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The New Congress Proposes $7 Billion in Incentive Payments for States to Modernize the Unemployment Insurance Program

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The 110th Congress is debating a bold new initiative that will strengthen the unemployment insurance (UI) system by providing $7 billion in incentive funds to the states that modernize their programs. Those states that adopt model reforms will qualify for federal funding helping over 500,000 workers a year to better access good jobs and retraining. This initiative represents a milestone in the evolution of the UI program. For the first time, innovative state reforms to the UI program will drive federal resources and respond to the new realities of the nation's changing workforce.

The Unemployment Insurance Modernization Act, introduced in the U.S. Senate (S. 1871) and the House of Representatives (H.R. 2233), leverages federal UI funds to help those families who have fallen through the cracks of the UI system. Of special significance, the UI Modernization Act provides incentive funds to states that adequately cover low-wage workers, who are half as likely as higher wage workers to collect UI benefits. The bill also promotes model state reforms serving the record numbers of long-term jobless workers in today's economy in need of retraining and more adequate UI benefits to support their families. Finally, the legislation provides $500 million to help all states fill the serious gaps in federal administrative funding that pays for critical reemployment services.

The bi-partisan Senate bill makes significant improvements to the measure first introduced in the House of Representatives. It helps fund a broader range of state reforms and provides additional resources to the states by tapping projected carryover funds. This paper provides more detail on these Congressional proposals, describing the UI reforms that qualify for incentive funding and the other basic features of the UI Modernization Act. It also serves as a resource for federal and state policy makers to evaluate the proposal by documenting all the state laws and the amounts each state is eligible to receive in federal incentive payments and UI administrative grants.

Key Features of the Unemployment Insurance Modernization Act

- **$7 Billion in Incentive Funding for Qualifying States:** The bills provide up to $7 billion from the federal unemployment trust funds to states that adopt specific UI modernization reforms over a five-year period (2007-2012). Similar to prior "Reed Act" distributions to the states from the federal UI trust funds, the potential funding is based on the share of federal unemployment taxes paid by each state. To maximize the incentive for the states to participate in the program, the Senate proposal would also distribute any carryover funding available at the end of the five-year period in the event that some states do not enact the required reforms to qualify for their full incentive payment.

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- **One-Third Share of the Federal Funding Targets Low-Wage Workers**: Each state can collect one-third of its total incentive funding provided it adequately covers the 40% of low-wage workers who fail to qualify for UI because their most recent earnings are not now counted under state eligibility rules. Nineteen states and the District of Columbia have adopted the "alternative base period," which corrects for these outdated eligibility rules by recognizing a worker's most recent earnings. All but two of these states will immediately qualify for one-third of their share of incentive funding (the states that do not qualify have imposed special restrictions on their programs). No state will qualify for incentive funding under the UI Modernization Act without first adopting the alternative base period.

- **The Remaining Federal Incentive Payments Target Part-Time Workers, Women with Families and the Long-Term Jobless:** Under the Senate bill, the remaining two-thirds share of each state's incentive funding is conditioned on the state adopting two additional reforms covering: 1) part-time workers (mostly women) who are actively seeking work; 2) those who leave work because of compelling family circumstances; 3) families with dependents who receive limited unemployed benefits; 4) the long-term unemployed who fail to collect a full 26 weeks of state benefits; or 5) permanently laid-off workers who require training with the help of extra UI benefits. Eleven states (plus the District of Columbia) have adopted at least two of the required five reforms, including six states that have also adopted the alternative base period.

- **$500 Million for All States Helps Fill the Gaps in Critical UI Services**: All states qualify to receive their share of $500 million in administrative funding (distributed in $100 million increments over five years). Moreover, those states that qualify for the incentive payments are authorized to transfer these funds to pay for UI administration if the funding transfer is approved by the state legislature. The additional funding is necessary to help fill the $500 million annual gap between the workload needs of the state agencies that administer the UI program and the reduced funding appropriated by Congress in recent years. Because of significant cuts in federal administrative funding, state UI agencies have reduced reemployment services and closed unemployment offices.

- **The UI Modernization Initiative is Funded by Reauthorizing the Federal UI Surtax**: The UI modernization program is paid for with $7 billion that is generated over five years by a federal UI surtax. The surtax, which has been in place since 1977, has to be reauthorized by December 31, 2007. It has been extended four times by both Democrat and Republican majorities in Congress. In addition, the Bush Administration has proposed doing so again in 2008, although its budget proposal does not reinvest the surtax revenues in the UI system. Even with the UI surtax, employers are now paying far less in federal UI taxes than they did before 1977 when the surtax was established.

- **States Provided the Flexibility & Resources to Modernize their UI Programs:** The Senate proposal would immediately reward 17 states (and the District of Columbia) from every major region of the U.S, providing a total of $1.4 billion to these states to further expand benefits, pay for UI administration or help reduce state UI taxes.[1] Five more states (California, Connecticut, Delaware, Nebraska and Oregon) have adopted all the necessary

[1] These include Southern states (Georgia, North Carolina, Virginia), Midwest states (Illinois, Ohio, Michigan, Wisconsin), West Coast and Southwest states (Hawaii, New Mexico) and several East Coast states (Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont).

reforms that would entitle them to their full federal incentive payment provided they adopt the alternative base period. For the remaining states that have not adopted the alternative based period, the vast majority would receive sufficient incentive funding to cover more than three to four years of benefits. Of the ten states that do not provide UI to part-time workers or to workers who leave their jobs for compelling family reasons, the UI Modernization Act would distribute sufficient incentive funding to pay for eight years of these critical benefits.

The Decline of the UI Program

As documented by several leading authorities, including a bi-partisan panel of experts created by Congress in 1991 (the Advisory Council on Unemployment Compensation), the UI program has failed to evolve to meet the demands of a changing economy and the new workforce.[2]

In contrast to 1936, when the UI program was created, the workforce is now dominated far more by low-wage and women workers and a changing economy that has produced more long-term unemployment experienced by workers of nearly all income and education levels.[3] Thus, there are two major groups of workers who are falling through the cracks of the current UI program – low-wage and women workers who fail to qualify because of outdated eligibility rules and the long-term jobless who qualify for UI benefits but receive far too limited assistance as they struggle to find quality jobs in today's economy.

The statistics paint a vivid picture of these dual challenges. According to the General Accountability Office, low-wage workers are twice as likely to be unemployed as higher wage workers, but they are half as likely to collect unemployment benefits (even when they previously worked full-time).[4] As a result of the last two "jobless recoveries," many more unemployed workers also run out of their limited jobless benefits, now exceeding 35% of those who collect state benefits. During the last recession, the UI "exhaustion rate" peaked at a record 44% and remained above 40% for a record 28 months.

