NATIONAL
ACADEMY
OF•SOCIAL
INSURANCE

Unemployment Insurance Task Force

FINAL REPORT

July 2024

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Acknowledgments

The National Academy of Social Insurance gratefully acknowledges the work of the individuals who served on the Unemployment Insurance Task Force. Their affiliations represent their positions at the time of the Task Force's deliberations.

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Reports of the National Academy of Social Insurance aim to assess policy options without advocating for any particular option. The options and perspectives discussed in this report do not necessarily reflect the views of individual members of the Unemployment Insurance Task Force or of the organizations with which they are affiliated.

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EXECUTIVE SUMMARY

Unemployment Insurance (UI) is a critical program in the economic toolkit of the U.S. In addition to providing countercyclical support during economic downturns, which is a critical function of the program, it helps people who have lost work through no fault of their own to maintain attachment to the workforce, prevent wage erosion, and help them pay bills, when forces out of their control limit their income. UI is social insurance. Social insurance is meant to cover all eligible workers for a portion of their lost income.

The COVID-19 pandemic exposed major cracks in the UI system, including massive technology failures, a core administrative structure ill equipped to pay benefits on time and to the right people, and a base set of laws and assumptions that varied widely in benefit amount, duration, and access. A massive bipartisan federal response in March 2020 dramatically increased the number of weeks of benefits and weekly benefit amounts, and it qualified far more workers, resulting in over 53 million workers receiving over $880 billion over the course of the pandemic.* However, unsurprisingly, setting up three massive programs while in the middle of a pandemic and a claims application surge that dwarfed the previous record for new claims was bound to result in mistakes in running the program. Also, fraudsters who had been sitting on personal information gained through breaches years ago and largely outside of UI systems for years saw a new emergency program as an opportunity to pilfer public funds.

The National Academy of Social Insurance's UI Task Force, convened in December 2020, has been looking at lessons learned from the pandemic, solutions proposed over the past few decades, and the vast knowledge base and range of its members' views. The Task Force developed this report to help policymakers, the media, and the public understand what policy levers exist, how they work, and what the trade-offs are for each one. This report is presented as a full package of options because developing a solution for UI, unlike many policy areas, will likely require a grand bargain. A handful of reforms that does not consider all the policy levers could stabilize benefits in one way but cause reductions in other areas. For example, setting a floor on replacement rates without considering duration would mean that states looking for savings could, toward that end, further reduce the weeks of benefits they offer. The Task Force acknowledges that any package of policy reforms will cost money, and more so in states that have maintained less generous UI systems.

While opinions differ on various areas of UI policy reform, there are also broad areas of bipartisan agreement. For example, vast differences across states in basic operations, definitions, business practices, concepts, and technology in administering UI are not optimal, particularly in an economic downturn. It would have been easier to deploy emergency programs or share fraud solutions when fraudsters were using similar attacks in multiple states if states had a more common operating framework.

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* Department of Labor. *Building resilience: A plan for transforming unemployment insurance*. https://oui.doleta.gov/unemploy/pdf/transfplan/Building_Resilience_Executive_summary.pdf

The Task Force considered the following areas:

- **Administrative and technology issues.** Entering the pandemic at a 50-year low in funding led to cascading failures. More opportunities for both state-to-state and federal-state collaboration should have been in place, but to succeed, states would have needed a better funding model, more similarity among systems, and truly modern technology. We should rethink how administrative funding works, particularly with regard to technology.
- **Reemployment and keeping people connected to work.** One of the key roles that UI plays is keeping people connected to the workforce. We could do better at helping people who have lost their jobs secure an adequate replacement for their prior employment, which will require greater collaboration between UI and reemployment opportunities. If we are able to take advantage of better technology and better job replacement options, the relative generosity of benefits could be dialed up with less concern about potential disincentives to accept suitable work.
- **Fraud identification and prevention.** States must have more robust and effective methods to detect and prevent fraud going forward. Because the face of fraud in UI shifted so dramatically during the pandemic, the system needs a more unified front. The problem concerns the whole of government and whole of society, requiring greater partnership across government and through public-private collaboration. Further study of effective fraud interdictions would also be useful. Finally, fraud prevention cannot come at the expense of program access; we must figure out how to minimize user pain while rooting out bad actors.
- **Duration of benefits for standard benefits and Extended Benefits.** States have been reducing duration of standard benefits, which has many knock-on effects, including limiting the number of weeks available if there is a major downturn and Extended Benefits (EB) kick in. EB does not reliably serve the unemployed in economic downturns, as evidenced by the fact that Congress routinely has to step in and extend benefits in crises. Numerous studies and reports have recommended optimal durations of and triggers for EB to kick in. An in-depth literature review and study of proposals in this area would be a useful future study.
- **Initial and continuing eligibility.** States have complex and shifting rules about who qualifies for UI and what they must do to remain qualified. Employers often want to limit their tax liabilities by ensuring that eligibility is more restrictive. Workers are often discouraged from applying. Often only about a quarter of laid-off workers apply. No discussion of making a UI system effective makes sense without a rigorous conversation about eligibility, as is included in this report.
- **Wage replacement levels.** Both the bipartisan 1980 NCUC and 1996 ACUC commissions recommended that UI replace 50 percent of a worker's prior income, up to a cap of two-thirds of the average weekly wage (AWW). With significant wage stagnation and evidence from the pandemic that claimants were still accepting work with significantly higher levels of wage replacement, many experts are now often recommending a greater percentage of wage replacement. Inflation erodes wage replacement in states that do not

index their maximum wage replacement. While Academy task forces do not make policy recommendations, the ideal wage replacement amount is a tool for policymakers to consider.

- **Financing.** Any consideration given to establishing benefit floors must include how to pay for them. Current law requires that taxation be "experience rated" so that when employers lay off workers eligible for UI, they pay more into the system to reflect the risk they are creating. This is intended to discourage layoffs and place the cost burden on responsible parties. However, there are flaws to this approach. People sometimes lose work when the employer is not at fault. Also, creating an incentive for a well-funded employer to challenge someone who just became jobless could create an unfair playing field. It is worth considering alternatives to our current financing system.
- **Special and supplemental UI programs**. This section deals with programs such as Short-Time Compensation (also known as work sharing) that helps workers who have lost work but are not in traditional layoff situations.

FINAL REPORT

The National Academy of Social Insurance's Unemployment Insurance Task Force first convened in December 2020 as record numbers of workers were laid off in the midst of the COVID-19 pandemic and while states were struggling to pay both regular and emergency Unemployment Insurance (UI) benefits. The purpose of this task force was to describe and discuss issues that the UI system has faced both historically and during the pandemic, potential solutions, and how those solutions might work and might be perceived. After adding several members in 2023, the Task Force has convened a series of policy discussions around major topics with regard to policy and the administration of UI benefits. This paper is intended to provide policymakers, advocates, and the media with a range of thoughts around the basic elements of each of these topics. This report does not provide policy recommendations. It does note where there is broad agreement among the Task Force's membership, which spans a wide range of policy perspectives.

In the last half-century, Congress twice required the U.S. Department of Labor (DOL) to establish bipartisan national commissions to study potential improvements to the federal-state UI program. Studies were completed by the National Commission on Unemployment Compensation (NCUC) in 1980 and the Advisory Council on Unemployment Compensation (ACUC) in 1996, and reports were transmitted to Congress. Based on findings in each study, national recommendations were made. Where applicable, this report refers to these past recommendations. This report also discusses trade-offs of various proposals, recognizing that policy options that increase benefits also increase costs. This report also recognizes that paying benefits to individuals has an effect beyond that particular individual and extends to their families and communities.[1]

The most critical area of agreement is that the federal-state UI system was flawed before the pandemic and that the stress of paying historic levels of claims under both regular and huge new programs strained UI systems to the point of breaking. While the economy is currently healthy, it is critical that policymakers and states take steps to prepare for the next downturn, or the UI system may not be able to adequately and efficiently perform the critical countercyclical stabilization that it has done for nearly nine decades. As noted by the 1996 federal Advisory Council on Unemployment Compensation: "The related goals of the UI program are providing involuntarily unemployed workers with adequate, temporary income replacement as well as automatically stabilizing the economy by using accumulated trust funds to maintain consumer spending during an economic downturn. Secondary goals include supporting the job search of unemployed individuals by permitting them to find work that matches their prior experience and skills, as well as enabling employers to retain experienced workers during layoffs." To help further put the U.S. UI system in context, this report includes a document developed by the International Monetary Fund (IMF).

1 The International Monetary Fund found that every dollar spent during the pandemic in unemployment compensation led to an additional $1.92 in economic activity. (See "Supply and Demand Effects of Unemployment Insurance Benefit Extensions: Evidence from U.S. Counties," at https://www.imf.org/-/media/Files/Publications/WP/2021/English/wpiea2021070-print-pdf.ashx.)

