

**TALES FROM THE UNEMPLOYMENT LINE:
BARRIERS FACING THE LONG-TERM UNEMPLOYED**

HEARING
OF THE
**COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS**
UNITED STATES SENATE
ONE HUNDRED TWELFTH CONGRESS
FIRST SESSION
ON
EXAMINING BARRIERS FACING THE LONG-TERM UNEMPLOYED

DECEMBER 8, 2011

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THURSDAY, DECEMBER 8, 2011

U.S. SENATE,
COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,
Washington, DC.

The committee met, pursuant to notice, at 9:46 a.m., in Room SD-106, Dirksen Senate Office Building, Hon. Tom Harkin, chairman of the committee, presiding.

Present: Senators Harkin, Murray, Merkley, Franken, Blumenthal, and Enzi.

OPENING STATEMENT OF SENATOR HARKIN

The CHAIRMAN. The Senate Committee on Health, Education, Labor, and Pensions will please come to order. We welcome everyone. I have a short opening statement, and I'll recognize Senator Enzi. We have a vote at about 10:30 which will interrupt our proceedings just very, very briefly but, hopefully, not for very long.

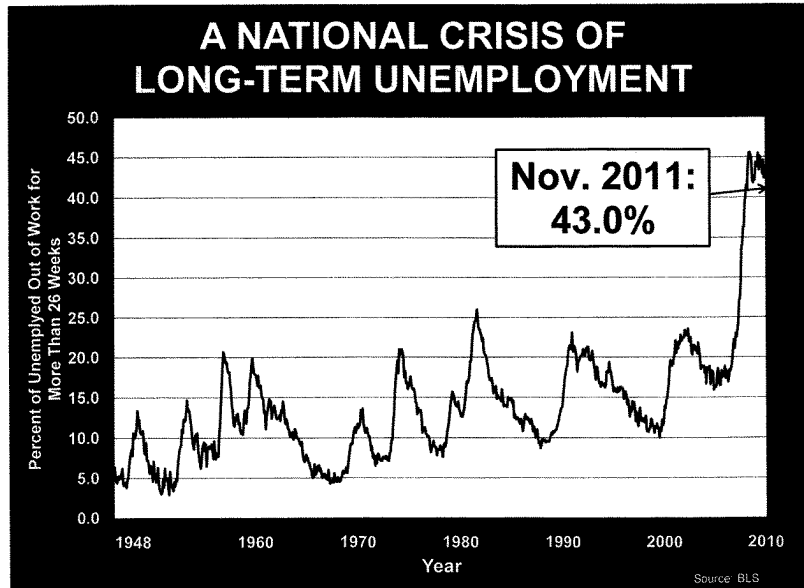
As we all know, our Nation is in the grips of the worst period of joblessness since the Great Depression. Especially troubling is the plight of the long-term unemployed, those who have been out of work for at least 6 months, as that is defined. Today, we're going to learn more about the significant barriers that confront Americans struggling with long-term unemployment, and we'll explore the steps we should be taking here in Congress to help support their efforts to find new work.

Before we delve too deeply into these topics, it's critically important that we take a moment to understand the true dimensions of the problem that we're facing. I think the problem of long-term unemployment is something that tends to hide in the shadows of our economy, either because the unemployed aren't terribly visible or because we want to sweep the problem under the rug and pretend it's not there.

But the crisis of long-term unemployment has become too big to ignore. We're told by statistics that the portion of unemployed workers who have been out of work for at least 6 months hit 40 percent in December 2009 and has remained above 40 percent ever since.

This chart, I think, is illustrative of where we are since we started tracking the data in 1948. This is the highest rate of long-term unemployment that we have ever had since 1948. If you can see from 1948 on through the 1980s and 1990s—one time it peaked up at about 25 percent in about 1980 or 1981, but nothing above 40

percent like we're having now, and not for as long. It's just never been this high, since we started tracking this in 1948.



Today, there are 5.6 million Americans who have been looking for work at least 6 months and 4 million for more than a year, actively looking for work. That's not counting those who have given up, who aren't counted as looking for work but who would love to have a job. But they've been out of work for so long that they aren't looking.

Some groups have been disproportionately affected by this downturn. Individuals with disabilities are one such group. We've seen millions of workers drop out of the labor force since the recession started because of lack of jobs. But persons with disabilities left the workforce at six times the rate of the general population, six times. African-Americans are also disproportionately affected by unemployment. The unemployment rate among African-Americans is more than twice that of Caucasian Americans.

Now, you've got to ask why. These are staggering numbers, and they reflect enormous hardships for people who are our friends, our neighbors. Make no mistake—workers who are struggling with long-term unemployment are in a profound predicament. They're not sitting at home on their couch and eating candy and drinking beer and enjoying their leisure time. Most are suffering enormous financial and emotional, emotional strains.

For those fortunate enough to get unemployment benefits, they still have to survive on an average benefit of \$300 per week. That's not for an individual. That's for a family. And the bills don't stop coming when someone loses his or her job. The rent, mortgage, electricity, car payments, food, gas, medicine, school supplies all still have to be paid.

Meanwhile, unemployed Americans must get up day after day and search for work in the worst economy in generations, typically facing rejection after rejection. And I read some of the testimonies last night. I read them all, and there's example after example there.

The primary challenge these workers face is intense competition for the few jobs available. Even according to official numbers, there are more than 13 million people actively looking for work in this country—four workers for every job. There's strong evidence that the official numbers dramatically understate the problem.

There are millions more people with part-time jobs out of necessity who want full-time jobs. They had full-time jobs. They now have part-time jobs. There are others who have stopped looking for work because they think it'll be fruitless, although they'd take a job if they could get one. When you add it all up, we're talking about nearly 28 million unemployed and underemployed people. That's eight workers for every job available.

So part of the problem that long-term unemployed workers face is a numbers game. The job market is a game of musical chairs. There are millions of workers left standing when the music stops. But, again, it's not just about numbers. There are many other barriers for people who have been out of work for many months.

We now know that older workers face unique challenges. Not only have many of them gone through their retirement savings, many have lost the home they spent decades paying a mortgage on. Many have been unable to send their kids to college. And on top of that, they face the indignity of being passed over in favor of younger workers, simply because of their age or because they're considered overqualified. Many face negative stereotypes, such as they are not energetic enough for the job.

Still other workers have learned the hard way, that they won't be considered by certain employers because they've been unemployed for too long. This is something new to me. I had not realized that until I started reading all of your testimonies about how there are actually ads, ads out there for jobs saying, if you're unemployed, don't apply. Talk about gross discrimination.

In a classic catch-22 situation, many workers who have been financially devastated by the recession face credit checks that keep them from earning an income and thus improving their credit. So they have a credit check, but in order to get their credit rating up, they need a job. But they can't get a job because they have a bad credit history.

In addition, financial hardships often prevent workers from having the mobility they need to pursue new work. Many workers would like to move in order to take advantage of a new opportunity they've heard about elsewhere. But the mortgage is under water. The house can't be sold. They've been out of work for so long they don't have enough money.

I was just talking with a young woman in Iowa on Monday who had heard about job opportunities elsewhere, but because she has two young children and her mother takes care of the kids when she works part-time, she can't afford to move, because that's the only daycare she has available to her.

While these are just a few of the challenges facing unemployed Americans, today's diverse panel of witnesses will provide us with further insights. We'll hear from an expert who has studied these issues for decades, from a church pastor who has counseled many unemployed workers and tried to help them find new opportunities, and from a worker who has faced long-term unemployment in her own life and is still trying to find work. I look forward to hearing all their stories and getting their insights about the causes of the crisis, the extent of it, and what steps we might be able to take.

I can't think of a more important or timely topic for this committee's consideration. I thank everyone for being here today. And, again, I'll just repeat for emphasis sake it's not just the numbers. It's the human cost in dashed hopes, the destruction of the spirit, and the declining of the confidence that people have in the ability of our country to provide the kind of opportunity and jobs that our parents and grandparents had.

And with that, I will yield to Senator Enzi.

OPENING STATEMENT OF SENATOR ENZI

Senator ENZI. I thank you, Mr. Chairman. Good morning.

The topic we're discussing today is one of the most difficult issues facing our Nation—the worst period of long-term unemployment on record. The most recent job numbers told us that 43 percent of the unemployed were long-term, meaning individuals who were out of the workforce 27 weeks or longer. The small drop in the unemployment rate from 9 percent to 8.6 percent was largely attributable to almost half a million Americans giving up their search for employment entirely.

The most helpful thing we as a Congress can do, I think, is to help foster an environment that encourages job creation. The Bureau of Labor Statistics data proves this point. We have 13.3 million unemployed Americans seeking work and 2.6 million who want to work but have given up the job search. Yet we have just 3.4 million job openings.

Unfortunately, the solutions being presented here today fail to acknowledge that the biggest barrier to getting a job for most unemployed people is the lack of jobs available. Instead, we're going to discuss misguided legislation that will actually discourage new hiring and harm long-term unemployed individuals the worst. I'm certainly glad to have this opportunity to explain the negative consequences that will arise from the proposed Fair Employment Opportunity Act. But I also would like to speak about the real solutions we have at hand to address unemployment.

The truth is that we have several opportunities to allow private-sector job creation to dramatically increase which the current Administration is blocking. Unemployed Americans should know that decisions by President Obama are directly preventing the creation of thousands of new, well-paying, private sector jobs in projects widely supported by labor unions. These jobs could be created without raising taxes or increasing our crushing national debt by another dime.

While it is clear that the historic drop in job creation over the last 3 years is the biggest barrier facing unemployed Americans, I will set that aside and address some of the other barriers they face.

One that I worked on to address for many years is the need for more targeted job training. Individuals who stay out of the workforce for longer periods of time often have skills that do not match the current job openings in their area. The longer they stay out, the more likely they may face skill deterioration.

My colleagues know that I strongly believe we must do more to improve Federal job training programs. For the past several Congresses, one of my major priorities has been updating and upgrading the Workforce Investment Act. This year, I spent countless hours negotiating this legislation with colleagues on this committee. It's hard to imagine a bill more appropriate for these difficult economic times. However, once again, I was disappointed the bill was not brought to markup.

In past Congresses, similar bills have received unanimous support in both the HELP Committee, which has reported it out twice, and the full Senate, which has passed it twice. If you really want to do something to address the barrier to reemployment, pass the WIA reauthorization. The Workforce Investment System provides employment, job training, and education services to over 9 million people a year.

The WIA reauthorization bill remains a casualty of Congress' inability to overcome its worst partisan instincts. The bill, which I've been negotiating with Senator Murray, Senator Isakson, Senator Harkin, and others, would specifically improve coordination of job training services for unemployment recipients in six important ways.

For example, it would require that all unemployment insurance recipients get referrals to and application assistance for training and education resources and programs, including Federal Pell grants and WIA training and education programs. For unemployed workers struggling to gain the skills they need to land a good job, the bill would be a lifesaver.

The sustained economic recession we have faced the past 3 years has put a severe strain on American families and government safety net systems. With over 20 million Americans drawing expanded unemployment benefits over the last year, 30 States have depleted their unemployment insurance funds and begun to borrow from the Federal Government. More States are on their way to borrowing. The worst part is that repayment will require raising payroll taxes in most cases, which is a direct job killer.

This crisis has to be addressed. Unfortunately, some of the solutions that have been proposed are neither helpful nor necessary and will benefit plaintiff lawyers more than unemployed Americans. The Fair Employment Opportunity Act is an example of this. This bill responds to the belief that the primary reason for the most extended period of long-term unemployment on record is discrimination. The allegation is that employers refuse to hire unemployed people and discriminate against them. The basis for this allegation is purely anecdotal evidence. There's no empirical support for it whatsoever.

I used to own a shoe store with my wife, and as a former employer, I can tell you that there are just as many reasons to hire someone without a current job as there are to hire someone with one. It's easier to hire someone not currently employed. A person

without an existing commitment can start work immediately, and may be less costly to employ since there would be no question of matching previous salary and benefits.

This straw man of discrimination is based upon employment ads that state that some level of current employment or experience is required. The practice is being exaggerated in almost every respect, and the medicine would do more harm than the disease.

First, let me note that the job ad language in question is far from widespread. The number of so-called discriminatory ads makes up a very small percentage of all ads posted. The study cited here today reviewed over 1 million job advertisements from 4 online sites within a 4-week period and only found 150 violations.

An analysis of one online job site found 1 in 10,000 or one-one hundredth of 1 percent of their ads included such language. Further, the language itself does not establish any proof of discrimination. Indeed, many of the ads cited as evidence in these reports are seeking employees with up-to-date skills and valid certification in highly technical industries such as nursing. It should not be surprising that a hospital would want to hire someone as a nurse who is, indeed, legally qualified to be a nurse.

Against this straw man, the Fair Employment Opportunity Act would erect costly legal liabilities that will discourage new job creation. This bill would actually harm the long-term unemployed who may not have the kind of network contacts their cohorts had to find a job. Any reasonable employer will consider looking to his own network of employees, friends, and family to fill open positions rather than opening themselves to a lawsuit by placing a help wanted ad.

The mere placement of an ad even without any language regarding employment status could be the basis of a lawsuit from as many unemployed individuals as could have conceivably seen the ad. It would then be the burden of the employer or employment agency to prove that it did not take employment status into account when making the decision of who to consider and hire.

Small businesses of 15 or more employees would be subject to these lawsuits, and they'd find them costly to defend, with the threat of daily damages of \$1,000 a day per violation plus interest, punitive damages, and injunctive relief. Small employers facing large class action lawsuits would feel pressured to settle. There's no doubt this bill would create a profitable new field for plaintiff attorneys, but it will be to the detriment of unemployed Americans.

I hope we can set this misguided legislation aside and talk today about real solutions for Americans who have been unemployed for too long without raising taxes or increasing our crushing national debt. We could add thousands of new well-paying private sector jobs that will get the economy going again without spending another dime.

I'm referring to the construction of the Keystone XL Pipeline, a project that President Obama halted last month in response to concerns from environmental lobbies. This project would create 20,000 new jobs immediately that will grow to more than 500,000 U.S. jobs. These staggering numbers show why five major unions and their Canadian affiliates have stated strong support for the project.

With the chairman's consent, I'll place their statements in the record.

[The information referred to may be found in Additional Material.]

Senator ENZI. The Keystone XL Pipeline will also create energy security that lessens our dependence on unfriendly nations. Estimates indicate that it will bring in \$138.4 million in annual property taxes for State and local governments and \$6.5 billion in personal income for American workers.

This massive private sector job creator is simply a win-win for Americans. But it isn't happening because the White House has decided to step in and delay the project until after the next election. This is a very clear case of the Administration erecting an unnecessary and political barrier to private sector job creation. Americans deserve an administration that will lead us out of this dismal period of long unemployment, not erect barriers to sustain it.

I look forward to the testimony of Mr. John Meyer, who came here today from Winner, SD, to discuss how his small business and entire community will grow if the Keystone XL Pipeline were allowed to move forward. I know he's on a little bit of a time constraint, because he's also the Santa Claus for his community and has to get back to fill that role.

Some of the other barriers the Administration has erected include the crushing moratorium on oil drilling in the Gulf of Mexico, the slow walking and denial of mine permits, the anti-employment incentives imposed by mandates in the new healthcare law, the burden of thousands of pages of new regulation making employers uncertain of their ability to survive, and the labor law persecution of those bold enough to expand in non-right to work States. Even attempts to encourage private sector job creation have become politicized—examples of crony capitalism and poor investment, such as \$535 million of taxpayer dollars in Solyndra that has been made.

Taken together, the negative mood of the country is easy to understand. I hope we can serve the American people well today by discussing real solutions to high unemployment. I look forward to hearing the testimony of all of the witnesses, and thank you for your presence today.

I yield the floor.

The CHAIRMAN. Thank you, Senator Enzi.

We'll now turn to our panel. We'll go from left to right. Christine Owens is the executive director of the National Employment Law Project. The National Employment Law Project is a national workers' rights advocacy group dedicated to promoting policies that create good jobs, promote workers' rights, and help unemployed workers regain their economic footing.

Prior to joining NELP, Ms. Owens held a variety of public interest and public sector positions advancing employment rights. She's a graduate of the College of William and Mary and the University of Virginia Law School.

Next is Reverend Dr. Marvin A. Moss, a senior pastor at Cascade United Methodist Church in Atlanta, GA. This church operates the Cascade Career Network that has provided support to hundreds of local unemployed workers. Pastor Moss has counseled many of

these workers and will share some of their stories with us today. Pastor Moss is a graduate of Hampton University, holds a Master of Divinity degree from Gammon Theological Seminary and a Doctor of Ministry degree from Drew University.

I just wanted to add also that one of our valuable members of our committee is Senator Isakson, who has other responsibilities to meet this morning. And he just came up and spoke very, very highly of you and knows you personally, and he expressed his regret that he could not be here for your testimony.

Donna Stebbins of Phoenix, AZ, is a former call center worker who has been unemployed since April 2010. She has decades of work experience in a variety of fields, from waitressing to 15 years as a counselor for the developmentally disabled and mentally ill. She has an Associate of Applied Science degree in counseling from Rio Salado Community College in Phoenix.

Mr. John Meyer is the owner of Office Products Center, a small business in Winner, SD, and is a former president of the South Dakota Retailers Association.

All of your statements will be made a part of the record in their entirety, and we'll just go from left to right, and if you could just sum up your testimony in 5, 7, 8 minutes, something like that, we'd be most appreciative so we can have a dialog.

Ms. Owens, welcome and please proceed.

**STATEMENT OF CHRISTINE OWENS, EXECUTIVE DIRECTOR,
NATIONAL EMPLOYMENT LAW PROJECT, WASHINGTON, DC**

Ms. OWENS. Thank you so much and good morning, Senator Harkin, Senator Enzi and members of the committee. I appreciate the opportunity to be with you today on behalf of the National Employment Law Project to discuss the barriers that are facing the long-term unemployed as they seek to get back to work.

We interact regularly with these men and women who have lost their jobs over the last several years and have been looking for work for months and years. We hear their stories about the challenges they encounter in simply trying to get an interview, much less get a job. They have pursued every lead. They have applied for hundreds of jobs. They have upgraded their skills. They have made clear their willingness to relocate, to work for less pay, or to do jobs below the skills and education they have acquired, and still they cannot find work.

As you alluded to, Chairman Harkin, the principal reason these roughly 6 million men and women are unable to find work is the deep jobs deficit the Nation is experiencing. Restoring employment to levels that existed before the recession would require the addition of roughly 11 million new jobs, taking into account both the jobs that we have lost during the recession and the recovery as well as the growth in working age population.

While job growth over the last 6 months has roughly kept up with population growth, it has still fallen well short of what we need. In order to restore employment to pre-recession levels within 3 years, we would need to add roughly 400,000 jobs a month. On average, we've added 135,000, so less than a third of what's needed.

And as you noted, Senator Harkin, there are four officially unemployed workers for every single job opening, meaning if we filled every single job opening, we would still have close to 10 million officially unemployed workers looking for work. And on top of that, we have tens of millions of part-time workers who want full-time jobs, as well as men and women who have dropped out of the labor force.

The second reason that long-term unemployed workers are having difficulty finding work is that employers and recruiters are not considering them simply because they are unemployed. As Senator Enzi noted, NELP and other researchers have documented examples of instances in which job postings have included language that explicitly limits applications to those who are currently employed, and in some instances have even said unemployed candidates will not be considered.

There is, admittedly, no official data on the extent to which this practice occurs, but nor is there official data on the extent to which individuals are excluded for jobs for other reasons that are arbitrary or discriminatory, such as their race or gender or their veteran status. The fact is there is evidence that this is happening. And perhaps even more compelling than the ads themselves are some of the statements of human resource officers, recruiters, and employment agency representatives.

Those who have been willing to go on the record—for example, a vice president of Adecco Group North America, which is the world's largest staffing firm, told CNN.com last year that companies' interest only in applicants who are currently working is more prevalent than it used to be, and that in his own personal experience, in three out of the four last conversations he had had on average about job candidates, the requirement of a current job always came up.

A New Jersey human resources consultant specializing in media and publishing jobs commented that most executive recruiters won't look at a candidate unless they have a job, even if they don't like to admit it. And the first question she is always asked is whether the candidate is working or not, and she's told if they're not working, the employer is not interested.

A healthcare head hunter reported that he has trouble placing jobless pharmacists because the reality of today's job market is that employers want somebody who's wanted, and the fact that someone's already employed indicates that they're wanted. And another executive recruiter who has worked for major staffing firms for 20 years said, "I can assure you, as a recruiter, you get an HR director on the phone—they tell you point blank, 'We want someone who currently has a job.'"

These accounts are corroborated in stories that NELP hears from jobless workers, many of whom have years of experience that are relevant to jobs—they are legally qualified, and otherwise qualified for the jobs they are seeking. They are often solicited by recruiters, but when they acknowledge their unemployment and, particularly, their long-term unemployment, they are told that their applications will not be referred. The organization US Action released a report last week which also documents numbers of instances of individuals who have experienced this same practice.

Excluding jobless workers from consideration for jobs for which they are qualified—and I want to emphasize for jobs for which they are qualified—only because of their unemployment status not only hurts these workers and their families. It is bad for our economy. It increases the demand for income support and social services support, and it squanders the wealth of human capital that these men and women have spent decades developing and honing. We need this.

A third and critical barrier, again, as you alluded to, Senator Harkin, is the increased reliance on credit background screening for employment. The Society for Human Resource Management reports that between 1998 and 2010, the share of employers that screen credit ratings grew from 25 percent to 60 percent. And we know that has a serious impact on the long-term unemployed.

The John Heldrich Center at Rutgers, which has recently surveyed unemployed workers, has found that at least a quarter of the long-term unemployed have missed credit card payments, taken on credit card debt, and missed mortgage payments because of job loss and corresponding decline in income. And the Financial Literacy project found that the rise in bankruptcies among unemployed workers between 2008 and 2010—that bankruptcies had increased 24 percent.

So these are some tangible barriers that have a huge impact on the ability of long-term unemployed workers to find jobs.

Thank you very much.

[The prepared statement of Ms. Owens follows:]

PREPARED STATEMENT OF CHRISTINE L. OWENS

The National Employment Law Project (NELP) is a 501(c)(3) national non-profit organization that engages in research, education, litigation support and policy advocacy on issues affecting low wage and unemployed workers. In partnership with national, State and local organizational allies, NELP works to maintain strong Federal and State programs of unemployment insurance benefits that are providing a lifeline of support for individuals who, through no fault of their own, remain jobless and pumping vital stimulus into local economies. On an ongoing basis, NELP also engages directly with unemployed workers to help them assess and address the problems they are facing in trying to find work in an economy that, though growing modestly, is not creating enough jobs to meet the employment demand. These direct interactions with unemployed workers, particularly those whose unemployment has exceeded 6 months—the “long-term unemployed”—combined with our ongoing empirical and policy research informs NELP’s understanding of the barriers the long-term unemployed face in getting back to work.

As we address below, the principal barriers to reemployment include a woeful inadequacy of jobs; discriminatory exclusion of the unemployed from consideration for job openings, simply because of their unemployment status; and the use of employment screening devices such as credit background checks, that have an especially harsh impact on individuals who, because of job loss, experience financial losses resulting in substantial debt, home foreclosures, and personal bankruptcies. Other factors, such as social isolation, depression and anxiety, that often accompany long-term unemployment, as well as limitations on access to tools needed for job search—ready availability of computers and transportation, for example—play a less tangible but nevertheless real role in affecting access to employment opportunities.

THE LONG-TERM UNEMPLOYMENT CRISIS

America faces a near-unprecedented crisis of long-term unemployment. Of the 13.3 million officially unemployed workers last month, 43 percent—nearly 6 million—had been unemployed for 6 months or longer. Roughly one-third of the long-term unemployed have been without work for a year. Average durations of unemployment in November reached a record high of almost 41 weeks. As NELP recently reported, the rate of long-term unemployment has equaled or exceeded 40 percent

for roughly the last 2 years, the longest stretch of such high long-term unemployment since this data was first reported in 1948.¹

A recent survey and corresponding report by the John J. Heldrich Center for Workforce Development of workers who had lost jobs during the Great Recession found that 43 percent were reemployed (either full-time or part-time) and 41 percent were unemployed and actively looking for work. Half of those remaining unemployed had been jobless for more than 2 years. Continuing joblessness among the long-term unemployed was *not* because they were not looking for work. According to the Heldrich Center report, the unemployed participated in substantial job search activities, with three-quarters having applied for a job within the preceding month and two-thirds having searched newspapers and online job postings. Analysis of survey results showed that “Unemployed workers who received [unemployment insurance] benefits were **more likely** to have been proactive in seeking work than those who did not receive UI” (emphasis in original), with benefits recipients reporting “more hours devoted to the job search and more frequently contact friends and examine job postings.”²

The principle reason for sustained high rates of long-term unemployment, and the greatest barrier to reemployment facing the long-term unemployed, is that employers are simply not creating enough jobs to put Americans back to work. As described below, the Nation’s jobs hole is deep and competition for job openings is stiff.

INADEQUATE JOB CREATION IS THE PRINCIPLE BARRIER TO WORK FOR THE UNEMPLOYED

Although job creation has been anemic since job growth resumed in the summer of 2010, the good news is that over the past 6 months, average job growth has been roughly on par with population growth. Nevertheless the jobs deficit—the hole we need to fill to restore employment levels to pre-recession status—remains deep.

As shown in NELP’s recent analysis, the economy must add another 6.3 million jobs to make up for those lost during and in the aftermath of the 2007 recession, along with an additional 4.6 million jobs to account for growth in the working age population since then. Altogether, this amounts to a deficit of 10.9 million jobs. Closing this gap in 3 years would require the addition of 400,000 jobs per month on average—a level more than three times greater than average job growth (113,500 jobs) of the past 6 months.³ Plainly, job creation is simply not keeping up with the demand for work, either from the unemployed or from new workforce entrants.

Comparing new job openings to official unemployment levels underscores the gap between the supply of individuals who want to work and the opportunities available to them. In September (latest comparative data available), there were more than four officially unemployed workers (13.9 million) for every new job opening (3.4 million). Under the best of circumstances, job competition would be stiff when the ratio of applicants to openings is greater than four to one. But even this figure understates the real level and intensity of job competition as it relates to the unemployed. Official unemployment counts do not include the under-employed—those who want full-time hours but are able only to get part-time work—or individuals “marginally attached” to the labor force, that is those who want to work and have looked for jobs in the past year but not in the preceding month. Including these individuals in official unemployment counts (raising the September count from 13.9 million to 25.6 million) would nearly double the number of potential unemployed or under-employed applicants for each vacancy. In addition, in the most recent employment report (for November), labor force participation declined by more than 300,000, and adding these individuals to the official counts of the unemployed would further increase the ratio of unemployed workers to job openings. Of course, anecdotal evidence suggests there are numerous applicants for every job opening, with thousands showing up at job fairs.

