



SECURING AN INCLUSIVE, EQUITABLE AND RESILIENT EMPLOYMENT INSURANCE PROGRAM FOR WORKERS IN CANADA

BUILD BACK BETTER

JUNE 2021



UNIFOR



ABOUT US

Unifor is Canada's largest union in the private sector, representing 315,000 members across the country in every major sector of the economy. This includes transportation and logistics, aviation and aerospace, hospitality, healthcare, telecommunications, mining, forestry, rail, retail, manufacturing and more.

The union advocates for all working people and their rights, in Canada and abroad, and fights for good jobs, fair wages, healthy and safe workplaces and strong public services, income security and social programs. Our work is based upon the values of equality, equity and social justice and we strive to create progressive change for a better future.

INTRODUCTION

THE COVID-19 PANDEMIC has taken a devastating toll on the Canadian economy, workers and families. As governments were forced to shut down in order to curb the spread of the virus and save lives, thousands of businesses shuttered and millions of laid off workers were left without income. In March and April of last year alone, nearly three (3) million jobs were lost in Canada.¹ Naturally, these workers turned to the one government program that was meant to help them during times of economic hardship—Employment Insurance (EI). However, it soon became evident that Canada’s EI system, characterized by its restrictive eligibility criteria, low benefit rates and significant gaps in worker coverage, would not provide the safety net that unemployed workers desperately needed.

As a result, the Canadian government was forced to create a new temporary benefits program—the Canadian Emergency Response Benefit (CERB). This program provided workers, who lost their jobs, saw work hours reduced, or were required to quarantine or care for an ill family member with COVID-19, with a flat \$2,000 a month benefit. Between March and October 2020, 8.9 million unique applications for CERB were made, while combined CERB and EI benefit payments totaled nearly \$82 billion.²

As economies gradually reopened and employment rebounded, the CERB program wound down. Those still without work were transferred back to a modified EI system, designed to improve access and provide greater income support—advancing qualifying reforms and program improvements long recommended by worker advocates.³

The introduction of EI program enhancements was coupled with a new income support measure, the Canada Recovery Benefit, providing basic income supports to non-EI eligible workers, including gig workers and the self-employed. These changes to EI resulted in greater access to the program, particularly for some of the most vulnerable groups of workers that are often disproportionately disadvantaged by stricter eligibility criteria due to the nature of their work.⁴

While positive, these changes are only temporary. What is needed are permanent solutions and fixes to Employment Insurance, Canada’s most important counter-cyclical economic stabilizer, so that workers are better prepared for the next economic crisis. Now is the time for meaningful and transformative changes to create an EI system that is fair, accessible and inclusive.

1. CBC News. ‘Canada lost 213,000 jobs in January as lockdowns took a giant bite out of the job market’: <https://www.cbc.ca/news/business/canada-jobs-january-1.5902308>

2. Government of Canada. ‘Canada Emergency Response Benefit and EI statistics’: <https://www.canada.ca/en/services/benefits/ei/claims-report.html>

3. According to Statistics Canada, in January 2021, there were nearly 1.5 million regular EI beneficiaries, representing a 12-month increase of 226%. In contrast, peak EI beneficiaries during the 2008-09 recession was 822,000. A contributing factor to this increase was the loosening of program eligibility criteria—namely reducing the number of required insurable hours. <https://www150.statcan.gc.ca/n1/daily-quotidien/210325/dq210325a-eng.htm>

4. Statistics Canada. ‘Employment Insurance, October 2020’: <https://www150.statcan.gc.ca/n1/daily-quotidien/201217/dq201217a-eng.htm>

Unifor, along with a number of labour and community allies and partners across the country, is hopeful that the federal government will honour its commitments outlined in the most recent mandate letter from the Prime Minister to the federal Minister of Employment, Workforce Development and Disability Inclusion. This letter mandates the Minister to undertake a modernization of Canada's Employment Insurance program to meet the needs of workers in the 21st century, while also looking at areas where benefits can be expanded.

We know making these changes is possible. We have seen it happen. The rapid creation, rollout and uptake of CERB, the CRB, as well as the quick changes to EI eligibility rules, demonstrated that an accessible, responsive and equitable income support program is achievable. All it required was the political will, courage, action and resources to do so. We hope that policymakers continue demonstrating bold leadership and create an EI program that works for all workers.



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The fact that the EI system was ill prepared to deal with a mass influx of applicants during an economic crisis comes as no surprise for labour and community advocates. Over the years, countless reports have been produced examining the overall state (and failures) of EI, while providing concrete recommendations on how to restore EI benefits to protect workers, while modernizing it to reflect the realities of today's increasingly precarious labour market.

EI issues witnessed today can be traced back directly to policy changes that began in the 1990s under conservative Prime Minister Brian Mulroney and intensified under Jean Chretien's Liberals.

These changes were rooted in the unfounded claims that workers were abusing the system, and the (unsubstantiated) capitalist ideological belief that generous unemployment benefits would act as a disincentive for people to find work. By this warped logic, restricting income benefits for those without income was good for the economy. As a result, government-led program changes included benefit amounts being slashed; the duration of benefits reduced; a withdrawal of federal financial contributions into the program; stricter eligibility and entrance requirements, including those exiting their jobs voluntarily becoming ineligible for benefits; benefit claw-backs for repeat claimants and a rebranding of the program from Unemployment Insurance to Employment Insurance.⁵

With these changes solidified, the program that was created to act as an economic stabilizer—helping workers during times of economic uncertainty while keeping them attached to the labour market while in between jobs—became a shadow of its former self. EI coverage rates plummeted, from 80% in 1990 to 44.5% by 2008. Prior to the pandemic, we saw only 40% of unemployed workers in Canada, on average, receiving E.I. benefits⁶—nearly the same coverage rate when the program first started over 80 years ago. Average weekly EI regular benefit amounts, when adjusted for inflation, barely budged between 1990 and 2010, from \$344 to \$347.⁷ Further, between 1997 and 2010, the average number of male EI regular beneficiaries increased by 17%, while only increasing 2% for women.⁸

Exacerbating this decline in EI coverage was the changing nature of the labour market. As jobs became more precarious, characterized by part-time, temporary, contract, casual and gig economy work, workers had an even more difficult time meeting the high eligibility threshold.

