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The President's American Jobs Act of 2011:

Responding to the National Crisis of Long-Term Unemployment

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President Obama has issued an urgent challenge to Congress to pass the American Jobs Act of 2011, which is a $447 billion initiative that is projected to create nearly two million jobs.[1] The bill, which has been introduced in the U.S. Senate and House of Representatives (S. 1549/H.R. 2421), will be paid for by eliminating tax breaks for the wealthiest Americans and costly subsidies to the nation's profitable oil and gas industries.

The legislation proposes a broad range of initiatives, including new infrastructure projects, state and local spending to prevent layoffs of teachers, police and firefighters, and other job creation measures. It is a plan that many progressive organizations strongly support,[2] including the National Employment Law Project (NELP). In addition, the President's strategy has been endorsed by several leading economic forecasting firms.[3]

Of special significance, the plan takes on the national crisis of long-term unemployment, which now plagues nearly half of all unemployed workers and their families.[4] The President's plan calls on Congress to reauthorize the federal extension of jobless benefits for another year, helping six million families pay for their basic necessities while also sustaining the nation's economy. However, the plan also features certain measures – most notably the proposed "Bridge to Work" program – which raise concerns for NELP and other organizations that advocate for communities hard hit by the worst economic downturn since the Great Depression.

What follows is a brief summary of Title III of the President's initiative ("Assistance for the Unemployed and Pathways Back to Work") and our commentary on selected provisions that target the crisis for those facing long-term unemployment.[5]

American Jobs Act
Major Initiatives to Address Long-Term Unemployment

1. Reauthorize Federal Unemployment Benefits ($44 billion)
2. Mandate Reemployment Assistance and Eligibility Reviews ($1 billion)
3. Fund State Reemployment Initiatives ($4 billion)
   - *Bridge to Work*
   - Wage Insurance
   - Self-Employment Assistance
   - Reemployment Services
   - Additional Programs
4. Promote Short-Time Compensation/ Work-Sharing ($700 million)
5. Offer Tax Credit to Hire the Long-Term Unemployed ($8 billion)
6. Subsidize Employment ($2 billion)
7. Prohibit Hiring Discrimination Against the Unemployed

1. Reauthorization of Federal Unemployment Benefits ($44 billion)

An estimated six million workers will be denied access to federal jobless benefits if the Emergency Unemployment Compensation (EUC) program and federal funding of Extended Benefits (EB) are not reauthorized when they expire at the end of the year. The Administration proposes (Sections 311-312) to continue this program for another year to support the economic recovery and to respond to the continued record levels of long-term unemployment. The proposal also authorizes the federal government to continue to pay 100 percent of Extended Benefits (EB) for those states where unemployment rates have increased over the past three years.

> **Commentary:** The national unemployment rate is still over 9 percent – just as it was last December when Congress reauthorized the EUC program and federal funding of Extended Benefits. Congress has never cut federal unemployment insurance provisions when the unemployment rate was this high.[6] NELP strongly supports the President's proposal to reauthorize the EUC program through 2012, as it is critical to those families hardest hit by the economic collapse and to the prospects for a strong economic recovery. Indeed, thanks to a strong unemployment insurance program, 3.2 million people were kept out of poverty in 2010 according to the Census Bureau, and the economic stimulus generated by the program kept money flowing through local communities, preventing layoffs and creating jobs, accounting for the employment of 1.6 million U.S. workers during each quarter of the recession.[7]

2. Expanded Reemployment Assistance and Eligibility Reviews ($1 billion)

The President's plan also calls for a new initiative to provide in-person reemployment services and eligibility reviews for nearly all EUC recipients. The mandated reemployment services cover a range of activities, including career and job search counseling, skills assessments, and orientations for available services and training. In addition, the bill mandates that each worker receive an eligibility review to ensure compliance with the required job search activities. The states will be awarded $200 for each worker who receives the required services.

