

Reforming unemployment insurance

Stabilizing a system in crisis and
laying the foundation for equity

June 2021



Sponsors

This report is a joint project of 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.

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Foreword

Heeding the voices of workers rising up to fix a system that failed us

If nothing else, COVID-19 has taught us that if we don't make bold changes to our nation's economic and social foundation *now*, we could squander our best chance to save our economy from tanking in the next decade. We workers *are* that foundation, and this crisis has revealed fissures in that foundation that have been expanding for the past half-century.

I'm a Black Native American woman who just turned 60. I'm also an award-winning former broadcast and print journalist. My 40-year-plus career path has been obstructed by workplace abuse, systemic discrimination, racial and gender bias, wage suppression, and now ageism. I was already way behind the eight ball when the pandemic struck. And now I am unemployed.

Latrish Oseko and Dora Whitfield have faced similar obstacles. I learned Latrish's and Dora's stories through our leadership in a movement of unemployed workers. While Dora, Latrish and I established our careers in different industries and live in different states, we have faced the same insidious race and gender biases in our workplaces—and the same challenges in rejoining the ranks of the employed. Our unemployment experiences support the problems flagged in this report: that people of color, especially African Americans, represent a historically disproportionately large percentage of COVID-unemployed workers, and are least likely to get the benefits we need to get back on our feet. We're the last hired, first fired, and the last rehired.

At the end of 2019, I was freelancing and about to start training for my second year with the U.S. Census Bureau when I clinched a remote long-term freelance opportunity providing content strategy to the University of Maryland. It was the next break I needed.

Then COVID-19 hit. I knew the CARES (Coronavirus Aid, Relief, and Economic Security) Act provided Pandemic Unemployment Assistance (PUA), the federal program bringing jobless aid to workers ineligible for traditional UI. For the first time, the UI system offered benefits for nontraditional "1099 workers" like me. Without this temporary assistance, I, and millions of other workers, would have been without any financial support this past year. That's why this report recommends that *all* workers, including contract, gig, and self-employed workers, be permanently eligible for some form of UI benefits.

Having been on Medicaid and food stamps in the past, I know how easy it is to answer an application question wrongly and be disqualified. My PUA application was approved and processed by early May. But without warning, the benefits stopped. I searched Facebook for groups that were sharing UI application information. I found one: "Georgia Unemployment Issues—COVID-19." Our members included newly jobless people from all

sectors. We had unintentionally joined a burgeoning national movement of people engaged in mutual aid and activism to improve a dysfunctional UI system.

Things got much, much worse after the additional \$600 weekly benefits provided by the federal Pandemic Unemployment Compensation (PUC) program ended July 31. More and more of our Facebook group members shared their heartbreaking stories of pending evictions, food insecurity, lost medical insurance, repossessed cars, and declining mental health. While the PUC program was extended at a lower weekly benefit level of \$300 after a lapse of several months, it didn't provide enough help for people falling further and further behind.

Coping with inadequate and unreliable benefits even in normal times is a familiar story for many workers. Louisiana, for example, provides notoriously stingy benefits. States with higher Black populations tend to have shorter benefit durations and less generous benefits. In these states, which tend to be in the South, many jobs are low-wage jobs and low benefits serve to force Black workers into those low-paying jobs. It's one reason why they pay benefits that are way below the cost of living. It's a big reason why we need federal standards.

Dora Whitfield had worked for 30 years in the New Orleans hospitality industry. She's not well-to-do, but as a union member she enjoyed a stable income—enough to purchase her first home in 2014. Then the pandemic pulled the rug from under her. Her employer reduced her hours to part time until she was furloughed this past September.

Dora, a member of Step Up Louisiana, a community organization that organizes for economic and education justice, had never been on unemployment. She received the state's maximum UI benefit of \$247 a week, \$221 after taxes.

“\$247 a week?! Do you know I make that much money in tips when I work on a weekend? That's on top of my regular paycheck,” she says. “When you have \$221, it's like you're playing Russian Roulette. You have one bullet in your gun. And you have your light bill here, your water bill here, your car insurance, and then you might have your house note. So, wherever you shoot that bullet, that's when you have to decide what bill you're gonna pay.”

In Delaware, Latrish Oseko's company began reducing its contract workers' hours to part time in March. By May, all contractors were laid off, leaving Latrish, her live-in boyfriend, and their 4-year-old daughter solely dependent on his income. She lost her job the same month her landlord decided to evict her family. Despite their search for new housing, they hit the same wall millions of jobless Americans have encountered.

“We applied everywhere but we couldn't get an apartment to save our lives because no one would accept us on my boyfriend's measly income at the college and they would not accept my unemployment as income,” she explains.

They landed in Motel 6, spending more than \$2,500 a month. The weekly PUC benefits she had saved kept a roof over their heads, but her savings dwindled quickly. Latrish's boyfriend worked a job that put him at high risk for infection. His exposure forced the

family to quarantine six times. Eventually, he contracted the virus. Latrish withdrew her daughter from day care, further frustrating her job search and causing another hit to the family's income.

"We're in a no-win situation," she adds, noting that her current benefit amounts don't cover her cost of living.

Dora and Latrish's stories show that the unemployment system can be a literal lifeline, as when it kept Latrish's family from living on the street. But far more often, UI fails working people—especially Black women like us. When UI is too stingy or unavailable due to narrow eligibility, millions of working people are either struggling to just survive, or forced to take work that is underpaid, unsafe, and offers no stability.

Employer lobby groups have persuaded governors around the country to withhold federal UI benefits because they refuse to raise wages or job quality to attract job seekers. Instead, they prop up a system that coerces us into jobs that pay below the cost of living and require working multiple jobs, consuming all our waking hours with no guarantee of steady hours or income. Without a federal right to unemployment benefits and the other recommendations in this report, many workers in this country will be trapped in a cycle of poverty and economic stress that, quite literally, is killing them.

In short, good jobs—jobs that allow us to live in dignity and security—aren't available to a large swath of the American workforce. Before the pandemic, good paying jobs were hard to find after the Great Recession. Now, as post-pandemic recovery looms on the horizon, a weary workforce can't afford more cuts in wages and stability.

Yet, we, the COVID-unemployed, have been accused of choosing a UI-benefits-based lifestyle instead of rejoining the workforce. Our answer to that narrative is a resounding "no!" We simply want work that pays wages and salaries that cover the rising cost of living. We want to grow in our aptitude, talents, and skills, and use them as they should be used—to make a reasonable living. Instead, we are being asked to accept a form of financial abuse by accepting work that traps us in a cycle of poverty and stagnation. So, we are pushing back. It's that simple.

Our firsthand experiences underscore why this report proposes federal benefits standards to make sure benefits are enough to survive on. Our experiences show why we need a dependent allowance of \$35 per week. They demonstrate why we need automatic triggers to extend benefits up to 99 weeks when the true unemployment rate increases.

These critical reforms would not only save vulnerable households but also protect the economy. Finally, the universality of our experiences underscores the need to finance unemployment benefits with federal taxes, not state ones, and ensure our access to benefits is not subject to the whim of state officials.

The obstacles we've faced are why we got involved in organizing for economic and racial justice. The proposals here were developed in collaboration and consultation with Latrish, Dora, me, and other workers like us. We need a better foundation for our economy. A reformed unemployment system with federal standards that ensure equity, efficiency, and

stability can reinforce our weakened foundation. A well-crafted policy structure of fairness that is baked into the framework will provide a sturdy rebar system that benefits and empowers all workers.

—Sharon Shelton Corpening, Roswell, Georgia

Executive summary

Reforming unemployment insurance

The unemployment insurance (UI) system is a cornerstone of our economic infrastructure. It supports working people who have lost their jobs through no fault of their own with cash benefits while steadying the economy during crises. A successful UI system can be the centerpiece of economic recovery, particularly for those communities, such as workers of color, who bear the brunt of downturns and are left behind in the wake of recessions. In addition to sustaining people through jobless spells, swift and adequate UI benefits during recoveries would allow workers to search for good jobs, not just the first job that comes along. UI benefits that serve as a bridge back to good, well-matched jobs help to ensure that the economy grows faster and that people don't get trapped in low-quality jobs that depress their lifetime earnings.

Unfortunately, the current federal–state UI system, financed by state and federal taxes, is crumbling. It fails to serve many workers, ramps up too slowly and unevenly to stabilize the economy during recessions, and sets perverse incentives for states and employers that undermine program integrity. States set most rules, and the vast majority of states set benefits too low and cut them off after too short a time. Many workers, especially low-wage and involuntary part-time workers, are left out entirely, and workers of color are overrepresented in both these groups. Exclusionary eligibility rules are just one of many racial disparities state control creates.

Temporary UI programs first enacted as part of the CARES Act at the onset of the COVID-19 pandemic papered over a few of these problems. But even those emergency programs have proven inadequate, with already overstretched state systems failing to get out emergency benefits in a timely manner. Once again, workers of color, who are bearing the brunt of the coronavirus downturn, are at risk of being left behind. Half of the states are now choosing to cut off their residents' access to these programs early, causing extraordinary harm to vulnerable families and impeding economic recovery. GOP governors' attacks on these critical emergency benefits are the most vivid and recent manifestation of recurring dysfunction in the UI system: The federal government has ceded so much control to states that it has failed to equitably protect working people.

The fundamental necessity of the UI system, and the human suffering and economic instability caused by its repeated failures, should compel drastic changes. The basic remedy is clear: a stronger federal role. Building on recommendations from workers and experts alike, this report proposes five priority recommendations for urgent interventions to ensure the UI system can sustain families and the economy, with detailed actionable proposals for each recommendation.

The time is ripe for a fundamental worker-led reimagining of the UI system; in the meantime Congress must immediately implement the following equity-focused steps to repair and stabilize the system:

- **Guarantee universal minimum standards for benefits eligibility, duration, and levels, with states free to enact more expansive benefits**
- **Reform financing of UI to eliminate incentives for states and employers to exclude workers and reduce benefits**
- **Update UI eligibility to match the modern workforce, and guarantee benefits to everyone looking for work but still jobless through no fault of their own**
- **Expand UI benefit duration to provide longer protection during normal times and use better measures of labor market distress to automatically extend and sustain benefits during downturns**
- **Increase UI benefits to levels working families can survive on**

Detailed summary of proposals

The tables below summarize some of our key proposals and compare them with existing policy. Individual chapters in the report discuss these policies in detail and provide additional important reforms. See the Appendix Table for a broader list of reforms.

Guarantee universal minimum standards for benefits eligibility, duration, and levels, with states free to enact more expansive benefits

There are no federal standards governing who can receive UI, how much money, or for how long. States compete to lower the UI tax burden for businesses and are currently replenishing depleted trust funds by shortening benefit duration and tightening eligibility. Some states offer just 12 weeks of benefits, and benefits replace just about 40% of average wages, which is not nearly enough for workers, particular low-wage workers with families, to get by. Workers experience radically different support from the UI system depending on where they live, with the average weekly benefit in states with high shares of Black workers significantly lower than that of states with high shares of white workers.

Key standards reforms	
Current policy/law	Proposed reform and rationale
State control. With few exceptions, states decide eligibility, benefit levels, and benefit duration.	Establish federal minimum standards to ensure geographic, racial, and gender equality.

Current policy/law	Proposed reform and rationale
<p>All or nothing tax relief. State employers are subject to a \$42/employee federal tax, rising to \$420 if state fails to comply with federal rules. This penalty rate has never been invoked.</p>	<p>Give the federal government usable enforcement tools. Encourage the use of statutory tax penalties by allowing the federal government to apply <i>incremental</i> increases to the federal tax rate on employers that fail to meet minimum universal standards and other key obligations of a more equitable UI system.</p>
<p>Unreviewable enforcement discretion. The U.S. Department of Labor has sole authority to decide whether to investigate or sanction state noncompliance.</p>	<p>Worker voice in enforcement. Provide workers with a pathway to report state noncompliance to the federal government and an avenue for challenging federal inaction.</p>

Reform financing of UI to eliminate incentives for states and employers to exclude workers and reduce benefits

The current financing of the UI system incentivizes employers and states to obstruct delivery of unemployment benefits. Anemic funding formulas result in state UI trust funds that are easily depleted during recessions. To replenish those trust funds, states cut their benefits and restrict eligibility rather than raise payroll taxes. This race to the bottom manifested after the Great Recession and appears poised to repeat: In 2021, a handful of state legislatures have cut or proposed cutting benefits in their regular UI programs, with more likely to follow in 2022, even as the recurring need for federal intervention to fund emergency temporary benefits programs during recessions has shown that existing benefits are inadequate. In addition, the financing system rewards employers who prevent their employees from claiming benefits, turning employers into adversaries to workers navigating the UI system, rather than allies.

Key financing reforms	
Current policy/law	Proposed reform and rationale
<p>State financing. The unemployment system is jointly financed by states and the federal government through payroll taxes paid by employers. During normal economic times, state tax funds pay for the benefits their workers receive and federal tax funds underwrite the cost of administering the program. The federal government finances 50% of the Extended Benefits (EB) program,</p>	<p>Provide federal financing for benefits. Use federal funds generated by a single, federal unemployment insurance tax to pay for all UI benefits.</p> <p>If UI tax rates paid by employers are level across states, we can remove the most fundamental barrier to adequate benefit</p>

Current policy/law	Proposed reform and rationale
<p>and in recent recessions has paid for 100% of the EB program and funded emergency benefits programs enacted on an ad hoc basis.</p>	<p>financing, and thus adequate benefit amounts.</p>
<p>Taxable wage base. State UI tax is imposed on the first dollars of employees' wages, up to a cap that varies by state. Most states' wage bases are less than \$15,000.</p>	<p>Broaden the taxable wage base. To make UI taxes more efficient and more progressive, set the UI taxable wage base cap higher, to equal the Social Security wage base cap (currently \$142,800), and index it.</p>
<p>Experience rating based on UI claims. Different employers within a state face different tax rates, depending on the employer's "experience" with unemployment, measured by the share of former workers who receive UI benefits over a given period. This tax model, known as "experience rating," is intended to reduce layoffs, but also encourages businesses to challenge workers' benefit claims.</p>	<p>Adopt an hours-worked formula for experience rating. Reform experience rating to use an "hours worked" formula in which an employer's tax rate depends on how much the hours worked by their employees changed, on a quarterly basis, over a three-year period.</p> <p>If we switch to basing tax rates on changes in workforce hours, we eliminate the incentives to deny workers benefits but keep the incentives for retaining rather than terminating employees.</p>
<p>Weak tools for combating employee misclassification. Some employers circumvent UI taxes by claiming that their workers are independent contractors rather than employees. During the recession, app-based workers received temporary CARES Act benefits, but the companies that profited from their labor largely fail to pay their share. States are hamstrung in their efforts to combat the practice, in part due to complex tests that are unpredictable and costly to administer.</p>	<p>Require the ABC test. The ABC test, already adopted in a few states, is a simpler and more protective legal test that presumes a worker providing a service to a business is an employee unless: (A) the individual is free from the direction and control of the business; (B) the labor is provided outside the usual course of the business; and (C) the service provider is customarily engaged in their own independently established business. Workers should be able to enforce the law if their employers are fraudulently misclassifying them to evade UI taxes.</p>
<p>UI tax imposed only on wages. Because employers are taxed based on their employees' salaries, payments to contractors are not taxed.</p>	<p>Tax large businesses that use a lot of contractors. To further account for misclassification that the ABC test cannot reach, and to reduce tax incentives for outsourcing, tax contractor payments at the same rate as employee hours, but only if the contractor receives a Form 1099, and only for large firms.</p>

Update UI eligibility to match the modern workforce, and guarantee benefits to everyone looking for work but still jobless through no fault of their own

State rules have left too many holes in UI’s safety net. Leading up to the coronavirus pandemic, less than 3 in 10 (28%) of unemployed workers actually received UI benefits, down from the approximately 36% who received UI benefits before the Great Recession. State eligibility rules often exclude the share of the workforce employed in part-time, low-wage, seasonal, and temporary work. Due to historical inequality and ongoing systemic bias, people of color and immigrants are more likely than white workers, and women are more likely than men, to be in low-wage jobs. And workers of color are more likely to be working part time but want full-time hours. For these workers, a lack of workplace power is exacerbated by their inability to rely on UI while searching for better jobs. The changes proposed would cement their inclusion and expand eligibility to include other workers.

Key eligibility reforms	
Current policy/law	Proposed reform and rationale
<p>Recent earnings above a certain threshold as a test for eligibility. To qualify for UI benefits, workers must be able to show that they earned money in an amount greater than a specific threshold over a specific period. Arizona, for example, requires minimum wage workers to average more than 30 hours of work a week to be eligible for UI, excluding many low-wage workers who are underemployed.</p>	<p>Replace the dollar earnings requirement with an hours worked requirement. Make workers eligible if they work at least 300 hours in any of the six quarters before separation.</p> <p>If we base eligibility solely on hours worked and extend the period for qualifying hours over six quarters, we can expand UI eligibility to low-paid and part-time workers who are attached to the labor force but whose earnings are too low or uneven to pass the traditional “monetary eligibility” requirement.</p>
<p>Restrictive “reason for separation” rules. The UI program is intended to insure workers against involuntary separation from employment. However, many states use eligibility criteria that exclude workers who separate from work through no fault of their own.</p>	<p>Expand eligible reasons for separation. Ensure UI eligibility for workers who leave their jobs because they have compelling personal or family reasons, their rights are violated in the workplace or their safety is threatened, they are retaliated against for engaging in labor action such as a strike, or they are in a seasonal or temporary work arrangement that ends.</p>
<p>Exclusionary definitions of “qualifying workers.” In the current UI system, workers without recent work history are ineligible for</p>	<p>Expand the definition of qualifying workers. Create a Jobseeker’s Allowance to support self-employed workers, seasonal workers,</p>

Current policy/law	Proposed reform and rationale
<p>UI, even when they are involuntarily unemployed. In addition, immigrant workers who are not authorized to work are ineligible for benefits.</p>	<p>temporary workers, undocumented workers, new entrants to the labor market, and people returning to the labor market after taking time off for health or caregiving reasons or because they were incarcerated.</p> <p>By providing income support to all job seekers who lose work through no fault of their own, we can facilitate reemployment, benefiting both job seekers and the broader economy.</p>

Expand UI benefit duration to provide longer protection during normal times and use better measures of labor market distress to automatically extend and sustain benefits during downturns

The standard number of weeks provided by most states for their regular UI programs is 26—well below international norms—and at least nine states currently provide fewer than 26 weeks of benefits. Though the Extended Benefits (EB) program provides additional jobless aid during periods of labor market distress, its current design is flawed, failing to respond to the true severity of recessions and failing to add enough weeks of coverage. These problems leave Congress to authorize ad hoc extensions. When Congress allows these temporary programs to lapse before the job market has recovered, as happened briefly in December 2020, it jeopardizes the financial security of millions of families and slows economic recovery.

Key duration reforms	
Current policy/law	Proposed reform and rationale
<p>Benefits range from a low of 12 weeks to a high of 30 weeks, depending on the state, during normal economic times. The most common minimum benefit duration is 26 weeks, though some states in recent years have reduced duration to below this level, in some cases to periods as short as 12 weeks.</p>	<p>Increase benefit duration in normal economic times to 30 weeks. Make the minimum potential benefit duration (PBD) 30 weeks during periods of low unemployment.</p> <p>Increasing the PBD would help provide benefits that last long enough to alleviate economic insecurity and enable workers to secure jobs that can sustain their families.</p>

Current policy/law	Proposed reform and rationale
<p>Inadequate benefit duration during economic downturns. When the labor market deteriorates to certain levels, economic metrics trigger extended benefits. Tier 1 of the EB program adds up to 13 weeks and tier 2 adds an additional seven weeks.</p>	<p>Increase benefit duration during periods of labor market distress. Use automatic triggers to increase benefit duration in tiers as the labor market weakens, reaching a maximum of 99 weeks during times of severe labor market distress.</p> <p>Increasing the PBD during downturns would help ensure that jobless workers have the support they need for long-haul job searches, and that the demand boost provided by UI benefit respending in the economy lasts long enough to expedite a true recovery.</p>
<p>Premature trigger-off of extended benefits. The EB program contains “look-back” provisions that trigger benefits off if there has been no significant <i>increase</i> in unemployment over the past two years. This allows extended benefits to trigger off while the labor market remains weak (when unemployment is stabilizing at an elevated level or falling <i>only because people have left the labor force because they have given up searching for work</i>). Additionally, after the 20 weeks of tier 1 and 2 EB benefits, further extensions have to be legislated on an ad hoc basis by Congress.</p>	<p>Trigger off extended benefits in phases according to better measures of labor market distress. Reduce extended benefit durations gradually, and only as unemployment rates are declining and the declines are driven by rising prime-age employment.</p> <p>Automatic benefit extensions that last as long as needed are more effective and efficient than emergency programs that end arbitrarily or cease and restart, causing extreme anxiety for workers and their families.</p>

Increase UI benefits to levels working families can survive on

UI benefits typically only replace about 40% of workers’ prelayoff wages and vary tremendously by state. Furthermore, many states pay benefits that are much lower—so low that workers can fall quickly into poverty during a spell of job loss. In no state are UI benefits enough to cover a worker’s basic needs. Benefits are especially low for the kinds of jobs disproportionately filled by women and workers of color, many of whom lack the savings needed to survive spells of joblessness. In this way the UI system entrenches and deepens existing inequities, including the systemic racism that has prevented workers of color from building family wealth.

The policy proposals laid out below would better alleviate severe economic hardship and reduce inequities.

Key benefit levels reforms

Current policy/law

Proposed reform and rationale

Low wage-replacement rates. On average, UI benefits replace roughly 40% of a worker's prelayoff wages. Health and retirement benefits and other forms of compensation that are not wages are not replaced, and their loss adds to a household's financial distress.

Raise replacement rates. A sudden loss of 60% of income is devastating to workers and their communities. Implement a progressive formula that replaces at least 85% of wages for the lowest earners and gradually decreases to replace 50% of wages for the highest earners.

Disparate minimum and maximum benefit levels. States vary tremendously in their benefit levels, due to different minimum and maximum benefits, as well as formulas for computing benefits based on wage history.

Standardize minimum and maximum benefit levels. Set a maximum weekly benefit amount at no lower than 150% of the state's average weekly wage, and set a minimum weekly benefit amount at 30% of the state's average weekly wage (or an inflation-adjusted \$250 if that number is greater).

Big benefit reductions for part-time workers. Beneficiaries who accept part-time work while job searching typically lose all or most of their unemployment benefit, even if their part-time wages are far lower than pre-layoff earnings.

Allow part-time workers to keep more of their wages. To eliminate pointless and economically damaging disincentives for part-time work, implement an earnings disregard that allows workers to receive income totaling 110% of their prelayoff average weekly wage from combined UI benefits and earnings from part-time work.

Introduction

Why now is the time to fix the UI system

By Rebecca Dixon and William Spriggs

The unemployment insurance system is the country's only automatic income support program for individuals who have lost work. It kicks in automatically when job losses start—without the delays and political and policy wrangling about if, when, or how to respond. The program serves as a key stabilizer during economic downturns by buttressing consumer spending, demand, and sentiment—preventing people's fears of job loss from constricting private demand for spending on goods and services faster than the initial job losses.

As we saw these past 15 months, however, when so many businesses had to shut down to help stop the spread of COVID-19, the unemployment insurance program has big holes in who normally gets benefits. Faced with massive job losses, the program would have proven an insufficient automatic stabilizer because of its huge gaps in coverage. Thankfully, Congress acted quickly to plug (albeit temporarily) some of those holes, and unemployment insurance served as the primary vehicle to help people who lost work and were left with no income. Since the start of the pandemic, the program has injected hundreds of billions of dollars into the U.S. economy, keeping millions of families in their homes and out of poverty.¹

Because unemployment insurance is a federal–state hybrid program, states have broad flexibility to determine eligibility and benefit levels. This has led to notable coverage variations across states. For example, southern states with large Black populations have among the lowest benefit payments.

The UI program's shortcomings, laid bare by the pandemic, meant that the injection of income support was not automatic for the millions of workers locked out of the program by outdated eligibility rules; it was not automatic for people caught in their state's "race to the bottom" to slash benefits. But when the scale of the pandemic's unemployment crisis became clear, Congress had to step in, to supplement benefit amounts and expand the program temporarily to cover workers not normally eligible for benefits due to their nonemployee status or because they worked part time or for low wages.

In the wake of lessons learned from the pandemic, unemployed workers and their advocates are speaking up, organizing, and demanding long-term reforms to fundamentally transform the unemployment system. This report provides a brief history of race- and gender-based exclusions and analyzes the program's coverage, performance, and revenue base, pinpointing gaps and offering a vision of a revamped UI system with minimum federal standards that will more effectively and expansively provide income support to unemployed workers while stabilizing the macroeconomy.

The unemployment insurance system was conceived during the Great Depression in the 1930s by Labor Secretary Frances Perkins as part of President Franklin D. Roosevelt's New Deal. As the program was

created in the context of a broader system of patriarchy and racial hierarchy, Congress made compromises in its design that were laser-focused on protecting the earnings of white male breadwinners in manufacturing. Congress also compromised to give states huge discretion in implementing the program so they could have control to mirror their practices of racial exclusion. The program’s architects designed a system that attempted to reconcile opposing goals: to support the intended workers while excluding enough other workers to get it across the finish line in Congress. Federal unemployment insurance law has never meaningfully addressed those exclusions.

The composition of the U.S. workforce has shifted enormously since the 1930s. In just the past two decades, the United States lost about 4 million manufacturing jobs while gaining about 4 million food service jobs. In February 2020, there were roughly the same number of manufacturing workers as restaurant workers. But the unemployment insurance system, designed for full-time, higher-wage manufacturing workers, was never amended or adapted to industries where many workers are part time and are paid poverty wages. The almost 6 million payroll positions lost in March and April 2020 in food services was greater than the entire nondurable manufacturing workforce in February 2020 (BLS-CES 2021).

Clearly, the rules about who has access to unemployment insurance need to catch up to our racial and gender equity values and to the realities of working people and families today.

On the revenue side, the financing of the unemployment insurance system no longer matches the source of labor market collapses. In the 1930s, the state unemployment insurance systems on which the federal program was modeled taxed companies with an eye to swings in inventories. Manufacturers would hire workers when the economy expanded, guess wrong on the strength of growth, and then, when inventories piled up from weak sales, lay workers off.