5. Len Zhengxi. 'Employment Insurance in Canada: Policy Changes': <https://www150.statcan.gc.ca/n1/en/pub/75-001-x/1998002/article/3828-eng.pdf?st=P3DlcXP7>

6. In larger and more populated urban centres, such as Toronto, EI coverage rates were as low as 20%. Globe and Mail. 'How to make Employment Insurance more Accessible': <https://www.theglobeandmail.com/report-on-business/rob-commentary/how-to-make-employment-insurance-more-accessible/article23015874/>

7. Figures adjusted to reflect 2010 dollars. Statistics Canada. Table 14-10-0180-01 Employment Insurance Program (E.I.), average weekly payments by province and type of benefit

8. Statistics Canada. Table 14-10-0009-01 Employment insurance beneficiaries by type of income benefits, monthly, unadjusted for seasonality

Changes to EI, therefore, only served to diminish labour market power for workers seeking better work opportunities with improved wages and working conditions. Restricting access to a social safety net provided low-wage employers with a larger pool of unemployed workers at their disposal. This deliberate political strategy cemented and accelerated the precarious workforce model on a national scale.⁹

For low-income workers, women, Black, workers of colour, Indigenous, newcomers, young workers and those with disabilities, this was a setback on two levels. First, being disproportionately represented in precarious low-wage work,¹⁰ but also more likely of being excluded from accessing EI benefits—despite contributing a greater share of their income into the program.¹¹ Migrant workers also experience a similar situation of having EI premiums deducted from their paychecks, despite the fact they are often ineligible to receive benefits or, as in the case of parental benefits, are outright denied.

With benefit access restricted, the EI account surplus ballooned to a whopping \$57 billion dollars. However, rather than putting that money back into the program in terms of expanded benefit levels, employment training programs or skills development, the federal government simply funneled that money into its general reserves to balance the books and pay for tax cuts. Meanwhile, unemployed workers whose claims were being denied were forced to choose between taking any job they could find, regardless if it met their skills and qualifications, accumulate debt, or apply for social assistance.¹² During the 2008-09 recession, for instance, BC and Ontario (two low EI benefit rate provinces) saw social assistance applications grow by 19% and 32%. Meanwhile, in Quebec, where EI benefit rates were higher, social assistance clients increase by only 2%.¹³

With workers in crisis, local and national campaigns organized by community and labour advocates sprung up across the country and calls for substantive EI reforms had seemed to reach its height. Bolstered by statistics, research, media coverage and on the ground accounts from unemployed workers themselves, it seemed that change would be on the horizon. However, change was slow to materialize. Since then, some minor changes were introduced by Trudeau's Liberal government beginning in 2016,¹⁴ yet many core structural problems remain.

9. Global News. 'New EI rules take aim at frequent users, force workers to accept lower pay': <https://globalnews.ca/news/248836/new-ei-rules-take-aim-at-frequent-users-force-workers-to-accept-lower-pay/>

10. Canadian Centre for Policy Alternatives. 'Women, work and COVID-19 Priorities for supporting women and the economy': <https://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2021/03/Women%20work%20and%20COVID.pdf>

11. Canadian Centre for Policy Alternatives. 'Employment Insurance program is failing to support low-wage workers: Report': <https://www.policyalternatives.ca/newsroom/news-releases/employment-insurance-program-failing-support-low-wage-workers-report>

12. Canadian Centre for Policy Alternatives. 'Canada's Declining Social Safety Net: The Case for EI Reform': https://www.policyalternatives.ca/sites/default/files/uploads/publications/National_Office_Pubs/2009/Canadas_Declining_Safety_Net.pdf

13. Mowat Centre for Policy Innovation. 'Help Wanted: How Well did the EI Program Respond During Recent Recessions?': https://munkschool.utoronto.ca/mowatcentre/wp-content/uploads/publications/10_help_wanted.pdf

14. CBC News. 'Trudeau tracker: Have the Liberals delivered on their EI election promises?': <https://www.cbc.ca/news/politics/trudeau-tracker-ei-jobs-1.3521631>

In June of 2020, Unifor released an ambitious public policy document entitled Unifor’s Road Map for a Fair, Inclusive and Resilient Economic Recovery, which serves as the foundation of the union’s related national Build Back Better campaign.¹⁵ As the federal government looked to recover and rebuild the economy from the ravages of the pandemic, Unifor wanted to ensure that governments took advantage of this opportunity to build an economy that raises the quality and standard of living for all people in Canada and that would better protect workers during any future economic crisis. The union developed a series of concrete policy recommendations aiming to fulfill these objectives in key areas such as critical infrastructure, domestic industrial capacity, corporate support packages, green jobs and income security.

A key component of building back better is rebuilding Canada’s social safety net that has been eroded for far too long. However, tinkering around the edges is no longer an option. What is needed is a series of bold comprehensive changes that will result in the creation of robust income security programs that will be there when people need them the most. Achieving this will require a fundamental rethinking of the role income security programs play in our society—one that disassociates itself from the current framework that discourages, restricts and penalizes those seeking help and views benefit recipients as potential cheats.

National income security programs should work to protect all workers. To achieve this, they must be built on key principles of universality, accessibility, equity, fairness, flexibility, compassion and simplicity—and as the COVID-19 experience has taught us, they need to be resilient and reliable as well.

Many of these very principles were in action when the federal government created the CERB, and when temporary EI changes were introduced—including lowering of qualifying hours, instituting a base benefit level and eliminating waiting periods; all to ensure a greater number of workers were protected. As anticipated, we saw EI coverage surge, covering nearly 75% of unemployed workers (and 80% of women workers) by November of 2020.¹⁶ In March of 2021, the federal passage of Bill C-24, saw the temporary increase in the number of benefit weeks for unemployed workers (to a maximum of 50 weeks) and improved access to EI special benefits for the self-employed.¹⁷ More recently, the 2021 Federal Budget added a suite of further EI temporary measures with the promise to conduct multi-stakeholder consultations on future, long-term reforms to EI. The Liberal budget also vowed to permanently extend sickness benefits from the current 15 weeks to 26 weeks, which is slated to take full effect in the summer of 2022.¹⁸

