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National Employment Law Project

Written Testimony of

Rebecca Dixon

National Employment Law Project

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National Office
National Employment Law Project
75 Maiden Lane, Suite 601
New York, NY 10038
212.285.3025

DC Office
National Employment Law Project
1620 Eye Street, NW, Suite 210
Washington, DC 20006
212.887.8202 x363
rdixon@nelp.org

Thank you for this opportunity to present you with written testimony. My name is Rebecca Dixon, and I am a Policy Analyst for the National Employment Law Project (NELP) in their DC office. NELP is a non-profit research and advocacy organization that specializes in economic security programs, including unemployment insurance (UI), Trade Adjustment Assistance (TAA) and the workforce development system. We have a long history serving families hardest hit by economic downturns by helping them access their benefits and promoting innovative state and federal policies that deliver on the nation's promise of economic opportunity.

The Current Unemployment Crisis

The magnitude of the nation's current unemployment crisis cannot be overstated. Since the beginning of the recession in December 2007, the economy has shed 7.2 million jobs. Nationally, the unemployment rate currently stands at 10.0 percent—the highest level of unemployment in over 26 years—and the number of unemployed workers has doubled over the course of the recession to 15.4 million in October 2009.[1]

Despite the fact that job losses have slowed during the latter half of 2009, the lack of available jobs is the underlying cause of record-setting prolonged unemployment, and explains why joblessness will continue to be a serious problem despite economy recovery and even an official "end" to the recession. Throughout the recession, the number of available job openings has increasingly failed to meet the demand for work among jobless workers. During September 2009, the latest month for which data is available, there were over six unemployed workers for every one job opening nationally—up from 1.7 unemployed workers per opening at the start of the recession.

The Critical Role of the Unemployment Insurance Program

When President Franklin D. Roosevelt sent the Social Security Act to Congress for consideration in January 1935, his vision for the unemployment insurance program was clear and compelling. Unemployment insurance "should be constructed in such a way as to afford every practical aid and incentive toward the larger purpose of employment stabilization."[2] The accompanying report of the Committee on Economic Security provided the details of a new program to serve as the "first line of defense" to immediately address the desperate needs of unemployed families and the struggling economy.[3] As the law moved toward final passage in August 1935, an ambitious new unemployment insurance program was established that was in part a creature of federal policy and part a creation of the states.

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[1] Center for American Progress Action Fund and National Employment Law Project, "Keeping a First Line of Defense for the Jobless" " (2009), p. 4

[2] Witte, *The Development of the Social Security Act* (University of Wisconsin Press: 1962), at page 128.

[3] Larson, Murray, "The Development of the Unemployment Insurance System in the United States," 8 Vand.L.Rev. 181, 186 (1955).

1. Boosting the Nation's Economy

While the economy has changed dramatically in the past 70 years, today's severe recession reminds us of the critical importance of President Roosevelt's "employment stabilization" mandate for the unemployment program. And his vision has clearly survived the test of time. Economists of all persuasions applaud the "counter-cyclical" nature of the program and its documented impact on economic growth. In fact, a major study of several of the recent recessions found that unemployment benefits contribute $2.15 in economic growth for every dollar of benefits circulating in the economy.[4]

2. Alleviating Economic Hardship

Even for families who have bought a home and earn middle-class wages, a layoff in today's economy will often result in extreme economic hardship, including incomes that fall below the poverty level. However, as the research has shown, unemployment benefits play a major role preventing workers from ending up in poverty.[5]

Before becoming unemployed, only 7 percent of unemployment recipients report family incomes below the official poverty level. When these workers become unemployed and collect all their state jobless benefits, one-third of the families find themselves destitute as measured by the official poverty guidelines. That figure increases significantly to one-half of all families who would end up in poverty without the help of unemployment benefits.

