MEMORANDUM

TO: Alabama’s Public Workforce System Stakeholders
DATE: 27 July 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

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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. Governor Ivey issued a COVID-19 State of Emergency on March 13, 2020. Subsequently, Governor Ivey issued supplemental emergency proclamations on March 18, 20, 23, and 26, April 2, 3, and 13, and May 8, 2020. On April 3, 2020, Governor Ivey issued a stay-at-home order for Alabama, effective April 4, 2020 at 5pm to April 30, 2020 at 5pm. Governor Ivey announced that the stay-at-home order would expire at 5pm on April 30, 2020 and that at that time, a Safer at Home order would go into effect at 5pm April 30, 2020 to 5pm May 15, 2020. On May 8, 2020, Governor Ivey issued an amended Safer at Home Order that opened restaurants, barber and beauty shops, churches, and other items to reopen, effective

Monday, May 11, 2020 at 5pm and to expire on May 22, 2020 at 5pm.\textsuperscript{5} On May 8, 2020, Governor Ivey extended the COVID-19 state of Emergency for 60 days, beginning on May 13, 2020.\textsuperscript{6} Also on May 8, 2020, Governor Ivey announced “safe harbor” provisions for health care providers, businesses, and other entities to encourage the reopening of the state. This provision gives health care providers protection from frivolous lawsuits based on actions they took or failed to take as a result of the COVID-19 pandemic. The safe harbor provisions also protect businesses from frivolous lawsuits when they conduct COVID-19 testing or distribute PPE to help protect people from COVID-19. However, businesses are not protected against claims of egregious misconduct.\textsuperscript{7} On May 21, 2020, Governor Ivey issued an amended statewide Safer at Home Order that will expire on Friday, July 3, 2020 at 5pm\textsuperscript{8}, which includes an expanded list of items such as childcare facilities and entertainment venues to reopen with sanitation, social distancing, and facial covering rules, effective on May 22, 2020 at 5pm.\textsuperscript{9} Also on May 21, 2020, Governor Ivey issued an announcement that the temporary emergency protections against evictions will expire on June 1, 2020, since Alabamians are able to return to work and earn an income.\textsuperscript{10} On June 30, 2020 Governor Ivey issued an amended statewide Safer at Home Order that will expire on July 31, 2020 at 5pm.\textsuperscript{11} The June 30, 2020 amended order did not make any changes to the Safer at Home Order.\textsuperscript{12} On July 2, 2020, issued the 13th COVID-19 supplemental state of emergency, which extended the state of emergency by 60 days from July 11 to September 9, 2020. The 13th supplemental state of emergency also provides for virtual meetings for non-profit corporations under the same conditions outlined for the remote meetings of other entities specified in the fifth supplemental state of emergency issued of April 2, 2020.\textsuperscript{13} On July 15, 2020, Governor Ivey issued her 14th supplemental emergency proclamation containing an amended Safer at Home Order that includes a statewide mask requirement.\textsuperscript{14} Individuals will be required to wear a mask or other facial covering when in public and in close contact with other people, as described in the order, and the amended order extends until July 31, 2020 at 5:00 pm.\textsuperscript{15}

The Effects of COVID-19 on Alabama’s Workforce

For the week ending on July 18, 2020, 23,678 Alabamians filed an intial unemployment claim.\textsuperscript{16} Total employment in Alabama for February 2020 was 2,075,000. Between March 21 and July 11, 2020, 662,476 Alabamians filed an initial unemployment claim, which is greater than the 500,000 additional credentialed workers who need to be


added to Alabama’s workforce by 2025 to achieve the Governor’s postsecondary education attainment goal.\textsuperscript{17} Total employment in Alabama has decreased by -33.09 percent between February 29 and July 18, 2020.\textsuperscript{18} The steepest decline happened within the administrative support, waste management, and remediation services sector at -45.81 percent. The second steepest decline happened within the accommodations and food services industry sector at -42.81 percent. Arts, entertainment, and recreation (-39.21) and educational services (-39.21) were tied for third/fourth places. Manufacturing saw the fifth steepest decline at -35.02 percent.\textsuperscript{19} These five industries have held constant as the top five throughout the period between March 21 and 18 July 2020, and the rankings among the top five have held relatively constant as well (manufacturing and education services often vacillate between fourth and fifth places.)\textsuperscript{20}

**Unemployment Compensation Flexibilities During the COVID-19 Outbreak**

Federal unemployment compensation (UC) law requires that claimants be “able and available” for work.\textsuperscript{21} 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 employers.\textsuperscript{22} For further information on UC benefits, see the ADOL’s FAQ document.

**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, 2020,\textsuperscript{23} 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 businesses 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

\textsuperscript{17} Governor’s Office of Education and Workforce Transformation Analysis of Alabama’s UI Claims for the Week Ending on 18 July 2020, Based on Unemployment Compensation and Layoff Estimates Provided by the Alabama Departments of Labor and Commerce, 23 July 2020.
\textsuperscript{18} Ibid.
\textsuperscript{19} Ibid.
\textsuperscript{20} Ibid.
\textsuperscript{21} 42 USC 503(a)(12).
experiencing any other substantially similar condition specified by the federal government. The EPSLA expires on December 31, 2020.  

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. 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 governments to cover any costs related to COVID-19 that were not budgeted for and were incurred between March 1 and December 30, 2020. Alabama received approximately $1.9 billion from the Coronavirus Relief Fund.

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. Alabama will receive approximately $216.9 million from the ESSEF. 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 for the HEERF. 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.

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 are 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. 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.

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26 Ibid., Title V, Division A.
33 Ibid., Sec. 2107.
Economic Impact Payments 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.)\(^{34}\) On April 15, 2020, the U.S. Treasury announced the launch of a free app, called “Get My Payment,” that allows taxpayers who filed a tax return in 2018 or 2019 to submit their banking information. The app will also allow taxpayers to check the status of their Economic Impact Payment online. For taxpayers to track the status of their payment, they will need to enter basic information in the “Get My Payment” app: Social Security number; date of birth; and mailing address. Taxpayers who want to add their bank account information to speed up the receipt of their payment will also need to provide their adjusted gross income from their most recent tax return submitted, either 2019 or 2018; the refund or amount owed from their latest filed tax return; and the bank account type, account, and routing numbers.\(^{35}\)

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.\(^{36}\)

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. As of April 3, 2020, small businesses and sole proprietorships can apply. Starting April 10, 2020, independent contractors and self-employed individuals can apply.\(^{37}\)

The Education Response to the COVID-19 Pandemic
On March 13\(^{th}\), Governor Ivey issued a State of Emergency and announced that all Pre-K-12 schools would close from Wednesday, March 18th until Monday, April 6\(^{th}\).\(^{38}\) 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 impacted by closing schools beyond April 6\(^{th}\).\(^{39}\) 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

\(^{34}\) Ibid., Sec. 2201.
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.\textsuperscript{40}

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, 2020,\textsuperscript{41} and issued a State of Emergency under the Alabama Emergency Management Act of 1955 on March 13, 2020. Governor Ivey issued a COVID-19 State of Emergency on March 13, 2020. Subsequently, Governor Ivey issued supplemental emergency proclamations on March 18, 20, 23, and 26, April 2, 3, and 13, and May 8, 2020.\textsuperscript{42} 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.\textsuperscript{43} 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.\textsuperscript{44} 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.\textsuperscript{45} Governor Ivey announced that the stay-at-home order will expire at 5pm on April 30, 2020 and that at that time, a Safe at Home order will go into effect, effective 5pm April 30, 2020 to 5pm May 15, 2020.\textsuperscript{46} On May 8, 2020, Governor Ivey issued an amended Safer at Home Order that opens restaurants, barber and beauty shops, churches, and other items to reopen, effective Monday, May 11, 2020 at 5pm and will expire on May 22, 2020 at 5pm.\textsuperscript{47} On May 8, 2020, Governor Ivey extended the COVID-19 state of Emergency for 60 days, beginning on May 13, 2020.\textsuperscript{48} Also on May 8, 2020, Governor Ivey announced “safe harbor” provisions for health care providers, businesses, and other entities to encourage the reopening of the state. This provision gives health care providers protection from frivolous lawsuits based on actions they took or failed to take as a result of the COVID-19 pandemic. The safe harbor provisions also protect businesses from frivolous lawsuits when they conduct COVID-19 testing or distribute PPE to help protect people from COVID-19. However, businesses are not protected against claims of egregious misconduct.\textsuperscript{49} On May 21, 2020, Governor Ivey issued an amended statewide Safer at Home Order that will expire on Friday, July 3, 2020 at 5pm\textsuperscript{50}, which includes an expanded list of items such as

\textsuperscript{43} Coronavirus (COVID-19) State Government Operations, Executive Memorandum to All State Agency Heads, Governor Kay Ivey, 15 March 2020.  
\textsuperscript{44} Updated Directive Regarding Coronavirus (COVID-19) State Government Operations, Executive Memorandum to All State Agency Heads, Governor Kay Ivey, 27 March 2020.  
childcare facilities and entertainment venues to reopen with sanitation, social distancing, and facial covering rules, effective on May 22, 2020 at 5pm. Also on May 21, 2020, Governor Ivey issued announced that the temporary emergency protections against evictions will expire on June 1, 2020, since Alabamians are able to return to work and earn an income. On July 15, 2020, Governor Ivey issued her 14th supplemental emergency proclamation containing an amended Safer at Home Order that includes a statewide mask requirement. Individuals will be required to wear a mask or other facial covering when in public and in close contact with other people, as described in the order, and the amended order extends until July 31, 2020 at 5:00 pm.

III. The Effects of COVID-19 on Total Employment in Alabama

Wednesday, March 11, 2020 will likely be remembered by history as the day that the COVID-19 pandemic crystallized in the consciousness of American society: the Dow Jones Industrial Average (DJIA) fell 1.465 points, President Trump gave a rare Oval Office address announcing a European travel ban, the NBA suspended its season, and Tom Hanks and his wife Anita announced they were COVID-19-positive and recovering, the first celebrities to do so. The U.S. entered March 2020 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. Just a month before, the Dow Jones Industrial Average reached its high-water mark of 29,551 on February 12, 2020. By the end of March, the DJIA was at 21,917. The end of March saw over 10 million people file for unemployment benefits. The U.S. economy shed 701,000 jobs in March 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.

On Friday, May 8, 2020, the U.S. Bureau of Labor Statistics reported that the U.S. economy lost 20.5 million jobs in April 2020, and the unemployment rate increased to 14.7 percent, which is the largest one month increase in recorded history (the series began in 1948). The March total employment figure was revised down from -701,000 to -870,000. The April over-the-month decline in total employment is the largest in the history of the series, which began in 1939. The labor force participation rate decreased by 2.5 percentage points over the month in April 2020 to 60.2 percent, the lowest rate since January 1973 (when it was 60.0 percent). In April, employment in leisure and hospitality plummeted by 7.7 million, or 47 percent. Of the decline in leisure and hospitality, almost three-quarters of the decrease occurred in food services and drinking places (-5.5 million). Employment also fell in the arts, entertainment, and recreation industry (-1.3 million) and in the accommodation industry (-839,000). As Alisha Haridasani Gupta, writing for The New York Times, stated, “[w]omen accounted for 55 percent of the 20.5 million jobs lost in April, according to the Bureau of Labor Statistics, raising the unemployment rate for adult women to about 15 percent from 3.1 percent in February. In comparison, the unemployment rate for adult men was 13 percent. Women of color fared worse, with unemployment rates for black women at 16.4 percent and Hispanic women at 20.2 percent. According to an analysis by the National Women’s Law Center, this is the first time since 1948 that the female unemployment rate has reached double digits. The biggest reason for these losses is that the industries hardest hit by the pandemic—leisure, hospitality, education and even some parts of health care — are “disproportionately nonwhite and female,”” said Diane Lim, senior adviser for the Penn Wharton Budget Model, a nonpartisan research initiative.

On May 14, 2020 the Federal Reserve Board released the latest Report on the Economic Well-Being of U.S. Households, Featuring Supplemental Data from April 2020, which found that financial conditions changed dramatically for people who experienced job loss or reduced hours during March 2020 as COVID-19 intensified. The April supplemental survey showed that 72 percent of adults were either "doing okay" financially (43 percent) or "living comfortably" (29 percent). This is down from the 75 percent of adults who were at least doing okay

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62 Ibid.
63 Ibid.
64 Ibid.
65 Ibid.
financially and the 36 percent who were living comfortably in the fall of 2019. The declines in self-reported financial well-being were concentrated among those who lost a job or had their work hours cut. Thirteen percent of adults, representing 20 percent of people who had been working in February, reported that they lost a job or were furloughed in March or the beginning of April 2020. Another 6 percent of all adults saw their hours reduced or took unpaid leave. Taken together, 19 percent of all adults reported either losing a job or experiencing a reduction in work hours in March. Despite these widespread employment losses, some people took on new or additional employment in March. Seven percent of adults reported that they increased their hours worked or worked overtime. On June 5, 2020, the BLS released May 2020 Employment Situation Summary, which indicated that non-farm payroll employment increased by 2.5 million and the unemployment rate decreased to 13.3 percent from 14.7 percent in April 2020 (a decrease of 1.4 percent). The labor force participation rate increased by 0.6 percentage point in May to 60.8 percent, following a decrease of 2.5 percentage points in April. In May 2020, the jobless rate for Latinos was 17.6 percent and for African-Americans 16.8 percent, far higher than for Asians at 15 percent and whites at 12.4 percent. Women were more likely to be unemployed than men. The April jobs report has signaled early signs of economic activity increasing, which has caused the DJIA to regain much of the COVID-19 losses. The DJIA closes at 25,604 on Friday, June 12, 2020. The Business Cycle Dating Committee of the National Bureau of Economic Research (NBER) maintains a chronology of the peaks and troughs of U.S. business cycles and is responsible for marking the official beginning of recessions. The committee has determined that a peak in monthly economic activity occurred in the U.S. economy in February 2020. The peak marks the end of the expansion that began in June 2009 and the beginning of a recession. The expansion lasted 128 months, the longest in the history of U.S. business cycles dating back to 1854. The previous record was held by the business expansion that lasted for 120 months from March 1991 to March 2001. On June 10, 2020, the Federal Reserve stated that it would leave interest rates at near zero for months, if not years. The FED also predicted unemployment would remain high for a long period of time—with levels at 9.9 percent at the end of 2020 and reaching 5.5 percent in 2022.

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 by 24,000 from 3,283,000 to 3,307,000. In the week ending on April 4, 2020, the advance figure for seasonally adjusted initial claims was 6,606,000, a decrease of 261,000 from the previous week's revised level. The week ending on March 28 was revised up by 219,000 from 6,648,000 to 6,867,000. In the week ending on April 11th, the advance figure for seasonally adjusted initial claims was 5,245,000, a decrease of 1,370,000 from the revised level for the week ending on April 4th. The week ending on April 4th was revised up by 9,000 from 6,615,000 to 6,615,000. Thus, over the first four weeks of the COVID-19 pandemic, over 22 million Americans, or 13 percent, of the labor force filed for

67 Ibid.
69 Ibid.
71 Marketwatch.com, Dow Jones Industrial Average,
73 Jeana Smialek, “Fed Leaves Rate Unchanged and Projects Years of High Unemployment,” The New York Times,
unemployment benefits, which is by far the largest four-week period of unemployment claims on record.  

For the week ending April 18, the advance figure for seasonally adjusted initial claims was 4,427,000, a decrease of 810,000 from the revised level for the week ending on April 11. The week ending on April 11 was revised down by 8,000 from 5,245,000 to 5,237,000. Thus, the total number of Americans who have filed initial unemployment claims during the initial five-week period of the COVID-19 pandemic reached 26.45 million, which exceeds the 22.442 million non-farm jobs added to the U.S. economy since November 2009, when the U.S. economy began to recover from the Great Recession.

In the week ending April 25, the advance figure for seasonally adjusted initial claims was 3,839,000, a decrease of 603,000 from the revised level for the week ending on April 18. The level was revised up by 15,000 from 4,427,000 to 4,442,000 for the week ending on April 18, 2020. Thus, over 30 million Americans filed an initial unemployment claim during the six weeks between March 21 and April 25, 2020. In the week ending May 2, the advance figure for seasonally adjusted initial claims was 3,169,000, a decrease of 677,000 from the revised level for the week ending on April 25, 2020. The level for the week ending on May 2, 2020 was increased by 7,000 from 3,169,000 to 3,176,000. Thus, approximately 36.5 million Americans have filed for unemployment over the last eight weeks since the COVID-19 pandemic began. Three million initial unemployment claims for the week ending on May 9, 2020 is trending downwards from the peak of over seven million claims per week at the end of March 2020. For the week ending on May 16, 2020 the advance figure for seasonally adjusted initial claims was 2,438,000, a decrease of 249,000 from the revised level for the week ending on May 9, 2020. The level for the week ending on May 9, 2020 was revised down by 294,000 from 2,981,000 to 2,687,000. For the week ending on May 23, 2020 the advance figure for seasonally adjusted initial claims was 2,123,000, a decrease of 323,000 from the week ending on May 16, 2020. The initial claims for the week ending on May 9, 2020 was revised up by 8,000 from 2,438,000 to 2,446,000. Thus, over the ten weeks between the

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79 Of course, with the additional 3,169,000 initial claims during the week ending on May 2, 2020, over 33.5 million Americans have filed an initial unemployment claim during the initial seven-week period of the COVID-19 pandemic. For the week ending on May 9, the advance figure for seasonally adjusted initial claims was 2,981,000, a decrease of 195,000 from the revised level for the week ending on May 2, 2020. The revised level for the week ending on May 2, 2020 was increased by 7,000 from 3,169,000 to 3,176,000. Thus, approximately 36.5 million Americans have filed for unemployment over the last eight weeks since the COVID-19 pandemic began.
81 Three million initial unemployment claims for the week ending on May 9, 2020 is trending downwards from the peak of over seven million claims per week at the end of March 2020. For the week ending on May 16, 2020 the advance figure for seasonally adjusted initial claims was 2,438,000, a decrease of 249,000 from the revised level for the week ending on May 9, 2020. The level for the week ending on May 9, 2020 was revised down by 294,000 from 2,981,000 to 2,687,000.
82 For the week ending on May 23, 2020 the advance figure for seasonally adjusted initial claims was 2,123,000, a decrease of 323,000 from the week ending on May 16, 2020. The initial claims for the week ending on May 9, 2020 was revised up by 8,000 from 2,438,000 to 2,446,000.
85 Ibid.
89 Ibid.
91 Ibid.
99 Ibid.
101 Ibid.
beginning of the COVID-19 pandemic on March 14, 2020 and May 23, 2020, over 40 million Americans have filed an initial unemployment claim, which means that approximately one-quarter of the American workforce has filed for unemployment during the COVID-19 pandemic.  