Thus, the principal barrier the unemployed, particularly the long-term unemployed, face in finding work is the sheer absence of jobs. This is not a crisis likely to be ameliorated anytime soon: The Federal Reserve Board’s most recent analyses

¹National Employment Law Project, “Unemployment Insurance: Jobless Workers and Our Economy Hanging on by a Thread,” October 2011, p. 4 (url: http://www.nelp.org/page/-/UI/2011/NELP_UI_Extension_Report_2011.pdf?nocdn=1).

²John J. Heldrich Center for Workforce Development, “The Long-Term Unemployed and Unemployment Insurance: Evidence from a Panel Study of Workers Who Lost a Job During the Great Recession,” November 2011, p. 2 (url: http://www.heldrich.rutgers.edu/sites/default/files/content/UI_Unemployed_Brief.pdf).

³National Employment Law Project, “Economy faces deficit of 10.9 million jobs,” December 2, 2011 (url: <http://www.nelp.org/page/-/UI/2011/NELP.jobs.deficit.november.2011.pdf?nocdn=1>).

project that unemployment will not fall below 8.5 percent by the end of 2012 and that even at the end of 2014, the economy will not have returned to full employment (which the Fed posits as a rate between 5.2 and 6.0 percent—though NELP believes that is still an unacceptably high rate).⁴

DISCRIMINATION AGAINST THE UNEMPLOYED BECAUSE OF THEIR UNEMPLOYMENT STATUS LIMITS JOB OPPORTUNITIES

Stories suggesting systematic exclusion, often blatant, of unemployed workers from consideration for jobs began to emerge early in the summer of 2010. In May and June 2010, local media in Atlanta along with the *Huffington Post* and *CNNMoney.com* reported that Sony Ericsson, a global phone manufacturer that was expanding operations in Georgia, had posted a job announcement for a marketing position that explicitly said “No Unemployed Candidates Will Be Considered At All.”⁵ Similar documented accounts of such exclusions reported around the same time included:

- An ad posted on **The People Place** (a job recruiting Web site) by an anonymous Angleton, TX electronics firm seeking a “quality engineer”; the ad specified the company would “not consider/review anyone NOT currently employed regardless of the reason”⁶;
- A Craigslist posting advertised for assistant restaurant managers in Edgewater, NJ, flatly requiring that applicants “Must be currently employed”⁷;
- Numerous listings for grocery store managers throughout the Southeast posted in the spring by a South Carolina recruiting firm, Latro Consulting, which included restrictions against considering unemployed applicants; the restrictions were removed after *CNN Money.com* inquired about the practice.⁸

Subsequent press reports confirm the practice of ads excluding unemployed workers has continued.⁹ In July 2011, NELP published the results of an informal sampling it undertook over a 4-week period in the spring on four job-listing Web sites: CareerBuilder.com, Indeed.com, Monster.com and Craigslist.com. In that survey, NELP identified roughly 150 job ads that included exclusionary language that implicitly or explicitly barred unemployed candidates, particularly the long-term unemployed, from applying for openings—simply because of their unemployment status and without regard to their qualifications for the position.¹⁰ Indeed.com has since announced that it will not include such restrictions in job postings on its Web site.

While discrimination against the unemployed is sometimes overtly reflected in ads, at NELP we also hear regularly from unemployed workers—mostly older workers—who despite years in the labor force and significant directly relevant experience are nevertheless told they will not be referred or considered for employment, once recruiters or potential employers learn they are not currently working.

That happened to 53-year-old Michelle Chesney-Offutt from Illinois, who earlier wrote NELP that after working successfully for 19 years as an IT help supervisor, she was laid off in 2008 due to the downturn. Many months into her job search,

⁴ Board of Governors of the Federal Reserve, Press Release and accompanying charts, November 2, 2011 (url: <http://www.federalreserve.gov/newsevents/press/monetary/20111102b.htm>).

⁵ 11Alive.com, “Job Listing: Unemployed Need Not Apply,” http://www.11alive.com/rss/rss_story.aspx?storyid=144719, May 31, 2010; Laura Bassett, “Disturbing Job Ads: ‘The Unemployed Will Not Be Considered,’” *The Huffington Post*, http://www.huffingtonpost.com/2010/06/04/disturbing-job-ads-the-un_n_600665.html, June 4, 2010, updated Aug. 8, 2010; Chris Isidore, “Looking for work? Unemployed need not apply,” *CNNMoney.com*, http://money.cnn.com/2010/06/16/news/economy/unemployed_need_not_apply/index.htm, June 16, 2010.

⁶ Bassett, “Disturbing Job Ads,” op. cit.

⁷ Ibid.

⁸ Isidore, op. cit.

⁹ See, for example, “Outlook poor for long-term unemployed,” *The Atlanta Journal Constitution*, October 4, 2010 (<http://www.ajc.com/business/outlook-poor-for-long-657702.html>); “Employers Continue to Discriminate Against Jobless, Think ‘The Best People Are Already Working,’” *Huffington Post*, October 8, 2010 (http://www.huffingtonpost.com/2010/10/08/employers-continue-to-dis_n_756136.html); “Long-term unemployed face stigmas in job search,” *USA Today*, January 23, 2011; (http://www.usatoday.com/money/economy/employment/2011-01-23-longterm-unemployed_N.htm); “How Employers Weed Out Unemployed Job Applicants, Others, Behind The Scenes,” *Huffington Post*, January 14, 2011 (http://www.huffingtonpost.com/2011/01/14/unemployed-job-applicants-discrimination_n_809010.html).

¹⁰ National Employment Law Project, “Hiring Discrimination Against the Unemployed: Federal Bill Outlaws Excluding the Unemployed From Job Opportunities, as Discriminatory Ads Persist,” July 12, 2011, p.2 (url: <http://www.nelp.org/page/-/UI/2011/unemployed.discrimination.7.12.2011.pdf?nocdn=1>).

a headhunter contacted her, excited about her qualifications for a position he was retained to fill. The excitement faded, however, when he learned she had been unemployed for more than a year. As Ms. Chesney-Offutt put it, “When he realized this, he was very apologetic, but had to admit to me that he would not be able to present me for an interview due to the ‘over 6-month unemployed’ policy that his client adhered to.” The headhunter, she told NELP, explained to her that his client expressly prohibited him from referring workers who had been unemployed for 6 months or more. When we last spoke to Chesney-Offutt, she was still unemployed, had exhausted all unemployment benefits, was restructuring her mortgage, and had applied for SNAP (food stamps) and welfare—a first for her.

Kelly Wiedemer, a 45-year-old former operations analyst in Colorado, wrote describing a similar experience. She responded to a local staffing firm’s November 2010 posting for a financial systems analyst experienced in implementing a software package she had put in place in her previous job. The agency called her immediately but after the recruiter learned of Ms. Wiedemer’s unemployment, her enthusiasm cooled. The recruiter told Wiedemer that she would submit her resumé but that her “long employment gap was going to be a tough sell.” Wiedemer later followed up to express her continuing interest but was not called for an interview.

Similarly, 44-year-old Angela Smith of Texas, an experienced pharmaceutical sales rep who had posted her resumé online, wrote to share an email she had received from an executive recruiter for a bio-pharmaceutical company seeking a specialty sales representative. The recruiter had sent the email after seeing Ms. Smith’s resumé—but the outreach was of little value to Ms. Smith, since the email included an express caveat, required by the employer, that “Candidates must be currently employed in pharmaceutical sales, or have left the industry within the last 6 months.”

Finally, there’s 55-year-old Ginger Reynolds from California, who wrote to tell us about receiving a call from a recruiter for a 6-month contract position as a software systems engineer. The recruiter thought Ms. Reynolds was a good fit for the job but upon learning of her unemployment, told her she could not submit her resumé because she had not worked in the past 6 months.

There is no official data on how frequently unemployed workers are denied consideration for jobs because of their employment status, but the openness of the exclusionary ads noted above and the experiences jobless workers shared with NELP suggest the practice may be fairly common. That suspicion is borne out by comments of human resource consultants and recruiters willing to go on record about the practice. Rich Thompson, vice president of learning and performance for Adecco Group North America, the world’s largest staffing firm, told *CNNMoney.com* last June that companies’ interest only in applicants who are currently working “is more prevalent than it used to be . . . I don’t have hard numbers,” he said, “but three out of the last four conversations I’ve had about openings, this requirement was brought up.”¹¹ Similarly, Lisa Chenofsky Singer, a New Jersey human resources consultant specializing in media and publishing jobs, commented that, “Most executive recruiters won’t look at a candidate unless they have a job, even if they don’t like to admit it.” According to Ms. Singer, the first question she is generally asked when recommending a candidate is whether the candidate is currently working—and if the candidate is unemployed, the recruiter is not interested.¹²

A January 2011 article posted on **The Ladders**, an online job search resource site, further corroborates the widespread exclusion of jobless workers from employment opportunities.¹³ According to one quoted source, Matt Deutsch, communications coordinator at *TopEchelon.com*, the tendency to exclude the unemployed is “growing,” Deutsch said:

Not all companies are doing this, but it certainly has become an issue. What’s startling are the lengths to which companies and recruiters are going to communicate this, such as including the phrase “Unemployed candidates will not be considered” right in the job posting.¹⁴

Deutsch speculates that some companies may rationalize the exclusion on the assumption that the best candidates are likely to be those who are currently working. But in an economy with such high unemployment, he notes, it is simply not “100 percent true” that being employed is a proxy for suitability for a position. More like-

¹¹ Isidore, op. cit.

¹² Ibid.

¹³ “Uninterested in the Unemployed,” (<https://recruit.theladders.com/recruiter-resource-center/uninterested-in-unemployed>).

¹⁴ Sharon L. Florentine, “Uninterested in the Unemployed,” **The Ladders**, <https://recruit.theladders.com/recruiter-resource-center/uninterested-in-unemployed>, Jan. 2011.

ly, Deutsch says firms are inundated with applications and screening out the unemployed is “a pretty simple metric that can easily reduce their workload . . .”¹⁵

Other staffing firm industry specialists similarly confirm that the unemployed need not apply. Amherst Healthcare headhunter Isang Inokon told the *Huffington Post* at the end of last year that “he has trouble placing jobless pharmacists because the reality of today’s job market is that employers ‘want somebody who’s wanted’”—that is, already employed.¹⁶ Another executive recruiter who has worked for major staffing firms for 20 years said, “There’s a lot of dirty stuff going on, a lot of hush-hush discrimination, I can assure you. As a recruiter,” he said, “you get an HR director on the phone, and they tell you point blank, ‘We want somebody . . . [who] currently has a job. We don’t want to see a resumé from anyone who’s not working.’ It happens all the time.”¹⁷

An informal survey reported in October 2011 by SmartRecruiters, which markets free recruiting software, found that “82 percent of recruiters, hiring managers, and human resources professionals, report the existence of discrimination against the unemployed.” Among those surveyed by the company, “55 percent of recruiters and HR managers have personally experienced resistance when presenting qualified yet unemployed candidates to clients/colleagues.”¹⁸

In sum, a review of job postings, press accounts (including interviews with recruiters and HR professionals), and the personal experiences related by jobless workers indicates that discriminatory exclusion of applicants for jobs simply because they are unemployed is a barrier to employment—and may be a significant one—for many. Legislation supported by NERP is pending in both houses of Congress that would preclude employers and job recruiters from excluding the unemployed from job consideration simply because of their unemployment status.¹⁹

EMPLOYERS’ INCREASED USE OF CREDIT BACKGROUND SCREENING FOR EMPLOYMENT LIMITS JOB OPPORTUNITIES FOR THE UNEMPLOYED

An additional tangible barrier limiting employment opportunities for jobless workers is employers’ increased reliance on credit background checks to screen applicants for employment. Data from the Society for Human Resource Management (SHRM) indicates that credit background screening has exploded in recent years, rising from 25 percent of employers in 1998 to 60 percent in SHRM’s most recent survey, reported in December 2010.²⁰

Credit screening has a harsh impact on the ability of unemployed workers to get jobs. As described in congressional testimony by the National Consumer Law Center and press accounts the testimony cites, use of credit screening to weed out job applicants is a perverse Catch-22 for the unemployed: A bad credit report undermines employability, but in order to maintain or restore solid credit, one needs a job.²¹

Unemployment status has a significant impact on individuals’ financial situations and their credit reports. The Institute for Financial Literacy reports that bankruptcy filings among the unemployed rose 23 percent between 2008 and 2010, while the percentage of Americans reporting reduction in income and/or job loss as a cause of financial distress rose by 24 percent and 21 percent, respectively, between 2006 and 2010.²² In the recent Heldrich Center survey of workers who had lost jobs during the Great Recession, many reported they were struggling financially and 45 percent described their economic situation as poor. Large shares of all the unemployed in the survey, and even more of the long-term unemployed, have been forced to cut back on medical care, reduce other spending and borrow money from family and

¹⁵ Ibid.

¹⁶ Laura Bassett, “Employers Won’t Hire The Jobless Because of the ‘Desperate Vibe,’” *The Huffington Post*, http://www.huffingtonpost.com/2010/12/03/employers-wont-hire-the-unemployed_n_791710.html, Dec. 3, 2010, updated Feb. 2, 2011.

¹⁷ Laura Bassett, “How Employers Weed Out Unemployed Job Applicants, Others, Behind the Scenes,” *Huffington Post*, http://www.huffingtonpost.com/2011/01/14/unemployed-job-applicants-discrimination_n_809010.html, Jan. 14, 2011.

¹⁸ See <http://www.prleap.com/pr/182495/> <http://www.prleap.com/pr/182495/>.

¹⁹ The Fair Employment Opportunity Act of 2011 was introduced in the House of Representatives on July 12, 2011 (H.R. 2501) and in the Senate on August 2, 2011 (S. 1411).

²⁰ Society for Human Resource Management, “Background Checking: Conducting Credit Background Checks SHRM Poll,” December 2010, slides 2 and 7 (url: http://www.shrm.org/Research/SurveyFindings/Documents/Background%20Check_Credit_FINAL.pptx).

²¹ National Consumer Law Center, Testimony Before the U.S. House Committee on Financial Services, Subcommittee on Financial Institutions and Consumer Credit, “Use of Credit Information Beyond Lending: Issues and Reform Proposals,” May 12, 2010, p. 2 (url http://www.nclc.org/images/pdf/credit_reports/testimony-credit-report-use-05-10.pdf).

²² Institute for Financial Literacy, “2010 Annual Consumer Bankruptcy Demographics Report, A Five-Year Perspective of the American Debtor,” September 2011, http://www.financiallit.org/PDF/2010_Demographics_Report.pdf.

friends to make ends meet. At least a quarter of the long-term unemployed in the survey have missed credit card payments, taken on credit card debt and missed mortgage payments because of their job loss and corresponding decline in income—all likely unavoidable practices given the realities of their situation but nevertheless harmful to their overall credit rating.²³

CONCLUSION

The sheer dearth of jobs, discrimination against applicants simply because of their unemployment status, and credit screening are the principle reasons that unemployed jobseekers are unable to find work. Other factors—such as the social isolation, anxiety and depression associated with long-term unemployment, inability to afford the costs of job search (e.g., gas for cars), or limited access to computers—also are barriers to workforce re-entry.

Long-term unemployed workers cannot find jobs because the jobs aren't there—not because they are not looking, not willing to accept pay cuts, or unwilling to relocate for work. The ongoing crisis of long-term unemployment and as-yet inadequate job creation underscore the urgent need for Congress to reauthorize the programs of Federal unemployment benefits slated to expire at the end of the year.

The CHAIRMAN. Thank you, Ms. Owens.

Dr. Moss.

I want to ask unanimous consent to put a longer testimony from Dr. Moss in the record that you had requested.

Reverend MOSS. Yes, sir.

The CHAIRMAN. Without objection.

Go ahead, Dr. Moss, please.

STATEMENT OF REVEREND DR. MARVIN ANTHONY MOSS, SENIOR PASTOR, CASCADE UNITED METHODIST CHURCH, ATLANTA, GA

Reverend MOSS. Thank you, Chairman Harkin, Ranking Member Enzi, and members of the committee for the opportunity to be with you today. I lead a congregation of over 4,000 members of every broad demographic, ranging from cooks, clerks, drivers, teachers, active and retired military, corporate professionals, executives, business owners, doctors, judges, all who have been affected by our current economy.

This church is the same church where Reverend Dr. Joseph Lowery pastored, and so a part of the DNA woven into the fabric of who we are is a passionate concern and social awareness of justice and equality. And what we have experienced through the testimonies of individuals, the long-term unemployed, are indications that it is not fair out there.

With me today is Sanquinetta Dover, a Cascade member seated behind me, of Dover Staffing. She's the owner of Dover Staffing, and she also owns Dover Training Institute. And she leads her company in training and retooling individuals to get back into the workforce. She's a WIA provider, has been put on the SBA 100 list, and crafted a program to help the survivors of fallen soldiers with financial counselors in helping them deal with providing for their families.

Also with me is Valerie Jones, who is the chair of our Cascade Career Network. Valerie's ministry focuses on informing, encouraging, and empowering the unemployed and underemployed—long-term unemployed with techniques, skills, and expectations of the job search. Valerie's team leads individuals in an effort to speak to

²³ Heldrich survey, *supra* n. 2, p. 20.

the spiritual, emotional, and psychological needs of individuals, because when you lose your job, you lose a part of who you are.

It takes a moment to get back in the race or trying to find a job, because you also have to deal with the dynamics of the family. And as a faith community, we're looking at making sure that the family is whole during this time of economic upheaval.

Some of the barriers that we have been made aware of include those wherein you've worked for a company for 15 years, and you lose that job. There are no 6-month career transition programs paid for by the company. No one has brought in the Department of Labor or told you that there may be assistance. You've simply been notified that you've been phased out or your job has been cut out.

And so now, even if you know of programs, you don't have the resources to take part in those programs. And this speaks to the importance of a partnership between the faith-based community and the Government so that we can prepare individuals, inform them of their rights and responsibilities, and partner with the opportunities that are provided for by the Government.

A second barrier would be access to the computer, to Internet access, making sure that you're able to expand your job search. At best, individuals can get 1 hour per day at a local library—which more and more of them are being closed because of budget constraints. And so now the church is having to step in to provide assistance to individuals, helping them expand their search.

Child care—you stopped child care when you lost your job, one of the greatest expenses that there is. And if you do not have family in your local area, then you are challenged beyond measure, because you do not have anyone to assist you with looking for a job by watching the children. And I don't think that it would be appropriate to take the children with you on a job interview, if you got the interview.

Finally, the insurance premiums—COBRA—who can afford COBRA if you're unemployed? And so now you're going without healthcare. If you have a chronic illness such as asthma or any other illness requiring regular medication—you are being bombarded by situations that make it even harder to get your mind in a place where you can get in the job search.

I wish I could tell you about the number of families who could have been saved if conversations had been created around the immobilizing effect that a job loss has had—dealing with the psychological impact, the emotional impact. And Valerie has shared how so many have been empowered and encouraged just by having someone pray with them and saying there is a way out of this.

It is not laziness. People want to work. It is not a situation of people just sitting around and saying, "I'll take all that the Government gives me." But it is working through grief, disbelief, and devastation, and it takes a minute to get there.

What we have found is that there are discriminatory practices—recruiters screening applicants based on what a person's name suggests in terms of ethnicity or what zip code a person lives in. And I'm shocked and saddened that there are people who have to walk 5 miles to get a job because public transportation will not provide them the opportunity to get there. And then there are instances

where, given the distance to your home and your job, individuals will not provide you with that opportunity.

One of the things that we have found relative to the faith-based initiative, Cascade Career Network, is that there are opportunities that exist. But the providers of those opportunities need to know that the long-term unemployed have individuals speaking for them.

On Tuesday of this week, I was one of the speakers at the Faith-Based Economic Development Summit held on the campus of Alabama State University in Montgomery, AL. And one of the facilitators, Dr. Christina Clamp, director of Community Economic Development Center for Cooperatives and CED at Southern New Hampshire University, stated that “The faith tradition goes beyond partisan political culture. We can take this country beyond where it is.”

And so I share with you—how can there be a famine in the land in the richest Nation on earth? People are hurting. They are angry, and they are becoming increasingly disillusioned with leadership at various levels.

Unemployment lines are full of Democrats, Republicans, Tea Partiers, and independents; black, white, Latino Americans, Asian Americans. Everyone is in this crisis. So we must look at the fact that it is going to take a partnership. And we can read in the New King James Version of the Bible, II Chronicles 7:14,

“If My people who are called by My name will humble themselves and pray and seek My face and turn from their wicked ways, then I will hear from Heaven and I will heal their land.”

The faith community, especially the African-American church, has been the bedrock for formulating ideas, birthing movements, and changing hearts and minds. It is also not ironic that Dr. King’s final campaign upon his untimely death was the poor people’s campaign. We must take the lessons of the past, utilize the knowledge of the present, and change the future for all people.

Thank you.

[The prepared statement of Reverend Moss follows:]

PREPARED STATEMENT OF REVEREND DR. MARVIN ANTHONY MOSS

My name is Marvin Anthony Moss and I am the Senior Pastor of Cascade United Methodist Church located in SW Atlanta, GA. This is a predominately African-American church and the same church where Reverend Dr. Joseph Lowery served as pastor. Woven in the fabric of who Cascade is as a faith community, built into their DNA is a social awareness and passion for justice and equality for humanity.

Of the 50-plus ministries that are a part of Cascade, the one that we have given particular attention is our Cascade Career Network Ministry. This ministry, led by Valerie Jones (who is with me today), focuses on nurturing and empowering individuals who are victims of the current economic crises leaving them unemployed. Valerie leads a team of individuals who speak to the spiritual, emotional and psychological well-being of the unemployed. They help these individuals with resumé rewriting, sharpening interviewing skills, and networking.

Additionally, this team is privy to firsthand account of the frustrating obstacles that these individuals face. Some of them have been unemployed for a couple of years now yet they refuse to give up. Valerie’s team tries to encourage these individuals to not become bitter but more intent in their resolve to find employment.

Some of the barriers that the long-term unemployed are facing includes being labeled as lazy because they have been unemployed for so long. They may find employment but they rely on public transportation to get there. It would be safe to say that oftentimes public transportation in the South has quite a bit of room for expansion. Relocating is not an option given the current state of the real estate market.

Another obstacle or barrier is affordable quality daycare. There are other instances where individuals are hired only to find out later that it was a seasonal position.

There are small- to medium-sized business owners who would love to hire individuals but find it economically impossible to do so.

There must be a public mantra of “both/and”. Assistance from the Government “and” an aggressive push from the Faith Community to ensure that information is gathered and disseminated in laymen’s terms so that individuals are aware of rights, responsibilities and opportunities.

I can say with passion that we have proven that this is not solely an issue of economics. This country has some of the greatest economists there are yet we are still dealing with the plight of the people.

We have an issue with the condition of the heart and it is going to take the voice of the Faith Community to speak to the moral fiber of this great country in order for us to consider our ways.

How is it that a famine can be declared in the richest Nation on earth? People are hurting, they are angry and becoming increasingly disillusioned with leadership at all levels. The unemployment lines are full of Democrats, Republicans, Independents and some Tea Partiers! The lines are full of blacks, whites, Asian-Americans and Hispanic Americans not to mention numerous other ethnicities that make this country the place where everyone wants to be—EVEN NOW!

On Tuesday of this week I was one of the speakers at a Faith-Based Economic Development Summit held on the campus of Alabama State University. One of the facilitators, Dr. Christina Clamp, director of the Community Economic Development Center for Co-Operatives and CED at Southern New Hampshire University, stated that “the Faith tradition goes beyond partisan political culture. We can take this country beyond where it is”.

While I was there I went by Dexter Avenue Baptist Church. The question that crossed my mind was, “Dr King what should we do?” The answer in my heart was to tell the people to keep believing in the power of God and the strength of a people united.

We can read in the New King James version of the Bible II Chronicles 7:14,

If My people who are called by My name will humble themselves, and pray and seek My face, and turn from their wicked ways, then I will hear from heaven, and will forgive their sin and heal their land.

This is not solely about economics, but it is largely about the condition of our hearts.

Yours In God’s Service.

The CHAIRMAN. Thank you very much, Dr. Moss. Very good.

[Applause.]

Thank you very much, Reverend Moss. Very profound.

Ms. Stebbins, welcome, and your statement will be made part of the record also. Please proceed.

STATEMENT OF DONNA STEBBINS, PHOENIX, AZ

Ms. STEBBINS. Thank you. Thank you, Chairman Harkin, for the opportunity to testify before you and the Senators on this committee today.

My name is Donna Lynn Stebbins. I’m 58 years old, and for the first time in my life, I’m unemployed, apparently unemployable due to my age, and uninsured. I grew up in Little Rock, AR, raised by two very hardworking parents. They worked hard, but didn’t have a lot of money. When I turned 14, they let me know that if I wanted extra things or spending money, things like that, I needed to get a job.

That was easy enough. I started working summers, and I was able to get my new shoes and my new school clothes and albums. And I got to see movies and things like that that I wouldn’t have gotten to see if I had not have gotten my summer jobs, and that was really important for me as a teenager, and thus began my work life.

I was making \$1.10 an hour then, and I did have things that I would have had to have gone without if I hadn't gotten summer jobs. I continued my work life during my adult years. I did everything that was right to live the American dream. My husband, who's in construction, and I moved to Arizona in the 1980s, and together we raised a family, bought two homes, and we put what little bit we could in a 401(k). We never made a lot of money, but we were doing good. We were doing just fine.

In 2008, we had to refinance our home in Phoenix and took some cash out to do some home improvements, thinking this would be a really good idea, because we could get the house fixed up, and then when we retired, we could get a little money out of the house for our place up in the mountains in Arizona. We were under the impression that this would bring the value up—we would have that little nest egg.

That didn't work out so well. It turns out our monthly payment was now almost double. The mortgage industry tanked, and our house was now approved at a much lower amount than it was when we refinanced.

In April 2010, I was laid off from my job. Did I mention that I'm 58 years old? In the last year and a half, I've applied for more than 200 jobs. The interviews I've had, which was only a couple of dozens, have been group interviews. That's right—group interviews. Gone is the day when you can sit with an employer one-on-one, tout your strengths, your work experience, and let them know what an asset you could be to their company. That's gone.

Today, it's me, a 58-year-old woman in group interviews with 15 to 20 20- and 30-year-olds. They don't ask me a lot of questions. They direct most of their questions to the younger adults. If I am asked a question, it's usually related to things like, "Why would a woman your age want to work in a shop where we sell younger women's clothing?" Or another question might be "I see you've been unemployed for 6 months," or a year or 18 months, whatever time I had been unemployed during that time period—and then having to explain why I was unemployed, which—I thought everybody knew that there just wasn't a lot of jobs out there.

