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Comparing the Congressional Response to the Great Recession and the COVID-19-Related Recession: Unemployment Insurance (UI) Provisions

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SUMMARY

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Comparing the Congressional Response to the Great Recession and the COVID-19-Related Recession: Unemployment Insurance (UI) Provisions

In response to recent economic recessions, Congress has enacted temporary measures related to Unemployment Insurance (UI) programs and benefits. These temporary federal provisions have included augmented and extended federal UI benefits, additional funding for state UI administration, and federal financing for certain aspects of UI benefits, among other measures.

This report provides a comparative analysis of the temporary UI measures enacted in response to the Great Recession (December 2007-June 2009) and the temporary UI measures enacted in response to the COVID-19-related recession (February 2020-present), as of this report date. Between July 2008 and December 2012, 12 laws created, amended, or extended temporary federal UI provisions in response to the Great Recession. As of this report date, Congress has enacted two laws that created, amended, or extended temporary federal UI measures in response to the current recession (an additional bill has been passed by the House and the Senate; it currently awaits the President's signature). Understanding the temporary UI provisions that were enacted in response to the Great Recession—as well as how these provisions were structured and how long these provisions were authorized—may be of interest to policymakers considering further temporary UI interventions or alterations to existing temporary provisions in response to the current recession.

For information on the history of temporary federal extensions to unemployment benefits from 1980 through 2014, see CRS Report RL34340, *Extending Unemployment Compensation Benefits During Recessions*. For information on congressional responses to the current recession, as of this report date, see CRS Report R45478, *Unemployment Insurance: Legislative Issues in the 116th Congress*.

For a brief overview of the federal-state UI system, including benefits and financing, see CRS In Focus IF10336, *The Fundamentals of Unemployment Compensation*. For a brief overview of UI administrative funding, see CRS In Focus IF10838, *Funding the State Administration of Unemployment Compensation (UC) Benefits*.

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Background

The Unemployment Compensation (UC) program's two primary objectives are to provide temporary and partial wage replacement to involuntarily unemployed workers and to stabilize the economy during recessions.[1] These objectives are reflected in the permanent federal and state laws that construct the UC program's funding and benefit structure. When the economy grows, UC program revenue rises through increased tax revenues while UC program spending falls as fewer workers are unemployed and receive benefits. The effect of collecting more taxes while decreasing spending on benefits dampens demand in the economy. This also creates a surplus of funds or a "cushion" of available funds for the UC program to draw upon during a recession. In a recession, UC tax revenue falls, and UC program spending rises as more workers lose their jobs and receive UC benefits. The increased amount of UC payments to unemployed workers mitigates the economic effect of lost earnings by injecting additional funds into the economy.

In response to economic recessions, the federal government has often extended the regular UC benefit with both permanent (the Extended Benefit [EB] program) and temporary extensions (including the Emergency Unemployment Compensation of 2008 [EUC08] program and the current Pandemic Emergency Unemployment Compensation [PEUC]). In total, Congress has acted nine times—in 1958, 1961, 1971, 1974, 1982, 1991, 2002, 2008, and 2020—to establish temporary provisions to provide extended benefits, augmented unemployment benefits, or both.[2] Some extensions took into account state economic conditions.

In the two most recent recessions (2007-2009 and 2020), Congress supplemented UC benefits with additional weekly federal Unemployment Insurance (UI) payments[3]. In addition, Congress increased the federal share of funding for the EB program and Short-Time Compensation (STC), and enacted additional temporary UI measures that address UI administration and financing.

Comparing the Congressional Response to the Great Recession and the COVID-19-Related Recession

Several contextual factors may be considered when comparing the congressional response to the Great Recession and the COVID-19-related recession.[4] First, the Great Recession (18 months; December 2007-June 2009) and its recovery period (128 months of economic expansion; July 2009-January 2020) are well-documented.[5] However, the length of the current recession (five months so far; February 2020-present)—and how its recovery will progress—are unknown. The Great Recession, which lasted for 18 months, was the longest period of economic decline since World War II. The Congressional UI response to the Great Recession evolved over that interval to

[1] See, for example, President Franklin Roosevelt's remarks at the signing of the Social Security Act, available at http://www.ssa.gov/history/fdrstmts.html#signing.

[2] The recession that began in January 1980 did not have a temporary extended unemployment compensation program. See CRS Report RL34340, *Extending Unemployment Compensation Benefits During Recessions*.

[3] Throughout this report, the Unemployment Compensation (UC) program refers to the regular state programs under permanent law. Unemployment Insurance (UI) programs refer to all programs that pay weekly UI benefits, including temporary and permanent law programs that provide support to the unemployed.

[4] For additional background on the COVID-related recession, see CRS Report R46460, *Fiscal Policy and Recovery from the COVID-19 Recession*. For more general context on fiscal policy options in response to recessions, see CRS Report R45780, *Fiscal Policy Considerations for the Next Recession*.

[5] See National Bureau of Economic Research, "US Business Cycle Expansions and Contractions," available at https://www.nber.org/cycles/cyclesmain.pdf.

take into account characteristics of that recession (e.g., regional variations in unemployment rates and the resulting additional benefit triggers).[6] Because the current recession is on-going, the full congressional response remains unknown. Therefore, this comparison is, by definition, preliminary. Future congressional action may respond to a developing knowledge base, as more is understood about the economic uncertainties and pressures of the current recession; and as more information on the effects of public health measures becomes available.

Second, the current recession was brought about by an abrupt, exogenous shock attributed to public health and safety concerns, rather than a series of economic stresses typically associated with a recession. As concern about the spread of the Coronavirus Disease 2019 (COVID-19) grew, governmental policies and actions by businesses, organizations, and individuals limited person-to-person contact.[7] The economy was shocked with stay-at-home and shutdown orders designed to limit such contact. These governmental restrictions on the flow of labor and commerce reduced economic demand. They also increased the number of workers unable to work.[8] As a result of this context, typical congressional responses to the current recession may be ineffective or poorly targeted, especially when public policy requires that workplaces be closed. The unique and abrupt start of this current COVID-19-related recession may also result in responses that are different than in previous economic downturns.[9]

Third, the pattern in unemployment seen thus far in the current recession is different from previous recessions. During the Great Recession, the national civilian unemployment rate slowly increased from 5% in December 2007 and reached a high of 10% in October 2009 and then slowly returned to 5% by September 2015.[10] In comparison, in this recession, the February 2020 unemployment rate was 3.5%, and reached 14.7% by April 2020, the highest level since 1941.[11]

[6] For additional details, see CRS Report RL34340, *Extending Unemployment Compensation Benefits During Recessions*. Congressional action addressing the Great Recession was faster than previous recessions and authorized temporary UI measures that were larger than any prior intervention. In addressing the unique and abrupt start of this current COVID-19-related recession, congressional response was quicker (within two months) and authorized temporary UI measures in new ways, as explained in this report.

[7] For an overview of early public health responses to COVID-19, as of May 2020, see CRS Insight IN11253, *Domestic Public Health Response to COVID-19: Current Status*.

[8] For an overview of the employment consequences of COVID-19, see CRS Insight IN11457, *COVID-19 Pandemic's Impact on Household Employment and Income*.

[9] For example, the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) includes numerous provisions to assist employers and employees during the COVID-19 economic downturn and to incentivize maintaining employment levels. For a summary of these programs see CRS Insight IN11324, *CARES Act Assistance for Employers and Employees—The Paycheck Protection Program, Employee Retention Tax Credit, and Unemployment Insurance Benefits: Overview (Part 1)* and CRS Insight IN11329, *CARES Act Assistance for Employers and Employees—The Paycheck Protection Program, Employee Retention Tax Credit, and Unemployment Insurance Benefits: Assessment of Alternatives (Part 2)*.

[10] See Bureau of Labor Statistics, "Civilian Unemployment Rate," Graphics of Economics News Releases, available at https://www.bls.gov/charts/employment-situation/civilian-unemployment-rate.htm.

[11] For a discussion on the misclassification of employment status attributable to COVID-19-related data difficulties (and subsequent underreporting of unemployment), see Bureau of Labor Statistics, *The impact of the coronavirus (COVID-19) pandemic on The Employment Situation for June 2020*, July 2, 2020, pp. 7-17, https://www.bls.gov/cps/employment-situation-covid19-faq-june-2020.pdf.

