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94TH CONGRESS 2d Session } HOUSE OF REPRESENTATIVES { REPORT No. 94-1745

THE UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976

OCTOBER 1, 1976.—Ordered to be printed

Mr. ULLMAN, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 10210]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10210) to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 3, 11, 12, 14, 17, 18, 19, 21, 29, 30, 33, 36, 37, 38, 39, 40, 41, 43, 44, 45, and 46, and agree to the same.

That the Senate recede from its amendments numbered 2, 5, 6, 7, 8, 9, 10, 13, 16, 20, 22, 26, 27, 28, 34, 35, and 52.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1 and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment, and on page 2 of the House bill after line 3 insert the following:

SEC. 111. COVERAGE OF CERTAIN AGRICULTURAL EMPLOYMENT.

(a) NONCASH REMUNERATION.—Section 3306(b) of the Internal Revenue Code of 1954 (defining wages) is amended by striking out "or" at the end of paragraph (9), by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(11) remuneration for agricultural labor paid in any medium other than cash.".

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(b) *Coverage of Agricultural Labor.*—Paragraph (1) of section 3306(c) of such Code (defining employment) is amended to read as follows:

"(1) agricultural labor (as defined in subsection (k)) unless—

"(A) such labor is performed for a person who—

"(i) during any calendar quarter in the calendar year or the preceding calendar year paid remuneration in cash of $20,000 or more to individuals employed in agricultural labor (not taking into account labor performed before January 1, 1980, by an alien referred to in subparagraph (B)), or

"(ii) on each of some 20 days during the calendar year or the preceding calendar year, each day being in a different calendar week, employed in agricultural labor (not taking into account labor performed before January 1, 1980, by an alien referred to in subparagraph (B)) for some portion of the day (whether or not at the same moment of time) 10 or more individuals; and

"(B) such labor is not agricultural labor performed before January 1, 1980, by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act;".

(c) *Effective Date.*—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.

SEC. 112. TREATMENT OF CERTAIN FARMWORKERS.

(a) *General Rule.*—Section 3306 of the Internal Revenue Code of 1954 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(o) *Special Rule in Case of Certain Agricultural Workers.*—

"(1) *Crew leaders who are registered or provide specialized agricultural labor.*—For purposes of this chapter, any individual who is a member of a crew furnished by a crew leader to perform agricultural labor for any other person shall be treated as an employee of such crew leader—

"(A) if—

"(i) such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or

"(ii) substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

"(B) if such individual is not an employee of such other person within the meaning of subsection (i).

"(2) *Other crew leaders.*—For purposes of this chapter, in the case of any individual who is furnished by a crew leader to perform agricultural labor for any other person and who is not treated as an employee of such crew leader under paragraph (1)—

"(A) such other person and not the crew leader shall be treated as the employer of such individual; and

"(B) such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his behalf or on behalf of such other person) for the agricultural labor performed for such other person.

"(3) *Crew leader.*—For purposes of this subsection, the term 'crew leader' means an individual who—

"(A) furnishes individuals to perform agricultural labor for any other person,

"(B) pays (either on his behalf or on behalf of such other person) the individuals so furnished by him for the agricultural labor performed by them, and

"(C) has not entered into written agreement with such other person under which such individual is designated as an employee of such other person.".

(b) *Effective Date.*—The amendment made by subsection (a) shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.

SEC. 113. COVERAGE OF DOMESTIC SERVICE.

(a) *General Rule.*—Paragraph (2) of section 3306(c) of the Internal Revenue Code of 1954 (defining employment) is amended to read as follows:

"(2) domestic service in a private home, local college club, or local chapter of a college fraternity or sorority unless performed for a person who paid cash remuneration of $1,000 or more to individuals employed in such domestic service in any calendar quarter in the calendar year or the preceding calendar year;".

(b) *Effective Date.*—The amendment made by subsection (a) shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.

SEC. 114. DEFINITION OF EMPLOYER.

(a) *General Rule.*—Subsection (a) of section 3306 of the Internal Revenue Code of 1954 (defining employer) is amended to read as follows:

"(a) *Employer.*—For purposes of this chapter—

"(1) *In general.*—The term 'employer' means, with respect to any calendar year, any person who—

"(A) during any calendar quarter in the calendar year or the preceding calendar year paid wages of $1,500 or more, or

"(B) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least one individual in employment for some portion of the day.

For purposes of this paragraph, there shall not be taken into account any wages paid to, or employment of, an employee performing domestic services referred to in paragraph (3).

"(2) *Agricultural labor.*—In the case of agricultural labor, the term 'employer' means, with respect to any calendar year, any person who—

"(A) during any calendar quarter in the calendar year or the preceding calendar year paid wages of $20,000 or more for agricultural labor, or

"(*B*) *on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least 10 individuals in employment in agricultural labor for some portion of the day.*

"(*3*) *Domestic service.—In the case of domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, the term 'employer' means, with respect to any calendar year, any person who during any calendar quarter in the calendar year or the preceding calendar year paid wages in cash of $1,000 or more for such service.*

"(*4*) *Special rule.—A person treated as an employer under paragraph (3) shall not be treated as an employer with respect to wages paid for any service other than domestic service referred to in paragraph (3) unless such person is treated as an employer under paragraph (1) or (2) with respect to such other service.*"

(*b*) *Technical Amendment.—Subsection (a) of section 6157 of such Code (relating to payment of Federal unemployment tax on quarterly or other time period basis) is amended to read as follows:*

"(*a*) *General Rule.—Every person who for the calendar year is an employer (as defined in section 3306(a)) shall—*

"(*1*) *if the person is such an employer for the preceding calendar year (determined by only taking into account wages paid and employment during such preceding calendar year), compute the tax imposed by section 3301 for each of the first 3 calendar quarters in the calendar year on wages paid for services with respect to which the person is such an employer for such preceding calendar year (as so determined), and*

"(*2*) *if the person is not such an employer for the preceding calendar year with respect to any services (as so determined), compute the tax imposed by section 3301 on wages paid for services with respect to which the person is not such an employer for the preceding calendar year (as so determined)—*

"(*A*) *for the period beginning with the first day of the calendar year and ending with the last day of the calendar quarter (excluding the last calendar quarter) in which such person becomes such an employer with respect to such services, and*

"(*B*) *for the third calendar quarter of such year, if the period specified in subparagraph (A) includes only the first two calendar quarters of the calendar year.*

The tax for any calendar quarter or other period shall be computed as provided in subsection (b) and the tax as so computed shall, except as otherwise provided in subsections (c) and (d), be paid in such manner and at such time as may be provided in regulations prescribed by the Secretary."

(*c*) *Effective Date.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.*

And the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4 and agree to the same with an amendment as follows:

In lieu of the matter proposed to be stricken out by the Senate amendment, strike out line 14 on page 11 of the House bill and all that follows down through line 13 on page 12, and after line 13 on page 11 of the House bill insert the following:

(*1*) *Subparagraph (A) of section 3304(a)(6) of such Code is amended by striking out "except that" and all that follows down through ", and" at the end thereof and inserting in lieu thereof the following:*

except that—

"(*i*) *with respect to services in an instructional research, or principal administrative capacity for an educational institution to which section 3309(a)(1) applies, compensation shall not be payable based on such services for any week commencing during the period between two successive academic years (or, when an agreement provides instead for a similar period between two regular but not successive terms, during such period) to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms, and*

"(*ii*) *with respect to services in any other capacity for an educational institution (other than an institution of higher education) to which section 3309(a)(1) applies, compensation payable on the basis of such services may be denied to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, and*"

And the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows:

Strike the matter proposed to be stricken by the Senate amendment and insert in lieu thereof the following:

SEC. 212. DENIAL OF CERTAIN PAYMENTS UNDER THE EXTENDED UNEMPLOYMENT COMPENSATION PROGRAM.

(*a*) *In General.—Subsection (a) of section 204 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new paragraph:*

"(*4*) *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 1954 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.*".

(*b*) *Effective Date.—The amendment made by this section shall apply with respect to compensation paid for weeks of unemployment beginning on or after January 1, 1979.*
And the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23 and agree to the same with an amendment as follows:
In the matter proposed to be inserted by the Senate amendment, strike out "were '6' " and insert in lieu thereof "were '5' ".
And the Senate agree to the same.

Amendment numbered 24:

That the House recedes from its disagreement to the amendment of the Senate numbered 24, and agrees to the same with an amendment as follows:
Insert the matter proposed to be inserted by the Senate, and on page 35, line 21, of the House bill, strike out "amendments and insert in lieu thereof "amendment".
And the Senate agree to the same.

Amendment numbered 25:

That the House recedes from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment as follows:
In the matter proposed to be inserted by the Senate amendment, strike out "amendments" and insert in lieu thereof "amendment".
And the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31 and agree to the same with an amendment as follows:
Strike out the period at the end of paragraph (14)(B) which is proposed to be inserted by the Senate amendment and insert in lieu thereof ", and" and strike out the quotation marks at the end of paragraph (14)(C) which is proposed to be inserted by the Senate amendment.
And the Senate agree to the same.

Amendment numbered 32:

That the House recedes from its disagreement to the amendment of the Senate numbered 32 and agree to the same with an amendment as follows:
In lieu of the matter proposed to be inserted by the Senate amendment insert the following:
(15) the amount of compensation payable to an individual for any week begins after September 30, 1979, and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment, which is reasonably attributable to such week;

And the Senate agree to the same.

Amendment numbered 42:

That the House recedes from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment as follows:
In the matter proposed to be inserted by the Senate amendment, strike out "containing" and all that follows and insert in lieu thereof a period.
And the Senate agree to the same.

Amendment numbered 53:

That the House recedes from its disagreement to the amendment of the Senate numbered 53 and agree to the same with an amendment as follows:
In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 506. ELECTION OF LOCAL GOVERNMENTS TO USE REIMBURSEMENT METHOD.

(*a*) *In General.—Paragraph (2) of section 3309(a) of the Internal Revenue Code 1954 (relating to State law requirements) is amended—*
(1) by striking out "an organization" and inserting in lieu thereof "a governmental entity or any other organization",
(2) by striking out "paragraph (1)(A)" and inserting in lieu thereof "paragraph (1)", and
(3) by striking out "that organizations" and inserting in lieu thereof "that governmental entities or other organizations".
(*b*) *Technical Amendment.—Subparagraph (B) of section 3304(a)(6) of such Code is amended by striking out "section 3309(a)(1)(A)" and inserting in lieu thereof "section 3309(a)(1)".*
(*c*) *Effective Date.—The amendments made by this section shall apply with respect to certifications of States for 1978 and subsequent years, but only with respect to services performed after December 31, 1977.*
And the Senate agree to the same.

Amendment numbered 56:

That the House recedes from its disagreement to the amendment of the Senate numbered 56 and agree to the same with amendments as follows:
(1) Strike out sections 603 and 604 which are proposed to be inserted by the Senate amendment and insert the following:

SEC. 603. DENIAL OF SPECIAL UNEMPLOYMENT ASSISTANCE TO NONPROFESSIONAL EMPLOYEES OF EDUCATIONAL INSTITUTIONS DURING PERIODS BETWEEN ACADEMIC TERMS.

(*a*) *Section 203 of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended by adding at the end thereof the following new subsection:*
"(c) An individual who performs services for an educational institution or agency in a capacity (other than an instructional, research, or principal administrative capacity) shall not be eligible to receive a payment of assistance or a waiting period credit with respect to any work commencing during a period between two successive academic years or terms if—

"*(1) such individual performed such services for any educational institution or agency in the first of such academic years or terms; and*

"*(2) there is a reasonably assurance that such individual will perform services for any educational institututtion or agency in any capacity (other than an instructional, research, or principal administrative capacity) in the second of such academic years or terms.*"

(b) The amendment made by subsection (a) shall apply to weeks of unemployment beginning after the date of the enactment of this Act.

(2) Redesignate section 605 which is proposed to be inserted by the Senate amendment as section 604.

And the Senate agree to the same.

That the amendments of the Senate numbered 47, 48, 49, 50, 51, 54, and 55 are reported in disagreement.

AL ULLMAN,
JAMES A. BURKE,
JAMES C. CORMAN,
CHARLES B. RANGEL,
WILLIAM A. STEIGER,
BILL FRENZEL,
Managers on the Part of the House.
RUSSELL B. LONG,
HERMAN TALMADGE,
GAYLORD NELSON,
WILLIAM D. HATHAWAY,
CARL T. CURTIS,
PAUL FANNIN,
CLIFFORD HANSEN,
JACOB K. JAVITS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H.R. 10210 to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action (other than action of a merely technical nature) agreed upon by the managers and recommended in the accompanying conference report:

SENATE AMENDMENT NUMBERED 1

COVERAGE OF CERTAIN AGRICULTURAL UNEMPLOYMENT

House bill.—Under existing law, agricultural employment is excluded from the definition of the term "employment" and is therefore not subject to the Federal unemployment tax. The House bill amends the definition of employment so as to include agricultural labor which is performed for farm employers who, during the current or preceding calendar year, employ four or more workers in each of 20 weeks, or pay $10,000 or more in wages for agricultural labor in a calendar quarter. The House bill excludes from the new coverage agricultural labor performed by aliens admitted to the United States to perform agricultural labor under a contract to an employer and who return to their own country upon completion of the contract. This exclusion is a temporary exclusion which expires on January 1, 1980. The provisions of the House bill apply with respect to remuneration paid after December 31, 1977, for services performed after such date.

Senate amendment.—The Senate amendment strikes out this provision of the House bill.

Conference agreement.—The conference agreement follows the House bill except agricultural labor is covered only if performed for a farm employer who, during the current or preceding calendar year, employs 10 or more workers in each of 20 weeks, or pays $20,000 or more in wages for such labor in any calendar quarter.

TREATMENT OF CERTAIN FARM WORKERS

House bill.—The House bill contains special rules for determining who will be treated as the employer, and, therefore, liable for the Federal unemployment tax, in the case of agricultural workers who are members of a crew furnished by a crew leader to perform agricul-

tural labor for a farm operator. These special rules are required by reason of the extension of coverage for farm workers which is contained in the House bill. Generally, the House bill provides that the crew leader will be treated as the employer of the individuals furnished by him to perform agricultural labor for another person only if such crew leader is registered under the Farm Labor Contractor Registration Act of 1963, or if substantially all of the members of the crew furnished by such crew leader operate or maintain mechanized equipment. In other cases, the farmer is to be treated as the employer. These provisions apply with respect to remuneration paid after December 31, 1977, for services performed after such date.

Senate amendment.—The Senate amendment strikes out the House provisions.

Conference agreement.—The conference agreement follows the House bill.

COVERAGE OF DOMESTIC SERVICE

House bill.—Under existing law, domestic services performed in a private home, local college club, or local chapter of a college fraternity, or sorority are not subject to the Federal unemployment tax. The House bill provides that such services will be subject to the Federal unemployment tax if they are performed for a person who pays cash remuneration of $600 or more to individuals employed in domestic services in any calendar quarter in the current calendar year or the preceding calendar year. This provision applies with respect to remuneration paid after December 31, 1977, for services performed after such date.

Senate amendment.—The Senate amendment strikes out the provisions of the House bill.

Conference agreement.—The conference agreement follows the House bill except that domestic services is only covered if performed for an employer who pays $1,000 or more to individuals employed in such services in any calendar year in the calendar quarter year or the preceding calendar year.

DEFINITION OF EMPLOYER

House bill.—The House bill contains a technical amendment to the definition of employer for purposes of the Federal unemployment tax to conform that definition with the new extensions of coverage which are contained in the House bill. The House bill also contains a technical amendment to the requirement that employers pay the Federal unemployment tax on a quarterly basis which is necessary to conform that provision to the extensions of coverage contained in the House bill. These provisions apply with respect to remuneration paid after December 31, 1977 for services performed after such date.

Senate amendment.—The Senate amendment strikes out the provisions of the House bill.

Conference agreement.—The conference agreement follows the House bill.

SENATE AMENDMENTS NUMBERED 2 AND 3

COVERAGE OF CERTAIN SERVICE PERFORMED FOR NONPROFIT ORGANIZATIONS AND STATE AND LOCAL GOVERNMENTS

House bill.—Under existing law, States are required, as a condition for approval of their unemployment compensation laws, to provide unemployment compensation coverage to individuals performing certain services for nonprofit organizations and for State hospitals and institutions of higher education. The House bill generally requires States to provide unemployment compensation coverage to all employees of State and local governments. The exceptions in the House bill to this general coverage are services performed by employees in the exercise of their duties as: elected officials, appointed officials whose terms are specified by law or who are not required to work on a full-time basis, members of legislative bodies or of the judiciary, members of the State National Guard or Air National Guard, certain employees hired during certain emergencies, and inmates of custodial or penal institutions. These provisions apply with respect to services performed after December 31, 1977.

Senate amendment.—The Senate amendment is the same as the House bill except that it deletes the House provision which excludes from the required coverage appointed officials who serve for a specific term established by law or who are not required to perform services on a substantially full-time basis. In lieu of this exception, the Senate amendment provides an exception for individuals who perform services in a position which, under or pursuant to the State law, is designated as a major nontenured policymaking or advisory position, or as a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENTS NUMBERED 4, 5, 6, AND 7

ELIGIBILITY OF SCHOOL EMPLOYEES DURING CERTAIN PERIODS

House bill.—Under existing law, teachers and other professional employees of institutions of higher education are denied unemployment compensation for weeks commencing during periods between academic years or other similar terms if such individuals have a contract to perform services in both of such academic years or terms. The House bill expands this provision of existing law to cover teachers and other professional employees of primary and secondary institutions of education. The House bill also provides new rules for the treatment of nonprofessional employees of educational institutions which are not institutions of higher education. Under such new rules, the State may deny compensation to such nonprofessional employees for any week which begins before January 1, 1980, and which begins during a period between two successive academic terms or similar periods if the employee performs services in the first of such academic terms or similar periods and there is a reasonable assurance that such employee will perform such services in the second of such academic terms or similar periods.

Senate amendment.—Under the Senate amendment, both nonprofessional and professional employees of educational institutions would not be eligible for unemployment compensation during periods between academic years or terms if they were performed services for an educational institution in the first of such academic years or terms and an educational institution provides notification of reasonable assurance that they will perform services in the later of the academic years or terms. The Senate amendment also provides that if an individual is denied unemployment compensation coverage by reason of these disqualification provisions and is not in fact later offered employment by an educational institution in the later of such academic years or terms, such individual will receive a retroactive lump-sum payment of unemployment compensation for the weeks for which he was not eligible to receive compensation by reason of these disqualification provisions.

Conference agreement.—The conference agreement provides that unemployment compensation based on services performed for an educational institution shall be denied to a teacher or other professional employee during periods between academic years or terms if there is a contract or reasonable assurance that the individual will perform such services in the forthcoming academic year or term. States are permitted to deny benefits based on services performed for educational institutions to nonprofessional school employees during periods between academic years or terms if there is reasonable assurance that the individual will be employed by the educational institution in the forthcoming academic year or term.

Under the conference agreement, when a claim is filed by an individual on the basis of prior employment in an educational institution or agency for compensation for any week of unemployment between successive academic years or terms, it is intended that the State employment security agency shall obtain from the educational institution or agency a statement as to whether the claimant has been given notification with respect to his or her employment status. If such claimant has been notified that he or she has a contract for, or reasonable assurance of, reemployment for the ensuing academic year or term, then the claimant may not be entitled to unemployment benefits until the educational agency or institution informs the State agency that there is no such reasonable assurance or contract for reemployment or until the employee is not, in fact, offered reemployment. At this point the State agency would have a basis for allowing a claim, assuming that the individual is otherwise eligible under the requirements of the State law.

For purposes of this provision, the term "reasonable assurance" means a written, verbal, or implied agreement that the employee will perform services in the same capacity during the ensuing academic year or term. A contract is intended to include tenure status.

SENATE AMENDMENTS NUMBERED 9, 10, 11, AND 12

FEDERAL REIMBURSEMENT FOR BENEFITS PAID TO NEWLY COVERED WORKERS DURING TRANSITION PERIOD

House bill.—The House bill contains a section which provides Federal reimbursement to States out of general revenues for the costs of providing unemployment coverage to newly covered individuals during a period after December 31, 1977, to assist in the transition to the new coverage required under the House bill.

Senate amendment.—The Senate amendments make two changes to the House provisions. Senate amendments numbered 9 and 10 conform the House provisions to the coverage provisions which were deleted by the Senate. Senate amendment numbered 11 provides that where the same unemployment has been used to compute pre-1978 entitlement to such unemployment assistance and post-1977 entitlement to regular unemployment compensation benefits, Federal reimbursement for the regular benefits will be available to the extent that the special unemployment assistance benefits were not paid on the basis of the same wages. Under the House bill, any payment of such unemployment assistance benefits even for a brief period would have prevented the transitional Federal funding provisions from applying. Senate amendment numbered 12 corrects a clerical error in the House bill.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENTS NUMBERED 13 AND 14

INCREASE IN FEDERAL UNEMPLOYMENT TAX WAGE BASE AND RATE

House bill.—The House bill increases both the taxable wage base and the tax rate of the Federal unemployment tax. The taxable wage base is increased from $4,200 to $6,000. The Federal unemployment tax rate is increased from 3.2 percent of taxable wages to 3.4 percent. This tax rate increase is a temporary measure that will expire on January 1, 1983, or, if earlier, January 1 of the first calendar year after 1976 as of which there are no outstanding repayable advances to the extended unemployment compensation account in the Federal unemployment trust fund. The increase in the taxable wage base applies with respect to remuneration paid after December 31, 1977. The increase in the tax rate applies to remuneration paid after December 31, 1976.

Senate amendment.—The Senate amendments are the same as the House bill except that the Senate amendment provides that the increase in the tax rate will only expire when all of the repayable advances to the extended unemployment compensation account in the Federal unemployment trust fund are repaid.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 15

FINANCING COVERAGE OF STATE AND LOCAL GOVERNMENT EMPLOYEES

House bill.—Under existing law, States receive Federal grants from the Federal Unemployment trust fund for the administrative costs of their unemployment compensation programs. The House bill provides that these grants will no longer be made for the administrative costs which are attributable to State and local government employees. Also, the bill provides that the Federal share of the benefits paid under the extended unemployment compensation program will no

longer include the costs of extended benefits paid to State and local government employees. These provisions take effect on January 1, 1979.

Senate amendment.—The Senate amendment strikes out the House provisions.

Conference agreement.—The conference agreement follows the Senate amendment with respect to administrative grants, and follows the House bill with respect to extended benefits costs.

Senate Amendments Numbered 16, 17, 18, and 19

ADVANCES TO STATE UNEMPLOYMENT FUNDS

House bill.—The House bill allows States to request loans from the Federal unemployment trust fund to pay unemployment compensation benefits for a three-month period rather than a one-month period as under existing law.

Senate amendment.—The Senate amendments are the same as the House provision except that they make it clear that States may make applications for a three-month period but that payments to a State will continue to be made on a monthly basis.

Conference agreement.—The conference agreement follows the Senate amendment.

Senate Amendment Numbered 21

FEDERAL REIMBURSEMENT FOR UNEMPLOYMENT BENEFITS PAID ON THE BASIS OF CERTAIN PUBLIC SERVICE EMPLOYMENT

House bill.—The House bill provides for reimbursements to States from Federal general revenues for unemployment compensation paid on the basis of work in public service jobs funded under the Comprehensive Employment and Training Act of 1973.

Senate amendment.—The Senate amendment strikes out the House provisions.

Conference agreement.—The conference agreement follows the Senate amendment.

Senate Amendments Numbered 23, 24, and 25

AMENDMENTS TO THE STATE TRIGGER PROVISIONS OF THE EXTENDED PROGRAM

House bill.—Under existing law, there is a State "on" indicator for any week if the State's insured unemployment rate (not seasonally adjusted) averages at least 4 percent for a 13-week period and is at least 120 percent of the rate for the corresponding periods in the preceding two years. Under existing law, States may waive the 120 percent requirement for weeks which begin before March 31, 1977. Under the House bill, there would be a State "on" indicator for any week if the rate of insured unemployment (seasonally adjusted) under the State law for the period consisting of such week and the immediately preceding 12 weeks equaled or exceeded 4 percent. The House bill applies to weeks beginning after December 31, 1976.

Senate amendment.—The Senate amendment would retain existing law except that it would allow States to provide that there will be a State "on" indicator for any week if the rate of insured unemployment in the State averages at least 6 percent for a 13-week period even though the rate is not 120 percent of the rate for the corresponding periods in the preceding two years. The Senate amendment applies with respect to weeks beginning after March 30, 1977, which is when the existing waiver of the 120 percent requirement ends.

Conference agreement.—The conference agreement follows the Senate amendment, except that the 120 percent factor may be waived by a State when there is at least a 5 percent rate of insured unemployment for the 13-week period rather than the 6 percent rate prescribed in the Senate amendment.

Senate Amendment Numbered 27

REPEAL OF FINALITY PROVISIONS

House bill.—Under existing law the findings of fact by a Federal agency are final with respect to periods of Federal service, amounts of Federal wages, and reasons for termination of Federal service, for purposes of paying unemployment compensation on the basis of Federal service. The House bill makes Federal employees' claims for unemployment compensation subject to the same administrative procedures that apply to the claims of other workers.

Senate amendment.—The Senate amendment strikes out the House provision.

Conference agreement.—The conference agreement follows the House provision. The amendment repealing finality of Federal findings applies only to unemployment insurance claims and has no other application.

Senate Amendments Numbered 30, 31, 32, and 33

DENIAL OF UNEMPLOYMENT COMPENSATION TO ATHLETES, ILLEGAL ALIENS, AND RECIPIENTS OF RETIREMENT BENEFITS

Professional Athletes

House bill.—The House bill provides that compensation shall not be payable to any individual on the basis of services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, to any week which commences between two successive sports seasons (or similar periods) if such individual performs such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods). The House provision is effective for certifications of States for 1978 and subsequent years.

Senate amendment.—The Senate amendment is the same as the House bill except that the provisions do not apply until 1979 in the case of States the legislatures of which do not meet in regular session which ends in 1977.

Conference agreement.—The conference agreement follows the Senate amendment.

Illegal Aliens

House bill.—The House bill provides that compensation shall not be payable on the basis of services performed by an alien who is not lawfully admitted to the United States.

Senate amendment.—Under the Senate amendment, unemployment compensation may not be paid to an alien unless such alien has been lawfully admitted to the United States for permanent residence or is otherwise permanently residing in the United States under color of law. Any data or evidence of citizenship or permanent residence would have to be uniformally required of all applicants for unemployment compensation. A determination of whether an individual is an illegal alien would be based on a preponderance of evidence. The Senate amendment has the same effective date as the House bill except that it takes effect in 1979 in the case of States the legislatures of which do not meet in regular session which ends in 1977.

Conference agreement.—The conference agreement follows the Senate amendment.

Disqualification for Receipt of Pension

House bill.—No provision.

Senate amendment.—Under the Senate amendment, States would be required to reduce the unemployment compensation of an individual by the amount of any public or private pension (including social security retirement benefits and railroad retirement annuities) based on the claimants' previous employment. The Senate amendment applies with respect to certifications of States for 1978 and subsequent years except that in the case of a State the legislature of which does not meet in a regular session which ends in 1978 the amendments takes effect in 1979.

Conference agreement.—The conference agreement follows the Senate amendment, except that the requirement would not take effect until 1979, thereby permitting the National Commission on Unemployment Compensation an opportunity for a thorough study of this issue and the Congress to act in light of its findings and recommendations.

Senate Amendment Numbered 34

PROMPT PAYMENT OF COMPENSATION WHEN DUE

House bill.—No provision.

Senate amendment.—The Senate amendment requires State unemployment compensation agencies to provide hearings to individuals whose claims are not paid with reasonable promptness as defined in Labor Department regulations to be issued within sixty days after the date of the enactment of the bill.

Conference agreement.—The conference agreement omits the matter proposed to be inserted by the Senate amendment.

Senate Amendment Numbered 36

COMPOSITION OF NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

House bill.—The House bill establishes a National Commission on Unemployment Compensation consisting of 13 members. The House bill provides that the members of the Commission are to be appointed in a manner to insure that there will be a balanced representation of interested parties on the Commission.

Senate amendment.—The Senate amendment would require that labor, industry, the Federal Government, State government, local government, and small business would each have at least one representative appointed to the Commission.

Conference agreement.—The conference agreement follows the Senate amendment.

Senate Amendments Numbered 37, 38, 39, and 40

DUTIES OF COMMISSION

House bill.—The House bill requires the Commission to study a variety of issues relating to the unemployment compensation programs in order to assess the long-range needs of the programs, to develop alternatives, and to recommend changes in the program.

Senate amendments.—The Senate amendments add to the list of items to be studied by the Commission the study of the problems of claimants in obtaining prompt processing and payment of their claims for benefits and any appropriate measures to relieve such problems. The Senate amendments also require the Commission to examine the feasibility and advisability of developing or not developing Federal minimum benefit standards for State unemployment insurance programs.

Conference agreement.—The conference agreement follows the Senate amendment. The conferees intend that the Commission include in its studies an examination of the payment of unemployment compensation to retirees, and the denial of compensation to employees of educational institutions between terms.

Senate Amendments Numbered 42, 43, 44, 45, and 46

REPORT BY COMMISSION

House bill.—The House bill requires the Commission to submit a final report not later than January 1, 1979.

Senate amendment.—The Senate amendment requires the Commission to submit an interim report, not later than March 31, 1978, with respect to its findings on its examination of the feasibility and advisibility of developing Federal minimum benefit standards.

Conference agreement.—The conference agreement requires the Commission to submit a general interim report not later than March 31, 1978.

Senate Amendment Numbered 47

REFERRAL OF BLIND AND DISABLED CHILDREN RECEIVING SSI BENEFITS FOR APPROPRIATE REHABILITATION SERVICES

House bill.—No provision.

Senate amendment.—The Senate amendment, which is generally similar to section 4 of H.R. 9811 as passed the House, rewrites section 1615 of the Social Security Act to make various changes with respect to the referral of blind and disabled children receiving SSI benefits for appropriate rehabilitation services.

Conference agreement.—This amendment was reported in technical disagreement. (See the appendix.)

Senate Amendment Numbered 48

INCOME OF EACH MEMBER OF MARRIED COUPLE TO BE APPLIED SEPARATELY IN DETERMINING SSI BENEFIT PAYMENTS WHEN ONE OF THEM IS IN AN INSTITUTION

House bill.—No provision.

Senate amendment.—The Senate amendment, which is the same as a portion of Section 15 of H.R. 8911 as passed the House, amends section 1611(e)(1)(B)(ii) of the Social Security Act with respect to the treatment of the income of a married couple when one of them is in an institution.

Conference agreement.—This amendment was reported in technical disagreement. (See the appendix.)

Senate Amendment Numbered 49

PRESERVATION OF MEDICAID ELIGIBILITY FOR INDIVIDUALS WHO CEASE TO BE ELIGIBLE FOR SSI BENEFITS ON ACCOUNT OF COST-OF-LIVING INCREASES IN SOCIAL SECURITY BENEFITS

House bill.—No provision.

Senate amendment.—The Senate amendment contained provisions designed to prevent SSI recipients from losing Medicaid eligibility because of future cost-of-living increases in social security benefits.

Conference agreement.—This amendment was reported in technical disagreement. (See the appendix.)

Senate Amendment Numbered 50

STATE SUPPLEMENTATION OF BENEFITS UNDER SSI PROGRAM

House bill.—No provision.

Senate amendment.—The Senate amendment modifies section 401(a)(2) of the Social Security Amendments of 1972 to provide that payments made under the savings clause provision would no longer be reduced when Federal SSI benefits increase.

Conference agreement.—This amendment was reported in technical disagreement. (See the appendix.)

Senate Amendment Numbered 51

ELIGIBILITY OF INDIVIDUALS IN CERTAIN INSTITUTIONS

House bill.—No provision.

Senate amendment.—The Senate amendment, which is generally similar to section 17 of H.R. 8911 as passed the House, amends sections 1611, 1612, and 1616 of the Social Security Act, with respect to the eligibility of individuals in certain institutions for SSI benefits.

Conference agreement.—This amendment was reported in technical disagreement. (See the appendix.)

Senate Amendment Numbered 52

ASSISTANCE PROGRAMS IN THE NORTHERN MARIANAS

House bill.—No provision.

Senate amendment.—The Senate amendment repeals the extension of SSI and the Prouty amendment (section 228 of the Social Security Act), as provided for in Public Law 94–241, to the Northern Marianas. It also includes funds to extend the programs of aid to the aged, blind, and disabled to the Marianas on the same basis as those programs are operated in Guam, Puerto Rico, and the Virgin Islands.

Conference agreement.—The conference agreement omits the Senate amendment.

Senate Amendment Numbered 53

METHOD OF PAYMENT BY STATE AND LOCAL GOVERNMENTS

House bill.—Under the House bill the State may elect to have governmental units finance unemployment benefits payable on the basis of service performed in their employ either on a reimbursement method or a contributary method.

Senate amendment.—The Senate amendment allows the governmental units to select the method under which unemployment compensation benefits payable on the basis of services performed in their employ will be financed.

Conference agreement.—The conference agreement follows the Senate amendment.

Senate Amendment Numbered 54

AFDC BENEFITS WHERE UNEMPLOYED FATHER RECEIVES UNEMPLOYMENT COMPENSATION

House bill.—No provision.

Senate amendment.—The Senate amendment, which is the same as H.R. 13272 as passed the House, amends section 407 of the Social Security Act to make certain changes in the requirements imposed under the AFDC program on a family headed by an unemployed father.

Conference agreement.—The amendment was reported in technical disagreement. (See the appendix.)

SENATE AMENDMENT NUMBERED 55

STATE EMPLOYMENT OFFICES TO SUPPLY DATA IN AID OF ADMINISTRATION OF AFDC AND CHILD SUPPORT PROGRAMS

House bill.—No provision.

Senate amendment.—The Senate amendment requires State employment offices to supply certain information to the appropriate State agencies to aid in the administration of the AFDC and child support programs under title IV of the Social Security Act.

Conference agreement.—This amendment was reported in technical disagreement. (See the appendix.)

SENATE AMENDMENT NUMBERED 56

AMENDMENTS TO THE SPECIAL UNEMPLOYMENT ASSISTANCE PROGRAM

Extension of Special Unemployment Assistance Program

House bill.—No provision.

Senate amendment.—The Senate amendment extends the special unemployment assistance program for an additional year. Under existing law, the special unemployment assistance program terminates on December 31, 1976, except that individuals eligible to receive assistance before December 31, 1976, may continue to receive assistance until March 31, 1977. The Senate amendment extends the termination date to December 31, 1977, and phase-out date to June 30, 1977.

Conference agreement.—The conference agreement follows the Senate amendment.

Elimination of Special Base Period for Payments of Special Unemployment Assistance

House bill.—No provision.

Senate amendment.—The Senate amendment changes the base period which is used for determining an individual's eligibility for special unemployment assistance. Under existing law, the base period is the 52-week period preceding the first week with respect to which the individual files a claim for assistance under the program. The Senate amendment changes the base period to correspond with the base period which is used under the regular State unemployment compensation program. The Senate amendment applies with respect to benefit years beginning after December 31, 1976. The Senate amendment also contains a provision to prevent the double counting of wage credits which might occur as a result of the change in the definition of base period.

Conference agreement.—The conference agreement follows the Senate amendment.

Denial of Special Unemployment Assistance to Non-Professional Employees of Educational Institutions During Periods Between Academic Terms

House bill.—No provision.

Senate amendment.—The Senate amendment provides that individuals who perform services for an educational institution or agency in a capacity (other than an instructional, research, or principal administrative capacity) will not be eligible to receive assistance under the program with respect to any week commencing during a period between two successive academic years (or for a similar period between two regular but not successive terms) if the individual performs such services in the first of such academic years or terms and there is notification of reasonable assurance that the individual will perform such services in the second of such academic years or terms. The Senate amendment applies to weeks of unemployment beginning after the date of the enactment of the bill.

Conference agreement.—The conference agreement follows the Senate amendment with minor changes. The provision in the Senate amendment for retroactive payment of compensation under certain conditions was not retained.

Reimbursement for Unemployment Benefits Paid to Public Employees Covered by Regular Unemployment Compensation

House bill.—No provision.

Senate amendment.—The Senate amendment provides for payments to States of an amount equal to all regular and extended compensation paid for weeks beginning on or after January 1, 1977, and before June 30, 1978, to the extent that such compensation is attributable to employment by a State or local government.

Conference agreement.—The conference agreement omits the Senate amendment.

Modification of Agreements to Special Unemployment Assistance Program

House bill.—No provision.

Senate amendment.—The Senate amendment provides that the Secretary of Labor will modify his agreement with each State under the special unemployment assistance program so that payments of assistance under such program will be made in accordance with the amendments made by the bill.

Conference agreement.—The conference agreement follows the Senate amendment.

APPENDIX ON AMENDMENTS NUMBERED 47, 48, 49, 50, 51, 54, AND 55

In the accompanying conference report, Senate amendments numbered 47, 48, 49, 50, 51, 54, and 55 are reported in technical disagreement. Each of these amendments will be offered in the House of Representatives and the Senate. A description of each amendment follows, along with the text of the amendment as agreed to by the conferees.

SENATE AMENDMENT NUMBERED 47

REFERRAL OF BLIND AND DISABLED CHILDREN RECEIVING SSI BENEFITS FOR APPROPRIATE REHABILITATION SERVICES

House bill.—No provision.

Senate amendment.—The Senate amendment requires the Social Security Administration to refer blind and disabled children under age 16 who are receiving SSI benefits to the crippled children's or other appropriate State agency designated by the Governor. This agency would be responsible for administering a State plan which would have to include provision for counseling of disabled children and their families; the establishment of individual service plans for children under 16; monitoring to assure adherence to the plans; and provision of services to children under age 7, and to children who have never been in school and require preparation to take advantage of public educational services.

A total of $30 million would be provided for the operation of State plans for each of three fiscal years, beginning with fiscal year 1977; there would be no non-Federal matching requirements. The amount would be allocated to the States on the basis of the number of children age 6 and under in each State. Up to 10 percent of the State's funds could be used for counseling, referral and monitoring provided under the State plan for children up to age 16. The remainder of the funding would be available for services to disabled children under age 7 and those who have never been in school. Acceptance of services provided would be a condition of eligibility for SSI benefits. The amendment would require that the funds authorized under the provision could not be used to replace State and local funds now being used for these purposes. The funds could be used in the case of any program or service only to pay that portion of the cost which is related to the additional requirements of serving disabled children over and above what would be required to serve nondisabled children.

The Senate amendment requires the Secretary of HEW to publish criteria to be used in determining disability for children under age 18 within 120 days after enactment of the provision.

Conference action.—This amendment was agreed to by the conferees with minor modifications, as follows:

SEC. 501. REFERRAL OF BLIND AND DISABLED INDIVIDUALS UNDER AGE 16, WHO ARE RECEIVING BENEFITS UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM, FOR APPROPRIATE REHABILITATION SERVICES.

(a) IN GENERAL.—Section 1615 of the Social Security Act is amended to read as follows:

"REHABILITATION SERVICES FOR BLIND AND DISABLED INDIVIDUALS

"SEC. 1615. (a) In the case of any blind or disabled individual who—

"(1) has not attained age 65, and

"(2) is receiving benefits (or with respect to whom benefits are paid) under this title,

the Secretary shall make provision for referral of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, or, in the case of any such individual who has not attained age 16, to the appropriate State agency administering the State plan under subsection (b) of this section, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the services made available to him under such plan.

"(b)(1) The Secretary shall by regulation prescribe criteria for approval of State plans for—

"(A) assuring appropriate counseling for disabled children referred pursuant to subsection (a) and their families,

"(B) establishment of individual service plans for such disabled children, and prompt referral to appropriate medical, educational, and social services,

"(C) monitoring to assure adherence to such service plans, and

"(D) provision for such disabled children who are 6 years of age and under, or who have never attended public school and require preparation to take advantage of public educational services, of medical, social, developmental, and rehabilitative services, in cases where such services reasonably promise to enhance the child's ability to benefit from subsequent education or training, or otherwise to enhance his opportunities for self-sufficiency or self-support as an adult.

"(2) Such criteria shall include—

"(A) administration—

"(i) by the agency administering the State plan for crippled children's services under title V of this Act, or

"(ii) by another agency which administers programs providing services to disabled children and which the Governor of the State concerned has determined is capable of administering the State plan described in the first sentence of this subsection in a more efficient and effective manner than the agency described in clause (i) (with the reasons for such determination being set forth in the State plan described in the first sentence of this subsection);

"(B) coordination with other agencies serving disabled children; and

"(C) establishment of an identifiable unit within such agency which shall be responsible for carrying out the plan.

"(c) Every individual age 16 or over with respect to whom the Secretary is required to make provision for referral under subsection (a) shall accept such services as are made available to him under the State plan for vocational and rehabilitation services approved under the Vocational Rehabilitation Act; and no such individual shall be an eligible individual or eligible spouse for purposes of this title if he refuses without good cause to accept services for which he is referred under subsection (a).

"(d) The Secretary is authorized to pay to the State agency administering or supervising the administration of a State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act the cost incurred under such plan in the provision of rehabilitation services to individuals referred for such services pursuant to subsection (a).

"(e)(1) The Secretary shall, subject to the limitations imposed by paragraphs (2) and (3), pay to the State agency administering a State plan of a State under subsection (b) of this section, the costs incurred each fiscal year which begins after September 30, 1976, and ends prior to October 1, 1979, in carrying out the State plan approved pursuant to such subsection (b).

"(2)(A) Of the funds paid by the Secretary with respect to costs, incurred in any State, to which paragraph (1) applies, not more than 10 per centum thereof shall be paid with respect to costs incurred with respect to activities described in subsection (b)(1) (A), (B), and (C).

"(B) Whenever there are provided pursuant to this section to any child services of a type which is appropriate for children who are not blind or disabled, there shall be disregarded, for purposes of computing any payment with respect thereto under this subsection, so much of the costs of such services as would have been incurred if the child involved had not been blind or disabled.

"(C) The total amount payable under this subsection for any fiscal year, with respect to services provided in any State, shall be reduced by the amount by which the sum of the public funds expended (as determined by the Secretary) from non-Federal sources for services of the type involved for such fiscal year is less than the sum of such funds expended from such sources for services of such type for the fiscal year ending June 30, 1976.

"(3) No payment under this subsection with respect to costs incurred in providing services in any State for any fiscal year shall exceed an amount which bears the same ratio to $30,000,000 as the under age 7 population of such State (and for purposes of this section the District of Columbia shall be regarded as a State) bears to the under age 7 population of the fifty States and the District of Columbia. The Secretary shall promulgate the limitation applicable to each State for each fiscal year under this paragraph on the basis of the most recent satisfactory data available from the Department of Commerce not later than 90 nor earlier than 270 days before the beginning of such year."

(b) Publication of Criteria.—The Secretary shall, within 120 days after the enactment of this subsection, publish criteria to be employed to determine disability (as defined in section 1614(a)(3) of the Social Security Act) in the case of persons who have not attained the age of 18.

The amendment differs from the Senate amendment in one respect. Under the Senate amendment, children under 16 referred for services would be required to accept the services (except with good cause) or lose their eligibility for such benefits. The amendment as agreed to by the conferees does not have such an eligibility requirement for children under 16.

With respect to services for children ages 7 to 16, the conferees note that the amendment as agreed to makes no change in the present law provision of open-ended Federal funding of vocational rehabilitation services provided by the State vocational rehabilitation agency for disabled children as well as adults receiving supplemental security income benefits.

Senate Amendment Numbered 48

INCOME OF EACH MEMBER OF MARRIED COUPLE TO BE APPLIED SEPARATELY IN DETERMINING SSI BENEFIT PAYMENTS WHEN ONE OF THEM IS IN AN INSTITUTION

House bill.—No provision.

Senate amendment.—Under the Senate amendment, when a spouse who is a member of an eligible SSI couple enters a medical institution or nursing home, the two are treated as individuals rather than as a couple for purposes of applying their separate incomes in computing any required reduction of the SSI benefit amount.

Conference action.—This amendment was agreed to by the Conferees without change, as follows:

SEC. 502. INCOME OF EACH MEMEBER OF MARRIED COUPLE TO BE APPLIED SEPARATELY IN DETERMINING SSI BENEFIT PAYMENTS WHEN ONE OF THEM IS IN AN INSTITUTION.

Section 1611(e)(1)(B)(ii) of the Social Security Act is amended to read as follows:

"(ii) in the case of an individual who has an eligible spouse, if only one of them is in such a hospital, home, or facility throughout such month, at a rate not in excess of the sum of—

"(I) the rate of $300 per year (reduced by the amount of any income, not excluded pursuant to section 1621(b), of the one who is in such hospital, home, or facility), and

"(II) the applicable rate specified in subsection (b)(1) (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the other); and".

