MODERNIZING UNEMPLOYMENT INSURANCE TO REDUCE BARRIERS FOR JOBLESS WORKERS

HEARING

BEFORE THE

SUBCOMMITTEE ON
INCOME SECURITY AND FAMILY SUPPORT

OF THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

SEPTEMBER 19, 2007

Serial No. 110–59

Printed for the use of the Committee on Ways and Means

U.S. GOVERNMENT PRINTING OFFICE
45–995 WASHINGTON : 2009

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON WAYS AND MEANS

CHARLES B. RANGEL, New York, *Chairman*

FORTNEY PETE STARK, California
SANDER M. LEVIN, Michigan
JIM MCDERMOTT, Washington
JOHN LEWIS, Georgia
RICHARD E. NEAL, Massachusetts
MICHAEL R. MCNULTY, New York
JOHN S. TANNER, Tennessee
XAVIER BECERRA, California
LLOYD DOGGETT, Texas
EARL POMEROY, North Dakota
STEPHANIE TUBBS JONES, Ohio
MIKE THOMPSON, California
JOHN B. LARSON, Connecticut
RAHM EMANUEL, Illinois
EARL BLUMENAUER, Oregon
RON KIND, Wisconsin
BILL PASCRELL, JR., New Jersey
SHELLEY BERKLEY, Nevada
JOSEPH CROWLEY, New York
CHRIS VAN HOLLEN, Maryland
KENDRICK MEEK, Florida
ALLYSON Y. SCHWARTZ, Pennsylvania
ARTUR DAVIS, Alabama

JIM MCCRERY, Louisiana
WALLY HERGER, California
DAVE CAMP, Michigan
JIM RAMSTAD, Minnesota
SAM JOHNSON, Texas
PHIL ENGLISH, Pennsylvania
JERRY WELLER, Illinois
KENNY HULSHOF, Missouri
RON LEWIS, Kentucky
KEVIN BRADY, Texas
THOMAS M. REYNOLDS, New York
PAUL RYAN, Wisconsin
ERIC CANTOR, Virginia
JOHN LINDER, Georgia
DEVIN NUNES, California
PAT TIBERI, Ohio
JON PORTER, Nevada

JANICE MAYS, *Chief Counsel and Staff Director*
BRETT LOPER, *Minority Staff Director*

SUBCOMMITTEE ON INCOME SECURITY AND FAMILY SUPPORT

JIM MCDERMOTT, Washington, *Chairman*

FORTNEY PETE STARK, California
ARTUR DAVIS, Alabama
JOHN LEWIS, Georgia
MICHAEL R. MCNULTY, New York
SHELLEY BERKLEY, Nevada
CHRIS VAN HOLLEN, Maryland
KENDRICK MEEK, Florida

JERRY WELLER, Illinois
WALLY HERGER, California
DAVE CAMP, Michigan
JON PORTER, Nevada
PHIL ENGLISH, Pennsylvania

Pursuant to clause 2(e)(4) of Rule XI of the Rules of the House, public hearing records of the Committee on Ways and Means are also published in electronic form. **The printed hearing record remains the official version.** Electronic submissions are used to prepare both printed and electronic versions of the hearing record, the process of converting between various electronic formats may introduce unintentional errors or omissions. Such occurrences are inherent in the current publication process and should diminish as the process is further refined.

CONTENTS

HEARING ON MODERNIZING UNEMPLOYMENT INSURANCE TO REDUCE BARRIERS FOR JOBLESS WORKERS

WEDNESDAY, SEPTEMBER 19, 2007

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON INCOME SECURITY AND FAMILY SUPPORT,
Washington, DC.

The Subcommittee met, pursuant to call, at 1:00 p.m., in room B–318, Rayburn House Office Building, Hon. Jim McDermott (Chairman of the Subcommittee) presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON INCOME SECURITY AND FAMILY SUPPORT

FOR IMMEDIATE RELEASE
September 12, 2007

CONTACT: (202) 225–1025

McDermott Announces Hearing on Modernizing Unemployment Insurance to Reduce Barriers for Jobless Workers

Congressman Jim McDermott (D–WA), Chairman of the Subcommittee on Income Security and Family Support of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on reducing gaps and disparities in access to unemployment insurance, especially for low-wage and part-time workers. **The hearing will take place on Wednesday, September 19, at 1:00 p.m. in room B–318 Rayburn House Office Building.**

In view of the limited time available to hear witnesses, oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

BACKGROUND:

The Unemployment Insurance (UI) system, established in 1935, provides temporary and partial wage replacement for unemployed workers. Since the establishment of the program, there has been a significant rise in the number of women in the workforce, an increase in low-wage and part-time employment, and a decline in manufacturing employment.

Past reports from the Advisory Council on Unemployment Compensation and from the government Accountability Office (GAO) have highlighted certain features in many States' UI programs that prevent them from more adequately responding to these long-term employment trends. For example, an estimated 31 States do not consider any wages earned by a dislocated worker from either their last completed calendar quarter of employment or from the quarter in which they file for benefits—excluding up to 6 months of earnings. Not counting a worker's most recent earnings makes it more difficult for some low-wage workers to achieve minimum earnings levels for UI eligibility. Other barriers to coverage include restrictions on UI receipt for former part-time workers seeking reemployment in a part-time job and for those leaving employment for compelling family reasons.

Subcommittee Chairman McDermott has introduced legislation, the Unemployment Insurance Modernization Act (H.R. 2233), to provide up to $7 billion from the Federal unemployment insurance trust funds to encourage, assist and reward States for removing such barriers for jobless workers.

In announcing the hearing, Chairman McDermott stated, "**Too many workers, especially those in low-wage and part-time employment, are excluded from the Unemployment Insurance system. Women in particular are hampered by policies that were crafted five, six and seven decades ago. We should actively encourage States to make further progress in covering all unemployed workers who have worked hard and who have had taxes paid into the system on their behalf**."

FOCUS OF THE HEARING:

The hearing will focus on policies designed to modernize the Unemployment Insurance system and reduce barriers to coverage for low-wage and part-time workers.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, *http//waysandmeans.house.gov.*, select "110th Congress" from the menu entitled, "Hearing Archives" *http//waysandmeans.house.gov/Hearings.asp?congress=18*. Select the hearing for which you would like to submit, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the online instructions, completing all informational forms and clicking "submit" on the final page, an email will be sent to the address which you supply confirming your interest in providing a submission for the record. You MUST REPLY to the email and ATTACH your submission as a Word or WordPerfect document, in compliance with the formatting requirements listed below, by close of business **October 3, 2007**. Finally, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225–1721.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word or WordPerfect format and MUST NOT exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. All submissions must include a list of all clients, persons, and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone and fax numbers of each witness.

Note: All Committee advisories and news releases are available on the World Wide Web at *http:waysandmeans.house.gov*.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202–225–1721 or 202–226–3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Chairman MCDERMOTT. The Committee will come to order.

We are here today to discuss the importance of a strong and equitable insurance system. Now that economists are openly expressing concerns about the impact of the declining housing market on employment, this discussion may be sort of relevant. More rel-

evant, actually, but the truth is that unemployment insurance is always important. It prevents temporary periods of joblessness from forcing families into poverty. It helps workers stay connected to the workforce, and it mitigates the impact that unemployment has on the economy, both legally and nationally.

The UI system was created over 7 years ago after the worst economic crisis in U.S. history. It was established, really, to ensure that Americans would have some help in weathering economic setbacks. It was created because great Americans like Franklin Delano Roosevelt vowed Americans would stand together and protect one another and live in a nation that really understood the power of "we" versus "me."

Today as we look at America and how it has changed over the years and how we can adjust the UI program to continue its role in protecting Americans against economic hardship, as we examine the unemployment insurance system, it is disturbing to see a long-term trend of fewer jobless workers receiving UI benefits. Barely over one-third of all unemployed workers receive unemployment compensation. The rate of receiving that benefit is even lower, much lower for low-wage workers.

I put this chart up there for everyone so you can look at what happens to the low-wage workers. They are almost 2½ times more likely to be unemployed, and they are about one-third as likely to get the unemployment benefits.

So, we are really talking about what happens to low-wage workers here. The very workers who are least able to cope financially with a spell of joblessness are also the least likely to get unemployment benefits.

As GAO will testify today, and as highlighted by the chart in front of you, low-wage workers are almost 2½ times more likely to be unemployed, and one-third are likely to receive unemployment benefits.

Now, part-time workers also have greater difficulty in accessing UI benefits, as do individuals who leave work for compelling family reasons such as avoiding domestic violence, taking care of a sick child, or following a spouse to a different part of the country. These barriers to unemployment insurance fall particularly hard on women who are more likely to work in part-time and/or low-wage jobs.

Now the legislation we have introduced, the Unemployment Insurance Modernization Act, is to encourage and reward States for implementing a few basic reforms to help low-wage, part-time and other workers gain access to the UI system.

For example, the bill calls on States to count a worker's most recent earnings, and to count them when calculating eligibility for unemployment benefits by implementing a so-called "alternative" base period. Not counting a worker's most recent wages makes it more difficult for some low-wage workers to achieve the minimum earning levels for UI eligibility.

Under this bill, up to $7 billion would be disbursed from the Federal unemployment trusts to the States implementing provisions related to the alternative base period as well as to making UI more accessible to part-time workers, making the system more family friendly and supporting long-term training.

Those States that have already put in place an alternative base work period would be eligible for an immediate distribution. For example, Illinois recently enacted an alternative base period and would therefore automatically receive $100 million under this bill. The State would potentially receive another $200 million depending on the implementation of additional reforms.

Now, in addition to the $7 billion conditional transfer to the States, the legislation also set out an automatic $500 million to help States with the administrative cost of UI, which the Federal Government has really failed to adequately address in recent years. Admittedly, this legislation will not single-handedly eliminate disparities in UI coverage for low-wage and part-time workers, but it will take a meaningful step in the right direction without a single Federal mandate and without raising the Federal debt by one penny.

The bill accomplishes this task simply by extending the current law unemployment tax that has been on the books for over 30 years. It costs employers $14 per year, per employee. The FUTA tax was last extended by the Republican Congress in 1997, and President Bush has proposed that it be extended this year in his current budget.

My bill differs in only one way from the past extension and President Bush's budget proposal. Under my legislation, States were eligible to receive every dime of revenue raised from the extension of the FUTA test.

Well, I have one more page here I would like to tell you about.

There are certainly some policies that we can examine to help dislocated workers, but we really have to start by having a more effective unemployment insurance system. We have had this for generations and it is time for some very common sense reforms.

I remember making them when I was in the State legislature when we were squeezing down on the system. It used to be you could work in the summer, get some unemployment benefits, and live all through the college year on your unemployment benefits. Those kinds of things are no longer happening, but there are some common sense things that ought to happen now.

Chairman MCDERMOTT. I yield to my Subcommittee Ranking Member, Mr. Weller.

Mr. WELLER. Thank you, Mr. Chairman, and I thank you for convening today's hearing. Before I make my opening statement, I want to extend a congratulations to you. You and I have spoken a little bit, but this is the first formal meeting of our Subcommittee since you were given a great honor in Africa, and I do want to congratulate you on your knighthood granted to you by the King of Losoto. As one who has known a long time of your personal interest in developing countries, particularly Africa, it is nice to see it recognized.

You and I may disagree on policy. I enjoy working with you as my Chairman and having the opportunity to work together. I know your family is very proud of you, as are your friends.

Today is one area in which we do disagree.

I noted when the Subcommittee put out a press release announcing this hearing, it suggested that it was about, quote, "modernizing unemployment benefits," and apparently it appears my Demo-

cratic colleagues think modernizing means increasing taxes, in this case by $7 billion over the next 5 years.

I would note almost every other major Democratic initiative this year, from energy to food to children's health policy, includes tax increases. So, the majority party's position has been a consistent one so far this year.

Another apparent feature of modernization means more of the same of our Washington-knows-best attitude. On the legislation we will discuss today, only States that choose to provide benefits to certain, quote, "federally approved categories of unemployed workers" would get a share of the $7 billion in tax increases back. That is despite the fact that those taxes are collected in each and every State and amount to lost wages for American workers. This naturally creates State winners and losers, with the Federal Government deciding who wins and who loses.

As several of our witnesses today will note, many States have already decided to broaden eligibility for unemployment benefits in the ways promoted by the Chairman's bill. This suggests that as the economy has changed, States have adapted. Many, like my home State of Illinois, adopted newer technology that allows them to count more recent wages in determining worker eligibility for benefits. Others provide benefits to part-time workers or certain individuals who have quit their jobs, but when States have done so, they knew they needed to increase payroll taxes in the long run to cover increased benefits costs.

The Chairman's bill masks those true costs behind the shield of incentive payments today, quote, "incentive payments," which is really a promise to raise State payroll taxes tomorrow to cover higher long-run costs.

It is not too late for us to take a different and decidedly more pro-worker and more pro-work direction. As we will hear today, we can and should do a much better job helping laid-off workers get back on the job.

Mr. Chairman, you were on to something when you proposed the creation of a new wage insurance program to assist laid-off workers who return to work at lower wages. It is my understanding that this idea is not unanimously endorsed on your side of the aisle, but it seems to me at the very least we should encourage States to test whether this enhanced safety net can help workers.

That is the principal legislation I have introduced in H.R. 1513, the Unemployment Compensation Improvement Act. Recent research confirms that, especially for older workers, helping them get back to work quickly can be key to recovering their former level of earnings.

In contrast of tax increases that are proposed today, my legislation is cost-neutral and does not raise taxes, and I believe it is worth testing out.

In my view, the real test of a modern unemployment benefit system is not how many people we can sign up for unemployment benefits. Instead, the real test is how many people we help get back on the job quickly and at good wages, especially since unemployment benefits average only about half of what workers earn in wages. That should leave workers, firms, and the economy all far better off by getting them back to work at good wages.

I look forward to the hearing today, and I look forward to hearing the witnesses' testimony.

Chairman MCDERMOTT. Thank you.

[The information follows:]

110TH CONGRESS
1ST SESSION

H. R. 1513

To provide for demonstration projects to help improve the Nation's unemployment compensation system.

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2007

Mr. WELLER of Illinois introduced the following bill; which was referred to the Committee on Ways and Means

---

A BILL

To provide for demonstration projects to help improve the Nation's unemployment compensation system.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unemployment Compensation Improvement Act of 2007".

SEC. 2. EXPEDITED REEMPLOYMENT DEMONSTRATION PROJECTS.

Title III of the Social Security Act (42 U.S.C. 501 and following) is amended by adding at the end the following:

"DEMONSTRATION PROJECTS

"SEC. 305. (a) The Secretary of Labor may enter into agreements, with States submitting an application described in subsection (b), for the purpose of allowing such States to conduct demonstration projects to test and evaluate measures designed—

"(1) to expedite, such as through the use of a wage insurance program, the reemployment of individuals who establish initial eligibility for unemployment compensation under the State law of such State; or

"(2) to improve the effectiveness of such State in carrying out its State law.

"(b) The Governor of any State desiring to conduct a demonstration project under this section shall submit an application to the Secretary of Labor at such time, in such manner, and including such information as the Secretary of Labor may require. Any such application shall, at a minimum, include—

"(1) a general description of the proposed demonstration project, including the authority (under the laws of the State) for the measures to be tested, as well as the period of time during which such demonstration project would be conducted;

"(2) if a waiver under subsection (e) is requested, the specific aspects of the project to which

the waiver would apply and the reasons why such waiver is needed;

"(3) a description of the goals and the expected programmatic outcomes of the demonstration project, including how the project would contribute to the objective described in subsection (a)(1), subsection (a)(2), or both;

"(4) assurances (accompanied by supporting analysis) that the demonstration project would not result in any increased net costs to the State's account in the Unemployment Trust Fund;

"(5) a description of the manner in which the State—

"(A) will conduct an impact evaluation, using a control or comparison group or other valid methodology, of the demonstration project; and

"(B) will determine the extent to which the goals and outcomes described in paragraph (3) were achieved; and

"(6) assurances that the State will provide any reports relating to the demonstration project, after its approval, as the Secretary of Labor may require.

"(c) The Secretary of Labor may waive any of the requirements of section 3304(a)(4) of the Internal Rev-

enue Code of 1986 or of paragraph (1) or (5) of section 303(a), to the extent and for the period the Secretary of Labor considers necessary to enable the State to carry out a demonstration project under this section.

"(d) A demonstration project under this section—

"(1) may be commenced any time after September 30, 2007; and

"(2) may not, under subsection (b), be approved for a period of time greater than 2 years, subject to extension upon request of the Governor of the State involved for such additional period as the Secretary of Labor may agree to, except that in no event may a demonstration project under this section be conducted after the end of the 5-year period beginning on the date of the enactment of this section.

"(e) The Secretary of Labor shall, in the case of any State for which an application is submitted under subsection (b)—

"(1) notify the State as to whether such application has been approved or denied within 90 days after receipt of a complete application, and

"(2) provide public notice of the decision within 10 days after providing notification to the State in accordance with paragraph (1).

Public notice under paragraph (2) may be provided through the Internet or other appropriate means. Any application under this section that has not been approved within such 90 days shall be treated as denied.

"(f) The Secretary of Labor may terminate a demonstration project under this section if the Secretary determines that the State has not complied with the terms and conditions of the project.".

○

Chairman MCDERMOTT. I want the other Members to know if they have statements they want introduced in the record, they simply need to submit them.

We are going to have votes in about, we think, 35 or 40 minutes. I am going to stay pretty tight to the 5-minute rule here. In the past, I had been somewhat loose and let people go on at some length, but we are not going to do that today. It is because we want to get you all in before the time runs out, and then we can maybe expand on what you have to say.

Your full testimony will be put into the record. Ms. Fagnoni.

STATEMENT OF CYNTHIA FAGNONI, MANAGING DIRECTOR, EDUCATION, WORKFORCE AND INCOME SECURITY, GOVERNMENT ACCOUNTABILITY OFFICE

Ms. FAGNONI. Thank you, Mr. Chairman. I am happy to be here this afternoon, Mr. Chairman and Members of the Subcommittee, to talk about the extent to which low-wage and part-time workers receive unemployment insurance benefits.

The UI program is a Federal-State partnership designed to partially replace lost earnings of individuals who become unemployed through no fault of their own and to stabilize the economy during economic downturns. Unemployment insurance has been a key component in ensuring the financial security of America's workforce for over 70 years.

Since the UI program was established in 1935, the nature of both work and unemployment has changed in fundamental ways. There have been increases in the share of low-wage jobs, the incidents of temporary and contingent work, the number of women in the workforce and two-earner families and the average duration of unemployment.

Given these changes, questions arise about the types of workers who are most likely to receive benefits. My remarks today will focus on, first, the overall trend in UI receipt; second, the likelihood that low-wage workers will be unemployed and receive UI benefits, especially when compared to higher wage workers; and third, the likelihood that unemployed part-time workers will receive UI benefits. My testimony today is based primarily on our September 2007 report as well as work we did in 2000.

Regarding the first issue, the UI recipiency rate declined gradually from 1950 through the mid-1980s. While about 50 percent of the unemployed filed for UI in the fifties, about 29 percent did so in 1984. Since the mid-1980s, the UI recipiency rate has shown a modest increase and was about 35 percent in about 2005.

Several factors are considered significant in the decline of UI receipt, including the decrease in the number of workers employed in manufacturing jobs, the decline of union membership in the workforce, and population shifts of workers from northeastern to southern States where unemployed workers are less likely to apply for UI benefits.

Turning now to our second area, low-wage workers, we found that they were less likely to receive UI benefits than higher wage workers. Between 1992 and 1995, low-wage workers were about half as likely to receive UI benefits than higher wage workers. For the years 1998 to 2003, they were about one-third more likely.

Moreover, the gap between the two groups has not narrowed over time. That is, UI receipt has gone down by about the same for both groups of workers over the years.

Low levels of UI receipt among low-wage workers can be explained by a variety of factors, including States' eligibility criteria and how they vary. In determining eligibility, many States only consider wages earned in four of the last five completed quarters. As a result, the worker's most recent work history is not used in making eligibility determinations. For low-wage workers with sporadic work histories, excluding recent earnings may make it more difficult for them to reach the minimum earning level necessary for eligibility. Also, to be eligible for UI, workers must have had good cause for leaving work. Certain temporary family crises, such as having a sick child, may cost some low-wage workers to quit their jobs. However, many States do not recognize serious illness or disability of a family member as a good cause for leaving employment.

In those cases where low-wage workers do have an earnings history that allows them to qualify for UI benefits, other factors could still result in a lower likelihood of their receiving UI benefits.

In general, UI receipt is associated with higher earnings before unemployment, longer job tenure and more education. Earnings and job tenure are associated with longer job searches and possibly the decision to rely on UI benefits during that search.

Greater levels of education may be associated with greater awareness of the UI program and success in navigating the system.

Prior UI receipt also may play a role. Receiving UI benefits in one period of unemployment increases the likelihood of using UI again, we found in prior studies.

With respect to the third issue, part-time workers, we found they were significantly less likely to collect UI than those who were full-time regardless of whether they were low-wage or higher-wage.

State eligibility criteria are a factor here as well. About two-thirds of States do not consider workers to be eligible for UI if they are only available for part-time work and, like low-wage workers, some part-time workers may have difficulty meeting the requirement that they have a certain level of earnings within a given time period in order to be eligible.

Mr. Chairman, this concludes my remarks, looks like right on time. I would be happy to answer any questions you or Members of the Subcommittee may have.

Thank you.

[The prepared statement of Ms. Fagnoni follows:]

United States Government Accountability Office

GAO

Testimony

Before the Subcommittee on Income Security and Family Support, Committee on Ways and Means, House of Representatives

For Release on Delivery
Expected at 1:00 p.m. EDT
Wednesday, September 10, 2007

UNEMPLOYMENT INSURANCE

Receipt of Benefits Has Declined, with Continued Disparities for Low-Wage and Part-Time Workers

Statement of Cynthia M. Fagnoni, Managing Director
Education, Workforce, and Income Security Issues

GAO Highlights

Highlights of GAO-07-1243T, a testimony before the Subcommittee on Income Security and Family Support, Committee on Ways and Means, House of Representatives

September 18, 2007

UNEMPLOYMENT INSURANCE

Receipt of Benefits Has Declined, with Continued Disparities for Low-Wage and Part-Time Workers

Why GAO Did This Study

The Unemployment Insurance (UI) program has been a key component in ensuring the financial security of America's workforce. In the 72 years since the UI program began, the nature of work has changed in fundamental ways. In recent decades the number of low-wage jobs, the average duration of unemployment, and the number of women in the workforce have all increased. This testimony addresses: (1) the overall trend in the usage of UI; (2) the likelihood that low-wage workers will be unemployed and receive UI benefits, especially when compared to higher-wage workers; and (3) the likelihood that part-time workers receive UI benefits.

This testimony is based primarily on GAO's September 2007 report (GAO-07-1147) on the same topic as well additional analyses. In that report, GAO made no recommendations and the Department of Labor generally agreed with the findings. For that report, GAO analyzed data on UI regular program recipiency rates provided by Labor, and GAO examined data from the Survey of Income and Program Participation (SIPP), a national database maintained by the Bureau of the Census. For GAO's purposes, SIPP data were available for the periods 1992 through 1995, 1996 and 2003.

To view the full product, including the scope and methodology, click on GAO-07-1243T. For more information, contact Cindy Fagnoni at (202) 512-7215 or fagnonic@gao.gov.

What GAO Found

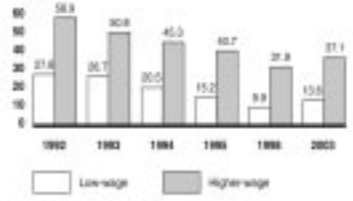
The overall rate of UI receipt has increased modestly from the mid-1980s to 2005, but still remains below the near-50 percent rate of the 1950s.

A comparison of UI receipt by earning levels shows that low-wage workers were less likely to receive UI benefits than higher-wage workers. Moreover, the gap between the two groups has not narrowed over time. Between 1992 and 1995—the period covered in GAO's previous analysis—low-wage workers were about half as likely to receive UI benefits as higher-wage workers. For the years 1998 and 2003—the years added for this analysis—they were about one-third as likely.

Low levels of UI receipt among low-wage workers may be explained by the circumstances of low-wage workers in relation to UI eligibility rules, particularly rules in many states that do not count workers' most recent earnings toward their minimum earnings required for eligibility. Low levels of receipt may also be explained by low-wage workers' reasons for separating from work, because eligibility rules in many states do not recognize illness or disability of a family member as good cause for leaving employment.