Great Recession: Major Unemployment Insurance (UI) Provisions and Department of Labor Guidance

Between July 2008 and December 2012, Congress enacted and the President signed 12 laws to create, amend, or extend temporary federal UI provisions in response to the Great Recession. Below is summary information on these major temporary UI provisions. Additional details on specific aspects of these temporary interventions—such as benefits, administrative funding, and financing—are provided in subsequent sections. Additionally, **Table 1** provides a comparison between the temporary UI provisions enacted in response to the Great Recession and those enacted in response to the current recession.

Emergency Unemployment Compensation

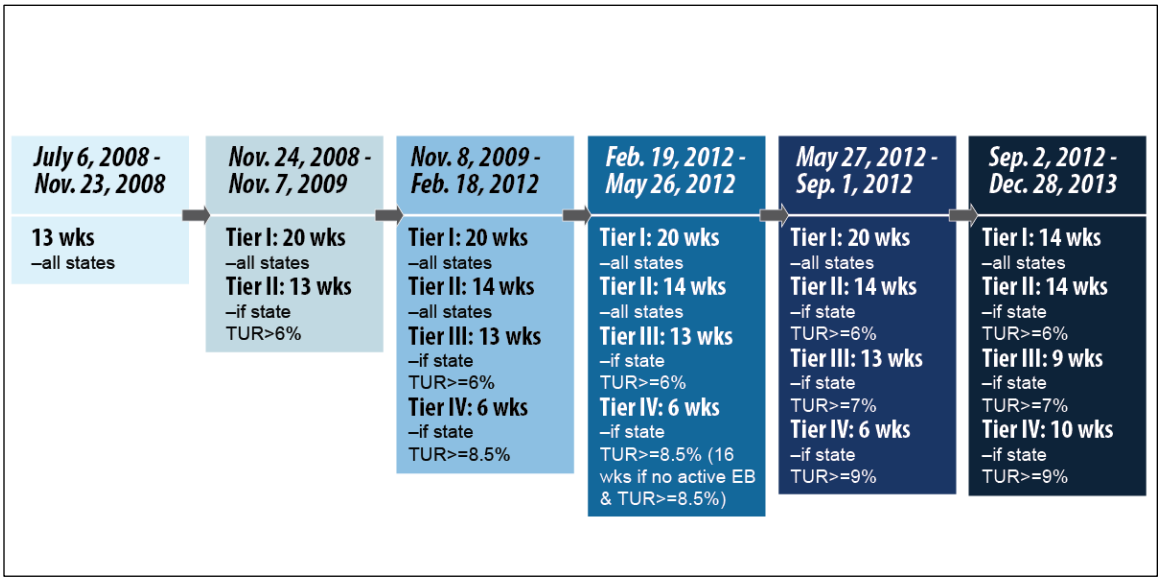
In response to the Great Recession, Congress created a temporary federal UI program: the EUC08 program, which extended the duration of UI benefits for individuals who were eligible for regular state UI benefits but had exhausted them and were still involuntarily unemployed. EUC08 did not provide UI benefits to anyone who was not otherwise eligible for regular state UI benefits (i.e., no benefits for the self-employed, independent contractors, or gig economy workers).[12]

EUC08 was created on June 30, 2008, with enactment of the Supplemental Appropriations Act, 2008 (P.L. 110-252). With this initial authorization, EUC08 provided up to 13 weeks of additional UI benefits in all states. Eleven subsequent laws amended the original authorizing law for EUC08. Some of these laws expanded or contracted the duration of EUC08 (i.e., by creating additional tiers of benefits or reducing the duration of tiers of benefits), and some of these laws extended the EUC08 authorization only.[13] At its maximum duration (from November 8, 2009, to May 26, 2012), EUC08 provided up to 53 weeks of additional UI benefits—although some tiers of EUC08 benefits were available only in states that met certain state unemployment rate thresholds. **Figure 1** provides a flowchart of how the EUC08 program's structure changed between when it was first authorized in 2008 and when it expired at the end of 2013.

[12] The *gig economy* is the collection of markets that match providers to consumers on a gig (or job) basis in support of on demand commerce. In the basic model, gig workers enter into formal agreements with on demand companies to provide services to the company's clients. Prospective clients request services through an internet-based technological platform or smartphone application that allows them to search for providers or to specify jobs. Providers (i.e., gig workers) engaged by the on demand company provide the requested services and are compensated for the jobs. For additional information on the gig economy, see CRS Report R44365, *What Does the Gig Economy Mean for Workers?*.

[13] These laws were the Unemployment Compensation Extension Act of 2008 (P.L. 110-449), signed November 21, 2008; the American Recovery and Reinvestment Act of 2009 (P.L. 111-5), signed February 17, 2009; the Worker, Homeowner, and Business Assistance Act of 2009 (P.L. 111-92), signed November 6, 2009; the Department of Defense Appropriations Act, 2010 (P.L. 111-118), signed December 19, 2009; the Temporary Extension Act of 2010 (P.L. 111-144), signed March 2, 2010; the Continuing Extension Act of 2010 (P.L. 111-157), signed April 15, 2010; the Unemployment Compensation Extension Act of 2010 (P.L. 111-205), signed July 22, 2010; the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312), signed December 17, 2010; the Temporary Payroll Tax Cut Continuation Act of 2011 (P.L. 112-78), signed December 23, 2011; the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96), signed February 22, 2012; and the American Taxpayer Relief Act of 2012 (P.L. 112-240), signed January 2, 2013. For additional information on the legislative history of the Emergency Unemployment Compensation of 2008 program (EUC08), including benefit structure over time, see CRS Report R42444, *Emergency Unemployment Compensation (EUC08): Status of Benefits Prior to Expiration*.

Figure 1. Benefits Available in Emergency Unemployment Compensation (EUC08), July 6, 2008-December 28, 2013



Source: Congressional Research Service.

Notes: Because New York defines a week as a period from Monday through Sunday, the effective dates for New York are one day later than those shown above. For example, the EUC08 program first became active in all states except New York on July 6, 2008. The EUC08 program first became active in New York on July 7, 2008.

The tiers for each time period are additive. A state's total unemployment rate (TUR) may qualify the state for multiple tiers.

The TUR is the 13-week average ratio of unemployed workers to all workers (employed and unemployed) in the labor market. The TUR is essentially a three-month average of the seasonally-adjusted unemployment rate for each state published by the Bureau of Labor Statistics from its Local Area Unemployment Statistics data. It is possible to have tier III or tier IV available based on a 13-week average insured unemployment rate (IUR). These options are not depicted in this figure. The IUR is a program-based statistic: the ratio of Unemployment Compensation (UC) claimants to individuals in UC-covered jobs. The ratio does not include those unemployed workers who received EUC08 or Extended Benefits (EB) payments or any other type of unemployed worker, except those who are currently receiving regular UC benefits.

UI Provisions in the American Recovery and Reinvestment Act

Among other provisions, the American Recovery and Reinvestment Act of 2009 (ARRA; P.L. 111-5, signed February 17, 2009) contained several provisions affecting UI programs and benefits. The major UI provisions under ARRA

- authorized the Federal Additional Compensation (FAC), which temporarily increased unemployment benefits by $25 per week for all recipients of regular UC, EB,[14] EUC08, Trade Adjustment Assistance (TAA) programs,[15] and Disaster Unemployment Assistance (DUA);[16]

[14] The Extended Benefit (EB) program is discussed in subsequent sections of this report. For additional information on EB, see CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*.

[15] For additional information on Trade Adjustment Assistance (TAA) programs, see CRS In Focus IF10570, *Trade Adjustment Assistance for Workers (TAA)*.

[16] For additional information on Disaster Unemployment Assistance (DUA), see CRS Report RS22022, *Disaster Unemployment Assistance (DUA)*.

