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IMPLEMENTATION OF 2012 UNEMPLOYMENT INSURANCE REFORMS

HEARING

BEFORE THE

SUBCOMMITTEE ON HUMAN RESOURCES

OF THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

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IMPLEMENTATION OF 2012 UNEMPLOYMENT INSURANCE REFORMS

TUESDAY, APRIL 16, 2013

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON HUMAN RESOURCES,
Washington, DC.

The subcommittee met, pursuant to call, at 2:25 p.m., in room 1100, Longworth House Office Building, the Honorable Dave Reichert [Chairman of the Subcommittee] presiding.

[The advisory of the hearing follows:]

HEARING ADVISORY

Chairman Reichert Announces Hearing on the Implementation of 2012 Unemployment Insurance Reforms

1100 Longworth House Office Building at 2:00 PM
Washington, April 9, 2013

Congressman Dave Reichert (R–WA), Chairman of the Subcommittee on Human Resources of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing reviewing the implementation of reforms to the unemployment insurance system contained in Public Law 112–96, *The Middle Class Tax Relief and Job Creation Act of 2012*. **The hearing will take place at 2:00 P.M. on Tuesday, April 16, 2013, in room 1100 of the Longworth House Office Building.**

In view of the limited time available to hear witnesses, oral testimony at this hearing will be from invited witnesses only. Witnesses will include public and private sector experts on unemployment benefits and policies designed to promote reemployment. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

BACKGROUND:

In March 2013 (the most recent official data), the U.S. unemployment rate was 7.6 percent, with 11.7 million individuals unemployed, of whom 4.6 million were long-term unemployed—defined as unemployed for 27 weeks or longer. As of the week ending March 16, 2013, approximately 5.2 million individuals were collecting State or Federal unemployment benefits.

The Federal-State Unemployment Insurance (UI) program, created by the Social Security Act 1935, assists unemployed individuals by offering weekly unemployment benefit checks while they search for work. In order to be eligible for benefits, jobless workers must have a history of attachment to the workforce and must be able and available for work.

As a result of a series of laws enacted since 2008 to provide Federal extended benefits on a temporary basis, the maximum number of weeks of total unemployment benefits payable per person grew by late 2009 to a record 99 weeks, including up to 73 weeks of federally-funded benefits. Today, long-term unemployed individuals in most States are eligible for a maximum of 63 weeks of total benefits. From July 2008 through December 2012, a total of $208 billion was spent on Federal extended unemployment benefits, with most of that cost supported by general revenues.

On February 22, 2012, the President signed P.L. 112–96, *The Middle Class Tax Relief and Job Creation Act*. This legislation extended and reformed the Federal Emergency Unemployment Compensation (EUC) program for the remainder of 2012, which was subsequently extended through December 2013. This legislation also included landmark reforms to the permanent unemployment program, such as creating new job search requirements for Federal benefits, permitting States to have new flexibility to seek "waivers" to promote pro-work reforms, allowing States to screen and test certain UI applicants for illegal drugs, requiring "reemployment eligibility assessments" (REAs) for the long-term unemployed, and requiring States to recover more prior overpayments of UI benefits. The initial implementation of these 2012 reforms was previously explored during a Human Resources Subcommittee hearing in April 2012.

In announcing the hearing, Chairman Reichert said, **"Fourteen months ago, Republicans and Democrats in the House and the Senate agreed on commonsense reforms to the unemployment insurance system designed to help more Americans return to work sooner. The President signed those policies**

into law, but the administration has since been selective in implementing some policies and has created barriers to successfully helping states take action on other policies. This hearing will help us evaluate how the administration has implemented the 2012 reforms and determine what we can do to help more Americans collect paychecks instead of unemployment checks.

FOCUS OF THE HEARING:

The hearing will focus on the implementation of reforms to unemployment benefits enacted in P.L. 112–96, *The Middle Class Tax Relief and Job Creation Act*.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, *http://waysandmeans.house.gov*, select "Hearings." Select the hearing for which you would like to submit, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the online instructions, submit all requested information. ATTACH your submission as a Word document, in compliance with the formatting requirements listed below, **by Tuesday, April 30, 2013**. Finally, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225–1721 or (202) 225–3625.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word format and MUST NOT exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone, and fax numbers of each witness.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202–225–1721 or 202–226–3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available on the World Wide Web at *http://www.waysandmeans.house.gov/*.

Chairman REICHERT. Welcome. This hearing is now in order. I want to welcome you to today's hearing on the progress of reforms

enacted last year designed to help more unemployed individuals, especially the long-term unemployed, get back to work.

Reforms enacted in 2012 were aimed at connecting those in need with the resources necessary to succeed. Today we will take a look at what the administration and States are doing to implement these reforms. As we saw in the most recent disappointing jobs report, there is much more that needs to be done to help the unemployed get back to work. Overall, we are still 2.5 million jobs short of where the President predicted we would be at the end of 2010 under his trillion-dollar 2009 stimulus plan.

Too many people are out of work. Currently, 4.6 million people, or 40 percent of the unemployed, are without a job for 6 months or longer, an unprecedented level prior to this administration. Sadly, many Americans who have fallen on hard times find themselves without the guidance or resources needed to identify work opportunities.

When you take into account the unaccounted millions who have lost hope and given up on looking for work altogether, the official unemployment rates skyrockets to over 11 percent. This is unacceptable. We cannot sit idly by when people need help finding jobs. We must do more to lift people up and instill hope in those who need it most, so no one falls through the cracks.

Solutions exist and we can make changes that lead to more hope, opportunity, and employment. That is why, 14 months ago, Republicans and Democrats agreed on commonsense reforms, which President Obama signed into law, to help more Americans get back to work and provide for their families. Under those reforms, for the first time States can apply for waivers to pay people for working or getting training to go to work instead of simply receiving an unemployment check. However, instead of helping States test innovative ways to help people get back to work, the Department of Labor issued 24 pages of grueling application requirements, and actually a longer application process than applying for health care under the new health care law. These requirements have completely discouraged States from applying altogether.

Even though a senior Department of Labor official testified before this Subcommittee last April indicating that DOL would consider revising their requirements if no States applied, the Department has yet to make any changes to simplify things for States trying to help people find work. The 2012 reforms also now allow States to screen and test unemployment insurance recipients for illegal drugs, starting with those who lost their job due to drugs or who need to pass a drug test to land a new job. Such reforms ensure that those who break the law through substance abuse are not receiving benefits over law-abiding citizens truly in need of help.

It is interesting that while DOL was able to issue 24 pages of lengthy, demanding regulations for waiver applicants, the Department has yet to issue a single page of guidance to States that would allow them to screen for drug tests. In addition to helping people find work, the 2012 reforms also ensure that all long-term unemployment benefit recipients are actively engaged with the States to find work, and that States must check on recipients to determine what services and activities they need to get back to work.

As we will learn in today's hearing, this type of meaningful interaction between States and recipients helps struggling individuals discover opportunities for success. A year ago, this subcommittee met to discuss the early implementation of these commonsense reforms, but we are left with more questions than answers, many of which are still outstanding.

Today, we are checking back in. We are hearing from the State and local officials and employers who have been directly involved in the implementation of these reforms. But mostly we are looking for guidance on what we can do to help more Americans collect paychecks instead of unemployment checks. All Americans deserve answers about how these policies are working and what else we can do to help.

And, Mr. Doggett, we recognize you for 5 minutes to make your opening statement.

Mr. DOGGETT. Thank you so much, Mr. Chairman. You will recall that the last time this Subcommittee got together, it was because of criticism that the administration was just offering too much leniency and flexibility to the States, and today's hearing seems to focus on the administration offering too little flexibility for waivers from another program. Sometimes I get the feeling that for our Republican colleagues the porridge is either too hot or too cold but never just right so long as it is President Obama's administration that is doing the serving.

Rather than refight all of our past battles, I believe that we should be focused on what policies we have adopted in the past that have been effectively implemented to help unemployed Americans and what else can we do to advance that goal in the future.

Unfortunately, as we meet today, there are about 90,000 Texans who are among about 2 million Americans who have had or will have their unemployment insurance check cut by about 10 percent, which is a pretty good hit for someone who is out looking for a job and trying to survive with their family in the meantime. And really those who are unemployed today in America have faced a bit of a triple whammy. They get their unemployment check cut, they are subject to cuts in job training and in employment services, which are being reduced at the very time they need help finding work, and according to the Congressional Budget Office, the overall effect of sequestration will be a reduction in the number of jobs that are out there and a reduction in economic growth for those seeking to enter the job market.

We all talk about wanting to get people back to work, but if we fail to provide folks with the tools to do it, it is just so much talk. I look forward to hearing today from Judy Conti about at least one area that is part of the need to strengthen our Nation's employment service system to provide early and intensive personal assistance to those who are unemployed.

Last year Congress did enact a series of changes in our unemployment insurance law that I think were overall a step in the right direction. Senator Ron Wyden came to this Subcommittee and I joined with him in working on a provision that is helpful to a few people who are unemployed in special situations where the focus can be on opening their own business rather than continuing to search for a job. There is some indication that these programs have

resulted in more people being employed than those who are traditional unemployment insurance recipients.

The same is true concerning a reform that we adopted concerning work sharing. Though not many new States have signed onto the program, the 26 that have these programs seem to have had some success. There was a provision relating to providing waivers under the UI program, and a provision that dealt with drug testing for a limited group of applicants. While I think the evidence is still lacking as to whether the savings from such testing exceed the cost of the testing, I am pleased that Senator Williams is here from Texas because if we are to effectively implement this program, it would appear to me that he has done an effective job of doing it in a bipartisan way with some good, reasonable safeguards in the legislation.

I thank you, Senator, for your leadership on that issue.

Again, as we sit here today, we just need to realize that when it comes to helping the unemployed, our first and most immediate goal should be to find a sensible and balanced alternative to the budget cuts encompassed in the sequestration that is now in effect and to recognize that the best remedy for unemployment is a strong economy and that when things are done that blunt economic growth, they hurt the unemployed first and foremost.

Mr. Chairman, I look forward to hearing from all of our witnesses and to working with you on the objectives that you have laid out. Thank you very much.

Chairman REICHERT. Thank you, Mr. Doggett.

Chairman REICHERT. And without objection, each Member will have the opportunity to submit a written statement and have it included in the record.

I want to remind our witnesses to please limit your oral testimony to five minutes; however, without objection, all of the written testimony will be made a part of the permanent record. While Mr. Doggett and I get to make our political statements at the beginning, as you can tell, everyone on this panel joins with you in trying to make a real concerted effort to get people back to work. That is the bottom line that you heard from both of us today. And we are fortunate to have you here as our panelists. We hope to learn from you and find ways that we can accomplish that.

So, Mr. Starks, Bill Starks, is the director, Unemployment Insurance Division, Utah Department of Workforce Services. Welcome.

The Hon. Tommy Williams, Texas State Senator from District 4. Welcome.

Rich Hobbie, executive director, National Association of State Workforce Agencies. Thank you for being here.

Larry Kidd, principal/chief executive officer of Reliable Staffing Services and RSS Professional Services. And Judy Conti, Federal advocacy coordinator, National Employment Law Project. Welcome to you also.

Mr. Starks, please proceed with your testimony.

STATEMENT OF BILL STARKS, DIRECTOR, UNEMPLOYMENT INSURANCE DIVISION, UTAH DEPARTMENT OF WORKFORCE SERVICES

Mr. STARKS. Thank you, Mr. Chairman and Members of the House Human Resource Subcommittee. I appreciate the opportunity to provide you with our observation on last year's UI reforms, reemployment opportunities, and share some of our discoveries that have shown some promising results.

We had four significant discoveries through a pilot program that have some important implications and suggest we are now in an era where we can cost-effectively better serve and engage our UI claimants and achieve improved employment outcomes.

First, we found there is a large job search readiness gap. Utah performed a control group study of about 505 claimants in our REA program. They initially rated their job search readiness at about a D-plus average. Through online workshops, we were able to improve that to a B-plus average. We learned that job search readiness gaps were larger than what we thought and present a bigger opportunity than we knew.

Second, we found that many claimants who are not engaged can become engaged. We implemented an online work search readiness training program that involves about a 1- to 3-hour commitment for 2 weeks. About 31 percent of our claimants refused to participate. However, once their benefits were suspended, 25 percent of them completed it.

Third, we found that the claimants returned to work sooner by engaging in meaningful work search activities. Claimants that participated decreased their duration on unemployment by a full week, producing significant savings to our trust fund.

Lastly, our claimants not only responded well, they liked the tools. They voluntarily completed about a third more of the online workshops than they were required.

Utah has designed a triaged approach to reemployment. We use online engagement immediately and graduate to staff-assisted engagement over time. We invested some of our ARRA funds to upgrade our job exchange system. We implemented a statewide online overview, evaluation and workshop system. We developed a Reemployment Support Services system that allows employment center staff to select claimants to engage in staff-assisted workshops, employment counseling, and job fairs.

We implemented the REA program, and it is producing about $2 in savings for every dollar invested. We implemented REAs on EUC claimants; however, we discovered engaging the claimants in the early stages of the process would provide far greater trust fund savings.

Utah's average UI duration went from a high of 18.2 weeks in 2009 to 13.5 weeks at the end of 2012 as a result of some of these initiatives, and Utah has had a fairly strong economy. Last year's act also required EUC claimants to register for work and engage and document an active work search. Utah requires this for all claimants and believes these requirements are good public policy and supports their enactment.

Last year's act also provided that DOL could enter into agreements with up to 10 States to provide demonstration projects that

expedite reemployment and save unemployment dollars. The act limits the projects to subsidies for employers providing training, such as wage subsidies and direct disbursements to employers who hire claimants. However, the second provision requires that the disbursements are only permissible if the individual's new wages exceed their prior weekly benefit amount and they only be used to pay the difference between the new weekly wage and the prior weekly benefit amount. In our opinion, this provision is a flaw and Congress should consider eliminating it.

We implemented our own employer hiring incentive program in 2010 called the Utah Back to Work program providing a $2,000 hiring incentive to employers. Initially this appeared to be an ideal demonstration project; however, under the provisions within the law, it would be extremely difficult to market, as well as administer that program.

In summary, virtually all data suggests that the sooner a State becomes actively involved in engaging UI claimants in reemployment activities, the sooner the claimants return to the workforce. We feel they need to establish clear and meaningful expectations for the claimants, that reemployment is a priority that requires a full-time commitment. Claimants need to be held accountable when directed to reemployment activities and understand that there are consequences if they choose not to participate.

We would also like you to consider allowing States to use a small percentage, for example, 5 to 10 percent of any net trust fund savings generated from any enhanced reemployment or integrity efforts. And then finally, understand that all claimants are not committed to getting back to work. If we encourage them with meaningful tools and support, the vast majority of the claimants can become engaged and improve their job readiness.

Thank you.

Chairman REICHERT. Thank you, Mr. Starks.

[The prepared statement of Mr. Starks follows:]

April 16, 2013

PREPARED TESTIMONY FOR THE RECORD of the:
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HUMAN RESOURCES
Hearing on the Implementation of 2012 Unemployment Insurance Reforms
Offered by Bill Starks, Unemployment Insurance Director
Utah Department of Workforce Services

Introduction

Mr. Chairman and Members of the House Human Resources Subcommittee, I am Bill Starks, the Unemployment Insurance Director of the Utah Department of Workforce Services. I have been involved in Unemployment Insurance administration for 33 years. I appreciate the opportunity to provide you with my observations on last year's Middle Class Tax Relief and Job Creation Act of 2012 and re-employment opportunities on the UI system.

The Utah Department of Workforce Services (DWS) Unemployment Insurance (UI) program is focused on a few core goals:

- Effective re-employment of UI claimants is fundamental to maintaining the economic well-being of individuals, the state and the nation.
- Effective integrity and compliance safeguards help ensure the long-term solvency of the UI trust fund.
- Continual process improvements that focus on cost-effective service delivery provide maximum value to claimants and employers supported by data-driven outcomes.

Providing re-employment support for UI claimants should be an integrated UI, Wagner Peyser and Workforce Investment Act (WIA) service delivery effort in partnership with public and private entities. Early engagement of UI claimants is critical to effective re-employment and is a "win-win," helping claimants learn the life skill of effective job search, getting claimants back to work sooner and helping employers who are ultimately funding the UI system. However, the current funding streams that are needed to implement cost effective re-employment initiatives need to be more flexible. Congress should consider incentivizing states that demonstrate they can help claimants and save money within the UI trust fund at the same time. While many re-employment and integrity activities can clearly establish very positive returns on investment to the UI Trust Fund, current federal law prevents the states from utilizing a small portion of the savings to continue these types of activities. However, this should not be in lieu of, or a replacement of, the current administrative funding streams.

Background

Shortly after the Great Recession began in 2008, Utah discovered that we did not have the resources to effectively engage the explosion of new UI claimants, the claimants were not prepared to become re-employed and our systems were not aligned to provide effective integrated re-employment services. The number of UI claimants increased three-fold in less than 12 months; states were simply scrambling to pay benefits to the influx of new claimants. Fortunately, Utah had invested in high quality UI and ES information technology systems that provided us with greater flexibility and options for developing a more automated approach to re-employment.

Discoveries

In our studies of our programs, we had three significant discoveries that have important implications for how we operate our programs. First, Utah performed a control group study and surveyed 505 UI claimants participating in Utah's REA program and found that they rated their job search readiness at a D+ average. Through online workshops alone, we saw job search readiness climb approximately two grades to a B+. This indicated a major job search skills gap and a great opportunity to better prepare job seekers to seek and land jobs.

Second, we implemented an online work search requirement involving job search skills enhancement that averaged less than one hour of commitment per week for a two-week period. In our initial work 31.5 percent of claimants refused to participate. Once their benefits were suspended, 25 percent of our claimants complied (6.5 percent did not) and became re-engaged in work search. This demonstrated that we have approximately one in four claimants who were not engaged but who could easily become engaged in meaningful activities through the latest in on-line learning.

Last, we found that claimants who were required to use our online job search readiness system voluntarily completed over 30 percent more modules than they were required to complete. This told us that the claimants not only were willing to re-engage and improve their job search readiness, but also appeared to value the training and work search activities they were asked to complete.

Utah's Re-employment Approach

Utah's average UI duration went from a high of 18.2 weeks in 2009 to 13.5 weeks at the end of 2012, the 49th lowest in the nation despite having a fairly high wage replacement rate. UI partnered with our Workforce Development Division (WDD) and our Utah Department of Technology Services (DTS) to implement multiple strategic initiatives. Utah also leveraged American Recovery and Reinvestment Act (ARRA) stimulus funds, U.S. Department of Labor (DOL) Supplemental Budget Request (SBR) grants, Reed Act Distributions and federal

administrative grants to help fund the initiatives. While we have made progress, our goal is to continually strive to improve services for employers and job seekers.

