

Testimony of Flannery O'Rourke

National Employment Law Project

Support for SB916: Extending Unemployment Insurance Benefits to Striking Workers Will Benefit Oregon

Hearing before Oregon Senate

Committee on Labor and Business

February 6, 2025

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Extending Unemployment Insurance Benefits to Striking Workers Will Benefit Oregon

Good morning, Chair Taylor, Vice Chair Bonham, and Members of the Committee. I am Flannery O'Rourke, Unemployment Insurance Program Director at the National Employment Law Project.

NELP is a nonprofit research, policy, and capacity-building organization that for more than 50 years has sought to strengthen protections and build power for workers in the U.S., including workers who are unemployed. For decades, NELP has researched and advocated for policies that create good jobs, expand access to work, and strengthen protections and support for underpaid and jobless workers.

I am speaking today in support of SB916. The bill extends the availability of unemployment insurance to workers on strike. The bill provides critical support to striking workers, is consistent with the purpose of unemployment insurance and existing law, and will produce profound benefits for the state at a low cost.

Striking Workers Sacrifice for Improvements that Benefit the Broader Public

The word “strike” may evoke images of workers in matching shirts, marching in circles, holding brightly colored signs, shouting in call and response, and singing in unison. But behind the vibrant collective energy of every strike are months of deliberations amongst workers and negotiations between the workers and their employer. Workers may strike to contest unfair labor practices¹ or to seek improved wages or working conditions.² In many cases the workers endured discrimination or other unlawful treatment for months or years before their shouts for justice were amplified down the picket line.

Also absent from the vibrant images are the sacrifices workers must make to go on strike; a stoppage of work is a stoppage of pay. The worker on the picket line making full-throated cries for justice may go home to an empty plate. Workers engage in this profound sacrifice because strikes can be a powerful strategy to effectuate change. As former U.S. Secretary of Labor Frances Perkins once proclaimed, a strike is a “joint, unified action of many to secure terms

from their employers which if they acted as individuals they would not be able to secure, the employers' bargaining power always being enormously stronger than that of a single individual who needs work and wages."³ Extension of unemployment insurance (UI) to all striking workers in Oregon would attenuate workers' sacrifice of wages while they strike to improve the conditions of, and maintain their connection to, their workplace.

Strike Funds are Limited and Generally Immaterial to Social Insurance Eligibility

While opponents of extending UI to striking workers may point to strike funds as the proper form of assistance for workers on strike, such funds are both limited and generally immaterial for social insurance eligibility.

Strike funds are financed through contributions deducted from workers' wages. Such funds typically replace only a fraction of the worker's prior weekly earnings. For example, in 2024, Boeing workers received just \$250 a week in strike funds starting in the third week of the strike.⁴ Thus, often even the *combination* of strike funds and UI benefits would still leave workers well short of their prior wages in employment. Moreover, 22% of striking workers nationwide are not union members and may not have access to a strike fund at all.⁵

Furthermore, the existence of strike funds is generally immaterial for social insurance programs. UI is a social insurance program (and *not* a means-tested program) for which a worker's pay for services can impact eligibility. Thus, in New York, which provides UI for striking workers, strike funds have no impact on the eligibility for UI unless the worker is being paid to picket.⁶

Similarly, Social Security, which is a social insurance program like UI, also does not count strike funds as wages unless the worker is paid to perform strike duties.⁷

Strikes Benefit the Broader Public

Extension of UI to striking workers is especially apt (and exclusion of striking workers is especially egregious) given that strikes often forge benefits that extend beyond the picket line. When workers strike to contest unlawful employer practices, unsafe working conditions, and insufficient wages, this can lead to improvements that benefit the broader public. For example, when nurses in New York went on strike for better nurse-to-patient ratios, it improved the safety of hospital patients.⁸ Likewise, the United Auto Worker's strike in 2023 led to higher pay at factories nationwide, including those that were not affiliated with the strike.⁹ So, just as the vivid images of strikes fail to show the sacrifice that sustains it, the images also fail to capture that

many Oregonians unaffiliated with the strike will find their plates more full without ever having to strike or sacrifice. It is only fair then that the striking workers who bring about these changes are covered by unemployment insurance.