Today, the companies that create excessive churn in the labor market (relying on low wages and high labor turnover rates) often do not pay more into the system, because workers under this style of low-road management—temporary, contract staffing, part-time, and low-paid workers—too often do not qualify for unemployment insurance. Since the 1980s, recessions have been more related to financial markets than inventory cycles, and they have been more severe than state unemployment trust funds were designed to handle. The disruptions are greater, causing more permanent job losses than cyclical temporary layoffs. The average duration of unemployment is trending upward, and it takes longer to return to previous peak employment levels (Freeman 2013). For Black workers who face systemic employment discrimination, the recovery is always longer.

Unfortunately, the system has no protection for workers in this “race to the bottom.” Women and Black, Latinx, Indigenous, and immigrant workers will bear the brunt of the pain unless we transform the system. Black and Latinx workers have lower reciprocity rates than white workers, despite facing higher unemployment rates. Women have a lower reciprocity rate than men, because they are more likely to work in low-paid, part-time dominated industries (Nichols and Simms 2012). Every severe downturn mars the early earnings history of young people, disrupts women’s labor force participation, and makes it

harder to return to the labor market.² Race, gender, and intergenerational equity fault lines in the unemployment insurance program must be addressed.

The politics around unemployment insurance are another nagging problem. Since 1980, with each new downturn drawing down state unemployment trust fund balances, conservative state lawmakers and policymakers have responded not by replenishing funds but by slashing eligibility and benefits. Already, as this report is being released, a conservative “revolt” has taken place, with half of states announcing plans to “secede” from the federal government’s expanded unemployment insurance programs. These misguided efforts will remove a half billion dollars a week from the nation’s economic recovery, while deepening inequities felt by workers of color and hurting families that need the aid to get by (Stettner 2021). Some of these states are now considering legislation to cut the duration of benefits and erect more barriers to benefits—further weakening the system and leaving those states ill-prepared for the next downturn.

In the wake of the COVID-19 crisis, Congress swiftly enacted changes to expand the program and improve eligibility and benefit sufficiency. Now the challenge is how to learn from those lessons and adopt permanent changes to strengthen the unemployment insurance system. The urgency of understanding the shortfalls and reforming the system are clear. U.S. payrolls remain down over 8 million jobs from their February 2020 peak (Gould 2021). Even if the economy generates a record-setting 1 million jobs each month until September, Labor Day will arrive with millions facing long-term unemployment and having exhausted their lifeline of unemployment benefits. Others will find themselves defined out of being eligible, as their low earnings and part-time status will not qualify them for benefits; but for the expiring Pandemic Unemployment Assistance program, they would have had nothing. The withdrawal of support will complicate, if not halt, the economic recovery.

This report examines the problems that resulted in an unemployment benefit system that struggled to rise to the crisis we faced in 2020 and will struggle again as states end emergency benefits, and when federal pandemic unemployment provisions expire in September. In addition, this report proposes critical first steps on the road to systemic unemployment insurance reform—fixes that state legislatures and governors can enact to ensure equity and adequate standards regarding just financing, eligibility, duration of benefits, and benefit levels and amounts—so that no one is left behind.

The Biden-Harris administration has proposed significant reforms to the unemployment insurance system in its fiscal year 2022 budget. Congress must seize this opportunity to begin to fix a failed system before more workers—particularly women and workers of color and their families—are hit again with a potential double dip in the labor market. If these fixes are not implemented now, the race to the bottom that has already started will leave us with a wholly inadequate system for the next downturn. Now is the time to fix UI.

—Rebecca Dixon is executive director of the National Employment Law Project. William Spriggs is chief economist at the AFL-CIO and a professor in, and former chair of, the Department of Economics at Howard University.

Endnotes

1. According to a recent audit by the U.S. Department of Labor’s Office of the Inspector General, as of January 2, 2021, states had drawn down a total of \$392 billion to pay UI benefits for the PUA, PEUC, and FPUC programs. See U.S. DOL-OIG 2021. According to researchers at the Economic Policy Institute, the UI expansions in the CARES Act and regular UI payments reduced the number of those in poverty by 7.2 million in June 2020. See Zipperer 2020.
2. Since the 2001 downturn, women’s labor force participation has been relatively flat at near 60% (not counting the sharp drop in this rate during the COVID-19 pandemic). It dropped during the Great Recession and never fully recovered for white women. See BLS CPS 2021.

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Primer

How the unemployment insurance system operates

Unemployment insurance (UI) is a pillar of the social safety net. During normal economic times, UI helps families to protect against unexpected drops in income. In recessions, it takes on an added role as economic booster, helping to maintain spending against the downward spiral that is typical of most downturns. It was introduced as a national policy in the United States in the wake of the Great Depression, after several states had tried and largely failed to establish their own programs.

The core aspects of UI haven't changed much since 1937. In essence, UI is a government program jointly funded by states and the federal government, and mostly administered by states. The federal government sets certain basic ground rules, while states can fill in most of the details. States also determine whether workers and their employers have complied with state and federal rules.

UI provides a partial replacement of wages for some recently unemployed workers. A worker who is fired, or is forced by certain compelling circumstances to leave, can claim benefits, while workers who quit voluntarily usually cannot. Eligible workers must submit a claim to a local unemployment office, and in most cases must show the office that they are available for and seeking a replacement job. Claimants also must meet "monetary eligibility" targets, meaning that they must show that they earned some minimum amount in the year or so before submitting their claim. This rule makes lower-earning part-time workers effectively ineligible for UI in many states. Self-employed individuals, such as those who work as contractors rather than employees, are also usually ineligible, although in 2020 a special program (Pandemic Unemployment Assistance, or "PUA") enacted by Congress as part of the CARES Act in response to the COVID-19 pandemic temporarily granted benefits to these workers.

The fraction of separated workers (unemployed, for any reason) who receive benefits from the regular (i.e., nonemergency programs) is known as the "reciency rate." Because states vary so widely in their rules, so too do their reciency rates. In 2019, although the national average was 28%, New Jersey topped the nation at 59%, while in many states fewer than one in six separated workers got any UI at all. Florida was lowest, at 11% (U.S. DOL-ETA 2021b). The reciency rate in the United States is far below average for the rich countries of the Organisation for Economic Co-operation and Development (OECD 2018).

If a worker is found eligible, she is paid a fraction of her old wages, known as the "replacement rate," up to a statutory dollar-value cap. Both this fraction and the cap are set by states. At the end of 2019, weekly benefits averaged \$371 nationwide; before tax this represented a replacement of about 38% of the average wage (U.S. DOL-ETA 2021a). Again, the United States replaces a much smaller fraction of worker wages than many of its rich country peers in the OECD, and the U.S. replacement rate is below the OECD average (OECD 2021b).

Workers can only claim benefits for a limited period, 26 weeks in most states, although since 2010 at least 10 states have cut their benefit duration (some to as short as 12 weeks). Federal law requires states to also offer extended benefits (EB) for an additional period when certain adverse economic conditions are met. And Congress enacted additional, temporary, extensions in 2009 and 2020.

Both state and federal governments impose taxes to pay for the UI system. In both cases, UI taxes are nominally imposed on employers, but economists believe that in the long run employers pass some of the cost of these taxes on to workers in the form of lower salaries. The federal government collects state and federal taxes and holds each state's proceeds in a trust fund account. Federal law encourages states to require that employers are "experience rated," so that employers whose workers file more successful claims pay a higher rate of tax.¹ Firms with very high experience-rated tax rates relative to their industry are less likely to be able to pass through these taxes to workers, which means that experience rating creates real incentives for firms to either reduce turnover or find ways to deny benefits to workers (see Section 2. Financing).

State revenues pay for benefits, while the federal revenues fund grants to cover most of the direct costs of UI administration. States also must pay 50% of the cost of extended benefits when those are active, but in recent recessions the federal government has covered 100% of those expenses, as well as the full cost of the emergency extensions.

Additional details on UI finances, eligibility, benefit levels, and benefit duration

We now offer additional detail for readers who may be interested in particulars, with the summary of federal rules drawn primarily from 26 U.S. Code Chapter 23—Federal Unemployment Tax Act (<https://www.law.cornell.edu/uscode/text/26/subtitle-C/chapter-23>) and state rules based largely on the U.S. Department of Labor's "[Significant Provisions of State Unemployment Insurance Laws](#)" (U.S. DOL-ETA 2020b). In the current UI system, most rules are set individually by states. Although federal law imposes a handful of rules, the main influence of federal law on states is by way of the tax system and other financial incentives. We therefore begin with some added information about how UI is funded.

Finances

The taxable wage base. States and the federal government both collect unemployment taxes from employers on the "taxable wage base." Each employer pays a tax on each dollar of wages paid to employees, up to a cap. The portion of wages under the cap is the wage base. For example, the federal tax is imposed only on the first \$7,000 of wages paid to each employee. The wage base on which the state tax is imposed cannot be lower than the federal wage base but can be higher, and state wage bases today range from \$7,000

to about \$53,000, with the majority under \$15,000.

The federal tax rate. Federal taxes are usually 0.6%, but only if a state is in compliance with federal requirements. If the U.S. Department of Labor were to find a state out of compliance, the tax rate would increase by a factor of 10, to 6%. To our knowledge no state has ever triggered this penalty; the list of requirements is short and DOL has little discretion to reject state rules. Thus, the current federal tax is \$42 per worker annually: 0.6% times the wage base of \$7,000.

The state tax rate. An employer's total state tax payment per worker depends not only on the wage base but also on the applicable tax rate, which can vary from employer to employer. Employers with more worker turnover pay higher rates, a practice known as "experience rating." The total payment per employee is just the product of the employer's rate times the wage base. In Missouri, a fairly low-tax state, the average employer would pay to the state a 1% tax on the state wage base of \$11,500, for a state tax total of \$115 per worker. Nationwide in 2020, the total average state UI tax was about \$277 per worker, a decrease from an average of \$350 over the 2013 to 2018 period (U.S. DOL-OUI 2021; BLS 2020).

State trust funds. Because UI expenditures usually exceed revenues during recessions, states are required to maintain a "trust fund" account with the federal government. State tax revenues are deposited in the trust fund and then state benefits are paid out of the fund. States that run out of money can borrow from the federal government, although these debts must usually be repaid fairly quickly and at relatively high rates. States that maintain a high enough balance in their accounts can qualify for a very short period of interest-free borrowing.

Federal grants for administration and operations. Federal revenues are used mostly to pay for state administration of the UI program. The U.S. Department of Labor makes annual grants to states out of the federal unemployment insurance trust fund to cover personnel and other expenses, and it has some limited discretion to impose conditions on these grants. States also receive money under other federal grant programs for operations related to UI, such as funding for job centers that may serve to connect individuals to UI.

Eligibility for benefits

States impose both initial and continuing requirements for receiving UI benefits. Initial requirements are usually subdivided into two categories, "monetary" and "nonmonetary" requirements. Each week after receiving initial benefits, workers must typically also establish that they are "able and available" for work.

Monetary requirements for initial benefits. Monetary requirements are intended to establish that the individual is already attached to the workforce—that is, that they are experiencing a temporary interruption in earnings, not permanent unemployment. Typically, applicants must show that they have earned some minimum amount of wages in the year to year and half prior to their application. This testing period is known as the "base period," and in most states is the first four of the five most recent completed

quarters prior to application; some states are more flexible for some applicants (U.S. DOL-ETA 2020b).

Determining the minimum total wage that has to be earned during the base period is complex and varies widely from state to state. For instance, in Connecticut all that is needed is the greater of \$600 or 40 times the worker’s weekly benefit amount over the base period. Next door in New York, a worker must have earned at least \$2,400 in one of the base period quarters, and \$3,600 overall. As a practical matter, some part-time workers are effectively disqualified from UI in states with higher minimums, such as Arizona, Kansas, Michigan, and New York.

Nonmonetary requirements for initial benefits. In addition to needing to meet these dollar thresholds, separated workers also must show that they left work for the right reasons, usually known as the “nonmonetary” requirement. Like other insurance, UI programs attempt to limit an insured’s ability to control when they receive payment, and this is the primary function of nonmonetary rules. While states vary considerably, for the most part workers cannot claim benefits if they left a job voluntarily, unless they can establish a compelling and relatively involuntary reason for their departure. Many workers lose benefits on these grounds, with nonmonetary denials averaging more than 1.2 million per year nationally (U.S. DOL-ETA 2021c).

Continuing requirements. Lastly, even after satisfying these initial hurdles workers must also establish, on a weekly or biweekly basis, that they are searching for work and available to accept a job. In most states an individual who is only able to accept part-time work is not considered “available for work” unless that worker qualified for UI benefits with part-time hours (U.S. DOL-ETA 2020a).

Together, these rules create several notable gaps in who is able to depend on UI. Self-employed individuals, including workers who in reality are employees but have been misclassified by their employer as contractors, cannot claim UI because they lack qualifying wages. Part-time workers, as we’ve noted, often fail monetary eligibility and may also be unable to establish that they are available for work. Most noncitizens without work authorization are denied benefits by federal law, although the exact boundaries of that prohibition are contested. Those who are just entering the workforce or rejoining after an extended interruption, such as mothers or recently incarcerated individuals, also cannot meet monetary eligibility standards (U.S. DOL-ETA 2020a).

Benefit levels

For the most part, states are free to decide what benefits to provide to eligible UI claimants. Key factors that determine a worker’s benefits are the share of pretax wages paid, also known as the “replacement rate,” as well as minimum and maximum weekly benefit amounts. Net benefit amounts are also affected by state and federal government policies on whether UI benefits are taxed.

State formulas for determining weekly benefits are complex and vary considerably from state to state. A plurality approach is to compute the worker’s highest quarterly wage

during the base period (again, the base period is usually the four quarters preceding the most recent completed quarter). Among these states, many of them award workers one-half of their average weekly wage during that highest-wage quarter. Beneficiaries always get at least a minimum weekly benefit, with the median state offering around \$50 (U.S. DOL-ETA 2020b).

Weekly benefits are capped, usually at some multiple of the average weekly wage for all workers in the state. In 2020, there were six states (Alabama, Arizona, Florida, Louisiana, Mississippi, and Tennessee) where the *maximum* weekly benefit was less than \$300; in Mississippi it was just \$235. A few states additionally grant a small allowance for each dependent, which also can increase the maximum benefit amount. For example, in 2020 the maximum benefit for any household, including the dependent allowance, was the \$1,234 allotted in Massachusetts.

In general, a worker who is receiving benefits loses them when returning to work. To encourage part-time work among benefit recipients, most states allow a small amount of part-time earnings in addition to UI. Any earnings above this amount then reduce benefits dollar for dollar: effectively, a 100% marginal tax rate. A typical earnings disregard is 20% to 25% of the weekly benefit amount (U.S. DOL-ETA 2020b). So, for instance, with a disregard of 20%, a worker receiving \$200 per week in benefits could earn up to \$40 in added wages without reducing their benefits, but then a worker who earned \$50 would get only \$190 in benefits.

Unemployment insurance benefits are included in federal taxable income for income tax purposes, but are not subject to the Social Security payroll tax (Congress also exempted the first \$10,200 of 2020 UI benefits from tax for lower-earning households). Most states follow federal law with respect to taxation of UI benefits, although California and Pennsylvania both expressly exempt UI benefits from state taxable income (Galle, Pancotti, and Stettner 2021; Pennsylvania Office of Unemployment Compensation 2021).

Taxation affects the net replacement rate. Suppose a worker is in the 10% federal tax bracket. If their pretax wages are \$10,000, they take home \$9,000. Suppose the state intends to provide workers with a net replacement rate of 50%. If UI benefits are not federally taxed, the state can offer a UI benefit of \$4,500: that is the amount that leaves workers with 50% of their working (net) wages. In contrast, if UI benefits are subject to federal tax, the state must pay a benefit of \$5,000, resulting in the same \$4,500 in benefits received after tax. For any given replacement rate target, the state must pay more (and impose higher UI tax rates) when UI benefits are subject to federal tax.

Benefit duration

As with the weekly benefit amount, states have almost complete control over the duration of ordinary UI benefits. Traditionally, states offered a maximum of 26 weeks, a figure that is among the lowest in the developed world. Again the United States lags far behind its OECD peers, many of which offer up to two years or more (OECD 2021a). Further, since 2009, many states have reduced maximum benefit durations further, in a couple of cases

to as few as 12 weeks of benefits.² Massachusetts currently has the longest potential benefit duration, topping out at 30 weeks for some beneficiaries.

As described briefly above, the federal Extended Benefits program, or EB, mandates additional weeks of benefits, and these benefits are triggered automatically by economic conditions. The EB program provides two tiers of extended potential benefit durations: tier 1 adds 13 weeks and tier 2 adds an additional 7 weeks. The triggers for tier 1 are based on the level and/or the *change* in the *insured unemployment rate* (IUR)—a measure of how many in the labor force are currently receiving UI benefits.³ This measure can obviously vary by labor market conditions, but also can vary based on state-level eligibility criteria. That is, in states where it is hard to qualify for UI benefits, the state is less likely to hit the IUR trigger. States can opt to use another trigger that is a much more focused measure of labor market distress: the *total unemployment rate* (TUR), which is simply the official unemployment rate, a measure that includes workers who are unemployed but not receiving UI benefits.⁴

The EB program is also designed to automatically trigger off benefits when economic conditions improve or do not worsen. Once the trigger on criteria are no longer met, EB is turned off. In addition, an EB “look-back” provision triggers benefits off whenever there has been no significant *increase* in unemployment over the past two years. Persistently high unemployment does not prevent the EB benefits from triggering off.

Endnotes

1. 26 U.S. Code § 3303

2. In some cases states do not directly determine how long benefits will last, but instead first calculate a total benefit amount and weekly benefit amount, both based on wages during the base period. For example, if the total benefit were \$10,000 and the weekly amount were \$500, the household would have 20 weeks of benefits.

3. The IUR trigger is 5% plus 20% above the average level in the same quarters of the two previous years, or optionally a flat 6% IUR. Most states and the District of Columbia using the IUR trigger use the optional 6% trigger.

4. At press, 19 states used the TUR trigger, which is 6.5% and a 10% increase over the same quarter of either of the previous two years.

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Statement of the problem

Why unemployment insurance reform is needed

The economic shock of the COVID-19 pandemic has shined a bright light on the nation's unemployment insurance system. It has not been a pretty sight. Swamped by the sudden, massive influx of claims in March of 2020, many state UI programs faltered. Computer systems crashed and telephone helplines were perpetually busy. The problems persisted. By the fall, reports were widespread of people in need often waiting weeks—or months—for their benefits (Long and Fowers 2020; Zakrzewski and Riley 2020; Moss 2020; Iacurci 2020).

As state UI structures shook from the initial jolt, federal policymakers realized that benefit levels were too low and not available to enough workers. In part to offer stimulus to a sharply contracting economy, the federal government provided unemployed workers claiming standard UI benefits with a supplemental \$600 per week in additional benefits. These Pandemic Unemployment Compensation (PUC) program benefits—enacted as part of the CARES Act—were hugely important to millions of Americans in need.

Also critical were two other temporary UI programs created by the CARES Act: Pandemic Emergency Unemployment Compensation (PEUC), which extended the duration of benefits, and Pandemic Unemployment Assistance (PUA), which provided benefits to some groups of workers left out of the regular UI system, such as the self-employed and temporary workers. Workers eligible for PUA were also eligible for the \$600 weekly supplement. The PUA program brought sustained help to a broader swath of the U.S. workforce: As of March 2021, about 7.5 million workers who otherwise would have been without benefits were receiving them under the program (NELP 2020; Picchi 2020; U.S. DOL-ETA 2021c).

But there were problems. In addition to the delays in processing benefits, weaknesses of some of the state UI systems drew the attention of organized criminal enterprises, which engaged in identity theft and other forms of fraud to steal funds. Well-publicized cases of fraud led to measures that slowed the delivery of benefits to legitimate applicants in some states (Cohen 2020; Holzhauer 2020).

These problems were not simply the result of a once-in-a-century pandemic. If they were, perhaps the country could move on under the assumption that better public health measures would avoid future recurrences. Instead, significant underlying issues with the nation's UI system were exposed by the stress of the pandemic-driven economic jolt. Under pressure, the system gave way in places where it was already broken (McDermott 2020; Adamczyk 2020).

The idea that the UI system needs an overhaul is not new. It is a product of the New Deal—and its design still bears the influences of that era and the decades immediately following. The eligibility standards for workers to qualify for aid—and the level and duration of the help they receive—remain rooted in outdated images of typical UI claimants as male factory workers whose plants have temporarily shut during a recession.

The notion of the economy these standards reflect is also obsolete, one where labor markets recover very quickly after recessions hit, and workers return to their old jobs. In that economy, beneficiaries would need aid for a few months until the nation recovers and the plant reopens. Like the 1950s image of the economy this reflects, the UI system marginalizes many women and workers of color, leaving too many of them without aid, or with much too little aid, when they lose jobs through no fault of their own (West et al. 2016; Edwards 2020; Kofman and Fresques 2020).

The UI system has failed to keep up with the modern economy

The American economy of today is not the economy UI was built for. The temporary shifts of the pandemic economy notwithstanding, more women are in the labor force. Factories that close often never reopen (at least in this country). Part-time work has grown as a share of the labor market since the mid-1950s (when data on part-time employment began to be collected). And online platform work and other emerging forms of employment arrangements are capturing a great deal of policy and media attention (BLS 2018, 2021a; Congdon and Vroman 2021).

Yet relatively little has been done to update the rules of the UI system to capture these shifts. As a result, the share of unemployed workers who actually receive UI benefits had fallen below 3 in 10 before the pandemic, down from closer to 4 in 10 (36%) in 2007 before the Great Recession (U.S. DOL-ETA 2021a). And as this report will show, workers whose lives are already the most financially precarious—disproportionately workers of color, women, and individuals with disabilities—are the most likely to be left out by exclusionary eligibility rules (Tucker and Vogtman 2020; Bhutta et al. 2020; Gould and Wilson 2020; Gould, Perez, and Wilson 2020; BLS 2019).

One reason for the failure to modernize the UI system is that federal policymakers tend to focus on UI only during economic downturns, legislating additional weeks of federally funded aid to address the immediate distress but doing little to reform the system as a whole.

Another less obvious factor is likely the growing influence of corporate power and capital in our politics and economy. The share of private-sector workers in unions is down to about 6%, making it easier for employers to keep wealth they create for themselves and shareholders. The tilting of the economic playing field toward the wealthy and capital likely has a number of reasons, including changes in tax, antitrust, and trade policy as well as global economic shifts (Piketty 2017). But the effect in the U.S. is clear and not favorable to workers. The labor share of national income has been calculated to have declined from 65% to 57% from 1980 to 2012 (BLS 2021b; Farber et al. 2020; Clausing 2017).

The UI system in many states now fundamentally fails in its core missions

The deepening inequality is reflected in a UI system that in many states now fundamentally fails in its core missions. As Rebecca Dixon and William Spriggs explain in the Introduction, families need unemployment insurance to get them through temporary rough spells, and UI is one of the government’s most effective policies for fighting recessions. Yet states keep cutting and cutting. Particularly in states with histories of weak labor movements (which often overlap with those that have the most troubled racial history), UI benefits are now among the shortest, and reach the lowest shares of unemployed workers, of anywhere in the developed world. As of 2019 there were 10 states offering fewer than 26 weeks of benefits (two offering as few as 12 weeks of benefits), and in several of those states fewer than one in six workers were able to claim even that short span of benefits. Right before the pandemic (in January 2020), weekly benefits were replacing less than half of average wages, and in some states benefits topped out at less than \$275 per week—equivalent to less than a \$7 hourly wage. If that is even still a net, there is no safety in it (U.S. DOL-ETA 2020, 2021b; OECD 2021a, 2021b; CRS 2019).

Even these dismal numbers fail to capture the struggles of workers largely left on the margins of the American economy, and who are equally excluded by an assortment of technical but crucial UI rules. In many of these groups, workers of color and women are overrepresented, as noted in the Eligibility section of this report.

Too many workers fall through the cracks

Part-time workers, who are especially likely to be working women and individuals with disabilities, fall through the cracks of UI in most places. The obstacles to their claiming benefits are myriad: requirements to earn a certain level of wages over a short period; rules obligating beneficiaries to be seeking full-time employment; limits on the reasons a worker can leave a job; and loopholes that deny benefits for workers affiliated with staffing agencies, among others. The lack of UI coverage for lower-earning part-time workers also harms Black and Latinx workers, who are a disproportionate share of people working part time because they can’t get the full-time hours they want (BLS 2020; IWPR 2016; Golden and Kim 2020).

And, until the temporary Pandemic Unemployment Assistance experiment in 2020, UI offered no help at all for “gig” workers and millions of other workers around the country misclassified by their employers as contractors. Because UI taxes are imposed on wages,

employers are incentivized to treat their workers as contractors, at least for legal purposes, and whole industries arguably are built on this kind of arbitrage. This treatment leaves the affected worker with no available benefit when they experience a work interruption. Black workers are more likely than other workers to be temporary help agency workers, and Asian workers are more likely than other workers to work for contract firms (Kosanovich 2018). Finally, genuine small-business entrepreneurs who might respond to financial setbacks by trying to enter the workforce, and who might benefit from some transitional funding, have no recourse.

States compete in a race to the bottom

It is not our goal here to resolve all of the deep structural challenges that have steered the nation's unemployment insurance system to these straits. But some of the more immediate drivers are created by poor design of UI's finances. As we explain in the report, regular state UI benefits and a portion of extended benefits in downturns are funded through state taxes on corporations. And states compete in a race to the bottom in UI taxes just as globally there is a race to the bottom for corporate taxes generally. The pressure to keep UI taxes low contributes to a climate in which states with depleted UI coffers slash their way to budget balance by shortening the duration of benefits, tightening eligibility, and (less visibly, but no less damagingly) underinvesting in UI system infrastructure. Further, nearly all states impose higher tax rates on businesses with higher shares of former workers claiming UI benefits. Evidence strongly suggests that this rule encourages employers to make it harder for separated workers to get the benefits they are due.

An opportunity to make needed repairs

The spotlight shining on the UI system provides a rare opportunity to make needed repairs to bring the system into the 21st century. UI reform is not just a set of technical fixes, but in a real and immediate sense is racial justice, is gender justice. And a UI system that is reformed to reflect both the current economy and the current workforce would not only strengthen the economy but also promote genuine economic opportunity for all.

