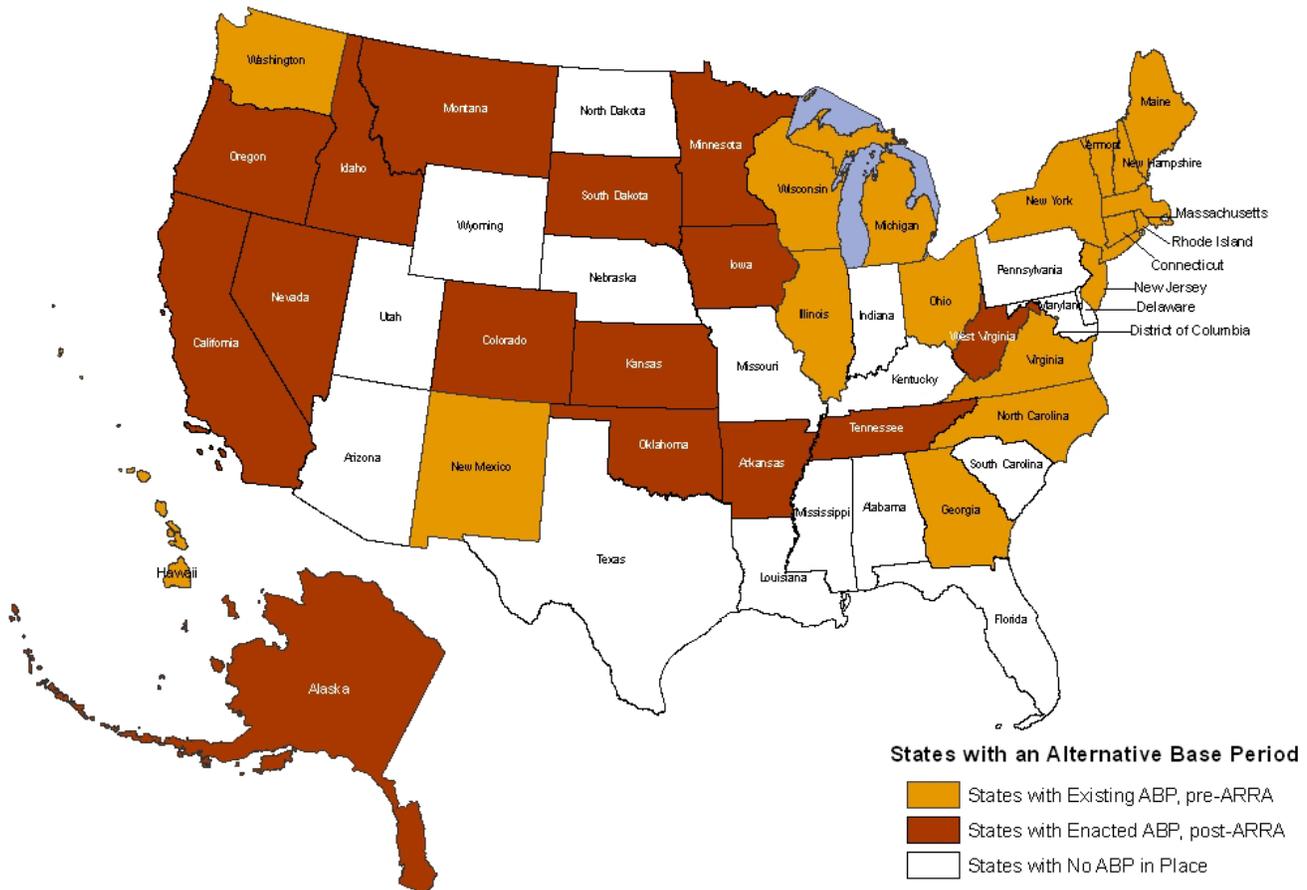
- The 25 states that have thus far adopted the reforms necessary to qualify for incentive funding will generate about \$3.2 billion of the \$7 billion in federal grants provided by the ARRA. Another \$450 million will be provided to the additional eight states and the District of Columbia that adopted the alternative base period before the ARRA was enacted, which brings the total to \$3.65 billion.
- Of the states that enacted new laws over the past four months, all but three of them (Alaska,<sup>3</sup> South Dakota, and West Virginia) adopted reforms that will allow the state to qualify for their full federal incentive grant under the ARRA once certified by the U.S. Department of Labor.
- As a result of the ARRA, 13 new states have adopted the alternative base period (two more adopted legislative fixes to fully comply with the ARRA), bringing the total number of such states to 34. As a result, an estimated 130,000 workers a year - mostly low-wage workers - will qualify for unemployment benefits. As reflected in the map below, the Western states have now uniformly adopted the alternative base period (effective 2011 in California), while many of the Central and Southern states still have serious gaps in coverage. (See Map 2.)
- Seven new states enacted measures authorizing part-time workers to collect benefits even if they are not looking for full-time work (four more states adopted legislative fixes to qualify for federal incentive funding), bringing the total to 27 states that have adopted this significant reform. As a result, an estimated 30,000 workers a year will qualify for unemployment benefits while seeking part-time employment.
- Eight states adopted new laws providing workers with an extra 26 weeks of benefits to participate in training and education, bringing the total number of states that have the required ARRA training provisions to 12 (another three states enacted fixes to qualify for federal incentive funding).

