



The National Employment Law Project 2010

Building the Foundation of Economic Security and Opportunity for All

NELP
National Employment Law Project

For more than 40 years, the National Employment Law Project (NELP) 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. To learn more about NELP, please visit our website at www.nelp.org.

Letter from the Executive Director

Friends,

After a sustained period of economic distress, last year we witnessed progress on several fronts. GDP continued to grow, corporate profits rebounded, employment rose, and joblessness fell to its lowest level in 18 months.

All good news, but with so many still suffering, we are far from out of the woods.

Unemployment remains unacceptably high. Roughly one in six Americans is unemployed or underemployed, with many desperately looking for jobs, others who can get only part-time work, and millions who have given up. Nearly half of the unemployed have been jobless for more than six months, and around a third have been without work for at least a year.

Job creation is slow and uneven. Even if jobs grew as fast as in the 1990s, when average job growth was three times today's rate, employment would not return to pre-recession levels until January 2016.

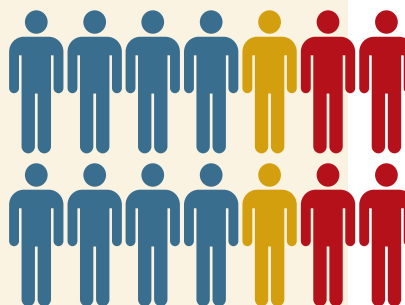
And the jobs we are adding are not as good as those we lost. Job gains have been disproportionately concentrated in lower-wage industries. Higher-paying industries constituted 40 percent of jobs lost in the recession but made up only 14 percent of new jobs created since then.

No wonder eight in ten Americans say it's a bad time to find a quality job. Three times as many Americans say that Congress's top priority should be boosting economic recovery and new jobs versus cutting the federal budget deficit. And yet, the response from some quarters appears utterly deaf to Americans' real concerns, and instead merely repeats the same old demands to slash the budget, reduce unemployment assistance, and roll back regulations, giving corporations and Wall Street a free pass when it comes to workplace practices.

It's an answer that defies logic. There's no more important moment for government to have workers' backs than when they are on their backs. There is no more crucial time for government to work *for* working families than when economic forces are working *against* them.



**Around 14 million Americans
are looking for work...**



■ **less than 6 months**
■ **6 months to 1 year**
■ **1 year or more**

Source: NELP analysis of Bureau of
Labor Statistics data



President Barack Obama remarks on extending unemployment insurance at a news conference featuring a worker from NELP's network, in the Rose Garden of the White House on July 19, 2010.

That's how America's leaders responded to the Great Depression. They put government on the side of America's workers—boosting wages, creating jobs, and strengthening worker protections. They knew that strengthening family economic security is the only guaranteed way to build a sustainable, robust, and fair economy.

We believe that too. That's why NELP is fighting for the strongest unemployment insurance program in our nation's history; working to raise the minimum wage and end wage theft; and pushing for a revival of the heartland's economy so that millions of men and women who spent their careers building America are not left behind by economic change. It's why we work to remove unfair barriers to employment for those seeking a second chance; support comprehensive immigration reform; and insist that good jobs are the indispensable cornerstone of an economy that works for all.

The highlights that follow are a snapshot of NELP's 2010 achievements. We are pleased that with the generous support of our funders and our partners across the nation, we were able to help ease hardships for millions while bringing a sharper focus to economic and workplace problems and needed solutions.

We are proud of our past, and together with you, we look forward to building a future in which work is the foundation of economic security and opportunity for all.

With appreciation,



Christine L. Owens
Executive Director

**Private Sector Change
in Employment** (in thousands)



Source: NELP analysis of Bureau of Labor Statistics data

Securing a Lifeline for Our Nation's Unemployed Workers



Nearly 14 million Americans are out of work. Almost half have been jobless for more than six months. With roughly two million fewer jobs now than a decade ago—while the labor force has grown by around 10 million—it's the worst job market since the Great Depression. In these extraordinary times, a strong unemployment insurance (UI) program is more critical than ever for jobless workers and their families and communities, keeping many out of homelessness and destitution and maintaining crucially needed spending in local economies.