Senate Amendment Numbered 49

PRESERVATION OF MEDICAID ELIGIBILITY FOR INDIVIDUALS WHO CEASE TO BE ELIGIBLE FOR SSI BENEFITS ON ACCOUNT OF COST-OF-LIVING INCREASES IN SOCIAL SECURITY BENEFITS

House bill.—No provision.

Senate amendment.—Under the Senate amendment, SSI recipients would be prevented from losing Medicaid eligibility solely because of future cost-of-living increases in social security benefits.

Conference action.—This amendment was agreed to by the Conferees without change, as follows:

SEC. 503. PRESERVATION OF MEDICAID ELIGIBILITY FOR INDIVIDUALS WHO CEASE TO BE ELIGIBLE FOR SUPPLEMENTAL SECURITY INCOME BENEFITS ON ACCOUNT OF COST-OF-LIVING INCREASES IN SOCIAL SECURITY BENEFITS.

In addition to other requirements imposed by law as a condition for the approval of any State plan under title XIX of the Social Security Act, there is hereby imposed the requirement (and each such State plan shall be deemed to require) that medical assistance under such plan shall be provided to any individual, for any month after June 1977 for which such individual is entitled to a monthly insurance benefit

under title II of such Act but is not eligible for benefits under title XVI of such Act, in like manner and subject to the same terms and conditions as are applicable under such State plan in the case of individuals who are eligible for and receiving benefits under such title XVI for such month, if for such month such individual would be (or could become) eligible for benefits under such title XVI except for amounts of income received by such individual and his spouse (if any) which are attributable to increases in the level of monthly insurance benefits payable under title II of such Act which have occurred pursuant to section 215(i) of such Act, in the case of such individual, since the last month after April 1977 for which such individual was both eligible for (and received) benefits under such title XVI and was entitled to a monthly insurance benefit under such title II, and, in the case of such individual's spouse (if any), since the last such month for which such spouse was both eligible for (and received) benefits under such title XVI and was entitled to a monthly insurance benefit under such title II. Solely for purposes of this section, payments of the type described in section 1616(a) of the Social Security Act or of the type described in section 212(a) of Public Law 93–66 shall be deemed to be benefits under title XVI of the Social Security * * *.

Senate Amendment Numbered 50

STATE SUPPLEMENTATION OF BENEFITS UNDER SSI PROGRAM

House bill.—No provision.

Senate amendment.—Under the Senate amendment, States receiving Federal hold-harmless funds will no longer have the amount of such funds reduced when a cost-of-living increase in SSI benefits becomes effective. Such States would thus be permitted to pass along the increase in Federal SSI benefits to the recipient without additional State costs.

Conference action.—The amendment was agreed to by the conferees with one modification, as follows:

SEC. 504. STATE SUPPLEMENTATION OF BENEFITS UNDER SUPPLEMENTAL SECURITY INCOME PROGRAM.

(a) Limitation on State Costs.—Section 401(a)(2) of the Social Security Amendments of 1972 is amended—

(1) by inserting "(subject to the second sentence of this paragraph)" immediately after "Act" where it first appears in subparagraph (B), and

(2) by adding at the end thereof the following new sentence: "In determining the difference between the level specified in subparagraph (A) and the benefits and income described in subparagraph (B) there shall be excluded any part of any such benefit which results from (and would not be payable but for) any cost-of-living increases in such benefits under section 1617 of such Act (or any general increase enacted by law in the dollar amounts referred to in such section) becoming effective after June 30, 1977, and before July 1, 1979.".

(b) Effective Date.—The provisions of this section shall be effective with respect to benefits payable for months after June 1977.

The amendment as agreed to by the conferees limits the effect of the provision to the cost-of-living increases which will occur in 1977 and 1978.

Senate Amendment Numbered 51

ELIGIBILITY OF INDIVIDUALS IN CERTAIN INSTITUTIONS

House bill.—No provision.

Senate amendment.—The Senate amendment would exclude publicly operated community residences which serve no more than 16 residents from being deemed public institutions in which individuals are ineligible for SSI benefits. It would also provide that Federal SSI payments would not be reduced in the case of assistance to an individual or an institution based on need which is provided by States and localities. It would repeal section 1616(e) of the Social Security Act effective October 1, 1976 which provides that Federal SSI payments be reduced in the case of payments made by states or localities for medical or any other type of remedial care provided by an institution which could be provided under medicaid. It would add a requirement effective October 1, 1977, that each State establish or designate State or local authorities to establish, maintain and insure the enforcement of standards for categories of institutions in which a significant number of SSI recipients are residing. The standards would have to be appropriate to the needs of the recipients and the character of the facilities involved. They would govern admission policies, safety, sanitation and protection of civil rights.

The Senate amendment would also require each State to make available for public review, as a part of its social services program planning procedures under title XX, a summary of the standards and the procedures available in the State to insure their enforcement. There would have to be made available a list of any waivers of standards which have been made and any violations of standards which have come to the attention of the enforcement authority. Federal payments would be reduced dollar for dollar by any State supplementation in the case of persons who are in group facilities which are not approved under State standards as determined by the appropriate State or local authorities.

Conference action.—This amendment was agreed to by the conferees without substantive change, as follows:

SEC. 505. ELIGIBILITY OF INDIVIDUALS IN CERTAIN INSTITUTIONS.

(a) In General.—Section 1611(e)(1) of the Social Security Act is amended by striking out "subparagraph (B)" in subparagraph (A) and inserting in lieu thereof "subparagraphs (B) and (C)"; and by adding at the end thereof the following new subparagraph:

"(C) As used in subparagraph (A), the term 'public institution' does not include a publicly operated community residence which serves no more than 16 residents.".

(b) Conforming Amendment.—Section 1612(b)(6) of such Act is amended by striking out "assistance described in section 1616(a) which" and inserting in lieu thereof "assistance, furnished to or on behalf of such individual (and spouse), which".

(*c*) *Repeal of Limitation on Payment.—Section 1616(e) of such Act is repealed.*

(*d*) *States To Establish Standards.—Effective October 1, 1977, section 1616(e) of such Act is amended by adding after subsection (d) the following new subsection:*

"(e)(1) Each State shall establish or designate one or more State or local authorities which shall establish, maintain, and insure the enforcement of standards for any category of institutions, foster homes, or group living arrangements in which (as determined by the State) a significant number of recipients of supplemental security income benefits is residing or is likely to reside. Such standards shall be appropriate to the needs of such recipients and the character of the facilities involved, and shall govern such matters as admission policies, safety, sanitation, and protection of civil rights.

"(2) Each State shall annually make available for public review, as a part of the services program planning procedures established pursuant to section 2004 of this Act, a summary of the standards established pursuant to paragraph (1), and shall make available to any interested individual a copy of such standards, along with the procedures available in the State to insure the enforcement of such standards and a list of any waivers of such standards and any violations of such standards which have come to the attention of the authority responsible for their enforcement.

"(3) Each State shall certify annually to the Secretary that it is in compliance with the requirements of this subsection.

"(4) Payments made under this title with respect to an individual shall be reduced by an amount equal to the amount of any supplementary payment (as described in subsection (a)) or other payment made by a State (or political subdivision thereof) which is made for or on account of any medical or any other type of remedial care provided by an institution of the type described in paragraph (1) to such individual as a resident or an inpatient of such institution if such institution is not approved as meeting the standards described in such paragraph by the appropriate State or local authorities.".

(*e*) *Effective Date.—The amendments and repeals made by this section, unless otherwise specified therein, shall take effect on October 1, 1976.*

Senate Amendment Numbered 54

AFDC BENEFITS WHERE UNEMPLOYED FATHER RECEIVES UNEMPLOYMENT COMPENSATION

House bill.—No provision.

Senate amendment.—The Senate amendment would require unemployed fathers who apply for aid to families with dependent children-unemployed fathers (AFDC–UF) to collect any unemployment compensation (UC) to which they are entitled before they can receive any AFDC–UF benefits for which they might qualify. In those cases where an individual collecting unemployment compensation meets the State AFDC–UF eligibility requirements, the State would be required to supplement UC benefits up to AFDC–UF benefit levels. The amendment also authorizes the Secretaries of Labor and Health, Education, and Welfare, to enter into agreements with States which are able and willing to do so under which the States will obtain a single registration for work to meet the requirements of both the Work Incentive Program and the Unemployment Compensation Program.

Conference action.—This amendment was agreed to by the conferees without change, as follows:

SEC. 508. AFDC BENEFITS WHERE UNEMPLOYED FATHER RECEIVES UNEMPLOYMENT COMPENSATION.

(*a*) *In General.—Section 407(b)(2) of the Social Security Act is amended—*

(1) by striking out "and" at the end of subparagraph (B); and

(2) by striking out paragraph (C) and inserting in lieu thereof the following:

"(C) for the denial of aid to families with dependent children to any child or relative specified in subsection (a)—

"(i) if and for so long as such child's father, unless exempt under section 402(a)(19)(A), is not registered pursuant to such section for the work incentive program established under part C of this title, or, if he is exempt under such section by reason of clause (iii) thereof or no such program in which he can effectively participate has been established or provided under section 432(a), is not registered with the public employment offices in the State, and

"(ii) with respect to any week for which such child's father qualifies for unemployment compensation under an unemployment compensation law of a State or of the United States, but refuses to apply for or accept such unemployment compensation; and

"(D) for the reduction of the aid to families with dependent children otherwise payable to any child or relative specified in subsection (a) by the amount of any unemployment compensation that such child's father receives under an unemployment compensation law of a State or of the United States.".

(*b*) *Conforming Provision.—Section 407(d)(3) of such Act is amended by inserting ", for purposes of section 407(b)(1)(C)," before "be deemed".*

(*c*) *Effective Date.—The amendments made by the preceding provisions of this section shall be effective with respect to months after (and weeks beginning in months after) the date of the enactment of this Act.*

(*d*) *Simplification of Procedures.—Section 407 of the Social Security Act is further amended by adding at the end thereof the following new subsection:*

"(e) The Secretary of Health, Education, and Welfare and the Secretary of Labor shall jointly enter into an agreement with each State which is able and willing to do so for the purpose of (1) simplifying the procedures to be followed by unemployed fathers and other unemployed persons in such State in registering pursuant to section 402(a)(19) for the work incentive program established by part C of this title and in registering with public employment offices (under this section and otherwise) or in connection with applications

for unemployment compensation, by reducing the number of locations or agencies where such persons must go in order to register for such programs and in connection with such applications, and (2) providing where possible for a single registration satisfying this section and the requirements of both the work incentive program and the applicable unemployment compensation laws.".

SENATE AMENDMENT NUMBERED 55

STATE EMPLOYMENT OFFICES TO SUPPLY DATA IN AID OF ADMINISTRATION OF AFDC AND CHILD SUPPORT PROGRAMS

House bill.—No provision.

Senate amendment.—Under the Senate amendment, State employment offices would be required to furnish information in their files regarding any individual at the request of a State or local AFDC or child support agency. The information to be provided will include: (1) whether such individual is receiving, has received or has made application for, unemployment compensation, and the amount of any such compensation, (2) the current home address, (3) whether such individual has refused an offer of employment, and (4) such other matters as may be relevant to the discharge of the welfare or child support agency's duties insofar as such duties relate to the individual or any member of his family. The State employment offices would be reimbursed by the welfare or child support agencies for the cost of supplying this information.

Conference action.—This amendment was agreed to by the conferees with one modification, as follows:

SEC. 509. STATE EMPLOYMENT OFFICES TO SUPPLY DATA IN AID OF ADMINISTRATION OF AFDC AND CHILD SUPPORT PROGRAMS.

(a) IN GENERAL.—Section 3(a) of the Act entitled "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes", approved June 6, 1933 (29 U.S.C. 49b(a)), is amended by adding at the end thereof the following new sentence: "It shall be the further duty of the bureau to assure that such employment offices in each State, upon request of a public agency administering or supervising the administration of a State plan approved under part A of title IV of the Social Security Act or of a public agency charged with any duty or responsibility under any program or activity authorized or required under part D of title IV of such Act, shall (and, notwithstanding any other provision of law, is hereby authorized to) furnish to such agency making the request, from any data contained in the files of any such employment office, information with respect to any individual specified in the request as to (A) whether such individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received by such individual, (B) the current (or most recent) home address of such individual, and (C) whether such individual has refused an offer of employment and, if so, a description of the employment so offered and terms, conditions, and rate of pay therefor.".

(b) PROVISION FOR REIMBURSEMENT OF EXPENSES.—For purposes of section 403 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information requested of such offices pursuant to the third sentence of section 3 (a) of the Act entitled "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes", approved June 6, 1933 (29 U.S.C. 49b (a)), by a State or local agency administering a State plan approved under part A of title IV of the Social Security Act shall be considered to constitute expenses incurred in the administration of such State plan; and for purposes of section 455 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information so requested by a State or local agency charged with the duty of carrying out a State plan for child support approved under part D of title IV of the Social Security Act shall be considered to constitute expenses incurred in the administration of such State plan.

The amendment as agreed to by the conferees differs in a single respect from the Senate amendment—it omits the fourth catgory of information to be provided by State employment offices ("such other matters as may be relevant to the discharge of the welfare or child support agency's duties . . .").

AL ULLMAN,
JAMES A. BURKE,
JAMES C. CORMAN,
CHARLES B. RANGEL,
WILLIAM A. STEIGER,
BILL FRENZEL,
Managers on the Part of the House.

RUSSELL B. LONG,
HERMAN TALMADGE,
GAYLORD NELSON,
WILLIAM D. HATHAWAY,
CARL T. CURTIS,
PAUL FANNIN,
CLIFFORD HANSEN,
JACOB K. JAVITS,
Managers on the Part of the Senate.

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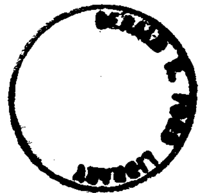
Calendar No. 1200

94TH CONGRESS 2d Session } SENATE { REPORT No. 94–1265

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976

SEPTEMBER 20, 1976.—Ordered to be printed



Mr. LONG, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 10210]

The Committee on Finance, to which was referred the bill (H.R 10210) to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

I. SUMMARY OF THE BILL

The bill as passed by the House of Representatives would require States to extend unemployment compensation protection to certain categories of individuals now covered only at State option and increase the Federal unemployment tax rate and increase the annual amount of wages subject to Federal and State unemployment taxes from $4,200 to $6,000 per employee. The bill would also modify the requirements for triggering the Federal-State extended benefit program into and out of operation in the States, establish a national study commission on unemployment compensation, and make a number of other changes. The committee amendments make significant revisions in the House-passed bill and add several provisions which would affect the Supplemental Security Income (SSI) program for needy aged, blind, and disabled people.

A. COVERAGE

Employees of State and local governments.—Like the House bill, the committee bill would require the States to provide unemployment compensation coverage to all employees of State and local governments.

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The committee bill would make clarifying changes in the exceptions to coverage provided by the House passed bill. States would not be required to provide coverage for:

(1) Elected officials;
(2) Major non-tenured policymaking or advisory positions;
(3) Policymaking and advisory positions requiring not more than one day's employment per week;
(4) Judges;
(5) Members of a legislative body;
(6) Members of the State National Guard or Air National Guard;
(7) Emergency employees hired in case of disaster; and
(8) Inmates of custodial or penal institutions.

Under the House bill, State unemployment compensation laws would be required to contain a provision prohibiting the payment of benefits to teachers and other professional employees of schools during vacation periods who have contracts for employment in the post-vacation term, and until 1980 each State would be allowed to provide a similar prohibition for nonprofessional employees of schools who have reasonable assurance of employment in the post-vacation term.

The committee bill would modify these provisions so that vacation time unemployment benefits would not be paid to teachers and other professional employees who have reasonable assurance of post-vacation employment even though they do not have a formal contract. In addition, the provision permitting States to prohibit vacation time unemployment benefit payments to nonprofessional school employees would be made permanent rather than be limited to a two-year period.

Each State would determine for itself how to finance the benefits which would be payable; an employing agency could be required to make periodic payments similar to the taxes paid by private employers or it could pay the actual cost of the benefits paid to its former employees. The Federal unemployment tax, though, would not be levied.

The States would not be required to provide unemployment compensation for employment prior to January 1978. However, if a State should provide the new benefits on the basis of earlier service, the cost of the resulting benefits (after January 1, 1978), would be paid with Federal funds from general revenues.

The Department of Labor estimates that $0.2 billion per year in additional unemployment compensation would be paid in fiscal 1978 and 1979 under this provision.

Employees of nonprofit elementary and secondary schools.—The bill would require the States to extend the coverage of their unemployment compensation programs to employees of nonprofit elementary and secondary schools (present law requires coverage for employees of institutions of higher education). The provisions for nonpayment of benefits during vacation periods to school employees of State and local governments would also apply to employees of nonprofit schools.

The States would not be required to provide the new coverage until January 1, 1978.

Virgin Islands.—The bill would extend the Federal unemployment compensation laws to the Virgin Islands as soon as various requirements of membership in the Federal-State system could be met.

B. Financing Provisions

Tax base.—The bill would increase the Federal unemployment taxable wage base to $6,000. This change would require, in effect, that the States tax for unemployment compensation purposes the first $6,000 (rather than $4,200) in wages paid by an employer to an employee. The provision would be effective January 1, 1978.

The Department of Labor estimates that enactment of this provision would result in $2 billion of additional State taxes and $0.5 billion of additional Federal taxes (a total of $2.5 billion) for fiscal 1979.

Tax rate.—The net Federal unemployment compensation tax would be increased from 0.5 percent to 0.7 percent starting January 1, 1977, and, under the House-passed bill, ending with the earlier of (1) December 31, 1982, or (2) the end of the year in which all of the general revenue advances to the extended unemployment compensation account have been repaid. The committee bill would modify this provision so that the additional Federal tax would continue to apply until all of the advances have been repaid. The Committee estimates that this provision will result in $0.4 billion in additional revenues for fiscal year 1977.

Advances to States.—Under present law, whenever a State finds that it will not have funds available to pay unemployment compensation for any 1 month it may borrow the necessary funds from the Federal Unemployment Trust Fund. Each request for a loan can be for 1 month only. The bill would permit a single loan request to cover a 3-month period.

The change would be effective on enactment.

C. Other Provisions Relating to Unemployment Compensation

Triggers.—The bill would modify the triggers which determine when extended unemployment compensation benefits are payable in a State.

Under the House bill, the new triggers would be:

A seasonally adjusted national insured unemployment rate of 4.5 percent based on the most recent 13-week period (rather than 3 consecutive months); or

A seasonally adjusted (rather than unadjusted) State insured unemployment rate of 4 percent for the most recent 13-week period.

The provision of present law requiring that the State insured unemployment rate also be 120 percent of the rate for the corresponding period in the 2 preceding years would be eliminated on a permanent basis. This requirement has been suspended throughout most of the period since enactment of the extended benefits program.

The committee bill retains the modification of the national trigger but does not adopt the House-passed State trigger. The committee bill would keep the provisions of present law which put the extended benefits program into effect in a State when the State's insured unemployment rate (not seasonally adjusted) averages at least 4 percent for a 13-week period and is 120 percent of the rate for the corresponding periods in the preceding 2 years. Individual States, however, could opt to put the program into effect whenever the insured unemployment rate in the State averages at least 6 percent for a 13-week period even

though the rate is not 120 percent of the rate for the corresponding periods in the preceding 2 years.

Disqualification for receipt of a pension.—The committee bill adds to the House bill a new provision under which States would be required to prohibit the payment of unemployment compensation benefits to individuals who receive any public or private pension or annuity (including social security retirement benefits and railroad retirement annuities). The new provision would be effective for years after 1977.

Disqualification for pregnancy.—The bill would prevent the States from disqualifying a women for unemployment compensation solely because she is, or recently has been, pregnant.

The new provision would be effective for years after 1977.

Professional athletes and illegal aliens.—The bill would require the States to include in their unemployment compensation laws a provision specifically precluding the payment of unemployment compensation:

(1) To a professional athlete between two playing seasons if he has reasonable assurance of reemployment in the following season; and

(2) To an alien who was not lawfully admitted to the United States.

The new requirements would be effective for years after 1977.

Commission on unemployment compensation.—The bill would establish a commission to study the unemployment compensation program and to issue a report not later than January 1, 1979. The members of the Commission would be appointed by the President (7 members, including the chairman), the President *pro tempore* of the Senate (3 Members) and the Speaker of the House of Representatives (3 Members).

The bill would authorize appropriations from general revenues to meet the cost of the Commission.

D. Provisions Relating to Supplemental Security Income

Disabled children.—Although the Supplemental Security Income program has been in effect since January 1, 1974, the Department of Health, Education, and Welfare has not yet issued detailed guidelines for determining who is disabled under the disability definition provided in the law as it applies to children. The committee bill would require the Secretary of HEW to issue guidelines within 120 days after the enactment of the provision.

The bill also would require the Social Security Administration to refer blind and disabled children under age 16 who are receiving SSI benefits to the crippled children's or other appropriate State agency. This agency would be responsible for administering a State plan which would have to include provision for counseling of disabled children and their families; the establishment of individual service plans for children under 16; monitoring to assure adherence to the plans; and provision of services to children under age 7, and to children who have never been in school and require preparation to take advantage of public educational services.

A total of $30 million would be provided for the operation of State plans for each of three fiscal years, beginning with fiscal year 1977; there would be no non-Federal matching requirements. The amount

would be allocated to the States on the basis of the number of children age 6 and under in each State. Up to 10 percent of the State's funds could be used for counseling, referral and monitoring provided under the State plan for children up to age 16. The remainder of the funding would be available for services to disabled children under age 7 and those who have never been in school. The bill would require that the funds authorized under the provision could not be used to replace State and local funds now being used for these purposes. The funds could be used in the case of any program or service only to pay that portion of the cost which is related to the additional requirements of serving disabled children over and above what would be required to serve nondisabled children.

Change in SSI savings clause.—The Supplemental Security Income (SSI) program provides Federal income maintenance benefits to needy aged, blind, and disabled persons. These benefits in many States are augmented by State-funded supplemental payments. When Federal benefits increase, States can continue to provide the same level of State supplementation at no increase in State costs thus passing through the net impact of the Federal benefit increase to the recipient. Three States, however, do incur a State cost if they elect to pass through the Federal increase in this way because part of the Federal increase automatically results in a reduction in payments to these States under a 1972 savings clause provision. This provision now affects only Hawaii, Massachusetts, and Wisconsin. The committee bill contains a provision under which payments under that savings clause to those States will no longer be reduced when Federal SSI benefits rise. This will enable those States to pass through the Federal increases without added State costs.

Institutionalization of a spouse.—The committee bill would amend present law to provide that if a spouse is institutionalized, the two persons involved would be treated as individuals rather than as a couple for purposes of applying their separate incomes in computing any required reduction of the SSI benefit amount.

Protection of medicaid eligibility.—Under present law, there are some cases in which a cost-of-living increase in social security benefits may result in the loss of SSI eligibility. Although the amount of SSI cash benefits in such cases is very small, the denial of medicaid benefits represents a serious loss to the individual affected. The committee bill would provide that no recipient of SSI would lose eligibility for medicaid as the result of the operation of the cost-of-living benefit increase provision under title II of the Social Security Act. The committee provision would protect the individual only against the loss of medicaid, and would be effective only in the case of future social security benefit increases.

SSI payment to persons in institutions.—The committee bill would exclude publicly operated community residences, which serve no more than 16 residents, from being deemed public institutions in which individuals are ineligible for Supplemental Security Income benefits. The provision would also provide that State or local government subsidies to a home, public or private, would not result in SSI benefits being reduced, and would require States to establish, maintain, and insure the enforcement of standards for any category of institutions,

foster homes, or group living arrangements in which a significant number of SSI recipients reside.

Social Security Act assistance programs in the Northern Marianas Commonwealth.—The recently approved covenant establishing a Commonwealth of the Northern Marianas Islands contained general provisions making Federal assistance programs applicable there in the same way that they apply to other territories. However, the covenant also specifically extended to that jurisdiction two programs under the Social Security Act which Congress has, up to the present, found appropriate to limit in applicability to the 50 States and the District of Columbia: Supplemental Security Income (SSI), and special social security benefits for the uninsured. The committee bill specifically extends to the new Northern Marianas Commonwealth the Social Security Act programs of aid to the aged, blind, and disabled, aid to families with dependent children, and medical assistance under the same conditions as these programs apply to Guam, Puerto Rico, and the Virgin Islands. The bill also deletes the authorization to extend the SSI program and the program of special social security benefits for the uninsured to the Northern Marianas.

E. Provisions of the House Bill Deleted by the Committee

Farm workers.—The House bill would have required the States to extend the coverage of their unemployment compensation programs to include agricultural work performed for an employer who has four or more employees in each of 20 weeks in a year or who pays wages of at least $10,000 in any calendar quarter. The committee bill does not contain any provision extending unemployment compensation to agricultural employment.

Household workers.—The House bill would have required the States to extend the coverage of their unemployment compensation programs to domestic workers employed by households that pay wages of at least $600 in any calendar quarter. The Committee bill does not include this provision.

Under present law, the coverage of domestic service in private households under the unemployment compensation program depends on the provisions of State law. The committee notes that only three States and the District of Columbia provide coverage. In the District and in New York, domestic workers are covered if the employer's quarterly payroll is $500 or more; coverage in Hawaii comes when the quarterly payroll is at least $225; and in Arkansas, employers of three or more or having a quarterly payroll of $500 are covered.

Federal reimbursements to the States.—The House-passed bill would have made changes in the way Federal reimbursement of certain State costs are determined. In determining the amount of reimbursable administrative costs, no longer would account be taken of amounts attributable to administering the program as it relates to employees of State and local governments.

In determining grants to States for the payment of benefits under the extended benefits program, amounts would not be included to compensate for the payment of benefits to employees of State and local governments. (Under the extended benefits program, benefits are paid for the 27th through the 39th week of unemployment; one-

half of the cost of these benefits is paid from Federal unemployment insurance funds.)

The committee bill deletes the House-passed provisions which would reduce the payments made to the States for these purposes.

CETA employees.—The House bill would have authorized reimbursement from Federal general revenues to the State for the cost of paying unemployment compensation to former participants in public service jobs under the Comprehensive Employment and Training Act (CETA). Under present law these costs are met either from direct State funds or from the Federal CETA grant.

The committee bill deletes the provision.

Finality provision.—Under the House bill a Federal employee would be permitted to use the State agency appeal process to overturn his Federal agency's determination as to earnings and reason for leaving Federal employment. Hearings on these issues are now available to employees within the Federal agency involved.

The Committee bill does not include this provision.

II. GENERAL EXPLANATION OF THE BILL

A. Unemployment Compensation

COVERAGE PROVISIONS

The committee bill would bring under the Federal-State unemployment compensation system the greater part of those jobs which are now exempt from the Federal unemployment tax and are consequently not now covered under State programs except to the extent that States have voluntarily elected to provide such coverage. Under the bill, employment for State and local governments and employment for nonprofit elementary and secondary schools would remain exempt from the Federal unemployment tax, but States would be required to provide coverage under State law for such jobs.

If a State did not comply with this requirement, private employers in the States would lose the tax credit they now enjoy by reason of participating in an approved State unemployment compensation program. (The credit would be equal to 2.7 percent out of the total Federal unemployment tax of 3.4 percent provided under the bill.) States would also lose Federal funding for the costs of administering their unemployment programs

STATE AND LOCAL GOVERNMENT EMPLOYEES

(Sec. 101 of the Bill)

Under present Federal laws, the States are required to provide unemployment insurance for employees of State operated hospitals and institutions of higher education. In addition, more than one-half of the States have gone beyond the Federal requirements and provide mandatory coverage for State employees and permit local governments to opt for coverage. Nine States, Connecticut, Florida, Hawaii, Iowa, Michigan, Minnesota, Montana, Ohio, and Oregon require coverage of both State and local government employment. The committee bill would require coverage of all State and local employees.

UNEMPLOYMENT COMPENSATION COVERAGE UNDER PRESENT LAW AND THE COMMITTEE BILL [1]

	Employment—Numbers (in thousands)
Covered under present law	72,385
Under State programs	66,700
Federal employees/military	5,093
Railroad	592
Added to coverage under H.R. 10210	7,946
State government	600
Local government	7,100
Nonprofit organizations	242
Virgin Islands	4

[1] Based on most recent data (1974) modified to reflect some modification of coverage since that time.

Provisions of committee bill.—Under the committee bill State and local government employment would continue to be exempt from the Federal unemployment payroll tax. States would, however, be required to provide State coverage for such employment as a condition of continued participation in the Federal-State unemployment compensation program. (Failure to participate would, in effect, raise the Federal unemployment tax on employers in the State from 0.7 to 3.4 percent and would deprive the State of Federal funds to meet administrative expenses and part of the benefit costs for benefits paid after the 26th week of unemployment.)

All State and local government employees would have to be covered except elected officials, major non-tenured policy-making and advisory employees, policy-making and advisory employees who do not work on more than one day each week, judges, members of the legislature, members of the National Guard, prisoners, and persons hired for temporary jobs in emergency situations. With the above exceptions, all employment after December 31, 1977 would be covered. Under the bill, the State law could permit the employing entity to pay for its coverage either through contributions equivalent to the State payroll tax or by reimbursing the fund for benefits paid to its former employees.

Constitutionality.—Generally, mandatory Federal coverage under the Federal-State unemployment compensation program exists by virtue of applying the Federal unemployment payroll tax to the employment in question. It then becomes of no advantage not to cover that employment under the State program since failure to do so would eliminate the 2.7-percent Federal tax credit which would otherwise apply. In the case of State and local government employment, however, such a procedure would raise questions of the power of the Federal Government under the Constitution to lay a tax upon a vital State function. Consequently, the bill would continue to exempt State and local employment from the Federal tax but would require coverage for such employment as a condition of approving the State program. This

type of mandatory Federal coverage was applied in the 1970 amendments to require States to provide unemployment compensation protection to employees of State hospitals and State institutions of higher education.

A recent Supreme Court decision (*National League of Cities* v. *Usery*) invalidated provisions of the 1974 Fair Labor Standards Amendments which had extended minimum wage coverage to State and local government employees. The Solicitor of the Department of Labor has issued an opinion holding that that decision is not applicable to the H.R. 10210 provisions extending unemployment compensation coverage to such employees.

Coverage of school employees during vacation periods.—Under present law, States are required to provide coverage for employees of State institutions of higher education with benefits payable under the same conditions as apply to other individuals covered under the program except that no benefits are payable during a summer vacation (or similar period between terms) to persons in academic or principal administrative positions who have contracts for the following term (whether or not at the same institution). The House bill, which extends coverage to all State and local employees, would make this provision applicable to such employees regardless of type of school. In addition, the House bill permits States to deny benefits to nonprofessional employees during vacation periods if they have reasonable assurance of continuing in that employment in the following term. Starting in 1980, however, this option would expire and State and local governments would have to provide benefits during the vacation period to nonprofessional employees who cannot find employment during that time.

The committee bill would modify these provisions so that a teacher or professional employee could not qualify for unemployment compensation during vacation periods when there is a reasonable assurance that a job will be available for the post-vacation term (even if a formal contract has not been signed). In making this change, the committee intends that the determining factor be the availability of a job to the individual—whether or not the individual wishes to accept the job. If a job is available to the individual and he does not want to accept it, he would be disqualified just as any other individual who refuses employment is disqualified.

The provision of the House bill which permits the States to deny benefits during vacation periods to nonprofessional school employees for a 2-year period would under the committee bill be a permanent option for the States.

NONPROFIT ORGANIZATIONS

(Sec. 101 of the Bill)

Elementary and secondary schools.—Prior to the 1970 amendments, nonprofit organizations, which are exempt from taxation under the Internal Revenue Code, were covered as employers for unemployment compensation purposes only at the option of the States. The 1970 amendments required States to provide coverage for nonprofit employers who have at least four employees in at least 20 weeks of the year. However, an exception in the law allows States to exclude from

coverage nonprofit elementary and secondary schools. The committee bill would repeal this exclusion, thus requiring coverage for such schools on the same basis as it is required for other nonprofit entities.

Special provision for certain nonprofit employers.—When the 1970 amendments required the extension of coverage to nonprofit employers, a provision was also added allowing such organizations to pay for their coverage by reimbursing the State unemployment fund for any benefits paid to their former employees (on the basis of such employment). If they chose this option, they would not be required to pay the State unemployment taxes otherwise applicable. The 1970 amendments also permitted any nonprofit entity which had been covered prior to those amendments to switch to this reimbursement method of paying for its coverage and to take credit for any past State unemployment taxes it had paid in excess of what it would have paid under the reimbursement method. This opportunity was available, however, only if permitted by State law and only if the nonprofit employer made an election to change to the reimbursement method at the first opportunity.

The Hoag Memorial Hospital in California had elected and later terminated unemployment compensation coverage for its employees prior to the 1970 amendments which made such coverage mandatory as of January 1972. However, since the hospital did not have unemployment coverage in effect during the period between the enactment of the 1970 amendments and January 1972 when coverage became mandatory, its election of the reimbursement method did not take place at the earliest time possible under State law, namely in 1971. As a result, the hospital was barred from claiming the credit which would otherwise have been allowed for the excess of its past contributions over the benefit payments made to its former employees. A provision in H.R. 10210 would allow that institution (and any other nonprofit organization which may be in similar circumstances) to claim the retroactive credit provided that it elected the reimbursement method by April 1, 1972.

A provision similar to that adopted in 1970 allowing nonprofit employers to take credit for past excess contributions is included in H.R. 10210 for the nonprofit schools for which coverage is mandated by the bill.

TRANSITIONAL FEDERAL FUNDING PROVISIONS

(Sec. 121 of the Bill)

Costs of State and local coverage.—The provisions of the bill which would extend coverage under the unemployment compensation program to some 588,000 State employees who are not now covered and to about 7.7 million employees of local governments. State programs would be required to pay benefits on the basis of employment taking place after December 31, 1977. If States elect to pay benefits on the basis of this previously uncovered employment prior to that date, the costs of any such benefits payable after January 1, 1978, would be reimbursed from Federal general revenues. (Federal reimbursement would also be made for benefits paid prior to July 1, 1978, on the basis of State or local employment during the first 6 months of 1978.) Because some of this earlier coverage could also include employment

which would qualify for payments under the federally funded Special Unemployment Assistance (SUA) program, the committee adopted an amendment to make clear that Federal reimbursement for regular unemployment benefits based on such employment will be available only to the extent that Federal SUA benefits were not paid on the basis of the same employment. The table below indicates the benefits which would be paid as a result of the State and local coverage provisions of H.R. 10210.

ESTIMATED UNEMPLOYMENT BENEFIT PAYMENTS BASED ON STATE AND LOCAL GOVERNMENT EMPLOYMENT COVERED BY H.R. 10210

[In millions]

Fiscal year	Total unemployment benefit payments [1]	Amount reimbursable from Federal general funds [2]
1978	$200	$190
1979	210	50
1980	230	0
1981	260	0

[1] Includes regular and extended benefits.
[2] Under special provision where States provide benefits on the basis of employment prior to July 1, 1978.

Costs of coverage for non-profit schools.—The Department of Labor estimates that the bill's provisions requiring coverage for employees of non-profit elementary and secondary schools will result in additional benefit payments of $10 million in each of the fiscal years 1978–1981. In fiscal year 1978, $8 million of this total would be paid for from Federal general revenues under the bill's special start-up provisions.

INCLUSION OF VIRGIN ISLANDS IN THE FEDERAL-STATE UNEMPLOYMENT INSURANCE SYSTEM

(Sec. 102 of the Bill)

Under existing Federal law, the Virgin Islands is excluded from the Federal-State system of unemployment insurance. The Virgin Islands has for several years had a similar unemployment insurance program, however, and the territorial government has formally requested that the Virgin Islands be included in the Federal-State system.

The inclusion of the Virgin Islands in the Federal-State unemployment system as proposed in the bill would extend to that jurisdiction the Federal unemployment tax and thus increase slightly the revenues to the Federal accounts in the unemployment trust fund. At the same

time, it would provide new or modified funding for the Virgin Islands programs as shown in the table below.

FUNDING CHANGES FOR VIRGIN ISLANDS UNEMPLOYMENT PROGRAM UNDER THE COMMITTEE BILL

Expenditure type	Current funding	Funding under H.R. 10210
Regular benefits	Territorial tax	Territorial tax.
Administrative costs:		
Compensation system.	do	Federal trust fund accounts.
Employment service.	Federal general funds.	Federal trust fund accounts and general funds.
Extended benefits	Not in effect	50 percent territorial tax, 50 percent Federal trust fund accounts.
Loans	Federal general funds.	Federal trust fund accounts.

Loans to the Virgin Islands.—Under the Federal-State unemployment compensation system, States which exhaust their own benefit funds may borrow from the Federal accounts in the trust fund to meet their benefit obligations. The Virgin Islands is unable to use this procedure since it is not now a part of the Federal-State system. In Public Law 94–45, authority was provided for loans to be made to the Virgin Islands for this purpose. Under that legislation and subsequent amendments, the Virgin Islands is authorized to borrow up to $15 million which must be repaid by January 1, 1979. The law authorizing these loans also provides that the repayment requirements of the Federal-State unemployment compensation program will come into operation if the Virgin Islands is incorporated into that system as proposed in the committee bill. As of July 1976, the Virgin Islands system has borrowed $5.6 million under the authority of Public Law 94–45.

B. FINANCING PROVISIONS

INCREASES IN THE UNEMPLOYMENT TAXES

(Sec. 201 of the Bill)

Financing basis.—The Federal statute now imposes a gross tax of 3.2 percent of covered wages. The tax base or maximum amount of annual wages per employee subject to this tax is $4,200. (In 1974, the average annual wage in covered employment was about $9,200.) Although the gross Federal tax rate is 3.2 percent, the actual net Federal tax rate is 0.5 percent since employers qualify for a 2.7-percent

tax credit by reason of their participation in an approved State program. Thus, the Federal tax in all States amounts to 0.5 percent of the first $4,200 of wages. The proceeds from this Federal tax are used to meet the costs of administering the unemployment compensation program—including both Federal and State costs—most of the cost of administering public employment services, half of the cost of benefit payments under the extended benefit program (for workers exhausting their regular benefits), and all of the cost of the temporary emergency benefit program (for workers exhausting both regular and extended benefits).

The cost of regular State benefits and half the cost of extended benefits are met from the proceeds of State unemployment taxes. The tax base to which State taxes apply is effectively required to be at least as high as the Federal base of $4,200, but 22 States now have bases which exceed that level. The tax rate applied in each State may vary from year to year according to conditions and may vary among different employers according to experience rating factors which are designed to allow employers a lower tax if their employees do not experience much unemployment. Because of the heavy use of unemployment benefits during the recent recessionary period, the average State tax rate has increased from 1.9 percent in 1974 to an estimated 2.5 percent in 1976. Among the States, the estimated average tax rate applied to taxable wages varies from 0.6 percent in Texas to 4.1 percent in Massachusetts.

The need for additional financing.—If the State tax revenues prove insufficient to meet benefit obligations in times of high unemployment, States are permitted to borrow the necessary funds from the Federal accounts in the trust fund. If the Federal accounts have insufficient funds to meet State borrowing requests and to cover the Federal responsibility for paying half the cost of extended benefits and all the costs of emergency benefits, authority is available for repayable advances from the general funds of the Treasury into the Federal accounts of the trust fund. Because of the heavy demands on the unemployment compensation system made by the high levels of unemployment in the past few years and by the enactment of temporary legislation providing benefits of up to 65 weeks duration, the unemployment payroll taxes—both Federal and State—have proven unable to meet expenses. As of the beginning of fiscal year 1977, advances from the general fund will amount to about $10.9 billion which is estimated to increase to $14.5 billion by the end of fiscal year 1978. Advances have been made to 21 States and total $3.1 billion.

Provisions of the committee bill.—The committee bill would increase the gross Federal unemployment tax rate from 3.2 percent to 3.4 percent while leaving the tax credit at 2.7 percent. This raises the net Federal tax by 0.2 percent, that is, from the present level of 0.5 to a new level of 0.7 percent. Under the House bill, this increased tax rate would take effect in January 1977 and would continue in effect through 1982 after which the existing 0.5 percent net tax rate would again become applicable. The House bill also provides that the tax rate will revert to 0.5 percent at an earlier date if the advances from the general fund have been repaid.

ADVANCES TO STATES FROM FEDERAL UNEMPLOYMENT ACCOUNT

[In millions of dollars per calendar year]

States	1972	1973	1974	1975	1976 through Aug. 15, 1976	Total
Connecticut	31.8	21.7	8.5	[1] 190.2	91.0	343.2
Washington		40.7	3.4	50.0	55.3	149.4
Vermont			5.3	23.0	6.5	34.8
New Jersey				352.2	145.0	497.2
Rhode Island				45.8	20.0	65.8
Massachusetts				140.0	125.0	265.0
Michigan				326.0	245.0	571.0
Puerto Rico				35.0	12.0	47.0
Minnesota				47.0	76.0	123.0
Maine				2.4	12.5	14.9
Pennsylvania				173.8	255.8	429.6
Delaware				6.5	7.0	13.5
District of Columbia				7.0	22.6	29.6
Alabama				10.0	20.0	30.0
Illinois				68.8	307.0	375.8
Arkansas					20.0	20.0
Hawaii					22.5	22.5
Nevada					7.6	7.6
Oregon					18.5	18.5
Maryland					36.1	36.1
Montana					1.4	1.4
Total	31.8	62.4	17.2	1,477.7	1,506.8	3,095.9

[1]	
Actual loans received	$203.0
Less repayment through reduced employer credits	(12.8)
Total	190.2

Information furnished to the committee by the Department of Labor indicates that the additional income resulting from the higher tax rate will not be sufficient to pay back even a major part of the advances by 1982. In the 5-year period for which the increased tax rate would be in effect under the House bill, the deficit would be reduced from the present $7.7 billion to about $5 billion. The committee bill would keep the higher Federal tax rate in effect after 1982 until the entire deficit has been repaid.

The increase in the net Federal tax rate will affect only the amounts collected by the Federal trust fund accounts. The committee bill also increases the amount of annual earnings subject to taxation from $4,200 to $6,000. This increase is effective January 1978 and would affect both Federal and State taxes. Since States have the ability to adjust their tax rates within the overall base, the exact impact of the increase on State revenues is difficult to estimate. The following table, however, presents the estimated effect on both State and Federal unemployment revenues under the provisions in the House bill.

IMPACT OF TAX PROVISIONS

[In billions of dollars]

Fiscal year	Increased revenue under H.R. 10210		
	Federal		
	From 'higher tax rate [1]	From "higher wage base [1]	State
1977	[2] 0.3		
1978	.5	0.2	0.4
1979	.8	.5	1.6
1980	.8	.5	2.6
1981	.8	.5	2.8

[1] Revenues shown as attributable to tax rate increase are those which would result if there were no increase in the wage base. Revenues attributable to the wage base increase would be somewhat smaller if there were no concurrent increase in the tax rate.

[2] In action on the Second Concurrent Resolution on the Budget for 1977, the Congress assumed that revenues would be increased by $0.4 billion as a result of this provision. The difference in the Labor Department estimate is attributable to differences in economic assumptions. The committee accepts the $0.4 billion estimate underlying the Budget Resolution.

Source: Department of Labor.

TIMING OF LOANS TO STATES

(Sec. 202 of the Bill)

When States find it necessary to borrow from the Federal accounts in the trust funds to meet their unemployment benefit obligations, present law requires that the funds borrowed for any month be applied for in the preceding month. The House bill would permit States to apply for loans covering a 3-month period. The committee bill would modify this provision to make clear that, while applications may be for a 3-month period, payments to the States will continue to be made as needed each month.

C. Extended Benefit Triggers

(Sec. 301 of the Bill)

The Federal-State Extended Unemployment Compensation Act of 1970 provides for the payment of additional weeks of benefits to individuals who exhaust their benefit entitlement under the regular State programs. The additional entitlement is in the same weekly amount as the regular entitlement and continues for half as long as the regular entitlement. Thus, an individual entitled to the maximum duration of 26 weeks of regular benefits could receive up to 13 additional weeks of extended benefits. Half the funding of the extended benefits comes from State unemployment taxes and half comes from the Federal tax.

Change in national trigger.—Benefits under the extended benefit program are payable only in periods of high unemployment. Permanent law makes the program effective in all States when the national insured unemployment rate on a seasonally adjusted basis reaches 4.5 percent for 3 consecutive months, and the program continues in effect until that rate declines below 4.5 percent for 3 consecutive months. (A temporary provision which expires December 31, 1976, permits States to participate in the extended benefit program as though the national trigger rate were 4 percent rather than 4.5 percent.) The committee bill would modify the permanent law by providing that the program will be in effect in all States when the seasonally adjusted 4.5 percent national insured unemployment rate for a given week and the 12 previous weeks (rather than for 3 consecutive months), averages 4.5 percent or more and will cease to be in effect when that rate for a given week and the 12 prior weeks averages less than 4.5 percent.

