Replace Welfare for Contingent Workers with Unemployment Compensation

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Replace Welfare for Contingent Workers with Unemployment Compensation

Cover Page Footnote
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I. Introduction

- Richard V. worked seven years for General Motors in Detroit. Unable to continue because of ruptured discs, he received disability benefits before actively seeking work again. After his extended UI benefits expired, he survived on a $345 General Assistance grant, living in a church rent-free in return for light housekeeping chores.

- Jerome L. worked as a ramp agent for nine years at San Francisco Airport for Pacific Southwest Airlines and its successor US Air. Because of several absences from work on account of serious personal problems, he was fired for misconduct, thus becoming ineligible for UI benefits. Because state unemployment was over 9% at the time, he was only able to find a $310 per month job on Sundays running a city community center. He lived in his father’s van for a while.

The current American welfare reform debate ignores a fundamental reason why so many low-income persons rely on income-maintenance programs (“welfare”): the ineligibility of over half of the work force for Unemployment Insurance Benefits (UI). This Essay analyzes the reasons for this lack of UI coverage and proposes reforms to ensure coverage under the Unemployment Compensation system to all employable persons.

The national welfare reform debate has regrettably focused exclusively on the Aid to Families with Dependent Children (AFDC) program, while ignoring millions of employable, single adults who

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1. CAL. UNEMP. INS. CODE § 1256 (West 1986).

2. The Unemployment Insurance system is a federal program that (1) aims to temporarily replace a portion of unemployed worker’s lost wages and (2) helps stabilize the economy during a recession by providing the unemployed a part of their lost purchasing power. GENERAL ACCOUNTING OFFICE, HRD-93-107, UNEMPLOYMENT INSURANCE: PROGRAM’S ABILITY TO MEET OBJECTIVES JEOPARDIZED 13 (1993) [hereinafter GAO REPORT]. The Unemployment Insurance system provides benefits, generally for up to twenty-six weeks, to unemployed workers who have worked long enough and earned sufficient wages to meet their states’ minimum eligibility standards. Id.
survive on benefits of less than $300 per month, and who in many cases live in states that in recent years have either abolished their General Assistance (GA) programs, imposed time-limits to those programs or reduced GA benefits so severely that people have become homeless. Although the debate has touched peripherally on such laudable anti-poverty strategies as the Earned Income Tax Credit (EITC) expansion, it has ignored the bigger issue of why poverty continues to worsen despite the public assistance programs already in place. In response to perceived public pressure, slogans have replaced real solutions. “Three strikes and you’re out” in the criminal justice debate has mutated to “Two years and you’re off” in the welfare debate.

3. “General Assistance” refers to state and local public assistance programs that provide cash or in-kind benefits to needy individuals who are generally ineligible for federal public assistance programs. Not all states operate a GA program. These programs are often the only viable option for single, childless unemployed adults who are not eligible for federal programs. Some states and localities refer to these programs as “General Relief” or “Home Relief,” but this Essay will use the term General Assistance to refer to all such non-federal public assistance programs.

4. The Earned Income Tax Credit (EITC) is a tax benefit for working people who earn low or moderate incomes. 26 U.S.C. § 32 (1988 & Supp. V 1993). It is the single most effective program today to “make work pay” so that welfare recipients are encouraged to become employed. This year it will be extended to adults with no children, although their benefits are extremely limited. 26 U.S.C. § 32 (c)(1). Regrettably, some new Congressional leaders want to cut back the program. See, e.g., 141 CONG. REC. S3385 (daily ed. Mar. 2, 1995)(statement of Sen. Nickles, characterizing the current rates of EITC eligibility in the District of Columbia as “absurd”).


7. The national media plays a significant role in fueling hostility towards welfare recipients. ABC's Prime Time addressed AFDC fraud in September, 1993: an investigator estimated that 50% of AFDC recipients were cheating! ABC Prime Time Live: Welfare Fraud (ABC television broadcast, Sept. 17, 1992), available in LEXIS, News Lib., Script File. No other estimates were provided and ABC never responded to a request to present a different view. In January, 1995 ABC broadcast a similar program on Food Stamp fraud. ABC Prime Time Live: A Second Currency (ABC television broadcast, Jan. 11, 1995), available in LEXIS, News Lib., Script File, Trans. No. 384. Official government fraud figures are much lower. California estimated errors in only 9.4% of cases, including non-fraudulent situations such as welfare department mistakes and honest client errors. STATE DEPARTMENT OF SOCIAL SERVICES, AFDC QUALITY CONTROL CORRECTIVE ACTION PLAN: OCTOBER 1990-SEPTEMBER 1991, cited in McKeever, THE SONG REMAINS THE SAME: RESELLING PROPOSITION 165 34-35 (1993). The same study estimated underpayments in 4.2% of all cases.
All attempts at welfare reform will fail unless they result from a comprehensive understanding of why people are poor. Aside from the inadequacy of benefits, poverty also results from the lack of available jobs, particularly full-time jobs paying above the federal poverty line. Hysterical claims about welfare recipients refusing to look for work and preferring AFDC should be tempered by several ignored realities.

First, the Federal Reserve Board asserts that at least 6% of the workforce must be unemployed at any given time to prevent inflationary wage pressure from overheating the economy. This TUR, which the Federal Reserve Bank considers the minimum unemployment rate that would have no adverse effect on the national inflation rate, is known by some economists as the "nonaccelerating inflation rate of unemployment" or the "natural unemployment rate."

The TUR, as defined above, however, underestimates the Hidden Unemployment Rate by about one half. In other words, be-

8. This Essay will not discuss other ignored causes of poverty. For example, while 14.5% of Americans live below the federal poverty level, the households which are the richest 5% now control nearly a fifth of all the national wealth, according to Census Bureau figures released in 1994. This disparity has been increasing since the early 1980s, in large part due to tax cuts. As of 1992, one policy group found that the total cost of this redistribution of wealth, including the $84 billion tax cut enjoyed by the one million richest families plus the $81 billion in interest the government would pay because of those tax cuts, equaled nearly the entire annual federal budget deficit. ROBERT MCINTYRE, CITIZENS FOR TAX JUSTICE, INEQUALITY AND THE FEDERAL BUDGET DEFICIT 8 (1991).

9. The United States lags far behind all other members of the Organization of Economically Developed Countries (OEDC) in terms of the effectiveness of government anti-poverty intervention strategies. A 1991 study of seven Western industrial nations revealed that at least 75% of poor families were lifted out of poverty in the Netherlands, Sweden and the United Kingdom, compared to 50% in France; 33 1/3% in West Germany, 20% in Canada and only 4.5% in the U.S. CENTER ON HUNGER, POVERTY AND NUTRITION POLICY, STATEMENT ON KEY WELFARE REFORM ISSUES 18 (1995)(citing K. McFATE, ET AL., JOINT CENTER FOR POLITICAL AND ECONOMIC STUDIES, POVERTY INEQUALITY AND THE CRISIS OF SOCIAL POLICY: SUMMARY OF FINDINGS (1991)).

