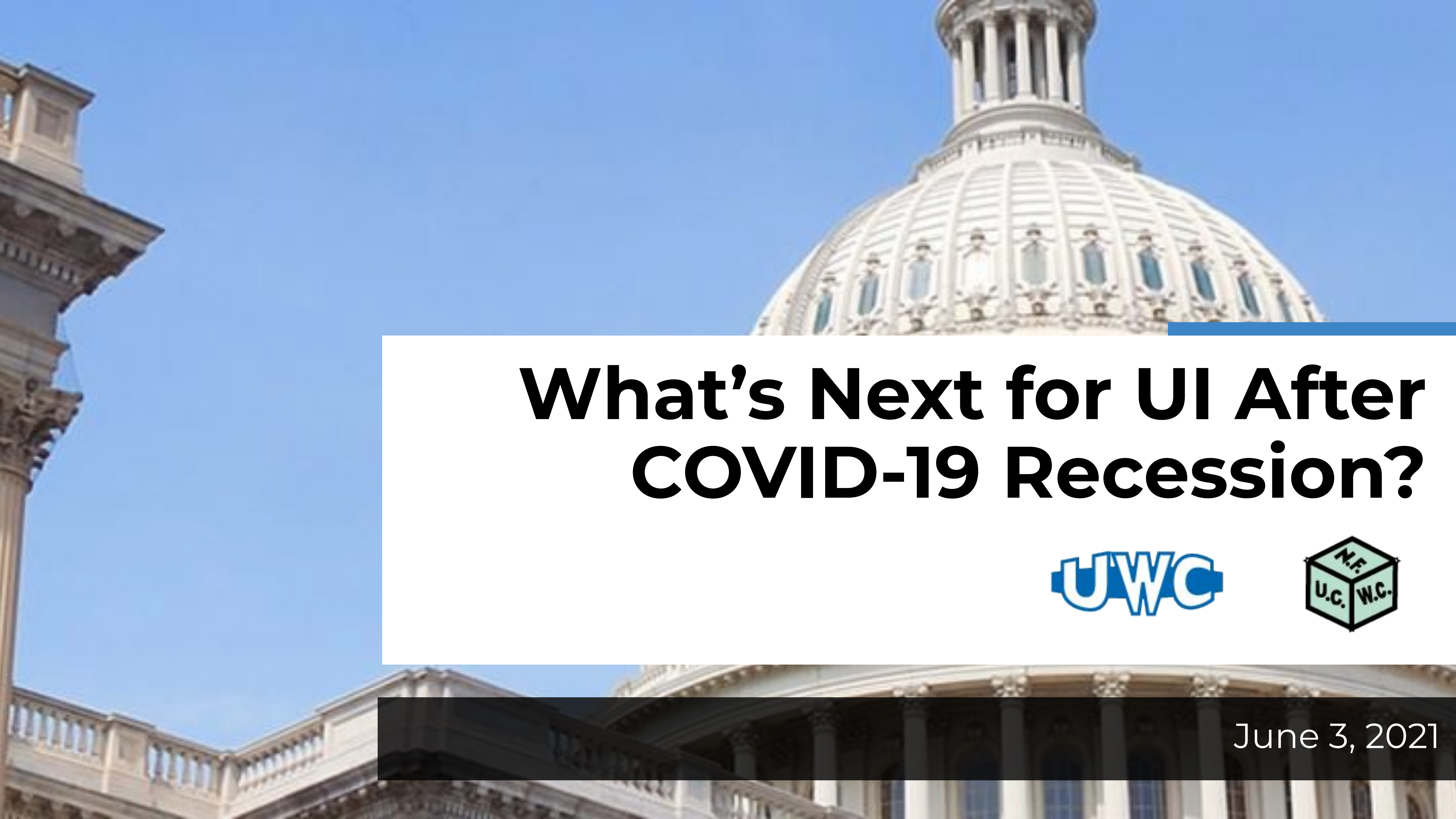

What’s Next for UI After COVID-19 Recession?

June 3, 2021

Speakers

Michelle BeeBe

Division Chief, UI Legislation

Office of Unemployment Insurance

Employment and Training Administration

U.S. Department of Labor

Doug Holmes

President, UWC - Strategic Services on Unemployment & Workers' Compensation

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Kevin Stapleton

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Office of Unemployment Insurance

U.S. DOL

Federal and State Legislation Impacting UI and COVID-19 Responses

June 3, 2021

Speakers

Michelle BeeBe

Division Chief, UI Legislation

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Employment and Training Administration

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Agenda

- Unemployment Benefit Programs
- Emergency Unemployment Relief for Reimbursing Employers
- Short-Time Compensation (STC)
- Other Provisions
- Termination of CARES Act Agreements
- Termination of Temporary Flexibilities under EUISAA
- $2 Billion Appropriation under ARPA
- Quick Reference for COVID-19 Legislation

Authorizing Statute: CARES Act, as amended

Temporary Unemployment Benefit Programs

Program	Description	Start Date	End Date
Pandemic Unemployment Assistance (PUA) *Claims filed on or before December 27, 2020*	Unemployment benefits for individuals not eligible for regular UC (or PEUC or EB), including self-employed and gig workers	Weeks of unemployment beginning on or after January 27, 2020	Weeks of unemployment ending on or before September 6, 2021
Pandemic Unemployment Assistance (PUA) *Claims filed after December 27, 2020*	See above	Weeks of unemployment beginning on or after December 1, 2020	Weeks of unemployment ending on or before September 6, 2021
Pandemic Emergency Unemployment Compensation (PEUC)	Unemployment benefits for individuals who have exhausted regular UC	Weeks of unemployment beginning after date of state's agreement (generally March 28, 2020)	Weeks of unemployment ending on or before September 6, 2021

Authorizing Statute: CARES Act, as amended

Temporary Unemployment Programs (cont'd.)

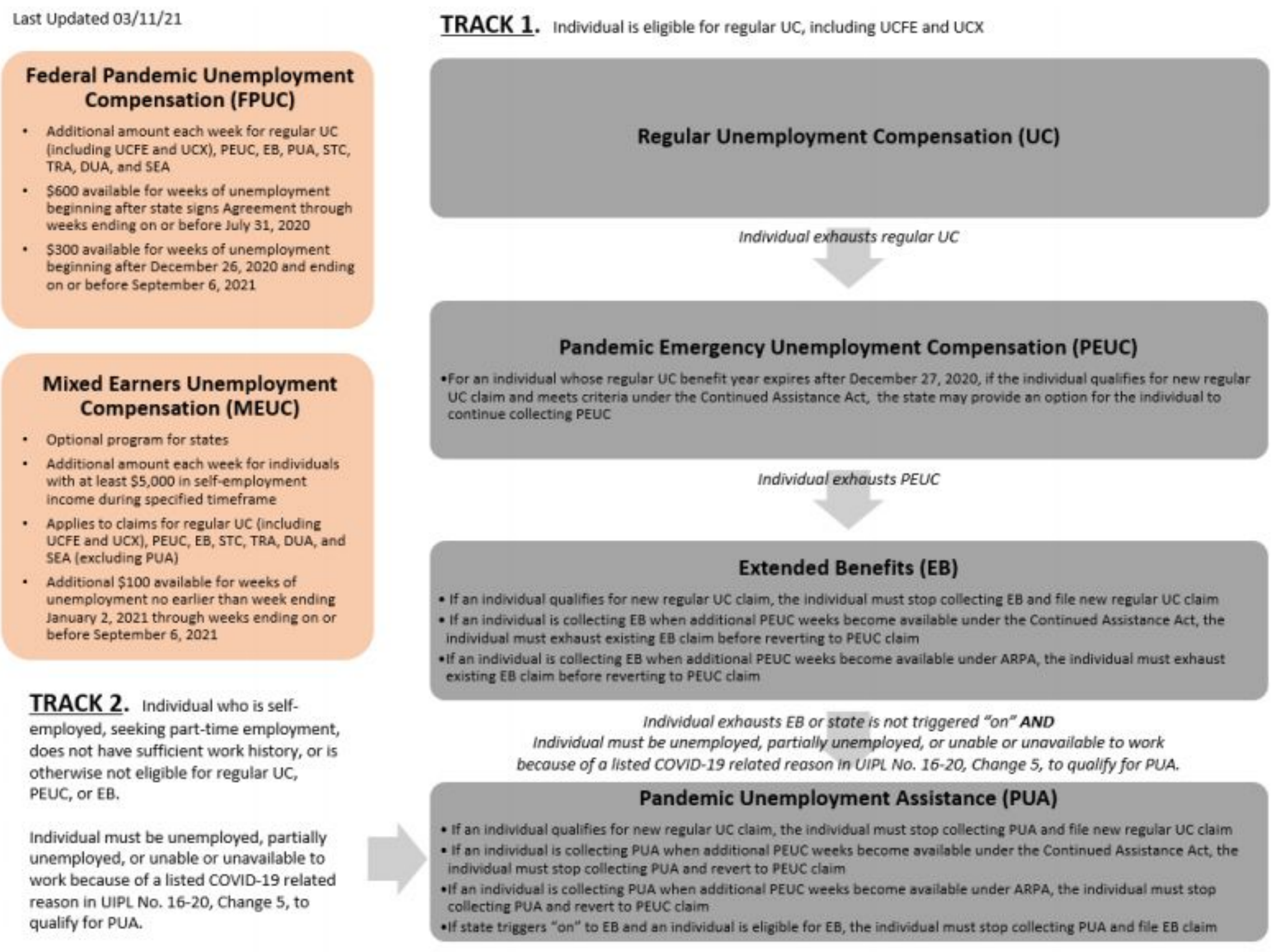
Program	Description	Start Date	End Date
Federal Pandemic Unemployment Compensation (FPUC)	Supplementary $600 payment	Weeks of unemployment beginning after date of state's agreement (generally March 28, 2020)	Weeks of unemployment ending on or before July 31, 2020
Federal Pandemic Unemployment Compensation (FPUC)	Supplementary $300 payment	If agreement in place, weeks of unemployment beginning after December 26, 2020	Weeks of unemployment ending on or before September 6, 2021
Mixed Earners Unemployment Compensation (MEUC)	Supplementary $100 payment for certain individuals	If agreement in place, weeks of unemployment beginning after December 26, 2020	Weeks of unemployment ending on or before September 6, 2021