The Department of Labor believes that this change from 3 consecutive months to a moving 13 week average would tend to make the program somewhat more responsive to changes in the national economy in that it would trigger on or off more quickly in response to very sharp changes in national insured unemployment rates. It is expected, however, that under either present law or the revised provision in H.R. 10210 the program would remain in effect through at least the end of the 1977 calendar year.

Change in the State trigger.—From December 1971 to November 1974, the national insured unemployment rate was below the permanent law 4.5 percent rate which triggers the extended benefit program into operation in all States. When the national trigger is "off", States participate in the program only if the State trigger requirements are met. Under permanent law, the extended unemployment compensation program becomes effective in a State when two requirements are met. The rate of insured unemployment in the State (not seasonally adjusted) must reach a level of 4 percent or more averaged over a 13-week period and the rate for that 13-week period must be at least 20 percent higher than the average of the State insured unemployment rate in the same 13-week period of the preceding 2 years.

When a State experiences a prolonged period of high unemployment, the "20 percent higher" requirement becomes very difficult to meet even if there is a very high level of unemployment in the State. Thus, for much of the period since the extended unemployment compensation program was enacted in 1970, the second part of the trigger requirement (an insured unemployment rate 20 percent above the rate prevailing in the 2 prior years) has been suspended. The table which follows shows the various temporary provisions of law which have been enacted to suspend this requirement.

TEMPORARY LEGISLATION SUSPENDING 120-PERCENT REQUIREMENT IN STATE EXTENDED TRIGGERS

Date	Law	Action
Oct. 27, 1972	Public Law 92-599	Suspended 120-percent "off" indicator through June 30, 1973.
July 1, 1973	Public Law 93-53	Suspended 120 percent for both "on" and "off" indicators through Dec. 31, 1973, with "tail-off" through Mar. 31, 1974.
Dec. 31, 1973	Public Law 93-233	Suspended 120 percent for both "on" and "off" indicators through Mar. 31, 1974.
Mar. 28, 1974	Public Law 93-256	Extended suspension of 120-percent indicators until July 1, 1974.
June 30, 1974	Public Law 93-329	Extended suspension of 120-percent indicators until Aug. 31, 1974.
Aug. 7, 1974	Public Law 93-368	Extended suspension of 120-percent indicators until Apr. 30, 1975.
Dec. 31, 1974	Public Law 93-572	The Emergency Unemployment Compensation Act of 1974 included a provision permitting States to waive 120-percent indicators until Dec. 31, 1976.
June 30, 1975	Public Law 94-45	Extended waiver provision of the Emergency Unemployment Compensation Act until Mar. 31, 1977.

The House-passed bill would modify the State trigger requiremenst for extended unemployment benefits by substituting a seasonally adjusted State insured unemployment rate of 4 percent as the trigger factor instead of the unadjusted 4 percent factor now used. The "20 percent higher" requirement would be eliminated permanently under the House bill. The change would become effective as of January 1977; however, it would not have any impact until much later since the national trigger is expected to be "on" at least through the end of 1977.

The information furnished to the committee by the Department of Labor suggests that there is very little difference in the effect of using a 4-percent seasonally adjusted, insured unemployment rate as opposed to using a 4-percent unadjusted rate. In either case extended benefits would in most States be payable for significantly longer periods than would be the case under the existing provision which includes the requirement that the rates be 20 percent higher than the rates for the corresponding periods in the preceding 2 years. The committee recognizes, however, that the provisions of present law have not been adequate when unemployment in a State rises and remains unusually high for several years. The Congress has addressed this problem a number of times on an ad hoc, short-term basis. For a longer range solution, the committee bill would modify present law to allow States an important measure of flexibility when faced with extended periods of high unemployment. Under the modification in the committee bill, a State would be permitted to set aside the "20 percent higher" requirement whenever the State's insured unemployment rate is at least 6 percent (measured over a 13-week period).

The following table shows what the effect of the State extended benefit triggers under present law, the House bill, and the committee bill would have been over the 17-year period 1957 to 1973.

The House bill is estimated to result in $300 million annually in additional extended benefits beginning in fiscal year 1979. The committee bill is estimated to result in $150 million per year in additional extended benefits.

D. Provisions Related To Benefit Eligibility

DISQUALIFICATION FOR PREGNANCY

(Sec. 302 of the Bill)

In order to qualify for unemployment compensation benefits, a worker must be able to work, be seeking employment, and be available for employment. In a number of States, an individual whose unemployment is related to pregnancy is barred from receiving any unemployment benefits. In 1975 the Supreme Court found a provision of this type in the Utah unemployment compensation statute to be unconstitutional. The Utah requirement had disqualified workers for a period of 18 weeks (12 weeks before birth through 6 weeks after birth). The Court stated that "a conclusive presumption of incapacity during so long a period before and after childbirth is constitutionally

AVERAGE NUMBER OF WEEKS STATES WOULD HAVE PAID EXTENDED BENEFITS EACH YEAR UNDER ALTERNATIVE STATE TRIGGERS [1]

State	Current law, 4 percent insured unemployment rate, at least 120 percent of prior 2 years	House bill, 4-percent seasonally adjusted	Committee bill, current law but waive 120 percent if insured unemployment rate is 6 percent or more
Alabama	7.1	19.8	9.0
Alaska	8.1	48.6	34.5
Arizona	5.9	13.5	5.9
Arkansas	8.9	27.9	14.2
California	12.5	37.4	17.8
Colorado	1.8	0	1.8
Connecticut	10.5	18.0	10.9
Delaware	3.9	4.6	3.9
District of Columbia	0	0	0
Florida	4.6	6.9	4.6
Georgia	4.9	9.8	4.9
Hawaii	6.9	8.4	6.9
Idaho	8.2	32.1	13.8
Illinois	5.9	6.2	5.9
Indiana	6.6	7.0	6.6
Iowa	3.2	.8	3.2
Kansas	4.5	5.4	4.5
Kentucky	6.7	24.4	15.9
Louisiana	8.9	19.5	10.8
Maine	11.9	36.2	20.5
Maryland	7.8	17.5	8.6
Massachusetts	12.2	33.4	18.0
Michigan	11.4	25.5	14.3
Minnesota	6.5	15.8	10.7
Mississippi	5.5	22.9	10.9
Missouri	5.5	11.4	6.2
Montana	8.5	34.1	17.6
Nebraska	2.3	0	2.3
Nevada	11.5	40.3	16.3
New Hampshire	5.6	15.5	5.6
New Jersey	10.4	36.8	17.7
New Mexico	7.1	12.8	7.1
New York	8.6	29.7	12.1
North Carolina	4.7	14.9	4.7
North Dakota	5.9	27.1	16.5

AVERAGE NUMBER OF WEEKS STATES WOULD HAVE PAID EXTENDED BENEFITS EACH YEAR UNDER ALTERNATIVE STATE TRIGGERS [1]—Continued

State	Current law, 4 percent insured unemployment rate, at least 120 percent of prior 2 years	House bill, 4-percent seasonally adjusted	Committee bill, current law but waive 120 percent if insured unemployment rate is 6 percent or more
Ohio	7.1	10.7	7.1
Oklahoma	8.0	18.9	9.3
Oregon	10.9	34.9	18.1
Pennsylvania	11.0	28.8	18.2
Puerto Rico	9.7	39.1	33.8
Rhode Island	11.4	35.9	18.1
South Carolina	4.1	6.6	4.1
South Dakota	3.1	0	5.9
Tennessee	6.1	23.1	12.2
Texas	1.7	1.1	1.7
Utah	3.5	7.9	5.7
Vermont	11.5	31.4	16.9
Virginia	2.2	.8	2.2
Washington	11.9	41.5	26.5
West Virginia	7.8	25.4	17.8
Wisconsin	6.9	6.9	6.9
Wyoming	4.5	11.2	6.8

[1] Determined from Department of Labor simulation study based on 1957–73 data.

invalid." A number of other States have similar provisions although most appear to involve somewhat shorter periods of disqualification.

The committee bill includes, without modification, the provision of the House bill which would prohibit States from continuing to enforce any provision which denies unemployment compensation benefits solely on the basis of pregnancy (or recency of pregnancy). Pregnant individuals would, however, continue to be required to meet generally applicable criteria of availability for work and ability to work.

DISQUALIFICATION FOR RECEIPT OF PENSION

(Sec. 303 of the Bill)

It was brought to the attention of the committee that in a number of States [1] retired people who are receiving public and private pensions,

[1] As of January 1976, the States were Alaska, Arizona, California, Georgia, Kansas, Kentucky, Nevada, New Jersey, North Carolina, North Dakota, Puerto Rico, Rhode Island, South Carolina, Texas, and Vermont.

railroad retirement annuities, social security retirement benefits, military retirement pay, etc. and who have actually withdrawn from the labor force are being paid unemployment compensation. In other States, various rules are used to disqualify some or all of these people. The committee believes that a uniform rule is required and has added to the bill a new provision requiring each State to prohibit the payment of unemployment compensation to any individual who is entitled or any governmental or private retirement pay, retirement pension to retirement annuity based on previous employment.

Because this provision requires a change in State law, it would not become effective until January 1978.

DENIAL OF UNEMPLOYMENT COMPENSATION TO ATHLETES AND ILLEGAL ALIENS

(Sec. 303 of the Bill)

The committee bill includes, without modification, a provision of the House bill which would require that all State unemployment compensation programs include prohibitions against the payment of benefits to athletes during the off season and to illegal aliens. This requirement would be effective starting with 1978.

Professional athletes.—The bill would prohibit the payment of benefits to a professional athlete during periods between two successive sports seasons if the athlete had been professionally participating in such sports during the previous season and there is reasonable assurance that he will participate in such sports during the following season. The provision is intended to deny benefits to professional athletes in the off season.

Illegal aliens.—The bill also prohibits payment of benefits to an alien not lawfully admitted into the United States.

PRORATION OF COSTS

(Sec. 203 of the Bill)

Under present law, when an individual's unemployment compensation is based on both Federal and non-Federal employment the Federal share of the benefit cost is based on the "added cost" which results from the Federal employment. The Department of Labor informs the committee that this method of determining Federal costs is cumbersome and expensive.

The bill would substitute a new method of determining the Federal share of the cost. Under the new method the Federal percentage of the cost would be the same percentage that the Federal wages bear to the sum of the Federal and non-Federal wages.

E. NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

(Sec. 411 of the Bill)

Description and purpose of the Commission.—The bill establishes a National Commission on Unemployment Compensation for the purpose of undertaking a comprehensive examination of the present

unemployment compensation system and developing appropriate recommendations for further changes. The Commission would be comprised of three members appointed by the President Pro Tempore of the Senate, three members by the Speaker of the House of Representatives, and seven by the President. Selection of members of the Commission would be aimed at assuring balanced representation of interested groups.

The Commission would be authorized to appoint such staff as it requires and to contract for necessary consultant services. The final report of the Commission would have to be sent to the President and to Congress by January 1, 1979, and the Commission would terminate 90 days after the report is submitted.

Agenda items for the Commission.—The bill states that the Commission's study shall include, without being limited to, the following items:

(1) Examination of the adequacy, and economic and administrative impacts, of the changes made by H.R. 10210 in coverage, benefit provisions, and financing;

(2) Identification of appropriate purposes, objectives, and future directions for unemployment compensation programs, including railroad unemployment insurance;

(3) Examination of issues and alternatives concerning the relationship of unemployment compensation to the economy, with special attention to long-range funding requirements and desirable methods of program financing;

(4) Examination of eligibility requirements, disqualification provisions, and factors to consider in determining appropriate benefit amounts and duration;

(5) Examination of (A) the problems of claimant fraud and abuse in the unemployment compensation programs; and (B) the adequacy of present statutory requirements and administrative procedures designed to protect the programs against such fraud and abuse;

(6) Examination of the relationship between unemployment compensation programs and manpower training and employment programs;

(7) Examination of the appropriate role of unemployment compensation in income maintenance and its relationship to other social insurance and income maintenance programs;

(8) Conduct of such surveys, hearings, research, and other activities as it deems necessary to enable it to formulate appropriate recommendations, and to obtain relevant information, attitudes, opinions, and recommendations from individuals and organizations representing employers, employees, and the general public;

(9) Review of the present method of collecting and analyzing present and prospective national and local employment and unemployment information and statistics;

(10) Identification of any weaknesses in such method and any problem which results from the operation of such method; and

(11) Formulation of any necessary or appropriate new techniques for the collection and analysis of such information and statistics.

F. Provisions Relating to the Supplemental Security Income Program

CRITERIA FOR DETERMINING DISABILITY OF CHILDREN

(Sec. 501 of the Bill)

For purposes of the Supplemental Security Income program, the law provides the following definition of disability:

"An individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months (or, in the case of a child under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)."

The development of guidelines for applying this definition to children has proved to be an extraordinarily slow and difficult process for the Social Security Administration. Four years after the enactment of the legislation there are still no adequate guidelines to assist the State agencies in making their determinations.

The regulations which have been issued with regard to disability for children state that if a child's impairments are not those listed, eligibility may still be met if the impairments "singly or in combination . . . are determined by the Social Security Administration, with appropriate consideration of the particular effect of the disease processes in childhood, to be medically the equivalent of a listed impairment."

SSA has issued several statements on the subject, but in none of its communications to the State agencies which make the disability determinations has it provided specific guidelines for the agencies to follow. On the contrary, these communications have simply indicated that SSA was in the process of developing more definitive guidelines for childhood disability determinations.

The State agencies have indicated that they believe they have insufficient guidelines for determining childhood disability. The Council of State Administrators of Vocational Rehabilitation testified before the House Subcommittee on Public Assistance in 1975:

> Guidelines for development of special SSI childhood claims are also needed. Although [previous SSA directives] attempted to provide some temporary guidelines, we have not received any additional guidelines based on a year and a half's experience since then. A national study of title XVI child cases was made in April and May of 1974, and perhaps this experience could help provide clearer guidelines. Unfortunately, a side effect of this situation has been a decrease in State agency general staff respect for central and regional office expertise and ability. The opinion is often expressed that Federal personnel are too far removed from the grassroots of case adjudication, and seem insensitive to State agency problems. It appears to many State agency personnel that Federal personnel are (if not unwilling) unable to respond to DDS needs with timeliness. It is difficult for an administration to combat this feeling among personnel, when policy guidance is not forthcoming.

SSA has been circulating draft regulations with criteria for child disability for some time. The fact that they have not yet been issued, however, has meant that the States have been forced to adopt their own guidelines, which may well vary greatly from jurisdiction to jurisdiction.

Although the committee recognizes the difficulty of developing objective criteria for determining how to apply the disability definition in the law to children, it believes there should be some assurance that children with similar conditions are treated similarly throughout the Nation.

The committee bill thus would require the Social Security Administration within 120 days after enactment to publish criteria to be used by the State agencies in making child disability determinations. This action should end the present uncertainty which the State agencies and others have with regard to what constitutes disability in a child and enable disabled children to benefit from the program on an equitable basis.

SERVICES FOR DISABLED CHILDREN

(Sec. 501 of the Bill)

Another problem related to the child disability program is that there is no provision for services or referral to services which is appropriate for children. The law presently requires the Secretary to make provision for referral of all disabled individuals "to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act." The law further requires an individual receiving benefits to "accept such rehabilitation services as are made available to him," and the Secretary is authorized to pay the State agency for costs incurred in providing services for those referred to it.

The provision for vocational rehabilitation services was designed for persons who could be expected to enter or reenter the work force. It has been of limited benefit even to adult SSI beneficiaries and has not been considered appropriate for children. The lack of a provision in the law has meant that children receiving benefits have not been subject to any formal referral process at all. Being without any legislative guidance, the Social Security Administration has not developed procedures for offices to use on a uniform basis. Some children may now benefit from the general information and referral procedures which exist to some degree or other in all district offices. But this haphazard approach provides no assurance that a child ever actually comes into contact with an agency providing services to handicapped and disabled children, or that services are provided on a continuing basis.

The committee believes that there are substantial arguments to support the establishment of a formal referral procedure. Many disabled children have conditions which can be improved through proper medical and rehabilitative services, especially if the conditions are treated early in life. The referral of children who have been deter-

mined to be disabled could thus be of very great immediate and long-term benefit to the children and families who receive appropriate services. In addition, the procedure could be expected to result in long-range savings for the SSI program, in that some children, at least, would have their conditions satisfactorily treated and would move off the disability rolls instead of receiving payments for their entire lifetime. The referral of disabled children by the Social Security Administration would also serve as a casefinding tool for community agencies serving disabled children and assist them in focusing their services in behalf of these children. Many communities have the capability to help disabled and handicapped children, but are not always able to identify those with the greatest need.

The committee bill thus would require the referral by the Social Security Administration of children under age 16 to the State agency which administers the State crippled children's services program, or to another agency which the Governor determines is capable of administering the State plan (developed to meet the requirements of the committee bill) in a more efficient and effective manner than the crippled children's agency. If the Governor determines that the plan should be administered by an agency other than the crippled children's agency, he must state the reasons for this determination in the State plan. It is intended by the committee that there will be a single agency to administer the plan in each State. The committee believes that in the interest of effective administration of the SSI program the Social Security Administration should not be required to make referrals to more than the one agency in any one State.

Under the committee bill, the acceptance of any services offered would continue to be a condition of continuing SSI eligibility.

The committee bill would require the Secretary of HEW to issue regulations prescribing the criteria for approval of State plans for (1) assuring appropriate counseling for disabled children and their families, (2) establishment of an individual service plan for children and prompt referral to appropriate medical, educational and social services, (3) monitoring to assure adherence to each individual service plan, and (4) provision for disabled children age 6 and under and for children who have never attended public school and who require preparation to take advantage of public educational services of medical, social, developmental, and rehabilitative services in cases where such services reasonably promise to enhance the child's ability to benefit from subsequent education or training, or otherwise to enhance his opportunities for self-sufficiency or self-support as an adult.

State plans would have to provide for the establishment of an identifiable unit within the administering agency to be responsible for the administration of the plan. The plans would also have to provide for coordination with other agencies serving disabled children. The committee recognizes that there are other programs offering services to disabled and handicapped children who may or may not be eligible for SSI payments. It is expected that services provided under these programs will be used in meeting the needs of SSI disabled children for services which are recommended under individual service plans.

For fiscal year 1977 and the following two fiscal years the Secretary would be required to pay to the State administering agency those costs incurred under the State plan which do not exceed the State's share of the $30 million provided for each year under the bill. In order to

assure equitable distribution of funds the State share would be based on the proportion of children under age 7 in each State. Up to 10 percent of the State's funds could be used for purposes of counseling, referral and monitoring as provided under the State plan for children up to age 16. The remainder of the funds would be used to provide services for children age 6 and under, and for children who have never attended public school in cases where such services promise to enhance the child's ability to benefit from subsequent education or training.

The bill provides for certain safeguards in the use of funds authorized under the provision. The new funds made available could not be used to replace State and local funds. In addition, with regard to programs or services provided to nondisabled children, the funds could be used only to pay that portion of the cost which is related to the additional requirements of the disabled children.

INSTITUTIONALIZATION OF A SPOUSE

(Sec. 502 of the Bill)

Under present law an aged or disabled couple receives a benefit amount which is lower than would be the case if the spouses were treated as two individuals. The present monthly benefit amount is $167.80 for an individual and $251.80 for a couple. When one member of a couple is in a medicaid institution, the monthly maximum benefit amount for the couple is $192.80. This represents $167.80 payable on behalf of the spouse who is not in an institution, and a $25 personal needs allowance payable to a person in a medicaid institution. These amounts are reduced by the amount of any other income (apart from certain specified exclusions) which the couple has. The committee has been informed that a problem arises when one member of a couple is institutionalized and his income is used to meet a part of the expenses of the institutional care and also to reduce the amount of the couple's SSI benefit. The committee bill therefore provides that for any month during all of which a spouse is in an institution, the two persons involved would be treated as individuals rather than as a couple for purposes of applying their separate incomes in computing any required reduction of the SSI benefit amount.

PROTECTION OF MEDICAID ELIGIBILITY

(Sec. 503 of the Bill)

Present law provides for annual cost-of-living increases in payments under title II of the Social Security Act. Present law also provides for an increase in SSI benefits by the same percentage as is applicable for title II social security benefits. The intent of tying the two programs together for purposes of the benefit increase was to assure that SSI recipients would get the benefit of any social security benefit increase which became payable under the cost-of-living increase provision. An increase in social security benefits, therefore, does not ordinarily result in a decrease in SSI benefits.

However, because of the operation of the provision in the law for disregarding $20 a month of other income in determining the SSI benefit amount, there are some cases in which a social security benefit

increase can have the effect of making individuals ineligible for SSI and also for medicaid benefits. For example, an individual in a State which does not supplement the basic Federal amount of $167.80 a month may still be eligible for $.80 in SSI payments even though he has a social security check of $187. This is because his social security check is considered as only $167 (applying the $20 disregard) for purposes of SSI. Because he is eligible for an SSI payment, regardless of amount, he is automatically eligible for medicaid. However, if in the future there were, for example, a 10 percent increase in social security benefits, his social security check would amount to $205.70. The SSI payment amount would increase to $184.60. The $20 disregard would still be effective, and his social security check for SSI purposes would be $185.70, or $1.10 above the SSI eligibility limit. Although the individual still has the advantage of a cash benefit increase, the loss of SSI eligibility may carry with it a loss of medicaid.

The committee bill would protect individuals in this situation by providing that no recipient of Federal benefits or State supplementary payments under the SSI program would lose eligibility for medicaid as the result of the operation of the cost-of-living benefit increase provision in title II. The committee provision would thereby insure that an increase intended to benefit the aged and disabled would not have inadvertent harmful effects. The provision would be effective with respect to benefit increases starting June 1977.

CHANGE IN SSI SAVINGS CLAUSE

(Sec. 504 of the Bill)

The SSI law provides for basic Federal payments to the needy aged, blind and disabled. The law also allows States to supplement the Federal payments, and many have chosen to do so. When there is an increase in Federal SSI benefits, these States ordinarily have two choices: they may pass through the Federal benefit increase to individuals and continue to supplement the payment by the amount they were already paying, or they may reduce their supplementation, thus providing for no increase in the recipient's combined Federal-State payment and realizing savings to the State treasury. Most States in the past have elected to pass through SSI benefit increases to their recipients, and have been able to do so at no increase in State costs. Three States, however, do incur a State cost if they elect to pass through the Federal increase because part of the Federal increase automatically results in a reduction in payments to these States under a 1972 savings clause provision. The States affected by the operation of the savings clause are Hawaii, Massachusetts and Wisconsin.

The committee believes that these States should also be able to pass through the Federal increases to the aged, blind and disabled without adding to their costs. The committee bill provides that payments under the savings clause to the States affected by it will no longer be reduced when there is a cost-of-living increase in Federal SSI benefits. The provision would be effective with respect to increases taking place after June 1977.

ELIGIBILITY OF INDIVIDUALS IN CERTAIN INSTITUTIONS

(Sec. 505 of the Bill)

Present law provides that individuals who are in nonmedical public institutions are not eligible for SSI benefits. There has been a long-standing prohibition in public assistance statutes against payments on behalf of persons in public institutions largely on the grounds that these programs should not be used to subsidize State and local institutions which may be substandard or which may represent an inappropriate type of care for the individuals involved. There are some situations, however, in which this prohibition may work to the disadvantage of the aged and disabled individuals whom the legislation is intended to help. This is particularly true with regard to the mentally retarded who often can be best served by placement in a small home or other institutional setting of a residential nature.

The committee believes that States and localities should not be discouraged from creating and subsidizing residential facilities which may be of great benefit to many individuals who need a place to live but do not need the kind of care which is provided in a medicaid institution. The bill would amend present law to provide that the prohibition against SSI payments to persons in public institutions would not be applicable in the case of publicly operated community residences which serve no more than 16 residents. In addition, the bill provides that Federal SSI payments would not be reduced in the case of assistance based on need which is provided by States and localities. This would allow States and localities to supplement the Federal SSI benefits through either direct or indirect assistance to persons in public institutions. It would also allow States and localities to provide emergency and other special need assistance to SSI recipients without causing a reduction in their Federal SSI payments.

The bill would also repeal section 1616(e) of the Act which now provides that Federal SSI payments be reduced in the case of payments made by States or localities for medical or any other type of remedial care provided by an institution if the care is or could be provided in a medicaid institution. This requirement was originally incorporated into the SSI statute to prevent the use of SSI benefits as a means of evading Federal medicaid requirements and thus funding care in substandard facilities. The Social Security Administration has never attempted to enforce this requirement of Federal law, however. In addition, the committee is concerned that some of the Federal medicaid standards which would be applied may be inappropriate for some of the institutions affected by this provision. The committee continues to be concerned, however, that the SSI program not become a source for funding substandard institutions. Therefore the committee bill adds a provision which would require each State to establish or designate State or local authorities to establish, maintain and insure the enforcement of standards for any category of institutions, foster homes, or group living arrangements in which (as determined by the State) a significant number of SSI recipients is residing. The standards would have to be appropriate to the needs

of the recipients and the character of the facilities involved. They would govern admission policies, safety, sanitation, and protection of civil rights.

The bill also would require each State to make available for public review, as a part of its social services program planning procedures under title XX of the Social Security Act, a summary of the standards, and to make available to any interested individual a copy of the standards and the procedures available in the State to insure their enforcement. There would have to be made available a list of any waivers of standards which have been made and any violations of standards which have come to the attention of the enforcement authority. Each State would be required to certify annually to the Secretary of Health, Education, and Welfare that it is in compliance with the requirements for State standards. The committee bill would also provide for the reduction of Federal payments in the case of persons who are in group facilities which are not approved under State standards as determined by the appropriate State or local authorities.

ASSISTANCE PROGRAMS IN THE NORTHERN MARIANAS

(Sec. 506 of the Bill)

The covenant establishing the Northern Mariana Islands as a new United States territory with Commonwealth status was approved on March 24, 1976 (Public Law 94–241). The terms of this covenant provide, in a general way, that Federal assistance programs applicable to the other U.S. territories will be extended to the Northern Marianas Commonwealth as of a date to be proclaimed by the President after the constitution of that jurisdiction has been drafted and approved. The covenant also specifically provides that the Social Security Act programs of Supplemental Security Income (SSI) and special social security benefits for certain aged, uninsured persons will also be made available in the Northern Marianas.

The committee believes that those who negotiated the covenant establishing the Northern Marianas Commonwealth acted inappropriately in providing therein for that jurisdiction to have in force these two Social Security Act programs which Congress had specifically limited in applicability to the 50 States and the District of Columbia. Because the covenant had to be approved or rejected as a whole, it was not possible to delete this provision by an amendment during Senate consideration earlier this year. However, under the terms of the covenant itself, this provision is subject to change by subsequent legislation.

The program of special social security benefits for uninsured individuals was incorporated in the Tax Adjustment Act of 1966 on the basis of a Senate floor amendment. Under this provision, individuals who reached age 72 prior to 1972 could receive a special social security benefit, funded from general revenues, even though they had little or no coverage in employment under social security. This provision was enacted as a transitional measure, and by this time it applies only to persons who are now 77 years of age or over. The committee

does not believe that there is any reason for making this program applicable to the territorial jurisdictions.

The program of Supplemental Security Income (SSI) assures a minimum monthly income of $167.80 to aged, blind, and disabled persons in the 50 States and the District of Columbia; for couples, the income support level is $251.80. (In certain States these amounts are augmented by supplementary State payments.) This program was specifically limited to 50 States and the District of Columbia when it was enacted in 1972. In the territorial jurisdictions of Guam, Puerto Rico, and the Virgin Islands, the Social Security Act provides for separate programs of aid and services for the aged, blind, and disabled. These programs provide for Federal matching of public assistance and social service expenditures up to specified limits. The committee believes that it is appropriate to continue to provide assistance under these programs which operate through locally developed plans which can take into account the economic and other circumstances prevailing in each territory.

The extension of the SSI program to the jurisdiction of Puerto Rico would increase Federal expenditures under that program by some $400 million per year and would make a substantial majority of the aged population in that Commonwealth eligible for that program and potentially eligible for medicaid. While the Marianas Covenant covers a much smaller population (less than 15,000) and therefore involves only minimal cost, the committee believes that the establishment of the SSI program there could be taken as a precedent for its expansion to the other territories. Legislation was, in fact, passed by the House of Representatives earlier this year which would have used the Marianas Covenant as a precedent for making the SSI program applicable to Guam and which would have authorized the President to extend the program at a later date to other territories. At the request of the committee, this provision was deleted from that legislation.

The committee agrees that the new Commonwealth of the Northern Mariana Islands should enjoy the same Federal assistance programs which apply to other territorial jurisdictions. However, extension to that territory or to any territory of programs now limited in scope to the 50 States and the District of Columbia should be accomplished only to the extent that Congress finds appropriate after considering such extension through the usual legislative processes.

For the reasons outlined above, the committee has added to the bill an amendment which will remove the applicability of the Supplemental Security Income program and the program of special social security benefits for uninsured persons from the Marianas Commonwealth. The committee amendment also provides specific statutory language to carry out the general provision in the covenant extending to the Northern Marianas those Social Security Act assistance programs which are applicable to the other territories. These programs are aid to the aged, blind, and disabled (titles I, X, XIV, and XVI of the Social Security Act), aid to families with dependent children (title IV), and medical assistance (title XIX). The amendment also establishes in title XI of the act limitations on Federal funding under these

programs which are comparable on a per capita basis to the limitations now in force for Guam, Puerto Rico, and the Virgin Islands.

IV. BUDGETARY IMPACT OF THE LEGISLATION

In compliance with section 252(a) of the Legislative Reorganization Act of 1970 and sections 308 and 403 of the Congressional Budget Act of 1974, the following statements are made concerning the budgetary impact of the bill.

A. Unemployment Compensation Provisions

The committee estimates that the enactment of the unemployment compensation provisions of H.R. 10210 with the amendments proposed by the committee will result in net increased budget authority and revenues.

The estimates in this section were prepared by the Department of Labor. The committee has also received an alternative set of cost estimates which were prepared by the Congressional Budget Office and which are printed in section C below.

The following table shows the effect of the committee bill on unemployment compensation revenues and expenditures. It was prepared by the Department of Labor on the basis of the assumptions shown below:

(1) Increase in average weekly benefit amount is 5 percent per year.

(2) Increase in total wages is based on covered employment increasing at 2 percent per year and the Consumer Price Index increasing as follows:

	Fiscal year—				
	1977	1978	1979	1980	1981
CPI increase (percent)	5.6	5.6	5.1	4.1	2.9

(3) The national unemployment rate[1] is as follows:

	Fiscal year—				
	1977	1978	1979	1980	1981
Unemployment (percent)	7.0	6.4	5.6	5.0	4.9

[1] Total unemployment rather than insured unemployment.

The increases shown in the table in revenues under the committee bill as compared with present law represent both revenue and budget authority changes. The unemployment trust fund is not expected to have any increased outlays under the committee bill until fiscal year 1979 when the change in the extended benefit trigger provision begins to have an impact, as shown in the table.

In addition to the trust fund amounts shown in the table, the committee bill provides an entitlement to the States and to nonprofit

REVENUES AND EXPENDITURES UNDER PRESENT LAW, HOUSE BILL, AND COMMITTEE BILL: FISCAL YEARS 1977–81[1]

[Billions]

Revenues	1977			1978			1979			1980			1981		
	Present law	House bill	Committee bill	Present law	House bill	Committee bill	Present law	House bill	Committee bill	Present law	House bill	Committee bill	Present law	House bill	Committee bill
State taxes	8.2	8.2	8.2	9.0	9.6	9.4	9.1	11.1	10.7	9.3	12.3	11.9	10.0	13.2	12.8
Federal taxes	1.6	1.9	1.9	1.7	2.4	2.4	1.7	3.0	3.0	1.8	3.1	3.1	1.8	3.1	3.1
Revenues	9.8	10.1	10.1	10.7	12.0	11.8	10.8	14.1	13.7	11.1	15.4	15.0	11.8	16.3	15.9
Regular benefits	8.8	8.8	8.8	8.5	8.8	8.3	7.9	8.3	7.9	7.9	8.3	7.9	8.6	9.0	8.6
Extended/emergency benefits	4.2	4.2	4.2	1.8	1.9	1.9	.4	.8	.55	.4	.7	.55	.5	.8	.65
Administrative costs	1.3	1.3	1.3	1.3	1.3	1.3	1.3	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.2
Expenditures	14.3	14.3	14.3	11.6	12.0	11.5	9.6	10.3	9.35	9.5	10.2	9.35	10.3	11.0	10.05
Net increase (+) or decrease (−) in unemployment funds	−4.5	−4.5	−4.5	−.9	0	+0.3	+1.2	+3.8	+4.35	+1.6	+3.2	+5.65	+1.5	+5.3	+5.85

[1] Estimates based on OMB assumptions underlying mid-session review of 1977 budget. Data in table includes only revenues from unemployment payroll taxes and benefits financed through such taxes. Not included are benefits financed through reimbursement from Federal or State/local reimbursement (i.e. benefits for former Federal employees and servicemen or benefits for State and local employees and employees of non-profit institutions which are paid for through reimbursement rather than payroll taxes).

elementary and secondary schools for reimbursement of the early year costs of providing unemployment benefits. These provisions which do not affect the trust fund will require budget authority and outlays of an estimated $198 million in fiscal year 1978 and $50 million in fiscal year 1979. Other fiscal years are not affected.

The table shows a fiscal year 1977 increase in revenues of $0.3 billion using the economic assumptions of the Labor Department. One of the estimates underlying the recently adopted second concurrent resolution on the budget is that the provision in the committee bill will increase revenues by $387 million in fiscal 1977 ($0.4 billion when rounded). This estimate is based on the same provision of law but different economic assumptions. The committee adopts the $0.4 billion estimate underlying the budget resolution.

B. Supplemental Security Income Amendments

The committee has not received cost estimates of the Supplemental Security Income (SSI) amendments to the bill from either the Administration or the Congressional Budget Office.[1] The committee estimates that these provisions will affect budget authority and outlays as follows:

INCREASE IN BUDGET AUTHORITY AND OUTLAYS REQUIRED IN FISCAL YEARS 1977–81

[In millions]

Provision	1977	1978	1979	1980	1981
Services for disabled children (sec. 501)	$24	$30	$30		
Income of institutionalized spouse (sec. 502)	1	1	1	1	1
Protection of medicaid eligibility (sec. 503)	8	9	10	12	14
Savings clause for 3 States (sec. 504)	2	10	15	20	25
Eligibility in small public institutions (sec. 505)	8–16	39–81	78–161	116–242	155–323
Assistance programs in Northern Marianas (sec. 606)		(1)	(1)	(1)	(1)
Total	43–51	89–131	134–217	149–275	195–363

1 It is estimated that section 2 of the bill will have no fiscal impact prior to fiscal year 1978 and that, in fiscal year 1978 and each subsequent year, it will result in a reduction in Federal costs as compared with existing law. The committee does not believe that there is sufficient information to estimate the amount of the savings with any accuracy but states that it would appear to be nominal.

[1] In arriving at the estimates in this section, however, the committee has been guided in part by administration estimates prepared in connection with generally similar provisions in other legislation.

C. Congressional Budget Office Estimates of Unemployment Revenues Under the Bill

The following estimates were received by the committee from the Congressional Budget Office.

Congress of the United States,
Congressional Budget Office,
Washington, D.C., September 20, 1976.

Hon. Russell Long,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: As requested by your staff, the Congressional Budget Office has reviewed the revenue and cost impact of the Senate Finance Committee version of H.R. 10210, the Unemployment Compensation Amendments of 1976.

The five-year revenue and reimbursement estimates and supporting material are included with this letter. Further information is available to the Committee members and staff should they need it.

Due to the complexity of the outlay impact of the Unemployment Compensation amendments and the addition to the bill of several amendments affecting the Supplemental Security Income program, the Congressional Budget Office is unable at this time to provide the Committee with five-year estimates in those areas.

We are, however, in the process of examining those provisions and developing the necessary five-year estimates and will provide those to the Committee as soon as they are available. We anticipate that an additional week will be necessary to complete this effort.

Should the Committee so desire, we will be pleased to discuss this matter further or to provide the Committee with progress reports on our work.

Sincerely,

Alice M. Rivlin, *Director.*

Congressional Budget Office

REVENUE ESTIMATE, SEPTEMBER 17, 1976

1. Bill number: H.R. 10210 (Senate Finance Committee version).
2. Bill title: Unemployment Compensation Amendments of 1976.
3. Purpose of bill: These amendments are designed to achieve the following primary objectives:

(A) Restore solvency in the unemployment compensation program at the State and Federal levels by increasing revenues;

(B) Modify the "trigger mechanism" in the Extended Benefits program; and

(C) Establish a National Study Commission that will undertake an examination of the present unemployment compensation program and make recommendations for further improvements.

4. Estimate of revenues: CBO estimates that the following additional revenues would be associated with the provisions

of H.R. 10210. These estimates are based on the economic assumptions contained in the CBO July 15 Economic Forecast.

TOTAL ADDITIONAL TAX REVENUES AND REIMBURSEMENTS DUE TO H.R. 10210

[Millions of dollars]

	Fiscal year—				
	1977	1978	1979	1980	1981
Net tax revenues	400	2,100	3,300	3,800	4,200
Reimbursements	0	300	800	900	900
Total additional revenues	400	2,400	4,100	4,700	5,100

5. Basis for revenue estimate: The CBO July 15 Economic Forecast assumes that the average annual increase in current dollar Gross National Product (GNP) would be 12 percent in fiscal year 1977 and would average 11 percent over the 5-year period (fiscal year 1977–1981). Over the same period, constant dollar (real) GNP would average a 5 percent annual increase. The unemployment rate is assumed to fall from 6.7 percent in 1977 to 4.6 percent in 1981, and the inflation rate is assumed to range between 5 and 6 percent over the period. These assumptions should not be considered as constituting a recommended or target path. They indicate, instead, a possible path that the economy could follow.

Revenue estimate: The increase in revenues due to H.R. 10210 results from the increase in the effective Federal tax rate on employers from 0.5 percent to 0.7 percent (effective January 1, 1977); from the increase in the taxable wage base from $4,200 to $6,000 (effective January 1, 1978); and, to a lesser extent, from the increase in covered employees (who work for State and local governments, and nonprofit organizations) for whom employers pay unemployment insurance or make reimbursements to State trust funds.

In order to create these estimates, the total revenues under H.R. 10210 and under current law 1977–1981 were both calculated and the difference taken. The equations used to calculate Federal and State revenues were:

Total annual Federal revenue=(average annual covered wage) × (person-years of covered employment) × (ratio of taxable wages to total wages) × (effective Federal tax rate).

Total annual State revenues=(average annual covered wage) × (person-years of covered employment) × (ratio of taxable wages to total wages) × (weighted average tax rate for 50 States) plus (reimbursable amount).

The average annual covered wage, the level of covered employment, and the ratio of taxable wages to total wages were each calculated using separate statistical equations. These equations estimate the appropriate variable as a function of the unemployment rate, GNP, rate of inflation, wages and salaries, and civilian labor force series contained in the CBO July 15 Economic Forecast. The ratio of taxable wages to total covered wages is also a function of the taxable wage base series implied by present law and by H.R. 10210.

It was not possible to construct a rigorous model which could provide accurate estimates of the average State tax-rate. This is due to the fact that the current level of loans to State trust funds is unprecedented and therefore the average State tax rate in the near future could not be estimated accurately using the latest actual data. Consequently a series for this rate was assumed on the basis of the estimated rates for calendar year 1975 and fiscal year 1976. The average State rate is assumed to be 2.7 percent for the period 1977–81.

Reimbursable revenue amounts from State and local government employers are assumed equal to benefit amounts for these groups: generally, State and local government employers do not pay into the State funds until after their employees have received benefits, at which point they are liable for the entire amount. For this estimate, CBO used DOL actual data from fiscal year 1975 reimbursable collections as the reimbursable base. Estimates of increases in reimbursable revenues due to newly covered employees are calculated by CBO. The benefits paid to State and local government employees during the transition period of H.R. 10210 and reimbursed by Federal general revenues (not by employers) are not counted as revenues for this estimate.

The following table presents a breakdown of the total net gain in funds due to H.R. 10210.

ADDITIONAL FUNDS DERIVED FROM H.R. 10210

[In millions of dollars]

	Fiscal year—				
	1977	1978	1979	1980	1981
State trust fund revenues	0	1,400	2,500	2,900	3,300
Federal FUTA revenues	400	700	800	900	900
Reimbursables	0	300	800	900	900
Total additional revenues and reimbursables	400	2,400	4,100	4,700	5,100

6. Revenue estimate comparison: Although the Department of Labor has prepared a revenue estimate for H.R. 10210, CBO does not have, at this time, the necessary supporting methodology from the Department required to make a comparison of estimates.

7. Previous CBO estimate: May 13, 1976. The May estimate contained the following level of additional revenues at an assumed 2.7 percent average state tax rate:

Fiscal year:	Million
1977	$400
1978	3,600
1979	4,500
1980	7,200
1981	7,700

These figures were based on CBO Path B economic assumptions which are less optimistic than those contained in the CBO July 15 Economic Forecast. However, after the May estimates, the CBO unemployment insurance receipts model was substantially revised to incorporate a more sophisticated methodology. This revision allows us to explicitly calculate the effects of a variety of economic assumptions. This added accuracy accounts for the downward revision of our revenue estimates.

8. Estimate prepared by: Marc Freiman and Robert F. Black.

9. Estimate approved by:

JAMES L. BLUM,
Assistant Director, for Budget Analysis.

D. ALLOCATIONS UNDER SECTION 302(b) OF THE CONGRESSIONAL BUDGET ACT

As of the time this bill is being reported, the committee has not completed its allocations pursuant to the second concurrent resolution on the budget for fiscal year 1977 under section 302(b) of the Congressional Budget Act. The committee states, however, that those allocations, when reported, will fully accord with the results of H.R. 10210, as reported to the Senate.

V. VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote by the Committee on the motion to report the bill. The bill was ordered reported by voice vote.

VI. CHANGES IN EXISTING LAW

In compliance with subsection (4) of the XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1954

* * * * * * *

Chapter 23—FEDERAL UNEMPLOYMENT TAX ACT

Sec. 3301. Rate of tax.
Sec. 3302. Credits against tax.
Sec. 3303. Conditions of additional credit allowance.
Sec. 3304. Approval of State laws.
Sec. 3305. Applicability of State law.
Sec. 3306. Definitions.
Sec. 3307. Deductions as constructive payments.
Sec. 3308. Instrumentalities of the United States.
Sec. 3309. State law coverage of [certain] services performed for nonprofit organizations [and for State hospitals and institutions of higher education] *or governmental entities.*
Sec. 3310. Judicial review.
Sec. 3311. Short title.

SEC. 3301. RATE OF TAX.

[There is hereby imposed on every employer (as defined in section 3306(a)) for the calendar year 1970 and each calendar year thereafter an excise tax, with respect to having individuals in his employ, equal to 3.2 percent of the total wages (as defined in section 3306(b)) paid by him during the calendar year with respect to employment (as defined in section 3306(c)). In the case of wages paid during the calendar year 1973, the rate of such tax shall be 3.28 percent in lieu of 3.2 percent.]

There is hereby imposed on every employer (as defined in section 3306(a)) for each calendar year an excise tax, with respect to having individuals in his employe, equal to—

(1) 3.4 percent, in the case of a calendar year beginning before the first calendar year after 1976, as of January 1 of which there is not a balance of repayable advances made to the extended unemployed compensation account (established by section 905(a) of the Social Security Act); or

(2) 3.2 percent, in the case of such first calendar year and each calendar year thereafter;

of the total wages (as defined in section 3306(b)) paid by him during the calendar year with respect to employment (as defined in section 3306(c)).

* * * * * * *

SEC. 3303. CONDITION OF ADDITIONAL CREDIT ALLOWANCE.

(a) * * *

* * * * * * *

(f) TRANSITION.—To facilitate the orderly transition to coverage of service to which section 3309(a)(1)(A) applies, a State law may provide that an organization (or group of organizations) [which elects, when such election first becomes available under the State law] *which elects before April 1, 1972,* to make payments (in lieu of contributions) into the State unemployment fund as provided in section 3309(a)(2), and which had paid contributions into such fund under the State law with respect to such service performed in its employ before January 1, 1969, is not required to make any such payment (in

lieu of contributions) on account of compensation paid after its election as heretofore described which is attributable under the State law to service performed in its employ, until the total of such compensation equals the amount—

(1) by which the contributions paid by such organization (or group) with respect to a period before the election provided by section 3309(a)(2), exceed

(2) the unemployment compensation for the same period which was charged to the experience-rating account of such organization (or group) or paid under the State law on the basis of wages paid by it or service performed in its employ, whichever is appropriate.

