



**Public Hearing Written Testimony of
Dennis C. Murphy, Acting Commissioner**

**Labor and Public Employees Committee
February 15, 2011**

Good Afternoon Senator Prague, Representative Zalaski and members of the Labor and Public Employees Committee. Thank you for the opportunity to provide you with written testimony regarding **Senate Bill 936 AA Temporarily Extending the Look-Back Period to Determine Eligibility for Unemployment Compensation**. My name is Dennis C. Murphy and I am the Acting Commissioner of the Department of Labor (CTDOL).

The Department of Labor supports the concept of Senate Bill 936 and recommends adopting CTDOL's recommended changes (attached). As you are aware, Public Law 111-312, signed by the President on December 17, 2010, permits states to amend their laws by temporarily relaxing state law provisions pertaining to when Extended Benefits (EB) may be paid. Extended Benefits are generally only supposed to be payable during periods of high and *rising* unemployment. Right now, current state law mandates the Connecticut Department of Labor (CTDOL) to compare current unemployment rates to the unemployment rates for the corresponding period in the last two preceding years. This comparison is called a "look-back." The temporary modification permitted by the federal government through the passage of PL 111-312 would permit CTDOL to compare current unemployment rates to the unemployment rates for the corresponding period in the last *three* preceding years. This temporary modification applies only to weeks of unemployment beginning after December 17, 2010 (the date of the enactment of the Public Law) through the weeks of unemployment ending on or before December 31, 2011, unless Congress prior to that date extends the authorization further. Further, the temporary modification permitting a three-year "look-back" period would need to be enacted prior to the date that the state triggers "off" of EB.

With CTDOL'S recommended language, this bill would permit Connecticut to modify its Extended Benefits law to correspond to the temporary federal authorization to change the look-back period from two years to three years due to Congress' decision to also extend full federal sharing of EB through January 3, 2012. Because Connecticut has suffered sustained, as opposed to rising, high unemployment rates over the past two years, it is estimated that Connecticut will trigger "off" of EB in the fall of 2011. By temporarily modifying state law to permit a three-year "look-back," Connecticut would be able to ensure that, rather than the state triggering "off" Extended Benefits in the fall of 2011, thereby denying Unemployment Insurance claimants additional weeks of Extended Benefits, Connecticut would be able to delay the triggering "off" date to ensure that claimants could receive Extended Benefits through the end of December, 2011.

It is important to note that, should Congress not extend permission to utilize a three-year look back period beyond December 31, 2011, Connecticut will trigger "off" EB in early January 2012, and benefits will also end for claimants on EB at that time.

The language of Senate Bill 936, as drafted, would limit the continuance of the three year look-back to benefits for weeks of unemployment beginning after December 17, 2010, and ending on or before December 31, 2011 even if Congress extends its permission to continue the three year look-back with 100% federal sharing.

Rather than putting the burden on the state (and its employers) to pay for 50% of the amount of EB paid out to claimants through 2011, the federal government will continue to cover 100% of the costs of EB.

Therefore, CTDOL favors adoption of its recommended language (attached) permitting a temporary three year look-back for the extended benefits program for the following reasons and continuing if the 100% federal sharing is also extended:

- PL 111-132 provides 100% reimbursement of Extended Benefits until the week ending January 3, 2012.
- There is no expense for private sector employers due to the full federal sharing provision. Although governmental entities are not covered by the full federal sharing provisions, it is expected that the impact on the State's General Fund will be minimal, since state and municipal employers comprise only about 5% of the total number of employers in Connecticut. Moreover, since approximately 27%, on average, of all claimants exhaust all twenty-six weeks of regular benefits, and then proceed to exhaust all Federal emergency programs (EUC), it can be estimated that the impact on the General Fund would be only \$135,000 through early 2012.
- Utilizing the optional authority to expand the "look-back" period to the three preceding years rather than the two preceding years would permit the state to stay on EB longer, allowing some Connecticut Unemployment Insurance claimants to potentially receive up to 20 additional weeks of benefits – i.e. potentially the full 99 weeks as opposed to 79 weeks.

Most, if not all, states appear to be proceeding on Congress' recommendation to modify their state laws to temporarily permit a three-year "look-back" period.

Thank you for the opportunity to provide this testimony. Please feel free to contact me or my staff if you need additional information.