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Section 1. Universal standards

Guarantee universal minimum standards for benefits eligibility, duration, and levels, with states free to enact more expansive benefits

Key proposals

- **Minimum standards:** Establish federal minimum standards for which workers are eligible for unemployment insurance benefits, the minimum length of time benefits can last during regular economic times and during downturns, the share of lost wages replenished by UI benefits, and a weekly wage floor that benefits amounts cannot drop below.
- **Tax penalties:** Encourage the use of statutory tax penalties by allowing the federal government to apply *incremental* increases to the federal tax rate on employers in states that fail to meet minimum universal standards and other key obligations of a more equitable UI system.
- **Noncompliance:** Provide workers with a pathway to report state noncompliance to the federal government.
- **Processing delays:** Ensure that workers with pending applications that are not being processed in a timely way receive at least the minimum weekly benefit.

Introduction

The problem

The unemployment insurance system is a cornerstone of our economic infrastructure. It exists to support working people who have lost their jobs through no fault of their own with cash benefits while steadying the economy during crises. But the UI system in many states now fundamentally fails in its core missions. Under the current system, the federal government sets certain basic ground rules, while states can fill in most of the details. State eligibility formulas exclude core groups of workers that include disproportionate shares of workers of color, such as low-wage workers, and women, such as part-time workers. Also unfairly left out are many gig workers who are misclassified as contractors and thus denied the benefits afforded only to employees in traditional employment relationships. It is up to states to determine whether workers and their employers have complied with state and federal rules, and many states lack effective tools for important tasks such as determining which employees are being misclassified as contractors.

States compete in a race to the bottom on UI taxes and, in times of economic distress, slash their way to replenishing depleted trust funds by shortening benefit duration and tightening eligibility. As a result, the once-standard, but by no means adequate, 26 weeks of benefits in normal economic times is eroding and some states offer just 12 weeks of benefits. Today, weekly benefits replace just about 40% of average wages, which is not nearly enough for workers, particular low-wage workers with families, to get by. These deteriorated standards are particularly harmful to Black workers. UI data show that states with high shares of Black workers tend to have lower UI reciprocity rates—shares of unemployed workers who actually receive unemployment benefits—and lower average weekly UI benefits.

The solution

Require states to meet minimum federal standards for UI eligibility, duration of benefits, and benefit levels.

Implementation

To ensure that states meet minimum federal standards for UI eligibility, duration of benefits, and benefit levels, deploy carrots—assistance in the form of federal data collection enabling delivery of broader and better targeted benefits—but rely on sticks—incremental increases in tax rates for employers that fail to meet the minimum requirements, supported by mechanisms for workers to report state noncompliance.

Setting universal minimum guarantees across three big policy areas

Many of the problems we've diagnosed within the UI system are driven at least in part by large structural choices that the designers of the program made when it launched in the 1930s. In the long run, a sustainable UI program for the 21st century may require fundamental rethinking of those choices. Given the political reality that interest in UI reform peaks in the wake of an economic crises and ebbs thereafter, failure to pursue major revisions now—in the midst of the coronavirus pandemic—risks squandering a rare opportunity. Our effort here therefore aims at the most urgently needed repairs.

Policy proposal: Enact a federal law establishing universal minimum guarantees across three key big policy areas: eligibility for benefits, duration of benefits, and benefit levels

To roll back the states' race to the bottom, and guard against further erosion, we propose that federal law establish universal minimum guarantees across three key big policy areas: eligibility for benefits, duration of benefits, and benefit levels. States that wanted to establish more robust or more expansive benefits than the minimum guarantee could still do so. Guaranteeing universal minimum standards nationwide will make the system easier to navigate, and make it easier for workers to understand their eligibility.

Ensuring that states meet the minimum requirements

To ensure that states can afford to deliver on these guarantees, we propose a set of financing reforms—fair, efficient taxes that strongly encourage employers to be good partners with workforce agencies in administering the system.

Foremost, we propose requirements with real consequences for falling short, not just incentives, because recent efforts to gently nudge states to modernize have not resulted in meaningful or lasting changes. For example, although federal changes in the wake of the Great Recession sought to encourage states to extend benefits to part-time workers, and states did make some technical changes on that front, “monetary eligibility” rules still effectively bar many part-timers from collecting any UI benefits. In the current political environment, in which some states are outright refusing to deliver even benefits fully paid for with federal dollars (Stettner 2021), we doubt that meaningful reforms can be achieved with the kinds of modest carrots and unthreatening sticks previously on offer (Galle 2019).

Instead, we would update and expand the list of obligations states must meet in order for their businesses to qualify for low federal unemployment taxes, and give the Department of Labor more flexibility to set federal tax rates.

Policy proposal: Allow the federal government to apply *incremental* increases to the federal tax rate on employers in states that fail to meet minimum universal standards and other key obligations

The federal tax rate, the Federal Unemployment Tax Act (FUTA) rate, is 0.6%, but this rate rises tenfold to 6.0% if a state fails to meet its statutory obligations. This penalty is so large,

however, that the Department of Labor has never been willing to impose it. Decades ago, Congress wrestled with a similar problem with the charitable contribution deduction: Because revocation of a charity's eligibility to receive deductible donations was effectively a "death sentence," the IRS very rarely imposed it, even in situations where individuals were exploiting charitable resources for their own use (Manny 2007). In response, in 1998 Congress enacted a system of "intermediate sanctions," under which the IRS is empowered to impose much smaller penalty taxes on organization managers. We would similarly recommend that Congress authorize the Department of Labor to increase the federal tax rate on employers in small increments within the range between 0.6% and 6.0%, depending on the degree of state noncompliance. Certain minimum penalties for clear breaches of federal guarantees, such as for potential benefit duration of less than the federal minimum, should be set by statute.

Providing workers with a voice and options when universal standards are not met

Intermediate sanctions might help ensure state consistency with universal guarantees in the long run, but additional measures are needed to provide workers with a voice in ensuring that universal guarantees are met and to hold them harmless when they are not. Even an expanded sanctions regime depends on Department of Labor willingness to use it. Under current administrative law doctrine, agencies can foil most enforcement regimes by refusing to initiate action (Barkow 2016). Private parties often have no avenue for judicial recourse to challenge agency inaction (Metzger 2015).

Policy proposal: Provide workers with a pathway to report state noncompliance to the federal government

Workers should have a pathway to report state noncompliance to the federal government. We therefore propose that the sanctions statute include opportunities for the public, including labor organizations and other community groups, to petition the Department of Labor to initiate a sanctions action, patterned on existing administrative law procedures that allow private parties to petition for rulemaking (CRS 2020). As in the petition for rulemaking process, DOL would be obligated to respond to nonfrivolous petitions, and if it chooses not to take action, it must explain why not. A decision not to impose sanctions would be reviewable in court as "final agency action." Petitioners would be entitled to recover costs and attorneys' fees for nonfrivolous petitions and court challenges.

Policy proposal: Ensure that workers with pending applications that are not being processed in a timely way receive at least the minimum weekly benefit

In states that fail to deliver guaranteed benefits in a timely way, workers should be entitled to at least the minimum weekly benefit while their application is pending. As explained in Section 5, the benefit levels section of the report, the minimum benefit in normal economic times is the greater of \$250 or 30% of the state's average weekly wage, and in downturns the greater of \$300 per week or 40% of the state's average weekly wage.

Benefit lapses leave mother scrambling to pay bills

I am a single mother trying to put my son through college and then medical school. I was working at the largest provider of meeting and travel services in the world, until COVID. After taxes my state benefits are a little over \$200 a week. I am not sure how that little bit of money is supposed to help the average worker.



Amy Cabrera-Cabello, Arizona

Then [after receiving benefits for a while] things got worse. On December 26, 2020, I didn't receive a check. I called and after waiting on hold for two hours, spoke to a woman who was convinced [the missed check] was due to Trump signing the relief bill late. I continued calling, often waiting on hold for hours. I was told to file an extension, but that the system was so backed up it could take 11 weeks.

After more than two months, I received some payments, but on March 20th they stopped again. I was told to file for another extension. I can barely pay my bills on the little benefits in Arizona. Not getting it at all, and having this happen frequently, is even more nerve-wracking.

Enacting universal guarantees as a path to bigger reforms

Not all the signatories think these steps go far enough to solve unemployment insurance's deep-seated challenges. We all agree, though, that the universal guarantees we propose

below are major improvements over the status quo, may help to set UI on a path to bigger reforms, and are well worth pursuing in their own right.

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Section 2. Financing

Reform financing of UI to eliminate incentives for states and employers to exclude workers and reduce benefits

Key proposals

- **Federal financing:** Address chronic underfunding and incentives to reduce outlays at the expense of workers by paying for all regular and extended UI benefits with federal dollars. Absent a switch to a wholly federally financed system, reform tax rate calculations and state trust fund targets to strengthen support for workers and stabilize the system.
- **Taxable wage base:** To make UI's finances fairer and more efficient, broaden the taxable wage base for unemployment insurance to be equal to the wage base for Social Security.
- **Tax rate:** In a federally financed system, reduce employer incentives to block worker claims by reforming “experience rating” to determine the employer tax rate based on changes in hours employees work, not unemployment insurance claims. In a federal–state financing system, reconsider “experience rating” and base state trust fund targets on industry-adjusted per capita targets, not “high cost multiple” systems that encourage states to slash awards to replenish trust fund accounts.
- **Recessions:** In a federally financed system, acknowledge the economy-boosting benefits of unemployment insurance benefits during recessions by paying for them with general revenue. In a federal–state financing system, use automatic triggers to provide federal financial assistance to states.
- **Classification of workers:** Require states to implement “ABC” tests that prevent employers from circumventing taxes by reclassifying employees as contractors, and require large businesses that use a lot of contractors to pay unemployment insurance tax on their contractors.

Introduction

The problem

States and the federal government jointly finance unemployment insurance (UI) in the United States through state and federal taxes imposed on wages and paid by employers, with a portion of those taxes likely passed through to workers in the form of lower pay. During normal economic times, states pay for the benefits their workers receive, and the federal government provides grants to pay for the cost of

administering the program. The federal government also finances 50% of the Extended Benefits (EB) program.¹ In recent recessions, it has paid 100% of EB costs as well as the costs for additional non-EB benefit extensions.

The way we pay for unemployment insurance benefits explains many of the program's problems today. The desire to attract businesses and jobs puts pressure on states to keep their tax rates low. To do so, they limit benefits reciprocity (the share of unemployed workers receiving benefits), decrease the amount of benefits workers receive, or both. Employers also have an incentive to make it harder for workers to claim benefits—for example, by filing challenges and appeals to worker claims—because the UI taxes firms pay rise when their workers collect UI benefits, a structure known as “experience rating.”

For both employers and states, pressure to reduce the benefits flowing to workers is especially intense when benefits are needed most: during and just after major recessions. When profit margins are slim, employers may be more likely to try to save money by keeping their UI tax rate as low as possible.

Federal law requires states to save their UI funds in a trust fund account and encourages them to keep adequate funds in it. During past recessions, these accounts have run empty in a number of states. To refill their accounts and get back into balance, many states slash benefits. In the wake of the Great Recession, for example, nine states cut the number of weeks individuals could get benefits from the traditional 26 to as few as 12 (Leachman 2015).² As of April 2021, state legislators in at least three states (Iowa, Louisiana, and Tennessee) had proposed cutting the benefit duration to 12 weeks in response to low trust fund balances following the economic crisis caused by the COVID-19 pandemic (Golshan and Delaney 2021). The consequences of inadequate program financing fall squarely on the most disadvantaged workers, disproportionately affecting communities of color, as described in Section 3, covering eligibility.

The solution

Current financing of the UI system incentivizes employers and states to obstruct the delivery of UI benefits. Redesigning the way benefits are financed could create a system that would more effectively deliver UI.

Implementation

Financing UI benefits at the federal, rather than the state, level is the most logical way to ensure adequate funding for and the equitable distribution of UI benefits. If policymakers choose to leave benefit financing primarily to the states, however, significant improvements could still be made.

Federal policymakers could approximate “first-best” reforms by (a) raising the federal taxable wage base (which would require states to raise their own taxable wage bases), (b) reforming experience rating, (c) making federal financial assistance to states for funding UI benefits more predictable by tying it to automatic triggers, (d) ensuring that firms do not

have incentives to outsource or misclassify workers as contractors, and (e) basing state trust fund targets on industry-adjusted per capita targets, not the current “high cost multiple” system, which encourages tax and benefit cuts.

Funding unemployment benefits with federal financing

In normal economic times, state UI benefits are the only support available to unemployed workers; during economic crises, they are often the only support preventing workers from falling into distress. But rather than ensure that these benefits are adequate, states compete in a race to the bottom, in an effort to attract firms. Employers shift production and workers to low-tax states (Guo 2020). They are especially likely to exploit differences across states in the taxation of part-time workers (U.S. GAO 1993). These moves hurt women, who are disproportionately likely to work part time, and people of color, who are disproportionately likely to work part time but want full-time work (Golden and Kim 2020).

Cutting taxes requires cutting benefits, making the race to the bottom evident in every aspect of the UI system (Galle 2019). After the 2009 recession, 10 states dramatically cut the duration of their UI benefits, and others failed to adjust the maximum benefit level for inflation for more than a decade, eroding benefits (CRS 2019; Smith, Wilson, and Bivens 2014). States that have most aggressively courted business by cutting benefits the most are also those states granting UI benefits to lower shares of separated workers (Desilver 2020; U.S. DOL-ETA 2021a; U.S. Census Bureau 2019). Indeed, historical data on the reciprocity rate suggest that states tightening requirements in times of economic distress have contributed to subsequent declines in reciprocity rates that have never ascended back to mid-last century highs exceeding 50%, and hover around 28% today (as of 2019) (U.S. DOL-ETA 2021b). By capitulating to employer threats to move jobs out of state, local officials may see themselves as winning a competition with their neighbors. But the result is a less effective automatic stabilizer to assist displaced workers during recessions, leaving the federal government holding the bag to pay for other safety-net programs.

Policy proposal: Fund regular unemployment benefits and the full cost of extended benefits with federal financing

No solution short of federal financing will fully overcome these problems; if states can compete with one another to lower taxes, they will. If their revenue is lower, they will find new ways to reduce reciprocity rates. Following the Great Recession, for example, when federal law temporarily constrained states from reducing benefit amounts, they cut the duration of benefits (CRS 2019; Smith, Wilson, and Bivens 2014). Some states also erected new administrative barriers (Wentworth 2017). For example, a new online system in Massachusetts increased one form of benefit denial by 950%, and delayed claims processing by more than six weeks on average. Florida increased one category of

procedural denials by 180%, and another by 400%.

Financing at least the cost of the minimum regular UI benefits we have described with federal money—building on the existing federal financing of program administration and extended benefits—could eliminate this race to the bottom.³ Removing this competition would remove the greatest barrier to adequate benefit financing.⁴ A federally financed regular UI benefit could be financed in several ways, as shown below.

Increasing the taxable wage base

Currently, states and the federal government finance UI almost exclusively through taxes on employers. The total tax an employer owes is based on the product of its tax rate and the taxable wage base, the portion of each employee's salary that is considered when calculating the tax owed. For the current federal UI tax—the Federal Unemployment Tax Act (FUTA) tax—the federal government taxes only the first \$7,000 of each employee's wages. State wage bases cannot be lower than the federal wage base; they currently range from \$7,000 to about \$53,000, with most of them less than \$15,000 (U.S. DOL-ETA 2020c). The taxable maximums for UI wage bases are far lower than the taxable maximum wage bases for other programs. For example, the wage cap for the Social Security portion of the Federal Insurance Contributions Act (FICA) for 2021 was \$142,800. The UI federal wage base has failed to keep up with inflation; it was \$3,000 in 1939, or more than \$55,000 in 2021 dollars, almost eight times its current value of \$7,000 (Gould-Werth 2020a).

Policy proposal: Set the taxable wage base for unemployment insurance equal to the wage base for Social Security

We propose increasing the federal UI taxable wage base to a level equal to the current Social Security taxable wage base and indexing it to inflation. Raising the wage base threshold would allow for much lower rates, which would be more economically efficient, because they would reduce the incentive to attempt to avoid the tax. If UI financing were shifted to the federal level and the taxable federal wage base broadened, revenues could increase without an accompanying rate hike.

A higher wage base cap would also better align the constituencies that pay the tax and draw benefits from it. For example, a worker in Vermont who earns \$10,000 a year has taxes levied on 100% of her wages and has 100% of her wages considered when setting benefits, whereas a worker who earns \$50,000 has taxes levied on only 28% of her earnings, but has 92% of her wages used when determining her benefit level (U.S. DOL-ETA 2020b; Vermont DOL 2021). Such a system thus imposes a greater relative burden on the lower-wage worker.

Raising the wage cap would also reduce the incentive to prefer a small number of high-

earning workers over a large number of low earners. With a low cap, an employer incurs greater tax liability if she hires two \$20,000 earners than if she hires one \$40,000 earner. For instance, in Vermont, where there is a 2021 cap of \$14,100, an employer with a 1% rate would pay \$141 in state UI tax for the \$40,000 earner, but \$282 for the two \$20,000 earners. The system thus disincentivizes employers to employ low-wage workers.⁵

Under the current federal–state UI system, state wage bases cannot be lower than the federal wage base by law. Raising the federal UI cap to the Social Security cap would therefore also raise all state caps, generating all of the benefits described above.⁶

Changing the tax rate formulation

Average UI tax rates are low in the United States. The federal rate is 0.6%,⁷ and most state rates average 1%–2% (U.S. DOL-ETA 2020a). Employers pay the federal government \$42 a year for each full-time, year-round employee (0.6% times the \$7,000 federal wage base). In Missouri, a fairly low-tax state, the average employer would pay another 1% tax on the state wage base of \$11,500, for a state-tax total of \$115 per worker. Nationwide, the total average tax was about \$267 per worker in 2020; the average over several recent years was a bit higher, at \$350 (U.S. DOL-OUI 2021; Pavosevich 2020).

Within a state, different employers face different tax rates, depending on the employer’s experience with unemployment—a method of setting the tax rate known as “experience rating.” In all U.S. jurisdictions except Alaska, the rate is based on the UI benefits collected by separated workers. Every benefit recipient must be traced back to one (or more) previous employers. Employers with a higher ratio of benefits awarded to payroll pay higher rates than others up to a cap.⁸ In Alaska, employers instead pay a higher tax when they cut payroll, regardless of whether their employees successfully claim benefits.

The basic logic of experience rating is similar to the rationale for adjusting auto or home insurance rates upward after the insured files a claim. Layoffs impose costs on society, including the expense of providing UI benefits. Without experience rating, employers would not take account of these costs, leading to excessive job turnover (Alessie and Bloemen 2004; Karni 1999). There is strong evidence that experience rating reduces layoffs as well as seasonal employment (Albertini and Fairise 2018; Anderson and Meyer 2000; Baicker, Goldin, and Katz 1998; Ratner 2013; Woodbury 2004).

As currently designed, though, experience rating also encourages employers to prevent their employees from receiving adequate benefits. Benefit denials increased by 50%–66% in Washington state after it adopted experience rating (Anderson and Meyer 2000). Employer tactics include failing to provide information about benefits; encouraging employees not to file; challenging employee claims;⁹ or structuring their workforce to reduce eligibility, such as by using part-time workers or contractors, and shifting job sites to states where taxes are lower and benefits less generous (Anderson and Meyer 2000; de Raaf, Motte, and Vincent 2005; Gould-Werth 2016; Hyatt and Kralj 1995; Thomason and Pozzebon 2002; Vroman et al. 2017).

Grocery worker fired for taking health leave is initially denied benefits

I worked at an organic grocery-cafe in Brewer for two years. It was a beloved, locally owned small business. I developed new recipes and handled important catering orders. I took a two-week unpaid leave to deal with health issues, and when I returned I was told there was no more work for me. When I filed for UI, the store owners told the agency I had quit. At the appeal, one owner was upset that their taxes would go up because I had claimed UI. I received my benefits, but I was stunned that people I considered friends had tried to block me from receiving them.



Justin Grevenkamp, Maine

Policy proposal: In a federally financed system, base the unemployment insurance tax rate on changes in hours employees work, not unemployment insurance claims

Because the U.S. lacks the employment protections common in most other developed economies, there is a strong case for a system that still imposes costs on employers when they terminate workers but does not encourage employers to prevent their workers from obtaining unemployment benefits. We suggest removing incentives to prevent UI claims for separated workers by using the full-time equivalent (“FTE”) or “hours-worked variation” experience rating method, similar to the method used in Alaska.¹⁰ In the FTE method, employers are rated based on how much the hours their employees worked changed, on a quarterly basis, over a three-year period. Increases in hours are not given as much weight as decreases.

Because employers are charged based on changes to payroll rather than benefit claims, these methods should make employers indifferent about whether their separated workers obtain benefits.¹¹ Notably, until the tenure of its latest governor, Alaska’s reciprocity rate was among the highest in the country (as of 2020, it had declined to around the national mean).

To calculate their tax rate in a given quarter under the FTE method, employers compute the average of the total hours worked in each of the 12 preceding quarters. They then calculate the change from each of these quarters to the next, dividing this change by the average quarterly total hours over the 12-quarter measuring period.¹² For increases, the resulting product is discounted by a special weighting factor. The taxpayer’s final rating

factor is the average of these 12 changes over the three-year rating period.¹³ Employers are then ranked and tax rates assigned as in existing experience rating systems. For more details, refer to the text box, “Calculating the tax rate under the FTE method.” Under federal financing, employers should be ranked regionally (by state or Metropolitan Statistical Area, for example), rather than nationally, to account for local variations in industry, seasonality, and other economic conditions.

Using hours worked as the base unit of measure offers a few modest advantages over Alaska’s method (based on payroll) or one based on the number of employees. Using the number of employees on the payroll cannot account for reduction in hours. It either weights full- and part-time employees equally or discounts employees who work part time, allowing employers to game the system by reducing work hours. Payroll-based systems may favor high-wage over low-wage workers, rewarding business models with a small number of highly skilled employees (Vroman et al. 2017). Such a system could result in lower levels of employment for less-educated workers.

Many states do not presently collect hours-worked data, but former U.S. Department of Labor officials have described this as only a minor obstacle (Miller and Pavosevich 2019). As explained later, expanding state collection of hours data would have other advantages as well, such as improving the data available through the Quarterly Census of Employment and Wages, and allowing for implementation of our proposal to base worker eligibility on hours, not wages.

Calculating the tax rate under the FTE method

Under the proposed method, the tax rate would be calculated as follows:

$$\left(\sum_{t-12}^{t-1} [100\% * (TH_t - TH_{t-1}) / ATH], TH_t - TH_{t-1} < 0 \right. \\ \left. + W * \sum_{t-12}^{t-1} [100\% * (TH_t - TH_{t-1}) / ATH], TH_t - TH_{t-1} \geq 0 \right) / 12$$

where TH is the total number of employee hours worked in a given quarter, ATH is the average quarterly total hours over the 12-quarter period, and W is a weighting factor that applies to quarters in which hours worked rose. Nonhourly full-time workers are counted as working 40 hours a week. The weighting factor is intended to give employers only partial credit for new hires; it should therefore be less than one. Furloughs and other temporary layoffs still incur some cost, and this cost rises the longer the layoff is. To give a larger credit when furloughs are shorter, W could be equal to $(BD - AF)/BD$, where BD is the maximum benefit duration in days (182 for 26 weeks) and AF is the firm’s average furlough length (in days). For simplicity, AF also can be computed as an average across employers.

Policy proposal: In an experience rating system, penalize employers who consistently remain at the tax rate cap

In contemporary experience rating systems, some firms are indifferent to additional layoffs because the tax rate is capped—that is, the rate they pay for UI will not rise if additional workers are laid off. We recommend adopting the suggestion of Vroman et al. (2017) of imposing a penalty on firms that persistently remain at the cap (for three years or more, for example).

Policy proposal: In a federal–state financing system, base state trust fund targets on industry-adjusted per capita targets

In a system with significant state financial contributions, state savings targets should be reformed to be based on industry-adjusted per-capita targets, not the current “high cost multiple” system that favors cutting benefits rather than raising revenues when trust fund balances are depleted. Currently, in good times, states deposit excess UI revenues in a trust fund account, to be drawn on during recessions. Regulations encourage states to maintain an adequate balance, based on a calculation known as the “average high cost multiple” (AHCM). Because the AHCM is based on expected benefit awards, states can achieve their fiscal targets by slashing awards instead of adding revenue (ACUC 1996).¹⁴

Thus, in a system with significant state contributions, the AHCM should be replaced with a system in which state savings targets are based on industry-adjusted per capita targets. That is, state trust fund adequacy would be calculated using nationwide projected benefit costs per capita multiplied by the state population (see Galle 2019 for a complete description). This figure could then be modified to reflect each state’s mix of local industries and those industries’ historic nationwide turnover rates.

It may also be desirable to eliminate experience rating in a system that is mostly state financed. Although a portion of UI taxes are passed along to workers in the form of lower wages, in a competitive industry an employer cannot offer lower wages than its rivals, so that with experience rating higher-taxed businesses must bear the costs themselves (Gruber 1997; Anderson and Meyer 2000). This encourages business owners to seek out lower rates, contributing to the race to the bottom that federalizing the financing system would avoid.

Why not tax workers?

The suggestions in this section assume that UI benefits would continue to be financed by taxes levied on employers. The report contributors also considered the possibility of moving to an entirely worker-financed system. Taxing workers directly would make it more likely that those who pay for benefits are the ones who receive them. The Canadian model shows that such an approach is feasible (OECD 2019). An employee-side tax could also increase worker awareness of the UI program and create a sense of program ownership.

These benefits notwithstanding, we propose retaining the current employer-financing model for four reasons:

- Coupled with the hours-worked experience rating method, employer-side taxes are a powerful tool for preventing unnecessary layoffs.
- Experience rating prevents employers in competitive industries from reducing worker salaries to make up for the employer's higher tax rate, ensuring that employers share in the cost of the UI system. Employers should share in UI costs because the system also benefits them by facilitating better job matching (Gould-Werth 2020b).
- Workers who are paid the minimum wage could lose money with a switch to worker-side taxes, because employers cannot currently reduce their salaries to offset all of their accompanying UI taxes.
- Wages might take some time to adjust. Employers are currently likely paying lower wages than they would absent a UI tax. If taxes were instead imposed on workers, it might take some time before competition drove wages up. In the meanwhile, workers would effectively be paying UI taxes twice: once in the form of lower wages and once in the form of actual taxes. Phasing in employee taxes over time might mitigate this problem.