(g) TRANSITIONAL RULE FOR UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976.—To facilitate the orderly transition to coverage of service to which section 3309(a)(1)(A) applies by reason of the enactment of the Unemployment Compensation Amendments of 1976, a State law may provide that an organization (or group of organizations) which elects, when such election first becomes available under the State law with respect to such service, to make payments (in lieu of contributions) into the State unemployment fund as provided in section 3309(a)(2), and which had paid contributions into such fund under the State law with respect to such service performed in its employ before the date of the enactment of this subsection, is not required to make any such payment (in lieu of contributions) on account of compensation paid after its election as heretofore described which is attributable under the State law to such service performed in its employ, until the total of such compensation equals the amount—

(1) by which the contributions paid by such organization (or group) on the basis of wages for such service with respect to a period before the election provided by section 3309 (a)(2), exceed

(2) the unemployment compensation for the same period which was charged to the experience-rating account of such organization (or group) or paid under the State law on the basis of such service performed in its employ or wages paid for such service, whichever is appropriate.

SEC. 3304. APPROVAL OF STATE LAWS.

(a) REQUIREMENTS.—The Secretary of Labor shall approve any State law submitted to him, within 30 days of such submission, which he finds provides that—

(1) all compensation is to be paid through public employment offices or such other agencies as the Secretary of Labor may approve;

(2) no compensation shall be payable with respect to any day of unemployment occurring within 2 years after the first day of the first period with respect to which contributions are required;

(3) all money received in the unemployment fund shall (except for refunds of sums erroneously paid into such fund and except for refunds paid in accordance with the provisions of section 3305(b)) immediately upon such receipt be paid over to the Secretary to the credit of the Unemployment Trust Fund established by section 904 of the Social Security Act (49 Stat. 640; 52 Stat. 1104, 1105; 42 U.S.C. 1104);

(4) all money withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment com-

pensation, exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund and refunds paid in accordance with the provisions of section 3305(b); except that—

(A) an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration; and

(B) the amounts specified by section 903(c)(2) of the Social Security Act may, subject to the conditions prescribed in such section, be used for expenses incurred by the State for administration of its unemployment compensation law and public employment offices;

(5) compensation 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;

(B) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(C) if as a condition of being employed the individual would be required to join a company union or to resign or refrain from joining any bona fide labor organization;

(6)(A) compensation is payable on the basis of service to which section 3309(a)(1) applies, in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to such law; except **[**that**]** *that (i)* with respect to service in an instructional, research, or principal administrative capacity for an **[**institution of higher education**]** *educational institution* to which section 3309(a)(1) applies, compensation shall not be payable based on such service for any week commencing during the period between two successive academic years (or, **[**when the contract provides**]** *when an agreement provides* instead for a similar period between two regular but not successive terms, during such period) to any individual **[**who has a contract to**]** *if there is a reasonable assurance that such individual will* perform services in any such capacity for any **[**institution or institutions of higher education**]** *educational institution or institutions* for both of such academic years or both of such terms, *and (ii) with respect to service in any other capacity for an educational institution (other than an institution of higher education) to which section 3309(a)(1) applies, compensation payable on the basis of such service may be denied to any individual for any week which commences during a period between 2 successive academic terms or similar periods if such individual performs such service in the first of such academic terms (or similar periods) and there is a reasonable assurance that such individual will perform such service in the second of such academic terms (or similar periods),* and

(B) payments (in lieu of contributions) with respect to service to which section 3309(a)(1)(A) applies may be made into the State unemployment fund on the basis set forth in section 3309 (a)(2);

(7) an individual who has received compensation during his benefit year is required to have had work since the beginning of such year in order to qualify for compensation in his next benefit year;

(8) compensation shall not be denied to an individual for any week because he is in training with the approval of the State agency (or because of the application, to any such week in training, of State law provisions relating to availability for work, active search for work, or refusal to accept work);

(9)(A) compensation shall not be denied or reduced to an individual solely because he files a claim in another State (or a contiguous country with which the United States has an agreement with respect to unemployment compensation) or because he resides in another State (or such a contiguous country) at the time he files a claim for unemployment compensation;

(B) the State shall participate in any arrangements for the payment of compensation on the basis of combining an individual's wages and employment covered under the State law with his wages and employment covered under the unemployment compensation law of other States which are approved by the Secretary of Labor in consultation with the State unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation in such situations. Any such arrangement shall include provisions for (i) applying the base period of a single State law to a claim involving the combining of an individual's wages and employment covered under two or more State laws, and (ii) avoiding duplicate use of wages and employment by reason of such combining;

(10) compensation shall not be denied to any individual by reason of cancellation of wage credits or total reduction of his benefit rights for any cause other than discharge for misconduct connected with his work, fraud in connection with a claim for compensation, or receipt of disqualifying income;

(11) extended compensation shall be payable as provided by the Federal-State Extended Unemployment Compensation Act of 1970;

[(12) each political subdivision of the State shall have the right to elect to have compensation payable to employees thereof (whose services are not otherwise subject to such law) based on service performed by such employees in the hospitals and institutions of higher education (as defined in section 3309(d)) operated by such political subdivision; and, if any such political subdivision does elect to have compensation payable to such employees thereof (A) the political subdivision shall pay into the State unemployment fund, with respect to the service of such employees, payments (in lieu of contributions), and (B) such employees will be entitled to receive, on the basis of such service, compensation payable on the same conditions as compensation which is payable on the basis of similar service for the State which is subject to such law.]

(12) no person shall be denied compensation under such State law solely on the basis of pregnancy or termination of pregnancy;

(13) compensation shall not be payable to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods);

(14) (A) compensation shall not be payable on the basis of services performed by an alien unless such alien is an individual who has been lawfully admitted for permanent residence or otherwise is permanently residing in the United States under color of law (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act),

(B) any data or information required of individuals applying for compensation to determine whether compensation is not payable to them because of their alien status shall be uniformly required from all applicants for compensation.

(C) in the case of an individual whose application for compensation would otherwise be approved, no determination by the State agency that compensation to such individual is not payable because of his alien status shall be made except upon a proponderance of the evidence;

(15) no compensation shall be payable to any individual for any week of unemployment which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any similar periodic payment which is based on the previous employment or self-employment of such individual;

[(13)] *(16)* all the rights, privileges, or immunities conferred by such law or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal such law at any time.

(b) NOTIFICATION.—The Secretary of Labor shall, upon approving such law, notify the governor of the State of his approval.

(c) On October 31 of each taxable year the Secretary of Labor shall certify to the Secretary each State whose law he has previously approved, except that he shall not certify any State which, after reasonable notice and opportunity for hearing to the State agency, the Secretary of Labor finds has amended its law so that it no longer contains the provisions specified in subsection (a) or has with respect to the 12-month period ending on such October 31 failed to comply substantially with any such provision in such subsection. No finding of a failure to comply substantially with any provision in paragraph (5) of subsection (a) shall be based on an application or interpretation of State law (1) until all administrative review provided for under the laws of the State has been exhausted, or (2) with respect to which the time for judicial review provided by the laws of the State has not expired, or (3) with respect to which any judicial review is pending. On October 31 of any taxable year after 1971, the Secretary shall not certify any State which, after reasonable notice and opportunity for hearing to the State agency, the Secretary of Labor finds has failed to amend its law so that it contains each of the provisions required by reason of the

enactment of the Employment Security Amendments of 1970 to be included therein, or has with respect to the 12-month period (10-month period in the case of October 31, 1972) ending on such October 31, failed to comply substantially with any such provision. *On October 31 of any taxable year after 1977, the Secretary shall not certify any State which, after reasonable notice and opportunity for a hearing to the State agency, the Secretary of Labor finds has failed to amend its law so that it contains each of the provisions required by reason of the enactment of the Unemployment Compensation Amendment, of 1976 to be included therein, or has with respect to the 12-month period ending on such October 31, failed to comply substantially with any such provision.*

(d) NOTICE OF NONCERTIFICATION.—If at any time the Secretary of Labor has reason to believe that a State whose law he has previously approved may not be certified under subsection (c), he shall promptly so notify the governor of such State.

(e) CHANGE OF LAW DURING 12-MONTH PERIOD.—Whenever—

(1) any provision of this section, section 3302, or section 3303 refers to a 12-month period ending on October 31 of a year, and

(2) the law applicable to one portion of such period differs from the law applicable to another portion of such period,

then such provision shall be applied by taking into account for each portion the law applicable to such portion.

(f) DEFINITION OF INSTITUTION OF HIGHER EDUCATION.—For purposes of subsection (a)(6), the term "institution of higher education" means an educational institution in any State which—

(1) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) is legally authorized within such State to provide a program of education beyond high school;

(3) provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized occupation; and

(4) is a public or other nonprofit institution.

* * * * *

SEC. 3306. DEFINITIONS.

(a) EMPLOYER.—For purposes of this chapter, the term "employer" means, with respect to any calendar year, any person who—

(1) during any calendar quarter in the calendar year or the preceding calendar year paid wages of $1,500 or more, or

(2) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least one individual in employment for some portion of the day.

(b) WAGES.—For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(1) that part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) equal to **[**$4,200**]** *$6,000* with respect to employment has been paid to an individual by an employer during any calendar year, is paid to such individual by such employer during such calendar year. If an employer (hereinafter referred to as successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment equal to **[**$4,200**]** *$6,000* to such individual during such calendar year, any remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer;

(2) the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of—

(A) retirement, or

(B) sickness or accident disability, or

(C) medical or hospitalization expenses in connection with sickness or accident disability, or

(D) death;

(3) any payment made to an employee (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement;

(4) any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for such employer;

(5) any payment made to, or on behalf of, an employee or his beneficiary—

(A) from or to a trust described in section 401(a) which is exempt from tax under section 501(a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or

(B) under or to an annuity plan which, at the time of such payment, is a plan described in section 403(a), or

(C) under or to a bond purchase plan which, at the time of such payment, is a qualified bond purchase plan described in section 405(a);

(6) the payment by an employer (without deduction from the remuneration of the employee)—

(A) of the tax imposed upon an employee under section 301 (or the corresponding section of prior law), or

(B) of any payment required from an employee under a State unemployment compensation law;

(7) remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business;

(8) any payment (other than vacation or sick pay) made to an employee after the month in which he attains the age of 65, if he did not work for the employer in the period for which such payment is made;

(9) remuneration paid to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217; or

(10) any payment or series of payments by an employer to an employee or any of his dependents which is paid—

(A) upon or after the termination of an employee's employment relationship because of (i) death, (ii) retirement for disability, or (iii) retirement after attaining an age specified in the plan referred to in subparagraph (B) or in a pension plan of the employer, and

(B) under a plan established by the employer which makes provision for his employees generally or a class or classes of his employees (or for such employees or class or classes of employees and their dependents),

other than any such payment or series of payments which would have been paid if the employee's employment relationship had not been so terminated.

(c) EMPLOYMENT.—For purposes of this chapter, the term "employment" means any service performed prior to 1955, which was employment for purposes of subchapter C of chapter 9 of the Internal Revenue Code of 1939 under the law applicable to the period in which such service was performed, and (A) any service, of whatever nature, performed after 1954 by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, and (B) any service, of whatever nature, performed after 1971 outside the United States (except in a contiguous country with which the United States has an agreement relating to unemployment compensation [or in the Virgin Islands]) by a citizen of the United States as an employee of an American employer (as defined in subsection (j)(3)), except—

(1) agricultural labor (as defined in subsection (k));].

(j) STATE, UNITED STATES, AND [CITIZEN] AMERICAN EMPLOYER.—For purposes of this chapter—

[(1) STATE.—The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

[(2) UNITED STATES.—The term "United States" when used in a geographical sense includes the States, the District of Columbia, and the Commonwealth of Puerto Rico.]

(1) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(2) UNITED STATES.—The term "United States" when used in a geographical sense includes the States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(3) AMERICAN EMPLOYER.—The term "American employer" means a person who is—

(A) an individual who is a resident of the United States,

(B) a partnership, if two-thirds or more of the partners are residents of the United States,

(C) a trust, if all of the trustees are residents of the United States, or

(D) a corporation organized under the laws of the United States or of any State.

An individual who is a citizen of the Commonwealth of Puerto Rico *or the Virgin Islands* (but not otherwise a citizen of the United States) shall be considered, for purposes of this section, as a citizen of the United States.

* * * * * * *

SEC. 3309. STATE LAW COVERAGE OF [CERTAIN] SERVICES PERFORMED FOR NONPROFIT ORGANIZATIONS [AND FOR STATE HOSPITALS AND INSTITUTIONS OF HIGHER EDUCATION] *OR GOVERNMENTAL ENTITIES*

(a) STATE LAW REQUIREMENTS.—For purposes of section 3304 (a)(6)—

(1) except as otherwise provided in subsections (b) and (c), the services to which this paragraph applies are—

(A) service excluded from the term "employment" solely by reason of paragraph (8) of section 3306(c), and

(B) service performed in the employ of the State, or any instrumentality of the State or of the State and one or more other States, for a hospital or institution of higher education located in the State, if such service is excluded from the term "employment" solely by reason of paragraph (7) of section 3306(c); and

(2) the State law shall provide that an organization (or group of organizations) which, but for the requirements of this paragraph, would be liable for contributions with respect to service to which paragraph (1)(A) applies may elect, for such minimum period and at such time as may be provided by State law, to pay (in lieu of such contributions) into the State unemployment fund amounts equal to the amounts of compensation attributable under the State law to such service. The State law may provide safeguards to ensure that organizations so electing will make the payments required under such elections.

(b) SECTION NOT TO APPLY TO CERTAIN SERVICE.—This section shall not apply to service performed—

(1) in the employ of (A) a church or convention or association of churches, or (B) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(2) by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

[(3) in the employ of a school which is not an institution of higher education;]

(3) in the employ of a governmental entity referred to in paragraph (7) of section 3306(c), if such service is performed by an individual in the exercise of his duties—

(A) as an elected official;

(B) as a member of a legislative body, or a member of the judiciary, of a State or political subdivision thereof;

(C) as a member of the State National Guard or Air National Guard;

(D) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or

(E) in a position which, under or pursuant to the State law, is designated as (i) a major nontenured policymaking or advisory position, or (ii) a policymaking or advisory position the performance of the duties of which ordinarily does not require more than 8 hours per week;

(4) in a facility conducted for the purpose of carrying out a program of—

(A) rehabilitation for individuals whose earnings capacity is impaired by age or physical or mental deficiency or injury, or

(B) providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work;

(5) as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any Federal agency or an agency of a State or political subdivision thereof, by an individual receiving such work relief or work training; and

[(6) for a hospital in a State prison or other State correctional institution by an inmate of the prison or correctional institution.]

(6) by an inmate of a custodial or penal institution.

(c) NONPROFIT ORGANIZATIONS MUST EMPLOY 4 OR MORE.—This section shall not apply to service performed during any calendar year in the employ of any organization unless on each of some 20 days during such calendar year or the preceding calendar year, each day being in a different calendar week, the total number of individuals who were employed by such organization in employment (determined without regard to section 3306(c)(8) and by excluding service to which this section does not apply by reason of subsection (b)) for some portion of the day (whether or not at the same moment of time) was 4 or more.

[(d) DEFINITION OF INSTITUTION OF HIGHER EDUCATION.—For purposes of this section, the term "institution of higher education" means an educational institution in any State which—

[(1) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

[(2) is legally authorized within such State to provide a program of education beyond high school;

[(3) provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepared students for gainful employment in a recognized occupation; and

[(4) is a public or other nonprofit institution.]

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Chapter 62—TIME AND PLACE

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SEC. 6157. PAYMENT OF FEDERAL UNEMPLOYMENT TAX ON QUARTERLY OR OTHER TIME PERIOD BASIS.

(a) GENERAL RULE.—Every person who for the calendar year is an employer (as defined in section 3306(a)) shall—

(1) if the person

(A) during any calendar quarter in the preceding calendar year paid wages of $1,500 or more, or

(B) on each of some 20 days during the preceding calendar year, each day being in a different calendar week, employed at least one individual in employment,

compute the tax imposed by section 3301 for each of the first three calendar quarters in the calendar year, and

(2) if paragraph (1) does not apply, compute the tax imposed by section 3301—

(A) for the period beginning with the first day of the calendar year and ending with the last day of the calendar quarter (excluding the last calendar quarter) in which such person becomes such an employer, and

(B) for the third calendar quarter of such year, if the period specified in subparagraph (A) includes only the first two calendar quarters of the calendar year.

The tax for any calendar quarter or other period shall be computed as provided in subsection (b) and the tax as so computed shall, except as otherwise provided in subsections (c) and (d), be paid in such manner and at such time as may be provided in regulations prescribed by the Secretary or his delegate.

(b) COMPUTATION OF TAX.—The tax for any calendar quarter or other period referred to in paragraph (1) or (2) of subsection (a) shall be computed by multiplying the amount of wages (as defined in section 3306(b)) paid in such calendar quarter or other period by 0.5 percent. In the case of wages paid in any calendar quarter or other period during [1973, the amount of such wages shall be multiplied

by 0.58 percent in lieu of 0.5 percent] *a calendar year to which paragraph (1) of section 3301 applies, the amount of such wages shall be multiplied by 0.7 percent in lieu of 0.5 percent.*

(c) Special Rule for Calendar Years 1970 and 1971.—For purposes of subsection (a), the tax computed as provided in subsection (b) for any calendar quarter or other period shall be reduced (1) by 66⅔ percent if such quarter or period is in 1970, and (2) by 33⅓ percent if such quarter or period is in 1971.

(d) Special Rule Where Accumulated Amount Does Not Exceed $100.—Nothing in this section shall require the payment of tax with respect to any calendar quarter or other period if the tax under section 3301 for such period, plus any unpaid amounts for prior periods in the calendar year, does not exceed $100.

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Social Security Act, as Assembled

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TITLE I—GRANTS TO STATES FOR OLD-AGE ASSISTANCE AND MEDICAL ASSISTANCE FOR THE AGED

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PAYMENT TO STATES

Sec. 3. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has a plan approved under this title, for each quarter, beginning with the quarter commencing October 1, 1960—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, [and Guam,] *Guam, and the Commonwealth of the Northern Mariana Islands* an amount equal to the sum of the following proportions of the total amounts expended during each month of such quarter as old-age assistance under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $\frac{31}{37}$ of such expenditures, not counting so much of any expenditure with respect to such month as exceeds the product of $37 multiplied by the total number of recipients of old-age assistance for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received old-age assistance in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as old-age assistance in the form of medical or any other type of remedial care); plus

(B) the larger of the following:

(i)(I) the Federal percentage (as defined in section 1101(a)(8)) of the amount by which such expenditures exceed the amount which may be counted under clause (A), not counting so much of such excess with

respect to such month as exceeds the product of $38 multiplied by the total number of recipients of old-age assistance for such month, plus (II) 15 per centum of the total expended during such month as old-age assistance under the State plan in the form of medical or any other type of remedial care, not counting so much of such expenditure with respect to such month as exceeds the product of $15 multiplied by the total number of recipients of old-age assistance for such month, or

(ii)(I) the Federal medical percentage (as defined in section 6(c)) of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditures with respect to such month as exceeds (a) the product of $52 multiplied by the total number of such recipients of old-age assistance for such month, or (b) if smaller, the total expended as old-age assistance in the form of medical or any other type of remedial care with respect to such month plus the product of $37 multiplied by such total number of such recipients, plus (II) the Federal percentage of the amount by which tht total expended during such month as old-age assistance under the State plan exceeds the amount which may be counted under clause (A) and the preceding provisions of this clause (B)(ii), not counting so much of such excess with respect to such month as exceeds the product of $38 multiplied by the total number of such recipients of old-age assistance for such month;

(2) in the case of Puerto Rico, the Virgin Islands, [and Guam,] *Guam, and the Commonwealth of the Northern Mariana Islands,* and amount equal to—

(A) one-half of the total of the sums expended during such quarter as old-age assistance under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of old-age assistance for such month; plus

(B) the larger of the following amounts: (i) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (I) the product of $45 multiplied by the total number of such recipients of old-age assistance for such month, or (II) if smaller, the total expended as old-age assistance in the form of medical or any other type of remedial care with respect to such month plus the product of $37.50 multiplied by the total number of such recipients, or (ii) 15 per centum of the total of the sums expended during such quarter as old-age assistance under the State plan in the form of medical or any other type of remedial care, not counting so much of

any expenditure with respect to any month as exceeds the product of $7.50 multiplied by the total number of such recipients of old-age assistance for such month;

TITLE IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

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PAYMENT TO STATES

SEC. 403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid and services to needy families with children, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, [and Guam,] *Guam, and the Commonwealth of the Northern Mariana Islands,* an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to families with dependent children under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) five-sixths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $18 multiplied by the total number of recipients of aid to families with dependent children for such month (which total number, for purposes of this subsection, means (i) the number of individuals with respect to whom such aid in the form of money payments is paid for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to families with dependent children in the form of medical or any other type of remedial care, plus (iii) the number of individuals, not counted under clause (i) or (ii), with respect to whom payments described in section 406(b)(2) are made in such month and included as expenditures for purposes of this paragraph or paragraph (2)); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (i) the product of $32 multiplied by the total number of recipients of aid to families with dependent children (other than such aid in the form of foster care) for such month, plus (ii) the product of $100 multipled by the total number of recipients of aid to families with dependent children in the form of foster care for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, [and Guam,] *Guam, and the Commonwealth of the Northern Mariana Islands,* an amount equal to one-half of the total of the sums expended during such quarter as aid to families with dependent children under the State plan (including expenditures for premiums under part B of Title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof) not counting so much of any expenditure with respect to any month as exceeds $18 multiplied by the total number of recipients of such aid for such month; and

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ALLOTMENT PERCENTAGE AND FEDERAL SHARE

SEC. 423. (a) The "allotment percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be the percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capital income of the United States; except that (1) the allotment percentage shall in no case be less than 30 per centum or more than 70 per centum, and (2) the allotment percentage shall be 70 per centum in the case of Puerto Rico, the Virgin Islands, [and Guam] *Guam, and the Commonwealth of the Northern Mariana Islands.*

(b) The "Federal share" for any State for any fiscal year shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such States bears to the per capita income of the United States, except that (1) in no case shall the Federal share be less than 33⅓ per centum or more than 66⅔ per centum, and (2) the Federal share shall be 66⅔ per centum in the case of Puerto Rico, the Virgin Islands, [and Guam] *Guam, and the Commonwealth of the Northern Mariana Islands.*

(c) The Federal share and allotment percentage for each State shall be promulgated by the Secretary between July 1 and August 31 of each even-numbered year, on the basis of the average per capita income of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such promulgation: *Provided*, That the Federal shares and allotment percentages promulgated under section 524(c) of the Social Security Act in 1966 shall be effective for purposes of this section for the fiscal years ending June 30, 1968, and June 30, 1969.

(d) For purposes of this section, the term "United States" means the fifty States and the District of Columbia.

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TITLE IX—MISCELLANEOUS PROVISIONS RELATING TO EMPLOYMENT SECURITY

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EMPLOYMENT SECURITY ADMINISTRATION ACCOUNT

Establishment of Account

SECTION 901. (a) * * *

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Administrative Expenditures

(c)(1) * * *

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(3)(A) For purposes paragraph (1)(A), the limitation on the amount authorized to be made available for any fiscal year after June 30, 1970, is, except as provided in subparagraph (B) and in the second sentence of section 901(f)(3)(A), an amount equal to 95 percent of the amount estimated and set forth in the budget of the United States Government for such fiscal year as the amount by which the net receipts during such year under the Federal Unemployment Tax Act will exceed the amount transferred under section 905(b) during such year to the extended unemployment compensation account.

(B) The limitation established by subparagraph (A) is increased by any unexpended amount retained in the employment security administration account in accordance with section 901(f)(2)(B).

(C) Each estimate of net receipts under this paragraph shall be based upon [a tax rate of 0.5 percent] *(i) a tax rate of 0.5 percent in the case of any calendar year for which the rate of tax under section 3301 of the Federal Unemployment Tax Act is 3.2 percent, and (ii) a tax rate of 0.7 percent in the case of any calendar year for which the rate of tax under such section 3301 is 3.4 percent.*

*   *   *   *   *   *   *

EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT

Establishment of Account

SEC. 905. (a) * * *

Transfers to Account

(b)(1) Except as provided by paragraph (3), the Secretary of the Treasury shall transfer (as of the close of July 1970, and each month thereafter), from the employment security administration account to the extended unemployment compensation account established by subsection (a), an amount determined by him to be equal, in the case of any month before April 1972, to one-fifth, and in the case of any month after March 1972, to one-tenth, of the amount by which—

(A) transfers to the employment security administration account pursuant to section 901(b)(2) during such month, exceed

(B) payments during such month from the employment security administration account pursuant to section 901(b)(3) and (d).

If for any such month the payments referred to in subparagraph (B) exceed the transfers referred to in subparagraph (A), proper adjustments shall be made in the amounts subsequently transferred. [In the case of any month after March 1973 and before April 1974, the first sentence of this paragraph shall be applied by substituting "thirteen fifty-eighths" for "one-tenth".] *In the case of any month after March 1977 and before April of the first calendar year to which paragraph (2) of section 3301 of the Federal Unemployment Tax Act applies, the first sentence of this paragraph shall be applied by substituting "five-fourteenths" for "one-tenth".*

*   *   *   *   *   *   *

TITLE X—GRANTS TO STATES FOR AID TO THE BLIND

*   *   *   *   *   *   *

PAYMENTS TO STATES

SEC. 1003 (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the blind, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, [and Guam,] *Guam, and the Commonwealth of the Northern Mariana Islands*, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the blind under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $\frac{31}{37}$ of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $37 multiplied by the total number of recipients of aid to the blind for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received aid to the blind in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such months as aid to the blind in the form of medical or any other type of remedial care); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds the product of $75 multiplied by the total number of such recipients of aid to the blind for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, [and Guam,] *Guam, and the Commonwealth of the Northern Mariana Islands*, an amount equal to one-half of the total of the sums expended during such quarter as aid to the blind under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of aid to the blind for such month; and

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TITLE XI—GENERAL PROVISIONS AND PROFESSIONAL STANDARDS REVIEW

* * * * * * *

PART A—GENERAL PROVISIONS

DEFINITIONS

SEC. 1101. (a) When used in this Act—

(1) The term "State", except where otherwise provided, includes the District of Columbia and the Commonwealth of Puerto Rico, and when used in titles IV, V, VII, XI, and XIX includes the Virgin Islands [and Guam] *Guam, and the Commonwealth of the Northern Mariana Islands. Such term when used in titles III, IX, and XII also includes the Virgin Islands*. Such term when used in title V also includes American Samoa and the Trust Territory of the Pacific Islands. In the case of Puerto Rico, the Virgin Islands, [and Guam] *Guam, and the Commonwealth of the Northern Mariana Islands*. Title I, X, and XIV, and title XVI, (as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972) shall continue to apply, and the term "States" when used in such titles (but not in title XVI as in effect pursuant to such amendment after December 31, 1973) includes Puerto Rico, the Virgin Islands, [and Guam] *Guam, and the Commonwealth of the Northern Mariana Islands*.

* * * * * * *

(8)(A) The "Federal percentage" for any State (other than Puerto Rico, the Virgin Islands, [and Guam] *Guam, and the Commonwealth of the Northern Mariana Islands*) shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the square of the per capita income of such State bears to the square of the per capita income of the United States; except that the Federal percentage shall in no case be less than 50 per centum or more than 65 per centum.

(B) The Federal percentage for each State (other than Puerto Rico, the Virgin Islands, [and Guam] *Guam, and the Commonwealth of the Northern Mariana Islands*) shall be promulgated by the Secretary between July 1 and August 31 of each even-numbered year, on the basis of the average per capita income of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the eight quarters in the period beginning July 1 next succeeding such promulgation: *Provided*, That the Secretary shall promulgate such percentage as soon as possible after the enactment of the Social Security Amendments of 1958, which promulgation shall be conclusive for each of the eleven quarters in the period beginning October 1, 1958, and ending with the close of June 30, 1961.

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LIMITATION ON PAYMENTS TO PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM

Sec. 1108. (a) Except as provided in 2002(a)(2)(D), the total amount certified by the Secretary of Health, Education, and Welfare under title I, X, XIV, and XVI, and under part A of title IV (exclusive of any amounts on account of services and items to which subsection (b) applies)—

(1) for payment to Puerto Rico shall not exceed—
(A) $12,500,000 with respect to the fiscal year 1968,
(B) $15,000,000 with respect to the fiscal year 1969,
(C) $18,000,000 with respect to the fiscal year 1970,
(D) $21,000,000 with respect to the fiscal year 1971, or
(E) $24,000,000 with respect to the fiscal year 1972 and each fiscal year thereafter;

(2) for payment to the Virgin Islands shall not exceed—
(A) $425,000 with respect to the fiscal year 1968,
(B) $500,000 with respect to the fiscal year, 1969,
(C) $600,000 with respect to the fiscal year 1970,
(D) $700,000 with respect to the fiscal year 1971, or
(E) $800,000 with respect to the fiscal year 1972 and each fiscal year thereafter; [and]

(3) for payment to Guam shall not exceed—
(A) $575,000 with respect to the fiscal year 1968,
(B) $690,000 with respect to the fiscal year 1969,
(C) $825,000 with respect to the fiscal year 1970,
(D) $960,000 with respect to the fiscal year 1971, or
(E) $1,100,000 with respect to the fiscal year 1972 and each fiscal year thereafter [.] ; *and*

(4) for payment to the Commonwealth of the Northern Mariana Islands shall not exceed $190,000 with respect to any fiscal year.

(b) The total amount certified by the Secretary under part A of title IV, on account of family planning services and services provided under section 402(a)(19) with respect to any fiscal year—

(1) for payment to Puerto Rico shall not exceed $2,000,000,
(2) for payment to the Virgin Islands shall not exceed $65,000, [and]
(3) for payment to Guam shall not exceed $90,000[.], *and*
(4) for payment to the Commonwealth of the Northern Mariana Islands shall not exceed $15,000.

(c) The total amount certified by the Secretary under title XIX with respect to any fiscal year—

(1) for payment to Puerto Rico shall not exceed $30,000,000,
(2) for payment to the Virgin Islands shall not exceed $1,000,000, [and]
(3) for payment to Guam shall not exceed $900,000[.] *and*
(4) for payment to the Commonwealth of the Northern Mariana Islands shall not exceed $160,000.

(d) Notwithstanding the provisions of section 502(a) and 512(a) of this Act, and the provisions of sections 421, 503(1), and 504(1) of this Act as amended by the Social Security Amendments of 1967, and until such time as the Congress may by appropriation or other law otherwise provide, the Secretary shall, in lieu of the initial allotment

specified in such sections, allot such smaller amounts to Guam, American Samoa, *the Commonwealth of the Northern Mariana Islands*, and the Trust Territory of the Pacific Islands as he may deem appropriate.

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TITLE XII—ADVANCES TO STATE UNEMPLOYMENT FUNDS

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ADVANCE TO STATE UNEMPLOYMENT FUNDS

SEC. 1201. (a)(1) Advances shall be made to the States from the Federal unemployment account in the Unemployment Trust Fund as provided in this section, and shall be repayable, without interest, in the manner provided in sections 901(d) (1), 903 (b) (2), and 1202. An advance to a State for the payment of compensation in any [month] *3-month period* may be made if—

(A) the Governor of the State applies therefor no earlier than the first day of the [preceding month] *month preceding the first month of such 3-month period*, and

(B) he furnishes to the Secretary of Labor his estimate of the amount of an advance which will be required by the State for the payment of compensation in [such month] *each month of such 3-month period.*

(2) In the case of any application for an advance under this section to any State for any [month] *3-month period*, the Secretary of Labor shall—

(A) determine the amount (if any) which he finds will be required by such State for the payment of compensation in [such month] *each month of such 3-month period*, and

(B) certify to the Secretary of the Treasury the amount (not greater than the amount estimated by the Governor of the State) determined under subparagraph (A).

The aggregate of the amounts certified by the Secretary of Labor with respect to any [month] *3-month period* shall not exceed the amount which the Secretary of the Treasury reports to the Secretary of Labor is available in the Federal unemployment account for advances with respect to such [month] *3-month period.*

(3) For purposes of this subsection—

(A) an application for an advance shall be made on such forms, and shall contain such information and data (fiscal and otherwise) concerning the operation and administration of the State unemployment compensation law, as the Secretary of Labor deems necessary or relevant to the performance of his duties under this title,

(B) the amount required by any State for the payment of compensation in any [month] *3-month period* shall be determined with due allowance for contingencies and taking into account all other amounts that will be available in the State's unemployment fund for the payment of compensation in such [month] *3-month period*, and

(C) the term "compensation" means cash benefits payable to individuals with respect to their unemployment, exclusive of expenses of administration.

(b) The Secretary of the Treasury shall, prior to audit or settlement by the General Accounting Office, transfer *in monthly installments* from the Federal unemployment account to the account of the State in the Unemployment Trust Fund the amount certified under subsection (a) by the Secretary of Labor (but not exceeding that portion of the balance in the Federal unemployment account at the time of the transfer which is not restricted as to use pursuant to section 903(b)(1)). *The amount of any monthly installment so transferred shall not exceed the amount estimated by the State to be required for the payment of compensation for the month with respect to which such installment is made.*

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TITLE XIV—GRANTS TO STATES FOR AID TO THE PERMANENTLY AND TOTALLY DISABLED

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PAYMENTS TO STATES

SEC. 1403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the permanently and totally disabled, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, [and Guam,] *Guam, and the Commonwealth of the Northern Mariana Islands*, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the permanently and totally disabled under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $^{31}/_{37}$ of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $37 multiplied by the total number of recipients of aid to the permanently and totally disabled for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received aid to the permanently and totally disabled in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to the permanently and totally disabled in the form of medical or any other type of remedial care); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds the product of $75 multiplied by the total number of such recipients of aid to the permanently and totally disabled for such month; and

(2) in the case of Puerto Rico, and Virgin Islands [and Guam,] *Guam, and the Commonwealth of the Northern Mariana Islands*, an amount equal to one-half of the total of the sums expended during

such quarter as aid to the permanently and totally disabled under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds $3.50 multiplied by the total number of recipients of aid to the permanently and totally disabled for such months; and

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TITLE XVI—GRANTS TO STATES FOR AID TO THE AGED, BLIND, OR DISABLED, OR FOR SUCH AID AND MEDICAL ASSISTANCE TO THE AGED

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PAYMENTS TO STATES

SEC. 1603. (a) From the sums appropriated therefor, the Secretary shall pay to each State which has a plan approved under this title, for each quarter, beginning with the quarter commencing October 1, 1962—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, **[**and Guam,**]** *Guam, and the Commonwealth of the Northern Mariana Islands*, an amount equal to the sum of the following proportions of the total amounts expended during each month of such quarters to the aged, blind, or disabled under the State plan (including expenditures for premiums under Part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $\frac{31}{37}$ of such expenditures, not counting so much of any expenditure with respect to such month as exceeds the product of $37 multiplied by the total number of recipients of such aid for such month (which total number, for purposes of this subsection means (i) the number of individuals who received such aid in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such months as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care); plus

(B) the larger of the following:

(i) (I) the Federal percentages (as defined in section 1101(a)(8)) of the amount by which such expenditures exceed the amount which may be counted under clause (A), not counting so much of such excess with respect to such month as exceeds the product of $38 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month, plus (II) 15 per centum of the total expended during such month as aid to the aged, blind, or disabled under the State plan in the form of medical or any other type of remedial care, not counting so much of such expenditure with respect to such month as exceeds the product of $15 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month, or

(ii) (I) the Federal medical percentage (as defined in section 6(c)) of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to such month as exceeds (a) the product of $52 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month, or (b) if smaller, the total expended as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care with respect to such month plus the product of $37 multiplied by such total number of such recipients plus (II) the Federal percentage of the amount by which the total expended during such month as aid to the aged, blind, or disabled under the State plan exceeds the amount which may be counted under clause (A) and the preceding provisions of this clause (B)(ii), not counting so much of such excess with respect to such month as exceeds the product of $38 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month;

(2) in the case of Puerto Rico, the Virgin Islands, **[**and Guam,**]** *Guam, and the Commonwealth of the Northern Mariana Islands*, an amount equal to—

(A) one-half of the total of the sums expended during such quarter as aid to the aged, blind, or disabled under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof) not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month; plus

(B) the larger of the following amounts: (i) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (I) the product of $45 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month, or (II) if smaller, the total expended as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care with respect to such month plus the product of $37.50 multiplied by the total number of such recipients, or (ii) 15 per centum of the total of the sums expended during such quarter as aid to the aged, blind, or disabled under the State plan in the form of medical or any other type of remedial care, not counting so much of any expenditure with respect to any month as exceeds the product of $7.50 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month;

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TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

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PART A—DETERMINATION OF BENEFITS

Eligibility for and Amount of Benefits

DEFINITION OF ELIGIBLE INDIVIDUALS

SEC. 1611. * * *

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LIMITATION ON ELIGIBILITY OF CERTAIN INDIVIDUALS

(e)(1)(A) Except as provided in [subparagraph (B)] *subparagraphs (B) and (C)*, no person shall be an eligible individual or eligible spouse for purposes of this title with respect to any month if throughout such month he is an inmate of a public institution.

(B) In any case where an eligible individual or his eligible spouse (if any) is, throughout any month, in a hospital, extended care facility, nursing home, or intermediate care facility receiving payments (with respect to such individual or spouse) under a State plan approved under title XIX, the benefit under this title for such individual for such month shall be payable—

(i) at a rate not in excess of $300 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who does not have an eligible spouse;

[(ii) at a rate not in excess of the sum of the applicable rate specified in subsection (b)(1) and the rate of $300 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who has an eligible spouse, if only one of them is in such a hospital, home, or facility throughout such month; and]

(ii) in the case of an individual who has an eligible spouse, if only one of them is in such a hospital, home, or facility throughout such month, at a rate not in excess of the sum of—

(I) the rate of $300 per year (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the one who is in such hospital, home, or facility), and

(II) the applicable rate specified in subsection (b)(1) (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the other); and

(iii) at a rate not in excess of $600 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who has an eligible spouse, if both of them are in such a hospital, home, or facility throughout such month.

(C) As used in subparagraph (A), the term 'public institution' does not include a publicly operated community residence which serves no more than 16 residents.

(2) No person shall be an eligible individual or eligible spouse for purposes of this title if, after notice to such person by the Secretary

that it is likely that such person is eligible for any payments of the type enumerated in section 1612(a)(2)(B), such person fails within 30 days to take all appropriate steps to apply for and (if eligible) obtain any such payments.

(3)(A) No person who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall be an eligible individual or eligible spouse for purposes of this title with respect to any month if such individual is medically determined to be a drug addict or an alcoholic unless such individual is undergoing any treatment that may be appropriate for his condition as a drug addict or alcoholic (as the case may be) at an institution or facility approved for purposes of this paragraph by the Secretary (so long as such treatment is available) and demonstrates that he is complying with the terms, conditions, and requirements of such treatment and with requirements imposed by the Secretary under subparagraph (B).

(B) The Secretary shall provide for the monitoring and testing of all individuals who are receiving benefits under this title and who as a condition of such benefits are required to be undergoing treatment and complying with the terms, conditions, and requirements thereof as described in subparagraph (A), in order to assure such compliance and to determine the extent to which the imposition of such requirement is contributing to the achievement of the purposes of this title. The Secretary shall annually submit to the Congress a full and complete report on his activities under this paragraph.

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Income

MEANING OF INCOME

SEC. 1612. * * *

EXCLUSIONS FROM INCOME

(b) In determining the income of an individual (and his eligible spouse) there shall be excluded—

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(6) [assistance described in section 1616(a) which] *assistance, furnished to or on behalf of such individual (and spouse), which* is based on need and furnished by any State or political subdivision of a State;

* * * * * * *

REHABILITATION SERVICES FOR BLIND AND DISABLED INDIVIDUALS

[Sec. 1615. (a) In the case of any blind or disabled individual who—

[(1) has not attained age 65, and

[(2) is receiving benefits (or with respect to whom benefits are paid) under this title,

the Secretary shall make provision for referral of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the rehabilitation services made available to him under such plan.

[(b) Every individual with respect to whom the Secretary is required to make provision for referral under subsection (a) shall accept such rehabilitation services as are made available to him under the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act; and the Secretary is authorized to pay to the State agency administering or supervising the administration of such State plan the costs incurred in the provision of such services to individuals so referred.

[(c) No individual shall be an eligible individual or eligible spouse for purposes of this title if he refuses without good cause to accept vocational rehabilitation services for which he is referred under subsection (a).]

SEC. 1615. (a) In the case of any blind or disabled individual who—

(1) has not attained age 65, and

(2) is receiving benefits (or with respect to whom benefits are paid) under this title,

the Secretary shall make provision for referral of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, or, in the case of any such individual who has not attained age 16, to the appropriate State agency administering the State plan under subsection (b) of this section, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the services made available to him under such plan.

(b)(1) The Secretary shall by regulation prescribe criteria for approval of State plans for—

(A) assuring appropriate counseling for disabled children referred pursuant to subsection (a) and their families,

(B) establishment of individual service plans for such disabled children, and prompt referral to appropriate medical, educational, and social services,

(C) monitoring to assure adherence to such service plans, and

(D) provision for such disabled children who are 6 years of age and under, or who have never attended public school and require preparation to take advantage of public educational services, of medical, social, developmental, and rehabilitative services, in cases where such services reasonably promise to enhance the child's ability to benefit from subsequent education or training, or otherwise to enhance his opportunities for self-sufficiency or self-support as an adult.

(2) Such criteria shall include—

(A) administration—

(i) by the agency administering the State plan for crippled children's services under title V of this act, or

(ii) by another agency which administers programs providing services to disabled children and which the Governor of the State concerned has determined is capable of administering the State plan described in the first sentence of this subsection in a more efficient and effective manner than the agency described in clause (i) (with the reasons for such determination being set forth in the State plan described in the first sentence of this subsection);

(B) coordination with other agencies serving disabled children; and

(C) establishment of an identifiable unit within such agency which shall be responsible for carrying out the plan.

(c) Every individual with respect to whom the Secretary is required to make provision for referral under subsection (a) shall accept such services as are made available to him under the State plan for vocational and rehabilitation services approved under the Vocational Rehabilitation Act or under subsection (b) of this section; and no such individual shall be an eligible individual or eligible spouse for purposes of this title if he refuses without good cause to accept services for which he is referred under subsection (a).

(d) The Secretary is authorized to pay to the State aegncy administering or supervising the administration of a State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act the costs incurred under such plan in the provision of rehabilitation services to individuals referred for such services pursuant to subsection (a).

(e)(1) The Secretary shall, subject to the limitations imposed by paragraphs (2) and (3), pay to the State agency administering a State plan of a State under subsection (b) of this section, the costs incurred each fiscal year which begins after September 30, 1976, and ends prior to October 1, 1979, in carrying out the State plan approved pursuant to such subsection (b).

(2)(A) Of the funds paid by the Secretary with respect to costs, incurred in any State, to which paragraph (1) applies, not more than 10 per centum thereof shall be paid with respect to costs incurred with respect to activities described in subsection (b)(1) (A), (B), and (C).

(B) Whenever there are provided pursuant to this section to any child, services of a type which is appropriate for children who are not blind or disabled, there shall be disregarded, for purposes of computing any payment with respect thereto under this subsection, so much of the costs of such services as would have been incurred if the child involved had not been blind or disabled.

(C) The total amount payable under this subsection for any fiscal year, with respect to services provided in any State, shall be reduced by the amount by which the sum of the public funds expended (as determined by the Secretary) from non-Federal sources for services of such type for such fiscal year is less than the sum of such funds expended from such sources for services of such type for the fiscal year ending June 30, 1976.

(3) No payment under this subsection with respect to costs incurred in providing services in any State for any fiscal year shall exceed an amount which bears the same ratio to $30,000,000 as the under age 7 population of such State (and for purposes of this section the District of Columbia shall be regarded as a State) bears to the under age 7 population of the fifty States and the District of Columbia. The Secretary shall promulgate the limitation applicable to each State for each fiscal year under this paragraph on the basis of the most recent satisfactory data available from the Department of Commerce not later than 90 nor earlier than 270 days before the beginning of such year.

(b) PUBLICATION OF CRITERIA.—The Secretary shall, within 120 days after the enactment of this subsection, publish criteria to be employed to determine disability (as defined in section 1614(a)(3) of the Social Security Act) in the case of persons who have not attained the age of 18.