Another group facing low rates of UI receipt is part-time workers. Unemployed part-time workers were significantly less likely to collect UI than those who were full-time. This was true regardless of whether the part-time workers were low-wage or higher-wage. About two-thirds of states do not consider workers eligible for UI if they are only available for part-time work. In addition, like low-wage workers, some part-time workers may have difficulty meeting the minimum earnings requirement in states that do not count workers' most recent earnings.

UI Rate of Receipt among the Unemployed



Source: GAO analysis of SIPP data.

Notes: Data for 1996, 1997, and 1999 to 2002 were not available.
Differences between low- and higher-wage workers in every year were significant at the 95 percent confidence level.
We calculated the UI rate of receipt by dividing the number of unemployed workers who reported UI as a source of income by the number of workers who were unemployed.

Mr. Chairman and Members of the Committee:

I am pleased to be here to discuss the extent to which low-wage and part-time workers receive Unemployment Insurance (UI) benefits. The UI program—a federal-state partnership designed to partially replace lost earnings of individuals who become unemployed through no fault of their own, and to stabilize the economy during economic downturns—has been a key component in ensuring the financial security of America's workforce for more than 70 years. In fiscal year 2006, the UI program covered about 130 million workers and paid about $30 billion in benefits to about 7 million workers who lost their jobs.

When the UI program was established in 1935, most of the labor force consisted of men who were employed full-time in the manufacturing or trade sectors. Since then, the nature of both work and unemployment has changed in fundamental ways. In recent decades the share of low-wage jobs, the incidence of temporary and contingent work, the number of women in the workforce and the number of two-earner families, and the average duration of unemployment have all increased. Given these changes in the labor force, questions have been raised about the types of workers who are most likely to receive benefits.

My remarks today will focus on (1) the overall trend in the usage of UI; (2) the likelihood that low-wage workers will be unemployed and receive UI benefits, especially when compared to higher-wage workers; and (3) the likelihood that unemployed part-time workers will receive UI benefits. My testimony today is based on our September 2007 report on UI and low-wage workers.[1] For that report, we analyzed data on UI regular program recipiency rates provided by Labor, and we examined data from the Survey of Income and Program Participation (SIPP), a national database maintained by the Bureau of the Census.[2] For this testimony we conducted

---

[1] GAO, *Unemployment Insurance: Low-Wage and Part-Time Workers Continue to Experience Low Rates of Receipt*, GAO-07-1147 (Washington, D.C.: Sept. 7, 2007).

[2] We defined low-wage as an hourly wage which is less than that required for a full-time worker (40 hours per week/52 weeks per year) to earn the Census poverty threshold for a family of four (less than $8.97 per hour in 2003.)

one additional test of the difference between low- and higher-wage workers with regard to receipt of UI.[4]

In summary, we found that the overall rate of UI receipt amongst workers has shown modest increase from the mid-1980s to 2005, but still remains below the near-50 percent rate of the 1950s. A comparison of UI receipt by earnings levels shows that low-wage workers were less likely to receive UI benefits than higher-wage workers. Moreover, the gap between the two groups has not narrowed over time. Between 1992 and 1995—the period covered in our previous analysis—low-wage workers were about half as likely to receive UI benefits as higher-wage workers. For the years 1998 and 2003—the years added for this analysis—they were about one-third as likely. Low levels of UI receipt among low-wage workers may be explained by the circumstances of low-wage workers in relation to UI eligibility rules, particularly the time frame during which workers earnings are counted toward UI eligibility, which excludes workers' most recent earnings in many states. The low levels of receipt may also be explained by low-wage workers' reasons for separating from work in relation to eligibility rules, which in many states do not recognize illness or disability of a family member as "good cause" for leaving employment. Another group facing low rates of UI receipt is part-time workers. Unemployed part-time workers were significantly less likely to collect UI than those who were full-time. This is true regardless of whether they were low-wage or higher-wage. About two-thirds of states do not consider workers eligible for UI if they are only available for part-time work. In addition, like low-wage workers, some part-time workers may have difficulty meeting the minimum earnings requirement in states that do not count workers' most recent earnings.

Background

Established by Title III of the Social Security Act in 1935, UI is a key component in ensuring the financial security of America's workforce. The UI program's primary objective is to temporarily replace a portion of earnings for workers who become unemployed through no fault of their own. Another key function is to stabilize the economy during economic downturns.

[4] We tested whether the relative likelihood of receiving UI for low-wage workers compared to higher-wage workers – that is, the ratio of UI rates of receipt – changed over time.

To receive UI benefits, an unemployed worker generally must meet the state minimum earnings requirements (a minimum amount of earnings and/or employment) over a defined base period. In addition, workers must have become unemployed for good cause as determined under state law and be able and available to work. Federal law provides minimum guidelines for state programs and authorizes grants to states for program administration. States design their own programs, within the guidelines of federal law, and determine key elements of these programs, including who is eligible to receive state UI benefits, how much they receive, and the amount of taxes that employers must pay to help provide these benefits.[4] State unemployment tax revenues are held in trust by the Secretary of the Treasury and are used by the states to pay for regular weekly UI benefits. Benefits typically can be received for up to 26 weeks, although in most states some workers qualify for less than the full 26 weeks due to uneven earnings or brief work histories.

During the years we examined between 1992 and 2003,[5] low-wage workers made up about 50 percent of the unemployed former workers in our sample of the experienced labor force, even though they were only about 30 percent of the total experienced labor force.[6] Previous GAO work has shown that the likelihood of receiving UI benefits among UI-eligible workers is lower for those with lower annual earnings, controlling for a range of economic and demographic factors.[7]

---

[4] UI benefits are funded through payroll taxes levied on employers. All state UI systems are experience-rated so that employers' contributions vary according to how much or how little their workers received unemployment benefits.

[5] Analysis based on SIPP data from 1992 to 1995, 1998, and 2003. Data for 1996, 1997, and 1999 to 2002 were not available. New SIPP panels were initiated each year from 1990 to 1993, in 1996, and in 2001. These panels provided us with 27-month employment histories for sample members in 1992 through 1995, 1998, and 2003. Sufficient data for 1996, 1997, and 1999 to 2002 were not available because no new SIPP panels were initiated in the years 1994, 1995, 1997, 1998, or 1999. A 3-year panel was started in 2000 but cancelled after 8 months for budgetary reasons, and thus could not be used for our analysis.

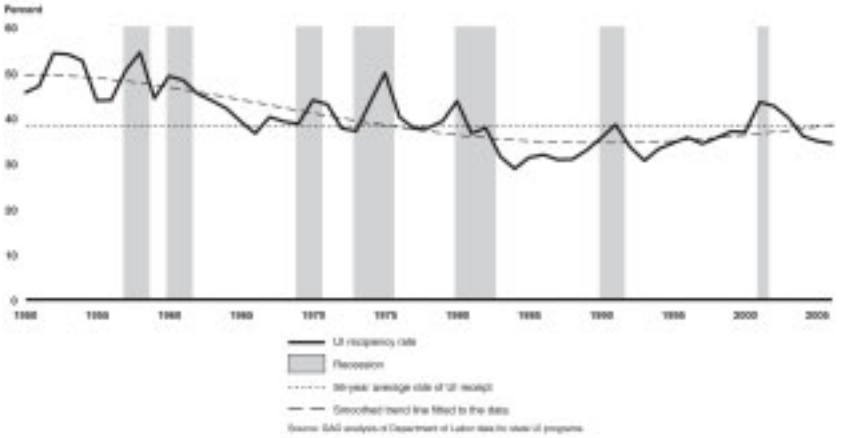
[6] Our calculations of unemployed former workers excluded people who did not have a job in the 27-month period before the month that they were unemployed. Thus, all new entrants and some reentrants into the labor force were excluded.

[7] GAO, *Unemployment Insurance: Factors Associated with Benefit Receipt*, GAO-06-342 (Washington, D.C.: Mar. 7, 2006).

Since the Mid-1980s, the Recipiency Rate Has Shown Modest Increase, But Still Remains Below the Near-50 Percent Rate of the 1950s

From 1950 through the mid-1980s, the UI regular program recipiency rate gradually declined, dropping to its lowest point in the early 1980s. Since the mid-1980s, the UI recipiency rate has shown modest increase.

Figure 1: Average UI Recipiency Rate Since 1950



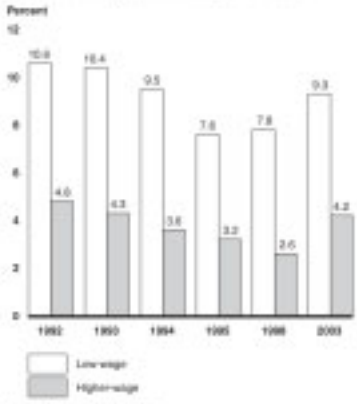
Note: Recession years are shaded. Any year with at least one quarter in a business cycle contraction (as defined by the National Bureau of Economic Research) is defined as a recession year.

As we noted in our 2000 report, two factors are considered significant to the decline of UI receipt: the decrease in the number of workers employed in manufacturing jobs and the decline of union membership in the workforce. In the past, manufacturing layoffs produced large numbers of employees who were unemployed through no fault of their own, and thus were eligible for benefits. For their part, unions played a role in making workers aware of benefits. Others have suggested that the migration of manufacturing to the South, Midwest, and West may have also played a role in the decline, given that in some of these states workers are less likely to be unionized and benefits are less generous.

Low-Wage Unemployed Workers Were Less Likely to Receive UI Benefits Than Were Their Higher-Wage Counterparts

Low-wage workers were more likely to be unemployed but less likely to receive UI benefits than higher-wage workers.[6] Compared with higher-wage workers, low-wage workers were at least twice as likely to be unemployed between 1992 and 2003.

Figure 2: Unemployment Rate, 1992 to 2003



Source: GAO analysis of SIPP data.

Notes: Data for 1996, 1997, and 1999 to 2002 were not available.

Differences between low- and higher-wage workers in every year were significant at the 90 percent confidence level.

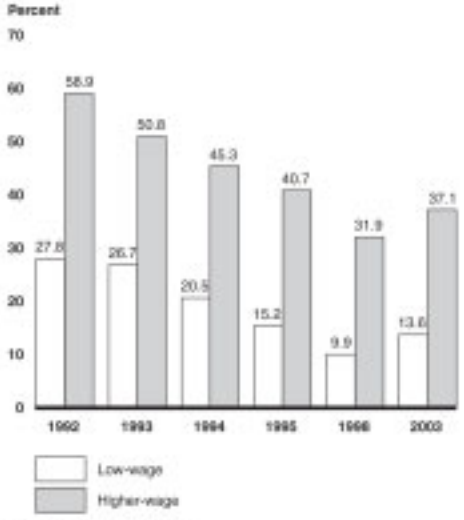
[6] Data for 1996, 1997, and 1999 to 2002 were not available.

[7] In addition to the results presented here, we also ran all analyses using the SIPP for a sample of "prime-age workers" (age 22 to 54), for comparison purposes. Results were similar, although the difference in UI receipt rates between low-wage and other workers was somewhat smaller than among workers aged 16 to 64, as was the difference between part-time and full-time workers.

The overall unemployment rates we calculated differ from the standard unemployment rates provided by the Bureau of Labor Statistics. For the 6 years presented, standard rates were 7.5 percent for 1992, 6.9 percent for 1993, 6.1 percent for 1994, 5.6 percent for 1995, 4.5 percent for 1998, and 6.0 percent for 2003. These rates differ because our calculations excluded workers who were new entrants to the labor force, those who had a history of self-employment, and those who were younger than 18 or older than 64 in March of the survey year, and because there were technical differences between the database we used for our calculations (SIPP) and that used for the standard unemployment rates (Current Population Survey).

At the same time, unemployed low-wage workers received UI benefits at less than half the rate of higher-wage workers in almost every year.

Figure 3: UI Rate of Receipt among the Unemployed



Source: GAO analysis of SIPP data.

Notes: Data for 1996, 1997, and 1999 to 2002 were not available.

Differences between low- and higher-wage workers in every year were significant at the 99 percent confidence level.

We calculated the UI rate of receipt by dividing the number of unemployed workers who reported UI as a source of income by the number of workers who were unemployed.

Even with similar work tenures, unemployed low-wage workers were still less likely to receive UI benefits than unemployed higher-wage workers. Some fifty-five percent of unemployed higher-wage workers who had worked at least 35 weeks during the year collected UI. In comparison, only

some 30 percent of unemployed low-wage workers with similar work tenures collected UI.

Table 1: UI Rate of Receipt for Low-Wage and Higher-Wage Workers, by Number of Weeks Worked, Combining SIPP Data for Years 1992 to 2003

Weeks worked prior to unemployment[b]	UI rate of receipt[a] Low-wage workers (percent)	Higher-wage workers (percent)	All (percent)	Relative likelihood of receiving UI (UI rate of receipt for low-wage workers divided by rate for higher-wage workers)[c]
35 weeks or more	29.6	55.0	45.1	.538
20-34 weeks	24.4	46.1	33.8	.529
Less than 20 weeks	12.0	25.4	16.5	.470
All	21.8	47.9	34.9	.455

Source: GAO analysis of SIPP data.

Notes: SIPP data from 1992 to 1995, 1998 and 2003. Data for 1996, 1997, and 1999 to 2002 were not available.

Differences between low- and higher-wage workers in each work tenure group were significant at the 99 percent confidence level.

[a]We calculated the UI rate of receipt by dividing the number of unemployed workers who reported UI as a source of income by the number of workers who were unemployed.

[b]Weeks worked prior to unemployment is the sum of the number of weeks that the person worked in the 12-month period immediately before his or her unemployment. Data are restricted to a subsample of unemployed persons who had a job during the 15 months prior to unemployment.

[c]For example, among those who had worked 35 weeks or more in the year prior to their unemployment, low-wage workers were 54 percent as likely to receive UI as higher-wage workers.

The relative likelihood of receiving UI for low-wage workers compared to higher-wage workers declined significantly from the earlier period (1992 to 1995) to the later period (1998 and 2003). Specifically, low-wage workers were about half as likely to receive UI as higher-wage workers in the earlier period, and about one-third as likely to receive UI as higher-wage workers in the later period.[10] While this ratio declined, the absolute difference between the two groups did not change. In the earlier period, the difference between the two groups averaged 27 percentage points; in

[10] We divided the percentage of low-wage workers who received UI by the percentage of higher-wage workers who received UI in 1992 to 1995 and compared this to a similarly derived quotient for 1998 and 2003.

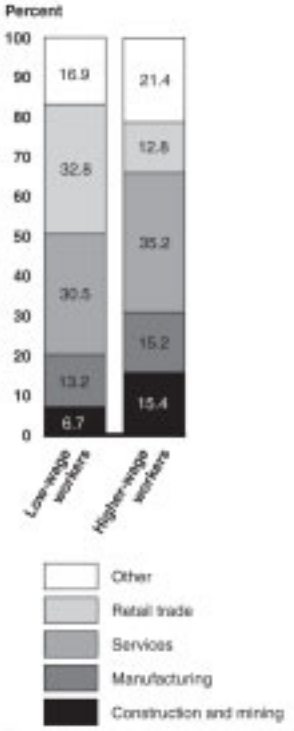
the later period, it averaged 23 percentage points—a difference that is not statistically significant. [11]

One of the reasons low-wage workers may be less likely to receive UI benefits is that they are more likely to have worked in industries that had low rates of UI receipt overall.[12] In 2003, 63 percent of the low-wage unemployed workers had been employed in jobs from retail trade and services, as opposed to about one-half (48 percent) of higher-wage workers.

[11] We subtracted the percentage of low-wage workers who received UI from the percentage of higher-wage workers who received UI in 1992 to 1995 and compared the result to the similarly derived difference for 1998 and 2003.

[12] This analysis does not control for average wages within industries.

Figure 4: Industry Sector of Last Job for Unemployed Low-Wage and Higher-Wage Workers

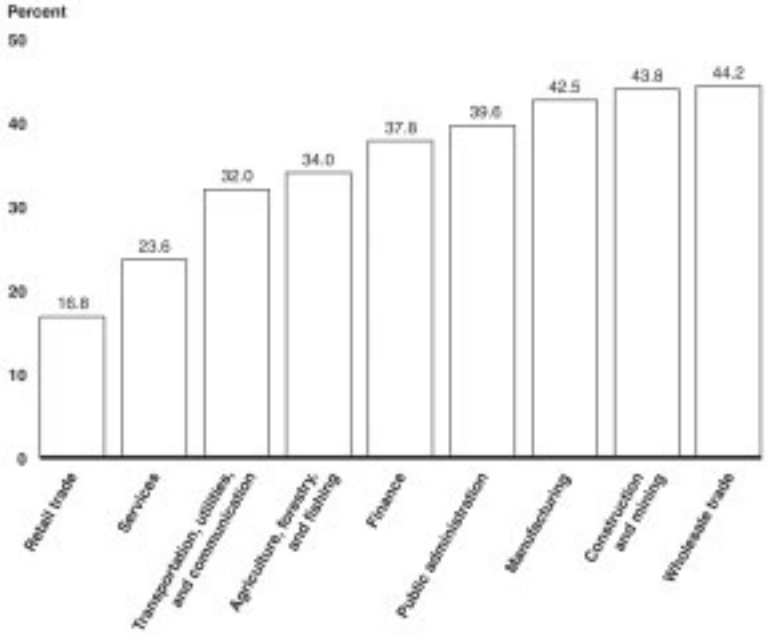


Source: GAO analysis of SIPP data, March 2003.

Note: "Services" includes private household services, business services, personal services, entertainment/recreational services, hospitals, medical services, educational services, social services, and other professional services.

Compared with all other industry sectors, the retail trade and services industries had the lowest UI rates of receipt.

Figure 5: Average UI Rate of Receipt by Industry, March 2003.



Source: GAO analysis of 2003 SIPP data.

Note: "Services" includes private household services, business services, personal services, entertainment/recreational services, hospitals, medical services, educational services, social services, and other professional services.

We calculated the UI rate of receipt by dividing the number of unemployed workers who reported UI as a source of income by the number of workers who were unemployed.

Furthermore, within many industry sectors low-wage workers had lower rates of UI receipt than higher-wage workers.

Table 2: UI Rate of Receipt by Industry of Last Job and Low-Wage/Higher-Wage Status, March 2003

Industry	UI rate of receipt[a] Low-wage workers (percent)	Higher-wage workers (percent)	Total (percent)	Relative likelihood of receiving UI low-wage/higher-wage (ratio of percents)
Construction and mining[b]	16.5	52.3	43.8	.316
Manufacturing[b]	26.6	52.6	42.5	.506
Services[b]	10.5	31.8	23.6	.329
Retail trade[b]	8.4	32.6	16.8	.257
Transportation and utilities[b]	7.9	41.4	32.0	.191
Public administration[b]	13.2	48.7	39.6	.272
Wholesale trade[b]	24.1	51.9	44.2	.465
Agriculture[c]	38.2	27.1	34.0	1.41
Finance[c]	28.5	43.0	37.8	.664
Total	**14.8**	**40.5**	**29.7**	**.365**

Source: GAO analysis of SIPP data, March 2003.

[a]We calculated the UI rate of receipt by dividing the number of unemployed workers who reported UI as a source of income by the number of workers who were unemployed.

[b]Differences between low- and higher-wage workers are significant at the 99 percent confidence level.

[c]Differences between low- and higher-wage workers are not statistically significant.

In addition to the industries in which they work, low levels of UI receipt among low-wage workers may be explained by the circumstances of low-wage workers coupled with state UI eligibility rules, particularly the base period for meeting the minimum earnings requirement. To determine eligibility for UI, 31 states[11] only consider wages earned and/or time worked in the first 4 of the prior 5 completed calendar quarters preceding the claim, according to the National Employment Law Project (NELP).[12] Because the base period in many states excludes the latest calendar quarter, a worker's most recent work history is not used in making the eligibility determination. For low-wage workers with sporadic work

[11] Out of 51, the remainder, including the District of Columbia, have an alternative base period.

[12] National Employment Law Project, Testimony of Maurice Emsellem before the U.S. House of Representatives, Ways and Means Committee, Subcommittee on Income Security and Family Support, March 15, 2007. NELP provided GAO with a summary updating the information provided at the March 2007 testimony.

histories this exclusion of recent earnings may make it more difficult to achieve the minimum earning level necessary for eligibility.

Low-wage workers' reasons for separating from work in relation to UI eligibility rules may be another factor relevant to their lower levels of UI receipt. A person who voluntarily leaves work must have good cause, as determined under state law, in order to be eligible for UI. For low-wage workers, particularly those without paid sick leave, however, issues such as caring for children or sick family members may make keeping a job more challenging or result in their needing or wanting certain types of work. According to the National Employment Law Project, 35 states[13] do not recognize serious illness or disability of a family member as good cause for leaving employment.[14]

There are other factors that contribute to the higher rates of receipt among higher-wage workers. In general, UI receipt is associated with higher earnings before unemployment, longer job tenure, and more education. First, workers with a history of higher earnings and longer job tenure generally face longer job searches and this may encourage them to utilize UI benefits during that search. Also, greater levels of education may be associated with greater awareness of UI and success in navigating the system.

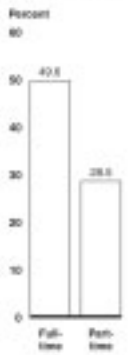
Prior receipt of UI may also play a role. Receipt of UI benefits in one period of unemployment increases the likelihood of using UI again. Because higher-wage workers are more likely to receive UI in any given unemployment spell, it is possible that they better understand the safety net it affords them and may be more likely to utilize it in future spells. In contrast, the extent to which low-wage workers have been unsuccessful in establishing eligibility for UI during any given unemployment spell may discourage future efforts to do so.

[13] Including the District of Columbia.

Unemployed Part-Time Workers Were Significantly Less Likely to Collect UI Than Unemployed Full-Time Workers, Regardless of Whether They Were Low-Wage or Higher-Wage

Unemployed workers who were part-time at their last job were significantly less likely to collect UI than unemployed workers who were full-time at their last job. According to the National Employment Law Project, 32 states[41] do not consider workers eligible for UI if they are only available for part-time work.[11] In addition, like low-wage workers, some part-time workers may have difficulty meeting the minimum earnings requirement in states that do not count workers' most recent earnings. Even when workers had similar job tenures, full-time workers were more likely to receive UI than part-time workers.

Figure 6: UI Rate of Receipt by Part/Full-Time Status, Unemployed Workers with at Least 35 Weeks of Employment in Past Year



Source: EAG analysis of SIPP data.

Notes: SIPP data from 1992 to 1995, 1998, and 2003. Data for 1996, 1997, and 1999 to 2002 were not available.

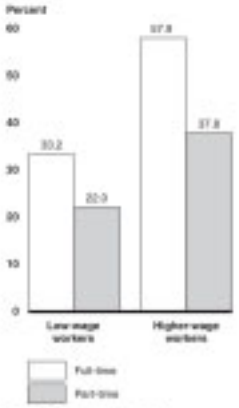
The difference between full-time and part-time workers was significant at the 90 percent confidence level.

We calculated the UI rate of receipt by dividing the number of unemployed workers who reported UI as a source of income by the number of workers who were unemployed.

[41] Out of 51, the remainder, including the District of Columbia, have some coverage for workers seeking part-time employment.

Part-time, low-wage unemployed workers were the least likely to receive UI.

Figure 7: UI Rate of Receipt by Wage and Part/Full-Time Status, Unemployed Workers with at Least 35 Weeks of Employment in Past Year



Source: GAO analysis of SIPP data.

Notes: SIPP data from 1992 to 1995, 1996, and 2003. Data for 1990, 1997, and 1999 to 2002 were not available.

Differences between full-time and part-time workers and differences between low-wage and higher-wage workers were all significant at the 99 percent confidence level.

Full-time employment is defined as 35 hours per week or more. Data are restricted to a subsample of unemployed persons who had a job during the 15 months prior to unemployment.

We calculated the UI rate of receipt by dividing the number of unemployed workers who reported UI as a source of income by the number of workers who were unemployed.

Mr. Chairman, this concludes my remarks. I would be happy to answer any questions that you or other members of the subcommittee may have.

Contact and Acknowledgments

For further information regarding this testimony please contact Cindy Fagnoni at (202) 512-7215. Also contributing to this statement were Patrick di Battista, Rhiannon Patterson, Gretta Goodwin, and Charlie Willson.

Related GAO Products

Unemployment Insurance: Low-Wage and Part-Time Workers Continue to Experience Low Rates of Receipt. GAO-07-1147. Washington, D.C.: September 7, 2007.