Provide Meaningful UI Claimant Requirements

Regardless of the strategy to help claimants, they must be provided with meaningful expectations that focus claimants on returning to the workforce as their top priority. In Utah, we are employing an agency-wide strategy designed to align our entire department around a common goal: jobs. We require our claimants to participate in mandatory re-employment activities; failure to participate without good cause will result in denial of UI benefits.

- In Utah, UI claimants are required to register for work with the department's online job board within ten business days of their initial claim to qualify for benefits.

- In February 2011, Utah doubled the minimum work search requirements to four job contacts per week, which can take less than two hours per week. Returning to work should be a full-time job. Not all states require this type of activity. Not only does this set the wrong expectation for the UI program, it skews the primary measure by which Congress and the DOL seem to be using in assessing improper payments from state to state through the Benefits Accuracy Measurement (BAM) process. In August 2012, Utah converted it systems to require that all UI claimants file their weekly claim online, which includes documenting their four job contacts. We had a very positive outcome with 99 percent compliance by the second week of implementation.

- We also engage claimants in workshops, eligibility reviews, re-employment counseling and other activities as a condition of eligibility for continued benefits.

Utah's Five-Part Triaged Re-employment Strategy:

With limited resources and record UI caseloads, we designed a "triaged" approach to engaging the claimants through integrated online interfaces, assessments, learning and tools as the initial tier of services and staff-assisted services as the second tier. Job seekers are more motivated in early weeks of unemployment so it is ideal to equip them and engage them immediately. From Utah's perspective it is far more cost effective to provide as much in online self-service options as is reasonably possible before engaging claimants with staff-assisted re-employment services.

1. **Enhanced Job Registration System:** ARRA Stimulus funding was devoted to integrating Utah's current job-match system with our UI benefits system. Utah invested approximated $440,000 of these one-time funds to help modernize the self-service job exchange portal to realize a sustainable technology benefit rather than

invest all of the funds in unsustainable staffing costs. The integrated systems gather more accurate and complete data from job claimants and eliminate redundant data collection. New AutoCoder software assigns ONET codes to job seekers and employer job orders, and these assigned ONET codes are transferred to Labor Market Information (LMI). LMI provides individually relevant job market information to claimants on their personalized "My UI Account" web page, providing relevant information on job openings they are qualified for that is seamlessly integrated into their weekly online filing process.

2. **Online Overview and Evaluation Workshops:** Effective July 2012, all non-deferred UI claimants are required to take an online overview and evaluation as part of their work registration requirement, which is seamlessly integrated into the online initial claims process. The overview provides a brief introduction to DWS re-employment services and direct links to training and educational opportunities, supportive services and job opportunities. The claimant is then guided to an evaluation that asks 24 straightforward questions designed to identify their need for basic re-employment skills. Depending on claimants' answers to the questions, they are required to take up to five online re-employment workshops. Results of the online evaluation will also populate our employment services system, UWORKS, for employment counselors to view in order to assess additional tools or resources the job seeker may need. Claimants must complete workshops to address their job search skills gaps within 14 days to avoid a claim denial unless the claimant can demonstrate good cause for failure to complete the workshop(s).

   The need for developing online re-employment workshops became immediately apparent. Providing in-person workshops to all UI claimants would have overwhelmed employment centers; the department had neither the space nor the staffing to reach out to all new UI customers at the same time. The department had developed staff-assisted workshops a couple of years earlier that were showing promising outcomes by reducing the average duration of UI claimants that participated. However, the majority of the claimants never participated or did so just before they exhausted their entitlement to benefits.

   a. Initial outcomes indicate that UI claimants are much better prepared to become re-employed sooner, 39 percent of the claimants completing the workshops were hired versus only 28.3 percent for claimants who did not complete the workshops, representing a 37 percent increase in hire rates.
   b. Claimants seem to like the workshops; they are voluntarily completing 42 percent more online workshops than they are required.
   c. Approximately 7 percent of claimants failed to complete their online workshop(s) and are now ineligible for UI benefits. This has proven to be a

very cost effective service delivery option that is sustainable and provides significant savings to the trust fund.

3. **Enhanced Integration of Employments Services with UI:** Utah developed a Re-employment Support Services (RSS) system that allow employment center staff to select appropriate UI claimants to engage in workshops, employment counseling, job fairs and other re-employment activities provided the claimant remains unemployed 30 days after completion of their online workshops. While nothing prevents a claimant from seeking staff-assisted services at any point in their claim, our objective was to maximize the potential benefits of the self-service option first. The automated system facilitates written notification to claimants of their selection for re-employment workshops, automated tracking systems and an automated feedback loop to UI adjudication if they fail to participate in these re-employment activities. This also allows employment centers to engage active UI customers who are also receiving assistance from one or more other DWS public assistance programs. This helps the department leverage our resources while helping to reduce both UI and public assistance caseloads simultaneously.
    a. Outcomes indicate that 45 percent of the claimants who follow through with the engagements were hired versus only 31.1 percent for claimants who did not complete the engagement, representing a 45 percent increase in hire rates.

4. **Re-employment Eligibility Assessments (REAs):**. REAs combine (1) in-person UI eligibility reviews, (2) labor market information, (3) development of an individual re-employment plan and (4) referral to re-employment services or training. The first Utah REA claimants were selected on September 6, 2010. Claimants are selected using a profiling model that utilizes statistical data to identify claimants who are most likely to exhaust their benefits.

   Utah's second REA grant started on September 7, 2011, and ended on March 31, 2012. In our second REA grant year, Utah implemented follow-up REA interviews for claimants who have received initial REA services. These interviews provide additional assistance to help claimants reach their re-employment goals and ensure they are keeping commitments made in the initial visit. REA workers are also able to schedule UI REA claimants for in-person re-employment activities that are enforced by denying benefits if the claimant does not participate. These activities served to further enhance claimant re-employment preparation. Utah started its third year of participation in the REA program on April 1, 2012. Similar to recent research conducted by IMPAQ International in 2011, Utah found evidence that the REA

program is effective in reducing UI duration and generating savings to the UI trust fund.

a. To date, the individuals selected to participate have drawn $3.5 million less in regular state UI benefits than the "control group." Additional significant savings to the EUC federal trust account were also realized.
b. Taking into account $1.7 million in administrative costs, Utah generated a $1.8 million net positive return.
c. Our most recent results indicate 21 percent of claimants selected to participate in the program are no longer collecting UI benefits because they failed to participate within 10 days of being selected.
d. Results also indicate that 12.9 percent fewer claimants exhaust their benefits than the control group.
e. Claimants experienced 4.7 percent fewer weeks compensated than the control group.
f. Claimants experienced 141 percent more disqualifications than the control group.
g. Claimants experienced 9.4 percent more re-employed than the control group.
h. Claimants experienced 5.9 percent fewer weeks to date of re-employment than the control group.

5. **REAs for EUC Claimants:** Section 2142 of the *Middle Class Tax Relief and Job Creation Act of 2012 (HR3630)* required states to provide re-employment services and REAs to claimants who begin receiving EUC First Tier benefits or who transition from First Tier to Second Tier on or after March 23, 2012. This requires (1) in-person UI eligibility reviews, (2) labor market information, (3) a skills assessment and (4) orientation to the services available in the One-Stop Centers.

   Utah feels there is always value in engaging UI claimants. However, engaging the UI claimant in the early stages of the claims process will provide far greater trust fund savings and EUC benefit savings. Currently, unemployed Utahans are only eligible for up to 14 weeks of EUC Tier I benefits, due to Utah's 5.3 percent three-month average Total Unemployment Rate. The claimant is required to be scheduled for the in-person REA by their sixth week; thus the EUC claimant will have eight or fewer weeks of EUC benefits remaining by the time they have completed the engagement.

   a) To date 24 percent of claimants selected to participate in the program are no longer collecting UI benefits because they failed to participate within 10 days of being selected.

By comparison to other current initiatives, we expect to not only achieve better trust fund cost savings than all of our benefit cross match integrity efforts together but also much better employment outcomes in the process.

Utah's Reaction to Recent Programs and Opportunities

Given Utah's experience with an integrated reemployment approach we have the following thoughts on recent programs and opportunities to improve our unemployment insurance system.

New Work Search Provisions of EUC Claimants:

Section 4001 of the EUC as amended by the *Middle Class Tax Relief and Job Creation Act of 2012* required EUC claimants to do the following:

- **I.** Register for work with the state agency.
- **II.** Engage in an active work search.
- **III.** Maintain documented work search records and provide them to the state upon request.

Utah believes these requirements are good public policy and supports their enactment. Utah already requires both regular UI and EUC claimants to provide documentation of four job contacts as part of their weekly online UI certification process.

Demonstration Projects:

Section 2102 of the *Middle Class Tax Relief and Job Creation Act of 2012* provided that DOL could waive the provisions of the Social Security Act §303(a)(5) and the Federal Unemployment Tax Act §3304(a)(4), which require a state to use all money withdrawn from its unemployment compensation (UC) fund solely for the payment of UC benefits and enter into agreements with up to 10 states that will develop demonstration projects that expedite the re-employment of individuals receiving UC benefits without increasing the net cost to the states' unemployment trust fund account.

However, Section 305(e) provides that activities under an approved demonstration project are limited to the following:

1. Subsidies for employer provided training, such as wage subsidies
2. Direct disbursements to employers who hire individuals receiving unemployment compensation, *not to exceed the weekly benefit amount (WBA) for each such individual, to pay part of the cost of wages that exceed the unemployed individual's prior benefit level* (emphasis added)

The above italicized provisions create, in our opinion, a major stumbling block for an efficient and effective re-employment demonstration project that provides employers hiring incentives. DOL issued guidance (UIPL 15-12) and provided an example of how this statutory provision is interpreted. Direct disbursements to employers are only permissible if the individual's wages in re-employment exceed such individual's prior WBA and may only be used to pay the difference between the new weekly wage and the individual's prior WBA. For example, if an individual's WBA is $300 and the weekly re-employment wages are $400, the wage subsidy could be no more than $100, the amount by which the wages exceed the WBA.

The Utah Department of Workforce Services (DWS) implemented an effective re-employment initiative almost three years ago, the Utah Back to Work program, which provides eligible employers hiring incentives for hiring individuals currently receiving UI benefits. It provides the employer $500 at the time of the hire and another $1,500 if the employer retains the worker for 90 days. This appeared to be an ideal potential demonstration project, under the recently enacted legislation. However, as you can imagine, it would be extremely difficult to market, let alone administer, both for the employer and the department. Virtually every person hired would create a different incentive amount; the employer would have to certify weekly payrolls; and WBA's that run Sunday through Saturday would need to be reconciled with the employer's weekly, bi-weekly or monthly pay periods. In summary, the administrative burdens placed on the department and employers would likely far outweigh the possible benefits of the program.

Utah applauds the idea of demonstration projects that encourage innovation and risk-taking in the design of effective re-employment initiatives; however, Congress should consider amending this law to make it less burdensome to encourage states to participate.

Support Increased Flexibility of Resources:
Separate federal funding sources and associated program boundaries can present obstacles to integrated service delivery. There are clear limitations on how UI, Wagner-Peyser and WIA funds can be spent. While the intent of the limitations is to ensure effective and appropriate program administration, it effectively makes integration more difficult.

Section 303(a) (8) of the Social Security Act (SSA) restricts Title III grants to be used "solely….for the proper and efficient administration" of the state's unemployment compensation law; broadening the definition would provide administrators greater flexibility and resources, creating effective re-employment initiatives.

DOL has shown good leadership with its focus on re-employment, integrity and state consortium initiatives. It is time to connect benefits and employment into a seamless service delivery strategy without creating funding barriers.

Summary of How to Better Integrate UI into the Overall Workforce System:

- Engage claimants earlier in claims. Virtually all data suggests that the earlier in a claim that a state actively engages UI claimants in re-employment activities, the sooner the claimant returns to the workforce.

- Establish clear and meaningful expectations for claimants that re-employment is a priority and requires a full-time commitment. Claimants need to be held accountable when directed to re-employment activities and understand that there are consequences if they choose not to participate.

- Provide UI claimants an integrated approach, maximizing the latest in effective online learning and other technology wherever opportunities exist, to ensure claimants are fully engaged in all employment opportunities. An integrated automated approach is the most

cost-effective and feasible opportunity to initially engage the overall claimant population, saving enough time for employment services staff to focus on the claimants with multiple barriers who most need our help.

- Provide high-quality information technology systems to support your re-employment mission; this is mandatory, not optional.
- Increase flexibility with how program resources are used for re-employment initiatives without jeopardizing program integrity or accountability.
- Increase flexibility with the use of waivers and demonstration projects to incentivize states for developing innovative strategies for getting claimants re-employed sooner and realizing trust fund savings. Consider allowing states to use a small percentage, for example 5 to 10 percent, of any new net trust fund savings generated from enhanced re-employment (or integrity efforts) if such new uses would have a positive return on investment. This could enhance ongoing administrative funding while encouraging states to undertake meaningful initiatives.
- Provide timely follow-up (preferably electronically) to claimants throughout the life of their claim to ensure they continue to be actively engaged in their efforts to return to the workforce.
- Understand that though not all claimants are committed to getting back to work; if we encourage them with meaningful tools and support, the vast majority of claimants can become engaged and improve their job readiness. Sometimes through sheer persistence, claimants will become more engaged in their own success, close their job search skills gap and achieve much better employment outcomes.

Chairman REICHERT. Senator, you are recognized for 5 minutes.

STATEMENT OF HON. TOMMY WILLIAMS, TEXAS STATE SENATOR, DISTRICT 4

Mr. WILLIAMS. Thank you, Mr. Chairman, Members. I am State Senator Tommy Williams. I represent the southeast portion of Texas, the southeast corner of the State, and the suburban areas on the northern and eastern parts of the greater Houston area. My Senate district overlaps Congressman Brady. He is my neighbor and my Congressman. I serve, as well as the 800,000 constituents I represent, I serve as chairman of the Senate Finance Committee, and we have jurisdiction over the State's $196 billion biennial budget and all State tax policy.

I am pleased to have an opportunity to appear before the Committee today and to testify about the Middle Class Tax Relief and Job Creation Act, Public Law 112-96. The bill contained major provisions, as you know, related to unemployment insurance and TANF benefits. There have been two bills that have been filed in the 83rd legislature in Texas that would enact drug testing provisions for certain unemployment insurance claimants authorized by House Resolution 3630. I am the author of Senate Bill 21, which relates to drug screening and testing as a condition for receiving unemployment compensation benefits by certain individuals. Its House companion is carried by Representative Brandon Creighton. Senate Bill 21 passed out of the State Senate 31 to nothing on Thursday, April the 11th. The bill had broad bipartisan support. It

would require applicants for unemployment insurance benefits to submit to drug screening if their only suitable work is for an occupation identified by the U.S. Secretary of Labor as one that regularly requires drug testing.

If the applicant's drug screening indicates that person has used illegal drugs, they can and would be required to submit to and pass a drug test before being eligible to receive unemployment insurance benefits. If the individual is required to take a drug test and tests positive, they would be ineligible for benefits and they must retake and pass the drug test no sooner than 4 weeks after the failed test in order to become eligible for unemployment insurance.

There are also provisions that would allow people who had a false positive to challenge the test. The bill also allows those who test positive to continue receiving unemployment benefits if they enroll and attend a drug treatment program. I expect this bill will receive broad bipartisan support in the Texas House as it did in the Senate and for it to be on the Governor's desk in a few weeks.

The Texas Senate also passed Senate Bill 11, which subjects high-risk TANF applicants to drug testing, and those who fail the drug test would be disqualified from TANF benefits for 1 year. However, applicants who fail the drug test could reapply for benefits if they enter a drug treatment program. Applicants who tested positive for drugs three times would be permanently disqualified from receiving any TANF benefits.

Senator Jane Nelson, author of Senate Bill 11, modified her original bill to address concerns that children would be hurt if TANF applicants flunked the drug test. The Senate version allows TANF benefits to continue helping dependents through is a third party known as a protective payee, if an adult applicant tested positive for drugs. This legislation also received broad bipartisan support and passed the Senate 31 to nothing on Wednesday, April the 10th.

The bill would also remove all sanctions if an adult recipient who tested positive for drugs passes a new drug test after 6 months. The bill requires the Health and Human Services Commission to use the most efficient and cost-effective drug screening assessment tool that is developed jointly with the Department of State Health Services based on validated controlled substance use and assessment tools.

It is my understanding that the Labor Department has not yet written regulations for the drug testing program. It is our hope that these regulations would be issued soon so that the State of Texas can implement the program when these two bills become State law on September 1st.

Public Law 112-96 also creates a new cost-neutral waiver authority providing States with unprecedented flexibility on how they use their unemployment benefits to promote the type of pro-work reforms that led to successful welfare program reform in the nineties. Our State submitted a request on February the 24th of 2012. It was denied on March 16th of that same year. And on April 19th, the DOL issued another statement providing guidance on unemployment insurance demonstration products.

Representative Burkett has introduced House Bill 3005 in the Texas House which would amend the labor code to allow the Work-

force Commission to use money in the Unemployment Compensation Fund for reemployment demonstration projects pursuant to an agreement or waiver. We already have a very highly successful program in Texas called Back to Work that has been championed but our Lieutenant Governor, and under that program more than 5,000 employers have made nearly 31,000 hires as of October 29th, 2012.

Overall, 57.6 percent of the Texas Back to Work claimants were still employed in the quarter after the incentive period ended. The percentage jumps to 83.8 percent when you look at those placements which were successful. The Texas Back to Work placement program is $595 cheaper on average than the total benefit cost for a similar claimant who is not placed.

Thank you, Mr. Chairman, and thank you, committee Members, for allowing me to update you on this, and I will be glad to take any questions.

Chairman REICHERT. Thank you.

[The prepared statement of Mr. Williams follows:]

State Senator Tommy Williams' Testimony
House Committee on Ways and Means
Subcommittee on Human Resources
April 16, 2013

Good morning Mr. Chairman and Members. I'm State Senator Tommy Williams. I represent Senate District 4, which includes the southeastern portion of the State of Texas and the northern and eastern parts of the Greater Houston Area. My Senate District overlaps with Congressman Brady; he is my neighbor and my Congressman.

I serve as Chairman of the Senate Finance Committee. The Senate Finance Committee has jurisdiction over the state's $196 billion (all funds) biennial budget and state tax policy.

I am pleased for the opportunity to appear before the committee today to testify about the Middle Class Tax Relief and Job Creation Act, or Public Law 112-96. The bill contained major provisions, as you know, relating to unemployment insurance and TANF benefits.