Facilitating Strong Union Contracts Promotes Racial and Gender Equity

Strikes are often used as a last resort negotiating tactic for unionized workers to forge better pay and working conditions. Nationwide, Black workers are more likely than any other racial group to be members of unions.¹⁰ On average, union members earn higher wages than non-union members.¹¹ The racial wealth gap is also lower for members of unions than for non-union members.¹² Likewise, on average, women in unions earn 9.5% more than women who are not members of unions.¹³ Moreover, the just cause protections in union contracts help reduce discriminatory firings.¹⁴ Thus, providing UI to workers during strikes facilitates negotiation of more equitable wages and working conditions. This, in turn, may influence improvements to wages and working conditions of non-union workers.¹⁵

Extending Unemployment Insurance to Striking Workers is Consistent with Both the Purpose of UI and Existing Law

Unemployment insurance was created to support workers when outside forces disrupt the *availability* or *suitability* of a worker's employment. While layoffs are a common basis for UI eligibility, in some cases workers may voluntarily leave work and still be eligible for UI. For example, workers are generally eligible after voluntarily separating from a job for "good cause" related to the work.¹⁶ Workers are also often covered for voluntary separations unrelated to the work, including to accept other work, for health reasons,¹⁷ or for family obligations.¹⁸

Many states already extend UI to workers during one or more types of labor disputes. Thirty-two states provide UI benefits to workers during lockouts.¹⁹ This aligns with the purpose of UI, as when an employer locks workers out, the work is no longer available. Additionally, eleven states extend UI benefits to striking workers, at least under certain conditions.²⁰ Again, this fits with the purpose of UI, as when a group of workers reaches an impasse with their employer or their employer violates their contract or labor law, a strike may be the only viable path to ensuring that their current work is made suitable.

Federal law also recognizes that struck workplaces may be unsuitable. The Federal Unemployment Tax Act requires that states *exclude* jobs made available due to labor disputes from the definition of suitable work.²¹ If the struck workplace is not suitable for outside workers, it hardly seems fair that the workers engaging in the work stoppage would be barred from receiving UI compensation.

Unemployment Insurance for Striking Workers Benefits the State and Employers at Minimal Cost

The state and employers will also benefit if UI is extended to all striking workers. UI is an automatic economic stabilizer.²² Weekly payments to workers keep dollars flowing into the local economy.

Extension of UI to striking workers can be done at a low cost. Economic Policy Institute (EPI) found that at Oregon's current reciprocity rate, striker benefits would make up just .24% of the state's UI expenditures.²³ Even in the highly unlikely event that there was a reciprocity rate of 100% amongst strikers, extension of UI to striking workers would still account for only .62% of the state's UI expenditures.²⁴

The minimal cost results from the fact that strikes are used selectively and generally effect change in a short period of time. An estimated 86% of strikes are 14 days or fewer.²⁵ EPI found that between January 2021 through November 2024, there were only 17 strikes in Oregon that would qualify for coverage under SB916.²⁶ Evidence from New York and New Jersey shows that the extension of UI to striking workers did not increase the occurrence of strikes.²⁷ In fact, provision of UI to striking workers may encourage employers to bargain in good faith.²⁸

In sum, for mere pennies, this bill attenuates the sacrifice of striking workers and enables social and economic benefits that extend well beyond the picket line. Thus, the National Employment Law Project urges legislators to support SB916 to extend UI to striking workers.

Endnotes

¹ 29 U.S.C. §158 (a).

² 29 U.S.C. §157, 163.

³ Columbia University Libraries, *Frances Perkins: The Woman Behind the New Deal*, <https://exhibitions.library.columbia.edu/exhibits/show/perkins/trade-unions---strikes/strikes> (last visited Feb. 6, 2025).