10. James Risen, Fed Economists Become Nervous When Unemployment Figures Fall, L.A. TIMES, Aug. 29, 1994, at A1. The Total Unemployment rate (TUR) is, as its name implies, the total number of all unemployed workers relative to the entire work force. In January, 1995, the rate rose to 5.7% (8.2% in California), thanks to the seventh hike on the interest rate by the Federal Reserve Bank in the past year. See Patricia Moore, State Jobless At 20-Yr. Low; Economists See New Interest Rate Hike, Chi. SUN-TIMES, Jan. 7, 1995, at 1.


cause Federal Reserve Bank considers a stable TUR to be roughly 6%, our economic system today requires that approximately 12% of the entire workforce, or one in eight workers, be effectively unemployed.\textsuperscript{14} A recent \textit{San Francisco Examiner} headline, declaring, "Jobless rise sends markets soaring," dramatically illustrates the degree to which Wall Street considers higher unemployment economically beneficial.\textsuperscript{15}

Second, the percentage of unemployed persons who receive unemployment compensation has dropped dramatically. The New Deal social compact that led to passage of the 1935 Social Security Act\textsuperscript{16} guaranteed that unemployed workers be entitled to Unemployment Insurance Benefits. As the memory fades of how close the Nation came to social revolution when millions were unemployed and totally destitute, so too does this national commitment.

The consequence of these (and many other) gaping holes in the UI safety net is that many ineligible workers have no choice but to apply for welfare. Others who do receive UI must often also rely on welfare benefits because the UI level is so low for low-wage workers. Increasingly restrictive UI eligibility rules exclude the sector of the economy that is expanding relative to other groups:

\textsuperscript{14} Unemployment of minorities has been historically double that of whites, even higher in inner cities. The National Urban League estimated in its 1993 report, \textit{State of Black America}, that in 1991, when the overall TUR was between 6-7%, the TUR for African-Americans was 12.4% and the Hidden Unemployment Rate for African-Americans was 23.1%. \textit{National Urban League, State of Black America} (1994). If a TUR of 6% is considered today to be the lowest TUR the Federal Reserve will permit, meaning a 12% overall hidden unemployment rate and a hidden unemployment rate of 24% for African-Americans, the inescapable conclusion is that at least one-quarter of all employable African-Americans will be unemployed at all times. Lesser unemployment will mean that the overall TUR has fallen too low. In response, the Federal Reserve will raise interest rates to prevent overheating of the economy, thus causing a rise in unemployment rates. For California, which has suffered unemployment rates that are consistently higher than the national figures during this past recession, the calculations are worse: with California's TUR at 8.2% at the time of the last of seven upward adjustments to the interest rate, approximately one-third of all African-Americans in California were unemployed.


the contingent and part-time work force. Women and people of color form a disproportionate share of this segment of the work force.\(^{17}\)

National policymakers ignore these truths. Instead, political rhetoric blames the poor for their unemployment and demands that they be weaned from welfare and told to find nonexistent jobs.\(^{18}\) While the welfare debate has stalled on behavior modification strategies\(^{19}\) and queries whether the federal government should play any anti-poverty role at all, productive debate on developing a national anti-poverty strategy involving both the private and public sectors has been stifled.

The goal of welfare reform should be not to reduce the availability of AFDC—or any other income maintenance entitlement program—to those who must rely on it. Rather, reform efforts should attempt to reduce the need for such programs through the development of different anti-poverty tools.

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17. Although women comprise 45% of the labor force, they constitute a full 67% of part-time workers. U.S. BUREAU OF CENSUS, CURRENT POPULATION REPORTS, SERIES P-60, No. 175, POVERTY IN THE UNITED STATES, 1990. Additionally, African-Americans are 1.7 times as likely as white workers to hold part-time jobs involuntarily. NATIONAL EMPLOYMENT LAW PROJECT, BRIEFING BOOK: U.S. DEPARTMENT OF LABOR OVERSIGHT AND REFORM OF THE UNEMPLOYMENT COMPENSATION PROGRAM, EXECUTIVE SUMMARY 4 (1994)(citing Chris Tilly, Short Hours, Short Shift: the Causes and Consequences of Part-Time Employment, in NEW POLICIES FOR THE PART-TIME AND CONTINGENT WORKFORCE, 15, 19 (Virginia duRivage ed., 1992)). African-Americans hold 20.2% of all temporary jobs, although they comprise only 10.4% of the workforce. Id. (citing Francoise J. Carre, Temporary Employment in the Eighties, in NEW POLICIES FOR THE PART-TIME AND CONTINGENT WORKFORCE, supra, at 50); see also id. at 4.

18. When a report was issued that noted that one in six Californians were hungry, a spokesperson for Governor Pete Wilson said: “What’s causing people to go hungry is that they’re not working . . . People are going to continue to live in poverty unless they make some attempt to enter the work force.” Yumi Wilson, One in Six Californians Go Hungry, Report Says, SAN FRANCISCO CHRON., Apr. 7, 1995, at A1.

19. Personal Responsibility Act, H.R. 4, Tit. I, § 100, 104th Cong., 1st Sess. (1995)(“It is the sense of the Congress that . . . in light of . . . the crisis in our nation, the reduction of out-of-wedlock births is an important government interest and the policy contained in provisions of this title address[sic] the crisis.”).

Professor Lawrence Mead has characterized the welfare system as a potential asset, because it gives the government leverage over the lifestyles of the poor. See generally LAWRENCE MEAD, THE NEW POLITICS OF POVERTY: THE NONWORKING POOR IN AMERICA (1992). Republican Governors who want block grants with no strings attached currently find themselves opposed by Congressional leaders who want to ensure control over the use of federal money, for example denying it to teenage mothers. See, e.g., Phil Willon, Block Grants May Pose Problems for State, TAMPA TRIB., Apr. 4, 1995, at 6 (predicting Florida’s likely inability to control public assistance programs if block grant system with strings attached is implemented).
This Essay examines the manner in which our current system of unemployment insurance maintains poverty and often increases dependence on public assistance programs at a time when those programs are weakening. Part II examines (i) the current plight of the working poor, detailing how low wage earners must resort to welfare when they lose their jobs and sometimes even while working; (ii) the inadequacy of the unemployment compensation system; and (iii) the failure of welfare programs to compensate for the weaknesses of that system. Part III proposes reforms to the unemployment compensation system. Part IV proposes a new system that would help employable persons with inadequate ties to the workforce to qualify for "unemployment assistance" benefits. Part V explains why the proposed system makes sense in light of the current unemployment situation.