But in June that same year, my husband was laid off. He's been in the construction business for 28 years and had the same job for over 20 years. He was one of the last let go, but he was let go. He's an expert in his field, so he did get a job, but he's making what he made 10 years ago. But he does have a job, which—we're supposed to be real thankful that he does have a job, even if he is making what he made 10 years ago.

Why does someone have to work at the rate that they made 10 years ago or work at the rate of someone with 10 years less experience? There's a lot of work to be done out there, and Rick deserves to make what he deserves. I should have a job. Millions of the unemployed should have a job, a job at a living wage.

Those high mortgage payments I was telling you about—well, we couldn't make them anymore. It took a year of wrangling with the bank to get our home refinanced. And after the threat of foreclosure—with these people in the bank telling me that I was going to do it their way or I could pack up my bags and get out of my house. This is a house we purchased in 1995 and raised three

daughters in that house. So we swallowed our pride and we did it their way, and we did save our home. We were lucky to be able to save our home, so I'm thankful for that.

Health insurance—we don't have it anymore. We both have medical issues that we literally have to ignore. Even with Rick working—and his company does offer insurance—we can't afford to pay for the insurance because we have to pay the mortgage and all the utilities and the food. And we try to make sure that we get Rick what medicine he needs to keep him healthy enough to go to work so that we can continue to live.

At the time we were refinancing—the time we were working on refinancing our home, my unemployment benefits were about \$216 a week after taxes, which is the maximum allowed in Arizona. And that is the same time all of this was going on—when I was trying to do the refinancing is when this was going on.

Now, our oldest daughter was married October 30th of this year. She and her husband had to pay for their own wedding. We've gone through all our money in the past year and a half. We've had to live off part of our 401(k) and everything else to stay on our feet. Her having to pay for her wedding—our baby having to pay for her wedding was the hardest thing that Rick and I had to face. We didn't deserve this, and most certainly she didn't deserve this.

After all that Rick and I have gone through, the groveling we've had to do, the debt we've incurred because of the mortgage broker, the praying with all of our might that one of us don't get sick, the choosing medicine over the food so that my husband can stay healthy enough to work, and having to ask for rides for me to look for a job because I can't afford gas—this is what killed us, is not being able to pay for my daughter's wedding.

We didn't deserve that. We didn't do anything wrong. We played by the rules. We worked all our lives. So why are we and other people like us, the unemployed, suffering like this when we did not do anything wrong.

I'm angry, I'm frustrated, and I will not stop telling my story to others and telling others to tell their story. I'll visit my elected officials. I'll write letters. I'll sign petitions. I will sit in my Senators' offices where I'm at. And that's why I'm here in Washington, DC, to tell you my story in hopes that you and other lawmakers will hear what we have to say and help the thousands of people like myself who just want a job.

Thank you.

[The prepared statement of Ms. Stebbins follows:]

PREPARED STATEMENT OF DONNA STEBBINS

Thank you Chairman Harkin for the opportunity to testify before you and other Senators on this committee today. My name is Donna Lynn Stebbins. I'm 58 years old and for the first time in my life I am unemployed, apparently unemployable due to my age, and uninsured.

I grew up in Little Rock, AR, raised by two very hardworking parents. They worked hard but didn't make a lot of money. When I turned 14, I was told that if I wanted spending money I would need to get a job. Easy enough. I started working summers and was able to buy the new shoes and clothes I wanted, and the albums I wanted, and I got to see movies I wanted to see. At that time, we also had to buy our school books, so I got to buy NEW books. All of this was pretty important to me as a teenager. Thus, began my work life. At \$1.10 an hour, I had things I otherwise would have gone without.

I continued my worklife and during my adult years did everything I thought was right to live the American Dream. My husband Rick is an electrician and together we raised a family, bought two homes, and put what little we could into our 401(k). We never made a lot of money, but we were doing just fine.

In 2008, we refinanced our home and took some cash out to do some home improvements. Thinking this was a really good idea, we spent about \$45,000 getting our somewhat rundown home “spruced up.”

We were under the impression this would bring the value of our home up; so when we retired and sold our home, we would have a nice little nest egg. That didn’t work out so well. Turns out, our monthly payment was now almost double, the mortgage industry tanked, and our house was appraised at a MUCH lower amount than it was when we refinanced.

In April 2010, I was laid off from my job. Did I mention earlier that I’m 58 years old? In the last year and a half I have applied for more than 200 jobs. The interviews I have been on—a couple dozen—have been “group” interviews. That’s right, “group” interviews. Gone is the day when you could sit one-on-one with a potential employer and tout your strengths, your work experience and what an asset you would be for their company. Today, it’s me, a 58-year-old woman, surrounded by 20- and 30-year-olds applying for the same job. Interviewers directed their attention to younger applicants. Seldom was I asked a question. I have yet to get a phone call from anyone.

In June of that same year, Rick was laid off from his job. My husband is an expert in his field and has gotten a job after months of being unemployed. He makes what he made 10 years ago, but he has a job (we are supposed to be so thankful that he HAS a job). Why does he have to work at a rate of someone with 10 years less experience? There IS work to be done and Rick should be making what he deserves. I should have a job. Millions of unemployed should have a job—a job with a living wage.

Those high mortgage payments? Well, we couldn’t make them anymore. It took a year of wrangling with the bank to get our home refinanced after the threat of foreclosure, with these people telling us we would do it their way or pack up and get out of the house. The house we purchased in 1985 and raised our daughters in. We had no choice but to swallow what little pride we had left, and we did it their way. Health insurance? We don’t have it, and we both have medical issues we have to ignore. Even with Rick working, we can’t afford the cost of insurance. I will add that this is the first time in our adult lives that we have not been insured.

At the same time we were working to refinance the house, my unemployment benefits, about \$216 a week after taxes—the maximum allowed in Arizona—were cutoff, along with thousands of other Arizonans.

Our youngest daughter was married on October 30. She and her husband had to pay for their own wedding. We had gone through all of our money a year and half before her wedding just to get by.

This was the hardest thing Rick and I had to face. We could not give our precious daughter a wedding that she deserved. We did not deserve this and she most certainly didn’t deserve this.

After all that Rick and I have been through: the groveling we’ve had to do; the debt that we have incurred because of the mortgage broker; the praying with all of our might that we don’t get sick; the choosing medicine over food so that Rick can at least stay healthy enough to work; having to ask for rides because I don’t have gas money . . . THIS is what almost killed us mentally and emotionally.

We didn’t deserve this. We did nothing wrong. We played by the rules and have worked throughout our lives. Why are we and other working people suffering like this? I’m angry, I’m frustrated and I will not stop telling my story and telling others to tell their story, and I will visit my elected officials; I will write letters; and I will sign petitions. And that’s why I am here in Washington, DC, today to tell my story to you in the hope that you and other lawmakers HEAR me and will act to help the millions of other people like me who just want a job.

Thank you for listening to my story.

The CHAIRMAN. Thank you very much.

[Applause.]

Thank you, Ms. Stebbins.

Now we turn to Mr. Meyer. Again, your statement will be made a part of the record in its entirety. Please proceed.

**STATEMENT OF JOHN MEYER, OWNER, OFFICE PRODUCTS
CENTER, WINNER, SD**

Mr. MEYER. Good morning. I am John Meyer from Winner, SD. I would like to thank the committee for allowing me to speak today.

As a small business owner of 30 years and former president of South Dakota Retailers Association, whether directly or indirectly, all businesses are relying on a stable oil supply, which is why I signed on with the coalition of businesses that support the construction of the Keystone XL Pipeline called the Partnership to Fuel America.

The new coalition of business leaders, companies, and opinion leaders have come together to promote stable and secure North American energy development. By developing North American energy resources, the United States will create thousands of jobs right here in America while also increasing our security by decreasing our dependence on unstable oil producers such as those in the Middle East.

Increasing demands on the same oil supply from China and India will only limit supply and drive up prices. I presently pay 2½ times per month for gasoline than I did 3 years ago.

One of the first issues that the Partnership to Fuel America is focused on is the proposed Keystone XL Pipeline expansion. The pipeline carries crude oil from the tar sands in Canada and drops it off at refineries in the Midwest and Texas. The proposed expansion to this system would increase the capacity of the pipeline from 591,000 barrels to 1 million barrels a day in addition to opportunities to use our own States' oil—such as Wyoming, North Dakota, Montana, South Dakota—who have those resources readily available. North Dakota last week just went to 3.4 percent unemployment rate.

The U.S. Geological Service issued a report in 2008 that the Bakken, known as the Williston Basin formation, is the largest domestic oil discovery since Alaska Prudhoe Bay and has the potential to eliminate all American dependence on foreign oil. Some first estimations are somewhere around 2,041 years.

Building the Keystone expansion will pump thousands of dollars into South Dakota's economy, while bringing hundreds, if not thousands of workers to our State. And even though I am not a construction worker or manufacturer, I joined the Partnership to Fuel America because, as a business owner, I recognize that these workers and dollars have an energizing effect on our State and region.

It is reported that the construction of the pipeline will bring as many as 20,000 jobs to the State in which the pipeline goes through. By 2035, the pipeline will produce over 600,000 jobs, both directly and indirectly. This is something that all Americans, regardless of political party, should support.

Many businesses along the construction route, including mine, will see more customers and higher profits. Between new jobs and new workers relocating here, living in the area and spending money, our region and South Dakota as a whole will see \$10 million in State and local revenues. The real estate tax alone on the pipeline is equivalent to adding another county to the State of South Dakota.

I see value in this pipeline beyond just more customers walking through my doors. Everyone will benefit from it, and it will be a welcome boom to our economy. At the end of the day, both businesses and individuals—the backbone of our entire economy—are relying on the Keystone XL Pipeline for more than just stable oil. They're relying on it for a stable economy and a better life.

The construction of the first pipeline through eastern South Dakota—sales tax dollars increased 6 to 8 percent in the communities along the pipeline. We're estimating a 37 percent increase in my county, Tripp County, with the real estate tax, gross receipts tax, and sales tax.

In the near future the world will need 70 percent more food. Presently, this is produced with fossil fuels. Time, money, and technology have made us more efficient producers. Right now, we need fossil fuels to remain the top producer. Right now, we need to create jobs and put people back to work in America. Let's import jobs to America.

I have colored maps that show the existing pipelines that cross the Ogallala aquifer. Pipelines are the safest and most efficient way to transport oil, far safer than transporting via other modes of transportation such as tankers. Millions of barrels are leaked into our oceans every year during shipping. This will be the latest with satellite technology, with 5-second intervals with monitoring shutoff valves and pressure in this pipeline.

I hope Congress and the President recognize the investment and return a partnership with TransCanada and Keystone pipeline would bring to my State and the United States. I just want to emphasize the fact that we have a foreign country that is willing to spend \$7 billion to build an infrastructure that we have failed to do ourselves in the last few years. I want to say—and the fact that when we look at the amount of oil that is sitting in the United States—official estimates are eight times more than Saudi Arabia, 18 times more than Iraq, 21 times more than Kuwait, 22 times more than Iran, and 500 times more than Yemen.

Thank you for inviting me to testify today about these important job issues, and I look forward to answering any questions you may have.

Thank you.

[The prepared statement of Mr. Meyer follows:]

PREPARED STATEMENT OF JOHN MEYER

Good morning, I am John Meyer from Winner, SD. I would like to thank the committee for allowing me to speak today.

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One of the first issues the Partnership to Fuel America is focused on is the proposed Keystone XL pipeline expansion. The Keystone pipeline carries crude oil from tar sands in Canada and drops it off at refineries in the Midwest and Texas. The

proposed expansion to this system would increase the capacity of the pipeline from 591,000 a day to more than 1 million barrels a day, in addition to opportunities for use in our own States (Wyoming, North Dakota, Montana, and South Dakota) with oil resources.

The U.S. Geological Service issued a report in 2008 that the Bakken is the largest domestic oil discovery since Alaska Prudhoe Bay and has the potential to eliminate all American dependence on foreign oil.

Building the Keystone expansion will pump thousands of dollars into South Dakota's economy, while bringing hundreds, if not thousands of workers to our State. And even though I am not a construction worker or manufacturer, I joined the Partnership to Fuel America because, as a business, owner, I recognize that these workers and dollars will have an energizing effect on our State and region.

It is reported that the construction of the pipeline will bring as many as 20,000 jobs to the States in which the pipeline goes through. By 2035, the pipeline could produce over 600,000 jobs, both directly and indirectly. This is something that all Americans, regardless of political party should support. Many businesses along the construction route, including mine, will see more customers and higher profits. Between new jobs and new workers relocating here, living in the area and spending money, our region—South Dakota as a whole—will see over \$10 million in State and local revenues.

The real estate tax on the pipeline will be equivalent to adding another county to South Dakota.

I see value in this pipeline beyond just more customers walking through my doors. Everyone will benefit, and it will be a welcome boom to our economy. At the end of the day, both businesses and individuals—the backbone of our entire economy—are relying on the Keystone XL pipeline for more than just stable oil. They're relying on it for a stable economy and a better life.

The construction of the first pipeline through Eastern SD increased sales tax dollars 6–8 percent in the communities along the pipeline. We're estimating a 37 percent increase in our county (Tripp) with the real estate tax, gross receipt tax, and sales tax.

In the near future the world will need approximately 70 percent more food. Presently this is produced with fossil fuels. Time, money, and technology have made us more efficient producers. Right now we need fossil fuels to remain the top producer, right now we need to create jobs and put people back to work in America.

I have colored maps that show the existing pipelines that cross the Ogallala aquifer. Pipelines are the safest and most efficient way to transport oil, far safer than transporting via other modes of transportation such as tankers. Millions of barrels are leaked into our oceans every year during shipping.

I hope Congress and the President recognize the investment and return a partnership with TransCanada-Keystone pipeline would bring to my State and the United States.

Thank you for inviting me to testify about this important jobs issue and I look forward to any questions you may have.

The CHAIRMAN. Thank you very much, Mr. Meyer.

We'll start a round of 5-minute questions. A vote has just been called on the Senate floor. I'm told that Senator Franken is voting and will come over so that we, hopefully, don't have a break. But if other Senators want to go and then come back, that'll be fine.

Ms. Owens, you made it clear that too many job seekers are being judged not by their talent, ability, and qualifications, but on arbitrary criteria often out of their control, such as whether they're currently employed. Now, I have kind of two questions. One, is that just anecdotal, or do we really have enough evidence to show that this is, indeed, widespread?

It's just my feeling that if qualified workers are turned away, even though they have qualities and skills, but for some other reason, it just seems to me that's just un-American, un-American to its core. So, again, I just would ask you is that really anecdotal, is it just one or two instances of this or a few someplace, or is it more widespread?

Ms. OWENS. It's a more widespread practice, Senator. It's impossible to document how widespread it is. But in a random sampling

we undertook over a 4-week period, looking a couple of times a week at ad placements on four online sites, we found over 150 instances of such restrictions. And as I noted in my testimony, we have—there are examples of HR consultants, recruiters, and employment agency reps who have spoken on the record about this practice and about the fact that it is a growing practice.

So as is true with almost all forms of unfair discriminatory treatment, it's very hard to document its exact incidents. But there are more than one or two examples. There are plenty of people who have spoken to this. Reverend Moss said that they hear this in their church. I'm sure Ms. Stebbins has experienced it herself. There's the empirical evidence. There's the statement of the industry reps, if you would, themselves, and I think that that provides a fairly compelling case that this is a practice that has become fairly widespread.

The CHAIRMAN. Reverend Moss, you said something that I think more people need to understand, and that is a lot of people who are unemployed who are on the lower end of the economic spectrum—in order to have a job, they need public transportation.

Reverend MOSS. Yes, sir.

The CHAIRMAN. That public transportation in many cases is woefully inadequate. I can't tell you how many times we've heard testimony here over the last few years. Someone gets a job. They may have an old, broken down clunker. It doesn't make it 1 day. They can't get to work. They're out of a job.

Reverend MOSS. Exactly, sir. There are many instances where individuals have had exactly that to happen. Their car repairs were neglected because they needed to buy medication or food. So the service light—they are 3,000 miles past service, and we won't even talk about an oil change, and this is not a luxury car. This is just basic transportation. And then public transportation being affordable for individuals who have been out of work in order to get to the interview or make the job, and there are employers who are looking for reasons now to let go of employees. And if you are late or you miss your job, regardless of what the situation is, then you're out.

So what the faith community—what we've tried to do is support—the transit system in Atlanta is MARTA—try and support the unemployed by giving them MARTA cards, helping them with the transportation. But we can only do so much. And, again, the partnership is what's most important.

The CHAIRMAN. The data that we've seen indicates that young African-American men have some of the highest rates of unemployment in America. The figures I've seen approach 40 percent, almost one out of every two. What's been your experience with young African-American men in your congregation or in Atlanta that you serve down there?

It seems to me that when young people have been told about the American dream and are told that if they work hard, play by the rules, they can own a home and have a good life, and yet here's young people—one out of two can't find a job. What happens to their dreams? What happens to their future? What are you experiencing in that regard?

Reverend MOSS. We recently hosted the Secretary of the Department of Labor, Hilda Solis. And we had an opportunity through Valerie Jones and the Cascade Career Network to hear testimonies of young African-American men who graduated from Morehouse or other colleges in the area—very well-educated, articulate, and attired appropriately. I'll say it that way—to get into the workforce.

But they are being told that without experience, “we cannot use you right now,” not even for internships or opportunities that will position them to be hired. And so they become disillusioned, disheartened, and they continue to hear the negative—I'll say negative press given to young African-American males, and they have responsibilities as well. So then we have to continue to encourage them, provide opportunities for—when I graduated from Hampton in 1995, the recruiting office set up the interviews. I had five job offers coming out of Hampton. But that was 1985, and that was because we had an aggressive recruiting office, and things were a little different then.

What I contend, sir, is that with the faith-based community and the Government and agencies such as Dover Staffing providing the training, the retooling, and then targeting those industries or companies that have opportunity, we can decrease the level of disappointment and the level of anger in young—not just young African-American men. I'm going to say the American public.

The CHAIRMAN. Thank you very much.

We've only got about 5 minutes left, so I'm going to go vote.

Have you voted, Senator Merkley?

Senator MERKLEY. No, Mr. Chair. I was planning to vote after I had a chance to ask some questions.

The CHAIRMAN. We only have about 5 minutes left. I'd be glad to recognize you now, but I want to turn it over to Senator Franken.

Have you voted, Senator Franken?

Senator FRANKEN. I have, so I can—

The CHAIRMAN. Good. Can I turn over the chair to you to continue the hearing?

Senator FRANKEN. I'd be honored.

The CHAIRMAN. I mean, not for all time. I mean, just for—

Senator FRANKEN. Well, in that case, no.

[Laughter.]

The CHAIRMAN. We'll be right back.

Senator Merkley.

STATEMENT OF SENATOR MERKLEY

Senator MERKLEY. Thank you very much, Mr. Ex-Chair.

Ms. Stebbins, I thank you for your story, and one piece of it was your 2008 mortgage refinancing. And you mentioned in your written testimony—and maybe you said this—that the loan didn't work out so well, in part due to your mortgage broker. Was this a teaser rate loan that had an increasing interest rate or had some other feature that was a substantial challenge?

Ms. STEBBINS. No, it wasn't. I didn't really need to take out as much money as I took out. It was a 30-year loan. I knew not to get a 30-year loan. But he just kept telling me how much better it would be if I took out more money to get this done, this done,

and this done so that my house would have more—be a lot more valuable.

Senator MERKLEY. Yes.

Ms. STEBBINS. The sad thing is that 2 weeks later is when the market crashed. Their office was closed. So I think they knew that this was going to happen, and they were just trying to get me to just take all—as much as I could out, and that's the impression I got when all was said and done. And instead of my payments being more leveled out, it was almost twice as much as what they said it was going to be when we were signing the papers.

Senator MERKLEY. Thank you for sharing that, because so many families were impacted by various predatory strategies during that period. One was a triple option loan, where you could do negative amortizing, but you weren't told that that would switch over time to an accelerated rate where the payments would double from what you were initially told.

I don't know if that was the case there, but—and others had these 2-year teaser rates, very low, but the person wasn't informed that after 2 years, it doubles, so that it's going from 4 percent to 9 percent or so forth, and that you couldn't get out of the loan, because it had a prepayment penalty that took a pound of flesh—very devastating to millions of families and was the complete foundation of this entire bubble and collapse that we're facing.

And right now, I'm on my way to vote on closing debate on the nomination of Richard Cordray for the Consumer Financial Protection Bureau. And the reason that this ties in directly is because the reason those predatory practices were not ended is they were at the Federal Reserve, and the Federal Reserve put their monetary policy in the upper floors of the building, and they locked their responsibilities for consumer protection down in the basement and threw away the keys. They did absolutely nothing.

And so the response to that is we should have an agency that watches out for financial fairness.

Ms. STEBBINS. Thank you.

Senator MERKLEY. It goes without saying. But we may lose this vote here in a few moments, because folks on behalf of those who want to make money through predatory practices are defeating those who are fighting for fairness for American families. And so I hope to come back later in this hearing and say we won this vote. But I encourage folks to keep pushing on this.

And I wanted to turn, Dr. Moss—you mentioned the poor people's campaign. And could you—I mean, I feel like there are real common elements between that and the current frustration in America over fairness for working families. Certainly, the Occupy movement that's trying to draw attention to the fact that we're—as a nation, our GDP has grown over the last 20 years, but the benefits or the sharing and growing that economy to working people has been flat and then is declining. And I don't know if you'd like to draw any parallels or elaborate a bit on what was moving Dr. King in that moment and the major elements of that campaign.

Reverend MOSS. One of the things that I do know, sir, is that Dr. King was looking at equality for people. And, oftentimes, we can say poor people and we can directly draw attention to economic status. But I would suggest that in these days and times that we also

look at the poor in heart and the poor in spirit, because America that I know—I'm an Army brat.

My dad served 27 years in the U.S. Army—two tours in Vietnam. And I asked him, "Dad, why did you do that?" He had a sixth grade education, obtained his GED in the Army. And he looked me square in my face—this was my last year at Hampton. He had been diagnosed with lung cancer and they said he had 6 months to live. And he said,

"Son, I did it so that you and your mother and your brothers would have a house to live in, a yard to play in, and could go to school anywhere in this country that you wanted to go."

When I think about the poor people, I think about those who have become disillusioned and disheartened, thinking that no one is concerned about their plight, thinking that no one wants to be involved with those who are less fortunate, and that we can sit and talk all day while millions of people continue to lose their homes, children are called home from college, families are torn apart, marriages dissolved, because they are poor in spirit and poor in heart.

And what we have an opportunity to do is to reinvigorate, to reenergize, redirect, and to redeploy those persons in America who believe in hope and believe in a brighter tomorrow, even though we are in the midst of a struggle, knowing that there is a better way and a brighter day.

Senator MERKLEY. Thank you.

[Applause.]

Senator Franken [presiding]. Has the Ranking Member been able to ask questions?

Senator ENZI. I haven't yet. Have you asked questions yet?

Senator FRANKEN. No. But I would yield to you. I am the chairman now.

Senator ENZI. Yes.

Senator FRANKEN. I know——

Senator ENZI. I realize that, so I will yield to you.

Senator FRANKEN. No, no, no. I'm in charge here, and I would——

[Laughter.]

Senator FRANKEN [continuing]. And I would recognize the Ranking Member.

Senator ENZI. I know from past experience it's not quite the feeling of power that a person would expect.

Senator FRANKEN. Well, it's a meteoric rise but well-deserved, so——

Senator ENZI. Yes, very well deserved, and——

Senator FRANKEN. Yes. Thank you for saying so.

Senator ENZI. Yes. I appreciate your efforts at doing some bipartisan things that we're going to enjoy next Monday night too. So thank you for that.

Let's see. I'll start with my neighbor, Mr. Meyer.

Have you ever hired any individuals who were older?

Mr. MEYER. Yes, I have. Over half of my staff are older people. I find them very dependable and very reliable.

Senator ENZI. Have you ever hired any individuals that were unemployed?

Mr. MEYER. Yes, I have. And, to me, that's an advantage because they're readily available.

Senator ENZI. Thank you. In your testimony this morning, of course, you concentrated on the pipeline which would make a difference in thousands of jobs for construction and then some local tax revenue. So besides millions of barrels of oil, there'd be thousands of jobs. What kind of jobs do you think will be created in South Dakota because of the pipeline?

Mr. MEYER. Right now, of course, you know, it's hard to believe if—where I come from, it's 40 or 50 miles to an interstate. We have no manufacturing. And we've had this Economic Development Committee, which I serve on, and time after time we're turned down because we don't have the power.

The handshake with this is phenomenal. We're going to have two pump stations that consume more electricity than most of the southern part of our State to pump this oil. The gross receipts tax off of those alone is going to bring \$1.2 million to our Winner School District, to have almost a million—half a million to our county, and et cetera.

But with those new power lines, then we are also sited for 700 wind turbines. So when you look at our vo-tech schools right now, every one of them are full for tower operators and people that can work. It's just a lot of positive things that will handshake and spin off from this.

We have trucks that are going to bring pipe in. They figure right at a semi-load of tires a month, just to haul the pipeline into these States. I mean, it's not just in South Dakota. There's going to be—everywhere across the United States is going to feel the ripple of this, from what I can see.

Senator ENZI. So this would be a shovel-ready project, I assume. I know that we have some stimulus money that's still not being spent because the projects really weren't that ready. How soon would this go into effect if the pipeline were approved?

Mr. MEYER. This has been under study for 2 if not 3 years. I've been involved for a couple of years. But, I mean, these people are ready to go. The sites are ready. The towers are there. Some of the easements—TransCanada has purchased some land themselves. I would say after the first of the year, if this thing was given a green light. And I guess the thing I want to emphasize is that you have a foreign country, or Canada as our neighbor, spending \$7 billion in our country to move the oil from the States, that we desperately need in this country, and we're not willing to do it ourselves.

Senator ENZI. I like the number—the 20,000 jobs that multiples into 500,000 jobs. Now, you've been a small business owner for over 30 years?

Mr. MEYER. Yes, I have.

Senator ENZI. Do you think it's more difficult today to own and operate a small business than it was when you first started out? Do government regulations make it any more difficult for you to operate and to hire people?

Mr. MEYER. You know, an employee of mine the other day—he's been with me 22 years, and he says to me—the other morning, he said, "You know, it's not fun anymore." And I said, "What's not fun?" He said, "It's so difficult to do business."

I look at my gas cost of another couple of thousand dollars a month. I look at my double digit sometimes health insurance. I would like to employ another person or two. I have 10 full-time and two part-time. And I'd like to employ more people, but when I look at those overhead costs, I'm not going to.

Senator ENZI. Thank you. Since I'm limited on time, I'll turn to Christine Owens.

The legislation that you've endorsed would expose employers to litigation if someone alleges that they considered whether someone applying for a job was unemployed. How would an employer be able to prove that he or she considered or did not consider employment status?

