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Unemployment Insurance: Legislative Issues in the 117th Congress, First Session

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SUMMARY

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Unemployment Insurance: Legislative Issues in the 117th Congress, First Session

The Unemployment Insurance (UI) system is a joint federal-state partnership. The U.S. Department of Labor (DOL) provides oversight of state Unemployment Compensation (UC) programs and the state administration of federal UI benefits. Although there are broad requirements under federal law regarding UC benefits and financing, the specifics are set out under each state's laws, resulting in 53 different UC programs operated in the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. States operate their own UC programs and administer any temporary, federal UI benefits. State UC programs determine the weekly benefit amount and the number of weeks of UC available to unemployed workers. Most states provide up to 26 weeks of UC to eligible individuals who become involuntarily unemployed for economic reasons and meet state-established eligibility rules.

The UI system's two main objectives are to provide temporary and partial wage replacement to involuntarily unemployed workers and to stabilize the economy during recessions (i.e., by providing income support to unemployed workers, who spend this income, maintaining a certain level of economic activity). The UC program, created under the Social Security Act of 1935, provides unemployment benefits to eligible individuals who become involuntarily unemployed for economic reasons and meet state-established eligibility rules. Augmenting the regular UC program, federal law includes an automatic expansion of the regular UC benefit with the Extended Benefit (EB) program established by the Federal-State Extended Unemployment Compensation Act of 1970 (EUCA; P.L. 91-373). EB may provide up to an additional 13 or 20 weeks of benefits once regular UC benefits are exhausted, depending on worker eligibility, state law, additional federal eligibility requirements, and economic conditions in the state.

In response to the recent recession caused by the COVID-19 pandemic, Congress created several temporary, now-expired programs through the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136; enacted March 27, 2020):

- Pandemic Unemployment Assistance (PUA),
- Pandemic Emergency Unemployment Compensation (PEUC), and
- Federal Pandemic Unemployment Compensation (FPUC).

The Consolidated Appropriations Act, 2021 (also known as the Continued Assistance for Unemployed Workers Act of 2020, or the Continued Assistance Act; P.L. 116-260; enacted December 27, 2020), extended the authorization of these programs and created Mixed Earner Unemployment Compensation (MEUC). Congress also provided states with more flexibility to address COVID-19-related unemployment through expanded benefit eligibility, additional administrative funding, and other temporary UI measures enacted under the Families First Coronavirus Response Act (FFCRA; P.L. 116-127, enacted March 18, 2020).

In the first session of the 117th Congress, the UI provisions in Title IX, Subtitle A, of the American Rescue Plan Act of 2021 (ARPA; P.L. 117-2; enacted March 11, 2021) made four significant changes to UI programs and benefits:

- They reauthorized and expanded the enhanced UI benefits created under the CARES Act and the Continued Assistance Act through September 4, 2021;
- They extended the authorization for additional, temporary UI provisions first authorized under the CARES Act and FFCRA and subsequently extended under the Continued Assistance Act;
- They authorized a federal income tax exclusion of up to $10,200 in UI benefits in 2020 for taxpayers with modified adjusted gross income (AGI) of less than $150,000; and
- They provided two sources of additional UI administrative funding: (1) $2 billion to DOL for federal and state administration of UI benefits, including for fraud prevention and benefit processing purposes; and (2) $8 million to DOL for federal activities related to UI programs.

All temporary UI measures enacted in response to the COVID-19 pandemic expired at the beginning of September 2021. When authorized, FPUC, PEUC, PUA, and MEUC were all payable through voluntary agreements between DOL and states. Each agreement required that the state administer the benefits. All states agreed to administer FPUC, PEUC, and PUA, and all but two states (Idaho and South Dakota) agreed to administer MEUC. However, 26 states announced terminations of some or all of their agreements to pay COVID-19 UI benefits prior to the end of the federal authorization of the programs. (DOL reported that state courts in Indiana and Maryland issued temporary orders prohibiting early termination from some or all of the COVID-19 UI programs. Additional legal challenges have been reported in other states but at this time do not appear to have reestablished participation.)

In the first session of the 117th Congress, policymakers introduced the following additional legislation that would have

- provided relief to taxpayers who receive UI benefits, by excluding up to $10,200 in UI benefit income from federal income taxation in tax year 2020 (S. 175 and H.R. 685; proposal in these two bills was enacted under Section 9042 of ARPA [P.L. 117-2]) and addressing the situation of victims of identity theft related to UI fraud in tax years 2020 and 2021 (H.R. 3170);
- exempted certain types of UI benefits from sequestration (H.R. 2900 and S. 545);
- amended Title III of the Social Security Act to extend Reemployment Services and Eligibility Assessments (RESEA) to all UC claimants (S. 1389, H.R. 1763, H.R. 1868, H.R. 2188, and H.R. 3154);
- modernized state UI systems and implemented additional program integrity measures (S. 490, S. 2898, H.R. 723, H.R. 1458, and H.R. 6224);
- amended 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 (S. 242, S. 1206, S. 1389, S. 1555, S. 1557, S. 1699, S. 1712, S. 2358, S. 2742, H.R. 289, H.R. 435, H.R. 805, H.R. 919, H.R. 934, H.R. 1868, H.R. 2188, H.R. 3104, H.R. 3148, H.R. 3254, H.R. 3266, H.R. 3268, H.R. 3307, H.R. 3316, H.R. 3479, H.R. 3495, H.R. 4013, H.R. 4015, H.R. 4190, H.R. 5285, and H.R. 5363); and
- made changes to permanent-law state UC programs (S. 2865, H.R. 594, H.R. 1620, and H.R. 5507).

For additional details on the temporary, now-expired UI benefits created in response to the COVID-19 recession, see CRS Report R46687, *Unemployment Insurance (UI) Benefits: Permanent-Law Programs and the COVID-19 Pandemic Response*.

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Overview of Unemployment Insurance Programs

The Unemployment Insurance (UI) system is a joint federal-state partnership that provides income support through weekly benefit payments. The UI system's two main objectives are to provide temporary and partial wage replacement to involuntarily unemployed workers and to stabilize the economy during recessions (i.e., by providing income support to unemployed workers, who spend this income, maintaining a certain level of economic activity).[1] The UI system consists of two types of benefits: (1) permanently authorized programs such as the Unemployment Compensation (UC) and the Extended Benefit (EB) programs and (2) temporary federal UI benefits created by congressional action to supplement the UC and EB programs during recessions.

The UC program and the UC benefit provide the foundation of the UI system. The UC program, created under the Social Security Act of 1935, provides unemployment benefits to eligible individuals who become involuntarily unemployed for economic reasons and meet state-established eligibility rules. Although there are broad requirements under federal law regarding UC benefits and financing, the specifics are set out under each state's laws, resulting in 53 different UC programs operated in the 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands. The U.S. Department of Labor (DOL) provides oversight of state UC programs and state administration of all UI benefits. States operate their own UC programs and typically administer any temporary federal UI benefits. Most states provide up to 26 weeks of UC benefits.

Augmenting the regular UC program's economic stabilization efforts, federal law includes an automatic expansion of the regular UC benefit with the EB program established by the Federal-State Extended Unemployment Compensation Act of 1970 (P.L. 91-373). EB may provide up to an additional 13 or 20 weeks of benefits once regular UC benefits are exhausted, depending on worker eligibility, state law, additional federal eligibility requirements, and economic conditions in the state.

The two permanently authorized UI programs—UC and EB—provide weekly, countercyclical payments that increase automatically during a recession. The intent to provide economic stability is reflected in the UI system's funding and benefit structure. During economic expansions, states fund approximately 85%-90% of all UC expenditures, as almost all UC benefits are financed by state unemployment taxes. In comparison, federal UC expenditures are relatively small during these expansions (approximately 10%-15%) and are primarily made to the states via administrative grants financed by federal unemployment tax revenue. The federal share of EB expenditures is 50% under permanent law. Thus, the federal share of UI expenditures (UC+EB) increases during recessions.[2] Additionally, temporary UI programs created during all recessions have been 100% federally financed, which again increases the federal expenditure share in UI

[1] See, for example, President Franklin Roosevelt's remarks at the signing of the Social Security Act on August 14, 1935: "This law, too, represents a cornerstone in a structure which is being built but is by no means complete. It is a structure intended to lessen the force of possible future depressions. It will act as a protection to future Administrations against the necessity of going deeply into debt to furnish relief to the needy. The law will flatten out the peaks and valleys of deflation and of inflation. It is, in short, a law that will take care of human needs and at the same time provide the United States an economic structure of vastly greater soundness" (available at http://www.ssa.gov/history/fdrstmts.html#signing).

[2] Under Section 4105 of P.L. 116-127, the Families First Coronavirus Response Act (FFCRA), as amended, EB was temporarily 100% federally financed from March 18, 2020, through September 4, 2021.

expenditures. For example, in calendar year 2021, approximately 75% of all UI benefits paid out were federally financed.

When employment grows, state and federal UC tax revenues rise and spending on UC benefits falls because fewer workers are unemployed.[3] In a recession, UC tax revenue decreases and UC program spending increases as more workers lose their jobs and receive UC benefits. The increased amount of UC payments to unemployed workers mitigates the economic impact of a job loss by supplementing lost earnings and thus injecting additional funds into the economy.