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<sup>2</sup> In Maryland and Washington, laws were enacted that move the states closer to qualifying for incentive funding, but they did not go far enough this legislative session (Maryland enacted part-timer worker protections but not the required alternative base period, and Washington, which has the alternative base period, enacted some but not all of the compelling family reasons for leaving work protections).

<sup>3</sup> Alaska's legislation only adopted the alternative base period, and the state currently provides dependent allowances which qualify for incentive funding. Thus, the state may be seeking regulatory changes to the part-time or "compelling family reason" policies as part of their application for certification to DOL to qualify for full incentive funding.

Map 2: States Adopting the Alternative Base Period Before and After the ARRA  
As of June 16, 2009



- Thirteen states adopted new reforms required to provide benefits to workers who can establish compelling family reasons for leaving work (most of them also adopted technical fixes to these disqualification rules to comply with the ARRA). All of these states now have each of the required compelling family reasons for leaving work provisions necessary to qualify for incentive funding under the ARRA, which brings the total to 17 states that now comply with the ARRA. Of special significance, nine new states allow workers to collect unemployment benefits when they leave work to follow a spouse to another location (“trailing spouse”).
- Only Tennessee adopted dependent allowances, while Illinois increased its benefits to comply with the \$15 weekly minimum benefit that qualifies for incentive funding under the ARRA. The perceived higher costs associated with increasing the weekly benefit may explain the more limited state activity in this area.

### Twenty-one States Expand Extended Benefits under the ARRA, Delivering Additional Benefits to One Million Long-Term Unemployed

While helping to modernize the state unemployment insurance programs, the ARRA also made it possible for many more states to pay additional weeks of extended unemployment benefits to the record numbers of workers who are now long-term unemployed.

While most states now qualify for 33 weeks of Emergency Unemployment Compensation (EUC) extended jobless benefits paid for by the federal government, another federal program called Extended Benefits (EB) provides an extra 13 to 20 weeks of assistance for high unemployment states that meet the required thresholds. The ARRA expanded the EB program by requiring the federal government to cover 100 percent of the benefits through December 2009, while normally the states pay for 50 percent of the program.

If states change their laws to take advantage of a federal option under the EB program, they can pay 13 weeks of additional benefits to workers in states with unemployment rates over 6.5 percent and 20 weeks of benefits to workers in states above 8 percent unemployment. Absent this change in law, it is much more difficult for most states to access the EB program under the traditional trigger formula that applies to all states (requiring workers collecting state unemployment benefits to represent 5 percent of all workers in the state whose employers pay into the unemployment system).