II. The Crisis of the Working Poor

The current debate ignores the plight of the working poor, persons who struggle to maintain a job, yet do not earn enough to survive or work long enough to develop a stable work history. This Part discredits the myth of the lazy AFDC recipient and explains that one solution for many AFDC recipients in addition to more jobs, would be more unemployment compensation.

A. Those in Poverty Work But Remain Poor

Millions who work full-time at the minimum wage remain poor.20 The current $4.25 minimum wage is nearly $1.75 below what it would be had the 1975 level been adjusted for inflation.21 In fact, the real value of the minimum wage is now at its second lowest level since 1955.22 For minimum wage workers without

20. One out of every seven members of our population live below the federal poverty level and many more persons are poor. Experts argue that the federal poverty level, calculated by tripling the amount supposedly needed to buy food is too low because it is based on a false premise about the relative cost of today's necessities, particularly rent. See Maggie Spade, Poverty Measures Mask the Depth of Poverty in America, 28 CLEARINGHOUSE REV. 517, 518-19 (1994). For 1993-94, the poverty level was under $1000 a month for a family of three.

21. ISAAC SHAPIRO, CENTER ON BUDGET & POLICY PRIORITIES, ASSESSING A $5.15 MINIMUM WAGE 3 (1995). The minimum wage would have to be $5.93 an hour to have the same purchasing power it had in the 1970s. Id.

health insurance, complete destitution is only an illness away. For single parents, that disaster is almost inevitable, because rent and childcare can absorb an entire paycheck, leaving nothing for any other expenses.23

The misinformed public would be surprised to learn that AFDC parents are typically part of the labor force. Nearly three-quarters of AFDC recipients have recent work experience and less than a third continue to receive AFDC for as long as twenty-four months.24 They often receive AFDC benefits while they work because they earn extremely low wages, and frequently work part-time. Over one quarter of the new jobs created in the March 1991-July 1993 recovery period were part-time; 75% of those jobs were filled involuntarily by people who would have preferred full-time work.25 Other AFDC recipients are laid-off workers who fail to meet the earnings threshold for Unemployment Compensation and must therefore fall back entirely on AFDC until they find new employment. Because of the high frequency of lay-off from low-wage jobs, people often move in and out of the workforce, never accumulating a work history sufficient to entitle them to UI benefits.

B. Unemployment Compensation Does Not Protect the Working Poor

As previously discussed, the working poor regularly resort to the welfare system when they become unemployed because they are typically ineligible for UI. The Unemployment Compensation system has deteriorated so severely over the past several decades that it now fails to protect a large percentage of workers in times of unemployment.

The ratio of the Insured Unemployment Rate to Total Unemployment Rate (IUR/TUR) has declined approximately 60% since 1947.26 Today, less than 40% of the unemployed nationwide re-

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23. A study of Boston housing expenditures showed that the majority of households with incomes of $5,000 spend 70% or more of their total income on housing costs. Spade, supra note 20, at 518. A similar study indicated that poor families spend 23% of their income on child care. Id. at 519.


25. CENTER FOR LAW AND SOCIAL POLICY, LOW WAGES, FAMILY MATTERS 3, 5 (Fall, 1994).

26. ACUC STAFF BRIEFING PAPER, STATE TRUST FUND SOLVENCY 3.
receive UI.\textsuperscript{27} The rate of UI coverage among the working poor population that ends up surviving on AFDC benefits is significantly lower than the national average.\textsuperscript{28} Eighty-nine percent of women whose income included both wages and AFDC upon losing their jobs were ineligible to receive UI, despite working an average of 910 hours per year.\textsuperscript{29} Over three quarters of those not eligible for UI worked at least twenty-five weeks over the studied two-year period.\textsuperscript{30}

Among the most important reasons that so few unemployed workers receive benefits are the various ways that federal and state law restrict UI eligibility.\textsuperscript{31} First, federal law excludes certain types of workers, such as those who are self-employed, regardless of the amount of money they earn or the length of time that they work. Federal law permits states to exclude other categories as well. States may exclude agricultural workers, domestic workers, independent contractors and casual workers. As a consequence, approximately 12% of the work force works in employment not covered by unemployment compensation.\textsuperscript{32} Additionally, these exclusions provide employers with the opportunity to misclassify workers as independent contractors or consultants to avoid UI

\textsuperscript{27} The United States does not compare favorably with other nations in the Group of Seven. In 1985, when the U.S. IU/TU rate was only 34%, comparable figures for other nations were much higher: Canada, 80%; France 72%; Germany 68%; Italy, 60%; and the UK, 90%. \textit{Congressional Research Service, 102d Cong., 2d Sess., Report on Unemployment Compensation in the Group of Seven Nations: An International Comparison 19} (Joint Comm. Print 1992) [hereinafter G-7 Report]. Receipt of unemployment benefits in the United States has reached record lows in recent months, as just 32.5% of unemployed workers received benefits during the last eight months of 1994. Associated Press, \textit{Fewer Workers Are Collecting Unemployment; Report Attributes Trend to Shift in Labor Market}, S.F. Chron., May 15, 1995, at A5.

\textsuperscript{28} \textit{Roberta Spalter-Roth, et al., Institute for Women's Policy Research, Income Insecurity: The Failure of Unemployment Insurance to Reach Out to Working AFDC Mothers 2} (1994).

\textsuperscript{29} Id. at 2. The Institute for Women's Policy Research refers to these women as "work/welfare packagers." Id. The 11% who actually received UI worked an average of 1050 hours per year. Id.

\textsuperscript{30} Id. The Institute found that these non-UI recipients averaged 2200 hours of work in sixty-nine weeks. Many of these workers worked more hours in more weeks than those receiving UI, but worked fewer hours per week. Id. For further discussion, see infra note 35.


