OFFICE OF THE GOVERNOR
INDIANAPOLIS, INDIANA 46204-2797

Joseph E. Kernan
GOVERNOR

March 9, 2004

The Honorable Dan Burton
The Honorable Steve Buyer
The Honorable Chris Chocola
The Honorable John Hostettler
The Honorable Mike Pence
The Honorable Mark Souder
Congress of the United States
House of Representatives
Washington, D.C. 20515

Dear Congressmen:

I am writing to address concerns outlined in your letter of March 2, as well as Congressman Buyer's separate letter of February 27, both on the issue of the Reed Act distribution of funds to the states.

The $8 billion Reed Act distribution referenced in these letters was part of the Job Creation and Worker Assistance Act of 2002 (P.L. 107-147), an economic stimulus package brought forth by President Bush. Reed Act funds, by law, are intended to be distributed automatically to states when three Federal Unemployment Tax Act (FUTA) accounts reach their established ceilings. However, prior to this special distribution, Congress has acted repeatedly to limit the amount of funding that otherwise should have gone to states by adjusting the ceilings higher whenever account balances approached or exceeded the ceilings.

After the special Reed Act distribution was made to State Unemployment Insurance (UI) Trust Funds, the U.S. Department of Labor issued guidance letters on April 22, 2002 (TEGL No. 18-01) and May 8, 2002 (TEGL No.24-01) on how states could use the dedicated funds to:

1. shore up State Trust Fund balances used for unemployment insurance compensation;
2. pay regular benefits, reduce employer taxes, and make certain payments of additional compensation, but not the state's share of extended benefits (EB) or Temporary Extended Unemployment Compensation (TEUC) assistance;
3. upgrade UI and employment services (ES) in automation and technology intended to reduce fraud and abuse, and improve claims filing and employer payment methods;
4. make performance improvements in UI and employment services; and
5. support one-stop systems for delivering employment and workforce information services.

When the Reed Act funds were sent to states, Congress placed *no time limit on their expenditure*, but the law required state legislative action to authorize UI and ES investments and changes in state benefits.

Another key part of the economic stimulus package was the creation of a TEUC program. The TEUC program was established as a completely separate, 100% federally-funded program to provide 13 weeks of additional unemployment compensation to eligible individuals who exhausted their 26 weeks of regular benefits. These TEUC benefits were administered by the state agency that runs the UI program, which in Indiana is the Department of Workforce Development.

On May 8, 2003, Governor Frank O'Bannon signed into law state legislation (HEA 1001) that appropriated part of Indiana's allocation of Reed Act funds as follows:

- $39.2 million over 10 years for the UI modernization project;
- $25 million over five years for the JOBS program; and
- $8 million over two years to local Workforce Investment Boards (WIBs) for their one-stop employment offices.

While Indiana and other states could have used a portion of their Reed Act monies for additional compensation for individuals who *both* qualified for and exhausted TEUC benefits, they could not use the funds for workers ineligible for TEUC payments. Reed Act funds were neither intended to replace TEUC payments nor provide an alternative form of compensation for those workers who did not qualify for the program. In fact, P.L. 107-147 prohibits states from substituting Reed Act funds for TEUC assistance.

Instead of creating a new tier of benefits, the General Assembly chose to leave over $102 million in Indiana's UI Trust Fund to improve its solvency and to help pay for a $54 increase in regular maximum weekly UI benefits phased in over three years. This increase in benefits was enacted in separate state legislation (SEA 486) after Indiana received the $175 million allocation of Reed Act funding. Because of this, $64 million in additional regular unemployment assistance will be paid to dislocated Indiana workers by the end of this year, with more to come. These actions preserved the integrity of the Trust Fund while providing increased benefits to all out-of-work Hoosiers eligible for unemployment compensation. This package of state legislation passed both chambers of the General Assembly with strong bipartisan support and was supported by business and labor groups alike.

As you know, the original law that created TEUC expired on December 28, 2002, and when Congress reconvened in January 2003, its first act was to extend the program for six months. Congress again extended the benefits deadline for an additional six months in May 2003. Although bills in both houses of Congress were put forth to again extend TEUC another six months at the end of calendar year 2003, unfortunately both the U.S. House and Senate adjourned in December 2003 without acting to extend the program.

I continue to support the extension of the federal TEUC program and urge you to reconsider the votes you cast against such a proposal, endorsed on February 4, 2004 by a bipartisan vote of 227-179 in the U.S. House of Representatives. With between $15-$20 billion of funding accumulated in federal UI accounts, and a balance of close to $6 billion available in the Extended Unemployment Compensation Account (EUCA) through the end of the current federal fiscal year, surely the federal government can afford to continue the TEUC program, which would provide immediate assistance to hundreds of thousands of jobless workers across the country and more than 10,000 unemployed Hoosiers and their families.

Unlike some of our neighboring states, Indiana's UI Trust Fund has remained solvent while bearing the cost of increasing numbers of regular UI claimants during the national recession. At the same time, the State has taken proactive measures to increase UI benefits amounts, provide job search and job match assistance, expand customer service, and augment training opportunities for working Hoosiers. Additionally, Hoosier businesses will have saved more than $190 million in UI taxes through the end of 2004 thanks to the bipartisan state legislation.

But Indiana was not alone in acting responsibly to shore up State UI Trust Fund balances. In her testimony before a subcommittee of the House Ways and Means Committee last year, U.S. Assistant Secretary of Labor for Employment and Training, Emily DeRocco, cited a United States General Accounting Office report in her written remarks:

> "On average, fund balances were raised by about 20% at the time of the distribution. This, in turn, postponed or avoided the need to raise employer taxes in many states, which is important at a time when business investment is needed to spark the economy.... The GAO report indicates that, for 2003, the Reed Act distribution mitigated or avoided tax increases in 26 states."

Through strong bipartisan support, Indiana's allocation of Reed Act dollars has become a part of an overall economic development and job creation strategy for the state. These targeted investments, coupled with a positive tax climate and a skilled workforce, better position Indiana for success in the future.

Please be assured that partisan efforts to blame my administration for the shortcomings of federal economic policy and the failure of congressional leadership to approve the use of dedicated UI funding to help jobless Americans will not deter us from this course. It is unfortunate that your apparent misunderstanding of the facts on this issue has caused concern among Hoosiers who have suffered because of the national recession.

Sincerely,

Joseph E. Kernan

Joseph E. Kernan

Cc: The Honorable Evan Bayh
The Honorable Richard Lugar
The Honorable Julia Carson
The Honorable Baron Hill
The Honorable Pete Visclosky
Members of the media