

House Leadership Bill Slashes Unemployment Insurance Proposal Reduces Federal Jobless Benefits by More than Half for Unemployed Workers in Highest Unemployment States

With little time left to reauthorize federally-funded unemployment insurance (UI) programs set to expire on December 31, 2011, the leadership of the House of Representatives has proposed instead to slash the federal UI programs and also do substantial harm to the basic state UI system. These misguided and mean-spirited proposals are contained in a bill sponsored by the Chairman of the Ways and Means Committee, Representative Dave Camp (R-MI). The Camp bill (H.R. 3630) abandons millions of U.S. workers and those communities hardest hit by the most severe jobs crisis since the Great Depression, including Rep. Camp's own constituents in Michigan, while inflicting irreparable damage on the nation's UI safety net.

Rather than negotiate across party lines to forge consensus to maintain the critical lifeline of benefits that now serves more than six-and-a-half million U.S. workers and their families, the Camp bill cuts the federal UI program by more than half in 2012, eliminating 40 weeks of benefits. Perversely, the most severe and immediate cuts are directed at those states with the highest rates of unemployment. Cutting benefits so drastically for those workers and communities who have been impacted the worst by the recession and slow recovery is a draconian measure, even to the most jaded observer of politics in today's Congress.

Taking into account the documented impact of UI, which has generated up to \$2 in economic activity for every \$1 the federal government has spent on UI during this recession,¹ NELP estimates that the House leadership's proposal would result in as much as \$22 billion in lost economic growth to the nation's economy, which also translates into a loss of at least 140,000 jobs next year.² The reduced level of income support provided

Key Features of H.R. 3630

Immediately Slashes Federal Jobless Benefits and Undermines Economic Growth, Penalizing the Highest Unemployment States

Usurps the Established Authority of the States to Determine Eligibility for Unemployment Benefits, While Penalizing Millions of Deserving Workers

Misguided Drug Testing Policy Further Penalizes Honest Workers and Pointlessly Burdens State Agencies

Opens the Door to "Means Testing" of UI Benefits By Denying Benefits to Workers Based on Their Income

Further Insults Workers by Charging them for the Costs of their Reemployment Services

Would Authorize Waivers of Federal Law that Now Protect Against Abuse of the Program

Eliminates the "Non-Reduction Rule," Providing States with the Leeway to Slash UI Benefits Next Year

by federally-funded unemployment benefits will, in turn, further strain state and local budgets due to the loss of payroll taxes, sales taxes and other revenue generated by spending on local goods and services. At a time when more than a third of the nation's unemployed have been jobless for a year or more, eliminating over half of the unemployment benefits available for the long-term unemployed will also drive these workers and their families to greater reliance on dwindling state, local and community resources like food pantries and shelters.

In addition to slashing the federal jobless benefit programs, H.R. 3630 also takes direct aim at the core principles of the basic state UI program, which have been honored by every Congress since the program was created in response to the Great Depression. Without providing any additional funding, except out of the pockets of the unemployed, the bill imposes extreme burdens and requirements on the state agencies that administer the UI programs and undermines the primary authority delegated to the states by the Social Security Act of 1935 to determine eligibility for unemployment benefits.

Of special significance, H.R. 3630 imposes a high school diploma or GED requirement as a condition of eligibility on all recipients of state unemployment benefits, which unfairly penalizes workers in those communities that already have the least access to quality education and training. In addition, the bill opens the door to "means testing" in the UI program by imposing income limits on the benefits.

Perhaps most disturbing, the Camp bill promotes state drug testing for workers to qualify for unemployment benefits—a deep affront to the character of millions of Americans who desperately want get back to work. Devising new ways to insult the unemployed only distracts from the current debate over how to best restore the nation's economy to strong footing and the discussion over how to best support the unemployed and get them back to work.

H.R. 3630 takes partisan politics to a new level, while sacrificing the critical needs of today's unemployed families and the struggling economy.

H.R. 3630 Immediately Slashes Federal Jobless Benefits and Undermines Economic Growth, Penalizing Workers in Highest Unemployment States

Federal unemployment insurance programs currently provide 34 to 73 weeks of assistance to unemployed workers (depending on the state's unemployment rate), after workers exhaust their state UI benefits (a maximum of 26 weeks). Representative Camp's proposal would slash the federal benefits by as much as 40 weeks.