Additionally, to support the UC program's economic stabilization efforts during higher unemployment periods, federal law includes an automatic extension of the regular UC benefit through the EB program. Triggering "on" to EB requires that a state meets certain unemployment thresholds. (The state also has options to adopt certain additional unemployment triggers.) In practice, the required EB trigger is set to such a high level of unemployment that the majority of states do not trigger onto EB in most recessions.[4] The weekly EB payment to beneficiaries is the same as the underlying UC benefit amount and, thus, also varies by state.

Congress often supplements these stabilization efforts by enacting temporary UI benefit expansions. The 116th Congress created four temporary UI benefits in response the COVID-19 pandemic and the resulting economic recession in P.L. 116-136, the Coronavirus Aid, Relief, and Economic Security (CARES) Act (enacted March 27, 2020). The authorization for these benefits was subsequently extended (and in some cases the benefits were expanded) by the following:

- the Consolidated Appropriations Act, 2021 (P.L. 116-260, also known as the Continued Assistance for Unemployed Workers Act of 2020, or the Continued Assistance Act; enacted December 27, 2020)[5] and
- the American Rescue Plan Act of 2021 (ARPA; P.L. 117-2, enacted March 11, 2021).[6]

The authority for these temporary, COVID-19 UI benefits expired after September 4, 2021.[7]

Unemployment Compensation Program

Federal law sets broad rules that state UC programs must follow. These include the broad categories of jobs and workers that must be covered by the program, the method for triggering the EB program, the floor on the highest state unemployment tax rate to be imposed on employers (5.4%), and how the states will repay Unemployment Trust Fund (UTF) loans.[8] Although there are broad requirements under federal law regarding UC benefits and financing, the specifics are set out under each state's laws, resulting in 53 different UC programs operated in the 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands. DOL provides oversight of state UC

[3] For a description of federal and state unemployment taxes, see CRS Report R44527, *Unemployment Compensation: The Fundamentals of the Federal Unemployment Tax (FUTA)*.

[4] Janet L. Norwood et al., *Collected Findings and Recommendations: 1994-1996*, Advisory Council on Unemployment Compensation, 1996, pp. 2-4. For additional information on EB law changes over time, see Table A-1 in CRS Report RL34340, *Extending Unemployment Compensation Benefits During Recessions*.

[5] Division N, Title II, Subtitle A.

[6] Title IX, Subtitle A.

[7] Through September 5, 2021, in New York state.

[8] For details on how the UTF operates, see CRS Report RS22077, *Unemployment Compensation (UC) and the Unemployment Trust Fund (UTF): Funding UC Benefits*.

programs and state administration of all UI benefits. States operate their own UC programs and also administer any temporary, federal UI benefits.

In general, UC eligibility is based on attaining qualified wages and employment in UC-covered work[9] over a 12-month period called a base period[10] 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. 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. These eligibility requirements help ensure that UC benefits are directed toward workers with labor market experience who are unemployed because of economic conditions. Self-employed workers—potentially including independent contractors and gig economy workers—are the largest group of workers generally excluded from eligibility for UC benefits.

UC benefit calculations are generally based on wages for covered work over the base period, as described above. Most state benefit formulas replace half of a claimant's average weekly wages up to a weekly maximum. There is considerable variation by state in the weekly UC benefit amount. As of July 2021, the maximum weekly benefit amounts ranged from $235 (Mississippi) to $855 (Massachusetts).[11] The 12-month average, national weekly benefit amount, as of December 2021, was $350.

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).[12] The 0.6% effective net FUTA tax that employers pay on the first $7,000 of each employee's annual 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.[13]

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[9] Covered work refers to any job that is subject to unemployment payroll taxes (i.e., Federal Unemployment Tax Act or state unemployment taxes) as well as most state and local governmental employment.

[10] The base period is the time period during which wages earned or hours/weeks worked are examined to determine a worker's monetary entitlement to UC. Almost all states use the first four of the last five completed calendar quarters preceding the filing of the claim as their base period. This may result in a lag of up to five months between the end of the base period and the date a worker becomes unemployed. As a result there are some instances when workers with substantial labor market attachment are ineligible for UC benefits. In particular, recent entrants to the workforce or re-entrants may be ineligible under this definition. Federal law allows states to develop expanded definitions of the base period.

[11] In states that provide dependents' allowances, the maximum benefit was $1,282 (Massachusetts, requiring 18 dependents for the maximum payment). See DOL, *Significant Provisions of State Unemployment Insurance Laws, Effective July 2021*, available at https://oui.doleta.gov/unemploy/content/sigpros/2020-2029/July2021.pdf. Dependents' allowances are amounts paid on top of the weekly benefit amount in some states, using each state's definition of *dependent*.

[12] 23 U.S.C. §§3301-11.

[13] 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*. For information on the Employment Service, see CRS Report R43301, *Programs Available to Unemployed Workers Through the American Job Center Network*.

Federal law limits employers' SUTA taxes to funding regular UC benefits and the state share (50%) of EB payments. Additionally, federal law requires that all states tax at least the first $7,000 of each employee's earnings and that the maximum state unemployment tax rate be at least 5.4%. Federal law also requires each employer's state unemployment 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 UTF.[14]

Extended Benefit Program

The EB program was established by the Federal-State Extended Unemployment Compensation Act of 1970 (P.L. 91-373). The EB program may provide up to an additional 13 or 20 weeks of benefits for individuals who were previously eligible for UC benefits once regular UC benefits are exhausted, depending on a number of factors: worker eligibility, state law, additional federal eligibility requirements, and economic conditions in the state.

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.[15] 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[16]
  - 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 TUR[17]
  - 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; or

[14] For details on the UTF, see CRS Report RS22077, *Unemployment Compensation (UC) and the Unemployment Trust Fund (UTF): Funding UC Benefits*.

[15] The 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. The 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 nonprofit organizations, and several other (primarily seasonal) categories of workers. The IUR also excludes those who have exhausted their UC benefits (even if they are receiving EB benefits), new entrants or re-entrants 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.

[16] If EB is activated based upon the IUR (triggers "on"), the EB period is immediately in effect. See Section 203(a)(1) of P.L. 91-373, as amended.

[17] By law, a state triggering on to an EB period based upon a TUR-based trigger will begin to offer those benefits on the third week after the first week for which there is a state "on" indicator. See Section 203(a)(1) of P.L. 91-373.

- 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. (This is designated as a High Unemployment Period [HUP] for EB.)

No more than 13 weeks are available in total (or 20 weeks if the HUP conditions have been met) as the triggers are not additive. When a state triggers "off" of an EB period, all EB benefit payments in the state cease immediately, regardless of individual entitlement.[18] That is, EB benefits are not phased out (grandfathered) when a state triggers off the program.[19]

EB Eligibility and Benefit Amount

The EB benefit amount is equal to the eligible individual's weekly regular UC benefit. The EB program imposes federal restrictions on individual eligibility for EB beyond the state requirements for regular UC. The EB program requires that a worker make a "systematic and sustained" work search (as defined by state law). Furthermore, the worker may not receive benefits if he or she refused an offer of *suitable* work, which is defined as "any work within such individual's capabilities."[20] In addition, claimants must have worked at least 20 weeks of full-time insured employment (or the equivalent as defined by the state) in insured wages during their base periods.

EB Financing

Under permanent law, FUTA revenue finances 50% of the EB payments and 100% of EB administrative costs. States fund the other 50% of EB benefit costs, under permanent law, through their SUTA revenue.

Temporary EB Financing Change (expired)

Section 4105 of P.L. 116-127, the Families First Coronavirus Response Act (FFCRA), as amended, temporarily provided 100% federally financed EB (with the exception of state and local employees) for states that received both halves of the emergency administrative grants authorized under FFCRA, beginning with enactment of this law (March 18, 2021).[21] The Continued

[18] If an EB period is deactivated based upon the state failing to meet IUR based trigger requirements (i.e., it triggers "off"), the EB period is immediately ended. If an EB period triggers off based upon a state failing to meet TUR-based trigger requirements, the EB period will end on the third week after the first week for which there is a state "off" indicator. See Section 203(a)(2) of P.L. 91-373, as amended.

By federal law, no EB period shall last for a period of less than 13 consecutive weeks, and no EB period may begin before the 14th week after the close of a prior EB period with respect to such state. See Section 203(b) of P.L. 91-373, as amended.

EB benefits on interstate claims are limited to two extra weeks unless both the worker's state of residence and the worker's state of previous employment are in an EB period. The rules for triggering on and off EB based upon multiple triggers are provided in Title 20, Section 615.11, of the *Code of Federal Regulations*.

[19] 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.

[20] State UC programs have their own definitions related to work search and refusal of suitable work. See Tables 5.16 and 5.18 in DOL, Employment and Training Administration (ETA), *2020 Comparison of State Unemployment Insurance Laws*, at https://oui.doleta.gov/unemploy/pdf/uilawcompar/2020/nonmonetary.pdf.

[21] Section 4102(a) of FFCRA provided up to a total of $1 billion in "emergency administrative grants" to states in calendar year 2020. Half of each state's share was available if the state met certain requirements related to UC

Assistance Act (P.L. 116-260) extended the authority for this 100% federal financing of EB through March 13, 2021 (March 14, 2021, in New York).[22] ARPA (P.L. 117-2) subsequently extended this authority through September 4, 2021, when it expired.