Various states have considered legislation that would prohibit this practice but to date, no such legislation has passed.\textsuperscript{34} States have also limited eligibility to UI by imposing restrictions based on earnings levels and workforce connection requirements. These requirements base eligibility upon a combination of total earnings and amount of time in the workforce.\textsuperscript{35} The earnings tests in at least half of the states would disqualify an average part-time worker.\textsuperscript{36} A worker's ability to satisfy these tests is further limited by the "lag quarter" rule. Under this rule, neither income earned in the calendar quarter within which one is applying, nor that earned in the immediately preceding calendar quarter, is counted in determining UI eligibility. For instance, a Californian applying on June 29 would have all earnings in the April-June quarter excluded from consideration, as well as all money earned in the lag quarter, January-March, a total of six months of earnings.\textsuperscript{37} The

\begin{footnotesize}
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\item[33.] Virginia duRivage cites to a 1989 IRS estimate that 38\% of employers misclassify employees to avoid unemployment compensation taxes as well as Social Security and workers' compensation obligations. \textit{Id.}
\item[34.] GAO \textit{REPORT supra} note 2, at 39 (discussing attempts by California and Colorado to curb misclassification); \textit{see also} Misclassification of Employees As Independent Contractors, Public Testimony Before the House Comm. on Small Business, 104th Cong., 1st Sess., \textit{available in} WESTLAW, UTESTIMONY Library, 1995 WL 20780 (Fed. Doc. Clearinghouse)(statement of Ronald Baker, President, Building Service Contractors Association International)(urging Congress to pass new legislation that would prevent employers from evading taxes by misclassifying workers).
\item[35.] These requirements typically are stated in terms of dollars earned in a one-year base period. \textit{See e.g.}, \textit{CAL. UNEMP. INS. CODE} § 1281(a)(3) (West 1986)(defining base period). California, for example, has a complicated formula requiring a worker claiming benefits after Jan. 1, 1992 to have either earned $1,300 during at least one quarter of the "base period" or $900 for one such quarter if total wages during the base period are at least 1.25 times that amount. \textit{Id.} at § 1281(a)(3)(A)-(B) (West Supp. 1995). Such a formula necessarily disadvantages low-wage workers who must work more hours to reach the dollar minimum. A low-wage worker might actually work more weeks in the base period than a higher paid worker who qualifies for benefits, but be ineligible because he had not earned enough to meet the dollar threshold.
\item[36.] duRivage, \textit{supra} note 32, at 106. Some low-wage employers frequently manipulate workers' hours so as to ensure that they will not qualify for benefits when laid off. GAO \textit{REPORT, supra} note 2, at 38-39. Employers are often motivated to prevent employees from becoming eligible for UI, because the percentage of payroll that must be paid into the employer trust fund under an "experience-rated tax" system is determined by the dollar amount drawn out of that fund through payment of UI to former employees. Experience-rated taxing also causes employers to systematically contest applications for benefits, frequently by falsely claiming that a worker quit or was discharged for misconduct.
\item[37.] \textit{CAL. UNEMP. INS. CODE} § 1275; \textit{see also} \textit{ILL. ANN. STAT.} ch. 820, para. 405/237 (Smith-Hurd 1993). Illinois' use of this practice was recently held suspect in Pennington v. Ward, 1992 WL 535529 (N.D. Ill., Oct. 21, 1992), \textit{rev'd sub nom}, Pennington v. Didrickson, 22 F.3d 1376 (7th Cir. 1994), \textit{cert. denied sub nom}, Doherty v.
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original justification for the lag quarter rule was that it was not possible to process a worker’s hour and wage information from the most recent quarter quickly enough to include it in eligibility calculations. Today, however, that justification is no longer valid on account of advances in information technology.\textsuperscript{38}

A third mechanism states apply in order to disqualify applicants is the “voluntary quit” rule. States generally define “voluntary” broadly. In 1993, for example, only nine states did not define voluntary to include quitting a job because of sexual harassment.\textsuperscript{39} Additionally, most states define voluntary to include leaving because of family or medical emergencies.\textsuperscript{40} Also, many states consider that leaving work because of an emergency child care problem is a voluntary quit.\textsuperscript{41}

A fourth limitation on UI eligibility is the “able and available to work” requirement. Forty-four states maintain these requirements, which disqualify workers who are looking only for part-time work.\textsuperscript{42} This disqualification applies regardless of the applicant’s previous work history and is particularly harmful to permanently employed part-time workers.\textsuperscript{43} It ignores the importance of part-time workers to the economy, both from the standpoint of persons such as working mothers who cannot work full-time, and from the standpoint of small businesses who need part-time workers to fill their varying needs.\textsuperscript{44}

A final way that states limit eligibility is through “durational disqualification.” As discussed above, states have always penalized workers who have been discharged for misconduct, those who have

\textsuperscript{38} Pennington, 115 S. Ct. 613 (1994). The case was remanded with instructions for further factual findings and a determination as to whether use of the lag quarter rule results in timely payment of benefits. Illinois must now look to more recent earnings if use of the lag quarter rule leaves a claimant without benefits.


\textsuperscript{40} Memorandum from Diana M. Pearce, Director, Women and Poverty Project, to the National Advisory Council on Unemployment Compensation 2 (May 11, 1993)(on file with the Fordham Urban Law Journal). Pearce notes that about thirty states have provided various forms of limited protection through case law. \textit{Id}.

\textsuperscript{41} \textit{Id}.

\textsuperscript{42} BRIEFING BOOK, supra note 19, at 3.

\textsuperscript{43} NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION, UNEMPLOYMENT COMPENSATION: FINAL REPORT 48 (1980).

\textsuperscript{44} \textit{Id}.
left a job voluntarily and those who have refused suitable work. Originally, these penalties would disqualify such persons from UI for a fixed number of weeks. Today, however, most states disqualify affected persons until they work again for enough time and earnings to reestablish a connection to the workforce.\textsuperscript{45} For instance, in South Dakota, a disqualified claimant must work six weeks and earn wages equal to or greater than his or her weekly benefit amount in each of those weeks before he can be eligible for UI benefits again.\textsuperscript{46} Persons disqualified under these provisions have no alternative but to turn to welfare.\textsuperscript{47} The above restrictions affect those in poverty most profoundly. On account of such restrictions, those living under the federal poverty index form one-third of the unemployed, but they form only one-fifth of those receiving UI benefits.\textsuperscript{48}

C. Welfare—When Available—Is an Inadequate Substitute for UI

For the many reasons set out above, millions of those who lose their jobs find themselves without any UI benefits.\textsuperscript{49} Those with children become eligible for AFDC. Those who are single must rely on county or state-funded General Assistance, if it exists. Seven southern or border states have no GA program at all, while


\textsuperscript{46} Richard McHugh, National Academy of Social Insurance, Why Do Fewer of the Unemployed Receive Unemployment Insurance Benefits? An Initial Examination of State Restrictions 7 (1991). The South Dakota program is known colloquially as a “6 x 6” disqualification. Indiana imposes a similar policy that requires that a disqualified claimant work eight weeks at his weekly benefit amount, known as an “8 x 8” plan. Id. at 7-8. Florida adjusts the duration of its penalties, ranging from 17 x 17 for voluntary quits to 52 x 52 for misconduct discharges. Id. at 8.

\textsuperscript{47} Because welfare benefits are always means-tested, a person must spend down savings before applying. The benefit itself is so much lower than average earnings that many workers must find cheaper housing, which puts additional pressure on the limited low-income housing market.

