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Unemployment Insurance: Legislative Issues in the 116th Congress

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SUMMARY

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Unemployment Insurance: Legislative Issues in the 116th Congress

Responding to the Coronavirus Disease 2019 (COVID-19) pandemic and the resulting economic recession, the 116th Congress created several new temporary unemployment insurance (UI) benefits for workers unemployed because of the COVID-19 pandemic, as well as temporarily modified permanent UI programs.

On March 18, 2020, President Trump signed P.L. 116-127 (H.R. 6201), the Families First Coronavirus Response Act (FFCRA). The UI provisions provided various types of assistance to states, including up to $1 billion in emergency administrative grant funding in calendar year 2020. This law also provided federal funding for the first week of Unemployment Compensation (UC) through December 2020, if the state suspended or does not have a waiting week in its regular UC program.

On March 27, 2020, President Trump signed P.L. 116-136 (H.R. 748), the Coronavirus Aid, Relief, and Economic Security Act (CARES) Act. The UI provisions included expanded benefit eligibility to the self-employed, independent contractors, gig economy workers, and other workers not covered under state UC programs through a new temporary Pandemic Unemployment Assistance (PUA; originally authorized through December 26, 2020). Other provisions expanded potential weeks of UI benefits through the Pandemic Emergency Unemployment Compensation (PEUC; originally authorized through December 26, 2020) and augmented all UI benefits with an additional $600 weekly Federal Pandemic Unemployment Compensation (FPUC; originally authorized through July 25, 2020).

On August 3, 2020, President Trump signed P.L. 116-151 (S. 4209), the Protecting Nonprofits from Catastrophic Cash Flow Strain Act of 2020, revising the reimbursement steps required by the CARES Act's 50% federal funding of regular state UI benefits for reimbursing employers through December 31, 2020. Additionally, UI benefits attributed to the authorized period could be reimbursed even if the transfer of funds for the reimbursement occurs after December 2020.

On August 8, 2020, President Trump issued a presidential memorandum authorizing other needs assistance (ONA) under Section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act; P.L. 93-288, as amended; 42 U.S.C. §5174(e)(2)) temporarily paying Lost Wages Assistance (LWA). LWA provided grants to states to supplement the weekly benefits of certain eligible UI claimants (who were entitled to at least $100 in weekly benefits) in participating states by $300 weekly. LWA was not available to those receiving Disaster Unemployment Assistance (DUA). South Dakota did not participate in LWA. All states ended payments by September 6, 2020.

On December 27, 2020, President Trump signed P.L. 116-260 (H.R. 133), the Consolidated Appropriations Act, 2021. Division N, Title II, Subtitle A, of the Continued Assistance for Unemployed Workers Act of 2020 (the "Continued Assistance Act") contained the UI provisions. Among these UI provisions, the Continued Assistance Act reauthorized and expanded the temporary CARES Act UI benefits:

- PUA was also expanded to provide 11 additional weeks of PUA benefits (not retroactive; only payable for weeks of unemployment beginning December 26, 2020; December 27, 2020, in New York) for a total of 50 weeks of PUA. The Continued Assistance Act extended the authorization for PUA through weeks of unemployment ending on or before March 14, 2021 (March 13, 2021; March 14, 2021, in New York) and created a four-week phaseout period for PUA for individuals who have remaining weeks of PUA at the end of the program. The Continued Assistance Act also provided a new deadline for the backdating of PUA claims (previously, PUA claims could be backdated to February 2, 2020)—initial PUA applications for PUA filed after December 27, 2020, may not be backdated earlier than December 1, 2020. Finally, the Continued Assistance Act authorized additional measures related to PUA, including authority for states to waive recovery of PUA overpayments in cases of nonfault and hardship, as well as requirements for additional documentation by claimants and other PUA program integrity measures.
- PEUC was expanded to provide 11 additional weeks of PEUC benefits (not retroactive; only payable for weeks of unemployment beginning December 26, 2020; December 27, 2020, in New York)—for a total of 24 weeks of PEUC. Additionally, the Continued Assistance Act extended the authorization for PEUC

through weeks of unemployment ending on or before March 14, 2021 (March 13, 2021; March 14, 2021, in New York) and created a four-week phaseout period for PEUC for individuals who have remaining weeks of PEUC at the end of the program.

- FPUC was reauthorized for an additional period at a lowered amount of $300 per week (not retroactive; only payable for weeks of unemployment beginning after December 26, 2020, and ending on or before March 14, 2021). After March 13, 2021 (March 14, 2021, in New York), no FPUC benefits are payable.
- At the option of states, the Continued Assistance Act authorized a $100 per week benefit augmentation for unemployed workers with income from both wage-and-salary jobs and self-employment—Mixed Earned Unemployment Compensation (MEUC)—to be added to the FPUC benefit.

The Continued Assistance Act also extended the authority for additional temporary UI measures first authorized under FFCRA and the CARES Act through March 13, 2021 (March 14, 2021, in New York).

In the 116th Congress, policymakers introduced the following additional legislation:

- S. 165, H.R. 720, H.R. 725, H.R. 1117, and H.R. 4072—related to Unemployment Compensation for Federal Employees (UCFE) benefits in response to the partial government shutdown that occurred during FY2019;
- S. 136 and H.R. 556—to provide self-employment and relocation assistance benefits;
- H.R. 1121—to screen individuals for drug use;
- H.R. 1585 (passed by the House)—to require that states consider an individual who quit employment because of sexual harassment, domestic violence, sexual assault, or stalking to be eligible for UC benefits;
- H.R. 1759 (passed by the House) and S. 2872—to amend Title III of the Social Security Act to extend Reemployment Services and Eligibility Assessments (RESEA) to all UC claimants;
- H.R. 8213 and S. 3494—to provide temporary federal financing for Short-Time Compensation (STC) programs;
- S. 4713—to exclude up to $10,200 in UI benefit income from federal income taxation in tax year 2020;
- H.R. 925 (passed by the House), H.R. 6199, H.R. 6207, H.R. 6271, H.R. 6379, H.R. 6409, H.R. 6582, H.R. 6680, H.R. 6687, H.R. 6695, H.R. 6800 (passed by the House), H.R. 7013, H.R. 7066, H.R. 7371, H.R. 7959, H.R. 7691, H.R. 7762, H.R. 7821, H.R. 7846, H.R. 7957, H.R. 8406, H.R. 8812, S. 3476, S. 3482, S. 3497, S. 3523, S. 3534, S. 3619, S. 3696, S. 3771, S. 3857, S. 4083, S. 4143, S. 4378, S. 4361, S. 4275, S. 4318, S. 4378, S. 4437, S. 4442, S. 4771, S. 4775, S. 4935, and S. 5037—to amend federal UI law in various ways in response to COVID-19, including by amending, contracting, or expanding UI provisions in FFCRA or the CARES Act;
- H.R. 8284, S. 4244, S. 4252, S. 4275, and S. 4283—to modernize state UI systems and implement additional program integrity measures.

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The unemployment insurance (UI) system has two primary objectives: (1) to provide temporary, partial wage replacement for involuntarily unemployed workers and (2) to stabilize the economy during recessions. In support of these goals, several UI programs provide benefits for eligible unemployed workers.

Overview of Unemployment Insurance Programs

In general, when eligible workers lose their jobs, the joint federal-state Unemployment Compensation (UC) program may provide up to 26 weeks of income support through regular UC benefit payments. UC benefits may be extended for up to 13 weeks or 20 weeks by the Extended Benefit (EB) program if certain economic situations exist within the state.[1] As of January 8, 2021, 20 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands were in an active EB period, and nine of those jurisdictions had additionally triggered "on" a high unemployment period (HUP) where up to 20 weeks are available.[2] For an overview of EB, see the section on "Extended Benefit Program."

Unemployment Compensation Program

The Social Security Act of 1935 (P.L. 74-271) authorizes the joint federal-state UC program to provide unemployment benefits. Most states provide up to a maximum of 26 weeks of UC benefits.[3] Former federal workers may be eligible for unemployment benefits through the Unemployment Compensation for Federal Employees (UCFE) program.[4] Former U.S. military servicemembers may be eligible for unemployment benefits through the Unemployment Compensation for Ex-Servicemembers (UCX) program.[5] The Emergency Unemployment Compensation Act of 1991 (P.L. 102-164) provides that ex-servicemembers be treated the same as other unemployed workers with respect to benefit levels, the waiting period for benefits, and benefit duration.

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[1] For detailed information on each of these programs, see CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*. Certain groups of workers may qualify for income support from additional unemployment insurance (UI) programs, including Trade Adjustment Assistance (TAA), Reemployment Trade Adjustment Assistance (RTAA), and Disaster Unemployment Assistance (DUA). Workers who lose their jobs because of international competition may qualify for income support through the TAA program or the RTAA (for certain workers aged 50 or older). Workers may be eligible to receive DUA benefits if they are not eligible for regular Unemployment Compensation (UC) and their unemployment may be directly attributed to a declared natural disaster. For more information on the TAA and RTAA programs, see CRS In Focus IF10570, *Trade Adjustment Assistance for Workers (TAA)*.

[2] For the current Extended Benefit (EB) trigger notice, select "Extended Benefits Trigger Notice" at https://oui.doleta.gov/unemploy/claims_arch.asp. For information on the expired Emergency Unemployment Compensation 2008 (EUC08) program, which provided additional unemployment benefits depending on state economic conditions from July 2008 to December 2013, see CRS Report R42444, *Emergency Unemployment Compensation (EUC08): Status of Benefits Prior to Expiration*.

[3] For more details on these states with less than 26 weeks of UC available, see CRS Report R41859, *Unemployment Insurance: Consequences of Changes in State Unemployment Compensation Laws*, Unemployment Insurance: Consequences of Changes in State Unemployment Compensation Laws. In addition, the maximum UC duration is 28 weeks in Montana and 30 weeks (if local economic conditions are met) in Massachusetts. When EB benefits are available in Montana, the total duration of UC and EB is capped at either 39 weeks (26 + 13) or 46 weeks (26 + 20). When EB benefits are available in Massachusetts, the maximum duration of UC benefits is capped at 26 weeks.

[4] 5 U.S.C. §§8501-8508.

[5] 5 U.S.C. §§8521-8525. For more information on the Unemployment Compensation for Ex-Servicemembers (UCX) program, see CRS Report RS22440, *Unemployment Compensation (Insurance) and Military Service*.

Although federal laws and regulations provide broad guidelines on UC benefit coverage, eligibility, and determination, the specifics regarding UC benefits are determined by each state. This results in essentially 53 different programs.[6] In general, UC eligibility is based on attaining qualified wages and employment in covered work over a 12-month period (called a base period) prior to unemployment. 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 eligible to receive UC benefits. The methods states use to determine eligibility vary greatly. Most state benefit formulas replace approximately half of a claimant's average weekly wage up to a weekly maximum.[7] In addition, each state's UC law requires individuals to have lost their jobs through no fault of their own, and recipients must be able to work, available for work, and actively seeking work.[8] These eligibility requirements help ensure that UC benefits are directed toward workers with significant labor market experience and who are unemployed because of economic conditions.

UC Financing

The UC program is financed by federal taxes under the Federal Unemployment Tax Act (FUTA) and by state payroll taxes under each state's State Unemployment Tax Act (SUTA).[9] The 0.6% effective net FUTA tax employers pay on the first $7,000 of each employee's earnings (equaling no more than $42 per worker per year) funds federal and state administrative costs, loans to insolvent state UC accounts, the federal share (50%) of EB payments, and state employment services.[10]

Federal law limits employers' SUTA taxes to funding regular UC benefits and the state share (50%) of EB payments. Federal law requires that the state tax be on *at least* the first $7,000 of each employee's earnings and that the maximum state tax rate be at least 5.4%. Federal law also requires each employer's state tax rate to be based on the amount of UC paid to former employees (known as "experience rating"). Within these broad requirements, each state has great flexibility in determining its SUTA structure. In general, the more UC benefits paid out to its former employees, the higher the employer's tax rate, up to a maximum established by state law. FUTA and SUTA funds are deposited in the appropriate accounts within the Unemployment Trust Fund (UTF).

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[6] The District of Columbia, Puerto Rico, and the Virgin Islands are considered to be states under UC law.

[7] For details on UC eligibility and benefits, see CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*.

[8] In some cases a worker may be eligible for benefit based upon quitting a job for a "good cause" reason. In all states, individuals who leave their work voluntarily must meet the state's good cause requirements if they are not to be disqualified from receiving UC. In many states, good cause is explicitly restricted to reasons connected with the work, attributable to the employer, or involving fault on the part of the employer. (For those states, see Table 5.1 in U.S. Department of Labor (DOL), *2020 Comparison of State Unemployment Insurance Laws*, available at https://oui.doleta.gov/unemploy/pdf/uilawcompar/2020/nonmonetary.pdf.)

[9] 23 U.S.C. §§3301-11.

[10] The Federal Unemployment Tax Act (FUTA) imposes a 6.0% gross tax rate on the first $7,000 paid annually by employers to each employee. Employers in states with programs approved by the federal government and with no delinquent federal loans may credit 5.4 percentage points against the 6.0% tax rate, making the minimum net federal unemployment tax rate 0.6%. Details on how delinquent loans affect the net FUTA tax are in CRS Report RS22954, *The Unemployment Trust Fund (UTF): State Insolvency and Federal Loans to States*, The Unemployment Trust Fund (UTF): State Insolvency and Federal Loans to States.

Extended Benefit Program

The EB 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 conditions exist within the state. As of January 8, 2021, EB was active in 20 states plus the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.[11]

Extended Benefit Triggers

The EB program is triggered "on" when a state's insured unemployment rate (IUR) or total unemployment rate (TUR) reaches certain levels.[12] All states must pay up to 13 weeks of EB if the IUR for the previous 13 weeks is at least 5% and is 120% of the average of the rates for the same 13-week period in each of the two previous years. States may choose to enact two other optional thresholds. (States may choose one, two, or none.) If the state has chosen one or more of the EB trigger options, it would provide the following:

- Option 1—based upon the IUR
  - up to an additional 13 weeks of benefits if the state's IUR is at least 6%, regardless of previous years' averages.
- Option 2—based upon the TUR
  - up to 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.
  - up to an additional 20 weeks of benefits if the state's 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; designated as a HUP for EB.

EB benefits are not "grandfathered" (phased out) when a state triggers "off" the program.[13] When a state triggers off of an EB period, all EB benefit payments in the state cease immediately, regardless of individual entitlement.[14]

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[11] For the current EB trigger notice, select "Extended Benefits Trigger Notice" at https://oui.doleta.gov/unemploy/claims_arch.asp.

[12] The total unemployment rate (TUR) is the three-month average of the ratio of unemployed workers to all workers (employed and unemployed) in the labor market. The TUR is essentially a three-month average version of the unemployment rate published by the Bureau of Labor Statistics (BLS) and based on data from the BLS's monthly Current Population Survey (CPS). The insured unemployment rate (IUR) is the ratio of UC claimants divided by individuals in UC-covered jobs. In addition, the IUR uses a different base of workers in its calculations as compared with the TUR. The IUR excludes several groups used in TUR calculations: 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 category, the IUR excludes the following: those who have exhausted their UC benefits (even if they are receiving EB 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. As a result, the IUR in a state is often calculated to be much lower than its TUR.

[13] The Continued Assistance Act (P.L. 116-260 provided a temporary option for states that have triggered off an EB period to disregard the mandatory 13-week off period for weeks between November 1, 2020, and December 31, 2021, if state law allows.

[14] EB benefits on interstate claims are limited to two extra weeks unless *both* the worker's state of residence (e.g., Texas) and the worker's state of previous employment (e.g., Louisiana) are in an EB period.

The EB benefit amount is equal to the eligible individual's weekly regular UC benefits. Under permanent law, federal taxes (FUTA) finance half (50%) of the EB payments and 100% of EB administrative costs.[15] States fund the other half (50%) of EB benefit costs through their SUTA.[16]

Section 4105 of P.L. 116-127 (H.R. 6201), the Families First Coronavirus Response Act (FFCRA), temporarily made EB 100% federally financed (with the exception of "non-sharable" compensation [e.g., state and local workers]) from enactment until the end of December 2020, only for states that receive both halves of the emergency administrative grants authorized under FFCRA (for a description of these grants, see "Administrative Grants to States").[17] The Continued Assistance Act (P.L. 116-127) subsequently extended the authority for this EB 100% federal financing through March 13, 2021, in most states (March 14, 2021 in New York).