Given these trends, the UI system has reached a crisis point requiring serious federal action. Indeed, the percent of the unemployed collecting jobless benefits has fallen to dramatically low levels, with just 35% of the unemployed receiving jobless benefits in 2006. That is down from nearly 50% in the 1950s, and over 40% in the 1960s and 1970s. The disparities are even more pronounced in particular states. Indeed, less than one-third of all unemployed workers collect UI benefits in 28 states (and in nine states, the ratio is less than one in four), as illustrated in Figure 1.

In recent years, the states have also been deprived of federal resources necessary to cover the basic costs of administering their UI programs. These funding constraints have contributed to the low rates of access to the UI program as more states cut back on critical services, including counseling and in-person assistance to navigate the claims process. Instead, most states now rely almost exclusively on menu-prompted phone systems and the Internet to process their claims.

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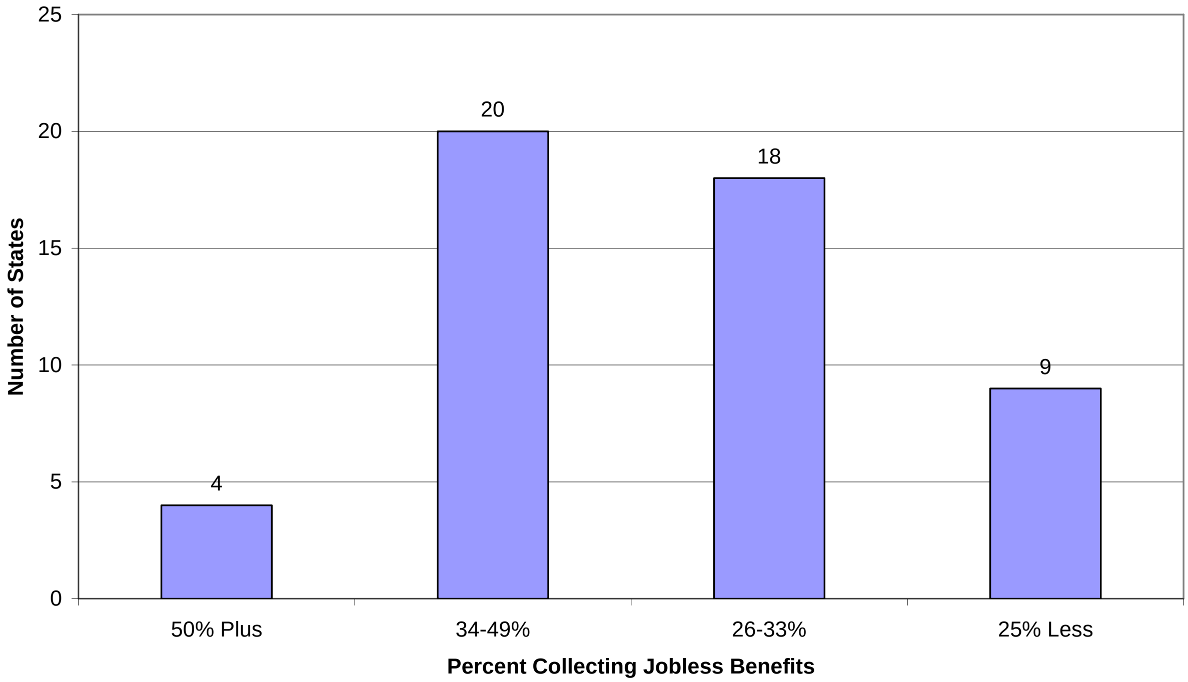
[2] Advisory Council on Unemployment Compensation, *Collected Findings and Recommendations: 1994-1996* (1996); Center for American Progress, *From Poverty to Prosperity: A National Strategy to Cut Poverty in Half* (A Report and Recommendations of the Center for American Progress Task Force on Poverty, April 2007), at pages 46-49.

[3] Allegretto, Stettner, "Educated, Experienced and Out of Work: Long-Term Joblessness Continues to Plague the Unemployed" (National Employment Law Project & Economic Policy Institute, March 2004).

[4] U.S. General Accounting Office, U*nemployment Insurance: Role as Safety Net for Low-Wage Workers is Limited* (December 2000), at pages 13-16.

Figure 1: State Distribution of the Percent of the Unemployed Collecting Jobless Benefits (4th Quarter, 2006)



Indeed, since 2001, federal UI administrative funding has been cut back by $305 million in inflation adjusted dollars, despite the intervening recession and other increased demands on the state UI programs.[5] The states have also been forced to divert over $130 million from state revenues to fill the federal funding void.[6] The U.S. Employment Service, which provides the critical labor exchange functions matching workers with available jobs, has also been cut by over $300 million since 2001. According to the National Association of State Workforce Agencies, there is now a $500 million annual gap between the workload needs of the state agencies that administer the UI program and the amount appropriated by Congress.[7]

The States Pave the Way for the Federal UI Modernization Initiative

Despite the challenges, many states have been at the forefront of major UI reforms during the past decade, thus following the recommendations of the federal Advisory Council on Unemployment Compensation (ACUC) and other authorities to modernize their UI programs. Since 1996, nearly half the states have adopted innovative new policies to fill the gaps in the UI system.[8]

The UI Modernization Act takes the best of what has made its way into these state UI laws in recent years and provides the necessary incentive funds to help more states fundamentally improve their programs. In addition, the legislation rewards those states that have been leaders in building

[5] AFL-CIO, "President Bush's FY 2008 Budget Proposal: Department of Labor."
[6] Power Point Presentation, National Association of Workforce Agencies, "Unemployment Insurance State Administration" (2007).
[7] National Association of State Workforce Agencies, Reed Act Distribution Resolution (adopted September 7, 2006).
[8] National Employment Law Project, *Changing Workforce, Changing Economy: State Unemployment Insurance Reforms for the 21st Century* (October 2004), at page 4.

strong UI programs by providing them the funding to further innovate. With a reasonable investment of $7 billion, the federal legislation could help leverage benefits for another 500,000 deserving workers a year according to the National Employment Law Project's estimates (Table 3).

