What the CARES Act Means for Unemployment

Estimated Unemployment in Q2

Table 1 presents analysis by a regional economist with the St. Louis Fed, who estimated that 66.8 million people are employed in occupations with a high risk of layoffs (sales, production, installation and repair, food preparation and serving, other)[1].

Table 1. Total Employment and Percent of Total for Each Risk Group

	Total Employment	Share of Total Employment
All Occupations	144,731,220	
Employed in Occupations in "Low Risk" of Layoff	77,944,910	54%
Employed in "Essential" Occupations	24,840,280	17%
Employed in Occupations Possible to Work from Home	48,204,920	33%
Employed in Other Salaried Occupations	4,899,710	3%
Employed in Occupations in "High-Risk" of Layoff	66,786,310	46%
Food Preparation and Serving Occupations	13,374,170	9%
Sales and Related Occupations	10,443,460	7%
Production Occupations	8,313,750	6%
Installations, Maintenance and Repair Occupations	5,628,890	4%
All Other "High-Risk" Occupations	29,026,040	20%

Sources: Bureau of Labor Statistics Occupational Employment Statistics (2018) and author's calculations. Federal Reserve Bank of St. Louis.

According to other analyses[2] by the St. Louis Fed, as of February 2020, according to the Bureau of Labor Statistics, 164.5 million people were in the civilian labor force and the unemployment rate was 3.5%[3]. This translates to approximately 5.76 million unemployed people in the U.S. in February. It is assumed that these 5.76 million people would not be able to find a job in the second quarter of 2020. This analyst estimated 47 million workers being laid off in the second quarter for a total of 52.81 million people becoming unemployed during that time period caused by the COVID-19 pandemic.

Unemployment Compensation

Unemployment Compensation (UC) is a joint federal-state program financed by federal payroll taxes under the Federal Unemployment Tax Act[4] (FUTA) and by state payroll taxes under State Unemployment Tax Acts (SUTA).[5] These revenues are deposited into the appropriate account within the federal Unemployment Trust Fund (UTF). The Unemployment Compensation (UC) program provides income support through the payment of UC benefits for up to a maximum of 26 weeks in most states.

The UC program's two main objectives are to provide temporary partial wage replacement to involuntarily unemployed workers and to stabilize the economy during recessions. The UC program's funding and benefit structure is such that when the economy grows, UC

[1] https://www.stlouisfed.org/on-the-economy/2020/march/covid-19-workers-highest-unemployment-risk
[2] https://www.stlouisfed.org/on-the-economy/2020/march/back-envelope-estimates-next-quarters-unemployment-rate
[3] Figures are available on the FRED pages for the Civilian Labor Force Level and the Unemployment Rate.
[4] CRS Report R44527, Unemployment Compensation: The Fundamentals of the Federal Unemployment Tax (FUTA).
The FUTA tax paid by employers on the first $7,000 of each employee's earnings (typically $42 per worker per year) funds federal and state administrative costs, loans to insolvent state UC accounts, the federal share (50%) of Extended Benefit (EB) payments, and state employment services.
[5] The framework of the Unemployment Compensation (UC) program is contained in the Social Security Act (SSA). Title III of the SSA authorizes grants to states for the administration of state UC laws, Title IX authorizes the various components of the federal Unemployment Trust Fund (UTF), and Title XII authorizes advances or loans to insolvent state UC programs.

program revenue rises through increased tax revenues. Concurrently, UC program spending falls because fewer workers are unemployed, thus creating surplus funds for the UC program to draw upon during a recession. These reserve balances are credited in the state's account within the UTF. During an economic slowdown or recession, UC tax revenue falls and UC program spending rises as more workers lose their jobs and receive UC benefits.

Although states have a great deal of autonomy in how they establish and run their unemployment insurance programs[6], federal law requires states to pay Unemployment Compensation (UC) benefits promptly. During some recessions, current taxes and surplus funds may be insufficient to cover state obligations for UC benefits. States may borrow funds[7] from the federal loan account[8] within the Unemployment Trust Fund (UTF) to meet UC benefit obligations. In the years immediately following the great recession, many states had insufficient SUTA revenue and UTF account balances to pay UC benefits.