It does so by first eliminating "Tier II" of EUC, which provides 14 weeks of federal benefits in all states, and then eliminating "Tier IV," which provides another six weeks of benefits in states with unemployment rates of 8.5% or higher. Immediately, the EUC program would thus shrink to 20 weeks for all states and a mere 13 additional weeks for states with unemployment rates over 6 percent.

Second, the bill would allow the last leg of the federal unemployment insurance extension – the 13 to 20 weeks of Extended Benefits (EB) that are available in the hardest-hit states – to expire, mostly over the course

of the first half of 2012. This expiration happens because the legislation fails to suspend the “look back” feature of current law that requires a state’s unemployment rate to have increased over the past three years, even if the absolute rate remains at high levels. Thus, states like California, Florida, Michigan, Georgia, Illinois, North Carolina, Rhode Island, South Carolina and Nevada, all of which have sustained high rates of unemployment over 10 percent, will still see their EB benefits expire simply because their rates have not also increased sufficiently in the past three years.

In sum, if the Camp bill is enacted, it would dramatically reduce the range of federally-funded benefits to 20 to 33 weeks, rather than the current level of 34 to 73 weeks. The maximum 33 weeks of benefits will be provided to those states with unemployment above 6 percent, with no additional weeks available to higher unemployment states, even for those with double digit unemployment. As a result, the states with the highest unemployment rates, including Representative Camp’s home state of Michigan, would face a triple-whammy of cuts to three different pieces of the federal programs. The cuts to the EUC program would take effect immediately for all states, while EB programs would be eliminated between January and August.

The nation’s highest unemployment states – the 21 states (plus D.C.) now receiving EB with three-month average unemployment rates of 8.5 percent or higher (the required level of unemployment to qualify for the maximum 20 weeks of EB) - would also experience the most severe 40-week cut in benefits under H.R. 3630. In Michigan, Indiana, Oregon, Kentucky, Missouri, Ohio, Rhode Island, South Carolina, and Tennessee, the 20 weeks of EB would quickly expire, likely by February 2012.³ And by July 2012, nearly all the states (including California, North Carolina, Washington, New Jersey, Alabama, Illinois, Connecticut, Georgia, and Florida), will feel the impact of the full 40-week cut in benefits.

State Impact of Reductions in Federally-Funded Benefits from January –September 2012

Reduction in Federally-Funded Benefits	States	Average Unemployment Rate (October 2011)
40 weeks	Alabama, California, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Kentucky, Michigan, Missouri, Nevada, New Jersey, North Carolina, Ohio, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Washington ⁴	9.9 %
27-34 weeks	Colorado, Delaware, Kansas, Maine, Maryland, Massachusetts, Minnesota, New Mexico, New York, Pennsylvania, West Virginia, Wisconsin	7.5%
14 -20 weeks	Alaska, Arizona, Arkansas, Hawaii, Iowa, Louisiana, Mississippi, Montana, Nebraska, New Hampshire, North Dakota, Oklahoma, South Dakota, Utah, Vermont, Virginia, Wyoming	6.5%

The devastating reductions in federally-funded benefits will impact millions of struggling unemployed workers and their families in every state. As a consequence, the economic boost provided by the federally infusion of benefits will be significantly reduced, particularly in the highest unemployment states that rely most on the benefits to help sustain their economies. This is a truly perverse result.

H.R. 3630 Usurps Established Authority of States to Determine Eligibility for Unemployment Benefits, While Penalizing Millions of Deserving Workers

While the Camp bill purports to give states flexibility in the administration of their UI programs, the fact is it imposes severe eligibility mandates that tie the hands of state officials.

Redundant Work-Search Requirements: H.R. 3630 requires every state to establish new work-search documentation requirements for every week of benefits claimed for regular state UI benefits, not just the federal extensions. States already tell UI claimants they must be available for suitable work and that they must make their best efforts to find a new job. But the Camp bill mandates that states develop and implement expensive new systems to track where and when unemployed workers have applied for jobs. The “documentary evidence” requirement for each and every week of benefits claimed creates huge new administrative burdens for states already straining from the unprecedented demands imposed on them—demands the agencies simply do not have the resources to meet. The proposed job search mandate is an anachronistic form of enforcement that is so expensive and unwieldy, state administrators across the entire political spectrum have uniformly supported a proposal to eliminate it altogether from the Extended Benefits program.