3. Stabilizing Housing

Also of special significance to today's economic crisis, unemployment benefits contribute to stabilizing the housing market in those communities devastated by layoffs and foreclosures. In fact, 46 percent of foreclosures now result from workers who have lost their income due to layoffs, which is up significantly over prior years.[6]

Families of jobless workers spend more of their unemployment benefits to cover the costs of their mortgages and rent than for any other household expense. A major state study found that 41% of expenditures paid for with unemployment benefits were applied to housing costs.[7] Another national study found that the availability of unemployment benefits reduced the chances that a worker will be forced to sell the family home by almost one-half.[8]

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[4] Chimerine, et al. "Unemployment Insurance as an Economic Stabilizer: Evidence of Effectiveness Over Three Decades," U.S. Department of Labor, Unemployment Insurance Occasional Paper 9908 (1999).
[5] U.S. Congressional Budget Office, "Family Income of Unemployment Insurance Recipients" (March 2004), at page 13.
[6] "Mounting Job Loses Fueling Foreclosures," CNNMoney.com (November 6, 2008)
[7] State of Washington, Employment Security Department, "Claimant Expenditure Survey, 2005" (January 2006).
[8] Gruber, "Unemployment Insurance, Consumption Smoothing, and Private Insurance: Evidence from the PSID and CEX," Advisory Council on Unemployment Compensation Background Papers, Vol. 1 (1995), at page 20.

Why Modernizing the Unemployment Insurance Systems Matters

The unemployment insurance provisions of the American Recovery and Reinvestment Act of 2009 (ARRA) were historic in scope, responding boldly to the serious challenges facing the unemployment insurance system and those families hardest hit by the recession. Among these provisions were included federal incentives to modernize the state unemployment insurance programs. Responding to the outdated eligibility rules that disproportionately deny benefits to low-wage and women workers, the ARRA provides $7 billion in incentive funding to help states modernize their state unemployment programs. The ARRA also rewards state reforms that help the long-term unemployed to participate in training. All states also qualify for their share of $500 million in federal funds to improve state services and expand outreach to the unemployed.

The UIMA targeted the fundamental problem of the outdated gaps in the unemployment insurance program documented for decades by several leading authorities, including the bipartisan Advisory Council on Unemployment Compensation.[9] Indeed, the unemployment system is so severely compromised that only 37 percent of jobless workers collected state benefits in 2008. Today's rates are down dramatically from nearly 50 percent in the 1950s and over 40 percent in the 1960s and 1970s.

In the late 1980's Ohio and Vermont were the first to adopt alternative base period. Since 1996, nearly half the states have adopted innovative policies to help fill the gaps in the unemployment system.[10] In 2002, along with its tax cuts, President Bush's Stimulus bill gave states $8 billion in "Reed Act" funds and suggested they be used for alternative base period and part-time worker coverage. Several states took advantage of this funding to update their unemployment insurance systems.

The current federal legislation took the best of all the reforms that have been tested in the states to address these concerns and made federal funding available to address the most serious gaps in the unemployment program. Among the reforms under consideration in Maryland's current legislative session are alternative base period and an extra 26 weeks of benefits for permanently laid-off workers who need access to training to improve their skills. Maryland already provides coverage for part-time workers.

Alternative Base Period is a Common Sense Reform

Of special significance, the alternative base period targets low-wage workers who are unfairly denied unemployment benefits not because they didn't work enough but simply because the antiquated eligibility rules fail to count their most recent earnings. Indeed, according to the U.S. Government Accountability Office, low-wage workers are twice as likely as higher wage

9 Advisory Council on Unemployment Compensation, *Collected Findings and Recommendations: 1994-1996* (1996).
10 National Employment Law Project, "Changing Workforce, Changing Economy: State Unemployment Insurance Reform for the 21st Century" (2004), p. 4

workers to find themselves unemployed, but they are only one-third as likely to collect jobless benefits.[11]

This reform modernizes the system to take into account that the worker's wage history is readily available on computer, thus eliminating the lag time that was built into the system when all the information had to be collected by hand before the age of computers. If Maryland adopted the alternative base period, it would qualify for the first one-third of its incentive funding.