UC benefits are an entitlement (the program is financed by a dedicated tax imposed on employers and not by general revenue). Thus, even if a recession hits a given state and, as a result, that state's trust fund account is depleted, the state remains legally required to continue paying benefits. To do so, the state might borrow money either from the dedicated loan account within the UTF or from outside sources[9].

States levy payroll taxes (SUTA) on employers to fund regular UC benefits and the state share (50%) of the Extended Benefit (EB) program.[10] Federal laws and regulations provide broad guidelines for these state taxes. Each state deposits its SUTA revenue into its account within the UTF.

Disaster Unemployment Assistance

Disaster Unemployment Assistance (DUA) benefits are available only to those individuals who have become unemployed as a direct result of a declared major disaster and are not eligible[11] for regular Unemployment Compensation (UC)[12]. The federal disaster declaration will include information on whether DUA benefits are available. DUA is funded through the Disaster Relief Fund (DRF)[13] of the Federal Emergency Management Agency

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[6] States administer UC benefits with U.S. Department of Labor (DOL) oversight. There are 53 different UC programs operated in the states, the District of Columbia, Puerto Rico, and the Virgin Islands.

[7] If the state borrows funds from the UTF, not only will the state be required to continue paying benefits, it also will be required to repay the funds (plus any interest due) it has borrowed from the federal loan account within a few years. These requirements create strong incentives for states to keep adequate funds in their trust fund accounts. As of January 29, 2019, approximately $68.3 million in federal UTF loans to the states and $507,254 in interest payments in FY2019 were outstanding. At this time, only the U.S. Virgin Islands has an outstanding UTF loan. However, California, still had a $1.2 billion loan outstanding as of February 2018 and paid $8.2 million in interest in FY2018.

[8] Outstanding loans listed by state may be found at the (DOL's) website, https://oui.doleta.gov/unemploy/budget.asp.

[9] The CARES Act makes funds and administrative expenses available to states directly from the Treasury and will use the UTF, however such transfers will not be handled as normal UTF loans. And therefore states will not be required to pay for "poor experience" and for not paying federal loans on time.

[10] The Extended Benefit (EB) program was established by the Federal-State Extended Unemployment Compensation Act of 1970 (EUCA), P.L. 91-373 (26 U.S.C. 3304, note). EUCA may extend receipt of unemployment benefits by 13 weeks or 20 weeks at the state level if certain economic situations exist within the state. See CRS Report RL33362, Unemployment Insurance: Programs and Benefits.

[11] DUA beneficiaries (because they are not entitled to regular UC) are not eligible to receive Extended Benefits (EB).

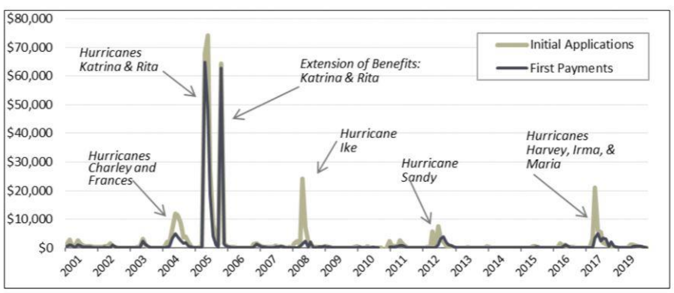
[12] Authorization for DUA can be found in the Stafford Act, Section 410, P.L. 100-707, 42 U.S.C. §5177. Regulations can be found at 20 C.F.R. Part 625.

[13] The DRF is funded through discretionary appropriations and any unobligated funds from a previous fiscal year may be used in future fiscal years.

(FEMA)[14]. DUA is administered by the Department of Labor (DOL) through each state's UC agency[15]. DUA assistance is available to eligible individuals as long as the major disaster continues, but no longer than 26 weeks after the disaster declaration.

As seen in the figure, Disaster Unemployment Assistance: Initial Claims and First Payments, January 2001-April 2019, DUA claims and payments track with the hurricane season (June 1 to November 30). Non-hurricane disasters trigger declarations of disaster as well. The March 3, 2020 tornados and severe storms in several Tennessee counties triggered a major disaster declaration on March 5, 2020[16].

