***** THIS TESTIMONY IS EMBARGOED UNTIL *****
***** FEBRUARY 10, 2011 AT 2:00 P.M. *****

Written Testimony of Tom Pauken, Chairman, Texas Workforce Commission
February 10, 2011

Thank you Chairman Davis, Ranking Member Doggett and distinguished members of the subcommittee for allowing me to submit this written testimony.

Texas has an important story to tell and because I believe our experience can help policymakers here and in other states address the problem of unemployment.

Texas has weathered the current recession better than any other large state. While we have not been immune to its effects, consider these numbers:

Between December 2000 and December 2010, Texas created 640,600 private sector jobs, according to recent Labor Department reports. That is an 8% increase over the last decade. During that same period of time, every other of the ten largest labor market states lost private sector jobs, and the nation as a whole lost more than 3.2 million such jobs.

There are many reasons why Texas has fared better than other states during the downturn. Governor Perry and the Texas Legislature have instituted polices of fiscal restraint and lower taxes that have made Texas the number one place for business in our nation. And thanks to our state legislature, the Texas Workforce Commission has administered a new program called Texas Back to Work designed to encourage employers to hire Texans who are unemployed and who have lost their jobs through no fault of their own. More than 10,000 unemployed Texans have been hired as a result of the program and this initiative received the Department of Labor's best practices award this past fall.

The program provides an incentive of up to $2,000 for hiring qualified UI claimants with the goal of rapid reintegration into the workplace. Employers train, develop and oversee new employees with the purpose of retaining the new hire after an initial 4 month period in order to receive the full incentive.

The program has been a win-win for employers, job seekers, and the taxpayers of Texas. For each worker who benefits from this program, the state saves more than 60% of the cost that would otherwise go towards benefit payments. More importantly, this program helps Texas businesses with the critical task of maintaining an up-to-date labor force, while also helping unemployed Texans get off the rolls of UI claimants and obtain what they truly seek – a job, not benefits.

Texas Back to Work was funded with seed money provided by our legislature and we later extended the program with federal funds. I have included a detailed summary of the Texas Back

to Work program as part of this testimony. Please refer to Attachment 1 for more details on the success of the program.

We believe other states would benefit from following Texas' example, and I would recommend that Congress pass legislation allowing all states the option of using federal and state emergency and extended benefit funds to pursue this cost-effective measure for job-creation. I have included draft language for your consideration to allow states the flexibility to use emergency and extended benefit funds for job subsidy programs. Please refer to Attachment 2. Now is the time to be proactive, before we find ourselves in January of next year, with extended benefits expiring and wondering how much more impact we could have had.

There are additional changes we believe could make the current system more effective.

I recommend that, as a condition for receiving extended unemployment benefits, recipients would have an option to "Train While They Claim". Those without a high school diploma could choose to study for their GED. UI claimants in that category would be entitled to first priority for participation in existing federally funded Adult Basic Education programs.

Those with a high school degree, but lacking specific vocational training, would be able to receive job skills training. Again, this would not require an increase in federal funding, but simply give claimants top priority to participate in existing federally funded training programs.

Alternatively, those who don't choose to get a GED or receive additional skills training would be required to gain additional on-the-job experience or training by volunteering for community service work for public institutions or approved non-profits like Habitat for Humanity. Those who refuse to participate in one of these three options would no longer be entitled to receive extended unemployment benefits.

I also want to bring your attention to an unprecedented overreach of federal authority over state unemployment statutes which was part of the American Recovery and Reinvestment Act of 2009. Texas was denied $550 million allocated to us by the Act – funds that would have been used to pay unemployed workers in our state. That federal legislation mandated that, in order to receive those funds, not only was the Texas Legislature required to make changes to our laws that would have expanded the number of people eligible to receive unemployment benefits, but our legislature was prohibited from including a sunset provision that would have allowed these changes to expire once the federal funds had been completely exhausted for their intended purpose.

No other federal legislation that I am aware of continues to have strings attached to it after the funding is gone. Such legislation is a first step in the federal government taking over all state unemployment laws in the country. These provisions need to be repealed.

I would ask the distinguished members here today to initiate legislation that would amend ARRA and allow Texas to receive the money that has already been set aside for us. Texas is not asking for money that is not ours to begin with. Texas is a donor state in the Federal Unemployment Insurance system. For every dollar we contribute, we receive only 35 cents back.

Finally, I would be remiss if I did not emphasize that the key to creating jobs is to grow the private sector. Government programs, no matter how innovative, cannot bring about the kind of fundamental change that is needed to put America back to work.

We currently have a corporate tax system that rewards American businesses for taking on debt – which is deductible – while punitively taxing employment, savings, and capital investment – the engines of economic growth and job creation in the private sector. This is an incentive to export prosperity and export American jobs overseas – which is precisely what has happened over the past decade.