Authorizing Statute: CARES Act, as amended

Extended Benefits (EB)

Description	Authorizing Statute	Start Date	End Date
Full federal funding of sharable EB costs	EUISAA, as amended	Weeks of unemployment beginning after March 18, 2020	Weeks of unemployment beginning before September 6, 2021
Temporary match for first week of EB	EUISAA, as amended	Weeks of unemployment beginning after March 18, 2020	Weeks of unemployment beginning before September 6, 2021
States may waive the 13-week EB "off" period	Continued Assistance Act Requires state law change (inclusive of Executive Orders and regulations)	November 1, 2020	December 31, 2021

Unemployment Benefit Program Progression Chart



Emergency Unemployment Relief for Reimbursing Employers

Method of Relief	Start Date	End Date
State may choose to either: (1) bill reimbursing employers for the amount owed and then issue reimbursements; or (2) use federal funds to retroactively reduce the amounts required to be paid	Weeks of unemployment beginning on or after March 13, 2020	Weeks of unemployment beginning before August 3, 2020
States must use federal funds to reduce the amounts required to be paid	Weeks of unemployment beginning on or after August 3, 2020	Weeks of unemployment ending on or before September 6, 2021

Amount of Relief	Start Date	End Date
50% emergency unemployment relief for reimbursing employers	Weeks of unemployment beginning on or after March 13, 2020	Weeks of unemployment ending on or before March 31, 2021
75% emergency unemployment relief for reimbursing employers	Weeks of unemployment beginning after March 31, 2020	Weeks of unemployment ending on or before September 6, 2021

Authorizing Statute: EUISAA, as amended

Short-Time Compensation (STC)

Description	Start Date	End Date
Temporary financing of STC payments in states with programs in law	Weeks of unemployment beginning on or after March 27, 2020	Weeks of unemployment ending on or before September 6, 2021
Temporary financing of federal STC agreements	Weeks of unemployment beginning on or after date of agreement	Weeks of unemployment ending on or before September 6, 2021
Grants to states for implementation or improved administration of an STC program, and for promotion of program and enrollment of employers in an STC program	Authorized with enactment March 27, 2020	Deadline to apply December 31, 2023

Authorizing Statute: CARES Act, as amended

Other Provisions

Description	Authorizing Statute	Start Date	End Date
Full federal funding for first compensable week of regular unemployment compensation (UC)	CARES Act, as amended	Weeks of unemployment beginning after date of state's agreement (generally March 28, 2020)	Weeks of unemployment ending on or before September 6, 2021
Short-term waiver of Title XII interest payments due and interest accrual on Title XII advances	EUISAA, as amended	March 18, 2020	September 6, 2021

Other Provisions (cont'd.)

Description	Authorizing Statute	Start Date	End Date
Emergency state staffing flexibilities	EUISAA, as amended ARPA	March 27, 2020	September 6, 2021
Modification or suspension of work search, waiting week, good cause, and employer experience rating	EUISAA Requires state law change (inclusive of Executive Orders and regulations)	Authorized with enactment March 18, 2020	Emergency temporary basis in response to the spread of COVID-19
"Return to Work" reporting requirement	CARES Act, as amended	January 26, 2021	While agreement for CARES Act programs are in place

Termination of CARES Act Agreements

- To date, 20 states have submitted notice to terminate CARES Act programs before the September expiration date (including PUA, PEUC, FPUC, MEUC, etc.).
    - An additional 3 states have submitted notice to terminate only FPUC and MEUC before the September expiration date.
    - The state's agreement remains in effect for weeks of unemployment ending on or before termination date until all issues related to those weeks are resolved.
- To date, 11 of the 20 states have requested to end participation in providing emergency unemployment relief to reimbursing employers.
    - Unless otherwise notified by the state, the Department will discontinue transferring funds to the state for weeks of unemployment ending after termination date.

Termination of Temporary Flexibilities under EUISAA

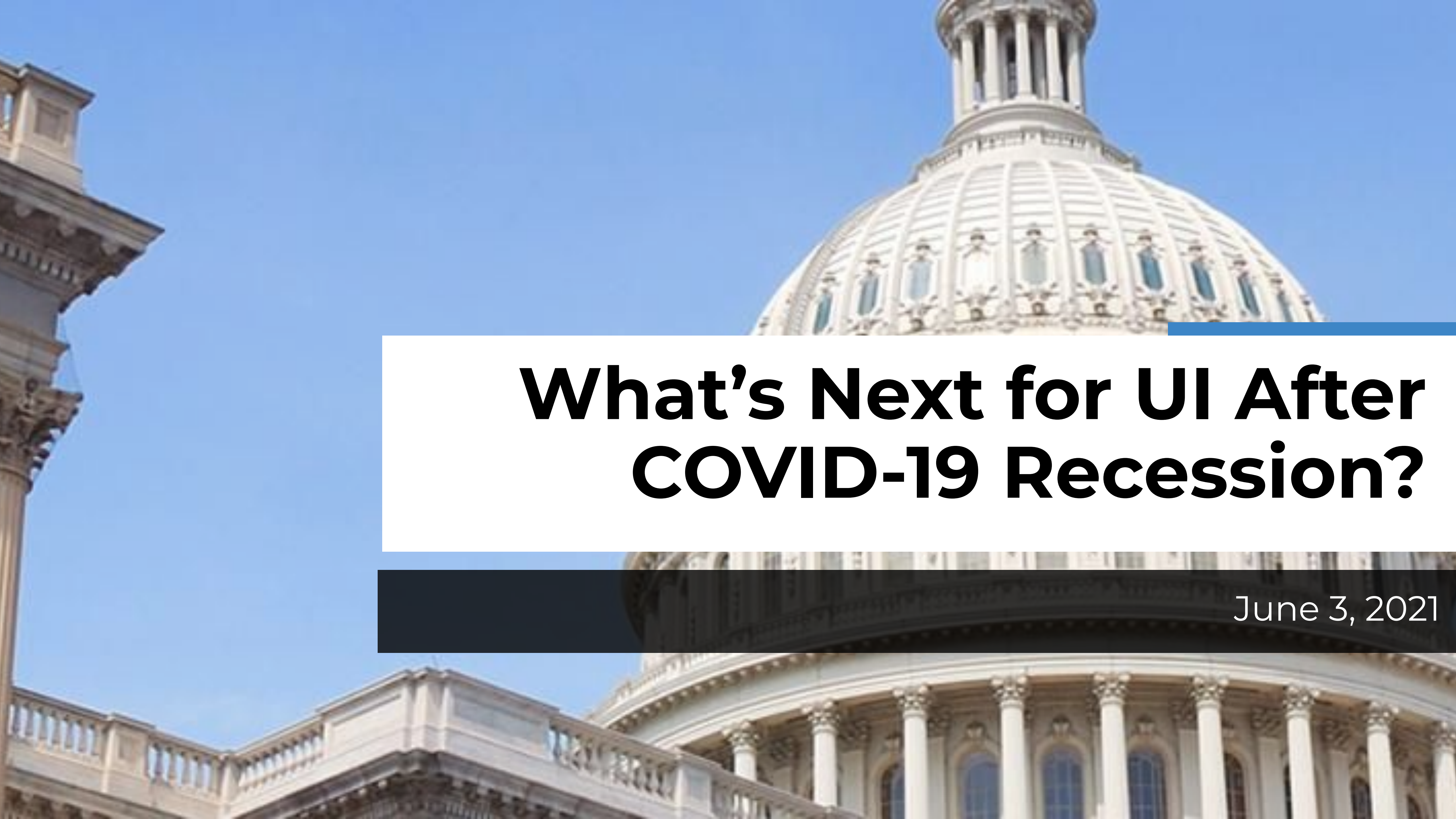
- The authority to temporarily waive or modify work search, waiting week, good cause, or employer experience rating requirements is provided under EUISAA. This is separate from a state's participation in the CARES Act agreement.
- States may have different rationale for modifying or suspending each of the four emergency flexibilities, And the Department does not expect that all four will have the same end date because some are with respect to benefit eligibility and others are with respect to employer contributions, which may have a lagging timeline dependent on state law.
- However, states must consider the extent to which the flexibilities in their entirety are necessary in response to the spread of COVID-19.
- <u>Work Search</u>: To date, 36 states have reinstated requirements for at least part of their claimant population. Another 6 are expected to resume in June and 3 in July.

$2 Billion Appropriation under ARPA

- Section 2118 of the CARES Act, as amended, provides for $2 billion appropriation to remain available until expended.
- Purpose:
  - To detect and prevent fraud;
  - To promote equitable access; and
  - To ensure the timely payment of benefits.
- Use of Funds:
  - For federal administrative costs;
  - For systemwide infrastructure investment and development; and
  - To make grants to states or territories.
- More to come!