Unemployment Insurance: Factors Associated with Benefit Receipt and Linkages with Reemployment Services for Claimants. GAO-06-484T. Washington, D.C.: March 15, 2006.

Unemployment Insurance: Factors Associated with Benefit Receipt. GAO-06-341. Washington, D.C.: March 7, 2006.

Unemployment Insurance: Information on Benefit Receipt. GAO-05-291. Washington, D.C.: March 17, 2005.

Highlights of a GAO Forum: Workforce Challenges and Opportunities for the 21st Century: Changing Labor Force Dynamics and the Role of Government Policies. GAO-04-845SP. Washington, D.C.: June 2004.

Unemployment Insurance: Role as Safety Net for Low-Wage Workers is Limited. GAO-01-181. Washington, D.C.: December 29, 2000.

GAO's Mission	The Government Accountability Office, the audit, evaluation and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.
Obtaining Copies of GAO Reports and Testimony	The fastest and easiest way to obtain copies of GAO documents at no cos is through GAO's Web site (www.gao.gov). Each weekday, GAO posts newly released reports, testimony, and correspondence on its Web site. T have GAO e-mail you a list of newly posted products every afternoon, go to www.gao.gov and select "Subscribe to Updates."
Order by Mail or Phone	The first copy of each printed report is free. Additional copies are $2 each A check or money order should be made out to the Superintendent of Documents. GAO also accepts VISA and Mastercard. Orders for 100 or more copies mailed to a single address are discounted 25 percent. Orders should be sent to: U.S. Government Accountability Office 441 G Street NW, Room LM Washington, D.C. 20548 To order by Phone: Voice: (202) 512-6000 TDD: (202) 512-2537 Fax: (202) 512-6061
To Report Fraud, Waste, and Abuse in Federal Programs	Contact: Web site: www.gao.gov/fraudnet/fraudnet.htm E-mail: fraudnet@gao.gov Automated answering system: (800) 424-5454 or (202) 512-7470
Congressional Relations	Gloria Jarmon, Managing Director, JarmonG@gao.gov (202) 512-4400 U.S. Government Accountability Office, 441 G Street NW, Room 7125 Washington, D.C. 20548
Public Affairs	Paul Anderson, Managing Director, AndersonP1@gao.gov (202) 512-4800 U.S. Government Accountability Office, 441 G Street NW, Room 7149 Washington, D.C. 20548

Chairman MCDERMOTT. Ms. Chasanov.

STATEMENT OF AMY CHASANOV, FORMER STAFF MEMBER, ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION

Ms. CHASANOV. Chairman McDermott and distinguished members of the Subcommittee, I appreciate being invited here today, and I welcome the chance to testify about this bill. It is a legislative proposal that encourages States to strengthen their unemployment insurance programs and rewards those States that have already chosen to do so.

My name is Amy Chasanov, and from 1993 to 1995 I served as a staff member to the Advisory Council on Unemployment Compensation. I want to emphasize at the start that the Council was bipartisan, with members appointed by the President, the House, and the Senate. The Council's 11 members represented various groups of stakeholders that included business, labor, State government, and the public.

The Council had a broad mandate, looking at all aspects of the unemployment insurance system. During its relatively short lifespan, it held nine nationwide public hearings, visited numerous State offices and also sponsored significant legal and economic research in the area.

The Council met on 13 separate occasions, held intense deliberations, and published three annual reports which discussed its findings, and presented 50 recommendations to improve the UI program.

My testimony today focuses on the Council's findings and recommendations that relate to the proposed legislation.

At the outset, I should highlight that the Council either directly or indirectly endorsed all of the features of the House's UI Modernization Act that is being discussed today.

Before getting to those recommendations, let me mention two overarching issues, one of which Chairman McDermott already raised.

The first is that there have been dramatic changes in the workforce since 1935. We have moved from a workforce that was made up primarily of married, full-time male workers to one where part-time and contingent and women workers now make up the majority. The Council noted repeatedly that the States' UI programs have not always kept up with these important changes in the workforce.

I would also like to mention that the Council focused much of its time on the Federal-State relationship in the UI program, which is unique, and about the appropriate division of responsibility between the States and the Federal Government.

The Council believed that some national interests transcended State interests, and in those cases it was appropriate to establish Federal minimum standards. In particular, two of those national standards were minimum eligibility and benefit levels and also ensuring macro-economic stabilization.

The bill today represents a carrot and, honestly, the Council had more of a stick approach mandating Federal minimum standards. Whatever approach is considered, however, the outcome is undoubtedly similar.

Let me now turn to the Council's specific recommendations.

First, the Council was deeply disturbed that 3 to 6 months of a worker's most recent earnings were disregarded when determining monetary eligibility in most States, and that low-wage, part-time and temporary workers were particularly harmed. The Council recommended that all States adopt an alternative base period that considers the four most recently completed calendar quarters of work.

Second, the Council believed that workers who met States' monetary eligibility requirements should not be disqualified simply because they were looking for part-time as opposed to full-time work.

Third, the Council recommended that the FUTA tax revenues per worker increase, not decrease, over time. They proposed a revenue-neutral adjustment that will increase the Federal taxable wage base from $7,000 to $9,000 and eliminate the 0.2 percent surtax at that time. They also recommended annual increases in the Federal wage base. I do not believe based on the Council's discussions that they would ever allow the FUTA surtax to expire without a simultaneous increase in the Federal taxable wage base.

Fourth, the Council recommended extending UI benefits for individuals who are long-term unemployed when they are participating in education and training services and activities that enhance their reemployment prospects.

Finally, although it was not a formal recommendation, the Council expressed concern over many States disqualifying workers from benefits if they quit their jobs due to domestic violence or to personal or compelling family reasons.

I encourage you to look at my written testimony which discusses the Council's reports in much more detail and also discusses two additional recommendations which are not part of the bill but should be considered.

It was a pleasure to talk to you today about the Council's work.

[The prepared statement of Ms. Chasanov follows:]

Testimony of
Amy Chasanov, Former Staff
The Advisory Council on Unemployment Compensation

Hearing Before U.S. House of Representatives,
Ways and Means Committee
Subcommittee on Income Security and Family Support

September 19, 2007

Testimony of Amy Chasanov
Former Staff to Advisory Council on Unemployment Compensation
Before U.S. House of Representatives, Ways and Means Committee
Subcommittee on Income Security and Family Support
September 19, 2007

Chairman McDermott and distinguished members of the Subcommittee, thank you for this opportunity to testify on the Unemployment Insurance Modernization Act (H.R. 2233), an important legislative proposal to encourage states to strengthen their Unemployment Insurance ("UI") systems and to reward those states who are have already incorporated the proposed improvements.

My name is Amy Chasanov, and I served as a staff member to the federal Advisory Council on Unemployment Compensation ("ACUC" or "Council") between 1993 and 1995. The Advisory Council was created under the first President Bush in November 1991, when Congress passed the Emergency Compensation Act (P.L. 102-164) in response to the 1990-1991 recession and perceived failures in the Unemployment Insurance system. The Council's congressional mandate was broad: "to evaluate the unemployment compensation program including the purpose, goals, countercyclical effectiveness, coverage, benefit adequacy, trust fund solvency, funding of State administrative costs, administrative efficiency, and other aspects of the program and to make recommendations for improvement." The bi-partisan Council was ably chaired by Dr. Janet Norwood,[1] with five members appointed by the President, three by the U.S. Senate, and three by the U.S. House of Representatives. The Council's eleven members represented a diverse group of stakeholders, including business, labor, state government, and the public.[2]

During the ACUC's two and a half year life, it had an ambitious agenda, conducting nine nationwide public hearings, holding focus groups, visiting many state unemployment compensation offices, commissioning significant research, and convening two research conferences and one legal symposium. The Advisory Council met on 13 separate occasions to discuss the research, deliberate, and reach a consensus on findings and recommendations that its members could endorse. In its three annual reports – dated February of 1994, 1995, and 1996 – the Advisory Council published its findings and issued 50 recommendations on how to improve the Unemployment Insurance system.[3] My testimony today focuses on the research, findings, and recommendations made by the Advisory Council in those reports, particularly as they relate to the House's UI Modernization Act.

---

[1] Executive Director Laurie Bassi played an indispensable role in the Council's work.

[2] Attachment 1 provides a list of the members of the Advisory Council on Unemployment Compensation.

[3] Advisory Council on Unemployment Compensation, "Report and Recommendations," February 1994 ("1994 ACUC Report"); Advisory Council on Unemployment Compensation, "Unemployment Insurance in the United States: Benefits, Financing, Coverage," February 1995 ("1995 ACUC Report"); Advisory Council on Unemployment Compensation, "Defining Federal and State Roles in Unemployment Insurance," January 1996 ("1996 ACUC Report").

As the Council noted, the UI system "serves as the foundation of economic security for millions of workers who are temporarily laid off or permanently lose their jobs."[4] However, the labor market has undergone significant change since the UI program was created in 1935. When the program was created, married full-time male workers were the primary breadwinners and the majority of the work force. That is no longer true—women, contingent workers, part-time workers, temporary workers, single heads of households, and single individuals make up the majority of the work force. The ACUC focused much of its research and recommendations on how to change eligibility conditions to bring the UI system into the twenty-first century.[5]

Like the pending bill, many of the Council's recommendations focused on the need for the UI program to reflect the significant changes in the workforce since the inception of the UI program in 1935—namely, the increase in part-time, temporary, contingent, and women workers, and the increasing ranks of the long-term unemployed. Research by GAO has shown that low-wage workers are two times as likely to be unemployed as higher-wage workers, but half as likely to collect UI benefits.[6] Part-time workers who meet the monetary eligibility requirements are also much less likely to receive UI benefits than their full-time counterparts. Because many states' UI programs have failed to keep pace with changes in the workforce over the past 70 years, there has been an overall decline in the percent of unemployed workers who actually receive UI benefits.[7]

The Council's findings and recommendations directly or indirectly support all the features of the House's UI Modernization Act. The Council recommended all states adopt an "alternative base period," and that workers not be excluded from receiving benefits solely because they seek part-time work. In addition, the Council voiced its concern over specific nonmonetary eligibility requirements that preclude a worker from receiving benefits when he or she voluntarily separates from employment for compelling personal or family reasons. The UI Modernization Act addresses each of these barriers to receiving unemployment compensation. The Council recommended that Federal Unemployment Tax Act ("FUTA") revenues that fund program administration not decline, but actually increase over time. The Council also supported "extending" benefits an additional 26 weeks for individual workers who were enrolled in education and training programs that would enhance their re-employment prospects. Finally, the Advisory Council made direct recommendations on two additional reforms that could be considered for inclusion in Section 3's options: (i) enacting an hours-based "base period" requirement for monetary eligibility that would help more low wage workers qualify for benefits, and (ii) ensuring that the UI weekly benefit amount paid to a significant portion of UI recipients is 50 percent of their lost wages by linking a state's maximum weekly benefit amount to its average weekly wage.

This bill provides the House of Representatives with an opportunity to address many of the problems in states' UI programs that render it inaccessible or inadequate for unemployed

---

[4] 1994 ACUC Report at 3.

[5] 1994 ACUC Report at 5.

[6] Government Accountability Office, *Unemployment Insurance: Role as Safety Net for Low-Wage Workers Is Limited* (GAO-01-181), December 2000, at 13-15.

[7] There was a gradual decline from the 1950s to the 1980s, and a modest gain since then.

workers. The bill rewards those states that have already strengthened their UI programs, and provides incentives to other states to modernize their programs to reflect today's workforce. I am pleased to see the bill include many of the issues that were so important to the ACUC's members.

I. THE ACUC'S OVERARCHING THEMES.

A. The Purpose of the Unemployment Insurance System.

Before addressing the specific recommendations of the Council in more detail, it is important to take a step back and consider the overall purpose of the UI system. Agreement on a statement of purpose for the Unemployment Insurance system was an important task for the Council members early in their process. The Council's statement of purpose guided its subsequent research, findings, and recommendations. In 1995, the Council members agreed upon the following statement of purpose:

> ***The most important objective of the U.S. system of Unemployment Insurance is the provision of temporary, partial wage replacement as a matter of right to involuntarily unemployed individuals who have demonstrated a prior attachment to the labor force. This support should help to meet the necessary expenses of these workers as they search for employment that takes advantage of their skills and experience. Their search for productive reemployment should be facilitated by close cooperation among the Unemployment Insurance system and employment, training, and education services. In addition, the system should accumulate adequate funds during periods of economic health in order to promote stability by maintaining consumer purchasing power during economic downturns.***[8]

B. The Purpose of the Federal-State Relationship.

The Council considered the unique federal-state nature of the UI program to determine the appropriate division of federal and state program responsibilities.[9] The Council identified two essentially "national" interests: insurance and wage replacement, and economic stabilization.[10] The Council found that in order for the UI system to serve these two essentially national interests, the federal government must dictate some specific components that each state must incorporate into its UI program. After careful study of the appropriate federal-state roles in the UI program, in its 1996 Report, the Council adopted the following statement regarding federal-state responsibilities in Unemployment Insurance:

---

[8] 1995 ACUC Report at 8 ("Statement of Purpose").

[9] 1996 ACUC Report at 23-36.

[10] 1996 ACUC Report at 27-28.

> ***Unemployment Insurance is a federal-state system of shared responsibilities and powers. . . . The federal government should assume responsibility primarily in those areas in which both an essential national interest exists and states' interests may diverge from those national interests.***
>
> ***The fundamental objective of the system is the provision of insurance in the form of temporary, partial wage replacement to workers experiencing involuntary unemployment. Federal involvement in this area should limit that competition among states on the basis of Unemployment Insurance costs that undermines the integrity of the system and the capacity of the program to insure workers adequately. A second objective of the system is the accumulation of adequate funds during periods of economic health, thereby promoting economic stability by maintaining consumer purchasing power during economic downturns. The achievement of these fundamental purposes, which serve the national interest and transcend the interests of any individual state, require federal oversight and action.***[11]

States take the lead for financing the programs and administering its benefits; the federal government creates minimum standards for the states, allocates funding, and provides loans to insolvent states. States frequently compete with one another to attract and retain employers, and the UI program is just one of the many variables on which states compete. At times, this interstate competition has put pressure on states to reduce their UI taxes, tighten UI eligibility requirements, or decrease the benefits available to qualified workers.[12] By creating minimum eligibility, benefits, and financing standards, the federal government helps moderate a "race to the bottom" between the states from being played out in the UI program. Given this background, ACUC members found that "the federal government should act to prevent any potentially destructive consequences arising from interstate competition," by involving itself in "***minimum eligibility and benefit levels***."[13] The Council found that although the federal government does not currently "***protect benefits and eligibility levels***," it should do so.[14]

To this end, the Council recommended a series of new federally-mandated "minimum standards" to reflect changes in the workforce and to insulate states enacting positive changes in their UI program from competition with states who were weakening their UI programs. The concept of such minimum standards is reflected in the UI Modernization Act before this Committee. The Council proposed using the stick method to strengthen the UI systems —creating and/or revising existing minimum standards that the states ***must*** adopt in order for their programs to be "federally-approved." Instead, the UI Modernization Act proposes using a carrot—providing

---

[11] 1996 ACUC Report at 7-8 ("Federal-State Responsibilities in Unemployment Insurance").

[12] 1995 ACUC Report at 3, 4.

[13] 1996 ACUC Report at 8.

[14] 1996 ACUC Report at 34-35. This federal responsibility was identified by Franklin D. Roosevelt's Committee on Economic Security that worked to establish the program in 1935. *Id.* at 27, 36 n.10.

financial incentives in the form of additional administrative funding to states that have already enacted the enumerated reforms or pass new legislation to do so. In the end, the approach is less important than the outcome—it is imperative that the federal government take action to protect benefits and eligibility levels.[15]

II. THE ACUC ENDORSED MANY OF THE PROVISIONS OF H.R. 2233.

Based on its statement of purpose, the Council's findings and recommendations focus on three primary areas: eligibility for benefits, adequacy of benefits (in terms of amount and duration), and the forward-funding of the system to ensure UI provides macroeconomic stabilization.[16] The Council's findings and recommendations directly or indirectly support all the features of the House's UI Modernization Act. First, the Council recommended all states adopt an "alternative base period," that considers their most recently completed calendar of work when determining monetary eligibility. Second, the Council recommended that workers not be excluded from receiving benefits solely because they seek part-time work. Third, the Council voiced its concern over specific nonmonetary eligibility requirements that preclude a worker from receiving benefits when he or she voluntarily separates for compelling personal or family reasons. Fourth, the Council believed FUTA revenues should increase, not decrease, therefore the surtax should not be allowed to expire without a concomitant raise in the federal taxable wage base. Finally, the Council supported "extending" benefits an additional 26 weeks for workers enrolled in training or education programs.

A. The ACUC Recommended That All States Adopt An Alternative Base Period.

All states require that a worker earn a specified amount of wages and/or work in a defined "base period" in order to qualify for benefits. The base period is the relevant time period for which an individual's earnings and employment are measured to determine monetary eligibility for UI benefits, as well as the length of time qualified workers are eligible to receive UI benefits.[17] The majority of states still define their base period as the first four of the most recently-completed five calendar quarters. Under this base period definition, an unemployed worker applying for benefits today, September 19, 2007, would have their eligibility and benefit amount calculated based on wages earned between April 1, 2006 and March 31, 2007, ignoring almost six full months of earnings.

The ACUC was very concerned that some workers did not quality for UI benefits because their state's calculation of benefit eligibility ignored between three and six months of the workers' most recent work experience from eligibility consideration.[18] The Council found that disregarding recent earnings was most likely to harm low-wage workers with a substantial labor force attachment, and workers in temporary or part-time jobs (all of which are disproportionately

[15] 1996 ACUC Report at 34-35.
[16] 1995 ACUC Report at 7-9.
[17] 1995 ACUC Report at 92-93.
[18] 1995 ACUC Report at 16-17.

likely to be women).[19] In 1994, only seven states had some form of a "moveable" or "alternative" base period.[20] Given advances in technology, the ACUC believed that, at that time, it was feasible for ***all*** states to adopt an "alternative base period" under which a UI claimant could be eligible for benefits on the basis of the four most recently-completed quarters of work.[21] The Council adopted the following recommendation:

> ***All states should use a moveable base period in cases in which its use would qualify an Unemployment Insurance claimant to meet the state's monetary eligibility requirements. When a claimant fails to meet the monetary eligibility requirement for Unemployment Insurance, the state should inform the individual in writing of what additional earnings would be needed to qualify for benefits, as well as the date when the individual should reapply for benefits.***[22]

The good news is that the number of states with a moveable base period has almost tripled since the Council's 1995 Report. Currently, 18 states and the District of Columbia have adopted an alternative base period.[23] The bad news is that workers in more than half the states still have three to six months of their most recent earnings disregarded when monetary eligibility is calculated. The UI Modernization Act's 33% incentive payment for the adoption of an alternative base period, and its insistence on the adoption of an alternative base period before qualifying for the remaining 67% incentive payment, is entirely consistent with the importance the ACUC placed on this aspect of the UI program.[24]

B. The ACUC Recommended That Individuals Seeking Part-Time Work Be Eligible for UI.

Each state adopts nonmonetary eligibility requirements in addition to the monetary requirements necessary to qualify for UI benefits. These nonmonetary eligibility requirements include (i) separation requirements that ensure UI claimants are either involuntarily unemployed or

---

[19] 1995 ACUC Report at 16.

[20] 1995 ACUC Report at 99 n.6.

[21] 1995 ACUC Report at 16.

[22] 1995 ACUC Report at 17 (Recommendation #17). The Council further opined that the cost of such a change would not be prohibitive given that many of these claimants would be eligible eventually (i.e., once an additional quarter of earnings become available), and that increases in UI benefit payments were likely to be offset by a reduction in other state-provided benefits (e.g., TANF and Food Stamps).

[23] U.S. Department of Labor, 2007 Comparison of State Unemployment Insurance Laws, Table 3-2 at p. 3-2, available at http://www.workforcesecurity.doleta.gov/unemploy/uilawcompar/2007/comparison2007.asp. Effective January 1, 2008, Illinois will have an ABP. See http://www.ows.doleta.gov/unemploy/content/strpt03-4.asp. States with ABP laws that have sunset provisions or depend upon trust fund levels would not qualify for the incentive payments.

[24] 1995 ACUC Report at 16-17, 93.

voluntarily left their job for good cause, and (ii) continuing eligibility requirements that ensure UI recipients are able and available for and actively seeking work.

Because state UI statutes do not always spell out their nonmonetary eligibility requirements, this information is often difficult to ascertain. The Council relied upon an Interstate Conference of Employment Security Agencies ("ICESA")[25] survey of UI directors taken in the fall of 1994 regarding the "expected agency result" in a number of different situations.[26] According to the ICESA survey, in general, individuals would be ineligible for benefits in 39 states if they are seeking only part-time work. This is a continuing eligibility requirement—if that individual later becomes available for full-time work, she may receive benefits.[27] The ICESA survey also found that only a handful of states would consider an individual seeking part-time work eligible for benefits if he or she had (i) a prior part-time work history (14 states), (ii) a compelling personal reason for seeking only part-time work (3 states), or (iii) a compelling family reason for seeking only part-time work (2 states).[28] Thus, in many states, nonmonetary eligibility requirements mandate that an individual who meets the monetary eligibility requirements but is seeking part-time work, would nonetheless be disqualified from receiving benefits. The Council acknowledged the changing nature of the workforce, the increasing participation of women, and the significant increase in part-time work. The Council recommended:

> ***Workers who meet a state's monetary eligibility requirements should not be precluded from receiving Unemployment Insurance benefits merely because they are seeking part-time, rather than full-time employment.***[29]

Unlike the UI Modernization Act, the Council did not qualify its recommendation with a state option to allow only individuals who have worked part-time in the majority of their base period to seek part-time work.[30] In the ICESA survey and the Counsel's 1995 Report, the Council evidenced its particular interest in a number of reasons why a worker with a prior full-time position might seek part-time work (e.g., compelling personal circumstances, family circumstances, medical condition).

C. The ACUC Found That Workers Who Voluntarily Leave Their Job For Compelling Personal or Family Reasons Should Receive UI.

Workers often are not able to receive UI benefits if they "voluntarily leave without good cause." In general, the Council found that states have become more restrictive in their definition of

---

[25] This organization is now entitled the National Association of State Workforce Agencies (NASWA).

[26] 1995 ACUC Report at 101.

[27] 1995 ACUC Report at 103.

[28] 1995 ACUC Report at 104, 105 (Table 8-1). *See also* 1995 ACUC Report at 120 (presenting results of National Employment Law Project's 1994 legal analysis).

[29] 1995 ACUC Report at 18 (Recommendation #20), 91.

[30] H.R. 2233 Section 3(A) ("except that the State law provisions carrying out this subparagraph may exclude an individual if a majority of the weeks of work in such individual's base period do not include part-time work").

"good cause," limiting it only to reasons attributable to employment, not the worker's personal circumstances.[31] States define "good cause" in a variety of ways. The ICESA survey considered a number of situations that would disqualify individuals from receiving benefits related to their separation from employment. In most states, the individual would be disqualified from receiving benefits for the entire duration of their unemployment spell.[32] Moreover, states have increasingly denied UI benefits for the duration of unemployment, as opposed to a shorter period of time.[33] In 1995, the Council's findings expressed their concerns about "a number of specific nonmonetary eligibility conditions," and indicated its intent to address the following in its 1996 Report:

> ***The Council is particularly concerned about a number of specific nonmonetary eligibility conditions. For example, it is not always clear whether an individual who is unavailable for shift work (perhaps due to a lack of public transportation or child care) will be found to be eligible for Unemployment Insurance. Consideration needs to be given to situations in which individuals quit their jobs because of one of the following circumstances: a change in their employment situation (e.g., change in hours of work), sexual or other discriminatory harassment, domestic violence, or compelling personal reasons, including family responsibilities. In addition, the Council is concerned about the variability in the definition of misconduct across states, and about the treatment of individuals who refuse employment because it is temporary or commission work.***[34]

While the Council members remained very interested in these nonmonetary eligibility issues, they ultimately did not reach any specific recommendations in their 1996 Report, with other issues taking up much of their time.