As the nation's leading UI advocate, **NELP** promotes state-level efforts to reform and modernize unemployment insurance programs, while also advocating for a strong federal role in unemployment insurance, especially during recessions when UI benefits relieve severe hardship and are the single most effective economic stimulus.

Above, NELP's Judy Conti presents more than 100,000 petitions in support of continuing federal unemployment insurance programs to Senator Bob Casey of Pennsylvania on November 17, 2010.

With only one job opening for every five unemployed workers...



The job crisis is far from over.

Source: NELP analysis of Bureau of Labor Statistics data

Sustaining Record Federal Support for Long-Term Unemployed: NELP and allies secured the longest extensions of federal unemployment insurance in the nation’s history, combining extensive research, public education, and media outreach to wage four separate successful UI reauthorization campaigns in 2010.

Continuing Wave of Unemployment Insurance Modernization: NELP provided research and legal and policy expertise instrumental in securing UI modernization reforms in seven states (Alaska, Maryland, Nebraska, Rhode Island, South Carolina, South Dakota, Utah) and the District of Columbia, bringing to 39 the number of jurisdictions that have implemented UI coverage reforms qualifying them for federal stimulus funds.

Informing and Educating the Public: NELP provided crucial information about unemployment insurance to hundreds of thousands of workers through our website, unemployed-workers.org, and through our “ask the expert” online hotline. At a time when the demand for information and services is so great and states are stretched beyond capacity, this assistance has been vital.

Improving Benefits Delivery: NELP’s advocacy prompted the U.S. Labor Department to step up oversight of states that fail to pay unemployment insurance benefits to workers in a timely fashion, and implement rule changes making it easier for states to go after employers who misclassify large portions of their workforce to deny them benefits.

Averting State Benefit Cuts: With 32 states’ unemployment insurance trust funds insolvent, NELP’s research showed that poor financing practices, rather than overly generous benefits to workers, are the culprit for the crisis. Our research and hands-on assistance to state partners helped avert steep benefit cuts in Rhode Island, New Jersey, Vermont, Indiana, and Kentucky.

Out in the Cold for the Holidays: Federal Jobless Benefits Will Be Cut for Two Million Workers if Congress Fails to Renew the Emergency Program

October 2010

“Since the unemployment insurance program was created in response to the Great Depression, Congress has *never* cut federally funded jobless benefits when unemployment was this high for this long. The earliest Congress ever started pulling back

on benefits was when unemployment reached 7.2 percent nationwide. Businesses and the struggling economy—especially the critical retail sector—will take a major blow if Congress fails to continue federal jobless benefits.”



Understanding the Unemployment Trust Fund Crisis of 2010

April 2010

“Long-term unemployment is at record levels, with the average duration of unemployment lasting over six months. One result of this distressed labor market is unprecedented federal borrowing by state unemployment insurance (UI) trust funds to maintain payment of state UI benefits. As of April 2010,

33 states and the Virgin Islands had drained their state UI trust funds and been forced to borrow from the federal government in order to continue paying state UI benefits. The system failure is a result of years of poor financing policy decisions.”



Helping Those Hit Hardest by Wrenching Economic Change



Workers in America’s industrial heartland—states like Michigan, Ohio, and others where the economy is rooted in manufacturing—have long been on the front lines when it comes to the downside of globalization and unfettered trade: plant closings and mass layoffs have devastated many communities, leaving workers to pick up the broken pieces of their careers and figure out what to do next.

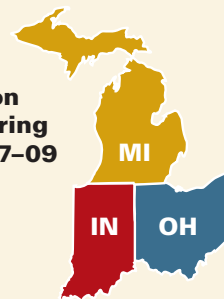
NELP works to connect laid-off workers with retraining and family-support resources that can help them build new careers and new lives. While we help to rebuild communities on the ground, we also work with agencies and

employers to promote best practices for responding to major layoffs—actions that make a huge difference in getting dislocated workers the help they need.