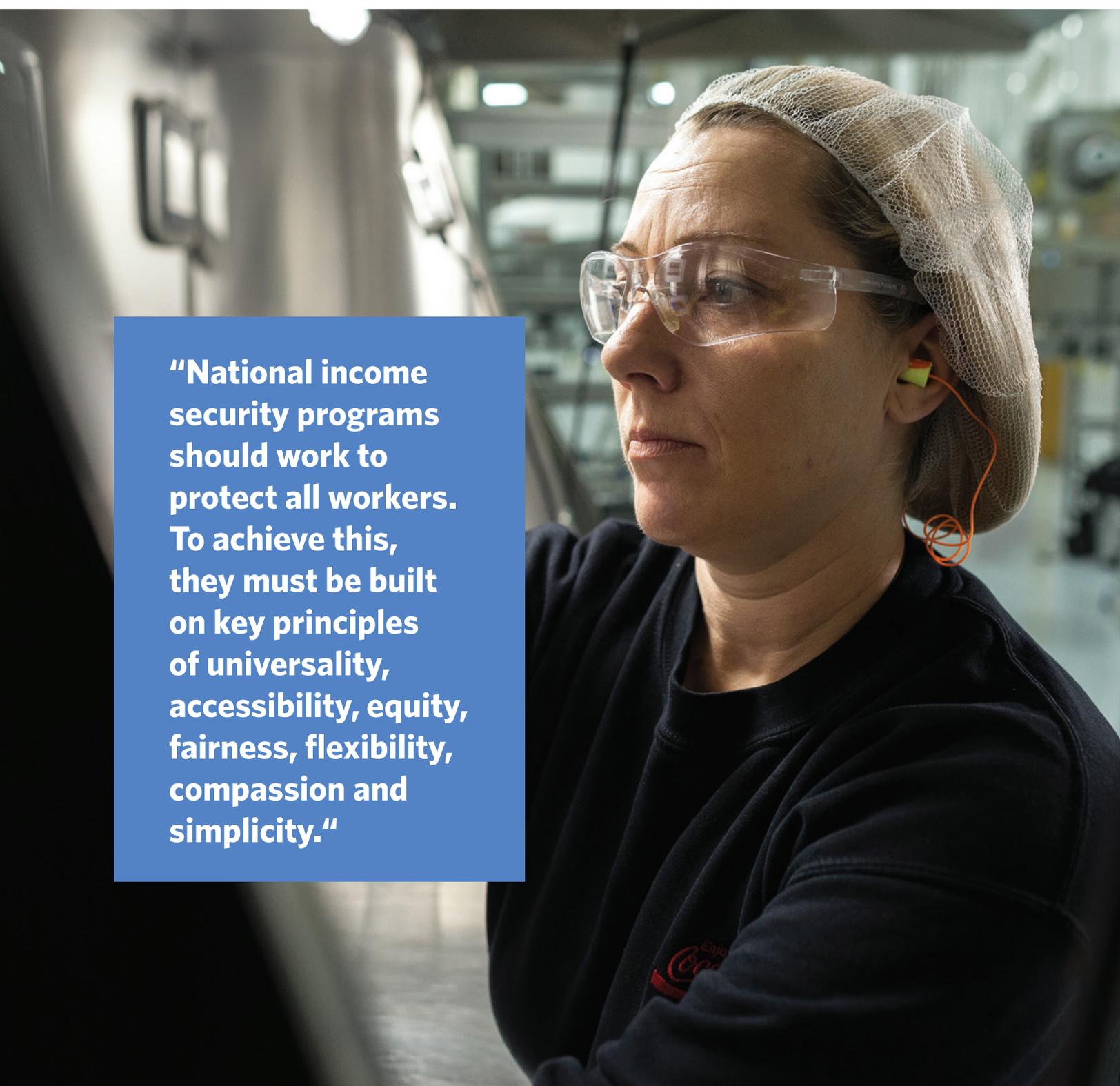
15. Unifor. ‘Roadmap for a Fair, Inclusive and Resilient Economic Recovery’: https://buildbackbetter.unifor.org/the_road_map

16. Unifor. ‘As pandemic rages, it’s time to fix EI for good’: <https://www.unifor.org/en/blog/pandemic-rages-its-time-fix-ei-good>

17. Employment and Social Development Canada. ‘Support to workers and families increases with the passage of EI legislation and the coming into effect of recovery benefit regulations’: <https://www.newswire.ca/news-releases/support-to-workers-and-families-increases-with-the-passage-of-ei-legislation-and-the-coming-into-effect-of-recovery-benefit-regulations-887132974.html>

18. Government of Canada. ‘Federal Budget 2021—A recovery Plan for Jobs, Growth, and Resilience’: <https://www.budget.gc.ca/2021/home-accueil-en.html>

It is clear that EI needs to return to its roots to being an easily understood, accessible and inclusive social benefit program that is based upon the foundation of economic security—not on actuarial principles. The federal government's recent EI changes has generated much optimism that our EI program will see critical reforms very soon. As Canada's labour market becomes increasingly more precarious and people's work futures uncertain, the need for a strengthened EI system has never been greater.



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1. Employment Insurance (EI) Eligibility Criteria

- i. Improve EI accessibility by replacing the Variable Entrance Requirement (VER) with a Standardized Entrance Requirement of 360 hours across Canada and base the qualifying hours and duration for existing claims on the most favourable time period.***

EI regular benefit qualifying rules and the Variable Entrance Requirement (VER) requires between 420 and 700 hours of insurable employment. The VER is currently dependent on the unemployment rate in the region where applicants live. The COVID-19 pandemic laid bare many of the structural rigidities and complexities of EI, rendering it largely inaccessible to most workers, particularly those with low income.¹⁹ The introduction of temporary measures to lower qualifying thresholds—including a special one-time credit of 300 qualifying hours—created the policy conditions for a fairer, more inclusive system of income security. Unifor believes the 2021 Federal Budget announcement of a universal 420-hour standardized entrance requirement is a step in the right direction but urges the government to further the qualifying hours to a universally applied 360 hours.

- ii. Eliminate all disqualifications for quitting a job to return to school or to attend to family responsibilities and remove the “quit-fire” disqualification.***

Similar to the views of the Canadian Labour Congress’ recommendation on EI disqualifications, Unifor believes that as a result of EI reforms of the 1990s, rules on voluntary separation grew more restrictive. Today, workers deemed to have voluntarily quit their jobs or terminated for alleged misconduct are completely excluded from accessing regular EI benefits. There is a standard misconception that these workers are negligent and somehow underserving of income security benefits. In fact, workers who quit their job to return to school, attend to family responsibilities, or forced to voluntarily quit due to unreported workplace harassment, violence or dissatisfaction—will unfairly disentitle themselves to benefits.

Since the late 1980s, the share of unemployed workers receiving EI benefits has fallen from over 80% to under 40% today; with half of this drop due to restrictive changes to the EI system mainly from disqualifying workers who quit or were fired.²⁰ This affects low-income workers disproportionately.

In 2017, almost 20% of jobless workers with low wages had made sufficient EI contributions to qualify, but were disqualified because they did not have a “valid” job separation reason.

19. Richardo Tranjan. 'Towards an Inclusive Economy: Synching EI to the Reality of Low Wage Work': <https://www.policyalternatives.ca/sites/default/files/uploads/publications/Ontario%20Office/2019/06/Towards%20an%20Inclusive%20Economy.pdf>

20. David Gray and Colin Busby. 'Unequal Access: Making Sense of EI Eligibility Rules and How to Improve Them, C.D. Howe Institute Commentary No. 450, 2016.': https://www.cdhowe.org/sites/default/files/attachments/research_papers/mixed/Commentary_450.pdf

In a fairer EI system, “valid” job separation is identified and justified, including for attending school or care-giving responsibilities. Any withholding of benefits for reasons deemed “invalid” should be limited.

iii. Eliminate the allocation of separation payments, including the assignment of severance and termination monies to the front end of an EI claim, and remove social assistance claw backs.