There is significant precedent for authorizing state UI grants paid for with federal trust fund dollars (called a "Reed Act" distribution). For example, in March 2002, Congress provided the states with an $8 billion Reed Act distribution. However, in contrast to the proposed UI Modernization Act, the 2002 funding did not impose any specific conditions on the states to reform their UI programs. As a result, the 2002 funding produced limited reforms to modernize the program, while primarily benefiting employers in the form of reduced UI taxes.[9]

One-Third of the State Incentive Payments Support Low-Wage Workers

The UI Modernization Act conditions the incentive funding on the states first reforming their programs to cover more low-wage workers by adopting a reform called the "alternative base period" (ABP). Specifically, the states can collect one-third of their incentive funding by adopting this critical low-wage worker reform (totaling up to $2.3 billion in federal funding).

The ABP helps large numbers of low-wage workers who need to apply their most recent earnings in those states that still fail to count a worker's latest three to six months of wages in determining eligibility for UI benefits. More specifically, in most states the "base period" of covered wages is limited to the first four of the last five completed calendar quarters. Thus, wages earned during the latest quarter (called the "filing" quarter) are not counted for eligibility purposes, nor are those wages earned in their last completed quarter (called the "lag" quarter). Below is an example which illustrates how the traditional "base period" denies UI benefits to low-wage workers who have a substantial work history.

The traditional base period dates back to when an individual's wages were collected in paper form from the employer and were then hand processed by the state agency. Now, with the help of computers, the states are able to readily capture these more recent wages. Thus, when a worker's prior earnings are not sufficient to qualify for UI using the old wage records, the states with the "alternative" base period will also consider the most recent completed calendar quarter of wages.

In those states that have adopted the ABP, about 40% of the workers those who did not qualify because of inadequate base-period earnings end up receiving UI benefits as a result of the ABP. These newly-eligible workers are mostly employed in low-wage jobs (earning on average of $9.58 an hour).[10] For example, in Michigan, 17% of all low-wage workers who qualified for unemployment benefits did so solely because of the alternative base period. As a result, rather than being denied benefits, 26,000 workers a year are receiving an average UI payment of $232 a week.[11]

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[9] U.S. General Accounting Office, *Unemployment Insurance: States' Use of the 2002 Reed Act Distribution* (March 2003) (finding that only nine states expanded benefits with their Reed Act funds or even planned to do so, while 30 states held on to their Reed Act funds, which had the effect of avoiding scheduled increases in UI taxes or new solvency taxes); Testimony of Maurice Emsellem, National Employment Law Project, Before the Subcommittee on Income Security and Family Support of the House Committee on Ways & Means, dated March 30, 2003 (documenting that two-thirds of the states that reduced their UI taxes with Reed Act funds had average UI tax rates below the national average).

[10] National Employment Law Project, Center for Economic and Policy Research, *Clearing the Path to Unemployment Insurance for Low-Wage Workers: An Analysis of Alternative Base Period Implementation* (August 2005).

[11] NELP PowerPoint Presentation, "A Decade of Progress Expanding the Unemployment Insurance Safety Net" (December 10, 2006).

Example: Traditional "Base Period" In a State Requires $2,000 in Wages, But a Worker Earning $7,500 Over 8.5 Months Does <u>Not</u> Qualify for UI

If a worker applied for benefits on June 15th, the state would only consider her earnings for the period from January 2006 to December 2006 under the traditional "base period," thus not counting 5.5 months of recent wages. As shown below, if the worker was employed at the new federal minimum wage ($7.25, effective 2009) for 20 to 30 hours a week since October 2006 (8.5 months earlier), she would not qualify for benefits even if the state required just $2,000 in base period earnings.

Traditional Base Period				Recent Wages Not Counted	
First <u>Quarter</u> (Jan. 2006-March 2006)	Second <u>Quarter</u> (April 2006 - June 2006)	Third <u>Quarter</u> (July 2006 – Sept. 2006)	<u>Fourth Quarter</u> (Oct. 2006 – Dec. 2006)	Completed <u>"Lag" Quarter</u> (Jan. 2007 - March. 2007)	Time of Layoff-<u>"Filing" Quarter</u> (April 2007 – June 15th).
No Earnings	No Earnings	No Earnings	$1,885 (working 20 hours a week)	$2,827 (working 30 hours a week)	$2.827 (working 30 hours a week)

After detailed study in the early 1990s, the bi-partisan ACUC recommended that "All States should use a moveable base period in cases in which its use would qualify an Unemployment Insurance claimant to meet the state's monetary eligibility requirements."[12] Since that time, another 12 states have adopted this policy, now covering 19 states (and the District of Columbia) and half of the nation's unemployment claims.[13] However, two of these states (Connecticut and Oklahoma) have special restrictions on their programs which prevent them from qualifying for incentive funding under the UI Modernization Act.

According to NELP's estimates, nearly 300,000 new workers will qualify for unemployment benefits if the remaining states adopt the alternative base period with the help of federal incentive grants (Table 3).[14] The annual estimated cost of about $550 million for the new ABP states compares favorably with the $2.3 billion dedicated to this reform by the UI Modernization Act.

Indeed, 17 new states could fund ABP benefits for three to four years with one-third of their share of the federal incentive funds under the UI Modernization Act. Another five states (California, Connecticut, Delaware, Nebraska and Oregon) would qualify for their full incentive grant by adopting the ABP, thus generating many years of funding to apply toward the ABP or other UI improvements designated by the state. Most state UI trust funds are well positioned to

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[12] Advisory Council on Unemployment Compensation, *Collected Findings and Recommendations*, at page 19.

[13] The ABP states that qualify for incentive funding include: District of Columbia, Georgia, Hawaii, Illinois, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Rhode Island, Vermont, Virginia, Washington, Wisconsin (Table 2).

[14] The estimate (Table 3) is based on survey data collected by NELP from the ABP states. The estimated number of workers who will qualify for the ABP takes into account the proportion in each state who are monetarily ineligible for UI benefits, multiplied by 40% to account for the average proportion who benefited from the ABP in those states that have adopted the program. The amount of ABP benefits paid takes into account that ABP eligibles receive 70% of the average state UI benefit and collect benefits for a period lasting 70% of the average UI recipient. National Employment Law Project, Center for Economic and Policy Research, *Clearing the Path to Unemployment Insurance for Low-Wage Workers: An Analysis of Alternative Base Period Implementation* (August 2005),

handle the relatively modest increase in total benefits resulting from the ABP with the help of the federal incentive funding.[15]

The Remaining Incentive Funding Targets Part-Time Workers, Family-Friendly and Long-Term Jobless Worker Reforms

Once a state has adopted the ABP, it qualifies to receive the remaining two-thirds share of the Reed Act distribution if it has adopted designated reforms serving the major groups that have fallen through the cracks of the UI system, including part-time workers, women with families and the long-term unemployed.