> **Commentary:** Over the last decade, the services provided to unemployment insurance recipients have shifted from in-person counseling and job referrals to group services and various forms of self-help, mostly through the use of on-line job search tools. Starting in 2005, the federal government responded to the need for more direct reemployment services with the Reemployment and Eligibility Assessment (REA) initiative, which has provided about $150 million to 40 states. A recent evaluation of the program found that in most states, it helped reduce the duration of benefits.[8] Although REAs are intended to also reduce overpayments by verifying eligibility for benefits, the evaluation provided limited information on the impact of that feature of the program.
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> NELP strongly supports the provision of in-person reemployment services for workers receiving EUC. In addition, these services to EUC claimants and those exhausting their federal benefits should be

expanded to include significant outreach and coordination among state and federal agencies to help these struggling workers access critical social services, food stamps, housing assistance and health care.

Given that unemployed workers out-number job openings by more than four to one, the Administration should make clear that the intent of these reemployment programs is to help the long-term unemployed direct their job searches as effectively as possible or find ways to quickly upgrade workplace skills and otherwise make themselves more employable. The REA program should not serve as a vehicle to harass the long-term unemployed with onerous work search verification requirements or to deny EUC benefits to unemployed workers who are unable to find work in an especially hostile labor market.

3. Dedicated Funding for New State Reemployment Initiatives ($4 billion)

The President's proposal creates the Reemployment NOW program (Sections 321-329), which provides $4 billion in funding for states to adopt certain reemployment programs targeting the long-term unemployed who are collecting or have exhausted EUC. The funding for the states (which is generated from general revenue, not from the federal UI trust fund) is distributed based on the relative number of unemployed workers in the state as well as the number who have been unemployed more than six months. To qualify for a share of the Reemployment NOW program, the states will be required to submit a plan based on any of the five designated activities described below.

3a. "Bridge to Work" (Section 324)

The "Bridge to Work" program is one of four prescribed programs that would qualify for the new federal funding. Workers in the program are engaged in short-term jobs, lasting up to eight weeks and ranging from a minimum of 25 hours to 38 hours per week.

The program is voluntary, and the workers must be paid at least the minimum wage. The individual's EUC check is supplemented, if necessary, by the available federal funds to arrive at the applicable federal, state or local minimum wage (employers can also contribute to the wages, but are not required to do so). The workers are exempted from having to look for work to collect their unemployment benefits, and workers' compensation coverage must be provided for all Bridge to Work participants. Under certain circumstances, an employer may be barred from participating if it does not offer the participating worker a job at the end of the program. In addition, participating workers may not displace current employees or those who are on layoff status, nor undermine the promotional opportunities of the existing workforce.

Commentary: NELP has serious concerns with the Bridge to Work model and similar programs, such as GeorgiaWork$, that rely on the individual's UI benefits to provide free labor to private and public sector employers.[9] Although the Administration has proposed measures that distinguish the program from GeorgiaWork$, including a minimum wage requirement, the following core objections to the program remain:

- ***The program diverts dedicated UI funds from the core goals of the UI system.*** Bridge to Work is an inappropriate and precedent-setting diversion of funds intended for payment of UI benefits towards subsidizing largely low-wage employers.[10] As discussed below (Section 6)**,** there are more effective options to create subsidized jobs for unemployed workers that do not require using UI benefits to provide free labor for employers.

- ***It is not an effective model to create permanent jobs for unemployed workers.*** On the merits, free labor programs like Bridge to Work do not create the investment on the part of employers that researchers say produce permanent jobs for unemployed workers.[11] In fact, in Georgia, where the concept originated, the new labor commissioner has expressed serious concerns about the program's costs and effectiveness, and new data released by the state calls into question the program's employment impacts.[12]

- ***It opens the door to mandatory work requirements for UI recipients, which is not good for workers or the labor market.*** Some proponents of this model advocate *requiring* unemployed workers to work for their UI benefits, without regard to the fact that they have already earned these benefits through their previous attachment to the workforce. The "work first" mandate in state welfare programs has no place in unemployment insurance, which provides income support based exclusively on an individual's past work and wage history, and has for 75 years provided U.S. workers with financial protection during periods of involuntary job loss. Pushing desperate workers into mostly low-wage jobs brings down wages and working standards, and it is not the kind of economic policy the nation should be investing in.