D. The ACUC Recommended That FUTA Revenues Per Worker Increase, Not Decrease, Over Time.

The Federal Unemployment Tax Act ("FUTA") assesses a gross tax of 6.2 percent on the first $7,000 of an employee's wages; however, the federal government offers a 5.4 percent credit on the 6.2 percent tax to employers with approved UI plans and no outstanding federal loans. As a result, the potential net tax rate is 0.8 percent, which includes a 0.2 percent "temporary" surtax representing 25 percent of the effective tax rate in most states. These FUTA taxes are used to finance (i) state and federal administrative costs, (ii) the Extended Unemployment Compensation Account, which pays 50 percent of Extended Benefit payments, and (iii) the Federal Unemployment Account that provides loans to insolvent states.[35]

---

[31] 1995 ACUC Report at 110.

[32] 1995 ACUC Report at 106, 107-09 (Table 8-2).

[33] 1995 ACUC Report at 110, 111 (Table 8-3).

[34] 1995 ACUC Report at 19.

[35] *See* 1994 ACUC Report at 84; 1996 ACUC Report at 66-68.

The 0.2 percent surtax has been in place for 30 years: it went into effect in 1977, and has been has been extended in 1987, 1990, 1993, and 1997. The surtax is currently set to expire on December 31, 2007. Both Democratic and Republican majorities in Congress have extended the surtax, though often for what the Council concluded to be the wrong reasons (i.e., to use the surtax revenues to offset other spending or federal budget deficits).[36] The Bush Administration has proposed extending the surtax, although my understanding is that it does not intend to reinvest surtax revenues in the UI system but instead uses the money to offset other federal spending.

The Council noted that pressures of interstate competition also play out in the arena of administrative funding, and found "***[i]t is imperative that the federal government exercise leadership to ameliorate these pressures.***"[37] The Council was concerned that adequate FUTA payroll tax revenues are made available to state agencies, and the appropriations of this administrative funding not be limited by budgetary factors external to the UI system.[38]

The Council members were troubled by the erosion of the minimum taxable wage base, which has been set at $7,000 since 1983.[39] The Council noted that the inflation-adjusted per worker cost to employers of FUTA taxes is at an all-time low in 1994,[40] and it has only gotten worse since then. The value of the UI administrative dollars to the states and federal governments has eroded over the last 24 years, allowing them to provide less and less over time. The Council's research led it to believe that, in 1995, the federal minimum taxable wage base was long overdue for an increase, and not just because the wage base had been stagnant for over a decade. The Council's research found that states with higher taxable wage bases had higher UI trust fund reserves and were better prepared to deal with future economic downturns. In addition, low federal and state taxable wage bases impose an unfair and regressive UI payroll tax burden that

---

[36] 1996 ACUC Report at 80. The Council emphasized that "the Unemployment Insurance system was intended as a self-contained system of social insurance." 1995 ACUC Report at 11. As a result, the Council found that funds should be held in trust solely for the payment of benefits for eligible unemployed workers and for the costs of administering the UI system. 1995 ACUC Report at 11. The Council believed that including FUTA accounts and the states' UI trust fund accounts within the unified federal budget system undermined the integrity of the system. Moreover, when UI trust fund balances are used to balance the federal budget, the system loses its countercyclical capacity, making it difficult for states to automatically spend the trust funds during recessions. Although the Council acknowledged economic and political realities were a significant bar, it nonetheless recommended: "***All Unemployment Insurance trust funds should be removed from the unified federal budget.***" 1995 ACUC Report at 12 (Recommendation #7).

[37] 1996 ACUC Report at 17.

[38] 1996 ACUC Report at 17.

[39] In 1939, FUTA taxes applied to 100 percent of payroll; in 1940, that was changed to the first $3,000 of earnings (which covered 93 percent of all wages at the time); in 1972, the federal taxable wage base was increased to $4,200; in 1978, it was increased to $6,000; and in 1983, it was increased to $7,000, where it has remained since then. 1994 ACUC Report at 107.

[40] 1996 ACUC Report at 74-75.

disproportionately affects low-wage workers, who are also the least likely to be eligible for UI benefits.[41]

Given all these findings, the Council favored an increase in the federal taxable wage base to force states to increase their own state taxable wage bases. Acknowledging the political difficulties of this change alone,[42] the Council proposed a ***revenue-neutral*** adjustment that would increase the federal (and many states') taxable wage bases but not create additional revenue for the federal UI trust funds:

> ***The federal taxable wage base should be raised to $9,000, with an accompanying elimination of the two-tenths percentage point FUTA surcharge. The federal taxable wage base should be adjusted annually by the Employer Cost Index.***[43]

The Council recommended a long-overdue $2,000 increase in the federal taxable wage base (to $9,000), which would force many states to increase their taxable wage bases and alleviate some of the burden on the lowest paid workers. At the same time, the Council recommended a concomitant elimination of the two-tenths percentage point FUTA surcharge, which would have resulted in a small net $2 decrease in the annual maximum FUTA tax per employee (from $56 to $54). The Council also recommended an annual indexation of the federal taxable wage base to keep up with wage inflation and improve the ability of states to forward-fund the system, accumulating reserves during times of prosperity.

Thus, even though the Council recommended the elimination of the surtax, it only did so in the context of a revenue-neutral increase in the federal taxable wage base. I do not believe the Council would have ever allowed the FUTA surtax to expire without suggesting a concomitant increase in the federal taxable wage base. Importantly, the Council's approach is more ***effective*** than that in the UI Modernization Act—because it also helps alleviate the burden on lower wage workers and improves the solvency of many state programs.

E. The ACUC Recommended Extending Benefits For Long-Term Unemployed Workers In A Training Program.

The Council's genesis was based on the failure of the Extended Benefits program to trigger on in the recession immediately preceding the Council's establishment. As a result, the Council saw an immediate need to reform that program and focused much of its first report and

---

[41] 1996 ACUC Report at 11, 74. Economic research indicates that employers are likely to pass on these taxes to their workers, often in the form of lower wages. *Id.* at 74.

[42] The Council noted that states and employers would be unlikely to agree to increases in the federal taxable wage base without assurances that any increased FUTA revenue collections would be used for the UI system. 1996 ACUC Report at 80.

[43] 1995 ACUC Report at 19. Note that this was one of a small number of recommendations that was not unanimously adopted by all Council members.

recommendations on the Extended Benefits program.[44] In 1994, the Council found that the length of time individuals are unemployed had increased over time and that laid-off workers were less likely to return to their previous jobs.[45] In light of increased globalization and outsourcing, that finding is even more valid today than it was then. The Council believed that, given increased long-term unemployment, the Extended Benefits program needed to be expanded to deal with the changes in the duration of unemployment. To this end, the Council recommended:

> ***The scope of the Extended Benefits program should be expanded to enhance the capacity of the Unemployment Insurance system to provide assistance for long-term unemployed workers as well as short-term unemployed workers. Those individuals who are long-term unemployed should be eligible for extended Unemployment Insurance benefits, provided they are participating in job search activities or in education and training activities, where available and suitable, that enhance their re-employment prospects. To maintain the integrity of the Unemployment Insurance income support system, a separate funding source should be used to finance job search and education and training activities for long-term unemployed workers.***[46]

III. THE ACUC ENDORSED TWO OTHER RECOMMENDATIONS THAT COULD BE INCLUDED AS SECTION 3 INCENTIVES.

A. The ACUC Recommended Hours-Based Eligibility Requirements To Help More Low-Wage Workers Qualify For Benefits.

The Council found that a fundamental purpose of the UI system is to provide temporary, partial wage replacement to involuntarily unemployed individuals with a prior attachment to the labor force.[47] The vast majority of states base their monetary eligibility requirements on wages earned instead of hours worked. The Council was concerned that low-wage workers must work many more hours than their higher-paid counterparts in order to qualify for benefits. This disparity requires low-wage workers to have a more substantial labor force attachment than higher-wage workers. In other words, individuals are often rendered ineligible for benefits based on their wage rate, not the number of hours worked or weeks worked (i.e., labor force attachment). The Council felt it was unfair and contrary to the purpose of the UI system for lower paid workers to be required to work more hours to qualify for benefits than higher wage workers. As a result, the Council recommended that all states change their eligibility requirements to be based on the number of hours worked, not wages earned:

---

[44] 1994 ACUC Report at 4. In 1994, the Council "strongly urge[d] timely Congressional consideration of its recommendations, because it believes that the county needs a functioning Extended Benefits program." 1994 ACUC Report at 4-5.

[45] 1994 ACUC Report at 7.

[46] 1994 ACUC Report at 8 (Recommendation #1).

[47] 1995 ACUC Report at 8.

> ***Each state should set its laws so that its base period earnings requirements do not exceed 800 times the state's minimum hourly wage, and so that its high quarter earnings requirements do not exceed one-quarter of that amount.***[48]

B. The ACUC Recommended A Fifty Percent Replacement Rate Goal.

None of the reform options in Section 3 of the bill address problems with the inadequacy of benefit payments for those workers who qualify for benefits. The Council believed that one important purpose of UI was to "***help to meet the necessary expenses of these workers as they search for employment that takes advantage of their skills and experience.***"[49] The Council's definition of "benefit adequacy" included (i) the proportion of prior base period weekly wages that UI weekly benefits replaced ("replacement rate"), and (ii) the portion of UI recipients to which the adequacy standard should apply.[50]

Throughout the history of the Unemployment Insurance program, Presidents and program scholars have endorsed a goal of replacing 50 percent of the lost earnings.[51] As a result, in most states, weekly benefit amounts are set at one-half of previous wages, up to a given level.[52] The Council also endorsed such a goal, but was concerned about the portion of recipients who actually had 50 percent of their earnings replaced with UI. In states with relatively low maximum benefit amounts (when compared to their state average weekly wages), a larger number of workers qualify for the maximum benefit amount, and therefore many workers have a lower percentage of their wages replaced.[53] The Council believed the UI system should replace 50 percent of lost earnings for 80 percent of all UI recipients.[54] Consistent with its adopted purpose of the UI system to "help to meet the necessary expenses of these workers as they search for employment,"[55] the Council recommended:

---

[48] 1995 ACUC Report at 18 (Recommendation #18). At the time, the ACUC estimated that such a change would increase the number of individuals eligible for benefits by approximately 5.3 % and the amount of benefits by 3.6%. 1995 ACUC Report at 17-18, 92. *See also* 1996 ACUC Report at 9 (Recommendation #2: "***To preserve national interests in the UI system, the federal government should take an active role . . . assuring that all workers with a given level of attachment to the work force are eligible for a minimum level of benefits.***").

[49] 1995 ACUC Report at 8 ("Statement of Purpose").

[50] 1995 ACUC Report at 126.

[51] 1995 ACUC Report at 20. *See also* 1996 ACUC Report at 53.

[52] 1995 ACUC Report at 127.

[53] The Council acknowledged the important interaction between a state's maximum weekly benefit amount and the proportion of UI recipients whose benefits replace 50 percent of their lost wages. 1995 ACUC Report at 20.

[54] 1995 ACUC Report at 20.

[55] 1995 ACUC Report at 8.

> ***For eligible workers, each state should replace at least 50 percent of lost earnings over a six-month period, with a maximum weekly benefit amount equal to two-thirds of the state's average weekly wages.***[56]

My understanding is that the pending Senate bill, S.1871 (Section 3(D)), includes a similar feature as one of the incentives that will qualify a state for receiving administrative incentive payments.[57] I believe the Council would have endorsed such a provision.

* * *

Mr. Chairman, thank you again for your interest and commitment to improving Unemployment Insurance.

---

[56] 1995 ACUC Report at 20 (Recommendation #22). *See also id.* (noting one Council member objected to this recommendation).

[57] Section 3(D) of Senate Bill 1871 includes one reform eligible for incentive payments for states where "The maximum amount of compensation – (i) payable to the individual during a benefit year is equal to at least 26 times the individual's weekly benefit amount; or (ii) the individual receives during a benefit year exceeds half of the individual's total wages during the base period," provided the state does not reduce its maximum weekly benefit amount after the enactment of this subsection.

Attachment 1

Advisory Council on Unemployment Compensation
(affiliation during member's tenure on the Council is also denoted)

Janet L. Norwood, *Chair*
Senior Fellow, The Urban Institute

Owen Bieber
President Emeritus, International Union, UAW

Thomas R. Donahue
President Emeritus, AFL-CIO

Ann Q. Duncan
Chair, Employment Security Commission of North Carolina

William D. Grossenbacher
Administrator, Texas Employment commission

Leon Lynch
International Vice-President, United Steelworkers of America

Robert C. Mitchell
Retired Manager, Payroll Taxes, Sears, Roebuck & Co.

Gary W. Rodrigues
President, Hawaii State AFL-CIO

John J. Stephens
Retired President and CEO, Roseburg Forest Products

Tommy G. Thompson
Governor, State of Wisconsin

Lucy A. Williams
Associate Professor of Law, Northeastern University

*Five members were appointed by the President, three from the U.S. Senate, and three from the U.S. House of Representatives.

Chairman MCDERMOTT. Ms. Hammond, who is the deputy secretary of commerce and trade in the Commonwealth of Virginia.

STATEMENT OF LYNETTE HAMMOND, DEPUTY SECRETARY OF COMMERCE AND TRADE, COMMONWEALTH OF VIRGINIA

Ms. HAMMOND. Mr. Chairman, Ranking Member, and Members of the Ways and Means Subcommittee on Income Security and Family Support.

I am pleased to be here today to testify in support of H.R. 2233, the Unemployment Insurance Modernization Act. Governor Kaine supports this measure and the incentives it provides for States to address the compelling needs of our citizens who become unemployed through no fault of their own.

The Governor also requests that the Subcommittee consider restoring adequate funding to administer the unemployment compensation and job services program.

Much has changed since 1935 when the unemployment insurance safety net was first established. Information technology means that States no longer have to wait months to make sure they have an employee's wage records. Families are more likely to depend on the wages of more than one worker. Workers are more likely to not only change jobs but change locations during their careers.

In Virginia we have seen that changes in the global economy have eliminated whole classes of jobs, leaving workers stranded with outdated skills and crippled one-industry towns.

Virginia has been comparatively fortunate in recent years. Our economy is robust, our unemployment rate is one of the lowest in the Nation, and our State has been recognized for 2 years in a row as the most business-friendly in the Nation by Forbes.com.

Still, our statewide statistics mask large pockets of high unemployment. Local unemployment rates in Virginia range from 1.8 percent in Arlington to 8.7 percent in Martinsville. Southside and southwest Virginia are still reeling from the loss of furniture and textile industry jobs that were the mainstays of their economy.

In other areas of the State, growth and change present their own challenges. In Northern Virginia, for example, a tight labor market makes it more difficult for employers to find workers. In these areas, as demand on the unemployment insurance system decreases, the demands on the job service system increase to help place workers in jobs.

Also in Virginia, at Fort Belvoir and Fort Lee, we are preparing for a large influx of military personnel, including military spouses who need jobs, have increased family responsibilities, and who must move frequently as their spouse is assigned to different duty stations.

Despite these challenges, during this decade we have seen the Federal commitment to the Federal-State partnership erode between the year 2000 when the unemployment was 2.3 percent in Virginia, and 2006 with 3 percent unemployment. Federal funding for Virginia's unemployment insurance system fell from 35.5 million to 34.4 million in unadjusted dollars.

Congressman McDermott's bill would temporarily help to remedy Virginia's difficult financial situation caused by persistent Federal underfunding of the State system. Moreover, the legislation would

provide significant incentives for States to change their benefit eligibility requirement to recognize the changes in our economy.

example, Virginia has implemented the alternative base period, and did so in 2003, recognizing that information technology allows claimants to use their most recent wages when determining eligibility. Since the enactment of the alternative base period, Virginia has paid $13.3 million in unemployment benefits to low-wage claimants who would not have qualified otherwise. This $3.3 million average yearly cost also undergirds what the State's basic principle is, that unemployment compensation should strengthen attachment to the workforce.

In order for claimants to qualify, they have to already demonstrate attachment to the workforce. For weekly benefits, they have to show they have been searching for work and are following through on any job leads provided by the job service. We feel these requirements help services and services help claimants find new jobs sooner and help keep them in the workforce. This is especially important for new entrants and lower-wage workers, and those are the ones that are most likely to be disqualified by the standard base period.

We found during consideration of the Virginia legislation that those disqualified by the standard base period also tend to be young, low-income females with dependents, and these are the very people the State is working to help move toward independence in our TANF and food stamp programs.

In conclusion, Governor Kaine supports H.R. 2233 to encourage States to modernize their UI programs. While it is premature to speculate what the general assembly might do, we have found that (or projected that) providing unemployment compensation to all trailing spouses, for example, would cost about $3 million per year and providing benefits to part-time workers seeking part-time jobs would cost about $8.1 million a year. This totals $11.1 million a year, and with those changes, Virginia would qualify for $128.2 million Reed Act distribution and $64.1 million that the State would qualify for having enacted the base period.

However, we also recognize the State is in the process now, because of persistent underfunding, of contracting the services that we can provide to the unemployed, not expanding them. So, providing adequate administrative funding would also be an incentive to States to upgrade the systems.

Thank you.

[The prepared statement of Ms. Hammond follows:]

Statement of Lynette Hammond, Deputy Secretary of Commerce and Trade, Commonwealth of Virginia

Mr. Chairman, Ranking Member, Members of the Ways and Means Subcommittee on Income Security and Family Support:

My name is Lynette Hammond and I am Deputy Secretary of Commerce and Trade for the Commonwealth of Virginia. I am pleased to be here today to testify in support of HR 2233, the Unemployment Insurance Modernization Act. Governor Kaine supports this measure and the incentives it provides for states to address the compelling needs of our citizens who become unemployed through no fault of their own. The Governor also requests that the Subcommittee consider restoring adequate funding to administer the unemployment compensation and job services programs.

As you know, the unemployment insurance program was created as part of the Social Security Act of 1935. At that time, Congress had the foresight to fashion a unique federal-state partnership that has been a major strength of the program for

more than 70 years. The unemployment compensation system has also endured because the Congress established the program as a social insurance program rather than a means-tested program, recognizing that everyone who is attached to the workforce may need a safety net should they find themselves unemployed through no fault of their own.

Under this federal-state partnership, the federal government establishes broad standards that all states must meet, provides program oversight, collects an excise tax from employers to fund state program administration and various U.S. Department of Labor activities, and provides grants to the states to administer the program. States establish their own eligibility and qualification requirements in conformity with applicable federal standards, assess a payroll tax on employers to fund benefits to workers who become unemployed through no fault of their own.

The unemployment insurance program has served our country well for more than seven decades. Its success is due in no small measure to the federal-state partnership that was established by the Social Security Act—a partnership that avoided both the inflexibility of a "one size fits all" national federal program and the economic chaos that could have ensued if the states had enacted a multitude of laws without any common policy underpinnings or legislative framework.

However, as the years have gone by our economy and workforce have changed significantly. While these changes do not warrant discarding a program that has worked so well for many years, they do necessitate a re-examination of the goals, objectives, and program funding to ensure that the evolving needs of our dynamic economy and workforce will be met in the 21st century.

Much has changed since 1935 when the Unemployment Insurance safety net was first established. The vast capabilities of information technology mean that states no longer have to wait months to be sure they have an employee's wage records. Families are more likely to depend on the wages of more than one worker, placing more stress on workers as they try to balance work and family needs. Workers are more likely not only to change jobs, but to change locations during their careers. Changes in the global economy have eliminated whole classes of jobs, leaving workers stranded with outdated skills in crippled one-industry towns.

But the basic principles underlying the unemployment insurance safety net haven't changed—that workers deserve a buffer against economic dislocation. The need for a counter-cyclical stimulus when a community loses a major employer is still valid, and Virginia continues to see that need in rural areas as manufacturing jobs leave the country. I sincerely hope the notion is not outdated that if you work hard, pay taxes, and support your family, you won't be cast adrift if you lose your job through no fault of your own.

Virginia has been comparatively fortunate in recent years. Our economy is robust, our unemployment rate is one of the nation's lowest, and our state has been recognized for two years in a row as the most business friendly in the nation by Forbes.com. Still, the statewide statistics mask large pockets of high unemployment. Local unemployment rates in Virginia ranged from 1.8 percent in Arlington to 8.7 percent Martinsville. In Southwest and Southside Virginia, the unemployment rate is often double the statewide rate. These regions are still reeling from the loss of furniture and textile industry jobs that were mainstays of the economy.

In other areas of the state, growth and change present their own challenges. In Northern Virginia, the tight labor market makes it difficult for employers to find workers. In these areas, as the demand on the unemployment insurance system decreases, the demand for job matching and employer assistance increases. At Fort Belvoir and Fort Lee, we are preparing for a large influx of military personnel, including military spouses who need jobs, have increased family responsibilities, and who also must move frequently as their spouse is assigned to different duty stations. As service members muster out of the military at Virginia bases, we must provide services and benefits to help them transition back to civilian life.

Despite these challenges, during this decade we've seen the federal commitment to its federal-state partnership continuously erode. Between 2000, when the unemployment rate was 2.3 percent and 2006 with 3 percent unemployment, federal funding for Virginia's unemployment insurance system fell from $35.5 million to $34.4 million in unadjusted dollars.

Congressman McDermott's bill would temporarily help to remedy Virginia's difficult financial situation caused by persistent federal under-funding of state unemployment compensation administration. Moreover, the legislation would provide significant incentives for states to change their benefit eligibility requirements to recognize the changes in our economy that have occurred over the past seven decades.

For example, Virginia implemented the alternative base period in 2003, recognizing that information technology allows the agency to use a claimant's most recent wages when determining eligibility. In 1935, wage reporting involved manual

record-keeping and mailing time. At that time, it was practical to use the first four of the last five completed calendar quarters because more recent wage data was not available. Now with automated systems, using the most recent wages is not difficult. Nearly all employers report wages electronically and they are entered onto the state's wage records electronically.

Since the enactment of the alternative base period, Virginia has paid $13.3 million in unemployment insurance benefits to low-wage claimants who would not have qualified otherwise. The $3.3 million, or 45 cents per employee average yearly cost of the alternative base period also under girds the state's basic principle that unemployment compensation should strengthen attachment to the workforce.

In order to qualify for compensation, claimants must demonstrate sufficient wages to show attachment to the workforce. To be eligible for weekly benefits in Virginia, a claimant must show that they have been searching for work. They must also register with the Job Service and follow up on any job leads. These requirements and services help claimants find new jobs sooner and keep them in the workforce. It sends the message that their work matters.

This is especially important for new entrants in the workforce and lower wage workers—those most likely to be disqualified by the standard base period. We found during consideration of the bill, that those disqualified by the standard base period also tended to be young females with dependents. These were the very people that the state was working to help move towards independence in our TANF and food stamp programs. Clearly, we did not want to send the message to these claimants that low pay means their work doesn't count.

The measure passed 35 to 5 in the Senate and unanimously in the House. The average annual cost has been slightly less than projected. Based on our experience, if Congressman McDermott's bill gives incentives to other states to adopt the alternative base period, they are likely to find the money well spent.

HR 2233 will also provide incentives to states to allow unemployment compensation for good cause shown. Virginia already provides eligibility for many of these cases through its administrative adjudication process. Examples of "good cause shown" in case decisions include leaving a job to escape family violence, and leaving a job to care for dependents. However, Virginia's statute specifically excludes from good cause leaving a job to accompany a spouse who finds work in a new location—trailing spouses.

In 2004, the Virginia General Assembly considered legislation to allow benefits for military spouses in cases where the service man or woman is transferred to a new duty station. Arguments against the bill at the time were that unemployment compensation eligibility would be a disincentive to hiring military spouses, and that it would subject employers to separations that are beyond their control. In response, the bill was amended to provide that benefit costs be assigned to the state's pool instead of the most recent employer. Members also expressed concern that Virginia would be paying benefits to military spouses from states that did not similarly treat their own military spouses moving to new duty stations. In response, the authorizing committee amended to bill to provide benefits only when the spouse moved to a state that provided similar benefits.

The Warner administration recognized that Virginia's military spouses have been making tremendous sacrifices. Their wages are essential to keeping the family afloat, especially when the servicemember is assigned to duty overseas. Moreover, members of the military have the only job in the state where a worker can be prosecuted if he or she refuses to transfer. Clearly, the spouses of Virginia's military men and women do not consider it optional to move to a new duty station when the orders come.

The legislation to provide benefits to military trailing spouses did not pass the General Assembly. After a hard-fought and narrow approval by the House of Delegates, the sponsor pulled the bill in response to questions about the cost projections. Had the McDermott bills incentives been available, the outcome might well have been different. As it is, we risk telling military spouses—mostly low-income women—that accompanying your spouse to a new duty station is not good cause for leaving a job.