Unemployment Insurance Benefits and the Sequester

The sequester order required by the Budget Control Act of 2011 (BCA; P.L. 112-25) and implemented on March 1, 2013 (after being delayed by P.L. 112-240), affected some but not all types of UI expenditures.[18] Regular UC, UCX, and UCFE payments are not subject to the sequester reductions. EB and most forms of administrative funding are subject to the sequester reductions.[19]

FY2019 Sequester of Unemployment Insurance Benefits

The FY2019 sequestration order required a 6.2% reduction in all nonexempt nondefense mandatory expenditures, but no sequestration reductions were applicable to discretionary programs, projects, and activities.[20] As a result, EB expenditures were required to be reduced

[15] The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, as amended (the final time by P.L. 112-240), made technical changes to certain triggers in the EB program. See CRS Report R41859, *Unemployment Insurance: Consequences of Changes in State Unemployment Compensation Laws*. The authorization for the temporary EB trigger modifications expired the week ending on or before December 31, 2013.

[16] P.L. 111-5, the American Recovery and Reinvestment Act of 2009 (most recently amended by P.L. 112-240, the American Taxpayer Relief Act of 2012), temporarily changed the federal-state funding arrangement for the EB program. The FUTA financed 100% of EB benefits from February 17, 2009, through December 31, 2013. The one exception to the 100% federal financing was for those "non-sharable" EB benefits (work not subject to FUTA taxes such as state and local government employment). Those non-sharable benefits continued to be 100% financed by the former employers.

[17] As of June 11, 2020, according to DOL, all states have met the statistical criteria for receiving these FFCRA grants (see https://oui.doleta.gov/unemploy/pdf/IC3MOmarch.pdf). All states had requested their full allotment by September 30, 2020.

[18] See CRS Report R42972, *Sequestration as a Budget Enforcement Process: Frequently Asked Questions*.

[19] EUC08, when it was available (including any benefit payments delayed from prior fiscal years) is also subject to the sequester reductions. See CRS Report R43133, *The Impact of Sequestration on Unemployment Insurance Benefits: Frequently Asked Questions* for additional information on the impact of sequestration on UI benefits, generally, and specifically for sequestration in FY2013 and FY2014. Please see CRS Report R43993, *Unemployment Insurance: Legislative Issues in the 114th Congress* for additional information on the implications of the sequester order for FY2015 and FY2016. Please see CRS Report R44836, *Unemployment Insurance: Legislative Issues in the 115th Congress* for additional information on the implications of the sequester order for FY2017 and FY2018.

[20] Office of Management and Budget (OMB), *OMB Sequestration Preview Report to the President and Congress for Fiscal Year 2019*, February 12, 2018, at https://www.whitehouse.gov/wp-content/uploads/2018/02/Sequestration_Report_February_2018.pdf.

6.2% (only on the federal share of EB benefits) for weeks of unemployment during FY2019.[21] However, EB was not activated in any state during FY2019, thus the sequestration order had no effect.[22]

FY2020 Sequester of Unemployment Insurance Benefits

The FY2020 sequestration order required a 5.9% reduction in all nonexempt nondefense mandatory expenditures, but no sequestration reductions were applicable to discretionary programs, projects, and activities.[23] As a result, the federal share of EB expenditures was required to be reduced 5.9% for weeks of unemployment during FY2020.[24] FFCRA (P.L. 116-127; signed March 18, 2020) temporarily made EB benefits 100% federally financed (with the exception of "non-sharable" compensation—e.g., state and local workers) from March 2020 until the end of December 2020 for states that received both halves of the emergency administrative grants (for more details, see the section in this report on "Temporary 100% Federal Financing of EB for States Qualify for Full Division D Administrative Grants").[25] As a result, the net sequester reduction to EB benefit payments for FY2020 was 2.95% when the temporary EB financing provision under FFCRA was effective (the reduction to non-sharable EB benefits remained at 5.9%).[26]

In addition, the temporary UI benefits created under the CARES Act (see the "P.L. 116-136, the CARES Act" section, below) were not specifically excluded from sequestration. However, the Office of Management and Budget (OMB) released the FY2020 mandatory sequester order prior to the enactment of the CARES Act.[27] Thus, the CARES Act UI benefits were not subject to the FY2020 mandatory sequester order.

FY2021 Sequester of Unemployment Insurance Benefits

The FY2021 sequestration order requires a 5.7% reduction in all nonexempt nondefense mandatory expenditures, but no sequestration reductions are applicable to discretionary programs, projects, and activities.[28] As a result, the federal share of EB expenditures are required to be

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[21] For details, see U.S. Department of Labor (DOL), Employment and Training Administration (ETA), *Unemployment Insurance Program Letter*, UIPL 1-19, December 12, 2018, at https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=4536.

[22] For the current EB trigger notice, select "Extended Benefits Trigger Notice" at https://oui.doleta.gov/unemploy/claims_arch.asp.

[23] OMB, *OMB Sequestration Preview Report to the President and Congress for Fiscal Year 2020*, March 18, 2019, at https://www.whitehouse.gov/wp-content/uploads/2019/03/sequestration_preview_March_18_2019.pdf.

[24] For details, see DOL, ETA, Unemployment Insurance Program Letter (UIPL) No. 18-19, September 16, 2019, at https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5955.

[25] As of June 11, 2020, according to DOLETA all states have met the criteria (see https://oui.doleta.gov/unemploy/pdf/IC3MOmarch.pdf. All states had requested their full allotment by September 30, 2020.

[26] According to DOL guidance, "Unless a state amends its law to reduce EB, as explained below, a reduction in the Federal share of EB due to sequestration means the state becomes responsible for paying the remaining EB share from its own funds" (DOL UIPL No. 18-19, page 2).

[27] The FY2020 Sequestration Order was issued by the President on March 18, 2019, available at https://www.whitehouse.gov/presidential-actions/sequestration-order-fiscal-year-2020/. For additional background on the FY2020 mandatory sequester, see CRS In Focus IF11332, *FY2020 Mandatory Sequester Reduces Medicare $15.3 Billion, Other Mandatory Spending $5.39 Billion*.

[28] OMB, *OMB Report to the Congress on the Joint Committee Reductions for Fiscal Year 2021*, February 10, 2020, at https://www.whitehouse.gov/wp-content/uploads/2020/02/JC-sequestration_report_FY21_2-10-20.pdf.

reduced 5.7% for weeks of unemployment during FY2021.[29] When EB is payable in FY2021 and there is authority for the 100% federal financing of EB (with the exception of non-sharable compensation—e.g., state and local workers),[30] the net sequester reduction to EB benefit payments for FY2021 is 2.85% (the reduction to non-sharable EB benefits would remain at 5.7%).[31]

As in FY2020, although the temporary UI benefits created under the CARES Act and subsequently extended under the Continued Assistance Act—including the new Mixed Earner Unemployment Compensation (MEUC) payment—are not specifically excluded from sequestration, OMB released the FY2021 mandatory sequester order prior to the enactment of the CARES Act.[32] Thus, the temporary UI benefits created under the CARES Act and extended under the Continued Assistance Act are not subject to the FY2021 mandatory sequester order.

Unemployment Insurance During a Government Shutdown

The lapse in federal appropriations that occurred from December 22, 2018, until January 25, 2019, caused a partial government shutdown. As a result, during this lapse in appropriations, agencies without funding furloughed federal employees, and many federal employees were "excepted" from furlough and were required to work without pay.[33]

Furloughed federal employees may be eligible for UCFE benefits.[34] States are required to operate the UCFE program under the same terms and conditions that apply to regular state UC.[35] Therefore, UCFE eligibility is determined under the laws of the state in which an individual's official duty station in federal civilian service is located. Federal employees who are in furlough status because of a government shutdown are generally treated by state law as laid off with an expectation of recall. Depending on state laws and regulations, the state may have an option to not require federal employees to search for work given an expected recall.[36]

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[29] For details, see DOL, ETA, Unemployment Insurance Program Letter (UIPL) No. 18-19, September 16, 2019, at https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5955.

[30] The temporary federal financing of EB, as authorized under FFCRA (P.L. 116-127), was extended by the Continued Assistance Act (P.L. 116-260) and is currently authorized for weeks of unemployment ending on or before March 14, 2021, which includes the first two quarters of FY2021.

[31] For details, see DOL, ETA, Unemployment Insurance Letter (UIPL) No. 12-21, January 19, 2021, at https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9913.

[32] The FY2021 Sequestration Order was issued by the President on February 10, 2020, available at https://www.whitehouse.gov/briefings-statements/sequestration-order-fiscal-year-2021/.

[33] See OMB guidance on the recent lapse in appropriations, available at https://www.whitehouse.gov/omb/information-for-agencies/agency-contingency-plans/. Also see the Office of Personnel Management guidance on "Pay and Benefits for Employees Affected by the Lapse in Appropriations" (CPM 2019-06), January 27, 2019, available at https://www.chcoc.gov/content/pay-and-benefits-employees-affected-lapse-appropriations-1.

[34] Unemployment Compensation for Federal Employees (UCFE) is authorized under 5 U.S.C. §§8501-8508. For a short discussion of this issue, see CRS Insight IN11169, *Availability of Unemployment Benefits for Affected Federal Employees During a Government Shutdown*.

[35] See 5 U.S.C. §8502(b).

[36] See OPM, "Unemployment Insurance Questions and Answers for Federal Workers," December 2018, available at https://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/unemployment-compensation-for-federal-employees-fact-sheet-december-2018.pdf.

However, according to guidance from DOL, excepted federal employees who are performing services (but working without pay) would generally be ineligible for UCFE benefits based on states' definitions of "unemployment."[37]

Private-sector workers who are furloughed or laid off due to the partial government shutdown because they were employed by government contractors or other businesses may be eligible for regular UC benefits. UC eligibility for these workers would be based on the requirements set out under the state laws in the state where they had worked.

Reflecting this climate, there has been congressional interest in assisting furloughed and excepted federal employees through the UI system. For example, as described below in the section on "Unemployment Compensation for Excepted Federal Employees During a Government Shutdown," there are proposals to provide new authority to pay UCFE benefits to excepted federal employees who work without pay.

The most recent lapse in federal appropriations began December 22, 2018, and ended on January 25, 2019, with the enactment of H.J.Res. 28.[38] Because retroactive pay for furloughed and excepted federal employees—beginning with any lapse in appropriation that begins on or after December 22, 2018—was permanently authorized under the Government Employee Fair Treatment Act of 2019 (S. 24, enacted January 16, 2019), UCFE payments made to federal employee claimants during this lapse in appropriations may be deemed an overpayment, subject to state UC laws regarding overpayment recovery. According to the Office of Personnel Management's guidance on this issue:[39]

> The state UI agency will determine whether or not an overpayment exists and, generally, the recovery of the UCFE overpayment is a matter for state action under its law; however, some state UI laws require the employer to recover such overpayment by collecting the overpayment amount from the employee. The Federal and state agencies will need to coordinate to determine the required action in accordance with the individual state UI law. Federal agencies are encouraged to develop lists or spreadsheets that can be provided to the state(s) containing the employees' names, social security numbers, and the amounts and periods of time covered by the retroactive payment.

State UC Loans and Solvency Concerns

If a recession is deep enough and if SUTA revenue is inadequate for long periods of time, states may have insufficient funds to pay for UC benefits. Federal law, which requires states to pay these benefits, provides a loan mechanism within the UTF framework that an insolvent state may use to meet its UC benefit payment obligations.[40] States must pay back these loans. If the loans

[37] See DOL, ETA, UIPL 31-13, "Impacts of the Federal Government Shutdown and Unemployment Compensation for Federal Employees and State Administrative Funding for State UI Programs," Section A(3) of the Attachment ("Questions and Answers: Unemployment Insurance and the Federal Government Shutdown"), October 11, 2013, available at https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7589; and also DOL, ETA, "E-Blast to State Unemployment Insurance Agencies," January 16, 2019, available at https://oui.doleta.gov/unemploy/2019_shutdown/docs/E-Blast_to_State_Unemployment_Insurance_Agencies_v3.pdf.

[38] H.J.Res. 28 (enacted January 25, 2019) is a continuing resolution (CR) that provided continuing FY2019 appropriations to several federal agencies through February 15, 2019.

[39] OPM, "Pay and Benefits for Employees Affected by the Lapse in Appropriations" (CPM 2019-06), January 27, 2019, available at https://www.chcoc.gov/content/pay-and-benefits-employees-affected-lapse-appropriations-1.

[40] Federal UC law does not restrict the states from using loan resources outside of the UTF. Depending on state law, states may have other funding measures available and may be able to use funds from outside of the UTF to pay the benefits (such as issuing bonds).

are not paid back quickly (depending on the timing of the beginning of the loan period), states may face interest charges, and states' employers may face increased net FUTA rates until the loans are repaid.[41]

As of January 8, 2021, 19 jurisdictions had outstanding federal loans totaling $46.3 billion from the federal accounts within the UTF: California ($18.0 billion), Colorado ($808.2 million), Connecticut ($526.0 million), Georgia ($7.0 million), Hawaii ($702.8 million), Illinois ($3.4 billion), Kentucky ($505.7 million), Louisiana ($133.5 million), Massachusetts ($2.2 billion), Minnesota ($1.0 billion), Nevada ($90.7 million), New Jersey ($782.4 million), New Mexico ($206.2 million), New York ($9.3 billion), Ohio ($1.4 billion), Pennsylvania ($894.4 million), Texas ($6.1 billion), U.S. Virgin Islands ($85.0 million), and West Virginia ($144.8 million).[42] At the end of 2019, 31 states had accrued enough funds in their accounts to meet or exceed the minimally solvent standard of an average high cost multiple (AHCM) of 1.0 in order to be prepared for a recession.[43]

Reemployment Services and Eligibility Assessments

Beginning in FY2015, DOL funded state efforts "addressing individual reemployment needs of UI claimants, and working to prevent and detect UI overpayments" through the voluntary Reemployment Services and Eligibility Assessment (RESEA) program.[44] RESEA provides funding to states to conduct in-person interviews with selected UI claimants to (1) assure that claimants are complying with the eligibility rules, (2) determine if reemployment services are needed for the claimant to secure future employment, (3) refer the individual to reemployment services as necessary, and (4) provide labor market information that addresses the claimant's specific needs. Section 30206 of P.L. 115-123 codified the authority for DOL to administer a RESEA program.[45] It also set out various requirements for states to use certain types of evidence-based interventions for UI claimants under RESEA and allocated discretionary funding for RESEA across three categories (base funding, outcome payments, and research and technical

[41] Details on how states may borrow federal funds to pay for UC benefits are in CRS Report RS22954, *The Unemployment Trust Fund (UTF): State Insolvency and Federal Loans to States*.

[42] U.S. Department of the Treasury, Bureau of Public Debt, *Title XII Advance Activities Schedule*, November 9, 2020, at http://www.treasurydirect.gov/govt/reports/tfmp/tfmp_advactivitiessched.htm.

[43] The average high-cost multiple (AHCM) is the ratio of actual state Unemployment Trust Fund account balances (divided by covered wages in that year) to the average of the 3 highest years of benefit payments (each divided by that year's covered wages) experienced by the state over the past 20 years. Presumably, the average of the 3 highest years' outlays would be a good indicator of potential expected UC payments if another recession were to occur. Under these assumptions, if a state had saved enough funds to pay for an average high year of UC benefit activity, its AHCM would be at least 1.0. See DOL, Office of Unemployment Insurance, Division of Fiscal and Actuarial Services, *State Unemployment Insurance Trust Fund Solvency Report 2020*, February 2020, at https://oui.doleta.gov/unemploy/docs/trustFundSolvReport2020.pdf.

[44] Since FY2005, DOL has provided some type of reemployment services through discretionary appropriations. For additional background, see CRS Report R43044, *Expediting the Return to Work: Approaches in the Unemployment Compensation Program*; and DOL, ETA, Unemployment Insurance Program Letter, UIPL 3-17, December 8, 2016, p. 2, available at https://wdr.doleta.gov/directives/attach/UIPL/UIPL_03-17.pdf.

[45] The law created a new Section 306 of the Social Security Act. Just over a month later, on March 23, 2018, the Consolidated Appropriations Act, FY2018 (P.L. 115-141), provided from the UTF $2.6 billion in state grants for administering state UI laws as authorized under title III of the Social Security Act (including not less than $120 million for RESEA and UC improper payment reviews, and to provide reemployment services and referrals to training, as appropriate) and provided that such activities would not be subject to the newly created Section 306 of the Social Security Act for that fiscal year (FY2018).

assistance). State RESEA programs must include reasonable notice and accommodations to participating UI beneficiaries.

On April 4, 2019, DOL published a proposed methodology to allocate base RESEA funds and outcome payments. DOL requested state and public comments on this proposal by May 6, 2019.[46] On August 8, 2019, DOL published a notice that summarizes and responds to the public comments as well as sets out the RESEA allocation formula that will be effective beginning in FY2021.[47]

President's Budget Proposal for FY2021

The President's budget for FY2021 proposes changes to several aspects of the UI system.[48] It would create a new required standard for state account balances within the UTF and a new benefit entitlement for paid parental leave financed through state unemployment taxes. The President's FY2021 budget also proposes a set of additional integrity measures, including the required use of certain databases to confirm UC eligibility and requiring Social Security Disability Insurance (SSDI) benefits offset UI benefits.