This on-the-ground perspective informs NELP’s advocacy at the state and federal levels, where we push for better programs and services for laid-off workers in the Midwest and throughout the nation.

Above, U.S. Department of Labor Assistant Secretary of the Employment and Training Administration, Jane Oates, speaks with dislocated workers at an event coordinated by NELP at the Navistar WorkOne Transition Center in Indianapolis on June 16, 2010.

Nearly 20% of the 2.2 million U.S. manufacturing jobs lost in 2007–09 were in Ohio, Indiana, and Michigan.



Source: NELP analysis of Bureau of Labor Statistics data

Setting the Standard on Rapid Response:

NELP’s report, “Rapid Response and Dislocated Worker Programs: What Should States Do? And What Are They Doing?” provided a much-needed best-practices blueprint for state and local workforce agencies that respond to mass layoffs and plant closings.

Helping Dislocated Workers in Indianapolis:

NELP provided on-the-ground technical assistance to cushion the impact of the Navistar plant closing in Indianapolis, helping to establish a labor-management committee, on-site transition center, and peer network that provided critical assistance to more than 1,500 Navistar workers who lost their jobs.

Rebuilding Community in Flint: NELP is leading a community-wide response to severe economic dislocation in Flint, Michigan, coordinating the Genesee Network for Health and Human Services and bringing the CEASE FIRE public safety initiative to Flint.

Tackling Delays in Delivering Worker Assistance: NELP led efforts to reduce U.S. Labor Department delays in processing dislocated workers’ petitions for retraining and income support services under the Trade Adjustment Assistance program, pressing the issue with senior officials and spotlighting the problem in reports and via the press.

Challenging Trade Act Petition Denials: NELP assisted in more than a dozen cases involving laid-off plant workers unfairly denied Trade Adjustment Assistance certification for retraining and support services. With NELP’s help, workers from a radiator plant in Pemberville, Ohio, won their case, while other cases are still pending.

Rapid Response and Dislocated Worker Programs: What Should States Do? And What Are They Doing?

July 2010

“In the United States, mass layoffs and workplace closings trigger a mandated ‘rapid response’ involving state and local workforce agencies. While this is federally mandated, the scope of reactions



as well as range of services offered to affected workers varies among states and even within states. NELP has been working since 2006 to reform rapid response activities and improve dislocated worker services.”

Trade Adjustment Assistance Certifications Increasing Under 2009 Amendments: Action Needed to Fulfill Program’s Potential

May 2010

“Numbers of TAA petitions and certifications have increased since the passage of the 2009 TAA amendments. Unfortunately, increased petitions have been accompanied by significant increases in



delays in processing by the U.S. Department of Labor. The average processing time has increased from 37 days in 2008 to over 100 days in 2009. Delays create obstacles to effectively enrolling workers in TAA retraining.”

Ensuring Core Labor Protections for Low-Wage and Immigrant Workers



Each year, millions of America’s workers—from restaurant, retail, and domestic workers to janitors, home care workers, day laborers and many others—are cheated out of wages they earn when unscrupulous employers fail to pay minimum wage or overtime. In the nation’s three largest cities, low-wage workers and their families are robbed of an estimated \$56 million every week. Some businesses misclassify their employees as “independent contractors” to strip them of basic protections and avoid taxes.

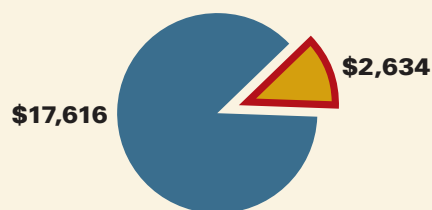
These business practices drive down workplace standards, putting responsible employers at an unfair disadvantage and fueling a race to the bottom. Workers often feel they have no recourse,

NELP supports the efforts of domestic workers to gain equal rights in the workplace. Above, advocates vote in support of the Convention on Decent Work for Domestic Workers at the International Labour Conference in Geneva in June 2010.

due to fear of retaliation, lack of immigration status, or inadequate enforcement.