In conclusion, Governor Kaine supports HR 2233 to encourage states to modernize their Unemployment Insurance programs. While it is premature to speculate what the Virginia General Assembly might enact if the bill were to become law, preliminary projections indicate the following:

Extending unemployment compensation to all trailing spouses is projected to cost approximately $3 million per year. The National Employment Law Project estimates that paying benefits to separated part-time workers seeking part time employment would cost $8.1 million per year. By making these changes, totaling $11.1 million, Virginia would qualify for a $128.2 million Reed Act distribution in addition to the

$64.1 million the Commonwealth would receive for having enacted the alternative base period. These enhanced benefits would go primarily to low income workers—workers who've lost their job through no fault of their own.

However, the General Assembly also knows that under the current federal funding, the unemployment compensation and job service systems are being forced to contract, not expand the assistance we can provide to the unemployed. Remedying the persistent under funding of the state's Unemployment Insurance and Job Services program will also go far as incentives for states to modernize their systems and benefits.

Thank you for your time.

Chairman MCDERMOTT. We will now turn to Vickie Lovell, who is the director of employment and Work/Life programs, Institute for Women's Policy Research. I want to enter into the record a letter from 60 organizations that—organizations that are in support of this piece of legislation because of what it does for women.

[The information follows:]

September 12, 2007

Dear Member of Congress,

As organizations that promote fair treatment and economic opportunity for women, we are writing to express our support for The Unemployment Insurance Modernization Act, H.R. 2233 and S. 1871.

When workers are laid off or must leave their jobs through no fault of their own, unemployment insurance (UI) offers vital temporary income support. Unfortunately, many women in the workforce are currently ineligible for unemployment insurance, because of inequities in the program's design.

The Unemployment Insurance Modernization Act offers financial incentives for states to bring their unemployment insurance programs into alignment with our 21st century economy. The bills encourage reforms of eligibility criteria and benefit structure to better serve today's workforce. Many of these reforms are of special importance to working women. They include:

- **Providing benefits to workers who are only available for part-time work:** Women comprise 70% of the part-time workforce, but are ineligible for unemployment benefits in most states unless they are able to look for full-time work. H.R. 2233 and S. 1871 would encourage states to extend UI eligibility to workers looking for part-time jobs.
- **Enabling workers who must leave jobs for compelling family reasons to qualify for UI benefits:** Some states deny benefits to workers who have to leave their job for compelling family reasons, such as fleeing domestic violence, needing to care for a sick or disabled relative, or moving with a spouse who has found a new job in another area, even when the worker is again seeking employment. These disqualifications disproportionately impact women.
- **Considering a worker's most recent work history when determining eligibility:** To be eligible to receive UI benefits, a claimant must have a specified amount of earnings during a specific set of months prior to her job termination. Depending on how the state defines this period and when a worker files her claim, between three to six months of her most recent earnings may be discarded in determining her eligibility and benefit level. This particularly disadvantages women, including low-wage workers who have recently left welfare and joined the workforce. H.R. 2233 and S. 1871 would encourage states to use more recent earnings to calculate benefit eligibility.

- **Helping families with children:** The Senate bill, S. 1871, encourages states to boost weekly benefits for unemployed workers who are caring for children or other dependents.

We urge Congress to pass this important legislation to modernize the Unemployment Insurance system. If you have any questions, please feel free to contact Joan Entmacher at the National Women's Law Center, 202-588-5180, or any of our organizations.

Sincerely,

9to5, National Association of Working Women, Denver, CO
AARP, Washington, DC
American Association of University Women, Washington, DC
Black Women's Health Imperative, Washington, DC
Business and Professional Women/USA, Washington, DC
California Women's Law Center, Los Angeles, CA
Center for Law and Social Policy (CLASP), Washington, DC
Center for Women in Politics and Public Policy, Brookline, MA
Center on Women and Public Policy, Minneapolis, MN
Clearinghouse on Women's Issues, Rockville, MD
Coalition on Human Needs, Washington, DC
DC Employment Justice Center, Washington, DC
Family Voices, Newark, NJ
Federation of Protestant Welfare Agencies (FPWA), New York, NY
Georgia Employee Federation, Atlanta, GA
Girls Inc. of Central Ohio, Gahanna, OH
Grandview Investigations, West Homestead, PA
Greater Boston Legal Services, Boston, MA
Harlem Tenants Council, New York, NY
Hawaii Women Work!, Honolulu, HI
Institute for Teaching and Research on Women, Towson, MD
Kellogg Community College, Battle Creek, MI
Legal Aid Society-Employment Law Center, San Francisco, CA
Maine Center for Economic Policy, Augusta, ME
Maine Women's Journal, Yarmouth, ME
Maine Women's Lobby, Hallowell, ME
MOTHERS (Mothers Ought To Have Equal Rights), Jericho, NY
National Association of Mothers' Centers, Jericho, NY
National Council for Research on Women, New York, NY
National Council of Jewish Women, New York, NY
National Council of Women's Organizations, Washington, DC
National Organization for Women, Washington, DC
National Partnership for Women & Families, Washington, DC
National Research Center for Women & Families, Washington, DC
National Women's Law Center, Washington, DC
Northwest Women's Law Center, Seattle, WA

OWL - The Voice of Midlife and Older Women, Arlington, VA
PathWaysPA, Holmes, PA
Progressive Leadership Alliance of Nevada (PLAN), Reno, NV
Public Justice Center, Baltimore, MD
Ret. Research Foundation, Evanston, IL
Sojourner Truth Center for Interactive Justice, St. Petersburg, FL
South Dakota Advocacy Network for Women, Sioux Falls, SD
Statewide Parent Advocacy Network, Inc., Newark, NJ
Stotter Consulting, Bloomsburg, PA
Take Care Net, University Park, PA
United Church of Christ Justice and Witness Ministries, Cleveland, OH
YWCA of Western Massachusetts, Springfield, MA
Wider Opportunities for Women, Washington, DC
Wisconsin Council on Children and Families, Madison, Wisconsin
Women's Commission, Cambridge, MA
Women's Committee of 100, Washington, DC
Women's International League for Peace and Freedom, US Section, Philadelphia, PA
Women Employed, Chicago, IL
Women Empowered Against Violence, Inc. (WEAVE), Washington, DC
The Women's Foundation of California, San Francisco, CA
Women's Law Center of Maryland, Inc., Towson, MD
Women's Law Project, Philadelphia, PA
Women's Research & Education Institute (WREI), Arlington, VA
Women Work New York State, Hempstead, NY
Women Work! The National Network for Women's Employment, Washington, DC

STATEMENT OF VICKY LOVELL, Ph.D., DIRECTOR OF EMPLOYMENT AND WORK/LIFE PROGRAMS, INSTITUTE FOR WOMEN'S POLICY RESEARCH

Dr. LOVELL. Thank you, Chairman McDermott, Ranking Member Weller, and Members of the Subcommittee. Thank you for providing me with the opportunity to present research from IWPR and others on the need to modernize the UI system to better meet its original objective for working women.

H.R. 2233 addresses two key facts about women. First, women are disproportionately represented in our low-wage workforce; and second, women continue to be our primary family care givers. These two facts put women in a different position than men on average in terms of both employment and unemployment.

Most of our low-wage workers are women, and nearly one-third of working women earn a poverty-level wage or less. Women are more likely than men to be low earners because pay in some jobs that are considered to be women's work is depressed by the fact that women are doing the work. Take child care, for instance.

In other instances where men and women do the same job, women continue to be paid less than men. For example, in dishwashing, women receive 87 cents for every dollar earned by men.

We have just heard that although low-wage workers are more likely than higher wage workers to suffer unemployment, they are significantly less likely to receive unemployment insurance benefits. Thus, unemployed women are at greater risk of not receiving support from UI when they are unemployed than is the case for men. Women's UI recipiency rate is more than 10 percent lower than men's, and in some States, the gender gap in UI recipiency rates is much higher, up to 44 percent.

Adoption of an alternative base period would help address this, because ABP helps low-wage workers qualify for benefits in a timely fashion. We have heard about adoption of the ABP in Virginia, and my written testimony discusses this issue in some detail so I would like to make one point about the ABP now.

Arguments against the alternative base rate often assume that workers are in complete control of their job tenure. That is, that the worker who meets an employer's job performance expectations can hold a job indefinitely. From this perspective, workers with relatively short job tenure are seen as having weak job attachment. The realities of today's labor market, however, include higher job instability even when the economy is strong. In some industries, high turnover is a fairly commonplace occurrence, in part because of the way jobs are structured and scheduled.

In this context, frequent movement into and out of jobs does not necessarily reflect workers' desires but may instead be an artifact of the types of jobs made available by employers. With fewer opportunities for long-term employment, a gap in a worker's earnings record should not be interpreted as a lack of labor force attachment, and UI benefits should not be denied or postponed on that account.

Two other reforms address women's work caring for families.

The first is coverage of part-time workers. In many States UI claimants looking for part-time work are not eligible for UI even if they have historically worked part-time and would qualify for UI

based on that work history, or if they have family obligations that preclude full-time work.

Here again, our 21st century economy is creating jobs that are often excluded from UI coverage regardless of workers' intent. More than one in every six workers is on a part-time schedule, and contrary to common misperception, these are not only young workers who are still in school; 12 percent of part-time workers are on part-time schedules involuntarily. They would rather work full-time but can't find a full-time job.

Thirty-five percent of part-time workers are women in their prime working ages of 25 to 54 years, and a quarter of them cite child care problems and other family or other personal responsibilities as the reason for working a reduced schedule.

When workers looking for a part-time job are denied UI benefits, women are the primary losers because 67 percent, or two-thirds, of all part-timers are women.

H.R. 2233 would also encourage States to provide UI benefits to workers whose jobs end because of compelling family situations or domestic violence.

These changes would provide benefits to workers caring for a seriously ill or disabled family member or moving with a relocating spouse. Again, these are modest UI reforms that would disproportionately benefit women, and this is why the Committee has received a letter of support from women's organizations for this bill.

While job loss in these situations is described as a voluntary quit, in a very real sense it is not voluntary. It is a worker's only option, given the obligations at home or in the face of sexual violence. I encourage the Subcommittee to incorporate sexual assaults and stalking into this language to ensure that all victims of domestic violence, as defined by the Violence Against Women Act, are supported by UI.

In addition, the requirement for reasonable and confidential documentation of domestic violence should be carefully defined to avoid imposing onerous burdens on women whose safety is in jeopardy due to domestic violence.

I would also like to see job termination that is caused by a lack of child care included in the list of compelling family reasons. This would address situations in which child care arrangements suddenly fall apart or workers cannot accept a shift change because child care is not available.

Our UI system has been amended many times at both the Federal and State levels in order to expand coverage, reflect changing norms, respond to fiscal realities and stay aligned with the changing economy.

One of my favorite examples of this was in the forties when many States made women ineligible for unemployment insurance if they were fired from their jobs because they became pregnant or got married.

The UI system is one that should be updated periodically to continue to be effective as the workforce and economy evolve. H.R. 2233 will help return the UI system to its former coverage levels, improve income stability for many families, and move this important program in the direction of greater equity and improved adequacy.

Even if the Subcommittee chooses to explore wage insurance policies, there will continue to be a role for our existing UI approach to provide a known, effective safety net for all workers.

Chairman MCDERMOTT. Thank you very much for your testimony.

[The prepared statement of Dr.Lovell follows:]

INSTITUTE FOR WOMEN'S POLICY RESEARCH
1707 L Street NW ♦ Suite 750 ♦ Washington, DC 20036

IWPR #C365

September 2007

THE UNEMPLOYMENT INSURANCE MODERNIZATION ACT:

IMPROVING UI EQUITY AND ADEQUACY FOR WOMEN

Testimony of

Vicky Lovell, Ph.D.
Institute for Women's Policy Research

Before the House Ways and Means Committee,
Subcommittee on Income Security and Family Support,
Hearing on Modernizing Unemployment Insurance to Reduce Barriers for Jobless Workers

September 19, 2007

Chairman McDermott, Ranking Member Weller, and Members of the Subcommittee,

I am Dr. Vicky Lovell, Director of Employment and Work/Life Programs at the Institute for Women's Policy Research (IWPR). I hold a Ph.D. in Public Policy and Administration from Portland State University and have been employed at the Institute for eight years. In that time, I have written or co-authored several research reports on Unemployment Insurance (UI), including comprehensive analyses of UI systems in Georgia and Florida and historical reviews of women's experiences of the UI system. Other IWPR staff have completed research projects on UI that have fundamentally altered our understanding of the importance of this program for women, and especially low-wage women, and highlighted inequities in the program that leave working women at a disadvantage.

Thank you for providing me with an opportunity to present research from IWPR and others on the inadequacy of the UI system as currently designed in fulfilling its original objectives in the case of women.

I would like to address the need for three important changes proposed in H.R. 2233, the Unemployment Insurance Modernization Act: the Alternative Base Period; coverage of part-time workers; and support for workers who lose their jobs because of family circumstances.

From the perspective of women workers, the provisions of the Unemployment Insurance Modernization Act directly address two persistent facts: (1) women are disproportionately represented in the low-wage workforce; and (2) women continue to be our country's primary caregivers, carrying a particular responsibility for caring for children.

Six of every ten minimum-wage workers in the U.S. are women, and nearly one-third of working women (29.4 percent) earn a poverty-level wage or less (Mishel, Bernstein, and Allegretto 2006). These women hold jobs as child-care workers, teachers' aides, hairdressers, retail clerks, and building cleaners (Lovell, Hartmann and Werschkul 2007). They may earn the minimum wage, or a few dollars an hour more. Women are more likely than men to be in this earnings group because pay in some jobs that are considered to be "women's work" is depressed by the very fact that women are doing the work (Reskin 1993). In addition, when doing the same job, it is still the case that women tend to be paid less than men—even within low-wage occupations. For example, among dishwashers, women earn only 87 cents for every dollar that men earn (Weinberg 2007).

Although low-wage workers are more likely than higher-wage workers to become unemployed, they are significantly less likely to receive UI benefits. The Government Accountability Office recently calculated UI recipiency rates of 17.8 percent for low-wage workers, compared with more than double that—40.0 percent—for higher-wage workers (Government Accountability Office 2000).

As women have become more and more active in the labor force, families have come to rely increasingly on women's earnings, not as a supplement to a main earner, but as main earners themselves. In fact, married women bring in more than one-third of their families' income, on average (U.S. Department of Labor 2006). African-American women bear an even greater responsibility for supporting their families, earning 40 percent of household income (Brown 1997). For single mothers with no other earners in the household, the earnings responsibility is obviously much greater. Nineteen percent of today's families are headed by women (Cromartie 2007). Everyone in these women's families, including their children, is affected when public policies fail to adequately support them during temporary spells of unemployment.

This is one reason that unemployment has such a strong impact on women's economic well-being. IWPR research documents that, even when taking into account a worker's poverty status, becoming unemployed increases women's experience of hardship by 50 percent, leading to food insecurity, inability to access needed

health-care services, and difficulty sustaining housing (Lovell and Oh 2005). The loss of income from a job is not a minor issue for women; nor is it beyond the intended scope of the UI system. But, as currently designed, that system erects barriers to women's receipt of UI. As a result, the rate at which unemployed women receive UI is more than 10 percent lower than men's UI recipiency rate.

The alternative base period

When states calculate whether a worker had sufficient earnings to qualify for UI benefits, most look to a 12-month period ending three to six months before the worker lost her job. This set of months is called the "standard base period" or SBP. The worker's most recent earnings are completely ignored in assessing whether the worker's labor-force attachment is sufficient to qualify for UI benefits. This makes it less likely that a worker who recently joined the workforce, or recently re-joined after being home caring for a family, or works in an industry with high turnover, will be able to count on support from the UI system if she is laid off. Since women have slightly lower average job tenure than men do (Schmitt 2004), they may have more difficulty meeting earnings standards that require continuous work over an 18-month period.

Under an "alternative base period" (ABP), earnings of workers who fail to meet monetary eligibility criteria under the SBP are re-calculated, using earnings in the most recently completed calendar quarter. With modern computer systems for administering unemployment insurance, there is no reason to ignore more recent earnings in calculating eligibility for UI. 18 states and the District of Columbia have made this change, by considering recent earnings for workers who do not qualify under the traditional approach. In New Jersey, the ABP confirms UI eligibility for a larger share of unemployed women than unemployed men (Stettner, Boushey, and Wenger 2005).

A survey of state UI administrators found that the costs of modifying computer systems to support use of the ABP for those failing monetary eligibility criteria under the SBP were modest. None of the states surveyed had to purchase new computer hardware or software (Stettner, Boushey, and Wenger 2005). The UI Modernization Act would require that states implement such a process as the first step in earning a distribution of UI funds. This is a completely feasible and fair change that would increase women's economic security.

Arguments against the Alternative Base Period often assume that workers are in complete control of their job tenure—that is, it is often assumed that a worker who meets an employer's job performance expectations can hold a job indefinitely. But in today's economy, with increasing employment instability, the requirement of an 18-month earnings record is an unnecessary and unrealistic burden. Job tenure has declined significantly for some groups of workers over the last 25 years, with men aged 35 to 54 affected particularly strongly (Valletta 2007). Volatility in employment necessarily means that workers have more difficulty meeting earnings standards that require job continuity lasting 18 months prior to the start of unemployment.

In the old employment model, UI was often envisioned as temporary relief for full-time workers with long employment histories who were laid off due to a recession or industry slowdown, with the expectation that workers would be rehired once economic conditions improved. The new reality is widespread underemployment for many low-wage workers, even when the economy is strong. In some industries, high turnover is a fairly commonplace consequence of work schedules that change nearly every week, work hours that are often less than workers need to meet their living expenses, and inadequate regard for workers' child-minding requirements (Lambert 2003). In other cases, workers may be vulnerable to being fired the first time they experience a crisis with transportation or child-care (Taylor and Rubin 2005). In this context, frequent movement into and out of jobs does not necessarily reflect workers' desires, but may instead be an artifact of the types of jobs being made available by employers. In this scenario, it is neither fair nor reasonable to interpret a gap in an earnings record as a lack of adequate labor-force attachment on the part of the worker, and UI benefits should not be denied or

postponed on that account.

Part-time workers

In many states, UI claimants looking for part-time work are not eligible for UI, even if they have historically worked part-time and would qualify for UI based on that work history, or have family obligations that preclude full-time work.

Part-time work is an integral feature of today's economy. More than one in every six workers (17.1 percent) is on a part-time schedule. Contrary to a common misperception, most part-time workers are not young adults still in school: Two-thirds are 25 years old or older, and 35 percent are women in the prime working ages of 25 to 54 years. Women's responsibility for caring for their families is a primary driver of part-time work; 25 percent of part-timers cite child-care problems and other family or personal responsibilities as the reason for working a reduced schedule. Another 12 percent of part-timers—one in every eight—would prefer to work full-time, but cannot find a full-time job.

When workers looking for a part-time job are denied UI benefits, women are the primary losers. While women comprise 42 percent of the full-time workforce, they account for 67 percent of all part-timers. But part-timers are much less likely than full-timers to receive UI when they become unemployed: UI recipiency rates are 17.7 percentage points higher for full-time than for part-time low-wage workers, and 9.4 percentage points higher for full-time than part-time higher-wage workers (Government Accountability Office 2000).

Many workers on part-time schedules provide a critical portion of their families' total income; they are not just students working for a little spending money. Income from a second worker's part-time job may be what keeps families from defaulting on their mortgages, or allows them to save for their children's college education. And UI payroll taxes are paid on behalf of part-time workers just as they are full-time workers. These earned benefits should be available to workers who are seeking a part-time position.

Compelling family circumstances

Leaving a job that is incompatible with family care work, or refusing a shift change that makes it impossible to find child-care, is often ruled a "voluntary" job termination, which is not covered by UI (Government Accountability Office 2000). The same is true of women who cannot go to work because of domestic violence or stalking. But this misunderstanding of the concept of "voluntary" job termination is inappropriately narrow. If a child becomes disabled, everyone in this room would agree that their parent might need to be home to care for that child, even if that requires an absence from a long-term job, and especially if there are no affordable options for providing care. In most families, the worker selected to stay home will be a woman. It is simply wrong to consider this to be a "voluntary" action, or the worker's "fault." But workers who leave their jobs are much less likely than those laid off to receive UI, and women leavers are much less likely than men leavers to get unemployment benefits (Smith, McHugh, and Stettner 2003).

A change in Washington State's UI law in 2004 made it more difficult for "voluntary" job leavers to receive UI. A study by the state's Employment Security Department's (ESD) of this more restrictive approach to job quits shows that women were more negatively affected than men (Washington State Employment Security Department 2006). While most voluntary-quit claimants would have been deemed eligible under both the old and new schemes, more than 10 percent of those filing this kind of claim under the new law were denied, although they would have been eligible previously. The rate at which claims for women with voluntary quits were denied increased by 12 percentage points, compared to a rise of 9 percentage points for men. Women with issues of domestic or marital responsibilities (including losing child-care or having a spouse relocate) were

particularly vulnerable under the new rules; 71 percent of denied claims for domestic or marital responsibilities that would have been eligible before 2004 were from women. Losing a job due to becoming ill or disabled, or having to care for an ill or disabled family member, also became a bigger obstacle to UI receipt for women under the new rules; 57 percent of claims for this type of job quit that would have been approved under the previous rules were filed by women. When Washington changed its UI system, women were the main losers, because of their responsibility for family care.

To ensure that the concerns of victims of all forms of domestic violence, as defined by the Violence Against Women Act, are addressed by UI, I encourage the Subcommittee to specifically incorporate sexual assault and stalking, as defined for that legislation (at 42 USC s 13925), into H.R. 2233. In addition, the requirement for "reasonable and confidential documentation" should be carefully defined to avoid imposing onerous burdens on women whose safety is in jeopardy due to domestic violence.

Another issue for women that is not addressed by H.R. 2233 is job terminations caused by lack of child-care. This situation can arise when a worker has arranged for child-care during work hours, but the child-care provider becomes unavailable, and no substitute can be immediately found. Studies of low-income mothers, including those moving into employment from welfare, mention this as a barrier to making this transition successfully (Kisker and Ross 1997). Research evaluating New Jersey's TANF program found that, of former TANF recipients who quit their jobs, 10 percent cited child-care problems as the cause (Rangarajan, Razafindrakoto, and Corson 2002). Unemployment insurance can support these workers by providing temporary income while new child-care arrangements are established and a new work-search undertaken (Greenberg and Savner 1999).

Comments on the flexibility of the Unemployment Insurance system

In line with a long history of statutory updates to the UI system to align with a changing workforce, H.R. 2233 would provide an overdue adjustment to this important system, without imposing impractical new demands on states.

The federal side of our 72-year-old UI system has been amended many times, to expand coverage, reflect changing norms, respond to fiscal realities, and stay aligned with the changing economy. For instance, just a few years after the program was enacted, a taxable wage base was established, excluding wages above a certain threshold from the UI tax. In 1954 and 1970 the employer size threshold was reduced, to bring more workers under the umbrella of UI. And in the 1970s, the program was expanded to cover non-profit organizations and state and local governments (Blaustein 1993). Thus, there is plenty of precedent for reforming UI so that it can remain effective and in order to provide more adequate support for workers.

State programs are also revised periodically. Sometimes these reforms benefit employers, by lowering UI payroll tax rates, for example; in other instances they help workers by expanding coverage. As an early example, in the 1940s some states changed their programs to make women ineligible for UI if they were fired upon becoming pregnant, left their jobs to follow a spouse who had been transferred, or had to limit their work hours to match the availability of child-care (Blaustein 1993). In general, according to a noted historian of the program, "over the years, the terms and conditions of eligibility set forth in state laws have become more detailed and demanding, and the disqualifications imposed have grown stiffer" (ibid., 282). This state-level flexibility can ensure that the UI system meets its original objectives of supporting unemployed workers, smoothing consumption over the business cycle, discouraging layoffs, and keeping workers available for rebounding employer demand (ibid.). But, when undertaken piecemeal, one state at a time, it necessarily creates inequities, giving benefits to workers in a certain circumstance in some states while denying benefits to workers in identical circumstances elsewhere. This geographical inequity can only be addressed through federal action.

Public policies should be updated periodically so that they continue to be effective as the workforce and economy evolve and to remain in sync with Congress' and the people's intent. This seems to be the case with the UI system, which currently supports a much smaller share of the unemployed than was the case earlier in the program's history.

The approach envisioned by the Unemployment Insurance Modernization Act is restrained and responsible. It would use funds generated by the UI system, which are more appropriately used to improve that system than for completely unrelated purposes; and it would maintain states' ultimate control over their programs, while incentivizing important improvements. This is the same method that was originally used to encourage states to implement UI programs following passage of the Social Security Act of 1935.

