

MEMORANDUM

TO: Alabama's Public Workforce System Stakeholders
DATE: 6 April 2020
FROM: The Governor's Office of Education and Workforce Transformation
SUBJECT: **The Education and Workforce Response to the COVID-19 Pandemic in Alabama**

Outline

- I.** Executive Summary
- II.** COVID-19 State of Emergency
- III.** Unemployment Claims for the Week of March 28th and the Effects of COVID-19 on Total Employment in Alabama
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 - b.** The Family Medical Leave Act (FMLA) and COVID-19
 - c.** Emergency Paid Sick Leave
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I. Executive Summary

The COVID-19 State of Emergency

Recognizing the growing threat posed by Coronavirus Disease 2019 (COVID-19), Governor Ivey proactively formed the COVID-19 Task Force on March 6, 2020.¹ Governor Ivey issued a COVID-19 State of Emergency on March 13, 2020. On April 3, 2020 and issued a stay-at-home order for Alabama, effective April 4, 2020 at 5pm to April 30, 2020 at 5pm.²

The Effects of COVID-19 on Alabama's Workforce

The U.S. unemployment rate increased from 3.5 percent to 4.4 percent from February to March 2020, which is the largest one-month increase in the unemployment rate since January 1975. In Alabama, for the week ending on March 21st, 10,892 initial claims were filed. For the week ending on March 28th, 80,186 initial claims were filed, which is an increase of 69,294 over the previous week.

Unemployment Compensation Flexibilities During the COVID-19 Outbreak

Federal unemployment compensation (UC) law requires that claimants be "able and available" for work.³ Most state UC laws, including Alabama's, include a requirement to wait a week before receiving UC benefits. Secretary Fitzgerald Washington of the Alabama Department of Labor (ADOL) has temporarily waived the "able and available" and wait week provisions. On March 20, 2020, Secretary Washington also announced that all charges will be waived against employers who file partial unemployment compensation claims on behalf of employees.⁴ For further information on UC benefits, see the ADOL's [FAQ document](#).

¹ Governor Kay Ivey, Press Release, "Governor Ivey Establishes Coronavirus (COVID-19) Task Force," 6 March 2020, accessed on 4 April 2020 <<https://governor.alabama.gov/newsroom/2020/03/governor-ivey-establishes-coronavirus-covid-19-taskforce/>>.

² Governor Kay Ivey, Press Release, "Governor Issues Stay at Home Order," 3 April 2020, accessed on 5 April 2020 <<https://governor.alabama.gov/newsroom/2020/04/governor-ivey-issues-stay-at-home-order/>>.

³ 42 USC 503(a)(12).

⁴ Alabama Department of Labor, News Release, Alabama to Waive Employer Charges for COVID-19 Related Claims State Urging Employers to File Claims on Employees' Behalf, 20 March 2020, accessed on 23 March 2020 <<https://www.labor.alabama.gov/COVID/COVID-19%20Employers%20File%20Claims%20news%20feed.pdf>>.

The Families First Coronavirus Response Act (FFCRA, P.L. 116-127)

The Families First Coronavirus Response Act (FFCRA) was signed into law as P.L. 116-127 by President Trump on Wednesday, March 18, 2020⁵ as the second federal stimulus package in response to the COVID-19 pandemic. The FFCRA provided flexibility and resources for administering the UC program, created the Emergency Family Medical Leave Expansion Act (EFMLEA), and the Emergency Paid Sick Leave Act (EPSLA).

The Emergency Family Medical Leave Expansion Act (EFMLEA)

The Emergency Family Medical Leave Expansion Act (EFMLEA) provides employees of employers with fewer than 500 employees and state, local, and some government employers, who are unable to work or telework because they must care for a minor child whose school or childcare provider is closed, the right take up to 12 weeks of job-protected leave.

The Emergency Paid Sick Leave Act (EPSLA)

The Emergency Paid Sick Leave Act (EPSLA) requires employers with fewer than 500 employees and state, local, and federal government employers to provide employees two weeks of paid sick leave for six COVID-19 related reasons: the employee (1) is subject to quarantine or isolation order related to COVID-19; (2) has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; (3) is experiencing symptoms of COVID-19 and is seeking a medical diagnosis; (4) is caring for an individual who is subject to a quarantine order or who has been advised to self-quarantine; (5) is caring for his or her son or daughter whose school or place of care has been closed or whose child care provider is unavailable due to COVID-19 related reasons; or (6) is experiencing any other substantially similar condition specified by the federal government. The EPSLA expires on December 31, 2020.⁶

The Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136)

President Trump signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act into law on March 27, 2020 as P.L. 116-136 as the third federal COVID-19 recovery package.⁷ The CARES Act expanded the UC program, provided recovery rebates to individuals, created the Coronavirus Relief Fund (CRF), and the Education Stabilization Fund.

The Coronavirus Relief Fund (CRF)

The Coronavirus Relief Fund (CRF) provides \$150 billion to state, local, territorial, and tribal governments⁸ to cover any costs related to COVID-19 that were not budgeted for and were incurred between March 1 and December 30, 2020. Alabama is expected to net \$1.9 billion from the Coronavirus Relief Fund.⁹

The Education Stabilization Fund

The Education Stabilization Fund provides \$30.5 billion for Emergency Relief Grants to educational institutions, local educational agencies (LEAs), students, and teachers in response to COVID-19 through three emergency education funds. The Elementary and Secondary School Emergency Fund (ESSEF) includes \$13.5 billion in formula funding available to each state to facilitate the response to COVID-19.¹⁰ Alabama will receive approximately \$216.9 million from the ESSEF.¹¹ Just over \$14 billion is dedicated to the Higher Education Emergency Relief Fund (HEERF) to provide formula funding to institutions of higher education to cover costs associated with the closure and significant changes to the delivery of instruction and to provide emergency grants to students for expenses directly related to COVID-19. Alabama is expected to receive approximately \$218.5 million

⁵ U.S. Senate, Roll Call Vote on the Passage on H.R. 6201, 18 March 2020, accessed on 18 March 2020 < https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=116&session=2&vote=00076>.

⁶ H.R. 6201, the Families First Coronavirus Response Act, Title-by-Title Summary, House of Representatives Appropriations Committee, accessed on 17 March 2020 <<https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/Families%20First%20Summary%20FINAL.pdf>>.

⁷ The Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136.

⁸ *Ibid.*, Title V, Division A.

⁹ Federal Funds Information for States, A Summary of State Coronavirus Funding to Date, 27 March 2020, accessed on 29 March 2020 <<https://www.ffis.org/PUBS/budget-brief/20/12>>.

¹⁰ The Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136, Sec.18001.

¹¹ Congressional Research Service (CRS) Estimate, 25 March 2020.

for the HEERF.¹² The Governor’s Emergency Education Relief Fund (GEERF) provides \$3 billion to provide flexible funding to elementary schools, secondary schools, and institutions of higher education that have been affected by COVID-19. It is estimated that \$48.9 million will be granted to Alabama for the GEERF.¹³

The CARES Act Unemployment Compensation Provisions

The CARES Act creates a temporary Pandemic Unemployment Assistance (PUA) program through December 31, 2020 for individuals, up to 39 weeks, who are unable to work due to COVID-19 and who not eligible for UC benefits. Individuals who are able to telework with pay and who are receiving paid sick leave or other paid benefits are not eligible for PUA.¹⁴ The CARES Act provides an additional \$600 per week payment (fully funded by the federal government) to recipients of UC benefits or PUA for up to four months and provides an additional 13 weeks of unemployment benefits, through December 31, 2020, to individuals who have exhausted benefits and remain unemployed.¹⁵

Recovery Rebates for Individuals

The CARES Act provides all U.S. residents with adjusted gross incomes of up to \$75,000 (\$150,000 married) with a one-time \$1,200 recovery rebate check (\$2,400 for married couples and an additional \$500 per child.)¹⁶

U.S. Small Business Administration (SBA) Economic Injury Disaster Loans (EIDL)

The U.S. Small Business Administration’s Economic Injury Disaster Loans (EIDL) offer up to \$2 million in assistance for a small business. The loans can provide economic support to small businesses to help overcome the temporary loss of revenue. The interest rate is 3.75 percent for small businesses without credit available elsewhere. Businesses with credit available elsewhere are not eligible. The interest rate for non-profits is 2.75 percent.¹⁷

The Paycheck Protection Program (PPP)

The Paycheck Protection Program provides small businesses with funds to pay up to eight weeks of payroll costs including benefits. Funds can also be used to pay interest on mortgages, rent, and utilities. Small businesses with 500 or fewer employees—including nonprofits, veterans’ organizations, tribal concerns, self-employed individuals, sole proprietorships, and independent contractors—are eligible. Businesses with more than 500 employees are eligible in certain industries. Starting April 3, 2020, small businesses and sole proprietorships can apply. Starting April 10, 2020, independent contractors and self-employed individuals can apply.¹⁸

The Education Response to the COVID-19 Pandemic

On March 13th, Governor Ivey issued a State of Emergency and announced that all Pre-K-12 schools would close from Wednesday, March 18th until Monday, April 6th.¹⁹ On March 17, Dr. Mackey announced the formation of the Superintendent’s Extending Access to Learning (SEAL) Task Force to determine whether or not to extend the closure of schools, to prepare for an extension of the school closure, and the logistics for reopening schools. The group’s first action of business was to survey all of Alabama’s superintendents to evaluate how each would be

¹² American Council on Education, “CARES Act”—Higher Education Relief Fund: Simulated Distribution of Amounts Provided Under Section 18004(a)(1), 25 March 2020.

¹³ Congressional Research Service (CRS) Estimate, 25 March 2020.

¹⁴ The Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136, Sec. 2102.

¹⁵ *Ibid.*, Sec. 2107.

¹⁶ *Ibid.*, Sec. 2201.

¹⁷ U.S. Small Business Administration, Press Release, *SBA to Provide Disaster Assistance Loans for Small Businesses Impacted by Coronavirus (COVID-19)*, 12 March 2020, accessed on 18 March 2020 <<https://www.sba.gov/about-sba/sba-newsroom/press-releases-media-advisories/sba-provide-disaster-assistance-loans-small-businesses-impacted-coronavirus-covid-19>>.

¹⁸ U.S. Treasury, Fact Sheet, Small Business Paycheck Protection Program (PPP), accessed on 3 April 2020 <<https://home.treasury.gov/system/files/136/PPP%20--%20Overview.pdf>>.

¹⁹ Crain, Trisha Powell, “Alabama closes all K-12 schools, first COVID-19 case confirmed in Jefferson County,” *al.com*, 13 March 2020, updated 14 March 2020, accessed on 23 March 2020 <<https://www.al.com/news/2020/03/alabama-closes-all-k-12-schools.html>>.

impacted by closing schools beyond April 6th.²⁰ On March 25, 2020, Dr. Mackey presented Governor Ivey with a plan to reopen school through alternative means and without in-person instruction for the remainder of the 2019-2020 school year. All LEAs were required to submit a Local Education Agency (LEA) Academic Continuity Plan that provides a plan for completing the 2019-2020 school year. On March 26, 2020, Governor Ivey and Dr. Mackey announced that Alabama's schools will complete the 2019-2020 school year via alternative methods.²¹

II. COVID-19 State of Emergency

Governor Ivey, recognizing the growing threat posed by the Coronavirus Disease 2019 (COVID-19), formed the COVID-19 Task Force on March 6, 2020²² and issued a State of Emergency under the Alabama Emergency Management Act of 1955 on March 13, 2020. On March 15, 2020, Governor Ivey issued an executive memorandum that provided pathways for department directors to allow telework options for state employees. The executive memorandum also provided that state employees who are unable to work remotely and are asked to not report to their duty stations will not be charged sick leave and will be provided emergency leave until April 6, 2020.²³ On Friday, March 27, 2020, Governor Ivey issued an updated executive memorandum with revised directives regarding COVID-19 state government operations. The March 27, 2020 executive memorandum extended the period of telework and flexible work schedules for state employees to April 17, 2020.²⁴ On April 3, 2020, Governor Ivey issued a stay-home order for Alabama that is effective from April 4, 2020 at 5pm until April 30, 2020 at 5pm.²⁵

III. Unemployment Claims for the Week of March 28th and the Effects of COVID-19 on Total Employment in Alabama

The U.S. entered March 2020 still on an 11-year economic expansion—finding workers to fill open positions was the greatest concern for most employers. Unemployment was at 3.5 percent in March 2020, which was a 50-year low.²⁶ Just a month before, the Dow Jones Industrial Average (DJIA) reached its high-water mark of 29,551 on February 12, 2020. By the end of March, the DJIA was at 21,917. By the end of March, over 10 million people had filed for unemployment benefits.²⁷ Nationally, for the week ending on March 14th (the first week with significant COVID-19-related worker displacement), the advance figure for seasonally adjusted initial claims was 281,000, an increase of 70,000 from the previous week's unrevised level of 211,000. In the week ending March 21, the advance figure for seasonally adjusted initial unemployment claims was 3,283,000, an increase of 3,001,000 from the March 14th revised levels. In the week ending March 28, the advance figure for seasonally adjusted initial claims was 6,648,000, an increase of 3,341,000 from the previous week's revised level. The week of March 21 was revised up

²⁰ Johnson, Krista, "Coronavirus and education: What's happened since Alabama's first confirmed case of COVID-19?", 22 March 2020, accessed on 24 March 2020 <<https://www.montgomeryadvertiser.com/story/news/education/2020/03/22/coronavirus-and-education-whats-happened-since-alabamas-first-confirmed-case-covid-19-schools-closed/5042983002/>>.