If policymakers fail to adopt the hours-worked experience rating model, shifting to a worker-side tax could be preferable to the current model of an employer-side tax that is experience rated based on UI claims. If a switch were made to funding UI benefits and program administration through a worker-side tax, the tax should be structured progressively.

Paying for unemployment benefits during recessions

UI payouts during recessions provide large positive spillovers to the economy, including to workers and businesses that do not draw on UI (Elmendorf 2011). The cost of financing this economic stimulus should therefore be widely shared, though the method for doing so may vary depending on whether UI is wholly federally financed or is partly left to states.

Policy proposal: In a federally financed system, pay for benefits with general revenue during recessions

If funding for UI is made wholly federal, we recommend that benefits be paid out of general federal revenues during recessions, as they have been in recent episodes. As with Social Security, there are economic and political advantages to “benefit taxation,” in which taxes are explicitly linked to a particular social insurance product. In recessions, however, the UI system should be able to borrow from general Treasury funds without having to repay its borrowing via higher UI taxes later.

Policy proposal: In a federal–state financing system, use automatic triggers to provide federal financial assistance to states for unemployment insurance

Even if states are left to bear some of the costs of standard UI during normal times, the federal government should pay all of the cost during recessions. Federal dollars already pay for half of extended benefits, and in recent recessions that has been expanded to 100%, so extending federal support to base-period UI is not a dramatic shift and is economically justified. Recessions hit some regions harder than others; national financing allows states to share risk. States also face structural obstacles to countercyclical spending (Galle 2019). For example, it is politically difficult to maintain reserve funds at the state level, because today’s taxpayers may be living or doing business elsewhere when the rainy day arrives.

Federal financing for base-period UI can be expanded without major changes to the current structure. Following the Great Recession, Congress eventually granted states significant financial relief. Under current law, states accessing federal financing must risk the possibility that they will face swift repayment obligations as well as significant interest and added charges before Congress eventually provides them with relief. To eliminate this risk, we recommend that when EB is triggered (as described in Section 5, benefits

duration), states become automatically eligible for low-interest or interest-free financing for base-period UI as well, repayable over a period that does not coincide with the state's recovery from its downturn. Even greater federal support is possible; for example, severe downturns could trigger automatic loan forgiveness. That would in effect offer federal reinsurance to state trust funds, relieving some of the financial pressure on them to compete over low benefits.

Including self-employed and misclassified workers

State and federal UI taxes apply only to the wages of employees. To circumvent the tax, many employers therefore claim that their workers are contractors, not employees. Legal tests to distinguish genuine employees from contractors are usually complicated and thus costly and time-consuming to enforce. Other employers respond to UI incentives through actual (not merely nominal) changes in their workforce, shifting traditional full-time employees into more-precarious, less-rewarding contract work. The rise of large digital platform-based businesses, such as Airbnb and Uber, has drawn a growing attention to the plight of workers in these types of positions (Ravenelle 2019).

Policy proposal: Require states to implement the “ABC” test

To ensure that enterprises pay their fair share of UI taxes, rather than shift their burdens to others, federal law should make it more difficult for employers to recharacterize taxable wages as untaxed contractor payments. An important starting point is to require states to implement a version of the “ABC” test. Under this legal rule, a service provider to a business is presumed to be an employee unless the individual (a) is free from the direction and control of the business, (b) provides labor outside the usual course of the business, and (c) is customarily engaged in their own independently established business. A few states already apply versions of the ABC test, at least for select industries (Doroghazi 2019). It should be a national gold standard. Alternative legal approaches, such as the 20-factor balancing test applied by the IRS, have proven to be unpredictable, highly manipulable, and expensive and burdensome to administer.

Policy proposal: Require large 1099 payers to pay unemployment insurance tax on their contractors

As an additional disincentive to misclassification and efforts to replace the security and benefits of a steady job with the uncertainty of contractor status, we recommend taxing contractor payments at the same rate as employee hours. Imposing UI taxes on contractor payments would also bring in contributions from a self-employed population that, under

our proposal in the benefits chapter, would receive greatly expanded benefits under the jobseeker's allowance (See Section 3, on eligibility, in this report).

To reduce the administrative burden on small businesses and households, only relatively large businesses would be subject to the UI tax, and even they would be required to pay it on the wages of only some workers. Individuals who receive only very small payments from a given payer or who provide services only for the nonbusiness purposes of the payer would be exempt. The UI tax would be imposed only on payments to individuals for whom the payer is obligated to issue a Form 1099 (currently contractors paid at least \$600 a year for the payer's business purpose). For simplicity, only large firms, such as companies with more than \$1 million in annual payroll or profits, might be required to pay the UI tax on contractors. If this threshold is considered too low, an additional threshold of 50 total combined employees and contractors could be applied. Both of these measures could be phased in, with the UI tax on 1099 earners starting at 10% of the full tax rate and stepping up 10% for each additional \$1 million in payroll/profits to a cap of 100%. If a worker threshold is also used, the rate could step up by 10% per 25 workers, with the actual tax rate imposed being the greater of the payroll/profit- or worker-determined rate. Whichever threshold is used, related entities such as companies that share the same owners would be counted together when determining whether the firm crosses the threshold, to prevent gaming the system.

Endnotes

1. According to the U.S. Department of Labor, "Extended Benefits are available to workers who have exhausted regular unemployment insurance benefits during periods of high unemployment. The basic Extended Benefits program provides up to 13 additional weeks of benefits when a State is experiencing high unemployment. Some States have also enacted a voluntary program to pay up to seven additional weeks (20 weeks maximum) of Extended Benefits during periods of extremely high unemployment. Extended Benefits may start after an individual exhausts other unemployment insurance benefits (not including Disaster Unemployment Assistance or Trade Readjustment Allowances). Not everyone who qualified for regular benefits qualifies for Extended Benefits.... The weekly benefit amount of Extended Benefits is the same as the individual received for regular unemployment compensation. The total amount of Extended Benefits that an individual could receive may be fewer than 13 weeks (or fewer than 20 weeks)." U.S. DOL-ETA 2021c.
2. The states were Arkansas, Florida, Georgia, Illinois, Kansas, Michigan, Missouri, North Carolina, and South Carolina.
3. We do not mean to rule out the possibility that states would voluntarily impose their own taxes to pay for benefits more expansive than those we propose. Added benefits might also be fully or partially federally funded.
4. If the taxable wage base were raised, workers in high-wage states would cost their employers more in UI taxes than workers in low-wage states. But equal tax rates would ensure that this difference was driven by labor costs, not taxes. The marginal dollar of salary would cost the same no matter what state it was paid in.
5. The other side of this argument is that raising the cap could discourage pay raises and potentially full-time work. In many jurisdictions, the cap is now so low that it is effectively a fixed tax per

employee, leaving employers indifferent to wage levels. (For a summary of the evidence that rated taxes affect only the “extensive,” or hiring, margin, see Guo and Johnston 2020.) With a higher cap, pay raises potentially lead to a UI tax increase. Depending on other UI rules, this principle can also translate into a preference for part-time employees: Once it is no longer advantageous to hire one \$40,000 salary worker instead of two \$20,000 salary workers, an employer might split a single position into two, perhaps to take advantage of other provisions that turn on full-time versus part-time status (Guo and Johnston 2020).

6. If states continue to pay UI benefits through state trust funds, expanding the wage base could help strengthen state finances (ACUC 1996; Vroman et al. 2017). Although states could cut rates in response to an expansion of their wage base, analysts predict that many states would still bring in additional revenue on net (CBO 2012).
7. The full federal rate is 6%, but it is reduced to 0.6% in states that are in compliance with federal law. The Department of Labor has never found a state to be so out of compliance, so the 6% rate has never been triggered.
8. Most states still use an antiquated variant (the “reserve ratio” method), in which long-standing employers can become insensitive at the margin to further changes in employment. Under this system, high-turnover firms are **strongly incentivized** to outsource work to contractors (Pavosevich 2020).
9. It does not appear that there are any strong reasons to encourage employers to challenge employee benefits. McLeod and Malcolmson (1989) argue that if employers are not rated based on their employees’ benefits, they will not be incentivized to share with government officials information that could indicate a fraudulent claim. We could not identify any evidence that this is the case. Moreover, fraud reduction is small compared with the direct impacts of experience rating. For example, reciprocity rates vary dramatically between high- and low-reciprocity states, with workers in high-reciprocity states receiving benefits more than twice as often as workers in low-reciprocity states (Desilver 2020). It is unlikely that differences in fraud detection explain a meaningful portion of these differences.
10. Our proposal builds on work by Vroman et al. (2017) and Miller and Pavosevich (2019). Miller and Pavosevich (2019) propose alternative systems modeled on Alaska’s payroll decline method. Vroman et al. (2017) conclude that none of the alternatives they modeled was clearly superior to the best options now in practice, but they did not consider the refinements Miller and Pavosevich propose, such as the use of the “average quarterly hours” measure we describe below.
11. Municipal and nonprofit employers often are not formally experience rated, but instead may opt to “self-insure,” which means that they pay into the system only when their employees claim benefits. Our proposal would therefore leave these employers with strong incentives to prefer lower benefits and to contest claims. It is likely all employers should be taxed by the same rules.
12. Although the use of average quarterly total hours—as Miller and Pavosevich (2019) propose—adds some complexity, it solves a key problem Vroman et al. (2017) identify. Consider a 10-worker firm that lays off all 10 workers in Q1 and rehires them in Q3. There is a 100% decline from Q1 to Q2 and an infinite percentage increase between Q2 and Q3. If the firm lays off and rehires only nine workers, there is a 90% reduction between Q1 and Q2 and a 900% increase between Q2 and Q3. Both these scenarios would produce highly inaccurate results for the rehiring employers. Using average total hours smooths these changes, so that in the second scenario, for instance, there is about a 130% reduction ($9/[(10+1+10)]/3$) in the number of employees followed by a 130% increase. Applying the discount factor, W , to the increase would result in a net reduction in hours, reflecting the fact that the firm made some use of the UI system.

13. For small employers, the quarterly components could be weighted by the quarter's total hours, a step that would tend to reduce the volatility of the measure (Vroman et al. 2017).
14. For example, suppose a state is projected to average \$1 billion in UI spending during high-cost periods but it has only \$750 million in its trust fund. A target AHCM of 90% would require the state to hold at least \$900 million in its trust fund. If the state cuts benefits, its projected spending might fall to \$800 million, allowing the target trust fund balance to be only \$720 million. The state has cut its way to its target.

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Section 3. Eligibility

Update UI eligibility to match the modern workforce, and guarantee benefits to everyone looking for work but still jobless through no fault of their own

Key proposals

- **Labor force attachment:** Expand UI eligibility to cover low-paid and part-time workers by focusing solely on hours worked rather than earnings, and set a lower hours threshold so that people working part-time or gig jobs can access UI. Cover workers who work at least 300 hours across the base period, and who work during two quarters of the base period. Determine the base period for eligibility based on the six most recent quarters of work and adopt this extended base period in all states so that workers with certain conditions that require them to reduce or stop work can qualify for UI.
- **Reason for separation:** Make UI available to people who are forced to quit because they have to care for a family member or have other family issues that preclude continued employment, they are being harassed or exposed to safety hazards on the job, or they are retaliated against for engaging in labor action such as a strike. Ensure UI coverage for workers who work in a seasonal or temporary work arrangement that ends.
- **Continuing eligibility:** Make it harder to cut off benefits to still-struggling workers unable to meet onerous reporting requirements or inflexible work-search requirements. Institute more flexible requirements that ensure continued UI eligibility for workers who have good cause for missing an appointment or failing to complete a work-search verification task, and those searching for part-time work. Allow workers engaged in education or training programs to continue receiving UI benefits.
- **Qualifying workers:** Bring workers who are currently excluded from benefits because their situation precludes “recent work history” into the system by providing some form of UI benefit to self-employed workers, seasonal workers, temporary workers, undocumented workers, new entrants to the labor market, and people returning to the labor market after taking time off for health or caregiving reasons or because they were incarcerated.
- **Overpayment collection:** Avoid unfairly penalizing workers who received excess benefits when no fraud is involved. Exempt households with incomes under 200% of the federal poverty line from repayment assessments, permit programs to waive repayment assessments when overpayments are made in error or repayment would be against equity and good conscience, and eliminate interest payments and other penalties.

Introduction

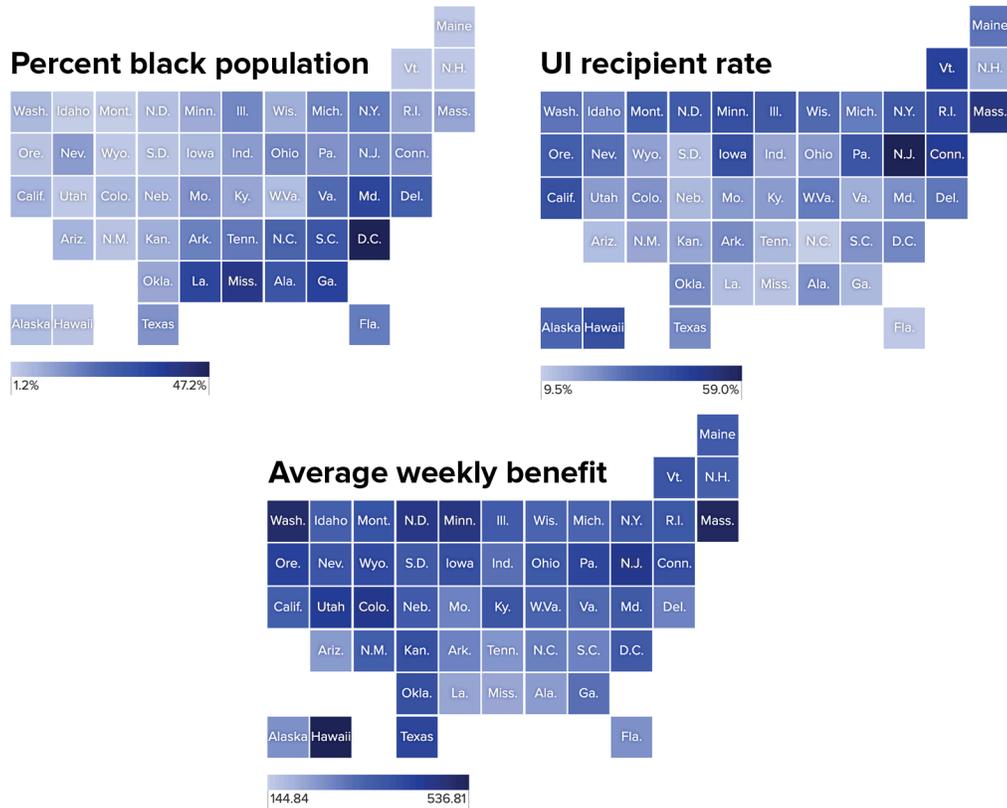
The problem

The unemployment insurance system is intended to provide income replacement to people who lose work through no fault of their own and who remain able and available for work. Yet, the program has always systematically excluded some groups of involuntarily unemployed workers—especially Black workers. The Social Security Act, which established the system, intentionally excluded agricultural and domestic workers—industries that included at least 60% of the Black workforce (Lichtenstein et al. 2000). Prior to the passage of the Social Security Act, 90% of Black women workers in our nation’s capital were in the agricultural or domestic work sectors (Asch and Musgrove 2017). Today, many workers remain systematically left out, as evident in data on UI “reciency rates” among separated workers (workers who have left a job for any reason, whether voluntarily or involuntarily). States that have high shares of Black workers tend to have lower reciency rates—shares of unemployed workers who actually receive unemployment benefits—as shown in **Figure 3A**. Across all unemployed workers in 2019, less than 3 in 10 received UI benefits, and that percentage is even lower for Black, Latinx, and Asian workers, according to government data (U.S. DOL-ETA 2021b; BLS 2019).

Federal UI eligibility guidelines enabling states to systematically exclude certain workers from receiving benefits have created an eligibility system plagued by structural racism. In order to receive UI, the federal government requires that workers satisfy both monetary eligibility criteria (demonstrating that they had sufficient recent earnings history prior to separation from work) and nonmonetary eligibility criteria (demonstrating that they separated from work through no fault of their own and are able and available for work). Within these broad guidelines, states set their own eligibility criteria. When they set criteria that effectively carve out sectors of the labor force in which workers of color are overrepresented, such as low-paid workers, temporary help agency workers, and workers for contract firms, state governments prevent our UI system from reaching all people who are un- or underemployed through no fault of their own (Tucker and Vogtman 2020; Kosanovich 2018).

The UI eligibility guidelines also result in systemic sexism and ableism that further hampers the UI system’s effectiveness. When states base eligibility for UI benefits on earnings rather than hours, women—who account for two-thirds of workers in the 40 lowest-paid occupations—are less likely to qualify (Tucker and Vogtman 2020).¹ When states deny UI benefits to part-time workers who would otherwise be eligible based on earnings, they disproportionately leave out individuals with disabilities, who are roughly twice as likely to work part time as individuals without disabilities, and women, who are four times as likely as men to work part time in their prime earning years (BLS 2020; IWPR 2016). And when states limit a worker’s ability to claim UI after separating from work for compelling family reasons, they are more likely to exclude women who face a loss of child care, are survivors of domestic violence and/or stalking, or other imperative reasons that workers leave their jobs. States’ restrictive guidelines on UI eligibility leave underpaid,

Figure 3A **Unemployment insurance benefits are less generous and more restricted in states with a larger share of Black residents**



View full interactive at epi.org/230539

Source: Black population data from U.S. Census Bureau, 2019 American Community Survey 1-Year Estimates, [Table DP05]; UI 2019 year data from the U.S. Department of Labor's [Unemployment Insurance Chartbook](#) (recipiency rates table) and [Monthly Program and Financial Data](#) (U.S. Census Bureau 2019; U.S. DOL-ETA 2021c, 2021d).

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part-time, undocumented, and self-employed workers behind, compromising the program’s ability to stabilize the macroeconomy and allow workers to handle living expenses even when their work income is reduced.

The solution

The UI system doesn’t have to be exclusionary and ineffective. Following the onset of the coronavirus pandemic, the federal Pandemic Unemployment Assistance (PUA) program brought jobless aid to nearly 16 million workers who were ineligible for traditional UI. As of March 2021, 40% of workers claiming unemployment benefits were receiving aid through the PUA program (U.S. DOL-ETA 2021e). That’s approximately 7.5 million workers who would have been without UI benefits under traditional UI eligibility criteria. Though Congress continues to extend the program, PUA was designed to be a temporary

Table 3.1

How alternative and standard base periods work

ABP quarter 1	ABP quarter 2	ABP quarter 3	ABP quarter 4	ABP quarter 5	Current quarter
Alternative base period (ABP)					
SBP quarter 1	SBP quarter 2	SBP quarter 3	SBP quarter 4	Lag quarter	Current quarter
Standard base period (SBP)					

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intervention. Congress must enact long-term solutions to expand eligibility. For too long, the federal government has stood by as states set eligibility criteria that serve to exclude low-wage workers, women, and people of color who are un- or underemployed through no fault of their own. Federal law should guarantee universal minimum eligibility standards, as we now describe.

Demonstrating sufficient labor force attachment

A set of criteria referred to as “monetary eligibility criteria” are designed to ensure that workers have sufficient labor force attachment prior to separating from employment. That is, monetary eligibility is supposed to help identify individuals who have been working. (Eligible reasons for separating from employment are described in the next section.) Typically, to be eligible for UI benefits, workers must accrue earnings greater than a specific threshold over a specific period of time, which is referred to as the base period. Some states also require that earnings be spread over multiple quarters, or that workers earn greater than a specific amount in at least one quarter of the base period (referred to as “high quarter wage” requirements).

In most states the base period is either the four most recently completed quarters (the alternative base period) or the four most recent quarters besides the current quarter and the most recently completed quarter (the standard base period) (see Table 3.1). The standard base period contains a lag quarter because prior to the use of electronic records, there was a lag in transmitting worker earning histories to UI agencies.

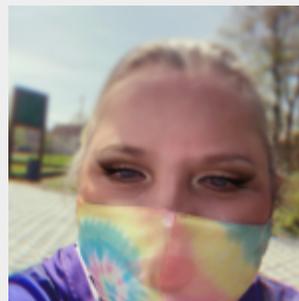
Context: How current monetary eligibility criteria exclude low-paid and part-time workers

Current monetary eligibility criteria prevent many low-paid and part-time workers from receiving benefits. Minimum wage and low-wage jobs are typically in industries in which

underemployment and volatile work hours are common, and monetary eligibility requirements often serve as a barrier to accessing benefits. For example, to qualify for UI in Arizona, minimum wage workers must work at least 390 hours in at least one quarter of the base period, which translates to more than 30 hours per week (Arizona Department of Economic Security, n.d.). Yet, many minimum wage workers—especially those in the food service and retail industries—are routinely scheduled for fewer hours per week than they would prefer to work, making it difficult to average 30 hours of work per week. Indeed, one-third of service-sector workers work part time involuntarily, and would like to be scheduled for more work hours (Schneider and Harknett 2019). As shown in Figure 3B, women—particularly women of color—are a disproportionate share of the low-paid workforce.

Dishwasher left out because of low wages

I was working as a dishwasher at the Red Lion Inn in Stockbridge before the pandemic. I'd been there almost a year, earning \$11 per hour and working between 10 and 25 hours each week. But I didn't qualify for state unemployment benefits—between low wages and part-time hours, I hadn't earned enough. Without PUA [the CARES Act program extending benefits to traditionally ineligible workers], my fiancé and I might have lost our house. There are a lot of low-paid and part-time workers like me in the service industry. Even though I didn't work many hours, I did bust my behind while I was there, and I deserve to be included in UI.



Lois Prew, Massachusetts

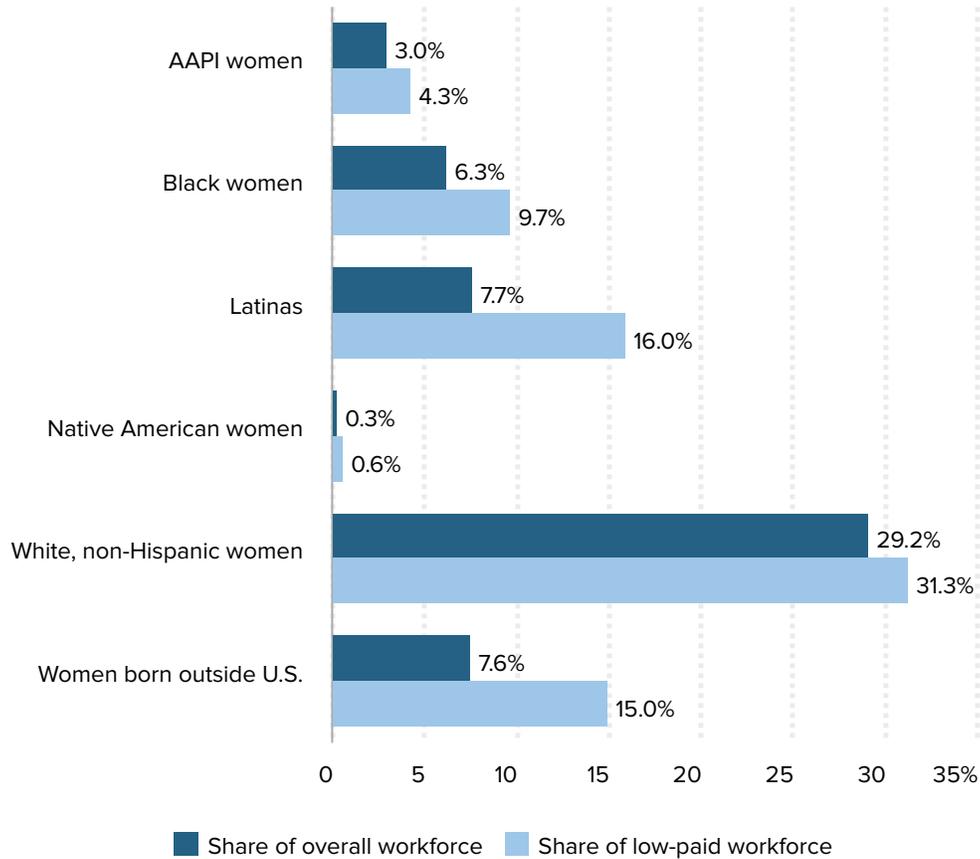
Policy proposal: Require 300 hours of work, and work in two quarters of the base period, for program eligibility

To ensure that the UI program meets its mandate of providing wage replacement to all workers who are attached to the labor force and lose a job through no fault of their own, a minimum federal financial eligibility standard should measure sufficient labor force attachment by hours worked rather than by earnings. Workers who work at least 300 hours in the base period, and who work during two quarters of the base period, should be eligible for UI.² This means, for example, that a worker who performed 15 hours of work per week for 20 weeks across two quarters would be eligible for UI benefits. This would help bring the program into reach for low-paid workers in the service sector. Importantly, hours from all work arrangements should be counted toward the 300-hour minimum, given that low-paid workers often work part time for multiple employers across the base

Figure 3B

Low-paid workers are disproportionately women and women of color

Women in the overall and low-paid workforces by race/ethnicity and nativity, 2018



Note: The low-paid workforce consists of workers in the 40 lowest-paying occupations. See Appendix I of Tucker and Vogtman 2020 for more information on the occupations. AAPI stands for Asian American/Pacific Islander.

Source: Adapted with permission from *When Hard Work is Not Enough: Women in Low-Paid Jobs* (Tucker and Vogtman 2020). Calculations based on 2018 American Survey Data from Ruggles et al. 2020.

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period.

Context: How short base periods with lags hurt certain groups of workers

To compute UI benefit levels and determine monetary eligibility, some states use the standard base period: a lookback period on wages earned in the first four of the five quarters preceding job separation. For example, if a worker was laid off in July, their monetary eligibility and benefit level could be determined by the wages they earned

between April in the previous year and March of the current year. Because the most recent quarter of work is excluded, eligibility is often determined using outdated and incorrect information that can lower benefit levels or exclude workers altogether. For example, a worker who earned \$6,000 in their most recent quarter but little in the previous four would be treated as though they had no earnings. The standard base period disproportionately harms low-paid, seasonal, and temporary workers and makes them ineligible for UI even when they have recent, qualifying work history. The most recent quarter was historically omitted because of lags in state data collection, but today that is no longer a necessity.