- extended the temporary EUC08 program through December 26, 2009 (with grandfathering), to be financed by federal general revenues—previously EUC08 was funded by federal Emergency Unemployment Compensation Account (EUCA) funds within the Unemployment Trust Fund (UTF).[17] (The EUC08 program's expiration date was subsequently further extended.);
- provided for temporary 100% federal financing of the EB program, to be financed by the federal government through the UTF;
- provided relief to states from the payment and accrual of interest on federal loans to states for the payment of unemployment benefits, from enactment of ARRA on February 17, 2009, through December 31, 2010;
- provided for a special transfer of up to $7 billion in federal monies to state unemployment programs as "incentive payments" for changing certain state UC laws. (The availability of incentive payments expired on October 1, 2011, and states were not required to repay these sums to the federal government.);
- transferred a total of $500 million to the states for administering their unemployment programs within 30 days of enactment of ARRA (states were not required to repay these sums to the federal government); and
- suspended income taxation on the first $2,400 of unemployment benefits received in 2009 for taxable years beginning after December 31, 2008.[18]

Termination of UI Response: Contraction of the Emergency Unemployment Compensation of 2008 Program Under P.L. 112-96

Until enactment of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96, signed February 22, 2012)—the law that provided the penultimate authorization for EUC08—the EUC08 program included a phaseout period for individuals who had begun receiving benefits from a particular tier. That is, individuals who had entered a particular tier of EUC08 at the expiration date could finish out the weeks of UI benefits available in that tier, and that tier only, after expiration. This phaseout program feature was often referred to as "grandfathering." This grandfathering, which had been available in previous extensions of EUC08, was eliminated by P.L. 112-96. Thus, there was no grandfathering of any EUC08 benefit after December 29, 2012.

P.L. 112-96 also contained provisions that (1) made changes to the structure of the EUC08 program and maintained temporary EB provisions; (2) reformed the UC program; (3) provided additional reemployment services for EUC08 claimants; and (4) expanded the STC and Self-Employment Assistance programs in states.[19]

The American Taxpayer Relief Act of 2012 (P.L. 112-240, signed January 2, 2013) provided the final extension of the EUC08 program authority. All tiers of EUC08 benefits expired the week

[17] For an overview of accounts within the Unemployment Trust Fund (UTF), see CRS Report RS22077, *Unemployment Compensation (UC) and the Unemployment Trust Fund (UTF): Funding UC Benefits*.

[18] Additional UI provisions under the American Recovery and Reinvestment Act of 2009 (ARRA; P.L. 111-5) also (1) allowed states the option of changing temporarily the eligibility allowed states the option to temporarily change the EB program's eligibility requirements, effectively expanding the number of persons eligible for EB benefits through the week ending on or before June 1, 2010; and (2) provided for an additional 13 weeks to the maximum amount of time railroad workers may receive extended unemployment benefits.

[19] For summary information on these additional UI provisions, see CRS Report R41662, *Unemployment Insurance: Legislative Issues in the 112th Congress*.

ending on or before January 1, 2014. Thus, on December 28, 2013 (December 29, 2013, for New York state), the EUC08 program ended. There was no grandfathering of any EUC08 benefit after that date.

Great Recession: Department of Labor Guidance

The U.S. Department of Labor (DOL) provided numerous guidance documents to states in administering the various temporary UI provisions enacted in response to the Great Recession. These Unemployment Insurance Program Letters (UIPLs) are available online, including

- DOL guidance (initial UIPL with six changes) for EUC08, available at https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2649;
- DOL guidance for Federal Additional Compensation, available at https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2713; and
- DOL guidance on the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96), available at https://oui.doleta.gov/unemploy/jobcreact.asp.

Current Recession: Major UI Provisions and Department of Labor Guidance

Congress began responding to the mass unemployment created by the Coronavirus Disease 2019 (COVID-19) pandemic and the resulting economic recession in March 2020. As of the date of this report, two laws have been enacted that create, amend, or extend temporary federal UI provisions: the Families First Coronavirus Response Act (FFCRA; P.L. 116-127) and the Coronavirus Aid, Relief, and Economic Security Act (CARES Act; P.L. 116-136). An additional bill that would revise one of the temporary UI provisions in the CARES Act—S. 4209, the Protecting Nonprofits from Catastrophic Cash Flow Strain Act of 2020—has been passed by the Senate and House; it awaits the President's signature at this time.

Summary information on temporary UI provisions that are currently authorized is provided below. Additional details on specific aspects of these temporary interventions—such as benefits, administrative funding, and financing—are provided in subsequent sections. **Table 1** provides a comparison between the temporary UI provisions enacted in response to the current recession and those enacted in response to the Great Recession.

For summary information on additional UI bills that would respond to COVID-19 and the current recession, see CRS Report R45478, *Unemployment Insurance: Legislative Issues in the 116th Congress*.

The Families First Coronavirus Relief Act

On March 18, 2020, President Trump signed P.L. 116-127 (H.R. 6201), the FFCRA. The UI provisions are found in Division D of P.L. 116-127. Division D generally gives states more flexibility to address COVID-19 through expanded benefit eligibility and additional administrative funding.[20] Specifically, FFCRA

[20] For additional details on the temporary UI provisions authorized under the Families First Coronavirus Response Act (FFCRA; P.L. 116-127), see CRS Report R45478, *Unemployment Insurance: Legislative Issues in the 116th Congress*.

- provides up to a total of $1 billion in "emergency administrative grants" to states in calendar year 2020 for states that meet certain requirements;[21]
- waives certain 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,[22] quits for good cause,[23] and employer tax assessments for state programs if a state modifies its UC laws "on an emergency temporary basis as needed to respond to the spread of COVID-19";[24]
- temporarily waives interest payments and the accrual of interest on federal advances (loans) to states to pay UC benefits through December 2020 (it does not reduce any underlying loan principal);
- requires DOL to provide assistance to states in establishing, implementing, and improving STC (i.e., work sharing) programs;[25] and
- temporarily makes 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 receive both halves of the emergency administrative grants.[26]

[21] Half of each state's share is available if the state meets certain requirements related to UC eligibility notifications and claims access. The second half of each state's share is available if it qualified for the first half and if the state experiences at least a 10% increase in UC claims over the previous calendar year and meets certain other requirements related to easing UC eligibility requirements for individuals affected by Coronavirus Disease 2019 (COVID-19). Additionally, there are reporting requirements to the Department of Labor (DOL) and committees of jurisdiction within one year for states that receive these grants. As of July 24, 2020, according to DOL Employment and Training Administration (DOLETA), all states have met the criteria for receiving these FFCRA grants (see https://oui.doleta.gov/unemploy/pdf/IC3MOmarch.pdf). All states have requested their full allotment with the exception of Puerto Rico, which had not requested the second allotment. Communication with DOLETA analyst, July 24, 2020.

[22] 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 waive this waiting week requirement under certain situations, such as a disaster or emergency declaration. For additional details, see DOL, *2019 Comparison of State Unemployment Insurance Laws*, Table 3-7, available at https://workforcesecurity.doleta.gov/unemploy/pdf/uilawcompar/2019/monetary.pdf.

[23] Individuals generally are required to have lost a job through no fault of their own in order 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 DOL, *2019 Comparison of State Unemployment Insurance Laws*, pp. 5-1-5-5, available at https://oui.doleta.gov/unemploy/pdf/uilawcompar/2019/nonmonetary.pdf.

[24] One of the more restrictive federal UI requirements in the context of the 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" in order to be eligible for regular UC benefits (see 42 U.S.C. Section 503(a)(12)). Although Division D of FFCRA waives the work search aspect of this requirement, it does not waive the "able and available" aspect of this requirement.

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

[26] As of July 24, 2020, according to DOLETA, all states have met the criteria (see https://oui.doleta.gov/unemploy/pdf/IC3MOmarch.pdf). All states have requested their full allotment with the exception of Puerto Rico, which had met the criteria but had not requested the second allotment. Communication with DOLETA analyst, July 24, 2020. Because P.L. 116-127 also temporarily removes 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 is "sharable" (50% federal/50% state under permanent law; or 100% under the conditions of this provision).

