NELP NATIONAL EMPLOYMENT LAW PROJECT

Closing Doors on the Unemployed:

Why Most Jobless Workers Are Not Receiving Unemployment Insurance and What States Can Do About It

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Contents

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About NELP

For more than 45 years, the National Employment Law Project has worked to restore the promise of economic opportunity for working families across America. In partnership with grassroots and national allies, NELP promotes policies to create good jobs, enforce hard-won workplace rights, and help unemployed workers regain their economic footing. For more information, visit us at www.nelp.org.

Key Findings

- **Unless remedied as recommended in this report, the flood of new restrictions limiting access to unemployment insurance will leave U.S. families and the national economy more vulnerable than ever before to the next serious recession.**

- The **percentage of jobless workers receiving unemployment insurance has declined by 25 percent** since immediately before the Great Recession. **In 2016, only 27 percent of unemployed workers received UI compared to 36 percent in 2007.**

- In 2007, only two states had paid benefits to less than 20 percent of unemployed workers. **In 2016, there were 12 states with rates below 20 percent, including six states below 15 percent** (Florida, North Carolina, Louisiana, Georgia, Tennessee, and South Carolina).

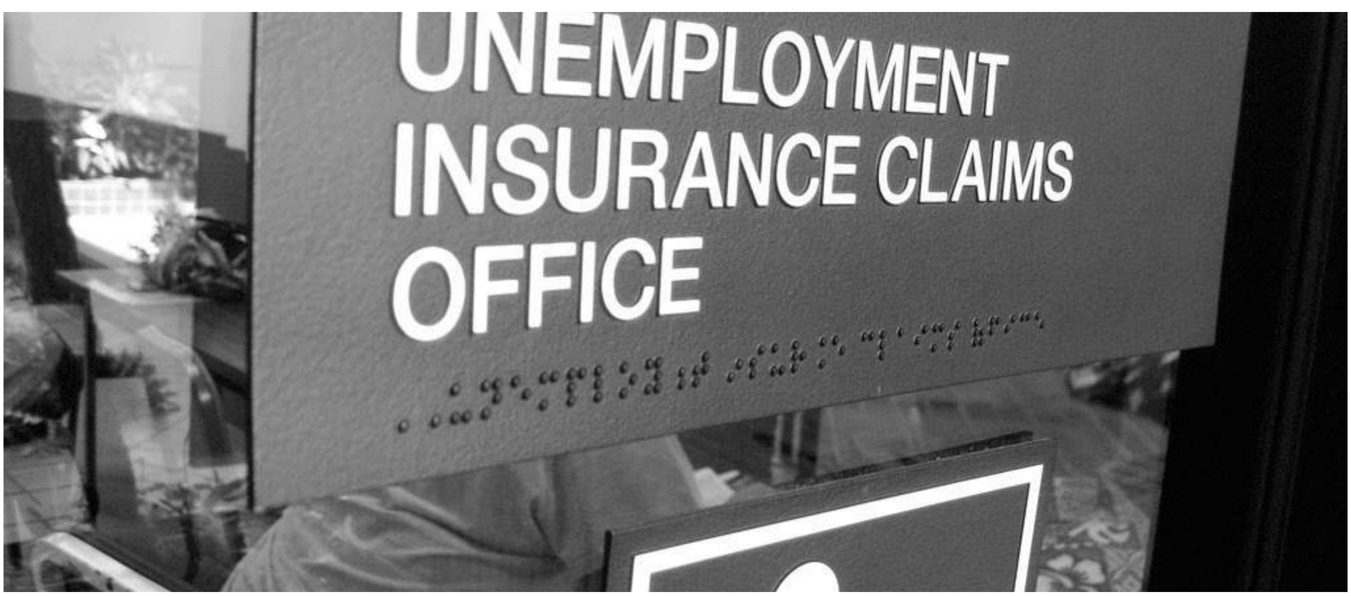
- **Nine States have significantly reduced the maximum weeks of benefits below 26 weeks**, the national standard for more than 50 years. Recent research finds that the reductions in these states account for roughly 30 percent of the national decline in the percent of unemployed collecting UI.

- **States are disqualifying workers** for reasons unrelated to the cause of their unemployment (especially work search) at much higher rates than ever before, **reaching a denial rate of about one out of every four claims filed.**

- **The percentage of unemployed workers applying for UI is dropping dramatically** (by nearly one-fifth in the past five years). While some of this decline relates to improved economic conditions, state policies that discourage workers from applying for UI benefits and greater difficulty in online claim-filing processes are also major contributing causes.

- As states move primarily or exclusively to online claim-filing, **disqualifications for procedural reasons have nearly doubled over the past five years**, with fourteen states denying more than one in every ten claims for a reason that is essentially procedural.

- Of the **ten states with the steepest declines in the percent of the unemployed collecting UI**, eight states (Florida, Georgia, Idaho, Indiana, Louisiana, North Carolina, South Carolina, and Tennessee) also ranked in the bottom ten in multiple measures of access to benefits described in the report.



Outside the Unemployment Insurance Claims office. Source: Bytemarks Unemployment Office https://www.flickr.com

1 Introduction

This month marks the ten-year anniversary of the beginning of the Great Recession. The federal-state unemployment insurance (UI) program played a vital role in stabilizing the nation's economy during the Great Recession and throughout an extended slow recovery that was marked by sustained high rates of joblessness (roughly 2008-2013). From the outset, a spiraling economy represented a challenge akin to a natural disaster, testing the strength of the nation's primary economic safety net for jobless workers and challenging the readiness of political institutions to shore up a system that was not prepared to handle the size, scope, or duration of an economic catastrophe. Yet, with federal reinforcement, the UI system ultimately proved to be a critical macroeconomic stabilizer that helped millions of America's families meet basic daily needs and stay out of poverty until they found new employment.

Today, however, the UI program is in far worse shape than it was ten years ago. Although the unemployment rate is roughly the same as it was in 2007, the percentage of unemployed workers receiving unemployment insurance has dropped by a quarter, to a record low 27 percent. While trust fund recovery has accelerated, less than half of all state UI trust funds currently meet the federal standard for recession preparedness. Rather than increase the revenue generated by employer taxes to shore up the trust funds, many states decreased UI payouts through dramatic reductions in weeks of available benefits, stricter eligibility conditions and harsh new disqualifications. At the same time, some "modernized" online filing systems are making it harder for many workers to apply for benefits.

This report summarizes how the nation's unemployment insurance program responded to unprecedented demands imposed by the Great Recession, and how many states responded in ways that will seriously compromise the program's ability to boost the economy when the next recession hits. Specifically, this report discusses four post-recession developments that have contributed to a steep decline in the percent of unemployed workers receiving UI (the "recipiency rate") over the past five years (2012-2016). These include deep and unprecedented benefit cuts, falling application rates, spikes in disqualifications after initial eligibility, and increases in process disqualifications.

As described below, a core group of states often account for a significant share of the national decline of the UI program. At the same time, the report examines some of the root causes for these developments, including administrative "program integrity" initiatives and changes in automated filing systems that are in some instances making UI benefits less accessible.

As we examine these four contributing causes to falling recipiency, we also offer advocates, policymakers, and program administrators a variety of recommendations that can help states reverse current trends and increase the percentage of unemployed workers who apply for and receive UI benefits. While a robust federal reform agenda is also critical to ensuring that the UI system is adequately prepared for the next economic downturn, the state reforms outlined below represent a necessary first step to respond to the many new challenges and attacks that UI programs have faced during this decade.

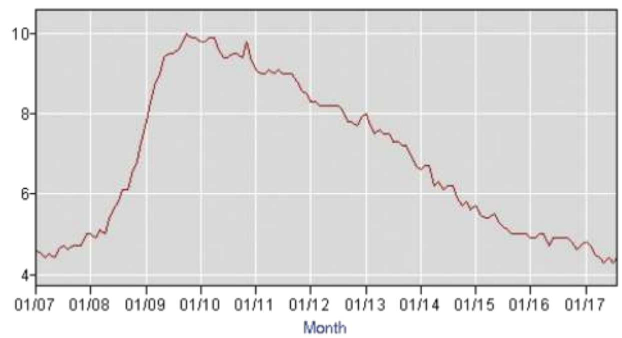

THE WALL STREET JOURNAL.
TUESDAY, SEPTEMBER 30, 2008 · VOL. CCLII NO. 77
Bailout Plan Rejected, Markets Plunge, Forcing New Scramble to Solve Crisis
Down 777.68 points The tale of the Dow's largest point loss on record

The Wall Street Journal covers the 2008 economic crisis preceeding the Great Recession. Source: http://www.retirewire.com

2 The Great Recession and the Unemployment Insurance Program

Most economists agree that the Great Recession, the most severe economic crisis since the Great Depression of the 1930s, began in December 2007 when the national unemployment rate hit 5 percent.[1] The meltdown of the financial industry accelerated job loss so dramatically in the second half of 2008 that unemployment climbed to 7.4 percent by December, and continued to over 10 percent by October 2009. (Economists pinpoint June 2009 as the recession's official end.) In just 16 months, national unemployment doubled, and it did not drop below 9 percent for another two years (October 2011). The U.S. unemployment rate did not fall below 8 percent until September 2012 and did not drop below 7 percent until November 2013 (**Figure 1**).

Figure 1. U.S. Unemployment Rate (January 2007 – August 2017)



Source: Bureau of Labor Statistics Current Population Survey

By way of comparison, unemployment in the post-9/11 recession capped out at 6.3 percent in the summer of 2003, while in the recession of the early 1990's, the national rate hit a peak of 7.8 percent in June 1992. The only other time in the last 70 years that the national unemployment rate exceeded 10 percent was in the recession of the late 1970's and early 1980's, when it reached 10.8 percent in the winter of 1982.

Unemployment Insurance Stabilized the Economy During and After the Great Recession

The federal-state unemployment insurance (UI) program provided economic security for tens of millions of Americans who lost jobs during the Great Recession and the long ensuing recovery (2008-2013). When the country entered the recession at the end of 2007, all 53 states and jurisdictions operated UI programs that offered the potential of up to 26 weeks of benefits.[2] As has been the case with all recessions over the past 35 years, the primary mechanism to help jobless workers deal with the extraordinarily high rates of unemployment and long-term unemployment was a federally funded ad hoc extension of unemployment insurance (UI) benefits. Historically speaking, Congress responded relatively early to the onset of the Great Recession with the enactment of the Emergency Unemployment Compensation (EUC) program in June 2008 which provided additional weeks of benefits for workers who were exhausting their 26 weeks of state UI benefits.