²¹ Governor Kay Ivey, Fourth Supplemental State of Emergency: Coronavirus (COVID-19), 26 March 2020, accessed on 27 March 2020 <<https://governor.alabama.gov/newsroom/2020/03/fourth-supplemental-state-of-emergency-coronavirus-covid-19/>>.

²² Governor Kay Ivey, Press Release, "Governor Ivey Establishes Coronavirus (COVID-19) Task Force," 6 March 2020, accessed on 4 April 2020 <<https://governor.alabama.gov/newsroom/2020/03/governor-ivey-establishes-coronavirus-covid-19-task-force/>>.

²³ Coronavirus (COVID-19) State Government Operations, Executive Memorandum to All State Agency Heads, Governor Kay Ivey, 15 March 2020.

²⁴ Updated Directive Regarding Coronavirus (COVID-19) State Government Operations, Executive Memorandum to All State Agency Heads, Governor Kay Ivey, 27 March 2020.

²⁵ Governor Kay Ivey, Press Release, "Governor Issues Stay at Home Order," 3 April 2020, accessed on 5 April 2020 <<https://governor.alabama.gov/newsroom/2020/04/governor-ivey-issues-stay-at-home-order/>>.

²⁶ Liz Hoffman and Marcelo and Prince, "The Month Coronavirus Felled American Business," *The Wall Street Journal*, 31 March 2020, accessed on 4 April 2020 <https://www.wsj.com/graphics/march-changed-everything/?mod=article_inline&mod=hp_lead_pos7>.

²⁷ Sarah Chaney and Eric Morath, "Record 6.6 Million Americans Sought Unemployment Benefits Last Week," *The Wall Street Journal*, 2 April 2020, accessed on 4 April 2020 <<https://www.wsj.com/articles/another-3-1-million-americans-likely-sought-unemployment-benefits-last-week-11585819800>>.

NAICS Code	Initial Claims by NAICS Sector—Week Ending in March 28 th	Initial Claims
11	Agriculture, Forestry, Fishing and Hunting	33
21	Mining, Quarrying, and Oil and Gas Extraction	69
22	Utilities	14
23	Construction	1,454
31-33	Manufacturing	11,486
42	Wholesale Trade	894
44-45	Retail Trade	5,561
48-49	Transportation and Warehousing	1,230
52	Information	474
52	Finance and Insurance	247
53	Real Estate and Rental and Leasing	653
54	Professional, Scientific, and Technical Services	1,570
55	Management of Companies and Enterprises	391
56	Administrative and Support and Waste Management and Remediation Services	6,506
61	Educational Services	1,339
62	Health Care and Social Assistance	7,324
71	Arts, Entertainment, and Recreation	1,512
72	Accommodation and Food Services	17,632
81	Other Services (except Public Administration)	2,859
92	Public Administration	341
999	Unknown	58
	INA	19,337
	Total	80,984

by 24,000 from 3,283,000 to 3,307,000.²⁸ The U.S. economy shed 701,000 jobs in March²⁹ and the U.S. unemployment rate increased from 3.5 percent to 4.4 percent from February to March 2020, which is the largest one-month increase in the unemployment rate since January 1975. March marked the first month since 2010 that the economy lost jobs, which ended a remarkable 113-month stretch of month-to-month job growth.³⁰ For the week ending on March 21st, 10,892 initial claims were filed in Alabama. For the week ending on March 28th, 80,186 initial claims were filed in Alabama, which is an increase of 69,294 over the previous week. This means that the state of Alabama saw nearly as many initial claims during the week ending on March 28th as the entire country witnessed just two weeks prior during the week ending on March 14th. In fact, there were 175,321 initial claims filed between March 16 and April 2, 2020 compared to 130,586 filed for the entire year in 2019. Total employment in Alabama for February 2020 was 2,075,000. Total employment was decreased by 0.528 percent to 1,988,505, which equals a -9.6 reduction in total employment between February 29 and March 28, 2020. Accommodations and food services has witnessed the biggest percentage change decrease in employment at -12.7 percent. Arts, entertainment, and recreation saw

Percentage Change in Total Employment in Alabama 29 February to 28 March 2020				
Industry	29-Feb	21-Mar	28-Mar	Current % Change from 2/29
Accommodation and Food Services	183,900	180,701	160,470	-12.7%
Arts, Entertainment, and Recreation	20,000	19,753	18,072	-9.6%
Administrative and Support and Waste Management and Remediation Services	125,000	123,762	115,039	-8.0%
Manufacturing	270,400	269,887	255,234	-5.6%
Educational Services:				
Sub Total	32,600	32,291	30,774	-5.6%

the second-largest decline at -9.6 percent. The third steepest decline happened within the administrative support, waste management, and remediation services sector at -8.0 percent. Manufacturing and Education Services were tied for the fourth-highest decline at -5.6 percent respectively.³¹ Dr. Alex Ruder of the Federal Reserve Bank of Atlanta conducted a preliminary analysis of Alabama's UI claims data. He created two plots graphs (see below) that provides an analysis of initial UI claims. The first graph analyzes UI claims by county, and the second graph analyzes the claims by industry sector. Each figure shows the

percent change in UI claims from the week ending March 14 to the week ending March 28.³²

²⁸ News Release, U.S. Department of Labor, Unemployment Insurance Weekly Claims, 2 April 2020, accessed 2 April 2020 <<https://www.dol.gov/ui/data.pdf>>.

²⁹ "U.S. Employers Cut 701,000 Jobs in March," *The Wall Street Journal*, 3 April 2020, accessed on 3 April 2020 <https://www.wsj.com/articles/u-s-jobs-report-likely-to-show-start-of-record-labor-market-collapse-11585906617?mod=hp_lead_pos1>.

³⁰ Megan Cassella and Ian Kullgren, "America's job market flips from hot to frozen," *Politico*, 3 April 2020, accessed on 4 April 2020 <<https://www.politico.com/news/2020/04/03/unemployment-numbers-march-162890>>.

³¹ Governor's Office of Education and Workforce Transformation Analysis, Based on Unemployment Compensation and Layoff Estimates Provided by the Alabama Departments of Labor and Commerce, 2 April 2020.

³² Dr. Alexander Ruder, "Analysis of Alabama's UI Data 14 March to 28 March 2020, Federal Reserve Bank of Atlanta, 5 April 2020.

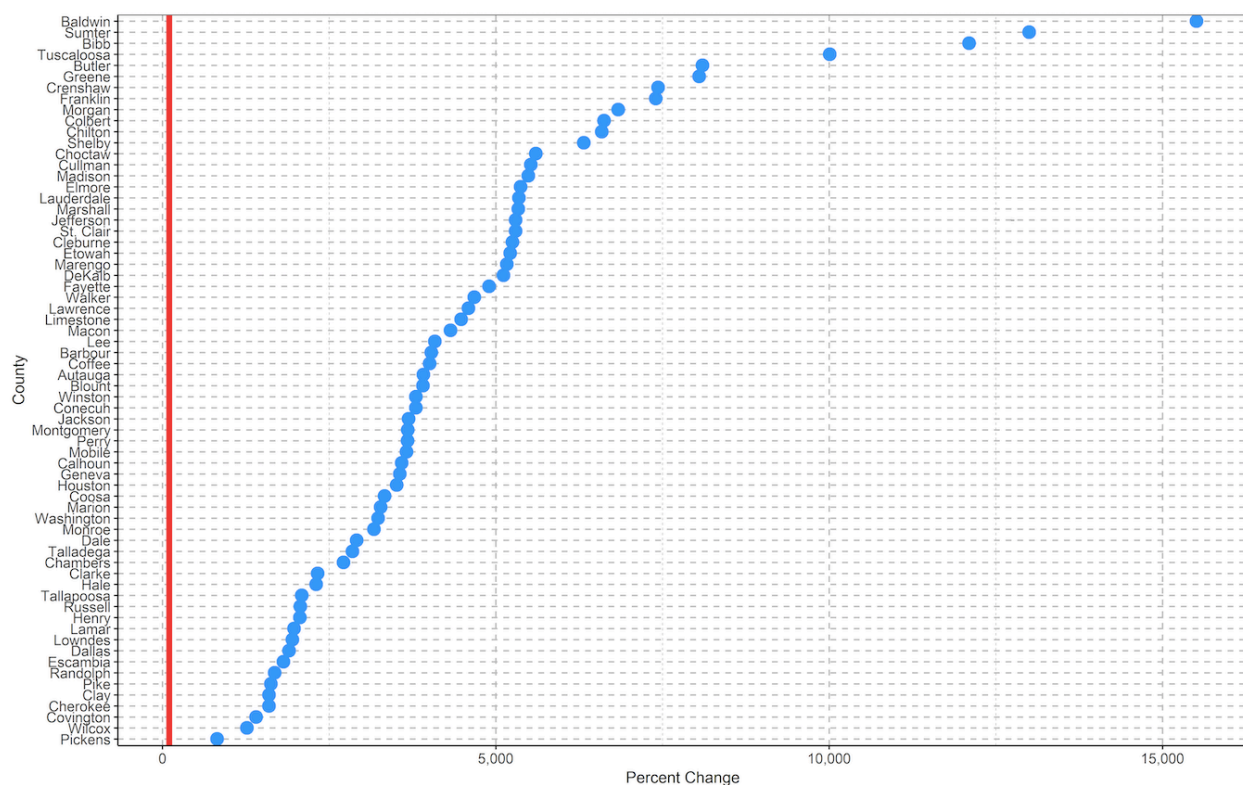


Figure 1, Percentage Change in County-level UI Claim, 14 March to 28 March, 2020³³

Source: State of Alabama. Note: Red line equals 100%.

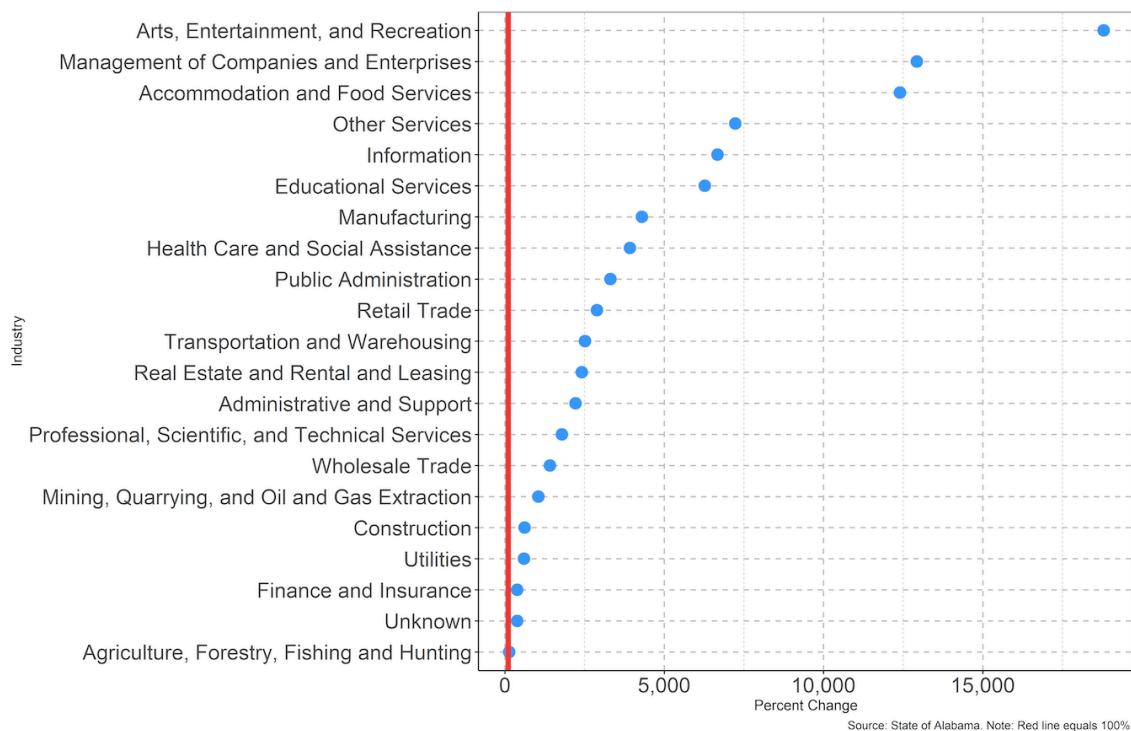


Figure 2, Percentage Change in Industry-level UI Claim, 14 March to 28 March, 2020³⁴

Source: State of Alabama. Note: Red line equals 100%.