The Task Force has divided the topics it assessed into the following eight areas:

- Administrative and technology issues
- Reemployment and keeping people connected to work
- Fraud identification and prevention
- Duration of standard and extended benefits
- Initial and continuing eligibility
- Wage replacement levels
- Financing
- Special and supplemental programs

Administrative and technology issues

Complexity and Uniformity

One of the challenges in administering UI benefits is the difference across states in underlying laws, how that affects business practices, and how technology may be implemented. This ranges from how benefits are calculated to how claimants qualify for benefits, to technical terms and concepts, and even simple concepts such as what a benefit week is, or who counts as a claimant. Also, in any given state, the administration of UI benefits is enormously complicated, which makes it difficult to quickly and effectively train staff to make accurate and uniform decisions. An issue that received unanimous buy-in from Task Force members is that UI administration would greatly benefit from simplification and uniformity. However, this is probably one of the harder goals to achieve, given how each state has evolved its own practices and terminology over the nearly 90 years of the program. Addressing practical issues around simplification might be easier to implement than completely rebuilding state business practices. For example, this might include engaging in relatively achievable projects, such as creating a framework for the meaning of terms and developing some model notices, which is a project that the U.S. DOL has begun to undertake, or providing best business practices akin to the Robotic Process Automation Toolkit hosted on the WorkforceGPS site. Other small changes, such as providing the list of claimants involved in a Worker Adjustment and Retraining (WARN) Act-triggering mass layoff to the state agency to streamline determinations, could also help simplify the process. Other potential changes, e.g., establishing a wage record that would make it easier to verify monetary eligibility, would be a large undertaking.

Funding

Funding is a core concern in adequate administration of UI, involving not just the amount but also the terms of how federal funds are distributed. While the enormous increase in claims while setting up three new temporary programs during the pandemic would have strained any system, administrative funding at the start of 2020 was at a fifty-year low. Increasing funding by $1 billion a year would have been enough to bring 2019 administrative funding to its inflation-adjusted 2000 level per covered employee, which is an appropriate point of comparison between business cycles. Most federal UI taxes go to a series of trust funds that do not directly fund benefits; instead, they cover states' administrative costs, with Congress appropriating funds out of the trust fund each year and the USDOL distributing them among states (in addition to half ofthe costs associated with the Extended Benefits program, in normal years). Employers are nominally taxed at 6.0 percent of the first $7,000 of a worker's earnings (or $420 per employee per year). If a state has a conforming UI system, as all states currently do, employers receive a 5.4 percent credit, so the effective federal UI tax is just 0.6 percent ($42 per year). State UI benefits are funded with state UI taxes at rates that are determined by states, though they are required to use a wage base at least equal to the federal $7,000 wage base.

As noted above, a state that DOL determines is not conforming to federal requirements may be denied the entire federal tax credit, which would increase federal UI taxes from $42 to $420 per employee per year, reflecting an enormous penalty. Federal UI conformity penalties could be refined to allow for more nuanced penalties and strengthen the levers of federal oversight. Under current federal UI law in Title III of the Social Security Act, failure to comply with federal requirements only allows the DOL to withhold 100 percent of administrative grant funds for substantial noncompliance. Instead, DOL might be authorized under federal law to withhold some portion of administrative grant funds to states for failure to exercise proper administration or to take corrective actions. Depending on circumstances, DOL might be given the authority to waive such penalties.[2]

The Task Force considered the following issues relating to funding:

- **Increase the net federal UI tax.** State administrative funding for UI (which is largely financed by federal taxes on employers and sometimes supplemented by state funding) has been widely seen as insufficient in recent years, which contributed to the technological and processing challenges that caused enormous backlogs and unacceptable levels of fraud in 2020 and 2021. A portion of such an increase could be appropriated to the federal government to provide direct assistance to states and the continued development and administration of a federal IT system for states to deliver benefits. As federal revenues are already sufficient to support such increased appropriations, raising Federal Unemployment Tax Act (FUTA) taxes makes little sense if any additional revenues did not flow to improved program administration.
- **Change the distribution model without increasing taxes.** The 1996 Advisory Council on Unemployment Compensation (ACUC) and, separately, a coalition of more than thirty states (in the mid-1990s) recommended removing UI from the federal unified

2 See, e.g., H.R. 8661, "Guaranteeing Unemployment Assistance and Reducing Deception Act." 117th Congress (introduced August 2022), https://www.congress.gov/bill/117th-congress/house-bill/8661/all-info?s=1&r=9.

budget. Members of the Task Force are concerned that FUTA funding, which should be reserved for the administration of benefits and paying the federal share of extended benefits during periods of economic downturn, is not currently allocated entirely to those two purposes. States are currently not getting back the share of funding that employers have paid into the system for program administration. Making a more direct connection between FUTA and administrative funding might be a fair way to approach funding issues. One option would be to allow states to set and collect what is now the bulk of the federal payroll tax, providing for a more direct connection between states' funding needs to effectively administer this system and the payroll taxes actually collected to do so.

- **Index the federal tax base while reducing the effective rate.** Expanding the federal tax base (and thus also the minimum wage base on which state payroll taxes are applied) to half the Social Security wage base has been at the core of several UI reform proposals. A less aggressive version would be to apply the $40,000 federal wage base contained in the FY2017 Obama Budget proposal. This would have the direct impact of spreading out the incidence of both federal and state UI taxes more evenly over the course of the year. States forced to adopt a higher wage base are likely to lower their State Unemployment Tax Act (SUTA) payroll tax rates, but would have the option to do so in a revenue neutral, revenue positive, or revenue negative way. The higher wage base for state and federal payroll taxes would affect various employers, industries, and states differently than current policy. Absent changes in the federal payroll tax rate, indexing the federal wage base to the Social Security wage base, or to some other elevated wage base plus inflation, would raise federal revenues. If this route is taken, the FUTA tax rate might be modified to prevent this explicit payroll tax hike. The 1996 ACUC recommended increasing the taxable wage base (TWB) to $9,000 and then indexing it for inflation. The 1980 National Commission on Unemployment Compensation (NCUC) recommended setting it at 65 percent of the Average Annual Wage, which would be roughly $32,390 today.

Technology modernization

A clear consensus emerged among the Task Force members on the need for dramatic technology modernization improvements. Both DOL and the National Association of State Workforce Agencies (NASWA) are working to help states manage more modern, agile, modular system upgrades. The Task Force broadly agreed that states should move away from large monolithic technology upgrades and embrace updated technology strategies that engage with users on the claims and tax sides to ensure that their systems are efficient, effective at preventing improper payments, and reliably ensure that benefits are paid when due.

This presents states with a new set of challenges. First, most states do not have an ongoing budget for technology and the current funding model makes it hard for states to reserve funding over years to spend on any necessary large technology purchases and ensure the ability to pay ongoing subscription costs. Moreover, many state UI systems are beholden to a larger state procurement policy that necessitates large one-time purchases. The complex variations in the way states deliver benefits described above likewise make it difficult for states to collaborate and share solutions. Finally, it is challenging for states to hire in-house technology experts on state pay scale salaries.

The Task Force largely agreed that allowing states to carry over funding would help with some of the funding challenges, and the volatility of the business cycle in UI administration creates a strong case for allowing this. The Task Force also agreed that a separate technology budget beyond current administrative allocations would be helpful going forward. Some technology costs would need to be similar across states without regard to the size of the state or the number of claimants served.

The Task Force discussed technical specifications as part of a federal solution. While the DOL has an implementation checklist for states to use to ensure that the system has full functionality, it only describes steps in a process–not what a good product should look like or how best to approach each of those steps. States clearly need more assistance on a long-term basis moving to a more intensive technology modernization process, even as the funds to support federal efforts and NASWA's assistance were a one-time allocation that was mostly rescinded in 2023. Better examination of use cases could help build a shared understanding of how to implement changes that work for all users of the systems.

In addition, NASWA provides key technology solutions to states to help automate communication with employers, provide interstate communications, and detect and prevent fraud. Some of those systems have been modernized or are in the process of modernization. There is increasing consensus that states should fully engage with these modernized processes, and NASWA should have the resources to continually upgrade these systems.

There are also some "low-hanging fruit" issues in this arena. Options include: allowing access 24 hours per day, seven days per week; excepting small server maintenance windows; allowing for online password reset; mobile optimization; and other relatively small changes that could make systems easier to use and help bolster public trust in them. States might also engage with the Robotic Automation Toolkit posted on WorkforceGPS for processes that could be automated without taking critical decision-making out of the hands of trained state merit staff.

Merit staffing

Merit staffing was a requirement added to Title III of the Social Security Act in 1939 Amendments. It was incorporated to prevent patronage and ensure that experienced staff were making good decisions. This was an area where there was not broad consensus among Task Force members. Generally, Task Force members agreed that merit staffing is an important element in selecting and retaining professional UI employees; however, the issue is whether it should be permitted or required. That is, can state governors have discretion in implementing merit personnel standards for the delivery of UI services?

One challenge is that maintaining sufficient staff to respond to a crisis means that many staff would be idle between downturns. Economic downturns often hit suddenly, and hiring and training staff to make accurate decisions takes time, which is why Congress allowed flexibility during the pandemic for non-merit staff to perform all functions. While this may have been beneficial to meeting the demand for benefits, there were reports of non-merit staff making poor decisions or providing claimants with inaccurate information that resulted in additional work for experienced staff charged with eligibility determination and payment accuracy. One potential solution to this would be to train merit staff in other state agencies to help during downturns, as well as re-hiring UI retirees. Task Force members broadly agreed that maintaining connections with qualified current and former staff is important. Hiring and training additional Employment Service (ES) staff, who provide reemployment and training services, might also provide additional resources that could move to processing UI claims in a crisis. This could serve multiple purposes, including by helping to bridge the connection between unemployment and reemployment. The Task Force generally agreed that the goal ought to be ensuring effective and fair adjudication.