Expecting workers collecting UI benefits to look for work is reasonable and that is why states already do it. States do not need a new federal mandate that tells them how to enforce work search requirements. State UI agencies know that some workers on temporary layoff are unemployed for only a week or two and that it makes no sense to require these workers to look for new jobs and comply with bureaucratic documentation requirements. States do not need the new unfunded across-the-board mandates that the Camp bill would impose. The problem is not lack of effort in searching for jobs; it is lack of jobs.

GED Requirement: For the first time in federal law, the Camp bill would establish an eligibility requirement that all UI recipients have a high school or general equivalency degree (GED), or be making sufficient progress toward getting such a degree. While states could waive this requirement for individuals for whom such a requirement would be unduly burdensome, there are no standards guiding this waiver, and it is a requirement that should not exist in the first place.

First, it is important to appreciate that UI is a social insurance program in which eligibility is driven solely by loss of employment, attachment to the workforce and employer payments into the applicable UI trust funds on behalf of the employee, not income level, educational attainment, or other characteristics of unemployed workers. Employer contributions are made for the entire workforce, including those without high school diplomas or GEDs, not simply those with certain characteristics.

Second, this proposal would have a significant negative impact on unemployed workers with low education levels who have been dramatically affected by the recent recession. A survey of a random sample of claimants who had weeks compensated in the regular program during 2010 found that between 13-14 percent have not completed high school or the equivalent.⁵ Given that there were 2.2 million successful new claims of unemployment payments in the third quarter of 2011; this requirement would have affected about 284,000 people in one quarter alone—leading to a denial of benefits or enrollment in adult education courses.

Third, this is a substantial unfunded mandate on the states, at a time when they can least afford to cover the costs. State funding, a traditionally robust source of funding for adult education, is becoming less reliable as a result of crumbling state revenues. Enrollment in adult education and ESL has declined by 20 percent since its height in 2001. Moreover, it is unlikely that state programs could accommodate a new surge in enrollment. A survey conducted during the 2009-2010 program year found that nearly every state had a waiting list for adult education/ESL services and that nearly three-quarters of local programs reported waiting lists. About 160,000 learners across the country were on these lists, and the number of months on the waiting list has increased since the previous survey.⁶

At its core, this is a new federal requirement on a state-run program, one that would place additional burdens on already over-burdened state UI and workforce development agencies, and is neither the right place nor the right manner to incentivize appropriate life-long learning for workers. Shutting workers out of the UI system because they are under-educated will not magically educate them, but it will push them further into the margins of our economy and society.

H.R. 3630's Misguided Drug Testing Policy Further Penalizes Honest Workers and Pointlessly Burdens State Agencies

When Congress enacted the UI program in 1935, the Senate report accompanying the legislation spelled out that UI **“differs from relief in that payments are made as a matter of right not on a needs basis, but only while the worker is involuntarily unemployed.”** In other words, states may not restrict benefit receipt based upon conditions unrelated to the “fact or cause of worker’s unemployment.” State statutes governing eligibility and disqualification are designed to ensure that workers who collect benefits were previously attached to the labor force and have the capacity to rejoin it.

Notably, 20 states explicitly deny benefits for any job loss connected to drug use or a failed drug test while the remaining states would also likely treat a drug-related discharge as disqualifying misconduct even though it is not explicitly referenced in their discharge statutes. Thus, states already restrict eligibility for workers whose job loss is related to drug use. But, that is a far cry from allowing states to start engaging in witch hunts in which they test each and every UI applicant for drug use.

This proposed draconian over-reach appears to be rooted in a blanket assumption voiced by some policymakers that unemployed workers are to blame for their own unemployment and that the ranks of the unemployed are crowded with lazy drug abusers. It is important to remember that the unemployment insurance program is designed to assist workers who have lost their jobs involuntarily, generally for economic

reasons. And economic reasons also account for why so many of today's unemployed workers have not found new jobs-- there simply are not enough newly created jobs to replace all those we have lost. The ratio of officially unemployed workers to job openings has exceeded four-to-one for over 2-1/2 years. Drug testing every unemployed worker who applies for benefits is a misguided and overbroad practice that scapegoats the unemployed for the ongoing failure of the job market to recover from the most devastating job loss since the Great Depression.