For the week ending on May 30, 2020, the advance figure for seasonally adjusted initial claims was 1,877,000, a decrease of 249,000 from the revised level for the week ending on May 23, 2020. The revised level for the week ending on May 23, 2020 was revised up by 3,000 from 2,123,000 to 2,126,000.  

For the week ending on June 6, 2020, the advance figure for seasonally adjusted initial claims was 1,542,000, a decrease of 355,000 from the revised level for the week ending on May 30, 2020. The level for the week ending on May 30, 2020 was revised up by 20,000 from 1,877,000 to 1,897,000.  

For the week ending on June 13, 2020, the advance figure for seasonally adjusted initial claims was 1,508,000, a decrease of 58,000 from the revised level for the week ending on June 6, 2020. The level for the week ending on June 6, 2020 was revised up by 32,000 from 1,508,000 to 1,540,000.  

For the week ending on June 20, 2020, the advance figure for seasonally adjusted initial claims was 1,480,000, a decrease of 60,000 from the revised level for the week ending on June 13, 2020. The level for the week ending on June 13, 2020 was revised up by 32,000 from 1,508,000 to 1,540,000.  

For the week ending on June 27, 2020, the advance figure for seasonally adjusted initial claims was 1,427,000, a decrease of 55,000 from the revised level for the week ending on June 20, 2020.  

For the week ending on July 4, 2020, the advance figure for seasonally adjusted initial claims was 1,314,000, a decrease of 99,000 from the revised level for the week ending on June 27, 2020. The level for the week ending on June 27, 2020 was revised down by 14,000 from 1,503,750 to 1,500,250.  

For the week ending on July 11, 2020, the advance figure for seasonally adjusted initial claims was 1,300,000, a decrease of 60,000 from the revised average for the week ending on July 4, 2020. The average for the week ending on July 4, 2020 was revised down by 7,000 from 1,307,000 to 1,300,000. The 4-week moving average was 1,375,000, a decrease of 16,500 from the week ending on July 11, 2020. The average for the week ending on July 11, 2020 was revised up by 7,000 from 1,300,000 to 1,307,000. The 4-week moving average was 1,375,000, a decrease of 16,500 from the week ending on July 11, 2020.  

For the week ending on July 18, 2020, the advance figure for seasonally adjusted initial claims was 1,416,000, an increase of 109,000 from the revised level for the week ending on July 11, 2020. The level for the week ending on July 11, 2020 was revised up by 7,000 from 1,300,000 to 1,307,000. The 4-week moving average was 1,360,250, a decrease of 16,500 from the week ending on July 11, 2020. The average for the week ending on July 11, 2020 was revised up by 7,000 from 1,300,000 to 1,307,000.  

On April 17, 2020, Alabama Department of Labor Secretary Fitzgerald Washington announced that Alabama’s preliminary, seasonally adjusted March 2020 unemployment rate is 3.5 percent, which is an increase from February’s record low level of 2.7 percent. Counties with the lowest unemployment rates are Shelby County at 2.5 percent, Morgan, Marshall, and Madison Counties at 2.8 percent, and Tuscaloosa, St. Clair, Limestone, and Cullman Counties at 2.9 percent. Counties with the highest unemployment rates are: Wilcox County at 9.6 percent, Clarke County at 6.7 percent, and Greene County at 6.2 percent.

On May 22, 2020, Secretary Washington announced that Alabama’s preliminary, seasonally adjusted April 2020 unemployment rate is 12.9 percent, which is a 9.9 percent increase from the 3.0 percent revised level for March 2020. April’s rate represents 283,787 unemployed persons, representing an increase of 216,783 over the month. For April, the counties with the lowest unemployment rates are Geneva at 8.1 percent, Bullock and Pike Counties at 9.1 percent, and Shelby and Henry at 9.2 percent. Counties with the highest unemployment rates are Lowndes at 26.0 percent, Wilcox at 22.8 percent, and Greene at 22.2 percent. Alabama’s labor force participation rate was 56.8 percent in April 2017, and it increased to 58.6 percent by November 2019 due to the intentional leadership of Governor Ivey. Nevertheless, in the space of three months between March and May 2020, the labor force participation rate has fallen to 56.7 percent.

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101 Ibid.
103 Ibid.
104 Ibid.
Local Area Unemployment Statistics
April 2020 Preliminary Data: Southeastern Area Comparison

Unemployment Rates

- Alabama’s unemployment rate increased to 12.9% in April 2020 due to the COVID-19 pandemic.
- Florida’s unemployment rate was tied with Alabama, and South Carolina’s rate was 0.8 percentage points lower than Alabama.
- Tennessee, Mississippi, and Kentucky were higher than Alabama.

Labor Force Participation Rates

- Alabama’s LFPR was 56.7% in April 2020.
- Alabama’s LFPR was higher than Mississippi by 4.7 percentage points, Florida by 3.1 percentage points, and North Carolina by 0.4 percentage points.
- Alabama’s LFPR was lower than South Carolina, Kentucky, Georgia, and Tennessee.

Local Area Unemployment Statistics
May 2020 Preliminary Data: Southeastern Area Comparison

Unemployment Rates

- Alabama’s unemployment rate decreased to 9.9% in May 2020.
- Georgia’s rate was 0.2 percentage points lower than Alabama.
- Mississippi, Kentucky, Tennessee, South Carolina, North Carolina, and Florida were higher than Alabama.

Labor Force Participation Rates

- Alabama’s LFPR was 58.0% in May 2020.
- Alabama’s LFPR was higher than the following: 5.2 percentage points over Mississippi, 2.9 percentage points over Florida, 0.1 percentage points over North Carolina.
- Alabama’s LFPR was lower than Tennessee, Georgia, and South Carolina.

Source: Alabama Department of Labor, Labor Market Information Division, Local Area Unemployment Statistics Unit

Figure 3. Alabama’s April 2020 Unemployment Statistics

Figure 4. Alabama’s May 2020 Unemployment Statistics


On June 19, 2020, Secretary Washington announced that Alabama’s preliminary, seasonally adjusted May 2020 unemployment rate was 9.9 percent, down from April’s revised rate of 13.8 percent, and above May 2019’s rate of 3.0 percent. The May 2020 rate represents 221,811 unemployed persons, compared to 302,535 in April and 68,057 in May 2019. May’s LFPR rate increase of 1.3 percent from 56.7 percent in April 2020 to 58.0 percent in May 2020 means that Alabama’s LFPR has returned to the February 2020, pre-COVID-19.


On July 17, 2020, Secretary Washington announced that Alabama’s preliminary, seasonally adjusted June unemployment rate was 7.5 percent, down 2.1 percent from the May 2020 revised rate of 9.6 percent, and above the June 2019 rate of 2.9 percent. The June 2020 rate represents 165,770 unemployed persons, compared to 216,043 in May 2020 and 65,389 in June 2019. Alabama’s LFPR for June 2020 56.6 percent, which is 1.4 percent lower than the May 2020 LFPR of 58 percent. Wage and salary employment grew in June by 42,300 in Alabama. Monthly gains were seen in the leisure and hospitality sector (+24,100); the trade, transportation, and utilities sector (+8,900); the professional and business services sector (+6,900); and the manufacturing sector (+4,800). Clay County (4.6 percent), Shelby, Marshall, and Cullman Counties (5.4 percent), and Geneva and DeKalb Counties (5.6 percent) witnessed the lowest levels of unemployment in June 2020. Wilcox County (18.5 percent), Lowndes County (16.9 percent), and Perry County (14.1 percent) saw the highest levels of unemployment.

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Figure 7, Alabama’s Seasonally-Adjusted LFRP (May 2019 to May 2020)\textsuperscript{114}

\textsuperscript{114} Labor Force Participation for Alabama, June 2019 to June 2020, Federal Reserve Bank of St. Louis, accessed on 19 July 2020 <https://fred.stlouisfed.org/series/LBSSA01>.  

For the week ending on March 21st, 10,892 initial claims were filed in Alabama.\textsuperscript{115} For the week ending on March 28\textsuperscript{th}, 80,186 initial claims were filed in Alabama, which is an increase of 69,294 over the previous week.\textsuperscript{116} This means that the State of Alabama saw nearly as many initial claims during the week ending on March 28\textsuperscript{th} as the entire country witnessed just two weeks prior during the week ending on March 14\textsuperscript{th}. 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. In Alabama, for the week ending on April 4, 2020, 106,739 initial claims were filed either online or by telephone, which is an increase of 22,553 over the previous week (94,047 of the claims were COVID-19 related.).\textsuperscript{117} For the week ending on April 11, 2020, in Alabama, 77,515 individuals filed an initial unemployment claim, which is a decrease of 29,224 from the week ending on April 4, 2020. Of the initial claims made during the week ending on April 11, 2020, 71,374 were COVID-19 related.\textsuperscript{118} For the week ending on April 18, 2020, 66,432 initial unemployment claims were filed in Alabama, which is a decrease of 4,942 claims over the week ending on April 11, 2020.\textsuperscript{119} For the week ending on April 25, 2020, 74,966 Alabamians filed an initial unemployment claim, which is an increase of 8,532 over the initial claims for the week ending on April 18\textsuperscript{th}.\textsuperscript{120} During the first six weeks of the COVID-19 pandemic, more Alabamians filed for unemployment than the number of Alabamians who applied for unemployment over the past two years. For the week ending on May 2, 2020, 28,985 Alabamians filed an initial unemployment claim, which is a decrease of 45,981 from the week ending on April 25, 2020.\textsuperscript{121} For the week ending on May 9, 2020, 26,666 Alabamians filed

\textsuperscript{119} Governor’s Office of Education and Workforce Transformation Analysis of Alabama’s UI Claims for the Week Ending on 18 April 2020, Based on Unemployment Compensation and Layoff Estimates Provided by the Alabama Departments of Labor and Commerce, 23 April 2020.
\textsuperscript{120} Governor’s Office of Education and Workforce Transformation Analysis of Alabama’s UI Claims for the Week Ending on 25 April 2020, Based on Unemployment Compensation and Layoff Estimates Provided by the Alabama Departments of Labor and Commerce, 25 April 2020.
\textsuperscript{121} Governor’s Office of Education and Workforce Transformation Analysis of Alabama’s UI Claims for the Week Ending on 9 May 2020, Based on Unemployment Compensation and Layoff Estimates Provided by the Alabama Departments of Labor and Commerce, 2 May 2020.
For the week ending on May 16, 2020, 25,150 Alabamians filed an initial unemployment claim, and 16,069 of those were COVID-19 related. For the week ending on May 23, 2020, 27,920 Alabamians filed an initial unemployment claim, and 16,926 of those were COVID-19 related. For the week ending on May 30, 2020, 21,335 Alabamians filed an initial unemployment claim, and 12,739 of those claim were COVID-19-related.

Total initial UI claims have generally declined for ten weeks between the peak week of COVID-19-related initial claims in Alabama of 106,739 in the week ending on April 4, except for the outliers of the weeks ending in April 25 and May 23, and the week ending on May 30, 2020. For the week ending in June 6, 2020, 19,950 Alabamians filed an initial unemployment claim. For the week ending on June 13, 2020, 18,367 Alabamians filed an initial unemployment claim. For the week ending on June 20, 2020, 18,671 Alabamians filed an initial unemployment claim. For the week ending on June 27, 2020, 18,340 Alabamians filed an initial unemployment claim. For the week ending on July 4, 2020, 19,058 Alabamians filed an initial unemployment claim. For the week ending on July 11, 2020, 20,505 Alabamians filed an initial unemployment claim. For the week ending on July 18, 2020, 23,678 Alabamians filed an initial unemployment claim.
unemployment claim.\textsuperscript{133} Total employment in Alabama for February 2020 was 2,075,000. Between March 21 and July 11, 2020, 662,476 Alabamians filed an initial unemployment claim, which is greater than the 500,000 additional credentialed workers who need to be added to Alabama’s workforce by 2025 to achieve the Governor’s postsecondary education attainment goal.\textsuperscript{134} Total employment in Alabama has decreased by -33.09 percent between February 29 and July 18, 2020.\textsuperscript{135} The steepest decline happened within the administrative support, waste management, and remediation services sector at -45.81 percent. The second steepest decline happened within the accommodations and food services industry sector at -42.81 percent. Arts, entertainment, and recreation (-39.21) and educational services (-39.21) were tied for third/fourth places. Manufacturing saw the fifth steepest decline at -35.02 percent.\textsuperscript{136} These five industries have held constant as the top five throughout the period between March 21 and 18 July 2020, and the rankings among the top five have held relatively constant as well (manufacturing and education services often vacillate between fourth and fifth places.)\textsuperscript{137}

\begin{figure}[h]
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\includegraphics[width=\textwidth]{Figure_10.png}
\caption{Alabama’s Total Initial Weekly Unemployment Claims from 21 March to 18 July 2020\textsuperscript{138}}
\end{figure}

On April 16, 2020, Secretary Fitzgerald Washington announced the launch of an unemployment insurance (UI) claims tracker that allows claimants to view the status of their claim online.\textsuperscript{139} On April 27, 2020, Secretary Washington announced that the Alabama Department of Labor has disbursed over $372 million in unemployment

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\item \textsuperscript{134} Governor’s Office of Education and Workforce Transformation Analysis of Alabama’s UI Claims for the Week Ending on 18 July 2020, Based on Unemployment Compensation and Layoff Estimates Provided by the Alabama Departments of Labor and Commerce, 23 July 2020.
\item \textsuperscript{135} Ibid.
\item \textsuperscript{136} Ibid.
\item \textsuperscript{137} Ibid.
\item \textsuperscript{138} Ibid.
\end{itemize}
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benefits since March 16, 2020, which represents 64 percent of claims paid. Secretary Washington also announced that a new tool will be added to the Alabama Department of Labor website to track Pandemic Unemployment Assistance (PUA) claims, which will allow PUA claimants to upload information from the UI Claims Tracker and their personal devices. On May 4, 2020, Secretary Washington announced that ADOL has paid over $503 million in COVID-19 related unemployment compensation benefits to 206,694 claimants between March 16 and May 1, 2020, which translates into 84 percent of claims having been paid. On June 4, 2020, Secretary Washington announced that ADOL has paid over $1.5 billion in COVID-19-related unemployment benefits to 293,493 claimants. Since March 16, 2020, 92 percent of COVID-19-related claims have been paid.

Figure 11, Percent Change in UI Claims By County (19 April to 25 April 2020)

Figure four demonstrates the percent change in total initial UI claims by county between April 19 and April 25, 2020. Choctaw, Washington, Russell, and Bullock Counties each experienced over a 50 percent increase in initial claims over the week ending on April 18, 2020. For the week ending on April 25, 2020, Geneva, Coffee, Marion, Blount, Marshall, Barbour, Pike, Escambia, Chilton, Lawrence, Dekalb, and Baldwin Counties each experienced in weekly percent change in UI claims of over 25 percent.

141 Ibid.
145 Ibid.
For the week ending on April 25, 2020, the professional, scientific, and technical services; construction; educational services; real estate and rental and leasing; arts, entertainment, and recreation; information; agriculture, forestry, fishing, and hunting; management of companies and enterprises; and information sectors all experienced increases in UI claims. All other known industry sectors saw a negative percent change in initial UI claims between the week ending on April 19 and the week ending on April 25, 2020. Manufacturing saw a nearly -25 percent weekly change and utilities saw over a -45 percent change in initial UI claims between April 19 and April 25, 2020.\footnote{Ibid.}
Dr. Ruder also created two graphs (see above and below) that provide an analysis of the aggregate initial UI claims for the first five weeks of the COVID-19 pandemic (March 14 to April 18, 2020). The first graph analyzes UI claims by county as a percentage of the county population, and the second graph analyzes aggregate UI claims by county. Each figure shows the percent change in UI claims from the week ending March 14 to the week ending April 18. Figure six demonstrates the total initial claims by county, as a percentage of the county population, between March 14 and April 18, 2020. Over 9 percent of the population of Hale, Tuscaloosa, and Calhoun Counties filed an initial UI claim between March 14 and April 18, 2020. Over 8 percent of the population of Baldwin, Talladega, and Butler Counties filed an initial UI claim between March 14 and April 18, 2020.

150 Ibid.
Figure seven demonstrates the total initial UI claims by county between March 14 and April 18, 2020. Jefferson County witnessed more than 50,000 initial claims. Among the 67 counties, other than Jefferson County, six others stood out with initial claims exceeding 10,000. Mobile County witnessed more than 30,000 initial claims. Baldwin, Montgomery, and Calhoun Counties each had over 10,000 initial UI claims between March 14 and April 18, 2020.