Quick Reference for COVID-19 UI Legislation

- Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA), as part of the Families First Coronavirus Response Act (FFCRA)
  - Public Law 116-127 enacted March 18, 2020, *see* Unemployment Insurance Program Letter (UIPL) 13-20 and its Changes
- Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020
  - Public Law 116-136 enacted March 27, 2020, *see* UIPL 14-20 and its Changes plus several program-specific UIPLs
- Protecting Nonprofits from Catastrophic Cash Flow Strain Act of 2020
  - Public Law 116-151 enacted August 3, 2020, *see* UIPL 18-20, Change 1
- Continued Assistance for Unemployed Workers Act of 2020, as part of the Consolidated Appropriations Act, 2021
  - Public Law 116-260 enacted December 27, 2020, *see* UIPL 09-21 plus several program-specific UIPLs
- American Rescue Plan Act of 2021 (ARPA)
  - Public Law 117-2 enacted March 11, 2021, *see* UIPL 14-21 plus several program-specific UIPLs



What's Next for UI After COVID-19 Recession?

June 3, 2021

Speakers

Doug Holmes

President, UWC - Strategic Services on Unemployment & Workers' Compensation

COVID-19 Recovery

What Comes Next?

Return to pre-pandemic with a twist

- Work Search – adjust to more work search from home
- Refusal of Suitable Work – state policy updated for impact of (COVID-19 type infectious diseases)
- Partial Wage Replacement – increase without paying more when not working or more to work part-time than full-time
- Federal/State Authority – systems upgrades and determinations of benefit amounts and employer tax burden
- Effective connection of unemployed workers to jobs
- Maximum Benefit Duration
- Earnings disregard
- Extended Benefit Trigger Review – impact state by state

COVID-19 Recovery

What Comes Next?

Improve Integrity – Lessons Learned

- Verify Identity before paying
- Collaborate across states and with federal agencies and financial institutions – Integrity Center
- State/Employer coordination to avoid identity theft and fraud
- Implement state of the art security protections

COVID-19 Recovery

What Comes Next?

Improve Systems

- Increase processing capacity and scalability
- Federal identification of best practices
- Change Federal UI administrative funding formula to provide sufficient funding for systems on an ongoing basis – not just during a crisis
- Planning should include all systems applications (tax, benefits, chargeback, UCFE, UCX, STC, TRA, DUA) and capacity to take on emergency programs as they arise.
- If new PUA type programs are established coordinate with UC systems to avoid confusion and overlap

Transition Issues

- When does the flexibility and waiver authority under the FFCRA and COVID-19 policy (UI PL 10-20) end?
  - State flexibility in charging, penalties and interest?
  - Work search waiver?
  - Payment of waiting week?

- Will Interest on Title XII loans after September 6th be due on September 30th? Details by state will be provided later in this webinar.

- How does US DOL guidance on refusal of suitable work apply?

Transition Issues

- How many states have delivered notices to cancel CARES Act Provisions?
    - Which provisions?
    - Effective on what dates?

- How is cancellation coordinated with US DOL to assure proper payment of benefits and Treasury reimbursement in transition?

New General Funding through ARPA

[FEDERAL REGISTER], given the close nexus between Unemployment Trust Fund costs, solvency of Unemployment Trust Fund systems, and pandemic economic impacts. Further, Unemployment Trust Fund deposits can decrease fiscal strain on Unemployment Insurance systems impacted by the pandemic.

States facing a sharp increase in Unemployment Insurance claims during the pandemic may have drawn down positive Unemployment Trust Fund balances and, after exhausting the balance, required advances to fund continuing obligations to claimants. **Because both of these impacts were driven directly by the need for assistance to unemployed workers during the pandemic, replenishing Unemployment Trust Funds up to the pre-pandemic level responds to the pandemic's negative economic impacts on unemployed workers.**

New General Funding through ARPA

- Treasury has published the amounts by state and by county. https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds
- Funds will be distributed in two tranches with the first coming immediately.
- States are deciding now how to use the state share of the ARPA COVID-19 relief funds.
- For what purposes must it be spent?
- How may these funds be used to supplement state funding provided through the $2 billion in dedicated funding for UI?
- What technical assistance is available from US DOL?
- How long are these funds available for use?
- How may stakeholders in UI be engaged in development of improved systems?
- How are new systems initiatives suggested to be coordinated with the current systems developments in progress in states, ITSC and the Integrity Data Center?

New ARPA General Funding Use

Rebuilding public sector capacity, by rehiring public sector staff and replenishing unemployment insurance (UI) trust funds, in each case up to pre-pandemic levels. Recipients may also use this funding to build their internal capacity to successfully implement economic relief programs, with investments in data analysis, targeted outreach, technology infrastructure, and impact evaluations.

- Instructions in how to request funds from the US Treasury are provided at Coronavirus State and Local Fiscal Recovery Funds | U.S. Department of the Treasury

UI Specific Funding in ARPA

SEC. 9032. FUNDING FOR FRAUD PREVENTION, EQUITABLE ACCESS, AND TIMELY PAYMENT TO ELIGIBLE WORKERS.

IN GENERAL.— (a) In addition to amounts otherwise available, there is appropriated to the Secretary of Labor for fiscal year 2021, out of any money in the Treasury not otherwise appropriated, **$2,000,000,000, to remain available until expended,** to detect and prevent fraud, promote equitable access, and ensure the timely payment of benefits with respect to unemployment compensation programs, including programs extended under subtitle A of title IX of the American Rescue Plan Act of 2021.

UI Specific Funding through ARPA

(b) **USE OF FUNDS.**—Amounts made available under subsection (a) may be used—

(1) for Federal administrative costs related to the purposes described in subsection (a);

(2) for systemwide infrastructure investment and development related to such purposes; and

(3) to make grants to States or territories administering unemployment compensation programs described in subsection (a) (including territories administering the Pandemic Unemployment Assistance program under section 2102) for such purposes, including the establishment of procedures or the building of infrastructure to verify or validate identity, implement Federal guidance regarding fraud detection and prevention, and accelerate claims processing or process claims backlogs due to the pandemic.

(c) **RESTRICTIONS ON GRANTS TO STATES AND TERRITORIES.**— As a condition of receiving a grant under subsection (b)(3), the Secretary may require that a State or territory receiving such a grant shall—

(1) use such program integrity tools as the Secretary may specify; and

(2) as directed by the Secretary, conduct user accessibility testing on any new system developed by the Secretary pursuant to subsection (b)(2).

ARPA UI Funding Questions

- What technical assistance is available from US DOL?
- How much funding will be distributed to individual states?
- How may employers and other stakeholders in UI be engaged by states in development of improved systems?
- How are new systems initiatives suggested to be coordinated with the current systems developments in progress in states, ITSC and the Integrity Data Center?
- What should be included in addressing the promotion of equitable access?
  - Increased outreach to explain programs in multiple languages?
  - Social media?
  - Explaining how to access programs on-line and through telephone apps?

Transition to Employment Services

- Amounts authorized for RESEA have been increased
- More flexibility to serve a broader group of UI claimants
  - Improve assessment at application
  - Job development targets individuals based on assessment (job attached? barriers? likelihood of reducing duration or avoiding exhaustion of benefits).
- What are best practices for coordination
  - Apprenticeship, On the Job Training (OJI), Customized Training
  - One Stop services
  - Referral and Reemployment
  - Coordination with private sector employment services

Winding Up After COVID-19

- Program reviews and audits
  - GAO
  - OIG
  - State Auditors
  - Federal and State Legislative Reports
  - Audit questioned costs and findings
- PUA, PUC, PEUC, Mixed Earner, Regular State UI, STC, Reimbursing Employer credit and reimbursement accounting
- Application of state waivers and executive orders - relationship with federal programs
- USDOL post program research and evaluation

Preparation for the Next Recession

- Management of trust funds to improve solvency and ability to finance increased unemployment compensation payout.
- Improve integrity of UI systems to avoid identity theft and actively prosecute fraud.
- Carefully review the PUA, PUC and PEUC programs for lessons learned about integrity and systems coordination prior to authorizing such programs at the state or federal level.
- Continue review of the role of STC as an alternative to employee lay-offs.
- Proper use of ARPA $2 billion for program improvements and state share of $350 billion.
- Management of transition to economic expansion in labor markets.
- Review of results of EB triggers and emergency programs.

Contact Information

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Questions?

Federal and State Unemployment Tax Changes after COVID-19

June 3, 2021

Speakers

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Supervisory
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Division of Fiscal
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Office of
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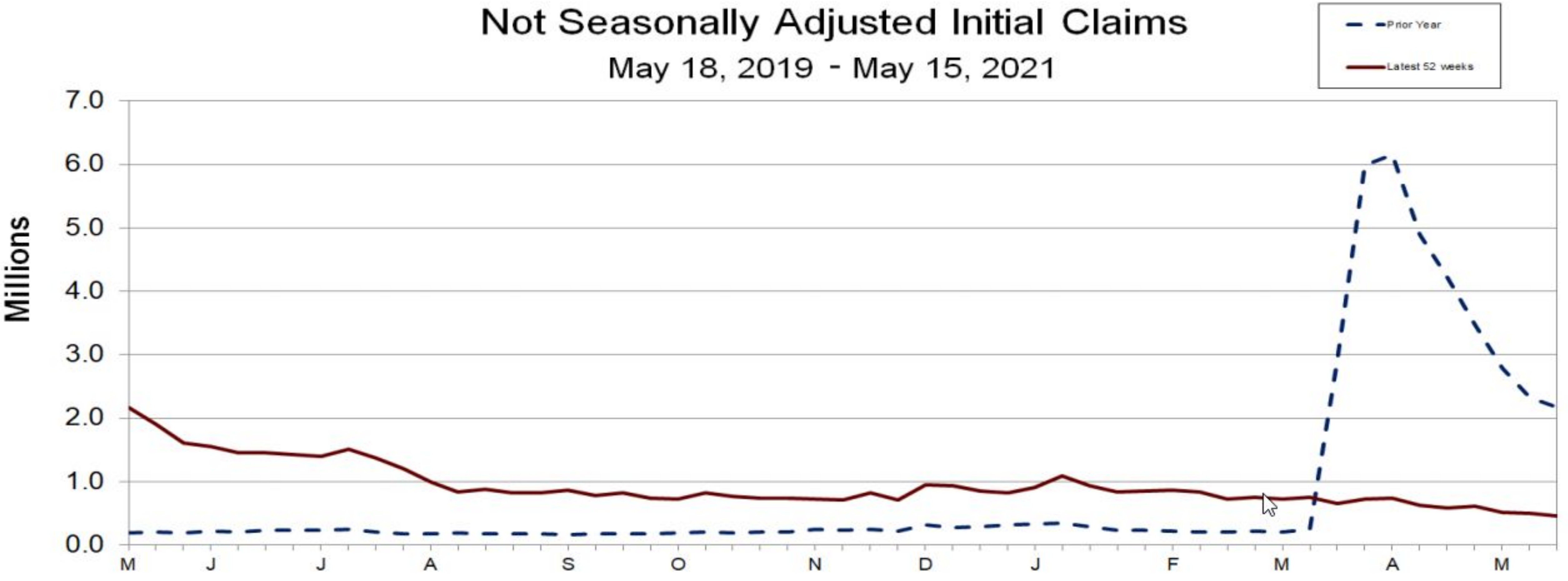
Insurance