There have been two bills filed in the 83rd Texas Legislature that would enact drug testing provisions for certain unemployment insurance claimants authorized by House Resolution 3630.

I am the author of Senate Bill (SB) 21, which relates to drug screening/ testing as a condition for receiving unemployment compensation benefits by certain individuals. Its House companion is carried by Rep. Brandon Creighton. SB 21 passed out of the State Senate, 31-0, on Thursday, April 11. The bill received bipartisan support.

The bill would require applicants for unemployment insurance benefits to submit to a drug screening, if their only suitable work is for an occupation identified by the U.S. Secretary of Labor as one that regularly requires drug testing. If the applicant's drug screening indicates that person has used illegal drugs, they then would be required to submit and pass a drug test before being eligible to receive unemployment insurance benefits. If the individual is required to take a drug test and tests positive, they would be ineligible for benefits. They must retake and pass the drug test no sooner than four weeks after the failed test in order to become eligible for unemployment insurance.

There also are provisions that would allow people with a false positive to challenge the test. The bill also allows persons who test positive to continue receiving unemployment benefits if they enroll and attend a drug treatment program. I expect this bill will enjoy broad bipartisan support in the Texas House, as it did in the Senate, and to be on the governor's desk in a few weeks.

The Texas Senate also passed SB 11, which subjects high-risk TANF applicants to drug testing. Those who fail the drug test would be disqualified from TANF benefits for one year. However, applicants who fail the drug test could reapply for benefits if they enter a drug treatment program. Applicants who tested positive for drugs three times would be permanently disqualified from receiving TANF benefits.

Senator Jane Nelson, author of SB 11, modified her original bill to address concerns that children would be hurt if TANF applicants flunked the drug test. The final Senate version allows TANF benefits to continue helping dependents through a third party, known as a protective payee, if an

adult applicant tested positive for drugs. This legislation also received broad bipartisan support, passing the Senate, 31-0, on Wednesday, April 10.

The bill also would remove all sanctions if an adult recipient, who tested positive for drugs, submits to a new drug test after six months and the test is negative.

The bill requires the Health and Human Services Commission to use the most efficient and cost-effective drug screening assessment tool that is developed jointly with the Department of State Health Services, based on validated controlled substance use screening assessment tools.

Public law 112-96 also creates new cost-neutral "waiver" authority, providing states with unprecedented flexibility on how they use unemployment benefits to promote the type of pro-work reforms that led to successful welfare reform in the 1990s. Texas submitted a waiver request to the Department of Labor on February 24th, 2012, which was denied on March 16th, 2012. On April 19th, 2012 the Department of Labor issued another statement providing guidance on Unemployment Insurance demonstration projects.

House Bill 3005 by Rep. Burkett has been introduced in the Texas House , which would amend the Texas Labor Code to allow the Texas Workforce Commission to use money in the Unemployment Compensation Fund for re-employment demonstration projects pursuant to an agreement - or waiver - from the U.S. Secretary of Labor. We already have a highly successful program called Texas Back to Work.

Under that program:

- More than 5,000 employers had made nearly 31,000 hires as of Oct. 29, 2012.
- Overall, 57.6 percent of Texas Back To Work claimants were still employed in the quarter after the incentive period ended. The percentage jumps to 83.8 percent when looking only at those whose placements were successful.
- A Texas Back to Work placement is $595 cheaper on average than the total benefit cost for a similar claimant who was not placed.

Federal law now also includes a lay-off aversion program that allows employers to reduce the amount of hours an employee is working to collect a portion of the unemployment insurance benefits. Our state already operates a short-term compensation program, which is called "Shared Work." This program offers employers an opportunity to avert temporary layoffs of employees by reducing the number of hours in a workweek while allowing those workers to receive unemployment insurance benefits to make up for the reduced hours.

In order to continue operating the program, our State would have to amend Texas law to comply with the federal requirements. There are two bills pending in the Texas Legislature that would bring our short-term compensation program into federal compliance. SB 919 by Sen. Eltife related to the shared work/unemployment compensation program is recommended for the Senate Local and Uncontested Calendar this Thursday. HB 2035 by Rep. Vo addresses the same issue and passed the Texas House last week.

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Public Law 112-96 also created a national jobs search requirement for everyone collecting state and federal unemployment insurance benefits, from the first through the last week of benefits.

The Texas Workforce Commission, by commission rule, currently requires that claimants actively seek work to remain eligible for unemployment insurance benefits . House Resolution 3630 requires this to be in statute. There are two bills pending in the Texas Legislature that would put this into state statute: SB 920 by Sen. Eltife, which has passed the Senate and been referred to the House Economic and Small Business Development Committee, and HB 1995 by Rep. Reynolds, which was reported favorably from committee and is no doubt awaiting the arrival of the Senate bill.

The law also requires reemployment eligibility assessments for persons before beginning to collect deferrable unemployment insurance benefits to determine what services and activities they need to return to work. It provides $1 billion in new, limited time funds to assist the long-term unemployed. Currently, our State has reached out to 232,999 claimants for reemployment eligibility assessments. We anticipate outreach to a total of approximately 355,000 by completion of this initiative.

Public Law 112-96 requires states to reduce current State and Federal Unemployment benefit checks to recover prior overpayments. The Texas Workforce Commission has taken aggressive steps to reduce overpayments by more than 2 percentage points in a year. The total annual overpayment rate in Texas is now 9.17 percent as compared to 11.7 percent in 2011.

The federal law also reduces the maximum number of weeks of all Unemployment benefits payable in states based on average unemployment rates. Eligible unemployed Texans can receive up to 54 weeks of Unemployment benefits:

- 26 weeks of regular Unemployment Insurance benefits;
- 14 weeks under Tier I of Emergency Unemployment Compensation; and
- 14 weeks under Tier II of Emergency Unemployment Compensation.

Public Law 112-96 also allows states the option to implement a self-employment assistance program. No bills have been filed in Texas to allow for a Self-Employment Assistance.

Finally, in addition to the provisions above, the law also included restrictions of TANF dollars. TANF funds cannot be accessed at ATMs in strip clubs, liquor stores, or casinos in Texas.

Thank you, Mr. Chairman and Committee Members, for allowing me to update you on the Middle Class Tax Relief and Job Creation Act and its application in Texas. I would be happy to respond to any questions you may have.

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BILL ANALYSIS

Senate Research Center
83R18952 KSD-F

C.S.S.B. 21
By: Williams et al.
Economic Development
4/3/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.S.B. 21 amends Texas law to ensure that all individuals referred by the Texas Workforce Commission are ready to work. Changes in federal law allow states to require drug-testing for claimants of unemployment insurance under certain circumstances.

This legislation amends the Texas Unemployment Compensation Act by adding a drug-testing eligibility requirement for applicants to receive unemployment compensation benefits. The Texas Workforce Commission would not be testing all applicants, but only those who fail a pre-screen test and work in certain identified industries. Claimants who refuse drug testing or fail such tests would be barred from receiving unemployment insurance benefits until the individual passes a test at least four weeks after the date of the failed test.

C.S.S.B. 21 amends current law relating to drug screening or testing as a condition for the receipt of unemployment compensation benefits by certain individuals.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 1 (Section 207.021, Labor Code) and SECTION 2 (Section 207.026, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 207.021, Labor Code, by adding Subsection (b-1), as follows:

> (b-1) Provides that an individual for whom suitable work is available only in an occupation designated by United States Department of Labor regulation as an occupation that regularly conducts preemployment drug testing is available for work for purposes of Subsection (a)(4) (relating to the eligibility of a person to receive benefits by being available to work) only if the individual complies with the applicable requirements of the drug screening and testing program administered by the Texas Workforce Commission (TWC) under Section 207.026. Requires TWC to adopt rules for determining the type of work that is suitable for an individual for purposes of this subsection.

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SECTION 2. Amends Subchapter B, Chapter 207, Labor Code, by adding Section 207.026, as follows:

Sec. 207.026. DRUG SCREENING OR TESTING AS CONDITION OF BENEFIT ELIGIBILITY FOR CERTAIN APPLICANTS AND RECIPIENTS. (a) Requires TWC by rule to adopt a drug screening and testing program as part of the requirements for the receipt of benefits under this subtitle by an individual to whom Section 207.021(b-1) applies. Requires that the program comply with the drug testing requirements of 49 C.F.R. Part 382 or other similar national requirements for drug testing programs recognized by TWC; and be designed to protect the rights of benefit applicants and recipients.

(b) Requires each individual under the program to whom Section 207.021(b-1) applies who files an initial claim to submit to and pass a drug screening assessment developed and administered by or on behalf of TWC for purposes of this subsection as a prerequisite to receiving benefits under this subtitle. Requires that the assessment tool used under this subsection consist of a written questionnaire to be completed by the individual applying for benefits and be designed to accurately determine the reasonable likelihood that an individual is using a substance that is subject to regulation under Chapter 481 (Texas Controlled Substances Act), Health and Safety Code. Requires an individual whose drug screening assessment indicates a reasonable likelihood of use by the individual of a substance subject to regulation under that chapter to submit to and pass a drug test administered by or on behalf of TWC to establish the individual's eligibility for benefits under this subtitle. Provides that an individual who fails a drug test under this subsection is not eligible to receive benefits under this subtitle until the individual has passed a subsequent drug test administered by or on behalf of TWC not earlier than four weeks after the date the individual submitted to the failed drug test.

(c) Provides that an individual is not disqualified from receiving benefits based on the individual's failure to pass a drug test, notwithstanding Subsection (b), if, on the basis of evidence presented by the individual, TWC determines that the individual is participating in a treatment program for drug abuse, or the failure to pass the test is caused by the use of a substance that was prescribed by a health care practicioner as medically necessary for the individual.

(d) Requires TWC by rule to prescribe procedures for an appeal and the retaking of a failed drug test by an individual under this section.

(e) Requires TWC to administer the program under this section using existing administrative funds and any funds appropriated to TWC for the purposes of this section.

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SECTION 3. Makes application of the changes in law made by this Act prospective to February 1, 2014.

SECTION 4. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 5. Effective date: September 1, 2013.

Chairman REICHERT. Mr. Hobbie, you are recognized.

STATEMENT OF RICH HOBBIE, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF STATE WORKFORCE AGENCIES

Mr. HOBBIE. Good afternoon, Chairman Reichert and Ranking Member Doggett and Members of the Subcommittee. I am Rich Hobbie, executive director of the National Association of State Workforce Agencies, known as NASWA. Our organization was founded in 1937, and since 1973 it has been a private nonprofit corporation financed by annual dues from Member States and other revenue. On behalf of NASWA, I am pleased to comment on imple-

mentation of the Middle Class Tax Relief and Job Creation Act of 2012.

First, State workforce agencies have done an extraordinary job reacting to unprecedented challenges of the great recession, processing record numbers of claims and programming numerous law changes. The unemployment insurance system has paid claimants nearly a half trillion dollars from 2008 to 2012. But chronic Federal underfunding of UI program administration has left States with legacy computer systems averaging 25 years old. Upgrading a typical State UI benefit and tax system has been estimated to cost between $45 million and $100 million.

NASWA urges Congress to enact the NASWA UI administrative financing reform proposal that guarantees States at least 50 percent of the Federal Unemployment Tax Act revenue for administrative purposes.

Second, States applaud Congress for funding reemployment services and reemployment eligibility assessments, known as RES and REA. States have moved aggressively to meet with over 9 million emergency unemployment compensation or EUC claimants since the enactment of the Job Creation Act to comply with the in-person eligibility assessment requirement. States reported several startup problems, a short time period to plan and implement the program, the need for extensive cross training of staff, initially high claimant no show rates, and a lack of meeting space. However, most of these issues have been resolved.

Based in part on this experience, NASWA strongly supports a permanent REA/RES program to assist jobless workers return to work. Recent evaluations demonstrate these programs increase employment and reduce unemployment insurance duration and are cost effective.

NASWA recommends the Federal Government create a capped mandatory spending grant to States for REA and RES to ensure steady and sustainable funding. We know this might be hard in the current budget environment, but this would be a positive reform for workers, employers, and the government.

Three, sequestration, which began on March 1st, applies to some mandatory programs. The EUC sequestration amount represents a significant portion of nondefense spending reductions, perhaps as much as 10 percent. But what seemed to be a simple percentage change of benefit amounts is complex for many States. A recent NASWA survey asked when States could implement sequestration of EUC. A third of States said they could implement quickly, but many States said that changes could not be implemented timely or with minimal cost. There still are as many as 10 States that do not know how they will make the changes.

Four, on the nonreduction rule applied to weekly benefit amounts, NASWA recommends elimination. States should have the flexibility to determine unemployment benefit amounts.

Five, NASWA does not have a position on drug testing, but State administrative funds are already constrained and funding might have to come from other UI administrative activities or other sources.

Six, on the demonstration projects, USDOL guidance seems to be a mirror of Federal law. Federal law and guidance do raise con-

cerns for States, however. States would have to shift scarce administrative resources to plan, build, manage, evaluate, and regularly report on the approved projects. Projects could not result in any increased cost to the State UI trust fund, and calculating a wage subsidy based on different weekly benefit amounts for each claimant also could be a challenge for States and employers.

Seven, before the Act, 22 States had short-time compensation programs. Since then, three additional States have implemented the program.

Eight, on self-employment assistance, NASWA partnered with the USDOL for a national webinar to promote SEA programs. Fourteen States participated in that webinar, but only four States have active programs as of now.

Nine, on data exchange standardization, NASWA agrees that data in various publicly funded programs could be collected, stored, and exchanged more efficiently.

NASWA and its Members are currently engaged in two successful standardized data exchange systems, the State Information Data Exchange System between employers and States and the Interstate Connection Network among States.

Mr. Chairman, thank you for the opportunity to testify. I look forward to answering questions.

Chairman REICHERT. And thank you.

[The prepared statement of Mr. Hobbie follows:]

**NATIONAL ASSOCIATION OF STATE WORKFORCE AGENCIES (NASWA)
STATEMENT ON THE UNEMPLOYMENT INSURANCE PROVISIONS OF THE
MIDDLE CLASS TAX RELIEF AND JOB CREATION ACT OF 2012**

**SUBMITTED BY RICHARD A. HOBBIE
EXECUTIVE DIRECTOR,
NATIONAL ASSOCIATION OF STATE WORKFORCE AGENCIES
ON APRIL 16, 2013**

**TO THE HOUSE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HUMAN RESOURCES**

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to testify on implementation of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96). State Workforce Agencies are responsible for implementation of Emergency Unemployment Compensation 2008 (EUC08) and other provisions in the Act. The National Association of State Workforce Agencies (NASWA) submits this testimony for the record.

The mission of NASWA is to serve as an advocate for state workforce agencies' programs and policies, as a liaison to workforce system partners, and as a forum for the exchange of information and effective practices. Our organization was founded in 1937. Since 1973, it has been a private, non-profit corporation, financed by annual dues from member agencies and other revenue.

Our members administer critical programs including Unemployment Insurance (UI), parts of the Workforce Investment Act (WIA), Veterans' Employment and Training Services (VETS), Labor Market Information (LMI), Trade Adjustment Assistance (TAA) and employment services.

The Unemployment Insurance System in the Aftermath of the Great Recession

The UI program is an entry point to the nation's one-stop career center system for workers who lose their jobs. For many workers, this may be their first interaction with the publicly funded workforce system. State workforce agencies aim to provide income support efficiently and timely while emphasizing reemployment of UI claimants.

The UI system is a unique federal-state partnership, grounded in federal law, but administered through state law by state officials. It provides temporary, targeted, timely and partial wage replacement to laid-off workers. Created by the Social Security Act of 1935, the UI system has been a successful social insurance program for over 75 years. The system is decentralized to the state level to allow states to design and implement their own programs to mesh with their economies. State unemployment benefits are financed through state payroll taxes, which are held in individual state trust fund accounts in the federal Unemployment Trust Fund in the U.S. Treasury. The federal government finances state administration of the program with revenue collected under the Federal Unemployment Tax Act (FUTA).

Administering unemployment benefits involves four core business processes: (1) taking initial claims; (2) resolving disputes between UI claimants and employers in the claims adjudication process; (3) taking and certifying continuing claims: and (4) providing an appeals process whereby claimants or employers may appeal a state's determination of an individual's eligibility for UI benefits. States also administer employer taxes involving such processes as registering employers, handling employer wage reporting, charging benefits to individual employers and making decisions on appeals. These are complicated processes that have been made harder by insufficient federal funding for state administration and the increased workload demands stemming from the Great Recession and continuing high unemployment.

State workforce agencies have done an extraordinary job reacting and adapting to the unprecedented challenges of the Great Recession -- processing record numbers of claims and programming numerous complicated law changes. In one six-month period early in the recession -- between July 2008 and January 2009 -- weekly initial claims for UI more than tripled. In the face of continuing high unemployment, between June 2008 and the end of 2012, states implemented twelve

different federal laws extending long-term UI benefits, many of which were enacted after the program had expired. Altogether, the federal extensions provided more than $200 billion in outlays from 2008 through 2012, making the UI program the greatest contributor to additional federal spending in response to the Great Recession.

To address the unprecedented caseload volume, states made numerous staffing and other operational and business process adjustments, sometimes moving resources from lower to higher priority functions, such as from tax collection to claims processing. They also invested in new technologies to automate processes and allow for more self-service over the Internet, which a recent NASWA survey shows is continuing in the post-recession period. Despite the operational adjustments states made, state administrative performance was hurt by the Great Recession, most notably in the appeals and nonmonetary determination areas, but is moving back to normal as workloads abate.

While benefit outlays have decreased recently, we should note the rapid and unprecedented increases in workload on state workforce agencies caused by the Great Recession brought some state IT programs nearly to a breaking point. Chronic federal underfunding of the states for the administration of the UI infrastructure has left states with legacy information technology averaging 25 years old. In fact, only two states began the recession with a modernized IT benefits system. Despite recent additional funding from the U.S. Department of Labor for UI IT modernization, sufficient funding to implement major IT modernization continues to elude many states. To address this problem, NASWA proposed a UI administrative financing reform, which in effect would guarantee states would receive a total of at least 50 percent of FUTA taxes collected. If enacted, states would be better able to finance modernization of their UI IT systems.

The Middle Class Tax Relief and Job Creation Act of 2012 and the American Taxpayer Relief Act of 2012

The Middle Class Tax Relief and Job Creation Act of 2012 and the American Taxpayer Relief Act of 2012 (ATRA) extended the expiration dates of the EUC08 program and the temporary provisions of the Extended Benefit (EB) program to the end of 2013. The Middle Class Tax Relief and Job Creation Act contained complex and phased-in changes to the EUC08 program and altered the duration and state availability of each tier of the EUC08 program during three separate periods: March-May 2012, June-August 2012, and September-December 2012. States moved rapidly to implement the Act and appreciated the law kept the current tier structure intact. However, states face a significant new hurdle, which is reducing the weekly benefit amount (WBA) for EUC claimants as required under the March 1 sequestration. We address the issue of EUC sequestration at the end of this testimony.