Temporary Adoption of Optional EB Triggers Based on Expired 100% Federal Financing for EB

Some states reacted to this temporary 100% federal financing by enacting temporary EB trigger options that remained in place for the duration of the increased federal cost share. According to DOL, 13 states adopted a more responsive TUR trigger but authorized a sunset for these TUR triggers tied to the availability of the 100% federal financing for EB.[23]

Temporary COVID-19 Pandemic UI Programs (expired)

The 116th Congress created several new temporary UI benefits through the CARES Act (March 27, 2020) in response the COVID-19 pandemic and the resulting economic recession. The Continued Assistance Act (December 27, 2020) and ARPA (March 11, 2021) subsequently extended the authorization for these COVID-19 UI benefits and, in some cases, expanded their duration. Under ARPA, all of the COVID-19 UI programs—PUA, PEUC, FPUC, and MEUC—expired September 4, 2021.

The statutory authority for the temporary UI benefits specified that they were payable through voluntary agreements between the DOL and each state that chose to provide them. All states initially signed agreements to pay almost all of these benefits (two states, Idaho and South Dakota, did not amend their FPUC agreements to administer the MEUC payment). However, 26 states announced they were terminating their agreements to pay COVID-19 UI benefits prior to program expiration (i.e., before September 4, 2021). However, according to DOL, in two of these states—Indiana and Maryland—state courts issued temporary orders prohibiting withdrawal from some or all of these COVID-19 UI programs.

Pandemic Unemployment Assistance (PUA; expired)

PUA was a temporary, federal UI program for individuals who were (1) not otherwise eligible for UI benefits (e.g., self-employed, independent contractors, gig economy workers, or those who

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eligibility notifications and claims access. The second half of each state's share was available if a state qualified for the first half and 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 received these grants. DOL published the state shares of these emergency administrative grants in Unemployment Insurance Program Letter (UIPL) No. 13-20, "Families First Coronavirus Response Act, Division D Emergency Unemployment Insurance Stabilization and Access Act of 2020," March 22, 2020, at https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8634. As of June 11, 2020, according to DOL, all states met the statistical criteria for receiving these FFCRA grants (see https://oui.doleta.gov/unemploy/pdf/IC3MOmarch.pdf). All states requested their full allotment of these FFCRA grants by September 30, 2020.

[22] For subsequent UI benefit expiration dates provided below, the benefit expiration date in New York was one calendar day later, which is due to state definitions of *week*.

[23] According to DOL, these states were California, Colorado, Delaware, the District of Columbia, Georgia, Illinois, Kentucky, Massachusetts, Michigan, Nevada, New York, Ohio, and Texas. Some states cited the specific federal law in their sunset dates, while other states used specific dates that aligned with an upcoming expiration of the 100% federal financing of EB. Texas's EB TUR trigger statute requires that if 100% federal financing of EB is available, then Texas must promulgate a regulation to use it (based on DOL/ETA email communication with authors, January 16, 2021).

had exhausted all entitlement to other UI benefits); (2) unemployed, partially unemployed, or unable to work due to a specific COVID-19-related reason; and (3) not able to telework and not receiving any paid leave. As originally constructed under the CARES Act, PUA provided up to 39 weeks of benefits for weeks of unemployment ending December 26, 2020. The Continued Assistance Act authorized 11 additional weeks of PUA benefits (not retroactive; only payable with respect to weeks of unemployment beginning December 26, 2020) for a total of 50 weeks of PUA.[24]

In the first session of the 117th Congress, ARPA authorized 29 additional weeks of PUA benefits (not retroactive; only payable with respect to weeks of unemployment beginning March 14, 2021). ARPA also extended the authorization for PUA through weeks of unemployment ending on or before September 6, 2021. No PUA benefits were payable after September 4, 2021.[25] The PUA expiration date effectively limited PUA benefits to an additional 25 weeks and a cumulative total of 75 weeks.

The PUA benefit amount was the weekly benefit amount as calculated under state law based on recent earnings, subject to the minimum benefit under Disaster Unemployment Assistance (DUA),[26] which is half of the state's average weekly UC benefit amount. In territories without UC programs, the PUA benefit was determined by DUA regulations.[27]

UC Exhaustion and PUA

During a period of unemployment, individuals may have been eligible for benefits under multiple UI programs, including programs authorized in the CARES Act, as amended. While the temporary, COVID-19 UI programs were authorized, once an individual had exhausted entitlement to UC, Pandemic Emergency Unemployment Compensation (PEUC), and EB benefits, the individual may have been eligible to collect PUA if the cause of unemployment were attributable to a specific COVID-19-related reason. The 50-week entitlement to PUA would have been reduced by the number of UC and EB weeks received by the individual.

Pandemic Emergency Unemployment Compensation (PEUC; expired)

When authorized, PEUC provided additional weeks of federally financed UI benefits for individuals who were previously eligible for UC benefits but exhausted all UC entitlement and were able, available, and actively seeking work, subject to COVID-19-related flexibilities. It was originally created as a 13-week UI extension under the CARES Act and payable through weeks of unemployment ending December 26, 2020, but 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)—for a total of 24 weeks of PEUC.[28]

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[24] The Continued Assistance Act extended the authorization for PUA through weeks of unemployment ending on or before March 14, 2021. It also created a phaseout period for PUA so that, for individuals receiving PUA at the end of the program who had not exhausted available weeks of PUA and remained otherwise eligible, PUA benefits were payable until April 10, 2021.

[25] ARPA did not provide authority for a phaseout period under PUA after program expiration.

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

[27] Under 20 C.F.R. Section 625.2(r)(1)(ii), the applicable state law for Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands is the Hawaii Employment Security Law.

[28] The Continued Assistance Act also extended the authorization for PEUC through weeks of unemployment ending on or before March 14, 2021. In addition, it created a phaseout period for PEUC so that, for those individuals who were receiving PEUC at the end of the program, had not exhausted available weeks of PEUC, and remained otherwise

In the first session of the 117th Congress, ARPA authorized 29 additional weeks of PEUC benefits (not retroactive; only payable with respect to weeks of unemployment beginning March 14, 2021). ARPA also extended the authorization for PEUC through weeks of unemployment ending on or before September 6, 2021. Thus, no PEUC benefits were payable after September 4, 2021.[29] The final PEUC expiration date effectively limited PEUC benefits to an additional 25 weeks and a cumulative total of 49 weeks.

The PEUC benefit amount was equal to the eligible individual's weekly regular UC benefit amount including any dependent allowance.

Federal Pandemic Unemployment Compensation (FPUC; expired)

Originally authorized under the CARES Act at $600 per week, FPUC was a benefit augmentation for all individuals receiving any weekly UI benefit. The $600 FPUC benefit initially expired on July 25, 2020. The Continued Assistance Act reestablished FPUC by reauthorizing the FPUC amount at a lower $300 per week for weeks of unemployment beginning after December 26, 2020, and ending on or before March 14, 2021.

In the first session of the 117th Congress, ARPA extended the Continued Assistance Act's reauthorization of FPUC at $300 per week through weeks of unemployment ending on or before September 6, 2021. After September 4, 2021, no FPUC benefits were payable.

Mixed Earner Unemployment Compensation (MEUC; expired)

The Continued Assistance Act created a $100-a-week MEUC payment in addition to the $300-a-week FPUC benefit in states that elected to participate. MEUC provided a $100 weekly benefit for individuals who received at least $5,000 in self-employment income in the most recent tax year (i.e., the tax year ending prior to the individual's application for state UI benefits) and who received almost any UI benefit (including UC, EB, and PEUC but excluding PUA). MEUC was originally authorized for weeks of unemployment beginning on or after December 27, 2020, and ending on or before March 14, 2021. Idaho and South Dakota did not sign agreements with DOL to administer MEUC.

In the first session of the 117th Congress, ARPA extended the authorization of the $100-a-week MEUC payment in participating states for weeks of unemployment ending on or before September 6, 2021. After September 4, 2021, no MEUC benefits were payable.