³³ *Ibid.*

³⁴ Dr. Alexander Ruder, “Analysis of Alabama’s UI Data 14 March to 28 March 2020, Federal Reserve Bank of Atlanta, 5 April 2020.

IV. Families First Coronavirus Response Act (FFCRA) (P.L. 116-127)

The Families First Coronavirus Response Act (FFCRA), was introduced by Rep. Nita Lowey (D-NY), Chair of the House Appropriations Committee on Wednesday, 11 March 2020. The FFCRA passed in the U.S. House of Representatives by a vote of 363-40 on Saturday, 14 March 2020.³⁵ The FFCRA passed in the U.S. Senate by a vote of 90-8 and was signed into law as P.L. 116-127 by President Trump on Wednesday, March 18, 2020.³⁶ The FFCRA was the second federal stimulus bill in response to the COVID-19 pandemic, and it provided flexibility and resources for administering the unemployment compensation (UC) program, created the Emergency Family Medical Leave Expansion Act (EFMLEA) and the Emergency Paid Sick Leave Act (EPSLA). The UC flexibilities, the EFMLEA, and the EPSLA are discussed in detail below.

a. Unemployment Compensation Flexibilities During the COVID-19 Outbreak

On March 12, 2020, the U.S. Department of Labor (USDOL) announced guidance outlining flexibilities that states have in administering their unemployment compensation (UC) programs to assist Americans affected by the COVID-19 outbreak. Federal law permits significant flexibility for states to provide unemployment compensation (UC) benefits in multiple scenarios related to COVID-19. For example, federal law allows states to pay benefits where: (1) an employer temporarily ceases operations due to COVID-19, preventing employees from coming to work; (2) an individual is quarantined with the expectation of returning to work after the quarantine is over; and (3) an individual leaves employment due to a risk of exposure or infection or to care for a family member. In addition, federal law does not require an employee to quit in order to receive benefits due to the impact of COVID-19.³⁷ The U.S. Department of Labor issued Unemployment Insurance Program Letter (UIPL) 10-20 on March 12, 2020, which provides guidance to states on the flexibility permitted under federal law to provide UC benefits to individuals affected by COVID-19.³⁸ People who are being paid to work from home, or those receiving paid sick or vacation leave are not eligible for unemployment compensation benefits as they are still receiving pay.

Temporarily Suspending the Able to Work, Available for Work, and Actively Seeking Work, and the Wait Week Provisions for Unemployment Compensation

Federal unemployment compensation (UC) law requires that claimants be able to work, available for work, and actively seeking work.³⁹ States have significant flexibility to establish how individuals demonstrate that they are meeting these requirements. In Alabama, the requirement that a laid-off worker be “able and available” to work while receiving unemployment compensation benefits has been modified for claimants who are affected by COVID-19 in one of the following scenarios:

- Those who are quarantined by a medical professional or a government agency,
- those who are laid off or sent home without pay for an extended period by their employer due to COVID-19 concerns,
- those who are diagnosed with COVID-19,
- or, those who are caring for an immediate family member who is diagnosed with COVID-19.⁴⁰

The FFCRA provides broad flexibility for states to temporarily amend their “good cause” provisions in response to the spread of COVID-19. The U.S. Department of Labor is treating the COVID-19 pandemic as a temporary shutdown; therefore, benefits will be suspended when employers call employees back to work. The U.S. Department of Labor issued UIPL 13-20 on March 12, 2020. UIPL 13-20 provides guidance to states for

³⁵ Roll Call Vote 102, 116th Congress, Second Session, 14 March 2020, accessed on 17 March 2020 <<http://clerk.house.gov/evs/2020/roll102.xml>>.

³⁶ U.S. Senate, Roll Call Vote on the Passage on H.R. 6201, 18 March 2020, accessed on 18 March 2020 <https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=116&session=2&vote=00076>.

³⁷ News Release, U.S. Department of Labor, U.S. Department of Labor Announces New Guidance on Unemployment Insurance Flexibilities During COVID-19 Outbreak, 13 March 2020, accessed 13 March 2020 <<https://www.dol.gov/newsroom/releases/eta/eta20200312-0>>.

³⁸ Pallasch, John, Unemployment Insurance Program Letter (UIPL) No. 10-20, Unemployment Compensation (UC) for Individuals Affected by the Coronavirus Disease 2019 (COVID-19), 12 March 2020, accessed on 13 March 2020 <https://wdr.doleta.gov/directives/attach/UIPL/UIPL_10-20.pdf>.

³⁹ 42 USC 503(a)(12).

⁴⁰ “Alabama Announces Support for Workers Impacted by COVID-19,” Alabama Department of Labor Press Release, 16 March 2020, accessed on 17 March 2020 <<https://www.labor.alabama.gov/COVID-19%20UC%20Changes%20March%2016%202020%20News%20Release.pdf>>.

implementing Division D (the Emergency Unemployment Stabilization and Access Act of 2020 [EUISAA]) of the Families First Coronavirus Response Act of 2020 (P.L. 116-127).⁴¹ Most state UC laws, including Alabama's, include a requirement to wait a week before receiving UC benefits. This existing law is temporarily superseded with the passage of EUISAA. States with no waiting week and states that temporarily suspend waiting week requirements are eligible to receive federal matching for the first week of extended benefits. Secretary Fitzgerald Washington has implemented the flexibilities provided in UIPLs 10-20, UIPL 13-20, and existing state and federal law to temporarily waive the able to work, available for work, and actively seeking work, and the wait week provisions.

Examples for Assessing Unemployment Compensation Eligibility

- Employer temporarily ceases operations—an employer or employing unit temporarily shuts down due to COVID-19 with the expectation that the individual will return when business resumes. This may be treated as a temporary layoff.
- Individual is quarantined and will return to employer—an individual is quarantined by a medical professional or under government direction, and the employer has instructed the individual to return to work after the quarantine is over or has not provided clear instruction to do so. This may be treated as a temporary layoff. If the employee does not return to the employer, the state must reassess eligibility.
- Individual is not returning to the employer—an individual is quarantined by a medical professional under government direction or leaves employment to a reasonable risk of exposure or infection (i.e, self-quarantine) or to care for a family member and either does not intend to return to the employer or the employer will not allow the individual to return. Individuals leaving with “good cause” must meet other eligibility requirements to receive benefits.
- For further clarification on unemployment insurance benefits, see the ADOL's [“Frequently Asked Questions”](#) document.
- A chart containing various workforce scenarios and related available unemployment benefits provided through the most recent federal and state responses is also included on the last page of the memorandum.

Charges to Employer Experience Ratings

In the United States, the benefits paid to unemployed workers are financed by payroll taxes levied against individual employers.⁴² UC benefits are primarily financed through the quarterly assessment of taxes on employer payrolls. The tax system is experience rated and operates like an insurance program. An employer begins at an initial rate of tax, which rate will subsequently vary based upon the amount of benefits charged to the employer's account. Thus, the more charges against the account, the higher the tax rate, the fewer claims against the account, the lower the tax rate. The purposes of experience rating are to ensure an equitable distribution of costs of the system among the employers who cause unemployment, to encourage employers to stabilize their workforce, and to encourage employers to participate in the UC system as charges to their accounts will directly influence their tax rates.⁴³ The Alabama Unemployment Insurance Trust Fund has grown to more than \$717 million, representing an increase of \$75 million over 2018. Alabama collected more than \$203 million in unemployment insurance taxes in 2019.⁴⁴ Secretary Washington announced on March 20, 2020 that all charges will be waived against those employers who file partial unemployment compensation claims on behalf of their employees. These charges will be waived until further notice.⁴⁵ As described in UIPL 10-20, many states do not charge individual employers for

⁴¹ Pallasch, John, Unemployment Insurance Program Letter (UIPL) No. 13-20, Families First Coronavirus Response Act, Division D Emergency Unemployment Insurance Stabilization and Access Act of 2020, 12 March 2020, accessed on 23 March 2020 <https://wdr.doleta.gov/directives/attach/UIPL/UIPL_10-20.pdf>.

⁴² Topel, Robert H, “Experience Rating of Unemployment Insurance and the Incidence of Unemployment,” *The Journal of Law & Economics*, vol. 27, no. 1, 1984, pp. 61–90, accessed on 23 March 2020, *JSTOR* <www.jstor.org/stable/725153>.

⁴³ “Experience Rating,” Conformity Requirements for State UC Laws, accessed on 23 March 2020 <https://oui.doleta.gov/unemploy/pdf/uilaws_exper_rating.pdf>.

⁴⁴ 2019 Annual Report, Alabama Department of Labor, accessed on 23 March 2019 <https://labor.alabama.gov/docs/dir/ADOL_2019%20Annual%20Report.pdf>.

⁴⁵ Alabama Department of Labor, News Release, Alabama to Waive Employer Charges for COVID-19 Related Claims State Urging Employers to File Claims on Employees' Behalf, 20 March 2020, accessed on 23 March 2020 <<https://www.labor.alabama.gov/COVID/COVID-19%20Employers%20File%20Claims%20news%20feed.pdf>>.

benefit costs under certain limited circumstances. These “noncharging” provisions are found in practically all state UC laws.

Emergency Unemployment Compensation Administration Grants

Section 4102 of the FFCRA authorized a total of \$1,000,000,000 in emergency grants to states for administration of each state’s unemployment compensation law. Funds provided through these emergency administrative grants may only be used for the administration of the UC program and are not available to be used for the payment of UC itself. This means each state’s share is based on its proportionate share of calendar year 2018 Federal Unemployment Tax Act (FUTA) taxable wages multiplied by \$1,000,000,000. States are eligible for two equal, separate, and distinct allotments, each with specific application criteria. Each allotment is equal to 50 percent of the state’s calculated apportionment. Alabama’s total allotment for the emergency grants to states is \$12,731,537, which will be allocated in two equal allotments of \$6,365,768.50.

The initial \$500 million allotment will be used to provide immediate additional funding to all states for staffing, technology, systems, and other administrative costs, so long as they met basic requirements about ensuring access to earned benefits for eligible workers. Those requirements are:

- require employers to provide notification of potential UI eligibility to laid-off workers;
- ensure that workers have at least two ways (for example, online and phone) to apply for benefits; and
- notify applicants when an application is received and being processed and if the application cannot be processed, provide information to the applicant about how to ensure successful processing.

The second \$500 million allotment will be reserved for emergency grants to states which experienced at least a 10-percent increase in unemployment. Those states would be eligible to receive an additional grant, in the same amount as the initial grant, to assist with costs related to the unemployment spike, and would also be required to take steps to temporarily ease eligibility requirements that are limiting access to UC during the COVID-19 outbreak, like work search requirements, required waiting periods, and requirements to increase employer UC taxes if they have high layoff rates. Section 4103 of the FFCRA provides states with access to interest-free loans to help pay regular UI benefits through December 31, 2020, if needed. For states that experience an increase of 10 percent or more in their unemployment rate (over the previous year), Section 4105 of the FFCRA provides 100-percent federal funding for Extended Benefits (EBs), which normally require 50 percent of funding to come from states. EBs are triggered when unemployment is high in a state and provide up to an additional 26 weeks after regular UC benefits are exhausted.

b. The Emergency Family Medical Leave Expansion Act (EFMLEA)

Employees of employers who employ 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year are covered by the Family and Medical Leave Act (FMLA).⁴⁶ The FMLA entitles eligible employees of covered employers to take up to 12 weeks of unpaid, job-protected leave in a designated 12-month period for specified family and medical reasons. The FMLA protects eligible employees who are incapacitated by a serious health condition or who are needed to care for covered family members who are incapacitated by a serious health condition.⁴⁷ Employees are eligible to take FMLA leave if they work for a covered employer and:

- have worked for their employer for at least 12 months;
- have at least 1,250 hours of service over the previous 12 months; and
- work at a location where at least 50 employees are employed by the employer within 75 miles.