Issues of outsourcing UI functions to private contractors and defining commercial and inherently governmental activities could be reexamined with the advent of recent technologies (e.g., artificial intelligence). In addition, leveraging automation to support merit staff and allowing for automation of simply binary decisions (where the facts lead to one outcome) could help reduce the overall workload challenges of merit staff UI employees, so long as adequate checks are in place against bias in AI systems. This could enable merit staff to focus on complex issues and help the state agency issue decisions in a timely manner. Also, merit staff oversight of automation could overcome objections from stakeholders.

In November 2023, DOL amended its regulations regarding Wagner-Peyser Act ES staffing to restore its previous longstanding requirement that states use state merit staff to provide ES services, except in three states—Colorado, Massachusetts, and Michigan. Demonstrations since the 1990s in those three states of alternative ES delivery models have been allowed to continue. The new DOL final rule requires these states to participate in a rigorous multistate evaluation, along with states that use merit staffing, to determine their propriety and effectiveness.

As part of the Task Force discussion, the subject of DOL's pending Employment Service (ES) merit staffing evaluation, announced in its recent Wagner-Peyser Act staffing rule[3] came up. A review of flexibility in the administration of UI during the pandemic could help solve some of the debate about the actual utility of merit staffing. This may include, but not be limited to: (1) a multi-state post-study of state UI merit staffing flexibility in merit and non-merit UI states; (2) related outcomes; and (3) a survey of state UI officials including management and front-line staff about merit staffing, and its benefits and disadvantages.

Data and metrics

Tracking states related to DOL's Acceptable Levels of Performance (ALP) is critical to understanding how well states are performing and whether they are maintaining a program that complies with federal requirements to pay benefits when due. Both the 1980 NCUC and 1996 ACUC recommended improving metrics, and the current ALP model reflects agency action to do so. Legislation has been introduced in the House of Representatives to further disaggregate data

3 Department of Labor. 2023. *Federal Register* 88, no. 225 (November 24), p. 82659.

by demographics, which could aid in better understanding patterns of benefit receipt and further improving benefit delivery. While the Employment and Training Administration (ETA) provides much useful data, these data are difficult to use to create a complete picture of agency performance. It is also hard to determine from some data whether the source of access issues is agency performance or underlying state policy driven by law or regulations.

Task Force discussions on metrics included further areas of interest, such as pinpointing sources of errors, whether they are human or technology errors. Fraud reporting could also be more sophisticated to help determine the causes of fraud, such as whether it resulted from identity theft or other kinds of fraud. Fraud metrics could be far more specific. Currently, states are employing multiple interventions to detect and prevent fraud, but little data is available about which interventions are the most effective and which are more likely to waste agency staff time and hold up innocent claimants who need benefits. States also are lacking in guidance on how to handle suspected fraud claims as it relates to timeliness reporting, with many states reporting lower timeliness levels as a result of an influx of imposter claims that are pending further investigation, which muddies the actual claim timeliness picture for legitimate claims. Allowing states to break out these numbers in their data reporting would help provide a more thorough and accurate understanding of the reality on the ground in individual states. Finally, equal attention should be given to underpayments and improperly denied claims, as is given to overpayments.

States currently measure case aging in appeals, but case aging might also be a useful metric to include in initial claims determination. Case aging is included in the appeals process partially to ensure that there is some way to track old cases that have not met timeliness standards for decisions and ensure that they are not ignored indefinitely in favor of easier cases.

Some metrics, such as how long each question takes to answer, or where in the process applicants tend to abandon claims, may be specifically measured through modernized IT systems and are also worth considering. This could help to simplify questions that are confusing claimants and to assess where potential fraudsters might be effectively stopped. It is also important that vendors do not “own” these or other data. A state needs the ability to access any performance data that it wants at any time to evaluate and improve its ability to administer the UI program. These are metrics that states have variable ability to capture, so the Task Force recognizes that creating federal requirements here is unrealistic, but it is worth examining these data when they are ascertainable.

Finally, it could be useful to assess state agency personnel matters. Areas of measurement might include: the agency vacancy rate; vacancies that go unfilled for long periods of time; the number of staff making eligibility determinations versus providing office assistance; the average age of unfilled positions; staff tenure and turnover data; similarity of workforce to claimants served; experience level; overtime paid; and data on call center staff to ensure that information provided to applicants and claimants is accurate and does not stall benefit delivery. It is valuable to understand the challenges in filling these positions, and also the allocation of state staff trained on UI to understand a state’s readiness to respond to a downturn.

Federal administration

Some proposals in recent years have recommended administering the program fully at the federal level.[4] [5] This could reduce disparities between states and streamline administration. However, unspooling the current system would be a massive undertaking, as currently no federal agency has the capacity to quickly set up a way to pay unscheduled benefits and make the benefit determinations that state UI agencies make in a timely manner. Most of the Task Force believes that time and resources are better spent focusing on improving the state/federal system we have in place.

Strengthening attachment to reemployment

UI is often the first and, in many cases, the only contact a worker has with our workforce development system. The reemployment subgroup of the Task Force strongly agreed that the connection between UI and reemployment services should be strengthened. In modernizing UI systems through integration with other benefits and strengthened reemployment services, services may be provided to return more workers to jobs that are as good or better than the ones they lost. This would also prove helpful to employers who want to find well-qualified workers who are a good fit for jobs they seek to fill. A significant reemployment services package, paired with benefit improvements discussed later in this report, could minimize concerns that greater minimum benefits discourage claimants from seriously seeking employment. The following are some of the ideas the Task Force raised.

Improve reemployment services. These ideas could improve the effectiveness and reach of reemployment services:

- **Increase reemployment services funding.** States would receive enough funds to provide services to a significant segment of the population. For example, the 2017 Obama budget proposed augmented funding to serve one-third of jobless workers, including those deemed likely to exhaust benefits or otherwise designated by the state agency as underserved and who could most benefit from agency intervention. Legislation such as H.R. 5681, the BRIDGE for Workers Act, could give states greater flexibility in identifying individuals who would benefit from reemployment assistance. The 2018 budget deal included substantially increased funding for RESEA, but unfortunately the pandemic caused states to pause RESEA expansions to deal with the increased

4 Dube, Arindrajit. 2021. “A plan to reform the unemployment insurance system in the United States.” In The Hamilton Project. Accessed [insert date]. https://www.hamiltonproject.org/wp-content/uploads/2023/01/Unemplyment_InsurancePP_v4.2-1.pdf.

5 Wandner, Stephen A. 2023. Transforming Unemployment Insurance for the Twenty-First Century: A Comprehensive Guide to Reform. Kalamazoo, MI: W.E. Upjohn Institute for Employment Research. https://doi.org/10.17848/9780880996914

workloads and the reality of widespread shutdowns. O'Leary, Balducchi, and Smith also recommended improving RESEA in 2023.[6] The FY 2017 White House budget request and other proposals have called for RESEA to be extended to individuals receiving extended benefits.[7]

- **Integrating services and benefits at American Job Centers.** This would allow unemployed workers to auto-enroll in benefit programs whenever possible and enjoy streamlined eligibility for other services, such as Pell grants or WIOA, yielding greater access to services for more beneficiaries. Such integration should be mindful of differing program requirements and timelines and should–from planning and design to implementation–engage frontline staff and their representatives.
- **Requiring UI recipients to work with an American Job Center (AJC), including Employment Service staff at AJCs, or Employment Training Providers.** The evidence shows that states that require UI recipients to meet with their local AJC have shorter unemployment duration, better placement rates, and better-quality jobs. This requirement could necessitate funding increases to support sufficient AJC staffing, including ES employees.
- **Improving data collection.** Better data on program participation and job outcomes is necessary to help target skills assessment and development, and also to help employers and training systems to assess skills available in the local workforce.
- **Examining current technology to match qualified and credentialed workers to job openings.** Testing this technology is critical to ensure that jobseekers receive appropriate matches, so that they do not lose benefits for not applying to jobs that do not correspond with their experience. If deployed properly, technology could aid in finding opportunities with similar skill sets that claimants might not have immediately recognized.
- **Increasing access to case management for claimants struggling to find appropriate work.** Some jobseekers need extra assistance in finding employment. For example, some participants might need help finding wrap-around services, such as child care or transportation assistance, that enable them to participate in training.

Fund the Employment Service (ES)

As with UI administration, ES is also chronically underfunded. One suggestion to strengthen funding when it is most needed is to create a contingency funding option that increases dollars flowing to ES during periods of high unemployment. ES was serving a dwindling number of claimants each year by the end of the Great Recession[8] and funding has declined since then.