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OPTIONAL STATE SUPPLEMENTATION

SEC. 1616. (a) * * *

[(e) Payments made under this title with respect to an individual shall be reduced by an amount equal to the amount of any supplementary payment (as described in subsection (a)) or other payment made by a State (or political subdivision thereof) which is made for or on account of any medical or any other type of remedial care provided by an institution to such individual as an inpatient of such institution in the case of any State which has a plan approved under title XIX of this Act if such care is (or could be) provided under a State plan approved under title XIX of this Act by an institution certified under such title XIX.] [1]

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TITLE XIX—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

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DEFINITIONS

SEC. 1905. For purposes of this title—

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(b) The term "Federal medical assistance percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that (1) the Federal medical assistance percentage shall in no case be less than 50 per centum or more than 83 per centum, and (2) the Federal medical assistance percentage for Puerto Rico, the Virgin Islands, [and Guam] *Guam, and the Commonwealth of the Northern Mariana Islands* shall be 50 per centum. The Federal medical assistance percentage for any State shall be determined and promulgated in accordance with the provisions of subparagraph (B) of section 1110(a)(8).

* * * * * * *

[1] Effective October 1, 1977, section 1616(e) of such Act is amended to read as follows:

"(e)(1) Each State shall establish or designate one or more State or local authorities which shall establish, maintain, and insure the enforcement of standards for any category of institutions, foster homes, or group living arrangements in which (as determined by the State) a significant number of recipients of supplemental security income benefits is residing or is likely to reside. Such standards shall be appropriate to the needs of such recipients and the character of the facilities involved, and shall govern such matters as admission policies, safety, sanitation, and protection of civil rights.

"(2) Each State shall annually make available for public review, as a part of the services program planning procedures established pursuant to section 2004 of this Act, a summary of the standards established pursuant to paragraph (1), and shall make available to any interested individual a copy of such standards, along with the procedures available in the State to insure the enforcement of such standards and a list of any waivers of such standards and any violations of such standards which have come to the attention of the authority responsible for their enforcement.

"(3) Each State shall certify annually to the Secretary that it is in compliance with the requirements of this subsection.

"(4) Payments made under this title with respect to an individual shall be reduced by an amount equal to the amount of any supplementary payment (as described in subsection (a)) or other payment made by a State (or political subdivision thereof) which is made for or on account of any medical or any other type of remedial care provided by an institution of the type described in paragraph (1) to such individual as a resident or an inpatient of such institution if such institution is not approved as meeting the standards described in such paragraph by the appropriate State or local authorities.".

ACT OF JUNE 6, 1933

AN ACT To provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes

* * * * * * *

SEC. 5. (a) There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts from time to time as the Congress may deem necessary to carry out the purposes of this Act.

(b) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State which (i), except in the case of Guam [and the Virgin Islands], has an unemployment compensation law approved by the Secretary under the Federal Unemployment Tax Act and is found to be in compliance with section 303 of the Social Security Act, as amended, and (ii) is found to be in compliance with the Act of June 6, 1933 (48 Stat. 113), as amended, such amounts as the Secretary determines to be necessary for the proper and efficient administration of its public employment offices.

* * * * * * *

ACT OF OCTOBER 30, 1972

AN ACT to amend the Social Security Act, and for other purposes

* * * * * * *

TITLE IV—MISCELLANEOUS

LIMITATION ON FISCAL LIABILITY OF STATES FOR OPTIONAL STATE SUPPLEMENTATION

SEC. 401. (a)(1) The amount payable to the Secretary by a State for any fiscal year pursuant to its agreement or agreements under section 1616 of the Social Security Act shall not exceed the non-Federal share of expenditures as aid or assistance for quarters in the calendar year 1972 under the plans of the State approved under titles I, X, XIV, and XVI of the Social Security Act (as defined in subsection (c) of this section).

(2) Paragraph (1) of this subsection shall only apply with respect to that portion of the supplementary payments made by the Secretary on behalf of the State under such agreements in any fiscal year which does not exceed in the case of any individual the difference between—

(A) the adjusted payment level under the appropriate approved plan of such State as in effect for January 1972 (as defined in subsection (b) of this section), and

(B) the benefits under title XVI of the Social Security Act (*subject to the second sentence of this paragraph*), plus income not excluded under section 1612(b) of such Act in determining such benefits, paid to such individual in such fiscal year,

and shall not apply with respect to supplementary payments to any individual who (i) is not required by section 1616 of such Act to be included in any such agreement administered by the Secretary and (ii) would have been ineligible (for reasons other than income) for payments under the appropriate approved State plan as in effect for January 1972. *In determining the difference between the level specified in subparagraph (A) and the benefits and income described in subparagraph (B) there shall be excluded any part of any such benefit which results from (and would not be payable but for) any cost-of-living increase in such benefits under section 1617 of such Act (or any general increase enacted by law in the dollar amounts referred to in such section) becoming effective after June 30, 1977.*".

* * * * * * *

FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970

* * * * * * *

TITLE II—FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION PROGRAM

* * * * * * *

PAYMENT OF EXTENDED COMEPNSATION

State Law Requirements

SEC. 202. (a) (1) For purposes of section 3304(a)(11) of the Internal Revenue Code of 1954, 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 [the Virgin Islands or] 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 have terminated by reason of the expiration of the benefit year with respect to which such rights existed.

* * * * * * *

EXTENDED BENEFIT PERIOD

Beginning and Ending

Sec. 203. (a) * * *

* * * * * * *

National "On" and "Off" Indicators

[(d) For purposes of this section—

[(1) There is a national "on" indicator for a week if for each of the three most recent calendar months ending before such week), the rate of insured unemployment (seasonally adjusted) for all States equaled or exceeded 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the month in question).

[(2) There is a national "off" indicator for a week if for each of the three most recent calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all States was less than 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the month in question).

Effective with respect to compensation for weeks of unemployment beginning before December 31, 1976, and beginning after December 31, 1974 (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a national "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if the phrase "4.5 per centum." contained in paragraphs (1) and (2), read "4 percentum."]

(d) For purposes of this section—

(1) There is a national "on" indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all States equaled or exceeded 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period).

(2) There is a national "off" indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all States was less than 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period).

State "On" and "Off" Indicators

[(e) For purposes of this section—

[(1) There is a State "on" indicator for a week if the rate of insured unemployment under the State law for the period consisting of such week and the immediately preceding twelve weeks—

[(A) equaled or exceeded 120 per centum of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and

[(B) equaled or exceeded 4 per centum.

[(2) There is a State "off" indicator for a week if, for the period consisting of such week and the immediately preceding twelve

weeks, either subparagraph (A) or subparagraph (B) of paragraph (1) was not satisfied. Effective with respect to compensation for weeks of unemployment beginning before July 1, 1973, and beginning after the date of the enactment of this sentence (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State "off" indicator ending any extended benefit period shall be made under this subsection as if paragraph (1) did not contain subparagraph (A) thereof. Effective with respect to compensation for weeks of unemployment beginning before January 1, 1974, and beginning after the date of the enactment of this sentence (or, if later, the date established pursuant to State law), the State by law may provide that the determination of whether there has been a State "off" indicator ending any extended benefit period shall be made under this subsection as if paragraph (1) did not contain subparagraph (A) thereof and may provide that the determination of whether there has been a State "on" indicator beginning any extended benefit period shall be made under this subsection as if (i) paragraph (1) did not contain subparagraph (A) thereof, (ii) the 4 per centum contained in subparagraph (B) thereof were 4.5 per centum, and (iii) paragraph (1) of subsection (b) did not contain subparagraph (B) thereof. In the case of any individual who has a week with respect to which extended compensation was payable pursuant to a State law referred to in the preceding sentence, if the extended benefit period under such law does not expire before January 1, 1974, the eligibility period of such individual for purposes of such law shall end with the thirteenth week which begins after December 31, 1973. Effective with respect to compensation for weeks of unemployment beginning before March 31, 1977, and beginning after December 31, 1973 (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if paragraph (1) did not contain subparagraph (A) thereof.]

(e) For purposes of this section—

(1) There is a State 'on' indicator for a week if the rate of insured unemployment under the State law for the period consisting of such week and the immediately preceding twelve weeks—

(A) equaled or exceeded 120 per centum of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and

(B) equaled or exceeded 4 per centum.

(2) There is a State 'off' indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, either subparagraph (A) or subparagraph (B) of paragraph (1) is not satisfied.

Effective with respect to compensation for weeks of unemployment beginning after March 30, 1977 (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State 'on' or 'off' indicator beginning or ending any extended benefit period shall be mdde under this subsection as if (i) paragraph (1) did not contain subparagraph (A) thereof, and (ii) the figure

'4' contained in subparagraph (B) thereof were '6'; except that, notwithstanding any such provision of State law, any week for which there would otherwise be a State 'on' indicator shall continue to be such a week and shall not be determined to be a week for which there is a State 'off' indicator.". For purposes of this subsection, the rate of insured unemployment for any thirteen-week period shall be determined by reference to the average monthly covered employment under the State law for the first four of the most recent six calendar quarters ending before the close of such period.

PAYMENTS TO STATES

Amount Payable

SEC. 204. (a)(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 under the State law.

(2) No payment shall be made to any State under this subsection in respect of compensation for which the State is entitled to reimbursement under the provisions of any Federal law other than this Act.

(3) In the case of compensation which is sharable extended compensation or sharable regular compensation by reason of the provision contained in the last sentence of section 203(d), the first paragraph of this subsection shall be applied as if the words "one-half of" read "100 per centum of" but only with respect to compensation that would not have been payable if the State law's provisions as to the State "on" and "off" indicators omitted the 120 percent factor as provided for by Public Law 93–368 and by section 106 of this Act.

* * * * * * *

DEFINITIONS

SEC. 205. For purposes of this title—

(1) The term "compensation" means cash benefits payable to individuals with respect to their unemployment.

(2) The term "regular compensation" means compensation payable to an individual under any State unemployment compensation law (including compensation payable pursuant to 5 U.S.C. chapter 85), other than extended compensation and additional compensation.

(3) The term "extended compensation" means compensation (including additional compensation and compensation payable pursuant to 5 U.S.C. chapter 85) payable for weeks of unemployment beginning in and extended benefit period to an individual under those provisions of the State law which satisfy the requirements of this title with respect to the payment of extended compensation.

(4) The term "additional compensation" means compensation payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors.

(5) The term "benefits year" means the benefit year as defined in the applicable State law.

(6) The term "base period" means the base period as determined under applicable State law for the benefit year.

(7) The term "Secretary" means the Secretary of Labor of the United States.

(8) The term "State" includes the District of Columbia [and], the Commonwealth of Puerto Rico, *and the Virgin Islands*.

(9) The term "State agency" means the agency of the State which administers its State law.

(10) The term "State law" means the unemployment compensation law of the State, approved by the Secretary under section 3304 of the Internal Revenue Code of 1954.

(11) The term "week" means a week as defined in the applicable State law.

* * * * * * *

SECTION 102 OF THE EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1974

FEDERAL-STATE AGREEMENTS

SEC. 102. (a) * * *

(b) Any such agreement shall provide that the State agency of the State will make payments of emergency compensation—

(1) to individuals who—

(A) (i) have exhausted all rights to regular compensation under the State law;

(ii) have exhausted all rights to extended compensation, or are not entitled thereto, because of the ending of their eligibility period for extended compensation, in such State;

(B) have no rights to compensation (including both regular compensation and 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; and

(C) are not receiving compensation with respect to such week under the unemployment compensation law of [the Virgin Islands or] Canada,

* * * * * * *

TITLE 5, UNITED STATES CODE

* * * * * * *

Chapter 85—UNEMPLOYMENT COMPENSATION

SUBCHAPTER I—EMPLOYEES GENERALLY

SEC.
8501. Definitions.
8502. Compensation under State agreement.
8503. Compensation absent State agreement.
8504. Assignment of Federal service and wages.
8505. Payments to States.
8506. Dissemination of information.
8507. False statements and misrepresentations.
8508. Regulations.

SUBCHAPTER II—EX-SERVICEMEN

SEC.
8521. Definitions; application.
8522. Assignment of Federal service and wages.
8523. Dissemination of information.
8524. Accrued leave.
8524. Accured leave.*
8525. Effect on other statutes.

Subchapter I—EMPLOYEES GENERALLY

§ 8501. Definitions

For the purpose of this subchapter—

(1) * * *

* * * * * * *

(6) "State" means the several States, the District of Columbia, [and] the Commonwealth of Puerto Rico, *and the Virgin Islands;* [and]

(7) "United States", when used in a geographical sense, means the States [.]*; and*

(8) "base period" means the base period as defined by the applicable State unemployment compensation law for the benefit year.

* * * * * * *

§ 8503. Compensation absent State agreement

(a) * * *

[(b) In the case of a Federal employee whose Federal service and Federal wages are assigned under section 8504 of this title to the Virgin Islands, the Secretary, under regulations prescribed by him and on the filing of a claim for compensation under this subsection by the Federal employee, shall pay the compensation to him in the same amounts, on the same terms, and subject to the same conditions as would be paid to him under the unemployment compensation law of the District of Columbia if his Federal service and Federal wages had been included as employment and wages under that law. However, if the Federal employee, without regard to his Federal service and Federal wages, has employment or wages sufficient to qualify for compensation during the benefit year under that law, then payments of compensation under this subsection may be made only on the basis of his Federal service and Federal wages.]

[(c)] *(b)* A Federal employee whose claim for compensation under subsection (a) [or (b)] of this section is denied is entitled to a fair hearing under regulations prescribed by the Secretary. A final determination by the Secretary with respect to entitlement to compensation under this section is subject to review by the courts in the same manner and to the same extent as is provided by section 405(g) of title 42.

[(d) For the purpose of this section, the Secretary may—

[(1) use the personnel and facilities of the agency in the Virgin Islands cooperating with the United States Employment Service under chapter 4B of title 29; and

[(2) delegate to officials of that agency the authority granted to him by this section when he considers the delegation to be necessary in carrying out the purpose of this subchapter.

[For the purpose of payments made to that agency under chapter 4B of title 29, the furnishing of the personnel and facilities is deemed a part of the administration of the public employment offices of that agency.]

§ 8504. Assignment of Federal service and wages

Under regulations prescribed by the Secretary of Labor, the Federal service and Federal wages of a Federal employee shall be assigned to the State in which he had his last official station in Federal service before the filing of his first claim for compensation for the benefit year. However—

(1) if, at the time of filing his first claim, he resides in another State in which he performed, after the termination of his Federal service, service covered under the unemployment compensation law of the other State, his Federal service and Federal wages shall be assigned to the other State; *and*

(2) if his last official station in Federal service before filing his first claim, was outside the United States, his Federal service and Federal wages shall be assigned to the State where he resides at the time he files his first claim [; and].

[(3) if his first claim is filed while he is residing in the Virgin Islands, his Federal service and Federal wages shall be assigned to the Virgin Islands.]

§ 8505. Payments to States

(a) Each State is entitled to be paid by the United States [an amount equal to the additional cost to the State of payments of compensation in accordance with an agreement under this subchapter which would not have been made by the State but for the agreement.] *with respect to each individual whose base period wages included Federal wages an amount which shall bear the same ratio to the total amount of compensation paid to such individual as the amount of his Federal wages in his base period bears to the total amount of his base period wages.*

* * * * * * *

§ 8506. Dissemination of information

(a) Each agency of the United States and each wholly or partially owned instrumentality of the United States shall make available to State agencies which have agreements under this subchapter, or to the Secretary of Labor, as the case may be, such information concerning the Federal service and Federal wages of a Federal employee as the Secretary considers practicable and necessary for the determination of the entitlement of the Federal employee to compensation under this subchapter. The information shall include findings of the employing agency concerning—

(1) whether or not the Federal employee has performed Federal service;

(2) the periods of Federal service;

(3) the amount of Federal wages; and

(4) the reasons for termination of Federal service.

The employing agency shall make the findings in the form and manner prescribed by regulations of the Secretary. The regulations shall include provision for correction by the employing agency of errors and omissions. Findings made in accordance with the regulations are final

and conclusive for the purpose of sections 8502(d) and 8503(c) of this title. This subsection does not apply with respect to Federal service and Federal wages covered by subchapter II of this chapter.

* * * * * * *

Subchapter II—EX-SERVICEMEN

§ 8521. Definitions; application

(a) For the purpose of this subchapter—

(1) "Federal service" means active service, including active duty for training purposes, in the armed forces which either began after January 31, 1955, or terminated after October 27, 1958, if—

(A) that service was continuous for 90 days or more, or was terminated earlier because of an actual service-incurred injury or disability; and

(B) with respect to that service, the individual—

(i) was discharged or released under conditions other than dishonorable; and

(ii) was not given a bad conduct discharge or, if an officer, did not resign for the good of the service;

(2) "Federal wages" means all pay and allowances, in cash and in kind, for Federal service, computed on the basis of the pay and allowances for the pay grade of the individual at the time of his latest discharge or release from Federal service as specified in the schedule applicable at the time he files his first claim for compensation for the benefit year. The Secretary of Labor shall issue, from time to time, after consultation with the Secretary of Defense, schedules specifying the pay and allowances for each pay grade of servicemen covered by this subchapter, which reflect representative amounts for appropriate elements of the pay and allowances whether in cash or in kind; and

(3) "State" means the several States, the District of Columbia, [and] the Commonwealth of Puerto Rico, *and the Virgin Islands*.

(b) The provisions of subchapter I of this chapter, subject to the modifications made by this subchapter, apply to individuals who have had Federal service as defined by subsection (a) of this section.

§ 8522. Assignment of Federal service and wages

Notwithstanding section 8504 of this title, Federal service and Federal wages not previously assigned shall be assigned to the State [or to the Virgin Islands, as the case may be] in which the claimant first files claim for unemployment compensation after his latest discharge or release from Federal service. This assignment is deemed as assignment under section 8504 of this title for the purpose of this subchapter.

* * * * * * *

PUBLIC LAW 90–248

SEC. 248 (a) * * *

(b) Notwithstanding subparagraphs (A) and (B) of section 403 (a)(3) of such Act (as amended by this Act), the rate specified in such subparagraphs in the case of Puerto Rico, the Virgin Islands, [and Guam] *Guam, and the Commonwealth of the Northern Mariana Islands* shall be 60 per centum (rather than 75 or 85 per centum).

(c) Effective July 1, 1969, neither the provisions of clauses (A) through (C) of section 402(a)(7) of such Act as in effect before the enactment of this Act nor the provisions of section 402(a)(8) of such Act as amended by section 202(b) of this Act shall apply in the case of Puerto Rico, the Virgin Islands, [or Guam] *Guam, or the Commonwealth of the Northern Mariana Islands.* Effective no later than July 1, 1972, the State plans of Puerto Rico, the Virgin Islands, [and Guam] *Guam, and the Commonwealth of the Northern Mariana Islands* approved under section 402 of such Act shall provide for the disregarding of income in making the determination under section 402 (a)(7) of such Act in amounts (agreed to between the Secretary and the State agencies involved) sufficiently lower than the amounts specified in section 402(a)(8) of such Act to reflect appropriately the applicable differences in income levels.

(d) The amendment made by section 220(a) of this Act shall not apply in the case of Puerto Rico, the Virgin Islands, [or Guam] *Guam, or the Commonwealth of the Northern Mariana Islands.*

(e) Effective with respect to quarters after 1967, section 1905(b) of such Act is amended by striking out "55 per centum" and inserting in lieu thereof "50 per centum".

*   *   *   *   *   *   *

PUBLIC LAW 93–647

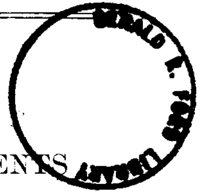
*   *   *   *   *   *   *

SEC. 7. (a) * * *

(b) The amendments made by section 3 of this Act shall be effective with respect to payments under sections 403 and 603 of the Social Security Act for quarters commencing after September 30, 1975, except that the amendments made by section 3(a) shall not be effective with respect to the Commonwealth of Puerto Rico, the Virgin Islands, [or Guam] *Guam, or the Commonwealth of the Northern Mariana Islands.*

○

94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 94-755



UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1975

DECEMBER 16, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ULLMAN, from the Committee on Ways and Means, submitted the following

REPORT

together with

SUPPLEMENTAL, ADDITIONAL, DISSENTING, AND MINORITY VIEWS

[To accompany H.R. 10210]

The Committee on Ways and Means to whom was referred the bill (H.R. 10210) to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 2, line 19, strike out "an employer" and insert in lieu thereof "a person".

Page 6, line 7, strike out "an employer" and insert in lieu thereof "a person".

Page 6, line 8, strike out "for" and insert in lieu thereof "to individuals employed in".

Page 7, line 19, insert after "4 individuals" the following: "in employment".

Page 8, strike out lines 11 and 12 and insert:

> (b) TECHNICAL AMENDMENT.—Subsection (a) of section 6157 of such Code (relating to payment of Federal unemployment tax on quarterly or other time period basis) is amended to read as follows:
>
> "(a) GENERAL RULE.—Every person who for the calendar year is an employer (as defined in section 3306(a)) shall—

★ 63-248

"(1) if the person is such an employer for the preceding calendar year (determined by only taking into account wages paid and employment during such preceding calendar year), compute the tax imposed by section 3301 for each of the first 3 calendar quarters in the calendar year on wages paid for services with respect to which the person is such an employer for such preceding calendar year (as so determined), and

"(2) if the person is not such an employer for the preceding calendar year with respect to any services (as so determines), compute the tax imposed by section 3301 on wages paid for services with respect to which the person is not such an employer for the preceding calendar year (as so determined)—

"(A) for the period beginning with the first day of the calendar year and ending with the last day of the calendar quarter (excluding the last calendar quarter) in which such person becomes such an employer with respect to such services, and

"(B) for the third calendar quarter of such year, if the period specified in subparagraph (A) includes only the first two calendar quarters of the calendar year.

The tax for any calendar quarter or other period shall be computed as provided in subsection (b) and the tax as so computed shall, except as otherwise provided in subsections (c) and (d), be paid in such manner and at such time as may be provided in regulations prescribed by the Secretary or his delegate."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration paid.

Page 9, strike out the colon at the end of line 12 and insert in lieu thereof a semicolon.

Page 10, line 21, strike out "years" and insert in lieu thereof "terms".

Page 14, strike out lines 12 through 21 and insert:

(d) AMENDMENTS RELATING TO EXTENDED AND EMERGENCY BENEFITS.—

(1) Section 202(a)(1) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by striking out "the Virgin Islands or".

(2) Paragraph (8) of section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended to read as follows:

"(8) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.".

(3) Section 102(b)(1)(C) of the Emergency Unemployment Compensation Act of 1974 is amended by striking out "the Virgin Islands or".

Page 20, lines 7 and 8, strike out "performed before January 1, 1977," and insert in lieu thereof "which are reimbursable under subsection (c)(2)".

Page 20, line 20, strike out "performed before January 1, 1977," and insert in lieu thereof "which are reimbursable under subsection (c)(2)".

Page 22, line 12, strike out "Act".

Page 25, insert after line 22 the following:

(3) The last sentence of section 6157(b) of the Internal Revenue Code of 1954 is amended to read as follows: "In the case of wages paid in any calendar quarter or other period during a calendar year to which paragraph (1) of section 3301 applies, the amount of such wages shall be multiplied by 0.7 percent in lieu of 0.5 percent."

Page 29, line 11, strike out "hereby".

Page 34, line 4, strike out "Paragraph 12" and insert in lieu thereof "Paragraph (12)".

Page 35, line 1, strike out "certification" and insert in lieu thereof "certifications".

Page 36, line 2, strike out "por" and insert in lieu thereof "pro".

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I. Summary

The Unemployment Compensation Amendments Act of 1975 (H.R. 10210) is designed to achieve the following objectives:

provide coverage under the permanent Federal-State Unemployment Compensation law for substantially all of the nation's wage and salary earners and thereby eliminate the need for the temporary Special Unemployment Assistance program;

restore solvency in the Unemployment Compensation program at the State and Federal levels by increasing revenues in a manner that distributes fairly the impact of additional employer-paid taxes;

modify the "trigger mechanism" in the Extended Benefits program; and

establish a National Study Commission that will undertake a thorough and comprehensive examination of the present Unemployment Compensation program and make recommendations for further improvements.

The Unemployment Compensation program was enacted during the great depression of the 1930's, a part of the Social Security Act of 1935. The primary objectives of the program are to provide workers with sufficient income to meet non-deferrable expenses during periods of temporary unemployment and to help stabilize the economy during periods of economic decline. For 40 years, Unemployment Compensation has provided financial protection against temporary unemployment for most of the nation's workers. It is an important source of security for the employed and the major source of assistance for jobless workers. The Unemployment Compensation program has been a major factor in preventing recent economic conditions from reaching the disastrous proportions of the great depression.

Current economic conditions have placed considerable strain on the Unemployment Compensation system and led to the enactment of temporary programs providing additional coverage and benefits. The necessity and basic soundness of the program have been clearly demonstrated during the recent months of high unemployment. Some inadequacies and needed improvements have also been emphasized. The Unemployment Compensation Amendments Act of 1975 makes important improvements in the program and establishes a National Study Commission with the directive to thoroughly examine the Unemployment Compensation system and recommend additional improvements.

Extending Coverage

There are about 80 million wage and salary workers in the nation today. Approximately 68 million are currently covered under permanent State and Federal unemployment compensation programs. The remaining 12 million workers are not covered, or do not have unem-

ployment protection, under existing *permanent* law. The major groups of workers without permanent coverage are State and local government employees, agricultural employees and domestic workers.

Three states—New York, Arkansas, and Hawaii—and the District of Columbia already provide coverage under their permanent programs for domestic workers. Minnesota, Hawaii, Puerto Rico, and the District of Columbia cover farm workers. Farm workers in California will be covered as of January 1, 1976. Twenty-nine states cover substantially all state government employees, and eight states cover local government workers. In states where these workers are not covered under the permanent program, they are currently provided limited unemployment benefits under the temporary Special Unemployment Assistance (SUA) program due to expire December 31, 1976.

In order to provide equal treatment of all the nation's wage and salary workers under the permanent unemployment compensation law and eliminate the need to provide unemployment protection for uncovered workers on a temporary and emergency basis, H.R. 10210 makes the following changes in the permanent Federal-State unemployment compensation programs.

1. Coverage is extended to agricultural workers of employers with 4 or more workers in 20 weeks or who paid $5,000 in any calendar quarter.

2. Coverage is extended to domestic workers of employers who paid $600 or more in any calendar quarter for domestic services.

3. Coverage is extended to State and local government employees with the following exceptions: elected officials or officials appointed for a specific term or on a part-time basis; members of a legislative body or the judiciary; members of the State National Guard or Air National Guard; emergency employees hired in case of disaster; and inmates of custodial or penal institutions.

4. Coverage is extended to employees of non-profit elementary and secondary schools.

Other coverage provisions in H.R. 10210 include the following:

5. Non-resident aliens admitted to the United States to perform agricultural work under the Immigration and Nationality Act are excluded from coverage for 2 years.

6. The farm operator is deemed the employer of farm labor supplied by a crew leader, unless the crew leader is registered under the Farm Labor Contractor Registration Act, or substantially all the workers supplied by the crew leader operate or maintain tractors, harvest equipment, cropdusting equipment, or other mechanized equipment.

7. Payment of benefits based on services performed for educational institutions in instructional, research, or principal administrative capacities are prohibited during periods between academic years or terms if an individual has a contract to perform such services for both the prior and forthcoming terms.

For two years, States are permitted to deny benefits based on services performed for educational institutions during periods between school terms to non-professional employees of primary, secondary and vocational educational institutions if an individual was employed at the end of the prior term and there is reasonable assurance he or she will be so employed during the forthcoming terms.

8. A transitional period is provided with the objective of eliminating a gap in protection between the termination of the Special Unemployment Assistance (SUA) program and the beginning of coverage of agricultural workers, domestic workers, and State and local government employees under the permanent U.C. program.

9. The Virgin Islands is permitted to become a part of the Federal-State Unemployment Compensation system.

These provisions extend unemployment compensation coverage under the permanent Federal-State system to about 9.5 million of the 12 million jobs not presently covered: 7.7 million local government, 0.6 million State government, 0.7 million farm jobs, and 0.4 million domestic jobs. The Department of Labor estimates that the coverage and transition provisions of H.R. 10210 will increase unemployment compensation expenditures under the permanent programs by approximately $1,350 million in fiscal 1978: $800 million for Regular State benefits, $200 million for Federal-State Extended Benefits, and $350 million for transition from SUA to U.C.

Restoring Solvency to the U.C. Trust Funds

The Unemployment Compensation system is no longer self-supporting. The financial structure of the system at both the State and Federal levels is seriously threatened. As of December 15, 1975, 15 states had depleted their U.C. funds and as many as 30 will be forced to borrow from the Federal Government by the end of calendar year 1976. The Department of Labor estimates that, under present financing provisions, the State U.C. trust funds will have deficits totalling $16.5 billion in 1978, increasing to $24.1 billion in 1984.

The Federal Unemployment Account (from which the States with depleted trust funds borrow money) and the Extended Unemployment Compensation Account (which financed the Federal share of the Extended Benefits program) are both depleted and borrowing Federal general revenues. The Department of Labor projects that, under the existing tax base and net Federal tax rate, the Federal U.C. trust funds will have a deficit of $6.2 billion in 1978 increasing to $9.6 billion in 1984.

With the objectives of restoring fiscal solvency at the State and Federal levels as soon as possible and distributing equitably the needed increases in employer payroll taxes, H.R. 10210 makes the following changes in the existing financing provisions:

1. The taxable wage base is increased from $4,200 to $8,000 for both Federal and State U.C. taxes.

2. The net Federal U.C. tax rate is increased from 0.5 percent to 0.7 percent. It is reduced to 0.5 percent in 1982 or the year after all advances to the Federal extended unemployment compensation account have been repaid, whichever occurs first.

Other financing provisions in H.R. 10210 include the following:

3. In determining the Federal grants for administrative expenses, reimbursement will not be allowed from FUTA revenues for administrative costs attributable to State and local government employees.

4. The definition of "sharable benefits" under the Federal-State extended benefits program is revised to eliminate any sharing of payments by the Federal Government based upon services performed by workers in State and local governments.

5. States are allowed to request loans from the Federal unemployment trust funds to pay benefits for a 3-month period, rather than the 1-month period under current law.

6. When an individual's U.C. benefits are based on both Federal and non-Federal employment, the Federal share of the cost will be based on the ratio of Federal wages to total base period wages, rather than the "added cost" method under current law.

7. States will be reimbursed from Federal general revenues for U.C. benefits paid to CETA public service employees.

The increased tax base and net Federal tax rate contained in this bill will raise an additional $1.6 billion in Federal unemployment compensation revenues in fiscal 1978, and make it possible to achieve a positive balance in the Federal U.C. Trust Funds by 1981. How much additional revenue the higher tax base will produce at the State level depends largely on the rate structure established in each state. Assuming an average tax rate in the states of 2.7 percent, the $8,000 base would increase State U.C. revenues by about $4.7 billion in fiscal 1978 and produce a positive balance in the U.C. trust funds of most States by 1981.

Benefit Provisions

Under current permanent law, the Extended Benefit Program, enacted in 1970, provides for the payment of a maximum of 13 additional weeks of benefits beyond those provided under State law in all states when there is a national insured unemployment rate of 4.5 percent for 3 consecutive months. When the national insured unemployment rate is above 4.5 percent, extended benefits are payable in individual states where the insured unemployment rate has averaged 4 percent for 13 consecutive weeks, and the rate is 20 percent higher than the State's average insured unemployment rate for the corresponding 13-week period in the 2 preceding years. Extended Benefits are financed 50 percent out of State U.C. funds and 50 percent out of Federal U.C. funds.

The 120 percent factor in the State trigger has proven unsatisfactory, particularly during periods when high unemployment has continued over a protracted period. Since enactment in 1970, Congress has legislated on 7 different occasions to waive this part of the State trigger for extended benefits. H.R. 10210 eliminates the 120 percent factor in the permanent law.

1. Under H.R. 10210, Extended Benefits will be payable in a State when either of the following conditions is met: (a) there is a seasonally adjusted national insured unemployment rate of 4.5 percent, based on the most recent 13-week period, or (b) the seasonally adjusted State insured unemployment rate is 4.0 percent, based on the most recent 13-week period.

Other benefit provisions in H.R. 10210 include the following:

2. Disqualification for U.C. benefits solely on the basis of pregnancy is prohibited.

3. Federal employees will be permitted to use the U.C. appeal procedures available to other claimants in contesting the determination of the employing agency on the issue of cause of separation from work.

According to the Department of Labor, there will be no additional costs in fiscal 1978 as a result of these changes.

National Study Commission

The changes made in this bill do not address all of the problems and proposed changes that have been raised. H.R. 10210 establishes

a National Commission on Unemployment Compensation for the purpose of examining the U.C. program, reviewing the changes contained in this bill, and evaluating additional changes such as further broadening coverage and modifying the benefit structure and financing provisions. The Commission will be comprised of 3 Members appointed by the Speaker of the House of Representatives, 3 Members by the President Pro Tempore of the Senate, and 7 by the President of the United States. The Commission is directed to transmit a final report to the President and Congress not later than January 1, 1978, containing a detailed statement of findings and recommended improvements in the Unemployment Compensation program.

II. COMPARISON OF PROVISIONS WITH PRESENT LAW

TITLE I—EXTENSION OF COVERAGE PROVISIONS

Item	H.R. 10210—Subcommittee bill	**Current law**
1. Extension of coverage to agricultural workers.	Extends coverage to agricultural workers of employers with four or more workers in 20 weeks or who paid $5,000 in wages in any calendar quarter. (Secs. 111 and 114.)	Coverage of agricultural workers is not mandatory under present Federal law. Agricultural workers are covered in the District of Columbia, Minnesota, Hawaii, Puerto Rico, and California (effective Jan. 1, 1976). (IRC Secs. 3306(c)(1); 3306(k).)
2. Exception to agricultural coverage.	Excludes from coverage for 2 years nonresident aliens admitted to the United States to perform agricultural work under sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act. (Sec. 111.)	No relevant provision.
3. Identification of agricultural employer.	Deems the farm operator the employer if farm labor is supplied by a crew leader, unless the crew leader is registered under the Farm Labor Contractor Registration Act; or substantially all the workers supplied by the crew leader operate or maintain tractors, harvest equipment, cropdusting equipment, or other mechanized equipment. (Sec. 112.)	Since UC coverage of agricultural workers is not mandatory under present Federal law, there are no corresponding provisions. For purposes of social security benefits, crew leaders generally are deemed to be the employers, and thereby responsible for collecting and reporting OASDI taxes. (SSA Title II Sec. 210 (n).)
4. Extension of coverage to domestic workers.	Extends coverage to domestic workers of employers who paid $600 or more in any calendar quarter for domestic services. (Sec. 113 and 114.)	Coverage of domestic workers is not mandatory under present Federal law. Domestic workers are covered in the District of Columbia and New York if the employer's quarterly payroll for domestic service is at least $500; Hawaii if the employer's quarterly payroll is at least $225; and Arkansas if the employer's quarterly payroll is $500 or he employes three or more domestic workers. (IRC Sec. 3306(c)(2).)
5. Extension of coverage to State and local government employees.	Extends coverage to State and local government employees with the following exceptions: (1) elected officials or officials appointed for a specific term or on a part-time basis; (2) members of a legislative body or the judiciary; (3) members of the State National Guard or Air National Guard; (4) emergency employees hired in case of disaster; and (5) inmates of custodial or penal institutions. (Sec. 115.)	Coverage of State government employees of hospitals and institutions of higher education is mandatory. Coverage of other State and local government employees is left to the option of the States. Twenty-nine States cover substantially all State government employees and eight States cover most local government employees. (IRC, Sec. 3309(a)(1); Sec. 3304(a)(6)(A); Sec. 3306(c)(7).)
6 Eligibility of employees of educational institutions during the summer months.	Prohibits payment of benefits based on services performed for educational institutions in instructional, research, or principal administrative capacities during periods between academic years or terms if an individual has a contract to perform such services for both the prior and forthcoming terms. (Sec. 115.). Permits States, for 2 years, to deny benefits based on services performed for educational institutions during the periods between school terms to nonprofessional employees of primary, secondary and vocational educational institutions if an individual was employed at the end of the prior term and there is reasonable assurance he or she will be so employed during .he forthcoming terms. (Sec. 115).	Federal law requiring State coverage of employees in higher education provides for denial of benefits based on services performed for such institutions during periods between terms to employees in instructional, research or principal administrative capacities, if the individual has a contract for both the prior and forthcoming terms. (IRC Sec. 3304(a)(6)(A).)

II. COMPARISON OF PROVISIONS WITH PRESENT LAW—Continued

TITLE I—EXTENSION OF COVERAGE PROVISIONS—Continued

Item	H.R. 10210—Subcommittee bill	Current law
7. Extension of coverage to employees of nonprofit educational institutions.	Extends coverage to employees of nonprofit elementary and secondary schools. (Sec. 115.)	Coverage of nonprofit elementary and secondary school employees is not mandatory under present Federal law. Coverage is required for certain other nonprofit organizations (including institutions of higher education) which employ four or more workers in 20 weeks. (IRC Sec. 3309 (c); 3306(c)(8).)
8. Inclusion of the Virgin Islands in the Federal-State unemployment compensation system.	Permits the Virgin Islands to become part of the Federal-State U.C. system. (Sec. 116.)	Under existing Federal law, the territory of the Virgin Islands is not part of the Federal-State unemployment insurance system. The territory does have its own U.C. program and participates in the SUA program.
9. Effective dates and transition provisions for extending U.C. coverage.	Makes provisions extending coverage to farm, domestic, and State and local government employees effective January 1, 1977. If a State agrees to pay benefits to qualified, newly covered workers as of January 1, 1977, based on wages earned prior to that date, benefits paid through June 30, 1977, and after if based on newly covered wages earned prior to January 1, 1977, would be reimbursed from general Federal revenues. (Sec. 121.)	SUA covers those workers not covered by the permanent Federal-State U.C. program. SUA expires December 31, 1976. (Public Law 93-567; Public Law 94-45 Sec. 201.)
10. Transition provisions for nonprofit employers.	Permits newly covered nonprofit employers who had already covered their employees and financed the benefit costs by the contribution method to transfer any accumulated balance to their accounts if they choose to switch to the reimbursement method of financing after enactment of this bill. (Sec. 122.)	A similar transition provision was enacted in the 1970 Unemployment Compensation Amendments. (IRC Sec. 3303(f).)

TITLE II—FINANCING PROVISIONS

Item	H.R. 10210—Subcommittee bill	Current law
11. Increase the unemployment insurance taxable wage base.	Increases the taxable wage base from $4,200 to $8,000 as of January 1, 1977. (Sec. 211.)	The FUTA tax base is the first $4,200 in wages paid to an employee in a calendar year. (IRC Sec. 3306(b)(1).)
12. Increase the net Federal unemployment insurance tax rate and the proportion of FUTA revenues allocated to the Federal extended U.C. account.	Increases the net Federal tax rate from 0.5 percent to 0.7 percent as of January 1, 1976. Reduces it back to 0.5 percent in 1982 or the year after all advances to the Federal extended unemployment compensation account have been repaid, which ever occurs first. The proportion of FUTA revenues allocated to the Federal extended U.C. account is increased from 1/10 to 5/14 as long as the net Federal tax rate is 0.7 percent. (Sec. 211.)	The present net Federal tax rate is 0.5 percent. The proportion of revenues allocated to the Federal extended U.C. account is 1/10. (IRC Sec. 3301; SSA Title IX Sec. 905(b)(1).)
13. Change in financing administration and extended benefit costs attributable to State and local government employees.	Provides that in determining the Federal grants for administrative expenses reimbursement would not be allowed from FUTA revenues for administrative costs attributable to State and local government employees. (Sec. 212.) Revises the definition of "sharable benefits" under the Federal-State extended benefits program to eliminate any Federal sharing of extended benefits based upon services performed by workers in State and local governments. (Sec. 212.)	States receive annual Federal grants to cover their U.C. administrative expenses. The cost of benefits paid under the Federal extended benefits program (benefit weeks 27-39) is shared 50 percent from State UC funds and 50 percent from Federal UC funds. Both the Federal U.C. administrative grants to the States and the Federal share of extended benefits come from revenues raised by the Federal unemployment tax on employers (currently 0.5 percent on the first $4,200 of wages). State and local governments are not subject to this tax. (SSA Title III Sec. 302); IRC Sec. 3304(a)(11); P.L. 91-373 Sec. 204.)
14. Change in procedure for Federal unemployment insurance advances to States.	Allows States to request loans from the Federal unemployment trust funds to pay benefits for a 3-month period rather than a 1-month period. (Sec. 213.)	Under present Federal law a State must apply for Federal U.C. loans on a month-by-month basis. (SSA Title XII, Sec. 1201(a)(1)(A).)
15. Change in allocation of costs for U.C. benefits paid to Federal civilian employees and ex-servicemen.	Provides that, when an individual's U.C. benefits are based on both Federal and non-Federal employment, the Federal share of the cost would be based on the ratio of Federal wages to total base period wages. (Sec. 214.)	The Federal Government currently reimburses the State for "added cost" when an individual's U.C. payments are based in part on Federal employment. (Title 5 U.S.C. Sec. 8505 (a).)

II. COMPARISON OF PROVISIONS WITH PRESENT LAW—Continued

TITLE I—EXTENSION OF COVERAGE PROVISIONS—Continued

Item	H.R. 10210—Subcommittee bill	Current law
16. Reimbursement for U.C. benefits paid to CETA public service employees.	Provides for the States to be reimbursed from Federal general revenues for U.C. benefits paid to CETA public service employees. (Sec. 215.)	Where State covers State and local government employees, CETA public service employees must receive same U.C. rights. Their benefit costs are financed from CETA grants, or if costs occur after expiration of CETA contract, from Department of Labor national office accounts. In other States, CETA public service employees are covered under the temporary special unemployment assistance program.

TITLE III—BENEFIT PROVISIONS

Item	H.R. 10210—Subcommittee bill	Current law
17. Modification of trigger provisions in the extended benefits program.	Modifies the triggers in the extended benefits program to provide for the payment of extended benefits (benefit weeks 27-39) in a State when either of the following conditions is met: (1) there is a seasonally adjusted national insured unemployment rate of 4.5 percent, based on the most recent 13-week period; or, (2) the seasonally adjusted State insured unemployment rate is 4.0 percent, based on the most recent 13-week period. (Sec. 311.)	The extended benefits program now provides for the payment of extended benefits (benefit weeks 27-39) in a State when either of the following conditions is met: (1) there is a seasonally adjusted national insured unemployment rate of 4.5 percent for 3 consecutive months (4.0 percent at State option until December 31, 1976); or, (2) the unadjusted State insured unemployment rate has averaged 4 percent for 13 consecutive weeks; and, the rate is 20 percent higher than the State's average insured unemployment rate for the corresponding 13-week period in the 2 preceding years. (The 120 percent factor may be waived by a State until March 31, 1977.) (Public Law 91-373, 93-572, 94-45.)
18. Prohibition of disqualification for pregnancy.	Prohibits disqualification for U.C. benefits solely on the basis of pregnancy. (Sec. 312.)	Nineteen States have special disqualification provisions pertaining to pregnancy. Several of these provisions hold pregnant women unable to work and unavailable for work; the remainder disqualify a claimant because she left work on account of her condition or because her unemployment is a result of pregnancy.
19. Modification of appellate rights of Federal employees.	Permits Federal employees to use the U.C. appeal procedures available to other U.C. claimants in contesting the determination of the employing agency on the issue of cause of separation from work. (Sec. 313.)	With respect to claims for benefits under unemployment compensation for Federal employees (UCFE), the determination of the Federal employing agency regarding performance and periods of Federal service, amount of Federal wages, and reasons for termination of service is final and not subject to the U.C. adjudication procedure. (5 U.S.C. 8506(a).)

TITLE IV—NATIONAL COMMISSION ON UNEMPLOYMENT INSURANCE

Item	H.R. 10210—Subcommittee bill	Current law
20. Establishing a national study commission.	Establishes a 13-member commission to study and report on the U.C. program, with a report due not later than January 1, 1978. (Sec. 411.)	Federal law provides for a continuing Federal Advisory Council on Unemployment Insurance appointed by the Secretary of Labor. (SSA Title IX, Sec. 908.)

III. Revenue Effects and Inflationary Impact Statement

A. COSTS AND REVENUES

In compliance with clause seven of Rule XIII of the Rules of the House of Representatives, the following statement is made:

1. *Additional Cost.*—The additional cost to the Unemployment Insurance Program of H.R. 10210 is estimated to be $0.5 billion in FY 1977, $1.3 billion in FY 1978, and $2.1 billion in Fiscal Year 1981. (See Tables 1 and 2.) These additional costs are composed of coverage, extended benefits (EB), and new coverage transition costs.