Long a leader in national and state efforts to strengthen enforcement of employment and labor laws, improve standards, and close loopholes that leave workers behind, **NELP** has worked over the past year to illuminate the wage theft crisis and provide workers’ allies with needed tools to dismantle unlawful practices.

On average, wage theft accounts for a loss of 15% of low-wage workers’ earnings



Source: *Broken Laws, Unprotected Workers* (2009), available at www.unprotectedworkers.org

Keeping the Promise of Just Pay: The Just Pay Working Group, a nationwide table of wage enforcement advocates convened and coordinated by NELP, published “Just Pay: Improving Wage and Hour Enforcement at the U.S. Department of Labor,” and then maintained a dialogue with the Department that spurred agency action on nearly one quarter of the report’s 70-plus recommendations within just a few months.

Ending Exclusion of Home Care Workers:

At the federal level, NELP continued advocating for coverage of home care workers under federal minimum wage and overtime laws, while in Pennsylvania, NELP authored a pivotal brief on behalf of allies, helping persuade the state’s highest court that home care workers employed by agencies are protected under the state’s wage laws.

Documenting Wage Theft, Supporting

Campaigns: NELP’s landmark study, “Working Without Laws: A Survey of Employment and Labor Law Violations in New York City,” exposed widespread violations of wage and hour laws and bolstered several New York reform campaigns. NELP also provided critical strategic assistance to worker centers and their networks on wage theft campaigns in California, Louisiana, Texas, Florida, Illinois, Rhode Island, and Maryland.

Exposing Exploitation of Port Truckers:

NELP and allies surveyed truckers at numerous ports, and based on first-hand assessments of truckers’ actual job conditions, published the groundbreaking study, “The Big Rig: Poverty, Pollution, and the Misclassification of Truck Drivers at America’s Ports,” which concludes that independent contractor misclassification of short-haul truck drivers at the nation’s ports is rampant.

Rights Begin at Home: NELP and Domestic Workers United released an updated “[know your rights](#)” guide for domestic workers, covering basic workplace laws, immigration issues related to employment, enforcement strategies, and practical tips for finding work and negotiating contracts.

Just Pay: Improving Wage and Hour Enforcement at the U.S. Department of Labor

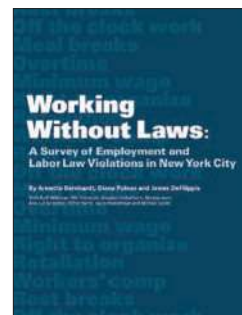
April 2010



“The U.S. Department of Labor, the federal agency charged with ensuring fair pay and accepting worker complaints, was described as ineffective in a series of government reports chronicling the agency’s inaction in the years leading up to the current administration. This lack of a public enforcement actor has perpetuated workplace lawlessness and has hurt law-abiding businesses, workers and our economy.”

Working Without Laws: A Survey of Employment and Labor Law Violations in New York City

January 2010



“This report exposes a world of work in which America’s core labor and employment laws—the right to be paid at least the minimum wage, the right to be paid for overtime hours, the right to take meal breaks, access to workers’ compensation when injured, and the right to advocate for better working conditions—are being violated at alarming rates in the city’s low-wage labor market.”

The Big Rig: Poverty, Pollution, and the Misclassification of Truck Drivers at America’s Ports

December 2010



“Our in-depth interviews with drivers at major ports around the country and review of their employment documents reveal that drivers commonly lack the autonomy that is the hallmark of an independent businessperson under federal law. Port truck drivers are intimately tied to the core services and functions of the companies that hire them. Our analysis concludes that the typical port truck driver is misclassified as an independent contractor.”