Ms. OWENS. Well, Senator Enzi, in the first place, I think that it is an exaggeration to suggest there would be a lot of litigation. What most of these folks want is jobs. They don't want to file lawsuits. I think it actually may be difficult to find lawyers who would bring these lawsuits.

But in the event that a complaint was filed, a lawsuit was filed, the burden is on the individual who's challenging the employment practice to make a showing, to provide evidence that unemployment status, in fact, was a consideration. And if an individual can't make that kind of showing, then under the way these cases proceed in other areas of the law, the case would not persist.

Senator ENZI. Even if the case doesn't persist, doesn't the small businessman have to hire an attorney to represent him, to take care of the case?

Ms. OWENS. I don't believe that's the case. I think—I mean, like my colleague on the panel, I've also hired unemployed workers. Every job opening we have, we receive many, many applications. We don't consider one's employment status. We consider whether people are qualified for jobs or not. And if they are qualified and we interview them, and if there's a gap in their resumé, we may inquire about that to give someone an opportunity—in an individual setting. We've never done group interviews—but in an individual setting.

And we certainly understand that at a time like this, it's very hard for people to get jobs. I don't think a small business owner—I run a small business—actually is burdened by a process that takes into account whether someone's qualified and allows an individual to explain unemployment if the employer thinks that's relevant.

Senator ENZI. You bring up an interesting point, though, and that's asking about gaps in a resumé. If the reason was unemployment, even if that made no difference to the employer, but that person were not hired, would that not be a possibility of a lawsuit?

Ms. OWENS. It could open a door, but I would say that that kind of situation occurs in many kinds of environments, whether an African-American is interviewed and doesn't get a job, or a woman or a veteran or an older worker. I think it's a stretch to think that just because an unemployed candidate—frankly, many of them would be grateful for the opportunity to get an interview and would not assume that the reason they weren't hired was their unemployment. I really think it's a stretch to assume they would translate that into a lawsuit.

Senator ENZI. I appreciate having this hearing today. I'm concerned about anybody putting down that they don't want to interview anybody that's unemployed. I think that's a bad business move.

Ms. OWENS. I agree.

Senator ENZI. As Mr. Meyer said, those people can go to work right away, and if they have the skills, they're a valuable resource. I'm sure that the time is going to come again when we're going to be encouraging older Americans to work longer than they ever have before so that we can keep the economy going. They're going to be needed.

I think just the conversation that we're having is going to stop a lot of the mistakes by employers. I appreciate all of you testifying. I'm sorry that I don't have more time for questions. I've exceeded my time already, and the chairman has been very generous.

Thank you.

STATEMENT OF SENATOR FRANKEN

Senator FRANKEN. Since it's you and me, I'm going to ask some questions, and if you have some further questions, certainly you should feel free to ask them. I don't know if you have something you have to do next.

I'm going to start with associating myself with some of the Ranking Member's remarks in his opening statement about the Workforce Investment Act—I think it's high time that we reauthorize it. I'm a big supporter of the workforce system.

Recently, in Minnesota, nearly half of Minnesota manufacturers responding to a survey said they haven't filled positions because they lack qualified job candidates. We need to reauthorize the Workforce Investment Act. I realize it isn't a silver bullet, but I think it plays an important role in making sure that members of the workforce can get the training they need to take advantage of skilled employment opportunities.

I agree with pretty much everyone here, including Mr. Meyer, that we simply need more jobs. But short of that, Ms. Owens, what are other things that Congress could be doing to help create jobs, to help get people employed, really?

Ms. OWENS. I think the first answer is first do no harm. So it is critical that Congress renew the Federal unemployment insurance benefits programs that are slated to expire at the end of this year. Aside from the vital life line of support that those benefits provide to millions of families, the estimates are that if Congress fails to renew this program, we could lose upwards of 500,000 jobs next year as a result.

Beyond that, I think Congress should invest in job creation, particularly in infrastructure projects that are shovel ready, that could put people back to work, renovating schools, making buildings—public buildings more energy efficient, and the like. And, finally, I would add that our States are still struggling, and much of the private sector job growth that we are finally seeing is being offset by public sector job losses.

That's a huge crisis. It could have a significant spillover effect in the private sector. And so to the extent that Congress can provide relief to the States, I think doing so would, in fact, help with re-

spect to creating and saving jobs and putting more people back to work.

Senator FRANKEN. I actually have to agree with all of that. Speaking of unemployment insurance, Reverend Moss, the problem as I see it isn't lack of motivation. And we have certainly seen that with Ms. Stebbins.

When I travel around Minnesota, I meet people who have been unemployed for months and even a couple of years. And these are folks who previously have been working, really, since they've been 14, when they got their first paper route. And, indeed, their almost entire identity has been "I'm a working person. I work." And they're very proud of that, and this is psychologically devastating in many instances.

I really hope they never have to hear the claims that I believe are ignorant that come from politicians that unemployment insurance incentivizes people not to work. I find that, frankly, offensive. And I know that people I talk to hate taking their unemployment benefits, they'd rather be working. But they've come to me and said, "If it weren't for the unemployment benefits, I'd be out of a home."

There was just a piece on 60 Minutes on homeless kids who live out of cars. Every one of them had become homeless the moment their unemployment insurance ran out—essentially, their parents' unemployment insurance ran out. And the folks you've been working with—in your view, during a period of unemployment, do they see that as a time to just relax and watch TV and eat junk food? And collect that \$300?

Reverend MOSS. No, sir. Senator Franken, one of the things that Valerie Jones, chair of our Cascade Career Network, said to me was that when this team—this group came together, one of the things that they said is, "We do not want to form a support group where we sit around and bemoan our challenges. We want to encourage and empower one another to get back in the fight," the fight being staying psychologically healthy, emotionally prepared, and spiritually empowered to look for jobs, even after you have applied over 200 times and you're told no, yet you know that jobs exist.

What I do know, sir, is that any time an EMT shows up to an accident scene, they triage the wounds until they can get to the hospital. Unemployment insurance, other opportunities provided by the Government to sustain those who have lost employment is simply triaging until we can find a healthy solution.

We know we need more jobs. What do we do to continue to incentivize the small and medium businesses that can provide those jobs? What do we do to slow the corporate sector—the layoffs in that area so that we can begin to gain some type of footing?

I serve as a chaplain in the Navy, and we're on an aircraft carrier, sir, and it takes a minute to turn that ship around. Once the captain gives the order and the XO confirms, it goes to engineering. It's plugged into the computer. The computer engages. Then that ship begins to turn. What I am suggesting is that if we stay deliberate in our efforts, focused on the American people, focused on what they are dealing with, we can turn this thing around.

This is a time of great opportunity. I am not just being rhetorical in my remarks, but I am being very sincere in the fact that the Government, partnered with a people who want to and who can—we can turn this thing around.

[Applause.]

Senator FRANKEN. Thank you. I can't reiterate enough my association with the Ranking Member's remarks on the Workforce Investment Act that he made in the opening. And I hope that we get to that.

As the interim chairman, I want to set a good example. I'm over my time, however, I see the chairman is back, so I would like to actually go well over my time.

[Laughter.]

No. I thank the chairman for allowing me to take over for a small measure of time.

The Chairman [presiding]. Thank you.

Senator FRANKEN. Thank you.

The CHAIRMAN. Thank you very much, Senator Franken.

I recognize Senator Blumenthal. Before I do, I'll just mention the Workforce Investment Act. We have been working for about 18 months on this. Senator Enzi and Senator Murray have been leading up this effort. I think we've made great progress, but I'm willing to move the bill. I'm willing to have a meeting of this committee to debate it, to amend it, and vote it out. I'll do it next week. I'll do it next week, or I'll do it the week after.

[Applause.]

Do you want to have it next week?

Senator ENZI. It would have to be next week, because the next week is Christmas week.

The CHAIRMAN. All right. Not next week—January. We've got a lot of things on our plate here for the next week. But it is my intention to bring up the Workforce Investment Act. We've been trying to get an agreement. There's an issue hanging out there that I think we're just going to have to debate and vote on in committee and see where the votes lie.

I thought we could work it out. It hasn't been able to be worked out. So it would be my intention that when we come back in January that one of the first things that this committee will do will be to meet to vote on and report out the Workforce Investment Act. And we'll just see where the votes lie on that one little issue that seems to be thwarting us.

Senator Blumenthal.

STATEMENT OF SENATOR BLUMENTHAL

Senator BLUMENTHAL. Thank you, Mr. Chairman. I want to join in associating myself with your comments on that measure, just as Senator Franken has, and thank you for your leadership on it. Whenever you call a meeting, I'll be there.

I would like to begin by asking Ms. Owens a couple of questions, particularly focused on discrimination against unemployed people. I know you've done a lot of work on this issue, and there's a lot of persuasive factual material in your testimony. As you know, I've proposed a measure that would prohibit discrimination against unemployed people simply because they are unemployed. But the

measure of the extent of the problem is not simply the number of ads, is it?

Ms. OWENS. No, absolutely not. And that wouldn't be the case for any form of bias or discrimination. I think that as—in my testimony, I quote a number of HR consultants and the like who have gone on the record talking about the extent of the practice.

At our organization, we, among other things, maintain a Web site that has around 90,000 subscribers, most of whom are unemployed. And a number of those individuals have told us their accounts of being—actually sometimes even being recruited for jobs because their resumé indicates that they meet all the qualifications, and then when the recruiter finds out they're unemployed, they have been told that their application will not be forwarded to the employer.

So as is the case for all kinds of employment bias situations, what we have is some measure of the sampling of ads that include exclusionary language; statements by industry representatives, if you would; and individual anecdotal accounts from unemployed workers themselves, all of which point to the existence of a problem which the industry reps indicate is greater now than it has ever been before.

Senator BLUMENTHAL. When you say greater than it's ever been before, would you say it's a problem of sufficiently substantial magnitude that it deserves addressing by the Congress?

Ms. OWENS. Absolutely, Senator Blumenthal. You know, it would be wonderful if employers and employment agencies would of their own accord do what I'm sure Senator Enzi did and what Mr. Meyer did and what my organization does, which is to consider qualified candidates regardless of their unemployment status or their employment status.

But the fact is in this environment where there are so many candidates for every job opening, many employers find it easier to screen candidates based on things like are you employed or not, as well as your credit rating. And, obviously, these are practices that hurt the unemployed. If we can't get the business community voluntarily to discontinue these practices, then Congress has a role to intervene just as it intervened to make sure people get paid the minimum wage and get overtime pay and have safe and healthy work places.

Senator BLUMENTHAL. Thank you.

[Applause.]

And, Mr. Meyer, you wouldn't discriminate against somebody simply because they're unemployed, would you, in your hiring?

Mr. MEYER. No, I haven't, Senator.

Senator BLUMENTHAL. You haven't and you wouldn't.

Mr. MEYER. No, I wouldn't.

Senator BLUMENTHAL. And you would support efforts to combat that practice because it is really discriminatory and invidious, isn't it?

Mr. MEYER. It is. It is. And I think—over the years, if I may add, we used to have a thing in this country called OJT, on job training. And when I hired somebody—as you mentioned, the paper boy doesn't always remain a paper boy.

And I've had mechanics come in to me, and I said, "I will train you," and sent them to school on my dime, and they're some of the best technicians you ever found out there. So it can be done. But at one time, no matter what I paid them, they compensated me part of their wage for so many months to do so—or a tax incentive break to the individual to do that, to put these people back to work.

Senator BLUMENTHAL. Thank you.

My time has expired on this round, Mr. Chairman, and I'd be happy to take another round.

The CHAIRMAN. Thank you very much. We'll start another round of 5-minute questions here.

Ms. Stebbins, I didn't get a chance to interact with you. You had a very profound statement, and you are personally affected by this.

Ms. STEBBINS. Yes, sir.

The CHAIRMAN. I wanted to ask you about your job search. You've applied for a lot of jobs, which you seem to be overqualified for. Talk to me about what kind of reaction you get when you talk to employers about certain jobs—like minimum wage jobs, other low-skill jobs for which you've applied but for which you are obviously very overqualified, but you've still applied for those.

Ms. STEBBINS. Yes, sir. That's pretty much what I've found is out there. I will go to an interview, and if they do speak to me, they'll ask me things like,

"Well, you know, you're older and you've probably made more money with your experience here. You've done a lot of different types of things. Why would you work for minimum wage?"

And my answer is "That's what you're offering, you know. That's what's out there right now. I have bills to pay."

We're trying to get me a job to at least be able to afford to pay insurance on my husband's job that he has so we can at least get insurance so we can take care of our health. But that's been asked many, many times. "Why would you, with your experience, want to work for minimum wage?" And I'm telling them it's not that I want to. It's that I need to at this point, and that's what's out there.

The CHAIRMAN. But they don't offer you the job.

Ms. STEBBINS. No.

The CHAIRMAN. Has your age ever been an issue in any of your interviews or conversations?

Ms. STEBBINS. I went to a job at a clothing store, and when I got there, there was probably 100 people there. And they invited us in, 10, 20 at a time. Well, these are 20- and 30-year-old people. And they went around the room, and she got to me, and she said, "Why would someone your age want to work in a store that sells young women's clothes?"

The CHAIRMAN. You mentioned that.

Ms. STEBBINS. And I said,

"Well, I'm young at heart, you know. I may look old, but there's still a young person in there. And I have two daughters in their 20s, so I know what's happening, you know."

But they just didn't see it that way, I guess.

The CHAIRMAN. What happens when you tell them you've been unemployed since April 2010? That's a year and three-quarters now.

Ms. STEBBINS. Right. It started out I was unemployed for 3 months, and then 6 months, and then 9 months. And it's always, you know, the same—"Are you looking for work?" I'm here, you know, things like that. Some of the questions people ask you—you just wonder, "What are you thinking? Why would you ask me the question, have I been looking for a job, when I'm here?"

So they actually make me feel like I'm sitting home being lazy, like you said—we sit around and eat sandwiches, watch TV, drink a glass of wine. That's what one of our Senators back home said. I haven't had a glass of wine in a long time, personally. But I'm out there looking for jobs.

I would like to take someone that thinks we're lazy or that we're not looking for jobs—the reason we're not employed—you go to the unemployment office, and you can see every computer there full of people and a line waiting to get that computer to look for those jobs. You go to—I go to Goodwill—they have career centers in all the Goodwills. You go there. Every computer is full. There's a waiting line to check those computers for jobs.

It's not because we're not looking for jobs. It's because they're not there. So, I don't have a job because I can't get a job, and it's insulting when they treat—when someone asks me in a manner that makes me feel like—"Oh, you've been sitting home watching All My Children." That's not what I'm doing.

I'm hitting the unemployment offices. I'm hitting Goodwill. I am begging, borrowing. I want a job, and it's not because I'm not looking for one that I don't have one. It's not because I don't want one, that I'm not having one. It's because I'm not being hired for whatever reason, whether it's my age or things like that.

The CHAIRMAN. President Obama in Kansas the other day, I think, said something that we all have to really start thinking about. He said that a factory that employed 1,000 people at one time to do a job now employs 100 people because of automation. What happens to those 900 people? They need to be retrained. We need new jobs. I don't think we're thinking about this in a systemic way and in an overall way.

Now, Mr. Meyer is here talking about the Keystone Pipeline. I don't have a view on that one way or the other. I'm still trying to figure it out. But, obviously, that might provide some jobs there, but I don't know that you'd benefit from that any.

Ms. STEBBINS. Can I add something?

The CHAIRMAN. Yes.

Ms. STEBBINS. I did get unemployment for a year. And when I was doing that, this is when I started going to the job center, the unemployment job center. In the very beginning, they had programs for women 50 and older. Once I got everything settled down and figured that I wasn't going to be hired back into my field, I thought, "OK. I'll go to that job center, I'll do some classes, whatever needs to be done, to get this"—because I'm over 50. I qualify."

I went back, and all the funding for that program had been dropped. There's no training for 50-year-old people anymore. You know, we've done our things. Now, we may need to learn something different.

The CHAIRMAN. I appreciate that. I think my point is that I don't care how much you retrain people and train them for new jobs, if

there's only one job for every four to eight people, all you're doing is setting up a competition in a dog-eat-dog world.

Ms. STEBBINS. That's right.

The CHAIRMAN. Somehow we've got to think about creating more jobs.

Ms. STEBBINS. More jobs, absolutely.

The CHAIRMAN. Not just retraining people for jobs that don't exist.

Ms. STEBBINS. Exactly, yes.

[Applause.]

The CHAIRMAN. This is one of the fundamental issues that we have to start thinking about, fundamental in the same way that a century ago—more than a century ago, in the late 1800s, there was a movement started in America for a shorter work week. It wasn't a 40-hour work week. It was a 32-hour work week.

When the Great Depression came, and in 1938 when the Fair Labor Standards Act was passed, a compromise was reached at 40 hours a week, with time and a half for overtime. And when that passed, more people started being hired, because it was better to hire someone new than start paying time and a half overtime.

Ms. STEBBINS. Right.

The CHAIRMAN. So I'm just wondering if we shouldn't start thinking about these issues again and how we can spread out work a little bit more. But, again, these are some kinds of fundamental issues that we are not addressing in this country. I'll just repeat, for emphasis sake, I'm all for WIA and job training and putting more things out there to tell people to retrain for new jobs. But if there's only one job for every four to eight people, you're setting up a situation to disappoint a lot of people.

Ms. STEBBINS. Absolutely.

The CHAIRMAN. And we have to think about creating new jobs somehow.

I'm sorry. I went way over my time.

Senator Enzi.

Senator ENZI. Thank you, Mr. Chairman. I appreciate your comment on moving ahead on WIA. I think that some retraining will make a difference. We've located a lot of jobs out there that American's don't have the skills for. The option is either training people for those skills or sending those jobs somewhere else, and we don't want them sent somewhere else. We want them to be available here.

I didn't get a chance to ask Dr. Moss any questions. I want to first commend you for your work with the unemployed in your community and particularly the work that your Cascade Career Network does. I know that's similar to the Department of Labor's one-stop career centers.

Do you think your ministry can provide better and more comprehensive services for less than what the Government spends at the one-stop centers? Should we consider investing more in the private non-profit organizations like yours with proven records of providing valuable service?

Reverend MOSS. Senator Enzi, it's important to, again, focus on the partnership, because these ministries are staffed by volunteers, individuals who have gone through or are going through the same

thing of the persons they're trying to help. And Valerie has shared with me that the challenges that exist—one of the challenges is the capacity to provide adequate care, direction, and encouragement for individuals because of the number of individuals who come to us.

She received a message just this morning of a young man who just—"I was just laid off." And he has reached out to us, first for the spiritual, and then to deal with the emotional. And so I would contend, sir, that it has to be a both/and versus either/or, and that is the type of environment that I try to create in the church, getting individuals to reach consensus and to see the both/and versus either/or, because when you set up the either/or, you set up us against them. And what happens now is in cases like this, we need to put everything on the table to make sure that we are meeting the needs of the American people.

Senator ENZI. I appreciate that. I mentioned that this WIA bill has made it through the committee in the Senate twice and through the Senate twice. What has held it up before has been concern that some of the money might be diverted to faith-based initiatives. There's no provision in this particular law to do that, and if that was going to keep it from happening, I was willing to keep that out of the bill. But the House did not consider it.

You mentioned another real important aspect when you were talking about your testimony, and that's the need for daycare. People have to—if they have children, and they're the responsible one for the children, they have to have some kind of daycare to even be able to apply for a job. Then, of course, if they get the job, they've got to have some daycare.

I know in a lot of the boom communities—I was the mayor of a boom town for 8 years that tripled in size. That's one of the problems that we found, was that somehow you've got to arrange for daycare, because it's usually young people that are coming to these boom towns, and they're not bringing their support with them. The grandparents aren't coming.

One solution we found was to ask the churches to start daycares. Do you have that in your church?

Reverend MOSS. Not at the present, sir. We are looking at going in that direction. But what we do—we pull together those churches that do provide daycare to make sure that we have a resource bank so that when individuals come to us, we can point them in the direction where they can get help versus sending them on a wild goose chase.

Senator ENZI. Thank you. Because that is critical, and we found out in our church that most of the building is going to waste most of the days of the week.

Reverend. MOSS. Yes, sir.

Senator ENZI. It provided a good resource. But thank you for what you're doing with that. It is very important.

I need to go back to Ms. Owens, because this credit rating thing has come up, and I've been checking with some of the businesses to see what kind of background checks they get when they go with a credit bureau. I'm told that they cannot get credit rating scores, and the largest credit reporting agencies, the ones who provide the reports, are all on record saying they don't include credit rating scores in their reports.

So is that incorrect? Is there evidence that the employers are actually using credit rating scores?

Ms. OWENS. I would refer, again, to my testimony. And I don't know, Senator Enzi, about whether what they get is scores or some other kind of information. But the Society for Human Resource Management reported at the end of 2010 on its survey of employers and their use of credit background checks as part of the employment screening process and found that 60 percent of employers said that they were doing credit background checks. And that was an increase from 25 percent in 1998, so there certainly is, at least in terms of SHRM, which is a very well-recognized human resource organization nationally—there is evidence—significant evidence that employers have access to some credit rating information which they use.

And, again, there are anecdotal examples. There have been press accounts over the last year or so featuring individuals who have even gotten job offers that were later rescinded because a credit check turned up negative information. And, again, I think the critical point here is that in an economy like ours, where unemployed workers suffer a real decline in income, when their only income is unemployment benefits and then when those benefits are lost, many actually fall into poverty. There's a high incidence of people having to miss mortgage payments, having to miss credit card payments, taking on substantial credit card debt, which is an absolute killer for people, and necessarily developing bad credit scores as a result of that.

Senator ENZI. Thank you, and I thank you for the reference to SHRM as well. I went through that process of becoming a professional in human resources, where they provide the certification on it. They are a real good resource, thank you.

I've gone over my time again. Thank you.

Senator Blumenthal [presiding]. Thank you, Senator Enzi. I've been asked to chair the hearing for the remainder of the session. I'm going to turn now to Senator Franken.

Senator FRANKEN. What happened to me?

[Laughter.]

Senator BLUMENTHAL. You didn't really do that good a job the first time around.

Senator FRANKEN. OK. Well, I feel a little slighted. But again, I would like to cite the Ranking Member's questioning here and talk about boom towns and ask Reverend Moss a question, and you referred to it in your testimony. With all the online job sites, people can search for jobs all over the country. Now, if someone in Atlanta sees a job opportunity in, let's say, South Dakota, and they have a house in Atlanta that is a little bit under water, would they be able to just pick up and move to South Dakota?

Reverend MOSS. Senator Franken, thank you for an easy question. The answer is no, sir. I've heard of individuals who have tried to engage in short sales, and for whatever reason, the negotiator with the mortgage companies has taken them through—have given them a rough ride trying to get the short sale. Realtors have had three and four buyers for this property, but for whatever reason, the mortgage company refuses or comes up with one more thing that is necessary to close the deal.

And so it is virtually impossible at this time to relocate unless you have the support of the extended family, in which most cases, you don't. If you have a young family with two kids, that is not going to work, to be able to pick up and move, unless, unless the prospective employer is incentivized to support that move. That's the only way it can happen.

Senator FRANKEN. But you have a house where you really can't pay off the mortgage, and the value of the house is such that people are stuck, and they're stuck all over the country.

Reverend MOSS. Yes, sir.

Senator FRANKEN. I don't know if anyone on the panel is an expert on child care, but I think that was a very good point, again, that the Ranking Member brought up. And by the way, I had the new chairman tell me I had done a bad job, and then you tell me that I had asked you a very easy question. So I'm just taking it from every side here.

Does anyone else care to insult me? No, I'm just kidding. My understanding is that we are considering cuts in child care and community block grants for child care. What effect would that have on people's ability to take jobs even if they could find one?

Reverend MOSS.

Reverend MOSS. Sir, that would be devastating. It would be devastating. The fabric of who we are is already stretched beyond measure to maintain the community. And I stand in front of thousands of people on Sunday, preaching a word of hope, of encouragement, of faith. And then they leave, and on Sunday evening, they open their mail, and they get more devastating news.

They watch the news—the media is great at putting out what we're losing and what's being taken away. And that's all that the people hear—oh, good, now this is going; oh, good, now that's going. And I would say, sir, that unless we begin to focus on supporting those entities, those areas that we know are vitally critical to sustaining basic needs, we're just going to continue to make this wound even deeper.

And there are some areas, sir, with all due respect, that we need to make sure that we look very carefully at so that we can say that we care about the American people. Childcare, education, and healthcare—those are the three—and food—basic necessities. So to answer your question—

Senator FRANKEN. And transportation, public transportation.

Reverend MOSS. And public transportation.

Senator FRANKEN. In terms of getting to work—

Reverend MOSS. Yes, sir.

Senator FRANKEN [continuing]. Public transportation—I mean, when you're specifically talking about jobs.

Reverend MOSS. Yes, sir.

Senator FRANKEN. And I think we've identified a few things—childcare, job training, public transportation. Well, my time is up, and I thank you all for your testimony. Thank you.

Thank you, Mr. Chairman.

Senator BLUMENTHAL. Thank you for your excellent questions, Senator Franken.

Senator FRANKEN. Sarcasm.

Senator BLUMENTHAL. No, they were—in all seriousness, they were excellent questions.

And I want to thank you, members of the panel, for your excellent answers to those questions and the others that have been asked this morning. This area is really very, very important, obviously, to members of this committee and to the Congress.

I want to go back to the credit rating issue—because I think the discrimination against people who have bad credit ratings, who have financial difficulty, is one of the less noticed problems here—and ask you, Ms. Owens, if you could expand a little bit on that problem insofar, again, as your experience in dealing with unemployed people, whether that is a common reason that people are not employed.

Ms. OWENS. It's certainly something that we're hearing from unemployed workers, that because their credit reports have adverse information, they are considered—that there's an equation between their credit worthiness and their employability or their suitability for work. And it is understandable that as people have lost their jobs and their incomes decline that there will be adverse marks in their credit reports because of their inability to meet obligations.

I think it's really—it's critical to point out that there is no evidence that suggests that there is any link between one's credit rating and credit report and their suitability for a job. There may be some particular narrow slice of jobs for which a credit report would be a relevant consideration for an employer. But, in general, there is no basis for excluding someone from a job because of an adverse credit report.

We are certainly hearing it. Again, there have been these anecdotal news accounts. The National Consumers Law Center has testified on the House side about the practice. And as I noted, it is—at a time when there is an increased reliance of employers on this form of screening in an environment in which more and more workers looking for jobs are likely to experience adverse credit experiences, it creates another one of these perverse catch-22s that in order to have a solid credit rating, one needs a job, but to get a job, one needs a solid credit report.

Senator BLUMENTHAL. Is there evidence that, on occasion—and this really is a question for all the members of the panel—that credit rating or reporting agencies may actually be inaccurate in some of what they tell employers?

Ms. OWENS. I'll answer that first, and then others can weigh in as well. We know from research—from a study that the FTC has undertaken that—at least in reviewing one panel of reports, that the error rate was as high as 33 percent or 37 percent. And this is not necessarily that there's fraud that's committed by the agencies. It's just that information is inaccurate.