⁴ Max Zahn, *Boeing Strike Tests Which Side Can Best Withstand Financial Losses* ABC (Sept. 16, 2024, 7:44PM), <https://abcnews.go.com/Business/boeing-strike-tests-side-best-withstand-financial-losses/story?id=113722273>.

⁵ Kathryn Ritchie et al., *Labor Action Tracker Annual Report 2023*, ILR School, Cornell University and LER School, University of Illinois (2024), <https://www.ilr.cornell.edu/sites/default/files-d8/2024-02/Labor-Action-Tracker-2023-Annual-Report.pdf>.

⁶ N.Y. Dep't of Labor, *Unemployment Insurance (UI) and Strikes*, <https://dol.ny.gov/system/files/documents/2023/09/p835-ui-and-strikes-9-23.pdf> (last visited Feb. 6, 2025).

⁷ Soc. Sec. Admin., *Social Security Handbook § 1325*, https://www.ssa.gov/OP_Home/handbook/handbook.13/handbook-1325.html (last visited Feb. 6, 2025).

⁸ Emily Olson, *New York City Nurses End Strike After Reaching a Tentative Agreement* NPR (Jan. 12, 2023 8:49 AM ET), <https://www.npr.org/2023/01/12/1148648031/new-york-nurses-strike-mount-sinai-montefiore-agreement>.

⁹ Keith Naughton, *The UAW Scores Another Raise for Non-Union Members as Nissan Gives A 10% Raise to 9,000 American Factory Workers* Fortune (Nov. 20, 2023, 7:29PM), <https://fortune.com/asia/2023/11/20/nissan-raises-wages-pay-10-percent-factory-workers-uaw-shawn-fain/>.

¹⁰ Bureau of Labor Statistics, *Union Members 2024* (Jan. 28, 2025), <https://www.bls.gov/news.release/pdf/union2.pdf>.

¹¹ *Id.*

¹² Josh Bivens et al. *Unions Promote Racial Equity* EPI (July 31, 2023), <https://www.epi.org/publication/unions-promote-racial-equity/>.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Daniel Perez, *Unemployment Insurance for Striking Workers: A Low-Cost Policy That's Good for Workers and State Economies* EPI, at 14 (Feb. 3, 2025) (hereinafter Perez), available at: <https://files.epi.org/uploads/adoc-2025-01-31T114301.481-MCedited.pdf>.

¹⁶ U.S. Dep't of Labor, *Comparison of State Laws*, 2023, at 5-2, <https://oui.doleta.gov/unemploy/pdf/uilawcompar/2023/complete.pdf>.

¹⁷ *Id.*, at 5-3 to 5-4.

¹⁸ *Id.*, at 5-5 to 5-6.

¹⁹ *Id.*, at 5-23 to 5-25.

²⁰ *Id.*

²¹ “[C]ompensation shall not be denied in such State to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (A) if the position offered is vacant due directly to a strike, lockout, or other labor dispute[.]” 26 U.S.C. § 3304 (a) (5).

²² Marco Di Maggio & Amir Kermani, *The Importance of Unemployment Insurance as an Automatic Stabilizer*, National Bureau of Economic Research (Sept. 2016), available at: <https://www.nber.org/papers/w22625>.

²³ Perez, at 20. Recipency rate is the percent of unemployed workers that are receiving unemployment insurance compensation. U.S. Dep’t of Labor, *UI Data Glossary*, https://oui.doleta.gov/unemploy/content/data_stats/datasum99/4thqtr/gloss.asp (last visited Feb. 5, 2025). Oregon’s UI recipency rate is 38.7%. Perez, at 20.

²⁴ *Id.*

²⁵ *Id.*, at 10.

²⁶ *Id.* at 18.

²⁷ Amy Traub, *Unemployment Insurance for Striking Workers* NELP (Oct. 21, 2024), <https://www.nelp.org/insights-research/unemployment-insurance-for-striking-workers/>.

²⁸ Perez, at 13.

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