



National Employment Law Project

***UNEMPLOYMENT INSURANCE MODERNIZATION
IN MICHIGAN***

Statement of Rick McHugh,
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National Employment Law Project

In Support of

HB 4785 and HB 4786

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Introduction

To begin, there has never been a time in Michigan's post-WWII War history when unemployment insurance (UI) is more important to our state's economy, our communities, and our jobless workers. Due to the geographic location of auto manufacturing by domestically-based auto companies, the restructuring of the auto industry is having a severe impact on auto-related employment in Michigan. In addition, financial services and building construction have suffered significant employment losses in our state. The unemployment rate in Michigan reached 12.6 percent in March 2009, with over 609,000 individuals out of work. In April, there were about 315,000 individuals receiving weekly UI benefits in Michigan, an increase of 140,000 a week over continued claims levels this time a year ago. Additional thousands have exhausted their state UI benefits and are now drawing federally-financed benefit extensions in Michigan.

National Employment Law Project (NELP) is the nation's leading policy and advocacy organization for jobless and low-income workers. Based in New York City, NELP maintains staff in Michigan at offices in Flint and Ann Arbor. Rick McHugh is an attorney with over 30 years experience in UI law and he has testified before Congress and a number of state legislatures concerning UI issues. He published his first article on UI in 1980, and while employed with NELP Rick has written several reports on UI for part time workers, UI financing issues, and other labor and employment issues.

Mr. McHugh is the principal author of this written statement and he is available for further questions or comments through the contact information provided. In addition, readers are invited to visit NELP's website, including our UI modernization webpage at <http://www.nelp.org/index.php/site/issues/category/modernizing_unemployment_insurance>.

Unemployment Measures in the Recovery Act

Fortunately, Michigan has new tools available under the American Recovery and Reinvestment Act to stimulate our state's economy and help unemployed individuals and affected communities. In brief, ARRA represents the single most important federal law assisting jobless workers since passage of the Social Security Act in 1935, furnishing over \$40 billion in overall assistance to unemployed workers as economic stimulus in the Recovery Act. Several UI measures offered under the Recovery Act have already taken effect. First, every unemployment check now includes a \$25 weekly supplement that is paid for with federal dollars. Second, long-term jobless workers in Michigan can receive added weeks of benefits under the Emergency Unemployment Compensation program as well as Extended Benefits now available under the new state trigger passed into law a few weeks ago. Again, these extension benefits are fully funded with federal dollars. Third, the Recovery Act suspended income taxation on the first \$2400 of UI benefits paid in 2009. These three UI features of the Recovery Act will help jobless workers as well as Michigan businesses when those jobless workers spend their UI benefits.

Fourth, the Recovery Act made the Extended Benefits program fully-federally funded for the rest of 2009, which has relieved the state trust fund of the burden of paying for half of the benefit charges paid under this program. Currently, under state legislation passed this April, Michigan is paying 20 weeks of Extended

Benefits using this program to provide critical help to long-term jobless workers. Fifth, ARRA suspended federal interest on federal trust fund loans to states for 2009 and 2010, making a suspension of a state solvency UI payroll tax surcharge on Michigan's employers possible under state legislation passed in February. In addition, this interest suspension provision will save Michigan's employers millions of dollars in federal interest payments that would otherwise have been imposed on trust fund loans. In effect, Michigan's employers are getting two kinds of tax relief under this federal interest suspension feature.

UI as Economic Stimulus

It is critical to understand that UI benefits represent one of the most effective forms of government spending in stimulating the economy. Mainstream economists are agreed on this point. Mark Zandi, Chief Economist of Moody's Economy.com, has studied the economic impact of various forms of government outlays and he testified last November before the U.S. Senate Budget Committee. Zandi found that each dollar of unemployment insurance spent produced \$1.63 in economic activity. Only federal food assistance (Food Stamps) produced a bigger "bang for your buck." In comparison, Zandi found that some tax cuts had a negative economic impact, or a smaller positive impact than unemployment benefits, Food Stamps, and increased infrastructure spending.

In a 1999 study for the U.S. Department of Labor, economist Lawrence Chimerine (and others) demonstrated that UI has dampened the impact of the prior five recessions. Mr. Chimerine found that the stimulus produced by UI saved an average of 131,000 jobs in each downturn studied and quelled the drop in production (as measured by GDP) by 15 percent. Moreover, when workers spent UI benefits, Chimerine estimated that each \$1 paid in benefits produced \$2.15 in added GDP economic growth.