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6 O'Leary, Christopher J., David E. Balducchi, and Ralph E. Smith. 2023. "Unemployment Insurance: Fix It and Fund It." Policy Paper No. 2022-030. Kalamazoo, MI: W.E. Upjohn Institute for Employment Research. https://doi.org/10.17848/pol2022-030

7 West, Rachel, Indivar Dutta-Gupta, Kali Grant, et al. 2016. *Strengthening unemployment protections in America: Modernizing unemployment insurance and establishing a Jobseeker's Allowance.* https://cdn.americanprogress.org/wp-content/uploads/2016/05/31134245/UI_JSAreport.pdf

8 Wandner, Stephen A., and Randall Eberts. n.d. "Public Workforce Programs during the Great Recession: Monthly Labor Review: U.S. Bureau of Labor Statistics." Accessed May 17, 2024,

While funding was in the $700–$800 million range from 1996 to the Great Recession, funding was down to $690 million in 2020, increasing to $705 million by 2023.[9] Proposals that would increase outlays should be offset by proposals to pay for them, either through offsetting reductions or increases in revenues. Otherwise, the federal deficit would increase.

Modernize work search

Modernizing work search requirements to fit the current economy and local economic conditions would help claimants engage in more productive and successful work searches. The common model of requiring a specific number of searches, particularly when what constitutes a work search is outdated, does not adequately serve the goal of getting people back to work. Finding ways to make work search more effective might be the subject of its own in-depth study.

Allow UI support during training

Some workers choose and qualify for training and WIOA during their initial assessment with UI. This can happen before their benefits expire, or claimants may learn about training options after they have exhausted their benefits. Allowing workers to keep their UI benefits while starting their respective training program will provide basic financial support while enabling them to focus on their training. Another option is to allow the participant to choose to continue benefits, or alternately receive a dependent care subsidy while participating in a training program. This is a concept that has always historically enjoyed bipartisan support and was included in past bipartisan reform commission recommendations. Cost considerations, including identifying potential offsets, would naturally apply to any expansion in benefits.

Add a hiring bonus for UI recipients

Providing UI claimants with a bonus if they are placed or find employment within a short timeframe could encourage a faster return to employment. However, it could also encourage claimants to accept inappropriate, less stable jobs that could ultimately lower their living standards or lead to joblessness when another economic downturn occurs. Such proposals spotlight the tension between the desire to get workers back to work quickly—avoiding the damage caused by long-term unemployment—and the interest in finding the best possible employment fit for workers. The right amount of bonus could be the subject of study or left up to states to figure out, potentially incorporating research about places in the economic cycle where bonuses might make the most sense. Reemployment bonuses were included in the 1996 ACUC and have been supported by UI experts.[10]

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https://www.bls.gov/opub/mlr/2014/article/public-workforce-programs-during-the-great-recession.htm

9 State Unemployment Insurance and Employment Service Operations. FY 2025 Congressional Budget Justification, Employment and Training Administration. https://www.dol.gov/sites/dolgov/files/general/budget/2025/CBJ-2025-V1-07.pdf

10 Wandner, Stephen A., editor. 2018 *Unemployment insurance reform: Fixing a broken system*. W. E. Upjohn Institute. http://www.jstor.org/stable/j.ctvh4zfsf

Identifying and Preventing Fraud

Fraud has evolved to be a very different challenge for states than it was prior to the pandemic. The criminals attacking state UI systems are often large and well-organized international criminal rings. Yet 53 individual poorly funded state agencies have been expected to devise a solution to this economy-wide issue. States are poorly equipped to take this on individually, so policymakers must determine better opportunities for public/private collaboration. Every member of the Task Force agrees that criminal fraudsters should not have access to public benefits, but addressing this large and evolving threat is complex.

Funding

This is a new cost for states. While states had fraud flagging systems in place, they were not calibrated for the kind of fraud that besieged the system since 2020. DOL has allocated more than $640 million to states in one-time allocations for fraud prevention, but the threat is ever-evolving and fraud prevention services that can help flag questionable claims or provide identity proofing or other data crossmatching require subscription costs over time. The tension between fraud proofing and timely payment of benefits in early 2024 errs on the side of flagging fraud, which costs staff time and money to investigate. The 2025 President's Budget Request includes an additional $48 million over two years to detect and prevent fraud. This is likely going to have to be ongoing supplemental funding for the foreseeable future. States are also engaging more with NASWA's ID Hub, but the current disparate levels of engagement indicate a need to be more clear about what engaging with the ID Hub means and the minimum level of engagement required when states again are called on to pay out significant temporary federal benefits.

Vendors

The universe of vendors contracting with states is large and growing. It is not clear, however, that any entity has a comprehensive list of which vendors are working in which states, what services they are providing, what agreements which states have with vendors, or the cost. That makes it difficult to evaluate the effectiveness of these services. States might be paying for services that are ineffective at detecting and preventing fraud or they might be erring so far in the direction of fraud flagging that they are preventing eligible claimants from accessing earned benefits in a timely manner. Sometimes vendor integration with state systems is not smooth. For example, they might not have case management tools, so some states might enter flagged claims only into an Excel spreadsheet where they are then investigated by state agency workers. Vendors cannot resolve their flags, so state agencies must do so. There should be a way to test flag accuracy to ensure that the more accurate aspects of flagging algorithms are cautiously heeded while other aspects that result in cleared claims are diminished.

Balance

Ensuring that fraud detection and prevention does not grind states to a halt in paying timely benefits to eligible claimants is a huge challenge. The state entity that clears fraud flags should not carry that cleared flag into the next steps in the eligibility determination process. This will ensure that the bias of knowing that a claim was flagged as risky for an unrelated reason does not affect other aspects of the determination process. Also, thinking about which fraud prevention measures are best used as an off-ramp to clear claims is important. For example, if a state has found their flagging system to be reliable enough to not require passing photo identity proofing for all claimants at the front end of an application, that service might better serve as a flag-clearing tool. In addition, DOL's Blanket Purchase Agreement included language that would require identity verification to provide racial and ethnic demographic data on claimants and address disparities if there were significant disparate impacts on pass rates and bottlenecks for any given subgroup of the U.S. population.

Fraud goes beyond Unemployment Insurance

The same fraud rings that attack UI systems also go on to use stolen data to access other systems. Unemployment agencies lack the resources to serve as an identity hub across the public and private sector systems at risk. For that reason, it might make sense to at least implement a state single sign-on for state services or benefits. However, even that is insufficient to solve the problem. These rings are also a threat in the private sector. The Department of Justice has played a significant role in pursuing criminal rings, which is appropriate for this level of concern. This is also important for victims of identity theft. One of the most common ways for a person to learn their identity has been compromised is by receiving a notice from a state unemployment agency that someone has applied for benefits in their name. However, victims might not understand the notice and could instead blame the state agency. It is important to consider better ways of connecting those victims to the resources they need to lock down their identity so thieves will not be able to reuse this compromised identity to break into other systems.

Requiring states to provide DOL's Office of Inspector General with data

The likelihood that DOL will revise its regulations to require greater provision of data to the Office of Inspector General (OIG) is high, as it has appeared in the regulatory agenda and the 2025 budget. This is likely a necessary tool in fighting fraud, but the data should not just be a one-way communication to the OIG. When risks or findings are identified, that information should also be shared with states to help them improve their fraud detection and prevention.

Allowing states to retain some Fraud recoupment for administration

Claimant advocates are concerned that, as with other civil forfeiture requirements, allowing states to retain some fraud recoupment could incentivize agencies to overclassify fraud. Meanwhile, other observers argue that states currently lack any incentive to spend resources going after international crime rings and other actors, especially when federal funds have been misspent. To some extent, recent concern about this issue may soon be outdated, as the federal pandemic UI benefits continue to recede in the rear-view mirror and become increasingly difficult to recover.

However, the problem of disincentives will revive every time temporary federal funding is provided in recessions. Since this issue has been the subject of bipartisan legislation in both chambers, it is important to include in the discussion. Ultimately, both sides seem to agree that the percentage of fraudulent funds states can retain should be less than 25 percent.

Benefit floors

The next sections of this report discuss areas where federal laws might be modified to require states to provide floors for benefit duration, access, and replacement of prior wages. Each of these issues should be considered in the context of their being pulled from large "grand bargain" reform packages, making it difficult to consider any of these issues in isolation and outside of that broader context. Obviously, the costs associated with benefit increases would need to be offset through increased revenue, as discussed in the financing section of this report.

Duration of benefits

For the half-century leading up to 2011, all states offered up to 26 weeks of state UI benefits; exceptions included states that allowed for a reduced duration when claimants had very low earnings during their base period and two states that could offer more than 26 weeks of benefits. Claimants could also be eligible for more than 26 weeks for qualifying reasons such as participation in approved training programs. However, federal legislation enacted during and after the Great Recession prevented states from adjusting the size of benefit checks. A number of states then chose to moderate benefit payouts as the economy recovered by reducing the maximum number of weeks of benefits, which allowed states to stabilize trust funds more quickly at the expense of overall wage replacement.