U.S. DOL

Agenda

- Background Discussion of UI in the COVID Economy
- Increases in State Experience Rates
- Solvency of State UI Trust Funds
- Title XII Advance Interest
- FUTA Credit Reductions
- How Employers Can Manage UI Cost


Not Seasonally Adjusted Initial Claims
May 18, 2019 - May 15, 2021
Prior Year
Latest 52 weeks
Millions
7.0
6.0
5.0
4.0
3.0
2.0
1.0
0.0
M
J
J
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Cares Act and Extensions

DOL / ETA Data Thru 5/15/21	PUA	Emergency Relief for Govs & Non-Profits	FPUC	Temp. Funding 1st Week	PEUC	Total
National Totals	$108,648,668,121	$4,594,285,432	$375,115,926,550	$5,750,665,891	$59,053,635,253	$553,163,181,247

Section 2102 - Pandemic Unemployment Assistance (PUA) benefits funding authorized under PL 116-136, as extended by PL 116-260 and PL 117-2
Section 2103 - Emergency Relief for government entities and non-profits, authorized under PL 116-136, as extended by PL 116-260 and PL 117-2
Section 2104 - Federal Pandemic Unemployment Compensation (FPUC) benefits funding, authorized under PL 116-136, as extended by PL 116-260 and PL 117-2
Section 2105 - Temporary Full funding of First Week of Regular Compensation, authorized under PL 116-136, as extended by PL 116-260 and PL 117-2
Section 2107 - Pandemic Emergency Unemployment Compensation (PEUC) benefits funding, authorized under PL 116-136, as extended by PL 116-260 and PL 117-2

Source: Link to DOL ETA Report

Unemployment Benefits Paid to individuals under a regular state program

Qtr	Total Benefits Paid	State Revenue	Difference
1Q 2020	$9,592,116,000		
2Q 2020	$64,159,442,000		
3Q 2020	$48,434,120,000		
4Q 2020	$21,446,309,000		
Totals	$143,631,987,000	$36,116,861,000	($107,515,126,000)

Source: ETA 5159

Title XII Advance Activities Schedule

As of May 21, 2021

Interest Rate: 2.27770000%

State	Outstanding Advance Balance	Advance Authorization Current Month	Gross Advance Draws Current Month	Interest Accrued for FY2021*
California	20,654,757,065.84	1,600,000,000.00	1,025,000,000.00	0.00
Colorado	1,014,167,918.51	500,000,000.00	0.00	0.00
Connecticut	725,077,558.67	50,000,000.00	0.00	0.00
Hawaii	693,196,618.48	64,845,000.00	18,979,799.00	0.00
Illinois	4,232,873,402.35	476,000,000.00	0.00	0.00
Kentucky	505,731,841.92	325,000,000.00	0.00	0.00
Louisiana	184,145,941.54	100,000,000.00	0.00	0.00
Maryland	68,528,255.70	200,000,000.00	0.00	0.00
Massachusetts	2,268,015,459.63	379,654,530.00	0.00	0.00
Minnesota	1,049,884,975.36	225,000,000.00	919,937.36	0.00
Nevada	332,407,747.26	110,600,000.00	0.00	0.00
New Jersey	321,215,762.14	400,000,000.00	115,558,000.00	0.00
New Mexico	278,558,042.62	125,000,000.00	394,193.78	0.00
New York	9,291,195,252.54	850,000,000.00	141,485,438.00	0.00
Ohio	1,471,807,655.46	50,000,000.00	0.00	0.00
Pennsylvania	1,559,422,237.04	200,000,000.00	0.00	0.00
Texas	6,915,964,929.05	350,000,000.00	0.00	0.00
Virgin Islands	96,146,770.24	6,000,000.00	1,819,566.00	0.00
Virginia	0.00	40,000,000.00	0.00	0.00
West Virginia	184,910,035.96	125,000,000.00	0.00	0.00
Totals	**51,848,007,470.31**	**6,177,099,530.00**	**1,304,156,934.14**	**0.00**

*Section 1202(b)(10)(A) of the Social Security Act as amended by Section 9021 of PL 117-2 deferred the accrual of interest on state advances until September 6, 2021.

**Black Numbers with a Orange Background means state is within 15% of monthly limit.

State Reactions to COVID Recession

- Not the historical UI tax triggers seen in past recessions
- The breadth and scope of the massive payouts are prompting new and innovative approaches
- Many states are looking to enact legislation to reduce and / or delay the tax burden on employers by:
  - Exempting UI benefits attributable to COVID from experience rating
    - Those costs will be shared by all taxpaying employers
  - Arbitrarily capping otherwise mandated rate increases
    - Those costs will be shared by all taxpaying employers
  - Depositing CARES Act and / or American Rescue Plan Funds into state UI Trust Fund
  - Depositing state revenue (general funds) into state UI Trust Fund

States that used CARES Funds for UI Trust Fund

State	Amount
AL	$385,000,000
AR	$165,000,000
DE	$209,000,000
GA	$1,500,000,000
ID	$200,000,000
IN	$400,000,000
IA	$490,000,000
LA	$85,000,000
ME	$295,000,000
MS	$181,800,000
MO	$300,000,000
MT	$200,000,000
NE	$427,000,000
NH	$50,000,000
ND	$260,000,000
SC	$500,000,000
SD	$100,000,000
TN	$400,000,000
VA	$210,000,000
WA	$80,000,000
WY	$25,000,000
21	$6,462,800,000

Source: NCSL - LINK

Treasury Ruling on Permissible Uses of Coronavirus State and Local Fiscal Recovery

To facilitate implementation and use of payments from the Fiscal Recovery Funds, the interim final rule identifies a non-exclusive list of eligible uses of funding that respond to the negative economic impacts of the public health emergency. Consistent with the discussion above, the eligible uses listed below would respond directly to the economic or financial harms resulting from and or exacerbated by the public health emergency.

- *Assistance to Unemployed Workers.* This includes assistance to unemployed workers, including services like job training to accelerate rehiring of unemployed workers; these services may extend to workers unemployed due to the pandemic or the resulting recession, or who were already unemployed when the pandemic began and remain so due to the negative economic impacts of the pandemic.

- *State Unemployment Insurance Trust Funds.* Consistent with the approach taken in the CRF, recipients may make deposits into the state account of the Unemployment Trust Fund established under section 904 of the Social Security Act (42 U.S.C. 1104) up to the level needed to restore the pre-pandemic balances of such account as of January 27, 2020 or to pay back advances received under Title XII of the Social Security Act (42 U.S.C. 1321) for the payment of benefits between January 27, 2020 and May 17, 2021, given the close nexus between Unemployment Trust Fund costs, solvency of Unemployment Trust Fund systems, and pandemic economic impacts. Further, Unemployment Trust Fund deposits can decrease fiscal strain on Unemployment Insurance systems impacted by the pandemic. States facing a sharp increase in Unemployment Insurance claims during the pandemic may have drawn down positive Unemployment Trust Fund balances and, after exhausting the balance, required advances to fund continuing obligations to claimants. Because both of these impacts were driven directly by the need for assistance to unemployed workers during the pandemic, replenishing Unemployment Trust Funds up to the pre-pandemic level responds to the pandemic's negative economic impacts on unemployed workers.

Florida’s Approach: HB 7061

Restoring UI Trust Fund Solvency

g.(I)h.(I) On or before July 25, 2021, August 25, 2021, and September 25, 2021, the department shall distribute $324,533,334 in each of those months to the Unemployment Compensation Trust Fund, less an adjustment for refunds issued from the General Revenue Fund pursuant to s. 443.131(3)(e)3. before making the distribution. The adjustments made by the department to the total distributions shall be equal to the total refunds made pursuant to s. 443.131(3)(e)3. If the amount of refunds to be subtracted from any single distribution exceeds the distribution, the department may not make that distribution and must subtract the remaining balance from the next distribution.

(II) Beginning July 2022, and on or before the 25th day of each month, the department shall distribute $90 million monthly to the Unemployment Compensation Trust Fund.