Through the American Recovery and Reinvestment Act (ARRA) and subsequent legislation, Congress expanded available benefit weeks under EUC, as well as full federal funding of an existing program, Extended Benefits (EB)—to address the burgeoning epidemic of long-term unemployment.[3] The EUC program provided up to 53 weeks of additional benefits in the highest unemployment states at its peak, and EB offered up to 20 more in high unemployment states. Authorization for EUC and full federal funding of EB lapsed at the end of 2013.

Unemployment insurance played a large role in helping maintain household income levels during the Great Recession. Between 2008 and 2013, over 60 million American workers received in excess of $310 billion in state UI benefits. (The number of jobless receiving regular state UI benefits nearly doubled from 7.6 million in 2007 to 14.1 million in 2009). In addition, 24.5 million long-term unemployed workers received $230 billion in Emergency Unemployment Compensation (EUC) and $39 billion in Extended Benefits (EB). At its peak in 2010, two-thirds of the nation's unemployed (approximately 12 million workers) were receiving regular state or federal UI benefits. The White House Council of Economic Advisors calculated that, from 2007 to 2010, the share of households receiving income from unemployment insurance rose from 4.1 percent to 9.6 percent, and the average amount received by these households rose from $4,400 to over $8,000 (CEA and DOL 2014).[4]

Unemployment insurance substantially reduced poverty during the recession and recovery. From 2008 to 2012, unemployment insurance lifted 11 million Americans above the poverty line (CEA 2014)[5] and prevented an estimated 1.4 million home foreclosures.[6] In 2009 alone, when recessionary layoffs peaked, unemployment insurance kept an estimated five million people—including jobless workers and their families—out of poverty,[7] and saved more than two million jobs.[8] In 2009, the national poverty rate would have been 5 points higher if UI benefits were deducted from family incomes.[9] And according to Urban Institute economist and leading UI expert Wayne Vroman, UI benefits—both regular state-funded benefits and emergency federal benefits for the long-term unemployed—closed the associated gap in real gross domestic product by nearly one fifth (18.3 percent) during the Great Recession.[10]

Some Post-Recession Responses to Insolvency Undermine UI Program Effectiveness

In some ways, the consequences of the Great Recession and the ensuing slow recovery for the UI program are like the impact of a natural disaster in which states quickly drain inadequate resources and then must turn to FEMA for outside aid. Because of unprecedented sustained high unemployment rates, 36 states depleted their UI trust fund reserves during the Great Recession and had to take out loans from the federal government or private bond markets in order to continue paying state benefits. Between 2008 and 2015, state UI programs borrowed more than $141 billion in total, with outstanding advances peaking at $51 billion in 2011.[11]

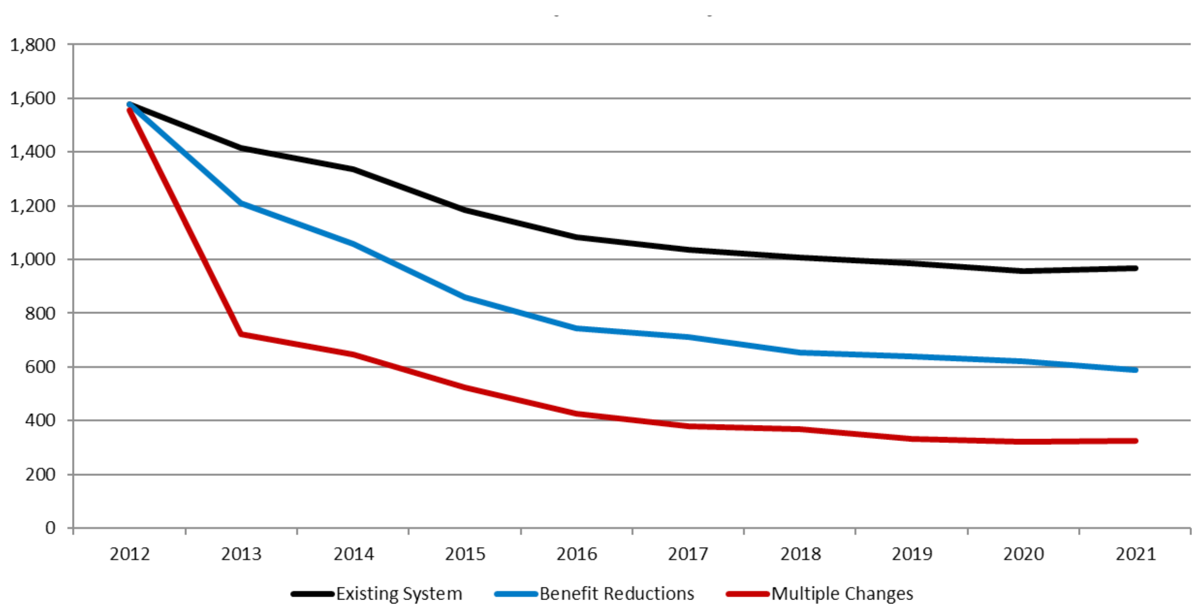
While it is clear that many borrowing states were poorly financed heading into the Great Recession,[12] state plans to restore solvency and avert future disasters generally emphasized benefit cuts and freezes over revenue increases. Of the 36 states forced to borrow, 16 states enacted some form of increase to their taxable wage base.[13] (States that indexed their taxable wage bases to rising wages were much less likely to need to borrow.[14]) Today, only 21 states have trust fund reserves that meet the federal solvency standard for recession readiness—an average high-cost multiple of 1.0, meaning that the state's year-end trust fund balance is adequate to fund one year of recession-level payouts.[15]

Many states reduced benefits (including nine states that reduced maximum benefits below 26 weeks), tightened eligibility requirements, and imposed process obstacles to applying for benefits.[16] Slightly more than one in four unemployed workers receives UI nationally, with recipiency stuck at a historically low 27 percent since 2014. [17] As a result, the UI system in most states is no longer as effective as an economic stabilizer today as it was even before the recession began in 2007.

The Damage of Deep Benefit Cuts to the UI System Was Foreseeable

Indeed, economists have provided empirical evidence that overly aggressive cuts to a state UI program will severely compromise its ability to cushion the blow of the next recession. In January 2013, Upjohn Institute economist and UI expert Christopher O'Leary simulated the impact of a change in the state's maximum duration along with a 30 percent cut in both the maximum weekly benefit amount and a change in the benefit calculation formula.[18] The cut in the number of weeks of benefits alone reduced annual UI benefit payments by 39 percent from 2012 to 2021. Once the cut in the benefit amount and formula change were added, O'Leary projected that UI benefit payments would be 67 percent lower in 2021 than under the existing system (**Figure 2**). Based on these findings, O'Leary concluded that, "Such packages of benefit changes dramatically reduce the alleviation of hardship caused by unemployment, and seriously weaken the countercyclical strength of UI benefits."[19]

Figure 2. Projected UI Benefits Under Existing and Alternative Declining Max Weekly Benefit Amount and Potential Duration ($ millions)



Source: O'Leary, Christopher, "A Changing Federal-State Balance in Unemployment Insurance? "Employment Research, Vol. 20, No. 1, January 2013 W.E. Upjohn Institute.

A month after the Upjohn projections were published, the North Carolina General Assembly passed the harshest series of cuts to a UI program in the nation's history. In order to avert federal unemployment tax increases that would recoup the debt accrued from federal borrowing, business groups went to the legislature with a plan to cut benefits. The plan became House Bill 4 (HB 4) which reduced 26 weeks of available UI to anywhere from 20 down to 12 weeks (based on unemployment rate), cut the maximum weekly benefit by one-third, from $525 down to $350, and imposed a new benefit formula that would reduce average weekly payments. The legislature's own fiscal office estimated that in one year, these cuts would slice the state's program in half. HB 4, which included a host of other restrictions all drawn from a business-commissioned study, flew through the North Carolina legislature in the first two weeks of the session.

O'Leary's projections proved to be understated. In order to gauge the enormity of the impact of HB 4, NELP compared UI payouts and beneficiaries in two economically similar years before and after the Great recession--2007 (when the state's unemployment rate ranged between 4.7 and 5.0 percent) and 2016 (when unemployment fluctuated between 5.3 and 4.9 percent). In 2007, North Carolina paid out approximately $903 million in UI benefits to 242,923 unemployed workers. In 2016, the state paid out just under $219 million to 97,459 jobless workers. By cutting benefit durations and amounts more harshly than any other state ever had, the percentage of jobless workers receiving benefits in 2016 was 40 percent of what it was in 2007 and the amount of UI dollars injected into the North Carolina economy was less than a quarter of what it had been in a similar 2007 economy.[20]

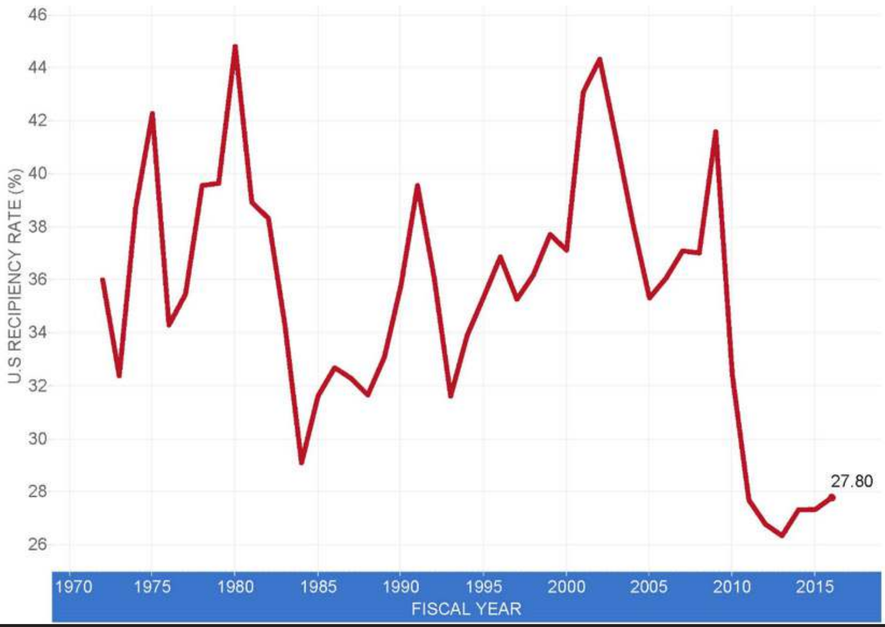
While North Carolina's cuts stand out as the most severe of the post-recession solvency measures, declining UI recipiency is a product of the actions of many states. These developments parallel the recession of the early 1980's, the only other national recession in which a large number of state UI trust funds (16) became insolvent. A conservative political climate and lack of organized support for strong UI programs then also led to a wave of benefit cuts and eligibility restrictions and a steep drop in the percentage of jobless workers collecting state UI benefits. The likely consequences of this approach are that when the inevitable next economic downturn occurs, the UI program will help a far smaller share of jobless workers maintain a minimal standard of living and will play a much smaller role in stabilizing the impact of recession on the American economy.