Flow of UI Benefits Under ARPA Prior to Expiration

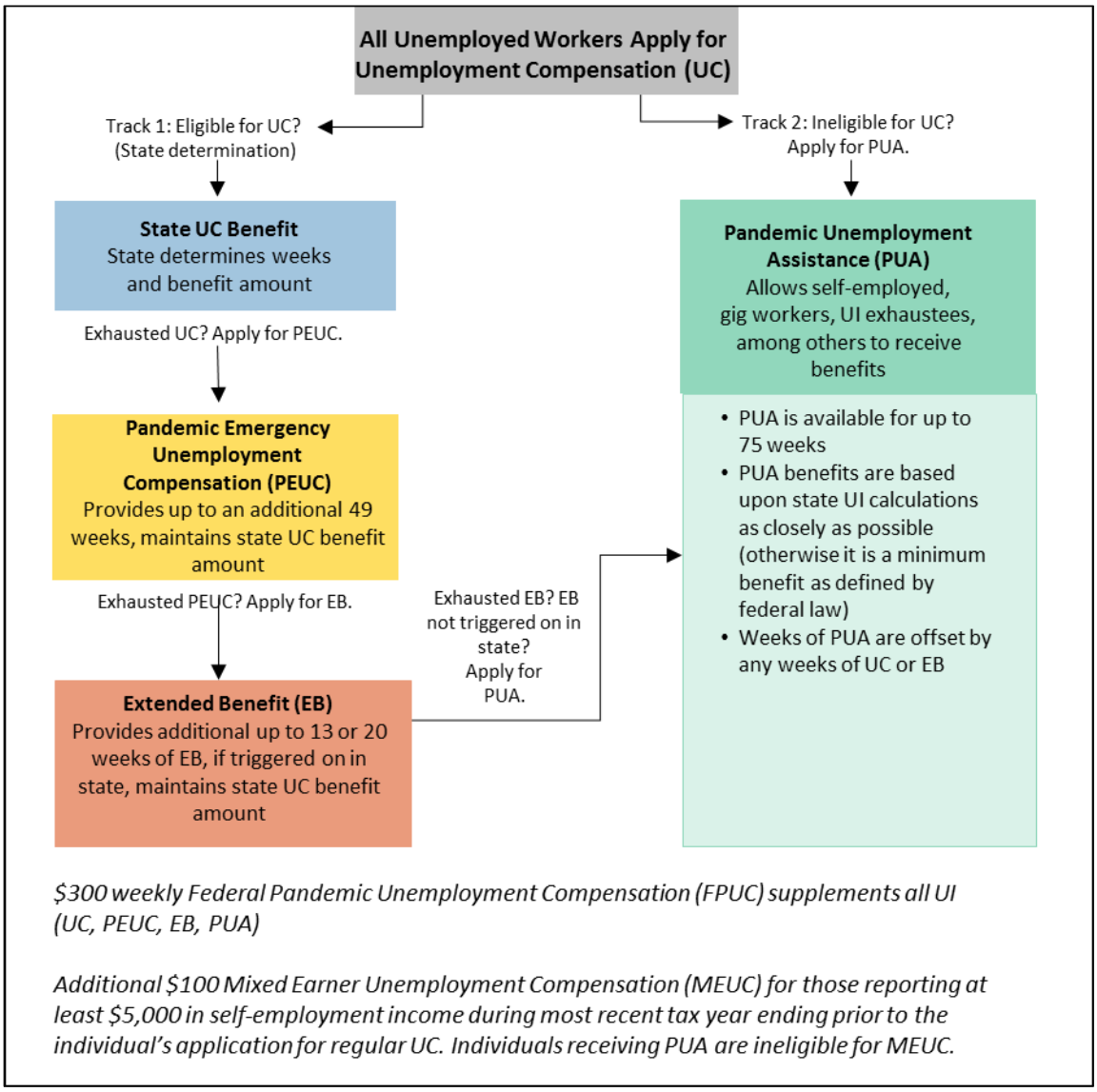
Figure 1 provides the flow of all available UI benefits, including temporary COVID-19 UI benefits, from March 13, 2021, through September 4, 2021 (i.e., prior to benefit expirations). This flow was contingent on an individual meeting all eligibility criteria for the respective programs. It was also contingent on a state having an agreement with DOL to administer the programs authorized under the CARES Act, as amended by the Continued Assistance Act and ARPA. As described in more detail below, prior to the September 2021 program expirations, 26 states had attempted to terminate some or all of the temporary UI benefits authorized under the CARES Act, as amended.

eligible, PEUC benefits were payable until April 10, 2021.

[29] ARPA did not provide authority for a phaseout period under PEUC after program expiration.

Figure 1. Current Coordination of the Flow of UI Benefits Under the American Rescue Plan Act of 2021 Prior to Expiration

(March 13, 2021, through September 4, 2021)



Source: CRS analysis based on the UI provisions in Title IX, Subtitle A, of the American Rescue Plan Act of 2021 (P.L. 117-2) and DOL guidance.

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

Transition rules: (1) Individuals who were receiving EB for the week ending December 26, 2020, were required to remain on EB until those benefits were exhausted. After that point, they may have been eligible for additional PEUC if available. (2) Individuals who were receiving EB for the week ending March 13, 2021, must have remained on EB until those benefits were exhausted. After that point, they may have been eligible for additional PEUC if available.

PUA was the last payer. All other UI benefits must have been exhausted or unavailable. States had a temporary, six-week authorization to continue to pay PUA rather than PEUC if an individual was receiving PUA for the week ending March 13, 2021.

FPUC, MEUC, PUA, and PEUC were authorized through September 4, 2021 (September 5, 2021, for New York).

According to DOL, South Dakota and Idaho did not sign agreements to offer MEUC.

As of August 4, 2021, according to DOL, the following 24 states had effectively terminated their agreements with DOL to pay some or all COVID-19 UI benefits: Alabama, Alaska, Arkansas, Arizona, Florida, Georgia, Idaho, Iowa, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wyoming.

Two additional states—Indiana and Maryland—also announced terminations of their state agreements to pay COVID-UI benefits. According to DOL, in both Indiana and Maryland, however, state courts issued temporary orders prohibiting withdrawal from COVID-19 UI programs. (Additional legal challenges were reported in other states but do not appear to have reestablished participation.) Thus, in Indiana PUA, PEUC and FPUC continued to be payable (MEUC was terminated, effective July 19, 2021); and in Maryland, PUA, PEUC, FPUC, and MEUC continued to be payable until program expiration.

States that Opted to Terminate COVID-19 Pandemic UI Programs Early

As discussed earlier, almost all states initially signed agreements to pay all COVID-19 UI benefits but 26 states announced terminations of their agreements with DOL to pay some or all of these temporary UI benefits, with effective benefit termination dates ranging from June 12, 2021, to July 31, 2021:[30] The 26 states were

- Alabama, Alaska, Arkansas, Arizona, Florida, Georgia, Idaho, Indiana, Iowa, Louisiana, Maryland, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wyoming.

According to DOL, state courts in Indiana and Maryland issued temporary orders prohibiting withdrawal from COVID-19 UI programs. Thus, in Indiana PUA, PEUC and FPUC continued to be payable (MEUC was terminated, effective July 19, 2021); and in Maryland, PUA, PEUC, FPUC, and MEUC continued to be payable until program expiration. There were also media reports of additional legal challenges in other states that announced terminations of COVID-19 UI agreements.[31]

Implications of State Terminations of COVID-19 UI Agreements for the Federal Budget

The COVID-19 UI benefits were legislatively constructed to be entitlements for eligible individuals. In budgetary terms, the COVID-19 UI benefits, like permanent-law UI benefits, were mandatory entitlements that were funded through direct spending not subject to annual appropriations.[32] As such, UI benefits are not capped entitlements, block grants, or otherwise limited by an appropriated amount. Reflecting this arrangement, the CARES Act, as amended, authorized "such sums as the Secretary of Labor estimates to be necessary to make payments"

[30] For additional information on how states may have terminated their CARES Act agreements, see CRS Insight IN11679, *States Opting Out of COVID-19 Unemployment Insurance (UI) Agreements*. For more information on which COVID-19 UI benefits states terminated, including effective dates, see CRS Report R46687, *Unemployment Insurance (UI) Benefits: Permanent-Law Programs and the COVID-19 Pandemic Response*.

[31] See, for example, Eleanor Mueller and Rebecca Rainey, "Labor advocates winning back federal jobless aid in state court battles," *Politico*.com, August 11, 2021; and Lisa Rowan, "Why workers are suing states for cutting off expanded unemployment benefits," *Forbes.com*, updated July 14, 2021.

[32] For additional information on UI benefits in the budget, see Congressional Budget Office (CBO), "Options for Reducing the Deficit: Mandatory Spending," December 6, 2013, at https://www.cbo.gov/publication/44939.

from the General Fund of the Treasury to fund payments of these UI benefits for eligible claimants.[33]

As mentioned previously, the framework of the CARES Act required states to enter into a voluntary agreement with the Labor Secretary to administer these COVID-19 UI benefits. Thus, if a state terminated its agreement(s) to provide PUA, FPUC/MEUC, or PEUC early, there was no longer an agreement to pay these COVID-19 UI benefits in that state; and any hypothetical funds for CARES Act benefit payments that would have otherwise been paid for those weeks of unemployment (i.e., if the state had not terminated its agreement(s)) remained in the General Fund of the Treasury. Additionally, if a state that terminated any agreement(s) to pay COVID-19 UI benefits had unexpended funds designated for CARES Act benefits, that state was required to return those funds to the General Fund of the Treasury.[34]

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), affects some types of UI expenditures.[35] UC payments are not subject to the sequester reductions. EB and most forms of administrative funding are subject to the sequester reductions.[36]

FY2021 Sequester of Unemployment Insurance Benefits

The FY2021 sequestration order required a 5.7% reduction in all nonexempt nondefense mandatory expenditures, but no sequestration reductions were applicable to discretionary programs, projects, and activities.[37] As a result, the federal share of EB expenditures were required to be reduced by 5.7% for weeks of unemployment during FY2021.[38] When EB was

[33] For PUA, see Section 2102(g)(1)(B) of the CARES Act, as amended; for FPUC/MEUC, see Section 2014(d)(3) of the CARES Act, as amended; and for PEUC, see Section 2107(d)(1)(B).

[34] In a July 16, 2021, letter to Senator Kyrsten Sinema, CBO stated that it has reduced its cost projections for COVID-19 UI benefits under ARPA by $50 billion in 2021, and by $3 billion in 2022 (i.e., less than the projections made under CBO's March 2021 cost estimate). These changes were integrated into the underlying, revised CBO baseline. CBO reduced its COVID-19 UI cost projections for two reasons: (1) the early terminations of COVID-19 UI agreements by states and (2) a lowered forecast of the unemployment rate due to improving economic conditions. See CBO, "Re: Cost of the Extension of Expanded Unemployment Compensation," July 16, 2021, at https://www.cbo.gov/system/files/2021-07/57366-Sinema-UI.pdf.