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151 Ibid.
152 Ibid.
153 Ibid.
Dr. Ruder also completed an analysis of total UI claims by three-digit NAICS code between March 28 and April 18, 2020. As the data demonstrate, several NAICS codes have been heavily affected by COVID-19. These include food services and drinking places with over 39,000 initial claims, transportation equipment manufacturing and administrative and support services both with initial claims exceeding 25,000, and ambulatory healthcare services with over 16,000 initial claims. The data present a strong correlation between an elevated number of claims for public-facing occupations, place-based occupations, and occupations within industries that have declared temporary closures or halts in production.

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155 Ibid.
Following the initial analysis of Alabama’s UI claims by three-digit NAICS code, Dr. Ruder conducted an analysis of total UI claims by four-digit NAICS code, between March 14 and May 16, 2020. The findings, as demonstrated in Figure ten, highlight the top 50 occupations most affected by COVID-19. Over 95 percent of Alabamians employed in motor vehicle manufacturing have filed an initial UI claim between March 14 and May 16, 2020. Over 80 percent of personal care workers have filed an initial UI claim between March 14 and May 16, 2020. Over 75 percent of workers employed in motor vehicle parts manufacturing have filed an initial UI claim between March 14 and May 16, 2020.\textsuperscript{157}

\textsuperscript{156} Dr. Alexander Ruder, “Analysis of Alabama’s UI Data by Four-Digit NAICS Code,” 14 March to 16 May 2020, Federal Reserve Bank of Atlanta, 22 May 2020.

\textsuperscript{157} Ibid.
Dr. Ruder analyzed Alabama’s unemployment claims by the number of total initial claims for each of the four-digit NAICS codes with the highest number of initial claims for the period between March 14 and May 16, 2020. Over 50,000 initial claims were filed in the restaurants and other eating places industry. Over 30,000 initial claims were filed in the employment services industry. Nearly 20,000 initial claims were filed in the motor vehicle parts manufacturing industry. Over 10,000 initial claims were filed in the motor vehicle manufacturing industry.

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159 Ibid.
Dr. Ruder analyzed Alabama’s total continued claims for the week ending on May 16, 2020. The Industry sector INA registered over 50,000 continued claims for the week ending on May 16, 2020. Restaurants and other eating places saw in excess of 25,000 continued claims. Employment services saw over 15,000 continued claims for the week ending on May 16, 2020. Motor vehicle parts manufacturing saw more than 10,000 continued claims.

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161 Ibid.
162 Ibid.
Two- and Four-Digit NAICS Industry Jobs Trends Data (March 7 to June 6, 2020)

Figure 19, Jobs Trends Data (7 March to 6 June, 2020), 4-digit NAICS Industry

Figure 20, Jobs Trends Data (7 March to 6 June, 2020), 4-digit NAICS Industry


Ibid.
Figure 21, Jobs Trends Data (7 March to 6 June, 2020), 2-digit NAICS Industry\textsuperscript{165}

Figure 22, Jobs Trends Data (7 March to 6 June, 2020), 2-digit NAICS Industry\textsuperscript{166}

\textsuperscript{165} Ibid.

\textsuperscript{166} Ibid.
According to research from Moody’s Analytics, Alabama could be one of the states that is the least economically impacted by COVID-19. Moody’s compiled data on March 30, 2020 considering six metrics related to the effects of COVID-19 on a state’s economy: (1) exposure to COVID-19; (2) demographics; (3) trade and travel disruptions; (4) tourism; (5) finance; and (6) commodities. An earlier analysis such as auto manufacturers and suppliers, retail, and global shipping could be the industries that are the most impacted in the short term. Tourism represents 7 percent of Alabama’s $221 billion GDP and exports represent less than 10 percent, with leading categories including automobiles and aerospace products and parts. Moody’s recently employed its stress testing methodology to determine the impact of the COVID-19 pandemic on state revenues. Moody’s determined that the average state budgetary impact will be approximately a 17.9 percent decline in state revenues—it was estimated that Alabama would face the seventh-lowest decline in revenues at 11.8 percent. Alabama accounts for 1.1 percent of the U.S. gross domestic product (GDP) and 1.5 percent of the population. Knowing these data points provides the ability to estimate the potential effects of COVID-19 on Alabama’s economy relative to the national economic data. Thus, a $1 trillion national impact would result in an $11 billion to $15 billion impact on Alabama. Second-quarter Alabama GDP will most likely decline by about 3-4 percent, with employment falling much faster. Any recovery in the third quarter will be quite weak due to supply-side constraints facing Alabama manufacturers and weak consumer demand and business spending. Optimistically, the state economy will be back on a normal path of recovery by the fourth quarter. Portions of the economy at risk of significant declines include travel and travel-related businesses, food services and eating places, tourism and leisure, support services, auto dealers, gas stations, education, manufacturing firms that rely on exports and/or overseas suppliers for their inputs, and other businesses that depend on consumer and business spending. These firms together employ nearly 1.2 million workers (or about 58 percent) of the total nonfarm employment in the state and their multiplier effects on the rest of the state’s economy could make it difficult for the economy to recover in the third quarter. The expected significant declines in economic activity will adversely affect income, sales, lodging, gas, and other tax revenues for both state and local government entities. COVID-19 effects and the large drop in oil prices will most likely push business spending into much deeper negative territory. Weaker economic growth in the rest of the world will also hurt Alabama’s exports; in 2019, Alabama’s exports to China, the state’s third-largest trading partner, totaled $2.2 billion, or about 11 percent of the state’s total exports. Overall, the length of the downturn and the subsequent recovery will depend on how strong the policy responses (both monetary and fiscal) are and how these policies help businesses, state and local governments, and households weather the shock of the COVID-19 pandemic.

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 2020.170 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, 2020.171 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-19.172 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-19.173 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.174 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-19.175

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

174 42 USC 503(a)(12).
implementing Division D (the Emergency Unemployment Stabilization and Access Act of 2020 [EUISAA]) of the FFCRA (P.L. 116-127).\textsuperscript{176} On May 4, 2020, the U.S. Department of Labor issued UIPL 13-20, Change 1, which provides states with reporting instructions for Division D of the FFCRA and also provides questions and answers related to implementing Division D of the FFCRA.\textsuperscript{177} 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 ability 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.\textsuperscript{178} UC benefits are primarily financed through the quarterly assessment of taxes on employer payrolls. The tax system is experience rated and operates similarly to 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.\textsuperscript{179} 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

\begin{thebibliography}{9}
\end{thebibliography}
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. As described in UIPL 10-20, many states do not charge individual employers for 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 the 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. On April 10, 2020, the U.S. Department of Labor notified Governor Ivey that the first allotment of $6,365,768.50 was allocated to the ADOL. 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),

Extended Benefits (EB)
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. The enactments of EUISAA, Division D of the FFCRA, and the CARES Act temporarily change certain aspects of the EB program. On May 14, 2020, the U.S. Department of Labor issued UIPL 24-20, which describes: (i) basic qualification requirements for an individual to collect EB; (ii) temporary Federal Pandemic Unemployment Compensation (FPUC) payments payable for weeks of EB; (iii) temporary emergency flexibility in modifying or suspending EB work search requirements in response to the spread of COVID-19; (iv) temporary full Federal funding to states for EB; and (v) temporary Federal matching for the first week of EB for states with no waiting week. UIPL 24-20 also contains answers to

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frequently asked questions about EB. EB is payable only after the exhaustion of PEUC and other UC. During the period that PEUC is available, an individual must have exhausted PEUC entitlement before commencing receipt of EB. Section 2104 of the CARES Act provides for a $600 supplemental FPUC payment each week to eligible individuals, including eligible EB recipients, for weeks of unemployment beginning after March 27, 2020, and ending before July 31, 2020.183

Section 4102 of EUISAA provides emergency grants to states for UC program administration that is made available in two separate allotments, as discussed in UIPL No. 13-20.184 Section 4105 of EUISAA provides that, for states receiving both allotments of the emergency administrative grants and also meeting the thresholds to trigger “ON” to EB, the Federal Government will pay 100 percent of sharable regular compensation and sharable extended compensation for weeks of unemployment beginning after March 18, 2020, and ending before December 31, 2020. For states that do not receive both allotments of the emergency administrative grants, but meet the thresholds to trigger “ON” to EB, the Federal Government will pay 50 percent of sharable regular compensation and sharable extended compensation. Section 4105(b) of EUISAA provides that for any state without a waiting week provision under the state UC law or that elects to temporarily suspend the waiting week requirement, the Federal government will pay 50 percent (or 100 percent if the requirements of Section 4105(a) of EUISAA are met) of sharable regular compensation and sharable extended compensation for the first week of EB for weeks of unemployment beginning after March 18, 2020, and ending before December 31, 2020. A state is not required to charge EB paid to an individual to the experience rating accounts of employers (i.e., contributory employers), but is permitted to do so for all or any part of EB paid.185

On June 29, 2020, Secretary Washington announced that the Alabama Department of Labor will begin offering Extended Benefits (EB) for those who qualify and have exhausted previous benefits.186 This is a separate program from the Pandemic Emergency Unemployment Compensation (PEUC) program that was enacted under the CARES Act. The EB program is a federal program that is triggered when a state’s insured unemployment rate exceeds 5.9 percent. Alabama’s weekly insured unemployment rate of 6.11 percent triggered the state onto a 13-week EB period beginning the week of May 31. The last time Alabama offered the EB program was during the Great Recession of 2008. While EB is available for up to 13 weeks, not all claimants will be eligible to receive all weeks. Alabamians can begin claiming these benefits on July 5, 2020. Claimants must first exhaust all regular UC and PEUC benefits before they will be eligible for EB benefits.187

**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).188 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.189 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.

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183 Ibid.
184 Ibid.
185 Ibid.
187 Ibid.
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 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 the EFMLEA on April 1, 2020.\(^{190}\) 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.\(^{191}\)

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.\textsuperscript{192} The EPSLA applies to employees of covered employers regardless of how long an employee has worked for an employer.\textsuperscript{193} 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.\textsuperscript{194} 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.\textsuperscript{195} 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, then the payment must be made directly to the local government and the amount will be subtracted from the allocation of the state in which local government is located. 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.

\begin{itemize}
\item \textsuperscript{194} The Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136.
\item \textsuperscript{195} \textit{Ibid.}, Title V, Division A.
\end{itemize}
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.\(^{196}\) On April 13, 2020, the U.S. Treasury announced that they launched a web portal to allow eligible state, local, and tribal governments to access approximately half of the CRF funds ($71 billion) to offset the immediate costs related to the COVID-19 response. Eligible governments may receive funds in as little as 24 hours after providing the required information through the web portal.\(^{197}\) On April 22, 2020, the U.S. Treasury released guidance on the CRF for state, territorial, local, and tribal governments.\(^{198}\) The CARES Act provides that payments from the Fund may only be used to cover costs that (1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19); (2) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and (3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020. The guidance released on April 22, 2020 sets forth the U.S. Treasury’s interpretation of the permissible use of the CRF. Eligible expenses include, but are not limited to (1) medical expenses; (2) public health expenses; (3) payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency; (4) expenses of actions to facilitate compliance with COVID-19-related public health measures; (5) expenses associated with the provision of economic support in connection with the COVID-19 public health emergency; and (6) any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund’s eligibility criteria.\(^{199}\) The guidance states that funds CRF monies may not be used for (1) expenses for the State share of Medicaid; (2) damages covered by insurance; (3) payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency; (3) expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by states to state unemployment funds; (4) reimbursement to donors for donated items or services; (50 workforce bonuses other than hazard pay or overtime; (6) severance pay; and (7) legal settlements.\(^{200}\) On May 4, 2020, the U.S. Treasury issued revised guidance\(^{201}\) on the CRF, which included the answers to additional questions from stakeholder groups.\(^{202}\) On May 12, 2020, the U.S. Treasury announced that Alabama will receive a total CRF allocation of $1,901,262,159.90. Jefferson County is eligible for $114,915,910, and the state is eligible for $1,786,346,249.90.\(^{203}\) On May 18, 2020, Governor Ivey submitted an executive amendment to the FY 2021 General Fund Budget to ensure that Alabama’s CRF funds would be appropriated immediately. Without amendment, SB 161, the FY 2021 General Fund budget bill, may have caused Alabama to be unable to appropriate the funds prior to the deadline set by Congress. The Governor’s executive amendment appropriated Alabama’s CRF funds to the Alabama Department of Finance to be used for the following purposes: (a) up to $300,000,000 to reimburse state agencies for COVID-19-related expenses; (b) up to $250,000,000 to reimburse local governments for COVID-19-related expenses; (c) up to $250,000,000 to be used to support the delivery of healthcare services to Alabamians during the COVID-19 pandemic; (d) up to $300,000,000 to support

\(^{196}\) 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>.


\(^{199}\) Ibid.

\(^{200}\) Ibid.


citizens, businesses, non-profits, and faith-based organizations that have been impacted by COVID-19; (e) up to $53,000,000 for the reimbursement of equipment and infrastructure costs related to enabling remote-work capabilities for state government as a result of COVID-19, including the Legislature; (f) up to $300,000,000 for expenditures related to technology and infrastructure related to remote instruction and learning; (g) up to $200,000,000 for reimbursement of costs necessary to address COVID-19 by the Alabam Department of Corrections; (h) up to $10,000,000 for the reimbursement of costs necessary to ensure access to the courts during the COVID-19 pandemic; (i) $5,000,000 to reimburse the State General Fund for supplemental appropriations to the Alabama Department of Public Health; and (j) up to $118,346,250 for other any lawful purpose as provided by the U.S. Congress. The executive amendment also provides that the CRF may be used as a temporary loan to the State Education Trust Fund and State General Fund in the amount equaled to delayed tax receipts due to changes in tax filing provisions resulting from the COVID-19 pandemic. The Governor plans to make a public request form for CRF funds available on the Governor’s website in early June. On May 28, 2020, the U.S. Treasury released updated guidance on the CRF for state, territorial, local, and tribal governments. Governor Kay Ivey launched a CRF Expenditure Request Form for the public to submit reimbursement requests for expenses incurred from COVID-19. The form is located on Governor Ivey’s official website. On June 24, 2020, the U.S. Treasury released an updated CRF frequently-asked questions document. On June 30, 2020, the U.S. Treasury issued revised guidance on the CRF to state, territorial, local, and tribal governments. The June 30, 2020 revised CRF guidance provides clarifications on the need to spend CRF monies by December 30, 2020. On July 8, 2020, the U.S. Treasury released a revised FAQ document for the CRF, which provides clarification on when increased administrative leave expenses for employees who could not telework can be offset with CRF monies.

b. The Education Stabilization Fund

The CARES Act appropriated $30.5 billion for an Education Stabilization Fund (ESF) through September 20, 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 (ESSRF) to make grants available to each state educational agency to facilitate schools’ responses to COVID-19. Alabama will receive approximately $216.9 million from the ESSRF. 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

204 Governor Kay Ivey, Message to the Legislature, Executive Amendment to Senate Bill 161, 18 May 2020, accessed on 31 May 2020 <https://governor.alabama.gov/assets/2020/05/Executive-Amendment-to-Senate-Bill-161.pdf>.
210 Alex Whitaker, National Governors Association (NGA), Email to Nick Moore, 5 July 2020, accessed on 26 July 2020.
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. Alabama was granted $48.9 million for the GEERF.

**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. Alabama is expected to receive $216.9 million. 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 no 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 same manner as provided under Section 1117 of the ESEA of 1965 (ESSA) to students and teachers in non-public schools.

On April 23, 2020, Secretary DeVos announced that $13.2 billion of the funds appropriated to the ESSERF by the CARES Act are now available to the state and local education agencies. SEAs must allocate 90 percent of their ESSERF funds to LEAs, including public charter schools, in proportion to the amount of FY 2019 funds the LEA received under Title I, Part A of the Elementary and Secondary Education Act. Up to 10 percent of the SEA's award may be retained for the state agency to use to address needs related to responding to coronavirus. After one year,

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216 CARES Act, P.L. 116-136, Sec. 18003.
SEAs must return any funds that have not been awarded, and the U.S. Secretary of Education will reallocate the funds to the states. The U.S. Department implemented a streamlined process for SEAs to apply for the ESSERF monies through a Certification and Agreement form that must be signed and emailed to ESSERF@ed.gov. The U.S. Department of Education has committed to processing each submitted form within three business days of receipt, if possible.\textsuperscript{219} The Alabama State Department of Education received the grant award notice (GAN), signed by Deputy U.S. Secretary of Education Frank Brogran, for Alabama’s ESSERF funds, in the amount of 216,947,540, on April 29, 2020.\textsuperscript{220} The U.S. Department of Education crafted a frequently asked question document related to the ESSERF on May 13, 2020.\textsuperscript{221}

The Alabama State Department of Education conducted a public stakeholder survey of educators, advocates, public officials, parents, and the general public to solicit recommendations for how the ESSERF should be used and to determine the scope of the post-COVID-19 need within the K-12 education community.\textsuperscript{222} The survey closed on April 20, 2020 with 4,523 responses. Over 2,000 respondents were school staff and over 1500 were parents. Forty-five percent of respondents agreed that students benefit from online learning during periods of school closure or for remediation. Access to reliable devices and internet access for students were cited, by far, as the most important supports necessary to provide and improve distance learning for students. Technology, extra time, addressing the needs of special populations, professional development for staff on sanitation, professional development for effective distance learning, and mental health services were among the top choices for most respondents when asked how CARES Act funds should be utilized.\textsuperscript{223} Dr. Mackey emailed LEA applications for the ESSERF on May 20, 2020.\textsuperscript{224}

On June 25, 2020, Secretary Betsy DeVos issued a rule that would help to ensure all students whose learning was impacted by COVID-19 are served equitably by emergency funding authorized by the CARES Act no matter where they attend school.\textsuperscript{225} The Interim Final Rule (IFR), which becomes effective immediately, outlines how local education agencies (LEAs) must calculate the emergency funds available for providing equitable services to students and teachers in private schools. Under the rule, if an LEA chooses to use CARES Act funding for students in all its public schools, it still must calculate the funds for equitable services based on students enrolled in private schools in the district. However, if an LEA chooses to use CARES Act funding only for students in its Title I schools, it has two options: (1) calculate the funds for equitable services based on the total number of low-income students in Title I and participating private schools or (2) calculate the funds using the LEA’s Title I, Part A share from the 2019-2020 school year. If an LEA uses one of the low-income student options, the LEA must not violate the Title I supplement-not-supplant requirement in section 1118(b)(2) of the ESEA.\textsuperscript{226} That is, LEAs cannot divert state or local funds from its Title I schools because they receive CARES Act funds. The U.S. Department of Education previously issued guidance on equitable services under the CARES Act on April 30, 2020. In the April 30 guidance, the Department advised LEAs to calculate the funds that must be reserved to provide equitable services to private school students and teachers under the CARES Act programs based on enrollment data in a district. So, if private-school students represented 8 percent of enrollment, the funds for equitable services would be

\textsuperscript{219} Ibid.
\textsuperscript{220} Email (signed GAN attached) from Jessica Sanders, Government Affairs Director for the Alabama State Department of Education, to Nick Moore, the ESSERF Grant Award Notice, 5 May 2020, accessed 10 May 2020.
\textsuperscript{223} Ibid.
\textsuperscript{224} Email from Dr. Daniel Boyd, Assistant State Superintendent of Education, to Nick Moore, 31 May 2020, accessed on 31 May 2020.
\textsuperscript{226} Ibid.
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).\textsuperscript{228} Alabama is expected to receive approximately $218.5 million for the HEERF.\textsuperscript{229} 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 demonstrate 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.