The best way to address this problem is to change the way we tax businesses. Let's replace our onerous corporate tax system with a revenue-neutral, 8% business-consumption tax that would be border-adjusted.

This new approach to taxing business would raise just as much in revenues, if not more, than the current system of taxation. All goods and services coming into the U.S. would pay the 8% tax while all exports would receive a comparable tax credit as an offset to its company's business consumption tax. This would reduce the outsourcing of American jobs, encourage long-term investment in U.S. businesses, rebuild our manufacturing base, reduce our trade deficits and put business owners back in charge of the American economy. This is a real economic stimulus plan to get Americans back to work.

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Attachment 1

The Texas Back to Work Program offers a fixed subsidy of $2000 to private sector employers who hire claimants of UI making less than $15/hour in their job before being laid off. The program provides a tiered payment plan so that employers do not get the full subsidy unless the claimant remains employed with the employer for 4 months at 30 hours per week or more.

Claimants are offered jobs that qualify as "suitable employment" consistent with UI regulations. They may or may not know that the employer is receiving a subsidy. The job must be full time at better than minimum wage. The employer is to treat the TBTW hire as he would any other new employee to the business. Wages paid and hours worked are verified before payment is made.

TWC has done extensive publicizing of the TBTW program including through the Governor's Small Business Conferences. In addition, TWC created a TBTW certificate that it provides TBTW-eligible claimants so that they can use it in the application process to educate employers about the program and to show that they are TBTW-eligible as an inducement to the employer.

These efforts have proven very effective because after a slow start Texas Back to Work has placed 10,332 claimants in a little over a year and continues to make roughly 250 placements per week. This includes claimants at all points in the claim process including those:

- Receiving state UI benefits (first 26 weeks);
- Receiving extended federal benefits; or
- Those who have exhausted all benefits and had not returned to work yet.

TBTW by the Numbers:

- Texas Back to Work Placements – 10,332 claimants placed
- # Employers Served - 2757
- Percent Completed Subsidized Period – 65.5%
- Avg. Wages before Lay Off – Using November Analysis (7558 claims) $20,663
- Avg. Wages with Subsidized Job - Again, using November's Analysis $18,866.87 (91.31% wage replacement rate – for point of reference, 91% used to be considered very good wage replacement under WIA DW). Considering that many of the UI claimants served have been unemployed for extended periods, we believe this a very good outcome.
- Percent of TBTW participants with wages in 1st Quarter after Subsidy Completed-
  Overall - 75%
  Successful Completers – 89%
  (Preliminary analysis indicates that nearly 87% of the 89% were still employed with the s ame employer.)

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Attachment 2

The following amendments are proposed to create a wage subsidy option for the States out of funding from the Emergency Unemployment Compensation Benefits Program and the Extended Benefits Program. The creation of this option would allow States the alternative of providing up to thirteen weeks of wage subsidy, for the benefit of the claimant, to employers for the reemployment of individuals who qualify for further extended benefits. Funding for this subsidized option would not exceed the individual's weekly benefit amount and would not be permitted in any case where it would displace an employee.

The language of the proposed amendments are underlined and contained within the statutory provisions in order to provide context.

Because the claimants would be participating in subsidized reemployment under this program, it is anticipated that the claimants would be treated in the same manner as participants in the Texas Back to Work program.

TITLE IV--EMERGENCY UNEMPLOYMENT COMPENSATION
FEDERAL-STATE AGREEMENTS
<< 26 USCA § 3304 NOTE >>

SEC. **4001.** (a) IN GENERAL.--Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the "Secretary"). Any State which is a party to an agreement under this title may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.--Any agreement under subsection (a) shall provide that the State agency of the State will make payments of emergency unemployment compensation to individuals who--

(1) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before May 1, 2007);

(2) have no rights to regular compensation or extended compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law (except as provided under subsection (e)); and

(3) are not receiving compensation with respect to such week under the unemployment compensation law of Canada.

(c) EXHAUSTION OF BENEFITS.--For purposes of subsection (b)(1), an individual shall be deemed to have exhausted such individual's rights to regular compensation under a State law when--

(1) no payments of regular compensation can be made under such law because such individual

has received all regular compensation available to such individual based on employment or wages during such individual's base period; or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) WEEKLY BENEFIT AMOUNT, ETC.--For purposes of any agreement under this title--

(1) the amount of emergency unemployment compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to such individual during such individual's benefit year under the State law for a week of total unemployment;

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for emergency unemployment compensation and the payment thereof, except--

(A) that an individual shall not be eligible for emergency unemployment compensation under this title unless, in the base period with respect to which the individual exhausted all rights to regular compensation under the State law, the individual had 20 weeks of full-time insured employment or the equivalent in insured wages, as determined under the provisions of the State law implementing section 202(a)(5) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note); and

(B) where otherwise inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; ~~and~~

(3) the maximum amount of emergency unemployment compensation payable to any individual for whom an emergency unemployment compensation account is established under section 4002 shall not exceed the amount established in such account for such individual~~.~~; and

(4) in the alternative, a State may provide a wage subsidy from the individual's emergency unemployment compensation account in an amount per week no greater than the weekly benefit amount, for the benefit of the individual eligible for emergency unemployment compensation benefits, to an employer who provides reemployment of the individual for up to thirteen weeks. The subsidized reemployment shall not displace an employee.