New Minimum Account Balance for State UTF Accounts

The President's budget proposal for FY2021 would require states to maintain a minimum level of solvency in their UTF account balances to be at least half (0.5) of the state's AHCM. (Under current law, states have incentives to maintain an AHCM of at least 1.0 but are not required to do so.) The proposal would alter the rules for calculating the net FUTA rate, requiring a higher net FUTA rate on a state's employers if that state maintained an AHCM of less than 0.5 on January 1 of two or more consecutive years. The additional FUTA revenue would be deposited into the state UTF account and would be terminated once the state met the 0.5 AHCM criteria.[49]

Paid Family Leave Benefit

The President's budget proposal for FY2021 would require states to establish a paid parental leave benefit, using the UC program as its base for an administrative framework.[50] States would be required to provide six weeks of benefits to a worker on leave or otherwise absent from work

[46] DOL, ETA, "Allocating Grants to States for Reemployment Services and Eligibility Assessments (RESEA) and Determining Outcome Payments in Accordance With Title III, Section 306 of the Social Security Act," 84 *Federal Register* 13319-21, April 4, 2019, accessible at https://www.govinfo.gov/content/pkg/FR-2019-04-04/pdf/2019-06558.pdf.

[47] DOL, ETA, "Allocating Grants to States for Reemployment Services and Eligibility Assessments (RESEA) in Accordance With Title III, Section 306 of the Social Security Act (SSA)," 84 *Federal Register* 139018-20, August 8, 2019, accessible at https://www.govinfo.gov/content/pkg/FR-2019-08-08/pdf/2019-16988.pdf.

[48] The President's detailed budget proposal for UC in FY2021 is accessible at https://www.dol.gov/general/budget. The President's budgets for FY2019 and FY2020 included substantively similar UC proposals and are accessible at https://www.dol.gov/general/budget/index-2019 and https://www.dol.gov/general/budget/index-2020.

[49] Seven states did not meet this solvency measure at the end of 2019: California, New York, Texas, Illinois, Massachusetts, Ohio, and the U.S. Virgin Islands. A total of 22 states did not qualify for interest-free short-term loans for FY2020. See DOL, Office of Unemployment Insurance, Division of Fiscal and Actuarial Services, *State Unemployment Insurance Trust Fund Solvency Report 2020*, Chart 1 and Table 1, pp. 59-60, February 2020, at https://oui.doleta.gov/unemploy/docs/trustFundSolvReport2020.pdf.

[50] For information on a previous attempt to create a paid benefit for the birth or adoption of a child through the UC program, see CRS In Focus IF10643, *Unemployment Compensation (UC) and Family Leave*.

for the birth or adoption of the worker's child.[51] States would have discretion to determine the parameters of eligibility and financing for this new paid parental leave benefit.

UI Program Integrity

Requirements to Use Particular Data Sources for Program Integrity

The President's 2021 budget would require states to use three specific data sources to confirm an individual's eligibility for UC benefits: the State Information Data Exchange System (SIDES, administered by Information Technology Support Center [ITSC] and DOL); the National Directory for New Hires (NDNH, administered by the Department of Health and Human Services); and the Prisoner Update Processing System (PUPS, administered by the Social Security Administration).[52]

Additional Integrity Proposals

The proposal would create several additional integrity measures, including

- giving the Secretary of Labor the authority to implement new corrective action measures in response to poor state administrative performance within the program;
- allowing states to retain a percentage of UC overpayments for program integrity use;
- requiring states to deposit all UC penalty and interest payments into a special state fund, with these funds required to be used for improving state UI administration as well as providing reemployment services for UI claimants;[53] and
- offsetting SSDI benefits to account for concurrent receipt of UI benefits.[54]

New Final Rule on UC Drug Testing

Section 2105 of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96; February 22, 2012) amended federal law to allow states to conduct two types of drug testing. First, it expanded the long-standing state option to disqualify UC applicants who were discharged from employment with their most recent employer (as defined under state law) for unlawful drug use by allowing states to drug test these applicants to determine UC benefit eligibility or

[51] It is not clear if this proposal creates any new entitlement to job-protected leave itself; rather, it appears to create a new entitlement to income replacement while an individual is taking parental leave. For information on states that currently operate state paid family leave insurance programs, including California, Rhode Island, New Jersey, and New York as well as states that have enacted paid family leave insurance programs, but which are not yet fully implemented and not paying benefits (e.g., the District of Columbia, Massachusetts, and Washington State), see CRS Report R44835, *Paid Family and Medical Leave in the United States*.

[52] States currently have the federal authority to use these data sources, but their use is not mandatory.

[53] In addition, under this proposal, states with high improper payment rates would be required to spend a portion of the UC penalty and interest payments funds on program integrity activities.

[54] For general background on the issue of concurrent receipt of SSDI and UI, see CRS Report R43471, *Concurrent Receipt of Social Security Disability Insurance (SSDI) and Unemployment Insurance (UI): Background and Legislative Proposals*.

disqualification. Second, it allowed states to drug test UC applicants for whom suitable work (as defined under state law) is available only in an occupation that regularly conducts drug testing, to be determined under new regulations issued by the Secretary of Labor.

As required by P.L. 112-96, on August 1, 2016, DOL promulgated 20 C.F.R. Part 620,[55] a new rule to implement the law's provisions relating to the drug testing of UC applicants for whom suitable work (as defined under state law) is available only in an occupation that regularly conducts drug testing.

Amid stakeholders' concerns about the 2016 DOL rule, Congress repealed this UC drug testing rule using the Congressional Review Act (CRA) via H.J.Res. 42/P.L. 115-17.[56] On November 5, 2018, DOL published a Notice of Proposed Rulemaking (NPRM) to reissue the rule identifying occupations that regularly conduct drug testing for purposes of Section 2105 of P.L. 112-96.[57] The CRA prohibits an agency from reissuing the rule in "substantially the same form" or issuing a "new rule that is substantially the same" as the disapproved rule, "unless the reissued or new rule is specifically authorized by a law enacted after the date of the joint resolution disapproving the original rule." Notably, this is the first time an agency has proposed to reissue a rule after the original version was disapproved under the CRA.[58]

According to the 2018 NPRM, DOL has addressed the reissue requirements of the CRA by proposing a substantially different and more flexible approach to the statutory requirements than the 2016 Rule, enabling states to enact legislation to require drug testing for a far larger group of UC applicants than the previous rule permitted. This flexibility is intended to respect the diversity of states' economies and the different roles played by employment drug testing in those economies.[59]

Comments on the proposed 2018 rule were required to be submitted by January 4, 2019.[60] As of September 25, 2019, the Office of Management and Budget's Office of Information and Regulatory Affairs completed its final review of this rule.[61] The final rule was issued on October 4, 2019.[62]

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[55] See "Federal-State Unemployment Compensation Program; Middle Class Tax Relief and Job Creation Act of 2012 Provision on Establishing Appropriate Occupations for Drug Testing of Unemployment Compensation Applicants," 81 *Federal Register* 50298-50302, August 1, 2016, at https://www.govinfo.gov/content/pkg/FR-2016-08-01/pdf/2016-17738.pdf.

[56] For examples of these stakeholder concerns, see CRS Report R45889, *Unemployment Compensation (UC): Issues Related to Drug Testing*. For information on the Congressional Review Act, see CRS Report R43992, *The Congressional Review Act (CRA): Frequently Asked Questions*.

[57] DOL, ETA, "Federal-State Unemployment Compensation Program; Establishing Appropriate Occupations for Drug Testing of Unemployment Compensation Applicants Under the Middle Class Tax Relief and Job Creation Act of 2012," 83 *Federal Register* 55311-55318, November 5, 2018, at https://www.federalregister.gov/documents/2018/11/05/2018-23952/federal-state-unemployment-compensation-program-establishing-appropriate-occupations-for-drug.

[58] For more information on potential implications for this reissued rule stemming from the disapproval of the 2016 rule under the CRA, see CRS Insight IN10996, *Reissued Labor Department Rule Tests Congressional Review Act Ban on Promulgating "Substantially the Same" Rules*.

[59] See DOL, "Federal-State Unemployment Compensation Program," pp. 55312-55313.

[60] The 211 comments received on this rule are available at https://www.regulations.gov/docket?D=ETA-2018-0004.

[61] OMB, Office of Information and Regulatory Affairs, Reginfo.gov, "OIRA Conclusion of EO 12866 Regulatory Review," at https://www.reginfo.gov/public/do/eoDetails?rrid=129401.

[62] Employment and Training Administration, Department of Labor, "Federal-State Unemployment Compensation Program; Establishing Appropriate Occupations for Drug Testing of Unemployment Compensation Applicants Under the Middle Class Tax Relief and Job Creation Act of 2012 ," 84 *Federal Register* 53037-52, October 4, 2019, https://www.govinfo.gov/content/pkg/FR-2019-10-04/pdf/2019-21227.pdf.

For an analysis of selected policy considerations relevant to UC drug testing, including arguments for and against expanded drug testing, potential legal concerns, and administrative considerations, see CRS Report R45889, *Unemployment Compensation (UC): Issues Related to Drug Testing*.

Enacted Laws in the 116th Congress

P.L. 116-127, the Families First Coronavirus Response Act (FFCRA)

On March 18, 2020, President Trump signed P.L. 116-127 (H.R. 6201), the Families First Coronavirus Response Act (FFCRA). The UI provisions are found in Division D of P.L. 116-127. Division D generally gave states more flexibility to address COVID-19 through expanded benefit eligibility as well as additional administrative funding. DOL published guidance for states on how to implement the Families First Coronavirus Response act in its Unemployment Insurance Program Letter No. 13-20, March 22, 2020, available at https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8634.

Administrative Grants to States

Section 4102(a) of FFCRA provided up to a total of $1 billion in "emergency administrative grants" to states in calendar year 2020.[63] Half of each state's share was available if the state met certain requirements related to UC eligibility notifications and claims access. The second half of each state's share was available if it qualified for the first half and if the state experienced at least a 10% increase in UC claims over the previous calendar year and met certain other requirements related to easing UC eligibility requirements for individuals affected by COVID-19. Additionally, there were reporting requirements to DOL and committees of jurisdiction within one year for states that receive these grants.[64]

Waiver of Certain UI Requirements for Benefits

Section 4102(b) of FFCRA waived any federal UI requirements (i.e., under Section 303 of the Social Security Act and Federal Unemployment Tax Act [FUTA] Section 3304) related to work search, one-week waiting periods,[65] quits for good cause,[66] and employer tax assessments for state

[63] DOL published the state shares of these emergency administrative grants in UIPL No. 13-20, "Families First Coronavirus Response Act, Division D Emergency Unemployment Insurance Stabilization and Access Act of 2020," March 22, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8634. The maximum payment allowable for a state was calculated using the methods also used in Reed Act distributions. That is, funds were distributed to the state Unemployment Trust Fund (UTF) accounts based on the state's share of estimated federal unemployment taxes (excluding reduced credit payments) made by the state's employers. For background on Reed Act distributions, see CRS Report RS22006, *The Unemployment Trust Fund and Reed Act Distributions*.

[64] As of June 11, 2020, according to DOL, all states had met the criteria for receiving these FFCRA grants (see https://oui.doleta.gov/unemploy/pdf/IC3MOmarch.pdf). All states had requested their full allotment by September 30, 2020.

[65] Many states require that an individual, who is otherwise eligible for UI benefits, serve a waiting period (one week) before benefits are payable. Some states currently also waive this waiting week requirement under certain situations, such as a disaster or emergency declaration. For additional details, see Table 3-7 ("State Initial Waiting Periods") in "Chapter 3: Monetary Eligibility," of DOL's *2020 Comparison of State Unemployment Insurance Laws*, available at https://workforcesecurity.doleta.gov/unemploy/pdf/uilawcompar/2020/monetary.pdf.

[66] Individuals generally are required to have lost a job through no fault of their own to be eligible for UC benefits, but states also define "good cause" voluntary quits that do not make UC claimants ineligible for benefits. For additional details, see beginning on page 1 of "Chapter 5: Nonmonetary Eligibility," of DOL's *2020 Comparison of State*

programs if a state modifies its UC laws "on an emergency temporary basis as needed to respond to the spread of COVID-19."[67]

Waiver of Interest Payments Due and Accrual of Interest on UTF Loans

Section 4103 of FFCRA temporarily waived interest payments and the accrual of interest on federal advances (loans) to states to pay UC benefits through December 2020.[68] But it did not reduce any underlying loan principal.[69]

Short-Time Compensation Assistance

Section 4104 of FFCRA required DOL to provide assistance to states in establishing, implementing, and improving Short-Time Compensation (work sharing) programs.[70]

Temporary 100% Federal Financing of EB for States Qualify for Full Division D Administrative Grants

Section 4105 of FFCRA temporarily made Extended Benefits (EB) 100% federally financed (with the exception of "non-sharable" compensation—e.g., state and local workers) from enactment until the end of December 2020, but only for states that received both halves of the emergency administrative grants.[71] Because P.L. 116-127 also temporarily removed the current incentive in EB law for states to have a one-week waiting period, or "waiting week," for their regular UC programs through December 2020, the first week of EB was "sharable" (50% federal/50% state under permanent law; or 100% under the conditions of this provision).

P.L. 116-136, the CARES Act

On March 27, 2020, President Trump signed P.L. 116-136, the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Title II, Subtitle A of the CARES Act provided several temporary UI measures to address recent increases in unemployment including augmented benefit amounts, expanded benefit eligibility, additional weeks of benefits, and several other UI provisions.

DOL released numerous Unemployment Insurance Program Letters (UIPLs) to provide guidance to states regarding the administration of the UI provisions in the CARES Act. These DOL UIPLs

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Unemployment Insurance Laws, available at https://workforcesecurity.doleta.gov/unemploy/pdf/uilawcompar/2020/nonmonetary.pdf.

[67] One of the more restrictive federal UI requirements in the context of this COVID-19 outbreak is the requirement under Section 303(a) of the Social Security Act that the unemployed must be "able to work, available to work, and actively seeking work" to be eligible for regular UC benefits (see 42 U.S.C. Section 503(a)(12)). While Division D waives the work search aspect of this requirement, it does *not* waive the "able and available" aspect of this requirement.

[68] For background on these federal loans to states, see CRS Report RS22954, *The Unemployment Trust Fund (UTF): State Insolvency and Federal Loans to States*.

[69] This provision is similar to what was enacted for 2009 and 2010 under Section 2004 of the American Recovery and Reinvestment Act (ARRA; P.L. 111-5). See CRS Report R40368, *Unemployment Insurance Provisions in the American Recovery and Reinvestment Act of 2009*.

[70] For background on STC programs, see CRS Report R40689, *Compensated Work Sharing Arrangements (Short-Time Compensation) as an Alternative to Layoffs*.

[71] As of June 11, 2020, according to DOLETA, all states had met the criteria (see https://oui.doleta.gov/unemploy/pdf/IC3MOmarch.pdf. All states had requested their full allotment by September 30, 2020. Email from Employment and Training Administration analyst, January 15, 2021.

are available, along with additional COVID-19-related information, at https://oui.doleta.gov/unemploy/coronavirus/.

Below are summary details of Sections 2102 through 2115 of the CARES Act (i.e., the UI provisions).

Temporary, Additional $600 Weekly Federal Compensation (FPUC; Originally Expired July 25, 2020)[72]

Section 2104 of the CARES Act created a temporary, additional, federally financed $600 benefit that augmented weekly UI benefits, including UC, Pandemic Unemployment Assistance (PUA, see description below), Pandemic Emergency Unemployment Compensation (PEUC, see description below), EB, DUA, STC, Trade Readjustment Allowance (TRA), and Self Employment Assistance (SEA).[73] This FPUC was payable for weeks of unemployment beginning after a state signed an agreement through weeks ending on or before July 31, 2020.[74] For most states, this meant that FPUC payments under the CARES Act ended on July 25, 2020.[75]

FPUC income was required to be disregarded for the purposes of Medicaid and the Children's Health Insurance Program (CHIP). (During the period that this payment was authorized under the CARES Act, states were prohibited from reducing UC benefit amount or duration.)

Temporary, Pandemic Unemployment Assistance (PUA) for Unemployed Persons Not Covered by Regular UC Program[76]

Section 2102 of the CARES Act created a temporary, federal UI program for individuals not otherwise eligible for UI benefits (e.g., self-employed, independent contractors, gig economy workers, and other workers not covered under state UC programs): Pandemic Unemployment Assistance (PUA). PUA benefits are to be administered by states, like all other UI benefits.