3b. Wage Insurance (Section 325)

Wage insurance is the second option for states to qualify for Reemployment NOW funds. Applicable only to workers who are over the age of 50, wage insurance allows a worker who takes a job with a substantial cut in pay from the worker's prior position to have a portion of his or her lost wages replaced. Under the President's proposal, the states could make payments of up to 50 percent of the difference between the worker's reemployment wages in a full-time job and the wages earned on the individual's last job before being laid off.

The payments cannot last more than two years, and the program would only be available if the wages on the new job amount to no more than $50,000 per year. In addition, the program would be limited to EUC claimants, not those collecting regular state UI benefits, and the participants must be at least 50 years of age. The employer is prohibited from paying a worker in the program less than what is paid to other regular workers employed in a similar position.

> **Commentary:** The President's proposal is modeled on a limited wage insurance program called Alternative Trade Adjustment Assistance (ATAA), which was made available in 2002 to workers age 50 and older who lose their jobs because of trade. The jury is still out on the impact of the ATAA program. The evaluations of the program have focused mostly on the limited enrollment in ATAA, which is attributed largely to the 26-week timeframe required to find work, as well as limited outreach and education.[13]

NELP has expressed serious concerns with prior wage insurance proposals that were less targeted to specific workers.[14] Notably, the President's proposal does not divert UI funds to pay for the program, which was a critical concern with prior wage insurance initiatives. In addition, this proposal targets a group that is experiencing particularly harsh difficulties in today's job market for a variety of reasons and struggles to secure new employment close to their former wage levels. Thus, the wage subsidy could be a tangible benefit of significant value to many of the workers targeted by the President's proposal.

Nonetheless, NELP remains concerned that wage insurance programs can put downward pressure on wages and displace other workers. Given that the program applies to only a narrow group of workers – those older than 50 who have been out of work for 6 to 18 months – for the limited duration of Title III of the Jobs Act, the tangible benefits to this special category of workers may outweigh the potential costs. NELP's cautious view is that the value of this program should be carefully evaluated and that it should not be oversold by the states to unwilling EUC claimants, especially given options for states to invest in other successful jobs programs (Section 6). The program should be treated as a limited test of the feasibility of wage insurance and rigorously evaluated to determine its short- and long-term impact on participants and the broader labor market.

3c. Self-Employment Programs (Section 327)

The third option, Self-Employment Assistance (SEA), is a program now operating in eight states that pays the equivalent of a weekly unemployment insurance check each week to workers who are starting their own businesses. Because the workers are building their own business, they are exempt from the work-search requirements of the UI program. The President's proposal would fund the state administrative costs associated with starting a new SEA program.[15]

Commentary: A 2001 evaluation of state SEA programs found that they led to positive employment outcomes, especially for those workers who had higher levels of education, technical and managerial skills.[16] While the program can benefit some workers who have the skills to succeed in starting a new business, there is still reason to be concerned that in the current economy, far too many businesses fail. However, the survival rate for new businesses varies significantly, depending on the industry. Given these considerations, NELP recognizes the value of SEA programs provided they are properly targeted to those workers most qualified to succeed in starting a new business and their effectiveness is not oversold by the states.

3d. Enhanced Reemployment Strategies (Section 326)

In addition, states can expand the reemployment services they provide to qualify for the new additional federal funding. These services can range from one-on-one counseling, to assessments, to case management. However, the funding will not support training or other more intensive services. The proposal targets those who are collecting EUC, and those who have exhausted all their federally-funded unemployment benefits.

Commentary: NELP supports additional funding for states to provide helpful reemployment services for unemployed workers, especially in-person services to those who have exhausted their unemployment benefits to find new work. Reemployment services should also include other forms of support, including better access to housing assistance, food stamps and health care, to help stabilize the family. Indeed, more effective tracking and coordination across the state UI, WIA and social service state agencies is critical to the provision of reemployment services to those who have exhausted all their unemployment benefits. However, these limited funds should be invested back into the state and local government agencies hardest hit by the flood of UI claims to support quality reemployment services.

3e. Additional State Programs (Section 328)

Finally, the states can propose their own programs for approval by DOL that are specifically designed to help current EUC recipients find new work or to "facilitate the reemployment" of those who have exhausted all their state and federal unemployment benefits. Significantly, the bill states that any alternative programs may not result in a reduction in duration or eligibility for regular state or extended jobless benefits, nor can the program displace currently employed workers.