Currently, 13 states have maximum durations of fewer than 26 weeks, and at least 2 more states have enacted reforms to reduce benefit durations by 2025. Under most recent proposals, the federal government would require states to offer at least 26 weeks of benefits again. This requirement is in nearly every major UI reform proposal offered in Congress. A 26-week maximum duration was assumed in the 1980 NCUC proposal, but some states employ sliding-scale durations in the case that claimants did not have full-time employment in the base period, so that commission went a step further to recommend that 39 weeks of earnings should be sufficient to qualify for the full 26-week duration. A duration of 26 weeks was recommended at least as far back as December 28, 1939, in remarks that A. J. Altmeyer made as chair of the Social Security Board to the American Association for Labor Legislation. The FY 2017 President's Budget Proposal as well as proposals by the Center for American Progress, Georgetown Center on Poverty and Inequality, and National Employment Law Project[11]; Wandner[12]; O'Leary and

11 West, Rachel, Indivar Dutta-Gupta, Kali Grant, et al. 2016. *Strengthening unemployment protections in America: Modernizing unemployment insurance and establishing a Jobseeker's Allowance*. https://cdn.americanprogress.org/wp-content/uploads/2016/05/31134245/UI_JSAreport.pdf

12 Wandner, Stephen A. 2023. *Transforming Unemployment Insurance for the twenty-first century: A*

Wandner[13]; and O'Leary, Balducchi, and Smith[14] all have called for the restoration of the 26-week standard. More recently, the Niskanen Center[15] recommended up to 39 weeks of regular duration, and a 2021 report by Bivens et al.[16] calls for 30 weeks as the regular duration.

Of the 13 states that currently provide fewer than 26 weeks of benefits, many offer benefits on a sliding scale that is dependent on the current unemployment rate in the state. However, increasing benefit duration in response to increased unemployment rates is not necessarily immediately responsive to current economic conditions, as some of these states reset duration only quarterly or annually.

The federal-state Extended Benefits (EB) program provides up to 13 or 20 additional weeks of UI benefits to claimants in states with high and rising unemployment rates (see the Appendix for optional EB programs that states have adopted). Typically, the program is 50 percent federally funded from FUTA revenue. EB is only required to "trigger on" when the insured unemployment rate (IUR) is above 5 percent and is at least 120 percent of the rate during the equivalent 13-week period in the prior year, with an optional trigger at 6 percent total unemployment rate (TUR). Proponents of EB reform contend that the current program does not provide sufficient help during recessions because it provides too few weeks of benefits and the triggers are not responsive enough. While various current proposals differ slightly from the 1980 NCUC and 1996 ACUC commission recommendations on EB, both commissions noted that existing EB triggers were insufficient to provide for an appropriate number of weeks during downturns. In each of the past two recessions, federal law has temporarily made EB 100 percent federally funded, with many states adopting the program's optional triggers (and thus expanding eligibility for EB) only when federal funds fully covered its costs.

Discussion of this issue focuses heavily on data and whether 26 weeks are too many or too few. The allowable duration of benefits could depend on broad issues, such as current economic conditions or particulars about communities or individuals and their characteristics. There are situations in society external to the UI system that make it harder for people in certain demographics to find work. For example, Black workers generally have a greater duration of overall unemployment than white workers. It is far more difficult to find new work in certain

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comprehensive guide to reform. Kalamazoo, MI: W. E. Upjohn Institute for Employment Research. https://doi.org/10.17848/9780880996914

13 Wandner, Stephen A., editor. 2018. *Unemployment insurance reform: Fixing a broken system.* W. E. Upjohn Institute. http://www.jstor.org/stable/j.ctvh4zfsf

14 O'Leary, Christopher J., David E. Balducchi, and Ralph E. Smith. 2023. Unemployment insurance: Fix it and fund it. Policy Paper No. 2022-030. Kalamazoo, MI: W. E. Upjohn Institute for Employment Research.

15 Darling, Matt, and Will Raderman. 2023. *An unemployment insurance system that works.* https://www.niskanencenter.org/an-unemployment-insurance-system-that-works-2/

16 Bivens, Josh, Melissa Boteach, Rachel Deutsch, et al. 2021. *Reforming Unemployment Insurance: Stabilizing a system in crisis and laying the foundation for equity*. A joint report of the Center for American Progress, Center for Popular Democracy, Economic Policy Institute, Groundwork Collaborative, National Employment Law Project, National Women's Law Center, and Washington Center for Equitable Growth. https://www.epi.org/publication/unemployment-insurance-reform/

industries or when workers are in a community with a large layoff. This difficulty intersects with services available to claimants: If the state can offer workers quality skill development and reemployment assistance, then there may not be a need for a higher maximum number of weeks. It is also important to evaluate the research indicating that minimal increases in duration may lead to significantly greater success at finding better job matches. Ultimately, the Task Force did not come to any consensus on duration, but largely agreed that a longer duration of benefits may be necessary depending on circumstance and should be paired with assistance finding appropriate replacement employment. It could also be helpful to study a duration floor based on actual duration, taking into account recessionary years so the method is less arbitrary.

Using 100 percent federal funding for expanded EB triggers in future recessions. Dozens of organizations and researchers recommend lower triggers, full federal funding of EB once triggered, and tinkering with the UI program's current "look-back" rules. Both the 1980 NCUC and the 1996 ACUC recommended EB reforms (and the Obama 2017 budget, as well as proposals from Wyden/Bennet/Beyer , the Hamilton Project at Brookings,[17] the Center for American Progress/Georgetown Center for Poverty and Inequality/National Employment Law Project,[18] O'Leary and Wandner,[19] Wandner,[20] Dube,[21] Bell et al.[22], and others, have all called for additional triggers, a greater emphasis on TUR over IUR, federal funding, modifying the look-back provisions, or some combination of those levers.

Supporters suggest that, if adopted, this proposal—in theory at least—would mean that Congress would not be required to enact discretionary UI legislation in downturns. In practice, the proposal would embed significantly increased benefits—and their large costs—into the regular spending baseline. Those benefits would automatically flow during a recession, instead of being subject to congressional action on future temporary legislation. Political pressures during recessions suggest that Congress might still be under pressure to increase benefits further on a temporary basis, as it has continued to do regularly since the establishment of the "permanent" EB program in 1970. If such an additional stand-by emergency program were in place, when the

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17 Chodorow-Reich, Gabriel, and John Coglianese. 2019. Unemployment Insurance and macroeconomic stabilization. *The Hamilton Project*. https://www.hamiltonproject.org/wp-content/uploads/2023/01/CRC_web_20190506.pdf

18 West, Rachel, Indivar Dutta-Gupta, Kali Grant, et al. 2016. *Strengthening unemployment protections in America: Modernizing unemployment insurance and establishing a Jobseeker's Allowance.* https://cdn.americanprogress.org/wp-content/uploads/2016/05/31134245/UI_JSAreport.pdf

19 Wandner, Stephen A., editor. 2018. *Unemployment Insurance reform: Fixing a broken system*. W. E. Upjohn Institute. http://www.jstor.org/stable/j.ctvh4zfsf

20 Wandner, Stephen A. 2023. *Transforming Unemployment Insurance for the twenty-first century: A comprehensive guide to reform*. Kalamazoo, MI: W. E. Upjohn Institute for Employment Research. https://doi.org/10.17848/9780880996914

21 Dube, Arindrajit. 2021. A plan to reform the Unemployment Insurance system in the United States. *The Hamilton Project*. https://www.brookings.edu/wp-content/uploads/2021/04/A-Plan-to-Reform-the-Unemployment-Insurance-System_Executive-Summary-1.pdf

22 Bell, Alex, T. J. Hedin, Geoffrey Schnorr, et al. 2024. UI benefit generosity and labor supply from 2002–2020. https://doi.org/10.3386/w32071

economic circumstances arise to execute it, state UI agencies would have the eligibility and payment criteria already incorporated into their computer-assisted benefit payment systems.

A key lesson from the pandemic is that quickly established emergency programs are error-prone and vulnerable to fraudsters, and they are administratively difficult to set up. However, permanent changes to EB would score as a cost that then needs to be paid for when introduced as legislation, whereas emergency programs enacted in a crisis generally do not require an offset. Therefore, inertia tends to favor the creation of ad hoc programs.

If it were not for congressional dynamics and budget policy, it seems that, on balance, finding a permanent solution to EB would be ideal. However, the Task Force recognized that, even if an ideal EB proposal were devised, the political realities preventing EB reform remain significant.

Benefit level issues

Replacement Rate

UI benefits replaced on average around 35 percent to 42 percent of recipients' previous salaries in 2023.[23] Low weekly benefit levels were one driver of the $600 weekly supplement adopted in the CARES Act, as Congress sought to "make whole" workers who had been laid off as a result of government-imposed pandemic lockdowns. While designed to approximate 100 percent income replacement on average, such supplements provided many workers more in benefits than they previously earned from work, and proved an inviting target for fraudsters. Low replacement rates are driven partially by state benefit formulas and to a greater extent by weekly benefit maximums, and some of these maximum weekly benefits result in income levels that are below the poverty line (independent of other available benefits and income sources). Several states do not automatically increase their maximum benefit amount, so inflation eats away at prior income replacement particularly heavily during periods of high inflation. The following are some historical proposals:

- **Require states to increase the maximum benefit to two-thirds of the state's average weekly wage (AWW) and use the "high quarter" method for calculating benefits.** This combination would push the replacement rate for the vast majority of workers to around 50 percent. Both the 1980 NCUC and 1996 ACUC proposed two-thirds of AWW, and the amount has been included in several subsequent proposals.[24,25,26,27]

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23 Low replacement rates can be due to a variety of factors, including states basing replacement on an average of all quarters in the base period rather than the highest quarter of earnings.