In addition, this is a costly and overly burdensome policy for states at a time when they are slashing expenses everywhere, and don't have enough resources to adequately fund and staff their UI programs in the first place. As a conservative figure, the Substance Abuse and Mental Health Services Administration (SAMHSA) estimates the cost for drug testing to be between \$25 and \$75 per test.⁷ Since federal law prohibits assigning this cost to claimants, states would have to absorb the cost of drug testing thousands of unemployed workers. In March 2011, the Texas Legislative Budget Board estimated the full year cost of implementing such a program in Texas to be nearly \$30 million.⁸

Finally, Florida's recent experience with drug testing in the TANF cash assistance program shows the cost of such testing would likely outweigh any hoped-for benefits. The testing, which has since been halted by a federal judge on constitutional grounds that it likely violates the Fourth Amendment's protection against unreasonable search and seizure, revealed positive results in only 2.5 percent of applicants, a rate substantially below the CDC's estimate of 8.5 percent drug use rate in the general population.

Initiatives like this, that scapegoat those who need and are entitled to depend on basic social insurance programs, are inconsistent with the UI program's purpose and history, insensitive to the realities of today's economy, and insulting to millions who are shouldering the greatest burdens of job loss and inability to find new work.

H.R. 3630 Opens Door to “Means Testing” of UI Benefits

Unemployment insurance is precisely what its name suggests – insurance. From each paycheck, employers allocate a payment for each worker into the state's UI trust fund. Many economists argue this is money workers otherwise would receive as wages, but it is instead set aside to protect them in case they lose a job through no fault of their own. Workers earn their UI benefits by virtue of being sufficiently attached to the workforce and having accounts built up in their names. People at all levels of income, from the lowest to the highest, contribute to these accounts, and in accordance with this universal funding policy, have always been equally eligible for UI if they lose their jobs under qualifying circumstances.

Let's be honest: No one seriously believes or worries that multitudes of millionaires are lining up to collect unemployment benefits. But exaggerating the extent to which millionaires, a group of potential beneficiaries who garner little or no public sympathy, are drawing UI benefits opens the door to means-testing of unemployment benefits at any level of income by essentially eliminating UI for certain workers at the highest income levels. Just because someone is a high income earner does not mean that the loss of a job is not

potentially devastating to their economic well-being. And with all states capping the maximum benefit that a high-earning UI recipient can receive, no one could ever seriously maintain that UI of unjustly enriches or is an unfair windfall to any recipient.

Finally, this entire issue is nothing more than a distraction – in 2009, a year in which the federal and state governments spent \$135.9 **billion** on UI benefits, millionaires received only \$20 **million** in UI, a **mere 0.015%** of all UI expenditures for that same time period. This accounts to no more than a rounding error in terms of a drain on the program. It might make for a good sound-bite, but the best one can say about this proposal is that it is a solution in search of a problem. In a climate where we cannot even find the political will to impose small additional taxes on the wealthy in order to finance the social insurance and economic programs we need so badly, neither should we be penalizing higher-income workers when they lose their jobs and try to collect the UI benefits that they have already earned. Such a policy is the beginning of means-testing an insurance program, a dangerous precedent not just for UI, but for all social insurance programs.

H.R. 3630 Further Shortchanges Unemployed Workers by Charging them for Costs of Reemployment Services

Adding insult to injury, H.R. 3630 purports to offer long-term unemployed workers additional re-employment services, but authorizes states to deduct \$5 per week from all workers' UI benefits in order to fund these services – services that have always been financed by the taxes that employers pay into the UI system, which are stored in the Federal UI trust fund.

The average weekly UI benefit is a mere \$296 and replaces only about one-third of the average worker's previous wages. People receiving UI, especially the long-term unemployed who have dug deeply into their savings, need every dollar they receive to merely remain afloat. The callous supposition that workers will not feel the loss of those incredibly scarce resources further demonstrates how ill-advised and cruel the UI provisions in H.R. 3630 are.