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

[36] The Emergency Unemployment Compensation program, when it was available (including any benefit payments delayed from prior fiscal years), was 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. 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; 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; and CRS Report R45478, *Unemployment Insurance: Legislative Issues in the 116th Congress* for additional information on the implications of the sequester order for FY2019 and FY2020.

[37] Office of Management and Budget, *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.

[38] For details, see ETA, UIPL No. 18-19, September 16, 2019, at https://wdr.doleta.gov/directives/corr_doc.cfm?

payable in FY2021 and there was authority for the 100% federal financing of EB (with the exception of non-sharable compensation—e.g., state and local workers),[39] the net sequester reduction to EB benefit payments for FY2021 was 2.85%. (The reduction to non-sharable EB benefits would have remained at 5.7%.[40])

The temporary COVID-19 UI benefits created under the CARES Act and subsequently extended under the Continued Assistance Act and ARPA (as well as MEUC, which was created under the Continued Assistance Act) were not specifically excluded from sequestration. However, the Office of Management and Budget released the FY2021 order prior to the enactment of the CARES Act.[41] Thus, the temporary UI benefits created under the CARES Act and extended under the Continued Assistance Act and ARPA were not subject to the FY2021 mandatory sequester order.

FY2022 Sequester of Unemployment Insurance Benefits

The FY2022 sequestration order also required a 5.7% reduction in all nonexempt nondefense mandatory expenditures, but no sequestration reductions were applicable to discretionary programs, projects, and activities.[42] Thus, the federal share of EB expenditures at the end of the first session of the 117th Congress was required to be reduced by 5.7% for the weeks of unemployment during FY2021.[43]

In program guidance, DOL announced that the temporary COVID-19 UI benefits created under the CARES Act and subsequently extended under the Continued Assistance Act and ARPA (as well as MEUC, which was created under the Continued Assistance Act) were not subject to FY2022 sequestration:

> The PPAs [programs, projects, and activities] established through enactment of the CARES Act, as amended, expired September 6, 2021. Although residual benefit payments will continue to be issued to claimants beyond the expiration of these programs, the Department, in consultation with OMB, has determined these residual benefit payments to be obligations incurred when the week of unemployment was experienced. Therefore, residual benefit payments will continue to be charged to the FY 2021 budget authority and will not be subject to the 5.7 percent sequestration reduction.[44]

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[39] The temporary federal financing of EB, as authorized under FFCRA (P.L. 116-127), was extended by the Continued Assistance Act through weeks of unemployment ending on or before March 14, 2021, which included the first two quarters of FY2021. This provision was further extended under ARPA through September 4, 2021, which included the remaining quarters of FY2021.

[40] For details, see ETA, UIPL No. 12-21, January 19, 2021, at https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9913.

[41] The FY2021 sequestration order was issued by the President on February 10, 2020, available at https://www.federalregister.gov/documents/2020/02/13/2020-03044/sequestration-order-for-fiscal-year-2021-pursuant-to-section-251a-of-the-balanced-budget-and.

[42] Office of Management and Budget, *OMB Report to the Congress on the BBEDCA 251A Sequestration for Fiscal Year 2022*, May 28, 2021, at https://www.whitehouse.gov/wp-content/uploads/2021/05/BBEDCA_251A_Sequestration_Report_FY2022.pdf.

[43] For details, see ETA, UIPL No. 5-22, December 20, 2021, at https://wdr.doleta.gov/directives/corr_doc.cfm?docn=9859.

[44] Ibid, p. 2.

State UC Loans and Solvency Concerns

If a recession is deep enough and if SUTA revenue is inadequate for a sustained duration, 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.[45] States must pay back these loans. If the loans 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.[46]

Immediately before the COVID-19-related recession began, 31 states were determined to have accrued enough funds in their UTF accounts to meet or exceed the minimally solvent standard as defined by DOL in order to be prepared for a recession.[47] However, the rapid increase in the number of individuals receiving regular UC benefits during the COVID-19 related recession strained many states' trust fund balances.

At the end of FY2019, one jurisdiction had a federal UTF loan totaling $64 million (U.S. Virgin Islands). In comparison, by the end of FY2020, 19 jurisdictions had federal UTF loans totaling $34.1 billion (California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Illinois, Indiana, Kentucky, Massachusetts, Minnesota, New Jersey, New Mexico, New York, Ohio, Pennsylvania, Texas, U.S. Virgin Islands, and West Virginia). By the end of FY2021, the number of jurisdictions with outstanding federal loans had decreased to 12 jurisdictions (California, Colorado, Connecticut, Hawaii, Illinois, Massachusetts, Minnesota, New Jersey, New York, Pennsylvania, Texas, and U.S. Virgin Islands) but the loans had increased to $45.6 billion.[48]

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.[49] 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.

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[45] Federal UC law does not restrict 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).

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

[47] See DOL, Office of Unemployment Insurance, *State Unemployment Insurance Trust Fund Solvency Report 2020*, February 2020, at https://oui.doleta.gov/unemploy/docs/trustFundSolvReport2020.pdf.

[48] Data on jurisdictions and loan amounts are available by selecting the data category "loan" at https://oui.doleta.gov/unemploy/data_summary/DataSum.asp.

[49] 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 ETA, Unemployment Insurance Program Letter, UIPL 3-17, December 8, 2016, p. 2, at https://wdr.doleta.gov/directives/attach/UIPL/UIPL_03-17.pdf.

In 2017, Section 30206 of P.L. 115-123 codified the authority for DOL under permanent law to administer a RESEA program.[50] 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 assistance). State RESEA programs must include reasonable notice and accommodations for UI beneficiaries selected for participation.[51]

RESEA is a permanently authorized program with funding scheduled to increase over future fiscal years. Yet circumstances related to the COVID-19 pandemic presented challenges to the in-person nature of RESEA service delivery. On June 12, 2020, DOL provided the following guidance to states on the issue of RESEA during the COVID-19 pandemic:

> During the temporary circumstances related to COVID-19, states have flexibility to conduct RESEA service delivery by telephone if other person-to-person virtual means are not practical.
>
> In recognition that traditional work search may not be feasible, states are encouraged to focus on helping claimants frame effective reemployment and work search plans to be implemented when there is no longer a COVID-19 threat.[52]

President's Budget Proposal for FY2022

The President's budget proposal for FY2022 included changes to several aspects of the UI system. First, this proposal outlined "a set of high-level principles to guide future efforts to reform the UI system,"[53] which included addressing

- benefit access for eligible workers,
- inadequate benefit levels,
- limited eligibility, and
- racial disparities.

[50] 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).

[51] 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 (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, at https://www.govinfo.gov/content/pkg/FR-2019-04-04/pdf/2019-06558.pdf). On August 8, 2019, DOL published a notice that summarizes and responds to the public comments and sets out the RESEA allocation formula that will be effective beginning in FY2021. (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, at https://www.govinfo.gov/content/pkg/FR-2019-08-08/pdf/2019-16988.pdf.)

[52] DOL, "Operational Flexibilities Update—E-Blast to State Unemployment Insurance Agencies on June 12, 2020," at https://oui.doleta.gov/unemploy/pdf/pandemicflexibilities_06122020.pdf.

[53] DOL, "FY2022 Congressional Budget Justification, Employment and Training Administration, State Unemployment Insurance and Employment Service Operations," p. 16, at https://www.dol.gov/sites/dolgov/files/general/budget/2022/CBJ-2022-V1-07.pdf.

The President's budget proposal for FY2022 also proposed an alteration to the formula that determines the federal appropriation for state UI administration, the first substantive update in decades.[54] Specifically, this proposal would have updated assumptions related to UI claims processing and state UI workforce salary rates, as prior assumptions for these factors were not capturing current administrative costs in states.

Additionally, the President's budget proposal for FY2022 requested $6 million "to modernize critical information technology infrastructure essential to the states' administration of the UI program," and $100 million "for development of modular federal UI technology capabilities."[55] This additional funding would have supported timely, accurate, and equitable payment of UI benefits by states. Finally, the President's budget proposal for FY2022 included $250,000,000 in funding for RESEA, which combines reemployment services with an assessment of claimants' continuing eligibility for UI benefits.

Laws Enacted in the 117th Congress, First Session

P.L. 117-2, the American Rescue Plan Act of 2021

The UI provisions in Title IX, Subtitle A, of ARPA made four significant changes to UI programs and benefits.

Reauthorization and Extension of CARES Act UI Benefits (expired)

As described in more detail above, APRA extended the authority for PUA, PEUC, FPUC, and MEUC through September 4, 2021. Additionally, ARPA authorized 29 additional weeks each of PUA and PEUC benefits payable with respect to weeks of unemployment beginning March 14, 2021 (not retroactive).

The PUA expiration date under ARPA effectively limited PUA benefits to no more than an additional 25 weeks and a cumulative total of 75 weeks. The PEUC expiration date under ARPA effectively limited PEUC benefits to no more than an additional 25 weeks and a cumulative total of 49 weeks.

Figure 1 provides the flow of all now-expired, temporary COVID-19 UI benefits—including PUA, PEUC, FPUC, and MEUC—from March 13, 2021, through September 4, 2021.

Extensions of Additional UI Provisions (expired)

ARPA extended the temporary authority for additional UI provisions first authorized under FFCRA and the CARES Act and subsequently reauthorized under the Continued Assistance Act. The authorities for the following UI provisions were generally extended through September 6, 2021 (or for weeks of unemployment ending on or before September 6, 2021 [i.e., through September 4, 2021]):

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

[55] DOL, "FY2022 Congressional Budget Justification, Employment and Training Administration, State Unemployment Insurance and Employment Service Operations," p. 21, at https://www.dol.gov/sites/dolgov/files/general/budget/2022/CBJ-2022-V1-07.pdf.

