



NELP

**RECOMMENDATIONS FOR THE U.S. DEPARTMENT OF LABOR,  
EMPLOYMENT & TRAINING ADMINISTRATION: 60-90 DAY ACTION PLAN  
NATIONAL EMPLOYMENT LAW PROJECT – NOVEMBER 26, 2008**

**UNEMPLOYMENT INSURANCE (UI)\***

**1. Respond to the Serious Front-Line UI Service Needs**

As a result of major limitations in federal UI administration funding and cut backs in front-line UI services, workers have had a much harder time in recent years accessing their unemployment benefits in a timely fashion and getting the help they need seeking reemployment. ETA should immediately survey the states to document the full range of problems associated with the delivery of front-line UI services due to limited resources (e.g., hiring freezes, old technology, volume limitations associated with the automated phone claims systems, closing of unemployment offices). The results can form the basis of an aggressive campaign by DOL to increase federal administrative UI funding by Congress and to more effectively enforce federal law requiring timely payment of benefits.

**2. Promote UI Modernization & the Alternative Base Period**

The Unemployment Insurance Modernization Act (S.1871/H.R.2233), which enjoys strong support in Congress, prominently features the “alternative based period” to fill the gaps in the program that deny benefits to low-wage workers. Despite positive experiences of 20 states that have already adopted the ABP, some state agency officials have resisted implementing the ABP, often citing inflated estimates of the costs of administering the program. ETA should enact an aggressive program designed to help states adopt the ABP, including technical assistance to set up model ABP procedures that conserve state administrative resources. ETA should collect data from the states that operate the ABP (identifying the numbers who benefit from the ABP and the administrative costs), broadly disseminate the results, identify model states, and provide direct technical assistance to states seeking to adopt the ABP.

**3. Ensure Responsible Financing of State UI Programs**

There is a strong federal interest and responsibility in ensuring that the state unemployment insurance trust funds are solvent and able to handle recession, but ETA has taken a hands-off role on this issue, which has contributed to the current crisis in UI funding in a growing number of states. ETA should take an aggressive role in monitoring the states with the least solvent trust funds (currently, the agency responds to requests for assistance from selected states without regard to their solvency). Specifically, ETA should identify the dozen or so states with the least solvent trust funds, analyze the flaws in their revenue systems, and

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\* The “Brown Book,” developed by ETA in 1962, is a solid compendium of state legislative rules related to UI activity. It reflects significant engagement by ETA in encouraging state laws and programs that are beneficial to workers. It is a valuable reference. See, <http://workforcesecurity.doleta.gov/unemploy/laws.asp#StateLaw>.



report recommendations to state agency and elected officials to bring in sufficient revenue to “forward fund” their programs.

#### **4. Capture Funding From Employers Who Fail to Pay Their Fair Share of UI Taxes**

SUTA dumping and misclassification of independent contractors by employers cost the UI system millions in revenue every year given a lack of adequate enforcement of federal and state laws. ETA should build on its current efforts to detect the practice of SUTA dumping by surveying the states to identify multi-state, large employers that violate the federal law (especially professional employee organizations) and coordinating enforcement actions across states lines to maximize their impact and conserve resources. Regarding misclassification, ETA should require the states to devote a larger share of their auditing resources to target those industries that most often misclassify (currently, states report data on misclassification based on random audits). ETA should continue and expand its work with IRS, as well as state agencies, to coordinate enforcement actions against large employers across state lines.

#### **5. Review and Release Research Commissioned by the Department since January 2001**

We understand the Department has commissioned one or more significant research studies into ETA programs over the last eight years (including, for example, a study of wage insurance under the Trade Adjustment Assistance Act). ETA should review those studies for their status and findings and, as appropriate, release their results.

#### **RAPID RESPONSE**

Start a monitoring process for state rapid response activities under WIA by surveying states about their rapid response activities in the last year, including 1) the number of state staff supported by state formula rapid response funds, 2) the amount of state rapid response funds distributed to local workforce agencies or other state agencies, 3) each state's use of a) layoff aversion activities, b) labor management committees, c) contracts with labor program operators, and/or d) peer networks, and 4) use the survey to identify best practices in these areas as well as taking note of states where rapid response activities show shortcomings. Promote best practices through conferences and publications. Follow up with corrective action plans and technical assistance in the weak states.

#### **TRADE ADJUSTMENT ASSISTANCE**

TAA is currently set to expire in early March 2009. States need to hear that this program is going to continue and how they can get funds to do so. Identify states that have expended all or most of their TAA training funds for current fiscal year and promptly make added funding available by drawing down reserve funds retained by USDOL as part of its initial distribution of these funds. Provide guidance to states on how to approach new training approvals and certifications as the program's expiration looms in the near future.