



National Employment Law Project

**Testimony of
Judith M. Conti, Federal Advocacy Coordinator
National Employment Law Project
Before the U.S. House of Representatives
Ways and Means Committee,
Human Resources Subcommittee**

**Hearing on the
Unemployment Insurance Reforms of the
Middle Class Tax Relief and Job Creation Act of 2012
April 16, 2013**

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Chairman Reichert, Ranking Member Doggett and members of the Subcommittee, thank you for the opportunity to testify on the unemployment insurance reforms included in the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96).

My name is Judith M. Conti and I am the Federal Advocacy Coordinator for the National Employment Law Project (NELP). NELP is a non-profit organization that engages in research and public education on issues affecting low wage, immigrant and unemployed workers. NELP works to maintain strong federal and state programs of unemployment insurance (UI) benefits that are providing a lifeline of support for individuals who, through no fault of their own, find themselves unemployed and to advance policies that promote re-employment in good jobs for the nation's unemployed and underemployed workers.

In February 2012, after months of negotiations culminating in a formal conference between House and Senate bills, Congress passed and the President signed Public Law 112-96, the Middle Class Tax Relief and Job Creation Act of 2012. Chief among the UI provisions was a modified reauthorization of the Emergency Unemployment Compensation (EUC) and Extended Benefit (EB) programs that significantly reduced federally-funded UI benefits. In addition, the law authorized: states to conduct drug testing on UI applicants in narrowly circumscribed instances; up to ten demonstration projects in which states could seek waivers of federal UI laws in order to experiment with programs designed to help the unemployed get back to work; mandatory re-employment eligibility assessments (REA) for EUC recipients; and incentives for states to expand work-sharing programs. These reforms and state options were carefully crafted to protect the integrity of the federal-state UI program, to ensure that states did not waste UI trust fund dollars or administrative funds, and to respect the Constitutional rights and dignity of unemployed workers.

Today, we would like to emphasize the following points concerning implementation of the UI provisions of P.L. 112-96 and offer our recommendations to expand federal support for critical programs that help get the unemployed back to work:

1. Still struggling to find work in the face of the persistent jobs crisis, hundreds of thousands of unemployed workers have been extremely hard hit by the severe reductions in UI benefits imposed by the sequester, the scaled back EUC and EB programs, and draconian cuts in some states' UI benefits.
2. Thanks to the federal incentive funding provided by P.L. 112-96, many states are beginning to take important positive steps to prevent layoffs through strong work-sharing programs and expanded outreach activities.
3. The February 2012 law contains reasonable and appropriate parameters that continue to provide states with the broad authority to impose drug testing restrictions on UI benefits and experiment with subsidized employment demonstration projects that also protect the integrity of the UI program.

4. While the re-employment eligibility assessments funded by P.L. 112-96 represented welcome progress toward connecting UI recipients with re-employment services, more intensive services and funding are necessary to adequately respond to the scale of the ongoing jobs crisis.

I. Still struggling to find work in the face of the persistent jobs crisis, unemployed workers have been extremely hard hit by the severe reductions in UI benefits imposed by the sequester, the scaled back EUC/EB programs, and the draconian cuts in some states' UI benefits.

a. The Persistent Jobs Crisis and Misguided Austerity Measures

Nearly four years after the end of the Great Recession, millions of Americans who want to work still cannot find jobs and continue to struggle to survive without a paycheck. The persistence of high unemployment, especially unprecedented long-term unemployment, threatens the economy for the foreseeable future as a consequence of lost wages today, less consumer spending, and the enduring hardships suffered by families who will take years to recover from periods of long unemployment.¹

As the Congressional Budget Office warned, unemployment is likely to remain above 7.5% through 2014, marking the sixth consecutive year with unemployment that high, “the longest such period in the past 70 years.”² Today, an unprecedented four in ten jobless workers – 4.6 million people (equivalent to the population of Chicago and Houston combined) – have been out of work for 27 weeks or longer, pushing the average duration of unemployment up to 37 weeks, nearly 16 weeks longer than during the worst of the 1980s downturn.³