An applicant filing unemployment claim forms. Source: https://upload.wikimedia.org/wikipedia/commons

A Smaller Percentage of Unemployed Workers Are Receiving Unemployment Insurance Than Ever Before

The clearest way to observe this development is through the UI recipiency rate – the percentage of unemployed workers who are receiving unemployment insurance at any given time.[21] As **Figure 3** shows, the UI recipiency rate rises sharply during recessions. There are two main reasons for this. First, workers who have been laid off from their jobs make up a greater share of the unemployed during recessions than workers unemployed for other reasons, including workers who have left jobs and workers who are new or returning labor force entrants. Workers who are jobless involuntarily are more likely than other unemployed to establish UI eligibility. Second, during recessions when jobs are scarce, such as during the Great Recession—when the ratio of jobless workers to open jobs exceeded six and the median duration of unemployment reached 21 weeks—workers need additional time to find suitable employment. For this reason, the federal government has historically funded additional weeks of benefits for claimants who exhaust their regular state benefits, extending potential benefit durations by at least 50 percent.[22]

FIGURE 3: Percentage of unemployed workers receiving unemployment insurance, 12-month moving averages, January 1972 to December 2016



Source: https://ows.doleta.gov/unemploy/

In 2007, when the national unemployment rate largely hovered between 4.4 and 4.7 percent, 36 percent of unemployed workers received UI benefits nationally. In 2016, when national unemployment was at roughly the same levels as 2007, only 27 percent of unemployed workers received unemployment insurance. This means that today, the same state UI programs that were essential to the nation's economic recovery (additional federal extension benefits helped state UI programs reach two-thirds of the nation's unemployed at the recession's peak) are paying a quarter less benefits than before the recession.

While the national trends are troubling, it is necessary to take a closer look at state developments to fully understand the unprecedented decline of the UI program. As reflected in the map below, nearly all the states experienced a major decline in the percent of unemployed individuals collecting benefits (averaging 27 percent), but a core group of states was most severely impacted. **Table A** below compares UI recipiency by state in 2007 and 2016. In 2007, only two states had a recipiency rate less than 20 percent. In 2016, there were 12 states with rates below 20 percent, including six states below 15 percent (Florida, North Carolina, Louisiana, Georgia, Tennessee, and South Carolina).

The states with the steepest declines in recipiency (ranging from 72 to 48 percent) during this period were, in order, North Carolina, Florida, South Carolina, Tennessee, Georgia, Idaho, Indiana, Alabama, Nebraska, and Louisiana.

Table A. Percentage of Unemployed Workers Receiving Unemployment Insurance (State UI, Unemployment Compensation for Federal Employees (UCFE), and Unemployment Compensation for Ex-Service Members (UCX)

State	2007	2016	% change
AK	55%	48%	-14%
AL	31%	16%	-50%
AR	41%	30%	-26%
AZ	25%	16%	-36%
CA	40%	36%	-11%
CO	24%	31%	30%
CT	49%	42%	-13%
DC	43%	34%	-20%
DE	58%	31%	-46%
FL	30%	9%	-70%
GA	26%	12%	-53%
HI	41%	36%	-11%
IA	41%	38%	-6%
ID	52%	25%	-53%
IL	41%	31%	-25%
IN	39%	19%	-52%
KS	29%	23%	-21%
KY	29%	23%	-19%
LA	23%	12%	-48%
MA	54%	54%	1%
MD	34%	26%	-23%
ME	32%	28%	-12%
MI	40%	27%	-34%
MN	40%	41%	2%
MO	30%	20%	-35%
MS	24%	15%	-37%
MT	41%	37%	-8%
NC	37%	11%	-72%
ND	31%	63%	106%
NE	34%	18%	-49%
NH	28%	20%	-31%
NJ	62%	47%	-24%
NM	33%	20%	-38%
NV	42%	27%	-36%
NY	41%	35%	-14%
OH	30%	23%	-24%
OK	20%	26%	25%
OR	45%	30%	-34%
PA	61%	40%	-35%
RI	47%	33%	-30%
SC	31%	14%	-55%
SD	18%	16%	-10%
TN	28%	13%	-55%
TX	19%	29%	49%
UT	23%	21%	-10%
VA	27%	18%	-35%
VT	49%	44%	-10%
WA	32%	26%	-18%
WI	50%	32%	-36%
WV	35%	37%	4%
WY	34%	39%	16%
US	**36%**	**27%**	**-25%**

Source: USDOL, Employment & Training Administration, Quarterly UI Data Summaries, Division of Fiscal and Actuarial Services, Office of Unemployment Insurance (OUI).

3 Four Reasons Unemployment Insurance Recipiency is So Low and What States Can Do to Reverse Course

Reason #1: Nine States have reduced the maximum benefit duration below 26 weeks, which accounts for roughly one-quarter of the national decline in the percent of the unemployed collecting UI.

The single most significant action taken by the states that has contributed to the decline of the UI program since the Great Recession has been the cuts to the number of weeks that workers can collect UI benefits. Specifically, between 2011 and 2016, nine states made permanent cuts in the statutory maximum number of benefit weeks (Figure 3). Three states cut maximums from 26 to 20 weeks (MI, MO, SC), one state cut maximum benefit duration to 16 weeks, (AR) and five states have adopted sliding scales tied to state unemployment rates (FL, GA, NC, KS, ID). UI expert Wayne Vroman has examined possible explanations for the 25 percent drop in recipiency since before the recession and concluded that approximately 30 percent of the drop was attributable to a reduction in UI weeks paid in eight states that had cut durational maximums below 26 weeks.[23]

Since the early 1960's, every state's unemployment insurance (UI) program has provided a potential maximum duration of at least 26 weeks of benefits to workers. In many states, this maximum is variable, based on the claimant's qualifying "base period" earnings; in other words, the maximum may be less than 26 weeks for a claimant who had a sporadic work history in the period prior to filing for benefits. Two federal advisory bodies have recommended 26 weeks of state benefits as a standard duration for benefit payments.[24] Prior to 2011, every state offered the possibility that a worker who had worked consistently throughout his or her base period would qualify for up to 26 weeks of benefits.

However, immediately following the state elections of 2010, Republican-controlled state legislatures began targeting the 26-week maximum as a means to reduce benefit payouts and restore solvency to their UI trust funds. In the first six months of 2011, Michigan, Missouri and South Carolina enacted legislation reducing the maximum benefit duration from 26 to 20 weeks. In August 2011, Florida enacted a sweeping series of anti-worker changes to its UI program, which included a first-of-its-kind sliding scale maximum that capped benefits at 23 weeks when the state's unemployment rate is 9 percent or higher, and slides down to as low as 12 weeks when the unemployment rate is 4.5 percent or lower.[25] Kansas adopted a somewhat less severe sliding scale approach that took effect in January 2014, retaining a 26-week maximum when the unemployment rate is 6 percent or higher, 20 weeks when the rate is between 4.5 and 6 percent, and 16 weeks when the rate is below 4.5 percent (HB2105). In July 2016, Idaho adopted a sliding scale maximum that provides anywhere from 20 to 26 weeks based on the state's unemployment rate. Arkansas has enacted two separate reductions in maximum weeks: From 25 to 20 weeks effective October 1, 2015 (P.A. 412), and this year further reduced maximum weeks from 20 to 16 weeks, effective January 2018. (PA 734). Currently, the most severe limitations on benefits are in Florida (12 weeks), Georgia (14 weeks) and North Carolina (13 weeks).

The nine states that have reduced the maximum weeks of unemployment insurance available to jobless workers are Michigan, Missouri, South Carolina, Florida, Georgia, North Carolina, Kansas, Arkansas and Idaho.