Building Good Jobs with Living Wages for America's Workers

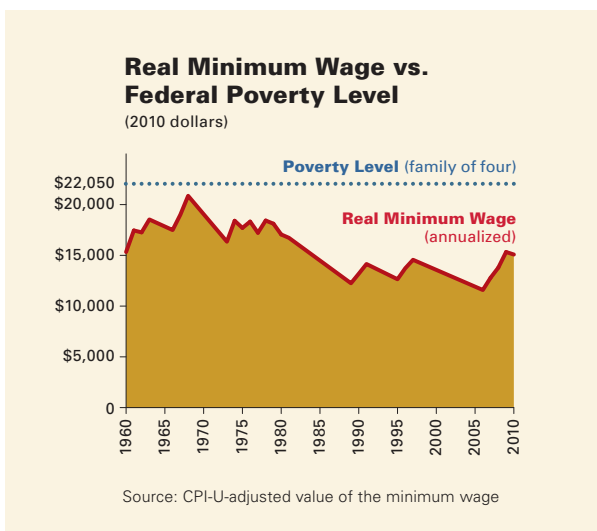


With unemployment high and job growth anemic, the number of Americans living in poverty is climbing, while too many families with workers—nearly one in three—struggle just to meet basic needs. More and more workers are spending their careers in jobs that provide crucial services for others but pay too little to those who serve. One culprit is the minimum wage, which falls well below the poverty line and can hardly sustain a single person, much less a family.

NELP is a leader in the movement for living wages, partnering with grassroots groups and policymakers on efforts to raise wage standards

Above, NELP's Paul Sonn makes the case for prevailing wage legislation at a press conference at New York City Hall on May 10, 2010.

at the federal, state, and local levels. Living wages are the foundation of good jobs—the jobs we need to restore economic security and opportunity to all who work in America.



Shedding Light on Job Growth: With the release of “Where the Jobs Are: A First Look at Private Industry Job Growth and Wages in 2010,” NELP was first in the nation to shed light on the kinds of jobs our economy is now creating—jobs disproportionately concentrated in low-wage industries such as retail and restaurants.

Campaigning to Raise the Minimum Wage: NELP laid the groundwork to launch minimum wage campaigns in early 2011 with state partners in Illinois and Maryland, while developing minimum wage reform proposals and strategies for future state and federal efforts.

Blocking Minimum Wage Rollbacks: When officials in Washington state and Florida sought to block or manipulate the annual cost-of-living increases that voters in those states had approved, NELP intervened, helping to successfully defend the Washington increase in the courts and preparing to file suit in Florida in early 2011.

Winning Living Wages: NELP helped community advocates in Pittsburgh win a local law that requires fair wages for hotel, janitorial, cafeteria, and grocery store workers at large developments that get city aid. NELP is helping to lead a similar effort in New York City by providing technical assistance on legislation and its legal basis, and serving as a key economic expert.

Waging War of Ideas: NELP ramped up its media engagement around fair wages, making the case for raising the minimum wage while also countering opponents’ attempts to scapegoat this basic standard. Drawing on important new research that debunks the job-loss myth, NELP worked with partners to publish op-eds and seed media stories across the country, highlighting the crucial role of a healthy minimum wage for workers and the economy.

Where the Jobs Are: A First Look at Private Industry Job Growth and Wages in 2010

August 2010

“The analyses in this data brief are sobering on a number of fronts. They reiterate the continuing crisis of weak job growth, one that is stalling economic recovery in communities across the country. A second trend could be equally challenging to hopes for a broadly shared recovery: the disproportionate growth in mid- and especially lower-wage industries

on the one hand, and the weak growth and even continued losses in higher-wage industries on the other. The question going forward is whether the trends will continue—how much of this unbalanced growth is permanent?”



Contracting That Works: A Toolkit for State and Local Governments

March 2010

“State and local governments finance millions of jobs across our economy. Yet jobs created through government contracting are often substandard, paying very low wages and involving poor working conditions where employment law violations are common. Such jobs not only hurt America’s workers, they also undermine the quality of goods and services delivered to government agencies and

the public, and often result in significant hidden costs for taxpayers. Growing numbers of state and local governments are therefore adopting ‘responsible contracting’ reforms to improve the quality of jobs generated by their procurement spending.”