PUA provides up to 39 weeks of federally financed UI benefits to unemployed workers who (1) are ineligible for any other state or federal UI benefit; (2) meet conditions related to being unemployed, partially unemployed, or unable to work due to COVID-19; and (3) are not able to telework and are not receiving any paid leave. According to the DOL 2020 Summary CARES Act

[72] For relevant DOL guidance, see DOL, ETA, UIPL No. 15-20, "Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020–Federal Pandemic Unemployment Compensation (FPUC) Program Operating, Financial, and Reporting Instructions," April 5, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9297.

[73] For information on TRA, see CRS Report R44153, *Trade Adjustment Assistance for Workers and the TAA Reauthorization Act of 2015*. For information on SEA, see CRS Report R41253, *The Self-Employment Assistance (SEA) Program*.

[74] A number of state laws have provisions for extending the potential duration of benefits during periods of high unemployment for individuals in approved training who exhaust benefits, or for a variety of other reasons. Although some state laws call these programs "extended benefits," DOL uses the term "additional benefits" (AB) to avoid confusion with the federal-state EB program. DOL has stated that FPUC is not payable to individuals receiving AB payments. The order of payment for AB within the context of the multiple programs described above is dependent on state law.

[75] The only exception—FPUC payments ended on July 26, 2020, in New York.

[76] For relevant DOL guidance, see DOL, ETA, UIPL No. 16-20, "Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020–Pandemic Unemployment Assistance (PUA) Program Operating, Financial, and Reporting Instructions," April 6, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=4628; and UIPL No. 16-20, Change 1, "Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020–Pandemic Unemployment Assistance (PUA) Program Reporting Instructions and Questions and Answers," April 27, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5899.

UIPL, the total weekly entitlement PUA is generally limited to 39 weeks, offset by any weeks that the individual received benefits from regular UC and EB. Under this guidance, the weeks for which an individual collected PEUC would not be deducted from the individual's PUA entitlement.[77]

PUA is available in all states and U.S. territories, subject to agreements with DOL. Under the CARES Act, PUA was authorized to pay benefits, including retroactively, for weeks of unemployment, partial unemployment, or inability to work beginning on or after January 27, 2020, and ending on or before December 31, 2020 (hereinafter, through December 2020).

The PUA benefit amount is identical to the weekly benefit amount (WBA) as calculated under state law based on recent earnings (subject to the minimum benefit under DUA, which is half of the state's average weekly UC benefit amount).[78] In territories without UC programs, the PUA benefit amount is determined by DUA regulations.[79]

All PUA benefits, like other UI benefits, were temporarily augmented by an additional federal payment of $600 beginning after the date on which the state enters into an agreement with DOL to pay FPUC through July 2020 under the CARES Act. (FPUC was subsequently reauthorized at $300 a week for weeks of unemployment beginning on or after December 27, 2021, through weeks of unemployment ending on or before March 14, 2021, under the Continued Assistance Act [P.L. 116-260].)

Temporary, 13-Week Extended Pandemic Emergency Unemployment Compensation (PEUC)[80]

Section 2107 of the law created PEUC, which authorizes up to 13 additional weeks of federally financed UI benefits for individuals who exhaust state and federal UI benefits and are able, available, and actively seeking work, subject to COVID-19-related flexibilities.

Under the CARES Act, PEUC was authorized through the end of December 2020. The PEUC benefit amount is required to be the WBA as calculated under state law. All PEUC benefits were temporarily increased by $600 a week by FPUC through July 31, 2020, under the CARES Act. For most states, this means FPUC payments end on July 25, 2020. (FPUC was subsequently reauthorized at $300 a week for weeks of unemployment beginning on or after December 27, 2021, through weeks of unemployment ending on or before March 14, 2021, under the Continued Assistance Act. During the period that PEUC is authorized, states would be prohibited from reducing UC benefit amount or duration.)

[77] See Section 4(b)(i)(d) of DOL, ETA UIPL No. 14-20, "Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020–Summary of Key Unemployment Insurance (UI) Provisions and Guidance Regarding Temporary Emergency State Staffing Flexibility," April 2, 2020, p. 7, https://wdr.doleta.gov/directives/attach/UIPL/UIPL_14-20.pdf.

[78] For minimum DUA benefits, see DOL, ETA, UIPL, No. 11-20, "Minimum Disaster Unemployment Assistance (DUA) Weekly Benefit Amount: April 1–June 30, 2020," March 19, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8052.

[79] For background on DUA, see CRS Report RS22022, *Disaster Unemployment Assistance (DUA)*.

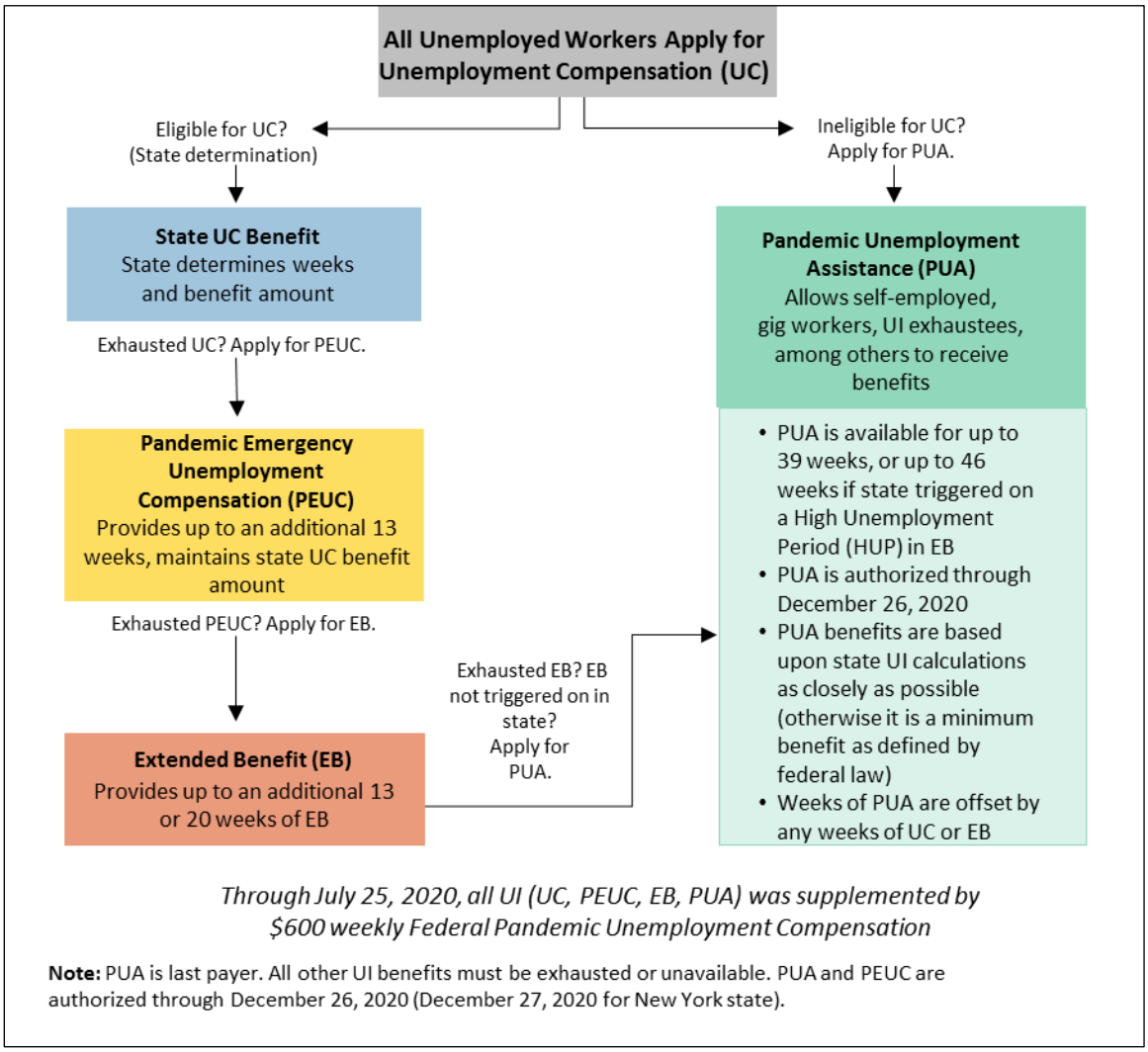
[80] For relevant DOL guidance, see DOL, ETA, UIPL No. 17-20, "Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020-Pandemic Emergency Unemployment Compensation (PEUC) Program Operating, Financial, and Reporting Instructions," April 10, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8452; and UIPL No. 17-20, Change 1, "Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020-Pandemic Emergency Unemployment Compensation (PEUC) Program: Questions and Answers, and Revised Reporting Instructions for the PEUC ETA 227," May 13, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8689.

Coordination of UI Benefits

During a period of unemployment, individuals may have been eligible for benefits under multiple UI programs, including programs authorized in the CARES Act. Below, **Figure 1** provides the statutory order of the flow of UI benefits from March 28, 2020, through December 26, 2020. This flow was contingent on the individual meeting all eligibility criteria for the respective programs. It was also contingent on the state having an agreement with DOL to administer the programs authorized under the CARES Act.

Figure 1. Previous Coordination of the Flow of UI Benefits Under the CARES Act

(March 28, 2020, through December 26, 2020)



Source: CRS analysis based on P.L. 116-136, the CARES Act and DOL guidance.

Notes: This flow was contingent on the individual meeting all eligibility criteria for the respective programs. It was also contingent on the state having an agreement with DOL to administer the programs authorized under the CARES Act.

Other UI Provisions

- Section 2103 provided, through December 2020, 50% federal funding of regular UC benefits based on service with reimbursing employers, which are state and local governments, federally recognized Indian tribes, and nonprofit organizations that have opted not to pay UI taxes, but instead reimburse states for UC benefits paid to their former employees. This provision provided financial relief to these reimbursing employers. It also allowed for state flexibility in the timing of required reimbursement payments for these employers.[81]
- Section 2105 provided 100% federal financing through the end of December 2020 for UC benefits provided during the first week of unemployment in state UC programs with no one-week waiting period (thus, incentivizing states that require one-week waiting periods before receiving UC under state law to remove them).[82]
- Section 2106 temporarily waived federal requirements regarding merit staffing for state UC programs on an emergency basis in response to COVID-19 until December 31, 2020. This waiver was limited to certain temporary actions taken by states to quickly process UI claims, including rehiring former employees and temporary hiring.[83]
- Sections 2108-2111 authorized 100% federal financing of Short-Time Compensation (STC; work sharing) in states with existing programs and 50% federal financing for states that set up STC. It also authorized $100 million in federal grants to support STC. DOL was required to provide STC technical assistance.[84]
- Sections 2112-2114 provided $50 million to waive the seven-day waiting period for Railroad Unemployment Insurance (RRUI) benefits.[85] They also authorized a comparable FPUC ($1,200 for RRUI biweekly benefits, equivalent to $600 per week) for RRUI through July 2020.[86] They provided an additional 13 weeks of

[81] For relevant DOL guidance, see DOL, ETA, UIPL No. 18-20, "Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020–Emergency Unemployment Relief for State and Local Governmental Entities, Certain Nonprofit Organizations, and Federally-Recognized Indian Tribes," April 27, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5893.

[82] For relevant DOL guidance, see DOL, ETA, UIPL No. 20-20, "Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020–Operating, Financial, and Reporting Instructions for Section 2105: Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week," April 30, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?docn=6324.

[83] For relevant DOL guidance, see DOL, ETA, UIPL No. 14-20, "Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020–Summary of Key Unemployment Insurance (UI) Provisions and Guidance Regarding Temporary Emergency State Staffing Flexibility," April 2, 2020, https://wdr.doleta.gov/directives/attach/UIPL/UIPL_14-20.pdf.

[84] For relevant DOL guidance, see DOL, ETA, UIPL No. 21-20, "Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020–Short-Time Compensation (STC) Program Provisions and Guidance Regarding 100 Percent Federal Reimbursement of Certain State STC Payments," May 3, 2020, https://wdr.doleta.gov/directives/attach/UIPL/UIPL_21-20.pdf; and UIPL No. 22-20, "Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020–Short-Time Compensation (STC) Program Grants," May 10, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6220.

[85] For background on RRUI, see CRS Report RS22350, *Railroad Retirement Board: Retirement, Survivor, Disability, Unemployment, and Sickness Benefits*.

[86] According to the U.S. Railroad Retirement Board, which administers RRUI: "The additional amount is payable on claims for days of unemployment through the 2-week claim period beginning July 31, 2020," (see U.S. Railroad

federally financed RRUI benefits through the end of December 2020, comparable to PEUC.[87]

- Section 2115 provided $25 million in funding for the DOL Office of Inspector General for audits, investigations, and oversight related to the UI provisions in the CARES Act.
- Section 2116 authorized DOL to issue operating instructions and other guidance needed to implement the UI provisions in the CARES Act.

Table 1 provides a summary of the Sections 2102 through 2111 of the CARES Act.

Table 1. DOL-Related Summary Information on Unemployment Insurance Provisions in the CARES Act

(P.L. 116-136, Sections 2102-2111)

Benefit/Program	Availability	Description
Section 2102 Pandemic Unemployment Assistance (PUA)	Provides up to 39 weeks of unemployment. Covers weeks of unemployment beginning on or after January 27, 2020, through the week ending on or before December 31, 2020 (payable on a retroactive basis).	Applies to individuals who are self-employed, those who would not qualify for regular Unemployment Compensation (UC) or Extended Benefits (EB) under state or federal law or Pandemic Unemployment Compensation (PEUC) under Section 2107. Includes individuals who have exhausted all rights to UC, PEUC, and EB. Operationally, this program will be administered by the states similarly to the Disaster Unemployment Assistance (DUA) program. Includes eligible, unemployed workers in the states, American Samoa, Commonwealth of the Northern Mariana Islands, the District of Columbia, Federated States of Micronesia, Guam, Marshall Islands, Puerto Rico, the Republic of Palau, and the U.S. Virgin Islands, provided the state/territory signs an agreement with U.S. Department of Labor (DOL).
Section 2103 Emergency Unemployment Relief of Governmental Entities and Non-Profit Organizations	Covers weeks of unemployment beginning on or after March 13, 2020, through December 31, 2020.	Authorizes DOL to issue guidance to allow states to interpret their state UC laws to provide maximum flexibility to reimbursing employers (which are state and local governments, federally recognized Indian tribes, and nonprofit organizations that have opted not to pay UI taxes, but instead reimburse states for UC benefits paid to their former employees) as it relates to timely payment and assessment of penalties and interest. Provides for transfers to a state's account in the Unemployment Trust Fund (UTF) from the Federal Unemployment Account (FUA) to allow partial reimbursements (generally 50 percent of the amount of payments in lieu of contributions) to reimbursing employers.

Retirement Board, "RRB Begins Paying CARES Act Recovery Payments for Unemployed Rail Workers," May 2020, https://rrb.gov/Newsroom/NewsReleases/RecoveryPayments).

[87] For additional information on RRUI and the CARES Act, see U.S. Railroad Retirement Board, "RRB Begins Paying CARES Act Recovery Payments for Unemployed Rail Workers," May 2020, https://rrb.gov/Newsroom/NewsReleases/RecoveryPayments.

Benefit/Program	Availability	Description
Section 2104 Federal Pandemic Unemployment Compensation (FPUC)	Covers weeks of unemployment beginning after the date of signed agreement (between state and DOL) through July 31, 2020. For most states, this means FPUC payments end on July 25, 2020.	Provides individuals who are collecting regular UC, PEUC, PUA, EB, Short-Time Compensation (STC), Trade Reemployment Allowances (TRA), Disaster Unemployment Assistance (DUA), or Self-Employment Assistance (SEA) with an additional, federally-financed $600 per week. Among the requirements of this program is a non-reduction rule, which prohibits states from changing the computation method governing regular UC law in a way that results in the reduction of average weekly benefit amounts or the number of weeks of benefits payable (i.e., maximum benefit entitlement).
Section 2105 Temporary Full Federal Funding of the First Week of Compensable Regular Compensation	Covers weeks of unemployment beginning after the date of signed agreement, through December 31, 2020.	For states that provide compensation to individuals for their first week of unemployment (i.e., states which do not require a waiting week), this Section provides 100% federal funding for the total amount of UC paid to individuals for their first week of regular UC.
Section 2106 Emergency State Staffing Flexibility	March 27, 2020, through December 31, 2020.	Provides state agencies with emergency flexibility for personnel standards on a merit basis limited to engaging of temporary staff, rehiring of retirees or former employees on a non-competitive basis, and other temporary actions to quickly process applications and claims.
Section 2107 Pandemic Emergency Unemployment Compensation (PEUC)	Covers weeks of unemployment beginning after state signs agreement through December 31, 2020.	Provides for up to 13 weeks of benefits to individuals who have exhausted regular UC under state or federal law, have no rights to regular UC under any other state or federal law, are not receiving compensation under the UC laws of Canada, and are able to work, available for work, and actively seeking work. States must offer flexibility in meeting the "actively seeking work" requirement if individuals are unable to search for work because of COVID-19, including because of illness, quarantine, or movement restriction. Among the requirements of this program is a non-reduction rule, which prohibits states from changing the computation method governing regular UC law in a way that results in the reduction of average weekly benefit amounts or the number of weeks of benefits payable (i.e., maximum benefit entitlement).
Section 2108 Temporary Financing for Existing Short-Time Compensation (STC) Programs	Covers weeks of unemployment beginning on or after March 27, 2020, through weeks of unemployment ending on or before December 31, 2020. (If a state enacts a new STC law, reimbursements are available starting with the effective date of the state law.)	Provides that states with an existing STC program may be reimbursed with federal funds for 100% of STC benefit costs, up to a maximum of 26 weeks of STC per individual.