Reemployment and Eligibility Assessments and Reemployment Services

The Middle Class Tax Relief and Job Creation Act of 2012 and the ATRA provided temporary new funding to states to provide Reemployment and Eligibility Assessments (REA) activities and Reemployment Services (RES) to EUC08 claimants. NASWA strongly supports funding to assist jobless workers return to work faster and to adopt a permanent REA/RES program, as outlined under "NASWA Recommendations." A permanent REA/RES program, modeled after the current EUC08 REA/RES program, is needed to help states reduce long-term unemployment and improve trust fund solvency.

In 2010, NASWA helped the U.S. Department of Labor (USDOL) convene a workgroup of federal, state and local partners to develop a national vision connecting UI claimants to reemployment services, drawing on state innovations and emerging technologies. If implemented nationally, the vision would ensure every claimant is viewed as a jobseeker from the point of initial filing for benefits. In combination with assessments of continuing eligibility and work search enforcement, every claimant would receive labor market information and job search assistance services.

Many UI claimants have little in-person interaction with employment and job search assistance services. Most UI claims processing occurs remotely over the Internet or telephone. Claimants usually are required to register for work, but they might not know or avail themselves of the services in local one-stop career centers, also called American Job Centers, authorized under the Workforce Investment Act of 1998 (WIA). While states and the federal government have become more interested in connecting UI claimants to reemployment services, the inflation-adjusted funding for the Wagner-Peyser Act program has been declining and has not kept pace with the growth in the labor force, nor did it respond proportionately to the near tripling of initial UI claims during the Great Recession. Moreover, most states do not have a permanent source of federal or state funding for providing REA and RES to all UI claimants exclusively.

Numerous recent evaluations demonstrate REA and RES programs reduce UI duration and are cost-effective. Reemployment and eligibility assessments and reemployment services are proven to reduce a claimant's duration on unemployment insurance benefits by two weeks or more. This may not sound significant, but a reduction of two weeks of unemployment benefits for one million workers would save about $600 million in federal benefit outlays. At a cost of say, $200 per claimant, such a program could lead to a net savings of $400 million ($600-$200 million).

The most recent research evidence[1] by Impaq International examines a program in Nevada, a state that uses the same staff to provide integrated REA and RES to UI claimants. The study found claimants in the program were much less likely than the comparison group to exhaust regular state UI. The program lowered UI duration by an average of 3.1 weeks, and reduced UI payments an average of $873 per claimant. With a cost of REA averaging $53, and RES averaging $148, for a total average cost per claimant served of $201, the program provided a $4 return on each $1 invested by government. Furthermore, the evidence shows the program "… did not just promote the early exit of claimants from the UI system; it also helped claimants obtain employment earlier than they would have in the absence of the program."

In addition to the research evidence, the implementation record to support a permanent REA and RES program is strong. Since 2008, three laws have provided temporary funding for reemployment services, including the American Recovery and Reinvestment Act (ARRA), the Middle Class Tax Relief and Job Creation Act, and the American Taxpayer Relief Act. State workforce agencies view the reemployment service programs they established under ARRA Wagner-Peyser Act funding among their greatest accomplishments. However, the Recovery Act funds, which were targeted on UI claimants receiving regular state benefits, have been spent. Many states remain highly interested in REA and RES for claimants on regular state benefits, but had to scale down or eliminate these programs.

Thanks to this Committee's leadership, two subsequent laws provided mandatory funding for REA and RES programs targeted on EUC08 claimants—those in their 27th week or more. While states have faced some challenges, which are outlined below, states were able to implement the programs on a short timeframe, and many states report they were a success from the standpoint of workers, employers and administrators.

NASWA recently surveyed states about their implementation experience with the REA and RES provisions for EUC08 claimants. The survey found the overwhelming majority of states have provided not only the mandatory services (labor market information, skills assessment, and orientations) to claimants, but also one or more of the optional services (referral to training, additional reemployment services, job search counseling, individual or group career counseling, and comprehensive and specialized assessments). Due to budget constraints, no states have reported conducting an impact analysis. However, through surveys and other NASWA forums, states have mentioned several challenges that, if addressed in future legislation, would improve the program outcomes further. The challenges are:

Temporary funding: Despite the short-term nature of the program, states had to invest in overcoming start-up challenges, with limited time to plan and execute. Start-up costs, which were not covered explicitly by the legislation, included program development, staff training, and creation of a scheduling and rescheduling process. They also experienced other management costs. The requirement for a one-on-one assessment was not something EUC08 claimants were familiar with and undoubtedly contributed to challenges such as claimants not appearing for appointments, thus requiring followup. However, now that start-up investments have been made under EUC08, even greater returns could be gained from a permanent, ongoing program.

The $85 per claimant: While states were able to implement the program at a rate of $85 per claimant, the majority of states (61 percent) reported they were not able to supplement the $85 with other funds, and funding remains a concern in many states that were able to provide only minimal services. For states that were able to rely on other workforce funding to supplement, crowding out services for other job center customers is also a concern and an unrecognized "opportunity cost." It is important to know what states have been able to accomplish with the $85 per claimant, and ensure the level of services matches what the evaluations show might be necessary to help jobseekers find work and also reduce UI duration.

[1] Michaelides, Poe-Yamagata, Benus, and Tirumalasetti, "Impact of the Reemployment and Eligibility Assessment (REA) Initiative in Nevada," January 2012, Impaq International, LLC.

The "in-person" requirement: According to USDOL guidance, "states must, at a minimum, require a EUC08 claimant's presence to perform the review of eligibility and review of the claimant's work search." This has proven challenging for a number of states. The guidance interprets the statutory "in person" provision to require the physical presence of each claimant at a one-stop career center or affiliate office. While the guidance permits flexibility to handle cases remotely where there would be a hardship on a claimant to appear in person, it does not recognize basic technology, such as the telephone and technologies that allow for "virtual" in-person meetings. While it is a complex task for all states, those states with the highest unemployment rates or with many rural and remote areas seem to be facing the largest challenges. In the NASWA survey, for example, a fourth of states reported facing challenges facilitating one-on-one sessions for claimants having to travel long distances.

Time of engagement: Early engagement of claimants in REA and RES -- targeting claimants who file their UI initial claims -- is important to producing the greatest returns for the unemployed, employers and taxpayers. Under the two recent laws, states are required to engage EUC08 claimants in REA activities within a specified period. Since EUC08 claimants in most states likely would be at least in their 27th week of UI receipt, the provisions are targeted at the long-term unemployed, not initial UI claimants. State administrators reported engaging claimants in REA and RES earlier in their receipt of UI would be more cost-effective.

Work Search Requirements and Overpayments

USDOL issued a guidance letter since the Act was signed into law. Unemployment Insurance Program Letter (UIPL) 5-14 (January 2013), *Work Search and Overpayment Offset Provisions Added to Permanent Federal Unemployment Compensation Law by Title II, Subtitle A of the Middle Class Tax Relief and Job Creation Act of 2012*, advising states of the mandatory requirements for work search and overpayment offsets suggests these new provisions might require amendments to state UI laws.

The Act amends UI eligibility provisions to include specific language requiring individuals to be able to work, available for work, and actively seeking work. The new law defines "as a condition of eligibility for regular compensation for any week, a claimant must be able to work, available to work, and actively seeking work." This generally mirrors what state laws already require of claimants. As USDOL's Comparison of State UI Laws finds: "In addition to registration for work at a local employment office, all states… , whether by law or practice, require that a worker be actively seeking work or making a reasonable effort to obtain work." We know of no state exceptions.

States should have the flexibility to collect the work search data in the manner that best works for them. Many states are migrating the weekly continued claim filing to their Internet process so individuals can submit a record of their work search that will be electronically linked to their UI claim. Automatically capturing the week's claim information and work search effort over the Internet should strengthen the integrity of state UI programs.

The Act also changes federal law on the collection of UI overpayments by states from "may" to "shall" collect state and federal overpayments. The new law reads:

> *A State shall deduct from unemployment benefits otherwise payable to an individual an amount equal to any overpayment made to such individual under an unemployment benefit program of the United States or of any other State, and not previously recovered. The amount so deducted shall be paid to the jurisdiction under whose program such overpayment was made. Any such deductions shall be made only in accordance with the same procedures relating to notice and opportunity for a hearing as apply to the recovery of overpayments of regular unemployment compensation paid by such State.*

States strongly support avoiding UI overpayments and collecting them when they occur. States and the federal government are making improvements in this area despite continued underfunding of federal grants to states for UI administration, the excessive workload brought about by the Great Recession, the weak recovery of employment and continuing high unemployment. Examples of improvement include the ongoing implementation of the State Information Data Exchange System (SIDES) and the use of the new federal law requiring employers to report rehires of separated employees. Both of these improvements help states make better decisions about the eligibility of UI claimants by

providing more timely information about the claimants' separations from employment and any earnings they might have while claiming UI benefits.

NASWA manages the Interstate Reciprocal Overpayment Recovery Arrangement (IRORA) agreements among states. Before USDOL issued guidance, NASWA's UI Interstate Benefits (IB) Subcommittee and UI Committee made recommendations to the NASWA Board of Directors for an updated IRORA agreement. In February 2013, the NASWA Board of Directors approved the new IRORA agreement.

The NASWA IRORA is an agreement among states to collect overpayments of unemployment benefits for each other. States can enter into separate agreements among themselves, but the IRORA provides states a standardized approach to recovering overpayments for each other on a cooperative basis. The UI IB Subcommittee is working on an electronic application for states to send requests among each other and plans to research ways states can submit electronic payments. Currently, 34 states (AK, AL, AZ, CO, FL, HI, IA, ID, IL, LA, MD, MN, MO, MS, MT, ND, NE, NH, NJ, NM, NV, OH, OK, OR, SC, SD, TN, UT, VA, VT, WA, WI, WV, and WY) have signed the 2013 IRORA agreement. Because of a USDOL directive UIPL 5-13, NASWA anticipates all states signing IRORA by the end of this year.

Short-Time Compensation

The Act included a new provision for Short-Time Compensation (STC) Program, also known as work sharing. It provides incentives for States to implement these programs and adds some new provisions with which states must comply within roughly two years. Employer participation in a state STC program is voluntary. Some new provisions require participating employers to:

- reduce hours by at least 10 percent, but not more than 60 percent;
- certify, if health and retirement benefits are provided to employees, those benefits will not be reduced due to participation; and
- submit a written plan describing how the requirements will be implemented with an estimate of the number of layoffs that would have occurred but for the program.

The STC program is not a new concept to the federal-state unemployment insurance (UI) system. Before the Act provided incentives for states, a STC program was available in selected states since the late 1970s. Twenty-two states (AZ, AR, CO, CA, CT, DC, FL, IA, KS, LA, MD, MA, MN, MO, NH, NY, OK, OR, RI, TX, VT, and WA) had introduced some type of STC program before the Act was signed into law.

The U.S. Department of Labor (USDOL) issued four guidance letters since the Act was signed into law. The guidance includes:

- Unemployment Insurance Program Letter (UIPL) 22-12 (June 2012), *Short-Time Compensation Provisions in the Middle Class Tax Relief and Job Creation Act of 2012*, provided states an overview of the new definition in federal unemployment compensation law;
- UIPL 27-12 (August 2012), *Short-Time Compensation Grant Funding*, provided states the opportunity for funding to implement or improve at state STC program as long as it conforms to Federal Unemployment Tax Act (FUTA) Section 3306(v) and is not subject to discontinuation;
- UIPL 22-12, Change 1 (December 2012), *Short-Time Compensation Provisions in the Middle Class Tax Relief and Job Creation Act of 2012*, provided states model legislation for states to use in implementing or conforming to the new definition; and
- UIPL 3-13 (December 2012), *Financing of Temporary Federal Short-Time Compensation Programs under Section 2163 of the Middle Class Tax Relief and Job Creation Act of 2012*, provided states with the opportunity to enter into an agreement with USDOL to administer a temporary federal STC program through May 2014.

Currently there are only 26 states (AZ, AR, CO, CA, CT, DC, FL, IA, KS, LA, MA, MD, ME, MI, MN, MO, NH, NJ, NY, OK, OR, PA, RI, TX, VT, and WA) offering STC programs. Eleven states (AR, CA, CT, IA, MO, NY, PA, RI, TX, VT and WA) are taking advantage of federal grants to implement or improve their STC programs.

The added workload of extending the emergency unemployment compensation program earlier this year and the recent sequestration cuts have made it hard for some states to explore this employer option. The new federal definition for the STC program has two requirements which states with existing STC programs might have to modify their UI laws in order to receive the federal funding. States will have to make sure the reduction of hours is not more than 60 percent and states must require employers to continue providing health and retirement benefits.

The Office of Personnel Management and USDOL have been communicating the availability of the STC programs to the Federal agencies in states. Federal civilian employees could be eligible to receive UI benefits under state STC programs for the unemployment compensation for federal employees (UCFE) system. An employer must submit a written plan to the state UI agency, which is subject to the state's approval. However, some state UI laws do not allow a public employer to participate in their STC programs. It should be noted that under the sequestration budget cuts federal UCFE costs could increase since federal agencies must reimburse states 100 percent of benefits costs.

Self-Employment Assistance

The Act authorizes an extension of the Self-Employment Assistance (SEA) program to include individuals who are collecting EUC consistent with the parameters of the established program. The self-employment concept was first tested in the 1990's through a series of demonstration programs and then made permanent in 1998. While the concept of offering unemployed individuals the opportunity to start a small business as an alternative to collecting benefits is in theory promising, the experience has been limited and mixed. Today only four states: Delaware, New York, Oregon, and Rhode Island, have active SEA programs.

The Act authorizes $35 million for this activity. Data from USDOL show from 1995 to 2012 the largest single year expenditure was about $17 million in 2002 and the average yearly benefits paid for the period was $10.6 million. The average number of individuals referred to an SEA program peaked at 3,170 in 2002. The average per year for the period was about 2,000 claimants. In 2012, only 1,513 individuals entered an SEA program and they received average weekly benefits of $305 for around 17 weeks.

In August 2012, NASWA partnered with Senator Ron Wyden (D-OR) and USDOL for a national webinar to promote the SEA program. Fourteen interested states (CA, CO, KS, ME, MS, MT, NJ, SC, TN, TX, VA, WA, WI, and WV) participated in the August 2012 SEA webinar discussion.

USDOL issued two guidance letters since the Act was signed into law. The guidance includes:

- UIPL 20-12 (May 2012), *The Middle Class Tax Relief and Job Creation Act of 2012 (Act) – Provisions on Self-Employment Assistance Programs,* provided information to states interested in improving an existing SEA program, developing a SEA program, or allowing EUC08/EB claimants into a SEA program; and
- UIPL 20-12, Change 1 (April 2013), *The Middle Class Tax Relief and Job Creation Act of 2012 (Act) - Extension of Application Deadline for the Self-Employment Assistance (SEA) Program Grants,* extended the deadline an additional six weeks for states to apply for Self-Employment Assistance (SEA) grants. The new deadline is now August 14, 2013.

Non-Reduction Rule

The Middle Class Tax Relief and Job Creation Act of 2012 modified the "non-reduction rule" that requires states to maintain their current weekly benefit amounts in order to receive EUC08 funding, with an effective date of March 1, 2012. Section 2144 of the Act reinstates the non-reduction rule and allows eligible states, with pending modifications of state unemployment benefits, to remain eligible for federal EUC funds through the end of the calendar year.

Before the Middle Class Tax Relief and Job Creation Act of 2012, if states failed to maintain their weekly benefit amounts, their access to EUC08 funding, 100 percent federal financing of EB and the deferral of interest and Federal Unemployment Tax Act credit reduction caps were in jeopardy.

Although Congress passed the American Taxpayer Relief Act of 2012, extending the 100 percent federal financing of the EUC08 and EB programs through December 2013, it did not address the non-reduction rule. North Carolina recently reduced the state's maximum weekly benefit amount from $535 to $350, effective July 1, 2013. USDOL has issued a termination notice to North Carolina ending the state's federal/state EUC08 agreement after June 30, 2013.

NASWA recommends the non-reduction rule be eliminated. It limits a borrowing state's options to address solvency issues by denying EUC eligibility to states that reduce weekly benefit amounts. It might have led some states to reduce potential weeks of benefits instead, thereby reducing regular state benefit weeks to the long-term unemployed. Currently, there are seven states (AR, FL, GA, IL, MI, MO, and SC) with maximum durations below what had been the system norm of 26 weeks. States should have the flexibility to determine their own regular state weekly benefit amounts and weeks of duration.

Demonstration Projects

The Act authorizes the Secretary of Labor to enter into agreements with up to 10 states that apply to conduct demonstration projects evaluating measures to reemploy UI claimants sooner than they normally would return to work. Approved demonstration projects are limited to those that: (1) subsidize employer-provided training; or (2) subsidize wages of UI claimants to pay the part of a wage that exceeds a UI claimant's weekly benefit amount. The maximum subsidy per week is the UI claimant's weekly benefit amount.

As part of the demonstration authority, the Secretary is authorized to waive the "withdrawal standard" that generally limits the use of state unemployment trust fund account funds to the payment of benefits. The applicant state must assure and provide supporting analysis that the demonstration project will not result in any net costs to the state's unemployment trust fund account during its operation. State trust funds may be used to cover the cost of the required state evaluation too, but these costs must be included in the calculation that there is no net impact on the state trust fund account. To improve the prospects of some states proposing demonstration projects, it would help states if the federal government would provide separate funds for the evaluations of these demonstration projects.

USDOL issued two guidance letters since the Act was signed into law. The guidance includes:

- UIPL 15-12 (April 2012), *Unemployment Insurance Demonstration Projects under Section 2102 of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96)*; and
- UIPL 15-12, Change 1 (July 2012), *Unemployment Insurance Demonstration Projects under Section 2102 of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96)*, provided additional answers to state questions.

NASWA is not aware of any state applying for a demonstration project. On July 20, 2012, NASWA, the National Governors Association, and USDOL co-hosted a webinar for the Reemployment Demonstration Waivers. Discussion centered on the UIPL 15-12 requirements. USDOL's application process covers eleven requirement areas. There also are seventeen selection factors a state has to consider when developing its proposed demonstration project. Many states expressed concern that USDOL imposed too many conditions in its application requirements. States have until October 31, 2014, to submit an application for consideration. States might need to submit their application earlier than October 2014 in order to meet the twelve-month demonstration goal. Demonstration authority expires at the end of calendar year 2015.