Figure 1. Disaster Unemployment Assistance: Initial Claims and First Payments, January 2001-April 2019



Source: CRS figure from data provided by U.S. Department of Labor, Office of Workforce Security.

What the CARES Act Means for the Unemployed

Funds made available for as of March 25, 2020 to expand access to unemployment insurance (UI) benefits include approximately $250 billion in the CARES Act. However, the federally financed costs associated with these expanded UI benefits provisions in the CARES Act will be greater.

CARES Act Unemployment Insurance Section-by-Section:

Section 2101. Relief for Workers Affected by Coronavirus Act & Section 2102. Pandemic Unemployment Assistance (PUA)

This section creates a temporary federal unemployment insurance (UI) program, Pandemic Unemployment Assistance (PUA) program, through December 31, 2020, to provide payment to those not traditionally eligible for unemployment benefits (self-employed, independent contractors, gig economy workers, those with limited work history, and others) who are unable to work as a direct result of the COVID-19, coronavirus public health emergency.

- PUA would provide up to 39 weeks of federally financed UI benefits to unemployed workers who
  - (1) are ineligible for any other state or federal UI benefit;
  - (2) meet conditions related to being unemployed, partially unemployed, or unable to work due to COVID-19; and
  - (3) are not able to telework and not receiving any paid leave.
- The PUA maximum duration of 39 weeks would be offset by any weeks of other UI benefits payable to an individual; including regular, state Unemployment Compensation (UC), Pandemic Emergency Unemployment Compensation (PEUC, described below), or Extended Benefits (EB).
- PUA would be available in all states and U.S. territories, subject to agreements with U.S. Department of Labor (DOL). PUA would pay benefits for weeks of unemployment, partial unemployment,

[14] FEMA maintains a list of disasters by calendar year, located at http://www.fema.gov/disasters. Each disaster is given a contract number, which provides a link to relevant information pertaining to each disaster, including a list of counties designated to receive assistance.
[15] If counties in a state have been included in a major disaster declaration and have been designated to receive DUA, it is necessary to contact the state's unemployment agency to obtain the details of how to apply for and receive DUA benefits.
[16] . Tennessee Severe Storms, Tornadoes, Straight-line Winds, And Flooding (DR-4476) Incident period March 3, 2020. Major disaster declaration declared on March 5, 2020

or inability to work beginning on or after January 27, 2020, and ending on or before December 31, 2020. PUA benefits could be paid retroactively.

- The PUA benefit amount would be the weekly benefit amount (WBA) as calculated under state law based on recent earnings (subject to the minimum benefit under Disaster Unemployment Assistance (DUA), which is half of the state's average weekly UC benefit amount).
    - In territories without UC programs, the PUA benefit would be determined by DUA regulations. For background on DUA, see CRS Report RS22022, Disaster Unemployment Assistance (DUA).
- All PUA benefits, like other UI benefits, would be augmented by $600 a week (see below for description of the Federal Pandemic Unemployment Compensation) through July 2020

Section 2103. Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations

This section provides federal reimbursement of 50% of regular UC benefit costs that state and local governments, Indian tribes, and nonprofit organizations paid. These governmental entities and nonprofit organizations[17] have the option of paying unemployment insurance tax or self-insuring. If it chooses to self-insure, it is required to repay its state unemployment insurance trust fund for the amount of unemployment benefits claimed by their former employees[18].

- This provision would provide 50% relief to these UI trust fund reimbursing employers.
- It also allows states to offer these employers flexibility in the timing of required reimbursement payments.

Section 2104. Emergency Increase in Unemployment Compensation (UC) Benefits

This section provides an additional federally financed $600 per week payment to each recipient of unemployment insurance (UI).

- This benefit would be in addition to all weekly UI benefits including state Unemployment Compensation (UC), Pandemic Emergency Unemployment Compensation (PEUC), Extended Benefits (EB) or Pandemic Unemployment Assistance (PUA) for up to four months, through July 31, 2020.
- States would be prohibited from reducing UC benefit amount or duration.

Section 2105. Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week

This section provides federal funding through December 31, 2020 for UC benefits provided during the first week of unemployment in state UC programs 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).