I myself get my own credit ratings every year and realize that my credit—my report shows that I've moved 10 times in the last 4 or 5 years. It's because my young adult daughter shares a credit card with me. And like many young adults who have been in college and finished college, she's moved about 10 times in the last 4 or 5 years. So I have to get that corrected on my own credit report.

So sometimes there are errors. Sometimes there are things like my situation. But an employer doesn't have any way of knowing that there's a perfectly reasonable, innocent explanation. And so if an employer just looked at my credit report and said, "She moves around a lot," it might raise questions.

Senator BLUMENTHAL. Any of the other members of the panel wish to comment on that question?

Ms. STEBBINS. I just know that for the last probably 8 years that they always ask for credit checks. And I always wondered what do they need my credit for if I can do the job. And I do know people that have not gotten the jobs or people that have gotten the jobs and then were asked to leave because they may have been 3 months late on a mortgage payment at one time or the other. That doesn't tell me what a person can do at the job. It tells me they had a hard time at one point, and I don't think that should be considered.

Senator BLUMENTHAL. And, on occasion, perhaps frequently, individuals who have found errors in their credit reports may have a tough time getting them corrected so that the accuracy becomes even more questionable, apart from, as you say quite rightly, the relevance, the sheer relevance of a credit history to suitability or ability to do a job.

I don't know whether, Senator Enzi, you have any other questions?

I'd like to thank the panel on behalf of all of us. We're going to keep the record open for 10 days in case any of you have additional written submissions. But I certainly want to thank you for the excellent and very informative testimony that you've given us today. And we look forward to hearing more about the great work that you are doing—each of you are doing in the areas that are important to our country. Thank you very much.

And this panel is adjourned.

[Additional material follows.]

ADDITIONAL MATERIAL

PREPARED STATEMENT OF SENATOR MURRAY

The middle class in America is in crisis right now. Families across America are struggling to stay in their homes, put food on their tables, and buy clothing for their children.

Millions of workers across the country are unemployed and are desperately fighting to find a way back into the workforce.

Many of these men and women lost their jobs through no fault of their own. The companies they worked for closed down or outsource their labor, or the skills they spent years acquiring became less relevant in this quickly changing economy.

These workers didn't cause the economic collapse, but they are the ones bearing the brunt of it.

I have heard from so many of them across Washington State and I know they aren't looking for a hand-out, they just want their government to be there for them the way it was there for generations of workers before them.

They are just looking for a hand up—some support so they can keep food on their families' tables while looking for work, and the resources and tools they need to skill-up, train-up, and get back on the job.

Nobody needs this support more right now than the long-term unemployed, who in this current economic turmoil make up 43 percent of the unemployed in America, and who face a steeper and steeper climb back into a career with every additional month they spend out of work.

I really appreciate the Chairman holding this hearing to discuss this important issue and give a voice to the long-term unemployed.

I am absolutely committed to working with all of my colleagues to extend unemployment insurance and to keep working to give the long-term unemployed the skills and resources they need to get back on the job and give back to their communities.

PREPARED STATEMENT OF ALEX M. BRILL, RESEARCH FELLOW,
AMERICAN ENTERPRISE INSTITUTE*

INTRODUCTION

Chairman Harkin, Ranking Member Enzi, and members of the committee, my name is Alex Brill, and I am a research fellow at the American Enterprise Institute. Thank you for the opportunity to provide testimony on the important topic of the status of long-term unemployment in the United States.

As my testimony will describe, the recent improvement in payrolls and the unemployment rate are welcome news, but the plight of the long-term unemployed in the United States is considerable. The policies that have been executed since mid-2008 to foster an economic recovery have failed to deliver measurable results, and those most hurt by the current downturn are often the long-term unemployed. In fact, some policy actions taken by Congress and the Administration have likely exacerbated the duration of unemployment for some workers, the consequences of which are significant fiscal, economic, and social costs.

After a description of the recent and current labor market situation, my testimony describes the social and economic costs of long-term unemployment, followed by a description of the repeated and costly Federal expansion of the unemployment insurance benefits program. My testimony concludes with recommendations of

*The views expressed in this testimony are those of the author alone and do not necessarily represent those of the American Enterprise Institute.

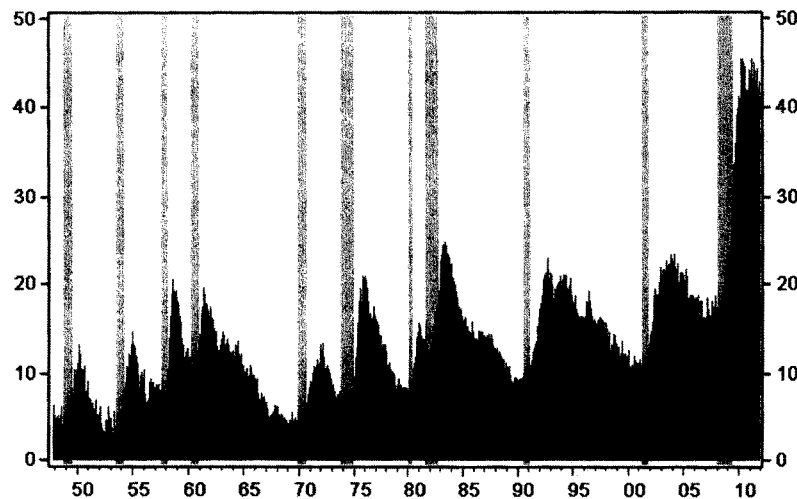
changes to the unemployment insurance program and other fiscal policy reforms necessary to address this issue comprehensively.

Before delving into the specifics of the long-term unemployed, I will first comment briefly on the labor market generally. At present, the labor market is beginning to show some modest signs of improvement, though the road to recovery will likely be a long one. The unemployment rate has declined in 2011 relative to 2010 (though so has the labor force participation rate); the number of new jobs created in the last 3 months averaged 143,000, an improvement from 84,000 per month in the 3 months preceding; and the 4-week moving average of the number of workers claiming unemployment benefits for the first time has dipped to 388,000 from a peak above 600,000 in 2009.

While the labor market remains far worse than in early 2008, the most recent data offer a positive sign. Nevertheless, the Congressional Budget Office (CBO) expects the unemployment rate to average 8.5 percent through 2014.¹ Compared to the 5.3 percent unemployment rate that CBO expects in the long-run, this equates to an additional 5 million unemployed.

Turning to the long-term unemployed—that is, workers who have been jobless for 27 weeks or more—5.7 million Americans are thus classified, representing 43 percent of all unemployed. Figure 1 demonstrates how the percentage of unemployed, who are long-term unemployed, has jumped in the last several years. As the figure shows, it is typical for this metric to increase following a recession, but the current levels are unprecedented.

Figure 1. Unemployed for 27+ Weeks: % of Civilians Unemployed



Source: Bureau of Labor Statistics/Haver Analytics. Seasonally adjusted data.

As discussed in greater detail below, long-term unemployment is devastating to individuals and their families. In particular, workers unemployed for years instead of weeks or months have a difficult time reentering the workforce and finding employment comparable to their previous jobs. In addition, long-term unemployment represents a serious financial challenge to the unemployment insurance (UI) system, which is intended to provide temporary relief to individuals in their search for jobs and was not designed to sustain the long-term unemployed as it has in the last several years. Given this, it is important to focus not only on the plight of the long-term unemployed, but also on the sustainability and purpose of unemployment assistance.

Knowing how devastating long-term unemployment is to workers, the economy, and the unemployment system, it behooves policymakers to find an effective way to help people avoid remaining unemployed for over a year. The failure of policymakers

¹ <http://www.cbo.gov/ftpdocs/123xx/doc12316/EconomicTables.pdf>.

to stave off the surge in long-term unemployment that began in earnest in 2009 will have substantial detrimental consequences.

KEY POINTS TO CONSIDER IN ADDRESSING LONG-TERM UNEMPLOYMENT

Given budgetary pressures, as well as evidence that excessive weeks of UI benefits elongate unemployment spells for some workers, Congress must approach the current unemployment situation with targeted and cost-effective measures. Before offering recommendations for how Congress should proceed, however, I will highlight three points that are important for policymakers to keep in mind as they determine how best to help those who have been or will be unemployed for a relatively short period of time (roughly up to 6 months) compared to those experiencing an extended period of unemployment:

1. There is no single, national labor market in an economy as large and diverse as the United States. Labor markets are a local phenomenon. The appropriate duration of unemployment benefits depends on individual labor market conditions. In other words, when conditions deteriorate in a particular labor market, it may be reasonable to provide benefits for a longer period of time if finding employment in that labor market is likely to take longer. It will always be more efficient to target any additional benefits only to the labor markets experiencing distress.

2. The consequences of long-term unemployment are particularly damaging to our economy and society. Beyond the obvious impact that unemployment has on production and aggregate demand, long-term unemployment has broader, more lasting consequences.

3. The policy response to sustained high unemployment has been enormous both in budgetary terms and in terms of additional weeks of unemployment benefits, which have been extended from 26 weeks to 99 weeks in certain States. However, no implemented policy, including the \$825 billion stimulus bill enacted in February 2009, has been shown to clearly improve the economy.

1. There is no single labor market in the United States

As I noted in testimony on UI benefits before the House Subcommittee on Income Security and Family Support in April 2008, looking at the aggregate U.S. labor market is useful for gauging simple economic trends, but in reality our economy is composed of numerous and distinct labor markets.² This is important in the context of long-term unemployment because there are variations in long-term unemployment statistics depending on which labor market is under examination, as I will discuss in greater detail below.

On the macro level, despite recent improvements, the aggregate U.S. labor market is performing poorly by virtually any metric. The unemployment rate in the first 11 months of 2011 averaged 9.0 percent, an improvement from an average rate of 9.6 percent in 2010 but still high. Roughly 13 million people were unemployed in November, down from a monthly high of 15.6 million in October 2009 but far above the 7.4 million unemployed in February 2008. Furthermore, recent data released by the Bureau of Labor Statistics (BLS) indicates that in 2010, 25.2 million workers were unemployed at some point during the year.

However, a disaggregate inspection is necessary in order to carefully evaluate the condition of our economy. Such a review can include a detailed inspection of labor markets across States, across industries, by educational attainment, by age, by duration of unemployment, or by multiple factors simultaneously.

In this section, I will first highlight unemployment rates by State, as the percentage of workers seeking employment is one measure of slack in the labor force and there is significant variation across States. Then, I will examine unemployment duration by State, worker age, and industry. Current labor market statistics are not always available for this analysis, but while there have been modest improvements since 2010, the general conclusions are unchanged.

These unemployment duration statistics are important for a number of reasons, one of which is that the long-term unemployed, as mentioned above, have more difficulty returning to work. According to a recent BLS report, 30 percent of those unemployed for less than 5 weeks in 2010 became employed in the subsequent month versus remaining unemployed or dropping out of the workforce. Among those unemployed for 27 weeks or more, that probability of employment dropped to just 10 percent.³

State unemployment rates. In November 2011, the national average unemployment rate was 8.6 percent. However, this national average masks considerable re-

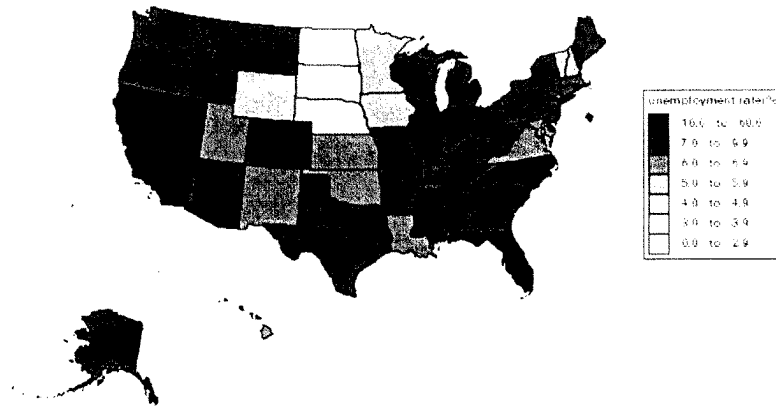
² http://aei.org/files/2008/04/10/20080411_BrillTestimony.pdf.

³ <http://www.bls.gov/opub/ils/pdf/opbils89.pdf>.

gional variation. For example, the unemployment rate in Nevada (13.0 percent), California (11.3 percent), the District of Columbia (10.6 percent), Mississippi (10.5 percent), and Rhode Island (10.5 percent) are all well above the national average.

Conversely, the unemployment rate was relatively low in North Dakota (3.4 percent), Nebraska (4.1 percent), South Dakota (4.3 percent), New Hampshire (5.2 percent), and Vermont (5.3 percent). Figure 2 presents the variation in unemployment rates by State.

Figure 2. Unemployment Rates by State, November 2011



Source: Bureau of Labor Statistics. Seasonally adjusted data.

Furthermore, the change in the unemployment rate can vary considerably across States, as the recovery is occurring at a different pace in different markets. For example, New Mexico experienced a statistically significant 2.1 percentage point drop in its State unemployment rate over the previous 12 months, while the District of Columbia's unemployment rate rose 0.9 percentage points. A number of States have recently reached their highest level of unemployment (since records were first kept in 1976). Colorado hit its highest unemployment rate on record in February 2011; Idaho in March 2011; and California, Florida, Georgia, and Nevada in December 2010.

Duration of unemployment by State. Nationally, the average duration of unemployment was 40.9 weeks in November 2011, and, as mentioned above, 43 percent of the unemployed have been unemployed for more than 6 months, which is an increase from 21 percent 3 years ago. While data for 2010 and 2011 are not yet available, BLS has reported on the mean and median duration of unemployment by State for 2007, 2008, and 2009.⁴ In 2009, 51 percent of the unemployed were unemployed more than 15 weeks. However, 58 percent of workers in Florida were out of work for more than 15 weeks, while in North Dakota, South Dakota, and Wyoming, less than 35 percent of workers remained unemployed for that amount of time or longer.

Duration of unemployment by worker age. BLS also provides data on the duration of unemployment based on the age of workers.⁵ In 2010, unemployed workers 20–24 years of age were unemployed for an average of 19.5 weeks. Conversely, the average unemployment spell for workers age 55–64 was more than twice as long at 41.1 weeks.

Duration of unemployment by industry. By industry, BLS reports that in 2010, workers in the manufacturing sectors (where employment is falling) experienced average unemployment durations of 40 weeks, while those in education and health services (a sector with increasing employment) averaged 29.9 weeks of unemployment.⁶

⁴<http://www.bls.gov/opub/mlr/2010/12/art3full.pdf>.

⁵<http://www.bls.gov/cps/cpsaat31.pdf>.

⁶<http://www.bls.gov/cps/cpsaat32.pdf>.

2. *Long-term unemployment is particularly damaging to our economy and society*

Weak labor markets—particularly long average unemployment durations—have significant consequences. As other witnesses noted, it is more difficult to return to employment after being unemployed for a long period of time. Workers may lose current skills and/or may be stigmatized by future employers. In addition, while many households may be able to cushion the financial blow of short-term unemployment with a combination of personal savings (a “rainy day” fund) and UI benefits, a lengthy period of unemployment can devastate personal resources, causing severe financial strain.

University of Chicago economist Robert Shimer studied the probability of a worker becoming reemployed as a function of his or her length of unemployment and determined that reemployment becomes dramatically more difficult as one remains unemployed longer. Specifically, after examining workers and their employment status from 1976 to 2007, Shimer concludes that the probability of reemployment within 1 month drops from 51 percent for those unemployed just 1 week to 31 percent for workers unemployed less than 6 months to 14 percent for workers unemployed more than a year.⁷ Furthermore, Nobel Prize-winning economist, Christopher Pissarides, has shown that workers’ losing their skills during a period of unemployment can result in a longer persistence of high unemployment in the overall economy.⁸

Economists have also documented other consequences of weak labor markets on our society. Catherine Maclean, a doctoral student at Cornell University, has shown that men entering the workforce during periods of high unemployment are more likely to experience poor health at age 40 than men who enter the workforce during a period of relatively low unemployment.⁹

Timothy J. Classen of Loyola University Chicago and Richard A. Dunn of Texas A&M published research in February 2011 that identifies unemployment duration as “the dominant force in the relationship between job loss and suicide.”¹⁰ This research follows a long literature examining the health and suicide consequences of unemployment.

In addition to the societal and personal impact of long-term unemployment, the economic effects are significant. Beyond the obvious detriment to the economy in terms of lost production and consumption by the long-term unemployed, a very long duration of UI benefits as we have seen in the last few years—up to 99 weeks in some States, as mentioned above—actually results in an increase in the unemployment rate. As Harvard economist Martin Feldstein testified in 2007,

“While raising unemployment benefits or extending the duration of benefits beyond 26 weeks would help some individuals who might otherwise face financial hardship, it would also create undesirable incentives for individuals to delay returning to work.”¹¹

Labor economists have devised a range of estimates gauging the effect of extended UI benefits on the unemployment rate. One recent conservative estimate by Rob Valletta and Katherine Kuang at the Federal Reserve Board of San Francisco shows that the current 99 weeks of UI benefits raises the unemployment rate by 0.4 percentage points.¹² Others have recently estimated the effect to be considerably larger. Shigeru Fujita of the Federal Reserve Bank of Philadelphia finds that the current benefit structure raises the unemployment rate for males about 1.2 percentage points.¹³

Conversely, Jesse Rothstein at the University of California, Berkeley, found the effect to be much smaller, although still significant, particularly with regard to the long-term unemployed.¹⁴

An important caveat to this research is to note that longer duration of benefits is not *always* an adverse outcome. It is appropriate to provide benefits to assist unemployed workers in completing an optimal search for the “right” next job. Absent any UI benefit program, workers may not have the resources to complete an appropriate search.

⁷ <http://pubs.aeaweb.org/doi/pdfplus/10.1257/aer.98.2.268>.

⁸ <http://ideas.repec.org/a/tpr/qjecon/v107y1992i4p1371-91.html>.

⁹ http://yale.edu/adhvaryu/Maclean_JMP.pdf.

¹⁰ <http://www.ncbi.nlm.nih.gov/pubmed/21322087>.

¹¹ <http://finance.senate.gov/imo/media/doc/012408mftest.pdf>.

¹² <http://www.frbsf.org/publications/economics/letter/2010/el2010-12.html>.

¹³ <http://www.philadelphiafed.org/research-and-data/publications/working-papers/2010/up10-35R.pdf>.

¹⁴ <http://gsppi.berkeley.edu/faculty/jrothstein/published/rothstein-ui-july132011.pdf>.

Nevertheless, 99 weeks of benefits, as is currently provided in many States, is nearly quadruple the duration of benefits normally offered in the United States and is unprecedented.

3. The policy response has been enormous in budgetary terms and additional weeks of UI benefits

This month, Congress is in the midst of debating an extension of extended Federal UI benefits. This would be the 10th time since June 30, 2008, that Congress has enacted legislation providing emergency UI benefits with a combined net cost of \$180 billion (see table 1).

Table 1.—Federal UI Extension Bills, June 2008–December 2010

Title	Date signed into law	UI spending added to debt [in billions of dollars]
Supplemental Appropriations Act of 2008	June 30, 2008	\$13
Unemployment Compensation Extension Act of 2008	November 21, 2008	6
American Recovery and Reinvestment Act of 2009	February 17, 2009	39
Worker, Homeownership, and Business Assistance Act of 2009	November 6, 2009	0
Department of Defense Appropriations Act, 2010	December 19, 2009	11
Temporary Extension Act of 2010	March 2, 2010	7
Continuing Extension Act of 2010	April 15, 2010	13
Unemployment Compensation Extension Act of 2010	July 22, 2010	34
Tax Relief, UI Reauthorization, and Job Creation Act of 2010	December 17, 2010	57
Total		\$180

Source: Congressional Budget Office.

These costs are only the direct Federal expenditures. Before unemployed workers receive Federal UI benefits, they first must exhaust their State's unemployment benefits, generally 26 weeks. In fiscal year 2011, total UI payments (State and Federal combined) were \$119 billion. In 2010, total UI benefits paid were \$156 billion, and in 2009, they were \$120 billion. These compare to outlay totals of \$32 billion and \$33 billion in 2006 and 2007, respectively.¹⁵ Over 3 years, roughly \$300 billion in UI payments above the normal level is a significant amount of stimulus and deficit spending that is often not recognized. It is a sizable cost even compared to the American Recovery and Reinvestment Act (ARRA), which is now estimated to have cost \$825 billion (including \$39 billion in UI benefits).

The recent recession has forced the majority of States to completely exhaust their State unemployment trust funds, and those funds are now insolvent. Put simply, fewer workers are subject to the State and Federal UI taxes, and far more workers are claiming benefits. As of December 15, 2011, UI trust funds in 27 States and the Virgin Islands were insolvent, requiring loans from the Federal Government totaling nearly \$39 billion.¹⁶

Furthermore, as a result of depleted UI trust funds, many States are experiencing tax increases. The 5.4 percent FUTA tax credit that is provided to a State that is in compliance with the Federal rules governing UI is reduced for States with outstanding UI loan balances for two consecutive years. In 2010, employers in three States—Indiana, South Carolina, and Michigan—were not entitled to the entire 5.4 percent credit. In 2011, 21 States faced a reduced FUTA credit. For most States, the credit is reduced 0.3 percentage points, but Indiana's credit is reduced 0.6 percentage points, and Michigan's is reduced 0.9 percentage points. The reduction in this credit translates directly into a higher tax bill for employers in those States.

CONCLUSION AND POLICY RECOMMENDATIONS

Recent labor market data have shown some improvement, but unemployment remains a serious problem, particularly with regard to long-term unemployment. At present, Congress is debating a potential 12-month extension of UI benefits. Legislation that passed the House of Representatives on December 13, H.R. 3630, contained a number of changes to the UI program aimed at improving outcomes. In recognition of the modest improvement in the labor market and the potential harmful effects of providing nearly 2 years instead of 6 months of unemployment benefits,

¹⁵ <http://workforcesecurity.doleta.gov/unemploy/pdf/MSR.pdf>.

¹⁶ <http://workforcesecurity.doleta.gov/unemploy/budget.asp#t/loans>.

H.R. 3630 adjusts the duration of benefits to a maximum of 79 weeks beginning January 1, 2012, and to 59 weeks by July 2012 for most States.

Furthermore, recognizing that many unemployed, particularly those who are long-term unemployed, may lack the necessary skills and training to return productively to the workforce, H.R. 3630 establishes a requirement for job search, and requires that those with the most difficulty reentering the workforce participate in GED programs or training to assist them in the quest for reemployment. Furthermore, the House-passed bill contains provisions to permit States to obtain waivers from the Federal Government to engage in new strategies to help unemployed workers beyond the traditional weekly benefit check.

These provisions are common-sense increments toward a better unemployment program. It is time to move away from the Obama administration's ill-fated efforts to address unemployment woes through the ineffective ARRA and repeated blanket extensions of UI benefits. The House proposal maintains benefits at more than double their normal levels, and the new requirements on the States are in many respects modest. These are important first steps toward orienting the UI program more toward helping people get reemployed rather than simply helping sustain those who are unemployed. Congress should pursue these changes now and continue to explore more radical reforms to the UI system to more strongly encourage reemployment and retraining.

Broader and bolder policy reforms outside of unemployment insurance will also be necessary to facilitate a full recovery of the labor market. The status quo of policies is not serving workers well. No single policy change will suffice, and policymakers need to examine tax reform, trade promotion, education policy, and broad fiscal measures to tame the long-run deficit outlook. Sadly, many workers who have been out of work for an extended period of time may never fully regain their financial footing. But if Congress pursues an aggressive agenda, it may be able to prevent more workers from suffering the same fate in the future.

PREPARED STATEMENT OF ROBERT JOHNSON, HARDING COUNTY COMMISSIONER,
HARDING COUNTY, SD

I am a County Commissioner of Harding County, SD and have been involved with the proposed Keystone XL TransCanada pipeline project since its' first route consideration through our county. Our County has been very active in researching and learning the pros and cons of this project and the impact that it will and could have on our community.

While the timeframe for the installation of the pipeline through our county will be relatively brief (approximately 6 to 8 months) we have all agreed that the impact will be significant. The creation of jobs from the project will be very welcome and needed. These jobs will vary based on the need, from people that have professional qualifications (welders for example) to people that can assist with vehicle maintenance all the way to washing clothes.

Our county is in a unique location. We are on the southern edge of the Bakken oil play in North Dakota. We see a constant flow of people traveling through our community going north to find work. People are hungry and desperate for jobs and willing to work to hold on to the homes and families that they are leaving behind. The Keystone XL Pipeline would also offer a job base outside of the oil play and give opportunities to people that are so desperately needing jobs across the Nation.

The jobs created from this project for the most part will be short term. But the jobs very well could be for a long enough duration to get the people that need the jobs to a financial point that they will be able to survive the economic downturn that our economy is currently facing.

The Keystone XL Pipeline is nothing but an absolute win-win project for our county and the Nation. The amount of revenue that will be generated by local governments and our schools will provide an economic boost to the citizens that these agencies serve by enhancing services and reducing costs to the local taxpayers due to an added property tax base.

Harding County supports this project and, quite truthfully, needs this project. We do not feel that this project will jeopardize our way of life, it will in fact give us the ability to maintain our way of life by offering more jobs and income into our communities.

PREPARED STATEMENT OF THE NATIONAL SMALL BUSINESS ASSOCIATION® (NSBA)

Chairman Harkin, Ranking member Enzi and members of the committee, on behalf of the 150,000 small-business owners represented by the National Small Business Association (NSBA), I would like to thank you for the opportunity to discuss proposals to bar discrimination against the unemployed.

There are several recent proposals to enact a new law making unlawful discrimination against individuals based on their status as unemployed. Proposed legislation includes three bills that would enact a Fair Employment Opportunity Act of 2011, (S. 1471, H.R. 2501, H.R. 1113) and subtitle D of the proposed American Jobs Act of 2011¹ released by the White House on September 12, 2011. Enacting these proposals would be a serious mistake.

There is no credible evidence that small businesses discriminate against the unemployed. Doing so would deprive an employer of many good potential hires. What the bill would do, however, is enrich trial lawyers at the expense of small businesses and lead to a new wave of litigation. Litigation is expensive and wasteful and will harm the ability of small firms to hire new workers.

These proposals would exacerbate the problems faced by the unemployed, slow economic growth and cause unemployment, rather than reduce it. First and foremost, they would harm the very employers that would employ the unemployed and reduce the resources they have available to grow their businesses and hire people. The proposals would have a disproportionate adverse impact on small businesses. Each decision to interview an unemployed person would be fraught with legal risk. Business would need to expend resources to familiarize themselves with yet another regulation of their hiring practices and, eventually, the case law that develops around the new statute. They would have to expend funds retaining counsel and drafting new human resources directives. They would have to expend funds training their managers.