One of the most punitive measures in Canada’s EI system is the assignment of severance and termination monies to the front end of an EI claim, failing to recognize their distinct purpose as compensation for adjustment costs when workers must seek new employment. It is also an exceedingly complex calculation for Service Canada, leading to errors, overpayments and appeals which should be avoided a critical time for workers in need of income supports.

Workers accessing social assistance benefits also face EI benefit claw backs from their respective provinces, on a dollar-for-dollar basis, which is a needlessly punitive measure for what are vulnerable, low-wage workers.²¹

Severance and termination monies as well as social assistance payments act as shock absorbers for workers on lay off. While Unifor welcomes the Federal Budget 2021 announcement to simplify the rules on the allocation of separation monies and the assignment of severance and termination monies, the union remains firm that workers should receive all of what is owed to them and that they should face no penalty or claw back.

iv. Ensure Working While on Claim rules do not claw back benefits from the first dollar of earnings, and ensure access to benefits for workers who work multiple part time jobs.

Working While on Claim currently reduces an EI recipients benefits by 50% of earnings, starting with the first dollar earned. This is patently unfair for low-wage workers, and new EI rules should correct that.

Working While on Claim should protect employment earnings and eliminate benefits from being clawed back until a minimum income threshold is reached, similar to the approach that was taken with the Canada Recovery Benefit (threshold set at \$38,000, excluding CRB earnings). Furthermore, workers who face a sudden decrease in hours should not fall through the cracks.

EI rules must ensure that those that face reduced hours or who work multiple part time jobs are not eliminated based on the EI qualifying requirement of 7 days without earnings or work.

21. Greg Thomson. ‘Why Do Provinces Often Confiscate Federal Benefits From People Who Clearly Need Them?’: <https://aoda.ca/why-do-provinces-often-confiscate-federal-benefits-from-people-who-clearly-need-them/>

v. *Work with relevant federal ministries and departments to ensure all migrant workers in Canada have full access to regular and special EI benefits, open work permits and access to permanent immigration status.*

Current regulations and administrative barriers restrict the ability of migrant workers²² to access EI benefits. Existing program pre-requirements, such as possessing a valid work permit, a Social Insurance Number, and remaining in Canada while being available and actively looking for work, negatively affect eligibility. For a majority of migrant workers, these conditions are very difficult to meet due to their temporary status, closed work permits that are tied to a single employer, federal immigration requirements, lengthy work permit processing times, and a lack of program information available in their first language. Meanwhile, migrant workers who are eligible for benefits are being wrongfully denied by misinformed Service Canada staff. Further, discriminatory regulations put into place by the federal government since 2012, deny access to EI parental benefits to migrant workers.

Ensuring full access to EI regular and special benefits for migrant workers requires cross-departmental collaboration to facilitate proper staff training, the provision of open work permits and access to permanent immigration status for all migrants in Canada.

vi. *Expand EI benefits to cover longer periods of domestic or sexual violence leave.*

Paid domestic and sexual violence leave are crucial supports to ensure that workers do not need to choose between their jobs and their safety. In all Canadian jurisdictions except Alberta, domestic violence leave is now a paid leave with the ability for it to be taken in intermittent periods of one day or longer. Sexual violence leave is also treated the same way in seven different provinces. Unifor believes that all leaves taken in intermittent periods should continue to be paid by the employer.

However, currently in six provinces a longer continuous leave of up to (in some cases) 15 to 16 weeks is available to workers for domestic or sexual violence leave. These longer leaves will only be feasible if there are income supports available as economic security is a key indicator of safety.²³ Workers, particularly women, face the highest risk of being murdered in the period leading up to and after they leave an abusive relationship and for a period thereafter. Being able to take a longer job-protected leave, in addition to the shorter leave days, with support through the Employment Insurance program would increase the safety of those facing domestic

22. While we regard migrant workers as those arriving through federal programs, such as the Caregiver Program, Seasonal Agricultural Worker Program and the Temporary Foreign Worker Program, we also acknowledge additional categories of migrant workers—namely international students, asylum seekers and undocumented workers—who face their own challenges accessing EI that the federal government must address.

23. Western Centre for Research & Education on Violence Against Women & Children: http://www.vawlearningnetwork.ca/our-work/issuebased_newsletters/issue-10/index.html

or sexual violence.

Unifor recommends the government expand EI benefits to cover these longer periods of domestic or sexual violence leave. There should be no waiting period for accessing these benefits. The shorter, intermittent leave days should continue to be employer-paid under employment standards and/or labour legislation. The expansion of EI coverage should not unintentionally undermine the employer-paid intermittent leave.

vii. Improve access to EI during labour disputes, including benefits to workers during a lockout.

Existing language in the Employment Insurance Act states that if a claimant loses employment, or is unable to resume employment, because of a work stoppage attributable to a labour dispute where the claimant was employed, the claimant is not entitled to receive benefits until the earlier of:

- a. *the end of the work stoppage, and*
- b. *the day on which the claimant becomes regularly engaged elsewhere in insurable employment.*²⁴

Recently, Unifor members have faced several labour disputes—initiated by employer lockout and, in certain cases, including those aggravated by employers hiring replacement workers. Locked-out workers suffer loss of earnings at no fault of their own, and generally faced prolonged disputes. This inequity has been highlighted in court decisions and should be addressed by allowing workers to qualify for EI benefits when they are engaged in a labour dispute due to an employer lockout.²⁵ Access to EI special benefits during a dispute should also be reaffirmed.

Furthermore, EI rules require that at the conclusion of a work stoppage, production and employment must reach 85% of pre-dispute levels before workers can receive EI benefits. Workers should be able to qualify for EI at the immediate conclusion of a work stoppage if they remain without work.

viii. Increase the EI tax recovery and claw back threshold.

Whatever EI benefits claimants receive, payments are treated as taxable income. However, if an individual's net income exceeds \$70,375 EI recipients are required to repay 30% of the lesser of net income in excess of \$70,375; or the total regular

24. Government of Canada. 'Employment Insurance Act (S.C. 1196, c.23)': <https://laws-lois.justice.gc.ca/eng/acts/E-5.6/page-11.html#docCont>