\textsuperscript{48} duRivage, supra note 32, at 20.

\textsuperscript{49} Those working in covered employment, however, had both federal and state unemployment taxes paid on their behalf by their employers, even though more than half of those who lost their jobs did not qualify for UI. Taxes paid on their behalf enabled the Trust Fund to pay benefits to those who did qualify for UI.
sixteen other states either provide no aid to able-bodied adults or have severely restricted it in the past few years. All GA programs exclude anyone eligible for UI benefits. Cuts to GA programs often leave persons destitute who have been laid off and who are either ineligible for UI benefits or have exhausted those benefits.

Virtually no one has expressed concern nationally over the harsh effect that GA cutbacks have had on unemployed single adults. This neglect is particularly striking given that members of this population form a large percentage of the estimated three million persons who live on our streets. Urban homelessness has become a critical political issue, one that has motivated state and local governments to spend millions of dollars to criminalize homelessness, while taking little action to ensure a survival income so that these people can live indoors.

Trends to reduce or eliminate GA and AFDC benefits are dramatically increasing homelessness. California's current Legislature considered legislation that would have permitted counties to limit GA eligibility to only three months per year, and Governor Pete

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50. The following states have no GA program at all: Alabama, Arkansas, Louisiana, Mississippi, Oklahoma, Tennessee and West Virginia. Delaware, Hawaii, New Mexico, Rhode Island, Utah, Wyoming, Michigan, Ohio, Illinois, District of Columbia, Massachusetts, Minnesota, Pennsylvania and several Virginia counties have all restricted or time-limited their GA programs by excluding persons labelled "employable." CENTER ON SOCIAL WELFARE POLICY AND LAW, JOBLESS, PENNILESS, OFTEN HOMELESS: STATE GENERAL ASSISTANCE CUTS LEAVE "EMPLOYABLES" STRUGGLING FOR SURVIVAL, PUB. NO. 805, EXEC. SUMM. 2, nn2-3 (1994) [hereinafter JOBLESS, PENNILESS]. Arizona, California, Colorado, Connecticut, Florida, Georgia, Maine, New York, North Dakota, Oregon, South Carolina, Vermont and Washington all restrict the eligibility of "able-bodied" adults. Id. Some of these states, such as California, have state-mandated GA programs that are created and run at the county level, resulting in wide variations in eligibility criteria and benefit levels.

51. Assistant Secretary of Health and Human Services David Ellwood, chairing the President's Welfare Reform Working Group hearing in Sacramento, California in October, 1993, admitted to this writer at that hearing that the Working Group "had no mandate" from the President to look at welfare benefits for single adults.

52. San Francisco's current Mayor, former Police Chief Frank Jordan, was elected in large part because of his promises to sweep homeless people off the street. His Matrix program has succeeded only in driving them to other, less frequented parts of the city. See John King, San Francisco Supervisors Blast Homeless Crackdown; Jordan Urged to Step Away from Matrix, SAN FRANCISCO CHRON., Mar. 21, 1995, at A15 (reporting a resolution adopted by the Board of Supervisors which referred to the plan as "cruel and unusual punishment").

Wilson is seeking huge AFDC cuts for the fourth consecutive year.4 Other states are considering similar action.56

As the political attitude hardens—"Those lazy people should get a job!"—the reality of our nation's economy is ignored. The officially required 12% unemployment rate,6 as well as the high rate of unemployment in inner city communities,7 are rarely mentioned in the current "welfare to work" rhetoric. The ostensible purpose of draconian welfare cuts is to wean this population from the welfare bottle and into employment. The results—continued unemployment and utter destitution—should surprise no one.

States that have limited or discontinued their GA programs exemplify these results. In Michigan, over 80% of former employable GA recipients did not work for most of the year following that state's termination of its GA program.8 Twenty-five percent reported being homeless within seven months, 27,000 of whom went without food for twenty-four hours or more. Thirteen percent began receiving Supplemental Security Income (SSI)9 within two years.60 In Pennsylvania, nearly two-thirds of persons who had


56. See supra notes 10-14 and accompanying text.

57. In many inner city communities, the TUR is over 50%. See supra note 14 and accompanying text.

58. JOBLESS, PENNILESS, supra note 29, at 4.

59. Congress enacted the Supplemental Security Income (SSI) program in 1972 to assist "individuals who have attained age 65 or are blind or disabled" by setting a guaranteed minimum income level for such persons if their income and financial resources are below a certain level. 42 U.S.C. §§ 1381-85 (1988 & Supp. V 1993).

60. JOBLESS, PENNILESS, supra note 27, at 6. A recent study of 638 homeless adults with no physical or mental impairment at the onset of homelessness revealed that within a year, 9.3% had problems with excessive alcohol use, 4.4% used illegal drugs and 0.9% had experienced some psychiatric hospitalization. Those figures more than doubled for those who had been homeless for more than one year but less than five years and approximately doubled again for those homeless for more than five years. Marilyn A. Winkleby & Randall White, Homeless Adults Without Apparent
been removed from the GA program remained unemployed for at least six months during the two years following GA termination. One-third of those persons reported that health problems prevented them from working.61 The fiscal absurdity of such human tragedy is apparent. As people become homeless, they become less and less able to work ever again; homelessness leads over time to alcohol and substance abuse and mental disabilities.62 The costs soar: hospital emergency rooms fill with patients with TB and other costly illnesses which modern society was on the verge of eradicating.63 Additionally, the federal government spends billions funding housing and shelter assistance programs for those with an inadequate income stream to pay for rent.

III. Reforms Are Needed for the Tattered Unemployment Compensation System

Federal and state changes in the unemployment compensation system would significantly improve its ability to help the unemployed, and thereby reduce dependency on welfare and housing programs. Such a shift in strategy is politically urgent in today's climate of welfare-bashing. It would go far in reducing the number of people forced to survive on meager welfare benefits, thereby making continued benefits to the unemployable AFDC population more acceptable politically.64 The public, frustrated with the perception that employable persons are responsible for burgeoning welfare rolls, would likely be more willing to support adequate unemployment benefits. Someone receiving UI is not "on the dole." Rather, the UI recipient is receiving money deducted from his pay