Specifically, the Senate bill requires a state to provide UI benefits to workers in at least two of the following five situations:

- Part-time workers who are actively seeking work;
- Individuals who leave work because of compelling family circumstances;
- Workers with dependent family members who receive limited unemployment benefits;
- Permanently laid-off workers who require access to training with the help of extra UI benefits.
- The long-term unemployed who fail to collect a full 26 weeks of state UI benefits.

In contrast to the Senate bill, the House measure is limited to two out of three of these reforms, not including the state policies providing extra UI benefits for dependent family members or a full 26 weeks of assistance for the long-term unemployed. Thus, the Senate bill provides the states more latitude to qualify for incentive funding while still targeting the key constituencies that are unfairly denied UI benefits. Eleven states already meet these requirements of the Senate bill, including six states that have also adopted the ABP.[16]

<u>Parity for Part-Time Workers, Mostly Women with Families</u>

The UI Modernization Act rewards those states that allow families to work part-time and collect UI benefits, thus removing the state limits requiring workers to seek full-time work to qualify for UI.

Part-time work has now become a necessity for many more workers who must balance their family responsibilities or find the time necessary to go back to school and improve their job skills. According to the latest figures collected by the Bureau of Labor Statistics, one in six workers is now employed part-time (averaging 23 hours a week of work) and nearly two-thirds of part-time workers are women. While nearly all of these workers pay into the unemployment system, only 23% of low-wage part-time workers collect jobless benefits.[17] Responding to this conspicuous inequity, Maine recently provided UI to workers seeking part-time work. Now, more than 70% of those who qualify with the help of the new part-time worker protection are women workers.[18]

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[15] NELP's survey of the states that have adopted the ABP found that these claims only represent 1.1% to 5.2% of all UI payouts. <u>Id</u>. at page 3.
[16] The eleven states include: California, Connecticut, Delaware, Hawaii, Maine, Nebraska, New Jersey, New Mexico, New York, Oregon, Vermont (Table 1).
[17] U.S. General Accounting Office, *Unemployment Insurance: Role as Safety Net for Low-Wage Workers is Limited* (December 2000), at page 16.
[18] NELP PowerPoint Presentation, "A Decade of Progress Expanding the Unemployment Insurance Safety Net" (December 10, 2006). For more detail on part-time worker reforms, <u>see</u> *Laid Off and Left Out: Part-Time Workers and*

Like the ABP, this reform was endorsed by the bi-partisan Advisory Council on Unemployment Compensation.[19] Nineteen states (Table 2) now cover part-time workers, including seven new states that have reformed their laws in recent years. As limited by the UI Modernization Act, this count does not include the states that require those seeking part-time work to also have worked mostly in part-time jobs before applying for UI benefits. If the remaining states allow jobless workers to seek part-time work and collect UI, NELP estimates that 200,000 more workers will collect $280 million in benefits (Table 3).[20]

<u>Recognizing Compelling Family Circumstances for Leaving Work</u>

More than 30 years ago, President Ford's Administration issued a directive urging the states to "change by legislation the legal inequities between the sexes" in the operation of the UI laws.[21] Documenting the gender disparities that continue to plague the UI system, one state study of UI eligibility rules found that 71% of those who leave work for domestic reasons are women, mostly women with families.[22]

These inequities date back to when the UI programs was created in 1936 to benefit mostly men who worked in traditional manufacturing jobs with extended job tenure. However, during the past decade, these policies have been the focus of significant state scrutiny to create a more fair program that responds to the current realities of women workers.[23] The UI Modernization Act incorporates those reforms of special priority in the states. Specifically, to qualify for federal incentive funding, the state must recognize <u>all</u> of the following "compelling family reasons" for leaving work.

- <u>Domestic Violence</u>: The UI Modernization Act rewards the states that have made UI benefits available to those women who are forced to leave work for reasons related to domestic violence and provides federal incentive funding for the remaining states to follow their lead. In 1997, Maine was the first state to specifically provide "good cause" for leaving work as a result of domestic violence, and since then 28 more states have done so (Table 1).

- <u>"Trailing Spouse</u>:" In addition, the UI Modernization Act addresses a fundamental inequity in state UI laws that deny UI benefits to those who leave their jobs when their spouse is forced to relocate by the employer to another area. This issue has played out most recently as more military families are transferred across the country, forcing spouses

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Unemployment Insurance Eligibility (National Employment Law Project, The Program on Gender, Work & Family, the Economic Policy Institute: February 2002).

[19] Specifically, the ACUC recommended that, "Workers who meet a state's monetary eligibility requirements should not be precluded from receiving Unemployment Insurance benefits merely because they are seeking part-time, rather than full-time, employment." Advisory Council on Unemployment Compensation, *Collected Findings and Recommendations*, 1994-1996.

[20] The state estimate (Table 3) of the number of part-time workers who would qualify for UI benefits are based on several factors, including the number of unemployed looking for part-time work by state, the percent of the unemployed who collect UI benefits, the percent of part-time workers who fail to qualify due to limited earnings and for other reasons that disqualify them from benefits, and the number of part-time workers who already qualify for benefits by seeking full-time work. The annual estimate of the cost to each state also takes into account that part-time workers collect 50% of the average weekly UI benefit. Wayne Vroman, "Labor Market Changes and Unemployment Insurance Benefit Availability" (Urban Institute, January 1998).

[21] U.S. Department of Labor, Unemployment Insurance Program Letter No. 33-75 (December 8, 1975).

[22] Washington State Employment Security Department, *Study of Voluntary Quits* (2006).

[23] National Employment Law Project, *Between a Rock and a Hard Place: Confronting the Failure of State Unemployment Insurance Systems to Serve Women and Working Families* (July 2003).

to leave their civilian jobs without qualifying for unemployment benefits. An analysis of Virginia's law documented that nine out of 10 workers disqualified by these "trailing spouse" provisions were women.[24] Despite the 1975 guidance from the U.S. Department of Labor calling attention to the discriminatory impact of this policy, only 15 states provide UI benefits to trailing spouses. (Table 2).

- Family Illness & Disability: Half of all private sector workers in the United States are not entitled to paid sick days on the job to help accommodate the illness of a child, a parent or other immediate family members.[25] These and other working families are routinely forced to leave their jobs to attend to emergency medical situations, regularly scheduled doctor visits, or to remain home to care for sick family members when child care or elder care falls through. Many of them remain available for work, but require accommodations for work, such as shift changes, which their employers often fail to provide. The UI Modernization Act would provide incentive funding to accommodate these compelling needs of workers to care for sick family members, which have now made their way into the laws of 16 states (Table 2).