What's clear is that the unemployed need more and better re-employment services and the state UI agencies are well positioned to deliver them in a very effective manner. This bill at least seems to recognize those facts. But rather than provide the funding needed to enhance agencies' capacity, this bill would instead charge the very people most devastated by the recession and our economy for the services they so desperately need.

H.R. 3630 Would Authorize Waivers of Federal Law that Now Protect Against Abuse of the Program

The Camp bill would allow up to 10 states per year to receive waivers from the requirements of federal unemployment insurance laws, including the requirements that all unemployment funds be used solely to provide unemployment benefits and that all UI eligibility criteria be based solely on the claimant's unemployment.

These kinds of waivers would allow states to operate programs that undermine the essential insurance principle of the UI program. Among the kinds of fundamental changes to UI law that state lawmakers have proposed that are currently prohibited by federal unemployment law are workfare-type programs that require UI claimants to perform mandatory community services in order to “work off” their benefits and programs that allow employers to avoid their obligations to pay minimum wage through free labor provided by UI claimants. H.R. 3630 would also allow states to take away the benefits of some workers by diverting up to 20 percent of EUC recipients into other activities that could replace their EUC benefits. This dangerous precedent could undermine the very integrity of the UI system and it should be opposed.

H.R. 3630 Eliminates Non-Reduction Rule, Providing States with Leeway to Start Slashing UI Benefits Next Year

As a final note, the Camp bill eliminates the “non-reduction rule” that has been part of the federal UI programs since February 2009. This rule keeps states from cutting the amount of state benefits they offer claimants as long as they are accepting money to pay EUC. Michigan led the way in cutting weeks of state benefits for new UI claimants last year, so it is little wonder that Rep. Camp wants to give states even more leeway to do harm to the underlying state UI programs that are still so desperately needed in this economy. This provision further demonstrates that this is not a bill about giving the kind of support that the unemployed need in these economic hard times, but rather, is about slowly but surely, abandoning them and the communities in which they live and hope to work

Conclusion

Congress is facing what should be an easy choice. Before its Members leave for the holidays -- to return to the comforts of their homes and tables full of food, to presents shared with family and friends -- they need to decide whether they support the unemployed and local communities with a UI safety net that is commensurate with the need out there, or will they slash and burn, cutting benefits from precisely the workers and communities who have suffered the most. This should not be a hard choice – maintaining the current federal UI programs is the right thing to do for unemployed workers and their families, for America, and our economy. Representatives Sander Levin (D-Mich.) and Lloyd Doggett (D-Tex.) and Senator Jack Reed (D-R.I.) have introduced legislation to do just that (H.R. 3346 and S.1804). Both Houses of Congress should pass them without delay, without change, and in their entirety.

Endnotes

¹ Vroman, Wayne, “The Role of Unemployment Insurance as an Automatic Stabilizer During a Recession” (Urban Institute, 2010), Table 4.3 Real GDP and Real Extended Benefits, 2008Q1 to 2010Q2.

² Bivens, Josh. 2011. *Method memo on estimating the jobs impact of various policy changes*. Washington, D.C.: Economic Policy Institute. <http://www.epi.org/publication/methodology-estimating-jobs-impact/> (ref: <http://www.epi.org/publication/labor-market-lose-million-jobs-ui-extensions/>).

³ http://democrats.waysandmeans.house.gov/media/pdf/112/factsheet_GOP_UIproposal.pdf.

⁴ D.C. would lose 20 weeks immediately, and EB would likely expire in December.

⁵ Special thanks to Neil Ridley and Elizabeth Lower-Basch of the Center for Law and Social Policy (CLASP) for their assistance with this paper. CLASP calculations based on data provided by the Employment and Training Administration, U.S. Department of Labor. See also, “Beyond Basic Skills,” Center for Law and Social Policy, March 2011, <http://www.clasp.org/admin/site/publications/files/Beyond-Basic-Skills-March-2011.pdf>.

⁶ Adult Student Waiting List Survey, National Council of State Directors of Adult Education, <http://www.naepdc.org/publications/2010%20Adult%20Education%20Waiting%20List%20Report.pdf>.