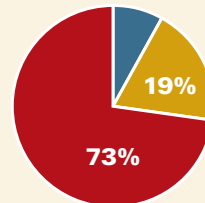
Giving Workers with Criminal Records a Second Chance



It's hard enough to find a job in today's economy. But for millions of Americans subject to criminal background checks for employment, it's even harder. Nearly one in three American adults has an arrest or conviction record that shows up in a routine check. Many of these records are erroneous or out of date, involve minor offenses, or fail to reflect an individual's successful rehabilitation. Too often, though, these shortcomings are beside the point; the doors to employment are closed from the start for many qualified workers who are trying to rebuild their lives, support their families, and give back to their communities.

Above, NELP's Madeline Neighly trains job counselors in San Francisco about the employment rights of people with criminal records.

NELP is a national leader in the movement to ensure fairness in the process of criminal background checks and remove unnecessary or badly designed barriers to employment for people with criminal records. We promote model employment policies and basic protections that enable qualified workers with records to attain and retain good jobs.



Percentage of employers who screen ALL or SOME job candidates for criminal records

Source: Society of Human Resources Management

Partnering With the League of Cities to

Ban the Box: NELP and the National League of Cities co-authored a major report, “Cities Pave the Way: Promising Reentry Policies that Promote Local Hiring of People with Criminal Records,” showcasing model hiring policies and “ban the box” policies that remove questions about past convictions from initial applications for public employment.

Protecting Civil Rights: NELP and partners filed a Title VII anti-discrimination lawsuit against one of the nation’s largest providers of transit services, First Transit. NELP also played a key role in developing other Title VII litigation challenging discriminatory criminal-records-screening policies by public and private employers.

Advancing Federal Reform: NELP supported efforts of key federal officials to review federal hiring policies for employees and contractors. NELP also testified before the U.S. Congress, House Subcommittee on Crime, Terrorism and Homeland Security, on the critical need to improve the integrity and reliability of the FBI’s criminal background checks for employment—half its records are incomplete, with no final dispositions recorded.

EEOC Enforcement Project: NELP intensified its effort in California to enforce Title VII rights protecting people of color from job discrimination based on their criminal records. Our new Title VII hotline has generated more than 200 referrals, and NELP has assisted more than a dozen victims of discrimination file complaints with the Equal Employment Opportunity Commission. At the request of the EEOC, NELP has provided training for EEO officers in all major federal agencies and for private employers.

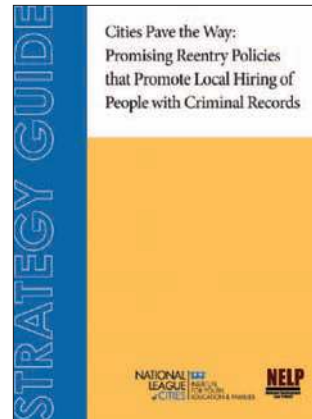
Promoting Green Job Opportunities:

NELP and partners authored a new report, “Expanding Opportunity: Employing the Formerly Incarcerated in the Green Economy,” promoting employment of people with criminal records in federal Recovery Act-funded programs that support home weatherization in low-income communities.

Cities Pave the Way: Promising Reentry Policies That Promote Local Hiring of People With Criminal Records

July 2010

“The nation’s cities are ground zero for the record numbers of people returning home from prison and hoping to start a new life by working and giving back to their families and their communities. This paper assembles the most promising local policies that promote the hiring of people with criminal records. It



features 23 cities and counties that have decided to “ban the box” on their job applications that asks about an individual’s criminal record. These communities now defer the criminal background check to the final stages of the hiring process.”

Expanding Opportunity: Employing the Formerly Incarcerated in the Green Economy

July 2010

“Low-income families, many of color, live in the nation’s oldest and most energy inefficient housing stock. Our most vulnerable families are those most impacted by rising energy costs. With an estimated 87,000 jobs created through the 2009 Recovery Act’s Weatherization Assistance Program, many stand to benefit from new employment opportuni-



ties. This paper fills a void by clearly explaining the laws regulating who can access these jobs, particularly as it pertains to people with criminal records—a population that faces significant barriers to securing employment.”