Medical and Psychiatric Impairment: Onset of Morbidity Over Time, 43 Hospital and Community Psychiatry 1017, 1020 t.4 (1992).
61. Jobless, Penniless, supra note 29, at 5.
62. See Winkleby & White, supra note 36.
63. Ironically, those calling for tax cuts are those most responsible for ensuring that ultimately the taxpayer will pay many times more in downstream costs than would have been necessary had preventative, supportive programs been fully funded. For example, a state-financed study showed a $7 savings for every $1 of California taxes spent on drug treatment. Sheryl Stolberg, Study Shows Drug Abuse Programs Are Cost Effective, L.A. Times, Aug. 29, 1994, at A1. Many studies have shown at least a 3:1 dollar benefit from prenatal care programs. Leslie Laurence, Health Professionals Examine Value of Preventive Strategies, Hous. Chron., Sept. 21, 1994, at 2.
64. Today's welfare reform debate ignores the special needs of unemployable AFDC recipients. Governor Wilson's attempt at reforming welfare by cutting benefits across the board, ostensibly to increase the earnings disregard, was held illegal by a California court, in large part because unemployable recipient's benefits were also cut. Beno v. Shalala, 30 F.3d 1057 (9th Cir. 1994).
under the Federal Unemployment Tax Act (FUTA)\textsuperscript{65}, and is therefore receiving his due.\textsuperscript{66}

In February 1994, the Advisory Council on Unemployment Compensation (ACUC)\textsuperscript{67} made several important recommendations that would help repair the UI safety net.\textsuperscript{68} First, the Council recommended that Congress eliminate the exemption of agricultural workers on small farms from Unemployment Insurance coverage.\textsuperscript{69} Second, the Council urged states to adopt a “movable base period” to eliminate the harsh effects of the “lag quarter” rule.\textsuperscript{70} Under the moveable base approach, when a claimant has not earned sufficient wages during four of the five previous quarters that are used to determine eligibility, the state would reassess the claim based on wages earned in the fifth or “lag” quarter.\textsuperscript{71} Additionally, the Council directed that states should not set base requirements any higher than 800 times the minimum wage,\textsuperscript{72} and that they should eliminate seasonal exclusions\textsuperscript{73} and the practice of denying benefits to workers who seek only part-time work.\textsuperscript{74} Finally, the Council urged that benefit levels be set that would replace at least 50% of lost earnings over a six-month period.\textsuperscript{75}

\textsuperscript{66} This perception ignores that working AFDC and GA recipients also pay into that fund and yet receive nothing in return after they lose their jobs.
\textsuperscript{68} ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION, REPORT TO THE PRESIDENT AND CONGRESS: UNEMPLOYMENT INSURANCE IN THE UNITED STATES: BENEFITS, FINANCING AND COVERAGE (1995) [hereinafter ACUC REPORT]. These and other changes had previously been proposed by the Employment Task Force of the National Employment Law Project. See STATEMENT OF THE NATIONAL EMPLOYMENT LAW PROJECT, INC. TO THE ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION, PUBLIC MEETING 7-10 (1993). The National Commission on Unemployment Compensation previously addressed these and other issues with courage in its 1980 report, Unemployment Compensation: Final Report.
\textsuperscript{69} ACUC REPORT, supra note 67, at 14.
\textsuperscript{70} Id. at 17. See also supra notes 51-54 and accompanying text.
\textsuperscript{71} Bernstein Testimony, supra note 52, at 6.
\textsuperscript{72} ACUC REPORT, supra note 67, at 18.
\textsuperscript{73} Id.
\textsuperscript{74} Id.
\textsuperscript{75} Id. at 20. “Wage replacement rate” generally refers to the percentage of prior salary that is received in unemployment compensation benefits. Benefits are frequently so low that recipients are eligible for supplemental welfare benefits. In 1990, the wage replacement rate for UI benefits was less than 50% in all states and under 40% in all but sixteen states, all of which are Northern states. Interestingly, the Southern tier of states, from which comes most of the new Republican majority in
The Council also urged reform of the extended benefit system. Extended benefits are intended to stabilize the economy in periods of particularly long-term unemployment, by providing an additional thirteen weeks of benefits to persons who have exhausted their basic twenty-six week grant of benefits without finding work. The Council suggested that a new program should be developed that would ensure that a significantly greater proportion of "exhaustees" of regular twenty-six week benefits become entitled to extended benefits. Receipt of extended benefits is low because currently, in order to offer extended benefits, a state's rate of unemployment must exceed a certain level and must be worsening. In 1981, the Omnibus Budget and Reconciliation Act raised the unemployment level at which extended benefits would be triggered. The new standard severely limited the ability of states to offer extended benefits. As a result, the formula used to determine when extended benefits would apply, qualifying states for the 50% matching federal share to pay extended benefits, was unresponsive to high unemployment rates. Under that formula, only eight states activated extended benefits during the 1991 recession. Although 1992 federal legislation offered states the option of reforming the state formula, few states did so. Instead, the states pressured Congress, which passed the Emergency Unemployment Compensation ("EUC") Act. Unfortunately, federal political will was exhausted last year and the EUC program was not extended. The practice of setting extended benefit trigger points so high, and thereby being forced to resort to EUC legislation, has

Congress, have comparatively weak UI state laws in terms of worker protection. See GAO REPORT, supra note 3, chart at 50.


78. ACUC REPORT, supra note 66, at 59.


80. The EUC program was a federally funded insurance program enacted by Congress in November, 1991 to deal with the long-term unemployment that resulted from the recession occurring at that time. The program expired in October, 1993. It was imposed as a stop-gap measure because unemployment levels were not high enough to trigger the EB program.
been more costly and less effective economically as a counter-cyclical tool than a more easily-triggered EB system would have been. Congress spent approximately 40% more on emergency unemployment benefits between 1991 and 1994 than it would have spent on a more comprehensive extended benefit program.\textsuperscript{81}

The cost of limiting extended benefits so strictly is high. The Center on Budget Policies and Priorities (CBPP) has noted that during the height of the 1993 California recession, the long-term unemployed constituted 25% of the total unemployment rate, resulting in approximately 50,000 California workers per month who exhausted their regular UI benefits without finding work.\textsuperscript{82} In a state that lost nearly 800,000 jobs in the early 1990s, many of those workers have not been reemployed and must rely on welfare instead.

In order to pay for these reforms, the solvency of state trust funds must be strengthened. The extension of UI benefits and the liberalization of eligibility is inextricably linked to the issue of the solvency of state UI trust funds.\textsuperscript{83} In 1993, the GAO concluded that declining trust fund solvency levels contributed to lower UI recipiency rates by providing the rationale for money-saving restrictive changes in UI laws affecting UI benefit eligibility and wage replacement rates.\textsuperscript{84}

A major reason for trust fund solvency problems is that employers pay a smaller and smaller percentage of wages into the funds. At the inception of the Unemployment Compensation program in 1935, the taxable wage base was 100% of payrolls. That percentage has fallen since then because legislation has capped the amount of

\textsuperscript{81} McHugh Testimony, supra note 77 at 7 ("Let me repeat. If a reformed EB program had been place between January 1990 and August 1993, the Advisory Council estimates its cost [would have been] at most $14 billion. With no effective EB program in place, Congress adopted a less-targeted and mostly federally funded EUC program to assist the long term unemployed which [sic] cost over $23 billion over this time period. Overall, EUC outlays for the length of the program will reach $30 billion.").