Commentary: The restrictions on the use of this option are helpful to guard against certain abuses that could penalize workers. This option does provide the states with the ability to fund wage subsidy programs, which have proven successful in 39 states and the District of Columbia. NELP strongly encourages states to utilize this provision to build their own reemployment programs with emphasis on subsidized employment programs that can leverage additional dollars under the "Pathways Back to Work Fund" (see Section 6).

4. Short-Time Compensation (Sections 341-346)

The President's proposal also makes certain changes in federal law to promote short-time compensation (sometimes called "work-sharing") programs. Short-time compensation (STC) programs, which now exist in 23 states, allow employers to reduce the hours of their workforce rather than impose layoffs, and the affected workers receive prorated unemployment benefits (up to 26 weeks) to help compensate for their cut in hours and pay.

The Jobs Act makes certain permanent changes in the federal law that sets the standards regulating short-time compensation programs. Significantly, the law requires the employer to maintain contributions to the worker's health care and retirement benefits in order for the program to be approved by the state. In addition, states now operating STC programs will qualify for 100 percent federal reimbursement for the cost of the benefits, and those that adopt a new program may receive one-half of their costs covered by the federal funding. In addition, the bill provides $700 million in temporary funding to states that enact new work-sharing programs, covering implementation expenses and costs associated with outreach and enrollment of employers.

Commentary: NELP strongly supports the expansion of work-sharing programs as provided for in the President's jobs plan. Work-sharing has many benefits, including layoff aversion, positive impact on employee morale, and retention of a skilled workforce that does not require training when production picks up again. Employees avoid losing part of their ranks to layoffs, and benefit from a limited sacrifice of lost wages paired with retention of health insurance and other fringe benefits.

Currently, work-sharing is more prevalent in certain European countries than in the United States. In Germany, for example, widespread utilization of work-sharing in the most recent recession is credited with keeping that country's unemployment rate substantially lower than other countries that experienced similar declines in GDP.[17] Even so, the work-sharing programs currently running in the United States have saved an estimated 265,000 jobs in 2009 and 2010.[18] The Administration's proposal mirrors legislation (S.1333/H.R.2421) introduced by Senator Jack Reed (D-RI) and Rep. Rosa DeLauro (D-CT) that would enable states to promote and expand current usage of the program, which is generally less than five percent of all UI claims in states with work-sharing programs.

5. Tax Incentive to Hire the Long-Term Unemployed ($8 billion)

Section 351 creates a new $4,000 tax credit for employers that hire anyone who has been unemployed for at least six months (the "long-term unemployed"). The credit is also available to tax-exempt employers and higher-education institutions. In addition to this particular tax credit, the President's plan would refund employer payroll taxes paid on new hires or wage increases for current workers, and reduce by half the payroll taxes – from 6.2 percent to 3.1 percent – that businesses pay on the first $5 million in wages.

Commentary: The President's $4,000 tax credit proposal represents a positive investment in response to the crisis of long-term unemployment, which could generate bi-partisan support in Congress. Combined with the other payroll tax reductions in the plan, the new tax credit may provide a clear financial incentive for employers to hire the long-term unemployed. However, NELP recognizes that hiring tax credits have a mixed track record, often providing a windfall to employers that would have hired the workers without the tax credit, and, if targeted too strictly to certain populations, they can stigmatize workers.[19] Others have also raised concerns with the breadth of the proposed payroll tax holiday.[20] Therefore, we urge the Administration to further refine its proposals to invest major resources into employer incentives to hire the long-term unemployed, building on the positive features of the New Jobs Tax Credit program of the 1970s, which was also designed to fight unemployment.[21]

6. Subsidized Jobs for Low-Income and Unemployed Adults ($2 billion)

The President's plan also creates a $5 billion "Pathways Back to Work Fund" to help create jobs for low-income and unemployed youth and adults. Section 362 of the bill sets aside $2 billion specifically for subsidized employment for low-income adults, modeled on the TANF Emergency Fund program created by the Recovery Act that generated nearly 260,000 jobs in 39 states and the District of Columbia.[22]

Commentary: NELP strongly supports this major new investment in subsidized jobs. The policy has a proven track record of placing the long-term unemployed in jobs during periods of high unemployment and, when structured correctly, can result in high levels of permanent job retention. The model has been adopted by states as diverse as Mississippi (Governor Barbour recently expanded the state's STEPS program, which created 1,800 permanent jobs in less than nine months in 2010) and Minnesota (which pioneered the highly successful MEED program specifically targeting the long-term unemployed in the 1980s recession). However, NELP strongly advises states to ensure that these programs include the full range of worker protections, including future eligibility for unemployment benefits.