(III) If the ending balance of the Unemployment Compensation Trust Fund exceeds $4,071,519,600 on the last day of any month, as determined from United States Department of the Treasury data, the Office of Economic and Demographic Research shall certify to the dep

Source:
House Bill 7061
Enacted

Wisconsin's Approach

Reducing Tax Rates for Employers

Administrative Rule
Published May 17, 2021

Rule No: DWD 102
Relating to: Employer contribution rates for 2022
Rule Type: Emergency
Finding/nature of emergency:
By Executive Order 72, the Governor declared a public health emergency to protect the health and well-being of the state's residents and directed state agencies to assist as appropriate in the State's ongoing response to the public health emergency. On March 13, 2020, the President declared a national emergency concerning the COVID-19 pandemic. Due to the pandemic, many businesses have temporarily or permanently closed, resulting in significant business income reduction and layoffs. Under 2019 Wisconsin Act 185 and 2021 Wisconsin Act 4, which created and then amended s. 108.07 (5) (bm), the Department of Workforce Development is directed to charge unemployment benefits for initial claims that are related to the public health emergency declared by Executive Order 72 to the balancing account of the Trust Fund for contribution employers. This treatment of claims charging applies to weeks of benefits payable starting with the week of March 15, 2020 through March 13, 2021.
The Department's antiquated computer systems are ill-equipped to handle the changes in charges from the employers' accounts to the balancing account. Each weekly claim to be charged to the balancing account under s. 108.07 (5) (bm), Stats., requires the Department to change the benefit charges from the employer's account to the balancing account of the Trust Fund after any federal funds have been appropriately applied. Given the high volume of claims being filed during the pandemic, the work to complete the charging changes will not be completed by June 30, 2021.

State Actions to Reduce UI Tax Burden

Texas and Massachusetts

- Texas has still not decided on employer tax rates for first quarter 2021
  - Decision due in June
  - 1st quarter payments deferred until July
  - TWC will likely use a combination of federal and state funds to enhance UI trust fund
- Massachusetts announced additional UI tax deferment (to 8/2) and will likely authorize new, lower 2021 tax rates in May
  - Before action, the solvency rate, which distributes the costs of benefits across employers, increased from 0.58% in 2020 to 9.23% in 2021.
  - Re-calculating individual employer rates will take time
  - Will likely ask employers to pay at 2020 rates until new 2021 rates are calculated, and employers notified in time for 3rd quarter 2021

Employer Actions

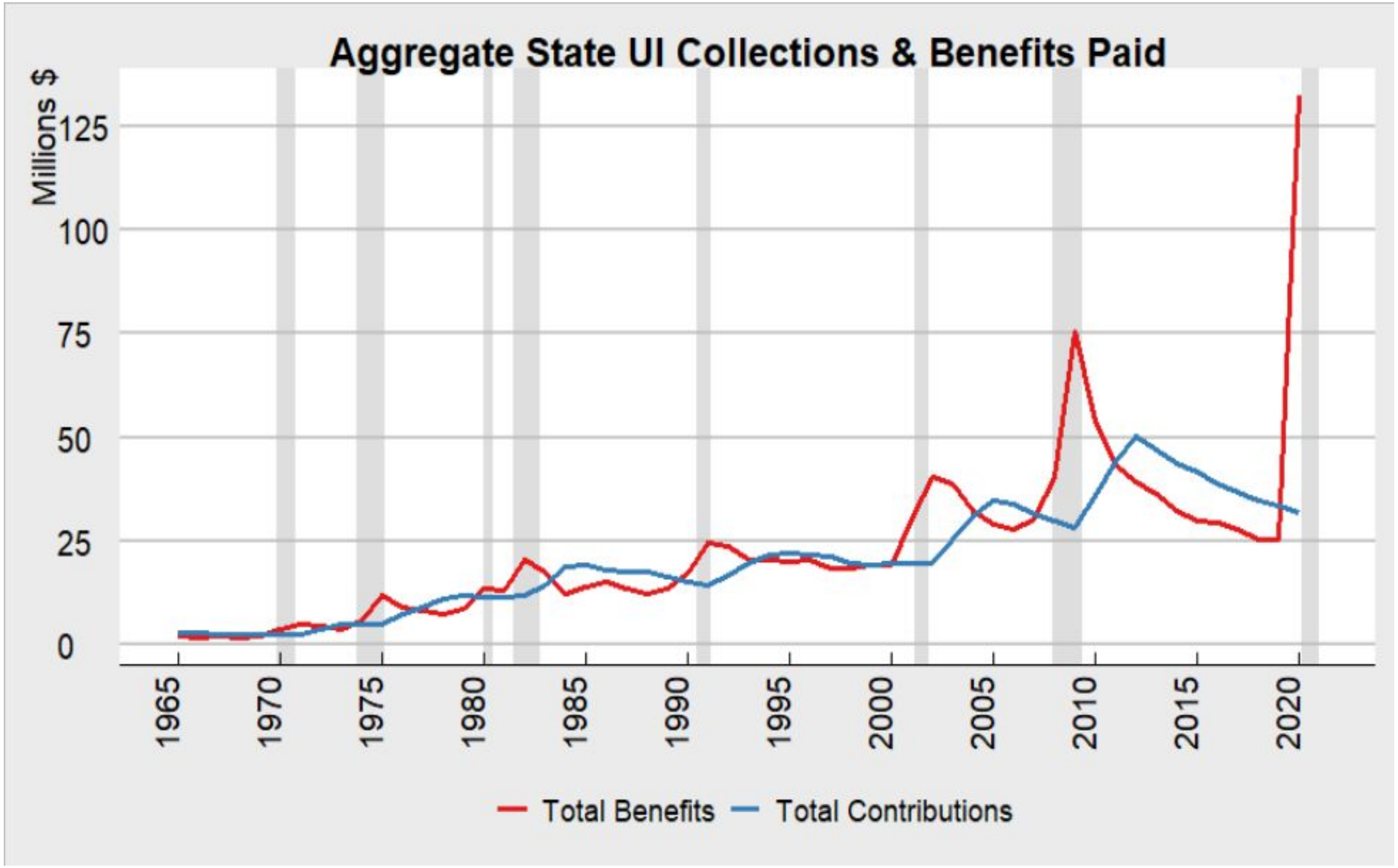
Reduce UI Tax Burdens

- Monitor Claims!
- Remember that benefits from the CARES Act and its extensions are 100% Federally-financed.
  - Not charged to employer accounts
  - Not expended from state UI trust funds
- States are under siege to administer the COVID UI programs
  - Antiquated benefit and tax systems
  - Enormous claims volumes
  - Alternative work arrangements
  - Hundreds of changes to UI programs – both federal and state
  - Bottom line … mistakes to charging can happen and only you will care

COVID-19 Impacts on UI

- State Regular UI Benefit Payments*:
  - From April 2020 through March 2021:
    - **$150.1 billion**
  - From April 2019 through March 2020:
    - **$28.6 billion**
- Many states borrowing to pay regular UI benefits.
- Temporary relief for states requiring FUA Title XII loans to pay benefits.
- Borrowing by Federal Unemployment Trust Fund Accounts for Extended Benefits (EB) and FUA Title XII loans to states.
- Other non-UI specific CARES Act and ARPA provisions of note:
  - Coronavirus Relief Funds (CARES)
  - Coronavirus State and Local Fiscal Recovery Funds (ARPA)

**Source: ETA 5159 Claims and Payment Activities Report*


Aggregate State UI Collections & Benefits Paid
Millions $
125
100
75
50
25
0
1965
1970
1975
1980
1985
1990
1995
2000
2005
2010
2015
2020
Total Benefits
Total Contributions

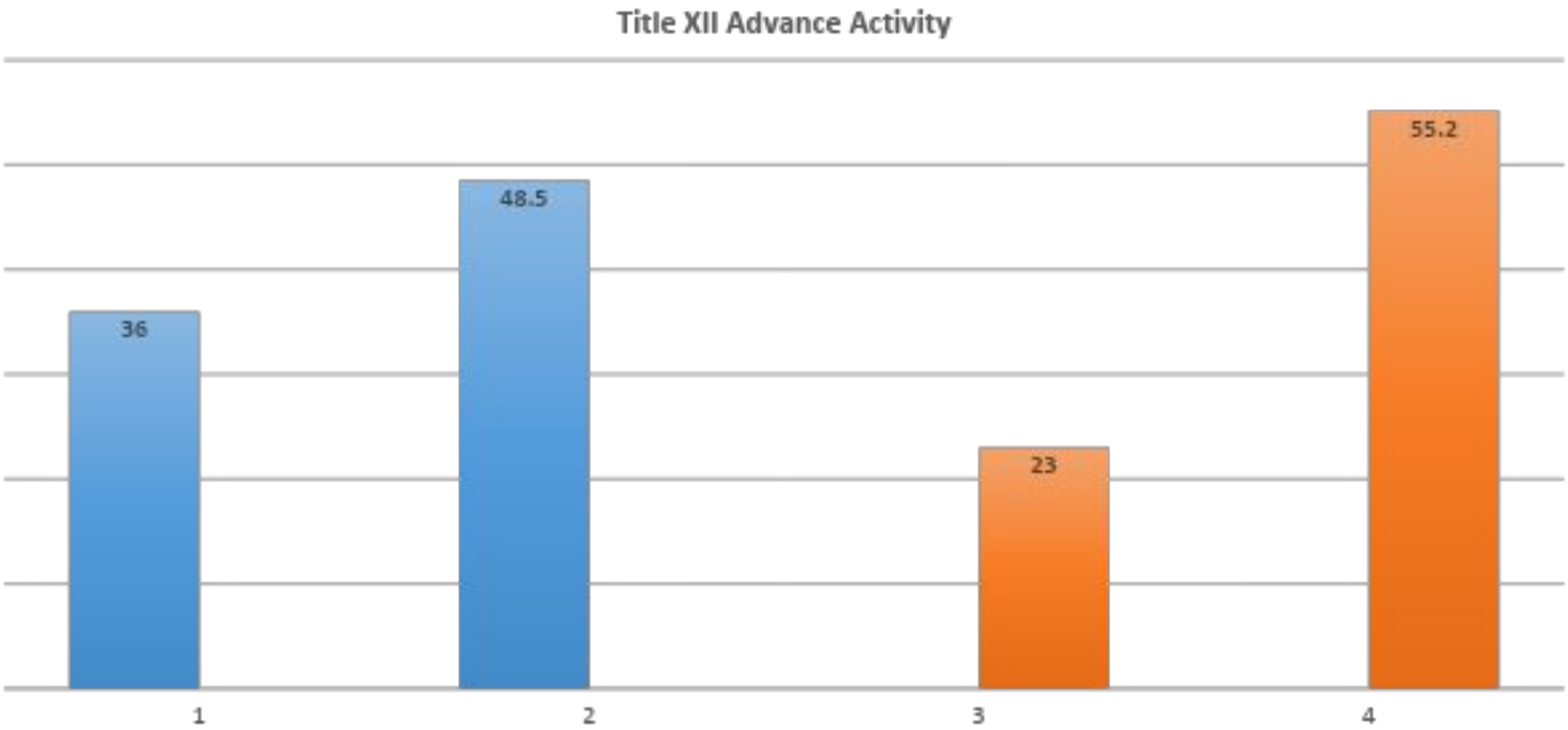
Loans - Background

- If a state account in the UTF lacks funds to pay benefits, the Governor or a designee may request a repayable loan (Title XII Advance) from the Federal Unemployment Account in the UTF.