\textsuperscript{83} The Federal Unemployment Tax Act (FUTA) finances administrative costs, half of Extended Benefits and loans to states experiencing insolvencies in their accounts. States' tax revenues are credited to their individual accounts in the Unemployment Trust Fund and pay all of ordinary 26-week benefits and half of any Extended Benefits. 26 U.S.C. §§ 3301-11. See ACUC REPORT, supra note 68 at 84, n.2.

\textsuperscript{84} GAO REPORT, supra note 2, at 30.
workers’ wages for which an employer must pay a tax. The current cap, $7,000, was significantly below the average annual wage of $25,500 in 1992.85 By 1992, the ratio of taxable wages to covered wages had fallen to the lowest level yet, 36%.86 One proposal would link the cap to the earnings base for Old Age Security and Disability Insurance (OASDI), currently $61,200. The current $56 cost per worker of the Federal Unemployment Tax Act (FUTA) tax in 1992 was close to its lowest historic level.87

Comparisons with the Group of Seven (“G7”) nations’ unemployment compensation systems dramatically illustrate how out-of-line the United States taxable wage base has become. A 1992 congressional report places the U.S. at the very bottom. The median U.S. state base of $8,250 is over 30% less than that of the next lowest country, Canada.88 The United States national average tax rate applied to taxable wages in covered employment is 1.9% state and 0.8% federal. The total of 2.7% compares to rates of 4.3% (Germany), 5.4% (Canada), 6.9% (France).89 That report also illustrates that the United States is very close to the bottom of the G7 countries in public expenditures for UI as a percent of Gross Domestic Product.90

IV. “Unemployment Assistance” Is Needed for Those With Insufficient Labor Force Connection

Amending the Unemployment Compensation program is not the entire answer to ensuring replacement income for unemployed workers. Political reality requires that employer-financed benefits must be of limited duration and cover only those persons with a significant labor-force connection.91 Employable but unemployed persons without a minimal connection to the labor force need some other form of protection.

The inherent inadequacy of the unemployment compensation program even as originally conceived, has long been recognized.

85. ACUC REPORT, supra note 68 at 107.
86. McHugh Testimony, supra note 77 at 9.
87. Id. at 109, tbl. 7-7. See, e.g., CAL. UNEMP. INS. CODE § 930 (West 1995). While some states have chosen a slightly higher state taxable wage base, many, including California, have not. The $7000 state cap was established in 1984.
88. G-7 REPORT, supra note 43, at 12, chart 2A.
89. Id. at 12, chart 2B.
90. Id. at 14, chart 3. In the same study, the United States compares unfavorably in other respects. For example, the United States is the only country with a lag quarter rule. Id. at 16, tbl. 2.
91. See supra note 35 and accompanying text.
In 1980, for example, the Federal Government’s National Commission on Unemployment Compensation (“NCUC”),\(^9\) was “deeply concerned about the substantial number of unemployed individuals who exhaust all UC benefits to which they are entitled” and believed that “every effort must be made to limit the extent to which unemployed persons must apply for and receive welfare.”\(^9\) The NCUC consequently recommended, by a vote of 11-0-1, the establishment of “a program of income-tested benefits, administered completely separately from unemployment compensation, to provide some minimum protection for all unemployed persons exhausting or not eligible for unemployment compensation benefits and for whom no other job or program is available.”\(^9\)

Such a program could still be enacted at the federal level, but preserve a degree of control for the states. It would cover unemployed persons who have exhausted their benefits or are ineligible for UI benefits for the many different reasons discussed earlier. The income would replace current welfare benefits and, ideally, would be sufficient to raise a person or family above the official federal poverty line.\(^9\) Requirements for receiving unemployment assistance would include participation in a job search program, as currently required by the UC program. The program would also be “means tested,” but would not necessarily require a complete “spend-down” of assets for eligibility.\(^9\) Those unable to find regular employment after a certain period of time could move into a public service job or continue training.

Such Unemployment Assistance programs exist in several European countries. The congressional report cited earlier notes that France, Germany and the United Kingdom provide such assistance

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\(^9\) This group, chaired by Wilbur Cohen, was the predecessor of today’s Advisory Council on Unemployment Compensation.

\(^9\) NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION, UNEMPLOYMENT COMPENSATION: FINAL REPORT 172 (1980) [hereinafter NCUC REPORT].

\(^9\) Id.

\(^9\) Currently, benefit levels for low-wage workers fall far below the federal poverty level. For example, weekly wages (excluding such additional income as EITC) of $193 would keep a mother and child slightly above the federal poverty line. However, at that level of earnings, the mother’s weekly UI amount would be approximately $90 in California. CAL. UNEMP. INS. CODE § 1280 (West 1986). Her only recourse would be supplemental income from AFDC benefits. One policy option now being debated is the “child support assurance” program which would provide a guaranteed level of benefits to every child without means testing. Paula Roberts of the Center on Law and Social Policy has developed such a concept. Legislation establishing such a program on a pilot basis in several counties in California passed out of a California Senate committee in May, 1995. S.B. 971, Cal. 1995-96, Reg. Sess. (1995).

\(^9\) NCUC REPORT, supra note 90 at 171.
to unemployed individuals irrespective of their attachment to the work force.\textsuperscript{97} Financed by national treasuries rather than through employer-funded insurance, such unemployment assistance insures that employable persons are readily connected to local employment agencies, have access to job training programs and receive a minimum stipend to survive.\textsuperscript{98} Currently, most recipients of public assistance have little or no access to job training programs.

The program would be funded mainly by the federal government, but would include contributions from employers, primarily those who hire largely contingent workers, such as part-time employees of fast-food restaurants.\textsuperscript{99} The program would be administered by the Department of Labor through its UI division.\textsuperscript{100}

V. Why Income Maintenance Programs Make Fiscal Sense

Although the proposals set forth above would be expensive, they would be fiscally prudent. In the legislative rush to balance the federal budget by institutionalizing the destitution of poor people, legislators forget that any program that puts money directly in the hands of poor people when they are in need provides an immediate, counter-cyclical stimulus to the economy.\textsuperscript{101} Poor people

\textsuperscript{97} GAO REPORT, supra note 2.