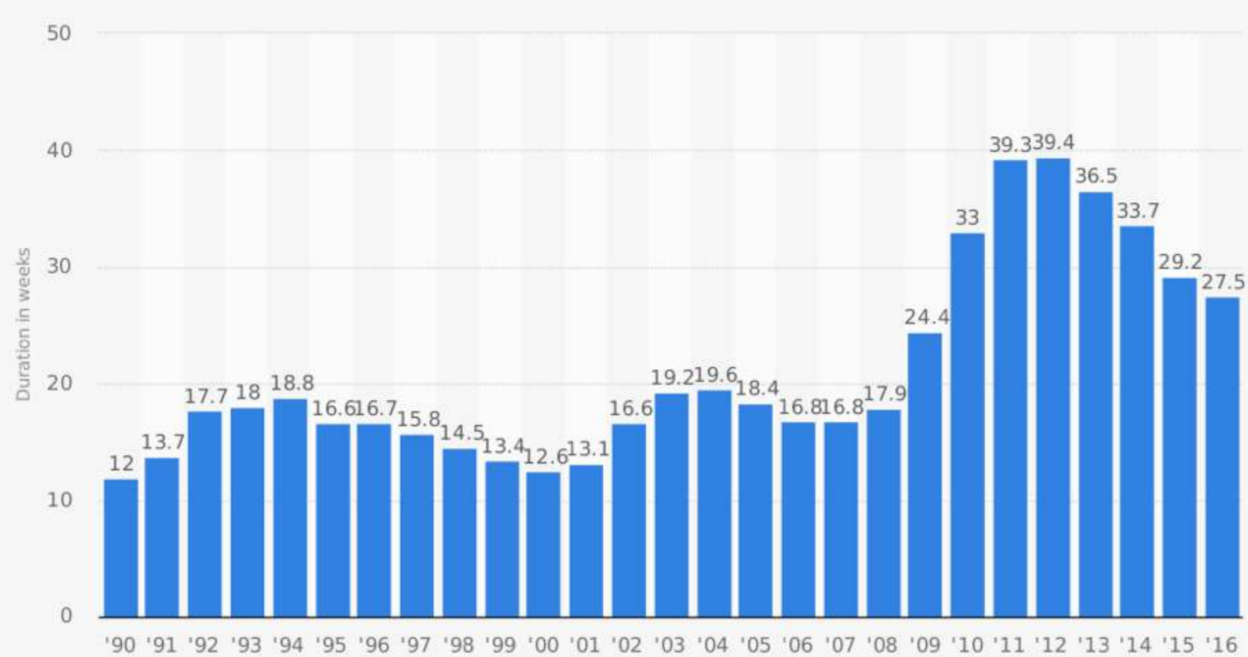
The evidence is now clear that these specific cuts to the UI program, enacted by a core group of states, have been a leading factor contributing to the 25 percent decline in the percentage of the unemployed collecting UI benefits nationally. Vroman's unpublished study finds that the eight states with reduced maximum duration represented about one-fifth of the state UI system and accounted for approximately 2.5 points of the 8.2 point decline in recipiency (roughly 30 percent) between 2007 and 2016.[26] Four of the five states with the steepest declines in recipiency since 2007 (NC, SC, FL, and GA) enacted reductions in maximum duration between 2011 and 2013.

SOLUTIONS: States Should Maintain the Historic 26-Week Maximum Duration for UI Benefits

Economists studying the UI system have long recommended that 26 weeks should be the minimum benefit duration for state UI systems. While nine states have reduced the 26-week maximum duration, 41 others have maintained it. The federal-state Extended Benefits (EB) system operates on an assumption that states will provide 26 weeks, so states providing less weeks will qualify for a proportionately smaller share of the 13 EB weeks (or other federal benefits provided by ad hoc Congressional extensions) provided during periods of high unemployment.

As some states have reduced the adequacy of benefits by cutting the maximum duration of UI benefits, the average length of unemployment has actually been increasing. The average unemployed worker was out of work for 27.5 weeks in 2016, nearly two-thirds longer than the average duration of 16.8 weeks in 2007, before the recession began.

Figure 4. Average Duration of Unemployment in the United States from 1990 to 2016 (in weeks)



Source: Bureau of Labor Statistics

Reason #2: Even after initially qualifying for benefits, the risk of disqualification for non-compliance on a week-to-week basis has grown dramatically. More UI-eligible workers than ever are being denied benefits because of stricter enforcement of a variety of “continuing eligibility” requirements, especially work search.

Another major trend during the last five years has been a sharp rise in denials by the states in the broad category of “non-separation” issues, which encompasses all the various conditions that a claimant must comply with on a week-to-week basis after an initial finding that his or her reason for job loss is not disqualifying. These issues affecting continuing eligibility include requirements that the claimant be able and available for work and actively seeking work, receipt of disqualifying income, failure to register with the employment service, or failure to comply with agency filing instructions.

Denials in all non-separation categories increased by 57 percent from 12 in every hundred cases (2007-11) to 19 in every 100 (2012-16), an increase of 57 percent. (See **Table B**.)[27] In the past two years, the rate of non-separation denials has reached 24 percent, the highest rate ever recorded. In other words, states are currently issuing disqualifications for a reason unrelated to the cause of the claimant’s unemployment for approximately one out of every four claims (weekly and initial) filed. Indeed, according to Vroman’s analysis of the leading factors contributing to the low rates of UI recipiency, the unprecedented high rates of denials by the states for these non-separation issues account for about 20 percent of the national decline.[28]

The ten states with the steepest increases in denials for non-separation reasons were South Carolina, New Mexico, Florida, Mississippi, Tennessee, Massachusetts, Pennsylvania, Michigan, Louisiana, and North Carolina. Five of these ten states launched new claim-filing systems in the past five years (New Mexico, Florida, Tennessee, Massachusetts, and Michigan), a factor that may be driving increases in increasing disqualifications for process reasons (See Reason #4).

Fueled by the federal movement to curb improper payments, state focus on “program integrity” has yielded some harsh and unfair treatment for UI claimants.

The issuance of an executive order by President Obama in 2009 directing federal agencies to reduce improper payments in federal benefit programs[29] and the subsequent enactment of the Improper Payments Elimination and Recovery Act (IPERA) of 2010[30] placed a high level of federal focus on UI overpayments. Since 2010, the UI program has had an improper payment rate above 10 percent, putting it out of compliance with IPERA. In June 2011, the Department of Labor issued a “call to action” to all states to implement strategies to reduce improper UI payments.[31] USDOL’s estimate of the “improper payment rate” for the UI program was derived from a very small sample of claims that states have audited under the Benefit Accuracy Measurement (BAM) program.[32]

Record high denial rates for non-separation issues are directly related to the tightening of administrative processes requiring workers to register for and actively seek new work while collecting benefits—areas identified by the federal government as leading causes of improper payment. One example, failure to register with the Employment Service (ES), prompted a number of states to implement electronic ES registration requirements, while others required claimants to complete and post online resumes as a condition of UI eligibility. The efficacy of these requirements typically turns on how easily a claimant can complete the registration. Unfortunately, many state ES systems are far from state-of-the-art and are difficult to navigate.

Consider Oklahoma, which had a long-standing statutory requirement that UI claimants must register with the Employment Service (ES) within 7 days of filing their initial claim. Oklahoma had never aggressively enforced this requirement until July 2014 when, as part of a state plan to reduce the average UI duration, it mandated that all claimants register and post online resumes through an online system called "OK Job Match." Immediately, many claimants began encountering problems registering online and began coming into job centers to get staff assistance. Because of this new strict enforcement of the 7-day requirement, there was an immediate spike in the number of claimants denied benefits under the "reporting requirements" category. Even once a problem was eventually resolved, eligibility was prospective and not backdated, leaving claimants denied for one or more weeks. In the year after implementation of the new system, the number of claimants denied for failure to satisfy reporting requirements more than tripled from roughly 2,200 to over 7,000 per quarter; approximately one in four Oklahomans applying for benefits was denied one or more weeks of benefits for failure to have an ES registration.[33]

Spurred by the federal program integrity push, some states have used automation to enforce inflexible procedural rules they had previously elected not to enforce. In addition, as various IT vendors compete to secure contracts to modernize state UI systems, some systems have taken on levels of complexity that prompt high levels of follow-up requests for explanations of instructions that seem confusing or contradictory. As we noted in our 2015 report on the Florida UI program and its new CONNECT system, when states leave claimants on their own to complete online resumes or skills questionnaires, time lost securing staff assistance to deal with system problems often results in some form of disqualification, even if just for 1-3 weeks.[34]

Michigan's "Robo-Fraud" System Targets Innocent Workers

Although most UI overpayments are not the result of claimant fraud, the UI program integrity initiative of the past seven years has resulted in high levels of state and federal focus on fraud detection and prevention. USDOL has directed more federal resources toward state recovery of overpayments and incentivized states to be more aggressive in identifying and penalizing fraud. In their efforts to crack down on fraud, some states have trampled on claimants' due process rights. The most extreme example of this problem occurred in Michigan where the state implemented an automated system known as MiDAS. Among other flaws, MiDAS accused workers of fraud if they stated a reason for separation that differed from the reason given by a former employer or if they had earnings in the same calendar quarter in which they were paid UI.

As a result, the Michigan Unemployment Insurance Agency unjustly accused thousands of innocent workers of fraud with system-generated disqualifications and penalties that were not reviewed by agency staff and imposed onerous monetary penalties equal to 400 percent of the alleged amounts overpaid. Subsequent audits of MiDAS by Michigan's state auditor showed that most overpayment determinations were incorrect and that there was lack of oversight in development of the MiDAS system.[35]

SOLUTIONS: The Cost of UI Program Integrity Should Not Be Abuse of Eligible Jobless Workers

The national focus on preventing and reducing improper payments has driven much change in state UI systems over the past several years. States have struggled to adapt existing systems that are still relying on 30-year-old mainframes. The current infrastructure problems plaguing many state UI systems are largely a result of chronic federal underfunding. Federal underinvestment in state unemployment IT systems not only threatens the immediate economic security of unemployed workers and their families, but also often precludes productivity gains and cost savings. On the other hand, new automation does not, by itself, improve efficiency, and in numerous instances, new automated systems have generated new types of problems for UI claimants in the form of confusing filing processes, unnecessary payment delays, improper disqualifications, unfounded fraud charges, and other application headaches.

True UI program integrity incorporates long-standing principles of fairness and due process for workers applying for and filing weekly claims. Worker advocates, policymakers, and state program administrators should seriously examine the following ideas as part of a 21st century model for UI operations.

1. States should consider state supplemental funds for UI administration.

Many states have imposed special taxes for a variety of purposes including UI administration, job training, employment service administration, or special improvements in technology. Most recently, Pennsylvania addressed major UI service breakdowns by allotting a portion of employee UI taxes to improving services to claimants. States should maintain some form of dedicated tax that insures states have the resources to maintain efficient UI systems through the ebbs and flows of federal appropriations.

2.Due Process.

States should insure that procedures for identifying overpayments (and determining whether overpayment is a product of fraud) incorporate necessary due process protection, including live staff adjudication. States should prohibit "robo-adjudication" of issues that examine claimant intent. (See UI Program Letter 16-01, Federal Requirements to Protect Individual Rights in State Unemployment Compensation Overpayment Prevention and Recovery Procedures, issued October 1, 2015.)