Section 3102 of the FFCRA contains the Emergency Family Medical Leave Expansion Act (EFMLEA), which extends FMLA coverage to covered employees who are “unable to work (or telework) due to a need for leave to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to a public health emergency.” The initial period of unpaid leave, during which an employee can substitute accrued vacation, personal leave, or medical or sick leave is 10 days. There are caps on paid leave for the 10 weeks following the initial 10-day period of unpaid leave of \$200 per day and \$10,000 total. The U.S. Department of Labor was explicitly authorized to issue

⁴⁶ P.L. 103-3, 29 U.S.C. sec. 2601.

⁴⁷ COVID-19 or Other Public Health Emergencies and the Family and Medical Leave Act Questions and Answers, U.S. Department of Labor, Wage and Hours Division, accessed on 17 March 2020 <<https://www.dol.gov/agencies/whd/fmla/pandemic>>.

regulations which that (1) excludes health care workers and emergency responders from eligibility for emergency paid sick time, and (2) exempts businesses with fewer than 50 employees when providing emergency paid sick time would jeopardize the viability of the business. The U.S. Department of Labor issued regulations to effectuate provisions (1) and (2) above on April 1, 2020.⁴⁸ The CARES Act amends the FMLA (as expanded by the Emergency Family and Medical Leave Expansion Act) to extend paid leave to employees who (1) were laid off after March 1, 2020, (2) had worked for the employer for at least 30 of the last 60 days, and (3) were rehired by the employer. Section 7003 of the FFCRA provides a refundable tax credit equal to 100 percent of qualified family leave wages paid by an employer for each calendar quarter. Qualified family leave wages are wages required to be paid by the EFMLEA. The amount of qualified family leave wages considered for each employee is capped at \$200 per day and \$10,000 for all calendar quarters. Section 7004 of the FFCRA provides a refundable tax credit equal to 100 percent of a qualified family leave equivalent amount for eligible self-employed individuals. Eligible self-employed individuals are individuals who would be entitled to receive paid leave pursuant to the EFMLEA if the individual was an employee of an employer (other than himself or herself.) The qualified family leave equivalent amount is capped at the lesser \$200 per day or the average daily self-employment income for the taxable year per day.

c. The Emergency Paid Sick Leave Act (EPSLA)

The Emergency Paid Sick Leave Act (EPSLA) was established by Section 5102 of the FFCRA and requires employers with fewer than 500 employees and state, local, and federal government employers to provide employees two weeks of paid sick leave, paid at the employee's regular rate up to \$511 per day, to quarantine or seek a diagnosis or preventive care for coronavirus; or paid at two-thirds the employee's regular rate up to \$200 per day to care for a family member for such purposes or to care for a child whose school has closed, or child care provider is unavailable, due to the coronavirus. The CARES Act also provided a limitation that an employer shall not be required to pay more than \$511 per day and \$5,110 in the aggregate for sick leave or more than \$200 per day and \$2,000 in the aggregate to care for a quarantined individual or child for each employee. Full-time employees are entitled to 2 weeks (80 hours) paid leave, and part-time or hourly employees are entitled to paid leave based on the typical number of hours that they work in a typical two-week period (in some cases, compensation can be based on a six-month average.) The EPSLA expires on December 31, 2020.⁴⁹

The EPSLA requires employers to provide paid sick leave to employees who are unable to work for six reasons having to do with COVID-19: where the employee (1) is subject to a federal, state, or local quarantine or isolation order related to COVID-19; (2) has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; (3) is experiencing symptoms of COVID-19 and is seeking a medical diagnosis; (4) is caring for an individual who is subject to an order as described in (1), or who has been advised as described in (2); (5) is caring for his or her son or daughter whose school or place of care has been closed or whose child care provider is unavailable due to COVID-19 related reasons; or (6) is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor. The U.S. Department of Labor was explicitly authorized to issue regulations which that (1) excludes health care workers and emergency responders from eligibility for emergency paid sick time, and (2) exempts businesses with fewer than 50 employees when providing emergency paid sick time would jeopardize the viability of the business. The U.S. Department of Labor issued regulations to effectuate provisions (1) and (2) above on April 1, 2020.⁵⁰ The EPSLA applies to employees of covered employers regardless of how long an

⁴⁸ U.S. Department of Labor, Emergency Rule (RIN 1235-AA35), 29 CFR Part 826, Paid Leave under the Families First Coronavirus Response Act, 1 April 2020, accessed on 1 April 2020 <<https://www.dol.gov/sites/dolgov/files/WHDPandemic/FFCRA.pdf>>.

⁴⁹ H.R. 6201, the Families First Coronavirus Response Act, Title-by-Title Summary, House of Representatives Appropriations Committee, accessed on 17 March 2020 <<https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/Families%20First%20Summary%20FINAL.pdf>>.

⁵⁰ U.S. Department of Labor, Emergency Rule (RIN 1235-AA35), 29 CFR Part 826, Paid Leave under the Families First Coronavirus Response Act, 1 April 2020, accessed on 1 April 2020 <<https://www.dol.gov/sites/dolgov/files/WHDPandemic/FFCRA.pdf>>.

employee has worked for an employer.⁵¹ Employers are prohibited from requiring employees to use other paid leave provided by the employer before using the new paid sick time, but the explicit prohibition against employers changing their existing paid leave policies on or after any date of enactment has been eliminated.

Section 7001 of the FFCRA provides a refundable tax credit equal to 100 percent of qualified paid sick leave wages paid by an employer for each calendar quarter. The section makes a distinction between qualified sick leave wages paid with respect to employees who must self-isolate, obtain a diagnosis, or comply with a self-isolation recommendation with respect to coronavirus. For amounts paid to those employees, the amount of qualified sick leave wages considered for each employee is capped at \$511 per day. For amounts paid to employees caring for a family member or for a child whose school or place of care has been closed, the amount of qualified sick leave wages considered for each employee is capped at \$200 per day. Section 7002 of the FFCRA provides a refundable tax credit equal to 100 percent of a qualified sick leave equivalent amount for eligible self-employed individuals who must self-isolate, obtain a diagnosis, or comply with a self-isolation recommendation with respect to coronavirus. For eligible self-employed individuals caring for a family member or for a child whose school or place of care has been closed due to coronavirus, the section provides a refundable tax credit equal to 67 percent of a qualified sick leave equivalent amount. The credit is allowed against income taxes and is refundable. Eligible self-employed individuals are individuals who would be entitled to receive paid leave pursuant to the EPSLA if the individual was an employee of a qualified employer (other than himself or herself.) For eligible self-employed individuals who must self-isolate, obtain a diagnosis, or comply with a self-isolation recommendation, the qualified sick leave equivalent amount is capped at the lesser of \$511 per day or the average daily self-employment income for the taxable year per day. For eligible self-employed individuals caring for a family member or for a child whose school or place of care has been closed due to coronavirus, the qualified sick leave equivalent amount is capped at the lesser of \$200 per day or the average daily self-employment income for the taxable year per day.

V. The Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136)

The United States Senate passed the Coronavirus Aid, Relief, and Economic Security (CARES), on Wednesday, March 25, 2020. The U.S. House of Representatives passed the bill by voice vote on March 27, 2020. President Trump signed the CARES Act into law on March 27, 2020 as P.L. 116-136. The CARES Act is the third recovery package passed by the U.S. Congress in response to the COVID-19 pandemic.⁵² The CARES Act expanded the UC program, provided recovery rebates to individuals, created the Coronavirus Relief Fund (CRF), and the Education Stabilization Fund. The CRF, the Education Stabilization Fund, and the UC expansion elements are discussed below in detail.

a. The Coronavirus Relief Fund (CRF)

Title V of Division A of the CARES creates a Coronavirus Relief Fund (CRF), which provides \$150 billion to state, local, territorial, and tribal governments. Local governments with populations of at least 500,000 may request a direct payment from the Secretary of the U.S. Treasury.⁵³ State allotments are reduced by the local payment, but the portion of a state's allotment that can be provided directly to local governments is capped at 45 percent. Thus, states will receive at least 55-percent of the total allocation. If a local government applies for, and is certified by the U.S. Treasury to receive, a payment from the fund, it must be made directly to the local government and the amount will be subtracted from the allocation of the state that the local government is in. The CRF will be used to cover any costs related to COVID-19 that had not been previously budgeted for and were incurred between March 1 and December 30, 2020. The CARES Act sets aside \$3 billion for Washington, D.C. and U.S. territories like Puerto Rico, the U.S. Virgin Islands, Guam, the Northern Mariana Islands and American Samoa as well as \$8 billion for tribal governments. The remaining \$139 billion will be shared among the 50 states proportionally by population with each state receiving at least \$1.25 billion. The fund requires that payments must be made to governments within 30 days of enactment. Alabama is expected to net \$1.9 billion from the CRF.⁵⁴

⁵¹ U.S. Department of Labor, Emergency Rule (RIN 1235-AA35), 29 CFR Part 826, Paid Leave under the Families First Coronavirus Response Act, 1 April 2020, accessed on 1 April 2020 <<https://www.dol.gov/sites/dolgov/files/WH/2020/04/01/Pandemic/FFCRA.pdf>>.

⁵² The Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136.

⁵³ *Ibid.*, Title V, Division A.

⁵⁴ Federal Funds Information for States, A Summary of State Coronavirus Funding to Date, 27 March 2020, accessed on 29 March 2020 <<https://www.ffis.org/PUBS/budget-brief/20/12>>.

b. The Education Stabilization Fund

The CARES Act appropriated \$30.5 billion for an Education Stabilization Fund (ESF) through September 30, 2021 to provide Emergency Relief Grants to educational institutions, local educational agencies, students, and teachers in response to COVID-19. Section 18001 of the CARES Act provides the funding breakdown for three emergency education funds that compose the ESF. The ESF includes \$13.5 billion in formula funding to the Elementary and Secondary School Emergency Relief Fund (ESSERF) to make grants available to each state educational agency to facilitate schools' responses to COVID-19.⁵⁵ Alabama will receive approximately \$216.9 million from the ESSERF.⁵⁶ Just over \$14 billion is dedicated to the Higher Education Emergency Relief Fund (HEERF) to provide formula funding to institutions of higher education to cover any costs associated with the closure and significant changes to the delivery of instruction and to provide emergency grants to students for expenses directly related to COVID-19 and the disruption of campus operations. Alabama is expected to receive approximately \$218.5 million for the HEERF.⁵⁷ The CARES Act appropriates \$3 billion for the Governor's Emergency Education Relief Fund (GEERF) to provide flexible funding to be allocated by states based on the needs of elementary schools, secondary schools, and institutions of higher education that have been affected by COVID-19. It is estimated that \$48.9 million will be granted to Alabama for the GEERF.⁵⁸

The Elementary and Secondary School Emergency Relief Fund

Out of the funds appropriated for the ESF, Section 18003 of the CARES Act appropriates \$13.5 billion in formula funding to the ESSERF.⁵⁹ Alabama is expected to receive \$216.9 million.⁶⁰ The funding formula is based on the formula for allocating ESEA Title I, Part A funding to the states. Ninety percent of each state's allocation must be allocated by the SEA to each LEA based on the LEAs ESEA Title I, Part A funding formula. The U.S. Secretary of Education will make applications available to the SEAs within 30 days after the enactment of the CARES Act (27 April 2020,) and the U.S. Secretary of Education must approve or deny the applications within 30 days of receiving them. A LEA may use the funds for (1) any activity authorized by the ESEA; the Native Hawaiian Education Act and the Alaska Native Educational Equity, Support, and Assistance Act; the Individuals with Disabilities Education Act; the Adult Education and Family Literacy Act; the Carl D. Perkins Career and Technical Education Act of 2006; or the McKinney-Vento Homeless Assistance Act; (2) coordination of preparedness and response efforts of LEAs with public health departments to improve coordinated responses among such entities to prevent, prepare for, and respond to coronavirus; (3) providing principals with the resources necessary to address the needs of their schools; (4) activities to address the needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including how outreach and service delivery will meet the needs of each population; (5) purchasing supplies to sanitize and clean the facilities of a LEA; (6) planning for and coordinating during long-term closures, including how to provide meals to eligible students, how to provide technology for online learning to all students, how to provide guidance for carrying out requirements under the Individuals with Disabilities Education Act, and how to ensure other educational services can continue to be provided consistent with all Federal, state, and local requirements; (7) purchasing educational technology (including hardware, software, and connectivity) for students who are served by the LEA that aids in regular and substantive educational interaction between students and their classroom instructors, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment; (8) providing mental health services and supports; (9) planning and implementing activities related to summer learning and supplemental after-school programs, including providing classroom instruction or online learning during the summer months; (10) other activities that are necessary to maintain the operation of and continuity of services in LEAs and continuing to employ existing staff of the local educational agency. With the 10 percent of funds not otherwise allocated to the LEAs, a state may reserve not more than one-half of 1 percent for administrative costs and the remaining 9.5 percent for emergency needs as determined by the state educational agency to address issues responding to coronavirus, which may be addressed through the use of grants or contracts. A LEA receiving funds under Sections 18002 or 18003 of the CARES Act must provide equitable services in the

⁵⁵ The Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136, Sec.18001.