\textsuperscript{98} France, for example, has a number of job training programs for young people with or without high school diplomas, all of which pay a stipend that is a percentage of the minimum wage. These programs last from three months to three years depending on the particular program. None require any connection to the work force to access the programs which are run by the national employment agency, l'Agence Nationale Pour l'Emploi. \textsc{Secrétariat d'Etat chargé de la formation professionnelle, délégation à la formation professionnelle, crédit formation jeunes: questions, réponses} (1989).

\textsuperscript{99} The responsibility of such employers to contribute into the unemployment system cannot be overstated. By employer design, virtually their entire work force is made up of part-time workers ineligible for UI benefits.

\textsuperscript{100} Such a mechanism is analogous to the administration by the Social Security Administration of both the Old Age, Survivors and Disability Insurance (OASDI) program, Title II of the Social Security Act, 42 U.S.C. §§ 401-33 (1988 & Supp. V 1993), which is funded in part by employers and employees, and the Supplemental Security Income (SSI) program, Title XVI of the Act, 42 U.S.C. §§ 1381-85, which is funded through federal (and some state) revenues but no employer/employee contributions.

\textsuperscript{101} The Secretary of Labor stressed this point in testimony before Congress in 1935:

\begin{quote}
I really believe that putting purchasing power in the form of unemployment insurance benefits in the hands of the people at the moment when the depression begins and when the first groups begin to be laid off is bound to have a beneficial effect. Not only will you stabilize their purchases, but through stabilization of their purchases you will keep other industries from going downward, and immediately you spread work by that very device.
\end{quote}
spend all of their income for goods and services, saving nothing. The local economy benefits directly. A one dollar increase in consumer spending can have as much as a five to six dollar beneficial impact as it “ripples” through the economy. Fifty thousand dollars of economic activity translates into a new job. Economists call this the “multiplier effect” of money placed in the hands of consumers.102

While little data exists on this issue as it relates to welfare benefits, two 1987 studies are noteworthy. A Georgia study concluded that $350 million in state expenditures brought in almost $1 billion in federal money, generated a total economic stimulus of over $4 billion, created over 50,000 new jobs and generated state and local taxes of nearly $50 million.103 Kentucky Legal Services presented data to the Kentucky Legislature in 1987 that estimated that each additional expenditure of $60-70,000 would create one new job.104

Policymakers must once again consider economic stimulus when examining UI benefits and coverage. In the GAO study cited above, the authors concluded that the ability of the UI program to stabilize the economy has diminished considerably over time.105 Twenty billion dollars more in benefits would have been available during the 1990-91 recession had the wage replacement rate and UI benefit payments been at the 1974-75 levels.106 Between 1980

102. See, e.g., Robert Scheer, Los Angeles Times Interview: Peter Ueberroth. A Man of Privilege Aims to Get Down and Dirty to Rebuild L.A., L.A. TIMES, May 17, 1992, at 7. Peter Ueberroth, who headed efforts to rebuild Los Angeles after the Rodney King uprising in 1991, said that California Governor Pete Wilson's proposal to slash welfare benefits by 25% would be “a major, negative blow to our efforts” to rebuild South Central Los Angeles, where 60% of the people survive on welfare. The interview noted that money applied to make welfare payments has a “multiplier effect,” in that the aid helps not only the particular individuals collecting welfare, but stimulates the economy as well. Id.


104. Richard Seckel, Office of Kentucky Legal Services Programs, AFDC and Economic Development: Implications for Kentucky of Research in Southern States (1987). The Kentucky Legislature increased AFDC benefits that year by 4.5%.

105. GAO Report, supra note 2 at 42.

106. Id.
and 1990, the portion of total lost wages replaced by UI benefits decreased by about 18%.107

Beyond economic arguments of counter-cyclical effect is the fiscal reality of caring for the destitute. As millions of unemployed workers find they are not eligible for any benefits, government must spend money on shelter and food support just to prevent people from dying.108 As increasing numbers become permanently disabled from work, their dependence on SSI will continue to drain our economy. Hopefully, as policymakers contemplate more constructive welfare reform than that now being considered, they will give considerable weight to the economic effects of their decisions. For the inner cities particularly, those effects could be catastrophic if the wrong choices are made.

VI. Conclusion

The current welfare debate should acknowledge the deficiencies in the unemployment compensation system. As long as the current system is unable to protect unemployed workers, those persons will be forced to rely on public assistance. Reform efforts that urge all persons in poverty to get a job ring hollow when there are no jobs to be found. Even persons who do find work often do not earn enough to rise above the poverty level. Policymakers should realize that a stronger unemployment compensation system would ease the burden currently shouldered by the public assistance system.

A new program of unemployment assistance to protect those persons most likely to be ineligible for UI under the current system is needed to keep those persons from turning to public assistance. Such a program would provide economic stimulus and would protect unemployed persons from falling into poverty. The new system would protect persons who currently slip through the safety net, those who are ineligible to receive UI benefits but who cannot receive public assistance either. Instead of blaming persons for their unemployment or poverty, this system would admit that a certain degree of unemployment is inevitable and help those persons continue to contribute to the economy until they can find more work.

107. Id. at 43.
108. This burden is being increasingly borne by local governments as both federal and state governments, wrestling with budget deficits that are out of control, cut back on all benefit programs. See supra note 34 discussing states that are facing difficult budgetary decisions in face of rising public welfare costs.
Appendix A

Unemployment Rate for Civilian Labor Force Based on Full-Time Equivalent Employment (Figures in 000s)\(^\text{109}\)

1993

<table>
<thead>
<tr>
<th>Description</th>
<th>Figure (000s)</th>
</tr>
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<tbody>
<tr>
<td>Bureau of Labor Statistics (BLS) Labor Force</td>
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<tr>
<td>Resident Armed Forces</td>
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</tr>
<tr>
<td>BLS Civilian Labor Force</td>
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</tr>
<tr>
<td>BLS Civilian Employment</td>
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<tr>
<td><strong>Official Unemployment Rate</strong></td>
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<tr>
<td>Adjusted Civilian Labor Force Based on Full-time Equivalent Employment</td>
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<td>Combined Full-Time and Full-Time Equivalent Employment</td>
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</tr>
<tr>
<td><strong>Full-Time Equivalent Unemployment Rate</strong></td>
<td>9.2%</td>
</tr>
<tr>
<td>Discouraged Workers</td>
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<td>Adjusted Labor Force Including Discouraged Workers</td>
<td>120,939</td>
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<tr>
<td><strong>Full-Time Equivalent Unemployment Rate Including Discouraged Workers</strong></td>
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<tr>
<td>Civilians Not in the Labor Force Who Want Jobs</td>
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<tr>
<td>Adjusted Labor Force Including Civilians Not in the Labor Force Who Want Jobs</td>
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<tr>
<td><strong>Jobless Rate</strong></td>
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