Because the ARRA required the federal government to pay for 100 percent of the benefits, far more states were in a position to take advantage of the more generous option to trigger onto the EB program. Now, a total of 36 states have qualified to pay EB benefits due in large part to the state laws enacted as a result of the ARRA.<sup>4</sup>

- Twenty-one states changed their laws taking up the optional 6.5 percent/8 percent trigger formula while adopting sunset language discontinuing the benefits after the 100-percent federal sharing provision of the ARRA expires (these include four states that passed bills which are awaiting the governor's signature).<sup>5</sup>
- Prior to the ARRA's federal-sharing provision, only 12 states had adopted the more generous EB formula since the option first became available in the 1990s.
- These state laws will help an estimated 999,000 workers collect the extra 13 to 20 weeks of EB benefits during the first six months since ARRA was enacted (through August 2009). In eight of the states, EB would have eventually triggered under the traditional formula. Thus, the states that took up the federal option in the state laws made it possible for workers to collect EB benefits sooner, or to receive additional EB weeks (20 weeks total, as opposed to the maximum 13 weeks available under the traditional trigger formula).
- As a result of the ARRA's federal sharing provision, a dozen new states have also qualified for the federal option to pay EB under the 8 percent formula, thus paying 20 weeks of EB benefits in addition to the 33-week EUC program.
- Currently, Alabama, Delaware, Maryland, Mississippi, and West Virginia would also qualify to pay 13 to 20 weeks of EB paid for by the federal government, which would help 46,000 workers through August 2009 if they adopt the more generous EB trigger formula under their state law. However, in Maryland and Delaware, workers will not start to exhaust their 33-week federal extensions until July 2009, at which time the additional EB benefits will be more urgent.

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<sup>4</sup> As of the DOL Extended Benefits Trigger Notice dated June 14, 2009, 33 states have triggered on to EB. Hawaii, Tennessee, and Texas are included in the count above, as legislation enacting each state's trigger has been passed in the legislature and are awaiting the Governors' signatures.

<sup>5</sup> These states include Arizona, California, Colorado, District of Columbia, Florida, Georgia, Idaho, Indiana, Kentucky, Maine, Michigan, Missouri, Nevada, New York, Ohio, Virginia, and Wisconsin. In addition, bills passed the Hawaii, Illinois, Tennessee, and Texas legislatures, but they are awaiting the Governors' signatures.