Obviously, only one person can be hired for each position. Yet each unemployed person who is interviewed but not hired would become a lawsuit waiting to happen. The risk of these lawsuits will increase the effective cost of employment hiring. The reality of these lawsuits or threats of lawsuits, although enriching the plaintiff's bar, will reduce the resources that businesses have to hire people, to grow their businesses and to make products or provide services that consumers want.

Litigation is very expensive. Allegations that an unemployed person was discriminated against will become commonplace, particularly if the job happened to go to a more qualified employed person. Businesses will often be forced to settle unfounded claims rather than litigate because the cost of litigation is so high.

There is no credible evidence that there is a problem of discrimination against the unemployed. No rational employer would fail to hire a qualified person because they are currently unemployed. It would be contrary to their self-interest. Employers want the most qualified person at the least possible expense. If that person is unemployed, they will hire them. If that person is employed, they will hire that person but hiring that person creates an opening. It does not increase unemployment.

What does create unemployment are policies, such as these proposals, that substantially raise the cost of employing people and reduce the resources that employers have to hire people. What reduces unemployment are policies that cause the economy to grow and increase the aggregate level of employment.

The NSBA strongly urges Congress to oppose the Fair Employment Opportunity Act or any other proposal that would permit lawsuits based on a person's status as unemployed.

[PR Newswire-USNewswire—November 10, 2011]

BUILD AMERICA SO AMERICA WORKS—LIUNA! BUILDS AMERICA

“JOB KILLERS WIN, AMERICAN WORKERS LOSE”

WASHINGTON, DC—Terry O'Sullivan, General President of LIUNA—the Laborers' International Union of North America*—made the following statement today in response to the U.S. State Department delay of the construction of the Keystone XL pipeline:

“Environmentalists formed a circle around the White House and within days the Obama administration chose to inflict a potentially fatal delay to a project that is not just a pipeline, but is a lifeline for thousands of desperate working men and women. The Administration chose to support environmentalists over jobs—job-killers win, American workers lose.

¹ See Subtitle D (§§ 371–79) of the proposed legislation. Available at: <http://www.whitehouse.gov/sites/default/files/omb/legislative/reports/american-jobs-act.pdf>.

*The half-million members of LIUNA—the Laborers' International Union of North America—are on the forefront of the construction industry, a powerhouse of workers who are proud to build America.

Environmental groups from the Natural Resources Defense Council to the Sierra Club may be dancing in the streets, having delayed and possibly stopped yet another project that would put men and women back to work. While they celebrate, pipeline workers will continue to lose their homes and livelihoods.

We had hoped the decision would have been made on the basis of economics, facts and the best interests of the Nation, not on the basis of a political calculation.

The State Department should have been freed to make its decision, and then allowed the State and people of Nebraska to proceed with their concerns through the many avenues available to them. That would have been a sign of the Administration's support for jobs and a recognition that workers can't wait until after the next election for a job.

We are extremely disappointed."

RESPONSE TO QUESTIONS OF SENATOR ENZI BY CHRISTINE L. OWENS

Question 1. As you acknowledge in your testimony, inadequate job creation is the principal barrier to work for the unemployed. Mr. Meyer described the many thousands of new jobs that could be created if the Keystone Pipeline project was allowed to move forward, instead of being halted until after next year's election. As I mentioned, there are at least four labor unions that also support this project and the jobs it would create. Wouldn't the creation of these new jobs help lower this barrier?

Answer 1. Robust job creation is ultimately the solution to our unemployment crisis, and will also reduce budget deficits. NELP has not taken a position on the Keystone Pipeline project, but we are aware that there are a number of questions and competing views regarding the number of jobs it would create, its environmental impacts, and the most effective strategies for meeting the Nation's energy needs.

Question 2. You testified that lack of jobs, discrimination and credit checks are the principal reason unemployed jobseekers are unable to find work. You did not mention potential mismatch of a jobseeker's skills with the skills required for available job openings. Do you believe that some long-term unemployed individuals may have skills that have not kept up with the current job market, or do not match the needs of their community?

I have worked on bipartisan job training legislation which would specifically improve coordination of job training services for unemployment recipients. For example, it would require that all UI recipients get referrals to, and application assistance for, training and education resources and programs, including Federal Pell grants and WIA training and education programs. Do you support WIA reauthorization?

Answer 2. NELP staff have reviewed the literature regarding the extent to which "skills mismatch" is a factor in the high rate of long-term unemployment. Based on that review, we believe that while there are some sectors (advanced manufacturing, for example) in which there is some mismatch between the skills employers need and those job applicants can provide, overall, the principal reason for persistent high long-term unemployment remains the imbalance between the numbers of unemployed workers looking for jobs and the numbers of jobs that have been created.

NELP supports reauthorization of WIA. In June 2011, NELP submitted formal comments to Senate HELP committee staff addressing the bi-partisan working draft of WIA reauthorization. While we had suggestions as to ways it could be strengthened, and noted a few sections with which we did not agree, our comments were very positive as to both the legislation and the process that was under-way in the Senate. We look forward to bringing the knowledge and experience we have gained from our direct hands-on experiences in helping laid off manufacturing workers in the Midwest, as well as our interactions with unemployed workers more generally, into discussions about how to best reform and reauthorize this program.

Question 3. The legislation you are supporting here today would create a new "protected class" of unemployed individuals. Some have raised concerns that the additional litigation risk this bill would expose employers to will encourage them to stop widely advertising job openings. After all, posting job advertisements costs money and it requires more man-hours to review applicants. The fewer people that know of a job opening, the fewer that can claim they were denied "consideration" for it. If employers began to rely only on their networks of current employees, friends, family, fellow church congregants, etc. to fill open positions, I am concerned that it would make the situation for the long-term unemployed even worse. These individuals are less likely to be connected to networks that know about jobs. Are you concerned about this negative consequence?

Answer 3. NELP is concerned with any obstacles that would limit employment opportunities for the unemployed, particularly for those who are experiencing long-term unemployment. With regard to this issue, however, we think it is unlikely many employers (particularly large employers) would stop advertising jobs because they were barred from refusing to consider *qualified* applicants solely because of their unemployment status; and we think the harm to unemployed workers that results from discriminatory refusal to consider or hire them *solely* because of their unemployment status far outweighs the potential risks that banning the practice would give rise to negative consequences. We believe most employers are motivated by a desire to recruit the largest pool of qualified candidates possible, enabling them to review the strongest candidates for open positions. We don't think they would forego advertising job openings in response to legislation banning discrimination based on unemployment status, any more than they forego advertising because they are barred from other types of exclusionary practices. The legislation also exempts small employers (those with 15 or fewer employees), who may be those most likely to rely on existing networks and word-of-mouth recruitment.

Question 4. What is a Bona Fide Occupational Qualification? Can you give us several examples?

Answer 4. A "bona fide occupational qualification (BFOQ)" is a criterion or qualification possessed by an applicant or employee that directly relates to the essential job duties for which the individual is employed. Under Title VII of the Civil Rights Act and the Age Discrimination in Employment Act, an employer may base a hiring decision on sex, national origin, religion or age, if the employer can demonstrate that the requirement is necessary for doing the job (a BFOQ). The BFOQ is a narrow defense to what is otherwise a broad prohibition against discrimination along these lines. The types of examples that have been provided for BFOQ's with regard to sex involve situations in which either a man or a woman is necessary for authenticity or genuineness (e.g., an employer may limit hiring of "actress" roles to women). In the 1977 Supreme Court decision of *Dothard v. Rawlinson*, the Court upheld the State of Alabama's claim that "male" sex was a BFOQ for corrections officers who had regular direct contact with inmates in the State's all-male maximum security prisons (here, deciding that women's sex would make them vulnerable to attack by the inmates and undermine security within the prisons).

BFOQ defenses are assessed and decided on a case-by-case basis. In the context of discrimination against someone because of unemployment status, an employer would be required to demonstrate that "being currently employed" is essential to the job for which an individual is applying. Examples of the types of situations in which we envision an employer might argue that the status of being "currently employed" is a BFOQ that might include jobs involving sophisticated and rapidly changing technologies that individuals can reasonably stay on top of only through current employment, or one to which a candidate is required to bring an existing client base with which s/he is currently working on an ongoing basis.

Question 5. Do you think the Fair Employment Opportunity Act will create jobs? If so, how?

Answer 5. We believe the Fair Employment Opportunity Act will strengthen the Nation's economic recovery, by helping to ensure that qualified job applicants are fairly considered for job openings, regardless of their current employment status, thus expanding and enhancing the pool of qualified candidates from which employers may choose. Re-opening employment opportunities for the long-term unemployed, many of whom have years of workforce experience and bring a strong work ethic, significant skills and deep commitment to employment, will restore their earning power and consumption, reduce their current reliance on unemployment insurance or public assistance, and help them to begin to restore their retirement nest eggs. Rather than squander the rich storehouse of human capital among the unemployed (particularly the long-term unemployed), we believe our national goal should be to maximize the skills, talents and experiences all workers, including the unemployed, are able to bring to American workplaces. That is key to building a strong economic recovery, which in turn will promote more job growth.

Question 6. At the hearing you agreed to followup with me regarding your view on whether employers actually use credit ratings/scores during a pre-employment background check. This is an important point because as you explain in your written testimony that a "bad credit rating undermines employability." I am told by the companies that provide these consumer reports to employers that credit ratings are *not* included. Please explain your view of whether or not this practice exists.

Answer 6. The reference to "credit ratings" in my written testimony was a mistake. The typical credit report generated by private screening firms for employers

includes information on an individual's credit account(s), as well as on bankruptcies, foreclosures, liens and other public record information. It does not include the individual's credit score, but the underlying information provided above gives rise to the individual's credit score. (I am correcting the mistaken reference to credit "ratings" in my testimony and resubmitting it along with these responses.)

Question 7. Do you support limiting an employer's use of pre-employment criminal background checks? Do you think criminal background checks have the same sort of effect as credit checks in terms of the ability of unemployed individuals to get jobs?

Answer 7. NELP supports limiting the use of pre-employment criminal background checks in ways that will reduce the extent to which such checks unfairly or unnecessarily preclude qualified, rehabilitated job applicants from job consideration. The Equal Employment Opportunity Commission and the courts have recognized that criminal record screening for employment may violate civil rights laws, because it will often have a disparate impact on people of color, as a result of their disproportionate representation within the criminal justice system. According to a 2006 report authored by the U.S. Department of Justice (The Attorney General's Report on Criminal History Background Checks, June 2006, at page 3), the FBI's criminal records database is significantly incomplete because it is "still missing final disposition information for approximately 50 percent of its records." A major survey of large employers found that 92 percent perform criminal background checks on some or all of their job candidates, which is up from 80 percent in 2004. The combination of this increase in background screening, the relatively large share of Americans (1 in 5) who have something that will show up in a criminal record check, and the incompleteness and inaccuracies of the databases means that criminal record screening can be a crude but inefficient and devastating tool for weeding out potential job candidates.

NELP supports criminal record screening that is appropriate to the specific job for which a candidate applies, and that takes into account the nature and severity of an offense, when it occurred, any extenuating circumstances, and evidence of rehabilitation. Except in limited circumstances, criminal record screening should not occur at the application stage, but should be undertaken only after an applicant has been able to demonstrate s/he is qualified for the position in question, and the employer is considering an offer to the candidate.

NELP also supports efforts to clean up the FBI's criminal records database, to ensure that only complete and accurate information about job applicants is communicated to potential employers, and to provide job applicants with appropriate protections in order to ensure that they have adequate access to their own records and ample opportunities to correct mistakes and incomplete information on those records.

Criminal background checks and credit checks play a role in limiting employment opportunities for some of the unemployed. We are unaware of any empirical analyses comparing the effects of criminal records checks and of credit checks on employment opportunities for the unemployed.

Question 8. At the hearing you stated that pre-employment credit checks are relevant for only a "particular narrow slice of jobs" and that "in general, there is no basis for excluding someone from a job because of an adverse credit report." Please provide a list of those jobs in which such credit checks are relevant.

Answer 8. While it is impossible to provide a complete list of all jobs for which a credit check is relevant, because decisions of this nature are made on a case by case basis and will vary across employers and industries, in general positions entailing fiduciary or financial responsibilities—such as handling cash (either a company or client's funds), accounting, banking or processing of consumer credit and debt information—are the most likely examples of the kinds of jobs or circumstances in which credit checks would be appropriate. However, even where there is strong evidence that the inquiry into an individual's credit history may be substantially related to the job, it is necessary to have in place strong protections to ensure the accuracy of the information and an opportunity for the individual to produce information demonstrating particular circumstances, like job loss, medical history, and other factors that fairly account for credit issues. This is an area where more States have found it necessary to limit access to credit history for employment screening purposes.

Question 9. For the NELP briefing paper titled, "Hiring Discrimination Against the Unemployed: Federal Bill Outlaws Excluding the Unemployed from Job Opportunities, as Discriminatory Ads Persist," published on July 12, 2011, how many total job ads were reviewed?

Answer 9. Randomly reviewing online job postings over a limited period of time in 2011, NELP identified about 150 ads that included exclusions based on current employment status. NELP did not track the number of ads reviewed.

Question 10. I agree that the long-term unemployed are looking for jobs and not lawsuits. During the hearing, you stated it was an “exaggeration” to suggest there would be a lot of litigation against business owners that would stem from making the unemployed a protected class once the legislation you support—the Fair Employment Opportunity Act—is enacted. You further stated that you believe it would be “difficult to find lawyers who would bring these lawsuits.” Do you think an alternative dispute mechanism, instead of individual and class actions against employers and employment agencies, would provide a better way to handle allegations of discrimination?

Answer 10. Alternative dispute resolution (ADR) may be an appropriate means for resolving disputes in some circumstances, e.g., when the issue is one that involves only the employer and complaining employee; the parties have freely decided to submit the claim to ADR; the dispute resolutions officer is neutral and/or jointly selected by the claimant and employer; the claimant has access to all relevant information regarding the dispute, and is able to present relevant information in the process; the costs of the process are minimal; and the process can provide meaningful relief and an opportunity for review. We strongly oppose conditioning a job offer or continued employment on requirements that applicants/employees agree to forego rights to bring legal actions and to resolve any and all employment-related claims through ADR. We also believe that because many mandatory arbitration or other ADR procedures require employers and employees to split costs, pursuing a claim can be prohibitively expensive, thus deterring workers from coming forward. In addition, under most ADR systems, the decision of the arbitration or other ADR officer is final and not subject to judicial review—regardless of how arbitrary or wrong the officer may be. We do not think any alternative dispute resolution process should be able to enshrine a legal wrong.

RESPONSE TO QUESTIONS OF SENATOR MURRAY BY CHRISTINE L. OWENS

Question 1. We all know we need to get the debt and deficit under control, but many of us also feel very strongly that investing in our workers can have a positive impact both in the short and long-run. In a recent report, the CBO wrote that households receiving unemployment benefits spend their benefits quickly, making unemployment a timely and cost-effective tool in spurring the demand for goods and services in the economy. These benefits help many families from falling off a financial cliff.

What would our economy look like right now without the Federal emergency unemployment compensation program?

Answer 1. In July 2010, economist Wayne Vroman of the Urban Institute wrote that “the payment of extended [Federal] benefits has helped to sustain real DPT during ‘the great recession’ and estimates from the model [used for the analysis] suggest a per-dollar effect on real GDP is about the same as the effect of regular UI benefits [that is, every dollar spent on the Federal benefits generated roughly \$2 in GDP growth]. The positive effect of extended benefits during 2008Q3–2010Q2 raised real GDP by an average \$57 billion per quarter while regular program benefits raised real GDP by \$71 billion over the same period. Regular and extended benefits both operated to cushion the falloff in real GDP.” (Vroman, Wayne, *The Role of UI as An Automatic Stabilizer During a Recession*, Impaq International, LLC, analysis prepared as part of a multi-year contract with the Department of Labor Employment & Training Administration, July 2010). An analysis of Vroman’s findings by the Center for American Progress concluded that Federal benefits saved or created nearly 1.1 million jobs in the fourth quarter of 2009, while all benefits combined created or saved 2.3 million jobs during that period (on an annualized basis). (Boushey, Heather & Matt Seppara, *Unemployment Insurance Dollars Create Millions of Jobs*, Center for American Progress, 2011). In short, the programs of Federal extended unemployment insurance have played a critical role in saving or creating jobs and boosting overall GDP. Without these benefits, more workers would be unemployed, the downturn would have been even more severe, and the economy would be weaker than it is today.

Question 2. The consequences of a worker being laid off are wide-ranging. The issues are not limited to the ability of that worker to pay the rent, put food on the table or fill the gas tank. Long-term unemployment erodes workers’ skills, puts a strain on the local economy, and the State’s UI trust fund as well.

Various experts have highlighted “work sharing” as a policy that prevents lay-offs from occurring in the first place and keeps workers attached to the labor market. In fact, “work sharing” has saved over 70,000 jobs in my State of Washington since 2009.

Can you explain how “work sharing” benefits both workers and businesses; and what affect do these policies have on State UI Trust funds?

Answer 2. “Work-sharing” or “shared work” are terms that refer to a voluntary program that serves as an alternative to layoffs during a temporary decline in business. Such programs are authorized under the Short-time Compensation (STC) program within the Federal-State unemployment insurance system. Under a work-sharing program, an employer may reduce the hours and wages of employees (in lieu of worker layoffs) and those employees may qualify for unemployment benefits to compensate for the reduction in hours. There are currently 23 States with federally approved work-sharing programs.¹

The following example illustrates how the typical work-sharing program operates. An employer is facing a temporary decrease in demand for its product. Normally the employer would temporarily lay off three full-time employees with the hope of recalling them in a few months when demand increased. However, under an approved work-sharing plan, the employer could instead elect to reduce the schedules of 15 full-time employees from 40 to 32 hours. Each of the 15 employees would become eligible for a work-sharing benefit that is equivalent to 20 percent of the unemployment insurance (UI) benefit that the worker would have received if he or she had been fully unemployed.

Under the UI law of most States, workers cannot typically qualify for a partial unemployment benefit when working 3 or 4 days in a week; however under a voluntary work-sharing plan in States with STC laws, workers can qualify for a prorated UI benefit while maintaining employer attachment. Thus, in the example above, each worker would receive 80 percent of their regular pay and an unemployment benefit that would replace a portion of the 5th day.

How do work-sharing programs benefit workers? Workers retain their jobs and the financial security that comes with continuing employment. They are compensated for the day or two of unemployment they experience and are able to continue to meet their financial obligations and to contribute to their local economies. Workers can retain their health insurance and keep accruing any retirement benefits. In addition, employees avoid the economic and emotional hardship associated with layoffs, and the stress of looking for a new job in a tough labor market is averted.

What are the benefits of work-sharing programs for employers? Participating employers are able to retain a skilled, trained workforce and do not incur new training costs when a business upswing occurs and laid-off workers are no longer available for recall. In addition, by committing to workforce continuity and job security, employers enjoy the benefits of increased employee morale. This program does not create additional UI costs for employers since the charges for 1 week of UI benefits are equivalent to the charges for five employees each receiving 20 percent of a full week's benefit. Because the employer is certifying that any reduction of hours through work-sharing is in lieu of the same number of hours reduced through layoff, the resultant UI costs should be virtually the same. Because work-sharing benefits are replacing UI benefits that would otherwise be paid to laid off workers, the impact on State UI trust funds is minimal.

Question 3. For decades, this country has stood against employment discrimination. People who lost work through no fault of their own face numerous barriers to reemployment, and I am disappointed that some employers have chosen policies to “weed out” the long-term unemployed during their hiring process.

Can you explain to us how these discriminatory hiring policies have manifested themselves during this recession?

Answer 3. Based on our review of the literature, analyses of online job postings, and direct reports from unemployed workers, discriminatory hiring policies are manifested in the following ways:

- Job postings that include exclusionary language, such as “must be currently employed” or “must be recently employed”. (On one occasion, we reviewed an ad that explicitly indicated “no unemployed” candidates would be considered, but that language is rare);
- A number of articles (identified in my written testimony) have quoted job recruiters, job placement industry representatives and/or human resources professionals as saying their clients (employers) will not consider unemployed candidates;
- Unemployed workers have described to us specific situations in which they were told by recruiters that their resumes would not be referred for consideration, because they are unemployed;

- The anecdotal evidence indicating that the unemployed, particularly the long-term unemployed, apply for numerous jobs for which they are qualified without hearing back from recruiters/placement firms/employers *could* indicate that the unemployed are screened out of the review process. With job openings still limited and many candidates for each job, employers may find it efficient to use a blunt screen like current employment status to winnow the list, and may assume that being currently employed is a reasonable proxy for qualification for the job.

A copy of my February 2010 testimony before the United States Equal Employment Opportunity Commission is attached to these responses. The testimony describes in greater detail the bulleted points set out above.

Question 4. I was encouraged to see that President Obama included specific funding for reemployment services for the long-term unemployed in his jobs bill.

We know that one-on-one, intensive services can help many find opportunities they may have missed on their own. However, the systems that provide these services have been depleted of sufficient funding for so long that it's hard to provide this level of attention on a regular basis. That's why I fought to include a focus on reemployment services in the Recovery Act.

How can intensive, reemployment services help the long-term unemployed sharpen their skills and get back on the pathway to work?

Answer 4. Under provisions of the President's American Jobs Act, States would be required to (a) design more rigorous reemployment services for the long-term unemployed, (b) assess the eligibility of the longest term unemployed, and (c) help the long-term unemployed develop work-search plans. NELP agrees that these steps would be important in focusing on the challenges facing the long-term unemployed. UI claimants should receive individualized reemployment assistance, including referrals to job openings and in-person counseling on work search plans—strategies that have proven effective in getting unemployed workers back to work as quickly as possible.²

The Employment Service, established by the Wagner-Peyser Act in 1933 as the Nation's public labor exchange mechanism, benefits both workers and employers, enabling employers to find qualified workers more quickly and employees to gain reemployment or better employment. UI plays a role in unemployed workers' return to work by requiring claimants to register for work and disqualifying those who refuse offers of suitable work. In addition to its public labor exchange functions, the Employment Service is charged with enforcing the UI work search test. And, since 1995, most UI claimants have been "profiled" by State UI agencies so that those who are deemed most likely to exhaust benefits and require reemployment services are referred to such services with a suspension of UI benefits if they do not cooperate.

Despite its role in these important labor market functions, Employment Service funding under the Wagner-Peyser Act has remained stagnant (in the \$700 million range) since the 1980's. And notwithstanding concern expressed by employers about enforcing the UI work search test, the public Employment Service program has languished as a program that receives little attention or support. Employment services are important because they are universal and available to both employed and unemployed jobseekers as well as UI claimants and jobless workers who have exhausted UI. Yet, to a significant extent, fewer job referrals are made to UI claimants in many States today due to the decline in ES services.

Nonetheless, there is general agreement among program evaluators that Employment Service job referrals and job search assistance are "highly cost effective,"³ returning as much as \$4.50 to taxpayers for every dollar spent.⁴ Studies by Lou Jacobson demonstrate that personal contact by trained personnel with jobless workers can particularly help shorten time spent on UI benefits. He has found that States could improve job search assistance and shorten unemployment spells by increasing the number of unemployed individuals who visit one-stops for group workshops and one-on-one counseling; expanding job development (i.e., employer outreach) to ensure that more jobs are listed on public labor exchanges; and providing assessment and counseling for potential trainees to determine what type of training, if any, would be most beneficial.⁵ His work calls particular attention to automation used in Oregon and Washington that immediately list job openings and notify jobseekers of openings in their occupational fields.

Over the last decade, the services provided to UI claimants 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. NELP strongly supports the provision of in-person reemployment services, especially for the long-term unemployed and those identified as at risk of exhausting their UI benefits. Given that unemployed workers out-number job openings by more than four to one, it is important that the intent of these reemployment programs be to provide the long-term unemployed with constructive assistance in directing their job searches, finding ways to quickly upgrade workplace skills and otherwise becoming more employable.

Question 5a. When the economy is struggling to add new, quality jobs, many turn to education and training programs to brush up on their skills or acquire new ones for a different industry or occupation.

For many years our workers have been able to turn to our educational institutions and our public workforce system to get the skills and training they need to get back on the jobs or advance their careers. In fact, this is exactly what my own mother did when she unexpectedly needed to get back in the workforce after my dad got sick. Government programs were there for her, and it made a huge difference for our family.

Unfortunately, the programs that have supported so many workers and families have been under attack recently by House Republicans on every front. In their budget proposal, they cut Pell grants for low-skilled or low-income working adults, and workforce funding was reduced by 75 percent at a time when these workers need more access to education and training, than ever.

I think this is the wrong way to go. If we want our workers to fill the 21st century jobs our country is fighting to create, we are going to need more education and training, not less.

How important is access to education and training resources for the long-term unemployed in their efforts to sharpen skills or prepare for a new career?

Answer 5a. According to a recent Hamilton Project report, of the 15 million workers displaced between 2007 and 2010, 7 million had been at their jobs for 3 years or more (Jacobson et al., 2011, 5). Even after finding work, high-tenured displaced workers typically experience annual earnings losses of 15 to 25 percent, resulting in \$220,000 worth of lost wages over a lifetime (Jacobson et al., 2011, 5).

A 2005 evaluation of community college-based retraining in Washington State found that displaced workers earned approximately \$1,390 (or 4.4 percent) more per year after retraining, based on only one-half year of schooling.⁶ Meanwhile workers who trained for 1 year in more technical fields saw annual gains of up to \$3,000 (Jacobson et al., 2011, 11). However, only 15 percent of high-tenured displaced workers enrolled in community college-based training and less than one-quarter of those who attended community college completed a year or more of training (Jacobson et al., 2011, 11).

Jacobson et al., estimate that the opportunity cost, for a 40-year-old displaced worker with children, of a 2-year training program is over \$93,000 (2011, 14). The authors conclude that the rate of return to society for subsidizing “high-return” training for displaced workers is in the 7–12 percent range and is just as efficient to subsidize formal schooling for children (2011, 15).

Question 5b. How would these workers and employers benefit from additional funding in on-the-job or customized training?

Answer 5b. Kevin Hollenbeck of the Upjohn Institute evaluated the Massachusetts Workforce Training Fund that provides matching grants to employers to provide incumbent worker training (Hollenbeck 2008, 7).⁷ Hollenbeck concluded that as a result of the incumbent worker training program, “primary sector jobs were created or retained at a public cost of less than \$9,000 per job—a cost that rivals or bests most economic development initiatives” (2008, 20). The estimated return on investment for the first year following training was 5.4 percent for workers; 16.6 percent for firms; and 38.9 percent for the State (2008, 18). Over 90 percent of firms participating in the training grant program reported productivity and competitiveness improvements (2008, 10).