Alongside these desperate economic realities facing American families and communities, corporate profits continue to soar and the stock market has returned to its heady peaks. Moreover, the misguided federal austerity measures, including the devastating sequester cuts and certain FY2014 budget proposals, threaten to forestall the current recovery and undermine the economic prospects of average Americans for decades to come. The prolonged 2011 battle over raising the debt ceiling itself created a dip in consumer spending that led to weak GDP growth, and resulted in government cuts that, as one analyst warned, threaten to create “so much damage to the denominator, which is growth of GDP, that what we do with the numerator, reducing the debt, may end up being insufficient.”⁴

¹ Mike Evangelist and Anastasia Christman, “Scarring Effects: The Enduring Crisis of the Long-Term Unemployed and the Dangers of Ignoring the Jobs Deficit,” NELP Briefing Paper (April 2013), http://nelp.3cdn.net/4821589f87f6c502e1_nem6b0xjt.pdf.

² Congressional Budget Office, “The Budget and Economic Outlook: Fiscal Years 2013-2023” (2013).

³ <http://www.bls.gov/news.release/empsit.nr0.htm>.

⁴ Rich Miller and Simon Kennedy, “Deficit-Cutters Ignore El-Erian’s Growth ‘Denominator,’” *Bloomberg* (August 1, 2011), <http://www.bloomberg.com/news/2011-08-01/debt-cutters-ignore-el-erian-growth-denominator-to-detriment-of-economy.html>.

b. The UI Sequester Cuts and the Scaled-Back EUC and EB Programs

The unprecedented economic uncertainties facing America's hard-working families provide another reminder of the critical role that the unemployment insurance program plays in preventing economic hardship, boosting the economy, and helping pave the way for workers to return to good paying jobs that can support their families. Thus, in order to evaluate the UI reforms adopted by P.L. 112-96, it is important to also appreciate the impact that the cutbacks in the federally-funded extensions of unemployment benefits have had nationally and on the states.

The landscape has changed dramatically since the days when unemployed workers in many states qualified for 73 weeks of federally-funded UI benefits in addition to the standard 26 weeks of state assistance. As a result of P.L. 112-96, federally-funded extensions are limited to 14-47 weeks depending on the state's unemployment rate.⁵

Only eight states and Puerto Rico now qualify for the maximum 47 weeks of EUC, while workers in 26 states plus the District of Columbia qualify for a limited 37 weeks of federally-funded benefits.⁶ Largely as a result of the scaled-back EUC and EB programs, the number of workers receiving federally-funded benefits has fallen dramatically in just one year, from 3.2 million workers in April 2012 to 1.8 million workers today. This is a 43% reduction in benefits, during a time in which we haven't seen anything close to a 43% improvement in the jobs picture. And to be clear, no one is living the high-life on federally-funded benefits: currently, the average EUC payment is a mere \$294 per week, which is hardly sufficient to cover housing costs in most states for a family, not to mention food and other basic necessities.

Moreover, as we sit here today and examine the February 2012 law, the federal budgetary sequester is subjecting or is about to subject even greater economic hardship on the 1.8 million workers now receiving EUC, who are already stretched to the limit financially due to the prolonged crisis of long-term unemployment. In the best case scenario, where the states implemented the cuts right away, the average worker will receive about \$31 less each week (10.7% less) in benefits from her \$294 weekly check. To their credit, 19 states implemented this reduction on schedule over the last two weeks, as recommended by the U.S. Department of Labor guidance (UIPL 13-13), thus limiting the severity of the weekly cut in benefits and allowing the workers and their families to better plan for and adjust their finances to respond to the cut.⁷

⁵ Under the Emergency Unemployment Compensation (EUC) program, all states are entitled to 14 weeks of benefits (Tier 1), and 14 weeks more are available to workers in states with over 6% unemployment, and 9 additional weeks are available to workers in states with over 7% unemployment, and 10 additional weeks are available to workers in states with over 9% unemployment. Alaska is now the only state to qualify for the additional 13 weeks of EB.

⁶ As of April 11th, these states included Alaska, California, Illinois, Mississippi, Nevada, New Jersey, North Carolina and Rhode Island.

⁷ As of March 31st, Arkansas, District of Columbia, Georgia, Iowa, Idaho, Indiana, Kansas, Kentucky, Michigan, Minnesota, New York, Oklahoma, Tennessee, Texas, West Virginia, and Wisconsin had implemented the 10.7% sequester cut in EUC. In addition, Oregon, Vermont and Pennsylvania implemented the reduced EUC benefits for the week ending April 6th.