⁵⁶ Congressional Research Service (CRS) Estimate, 25 March 2020.

⁵⁷ American Council on Education, "CARES Act"—Higher Education Relief Fund: Simulated Distribution of Amounts Provided Under Section 18004(a)(1), 25 March 2020.

⁵⁸ Congressional Research Service (CRS) Estimate, 25 March 2020.

⁵⁹ *Ibid.*, Title 18003.

⁶⁰ Congressional Research Service (CRS) Estimate, 25 March 2020.

same manner as provided under Section 1117 of the ESEA of 1965 (ESSA) to students and teachers in non-public schools.

The Higher Education Emergency Relief Fund (HEERF)

Out of the funds appropriated for the Education Stabilization Fund, Section 1804 of the CARES Act appropriates approximately \$14 billion to the HEERF Fund to provide formula funding to institutions of higher education (IHEs).⁶¹ Alabama is expected to receive approximately \$218.5 million for the HEERF.⁶² Ninety percent of an IHEs allocation is based on the following formula: (a) 75 percent according to the relative share of full-time equivalent enrollment of Federal Pell Grant recipients who are not exclusively enrolled in distance education courses prior to the coronavirus emergency; and (b) 25 percent according to the relative share of full-time equivalent enrollment of students who were not Federal Pell Grant recipients who are not exclusively enrolled in distance education courses prior to the coronavirus emergency. For the remaining 10 percent, 7.5 percent is reserved for minority-serving institutions, and the funds may be used to defray expenses (including lost revenue, reimbursement for expenses already incurred, technology costs associated with a transition to distance education, faculty and staff trainings, and payroll) incurred by IHEs and for grants to students for any component of the student's cost of attendance (including food, housing, course materials, technology, health care, and child care.). Historically Black Colleges and Universities and minority-serving institutions may use prior awards provided under titles III, V, and VII of the Higher Education Act to prevent, prepare for, and respond to coronavirus. The remaining 2.5 percent of the allocation for the HEERF is reserved for IHEs that the U.S. Secretary determines have the greatest unmet needs related to coronavirus, which may be used to defray expenses. The funds made available to each IHE under Section 18004 will be distributed by the U.S. Department of Education using the same systems used to distribute funding to each institution under Title IV of the Higher Education Act of 1965. An institution of higher education receiving funds under the HEERF may use the funds to cover any costs associated with significant changes to the delivery of instruction due to the coronavirus, so long as such costs do not include payment to contractors for the provision of pre-enrollment recruitment activities; endowments; or capital outlays associated with facilities related to athletics, sectarian instruction, or religious worship. IHEs must use no less than 50 percent of such funds to provide emergency financial aid grants to students for expenses related to the disruption of campus operations due to coronavirus (including eligible expenses under a student's cost of attendance, such as food, housing, course materials, technology, healthcare, and child care.) The U.S. Secretary of Education may award an IHE that does not qualify under the provisions of the HEERF \$500,000 if the institution demonstrates significant unmet needs related to expenses associated with coronavirus.

Anticipated HEERF Allocations for Institutions in Alabama				
Institution Name	Control	Pell FTE Amount	Amount	Total
Alabama A & M University	Public	\$8,410,000	\$712,000	\$9,122,000
Alabama College of Osteopathic Medicine	Private	\$0	\$0	\$0
Alabama School of Nail Technology & Cosmetology	For-profit	\$84,000	\$4,000	\$87,000
Alabama Southern Community College	Public	\$0	\$0	\$0
Alabama State College of Barber Styling	For-profit	\$19,000	\$3,000	\$22,000
Alabama State University	Public	\$6,585,000	\$481,000	\$7,066,000
Amridge University	Private	\$0	\$0	\$0
Athens State University	Public	\$716,000	\$180,000	\$897,000
Auburn University	Public	\$9,017,000	\$7,026,000	\$16,043,000
Auburn University at Montgomery	Public	\$3,932,000	\$877,000	\$4,809,000
Bevill State Community College	Public	\$2,054,000	\$544,000	\$2,599,000
Birmingham Southern College	Private	\$764,000	\$324,000	\$1,088,000

⁶¹ *Ibid.*, Sec.18004.

⁶² American Council on Education, "CARES Act"—Higher Education Relief Fund: Simulated Distribution of Amounts Provided Under Section 18004(a)(1), 25 March 2020.

Bishop State Community College	Public	\$2,173,000	\$432,000	\$2,604,000
Blue Cliff Career College	For-profit	\$152,000	\$6,000	\$158,000
Cardiac and Vascular Institute of Ultrasound	For-profit	\$50,000	\$12,000	\$61,000
Central Alabama Community College	Public	\$1,052,000	\$246,000	\$1,298,000
Chattahoochee Valley Community College	Public	\$1,141,000	\$213,000	\$1,353,000
Coastal Alabama Community College	Public	\$3,690,000	\$956,000	\$4,646,000
Columbia Southern University	For-profit	\$0	\$0	\$0
Enterprise State Community College	Public	\$913,000	\$244,000	\$1,158,000
Faulkner University	Private	\$1,912,000	\$381,000	\$2,292,000
Fortis College	For-profit	\$1,363,000	\$23,000	\$1,386,000
Fortis College-Dothan	For-profit	\$689,000	\$24,000	\$714,000
Fortis College-Foley	For-profit	\$457,000	\$15,000	\$472,000
Fortis College-Montgomery	For-profit	\$1,246,000	\$20,000	\$1,266,000
Fortis College-Montgomery	For-profit	\$431,000	\$24,000	\$455,000
Gadsden State Community College	Public	\$3,101,000	\$637,000	\$3,738,000
George C Wallace Community College-Dothan	Public	\$2,956,000	\$594,000	\$3,550,000
George C Wallace State Community College-Hanceville	Public	\$3,345,000	\$719,000	\$4,064,000
George C Wallace State Community College-Selma	Public	\$1,083,000	\$193,000	\$1,276,000
H Council Trenholm State Community College	Public	\$1,300,000	\$261,000	\$1,561,000
Heritage Christian University	Private	\$42,000	\$9,000	\$51,000
Herzing University-Birmingham	Private	\$341,000	\$79,000	\$420,000
Huntingdon College	Private	\$1,035,000	\$190,000	\$1,225,000
Huntsville Bible College	Private	\$85,000	\$14,000	\$99,000
J F Ingram State Technical College	Public	\$163,000	\$141,000	\$304,000
J. F. Drake State Community and Technical College	Public	\$597,000	\$95,000	\$692,000
Jacksonville State University	Public	\$4,955,000	\$1,256,000	\$6,211,000
Jefferson State Community College	Public	\$2,325,000	\$1,159,000	\$3,484,000
John C Calhoun State Community College	Public	\$2,909,000	\$1,287,000	\$4,197,000
Judson College	Private	\$276,000	\$44,000	\$321,000
Lawson State Community College	Public	\$2,759,000	\$368,000	\$3,127,000
Lurleen B Wallace Community College	Public	\$1,270,000	\$234,000	\$1,503,000
Marion Military Institute	Public	\$503,000	\$85,000	\$589,000
Midfield Institute of Cosmetology	Private	\$31,000	\$2,000	\$32,000
Miles College	Private	\$3,093,000	\$168,000	\$3,261,000
New Beginning College of Cosmetology	For-profit	\$179,000	\$7,000	\$186,000
Northeast Alabama Community College	Public	\$1,448,000	\$328,000	\$1,776,000
Northwest-Shoals Community College	Public	\$1,614,000	\$438,000	\$2,052,000
Oakwood University	Private	\$1,634,000	\$231,000	\$1,865,000
Paul Mitchell the School-Birmingham	For-profit	\$244,000	\$20,000	\$264,000
Paul Mitchell the School-Huntsville	For-profit	\$244,000	\$21,000	\$265,000
Reid State Technical College	Public	\$290,000	\$60,000	\$350,000

Remington College-Mobile Campus	Private	\$640,000	\$56,000	\$696,000
Ross Medical Education Center-Huntsville	For-profit	\$538,000	\$30,000	\$568,000
Samford University	Private	\$1,098,000	\$1,054,000	\$2,152,000
Selma University	Private	\$522,000	\$12,000	\$535,000
Shelton State Community College	Public	\$2,460,000	\$683,000	\$3,143,000
Snead State Community College	Public	\$1,086,000	\$298,000	\$1,384,000
South University-Montgomery	For-profit	\$395,000	\$76,000	\$471,000
Southern Union State Community College	Public	\$2,466,000	\$811,000	\$3,277,000
Spring Hill College	Private	\$1,168,000	\$301,000	\$1,469,000
Stillman College	Private	\$1,070,000	\$65,000	\$1,135,000
Strayer University-Alabama	For-profit	\$62,000	\$11,000	\$73,000
Talladega College	Private	\$1,501,000	\$80,000	\$1,580,000
The Salon Professional Academy-Huntsville	For-profit	\$78,000	\$9,000	\$87,000
The University of Alabama	Public	\$12,728,000	\$8,308,000	\$21,036,000
Troy University	Public	\$6,529,000	\$1,873,000	\$8,401,000
Tuskegee University	Private	\$3,574,000	\$442,000	\$4,015,000
United States Sports Academy	Private	\$0	\$0	\$0
University Academy of Hair Design	For-profit	\$92,000	\$7,000	\$99,000
University of Alabama at Birmingham	Public	\$8,645,000	\$3,303,000	\$11,948,000
University of Alabama in Huntsville	Public	\$3,890,000	\$1,774,000	\$5,664,000
University of Mobile	Private	\$1,109,000	\$240,000	\$1,349,000
University of Montevallo	Public	\$2,076,000	\$503,000	\$2,580,000
University of North Alabama	Public	\$4,487,000	\$1,094,000	\$5,581,000
University of South Alabama	Public	\$9,328,000	\$2,513,000	\$11,840,000
University of West Alabama	Public	\$2,082,000	\$487,000	\$2,569,000
Totals: Alabama		\$152,299,000	\$45,418,000	\$197,717,000⁶³

Note that the state total of \$197,717,000 in the table above does not equal the \$218.5 million mentioned above. Dr. Jim Purcell avers that perhaps the difference is related to an additional allocation that will go to HBCU's, Minority Serving Institutions, and the Fund for the Improvement of Postsecondary Education (FIPSE) institutions (the FIPSE provides funding for small and regional colleges and universities with acute need.)⁶⁴

The Governor's Emergency Education Relief Fund (GEERF)

Out of the funds appropriated for the ESF, the CARES Act appropriates \$3 billion for the Governor's Emergency Education Relief Fund (GEERF) to provide flexible funding to be allocated by states based on the needs of elementary schools, secondary schools, and IHEs that have been affected by COVID-19.⁶⁵ It is estimated that \$48.9 million will be granted to Alabama for the GEERF.⁶⁶ Sixty percent of the allocation to each state for the GEERF is based on the state's relative population of individuals aged 5 through 24. The remaining forty percent of the allocation is determined by the relative number of children counted in the state under Section 1124(c) of the

⁶³ American Council on Education, "CARES Act"—Higher Education Relief Fund: Simulated Distribution of Amounts Provided Under Section 18004(a)(1), 25 March 2020.

⁶⁴ Dr. Jim Purcell, "The CARES Act Overview," Memorandum Alabama Commission on Higher Education (ACHE) staff, 31 March 2020.

⁶⁵ *Ibid.*, Sec.18002.

⁶⁶ Congressional Research Service (CRS) Estimate, 25 March 2020.