Coverage costs increase only slightly through the five-year-study period. Additional extended benefit costs increase toward the end of the study period. During the period of a national EB trigger—assumed to last until early 1980—there will be little difference between current law and H.R. 10210. However, beginning in 1980, when only State EB triggers would be in effect, H.R. 10210 would increase extended benefit costs relative to current law cost because of the modification in the EB trigger mechanism. The cost of the new coverage transition is estimated to be $0.5 billion in FY 77 and $0.3 billion in FY 78 as indicated in Table three.

Estimates for current law and H.R. 10210 are based on a single set of "reasonable assumptions." The most important of these assumptions are the following:

(a) The total (Bureau of Labor Statistics) unemployment rates follow the pattern of the *Mid-Session Review of the 1976 Budget* (May 30, 1975) through FY 1980. Thereafter, the rates maintain a rate of 5.5 percent which approximates the post World War II average rate of unemployment.

(b) Covered employment—excluding new coverage—increases at a rate of 2.0 percent per year.

(c) The average weekly wage in covered employment increases by 7.0 percent per year.

2. *Additional Revenue.*—H.R. 10210 will generate considerable additional revenue at both the Federal and State levels. Additional Federal revenues are estimated to be $1.1 billion in Fiscal Year 77, $1.6 billion in Fiscal year 78, and $2.0 billion in 1981. (See tables 1 and 2.)

Because State governments establish their own U.C. tax rates, the amount of additional revenues H.R. 10210 would raise at the State level depends on actions taken by each State. Assuming an average State tax rate of 2.7 percent, it is estimated that raising the tax base to $8,000 will increase total State U.C. revenues by $3.3 billion in Fiscal Year 77, $4.7 billion in Fiscal Year 78, and $5.7 billion in Fiscal Year 1981. (See tables 1 and 2.)

As shown in Table 4, raising the wage base from $4,200 to $8,000 increases the percent of taxable to total wages from 49.6 percent in 1974 to 61.5 percent in 1977.

3. *Costs and Revenues under H.R. 10210—The Net Effect.*—Additions to revenue will exceed additions to costs under H.R. 10210. As a result, there will be a substantial net addition to revenues in the fiscal years 1977 through 1981. For those years the net addition will increase from $3.9 billion to $5.6 billion. (See Table 1 and Table 2, line 22.) As

a result the net effect of addition to costs and revenues appears to be deflationary.

The effect of H.R. 10210 on total costs and revenues can be seen by examining a summary of Federal and State Unemployment Compensation Trust Funds. It is estimated that under H.R. 10210, a positive balance in the Federal Unemployment Compensation Trust Funds will be reached in 1981. (See Table 5.) A positive "average balance" in the States' Unemployment Compensation Trust Funds will be reached in 1981. (See Table 6.)

4. *Costs and Revenues under Current Law.*—Both benefit payments and taxes collected reached a record high in calendar year 1974. Preliminary figures show that regular State unemployment compensation benefit payments in calendar year 1974 totaled $5,975 million. State unemployment compensation taxes collected amounted to $5,228 million, and that the average unemployment compensation tax rate on employers was two percent. (See Table 7.) Costs have continued to increase sharply since calendar year 1974. It is estimated that the current unemployment insurance program will cost between $15 and $20 billion in both calendar years 1975 and 1976. It should be noted that most of the expenditures during 1975 and 1976 are for regular State U.C. benefits and not the additional FSB or emergency benefits that have been provided on a temporary basis. (See Table 8.) As shown in Tables 9 and 10, under current law there are rapidly increasing deficits in the U.C. trust funds at both the Federal and State levels.

TABLE 1.—ESTIMATED ADDITIONAL COSTS AND REVENUES UNDER H.R. 10210, FISCAL YEARS 1977–81

[In billions of dollars]

	1977	1978	1979	1980	1981
H.R. 10210, additional costs:					
Coverage		0.8	1.1	1.1	1.2
EB[1]		.2	.2	.6	.9
New coverage transition	0.5	.3			
Total	.5	1.3	1.3	1.7	2.1
H.R. 10210, additional revenues:					
Federal	1.1	1.6	1.7	1.8	2.0
State	3.3	4.7	4.9	5.5	5.7
Total	4.4	6.3	6.6	7.3	7.7
H.R. 10210, additional revenues minus additional costs: Additional revenues—Additional costs	+3.9	+5.0	+5.3	+5.6	+5.6

[1] Includes EB costs of new coverage.

TABLE 2.—ESTIMATED COSTS AND REVENUES OF CURRENT UNEMPLOYMENT INSURANCE PROGRAM AND H.R. 10210

[Dollar amounts in billions]

Fiscal year	1977	1978	1979	1980	1981
Total unemployment rate percent[1]	7.4	6.7	5.8	5.5	5.5
Current program, total benefit costs:					
1. Regular program	$12.5	$11.8	$10.5	$10.5	$11.5
2. EB present law[2]	2.9	2.3	1.9	.5	0
3. FSB	.5				
4. Total	15.9	14.1	12.4	11.0	11.5

TABLE 2.—ESTIMATED COSTS AND REVENUES OF CURRENT UNEMPLOYMENT INSURANCE PROGRAM AND H.R. 10210—Continued

[Dollar amounts in billions]

Fiscal year	1977	1978	1979	1980	1981
H.R. 10210, total benefit costs:					
5. Coverage		.8	1.1	1.1	1.2
6. EB [3]	2.9	2.5	2.1	1.1	.9
7. New coverage transitio	.5	.3			
8. Total (lines 1 plus 3 plus 5 plus 6 plus 7)	16.4	15.4	13.7	12.7	13.6
H.R. 10210, total administrative costs:					
9. Total administrative costs	1.3	1.5	1.6	1.7	1.8
H.R. 10210, total costs (benefits plus administrative) (lines 8 and 9):					
10. Total costs	17.7	16.9	15.4	14.4	15.4
H.R. 10210, total revenues:					
11. Federal (FUTA)	2.6	3.2	3.4	3.6	3.8
12. State trust funds [4]	12.7	14.7	15.3	16.2	17.1
13. Total	15.3	17.9	18.7	19.8	20.9
H.R. 10210, total revenues—Total costs (benefit plus administrative) (lines 13 minus 10):					
14. Total revenues—Total costs	−2.4	+1.0	+3.3	+5.4	+5.5
H.R. 10210, additional costs:					
15. Coverage		.8	1.1	1.1	1.2
16. EB [3]		.2	.2	.6	.9
17. New coverage transition	.5	.3			
18. Total	.5	1.3	1.3	1.7	2.1
H.R. 10210, additional revenues:					
19. Federal	1.1	1.6	1.7	1.8	2.0
20. State	3.3	4.7	4.9	5.5	5.7
21. Total	4.4	6.3	6.6	7.3	7.7
H.R. 10210, additional revenues minus additional costs (lines 21–18):					
22. Additional revenues—Additional costs	+3.9	+5.0	+5.3	+5.6	+5.6

[1] Based upon midsession review of the 1976 budget (May 30, 1975).
[2] Assumes national trigger under Public Law 91–373 through early fiscal year 1980.
[3] Includes EB costs of new coverage.
[4] Includes reimbursements.

TABLE 3.—NEW COVERAGE TRANSITION

1. Period and Federal-State cost sharing:

Period	Cost sharing
October–December 1976	SUA (100 percent Federal).
January–March 1977	100 percent Federal.
April–June 1977	100 percent Federal.
July–September 1977	75 percent Federal; 25 percent State.
Fiscal year 1977	$0.5 billion.
October–December 1977	50 percent Federal; 50 percent State.
January–March 1978	25 percent Federal; 50 percent State.
April–June 1978	100 percent State.
July–September 1978	100 percent State.
Fiscal year 1978	(0.3 billion.

Assumes: Transition begins Jan. 1, 1977 for new claimants. Transition ends Mar. 31, 1978 for new claimants.

2. Cost estimate, Jan. 1, 1977 through Mar. 31, 1978:

Item	Amount
AWIU	200,000
Weeks of program	×65
Weeks of unemployment	13,000,000
Weeks compensated/weeks claimed	×85
Weeks compensated	11,050,000
AWBA (dollars)	×72.50
Benefit costs (dollars)	800,000,000

TABLE 4.—PERCENT OF TAXABLE TO TOTAL WAGES IN UNEMPLOYMENT COMPENSATION, 1938–84

Year	Federal wage base	Actual percent of taxable to total wages	Projected percent taxable to total wages: $4,200	$6,000	$8,000	$10,000
1938	(1)	98.0				
1939	(1)	97.7				
1940	$3,000	92.8				
1941	3,000	91.8				
1942	3,000	90.7				
1943	3,000	89.3				
1944	3,000	87.7				
1945	3,000	87.8				
1946	3,000	86.8				
1947	3,000	84.3				
1948	3,000	81.7				
1949	3,000	81.3				
1950	3,000	79.1				
1951	3,000	76.0				
1952	3,000	74.1				
1953	3,000	71.6				
1954	3,000	70.4				
1955	3,000	68.3				
1956	3,000	66.8				
1957	3,000	65.0				
1958	3,000	63.6				
1959	3,000	61.7				
1960	3,000	61.1				
1961	3,000	60.0				
1962	3,000	59.0				
1963	3,000	58.1				
1964	3,000	57.0				
1965	3,000	55.8				
1966	3,000	55.3				
1967	3,000	53.3				
1968	3,000	51.7				
1969	3,000	49.7				
1970	3,000	47.7				
1971	3,000	45.2				
1972	4,200	51.7				
1973	4,200	49.7				
1974	4,200	49.6				
1975	4,200		48.1			
1976	4,200		46.6			
1977	4,200		45.1	55.2	61.5	71.0
1978	4,200		43.6	53.7	60.3	70.7
1979	4,200		42.1	52.2	59.2	70.3
1980	4,200		40.6	50.7	57.7	69.9
1981	4,200		39.1	49.2	56.2	69.5
1982	4,200		37.6	47.7	55.1	69.1
1983	4,200		36.1	46.2	54.0	68.7
1984	4,200		34.6	44.7	52.9	68.3

[1] Total.

Source: U.S. Department of Labor, Manpower Administration—Oct. 3, 1975.

TABLE 5.—ESTIMATED FEDERAL COSTS, REVENUES, AND TRUST FUND BALANCES UNDER H.R. 10210, FISCAL YEARS 1975–84

[FUTA estimated costs, revenues, and balances under $8,000 wage base, effective Jan. 1, 1977, and 0.7 percent rate effective Jan. 1, 1976, reducing to 0.5 percent rate effective Jan, 1, 1982—in millions of dollars]

Fiscal year	Cost	Revenue	Cumulative balance
1975	2,780	1,371	−1,409
1976	3,151	1,636	−2,924
Transitional	664	517	−3,071
1977	3,277	2,641	−3,707
1978	2,712	3,150	−3,269
1979	2,629	3,373	−2,525
1980	2,255	3,596	−1,184
1981	2,292	3,821	+345
1982	2,489	3,357	+1,213
1983	2,698	3,108	+1,623
1984	2,919	3,317	+2,021

Source: U.S. Department of Labor, Manpower Administration, Unemployment Insurance Service—Oct. 30, 1975.

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TABLE 6.—ESTIMATED STATE COSTS, REVENUES, AND TRUST FUND BALANCES UNDER H.R. 10210, FISCAL YEARS 1976–84

[State estimated costs, revenues and balances under $8,000 (calendar year 1977) wage base and average tax rates of 2, 2.4, and 2.7 percent for calendar years 1975–77 and after—in millions of dollars]

	Cost	Revenue	Cumulative balance
Fiscal year:			
1975			0
1976	15,150	7,632	−7,518
Transitional quarter	3,600	2,073	−9,045
1977	13,950	12,731	−10,264
1978	13,850	14,749	−9,365
1979	12,650	15,310	−6,705
1980	12,150	16,172	−2,683
1981	13,150	17,138	+1,305
1982	14,300	18,311	+5,316
1983	15,650	19,580	+9,246
1984	17,100	20,911	+13,057

Source: U.S. Department of Labor, Manpower Administration, Unemployment Insurance Service—Oct. 2, 1975.

TABLE 7.—BASIS UI FINANCIAL DATA UNDER REGULAR STATE UI PROGRAM, FOR CALENDAR YEARS 1947–74

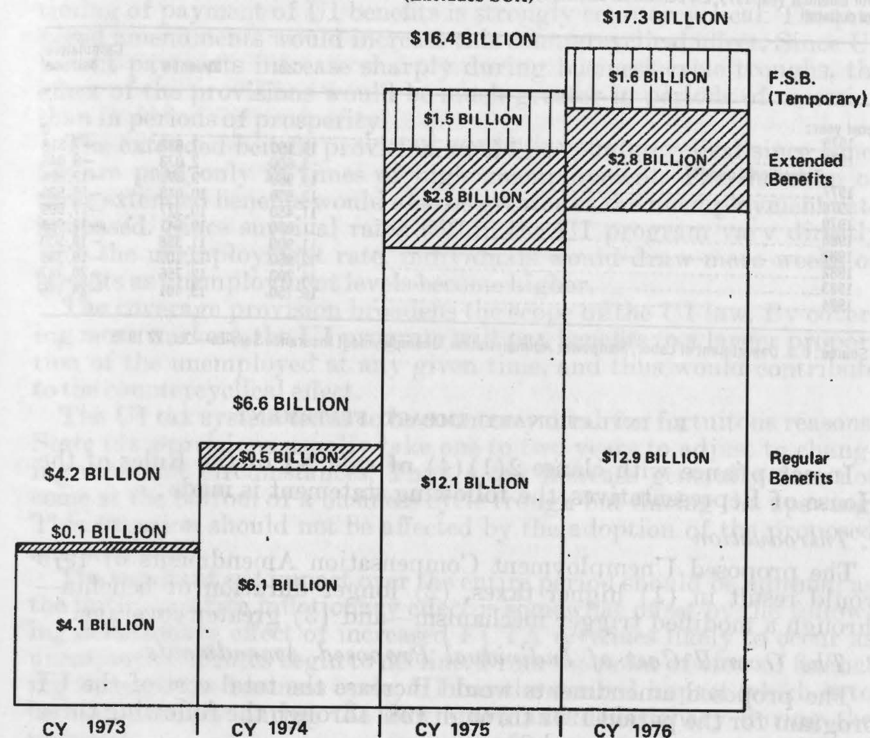
	Benefit payments (thousands)	Taxes collected (thousands)	Average employer tax rate as a percent of total wages	Average employer tax rate as a percent of taxable wages	Insured unemployment rate regular program only
Calendar year:					
1947	$775,142	$1,095,522	1.19	1.41	3.1
1948	789,931	999,635	1.01	1.24	3.0
1949	1,735,991	986,906	1.07	1.31	6.2
1950	1,373,113	1,191,435	1.18	1.50	4.6
1951	840,411	1,492,506	1.20	1.58	2.8
1952	998,238	1,367,676	1.08	1.45	2.9
1953	962,219	1,347,632	.93	1.30	2.7
1954	2,026,868	1,136,151	.79	1.12	5.3
1955	1,350,264	1,208,788	.81	1.18	3.4
1956	1,380,728	1,463,261	.88	1.32	3.1
1957	1,733,876	1,544,339	.85	1.31	3.7
1958	3,512,732	1,471,004	.84	1.32	6.6
1959	2,279,018	1,955,664	1.06	1.71	4.2
1960	2,726,655	2,288,499	1.15	1.88	4.7
1961	3,422,696	2,449,674	1.24	2.06	5.7
1962	2,675,446	2,952,066	1.39	2.36	4.3
1963	2,774,666	3,019,135	1.34	2.31	4.3
1964	2,522,095	3,047,505	1.26	2.21	3.7
1965	2,166,066	3,053,468	1.18	2.12	2.9
1966	1,771,296	3,030,338	1.05	1.91	2.2
1967	2,092,340	2,678,119	.86	1.61	2.5
1968	2,029,953	2,551,672	.76	1.47	2.2
1969	2,125,845	2,545,040	.69	1.38	2.1
1970	3,847,872	2,507,614	.64	1.34	3.5
1971	4,957,026	2,636,607	.64	1.41	4.1
1972	4,471,034	3,899,090	.88	1.70	3.3
1973	4,007,562	4,999,750	.99	1.99	2.7
1974	[1] 5,974,922	[1] 5,228,200	[1] .90	[1] 2.00	[1] 3.5

[1] Preliminary.

Source: "Handbook of Unemployment Insurance Financial Data 1938–70," U.S. Department of Labor, Manpower Administration, Unemployment Insurance Service—Sept. 9, 1975.

TABLE 8

Unemployment Benefits Paid or Projected to be Paid CY 1973–76 (Excludes SUA)



Source: U.S. Department of Labor, Manpower Administration, Apr. 8, 1975.

TABLE 9.—ESTIMATED FEDERAL COSTS, REVENUES, AND TRUST FUND BALANCES UNDER CURRENT LAW, FISCAL YEARS 1975–84

[FUTA estimated costs, revenues and balances under current law ($4,200 wage base and 0.5 percent tax rate)—in millions of dollars]

	Cost	Revenue	Cumulative balance
Fiscal year:			
1975	2,780	1,371	−1,409
1976	3,151	1,430	−3,130
Transitional quarter	664	369	−3,425
1977	3,277	1,523	−5,179
1978	2,583	1,601	−6,161
1979	2,498	1,681	−6,978
1980	2,172	1,762	−7,388
1981	2,206	1,844	−7,750
1982	2,400	1,927	−8,223
1983	2,606	2,010	−8,819
1984	2,824	2,093	−9,550

Source: U.S. Department of Labor, Manpower Administration, Unemployment Insurance Service—Oct. 22, 1975.

TABLE 10.—ESTIMATED STATE COSTS, REVENUES, AND TRUST FUND BALANCES UNDER CURRENT LAW, FISCAL YEARS 1976–84

[State estimate costs, revenues and balances under current law ($4,200 wage base) and average tax rates of 2 percent for calendar year 1975, 2.4 percent for calendar year 1976, and 2.7 percent for calendar year 1977 and after—in millions of dollars]

	Cost	Revenue	Cumulative balance
Fiscal year:			0
1975	15,150	7,632	−7,518
1976	3,600	2,073	−9,045
Transitional quarter	13,950	9,371	−13,624
1977	12,950	10,048	−16,526
1978	11,450	10,377	−17,599
1979	11,000	10,641	−17,958
1980	11,900	11,358	−18,500
1981	12,950	12,107	−19,343
1982	14,200	12,756	−20,787
1983	16,750	13,401	−24,136
1984			

Source: U.S. Department of Labor, Manpower Administration, Unemployment Insurance Service—Oct. 22 1975.

B. INFLATIONARY IMPACT STATEMENT

In compliance with clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the following statement is made:

1. Introduction

The proposed Unemployment Compensation Amendments of 1975 would result in (1) higher taxes, (2) longer duration of benefits—through a modified trigger mechanism—and (3) greater coverage.

2. The Overall Cost of Individual Proposed Amendments

The proposed amendments would increase the total cost of the UI program for the period 1977 through 1981 through the following three provisions (see tables 1 and 2):

a. *Coverage.*—The coverage provision would increase the total number of workers covered under the UI program through the addition of newly covered groups of workers. For newly covered employers, new costs would be introduced. However, the average UI tax cost should not increase since State and local government workers are by far the largest group of newly covered workers, and they are expected to have a low cost rate.

b. *Extended benefits.*—The effect of the extended benefit (EB) provisions differs only slightly from the current EB program throughout the period FY 1977–80. Current unemployment assumptions result in a continuation of nationally triggered extended benefits under the present law through early FY 1980. Therefore, the cost increase of the proposal over the present program is due to the payment of higher levels of extended benefits beginning in FY 1980 after the present nationally triggered program triggers "off."

c. *New coverage transition.*—During CY 1977 and the first quarter of 1978, newly covered workers under H.R. 10210 would gradually phase in from a general revenue-financed temporary program. The cost of this transition has been separated from the rest of the coverage cost.

3. Countercyclical Effect of the Proposed Amendments

The countercyclical effect of the UI system is due to the nature of both the benefit payment and the tax provisions of the system. The timing of payment of UI benefits is strongly countercyclical. The proposed amendments would increase this countercyclical effect. Since UI benefit payments increase sharply during business cycle troughs, the effect of the provisions would be much greater in periods of recession than in periods of prosperity.

The extended benefit provision would be countercyclical since benefits are paid only in times of high unemployment. The duration of these extended benefits would also be greater as the unemployment rate increased. Since survival rates within the UI program vary directly with the unemployment rate, individuals would draw more weeks of benefits as unemployment levels become higher.

The coverage provision broadens the scope of the UI law. By covering more workers, the UI program will pay benefits to a larger proportion of the unemployed at any given time, and thus would contribute to the countercyclical effect.

The UI tax system tends to be countercyclical for fortuitous reasons. State tax provisions usually take one to two years to adjust to changing economic circumstances. Thus, a tax increase generally does not come at the bottom of a business cycle trough but during the upswing. This situation should not be affected by the adoption of the proposed amendments.

The resultant *net* impact over the entire period should be minimal as the initial positive inflationary effect is somewhat offset by the following deflationary effect of increased FUTA revenues likely to occur as unemployment rates begin to decline. From the point of view of financing through the business cycle, UI has the desired impact which is to be expansionary during the down-turn and deflationary during the upswing.

4. Revenue

The imposition of a higher tax rate and tax base will have an effect at both a micro and macro level. At the micro level the tax proposal would increase taxes by about $20 per worker per year. For the economy as a whole the tax increase would have a dampening effect (see tables 1 and 2).

5. Net Effect of Cost and Revenue

As line 22 of Table 2 points out, additional revenues provided by H.R. 10210 would exceed additional costs. Thus, in the aggregate the net effect of H.R. 10210 would be deflationary rather than inflationary.

IV. OTHER MATTERS TO BE DISCUSSED UNDER HOUSE RULES

In compliance with clause 2(1)(2)(B) of Rule XI of the Rules of the House of Representatives, the following statement is made. The bill was ordered favorably reported to the House of Representatives by a roll call vote with 23 in favor and 13 opposed.

In compliance with clause 2(1)(3) of Rule XI of the House of Representatives, the following statements are made.

With regard to subdivisions (A) of clause 3 (relating to oversight findings), the Committee advises that upon a review of existing permanent and temporary unemployment compensation programs it concluded that the exclusion of certain groups of workers from the permanent program created unjustifiable inequities. The Committee also concluded that continuing coverage of these workers under the temporary Special Unemployment Assistance program (SUA: Title II of the Emergency Jobs and Unemployment Assistance Act of 1974) was not an appropriate substitute for coverage under the permanent Federal-State U.C. program for the following reasons.

(1) *SUA is a limited program.*—It provides unemployment benefits only when the national unemployment rate is 6 percent or higher, or in local areas with unemployment rates of 6.5 percent.

(2) *SUA creates inequities within states.*—In several states, farm operators have voluntarily provided unemployment compensation protection for their farm workers under the State U.C. program. They have agreed to pay U.C. taxes in order to finance the benefits paid to their workers, and continue to do so while SUA is in effect. Employees of farmers within the same state who have not voluntarily covered their workers, however, can receive SUA benefits financed out of Federal general revenues. Furthermore, because of differences between SUA and the permanent unemployment compensation program in some states, in a number of cases farm workers eligible for SUA are receiving larger weekly benefit checks than those eligible for the Regular U.C. benefits.

(3) *SUA creates inequities among states.*—Three States—New York, Arkansas, and Hawaii—and the District of Columbia provide coverage under their permanent U.C. program for domestic workers. Minnesota, Hawaii, Puerto Rico, and the District of Columbia currently cover farmworkers. Farmworkers in California will be covered as of January 1, 1976. Twenty-nine states now cover substantially all state government employees and eight states cover local government employees. Benefits paid to farmworkers, domestic workers and State and local government employees in the states that have voluntarily extended U.C. coverage under State law are financed out of State revenues. In all other states, the same groups of workers are eligible for unemployment benefits under SUA which are financed out of Federal general revenues.

(4) *SUA creates administrative problems.*—Because the base period in SUA is different from the base period in most State U.C. programs, State agencies have had to develop special application forms, different procedures of obtaining work and earnings information, and eligibility determination procedures.

(5) *SUA does not allow for "experience rating."*—The permanent State U.C. programs are financed by employers through an experience rating system that relates the amount of U.C. taxes paid by an employer to the amount of benefits paid to his employees. One reason for an experience rated, rather than a uniform, tax system is to provide an incentive for employers to stabilize their hiring; or to provide some disincentive for employers to temporarily lay off employees. SUA is financed out of Federal general revenues with no direct cost to the employer for benefits paid to his employees. As a result, it does

not contain the employment-stabilizing incentives provided under the permanent U.C. programs.

For these reasons, the Committee concluded that SUA should not be continued beyond its present expiration date; and, as provided under this legislation, coverage under the permanent Federal-State U.C. system should be extended to substantially all the workers presently covered by SUA.

In reviewing the permanent Federal-State unemployment compensation system, the Committee concluded that the financial structure of the U.C. system at both the State and Federal levels is seriously threatened because of rapidly growing deficits. According to Department of Labor estimates, unless changes are made in existing financing provisions, the Federal and State U.C. Trust Funds will have combined deficits of $22.7 billion in 1978, increasing to $27.5 billion in 1982 and $33.7 billion in 1984. These deficits are the result of unprecedented costs during the recent period of high unemployment and the failure of Congress and the States to maintain adequate financing. The Committee concluded that the financing changes contained in H.R. 10210 were necessary in order to restore fiscal soundness at the State and Federal level as soon as possible, and that these provisions distribute equitably the impact of the additional employer-paid taxes that are needed.

In compliance with subdivision (B) of clause 3 of Rule XI of the Rules of the House of Representatives, the Committee states that the information provided in Tables 1 & 2 in Section III of this report meet the requirements in section 308(a)(1)(A) of the Congressional Budget Act of 1974. These tables show for 5 fiscal years, beginning with FY 1977, the projected unemployment compensation expenditures and revenues associated with H.R. 10210. The Committee is unable to comply with section 308(a)(1)(B) of the Congressional Budget Act of 1974 because expenditures under H.R. 10210 do not begin until FY 77 and the concurrent resolution on the budget for FY 77 has not yet been adopted.

With respect to subdivisions (C) and (D) of clause 3 of Rule XI of the Rules of the House of Representatives, the Committee advises that no estimate or comparison has been prepared by the Director of the Congressional Budget Office relative to any of the provisions of H.R. 10210 nor have any oversight findings or recommendations been made by the Committee on Government Operations with respect to the subject matter in H.R. 10210.

V. Information on Present Permanent and Temporary Unemployment Compensation Programs

I. Description of the Present Unemployment Insurance Program

Unemployment insurance is a Federal-State system designed to provide temporary wage loss compensation to workers as protection against the economic hazards of unemployment. Funds accumulated from employer payroll taxes permit payment of benefits to unemployed insured workers. At the same time that the unemployed worker is assisted financially while he is looking for work, the benefit payments help maintain purchasing power and cushion the shock of unemployment.

The Statutes

The unemployment insurance system in this country is the product of Federal and State legislation. Approximately 86 percent of all nonfarm workers are covered by the Federal-State system established by the Social Security Act in 1935, with subsequent amendments, and consequent State legislation in all States, and the District of Columbia and Puerto Rico. The Federal taxing provisions are in the Federal Unemployment Tax Act, chapter 23 of the Internal Revenue Code (FUTA). Railroad workers are covered by a separate Federal program. Veterans with recent service in the Armed Forces and civilian Federal employees are covered by a Federal program, Chapter 85, Title 5, U.S.C., with the States paying benefits as agents of the Federal Government.

The Federal provisions in the Social Security Act and the Federal Unemployment Tax Act establish the framework of the system. If a State law meets minimum Federal requirements, (1) employers receive a 2.7 percent credit against the 3.2 percent Federal payroll tax, and (2) the State is entitled to Federal grants to cover all the necessary costs of administering the program.

Section 3304 of the Internal Revenue Code of 1954 provides that the Secretary of Labor shall approve a State law if under the State law:

(1) compensation is paid through public employment offices or other approved agencies;

(2) all of the funds collected under the State program are deposited in the Federal Unemployment Trust Fund (title IX of the Social Security Act prescribes the distribution of the tax among the various accounts of the trust fund);

(3) all of the money withdrawn from the unemployment fund is used to pay unemployment compensation or to refund amounts erroneously paid into the Fund;

(4) compensation is not denied to anyone who refuses to accept work because the job is vacant as the direct result of a labor dispute, or the wages, hours or conditions of work are substandard, or if as a condition of employment, the individual would have to join a company union or resign from or refrain from joining a labor union;

(5) compensation is paid to employees of FUTA tax-exempt nonprofit organizations who employ 4 or more workers in each of 20 weeks of the calendar year and of State hospitals and institutions of higher education (with specific limitations on benefit entitlement for teachers, researchers and administrators in institutions of higher education);

(6) compensation is not payable in two successive benefit years to an individual who has not worked in covered employment after the beginning of the first benefit year;

(7) compensation is not denied to anyone solely because he is taking part in an approved training program;

(8) compensation is not denied or reduced because an individual's claims for benefits was filed in another State or Canada;

(9) the only reasons for cancellation of wage credits or total benefit rights are discharge for work-connected misconduct, fraud or receipt of disqualifying income;

(10) extended compensation is payable under the provisions of the Extended Unemployment Compensation Act of 1970;

(11) the State participates in arrangements for combining wages earned in more than one State for eligibility and benefit purposes;

(12) each political subdivision of the State may elect to cover employees (not otherwise covered under State law) of hospitals and institutions of higher education operated by the subdivision;

(13) reduced rates are permitted employers only on the basis of their experience with respect to unemployment; and

(14) nonprofit organizations are permitted to finance benefit costs by the reimbursement method.

An employer is subject to the Federal unemployment tax if, during the current or preceding calendar year, he employed one or more individuals in each of at least 20 calendar weeks or if he paid wages of $1,500 or more during any calendar quarter of either such years.

Taxable wages are defined as all remuneration from employment in cash or in kind with certain exceptions. The exceptions include earnings in excess of $4,200 in a year, payments related to retirement, disability, hospital insurance, etc.

Employment is defined as service performed within the United States, on or in connection with an American vessel or aircraft, and service performed outside the United States for an American employer. This service, however, is subject to a long list of exceptions which generally coincide with the provision of law relating to the definition of employment for purposes of the old-age, survivors and disability insurance program (title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954). The exceptions are described below.

Title III of the Social Security Act provides for payments from the Federal unemployment fund to the States to meet the necessary cost of administering (including costs of the employment service) the unemployment compensation programs in the States. Under this title, the grants are restricted to those States that have been certified by the Secretary of Labor as providing:

(1) methods of administration (including a State merit system) which will insure full payment of unemployment compensation when due;

(2) unemployment compensation payment through public employment offices or through other approved agencies;

(3) for fair hearings to individuals whose claims for unemployment compensation have been denied;

(4) for the payment of all funds collected to the Federal Unemployment Trust Fund;

(5) that all of the money withdrawn from the fund will be used either to pay unemployment compensation benefits, exclusive of administrative expenses or to refund amounts erroneously paid into the fund; except that, if the State law provides for the collection of employee payments, amounts equal to such collections may be used to provide disability payments;

(6) for making the reports required by the Secretary of Labor;

(7) for providing information to Federal agencies administering public work programs or assistance through public employment;

(8) for limiting expenditures to the purposes and amounts found necessary by the Secretary of Labor; and

(9) for repayment of any funds the Secretary of Labor determines were not spent for unemployment compensation purposes or exceeded the amounts necessary for proper administration of the State unemployment compensation law.

FINANCING THE PROGRAM

Under the provisions of the Internal Revenue Code, a tax is levied on covered employers at a current rate of 3.2 percent on wages up to $4,200 a year paid to an employee. The law, however, provides a credit against Federal tax liability of 2.7 percent to employers who pay State taxes under an approved State unemployment compensation program. This credit is allowed regardless of the tax paid to the State by the employer. Because all of the States now have an approved unemployment compensation program, the effective Federal tax is 0.5 percent. This Federal tax is used to pay all of the administrative costs, both State and Federal, associated with the unemployment compensation programs, to provide 50 percent of the benefits paid under the extended unemployment compensation program (P.L. 91-373), to pay the costs of benefits under the Emergency Unemployment Compensation Act of 1974 (as amended), and to maintain a loan fund from which an individual State may borrow (title XII of the Social Security Act) whenever it lacks funds to pay the unemployment compensation benefits due for a month. In order to assure that a State will repay any loans it secures from the fund, the law provides that when a State has an outstanding loan balance on January 1 for two consecutive years, the full amount of the loan must be repaid by November 10 of the second year or the Federal tax on employers in that State will be increased under a somewhat complicated formula for that year and further increased for each subsequent year that the loan has not been repaid. Under a provision of P.L. 94-45 a three-year (1975, 1976, and 1977) suspension of the increases in tax rates is permitted for a State which the Secretary finds has taken appropriate steps to restore the fiscal soundness of its program and to provide for repayment of outstanding loans within a reasonable period of time.

All States levy taxes on employers within the State. Three States also collect contributions from employees. These taxes are deposited by the State to its account in an unemployment trust fund in the Federal Treasury, and withdrawn as needed to pay benefits. On *December 31, 1974*, the total reserve of all States was $10.6 billion.

Standards rates

The standard rate of contribution under all but eight State laws is 2.7 percent. In New Jersey, the standard rate is 2.8 percent; Hawaii, Ohio, and Nevada, 3.0; and Montana, 3.1. In Nevada the 3.0 percent rate applies only to unrated employers. In Idaho the standard rate is 2.1 percent if the ratio of the unemployment fund to the total payroll for the fiscal year is 4.75 percent or more; when the ratio falls below

this point, the standard rate varies between 2.3 and 3.3 percent. Kansas has no standard contribution rate, although employers not eligible for an experience rate, and not considered as newly covered, pay at the maximum rate.

All State laws, except Puerto Rico, provide for a system of experience rating by which individual employers' contribution rates are varied from the standard rate on the basis of their experience with the amount of unemployment encountered by their employees.

Federal requirements for experience rating

The Federal law initially allowed employers additional credit for a lowered rate of contribution if the rates were based on not less than 3 years of "experience with respect to unemployment or other factors bearing a direct relation to unemployment risk." In 1954 the 3-year requirement was relaxed and States were permitted to assign a reduced rate, based on their "experience," to new and newly covered employers who had at least one year of experience immediately preceding the computation date. Since 1970, States may also grant reduced rates (but not less than one percent) for newly covered employers.

State requirements for experience rating

In most States 3 years of experience with unemployment means more than 3 years of coverage and contribution experience. Factors affecting the time required to become a "qualified" employer include (1) the coverage provisions of the State law ("at any time" vs. 20 weeks); (2) in States using benefits or benefit derivatives in the experience-rating formula, the type of base period and benefit year and the lag between these two periods, which determine how soon a new employer may be charged for benefits; (3) the type of formula used for rate determinations; (4) the length of the period between the date as of which rate computations are made and the effective date for rates.

Taxable wage base

About one-third of the States have adopted a higher tax base than that provided in the Federal Unemployment Tax Act. In all States an employer pays a tax on wages paid to (or earned by) each worker within a calendar year up to the amount specified in State law. In addition, most of the States provide an automatic adjustment of the wage base if the Federal law is amended to apply to a higher wage base than that specified under State law. Beginning in 1975, Puerto Rico's tax base is 100 percent of total wages.

As a result of the many variables in State taxable wage base and tax rates benefit formulas and economic conditions, actual tax rates vary greatly among the States. In 1974 the average tax rate for all the States was 2.0% of taxable wages, ranging from a high of 3.7% in Massachusetts to a low of 0.3% in Colorado, both on a taxable wage base of $4,200. Tax rates as a percentage of total wages ranged from a high of 2.19% in Puerto Rico to 0.2% in Colorado, Texas, and Virginia. The national averagetax rate, as a percentage of total wages was 1.0%.

Coverage

The Federal Unemployment Tax Act applies to employers who employ one or more employees in covered employment in at least

20 weeks in the current or preceding calendar year or who pay wages of $1,500 or more during any calendar quarter of the current or preceding calendar year. State legislatures tend to cover employers or employment subject to the Federal tax because, while there is no compulsion to do so, failure to do so is of no advantage to the State and a disadvantage to the employers involved.

States frequently cover employees or employment which is exempt from the Federal tax but exempt employers and employment are subject to the Federal tax in only a few instances.

Although State adoption of unemployment insurance laws has therefore been greatly influenced by the Federal statute, with a single exception, the State is free to determine the employers who are liable for contributions and the workers who accrue rights under the laws. The sole exception is the Federal requirement that States provide coverage for employees of nonprofit organizations and of State hospitals and institutions of higher learning even though such employment is exempt from FUTA. Coverage is generally defined in terms of (a) the size of the employing unit's payroll or the number of days or weeks worked during a calendar year, (b) the employment relationship between the workers and the employer, and (c) the place where the worker is employed. Coverage under the laws is limited by exclusion of certain types of employment. In most States, however, coverage can be extended to exclude workers under provisions which permit voluntary election of coverage by employers.

Originally, most State laws covered only those employers who, within a year, had eight or more workers in each of 20 weeks. This was due largely to the coverage provisions of the FUTA. As the States gained experience in administering unemployment insurance and as a result of the 1954 and 1970 amendments to the FUTA smaller firms have been brought under the law in all States.

Thirty-one States have adopted the Federal definition of employer; i.e., a quarterly payroll of $1,500 in the calendar year or preceding calendar year or one worker in 20 weeks. Eight States provide the broadest possible coverage by including all employers who have any covered service in their employ. The other States have requirements of less than 20 weeks or payrolls other than $1,500 in a calendar quarter.

Exclusion from coverage

The following types of employment are generally exempt from coverage under FUTA, although certain States have provided coverage for some of the excluded services.

(*1*) *Agriculture labor.*—State laws generally exclude agricultural labor from coverage, except in five States.

(*2*) *Domestic service.*—Four States cover personal or domestic service in private homes, college clubs, or fraternities. The remaining States exclude domestic service in private homes and most of them exclude college clubs, fraternities, and sororities.

(*3*) *Service for relatives.*—All States exclude service for an employer by his spouse or minor child and, except in New York, service of an individual in the employ of his son or daughter.

(*4*) *Exempt nonprofit organizations, State hospitals and institutions of higher education.*—Although the 1970 amendments provided

coverage of certain services performed for nonprofit organizations and for State hospitals and institutions of higher education, the amendments permit the State to exclude certain services from State coverage. Services performed for a church, convention or association of churches, or an organization operated primarily for religious purposes may be exempt. Also the State may exempt services performed by a duly ordained, commissioned, or licensed minister or a member of a religious order; in the employ of a school which is not an institution of higher education; by the beneficiaries of the program in a facility conducting a program of rehabilitation for persons whose earning capacity is impaired or in a government sponsored work-relief or work-training program; or by inmates of correctitonal institutions employed in a hospital connected with the institution.

(*5*) *Service of students and spouses of students.*—Prior to the 1970 amendments, service in the employ of a school, college or university by a student enrolled and regularly attending classes at such school was excluded from FUTA definition of employment. The 1970 amendments retained this exclusion and also excluded service performed after December 31, 1969 by a student's spouse for the school, college or university at which the student is enrolled and regularly attending classes, provided the spouse's employment is under a program designed to give financial assistance to the student, and the spouse is advised that the employment is under such student-assistance program and is not covered by any program for unemployment insurance. Also excluded after December 31, 1969, is service performed for an employer other than a school, college, or university by a full-time student under the age of 22 in a work-study program provided that the service is an integral part of an educational program.

(*6*) *Service of patients for hospitals.*—The 1970 amendments excluded from the FUTA definition of employment service performed for a hospital after December 31, 1969, by patients of the hospital. Such service may be excluded from coverage under the State law whether it is performed for a hospital which is operated for a profit or for a nonprofit or State hospital which must be covered under the State law.

(*7*) *Service for Federal instrumentalities.*—An amendment to the FUTA, effective with respect to services performed after 1961, permits State to cover Federal instrumentalities which are neither wholly nor partially owned by the United States, nor exempt from the tax imposed under section 3301 of the Internal Revenue Code by virtue of any other provision of law which specifically refers to such section of the Code in granting such exemptions. All States except New Jersey have provisions in their laws that permit the coverage of service performed for such wholly privately owned Federal instrumentalities.

(*8*) *Service for State and local governments.*—Although the Federal act requires that certain service for State hospitals and State institutions of higher education be covered under the State law, it continues to exclude from coverage under the act service performed for State and local governments or their instrumentalities.

All States cover at least thosec ategories of workers required to be covered under the Federal law and most States provide some form of

coverage for other State and local government wokers. About one-half of the States provide mandatory coverage for all State employees, and permit election of coverage by municipal corporations or other local government subdivisions. Several States, in addition to covering their own government workers, also provide mandatory coverage for special groups of workers employed by their instrumentalities or political subdivisions.

(*9*) *Maritime workers.*—The FUTA and most State laws initially excluded maritime workers, principally because it was thought that the Constitution prevented the States from covering such workers. Supreme Court decisions in *Standard Dredging Corporation* v. *Murphy* and *International Elevator Company* v. *Murphy*, 319 U.S. 306 (1943), were interpreted to the effect that there is no such bar. In 1946 the FUTA was amended to permit any State from which the operations of an American vessel operating on navigable waters within and without the United States are ordinarily regularly supervised, managed, directed, and controlled, to require contributions to its unemployment fund under its State unemployment compensation law. Most States now have such coverage.

(*10*) *Coverage of service by reason of Federal coverage.*—Most States have a provision that any service covered by the FUTA is employment under the State law. This provision would permit immediate coverage of excluded workers if the Federal act were amended to include them. Many States have added another provision that automatically covers any service which the Federal law requires to be covered.

(*11*) *Voluntary coverage of excluded employments.*—In all States except Alabama, Massachusetts, and New York, employers, with the approval of the State agency, may elect to cover most types of employment which are exempt under their laws. The Massachusetts law, however, does permit services for nonprofit organizations to be covered on an elective basis and the New York law permits employers to elect coverage of agricultural workers under certain conditions.

(*12*) *Self-employment.*—Employment, for purposes of unemployment insurance coverage, is employment of workers who work for others for wages; it does not include self-employment. One small exception has been incorporated in the California law. A subject employer who is not in seasonal industry may apply for coverage for his own services: if his election is approved, his wages for purposes of contributions and benefits are deemed to be $2,748 a quarter, and his contribution rate is fixed at 1.25 percent of wages.

Benefit rights

There are no Federal standards for benefits, qualifying requirements, benefit amounts, or regular benefit duration. Hence there is no common pattern of benefit provisions comparable to that in coverage and financing. The States have developed diverse and complex formulas for determining workers' benefit rights.

The interrelationship between the various factors on which these benefit rights depend is so close that it is important to take into consideration all the interdependent factors—the amount of employment and wages required to qualify an individual for benefits, the period for earning such wages, the method of computing the weekly benefit

amount, and the method of determining the length of time for which benefits may be paid—in comparing the benefit formulas of different State laws.

Under all State unemployment insurance laws, a worker's benefits rights depend on his experience in covered employment in a past period of time, called the *base period.* The period during which the weekly rate and the duration of benefits determined for a given worker apply to him is called his *benefit year.*

The qualifying wage or employment provisions attempt to measure the worker's attachment to the labor force. To qualify for benefits as an insured worker, a claimant must have earned a specified amount of wages or must have worked a certain number of weeks or calendar quarters in covered employment within the base period, or must have met some combination of wage and employment requirements. He must also be free from disqualification for causes which vary among the States. All but a few States require a claimant to serve a waiting period before his unemployment may be compensable.

All States determine an amount payable for a week for total unemployment as defined in the State law. Usually a week of total unemployment is a week in which the claimant performs no work and receives no pay. In a few States, specified small amounts of odd-job earnings are disregarded in determining a week of unemployment. In most States a worker is partially unemployed in a week of less than full-time work when he earns less than his weekly benefit amount. The benefit payment for such a week is the difference between the weekly benefit amount and the part-time earnings, usually with a small allowance as a financial inducement to take short-time work.

The maximum amount of benefits which a claimant may receive in a benefit year is expressed in terms of dollar amounts, usually equal to a specified number of weeks of benefits for total unemployment. A partially unemployed worker may thus draw benefits for a greater number of weeks. In several States all eligible claimants have the same potential weeks of benefits; in the other States, potential duration of benefits varies with the claimant's wages or employment in the base period, up to a specified number of weeks of benefits for total unemployment.