### Alabama’s Allocations to IHEs under Section 18004(a)(1) of the CARES Act (Pub.L. 116-136)

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\textsuperscript{227} Ibid.

\textsuperscript{228} CARES Act, P.L. 116-136, Sec.18004.

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Note that the $190,542,192 listed above is inconsistent with the estimated $218.5 million that is expected to receive from the HEERF. Dr. Jim Purcell, Executive Director of the Alabama Commission on Higher Education, avers that perhaps since the 7.5 percent of funds reserved for HBCUs and Minority Serving Institutions and the 2.5 percent of funds reserved for the Fund for the Improvement of Postsecondary Education (FIPSE) institutions (the FIPSE provides funding for small and regional colleges and universities with acute need) were not included in the Section 18004(a)(1) estimates listed above.\textsuperscript{230}

On April 9, 2020, U.S. Secretary of Education Betsy DeVos announced that the first half, approximately $6.3 billion, of the HEERF funds appropriated under Section 18004(a)(1), known as the “student aid” portion of the HEERF, will be distributed immediately to IHEs to provide direct emergency cash grants to college students whose lives and educations have been disrupted by COVID-19. Section 18004(c) of the CARES Act requires institutions to use no less than fifty percent (50 percent) of the funds received 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, health care, and child care).\textsuperscript{231} In an April 9, 2020 letter to IHE presidents, Secretary DeVos wrote that each IHE receiving emergency assistance from the CARES Act “may develop its own system and process for determining how to allocate these funds.” This gives institutions some flexibility in determining which students will receive grants consistent with all applicable laws including non-discrimination laws. “The only statutory requirement is that the funds be used to cover expenses related to the disruption of campus operations due to coronavirus,” the letter reads.\textsuperscript{232} Although, neither the statute or certification form require that the funds be provided to Title IV eligible students, the letter recommends that institutions should prioritize their students with the greatest need when awarding these

\begin{table}[h!]
\centering
\begin{tabular}{|l|l|l|}
\hline
Institution & Type & Expenses \\
\hline
Alabama School of Nail Technology & For-profit & $77,735 \\
Alabama State College of Barber Styling & For-profit & $28,259 \\
Blue Cliff Career College & For-profit & $105,082 \\
Brown Beauty Barber School & For-profit & $70,098 \\
Cardiac and Vascular Institute of Ultrasound & For-profit & $88,302 \\
Fortis College* & For-profit & \\
Fortis College-Dothan* & For-profit & \\
Fortis College-Foley* & For-profit & \\
Fortis College-Montgomery* & For-profit & \\
Fortis College-Montgomery* & For-profit & \\
New Beginning College of Cosmetology & For-profit & $160,764 \\
Paul Mitchell the School-Birmingham & For-profit & $271,411 \\
Paul Mitchell the School-Huntsville & For-profit & $280,920 \\
Ross Medical Education Center-Huntsville* & For-profit & \\
South University-Montgomery* & For-profit & \\
Strayer University-Alabama* & For-profit & \\
The Salon Professional Academy-Huntsville & For-profit & $90,139 \\
University Academy of Hair Design & For-profit & $70,719 \\
Winonah's International School Of Cosmetology & For-profit & $82,925 \\
\hline
Total &  & $ 190,543,192 \\
\hline
\end{tabular}
\end{table}

\textsuperscript{230} Dr. Jim Purcell, “The CARES Act Overview,” Memorandum Alabama Commission on Higher Education (ACHE) staff, 31 March 2020.


emergency funds, with the maximum Pell Grant award of $6,195 for this academic year serving as an example of the maximum emergency grant amount. Institutions shall not use the funds to reimburse themselves for any costs or expenses, including but not limited to any costs associated with significant changes to the delivery of instruction due to the coronavirus and/or any refunds or other benefits that the institution previously issued to students. This means that institutions are not allowed to pay refunds for dorm fees or meal tickets from this portion of the funds. In order to access these funds, all institutions must sign and return a Certificate of Funding and Agreement acknowledging the terms and conditions of the funding to the US Department of Education. After the Department has received the certificate, institutions may draw down their emergency assistance funds using the Department’s G5 system. Schools will be required to report how grants were distributed to students, the amount of each grant awarded to each student, how the amount of each grant was calculated, among other things within 30 days from signing the certification form, and every 45 days thereafter. Institutions will be required to document that the institution has continued to pay all of its employees and contractors during the period of any disruptions or closures to the greatest extent practicable, explaining in detail all specific actions and decisions related thereto, in compliance with Section 18006 of the CARES Act. The nonprofit Hope Center released a guide this week on some of the best practices for awarding emergency aid.233

On April 21, 2020, Secretary DeVos announced the release of the second half of the funds appropriated for the HEERF under Section 18004(a)(1) of the CARES Act. The second tranche of funds released under Section 18004(a)(1) is known as the funds for the “Recipient’s Institutional Costs.”234 Section 18004(c) of the CARES Act allows an education institution to use up to one-half of the total funds received under Section 18004(a)(1) to cover any costs associated with significant changes to the delivery of instruction due to the coronavirus. The funding for “Recipient’s Institutional Costs” is available to eligible IHEs through a second Certification and Agreement process, which is separate from the first half of the HEERF funding previously made available for “Emergency Financial Aid Grants to Students.”235 Secretary DeVos noted that IHEs must submit a Funding Certification and Agreement for “Emergency Financial Aid Grants to Students” before submitting the second Certification and Agreement for “Recipient’s Institutional Costs.” Section 18004(c) of the CARES Act states that “Institutions of higher education shall use no less than 50 percent of . . . 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, health care, and child care).”236 Therefore, Secretary DeVos’ April 22, 2020 letter announcing the release of the funding for “Recipient’s Institutional Costs” encourages IHEs “to also consider using the second half of funding to expand support for your students with the most significant financial needs arising from the coronavirus pandemic, including eligible expenses under a student’s cost of attendance, such as course materials, technology, health care, childcare, food, and housing.”237

On April 30, 2020, Secretary DeVos announced that nearly $1.4 billion in additional funding will be directed to Minority Serving Institutions (MSIs), including Historically Black Colleges and Universities (HBCUs) and Tribally Controlled Colleges and Universities (TCCUs), as well as institutions serving low-income students to help ensure learning continues during the coronavirus national emergency. This funding is part of the HEERF.238 Institutions

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236 Ibid.
237 Ibid.
238 U.S. Department of Education, Press Release, Secretary DeVos Delivers Nearly $1.4 Billion in Additional CARES Act Relief Funds to HBCUs, Minority Serving Institutions, and Colleges and Universities Serving Low-Income Students, 30 April 2020,
may use this funding to cover the cost of technology associated with a transition to distance education, grants to cover the costs of attendance for eligible students, and faculty and staff trainings. Additionally, funds may be used to cover operational costs, such as lost revenue, reimbursements for prior expenses, and payroll. These additional funding allocations to MSIs, including HBCUs and TCCUs, and institutions eligible for the Strengthening Institutions Program (SIP) represent 7.5 percent of the HEERF funds, or around $1 billion. The HEERF also sets aside 2.5 percent of the HEERF ($349 million) to address the greatest unmet needs related to COVID-19, giving priority to schools that have not been allocated at least $500,000 from the fund. The U.S. Department of Education is deploying these funds to ensure that every eligible public and private nonprofit institution will receive at least $500,000 in CARES Act relief funding. In order to access the funds, eligible institutions must sign a Certification and Agreement certifying that they will use their allocations in accordance with the CARES Act and all other applicable federal law. Schools have until August 1, 2020 to apply for the funds. The Department also provided student loan relief to tens of millions of borrowers by setting all federally held student loan interest rates to zero percent and allowing borrowers to defer payments for 60 days without interest.

The CARES Act extends those benefits to six months. The Department also stopped all federal wage garnishments and collections actions for borrowers with federally held loans in default. On June 11, 2020, the U.S. Department of Education announced that it would publish an interim final rule to the federal register on June 15, 2020 that will ensure taxpayer-funded coronavirus relief money is distributed properly and does not go to foreign nationals, non-citizens, and students who may be enrolled in ineligible education programs. The rule would align student eligibility requirements for emergency financial aid grants under the CARES Act with Title IV eligibility, which dictates which students can receive taxpayer-subsidized student loans or grants, which would mean that foreign nationals and most other non-citizens would not be eligible, as well as those who: (1) are dual-enrolled in secondary school; (2) do not meet academic progress standards; (3) are in default on a federal student loan or owe any refund relating to a federal student grant; (4) are without a high school diploma, GED certification, or recognized equivalent or exception; or (5) are in programs that are not Title IV-eligible programs. The rule will be open for public comments for 30 days.

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. 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 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. 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. On April 14, 2020, Secretary DeVos notified Governor Ivey that Alabama was awarded $48,851,495 through the GEERF. Governors were required to submit a Certification and Agreement to the U.S. Department of Education. The GEERF funds may be obligated in as few as three days to the state after receipt of the Certification and Agreement by the U.S. Department of Education. The GEERF Funds may be used for expenses incurred from March 13, 2020, the date on which President Trump declared a national emergency. Governors will have one year to grant funds to qualifying entities from the time the GEERF funds are obligated to the state. On May 12, 2020, the U.S. Department of Education emailed a reminder that the GEERF application for Alabama is due on June 1, 2020. On May 19, 2020, the U.S. Department of Education released a Frequently Asked Questions (FAQs) about the GEERF. The FAQs document seeks to answer common questions that may not be easily understood from a plain reading of the CARES Act and the GEERF Certification and Agreement. Alabama submitted its GEERF application to the U.S. Department of Education on May 27, 2020. The U.S. Department of Education has stated that the deadline for states to apply for GEERF funding is June 1, 2020. Funding from states who do not apply will be reallocated among the other states. As of May 31, 2020, 32 Governor’s have submitted GEERF applications. On June 2, 2020, the U.S. Department of Education issued a notice announcing that the deadline for states to apply for GEERF monies has been extended from June 1 to June 8, 2020.

**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. 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. On June 4, 2020, the U.S. Department of Education released Frequently Asked Questions on the Maintenance of Effort (MOE) Requirements Applicable to CARES Act Programs. As a recipient of GEER or ESSER funds, both the Governor

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244 U.S. Secretary of Education Betsy DeVos, Letter to Governor Kay Ivey RE the Governor’s Emergency Education Relief Fund, 14 April 2020.
245 Ibid.
249 Ibid.
250 Julia Pickle, Governor’s Federal Affairs Directors, Email to Nick Moore on Alabama’a GEERF Application, 27 May 2020, accessed on 1 June 2020.
251 NGA Government Relations email to Nick Moore, 1 June 2020, accessed on 1 June 2020.
253 CARES Act, P.L. 116-136, Sec.18008.
and the State educational agency, respectively, assure that the State will maintain support during fiscal years (FYs) 2020 and 2021 for elementary and secondary education, as well as support for higher education. The maintenance of effort (MOE) requirement for elementary and secondary education and higher education requires that states must maintain support for elementary and secondary education in each of fiscal years (FY) 2020 and 2021 at least at the level of such support that is the average of the support for elementary and secondary education provided in the three fiscal years preceding the date of enactment of the CARES Act (FYs 2017, 2018, 2019).

**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 work week 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, 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.

The 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

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255 Ibid.
pay and who are receiving paid sick leave or other paid benefits are not eligible for PUA. 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. On April 27, 2020, the U.S. Department of Labor issued UIPL 16-20, Change 1, which provides answers to the most frequently asked questions regarding PUA. UIPL 16-20, Change 1 also provides instructions for completing Form ETA 9178-P, Quarterly Narrative Progress Report—Employment and Training Supplemental Budget Request Activities, which is required for states that have received supplemental grants to administer the PUA program. On July 21, 2020, the U.S. Department of Labor issued UIPL 16-20, Change 2, Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Pandemic Unemployment Assistance (PUA) Additional Questions and Answers. UIPL 16-20, Change 2 provides states with responses to questions addressing various aspects of PUA, and coordination of PUA with other programs, including regular unemployment compensation, extended benefits, and the related programs established by the CARES Act.

Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations
Section 2103 of the CARES Act provides payment to states to reimburse certain nonprofit organizations, local government agencies, and federal-recognized Indian Tribes for half of the costs they incur through December 31, 2020 to pay unemployment benefits. On April 27, 2020, the U.S. Department of Labor issued UIPL 18-20, which provides states with instructions for implementing the emergency unemployment relief for state and local governmental entities, certain nonprofit organizations, and federally-recognized Indian Tribes under Section 2103 of the CARES Act. Section 2103 of the CARES Act authorized transfers from the Federal Unemployment Account (FUA) to a state’s account in the unemployment trust fund for one-half of the amount of compensation paid by the state to employees of state and local governmental entities, certain nonprofit organizations, and Federally-recognized Indian tribes that opt to make payments in lieu of contributions (i.e., reimbursing employers). Thus, state and local governmental entities, certain nonprofit organizations, and federally-recognized Indian Tribes that make payments in lieu of contributions to their state’s unemployment fund are eligible to be reimbursed for those payments, up to the amount of funds transferred from FUA for each claim. UIPL 18-20 provides the conditions and processes for transfers to provide relief to eligible entities under Section 2103 of the CARES Act.

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 of Alabama’s current weekly payout for unemployment insurance is $275. Adding $600 would

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256 Ibid., Sec. 2102.
259 Ibid.
263 Ibid.
result in individuals receiving $875 per week for up to four months.\textsuperscript{264} 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.\textsuperscript{265} On May 9, 2020, the U.S. Department of Labor issued UIPL 15-20 Change 1, which provides answers to frequently asked questions regarding the FPUC Program.\textsuperscript{266} UIPL 15-20 Change 1 also provides guidance for completing Form ETA 9178-P, Quarterly Narrative Progress Report—Employment and Training Supplemental Budget Request Activities, which is a form that states must complete as part of the FPUC Program oversight and reporting process.\textsuperscript{267} The ADOL began paying the FPUC benefits on April 8, 2020. Claimants whose claims have processed should expect to see the funds within 2-3 days. The ADOL paid $40,060,495 in FPUC benefits to 60,848 claimants as of April 8, 2020.\textsuperscript{268} On June 15, 2020, the U.S. Department of Labor issued UIPL 15-20 Change 2 to provide states with the new ETA 227-Overpayment Detection and Recovery Activities FPUC report (referred to as the "ETA 227 FPUC report") and to provide states with revised reporting instructions for the FPUC program.\textsuperscript{269}

\begin{itemize}
\item \textsuperscript{264} Ibid., Sec. 2104.
\item \textsuperscript{267} Ibid.
\end{itemize}
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. On April 30, 2020, the U.S. Department of Labor released UIPL 20-20 to provide the states guidance for implementing Section 2105 of the CARES Act, which authorizes full federal funding of the first week of regular UC for states with no waiting week and that have entered into an agreement with the Department pursuant to the section. Under section 2105 of the CARES Act, a state may voluntarily enter into an agreement with the Department for the Federal Government to provide full reimbursement of regular UC paid to individuals by the state for their first week of unemployment, as well as any additional administrative expenses incurred by the state because of the agreement. Benefits and administrative costs for administering Section 2105 are fully federally funded.