In states that delay implementation, however, the cut is deeper. For example, those states that wait until late June to implement reductions will need to deduct \$58 per week on average, a 19.7% decrease in benefits. While we are aware of the technological difficulties facing many state UI programs that are dealing with antiquated computer systems and programs, not to mention the insufficient staffing levels most states have, this type of uncertainty can wreak havoc on workers, and also will lead to inequities when some workers leave or finish their EUC benefits before the reductions take place. Because of the administrative difficulties states are facing in both implementing the sequester and just keeping up with the stream of UI claims and appeals which are still at very high levels, NELP enthusiastically supports Congress allocating greater resources to the state UI agencies to do their work. However, absent such an appropriation, states must still endeavor to act quickly and uniformly when it comes to the administration of these important federal benefits.

c. The State Attacks on the UI Program

While the Middle Class Tax Relief and Job Creation Act of 2012 authorized states to experiment with a number of eligibility and re-employment initiatives, many states have instead turned their focus to reducing the size and scope of their state UI programs, which seriously threatens the fundamental goals of the UI system.

For more than 50 years, all states have provided a maximum of at least 26 weeks of UI benefits, a national standard that is consistent with the Bureau of Labor Statistics definition of long-term unemployment as 27 weeks or longer. However, in the past two years, eight states have acted to reduce the maximum weeks available under their programs, most in substantial fashion. Michigan, Missouri and South Carolina all reduced the maximum weeks available to 20 weeks in 2011, while Florida enacted a sliding scale tied to the state's unemployment rate that reduced the number of available weeks to as few as 12 or as many as 23. Georgia enacted a similar 14-20 week scale last year.

Significantly, when these mostly high unemployment states slashed the number of weeks of state unemployment benefits, they are also decreased the number of weeks of federally-funded EUC available to the long-term unemployed because the federal benefits are based on a proportionate share of the UI provided by the states.⁸ For example, when Florida's maximum state benefits were reduced from 26 to 19 weeks under the new state law, the state's workers were also subject to a 10-week cut in their EUC benefits, totaling 17 weeks of less federal and state assistance combined (or about \$3,867 in benefits for the average unemployed Floridian).

In February, North Carolina enacted the harshest series of cuts to an unemployment insurance program since the institution of the federal-state UI program during the Great Recession. In addition to reducing available weeks of insurance from the standard 26 weeks to anywhere from 12 to 20 weeks, the state cut the maximum weekly benefit by 35 percent, to only \$350. The cuts are projected to slash benefit payments by 50 percent in the first full year of implementation.⁹ And as a result of the new benefit formula, most UI claimants in North Carolina will only receive about one-

⁸ Mike Evangelist, "One-Two Punch: As States Cut Unemployment Benefit Weeks, Jobless Also Lose Federal Aid, Even As Jobs Remain Scarce" (National Employment Law Project, February 2013), <http://www.nelp.org/page/-/UI/2013/Policy-Brief-States-Cut-UI-Weeks.pdf?nocdn=1>.

⁹ Estimate by North Carolina Legislature Fiscal Research Division (February 11, 2013)

quarter of their former wages, which will undermine the purpose of the program which is to provide a partial wage replacement that will help the unemployed worker meet basic financial needs until the worker can find another job somewhat comparable to the employment lost.

Perhaps the most alarming attacks on the unemployed have been in Florida where the state has gone beyond just making it tougher to qualify for UI benefits to making it harder even to apply for unemployment insurance. Eliminating the option of applying by phone (the primary method of filing in nearly every other state), Florida requires nearly all unemployed workers to file on-line, regardless of language barriers, literacy or access to a personal computer. Once claimants navigate the 30-minute on-line application, they face an on-line “skills assessment,” a 45-question exam that tests reading, math and research skills, adding approximately another 45 minutes to the transaction. Workers who fail to complete the skills assessment are disqualified from benefits. And now the state is requiring that claimants create their own electronic resumes before they can receive an initial unemployment payment.¹⁰