Benefit/Program	Availability	Description
Section 2109 Temporary Financing of STC Agreements	Covers weeks of unemployment beginning after the date of signed agreement ending on or before December 31, 2020.	Provides that states without an existing STC program may provide STC benefits under an agreement with the Secretary of Labor and be reimbursed with federal funds for 50% of STC benefit costs, up to a maximum of 26 weeks of STC per individual.
Section 2110 Grants for STC Programs	Grant applications must be submitted by December 31, 2023.	Provides for a $100 million grant to be shared across states for implementation or improved administration, and promotion and enrollment of the state's STC program.
Section 2111 Assistance and Guidance in Implementing Programs	Effective March 27, 2020.	Provides that DOL shall develop model legislative language, or disseminate existing model language, which may be used by states in developing and enacting STC programs. The Department will also develop reporting requirements for states and provide technical assistance.

Source: CRS analysis based on P.L. 116-136, the CARES Act, and Attachment 1 in DOL 2020 Summary CARES Act UIPL, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3390.

P.L. 116-151, the Protecting Nonprofits from Catastrophic Cash Flow Strain Act of 2020

On August 3, 2020, President Trump signed P.L. 116-151 (S. 4209), the Protecting Nonprofits from Catastrophic Cash Flow Strain Act of 2020, into law. P.L. 116-151. The law revised the reimbursement steps required by the CARES Act's provisions providing 50% federal funding of regular state UI benefits for reimbursing employers through December 31, 2020.[88] With the change, reimbursing employers pay 50% of UI benefits, and federal funding pays the other 50% (previously, the law required these employers to pay 100% of UI benefits and then be reimbursed for 50% of the benefits). Additionally, UI benefits attributed to weeks of unemployment beginning on or after March 13, 2020, through December 31, 2020, could be reimbursed even if the actual employer reimbursement happens after December 31, 2020.

Presidential Action Related to Unemployment Insurance

On August 8, 2020, President Trump issued a presidential memorandum authorizing other needs assistance (ONA) under Section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act; P.L. 93-288, as amended; 42 U.S.C. §5174(e)(2)) for lost wages.[89] As described in Federal Emergency Management Agency (FEMA) guidance,[90] this Lost Wages Assistance (LWA) program provided grants to states to supplement the weekly benefits of certain eligible UI claimants in participating states, subject to a cost sharing requirement. LWA grants

[88] Reimbursing employers are state and local governments, federally recognized Indian tribes, and nonprofit organizations that have opted not to pay UI taxes.

[89] The White House, "Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019," August 8, 2020, available at https://www.whitehouse.gov/presidential-actions/memorandum-authorizing-needs-assistance-program-major-disaster-declarations-related-coronavirus-disease-2019/.

[90] FEMA, "Lost Wages Supplemental Payment Assistance Guidelines," available at https://www.fema.gov/disasters/coronavirus/governments/supplemental-payments-lost-wages-guidelines.

were paid as a $300-per-week supplement in entirely federal funds to individuals with underlying weekly UI benefit amounts of at least $100, or, if a state chose to contribute an additional $100 a week in state funds, the total would have been $400 a week.[91] LWA was not available to those receiving Disaster Unemployment Assistance (DUA).[92]

As constructed, LWA grants were potentially available for weeks of unemployment ending between August 1, 2020, and December 27, 2020, but the program could have terminated earlier if Congress had enacted supplemental COVID-19-related unemployment compensation (e.g., reestablishes the FPUC authority) or certain conditions were met related to the balance of the Disaster Relief Fund (DRF). All states ended LWA payments by September 6, 2020, as the amount of available funds in the DRF precluded additional payments.[93]

For additional information related to LWA, see CRS Insight IN11492, *COVID-19: Supplementing Unemployment Insurance Benefits (Federal Pandemic Unemployment Compensation vs. Lost Wages Assistance)*.

P.L. 116-260, the Consolidated Appropriations Act, 2021 (Division N, Title II, Subtitle A, the Continued Assistance for Unemployed Workers Act of 2020)

On December 27, 2020, President Trump signed P.L. 116-260 (H.R. 133), the Consolidated Appropriations Act, 2021. The UI provisions were contained in Division N, Title II, Subtitle A, of the Consolidated Appropriations Act, 2021, and are titled the Continued Assistance for Unemployed Workers Act of 2020 ("Continued Assistance Act"). The Continued Assistance Act reauthorized and expanded the enhanced UI benefits created under the CARES Act (P.L. 116-136): FPUC, PEUC, and PUA.[94] Additionally, the Continued Assistance Act authorized, at the option of states, a $100-per-week benefit augmentation for unemployed workers with income from both wage-and-salary jobs and self-employment: Mixed Earned Unemployment Compensation (MEUC). The act extended the authorization for additional, temporary UI provisions first authorized under the CARES Act and the Families First Coronavirus Response Act (FFCRA; P.L. 116-127). The act also provided federal authority for states to temporarily disregard the mandatory off period for the Extended Benefit program. Finally, the Continued Assistance Act created additional program integrity requirements for UI benefits, including

[91] Kentucky and Montana announced intentions of supplementing LWA with an additional $100 payment. See FEMA, "FEMA Announces Lost Wages Grant for Kentucky," press release, August 21, 2020, https://www.fema.gov/press-release/20200824/fema-announces-lost-wages-grant-kentucky; and FEMA, "FEMA Announces Lost Wages Grant to Montana," press release, August 18, 2020, https://www.fema.gov/press-release/20200824/fema-announces-lost-wages-grant-montana.

[92] South Dakota did not participate in LWA. Section 262 of the Continued Assistance Act provided that states may waive overpayments under the LWA program when the individual is not at fault for the payment and repayment would be contrary to equity and good conscience.

[93] Email exchange between the authors of this report and FEMA, Office of the Chief Financial Officer, November 9, 2020.

[94] The Continued Assistance Act provides $500,000 in funding to each state for implementation of the changes to FPUC, PEUC, and PUA. (States may request additional administrative funding if needed.) See DOL, ETA, UIPL No. 9-21, "Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act)—Summary of Key Unemployment Insurance (UI) Provisions," December 30, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3831. (Hereinafter, "DOL UIPL No. 9-21".)

several new measures related to PUA eligibility.[95] See **Figure 2** for the flow of UI benefits available under the Continued Assistance Act.

Federal Pandemic Unemployment Compensation (FPUC)

FPUC was originally authorized under the CARES Act at $600 per week as a federal benefit augmentation for individuals receiving weekly UI benefits. FPUC initially expired July 25, 2020 (July 26, 2020, in New York). After this expiration, on August 8, 2020, President Trump issued a presidential memorandum creating LWA, a grant program that supplemented the weekly benefits of certain eligible UI claimants, with up to $300 weekly in federal funding. (See additional information the in section on "Presidential Action Related to Unemployment Insurance.") All states ended LWA payments by September 6, 2020. The Continued Assistance Act reauthorized FPUC at $300 per week for weeks of unemployment beginning after December 26, 2020, and ending on or before March 14, 2021.[96] No FPUC benefits are payable after March 13, 2021 (March 14, 2021, in New York).[97]

Pandemic Emergency Unemployment Compensation (PEUC)

PEUC was originally created as a 13-week UI extension under the CARES Act and payable through weeks of unemployment ending December 26, 2020 (December 27, 2020, in New York). PEUC provides additional weeks of federally financed UI benefits for individuals who exhaust state and federal UI benefits and are able, available, and actively seeking work, subject to Coronavirus Disease 2019 (COVID-19)-related flexibilities.

The Continued Assistance Act extended the authorization for PEUC through weeks of unemployment ending on or before March 14, 2021 (March 13, 2021; March 14, 2021 in New York). In addition, the Continued Assistance Act authorized 11 additional weeks of PEUC benefits (not retroactive; only payable with respect to weeks of unemployment beginning December 26, 2020; December 27, 2020, in New York)—for a total of 24 weeks of PEUC. The Continued Assistance Act created a new requirement that individuals receiving EB must exhaust any remaining EB prior to being eligible to receive the additional weeks of PEUC authorized under the Continued Assistance Act. The Continued Assistance Act also created a phaseout period for PEUC so that, for individuals who are receiving PEUC at the end of the program (March 13, 2021; March 14, 2021, in New York) who have not exhausted available weeks of PEUC and remain otherwise eligible, PEUC benefits are payable until April 10, 2021 (April 11, 2021, in New York).[98]

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[95] For overview DOL guidance on the UI provisions in the Continued Assistance Act, see DOL UIPL No. 9-21.

[96] As under the CARES Act, FPUC income is required to be disregarded for the purposes of Medicaid and CHIP. During the FPUC authorization period, states are prohibited from reducing UC benefit amount or duration.

[97] For DOL guidance on the FPUC extension in the Continued Assistance Act, see DOL, ETA, UIPL No. 15-20, Change 3, "Continued Assistance for Unemployed Workers (Continued Assistance) Act of 2020—Federal Pandemic Unemployment Compensation (FPUC) Program Reauthorization and Modification and Mixed Earners Unemployment Compensation (MEUC) Program Operating, Reporting, and Financial Instructions," January 5, 2021, https://wdr.doleta.gov/directives/corr_doc.cfm?docn=6122.

[98] For DOL guidance on the PEUC extension in the Continued Assistance Act, see DOL, ETA, UIPL No. 17-20, Change 2, "Continued Assistance for Unemployed Workers Act of 2020-Pandemic Emergency Unemployment Compensation (PEUC) Program: Extension, Transition Rule, Increase in Total Benefits, and Coordination Rules," December 31, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?docn=9291.

Pandemic Unemployment Assistance (PUA)

PUA is a temporary federal UI program for individuals not otherwise eligible for UI benefits (e.g., self-employed, independent contractors, gig economy workers) and unemployed due to a specific COVID-19-related reason. Under the CARES Act, PUA provided up to 39 weeks of benefits for weeks of unemployment ending December 26, 2020 (December 27, 2020, in New York).

The Continued Assistance Act extended the authorization for PUA through weeks of unemployment ending on or before March 14, 2021 (March 13, 2021; March 14, 2021, in New York). The act also authorized 11 additional weeks of PUA benefits (not retroactive; only payable with respect to weeks of unemployment beginning December 26, 2020; December 27, 2020, in New York)—for a total of 50 weeks of PUA. In addition, the Continued Assistance Act created a phaseout period for PUA so that, for individuals who are receiving PUA at the end of the program (March 13, 2021; March 14, 2021, in New York), have not exhausted available weeks of PUA, and remain otherwise eligible, PUA benefits are payable until April 10, 2021 (April 11, 2021, in New York).

The act provided a new deadline for the backdating of PUA claims (previously, PUA claims could be backdated to February 2, 2020): initial applications for PUA filed after December 27, 2020, may not be backdated earlier than December 1, 2020. The Continued Assistance Act included a hold harmless provision such that states may continue to pay PUA benefits for up to four weeks of unemployment for individuals who had previously exhausted PEUC and are receiving PUA but are eligible for the additional weeks of PEUC created under this act. After four weeks, states must move claimants eligible for additional weeks of PEUC back to PUA.[99]

The Continued Assistance Act also included additional measures related to PUA, including (1) authority for states to waive recovery of PUA overpayments in cases of non-fault and hardship (retroactive for any PUA overpayment); (2) codification of the PUA appeals process to be conducted by states; and (3) requirements for additional documentation by claimants and other PUA program integrity measures (as described below in the section on "UI Program Integrity Measures").[100]

Mixed Earner Unemployment Compensation (MEUC)

The Continued Assistance Act also authorized a $100-a-week MEUC payment (in states that elect to participate in MEUC) in addition to the $300-a-week FPUC benefit.[101] MEUC provides $100

[99] According to DOL guidance, "Recognizing the unique circumstances states face and the number and complexity of UI programmatic changes that states must swiftly implement, should a state determine that it will not be able to transition individuals from PUA back to PEUC in that timeframe, the state must contact the appropriate ETA Regional Office to determine the earliest data that the state will be able to implement this transition." See DOL UIPL No. 9-21, page 8.

[100] For DOL guidance on the PUA extension and additional PUA measures in the Continued Assistance Act, see DOL, ETA, UIPL No. 16-20, Change 5, "Continued Assistance to Unemployed Workers Act of 2020—Pandemic Unemployment Assistance (PUA) Program: Updated Operating Instructions and Reporting Changes," January 8, 2021, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6973.

[101] MEUC addresses an issue raised by potential differences in benefits calculated under regular state UI programs and under PUA. Specifically, the PUA benefit was created with a higher minimum benefit than state UI (i.e., half of average state UI benefit amount). Since PUA is not available to anyone who qualifies for state UI (or any other federal UI benefit), there may be a concern related to perceived equity for unemployed workers who would qualify for PUA with a higher weekly benefit if they were not also eligible for regular state UI benefits. MEUC addressed this issue by increasing the amount of state UI benefits for individuals in this situation. Other bills introduced in the 116th Congress

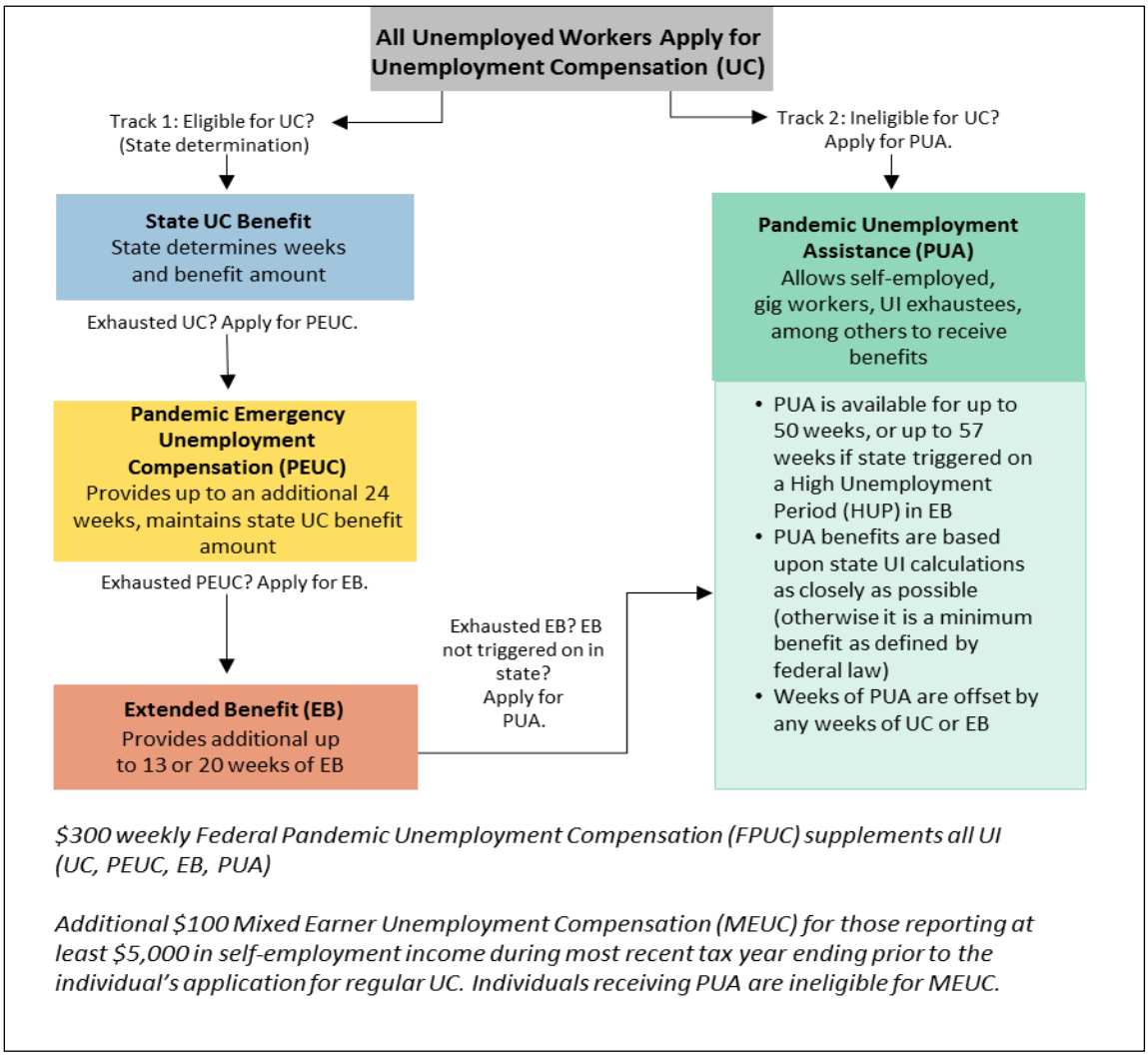
weekly for individuals who received at least $5,000 in self-employment income in the most recent tax year (i.e., ending prior to the individual's application for state UI benefits) and who receive a UI benefit other than PUA. MEUC is payable only in states that opt to administer the benefit for weeks of unemployment beginning on or after December 27, 2020, and ending on or before March 14, 2021 (March 13, 2021; March 14, 2021, in New York).[102]

also included provisions for increasing the regular UI benefits of mixed earners (i.e., S. 4442, S. 4935, H.R. 925, and H.R. 7691).