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270 Ibid.
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.\(^{273}\)

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.\(^{274}\) On April 10, 2020, the U.S. Department of Labor issued UIPL 17-20, which provided states with operating, reporting, and financial guidance for implementing the PEUC Program.\(^{275}\) On May 13, 2020, the U.S. Department of Labor issued UIPL 17-20, Change 1, which identified and addressed questions that the states raised regarding the operation of the PEUC program under the CARES Act.\(^{276}\) UIPL 17-20, Change was designed to address those questions and to provide further guidance about the PEUC program authorized by section 2107 of the CARES Act.\(^{277}\)

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, and must be accessible in at least two of the following formats: in person, by phone, or online.\(^{278}\)

Program Integrity for the Unemployment Insurance Program and the Unemployment Insurance Programs Authorized by the CARES Act
On May 11, 2020, the U.S. Department of Labor issued UIPL 23-20 to remind states of program integrity functions required for the regular UI program and to provide states with guidance regarding required program integrity functions for the UI programs authorized by Sections 2102 (PUA), 2104 (FPUC), and 2107 (PEUC) of the CARES Act.\(^{279}\) The CARES Act creates new unemployment compensation (UC) programs, including FPUC, PUA, and PEUC, that states are administering. At the same time, the unemployment insurance (UI) program is experiencing the highest level of claims in the history of the program. A number of states have requested relief from conformity and compliance activities to support more expedited processing of claims. UIPL 23-20 clarifies that UI mandates, such as the weekly certification process and reviewing and processing out-of-state wages, remain fundamental requirements—both in conformity and compliance—which must be adhered to. These functions are also critical to the operations of the UI-related CARES Act programs. UIPL 23-20 provides states with information and guidance on three topics related to program integrity in the regular UI program and the CARES Act programs: (1) conformity and compliance with federal UC laws; (2) program integrity functions for the regular UI program and the CARES Act programs; and (3) technical assistance resources.\(^{280}\)

\(^{273}\) *Ibid.*, Sec. 2106.

\(^{274}\) *Ibid.*, Sec. 2107.


\(^{277}\) *Ibid.*

\(^{278}\) The Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136, Sec. 2603.


Short-Time Compensation Program Provision in the CARES Act

Section 2108 of the CARES Act provides funding to support “short-time compensation” (STC) programs, where employers reduce employee hours instead of laying off workers, and the employees with reduced hours receive a prorated unemployment benefit. This provision would pay 100 percent of the costs they incur in providing this short-time compensation through December 31, 2020. Section 2018 provides funding to states with existing STC programs and financial incentives to states to create such programs. Individuals employed on a seasonal, temporary, or intermittent basis are not eligible for benefits under STC programs. Employers are obligated to pay to their state one-half of the amount of STC benefits paid under such plans. This amount will not impact the employer’s contribution rate. Section 2109 of the CARES Act provides funding to support states which begin STC programs. Section 2109 provides 50 percent of the costs that a state incurs in providing short-time compensation through December 31, 2020. Section 2110 provides $100 million in grants to states that enact STC programs to help them implement and administer these programs. Section 2111 requires the Department of Labor to disseminate model legislative language for states, provide technical assistance, and establish reporting requirements related to STC programs. On May 3, 2020, the U.S. Department of Labor issued UIPL 21-20 to provide states with an overview of STC program provisions in Title II, Subtitle A of the CARES Act, and to provide guidance regarding 100 percent federal reimbursement of certain state STC payments. On May 10, 2020, the U.S. Department of Labor issued UIPL 22-20 to encourage and assist states in applying for grant funds for STC programs and issue guidance on the process to apply for the grants provided for under Section 2110 of the CARES Act.

Economic Impact Payments 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 $1,200 ($2,400 for a married couple) for economic impact payments. 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. On April 15, 2020, the U.S. Treasury announced the launch of a free app, called “Get My Payment,” to allow taxpayers who filed a tax return in 2018 or 2019 and did not submit their banking information. The app will also allow taxpayers to check the status of their Economic Impact Payment online. For taxpayers to track the status of their payment, they will need to enter basic information in the “Get My Payment” app: Social Security number; date of birth; and, mailing address. Taxpayers who want to add their bank account information to speed receipt of their payment will also need to provide their adjusted gross income from their most recent tax return submitted, either 2019 or 2018; the refund or amount owed from their latest filed tax return; and the bank account type and its account and routing numbers. On April 26, 2020, the U.S. Treasury announced enhancements to the “Get My Payment” app to increase the speed at which Americans receive their economic impact payments. As of April 26, 2020, 88 million Americans have received an

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283 Ibid., Sec. 2201.

Economic impact payment.\textsuperscript{285} As of April 17, 2020, the Internal Revenue Service has issued over 1.3 million Economic Impact Payments totaling more than $2.4 billion to eligible individuals in Alabama.\textsuperscript{286}

U.S. Department of Labor Unemployment Compensation Reporting Flexibilities
Benefits Accuracy Measurement (BAM)

The Benefits Accuracy Measurement (BAM) program is an essential quality function for the UI program. States have the responsibility to draw samples, perform investigations, identify errors, compute error rates, analyze data, and initiate corrective action if appropriate. For BAM paid cases, the USDOL encourages states to continue to sample at the current rate/week and complete the investigations for the quarter ending March 31, 2020 (through Batch #202013), if possible. The U.S. Department of Labor issued UIPL 25-20 on June 15, 2020 to provide guidance to state workforce agencies on changes in the operation of the BAM program, including BAM sample selection and case management applications, as a result of issues arising from the COVID-19 pandemic.\textsuperscript{287} These COVID-19-related issues include the unprecedented increases in Unemployment Insurance (UI) program workloads and the new Unemployment Compensation (UC) programs created in the CARES Act, including the Federal Pandemic Unemployment Compensation (FPUC) program, which provides a federal payment of $600 in addition to the state weekly benefit amount. UIPL 25-20 provides guidance to states on the operation of the BAM program, including: (1) required modifications of the BAM software application due to increases in UI claims workload and the enactment of the FPUC program; (2) required revisions to existing BAM sample selection, population count, and case management software applications; and (3) answers to questions received regarding BAM program operations.\textsuperscript{288}

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 to 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 have otherwise notified the State Rapid Response Team of impending employee layoffs.\textsuperscript{289} 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:

- **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.

\textsuperscript{286} The White House, Office of Intergovernmental Affairs, Fact Sheet, “The Trump Administration is Supporting the People of Alabama,” 28 April 2020, accessed on 2 May 2020.
\textsuperscript{288} Ibid.
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)

Economic Injury Disaster Loans (EIDL)

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.290 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 businesses should visit the SBA’s COVID-19 recovery website to determine their eligibility and to apply for an EIDL.291 As of April 24, 2020, the SBA has approved 336 Disaster Loans in Alabama, valued at $63,376,000. The average disaster loan is currently $188,619. With the additional funding provided by P.L. 116-129, the SBA will resume processing EIDL and advance applications that are already in the queue on a first-come, first-served basis. The SBA may delay the processing of new applications until existing applications are processed.292 As of April 27, the SBA issued over $4.8 billion in loans to over 27,000 Alabama small businesses. As of April 27, the SBA has approved 14,433 Economic Injury Disaster Loan (EIDL) advances of up to $10,000 for Alabama small businesses impacted by COVID-19; these funds, as authorized by the CARES Act, do not need

292 Ibid.
to be repaid and have totaled more than $59.1 M in the State of Alabama. On May 4, 2020, the SBA announced that EIDL and EIDL advances will be available to agricultural businesses engaged in the legal production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries with fewer than 500 employees due to funding authorized by the Paycheck Protection Program and Healthcare Enhancement Act of 2020 (116-139). As of May 8, 2020, 37,132 EIDL advances valued at $120,793,000 were issued in Alabama. As of May 9, 2020, 802 EIDL loans have been approved in Alabama valued at $103,513,000. As of June 12, 2020, 15,141 EIDL loans have been approved in Alabama valued at $923,940,377. As of June 12, 2020, 39,702 EIDL advances were approved in Alabama for a total of $129,361,000.

The Paycheck Protection Program (PPP)
Section 1102 of the CARES Act created the Paycheck Protection Program (PPP), 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 proprietors, 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. 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. Governor Ivey also issued a press release encouraging businesses to apply for the EIDL and PPP benefits. Governor Ivey also issued a fact sheet on the PPP. On April 2, 2020, the SBA published an interim final rule to the Federal Register to provide the rules for implementing the PPP. On April 16, 2020, it was announced that the initial $349 million

295 U.S. Small Business Administration, EIDL Advances by State, 8 May 2020.
296 U.S. Small Business Administration, EIDL Loans by State, 9 May 2020.
298 U.S. Small Business Administration, EIDL Advances by State, 12 June 2020.
appropriated to the PPP was exhausted. After the passage of the Paycheck Protection Program and Healthcare Enhancement Act of 2020 (P.L. 116-139), the PPP loan application process was able to resume at 10:30am on April 27, 2020 with reported delays. An estimated $1 billion in PPP funding is set for approval in Alabama now that the PPP has reopened. Before the passage of P.L. 116-129, applications could not be uploaded once funding ran out. However, over 5,000 loans are currently prepared for submission by Alabama banks. The SBA has not publicly released any data on program usage, which means a breakdown of how and where PPP funds were allocated in Alabama is currently unavailable. As of April 24, 2020, the SBA has issued 14,433 "forgivable advances" in Alabama, valued at $63,107,000. The average advance was $4,095. On May 6, 2020, the SBA and the Treasury collaborated to produce a frequently asked questions document related to PPP loans. Nationally, as of May 9, 2020, 5,428 lenders have approved over 2.57 million PPP loans with a total value of over $187.88 billion and an average loan size of $73,111. The SBA issued an updated frequently asked questions document on the PPP on May 13, 2020. On May 15, 2020, the SBA released the interim final rule for the PPP loan increases. On May 15, 2020, the SBA and U.S. Department of the Treasury released the PPP loan forgiveness application. The form and instructions inform borrowers on how to apply for forgiveness of their PPP loans, consistent with the CARES Act. The SBA will also soon issue regulations and guidance to further assist borrowers as they complete their applications, and to provide lenders with guidance on their responsibilities. As of June 12, 2020, 62,054 PPP loans were granted in Alabama for a total of $6,112,307,591. On June 15, 2020, the SBA reopened the EIDL loan and advance portal and announced that the portal will be open to all eligible small businesses and non-profits affected by the COVID-19 pandemic. On July 6, 2020, the SBA, in consultation with the U.S. Treasury, released detailed loan-level data regarding the loans made under the Paycheck Protection Program (PPP). This disclosure covers each of the 4.9 million PPP loans that have been made. The July 6, 2020 release includes loan-level data, including business names, addresses, NAICS codes, zip codes, business type, demographic data, non-profit information, name of lender, jobs supported, and loan amount ranges. The data release also includes overall statistics regarding dollars lent per state, loan amounts, top lenders, and distribution by industry. Nationally, as of July 17, 2020, 4,950,649 PPP loans were approved for a total of $518,327,703,308 from 5,455 total lenders. In Alabama, as of July 17, 2020, 66,782 PPP loans have been made, for a total of $6,177,310,842. Just over $1.3 billion in PPP funding remains available as of July 17, 2020. Health care and social assistance (12.92 percent); professional, scientific, and technical services (12.75 percent); construction (12.41 percent); manufacturing (10.38 percent); and finance and insurance (7.99 percent) were among the largest recipients for PPP loans. Additional Program Information

307 Email from Richard Lukas, National Governors Association, to Nick Moore, 6 July 2020, accessed on 19 July 2020.
315 Email from Richard Lukas, National Governors Association, to Nick Moore, 6 July 2020, accessed on 19 July 2020.
percent); and accommodation and food services (8.11 percent) were the industry sectors receiving the greatest share, by percent, of the total PPP funding as of July 17, 2020. As of June 30, 2020, the PPP has supported 700,000 jobs in Alabama and has covered 82 percent of the small business payroll in the state.

### Paycheck Protection Program and Healthcare Enhancement Act of 2020

The Paycheck Protection Program and Healthcare Enhancement Act of 2020, also known as the phase 3.5 COVID-19 response package, amends Division A of the CARES Act related to the Paycheck Protection Program (PPP), SBA’s Economic Injury Disaster Loan (EIDL) program, and the SBA’s Emergency Economic Injury Grant program. H.R. 266, which initially passed on the U.S. House of Representatives by a vote of 240-179 on January 11, 2019 as an appropriations bill for the Department of the Interior, was used as a legislative vehicle to pass the Paycheck Protection Program and Healthcare Enhancement Act of 2020. The U.S. Senate amended H.R. 266 and passed the bill as amended, by voice vote on April 21, 2020. The U.S. House of Representatives voted to concur to the Senate amendment to H.R. 266 on April 23, 2020, and the bill was sent to President Trump, who signed it into law as P.L. 116-139 on April 24, 2020. The Paycheck Protection Program and Healthcare Enhancement Act of 2020 increases the appropriation level for the Paycheck Protection Program from $349 billion to $670.335 billion, increases the authorization level for the Emergency Economic Injury Disaster (EIDL) Grants from $10 billion to $20 billion, appropriates an additional $50 billion for the SBA’s Disaster Loans Program, and allows agricultural enterprises with fewer than 500 employees to receive EIDL grants and loans.

### The Paycheck Protection Program Flexibility Act (P.L. 116-142)

On May 28, 2020, the U.S. House of Representatives passed the Paycheck Protection Program Flexibility Act (H.R. 7010) by a vote of 417-1. The bill passed in the U.S. Senate by voice vote on June 3, 2020, and President Trump signed it into law as P.L. 116-142 on June 5, 2020. P.L. 116-142 establishes a minimum maturity of five years for a PPP loan with a balance remaining after forgiveness if originated after June 5, 2020. The maturity of existing PPP loans has not been changed by this law. P.L. 116-142 extends the rehiring deadline from June 30 to December 31, 2020. The law expands loan forgiveness provisions if the recipient is able to document that it is unable to rehire former employees who worked for the business as of February 15, 2020 and is unable to hire similarly qualified employees before December 31, or that it is unable to return to the same level of business activity due to compliance with federal guidance related to COVID-19. H.R. 7010 also establishes a requirement that at least 60 percent of a PPP loan must be used for payroll costs to be eligible for loan forgiveness, which is a decrease from the 75 percent payroll requirement under the original PPP. Up to 40 percent of a PPP loan could be used for “any covered mortgage obligation,” rent, or utility payments. Under the original PPP, businesses whose PPP loans were forgiven could not defer 2020 payroll taxes. H.R. 7010 eliminates this prohibition.

The law also extends the covered period for loan forgiveness from eight weeks after the date of loan disbursement to 24 weeks after the date of loan disbursement, providing substantially greater flexibility for borrowers to qualify for loan forgiveness. On June 8, 2020, Treasury Secretary Mnuchin signed it into law as P.L. 116-142 on June 5, 2020.

### Data

As of June 30, 2020, the Paycheck Protection Program (PPP) has supported 700,000 jobs in Alabama and has covered 82 percent of the small business payroll in the state.

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and SBA Administrator John Carranza announced that, in response to the passage of P.L. 116-142, the U.S. Treasury and the SBA will promptly issue rules and guidance, a modified borrower application form, and a modified loan forgiveness application implementing these legislative amendments to the PPP included in the law. The SBA, in consultation with the U.S. Treasury, issued new and revised guidance for the PPP. The revised guidance implements the Paycheck Protection Program Flexibility Act (PPPFA) and expands eligibility for businesses with owners who have past felony convictions. To implement the PPPFA, SBA revised its first PPP interim final rule, which was posted on April 2, 2020. The new rule updates provisions relating to loan maturity, deferral of loan payments, and forgiveness provisions. On June 12, 2020, the SBA also released a revised PPP borrower application form and a revised lender application form. On June 17, 2020, the SBA and U.S. Treasury announced the release of a new EZ PPP loan forgiveness application that requires fewer calculations and less documentation for eligible borrowers. On July 4, 2020, President Trump signed Senate Bill 4116, which extends the PPP deadline to August 8, 2020 and separates the authorized limits for commitments under the PPP from other Small Business Administration loan programs, into law after it passed in the Senate by unanimous consent on June 30, 2020 and by voice vote in the U.S. House of Representatives.

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

The U.S. Department of Labor announced on March 18, 2020 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.

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

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Innovation and Opportunity Act (WIOA), Title I, Section 170.\textsuperscript{330} Alabama applied for a COVID-19 national health emergency DWG in the amount of $6 million. On April 15, 2020, the U.S. Department of Labor awarded more than $131 million in DWGs to twenty-four states and two territories, including Alabama.\textsuperscript{331} On Wednesday, April 15, 2020, Governor Ivey was notified by U.S. Secretary of Labor Eugene Scalia that Alabama was awarded a DWG in the amount of $1.998 million.\textsuperscript{332}

\textbf{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.\textsuperscript{333} 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.\textsuperscript{334} On June 25, 2020, the U.S. Department of Labor issued UIPL 26-20 to transmit the subject computation for State Workforce Agency usage in computing minimum weekly DUA amounts for all major disasters declared from July 1 to September 30, 2020, (fourth quarter of Fiscal Year 2020). If an individual’s DUA weekly benefit amount is less than 50 percent of the state’s average weekly payment of unemployment compensation (UC) or if the individual has insufficient wages from employment or insufficient or no net income from self-employment, the state shall determine the DUA weekly amount to equal 50 percent of the average weekly payment of UC in the state.\textsuperscript{335}

\textbf{The Federal Emergency Management Agency (FEMA) to provide Public Assistance (PA) Program}

The President’s March 13, 2020, COVID-19 nationwide emergency declaration and subsequent major disaster declarations authorize the Federal Emergency Management Agency (FEMA) to provide Public Assistance (PA) Program funding under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) to


\textsuperscript{332} U.S. Secretary of Labor Eugene Scalia, Letter to Governor Kay Ivey, 15 April 2020.

\textsuperscript{333} U.S. Department of Labor, Education and Training Administration, Disaster Unemployment Assistance (DUA), accessed on 23 March 2020 <https://oui.doleta.gov/unempoly/disaster.asp>.


state, local, tribal, and territorial (SLTT) government entities and certain private nonprofit (PNP) organizations for emergency protective measures. For COVID-19, Congress authorized over $3 trillion to multiple federal agencies for them to provide assistance to SLTTs in addressing the effects of this public health emergency pandemic. The extensive COVID-19 authority of other federal agencies in some cases overlaps with FEMA’s authority. For COVID-19, PA funding is authorized at 75% federal cost share. Generally, other federal agency funding cannot be used to meet the FEMA non-federal share requirement. For COVID-19, there are two exceptions: Treasury’s CARES Act Coronavirus Relief Fund and the Department of Housing and Urban Development’s Community Disaster Block Grant (CDBG-CV) can be used to meet the PA non-federal share.  