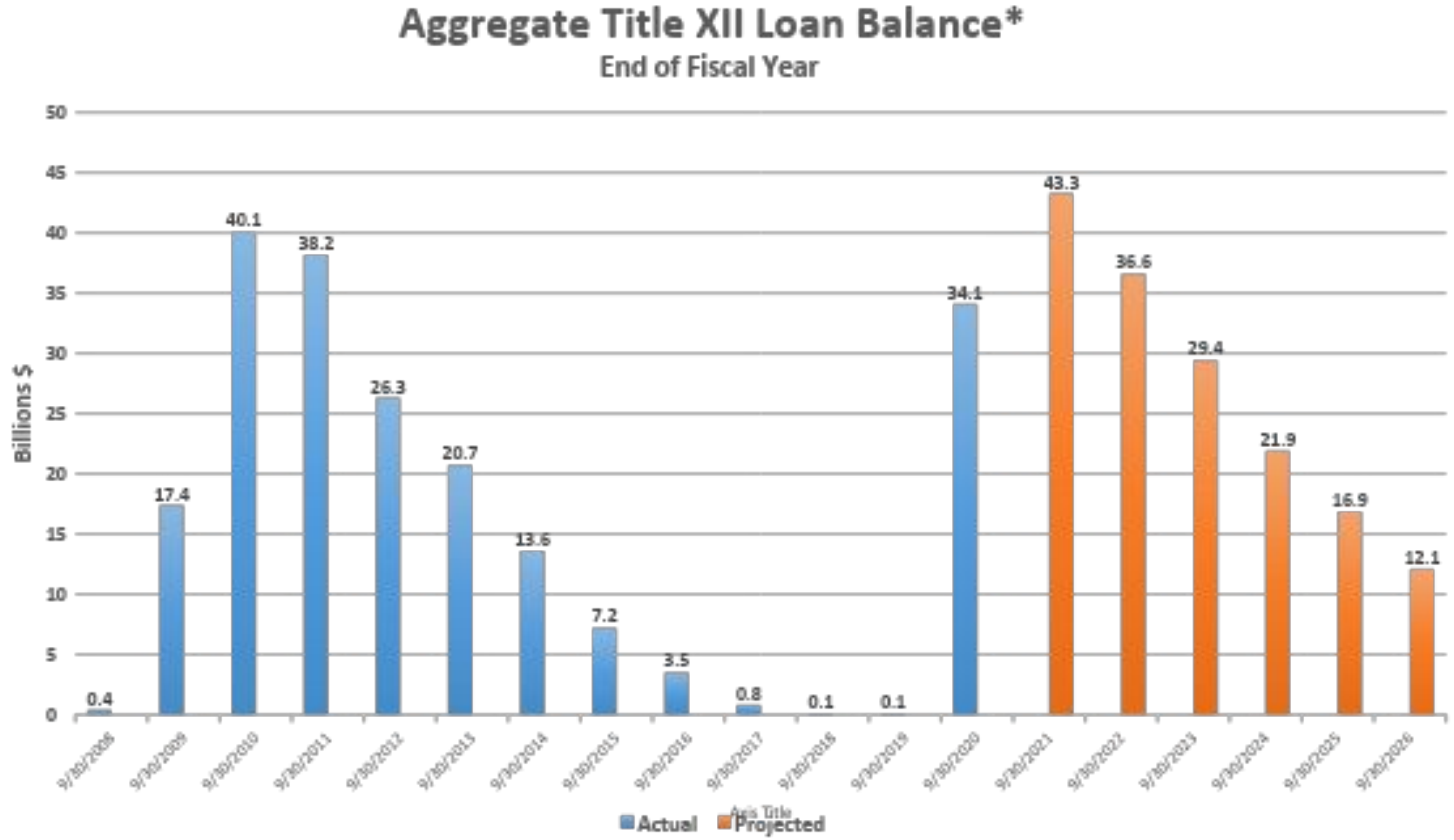
- States must pay interest on these loans which may not be paid directly/indirectly from UI Trust Fund, grants, or REED Act funds.

- During extended periods of borrowing, a state's employers can lose some of their FUTA tax credit (5.4% credit on the 6.0% FUTA tax) until the loans are repaid.

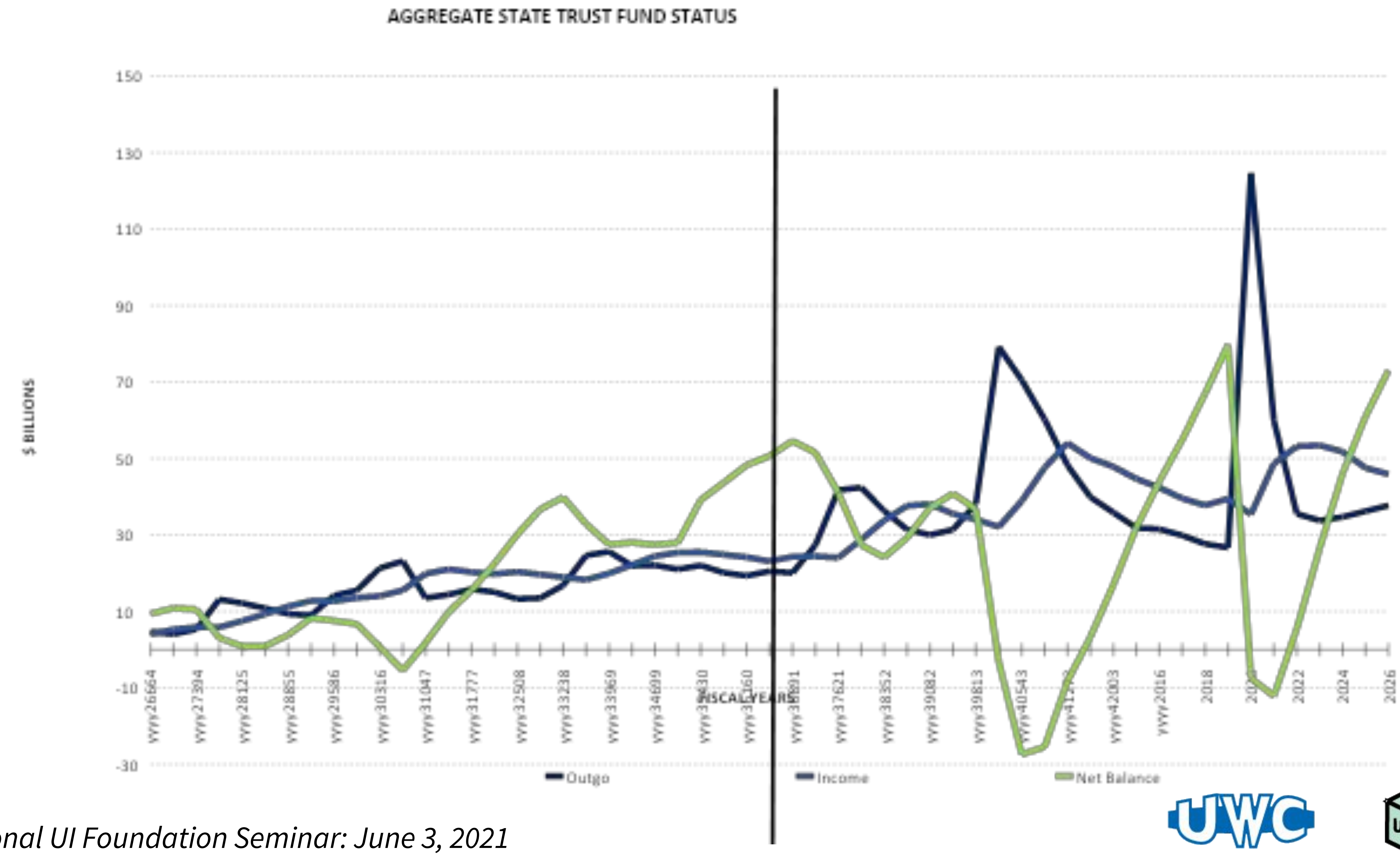
State Borrowing – Past 2 Recessions



2020 Recession Peak as of May 2021.



*Reflects state Title XII borrowing only. Does not include state issued bonds.



AGGREGATE STATE TRUST FUND STATUS
$ BILLIONS
150
130
110
90
70
50
30
10
-10
-30
FISCAL YEARS
2018
2022
2024
2026
Outgo
Income
Net Balance

Interest on Loans

- Interest accrues on a daily basis during the Federal fiscal year.
- Required to be paid by September 30 of each year (due by the Friday before if 9/30 falls on a weekend).
- Interest Rate on a Calendar Year is the rate of interest paid on Unemployment Trust Fund (UTF) balances during the fourth quarter of the prior calendar year. The current calendar year 2021 interest rate is 2.2777% while the CY 2020 interest rate on loans was 2.4087%.
- States with outstanding loan balances receive a notice of the estimated amount due in mid-September from Treasury including instructions on payment.