Before the ARRA incentive, nineteen states had already adopted alternative base period. Sixteen states have enacted it since ARRA. Neighboring states that have alternative base period include, Virginia, West Virginia, Delaware, the District of Columbia, and New Jersey. Maryland's neighbors in DC enacted the alternative base period in the aftermath of funding provided to states during the last recession, and have maintained this low cost reform. A full list of the states and their modernization reforms can be found in Table 1.

Extended Benefits while in Training Helps Maryland's Economy

To qualify for the ARRA incentive funding, states can implement a provision that provides permanently laid-off workers who require access to training in order to get meaningful re-employment, with the help of an extra 26 weeks of extra unemployment benefits. State extensions for retraining – known as "additional benefits" – serve important needs in states that use them. Generally, states require that jobless workers have lost work in a declining industry or occupation in order to qualify. States furnish extensions where retraining is necessary for the claimant to find a full-time job in another sector, one in which there are labor shortages or growing numbers of jobs. Workers who are approved for training are permitted to attend the training rather than searching for new work.

Most jobless workers cannot attend training full time without some form of income support. Benefit extensions make it possible for jobless individuals to complete training that lasts longer than the normal duration of state UI benefits (typically no more than 26 weeks). Additional benefits give working families essential help in completing meaningful retraining and avoiding future layoffs from declining industries. If Maryland adopts this measure (assuming it adopts alternative base period) it would qualify for the remaining two thirds of its ARRA incentive funding.

Twelve states, including the neighboring state of New Jersey have extended benefits for permanently laid-off workers while in training. Table 1 lists the all the states with this measure.

Maryland Already Provides Part-time Worker Coverage

Another one of the best practices for closing the gaps in the unemployment insurance systems is coverage for part-time workers who are denied benefits because they are required to actively seek full-time employment. Part-time employees, most often women and low-wage

[11] Government Accountability Office, "Unemployment Insurance Receipt of Benefits Has Declined, With Continued Disparities for Low-Wage and Part-Time Workers" (GAO-07-1243T, 2007), page 8.

workers, are the victims of outdated UI eligibility rules. Many states exclude part-time workers from UI benefits by requiring them to look for full-time work in order to receive UI. The result is that many part-time workers are excluded from UI even though their wages were subject to UI payroll taxes and their earnings prior to layoff meet state monetary eligibility rules.

Twenty seven states, including Maryland have adopted policies that provide UI benefits to many unemployed part-time workers in their state. Refer to Table 1 for a complete listing.

With Broad Bi-Partisan Support, Over Half the States Enacted Incentive Funding Reforms

Since the enactment of the ARRA, 28 states have enacted unemployment insurance reforms that qualify for incentive funding, representing every region of the U.S., from the Western states (Alaska, California, Hawaii, Idaho, Nevada, Oregon,) to the Central states (Colorado, Kansas, Montana, Oklahoma, South Dakota), to the Midwest (Illinois, Iowa, Minnesota, Wisconsin), to the South(Arkansas, Georgia, North Carolina, Tennessee), and to the Northeast (Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New York, New Jersey, Vermont, West Virginia). The reforms include 14 new states that have adopted the alternative base period, and seven new states that have provided extra benefits to workers in training programs.

The beneficial nature of the modernization funds is especially clear given the bipartisan support for reform. Despite opposition to the ARRA unemployment insurance incentive funding initially expressed by a very small but vocal group of governors (primarily from Louisiana, South Carolina, and Texas), when the time came to seriously debate the reforms, most governors and state legislatures crossed party lines take up the reforms. In the end, the ARRA funded expansions were supported by numerous Republican governors and Republican controlled legislatures. Examples of Republican governors supporting UI modernization include Sonny Perdue (Georgia), Jim Gibbons (Nevada), Mike Rounds (South Dakota), Sarah Palin (Alaska), Arnold Schwarzenegger (California), Jodi Rell (Connecticut), and Tim Pawlenty (Minnesota).