[102] As of January 11, 2021, according to DOL, all states except South Dakota and Wyoming have opted to pay MEUC. For DOL guidance on the MEUC authority in the Continued Assistance Act, see DOL, ETA, UIPL No. 15-20, Change 3, "Continued Assistance for Unemployed Workers (Continued Assistance) Act of 2020—Federal Pandemic Unemployment Compensation (FPUC) Program Reauthorization and Modification and Mixed Earners Unemployment Compensation (MEUC) Program Operating, Reporting, and Financial Instructions," January 5, 2021, https://wdr.doleta.gov/directives/corr_doc.cfm?docn=6122.

Figure 2. Current Coordination of the Flow of UI Benefits Under the Continued Assistance Act

(December 27, 2020, through March 13, 2021)



Source: CRS analysis based on P.L. 116-260 (H.R. 133), the Consolidated Appropriations Act, 2021, and DOL guidance. The UI provisions, contained in Division N, Title II, Subtitle A, of the Consolidated Appropriations Act, 2021, are titled the Continued Assistance for Unemployed Workers Act of 2020 ("Continued Assistance Act").

Notes: This coordination flow is contingent on the individual meeting all eligibility criteria for the respective programs. It is also contingent on the state having an agreement with DOL to administer each benefit.

Transition rule: individuals who were receiving EB at the week ending December 26, 2020, must remain on EB until those benefits are exhausted. Then, they may be eligible for additional PEUC if available.

PUA is last payer. All other UI benefits must be exhausted or unavailable. States have a temporary four-week authorization to continue to pay PUA rather than PEUC if an individual was receiving PUA for week ending December 26, 2020.

FPUC, MEUC, PUA, and PEUC are authorized through March 13, 2021 (March 14, 2021, for New York).

Phaseout period for those with remaining entitlement to PEUC or PUA authorized through April 10, 2021 (April 11, 2021, for New York).

As of January 11, 2021, South Dakota and Wyoming do not offer MEUC.

Extensions of Additional, Temporary UI Provisions

The Continued Assistance Act also extended the temporary authority for additional UI provisions. The authorities for the following UI provisions were generally extended through March 13, 2021 (March 14, 2021, in New York).

- Extension of temporary UI authorities first created under FFCRA (P.L. 116-127):
  - waiver of interest payments and the accrual of interest on federal advances (loans) to states to pay regular UI benefits through temporary assistance for states with advances, and
  - 100% federal funding of EB.[103]
- Extension of temporary UI authorities first created under the CARES Act (P.L. 116-136):
  - 50% federal funding for the first week of UI benefits in states with no waiting week (previously 100% federal funding under CARES Act; 50% funding begins after the week ending December 26, 2020, December 27, 2020, in New York);
  - 50% federal funding of state UI benefits based on service with reimbursing employers (i.e., state and local governments, Indian tribes, and nonprofit organizations, including the Kennedy Center, that have opted not to pay UI taxes but instead reimburse states for regular UI benefits paid to their former employees);
  - temporary provisions related to RRUI (i.e., waiver of seven-day waiting period; reauthorization of comparable FPUC benefit for RRUI claimants, additional weeks of RRUI comparable to PEUC reauthorization and expansion);[104]
  - 100% federal financing of STC (work sharing) in states with existing programs and 50% federal financing for states that set up STC programs (up to the equivalent of 26 weeks of benefits for individuals); and
  - waiver of federal requirements regarding merit staffing for state UI programs on an emergency, temporary basis in response to COVID-19 (limited to certain temporary actions taken by states to quickly process UI claims, including rehiring former employees and temporary hiring).

New, Optional Disregard of EB Mandatory Off Period

The Continued Assistance Act provided a temporary option for states that have triggered off an EB period to opt to disregard the mandatory 13-week off period for weeks between November 1, 2020, and December 31, 2021, if state law allows.[105]

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[103] For DOL guidance on the EB provisions in the Continued Assistance Act, see DOL, ETA, UIPL No. 24-20, Change 1, "Continued Assistance for Unemployed Workers Act (Continued Assistance Act) of 2020—Provisions Affecting the Federal-State Extended Benefits Program," December 31, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7779 (hereinafter, "UIPL No. 24-20").

[104] The Continued Assistance Act also temporarily exempts all RRUI payments from the mandatory sequester under the BCA (P.L. 112-25) from seven days after enactment through 30 days after the end of the presidential declaration under the National Emergencies Act (50 U.S.C. 1601 et seq.) related to COVID-19.

[105] UIPL No. 24-20.

UI Program Integrity Measures

The Continued Assistance Act included several new UI program integrity measures, many of which are related to PUA eligibility:

- Additional documentation requirements for PUA claimants:
  - Individuals filing a new PUA claim on or after January 31, 2021, must provide documentation of employment or self-employment within 21 days of application or following the state deadline if later (with exceptions for good cause). Individuals who received PUA on or after December 27, 2020, are required to provide this documentation within 90 days or within the state deadline if later (with exceptions for good cause).
- PUA identity verification:
  - For PUA claims filed on or after January 26, 2021, states must use procedures to verify the identity of PUA applicants and provide timely payment to the extent reasonable and practicable.
- Statutory requirement related to PUA weekly certification:
  - The Continued Assistance Act includes a new statutory requirement for weekly self-certification by claimants of a COVID-19-related condition for weeks on or after January 26, 2021.
- Return to work reporting:
  - Beginning January 26, 2021, states must have a process for addressing work refusals and must have a method for employer reporting of work refusals. States must also provide notice of state return to work laws, rights to refuse to return to work or to refuse suitable work—including what constitutes suitable work and a claimant's right to refuse work that poses a risk to the claimant's health or safety—and information on contesting the denial of a claim that has been denied due to a report by an employer that the claimant refused to return to work or refused suitable work.

Legislative Proposals in the 116th Congress

Unemployment Compensation for Excepted Federal Employees During a Government Shutdown

On January 16, 2019, Senator Richard Blumenthal introduced S. 165, the Federal Unemployment Compensation Equity Act of 2019. This proposal would have amended UCFE law and created a new permanent UCFE eligibility category for excepted federal employees who are unpaid but required to work during a government shutdown due to a lapse in appropriations. During any shutdown beginning on or after December 22, 2018, all excepted federal workers would have been deemed eligible for UCFE benefits. In addition, these employees would not have been subject to a one-week waiting period (otherwise often required under state laws) before UCFE benefits were to be paid.

On January 23, 2019, Representative Debbie Dingell introduced H.R. 725, the Pay Federal Workers Act. This proposal would also have provided UCFE benefits in a similar manner to S. 165, including permanently amending 5 U.S.C. Chapter 85 to provide federal authority for these benefits.

On January 23, 2019, Representative Anthony Brown introduced H.R. 720. This proposal would have deemed excepted federal employees during a government shutdown to be eligible for UCFE during FY2019. The authority to provide UCFE to these excepted workers would have expired at the end of FY2019.

On February 8, 2019, Representative Katie Hill introduced H.R. 1117, the Shutdown Fairness Act of 2019. This proposal would have deemed excepted federal employees and unpaid military servicemembers during a government shutdown to be eligible for UCFE or UCX during FY2019. The authority to provide UCFE to these excepted workers would have expired at the end of FY2019.

On July 25, 2019, Representative Lori Trahan introduced H.R. 4072. This proposal would have deemed excepted federal employees and unpaid military servicemembers during a government shutdown to be eligible for UCFE or UCX during FY2020. The authority to provide UCFE to these excepted workers would have expired at the end of FY2020. H.R. 4072 would also have waived the one-week waiting period before these benefits could be paid.

Self-Employment and Relocation Assistance Benefits

On January 15, 2019, Senator Ron Wyden and Representative Danny Davis introduced S. 136 and H.R. 556, the Economic Ladders to End Volatility and Advance Training and Employment Act of 2019 (the ELEVATE Act). Among other provisions, these bills would have established new self-employment and relocation assistance benefits for unemployed workers to be administered by the Social Security Administration, in consultation with DOL. The self-employment assistance benefits would have provided weekly income replacement (half of prior earnings up to the maximum weekly benefit amount in the state) for up to of 26 weeks to individuals. They would have been available to individuals who are (1) eligible for any type of UI benefit; or ineligible for any type of UI benefit, but became involuntarily unemployed over the previous 12 weeks; or were previously self-employed, but lost a hiring contract, and (2) have a viable business plan approved by their state department of labor, workforce board, or the Small Business Administration.[106]

In addition, Section 3 of S. 136 and H.R. 556 would have provided up to $2,000 (or more, depending on family size) to fund to up to 90% of certain relocation expenses for eligible individuals and their families. To be eligible for this relocation assistance, an individual must be (1) a dislocated worker,[107] (2) a long-term unemployed individual,[108] or (3) an underemployed individual[109] and also have filed a claim for relocation assistance and obtained suitable work with an expectation of obtaining such work in a new geographic region.

Domestic Violence

On March 7, 2019, Representative Karen Bass introduced H.R. 1585, the Violence Against Women Reauthorization Act of 2019. Among many other provisions, Section 703 of H.R. 1585

[106] This proposal would have created a new authority to provide self-employment assistance benefits under a new Title XIII, Part B, of the Social Security Act. This new authority would have been distinct from Self-Employment Assistance programs currently authorized under federal law and set up by states. See CRS Report R41253, *The Self-Employment Assistance (SEA) Program*.

[107] As defined in Section 3 of the Workforce Innovation and Opportunity Act (P.L. 113-128).

[108] As defined by the newly-created Director of the Office of Reemployment Assistance, in consultation with the Secretary of Labor and in accordance with criteria set out under the proposed Section 1323 of the Social Security Act.

[109] "As so determined" under the proposed Section 1325(4)(A)(iii) of the Social Security Act.

would have required states to consider an individual who quit employment because of sexual harassment, domestic violence, sexual assault, or stalking to be eligible for UC benefits. The House passed H.R. 1585 on April 4, 2019.

Drug Testing[110]

On February 28, 2019, Representative Earl Carter introduced H.R. 1121, the Ensuring Quality in the Unemployment Insurance Program (EQUIP) Act. The bill would have allowed states to require any UC applicant to complete a substance abuse risk assessment. If the applicant had been deemed high-risk, the applicant would have to pass a controlled substances test to receive UC benefits. Those who fail the test would be ineligible for benefits for 30 days and would have to be retested to determine eligibility.

Reemployment Services and Eligibility Assessments

On March 14, 2019, Representative Stephanie Murphy introduced H.R. 1759, the Building on Reemployment Improvements to Deliver Good Employment (BRIDGE) for Workers Act. This proposal would have extended eligibility to any claimant of unemployment benefits, including those profiled as likely to exhaust benefits (rather than limiting eligibility to those who were profiled as likely to exhaust benefits). The House passed H.R. 1759 on April 9, 2019. On November 14, 2019, Senator Christopher Coons introduced S. 2872, the BRIDGE for Workers Act, which was the Senate companion bill to H.R. 1759.

Short-Time Compensation

On March 12, 2020, Senator Jack Reed introduced S. 3494, the Layoff Prevention Act of 2020. Representative Rosa DeLauro introduced an identical bill, H.R. 8213 on September 11, 2020. These bills would have provided temporary 100% federal funding for up to five years for STC programs in states with STC programs in law. They would have provided 50% federal funding in states with temporary STC programs for up to two years. These bills would have authorized up to a total of $100 million in grants to the states to be used (1) to implement or improve the administration of an STC program and (2) for promotion of and enrollment in STC programs.

Taxation of UI Benefits

On September 24, 2020, Senator Richard Durbin introduced S. 4713, the Coronavirus Unemployment Benefits Tax Relief Act. This bill would have excluded up to $10,200 from any type of UI benefit for the purposes of federal income taxation for tax year 2020.

UI Response to COVID-19

Both H.R. 6201, the Families First Coronavirus Response Act, and H.R. 748, the CARES Act have become law and are discussed in the section: "Enacted Laws in the 116th Congress." Brief summaries of alternative bills introduced in the 116th Congress before the CARES Act became law are below. These bills would have authorized new UI benefits or modified existing UI benefits in response to unemployment due to COVID-19.

[110] For additional background on drug testing UC applicants, including selected policy considerations and potential legal concerns, see CRS Report R45889, *Unemployment Compensation (UC): Issues Related to Drug Testing*.

H.R. 6199

On March 11, 2020, Representative Steven Horsford introduced H.R. 6199, which includes the same UI provisions as Division D, the Emergency Unemployment Insurance Stability and Access Act of 2020, of H.R. 6201/P.L. 116-127, the Families First Coronavirus Response Act.

H.R. 6207/S. 3476

On March 11, 2020, Representative Derek Kilmer, introduced H.R. 6207, the Coronavirus Worker Relief Act. This proposal would have authorized the availability of DUA benefits under a Stafford Act emergency declaration or disaster declaration for COVID-19.[111] On March 12, Senator Gary Peters introduced S. 3476, the Senate companion bill.

H.R. 6271

Representative Shelia Jackson Lee introduced H.R. 6271, the Unemployment Assistance for Individuals Impacted by Quarantine Order for a National or State Public Health Emergency Act of 2020, on March 13, 2020. The proposal would have authorized the availability of DUA benefits under a public health emergency declaration.

H.R. 6379

On March 23, 2020, Representative Nita Lowey introduced H.R. 6379, the Take Responsibility for Workers and Families Act. Among other provisions, this bill included a number of UI proposals that would have expanded and extended UI benefits and provided temporary federal funding of certain UI benefits.

Many of the UI provisions in this bill are similar to what was enacted under the CARES Act—for example, the additional $600 per week benefit augmentation (the proposal would authorize the $600 weekly benefit through December 2020, and STC beneficiaries would receive $300 per week rather $600); temporary federal financing for Short-Time Compensation programs; financial relief for reimbursing employers; and temporary provisions related to Railroad Unemployment Insurance benefits. H.R. 6379 would have deemed that all states be in an active EB period. H.R. 6379, would have created a Pandemic Self-Employment and Job Entrant Compensation program, which would have provided benefits to self-employed workers, individuals who had contracts for work that were cancelled due to the virus, and a separate new-entrant benefit for individuals such as recent college graduates who otherwise would not qualify for UI benefits.

H.R. 6409

Representative Ilhan Omar introduced H.R. 6409, the Assistance for Businesses and Local Economies Act (ABLE Act of 2020), on March 27, 2020. Among other provisions, the ABLE Act of 2020 would have authorized a federally funded Emergency COVID-19 Unemployment Compensation payment for workers who are unemployed or idle as a result of the public health emergency declared because of COVID-19. This bill would have defined an idle worker as a "worker facing substantial economic uncertainty and hardship due the COVID-19 and its social distancing," including (but not limited to) food industry and hospitality workers; domestic and tipped workers; gig economy, freelance, and other self-employed workers; and independent

[111] For background on emergency declarations under the Stafford Act, see CRS Report R43784, *FEMA's Disaster Declaration Process: A Primer*.

contractors. The Emergency COVID-19 Unemployment Compensation payment, which would augment state UI benefits, would be capped at $5,000 per month for idle workers of small businesses; $4,000 per month for idle tipped workers, certain domestic workers, and independent contractors; and $3,000 per month for all other affected and eligible self-employed individuals (e.g., gig economy workers and freelancers). This bill would also have provided 50% of the amount of Emergency COVID-19 Unemployment Compensation payments for STC benefits in states that have approved STCs programs. The Emergency COVID-19 Unemployment Compensation payments under this proposal would have been authorized for weeks of unemployment beginning on or after March 1, 2020, and ending on or before January 1, 2021.