State efforts to address this problem have added unnecessary complexity by adding more base periods that apply to some workers. A majority of states now have implemented an alternative base period so that workers can elect to qualify based on work history in the four quarters immediately preceding job separation (eliminating the one quarter lag). Many states also use an extended base period of six quarters for workers with qualifying conditions—such as illness—that require workers to reduce or completely stop work, so that their wages earned prior to the onset of the qualifying condition can count toward UI eligibility.

Policy proposal: Extend the base period for determining eligibility to six quarters of work

It would be fairer for all workers for every state to use only the extended base period. Every worker should be able to qualify for UI using wages (or, under our proposal above, hours) from one of the six quarters preceding separation. Benefits that depend on the worker's highest-quarter average weekly wage could be drawn from any of these six quarters. Many low-paid, seasonal, and temp workers who are strongly attached to the labor force fall through the cracks of the UI system's limited definition of labor force attachment. Redefining labor force attachment using six quarters prior to a worker's separation from employment better captures the program's intended group of workers.

Demonstrating involuntary separation from work

Many states use UI eligibility criteria that exclude workers who separate from work through no fault of their own. These policies undermine UI's goal of providing working families with a backstop against involuntary job loss.

Context: How current programs exclude workers who may be compelled to leave their jobs

Many states recognize that limiting eligibility to only workers who experience employer-initiated separations is unnecessarily restrictive. These states extend eligibility for UI to

workers who leave their jobs for compelling personal or family reasons, including to escape domestic violence or stalking; care for themselves or a family member during illness or injury; care for children when alternative child care arrangements are unavailable; and to relocate with a spouse, partner, or co-parent who relocates for a job.³ Indeed, the federal government has indicated support for these provisions, incentivizing states to extend eligibility to workers in these circumstances as part of the Unemployment Insurance Modernization Act, which passed as part of the 2009 American Recovery and Reinvestment Act (NELP 2008, 2012).

Policy proposal: Expand eligibility to workers who quit for compelling personal reasons

UI benefits should be made available to workers in all states who leave their jobs for compelling personal or family reasons. Compelling personal reasons for separating from work extend beyond the home and into the workplace. When workers find themselves in employment situations in which their legal rights are routinely violated, they may be compelled to separate from their employer. Workers who can show that their employers violated anti-discrimination, health and safety, wage and hour, or collective bargaining laws should be eligible for UI. Significant deterioration in job quality, such as volatile or insufficient work hours, erratic scheduling practices, or cuts in pay are also compelling personal reasons to separate from employment and should qualify a worker for unemployment benefits.

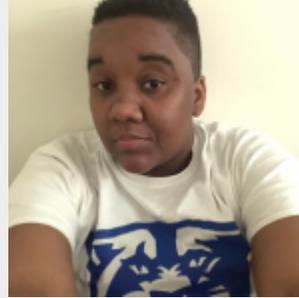
Context: How temp and home health care workers who lose assignments are denied coverage

Temporary and home health care workers help our economy run, offering their labor when temporary fluctuations in business or household needs require additional labor for a short period of time. Home health workers are disproportionately women and workers of color, Black workers are more likely to work as temps, and both groups often contend with low wages (BLS 2021; Kosanovich 2018; Wolfe et al. 2020). Full-time workers employed on a temporary basis earn 40% less than their counterparts in permanent work arrangements (Padin and Pinto 2019).

Our UI system does not serve temporary and home health care workers well. Many of these workers are employed by staffing agencies, and though their employment arrangements with a client or consumer may end through no fault of the workers' own, they remain technically employed by an agency, rendering many ineligible for UI benefits. Indeed, these agencies rely on a business model that assumes periods of time in which workers will not be attached to a client or consumer, and yet have developed rules—which many states have then adopted—to deny UI benefits when workers do not have active assignments or wages.

Retail worker left unprotected after quitting for just cause

When the pandemic hit I was working long hours at Walmart while attending Georgia State University full time. When my school went remote, I transferred to a store in Illinois so I could be with my family. Unlike the store in Georgia, the Walmart in Illinois allowed customers to walk around without masks. I was jeopardizing my health, safety, and well-being, and Walmart wasn't doing the bare minimum to protect us. I couldn't take the risk of passing COVID to high-risk members of my family, so I quit. But when I



Mattie Watson, Georgia

applied for assistance during a pandemic that has disproportionately affected the lives of African Americans, there was no help. This pandemic isn't the first time companies like Walmart create unnecessary health risks for their employees. We should be able to leave unsafe workplaces and rely on UI while we look for a job that doesn't threaten our health.

Policy proposal: Recognize that home health care and temporary workers separate from work involuntarily and through no fault of their own

Any worker who has completed or lost a job assignment through a staffing agency or home health care agency should be considered involuntarily laid off, or as having a "lack of work," regardless of whether or not the worker has returned to the same agency for additional assignments after a temporary assignment has ended (workers would still need to show they are available for work, but should not have to continue working with the same staffing agency to receive benefits). Relatedly, individuals paid by Medicaid to care for a spouse with a disability should be able to count these earnings as qualifying wages when the caregiving period ends, so that they can qualify for UI benefits.

Policy proposal: Extend eligibility to workers participating in strikes or other economic "concerted activity" related to organizing and collective bargaining

A private-sector worker's right to strike is legally protected by the National Labor Relations Act (NLRA). In practice, this right is undermined by a weak economic security system that

denies striking workers basic supports, like food assistance through the Supplemental Nutrition Assistance Program (SNAP). Workers who collectively organize and bargain for better labor conditions may participate in concerted activity that includes economic measures (e.g., work stoppages, strikes). Yet almost all states ban striking workers from receiving UI (Block and Sachs 2018). However, many states do extend limited eligibility for UI when work is interrupted due to employer-initiated lockouts, and at least one state extends eligibility when employers unlawfully terminate workers in the context of labor disputes.⁴

To support workers who exercise their legal right to undertake collective action to improve their workplaces, unemployment aid should be available for workers who lose pay due to work stoppages. Further, to strengthen workers' rights to collectively bargain and form a union (and to include workers participating in solidarity but who are not eligible for membership), this coverage should extend to all workers, not just dues-paying union members.

Establishing continuing eligibility

Workers must establish their UI eligibility not just once, but week after week. After UI claimants are initially determined eligible, they must prove continuing eligibility for the duration of their claim. The underlying principle behind these eligibility criteria, sometimes referred to as “nonseparation issues” because they do not relate to the worker’s initial separation from work, is that recipients demonstrate to the state that they are able to perform, and that they are available for, and actively seeking, work.

Data suggest nonseparation denials are growing, potentially threatening the overall health of the UI system. Following the end of the Great Recession, nonseparation-related denials increased 57%, and the increase in denials due to nonseparation issues account for approximately 20% of the post-Great Recession decline in UI coverage (Vroman 2017 cited in Wentworth 2017). Stringent reporting requirements create additional administrative costs and may impose needless red tape burdens on workers already searching for work (Klepinger, Johnson, and Joesch 2002). Evidence suggests they often do not save money for UI programs, and may reduce wages for workers who are forced to exit UI before finding a good job (van den Berg and Van der Klaauw 2008; Klepinger, Johnson, and Joesch 2002).

Federal regulations adopted in the George W. Bush administration contribute to this situation.⁵ Many states have increased work-search requirements—for example, increasing the number of new employers that job seekers must contact each week—and reporting in response to federal pressure (Wentworth 2017). While most states initially only performed audits of these requirements, many states now require detailed weekly reporting of work search. As of 2017, roughly seven of every 100 weekly claims filed nationally were disqualified due to a claimant’s inability to prove their status as able to work, available to work, or actively seeking work (Wentworth 2017). But that number rose to more than 15 of every 100 claims in states that require detailed work-search reporting and more “employer contacts” per week (Wentworth 2017).

There is room to reconsider whether recent developments in intensified work-search verification should be fully reversed. For now, we offer key improvements to the existing system.

Policy proposal: Allow workers to receive benefits if they have good cause for missing an appointment or work-search verification

Work-search requirements cannot be one size fits all because workers are not one size fits all. For example, requirements for documenting the same level of work search throughout the unemployed period do not take into account the fact that many workers front-load their search in the first few weeks of unemployment, rather than making just a few employment inquiries each week. Other workers have limited options for work search, especially if they expect an eventual recall date. Every state should allow workers to continue collecting benefits if they establish good cause for failing to perform required work-search activities in any given benefits week. Additionally, if workers fall short of work-search requirements, they should lose benefits only for that week, not be permanently removed from the program. Similarly, states should permit workers to continue collecting benefits if they have good cause for failing to register for employment services or missing a reemployment session, such as for language access issues, lack of notice, or inability to access transportation.

States should not require more than two work searches per week and, if they require weekly reporting, should only require reporting of the employer's name, ZIP code, and type of contact. Additional reporting burdens impose needless hassles and unfair disqualifications on workers who are searching for work, while failing to screen out workers who are not (van den Berg and Van Der Klaauw 2008; Klepinger, Johnson, and Joesch 2002).⁶ It is important to build in exceptions for workers who are on temporary layoff, are working part time, or who can establish that they have exhausted the work opportunities in their locality. Finally, because weekly recertification processes have disproportionately affected low-paid workers without reliable computer access, states should be encouraged to use less burdensome approaches, such as periodic audits to verify that workers are engaging in search efforts.

Policy proposal: Ensure that workers who are able and available for part-time work are eligible for benefits

Part-time work is common in the United States. On the eve of the pandemic, 17% of the workforce was engaged in part-time work, and in past recessions, rates of part-time work have risen and stayed elevated following the recession (Golden 2020). About one in six part-time workers would prefer to work full-time hours, but are unable to secure full-time work (Golden 2020). These workers, known as involuntary part-time workers, are

underemployed through no fault of their own, but often are ineligible to receive standard UI benefits in the current system.

Including part-time workers in UI eligibility criteria is an issue of gender and racial equity. Women and Black and Latinx workers are overrepresented among those who are involuntarily underemployed (Golden and Kim 2020). Voluntary part-time workers—those who work part-time hours by choice—are also more likely to be women and more likely to have caregiving responsibilities than full-time workers (West et al. 2016). Thus women and people of color are disproportionately left behind by features of the UI eligibility system that have the effect of excluding part-time workers (see below). Ensuring that part-time workers can claim UI is important for gender equity, the economic security of these marginalized communities, and for the strength of the U.S. economy as it emerges from recessions.

In many states, many workers must search for, and be able and available to perform, full-time work. Most states—but not all—will consider a worker searching only for part-time work as “available” if they qualify for UI based on a part-time work history, but often this allowance rests on uncertain legal grounds (NELP 2004). Exclusion of part-time workers from UI benefits perpetuates the second-class status of part-time work, which pays less per hour than full-time jobs, provides fewer benefits, and is disproportionately performed by women (Golden 2020). Part-time work is also an important accommodation for workers with disabilities.

Federal standards should ensure that part-time workers in all states remain eligible when searching for part-time work. Moreover, workers who separate from full-time work but wish to transition to part-time work for major life events (such as the birth of a child or illness/injury of a dependent) should be eligible for UI benefits if they make a good faith effort to find work that is suitable for them given their caregiving responsibilities.

Policy proposal: Allow workers engaged in education or training programs to continue receiving UI benefits

Workers who qualify for UI benefits are given a limited period of time to find full-time employment before they are no longer eligible for UI payments. Claimants who are unable to find work by the end of the UI period may benefit from further education or training to obtain a job, but do not have the financial support to do so.

Qualifying workers who have exhausted regular benefits should be provided with up to 30 weeks of additional unemployment benefits while participating in state-approved education or training. Labor union-led training programs, including joint labor–management training, should provide a supplemental benefit per week (e.g., \$75 per week in the first benefit year, indexed to mean wage growth) to workers enrolled in a relevant apprenticeship or retraining program. Likewise, workers on partial UI benefits should be able to extend their benefits beyond exhaustion if they participate in qualifying

educational and training programs.⁷ These funds would help cover living, commuting, and child care costs while workers make this good faith effort toward securing employment. UI grant funds should also provide a relocation stipend to help workers move to job opportunities.

Demonstrating that one is a qualifying member of the labor force

In order to be eligible for UI benefits, eligibility criteria specify that workers must separate from employment through no fault of their own and demonstrate a sufficient attachment to the labor force prior to separation. However, many workers are unemployed through no fault of their own and are attached to the labor force, but still do not qualify for UI benefits. UI eligibility criteria leave out new labor market entrants and reentrants, including workers leaving incarceration, self-employed workers and independent contractors, and undocumented workers.

Policy proposal: Explore solutions for covering undocumented workers in the UI program

Like all other workers, undocumented workers provide labor and consume goods. Their economic behavior is an engine of the U.S. economy, and coverage by the unemployment insurance system would ensure their economic security and contribute to broader economic stability. Many employers contribute taxes to the UI system on behalf of undocumented workers, and a majority of undocumented immigrants pay federal and state income taxes (Dyssegaard Kallick 2020; Hallman 2018); yet, federal and state laws preclude workers who are not authorized to work from accessing traditional unemployment benefits, although exact coverage details are complex (Smith 2020). Some states have shown that they value undocumented workers and believe they should participate in the social safety net, such as through New York's recent Excluded Workers Fund (NYS DOL n.d.).

Extending unemployment benefits to undocumented workers who lose work through no fault of their own is in keeping with the UI program goals. For this reason, undocumented workers should be covered by the UI program. UI coverage would also provide protection for undocumented workers against exploitation and abuse by permitting them to collect benefits while they search for new work. Yet the implementation of such a reform is complex. As policymakers consider policy solutions for extending UI coverage to undocumented workers, they should ensure that robust privacy protections are in place for applying workers, and that application procedures can be firewalled from immigration enforcement authorities so that workers would not be subject to criminal prosecution or deportation because of information uncovered through the UI application process, and that any new provisions in UI law are compatible with other laws. Many workers will have wages in the system associated with their individual tax identification of Social Security

numbers, but workers whose wages were not reported should be able to engage in a wage investigation and provide proof of earnings similar to any other claimant.

Another way to expand UI access to as many immigrant workers as possible is to pass legislation providing a pathway to citizenship for undocumented immigrants. Over 5 million undocumented immigrants are essential workers (FWD.us 2020). These workers live precariously in the United States, at disproportionate risk of labor exploitation, and at constant risk of being separated from their families and communities.

Policy proposal: Provide a Jobseeker's Allowance to new labor market entrants and reentrants

In the current UI system, workers without recent work history are ineligible for UI, even when they are involuntarily unemployed. Yet, research shows that providing income support can facilitate reemployment, benefiting both job seekers and the broader economy (Faurer, Rogers-Brodersen, and Bailie 2014; Wandner, Balducchi, and O'Leary 2018). Income support during a job search could benefit students who struggle to find work when graduating into a sluggish economy; individuals returning from incarceration, who face numerous barriers and discrimination in the labor market; and people returning to the workforce after raising children or caring for a sick family member.

UI benefits should be expanded to include people seeking to “reconnect with or newly attach to the labor force” through a Jobseeker's Allowance, or JSA (West et al. 2016).⁸ As a federal program, JSA eligibility standards would be determined by the federal government with the enforcement of programmatic requirements and benefit supplements falling on state agencies. A federally funded JSA would provide a modest, weekly stipend to active job seekers ages 16 and older who do not qualify for UI based on their recent work history, and whose annual household income is below the Social Security maximum taxable wage. Again, a key eligibility factor for the JSA is UI ineligibility due to lack of or limited work history, or disqualifying work separation. A modern UI application system would allow workers to receive notice that they do not financially qualify for UI and could automatically file an application for JSA based on the same information.

For example, the JSA would cover workers newly entering or reentering the workforce, self-employed workers looking to transition or increase their hours, temporarily or permanently disabled workers, and workers coming out of illness or a caretaking role. Participants would be eligible to receive a JSA benefit for a continuous period based on the prevailing potential benefit duration (PBD) for standard UI, and a maximum of 52 weeks within any rolling five-year period. Exceptions would be available for households experiencing extreme hardship, and the PBD and 52-week caps would be extended by any periods of extended or emergency benefits authorized during the five-year period. Workers with barriers to employment, such as domestic violence survivors and people with criminal records, could be allowed additional weeks of the JSA, which would count against their five-year limit, and should be given additional wraparound services to

address their needs. Weeks of training, education, or subsidized employment while participating in the JSA would not count against a job seeker's time limit.

Like other federally funded programs, JSA benefits would be administered at the state level by state UI agencies and managed at the federal level by the U.S. Department of Labor. While the JSA benefit would be federally funded through general revenue, state administration and service administrative costs would be funded through a 1:1 federal match of state spending. State participation would be part of the universal minimum guarantee required as a condition of the low 0.6% federal tax rate on employers.

We propose that the JSA program work as an earned income program with less robust benefits than UI by halving the number of weeks recipients can earn (that is, half the PBD prevailing in a state at the time of JSA application) and reducing the weekly stipend to half the average weekly benefit rate of UI. Because a key goal of the JSA is to provide an opportunity for gainful employment, job seekers would not be penalized for earning supplemental income. Instead, program participants could earn up to half their stipend each week in supplementary income before triggering a reduction of their JSA. Upon acceptance of a full-time job, workers could allocate their remaining stipend funds to relocation if required for the new opportunity.

The Jobseeker's Allowance would promote economic stability and growth by providing income support for a group of the un- and underemployed who are often overlooked by workforce development programs. The JSA would require unemployed job seekers to meet work-search requirements, at least as strict as state UI work-search programs, or engage in educational and training opportunities for receipt of the stipend over the course of the program. The income support would allow job seekers to manage their living costs while holding out for a higher-paying job, thereby promoting economic growth. Additionally, the job search assistance would allow workers to skill up and transition into new industries.

A working JSA program would further the goals of the traditional UI program but serve a different constituency. By serving workers without recent labor force attachment, the JSA would expand income insurance programs to allow job seekers and their families to continue to support the economy in the short term by spending stipend dollars, while increasing taxable income in the long run. With workforce training and job search assistance, job seekers would more quickly enter or reenter the labor market, thereby lessening their need for other assistance programs and the likelihood of adverse socioeconomic effects caused by unemployment.

The availability of a small benefit for self-employed individuals may encourage shifts of workers to contractor status, including many worker misclassifications. To mitigate this, in the finance chapter we detail recommendations to ensure that workers are properly classified using the so-called ABC test, and to tax larger employers who make extensive use of contractors as though those individuals are employees. The finance chapter also notes additional enforcement resources needed to make those guardrails meaningful.

UI eligibility for workers leaving incarceration

Over half a million people emerge from U.S. prisons each year (Carson 2020). Formerly incarcerated people are often unemployed at alarmingly high rates and face significant barriers to reemployment. For example, the unemployment rate among the formerly incarcerated is 27%. Once again, this disproportionately impacts Black workers and women: Forty-four percent of formerly incarcerated Black women are unemployed (Couloute and Kopf 2018).

A large body of research shows that securing employment is associated with a host of positive outcomes for people exiting incarceration and reentering broader society (for a survey, see Galle 2021). Individuals transitioning out of incarceration often lack financial stability during their reintegration and work search, and research suggests that providing monetary benefits would not only help individuals cover expenses and reenter the workforce, but would also likely reduce recidivism (Galle 2021).

A JSA could help workers leaving incarceration to manage expenses while they look for work. In addition to aiding with the cost of living and job training programs, a JSA could cover other necessities for obtaining a job, such as new clothing, transportation to job interviews, or child care.

The JSA can complement other UI policies that would help transition individuals from prison to the workforce. UI benefits for formerly incarcerated workers enable them to search for a job that is a good match (Farooq, Kugler, and Muratori 2020; Venator 2021). But to access full UI benefits, these workers need work-search rules that recognize their unique post-release obligations, such as community service or parole/probation reporting. Since they often will lack recent work, our proposed six-quarter base period will also help these workers establish qualifying hours or wages. Together, flexibility in work-search requirements, an extended base period, and a JSA can help recently incarcerated individuals to find a good job, not just the first available.

Policy proposal: Ensure that self-employed workers and independent contractors are eligible for benefits

The PUA program expanded eligibility for jobless aid to self-employed workers and independent contractors during the coronavirus pandemic.⁹ Between April 2020 and February 2021, nearly 10 million self-employed workers were deemed eligible for benefits through PUA (U.S. DOL-ETA 2021a). Employers who contract with self-employed workers do not pay into the UI system for these arrangements. In many such cases, these employers have fraudulently misclassified their workforce as independent contractors to

avoid contributing to the UI system and to skirt other labor standards (West et al. 2016). Correctly classified self-employed workers and independent contractors are no better off than misclassified workers, as they are entirely excluded from unemployment insurance eligibility.

We believe an important goal of a meaningful safety net for the modern economy would be for self-employed workers and contractors to be eligible for UI benefits when they involuntarily lose work, just as traditional employees are. Our expanded JSA proposal, together with ensuring proper classification of workers as employees under the ABC test, will make important strides in that direction.

We recognize that this goal carries with it implementation challenges, and that any solution will likely require continuing study and updating. Preliminarily, we recommend that a contractor's eligibility under our proposal (the required 300 hours of work during the six quarters prior to separation) be determined in the same way as a traditional employee's eligibility, in many cases drawing on records that will be collected as part of our proposal to implement taxation of 1099-filing enterprises (see Section 5, on finance, in this report). (In the event that some financial eligibility criteria are retained, a contractor's eligibility would also be determined in the same way as a traditional employee's.) Eligible separations, and availability for work criteria, would be defined for these workers in the same way as for other workers, but verification procedures might need to be adapted to the available data.

As with the JSA proposal, there is a potential concern that the availability of benefits for contract workers will encourage some businesses to shift or misclassify workers to that category. Again, our proposal includes at least three key elements to make sure that does not happen. Taxing 1099-reported payments mitigates any tax advantage to shifting workers to contractor status. Installing the ABC as a universal guarantee, and providing additional and worker-directed enforcement resources, will further help to protect against gaming the system.

Ensuring fairness in the assessment and collection of overpayments

During the COVID-19 pandemic, national attention has focused on criminal enterprise fraud (or cyber fraud) in the unemployment system (see, for example, Mulvihill and Welsh-Huggins 2021). But in normal times, the vast majority of improper payments in the unemployment system involve workers who are paid more in UI benefits than they should have been due to confusion or mistakes by claimants or errors by the UI agency. Claimants are often required to repay these overpayments, despite the fact that the receipt of these funds—not caused by any misrepresentation on their part—still addressed the core economic stabilization goal of the unemployment program. Many workers, understandably, no longer have access to funds to repay the overpayments, as they spent the benefits on necessities during their period of unemployment.

Policy proposal: Permit waiver of nonfraud overpayments for both state and federal UI benefits

While ultimately each of the current federal programs (Pandemic Unemployment Assistance, Pandemic Emergency Unemployment Compensation, and Pandemic Unemployment Compensation) now permit waiver of nonfraud overpayment assessments when repayment would be “against equity and good conscience,” several state UI programs do not permit waiver of state overpayment assessments. Application of the equity standard has been uneven and created uncertainty when struggling families need stability. We recommend that households with income (including UI income) below 200% of the federal poverty level should have repayment requirements waived for nonfraud overpayments, tracking a similar approach to the Affordable Care Act’s premium support tax credits (IRS 2021); for simplicity, recipients of other means-tested benefits could be presumed eligible for a waiver. As a backstop, states should also be required to waive nonfraud overpayment assessments when repayment would be “against equity and good conscience” or otherwise inconsistent with the goals of the UI program (such as when the individual needs substantially all of their current income to meet their current living expenses), upon application by a claimant. States should be permitted to waive assessments en masse in instances in which the overpayment was caused by a systematic error in the state’s procedures or technology. States should have the burden of showing that a claimant fails to meet these criteria.

Policy proposal: Create stronger fairness protections for the assessment of fraud overpayments

In spite of the fact that most improper payments are the result of mistakes or misunderstandings, many states assess debilitating repayments of alleged fraud overpayments and institute bans against claimants with little evidence of intent to commit fraud. Depending on the state, fraud overpayments must be repaid with interest and can result in withheld wages, liens against property, and garnishment of federal tax refunds. Furthermore, UI agencies often issue additional penalties for repayment. For example, the penalty is 15% in the District of Columbia, 40% in Minnesota, and 100% in Michigan (D.C. DES 2016; MUIP n.d.; MDLEO 2020). Federal law does not cap the penalty states can impose.

We have four recommendations to create stronger fairness protections for the assessment of fraud overpayments. First, assessments of fraud overpayments should be prohibited unless the state can prove intentional misrepresentation on the part of the claimant by clear and convincing evidence.

Second, automated decision-making for fraud overpayment assessments should be banned. Claimants must be given proper notice that explicitly denotes the alleged

fraudulent behavior and an opportunity to address those allegations before any assessment of fraud overpayments is made. Automated decision-making has no place in a system that requires consideration of culpability. Claimants have already faced disastrous outcomes in states that have permitted automated decision-making for fraud overpayments (Wykstra 2020).

Third, states should have a statute of limitations on when a fraud overpayment can be assessed against a claimant. In some states, like Pennsylvania, an eligible claim can be reviewed at any time in the future, meaning that claimants could be assessed a fraud overpayment even if it has been years since the claim year.¹⁰ This often means that by the time an agency issues paperwork to the claimant about the potential overpayment, the claimant no longer lives at the same address on the claim, or is not closely reading mail from the UI agency. For many claimants, this can result in “default” fraud overpayments, in which they miss any opportunity to participate in the decision-making or file an appeal. States should only be permitted to assess fraud overpayments against claimants within three years of the application date of the ineligible claim.

Finally, federal law, which currently sets a floor of 15% for fraud penalties, should instead set a 15% ceiling for fraud penalties. Genuinely criminal activity, such as organized efforts to defraud the UI system, should be handled by law enforcement agencies, and funding could be increased by the U.S. Department of Labor inspector general to address that, as well.