Seven states currently have all these reforms in place as required for UI Modernization Act funding, and another 10 states have two of the required three provisions (Table 2). Combined, these reforms would benefit about 50,000 workers if adopted by the remaining states, generating an estimated $170 million annually in UI benefits for these families (Table 3).[26]

Adequate UI Benefits for Families Caring for Dependents

Unemployment benefits should be sufficient to cover the basic necessities for workers who lose their jobs and have to support a family. However, in most states, UI benefits replace only one-third of the state's average weekly wage.

As a result, during the last recession, two-thirds of unemployed mothers reported cutting spending on their children, food and medical care when unemployed.[27] Moreover, low-income families already spend far more on basic necessities due to the high cost of living. Given these and other challenges, unemployment benefits should represent a more reasonable share of a family's prior earnings.

To help address this serious financial hardship, 13 states now provide a "dependent allowance." These allowances augment an individual's weekly unemployment check for each dependent in the family. Currently, four of these states provide weekly dependent allowances of at least $15 as required by the Senate version of the UI Modernization Act. Another eight states provide dependent benefits, although in amounts that are less than the required $15 weekly minimum (Table 2).

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[24] *Austin v. Berryman*, 955 F. 2d 223, 226 (4th Cir. 1992).

[25] Testimony of Heidi Hartmann, Institute for Women's Policy Research, before the U.S. Senate, Committee on Health, Education, Labor & Pensions (2006).

[26] This estimate (Table 3) takes into account the states that have any of the three specific family reasons for leaving work recognized by the UI Modernization Act, while projecting the percent increase in the state's "voluntary quit" determinations resulting from each provision (3% for illness of a family member, 3% for "trailing spouse" and 2% for domestic violence). The annual cost estimate assumes these workers will collect the same weekly benefit amount as the average worker in the state.

[27] Peter D. Hart Research Associates, "Unemployed In America: A Look at Unemployed Women & Families" (Survey of unemployed adults conducted April 17-18, 2003).

Extended UI Benefits While in Training for Dislocated Workers

Responding to the special challenges of manufacturing workers suffering from major layoffs due to trade and other economic forces, the UI Modernization Act also promotes state policies providing extended UI benefits to workers participating in meaningful training in demand occupations. Without the extra income provided by unemployment benefits to participate in training, far too many workers are left with no real options other than lower-pay jobs.

These state training programs have produced strong results and a significant return on the investment. For example, Washington's program provided an average of 27 weeks of UI benefits for dislocated workers to participate in state-approved training. Most participants are workers with just a high school degree who were laid off from manufacturing jobs in aerospace and other state industries.[28] Eighty-five percent of them enrolled in community or technical college classes, with the largest numbers participating in information technology programs. By the third quarter after leaving the program, 72% of the more than 8,000 participants were employed, making an average of 92.6% of their pre-dislocation wages.[29]

In addition to Washington, California, Maine, New Jersey and Oregon also provide at least 26 weeks of extended UI while workers participate in training for demand occupations as required by the UI Modernization Act (Table 2).

Guarantee 26 Weeks of Assistance for the Long-Term Jobless

Despite the common public perception, many jobless workers in U.S. do not qualify for a maximum 26 weeks of state unemployment benefits. Indeed, only eight states (plus the District of Columbia) provide a maximum of 26 weeks to all workers (Table 3). Recognizing the new realities of long-term unemployment, the Senate version of the UI Modernization Act provides incentive funding to the states that offer a "uniform duration" of 26 weeks of UI benefits (or provide benefits equal to at least half of the individual's wages in the base period).

As described above, today's workers have been running out of their regular benefits at record rates, currently exceeding 35%. Although many workers apply for benefits assuming they qualify for 26 weeks, this is not the case because of state formulas that go too far in limiting UI benefits based on an individual's work history. Indeed, the average U.S. worker runs out of UI benefits after 23 weeks of looking for work (Table 4). In 14 states, the average is 20 weeks or less. Therefore, the rising rate of workers who exhaust their state benefits is not merely a function of the economy. It is also a direct result of the state UI laws that limit the maximum weeks of benefits.

Worse yet, these workers are also denied several weeks of federal extended benefits when a recession hits. That is because federal recession benefits typically cannot exceed half the individual's state UI. Thus, if a worker received just 20 weeks of regular state UI, she can only qualify for a maximum of 10 weeks of a 13-week federal extension. That compares with the 39 weeks of benefits available to those workers in the states that automatically provide 26 weeks of benefits (i.e., 26 weeks state UI, plus 13 weeks federal extension).

This situation creates a serious hardship for working families in those states that do not provide more long-term benefits. Their limited state benefits, which now average $270 a week, are

[28] Washington State Workforce Training and Education Coordinating Board, *Training Benefits Program Review* (December 2002).
[29] Id., at page 8.

already insufficient to cover unprecedented gas prices, a mortgage and health care for the family. In addition, the limited weeks of state UI forces more workers into low-pay jobs before they have a sufficient opportunity to pursue better paying jobs or take part in meaningful training to compete in today's job market.

$500 Million in State Grants to Fill the Gaps In Critical UI Services

Major cuts in federal funding that support state UI administration have deprived the states of the critical resources they need to properly serve the unemployed, especially the large numbers of dislocated workers who often require more intensive reemployment assistance. In addition, the UI Modernization Act supports reforms that, if properly implemented, involve more services than some states routinely provide (e.g., the processing of ABP claims, the outreach necessary for women workers to qualify for UI domestic violence benefits, and counseling to explore career options for those who qualify for UI while in training).

Thus, the UI Modernization Act also provides $500 million for the states to fill the gaps in these critical UI services. The new administrative funding is based on the proportion of federal UI taxes contributed by each state. Like the 2002 Reed Act distribution, the UI Modernization Act also provides the flexibility for states to apply their incentive funding toward UI administrative expenses when the transfer is approved by the state legislature. In addition, the Senate version of the bill would provide a <u>second</u> distribution of administrative funds to the states in the event that any of the $7 billion in incentive funding is left over at the end of the five-year period of the program. Specifically, the bill distributes 10% of the remaining carryover funds for administrative purposes.

Reauthorizing the Federal UI Surtax to Fund the UI Modernization Act

Funding for the UI Modernization Act is made possible by reauthorizing a UI payroll tax that is scheduled to expire on December 31, 2007. The UI surtax, established thirty years ago, generates $14 per worker of the maximum $56 per worker now contributed by employers annually to the federal UI trust funds.