Of the firms surveyed in the Massachusetts study, training grants led 30 percent to add workers and allowed 20 percent to avert layoffs.⁸ Bartik finds that funding for incumbent worker training may be 10 times as effective in creating jobs and earnings as business tax breaks (Bartik 2009, 13). He estimates that expanding Michigan’s \$5 million customized training program by \$30 million would increase the present value of earnings for Michigan residents by \$900 million (Bartik 2009, 13).

Question 6. Millions of our fellow citizens have been severely impacted by the recession, returning veterans, older Americans, minorities; the list goes on and on. However, one group that often goes unmentioned is our Nation’s youth.

Youth employment right now is the worst we've seen since World War II. This is especially problematic because we know serious delays at the beginning of a worker's career severely decrease lifetime earnings and career outcomes.

Early work experience helps to shape young peoples' work ethic and their work history, meaning they are more likely to pursue and achieve advancement in the workplace. These experiences help shape the next generation of leaders and the future health of our economy.

So, the fact that more youth than ever are finding it extremely difficult to find work—coupled with the fact that an alarming one-third of our high school students drop out before graduating—is a serious problem for the future of our country and our economy.

Can you explain how the recession has impacted today's youth and their prospect for long-term employment? What impact has this had on their families?

Answer 6. During congressional testimony, economist Till von Wachter summarized the impact of a recession on the employment opportunities for young workers:

"The available evidence suggests that the consequences from entering the labor market in a recession are severe in both the short and the long run. In the short run, labor market entrants and young workers suffer from larger increases in unemployment and layoffs than the average worker. Yet, even in the long-run young workers—who enter with no prior employment history and are presumably most flexible—can suffer from initial bad luck for a long period of time."⁹ (Wachter 2010, 1).

According to Wachter, the adverse impact of entering the labor force during a recession can last for 10 to 15 years as the result of young workers settling for jobs they otherwise would not have taken, while some workers never fully recover (2010, 2).

The impact of a recession on future earnings varies by education, with lower educated workers experiencing a larger increase in unemployment in the short run, but recovering more quickly (along with highly educated workers) in the long run (Wachter 2010, 2). Those workers in the middle "suffer close to permanent earnings consequences from entering the labor market in a recession" (2010, 2).

Anecdotally, we know that the incidence of young people moving back in with their parents has increased over the last several years. For many, shouldering huge amounts of college debt coupled with the inability to find good jobs (or any work) has added strains to their families' lives.

REFERENCES

¹These States are Arizona, Arkansas, California, Colorado, Connecticut, Florida, Iowa, Kansas, Maine, Maryland, Massachusetts, Minnesota, Missouri, New Hampshire, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, Texas, Vermont and Washington. In January 2012, Governor Chris Christie signed a New Jersey work sharing program into law.

²Paul Decker, Robert Olsen, Lance Freeman and Daniel Klepinger, "Assisting UI Claimants: The Long Term Impacts of Job Search Assistance Demonstration," U.S. DOL Occasional Paper 2000-2,(2000), <http://wdr.doleta.gov/owsdrr/00-2/00-02.pdf>; Stephen Woodbury, "Long Term Effects of the Work Test and Job Search Assistance: Reexamining the Washington Alternative Work Search Experiment" (2001), http://econ.as.nyu.edu/docs/IO/14690/Woodbury_20100412.pdf.

³O'Leary and Eberts, *supra*, p. viii; Louis S. Jacobson, "Strengthening One-Stop Career Centers: Helping More Unemployed Workers Find Jobs and Build Skills," Brookings Institution (2009), p. 8, http://www.brookings.edu/papers/2009/0402_jobs_skills_jacobson.aspx.

⁴Jacobson (2009), p. 29.

⁵Based on previous demonstration projects, Jacobson estimates that UI weeks claimed could be reduced by 1.1 weeks for claimant call-ins, 2.8 weeks for job search assistance, 3.8 weeks for job development, and 0.8 weeks for counseling for potential trainees. *Id.* at p. 24, Table 2A.

⁶Louis S. Jacobson, Robert J. LaLonde and Daniel G. Sullivan. 2011. "Policies to Reduce High-Tenured Displaced Workers' Earnings Losses Through Retraining." Discussion Paper, Hamilton Project, Brookings Institution, Washington, DC http://www.brookings.edu/media/Files/rc/papers/2011/11_displaced_JLS/11_displaced_JLS_paper.pdf.

⁷Kevin Hollenbeck. 2008. "Is There a Role for Public Support of Incumbent Worker On-the-Job Training?" Kalamazoo, MI: The W.E. Upjohn Institute for Employment Research http://research.upjohn.org/cgi/viewcontent.cgi?article=1155&context=up_workingpapers.

⁸Tim Bartik. 2009. "What Should Michigan Be Doing To Promote Long-Run Economic Development?" Kalamazoo, MI: The W.E. Upjohn Institute for Employment Research http://research.upjohn.org/up_workingpapers/160/.

⁹Till von Wachter. "Avoiding a Lost Generation: How to Minimize the Impact of the Great Recession on Young Workers." Hearing of Joint Economic Committee of U.S. Congress, May 26, 2010 http://www.columbia.edu/~vw2112/testimony_JEC_Till_von_Wachter_26May2010_final.pdf.

ATTACHMENT.—STATEMENT OF CHRISTINE L. OWENS BEFORE THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION MEETING ON "OUT OF WORK, OUT OF LUCK? DENYING EMPLOYMENT OPPORTUNITIES TO UNEMPLOYED JOB SEEKERS" (FEBRUARY 16, 2010)

The National Employment Law Project (NELP) commends the Equal Employment Opportunity Commission (EEOC) for its concern about **employer exclusion of the unemployed from job opportunities**. We appreciate the opportunity today's forum provides for NELP and others to address this important issue.

NELP is a national non-profit organization that engages in research, education, and advocacy on behalf of low-wage and unemployed workers and individuals facing unfair and unlawful barriers to employment. Through our dedicated Web site for unemployed workers (www.unemployedworkers.org) and our close partnerships with State-based organizations, NELP maintains ongoing and direct contact with jobless workers that informs our awareness of the problems they face and the policies and strategies needed to support their return to work. The arbitrary employment barriers facing the long-term unemployed are reminiscent of those confronting another group of workers for whom we advocate, individuals with criminal records. NELP's efforts to restore employment opportunities for the latter group include an extensive title VII program combining outreach and case development, training, policy advocacy and litigation, all focused on reinvigorating enforcement of and compliance with title VII's prohibition of selection procedures that have a disparate impact on protected classes.

At NELP, we believe that the best way to create a healthy, sustainable and growing economy is for the public and private sectors to work together to boost job creation and ensure that all who want to work have access to jobs for which they are qualified. That means, among things, eliminating arbitrary employment barriers that operate to weed out qualified and interested job applicants based on biased assumptions or on objective practices that have a disproportionately harsh impact on identified groups.

Excluding unemployed workers from consideration for jobs is one such barrier, which is not only unfair but also may violate basic civil rights protections because of the disparate impact of such policies on older workers, workers of color, women or other protected groups. At a moment when we all should be doing whatever we can to open up job opportunities to the unemployed, it is profoundly disturbing that the trend of deliberately excluding the jobless from work opportunities is on the rise.

The Jobs Crisis Facing the Unemployed: As the jobs crisis persists, millions of unemployed workers are facing the bleakest employment prospects in a generation. NELP estimates that throughout 2010, 3.9 million unemployed workers exhausted all of their unemployment benefits without finding new work. And while some of those have presumably found employment by now, the Congressional Research Service estimated that in October 2010, there were roughly 1.5 million very long-term unemployed workers—that is, jobless workers who had been unemployed for 99 weeks or longer.¹

Meanwhile, although the official unemployment rate dipped again in January, employers added only 36,000 jobs to their payrolls. We have 2.2 million fewer jobs overall today than 10 years ago, while the working age population has grown by almost 10 million. Simply returning to where we were at the beginning of the recession would require that the economy add roughly 11 million jobs; the addition of only a little more than 1 million since job growth resumed in March 2010 has hardly made a dent in our huge jobs deficit.

The recent dip in the overall unemployment rate is a misleading sign with respect to the economy's overall health: A principal reason for the dip is that the number of persons marginally attached to the labor force—that is, they want jobs and are available to work, and have looked in the last year but not the last month—rose

¹U.S. Congressional Research Service, "The Trend in Long-Term Unemployment and Characteristics of Workers Unemployed for More than 99 Weeks," (R41559; Dec. 20, 2010), by Gerald Mayer, p. 5.

to 2.8 million in January, the highest number on record. There are still roughly five officially unemployed jobseekers for every new job opening, which accounts for the Great Recession's record levels and rates of long-term unemployment.

The dire job market has made it essential that Congress and the Administration maintain the most robust program of unemployment insurance benefits in the Nation's history. But what's needed most—and what all unemployed workers most want—is jobs. Meeting that need requires sound public policies that help encourage job growth and a willingness on the part of employers to make job openings equally available to all qualified jobseekers, without regard to their current employment status. Sadly, as this forum illustrates, it appears the latter is not happening.

Unemployed Need Not Apply: Stories suggesting systematic exclusion, often blatant, of unemployed workers from consideration for jobs began to emerge early last summer. In May and June, local media in Atlanta along with *The Huffington Post* and *CNNMoney.com* reported that Sony Ericsson, a global phone manufacturer that was expanding operations in Georgia, had posted a job announcement for a marketing position that explicitly said, “No Unemployed Candidates Will Be Considered At All.”² Similar accounts of such exclusions reported around the same time included:

- An ad posted on **The People Place** (a job recruiting Web site) by an anonymous Angleton, TX electronics firm seeking a “quality engineer”; the ad specified the company would “not consider/review anyone NOT currently employed regardless of the reason”³;
- A Craigslist posting for assistant restaurant managers in Edgewater, NJ, flatly requiring that applicants “Must be currently employed”⁴;
- Numerous listings for grocery store managers throughout the Southeast posted in the spring by a South Carolina recruiting firm, Latro Consulting, which included restrictions against considering unemployed applicants; the restrictions were removed after *CNN Money.com* inquired about the practice.⁵

Subsequent reports confirm that the practice of including bans on unemployed applicants in job ads has continued. See, for example, “Outlook poor for long-term unemployed,” *The Atlanta Journal Constitution*, October 4, 2010 (<http://www.ajc.com/business/outlook-poor-for-long-657702.html>); “Employers Continue to Discriminate Against Jobless, Think ‘The Best People Are Already Working,’” *The Huffington Post*, October 8, 2010 (http://www.huffingtonpost.com/2010/10/08/employers-continue-to-dis_n_756136.html); “Long-term unemployed face stigmas in job search,” *USA Today*, January 23, 2011 (http://www.usatoday.com/money/economy/employment/2011-01-23-longterm-unemployed_N.htm); “How Employers Weed Out Unemployed Job Applicants, Others, Behind The Scenes,” *The Huffington Post*, January 14, 2011 (http://www.huffingtonpost.com/2011/01/14/unemployed-job-applicants-discrimination_n_809010.html).

While refusal to consider the unemployed is sometimes overtly noted in ads, at NELP we also hear regularly from unemployed workers—mostly older workers—who despite years in the labor force and significant directly relevant experience are nevertheless told they will not be referred or considered for employment, once recruiters or potential employers learn they are not currently working.

That happened to 53-year-old Michelle Chesney-Offutt from Illinois, who wrote us that after working successfully for 19 years as an IT help supervisor, she was laid off in 2008 due to the downturn. Many months into her job search, a headhunter contacted her, excited about her qualifications for a position he was retained to fill. The excitement faded, however, when he learned she had been unemployed for more than a year. As Ms. Chesney-Offutt put it, “When he realized this, he was very apologetic, but had to admit to me that he would not be able to present me for an interview due to the ‘over 6 month unemployed’ policy that his client adhered to.” The headhunter, she told NELP, explained that his client expressly prohibited him from referring workers who had been unemployed for 6 months or more. When we last spoke to Chesney-Offutt, she was still unemployed, had exhausted all unemploy-

² 11Alive.com, “Job Listing: Unemployed Need Not Apply,” http://www.11alive.com/rss/rss_story.aspx?storyid=144719, May 31, 2010; Laura Bassett, “Disturbing Job Ads: ‘The Unemployed Will Not Be Considered,’” *The Huffington Post*, http://www.huffingtonpost.com/2010/06/04/disturbing-job-ads-the-un_n_600665.html, June 4, 2010, updated Aug. 8, 2010; Chris Isidore, “Looking for work? Unemployed need not apply,” *CNNMoney.com*, http://money.cnn.com/2010/06/16/news/economy/unemployed_need_not_apply/index.htm, June 16, 2010.

³ Bassett, “Disturbing Job Ads,” op. cit.

⁴ Ibid.

⁵ Isidore, op. cit.

ment benefits, was restructuring her mortgage, and had applied for SNAP (food stamps) and welfare—a first for her.

Kelly Wiedemer, a 45-year-old former operations analyst in Colorado, wrote describing a similar experience. She responded to a local staffing firm's November 2010 posting for a financial systems analyst experienced in implementing a software package she had put in place in her previous job. The agency called her immediately but after the recruiter learned of Ms. Wiedemer's unemployment, her enthusiasm cooled. The recruiter told Wiedemer that she would submit her resumé but that her "long employment gap was going to be a tough sell." Wiedemer later followed up to express her continuing interest but was not called for an interview.

Similarly, 44-year-old Angela Smith of Texas, an experienced pharmaceutical sales representative who had posted her resumé online, wrote to share an email she had received from an executive recruiter for a bio-pharmaceutical company seeking a specialty sales representative. The recruiter had sent the email after seeing Ms. Smith's resumé—but the outreach was of little value to Ms. Smith, since the email included an express caveat, required by the employer, that "Candidates must be currently employed in pharmaceutical sales, or have left the industry within the last 6 months."

Finally, there's 55-year-old Ginger Reynolds from California, who wrote to tell us about receiving a call from a recruiter for a 6-month contract position as a software systems engineer. The recruiter thought Ms. Reynolds was a good fit for the job but upon learning of her unemployment, told her she could not submit her resumé because she had not worked in the past 6 months.

Excluding the Unemployed Becoming Business as Usual: There is no official data on how frequently unemployed workers are denied consideration for jobs because of their employment status, but the brazenness of the ads described above and the experiences jobless workers shared with us suggest the practice is fairly common. That suspicion is borne out by comments of human resource consultants and recruiters willing to go on record about the practice. Rich Thompson, vice president of learning and performance for Adecco Group North America, the world's largest staffing firm, told *CNNMoney.com* last June that companies' interest only in applicants who are currently working "is more prevalent than it used to be . . . I don't have hard numbers," he said, "but three out of the last four conversations I've had about openings, this requirement was brought up."⁶ Similarly, Lisa Chenofsky Singer, a New Jersey human resources consultant specializing in media and publishing jobs, commented that, "Most executive recruiters won't look at a candidate unless they have a job, even if they don't like to admit it." According to Ms. Singer, the first question she is generally asked when recommending a candidate is whether the candidate is currently working—and if the candidate is unemployed, the recruiter is not interested.⁷

A January article posted on **The Ladders**, an online job search resource site, further corroborates the widespread exclusion of jobless workers from employment opportunities ("Uninterested in the Unemployed," (<https://recruit.theladders.com/recruiter-resource-center/uninterested-in-unemployed>)). According to one quoted source, Matt Deutsch, communications coordinator at TopEchelon.com, the tendency to exclude the unemployed is "growing." Deutsch said:

Not all companies are doing this, but it certainly has become an issue. What's startling are the lengths to which companies and recruiters are going to communicate this, such as including the phrase "Unemployed candidates will not be considered" right in the job posting.⁸

Deutsch speculates that some companies may rationalize the exclusion on the assumption that the best candidates are likely to be those who are currently working. But in an economy with such high unemployment, he notes, it is simply not "100 percent true" that being employed is a proxy for suitability for a position. More likely, Deutsch says, firms are inundated with applications and screening out the unemployed is "a pretty simple metric that can easily reduce their workload . . ."⁹

Other staffing firm industry specialists similarly confirm that the unemployed need not apply. Amherst Healthcare headhunter Isang Inokon told *The Huffington Post* at the end of last year that "he has trouble placing jobless pharmacists because the reality of today's job market is that employers 'want somebody who's wanted'—

⁶ Isidore, op. cit.

⁷ Ibid.

⁸ Sharon L. Florentine, "Uninterested in the Unemployed," *The Ladders*, <https://recruit.theladders.com/recruiter-resource-center/uninterested-in-unemployed>, Jan. 2011.

⁹ Ibid.

that is, already employed.¹⁰ Another executive recruiter who has worked for major staffing firms for 20 years said, “There’s a lot of dirty stuff going on, a lot of hush-hush discrimination, I can assure you. As a recruiter,” he said, “you get an HR director on the phone, and they tell you point blank, ‘We want somebody . . . [who] currently has a job. We don’t want to see a resumé from anyone who’s not working.’ It happens all the time.”¹¹

In sum, there is a disturbing and growing trend among employers—honored by staffing firms—to refuse to consider the unemployed for available job openings, regardless of their qualifications. This refusal is often explicitly manifested in job ads that include restrictive language specifying that only currently employed candidates will be considered; or that no unemployed candidates will be considered, regardless of the reason for unemployment; or no candidate unemployed for more than a certain period (e.g., 6 months) will be considered. Employers or staffing firms questioned about such ads typically pull the ads or delete the exclusionary language, but that does not signal that they will not apply the exclusion in the selection process. Even more insidious, staffing firms and recruiters are aware of and honor employers’ preferences for candidates who are currently working, sometimes explicitly acknowledging to unemployed candidates that they are doing so but more often than not, simply not providing the reason the candidate will not advance through the process.

Blanket Exclusions of the Unemployed Has a Disparate Impact on Workers Protected Under Title VII and the ADEA: Both Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C. 2000 *et seq.*, and the Age Discrimination in Employment Act of 1967 (ADEA), 29 U.S.C. 621 *et seq.*, make it unlawful for employers to engage in practices that “limit, segregate, or classify” individuals in ways that will limit or deny employment opportunities based on race, gender, color, religion, ethnicity or age. Practices neutral on their face nevertheless violate Title VII and the ADEA if they have a disparate impact on members of protected classes. *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971); *Smith v. City of Jackson*, 544 U.S. 228 (2005).

Other witnesses are addressing the impact that refusal to consider the unemployed has on women, people of color, people with disabilities and other groups hit hard by unemployment. NELP’s testimony speaks largely to the impact of this exclusion on older workers. We note, however, that the evidence is strong that excluding unemployed workers from job consideration will have a disparate impact on people of color, and this is particularly true for African-Americans. In January 2011, when the official unemployment rate overall was 9.0 percent, the unemployment rate for African-Americans was 15.7 percent, compared with only 8.0 percent for white workers. That means that the share of African-American workers adversely affected by an employer ban on considering the unemployed is almost twice as large as the share of white workers affected by the exclusion.

The impact of excluding unemployed workers from job consideration is real and substantial for older workers as well. That’s because the persons most likely to be most affected by discrimination against the unemployed are those who have been unemployed longest; and long-term unemployment is far more likely among older unemployed workers than among their younger counterparts.

As described in the preceding sections, bans on considering unemployed workers for jobs are often linked to the duration of individuals’ joblessness; candidates unemployed 6 months or longer are out of luck. Even absent such an explicit time limitation, longer spells of unemployment are more likely to be obvious to employers and recruiters than shorter spells, and hence, will more readily trigger the assumptions that underlie exclusion of unemployed workers from job consideration.

Among unemployed workers, older workers are much more likely than their younger counterparts to experience long periods of unemployment that undermine opportunities to return to work. As shown in **Table 1**, older workers (55–64, or 65 and older) are almost equally likely to have been unemployed for a year or more as they are to have been unemployed for less than 6 months (more than 40 percent of older workers in each category). Younger workers, on the other hand, are far more likely to experience relatively short durations of unemployment than long-term unemployment, with more than 60 percent of workers younger than 35 years old unemployed for 6 months or less compared to less than a quarter unemployed for

¹⁰Laura Bassett, “Employers Won’t Hire The Jobless Because of the ‘Desperate Vibe,’” *The Huffington Post*, http://www.huffingtonpost.com/2010/12/03/employers-wont-hire-the-un_791710.html, Dec. 3, 2010, updated Feb. 2, 2011.

¹¹Laura Bassett, “How Employers Weed Out Unemployed Job Applicants, Others, Behind the Scenes,” *Huffington Post*, http://www.huffingtonpost.com/2011/01/14/unemployed-job-applicants-discrimination_n_809010.html, Jan. 14, 2011.

more than a year. Thus, a policy that excludes applicants from consideration based on duration of unemployment will fall more harshly on older unemployed workers.

Data about average durations of unemployment further underscore the disparate impact policies excluding persons unemployed for 6 months or longer will have on older jobless workers—an impact that has intensified as the jobs recovery has limped along. The average duration of unemployment is correlated with age of unemployed workers: the older the jobless worker, the longer (on average) the unemployment spell. Average durations of unemployment have grown over the past year. In January 2010, unemployed workers between the ages of 45–54 averaged 33.6 weeks of joblessness, compared to 42.0 weeks in January 2011. For unemployed workers between the ages of 55 and 64, the average duration rose from 37.4 weeks in January 2010 to 43.0 weeks in January 2011. And for those older than 65 years, average duration of unemployment as of January 2010 was 30.7 weeks, compared with 49.3 weeks as of January 2011. (See **Table 2**)

Thus, NELP believes that excluding the long-term unemployed from consideration for jobs will typically have an age-based disparate impact that can be justified only through an affirmative showing that a reasonable factor other than age justifies the practice. Similarly, as other witnesses will discuss in more detail, we believe these exclusionary practices have a disparate impact on people of color, especially African-Americans, who experience unusually high rates of unemployment and long-term unemployment.

Advancing Other State and Federal Remedies: The critical first step toward addressing this disturbing practice of shutting unemployed workers out of jobs is happening today—exposing the practice, exploring its legality, calling out employers and staffing firms that engage in it, and educating the public about its devastating impact on workers who need jobs, their families and communities. Excluding unemployed workers from employment opportunities also has serious negative consequences for the economy overall, increasing personal indebtedness, bankruptcies, and foreclosures; destroying credit; and diluting America’s storehouse of human capital. Raising public and policymaker awareness of this practice is thus both timely and critically important.

Next, it’s important to explore every available legal option to prevent this practice from spreading and cause even more damage at a time when workers are already suffering from record rates of joblessness. NELP strongly encourages the EEOC to review application of Title VII, the ADEA and the ADA to situations in which employers and/or staffing firms explicitly exclude unemployed workers from job consideration solely because of their unemployed status, or where investigations—either based on charges filed with the EEOC or initiated by the EEOC through a commissioner’s charge or directed investigation—support findings that respondents refused to consider unemployed workers or long-term unemployed workers for job openings, regardless of their qualifications.

But it’s not up to the EEOC alone to help turn this situation around. In addition, the EEOC should encourage State fair employment practice agencies to monitor these practices locally—holding their own forums, as the EEOC has done—and use their statutory authorities to challenge it. Congress and the State legislatures should hold hearings and, if needed, develop new laws to address the issue, perhaps building on State laws that now bar retaliation against workers who file unemployment claims.

At least one State, New Jersey, is also exploring legislation (Assembly bill no. 3359) that would make it unlawful for employers or their agents to include language in job postings that limits the applicant pool to only those individuals currently employed. The measure would impose civil penalties of up to \$5,000 for first offenses and up to \$10,000 for subsequent offenses. The legislation passed the New Jersey legislature but was “conditionally” vetoed by the Governor, and returned for consideration of his specific objections. Its review is ongoing.

CONCLUSION

The purpose of 20th century fair employment laws—whether banning discrimination based on race or gender, age, national origin, disability status or otherwise—was to erase the biases that had defined America’s workplaces and remove arbitrary barriers that deny employment opportunities to qualified individuals. Today’s working families, particularly those enduring unemployment, face a monumental economic crisis that is exacerbated by employers’ refusal to consider unemployed workers for jobs—a refusal that falls especially harshly on older workers, African-Americans and other protected groups. At a moment when we have so far to go to rebuild a sustainable economy that works for all, we hope employers will voluntarily step up, end the exclusion of unemployed applicants, and make job opportunities equally

available to all who qualify. Many employers do so. But given the pervasiveness of the practice of excluding the unemployed and its implications for jobless workers and the economy, relying on the good will of employers is not enough. The EEOC should continue to explore this problem and utilize its authority to restore the promise of equal opportunity for all.

Table 1.—Unemployment by Age
(Taken from Pew Center Analysis of Current Population Survey, Dec. 2010)

	Under 20	20–24	25–34	35–44	45–54	55–64	65+	Total
In thousands								
Employed	4,116	12,611	30,384	30,528	33,244	21,901	6,376	139,159
Unemployed:								
<26 weeks	970	1,336	1,965	1,340	1,281	697	206	7,796
27–51 weeks	125	306	451	391	417	229	60	1,979
>52 weeks	167	448	875	860	1,037	626	209	4,221
Total	1,262	2,090	3,291	2,591	2,735	1,552	475	13,997
Labor Force	5,378	14,701	33,675	33,119	35,980	23,452	6,851	153,156
As Percentage of Unemployed (Within Age Band)								
Unemployed:								
<26 weeks	76.9	63.9	59.7	51.7	46.8	44.9	43.4	55.7
27–51 weeks	9.9	14.6	13.7	15.1	15.3	14.7	12.7	14.1
>52 weeks	13.2	21.4	26.6	33.2	37.9	40.3	43.9	30.2

Data is not seasonally adjusted.
Source: **Addendum: A Year or More: The High Cost of Long-Term Unemployment**, Pew Fiscal Analysis Initiative, Pew Charitable Trusts, http://www.pewtrusts.org/our_work_detail.aspx?id=988, January 2011.

Table 2.—Average Duration of Unemployment by Age
January 2010, January 2011

Age group	January 2010		January 2011	
	Weeks unemployed		Weeks unemployed	
	Average (mean) duration	Median duration	Average (mean) duration	Median duration
Total, 16+	28.9	*18.6	35.5	19.9
16–19	20.8	12.2	21.4	11.7
20–24	24.3	14.2	28.5	15.5
25–34	28.3	19.1	32.8	17.8
35–44	27.7	17.0	38.5	22.6
45–54	33.6	24.1	42.0	27.5
55–64	37.4	28.4	43.0	26.8
65 percent	30.7	22.5	49.3	31.8

Data not seasonally adjusted.
NELP analysis of CPS data.
Source: Bureau of Labor Statistics, Household Data, Table A-36.

RESPONSE TO QUESTIONS OF SENATOR MURRAY BY REVEREND DR. MARVIN MOSS

Question 1. There is a lot of discussion among today's economists about how the impact of sustained long-term unemployment will impact the structural nature of the labor market in this country. More importantly, there's an untold cost of being long-term unemployed to an individual's dignity and sense of self-confidence. Supporting workers during this trying time isn't only about putting us on the right course for recovery, it's simply the right thing to do.