Sec. 31-232b. Extended benefits: Definitions. As used in subsection (d) of section 31-222 and sections 31-231b, 31-232a to 31-232k, inclusive, 31-236(a)(8) and 31-250, unless the context clearly requires otherwise:

(a) (1) "Extended benefit period" means a period which (A) begins with the third week after a week for which there is a state "on" indicator; and (B) ends with either of the following weeks, whichever occurs later: (i) The third week after the first week for which there is a state "off" indicator; or (ii) the thirteenth consecutive week of such period; provided no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state.

(2) With respect to benefits for weeks of unemployment beginning after September 26, 1982, there is a state "on" indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment, as defined in subdivision [(4)] (5) of this subsection, (A) equaled or exceeded five per cent and equaled or exceeded one hundred twenty per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, or (B) equaled or exceeded six per cent.

(3) With respect to benefits for weeks of unemployment beginning after June 23, 1993, there is a state "on" indicator for a week if the average rate of total unemployment in the state, as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of such week (A) equals or exceeds six and one-half per cent, and (B) equals or exceeds one hundred ten per cent of such average for either or both of the corresponding three-month periods ending in the two preceding calendar years.

(4) Notwithstanding the provisions of subdivision (2) and (3) of this subsection, with respect to benefits for weeks of unemployment beginning after December 17, 2010, and ending on or before December 31, 2011 or the date established in Federal law permitting this subdivision, for which there is 100 percent federal sharing authorized by federal law, whichever is later, there is a state "on" indicator for a week if the average rate of total unemployment in the state, as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of such week (A) equals or exceeds six and one-half per cent, and (B) equals or exceeds one hundred ten per cent of such average for any or all of the corresponding three-month periods ending in the three preceding calendar years.

[(4)] (5) There is a state "off" indicator for a week only if, for the period consisting of such week and the immediately preceding twelve weeks, none of the options specified in subdivisions (2) and (3) of this section result in an "on" indicator.

[(5)] (6) "Rate of insured unemployment", for the purposes of subdivisions (2) and (3) of this subsection, means the percentage derived by dividing (A) the average weekly number of individuals filing claims for regular benefits in this state for weeks of

unemployment with respect to the most recent thirteen-consecutive-week period, as determined by the administrator on the basis of his reports to the United States Secretary of Labor, by (B) the average monthly employment covered under the provisions of this chapter, for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period.

[(6)] (7) "Regular benefits" means benefits payable to an individual under this chapter, or under any other state law, including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 USC Chapter 85, other than extended benefits and additional benefits.

[(7)] (8) "Extended benefits" means benefits, including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 USC Chapter 85, payable to an individual under the provisions of subsection (d) of section 31-222 and sections 31-231b, 31-232a to 31-232k, inclusive, 31-236(a)(8) and 31-250 for weeks of unemployment in his eligibility period.

[(8)] (9) "Additional benefits" means benefits payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of section 31-232a.

[(9)] (10) "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

[(10)] (11) "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period: (A) Has received, prior to such week, all of the regular benefits that were available to him under this chapter, or any other state law, including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 USC Chapter 85, in his current benefit year that includes such week; provided, for the purposes of this subparagraph, an individual shall be deemed to have received all of the regular benefits that were available to him although, as a result of a pending appeal with respect to wages or employment or both that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or (B) his benefit year having expired prior to such week, has no, or insufficient, wages or employment or both on the basis of which he could establish a new benefit year that would include such week; and (C) (i) has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and (ii) has not received and is not seeking unemployment benefits under the unemployment compensation law of the Virgin Islands or of Canada, provided that the reference to the Virgin Islands shall be inapplicable effective on the day after the day on which the United States Secretary of Labor approves under Section 3304(a) of the Internal Revenue Code of 1986, or any

subsequent corresponding internal revenue code of the United States, as from time to time amended, an unemployment compensation law submitted to the Secretary by the Virgin Islands for approval; but, if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law, he is considered an exhaustee.

[(11)] (12) "State law" means the unemployment insurance law of any state, approved by the United States Secretary of Labor under Section 3304 of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended.

[(12)] (13) "High unemployment period" means any period during which an extended benefit period would be in effect if subparagraph (A) of subdivision (3) of subsection (a) of this section were applied by substituting eight per cent for six and one-half per cent.

(b) "Wages" means all remuneration for employment as defined in subsection (b) of section 31-222.

(c) "Administrator" means the Labor Commissioner, as defined in subsection (c) of section 31-222.