For many Americans who already conduct all kinds of commercial transactions on-line, these requirements may not seem onerous. But for thousands of workers in Florida living on the other side of the nation’s growing “digital divide” the results have been catastrophic. In the law’s first year, more than 80,000 workers were disqualified for not having completed the skills review, without any further assessment of their ability to do so, or the steps they are taking to find a new job.¹¹ The continued steep drop in first payments since the new filing procedures and initial skills review requirement took effect in August 2011 has led to a new low in the share of persons applying for benefits who receive them, a measure known as the first payment rate. As of July 2012, Florida’s first payment rate was just 43.0 percent, 12.5 percentage points lower than in July 2011 before the new procedures were implemented.. Meanwhile, the U.S. average rate ticked down by less than half-a-percentage point to 70.6 percent. The share of new UI claims in Florida that result in an award of benefits now stands 27.6 percentage points lower than the national rate.¹² Thus, Florida has no idea, and seemingly no interest, in finding out which of those workers really are eligible for UI and should be receiving it.

Reductions in administrative funding to state UI programs have also played a role in a deterioration of services to unemployed workers even without specific law changes. When Pennsylvania closed a UI Claims Center in Philadelphia last fall, thousands of unemployed workers trying to apply by phone received busy signals for days on end and were simply unable to apply for or access benefits for which they legally qualified.¹³ Similar system breakdowns have been attributed to

¹⁰ NELP and Florida Legal Services have filed a complaint with the Secretary of Labor charging that Florida’s claim-filing procedures and initial skills review requirement violate Section 303(a) (1) of the Social Security Act which requires that states “establish methods of administration reasonably calculated to insure payment of benefits when due.”, Letters dated May 18, 2012 and October 1, 2012)

¹¹ *Id.* Letter dated October 1, 2012.

¹² U.S. Department of Labor, Employment & training Administration, 5159 Report, Claims and Payment Activities.

¹³ October 16, 2012, “Busy Signals Frustrate the Unemployed,” Spencer Soper, The Morning Call, http://articles.mcall.com/2012-10-16/business/mc-unemployment-calls-on-hold-20121016_1_unemployment-claims-careerlink-phone-problem; January 20, 2013, “Corbett Administration Blames Drop in Federal Funding and Old Tech for Unemployment Busy Signals,” Mark Shade, phillyBurbs.com, http://www.phillyburbs.com/news/state/corbett-administration-blames-drop-in-federal-funding-and-old-tech/article_1bf18f1b-ef77-5e70-b754-2169f22276d8.html.

reduced funding elsewhere,¹⁴ while other states are reportedly laying off staff and, like Florida, imposing access obstacles by eliminating personal customer assistance and requiring all unemployed workers to apply for UI on-line.¹⁵

While the context of last February's Congressional compromise was the reauthorization of a curtailed program of federal EUC benefits, this Subcommittee should be concerned that states not eviscerate the underlying UI programs they operate. There should be federal oversight of the system to insure that states provide a maximum of 26 weeks of benefits, that they do not impose unreasonable access to benefits for unemployed workers and that they are adequately funded to operate efficient claim-filing systems that issue prompt determinations and timely payments.

II. The February 2012 law contains reasonable and appropriate parameters that continue to provide states with the broad authority to impose drug testing restrictions on UI benefits and experiment with subsidized employment demonstration projects that also protect the integrity of the UI program.

a. State Drug Testing Laws

In crafting the compromise that became the UI provisions of the Middle-Class Tax Relief and Job Creation Act, Congress carefully and wisely defined two narrow sets of circumstances under which states could enact legislation requiring UI claimants to submit to and pass a drug test as a condition of eligibility and they both relate to the claimant's availability for work:

- (1) The individual was terminated from his or her most recent employment because of unlawful use of a controlled substance; or
- (2) The only work that is suitable for the individual is employment in an occupation that regularly conducts drug testing. The Secretary of labor is charged with promulgating regulations that list such occupations.

This language was developed to reflect a long-standing tenet of federal unemployment insurance law that eligibility for benefits must be based on the "fact or cause" of unemployment and Constitutional concerns with administering warrantless searches on people applying for UI benefits. If the state wants to take on the responsibility and cost of administering a system of drug testing UI applicants, there should be a compelling reason for testing that individual. In terms of establishing a claimant's ability to work and availability to work, those two permitted statutory reasons are: (1) the

¹⁴ January 5, 2013, "R.I. DLT Director: Changes Being Made to Frustrating Claims Process" Bruce Landis, Providence Journal, <http://news.providencejournal.com/breaking-news/2013/01/ri-dlt-director-changes-being-made-to-reduce-frustrating-claims-process.html>; February 2, 2013, "Early birds get jobless benefits – Slow Times on the Unemployment Line," David Ratigan, Boston Globe, <http://www.boston.com/news/local/massachusetts/2013/02/03/slow-times-the-unemployment-line/U1TAzH3HVM4vJMtCpAOdKM/story.html>; February 13, 2013; "Jobless in R.I. confront broken system" David Klepper, Boston Globe, <http://www.bostonglobe.com/metro/2013/02/13/rhode-island-struggles-with-highest-unemployment/DGKIIOdCtojnetLHUSk1dJ/story.html>.