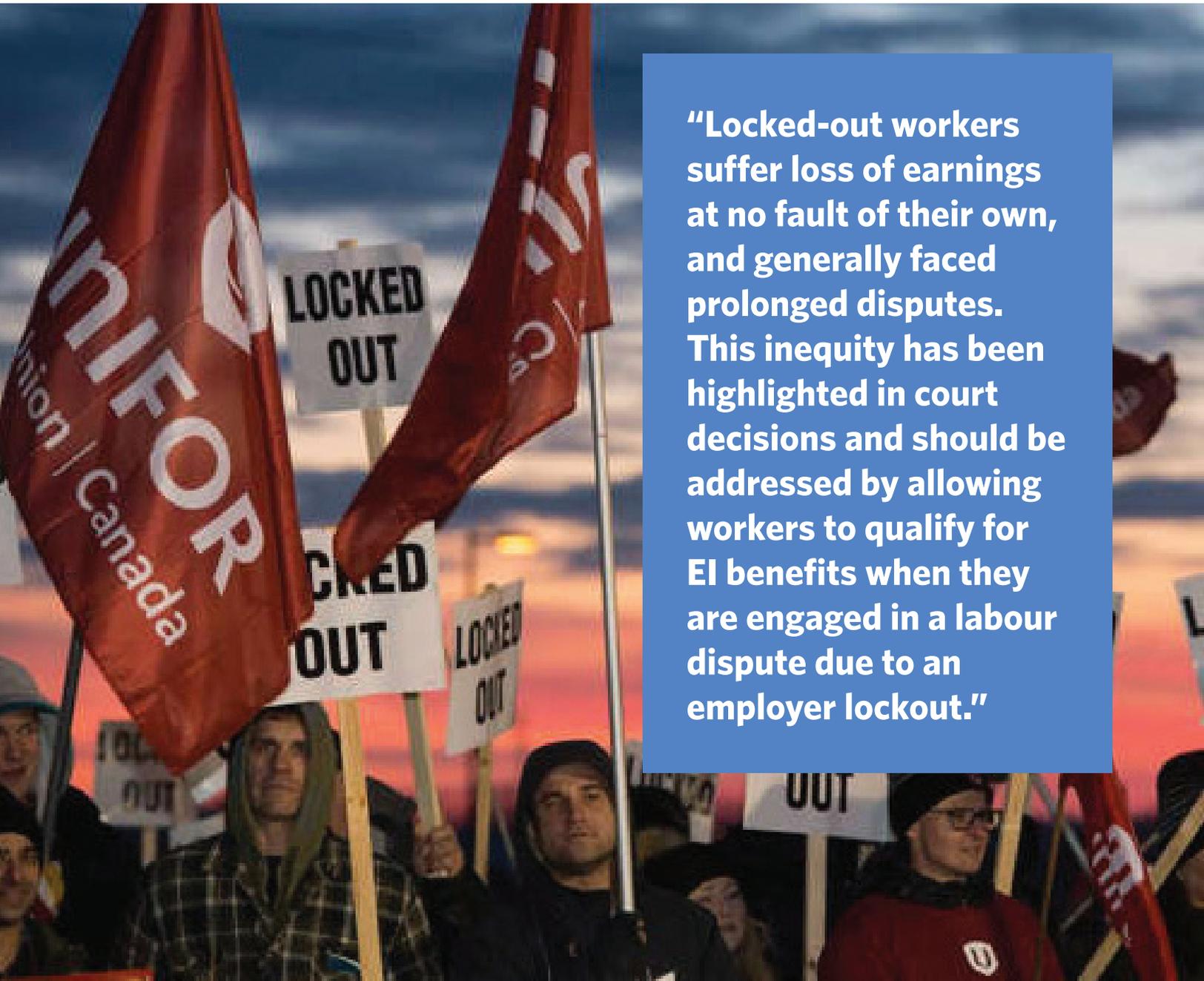
25. For a recent example, see Unifor. 'Locked-out workers win employment insurance fight': <https://www.unifor.org/en/whats-new/press-room/locked-out-workers-win-employment-insurance-fight>

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benefits, paid in the taxation year.²⁶

EI benefits, including those paid to many middle-income earners, should not be subject to income limits. The premise that higher-wage workers that deal with regular bouts of unplanned, non-cyclical unemployment (e.g. in the auto industry) must repay a portion of EI benefits is fraught, oftentimes encouraging workers to purchase financial and tax-deferred savings plans to mitigate the affect on year-end income tax. Workers should receive all of what is owed to them and face no penalty or claw back. At the very least, the current benefit “claw-back” threshold should be doubled (e.g. to \$140,570 for 2021) to better differentiate between high-and-middle income earners in Canada.

26. Government of Canada. ‘EI and repayment of benefits at income tax time’: <https://www.canada.ca/en/employment-social-development/programs/ei/ei-list/reports/repayment.html>



“Locked-out workers suffer loss of earnings at no fault of their own, and generally faced prolonged disputes. This inequity has been highlighted in court decisions and should be addressed by allowing workers to qualify for EI benefits when they are engaged in a labour dispute due to an employer lockout.”

2. Employment Insurance (EI) Benefits

i. Permanently eliminate the one week waiting period during which no benefits are payable.

As part of its pandemic response and the need for unemployed workers to access financial supports quickly, the government temporarily waived the one-week waiting period for all EI claimants. This followed a prior move, in 2017, to shorten the waiting period from two weeks to one week.²⁷ Withholding benefits from unemployed workers, particularly those with no fall-back income, creates needless distress and encourages desperate workers to take on undesirable employment. Eliminating the waiting period was an important step towards ensuring income security, especially for the most vulnerable at the onset of layoff. A permanent elimination of the waiting period is critical for a modernized EI system moving forward.

ii. Increase duration of benefits to 50 weeks in all regions across the country.

To give workers the income certainty they need should their job be affected by COVID-19, the government increased the maximum number of weeks available to workers through EI regular benefits. Workers claiming EI regular benefits can now access up to a maximum of 50 weeks for claims established between September 27, 2020 to September 25, 2021.²⁸

This extension to the benefit period from 45 to 50 weeks is by no means unprecedented. As far back as 1977, unemployed Canadians could receive EI for up to 50 weeks (in 1971 it was actually 51 weeks). Permanently extending the maximum benefit period provides added security to workers who need it most, and facilitates labour market re-entry that support high-quality job matches. Extending the duration of EI benefits would enhance income security of claimants who would otherwise exhaust benefits and turn to various provincial social assistance programs or precarious work.

iii. Extend the duration of EI sickness benefits to 50 weeks, explore ways to create greater flexibility in benefit delivery and incentivize employer-sponsored workplace sick leave programs.

As the Canadian Labour Congress' recommendation on EI sickness benefits states, a large portion of the labour force has no access to private disability insurance coverage or employer paid sick-leave. Sickness and injury can result in financial hardship and labour market dislocation. Prior to the COVID-19 pandemic, the 15-week EI sickness benefit maximum is far too low for many workers.

27. Government of Canada. 'Reducing the two-week waiting period to one week': <https://www.canada.ca/en/services/benefits/ei/waiting-period.html>

28. Government of Canada. 'Support to workers and families increases with the passage of EI legislation and the coming into effect of benefit recovery regulations': <https://www.canada.ca/en/employment-social-development/news/2021/03/c-24-royal-assent.html>

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In fact, over a third of EI sickness claims used the maximum number of 15 weeks, a group disproportionately represented by women and older workers.²⁹ Unifor is encouraged by the government's Budget 2021 proposal to extend EI sickness benefits from the current 15 weeks to 26 weeks but believes these benefits should be further expanded to 50 weeks.