VI. The Supplemental Nutrition Assistance Program (SNAP)
The U.S. Department of Agriculture (USDA), Food and Nutrition Service (FNS) has announced flexibilities for the Supplemental Nutrition Assistance Program (SNAP) in response to COVID-19. On April 22, 2020, U.S. Department of Agriculture Secretary Perdue announced that monthly SNAP benefits across the 50 states and three territories had increased by $2 billion in one month in response to COVID-19, which is in addition to the $4.5 billion in benefits allocated to families before the COVID-19 pandemic began. The $2 billion emergency SNAP expansion represents a 40 percent increase in the size of the SNAP program in one month.

- **Emergency Allotments:** USDA will be granting waivers to states to allow for the issuance of emergency allotments based on a public health emergency related to an outbreak of COVID-19. The emergency allotment allows a family to receive the maximum allowable monthly benefit, based on the size of the family. The Alabama Department of Human Resources (DHR) applied for a waiver for the emergency allotments, which was approved. The first emergency supplement was issued on March 31, 2020 and the next will be issued on April 30, 2020.

- **Pandemic EBT:** As a result of the Families First Coronavirus Response Act (FFCRA) of 2020, children who would receive free or reduced-price meals if not for school closures are eligible to receive assistance Pandemic Electronic Benefits Transfer (EBT). The Alabama Department of Human Resources submitted a pandemic EBT waiver on April 9, 2020. On April 22, 2020, U.S. Secretary of Agriculture Sonny Perdue announced that Alabama was approved to operate Pandemic EBT, which will add the value of school meals to eligible SNAP participants’, and other eligible households, EBT benefits to offset the cost of meals that would have otherwise been consumed at school. For the 2019-2020 school year, Alabama had approximately 445,000 children eligible for free and reduced-price lunch, or about 62% of children in participating schools.

**Adjustments to Interview Requirements:** Under FFRCA authority, FNS is allowing state SNAP agencies to adjust interview requirements, provided an applicant’s identity has been verified and other mandatory

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339 Communication from the Alabama Department of Human Resources (DHR) Supplemental Nutrition Assistance Program (SNAP) Director Brandon Hardin, 9 April 2020.


341 Communication from the Alabama Department of Human Resources (DHR) Supplemental Nutrition Assistance Program (SNAP) Director Brandon Hardin, 9 April 2020.

verifications are made. The DHR has submitted, received, and implemented a waiver of the following SNAP interview requirements: SNAP regulations at 7 C.F.R. 273.2(a)(2), 273.2(e), and 273.14(b)(3) by not requiring a household to complete an interview prior to approval, provided the applicant’s identity has been verified and all other mandatory verifications in 7 C.F.R. 273.2(f)(1) have been completed. SNAP regulations at 7 C.F.R. 273.2(e)(2)(i) by not offering a face-to-face interview or granting a request for a face-to-face interview to any household at application or recertification. SNAP regulations at 7 C.F.R. 273.2(i)(3)(iii) and 7 C.F.R. 273.2(i)(4)(iii)(A) and (B) by not requiring households that are eligible for expedited service to complete an interview prior to approval, provided that an applicant’s identity has been identified and an attempt has been made to contact the household for an interview.

- **Time Limit for Able-bodied Adults without Dependents (ABAWD):** The Families First Coronavirus Response Act temporarily and partially suspends the time limit for ABAWD participation in SNAP. The DHR has implemented the temporary and partial suspension of the ABAWD timeline for SNAP participation.

- **Flexibility for Quality Control Interviews:** The U.S. Department of Agriculture is allowing states to conduct telephone interviews instead of face-to-face interviews for SNAP Quality Control (QC) purposes in March, April, and May 2020. USDA has also offered states an optional 45-day extension on QC case reviews due in April, May, and June 2020. States must notify FNS in advance if they choose to implement these flexibilities and must follow all other requirements as specified in SNAP. The DHR applied for, received, and implemented a waiver of the face-to-face QC interview requirement.

- **Online Shopping with SNAP:** Congress authorized a pilot program permitting the states to allow SNAP participants to shop online with SNAP benefits, but the program was implemented slowly. New York became the first state to introduce a program for online grocery orders in 2019. New York was followed by Washington, Alabama, Iowa, Oregon, and Nebraska. Maryland and New Jersey have announced participation in the pilot program, but those states have not yet started offering online ordering.

## VII. The Temporary Assistance for Stabilizing Child Care (TASCC) Grant Program

The Cares Act provides $3.5 billion to the Child Care and Development Block Grant (CCDBG). This funding will support states, territories, and tribes to provide assistance to child care providers in order to financially support them during the public health crisis. This additional funding can also help support healthcare workers, first responders, and other essential workers playing critical roles during this crisis. Funds will be released to state, territory, and tribal Child Care and Development Fund programs. On April 14, 2020, the Administration for Children and Families announced the release of the 2020 CARES Act supplemental CCDBG funds to the states.

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344 Communication from the Alabama Department of Human Resources (DHR) Supplemental Nutrition Assistance Program (SNAP) Director Brandon Hardin, 9 April 2020.


346 Communication from the Alabama Department of Human Resources (DHR) Supplemental Nutrition Assistance Program (SNAP) Director Brandon Hardin, 9 April 2020.


348 Communication from the Alabama Department of Human Resources (DHR) Supplemental Nutrition Assistance Program (SNAP) Director Brandon Hardin, 9 April 2020.


350 U.S. Department of Health and Human Services, Administration for Children & Families, “HHS’ Administration for Children and Families to Release Funding to Support the Child Care and Development Block Grant,”
Alabama’s allocation under the CARES Act for the CCDBG is $64,957,270. On July 10, 2020, the Alabama Department of Human Resources (DHR) announced on Friday a new grant program to assist licensed child care providers in the wake of the COVID-19 pandemic. The Temporary Assistance for Stabilizing Child Care (TASCC) grant program’s purpose is to stabilize the number of child care providers that are open and providing services, as well as encourage providers to reopen. DHR is now accepting applications for TASCC grants. The deadline to apply is August 7, 2020. The total grant amounts will be based on each provider’s daytime licensed capacity with a base rate of $300 per child. To be eligible for a grant, licensed providers must be open or plan to reopen no later than August 17, 2020 and continue to remain open for a period of one year from the date of receiving the grant award. As of this week, 1,306 of Alabama’s 2,448 child care facilities were open in the state. The grants will provide support for paying employees, purchasing classroom materials, providing meals, purchasing cleaning supplies, and providing tuition relief for families.

VIII. U.S. Treasury and Federal Reserve Board Expanded Lending Programs
Pursuant to section 13(3) of the Federal Reserve Act, on April 9, 2020, U.S. Treasury Secretary Steven Mnuchin approved the establishment of a Main Street Business Lending Program and a Municipal Liquidity Facility (MLF) to support the flow of credit to American workers, businesses, states, counties, and cities impacted by the coronavirus pandemic.

Main Street Lending Program
Using funds appropriated under the CARES Act, Treasury will make a $75 billion equity investment in a special purpose vehicle established to implement the Main Street Business Lending Program. This investment will enable up to $600 billion in new financing for businesses with up to 10,000 employees or $2.5 billion in 2019 annual revenues. Eligible banks may originate new Main Street loans or use Main Street loans to increase the size of existing loans to businesses. Banks will retain a five-percent share, selling the remaining 95 percent to the Main Street facility, which will purchase up to $600 billion of loans. Firms seeking Main Street loans must commit to making reasonable efforts to maintain payroll and retain workers. Principal and interest payments will be deferred for one year. Borrowers must also follow compensation, stock repurchase, and dividend restrictions that apply to direct loan programs under the CARES Act. Firms that have taken advantage of the PPP may also take out Main Street loans. On June 8, the Federal Reserve Board announced its Main Street Lending Program to allow more small and medium-sized businesses to be able to receive support. The Board lowered the minimum loan amount, raised the maximum loan limit, adjusted the principal repayment schedule to begin after two years, and extended the term to five years, providing borrowers with greater flexibility in repaying the loans. The Board expects the Main Street program to be open for lender registration soon and to be actively buying loans shortly afterwards.

Municipal Liquidity Facility (MLF)
The U.S. Treasury will make a $35 billion equity investment in the Municipal Liquidity Facility (MLF), which will provide up to $500 billion in direct financing to states, counties, and cities to help ensure they have the funds necessary to provide essential services to citizens and respond to COVID-19. The MLF will provide funds to help offset the delay in state and local tax receipts caused by the deferral of the tax filing deadline and to help offset any short term losses in tax revenues resulting from reduced business and consumer activity due to the coronavirus pandemic. States, counties, and cities will be able to sell new municipal notes directly to the MLF to obtain the funds they need quickly and efficiently. Secretary Mnuchin also authorized the establishment of a new facility to provide term financing backed by Paycheck Protection Program loans. The Paycheck Protection Program provides $350 billion for job retention loans to help millions of small businesses sustain operations and keep their workers employed. On April 27, 2020, the Federal Reserve Board announced an expansion of the scope and duration of the MLF. The MLF, as revised, will purchase up to $500 billion of short-term notes issued by U.S. states (including the District of Columbia), U.S. counties with a population of at least 500,000 residents, and U.S. cities with a population of at least 250,000 residents. The new population thresholds allow substantially more entities to borrow directly from the MLF than the initial plan announced on April 9, 2020.

Expansion of Existing U.S. Treasury Lending Facilities
In addition to the new Main Street, MLF, and Paycheck Protection Program facilities, Secretary Mnuchin approved a significant expansion of existing facilities established under section 13(3) to further enhance liquidity and support the economy. Consistent with authorities granted under the CARES Act, Secretary Mnuchin approved a $75 billion equity investment in a special purpose vehicle established to implement the Primary and Secondary Market Corporate Credit Facilities (PMCCF and SMCCF), which will be used to purchase eligible corporate debt. In combination, the PMCCF and SMCCF will provide $750 billion in additional liquidity. Secretary Mnuchin also approved the expansion of the Term Asset-Backed Securities Loan Facility (TALF). Established to help meet the credit needs of American consumers and businesses by facilitating the issuance of asset-backed securities, the TALF will now also include highly rated, newly issued collateralized loan obligations and legacy commercial mortgage-backed securities as eligible collateral. Treasury will make an equity investment of $10 billion in a special purpose vehicle established to implement TALF, which is expected to provide up to $10 billion of loans. The combination of the new and expanded lending facilities will provide up to $2.3 trillion in new financing.

IX. 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. 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

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graduation and that the state would ensure each qualifying senior would receive a diploma by summer’s end. 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 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. Acting on the recommendations of the Securing Alabama’s Facilities of Education (SEAL) Task Force, which submitted its final recommendations to Dr. Mackey on April 30, 2020, Dr. Mackey announced on May 12, 2020 that the Alabama State Department of Education (ALSDE) has partnered with OpportunityLabs (OL), a New York City-based 501©(3), that connects public health and education to create a template for reopening schools. OL is led by founder and managing director Andrew Buher. The Alabama Power Foundation provided $50,000 in funding to move forward on the partnership with OL. Alabama is part of a cohort of states that also includes Rhode Island, Delaware, Nebraska, Michigan, Louisiana, and the City of Nashville. The cohort of states will work with OL subject-matter experts to create a template for schools reopening. The template is scheduled to be complete by June 19, 2020. The work with OL will begin on Tuesday, May 19, 2020 with the SEAL Task Force. Dr. Scott Harris, Alabama’s Public Health Officer, will join the SEAL Task Force. The SEAL Task Force will meet weekly to complete the school reopening roadmap between May 19, 2020 and the June 19, 2020 deadline for completing the roadmap. The initial recommendations provided by the SEAL Task Force on April 30, 2020 focused on the extension of learning during the pandemic and period of school closures. The partnership with OL will extend the SEAL Task Force’s recommendations to inform guidance for reopening schools.

Centers for Disease Control and Prevention (CDC) Guidelines for Reopening K-12 Schools and Institutions of Higher Education
On July 1, 2020, the Centers for Disease Control & Prevention (CDC) published new guidance for K-12 schools. As some communities in the United States open K-12 schools, CDC offers considerations for ways in which schools can help protect students and staff and slow the spread of COVID-19. The guidance covers considerations for K-12 schools regarding (1) types of tests to identify SARS-CoV-2, the virus that causes COVID-19; (2) when testing might be needed; (3) testing individuals with signs or symptoms consistent with COVID-19; (4) testing asymptomatic individuals with recent known or suspected exposure to a person with COVID-19; and (5) testing asymptomatic individuals without known exposure to a person with COVID-19. The CDC also published new guidance for higher education institutions on July 1, 2020. As some institutions of higher education (IHEs) open in the United States, CDC offers considerations for ways in which IHEs can help protect students, faculty, and

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366 Dr. Elisabeth Davis, SEAL Task Force Phase II: Partnership w Opportunity Labs to Reopen Alabama Schools, Email to Nick Moore, et alia, 12 May 2020, accessed on 17 May 2020.
staff and slow the spread of COVID-19. The guidance covers considerations for colleges and universities.\textsuperscript{368} On July 24, 2020, the CDC released new science-based resources and tools for school administrators, teachers, parents, guardians, and caregivers when schools open this fall.\textsuperscript{369} With states, cities, and communities around the country experiencing different levels of COVID-19 transmission, jurisdictions should make sure appropriate public health strategies are in place to slow the spread of the virus as the first step in creating a safer school environment. In collaboration with state and local health departments, school administrators may employ strategies that best match local conditions and practical and feasible actions in their schools to help protect the health and safety of everyone—including students, teachers, and staff.

**The Alabama Department of Early Childhood Education (ADECE) Academic Continuity Plan**

On March 27, 2020, Secretary Jeana Ross released the Alabama Department of Early Childhood Education’s (ADECE) 2019-2020 Local Education Agency Academic Continuity Plan: Home Instruction for Early Learning. The ADECE has developed a First Class Pre-K Continuity Plan Blueprint to assist the following in providing guidance to support home instruction/distance learning for the completion of the 2019-2020 school year: Public schools; Private child care and schools; Head Start programs; Community-based programs; Faith-based programs; and Military programs. The ADECE is providing technical assistance and guidance for all Alabama First Class Pre-K program classrooms on developmentally appropriate resources to use for home instruction and distance learning. The Continuity Plan requires the submission of an individual plan from each classroom teacher(s) for instruction and engagement to their ADECE coach no later than April 10, 2020. ADECE technical assistance is also available for kindergarten through 3rd grade on an as-needed basis. Developmentally-appropriate activities and resources are being provided statewide for the birth-to-age-eight continuum.\textsuperscript{370}

**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.\textsuperscript{371} 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.\textsuperscript{372} 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. On March 26, 2020, the ALSDE submitted notification to the U.S. Department of Education of its intent to participate in the CEP deadline extension national waiver that permits LEAs intending to participate in the CEP to use the identified


\textsuperscript{372} ALSDE Email Correspondence between Nick Moore and June Barrett Owen, 15 March 2019.
student percentage (ISP) by calculating data drawn any time between April 1, 2020 and June 30, 2020 when electing CEP or conducting a grace year in school year 2020-2021. 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. On April 17, 2020, the ALSDE announced that Alabama’s CEP waiver was approved by the U.S. Department of Education. 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. 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.