S. 3482

On March 12, 2020, Senator Cory Booker introduced S. 3482, the Emergency U.I. Solutions Act of 2020, a bill that would have removed and federally financed any waiting week (i.e., unpaid first week of unemployment) under regular UC programs during a Stafford Act emergency declaration. This proposal would also have added a new federal requirement for state UC programs to eliminate any waiting week in this circumstance.

S. 3497

On March 12, 2020, Senator Gary Peters introduced S. 3497, the Pandemic Unemployment Assistance Act, a bill which would have created a temporary 26-week benefit for unemployed persons whose unemployment is attributable to COVID-19 and are ineligible for regular UC.

S. 3523

On March 18, 2020, Senator Tom Cotton introduced S. 3523, the Coronavirus Unemployment Insurance Act. S. 3523 would have provided 100% federal funding for state UC benefit payments (and related administrative expenses) for unemployment due to an employer temporarily suspending operations due to COVID-19; an individual unable to work and not receiving pay due to a COVID-19-related quarantine but expected to return to work; and for an individual not receiving pay due to caregiving related to COVID-19. S. 3523 also contains a provision that would waive any federal UI requirements related to certain aspects of state UC programs, which was enacted under Section 4102(b) of FFCRA (P.L. 116-127).

S. 3534/H.R. 6687

Senator Kamala Harris introduced S. 3534, the Pandemic Disaster Assistance Act of 2020, on March 19, 2020. Among other provisions, S. 3534 would have made DUA benefits under the Stafford Act available in response to an emergency due to a pandemic. Under this bill, DUA benefits would have been calculated as at least 1.5 times the national weekly average UI benefit. This bill would also have provided DUA benefits regardless of whether an individual is eligible for any other type of UI benefit. On May 1, 2020, Representative Alexandria Ocasio-Cortez introduced H.R. 6687, the House companion bill.

Amendments, Contractions, or Extensions to the CARES Act and FFCRA

P.L. 116-151 amended Section 2103 of the CARES Act and is discussed in the “Enacted Laws in the 116th Congress” section. Since the passage of the CARES Act and FFCRA, Congress has been active in proposing changes to the two acts. This includes amending, contracting, or

expanding the new temporary benefits, programs, time limitations, and authorities created under those two acts. Additionally, P.L. 116-260 made many changes to both the CARES Act and FFCRA, which are discussed in the section "P.L. 116-260, the Consolidated Appropriations Act, 2021 (Division N, Title II, Subtitle A, the Continued Assistance for Unemployed Workers Act of 2020)."

H.R. 6800, Heroes Act

On May 12, 2020, Representative Nita Lowey introduced H.R. 6800, Health and Economic Recovery Omnibus Emergency Solutions (Heroes) Act.[112] The bill would, among other provisions, have amended and extended most of the provisions of the UI provisions in the CARES Act, as well as the EB financing provisions of FFCRA. The bill would also have appropriated additional funds for UI program administration.[113] On May 15, 2020, the House of Representatives passed the bill on a vote of 208 to 199.

Sections 50001-50004 would have extended the authorization of the temporary UI programs created in the CARES act, including the additional $600/week FPUC payment, the PUA program, and the PEUC program for weeks of unemployment ending on or before January 31, 2021 (hereinafter, through January 2021).[114] The bill would also have provided a phaseout period, meaning that individuals already receiving these UI benefits at the time of expiration (i.e., end of January 2021) would continue to receive these UI benefits through March 2021. No FPUC, PUA, or PEUC would be paid for any week of unemployment beginning after March 31, 2021. Additionally, the bill would have required the disregard of FPUC income for purposes of all federal and federally-assisted programs.

Section 50004 would have extended through January 2021 the 100% federal financing for UC benefits provided during the first week of unemployment in state UC programs with no one-week waiting period. Section 50005 would have extended through January 2021 the 50% federal funding of regular UC benefits based on service with reimbursing employers that are state and local governments, federally recognized Indian tribes, and nonprofit organizations that have opted to reimburse states for UC benefits paid to their former employees, instead of paying UI taxes.

Section 50006 would have allowed states flexibility in establishing income for PUA to include any applicable data with respect to an individual's electronically mediated employment. This would have allowed individuals to provide items such as ride sharing applications data for determining income.

Section 50007 would have extended the FFCRA temporary waiver of interest payments and the accrual of interest on federal advances (loans) to states to pay UC benefits through June 30, 2021, but it would not reduce any underlying loan principal.

Section 50008 would have extended the FFCRA provisions that temporarily make EB 100% federally financed (with the exception of "non-sharable" compensation [e.g., state and local workers]) from enactment until the end of June 30, 2021.

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[112] At its introduction in the House of Representatives, the bill was titled the Health and Economic Recovery Omnibus Emergency Solutions Act, or the HEROES Act. The engrossed version in the House was titled the HEROES Act. As introduced in the Senate, the title was the Heroes Act.

[113] See Division A, Title VI.

[114] The Heroes Act would also have provided comparable extensions for temporary RRUI benefits created under the CARES Act.

Sections 50009 and 50010 would have extended the 100% federal financing of STC (work sharing) in states with existing programs and 50% federal financing for states that set up STC through January 2021. Additionally, Section 50011 would have created a retroactive grace period for any state that converts from a temporary STC program into a permanent law program.

Title VI would have provided additional funding to DOL, including $15 million for federal UI administration.[115] Section 10601 would also have provided supplemental funding of $28.6 million for UI administration, with a contingency trigger to provide an additional $28.6 million for each 100,000 UI claims over the 1,758,000 average weekly insured unemployment (AWIU) baseline.[116] The Congressional Budget Office (CBO) estimates that Section 10601 would provide $925 million in additional budget authority in FY2021.[117]

H.R. 925, Heroes Act (Revised)/H.R. 8406/S. 4771

The revised Heroes Act was introduced by Representative Nita Lowey on September 29, 2020, as H.R. 8406. The bill would have, among other provisions, amended and extended most of the provisions of the UI provisions in the CARES Act, as well as the EB financing provisions of FFCRA. The bill would also have appropriated additional funds for UI program administration.

Division A, Title VIII, of the revised Heroes Act would have provided additional funding to DOL, including $15 million for federal UI administration.[118] It would also have provided supplemental funding of $28.6 million for UI administration, with a contingency trigger to provide an additional $28.6 million for each 100,000 UI claims over the 1,758,000 average weekly insured unemployment (AWIU) baseline.[119]

Division I of the revised Heroes Act included UI provisions that would have extended and expanded many of the temporary UI provisions within the CARES Act and FFCRA. (S. 4771 included the same UI provisions as found in Division I of the revised Heroes Act.) On October 1, 2020, the revised Heroes Act was passed by the House as the House Amendment to the Senate Amendment to H.R. 925. Below is a summary of the significant provisions of Division I in the revised Heroes Act.

Division I, Title I, of the revised Heroes Act would have amended the authorization of the $600 weekly FPUC benefit to include the weeks of unemployment beginning after September 5, 2020, through the week ending on or before January 31, 2021. The amendment would include a phaseout, allowing individuals who had not exhausted their regular UC entitlement to receive FPUC for any week of unemployment as long as the individual is eligible for regular UC, but ending the week beginning on or after March 31, 2021. Additionally, all FPUC payments would be disregarded as income for the month of receipt and for nine months after receipt for the purposes of determining eligibility for benefits or assistance under any federal program (or under

[115] This title would also provide $5 million to for the administration of RRUI benefits, including $500,000 for the Office of the Inspector General.

[116] For an overview of UI administrative funding, see CRS In Focus IF10838, *Funding the State Administration of Unemployment Compensation (UC) Benefits*.

[117] CBO estimates are based on estimates of average weekly insured unemployment derived from CBO's interim projection for the unemployment rate. See Table 2 in Congressional Budget Office, *CBO Estimate for H.R. 6800, the Heroes Act, as Passed by the House of Representatives on May 15, 2020*, June 1, 2020, https://www.cbo.gov/publication/56383.

[118] This title would also have provided $5 million for the administration of RRUI benefits, including $500,000 for the Office of the Inspector General.

[119] For an overview of UI administrative funding, see CRS In Focus IF10838, *Funding the State Administration of Unemployment Compensation (UC) Benefits*.

any state or local program financed in whole or part with federal funds). This income disregard would be retroactive to the CARES Act enactment.

Additionally, Division I, Title I, of the revised Heroes Act would have extended the authorization of PUA and PEUC through the week ending on or before January 31, 2021. It would have provided states with the authority to waive PUA overpayments in situations of no-fault hardship. Title I would have (1) extended the temporary federal financing of STC programs; (2) extended the 100% federal financing of the first week of regular UC in states with no waiting week through January 31, 2021; and (3) explicitly allowed employers who rehire staff after layoffs caused by the pandemic to be eligible to participate in STC.

Division I, Title II, of the revised Heroes Act would have created a new 13-week Pandemic Emergency Unemployment Extension Compensation (PEUEC) benefit for individuals who have exhausted all entitlement to all of the following UI benefits: regular UC, PEUC, EB, and PUA.[120] The PEUEC benefit amount would have been equal to the UC benefit amount plus the amount of FPUC. PEUEC would have been authorized through weeks of unemployment ending on or before January 31, 2021.

Division I, Title IV, of the revised Heroes Act would have extended 100% federal financing of EB through June 30, 2021. Section 402 would have extended interest-free federal loans to insolvent states to pay for UC benefits through June 30, 2021. Section 403 would have extended the authorization of the 50% federal funding of regular state UI benefits for reimbursing employers through June 30, 2021.

Division I, Title V, of the revised Heroes Act would have required states to report weekly on UC, EB, PUA, and PEUC claim backlogs and to submit corrective action plans to the DOL. Additionally, it would have required DOL to report backlogs to the House Committee on Ways and Means and the Senate Committee on Finance.

Division I, Title VI, of the revised Heroes Act would have supplemented FPUC with a federally financed Mixed Earner Unemployment Compensation (MEUC) payment of $125 for individuals who received at least $5,000 in self-employment income for the most recent taxable year ending prior to the individual's application for regular UC. States would have to opt to participate in MEUC.

Division Q, Title III, of the revised Heroes Act would have amended the RRUI provisions of the Cares Act and FFCRA to allow RRUI benefits to be on par with the changes in the UI provisions described in Division I, Title I of the revised Heroes Act. In addition, Division Q, Title III, Section 303 of the revised Heroes Act would have exempted all benefits paid by the Railroad Retirement Board, including RRUI benefits, from the mandatory sequester under the BCA.[121]

H.R. 6582

Representative Jahana Hayes introduced H.R. 6582, the Food for Working Families Act of 2020, on April 21, 2020. H.R. 6582 would have disregarded FPUC payments for the purposes of the Supplement Nutrition Assistance Programs (SNAP).[122]

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[120] As drafted, it appears individuals who were only entitled to PUA and had no initial underlying UC entitlement would not be eligible for PEUEC.

[121] For information on sequestration and railroad unemployment and sickness benefits, see CRS In Focus IF10481, *Railroad Retirement Board: Retirement, Survivor, Disability, Unemployment, and Sickness Benefits*.

[122] For background on SNAP, see CRS Report R42505, *Supplemental Nutrition Assistance Program (SNAP): A Primer on Eligibility and Benefits*.

H.R. 6680/S. 3619

On May 1, 2020, Representative Daniel Kildee introduced H.R. 6680, the Strengthening Unemployment Insurance for Coronavirus Impacted Workers and Students Act. On May 6, 2020, Senator Jack Reed introduced the Senate companion bill to H.R. 6680: S. 3619 (also named the Strengthening Unemployment Insurance for Coronavirus Impacted Workers and Students Act).

H.R. 6680 and S. 3619 would have amended the authorization for the FPUC payment to (1) make FPUC payments retroactive to weeks of unemployment beginning on or after March 13, 2020, and (2) extend the authorization for FPUC payments through weeks of unemployment beginning on or after January 1, 2021, with a phaseout period through June 2021 (individuals already receiving FPUC at the time of expiration [i.e., beginning of January 2021] would continue to receive this benefit with no FPUC payable for any beginning after June 30, 2021). These bills would also codify the current DOL interpretation that individuals receiving STC benefits are eligible for the $600 weekly FPUC payment. Additionally, H.R. 6680 and S. 3619 would have required the disregard of FPUC and for purposes of all federal and federally assisted programs.

H.R. 6680 and S. 3619 would have created a new, federally financed $300 weekly benefit for individuals, such as students and recent graduates, who do not have a recent attachment to the labor force.

H.R. 6680 and S. 3619 would have extended the FFCRA provisions that temporarily make EB 100% federally financed (with the exception of "non-sharable" compensation [e.g., state and local workers]) from enactment until the end of June 30, 2021.

H.R. 6695

Representative Nydia Velázquez introduced H.R. 6695, the Excluding Pandemic Unemployment Compensation from Income Act, on May 1, 2020. H.R. 6695 would have excluded FPUC benefit amounts from gross income calculations for federal income tax purposes and for purposes of all federal and federally-assisted programs.

H.R. 6805

On May 12, 2020, Representative Ted Budd introduced H.R. 6805, the Getting Americans Back to Work Act. H.R. 6805 would have capped the total amount of UI benefits individuals may receive under the CARES Act (i.e., UI, FPUC, PUA), not to exceed the individual's average weekly wages prior to UI benefit receipt, as determined by the Secretary of Labor.

H.R. 7013

On March 26, 2020, Representative Dan Crenshaw introduced H.R. 7013, the Jump-Start the American Economy Act. This bill would have authorized reemployment support benefits of $600 weekly for anyone previously eligible for FPUC and is no longer eligible because of reemployment. These reemployment support payments would have been available for up to six weeks or the expiration of FPUC (currently ending on or before July 31, 2020 [June 25, 2020, in most states; June 26, 2020, in New York]), whichever is earlier.

H.R. 7066

Representative Kevin Brady, introduced H.R. 7066, the Reopening America by Supporting Workers and Businesses Act of 2020, on June 1, 2020. This proposal would have authorized up to two weeks of FPUC payments ($1,200, allowable as one lump-sum payment) for individuals

reemployed in the week after being previously eligible for FPUC. These return-to-work payments would have been payable from enactment through the week ending on or before July 31, 2020 (June 25, 2020 in most states; June 26, 2020, in New York). This bill would also have required states to (1) set up procedures for employer reporting of UI claimants who refuse offers of suitable work (e.g., returning to previous job) and (2) provide notice to UI claimants of state laws regarding refusal of suitable work and information on denial of UI claims related to refusal of suitable work. In addition, this proposal would have made technical corrections to the funding relief for government entities and nonprofits authorized under Section 2103 of the CARES Act (P.L. 116-136).[123]

H.R. 7371/S. 4083

On June 25, 2020, Representative Mark Pocan introduced H.R. 7371, the Rebuilding Main Street Act, and Senator Chris Van Hollen introduced a companion bill to H.R. 7371, S. 4083 (also named the Rebuilding Main Street Act). H.R. 7371/S. 4083 would have extended the authorization of FPUC payments through the week ending on or before December 31, 2020 (December 26, 2020, in most states). Among additional, non-UI-program provisions, H.R. 7371/S. 4083 would also have made several changes to the temporary federal financing of Short-Time Compensation, as enacted under the CARES Act. Additionally, it would have expanded the availability of STC benefits in both the permanent and temporary STC programs to include seasonal workers, workers returning from layoffs to partial employment, and workers who experience reductions in work between 20% and 80% of typical hours.

H.R. 7691/S. 4442

Representative Adam Schiff introduced H.R. 7691, the Mixed Earner Pandemic Unemployment Assistance Act, on July 20, 2020. H.R. 7691 would have amended PUA eligibility to allow individuals who are eligible for regular state UI benefits, but are unemployed, partially unemployed, or unable to work due to COVID-19, and who earned at least $7,250 from self-employment in the most recent tax year to elect to be covered by PUA (rather than regular state UI benefits). On August 8, 2020, Senator Mark Warner introduced a companion bill, S. 4442.

H.R. 7762

On July 23, 2020, Representative Xochitl Torres Small introduced H.R. 7762, the Back on Your Feet Act. H.R. 7762 would have extended FPUC authorization through the week ending on or before January 31, 2021 (January 31, 2021, in most states). H.R. 7762 would also have created a phaseout for FPUC so that individuals eligible for a FPUC payment based on regular, state UI benefits at the time of expiration would continue to receive FPUC until they have exhausted their regular, state UI benefits (although no FPUC payments would be payable after the week ending on or before July 31, 2021). Additionally, H.R. 7762 would have excluded FPUC benefit amounts from gross income calculations for federal income tax purposes and for purposes of all federal and federally assisted programs.