The CARES Act

On March 27, 2020, President Trump signed P.L. 116-136, the CARES Act. Title II, Subtitle A of the CARES Act provides 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. The UI provisions in the CARES Act

- create a temporary, additional federally financed $600 benefit that augments weekly UI benefits: Federal Pandemic Unemployment Compensation (FPUC), which is payable for weeks of unemployment beginning after a state signs an agreement through weeks ending on or before July 31, 2020 (so FPUC expired July 25, 2020, in most states and July 26, 2020, in New York state);[27]
- create Pandemic Unemployment Assistance (PUA), a temporary federal UI program for individuals not otherwise eligible for unemployment benefits (e.g., self-employed, independent contractors, or gig economy workers), which is administered by states and 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. PUA is payable for weeks of unemployment beginning on or after January 27, 2020 (i.e., payable on a retroactive basis beginning February 1, 2020, in most states and February 2, 2020, in New York state), through the week ending on or before December 31, 2020 (so PUA expires December 26, 2020, in most states and December 27, 2020, in New York state);
- create PEUC, an additional 13 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. PEUC is authorized for weeks of unemployment, after a state signs an agreement and through weeks ending on or before December 31, 2020 (so PEUC expires December 26, 2020, in most states and December 27, 2020, in New York state);
- provide for temporary 50% federal funding of regular state UC benefits and EB payments based on service with reimbursing employers and allow for state flexibility in the timing of required reimbursement payments for these employers[28] (the CARES Act authorizes this funding for weeks of unemployment beginning on or after March 13, 2020, through December 31, 2020);
- provide 100% federal financing through December 31, 2020, for UC benefits during the first week of unemployment in state 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);
- waive federal requirements regarding merit staffing for state UC programs on an emergency temporary basis in response to COVID-19 until December 31, 2020;

[27] The Federal Pandemic Unemployment Compensation (FPUC) augments state UC benefits, Pandemic Unemployment Assistance (PUA), Pandemic Emergency Unemployment Compensation (PEUC), EB, DUA, Short-Time Compensation (STC), Trade Readjustment Allowance (TRA), and Self Employment Assistance (SEA).

[28] This provision provides financial relief for 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 pay UC taxes.

- provide that states with an existing or new STC ("work sharing") program may be reimbursed with federal funds for 100% of STC benefit costs through December 31, 2020, up to a maximum of 26 weeks of STC per individual;
- provide 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 through December 31, 2020, up to a maximum of 26 weeks of STC per individual;
- provide $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; and
- authorize DOL to issue operating instructions and other guidance needed to implement the UI provisions in the CARES Act.

The Protecting Nonprofits from Catastrophic Cash Flow Strain Act of 2020 (S. 4209)

On July 2, 2020, the Senate passed S. 4209, the Protecting Nonprofits from Catastrophic Cash Flow Strain Act of 2020, by unanimous consent. The House passed without objection S. 4209 on July 9, 2020. S. 4209 currently awaits the President's signature. S. 4209 would revise the administration of the CARES Act authority for 50% federal funding of UI benefits based on service with reimbursing employers through December 31, 2020. With the change, reimbursing employers would be no longer required to pay 100% of UI benefits and then be reimbursed for 50% of the benefits. (Instead, such employers would be required to pay 50% of the UI benefits). Additionally, UI benefits attributed to the authorized period would be reimbursed even if the reimbursement happens after December 2020.

Current Recession: Department of Labor Guidance

DOL has made all of the guidance documents related to the current recession response available online at https://oui.doleta.gov/unemploy/coronavirus/.

Benefits

The temporary UI provisions enacted in response to both the Great Recession and the current recession caused by COVID-19-related unemployment involve a number of measures related to UI benefits. These measures, which are described in more detail below, include interventions enacted in response to both recessions (i.e., additional federal UI payments and additional weeks of UI benefits), as well as interventions that, as of this report date, were enacted only in response to the Great Recession (i.e., incentive payments for expanded UI eligibility and modifications to the EB program to make it more likely to be available in states) or in response only to the current recession (i.e., a program for non-UI-covered workers). Although some temporary UI responses are common to both recessions, the specific features of each temporary UI measure often vary.

Additional Federal Payment: Federal Additional Compensation (Great Recession) Versus Federal Pandemic Unemployment Compensation (Current Recession)

The FAC benefit of $25 per week temporarily augmented UC, EB, EUC08, TAA, and DUA benefits from February 2009 through December 2010. The FAC was created under ARRA (P.L. 111-5) and was subsequently extended three times.[29] FAC income was disregarded for the purposes of Supplemental Nutrition Assistance Program (SNAP), Medicaid, and the Children's Health Insurance Program (CHIP). During the period that the FAC was authorized, states were prohibited from reducing the amount of their UC benefits (i.e., "nonreduction" rule).

This FAC $25 per week supplemental benefit was grandfathered for individuals who had not exhausted the right to all unemployment benefits as of the expiration date for this temporary program. An individual who was grandfathered for payment of the supplemental weekly benefit for one form of unemployment benefits (such as regular state UC) would receive the $25 supplemental weekly benefit for subsequent unemployment benefits after the program expired (such as EUC08). This would be the case until the individual had exhausted all entitlement to unemployment benefits based on the original claim or until the last date that current law allowed the grandfathered payment. The FAC expired the week ending on or before May 29, 2010 (with six months of grandfathering). The amount and structure of the FAC benefit itself were never changed (i.e., never reduced, phased down, or otherwise altered) over the authorization period.

In response to the current recession, under the CARES Act (P.L. 116-136), Congress created FPUC, an additional federally financed $600 per week benefit that augments weekly UI benefits including regular state UC, EB, PUA (see description below), and PEUC (see description below). This FPUC is payable through agreements with states (signed in March 2020) for weeks of unemployment ending on or before July 31, 2020 (i.e., July 25, 2020, in most states and July 26, 2020, in New York). There is no grandfathering authorized for FPUC payments.

During the period that this FPUC payment is authorized, states are prohibited from reducing their UC benefit amount or duration (i.e., "nonreduction" rule). FPUC income is disregarded for the purposes of Medicaid and CHIP.

Key differences between the FAC, temporarily authorized in response to the Great Recession, and FPUC, temporarily authorized in response to the current recession are

- amount of compensation ($25 per week for FAC versus $600 per week for FPUC);
- type of expiration (grandfathering for FAC versus $600 per week for FPUC);
- a hard cutoff for FPUC);
- earnings disregards (SNAP,[30] Medicaid, and CHIP for FAC versus $600 per week for FPUC);
- only Medicaid and CHIP for FPUC); and

[29] The initial authority for the Federal Additional Compensation (FAC) was extended by the Department of Defense Appropriations Act, 2010 (P.L. 111-118); the Temporary Extension Act of 2010 (P.L. 111-144); and the Continuing Extension Act of 2010 (P.L. 111-157).

[30] The earnings disregard for the Supplemental Nutrition Assistance Program (SNAP) was enacted under Section 8 of the Worker, Homeowner, and Business Assistance Act of 2009 (P.L. 111-92), signed November 6, 2009. This disregard was effective after enactment.

- applicability of the "nonreduction" rule (UC benefit amount for FAC versus UC benefit amount and duration for FPUC).

Additionally, it remains to be seen what the authorization period might be for FPUC payments (i.e., whether Congress extends the current authority beyond the original four-month period, which expired July 25, 2020 [July 26, 2020, in New York]). The FAC payment, including grandfathering, was payable for about 22 months.

Additional Weeks of UI Benefits: Emergency Unemployment Compensation of 2008 (Great Recession) Versus Pandemic Emergency Unemployment Compensation (Current Recession)

As described above in the "Emergency Unemployment Compensation" section, in response to the Great Recession, Congress created a temporary federal UI program that provided additional weeks of UI benefits for individuals who exhausted state and federal UI benefits. The structure of EUC08 tiers (up to four tiers) and total duration (up to 53 weeks) varied over the authorization period (July 2008-December 2013). See **Figure 1**. EUC08 was created by Title IV of the Supplemental Appropriations Act, 2008 (P.L. 110-252) and was subsequently extended or amended 11 times. For most of its authorization period (i.e., from July 2008 through December 2012), the EUC08 program included a phaseout period ("grandfathering"), such that individuals who had entered a particular tier of EUC08 at the expiration date could finish out the weeks of UI benefits available in that tier, and that tier only, after expiration.[31]

Under the CARES Act (P.L. 116-136), Congress created PEUC, which provides 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. PEUC is authorized from the end of March 2020 through December 2020 (PEUC expires December 26, 2020, in most states and December 27, 2020, in New York state).

Key differences between EUC08, temporarily authorized in response to the Great Recession, and PEUC, temporarily authorized in response to the current recession are

- eligibility criteria (exhausted regular UI and unemployed for EUC08 versus exhausted regular UI, unemployed, and meet certain COVID-19-related conditions);
- program structure and benefit duration (up to four tiers and total duration of up to 53 weeks, depending on time period and state unemployment rates, for EUC08 versus up to 13 weeks available in all states for PEUC); and
- type of expiration (grandfathering for EUC08 versus a hard cutoff for PEUC).

The EUC08 program was initially authorized under P.L. 110-252 for about nine months, with an additional three months of benefit grandfathering to phase out EUC08. Under its original authorization (P.L. 110-252, signed June 30, 2008) and through November 23, 2008 (about five months), the EUC08 program had the same structure and provided the same duration of benefits as PEUC (i.e., up to 13 weeks of additional, federal UI benefits). The current PEUC authorization period is about nine months.