Elementary and Secondary Education Act (ESEA) of 1965, as reauthorized as the Every Student Succeeds Act (ESSA.) ESSA Section 1124(c) counts the total number of children aged 5 to 17 from families below the poverty level; the total number of children aged 5 to 17 in institutions for neglected and delinquent children or being supported in foster homes with public funds; and the number of children aged 5 to 17 from families above the poverty level.⁶⁷ The GEERF may be used to (1) provide emergency support through grants to local educational agencies (LEAs) that the state educational agency (SEA) deems have been most significantly impacted by coronavirus to support the ability of such LEAs to continue to provide educational services to their students and to support the on-going functionality of the LEA; (2) provide emergency support through grants to IHEs serving students within the State that the Governor determines have been most significantly impacted by coronavirus to support the ability of such institutions to continue to provide educational services and support the ongoing functionality of the institution; and (3) provide support to any other IHEs, LEAs, or education-related entity within the state that the Governor deems essential for carrying out emergency educational services to students, the provision of child care and early childhood education, social and emotional support, and the protection of education-related jobs. The GEERF requires an application from each governor, and the U.S. Secretary of Education must make the application available to the governors within 30 days of enactment of the CARES Act, which means the applications must be made available on or before 27 April 2020. The U.S. Secretary of Education must approve or deny the application within 30 days of receiving it.⁶⁸

Maintenance of Effort

Section 18008 of the CARES Act stipulates that a state's application for funds to carry out sections 18002 (the GEERF) or 18003 (the ESSERF) must include assurances that the State will maintain support for elementary and secondary education and state support for higher education (which shall include state funding to institutions of higher education and state need-based financial aid, and shall not include support for capital projects or for research and development or tuition and fees paid by students) in fiscal years 2020 and 2021. Support must be maintained at least at the levels of such support that is the average of such state's support for elementary and secondary education and for higher education provided in the three fiscal years preceding the date of enactment of the CARES Act.⁶⁹ The U.S. Secretary of Education may waive the state maintenance of effort requirements for the purpose of relieving fiscal burdens on states that have experienced a precipitous decline in financial resources.

c. Unemployment Compensation (UC) Expansion Provisions of the CARES Act

Pandemic Unemployment Assistance (PUA)

Section 2102 of the CARES Act creates a temporary Pandemic Unemployment Assistance (PUA) program through December 31, 2020 to provide payment to those not traditionally eligible for unemployment benefits (self-employed, independent contractors, those with limited work history, and others) who are unable to work as a direct result of the coronavirus public health emergency. PUA provides benefits to covered individuals, who are those individuals not eligible for regular unemployment compensation or extended benefits under state or Federal law or pandemic emergency unemployment compensation (PEUC), including those who have exhausted all rights to such benefits. Covered individuals also include self-employed, those seeking part-time employment, individuals lacking sufficient work history, and those who otherwise do not qualify for regular unemployment compensation or extended benefits under state or Federal law or PEUC. PUA is also generally not payable to individuals who have the ability to telework with pay or who are receiving paid sick leave or other paid leave benefits. However, individuals receiving paid sick leave or other paid leave benefits for less than their customary workweek may still be eligible for PUA. The state must treat any paid sick leave or paid leave received by a claimant in accordance with the income restrictions set out in Disaster Unemployment Assistance (DUA) at 20 C.F.R. 625.13. Similarly, if an individual has been offered the option of teleworking with pay and does, but works less than the individual worked prior to the COVID-19 pandemic, income from such work must be treated in accordance with the income restrictions set out in DUA at 20 C.F.R. 625.13. In general, PUA provides up to 39 weeks of benefits to qualifying individuals who are otherwise able to work and available for work within the meaning of applicable state UC law,

⁶⁷ The Elementary and Secondary Education Act of 1965 (ESEA), as reauthorized by the Every Student Succeeds Act (ESSA), P.L. 114-95, Sec. 1124(c).

⁶⁸ The Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136, Sec.18002.

⁶⁹ *Ibid.*, Sec.18008.

except that they are unemployed, partially unemployed, or unable or unavailable to work due to one of the COVID-19 related reasons listed below:

- The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
- A member of the individual's household has been diagnosed with COVID-19;
- The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;
- A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work;
- The individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;
- The individual is unable to reach the place of employment because the individual has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;
- The individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19;
- The individual has to quit his or her job as a direct result of COVID-19; or
- The individual's place of employment is closed as a direct result of the COVID-19 public health emergency.

Assistance amount shall not exceed 39 weeks but with no waiting period to begin receiving it. The costs of PUA benefits and administering PUA are 100-percent federally funded. Individuals who are able to telework with pay and who are receiving paid sick leave or other paid benefits are not eligible for PUA.⁷⁰ On April 5, 2020, the U.S. Department of Labor Issued UIPL 20-16 operating, reporting, and financial instructions to the states for administering the PUA program.⁷¹

Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations

Section 2103 of the CARES Act provides payment to states to reimburse nonprofits, government agencies, and Indian tribes for half of the costs they incur through December 31, 2020 to pay unemployment benefits.⁷²

Emergency Increase in Unemployment Compensation Benefits

Section 2104 of the CARES Act provides an additional \$600 per week payment (fully funded by the federal government) to each recipient of unemployment insurance or PUA for up to four months through the Federal Pandemic Unemployment (FPUC) Program. States have the ability to opt in or out of this section within 30 days of the enactment of the CARES Act. Secretary Washington opted into the provision on Saturday, March 29, 2020. Full reimbursement Alabama's current weekly payout for unemployment insurance is \$275. Adding \$600 would result in individuals receiving \$875 per week for up to four months.⁷³ The U.S. Department of Labor issued UIPL 15-20 on April 4, 2020, which provided states with operating, reporting, and financial guidance for implementing the FPUC Program.⁷⁴

⁷⁰ *Ibid.*, Sec. 2102.

⁷¹ Pallasch, John, Unemployment Insurance Program Letter (UIPL) No. 16-20, Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Pandemic Unemployment Assistance (PUA) Program Operating, Financial, and Reporting Instructions, 5 April 2020, accessed on 6 April 2020 <https://wdr.doleta.gov/directives/attach/UIPL/UIPL_16-20.pdf>.

⁷² The Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136, Sec. 2103.

⁷³ *Ibid.*, Sec. 2104.

⁷⁴ Pallasch, John, Unemployment Insurance Program Letter (UIPL) No. 15-20, Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Federal Pandemic Unemployment Compensation (FPUC) Program Operating, Financial, and Reporting Instructions, 4 April 2020, accessed on 6 April 2020 <https://wdr.doleta.gov/directives/attach/UIPL/UIPL_15-20.pdf>.

Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week

Section 2105 of the CARES Act incentivizes states to waive the week-long waiting period for the initial receipt of benefits by providing funding to pay the cost of the first week of unemployment benefits through December 31, 2020 for states that choose to pay recipients as soon as they become unemployed instead of waiting one week before the individual is eligible to receive benefits. Full federal reimbursement.⁷⁵

Emergency State Staffing Flexibility

Section 2106 of the CARES Act provides states with temporary, limited flexibility to hire temporary staff, re-hire former staff, or take other steps to quickly process unemployment claims.⁷⁶

Pandemic Emergency Unemployment Compensation (PEUC)

Section 2107 of the CARES Act established the Pandemic Emergency Unemployment Compensation (PEUC) to provide an additional 13 weeks of unemployment benefits through December 31, 2020 to help those who have exhausted the 39 weeks of benefits and remain unemployed. Assistance is available to covered individuals for weeks of full unemployment, partial unemployment or inability to work from January 27, 2020 to December 30, 2020.⁷⁷

Section 3603. Unemployment Insurance

Section 3603 of the CARES Act provides that applications for unemployment compensation and assistance with the application process, to the extent practicable, must be accessible in at least two of the following formats: in person, by phone, or online.⁷⁸

Recovery Rebates for Individuals

Section 2201 of the CARES Act provides all U.S. residents with adjusted gross incomes up to \$75,000 (\$150,000 for married couples), who are not a dependent of another taxpayer and have a work-eligible social security number, are eligible for a \$1,200 (\$2,400 for a married couple) recovery rebate.⁷⁹ In addition, they are eligible for an additional \$500 rebate per child. This is true even for those who have no income, as well as those whose income comes entirely from non-taxable means-tested benefit programs, such as SSI benefits. For the vast majority of Americans, no action on their part will be required in order to receive a rebate check, as the IRS will use a taxpayer's 2019 tax return if filed or a 2018 return as an alternative. This includes many low-income individuals who file a tax return in order to take advantage of the refundable Earned Income Tax Credit and Child Tax Credit. The rebate amount is reduced by \$5 for each \$100 that a taxpayer's income exceeds the phase-out threshold. The amount is completely phased-out for single filers with incomes exceeding \$99,000, \$146,500 for head of household filers with one child, and \$198,000 for joint filers with no children.

d. Rapid Response and the CARES Act Workforce Response

Under WIOA, one of the services that helps to address the effects of mass employee layoffs or company closures is Rapid Response. The Alabama Department of Commerce, Workforce Development Division serves as the State Dislocated Worker Unit for Alabama, and notices of plant closings and layoffs should be sent the Worker Adjustment and Retraining Notification Act (WARN.) The State Rapid Response Team goes on-site to companies that have issued WARN notices for the layoff of 50 or more employees or otherwise notified the State Rapid Response Team of impending employee layoffs.⁸⁰ The Team works with employers to schedule an on-site visit to meet with affected workers to provide them with valuable information regarding Unemployment Insurance, services available through the One-Stop Career Centers, and services available from other workforce partner agencies. The program provides workers who lost jobs, through no fault of their own, due to plant closures, company downsizing, or some other significant change in market conditions the following:

⁷⁵ *Ibid.*, Sec. 2105.

⁷⁶ *Ibid.*, Sec. 2106.

⁷⁷ *Ibid.*, Sec. 2107.

⁷⁸ *Ibid.*, Sec. 2603.

⁷⁹ *Ibid.*, Sec. 2201.

⁸⁰ Rapid Response, Alabama Department of Commerce, Workforce Development Division, accessed on 18 March 2020 <<https://wioa-alabama.org/rapid-response/>>.

- Informational and direct reemployment services for workers, including but not limited to:
 - Information and support filing for unemployment insurance claims;
 - Information about TAA program and support for filing petitions for TAA Certifications;
 - Information on the impacts of layoff on health coverage or other benefits;
 - Information and referral to career services;
 - Reemployment focused workshops and services;
 - Information on available training programs;
 - Convening/facilitating the connections, networks, and partners to ensure the ability to aid dislocated workers and their families such as home heating assistance, food assistance, legal aid, and financial advice.

CARES Act Workforce Response Activities

Section 3515(a) of the CARES Act allows local workforce areas to use up to 20 percent of their program year 2019 Title I Adult, Dislocated Worker, and Youth funds to cover administrative costs if 10 percent or more of administrative costs are used to respond to COVID-19. This provision will help local boards develop the capacity to operationalize and administer funds as well as support the health and safety of workforce services staff, including, but not limited to, increasing hiring, providing professional development, and enabling technological solutions for providing virtual services. Section 3515(b)(1) allows the discretionary use of program year 2019 Governor's WIOA 15-percent discretionary unobligated funds to be used in statewide Rapid Response activities. Unobligated discretionary funding may now be used to bolster Rapid Response activities, such as layoff aversion strategies for businesses or provide supportive services and reemployment resources for dislocated workers. Section 3515 (b)(2) of the CARES Act allows for the Governor's discretionary use of program year 2019 unobligated statewide Rapid Response funds, 30 days following the enactment of the CARES Act, to be allocated to local areas that have been heavily impacted by COVID-19. Governors have discretion in how the Rapid Response statewide funding may be used in response to emergencies, including coordination with state emergency response efforts, as well as the ability to expedite the process for funding to local areas. Coordination efforts will include the Governor's ability to align efforts for applying for Disaster Recovery or Employment Recovery Dislocated Worker Grants (DWGs) as well as allocating funds on an as-needed basis to local areas that have been heavily impacted.

d. U.S. Small Business Administration (SBA) Disaster Assistance Programs, Disaster Workforce Grants (DWGs), and Disaster Unemployment Assistance (DUA)