NASWA has one idea it would like to add to demonstration authority – reemployment bonuses. States would pay bonuses to UI claimants who return to work sooner than projected. The bonus could be graduated to pay larger bonuses for early returns to work and progressively smaller bonuses for later returns to work. Separate funding for evaluations would help in these demonstrations too.

A recent summary of the research evidence on reemployment bonuses indicates they significantly improve job search behavior and reduce the duration of unemployment. The research indicates the bonuses should be no more than three or four times a claimant's weekly benefit amount and they should be aimed at workers projected to be unemployed a long time, such as dislocated workers. Targeting workers early in their spells of unemployment who are likely to be

unemployed a long time and subsidizing their reemployment has the greatest promise for earlier reemployment and unemployment benefit savings.

Data Exchange Standardization for Improved Interoperability

The Middle Class Tax Relief and Job Creation Act of 2012 included a provision for data exchange standardization for improved interoperability. Data exchange standards are agreed upon methods for exchanging information between different systems that may store data in different formats. Interoperability in essence means the systems would be able to communicate the data. The creation of a universal data exchange standard would standardize the matching of data fields between systems. The Act also requires that the data exchange standards be nonproprietary.

Data exchange standardization could promote better service delivery, faster eligibility determinations and improved program integrity. The Act requires the Secretary of USDOL to establish these data exchange standards in conjunction with the Office of Management and Budget (OMB) and an interagency workgroup. USDOL is working on Data Exchange standards related to UI reporting.

USDOL already has supported two standardized data exchanges: the State Information Data Exchange System (SIDES) and the Interstate Connection (ICON). The SIDES facilitates exchange of information between employers and state UI programs dealing with claimant separations and also claimant benefit year earnings. The ICON facilitates the exchange of information among states for processing interstate and combined wage claims. Finally DOL is working with OMB and HHS on exploring a standardized exchange model for wage and claims reporting to the National Directory of New Hires.

Drug Testing of Applicants

The Act has two drug testing provisions: (1) it allows states to enact legislation to test UI applicants for use of controlled substances as a condition of UI receipt in claims where the UI applicant was fired because of drug use; and (2) it allows states to test UI claimants for drug use, as a condition of receipt, if suitable work for the claimant is available only in an occupation that regularly conducts drug testing. USDOL has not yet issued guidance on these provisions.

Generally, to qualify for UI, workers must have lost their jobs through no fault of their own and must be able to work, be available for work, and be actively seeking work. States disqualify workers from receipt of UI if they were discharged due to misconduct connected with work, and definitions of misconduct have developed separately in each state. As of January 2012, twenty states had specific provisions disqualifying workers from unemployment insurance if they lost their jobs because of drug use or failure to undergo drug testing, or they committed a related violation.

Spending on drug testing of UI claimants might yield savings and allay concerns about claimants' availability for work or abilities to work. However, drug tests are reported to cost $25 to $40 per test. One widely quoted study of federal government workers found 0.5 percent tested positively at an estimated cost of $77,000 per positive result. We are unaware of any evidence on drug tests of UI claimants, but states would have to weigh the costs against the potential benefits. To make informed decisions, further information would be needed.

Sequestration Reductions

The federal government imposed budget "sequestration" on March 1, 2013. Under the federal Budget Control Act, sequestration applies to many federal discretionary and some mandatory spending programs, including EUC08. The EUC08 sequestration amount represented a significant portion of non-defense reductions.

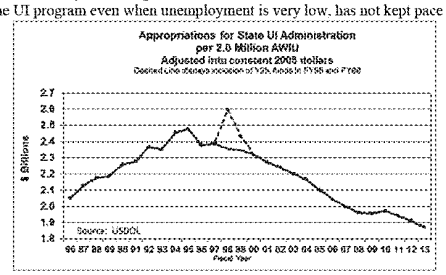
USDOL provided preliminary implementation guidance on sequestration of the EUC08 program to the states via two conference calls. On March 8, 2013, USDOL issued UIPL13-13, *Implementation of Sequestration under the Budget Control Act of 2011 for the Unemployment Insurance Programs for Fiscal Year 2013*, providing guidance on how USDOL wanted states to apply sequestration reductions to the EUC program for FY13. In USDOL's guidance, UI administration funding for regular UI, EUC08, and EB programs are reduced. States also must reduce EUC08 and EB weekly and maximum benefit amounts by selecting one of four different implementation date options: (a) March 31st at 10.7 percent; (b) April 28th at 12.8 percent; (c) June 2nd at 16.8 percent; or (d) June 30th at 22.2 percent.

What seemed to be a simple percentage change is a complex change for many states. Fifty-one states responded to a NASWA survey dated March 7, 2013, on implementing a percentage cut to the EUC08 weekly and maximum benefit amounts. A third of states said they could implement quickly, but many of the states responding said the changes could not be implemented timely or with minimal costs. In response to problems states are facing, USDOL issued UIPL 15-13, *Unemployment Insurance (UI) Supplemental Funding Opportunity to Fund Costs Attributable to the Implementation of the Sequestration Impacts on the Emergency Unemployment Compensation (EUC08) program*, for states to request additional funds for implementing the EUC08 sequestration cuts by April 12, 2013.

USDOL presently is talking to states that demonstrate they have extraordinary barriers or cannot implement the required percentage reductions. In addition, three other implementation options are being discussed by USDOL. Eleven states are exploring terminating the EUC08 agreement with USDOL as an implementation option. A few states said they will implement by June 30th, but their UI computer systems could not absorb another percentage change in October (the start of Fiscal Year 2014) and would consider terminating their EUC08 agreement then.

UI Administrative Funding

The current approach to financing UI administration does not provide adequate base funding to address the UI technology investment gap. The per-state cost of new IT benefits or tax systems ranges from $45 million to $100 million. Yet base funding, which covers the cost of administering the UI program even when unemployment is very low, has not kept pace with inflation and caseload increases for nearly two decades. Whereas base funding should reflect inflation, changes in insured unemployment, changes in productivity, and the need for ongoing capital investments, it has declined every year since the mid-1990s, and few if any states have had adequate base funding to rely on for major IT upgrades.



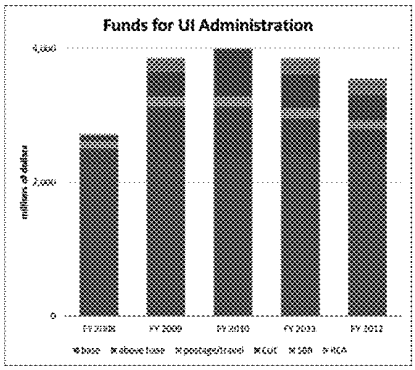
In the federal-state UI system, the federal government provides grants to states to fund the administration of state UI programs. In part, Title III of the Social Security Act says: "The Secretary of Labor shall certify…for payment to each state which has an unemployment compensation law…such amounts…necessary for the proper and efficient administration of such law during the fiscal year…The Secretary of Labor's determination shall be based on: (1) the population of the State; (2) an estimate of the number of persons covered by the State law and the cost of proper and efficient administration of such law; and (3) such other factors as the Secretary of Labor finds relevant."

The chart above shows (adjusted for inflation) federal funding for state administration of UI per two million average weekly insured unemployment (AWIU) from 1986 to 2013. Two million AWIU is a rough measure of the base workload that would need to exist to maintain operations of all state UI programs even at very low unemployment levels. The dotted line shows added federal funding to aid states making software adjustments for the year 2000 changeover. The solid line graph shows a substantial decline in real resources for base funding from about $2.5 billion in 1995 to less than $1.9 billion per two million AWIU in 2013, about $600 million less than states had been receiving. Although some of this decline might be due to productivity gains, states have long said they have not received enough base level funds to administer their programs in a proper and efficient manner even during periods of relatively low unemployment. Many states have adjusted for insufficient funds by adding state funds, roughly $180 million per year in the aggregate, but their ability to do that is dwindling as states cut their own spending to balance their budgets. And, not all states have been able to add their own state funding.

There are a number of sources of funding for state administration of UI. The main source is federal grants for administration of UI, which breaks down into base, above-base and contingency funding.

- Base funding is, in a sense, how much the USDOL determines a state needs to keep its program running regardless of how low the workload falls at or near full employment.
- Above-base funding is distributed during the year as states process workloads that exceed that funded by base funding. Conceptually, this allows USDOL to distribute funds to states that need the funds above the base funding, but after the workload has been experienced and reported by the state.
- Contingency funding is activated at the national level when the average weekly insured unemployment (AWIU) exceeds the level of AWIU that was funded in the federal budget. When a recession begins, contingency funding usually activates shortly after the beginning of the recession when unemployment increases. The formula in annual appropriations bills provides USDOL with $28.6 million per 100,000 additional AWIU above the level in the budget, which USDOL then distributes to states that have experienced the increased unemployment. This spending is designated as mandatory.

The figure below shows base, above base and contingency funding (postage/travel, EUC08, SBR and REA) for UI administration from fiscal years 2000 to 2012. Significant increases for above base (data include contingency amounts) are shown as that funding helped states cope with the recession beginning in December 2007, the last month of the first quarter of fiscal year 2008. As the graph shows, the substantial amounts in above base funding were provided in fiscal years 2009 through 2012, compared to 2008.



In addition to the regular annual funding, states can receive funds through supplemental budget requests (SBRs), which fund irregular activities, such as implementing the State Information Data Exchange System (SIDES), Reemployment and Eligibility Assessments (REA), or information technology modernization projects. States also can add their own funds to UI administration. In the aggregate, states add about $180 million of their own funds to the federal grants for administration of UI per year. However, not all states have been able to add own-state funds.

NASWA Administrative Funding Reform Proposal

NASWA urges the federal government to ensure necessary funds for proper and efficient administration of state UI programs by guaranteeing states at least 50 percent of Federal Unemployment Tax Act (FUTA) revenue collected in the previous tax year for grants to states for administration. Under this approach there would be a mixture of discretionary and mandatory spending for UI administrative funding, as there is under current law. The additional funds could be used by states to modernize their UI IT systems and for other integrity projects. NASWA provided a detailed description of this proposal to the Subcommittee in its testimony last year and would be pleased to work with the Subcommittee on the proposal.

NASWA Recommendation: A New Grant for REA and RES

States are struggling to administer their UI programs in a "proper and efficient manner" and provide REA/RES for several reasons: (1) they have said for years the federal government underfunds state grants for UI administration; (2) REA funding for state programs (not EUC) has not been provided to all states and appears to be only one-time funding provided through supplemental budget requests (SBRs); (3) RES funding has been limited, uncertain and episodic at best; and (4) inflation-adjusted funding for employment services under the Wagner Peyser Act and the Workforce Investment

Act has been cut many times, is steadily declining, and likely will continue declining as federal domestic discretionary spending is cut even more in the next few years.

In response to this struggle, NASWA suggests the federal government create a capped entitlement grant, at as much as $700 million per year, to states for REA and RES to ensure steady and sustainable funding for these important activities for the regular state UI programs. The program should be patterned after the REA/RES provisions in the Act that currently apply only to EUC claimants and should be funded out of FUTA revenue. The amount per claimant should be set higher than $85, perhaps at $200 per claimant, so some RES could be provided in addition to minimal REA services. States strongly suggest a more cost-effective approach would be to apply REA/RES to the claimants of regular state benefits early in their claims, instead of waiting until they exhaust their regular state benefits, after as much as a half year, and transition onto EUC.

NASWA is aware that creating a new entitlement grant to states for REA/RES would be challenging. However, if there is sufficient FUTA revenue coming into the federal unemployment trust fund to finance these activities and sufficient funds are not appropriated for state administration of UI and Wagner Peyser Act services, a capped entitlement would be a way for Congress to ensure states receive sufficient funds for REA/RES. This could help claimants go back to work sooner, which also could lead to lower benefit outlays and lower employer taxes in the future.

I would be pleased to answer questions any questions. Thank you.

Chairman REICHERT. And now the chair will recognize Mr. Renacci to introduce our next witness.

Mr. RENACCI. Thank you, Mr. Chairman.

Today I have the privilege of welcoming a fellow Buckeye to the Committee.

Welcome, Larry, and thank you for being here.

Mr. Kidd has a unique perspective. Not only is he a business owner himself, but Larry's business is putting Ohioans back to work and helping employers locate talent. Larry was recently appointed by Governor Kasich to the board of JobsOhio, a nonprofit corporation that helps create jobs in Ohio. He has firsthand knowledge about the difficulties facing the unemployed, as well as the

difficulties employers face during periods of long-term unemployment.

Larry, I appreciate you taking the time away from your business to give us your perspective. I hope we hear from you and the other witnesses about how we can help make State unemployment programs more efficient and effective for job seekers, job creators, and the taxpayer.

I yield back.

Chairman REICHERT. Thank you, Mr. Renacci.

Chairman REICHERT. Mr. Kidd, please continue with the testimony. You have 5 minutes.

STATEMENT OF LARRY KIDD, PRINCIPAL/CHIEF EXECUTIVE OFFICER OF RELIABLE STAFFING SERVICES AND RSS PROFESSIONAL, LLC

Mr. KIDD. Good afternoon, Chairman Reichert, Ranking Member Doggett, and other Members of the subcommittee. Thank you for the opportunity to testify before the Ways and Means Subcommittee on Human Resources. I am honored to be able to speak to you today. Again, my name is Larry Kidd, president and chief executive officer of Reliable Staffing Services of Jackson, Ohio. I graduated from Miami University in 1986 and earned an MBA from National University in 1989.

From 1986 to 2003, I worked in various positions with three large corporations. During that period of time, I was promoted from an entry level employee to a director of a department. In 2003, I left my director's position and became a partner in a small business, a third-party warehousing company. In 2 years, I was able to increase the business by two times. Consistently our team faced struggles in finding the right people for the right positions. I engaged the services of temporary staffing firms but found staffing firms could not meet our employment needs either.

Having experienced the importance of finding and keeping key employees, my management staff and I formed a temporary staffing service, Reliable Staffing Services, or RSS. Our role was to recruit, screen, interview, hire, and place employees in client workplaces. As stated in our client agreements, RSS was the employer of record. This means that RSS was responsible for the FUTA, SUTA, worker's compensation, and all other employee costs.

Our company's goal was to service our employment needs, but also to creatively supply a market that was underserved. As a former user of the temporary staffing service, my team was very familiar with the importance of finding the right people. In a short period of time, Reliable Staffing Service became one of the leading staffing suppliers in the region. In 2010, when the local economy experienced a downward shift, our clients' customer orders were abruptly cut back. This resulted in layoffs of our employees. Our team worked diligently and soon we were able to secure additional clients that needed our workers. We tried to call back many of the laid-off workers, but found that they were happy receiving unemployment benefits and chose not to accept our offers for employment.

We contacted the unemployment offices to explain our dilemma and were told by the unemployment staff that they were just sim-

ply too many claims to process and they couldn't follow up on all the employees. This attitude made it very challenging to get former employees back to work.

There were several reasons employees chose not to return to work. Number one was they claimed it was too far to drive; number two, they claimed that they were making too much money on unemployment to return to work; number three, they were uncertain of the length of the assignment; number four, they admittedly could not pass a drug test; or number five, they could not afford to take a pay cut.

As a small business owner, I found regulation, cost of compliance, and taxes to be extraordinary. Often I found my biggest hindrance to my company's growth was not competition or the economy but burdensome government policy. In my staffing company, our cost structure is the cost of wages, cost of burden, plus our margin. We charge our clients based on these three items. If the cost of unemployment insurance increases, our company may or may not be able to pass these costs along to our client. If we cannot pass the cost along to the client, we must absorb the cost in our margins or simply lose the customer. This situation occurs more often than one may realize.

Unemployment benefits should be short term and truly for the needy. Those unwilling to search for work or do not want to return to the workforce should not be eligible for unemployment benefits. Recipients of illegal drugs should be evaluated for treatment because they are likely unemployable.

Unemployment should not be up to 99 weeks. Other programs should be implemented to keep recipients in the right frame of mind. Programs such as Ohio's Learn to Earn or on-the-job training programs are much better for the employee, the employer, and society. These programs help keep employees fresh and motivated.

I have the utmost respect for the small business owner. In some ways the small business owner is our country's most at-risk employee. They carry the burden of growing a business, managing employees, properly applying government regulation, meeting customer demands, and creating that next best idea. Many times there is little or no return on investment for the small business owner. When increases in taxes, unemployment burden, or other governmental demands occur, the small business person must scramble to find a way to make it work.

Please consider the impact increases have in unemployment burdens or other taxes have on them, the small business owner. Some reports State that 50 percent all employees work for the small business. If the risk does not equal the reward, small business people will not continue to take the risk with their new ventures.

Chairman Reichert, Ranking Member Doggett and other Members of the Subcommittee, thank you for your time and allowing me to present my views today.

Chairman REICHERT. Thank you for your testimony.

[The prepared statement of Mr. Kidd follows:]

Testimony of Larry Kidd
President and CEO of Reliable Staffing Services

Before the
Subcommittee on Human Resources
Committee on Ways and Means
United States House of Representatives

Hearing on Unemployment Insurance
April 16, 2013

Good afternoon, Chairman Reichert, Ranking Member Doggett, and other members of the subcommittee. Thank you for the opportunity to testify before the Ways and Means Subcommittee on Human Resources. I am honored to be able to speak to you today. My name is Larry Kidd, President and CEO of Reliable Staffing Services, LLC of Jackson, Ohio.

I graduated from Miami University in 1986 and earned my Masters of Business Administration from National University in 1989. From 1986 to 2003, I worked in various positions with three large corporations, ASC Pacific, Hilti, Inc. and Luigino's, Inc. During that period, I was promoted from an entry level employee to a director of a department. In 2003, I left Luigino's and became a partner in a small business. The business was American Warehousing and Logistics, a third party warehousing company. In two years, I was able to increase the business by two times. Consistently, our team faced struggles with finding the "right people" for the "right positions". I engaged the services of temporary staffing firms, but found the staffing firms could not meet our employment demands.

Having experienced the importance of finding and keeping key employees, my management team and I formed a temporary staffing firm. In 2006, we created Reliable Staffing Services (RSS) to focus on staffing in the industrial and commercial markets. Our role was to recruit, screen, interview, hire and place employees in client's workplace. As stated in our client agreements, RSS is the employer of record. This means that RSS is responsible for the FUTA, SUTA, worker's compensation and all other employee costs.

Our company's goal was to service our employment needs but also to creatively supply a market that was underserviced. As a former user of the temporary staffing service, my team was very familiar with the importance of finding the right people. In a short period of time,

Reliable Staffing Services became one of the leading staffing suppliers in the region. In 2008, I bought all the remaining interest in the warehousing company. By 2010, I sold the warehousing company to an employee so I could continue to grow the staffing company.