Can you help the committee further understand the impact that this struggle can have on a working family's psyche and why it's important that we as a nation stand with them?

Answer 1. Experience from our Cascade Career Network ministry, discussion with other career ministry leaders, career coaches, and grief experts suggested that job search momentum may be hampered by depression, disillusionment, discourage-

ment, and lack of resources to handle a multitude of interrelated challenges at the same time (finances, housing, transportation, child care, basic sustenance, bill collectors, Internet access, etc). This led to some research and a summary of a 2002 study that was published in the *Journal of Occupational Health Psychology* concludes that job loss and the resulting financial strain can lead to depression and strain on relationships, lost personal confidence and lowered self-esteem.¹

As some of previously mentioned issues begin to compound due to finances, without the communication and interpersonal skills to handle the crisis, the psychological trauma on the family may also compound. For single individuals, the circumstances may be no less traumatic as they feel isolated and without familial support. As jobseekers heard press accounts of “why don’t they just get a job”, some felt shame and became further depressed with a loosening grip on their self worth.

Family and friends may also embrace the tough love approach, as our society has little education on recognizing the symptoms of depression—rather most of our society has been subconsciously trained to hide negative feelings with expressions of “I’m doing fine”. So it is not unusual for anger and resentment to mount within the family experiencing job loss. We do know of personal accounts where families have dissolved under the pressures of job loss. One individual who years later learned of the psychologically immobilizing symptoms of grief associated with job loss expressed sorrow at divorcing the spouse who she now recognized was depressed.

Observing the public scorn of long-term jobseekers, our society, including children in the family of jobseekers, is subtly trained to hide the circumstances of unemployment and not to discuss the emotional pain. We do not know what impact this will have on the current and future generations. However, it appears that in addition to the clergy, it would be helpful to have an informed discussion of psychologist, sociologists, and career development and workforce development professionals to learn more from each other.

Question 2. Millions of our fellow citizens have been severely impacted by the recession, returning veterans, older Americans, minorities; the list goes on and on. However, one group that often goes unmentioned is our Nation’s youth.

Youth employment right now is the worst we’ve seen since World War II. This is especially problematic because we know serious delays at the beginning of a worker’s career severely decrease lifetime earnings and career outcomes.

Early work experience helps to shape young peoples’ work ethic and their work history, meaning they are more likely to pursue and achieve advancement in the workplace. These experiences help shape the next generation of leaders and the future health of our economy.

So, the fact that more youth than ever are finding it extremely difficult to find work—coupled with the fact that an alarming one-third of our high school students drop out before graduating—is a serious problem for the future of our country and our economy.

Can you explain how the recession has impacted today’s youth and their prospect for long-term employment? What impact has this had on their families?

Answer 2. In the case of youth, we think of high school students, post high school youth who are not pursuing further education, and college students; and I will limit my comments to the latter for the purpose of these comments. As college tuitions have continued to rise, more families are facing the prospect of not being able to meet the tuition, room and board, and related expenses necessary to keep their youth enrolled in college. In some cases, an evening job or summer job can make the difference. For many families who always had the wherewithal to meet the financial needs of their families, it is painful for them as a parent, and discouraging to youth who have experienced dramatic changes in their life circumstances. Yet for some families, these circumstances will be an opportunity for the family to come together and be strengthened. For others, the loss of direction may result in poor choices and life setbacks. What cannot be substituted however is the valuable experience that comes from employment, and for many will be instrumental in helping them gain permanent employment after graduation.

¹(See <http://www.healthypace.com/depression/workplace/study-depression-from-job-loss-is-long-lasting/menu-id-68/>).

The original study: Links in the chain of adversity following job loss: How financial strain and loss of personal control lead to depression, impaired functioning, and poor health; Price, Richard H.; Choi, Jin Nam; Vinokur, Amiram D., *Journal of Occupational Health Psychology*, Vol 7(4), Oct. 2002, 302–312. doi: 10.1037/1076-8998.7.4.302.

CONSUMER DATA INDUSTRY ASSOCIATION (CDIA),
WASHINGTON, DC 20005,
December 21, 2011.

Hon. MICHAEL B. ENZI, *Ranking Member,*
Committee on Health, Education, Labor, and Pensions,
U.S. Senate,
Washington, DC 20510.

Re: Comment submitted for the record for the hearing, "Tales from the Unemployment Line: Barriers Facing the Long-Term Unemployed", December 8, 2011

DEAR SENATOR ENZI: I write on behalf of the Consumer Data Industry Association (CDIA) to clear up some confusion left from your committee's December 8, 2011 hearing, "Tales from the Unemployment Line: Barriers Facing the Long-Term Unemployed."¹

At that hearing, during testimony from and questions to Christine Owens of the National Employment Law Project (NELP), there seemed to be some confusion about whether credit scores are used for employment decisions. The use of credit reports in employment decisions is a reliable tool, used in appropriate circumstances, by responsible employers to manage risk to their businesses, customers, and employees. However, to clear up confusion regarding the use of credit scores for employment decisions, I would like to be clear: CDIA members, which include the nationwide consumer reporting agencies, do not provide credit scores for employment decisions.

Sincerely,

ERIC J. ELLMAN,
Vice President, Public Policy
& Legal Affairs.

RAPID CITY ECONOMIC DEVELOPMENT,
RAPID CITY, SD 57701,
December 2, 2011.

Hon. MICHAEL B. ENZI, *Ranking Member,*
Committee on Health, Education, Labor, and Pensions,
U.S. Senate,
Washington, DC 20510.

Re: Support for Keystone XL Pipeline—Job Creation, Economic Benefits

DEAR SENATOR ENZI: I am writing to express our strong support for the Keystone XL pipeline. We believe moving forward on this project is in the best interests of our region and country and fully support it for three important reasons:

1. **Economic Growth.** Keystone XL will provide *significant economic benefits* for our Nation, State and region. The pipeline is expected to create approximately 20,000 manufacturing and construction jobs in the United States and will result in over \$5.5 billion in new spending in the Keystone XL corridor States, including \$470 million in South Dakota. It will also generate an additional \$5.2 billion in property taxes during the operating life of the pipeline. At a time when State and local governments across the country are struggling to balance budgets, and the *national unemployment remains over 9 percent*, these revenue and employment benefits are critical.

2. **Energy Security.** By increasing our access to energy supplies in Canada, our neighbor and loyal ally, as well as domestic supplies from the Bakken Formation here at home, the pipeline will be *critical to our country's efforts to reduce our dependence* on Middle East and Venezuelan oil by as much as 40 percent. By providing refineries along the Texas Gulf Coast with more than 700,000 barrels of oil each day from domestic and Canadian resources, this pipeline will *dramatically reduce our reliance on oil imports from volatile regions* of the world.

3. **Environmental Sensitivity.** As leaders from the region that the Keystone XL pipeline will traverse, *we applaud and respect the Department of State's thoroughness* and agree with the Final EIS conclusion that *there are no substantial environmental concerns* that should prevent construction of this valuable energy infrastructure project.

¹ CDIA was founded in 1906 and is the international trade association that represents some 200 consumer data companies. CDIA members represent the Nation's leading institutions in credit reporting, mortgage reporting, check verification, fraud prevention, risk management, employment reporting, tenant screening and collection services.

We urge leaders in Congress, the White House and the State Department to move expeditiously to approve the pipeline and grant TransCanada the Presidential permit it needs to proceed.

Sincerely,

BENJAMIN L. SNOW,
President.

SOCIETY FOR HUMAN RESOURCE MANAGEMENT (SHRM),
ALEXANDRIA, VA 22314-3499,
December 22, 2011.

Hon. TOM HARKIN, *Chairman,*
Committee on Health, Education, Labor, and Pensions,
U.S. Senate,
Washington, DC 20510.

Hon. MICHAEL B. ENZI, *Ranking Member,*
Committee on Health, Education, Labor, and Pensions,
U.S. Senate,
Washington, DC 20510.

DEAR CHAIRMAN HARKIN AND RANKING MEMBER ENZI: I am writing to submit this letter to the official record for the Committee on Health, Education, Labor, and Pensions hearing "Tales from the Unemployment Line: Barriers Facing the Long-Term Unemployed" held on December 8, 2011.

The Society for Human Resource Management (SHRM) is the world's largest association devoted to human resource (HR) management. Representing more than 250,000 members in over 140 countries, the Society serves the needs of HR professionals and advances the interests of the HR profession. Founded in 1948, SHRM has more than 575 affiliated chapters within the United States and subsidiary offices in China and India.

We have appreciated a long, working relationship with both of you and your staffs, as well as with the National Employment Law Project. But we are writing to clarify the hearing record regarding SHRM's survey data on employer background investigations that was cited during the December 8 hearing. In 2010, SHRM released a survey of HR professionals entitled "Background Checking: The Implications of Credit Background Checks on Hiring Decisions," and in 1998, SHRM promulgated a different survey called "Reference and Background Checking."

Christine Owens, executive director of the National Employment Law Project, testified during the December 8 hearing on employer use of credit background screening. Specifically, Ms. Owens' testimony stated:

"Data from the Society for Human Resource Management (SHRM) indicates that credit background screening has exploded in recent years, rising from 25 percent of employers in 1998 to 60 percent in SHRM's most recent survey, reported in December 2010."

Unfortunately, the NELP statement draws a conclusion that is, at best, incorrect, and at worst, selective and misleading. Specifically, NELP's reference to the 1998 data fails to include all of the positive responses to the question which asked "How frequently does your organization, or an agency hired by your organization check any of the following references for its job candidates?" Under the possible response "Credit checks," 12 percent of respondents revealed that they conduct credit checks "Regularly," 13 percent selected "Sometimes," and 17 percent selected "Rarely." Thus, at a minimum, 42 percent of employers revealed they conducted credit checks in 1998, not 25 percent as stated in the NELP testimony. It is worthwhile to note that 49 percent indicated they "Never" conduct credit checks on job candidates in 1998.¹

Whereas, in 2010, the SHRM survey asked respondents "Does your organization or an agency hired by your organization, conduct credit background checks for any job candidates by reviewing the candidates' consumer reports?" The 2010 SHRM poll found that 60 percent of employer respondents conduct credit checks on at least some applicants, however 40 percent indicated that they do not conduct credit checks on any job candidates. But within the 60 percent total, only 13 percent of employers consider credit information for all job applicants. Another 47 percent of employers use credit checks, but they only perform checks on applicants for certain

¹ Society for Human Resource Management. Reference and Background Checking. 1998.

positions. As an example, 91 percent of employers that conduct credit checks do so for jobs that involve handling money.²

Later during the hearing, in response to Senator Enzi asking “Is there evidence that the employers are actually using credit rating scores?” Ms. Owens replied by again comparing the 1998 and 2010 survey results:

“Well, I would refer, again, to my testimony. And I don’t know, Senator Enzi, about whether what they use is scores or some other kind of information. But the Society for Human Resource Management reported at the end of 2010 on its survey of employers and their use of credit background checks as part of the employment screening process and found that 60 percent of employers said that they were doing credit background checks. And that was an increase from 25 percent in 1998, so there certainly is, at least in terms of SHRM, which is a very well-recognized human resource organization nationally—there is evidence—significant evidence that employers have access to some credit rating information which they use.”

It is important to note that employers do not have access to credit scores at all, only the credit histories themselves. The Fair Credit Reporting Act (FCRA) authorizes employers to obtain a credit report for “employment purposes” from a consumer reporting agency, but these reports do not include credit scores. The FCRA requires employers to clearly disclose to the individual, in writing, that a report may be obtained for employment purposes and to get his or her written authorization. FCRA also requires that the employer provide the individual with a copy of the report and a written description of the consumer’s rights before taking any adverse action based in whole or in part on the report.

The 2010 SHRM survey further demonstrated that:

- If a negative credit incident is found, the vast majority of employers (87 percent) give the applicant an opportunity to explain the circumstances of the incident. Employers are not required to seek an explanation, but such followup allows applicants a chance to learn of potentially inaccurate credit information or to give details about an incident.
- Only specific credit information affects hiring decisions. Of the relatively few employers that check applicants’ credit reports, pending debt lawsuits (64 percent) and accounts in debt collection (49 percent) were cited as issues most likely to affect their decision to extend a job offer.
- Of the relatively few employers that check applicants’ credit reports, practically no employers consider past medical-related debt (1 percent) and very few consider home foreclosures (11 percent) when making an employment decision.
- The vast majority of employers that conduct credit background checks on job candidates look at 6–7 years of credit history, not isolated debt incidents.³

Chairman Harkin and Senator Enzi, employers perform background checks on potential hires that may include verification of educational and professional history, professional licensure contacting references, and in some cases, a review of an employee’s credit history. SHRM believes that background investigations—including credit checks—serve as an important means to helping employers ensure safe and secure work environments for current and future employees, customers and the public. Credit checks are important in part because it is increasingly difficult for employers to get a complete picture about a job candidate. For example, reference checks often yield little robust information because parties providing references are often concerned about defamation lawsuits.

SHRM is very concerned about legislative and regulatory efforts to place blanket restrictions or outright prohibitions on the rights of organizations under the FCRA to consider credit information in making employment decisions. Credit checks are conducted because the consequences of making a poor hire are significant. Employers must be conscientious during the hiring process due to the organizational threats of financial mismanagement, embezzlement, theft, legal liability and identity theft. According to a 2008 report by the Association of Certified Fraud Examiners, employee financial difficulties and living beyond one’s means were the two most common warning signs for employees who commit workplace fraud.⁴ New restrictions on credit checks would remove an important tool that employers can use

²Society for Human Resource Management. Background Checking: Conducting Credit Background Checks. 2010.

³Society for Human Resource Management. “Background Checking: Conducting Credit Background Checks.” 2010.

⁴Association of Certified Fraud Examiners. Report to the Nation on Occupational Fraud and Abuse. 2008.

to help them make good hiring decisions and consequently protect employees, customers and the public.

Furthermore, employees and job applicants are already protected by the Fair Credit Reporting Act, which requires an employer to provide advance notice and secure a signed consent to a job applicant that a credit check may be done. If an applicant is not hired in part because of a credit report, the employer must inform an applicant of the decision and provide a copy of the report. The 2010 SHRM survey⁵ showed that the vast majority of employers (87 percent) go beyond what the FCRA requires by giving an applicant an opportunity to explain the circumstances of a noteworthy credit incident in his or past. Such followup allows applicants a chance to learn of potentially inaccurate credit information or to give details about an incident.

If you have any questions, please contact Michael Layman on SHRM's Government Affairs staff at michael.layman@shrm.org or 703-535-6058.

Thank you for your consideration of this request.

Sincerely,

MICHAEL P. AITKEN,
Vice President of Government Affairs.

UNION LETTERS

BUILDING AND CONSTRUCTION TRADES DEPARTMENT,
AMERICAN FEDERATION OF LABOR—CONGRESS OF
INDUSTRIAL ORGANIZATIONS (AFL-CIO),
WASHINGTON, DC 20006-4104,
January 25, 2011.

The Honorable BARACK H. OBAMA,
PRESIDENT OF THE UNITED STATES,
The White House,
Washington, DC 20500.

DEAR PRESIDENT OBAMA: The Building and Construction Trades Department, AFL-CIO shares your Administration's vision for a modern U.S. energy policy that calls for enhancing our energy security, developing self-reliant North American energy production and improving our Nation's economy. We believe that approval of the Keystone XL pipeline takes a major step toward helping us reach those important goals.

The Keystone XL project will construct a 2,000-mile, 36-inch crude oil pipeline beginning in Alberta, Canada and extending southeast through several States. This \$12 billion project will substantially expand the underground pipeline infrastructure in the United States allowing for the transportation of crude oil from Canada to Gulf Coast refineries. By constructing a safe, reliable method for transporting crude through the Midwest, this initiative not only fulfills sound U.S. energy policy goals, but will spur employment opportunities for American workers in the construction industry, as well as many other industries.

It has been estimated that construction of the pipeline, scheduled to take place from 2011 to 2012, will create 13,000 high-paying construction jobs alone. In addition, it is estimated that over 340,000 additional U.S. jobs will be generated between 2011 and 2015 in related manufacturing and service industries as a result of the pipeline and development of resources in Canada. This private sector initiative will provide millions of dollars in economic stimulus and needed revenues to State and local communities throughout the country.

This critical project will also strengthen our energy security and flexibility. Canada, already the No. 1 supplier of oil and natural gas to the United States, and second in the world only to Saudi Arabia with its large oil reserves, is a friendly and reliable ally. In a world where energy supply risks are increasing, we believe it would be a mistake to turn away from our neighbor and miss the opportunity to fully benefit from the development of safe, secure and abundant energy resources.

Although the final Environmental Impact Statement has not been released, the Draft Environmental Impact Statement (DEIS) concluded that the proposed Keystone XL Pipeline would have "limited adverse environmental impact during construction and operation" and that it would significantly strengthen U.S. economic security. We encourage your Administration to conclude its review of the DEIS as

⁵The 2010 SHRM survey "Background Checking: The Implications of Credit Background Checks on Hiring Decisions," can be found at: www.shrm.org/Research/SurveyFindings/Articles/Pages/BackgroundCheckingImplications.aspx.

quickly as practical so that the necessary permits can be issued. The sooner these actions are completed the sooner projects benefits will be realized.

Sincerely,

MARK H. AYERS,
President.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
WASHINGTON, DC 20001,
October 22, 2010.

The Honorable HILLARY RODHAM CLINTON,
SECRETARY OF STATE,
U.S. Department of State,
Washington, DC 20520.

DEAR SECRETARY CLINTON: We respectfully request that the State Department complete its environmental assessment of the impact of the Keystone XL Pipeline so that the National Determination review period might commence and a Presidential permit might be approved. Each week that goes by in the State Department's permitting process of the Keystone XL, a process that has gone on for more than 2 years, is lost ground for thousands of workers who are sitting on the sidelines of our ailing national economy.

All four of our International Unions—the United Association of Plumbers and Pipefitters, the International Union of Operating Engineers, the International Brotherhood of Teamsters and the Laborers' International Union of North America—have executed a project labor agreement to build the Keystone XL Pipeline. We are committed to making Keystone XL a reality for our Nation and we are prepared to begin work as soon as the Presidential permit for the \$7 billion privately funded Keystone XL pipeline is approved.

By facilitating this project, you have the power to pave a path to better days and raise the standard of living for working men and women in the construction, manufacturing and transportation industries. According to the Center for American Progress, 2.1 million construction workers are out of a job. Early this year, unemployment in the construction industry actually jumped to 25 percent. The ripple effect is bleak; segments of the manufacturing industry which produces building materials are currently operating at half their production capacity as a result of the steep declines in the construction industry. According to a recent Federal Reserve projection, the U.S. economy has been losing momentum since the end of last year.

Approving the Keystone XL Pipeline project will ignite segments of our ever weak economy. An independent review of the Keystone XL's potential economic impact finds that during the construction period the pipeline will stimulate \$20 billion in new spending for the U.S. economy, spur the creation of 118,000 jobs and generate more than \$585 million in State and local taxes for the States along the pipeline route. When Keystone XL is operational, the States along the pipeline route are expected to receive an additional \$5.2 billion in property taxes during the operating life of the pipeline, according to the analysis. That kind of renewed, tangible prosperity is the kind of change the American worker can believe in.

We are aware of the arguments put forward by the opponents of Keystone XL. Generally, their criticism centers on the belief that further development of Canada's oil sands puts in jeopardy U.S. efforts aimed at capping carbon emissions and greenhouse gas. While we clearly understand that our Federal Government is seeking to develop a balanced policy to address our Nation's energy and environmental needs and challenges, efforts to block Keystone XL would undermine rather than further this goal. Comprehensive energy and environmental policy should strive to address climate concerns while simultaneously ensuring adequate supplies of reliable energy and promoting energy independence and national security. Alternative energy sources are generally still in developmental stages; therefore it is likely that the U.S. consumer will remain substantially dependent on carbon fuels for the next several decades. The Keystone Project, which will greatly promote U.S. energy independence, will provide secure access to reliable energy for years to come and strengthen relations with Canada, which is one of the U.S.'s strongest, strategic allies.

Secretary Clinton, we call on you to approve a Presidential permit for Keystone XL so that the American worker can get back to the task of strengthening their families and the communities they live in.

Sincerely,

WILLIAM P. HITE, *General President,*
United Association of Journeymen and Apprentices of the
Plumbing and Pipefitting Industry of the U.S. & Canada, AFL-CIO.

VINCENT J. GIBLIN, *General President,*
International Union of Operating Engineers.

TERENCE M. O'SULLIVAN, *General President,*
Laborers' International Union of North America.

JAMES P. HOFFA, *General President,*
International Brotherhood of Teamsters.

INTERNATIONAL UNION OF OPERATING ENGINEERS (IUOE),
 WASHINGTON, DC 20036-4707,
 November 15, 2011.

The Honorable HILLARY RODHAM CLINTON,
 U.S. Department of State,
 Washington, DC 20520.

DEAR SECRETARY CLINTON: The Administration's decision to require the analysis of a different route for the Keystone XL pipeline is a profound disappointment to the International Union of Operating Engineers. The State Department's unprecedented decision to backtrack on its own conclusions contained in the Final Environmental Impact Statement suggests a troubling political calculus, which ignores the merits of the project.

With the authority to create approximately 20,000 construction and other jobs with the stroke of a pen, at a time when the unemployment rate in construction is the highest of any sector, the Administration missed a major opportunity to employ members of the IUOE and other unions. Because of the unique authority your Administration possessed to create jobs almost immediately, without congressional action or a dime of public investment, this decision will reverberate throughout the membership of the Operating Engineers.

To make matters worse, the pipeline has been subjected to the most rigorous environmental analysis of any pipeline in the world, literally. The conclusions and analysis of the environmental review simply do not support the Administration's decision. According to the Final Environmental Impact Statement, the 57 special conditions developed by the Pipeline and Hazardous Materials Safety Administration and the Department of State—and voluntarily agreed to by TransCanada—" . . . would have a degree of safety greater than any typically constructed domestic oil pipeline system under current regulations."

There are over 2,000 miles of hazardous materials pipelines crisscrossing the Ogallala Aquifer today. These hazardous materials pipelines are not, according to PHMSA, required to meet the same standards to which Keystone XL, had been subjected. To address the concerns raised throughout the process, TransCanada agreed to the Sandhills regional reclamation plan, which establishes special construction, reclamation, and post-construction procedures specifically for this area in consultation with local experts and State agencies.

IUOE members were looking to you for leadership on this project. You could have put thousands of Operating Engineers, many of whom are unfortunately on the sidelines of our ailing national economy, back in the game, giving them the ability to provide for their families, obtain health care, and pay their mortgages. In February 2010, unemployment in the construction industry reached over 27 percent. The effects have been staggering on our members and their families. The timely approval of this project by your Administration could have been a vital lifeline for thousands of workers. Now the uncertainty thrust into the permitting process may mean that the project will not go forward—and those jobs will not be created.

With the stroke of a pen, your Administration had the ability to employ thousands of IUOE members. Foregoing that opportunity will have a devastating impact on the livelihoods of thousands of IUOE members and their families—many of whom have borne the brunt of the Nation's dismal economic performance.

It is unfathomable that, nearing the end of a process that has taken more than 3 years and has already included the rare development of a supplemental draft envi-

ronmental impact statement, the Administration will now inject more uncertainty into the process.

What do we tell these unemployed IUOE, members and other pipeline construction workers?

Sincerely,

VINCENT J. GIBLIN,
General President.

ROCKY MOUNTAIN ENVIRONMENTAL LABOR COALITION,
COLORADO SPRINGS, CO 80905,
September 6, 2011.

The Honorable HILLARY CLINTON,
Secretary, U.S. Department of State,
Keystone XL EIS Project,
Washington, DC 20090-6503.

Re: Keystone XL National Interest Determination

DEAR SECRETARY CLINTON: On behalf of the Rocky Mountain Environmental Labor Coalition (RMELC), I am writing to express RMELC's strong support for the Keystone XL pipeline project and to urge you to grant the Presidential permit needed for construction of the Keystone XL pipeline to begin. RMELC firmly believes that the Keystone XL pipeline project is in our country's national interest because there are no substantial environmental concerns that should prevent construction of this critical infrastructure project and this pipeline project will directly create at least 20,000 high-wattage jobs, spur significant economic growth, improve our national security and provide a long-term, stable energy supply to the United States.

Founded approximately 8 years ago, RMELC is a coalition of labor leaders and environmental organizations dedicated to finding common ground on environmental and labor issues for construction projects and to seeking fair and equitable construction projects that are both environmentally sound and worker friendly, with livable wages and benefits. Our Board includes members from Environment Colorado, Sierra Club and Colorado Environmental Coalition, the International Brotherhood of Electrical Workers, Iron Workers, Laborers International Union of North America, International Union of Operating Engineers and the United Association.

RMELC applauds the Department of State's thorough review process, which has provided significant opportunities for public input. Moreover, RMELC believes that the Department of State has fully analyzed the project's environmental impact and the Department's final Environmental Impact Statement rightfully concludes that there are no substantial environmental concerns that should prevent construction of this valuable energy infrastructure project. RMELC also has confidence that TransCanada will be a good steward of the land and that Keystone XL will be constructed using industry best practices and will meet or exceed all existing pipeline regulatory standards.

RMELC also finds that the economic benefits of the privately funded, shovel-ready Keystone XL pipeline project are substantial and in America's national interest. With unemployment stubbornly high, this pipeline is expected to directly create approximately 20,000 manufacturing and construction jobs.

Significantly, the Keystone XL pipeline is the subject of a Project Labor Agreement with four international unions, ensuring that Keystone XL will create good jobs with good wages and benefits in the United States. Moreover, this means the Keystone XL pipeline will be built with highly trained and capable union workers who will ensure that the project is implemented with a clear focus on safety, quality and environmental considerations.

It is also important to note that not only will the Keystone XL pipeline directly create 20,000 high-wattage jobs, but independent studies also calculate that the construction of Keystone XL will create an additional 118,000 indirect and spin-off jobs. Keystone XL is also projected to generate more than \$5.2 billion in tax revenue for the pipeline's corridor States. At a time when State and local governments across the country are struggling to balance their budgets, these employment and revenue benefits cannot be overlooked.

Finally, RMELC also believes that Keystone XL will also strengthen our national security and provide a long-term, stable supply of energy to the United States. By providing refineries along the Texas Gulf Coast with more than 700,000 barrels of oil each day from domestic and Canadian resources, this pipeline will dramatically reduce our reliance on oil from unreliable and often unfriendly sources.

RMELC believes that construction of the Keystone XL pipeline is in the best interest of all Americans, and we respectfully request that the Department of State expeditiously approve the project and grant TransCanada the Presidential permit necessary to begin building the pipeline.

Sincerely,

RICK ALLEN, *President,*
Rocky Mountain Environmental Labor Coalition.

[Whereupon, at 11:38 a.m., the hearing was adjourned.]