¹⁵ April 9, 2013, "SC Unemployment Agency Plans to Lay Off 100," Seanna Adcox, Herald On-Line, <http://www.heraldonline.com/2013/04/09/4759897/sc-unemployment-agency-plans-to.html>.

individual lost his last job due to unlawful drug use, and (2) the only work the individual is suited for is in an occupation that is subject to “regular” testing – meaning that once on the job, the employee would expect to be tested with some frequency (e.g. truck driver subject to random testing under state and/or federal DOT regulations.)

While the Department of Labor has not yet published a regulation listing those occupations that are subject to regular testing, states are free to enact legislation that carefully tracks the authorizing language in Public Law 112-96. And we are aware that the Department of Labor’s Office of Unemployment Insurance has been diligent in advising states of how drug testing legislative proposals should be framed in order to stay in conformity with federal law. Indeed, Mississippi has already enacted a law in conformity with the provision in the February 2012 legislation,¹⁶ and Texas is amending its pending bill so that it will be conforming law as well.

It is also worth noting that in recent years, a few states have experimented with drug testing TANF and UI recipients, based on anecdotal evidence of supposed significant drug use among these populations. In every instance, the rate at which applicants tested positive was negligible, and the testing programs spent more taxpayer dollars than they saved in benefits not paid as a result of positive tests.¹⁷ This is further proof that Congress wisely crafted a narrow compromise on this issue, for states can ill-afford to take on costly drug testing regimes when their UI programs are already facing such severe financial hardship in simply administering the core programs.

b. Re-employment Demonstration Projects

The Middle Class Tax Relief and Job Creation Act of 2012 also authorized up to 10 states to experiment with re-employment programs that apply UI trust fund accounts to wage subsidies provided directly to a worker or the individual’s employer. The legislation was carefully crafted to protect the integrity of UI funding, that is, employer taxes paid into state trust funds, and ensure that workers are guaranteed their fundamental rights under federal labor and employment laws.

Consistent with and circumscribed by the clear legislative language, the Department of Labor crafted clear and reasonable guidelines (UIPL 15-12, dated April 19, 2012) for states to follow in seeking the federal waiver necessary to operate the re-employment demonstration program. Of special significance, the law and DOL guidelines emphasized that the requesting state provide assurances and documentation that the demonstration project will not result in any increased costs to the state’s trust fund¹⁸ and that the state can adequately document the project’s impact on the skills, earnings and re-employment retention of the participating workers.

¹⁶ <http://billstatus.ls.state.ms.us/documents/2012/pdf/SB/2600-2699/SB2604SG.pdf>, pp. 79-80.

¹⁷ See, e.g., August 24, 2011, “Welfare drug-testing yields 2% positive result,” Catherine Whittenburg, The Tampa Tribune, <http://tbo.com/ap/politics/welfare-drug-testing-yields--positive-results-252458>; “Sticking to Principles: Congress Should Oppose Barriers to Unemployment Insurance And Instead Provide Meaningful Reemployment Tools,” Legislative Update, January 12, 2012, pp. 4-5, http://nelp.3cdn.net/ff5b7e32bdc8bfd47f_dlm6beh17.pdf; June 6, 2012, “Georgia Drug Testing Policy Not Catching Jobless Druggies So Far,” Arthur Delaney, The Huffington Post, http://www.huffingtonpost.com/2012/06/06/georgia-drug-testing-unemployed_n_1573358.html.