The U.S. Small Business Administration's (SBA) is offering designated states and territories low-interest federal disaster loans for working capital to small businesses suffering substantial economic injury as a result of the Coronavirus (COVID-19). The SBA's Economic Injury Disaster Loans (EIDL) offer up to \$2 million in assistance for small businesses. These loans can provide economic support to small businesses to help overcome the temporary loss of revenue they are experiencing. Upon a request received from a state's or territory's Governor, the SBA will issue under its own authority an EIDL declaration. Any such EIDL assistance declaration issued by the SBA makes loans available to small businesses and private, non-profit organizations in designated areas of a state or territory. These loans may be used to pay fixed debts, payroll, accounts payable and other bills that can't be paid because of the disaster's impact. The interest rate is 3.75 percent for small businesses without credit available elsewhere; businesses with credit available elsewhere are not eligible. The interest rate for non-profits is 2.75 percent. SBA offers loans with long-term repayments in order to keep payments affordable, up to a maximum of 30 years. Terms are determined on a case-by-case basis, based upon each borrower's ability to repay.⁸¹ After declaring a state of emergency on Friday, March 13, 2020, Governor Ivey requested federal disaster loans for Alabama's small businesses. Governor Ivey announced the approval of Alabama's request for an SBA EIDL declaration on Saturday, March 21, 2020. According to the SBA, there are more than 400,000 small businesses in Alabama. Small

⁸¹ U.S. Small Business Administration, Press Release, *SBA to Provide Disaster Assistance Loans for Small Businesses Impacted by Coronavirus (COVID-19)*, 12 March 2020, accessed on 18 March 2020 < <https://www.sba.gov/about-sba/sba-newsroom/press-releases-media-advisories/sba-provide-disaster-assistance-loans-small-businesses-impacted-coronavirus-covid-19>>.

businesses should visit the SBA's COVID-19 recovery website to determine their eligibility and to apply for an EIDL.⁸²

The Paycheck Protection Program (PPP)

Section 1102 of the CARES Act created the Paycheck Protection Program (PPP),⁸³ which provides small businesses with funds to pay up to eight weeks of payroll costs, including benefits. Funds can also be used to pay interest on mortgages, rent, and utilities. Funds are provided in the form of loans that will be fully forgiven when used for payroll costs, interest on mortgages, rent, and utilities. Loan payments will also be deferred for six months. No collateral or personal guarantees are required. Neither the government nor lenders will charge small businesses any fees. Forgiveness is based on the employer maintaining or quickly rehiring employees and maintaining salary levels. Forgiveness will be reduced if full-time headcount declines, or if salaries and wages decrease. Small businesses with 500 or fewer employees—including nonprofits, veterans' organizations, tribal concerns, self-employed individuals, sole proprietorships, and independent contractors—are eligible. Businesses with more than 500 employees are eligible in certain industries. Starting April 3, 2020, small businesses and sole proprietorships can apply. Starting April 10, 2020, independent contractors and self-employed individuals can apply.⁸⁴ Governor Ivey issued a letter to Alabama's businesses on April 1, 2020 encouraging them to gather all necessary financial statements and payroll documents and to be prepared to apply immediately for benefits.⁸⁵ Governor Ivey also issued a press release encouraging businesses to apply for the EIDL and PPP benefits as soon as guidance is issued from the SBA and the U.S. Treasury.⁸⁶ Governor Ivey also issued a fact sheet on the PPP.⁸⁷

Coronavirus Disease National Health Emergency (NHE) Dislocated Worker Grant (DWG)

The U.S. Department of Labor announced on March 18, 2020⁸⁸ the availability of up to \$100 million for Disaster Dislocated Worker Grants (DWGs) in response to the workforce-related impacts of COVID-19. Entities eligible to apply for Disaster Recovery DWGs include:

- states;
- outlying areas; and
- Indian Tribal Governments.

Disaster DWGs will provide eligible participants with both disaster-relief employment and employment and training activities. These participants can include dislocated workers, workers who were laid-off as a result of the disaster, self-employed individuals who are unemployed or underemployed as a result of the disaster, and long-term unemployed individuals. Eligible entities can also apply for Employment Recovery DWGs in response to layoffs caused by cancellations or shutdowns caused by coronavirus. Employment Recovery DWGs will provide employment and training services to reintegrate eligible individuals back into the workforce. States can apply for Employment Recovery DWGs if either of the following events occur:

- 50 or more individuals are laid off by one employer; or
- Significant layoffs that significantly increase unemployment in a given community, even if the total layoffs are fewer than 50 individuals.

⁸² Governor Kay Ivey, Press Release, "Governor Kay Ivey, Press Release, "Gov. Ivey: Alabama small businesses can seek SBA COVID-19 disaster loans," 21 March 2020, accessed on 23 March 2020 <<https://governor.alabama.gov/newsroom/2020/03/gov-ivey-alabama-small-businesses-can-seek-sba-covid-19-disaster-loans/>>.

⁸³ The Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136, Sec. 1102.

⁸⁴ U.S. Treasury, Fact Sheet, Small Business Paycheck Protection Program (PPP), accessed on 3 April 2020 <<https://home.treasury.gov/system/files/136/PPP%20-%20Overview.pdf>>.

⁸⁵ Governor Kay Ivey, Letter to Alabama's Businesses Regarding SBA Programs, 1 April 2020, accessed on 3 April 2020 <https://governor.alabama.gov/assets/2020/04/Governor-Ivey_Small-Business-Letter.pdf>.

⁸⁶ Governor Kay Ivey, Press Release, "Governor Ivey urges Alabama Small Business Owners To Prepare Now by Applying for Federal Financial Relief," 1 April 2020, accessed on 3 April 2020 <<https://governor.alabama.gov/newsroom/2020/04/governor-ivey-urges-alabama-small-business-owners-to-prepare-now-by-applying-for-federal-financial-relief/>>.

⁸⁷ Governor Kay Ivey, Fact Sheet, Paycheck Protection Program (PPP) Information Sheet: Borrowers, 1 April 2020, accessed on 3 April 2020 <<https://governor.alabama.gov/assets/2020/04/PPP-Borrower-Information-Fact-Sheet.pdf>>.

⁸⁸ U.S. Department of Labor, Press Release, U.S. Department of Labor Announces Availability of Up to \$100 Million in National Health Emergency Dislocated Worker Grants in Response to COVID-19 Outbreak, 18 March 2020, accessed on 18 March 2020 <<https://www.dol.gov/newsroom/releases/eta/eta20200318>>.

The U.S. Department of Labor issued Training and Employment Guidance Letter (TEGL) 12-19, which provides updated guidance to inform the state and local workforce development systems of the policies and priorities that govern the award and use of National Dislocated Worker Grant (DWG) funds, pursuant to the Workforce Innovation and Opportunity Act (WIOA), Title I, Section 170.⁸⁹

Disaster Unemployment Assistance (DUA)

The Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, as amended, authorizes the President to provide benefit assistance to individuals unemployed as a direct result of a major disaster. The U.S. Department of Labor oversees the DUA program and coordinates with the Federal Emergency Management Agency (FEMA), to provide the funds to the state UI agencies for payment of DUA benefits and payment of state administration costs under agreements with the Secretary of Labor.⁹⁰ Disaster Unemployment Assistance provides financial assistance to individuals whose employment or self-employment has been lost or interrupted as a direct result of a major disaster and who are not eligible for regular unemployment insurance benefits. When a major disaster has been declared by the President, DUA is generally available to any unemployed worker or self-employed individual who lived, worked, or was scheduled to work in the disaster area at the time of the disaster; and due to the disaster:

- no longer has a job or a place to work; or
- cannot reach the place of work; or
- cannot work due to damage to the place of work; or
- cannot work because of an injury caused by the disaster.

An individual who becomes the head of household and is seeking work because the former head of household died as a result of the disaster may also qualify for DUA benefits. DUA benefits are payable to individuals (whose unemployment continues to be a result of the major disaster) only for weeks of unemployment in the Disaster Assistance Period (DAP.) The DAP begins with the first day of the week following the date the major disaster began and continues for up to 26 weeks after the date the disaster was declared by the President. The maximum weekly benefit amount payable is determined under the provisions of the state law for UC in the state where the disaster occurred. However, the minimum weekly benefit amount payable is half of the average benefit amount in the state. On March 29, 2020, the President declared a major disaster in Alabama.⁹¹

VI. Education Response to the COVID-19 Pandemic

Summary of the Circumstances

On March 13, 2020, Governor Ivey issued a State of Emergency under the Alabama Emergency Management Act of 1955, and she announced that all Pre-K-12 schools would close from the end of the school day on March 18, 2020 until April 6, 2020.⁹² On March 17, 2020, Dr. Mackey announced the formation of the Superintendent's Extending Access to Learning (SEAL) Task Force, which was established to determine whether or not to extend the closure of schools, what would happen if there is an extension of the closure, and the logistics for reopening schools after the pandemic. The group's first action was to survey all superintendents to evaluate how each would be impacted by closing schools past April 6. Dr. Mackey assured superintendents that seniors should not worry about graduation and that the state would ensure each qualifying senior would receive a diploma by summer's end.⁹³ The SEAL Task Force met on March 24, 2020 to review the survey responses from all 143 superintendents. The SEAL Task Force achieved a broad consensus that the decision to either reopen or close schools should include both April and May 2020. On Tuesday, March 25, 2020, Dr. Mackey presented Governor Ivey with a plan to reopen school

⁸⁹ Pallasch, John, Training and Employment Guidance Letter (12-19), National Dislocated Worker Grant Program Guidance, 18 March 2020, accessed on 19 March 2020 <https://wdr.doleta.gov/directives/attach/TEGL/TEGL_12-19.pdf>.

⁹⁰ U.S. Department of Labor, Education and Training Administration, Disaster Unemployment Assistance (DUA), accessed on 23 March 2020 <<https://oui.doleta.gov/unemploy/disaster.asp>>.

⁹¹ Federal Emergency Management Agency (FEMA), Disasters, accessed on 30 March 2020 <<https://www.fema.gov/disasters>>.

⁹² Crain, Trisha Powell, "Alabama closes all K-12 schools, first COVID-19 case confirmed in Jefferson County," *al.com*, 13 March 2020, updated 14 March 2020, accessed on 23 March 2020 <<https://www.al.com/news/2020/03/alabama-closes-all-k-12-schools.html>>.

⁹³ Johnson, Krista, "Coronavirus and education: What's happened since Alabama's first confirmed case of COVID-19?", 22 March 2020, accessed on 24 March 2020 <<https://www.montgomeryadvertiser.com/story/news/education/2020/03/22/coronavirus-and-education-whats-happened-since-alabamas-first-confirmed-case-covid-19-schools-closed/5042983002/>>.

through alternative means and without in-person instruction for the remainder of the 2019-2020 school year. The SEAL Task Force and the superintendent's survey described above informed the development of the continuity plan. The plan is predicated on providing maximum flexibility for school systems to proceed with graduation and promotion for the 2019-2020 school year. Dr. Mackey developed an ALSDE Emergency End-of-School Year School Closures Manual, which was finalized on March 27, 2020. School systems were required to submit a Local Education Agency (LEA) Academic Continuity Plan that provided a plan for completing the 2019-2020 school year by April 3, 2020. On Thursday, March 26, 2020, Governor Ivey and Dr. Mackey held a press conference to announce that Alabama's schools will complete the 2019-2020 school year via alternative methods.⁹⁴

Child Nutrition Program Benefits During the COVID-19 Pandemic

Under Section 2202 of the FFCRA, the U.S. Secretary of Agriculture has been given authority to approve nationwide waivers to allow non-congregate feeding of the Child and Adult Care Food Program for: (1) waiving of the non-congregate requirement across all child nutrition programs, (2) waiving of the meal service time requirements across all child nutrition programs, and (3) waiving of the requirement for an educational or enrichment activity to occur when serving an afternoon meal or snack under the National School Lunch Program or Child and Adult Care Food Program.⁹⁵ On Friday, March 13, 2020, the ALSDE submitted a waiver request to the U.S. Department of Agriculture (USDA) for the aforementioned waivers. On March 15, 2020, Alabama's waiver request was approved, thereby enabling Summer Food Service Program (SFSP) and National School Lunch Program Seamless Summer Option (SSO) sponsors to serve meals in a non-congregate setting and at school sites during school closures related to COVID-19.⁹⁶ The FFCRA authorized the U.S. Secretary of Agriculture to establish a waiver for all states to locally waive specific meal pattern requirements as needed to support access to nutritious meals when certain foods are not available due to COVID-19. Alabama's meal pattern waiver was approved on March 25, 2020. The FFCRA also authorized the U.S. Secretary of Agriculture to establish a waiver allowing states approved for non-congregate feeding to waive the rule preventing parents and guardians from picking up meals for their children, as long as program accountability and integrity are protected. Alabama requested a parent and guardian meal pickup waiver, which was approved on March 25, 2020. The FFCRA authorized the establishment of a waiver that extends the time a state can elect to participate in the community eligibility provision (CEP) and extends the notification and deadlines for the 2020-2021 school year. The community eligibility provision (CEP) is a universal meal plan under the National School Lunch Program that permits eligible districts and schools to provide meal service to all students at no charge, regardless of economic status. Alabama applied for a CEP Data Waiver, and the waiver was approved on March 25, 2020. The FFCRA authorized the establishment of a nationwide waiver of child nutrition monitoring, which waives certain onsite monitoring requirements for the Child Nutrition Program to maintain program integrity and social distancing while providing meals. Alabama applied for a child nutrition monitoring waiver, and the waiver was approved on March 25, 2020.⁹⁷ On March 17, 2020, U.S. Secretary of Agriculture Sonny Perdue announced a collaboration with the Baylor Collaborative on Hunger and Poverty, McLane Global, PepsiCo, and others to deliver nearly 1,000,000 meals a week to students in a limited number of rural schools closed due to COVID-19. USDA will utilize best practices learned through a summer pilot program in 2019 to deliver food boxes to children affected by school closures due to COVID-19 in rural America. Baylor will coordinate with the appropriate state officials to prioritize students who do not currently have access to a Summer Food Service Program (SFSP) site and have an active outbreak of COVID-19.⁹⁸

⁹⁴ Governor Kay Ivey, Fourth Supplemental State of Emergency: Coronavirus (COVID-19), 26 March 2020, accessed on 27 March 2020 <<https://governor.alabama.gov/newsroom/2020/03/fourth-supplemental-state-of-emergency-coronavirus-covid-19/>>.