In short, UI is not a "zero sum game" in which employers "lose" and employees "win," as critics often claim. UI benefits are financed by employer payroll taxes, are paid out in unemployment benefits, and flow back to businesses when they are spent by jobless workers. This "multiplier effect" of UI is why the Recovery Act has a number of UI features and why Michigan should fully implement the UI measures in ARRA.

Fully Implementing ARRA in Michigan

Legislation under consideration in Michigan (HB 4785 and HB 4786, as revised) will ensure that Michigan fully implements the UI features in ARRA. These bills will assist unemployed workers by providing an added 26 weeks of regular state UI benefits to individuals in approved training and permitting jobless part time workers with a past history of part time work to limit their availability to part time work. Adopting these two measures will permit Michigan's UI trust fund to gain an added \$138.8 million federal dollars to pay for UI benefits that would otherwise be paid for with state UI payroll taxes from employers. In short, Michigan employers are going to continue paying federal FUTA taxes, so getting some of this federal money back to pay UI benefits in Michigan makes more sense than leaving these funds on the table and walking away.

In summary, UI modernization under the Recovery Act provides an overall \$7 billion in federal financial incentives to states that adopt identified UI reforms that improve access to UI benefits. All states that wish to participate in UI modernization must adopt the "alternative base period," a way to determine UI monetary eligibility by including more recent wages when workers do not have sufficient earnings in their traditional base period to qualify. In addition, states can choose to implement two of four optional elements of UI modernization. The size of each state's UI modernization incentive varies based upon the federal UI tax

revenues produced by a state's employers—roughly approximating the size of each state's workforce and economy. In Michigan's case, the overall federal modernization incentive is \$208.3 million.

Under UI modernization, states with the alternative base period (ABP) can get one third (1/3) of their potential federal incentive payment. Michigan has had the alternative base period in place since 2000. As a result, Michigan is already qualified to draw down \$69.4 million dollars of its overall \$208.3 million dollar UI modernization federal incentive. In order to complete UI modernization, Michigan needs to implement 2 of the 4 remaining UI modernization elements. By doing so, Michigan can gain \$138.8 million in additional federal funds for its currently depleted state UI trust fund. These federal dollars will pay UI benefits this year that would otherwise be paid for by state UI payroll taxes on Michigan employers. In order to get these federal incentive payments in 2009, Michigan needs to implement UI modernization by amending its UI law to include two added options; namely, part time UI and UI in training. We now explain those two UI modernization options in greater detail.

Part Time Employment and UI

NELP supports modernizing Michigan's UI program by adding UI eligibility for laid off part time workers with an established history of part time work who want or need to find another part time job as provided for under HB 4786. In 2002, NELP completed the first 53 jurisdiction (50 states, D.C., Puerto Rico, and Virgin Islands) survey of UI law as it impacts part time workers. (This study, entitled *Laid Off and Left Out*, is available on our website.) Since that time, NELP has supported a campaign to increase the number of states permitting part time UI and some states have taken action, including New Mexico, Minnesota and New Hampshire. Now, part time UI is offered as a UI modernization feature and NELP is working hard to increase the number of states that provide UI benefits to laid off part time workers with a past history of part time work. Since February 2009, Arkansas, Georgia, Idaho, and Maryland have adopted the part time option of UI modernization, and we are urging Michigan to join these states by enacting HB 4786.

Michigan has long required that jobless workers must be available for full time work in order to receive UI benefits. This means that a part time worker who is laid off and admits that he or she is only willing to accept another part time job is not eligible for UI benefits in Michigan. This restrictive eligibility rule means that while part time workers have their wages subjected to UI payroll taxes on the same basis as the wages of full time workers, they are not eligible for UI benefits even when they are involuntarily unemployed. In addition, since nearly two-thirds of part time workers are women and a majority are paid lower wages, limiting part time eligibility has a disproportionate impact on women and low wage workers. Michigan's restrictive part time rule is simply inequitable and out of step with the role of part time work in a modern economy.

To many in Michigan, our full time availability rule is as natural as the sun rising in the east, but actually a significant number of states already permit part time unemployed workers to remain eligible for UI benefits. Indeed, states like Kansas, Louisiana, North Carolina, South Dakota and Wyoming are among the 24 states that permit part time workers to get UI benefits when laid off from their part time jobs. In these 24 states, it's as natural as the sun rising in the east to pay UI to part time workers, and it is difficult for stakeholders in those states to understand what the hubbub about part time UI is all about. Like Mark Twain's death, reports of the costs of part time UI and its dangers are greatly exaggerated. Nearly half the states already have part time UI eligibility, and there is detectible, significant distinction between UI programs in these states and UI programs in restrictive states. For these reasons, NELP urges Michigan to adopt a fairer approach to part time UI eligibility by passing HB 4786.