3. Fair penalties.

States should assess their overpayment penalties to make sure that they are not disproportionate to the offenses and that they are not so large as to incentivize states to prioritize fraud pursuit over meeting fundamental agency obligations like timely first payments.

4. Do no harm.

States should make sure that fraud prevention software does not impose unreasonable obstacles for law-abiding jobless workers trying to complete a basic application for benefits.

5. Keep it simple.

State UI agencies should not cede control of system design concepts to vendors that would build systems that are far more complex and arcane than existing processes. System design should minimize voluminous and overlapping questionnaires and new systems should not result in large spikes in adjudication of new continuing eligibility issues. Where possible, states should resist trends to do all fact-finding by questionnaire and rely more on direct questioning/

Table B: State UI Rates of Denial per Ten Claimant Contacts (Non-Separation Issues) Ranked by Percentage Increase (Comparison 2007-11 v. 2012-16)

State	Denial Rate 2007-2011	2012-2016	% change
SC	7%	36%	420%
NM	5%	23%	385%
FL	9%	40%	360%
MS	11%	42%	289%
TN	2%	7%	241%
MA	3%	12%	232%
PA	3%	9%	226%
MI	13%	41%	223%
LA	19%	52%	179%
NC	4%	10%	178%
WI	14%	32%	128%
NY	5%	12%	127%
DC	7%	14%	116%
GA	7%	14%	109%
IA	6%	13%	105%
IL	6%	13%	104%
KY	8%	16%	102%
KS	15%	30%	101%
MT	12%	23%	93%
NE	35%	65%	85%
OK	15%	27%	83%
WY	29%	52%	81%
ID	28%	50%	76%
OH	19%	33%	75%
DE	11%	19%	70%
OR	11%	18%	63%
HI	20%	31%	61%
UT	56%	85%	51%
NH	26%	39%	50%
RI	6%	9%	47%
VT	10%	14%	42%
AR	7%	9%	37%
VA	11%	15%	37%
MN	22%	30%	37%
NJ	5%	6%	34%
IN	17%	21%	29%
NV	20%	25%	25%
ME	19%	24%	25%
CT	6%	7%	21%
ND	55%	65%	18%
MO	27%	32%	17%
AK	44%	49%	14%
AZ	12%	14%	13%
WV	5%	6%	10%
AL	10%	11%	10%
SD	38%	42%	10%
MD	18%	20%	8%
TX	27%	28%	2%
CO	22%	21%	-3%
WA	19%	17%	-9%
CA	16%	13%	-18%
U.S. (51 programs)	**12%**	**19%**	**57%**

Source: USDOL, Employment and Training Administration ETA 207—Nonmonetary Determination Activities

States are imposing more onerous work search contacts & documentation requirements

Under every state UI law, claimants must be able to work, available for work, and actively seeking suitable work.[36] There is considerable variation between states in terms of what number of employer contacts constitutes an active work search in a given week. The majority of states (33) require one, two, or three employer contacts weekly, while 10 states require either four or five contacts. Following the launch of its UI program integrity initiative in 2010, USDOL identified failure to comply with work search requirements as a leading cause of overpayments.

In response to federal pressure, many state UI programs placed renewed program emphasis on enforcing work search requirements. In addition, a number of state legislatures increased work search requirements as part of UI solvency reform strategies that relied on benefit restrictions more heavily than revenue increases. State methods of monitoring work search also began to change over the past six years. Historically, most state UI agencies employed a random audit approach, requiring claimants to maintain a written record of their work search but only reviewing it periodically on a random basis; this approach reflected a recognition that states did not have resources to review or verify multiple employer contacts for most claimants in any given week.[37] Nevertheless, more states have begun requiring work search documentation (weekly or bi-weekly), either online or in writing.

The result of this increased focus on work search has been more denials of benefits. From 2007 to 2011, roughly 4 in every 100 weekly claims filed nationally resulted in a disqualification for benefits for reasons related to a claimant's status as able to work, available for work, or actively searching for work. From 2012 to 2016, that number jumped to 7 in every 100 (See **Table C**).

The ten states with the highest rates of disqualification for able, available, and work search issues are Alaska, South Carolina, North Dakota, Utah, Nebraska, Idaho, Florida, New Hampshire, Ohio, and Missouri.

However, in eleven states, the percentage of claims denied for availability and work search reasons has risen to higher than 15 percent. As could be expected, half of these states require four or five new employer contacts weekly (FL, NE, SC, UT, ND),[38] while nearly all of the harshest disqualifiers have moved to systems in which work search documentation is now required to be submitted as part of each weekly or bi-weekly certification.[39]

Over the past several years, Congress has made special federal funding available for reemployment services for UI claimants, [40] most recently named Reemployment Services & Eligibility Assessment, or RESEA.[41] States use RESEA funds to assess the continued eligibility and reemployment needs of UI claimants. UI and ES staff identify eligibility issues and refer all eligibility issues to adjudication. USDOL has gradually modified the preferred RESEA program by emphasizing prioritization of services to those found most likely to exhaust UI benefits by the state's Worker Profiling System (WPS)[42] and encouraging integrated UI and ES service delivery based on findings from pilot programs in Nevada and Utah.[43]

Table C: State UI Rates of Denial per Ten Claimant Contacts (Able, Available, and Work Search Issues) Ranked in Order from Highest to Lowest (Comparison 2007-11 v. 2012-16)

State	Denial Rate 2012-2016	2007-2011	% change
AK	31%	26%	18%
SC	29%	2%	1080%
ND	24%	13%	81%
UT	20%	8%	146%
NE	19%	10%	87%
ID	19%	5%	309%
FL	17%	5%	283%
NH	17%	7%	132%
OH	16%	6%	158%
MO	16%	14%	12%
MS	15%	3%	427%
HI	15%	9%	62%
WY	14%	8%	77%
KS	13%	4%	240%
SD	13%	16%	-20%
MT	11%	4%	217%
VA	11%	7%	60%
MI	10%	3%	271%
WA	9%	10%	-6%
WI	9%	3%	156%
OR	9%	6%	50%
GA	8%	3%	200%
MD	7%	7%	4%
TX	6%	7%	-9%
OK	6%	3%	126%
NM	6%	1%	496%
NV	6%	4%	60%
AL	5%	3%	59%
ME	5%	4%	38%
MN	5%	3%	68%
CA	5%	5%	-9%
MA	5%	1%	705%
IL	5%	2%	125%
AZ	5%	3%	39%
AR	4%	3%	37%
VT	4%	3%	34%
LA	4%	5%	-33%
CT	3%	2%	45%
PA	3%	0%	659%
RI	3%	4%	-21%
NJ	3%	2%	42%
CO	3%	4%	-31%
IN	3%	4%	-18%
KY	3%	2%	40%
DC	3%	1%	249%
NC	3%	1%	161%
IA	2%	1%	83%
DE	2%	2%	23%
NY	2%	1%	63%
WV	2%	2%	0%
TN	1%	0%	217%
U.S. (51 programs)	**7%**	**4%**	**69%**

Source: USDOL, Employment and Training Administration ETA 207—Non-monetary Determination Activities

SOLUTIONS: States Should Apply Common Sense Practices in Enforcing UI Work Search Requirements.

Every state has a work search requirement and most specify an expected number of employer contacts per week. With the vast majority of weekly claims filed by phone or online, most states are not positioned to undertake automated review of work search forms, nor do they have the staff resources to personally scrutinize and verify all work search submissions. Both as a matter of operational efficiency and good public policy, most state UI agencies enforce work search requirements through some form of random audit—informing claimants of the requirements, including maintaining documentation of employer contacts subject to periodic review of work search in any given week. More recently, many states have built out these processes as part of the expansion of the federal RESEA program.

In order to make UI work search requirements a meaningful tool that helps workers find their next job and not just part of a punitive weekly obstacle course, states should consider the following practices:

1. Explain.
Provide comprehensive and understandable explanations regarding UI benefit rights and responsibilities at the beginning of the claim-filing process.

2. Make assistance available.
Where needed, provide live customer assistance to help claimants comply with employment service registration and work search documentation requirements.

3. Make RESEA a positive experience.
Use the reemployment and eligibility assessment process (RESEA) as an opportunity to provide guidance and direction in work search rather than impose automatic disqualification.

4. Adopt reasonable exemptions from work search requirements.ncluding claimants on temporary layoff, claimants with scheduled return-to-work or start-work dates, claimants on jury duty, claimants working part-time or in approved training.

5. Rely on random audits of work search instead of requiring extensive weekly or biweekly documentation.

Nebraska provides a recent example of a historically strong UI program's implementation of federal RESEA grant resulting in a sharp reduction in recipiency. Nebraska launched its RESEA program in July 2015 with an ambitious goal of serving virtually all UI claimants who are not employer-attached. Nebraska's RESEA grant was used to hire job coaches to help claimants develop and comply with employment plans, but simultaneously imposed more rigorous UI eligibility requirements. These new eligibility conditions included requiring claimants to file an online, searchable resume and submit weekly documentation of five new employer contacts per week. (After adopting these same requirements, Florida tripled work search/availability denials and quadrupled the number of denials it issues for procedural reporting requirements.[44]) Despite instituting a system of procedural protections and warnings for initial non-compliance, Nebraska's rate of disqualification on able/available/work search issues nearly doubled in 2016 compared to 2014 (the last year before RESEA was implemented),[45] and recipiency declined from 26 to 17 percent.[46]

Reason #3: The percentage of unemployed workers applying for unemployment insurance has dropped substantially in the past five years.

For many years, researchers and advocates have raised serious concerns about the low “take up” rate limiting access to UI benefits. However, in recent years, the problem has been far more severe, due largely to new barriers to access benefits imposed by the states.

The unemployment insurance application rate is the ratio of initial claims (new plus additional) to new onsets of unemployment (that is, workers unemployed for fewer than five weeks, as measured by the Current Population Survey (CPS)). Between 2007 and 2011, the application rate averaged 67 percent. In the five-year period from 2012 to 2016, the application rate dropped by nearly one-fifth, to 54 percent.