Table 1: ARRA Incentive Reforms Enacted by State  
June 16, 2009

| State  | ARRA Incentive Funding State Reforms |               |               |                     |                           |                  |                      |
|--|--------------------------------------|---------------|---------------|---------------------|---------------------------|------------------|----------------------|
|  | ABP                                  | Part-Time     | Training      | Dependent Allowance | Compelling Family Reasons |                  |                      |
|  |                                      |               |               |                     | Domestic Violence         | Spouse Relocates | Illness & Disability |
| Alabama  |                                      |               |               |                     |                           |                  |                      |
| Alaska   | Enacted                              |               |               | X                   |                           | X                |                      |
| Arizona  |                                      |               |               |                     | X                         | X                | X                    |
| Arkansas   | Enacted                              | Enacted       |               |                     | Enacted                   | Enacted          | Enacted (Fix)        |
| California   | Enacted (2011)                       | X             | X             |                     | X                         | X                | X                    |
| Colorado   | Enacted                              |               | Enacted       |                     | Enacted (Fix)             | Enacted          | Enacted (Fix)        |
| Connecticut  | X                                    |               |               | X                   | Enacted (Fix)             | Enacted          | Enacted (Fix)        |
| Delaware   |                                      | X             |               |                     | X                         |                  |                      |
| District of Columbia                                       | X                                    | X             |               |                     | X                         |                  |                      |
| Florida  |                                      |               |               |                     |                           |                  |                      |
| Georgia  | X                                    | Enacted       | Enacted       |                     |                           |                  |                      |
| Hawaii   | X                                    | Enacted (Fix) |               |                     | Enacted                   | Enacted          | Enacted              |
| Idaho  | Enacted                              | Enacted       | Enacted       |                     |                           |                  |                      |
| Illinois   | X                                    |               |               | Enacted (Fix)       | Enacted (Fix)             | Enacted          | Enacted (Fix)        |
| Indiana  |                                      |               |               |                     | X                         | X                |                      |
| Iowa   | Enacted                              | Enacted (Fix) | Enacted       | O                   |                           |                  |                      |
| Kansas   | Enacted                              | Enacted (Fix) | Enacted       |                     | X                         | X                |                      |
| Kentucky   |                                      |               |               |                     |                           |                  |                      |
| Louisiana  |                                      | X             |               |                     |                           |                  |                      |
| Maine  | X                                    | X             | Enacted (Fix) | O                   | Enacted (Fix)             | Enacted (Fix)    | Enacted (Fix)        |
| Maryland   |                                      | Enacted       |               | O                   |                           |                  | X                    |
| Massachusetts  | X                                    |               | O             | X                   | X                         |                  |                      |
| Michigan   | X                                    |               |               | O                   |                           |                  |                      |
| Minnesota  | Enacted (Fix)                        | X             |               |                     | X                         | Enacted          | Enacted              |
| Mississippi  |                                      |               |               |                     |                           |                  |                      |
| Missouri   |                                      |               |               |                     |                           |                  |                      |
| Montana  | Enacted                              | Enacted       | Enacted       |                     | X                         |                  |                      |
| Nebraska   |                                      | X             |               |                     | X                         | X                | X                    |
| Nevada   | Enacted                              | X             |               |                     | X                         | X                | X                    |
| New Hampshire  | X                                    | X             |               |                     | Enacted (Fix)             | Enacted          | Enacted              |
| New Jersey   | X                                    | X             | Enacted (Fix) | O                   |                           |                  |                      |
| New Mexico   | X                                    | X             |               | X                   | X                         |                  |                      |
| New York   | X                                    | Enacted (Fix) | O             |                     | Enacted (Fix)             | Enacted (Fix)    | Enacted (Fix)        |
| North Carolina   | X                                    | X             |               |                     | X                         |                  | X                    |
| North Dakota   |                                      |               |               |                     |                           |                  |                      |
| Ohio   | X                                    |               |               | O                   |                           |                  |                      |
| Oklahoma   | Enacted (Fix)                        | Enacted       |               |                     | Enacted (Fix)             | Enacted (Fix)    | Enacted (Fix)        |
| Oregon   | Enacted                              |               | Enacted (Fix) |                     | Enacted (Fix)             | X                | X                    |
| Pennsylvania   |                                      | X             |               | O                   |                           | X                |                      |
| Rhode Island   | X                                    |               |               | O                   | X                         | X                |                      |
| South Carolina   |                                      |               |               |                     | X                         |                  |                      |
| South Dakota   | Enacted                              | X             |               |                     | X                         |                  |                      |
| Tennessee  | Enacted                              | Enacted       |               | Enacted             |                           |                  |                      |
| Texas  |                                      |               |               |                     | X                         |                  | X                    |
| Utah   |                                      |               |               |                     |                           |                  |                      |
| Vermont  | X                                    | X             | Enacted       |                     | X                         |                  |                      |
| Virginia   | X                                    |               |               |                     |                           |                  |                      |
| Washington   | X                                    |               | O             |                     | X                         | Enacted          | X                    |
| West Virginia  | Enacted                              |               |               |                     |                           |                  |                      |
| Wisconsin  | X                                    |               | Enacted       |                     | Enacted (Fix)             | Enacted          | Enacted (Fix)        |
| Wyoming  |                                      | X             |               |                     | X                         |                  |                      |
| <b>Totals (States with Existing &amp; Enacted Reforms)</b> | <b>34</b>                            | <b>27</b>     | <b>12</b>     | <b>6</b>            | <b>31</b>                 | <b>22</b>        | <b>20</b>            |
| <b>Total Newly Enacted (including "Fix")</b>               | <b>15</b>                            | <b>11</b>     | <b>11</b>     | <b>2</b>            | <b>11</b>                 | <b>12</b>        | <b>11</b>            |

Key: X Provision enacted pre-ARRA O Provision exists in some form, although not ARRA-compliant Enacted Provision enacted post-ARRA

Note: The analysis may vary in some cases from information produced by the states due to variations that relate to the specific requirements of the ARRA necessary to qualify for incentive funding, while state many policies are also subject to interpretation by the courts and administrative law judges. This is especially relevant to the "compelling family reasons" for leaving work column, where 16 states have general "good cause" for leaving work provisions that could be construed to cover these compelling family reasons depending on state's interpretation of their law compared to the U.S. Department of Labor ARRA guideline. See [http://nelp.bluestatedigital.com/page/-/UI/cwce\\_book/BenefitsforWorkers.pdf](http://nelp.bluestatedigital.com/page/-/UI/cwce_book/BenefitsforWorkers.pdf).