Historically, Canadian legislation has only had a very narrow definition of disability and doesn't allow for Canadians with episodic disabilities to fit within it. Employment and Social Development Canada (ESDC) should undertake a thorough review of how episodic disabilities fit into the current EI sickness benefit framework and identify mechanisms to ease access.

Finally, Unifor welcomes the Federal Budget 2021 announcement in respect to a consultation on improving the Premium Reduction Program (PRP).

We concur with the recommendation from the 2019 multi-stakeholder roundtable that a Premium Reduction Program (PRP) program should be re-examined to provide greater incentive for employers to establish workplace sickness benefit plans and curb declining program uptake.³⁰

iv. Eliminate the 50-week limit on combined special benefits and unemployment benefits and extend the reference and benefit period to at least 104 weeks.

Current EI rules do not allow for the combination of special benefits (maternity, parental, sickness or caring for others) and unemployment benefits to a maximum of 50 weeks even though these leaves fall under protected grounds in human rights legislation.

This rule almost exclusively affects women who take the vast majority maternity, parental and family care benefits. Despite the job protection provided under the appropriate employment standard laws in various jurisdictions, women who lose their jobs before, during or shortly after taking maternity/parental leave are just as unemployed as anyone else.³¹ The 50-week maximum on combined benefits should be eliminated, and the reference and benefit period should be extended to at least 104 weeks. This important change would allow workers to qualify for EI benefits based on the same hours of work used to qualify for special benefits.

29. Tyler Meredith and Colin Chia. 'Leaving Some Behind: What Happens When Workers Get Sick': <https://irpp.org/research-studies/leaving-some-behind-what-happens-when-workers-get-sick/>

30. Earncliffe Strategy Group. 'Employment Insurance Sickness Benefit Policy, Report of the 2019 Multi-Stakeholder Policy Roundtable, 2020': <https://www.cancer.ca/~media/cancer.ca/News/Employment%20Insurance%20Sickness%20Benefit%20Policy.pdf?la=en>

31. Mouvement autonome et solidaire des sans-emploi (MASSE). 'Let's Eliminate Discrimination Against Women in Employment Insurance, nd.': <https://www.lemasse.org/2019/10/07/les-femmes-nont-pas-leur-juste-part-de-lassurance-emploi/>

This recommendation supplements Unifor's ongoing work to ensure pregnant workers are not penalized including protective reassignment in all jurisdictions and access to workers compensation benefits when the workplace poses a danger to the worker or the fetus.

v. Guarantee a minimum EI benefit floor of \$500.

Canada's income security system must ensure that no EI claimant is forced to manage on less than \$500 weekly while they are separated from their employment or seeking re-employment. Without that floor, many low-paid workers would receive an EI benefit that is too little to survive on and well below the \$500 benchmark set by CERB. This is in part attributable to the current 55% EI replacement rate, as well as workers' low earnings and precarious schedules in a difficult labour market. With the precedent-setting CERB and enhanced \$500 weekly EI minimum benefit we have seen how critically important they are for both claimant access and broader economic stabilization goals. A permanent minimum benefit would significantly help low-income workers, especially women, who are more likely to benefit from raising the EI floor.³²

vi. Increase the income replacement rate to 75% of previous earnings from current 55% and raise the ceiling on insurable earnings.

The current EI income replacement rate of 55% is at a historic low and does not allow for a liveable income, forcing some Canadians into part time survival work. Expanding the targeted EI replacement wage to 75% will serve as an added income stabilizer for workers in need of support, and assist with transitioning back to work. While Unifor welcomed the government's increase of insurable earnings effective January 1, 2021.³³ The current annual maximum of \$56,300 falls short and limits the revenue-generating capacity needed for an expanded program. The EI program maximum insurable earnings (MIE) continues to directly determine the maximum rate of weekly payments for all types of benefits under the EI program.

The current annual maximum insurable earnings means that almost half of all EI claimants hit the maximum benefit cap each year.³⁴ Unifor urges the government to raise the ceiling on insurable earnings further, and recommends considering either harmonizing with the current CPP pensionable earnings or the highest provincial or territorial standard.

32. CCPA's David MacDonald. '1.8 million Canadians better off with a higher EI and CRB floor': <https://monitormag.ca/articles/1-8-million-canadians-better-off-with-a-higher-ei-and-crb-floor>

33. Government of Canada. 'Employment Insurance - Important notice about maximum insurable earnings for 2021': <https://www.canada.ca/en/employment-social-development/programs/ei/ei-list/ei-employers/2021-maximum-insurable-earnings.html>

34. Government of Canada. 'Employment Insurance Monitoring and Assessment Report for the fiscal year beginning April 1, 2019 and ending March 31, 2020': <https://www.canada.ca/en/employment-social-development/programs/ei/ei-list/reports/monitoring2020/chapter2.html>

vii. Expand the Skills Boost to allow unemployed workers to enrol in educational programs full-time without losing EI benefits.

Unifor echoes the Canadian Labour Congress recommendation on the need to expand the Skills Boost. Consistent with easing the rules that disentitle claimants who leave a job to attend school or to look after a loved one, the government should expand the Skills Boost to allow all claimants (not just long-tenured workers) to enroll in an educational program full time. Workers laid off multiple times in the course of a year may be designated occasional or frequent claimants; they should have the opportunity to enroll full time without losing their benefits, especially in periods of high unemployment and rising long-term joblessness.

viii. Improve the Canada Training Benefit to strengthen lifelong learning.

In order to successfully transition into emerging sectors, workers will need access to enhanced training benefits, targeted supports and have the mobility to bring their skills and certification to wherever they are in demand. Unifor recommends improving the Canada Training Benefit by ensuring universal accessibility (remove age and income limits), provide payments in advance (instead of as a tax credit), increase the income replacement to 85%, extend the benefit to a maximum of 16 weeks, and make the benefit available immediately.

ix. Encourage adoption of workplace supplemental unemployment benefit (SUB) plans.

Service Canada registered supplemental unemployment benefit plans are an important, but underused, tool to provide additional income security and earnings replacement (up to a maximum of 95%) for workers faced with temporary work stoppages and those undergoing training. Payments made through these plans are not treated as normal earnings and, therefore, not subject to year-end clawbacks. The inability to apply SUB payments to emergency income relief programs, such as CERB, was a policy failure and could have provided significant reprieve to workers, on lay-off, during the pandemic. Nevertheless, the merits of SUB plans is evident and government must do more to encourage take-up.

Unifor recommends that ESDC encourage implementation of registered SUB plans by providing reprieve on EI premiums for parties to such plans, commensurate with the size of benefit top-ups provided to laid-off workers.

x. Expand the EI Work Sharing program.