Why are workers who lose their jobs so much less likely to apply for unemployment insurance? One reason is that as the economy has improved, workers are less likely to be laid off for lack of work or other economic reasons. Workers who voluntarily leave jobs are generally less likely to apply for benefits because they assume (correctly or not) that they will be ineligible. In Vroman’s most recent analysis of CPS surveys of unemployed workers, he found that the single biggest reason (51.9 percent) that individuals surveyed did not apply was a belief that they were not eligible.[47] Workers in temporary employment were especially ill-informed about UI, with 17.2 percent believing their work was not covered by UI and 8.9 percent saying they did not know about UI or how to file for UI.[48] In a later study of 2005 CPS supplement data, Alix Gould-Werth and Luke Shaefer found that those without a high school degree and Hispanic applicants made up a significant portion of non-applicants and individuals in these groups especially lacked knowledge of UI. [49]

Still, there are other measures taken by states that have depressed application rates, including greater difficulty or complexity in the claim-filing process and changes in law to exclude whole categories of workers from eligibility. Numerous states have mandated, either legislatively or administratively, that all claims be filed exclusively online, which can present barriers for workers with limited English proficiency, literacy challenges, or limited computer fluency or online access. Overly strict online filing rules prompted the U.S. Department of Labor to issue guidance prohibiting online-only filing and requiring states to provide alternate filing methods.[50] Other states (Arizona, Florida, Georgia, Utah, Tennessee, North Carolina) have acted legislatively to expand disqualifications that formerly applied only to public education employees between academic years and terms to apply to private sector employees serving school systems (e.g. school bus drivers, cafeteria workers).[51] Indiana has enacted a law that is even more sweeping in its disqualification of workers during weeks that their employers designate as unpaid vacation.[52] These kinds of sweeping changes that effectively disqualify entire categories of employees (typically low-wage workers) have the immediate impact of discouraging workers to apply for UI benefits.

The eleven states with the sharpest declines in application rates (ranging from 51 to 29 percent) were North Carolina, Indiana, South Carolina, Tennessee, Idaho, Louisiana, Nevada, Wisconsin, Georgia, Alabama, and Oklahoma. Seven of these states (NC, IN, SC, TN, LA, GA, AL) were also among the ten states with the steepest declines in overall recipiency. Publicity around deep state cuts in benefits (especially attacks on entire categories of workers) likely creates a chilling effect on unemployed workers who are effectively discouraged from applying for UI.

Reason #4: As states automate their claim-filing systems, unemployment insurance has become more difficult for many workers to access due to the doubling of denials of claims for process reasons.

Beginning in the early 1990's, state UI programs, encouraged by USDOL, began moving from in-person filing to telephone filing and online filing of both initial claims and weekly certifications (continued claims). Through the 2000's, telephone filing was the primary means of applying for benefits, with the online initial claim a secondary option in most states. Online filing of weekly certifications has long been very common since it is, in most states, a relatively simple and straightforward transaction.

SOLUTIONS: How Can States Improve Application Rates?

1. Improve access to UI and awareness of benefit rights.
One way to improve UI recipiency is to make sure that unemployed workers who might benefit from UI know that they can apply, know how to apply, and receive any assistance they might need in the application process. This means that as state UI agencies transition to online systems, they should be more proactive about encouraging unemployed workers to file and making claim-filing systems accessible to workers at every educational level and regardless of their primary language.

2. Publicize UI.
Make sure that workers know what the program is through advertising and media outreach. Include website information and phone numbers that workers can access and call to learn about how to file for UI.

3. Outreach.
Make sure employers notify separating employees about UI.

a. Rapid Response. State UI agencies should make sure that worker education about UI filing rights and agency assistance is part of the state's rapid response approach to employer closings and mass layoffs.

b. Separation Notice.
States can legally require that employers provide a formal notice to separating employees that includes basic information about the state's UI program and how to apply for benefits.

4. Fill in the Gaps.
States should publicize and expand ways the UI program can help underemployed workers and employers facing business disruptions, including:

a. Educating workers and employers about partial unemployment insurance.

b. Making it easier to file for and access partial UI by legislatively adopting more progressive formulas that disregard part-time earnings at higher levels.

c. Enacting and promoting work-sharing programs that help employers facing economic downturns avert layoffs through prorated UI benefits.

5. Employer-Assisted Filing.
State UI programs should provide methods for employers to file initial and weekly claims on behalf of their employees for short-term layoffs and business shutdowns, partial UI, and work-sharing claims.

6. Set Application Standards.
States should treat the UI application rate as a performance standard in measuring the effectiveness of their program, setting a minimum application rate for newly unemployed workers.

Table D: State UI Application Rates Ranked by Steepness in Decline from Highest to Lowest (Comparison: 2007-2011 v. 2012-2016)

State	Application Rate 2007-2011	2012-2016	% change
NC	88%	43%	-51%
IN	76%	38%	-50%
SC	76%	48%	-37%
TN	60%	38%	-35%
ID	75%	50%	-33%
LA	44%	30%	-33%
NV	76%	51%	-33%
WI	121%	83%	-32%
GA	73%	51%	-31%
AL	72%	50%	-30%
NH	67%	47%	-30%
VA	57%	40%	-30%
IA	85%	60%	-29%
KY	73%	51%	-29%
MI	79%	56%	-29%
OK	46%	33%	-29%
OR	92%	67%	-28%
FL	55%	40%	-27%
DE	88%	64%	-26%
SD	30%	23%	-24%
MS	50%	38%	-24%
NE	62%	47%	-23%
MO	71%	54%	-23%
MD	59%	46%	-22%
AR	72%	57%	-20%
OH	58%	46%	-20%
NM	41%	33%	-19%
AZ	40%	33%	-18%
WA	63%	53%	-17%
KS	62%	52%	-16%
IL	65%	55%	-16%
PA	115%	97%	-15%
UT	36%	31%	-14%
WY	59%	52%	-12%
MN	58%	53%	-10%
CT	75%	68%	-9%
ME	57%	53%	-7%
HI	89%	84%	-6%
WV	55%	52%	-6%
CO	35%	33%	-5%
CA	69%	67%	-4%
AK	91%	88%	-3%
NY	74%	72%	-3%
MA	70%	69%	-2%
NJ	80%	79%	-1%
DC	69%	68%	-1%
TX	33%	33%	-1%
VT	74%	75%	1%
MT	61%	62%	2%
RI	74%	78%	5%
ND	53%	73%	38%
U.S. (51 programs)	**54%**	**67%**	**-19%**

Source: USDOL, Employment and Training Administration ETA 207—Non-monetary Determination Activities

Over the past six years, as states have faced federal cuts in administrative funding, there has been a growing trend to make online filing the primary and sometimes exclusive means of filing initial claims. While states are pushing forward with this transition as part of a national movement to improve customer service through technology and as a matter of financial necessity, the challenge is to insure that the minority of claimants who cannot readily access or utilize online systems are not left behind.

There is considerable research on the nation's "digital divide" and its disproportionate effect on poor Americans, older workers, and communities of color. The Pew Research Center's September 2013 survey of internet use underscores key challenges that come with heavy reliance on online filing systems[53], including:

- 15 percent of all American adults do not use the Internet.
- Another 9 percent use the Internet, but not at home.
- Forty-four (44) percent of Americans age 65 and older do not use the Internet.
- Twenty-four (24) percent of Hispanic Americans do not use the Internet.
- Sixty-three (63) percent of those with a high school education or less do not use the Internet.
- Twenty-four (24) percent of those earning less than $30K annually do not use the Internet.
- Cost considerations are the most common reason for not using the Internet (42%).

The problems associated with an exclusive online filing requirement relate to those unemployed workers who, for one reason or another, are unable to navigate complex online transactions. These problems include:

- Online applications that are not translated into languages of a state's significant Limited English proficient (LEP) populations as required by Title VI of the Civil Rights Act of 1964.
- Lack of access to interpreters/translators who can assist claimants whose native language is not English in completing an online application.
- Lack of an alternative filing mechanism for claimants who do not have a computer or Internet service, or lack understanding/experience to navigate an online filing system.
- Shutting down call center assistance at the same time online filing requirements are implemented.
- Alternative filing mechanisms that are sub-standard and/or poorly publicized (e.g. phone assistance limited to answering questions but not taking applications).
- Use of agency computers but no staff assistance in completing initial claims.
- Some in-person assistance available, but only for very limited hours, at limited office locations.
- Phone assistance available but telephone number not publicized.
- New requirements to register online for employment services, (including the provision of an email address and the submission of an online resume), without customer assistance.

In some states that have implemented online-only filing requirements, there is evidence that claimants are either unsuccessful in their attempts to file or are frustrated from filing altogether. As documented in a prior NELP report on the Florida UI system,[54] disproportionately fewer unemployed workers applied for and received UI benefits in the year following implementation of required online filing, causing the share of new claims resulting in an award of UI benefits to hit a new low point.[55]

In addition, evidence suggests that some new automated systems are generating thousands of new system-identified issues that require adjudication, thereby hiking federal administrative cost reimbursements and delaying payments. In 2013, Massachusetts launched a new system, Mass UI Online, which was engineered by Deloitte (the same vendor that built the Florida CONNECT system). Mass UI Online featured a proliferation of new system-generated questionnaires, all of which required separate adjudication. In one year, the number of non-monetary determinations increased by 950 percent, despite a concurrent 1.6 percent drop in the state's unemployment rate. The result was that 6-7 week delays in eligibility determinations became common, and Massachusetts quickly fell to second to last nationally in meeting federal timeliness standards for both first payments and non-separation determinations.[56]

As state UI agencies struggle to update legacy computer systems that are on average more than 30 years old, they are also adapting their front-end claim-filing to new technologies. There has been a steady trend from telephone to online systems. A recent random sampling of claims by USDOL showed that in early 2017, more than 70 percent of initial claims were filed online, as compared to approximately 50 percent in CY 2011.[57] This trend has correlated directly with a near doubling of disqualifications for procedural reasons (categorized as "reporting requirements") over the past five years, with fourteen states denying more than 1 in every 10 claims for a reason that is essentially procedural (Table E). These denials generally include claimant failure to comply with a filing instruction rather than meet a substantive eligibility condition.