UI for Workers in Approved Training

With our economy in turmoil and dramatically shifting occupational patterns hitting our state, adding some weeks of income support for workers in approved training makes a great deal of sense. By turning the high levels of long-term unemployment into an opportunity for retraining, Michigan can increase the proportion of workers that can complete training and assist our state in developing a workforce better prepared for work in today's changing economy. UI modernization asks states to provide up to 26 weeks of added state UI benefits to workers in approved training, as accomplished with HB 4785 and HB 4786. Five states (California, Maine, New Jersey, Oregon, Washington) had this UI in training feature prior to ARRA, and three other states have adopted this measure recently (Georgia, Idaho, and Iowa). And, UI in training can also support the ongoing Leave No Worker Behind or any similar successor worker training programs.

One attractive aspect of the UI in training option is that its costs are very low during the current recession. Because federally-funded Emergency Unemployment Compensation and Extended Benefits programs are in place in 2009 (and likely in 2010 as well), Michigan has added language to its UI in training bill to ensure that any added state UI benefits paid under this option are paid AFTER all available federal benefits. This will mean that most workers can complete approved training and find jobs prior to needing to use state-funded UI training benefits so long as federally-financed extensions are available. And, once Michigan's economy improves, UI in training will provide income support to jobless workers getting retraining for many years to come.

Common Myths about UI Modernization

While UI modernization only involves \$7 billion of the overall \$787 billion ARRA recovery program, it has been subjected to strong attack by a few governors and employer groups. This opposition is, however, in no means across the board or based upon an accurate examination of UI modernization. Indeed, a number of governors that initially expressed skepticism about or opposition to UI modernization have since signed bills (Governor Sonny Perdue of Georgia, Governor Mike Beebe of Arkansas), while last week Alaska Governor Sarah Palin announced her intention to sign her state's UI modernization bill. In addition, at least 7 Republican Governors (Schwarzenegger (CA), Crist (FL), Rell (CT), Gibbons (NV), Carceri (RI), Huntsman (UT), and Douglas (VT)) have expressed support for taking actions qualifying their states for federal UI incentive funds under UI modernization. In addition to Governor Granholm, Democratic Governors Kaine (VA), Kulongoski (OR), Rendell (PA), Doyle (WI), Culver (IA), Bredesen (TN), and Henry (OK) are supporting UI modernization. (An additional 4 states with Democratic Governors (ME, NJ, NM, NY,) can qualify for UI modernization funding with small or technical changes to their UI laws and are expected to qualify for federal modernization incentive payments in 2009.)

For the most part, these coordinated attacks on UI modernization are based upon more fiction than fact. For example, Louisiana Governor Bobby Jindal criticized UI modernization strongly because it contained federal "strings" that would have ill-considered impacts on his state's UI program. Governor Jindal's leading example was providing UI benefits to jobless part time workers. Since Louisiana already pays UI benefits to its part time unemployed workers, it is hard to understand why Governor Jindal would not wish to accept federal incentives for having this and other positive features in Louisiana law. Rather than look at the real facts about UI modernization, Governor Jindal and a few other governors have expressed their overall philosophic opposition to the Recovery Act and stimulus by targeting UI modernization with exaggerated claims about its costs and impacts.

Georgia is one of the first 9 states to fully implement UI modernization, enacting both part time UI and UI in training. Governor Sonny Perdue initially expressed doubts about UI modernization in Georgia. Once he looked at Georgia's options, however, Governor Perdue concluded that accepting the incentive funds was the best course to follow for his state. For this reason, he supported and signed a bill just like HB 4785 and HB 4786 that we are asking the Michigan legislature to approve. In signing the bill, Governor Perdue stated that "The changes in our unemployment rules and regulations are relatively minor, and I appreciate the General Assembly's willingness to approve additional benefits for unemployed Georgians."

Another widely-repeated fiction about UI modernization is that reform measures must be "permanently" adopted. Again, that is simply wrong, if by "permanent" you mean "forever." In its unemployment insurance program letter issued February 26, one week after ARRA became law, the U.S. Department of Labor made clear that states seeking federal modernization funds must amend their state UI laws without sunsets or limited effective dates, but that states remain free to repeal any UI modernization amendments once the UI modernization incentive period ends in 2012. Without this requirement, states could enact modernization amendments just long enough to get modernization incentive payments, but pay very limited or no UI benefits to jobless workers intended to benefit from UI modernization. In reality, UI modernization is only saying that a current legislature doesn't have the power to bind a future legislature to take a particular action. This is only fair when the overall structure of UI modernization is taken into account.