In 2009-2010, the local economy began a downward shift. Our client's customer orders were abruptly cut back which resulted in layoffs of our employees. Our team worked diligently and soon we were able to secured additional clients that needed our workers. We tried to "call-back" many of our laid off employees but found that they were happy with their unemployment benefits and chose not to accept the offers for employment. We contacted the unemployment offices to explain our dilemma and were told by the unemployment staff members that "we have too many claims to process; we simply cannot follow-up on all of these employees". This attitude has made it very challenging to get former employees back to work.

There were several reasons employees chose not to return to work. Below are examples of unemployment recipients of why the recipients refused our job offers.

- It was too far to drive
- They were making too much money with their unemployment benefits to return to work
- They were uncertain of the length of the assignment
- They could not pass a drug test
- They could not afford to take such a large pay cut – Example working for $17.00/hr, offered $9.00/hr

In our business we have found unemployment and worker's compensation are our two biggest risk exposures. As a business person, it is important to be able to predict and plan for large expenditures. Unemployment insurance can be very expensive for a small employer.

Cases and award outcomes are subject to the decision of the hearing officers. Three of the more puzzling reasons for unemployment awards are:

- Lack of transportation
- Lack of attendance
- Job performance

I have included four cases in this testimony for your review. Each of the cases outlines what my staff considered clear and valid reasons for employment separation. However, in each of these cases the unemployment hearing officers ruled in favor of paying the former employee unemployment benefits. By losing these cases, our unemployment exposure continues to increase, resulting in a higher unemployment contribution rate.

For the past ten years, I have owned and operated small businesses. In each of the industries that I have served I have found a common theme. Creating and starting a new business is challenging. I am certain that most small businesses face difficult financial times sometime during their existence. Early in my entrepreneurial career due to unforeseen challenges, I had to forgo any personal compensation for months in order to meet my financial obligations. I had to make choices on which vendors to pay or not pay. On a few occasions, our revenues could not meet payroll, so I had to borrow money to pay my employees. Fortunately, we were always able to get through the difficult times and never missed a payment or obligation. With perseverance and hard work, we were able turn our businesses into successful and thriving entities. Over the course of my ten years as a business person we have employed hundreds of workers.

As a small business owner, I have found regulation, cost of compliance and taxes to be extraordinary. Often I found my biggest hindrance to my company growth was not competition or the economy but burdensome government policy. In my staffing company our cost

structure is the cost of wages, cost of burden plus our margin. We charge our clients based on those three items. If the cost of unemployment insurance increases our company may or may not be able to pass that cost to our client. If we cannot pass the cost to the client, we must absorb the cost by reducing our margin or lose the customer. This situation occurs more often than one may realize.

Unemployment benefits should be short term and for the truly needy. Those unwilling to search for work or who do not want to return to the workforce should not be eligible for unemployment benefits. Recipients using illegal drugs should be evaluated for treatment, because they likely are unemployable. Unemployment benefits should not be up to ninety-nine weeks; other programs should be implemented to keep the unemployment recipients in the right frame of mind. Programs such as Ohio's Learn to Earn or on the job training programs are better for employee, the employer and society. These programs keep the employee fresh and motivated.

I have the utmost respect for a small business owner. In some way they are our country's most at risk employees. They carry the burden of growing a business, managing employees, properly applying government regulations, meeting customer demands and creating the next best idea. Many times there is little or no return on investment for the small business owner. When increases in taxes, unemployment burden or other governmental demands occur, the small business person must scramble to find a way to make it work. Please consider the impact increases unemployment burdens and other taxes have on the business owner. Some reports state that 50% of all employees work for a small business. If the risk does not equal the reward, small business people will not continue to take the risk with new ventures.

Chairman Reichert, Ranking Member Doggett, and other members of the subcommittee thank you for opportunity to present my views to you. I appreciate your time and consideration.

Exhibit 1

Employee 1 worked on an assignment beginning on August 26, 2010. On or about October 13, 2010, Reliable Staffing Services, LLC (RSS) received a phone call from the Client requesting that the claimant be removed from the assignment due to low productivity issues. As a result, the claimant was removed from the assignment and was discharged from Reliable Staffing Services (RSS). During the hearing, the claimant stated that he received no prior, similar, or relevant disciplinary warnings with regard to performance or productivity, or as provided for in the Client's policy (point system).

This matter was heard via telephone hearing on April 19, 2011. The Hearing Officer decided that the claimant was discharged by Reliable Staffing Services (RSS) without just cause. The reasoning was "...the employer's witness had no first hand, direct, or personal knowledge as to the facts and circumstances that resulted in claimant's separation. Moreover, the employer's witness was unable to provide any specific or details with regards to the alleged conduct that resulted in claimant's separation – only offering generalized statements or allegations. Based on the available evidence and witness testimony, it cannot be found by preponderance of the evidence that claimant violated employer policy, was subject to discharge pursuant to the client's progressive discipline policy, or that claimant was sufficiently at fault to justify his discharge, or that he was otherwise reasonably subject to discharge at that time."

Reliable Staffing Services (RSS) is a temporary agency that staffs employees on different Client sites. RSS is not on site to observe the behavior of the employees. When a Client requests the termination of an employee for productivity, we grant the wish of the Client, just like in this case. There is not a "point system" in place at the Client's site which applies to temporary employees. The claimant is advised during orientation that he or she must maintain predetermined level of productivity and failure to do so would result in termination.

Exhibit 2

Employee 2 was hired by Reliable Staffing Services, LLC (RSS) on 04/30/2012 and assigned to a Client. He was terminated on 02/13/2013 when the Client noticed he was in violation of the attendance policy. The Client has a 12-month rolling calendar year. According to this Client's policy, seven (7) occurrence points in a year results in termination of employment. Below you will find the list of occurrence incurred by Employee 2:

TARDY 6/29/12
ABS 8/17/12 (1 Point)
ABS 8/31/12 (1 Point)
ABS 9/26/12 (1 Point)
ABS 12/6/12 (1 Point)
NO CALL NO SHOW 1/12/13 (1 Point)
ABS 1/17/13 – Excused
ABS 1/21/13 – Excused
ABS 1/22/13 – Excused
ABS 2/7/13 (1 Point)

The Office of Unemployment Compensation has initially decided, after reviewing the dates the claimant was absent, that the claimant violated the attendance policy. The hearing officer claimed the employer discharged the claimant for violating a company rule, but that the employer failed to establish negligence or willful disregard of the rule on the part of the claimant.

RSS appealed this determination on April 4, 2013.

Exhibit 3

Employee 3 was hired on 07/16/12 for a job for a Client through Reliable Staffing Services, LLC (RSS).

The claimant called off work on 7/23/12 due to car issues. The claimant called back later that day saying that she was quitting effective immediately because she no longer had transportation. Rather than just taking a few days off to get the issue fixed, or at least putting in a 48 hour notice (as per policy), she decided to voluntarily quit that day. It was the claimant's decision to quit and she verbally said "I quit" via telephone.

Initial Unemployment Determinations ruled in favor of RSS. However, the claimant appealed it to the hearing level. The Hearing Officer then issued a Decision stating:

"Although the employer argues that claimant quit, the evidence demonstrates that claimant notified her employer of her inability to continue working at the assignment and the employer discharged her. The employer failed to demonstrate that it has a reasonable policy governing situations like the one present here. Namely; claimant was unable to report to the assignment, but also unable to provide 2 days' notice of her absence. The evidence presented fails to demonstrate fault on the part of the claimant sufficient to warrant her discharge. Based on the above, the Hearing Office finds that claimant was discharged without just cause in connection with work."

The policy at RSS is to put in a 48 hour notice prior to quitting, not prior to being absent. RSS didn't discharge the claimant; claimant quit.

RSS appealed this Decision to the Review Commission on September 20, 2012. The Request for Review was denied.

Exhibit 4

Employee 4 was contacted by Reliable Staffing Services, LLC (RSS) on 02/29/2012 with an offer for a one day job. RSS informed him that if he successfully completed the one day job, we could place him at a Client site for a longer term position. Employee 4 said that taking this job would "mess up" his unemployment benefits. Employee 4 refused the job offer.

Chairman REICHERT. Ms. Conti, you are recognized for 5 minutes.

STATEMENT OF JUDY CONTI, FEDERAL ADVOCACY COORDINATOR, NATIONAL EMPLOYMENT LAW PROJECT

Ms. CONTI. Thank you, sir. Chairman Reichert, Ranking Member Doggett and Members of the Subcommittee, thank you for the opportunity to testify here today. My name is Judy Conti, and I am the Federal advocacy coordinator at the National Employment Law Project. We are a nonprofit organization that advocates on behalf of low income and unemployed workers.

I would like to briefly summarize the four main points in my written testimony.

First, nearly 4 years after the end of the great recession, 4.6 million people have been out of work for 27 weeks or longer, and the average duration of unemployment stands at nearly 9 months. The Middle Class Tax Relief and Job Creation Act scaled back the Federally funded UI programs in a manner that resulted in a 43 percent reduction in benefits during a time in which nobody would argue that we have seen anything close to a 43 percent improvement in the jobs picture. And currently the average EUC payment is a mere $294 per week, which is hardly sufficient to cover even housing costs in most States for a family.

But that, too, will face reduction as the sequester sets in. States that have already implemented the sequester have reduced benefits by an average of $31 per week, but the longer States take to implement the cuts, the steeper they will be from workers who are often barely scraping by.

Simultaneous with the sequester, many States are making unprecedented reductions to State UI programs, further weakening the safety net at a time when too many families and communities still need it desperately. These cuts are counterproductive and cruel at a time when so many are still struggling so badly to get a foothold back on the economic ladder.

Second, Congress carefully defined appropriate circumstances in which States could enact legislation requiring UI claimants to pass a drug test as a condition of eligibility for UI. And the Department of Labor, though it hasn't issued regulations, as I understand it, has been diligently advising States that have pending drug testing laws to make sure that their proposals are in conformity with Federal law, as Texas' is.

It is worth noting, however, that drug testing UI applicants is a solution in search of a problem. As detailed in Mr. Hobbie's written testimony, drug testing is extremely costly, and in the few States that have enacted some sort of testing scheme for recipients of public benefits, in every instance the rate at which applicants tested positive was truly negligible. Workers aren't unable to find work because of drug use on some widespread basis, but rather because there is still only about one open job for every three unemployed workers. This is a waste of taxpayer money and an insidious stereotype of the unemployed that Congress sought to narrowly circumscribe and with good cause.

The bill also authorized up to 10 States to experiment with reemployment programs that for the first time would apply UI trust fund accounts to wages and wage subsidies designed to return the long-term unemployed to jobs. Congress crafted this provision to protect the integrity of UI funding—that is the money that employ-

ers pay in, in the form of taxes—and to ensure that workers are guaranteed their fundamental rights under Federal, labor and employment laws.

Though no State has sought such a waiver pursuant to the UI program letter released by the Department of Labor, we are confident that once States can demonstrate that programs will not compromise their UI trust funds, many of which are still in trouble, and will have the desired effect of finding workers good and permanent jobs, they will seek the waivers and the Department of Labor will grant them in appropriate circumstances.

Third, as has been discussed, one silver lining of the great recession is that it sparked renewed interest in work sharing programs, a form of UI that gives employers the option of reducing employers' hours instead of firing people. The February 2012 legislation provided $500 million in incentive funding to enact and amend work sharing, and DOL has produced clear and timely guidance for States.

In the current and coming legislative sessions, NELP will continue to work to raise the profile of this win-win option for workers and employers, and we hope to see many more States take it up next year.

Finally, like our colleagues at Utah and in NASWA, NELP believes that many workers need more and more rigorous reemployment services at the onset of periods of unemployment, not just when they have reach the 27th week of unemployment. We recently published a paper on this issue called "Getting Real: Time to Reinvest in the Public Employment Service," and we propose that Congress appropriate an additional $1.6 billion in annual funding for the Employment Service to serve workers and employers alike, and though this costs money, the savings seen in increased income taxes, reductions in UI, and the salary that workers will start receiving more than pays for itself.

We live in troubling economic times, and if we are serious about an economic recovery that works for all Americans, we can't be penny-wise and pound foolish when it comes to supporting our Nation's unemployed workers.

Thank you again for inviting me to testify, and I welcome questions from Members of the Subcommittee.

Chairman REICHERT. Thank you.

[The prepared statement of Ms. Conti follows:]

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

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

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Testimony of Judith M. Conti, Federal Advocacy Coordinator
National Employment Law Project
Before the U.S. House of Representatives
Ways and Means Committee, Human Resources Subcommittee
April 16, 2013

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

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

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

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

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

2. Thanks to the federal incentive funding provided by P.L. 112-96, many states are beginning to take important positive steps to prevent layoffs through strong work-sharing programs and expanded outreach activities.

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

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

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

a. The Persistent Jobs Crisis and Misguided Austerity Measures

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

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

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

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

[2] Congressional Budget Office, "The Budget and Economic Outlook: Fiscal Years 2013-2023" (2013).

[3] http://www.bls.gov/news.release/empsit.nr0.htm.

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

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

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

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

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

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

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

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

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

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

c. The State Attacks on the UI Program

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

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

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

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

[8] Mike Evangelist, "One-Two Punch: As States Cut Unemployment Benefit Weeks, Jobless Also Lose Federal Aid, Even As Jobs Remain Scarce" (National Employment Law Project, February 2013), http://www.nelp.org/page/-/UI/2013/Policy-Brief-States-Cut-UI-Weeks.pdf?nocdn=1.
[9] Estimate by North Carolina Legislature Fiscal Research Division (February11, 2013)

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

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

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

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

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

[11] Id. Letter dated October 1, 2012.

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

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

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

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

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

a. State Drug Testing Laws

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

(1) The individual was terminated from his or her most recent employment because of unlawful use of a controlled substance; or

(2) The only work that is suitable for the individual is employment in an occupation that regularly conducts drug testing. The Secretary of labor is charged with promulgating regulations that list such occupations.

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

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[14] January 5, 2013, "R.I. DLT Director: Changes Being Made to Frustrating Claims Process" Bruce Landis, Providence Journal, http://news.providencejournal.com/breaking-news/2013/01/ri-dlt-director-changes-being-made-to-reduce-frustrating-claims-process.html; February 2, 2013, "Early birds get jobless benefits – Slow Times on the Unemployment Line," David Ratigan, Boston Globe, http://www.boston.com/news/local/massachusetts/2013/02/03/slow-times-the-unemployment-line/U1TAzH3HVM4vJMtCpAOdKM/story.html; February 13, 2013; "Jobless in R.I. confront broken system " David Klepper, Boston Globe, http://www.bostonglobe.com/metro/2013/02/13/rhode-island-struggles-with-highest-unemployment/DGKIlOdCtojnetLHUSk1dI/story.html.

[15] April 9. 2103, "SC Unemployment Agency Plans to Lay Off 100," Seanna Adcox, Herald On-Line, http://www.heraldonline.com/2013/04/09/4759897/sc-unemployment-agency-plans-to.html.

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

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

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

b. Re-employment Demonstration Projects

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

Consistent with and circumscribed by the clear legislative language, the Department of Labor crafted clear and reasonable guidelines (UIPL 15-12, dated April 19, 2012) for states to follow in seeking the federal waiver necessary to operate the re-employment demonstration program. Of special significance, the law and DOL guidelines emphasized that the requesting state provide assurances and documentation that the demonstration project will not result in any increased costs to the state's trust fund[18] and that the state can adequately document the project's impact on the skills, earnings and re-employment retention of the participating workers.

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

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

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

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

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

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

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

In many states, the number of employers participating in work sharing programs spiked during the recession and the ratio of weeks of STC benefits paid relative to weeks of regular UI benefits paid was generally higher in most states than during previous recessions.[20] Work sharing enabled states to save about 166,000 jobs in 2009 and nearly 100,000 jobs in 2010.[21] STC programs also spread more widely across the country. Since 2010, seven states (Colorado, Maine, Michigan, New Hampshire, New Jersey, Oklahoma and Pennsylvania) and the District of Columbia have adopted work sharing, bringing to 25 the total number of programs.

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

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

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

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

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

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

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

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

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

[23] Abraham and Houseman.

[24] Id.

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

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

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

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

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

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

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

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

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

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

The FY 2013 budget allocates $731 million for state ES activities, which represents an increase of $30 million over FY 2012, but a decrease of 23 percent in real terms since FY 2003.[28] With shrinking resources, most states have shifted away from traditional, staff-assisted models of individualized job search services and referrals toward group-oriented and self-services approaches. Today, services for job seekers primarily include online information about job openings and local labor markets and tools for self-assessment, referrals to human services agencies providing assistance, and group classes on resume writing or interviewing. In program year 2010, just three in ten job seekers who received ES services participated in staff-assisted job search activities.[29]

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

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

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

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

[30] http://nelp.3cdn.net/045adefea15ecffee5_6lm6b8swg.pdf.

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

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

Conclusion

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

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

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

Chairman REICHERT. And thank you all for your testimony, and thank you also now as we move into the question phase for your patience as we ask you a few questions. So my first question is for—actually all my questions will be directed to Mr. Starks and Mr. Hobbie.

Mr. Starks, your State, as we heard in your testimony, has a very aggressive approach to work research and early engagement of UI recipients. Can you walk us through how Utah helps people search for work and how that differs from other States? And what does everyone have to do, what do you have to do to offer help and assistance for people who are sincerely trying to find work but are

having trouble quickly working their way through the maze of trying to find the right job that fits them?

Mr. STARKS. In Utah, our work search standard was to do two work search contacts per week. We doubled that a couple of years ago. Claimants were able to file over the telephone or over the Internet for their weekly claims. In August of this year, we made Internet the only option, and that way we could document their four work searches.

We felt it was reasonable for the claimants to do four. On average, that would only take a couple of hours per week. Internet is kind of the future for job applications, and we require them to register for work, too, as a condition for unemployment. So asking them to take another step doing online filing we didn't think, was unreasonable.

One of the problems that we have had associated with that is verifying those work searches, too. It is one thing to, you know, require a claimant to document those work searches and it is another thing to verify those. It is often not a record that employers are required to document. And so when we are trying to verify those work searches, it can prove difficult sometimes.

Chairman REICHERT. Well, how cost effective is this approach, compared to what you did in the past and maybe what some States are even still doing today?

Mr. STARKS. You know, I don't have any numbers as far as the work search requirements. I can tell you that we think it is good public policy in that it helps screen out the claimants that don't want to engage in active reemployment activities. If they are serious about getting back to work, requiring four work searches we don't feel is unreasonable. However, we think that it should be left to the State to determine that.

Chairman REICHERT. So what would be your advice to the rest of the country? Any lessons learned that you want to share today?

Mr. STARKS. Asking claimants to do work search activities, I think it goes back to our whole program at Workforce Services, and that is getting jobs should be your full-time job, and everything that we are trying to do in Utah is around jobs. So, my recommendation is, is to engage the claimants early and often and you will see some positive results.