⁷ U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA) Drug Testing Facts and Statistics Fact Sheet,

http://workplace.samhsa.gov/WPWorkit/pdf/drug_testing_facts_and_stat_fs.pdf.

⁷ⁱ Texas Legislative Budget Board Fiscal Note, 82nd Legislative Regular Session, March 24, 2011,

<http://www.legis.state.tx.us/tlodocs/82R/fiscalnotes/html/HB00126I.htm>.

Cuts in Total UI Weeks Caused by House GOP Proposal

State	October Unemployment Rate	Current Total State and Federal Weeks ¹	Total State and Federal Weeks Under Proposal ²	Month EB Payments will End in 2012 ³	Total Weeks Lost
Alabama	9.3	99	59	May	40
California	11.7	99	59	May	40
Connecticut	8.7	99	59	May	40
District Of Columbia	11.0	99	59	December	40
Florida*	10.3	99	59	May	40
Georgia	10.2	99	59	May	40
Idaho	8.8	99	59	September	40
Illinois*	10.1	99	59	July	40
Indiana	9.0	99	59	January	40
Kentucky	9.6	99	59	February	40
Michigan*	10.6	99	59	January	40
Missouri*	8.5	99	59	February	40
Nevada	13.4	99	59	July	40
New Jersey	9.1	99	59	April	40
North Carolina	10.4	99	59	March	40
Ohio	9.0	99	59	February	40
Oregon	9.5	99	59	January	40
Rhode Island	10.4	99	59	February	40
South Carolina*	10.5	99	59	February	40
Tennessee	9.6	99	59	February	40
Texas	8.4	99	59	August	40
Washington	9.0	99	59	March	40
Colorado	8.1	93	59	April	34
Delaware	7.9	93	59	March	34
New York	7.9	93	59	March	34
Pennsylvania	8.1	93	59	April	34
West Virginia	8.2	93	59	June	34
Kansas	6.7	86	59	March	27
Maine	7.3	86	59	January	27
Maryland	7.2	86	59	April	27
Massachusetts	7.3	86	59	January	27
Minnesota	6.4	86	59	January	27
New Mexico	6.6	86	59	April	27
Wisconsin	7.7	86	59	February	27
Arizona	9.0	79	59	--	20
Mississippi	10.6	79	59	--	20
Alaska	7.4	73	59	--	14
Arkansas*	8.2	73	59	--	14
Hawaii	6.5	73	59	--	14
Iowa	6.0	73	59	--	14
Louisiana	7.0	73	59	--	14
Montana	7.6	75	61	--	14
Nebraska	4.2	60	46	--	14
New Hampshire	5.3	60	46	--	14
North Dakota	3.5	60	46	--	14
Oklahoma	6.1	60	46	--	14
South Dakota	4.5	60	46	--	14
Utah	7.0	73	59	--	14
Vermont	5.6	60	46	--	14
Virginia	6.4	73	59	--	14
Wyoming	5.7	60	46	--	14

Source: Extended Benefit Trigger Notice and Emergency Unemployment Compensation Trigger Notice, http://www.ows.doleta.gov/unemploy/claims_arch.asp.

*Six states (Arkansas, Florida, Illinois, Michigan, Missouri, and South Carolina) passed legislation in 2011 to cut the duration of state benefits. The number of weeks shown here applies to claims made prior to the state laws taking effect. The number of weeks will be reduced to 57 weeks for claimants filing in Arkansas after March 30, 2011; 46 weeks in Missouri after April 13, 2011, in South Carolina after June 14, 2011, and in Michigan after January 15, 2012; and 52 weeks in Florida; and 47 weeks in Illinois after January 1, 2012.

¹ Reflects the current maximum number of regular state weeks (up to 26 weeks), up to four tiers of EUC (Tier 1: 20 weeks; Tier 2: 14 weeks; Tier 3: 13 weeks, and Tier 4: 6 weeks), and EB (up to 20 weeks), where applicable.

² Reflects proposal that drops EUC Tiers 2 (14 weeks) and 4 (6 weeks), and that renews 3-year EB look-back trigger, as of January 2012. In states with high unemployment (TUR 8.5%), this equals a reduction of up to 40 weeks.

³ House Ways and Means Committee staff.