24 West, Rachel, Indivar Dutta-Gupta, Kali Grant, et al. 2016. *Strengthening unemployment protections in America: Modernizing unemployment insurance and establishing a Jobseeker's Allowance*. https://cdn.americanprogress.org/wp-content/uploads/2016/05/31134245/UI_JSAreport.pdf

25 O'Leary, Christopher J., David E. Balducchi, and Ralph E. Smith. 2023. Unemployment Insurance: Fix it and fund it. Policy Paper No. 2022-030. Kalamazoo, MI: W. E. Upjohn Institute for Employment Research. https://doi.org/10.17848/pol2022-030

- **Require states to increase their replacement rate formulas to a specific percentage of prior income up to the maximum weekly benefit amount.** The Wyden/Bennet/Beyer bill moves to 75 percent; the Dube/Hamilton Project plan provides an 80 percent replacement rate on workers' first $400 of weekly wages, 65 percent on their next $300, and 50 percent on their remaining wages up to the maximum benefit. The Niskanen Center advocates for a 75 percent replacement rate.[28] Bivens et al. recommended progressive replacement up to 85 percent for the lowest-income earners.[29] A 50 percent replacement rate up to two-thirds of the AWW was included in both the 1980 NCUC and 1996 ACUC recommendations. Low replacement rates undermine UI's function as an economic stabilizer by reducing the ability of unemployed workers to continue supporting the economy through consumption.
- **Require a minimum allowance of $25 per dependent.** This is included in the Wyden/Bennet/Beyer UI reform proposal. Thirteen states provide dependent allowances, under which benefits are increased by a flat dollar amount per dependent, recognizing that workers whose families depend on them require more resources. These allowances typically range from $10 to $25 per dependent.
- **Eliminate taxation of benefits and pension offsets.** This measure was included in the 1980 NCUC and 1996 ACUC proposals as well as by Wandner, Evermore,[30] and O'Leary, Balducchi, and Smith. There was some degree of support for this proposal among Task Force members across the political spectrum. Repealing the taxation of UI benefits would improve partial wage replacement percentages. Further, in the current arrangement, employers are paying taxes to provide a UI benefit that is simply returned in part to general revenue in the form of federal taxes. Funds intended to pay UI benefits should be used strictly for that purpose.
- **Consider rules around partial UI.** A key component of benefit generosity is how workers earning some part-time income are treated. The Wyden-Bennet-Beyer legislation requires that states disregard at least one-third of workers' part-time earnings. Another factor to consider is how benefits are offset once a claimant exceeds the disregard. This

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26 Wandner, Stephen A. 2023. *Transforming Unemployment Insurance for the twenty-first century: A comprehensive guide to reform*. Kalamazoo, MI: W. E. Upjohn Institute for Employment Research. https://doi.org/10.17848/9780880996914

27 O'Leary, Christopher J., and Stephen A. Wandner. 2018. https://ideas.repec.org/h/upj/uchaps/cjo2018-2.html, in: Stephen A. Wandner (ed.), *Unemployment Insurance reform: Fixing a broken system*. W. E. Upjohn Institute for Employment Research. https://ideas.repec.org/h/upj/uchaps/cjo2018-2.html

28 Darling, Matt, and Will Raderman. 2023. *An unemployment insurance system that works.* https://www.niskanencenter.org/an-unemployment-insurance-system-that-works-2/

29 Bivens, Josh, Melissa Boteach, Rachel Deutsch, et al. 2021. *Reforming Unemployment Insurance: Stabilizing a system in crisis and laying the foundation for equity*. A joint report of the Center for American Progress, Center for Popular Democracy, Economic Policy Institute, Groundwork Collaborative, National Employment Law Project, National Women's Law Center, and Washington Center for Equitable Growth https://www.epi.org/publication/unemployment-insurance-reform/

30 Evermore, Michele, "Why millions of unemployed workers may face unexpected tax bills," Washington Post, January 28, 2021, available at https://www.washingtonpost.com/opinions/2021/01/28/why-millions-unemployed-workers-may-face-unexpected-tax-bills/.

is often considered as part of reemployment packages, as returning to work part time could eventually lead to full-time work.[31]

While several members of the Task Force are in favor of significantly increasing replacement rates, others favored a deeper study of appropriate replacement levels. Both the 1980 NCUC and 1996 ACUC did thorough research at the time and concluded that a 50 percent replacement of up to two-thirds of the average weekly wage was appropriate. However, new evidence around incentives to accept work during the pandemic when replacement rates were often above 100 percent might provide better information.

Each of the above UI benefit expansions (raising maximum benefits and replacement rates, adding dependent allowances, eliminating taxation of benefits, and expanding the generosity of partial UI benefits) would entail additional benefit costs, generally requiring greater payroll taxes to offset such increased costs. The proposed benefit increases and resulting payroll tax hikes would be especially large in low-benefit states, adding an important political dynamic to the practical effect of such proposals and their potential to earn broad political support.

Financing Issues

This section is closely related to the conversation on taxation policy for administrative purposes, but it addresses revenue and financing of the trust fund to pay benefits and retain reserves sufficient to address a downturn. Some past proposals to fund benefits include the following:

- **Impose stricter solvency requirements to receive the federal UI tax credit.** Some states entered the COVID-19 crisis with trust funds that were not prepared for a normal recession; especially given the severity of the downturn, a number had to resort to federal loans to pay promised benefits. The FY 2017 Obama budget proposed that states would see their 5.4 percent credit against the 6.0 percent federal UI tax reduced if their trust fund had an average high-cost multiple (AHCM) less than 0.5 for two or more consecutive January firsts (a value of 1.0 indicates that a state has sufficient funds in its account to pay benefits for one year of an average recession). Both historic bipartisan commissions had similar recommendations. However, it may be advisable to amend the calculation of the AHCM to exclude pandemic years when calculating the value of adequate funding. It should also be noted that fewer than four years after the start of the pandemic unemployment crisis, nineteen states currently meet solvency standards even with the current AHCM. Only four states had outstanding loan balances as of January 1, 2024, although the loans currently owed by California and New York are historically large. EPI et al.[32] recommended replacing AHCM with a system in which state savings targets are

31 Bell, Alex, Geoffrey Schnorr, and Till von Wachter. 2022,). Policy analysis: The benefit implications of adjusting the earnings disregard for partial UI benefits in California. *California Policy Lab*. https://www.capolicylab.org/publications/adjusting-the-earnings-disregard-for-partial-unemployment-benefits-in-california/

32 Bivens, Josh, Melissa Boteach, Rachel Deutsch, et al. (2021). *Reforming Unemployment Insurance: Stabilizing a system in crisis and laying the foundation for equity.* A joint report of the Center for American Progress, Center for Popular Democracy, Economic Policy Institute, Groundwork Collaborative, National Employment

based on industry-adjusted per capita targets. Also, stricter solvency requirements may result in states increasing state unemployment taxes, but they also may result in reduced benefit amounts.

- **Allow for and study experimenting with experience rating.** Although this recommendation never appeared exactly in this form in previous bipartisan commission recommendations, the 1996 ACUC included discussion about whether experience rating was more of a net positive in layoff prevention or a negative in inhibiting access to UI benefits, as employers try to limit tax liability. States are currently required to use experience rating so that employer payroll taxes increase when more of their workers use the UI system. This encourages employers to challenge benefits and turns them into a political constituency that opposes efforts to boost UI recipiency. On the other hand, experience rating is proven to reduce layoffs, so it may be inadvisable to entirely eliminate the requirement. In keeping with past bipartisan interest in learning more about incentives, it might make sense to promote experimentation at the state level to explore alternatives, for example, allowing states to finance UI like Social Security is financed. A 2019 Miller/Pavosevich paper[33] described alternative methodologies that would reward increases in employment and payroll and charge based on wages. Positive experimentation in financing methods is currently allowable, but it could be encouraged through grants and other incentives. Another option presented by the Niskanen Center is simply to replace experience rating with a flat employer tax.
- **Require employee contribution.** Requiring employees to contribute to UI would take some of the financial burden off employers while giving employees a greater sense of ownership of the program.[34] However, there are concerns about this proposal in both labor and employer communities. Employees obviously want to avoid direct taxation for unemployment when they are not at fault, and employers often wish to maintain their status as sole payers into the system to maintain leverage.
- **End the nonprofit exemption from paying FUTA.** Currently, 501(c)(3) entities do not pay federal UI tax and have the option of either paying state UI taxes or reimbursing states for benefits associated with their former employees. Elimination of this exemption was included in the 1996 ACUC. One argument for this idea is that, if a nonprofit closes all at once, other employers will essentially be on the hook for the cost to the system because they did not pay into the system and it will be impossible to charge them. However sound the theoretical support for this idea might be, the political opposition to it may be insurmountable since as nonprofits would oppose this.