H.R. 7762 would also have extended the authorization for both PUA and PEUC through the week ending on or before January 31, 2021. This bill would have created phaseouts for both PUA and PEUC so that individuals receiving PUA and PEUC benefits at the time of expiration would continue to receive these benefits until they have exhausted the maximum duration (no PUA

[123] After the introduction of H.R. 7066, S. 4209, which contains similar provisions (and additional provisions) amending Section 2103 of the CARES Act, was passed by the House and Senate.

benefits would be payable after the week ending on or before October 31, 2021; and no PEUC benefits would be payable after the week ending on or before April 30, 2021). H.R. 7762 would also have authorized state waivers of PUA benefit overpayment recovery in cases of hardship.

H.R. 7762 would have authorized a one-time payment of $3,600 to individuals who were eligible for FPUC for any week after enactment, but are no longer eligible for FPUC due to earnings after returning to work (and no FPUC would be subsequently payable to an individual receiving this $3,600 payment for at least six weeks after reemployment).

H.R. 7762 would have provided up to a total of $2 billion in additional emergency administrative grants to states in FY2020 if states certify that they have policies that ensure safe returns to work (i.e., good causes quits and refusal of suitable work for workplaces with unreasonable health and safety risks) and waivers of benefit overpayment recovery in cases of hardship. States would only be able to use funds from these emergency administrative grants for the purposes of program administration, including information technology upgrades and improvements in benefit application and processing. H.R. 7762 would also have provided up to $3 million in grants to territories for the purposes of administering PUA and FPUC.

H.R. 7762 would have required, as a condition of state agreements to pay FPUC, that states report weekly information on processing backlogs related to UI claims, including state UI benefits, EB, and UI benefits authorized by the CARES Act, among other requirements.

H.R. 7821/S. 4361

On July 29, 2020, Representative Don Beyer introduced H.R. 7821 and Senator Jack Reed introduced S. 4361. H.R. 7821/S. 4361, the Worker Relief and Security Act, would have extended and expand the temporary UI benefits created under the CARES Act. Specifically, H.R. 7821/S. 4361 would have extended FPUC authorization at $600 per week until 30 days after the termination of a presidential emergency declaration related to COVID-19; after that point FPUC would be authorized at $450 per week for the next 13 weeks, and beyond that FPUC would be authorized at either $300 or $200 per week, depending on the state unemployment rate (until state or national unemployment is less than 5.5%).

In addition, H.R. 7821/S. 4361 would have expanded PUA and PEUC to provide additional tiers of benefits after January 31, 2021, depending on state unemployment rates. The bill would also have expanded eligibility for PUA in several ways, including creating additional conditions that qualify as COVID-19-related unemployment (e.g., “the individual is otherwise unable to obtain employment as a result of the COVID-19 national emergency”) and an expansion of PUA for individuals without a recent labor market attachment.

H.R. 7821/S. 4361 would have provided up to a total of $5 billion in additional emergency administrative grants to states in FY2020. States would only be able to use funds from these emergency administrative grants for the purposes of program administration.

H.R. 7846

Representative Katie Porter introduced H.R. 7846, the Support Working Families Act of 2020, on July 29, 2020. H.R. 7846 would have amended the eligibility requirement for PUA to include additional COVID-19-related circumstances in which an individual is unemployed, partially unemployed, or unable to work due to primary caregiving responsibilities.

H.R. 8812/S. 5037

On November 24, 2020, Representative Jaime Herrera Beutler introduced H.R. 8812, the Relief for Working Families Act of 2020. On December 16, 2020, Senator Tammy Duckworth introduced an identical bill, S. 5037. These bills would have provided authority for states to waive recovery of PUA overpayments in cases of non-fault and hardship (retroactive for any PUA overpayment). A similar provision was enacted in the Continued Assistance Act.

S. 3696

Senator Cardin introduced S. 3696, the Health Insurance Relief for Unemployed Individuals and Families, on May 12, 2020. S. 3696 would have excluded FPUC benefit amounts in determining eligibility for and the amount of the tax credit for health care premium assistance and for means tested federal benefit programs.

S. 3771/H.R. 7959

On May 20, 2020, Senator Joni Ernst introduced S. 3771, the Returning Inappropriate Cash Handouts (RICH) Act. On August 7, 2020, Representative John Curtis introduced an identical bill, H.R. 7959. These bills would have prohibited the payment of any PUA or FPUC benefits to individuals with an adjusted gross income of $1 million or greater, effective after enactment.

S. 3857

Senator Kelly Loeffler introduced S. 3857, on June 1, 2020. For weeks of unemployment beginning on or after June 1, 2020, this proposal would have limited the total UI weekly benefit payment, including amounts paid from regular state UI benefits, PUA, PEUC and FPUC, to the amount of the prior average weekly wages on which the UI benefits are based. This benefit payment cap would also have applied to the combination of STC benefits and wages paid by an employer for individuals receiving STC.

S. 4143

On July 1, 2020, Senator Chuck Schumer introduced S. 4143, the American Workforce Rescue Act of 2020. S. 4143 would have extended the authority for FPUC payments and made the FPUC payment amount variable based on state unemployment rates. The FPUC payment would have six tiers and range from $100 to $600 weekly based upon the three-month average state unemployment rates (ranging from 6% to 11%).[124] Similarly, this proposal would have extended the authority for PEUC and made PEUC duration variable based upon state unemployment rates. PEUC would have four tiers available depending on three-month average state unemployment rates (ranging from 13 to 52 weeks total). This proposal would also have extended the authority for PUA and duration of PUA benefits in the same manner as PEUC.[125] In addition, S. 4143 would have extended the authority for additional temporary UI measures authorized under

[124] The FPUC authorization would have been extended until the three-month average unemployment rate in a state is below 6.0%.

[125] Both PEUC and PUA authorizations would have been extended until the three-month average unemployment rate in a state is below 5.5%.

FFCRA (P.L. 116-127 and the CARES Act (P.L. 116-136) until the three-month average state unemployment rate is below 5.5%.[126]

S. 4275

On July 22, 2020, Senator John Thune introduced S. 4275, the Pandemic Unemployment Assistance Integrity Act. S. 4275 would have required PUA beneficiaries to provide documentation substantiating employment or self-employment, or the planned commencement of employment or self-employment, within 30 days. Individuals who were receiving PUA prior to the enactment of the bill would need to provide the documentation within 90 days.

S. 4318 (UI Provisions of the HEALS Act)

On July 27, 2020, Senator Chuck Grassley introduced S. 4318, the American Workers, Families, and Employers Assistance Act. This bill is one component of a multi-bill plan that has been referred to as the Health, Economic Assistance, Liability Protection, and Schools (HEALS) Act.[127] S. 4318 would have extended the authorization of FPUC through December 26, 2020 (December 27, 2020, for New York state). Additionally, this bill would have altered the amount of the weekly FPUC benefit. Beginning July 26, 2020 (July 27, 2020, for New York state), the weekly FPUC benefit would drop to $200. Beginning October 4, 2020 (October 5, 2020, for New York), the FPUC payment would be altered again to provide up to 70% of lost earnings less the weekly unemployment benefit amount. States would have the option of choosing that the 70% payment be calculated for each individual or by using the state's average payments. In lieu of the 70% calculation, states would have an alternative option to continue to pay a $200 FPUC benefit until November 28, 2020 (November 29, 2020, for New York state).

S. 4378

On July 30, 2020, Senator Mitt Romney introduced S. 4378, the Federal Pandemic Unemployment Compensation Extension Act of 2020. S. 4378 would have extended the authorization of the FPUC benefit through October 31, 2020 (November 1, 2020, for New York state). Additionally, the bill would have altered the amount of the weekly FPUC benefit. Beginning July 26, 2020 (July 27, 2020, for New York state), the FPUC benefit would drop to $500 a week, or states could opt to provide up to 80% of lost earnings less the weekly unemployment benefit amount (capped at $500 weekly). Beginning August 29, 2020 (August 30, 2020, for New York state), the FPUC payment would be decreased to $400 a week, or states could opt to provide up to 80% of lost earnings less the weekly unemployment benefit amount (capped at $500 weekly). Beginning September 26, 2020 (September 27, 2020, for New York state) the FPUC payment would be decreased to $300 weekly or states could opt to provide up to

[126] These extensions of temporary UI measures included the 100% federal financing of EB (with the exception of "non-sharable" compensation—e.g., state and local workers); the temporary waiver of interest payments and the accrual of interest on federal advances (loans) to states to pay UC benefits (would not reduce any underlying loan principal); the 50% federal funding of regular UC benefits based on service with reimbursing employers (i.e., state and local governments, federally recognized Indian tribes, and nonprofit organizations that have opted not to pay UI taxes, but instead reimburse states for UC benefits paid to their former employees); the 100% federal financing through the end of December 2020 for UC benefits provided during the first week of unemployment in state UC programs with no one-week waiting period; the 100% federal financing of STC in states with existing programs and 50% federal financing for states that set up STC; and the waiver of the seven-day waiting period for RRUI benefits.

[127] Majority Leader Mitch McConnell, "McConnell Outlines Historic Relief Proposal for 'An Important Crossroads in this Battle," press release, July 27, 2020, at https://www.mcconnell.senate.gov/public/index.cfm/2020/7/mcconnell-outlines-historic-relief-proposal-for-an-important-crossroads-in-this-battle.

80% of lost earnings less the weekly unemployment benefit amount (capped at $500 weekly). Also, the bill would have required any FPUC benefits paid for weeks of unemployment beginning on or after October 4, 2020 (October 5, 2020, for New York state), to be considered as income for the purposes of Medicaid and CHIP.

S. 4378 would have increased the temporary cost sharing provisions for reimbursing employers in the CARES Act from 50% in federal funding of regular state UI benefits attributable to reimbursing employers to 75% federal funding (decreasing the share for reimbursable employers from 50% to 25%).

S. 4378 would have instituted several program integrity measures, including requiring PUA beneficiaries to provide documentation of their income within 30 days.

S. 4437/H.R. 7957

On August 4, 2020, Senator Tina Smith introduced S. 4437, the High School Student Unemployment Eligibility Clarification Act of 2020. On August 7, 2020, Representative Angie Craig introduced H.R. 7957, a companion bill of the same name. S. 4437/ H.R. 7957 would have amended PUA eligibility to include individuals who otherwise meet the program's eligibility requirements, but are students attending (or doing distance learning at) a high school. The change would have been effective retroactively to the date of enactment of the CARES Act (March 27, 2020).

S.Amdt. 2652 to S. 178/S. 4775

On September 8, 2020, Senator Mitch McConnell offered S.Amdt. 2652, the Delivering Immediate Relief to America's Families, Schools and Small Businesses Act, as a complete substitute to S. 178. The proposal would have extended the authorization of the FPUC benefit for weeks of unemployment through December 26, 2020 (December 27, 2020, for New York state), with the amount of FPUC decreased to $300 weekly. Additionally, S.Amdt. 2652 would codify that STC beneficiaries would be eligible for FPUC.[128]

On September 30, 2020, Senator Mitch McConnell subsequently introduced the Delivering Immediate Relief to America's Families, Schools and Small Businesses Act as S. 4775, including the same UI provisions as in S.Amdt. 2652.

S. 4771

Senator Ron Wyden introduced S. 4771, the Continued Assistance to Unemployed Workers Act of 2020, on September 30, 2020. S. 4771 contained similar UI provisions to those found in Division I of the revised Heroes Act (H.R. 8406/House Amendment to the Senate Amendment to H.R. 925). In addition, it would have amended the eligibility requirement for PUA to include additional COVID-19-related circumstances in which an individual is unemployed, partially unemployed, or unable to work due to primary caregiving responsibilities in a manner similar to H.R. 7846.

[128] When previously authorized, FPUC was available to STC beneficiaries, as set out under DOL guidance. See DOL, ETA, "Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020–Federal Pandemic Unemployment Compensation (FPUC) Program Operating, Financial, and Reporting Instructions," UIPL No. 15-20, April 5, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9297.

S. 4935

Senator Ron Wyden introduced S. 4935, the American Worker Holiday Relief Act of 2020, on December 1, 2020. S. 4935 would have retroactively extended the $600 FPUC through September 2021 (with a phaseout period for individuals receiving FPUC at the time of this expiration, ending at the end of December 2021). Under this proposal, the additional weeks of PEUC and PUA would not expire so long as the three-month average national unemployment rate was at or above 5.5 percent and would remain available in higher unemployment states for so long as the state unemployment rate remained at or above 5.5 percent. The bill would have added 26 weeks of PEUC (for a total of 39) and 26 weeks for PUA (for a total of 65). An additional 13 weeks of PEUC would have been added for each percentage point a state's unemployment rate was above 5.5 percent up to a maximum of 78 weeks when a state's unemployment rate at or above 8.5 percent. The bill would have extended most UI provisions in the FFCRA and CARES Acts through September 2021 or until 13 weeks after a state triggered off of all additional weeks of PEUC.

S. 4935 would have clarified PUA eligibility for workers who need to care for children whose schools are not fully open for in-person learning or whose employers are not following COVID-19 health and safety rules. The bill would also have allowed mixed-earning individuals who have qualified for regular state UI but have at least $7,250 in self-employment income to opt to receive PUA rather than UI. States would be required to offer federal income tax withholding to individuals receiving FPUC, PEUC, and PUA. Additionally, S. 4935 would have provided authority for states to waive recovery of PUA overpayments in cases of non-fault and hardship (retroactive for any PUA overpayment).

UI Modernization and Program Integrity Proposals

S. 4275/H.R. 8284

On July 22, 2020, Senator John Thune introduced S. 4275, the Pandemic Unemployment Assistance Integrity Act. Representative Gary Palmer introduced an identical bill, H.R. 8284, on September 17, 2020. These bills would have required PUA applicants to provide documentation substantiating employment or self-employment not later than 21 days after the individual applies for PUA. Current PUA beneficiaries would have up to 90 days to provide the documentation.

S. 4244

On July 21, 2020, Senator Todd Young introduced S. 4244, the Unemployment Insurance Systems Modernization Act of 2020. Among its UI program integrity measures, S. 4244 would have required states to improve the flexibility of their information and technology systems and to be able to handle large surges of claims.[129] Additionally, states would have to automate both STC claims as well as DUA claims.

S. 4252

On July 21, 2020, Senator Ron Wyden introduced S. 4252, the Worker First Act of 2020. S. 4252 would have authorized up to a total of $10 billion to be distributed among states that take steps to ensure worker safety, as well as expand and modernize their unemployment insurance systems.

[129] This bill included UI program integrity measures as proposed in the President's budget proposal for FY2021 and previous President's budget proposals.

The worker safety allotment would require states to enforce or create laws, policies, or regulations that require that "suitable work" must be in compliance with all applicable health and safety guidelines and standards related to the prevention of occupational exposure to COVID–19. Additionally, states would not disqualify individuals if they quit work because the workplace is not in compliance with these health and safety standards.

The modernization allotment would require states to not disqualify individuals from UC for separating from employment if that separation is for any compelling family reason, including domestic violence, sexual assault, stalking, and harassment; illness or disability of an immediate family member; or the need to accompany their spouse due to a change in location of the spouse's employment. States would also be required to (1) not deny individuals solely because they are seeking only part-time work, (2) define "suitable work" to include health and safety considerations that ensure that a position shall not be deemed suitable for an individual if the circumstances present any unusual risk to the health or safety of the individual, and (3) use a base period that includes the most recently completed calendar quarter before the start of the benefit year to determine eligibility for unemployment compensation (sometimes called an "alternative base period").

The expansion allotment would require that the state have permanent STC programs and that at least 26 weeks of regular UC benefits are available to individuals who qualify for benefits.

S. 4283

On July 22, 2020, Senator Ron Wyden introduced S. 4283, the Unemployment Insurance Technology and Accessibility Act of 2020. S. 4283 would have created a special transfer of up to a total of $500 million to be distributed to the states to improve information technology. To receive the funding, states would be required to allow applications for UC, and assistance with the application process, to be accessible in at least two of the following formats: in-person, by phone, or online. Additionally, any online claim-filing system used by a state would be required to (1) ensure that the process of filing initial and continuing claims for UC can be readily understood and accomplished by the vast majority of claimants, including individuals with limited English proficiency, individuals with disabilities, older individuals, and individuals with literacy challenges; (2) be available in any language spoken by more than 1% of the state's population, and translations must be completed by human translators rather than translation software; (3) be accessible and optimized for both desktop computers and mobile devices; (4) allow for electronic submission of documentation required to support a claim; (5) be available 24 hours a day, 7 days a week; and (6) have an automated password reset function that can be completed online.

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