⁹⁵ U.S. Department of Agriculture (USDA), Food and Nutrition Service (FNS) Response to COVID-19, accessed on 23 March 2020 <<https://www.fns.usda.gov/disaster/pandemic/covid-19>>.

⁹⁶ ALSDE Email Correspondence between Nick Moore and June Barrett, 15 March 2019.

⁹⁷ U.S. Department of Agriculture, Food and Nutrition Service, Alabama: COVID-19 Waivers & Flexibilities, accessed on 31 March 2020 <<https://www.fns.usda.gov/disaster/pandemic/covid-19/alabama#cn>>.

⁹⁸ U.S. Department of Agriculture, Press Release, "USDA Announces Feeding Program Partnership in Response to COVID-19," 17 March 2020, accessed on 23 March 2020 <<https://www.fns.usda.gov/news-item/usda-019220>>.

Special Activity Programs

Based on a public health order issued by Dr. Scott Harris, Alabama's Public Health Officer, on March 19, 2020 (which was amended on March 20, 2020), Dr. Mackey authorized local education agencies to a Special Activity Program in order to serve children ages 6-12, so long as their parents or guardians fall into one of the following employment groups: the employees of state and local governments, first responders (including EMS and fire services), law enforcement, hospitals, nursing home/long-term care facilities (including assisted living and specialty care assisted living facilities), end-stage renal disease treatment centers, pharmacies, and grocery stores.⁹⁹ Operation of a special activity program is at the discretion of the local superintendent. The centers are not limited to currently enrolled students. Any child of an affected worker as referenced in the enclosed order is eligible. The centers would operate pursuant to Ala. Code §38-7-2-(4)(f), which is the section that covers subjects such as sports camps and summer camps. Schools provide these as a public service or charge tuition to individual parents or their employers to defray the cost of this service. Workers for Special Activity Programs can be public school employees, and they can be paid a supplement beyond their regular pay consistent with board policy and normal pay rules.

National Emergency Educational Waivers

On March 20, 2020, U.S. Secretary of Education Betsy DeVos announced that students impacted by school closures due to COVID-19 can waive standardized testing for the 2019-2020 school year. Upon request, the Department will grant a waiver to any state that is unable to assess its students due to the ongoing national emergency, providing relief from federally mandated testing requirements for this school year. Since student performance, as measured by assessments, is required to be used in statewide accountability systems, any state that receives a one-year waiver may also receive a waiver from the requirement that this testing data be used in the statewide accountability system due to the national emergency. On March 20, 2020, Dr. Mackey submitted the testing and accountability waivers to Secretary DeVos. The waivers were approved on March 27, 2020.¹⁰⁰ The CARES Act included a provision granting the U.S. Secretary of Education broad authority to grant waivers of all statutory and regulatory requirements, except civil rights requirements, under the Every Student Succeeds Act, the Carl D. Perkins Act, and the Higher Education Act for one academic year. The bill also contains a provision permitting the U.S. Secretary of Education to submit a report to Congress, thirty days after the passage of the CARES Act (which is April 27th) requesting additional waivers, including the authority to waive requirements under the Individuals with Disability Education Act (IDEA).¹⁰¹ On April 4, 2020, Secretary DeVos announced a streamlined process for requesting flexibility in the use of funds and other requirements covered under the ESEA, including the Title I, Parts A-D, Title II, Title III, Part A, Title IV, Parts A-B, and Title V programs. Specifically, states may request a waiver of:

- Section 1127(b) of Title I, Part A of the ESEA to waive the 15-percent carryover limitation for Title I, Part A funds;
- Section 421(b) of the General Education Provisions Act (GEPA) to extend the period of availability of prior fiscal year funds, for Title I, Parts A-D, Title II, Title III, Part A, Title IV, Parts A-B, and Title V, Part B programs, and the McKinney-Vento Homeless Children and Youth program;
- Section 4106(d) of Title IV, Part A of the ESEA to waive a needs assessment to justify the use of funds;
- Section 4106(e)(2)(C), (D), and (E) of Title IV, Part A of the ESEA to waive content-specific spending requirements;
- Section 4109(b) of Title IV, Part A of the ESEA to waive spending restrictions on technology infrastructure; and

⁹⁹ Governor Kay Ivey, News Release, "Governor Ivey Issues Statement on Statewide Public Health Order, 19 March 2020, accessed on 23 March 2020 <<https://governor.alabama.gov/newsroom/2020/03/governor-ivey-issues-statement-on-statewide-public-health-order/>>.

¹⁰⁰ U.S. Department of Education, "Helping Students Adversely Affected by School Closures, Secretary DeVos Announces Broad Flexibilities for States to Cancel Testing During National Emergency," Press Release, 20 March 2020, accessed on 23 March 2020 <<https://www.ed.gov/news/press-releases/helping-students-adversely-affected-school-closures-secretary-devos-announces-broad-flexibilities-states-cancel-testing-during-national-emergency>>.

¹⁰¹ The Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136, Sec. 3511.

- Section 8101(42) of the ESEA to waive the definition of “professional development,” which might otherwise limit the ability to quickly train school leaders and teachers on topics like effective distance learning techniques.¹⁰²

Free and Appropriate Public Education (FAPE) During the COVID-19 Pandemic

On Monday, March 23, 2020, the U.S. Department of Education issued guidance to clarify that ensuring compliance with the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act (Section 504), and Title II of the Americans with Disabilities Act (ADA) should not prevent any school from offering educational programs through distance instruction. School districts must provide a free and appropriate public education (FAPE) consistent with the need to protect the health and safety of students with disabilities and those individuals providing education, specialized instruction, and related services to these students. It may be unfeasible or unsafe for some institutions, during current emergency school closures, to provide hands-on physical therapy, occupational therapy, or tactile sign language educational services. Many disability-related modifications and services may be effectively provided online. It is important to emphasize that federal disability law allows for flexibility in determining how to meet the individual needs of students with disabilities. Where, due to the global pandemic and resulting closures of schools, there has been an inevitable delay in providing services, IEP teams must make an individualized determination whether and to what extent compensatory services may be needed when schools resume normal operations. Finally, although federal law requires distance instruction to be accessible to students with disabilities, it does not mandate specific methodologies. Where technology itself imposes a barrier to access or where educational materials simply are not available in an accessible format, educators may still meet their legal obligations by providing children with disabilities equally effective alternate access to the curriculum or services provided to other students.¹⁰³

The Alabama State Department of Education (ALSDE) 2019-2020 Local Education Agency (LEA) Academic Continuity Plan

a. Instruction and Assessment Options

The plan will allow school districts to choose a method of delivering instruction: (1) distance/virtual; (2) instructional packets delivered and picked up from students’ homes; (3) a combination of 1 and 3; or an alternative method. Systems will also choose an instruction and assessment delivery platform. Several platforms have been approved for use by ALSDE and are supported by ALSDE. A system may also use a vendor of their own choosing, but they will have to justify that it is accredited, has appropriated grade-level content, maintains data-reporting functions, serves special populations, and has access to consistent technical support.

b. Final Course Grade Options

For final course grades, school systems may employ: (1) “credit by examination” or “credit by advancement” for students for grades 6 (if grade 6 is in a middle school setting); grade 7-12 with end-of-year or end-of-course assessment or assignment to measure standards mastery; (2) third nine-week grades as final grades or completion for the year; (3) average first, second, and third nine-week grades with fourth nine-week assignments and the end-of-year grade; (4) end-of-course assessment grade averaged with first, second, and third nine-week report card grades for the end-of-year final grade; (5) pass or fail (for any K-8 course except courses taken for Carnegie unit).

c. Graduating Seniors

Seniors who are on track to graduate and in good standing as of the third nine weeks reporting period will be considered “as meeting the graduation requirements” for the state of Alabama. Districts may still implement local policies for honor graduates and class rank and should make local decisions regarding end-of-year participation for

¹⁰² U.S. Department of Education, Press Release, “Secretary of Education Betsy DeVos Authorizes New Funding Flexibilities to Support Continued Learning During COVID-19 National Emergency,” 6 April 2020, accessed on 6 April 2020 <<https://www.ed.gov/news/press-releases/secretary-education-betsy-devos-authorizes-new-funding-flexibilities-support-continued-learning-during-covid-19-national-emergency>>.


¹⁰³ U.S. Department of Education, Office for Civil Rights, office for Special Education and Rehabilitative Services, Fact Sheet, Supplemental Fact Sheet Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities, 21 March 2020, accessed on 23 March 2020 <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=>>.

current high school seniors regarding graduation. Seniors who were not on track must be given the opportunity for credit recovery immediately, rather than waiting for summer programs. Students enrolled in courses for weighted credit, such as AP or IB, should still receive weighted credit regardless of the ability of a student to take an AP/IB/or other assessment. Students on Alabama Essentials Pathway shall have work hour requirements waived. Districts will continue to find methods to support seniors' next steps, such as assisting with FAFSA, scholarship applications, and applications for postsecondary opportunities. Seniors participating in dual enrollment or industry certification programs will follow the sponsoring institution of higher education or credential providers' policies for completion.

d. Special Education

The U.S. Department of Education (see guidance above) does not want schools in Alabama or elsewhere to consider the provision of services to students with disabilities under the IDEA as a barrier or a reason not to offer educational services to any of their students through distance instruction or otherwise. In compliance with COVID-19 guidance, the following assurances have been discussed and are included in planning efforts for students with disabilities, including students with 504 plans. School systems must make every effort to provide services for all students with disabilities students, including students with 504 plans, and maintain appropriate documentation to support all efforts; assure that students with disabilities will not be excluded from participating in courses; comply with all state and federal regulations; ensure educators and administrators collaborate and utilize creative options to meet the individual needs of the students; and consider the impact of the LEA's grading system as it relates to IEP review and development for each student.

VII.



COVID-19 Scenarios and Available Benefits				
	UNEMPLOYMENT INSURANCE		FAMILY MEDICAL LEAVE ACT	STATE EMPLOYEES DURING STATE OF EMERGENCY
	CURRENT LAW	EMERGENCY RULE (UIPL 10-20)	AS AMENDED BY H.R 6201 (P.L. 103-3, 29 U.S.C sec. 2601)	MARCH 13 STATE OF EMERGENCY AND MARCH 15 EXECUTIVE MEMORANDUM
Employee is diagnosed with COVID-19.	✗	✓	✓	✓
Employee was exposed and quarantined. Employing business remains open.	✗	✓	✓	✓
Employee is caring for a sick family member.	✗	✓	✓	✗
Employee has a child in a school closed due to COVID-19 and has no childcare.	✗	✗	✓	✗
The employee has an underlying medical condition and has been advised by his or her physician to self-quarantine.	✗	✗	✓	✓
Worker refused to go to work and is self distancing.	✗	✗	✗	✗
Employer order to shut down by public official.	✓	✓	✗	✓
Employer shuts down due to employer slowdown and lack of demand.	✓	✓	✗	✗
The employee's hours are reduced due to business slow down or lack of demand.	✓	✓	✗	✗
The employer shuts down in defiance of a public health urging to close.	?	?	✗	✗

Figure 1. GREEN CHECK = Eligible; RED 'X' = Not Eligible; YELLOW '?' = TBD