Endnotes

1. As of 2019, only Washington state lacked a minimum earnings test; only Connecticut, Delaware, Hawaii, Nevada, and North Carolina impose minimum earnings requirements of less than \$1,000 (U.S. DOL-ETA 2019).
2. This grants flexibility such that a worker who works 10 hours per week in three of the quarters has the same rights to benefits as a worker who works 20 hours per week in two of the quarters or a worker who works 35 hours per week in all quarters. In this context, when we write that there should be a federal “minimum,” we mean that states would be allowed to adopt policies that provide for more expansive access to UI, so that they could require fewer than 300 hours.
3. These expansions largely mirror those proposed by West et al. (2016); their paper gives a review of states that currently have these policies and dives deeper into the rationale behind these commonsense expansions.
4. For example, Massachusetts covers employees affected by employer-initiated lockouts but not employee-initiated stoppages (Massachusetts General Laws Part I, Title XXI, Chapter 151A, Section 25. Washington state extends eligibility to some workers who quit or are fired during labor disputes, and those who are locked out, but not to picketing or striking workers (Washington State Employment Security Department n.d.).
5. 20 CFR § 604.6
6. See, for example, Arizona (<https://des.az.gov/work-search>), Florida (<https://www.worksearchrequirements.com/fl/florida.html>), and Louisiana

(<https://fileunemployment.org/louisiana/job-search-requirements/>) job-search and reporting requirements. Among the excessive requirements are demands for four or more contacts weekly spread out on four days; keeping detailed lists of specific work sought; and collecting employer contact persons' names, phone numbers, and email addresses.

7. Partial unemployment benefits are available to workers who experience involuntary reductions in hours or who are returning to part-time work after collecting unemployment benefits (NELP n.d.).
8. Experts at the Center for American Progress, the Georgetown Center on Poverty and Inequality, and the National Employment Law Project developed a comprehensive proposal for establishing a Jobseeker's Allowance as part of the Unemployment Insurance system (see West et al. 2016). The JSA policy recommendations in this report build on this seminal proposal.
9. Though most people think of PUA as primarily intended to assist self-employed workers, only 41% of PUA applicants were self-employed between April 2020 and February 2021 (U.S. DOL-ETA 2021a).
10. *Gallagher v. Unemployment Compensation Board of Review: Commonwealth Court of Pennsylvania 2017*; *Byrd v. Unemployment Compensation Board of Review, Commonwealth Court of Pennsylvania 2019*

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Section 4. Benefit duration

Expand UI benefit duration to provide longer protection during normal times and use better measures of labor market distress to automatically extend and sustain benefits during downturns

Key proposals

- **Duration of standard benefits:** Provide longer protection for unemployed workers during normal economic times by setting the minimum duration of potential benefits at 30 weeks during periods of low unemployment.
- **Duration of extended benefits:** Respond faster and more uniformly to growing labor market distress by using federal and state unemployment rates and changes in unemployment rates to automatically and rapidly trigger on extended benefits when the economy is deteriorating (when the unemployment rate reaches 5% or is 1.3 times the minimum unemployment rate in the previous year). Enhance the economy-stabilizing effects of extended benefits by lengthening duration as the labor market worsens, to as many as 99 weeks (when the unemployment rate reaches 10% or 3.2 times the initial minimum unemployment rate).
- **Phased reductions of extended benefits:** Support still-struggling groups of workers and stabilize state economies by eliminating “look-back” provisions that allow extended benefits to trigger off while the labor market remains weak (when unemployment is stabilizing at an elevated level or falling only because people have given up actively searching for work). Instead, sustain benefits until unemployment rates are declining and the declines are driven by rising employment (as indicated by a 0.2% reduction in the share of the state’s 25- to 54-year-olds with a job, i.e., the prime-age employment-to-population (EPOP) ratio (see Table 4.1 for the full set of on- and off-triggers).
- **Federal data enhancements:** Acknowledge the workers who tend to be left behind in recoveries with more targeted data. Require the Bureau of Labor Statistics (BLS) to develop state-level measures of prime-age employment rates that are reliable enough to use as UI off-triggers. Also require the BLS and the Department of Labor Office of Employment and Training Administration (U.S. DOL ETA) to analyze flows of workers out of UI reciprocity and into paid employment by demographic and labor market characteristic to ensure that benefit extensions under future reforms do not trigger off when the overall labor market improves but it is actually just more-credentialed workers who are benefiting.

Introduction

The problem

The maximum length of time for which eligible workers can receive unemployment insurance benefits is too short in many states in normal times, grows too slowly and too little under automatic expansions during times of economic distress, is often prematurely cut short, and reinforces existing damaging disparities in the labor market by race.

Currently, it is up to state legislators to set the “potential benefit duration” (PBD) for the standard UI programs in their state. The current UI system does not provide benefits that last long enough to alleviate economic insecurity and enable workers to secure well-matched reemployment during normal economic times, largely because the standard number of weeks provided by most states—26—is well below international norms, and because a growing number of states provide even fewer weeks of eligibility.

Further, during times of labor market distress caused by negative economic shocks, potential benefit duration is not responsive enough to economic conditions. The automatic triggers that extend additional weeks of benefits to workers in high-unemployment states under the permanent Extended Benefits (EB) program have glaring flaws. Those flaws—explained below—have prompted Congresses in past recessions to enact ad hoc emergency programs to provide additional federal UI benefits. For example, over the Great Recession and through 2013, roughly *8.5 times* as many weekly claimants received benefits from the Emergency Unemployment Compensation (EUC) program enacted by Congress in 2008 than from the EB program.¹

The weakening of social insurance stemming from the shrinkage of potential benefit duration in some states in normal economic times and the failure to always maintain extended PBDs during periods of macroeconomic distress is apparent. UI is meant as wage replacement during periods of joblessness, but unemployed workers who receive fewer weeks of benefits have a smaller share of wages replaced by UI benefits and are under greater pressure to accept alternative work that is not a good fit for their skills and preferences.² Further, cuts in weeks of benefits are highly likely to disproportionately harm workers with job search barriers like a lack of formal credentials or systemic discrimination based on race, ethnicity, gender, sexual identity, or other factors. These workers—and others who have a smaller cushion of savings for emergencies—rely on the social insurance function of UI the most, and shrinking PBDs disproportionately harm them.³ Short benefit duration particularly harms workers of color, as structural racism in labor markets leads to their suffering long durations of unemployment on average (BLS 2021). The limited duration of UI benefits keeps the UI system from being fully effective, not only in alleviating economic insecurity during downturns but also in providing a needed boost to the overall economy: Extending unemployment insurance to workers who then spend that money on necessities in the economy is one of the most prominent ways the federal government can combat macroeconomic contraction, and current policy prevents this tool from being used effectively.

The solution

A small number of straightforward policy reforms can significantly address the problems with potential benefit duration in the current UI system. We propose policy reforms to shore up the baseline level of PBD during normal times, make PBDs adjust rapidly and predictably—without relying on ad hoc actions by Congress—during periods of labor market distress, and ramp down gradually as key economic benchmarks are hit. Federal law should guarantee universal minimum benefit duration, as we now detail.

Implementation

Federal standards should be implemented to ensure that all states follow the processes for determining benefit duration outlined in this chapter.

Setting potential benefit duration in normal economic times

Unemployment insurance is a hybrid federal–state program. During normal times when the labor market is not distressed, states finance the regular UI system and state legislatures decide the potential benefit duration for their state. For decades following the enactment of the UI system, all states followed a norm that the minimum PBD should be 26 weeks. Before the Great Recession of 2008, for example, all states had PBDs of least 26 weeks.

However, since then, many states have weakened this standard. Before the COVID-19 economic shock hit the U.S. in March 2020, 10 states had reduced PBDs in their normal UI programs to less than 26 weeks (Whittaker and Isaacs 2019; Evermore 2020).⁴ Additionally, even after the COVID-19 shock prompted some states to restore some weeks of benefits, bills were introduced in a handful of states to reduce PBDs, and one appears headed for the governor’s signature (Golshan and Delaney 2021; Styf 2021).⁵ Reductions in normal PBD take needed assistance away from families while they are still struggling, as well as undermining the system’s macroeconomic stabilization goals in times of crisis.

Context: How low baseline levels of benefit duration weaken the economic stabilizing capacity of the standard UI program

When the economy contracts and people are no longer working, their earnings losses translate directly into spending declines, leading to further contraction. UI benefits kick in during these periods of macroeconomic contraction and offset some of that lost spending, helping to stabilize the economy. Low baseline levels of state PBDs hurt the macroeconomic stabilization function of the UI system in at least three ways. First, even

during steep and long recessions, the majority of unemployed workers are getting UI benefits through standard programs, not extended benefits programs (including both the regular EB program and the ad hoc emergency programs).⁶ If the PBDs of these normal programs are shortened, it makes UI less effective as an automatic stabilizer. This is particularly true early in recessions, before any extended or emergency benefit programs have a chance to kick in.

Second, the states with reduced PBDs during normal times are also states with notably low reciprocity rates, and these low baseline levels combined with their potential to discourage workers from applying mean there is less UI benefit spending stabilizing the economy.⁷ (Short PBDs might help convince unemployed workers that it is not worth the potential hassles of navigating the UI system.)⁸

Third, in the current system, the generosity of federal financing for extended benefits is determined in part by the state's PBD of normal UI benefits, and this is often the case as well with the ad hoc emergency benefit increases financed during recent recessions. Reducing normal PBDs can hence reduce states' availability to receive federal financing for extended benefits, or can reduce the amount they receive.

Policy proposal: Set a minimum potential benefit duration of 30 weeks during normal economic times

Before the COVID-19 shock, the state with the longest PBD was Massachusetts, which provided 30 weeks of benefits. Given that 30 weeks obviously provides longer protection for laid-off workers, and given that there is little to no evidence that the longer PBD in Massachusetts did any harm to their labor market or state economy, we suggest that the current gold standard among U.S. states set the new benchmark for a reformed UI system.

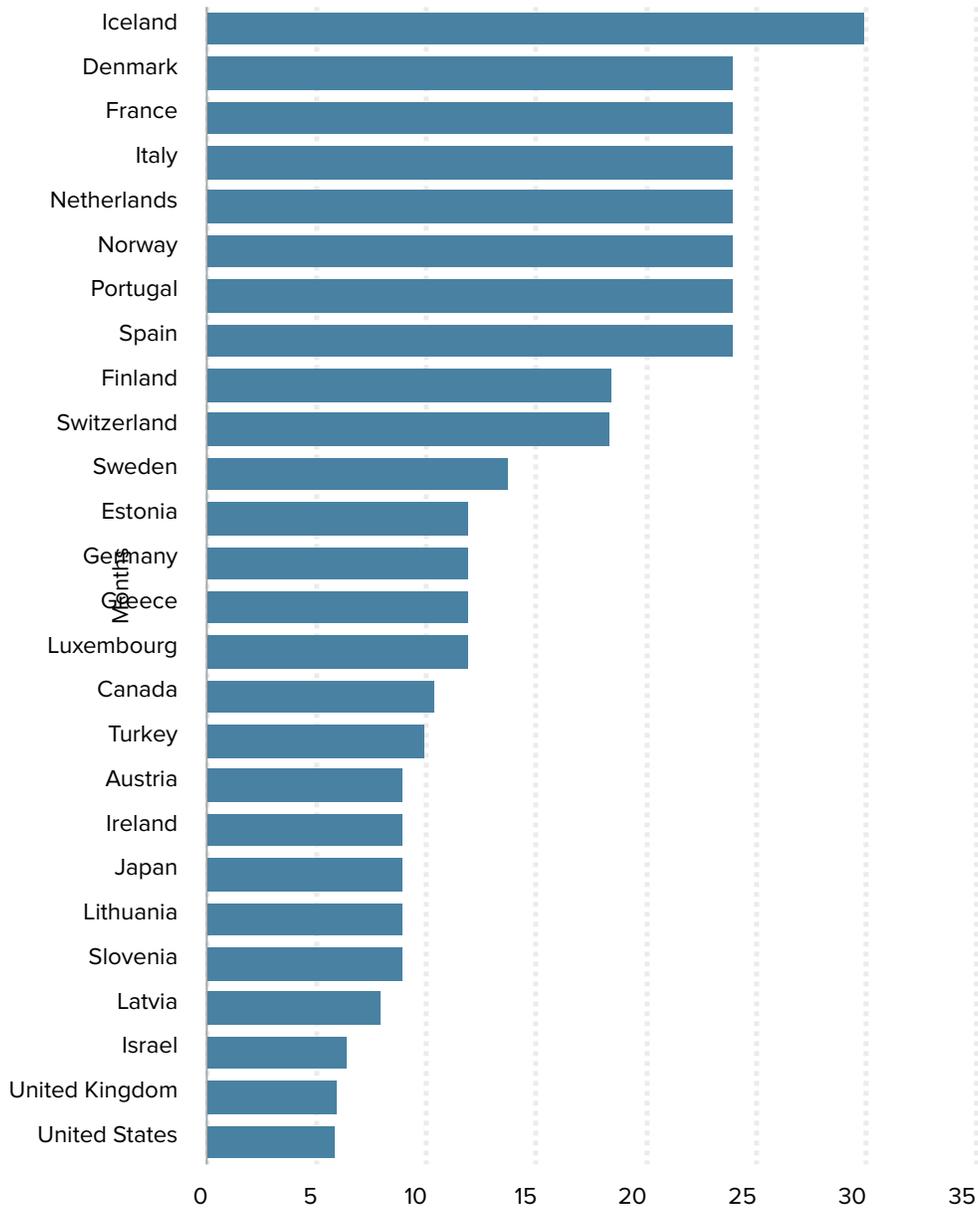
It is perhaps useful to note that a 30-week minimum would still leave the benefits available in the United States among the shortest in the developed world. **Figure 4A** shows the maximum PBD across a wide range of U.S. peer countries.

Social scientists agree that 26 weeks is too short to effectively serve UI's basic purposes. Outside recessions, 2 million individuals on average collect some UI benefits in a given week. Of these, between 200,000 and 300,000 individuals will exhaust their available UI benefits each month (von Wachter 2019).

Figure 4A

U.S. workers get fewer months of unemployment benefits than workers in other developed countries

Months of maximum potential benefit duration (PBD) of UI benefits in select OECD countries, 2019



Note: The original OECD chart compared Michigan with the selected countries. This analysis replaced Michigan with the U.S. national median maximum potential benefit duration of 5.9 months. Canadian data reflect UI PBDs in the province of Ontario.

Source: Authors' analysis of OECD 2021 data.

Setting potential benefit duration during downturns

The existing “automatic” system for increasing the number of weeks that unemployed workers can receive UI benefits during economic downturns has triggers that are deeply flawed. The Extended Benefits program triggers are not responsive enough, do not trigger benefits early enough during downturns, and “trigger off” extended benefits too soon. Again, by making benefits too brief, these flaws deepen family hardship and worsen recessions.

Broken Extended Benefits program depletes retirement, damages credit, and harms mental health, Donalyn Manion, Kansas

“I am 55 years old, single and unemployed. I have 35 years experience in graphic design and art direction. The last seven years I worked full time as a professor. But in May 2020 the college closed down the program. I also lost income from my freelance work designing posters for live entertainment.

[Congress was slow to pass a benefit extension at the end of last year and] Kansas completely stopped paying benefits on December 27. I have tried to get food and rent assistance but I don’t qualify. So I have had to spend my savings and take out retirement with penalties. My credit has been damaged. If the FPUC payments hadn’t stopped, this wouldn’t have happened. Mentally, I am not the same, but I have no insurance to get help for anxiety. Without savings, there is no way I could afford to relocate for another job. Going through this crisis has opened my eyes. This is a broken system and doesn’t help the people it needs to help. I hope this administration can fix UI. It’s too late to help us—we’ve already lost everything. But we can avoid a crisis down the road.”

Context: How the current Extended Benefits program works

Under the Extended Benefits program, if an economic shock causes a state’s labor market to deteriorate to certain low benchmarks, the federal government funds (but the states will administer) additional weeks of benefits to workers who have exhausted their regular benefits. By establishing benchmarks that trigger extended benefits, past Congresses acknowledged that UI benefits should automatically last longer during labor market downturns. But as explained below, the precise design of the existing EB program often renders these triggers far less useful than they should be.

First, a note about financing. Under permanent law, the EB program is financed 50% by the federal government, though in an ad hoc way during recessions, Congress has usually amended federal law to provide for 100% federal funding of EB.

The total number of additional weeks typically ranges from 13 to 20 weeks, depending on state laws and state unemployment rates. Specifically, the EB program provides two tiers of extended PBDs: tier 1 adds 13 weeks and tier 2 adds an additional seven weeks. The mandatory triggers for tier 1 are based on the level and/or the *change* in the insured unemployment rate (IUR)—a measure of the share of people in the labor force who are receiving UI benefits. Obviously, this measure can vary not only by labor market conditions but also based on state-level eligibility criteria, as states with stricter eligibility criteria would have lower IUR rates, all else being equal. As will be explained in more detail below, the IUR is a deeply flawed measure of labor market distress that should be replaced with a trigger that is a much more focused measure of labor market distress: the official unemployment rate, a measure that includes workers who are unemployed but not receiving UI benefits. States can also opt to use an additional EB trigger that is based on the standard unemployment rate. Currently, more than half (27) of the states use only the IUR-based trigger for their EB program.⁹

Figure 4B illustrates that the existing base EB triggers fail to adequately extend benefits during the onset of recessions, and they cut extended benefits off far too soon to ensure support for jobless workers and an expedited recovery. It shows the share of UI recipients that were on standard UI, EB programs, and the discretionary programs (for example, the Emergency Unemployment Compensation or EUC program enacted by Congress during the Great Recession). It is particularly evident that in the wake of the Great Recession, EB programs did far less work in providing benefits to unemployed workers than the discretionary EUC program. Clearly, the existing triggers in UI need fixing to make sure the system is as responsive to downturns as it should be.

Context: How flaws with the current EB program’s on-triggers delay benefits and hurt workers in low unemployment states

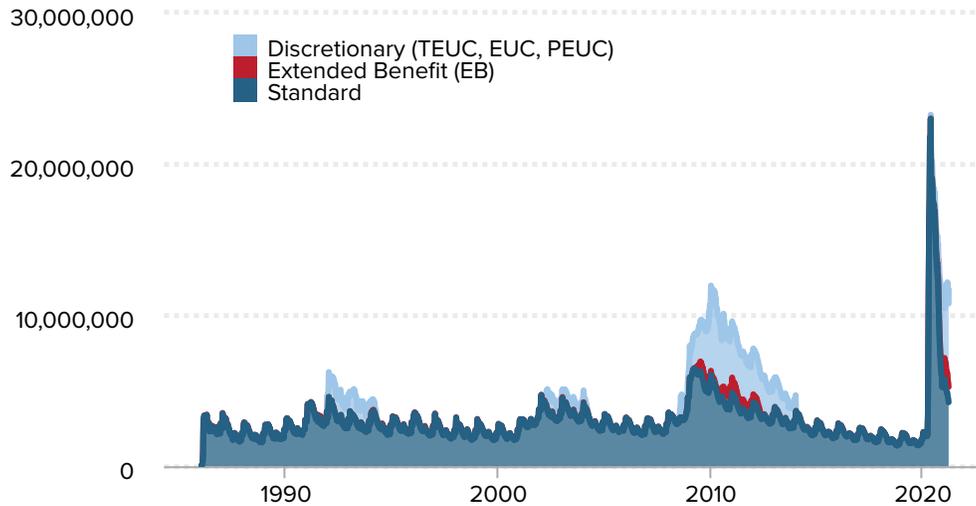
Both of the triggers for turning on extended benefits have flaws. The insured unemployment rate often fails to reflect the true state of labor market distress because state UI policies can suppress UI reciprocity in normal times. For example, if many of a state’s workers are unemployed, but because of strict eligibility guidelines are not receiving UI, then they are not counted in the IUR. States that use the standard unemployment rate triggers for EB see many more unemployed workers newly enrolled due to EB triggering-on during periods of labor market weakness.¹⁰

Both triggers are state-specific only and hence cannot be triggered on by deterioration in the national labor markets. Failing to include national as well as state triggers is problematic for several reasons. First, as mentioned above, residents of an otherwise low-unemployment state who live in a region with higher unemployment that is suffering due

Figure 4B

During downturns, unemployed workers in the US still rely the most on standard unemployment insurance (UI) benefits

Number of UI recipients by the UI program delivering their benefits, 1986–2021



Note: Emergency programs include the Pandemic Emergency Unemployment Compensation or PEUC program (enacted during the COVID-19 crisis), the Emergency Unemployment Compensation or EUC programs (enacted in the wake of the Great Recession and the recession of the early 1990s), and the Temporary Extended Unemployment Compensation or TEUC programs (enacted in the early 2000s).

Source: Authors' analysis of data from U.S. DOL-ETA (2021b), updating work from Chodorow-Reich, Coglianesi, and Karabarbounis (2019).

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to a deterioration in the national labor market could be frozen out of aid. Second, without national triggers providing for wider extension of PBDs, the EB program provides a weaker macroeconomic stabilizer effect. Finally, without national triggers, states may suffer lags in extending benefits. A state with low unemployment as the national labor market deteriorates is highly likely to see its own unemployment rate rise shortly. Policymakers once recognized the value of a national trigger in helping states stay ahead of the curve: The EB program included a national unemployment trigger until the 1981 Omnibus Reconciliation Act.¹¹

Context: How flaws with the current EB program's off-triggers prompt premature withdrawal of needed assistance

By far the biggest problem with the current UI system's EB triggers is that benefits are set to trigger off too early during periods of extended labor market distress. The EB program contains "look-back" provisions which trigger benefits off if there has been no significant increase in unemployment over the past two years. In essence, the EB program was

structured under an implicit assumption (not so wrong before the 1990s) that labor market recovery would happen very quickly after recessions hit. So, for example, if unemployment rises even to an extremely elevated level like 9% and then stays there for two years, the EB provisions would automatically trigger off. This is not an academic concern. The national unemployment rate hit 9.0% in April 2009, but remained at 9.0% (or higher) until September 2011.

Context: How the ad hoc off-triggers for emergency aid hurt workers

After the 20 weeks of EB benefits (including both tier 1 and tier 2) are added to normal UI benefits, further extensions to PBDs have to be legislated on an ad hoc basis by Congress. In recent decades these extensions were labeled “temporary emergency unemployment compensation” or “emergency unemployment compensation” (TEUC or EUC), and were fully federally financed. These programs have been tied to calendar periods rather than economic conditions, and often lapse well before the economy recovers. For example, the federally financed extended benefits included in the CARES Act passed in April 2020 as a response to the COVID-19 economic shock—the Pandemic Emergency Unemployment Compensation (PEUC) benefits—lapsed at the end of 2020, when the virus was surging and the labor market remained very weak.

Sometimes these lapses are temporary, and longer PBDs are reextended after a short break, but temporary income losses can be devastating to households on tight budgets even if the programs are reextended and payments are retroactive—and cause extreme anxiety among workers depending on benefits.¹² Sometimes these lapses are permanent. The EUC program put into place during the Great Recession in 2008 was allowed to completely lapse by the end of 2013, when unemployment had just barely dipped below 7% nationally and sat above its highest level during the early 2000s recession and jobless recovery. And by late May 2021, half of the states had announced plans to cut off their residents’ access to some or all of the emergency programs enacted in the wake of the coronavirus pandemic: the PEUC program as well as the Pandemic Unemployment Compensation (PUC) program offering \$300 weekly in enhanced benefits and the Pandemic Unemployment Assistance (PUA) program offering benefits to workers traditionally denied UI, like self-employed workers (Berger 2021; Zeballos-Roig and Kaplan 2021).¹³ This threatened to cause extraordinary harm to vulnerable families and to impede economic recovery (Cooper 2021). Given that workers of color bore the brunt of the coronavirus downturn, they are at risk, once again, of being left behind (Gould and Wilson 2020; Gould, Perez, and Wilson 2020).

These glaring flaws regarding the triggers of extended PBDs—automatic extensions that trigger on too slowly and unevenly and can trigger off while the labor market remains weak, and the reliance on congressional whim rather than economic conditions to determine further PBD extensions—can be fixed by reforms we suggest below.

Policy proposal: Reform the Extended Benefits program to trigger on quickly as the labor market deteriorates and trigger off only when genuine recovery is underway

To ensure that unemployment benefits trigger on quickly as labor market distress begins and remain in place until the labor market mounts a genuine recovery, we propose the parameters for triggering on and off new tiers of PBD shown below in **Table 4.1**. Triggers-on are determined by the minimum of state or national unemployment rates—not the insured unemployment rate—and are determined by either a prespecified unemployment rate or a *change* in the unemployment rate. Triggers-off require *both* a reduction in either the state or national unemployment rate *and* an improvement in state-level measures of the share of adults between the ages of 25 and 54 with a job, known as the prime-age employment-to-population (EPOP) ratio. We sometimes refer to the prime-age EPOP ratio as a “failsafe” criterion, in that it will keep PBDs from falling into a lower tier based on improvements in the unemployment rate that are driven solely by reductions in labor force participation.

Triggers-on proposal

The key to effective triggers to turning on extended UI benefits is to ensure they respond quickly and provide longer PBDs as the labor market falters. We propose the on-triggers respond to the minimum of state or national unemployment rates. Existing triggers were designed in an era when unemployment rate expectations were much higher than today. As the Federal Reserve (2020) has observed, “it has become increasingly clear that low unemployment can be sustained without leading to an unwanted increase in inflation.”

Thus, we recommend that the first tier of longer PBDs (rising from 30 to 33 weeks) be triggered on when the state or national unemployment rate hits 5%. However, to ensure that states with traditionally low unemployment rates can see longer PBDs as their unemployment rate deteriorates quickly, we also allow the tier to be triggered on by a rise in the unemployment rate to 1.2 times the minimum unemployment rate that prevailed in the previous 12 months. So, if in July 2021 a state experienced an unemployment rate of 3.5% in any one of the months between the previous July through June, an unemployment rate of 4.2% in July 2021 would trigger on the first tier (33 weeks) of longer PBDs. This modification ensures that PBD extensions respond quickly to obvious deterioration in the labor market (say that caused by the onset of a health crisis like COVID-19 or by hurricanes and other natural disasters), even when the labor market was starting from a healthy state with a historically low unemployment rate.