Section 2106. Emergency State Staffing Flexibility

This section waives federal requirements

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[17] Certain nonprofit organizations (501c3), state and local governments, and federally recognized Indian tribes are permitted to reimburse their state unemployment funds for unemployment benefit payments paid to former employees instead of contributing taxes to the state's trust fund.

[18] Entities exempt from unemployment laws, such as churches, affiliated religious organizations, religious schools and charities with fewer than four employees, the employees of such entities are not eligible to receive unemployment benefits; thus, these charities would not receive any reimbursement unless they voluntarily elect to self-insure.

regarding staffing for state UC programs on an emergency, temporary basis in response to COVID-19 until December 31, 2020.

- This waiver would allow states to rehire former employees and hire temporary employees so as to process UI claims quickly.

Section 2107. Pandemic Emergency Unemployment Compensation (PEUC)

This section creates the PEUC, which would make available up to 13 additional weeks of federally financed UI benefits for individuals who exhaust state and federal UI benefits and are able, available, and actively seeking work[19].

- The PEUC benefit amount would be the WBA as calculated under state law. All PEUC benefits would be increased $600 a week by Federal Pandemic Unemployment Compensation (FPUC, described above) through July 2020.
- States would be prohibited from reducing UC benefit amount or duration.

Section 2108. Temporary Financing of Short-Time Compensation Payments in States with Programs in Law

This section provides 100% federal financing to support Short-Time Compensation (STC) programs, in states with existing programs.

- Instead of laying off workers, employers reduce employee hours and the employees with reduced hours receive a pro-rated unemployment benefit[20] (up to the equivalent of 26 weeks of benefits for individuals) through December 31, 2020.

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[19] Subject to COVID-19-related flexibilities.

[20] The terms work sharing and short-time compensation are sometimes used interchangeably. These terms refer to any arrangement under which workers' hours are reduced in lieu of a layoff. Under a short-time compensation/work sharing arrangement, a firm faced with the need to downsize temporarily chooses to reduce work hours across the board for all workers instead of laying off a smaller number of workers. For example, an employer might reduce the work hours of the entire workforce by 20%, from five to four days a week, in lieu of laying off 20% of the workforce. Workers whose hours are reduced are compensated with STC, which is equivalent to regular unemployment benefits that have been pro-rated for the partial work reduction. In this example, workers' STC benefits would be 20% of the unemployment benefit they would have been entitled to had they been laid off. As unemployment benefits generally replace almost half of an average worker's wages (with considerable variation among states, see U.S. Department of Labor, Unemployment Insurance Chartbook, Replacement Rates, U.S. Average, http://ows.doleta.gov/unemploy/chartbook.asp), STC benefits for a worker who has experienced a 20% reduction in hours would amount to about 10% of the worker's wages before the reduction in hours. Employees would therefore receive a combined income of about 90% of their full-time wages as compensation for four days of work: 80% as wages plus 10% as STC.

What the CARES Act Means for Unemployment

The following summary on STC programs is taken directly from CRS Report R40689, Compensated Work Sharing Arrangements (Short-Time Compensation) as an Alternative to Layoffs.

Currently, approximately half of the states and the District of Columbia have enacted STC programs to support work sharing arrangements. However, few UC beneficiaries are STC participants. At the peak of its use in 2010, the STC beneficiaries totaled nearly 3% of regular unemployment compensation first payments. The reasons for low take-up of the STC program seem to be a combination of difficulty the U.S. Department of Labor (U.S. DOL) has had in implementing the 1992 authorizing legislation, lack of awareness on the part of employers, unsuitability of work sharing arrangements for some firms or workers, and high state administrative costs of the program.

Congress passed legislation[21] in February 2012 which provided clarification to the definition of STC and also provided incentives to states to adopt and modify STC programs. Michigan enacted its STC program in 2012. Despite these changes, the proportion of UC claimants participating in STC remains low.