- 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;
- 100% federal funding of EB;
- 100% federal funding for the first week of UC benefits in states with no waiting week (originally 100% federal funding under CARES Act, then 50% funding under the Continued Assistance Act, then restored to 100% federal funding under ARPA that was retroactive and applied as if the reduction to 50% funding had not occurred);
- 75% federal funding of state UC benefits based on service with certain employers;[56]
- 100% federal financing of Short-Time Compensation[57] (STC; work sharing) in states that had 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).

UI Tax Exclusion for 2020

ARPA allowed taxpayers to exclude up to $10,200 in UI benefits from income in 2020 for the purposes of federal income for taxpayers with a modified AGI of less than $150,000. The $150,000 AGI threshold applied regardless of the taxpayer's filing status (i.e., married filing jointly, single, or head of household).[58]

Additional UI Administrative Funding

ARPA provided $2 billion in additional UI administrative funding to DOL in FY2021 to "detect and prevent fraud, promote equitable access, and ensure the timely payment of benefits." This funding was available until expended and could have been used for (1) federal administrative costs, (2) system-wide infrastructure, and (3) grants to states and territories for program integrity and fraud prevention purposes, including for identity verification and faster claims processing for all UI benefits.

ARPA also provided an additional $8 million to DOL in FY2021, available until expended, for necessary expenses to carry out federal activities related to the administration of UI programs.

[56] This funding was for UC benefits paid to former employees of reimbursing employers. Reimbursing employers are 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. Under both the CARES Act and the Continued Assistance Act, the federal funding for these UC benefits was previously 50%. The 75% federal funding authorized for these UC benefits under ARPA began for weeks of unemployment after March 31, 2021.

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

[58] For more background on this temporary tax exclusion on UI benefits, see CRS In Focus IF11782, *Federal Taxation of Unemployment Insurance Benefits*.

Legislative Proposals in the 117th Congress, First Session

This section provides summary information on all legislation that was introduced in the first session of the 117th Congress that would have amended UI programs and benefits. These bills did not gain passage in the first session of the 117th Congress. (Enacted legislation is described in an earlier section on "Laws Enacted in the 117th Congress, First Session.")

Taxation of UI Benefits

H.R. 435

On January 21, 2021, Representative Nydia Velázquez introduced H.R. 435, the Excluding Pandemic Unemployment Compensation from Income Act. H.R. 435 would have excluded all FPUC payments from gross income calculations for federal income tax purposes (as well as for purposes of all federal and federally assisted programs).

S. 175/H.R. 685

On February 2, 2021, Senator Dick Durbin introduced S. 175, the Coronavirus Unemployment Benefits Tax Relief Act, which would have excluded up to $10,200 of UI benefits per individual for the purposes of federal income taxation for tax year 2020. Also on February 2, 2021, Representative Cynthia Axne introduced H.R. 685, the House companion bill. The proposal in these two bills was enacted under Section 9042 of ARPA (P.L. 117-2; enacted March 11, 2021).

H.R. 3170

On May 12, 2021, Representative Brad Wenstrup introduced H.R. 3170, a proposal that would have addressed the situation of victims of identity theft related to UI fraud in tax years 2020 and 2021. Specifically, H.R. 3170 would have required the Commissioner of Internal Revenue, collaborating with DOL, to hold taxpayers harmless if they believe they are victims of identity theft or had fraudulent UI benefits claimed in their name and are flagged for unreported income. H.R. 3170 would also have required states to report (via Form 1099–G) the amount of fraudulent UI benefits that are excluded as income due to suspected or confirmed fraud.

Railroad UI (RRUI) Sequestration Exemption

S. 545/H.R. 2900

On March 2, 2021, Senator Rob Portman introduced S. 545, the Railroad Employee Equity and Fairness (REEF) Act. On April 28, 2021, Representative Janice Schakowsky introduced the House companion bill to S. 545: H.R. 2900. S. 545 and H.R. 2900 would permanently exempt railroad UI benefits from the BCA mandatory sequester, effective on the date prior to March 13, 2020 (i.e., the date of the presidential declaration issued under the National Emergencies Act in response to COVID-19).[59]

[59] For more information on railroad UI benefits, including the temporary exemption from sequestration for railroad UI benefits enacted under the Continued Assistance to Rail Workers Act of 2020 (CARWA; enacted under P.L. 116-

Reemployment Services and Eligibility Assessments

H.R. 1763

On March 10, 2021, Representative Stephanie Murphy introduced H.R. 1763, the Building on Reemployment Improvements to Deliver Good Employment (BRIDGE) for Workers Act. H.R. 1763 would extend RESEA 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).

H.R. 1868

On March 12, 2021, Representative John Yarmuth introduced H.R. 1868. Section 3(c) of this bill, as introduced, would extend RESEA eligibility to any claimant of unemployment benefits rather than limiting eligibility only to those who were profiled as likely to exhaust benefits.[60] On March 19, 2021, the House agreed to H.R. 1868, including this language in Section 3(a). On March 25, 2021, the Senate agreed to an amended version of H.R. 1868 that did not include the proposal related to RESEA eligibility. (While resolving differences, the RESEA eligibility proposal was dropped. H.R. 1868 was signed into law on April 14, 2021 as P.L. 117-7 and did not include the RESEA eligibility proposal.)

H.R. 2188

On March 26, 2021, Representative Kevin Brady introduced H.R. 2188, the Reopening America by Supporting Workers and Businesses Act of 2021. Among other UI provisions, this bill included a RESEA proposal, which was the same as the expanded RESEA eligibility proposal under Section 3(c) of H.R. 1868, as introduced and as described above. It would also accelerate a scheduled increase in funding for RESEA across upcoming fiscal years.

H.R. 3154

On May 12, 2021, Representative Darin LaHood introduced H.R. 3154, the Building on Reemployment Improvements to Deliver Good Employment (BRIDGE) for Workers Act. H.R. 3154 would extend RESEA eligibility to any claimant of unemployment benefits rather than limiting eligibility only to those who were profiled as likely to exhaust benefits (as under H.R. 1763, H.R. 1868, and H.R. 2188). Additionally, this proposal would have specifically extended RESEA eligibility to any claimant receiving now-expired PUA or PEUC benefits.

UI Modernization and Program Integrity Proposals

The bills summarized in this section would make changes to the permanent-law UC program. Additional program integrity measures that would have addressed CARES Act UI benefits (e.g.,

260 on December 27, 2020), see CRS Report RS22350, *Railroad Retirement Board: Retirement, Survivor, Disability, Unemployment, and Sickness Benefits*.

[60] This was the same proposal that was included in the House-passed version of H.R. 1759 in the 116th Congress, the Building on Reemployment Improvements to Deliver Good Employment for Workers Act (also introduced in the Senate as S. 2872). Additionally, Section 3(a) of this bill, as introduced, would have disregarded MEUC payments from income for the purposes of the Medicaid/Children's Health Insurance Program, which would have been the same as the treatment of FPUC payments prior to program expiration.

PUA), when authorized, are described below in the section on "Further Amendments, Contractions, or Extensions to the CARES Act and FFCRA."

S. 723

On February 2, 2021, Representative Bill Posey introduced H.R. 723, the Reducing Fraud in Unemployment Assistance Act. H.R. 723 would require that states compare a list of individuals receiving state UC benefits with a list of incarcerated individuals in federal and state custody for the purposes of investigating and prosecuting fraud, waste, and abuse. H.R. 723 would also have provided for the federal recovery of state overpayments of PUA and FPUC (now expired).

S. 490/H.R. 1458

On March 1, 2021, Senator Ron Wyden introduced S. 490, the Unemployment Insurance Technology Modernization Act. Also on March 1, 2021, Representative Steven Horsford introduced H.R. 1458, the House companion bill. This proposal would require DOL, in consultation with relevant experts, to develop, operate, and maintain technology capabilities to modernize the federal and state administration of UI benefits. It set out a number of specifications for these technology capabilities, including accessibility requirements for online UI claim filing and requirements regarding automated decisions (i.e., to prevent biases). States would be able to use only some of the modular components of the technology components, depending on their needs. This proposal would also require a study to evaluate current UI technology needs. It would also require DOL to conduct a pilot program on at least four states prior to deploying the new technology components to all states. Finally, this proposal would establish a Digital Services Team at DOL to assist in the development of these technology capabilities and to oversee their maintenance and improvement by providing assistance to state UI agencies.

S. 2898

On September 29, 2021, Senator Todd Young introduced S. 2898, the Unemployment Insurance Systems Modernization Act. This bill would have added additional federal requirements for state UI administration. The new requirements would include state administrative capacity to

- process certain surges in state and federal claims;
- adjust UI benefit amounts and disregard earnings, including the ability to cap benefits at 100% wage replacement as well as the ability to reduce the benefit amount based upon duration of unemployment; and
- automate the processing of claims under DUA, STC, and UI for former federal worker and former servicemembers.