Table 4.1

Proposed tiers of extended benefits and economic benchmarks that trigger on or off additional extended benefits

Tier of extended benefits	Potential benefit duration in tier	Benchmarks that trigger on tier of benefits	Benchmarks that trigger off tier of benefits (fall in unemployment must be accompanied by rise in share of prime-age adults with a job)
1	30 weeks	Unemployment rate is less than 5% or less than 1.2 times the previous minimum	Unemployment rate falls below 5% or is less than 1.2 times the previous minimum, AND prime-age EPOP has improved by 0.2 percentage points (ppt.) over past three months***
2	33 weeks	Unemployment rate reaches 5% or 1.3 times previous minimum	Unemployment rate reaches 5% or 1.3 times previous minimum, AND prime-age EPOP has improved by 0.2 ppt. over past three months
3	46 weeks	Unemployment rate reaches 6% or 1.6 times initial previous minimum	Unemployment rate reaches 6% or 1.6 times initial previous minimum, AND prime-age EPOP has improved by 0.2 ppt. over past three months
4	59 weeks	Unemployment rate reaches 7% or 2 times initial previous minimum	Unemployment rate reaches 7% or 2 times initial previous minimum, AND prime-age EPOP has improved by 0.2 ppt. over past three months
5	72 weeks	Unemployment rate reaches 8% or 2.4 times initial previous minimum	Unemployment rate reaches 8% or 2.4 times initial previous minimum, AND prime-age EPOP has improved by 0.2 ppt. over past three months
6	85 weeks	Unemployment rate reaches 9% or 2.8 times initial previous minimum	Unemployment rate reaches 9% or 2.8 times initial previous minimum, AND prime-age EPOP has improved by 0.2 ppt. over past three months
7	98 weeks	Unemployment rate reaches 10% or 3.2 times initial previous minimum	Unemployment rate reaches 10% or 3.2 times initial previous minimum, AND prime-age EPOP has improved by 0.2 ppt. over past three months

Note: The tier of potential benefit duration kicks in when the national or state unemployment rate (calculated as a three-month moving average) reaches the rate shown OR the comparative level shown. The comparative level is calculated as a ratio of the three-month moving average unemployment rate to the lowest unemployment rate achieved during the 12 months prior to the first calculation triggering on tier 1. For the first potential bump up to tier 1, the last month of the three-month moving average is also the last month of the 12-month comparison period. EPOP stands for employment-to-population ratio. The potential change in prime-age EPOP is calculated by comparing the current three-month period (which ends with the month when the PBD is set to fall under the employment rate criterion) with the prior three-month period.

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From the first tier of extended PBDs, each additional percentage-point increase in the unemployment rate would trigger longer PBDs, as shown in Table 4.1. PBDs max out at 98 weeks for unemployment rates of 10% or higher. The unemployment rate levels that trigger on each new tier of PBD largely follow the recommendations of Dube 2021.

Triggers-off proposal

In addition to making UI benefit extensions quickly responsive to downturns, we also propose reforms aimed at keeping PBDs from *falling* during those periods when overall unemployment is stabilizing or declining for the “wrong” reason—when people have stopped their active job search and are dropping out of official counts of the labor force, and so are not counted as unemployed.¹⁴ To ensure that higher tiers of PBD only trigger off when unemployment rates are declining and those declines are driven by rising employment, we propose adding a second (necessary but not sufficient) trigger-off that requires a 0.2 percentage-point reduction in a state’s prime-age employment-to-population ratio (the share of the population ages 25 to 54 with a job).

Ending benefits puts unemployed worker behind the eight ball again: Jean Thompson, Maine

“I was unemployed before the pandemic. [Despite receiving state benefits] I was scrambling to keep the electricity on, my car from being repossessed, and my phone and internet from being cut off. I was awakened every day by creditors calling me. I was a nervous wreck. When I qualified for the additional \$600 a week I was able to pay my bills and start paying off my debts. I could sleep at night and my health improved.

[But] each time when the [emergency] programs were coming to an end I would get anxious again, wondering if I was going back to debtor’s hell. I think we live in a very cruel country where you only deserve housing, food, education, and health care if you can work and pay for them yourself.”

So, for example, say that the state and national unemployment rate falls from 8% to 7% (and assume the alternative triggers-on don’t apply in this situation because the state and national economies entered the recession with a relatively high unemployment rate). All else being equal, this would lead to a reduction in PBD from 72 to 59 weeks according to Table 4.1. But, if over the last three months the prime-age EPOP averages a level that shows no improvement (or an improvement of only 0.1 percentage points) when compared with the prior (nonoverlapping) three-month period, then the PBD will remain at 72 weeks. Only when the unemployment rate is below 8% and there has been a 0.2 percentage-point improvement in the nonoverlapping three-month average of prime-age EPOPs will the PBD slide down to a lower tier. This same 0.2 percentage-point improvement is needed each time the unemployment rate falls far enough to push PBDs down to another tier. Because it is a necessary condition over and above improvements in unemployment,

we refer to the required prime-age EPOP improvement as a “failsafe” condition.

The usefulness of this approach to making triggers automatic can be seen during and after the Great Recession. If these triggers had been in place, 37 states in 2014 and 2015 would have continued to have at least some tier of extended benefits in place rather than having all benefit extensions cut off at the end of 2013, when Congress forced them to lapse.

The prime-age EPOP failsafe would have been useful in this time as well. Nationally, the unemployment rate fell by a full percentage point (from 9.9% to 8.8%) between April 2010 and October 2011. All else being equal, this would lead to a reduction in PBD in the current proposal. But, over this same period, the prime-age EPOP actually fell by 0.3 percentage points. If the unemployment rate falls even as employment declines, this means by definition that all of the “improvement” in the unemployment rate was driven by reductions in the labor force participation rate—a reduction which itself was largely caused by the depressed labor market. A prime-age EPOP failsafe would keep PBD from falling in this situation.

Policy proposal: Improve data sources

Currently, the Bureau of Labor Statistics does not calculate state-level prime-age EPOPs that are measured precisely enough to make the PBD determinations we recommend. Accordingly, part of our policy proposal is a requirement that the BLS adds a prime-age EPOP measure to its monthly Local Area Unemployment Statistics (LAUS). This should be easily within its existing capability and resources.

A related and even more pressing data enhancement needed to establish useful triggers for extending UI benefit duration would be the ability to better measure group-specific unemployment rates. It is well-known that state-level unemployment rates calculated for particular racial or ethnic groups or even educational groups are inaccurate and change a great deal from month to month because household surveys do not reach enough members of the affected groups.¹⁵ Further, declining response rates among some racial and ethnic groups are actually making these household surveys even less useful in calculating group-specific labor market outcomes (Baker and Cai 2021).

Despite this measurement problem, significant evidence shows that workers of color often are still struggling to find work even as the economy overall recovers from recessions.¹⁶ There is a clear fairness argument for providing better ways to calculate group-specific employment rates: Our economic policy should be designed to improve the labor market experiences of all demographic groups, not just those who are quickest to recover. There is also an economic argument. Often those workers recovering fastest in the wake of economic downturns are white and college-educated workers who tend to have higher incomes and wealth than those still experiencing high unemployment. Improving labor market outcomes for more advantaged groups can conceal the continuing need to support poorer households who need it most. Cutting off benefits too soon for poorer families also slows the economic recovery, as they are usually the most apt to spend (Bivens 2017).

Ideally, we would measure group-specific unemployment rates finely enough to require that all (or at least most) group-specific unemployment rates declined before triggering off an extended tier of PBDs. Because today's statistical infrastructure does not allow measures that are precise or timely enough to make these requirements reasonable, we further call on the BLS to expand the sample size of existing household surveys and explore other measures to ensure reliable, real-time data on labor market outcomes at much finer levels of geographic and group-specific detail.

Finally, we call for higher-quality and more finely disaggregated collection of data within the UI system. One promising avenue to construct group-specific triggers could be to use "exit rates" from UI receipt to employment, to determine the pace of needed labor market improvement. The existing data on UI recipients is plagued with a host of deficiencies and challenges that would currently make this impossible (see, for example, Cajner et al. 2020). Fixing this data collection is vital not only for a number of needed policy reforms but also for construction of even better benefits on- and off-triggers in the future.

Common criticisms of extended potential benefit durations

Unemployment benefits that last longer than the standard six months are sometimes criticized for discouraging work and thus keeping unemployment high. But the consensus among academic studies of unemployment insurance rejects this claim. There is little persuasive evidence that unemployment insurance (UI) significantly reduces job-search activity among people receiving it (Young 2012). Further, during recessions (when extended benefits often kick in), the number of jobs in the economy is rationed by aggregate demand, not labor supply, so reduced job-search activity has little to no effect on aggregate employment (Marinescu 2017). Even if there were, for some workers the ability to turn down a job is exactly the function UI is supposed to serve: By giving job seekers a financial cushion, UI benefits allow them to turn down low-paying jobs that poorly match their skills. In addition to better serving the worker, this ability to turn down ill-fitting work boosts the economy in the long run, as workers are more productive in their best-matched positions.

Although there is some evidence that extended durations of UI benefits reduces job search activity among some workers, there are offsetting effects that lead to no net impact on work. Marinescu (2017) provides an accessible explanation. Briefly, if some workers reduce their search effort, the labor market is less "congested," making it easier for others to find a job.

In support of the claim that UI mostly improves job matching, rather than just allowing workers to stay home, economists point to the fact that UI seems to have little effect on the labor decisions of families who can already afford to wait

for a better job opportunity. For example, Chetty (2008) finds that longer durations of unemployment associated with lengthier benefit duration are driven overwhelmingly by workers without liquid wealth.

Empirical efforts to measure the causal influence of extensions of UI benefit duration on aggregate unemployment or job-search behavior have found these effects to be at most modest, likely due to many of the cross-cutting effects noted above. For example, Boone et al. (2021), Chodorow-Reich, Coglianesi, and Karabarbounis (2019), Farber and Valletta (2015), Farber, Rothstein and Valletta (2015), and Rothstein (2011) all find extremely limited effects of more-generous PBDs of harming job search or leading to longer UI benefit durations or boosting aggregate unemployment rates.¹⁷

In short, narratives about “moral hazard” and UI benefits discouraging work are largely unfounded. Instead, they play on stereotypes about the undeserving poor, and serve to mask the general failure of U.S. policy to provide families with effective ways of saving for hard times. Black families, in particular, have been denied access to traditional methods of building wealth, leaving them in greater need of unemployment insurance benefits to weather hard times (Bhutta et al. 2020).

Endnotes

1. Authors’ analysis of the data underlying Figure 4B referenced later in this chapter.
2. See Farooq, Kugler, and Muratori 2020 for evidence that longer UI benefit durations can increase the quality of a job match.
3. The social insurance function of UI essentially works as a substitute for other instruments that can help laid-off workers smooth consumption over a spell of job loss, the most obvious other instrument being private wealth. Given that holdings of private wealth are highly unequal, and that households with less education or headed by historically discriminated-against groups have less private wealth, it stands to reason that these groups will be most in need of an alternative instrument to private wealth (like UI) for maintaining consumption over a spell of job loss.
4. Whittaker and Isaacs (2019) include a list of the states with benefit durations of less than 26 weeks in the pre-COVID period.
5. As of early May, the Tennessee General Assembly had approved cutting unemployment eligibility weeks.
6. See Chodorow-Reich and Coglianesi 2019 for this finding that regular UI benefits provide the majority of fiscal impulse (when combined with extended benefits), even during steep recessions.
7. See McHugh and Kimball 2015 for evidence on low-duration states seeing lower reciprocity rates overall. Some of this correlation is clearly related to other factors: The reduced PBDs are obviously a sign of state government indifference or hostility to effective UI benefits generally, and so likely

are accompanied by other aspects of the UI system (eligibility requirements or administrative features) that also reduce reciprocity. But, as described in the main text, there are also independent causal effects running from reduced PBD to lower reciprocity.

8. Anderson and Meyer 1997 provide evidence that lower benefit durations reduce takeup rates. The generosity of benefit levels matters the most for take-up rates.
9. For a list of states with the respective triggers, see U.S. DOL-ETA 2021a.
10. Mastri, Vroman, Needels, and Nicholson (2015) note that states were encouraged to adopt total unemployment rate triggers during the Great Recession because the American Recovery and Reinvestment Act provided 100% of EB financing. They find that adopting these triggers resulted in much-higher first EB payments (or number of new UI enrollees under the EB program).
11. See Lake 2002 for a history of these provisions.
12. See Kaverman and Stettner 2021 for how such delays harmed UI recipients when benefits lapsed in January 2021.
13. A particular target of Republican governors was the \$300 in enhanced benefits included in the American Rescue Plan Act of 2021 (enhanced weekly UI benefits initially enacted under the CARES Act totaled \$600 but were allowed to lapse in August 2020). For more on the controversial governors' attacks on the emergency benefits, see Adamczyk 2021.
14. Traditional unemployment measures estimate the share of individuals looking for work who cannot find it. In contrast, labor force participation measures the overall share of the population that is working. Severe economic conditions can lead to some potential workers giving up on finding work, leading to a measured drop in unemployment that does not reflect an actual improvement in economic conditions.
15. For example, in a recent estimate of unemployment rates by state and race, Moore (2021) finds that over half of states lack a sufficient sample size to reliably calculate the Black unemployment rate.
16. See, for example, Cajner et al. 2017.
17. It is true that some papers, notably that by Hagedorn, Karahan, Manovskii, and Mitman (2015) find large effects, but as Boone et al. (2021) explain, that study has at least three substantial methodological problems.

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Section 5. Benefit levels

Increase UI benefits to levels working families can survive on

Key proposals

- **Wage replacement rates:** Increase replacement rates to levels that truly alleviate severe economic hardship, particularly for low-wage workers, with a progressive formula that replaces at least 85% of wages for the lowest earners and gradually decreases to replace at least 50% of wages for the highest earners.
- **Dependent allowance:** Help alleviate food and housing insecurity when parents or caregivers lose a job by providing a minimum dependent allowance of \$35 (inflation adjusted) per dependent per week.
- **Subminimum wage earners and tipped workers:** Treat subminimum wage earners fairly by calculating benefit amounts based on what they should have earned if they were paid the prevailing minimum wage or, for tipped workers, wages with tips, whichever is greater.
- **Part-time workers:** Support rather than discourage part-time work as a bridge back to employment by implementing an earnings disregard that keeps part-timers' UI benefits, combined with their part-time earnings, from falling short of their pre-layoff average weekly wage.
- **New entrants and reentrants:** Support job seekers who are newly entering or reentering the labor market with an allowance of \$200 per week or 20% of the state's average weekly wage, whichever is greater.
- **Economic downturns:** Make unemployment benefits a more powerful tool for recovery by increasing wage replacement rates, minimum and maximum benefit amounts, the dependent allowance, and the jobseeker's allowance when extended benefits are triggered on:
 - 100% replacement for lowest-tier earnings and 65% of wages for highest-tier earnings
 - Minimum benefit the greater of \$300 per week or 40% of the state's average weekly wage (up from the greater of \$250 or 30%)
- **Taxation of benefits:** Increase UI take-up and get more UI benefits recirculating as spending in the economy by fully exempting households with less than \$100,000 in adjusted gross income from federal taxation of UI benefits.

Introduction

The problem

On average, unemployment insurance benefits replace just about 40% of a worker's prelayoff wages. When accounting for the time-limited nature of UI income and the nonwage benefits that are part of the compensation package for many workers (benefits like employer-provided health insurance and retirement contributions), the true pay replacement rate is much lower.¹ It is the states that set benefit levels, and states vary tremendously in the benefit levels they offer, due to different minimum and maximum benefits, as well as formulas for computing benefits based on wage history. There are currently no federal standards for UI benefits, and many states pay benefits that are so low they allow jobless workers to fall quickly into poverty during a spell of job loss (GAO 2020). In no state are UI benefits enough to cover a worker's basic needs (Roberts and Schweitzer 2020).²

Black and Latino workers face greater hardship when they receive low levels of benefits because they are less likely than white workers to have private savings to use to supplement income from unemployment insurance (Gould-Werth 2021; Gould, Perez, and Wilson 2020; Gould and Wilson 2020). Women and workers of color are further disadvantaged because they are disproportionately clustered in low-paying jobs, and thus receive lower levels of benefits than their more highly compensated counterparts (Tucker and Vogtman 2020). In this way, the UI system entrenches and deepens existing inequities, particularly the systemic racism that has prevented workers of color from building family wealth (Bhutta et al. 2020; Kijakazi et al. 2019).

Workers with dependents, workers earning subminimum wages, tipped workers, and part-time workers all face particular difficulty making ends meet with the benefit levels to which they are entitled. In the current system people who are struggling as they seek to secure their first job or to reenter the labor market after an absence (for reasons that may extend from child-rearing to incarceration) receive no benefits at all. And despite the fact that unemployment spells are longer when economic conditions are worse, and that increasing unemployment benefits when the economy is in a downturn helps both individual workers and the macroeconomy by supporting spending, the regular UI program does not adjust benefit levels in response to economic trends (BLS 2021a; Bachas et al. 2020).

The solution

We can do better than a system that fails to alleviate severe economic hardship and deepens inequities. The policy proposals laid out below would increase the level of UI benefits, including making the benefit formula more progressive so that low-wage workers are better supported. The proposals also address the special difficulties that some groups of workers, particularly women and workers of color, face when trying to meet their need under the current system of determining unemployment benefit levels. Benefit levels should meet a guaranteed minimum in all states.

Implementation

Benefits offered by state-run UI systems should meet federally guaranteed minimums. To aid states in the determination of benefit levels, the federal Department of Labor should establish a system that computes benefit amounts from wage records that are collected in national data sets such as the Quarterly Census of Employment and Wages (QCEW). Given that the recent work and earnings history of potential UI recipients is fully contained in QCEW data, it would be a straightforward task to compute each potential recipient's UI benefit in a system where benefit levels were harmonized across the country. This would be a huge administrative efficiency improvement when compared with today's patchwork system of benefit formulas that vary significantly by state.

Determining replacement rates

Each state sets its own formula for determining weekly benefit amounts—so the share of weekly wages that is “replaced” by unemployment insurance benefit payments vary widely by state. While the wage replacement rate thus varies by state, the U.S. Department of Labor's Employment and Training Administration tracks replacement rates by state and region and computes a national average. Except for a brief period in the UI program's early years, the wage replacement rate has remained below 40% (O'Leary and Rubin 1997; U.S. DOL-ETA 2021).

Context: How current low and uneven wage replacement rates fall short of what workers need

While UI benefits are higher for low-wage workers, they rarely exceed 50% of a worker's previous wages. Social scientists agree that current wage replacement rates in the U.S. are too low (von Wachter 2019).

Because UI benefits replace only wages, and not benefits such as employer-paid health insurance premiums and employer-paid retirement contributions, the replacement rate of total compensation is even lower. Typically about 30% of what employers spend on employee compensation goes toward benefits (BLS 2021b), but UI payments replace only a portion of wages and ignore the much higher true monetary benefits that workers receive from work. Changes in the law in the 1970s and 1980s that made UI benefits taxable also reduce the value of benefits relative to workers' prelayoff earnings.

Black and Latino workers are particularly harmed by low benefit amounts. For one, while many states have made it harder to access benefits in recent years, the states with the deepest cuts to their UI programs are mostly Southern states and have higher shares of Black residents (Kofman and Fresques 2020). Further, Black and Latino households have far lower private wealth on average than white households, and lower levels of wealth mean there is less ability to absorb the shock of income loss stemming from a spell of

Table 5.1

Progressive replacement rates for unemployment benefits by earnings level and under a maximum benefit cap

Earnings level	Replacement rate
<i>For that portion of a worker's average weekly wage (AWW) that is</i>	<i>The share of lost wages replaced by UI benefits is</i>
Between 0% and 50% of state AWW	85%
Between 51% and 100% of state AWW	70%
Over 100% of state AWW	50%
Minimum benefit amount	The greater of 30% of state AWW or \$250 per week
Maximum benefit amount	150% of state's AWW

Note: The earnings level is a worker's average weekly wage as a share of state average weekly wage during the base period. Under the proposed progressive system for calculating UI benefits, different benefit rates apply to different levels of earnings for each worker, with rates falling as earnings rise (kind of like how marginal tax rates work, but in reverse). See Table 5.2 for how this translates to effective tax rates for workers at different earnings levels.

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joblessness (Bhutta et al. 2020; Gould and Wilson 2020; Gould, Perez, and Wilson 2020).

In addition, there is a real problem in this country of workers being underpaid for their work, whether it is because they are deprived of overtime pay or paid a subminimum wage (Cooper and Kroger 2017). This reduces their benefits amounts and makes it difficult for them to cover basic necessities.

Policy proposal: Increase replacement rates using a progressive structure

To better assist all workers in meeting their basic needs while they search for work, UI benefit levels should be harmonized across all states by the U.S. Department of Labor and set progressively to provide low-wage workers with a higher replacement rate of pre-termination wages than their high-wage counterparts. Under the proposed progressive system for calculating UI benefits, different benefit rates apply to different levels of earnings for each worker, with rates falling as earnings rise (kind of like how marginal tax rates work, but in reverse). **Table 5.1** shows the proposed replacement rates for earnings at different wage levels. The calculation used to determine the level of wage replacement at each level of earnings begins with dividing total earnings across the base period by the number of weeks in the base period to determine a worker's average weekly wage. This number should be compared with the state's average weekly wage (AWW) to determine the level of wage replacement. As shown in the table, under this progressive replacement rate structure, UI replaces 85% of wages a worker earns up to 50% of the state AWW, 70% of wages a worker earns that are between 51% and 100% of the state AWW, and 50% of wages a worker earns that are greater than 100% of the state AWW.

Policy proposal: Set minimum and maximum benefit levels that ensure adequate benefit levels

Though formulas that set benefit levels as a percentage of weekly wages work well for workers in the middle of the earnings distribution, they are less effective for workers at the top and bottom of the earnings distribution: Low earners may end up with benefit levels that are too low to help them handle living expenses when their work income is reduced. State UI systems have recognized this issue and set minimum and maximum benefit levels. However, minimum and maximum benefit levels vary greatly across the states, and there is no federal standard states must meet.

Scant weekly benefits don't pay bills for out-of-work restaurant worker



Ruby De La Rosa, Massachusetts

When the pandemic hit, I was given UI almost immediately, as my restaurant had closed for quarantine. At first, it was so easy and helpful. [But] once the additional \$600 was removed from UI, I could no longer afford my rent, car payment, and other bills, [as I was] only approved for \$174 a week. This is an unlivable wage. When I was working prior to the pandemic, I was making \$600+ per week as a waitress.

Table 5.2

Examples of effective replacement rates for unemployment benefits by worker earnings level, accounting for minimum and maximum benefit amounts

Earnings level	Effective replacement rate
<i>If a worker's average weekly wage is</i>	<i>The worker's unemployment benefits equal</i>
50% of state's average weekly wage	At least 85% of preseparation wages*
100% of state's average weekly wage	78% of preseparation wages
125% of state's average weekly wage	72% of preseparation wages
150% of state's average weekly wage	68% of preseparation wages
200% of state's average weekly wage	64% of preseparation wages
300% of state's average weekly wage	50% of preseparation wages
500% of state's average weekly wage	30% of preseparation wages

Note: The effective replacement rate is how much of a worker's preseparation wages the worker gets in UI benefits. It is the net effect when the different replacement rates in Table 4.1 are applied to different portions of preseparation wages and added together and any minimums or maximums accounted for. The "At least" qualifier in row one accounts for the \$250 floor on minimum benefits. If $\$250 > 85\% \times 50\%$ of the state's average weekly wage, then the worker would get more than 85% of their preseparation wage.

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We recommend setting standards for minimum and maximum benefit amounts as follows:

- minimum benefit amount of at least 30% of the state's average weekly wage or \$250 per week,³ whichever is greater
- maximum benefit amount of no more than 150% of the state's average weekly wage

The choice to cap benefits for any individual worker at an amount equal to 150% of the state's AWW is consistent with a sound social insurance principle—followed, for example, by the Social Security program—that benefits should rise in line with income so long as tax contributions rise as well.⁴ **Table 5.2** shows how the rates and caps outlined in Table 5.1, when applied to earnings, produce progressive effective replacement rates for workers at a variety of points along the earnings distribution.

Appendix Table 5a at the end of this section provides a detailed look at the calculations illustrating the progressive wage replacement structure proposed here, using examples that assume that the state's average weekly wage is \$1,000.

Ensuring that benefit levels are adequate for all groups of workers

Policy proposal: Implement a dependent allowance

Households with children are much more likely to face food and housing insecurity when a job is lost (Keith-Jennings, Nchako, and Llobrera 2021). Systemic racism contributes to this vulnerability for households headed by women of color, as women of color are overrepresented in low-wage work (Matthews and Wilson 2018). Women of color also are especially vulnerable as they make up a disproportionate share of single-parent households. Nondiscretionary expenses are higher for workers caring for dependents, such as young children, adult children with disabilities, aging parents, and full-time college students. Many of these expenses, such as child care, tuition, diapers, groceries, medical prescriptions, and care giving, can't be reduced without great harm when households are faced with the income constraints associated with job loss.

Ten states currently offer dependent allowances, though amounts and eligible dependents vary by state (Whittaker and Isaacs 2019; U.S. DOL-ETA 2020). A national minimum standard is called for: In all states unemployment benefits should include additional supports for workers caring for dependents. We propose adding a dependent allowance of at least \$35 per week per dependent (indexed to inflation) to workers' benefits.

The definition of eligible dependents should be broad and include at least:

- children ages 18 and younger, including foster children, stepchildren, and children for whom the worker has at least 50% custody in shared-custody arrangements
- full-time students, up to the age of 26
- nonworking adults in the household ages 60 and older, such as workers' parents
- adults with disabilities in the household

Table 5.3 shows how this change, combined with implementation of the progressive replacement rates outlines above, would affect benefit levels for hypothetical workers in Mississippi and Massachusetts.