[31] This phaseout period was eliminated by P.L. 112-96. Thus, there was no grandfathering authorized for EUC08 benefits after December 29, 2012.

Program for Non-UI-Covered Workers: Pandemic Unemployment Assistance (Current Recession)

In the congressional response to the Great Recession, there were no measures enacted to provide UI benefits to individuals who performed non-UI-covered work (e.g., self-employed workers, independent contractors, and gig economy workers) and, thus, these uncovered workers were ineligible for UI benefits (e.g., regular state UC, EUC08, or EB benefits).

In response to the current recession, the CARES Act (P.L. 116-136) authorized PUA, a temporary federal UI program for individuals not otherwise eligible for UI benefits (e.g., self-employed, independent contractors, and gig economy workers). PUA is administered by states and 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. The PUA maximum duration of 39 weeks is offset by any weeks of regular UC or EB benefits.

PUA is available in all states and U.S. territories, subject to agreements with DOL. PUA pays benefits 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 (PUA expires December 26, 2020 in most states; December 27, 2020 in New York state). PUA benefits are authorized to be paid retroactively.

The PUA benefit amount is the weekly benefit amount 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). In territories without UC programs, the PUA benefit is determined by DUA regulations.[32]

Incentive Payments for Expanded UI Eligibility: UI Modernization (Great Recession)

In response to the Great Recession, ARRA (P.L. 111-5) authorized a one-time transfer of up to $7 billion in federal funds to state unemployment programs as "incentive payments" for changing certain state UC laws to expand certain aspects of eligibility for benefits. This transfer was referred to as the UI Modernization Act (UIMA) payment. The state law changes under UIMA had to have been permanent and not subject to discontinuation under any circumstances other than repeal by the legislature. These funds were distributed based on approved state applications and on the state's share of estimated federal unemployment taxes made by the state's employers as estimated at the end of FY2008. All incentive payments were required to be made before October 1, 2011.[33]

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

[33] For a DOL-funded evaluation of state decisions related to the UI Modernization Act (UIMA), see Annalisa Mastri et al., *States' Decisions to Adopt Unemployment Compensation Provisions of the American Recovery and Reinvestment Act*, Mathematica Policy Research, Final Report, November 18, 2015, at https://www.dol.gov/sites/dolgov/files/OASP/legacy/files/UCP_State_Decisions_to_Adopt.pdf.

For a state to have received one-third of its potential distribution, it must first have enacted an alternative base period to ensure the last completed quarter of a worker's employment is counted when determining eligibility for unemployment benefits.[34]

The remaining two-thirds of the $7 billion were distributed to states contingent on their qualifying for the first one-third, plus state law containing at least two of the following four provisions:

1. permit former part-time workers to seek part-time work;
2. permit voluntary separations from employment for compelling family reasons, which must include (i) domestic violence, (ii) illness or disability or an immediate family member, and (iii) the need to accompany a spouse who is relocating for employment;
3. provide extended compensation to UC recipients in qualifying training programs for high demand occupations; or
4. provide dependents allowances to UC recipients with dependents.

For summary information from DOL on approved state applications under UIMA, see https://oui.doleta.gov/unemploy/docs/app_form.pdf.

As of this report date, in response to the current recession, there has been no comparable transfer of funds authorized as incentive payments to states to expand UC benefit eligibility.

Modifications to the Extended Benefits Program: Temporary Extended Benefit Trigger Modifications (Great Recession)

The permanent-law 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 (EB) at the state level by either up to 13 weeks or up to 20 weeks of UI benefits if certain economic situations exist within the state.[35]

[34] The *base period* is the time period during which a worker's employment history is examined to determine his or her monetary entitlement to UC. Most states use the first four of the last five completed calendar quarters preceding the filing of the claim as their base period. Such a base period results in a lag of up to six months between the end of the base period and the date a worker becomes unemployed. As a result, the worker's most recent work history is not used when making an eligibility determination. Thus, some states use an alternative base period for workers failing to qualify under the regular base period. For example, if the worker fails to qualify using wages and employment in the first four of the last five completed calendar quarters, then the state might use wages and employment in the last four completed calendar quarters.

[35] The EB program imposes additional restrictions on individual eligibility for benefits. It requires that a worker be actively searching and available for work. Furthermore, the worker may not receive benefits if the worker refused an offer of suitable work. Finally, claimants must have recorded at least 20 weeks of full-time insured employment or the equivalent in insured wages during their base period (the four quarters of earnings used to determine UC benefit eligibility).

The EB program is triggered when a state's insured unemployment rate (IUR)[36] or total unemployment rate (TUR)[37] reaches certain levels. All states must pay up to 13 weeks of EB if the IUR for the previous 13 weeks is at least 5% and is 120% of the average of the rates for the same 13-week period in each of the 2 previous years. There are two other optional thresholds that states may choose. (States may choose one, two, or neither of the additional options.) If the state has chosen the option, they would provide the following:

- Option 1: an additional 13 weeks of benefits if the state's IUR is at least 6%, regardless of previous years' averages.
- Option 2: an additional 13 weeks of benefits if the state's TUR is at least 6.5% and is at least 110% of the state's average TUR for the same 13 weeks in either of the previous two years; an additional 20 weeks of benefits if the TUR is at least 8% and is at least 110% of the state's average TUR for the same 13 weeks in either of the previous two years.

In response to the Great Recession, Congress temporarily amended the structure of EB triggers in order to enable EB to be available in states for a longer period of time. Beginning on December 17, 2011, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312, signed December 17, 2010) allowed states to temporarily use lookback calculations based on three years of unemployment rate data (rather than the permanent law lookback of two years of data) as part of their mandatory IUR and optional TUR triggers if states would otherwise trigger off or not be on a period of EB benefits. Using a two-year versus a three-year EB trigger lookback was a significant adjustment because some states would have otherwise triggered off of their EB periods despite high, sustained—but not increasing—unemployment rates.

States implemented the lookback changes individually by amending their state UC laws. These state law changes had to be constructed in such a way that if the two-year lookback was functioning and the state would have an active EB program, no action would be taken. But if a two-year lookback was not sufficient to trigger on to an EB period, then the state would have been able to use a three-year lookback. This temporary option to use three-year EB trigger lookbacks was extended by two subsequent laws,[38] and it expired the week ending on or before December 31, 2013.

As of this report date, in response to the current recession, there has been no comparable EB trigger modification authority enacted.[39] Additional temporary EB measures, enacted in response

[36] The insured unemployment rate (IUR) is the three-month average ratio of persons receiving UC benefits to the number of persons covered by UC. It is a programmatic statistic and includes the entire universe of persons receiving UC benefits during the period. The IUR is substantially different than the total unemployment rate (TUR) because it excludes several important groups: self-employed workers, unpaid family workers, workers in certain not-for-profit organizations, and several other, primarily seasonal, categories of workers. In addition to those unemployed workers whose last jobs were in this excluded-from-coverage category, the insured unemployed rate excludes the following: those who have exhausted their UC benefits; new entrants or reentrants to the labor force; disqualified workers whose unemployment is considered to have resulted from their own actions rather than from economic conditions; and eligible unemployed persons who do not file for benefits.

[37] The state TUR is a three-month average of the estimated state unemployment rate published by the Bureau of Labor Statistics (i.e., the ratio of the total number of unemployed persons divided by the total number of employed and unemployed persons).

[38] The Temporary Payroll Tax Cut Continuation Act of 2011 (P.L. 112-78, signed December 23, 2011) and the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96, signed February 22, 2012).

[39] As of the date of this publication, 52 states are in an active EB period. For the current EB trigger notice, select "Extended Benefits Trigger Notice" at https://oui.doleta.gov/unemploy/claims_arch.asp.

to the Great Recession and the current recession, are discussed below in the "Extended Benefit Financing (Great Recession and Current Recession)" section.

Federal Grants for State Administration

Each year, appropriations for the administrative funding for state UC programs include automatic increases contingent upon large increases in regular UC claims.[40] This allows the UC program to immediately serve additional claimants during economic recessions without additional congressional action.

In addition to the base and contingent administrative funding provided to states through the annual appropriations process, Congress has appropriated additional temporary (or one-time) funding amounts for UI administration in response to both the Great Recession and the current recession. These additional administrative funding amounts are described below.