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: 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. The 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 testing

373 June Barrett Owen, Alabama State Department of Education (ALSDE), Child Nutrition Program (CNP) State Director, Email to Nick Moore, 6 April 2020.
374 June Barrett Owen, Memorandum to Alabama’s Child Nutrition Program Directors, RE Nationwide Waiver of Community Eligibility Provision (CEP) Deadlines in the National School Lunch (NSLP) and School Breakfast Programs (SBP), 17 April 2020, emailed to Nick Moore by June Barrett Owen on 19 April 2020.
375 Ibid.
377 Ibid.
and accountability waivers to Secretary DeVos. The waivers were approved on March 27, 2020. 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. Section 3511(d)(4) of the CARES Act permits the U.S. Secretary of Education to submit a report to Congress, thirty days after the passage of the CARES Act (April 27th) requesting additional waivers, including the authority to waive requirements under the Individuals with Disability Education Act (IDEA). On April 27, 2020, Secretary DeVos submitted her report to Congress that requests additional waivers for the Carl D. Perkins Career and Technical Education (CTE) Act of 2006 and the Adult Education and Family Literacy Act (AEFLA) to permit agencies other than SEAs that administer CTE and AEFLA funds to request “Tydings Amendments” to allow eligible agencies to extend the availability of FY 2018 funds beyond the 27-month grant window. The CARES Act, as constructed, only permits SEAs to request CTE and AEFLA “Tydings Amendments.” Alabama is a state in which the SEA does not administer AEFLA funds (ACCS administers AEFLA in Alabama); thus, the “Tydings Amendment” waiver request, if approved, would allow the ACCS to potentially extend the life of FY 2018 AEFLA funds. Secretary DeVos requested Perkins waivers to permit LEAs to carry-over funds from the 2019-2020 academic year and to permit stand-alone and short-term professional development activities (Perkins requires “sustained professional development activities, which are difficult to conduct during the COVID-19 pandemic.”) Alabama’s waiver for a Perkins Tydings Amendment was approved by the U.S. Department of Education on April 21, 2020. Secretary DeVos requested an AEFLA waiver to permit eligible agencies to use 27.5 percent of funds for state leadership activities (currently, state leadership activities are capped at 12.5 percent under the AEFLA.) Secretary DeVos also requested an AEFLA waiver that will allow the requirement that local applications be reviewed by the local workforce development board to be waived. Secretary DeVos did not request any additional Elementary and Secondary Education Act (ESEA) of 1965 waivers in her report. The report noted that Secretary DeVos did not request waivers of the core tenets of the Individuals with Disabilities Education Act (IDEA), which include free and appropriate public education (FAPE) and least restrictive environment (LRE). Secretary DeVos did request a waiver of certain IDEA transition evaluation timelines, which could cause toddlers with disabilities to lose access to services when turning age three without the waiver. Secretary DeVos requested a Vocational Rehabilitation (VR) waiver to allow FY 2019 funds to be carried over for an additional year. Secretary DeVos requested an additional VR waiver to waive the requirement that 15 percent of VR funds be reserved for youth pre-employment training activities. 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
• 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.\(^{389}\)

On June 8, 2020, Secretary DeVos announced that, as a result of the ongoing COVID-19 national emergency, states are authorized to apply for a streamlined waiver that provides a Tydings period amendment that will allow FY 2018 IDEA Part B grant award funds to be made available for obligation through September 30, 2021. The funds may be liquidated through December 30, 2021.\(^{390}\)

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.\(^{391}\)

U.S. Department of Education CARES Act K-12 and Workforce Competitive Grants


which the Department will divide between two competitions: $180 million for the Rethink K-12 School Models Grant and $127.5 million for the Reimagining Workforce Preparation Grant. The full Notice Inviting Applications (NIA) was released on 27 April 2020. The Rethink K-12 Education Models Grant emphasizes innovation around meeting the needs of students during the coronavirus pandemic.\textsuperscript{393} The competition is open to state educational agencies, which can apply for funds in one of the three categories: (1) microgrants for families, so that states can ensure they have access to the technology and educational services they need to advance their learning; (2) statewide virtual learning and course access programs, so that students will always be able to access a full range of subjects, even those not taught in the traditional or assigned setting; (3) new, field-initiated models for providing remote education not yet imagined, to ensure that every child is learning and preparing for successful careers and lives. The Reimagining Workforce Preparation (RWP) Grants are designed to expand short-term postsecondary programs and work-based learning programs in order to get Americans back to work and help small businesses return to work. The purpose of the RWP grant is to provide support to states with the highest coronavirus burden in creating new, short-term educational opportunities and career pathways programs that help citizens return to work (such as course work) that would help small businesses recover and new entrepreneurs to thrive.\textsuperscript{394}

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

\textbf{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 2; 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.

\textbf{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).

\textbf{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 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.

\textbf{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

\textsuperscript{393} Ibid.
\textsuperscript{394} Ibid.
disabilities, including students with 504 plans: School systems must make every effort to provide services for all
students with disabilities, 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.

The Education Health and Wellness and the Educational Remote Learning Devices Grant Programs
On July 20, 2020, Governor Ivey awarded $70 million to support the ALSDE’s Education Health and Wellness
Grant Program and $100 million to support the ALSDE’s Educational Remote Learning Devices Grant Program. 395
Alabama Act 2020-199 designated up to $250 million of the Coronavirus Relief Fund (CRF) to be used to support
the delivery of health care and related services to citizens of Alabama related to the coronavirus pandemic. The
Education Health and Wellness Grant Program will provide $70 million directly to local education agencies for the
sole purpose of minimizing the exposure and spread of COVID-19 in Alabama’s public-school system. Local
education agencies may only use the grant funds to: (1) Fund salaries or wages for health care professionals or aides
to provide COVID-19 response or care; (2) to contract for specimen collection and testing of COVID-19; (3)
temporary facility improvements and supplies for nurses’ work areas for COVID-19 response; (4) the creation of
isolation areas for symptomatic students; (4) screening equipment to check body temperature; and (6) modification
of school transportation vehicles to mitigate or isolate the spread of COVID-19. Alabama Act 2020-199 designated
up to $300 million of the Coronavirus Relief Fund to be used for expenditures related to technology and
infrastructure related to remote instruction and learning. The Educational Remote Learning Devices Grant Program
will provide $100 million directly to local education agencies to fund the purchase of electronic devices and
software and related training and maintenance services, for the purpose of facilitating remote virtual learning and
the overall continuity of learning in Alabama’s public school system as a direct response to the COVID-19
pandemic. Each local education agency applying for reimbursement under the Education Remote Learning Devices
Grant Program, prior to expending funds, must provide the Alabama State Department of Education (1) a remote
learning plan compatible with the devices to be purchased; (2) information to ensure teachers and instructors are
proficient with the operations of the device including technical support; and (3) a plan developed by each school to
ensure each student has access or availability to the internet, and a plan for maintenance of the devices, including
software updates, physical repairs, and replacement of lost and damaged devices. Funds will be awarded to local
education agencies based on a formula that accounts for student enrollment, poverty levels, special education
students, English learner students, student proficiency levels and the impact of COVID-19. All local education
agencies will receive a minimum of $70,000 from the Education Health and Wellness Grant Program in addition to
the amount determined by the formula. All local education agencies will receive a minimum of $100,000 from the
Education Remote Learning Devices Grant Program in addition to the amount determined by the formula. Any
contracts or other agreements entered into by ALSDE or local education agencies that utilize the Coronavirus
Relief Fund provided under this memorandum of understanding can only be funded with CRF funds until
December 15, 2020. After December 15, 2020, a different funding source must be utilized for such contracts or
other agreements. 396

395 Governor Kay Ivey, Press Release, “Governor Ivey Announces $170 Million for Health Care and Remote Learning in
396 Ibid.

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XI. Reopening America and Reopening Alabama

On April 6, 2020, Governor Ivey announced the launch of “altogether.org,” which is Alabama’s official online information and resource hub for COVID-19. The website contains tutorials prepared by subject-matter experts for businesses, non-profits, and communities in written, video, and step-by-step formats. The website was developed in collaboration with Opportunity Alabama, a non-profit organization that promotes investment in designated opportunity zones. On April 16, 2020, President Trump announced a three-phased set of guidelines for reopening the nation, entitled “Opening Up America Again.” The guidelines are predicated on a data-driven approach to determining a downward trajectory in COVID-19 cases and an uptick in testing capacity to enable a phased-in reopening of the economy while safeguarding the public health by implementing multifaceted recommendations for improving hygiene and ongoing social distancing. On June 8, 2020, the U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA) released Guidance on Preparing Workplaces for COVID-19 to provide guidance to employees and employers with maintaining safe and healthy working conditions during the coronavirus pandemic as states continue to reopen. On April 17, 2020, the Alabama Small Business Commission Emergency Task Force and the Subcommittee to Reopen the Economy, led by Lieutenant Governor Will Ainsworth and Representative Danny Garrett (R-44-Trussville) submitted phase one of the Reopen Alabama Responsibly report that summarizes their findings and specific recommendations to reopen Alabama’s economy.

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The report noted that a 20 percent reduction in Alabama’s revenue would result in a $400 million reduction for the general fund budget and a $1.3 billion decrease in the education trust fund budget. The Alabama Small Business Commission Emergency Task Force and the Subcommittee to Reopen the Economy report conformed to the recommendations offered in the “Opening Up America Again” guidelines. Several regional and trade organizations have developed quality reopening guides for their members and customers. Notably, the Alabama Technology Network (ATN) released the “2020 Return to Work: Mitigation Plan Post COVID-19” on April 17, 2020 to educate members of business and industry on proper return to work procedures and protocols. In addition, West Alabama Works, based in Tuscaloosa, released the “Work Hard, Work Smart, Work Safe” return to work playbook on April 22, 2020. Both the ATN and West Alabama Works return to work guidebooks conform to the White House and CDC “Opening Up America Again” Guidelines. Governor Ivey held a press conference on April 28, 2020 that outlined the guidelines for reopening Alabama’s economy.

Home Order that opens restaurants, barber and beauty shops, churches, and other items to reopen effective Monday, May 11, 2020 at 5pm and will expire on May 22, 2020 at 5pm.

Figure 25, Info Sheet, Amended Safer at Home Order

403 Ibid.
404 Ibid.
407 Email from Donny Jones, West Alabama Works COO, to Nick Moore, 22 April 2020, accessed on 27 April 2020.
COVID-19 state of Emergency for 60 days, beginning on May 13, 2020. Also on May 8, 2020, Governor Ivey announced “safe harbor” provisions to health care providers, businesses, and other entities to encourage the reopening of the state. This “safe harbor” gives health care providers protection from frivolous lawsuits based on actions they took or failed to take as a result of the COVID-19 pandemic. The safe harbor provisions also protect businesses from frivolous lawsuits when they conduct COVID-19 testing or distribute PPE to help protect people from COVID-19. Importantly, businesses are not protected against claims of egregious misconduct.

On May 21, 2020, Governor Ivey issued an amended statewide Safer at Home Order that will expire on Friday, July 3, 2020 at 5pm, which includes an expanded list of items such as childcare facilities and entertainment venues to reopen with sanitation, social distancing, and facial covering rules, effective on May 22, 2020 at 5pm. Also on May 21, 2020, Governor Ivey issued an announcement that the temporary emergency protections against evictions will expire on June 1, 2020, since Alabamians are able to return to work and earn an income. On June 30, 2020 Governor Ivey issued an amended statewide Safer at Home Order that will expire on July 31, 2020 at 5pm. The

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June 30, 2020 amended order did not make any changes to the Safer at Home Order. On July 2, 2020, issued the 13th COVID-19 supplemental state of emergency, which extended the state of emergency by 60 days from July 11 to September 9, 2020. The 13th supplemental state of emergency also provides for virtual meetings for non-profit corporations under the same conditions outlined for the remote meetings of other entities specified in the fifth supplemental state of emergency issued of April 2, 2020. On July 15, 2020, Governor Ivey issued her 14th supplemental emergency proclamation containing an amended Safer at Home Order that includes a statewide mask requirement. Individuals will be required to wear a mask or other facial covering when in public and in close contact with other people, as described in the order, and the amended order extends until July 31, 2020 at 5:00 pm. The mask order requires Alabamians to wear a mask when in public and in close contact with other people. Specifically, the order says to wear a mask when people are within six feet of a person from another household in any of the following places: (a) an indoor space open to the public; (b) a vehicle operated by a transportation service; and (c) an outdoor public space where ten or more people are gathered.

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XII. The Alabama Workforce Response Survey

The Governor’s Office of Education and Workforce Transformation (GOEWT) and the Alabama Workforce Council (AWC) partnered to conduct the Alabama COVID-19 Workforce Response Survey. The survey closed on April 27, 2020 with a total of 1,794 respondents. Etowah (10.09 percent), Jefferson (8.31 percent), Baldwin (7.41 percent), Lee (6.97 percent), and Madison (5.07 percent) Counties reported the highest level of response.

Industry Sector and Size of the Respondents

Of the respondents, 1,221 (68.0 percent) employ 1-25 people, and 735 (41 percent) employ mostly (76-100 percent) hourly workers. Very few of the respondents have a contingent or temporary workforce. Ninety percent of respondents said that 25 percent or less of their workforce is contingent or temporary. More than half (59 percent) of responding businesses operate in one county. The top 5 reported industries were: (1) Other Services Excluding Public Administration (14 percent); (2) Healthcare and Social Assistance (13.3 percent); (3) Retail Trade (12.1 percent); (4) Accommodation, Hospitality, and Food Services (10.9 percent); and (5) Manufacturing (10.9 percent).

Findings on the Business Climate during COVID-19

For a measure of the current business climate, 53.4 percent of respondents reported that their current business climate is “bad.” However, 49.6 percent of businesses expected their climate will improve in the next 6 months, and 49.4 percent of businesses expect their workforce to remain relatively constant over the next 3 months. Furthermore, 35.9 percent of respondents reported that the biggest factor limiting business activity is a lack of market demand, and 46.3 percent of respondents felt at least somewhat equipped to handle the COVID-19 pandemic at its outbreak. More businesses (46 percent) are facing supply chain disruptions than not (39 percent). An overwhelming majority of respondents (82 percent) expect COVID-19 to have a negative financial impact on their business. 33 percent of respondents have laid off employees as a result of the pandemic.

Findings on the Effects of COVID-19 on Employment and Training

Respondents who indicated that their present business climate is “bad” were nearly three times as likely to have laid employees off. Respondents who indicated that they were not equipped to handle the COVID-19 outbreak at its onset were 1.5 times more likely to have laid-off employees. Respondents whose workforce is 76-100 percent hourly were nearly 1.5 times more likely to have laid employees off. A majority of respondents (53 percent) are planning on a hiring freeze during the pandemic. If an employer is delaying training due to the pandemic, they stated they are most likely to delay Employer Delivered, Skills-Based Training (41 percent). Moreover, 80 percent of the respondents indicated that they do not need help developing or delivering training during the pandemic. 53 percent of responses indicated that during and after COVID-19 more Employer-Delivered, Skills-Based Training would benefit their company, making the most in-demand form of training.

XIII. The Future of Work in the Post-COVID-19 Labor Market

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426 Ibid.
427 Ibid.
The Strada Center for Consumer Insights began conducting a weekly public viewpoint survey on the effects of COVID-19 on work and education on March 25, 2020. Strada released the second week of results on April 2, 2020. The results of the second week of the survey indicate that Americans are increasingly worried, scared, and angry. The predominant worries are stable and remain centered on finances and jobs. 61 percent of Americans now report they have lost jobs, hours, or income from work, a 15-percentage point increase from the previous week. 70 percent of Americans now worry that they may lose their jobs, an increase of 13 percentage points over a week’s time. A full quarter (25 percent) of these employed individuals are extremely worried. Degrees and credentials have not insulated Americans when it comes to lost work or worries about losing work. At this point, a third (34 percent) believe they will need additional education to secure a comparable job if they lose their current employment. Among this group who believe they would need more education: 64 percent express a desire to change career fields; 66 percent are confident they know where to find the education or training they would need; and 54 percent prefer online opportunities to other paths (26 percent in-person college or university, 21 percent on the job).

Strada released the results from the third week of the survey, which covered April 8-9, 2020, on April 15, 2020. Nearly two-thirds of Americans (65 percent) are worried they will lose their jobs, down from 70% one week ago. The majority (70 percent) of adults believe that for them personally, the effects of the crisis will not last longer than six months. Notably, one-third of Americans believe they would need more education to find a comparable job if they were to lose theirs. That belief is most pronounced among Generation X and millennials. Strada released the results of the fourth week of the survey (covering April 15-16, 2020) on April 22, 2020. The fourth week of the survey shows that 54 percent of Americans have lost jobs or income during the COVID-19 pandemic; furthermore, the data demonstrate that different groups are affected more intensely than others. For example, 66 percent of Latinos have lost jobs or income, while only 51 percent of Whites have lost jobs or income. Additionally, 25 percent of African Americans have been laid off, while 15 percent of Whites have been laid off.

The week four results also demonstrated that 62 percent of Americans are worried about losing their jobs, but people of color are the most worried (72 percent of Asians, 68 percent of African Americans, and 72 percent of Latinos—compared to 57 percent of Whites). For week four, 34 percent of Americans said they would need more training or education if they lost their jobs, with Latinos (38 percent) and Asian Americans (36 percent) most likely to believe they would need more education or training. Also, 36 percent of Americans said they would change careers if they lost their jobs. The results showed that African Americans (32 percent) were the least likely to say they would change careers if they lost their jobs. Interestingly, Americans said they are more likely to invest in online training (53 percent) and education options, rather than in-person (26 percent) and employer provider (21 percent) options.