(e) ELECTION BY STATES.--Notwithstanding any other provision of Federal law (and if State law permits), the Governor of a State that is in an extended benefit period may provide for the payment of emergency unemployment compensation prior to extended compensation to individuals who otherwise meet the requirements of this section.

(f) UNAUTHORIZED ALIENS INELIGIBLE.--A State shall require as a condition of eligibility for emergency unemployment compensation under this Act that each alien who receives such compensation must be legally authorized to work in the United States, as defined

for purposes of the Federal Unemployment Tax Act (26 U.S.C. 3301 et seq.). In determining whether an alien meets the requirements of this subsection, a State must follow the procedures provided in section 1137(d) of the Social Security Act (42 U.S.C. 1320b-7(d)).

PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF EMERGENCY UNEMPLOYMENT COMPENSATION
<< 26 USCA § 3304 NOTE >>

SEC. 4003. (a) GENERAL RULE.--There shall be paid to each State that has entered into an agreement under this title an amount equal to 100 percent of the emergency unemployment compensation paid to individuals and the emergency unemployment compensation wage subsidies paid for reemployment of individuals by the State pursuant to such agreement.

(b) TREATMENT OF REIMBURSABLE COMPENSATION.--No payment shall be made to any State under this section in respect of any compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this title or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this title in respect of such compensation.

(c) DETERMINATION OF AMOUNT.--Sums payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

<< 26 USCA § 3304 NOTE >>

Federal-State Extended Unemployment Compensation Act of 1970

"Sec. 202 [Payment of extended compensation].

"(a) [State law requirements] (1) For purposes of section 3304(a)(11) of the Internal Revenue Code of 1986 [(formerly I.R.C. 1954) subsec. (a)(11) of this section] a State law shall provide that payment of extended compensation shall be made, for any week of unemployment which begins in the individual's eligibility period, to individuals who have exhausted all rights to regular compensation under the State law and who have no rights to regular compensation with respect to such week under such law or any other State unemployment compensation law or to compensation under any other Federal law and are not receiving compensation with respect to

such week under the unemployment compensation law of Canada. For purposes of the preceding sentence, an individual shall have exhausted his rights to regular compensation under a State law (A) when no payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period, or (B) when his rights to such compensation having terminated by reason of the expiration of the benefit year with respect to which such rights existed. In the alternative, a State may provide a wage subsidy from the individual's extended compensation account in an amount per week no greater than the weekly benefit amount, for the benefit of the individual eligible for extended compensation, to an employer who provides reemployment of the individual for up to thirteen weeks. The subsidized reemployment shall not displace an employee.

"**(2)** Except where inconsistent with the provisions of this title [this note], the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for extended compensation and to the payment thereof.

<< 26 USCA § 3304 NOTE >>

"Sec. 204 [Payments to States].

(a) [Amount payable] (1) There shall be paid to each State an amount equal to one-half of the sum of—

"**(A)** the sharable extended compensation, and

"**(B)** the sharable regular compensation,

paid to individuals and the extended compensation wage subsidies paid for reemployment of individuals under the State law.

"**(2)** No payment shall be made to any State under this subsection in respect of compensation (A) for which the State is entitled to reimbursement under the provisions of any Federal law other than this Act, (B) paid for the first week in an individual's eligibility period for which extended compensation or sharable regular compensation is paid, if the State law of such State provides for payment (at any time or under any circumstances) of regular compensation to an individual for his first week of otherwise compensable unemployment, (C) paid for any week with respect to which such benefits are not payable by reason of section 233(d) of the Trade Act of 1974 [19 U.S.C.A. 2293(d)], or (D) paid to an individual with respect to a week of unemployment to the extent that such amount exceeds the amount of such compensation which would be paid to such individual if such State had a benefit structure which provided that the amount of compensation otherwise payable to any individual for any week shall be rounded (if not a full dollar amount) to the nearest lower full dollar amount.

"**(3)** The amount which, but for this paragraph, would be payable under this subsection to any State in respect of any compensation paid to an individual whose base period wages include

wages for services to which section 3306(c)(7) of the Internal Revenue Code of 1986 [26 U.S.C.A. § 3306(c)(7)] applies shall be reduced by an amount which bears the same ratio to the amount which, but for this paragraph, would be payable under this subsection to such State in respect of such compensation as the amount of the base period wages attributable to such services bears to the total amount of the base period wages.