Interest on Existing Loans

- Section 4103 of the Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA), as amended by the Continued Assistance Act and the American Rescue Plan Act, provided temporary assistance to states with trust fund advances.

- Deems all interest due on advances between March 18, 2020 and September 6, 2021 to be paid.

- Provides that no interest will accrue on balances between March 18, 2020 and September 6, 2021.
  - Interest will accrue on outstanding loan balances from September 7, 2021 through September 30, 2021, and states will be required to pay this interest by September 30, 2021.

Interest Accrual Example

- If a state has a $100 million dollar outstanding advance balance on 9/7/2021 and does not borrow or repay any loans before 10/01/2021.

- September 7 to September 30 interest =

  $100 M * 2.2777% * (24 days / 365) = $149,767

- The state must pay $149,767 in interest by September 30, 2021.

Interest Payment Relief

- Due and payable no later than 9/30, with exceptions:
    - Cash flow loans
    - May/September delay
    - High insured unemployment rate deferral
    - High total unemployment rate delay

Interest Payment Relief

Cash Flow Loan

- Applies to funds borrowed from January 1 through September 30.

- No interest will be assessed if the state:
  - Repays all outstanding loan amounts by 9/30.
  - Does not borrow again between 10/1 and 12/31 of the same year.
  - Satisfies the funding goal requirements.
    - Must have had at least a 1.0 AHCM within prior 5 years;
    - Average tax rate as % of 5 year BCR >= 75% in each year since AHCM was 1.0; and,
    - Average tax rate as % of prior year average tax rate >= 80% in each year since AHCM was 1.0.

Interest Payment Relief

Cash Flow Loan: Funding Goal Status in 2021

States Meeting Eligibility For Interest Free Advances for 2021				States *Not* Meeting Eligibility For Interest Free Advances for 2021			
1	ALASKA	17	NORTH DAKOTA	1	ARIZONA	17	RHODE ISLAND
2	ALABAMA	18	NEBRASKA	2	CALIFORNIA	18	TENNESSEE
3	ARKANSAS	19	NEW HAMPSHIRE	3	COLORADO	19	TEXAS
4	DISTRICT OF COLUMBIA	20	NEW MEXICO	4	CONNECTICUT	20	VIRGIN ISLANDS
5	FLORIDA	21	NEVADA	5	DELAWARE	21	WISCONSIN
6	GEORGIA	22	OKLAHOMA	6	ILLINOIS	22	WEST VIRGINIA
7	HAWAII	23	OREGON	7	INDIANA		
8	IOWA	24	PUERTO RICO	8	KENTUCKY		
9	IDAHO	25	SOUTH CAROLINA	9	MASSACHUSETTS		
10	KANSAS	26	SOUTH DAKOTA	10	MARYLAND		
11	LOUISIANA	27	UTAH	11	MINNESOTA		
12	MAINE	28	VIRGINIA	12	MISSOURI		
13	MICHIGAN	29	VERMONT	13	NEW JERSEY		
14	MISSISSIPPI	30	WASHINGTON	14	NEW YORK		
15	MONTANA	31	WYOMING	15	OHIO		
16	NORTH CAROLINA			16	PENNSYLVANIA		

Source: 2021 UI Solvency Report -- https://oui.doleta.gov/unemploy/solvency.asp

Interest Payment Relief

May/September Delay

Interest payment on loans **taken during May through September** of the tax year, may be delayed until December 31 of the following calendar year (15 months later) (20 CFR 606.40).

- Interest is due on 9/30 on prior balances and balances of loans taken between October 1 of the previous year and April 30 of the current year.
- Interest will accrue on the delayed interest until paid.
- Governor or designee must notify Secretary of Labor of the decision to delay such interest payment no later than September 1st.

Interest Payment Relief

High Insured Unemployment Rate Deferral

State may defer interest payments if IUR equaled or exceeded 7.5% for the first six months of the previous calendar year (20 CFR 606.41).

- State must pay ¼ of the interest due at 9/30, and ⅓ of the remaining interest balance on 9/30 of each of the 3 years following the 1st payment.
- Governor/designee must request deferral no later than 7/1 of the year for which the deferral is requested.
- State may accelerate repayment schedule.

Of the 19 states with outstanding Title XII Advances as of 5/25/2021, 11 may potentially be eligible for the deferral of 75% of the interest payment amount due on 9/30/2021 based on the high insured unemployment rate deferral provision. These include the following states: California, Connecticut, Hawaii, Louisiana, Massachusetts, Minnesota, New Jersey, Nevada, New York, Pennsylvania, & West Virginia.

Interest Payment Relief: High Total Unemployment Rate Delay*

State may request to delay interest payment for 9 months after 9/30 if the TUR averaged 13.5% of higher during the most recent 12 months (20 CFR 606.42)

- State must repay interest in full by 7/1 of the following year.
- No interest accrues on delayed interest.
- State may accelerate payment schedule.
- Governor/designee must apply no later than July 1.

*Currently, no states have a 12 month TUR at or above 13.5% based on data published by BLS for the 12 months ending April 2021.

Measuring Trust Fund Adequacy

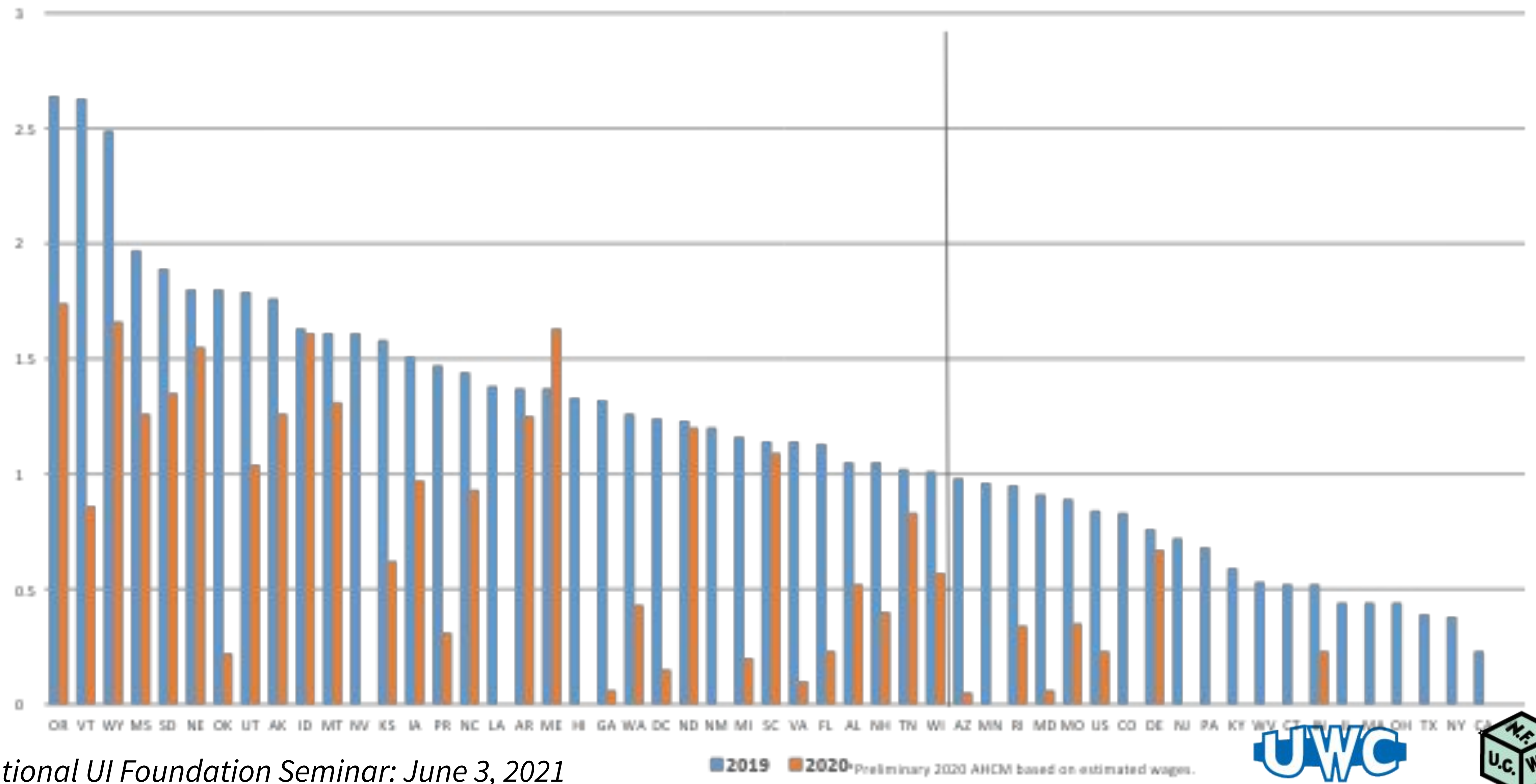
- Average High Cost Multiple (AHCM)

$$\text{AHCM} = \frac{\dfrac{\text{TF Balance (as of 12/31)}}{\text{Covered Wages (calendar year)}}}{\dfrac{\text{Benefits Paid for a calendar year}}{\text{Covered Wages for the same calendar year}}}$$

Average of 3 highest yrs over the last 20 yrs, or last 3 recessions, whichever is longer

Represents the number of years a State can pay out benefits if it paid at the rate it paid for the average of the three highest years over the previous 20 (or over the last 3 recessions, whichever is longer) without receiving any additional revenue.