Funds for Administration of Temporary UI Programs (Great Recession and Current Recession)

When Congress funds temporary UI programs, it generally includes authorizing language for the appropriation of "such sums as necessary" for states to administer the program, including implementation and staffing.[41] This allows states to immediately implement the temporary programs and alleviates state financial stress to agree to administer the programs.

In response to the Great Recession, the authorizing language under Section 4004 of the Supplemental Appropriations Act of 2008 (P.L. 110-252) provided for the appropriation of "such sums as necessary" to implement and staff the temporary EUC08 program. Section 2002 of ARRA (P.L. 111-5) provided similar language for the $25 weekly FAC.

Authorizing language under Sections 2102, 2104, and 2107 of the CARES Act (P.L. 116-136) provided for the appropriation of "such sums as necessary" to implement and staff the temporary UI programs created in response to the current recession: PUA, FPUC, and PEUC.

There are no significant differences in the authorities for administrative funding for temporary UI programs across these two recessions.

Additional Grants for Administration (Great Recession and Current Recession)

In response to administrative pressures of rapidly scaling up the UI program to support both increased numbers of unemployed receiving regular UC and the additional stress of providing

[40] Annual appropriations to DOL for administrative expenses are based upon DOL's assessment of state budgetary requirements. These appropriations customarily include a base level of funding and an additional contingent appropriation. DOL estimates base level funding using a measure of the volume of UC claims expected to be filed per week (the average weekly insured unemployment [AWIU]). The contingent funding provides a trigger based on the average volume of weekly UC claims exceeding the AWIU baseline. For more information see, CRS In Focus IF10838, *Funding the State Administration of Unemployment Compensation (UC) Benefits*.

[41] In the Great Recession and in the current recession, DOL has provided specific guidance on the reimbursement formula for administration of the temporary UI programs. In general, reimbursement is based on workload counts reported. Minutes needed to process claims and salary costs for the temporary UI programs are expected to be identical to those used in the computation of the regular UC program's above base administrative costs.

new benefits and temporary UI benefits, Congress, in both recent recessions, provided additional administrative grants for states to use for general administrative purposes.

During the Great Recession, Section 2003 of ARRA (P.L. 111-5) transferred a total of $500 million to the states for administering their unemployment programs. States did not need to apply to receive these amounts.[42] Each state's share was based on its proportionate share of FUTA taxable wages multiplied by $500 million.[43]

In contrast, in response to the current recession, Section 4102(a) of FFCRA (P.L. 116-127) provides up to a total of $1 billion in emergency administrative grant funding to states in calendar year 2020 for administrative purposes. Half of this amount is available to all states that meet certain requirements related to UC eligibility notifications and claims access. The second half of this amount is available to states that experience at least a 10% increase in UC claims over the previous calendar year and meet certain other requirements related to easing UC eligibility requirements for individuals affected by COVID-19. Each state's potential full share was based on its proportionate share of FUTA taxable wages multiplied by $1 billion.

Some of the differences between the additional administrative grants authorized in response to the Great Recession and those authorized in response to the current recession include

- amount ($500 million in response to the Great Recession versus $1 billion in response to the current recession), and
- conditions for states (no requirements or application for the Great Recession funding versus requirements and applications for the current recession funding).

Additional Administrative Grants for Short-Time Compensation Programs (Great Recession and Current Recession)

In response to the Great Recession, as authorized under Section 2164 of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96), DOL awarded administrative grants for STC programs to eligible states. One-third of each state's grant was to be available for implementation and improved administration purposes, and two-thirds of each state's grant was to be available for program promotion and enrollment of employers. The maximum amount of all grants was limited to $100 million, less a small amount ($250,000) to be used by DOL for outreach.[44] States had to apply for the STC grant(s) on or before December 31, 2014.

During the current recession, Section 2110 of the CARES Act (P.L. 116-136) provides up to $100 million in federal grants to support STC programs in states with one-third of each state's grant available for implementation and improved administration purposes and two-thirds of each state's grant available for program promotion and enrollment of employers. DOL may use up to

[42] See Employment and Training Administration, *Unemployment Insurance Program Letter (UIPL) No.14-09*, Special Transfers for Unemployment Compensation Modernization and Administration and Relief from Interest on Advances, February 26, 2009, at https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2715. The amount each state received is available in the first column of https://wdr.doleta.gov/directives/attach/UIPL/UIPL14-09g.pdf.

[43] The Labor Secretary was directed to apportion the $500,000,000 to the states based on the proportion of taxable wages that would have been used for calculating any Reed Act distribution occurring on October 1, 2008. Data provided by the Social Security Act (SSA) for tax year 2007 determined each state's share.

[44] DOL was also required to (1) develop model legislative language to provide technical assistance and guidance to states, in consultation with employers, labor organizations, and state workforce agencies and (2) establish reporting requirements concerning the number of averted layoffs and participating employers.

$250,000 of the $100 million to provide outreach and to share best practices for STC programs. State STC grant applications must be completed and submitted by December 31, 2023.

There are no major differences between the additional administration grants authorized in response to the Great Recession and those authorized in response to the current recession.

Financing UI Benefits

The Federal Unemployment Tax Act (FUTA) of 1939, as amended, provides the financing arrangements for the UC program.[45] Revenue for the program relies on payroll taxes levied by both the federal government and the states. FUTA revenues pay for state administrative costs, half the cost of EB, and loans to insolvent state UC programs. States pay for regular UC (with the exception of UC benefits for civilian federal employees [UCFE] and former military servicemembers [UCX]) and their share (50%) of EB under permanent law.

During periods of economic expansion or stability, almost all of the benefits are state financed by state unemployment taxes, with states funding approximately 90% of all UC expenditures during expansionary periods. In contrast, federal expenditures are primarily administrative grants to the states and are financed by federal unemployment taxes. During recessions (and in the period immediately after as employment slowly grows) the amount of total UI expenditures grows and the proportion of federal UI expenditures also increases.

Regular UC Financing for Reimbursing Employers (Current Recession)

Federal law requires UC coverage of most services performed for certain nonprofit organizations, state and local governments, and federally recognized Indian tribes. States may permit these entities to elect to make "payments in lieu of contributions" (more commonly called "reimbursements"). Most state laws provide that reimbursing employers will be billed at the end of each calendar quarter, or other period determined by the agency, for the benefits paid during that period attributable to service in their employ.[46]

Section 2103 of the CARES Act (P.L. 116-136) provides, through December 2020, 50% federal funding of regular UC benefits and EB payments based on service with reimbursing employers. This provision provides financial relief to these reimbursing employers. S. 4209, the Protecting Nonprofits from Catastrophic Cash Flow Strain Act of 2020—passed by the Senate and House and currently awaiting the President's signature—would revise the administration of the CARES Act authority for 50% federal funding of UI benefits based on service with reimbursing employers through December 31, 2020. With the change, reimbursing employers would no longer be required to pay 100% of UI benefits and then be reimbursed for 50% of the benefits. Additionally, UI benefits attributed to the authorized period would be able to be reimbursed even if the reimbursement happens after December 2020.

There was no similar provision in UI legislation enacted in response to the Great Recession.

[45] Sections 3301-3311 of the Internal Revenue Code of 1986 (IRC; 26 U.S.C. §§3301-3311). See CRS Report R44527, *Unemployment Compensation: The Fundamentals of the Federal Unemployment Tax (FUTA)*.

[46] See Employment and Training Administration, *2019 Comparison of State Unemployment Insurance Laws*, pp. 2-30, 2-35, available at https://oui.doleta.gov/unemploy/pdf/uilawcompar/2019/financing.pdf.

Regular Unemployment Compensation Waiting Week Financing (Current Recession)

In most states, individuals who are otherwise eligible for benefits must first serve a waiting period of one week during which they are unemployed but do not receive UC benefits.[47] Section 2105 of the CARES Act provides 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).

There was no similar provision enacted in response to the Great Recession.

Short-Time Compensation Financing (Great Recession and Current Recession)

STC is a program within the federal-state UI system. In states that have STC programs, workers whose hours are reduced under a formal work sharing plan may be compensated with STC, which is a regular unemployment benefit that has been prorated for the partial work reduction. Under permanent law, the STC benefit is 100% state financed and employers must be experience rated.[48]

In response to the Great Recession, Section 2161 the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96) provided temporary federal financing for 100% of STC benefits in states that met the new definition of an STC program. States with existing STC programs that did not meet the new definition were eligible for 100% federal financing during a transition period of two years. Additionally, under Section 2162 of P.L. 112-96, states without existing STC programs were able to enter into an agreement with DOL to receive federal reimbursement for the temporary federal financing of 50% of STC payments to individuals for up to two years, with employers paying the other 50% of STC benefit costs.[49] The 100% and 50% federal financing ended on August 22, 2015.