The ten states with the steepest increases in reporting requirements disqualifications in the past five years (as compared to the prior 5-year period) are: Rhode Island, Massachusetts, Iowa, Indiana, Wisconsin, Florida, Idaho, Louisiana, Delaware, and Georgia. Half of these states (MA, IN, FL, ID, LA) have launched modernized UI benefit systems in recent years.[58]

In October 2015, the USDOL set forth this strong standard for UI program accessibility:

> *Under Section 303(a) (1) of the Social Security Act, a state's laws must provide for "methods of administration" that are "reasonably calculated" to ensure full payment of unemployment benefits "when due" in order to receive a UI administrative grant. "When due" requirement is broad and includes ensuring that individuals have sufficient access to the UI program so that eligibility can be determined, and benefit payments can be made promptly. Therefore, state UI agencies must ensure that use of new technologies and systems for administering UI programs and providing services do not create barriers (e.g., procedural, technological, or informational) that may prevent individuals from accessing UI benefits, such as by denying them a reasonable opportunity to establish their eligibility.*[59]

USDOL's program guidance clarified that states must provide alternate claim-filing methods for workers in a variety of categories covered under non-discrimination requirements applicable to the UI program when they are unable to navigate online systems. Nonetheless, the filing obstacles and lack of alternate filing mechanisms outlined above persist in many states.

Table E: State UI Rates of Denial per Ten Claimant Contacts (Reporting Requirements) Ranked from Highest to Lowest (Comparison 2012-16 v. 2007-11)

State	Denial Rate 2012-16	2007-11	% change
ND	37%	37%	-1%
NE	28%	7%	288%
WY	25%	12%	116%
LA	21%	3%	572%
MI	18%	6%	224%
UT	16%	20%	-17%
HI	15%	11%	45%
OK	15%	4%	241%
FL	15%	2%	660%
TX	13%	11%	13%
SD	12%	4%	231%
MO	11%	9%	26%
NH	11%	7%	55%
WI	10%	1.0%	882%
DE	9%	2%	453%
KS	9%	5%	67%
NV	9%	4%	101%
CO	9%	2%	259%
MT	8%	5%	72%
ME	8%	4%	77%
NM	8%	4%	75%
AK	8%	5%	50%
OH	7%	3%	141%
SC	7%	3%	141%
WV	6%	6%	12%
IN	6%	0.6%	888%
OR	6%	3%	105%
CA	5%	6%	-10%
ID	5%	0.7%	573%
DC	5%	0.8%	489%
KY	5%	3%	29%
WA	4%	6%	-27%
MS	4%	2%	110%
MA	4%	0.2%	2266%
IA	4%	0.2%	1356%
NY	3%	2%	67%
PA	2%	1.3%	77%
RI	2%	0.1%	2624%
IL	2%	0.8%	160%
MD	2%	0.6%	262%
AR	2%	1.3%	49%
NC	2%	0.6%	209%
AZ	2%	1.4%	23%
AL	1.4%	0.4%	269%
VA	1.4%	1.4%	-4%
TN	1.3%	1.1%	21%
NJ	1.1%	0.6%	84%
VT	0.8%	0.6%	34%
GA	0.6%	0.2%	313%
CT	0.5%	0.3%	44%
MN	0.4%	0.3%	32%
U.S. (51 programs)	**6%**	**3%**	**89%**

Source: USDOL, Employment and Training Administration ETA 207—Nonmonetary Determination Activities

SOLUTIONS: How Can States Help More Unemployed Workers Access UI Benefits?

The transition to online claim filing is important for state UI programs aiming to become more efficient and is essential in light of dwindling administrative funding. However, state UI agencies should balance the need for efficiency and cost reduction through technology with their legal and policy obligations to make UI accessible to all unemployed workers.

Access to UI benefits is a civil rights issue. Each state should take seriously its responsibility to ensure that new UI technologies and systems do not create barriers (e.g., procedural, technological, or informational) that may prevent individuals from accessing UI benefits. Worker advocates should engage state UI agencies to insure that every state UI system includes the following:

1. At least one easily accessible alternative means to online filing

(telephone or in-person customer assistance in the completion of an initial claim and weekly certification).

2. Compliance with anti-discrimination laws.

Online applications comply with their states' obligations to individuals with limited English proficiency (LEP) under Title VI of the Civil Rights Act of 1964 by translating applications into other languages common in the state, as well as making sure that non-English speaking claimants have access to interpreter services (e.g. Language Line). This includes compliance with UI Program Letter 02-16 and other applicable federal access guidance.

3.Outreach.

All alternative filing mechanisms are meaningful, accessible, and prominently publicized to claimants who cannot navigate the online systems.

4. Necessity review.

Review of legal requirements to insure that online documentation/ transactions are actually necessary and are constructed in a readily understandable manner.

5. Good cause.

An up-to-date definition of good cause for late filing (or failure to comply with instruction) that recognizes and excuses good faith errors based on misunderstanding, an automated system feature, and first-time filing mistakes.

6. Access enforcement.

A serious agency commitment to taking access and recipiency seriously by making UI access an EEO enforcement priority, establishing regular lines of communication with representatives of underserved worker communities and tracking application and recipiency rates.

4 Conclusion

During any period of economic growth and low unemployment, the UI program falls down the list of priorities for policymakers at both the state and federal level. States with UI trust funds that were unprepared for the Great Recession quickly discovered the substantial business costs of climbing out of insolvency and many diverted those costs onto unemployed workers.

While this report has tried to explore some of the measures that fed into the erosion of program effectiveness over the past five years (2012-2016), there is a different story in every state behind the falling percentage of unemployed workers receiving unemployment insurance. Nonetheless, it is clear that some states have engaged in conscious strategies to decrease recipiency. The eight states that appear most frequently near the bottom in the specific measures we have examined in this report are South Carolina, Florida, Idaho, North Carolina, Georgia, Tennessee, Indiana, and Louisiana (See **Appendix A**).[60]

The hidden toll of the politics of the Great Recession on jobless workers is only now being felt and will be magnified whenever the next economic downturn happens. Advocates and policymakers who want a UI system that will achieve its original goals of helping sustain workers and communities through the economic harm that comes with unemployment should focus now on improving state UI programs by addressing the underlying trends that are depressing the percentage of unemployed workers receiving the unemployment insurance for which they qualify.

An applicant receives assistance with Disaster Unemployment Insurance in Mississippi. Source: https://upload.wikimedia.org/wikipedia/commons

5 Endnotes

1. Business Cycle Dating Committee, National Bureau of Economic Research, Determination of the December 2007 Peak in Economic Activity. (December 2008). The Committee met by conference call on Friday, November 28, 2008 and determined that a peak in economic activity occurred in the U.S. economy in December 2007. The peak marked the end of the expansion that began in November 2001 and the beginning of a recession. The expansion lasted 73 months; the previous expansion of the 1990s lasted 120 months.
2. Montana offers a maximum of 28 weeks and Massachusetts provides up to 30 weeks during periods in which there is no federal extended benefit.
3. There are two types of federal extended benefit programs. The first is Extended Benefits (EB), a permanent program established by Congress in 1970 and amended thereafter. EB is financed half by the states and half by the federal government and designed to activate automatically in states during periods of economic decline. The program rarely activates in a timely manner, however, due to its strict "trigger" criteria. Congress routinely intervenes as a result, usually long after a recession has begun, by authorizing federally funded programs of emergency extensions. Emergency Unemployment Compensation (EUC) was the most recently authorized federal extension program, operating from June 2008 through December 2013. Eligible states may pay 13 or 20 weeks of EB, while the emergency programs, dating back to 1958, have varied greatly in size and structure.
4. Jason Furman, Chairman, Council of Economic Advisers; "The Economic Case for Strengthening Unemployment Insurance", p.5, Center for American Progress, Washington, DC, July 11, 2016.
5. Furman, Supra.
6. Joanne W. Hsu, David A. Matsa, and Brian T. Melzer, "Positive Externalities of Social Insurance: Unemployment Insurance and Consumer Credit," NBER Working Paper No. 20353, July 2014, available at http://www.nber.org/papers/w20353.
7. Arloc Sherman and Danilo Trisi, "Safety Net More Effective Against Poverty Than Previously Thoughts," Center on Budget and Policy Priorities, May 2015, available at http://www.cbpp.org/research/poverty-andinequality/safety-net-more-effective-against-poverty-than-previously-thought.
8. Heather Boushey and Matt Separa, "Unemployment Insurance Dollars Create Millions of Jobs"(Washington: Center for American Progress, 2011), available at https://www.americanprogress.org/issues/labor/news/2011/09/21/10367/unemploymentinsurancedollars-create-millions-of-jobs/.
9. Vroman, Wayne. "*Reducing Poverty and Economic Distress after ARRA*", Urban Institute (July 2010).
10. Wayne Vroman, *"The Role of Unemployment Insurance As an Automatic Stabilizer During a Recession"* (Washington: IMPAQ International, 2010), available at http://wdr.doleta.gov/research/FullText_Documents/ETAOP2010-10.pdf.
11. Thirty-six (36) of 53 UI jurisdictions had to take out loans. State Unemployment Insurance Trust Fund Solvency Report 2016, U.S. DOL Office of Unemployment Insurance, Division of Fiscal and Actuarial Services, February 2016, http://www.ows.doleta.gov/unemploy/docs/trustFundSolvReport.pdf, at p. 3
12. Vroman, Wayne, "*Challenges Facing the UI Financing System*", Urban Institute, Unemployment and Recovery Project Working Paper 3, (August 2012).. Evangelist, Mike, *"Lessons Left Unlearned: Unemployment Insurance Financing After the Great Recession"*, NELP (July 2012).
13. These states were Colorado, Delaware, Georgia, Illinois, Indiana, Kansas, Kentucky, Massachusetts, Mississippi, New York, Pennsylvania, Rhode Island, South Carolina, South Dakota, Vermont and Wisconsin. (Presentation by Gay Gilbert, Office of Unemployment Insurance before national Association of State Workforce Agencies, November 7, 2017.)
14. Vroman, Evangelist. See endnote 12 above.
15. Stettner, Andrew. "One-Way Street: Unemployment Trust Fund Recovery Helping Employers Not Workers" (December 2017).
16. Isaacs, Katelin, "State Laws that Reduced Unemployment Compensation (UC) Benefits and Eligibility, 2011-2015," Memo to House Ways & Means Human Resources Subcommittee, March 10, 2015.
17. National UI recipiency fell to 27 percent in 2014 and has not reached 28 percent since. Unemployment Insurance Chartbook, U.S. Department of Labor, https://workforcesecurity.doleta.gov/unemploy/chartbook.asp.
18. O'Leary, Christopher, "A Changing Federal-State Balance in Unemployment Insurance? "Employment Research, Vol. 20, No. 1, January 2013 W.E. Upjohn Institute.
19. O'Leary, at page 3.
20. US Department of Labor, ETA, Unemployment Insurance Quarterly Data Summaries, Fourth Quarters, 2007 and 2016.
21. The UI *recipiency rate* broadly compares the number of workers receiving UI to the number of jobless workers. There are multiple ways to measure recipiency, namely by varying the values in the numerator and the denominator. In terms of measuring insured unemployment, researchers have relied on two options. The first measure captures weeks of benefits claimed, including claimants serving either waiting or penalty weeks. The second, narrower measure excludes them. Prior research has also restricted the universe of unemployed to include only those workers most likely to establish UI eligibility, including workers unemployed for fewer than 27 weeks, or unemployed who have been laid off from their jobs or who have left jobs. The assumption is that outside of recessions, most state programs only provide up to 26 weeks of benefits; and only during recessions are benefits available to support spells of unemployment longer than that. In addition, the latter method excludes unemployed people who are new or returning labor force entrants, as they are unlikely to have the earnings history to meet a state's monetary rules. For the purposes of this report, we define recipiency as the ratio of the average number of weeks claimed in a state to its average monthly number of unemployed workers. Under the second method that excludes claimants serving waiting or penalty weeks, the national UI recipiency rate for 2016 would be four points lower at 23 percent.
22. Rachel West, Indivar Dutta-Gupta, Kali Grant, Melissa Boteach, Claire McKenna, and Judy Conti June 2016 *"Strengthening Unemployment Protections in America Modernizing Unemployment Insurance and Establishing a Jobseeker's Allowance"* (June 2016), pp. 79-80.
23. Vroman, Wayne, "Unemployment Insurance after the Great Recession", (June 2017), unpublished paper, see pp. 12-14.
24. The Advisory Council on Unemployment Compensation, appointed jointly by President George H.W. Bush and Bill Clinton, made this recommendation in 1995. Additionally, the National Commission on Unemployment Compensation, which performed the first comprehensive analysis of the UI program, recommended in its 1980 final report that state programs provide