The Congressional Budget Office projects that the surtax will generate $7 billion over the next five years.[30] Not including this revenue, the Bush Administration projects that the federal trust funds will accumulate nearly $40 billion in reserves by 2008 (while generating another $6 billion in revenue every year).[31] By comparison, the extended benefits program during the last recession required $25 billion in UI trust fund spending. Thus, the proposed Reed Act distribution of $7 billion will not compromise the solvency of the federal trust funds or the ability of the UI trust funds to respond to the next recession.

As in years past, there is bi-partisan support to reauthorize the UI surtax for another five years. In fact, the Bush Administration has proposed that Congress extend the surtax for the fifth time since it was established in 1977.[32] Nonetheless, some employers argue that surtax should be repealed, claiming the UI payroll tax is excessive. In fact, employers are paying far less in federal UI taxes, even with the UI surtax, than they were before 1977 when the surtax was established. Before 1977, employers were paying $25 per worker in FUTA taxes, or $84 in current dollars. In contrast, employers are now paying just $56 per worker, or nearly $30 less than the amount they

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[30] Congressional Budget Office, Preliminary Estimate, UI Modernization Act (2007-2012).
[31] UI Outlook, President's Budget (FY2008) (available on-line at http://ows.doleta.gov/unemploy/content/fy2008/home.asp)
[32] <u>Id.</u>

paid in 1977 before the surtax was enacted. Moreover, during the decade of the 1990s, the average UI tax on employers decreased by 33%, falling to a record low in 2001 (of just half of one percent of total wages).

Carryover Federal Funding Generates Second Round of States Grants

The Senate version of the UI Modernization Act takes into account that some states will not qualify for their full incentive grants, leaving a portion of the $7 billion unspent at the end of the five-year program.

To maximize the incentive for the states to modernize their UI programs, the Senate bill provides a second round of Reed Act payments with the carryover funding. However, the additional funding is only available to those states that qualified for their full incentive grant. The amount of the second grant will be based on the share of federal UI taxes contributed by the qualifying states (but capped at twice the amount of the original federal incentive payment to the state).

Also of special significance, all states will again qualify for a second administrative grant using 10% of the carryover funding. For example, if $1 billion of the federal Reed Act funding is left unspent at the end of the five years, $100 million will be set aside for a second round of grants to improve administration of the UI program. The remaining $900 million will be apportioned to the states that qualified for the full federal incentive grants.

States Provided the Flexibility & Resources to Modernize their UI Programs

The UI Modernization Act will provide significant resources to maximize the incentive for states to expand and improve their UI programs, especially given the prospect of a second round of grants taking advantage of the carryover funding. Eleven states qualify to immediately access the federal incentive payments, totaling $1.4 billion in funding (Table 1). As described in the examples below, while the incentive grants are limited in duration, they provide significant flexibility and resources for all states to modernize their UI programs.

<u>Alternative-Base-Period States</u>: Virginia is one of 17 states (plus the District of Columbia) that qualifies for one-third of its federal funding for adopting the alternative base period. As a result, it will receive $65 million in incentive funds, which represents about 20% of the total UI benefits paid in the past year. Virginia could apply the funding to prevent the scheduled closure of UI offices statewide, with the help of the $14 million administrative grant. Or, it could adopt new reforms with these funds beyond those provided for by the UI Modernization Act. Virginia could also collect another $130 million in federal funding by covering part-time workers and those who leave work for compelling family reasons. According to NELP's estimates, these reforms would cost $10.4 million annually. Thus, the federal incentive payment will cover more than ten years of new benefits, not counting the $65 million received for the alternative base period.

<u>States That Immediately Qualify for Full Funding</u>: Maine is one of six states that qualifies immediately for its full incentive grant, with all the necessary reforms in place under current law. As a result, Maine qualifies to receive a federal incentive payment of $28 million, which represents 26% of the benefits paid in the past year. Maine could apply this funding to help further reduce unemployment taxes, after the state recently adopted several innovative expansions to the UI program.[33] In addition, it could take advantage of the option to access a portion of the federal

[33] Governor's Press Release, "Governor Signs Bill to Reduce Unemployment Taxes for Business and Increase Work Force Training Opportunities" (June 20, 2007).

incentive funds (combined with the $2 million in the administrative grant) to pay for necessary technology improvements to help process their UI claims, to expand access to program services in multiple languages and to implement other reemployment activities to better service jobless families.

States that Will Qualify for Full Funding When they Adopt the Alternative Based Period. Another five states, including Oregon, are in a position to collect their full incentive grants by just adopting the alternative base period (these states already have laws qualifying for the remaining two-thirds of the incentive grant). By implementing the ABP, Oregon would receive $85 million in federal incentive funds, which represents 18% of all the benefits it paid last year. In contrast, the ABP is estimated to cost $13 million a year in Oregon, which means the federal incentive grant would cover 6.5 years of ABP benefits. In addition, like all states, Oregon will receive a UI grant to help improve administration of their UI program ($6 million).

States that Do Not Yet Meet Any of the Qualifications for Federal Incentive Payments: The UI Modernization Act also provides abundant funding for states that have further to go to modernize their UI programs. For example, another 18 states that have not adopted the alternative base period could do so with the funding providing by the UI Modernization Act and pay for these benefits for three to four years. Ten states have not adopted any of the reforms necessary to qualify for the two-thirds incentive funding, covering part-time workers and those who leave work for compelling family reasons. If these ten states adopted both these reforms, their federal incentive payment would on average pay for eight years of the critical new benefits. Thus, those states with the greatest needs will also receive substantial financial incentive to modernize their UI programs.

* * *

More than a decade ago, a bi-partisan commission appointed by Presidents Bush, Sr., and Clinton challenged federal and state policy makers to modernize the nation's UI program by reforming outdated eligibility rules that deny benefits to low-wage and women workers and recognizing the new realities of long-term unemployment. Since then, half the states have responded by adopting major innovations that go a long way to fill the major gaps in the UI program. With the UI Modernization Act, the 110th Congress has an historic opportunity to move the nation's UI program into the 21st Century with a bold new program of incentive funding that rewards the best of what is now working in the states and promoting even greater state innovation.