Similarly, Sections 2018 and 2019 of the CARES Act (P.L. 116-136) provide 100% federal financing of STC in states with existing or new programs and 50% federal financing for states that set up temporary STC programs (up to the equivalent of 26 weeks of benefits for individuals) through the end of December 2020.[50]

Although the STC financing provisions enacted in response to the Great Recession and the current recession are substantially similar, they differ in their authorization periods. The STC financing enacted in response to the Great Recession was authorized for 2 years and 13 weeks,

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[47] See Employment and Training Administration, *Comparison of State Unemployment Insurance Laws 2019*, Table 3-7, pp. 3-14-3-16, available at https://oui.doleta.gov/unemploy/pdf/uilawcompar/2019/monetary.pdf.

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

[49] Under P.L. 112-96, if a state entered into an agreement with DOL and subsequently enacted a law providing for STC, that state would have been eligible to receive 100% of federal financing.

[50] 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, at 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, at https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6220.

and the STC financing enacted in response to the current recession is authorized from the end of March 2020 through December 2020 (i.e., for about 9 months).

Extended Benefit Financing (Great Recession and Current Recession)

The EB program is a permanent federal-state program that may provide additional weeks of unemployment benefits at the state level. DOL tracks unemployment rates in the state, and a state is said to trigger "on" to the EB program if unemployment conditions in the state meet specified conditions.[51] Under permanent law, the EB funding arrangement is 50% federal funding and 50% state funding.

In response to the Great Recession, ARRA (P.L. 111-5) contained several provisions affecting the EB program (see also the "Modifications to the Extended Benefits Program: Temporary Extended Benefit Trigger Modifications (Great Recession)" section). Among these provisions was a temporary change increasing the federal share to 100% in the cost-sharing agreement for EB beginning February 22, 2009. This temporary EB financing authority under ARRA was subsequently extended eight times through December 31, 2013.[52] One issue for states was that although ARRA, as amended, provided for temporary 100% federal financing of EB, 100% federal financing did not apply to EB benefits paid to unemployed, former state and local government employees (those reimbursing employers were required to repay all EB benefits).

In response to the current recession, FFCRA (P.L. 116-127) temporarily provides 100% federal financing for EB (with the exception of EB benefits paid to former state and local employees)[53] until the end of December 2020. The 100% financing is conditional on the state having met the conditions for receiving both of its FFCRA grant allotments as discussed in "Additional Grants for Administration (Great Recession and Current Recession)."[54]

One significant difference, besides length of the authorization periods, for the temporary 100% federal financing of EB is that the temporary 100% EB federal financing in response to the current recession included conditions for states (qualifying for administrative grants), but the temporary financing enacted in response the Great Recession did not.

[51] For the most recent notice of states triggered on to EB, see the weekly Extended Benefits Trigger Notice at https://oui.doleta.gov/unemploy/claims_arch.asp.

[52] For details on this legislative history, see CRS Report R42444, *Emergency Unemployment Compensation (EUC08): Status of Benefits Prior to Expiration*.

[53] If payments of EB to former state and local employees require reimbursement under state law, then Section 2103 of the CARES Act reimburses the employer for 50% of those costs. See page 5 of 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, at https://wdr.doleta.gov/directives/attach/UIPL/UIPL_18-20.pdf.

[54] As of July 24, 2020, according to DOL, all states have met the criteria for receiving these FFCRA grants (see https://oui.doleta.gov/unemploy/pdf/IC3MOmarch.pdf). All states have requested their full allotment with the exception of Puerto Rico, which had not requested the second allotment. Communication with DOLETA analyst, July 24, 2020.

Temporary UI Benefit Financing (Great Recession and Current Recession)

Temporary UI benefits have been constructed to be 100% federally financed in most of the previous recessions. When Congress structures these measures to be federally financed, it alleviates state financial stress and also allows for the program to be immediately activated once a state signs an agreement to administer the program (without the need for special state legislative action). This was the case for EUC08 (Great Recession), as well as for PEUC, PUA and FPUC (current recession).

Interest on Federal Unemployment Compensation Loans to States[55]

UC benefits are constructed as an entitlement (although the program is financed by a dedicated tax imposed on employers, not by general revenue). Thus, even if a recession impacts a state and that state's trust fund account is then depleted, the state remains legally required to continue paying benefits. A state might borrow money either from the dedicated loan account within the UTF or from outside sources. Since April 1, 1982 (with the passage of P.L. 97-35, as amended), states have been charged interest on new loans that are not repaid by the end of the fiscal year in which they were obtained. In both the Great Recession and the current recession, interest payments and accrual were temporarily waived. Neither measure reduced any underlying loan principal.

Waiver of Interest Accrual on Federal Loans (Great Recession and Current Recession)

In response to the Great Recession, Section 2004 of ARRA (P.L. 111-5) provided relief to states from the payment and accrual of interest on federal loans to states for the payment of unemployment benefits, from enactment of the stimulus package on February 17, 2009, through December 31, 2010. Likewise, in response to the current recession, Section 4103 of FFCRA (P.L. 116-127) temporarily waives interest payments and the accrual of interest on federal advances (loans) to states to pay UC benefits from enactment on March 18, 2020 through December 31, 2020. Other than the authorization period, this temporary waiver of interest accrual on federal loans is substantially similar for the Great Recession and the current recession.

Taxation of Unemployment Benefits[56]

UI benefits have been fully subject to the federal income tax since the passage of the Tax Reform Act of 1986 (P.L. 99-514). Federal tax law treats all unemployment benefits on an equal basis with ordinary income with regard to income taxation. Unemployment benefits are not subject to employment taxes, including Social Security and Medicare taxes, because the benefits are not considered to be wages. Thus, all unemployment benefits—including regular state UC, EB, TAA, DUA, and railroad unemployment benefits—are potentially subject to the federal income tax.

[55] For more information on federal loans to states to pay UC benefits, see CRS Report RS22954, *The Unemployment Trust Fund (UTF): State Insolvency and Federal Loans to States*.

[56] For more information on UI benefits and taxation, see CRS Report RS21356, *Taxation of Unemployment Benefits*.

All temporary benefits, including EUC08, FPUC, PUA, and PEUC, are also included within this taxable category. Most states (but not all) with a state income tax treat unemployment benefits similar to federal tax law.

Temporary Income Tax Exemption for UI Benefits (Great Recession)

During the Great Recession, Section 1007 of ARRA (P.L. 111-5) suspended income taxation on the first $2,400 of unemployment benefits received in tax year 2009 only. There has been no similar measure enacted in the current recession. Thus, current law counts temporary and permanent unemployment benefits as unearned income for federal income tax purposes.

Table 1. Comparison of Temporary Unemployment Insurance (UI) Provisions Enacted in Response to the Great Recession and the COVID-19 Recession

Type of Temporary UI Provision Enacted	Great Recession (December 2007-June 2009)	COVID-19 Recession (February 2020-Present)
Benefits		
Additional federal payment	**Federal Additional Compensation (FAC):** increased unemployment benefits by $25 per week for all recipients of regular state unemployment compensation (UC), Extended Benefits (EB), Emergency Unemployment compensation (EUC08), Trade Adjustment Assistance (TAA) programs, and Disaster Unemployment Assistance (DUA). Authorized February 2009 through December 2010. Created by the American Recovery and Reinvestment Act of 2009 (ARRA; P.L. 111-5); subsequently extended three times by the Department of Defense Appropriations Act, 2010 (P.L. 111-118); the Temporary Extension Act of 2010 (P.L. 111-144); and the Continuing Extension Act of 2010 (P.L. 111-157). FAC authorization included a phaseout period for individuals receiving FAC prior to each expiration date.	**Federal Pandemic Unemployment Compensation (FPUC):** increases unemployment benefits by $600 per week for all recipients on UC, Pandemic Unemployment Assistance (PUA, see description below), Pandemic Emergency Unemployment Compensation (PEUC, see description below), EB, DUA, Short-Time Compensation (STC), Trade Readjustment Allowance (TRA), and Self Employment Assistance (SEA). Authorized from the end of March 2020 through July 2020. Last payable week of FPUC ended July 25, 2020, in most states (July 26, 2020, in New York State). Created by the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136). No phaseout authorized for FPUC.
Additional weeks of UI benefits	**Emergency Unemployment Compensation (EUC08):** additional weeks of federally financed UI benefits for individuals who exhausted state and federal UI benefits; specific structure of EUC08 tier (up four tiers) and duration (up to 53 weeks) varied over the authorization period (see CRS Report R42444, *Emergency Unemployment Compensation (EUC08): Status of Benefits Prior to Expiration*, for more information). Authorized from July 2008 through December 2013. Created by Title IV of the Supplemental Appropriations Act of 2008, (P.L. 110-252); subsequently extended or amended 11 times (for summary information, see CRS Report R42444).	**Pandemic Emergency Unemployment Compensation (PEUC)**: 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. Authorized from the end of March 2020 through December 2020. PEUC expires December 26, 2020, in most states (December 27, 2020, in New York state). Created by the CARES Act (P.L. 116-136).