Strada released the results of the fifth week of the survey (covering April 22-23, 2020) on April 29, 2020. The findings from the fifth week showed that a solid majority of Americans who are considering enrolling in an education program in the next six months are considering a non-degree program. Furthermore, for Americans considering enrolling in the next six months, their interests are evenly divided between reskilling, upskilling, and personal interests. Alarmingly, the fifth week’s findings demonstrate that 28 million Americans, or 11 percent of

432 Ibid.
433 Ibid.
American adults, have canceled their education plans due to COVID-19.\footnote{Ibid.} Strada released the results of the sixth week of the survey (covering April 29-30, 2020) on May 6, 2020.\footnote{Ibid.} For week six, the survey provides some early signs about impacts across various job fields as well as who is looking to reskill and how they want education and training to be delivered. For example, 73 percent of leisure and hospitality workers have lost jobs, income, or hours in the COVID-19 crisis; 51 percent of information technology workers are worried about losing their jobs; 66 percent of education workers believe the crisis will affect them personally for at least six months; and nearly half of workers in manufacturing, finance, and information technology say they would change fields if they lost their job. Moreover, a majority of American workers say they prefer nondegree and skill-based education and training programs, and, across job fields, workers prefer that education and training be delivered online.\footnote{Ibid.} Strada released the results of the seventh week of the survey (covering May 6-7, 2020) on May 13, 2020.\footnote{Ibid.} The week seven results show that, among Americans who have lost jobs, hours, or income in the COVID-19 pandemic, about one-third (35 percent) have started a new job in the past month. Interesting, those who have completed graduate or professional degrees are much more likely (51 percent) to have started a new job.\footnote{Ibid.} Across all education, Latinos and African Americans are more likely than white Americans to have started a new job in the past month (April-May 2020).\footnote{Ibid.} Strada released the results of the eighth week of the survey (covering May 13-14, 2020) on May 20, 2020.\footnote{Ibid.} The week eight results show that, overall, 34 percent of American adults (ages 18 to 64) have canceled or changed education plans.\footnote{Ibid.} The week eight results also show that, while young adults were the most likely to cancel or change their plans, when those ages 25 to 44 did alter their plans, they were more likely to cancel or delay their education as opposed to making other changes such as a reduction in course hours or change of school.\footnote{Ibid.} Furthermore, among those who are not currently enrolled, Americans ages 25 to 44 are just as likely to start a new program in the next six months as those ages 18 to 24, and those with postsecondary degrees or credentials are more likely to enroll in all types of education than those without postsecondary degrees or credentials. Week eight respondents also indicated that families ranked as the most valuable source of advice about education or training for those considering enrolling.\footnote{Ibid.} As Dr. Paul Leblanc stated in a Forbes.com article, entitled “It’s Time to Take Time Out of Learning And Reinvent Higher Education,” “[h]igher education is built around the credit hour as a measure of learning time” and . . . “[w]e disperse over $150 billion of federal financial aid on the basis of time. The financial aid system, and thus colleges and universities, has rigid and complicated rules around the structure of academic years, terms, what constitutes full-time attendance, and student measures of progress, such as full-time versus part-time and satisfactory academic progress. Here’s the problem: time is a poor measure of learning . . .”\footnote{Ibid.} Moreover, as the data from the Strada survey indicate, “[e]ven as Americans struggle with fears about their health, how they’ll pay their mortgage, or where their next meal will come from, millions are considering additional education and training—with a third of workers saying they would need to pursue additional education if they were to lose their
job.” For educators, employers, and policymakers, this answers an important question about upskilling and reskilling: If we offer it, will people want it? It’s clear millions of working adults see the value.446

Strada took a three-week hiatus on the Public Viewpoint: COVID-19 Work and Education Survey; however, the survey resumed and week nine results were released on June 10, 2020, based on responses collected between March 25 and May 28, 2020, that show what Americans of different races and ethnicities say about their future plans for education, where they will seek education, and who they will go to for advice as they make decisions on education and training.447 The week nine data demonstrate that Black Americans (23 percent) and Latinos (24 percent) are more likely than white Americans (15 percent) and Asian Americans (13 percent) to have been laid off. Black Americans and Latinos are also more likely to have started new full- or part-time jobs in the past month. Furthermore, Black Americans and Latinos are more likely than white Americans to have changed or canceled their education plans. Also, black Americans and Latinos are more likely than white Americans to enroll in education and training programs in the coming months across learning providers. Compared to other racial and ethnic groups, black Americans rank advice about education and training from colleges and universities as less valuable than advice from other sources.448 Strada released the results of week eleven of the Public Viewpoint: COVID-19 Work and Education Survey on June 24, 2020, which was based on a national representative survey sample of over 11,000 responses collected between March 25 and June 11, 2020. The week eleven data demonstrate that one out of three (35 percent) of workers would change their field of work if they lost their job.449 For workers interested in changing job fields, the fields they are most likely to transition into are business fields (18 percent), information technology (14 percent), or finance (9 percent). While many workers who are looking to make a career transition need to reskill, less than half (44 percent) of Americans say they have access to the education and training they want. Workers’ motivations for wanting to change fields are split evenly between those wanting to earn more money or climb a career ladder and nonfinancial motivations such as more autonomy, better fit, or more meaningful work. Americans strongly prefer nondegree programs and skills training over degree programs.450

Strada releases the results of week thirteen of the Public Viewpoint: COVID-19 Work and Education Survey on July 15, 2020, which was based on a national representative survey sample of over 13,000 responses collected between March 25 and July 9, 2020. The week thirteen report seeks to answer questions such as: What are Americans’ motivations for pursuing education and training? What are their perceived barriers to enrollment? And what are their expectations about the costs and benefits of postsecondary education? The week thirteen data demonstrate that adults without degrees or credentials are divided when it comes to the value of additional education: 62 percent of adults agree that credentials would advance their education; 52 percent agree that credentials are worth the cost; and 50 percent feel that credentials will help them get a stable job in uncertain economic conditions. Americans identify three primary challenges to enrolling: competing obligations, self doubt, and cost. More than half (55 percent) say work and family commitments, course schedules, and transportation are major concerns. Nearly half (49 percent) fear they won’t be successful students or have been out of school too long. Nearly half (48 percent) say cost is an extremely or very challenging barrier to enrolling. Many adults without degrees or credentials (42 percent) say they were very or extremely interested in education or training after high school, but nearly two-thirds of them (64 percent) say they did not have a good understanding of how to pay for it.451

448 Ibid.
450 Ibid.
A major component of Alabama’s workforce response to COVID-19 will be assisting individuals who have been displaced by COVID-19 from the most-affected industry sectors, including hospitality, retail, and other public-facing industries. According to a recent McKinsey Global Institute report, up to one-third of jobs in the United States may be vulnerable to COVID-19, and 80 percent of the vulnerable jobs are held by low-income workers. A June 2020 McKinsey study demonstrated which industry sectors are most affected by COVID-19 (based on layoffs) and the financial risk inherent in the industry sector as variable to determine which sectors will be most resilient in the COVID-19-environment. The study also determined which sectors employ the most people. Finance and insurance, professional services, management of companies, real estate, administration, manufacturing, construction, healthcare, information services, and retail trade are the most resilient, based on the study. Accomodations, arts and entertainment, educational services, transportation and warehousing, wholesale trade are the least resilient, according to the study. The findings of the McKinsey study are consistent with Alabama’s COVID-19 economic stress testing data. In fact, up to 86 percent of the vulnerable jobs pay less than $40,000 annually. Furthermore, more than half of the vulnerable jobs in the private sector were in firms with fewer than 500 employees, and almost 40 percent were from businesses with fewer than 100 employees. During the COVID-19 shutdown, 44-57 million jobs are vulnerable to reduced income, furloughs, and layoffs. Even more sobering, two industries (accommodation/foodservice and retail) account for 42 percent of vulnerable jobs. States with other public-facing industries will be the hardest hit. Tourism-dependent states, such as Nevada, Florida, Montana, Hawaii, South Carolina, Louisiana, and California may see the largest percentage of decline in jobs. As the data presented above demonstrate, individuals who are employed in public-facing industries and in hourly positions are most at risk of being laid off, furloughed, or having their hours reduced due to COVID-19. As Matt Siegleman, CEO of Burning Glass Technologies, stated in the April 14, 2020 episode of the Work in Progress Podcast, jobs that are place-based and the most at risk due to automation are also the most at risk to dislocation due to COVID-19. Furthermore, individuals who were employed in retail or hospitality jobs prior to the COVID-19 pandemic were unable to contemplate enrolling in training or upskilling into a new position. Many of these individuals are now unemployed, or underemployed, which presents an opportunity for them to have enough time to enroll in a training program that will allow them to upskill or retool into an occupation that provides a pathway to a family-sustaining wage.

As the Georgetown Center on Education and the Workforce’s study entitled The Overlooked Value of Certificates and Associate’s Degrees aptly avers, the middle-skills pathway that includes a post-secondary education beyond high school, but less than a bachelor’s degree, is overlooked. The middle-skills pathway includes postsecondary options that are diverse as certificates, associate degrees, noncredit education, certifications, licenses, and microcredentials. Approximately 94 percent of certificate programs and 57 percent of associate’s degree programs are career-oriented. One-third of workers enter the labor market through the middle-skills pathway. In states with sizable African American and Latinos populations, these groups tend to be overrepresented in certificate attainment relative to their population shares. In all 16 states with sizable African American populations, African Americans are overrepresented in certificate attainment. In Alabama, African Americans comprise 27 percent of the population and earn 38 percent of certificates conferred. As middle-skills pathways become an increasingly

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457 Ibid.
458 Ibid.
prominent pathway for individuals, particularly in the post-COVID-19 workforce, more must be done to create stackable pathways that allow the credentials earned in the middle-skills pathway to transfer into an associate or bachelor’s degree. Career-specific education in shorter-term programs has strong, short-term value because it prepares people for immediate employment. At the same time, career-specific programs can be a risky investment, as they convey knowledge and skills that are most useful in specific occupations and industries. In contrast to career-specific credentials, general associate’s degrees or bachelor’s degrees confer marketable general skills regardless of a student’s field of study or major. General education programs develop students’ general knowledge and skills, such as reading and writing, and general cognitive abilities, such as critical thinking, that are useful in a broad range of occupations. Ultimately, the most valuable education over the long term is the one that provides the most marketable combination of specific and general skills. As Burning Glass Technologies identified, foundational skills for the digital economy have emerged in three groups (1) human skills; (2) digital building block skills; and (3) business enabler skills. Within these three groups, there are fourteen foundational skills (from managing data, to project management, to critical thinking) that are in high demand within the digital economy. However, less than a fifth of incumbent workers and job seekers list skills from all three skill groups on their resumes. As Michelle Weise and Clayton Christensen stated in Hire Education, “employers are demanding more academic credentials for every kind of job yet are at the same time increasingly vocal about their dissatisfaction with the variance in quality of degree holders. The signaling effect of a college degree appears to be an imprecise encapsulation of one’s skills for the knowledge economy of the times.” While non-degree credentials were of great interest prior to the pandemic, they might be even more important post-recession for workers and students, post-secondary education providers and policy makers and states. As a result, systems and approaches to measuring and ensuring quality of non-degree credentials are more important now than ever. Non-degree credentials include certifications, occupational licensure and apprenticeships, as well as badges and other newly emerging micro-credentials. The non-degree credential marketplace currently operates with no standard for assessing quality, and as a result, there is a great deal of confusion as to what makes a quality credential and how consumers can tell. Learners invest significant time and money in non-degree credentials, so it is important that they know what they are buying and what will give them the biggest return on investment by providing an educational pathway and another one into the labor market. There is thus greater urgency for states and institutions to establish a coherent approach to ensuring non-degree credential quality and making sure people know about it. To guide these efforts, we at Rutgers University’s Education and Employment Research Center developed a framework to guide thinking about the quality of non-degree credentials based on four key components: (1) define through design; (2) knowledge and skills; (3) market recognition; and (4) learner outcomes. CredentialEngine’s Credential Transparency Description Language (CTDL) schemas that describe credentials and competencies and using the Credential Registry services to support Linked Open Data (LOD) are key to scaling non-degree credential quality and transparency. Credential Engine’s open infrastructure for organizing credential and competency information improves efficiency in data collection, maintenance, organization, sharing, and access, making it possible to have a better handle on what’s available, identify which credentials meet quality standards, describe and reveal pathways, and embed competency (knowledge, skills, and abilities) information into learners’ and workers’ digital records.

459 Ibid.
460 Ibid.
464 Ibid.
465 Jeanne Kitchens, Jeff Grann, and Deb Everhart, “Making Learner and Worker Records More Meaningful, Relevant, and Actionable: The Value of the Credential Transparency Description Language,” Credential Engine, 10 June 2020, accessed on
The Lumina Foundation, a non-profit organization based in Indianapolis, Indiana, works to ensure that, by 2025, 60 percent of Americans hold a credential beyond high school. Lumina tracks the post-high school educational attainment of Americans ages 25-64. Since 2008, that figure has increased by 10 percentage points. That’s progress, but it’s not enough to reach 60 percent by 2025. Dramatic action is needed to meet the nation’s need for talent. The nation’s educational attainment rate after high school is 51.3 percent. Specifically, this means that 51.3 percent of working-age adults—those 25 to 64 years old—have earned a degree or other credential beyond a high school diploma that leads to further education and employment. The nation’s educational attainment rate is the sum of two numbers: the degree-attainment rate (43.2 percent) and the rate of attainment for high-value, short-term credentials (8.1 percent). Short-term credentials include industry-recognized certifications (3.8 percent) and college certificates (4.3 percent). Industry-recognized certifications have been added to Lumina’s A Stronger Nation summary. Their addition to the overall attainment total recognizes their quality, the learning they represent, and their significant value in the labor market. Certification programs are important means of meeting the nation’s workforce needs. Certifications are part of an expanding set of post-high school credentials that serve as on-ramps to opportunity. For many people, including working adults, certifications can be an excellent first step to better jobs and better lives. States with the highest rates of adults 25 to 64 with certifications are: Alaska (6.5 percent), Maine (6.1 percent), Wyoming (6 percent), Montana (5.7 percent), Indiana (5.6 percent), and West Virginia (5.3 percent). States with the highest rates among adults 25 to 64 of short-term credential attainment (certifications and certificates combined) are: Louisiana (15.2 percent), Arizona (15 percent), Kentucky (13.3 percent), New Mexico (12.3 percent), Oklahoma (11.4 percent), Washington (11.3 percent). Nationally, educational attainment after high school is steadily increasing. The proportion of working-age Americans with quality post-high school credentials has grown each year since Lumina began tracking progress in 2008. In 2008, degree attainment was 37.9 percent. Adding certifications to the mix this year for the first time puts the nation’s overall attainment rate above 50 percent for adults 25 to 64 years old. College certificates were added to A Stronger Nation in 2016. Overall attainment increases are a result of growth and better measurement. States’ educational attainment rates after high school are increasing. With the addition of certifications, 31 states and the District of Columbia now have attainment rates for adults 25 to 64 above 50 percent, and all states are above 40 percent. In 2008, no state had a degree-attainment rate of 50 percent or greater, and 32 states had degree-attainment rates of under 40 percent. The states with the highest educational attainment rates for adults 25 to 64 are: (District of Columbia, 69.3 percent); Massachusetts, 61.1 percent; Colorado, 59.8 percent; Washington, 59.4 percent; and Minnesota, 58.6 percent. States with the lowest attainment rates are: Nevada, 41.3 percent; West Virginia, 42 percent; Arkansas, 43.6 percent; and Alabama, 44 percent. Educational attainment among adults 25 to 64 is increasing across all races and ethnicities, but large disparities persist. When we look at people with associate degrees and higher, attainment sits at 43.2 percent overall. However, degree attainment is just 31.6 percent among Black adults, 24.6 percent among Native Americans, and 24.5 percent among Hispanics. Certification attainment is more evenly spread across races and ethnicities, but disparities are still quite noticeable, with attainment rates at 4.52 percent for Native Americans, 3.71 percent for African Americans, 2.99 percent for Hispanics, and 4.27% for whites. To reach a 60 percent educational attainment rate by 2025, the nation must ensure more adults can earn credentials after high school. At the current attainment rate of 51.3 percent, almost 15 million more working-age adults must earn credentials of value by 2025 if the nation is to reach 60 percent. While the nation is clearly making progress, it must be noted that 48.7 percent of the U.S. population still lacks a quality credential beyond a high school diploma. The national 60 percent goal can be reached by 2025. The attainment rate and the rate at which credentials are awarded are both accelerating. If the awarding of college degrees continues to increase at the same rate as in the past several years, we will reach 56 percent attainment by 2025. To reach 60 percent, we will need to refocus our efforts nationally. Specifically, we must help at least 7 million more of today’s students—those whom higher learning has not served well, especially students of color and adults—enroll in and finish programs that lead to credentials of value. Alabama's July 2020 attainment rate is 44 percent, and the state is working toward its attainment goal of 500,000 additional credentialed workers by 2025, which will equal a 60-percent attainment rate.


467 Ibid.

468 Ibid.
Alabama is making progress in increasing educational attainment, but still lags when compared to the national average. To reach state goals, the state will not only have to maintain current rates of attainment but also significantly increase the number of people who enroll in programs and earn all types of credentials beyond high school.

With the inclusion of workforce certificates (beginning in 2014) and certifications (in 2018), Alabama's overall rate of educational attainment has increased by 12.4 percentage points since 2008. There are significant gaps in educational attainment that must be closed—specifically, gaps linked to race and ethnicity. These gaps persist in every state. Because educational attainment beyond high school has become the key determinant of economic opportunity and social mobility, closing these gaps is crucial.

As Steve Lohr wrote in the New York Times, "economists, business leaders, and labor expert have warned for yeats that a coming wave of automation and digital technology would upend the work force, destroying some jobs while

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469 Ibid.
470 Ibid.
471 Ibid.
altering how and where work is done for nearly everyone. In the past four months, the coronavirus pandemic has transformed some of those predictions into reality. By May, half of Americans were working from home . . . up from 15 percent before the pandemic. . . .” As Mr. Lohr’s later notes, “companies . . . will need to increase their investment in enhancing the skills of their own workers. Analysts say the overall trend has been stagnant or declining for years. Mr. Lohr’s piece also aptly notes that the Trump Administration “sees the government’s role as working with the business community and ensuring that the public system of state and local work force boards . . . are attuned to hiring demand of the private sector,” and “Ivanka Trump . . . is an advocate for broadening apprenticeship opportunities and making Pell grants . . . available for noncollege skills training and job certification programs.” As Karen Elzey and Shalin Jyotishi stated, “[m]any colleges have started to embed industry certifications, independent credentials that measure knowledge for competent performance in a specific job or field . . . into undergraduate and graduate degrees, so that students benefit from a broad-based education as well as specific skills needed to thrive in an ever-changing workplace. This strategy provides life-long pathways to good jobs and is growing in popularity.” In addition, new financial models are needed to fund short-term worker training. As Alastair Fitzpayne and Ethan Pollack, of the Aspen Institute, noted, the “public workforce system is underfunded . . . The US invests . . . just 0.11 percent of GDP on these programs—half the share it spent in 1985. In contrast, Canada spends 0.24 percent . . ., Germany spends 0.63 percent, and France spends 1.01 percent. The workforce system also has fewer resources than it has during the last recession. At the beginning of the Great Recession, the U.S. was spending $4.2 billion on workforce reemployment programs. . . . In contrast, the U.S. currently spends $3.1 billion on workforce reemployment program.”

473 Ibid.
474 Ibid.
475 Ibid.
476 Karen Elzey and Shalin Jyotishi, “Combining Degrees with Quality Certifications is a Win for Everyone,” RealClear Education, 1 July 2020, accessed on 19 July 2020 <https://www.realcleareducation.com/articles/2020/07/01/combining_degrees_with_quality_certifications_is_a_win_for_everyone_110439.html>.
478 Ibid.