¹⁸ With more than half the states having taken out federal loans to pay their unemployment benefits, the federal government has a compelling interest in ensuring that the demonstration projects generate savings to the state UI funds – not further drain limited UI reserves - by substantially increasing employment. That means

To date, no state has sought a waiver pursuant to the UIPL, presumably because they are not yet in a position to demonstrate with adequate assurances that the programs will not compromise their state UI trust funds and/or have the desired result of finding workers good and permanent jobs. We anticipate, however, that as the economy improves and the states dig out from the federal debt they have accumulated as a result of the Recession and the fragile condition of their UI finances, they will begin to seek the waivers contemplated in the February 2012 legislation, and we trust that the DOL will grant them in appropriate circumstances.

III. Thanks to the federal incentive funding provided by The Middle Class Tax Relief and Job Creation Act, the states are taking important positive steps to prevent layoffs with strong work-sharing programs and expanded outreach activities.

One silver lining of the Great Recession is that it sparked renewed interest in measures to avoid or mitigate the effect of layoffs on workers and communities both at home and abroad. Many industrial countries created layoff avoidance programs or expanded existing ones.¹⁹ At the same time, there was a surge in use of work sharing in the United States, where it is known as short-time compensation (STC), shared work or work-share. The Middle Class Tax Relief and Job Creation Act of 2012 provided \$500 million in federal incentive for the states to maximize participation in these extremely successful programs.

Work sharing is a form of unemployment insurance (UI) that gives employers the option of reducing employees' hours instead of cutting their workforce during a business slowdown. For example, a business may reduce all employees' hours by 20 percent instead of cutting one-fifth of its workforce. Workers can then receive pro-rated unemployment benefits that help compensate for pay losses from reduced work hours.

In many states, the number of employers participating in work sharing programs spiked during the recession and the ratio of weeks of STC benefits paid relative to weeks of regular UI benefits paid was generally higher in most states than during previous recessions.²⁰ Work sharing enabled states to save about 166,000 jobs in 2009 and nearly 100,000 jobs in 2010.²¹ STC programs also spread more widely across the country. Since 2010, seven states (Colorado, Maine, Michigan, New Hampshire, New Jersey, Oklahoma and Pennsylvania) and the District of Columbia have adopted work sharing, bringing to 25 the total number of programs.

the demonstration programs must produce tangible employment outcomes that lead to steady employment, not high turnover low-wage jobs that ultimately put more pressure on the UI program to pay benefits, not less.

¹⁹ Jon C. Messenger, *Work Sharing: a Strategy to Preserve Jobs during the Global Jobs Crisis*, Geneva: International Labor Organization, June 2009. Estimates of jobs saved due to work sharing provided by Sen. Jack Reed's office, based on data provided by the U.S. Department of Labor, Employment and Training Administration.

²⁰ Katharine G. Abraham and Susan N. Houseman, *Short-Time Compensation as a Tool to Mitigate Job Loss? Evidence on the U.S. Experience during the Recent Recession*, Upjohn Institute Working Paper 12-181, Kalamazoo, MI: W.E. Upjohn Institute for Employment Research, 2012, http://research.upjohn.org/up_workingpapers/181/.

²¹ Estimates of jobs saved due to work sharing provided by Sen. Jack Reed's office, based on data provided by the U.S. Department of Labor, Employment and Training Administration.

Many economists and policy experts have highlighted the value of work sharing in maintaining employment stability during economic downturns. Germany's program is credited with preserving jobs and keeping unemployment from rising sharply.²² Research shows that established programs in the U.S. also saved jobs, particularly in sectors such as manufacturing in which there was extensive use of work sharing. A recent study suggests that if STC programs had been widely available in all states and intensively used during the recent recession, the effect on U.S. employment could have been substantial.²³

The February 2012 legislation contained a provision, long-advocated by Sen. Jack Reed (R.I.) and Congresswoman Rosa DeLauro (CT), which allocated nearly \$100 million in grants to help states launch new programs, improve the operation of existing programs and promote STC more broadly to business and workers. These provisions present opportunities both for states with STC programs and those adopting them to save jobs today and put in place "an effective counter-cyclical tool" for use during economic downturns in the future.²⁴

The Department of Labor has produced clear and timely guidance for states seeking to enact STC laws that will conform with the new federal definition of "short-time compensation," including model legislation that provides both required and recommended elements based on the experience of the 17 state programs that have been in operation 20 years or longer.²⁵ NELP has joined with the Center on Law and Social Policy (CLASP) to produce educational materials about the potential economic advantages of work-sharing as an alternative to layoffs and the importance of state legislatures enacting work-sharing laws that conform with the new federal law.²⁶