Chairman REICHERT. Mr. Hobbie, do you have any response to those questions?

Mr. HOBBIE. Yes, Mr. Chairman. There was a four-State study of reemployment services and reemployment eligibility assessments recently produced by IMPAQ International, and particularly promising there were the results in Nevada where provision of these services led to a reduction in 3 weeks of duration on unemployment insurance, at an average cost of about $300 per week. That is a gross savings of $900, and at a cost probably approaching $200 to no more that be $300. So there is an indication that the net savings there probably was at least $600 per claimant helping them go back to work sooner than they would otherwise and at jobs comparable to what they would have found if they had waited those 3 weeks.

So the evidence we see indicates that these programs are effective at lowering unemployment, increasing employment, and they

are highly cost effective. And they help employers, too, in the sense employers are finding workers that they are looking for sooner than they would otherwise.

Chairman REICHERT. Thank you.

Mr. Doggett, you are recognized.

Mr. DOGGETT. Thank you very much.

Senator Williams, on your proposal that is likely soon to become law in Texas, do you believe that it provides a model that other States could follow and that the Department of Labor should consider as it sets its guidelines?

Mr. WILLIAMS. I do believe that, and I think that the sooner they set their guidelines, the more likely it will be that other States follow suit. We have a number of programs that have been successful that we are going back and trying to bring them into compliance with DOL requirements. So I think it would be very helpful for them to go ahead and get that guidance out there.

Mr. DOGGETT. And you focused your requirement in accordance with the statute so that you were focused only on individuals that have been terminated because of unlawful use of a controlled substance and individuals for whom there is not suitable work in an occupation that does not regularly require a drug test.

Mr. WILLIAMS. Well, I think what we focused on is that it would be an occupation that would require drug testing as a routine part of—as a condition of employment, and then we have directed the Workforce Commission to develop a set of screening questions that would help identify those people who need to be tested. So it is not limited only to people who were terminated for that reason. There could be other reasons that might show up in that screening assessment and it is yet to be drafted or implemented.

Mr. DOGGETT. You also mentioned the denial by the Department of Labor of a Texas waiver application, and it is true that Texas was the early bird trying to secure the grant. In fact, they were so early, I believe they were within about 48 hours of the signing of the law that Governor Perry sent a letter up, and back in March, shortly after that, last year, Secretary Oates replied that she regretted denying the application but that the guidance, so that all States would be on a level playingfield for applying, had not been completed and expressed the hope that Texas would resubmit its application and welcome States' ideas for demonstration projects. I believe that Texas has not resubmitted its application since receiving that letter.

I would also want to note with reference to the effect of these cuts on our job training programs that Texas is projected to lose approximately $38 million in job training programs during this year under sequestration, and if it stays in effect it will be about $500 million over the course of sequestration over the next decade, which seems to me to be a real setback to trying to get folks to work.

I want to ask Ms. Conti, with reference to your comments that an investment in these programs, in these reemployment services generates about $3.40 in lower government spending and higher revenue from more employment, if you could elaborate on specific

programs and services that have proven successful in getting people reemployed.

Ms. CONTI. Absolutely. Thank you for if question. In our paper "Getting Real," we detailed four different things that for a relatively speaking modest of investment, $1.6 billion, we believe could really help return a lot of people to work. Expand job placement services, including increasing job listings on the public exchange and improved matching technology, basically having job counselors do what Mr. Kidd does, help set people, unemployed workers up with employers in the area that have open jobs and they have skills to fill those jobs. We believe that that could help an additional 700,000 job seekers, for example, for less than $500 million.

We recommend that you interview an additional 1.5 million unemployment insurance applicants after they file the initial claim to create a job search plan. You know, we are in different times now. There are many people that have had either the same job for their whole work life or they have easily transitioned from one job to another, but we are in different economic times now, not just because people are applying for jobs more using technology as opposed to resumes or networking, but also because we just don't have a robust economy. And if people are looking for a job now like they were 5 or 6 years ago they are not likely to be successful. So we know that there are plenty of people out there that have good marketable skills to compete but don't know how to market themselves.

There is a Worker Profiling and Reemployment Service that we recommend allocating an additional $540 million for, and this again is something that gets workers early and determines who are those that are likely to become the long-term unemployed and from the beginning gives them more intense services, including training where necessary.

And finally, provide pretraining counseling for an additional 1 million people for about $540 million. This would be to help people pick the right training programs so that they get skills that are marketable in their local economies instead of studying for a certification that may not help them.

Mr. DOGGETT. Thank you.

Thank you, Mr. Chairman.

Chairman REICHERT. Mr. Young.

Mr. YOUNG. Thank you, Mr. Chairman.

Thank you to all of our panelists for being here today. I really appreciate your testimony.

Under the 2012 unemployment insurance reform, States are now required to establish job search requirements for everyone collecting State and Federal unemployment insurance benefits, from the first through the last week of benefits. Currently, in my home State of Indiana, our State legislators are working in a bipartisan way to implement a law that would be consistent with these new requirements. This would effectively require all Hoosiers to visit the same Work-One Centers that they would have to visit to receive Federal benefits, and extends it to State unemployment insurance benefits.

With only the Federal unemployment insurance job search requirements already implemented, we have seen in the State of In-

diana around a 70 percent statewide compliance rate with the job search requirements.

My question to Mr. Starks and Mr. Hobbie is this: What additional efforts might our State adopt, might you recommend to them or might we, at the Federal level, in our conversations with State legislators indicate to them would be helpful in increasing this compliance rate? And can you conceive of incentives at the Federal level that might assist in increasing that compliance rate?

And I know, Mr. Starks, you have already spoken to the important role that verification in the job search plays. Perhaps there are other things that come to mind.

Mr. STARKS. Again, as far as work search goes, I don't know how much more I can add than I indicated earlier. We think it is reasonable for States to require that. However, we are a strong advocate also of State rights, and I think what is maybe good for Utah may necessarily not be good for another State. It works for Utah. It has created some unintended consequences that create some workload for us. If somebody doesn't complete their work search, then we have to send out a denial letter, then they have an opportunity to come and complete those work searches. But, you know, we still think it is good public policy. We are not going to not do it because it is going to create some work for ourselves.

Mr. YOUNG. By way of follow-up, there is, of course, an incentive as a matter of good public policy to get more people to work and improving their own circumstances. It grows your own economy. It could save you, at the State level, a certain amount of money. Are there any additional incentives that you currently receive for a higher compliance rate with the work search requirements from the Feds?

Mr. STARKS. No.

Mr. YOUNG. Mr. Hobbie.

Mr. HOBBIE. Thank you, Mr. Young.

Mr. YOUNG. Yes, sir.

Mr. HOBBIE. I have several ideas with respect to the additional efforts. One is NASWA, in partnership with all States, and in partnership with DirectEmployers Association, an association of over 600 major corporations, operates the National Labor Exchange, which is a job bank that is available nationally and in each State. It contains over 1 million job openings on any given day and they are updated every day. So I would urge all States to take advantage of the National Labor Exchange and work with employers who are not entering jobs into the State job bank to enter their jobs in there so that they become immediately available to workers seeking jobs in their States.

Second, the work search amendments in the Job Creation Act, I think, could serve as a model for the regular State programs, too. And of course I respect what Mr. Starks said about States designing their own programs, but greater emphasis on looking for work, expecting claimants to seek work, and then providing some assistance through reemployment and eligibility assessments and reemployment services funded by the Federal Government. We do need additional funding to provide these additional services, but if we did, I think it would be far more cost effective. And then I would

just like to add, in terms of incentives, the act also provided for demonstration projects, which we can get into later.

Mr. YOUNG. Yes, sir.

Mr. HOBBIE. I think there are some incentives that could be built into the current law that would improve the possibilities for those demonstrations at the State level, and I could get into detail on that later.

Mr. YOUNG. Absolutely. And I would like to go on record as supporting the flexibility that I know is so important at the State level as well.

I yield back. Thank you so much.

Chairman REICHERT. Thank you, Mr. Young.

Mr. Renacci, you are recognized for 5 minutes.

Mr. RENACCI. Thank you, Mr. Chairman. I want to thank the witnesses for being here.

Last Congress I introduced the EMPLOY Act, a bill that would have allowed participating employers to receive a subsidy from the State for the wages paid to an individual eligible for unemployment compensation. This concept of my bill is similar to the one in the 2012 UI reforms included in the Middle Class Tax Relief and Job Creation Act. This act allowed States to apply for waivers in order to use unemployment funds to pay for reemployment programs.

In April 2012, the Department of Labor issued 24 pages of burdensome application requirements. To the best of my knowledge, Texas has been the only State to apply for a waiver. This is concerning, as many States have been working diligently to expedite the reemployment of individuals receiving unemployment benefits.

Mr. Hobbie, you have experience with regards to reemployment services and the impact these waivers would have on States. What changes could be made to improve the UI policy?

Mr. KIDD. In our written testimony we indicate two changes that we think would be helpful that my association supports. One is to add a provision for reemployment bonuses for UI claimants to provide incentives for the individuals to go back to work sooner than they otherwise would with a bonus. And there have been evaluations of that approach that indicate that would be cost effective. Second, of course, I also mentioned additional Federal funding would be helpful.

Third, the way the Job Creation Act is drafted, it embeds training with the wage subsidy in that particular paragraph. And what I would suggest there is you separate out the training and have two provisions. One would be for wage subsidies only and the other would be for wage subsidies with the training for a kind of on-the-job training program so that States could also run just a straight, simple wage subsidy program in addition to the on-the-job training program.

And then also I think there is a problem with paying the subsidies off of the weekly benefit amount. Each individual has a different weekly benefit amount. That can be hard for States to administer. I would suggest following something similar to what Utah has done, or Texas, with just a flat amount that would be provided for a subsidy to an employer to employ an individual for a certain amount of time and then maybe an additional subsidy if that employee is retained an additional amount of time beyond that.

And then, finally, I would also suggest the subcommittee take a look at Sections 1115 and 1110 of the Social Security Act, which provides permanent demonstration authority for other programs in your jurisdictions, such as Supplemental Security Income. There may be some provisions in there that you could use to set up a permanent demonstration authority for unemployment insurance, too, which is excluded from those provisions.

Mr. RENACCI. Thank you. I am going to come to Mr. Williams before I do that.

Mr. Kidd, earlier, in regards to drug testing, one of the witnesses testified that the number of individuals who test positive were negligible. In your business, do you do drug testing?

Mr. KIDD. We do do drug testing.

Mr. RENACCI. What is the percentage of people who test positive?

Mr. KIDD. Between 15 and 20 percent.

Mr. RENACCI. Would you consider that negligible?

Mr. KIDD. I would not consider that negligible. And 80 of our clients require drug testing.

Mr. RENACCI. And the biggest concern, of course, with someone who tests positive, is if they go out into the workforce and are working and they injure somebody, that is a problem not only for you, but for the business.

Mr. KIDD. It absolutely is a problem. Many people forget that many of our employment clients are factory workers. And if you were to send somebody that is on an opiate or cocaine or something like that, and they are on a production line, it is very possible they could cut their hand off or drive a forklift into somebody and hurt somebody else, or even kill somebody. We are not going to take that risk, and neither will our client.

Mr. RENACCI. Thank you. Thank you, Mr. Kidd.

Senator Williams, it is clear that the waiver process has really been a deterrent for most States. I know Texas appears to be the only State that has applied. Ohio is not applying because of the waiver process and its complexities. As the only State that applied, do you believe it is time for the Department of Labor to go back to the drawing board and make the waiver application process more attractive to the States? And please explain what the waiver process has been like for your State of Texas.

Mr. WILLIAMS. Well, I don't know that I can speak directly to the waiver process. I know it has been a lengthy thing. And it is my impression that once the DOL issued their guidelines that more of the States seemed to become discouraged about that.

One thing I would encourage, though, is more flexibility. And I say that because what we have done with our job search requirements, for example, is that we allow our local workforce boards to set the number of job interviews that an applicant has to have on a monthly basis. And, you know, we have found that that has worked better, to allow them to set those. And our average is approaching five now. And so it has worked really well, and people are out looking for a job. I think it would work a lot better if they would just allow the States a lot more flexibility and allow us to move forward and, you know, get those impediments out of the way, is the key.

Mr. RENACCI. Thank you, Senator.

I yield back.

Chairman REICHERT. Thank you.

Mr. Davis, you are recognized.

Mr. DAVIS. Thank you very much, Mr. Chairman. And I want to thank the witnesses for appearing.

Ms. Conti, let me ask you, even with the most successful reemployment programs in place, do you agree that the most important factor in people returning to work is a strong economy that creates jobs for the unemployed? Do you believe that past threats of default on our Nation's debt, as well as the implementation of the sequester, has negatively affected our economic recovery and thereby hurt the ability of the unemployed to find work?

Ms. CONTI. Absolutely, Congressman. Look, we all know that these demonstration projects, reemployment services, these are all things that can help around the margins, and we should do them because all of the workers that are unemployed in this country deserve every effort we can muster. But there is no replacement for a robust economy and one that works for everybody, where employers are creating jobs, where governments are making appropriate investments, not threatening default, not enacting or allowing to happen a sequester that was put into place in the first instance because it was so odious that nobody thought it would ever actually happen.

So we find ourselves in interesting political times. We obviously have concerns about our debt and deficit that we can't ignore. But the biggest debt and deficit we have right now is the jobs deficit and the deficit that workers are feeling in terms of their ability to provide for themselves and their families. And there is nothing that is going to do any better for unemployed workers than a robust economy and one where we are making appropriate investments in public service employees, in infrastructure in this country, and making sure that we have our fiscal house in order.

Mr. DAVIS. Thank you very much.

Mr. Kidd, I noticed in your testimony you suggest that some Americans aren't going back to work because they were making too much money with unemployment benefits to return to work. Is there any indication of what "some" really means? Is that a lot of people? Or is that maybe two or three? Or half a dozen? I mean, it seems to me that the average weekly unemployment benefit is $300, and that only reaches about 70 percent of the poverty level for a family of four. So I am trying to understand how much is the many.

Mr. KIDD. I appreciate the question. I cannot give you a percentage, but I can tell you that we are working in an area that at one time had an unemployment, one of the counties we serve, of over 17 percent unemployment. It was significant. There was a large plant closure. And I would argue that if we had an employee that was willing, flexible, and willing to work for the amount of money that our client offers, we could employ about anybody. We have over 90,000 open positions in Ohio, with an unemployment rate of about 7 percent.

So there are jobs out there available. And even in our small community we could get them jobs if they applied and they were will-

ing to be flexible with that. As a percentage, I don't know. I know it is less now than it was when we had 99 weeks on unemployment. They were very free to tell us that there is no way we are going to go back to work when we receive this unemployment benefit. First off, they were concerned how long the assignment lasts. At that time, gas prices were very expensive, and quite frankly some of them just didn't want to go back to work, so they chose not to accept our offers.

Mr. DAVIS. I find that to be a very interesting observation. And I guess maybe what works in some economies or some locations. I can tell you that $300 wouldn't influence many people in the communities where I live to not take a job if they could actually find one. So chances are there are differences based upon cost of living and what takes place. Certainly would not happen in the community where I live.

Ms. Conti, let me ask you, is it fair to say that the last year or so there has been a dramatic reduction in assistance to the unemployed? Last year, the duration of Federal UI benefits was significantly scaled back. And this year the sequester has cut the amount of the weekly Federal unemployment benefit. Also, you mentioned that each eight States have cut back on basic unemployment benefits, reducing them below 6 months for the first time in over 50 years. Do you think that these dramatic reductions in unemployment benefits are reflective of an equal improvement in the labor market?

Chairman REICHERT. Ms. Conti, if you could answer briefly, please. The gentleman's time has expired.

Ms. CONTI. Sure.

Absolutely not. We all know that we are still struggling with unemployment that is far too high. We understand that our unemployment numbers are coming down not just because we are creating jobs, but also because too many people are leaving the workforce. They are discouraged. So we have not seen the kind of improvements that justify the kind of cuts that we have see in unemployment.

Mr. DAVIS. Thank you very much.

And thank you, Mr. Chairman.

Chairman REICHERT. Thank you, Mr. Davis.

Mr. Kelly, you are recognized.

Mr. KELLY. Thank you, Chairman.

And I thank all of you to being here.

Actually, coming from the private sector—and, Mr. Kidd, I can appreciate what you are saying—it is very difficult to hire people today. You know, I worry the reason people are not employed is because some of them are unemployable. When I am back in Pennsylvania, in District 3, and I am going to these different places and talking to employers, and I say, what is the number one thing, because I see a sign up there that says now hiring, why are you not able to hire? And inevitably they come back to saying, the people who are applying can't pass a drug test.

Now, I want you all to understand this. This is from being in the real world. When I talk to my insurance carrier, they suggest under loss control you should drug test people, but be very careful when you do that because alcoholism and drug addiction are con-

sidered diseases, and it could be discriminatory, what you are doing. So when you talk to people, Mr. Kidd, because you talk to them, and I got tell you, there are a lot of people right now willing, looking for people to employ. They can't do it because these people are unemployable.

Now, is that what you are seeing? I mean, this isn't a myth. This is what actually happens on the ground when you are out talking to people, looking for folks to fill jobs, and understanding that there is a tremendous liability on that person who hires somebody and brings them in if something happens. Mr. Renacci talked about a safety issue. You brought somebody in and you knew of their condition, instead allowed them to go on the floor, and they are somehow involved in an accident, you are liable for that.

Mr. KIDD. I absolutely agree with you. We do see a real issue with the whole drug situation. As part of the JobsOhio board of directors, I had a small roundtable of business people in our local community, and we had two employers that were 1,200 and 1,500 each, two of the largest employers in the community. And we asked them, what is the biggest problem that you face? I thought it might be worker's compensation or even unemployment, but it wasn't. It was drugs. We can't get people to work. And we can't keep them once they are here because they will continue to fail a drug test.

It is a big risk for employers to put somebody knowingly on drugs in a factory or any other kind of setting. And, you know, it is a dangerous situation. And it is not something that an employer is willing to take that risk. It just simply isn't.

If I may make one quick statement about the drug situation. Jackson County is the largest prescription opiate problem in the whole State of Ohio. Jackson County is only a county of 30,000 people. We have 131 per capita prescriptions per person a year, which is extraordinary. So I developed a drug task force to help solve this problem. And we continued, as you pull the onion back, you see more and more and more of it. And it is a huge problem for employers.

Mr. KELLY. Let me ask, Mr. Hobbie and Senator Williams, now, in 2012, we did the unemployment insurance reforms. It is 14 months later. You are still waiting for the regs. A lot of the States have gone out of session right now. So 14 months for the Federal Government. Nobody is alarmed by that because that's kind of the way these folks work. How do you proceed when you don't have the regs in place? How in the world do you begin to build a model when you don't know what the regs are going to be? And is this what you have experienced in the past.