Use of STC is highly countercyclical to business conditions because employers are more likely to be interested in work sharing when they need to manage labor costs in the face of relatively low demand for their products. The local peaks in 1992, 2001, and 2009-2011 correspond with the recessions of July 1990 to March 1991, March 2001 to November 2001, and again with the December 2007-June 2009 recession. Almost 98,000 workers received STC in 1992, about 111,000 received STC in 2001, about 314,000 received STC benefits in 2010, and about 236,000 workers received STC in 2011. In 2013, STC use fell significantly to under 74,000 beneficiaries. By 2015, the number of new STC beneficiaries had fallen to just over 60,000; however, it remains higher than numbers reported in the pre-recessionary years of 2004-2007.

Working reduced hours because of economic conditions is currently quite common. In September 2016, an estimated 61% (3.5 million) of all part-time workers were employed part-time because of slack work or business conditions[22].

A 2002 study[23] in California, the largest (numerically) user of STC, found that manufacturing firms

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[21] P.L. 112-96 which, among other provisions, clarifies requirements related to STC programs. Under P.L. 112-96, the term short-time compensation program means a program under which 1) employers participate on a voluntary basis and submit a written plan to the appropriate state agency; 2) an employer reduces the number of hours worked by employees in lieu of layoffs; 3) employees' workweeks have been reduced by at least 10% and by no more than the percentage determined by the state (if any, but in no case by more than 60%); 4) STC is paid as a pro rata portion of the unemployment compensation that would otherwise be payable to the employee if such employee were employed; 5) eligible employees are not required to meet the "able, available and actively seeking work" requirement of regular unemployment compensation, but they must be available for their normal workweeks; 6) eligible employees may participate in a state-approved, employer-sponsored, or Workforce Investment Act training program; and 7) employers who provide health or retirement benefits (defined benefit or defined contribution pension plans) must certify to the appropriate state agency that such benefits will continue to be provided to STC participants under the same terms and conditions as though the workweek of such employee had not been reduced or to the same extent as other employees not participating in the STC program.

[22] U.S. Bureau of Labor Statistics, Employment Situation News Release, September 2016, Table A-8, "Employed Persons by Class of Worker and Part-time Status."

[23] Thomas MaCurdy, James Pearce, and Richard Kihlthau, "An Alternative to Layoffs: Work Sharing Unemployment Insurance," California Policy Review, August 2004.

were more likely than other firms to use STC. An interesting finding in the California study is that STC firms often have jobs that require lengthy apprenticeships or on-the-job training programs in which workers learn skills not taught in school. Within the manufacturing sector, the industries that used STC the most were manufacturers of electronics, industrial machinery, fabricated metals, instruments, furniture, primary metals, leather, rubber and plastics, and paper products. Within the construction sector, STC firms were more likely than other construction firms to be “specialty trades contractors” such as plumbers and electricians.

Work sharing programs in combination with STC can provide macroeconomic benefits to a state by preserving jobs during cyclical downturns, maintaining consumption through continued wages and STC, and ensuring the continuation of employer-sponsored health insurance and pensions, thereby reducing reliance on state-provided services and supports. As is well known, widespread unemployment leads to lower consumer spending and sales tax revenues.

The administrative costs of STC programs have been a concern for state labor agencies. In many states, STC is still paper-based and states approve employers’ work sharing plans on a case-by-case basis. In addition, STC may increase processing costs for the state agency relative to layoffs because, for a given firm, work sharing affects a larger number of workers than if the firm were to lay off workers[24].

For employers, the decision between layoffs and an arrangement combining work sharing with STC may rest on both financial and non-quantifiable factors such as employee morale. Some firms may find that the combination of work sharing and STC helps reduce total costs during a downturn; however, other firms may find that layoffs are more cost-effective. Immediate cost savings to employers under a work sharing/STC arrangement come largely from reduced expenditures on wages and salaries. If a work sharing arrangement that involves all employees is the alternative to laying off low-seniority (and generally lower paid) employees, then STC would presumably save the employer in wage costs. Work sharing and STC arrangements can also reduce recruitment and training costs for employers. When business improves, employers can increase the hours of existing employees rather than recruit and train new ones. Some employers find work sharing and STC programs attractive because they prevent the firm from losing skilled employees during an economic downturn and reduce the risk that skilled employees may leave for other companies.

