

NATIONAL UNEMPLOYMENT INSURANCE LEGISLATIVE UPDATE

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LEGISLATION & RELATED ISSUES

SUMMARY

- Pandemic Programs (FFCRA, CARES, ARPA, et al)
- Selected Federal Legislation
- Post-Pandemic Fraud Themes
- State Themes: overpayment recovery, potential FUTA credit offsets, legislation
- State Solvency and Reforms
- Federal Themes: Equity and Integrity
- RESEA Expansion

FAMILIES FIRST CORONAVIRUS RESPONSE ACT
(FFCRA)
PL 116-127
MARCH 18, 2020

- \$1 Billion to States
- 50% to states that meet requirements
 - Notice to employees at separation, when application received, and help with process
- Remainder 50% to states with at least 10% increase in claims, and steps to ease requirements (e.g. waiving waiting week and work search and waiving charges to employer accounts due to COVID-19)
- Title XII Interest Loan Waiver
- 100% federal share reimbursement of Regular EB (normally 50%)

CORONAVIRUS AID, RELIEF, AND ECONOMIC
SECURITY ACT (CARES)
PL 116-136
MARCH 27, 2020

- New Pandemic Unemployment Assistance Program
- 50% Credit to UI Trust Funds for Reimbursing Employers for Benefit Charges
- Additional \$600 per week benefit for PUA or UI claimant
- Additional 13 weeks of Pandemic Emergency Unemployment Compensation
- Staffing flexibility
- Funds for STC

PROTECTING NONPROFITS FROM CATASTROPHIC
CASH FLOW STRAIN ACT
PL 116-151
AUGUST 3, 2020

- Permits States to Offset Charges to Accounts Up Front Instead of Reimbursing after Payment
- Coordination with Individual State Emergency Executive Orders and Legislation
- Complicated Accounting and Retroactive Effect

Lost Wages Supplemental Payment Assistance Program

- Expiration of FPUC (\$600 weekly supplemental) on July 31, 2020
- Presidential authorized up to \$44 billion of FEMA disaster recovery grant funds to be used as \$300 supplemental payments in addition to underlying UC benefits
- Benefit program existed between August 8, 2020 and December 27, 2020

CONSOLIDATED APPROPRIATIONS ACT, 2021
PL 116-260
DECEMBER 27, 2020

- Extended Most CARES Act UI provisions through March 14, 2021
- Provides Supplemental \$300 per week for 11 week period (similar to previous \$600 per week)
- Increased the length of PEUC from 13 to 24 weeks
- New Mixed Earner Benefit of an extra \$100 per week for those with at least \$5,000 in self employment income

AMERICAN RESCUE PLAN ACT OF 2021 (ARPA)
PL 117-2
MARCH 11, 2021

- Extended Most FFCRA, CARES, and Reimbursing Relief through September 6, 2021
- Increased Federal Credit/Reimbursement to Reimbursing Employers under CARES from 50% to 75% for weeks beginning after March 31, 2021
- Distributed special COVID – 19 Relief funds to State and Local Governments
- Provides \$2 Billion Appropriation for
 - Fraud detection and prevention
 - Equitable access and timely payment to eligible claimants
 - Suspends a portion of UC benefits from federal tax liability

PANDEMIC PROGRAMS

FFCRA AND CARES ACT PROGRAMS

- Final legislative end date: September 6, 2021
 - Included end of staffing flexibility and interest waivers
- Rep. Davis bill: extend interest waiver

AMERICAN RESCUE PLAN ACT

- Available ARPA funds with limitations on acceptable uses
- US Treasury Rule
- Related State Legislation

OTHER SELECTED FEDERAL LEGISLATION

VIOLENCE AGAINST WOMEN ACT REAUTHORIZATION

- Section 703 of HR 1620: unemployment insurance impacts
- Eligibility changes related to domestic violence, sexual harassment, sexual assault, or stalking plus voluntary work separation
- Passed House and currently referred to Senate Committee on the Judiciary

CHASE COVID UNEMPLOYMENT FRAUD ACT OF 2022

- Introduced in House in early June 2022
- States can retain 25% of federal funds recovered for system modernization, security improvements, anti-fraud tools, and other program integrity measures
- Allows 5% of state-funded overpayments to go toward program admin or integrity
- Mandated use of IDH and NDNH tools

STATE THEMES

- Overpayment Recovery:
 - Regular UI
 - Pandemic Programs (PUA, PEUC, MEUC)
 - Expanded overpayment waiver authority (UIPL 21-21) and legislative action to limit waiver
- Potential FUTA Offset Credit Reductions: remaining states and USVI at risk
- Proactive State Legislatures: momentum to address key UI issues (trust fund solvency; technology modernization; waiting week) through state legislation

STATE UI SOLVENCY AND REFORM

- Rate Schedules
- Tax Bases
- Solvency Taxes
- New Bond Authority
- Reductions in Weeks of Benefits
- Waiting Week
- Increases in Benefit Amounts
- Increases in Earnings Disregards

RESEA EXPANSION

- Increased Budget Caps
- Focus on Worker Shortages
- Administrative Flexibility
- Merit Staffing Regulations

FEDERAL THEMES

EQUITY FOCUS

- USDOL pilot programs on customer experience in select states with equity emphasis
- Improving equity by removing unnecessary complexity and improving accessibility

INTEGRITY FOCUS

- Improved measures to spot and prevent identity theft, imposter claims, and account takeover
- ARPA funds availability
- Proposed legislative incentives to boost overpayment collection
- Nexus with due process regulations

POST-PANDEMIC FRAUD THEMES

- Additional fraud detection and prevention funding (UIPL 28-20 changes, 22-21) and USDOL Tiger Teams
- Congressional Hearings and Testimony
 - Senate Committee on Homeland Security and Government Oversight (March 2022)
 - House Committee on Oversight and Reform (March 2022)
- Fraud-related Congressional letters to USDOL (Senate Democrats on use of ID.me; House and Senate Republicans on blanket overpayment waivers)
- USDOL Office of Inspector General Pandemic Response Oversight Plan (March 2022) and related reports
- GAO Report (June 2022): Transformation Needed to Address Program Design, Infrastructure, and Integrity Risks

LOOKING AHEAD: 2022 AND 2023

ISSUES ON THE HORIZON

MANAGEMENT ISSUES

- Trust fund management to avoid FUTA increases
- ARPA SLFRF: improve solvency, integrity, capacity, tax administration, and claimant access
- RESEA implementation: manage funding to reduce duration and reemploy for broader group of targeted claimants
- Prepare for potential double-dip recession

BENEFIT EXPANSION

- Wyden / Bennet Proposal
- Colorado: new PUA-style program
- California: federal requirement to apply ABC test to define “employment”
- Arizona and New York: wage replacement schemes

PANEL DISCUSSION