Increasing UI equity and effectiveness through modest reforms

Much has changed about the American workforce since the Unemployment Insurance system was created in 1935. The relative importance of the goods-producing sector has declined, while services have surged (Council of Economic Advisers 2007); workers are more educated and nearly three times as productive (ibid.); women are now permanently incorporated into a broad range of occupations and industries. Families rely more than ever on women's earnings from employment; in fact, it was only earnings from women's increased work effort over the period 1979 to 2000 that prevented lower-income families from having their incomes fall during that timeframe (Bernstein and Kornbluh 2005). And women share equally with men in the problem of unemployment: While women were 32 percent of the unemployed in 1950 (Blaustein 1993), in August 2007 women were fully half of all the unemployed (50 percent; U.S. Bureau of Labor Statistics 2007).

Some things haven't changed, though. Contemporary cultural norms accept women's employment, but still expect women to do the majority of family care work. Conflict between hours of employment and the daily demands of caring for families push women toward part-time work, more than men, and occasionally lead to temporary job loss for women, more so than for men. Domestic violence is a reality for thousands of women, affecting their job stability.

The UI system has largely been an effective public policy response to the problem of cyclical unemployment. It performs less well with regard to the constraints women face in meshing employment with their family responsibilities and in its treatment of low-wage workers, many of whom are trying to make ends meet in a high-turnover job environment. UI taxes are paid for part-time, low-wage, and women workers, but, because of outdated rules, these workers do not receive a proportionate share of UI benefits, leaving many families without income protection despite their commitment to work. H.R. 2253 will help return the UI system to its former coverage levels, improve income stability for many families, and move this important program in the direction of greater equity and improved adequacy.

References

Bernstein, Jared, and Karen Kornblub. 2005. Running Faster to Stay in Place: The Growth of Family Work Hours and Incomes. Washington, DC: New America Foundation. <http://www.newamerica.net/files/archive/Doc_File_2437_1.pdf> (July 18, 2005).
Blaustein, Saul J. 1993. Unemployment Insurance in the United States: The First Half Century. Kalamazoo, MI: W. E. Upjohn Institute for Employment Research.
Brown, Dorothy A., 1997. "Race, Class, and Gender Essentialism in Tax Literature: The Joint Return. Washington and Lee Law Review 54(4): 1469-1512.
Council of Economic Advisors. 2007. Economic Report of the President. Washington, DC: Executive Office of the President.
Cromartie, Stella Potter. 2007. "Labor Force Status of Families: A Visual Essay." Monthly Labor Review 130(7/8) (July/August): 35-41.
Greenberg, Mark and Steve Savner. 1999. "Creating a Workforce Development Structure for All Working-Age Adults." In Rethinking Income Support for the Working Poor: Perspectives on Unemployment Insurance, Welfare, and Work, Evelyn Ganzglass and Karen Glass, eds., pages 113-118. Washington DC: National Governor's Association.
Kisker, Ellen E. and Christine M. Ross. 1997. "Arranging Child Care." The Future of Children 7(1): 99-109.
Lambert, Susan. 2003. Managing Work Flows: How Firms Transform Fluctuations in Demand into Instability for Workers. Working Paper of the Project on the Public Economy of Work. Chicago, IL: University of Chicago.
Lovell, Vicky, Heidi Hartmann, and Misha Werschkul. 2007. "More than Raising the Floor: The Persistence of Gender Inequalities in the Low-Wage Labor Market." In The Class of Sex:Women Transforming American Labor, Dorothy Sue Cobble, ed., pages 33-57. Ithaca, NY: ILR Press.
Lovell, Vicky, and Gi-Taik Oh. 2005. "Women's Job Loss and Material Hardship." In Women, Work, and Poverty: Women Centered Research for Policy Change, Heidi Hartmann, ed., pages 169-183. New York: Haworth Press.
Mishel, Lawrence, Jared Bernstein and Sylvia Allegretto. 2006. The State of Working America, 2006/2007. Washington, DC: Economic Policy Institute.
Rangarajan, Anu, Carol Razafindrakoto, and Walter Corson. 2002. Study to Examine UI Eligibility among Former TANF Recipients: Evidence from New Jersey. <http://aspe.hhs.gov/HSP/UI-elig-former-TANF03/report.pdf> (September 17, 2007).
Reskin, Barbara. 1993. "Sex Segregation in the Workplace." Annual Review of Sociology 19: 241-270.
Smith, Rebecca, Rick McHugh, and Andrew Stettner. 2003. "Unemployment Insurance and Voluntary Quits: How States' Policies Affect Today's Families." Challenge 46(3) (May/June): 89-107.
Stettner, Andrew, Heather Boushey, and Jeffrey Wenger. 2005. Clearing the Path to Unemployment Insurance for Low-Wage Workers: An Analysis of Alternative Base Period Implementation. <http://www.ceepr.net/documents/publications/ABPreport2005.pdf> (September 5, 2007).
Taylor, Judith Combes, and Jerry Rubin. 2005. Engaging Employers to Benefit Low-Income Job Seekers: Lessons from the Jobs Initiative. Boston: Jobs for the Future. <http://www.aecf.org/initiatives/jfes/pdf/engageemp.pdf > (April 11, 2006).
U.S. Bureau of Labor Statistics. 2007. The Employment Situation: August 2007. USDL 07-1363. Washington, DC: U.S. Bureau of Labor Statistics.
U.S. Department of Labor. 2006. Women in the Labor Force: A Databook (2006 Edition). <http://www.bls.gov/cps/wlf-table24-2006.pdf> (August 30, 2007).
-----. 2007. Employment & Earnings 54(1) <http://www.bls.gov/cps/cpsaat8.pdf> (August 30, 2007).
U.S. Government Accountability Office. 2000. Unemployment Insurance: Role as Safety Net for Low-Wage Workers is Limited. Report No. GAO-01-181. Washington, DC: U. S. Government Accountability Office.
Valletta, Rob. 2007. "Anxious Workers." Federal Reserve Bank of San Francisco Economic Letter 2007-13.

<http://www.frbsf.org/publications/economics/letter/2007/el2007-13.pdf> (September 13, 2007).
Washington State Employment Security Department, Office of Communication & Legislation. 2006. Voluntary Quits. <http://fortress.wa.gov/esd/portal/unemployment/researchstudies/VoluntaryQuits.pdf> (September 13, 2007).
Weinberg, Daniel H. 2007. "Earnings by Gender: Evidence from Census 2000." Monthly Labor Review 130 (7/8) (July/August): 26-34.

Chairman MCDERMOTT. We will now go to Jeffrey Kling who is a senior fellow and deputy director of economic studies at the Brookings Institution. Dr. Kling.

STATEMENT OF JEFFREY KLING, Ph.D., SENIOR FELLOW AND DEPUTY DIRECTOR, ECONOMIC STUDIES, THE BROOKINGS INSTITUTION

Dr. KLING. Chairman McDermott, Representative Weller, Members of the Subcommittee, thank you for the opportunity to testify.

I fully support the efforts of this Committee to modernize UI. Improving coverage for low-wage and part-time workers, making UI more family friendly and improving skills are all worthwhile, but I also believe that there are higher priorities for modernization than those addressed in the Unemployment Insurance Modernization Act. So, the main themes of my remarks are these:

The modern UI system should focus more on the larger longer term consequences of job loss. This reorientation will ultimately require a much more ambitious set of UI reforms. The current agenda should include measures that lay the ground work for these fundamental reforms.

In looking toward the future of a modern system, we have to have clear goals, and in 1936 the Federal Government powerfully articulated what I believe to be the key goal of unemployment insurance. That is, "to lighten the burden which now so often falls with crushing force upon the unemployed worker and his family."

Seventy years later the nature of this crushing force has changed. Maintaining living standards immediately after job loss, the original focus of UI, is no longer the major difficulty associated with unemployment. In the 21st century economy, the situation has changed in at least three key ways.

First, job loss is now more likely to be permanent and associated with large drops of wages for the long term and not just short-term income loss. Second, the unemployment duration has increased. Third, people have greater ability to borrow to tide over periods of short unemployment.

These three facts, more permanent job loss with large wage losses, longer unemployment durations, and greater ability to borrow, suggest a shift in resources toward larger, longer-term consequences of unemployment should be the priority of efforts to modernize the UI system.

The most effective way to target long-term loss is to implement a wage loss insurance system similar to that recently proposed in the Worker Empowerment Act introduced by Chairman McDermott, where a fraction of the difference in wages between an old and new job is paid for a period of years.

A wage loss insurance system can better target the largest losses while simultaneously providing more benefits to workers in the lower half of the income distribution.

It would also be valuable to improve the mechanisms that trigger extended benefits for those with longer unemployment spells. These benefits could be triggered more frequently and the durations could be modulated to last for shorter and longer amounts of time.

Smaller, shorter term consequences of unemployment can be managed in ways other than through UI benefits. Increasing the

number of waiting weeks before UI benefits begin or establishing personal accounts from which one could borrow and repay from future earnings are two possible mechanisms for redirecting UI resources toward larger, longer term losses. These approaches would also promote reemployment by removing the incentive to stay unemployed that is created by UI benefit receipt.

My analysis of studies of the responsiveness of unemployment spells to UI benefits suggests that unemployment durations would decline by 10 to 15 percent if UI benefits were fully replaced at some point by personal accounts. These accounts, if implemented along with loans, could ensure the maintenance of living standards during the first 6 months after a job loss that would be at a level equal to that under the current UI system.

Once mechanisms for supporting living standards are in place, the key issue is then how to target assistance to those with the largest long-term losses.

I have found that only one-third of unemployment insurance benefit payments currently go to those who have lower wages over the 10 years after job loss, and I think we can do better than that.

I have submitted written testimony which makes three additional points about modernizing UI. The payroll tax base for UI should be broader, with lower tax rates. Compensation insured by UI should include the value of major employer benefits. A system of temporary earnings replacement accounts and wage loss insurance is feasible for the future, and its components merit demonstration and evaluation.

Even if the focus of the UI Modernization Act remains on broadening eligibility and other issues currently envisioned, additional provisions could be added to begin to explore the fundamental modernization I have described today.

It would be extremely beneficial to facilitate experimentation by States interested in focusing on larger longer term losses, payroll tax-base broadening, incorporation of employer-provided benefits, or other priority areas for modernization.

Just 2 percent of funds in the UI Modernization Act would provide $140 million of investment in testing new ideas that could provide valuable guidance for the major decisions that we will encounter when thinking about fundamental modernization in the future.

I would be happy to talk more about any of these issues.

Thank you.

Chairman MCDERMOTT. Almost perfect.

[The statement of Dr. Kling follows:]

Statement of Jeffrey Kling, Ph. D., Senior Fellow and Deputy Director, Economic Studies, The Brookings Institution

Chairman McDermott, Representative Weller, and Members of the Subcommittee, thank you for the opportunity to testify at this hearing on Unemployment Insurance (UI) modernization. I fully support the efforts of this committee to modernize UI. Improving coverage for low-wage and part-time workers, making UI more family friendly, and improving skills are all worthy endeavors. But I also believe that there are higher priorities for modernization than those addressed in the Unemployment Insurance Modernization Act. The main themes of my remarks are these:

- The modern UI system should focus more on the larger, longer-term consequences of job loss.
- This reorientation will ultimately require a much more ambitious set of UI reforms.

- The current agenda should include measures that lay the groundwork for these more fundamental reforms.

Focusing on larger, longer-term consequences of unemployment

In looking toward the future of a modern system, we must have clear goals. In 1936, the federal government powerfully articulated what I believe to be the key goal of unemployment insurance: "to lighten the burden which now so often falls with crushing force upon the unemployed worker and his family."[1]

Seventy years later, the nature of this crushing force has changed. Maintaining living standards immediately after job loss, the original focus of UI, is no longer the major difficulty associated with unemployment. In the twenty-first century economy, the situation has changed in at least three key ways. First, job loss is now more likely to be permanent, and associated with drops in long-term wages, not just short-term income loss. Second, unemployment duration has increased. Third, people have greater ability to borrow to tide over short periods of unemployment. These three facts—more permanent job loss with large wage losses, longer unemployment durations, and greater ability to borrow—suggest a shift in resources toward larger, longer term consequences of unemployment should be the top priority of efforts to modernize the UI system.

The most effective way to target long-term losses is to implement a wage-loss insurance system similar to that recently proposed by H.R. 2202, the Worker Empowerment Act, introduced by Chairman McDermott, where a fraction of the difference in wages between an old and new job is paid for a period of years. A wage-loss insurance system can better target the largest losses while simultaneously providing more benefits to the lower half of the income distribution. It would also be valuable to improve the mechanisms that trigger extended benefit payments for those with longer term unemployment spells. These benefits could be triggered more frequently, and the durations could be modulated to last for shorter or longer amounts of time.

Smaller, shorter term consequences of unemployment could be managed in ways other than with UI benefits. Increasing the number of waiting weeks before UI benefits begin or establishing personal accounts from which one could borrow and repay from future earnings are two possible mechanisms for directing UI resources toward larger, longer term losses. These approaches would also promote re-employment by removing the incentive to stay unemployed that is created by UI benefit receipt. My analysis of studies of the responsiveness of unemployment spells to UI benefits suggest that unemployment durations would decline by 10 to 15 percent if UI benefits were fully replaced at some point by personal accounts. These accounts, along with forgivable loans, could ensure the maintenance of living standards during the first 6 months after job loss at a level equal to that under the current UI system.[2] Once mechanisms for supporting living standards are in place, the key issue is how to target insurance to those with the largest long-term losses. I have found that only one-third of unemployment insurance benefit payments currently go to those who subsequently have lower wages over the 10 years after job loss. We can do better than that.

I have submitted written testimony which makes three additional points about modernizing UI:

- The payroll tax base for UI should be broader.
- Compensation insured by UI should include the value of major employer benefits.
- A system of temporary earnings replacement accounts and wage-loss insurance is feasible for the future, and its components merit demonstration and evaluation.

Even if the focus of the UI Modernization Act remains on broadening eligibility and other issues currently envisioned, additional provisions could be added to begin to explore the fundamental modernization I have described today. It would be extremely beneficial to facilitate experimentation by states interested in focusing on larger, longer term losses, payroll tax base broadening, incorporation of employer-provided benefits, or other priority areas for modernization. Just 2 percent of funds in the UI Modernization Act would provide $140 million of investment in testing

---

[1] Advisory Commission on Unemployment Compensation. *Unemployment Insurance in the United States: Benefits, Financing, Coverage*. Washington, DC, 1995. (Quoting a statement by the U.S. Social Security Board in 1936.)

[2] Kling, Jeffrey R. "Fundamentally Restructuring Unemployment Insurance: Wage-loss Insurance and Temporary Earnings Replacement Accounts." Hamilton Project Discussion Paper 2006–05, September 2006.

new ideas now that could provide valuable guidance for major decisions about fundamental modernization in the future.

I would welcome further discussion on any of these issues. Thank you.

Additional testimony submitted for the record

UI is the primary form of insurance for job lossin our country. The basic structure of our UI system has remained essentially the same since it was established 70 years ago. Our economy, however, has changed a great deal over this time, creating a need for modernization.[3]

Today more job losses are permanent and more unemployment spells are long ones. For instance, looking at similar points in the business cycle 1961 and 2002, the percentage of UI recipients exhausting their benefits (often after 26 weeks of unemployment) increased from 30 percent to 43 percent.[4] Perhaps most importantly, many workers can find new jobs only at reduced wages. In 2002 over one-fourth of job losers had earnings losses of 25 percent or more eighteen months after the job loss.[5] It is the devastation of permanent income declines after job loss is that is the crushing force of unemployment in today's economy.

Meanwhile, financial innovations ranging from credit cards to home equity loans have made it possible for many individuals to borrow funds to maintain living standards in the weeks immediately after job loss. For example, the first credit cards were issued in 1951. By 1983, over one-third of lower-income households (and about two-thirds of UI recipients) had at least one credit card; by 2001, over one-half of lower income households (and about three-quarters of UI recipients) had a credit card.[6] Since it is increasingly feasible to borrow during unemployment, larger UI payments could be targeted to those who will have difficulty in repaying, rather than spending UI resources on those who have an unemployment spell and go on to have higher income than prior to job loss.

Broadening the payroll tax base for UI

In 1937, the maximum amount of taxable earnings for Social Security and for UI both was $3000. Today the taxable earnings base for Social Security is $97,500, while the taxable base for UI is $7000. The narrow earnings base for UI translates into high tax rates for low earners.[7] The UI tax rate is over 2.5 percent for the bottom quarter of the wage distribution and less than 1 percent for the top quarter of the wage distribution. Shifting from the current earnings base to the Social Security earnings base could collect the same amount of revenue while allowing tax rates to fall. The tax rate on the bottom quarter of the wage distribution could be cut approximately in half, making the tax much less regressive. The UI taxable wage base has not increased since 1983; it is one of the features most in need of modernization and would be relatively simple to address. Leadership by the federal government would likely motivate states to make adjustments as well.

Regarding UI taxes, note that my recommendations for modernizing the UI system are not at all contingent upon whether the temporary FUTA surtax is extended. In past hearings before this Committee I have observed the testimony from witnesses degenerate into discussion of a change in tax revenue. However, an order of magnitude more is being spent on the underlying program itself, and opportunities to engage in public discourse about the fundamental structure of the unemployment insurance system have been missed. Even if large-scale changes are not feasible at this moment in time, there are things we can and should do now to set the stage for making informed choices about fundamental modernization in the future.

Compensation insured by UI should include the value of major employer benefits

In 1950, pension and health plans were about 3 percent of total compensation; in 2006, employer contributions to pension and health plans had increased to 15 percent of total compensation.[8] When an individual loses a job however, these contributions are lost. Moreover, UI benefits are based on earnings, and do not incor-

---

[3] For an overview, see Stone, Chad, Robert Greenstein, and Martha Coven, "Addressing Longstanding Gaps in Unemployment Insurance Coverage." Center on Budget and Policy Priorities (August 7, 2007). http//www.cbpp.org/7-20-07ui.pdf

[4] http:workforcesecurity.doleta.gov/unemploy/hb394.as (accessed September 17, 2007)

[5] Kling (2006).

[6] The percentage of households in the lowest third of the income distribution with a head younger than 60 where someone in the household has a credit card was 34 percent in 1983 and 54 percent in 2001. The percentage of households receiving unemployment insurance or worker's compensation with a head younger than 60 where someone in the household has a credit card was 65 percent in 1983 and 76 percent in 2001. (Karen Dynan, personal communication, Sep-

porate the value of these employer contributions. Partly as a result, the loss of health insurance can be a particularly difficult aspect of unemployment.

The rising importance of fringe benefits over time has not been incorporated into the UI system, and their incorporation would be a valuable addition to a modernized system. Employers could include pension contributions and the per-employee costs of employer provided health benefits in quarterly reports of compensation. States could then either collect more revenue and increase outlays based on the total compensation (which would be higher than earnings alone) or adjust their tax rates and outlays to reach desired targets.

Temporary earnings replacement accounts and wage-loss insurance

In recent work I have discussed issues involved with a fundamental shift toward insurance for persistent, long-term effects of job loss, based on the core principle that smaller, short-term needs can be met through savings, borrowing, and repayment, so that the funds for insurance can be targeted to assist those facing larger, longer term losses.[9] This is not a change that I recommend making immediately, but it outlines a direction for modernization that suggests key issues that merit exploration, experimentation, and demonstration.

In the remainder of this section, I outline what would be involved in creating a future system where two-thirds of the financial resources currently used for UI would be shifted to wage-loss insurance to augment the hourly wages of individuals who find new jobs at wages lower than their previous jobs. Temporary Earnings Replacement Accounts (TERAs) would provide the same amount of cash as under UI to be withdrawn during unemployment. Unemployment would be reduced by removing subsidies for temporary layoffs and by creating stronger incentives to return to work. The proposed system would provide a significantly greater share of net program benefits to workers in the lower half of the income distribution when compared to the current system of UI benefits alone. By targeting system resources to those whose hourly wages are lower on their new jobs after an involuntary job loss, significant hardship would be reduced.

To compare current UI with this proposed modernization in the context of a concrete example, consider an aircraft assembly employee in California who was making $14 per hour and working 40 hours per week before her plant closed and she was laid off. If she were to apply for UI under the existing system, the state would check to see that she worked for an employer covered by UI, that her earnings in the past year were above a threshold, that her employment was terminated involuntarily, and that she is available now to work. When verified as eligible, she would receive benefits replacing half of her income—in this case, $280 per week. Benefits are financed by a payroll tax on the wages paid to employees at all covered firms, with the firm's tax rate depending in part on the amount of UI benefits paid to former employees of the firm. Payroll taxes from firms are paid to the government, and the government pays UI benefits to eligible individuals. The workings of the proposal are illustrated by continuing with this example, first taking the viewpoint of the individual, then the firm, and then the government.

From the individual's viewpoint, during the course of her 10 years of employment at the firm, the worker voluntarily contributed $2,000 to her TERA. (The default on initial employment was a payroll deduction of 1 percent of pretax earnings contributed to her TERA, and she did not opt out of this contribution schedule.) The account was maintained by the government, and her investments were in government bonds. Funds in the account were excluded from asset tests for food stamps, Medicaid, and other government programs, so they did not reduce any potential eligibility for assistance from these programs.

After being laid off from her aircraft assembly job, she could apply to receive the same amount of income as under UI—$280 per week, replacing half of her previous earnings. This amount is treated as taxable income as it would have been under current UI. The eligibility criteria would also be the same as under UI. The difference is that the funds would come from a combination of previously accumulated savings in the TERA and borrowing against future employment income. Say that she remains unemployed for 10 weeks, receiving $2,800. She thus draws down the $2,000 in her TERA and borrows an additional $800, leaving her TERA balance at negative $800. She then takes a new job that pays $10 per hour. Her new firm deducts 5 percent of her earnings from her paycheck until she has repaid the $800 (plus interest).

The proposal's other main component involves wage-loss insurance. To be eligible for wage-loss insurance payments, a period of unemployment between the involuntary job loss and the next job would not be required, but all other requirements for

[9] This section draws upon Kling (2006).

initial UI eligibility, such as requirements regarding earnings history and nature of the job loss, would still need to be met. In addition, wage-loss insurance would be available only to those with at least 1 year of tenure with their previous employer; obviously, individuals would need to have taken a new job with a different employer. The amount of the wage-loss insurance per hour worked on the new job would be based on an insured wage rate—either the wage on the previous job or the fixed amount of $15 per hour, whichever is lower—and calculated as 25 percent of the difference between the insured wage rate and the hourly rate on the new job. The insured wage for each individual would be adjusted each quarter for price inflation, as would the level (initially at $15) of the fixed maximum potential insured wage for future claimants and other parameters of the system based on dollar values.

In this example, the aircraft assembly worker experiences a $4 per hour reduction in wages ($14 per hour at the previous job, $10 per hour at the new one). Assuming no inflation, her wage-loss insurance payments are 25 percent of this $4 reduction—in other words, the wage-loss insurance payment amounts to $1 per hour. These payments are initially deposited directly in her TERA. They would be used first to repay her incurred $800 loan, which would take about 14 weeks of work at the new job. She would then receive the wage-loss insurance payments for 6 years, which is a period based on total hours of work in her 2 years prior to job loss (3 hours of insurance coverage for each hour worked, excluding hours worked in the first year on the job). After her TERA balance reached a maximum threshold ($5,000), additional payments from wage-loss insurance would be sent to her by check. Assuming her wage rate did not change, her income drop would be reduced from 28 percent (based on labor earnings falling from $14 to $10 per hour) to 21 percent (including the $1 per hour insurance payment) over the 6 years she receives payments. If her wage in the new job did rise or fall, the wage-loss insurance payments would be adjusted as well, so that the wage-loss insurance payments in each calendar quarter would be based on the average hourly wage since job loss through that quarter.

The amounts of transfer payments would vary with individual circumstances. Generally speaking, transfer payments to individuals would be smaller under this proposal than they would be under traditional UI for those experiencing unemployment spells followed by employment at wages the same or higher than at the time of layoff. Transfer payments would be the same to minimum wage workers and those who never return to work following a period of unemployment, and transfer payments would be larger after permanent job loss for those working at a new job with a lower hourly wage.