Qualifying wages and employment

All States require that an individual must have earned a specified amount of wages or must have worked for a certain period of time within his base period, or both, to qualify for benefits. The purpose of such qualifying requirements is to restrict benefits to covered workers who are genuinely attached to the labor force.

(*1*) *Multiple of the weekly benefit or high quarter wages.*—Some States express their earnings requirement in terms of a specified multiple of the weekly benefit amount. Such States have a weekly benefit formula based on high-quarter wages. The multiple used in the qualifying wage formula (21+ to 40 but typically 30) is greater than the denominator in the fraction used in computing the weekly benefit. In these States the formula automatically requires wages in at least two quarters of the base period except for those claimants who qualify for the maximum weekly benefit. Most of the States with this type of qualifying requirement add a specific requirement of wages in at least

two quarters which applies especially to workers with large high-quarter earnings and maximum weekly benefits. Many of the States with a high-quarter formula have an additional requirement of a specified minimum amount of earnings in the high quarter. Such provisions tend to eliminate from benefits part-time and low-paid workers whose average weekly earnings might be less than the State's minimum benefit.

(*2*) *Flat qualifying amount.*—States with a flat minimum qualifying amount include most States with an annual-wage formula for determining the weekly benefit and some States with a high-quarter wage benefit formula.

In all these States any worker earning the specified amount or more within the base period is entitled to some benefits, but the flat qualifying amount entitles a worker to only limited amounts of benefits. The qualifying amounts for higher weekly benefits are included in the quarterly or annual amounts which entitle a claimant to higher weekly benefits and more weeks of benefits, according to the details of the formulas. Of the States with a flat qualifying amount and a high-quarter formula, about half require wages in more than one quarter to qualify for any benefits. Others do not require any wages in a quarter other than the high quarter to qualify for benefits.

(*3*) *Weeks of employment.*—More than one-fourth of the States require that an individual must have worked a specified number of weeks with at least a specified weekly wage. Nine States count only weeks in which the claimant earned the required amount of wages. Some other States have minor variations to this basic approach.

(*4*) *Requalifying requirements.*—All States that have a lag between the base period and benefit year place limitations on the use of lag-period wages for the purpose of qualifying for benefits in the second benefit year. The purpose of these special provisions is to prevent benefit entitlement in 2 successive benefit years following a single separation from work; the provisions generally require wages more recent than the lag period, either in addition to or as part of the usual base-period wages requisite to establishing a benefit year. In many States the amount an individual must earn in order to qualify for benefits in a second benefit year is expressed as an amount (from 3 to 10) times the weekly benefit amount. A few States require an individual to earn wages subsequent to the beginning of the individual's preceding benefit year sufficient to meet the minimum qualifying requirement. In addition, some States specify that the wages needed to requalify must be earned in insured work.

Waiting period

The waiting period is one week of total or partial unemployment in which the worker must have been otherwise eligible for benefits. All except ten States require a waiting period of 1 week of total unemployment before benefits are payable. The waiting period has been temporarily suspended in two other States and may be waived in Georgia if the claimants is unemployed through no fault of his own and may become compensable in several other States under specific conditions. The waiting-period requirement may be suspended in New York and Rhode Island when unemployment results directly from

a disaster and the Governor declares the existence of a state of emergency.

Benefit eligibility and disqualification

All State laws provide that, to receive benefits, a claimant must be able to work and must be available for work; i.e., he must be in the labor force. Also he must be free from disqualification for such acts as voluntary leaving without good cause, discharge for misconduct connected with the work, and refusal of suitable work. These eligibility and disqualification provisions delineate the risk which the laws cover: the able-and-available tests as positive conditions for the receipt of benefits week by week, and the disqualifications as a negative expression of conditions under which benefits are denied. The purpose of these provisions is to limit payments to workers unemployed primarily as a result of economic causes. The eligibility and disqualification provisions apply only to claimants who meet the qualifying wage and employment requirements.

In all States, claimants who are held ineligible for benefits because of inability to work, unavailability for work, refusal of suitable work, or disqualification are entitled to a notice of determination and an appeal from the determination.

Benefit computation

(*1*) *Weekly benefit amount.*—All States except New York measure unemployment in terms of weeks. The majority of States determine eligibility for unemployment benefits on the basis of the calendar week (Sunday through the following Saturday); the rest pay benefits on the basis of a flexible week, which is a period of 7 consecutive days beginning with the first day for which the claimant becomes eligible for the payment of unemployment benefits. In many States the claims week is adjusted to coincide with the employer's payroll week when a worker files a benefit claim for partial unemployment. The claims week in New York runs from Monday through the following Sunday. All of the States have agreed, via the Interstate Arrangement for Combining Employment and Wages, to use the type of week used by the agent State in combined-wage claims. In New York, unemployment is measured in days and benefits are paid for each accumulation of "effective days" within a week.

(*2*) *Formulas for computing weekly benefits.*—Under all State laws a weekly benefit amount, that is, the amount payable for a week of total unemployment, varies with the worker's past wages within certain minimum and maximum limits. The period of past wages used and the formulas for computing benefits from these past wages vary greatly among the States. In most of the States the formula is designed to compensate for a fraction of the full-time weekly wage; i.e., for a fraction of wage loss, within the limits of minimum and maximum benefit amounts. Several States provide additional allowances for certain types of dependents. Most of the States use a formula which bases benefits on wages in that quarter of the base period in which wages were highest. This calendar quarter has been selected as the period which most nearly reflects full-time work. A worker's weekly benefit rate, intended to represent a certain proportion of average weekly wages in the higher quarter, is computed directly from these

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wages. In 13 States the fraction of high-quarter wages is 1/26. Between the minimum and maximum benefit amounts, this fraction gives workers with 13 full weeks of employment in the high quarter 50 percent of their full-time wages. Since it has been found that, for many workers, even the quarter of highest earnings includes some unemployment, 17 States have compensated for this by using a fraction greater than 1/26, ranging from 1/25 in 10 States to 1/20 in two.

An additional two States compute the weekly benefit as a percentage of the average weekly wage in the high quarter, i.e., 1/13 of high-quarter wages. Other States use a weighted schedule, which gives a greater proportion of the high-quarter wages to lower-paid workers than to those earning more. In these States the minimum fraction varies from 1/23 to 1/27; the maximum, from 1/15 to 1/24. Four States compute the weekly benefit as a percentage of annual wages. All but one of these use a weighted schedule which gives as weekly benefits a large proportion of annual wages to the lower-paid workers. Nine States compute the weekly benefit as a percentage of the claimant's average weekly wages in the base period or in a part of the base period.

Duration of benefits

(*1*) *Uniform duration of benefits.*—Nine State laws have uniform duration and allow potential benefits equal to the same multiple of the weekly benefit amount (20 weeks in Puerto Rico, 30 weeks in Pennsylvania, and 26 weeks in the other seven States) to all claimants who meet the qualifying-wage requirement. Some of these States have an annual-wage formula with comparatively high requirements of base-period wages at all but the lower benefit levels. Two States have average-weekly-wage formulas. The other States have a high-quarter formula for determining the weekly benefit amount; they all directly or indirectly require employment in more than one quarter for all—or most—claimants to qualify.

(*2*) *Formulas for variable duration.*—The other State laws provide a maximum potential duration of benefits in a benefit year equal to a multiple of the weekly benefit (26 to 39 weeks of benefits for total unemployment), but have another limitation on annual benefits. In 30 of these States a claimant's benefits are limited to a fraction or percent of base-period wages, if it produces a lesser amount than the specified multiple of the claimant's weekly benefit amount. In several States with an average-weekly-wage formula, maximum potential benefits depend on a fraction of weeks worked. In all but one State in the group, which makes no payments for less than the weekly benefit amount, the maximum potential benefits may be used in weeks of total or partial benefits.

(*3*) *Minimum weeks of benefits.*—In four States with variable duration and a high-quarter benefit formula, a minimum number of weeks duration (10 to 15) is specified in the law. In other States the minimum potential annual benefits result from the minimum qualifying wages and the duration fraction or from a schedule. For any claimant this minimum amount may be transposed into weeks of total unemployment by dividing the potential annual benefit by the weekly benefit. If the weekly benefit amount for a claimant who barely qualifies for benefits is higher than the statutory minimum weekly benefit (because the qualifying wages are concentrated largely or wholly in the high quarter), the weeks of duration are correspondingly reduced.

(*4*) *Maximum weeks of benefits.*—Maximum weeks of benefits vary from 20 to 39 weeks, most frequently 26 weeks.

In two States, duration may be extended for those claimants who are taking training to increase their employment opportunities, in each case for up to an additional 18 weeks. In another State, benefits under the State's extended benefits program may be paid to claimants during periods of retraining.

(*5*) *Other limits on duration.*—In most States with variable duration, claimants at all benefit levels are subject to the same minimum and maximum weeks of duration. In one State, with an annual-wage formula and variable duration, both weekly benefits and weeks of benefits increase with increments of annual wages; claimants at or near the bottom of the benefit schedule are not eligible for maximum weeks of benefits. Three other States include a limitation on wage credits in computing duration. In one only wages up to 26 times the current maximum weekly benefit amount per quarter count; in another, wages up to $2,600 and in a third, wage credits are limited to 26 times the claimant's weekly benefit amount. This type of provision tends to reduce weeks of benefits for claimants at the higher benefit levels.

(*6*) *Federal-State extended benefits.*—Provisions have been made for extending the duration of benefits in times of high unemployment, beyond what is provided under the regular provisions of State programs. These programs were temporary until 1970, when a program to provide such extended benefits was made a permanent part of Federal law through the enactment of the Federal-State Extended Unemployment Compensation Act (Public Law 91-373).

These programs are described in the following section.

II. FEDERAL-STATE EXTENDED BENEFITS

The Federal-State extended benefit program, established by Public Law 91-373, is designed to pay extended benefits to workers during periods of high unemployment. The program is financed equally from Federal and State funds and may become operative either in an individual State or in the entire country. An extended benefits period becomes effective in a State in the third week following the week in which a State or a national "on" indicator is reached and stays effective until the third week following the first week in which both State and national indicators are off, but for not less than 13 weeks.

A national "on" indicator is reached in the calendar week immediately following a 3-consecutive-calendar-month period if in each of the 3 months the rate of insured unemployment (seasonally adjusted) for all States equals or exceeds 4.5 percent. A national "off" indicator is reached in the calendar week immediately following a 3-consecutive-calendar-month period if in each of the 3 months the rate of insured unemployment (seasonally adjusted) for all States is less than 4.5 percent.

A State "on" indicator is reached in the last week of a 13-week period when the rate of insured unemployment (seasonally adjusted) in the State for such period (a) equals or exceeds 120 percent of the

average of such rates for the corresponding periods in each of the preceding 2 calendar years, and (b) is not less than 4 percent. However, no extended benefit period may begin by reason of a State "on" indicator (unless there is also a national "on" indicator) before the fourteenth week after the close of a prior extended benefit period in that State. A State "off" indicator is reached in the last week of the specified 13-week period when the rate of insured unemployment (not seasonally adjusted) in the State for such period either (a) falls below 120 percent of the average of such rates for the corresponding period in each of the preceding 2 calendar years, or (b) is less than 4 percent.

Within certain requirements, extended benefits are payable at the same rate as the claimant's weekly benefit amount under the State law, and eligibility for extended benefits is determined in accordance with State law. A claimant may receive extended benefits for up to one-half of the number of weeks of entitlement to regular benefits, but for not more than 13 weeks. There is an overall limitation of 39 weeks on regular and extended benefits combined.

Under Federal law, States were required to adopt legislation, effective no later than January 1972, providing for payment of extended benefits. The national indicators were also effective January 1972, at the earliest. However, States were permitted to enact laws with earlier effective dates for State "on" and "off" indicators.

As a result, five States began payment of extended benefits during October 1970, and by March 1971, 20 States were paying benefits. During the months of 1971, from 13 to 20 States were in extended benefit status.

The insured unemployment rates (IUR) for September, October, and November 1971 were 4.85 percent, 4.85 percent, and 4.74 percent, respectively, and accordingly the national "on" indicator was effective on January 1, 1972, and all States paid extended benefits during the first three months of the year.[1] A large number of States continued to pay extended compensation for several months as a result of States "on" indicators, but by mid-year several States with continuing high levels of unemployment no longer met the requirement of 120 percent of past experience and payments in these States ceased.

Starting with Public Law 92–599 (enacted October 27, 1972), Congress has acted 6 times to modify the trigger requirements of the permanent extended benefits act for temporary periods, as shown in Exhibit 1 below. Under Public Law 92–599, the 120-percent requirement in the State "off" trigger could be disregarded by a State provided the State law permitted it to do so. This provision was continued in effect by Public Law 93–53 (enacted July 1, 1973) which extended the expiration date through December, 1973 and in addition permitted a State to ignore the 120-percent requirement for the "on" trigger as well as for the "off" trigger. However, under these 2 temporary provisions an extended benefit period could begin only if the rate of insured unemployment in the State was 45 percent, rather than 4 percent as required under permanent law.

On December 31, 1973, a temporary provision was enacted as part of Public Law 93–233 permitting a State to pay benefits on the basis of a

[1] There was a delay in the enactment of the Kentucky legislation, so that 52 States paid benefits only in the month of March1972.

4 percent insured unemployment rate without regard to the 120 percent requirement. This provision, scheduled to expire on March 31, 1974, was extended through June 1974 under Public Law 93–256 (enacted March 28, 1974). The permission to waive the 120 percent requirement was subsequently extended by Public Laws 93–329, 93–368, 93–572, and 94–45, and will expire on March 31, 1977.

EXHIBIT 1

AD HOC LEGISLATION WAIVING 120 PERCENT REQUIREMENT IN STATE EXTENDED BENEFIT TRIGGERS

Date	Public Law	Action
Oct. 27, 1972	92–599	Suspended 120 percent "off" indicator through June 30, 1973.
July 1, 1973	93–53	Suspended 120 percent for both "on" and "off" indicators through Dec. 31 1973, with "tailoff" through March 1974.
Dec. 31, 1973	93–233	Suspended 120 percent for both "on" and "off" indicators through Mar. 31, 1974
Mar. 18, 1974	93–256	Extended suspension of 120 percent indicators until July 1, 1974.
June 30, 1974	93–329	Extended suspension of 120 percent indicators until Aug. 31, 1974.
Aug. 7, 1974	93–368	Extended suspension of 120 percent indicators until Apr. 30, 1975.
Dec. 31, 1974	93–572	The Emergency Unemployment Compensation Act of 1974, including a provision permitting States to waive 120 percent indicators until Dec. 31, 1976.
June 30, 1975	94–45	Extended waiver provision of the Emergency Unemployment Compensation Act until Mar. 31, 1977.

III. EMERGENCY BENEFITS

Emergency Unemployment Compensation Act of 1971

The Emergency Unemployment Compensation Act of 1971, title II of Public Law 92–224, established a temporary program which provided a third tier of protection for workers in States with higher unemployment rates than required under the extended benefit program.

Compensation under the Act was payable in a State having an agreement with the Secretary of Labor and experiencing the required unemployment levels for weeks of unemployment beginning after January 29, 1972, or after the week in which the agreement was entered into. Once triggered, the emergency benefit period (the period during which emergency compensation could be paid in the State) remained in effect for at least 26 weeks. After those 26 weeks had ended, no benefits were payable for any week unless the State had the required "rate of unemployment."

Compensation was payable in a State when the "rate of unemployment" for a 13-consecutive-week period was at least 6.5 percent. The rate was derived by adding the State's insured unemployment rate computed under the Federal-State Extended Unemployment Compensation Program and an exhaustion rate obtained by dividing one-quarter of the States exhaustions of regular benefits in the most recent 12 completed calendar months by the State's average monthly covered employment.

To be eligible for compensation under the 1971 Emergency Unemployment Compensation Act, an individual was required to have exhausted all rights to regular unemployment insurance benefits and to extended benefits if they were payable. Eligible individuals were entitled potentially to benefits for up to one-half of the number of weeks of their total regular benefit entitlement, but not more than 13 weeks. The weekly benefit amount was the same as for State regular and Federal-State extended compensation.

Benefits for individuals entitled to emergency compensation for at least one week ending before July 1, 1972, could continue until benefit rights were exhausted. As a result, no benefits were payable for weeks ending after September 30, 1972.

Public Law 92–329 extended both of those dates by six months. As a result, no new beneficiaries could come into the program after December 30, 1972, and no benefits were payable for weeks ending after March 31, 1973.

Emergency Unemployment Compensation Act of 1974

Public Law 93–572 (The Emergency Unemployment Compensation Act of 1974) created a new temporary Emergency Unemployment Compensation Program modeled after the Emergency Unemployment Compensation Act of 1971.

The emergency unemployment compensation program augments existing unemployment compensation programs by providing additional weeks of benefits in a period of high unemployment to people who exhausted their benefit rights under the Regular State and Federal-State Extended Unemployment Compensation programs.

Compensation under Public Law 93–572 is payable in a State having an agreement with the Secretary and experiencing the required unemployment levels for weeks of unemployment beginning in 1975. Once triggered, the emergency benefit period (the period during which emergency compensation can be paid in the State) remains in effect for at least 26 weeks, but no new claim could be filed after 1976. The emergency benefits payments are financed by repayable advances from Federal general revenues to the extended unemployment compensation account in the Federal Unemployment Trust Fund.

To be eligible for compensation under the Emergency Unemployment Compensation Act of 1974 an individual must have exhausted all rights to regular unemployment insurance benefits and to extended benefits. An eligible individual was initially entitled to emergency benefits for up to one-half of the number of weeks of his total regular benefit entitlement, but not more than 13 weeks. The weekly benefit is equal to the amount payable under the State regular and Federal-State extended programs.

The emergency unemployment compensation program went into effect in a State only when extended unemployment benefits were also payable in the State. Under the Federal-State Extended Unemployment Compensation Act of 1970, States must pay extended benefits when the insured unemployment rate in the State is 4 percent and at least 120 percent of the rate for the corresponding period in the preceding two years. Under Public Law 93–572 a State is given the option of paying extended benefits (and emergency benefits) when its insured unemployment rate is 4 percent, without regard to the 120 percent factor for the two year period ending December 1976.

Under prior law, extended benefits were payable in all States after the seasonally adjusted National insured unemployment rate for three consecutive months was 4.5 percent. P.L. 93–572 permits the States to pay extended benefits when the National rate of insured unemployment is 4 percent, rather than 4.5 percent. Therefore, both the extended unemployment compensation program and the emergency unemployment compensation program went into effect in those States that

elected the 4 percent figure when the National seasonally adjusted insured unemployment rate reached 4 percent and stayed at least that high for three consecutive months. The national optional 4 percent trigger went "on" for the week beginning January 5, 1975 and the national mandatory 4.5 percent trigger went "on" for the week beginning February 23, 1975. Rates above 4.5 percent continued throughout 1975. Thus, both the extended benefits programs and the new emergency program were in effect in all States throughout 1975, without regard to the provisions of the new law permitting the States to pay extended benefits when the national trigger is 4 percent but below 4.5 percent. Any additional extended benefits that are payable as the result of a State electing to put the extended unemployment compensation program into effect when the national rate is 4 percent rather than 4.5 percent are paid in full (rather than 50 percent) out of the Federal unemployment account.

In effect, P.L. 93–572 provided the States with the following options as to the time when an extended benefit period and an emergency benefits period would go into effect:

(1) when the insured unemployment rate in the State under the State extended benefit trigger is 4.0 percent; or

(2) when the national insured unemployment rate under the national extended benefit trigger is 4.0 percent.

And the States are required to start an extended benefit period and an emergency benefit period:

(1) when the insured unemployment rate in the State under the State extended benefit trigger is 4.0 percent and 120 percent of the rate for the comparable period in the preceding two years; and

(2) when the national insured unemployment rate under the national extended benefit trigger is 4.5 percent.

As part of the Tax Reduction Act of 1975 (Public Law 94–12) Congress increased the maximum period for which Emergency Unemployment Compensation could be paid, from 13 weeks (as provided by Public Law 93–572) to 26 weeks. The provision was to be in effect through June 30, 1975 only. Further modifications effective through March 31, 1977 were made by Public Law 94–45 described below.

The Emergency Compensation and Special Unemployment Assistance Extension Act of 1975 (Public Law 94–45)

The Emergency Compensation and Special Unemployment Assistance Extension Act of 1974 (Public Law 94–45) made important changes in both the Emergency Unemployment Compensation Act of 1974 and the Special Unemployment Assistance program established under the Emergency Jobs and Unemployment Assistance Act of 1974. (The changes in the Special Unemployment Assistance program are described in Section IV immediately following.)

Public Law 94–45 extended through December 31, 1975 the period in which individuals could be paid up to 26 weeks of emergency benefits. From January 1, 1976, through March 31, 1977 the insured unemployment rate in individual States determines whether emergency benefits are payable. When the insured unemployment rate in

a State is more than 5 percent, but less than 6 percent, workers in that State can be paid up to 13 weeks of emergency benefits; when the rate is 6 percent or more, up to 26 weeks of emergency benefits are payable. When the insured unemployment rate in a State drops below the 6 percent or 5 percent level, however, unemployed workers in the State who are receiving emergency benefits can continue to receive such benefits. (See Exhibits 2 & 3). Benefits would continue for up to a maximum of 13 additional weeks or, if less, the number of additional weeks of benefits the individual would have qualified for if the insured unemployment rate had not declined. The last week for which new claims for emergency benefits can be filed was changed from the last week ending on or before December 31, 1976 (i.e., the week beginning December 20, 1976) to the last week ending on or before March 31, 1977 (i.e., the week beginning March 20, 1977).

In addition, an individual who applies for more than 39 weeks of unemployment compensation is required as a condition of eligibility to be either participating in or to have applied for a job-training program if the Secretary of Labor has determined that the individual's occupational skills need upgrading or broadening.

IV. SPECIAL UNEMPLOYMENT ASSISTANCE

Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 (P.L. 93–567), provided a temporary system of Special Unemployment Assistance (SUA) which pays unemployment benefits to individuals who have prior labor force attachment but who are not covered under a State or Federal unemployment insurance program. Generally, this applies to individuals formerly employed in State or local government, agriculture and domestic service. This program was to end December 31, 1975 but was extended through December 31, 1976 by Public Law 94–45. (See Exhibit #3).

In order to be eligible, an individual must meet the regular State employment and earnings requirements, but during the most recent 52-week period, rather than during the regular State base period. Weekly benefit amount and number of weeks of benefits under Public Law 93–567 are the same as they would have been under the applicable State law, except that initially no claimant could receive more than 26 weeks of benefits.

In addition to extending the program through 1976, Public Law 94–45 increased from 26 weeks to 39 weeks the maximum number of weeks for which an individual can receive payments. This law also provided that the special assistance payments cannot be made to teachers, researchers, and individuals in principal administrative positions for periods between school terms or school years if they have employment contracts for both such terms or years.

Payments of Assistance under this temporary program are made when either of two indicators is met:

1. *National.* A national "on" indicator occurs when the rate of total unemployment (seasonally adjusted) averages 6 percent or more for three consecutive calendar months.

2. *Local Area.* An area "on" indicator occurs when the area's rate of total unemployment (unadjusted) averages 6.5 percent or more for

three consecutive calendar months. (Local areas are political entities of over 100,000 in population).

An "off" indicator will occur, ending assistance payments in a local area, when *neither* "on" indicator is in effect.

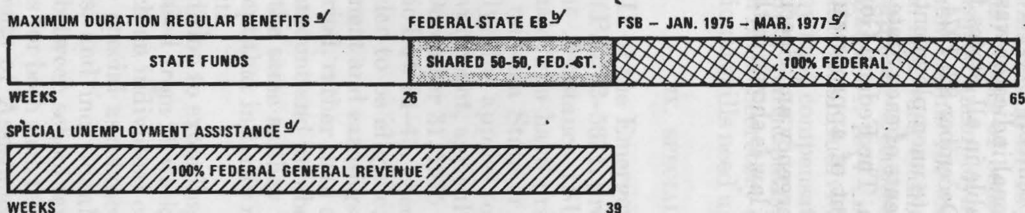
Title II of Public Law 93–567 provided that any or all of the three consecutive calendar months used for computation of rate of unemployment might have occurred prior to date of enactment December 31, 1974. Since the unemployment rate for September, October, and November 1974 averaged over 6 percent, a national indicator was "on" for December 1974, and benefits were first payable in all States for weeks of unemployment beginning on and after December 22, 1974.

This program is administered by the State unemployment compensation agencies, under the general requirements of each State law as to eligibility and conditions of disqualification. The Federal Government pays the entire cost of benefit payments out of appropriations from general revenues.

The duration of Regular, Extended, Emergency and Special Unemployment Assistance Benefits under current law is shown in the following charts (Exhibits 2 and 3).

PRESENT LAW – 1975

Duration of Benefits Under Permanent and Temporary Unemployment Benefit Programs



a/ Regular benefits (State unemployment insurance laws): In 42 States, the maximum regular duration is 26 weeks, but only 6 of these States provide all eligible claimants with 26 weeks; in the other 36 States, potential duration for a significant proportion of beneficiaries is less than 15 weeks. Puerto Rico has uniform duration of 20 weeks. Nine States, one of which provides all eligible claimants with 30 weeks, have regular durations exceeding 26 weeks.

b/ Federal State Extended Benefits (EB) (Federal-State Extended Unemployment Compensation Act of 1970): Permanent program, triggered into operation by high State or national insured unemployment rates. Maximum duration is 13 weeks, or 39 total of regular and EB; individual gets half his regular duration. In the 9 States with a regular maximum longer than 26 weeks, the weeks in excess of 26 paid during an extended benefit period are financed on a 50-50 basis.

c/ Federal Supplemental Benefits (FSB) (Emergency Unemployment Compensation Act of 1974, as amended and extended by sec. 701, Tax Reduction Act of 1975, and the Emergency Compensation and Special Unemployment Assistance Act of 1975): Temporary 2-year program, triggered by same insured unemployment rates as Federal-State EB. Individual duration equal to regular duration, not exceeding 26 weeks. Not available after March 31,1977. Subject to triggering off beginning January 1, 1976, by reason of lower insured unemployment rate in the State.

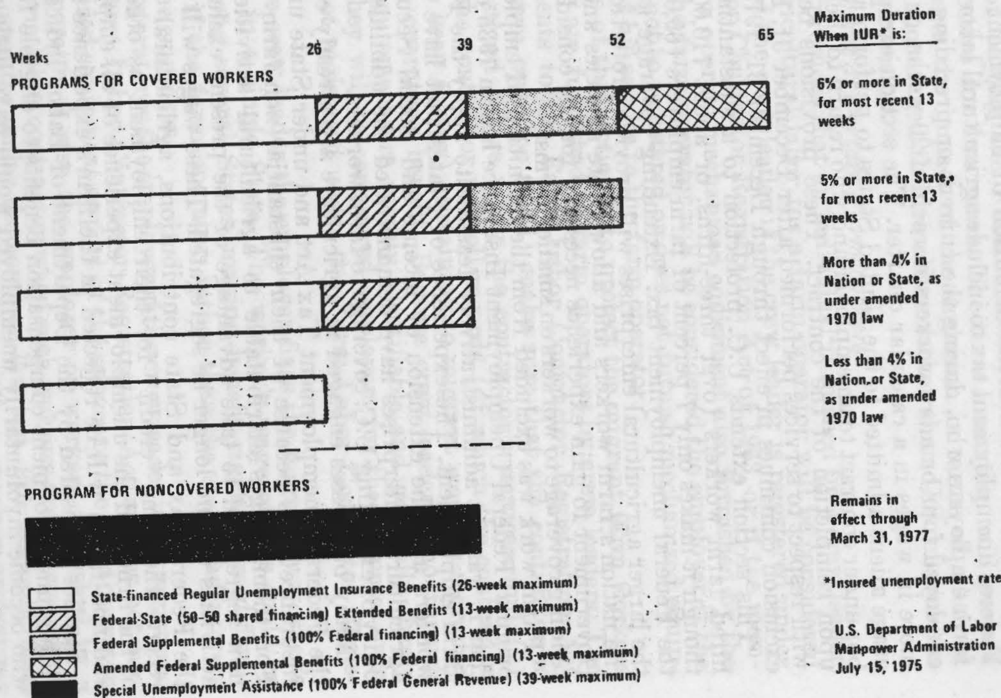
d/ Special Unemployment Assistance (SUA) (Title II, Emergency Jobs and Unemployment Assistance Act of 1974 as amended and extended by the Emergency Compensation and Special Unemployment Assistance Act of 1975): Temporary 2-year program of Federal benefits for workers not eligible for regular State benefits. Benefit amount based on applying State benefit formula to individual's employment, disregarding difference between covered and noncovered work. Maximum duration 39 weeks.

U.S. Department of Labor
Manpower Administration
Unemployment Insurance Service
July 15, 1975

PRESENT LAW – 1976

Extention of Temporary Unemployment Benefits under Emergency Compensation and Special Unemployment Assistance Extension Act of 1975 (Public Law 94-45)

Gradual Reduction of Temporary Programs on a State by State Basis as Unemployment Situation Improves in Each State (Beginning January 1, 1976)



VI. Section by Section Explanation and Justification

TITLE I—EXTENSION OF COVERAGE PROVISIONS

Part I—General Provisions

Sec. 111. Coverage of Certain Agricultural Employment

This section amends the definition of employment subject to the Federal unemployment tax to include agricultural labor performed for farm employers who, during the current or preceding calendar year, employed four or more workers in each of 20 weeks, or paid $5,000 or more in wages in a calendar quarter. The section excludes from coverage aliens admitted to the United States to perform agricultural labor under contract to an employer and who return to their own country upon completion of the contract. These provisions become effective with respect to services performed after December 31, 1976. The alien exclusion continues in effect through December 31, 1978.

This section extends U.C. protection to a substantial majority of hired farm workers (over three-fifths, or about 710,000 jobs), even though it makes only 7 percent of farm employers (69,000) subject to the Federal unemployment tax. Extending coverage at this time to the larger agricultural enterprises will provide protection for most of the nation's farm workers and allow State agencies and the Federal Government to gain experience necessary for the consideration of extending coverage to workers on smaller farms.

Farm work was excluded from the definition of employment in the original Federal Unemployment Insurance law in 1935 on the ground that it was not administratively feasible to apply the Federal tax to farm employment. The experience of States that have covered farm workers and the extension of income and Social Security taxes to agricultural enterprises have demonstrated the administrative feasibility of extending U.C. coverage to farm workers.

Many businesses engaged in agriculture are already covered under the Federal Unemployment Tax Act and under State unemployment insurance laws because of their substantial non-farm employment. For them, wages attributable to agricultural activities which are now segregated to take advantage of the present exclusion of such activities will no longer be segregated. These wages will be subject to the Federal tax and State contributions, agricultural workers will receive the same "credit" for their employment as other employees of the firm, and the unemployment experience of all employees (farm and non-farm) will be reflected in the firm's experience rating.

Studies sponsored by the Department of Labor indicate that providing unemployment compensation benefits to eligible farm workers who become involuntarily unemployed would have little or no impact on overall unemployment compensation cost rates in the 18 States surveyed. In two States—California and Florida—the inclusion of farm workers in the unemployment compensation program would produce a small increase in the overall benefit cost rates of the program. California has recently amended its law to extend coverage to agricultural labor, making a total of three states (California, Minnesota and Hawaii plus Puerto Rico and Washington, D.C.) that presently cover farmworkers.

The alien exclusion provided in this section affects approximately 10,000 to 13,000 individuals who are brought into the United States under sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act to work during peak agricultural crop seasons, primarily in Florida. Since they return to their country of origin upon completion of the contract, they are unlikely ever to qualify for or receive benefits. The alien exclusion, which relieves farm employers of the necessity of paying the Federal unemployment tax for these workers, is effective for two years. The time limitation will permit Congress to assess the impact of the exclusion in terms of whether employers are encouraged to hire aliens rather than U.S. citizens as a result of this provision.

Sec. 112. Treatment of Certain Farmworkers

This section provides that an individual furnished by a crew leader to perform agricultural labor for a farm operator will be considered the employee of the crew leader if the crew leader is registered under the Farm Labor Contractor Registration Act of 1963, or if the members of the crew operate mechanized equipment also furnished by the crew leader. The farm operator will be considered the employer if the crew leader is not so registered or does not furnish mechanized equipment as part of his service to the farm operator.

The purpose of this section is to protect the migrant farm workers whose services are furnished to farm operators by crew leaders. The 1974 amendments to the Farm Labor Contractor Registration Act require the farm operator to (1) make sure that the contractor is properly registered before using the contractor's services, and (2) obtain from the contractor payroll records (of which the contractor is required to keep a copy) pertaining to migrant workers recruited for the farm operator's benefit. Because crew leaders who furnish mechanized equipment are readily identifiable and generally firmly established, they will be considered employers for the purposes even if they are not registered under the Farm Labor Contractor Registration Act.

Making the crew leader the employer fixes the migratory worker's wage credits in a single State. The worker's wage credits could be scattered among several States, making benefit rights more difficult to establish, if the farm operator, rather than the crew leader, were designated the employer.

The farm operator is the employer if the crew leader is not registered under the Farm Labor Contractor Registration Act or does not furnish mechanized equipment as part of the service to the farm operator. The farm operator is also the employer of workers furnished by a registered farm labor contractor when such workers are the employees of the farm operator under the common law test. For example, some farm operators employ individuals to recruit farm workers exclusively for them. Although these individuals may be required to register under the Farm Labor Contractor Registration Act, the farm workers are employed directly by the farm operator. The farm operator will be considered the employer in these cases.

Sec. 113. Coverage of Domestic Service

This section extends the Federal unemployment tax to wages paid for domestic service in a private home, local college club, or local

chapter of a college fraternity or sorority if the employer paid $600 or more for such service in any calendar quarter. This section is effective after December 31, 1976.

This section extends unemployment compensation protection to about 400,000 workers, or about 27 percent of all employment in domestic service. The domestic workers covered by this provision have demonstrated substantial labor force attachment in the States which now cover domestic service employment. They include chauffeurs, social secretaries, cooks, maintenance people and others who would be covered under present law if they worked in commercial or nonprofit establishments. New York and the District of Columbia currently provide coverage if the employer's quarterly payroll for domestic service is at least $500, Hawaii if the employer's quarterly payroll is at least $225, Arkansas if it is $500 or the employer has 3 or more domestic workers. The calendar quarterly payroll criterion was set at $600 in order to exclude the household which employs a single day worker each week.

Sec. 114. Definition of Employer

This section amends the definition of employer for FUTA purposes to conform with the definition of employment and wages pertaining to domestic and agricultural service added in Sections 111-113 of this bill. It defines employer for Federal unemployment tax purposes generally and with respect to agricultural labor and domestic service.

Under a special rule, any person who qualifies for U.C. tax purposes as an employer of domestic services (because he paid at least $600 in a quarter for such services) will not be considered as employer for other covered services on the basis of the combined wages paid for domestic and other services. In order to qualify for U.C. tax purposes as an employer of other non-agricultural services, an employer of domestic workers will have to meet the general test (employ at least one worker in each of 20 weeks or have a quarterly payroll of at least $1,500), without consideration of his domestic workers or wages paid for domestic services. In order to be considered an agricultural employer, he will have to qualify as a farm employer (employ four or more farm workers in each of 20 weeks or pay at least $5,000 in quarterly wages for farm services), independent of any domestic services and wages. However, an employer who qualifies as an agricultural employer also meets the general test for employers (at least one worker in each of 20 weeks or a quarterly payroll of at least $1,500) and will be taxed with respect to other services, except domestic services, in his employ. This employer will still have to pay at least $600 in a quarter for domestic services in order to be covered for such service.

There are two reasons for the special rule applying to the definition of an employer of domestic services: (1) To prevent an employer of domestic workers from qualifying as an employer under the general test until he pays at least $1,500 in quarterly wages for other services; and (2) to prevent a person who qualifies as an employer under the general test or the agricultural employer test from qualifying as an employer of domestic services until he pays at least $600 in a quarter for such services.

Sec. 115. Coverage of Certain Service Performed for Nonprofit Organizations and for State and Local Governments

This section requires States, as a condition for tax offset credit to their employers, to extend coverage to employees of non-profit primary and secondary institutions of education, thus broadening present required coverage limited to non-profit institutions of higher education.

This section also requires States to extend coverage to all State and local government employment with certain specified exclusions. The exclusions apply to services performed by employees in the exercise of their duties as: elected officials; appointed officials whose terms are specified by law or who are not required to work on a full-time basis; members of legislative bodies or of the judiciary; members of the State National Guard or Air National Guard; employees hired for the duration of such emergencies as fire, storm, snow, earthquake, flood, or other similar emergencies; and inmates of custodial or penal institutions.

The purpose of this section is to provide unemployment compensation protection for approximately 600,000 jobs in State government and some 7.7 million jobs in local governments. States are now required to cover only State government employees of hospitals and institutions of higher education. At present, however, 29 States cover substantially all State government employees and 8 States cover most local government workers. States are also now required to permit local governments to elect coverage for their employees in hospitals and institutions of higher education.

Under this section, the current limitations on the payment of benefits between school terms to certain categories of college and university employees is retained. These provisions prohibit the payment of benefits based on services performed for an institution of higher education in an instructional, research, or principal administrative capacity during the period between academic years or terms, if an individual has a contract to perform similar services for both such years or terms for any institution of higher education. This section extends these provisions to instructors, researchers and administrators in *all* educational institutions. Thus, a teacher in a secondary school with a contract for both terms will be treated during periods between such terms the same as a college instructor.

This section also provides that, prior to January 1, 1979, States may deny benefits based on service performed in a capacity *other* than instructional, research, or administrative for an educational institution (other than an institution of higher education) during the period between two successive academic terms or similar periods, if the employee has reasonable assurance of being employed in such service during the later term.

The 2-year limitation on the States' option to provide for denial of benefits between school terms in the case of non-professional employees of primary, secondary and vocational educational institutions is consistent with current law in some States and will permit a reexamination of this provision by the Congress on the basis of State experience.

Under this bill the States are required to cover State and local government employees as a condition for receiving the 2.7 percent tax

credit and Federal grant for administering State unemployment insurance programs. The committee believes that there are no valid constitutional objections to this provision. Requiring such coverage as a condition for a tax credit is well within the Congressional power to lay and collect taxes for the General Welfare and does not infringe on State rights.

In *Steward Machine Co.* v. *Davis*, 301 U.S. 548 (1937), the Supreme Court held that Congress has the power to prescribe conditions for a tax credit under its authority to lay and collect taxes as long as the conditions are within the scope of national policy and are not arbitrary. Specifically, such prerequisites must be related in substance to the activity being taxed and a benefit must be provided in exchange for compliance with the condition. The condition in this bill, which requires the states to cover State and local government employees in exchange for a tax credit and a Federal grant, clearly meets this standard.

Steward Machine also answers the contention that the imposition of this condition for a tax credit infringes on State rights guaranteed by the Tenth Amendment. For the Supreme Court, in considering just such an attack upon the federal unemployment law, concluded that state power includes the authority to make contracts and consent to the offer by the Federal government of a Federal tax credit and grant. Under this bill, a Federal tax is not levied on the state government. Instead, the State has the option of consenting to the condition if it wants to participate in the Federal-State Unemployment Compensation system. A State which agrees to cover its state and local government employees is merely exercising its power to agree to cooperate with the Federal government in exchange for certain benefits.

Sec. 116. Extension of Federal Unemployment Compensation Law to the Virgin Islands

This section permits the U.S. Virgin Islands to become part of the Federal-State employment security system.

Under existing Federal law, the territory of the Virgin Islands is not considered a "State" for purposes of participating in the Federal-State employment security system. However, the Virgin Islands has its own unemployment compensation program, and the territorial government, through its Legislature and Governor, has formally requested that the Virgin Islands be included in the Federal-State system.

If the Virgin Islands is incorporated in the Federal-State U.C. system as provided in this section, the costs of administering its unemployment compensation program, now paid by Virgin Islands employers as part of their territorial unemployment insurance tax, will be borne by grants from the employment security administration account in the Federal Unemployment Trust Fund under Title III of the Social Security Act. The Virgin Islands will participate (on a 50/50 cost-sharing basis) in the Extended Benefit program of the Federal-State Extended Unemployment Compensation Act of 1970 (Title II, Public Law 91-373). And it will participate in the interstate, wage-combining arrangements which are mandatory under the Federal Unemployment Tax Act for members of the system.

The advantages to the United States of including the Virgin Islands in the system are the increased scope and coverage of the Federal-State system, the increased effectiveness of its interstate and multi-state operations, and the elimination of a tax advantage for Virgin Islands employers. Costs of administering the Virgin Islands Employment Service are now borne by general funds of the U.S. Treasury but, upon inclusion of the Virgin Islands in the Federal-State system, most of these costs will be financed by grants from the employment security administration account in the Federal Unemployment Trust Fund.

Under present law (Public Law 94-45), the Secretary of Labor is authorized to loan up to $5 million to the Virgin Islands to enable it to continue to pay benefits under its unemployment compensation program. These loans are interest free until January 1, 1978. After that date, interest will be charged on any outstanding loan. If the Virgin Islands is incorporated in the Federal-State unemployment insurance system, any outstanding loans at that point will be treated as though the Virgin Islands had been in the system. This means that, if the time for repayment has elapsed and any part of the loan remains outstanding, the increased Federal unemployment tax rates provided for in existing law for the purpose of recapturing overdue loans would immediately go into effect.

PART II—TRANSITIONAL PROVISIONS

Sec. 121. Federal Reimbursement for Benefits Paid to Newly Covered Workers During Transition Period

This section provides a transition from temporary protection under the Special Unemployment Assistance (SUA) program to coverage under the permanent Federal-State U.C. system for the 9.4 million workers newly covered by these amendments.

It provides Federal reimbursement to States out of general revenues for the cost of Regular and Extended benefits paid to newly covered workers from January 1, 1977 through June 30, 1977. States will also be reimbursed after June 30, 1977 in cases where they paid benefits based on newly covered wages earned prior to January 1, 1977.

These transition provisions seek to eliminate a gap in protection between the termination of SUA and the beginning of U.C. coverage under this bill. They provide that, if a State permits newly covered workers to collect U.C. benefits on wages earned *prior* to January 1, 1977 (thus permitting the payment of benefits as early as January 1, 1977), the State will be reimbursed from Federal general revenues for benefits based on such wages.

Without these transition provisions, workers performing services in the newly covered categories (agricultural labor, domestic service, employees of non-profit schools and State and local governments) would not be eligible for either SUA or unemployment compensation after December 31, 1976. They would begin to accumulate wages or employment for U.C. purposes as of January 1, 1977. In most States, however, these workers would not qualify for any unemployment benefits on the basis of newly covered wage credits until October 1, 1977, and would not acquire 4 full quarters of wage credits until April 1, 1978. (Most States require earnings in at least two quarters of the base period and establish the base period as the first four of the

last five completed calendar quarters preceding the filing of a new claim.) Thus, there would be a hiatus of 9 months between the expiration of SUA for new claims and the earliest date most claimants could qualify for U.C. on the basis of newly covered employment, and a gap of 15 months between SUA protection and the acquisition of 4 full quarters of wage credits for U.C. purposes.

By July 1, 1977, benefits paid to newly covered workers in most States will be based on service performed both before and after January 1, 1977. After July 1, 1977, Federal reimbursement provided under these transition provisions will apply only to benefits based on newly covered services performed prior to January 1, 1977. Federal reimbursement will be phased out in most States with benefit years beginning after March 31, 1978 because, by that time, base periods established by most States will no longer include service performed prior to January 1, 1977. In a few States, however, the base periods at that point will still include 1976 wages. Also, there are a few States which extend base periods in an individual case of disability or receipt of workers' compensation.

Federal reimbursement will apply in any case only to the extent that benefits are based on services that were not covered at any time during 1975. This will prevent States from qualifying for Federal reimbursement by revoking coverage that had been extended to farm workers, domestics, non-profit schools, and State and local government employees prior to these amendments.

Federal reimbursement will also be limited to benefits based on newly covered services. When benefits are based on both newly covered and previously covered services, the reimbursable benefits will bear the same proportion to total benefits paid the individual as wages attributable to newly covered services bear to the individual's total base period wages. Federal reimbursement will also be limited to benefits based on wages earned in newly covered employment that were not previously used as a basis for SUA entitlement.

These provisions also permit States to relieve contributing employers of charges to their experience rating accounts to the extent that benefits are payable, during the first half of calendar year 1977, because they are based in part on newly covered services or, after July 1, 1977, because they are based in part on newly covered services performed before January 1, 1977. States may also, under these provisions, relieve reimbursing employers of the costs of such benefits.