A majority of legislatures in the 24 states with existing work-sharing laws appear to be moving toward adoption of necessary changes in their laws to trigger federal grants for implementation, promotion, and enrollment. While STC bills have been introduced this year in at least six states without existing work-sharing laws, including Hawaii, Indiana, New Mexico, Ohio, Virginia and Wisconsin, progress has been generally slower than should be expected. This may be largely attributable to a lack of awareness of the program within the business community in states without STC. NELP will certainly work to raise the profile of this win-win option for workers and employers, and we encourage members of this Subcommittee to reach out to their state legislatures to promote adoption of STC programs.

²² Dean Baker, "Work Sharing: The Quick Route Back to Full Employment," Center for Economic Policy and Research, June 2011, <http://www.cepr.net/index.php/publications/reports/work-sharing-the-quick-route-back-to-full-employment>.

²³ Abraham and Houseman.

²⁴ *Id.*

²⁵ Unemployment Insurance Program Letter 22-12 (June 18, 2012); Change 1 (December 21, 2012); Unemployment Insurance Program letter 27-12 (August 13, 2012).

²⁶ Neil Ridley and George Wentworth, "Seizing the Moment: A Guide to Adopting State Work Sharing Legislation After the Layoff Prevention Act of 2012" (December 2012), http://nelp.3cdn.net/cf9fee033458019791_3rm6b9hhu.pdf.

Work-sharing programs have enjoyed strong bi-partisan support in nearly all states in which they operate and have given employers another important tool to help them maintain economic viability and stability during temporary business downturns.²⁷ Accordingly, we encourage the administration and this Subcommittee to become more aggressive in educating state officials, business leaders and labor organizations about the value of this voluntary program so that the nation's employers will be better positioned at the start of the next recession to take advantage of an option that allows employers to reduce production but still retain productive workers until a business cycle improves..

IV. While the Re-employment Eligibility Assessments funded by P.L. 112-96 represented welcome progress toward connecting UI recipients with re-employment services, more intensive and timely services and funding are necessary to adequately respond to scale of the jobs crisis.

Another provision of the Middle Class Tax Relief and Job Creation Act of 2012, allocated additional funding for states to conduct re-employment assessments (REAs) of workers once they began receiving EUC in order to determine whether or not they were conducting an effective job search, and if not, either provide them with services to help improve their job search, or in cases where it was clear that workers were not fulfilling their responsibility to be actively seeking work, to terminate their benefits.

As a general matter, as long as REAs are not conducted in a punitive manner aimed at inducing disqualifying statements from claimants who are earnestly looking for work, NELP views this as a favorable provision of the February 2012 legislation. Millions of workers are facing an economy and job market unlike anything they've ever seen before in their lives or careers, and we are quite certain that though many are looking in earnest, many are also conducting job searches that are designed for years gone by, rather than today's economy and realities.

However, much more needs to be done to actively support workers early on in their unemployment spell, before workers enter the ranks of the long-term unemployed, with more intensive re-employment services of the sort provided by the U.S. Employment Service. The public Employment Service (ES), originally established under the Wagner-Peyser Act in 1933, then integrated into the comprehensive One-Stop service delivery system under the Workforce Investment Act (WIA) in 1998, serves as a labor exchange in which employers list job openings and job seekers apply for available jobs for which they qualify. ES staff members facilitate matches and apply their knowledge of local labor markets and employers' needs. Additionally, the Employment Service ensures that recipients of unemployment insurance continue to look for a job, and connects

²⁷ June 15, 2009, "Work-Sharing May Help Companies Avoid Layoffs", Steven Greenhouse, New York Times, http://www.nytimes.com/2009/06/16/business/economy/16workshare.html?pagewanted=all&_r=0. "Sharing Work—and Unemployment Benefits," Diane Cadrain, HR Magazine (July 2009). "Our View: Provide Options to Businesses in Tough Times" (July 14, 2011) <http://www.wnewsj.com/main.asp?SectionID=42&SubSectionID=201&ArticleID=190939>

claimants who are likely to run out of their benefits to job-search services under the Worker Profiling and Reemployment Services (WPRS) program.