7. Prohibiting Hiring Discrimination Against the Unemployed

The President's bill also addresses a disturbing hiring practice adopted by staffing firms and employers, and proliferated by some job search websites, denying employment consideration to anyone who is not "currently employed." The practice was documented in a recent NELP report,[23] and federal legislation was introduced in both the House and the Senate that would make it illegal to exclude individuals from consideration for hire solely because of their status as unemployed, unless current employment status is significantly related to the specific job. The President's bill endorses federal legislation in this area, while vesting jurisdiction in the Equal Employment Opportunity Commission to take complaints and enforce the new law.

Commentary: NELP strongly supports the President's position in support of federal legislation outlawing discrimination against the "currently unemployed."

Conclusion

Whether the economy dips formally into recession again or not, continued high unemployment, unprecedented long-term unemployment and slow job growth create an urgent need Congress and the President to join forces and take bold and decisive action. The President's American Jobs Act of 2011 provides a strong foundation to forge consensus around this historical national challenge.

Table 1: American Jobs Act: Major Initiatives to Address Long-Term Unemployment

Provision	Description	Estimated Cost
1. Reauthorizes Federal Unemployment Benefits	Extends existing federal benefits through 2012, preventing 6 million people from losing unemployment insurance.	$44 billion
2. Requires Unemployment Insurance Claimants to Seek Reemployment Assistance and Verify Eligibility for Unemployment Benefits	Mandates in-person reemployment services (e.g., job search counseling and skills assessments) for federal Emergency Unemployment Compensation (EUC) recipients and requires eligibility review to ensure compliance with job search requirements.	$1 billion
3. Creates *Reemployment NOW* Program to Fund State Reemployment Initiatives	Establishes funding for states to adopt reemployment initiatives, based on relative number of unemployed and long-term unemployed workers in each state. States must submit plan to implement one of five initiatives, including (see text for detailed descriptions): • *Bridge to Work*; • Wage Insurance; • Self-Employment Assistance; and • Reemployment Services.	$4 billion
4. Promotes Short-Time Compensation/Work-Sharing	As an alternative to layoffs, work-sharing enables employers to reduce workers' hours while offering them prorated unemployment benefits (up to 26 weeks) to make up for lost wages.	$700 million
5. Offers Employers Tax Credit for Hiring Long-Term Job Seekers	Creates new $4,000 tax credit for employers that hire long-term unemployed individuals; eliminates employer payroll taxes on new workers; and cuts employer payroll taxes in half on first $5 million of wages.	$8 billion
6. Creates Job Opportunities for Low-Income Youth and Adults	Establishes *Pathways Back to Work Fund* to help create jobs for low-income and unemployed youth and adults by supporting summer and year-round jobs for youth, subsidizing employment opportunities for low-income individuals who are unemployed, and backing promising local work-based job training initiatives.	$2 billion
7. Prohibits Employers from Discriminating Against Unemployed Job Seekers	Calls for legislation that would make it illegal for employers to refuse to hire applicants because they are unemployed or to include in a posting that unemployed persons will not be considered.	Minimal cost