The activity is continuing this year. Already further legislation in young state legislative sessions is making its way in a broad range of locales including Utah, Alabama, Alaska and Nebraska. Maryland is clearly out of step with the rest of the nation, and risks leaving tens of millions of dollars that will cause employers and workers to miss out on one of the clearly beneficial parts of the recovery act.

Fiscal Impact of Stimulus Funds

Contrary to the arguments of some naysayers, the major infusion of federal incentive funding has significantly increased state trust fund balances just in time to preclude otherwise scheduled tax increases intended to replenish state reserves.

While every state sets its trust fund balance target differently, most increase or decrease their unemployment insurance tax rates based on the health of the state’s unemployment fund reserves. When the reserves are low, employer contributions automatically increase or special tax assessments are triggered to replenish the fund to specific levels. When trust funds are in better shape, employer taxes will eventually drop back again, and the cycle continues throughout good economic times and bad.

The states have until August 2011 to submit their applications to the U.S. Department of Labor (DOL) to certify that they comply with these specific provisions of the ARRA's incentive funding program. Although the ARRA precludes the states from qualifying for the incentive funding if their required reforms are expressly limited in duration (or "sunset"), the states are not precluded from eventually repealing their laws after they receive the federal incentive funding.

Once certified by DOL, the federal incentive funds are deposited in a lump sum in the state's unemployment trust fund. On average, states will receive enough funds to cover modernization benefit expansions for five years, which then allows the state to build up the reserves necessary to also preclude, limit or delay tax increases. Thus, states get the extra benefit of an interest bearing grant from the federal government to their state trust fund.

Many states have used this infusion of money to limit tax increases that are occurring after the sharp increase in UI claims in 2009. This major infusion of federal funding allows the growing number of states that have depleted their state trust funds to reduce or delay federal borrowing to pay state benefits.

Typically, the benefits adopted as a result of the ARRA reforms are not costly enough to trigger a higher tax rate for all employers. Most of the limited expanded benefits will be recovered through the normal self-recovering mechanisms built into UI trust funds.

How Do Maryland's Unemployment Insurance Benefits Compare Nationally

These reforms should be seen in the overall context of Maryland's UI program's generosity. By most standard measures, Maryland's UI program is not among the most generous in the nation.

This especially true of the amount of benefits provided to jobless workers. According to the U.S. Department of Labor the average UI benefit in Maryland only replaces 33.9 percent of the average worker's earning in the state. That ranks Maryland 38th among the state UI programs.

One particularly limited feature of the UI program is Maryland's maximum weekly benefit amount. Maryland's maximum weekly benefit of $410 is less generous than some states with much lower average weekly wage amounts and costs of living (see table 2.). The fact that jobless workers in states like Kentucky and Kansas can receive more in UI benefits is a clear indication of the limited support provided by the state's UI program. When compared to other high cost jurisdictions like Pennsylvania and New Jersey, Maryland's appears particularly low.

Why are benefits so low in Maryland? Most states automatically increase their unemployment insurance benefits each year to account for wage growth. This adjustment (known as indexing) makes sure that the social insurance provided by the UI programs keeps pace with living states. In total, 35 states have adopted indexing of maximum weekly benefit amounts, including Maryland's neighbors in Virginia & Pennsylvania. Maryland is in the minority of states that do not index maximum weekly benefit amounts to wage growth, and thus benefits are still quite low even after several modest increases in recent years.