Type of Temporary UI Provision Enacted	Great Recession (December 2007-June 2009)	COVID-19 Recession (February 2020-Present)
Program for non-UI-covered workers	None	**Pandemic Unemployment Assistance (PUA)**: provides up to 39 weeks of federally financed unemployment benefits to individuals who (1) are ineligible for any other state or federal UI benefit (e.g., self-employed, independent contractors, gig economy workers); (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. Authorized from the end of March 2020 through December 2020. PUA expires December 26, 2020, in most states (December 27, 2020, in New York state). Created by the CARES Act (P.L. 116-136).
Incentive payments for expanded UI eligibility	One-time transfer of up to $7 billion in federal funds to state unemployment programs as "incentive payments" for changing certain state UC laws to expand certain aspects of eligibility for benefits. These changes had to have been permanent and not subject to discontinuation under any circumstances other than repeal by the legislature. These funds were distributed based approved state applications and on the state's share of estimated federal unemployment taxes made by the state's employers as estimated at the end of FY2008. All incentive payments were required to be made before October 1, 2011. Authorized under ARRA (P.L. 111-5).	None
Modifications to the EB program	Authority for states to temporarily use unemployment rate lookback calculations based on three years of unemployment rate data (rather than the permanent-law lookback of two years of data) as part of their EB triggers if states would otherwise trigger off or not be on a period of EB benefits. Authorized from December 2010 through December 2013. First authorized by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312); subsequently extended two times by the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96) and the American Taxpayer Relief Act of 2012 (P.L. 112-240).	None

Type of Temporary UI Provision Enacted	Great Recession (December 2007-June 2009)	COVID-19 Recession (February 2020-Present)
Administrative Grants		
Grants for administration of temporary UI programs	Authorizing language under Section 4004 of the Supplemental Appropriations Act of 2008 (P.L. 110-252) provided for the appropriation of "such sums as necessary" to implement and staff the temporary EUC08 program. Section 2002 of ARRA (P.L. 111-5) provided similar language for the $25 weekly FAC.	Authorizing language under Sections 2102, 2014, and 2107 of the CARES Act (P.L. 116-136) provided for the appropriation of "such sums as necessary" to implement and staff the temporary UI programs.
Additional grants for administration	One-time transfer of $500 million to states for the administration of state UC programs. States did not need to pass legislation or file an application with the Department of Labor (DOL). 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. Authorized under ARRA (P.L. 111-5).	One-time transfer of $1 billion in "emergency administrative grants" to states in calendar year 2020. Funds distributed to state UTF accounts in the same manner as the ARRA administrative grants. Half of each state's share is available if the state meets certain requirements related to UC eligibility notifications and claims access. The second half of each state's share is available if it qualified for the first half and if the state experiences at least a 10% increase in UC claims over the previous calendar year and meets certain other requirements related to easing UC eligibility requirements for individuals affected by COVID-19. Authorized under the Families First Coronavirus Response Act (FFCRA; P.L. 116-127).
STC administrative grants	Up to a total of $100 million (less a small amount to be used by DOL for outreach) for eligible states with permanent STC programs in law that applied for funds. One-third of each state's grant was available for implementation and improved administration purposes, and two-thirds of each state's grant was available for program promotion and enrollment of employers. Authorized under the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96).	Up to a total of $100 million (less a small amount to be used by DOL for outreach) for eligible states with permanent STC programs in law that apply for funds. One-third of each state's grant is available for implementation and improved administration purposes, and two-thirds of each state's grant is available for program promotion and enrollment of employers. Authorized under the CARES Act (P.L. 116-136).

Type of Temporary UI Provision Enacted	Great Recession (December 2007-June 2009)	COVID-19 Recession (February 2020-Present)
Financing		
Temporary UC financing relief for certain state and local government and nonprofit employers	None	50% federal funding of regular state UC benefits and EB payments based on service with reimbursing employers (i.e., financial relief for 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 pay UI taxes) and allows for state flexibility in the timing of required reimbursement payments for these employers. Authorized from the end of March 2020 through December 2020. Initially authorized by the CARES Act (P.L. 116-136); would be amended by S. 4209.
Waiting week	None	100% federal financing for UC benefits provided during the first week of unemployment in state 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). Authorized from end of March 2020 through December 2020. Created by the CARES Act (P.L. 116-136).
Temporary STC financing	100% federal financing of STC benefits in states that met the new definition of an STC program. States with existing STC programs that did not meet the new definition were eligible for 100% federal financing during a transition period of two years. The 100% federal financing ended on August 22, 2015. States without existing STC programs were able to enter into an agreement with DOL to receive federal reimbursement for the temporary federal financing of 50% for up to two years. The federal financing of STC payments ended on August 22, 2015. Authorized under the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96).	100% federal financing of STC in states with existing programs and 100% federal financing for states that create new STC programs in law (up to the equivalent of 26 weeks of benefits for individuals) through December 2020. The state's STC program is not required to be permanent. However, a state is not eligible for an STC administrative grant (see above) if its STC law is subject to discontinuation. States without existing STC programs are able to enter into an agreement with DOL to receive federal reimbursement for the temporary federal financing of 50%. The federal financing of STC payments is authorized through December 2020. Authorized under the CARES Act (P.L. 116-136).

Type of Temporary UI Provision Enacted	Great Recession (December 2007-June 2009)	COVID-19 Recession (February 2020-Present)
Temporary 100% federal financing of EB benefits	100% federal financing of EB benefits, with the exception of "non-sharable" benefits (generally, these are former state and local employees' EB benefits; under permanent law, EB benefits are financed 50% by states and 50% by the federal government) Authorized from February 2009 through December 2013. First authorized under ARRA (P.L. 111-5); subsequently extended eight times (for summary information, see CRS Report R42444).	100% federal financing of EB benefits, with the exception of "non-sharable" benefits, but only for states that receive both halves of the emergency administrative grants authorized under FFCRA. Authorized from March 2020 through December 2020. Authorized under FFCRA (P.L. 116-127).
Interest on Federal Loans		
Waiver of interest accrual on federal loans to states	Waiver of interest payments and the accrual of interest on federal advances (loans) to states to pay UC benefits. Did not affect the underlying loan balance. States still owed the full principal of any outstanding loan. Authorized for interest payments due beginning February 2009 through December 2010. Authorized under ARRA (P.L. 111-5).	Waiver of interest payments and the accrual of interest on federal advances (loans) to states to pay UC benefits. Does not affect the underlying loan balance. States will still owe the full principal of any outstanding loan. Authorized from March 2020 through December 2020. Authorized under FFCRA (P.L. 116-127).
Taxation of UI Benefits		
Temporary exemption	Suspended federal income taxation on the first $2,400 of unemployment benefits received in tax year 2009. Authorized under ARRA (P.L. 111-5).	None

Source: Congressional Research Service.

Notes: For additional information on the temporary UI provisions enacted in response to the Great Recession, see CRS Report CRS Report R40368, *Unemployment Insurance Provisions in the American Recovery and Reinvestment Act of 2009*, and CRS Report R42444, *Emergency Unemployment Compensation (EUC08): Status of Benefits Prior to Expiration*. For additional information on the temporary UI provisions enacted in response to the COVID-19-related recession, see CRS Report R45478, *Unemployment Insurance: Legislative Issues in the 116th Congress*. Some details and differences of the enacted UI provisions have been omitted due to space limitations.

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