Table 1: State Administrative Grants and Incentive Funding Under the Unemployment Insurance Modernization Act (in thousands)

States	Estimated Administrative Grants*	Estimated Incentive Payments**			Total Administrative and Incentive Payments
		One-Third Allotment	Two-Thirds Allotment	Full Allotment	
Alabama	$7,043	$32,866	$65,731	$98,597	$105,640
Alaska	$1,064	$4,966	$9,932	$14,898	$15,962
Arizona	$9,885	$46,130	$92,259	$138,389	$148,274
Arkansas	$4,074	$19,014	$38,027	$57,041	$61,115
California	$60,262	$281,221	$562,441	$843,662	$903,924
Colorado	$8,737	$40,772	$81,544	$122,316	$125,053
Connecticut	$6,000	$27,998	$55,996	$83,994	$89,994
Delaware	$1,652	$7,710	$15,420	$23,130	$24,782
D.C.	$1,505	$7,024	$14,048	$21,072	$22,577
Florida	$31,160	$145,413	$290,825	$436,238	$467,398
Georgia	$15,450	$72,102	$144,204	$216,306	$231,756
Hawaii	$2,114	$9,866	$19,732	$29,598	$31,712
Idaho	$2,149	$10,030	$20,059	$30,089	$32,238
Illinois	$22,605	$105,490	$210,981	$316,471	$339,076
Indiana	$10,592	$49,429	$98,858	$148,287	$158,879
Iowa	$5,166	$24,110	$48,220	$72,330	$77,496
Kansas	$4,880	$22,771	$45,542	$68,313	$73,193
Kentucky	$6,406	$29,893	$59,786	$89,679	$96,085
Louisiana	$6,546	$30,546	$61,092	$91,638	$98,184
Maine	$2,023	$9,442	$18,883	$28,325	$30,348
Maryland	$9,297	$43,385	$86,771	$130,156	$139,453
Massachusetts	$11,628	$54,264	$108,529	$162,793	$174,421
Michigan	$16,669	$77,786	$155,573	$233,359	$250,022
Minnesota	$10,074	$47,012	$94,023	$141,035	$151,109
Mississippi	$3,885	$18,132	$36,263	$54,395	$58,280
Missouri	$9,339	$43,581	$87,163	$130,744	$140,083
Montana	$1,267	$5,913	$11,826	$17,739	$19,006
Nebraska	$3,031	$14,146	$28,292	$42,438	$45,469
Nevada	$5,090	$23,751	$47,502	$71,253	$76,283
New Hampshire	$2,394	$11,173	$22,346	$33,519	$35,913
New Jersey	$15,268	$71,253	$142,505	$213,758	$229,026
New Mexico	$2,597	$12,120	$24,241	$36,361	$38,958
New York	$28,829	$134,534	$269,067	$403,601	$432,430
North Carolina	$14,659	$68,410	$136,821	$205,231	$219,890
North Dakota	$1,008	$4,704	$9,409	$14,113	$15,121
Ohio	$20,113	$93,860	$187,720	$281,580	$301,693
Oklahoma	$5,111	$23,849	$47,698	$71,547	$76,658
Oregon	$6,098	$28,455	$56,911	$85,366	$91,464
Pennsylvania	$20,827	$97,192	$194,385	$291,577	$312,404
Rhode Island	$1,743	$8,135	$16,269	$24,404	$26,147
S. Carolina	$6,658	$31,069	$62,138	$93,207	$99,865
South Dakota	$1,197	$5,587	$11,173	$16,760	$17,957
Tennessee	$10,011	$46,718	$93,435	$140,153	$150,164
Texas	$37,876	$176,710	$353,421	$530,131	$568,007
Utah	$4,039	$18,850	$37,701	$56,551	$57,590
Vermont	$1,015	$4,737	$9,474	$14,211	$15,226
Virginia	$13,952	$65,111	$130,221	$195,332	$209,284
Washington	$10,368	$48,384	$96,768	$145,152	$155,520
West Virginia	$2,303	$10,748	$21,497	$32,245	$34,548
Wisconsin	$10,249	$47,828	$95,657	$143,485	$153,734
Wyoming	$861	$4,018	$8,037	$12,055	$12,916
Total	**$496,769**	**$2,318,208**	**$4,636,416**	**$6,954,624**	**$7,451,393**

"*" Estimates prepared by the National Employment Law Project based on the share of unemployment insurance taxes contributed by each state (July 2007).

**Estimates prepared by the Congressional Research Service (March 12, 2007).

Table 2: Unemployment Insurance Modernization Act
State Incentive Funding Provisions (Revised June 12, 2007)

States	Alternative Base Period	Uniform 26 Weeks of UI Benefits (or the maximum UI exceeds more than half of base period earnings)	Extended UI While in Training	Part-Time Worker Coverage	Weekly $15 Dependent Allowance ("O" indicates states paying less than $15)	Compelling Family Reasons for Leaving Work		
						Domestic Violence	Spouse Relocates	Illness and Disability
Alabama								
Alaska					X		X	
Arizona						X	X	X
Arkansas								X
California		X *(1/2)*	X	X		X	X	X
Colorado						X		X
Connecticut	(sunsets 12/08)	X			X	X		X
Delaware		X *(1/2)*		X		X		
D.C.	X	X		X		X		
Florida								
Georgia	X							
Hawaii	X	X		X			X	
Idaho								
Illinois	X	X			O	X		X
Indiana						X	X	
Iowa				X	O			
Kansas				X		X	X	
Kentucky							X	
Louisiana				X				
Maine	X		X	X	O	X	X	X
Maryland		X			O			X
Massachusetts	X		(18 weeks)		X	X		
Michigan	X				O			
Minnesota				X		X		
Mississippi								
Missouri								
Montana						X		
Nebraska				X		X	X	X
Nevada							X	
New Hampshire	X	X				X		
New Jersey	X		X	X	O	X		
New Mexico	X	X *(3/5)*		X	X	X		
New York	X	X	(capped funding)	X		X	X	X
North Carolina	X			X		X		X
North Dakota								
Ohio	X							
Oklahoma	(capped funding)					X	X	X
Oregon			X			X	X	X
Pennsylvania				X	O		X	
Rhode Island	X			X	O	X	X	
South Carolina						X		
South Dakota				X		X		
Tennessee								
Texas						X		X
Utah								
Vermont	X	X		X		X		
Virginia	X							
Washington	X		X			X		X
West Virginia		X						
Wisconsin	X					X		X
Wyoming				X		X		
Totals	**18**	**12**	**5**	**19**	**4**	**29**	**15**	**16**

Source: Analysis of state laws, regulations and court cases provided by the National Employment Law Project.