Table 2: Comparison of State Maximum Benefits with Average Weekly Wage

State	Maximum Weekly Benefit	Average Weekly Wage	Indexed?
Maryland	$410	$916.86	No
Pennsylvania	$558	$844.90	Yes
New Jersey	$584	$1050.68	Yes
Kentucky	$415	$711.67	Yes
Kansas	$436	$723.24	Yes
Virginia	$378	$881.12	Yes

Maryland's Unemployment Insurance Trust Fund Solvency

Currently, 27 states have already borrowed from the federal government because their unemployment insurance trust funds are empty. Because it has made it this far into the recession without borrowing, Maryland will be a lot better off that states that are already are in debt.

Table 1: ARRA Incentive Reforms Enacted by State, December 2009

State	ARRA Incentive Funding State Reforms						
					Compelling Family Reasons		
	ABP	Part-Time	Training	Dependent Allowance	Domestic Violence	Spouse Relocates	Illness & Disability
Alabama							
Alaska	Enacted			X		X	
Arizona					X	X	X
Arkansas	Enacted	Enacted			Enacted	Enacted	Enacted (Fix)
California	Enacted (2011)	X	X		X	X	X
Colorado	Enacted	Enacted (Fix)	O		Enacted (Fix)	Enacted	Enacted (Fix)
Connecticut	X			X	Enacted (Fix)	Enacted	Enacted (Fix)
Delaware	Enacted	X			X	Enacted	Enacted
District of Columbia	X	O			X		
Florida							
Georgia	X	Enacted	Enacted				
Hawaii	X	Enacted (Fix)			Enacted	Enacted	Enacted
Idaho	Enacted	Enacted	Enacted				
Illinois	X			Enacted (Fix)	Enacted (Fix)	Enacted	Enacted (Fix)
Indiana					X	X	
Iowa	Enacted	Enacted (Fix)	Enacted	O			
Kansas	Enacted	Enacted (Fix)	Enacted		X	X	
Kentucky							
Louisiana		X					
Maine	X	X	Enacted (Fix)	O	Enacted (Fix)	Enacted (Fix)	Enacted (Fix)
Maryland		Enacted		O			X
Massachusetts	X		Enacted (Fix)	X	X		
Michigan	X			O			
Minnesota	Enacted (Fix)	Enacted (Fix)			Enacted (Fix)	Enacted (Fix)	Enacted (Fix)
Mississippi							
Missouri							
Montana	Enacted	Enacted	Enacted		X		
Nebraska		X			X	X	X
Nevada	Enacted	X			X	X	X
New Hampshire	X	X			Enacted (Fix)	Enacted	Enacted
New Jersey	X	X	Enacted (Fix)	O			
New Mexico	X	X		X	X		
New York	X	Enacted (Fix)	O		Enacted (Fix)	Enacted (Fix)	Enacted (Fix)
North Carolina	X	X			X	Enacted	X
North Dakota							
Ohio	X			O			
Oklahoma	Enacted (Fix)	Enacted			Enacted (Fix)	Enacted (Fix)	Enacted (Fix)
Oregon	Enacted		Enacted (Fix)		Enacted (Fix)	X	X
Pennsylvania		X		O		X	
Rhode Island	X			O	X	X	
South Carolina					X		
South Dakota	Enacted	X			X		
Tennessee	Enacted	Enacted		Enacted			
Texas					X		X
Utah							
Vermont	X	X	Enacted		X		
Virginia	X						
Washington	X		O		X	Enacted	X
West Virginia	Enacted						
Wisconsin	X		Enacted		Enacted (Fix)	Enacted	Enacted (Fix)
Wyoming		X			X		
Total	*35*	*27*	*12*	*6*	*31*	*24*	*21*
Newly Enacted - incl. fix	*16*	*13*	*11*	*2*	*12*	*14*	*12*

Key: X Provision enacted pre-ARRA O Provision exists in some form, although not ARRA-compliant Enacted Provision enacted post-ARRA

Note that the analysis may vary in some cases from information produced by the states due to variations that relate to the specific requirements of the ARRA necessary to qualify for incentive funding, while state many policies are also subject to interpretation by the courts and administrative law judges.