Mr. WILLIAMS. Well, it is a problem for us in Texas. We have a legislature that is in session for about 4½ months every other year. And so when the Federal Government takes so long to issue guidance, it makes it very difficult for us to make any adjustments to things so that we can comply with Federal law. So it is a huge impediment.

Mr. KELLY. Okay.

Mr. Hobbie.

Mr. HOBBIE. I agree. And this happens repeatedly where there is an expectation that States implement a new law quickly, but there is a lag between the time the law goes into effect and States

are expected to implement and the regulations come forth. The recent amendments to trade adjustment assistance were a good example of that. So States would very much like to have the regulations sooner, but they often don't get them. So they do what they can and they cope when the regulations finally come out.

Mr. KELLY. And I would like to see the direction of the conversation go to talk about the benefits of being employed as to worrying about unemployment benefits. There is something wrong. We have the model upside down. And Mr. Davis hit on it. Until we have a dynamic and robust economy, we are not going to get people back to work. We can have this conversation and continue to have this conversation, but until you get some certainty for the job creators to look into the future and say, oh, you know what, I am going to make that move now, I am going to hire these folks, I am going to bring them in, I am going to train, I am going to pay them, and I am going to look to a brighter future.

But that is the problem. I am so tired of hearing about unemployment benefits and not about the benefits of being fully employed. That is the key and that is what we should be concentrating on. Thank you all for being here.

Thank you, Mr. Chairman.

Chairman REICHERT. Thank you.

Mr. Griffin.

Mr. GRIFFIN. Thank you, Mr. Chairman.

Thank you all for being here today.

In my home State of Arkansas, the issue of drug testing for unemployment benefits has been a hot one in the State Legislature. And I want to ask you, Senator Williams, not in your testimony, but on your Web site you talked about, I think the term you used was drug testing as a reemployment strategy. Does that sound familiar? Basically, it is something that helps prepare people, the drug testing does, it prepares them for employment.

I would ask if you could comment and elaborate on that and any other benefits that you are finding to drug testing for unemployment benefits.

Mr. WILLIAMS. Well, in Texas we have long required that someone be ready and willing to go back to work and that they actively be seeking employment in order to be able to receive unemployment benefits in Texas. And so this has been a standard that we have held our applicants to for many, many years.

I would say that if you are abusing illegal drugs or if you are abusing prescription drugs—and I would point out that that is a huge problem all over the country—you are not ready and able to go back to work, so you are not employable. And it is important for those people and for their families and really for the future of our country that we identify those folks and that they get in a program where they can get straightened out.

The largest refinery in the Western Hemisphere was recently built in my senate district, in Port Arthur, Texas. And when I visited there 4 years ago, when that plant was under construction, I heard over and over again, we want to hire local folks but we can't find people that can pass the drug test. And we have that all over the State. We have a booming economy, and the biggest problem we hear, to hire truckdrivers in the State of Texas, is to find people

who can pass the drug test. And so I would submit to you that it is a big problem, and this is something that we need a national policy to address this.

Mr. GRIFFIN. I want to echo my friend, Mr. Kelly. I spoke with a major, major employer in my district. And I have central Arkansas, Little Rock and surrounding counties. And this particular employer is an industrial employer. And they told me, actually in a public hearing at the Clinton School, we had a jobs conference a couple years ago, and they said openly there that routinely they try to hire people, but those people fail the drug test. And this is an industrial context, so they can't take the risk of having people operate dangerous—potentially dangerous machinery, et cetera, when they can't pass a drug test. And so, that is a real problem in my district, I can tell you that.

Let me ask you quickly, separate from the drug testing, pursuant to the act that we have been discussing here today, States can apply for waivers to design programs, pay people for working or training, et cetera. Now, my understanding from this hearing is that no State has yet applied. Do you know if Texas plans to apply, if there is some innovative program that they plan to seek approval for?

Mr. WILLIAMS. Well, as I mentioned in my previous testimony, we do have a program that is our Back to Work program that has been successful, and we are trying to bring that in compliance with DOL guidelines in lieu of regulations being issued. But our State has long resisted, for instance, people who are self-employed. If they choose to go and start their own business, we don't feel like it is appropriate for those folks to be able to collect unemployment benefits from their former employer while they are trying to start their own business. So I would say that, beyond our Back to Work program and the Shared Work program, there is very little beyond that that we are involved in right now.

Mr. GRIFFIN. Got you.

Mr. Kidd, real quickly, the law specifically mentions one category open for testing people who need to pass a drug test to get a particular job, or to perform that job. In your experience, what share of employers require drug tests for that job, for a particular job?

Mr. KIDD. I can think of very few jobs that shouldn't require it. Eighty percent of all our clients require it.

Mr. GRIFFIN. Eighty percent, okay.

Mr. KIDD. Eighty percent of ours do. And I would argue that the others should be doing it, too. And, quite frankly, we test them anyway because we want to make sure that they are going to be clean. First, it is a reflection on us. But second, we cannot afford the cost of the worker's compensation case if somebody gets hurt or somebody else dies. We just can't afford to do that, and we couldn't live with that with our conscience.

Mr. GRIFFIN. Thank you.

And thank you, Mr. Chairman.

Chairman REICHERT. Thank you.

Mr. Reed.

Mr. REED. Thank you, Mr. Chairman. And not to belabor a point, but I did want to reference, Ms. Conti, in your testimony—and I am not asking you a question—you have come to the conclu-

sion that drug use in the workplace is a negligible number. And, obviously, you have heard testimony from your colleagues or peers on this panel who disagree with you. I can also tell you that as co-chair of the Manufacturing Caucus, we have had people testify before us as employers repeatedly say it is a significant issue, not a negligible issue.

And when I look at the citations within your testimony, where you refer to the support of your "negligible" conclusion, you reference a welfare test for welfare recipients. We are talking about unemployment. Welfare and unemployment are completely different programs. So to use that as the basis for your conclusion that it is negligible I think is misleading. I don't take and give much weight to it, to be perfectly honest with you, because they are two different issues.

Also, you cite a Huffington Post article that I note was written on June 6, 2012, just a few months after the law passed. So to come to a conclusion that somehow this reform is not producing in regards to unemployment and the issue of drug use in the workplace in a short 2- to 3-month window, to come to a conclusion that a negligible drug issue is the reality of the situation, I question that conclusion.

Ms. CONTI. May I respond, sir?

Mr. REED. It is my time. I appreciate it. But to make such a bold conclusion I find very troublesome. Because, you know what? I care about the people who are on unemployment. And if someone has a drug problem, I look at drug addiction as a medical condition, an illness, a mental health-related issue in certain circumstances. What we are talking about is trying to empower people to get back to work. That is what has made America great, is that work ethic, that pride.

And so a lot of times I think we on this side of the aisle, people try to portray us as somehow trying to target people on unemployment. That is the farthest thing from the truth, ladies and gentlemen. We are talking about empowering people to overcome an obstacle that we believe is a significant problem and that many employers who have testified before me and other Members of this panel have indicated is a significant panel. And that is what we are talking about, is how can you in the unemployment program identify areas where those issues of drug use and abuse are there and make sure those employers and those employees get the help so that the people can get back to work.

The question I wanted to focus on to the panel is on the physically requiring to show up reforms that were in the reemployment eligibility assessment policies back in the 2012 reforms. And coming from a rural district of western New York, I see the benefits of using technology, allowing people to access the program that way because of transportation issues and things like that.

But one thing I am also concerned about, I harken back to some memories I have when I was a law guardian, when I first started out my law practice, and I was assigned to represent kids. And I remember vividly an 8-year-old young man in the western portion of my home county, Steuben County in western New York. And we were sitting in his living room, and I am trying to have a conversation with him, just, you know, who are you, you know, I am who

I am, and that type of thing. And I said, what do you want to be when you get older? And the response from an 8-year-old young man was, what are you talking about? I mean, it was the sum and substance, what are you talking about? We live here, check comes in the mail, and that is what we do.

Now, I was expecting astronaut, firefighter, police officer. And then it struck me, as I sat in that living room with that 8-year-old young man, I said, why would I expect when that 8-year old man becomes 20, 21, that he has learned about adults working.

And so when I look at that in-person requirement, it resonates with me that maybe what we are trying to do is to send a message to the people in the home so somehow we can break the cycle of dependency that we are seeing in America.

And so, you know, I am running out of time, and I will get off my bully pulpit. But I am very interested in knowing how you deal—Mr. Starks, you are from Utah—how you deal with those rural issues and those competing issues that I just articulated there? How does it work? And has anyone studied or looked at the impact on the children in the households in regards to the life lessons that are being taught by not having that in-person requirement?

Mr. STARK. The staff-assisted requirement that is included in the provision for the EUC REAs, even though we are a fairly rural state, about 80 percent of our population is within 50 miles of Salt Lake City, and over 90 percent of our EUC claimants were actually within 50 miles of an employment center. So in Utah we covered the vast majority. We sent REA requirements to every claimant, every EUC claimant. However, if they did call up and indicate that they were more than 50 miles away, we would issue them a waiver for that REA. But they were few and far between.

So it really didn't become too much of an issue in Utah. However, we support technology wherever it can be, you know, substituted. We typically find excellent results with technology, too.

Mr. REED. Appreciate it. Time has expired. Thank you very much.

Yield back, Mr. Chairman.

Chairman REICHERT. Thank you.

I would like to welcome the gentlelady from Tennessee, who is a fellow Member of the Ways and Means Committee, Ms. Black.

Ms. Black, thanks for joining us today. Do you have a question for the panel?

Mrs. BLACK. Yes, I do. Thank you so much, Mr. Reichert, for allowing me to be here with you today. I want to go just a little bit different direction, but still tying in with the conversation that has been had so far.

According to the President's budget, which was released last week, in the last 5 years, counting both the State and the Federal unemployment benefits, the UI system has paid out almost $550 billion in benefits. That is an annual average of more than $100 billion in benefits through the system that previously paid out only about $35 billion in those same benefits. This I think is not only having a negative impact on some recipients, as we have heard today, but also on the system that administers these benefits.

I want to go to my own home State of Tennessee. A recent audit that just occurred in the last couple weeks in Tennessee's unemployment insurance program revealed that the Department of Labor and Workforce in my home State had provided about $73 million in unemployment benefits to ineligible claimants over the last 3 years. And the audit went on to say that these overpayments had, and I quote, "increased significantly over the past 3 years," close quote.

Now, Congress has tried to address these issues. And in 2011 we enacted bipartisan reforms to impose a 15 percent penalty for fraud cases. And then in 2012 we came back and we passed further reform so that States would recover more overpayments by reducing the current benefit checks. But, clearly, there is still more work that needs to be done here.

I want you to begin answering this question for me, Mr. Hobbie, and then, Mr. Starks, if you will follow up. Now that benefit recipient is coming down and the receipts are coming, are States shifting workers away from getting benefits out the door and back to program integrity? And are error rates improving as a result? Mr. Hobbie, would you address that?

Mr. HOBBIE. Yes. Thank you, Ms. Black.

The system is still overwhelmed. Now, initial claims have come down. But because we have a continuing long-term unemployment problem, continued claims remain very high. So the workload in States is still high, but it is coming down. Some of the increases in overpayments in the system were due to the great recession. But, of course, that started the end of 2007 and was ended in the summer of 2009. And you point out that the overpayments in Tennessee increased in the last 3 years.

Mrs. BLACK. Last 3 years.

Mr. HOBBIE. So that is a bit puzzling, that pattern there. I don't have enough knowledge about Tennessee to know what is going on there.

I can say that as the claimant workload goes down, we do expect, and what has happened before, is States do shift workers back away from processing claims timely to some of the integrity activities.

I should also note that the system used to estimate overpayments, called the Benefit Accuracy Measurement System, has some problems with it. And we at NASWA in individual States are working with the U.S. Department of Labor to try to improve that system. It wasn't originally designed to estimate overpayments. The sample sizes are somewhat small. It is not focused so much on overpayments. And as a result, the estimates are somewhat inaccurate, the confidence interval around them is really quite wide.

So we are trying to work with the Department of Labor to improve that methodology, improve the accuracy, the estimates. Originally, when that so-called BAM System, B-A-M System was designed, it was designed as a system more to help States improve the integrity of their programs by providing them management information to improve their programs rather than calculating overpayment rates. But it subsequently has been used for the publishing of overpayment rates which, frankly, can't be compared from one State to the other, they can only be looked at within a

State. But the overpayment rates have been high; they are coming down, to some extent. And we are trying to make some progress on it.

Mrs. BLACK. If we would give the rest of the time to Mr. Starks.

Mr. STARKS. Thank you. I would echo what Mr. Hobbie indicated. It is really difficult to compare one State against the other. For instance, if one State is more stringent on work search requirements, they are going to have, usually, a higher improper payment rate.

I think with unemployment settling down, talking to my fellow directors, there is a much bigger effort on integrity. I think over 20 States now have implemented a treasury offset program where they are now intercepting Federal income tax refunds for overpayments. We have the SIDES initiative. In Utah, we are actually piloting two projects right now where we are actually looking at incarceration records for the prisons and county jails. We are also working with a large vendor that has data on about a third of the payrolls.

Mrs. BLACK. I think my time has expired.

But thank you again, Mr. Chairman, for allowing me to ask my question.

Chairman REICHERT. Thank you.

I would also like to welcome the gentleman from Texas, who is the chairman of the Health Subcommittee on the Ways and Means Committee.

Mr. Brady, do you have a question?

Mr. BRADY. Yes. Chairman Reichert, thanks very much for letting me join you today. And I want to applaud the leadership of Senator Williams, my state senator, for his leadership not only in chairing the Senate Finance Committee in Texas, but leadership on finding innovative ways to get people back to work.

Today there are literally tens of millions of Americans who can't find a full-time job. There are millions more who have simply given up looking for work altogether. Yet we have jobs going unfilled in energy, in building trades, in transportation, simply because the applicants cannot pass a drug test. Last year at this time, Republicans, Democrats, and the White House came together and agreed it was time to find some solutions to get people job-ready, those who are on unemployment today. And we, together, in a bipartisan way, created a process where States could raise their hand and show us in demonstration projects and pilot programs exactly how we connect those who don't have a job with good-paying jobs that are available today. Yet here we are, more than a year later, no waivers have been granted because no applications have been submitted under a round that has created a very burdensome, very complex process that, in fact, won't work.

So my question to Senator Williams and then to Mr. Hobbie is, if we can convince the Department of Labor to do their job, to follow the law as written, and the intent, to go back to the drawing board, coming up with the process that encourages States to step forward, Senator Williams, in your view, for Texas, which has already been recognized has having innovative programs to connecting local people to local jobs, if Department of Labor can get

it right, is Texas still willing to raise their hand and implement a pilot program to help show us the way?

Mr. WILLIAMS. Yes, sir, we are. And I would point out that when we rolled out this Back to Work program, our Lieutenant Governor traveled to 18 cities around the State promoting our Back to Work program. And so this is something that all of us in the legislature, from our leadership to the Membership, take very seriously. And removing those impediments and hurdles that we have would make a big difference in what we were able to do.

I would also point out that I think there are some technical changes that need to be made. I think one thing that hasn't been touched on here about your program integrity is the sample size that you are using to test unemployment benefits for overpayment is set by the Department of Labor at 480. Now, what does that mean? In Rhode Island, they sample 480 people; in South Dakota, who doesn't have as many people as live in my senate district, they sample 480 people; and, in Texas, with 25 million people, they sample 480 people.

And so there are others, Mr. Temple and others, who could go into a lot of the details about what the Labor Department considers best practices that are also just a way to scratch the list off and check the box and say, we don't have overpayments by looking the other way. And so I think there is not only a need for waivers, but there is a need for the Department to recognize that States are the best ones to implement these programs and to give us the flexibility to monitor them and make sure that they are working appropriately.

Mr. BRADY. Senator, thank you very much.

Mr. Hobbie, we are sort of given the impression up here that States weren't interested in stepping forward to help us solve this problem, connect these workers with jobs, and that today, you know, a year later, States generally aren't all that interested. Do you think that is the case? Or do you think States need the right application process so that they can indicate their interest? Is the interest still there?

Mr. HOBBIE. Mr. Brady, yes, the interest is there. States generally would like more flexibility from the Federal Government in implementing these demonstration programs, not only from the Department of Labor, but also under the law. And earlier I mentioned some changes that could be made, I think, to the current law which would make it more flexible for States such as Texas to operate the kind of demonstration programs they have had in the past.

So, in general, I would say our Members are interested. They want more flexibility. But they also recognize the Federal Government wants accountability. With respect to accountability, the law requires sophisticated evaluation of the demonstration programs. It would be very helpful if the Federal Government would provide funding for those evaluations rather than having it come out of the Unemployment Trust Fund or from state administrative costs.

Mr. BRADY. Well, I appreciate all the witnesses.

Again, Chairman, you are holding this hearing because we want those who are unemployed to be job-ready on day one. And key to that is the growing number of jobs that require drug screening and

drug testing, good-paying jobs. So thank you for continuing to shine a light on this problem.

Chairman REICHERT. Thank you for joining us today, Mr. Brady.

Well, thanks to all of you for your testimony. Your information is very helpful. Sometimes these hearings seem so sterile and formal, and you probably walk away and wonder if it was worth it. You can see there was a lot of interest here today, a lot of questions asked. We want to get this right. And what is worth it is getting, as everyone here has said, on both sides, getting people back to work. I mean, that really is what we all are here for.

And accountability, Senator, you mentioned that, the Federal Government has an issue with performance measures, accountability, and, you know, on a program that spends billions of dollars every year, there are a lot of complicated processes involved in this issue. But that doesn't mean we should not proceed forward and find solutions to the problems that we are all facing and try to get people back to work.

I will just mention this rather quickly. There are a lot of us on this Committee, on the Full Committee and some of us here today, who have had experience working with local government. Having been a part of the local government, my job was the sheriff in Seattle. And in dealing at local level, you know what is best for your community, you know what works in your community. And that has been a common theme today. I think that the Federal Government needs to understand even more so than some of us do that the Federal Government would be best letting you have that flexibility administering programs. Yes, with accountability and responsibility, but the ability to administer those programs tailored to your community so you can help the people that you know best get back to work and support their families.

So, again, I appreciate all of your hard work. Continue to do that. And we will look to you for answers. And hopefully we can find solutions.

If Members have additional questions for the witnesses, they will submit them to you in writing. And we would appreciate receiving your responses for the record within 2 weeks.

Chairman REICHERT. Thank you. This Committee stands adjourned.

[Whereupon, at 4:03 p.m., the subcommittee was adjourned.]

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