Average High Cost Multiple
12/31/2019 & 12/31/2020*



FUTA Credit Reduction

- Mechanism that forces repayment of Title XII/FUA loans by reducing the 5.4% credit against the 6.0% FUTA rate.
- Becomes effective if a state has an outstanding FUA loan balance on two consecutive January firsts, and has not repaid the balance by November 10th of the second year.
- The additional tax is due by the following January 31.
- For each additional consecutive January first on which a state has an outstanding balance which is not repaid by November 10, the FUTA tax credit is reduced according to a schedule.
- Funds collected as a result of the FUTA credit reduction are transferred to FUA, and credited against a state's outstanding loan balance.

FUTA Credit Reduction Schedule

Year	Basic Reduction	Additional Reduction	FUTA Rate	$ Amount/Employee of **Basic Reduction***
1	0.0%	0.0%	0.6%	$0
2	0.3	0.0	0.9	$21
3	0.6	2.7 Add-on	1.2 or more	$42
4	0.9	2.7 Add-on	1.5 or more	$63
5	1.2	BCR Add-on	1.8 or more	$84
.	.	.	.	.
.	.	.	.	.
19	5.4	BCR Add-on	6.0	$378

2.7 Add-on = [(2.7% X 7000/US AAW)-ST ATR_tot] X (ST AAW/7000)

BCR Add-on = (higher of: BCR_tax and 2.7%) – ATR_tax

where AAW = estimated average annual wage (current year)
ATR_tot=average tax rate on total wages (prior year)
ATR_tax = average tax rate on taxable wages (prior year)
BCR_tax = 5-year average benefit cost (ending second prior year) as a percent of taxable wages (prior year)

*Based on the $7000 FUTA taxable wage base. Additional reductions beginning in year 3 and/or relief provisions would impact the actual amount per employee.

FUTA Credit Reductions Due to States Having Outstanding Federal Advances

State	CY 2009	CY 2010	CY 2011	CY 2012	CY 2013	CY 2014	CY 2015	CY 2016	CY 2017	CY 2018	CY 2019	CY 2020
Arizona				0.3%								
Arkansas			0.3%	0.6%	0.9%							
California			0.3%	0.6%	0.9%	1.2%[3]	1.5%[3]	1.8%[3]	2.1%[3]			
Connecticut			0.3%	0.6%	0.9%	1.7%[1]	2.1%[1]					
Delaware				0.3%	0.6%							
Florida			0.3%	0.6%								
Georgia			0.3%	0.6%	0.9%							
Illinois			0.3%									
Indiana		0.3%	0.6%	0.9%	1.2%[3]	1.5%[3]						
Kentucky			0.3%	0.6%	0.9%	1.2%[3]						
Michigan	0.3%	0.6%	0.9%									
Minnesota			0.3%									
Missouri			0.3%	0.6%	0.9%							
Nevada			0.3%	0.6%								
New Jersey			0.3%	0.6%								
New York			0.3%	0.6%	0.9%	1.2%[3]						
North Carolina			0.3%	0.6%	0.9%	1.2%[3]						
Ohio			0.3%	0.6%	0.9%	1.2%[3]	1.5%[3]					
Pennsylvania			0.3%									
Rhode Island			0.3%	0.6%	0.9%							
South Carolina		0.3%	0.0%[2]	0.0%[2]	0.0%[2]	0.0%[2]						
Vermont				0.3%								
Virgin Islands			0.3%	1.5%[1]	1.2%[1]	1.2%[3]	1.5%[3]	1.8%[3]	2.1%[3]	2.4%[3]	2.7%[3]	3.0%[3]
Virginia			0.3%									
Wisconsin			0.3%	0.6%	0.9%							

[1] For this year the state was subject to an additional reduction under FUTA, Section 3302(c)(2).

[2] For this year the state qualified for Avoidance under FUTA, section 3302(g).

[3] For this year the state received credit reduction add-on relief.

Source: https://oui.doleta.gov/unemploy/futa_credit.asp

Any questions concerning payment of FUTA taxes should be directed to the Internal Revenue Service.

Potential Credit Reductions for CY 2021

Virgin Islands had a Title XII advance balance on January 1, 2021, so employers in this jurisdiction are potentially subject to a reduction in FUTA credit on their IRS Form 940 for 2021, if the outstanding advance is not repaid by November 10, 2021:

State[1]	2021 Potential Credit Reduction Due to Outstanding Advance[2]	Preliminary Estimate 2021 Potential "2.7 add-on" [3]	Preliminary Estimate 2021 Estimated "BCR add-on"[4]	Preliminary Estimate 2021 Potential Total Credit Reduction[5]
Virgin Islands	3.3%	0.0%	0.3%	3.6%

(1) Virgin Islands has passed at least two consecutive January 1's with an outstanding Federal advance and employers are therefore subject to a FUTA credit reduction.

(2) For each consecutive January 1 a state passes with an outstanding advance, following the second one, employers in the state are subject to an additional 0.3% reduction in their FUTA credit.

(3) Following their third consecutive January 1 with an outstanding advance states are subject to an additional FUTA credit reduction called the 2.7 add-on. A description of this add-on is in FUTA 3302(c)(2)(B). This value is a preliminarily estimated based on estimated wages and tax contributions for the fourth quarter of 2020.

(4) Virgin Islands is also potentially subject to the Benefit Cost Rate (BCR) additional credit reduction formula for having passed five consecutive January 1's with an outstanding Federal advance- FUTA section 3302 (c) (2). This value is a preliminary estimate based on estimated wages and tax contributions for the fourth quarter of 2020.

(5) The potential FUTA credit reduction for 2021 is calculated by adding the credit reduction due to having an outstanding advance plus the reduction from the 2.7% add-on or the BCR add-on, which can be waived and replaced by the 2.7 add-on, FUTA section 3302(c)(2)(C).

(6) Provisions in regulations describe circumstances under which states may qualify for relief from FUTA credit reductions through avoidance, caps on reductions and fifth year waivers.

Reduced Credit Relief

- Avoidance
  - Allows states to avoid a credit reduction for a given year.
- CAP
  - Caps the credit reduction at the higher of 0.6% or the credit reduction applied the previous year.
- Fifth-Year Waiver
  - Allows states to drop the BCR add-on required in the fifth (and later) year(s) and instead use the 2.7 add-on which tends to be smaller.

Reduced Credit Relief: Avoidance

- Applicable beginning with the first year in which a state has a credit reduction.
- State must meet the following requirements:
  - Provide notification prior to July 1 of the year for which avoidance is sought.
  - Pay down the loan in the amount that the credit reduction would produce prior to November 10.
  - Repay all FUA loans received in the 12 months ending November 9th, paid prior to the 10th.
  - Increase solvency for the taxable year through legislative action by an amount greater than or equal to the amount of the FUTA credit reduction.
  - Not borrow again before the following January 31st.
- 20 CFR 606.23

*Note, the year on the consecutive January firsts schedule increments

Credit Reduction Relief: CAP

- To qualify for a cap on credit reductions a state must:
  - Provide notification to DOL by July 1.
  - Take no action (legislative, judicial, or administrative) during 12-month period ending 9/30 of the year for which cap is requested that would reduce taxes or solvency for the period ending 9/30.
  - Have an average tax rate on total wages for the taxable year that equals or exceeds the average benefit cost ratio for the 5 years ending with the preceding calendar year.
  - Have a lower loan balance on 9/30 of the taxable year, than 9/30 of the third preceding year.
- Cap on the credit reduction is set at the greater of 0.6% or prior year's level.
- Year number on the credit reduction schedule is not incremented.
- 20 CFR 606.20 & 606.21

Credit Reduction Relief: 5^{th} Year Waiver

- To qualify for the 5^{th} year waiver, a state must:
  - Provide notification to DOL by July 1.
  - Take no action (legislative, judicial, or administrative) during the 12-month period ending 9/30 of the year for which the waiver is requested that would reduce solvency for the period ending 9/30.
  - If approved, the BCR add-on is waived and the 2.7 add-on is applied.
- 20 CFR 606.25

Alternative Financing

- Bonds may be used to:
  - Retire Title XII loans
  - Restore UTF reserves
  - Pay future UI benefits
- Issued through regular state bonding authority
- Bonds usually require future employer surtax to repay
  - Cannot be repaid using funds in the state's unemployment trust fund
- UI Deficit Financing Study
  - https://www.dol.gov/agencies/oasp/evaluation/completedstudies/Unemployment-Insurance-Deficit-Financing-Study

Federal Unemployment Trust Funds

- Emergency Unemployment Compensation Account (EUCA)
  - Used to pay Federal share of Extended Benefits (EB)
  - EB is temporarily 100% federally financed
  - EUCA owes $10 billion in repayable, interest bearing advances to the general fund.
    - Currently projected to be repaid in FY 2025

- Federal Unemployment Account (FUA)
  - Used to provide Title XII advances/loans to states to pay benefits
  - FUA owes $59 billion in repayable, interest bearing advances to the general fund.
    - Currently projected to be repaid after FY 2026.

Additional Resources and Information

- State UI Trust Fund Solvency Report https://oui.doleta.gov/unemploy/solvency.asp
  - 2021 Solvency Report Available
- State UI Tax Measures Report https://oui.doleta.gov/unemploy/sig_measure.asp
  - 2020 Tax Measures Report Available
- Significant Provisions of State UI Laws
  - https://oui.doleta.gov/unemploy/statelaws.asp#RecentSigProLaws
  - January 2021 Report Available
- Preliminary Potential and Historical FUTA Credit Reductions:
  - https://oui.doleta.gov/unemploy/futa_credit.asp
- Daily advance balance & accrued interest (TreasuryDirect):
  - https://www.treasurydirect.gov/govt/reports/tfmp/tfmp_advactivitiessched.htm

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Also: Chairman, Board of Trustees of the National Foundation for Unemployment Compensation and Workers' Compensation (UWC), as well as the Chairman of the UWC.

Questions?

Thank you!

The on-demand version will be
sent to all registrants in June.