Four special conditions that don't apply to our hypothetical aircraft assembly worker are worth noting here. First, those with very low wages on their previous job would receive supplemental assistance if they needed to borrow funds from their TERA. The members of this group are unlikely to benefit much from wage-loss insurance because the wages of their previous jobs were already so low, limiting their potential wage losses at new jobs, given minimum wage laws. The coinsurance rate for this supplemental assistance would run on a sliding scale, such that someone earning $5.15 per hour would not have to repay any borrowing from the TERA—but also would not receive any wage-loss insurance payments. Such a worker would be in exactly the same position under current UI and under the proposed system.

Second, if our hypothetical worker reached retirement age and filed for Social Security benefits, any positive balance remaining in her TERA would be transferred to an Individual Retirement Account (IRA) for her. If her earnings had been too low to repay any loans from her TERA at the point she would begin collecting Social Security, then TERA repayment insurance would pay off the remaining balance.

Third, if she had opted out of making payroll contributions to her TERA, instead of accepting the default option of making such contributions, her withdrawals during unemployment would have been entirely a loan from her TERA, which she would repay with interest through deductions from paychecks at her new job.

Fourth, if she held two or more jobs with separate employers, each job would be separately insured. Withdrawal amounts would be based on earnings at the specific job that was lost, and the insured wage for wage-loss insurance would be set based on earnings and hours on the lost job. A new job started a week before being laid off from one's main job and a job started a week after a layoff would be treated the same way for the purposes of wage-loss insurance eligibility and payments, with calculation of the post—job loss hourly wage beginning in the calendar quarter after job loss.

From the firm's viewpoint, the aircraft-manufacturing firm laying off the individual in the example would submit three types of payments to the government over time. Initially, the firm would send payroll deductions for voluntary saving to the

TERA; these deductions reflect contributions made by workers who do not opt out of the default saving mechanism for the TERAs. Taxes based on the firm's payroll, as under the current UI, would support the administration of the system and finance two types of payments: repayment insurance to pay off loans for individuals who retire but who had earnings too low to fully repay their TERA withdrawals, and low-wage coinsurance to reduce potential TERA repayments for those with low hourly wages.

Regarding the flow of funds for wage-loss insurance, firms would reimburse the government for wage-loss insurance claims of former employees, and the government would pay the employees. Firms would also be required to purchase insurance on the private market to cover wage-loss insurance claims in the event that the firm became insolvent, and the insurer would then make payments to the government in the event of firm insolvency.

In total, firms would make payments to the government for wage-loss insurance, repayment insurance, assistance on TERA repayments for those with low wages, and other costs of the proposed system that would be approximately the same as the current UI system. In terms of funds currently paid in UI benefits, nearly two-thirds of the money would be reallocated to wage-loss insurance, about 30 percent would go to repayment insurance, and 6 percent would be used for supplemental assistance for TERA withdrawals by those with wages near the minimum wage. Thus, revenue from new payments for wage-loss insurance reimbursement would combine with reduced revenue from the payroll tax so that a change to the proposed system would be revenue neutral.

The UI taxable earnings base would be increased from the current caps (e.g., 27 states had caps on taxable earnings of $10,000 or less in 2005) to the Social Security earnings base (which was $90,000 for 2005, and which increases annually with the national wage index). The reduced revenue needs from the UI payroll tax combined with the broader tax base would allow average payroll tax rates to be substantially reduced. UI tax rates would continue to vary by firm as under traditional UI (according to previous use of TERAs by former employees, as opposed to previous payments of UI benefits to former employees). These rates would be more tightly linked to firm layoff histories through the combination of lower average tax rates and a lowering of the minimum rates that states require firms to pay. Since firm-varying rates would be less constrained by the floors and ceilings that characterize the current system, firms that lay off workers would see higher UI payroll taxes in the future.

A firm that hired a previously unemployed worker would carry out mandatory payroll deductions for repayment of loans when that employee's TERA withdrawals had resulted in negative TERA balances. Such deductions would appear on pay stubs as pretax deductions, similar to health insurance, retirement plans, and dependent care expense accounts.

From the government's viewpoint, UI is run under current law by the states under the oversight of the federal government, and this pattern would remain in place under this proposal. States would continue to be responsible for verifying a person's eligibility for unemployment benefits. States would also determine how much each unemployed person could withdraw from his or her TERA per week. States would continue to collect payroll taxes, which would be used for TERA repayment insurance and low-wage coinsurance.

The flows of funds to the government from firms and insurers and from the government to individuals would involve individuals making TERA withdrawals and receive wage-loss insurance payments. It is sometimes proposed that a minimum size should be set for the level of payments because, for example, very small wage losses could lead to very small payments. However, once an employee has borrowed from a TERA and the wage-loss insurance program has been established, the administrative cost of making these payments would be very low. Once a claim has been approved, benefit amount determination and deposits can essentially be automatic, based on employer reports of earnings and hours for each quarter.

The federal government would manage the TERAs in this system. The government can take advantage of economies of scale to keep costs low, and it can avoid TERA transfers when individuals change employers or move across state lines. The interest rate on government bonds would be the rate of interest required for repayment of borrowed funds.

Funds in the TERAs would be invested and earn a rate of return on positive balances. The automatic default investment would be in government bonds. Such a safe default investment seems appropriate given that job loss is an unpredictable event and the savings may be needed at any time. For positive TERA balances, workers could opt into a portfolio with a mixture of stocks and bonds, where the portfolio composition varied depending on the retirement age of individual, modeled on the

federal Thrift Savings Plan's life-cycle funds. Changes from bonds to life-cycle funds would be allowed once per calendar quarter.

The federal government would also have the power to authorize extending the standard 26-week period in which the unemployed person can make withdrawals from a TERA, just as the federal government now can extend eligibility for unemployment benefits when the economy is in or near a recession. During the extended period, individuals could continue to make withdrawals and borrow from their TERAs. Firms would not have their future payroll tax rates increased because of withdrawals during the extended period. federal unemployment taxes would contribute to the repayment insurance that would cover borrowed funds that were not repaid.

The transition to a system of TERAs and wage-loss insurance would phase in naturally. In the first year of the program, firms would be charged the full amount of withdrawals by their former employees from TERAs because the former employees would initially have no savings and the system would need funds to loan out from TERAs. Wage-loss insurance payments would not be paid in the first year, however, so total outlays by firms would not increase.

In the second year of the program, some workers would begin to qualify for wage-loss insurance and firms would begin to make wage-loss insurance reimbursement payments to the government. The parameters of the system could be set so that the combined cost to firms for TERA withdrawals and wage-loss insurance payments would be no larger than the firms' costs under the current UI system.

The proposal could be adopted by one or more states, while other states could opt to remain with the existing system. Coverage for compensation after involuntary job loss would be determined by the location of the employing establishment at the time of job loss, just as under the traditional UI system. Individuals who worked in a state adopting this proposal would be covered under it even if they relocated to a state that had not adopted this proposal.

Chairman MCDERMOTT. Since I don't know when this thing is going to be going off, and we are going to have to go over and vote, I am going to give the first chance to ask questions to Mr. Weller.

Mr. WELLER. Thank you, Mr. Chairman, and recognizing we may be under time constraints for all of the members to have an opportunity to ask questions, I will try and wrap this up before the vote break and direct my questions to Dr. Kling.

Dr. Kling, essentially your message in your testimony was it is important to promote workers in getting back to work quickly as opposed to collecting more unemployment benefits.

Can you go more into greater detail on why you feel that is the approach we should be looking at as we work to do a better job at unemployment benefits?

Dr. KLING. Sure. Unemployment insurance is an insurance system. So, fundamentally what we want to do is have a way of providing insurance when there is a loss. The best way to prevent there being a loss is to have people who are going back to work quickly, in a good job, and if they are doing that, then there is no loss. So, that is the number one priority.

Then when that doesn't work out, either because the labor market isn't rewarding the skills that somebody has at the level that it used to, or if it is taking a long time in order to find a new job, then providing some benefits in that case is sort of what the insurance part is for. The primary way of avoiding the need to do that in the first place is really to get people back to work.

Mr. WELLER. What does the worker benefit? What is his benefit if he is in a program designed to give him the opportunity to go back into the workplace?

Dr. KLING. Are you asking about how can the system provide additional assistance to workers in terms of, say, providing more job search assistance?

Mr. WELLER. I also know you have several initiatives that you drew attention to in your testimony. If you would like to discuss those, because those are new ideas.

Dr. KLING. Sure.

Mr. WELLER. Perhaps your wage insurance proposal, your accounts proposal.

Dr. KLING. Right.

The way to shift assistance toward the larger, longer term losses really has two components in what I outlined. One is to make sure that there is enough cash availability at the time when there is job loss. So, you can do that through accounts that have the savings element or an ability to borrow. That is a way of making sure that people are able to make their mortgage payments and buy their groceries and do things that they need to do.

So, once those needs are being taken care of, then the real challenge is how to target assistance toward people who have the largest losses. In order to do that, wage insurance is a very nice targeting mechanism because it really does give assistance to people who have demonstrated they have had a large loss and have had it for a long time.

In order to make this work, another thing that is helpful is really to think about what are the incentives that people have when they are looking for a job. Right now, there is an incentive that is built into the UI system that if you stay unemployed longer, then you are receiving more benefits.

Shifting more toward an account system changes those incentives. So, when you are unemployed, then you are either drawing on your own savings or you are doing some borrowing, and that gets people to think about a way of engaging in job searches that are probably getting people toward the choices that will lead to both having a good job and getting there quickly.

So, I think that one of the key things is really to figure out how to structure a wage loss insurance system that is viable in the long run, and having some demonstrations about that either allowing States to experiment with that——

Mr. WELLER. So, you would support giving clear authority to the States to experiment with wage insurance or account programs such as you have suggested. Do you think that is a good idea?

Dr. KLING. I think that is an excellent idea. One of the things we are really lacking right now is an experience base in UI about how we would do these things. States have been very good in the past about doing that kind of experimentation and then letting us really see what works and what doesn't.

Chairman MCDERMOTT. Ms. Berkley.

Ms. BERKLEY. Thank you.

Given the time, can I submit my opening statement?

Chairman MCDERMOTT. Of course. I want to get you and Mr. English in.

[The information follows:]

Statement from Congresswoman Shelley Berkley
Ways and Means Committee, Subcommittee on Income Security and Family Support
Hearing on Modernizing Unemployment Benefits
September 19, 2007

I thank you, Mr. Chairman, for holding this hearing. The Unemployment Insurance system, when it was created more than 70 years ago, was an important step to ensure the well being of American workers and the health of the U.S. economy. By helping to provide for subsistence in times of economic downturn and mass lay-offs, this federal-state partnership has helped soften the blow of past recessions.

As the composition of the United States workforce has changed over the decades, unemployment insurance eligibility requirements have failed to keep up in many states.

One very significant change is the number of women in the workforce. Women are more likely to be forced to leave work to care for an ailing relative, avoid domestic violence, or to move in order to follow a spouse who is being transferred. Unfortunately, in many states--including Nevada--losing a job for one of these reasons may not qualify you for benefits. While the Nevada Department of

Employment, Training and Rehabilitation looks at each claim on a case by case basis and may approve a claim if there is a police report for corroboration, there is nothing in statute that requires them to do so and many people are left without the help they need.

I believe the incentives included in the Unemployment Insurance Modernization Act will help states move toward providing benefits to more of these individuals. I am happy to have this opportunity to further investigate this issue and I look forward to hearing the witnesses' testimony.

Ms. BERKLEY. Our Nevada Department of Employment training and Rehab, when we spoke to them about this proposal, officially they are neutral on the McDermott bill but they think it would—they express strong support for Federal proposals that would provide Federal funding so that they could modernize our State programs, and receipt of Federal incentive funds would greatly assist Nevada in implementing modernization to its unemployment insurance program.

Having said that, Nevada, since we don't meet any of the criteria right now under your bill, Mr. McDermott, I am kind of curious. I don't care who answers this, but as we know, in order to qualify for the first third of the funding offered in the proposals, we have—the States have to meet the alternative base period and look at the applicant's last quarter wages. In Nevada, that doesn't exist right now. Nothing else exists in the proposal, although it would give us great incentive.

Here is my question. Nevada, it has a biannual session that lasts for 120 days. Our 2007 session is long over, and we are not meeting again until January of 2007.

We are also in the middle of a modernization of the computer system and everything because we are still doing paper. That is going to take 4 to 6 years.

Given that problem, given the circumstances, do you think Nevada is going to be at a terrible disadvantage of receiving Federal funds under this proposal?

Chairman MCDERMOTT. Having served in the State legislature, maybe the Governor could call a short special session of 1 week to bring in the members and pass some changes.

Ms. BERKLEY. Having served with our Governor here in the Congress, that would be a remote possibility, Mr. Chairman. Short of a special session, that is not ever going to happen.

Chairman MCDERMOTT. One of the things you have to say is they can come in compliance anytime in the next 5 years. So, it is not a "one time, and that is it, they lose it."

Ms. BERKLEY. For a State like Nevada that doesn't already provide benefits to individuals who lost full-time jobs but are now looking for part-time employment or that bases coverage on the first of four of the last five completed quarters, how large of a difference in coverage would this represent, Mr. Chairman.

Chairman MCDERMOTT. It would be about a half a million people. If every State cut the option, it would be about a half a million people in the country that would be covered.

Ms. BERKLEY. Dr. Kling, having come from a family that was low-wage earners, the idea that they would have any money to save in order to be part of an insurance program, that is also as likely as having a special session of the legislature. It is a great idea but——

Dr. KLING. Let me add that—in particular, what I had written down in the written part of the testimony is that for the very lowest wage workers, there would be essentially something that works like current UI, where because there is really no way for someone who is earning minimum wage to have a wage loss, the program can't really be beneficial to them.

Ms. BERKLEY. I am not talking about minimum wage workers. I am talking about two people working in a family, who have a few kids and a mortgage and everything else. Things are tight out there right now. They don't have extra money. A third of the people don't even have health insurance. They are sure not going to put money into a rainy day fund. They are not going to make the mortgage if they do that.

Chairman MCDERMOTT. Mr. English.

Mr. ENGLISH. Thank you. I want to thank the Chairman for opening up this issue.

There have been, for many years, proposals out there to extend unemployment benefits to part-time workers.

Ms. Fagnoni, one of the issues that has always been raised, given the design of the unemployment insurance system in which people are being taxed on their job, in effect to give them job security in the form of the potential for unemployment benefits if they are laid off from full-time work; is there not a problem that when you extend these benefits to part-time workers, you will create the potential for full-time jobs to subsidize part-time work? How do you design a system that avoids that form?

Ms. FAGNONI. We haven't done any work directly on that. I would say that with part-time work—in any of these proposals, one would need to consider how to balance the goals of wanting to support those people who find themselves out of a job and who have, to some extent, paid into the system, or their employers have for them, and trying to look at what one would call the individual equity to how much somebody had put into the system.

Of course, there are experience ratings to try to take care of who pays in the most and who takes out the most.

It is clear, though, that the nature of the workforce has changed and there are more part-time jobs now than there were at the beginning when UI was first developed, as well as other kinds of work changes. I think it is a legitimate discussion to have to think about those——

Mr. ENGLISH. It is indeed. You anticipated my next question.

What issues would be raised in adjusting experience rating if you were to move toward providing these benefits to part-time work? After all, there is the potential for employers to design jobs that in effect take advantage of the subsidy.

So, how would you change experience rating in order to anticipate this problem?

Ms. FAGNONI. You are correct in that with any kind of changes, one would want to take a careful look. In the interest of helping one group of people, one doesn't want to run the risk of creating unintended effects, if you will, including not just subsidies, but also perhaps in order to avoid the kind of experience rating that would result in a certain kind of worker being less likely to be employed.

So, one would need to carefully consider—I certainly agree with the idea of demonstrations. We can often learn a lot from what States do to test different things and think about all of those interactions.

Mr. ENGLISH. Ms. Chasanov, in the last report of the Advisory Board, there was a significant amount of time devoted to the question of State solvency. There were many States that in effect had

been utilizing Federal subsidies pretty aggressively, and the Advisory Board had recommended raising the solvency standards for States to participate in the Federal system.

I didn't notice any reference to that in your testimony. Do you believe currently there is a need to strengthen the solvency of the Federal system by increasing the standard set for the States to participate?

Ms. CHASANOV. At the time the Advisory Council was convened in the early nineties, they were certainly looking at a different set of post-recessionary trust fund balances as they looked across the States. So many of the States were in much worse shape than they are at this point.

My testimony today has been focused on this bill, but I would say that the Council thought that the macro-economic stabilization role of unemployment insurance was critical. What often happened and what we had seen in the research that we had done was that, as State trust fund solvency began to decline, that ended up either increasing employer tax rates at the wrong time in the middle of a recession or ended up crunching down on eligibility or benefits for workers.

So, the main purpose of those solvency standards was to help forward-fund the system, and that was a goal that was throughout the Council's report.

Mr. ENGLISH. Is that not a relevant goal now?

Ms. CHASANOV. I certainly believe that that is one of many things that could be improved in the unemployment insurance system today.

Mr. ENGLISH. I notice you testified with regard to extended benefits, but I am out of time so I will certainly bounce this back.

I do believe it is very important as we move forward on reform that we consider carefully how to reform and protect the extended benefits program.

I thank you, Mr. Chair.

Chairman MCDERMOTT. Ms. Hammond, you had some comment relevant to that discussion that Mr. English was having?

Ms. HAMMOND. I wanted to point out as far as the experience rating is concerned, in Virginia when we have problems that are not the employer's fault—it is not the employer's fault that her spouse found a job and she has to move with him. It is not the employer's fault that, for example, somebody has to leave for compelling family circumstances.

In those cases, what Virginia does is to noncharge those benefits to the individual employer and charge them to a statewide pool so it spreads the cost over a larger pool and doesn't make that single employer responsible.

Chairman MCDERMOTT. We thank you all for your help today and we appreciate your written testimony. I am sorry that we are—I have to cut short but we have to go over to vote.

So, thank you all very much for coming.

[Whereupon, at 1:55 p.m., the Subcommittee was adjourned.]

[Submissions for the Record follow:]

Statement of Douglas J. Holmes
President, UWC- Strategic Services on Unemployment & Workers' Compensation

Before the
U.S. House of Representatives
Committee on Ways and Means
Subcommittee on Income Security and Family Support

Hearing on Modernizing Unemployment Insurance to Reduce Barriers for Jobless Workers

September 19, 2007

UWC- Strategic Services on Unemployment & Workers' Compensation
1331 Pennsylvania Ave. N.W., Suite 600, Washington, D.C. 20004-1790
Phone (202) 637-3463 Fax (202) 783-1616 www.UWCstrategy.org

Chairman McDermott, Ranking Member Weller, and members of the Subcommittee on Income Security and Family Support, thank you for the opportunity to submit comments with respect to proposals to reduce barriers to unemployment insurance for jobless workers.

I am Douglas J. Holmes, President of UWC- Strategic Services on Unemployment & Workers' Compensation (UWC). UWC counts as members a broad range of large and small businesses, trade associations, service companies from the Unemployment Insurance (UI) industry, third party administrators, unemployment tax professionals, and state workforce agencies.

UWC fully supports efforts to maintain a sound unemployment insurance system and to assure that individuals who become unemployed through no fault of their own are able to apply for, and if otherwise eligible, receive unemployment compensation as temporary support during periods of unemployment.

The UI system was designed to provide temporary cash support to individuals who become unemployed after a period of employment sufficient to meet workforce attachment requirements. Although UI provides a social safety net, it is an insurance program financed by employers through payment of state unemployment and federal unemployment taxes. It was never intended to be the universal source of cash payments for individuals that have no or insufficient attachment to the workforce to qualify for unemployment compensation benefits under the applicable state law, nor should it be. It is axiomatic that an individual must first be employed in order to be unemployed.

In addressing the issue of "barriers" to unemployment insurance it is important to first define the population that is not benefiting from unemployment compensation payments. A close examination of the actual workings of the unemployment insurance system reveal that the number of individuals who "should" receive unemployment compensation payments but do not because of state law restrictions is very small.

The "Recipiency Rate" methodology is not a valid statistical measure of those who should be paid unemployment compensation who are not.

Measurements such as the "recipiency rate" that are used as a basis for arguments that there are large numbers of individuals who "should" receive unemployment compensation but do not, fail to take into consideration that many individuals who are counted as "unemployed" for purposes of the Total Unemployment Number should not be included among those that could or should be paid unemployment compensation.

For example, the total number of unemployed used in the calculation of the recipiency rate includes 1) individuals who were discharged for just cause from their jobs, 2) those who quit work without just cause, 3) those who have refused suitable work, 4) new entrants to the workforce that have no employment history, 5) reentrants to the workforce whose work history is not recent enough to be counted for UI benefit eligibility, 6) individuals unemployed due to a labor dispute other than a lock-out, 7) individuals

receiving severance or separation pay, 8) those who have exhausted unemployment compensation benefits, 9) individuals who have chosen for whatever reason not to claim unemployment compensation, 10) self-employed individuals, and 11) undocumented aliens. None of these individuals are typically eligible to be paid weekly unemployment compensation, yet the calculation of the "recipiency rate" which compares the insured unemployment number with the total unemployment number seems to imply that all of these individuals should be paid benefits.

A study of the "recipiency rate" methodology conducted for the New Hampshire Employment Security Economic and Labor Market Information Bureau in 1999 details the shortcomings of the "recipiency rate" methodology.

There are many individuals who may not be working who are not and should not be eligible for unemployment compensation.

In addition, it should be noted that there are some individuals who are paid unemployment compensation who are not counted in the total unemployment rate, including individuals who file for partial unemployment benefits (i.e. they had some earnings with respect to a week of unemployment compensation that they claimed). This group typically includes low wage and part-time workers who are receiving partial unemployment compensation benefits.

The actual percentage of individuals who may be eligible for unemployment compensation who are not paid unemployment compensation is more appropriately estimated by a review of the percentage of "job losers". The percentage of "job losers" who are paid unemployment compensation has historically fluctuated with economic cycles in the 80% to 90% range.

The enactment of the new minimum wage legislation significantly reduces the number of individuals with lesser workforce attachments who may not qualify for unemployment compensation.

The recent enactment of federal and state minimum wage legislation has the effect of significantly reducing the number of individuals working 20 hours or more per week on average who may not qualify monetarily to establish a benefit year.

An individual earning $7.00 per hour working 20 hours per week for 29 weeks during a four quarter base period meets the minimum wage requirements for unemployment benefit eligibility in all states. Many states have minimum wage requirements that are much lower; as low as $130 a year in Hawaii. Thirty-four states have minimum wage requirements for a year of $2400 or less.

The effect of new federal requirements to pay unemployment compensation to a new group of individuals would be to reduce benefits to existing claimants and/or increase state unemployment taxes paid by employers.

The effect of federal mandates with respect to the use of alternative base periods, relaxed work search requirements, payments of unemployment compensation to those who choose to quit work during periods of domestic violence, payment of unemployment compensation to those whose separation from employment results from the illness or disability of a member of the individual's family, or payment to those whose separation from employment results from a need to accompany a spouse, will be to reduce unemployment compensation benefits that would otherwise be paid to claimants with greater workforce attachments and/or increase state unemployment compensation tax rates.

This is true because unemployment compensation benefit coverage and benefit payments are determined under state law and each state is responsible to enact legislation that assures that there is sufficient dedicated funding in the state's unemployment compensation benefit account to pay unemployment compensation benefits.

Many states have enacted these provisions already without federal requirements as the result of state level negotiations between employers, legislators, governors, and representatives of organized labor and worker advocacy groups. As a practical matter, state laws balance the interests of all of these groups in determining benefit eligibility and unemployment tax rates.

Responsibility and accountability for these decisions has been maintained at the state level for decades and should remain with the states.

The costs of program and system changes related to conversion to an alternative base period system are significant

As Unemployment Insurance Director in Ohio in 1988, I was directly responsible for conversion of Ohio's benefit system to provide for the alternative base period. In order to pay for the cost of the state law change implementation, Ohio applied for and received funding from the USDOL. Federal funds were provided by USDOL but the amount provided did not fully cover the costs of the conversion.

Issues in implementation included 1) policies procedures and forms to be used in obtaining the most recent quarterly wage data from employers, 2) the use of claimant affidavits in lieu of employer quarterly reports to assure timeliness of benefit application determinations, 3) revised charging of employer accounts to reflect the alternative base period, 4) policies and procedures needed to address transitional claims, and 5) system design, programming, system capacity, staff training, testing, and interstate coordination.

An analysis and projection of costs to states and employers of implementation of alternative base periods is needed before determining the amount of administrative funds needed to assist states choosing to adopt alternative base period legislation.