Law Project, National Women's Law Center, and Washington Center for Equitable Growth https://www.epi.org/publication/unemployment-insurance-reform/

33 Miller, Michael, and Robert Pavosevich. 2019. Alternative methods of experience rating Unemployment Insurance employer taxes. *Public Budgeting & Finance*, 39: 28-47. https://doi.org/10.1111/pbaf.12244

34 Wandner, Stephen A. 2023. *Transforming Unemployment Insurance for the twenty-first century: A comprehensive guide to reform*. Kalamazoo, MI: W. E. Upjohn Institute for Employment Research. https://doi.org/10.17848/9780880996914

The Task Force discussed the idea that solvency standards might be an option rather than an enforceable standard since states are already penalized for having outstanding loans. Members of the group were generally open to considering different experience rating methodologies or alternatives, but very cautiously, considering that the role of experience rating as layoff reduction is increasingly important given the way the economy and the workforce are evolving. There was widespread agreement that whatever financing method is used, states should be able to consider the growth/constriction cycles and try to spread out the cost of a recession over the growth cycle, rather than frontload the cost of a downturn in the early stages of economic recovery. While the Task Force saw some value in employee contribution raising awareness about the availability of UI benefits, there is widespread belief that employees already contribute in the form of effectively lower wages resulting from employer payroll taxes. A possible compromise could be reporting to claimants on paystubs how much employers pay on their behalf for unemployment compensation.

Eligibility standards

Below is a list of several ways to expand eligibility for regular UI. Recipiency can reach less than 10 percent of unemployed workers in some states, so it is worth discussing some basic access standards to make UI effective as a macroeconomic stabilizer. Recipiency is partly an artifact of state law and administration and partly related to market conditions. Recipiency tends to increase during downturns when replacement jobs may be harder to find; it in turn declines when market conditions improve and workers are more likely to voluntarily leave suboptimal jobs to spend time finding a better fit. Currently, state eligibility standards vary widely.[35] Below are some ideas that past proposals have included.

- **Require states to establish an operational Alternate Base Period (ABP).** The base period for calculating benefits is typically the first four of the last five completed quarters. The 2009 UI Modernization Act provides funding to states if they adopt an ABP, but some states currently have not. An ABP specifically helps the lowest-income workers with the most unsteady work to qualify for benefits since it allows workers without enough earnings in one period to use a different period. This reform is included in nearly every UI reform proposal,[36,37] including Wyden/Bennet/Beyer and the 1996 ACUC, and is relatively noncontroversial. Thirteen states adopted an ABP as a result of incentives in the UI Modernization Act, and only eight states do not have an ABP on the books. Many states

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35 U.S. Department of Labor, Employment and Training Administration, "Comparison of State Unemployment Laws, 2022." https://oui.doleta.gov/unemploy/comparison/2020-2029/comparison2022.asp

36 Christopher J. O'Leary & Stephen A. Wandner. 2018. Unemployment Insurance reform: Evidence-based policy recommendations, in: Stephen A. Wandner (ed.), *Unemployment Insurance reform: Fixing a broken system*. Kalamazoo, MI: W. E. Upjohn Institute for Employment Research. https://ideas.repec.org/h/upj/uchaps/cjo2018-2.html

37 West, Rachel, Indivar Dutta-Gupta, Kali Grant, et al. 2016. *Strengthening unemployment protections in America: Modernizing unemployment insurance and establishing a Jobseeker's Allowance*. https://cdn.americanprogress.org/wp-content/uploads/2016/05/31134245/UI_JSAreport.pdf

do have special extended base periods that may apply in special situations. Some states also have flexible ABPs beyond the standard four quarters to allow for periods out of the workforce, which is helpful for people with disabilities or people who took a quarter of maternity leave. Several states also allow for an Extended Base Period (EBP) for claimants without earnings in the current base period for qualifying reasons.

- **Increase good causes to quit.** Mandatory coverage of good personal causes that could still allow for UI recipiency might include moving to follow a spouse whose job moved; to escape domestic violence, harassment, or stalking; and to accommodate caregiving options. Mandatory work-related causes to quit might include health and safety risks, being asked to violate the law, being asked to engage in strikebreaking, erratic scheduling, the jobsite moved and would create an unreasonable commute, harassment, and a hostile work environment. Requiring states to adopt such good causes to quit is in almost every reform proposal including Wyden-Bennet, the 1980 NCUC, the 1996 ACUC, the FY 2017 budget, and several other reform proposals.[38,39,40,41] While the concept of good-cause quits is relatively universal, the actual good causes to quit generate more controversy. Concerns about such policy changes could be allayed by ensuring that good personal causes are nonchargeable to the employer in experience rating, which is often the case already.

- **Allow workers seeking part-time work to receive benefits.** This is another proposal that is in almost every reform proposal, including the 1996 ACUC, Wyden-Bennet, and the FY 2017 Obama budget. Many states do not allow workers seeking part-time work to receive benefits, which is most harmful to already lower-income workers and people with health or family reasons to seek only part-time work. One question would be whether part-time workers who lost work but had a benefit year based on prior full-time work could return to their old benefit year determination.

- **Adopt and enforce a standard definition of *employee*, such as the ABC standard.**[42] This would make clear that nonemployees are free from control or direction, the work is outside the usual course of business for the employer, and the individual is

38 O'Leary, Christopher J., David E. Balducchi, and Ralph E. Smith. 2023. Unemployment Insurance: Fix it and fund it. Policy Paper No. 2022-030. Kalamazoo, MI: W. E. Upjohn Institute for Employment Research. https://doi.org/10.17848/pol2022-030

39 West, Rachel, Indivar Dutta-Gupta, Kali Grant, et al. 2016. *Strengthening unemployment protections in America: Modernizing unemployment insurance and establishing a Jobseeker's Allowance.* https://cdn.americanprogress.org/wp-content/uploads/2016/05/31134245/UI_JSAreport.pdf

40 Wandner, Stephen A. 2023. *Transforming Unemployment Insurance for the twenty-first century: A comprehensive guide to reform*. Kalamazoo, MI: W. E. Upjohn Institute for Employment Research. https://doi.org/10.17848/9780880996914

41 Bivens, Josh, Melissa Boteach, Rachel Deutsch, et al. 2021. *Reforming Unemployment Insurance: Stabilizing a system in crisis and laying the foundation for equity*. A joint report of the Center for American Progress, Center for Popular Democracy, Economic Policy Institute, Groundwork Collaborative, National Employment Law Project, National Women's Law Center, and Washington Center for Equitable Growth. https://www.epi.org/publication/unemployment-insurance-reform/

42 The ABC test is used in some states to determine whether a person is an employee or an independent contractor for the purpose of determining state unemployment tax.

engaging in work that is part of their customary trade. Twenty-three states use an employee definition that is some version of ABC, but they may not enforce it as such. Requiring states to use the ABC test for state UI taxes and benefits does not necessarily require changing how workers are treated under Social Security, Medicare, or even federal unemployment taxes. Even though the gig economy was nonexistent during the 1980 and 1996 commissions, both expressed concern about maximizing the definition of *employee* to minimize classification of workers as independent contractors. The 1996 ACUC particularly referred to “regulating the employee leasing industry,” which seems the most analogous to the gig industry of today, and the 1980 NCUC specifically recommended opposing any expansion of independent contractor status. It is particularly interesting to note this inclusion in the 1980 report since, after enactment of PL 94-566 in 1976, 97 percent of workers were in UI-covered employment. Wandner[43] and Bivens et al.[44] advocate for this while O’Leary, Balducchi, and Smith[45] called for a study on this issue.

- **Establish a minimum monetary eligibility level of $1,000 in the high quarter and $1,500 in the base period.** Monetary eligibility considerations start with the minimum amount a worker must have earned in a base period to qualify for UI. Under this proposal, all states would be required to adopt a standard under which an unemployed worker may receive UI if they earned at least $1,000 in one quarter and $1,500 over the four-quarter base period. During the pandemic, there was a correlation between states with the highest monetary eligibility criteria for state UI and states with the highest proportion of federal Pandemic Unemployment Assistance (PUA) claims. Clearly in some states, monetary eligibility hurdles may be too high. This proposal would effectively cover more part-time workers, and it is in the Wyden/Bennet/Beyer proposal. This change would affect all but nine states. The 1996 ACUC recommended a maximum of 800 times the minimum wage in the base period,[46] which in 2022 would be $5,800 and $1,450 in the high quarter. Another option would be to allow for an hours-worked standard if a claimant is not monetarily eligible.
- **Ensure coverage of workers completing a temporary work assignment.** This proposal is in the Wyden-Bennet proposal and would provide UI coverage to workers who complete a contract. Some states do this but require workers to report to a

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43 Wandner, Stephen A. 2023. *Transforming Unemployment Insurance for the twenty-first century: A comprehensive guide to reform*. Kalamazoo, MI: W. E. Upjohn Institute for Employment Research. https://doi.org/10.17848/9780880996914.

44 Bivens, Josh, Melissa Boteach, Rachel Deutsch, et al. 2021. *Reforming Unemployment Insurance: Stabilizing a system in crisis and laying the foundation for equity.* A joint report of the Center for American Progress, Center for Popular Democracy, Economic Policy Institute, Groundwork Collaborative, National Employment Law Project, National Women’s Law Center, and Washington Center for Equitable Growth. https://www.epi.org/publication/unemployment-insurance-reform/

45 O’Leary, Christopher J., David E. Balducchi, and Ralph E. Smith. 2023. Unemployment insurance: Fix it and fund it. Policy Paper No. 2022-030. Kalamazoo, MI: W. E. Upjohn Institute for Employment Research.

46 Other proposals including minimum monetary eligibility include the O’Leary/Balducchi/Smith (2023) proposal, Dube (2021), West et al (2016), and EPI et al (2021).

temporary agency before they are eligible for benefits. One could argue that employees with the option of temp work should not get benefits, but that could attach workers to temp work over longer periods. Given the growth in the temp industry since 1996, this issue was not addressed by any past bipartisan commission.