S. 2898 would also add new statutory requirements related to (1) the electronic transmission of UI data, including state reporting requirements on employer usage and (2) state use of certain data sources to confirm an individual's eligibility for UC benefits, including the UC Integrity Data Hub (or comparable DOL data source) for cross-matching to "prevent and detect fraud and improper payments," and the National Directory for New Hires (NDNH, administered by the U.S. Department of Health and Human Services). Finally, S. 2898 would provide authority for DOL to establish state performance goals, corrective action plans and consequences for states with sustained failure to meet goals, and incentive funds for high-performing states. It would expand the use of the $2 billion funding authorized under ARPA to include grants to states for the purposes of this proposal.

H.R. 6224

On December 9, 2021, Representative Josh Harder introduced H.R. 6224, the Fix the Unemployment Backlogs Act. H.R. 6224 would prohibit the payment of any UI administrative funding to states that had a backlog of at least 45,000 unprocessed UI claims. Under this proposal, unprocessed UI claims would be defined as any claim for which an initial eligibility determination has not been completed by the state within 21 days of filing by a claimant.

Further Amendments, Contractions, or Extensions to the CARES Act and FFCRA (expired)

H.R. 289

On January 13, 2021, Representative Jim Banks introduced H.R. 289, the Support Peaceful Protest Act. Along with addressing other, non-UI provisions, H.R. 289 would have made an individual who is convicted of a federal offense related to conduct at or during a protest ineligible for FPUC or any other federal supplemental unemployment compensation during the COVID-19 public health emergency (e.g., Lost Wages Assistance [LWA]).[61]

S. 242/H.R. 805

On February 4, 2021, Senator Jack Reed introduced S. 242 and Representative Rose DeLauro introduced H.R. 805, the Layoff Prevention Act of 2021. They would have extended the temporary STC provisions under the CARES Act, as amended. These bills would have extended the 100% federal financing of STC in states with existing programs and 50% federal financing for states that set up STC programs for five years and six month after enactment.[62] These bills would also have provided an additional $100 million in STC grants to states and extended the authority for DOL to make these grants by three years (through December 31, 2026).

H.R. 919

On February 8, 2021, Representative Sean Casten introduced H.R. 919, the Emergency Unemployment Relief for Nonprofits Act. H.R. 919 would have extended the federal funding for UC benefits paid to former employees of reimbursing employers (i.e., state and local governments, Indian tribes, and nonprofit organizations) under FFCRA through the end of September 2021 and would have increased the federal funding percentage from 50% to 75%. (ARPA subsequently extended this temporary federal funding through September 4, 2021; and enacted the increased 75% funding, effective March 31, 2021.)

[61] For information on LWA, see the Appendix in CRS Report R46687, *Unemployment Insurance (UI) Benefits: Permanent-Law Programs and the COVID-19 Pandemic Response*.

[62] These companion bills were introduced prior to the enactment of ARPA and the extension of the temporary STC provision until September 4, 2021.

H.R. 934

On February 8, 2021, Representative Steven Horsford introduced H.R. 934, the Unemployed Worker Lifeline Act. H.R. 934 would have extended the FPUC authorization from weeks of unemployment ending on or before March 14, 2021, until weeks of unemployment ending on or before October 3, 2021. H.R. 934 would also have increased the FPUC amount from $300 per week to $400 per week.

H.R. 1868

On March 12, 2021, Representative John Yarmuth introduced H.R. 1868. Section 3(a) of this bill, as introduced, would have disregarded MEUC payments from income for the purposes of the Medicaid/Children's Health Insurance Program, which would have been the same as the treatment of FPUC payments prior to program expiration.[63] On March 19, 2021, the House agreed to H.R. 1868, including this language in Section 3(a). On March 25, 2021, the Senate agreed to an amended version of H.R. 1868 that did not include the proposal related to treatment of MEUC payments. (While resolving differences, the MEUC payments proposal was dropped. H.R. 1868 was signed into law on April 14, 2021, as P.L. 117-7 and did not include the MEUC payments proposal.)

H.R. 2188/S. 1389

On March 26, 2021, Representative Kevin Brady introduced H.R. 2188, the Reopening America by Supporting Workers and Businesses Act of 2021. On April 27, 2021, Senator Mike Crapo introduced the Senate companion bill: S. 1389, the Back to Work Bonus Act. In addition to the two RESEA proposals (described in the section on "Reemployment Services and Eligibility Assessments"), this proposal would have authorized one-time, lump-sum FPUC payments, or "back-to-work bonuses" ($1,200 for full-time reemployed workers and $600 for part-time reemployed workers), for individuals reemployed after being previously eligible for FPUC who met certain requirements. H.R. 2188 and S. 1389 would also have reinstated the federal work search requirement by removing the authority for COVID-19-related flexibility for states authorized under FFCRA (P.L. 116-127).

S. 1206

On April 19, 2021, Senator John Thune introduced S. 1206, the PUA Eligibility Clarification Act of 2021. S. 1206 would have made changes to PUA eligibility in two ways. First, this proposal would have removed the statutory authority for DOL to establish additional criteria for PUA eligibility. Second, S. 1206 would have repealed DOL guidance issued on February 25, 2021,[64] that informed states of expanded PUA eligibility issued under existing statutory authority provided to DOL.

H.R. 3104/S. 1555

On May 11, 2021, Representative Dusty Johnson introduced H.R. 3104 and Senator Roger Marshal introduced S. 1555, the Get Americans Back to Work Act. H.R. 3104/S. 1555 would have terminated the program authority for the FPUC early, effective June 26, 2021 (rather than

[63] Additionally, Section 3(c) of this bill, as introduced, would have extended RESEA eligibility to any claimant of unemployment benefits rather than limiting eligibility only to those who were profiled as likely to exhaust benefits.

[64] See DOL, ETA, "Expanded Eligibility Provisions for the Pandemic Unemployment Assistance (PUA) Program," UIPL No. 16-20, Change 5, February 25, 2021, at https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3202.

September 4, 2021). H.R. 3104/S. 1555 also would have reduced the amount of the FPUC payable to $150 a week (rather than $300 a week) beginning June 5, 2021, through the new termination date.

S. 1557/H.R. 3316/H.R. 3495

On May 11, 2012, Senator Ben Sasse introduced S. 1557, the National Signing Bonus Act of 2021. There were two House companion bills to S. 1557: on May 18, 2021, Representative Dan Newhouse introduced H.R. 3316; and on May 25, 2021, Representative Mike Gallagher introduced H.R. 3495. The National Signing Bonus Act of 2021 would have authorized states to make two $1,212 lump-sum payments to certain FPUC claimants if they were reemployed with a nongovernmental employer. The first payment under this proposal would have been available based on verified reemployment of at least four weeks for eligible individuals; the second payment would have been available based on verified reemployment of at least eight weeks. These *back-to-work bonuses* would only have been payable based on a reemployment period of four or eight weeks beginning prior to July 4, 2021.

H.R. 3148

On May 12, 2021, Representative Chris Jacobs introduced H.R. 3148, the Help Wanted Act. H.R. 3148 would have specified that, as a condition of state agreements to administer FPUC/MEUC, PUA, and PEUC, states would not have been able to waive any federal UI requirements related to work search (i.e., under the authority of Section 4102(b) of the Families First Coronavirus Response Act, P.L. 116-127). H.R. 3148 also would have removed the statutory authority for PUA eligibility based on quitting a "job as a direct result of COVID–19,"[65] and would have added an exclusion to PUA eligibility for any individual who "declines to work on the basis of safety concerns related to COVID–19."

H.R. 3254

On May 14, 2021, Representative Barry Loudermilk introduced H.R. 3254, a bill that would have terminated the program authority for the FPUC early, effective May 29, 2021 (rather than September 4, 2021).

H.R. 3266/S. 1712

On May 17, 2021, Representative Dan Bishop introduced H.R. 3266, the Jump-Start the Economy with Jobs Act. On May 19, 2021, Senator Mike Braun introduced the Senate companion bill, S. 1712. These bills would have amended the CARES Act to require that states notify FPUC and PEUC claimants who had been receiving FPUC or PEUC for more than 30 weeks that the state workforce agency would attempt to confirm the individual's current employment status from the previous employer (if still in existence), including whether the individual's position was unavailable or was available but the individual had refused to return to work. If such an individual had been determined to have refused to return to work, under this proposal the individual would no longer have been eligible for FPUC or PEUC.

[65] Section 2102(a)(3)(A)(ii)(I)(ii) of the CARES Act, as amended (15 U.S.C. §9021(a)(3)(A)(ii)(I)(ii)).

H.R. 3268/S. 1699

On May 17, 2021, Representative Kevin Brady introduced H.R. 3268, the Combatting COVID Unemployment Fraud Act of 2021. On May 19, 2021, Senator Mike Crapo introduced S. 1699, the Senate companion bill with same name. H.R. 3268/S. 1699 would have amended the CARES Act to make several program integrity-related changes. These bills would have required states to verify the identity and eligibility status of PUA applicants prior to paying benefits as well as change the backdating deadline for PUA claims to April 1, 2021 (rather than December 1, 2020). H.R. 3268/S. 1699 also would have prevented any claimant from receiving a retroactive FPUC payment more than 14 days after program expiration. In addition, H.R. 3268/S. 1699 would have reinstated the federal work search requirement by removing the authority for COVID-19-related flexibility for states authorized under FFCRA (P.L. 116-127).