The increase in unemployment compensation benefits resulting from an alternative base period varies by state, depending on a number of factors, including the composition of the state workforce and the overall benefit eligibility provisions already in place.

The additional cost in states with low minimum qualifying requirements would be more limited than states with higher minimum qualifying requirements because fewer individuals are disqualified in the first place.

Studies of the increase in benefit costs associated with alternative base periods have estimated the increase in unemployment compensation benefit pay-out as a result of the alternative base period provision in the range of 1.1% to 6% annually.

An analysis of the increased unemployment compensation benefit costs resulting from the implementation of alternative base periods is needed in determining the impact on state trust funds and employer taxes on a state by state basis. Without such an analysis a state considering whether to enact an alternative base period would not be able to properly assess the cost/benefit with respect to any special Reed Act distribution funding that might be available.

The focus of efforts to assist low wage and part-time workers should be to identify and remove barriers to employment.

Individuals with minimal workforce attachment, particularly those with families to support, will not significantly benefit from unemployment compensation benefits. An individual working 20 hours a week and paid $7.00 an hour, if monetarily eligible, would typically qualify to be paid unemployment compensation of $70.00 per week, which may be reduced by partial earnings from part-time work during the week. This level of support is insufficient to assist in removing barriers to employment.

Other governmental and privately funded support programs for low wage workers, particularly those providing support for workers with families, are much more significant and targeted in removing barriers to employment. Such individuals are typically eligible to receive services under the Workforce Investment Act (WIA), the Food Stamp Act, and the Temporary Assistance for Needy Families (TANF) program. Services under these programs include cash support payments for workforce participation, payment of travel expenses to employment, education and training, assessment services, treatment for substance abuse, English as a second language instruction, job readiness training, and subsidized child care. Many of these individuals may also benefit from the Earned Income Tax Credit (EITC) and the Workforce Opportunity Tax Credit (WOTC).

A review of the array of programs designed to serve low wage and part-time workers, particularly those with families is needed to properly evaluate any gaps in the social safety net that should be addressed.

The cost to states and employers of the new federal requirements with respect to alternative base periods and other benefit provisions should be determined before enacting new federal requirements.

It has been proposed that if states already have enacted alternative base period provisions or enact new alternative base provisions and other benefit provisions, that states will receive a pre-designated share of a $7 billion special distribution into the qualifying state unemployment trust fund account and will receive a pre-designated share of $100 million per year in additional administrative funding.

There is no relationship between these distributions and appropriations and the increased administrative cost and increase in benefit costs associated with the new federal requirements.

As a result, some states will receive a windfall in additional funding while others will be shortchanged or receive no supplemental funding if they elect not to enact the required provisions. It should be noted that four of the five states with the highest minimum qualifying wage requirements are also alternative base period states. A special distribution to these states would have no impact on reducing the number of low wage or part time workers and effectively reward states that have made it more difficult for low wage workers to qualify for benefits.

This is inconsistent with the UI Federal/State partnership designed to properly share responsibility for funding of administration and benefit costs between states and the federal government. It sets up a series of winner and loser states and exacerbates the existing imbalance in administrative funding.

In addition, it should be noted that state UI administration is already under funded by at least an estimated $300 million per year. An additional $100 million per year is insufficient to properly fund the UI system in the first place, let alone to fund the additional administrative costs of implementing alternative base periods or other federally required provisions.

There are currently no projections on a state by state basis of the long term costs of alternative base period benefit increases and the other benefit provisions included in the new federal requirements to compare against the one-time special distributions. Without these projections, the cost of these proposals to states and employers as compared to the one-time distribution can not be determined.

Also, to the extent that the $7 billion one-time distribution is greater than the costs associated with the new federal requirements, the federal unemployment trust fund accounts will be unduly depleted, putting the fund at risk of insolvency in the event of

new legislated extended unemployment compensation that may be enacted during a future recession.

States with the lowest percentage of the distribution that do not currently have alternative base periods would bear a higher burden of implementation.

Conclusion

An updated evaluation of the number of individuals with workforce attachment who are not paid unemployment compensation is needed. The evaluation should include a breakdown of the individuals who are not working and are not receiving unemployment compensation by causation to determine the numbers of individuals who have become unemployed through no fault of their own, who are otherwise eligible, and are not being paid unemployment compensation benefits through the federal/state UI system.

The review should also address the array of other programs, including TANF, WIA, Foodstamps, Medicaid, EITC and WOTC under which many individuals who have minimal workforce attachment or are working in low wage or part-time jobs.

Careful analysis of the costs to states and employers of implementation and benefit increases due to alternative base periods and other benefit provisions on a state by state basis is needed to determine the appropriate federal funding to be provided. Without such an analysis, states and employers will be short changed in funding and federal unemployment trust fund accounts will be unduly depleted.

Statement of Idaho Department of Labor

Idaho comments on the special transfers in fiscal years 2008 through 2012 for Modernization based on modifications of law.

Tying conditions to Reed Act distributions seems akin to blackmail, the federal government needs to recognize that states should be entitled to these funds without prejudice. Currently, the federal government does not return even 50 percent of the FUTA money collected from the respective state's employers.

All the combinations and permutations of this bill make it difficult to nail down the exact cost to the fund. Collectively we estimate (not knowing the IT/IS costs) the impact to the fund may be offset by the estimated disbursements of $25M over five years. Our concern is the impact after 2012 since our tax formula already puts the fund in a soft position. With these disbursements ($25M to $30M) it may be able to handle it. However, following the final disbursement in 2012 it is likely we will continue to live with the changes without further disbursements to offset the law changes and fall into a deficit financial hole we could never get out of.

(2) The State law of a State meets the requirements of this paragraph if such State law-

(A) uses a base period that includes the most recently completed calendar quarter before the start of the benefit year for purposes of determining eligibility for unemployment compensation;

We are not in favor of allowing an alternate base period unless the claimant is first not eligible using a "regular" base period. Currently, employers file wage lists once a quarter with a due date of the last day of the month following the end of a quarter. Wages for the most recently completed quarter are not known until the due date plus the time it takes accounting to process the wage lists. It takes accounting 6 to 8 weeks to punch the wages lists. If we adopt this change accounting will have to change their process to punch wage lists in a shorter time frame. We may also need to adopt rules to encourage (or mandate) electronic filing so wages are available as soon as the report is filed. The first month of each quarter, when reports are not yet due for the most recently completed quarter would require staff to contact employers for wage information before a monetary determination is made. This would be an administrative burden on the department, drive up costs and become a huge inconvenience for employers if needed for every claim filed.

or

(B) provides that, in the case of an individual who would not otherwise be eligible for unemployment compensation under the State law because of the use of a base period that does not include the most recently completed calendar quarter before the start of the benefit year, eligibility shall be determined using a base period that includes such calendar quarter.

We find this much more palatable than "A", and we are not opposed to this concept. This option has the same problems as "A", but reduces the administrative burden since fewer claimants would be eligible for the alternate base year. However, this would place an additional burden on tax collection staff and the employer community. Additionally, there would be costs associated with programming our legacy system as well as training of staff for administration.

(3) The State law of a State meets the requirements of this paragraph if such State law includes provisions to carry out at least 2 of the following subparagraphs:

(A) An individual shall not be denied regular unemployment compensation under any State law provisions relating to availability for work, active search for work, or refusal to accept work, solely because such individual is seeking only part-time (and not full-time) work, except that the State law provisions carrying out this subparagraph may exclude an individual if a majority of the weeks of work in such individual's base period do not include part-time work.

We are not opposed to extending coverage to part-time workers as long as the work was in covered employment and there are rules in place to stipulate they must seek work that provides a potential for a minimum number of hours, comparable to work used to figure base period eligibility, to be worked each week. Idaho currently has very low criteria for base period wage qualification. We are concerned about higher administrative costs as proper administration would require employers to report hours as well as wages on their quarterly reports. The department would also have to integrate hours worked into our current systems used for claims processing. There would also be an impact to the trust fund; potentially significant impacts since many workers have more than one part-time job. Additionally there is the argument that if we allow part time work seekers to accept only part time work to supplement their income, shouldn't we also allow people working full time to receive unemployment insurance to supplement their income?

(B) An individual shall not be disqualified from regular unemployment compensation for separating from employment if that separation is for compelling family reasons. For purposes of this subparagraph, the term 'compelling family reasons' includes at least the following:

(i) Domestic violence (verified by such reasonable and confidential documentation as the State law may require) which causes the individual reasonably to believe that such individual's continued employment would jeopardize the safety of the individual or of any member of the individual's immediate family.

We are opposed to broadening the eligibility due to purely personal reasons. This goes against the basic concept of UI being a program to assist workers who are unemployed through no fault of their own due to actions of the employer. UI is not an entitlement program. Enactment of this concept would set the stage for UI to become another employer funded welfare program. This expansion goes too far in defining eligibility and blurs the line between entitlement and the insurance concept. It begins to move UI to more of a social program rather than unemployment insurance based on job attachment/reemployment.

(ii) The illness or disability of a member of the individual's immediate family.

This proposal also extends coverage beyond the "covered" claimant to allow benefits when a person that is fully able and available to work chooses not to in order to care for an ill family member. This would add additional fact finding when adjudicating claims and potentially impact timeliness. Additionally, we believe it would be an extremely hard sell to the employer community as well as have a negative impact on tax rates in the long run. While funding would not come directly out of the individual employer's account in the short run, in the long run (they would be relieved of chargeability), it would ultimately have to be socialized—potentially negatively impacting the tax rates for every employer.

(iii) The need for the individual to accompany such individual's spouse——

(I) to a place from which it is impractical for such individual to commute; and

(II) due to a change in location of the spouse's employment.

We are in favor of allowing benefits only to the spouse of military personnel who must quit their job to follow the spouse.

(C) Weekly unemployment compensation is payable under this subparagraph to any individual who is unemployed (as determined under the State unemployment compensation law), has exhausted all rights to regular and (if applicable) extended unemployment compensation under the State law, and is enrolled and making satisfactory progress in a State-approved training program or in a job training program authorized under the Workforce Investment Act of 1998. Such program shall prepare individuals who have been separated from a declining occupation, or who have been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment, for entry into a high-demand occupation. The amount of unemployment compensation payable under this subparagraph to an individual for a week of unemployment shall be equal to the individual's average weekly benefit amount (including dependents' allowances) for the most recent benefit year, and the total amount of unemployment compensation payable under this subparagraph to any individual shall be equal to at least 26 times the individual's average weekly benefit amount (including dependents' allowances) for the most recent benefit year.

We are opposed to providing initial additional weeks of benefits beyond what the claimants initially qualify for. This is a disincentive for them to seek and accept work. This would reward workers who have not demonstrated a firm attachment to the labor market. There are already programs in place (WIA & Trade) to assist these types of workers. We do not have the UI resources to perform the type of case management this would require.

Statement of On Point Tech

Having spent most of my adult lifetime involved with the Nation's Unemployment Insurance (UI) program, I want to take this opportunity to commend you on your sponsorship of the Unemployment Insurance Modernization Act [HR2233]. The passage of this legislation will remediate several of the most troublesome shortcomings of the UI program, which are brought about by developments that could not have been envisioned at the time of the passage of the initial legislation in 1935.

These are critically important issues given the changes that have taken place in the composition of the labor force, the transient nature of employment, and the proliferation of part-time employment that now characterize our economy. The $7 billion in new funding that you propose will enable the states to improve their programs dramatically, particularly in light of the flat and diminished funding that the UI program has suffered during the past several years.

However, I fee obligated to call your attention to the need to strengthen the fraud detection and management component of the UI program nationwide. U.S. Government Accountability Office (GAO) Report *GAO–07–635T* shows UI fraud to be $3.9 billion in FY2004, $3.3 billion in FY2005, and $3.4 billion in FY2006. As new classes of recipients are brought into the system and the amount of automation deployed increases, the amount of fraud should increase significantly.

Modernized UI Benefits systems lean more heavily on new processes like taking claims over the Internet. The number of staff actually observing claims for signals of fraud taking place drops off, almost to the point of non-existence. Over the years, almost all major fraud incidents uncovered involved diligent UI staffers processing claims by hand who notices patterns in the claims data that were unusual and unexpected. This "eyes and hands" approach disappears with automated systems and must be replaced by automated fraud detection software. (Disclosure: My firm, On Point Technology, Inc., is the major provider of fraud detection and overpayment recapture software to the UI community.)

The above mentioned GAO report data comes from the U.S. Department of Labor's Employment and Training Administration's Benefit Accuracy Measurement (BAM) program which samples and reviews individual UI claims and reports on the improper payments found. The type of fraud disclosed is what we refer to as individual fraud. In other words, individual fraud occurs when one person misreports information on their personal claim in order to qualify for benefits. What is not being reported by these figures is organized fraud.

Organized fraud is when dozens or hundreds of UI claims are filed with the direct intent to embezzle funds from the UI program. These may be cases of group identity theft or fictitious employer schemes where UI employer accounts are established and taxes paid, where the only intent is filing claims against the fictitious accounts. (A $50,000 investment paying IU taxes for 100 fake employees can return over $1 million in fraud profits. The same scheme can be repeated concurrently in multiple states with the same 100 Social Security Numbers.) The individual claims appear to be properly processed and paid. Only by a macro or pattern level examination can this fraud be readily found. Multiple schemes from $3 million to $12 million have been found. The State of California is currently prosecuting a scheme perpetrated by one extended family that was reported in a conference to be in excess of $80 million. (Since it is still under investigation, public information has not been released.)

Be it $3.4 billion in individual fraud or an unknown amount of organized fraud, expanding the UI program and modernizing the claim and payment process will certainly increase the volume of fraud. I urge you and the Committee to consider the multi-year or permanent funding for controlling UI fraud and improper payments.

I am available to expand on the thoughts contained in this letter and would appreciate very much the opportunity to meet with your Committee staff to share both my concerns and remedies. Thank you very much for the opportunity to communicate with you on this very important national issue.

Statement of UWC—Strategic Services on Unemployment & Workers' Compensation

Chairman McDermott, Ranking Member Weller, and Members of the Subcommittee on Income Security and Family Support, thank you for the opportunity to submit comments with respect to proposals to reduce barriers to unemployment insurance for jobless workers.

I am Douglas J. Holmes, President of UWC—Strategic Services on Unemployment & Workers' Compensation (UWC). UWC counts as as a broad range of large and small businesses, trade associations, service companies from the Unemployment Insurance (UI) industry, third party administrators, unemployment tax professionals, and state workforce agencies.

UWC fully supports efforts to maintain a sound unemployment insurance system and to assure that individuals who become unemployed through no fault of their own are able to apply for, and if otherwise eligible, receive unemployment compensation as temporary support during periods of unemployment.

The UI system was designed to provide temporary cash support to individuals who become unemployed after a period of employment sufficient to meet workforce attachment requirements. Although UI provides a social safety net, it is an insurance program financed by employers through payment of state unemployment and federal unemployment taxes. It was never intended to be the universal source of cash payments for individuals that have no or insufficient attachment to the workforce to qualify for unemployment compensation benefits under the applicable state law, nor should it be. It is axiomatic that an individual must first be employed in order to be unemployed.

In addressing the issue of "barriers" to unemployment insurance it is important to first define the population that is not benefiting from unemployment compensation payments. A close examination of the actual workings of the unemployment insurance system reveal that the number of individuals who "should" receive unemployment compensation payments but do not because of state law restrictions is very small.

The "Recipiency Rate" methodology is not a valid statistical measure of those who should be paid unemployment compensation who are not

Measurements such as the "recipiency rate" that are used as a basis for arguments that there are large numbers of individuals who "should" receive unemployment compensation but do not, fail to take into consideration that many individuals who are counted as "unemployed" for purposes of the Total Unemployment Number should not be included among those that could or should be paid unemployment compensation.

For example, the total number of unemployed used in the calculation of the recipiency rate includes 1) individuals who were discharged for just cause from their jobs, 2) those who quit work without just cause, 3) those who have refused suitable work, 4) new entrants to the workforce that have no employment history, 5) reentrants to the workforce whose work history is not recent enough to be counted for UI benefit eligibility, 6) individuals unemployed due to a labor dispute other than a lock-out, 7) individuals receiving severance or separation pay, 8) those who have exhausted unemployment compensation benefits, 9) individuals who have chosen for whatever reason not to claim unemployment compensation, 10) self-employed individuals, and 11) undocumented aliens. None of these individuals are typically eligible to be paid weekly unemployment compensation, yet the calculation of the "recipiency rate" which compares the insured unemployment number with the total unemployment number seems to imply that all of these individuals should be paid benefits.

A study of the "recipiency rate" methodology conducted for the New Hampshire Employment Security Economic and Labor Market Information Bureau in 1999 details the shortcomings of the "recipiency rate" methodology.

There are many individuals who may not be working who are not and should not be eligible for unemployment compensation.

In addition, it should be noted that there are some individuals who are paid unemployment compensation who are not counted in the total unemployment rate, including individuals who file for partial unemployment benefits (i.e. they had some earnings with respect to a week of unemployment compensation that they claimed). This group typically includes low wage and part-time workers who are receiving partial unemployment compensation benefits.

The actual percentage of individuals who may be eligible for unemployment compensation who are not paid unemployment compensation is more appropriately estimated by a review of the percentage of "job losers". The percentage of "job losers" who are paid unemployment compensation has historically fluctuated with economic cycles in the 80 percent to 90 percent range.

The enactment of the new minimum wage legislation significantly reduces the number of individuals with lesser workforce attachments who may not qualify for unemployment compensation.

The recent enactment of federal and state minimum wage legislation has the effect of significantly reducing the number of individuals working 20 hours or more per week on average who may not qualify monetarily to establish a benefit year.

An individual earning $7.00 per hour working 20 hours per week for 29 weeks during a four quarter base period meets the minimum wage requirements for unemployment benefit eligibility in all states. Many states have minimum wage requirements that are much lower; as low as $130 a year in Hawaii. Thirty-four states have minimum wage requirements for a year of $2400 or less.

The effect of new federal requirements to pay unemployment compensation to a new group of individuals would be to reduce benefits to existing claimants and/or increase state unemployment taxes paid by employers.

The effect of federal mandates with respect to the use of alternative base periods, relaxed work search requirements, payments of unemployment compensation to those who choose to quit work during periods of domestic violence, payment of unemployment compensation to those whose separation from employment results from the illness or disability of a member of the individual's family, or payment to those whose separation from employment results from a need to accompany a spouse, will be to reduce unemployment compensation benefits that would otherwise be paid to claimants with greater workforce attachments and/or increase state unemployment compensation tax rates.

This is true because unemployment compensation benefit coverage and benefit payments are determined under state law and each state is responsible to enact legislation that assures that there is sufficient dedicated funding in the state's unemployment compensation benefit account to pay unemployment compensation benefits.

Many states have enacted these provisions already without federal requirements as the result of state level negotiations between employers, legislators, governors, and representatives of organized labor and worker advocacy groups. As a practical matter, state laws balance the interests of all of these groups in determining benefit eligibility and unemployment tax rates.

Responsibility and accountability for these decisions has been maintained at the state level for decades and should remain with the states.

The costs of program and system changes related to conversion to an alternative base period system are significant

As Unemployment Insurance Director in Ohio in 1988, I was directly responsible for conversion of Ohio's benefit system to provide for the alternative base period. In order to pay for the cost of the state law change implementation, Ohio applied for and received funding from the USDOL. Federal funds were provided by USDOL but the amount provided did not fully cover the costs of the conversion.

Issues in implementation included 1) policies procedures and forms to be used in obtaining the most recent quarterly wage data from employers, 2) the use of claimant affidavits in lieu of employer quarterly reports to assure timeliness of benefit application determinations, 3) revised charging of employer accounts to reflect the alternative base period, 4) policies and procedures needed to address transitional claims, and 5) system design, programming, system capacity, staff training, testing, and interstate coordination.

An analysis and projection of costs to states and employers of implementation of alternative base periods is needed before determining the amount of administrative funds needed to assist states choosing to adopt alternative base period legislation.

The increase in unemployment compensation benefits resulting from an alternative base period varies by state, depending on a number of factors, including the composition of the state workforce and the overall benefit eligibility provisions already in place.

The additional cost in states with low minimum qualifying requirements would be more limited than states with higher minimum qualifying requirements because fewer individuals are disqualified in the first place.

Studies of the increase in benefit costs associated with alternative base periods have estimated the increase in unemployment compensation benefit pay-out as a result of the alternative base period provision in the range of 1.1 percent to 6 percent annually.

An analysis of the increased unemployment compensation benefit costs resulting from the implementation of alternative base periods is needed in determining the impact on state trust funds and employer taxes on a state by state basis. Without such an analysis a state considering whether to enact an alternative base period would not be able to properly assess the cost/benefit with respect to any special Reed Act distribution funding that might be available.

The focus of efforts to assist low wage and part-time workers should be to identify and remove barriers to employment.

Individuals with minimal workforce attachment, particularly those with families to support, will not significantly benefit from unemployment compensation benefits. An individual working 20 hours a week and paid $7.00 an hour, if monetarily eligible, would typically qualify to be paid unemployment compensation of $70.00 per week, which may be reduced by partial earnings from part-time work during the week. This level of support is insufficient to assist in removing barriers to employment.

Other governmental and privately funded support programs for low wage workers, particularly those providing support for workers with families, are much more significant and targeted in removing barriers to employment. Such individuals are typically eligible to receive services under the Workforce Investment Act (WIA), the Food Stamp Act, and the Temporary Assistance for Needy Families (TANF) program. Services under these programs include cash support payments for workforce participation, payment of travel expenses to employment, education and training, assessment services, treatment for substance abuse, English as a second language instruction, job readiness training, and subsidized child care. Many of these individuals may also benefit from the Earned Income Tax Credit (EITC) and the Workforce Opportunity Tax Credit (WOTC).

A review of the array of programs designed to serve low wage and part-time workers, particularly those with families is needed to properly evaluate any gaps in the social safety net that should be addressed.

The cost to states and employers of the new federal requirements with respect to alternative base periods and other benefit provisions should be determined before enacting new federal requirements.

It has been proposed that if states already have enacted alternative base period provisions or enact new alternative base provisions and other benefit provisions, that states will receive a pre-designated share of a $7 billion special distribution into the qualifying state unemployment trust fund account and will receive a pre-designated share of $100 million per year in additional administrative funding.

There is no relationship between these distributions and appropriations and the increased administrative cost and increase in benefit costs associated with the new federal requirements.

As a result, some states will receive a windfall in additional funding while others will be shortchanged or receive no supplemental funding if they elect not to enact the required provisions. It should be noted that four of the five states with the highest minimum qualifying wage requirements are also alternative base period states. A special distribution to these states would have no impact on reducing the number of low wage or part time workers and effectively reward states that have made it more difficult for low wage workers to qualify for benefits.

This is inconsistent with the UI Federal/State partnership designed to properly share responsibility for funding of administration and benefit costs between states and the federal government. It sets up a series of winner and loser states and exacerbates the existing imbalance in administrative funding.

In addition, it should be noted that state UI administration is already under funded by at least an estimated $300 million per year. An additional $100 million per year is insufficient to properly fund the UI system in the first place, let alone to fund the additional administrative costs of implementing alternative base periods or other federally required provisions.

There are currently no projections on a state by state basis of the long term costs of alternative base period benefit increases and the other benefit provisions included in the new federal requirements to compare against the one-time special distributions. Without these projections, the cost of these proposals to states and employers as compared to the one-time distribution can not be determined.

Also, to the extent that the $7 billion one-time distribution is greater than the costs associated with the new federal requirements, the federal unemployment trust fund accounts will be unduly depleted, putting the fund at risk of insolvency in the event of new legislated extended unemployment compensation that may be enacted during a future recession.

States with the lowest percentage of the distribution that do not currently have alternative base periods would bear a higher burden of implementation.

Conclusion

An updated evaluation of the number of individuals with workforce attachment who are not paid unemployment compensation is needed. The evaluation should include a breakdown of the individuals who are not working and are not receiving unemployment compensation by causation to determine the numbers of individuals

who have become unemployed through no fault of their own, who are otherwise eligible, and are not being paid unemployment compensation benefits through the federal/state UI system.

The review should also address the array of other programs, including TANF, WIA, Foodstamps, Medicaid, EITC and WOTC under which many individuals who have minimal workforce attachment or are working in low wage or part-time jobs.

Careful analysis of the costs to states and employers of implementation and benefit increases due to alternative base periods and other benefit provisions on a state by state basis is needed to determine the appropriate federal funding to be provided. Without such an analysis, states and employers will be short changed in funding and federal unemployment trust fund accounts will be unduly depleted.