a minimum of 26 weeks of benefits during a benefit year.

25. Florida House Bill 7005, effective August 1, 2011.

26. Vroman, Wayne, see endnote 23 above.

27. Determination rates for nonseparation issues are measured per ten claimant contacts. Claimant contacts equal the sum of new unemployment spells plus intrastate weeks claimed plus interstate liable weeks claimed. All values apply to state UI programs only; UCFE and UCX claims are excluded. Denial rates for nonseparation issues equal the mathematical product of (a) the corresponding determinations rate and (b) the ratio of denials to determination for the corresponding category (e.g., total nonseparations). This method has been previously applied by the Advisory Council on Unemployment Compensation.

28. Vroman, Wayne, "Unemployment Insurance after the Great Recession", (June 2017), unpublished paper, see pp. 14-17.

29. Executive Order (E. O.) 13520, 74 Fed. Reg. 62,201 (November 20, 2009).

30. 31 USC 3321.

31. UI Program Letter 19-11, "National Effort to Reduce Improper Payments in the Unemployment Insurance (UI) Program" (June 10, 2011.)

32. For example, BAM results in CY2009 were based on 21,144 audited claims, which is .007% of the 297 million weekly UI claims filed nationally that year. Under the BAM program, every facet of eligibility and potential disqualification is explored for a random sampling of claims, including inquiries that are not required as part of regular states claims processing procedures. Thus, the percentage of overpayments based on BAM data bears no relationship to actual state records of overpayments established.

33. Letter and complaint from National Employment Law Project and Florida Legal Services to Labor Secretary Thomas Perez, dated September 22, 2015.

34. Wentworth, George and McKenna, Claire, "Ain't No Sunshine: Less than One in Eight Unemployed Workers in Florida Is Receiving Unemployment Insurance" (September 2015).

35. Peter Edelman, Not a Crime to Be Poor: The Criminalization of Poverty in America (The New Press 2017), p. 101-105.

36. While these requirements appeared in virtually all state UI laws, Congress made them explicit federal statutory requirements under the Middle Class Tax Relief and Job Creation Act of 2012 (Public Law 112-96).

37. In fact, Congress encouraged states to apply a random audit approach to work search under the EUC program. See Pub. L. 112-96 amendment of Section 4001(b) of the EUC Act defining "actively seeking work".

38. *Comparison of State Unemployment Insurance Laws* (2016), US Department of Labor, Employment & Training Administration, Table 5-15 "Work Search Requirements, p. 5-29.

39. *Comparison of State Unemployment Insurance Laws*, Table 5-16 "Work Search Reporting and Monitoring," p. 5-31.

40. Since 2005, USDOL and participating state UI workforce agencies have been addressing individual reemployment needs of UI claimants through a voluntary UI Reemployment and Eligibility Assessment (REA) program and, beginning in FY 2015, through the voluntary Reemployment Services and Eligibility Assessment (RESEA) program. In the most recent version of the RESEA program outlined in UIPL No. 13-15 and UIPL No. 07-16, UI claimants determined to be most likely to exhaust benefits under the methods established under each state's Worker Profiling and Reemployment Services (WPRS) program and transitioning veterans receiving Unemployment Compensation for Ex-Service members (UCX) are the program's target populations.

41. UI Program Letter 17-03, "To provide guidelines for the FY 2017 UI RESEA grants and to invite State Workforce Agencies to submit proposals for funding", dated December 8, 2016.

42. Supra at p.8

43. IMPAQ International "Impact of the Reemployment and Eligibility Assessment (REA) Initiative in Nevada", (January 2012) Study found evidence that the REA program was more effective in achieving program's goals of reducing UI duration and generating savings to the UI Trust Fund than the REA program in other states examined. Nevada's REA program differed from REA programs in other state largely because in Nevada, the same staff provided both REA and reemployment services (RES), which the study found to be the key factor in achieving greater impact.

44. Wentworth and McKenna "*Ain't No Sunshine*".

45. ETA 2007 Reports for CY 2014 and CY 2016.

46. USDOL ETA Office of Unemployment Insurance, Quarterly Data Summaries for the fourth quarters of CY 2014 and CY2016.

47. Vroman, Wayne, "*Unemployment Insurance Recipients and Nonrecipients in the CPS*", Monthly Labor Review (October 2009).

48. Id. at table 5.

49. Gould-Werth, Alix, and H. Luke Shaefer. 2012. "Unemployment Insurance participation by education and by race and ethnicity." Monthly Labor Review, 135(10): 28-41

50. Unemployment Insurance Program Letter 02-16, (October 1, 2015).

51. Isaacs, Katelin, "State Laws that Reduced Unemployment Compensation (UC) Benefits and Eligibility, 2011-2015," Memo to House Ways & Means Human Resources Subcommittee, March 10, 2015.

52. Ind. Code § 22-4-3-5 as amended in 2011 and 2012. See P.L.2-2011, Sec. 3 and P.L.6-2012, Sec. 152.

53. http://www.pewresearch.org/fact-tank/2016/09/07/some-americans-dont-use-the-internet-who-are-they/.

54. Wentworth and McKenna "*Ain't No Sunshine*".

55. "Over this period, there were disproportionately steep declines in the average number of UI claims and first payments in Florida relative to the national level, even though statewide unemployment was above the national average. During the first year of on-line only filing, average initial claims in Florida declined by 23.3 percent, while average first payments dropped by an even greater 40.6 percent. By comparison, initial claims and first payments nationwide respectively declined by just 9.3 percent and 9.7 percent for that same period. Ain't No Sunshine." at p. 6.

56. Memo from George Wentworth To Barbara D'Amore, Division Chief, Workforce Security, US Department of Labor, Employment & Training Administration, Boston Region I (July 16, 2014), referencing USDOL UI data summaries.

57. UI Initial Claim Filing Method Report prepared by ETA Division of Performance Management based on Benefit Accuracy Measurement data for UI claimants with benefit years beginning

in the period from CY 2017 QTR 1 to CY 2017 QTR 4. Percentages estimated from sample data and are subject to sampling and non-sampling error.

58. National Association of State Workforce Agencies (NASWA) Information Technology Support Center web site.

59. UI Program Letter 02-16," *State Responsibilities for Ensuring Access to Unemployment Insurance Benefits", October 1, 2015*.

60. These categories were; (a) recipiency rate of decline, (b) cuts in maximum duration, (c) rates of decline in application rates, (d) rates of increase in disqualification for non-separation reasons, (e) rates of disqualification for able, available and work search issues and (f) rates of increase in reporting requirements disqualifications.

Appendix A

Ten States with Steepest Declines in Recipiency Compared with States Ranked in the Bottom Ten in Multiple UI Access Measures						
State	10 States w/ Steepest Decline in Recipiency	Cuts to 26 Weeks of Benefits	Steepest Increases in Non-Separation Denials	Highest Denial Rates for Work Search/ Availability for Work	Sharpest Declines in Application Rates	Steepest Increases in Reporting Requirement Disqualifications
Alabama	x				x	
Florida	x	x	x	x		x
Georgia	x	x			x	x
Idaho	x	x		x	x	x
Indiana	x				x	x
Louisiana	x		x		x	x
Michigan		x	x			
Missouri		x		x		
Nebraska	x			x		
North Carolina	x	x	x		x	
South Carolina	x	x	x	x	x	
Tennessee	x		x		x	
Wisconsin					x	x

Findings:

- Of the ten states with the steepest declines in the percent of unemployed workers receiving UI, eight states (Florida, Georgia, Idaho, Indiana, Louisiana, North Carolina, South Carolina, and Tennessee) ranked in the bottom ten for multiple measures of access to benefits described in the report.

- Six of the seven states that ranked in the bottom ten for three or more access measures also had the steepest declines in their recipiency rates (Florida, Georgia, Idaho, Louisiana, North Carolina, and South Carolina).

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