Table 5.3

How progressive replacement rates and a dependent allowance would affect unemployment benefits for low-wage earners in Mississippi and Massachusetts

Worker profile	State average weekly wage	Preseparation earnings	Current weekly benefit amount and dependent allowance	Proposed weekly benefit amount and dependent allowance	Total proposed vs. current benefit amount
Mississippi single mother supporting two children and disabled parent	\$800	\$400 per week	\$200 UI benefits \$0 dependent allowance	\$340 (\$400 x .85) wage replacement \$105 dependent allowance (\$35 per dependent)	\$445 per week vs. \$200
Massachusetts single mother supporting two children and disabled parent	\$1,200	\$400 per week	\$250 UI benefits \$0 dependent allowance	\$340 (\$400 x .85) wage replacement \$105 dependent allowance (\$35 per dependent)	\$445 per week vs. \$250

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Policy proposal: Calculate benefit amounts for subminimum wage earners and tipped workers based on the prevailing minimum wage or the worker’s wages with tips, whichever is greater, so that subminimum wage workers aren’t penalized twice by their low earnings

There are 3 million tipped workers—disproportionately women and people of color—and over 100,000 workers with disabilities who are paid a subminimum wage (Allegretto and Cooper 2014; West 2019). Further, employers of some specific classes of workers, such as certain workers with disabilities, full-time or young workers in some sectors, and a few categories of agricultural workers carved out from the minimum wage provisions of the Fair Labor Standards Act, may be allowed to pay less than the prevailing minimum wage. Many workers are also paid less than the amount they are legally entitled to under the law. This phenomenon, known as wage theft, includes not paying promised pay, paying workers less than the legal minimum wage, failing to provide legally required overtime pay, confiscating tips, taking illegal deductions from wages, asking employees to work off the clock, and misclassifying employees as independent contractors to pay a wage lower than the legal minimum. Wage theft disproportionately hurts low-wage workers and has a very high cost for workers, as shown in a study on just one form of wage theft, which found that in the 10 most populous states, 2.4 million workers are paid below minimum wage, with their losses averaging about \$3,300 per year per worker (Cooper and Kroeger 2017).⁵

Whether workers receive subminimum wages legally or illegally, their low earnings depress their UI benefit levels. In cases where workers qualify for unemployment insurance benefits but their reported wages are below the prevailing minimum wage,⁶ we propose calculating their benefits *as though* they had earned the prevailing minimum wage. Tipped workers who earn a subminimum wage should be able to self-report their tips and then have their UI benefits calculated on the basis of their earnings with tips or the prevailing minimum wage, whichever is greater. Finally, it is worth highlighting that the minimum benefit formula outlined above should go a long way in improving UI benefits for workers earning subminimum wages.

Policy proposal: Mandate that administrative data collected from UI programs across the country include hours worked by employee, so that programs can calculate more adequate benefit levels for subminimum wage workers

Note that there are data collection implications for the subminimum wage earner benefits

proposal. Calculating what workers would have earned had they earned the minimum wage requires multiplying their hours worked by the minimum wage. Currently, only a small number of states collect data on hours worked by individuals. As part of their data collection and reporting to the federal Quarterly Census of Employment and Wages or QCEW (the federal database of administrative data from UI programs across the country), states would have to collect data on the hours worked by individuals. But this data capacity would already be expanding as we pursue the recommendations made in other sections of this report. Specifically, in Section 2, on finance, we recommend that states switch to an experience rating method for determining an employer's UI tax rate that measures the hours worked of each employer's workforce (instead of basing the tax rate on unemployment insurance claims filed by the firm's workers). If states are already collecting this data, there is only a small incremental effort needed to record these hours by worker. Given that states such as Minnesota and Washington already maintain these records, hours collection is well within the capacity of other state systems. Collecting hours-worked in the QCEW provides important benchmarks for other federal data surveys, and thus would also offer significant informational benefits for researchers and policymakers.

Policy proposal: Pay fair benefits to part-time workers

State UI systems badly mistreat underemployed workers, imposing harsh and economically irrational rules on workers who return to the workforce on a part-time basis. In theory, most states allow a worker to continue to claim UI even if they collect some part-time wages, but existing state rules make little sense. Workers can earn up to a set amount, known as the "disregard," but then every dollar earned above that amount reduces UI benefits dollar for dollar. In effect, this is a remarkably inefficient tax system: it imposes a zero tax rate up until a cliff, then a 100% rate after the cliff. Further, in many states, the earnings disregard is so low—\$30 or \$40—that there is no real point to working at all.

In a UI program with minimum federal standards, the earnings disregard should be set at a level that enables part-time workers to access unemployment insurance while they search for full-time work, and encourages unemployed workers to work part time as they search for full-time work. We propose implementing an earnings disregard in which *all* earnings from part-time work are disregarded until the sum of a worker's part-time wages and UI benefit exceeds 110% of prelayoff wages.⁷ Workers' combined benefits plus part-time earnings could modestly exceed their previous weekly wage because even at equal earnings, part-time work typically is not a full replacement, either in terms of benefits or security. As an alternative, federal law could require a disregard of no less than 50% of the worker's average weekly benefit, as several states now permit.

Arts worker pays high penalty for working part time

As a freelance union stage manager for theater, dance, opera, and other live events, when my show closes, it almost always means that the entire company shuts down. That puts us all out of work simultaneously. Because of this cycle, folks in my business rely on a combination of “day jobs” and unemployment insurance to help us to survive as we search for the next gig.

Unfortunately, day jobs, by nature, are often on call or part time. I have had to accept part-time work for earned wages that reduced my unemployment benefits to the degree that my income those weeks was less than it was for weeks where I didn’t work at all. If our UI system were set up in a way that put unemployed workers first, it would make such a critical difference in my life.



Nate Claus, New York

Policy proposal: Support job seekers newly entering or reentering the labor force with an allowance of \$200 per week or 20% of the state’s average weekly wage

The unemployment insurance system should be reimagined to support all job seekers in the labor force, not just those with a narrowly defined qualifying loss of a job under a traditional employer-employee relationship. In addition to supporting them with financial UI benefits, the prospect of financial benefits may encourage UI applications from job seekers and bring them into other employment assistance and workforce development programs. As described in the eligibility chapter of this report, we propose establishing a jobseeker’s allowance to workers newly entering the labor force and searching for work,

and workers who are reentering the labor force after taking time away. We propose that the benefits for eligible job seekers should be set at the greater of 20% of the state's average weekly wage or \$200 per week (indexed to median wage growth). Workers eligible for the jobseeker's allowance would also be eligible for dependent allowances.

Setting benefit levels during economic downturns

Policy proposal: Make weekly benefit amounts responsive to periods of economic downturn

Benefits should be increased when labor demand is depressed, not only to better support workers, but also to provide more effective macroeconomic stabilization. When the economy is depressed and vacancies fall below the number of jobless workers, it is low economywide spending that is holding back employment growth, not workers who aren't looking hard enough for jobs. More-generous UI benefits can help boost this spending. Yet until 2020, the only past effort to increase UI benefits to respond to the business cycle was a relatively tiny \$25 weekly addition during the Great Recession.

These past failures to boost the low baseline levels of UI benefit generosity during recessions hampered the system's ability to serve as an effective macroeconomic stabilizer. Indeed, evidence from increased benefit levels during the COVID-19 crisis indicates that increasing benefit levels during moments of macroeconomic contraction results in large boosts to aggregate demand and strong spending.⁸

As described in Section 4, on benefit duration, our proposed extended benefits triggers are reliable indicators of macroeconomic contraction. In periods when extended benefits trigger on, we propose adjusting the replacement rate formulae for all benefits as follows:

- 100% for wages up to 50% of the state's average weekly wage, up from 85% in non-EB periods
- 85% for wages between 51% and 100% of the state's average weekly wage, up from 70% in non-EB periods
- 65% for wages greater than 100% of the state's average weekly wage, up from 50% in non-EB periods

In addition, we propose:

- increasing the minimum benefit to the greater of \$300 per week or 40% of the state's average weekly wage
- increasing the weekly allowance per dependent to \$50 (indexed to inflation)

Finally, we propose increasing jobseeker's allowance benefits to the greater of \$250 or

30% of the state’s average weekly wage per week (with the \$250 threshold indexed to median wage growth).

Reforming taxation of UI benefits

The real value of UI benefits to claimants is reduced through taxation. UI benefits were fully tax exempt for the first 40 years of the U.S. system, but then taxes were phased in between 1978 and 1986. The historic rationale for imposing UI taxes was to reduce the desirability of receiving UI relative to the desirability of working.⁹ Yet as described in Section 4, contemporary research shows that there is little empirical basis for concerns about the economic effects of increasing the take-home value of UI benefits.¹⁰

Indeed, taxing benefits adds additional complexity and compliance costs to the system and reduces take-up of UI benefits (Anderson and Meyer 1997), preventing the program from effectively serving its dual mandate of smoothing consumption for workers who lose jobs through no fault of their own and stabilizing the macroeconomy. There are, however, some reasons to tax UI benefits. In the absence of UI benefit taxation, well-compensated workers who draw benefits part of the year, or high-income dual-earner households with one separated worker, will receive a higher after-tax replacement rate than low earners.

Policy proposal: Exempt UI income from federal taxes for low-income households

We recommend exempting UI income received by low-income households from federal income tax.¹¹ This will increase take-up and increase effective benefit levels for households with the highest marginal propensity to consume—to spend their benefits and thus help boost aggregate demand—thereby improving UI’s ability to function as a macroeconomic stabilizer (Bivens 2017). At a minimum, to reduce the extent to which federal taxes pull fiscal resources out of states with more-generous UI systems, federal income tax on UI benefits could be redeposited in state trust funds.

While we strongly recommend exemption, were low-earner benefits to be taxed, we would recommend allowing them to be treated as “earnings” for Earned Income Tax Credit (EITC) purposes.

Policy proposal: Phase out exemption so that UI benefits received by households whose adjusted gross income exceeds \$150,000 are fully taxed

To increase equity when generating federal revenue, we recommend phasing out exemption for high-income households. The American Rescue Plan fully taxed UI benefits

Sample weekly benefit amount calculations in a state where average weekly wage (AWW) is \$1,000

Worker's AWW during base period	Wage replacement in wage category			Sum of replaced wages, no min or max	Weekly benefit amount	Effective replacement rate	Explanation
	0%–50% of state AWW	51%–100% of state AWW	>100% of state AWW				
\$200	0.85 * \$200 = \$170	0.7 * 0 = 0	0.5 * 0 = 0	\$170	\$300	150%	Sum of replaced benefits lower than minimum benefit (\$250 or 30% of state AWW, or \$300 in this case), so minimum benefit received
\$350	0.85 * \$350 = \$297.50	0.7 * 0 = 0	0.5 * 0 = 0	\$298	\$300	86%	Sum of replaced benefits lower than minimum benefit (\$250 or 30% of state AWW, or \$300 in this case), so minimum benefit received
\$750	0.85 * \$500 = \$425	0.7 * 250 = \$175	0.5 * 0 = 0	\$600	\$600	80%	Sum of replaced wages is greater than minimum and less than maximum—follows formulas exactly
\$1,500	0.85 * \$500 = \$425	0.7 * 500 = \$350	0.5 * 500 = \$250	\$1,025	\$1,025	68%	Sum of replaced wages is greater than minimum and less than maximum—follows formulas exactly
\$3,000	0.85 * \$500 = \$425	0.7 * 500 = \$350	0.5 * \$2,000 = \$1,000	\$1,775	\$1,500	50%	Sum of replaced wages is greater than maximum—maximum benefit applies
\$5,000	0.85 * \$500 = \$425	0.7 * 500 = \$350	0.5 * \$4,000 = \$2,000	\$2,775	\$1,500	30%	Sum of replaced wages is greater than maximum—maximum benefit applies

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for households with adjusted gross income greater than \$150,000, and we recommend following that benchmark, although with a more gradual phase-out beginning at \$100,000 AGI.

Endnotes

1. For example, see Table 1 in the federal government periodic summary of what employers spend on employee compensation for the shares attributable to wages versus benefits (BLS 2021b).
2. According to Roberts and Schweitzer (2020), “there isn’t a single county, parish, borough, census area, or city in the United States where state unemployment benefits alone can cover a set of very modest monthly expenses (for example, the 40th percentile of area rent) for a typical one-adult, one-child family.”
3. The \$250 weekly benefit amount would change over time, as it would be indexed to median wage growth.

4. A key proposal in section 2 of this report would increase the taxable maximum for the base of the Federal Unemployment Tax Act (FUTA) tax to be equal to the taxable maximum for the base of the Social Security (Federal Insurance Contributions Act or FICA) tax, which was just under \$143,000 in 2021. A worker earning \$143,000 annually makes roughly \$2,750 each week, and under the formulas proposed in this section would qualify for a UI benefit of roughly \$1,775. This rounds up roughly to 150% of the average weekly wage in 2020, which was just under \$1,200 nationally.
5. See Cooper and Kroeger 2017 for an overview of wage theft in the U.S. economy and an estimate of its reach.
6. At the local, state, or federal level.
7. If macroeconomic conditions warrant the triggering of extended benefits, it is beneficial to the macroeconomy to raise benefit levels, so during extended benefit periods, we propose that all earnings from part-time work be disregarded unless the sum of a worker's part-time wages and UI benefit exceeds 125% of their prelayoff wages.
8. See Ganong et al. 2021 for evidence on the large macroeconomic boost provided by pandemic-related UI expansions, including increases in benefit generosity.
9. It is sometimes argued that UI benefits should be taxed because they are replacements for wages, but this is also true in a general sense for benefits from Social Security, Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), and other safety-net programs. These programs are generally untaxed or only partly taxed because it is simpler to adjust benefit levels directly, rather than issuing benefits and then taxing back part of the value of that benefit. Further, federal taxation of state-funded UI benefits is effectively a federal surtax on state UI tax collections (Galle and Pancotti 2021). For any given target replacement rate a state might choose, federal taxation of benefits requires the state to pay more, and therefore to impose more in state taxes, to achieve the identical replacement rate.
10. The literature on the employment effects of potential benefit duration discussed in Section 4 is applicable here, as longer durations increase the net take-home value.
11. The arguments for exempting state UI benefits from federal tax are stronger than the case for states exempting their own benefits. We do not recommend requiring states to exempt UI from their own income tax, although federal exemption would automatically result in state exemption in about half of states.

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Appendix table

How proposed UI reforms correct flaws in current policy

The table below summarizes key proposals under the five priority recommendations for urgent interventions to ensure that the unemployment insurance system can sustain families and the economy. A subset of these proposals are highlighted in the Executive Summary. Individual chapters in the report discuss these policies in detail and provide additional important reforms.

Current policy/law	Proposed reform and rationale
Guarantee universal standards	
State control. With few exceptions, states decide eligibility, benefit levels, and benefit duration.	Establish federal minimum standards to ensure geographic, racial, and gender equality.
All or nothing tax relief. State employers are subject to a \$42/employee federal tax, rising to \$420 if state fails to comply with federal rules. This penalty rate has never been invoked.	Give the federal government usable enforcement tools. Encourage the use of statutory tax penalties by allowing the federal government to apply <i>incremental</i> increases to the federal tax rate on employers that fail to meet minimum universal standards and other key obligations of a more equitable UI system.
Unreviewable enforcement discretion. The U.S. Department of Labor has sole authority to decide whether to investigate or sanction state noncompliance.	Worker voice in enforcement. Provide workers with a pathway to report state noncompliance to the federal government and an avenue for challenging federal inaction.
Workers vulnerable to state failures. States may take months to process claims in times of high demand. Workers can get retroactive benefits, but often have no way to pay their bills while they wait.	Hold workers harmless for state delays. Ensure that workers with pending applications that are not being processed in a timely way receive at least the minimum weekly benefit.
Reform financing	
State financing. The unemployment system is jointly	Provide federal financing for benefits. Use federal funds

Current policy/law

Proposed reform and rationale

financed by states and the federal government through payroll taxes paid by employers. During normal economic times, state tax funds pay for the benefits their workers receive and federal tax funds underwrite the cost of administering the program. The federal government finances 50% of the Extended Benefits (EB) program, and in recent recessions has paid for 100% of the EB program and funded emergency benefits programs enacted on an ad hoc basis.

generated by a single, federal unemployment insurance tax to pay for all UI benefits.

If UI tax rates paid by employers are level across states, we can remove the most fundamental barrier to adequate benefit financing, and thus adequate benefit amounts.

Taxable wage base. State UI tax is imposed on the first dollars of employees' wages, up to a cap that varies by state. Most states' wage bases are under \$15,000.

Broaden the taxable wage base. To make UI taxes more efficient and more progressive, set the UI taxable wage base cap higher, to equal the Social Security wage base cap (currently \$142,800), and index it.

Experience rating based on UI claims. Different employers within a state face different tax rates, depending on the employer's "experience" with unemployment, measured by the share of former workers who receive UI benefits over a given period. This tax model, known as "experience rating," is intended to reduce layoffs, but also encourages businesses to challenge workers' benefit claims.

Adopt an hours-worked formula for experience rating. Reform experience rating to use an "hours worked" formula in which an employer's tax rate depends on how much the hours worked by their employees changed, on a quarterly basis, over a three-year period.

If we switch to basing tax rates on changes in workforce hours, we eliminate the incentives to deny workers benefits, but keep the incentives for retaining rather than terminating employees.

State trust fund balances based on expected benefit awards in high-cost periods. Currently, in good times states deposit excess UI revenues in a "trust fund" account, to be drawn on during recessions. Regulations encourage states to ensure that fund balances hit a certain ratio of expected payouts in high-cost periods. States can hit targets through benefit cuts rather than revenue increases.

Remove the incentive to cut benefits to lower trust fund balance targets by basing state trust fund targets on industry-adjusted benefit costs per capita.

Partial, unpredictable federal financing of UI during downturns. States can borrow from the federal government to pay UI benefits, subject to substantial interest and penalties. In past recessions, Congress has forgiven these loans or waived some interest and penalties.

In a federal–state financing system, automatically grant states financial relief during local downturns. To reduce pressure on states to slash benefits, especially in post-recession periods when trust fund balances are low, automatically grant federal relief, such as forgiveness of state loans.

Weak tools for combating employee misclassification. Some employers circumvent UI taxes by claiming that their workers are independent contractors rather than employees. During the recession, app-based workers received temporary CARES Act benefits, but the companies

Require the ABC test. The ABC test, already adopted in a few states, is a simpler and more protective legal test that presumes a worker providing a service to a business is an employee unless: (A) the individual is free from the direction and control of the business; (B) the labor is provided outside

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that profited from their labor largely fail to pay their share. States are hamstrung in their efforts to combat the practice, in part due to complex tests that are unpredictable and costly to administer.

the usual course of the business; and (C) the service provider is customarily engaged in their own independently established business. Workers should be able to enforce the law if their employers are fraudulently misclassifying them to evade UI taxes.

UI tax imposed only on wages. Because employers are taxed based on their employees' salaries, payments to contractors are not taxed.

Tax large businesses that use a lot of contractors. To further account for misclassification that the ABC test cannot reach, and to reduce tax incentives for outsourcing, tax contractor payments at the same rate as employee hours, but only if the contractor receives a Form 1099, and only for large firms.

Update UI to match the modern workforce

Recent earnings above a certain threshold as a test for eligibility. To qualify for UI benefits, workers must be able to show that they earned money in an amount greater than a specific threshold over a specific period. Arizona, for example, requires minimum wage workers to average more than 30 hours of work a week to be eligible for UI, excluding many low-wage workers who are underemployed.

Replace the dollar earnings requirement with an hours worked requirement. Make workers eligible if they work at least 300 hours in any of the six quarters before separation.

If we base eligibility solely on hours worked and extend the period for qualifying hours over six quarters, we can expand UI eligibility to low-paid and part-time workers who are attached to the labor force but whose earnings are too low or uneven to pass the traditional "monetary eligibility" requirement.

Restrictive "reason for separation" rules. The UI program is intended to insure workers against involuntary separation from employment. However, many states use eligibility criteria that exclude workers who separate from work through no fault of their own.

Expand eligible reasons for separation. Ensure UI eligibility for workers who leave their jobs because they have compelling personal or family reasons, their rights are violated in the workplace or their safety is threatened, they are retaliated against for engaging in labor action such as a strike, or they are in a seasonal or temporary work arrangement that ends.

Onerous continued eligibility requirements. After workers establish their UI eligibility, they must meet sometimes burdensome weekly reporting and job-search requirements to show that they are available for, and actively seeking, work. In some cases, workers who seek part-time work as a bridge back to employment, or who engage in education and training programs, are considered unavailable for work.

Institute more flexible continued eligibility requirements. To eliminate red tape and prevent pointless disqualifications for needy families, streamline reporting, and make workers searching for part-time work eligible for UI, as well as those participating in union-led training programs. Eliminate or relax work-search requirements, which do not meaningfully support labor market reentry.

Exclusionary definitions of "qualifying workers." In the current UI system, workers without recent work history are

Expand the definition of qualifying worker. Create a Jobseeker's Allowance to support self-employed workers,

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ineligible for UI, even when they are involuntarily unemployed. In addition, immigrant workers who are not authorized to work are ineligible for benefits.

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seasonal workers, temporary workers, undocumented workers, new entrants to the labor market, and people returning to the labor market after taking time off for health or caregiving reasons or because they were incarcerated.

By providing income support to all job seekers who lose work through no fault of their own, we can facilitate reemployment, benefiting both job seekers and the broader economy.

Punitive overpayment collections. While attention during the pandemic has been focused on criminal enterprises defrauding UI programs, the vast majority of improper payments in normal times are the result of confusion or mistakes by claimants, or errors by the UI agency. Claimants are often required to repay these overpayments—sometimes with penalties— even when they are not the result of any misrepresentation on their part.

Assure fairness in the assessment and collection of overpayments. Exempt households with incomes under 200% of the federal poverty line from repayment obligations, except in cases of fraud. Require all states to have a provision that permits waiver of nonfraud overpayments when contrary to the purposes of the UI program or otherwise contrary to equity.

By waiving repayment collections, we avoid destabilizing workers who may no longer have access to funds to repay the overpayments, as they spent the benefits on necessities during their period of unemployment.

Expand UI benefit duration

Benefits range from a low of 12 weeks to a high of 30 weeks, depending on the state, during normal economic times. The most common minimum benefit duration is 26 weeks, though some states in recent years have reduced duration to below this level, in some cases to periods as short as 12 weeks.

Increase benefit duration in normal economic times to 30 weeks. Make the minimum potential benefit duration (PBD) 30 weeks during periods of low unemployment.

Increasing the PBD would help provide benefits that last long enough to alleviate economic insecurity and enable workers to secure jobs that can sustain their families.

Inadequate benefit duration during economic downturns. When the labor market deteriorates to certain levels, economic metrics trigger extended benefits. Tier 1 of the EB program adds up to 13 weeks and tier 2 adds an additional seven weeks.

Increase benefit duration during periods of labor market distress. Use automatic triggers to increase benefit duration in tiers as the labor market weakens, reaching a maximum of 99 weeks during times of severe labor market distress.

Increasing the PBD during downturns would help ensure that jobless workers have the support they need for long-haul job searches, and that the demand boost provided by UI benefit responding in the economy lasts long enough to expedite a true recovery.

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Premature trigger-off of extended benefits. The EB program contains “look-back” provisions that trigger benefits off if there has been no significant *increase* in unemployment over the past two years. This allows extended benefits to trigger off while the labor market remains weak (when unemployment is stabilizing at an elevated level or falling *only because people have left the labor force because they have given up searching for work*). Additionally, after the 20 weeks of tier 1 and 2 EB benefits, further extensions have to be legislated on an ad hoc basis by Congress.

Trigger off extended benefits in phases according to better measures of labor market distress. Reduce extended benefit durations gradually, and only as unemployment rates are declining and the declines are driven by rising prime-age employment.

Automatic benefit extensions that last as long as needed are more effective and efficient than emergency programs that end arbitrarily or cease and restart, causing extreme anxiety for workers and their families.

Increase UI benefit levels

Low wage-replacement rates. On average, UI benefits replace roughly 40% of a worker’s prelayoff wages. Health and retirement benefits and other forms of compensation that are not wages are not replaced, and their loss adds to a household’s financial distress.

Raise replacement rates. A sudden loss of 60% of income is devastating to workers and their communities. Implement a progressive formula that replaces at least 85% of wages for the lowest earners and gradually decreases to replace 50% of wages for the highest earners.

Disparate minimum and maximum benefit levels. States vary tremendously in their benefit levels, due to different minimum and maximum benefits, as well as formulas for computing benefits based on wage history.

Standardize minimum and maximum benefit levels. Set a maximum weekly benefit amount at no lower than 150% of the state’s average weekly wage, and a minimum weekly benefit amount at 30% of the state’s average weekly wage (or an inflation-adjusted \$250 if that number is greater).

No universal dependent allowance. Ten states currently offer dependent allowances that increase benefits for those with children or other dependents when setting UI benefit amounts, though amounts and eligible dependents vary by state.

Establish a universal dependent allowance. Provide a dependent allowance of \$35 (inflation adjusted) per dependent per week.

A dependent allowance provides an important backstop for households with children who are more likely to face food and housing insecurity when a job is lost.

Inadequate benefits for subminimum wage earners and tipped workers. There are 3 million tipped workers—disproportionately women and people of color—and over 100,000 workers with disabilities who are paid a subminimum wage. Further, some classes of workers, such as a few categories of agricultural workers, legally may be paid subminimum wages, while other workers are illegally paid subminimum wages. Whether workers receive subminimum wages legally or illegally, their low earnings depress their UI benefit levels.

Improve treatment of subminimum wage earners and tipped workers. Calculate benefit amounts for subminimum wage earners and tipped workers based on the prevailing minimum wage or the worker’s wages with tips, whichever is greater.

Using a prevailing minimum wage standard for setting benefits for subminimum wage workers helps ensure that these workers aren’t penalized twice for their low earnings.

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Big benefit reductions for part-time workers. Beneficiaries who accept part-time work while job searching typically lose all or most of their unemployment benefit, even if their part-time wages are far lower than prelayoff earnings.

Allow part-time workers to keep more of their wages. To eliminate pointless and economically damaging disincentives for part-time work, implement an earnings disregard that allows workers to receive income totaling 110% of their prelayoff average weekly wage from combined UI benefits and earnings from part-time work.

Benefit levels that don't adjust to economic downturns. Historically, benefit levels have not been adjusted during economic downturns, with the minor exception of a \$25 weekly addition during the Great Recession. The current provision of higher benefits during the COVID-19 pandemic is an outlier.

Increase benefits during economic downturns. To reflect the greater social value and lower potential costs of UI during recessions, increase benefits when extended benefits are triggered, and increase wage replacement rates, minimum and maximum benefit amounts, the dependent allowance, and the Jobseeker's Allowance.

Taxation of benefits. UI benefits were fully tax exempt for the first 40 years of the U.S. system, but taxes were phased in between 1978 and 1986, reducing after-tax replacement rates.

Reform taxation of benefits. To restore replacement rates, preserve state funds for state use, and eliminate needless tax hassles, exempt lower-earning households—those with less than \$100,000 in adjusted gross income—from paying federal taxes on UI benefits, and phase in taxes for households earning between \$100,000 and \$150,000.