- **Eliminate waiting weeks.** Waiting weeks are a function of issues that existed decades ago, when mail played a greater role in confirming prior income and thus eligibility. Prompted by temporary federal funding, every state eliminated waiting weeks for at least some period of the pandemic, which especially benefited lower-income workers. Some may argue that waiting weeks make it easier to pay benefits in a timely manner, but the timeliness standards take into account whether a state has a waiting week. Eliminating waiting weeks is in the Wyden-Bennet proposal and was also included in the 1996 ACUC recommendations.[47] Frontline staff report that they rely on the waiting week to give them time to accurately determine eligibility so that they can reduce errors and improve program integrity. Eliminating the waiting week should include solutions to this problem for frontline staff.

- **Base benefits on the week paid rather than on the amount earned in a week.** Currently, UI receives a great deal of scrutiny for its improper payment rate, but the two biggest reasons for overpayment prior to the pandemic were workers going back to work but failing to report earnings immediately to the state agency and work search errors. It is often much harder for workers to estimate what they earned rather than report what they were paid. Workers who return to full-time work after an unemployment spell may also have difficulties securing uniforms, transportation, child care, and other needs in order to return to work, but they might not receive pay for up to a month in some circumstances.

- **Define suitable work so that workers are not required to take a reduction in pay of over 15 percent of prior pay and/or accept any unusual risk to the health or safety of the worker.** After the Great Recession, states lowered standards for work that counts as suitable. For example, after ten weeks in Maine, wage amounts are no longer a factor in determining that a job is suitable, so workers would have to accept any pay level. This is not in most proposals, but it is a key provision that has been included in many state reforms since the Great Recession. It might be worth studying how many workers have had to take a job that paid less than their previous employment due to these provisions. This policy is not specifically recommended in any past commission recommendations, but the 1996 ACUC focused on ensuring that UI maintain the stated goals of promoting macroeconomic stability and ensuring that periods of unemployment do not put downward pressure on future wages. Another consideration is when employers offer workers jobs for which they did not apply in order to establish refusal of suitable work and ensuring that work offers are bona fide. Another option would be to set a standard such as five times the minimum wage, which might be easier to establish than a sliding scale. UI and ES staff could also be trained to identify what is a bona fide offer of suitable work.

47 Elimination of waiting weeks was also proposed by Wandner (2023) and West et al (2016).

- **Expand coverage to more agricultural workers, domestic workers, and other seasonal workers.** Agricultural workers and domestic workers were left out of UI coverage in 1935. While they were broadly included in the 1970s reforms, employers with fewer than 10 employees are exempted. No other small employers are exempted except those employing domestic workers who are paid less than $1,000 per year. Similarly, states are given the option of excluding seasonal workers. Greater coverage of these workers featured heavily in both the 1980 NCUC and 1996 ACUC recommendations.
- **Eliminate exemptions added during the 1970s amendments.** Amendments to the Social Security Act in the 1970s added three specific exclusions that both the 1980 NCUC and the 1996 ACUC recommended removing. First, both commissions recommended eliminating the taxation of UI benefits, as discussed earlier in this report. Second, these amendments excluded educational employees "between and within terms" of school sessions. While many full-time educational employees are appropriately excluded because, like career teachers and tenured professors, their pay is distributed year-round, the policy leaves out workers like adjunct professors and elementary school teachers' aides. Finally, eliminating the mandatory pension offset is sound policy that helps older workers who have begun collection of some small pension while remaining unemployed, who may have a harder time lining up reemployment.
- **Make work search requirements less prescriptive.** Work search misreporting is also one of the biggest causes of improper payment. Setting reasonable guidelines about work search, as with payment after returning to work, would dramatically reduce overall improper payment rates. The 1980 NCUC supported a significant relaxation of work search requirements, long before they were made much more stringent. Making work search more understandable and providing greater reemployment services could serve to strengthen UI's role in getting people back to a good replacement job. Exemptions from work search could be added for claimants on temporary layoff, Short-Time Compensation, having a new job offer with a start date established, or in approved job training.

All of these issues are complex, but they have been studied since the 1980s and 1990s. All issues probably have to be considered together, and advocates who want to see floors for benefit access probably have to consider a trade-off for stronger expectations around participation in reemployment and possible employee contributions to fund benefits. Many on the Task Force would argue that, if UI is to provide the countercyclical effects that are popular during economic downturns, it is better to have a program that is designed for and ready to pay enough people enough benefits in a crisis for that stabilization to be meaningful. We learned a painful lesson during the pandemic that changing eligibility requirements to meet a crisis ended up causing states to make mistakes, and fraudsters were able to steal money meant to bolster our economy by getting funds to jobless workers who needed it. If a floor is set in one area of access, policy makers should consider all access levers, or savings to the program will simply be sought in one of the places that a floor was not established.

Special Programs

Short-Time Compensation (STC). This is a program that is helpful to both employers and workers by giving employers a tool to reduce hours instead of workers when the business falls on hard times, thus helping them retain their trained workforce. However, this program could be streamlined to make it easier for employers to use. Proposals such as the Workforce Retention Act[48] could make this program more useful and accessible. Not all states have an electronic application for STC; creating an online application could be a simple way to make this option easier for employers to use. This process is difficult for employees as well, and accommodating week-by-week work sharing schedules is challenging. One would need to address the multiple technology and policy barriers that make STC challenging.

Study a Jobseekers Allowance and Emergency Programs. The reforms discussed above would increase the share of unemployed workers who are eligible for UI benefits, but there would remain millions of individuals who would be ineligible for benefits, such as newly graduating students or bona fide independent contractors.

One way to resolve this issue would be to enact a federally funded “Jobseekers Allowance,” which has become a mainstay of UI reform proposals and is in the Wyden-Bennet bill. The Wyden-Bennet version would provide a benefit of $250 per week for 26 weeks for unemployed workers who do not qualify for regular UI or whose regular UI benefit is less than the Jobseekers Allowance.[49,50] This would likely cost over $150 billion over a decade, and it resembles the PUA program that operated during the pandemic. Another approach is to expand Disaster Unemployment Assistance so that it covers self-employed workers and independent contractors in national emergencies or when unemployment rate triggers, such as those governing the Extended Benefits, program are reached. This change was recommended in a few of the Government Accountability Office reports in 2021–2022.

Creating a federal unemployment benefit that is not funded directly by employers or businesses that use the services of independent contractors would increase the incentive to misclassify workers. Requiring payments of potential recipients to support the costs of this new program, on the other hand, could raise small-business taxation concerns.

While a jobseeker’s allowance may seem like a new idea, it dates back to the 1980 NCUC that recommended both the “establishment of a program of income-tested benefits, administered

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48 See Workforce Retention Act of 2020, S. 4303, 116th Congress, available at https://www.congress.gov/bill/116th-congress/senate-bill/4303/text?r=25&s=1.

49 West, Rachel, Indivar Dutta-Gupta, Kali Grant, et al. 2016. *Strengthening unemployment protections in America: Modernizing unemployment insurance and establishing a Jobseeker’s Allowance.* https://cdn.americanprogress.org/wp-content/uploads/2016/05/31134245/UI_JSAreport.pdf

50 Wandner, Stephen A. 2023. *Transforming Unemployment Insurance for the twenty-first century: A comprehensive guide to reform*. Kalamazoo, MI: W. E. Upjohn Institute for Employment Research. https://doi.org/10.17848/9780880996914

completely separately from unemployment compensation, to provide some minimum protection for all unemployed persons exhausting or not eligible for" UI and even a separate non-UI program for displaced "homemakers."

Self-Employment Assistance (SEA)

SEA exists in only a handful of states, and at least a couple of those states are no longer administering the program. Its viability is in question since claimants could be building a small business and still performing the requisite number of work searches in a week. Small businesses also might question whether they are subsidizing former employees to build a business to compete with them. In general, UI is insufficient to subsidize the creation of a new business. It seems like other systems and agencies are better suited to help create and develop entrepreneurial enterprises.

Wage insurance

Wage insurance has been considered as a way to incentivize workers to accept new job opportunities even if they pay less than their previous positions, by providing a financial safety net during the transition period.[51] It aims to promote economic mobility, reduce income inequality, and support workers in adapting to changes in the labor market. The argument against it is that wage insurance is actually counter to the goal of unemployment insurance, which is to prevent wage erosion, and it would be a costly new benefit that would require a new payroll tax or other financing.

51 Christopher J. O'Leary & Stephen A. Wandner. 2018. Unemployment Insurance reform: Evidence-based policy recommendations, in: Stephen A. Wandner (ed.), *Unemployment Insurance reform: Fixing a broken system*. Kalamazoo, MI: W. E. Upjohn Institute for Employment Research. https://ideas.repec.org/h/upj/uchaps/cjo2018-2.htmlAcknowledgements

APPENDIX

IMF Working Paper

Supply and Demand Effects of Unemployment Insurance Benefit Extensions:
Evidence from U.S. Counties

by Klaus-Peter Hellwig

https://www.imf.org/-/media/Files/Publications/WP/2021/English/wpiea2021070-print-pdf.ashx)

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