[1] Mark Zandi, "An Analysis of the Obama Jobs Plan" (Moody's Analytics, September 9, 2011).
[2] See, e.g., Heather Boushey, Gadi Dechter, "The American Jobs Act: A Bill Worthy of Its Name" (Center for American Progress, September 14, 2011); Center for Law and Social Policy, "American Jobs Act: New Working and Learning Opportunities for Low-Income, Unemployed Adults and Youth" (September 21, 2011); Larry Mishel, "How Effective is President Obama's Jobs Plan?" (Economic Policy Institute, September 8, 2011); Miles Rapoport, "Obama's Speech: The Narrative We've Been Waiting For" (Demos, September 8, 2011); Leadership Conference on Civil and Human Rights, Letter to Members of Congress in Support of the American Jobs Act (September 14, 2011).
[3] For example, in addition to the endorsement of Moody's Analytics (endnote 1), Macroeconomic Advisors, LLC, concluded that the legislation will provide a "significant boost to GDP and employment over the near term." Macroeconomic Advisors, "American Jobs Act: A Significant Boost to BDP and Employment" (2011).
[4] "Bernanke: Long-Term Unemployment a National Crisis," *Associated Press* (September 29, 20011)
[5] The full bill and a detailed summary are available on-line at http://www.whitehouse.gov/jobsact#jobs-text. A more abbreviated summary is available at http://www.whitehouse.gov/sites/default/files/jobs_act.pdf.
[6] The highest national rate of unemployment at which a federal extension program was cut was 7.2 percent in 1985. National Employment Law Project, *Out in the Cold for the Holidays* (October 2010).
[7] Wayne Vroman, "The Role of Unemployment Insurance as an Automatic Stabilizer During a Recession" (Urban Institute: 2010).
[8] Impaq International*, Impact of Reemployment and Eligibility Assessment (REA) Initiative* (June 2011).
[9] See Letter from Christine Owens, NELP Executive Director, to the Honorable Hilda Solis, dated December 21, 2009.
[10] Eileen Appelbaum, "Georgia Works May Work, But it Sure Doesn't Pay" (Center for Economic and Policy Research (September 8, 2011) (finding that 70 percent of the workers who were hired from the program worked in low-pay clerical, janitorial, retail, restaurant and other entry-level jobs).
[11] Tim Bartik, "Job Creation Policies: Minnesota's MEED v. Georgia Works" (September 2, 2011) (http://investinginkids.net/2011/09/02/job-creation-policies-minnesota%E2%80%99s-meed-program-vs-georgia-works/).
[12] Mark Butler (op-ed), "Georgia Works Isn't the Only Answer," *Atlanta Journal Constitution* (September 7, 2011): C-Span appearance, Washington Journal, September 8, 2011; "A Tryout Program for the Unemployed," New York Times (September 23, 2011).
[13] Mathematica Policy Research, *National Evaluation of the Trade Adjustment Assistance Program: Characteristics of Workers Eligible Under the 2002 TAA Program and Their Early Program Experiences: Final Report* (April 2010), pages 48-51.
[14] Testimony of Maurice Emsellem, National Employment Law Project, before the Joint Economic Committee Hearing on Wage Insurance (February 28, 2007); National Employment Law Project, "Innovative State Reforms Shape New National Economic Security Plan for the 21st Century" (December 2006), at pages 20-21.
[15] Section 314 of the bill would amend the EUC law to authorize the states to enter into agreements with the U.S. Department of Labor to pay SEA allowances to EUC recipients, not just recipients of regular state UI benefits.
[16] DTI Associates, *Final Report: Comprehensive Assessment of Self-Employment Assistance Programs* (June 2001).
[17] Dean Baker. "Work Sharing: The Quick Route Back to Full Employment." (Center for Economic Policy and Research, June 2011)
[18] "Reed Calls for New National Plan to Help Save American Jobs," *Press* Release, July 6, 2011. (http://reed.senate.gov/press/release/reed-calls-for-new-national-plan-to-help-save-american-jobs)
[19] Timothy Bartik, "Not all job creation tax credits are created equal." (Economic Policy Institute, February 12, 2010).
[20] Eisenbrey, Ross, "Obama's American Jobs Act is mostly on the mark." (*Working Economics,* Economic Policy Institute, September 8, 2011)
[21] Timothy Bartik, "The New Jobs Tax Credit: A Tested Way to Fight High Unemployment" (Upjohn Institute, July 2009).
[22] LaDonna Pavetti, Liz Schott, Elizabeth Lower-Basch, "Creating Subsidized Employment Opportunities for Low-Income Parents" (Center for Budget and Policy Priorities/Center for Law and Social Policy, February 2011).
[23] National Employment Law Project, "Hiring Discrimination Against the Unemployed: Federal Bill Outlaws Excluding the Unemployed from Job Opportunities, as Discriminatory Ads Persist" (July 2011).