The "permanent change" fiction is closely connected to the third widespread misunderstanding about UI modernization. This complaint is that federal incentives don't fully compensate states for the total costs of UI modernization changes. At the outset, it should be understood that UI modernization uses an incentive to states to "do the right thing" by modestly expanding state UI programs by implementing certain UI modernization reforms. And, since UI modernization is using a financial incentive, rather than having a federal takeover of state financing of UI programs, critics of UI modernization should not expect the federal government to pay the full freight of UI modernization reforms. And, states should recognize that gaining partial federal support for initiatives that strengthen UI safety nets is a better way to reform UI programs than having federal standards or unfunded mandates. If the federal partner fully funded UI modernization, that would amount to a diminution of states' traditional role in implementing our UI programs. Assuming that the federal-state UI program is a worthy model, UI modernization's use of federal incentives to spur improvements in state laws is a worthy experiment in federalism, in our view.

State UI Modernization Actions So Far

Since February 2009 when the Recovery Act became law, 12 states have acted legislatively to implement all or part of their UI modernization options. (Laws in Alaska and West Virginia have passed both houses, but so far have not been signed into law. Both governors have announced their intentions to do so, so we are counting them here.) Nine states--Alaska, Arkansas, California, Georgia, Idaho, Iowa, Minnesota, Nevada, and Oregon--have adopted (or already had) the alternative base period and/or any other options required to place them into compliance with UI modernization. (Nevada is completing implementation through agency rules.) Maryland has passed part time UI only, and South Dakota and West Virginia have passed ABP only. A table at the end of this testimony summarizes state actions to date.

In terms of the optional subjects of UI modernization amendments, UI modernization has increased the numbers of states with laws containing targeted modernization reforms. With Alaska and Oregon amending their laws to add ABP along with South Dakota and West Virginia, 29 states now have alternative base periods. Following recent state actions, four states (Arkansas, Georgia, Idaho, and Maryland) have adopted

part time UI. As a result, 24 states overall have part time UI laws that meet the standards of UI modernization. Three states have enacted UI in training since passage of ARRA (Georgia, Idaho, and Iowa), bringing that total to 8 states with UI in training. Two states (Minnesota and Arkansas) have adopted a third option under UI modernization referred to as quits for "compelling family reasons." Finally, no state has yet pursued the dependent allowance option, the fourth optional element available under UI modernization.

In summary, during the brief three month lifetime of UI modernization, nine states have fully implemented UI modernization and another 3 states have legislatively started implementation by passing at least one element of UI modernization into state law. In addition, a number of other states, need technical corrections, have bills in committees, or have task forces or study groups and plan to act later in 2009. Overall, we view the strong start for UI modernization positively, with these changes improving state UI programs, helping more jobless workers, and boosting our economy. By taking these actions states are making available as much of the \$7 billion UI modernization incentive funds as possible while furthering the goals of the Recovery Act and boosting participating states' trust funds.

Conclusion

In conclusion, House Bills 4785 and 4786 make significant and worthwhile reforms to Michigan's UI program by adopting a UI in training provision and adding improved eligibility rules for part time workers. Both of these UI modernization features will help affected jobless workers and impacted communities, and their costs are fully justified when their benefits to unemployed workers and our state's economy are properly considered. We urge favorable action by the Legislature to pass these bills.

NELP Summary of State UI Modernization Actions

Full Implementation (9 States)

State	Alternate Base	Part Time	UI in Training	Family Quits
Alaska**	Enacted	Already Had	N/A	Already Had
Arkansas	Enacted	Enacted	N/A	Enacted
California	Enacted	Already Had	Already Had	Already Had
Georgia	Already Had	Enacted	Enacted	N/A
Idaho	Enacted	Enacted	Enacted	N/A
Iowa	Enacted	Already Had	Enacted	N/A
Minnesota	Revised	Already Had	N/A	Enacted
Nevada	Enacted	By Rule	N/A	By Rule
Oregon	Enacted	N/A	Already Had	Already Had

Initial Implementation (3 States)

State	Alternate Base	Part Time	UI in Training	Family Quits
Maryland	No	Enacted	N/A	N/A
South Dakota	Enacted	Already Had	N/A	N/A
West Virginia**	Enacted	N/A	N/A	N/A

** Denotes that Governor has not yet signed bill, but has announced intention to do so.