Work sharing helps workers who would have faced layoffs avoid significant hardship, while spreading more moderate earnings reductions across more working individuals and families. When work sharing is combined with STC, the income loss to work sharing employees is reduced. Many state STC programs also require that employers continue to provide health insurance and retirement benefits to work sharing employees as if they were working a full schedule. Some research suggests that reduced work hours may have different implications for professional employees compared to hourly workers. Professional employees sometimes welcome a better work-life balance, while in some cases hourly workers rely not just on a full work schedule but also on overtime in order to make ends meet.

30 states[25] and the District of Columbia have enacted STC programs[26]. The basic structure of each state’s STC program is broadly similar: eligible individuals have had their workweeks reduced by at least 10%, and this reduction in work hours must be in lieu of temporary layoffs. The amount of unemployment compensation payable to an individual is a pro rata share of the unemployment compensation to which that individual would have been entitled if he or she had been totally unemployed. Eligible employees are not required to meet the “able and available for work”

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[24] Some suggest that states would experience at least partially offsetting savings as a result of not having to administer certain components of the regular unemployment system, such as the requirements that a worker be actively seeking work and that he or she not refuse suitable work. No studies have attempted to quantify STC’s net administrative cost to states, however.
[25] States that enacted STC programs: AZ, AR, CA, CO, CT, DC, FL, IA, KS, LA, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, OH, OK, OR, PA, RI, TX ,VT, VA, WA, WI.
[26] However, as of November 2016, only 27 states and DC had active STC programs. See Table A-1 in CRS report, R40689 for how STC is implemented in those states.

requirement of regular unemployment compensation, but they must be available for their normal workweek. Finally, eligible employees may participate in an employer-sponsored training program. Within these broad outlines there is considerable variation among states. An employer's STC agreement cannot exceed a period of 6 months in 5 states but may span up to approximately 1 year in 20 states and the District of Columbia. An individual may receive STC benefits for up to 18 weeks in Colorado or for up to 52 weeks in 8 states. Alternatively, California, Michigan[27], Washington, and Wisconsin place no limits on the number of weeks a worker may receive STC benefits, although these states have caps on total benefits paid to an individual to the maximum potential total UC entitlement.

Section 2109. Temporary Financing of Short-Time Compensation Agreements

This section provides 50% federal financing for states to set up STC programs through December 31, 2020.

Section 2110. Grants for Short-Time Compensation Programs

This section provides $100 million in federal grants to states that enact STC programs to help them implement and administer these programs.

Section 2111. Assistance and Guidance in Implementing Programs

This section requires the Department of Labor to disseminate model legislative language for states, provide technical assistance, and establish reporting requirements related to STC programs.

Section 2112. Waiver of the 7-day Waiting Period for Benefits under the Railroad Unemployment Insurance Act

This section provides $50 million to waive the seven-day waiting period for railroad unemployment insurance (RRUI) benefits through December 31, 2020 (to make this program consistent with the change made in unemployment benefits for states through the same period in an earlier section of this subtitle).

Section 2113. Enhanced Benefits under the Railroad Unemployment Insurance Act

This section provides an additional $600 per week payment to each recipient of railroad RRUI or PUA through July 2020 (to make this program consistent with the change made in unemployment benefits for states in an earlier section of this subtitle).

Section 2114. Extended Unemployment under the Railroad Unemployment Insurance Act

This section provides an additional 13 weeks of federally financed RRUI benefits through December 31, 2020 to help those who remain unemployed after weeks of regular unemployment benefits are no longer available (to make this program consistent with the change made in unemployment benefits, comparable to PEUC, for states in an earlier section of this subtitle).

Section 2115. Funding for the Department of Labor Office of Inspector General for Oversight of Unemployment Provisions

This section provides the DOL Office of Inspector General for audits $25 million in funding for audits, investigations, and other oversight of the UI provisions in H.R. 748.

Section 2116. Implementation

This section authorizes DOL to issue operating instructions or other guidance as necessary in order to implement the UI provisions in H.R.

[27] 52 weeks. Not less than 15% but no more than 45%. No limit on weeks, but cannot exceed 20 x weekly benefit amount.

748, as well as allows the Department of Labor to waive Paperwork Reduction Act requirements, speeding up their ability to gather necessary information from states.

Additional Reading

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