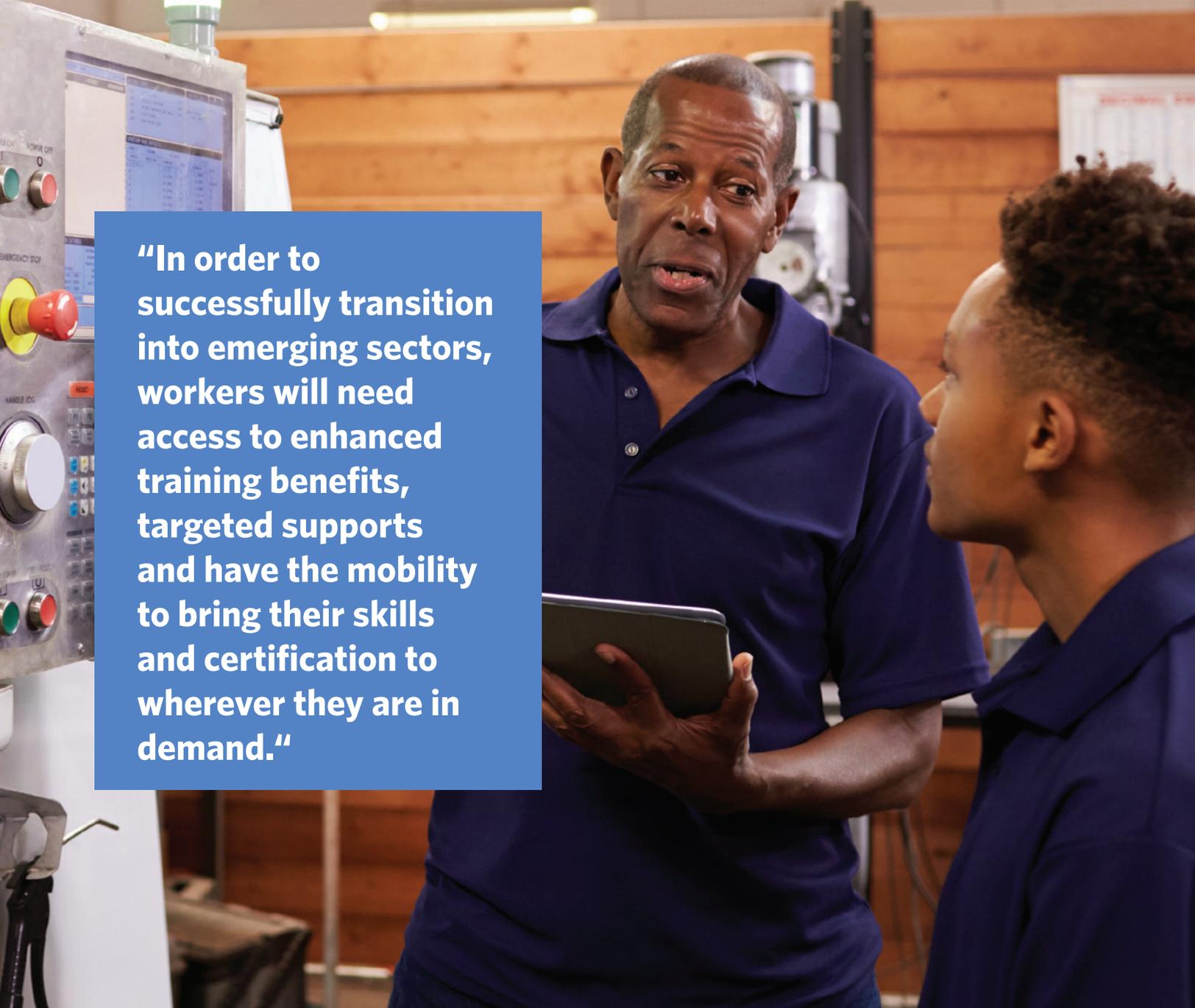
Unifor believes that the Work Sharing program funded by Employment Insurance is a vital, although under-utilized, program to assist employers and workers avoid temporary layoffs when there is an unusual slowdown in production or service.

RECOMMENDATIONS

An expanded Work Sharing program should increase avenues for participation, eliminate the cooling-off period, streamline applications and expand eligibility to more worker classifications and business types—further encouraging program utilization as a means to mitigate layoffs and financial hardship.

Unifor applauds the positive changes made to the Work Sharing program during the pandemic³⁵ and encourages the government to make those changes permanent along with permanently increasing the maximum agreement duration 76 to 104 weeks.

35. Grant Thornton. 'Work-Sharing Program': <https://www.grantthornton.ca/insights/coronavirus-covid-19/downloadable-resources/work-sharing-program/>

A photograph of two men in a workshop setting. The man on the left is older, with short grey hair, wearing a dark blue polo shirt and holding a tablet. The man on the right is younger, with dark curly hair, also wearing a dark blue polo shirt. They are both looking at the tablet. In the background, there is a control panel with various buttons and a screen, and wooden walls. A blue text box is overlaid on the left side of the image, containing a quote.

“In order to successfully transition into emerging sectors, workers will need access to enhanced training benefits, targeted supports and have the mobility to bring their skills and certification to wherever they are in demand.”

3. Administration of the Employment Insurance (EI) System

i. *Renew support for tripartite dialogue between unions, employers and government on matters of EI and labour market transitional supports.*

Unifor has a positive history of tripartite dialogue with government and employers, in a number of venues. In the course of EI reform, there is opportunity to renew support for collaboration between these three parties through the framework of income security and workforce development to help identify changing labour market conditions, skill gaps and respond to emerging workforce needs in coordination with Canada's economic and sector development initiatives. Effective employment policies require the involvement of a broad range of non-governmental actors, including employers, labour, professional and industry associations, chambers of commerce, and sector councils. This is important to advance Canada's social dialogue in line with OECD guidance.

Likewise, recent statements of the ILO, the United Nations, and the International Monetary Fund encourage countries to increase the use of social dialogue for public policy initiatives articulating that this work is key to achieving the balance between economic growth and social equity and to enhance ownership by all parties involved.³⁶

ii. *Prioritize funding for unemployed help centres and institute multi-year core funding.*

Unemployed worker help centres (or "action centres") provide vital support for workers when their needs are heightened due to job loss. Unifor currently assists with four such action centres in the province of Ontario dependent on funding from the Ministry of Labour, Training and Skills Development. These centres directly assist displaced members impacted by plant closures within their geographical areas.

It has become evident in recent years that more of these help centres and partnerships with unemployed workers' advocacy groups and networks is needed across Canada to maintain vital services for the newly unemployed, including through peer-based job search supports, worker-focused skills retraining and help with EI applications. These centres contribute much-needed guidance, outreach and direct assistance to unemployed workers in a supportive, peer-based environment that encourages participation.