Additionally, these bills would have added a new statutory requirement that states 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).[66]

H.R. 3268/S. 1699 would have addressed fraudulent payments in several ways, including by expanding the use of the $2 billion funding authorized under ARPA to include grants to states for identity verification, prevention, and detection of fraud, and state efforts to recover fraudulent payments, including through criminal prosecution. As a condition of administering PUA, states also would have been required to submit a State Unemployment Fraud Recoupment plan to DOL. These bills would have established a COVID Unemployment Fraud Taskforce, led by the Secretary of Labor, Attorney General, and Secretary of the Department of Homeland Security, with $20 million in administrative funding. H.R. 3268/S. 1699 would also have authorized states to retain 5% of recovered fraudulent UI payments in 2020 and 2021 for use in administration and improving program integrity, including hiring fraud investigators. Finally, these bills would have provided additional protections for victims of UI fraud and identity theft, including victim assistance and an Internal Revenue Service process to hold harmless individuals who experienced UI fraud and identity theft.

H.R. 3307

On May 18, 2021, Representative Kevin Hern introduced H.R. 3307, the Help Wanted Act. H.R. 3307, which would have terminated the program authority for the FPUC on the first Monday that was 14 days after enactment (rather than September 4, 2021). States also would have been prohibited from accepting applications for FPUC payments beginning on the date of enactment.

H.R. 3479

On May 25, 2021, Representative Ted Budd introduced H.R. 3479, the Back to Work Bonus Act. H.R. 3479 would have authorized states to make one $900 lump-sum payment (a *back-to-work bonus*) to certain FPUC claimants who were reemployed with a nongovernmental employer for at least four weeks. These back-to-work bonuses would have been payable beginning August 14, 2021, and the prior authority for states to make weekly FPUC payments would have ceased with respect to weeks of unemployment after enactment. H.R. 3479 also would have modified and

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

restricted (1) the COVID-19-related conditions for PUA eligibility and (2) the COVID-19-related work search flexibilities for PEUC eligibility.

H.R. 4013

On June 16, 2021, Representative Chip Roy introduced H.R. 4013, the Open for Business Act. H.R. 4013 would have ended the authorization for FPUC upon enactment, if earlier than the current program expiration of September 4, 2021.

H.R. 4015

On June 17, 2021, Representative Mikie Sherrill introduced H.R. 4015, the Strengthening Unemployment Programs to Provide Opportunities for Recovery and Training (SUPPORT) for New Workers Act. H.R. 4015 would have created a "newly employed worker allowance" as an amendment to the authority for states to administer FPUC/MEUC payments. This new worker allowance would have been payable to reemployed individuals who were previously eligible for FPUC prior to enactment and remained employed through September 6, 2021. The allowance would have been payable by states for up to nine weeks at $180 per week. States would have been able to issue this new worker allowance as a one-time payment in the event that they faced administrative challenges and were not able to implement it within three weeks of enactment. In scenarios in which an individual would have received a new worker allowance payment and then voluntarily separated from employment within six weeks of a payment, that individual would have been ineligible for any additional UI benefits until the individual repaid the new worker allowance, unless the voluntary separation was due to certain COVID-19-related conditions.

H.R. 4190

On June 25, 2021, Representative Michelle Steel introduced H.R. 4190, the Pandemic Unemployment Assistance Fraud Protection Act. This bill would have required states, as a condition of receiving any of the $2 billion in additional UI administrative funding authorized under ARPA to "detect and prevent fraud, promote equitable access, and ensure the timely payment of benefits," to submit a plan for recovering all fraudulent PUA payments, establish an anti-fraud task force to investigate and recover fraudulent PUA payments, and to report to DOL on the ratio of recovered fraudulent PUA payments to total PUA payments. Failure to provide required reporting to DOL would have resulted in a state not having access to any temporary period of interest-free federal UI loans,[67] if otherwise available, after the date of failure to provide such reporting. The Labor Secretary also would have been required to provide state plans related to recovering all fraudulent PUA payments to Congress as well as make monthly reports to UI committees of jurisdiction on state progress in recovering fraudulent PUA payments. This bill would have authorized $50 million in funding to the Attorney General in FY2022 and FY2023 for partnering with state anti-fraud task forces and local law enforcement to assist in recovering fraudulent PUA payments.

Under H.R. 4190, states would have been required to repay the federal government in the amount of any unrecovered PUA overpayment. Further, states that failed to recover at least 75% of fraudulent PUA payments by December 31, 2022, would have been subject to a federal processing fee equal to the amount of unrecovered fraudulent PUA payments. The processing fee

[67] For details on interest charges for federal loans to states, see CRS Report RS22954, *The Unemployment Trust Fund (UTF): State Insolvency and Federal Loans to States*.

would have been spread out over a five-year period beginning on January 1, 2023, and states would have been prohibited from reducing their UC benefit payments in response.

H.R. 4190 would also have amended the CARES Act to require states to use certain data matching for the purposes of fraud prevention, investigation, and prosecution, including matching with federal, state, and local prisoner databases as well as the E-Verify program. H.R. 4190 would have temporarily increased the penalties for fraud and identity theft with regard to PUA through December 31, 2021. H.R. 4190 would have authorized up to 10% of the $2 billion in additional UI administrative funding authorized under ARPA for grants to states to establish a fraud hotline for reporting of UI-related identity theft and to establish a database of incorrect 1099-G forms to be provided to the Internal Revenue Service. Finally, H.R. 4190 would have required the Commissioner of Internal Revenue to issue a federal income tax refund promptly in a situation in which an individual received a 1099-G form incorrectly due to UI identity theft and filed a correction claim with their state.

S. 2358

On July 15, 2021, Senator Thomas Carper introduced S. 2358, the Workforce Support and Flexibility Act of 2021. S. 2358 would have amended the CARES Act to allow states the option to establish FPUC payments to be less than $300 a week, but at least $1 a week, for weeks of unemployment beginning after enactment through program expiration (i.e., September 4, 2021).

S. 2742

On September 14, 2021, Senator John Thune introduced S. 2742, the Recovering Fraudulent Claims Act. S. 2742 would have established the COVID–19 Unemployment Insurance Fraud Task Force, which would have investigated fraud with respect to COVID-19 UI benefits, submitted its findings to the Attorney General, and provided certain preliminary findings to Congress within one year. S. 2742 would also have required the Government Accountability Office (GAO) to study how the ARPA grant funding to states was used to detect and prevent fraud and recover UI COVID-19 overpayments and to provide study findings to Congress within one year.

H.R. 5285

On September 17, 2021, Representative Alexandria Ocasio-Cortez introduced H.R. 5285, the Extend Unemployment Assistance Act of 2021. H.R. 5285 would have reauthorized all temporary, expired COVID-19 UI authorities through January 2022, including the authorities for PUA, PEUC, FPUC, and MEUC as well as the other temporary measures.

H.R. 5363

On September 24, 2021, Representative Ashely Hinson introduced H.R. 5363, the Back to Work Act. H.R. 5363 would require the Bureau of Labor Statistics, GAO, and the Small Business Administration to jointly conduct a study of the FPUC, PEUC, and PUA programs. This study would include analyses of the impact of these programs on UI claimants (e.g., work search, work engagement, earnings, duration of unemployment, receipt of other government benefits); businesses, especially small businesses (e.g., profits, sales, employment, and closures); and the economy (e.g., labor market metrics). This study would also include analyses of the demographics of UI claimants, program interactions between regular UC and PUA, issues related to PUA claims data, and the consequences of the early termination of COVID-19 UI benefits by states.

Additional Changes to Permanent Law UC Programs

H.R. 594

On January 28, 2021, Representative Tim Ryan introduced H.R. 594, the WORKER Act. Among other, non-UI provisions, H.R. 594 would require states to set up a reemployment bonus program, as approved by the Secretary of Labor, as part of their permanent law UC programs. The reemployment bonus would be available to eligible UC beneficiaries who are identified as likely to exhaust regular UC benefits, become reemployed within 12 weeks of an initial UC claim, and remain employed for at least 16 consecutive weeks. The amount of the reemployment bonus payable would be 50% of the difference between the amount of UC payable to the claimant in a benefit year if unemployed the entire year minus the amount of UC payable to the claimant if reemployed within 12 weeks of an initial UC claim.

H.R. 1620

On March 8, 2021, Representative Sheila Jackson Lee introduced H.R. 1620, the Violence Against Women Act Reauthorization Act of 2021. Among many other provisions, Section 703 of H.R. 1620 would require states to consider an individual who quit employment because of sexual harassment, domestic violence, sexual assault, or stalking to be eligible for UC benefits. This bill would also require that state personnel who process UI claims and hear UI appeals be trained in issues related to sexual harassment, domestic violence, sexual assault, and stalking, The House passed H.R. 1620 on March 17, 2021.

S. 2865/H.R. 5507

On September 27, 2021, Senator Ron Wyden introduced S. 2865, the Unemployment Insurance Improvement Act. On October 8, 2021, Representative Don Beyer introduced H.R. 5507, the companion bill by the same name. S. 2865/H.R. 5507 would add new federal requirements related to benefits and eligibility for state UC programs. Specifically, S. 2865/H.R. 5507 would require

- at least 26 weeks of UC benefits;
- use of the alternative base period (i.e., the our most recent quarters of earnings for UC eligibility);
- use of a minimum level of prior earnings (i.e., at least $1,000 in covered wages during the highest quarter of the base period and at least $1,500 in covered wages during the base period) for UC eligibility;
- UC eligibility based on a definition of *part-time employment* as 20 hours of work a week or half of typical, previous hours a week; and
- additional requirements related to UC benefit access (e.g., notification, standards for online claims filing, alternate option for claims filing, language access).

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