In Memoriam

In 2010, NELP mourned the passing of three tireless worker advocates with whom we were privileged to collaborate over many years. In these pages, we honor their memories and celebrate their contributions to the cause of achieving sustainable economic opportunity and security for all of America's workers.



Beth Shulman (1950-2010) lived and breathed her values. She believed all work and all workers have value and dignity, and she tirelessly called on the nation to live up to that ideal. She believed in a more just society that provides access to good jobs for all workers, and fought hard to achieve that vision. We remember Beth for her workers' rights victories, her indomitable spirit and ability to inspire, and her significant contributions as chair of the NELP board.

In a career that spanned more than 30 years, Beth made exposing and eliminating the barriers that prevent millions of workers from achieving the American Dream a central theme of her work. In her 2003 book, *The Betrayal of Work: How Low-Wage Jobs Fail 30 Million Americans*, she documented the cynical exploitation that traps too many workers and outlined the steps necessary to build an economy in which work supports families and strengthens their communities. Beth was a foot soldier in the fight for a fair economy, working first as a civil and employment rights lawyer, then as an organizer, eventually as vice president of the United Food and Commercial Workers Union, and finally as a noted author and board member of numerous economic justice organizations. As a champion for working families, Beth lent her formidable intellect and eloquent voice to minimum wage and paid leave campaigns at the state and federal levels. As a nationally renowned author, she used her platform to advocate fiercely for public policy and labor law reforms, including the Employee Free Choice Act, and modernizing the unemployment insurance system.

Beth brought her passion and unyielding determination to her leadership and stewardship of NELP, guiding us through a period of significant growth and program expansion. NELP is unquestionably stronger and better because of Beth. We will honor her firm conviction that work must be a ladder of opportunity and an anchor of economic security for all, ever mindful that in our work, we are continuing hers. Her memory will be a source of strength and inspiration for years to come.

Gerard “Jerry” Hildebrand’s (1953-2010) life is a testament to the power of a dedicated public servant to improve the lives of many simply by doing his job. No one has contributed more tangibly—yet quietly—to helping the millions of American workers whose families have been held together by the unemployment insurance program. As chief of the Legislation Division at the U.S. Labor Department’s Office of Unemployment Insurance, Jerry was a master interpreter of federal laws and rules and for many years provided sage guidance to state agencies and advocates alike.



Jerry was first and foremost a scholar and a teacher. From his famous UI Legislative Seminars to the many national conferences at which he was regularly the main event, he taught us lessons about the importance of maintaining a system of unemployment insurance that is administered fairly and meets the needs of the jobless workers it is intended to help. Those of us who were fortunate enough to have worked with Jerry benefited from his wisdom and exceptional knowledge, were inspired by his unique blend of generosity and humility, will be warmed by memories of his wry humor and good cheer, and will never forget the many “teaching moments” he so generously shared with us.

Paul Lodico (1940-2010), master organizer and advocate, was a hero to NELP and one of our strongest allies in our work to strengthen economic security and promote workers’ rights. For more than 30 years, Paul served as co-coordinator of the Mon Valley Unemployed Committee, helping to inspire and mobilize thousands in the fight for economic justice. He was instrumental in many key victories for workers, including critical federal unemployment benefits extensions, minimum wage hikes, and foreclosure relief, and in challenging welfare reform policies that harmed low-income communities. Paul and his team also helped win major retraining and unemployment benefits for thousands of struggling workers under the Trade Adjustment Assistance program.



We will always remember Paul for his passion for life and his unwavering dedication to helping struggling families navigate economic crises, whether personal, regional, or national. His work made life better for countless workers and their families. At this moment of such great need, Paul’s memory inspires us all to fight even harder for justice, opportunity, and respect for America’s working families.

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