Despite persistent labor market weakness, including volatile monthly job growth and three times as many unemployed people as job openings, lawmakers have paid little attention to strengthening our nation's re-employment programs. Even before the recession began, the Employment Service was floundering in the face of essentially flat funding by Congress for more than 20 years.

The FY 2013 budget allocates \$731 million for state ES activities, which represents an increase of \$30 million over FY 2012, but a decrease of 23 percent in real terms since FY 2003.²⁸ With shrinking resources, most states have shifted away from traditional, staff-assisted models of individualized job search services and referrals toward group-oriented and self-services approaches. Today, services for job seekers primarily include online information about job openings and local labor markets and tools for self-assessment, referrals to human services agencies providing assistance, and group classes on resume writing or interviewing. In program year 2010, just three in ten job seekers who received ES services participated in staff-assisted job search activities.²⁹

The changing labor market, marked by a rise in permanent layoffs, shorter job tenures, and a prevalence of restructuring and offshoring, means that for the foreseeable future, individuals will be looking for jobs more frequently and transitioning between careers more often. These realities create a compelling need for a renewed commitment to our public labor exchange that will help the unemployed navigate a difficult labor market more effectively.

As described in detail in the recent NELP publication Getting Real: Time To Reinvest in the Public Employment Service,³⁰ with an additional \$1.6 billion in annual funding for the Employment Service, One-Stop centers could expand their full-time staff and serve an additional 2.8 million unemployed job-seekers per year.³¹ With this modest investment, Congress would enable state workforce agencies to provide the type of cost-efficient, high-value, individualized job search assistance that has repeatedly proven effective in moving unemployed people into jobs. Such a system would also serve our nation's employers who are looking for the right talent to fill the nearly four million jobs open today. The cost of these services would be more than offset by a reduction in the payout of unemployment insurance and an increase in tax revenues collected from new paychecks. In total, every additional dollar spent on these services would return an estimated \$3.40 to the public, resulting in a net social gain of approximately \$3.8 billion in the form of reduced UI payments, increased income taxes, and most importantly, increased income on the part of re-employed workers.

²⁸ FY 2013 Congressional budget justification: Employment and Training Administration, State Unemployment Insurance and Employment Service Operations. <http://www.dol.gov/dol/budget/2013/PDF/CBJ-2013-V1-09.pdf>

²⁹ U.S. Department of Labor, 2012. *Wagner-Peyser Act Employment Services*. Washington, DC: Employment and Training Administration. http://www.doleta.gov/performance/results/wagner-peyser_act.cfm

³⁰ <http://nelp.3cdn.net/045adefea15ecf56lm6b8swg.pdf>.

³¹ These recommendations rely upon a 2009 discussion paper by Louis Jacobson for the Brookings Institution, "Strengthening One-Stop Career Centers: Helping More Unemployed Workers Find Jobs and Build Skills," and a detailed cost benefit analysis therein. http://www.brookings.edu/~media/research/files/papers/2009/4/02%20jobs%20skills%20jacobson/0402_job_s_skills_jacobson.pdf

While this modest proposal cannot take the place of serious efforts at job creation, it can go a significant way to helping to return today's unemployed workers to jobs, and make sure that in the current and likely future economy, workers more quickly return to suitable employment during the more frequent periods of unemployment many of them are likely to face.

Conclusion

We live in troubling economic times. Though certain aspects of our economy fully recovered from the Recession and then some, the jobs picture still remains bleak. Unemployment is substantially higher than it should be in a healthy economy, job growth ranges from anemic to moderate at best, and our jobs recovery is one marked by far too many low-wage jobs, in contrast to the middle-class jobs that were lost in the Recession.

If we are serious about an economic recovery that works for all Americans, we must not be penny-wise and pound foolish when it comes to supporting in our nation's unemployed workers with an adequate safety-net so they don't fall into such dire straits that they can never recover even after re-employed; we must invest in the services they need to minimize periods of unemployment and return them to suitable jobs; and we must commit ourselves to investing in robust job creation. Absent all three of these important components, we will do little more than tinker around the edges of our recovery.

Our workers and communities deserve better than that, and to that end, NELP urges this Subcommittee to use the full weight of its authority and persuasion to help protect and provide genuine assistance to the millions of workers who are unemployed through no fault of their own, and are not able to find jobs in today's economy in spite of their best efforts to do so.