The government should assign dedicated, annual funding to encourage the development of community-focused action centres, including through joint sponsorships with provinces.

36. Donna E. Wood. 'Mowat Research #151—The Seventy Five Year Decline. How Government Expropriated Employment Insurance from Canadian Workers and Employers and Why This Matters': https://munkschool.utoronto.ca/mowatcentre/wp-content/uploads/publications/151_the_seventy_five_year_decline.pdf

iii. Review the financing of the EI program and reinstate federal contributions.

Currently the EI system in Canada is financed, exclusively, by employer and employee contributions. This is unlike funding arrangements established prior to the 1990s or how the recent CERB was financed.³⁷ Unifor recommends a comprehensive financial review of the EI program with careful examination given to the management of the EI account and the reinstating of federal government contributions to EI.

iv. Restore regional EI liaison program officers.

In past, dedicated regional EI program officers were available to liaise with union representatives and others assisting individual claimants, including on complex claims. These dedicated, community-rooted points of contact helped large groups of workers affected by plant closures, group terminations and other matters. A critical element of this infrastructure was the ability for them to be regional and have local roots. Reinstating this once crucial element of EI program is in line with recommendations made years prior to the pandemic by the Standing Committee on Human Resources.³⁸ The government should restore the dedicated regional EI liaison officers to ensure ongoing, community-specific assistance to claimants in a timely manner as part of their recent Federal Budget 2021 commitment to modernize critical infrastructure for EI supports.

v. Return to a tripartite EI board of referees' model for first-level appeals with the appropriate reporting mechanisms in place.

Due to complaints from EI claimants on the appeals process taking far too long, a review was ordered on abilities and operations of the government instituted Social Security Tribunal (SST). In August 2019, the government announced the replacement of the SST General Division by a new board of appeal that will be made up of members of the community (including employer and labour representatives). This new tripartite decision-making tribunal is termed the EI Boards of Appeal.³⁹

This change, which took effect on April 1, 2021, is a step in the right direction but will take proper feedback mechanisms from both worker and employer representatives to be successful. The government should ensure that the Canada Employment Insurance Commission has oversight powers, consistent with the government's original commitment.⁴⁰

37. CCPA National Office. 'What role will employment insurance play in a Canada's COVID-19 Recovery': <https://monitormag.ca/articles/what-role-will-employment-insurance-play-in-a-canadas-covid-19-recovery>

38. House of Commons Huma Committee Report – June 2016. 'Exploring the impact of recent changes to Employment Insurance and ways to improve access to the program': <https://www.ourcommons.ca/DocumentViewer/en/42-1/HUMA/report-3/>

39. Government of Canada. 'Employment Insurance Monitoring and Assessment Report for the fiscal year beginning April 1, 2018 and ending March 31, 2019': <https://www.canada.ca/en/employment-social-development/programs/ei/ei-list/reports/monitoring2019/chapter4.html>

40. Government of Canada. 'Helping middle-class Canadians with the support they need': <https://www.canada.ca/en/employment-social-development/news/2019/08/helping-middle-class-canadians-with-the-support-they-need.html>

4. Other

- i. Immediately undertake a comprehensive, multi-stakeholder consultation on the expansion of EI coverage, and financing of EI benefits, to include those that are self-employed, freelancers, independent contractors, and “gig” workers.*

The pandemic has highlighted the need for a strategic modernization of the EI system, and the need for this system to expand to better reflect the lived realities of self-employed, freelancer, independent contractor, and “gig” workers—those who, historically, have been denied access. Experts believe that the Canada Emergency Response Benefit (CERB) that supported 9 million Canadians during the pandemic was so successful because it was intentionally designed to be inclusive of all types of workers.⁴¹

It’s evident that a consultation must occur immediately in conjunction with a cross-departmental effort to investigate (and remedy) non-compliance with recent legislative efforts to stop the misclassification of workers in the federal sector.

41. Jolson Lim. 'The CERB is over, but experts say it could shape future policy'. <https://ipolitics.ca/2020/09/29/the-cerb-is-over-but-experts-say-it-could-shape-future-policy/>



“The pandemic has highlighted the need for a strategic modernization of the EI system, and the need for this system to expand to better reflect the lived realities of self-employed, freelancer, independent contractor, and “gig” workers.”

1. Employment Insurance (EI) Eligibility Criteria

- Improve EI accessibility by replacing the Variable Entrance Requirement (VER) with a Standardized Entrance Requirement of 360 hours across Canada and base the qualifying hours and duration for existing claims on the most favourable time period.
- Eliminate all disqualifications for quitting a job to return to school or to attend to family responsibilities and remove the “quit-fire” disqualification.
- Eliminate the allocation of separation payments, including the assignment of severance and termination monies to the front end of an EI claim, and remove social assistance claw backs.
- Ensure Working While on Claim rules do not claw back benefits from the first dollar of earnings, and ensure access to benefits for workers who work multiple part time jobs.
- Work with relevant federal ministries and departments to ensure all migrant workers in Canada have full access to regular and special EI benefits, open work permits and access to permanent immigration status.
- Expand EI benefits to cover longer periods of domestic or sexual violence leave.
- Expand access to EI during labour disputes, including during a lockout.
- Increase the EI tax recovery and claw back threshold.

2. Employment Insurance (EI) Benefits

- Permanently eliminate the one week waiting period during which no benefits are payable.
- Increase duration of benefits to 50 weeks in all regions across the country.
- Extend the duration of EI sickness benefits to 50 weeks, explore ways to create greater flexibility in benefit delivery and incentivize employer-sponsored workplace sick leave programs.
- Eliminate the 50-week limit on combined special benefits and unemployment benefits and extend the reference and benefit period to at least 104 weeks.
- Guarantee a minimum EI benefit floor of \$500.
- Increase the income replacement rate to 75% of previous earnings from current 55% and raise the ceiling on insurable earnings.
- Expand the Skills Boost to allow unemployed workers to enrol in educational programs full-time without losing EI benefits.

SUMMARY OF RECOMMENDATIONS

- Improve the Canada Training Benefit to strengthen lifelong learning.
- Encourage adoption of workplace supplemental unemployment benefit (SUB) plans.
- Expand the EI Work Sharing program.

3. Administration of the Employment Insurance (EI) System

- Renew support for tripartite dialogue between unions, employers and government on matters of EI and labour market transitional supports.
- Prioritize funding for unemployed help centres and institute multi-year core funding.
- Review the financing of the EI program and reinstate federal contributions.
- Return to a tripartite EI board of referees' model for first-level appeals with the appropriate reporting mechanisms in place.
- Restore regional EI liaison program officers.

4. Other

- Immediately undertake a comprehensive, multi-stakeholder consultation on the expansion of EI coverage, and financing of EI benefits, to include those that are self-employed, freelancers, independent contractors, and "gig" workers.