Table 3: Annual Estimated State Costs for Selected UI Modernization Act Reforms

States	Alternative Base Period		Part-Time Worker Coverage		Family Reasons for Leaving Work		Totals	
	Workers Benefiting	Benefits Paid (in millions)	Workers Benefiting	Benefits Paid (in millions)	Workers Benefiting	Benefits Paid (in millions)	Workers Benefiting	Benefits Paid (in millions)
Alabama	12,715	$13.0	5,500	$4.3	1,359	$2.4	19,574	$19.7
Alaska	3,006	$4.1	2,044	$2.2	284	$0.7	5,334	$7.0
Arizona	7,026	$10.2	4,221	$4.7	0	$0.0	11,247	$14.9
Arkansas	1,917	$3.1	2,275	$2.8	380	$1.1	4,572	$6.9
California	64,500	$152.2	0	$0.0	0	$0.0	64,500	$152.2
Colorado	955	$2.0	2,318	$3.7	1,062	$5.2	4,335	$10.8
Connecticut	0	$0.0	4,935	$9.2	478	$2.6	5,413	$11.9
Delaware	219	$0.5	0	$0.0	166	$0.6	385	$1.0
D.C.	0	$0.0	0	$0.0	150	$0.7	150	$0.7
Florida	27,229	$45.2	6,294	$8.0	6,393	$18.3	39,916	$71.5
Georgia	0	$0.0	6,630	$7.0	2,175	$5.2	8,805	$12.2
Hawaii	0	$0.0	0	$0.0	114	$0.5	114	$0.5
Idaho	408	$0.6	3,056	$3.3	532	$1.3	3,996	$5.2
Illinois	0	$0.0	10,620	$20.5	1,493	$6.5	12,112	$26.9
Indiana	13,754	$24.5	9,171	$12.5	798	$2.5	23,723	$39.5
Iowa	4,535	$7.7	0	$0.0	1,272	$3.7	5,807	$11.4
Kansas	6,573	$13.5	0	$0.0	242	$0.9	6,815	$14.4
Kentucky	6,823	$11.8	5,867	$7.8	667	$2.0	13,357	$21.6
Louisiana	10,458	$12.3	0	$0.0	1,432	$4.5	11,890	$16.8
Maine	0	$0.0	0	$0.0	0	$0.0	0	$0.0
Maryland	11,467	$22.4	5,924	$8.9	2,384	$8.2	19,775	$39.5
Massachusetts	0	$0.0	7,430	$17.9	1,007	$5.5	8,437	$23.4
Michigan	0	$0.0	22,311	$35.2	4,035	$14.2	26,346	$49.4
Minnesota	3,692	$9.0	0	$0.0	918	$3.9	4,610	$12.9
Mississippi	4,542	$5.8	2,563	$2.5	1,258	$2.8	8,363	$11.1
Missouri	19,615	$29.7	7,439	$8.6	3,174	$8.3	30,229	$46.7
Montana	797	$1.2	1,137	$1.3	314	$0.8	2,248	$3.4
Nebraska	1,254	$1.9	0	$0.0	0	$0.0	1,254	$1.9
Nevada	925	$1.6	2,817	$3.8	395	$1.2	4,137	$6.7
New Hampshire	0	$0.0	1,333	$1.5	319	$0.8	1,651	$2.3
New Jersey	0	$0.0	0	$0.0	2,513	$13.0	2,513	$13.0
New Mexico	0	$0.0	0	$0.0	262	$0.9	262	$0.9
New York	0	$0.0	0	$0.0	0	$0.0	0	$0.0
North Carolina	0	$0.0	0	$0.0	1,069	$3.1	1,069	$3.1
North Dakota	416	$0.6	951	$1.0	190	$0.5	1,557	$2.1
Ohio	0	$0.0	17,230	$26.7	2,536	$9.2	19,766	$35.9
Oklahoma	0	$0.0	1,271	$1.6	0	$0.0	1,271	$1.6
Oregon	6,681	$12.8	7,429	$10.9	0	$0.0	14,111	$23.7
Pennsylvania	28,472	$68.3	0	$0.0	1,966	$8.2	30,438	$76.4
Rhode Island	0	$0.0	0	$0.0	114	$0.5	114	$0.5
South Carolina	11,122	$16.2	4,463	$5.0	1,070	$2.7	16,655	$23.9
South Dakota	898	$1.1	0	$0.0	122	$0.3	1,020	$1.4
Tennessee	4,792	$6.9	6,593	$7.2	1,426	$3.5	12,811	$17.6
Texas	28,749	$53.2	13,888	$19.7	2,555	$8.2	45,192	$81.1
Utah	1,179	$2.1	2,147	$3.0	403	$1.3	3,728	$6.4
Vermont	0	$0.0	0	$0.0	228	$0.7	228	$0.7
Virginia	0	$0.0	6,867	$8.1	845	$2.3	7,712	$10.3
Washington	0	$0.0	9,296	$15.4	1,199	$4.6	10,495	$20.0
West Virginia	512	$0.8	1,850	$2.3	513	$1.4	2,876	$4.6
Wisconsin	0	$0.0	12,519	$15.9	1,509	$4.3	14,028	$20.2
Wyoming	835	$1.2	0	$0.0	103	$0.3	937	$1.5
Totals	**286,067**	**$535.7**	**198,389**	**$282.5**	**51,423**	**$169.0**	**535,879**	**$987.2**

Sources: Estimates prepared by the National Employment Law Project based on U.S. Department of Labor data and studies documenting the impact of the specific UI reforms.

Table 4: Average Weeks of UI Collected When Workers Exhaust State Benefits (2005)

State	Average Weeks of State UI Collected When Workers Exhaust Benefits
Alaska	20.5
Alabama	23.3
Arkansas	21.9
Arizona	21.8
California	23.2
Colorado	17.3
Connecticut	26
District of Columbia	18.8
Delaware	25.9
Florida	20.4
Georgia	19.2
Hawaii	26
Iowa	21.2
Idaho	18.4
Illinois	25.2
Indiana	18.6
Kansas	22.1
Kentucky	26
Louisiana	22
Massachusetts	26.2
Maryland	26
Maine	17.5
Michigan	23.9
Minnesota	21.5
Missouri	22.1
Mississippi	22.1
Montana	18.8
North Carolina	21
North Dakota	15.8
Nebraska	17.8
New Hampshire	25.7
New Jersey	24
New Mexico	24.9
Nevada	22.9
New York	26
Ohio	25.4
Oklahoma	22.5
Oregon	24.1
Pennsylvania	25.8
Rhodes Island	21.1
South Carolina	20.8
South Dakota	23.8
Tennessee	21.1
Texas	20.3
Utah	19.2
Virginia	19.9
Vermont	25.8
Washington	25.3
Wisconsin	21.5
West Virginia	25.5
Wyoming	19.4
U.S. Average	**22.9**

Source: U.S. Department of Labor (unpublished data).