Alternatives to the transition provisions contained in this section would be either to permit SUA to expire and provide no transition, or to extend SUA one year or more and phase in coverage gradually. The first alternative would permit the gap in protection described above at a time of serious unemployment, leaving thousands of workers without unemployment benefit protection. The second alternative would be twice as costly as the transition provisions in this bill and perpetuate SUA, a program established as a temporary emergency measure.

Sec. 122. Transitional Rules in Case of Nonprofit Organizations

This section applies to non-profit organizations which had been covered under State law, had been liable for contributions, and at the earliest available opportunity elect the reimbursement method for

financing benefit costs based on employment newly covered by these amendments. This section permits States to allow such organizations to apply any excess of contributions paid over benefits charged to their accounts to future reimbursement liability. This corresponds to a similar provision in the Employment Security Amendments of 1970 which first extended coverage to services performed for non-profit organizations.

A technical amendment to section 3303(f) modifies the 1970 amendments which also permitted non-profit organizations covered prior to those amendments to use positive reserve balances to offset reimbursement costs, Section 3303(f) was interpreted as limiting this opportunity to organizations with a continuous period of coverage. Non-profit organizations that had elected coverage, and then later withdrew before coverage became mandatory, were prevented from applying any reserve balance to future reimbursement costs. This amendment would permit such organizations to apply accumulated reserves to their reimbursement liability if they had elected the reimbursement method before April 1, 1972.

TITLE II—FINANCING PROVISIONS

Sec. 211. Increase in Federal Unemployment Tax Wage Base and Rate

This section increases both the taxable wage base and the tax rate of the Federal unemployment tax. The taxable wage base (now $4,200) is increased to $8,000, effective with respect to remuneration paid after December 31, 1976.

The Federal unemployment tax rate, now 3.2 percent of taxable wages, is increased to 3.4 percent, effective for remuneration paid after December 31, 1975. The tax rate increase is a temporary measure that will expire beginning January 1, 1982, or January 1 of the first calendar year following 1975 in which there are no outstanding repayable advances to the Extended Unemployment Compensation Account in the Federal unemployment trust fund, whichever of these occurs first.

Increasing the Federal tax rate from 3.2 percent to 3.4 percent raises the net Federal tax (3.4 minus the 2.7 percent credit to employers subject to approved State unemployment compensation laws) from 0.5 percent to 0.7 percent. The 0.2 percent increase is used to raise the proportion of Federal unemployment tax revenue earmarked for the Extended Unemployment Compensation Account from one-tenth under present law (the equivalent of 0.05 percent) to five-fourteenths (the equivalent of 0.25 percent).

The U.C. program is no longer self-supporting, and the financial structure of the system at both the State and Federal levels is seriously threatened:

> Fifteen States have depleted their U.C. funds and 25 to 30 will be forced to borrow from the Federal government by the end of calendar year 1976. As of December 15, 1975, the 15 States with depleted funds had borrowed $1.4 billion from the Federal loan fund. The Department of Labor estimates that, under present financing provisions, the State U.C. trust funds will have deficits

amounting to $16.5 billion in 1978, $19.3 billion in 1982 and $24.1 billion in 1984.

The Federal Unemployment Account (from which the States with depleted trust funds borrow money) and the Extended Unemployment Compensation Account (which finances the Federal share of the Extended Benefits program) are both depleted and borrowing Federal general revenues. The Department of Labor projects that, under the existing tax base and net Federal tax rate, the Federal U.C. trust funds will have a deficit of $6.2 billion in 1978, increasing to $8.2 billion in 1982 and $9.6 billion in 1984.

According to DOL estimates, unless changes are made in existing financing provisions, the Federal and State U.C. trust funds will have combined deficits of $22.7 billion in 1978, increasing to $27.5 billion in 1982 and $33.7 billion in 1984.

These deficits are the result of unprecedented costs during the recent period of high unemployment and the failure of Congress and the States to maintain adequate financing. Originally there was no limitation on the amount of individual wages subject to the U.C. tax. A $3,000 limitation was adopted in 1939 primarily because of the $3,000 limitation in the old-age and survivors insurance program. Using the same wage base was supposed to facilitate reporting under both programs. Increases in the Federal U.C. tax base (now $4,200) have not kept pace with increases in the Social Security tax base (now $14,100). Currently, only 49.6 percent of total wages are subject to the Federal U.C. tax, and it is estimated that the proportion would decline to less than 40 percent by 1981 under the current wage base of $4,200. The $8,000 taxable wage base contained in this bill represents 61.5 percent of total wages in 1977 and would still be above 50 percent in 1981.

The increase in the taxable wage base to $8,000 will be effective as of January 1, 1977. This will allow States enough time to increase the State U.C. tax base to $8,000 and thereby assure employers a full offset credit against the $8,000 Federal (FUTA) base. (Thirty-nine States provide for an automatic increase in the State U.C. wage base when the Federal wage base is increased.) The increase in the Federal tax rate, which does not require subsequent State legislative action, will be effective at the earliest possible date, January 1, 1976. The Department of Labor estimates that these changes will raise an additional $6.3 billion ($1.6 billion in Federal revenues and $4.7 billion in State revenues) in fiscal 1978. According to DOL projections, these additional revenues will produce a positive balance in the Federal U.C. trust funds and a positive "average balance" in the States' U.C. trust funds in 1981.

The financing amendments in this bill seek to restore fiscal soundness at the State and Federal level as soon as possible and to distribute fairly the impact of the tax on all employers. Further steps may be needed in the future. A study of the long-range needs and viable solutions will be one of the major tasks of the proposed National Commission.

Sec. 212. Financing Coverage of State and Local Government Employees

This section requires that, effective January 1, 1978, Federal grants to States for the administrative costs of unemployment compensation and employment services will no longer include costs attributable to State and local government employees. Effective at the same time, the Federal share of benefits paid under the Extended Benefits Program (benefit weeks 27 to 39) will no longer include the costs of extended benefits paid to State and local government employees.

Federal administrative grants to the States and the Federal share of benefits paid under the Extended Benefit Program are financed out of revenues raised by the Federal U.C. tax, presently 0.5 percent of the first $4,200 of wages. State and local governments, including those that currently provide unemployment compensation protection for their employees, do not pay this tax and will not be required to do so under this bill. Therefore, Federal administrative grants and the Federal share of extended benefits attributable to their employees will not be financed out of the Federal U.C. tax revenues. States, or State and local governments, will have to absorb these costs.

Sec. 213. Advances to State Unemployment Funds

This section allows States to request loans from the Federal unemployment trust funds to pay unemployment compensation benefits for a 3-month period, rather than a 1-month period.

Under Title XII of the Social Security Act, a State which faces the prospect of being unable to pay U.C. benefits because of depletion of its unemployment fund may apply for an advance from the Federal unemployment account in the Federal Unemployment Trust Fund. Procedures for application for such advances appear in Title XII. Procedures for repayment of such advances appear in sections 3302 (c)(3) and 3302(d)(2) of the Internal Revenue Code of 1954. The bill would amend both Title XII and the Federal Unemployment Tax Act.

Under present law, a State must apply not more than a month in advance for funds needed to meet benefit costs during the stated month. That is, a State requiring funds in February must apply in January. This bill permits a State to apply a month in advance for funds required to meet benefit costs during the stated 3-consecutive-month period. For example, a State would apply in January for funds needed for February, March, and April benefit payments. This permits States to avoid the necessity of requesting advances for a month at a time on short notice, and thereby provides them a better opportunity to plan for and adjust to unanticipated shortages.

Sec. 214. Proration of Costs of Claims Filed Jointly Under State Law and Section 8505 of Title 5, United States Code

This section provides that, when an individual's U.C. benefits are based on both Federal and non-Federal employment, the Federal percentage of the cost will be the same percentage that the Federal wages bear to total base period wages.

This would be substituted for the present "added cost" method of determining the Federal share prescribed in section 8505(a) of title 5 of the United States Code. Under that method, Federal costs extend

to the amount benefits are increased by reason of Federal wages, or to the total amount of benefits if eligibility is possible only by the addition of Federal wages.

In most cases, benefits paid to ex-servicemen and former Federal employees are based solely on their Federal service and Federal wages; they have no other base period employment. In such cases the Federal government reimburses the States for 100 percent of benefits paid. The proposed change from the "added cost" method to the "prorata" method of computation applies to the small number of cases in which the base period includes both Federal wages and other wages subject to the State laws.

The "added cost" method of computing Federal reimbursements is complicated and expensive. With the addition to the unemployment compensation system of large numbers of other reimbursing employers (non-profit organizations, State government agencies, etc.), and with the introduction of a mandatory wage combining arrangement among States, the use of the "added cost" method of combination has become increasingly complicated and difficult to apply. The situation will be further complicated with the addition of large numbers of "reimbursing" employers in the State and local government coverage provided in this bill.

For the most part, States use the "pro rata" method for reimbursing employers other than the Federal Government, and Federal regulations require that the "pro rata" method be used in cases of wage combining among States. For UCFE–UCX cases, the proration of costs on a percentage basis is administratively preferable and equitable for both the Federal Government and State unemployment compensation funds. Its use would make little difference in the ultimate distribution of benefit costs.

Sec. 215. Federal Reimbursement for Unemployment Benefits Paid on Basis of Certain Public Service Employment

This section provides for reimbursement to the States from Federal general revenues for U.C. benefits paid on the basis of work in public service jobs funded under the Comprehensive Employment and Training Act of 1973 (CETA).

CETA requires that the same unemployment compensation protection afforded local public employees apply equally to CETA employees in corresponding jobs. The costs of benefits paid these employees are financed from CETA grants, thereby reducing the amount of grants available for CETA activities. In contrast to the States which have extended U.C. coverage to State and local government workers and consequently to CETA workers, prime sponsors in other States incur no U.C. costs since former CETA workers are protected under the SUA program, financed from general Federal revenues. Extension of coverage to State and local government workers under this bill will mean a drain on CETA grants in all States.

This section provides for Federal general revenue financing of all U.C. benefits paid to unemployed CETA employees. CETA grants may then be used solely for CETA activities without substantial depletions otherwise necessary to cover the costs of benefits paid these workers.

TITLE III—BENEFIT PROVISIONS

Sec. 311. Amendments to the Trigger Provisions of the Extended Program

This section modifies the trigger mechanism in the Extended Benefits Program to provide for the payment of up to 13 weeks of extended benefits (benefit weeks 27–39) in a State when either of the following conditions is met:

(1) there is a national insured unemployment rate of 4.5 percent (seasonally adjusted) based on the most recent 13-week period; and/or

(2) there is a State insured unemployment rate of 4.0 percent (seasonally adjusted) based on the most recent 13-week period.

Under current law, the Extended Benefits Program (Title II of the Employment Security Amendments of 1970) triggers "on" for all States when the seasonally adjusted insured unemployment rate (IUR) for the Nation is 4.5 percent for three consecutive months. Nationwide payment of extended benefits triggers "off" when the rate falls below the required level for three consecutive months. (This requirement has been modified temporarily to permit a State to elect, by law, to apply a 4.0 percent national trigger.) Extended benefits may also be payable in a State without regard to the national IUR if two conditions are met:

(1) the unadjusted insured unemployment rate for that State has averaged 4 percent for any 13-consecutive-week period: and

(2) the rate has exceeded 120 percent of the State's average IUR for the corresponding 13-week period in the two preceding years.

The State "on" trigger remains in effect until the State's unadjusted IUR for any 13-week period drops below either the 4 percent IUR or 120 percent of the 13-week average rate for the two preceding years. Once triggered "on", both national and State programs must remain on for at least 13 weeks.

The intent of the trigger mechanism contained in the 1970 Amendments was to establish an extended benefit program which would provide early response to adverse economic conditions and end when the need had passed. The triggers have been unsatisfactory, particularly during periods when high unemployment has continued over a protracted period. Specifically, the 120 percent factor would have prevented payments of extended benefits on several occasions in States where the unemployment rate was high and payment of extended benefits appeared appropriate. For example, if the national trigger was not on, a State with a 10 percent unemployment rate for two successive years would trigger off extended benefits at the beginning of the third year unless the rate increased to 12 percent, or 20 percent higher than the preceding two years. Since enactment in 1970, Congress has legislated on seven different occasions to waive the 120 percent factor in order to permit payment of extended benefits.

Under this section, the "on" indicator for the Nation will continue to be a seasonally adjusted insured unemployment rate of 4.5 percent,

but it will be based on a moving 13-week average rather than the average for a 3 consecutive month period. Going to a 13-week moving average will make the national trigger more responsive to changes in national unemployment levels. For a State, the "on" indicator will be a seasonally adjusted rate of 4.0 percent, for a moving 13-consecutive-week period. The "off" indicator for the Nation and for a State will be failure to satisfy either requirement.

Sev. 312. Pregnancy Disqualifications

This section prohibits States from denying compensation solely on the basis of pregnancy or the termination of pregnancy.

At the present time, 19 States have provisions which, in effect, deny benefits because of pregnancy. They vary from State to State, but they are all inequitable in that they deny benefits without regard to the woman's ability to work, availability for work, or efforts to find work.

Under eligibility provisions applicable to all claimants, including pregnant women, anyone who is physically unable to work or who is unavailable for work is ineligible for benefits. These determinations are made on the basis of the facts of each individual case and make discriminatory disqualifications because of pregnancy unnecessary.

Sec. 313. Repeal of Finality Provision

This section makes Federal employees' claims subject to the same adjudication procedures that apply to the claims of other workers.

Section 8506(a), Title 5, United States Code, provides, in regard to Unemployment Compensation for Federal Employees (UCFE), that findings of fact by a Federal agency are final with respect to performance and periods of Federal service, amount of Federal wages, and reasons for termination of Federal service. This is referred to as the "finality" clause.

Title III of the Social Security Act, Section 303(a), sets forth the requirements a State U.C. law must meet in order to qualify for administrative grants. It requires that the State law must provide:

> (3) Opportunity for a fair hearing, before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied;

In this context, fair hearing has been understood to mean that decisions on benefit appeals must be based on facts found by the impartial tribunal at a hearing on the appeal at which all interested parties have an opportunity to appear and be heard. With respect to Federal employees, the "finality" provision requires that facts critical to the disposition of the case, particularly the employing agency's reasons for separation from employment, must be accepted by the tribunal.

The provision in this section insures Federal employees the same fundamental right to fair hearing and adjudication of contested claims required for all other covered employees, including the right to challenge an employer's version of the facts and have the tribunal itself find the facts on the basis of the testimony presented at the hearing.

TITLE IV—NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Sec. 411. National Commission on Unemployment Compensation

The bill establishes a National Commission on Unemployment Compensation which will undertake a thorough and comprehensive examination of the present unemployment compensation system and proposed changes, and make recommendations for further improvements. The Commission will be comprised of 3 Members appointed by the President Pro Tempore of the Senate, 3 Members by the Speaker of the House of Representatives, and 7 by the President of the United States. Selection of members of the Commission will be coordinated in order to assure a balanced representation of interested parties. The membership will include representatives of employers (including agricultural employers, State and local governments, and, to the extent possible, representatives of small and large firms and low and high-wage industries), representatives of employees (including public employees and agricultural workers), and representatives of the general public.

The Commission is specifically charged with, but not limited to, study and evaluation of a broad array of issues which need to be addressed, including the following:

(1) the adequacy, and economic and administrative impacts of the changes made by this Act in coverage, benefit provisions, and financing;

(2) appropriate purposes, objectives, and future directions for unemployment compensation programs; including railroad unemployment insurance;

(3) issues and alternatives concerning the relationship of unemployment compensation to the economy, with special attention to long-range funding requirements and desirable methods of program financing;

(4) eligibility requirements, disqualification provisions and factors to consider in determining appropriate benefit amounts and duration;

(5) the relationship between unemployment compensation programs and manpower training and employment programs; and

(6) the appropriate role of unemployment compensation in income maintenance and its relationship to other social insurance and income maintenance programs.

Changes contained in this bill that should be examined by the Commission include the following:

(1) extension of coverage to agricultural and domestic workers;

(2) extension of certain non-resident aliens admitted to the U.S. to perform agricultural work;

(3) definition of employer in the case of agricultural workers supplied by a crew leader;

(4) eligibility of school employees during periods betwen academic terms;

(5) triggers for the Extended Benefits Program; and

(6) the increase in the taxable wage base and the temporary increase in the net Federal tax rate.

The following should be included among the proposed changes that are examined and evaluated by the Commission:

(1) broadening coverage for agricultural and domestic employees;
(2) establishing a Federal weekly benefit amount requirement;
(3) extending Regular duration of benefits;
(4) establishing a Federal minimum qualification and duration requirement;
(5) replacing the triggers in the Extended Benefits Program with an individual duration of work requirements;
(6) triggering in and out areas smaller than States under the Extended Benefit Program;
(7) eliminating the waiting week, or paying benefits for the waiting week retroactively after a specified period of time;
(8) requiring that payment of benefits may not be terminated without a full evidentiary hearing when a State agency challenges the claim;
(9) limiting the maximum disqualification period for voluntary job-leaving or discharge for misconduct;
(10) prohibiting States from denying benefits to individuals who are unavailable for work due to short-term illness or impairment;
(11) improving administrative procedures and practices used by the state agencies in processing U.C. claims and providing employment services;
(12) providing special unemployment assistance and employment services to new entrants and re-entrants into the work force;
(13) financing benefits beyond 39 weeks of regular and extended benefits out of Federal general revenues;
(14) establishing an automatically escalating taxable wage base;
(15) establishing a minimum State tax rate;
(16) establishing a State solvency requirement;
(17) applying the net Federal tax to non-profit organizations and State and local governments;
(18) permitting States to allow reimbursement employers to limit maximum reimbursement liability in any year through the payment of a supplemental tax;
(19) eliminating the Federal requirement pertaining to experience rating.
(20) deferring repayment of State loans from the Federal unemployment account; and
(21) establishing a system of benefit cost reinsurance or benefit cost equalization to limit State financing burdens during high unemployment periods.

The Commission is directed to transmit a final report to the President and the Congress not later than January 1, 1978, containing a detailed statement of findings and conclusions, together with such recommendations as the Commission deems advisable. This reporting date should permit enough time for the Commission's study, while

permitting reasonably timely Congressional consideration of the need for changes revealed by the report.

The Federal Advisory Council on Unemployment Insurance (composed of labor, management and public members who advise the Secretary of Labor on the Nation's Unemployment Compensation program) unanimously recommended the establishment of a National Commission on Unemployment Compensation in both 1974 and 1975. There are two primary reasons for the study by a national commission provided in this section. First, it has been 40 years since the establishment of the basic unemployment compensation program. Changes have been made in the program on an "ad hoc" basis, at both the State and Federal level, that have not received a sufficiently thorough and comprehensive examination. Second, the changes made in this bill are limited in scope and do not address many of the problems and proposed changes that have been raised. It is appropriate that past changes, the changes contained in this bill, and issues such as further broadening of coverage and modifying the benefit structure and financing provisions be considered and evaluated by a national commission.

VII. Section-By-Section Analysis

Section 1 contains the short title of the bill—"The Unemployment Compensation Amendments of 1975". The remainder of the bill is divided into four titles as follows:

TITLE I—EXTENSION OF COVERAGE PROVISIONS

TITLE II—FINANCING PROVISIONS

TITLE III—BENEFIT PROVISIONS

TITLE IV—NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

TITLE I—EXTENSION OF COVERAGE PROVISIONS

Part I—General Previsions

Sec. 111. Coverage of Certain Agricultural Employment

Section 111(a) amends section 3306(b) of the Internal Revenue Code of 1954 to provide that only cash remuneration paid for agricultural labor will be treated as wages for purposes of the Federal unemployment tax. As a result, the Federal unemployment tax will not be imposed with respect to non-cash remuneration paid for agricultural labor.

Section 111(b) amends section 3306(b) of the Internal Revenue Code of 1954 to provide that agricultural labor performed for certain employers will be treated as employment for purposes of the Federal unemployment tax. Under the amendment, agricultural labor will be treated as employment if such labor is performed for an employer who, during any calendar quarter in the calendar year or the preceding calendar year, paid cash remuneration of $5,000 or more for individuals

employed in agricultural labor or who on each of some twenty days during the calendar year or the preceding calendar year employed at least four individuals in agricultural labor. The amendment also provides that agricultural labor performed before January 1, 1979, by aliens who are admitted to the United States pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act will not be treated as employment for purposes of the Federal unemployment tax. The Federal unemployment tax will be imposed on wages paid for agricultural labor which is treated as employment.

The amendments made by section 111 apply with respect to remuneration paid after December 31, 1976, for services performed after such date.

Sec. 112. Treatment of Certain Farmworkers

Section 112 amends section 3306 of the Internal Revenue Code of 1954 by adding to such section a new subsection (o) which contains special rules for determining who will be treated as the employer, and therefore liable for the Federal unemployment tax, in the case of agricultural workers who are members of a crew furnished by a crew leader to perform agricultural labor for a farm operator.

Under paragraph (1) of the new subsection (o), individuals who are members of a crew furnished by a crew leader to perform agricultural labor for a farm operator will be treated as employees of the crew leader if the crew leader is registered under the Farm Labor Contractor Registration Act of 1963 or if substantially all the members of such crew operate or maintain mechanized equipment furnished by the crew leader. A member of a crew furnished by a crew leader to perform agricultural labor for a farm operator will not, under such paragraph (1), be treated as an employee of the crew leader if under the common law definition of employee such individual would be treated as an employee of the farm operator.

Under paragraph (2) of the new subsection (o), any individual who is furnished by a crew leader to perform agricultural labor for a farm operator and who is not treated as an employee of the crew leader under paragraph (1) of such subsection will be treated as an employee of the farm operator. In such a case, the farm operator will be treated as having paid wages to such individual in an amount equal to the amount of wages paid to such individual by the crew leader.

Paragraph (3) of the new subsection (o) defines crew leader to mean any individual who furnishes individuals to perform farm agricultural labor for any other person, who pays the individuals so furnished by him for such agricultural labor, and who has not entered into a written agreement with such other person under which he is designated as an employee of such other person.

The amendment made by section 112 applies with respect to remuneration paid after December 31, 1976, for services performed after such date.

Sec. 113. Coverage of Domestic Service

Section 113 amends section 3306(c) of the Internal Revenue Code of 1954 so as to treat domestic service in a private home, local college club, or local chapter of a college fraternity or sorority as employment if such domestic service is performed for an employer who paid cash

remuneration of $600 or more for such domestic service in any calendar quarter in the calendar year or the preceding calendar year. As a result, the Federal unemployment tax will be imposed on wages paid for such domestic service.

The amendment made by section 113 applies with respect to remuneration paid after December 31, 1976, for services performed after such date.

Sec. 114. Definition of Employer

Section 114(a) amends section 3306(a) of the Internal Revenue Code which defines employer for purposes of the Federal unemployment tax.

The amendment makes it clear that any person who, during any calendar quarter in the calendar year or the preceding calendar year, paid wages of $5,000 or more for agricultural labor or who, during the calendar year or the preceding calendar year, employed at least four individuals in agricultural labor will be treated as an employer. Such a person shall also be treated as an employer with respect to services other than agricultural labor.

Under the amendment, a person who pays more than $600 in wages to individuals performing domestic service in a private home, local college club, or local chapter of a college fraternity or sorority will be treated as an employer. Any person treated as an employer with respect to such domestic service will not be treated as an employer with respect to any other type of service unless such person is defined as an employer with respect to such other services.

Section 114(b) makes a technical amendment to section 6157(a) of the Internal Revenue Code of 1954 which requires the payment of unemployment taxes on a quarterly or other time period basis. The amendment is required because under the amendment made by section 114(a) a person may be treated as an employer with respect to some services but not with respect to others. As a result a technical amendment is needed to section 6157(a) which, in its present form, reflects the fact that under existing law, if a person is an employer, he will be treated as an employer with respect to all services subject to the Federal unemployment tax.

The amendments made by section 114 applies with respect to remuneration paid after December 31, 1976, for services performed after such date.

Sec. 115. Coverage of Certain Service Performed for Nonprofit Organiaztions and for State and Local Governments

Section 115(a) amends section 3309(a)(1)(B) of the Internal Revenue Code of 1954 so as to require each State to pay unemployment compensation on the basis of employment by State and local governments as a condition for approval of the State unemployment compensation law by the Secretary of Labor under section 3304(a) of the Internal Revenue Code of 1954.

Section 115(b) amends section 3309(b) of the Internal Revenue Code of 1954 to provide that the State is not required to provide unemployment coverage of certain State or local government employees. The State is not required to cover any individual employed by a State or local government if such individual is (1) an elected official or an

appointed official if such appointed official serves for a specific term established by law or is not required to perform services on a substantially full-time basis; (2) a member of a legislative body, or a member of the judiciary, of a State or local government; (3) a member of the State national guard or air national guard; or (4) a temporary employee serving as a result of a fire, storm, snow, earthquake, flood, or other similar emergency, or (5) an inmate of a custodial or penal institution.

Section 115(b) also has the effect of requiring the State to pay unemployment compensation on the basis of services performed for all educational institutions. Under existing law, the State is only required to provide coverage of services performed for institutions of higher education.

Section 115(c) amends sections 3304(a)(6)(A) of the Internal Revenue Code of 1954 to provide that the existing rules dealing with the denial of unemployment compensation to teachers and other professional employees of institutions of higher education during periods between academic years or similar terms will also apply to the newly covered teachers and other professional employees of other educational institutions. However, the amendments made by section 115(c) provide for new rules for the treatment of nonprofessional employees of educational institutions which are not institutions of higher education. Under such new rules, the State may deny compensation to such nonprofessional employees for any week which begins before January 1, 1979, and which commences during a period between two successive academic terms or similar periods if the employee performed services in the first of such academic terms or similar periods and there is a reasonable assurance that such employee will perform such service the second of such academic terms or similar periods.

The amendments made by section 115 shall apply to certifications of States for 1977 and subsequent years, but only with respect to services performed after December 31, 1976.

Sec. 116. Extension of Federal Unemployment Compensation Law to the Virgin Islands

Section 116(a) amends section 1101(a) of the Social Security Act to treat the Virgin Islands as a State for purposes of those provisions of the Social Security Act which deal with unemployment compensation.

Section 116(b) amends the Internal Revenue Code of 1954 to treat the Virgin Islands as a State for purposes of the Federal unemployment tax. As a result of this amendment, employers in the Virgin Islands will be liable for the Federal unemployment tax.

Subsections (c), (d), and (e) of section 116 contain technical amendments to other Federal laws which are necessary to extend Federal unemployment compensation laws to the Virgin Islands.

In general, the amendments made by section 116 take effect on the day after the day on which the Secretary of Labor approves under section 3304(a) of the Internal Revenue Code of 1954 an unemployment compensation law submitted to him by the Virgin Islands for approval. The amendments made by section 116 to the Internal Revenue Code of 1954 apply to remuneration paid after December 31 of the year in which the Secretary of Labor approves such law, for services performed after such December 31. The Secretary of Labor may

not approve any unemployment compensation law submitted to him by the Virgin Islands until the governor of the Virgin Islands has approved the transfer to the Federal unemployment trust fund established by section 904 of the Social Security Act any amount in the unemployment sub-fund of the Virgin Islands established under section 310 of title 24 of the Virgin Islands Code.

PART II—TRANSITIONAL PROVISIONS

Sec. 121. Federal Reimbursement for Benefits Paid to Newly Covered Workers During Transition Period

Sections 111 and 113 have the effect of requiring States to pay unemployment compensation on the basis of agricultural labor and domestic services which are performed on or after January 1, 1977. Section 115 requires States to cover certain services performed on or after January 1, 1977 for State and local governments or for educational institutions which are not institutions of higher education. To facilitate the transition to the new coverage, section 121 provides that the Federal Government will reimburse States for a portion of the amount of compensation paid for any week of unemployment beginning on or after January 1, 1977, to any individual whose base period wages include wages for previously uncovered services.

Section 121(b) defines previously uncovered services as services—

(1) which were not covered by the State unemployment compensation law, at any time, during the one-year period ending December 31, 1975; and

(2) which—

(A) are agricultural labor or domestic services and are treated as employment (within the meaning of section 3306(c) of the Internal Revenue Code of 1954) by reason of the amendments made by the bill, or

(B) are services which are performed by an employee of a State or local government or by an employee of a nonprofit educational institution which is not an institution of higher education and which are required to be covered by the State unemployment compensation law by reason of the amendments made by the bill.

Section 121(c) provides that the amount of the Federal reimbursement for the compensation paid to any individual for any week of unemployment shall be an amount which bears the same ratio to the amount of such compensation as the amount of the individual's base period wages which are attributable to uncovered services which are reimbursable bears to the total amount of the individual's base period wages. For purposes of determining the amount of the Federal reimbursement for compensation paid to any individual for any week of unemployment, previously uncovered services are treated as reimbursable—

(1) if such services were performed—

(A) before July 1, 1977, in the case of a week of unemployment beginning before July 1, 1977; or

(B) before January 1, 1977, in the case of a week of unemployment beginning after July 1, 1977; and

(2) if assistance under title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was not paid to such individual on the basis of such service.

Section 121(d) provides that the employment compensation law of any State may provide that the experience-rating account of any employer will not be charged for the compensation paid to any individual to the extent that the individual would not have been eligible to receive such compensation had the State not provided for the payment of compensation on the basis of previously uncovered services which are reimbursable under section 121(c).

Section 121(e) contains a similar rule under which a nonprofit organization which elects to make payments (in lieu of contributions) into the State unemployment compensation fund shall not be liable to make such payments with respect to any compensation to the extent that such compensation would not have been payable had the State law not provided for the payment of compensation on the basis of previously uncovered services which are reimbursable under section 121(c).

Section 121(f) provides that the payments under section 121 are to be made monthly, prior to audit or settlement by the General Accounting Office. Payments under section 121 are to be made from funds appropriated from the general fund of the Treasury.

Sec. 122. Transitional Rules in Case of Nonprofit Organizations

Section 122(a) amends section 3303 of the Internal Revenue Code of 1954 by adding a new subsection (g). Under the new subsection (g), a nonprofit organization which before the date of the enactment of the Unemployment Compensation Amendments of 1975 made contributions into the State unemployment fund and which elects to make payments (in lieu of contributions) into the State unemployment fund when such election becomes available with respect to services newly covered under such Act shall not be liable to make such payments on account of compensation paid after its election which is attributable to service performed in its employ until the total of such compensation equals the amount—

(1) by which the contributions paid by such organization for services with respect to periods before the election, exceed

(2) the unemployment compensation for such periods which was charged to the experience-rating account of such organization under the State law on the basis of such service performed in its employ or wages paid for such services.

Section 122(b) contains a technical amendment to a prior transitional rule which is similar to the rule provided by section 122(a). The amendment allows some nonprofit organizations which did not meet the technical requirements of the prior transitional rule to now use such rule.

TITLE II—FINANCING PROVISIONS

Sec. 211. Increase in Federal Unemployment Tax Wage Base and Rate

Section 211(a) amends section 3306(b)(1) of the Internal Revenue Code of 1954 so as to increase the amount of wages subject to the Federal unemployment tax from $4,200 to $8,000. The amendment made by this section applies to remuneration paid after December 31, 1976.

Section 211(b) amends section 3301 of the Internal Revenue Code of 1954 which establishes the rate of the Federal unemployment tax. Under the amendment, the rate of such tax would be temporarily increased from 3.2 percent to 3.4 percent. Such increased rate would apply for each calendar year which begins before the earlier of—

(1) calendar year 1982, or

(2) the first calendar year after 1975 as of January 1 of which there is not a balance of repayable advances made to the extended unemployment compensation account established by section 905(a) of the Social Security Act.

In the case of the earlier of the calendar years referred to in paragraphs (1) and (2) and each calendar year thereafter, the rate would drop back to 3.2 percent. The amendment made by this section applies to remuneration paid after December 31, 1975.

Section 211(c) contains technical amendments to the Social Security Act. Under the amendments, the entire amount of the increase in Federal unemployment tax receipts resulting from the increase in the tax rate would be transferred into the extended unemployment compensation account. Section 211(c) also contains an amendment to a provision of the Internal Revenue Code of 1954 which requires quarterly payment of the unemployment tax.

Sec. 212. Financing Coverage of State and Local Government Employees

Section 212(a) amends section 302(a) of the Social Security Act to provide that payments made to States for the proper and efficient administration of their uemployment compensation laws will not include amounts attributable to the administration of such laws with respect to services performed by employees of State and local governments. The amendment made by this section applies to amounts certified under section 302(a) of the Social Security Act for calendar quarters beginning on or after January 1, 1978.

Section 212(b) amends section 204(a) of the Federal-State Extended Unemployment Compensation Act of 1970 so as to reduce the amount payable under such Act in respect of any compensation to the extent that such compensation is payable on the basis of services performed for a State or local government. This amendment applies with respect to compensation for weeks of unemployment beginning on or after January 1, 1978.

Sec. 213. Advances to State Unemployment Funds

Section 213 amends section 1201(a) of the Social Security Act so as to provide that advances made under section 1201 of such Act will be made for 3-month periods instead of the 1-month period provided in existing law.

Sec. 214. Proration of Costs of Claims Filed Jointly Under State Law and Section 8505 of Title 5, United States Code

Under existing law, the Federal Government will reimburse any State for the additional cost of providing unemployment compensation on the basis of wages for Federal service. Section 214(a) amends

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section 8505(a) of title 5, United States Code, to change the method under which the amount of the reimbursement is calculated. Under the amendment, the Federal reimbursement for any compensation paid to an individual will be an amount which bears the same ratio to the amount of such compensation as the amount of the Federal wages in the individual's base period bears to the total amount of his base period wages.

The amendments made by section 214 apply with respect to compensation paid on the basis of claims filed on or after July 1, 1976.

Sec. 215. Federal Reimbursement for Unemployment Benefits Paid on Basis of Certain Public Service Employment

Section 215 adds a new subchapter to chapter 85 of title 5, United States Code. Under the new subchapter, the Federal government will reimburse any State for the amount of compensation paid to any individual to the extent that such compensation is attributable to any qualified public service job. The term "qualified public service job" is defined to mean any public service job funded with assistance provided under the Comprehensive Employment and Training Act of 1973. The amendments made by this section apply to weeks of unemployment ending after the date of the enactment of the bill.

TITLE III—BENEFIT PROVISIONS

Sec. 311. Amendments to the Trigger Provisions of the Extended Program

Section 311(a) amends section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970 so as to provide that there will be a national "on" trigger for any week if, for the period consisting of such week and the preceding 12 weeks, the rate of insured employment for all States (seasonally adjusted) equaled or exceeded 4.5 per centum.

Section 311(b) amends section 203(e) of such Act to remove the 120 percent requirement in the existing State trigger provisions.

The amendments made by section 311 apply to weeks beginning after December 31, 1976.

Sec. 312. Pregnancy Disqualifications

Section 312(a) amends section 3304(a) of the Internal Revenue Code of 1954 to provide that the unemployment compensation law of a State may not deny compensation to an individual solely on the basis of pregnancy or termination of pregnancy.

The amendments made by section 312 apply with respect to certifications of States for 1977 and subsequent years.

Sec. 313. Repeal of Finality Provision

Section 313(a) repeals the provision in section 8506(a) of title 5, United States Code, which provides that the findings of the Federal agency concerning—

(1) whether or not a Federal employee has performed Federal service;

(2) the periods of Federal service;

(3) the amount of the Federal wages; and

(4) the reasons for termination of Federal service,

are final and conclusive for purposes of paying unemployment compensation on the basis of Federal services.

The amendment made by section 313 applies with respect to findings made after the date of the enactment of the bill.

TITLE IV—NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Sec. 411. National Commission on Unemployment Compensation

Section 411(a) establishes a National Commission on Unemployment Compensation. The Commission shall consist of 13 members, 3 of whom will be appointed by the President pro tempore of the Senate, 3 of whom will be appointed by the Speaker of the House of Representatives, and 7 of whom will be appointed by the President. In making the appointments, the appointing officials are directed to consult with each other to insure that there will be a balanced representation of interested parties on the Commission. The President shall designate 1 of the members to serve as Chairman.

Section 411(b) directs the Commission to study and evaluate the present unemployment compensation programs in order to assess the long-range needs of the programs, to develop alternatives, and to recommend changes in the programs. Such study and evaluation shall include, without being limited to—

(1) examination of the adequacy, and economic and administrative impacts, of the changes made by the bill in coverage, benefit provisions, and financing;

(2) identification of appropriate purposes, objectives, and future directions for unemployment compensation programs; including railroad unemployment insurance;

(3) examination of issues and alternatives concerning the relationship of unemployment compensation to the economy, with special attention to long-range funding requirements and desirable methods of program financing;

(4) examination of eligibility requirements, disqualification provisions, and factors to consider in determining appropriate benefit amounts and duration;

(5) examination of the relationship between unemployment compensation programs and manpower training and employment programs;

(6) examination of the appropriate role of unemployment compensation in income maintenance and its relationship to other social insurance and income maintenance programs; and

(7) conduct of such surveys, hearings, research, and other activities as it deems necessary to enable it to formulate appropriate recommendations, and to obtain relevant information, attitudes, opinions, and recommendations from individuals and organizations representing employers, employees, and the general public.

Section 411(c) authorizes the Commission to hold hearings, to take testimony, and to receive evidence at such times and places as the Commission may deem appropriate. Subject to rules and regulations

adopted by the Commission, the Chairman will have the power to appoint and fix the compensation of an Executive Director and such additional personnel as he determines advisable. The Chairman may also obtain temporary and intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code. The Commission is also authorized to negotiate and enter into contracts with organizations, institutions, and individuals to carry out such studies or research as the Commission determines to be necessary.

Section 411(d) directs each department, agency, and instrumentality of the Federal government to furnish to the Commission, upon request made by the Chairman and to the extent permitted by law, such data, reports, and other information as the Commission determines necessary to carry out its functions. The head of each department or agency of the Federal government is also authorized to provide to the Commissions such services as the Commission requests on such basis, reimbursement and otherwise, as may be agreed by the department or agency and the Chairman of the Commission.

Section 411(e) provides that members of the Commission will serve without pay except that members of the Commission will be allowed travel expenses, including per diem in lieu of subsistence, while away from their homes or regular place of business in the performance of services for the Commission.

The Commission is directed to transmit to the President and the Congress not later than January 1, 1978, a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable. On the 90th day after the date of the submission of its final report to the President and to Congress, the Commission shall cease to exist.

VIII. Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1954

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Chapter 23—FEDERAL UNEMPLOYMENT TAX ACT

Sec. 3301. Rate of tax.
Sec. 3302. Credits against tax.
Sec. 3303. Conditions of additional credit allowance.
Sec. 3304. Approval of State laws.
Sec. 3305. Applicability of State law.
Sec. 3306. Definitions.
Sec. 3307. Deductions as constructive payments.
Sec. 3308. Instrumentalities of the United States.
Sec. 3309. State law coverage of [certain] services performed for nonprofit organizations [and for State hospitals and institutions of higher education] *or governmental entities.*
Sec. 3310. Judicial review.
Sec. 3311. Short title.

[There is hereby imposed on every employer (as defined in section 3306(a)) for the calendar year 1970 and each calendar year thereafter an excise tax, with respect to having individuals in his employ, equal to 3.2 percent of the total wages (as defined in section 3306(b)) paid by him during the calendar year with respect to employment (as defined in section 3306(c)). In the case of wages paid during the calendar year 1973, the rate of such tax shall be 3.28 percent in lieu of 3.2 percent.]

SEC. 3301. RATE OF TAX.

There is hereby imposed on every employer (as defined in section 3306(a)) for each calendar year an excise tax, with respect to having individuals in his employ, equal to—

(1) 3.4 percent, in the case of a calendar year beginning before the earlier of—

(A) the calendar year 1982, or

(B) the first calendar year after 1975, as of January 1 of which there is not a balance of repayable advances made to the extended unemployment compensation account (established by section 905(a) of the Social Security Act); or

(2) 3.2 percent, in the case of the earlier of the calendar years referred to in subparagraphs (A) and (B) of paragraph (1) and each calendar year thereafter;

of the total wages (as defined in section 3306(b)) paid by him during the calendar year with respect to employment (as defined in section 3306(c)).

* * * * * * *

SEC. 3303. CONDITIONS OF ADDITIONAL CREDIT ALLOWANCE.

(a) * * *

* * * * * * *

(f) Transition.—To facilitate the orderly transition to coverage of service to which section 3309(a)(1)(A) applies, a State law may provide that an organization (or group of organizations) [which elects, when such election first becomes available under the State law] *which elects before April 1, 1972,* to make payments (in lieu of contributions) into the State unemployment fund as provided in section 3309(a)(2), and which had paid contributions into such fund under the State law with respect to such service performed in its employ before January 1, 1969, is not required to make any such payment (in lieu of contributions) on account of compensation paid after its election as heretofore described which is attributable under the State law to service performed in its employ, until the total of such compensation equals the amount—

(1) by which the contributions paid by such organization (or group) with respect to a period before the election provided by section 3309(a)(2), exceed

(2) the unemployment compensation for the same period which was charged to the experience-rating account of such organization (or group) or paid under the State law on the basis of wages paid by it or service performed in its employ, whichever is appropriate.

(g) Transitional Rule for Unemployment Compensation Amendments of 1975.—To facilitate the orderly transition to coverage of service to which section 3309(a)(1)(A) applies by reason of the enactment of the Unemployment Compensation Amendments of 1975, a State law may provide that an organization (or group of organizations) which elects, when such election first becomes available under the State law with respect to such service, to make payments (in lieu of contributions) into the State unemployment fund as provided in section 3309 (a)(2), and which had paid contributions into such fund under the State law with respect to such service performed in its employ before the date of the enactment of this subsection, is not required to make any such payment (in lieu of contributions) on account of compensation paid after its election as heretofore described which is attributable under the State law to such service performed in its employ, until the total of such compensation equals the amount—

(1) by which the contributions paid by such organization (or group) on the basis of wages for such service with respect to a period before the election provided by section 3309 (a)(2), exceed

(2) the unemployment compensation for the same period which was charged to the experience-rating account of such organization (or group) or paid under the State law on the basis of such service, whichever is appropriate.

SEC. 3304. APPROVAL OF STATE LAWS.

(a) Requirements.—The Secretary of Labor shall approve any State law submitted to him, within 30 days of such submission, which he finds provides that—

(1) all compensation is to be paid through public employment offices or such other agencies as the Secretary of Labor may approve;

(2) no compensation shall be payable with respect to any day of unemployment occurring within 2 years after the first day of the first period with respect to which contributions are required;

(3) all money received in the unemployment fund shall (except for refunds of sums erroneously paid into such fund and except for refunds paid in accordance with the provisions of section 3305(b)) immediately upon such receipt be paid over to the Secretary to the credit of the Unemployment Trust Fund established by section 904 of the Social Security Act (49 Stat. 640; 52 Stat. 1104, 1105; 42 U.S.C. 1104);

(4) all money withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment compensation, exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund and refunds paid in accordance with the provisions of section 3305(b); except that—

(A) an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration; and

(B) the amounts specified by section 903(c)(2) of the Social Security Act may, subject to the conditions prescribed in such section, be used for expenses incurred by the State for administration of its unemployment compensation law and public employment offices;

(5) compensation 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;

(B) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(C) if as a condition of being employed the individual would be required to join a company union or to resign or refrain from joining any bona fide labor organization;

(6) (A) compensation is payable on the basis of service to which section 3309(a)(1) applies, in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to such law; except [that] *that (i)* with respect to service in an instructional, research, or principal administrative capacity for an [institution of higher education] *educational institution* to which section 3309(a)(1) applies, compensation shall not be payable based on such service for any week commencing during the period between two successive academic years (or, when the contract provides instead for a similar period between two regular but not successive terms, during such period) to any individual who has a contract to perform services in any such capacity for any [institution or institutions of higher education] *educational institution or institutions* for both of such academic years or both of such terms, *and (ii) with respect to service in any other capacity for an educational institution (other than an institution of higher education) to which section 3309(a)(1) applies, compensation payable on the basis of such service may be denied to any individual for any week which begins before January 1, 1979, and which commences during a period between 2 successive academic terms or similar periods if such individual performs such service in the first of such academic terms (or similar periods) and there is a reasonable assurance that such individual will perform such service in the second of such academic terms (or similar periods)*, and

(B) payments (in lieu of contributions) with respect to service to which section 3309(a)(1)(A) applies may be made into the State unemployment fund on the basis set forth in section 3309 (a)(2);

(7) an individual who has received compensation during his benefit year is required to have had work since the beginning of such year in order to qualify for compensation in his next benefit year;

(8) compensation shall not be denied to an individual for any week because he is in training with the approval of the State agency (or because of the application, to any such week in training, of State law provisions relating to availabiilty for work, active search for work, or refusal to accept work);

(9) (A) compensation shall not be denied or reduced to an individual solely because he files a claim in another State (or a con-

tiguous country with which the United States has an agreement with respect to unemployment compensation) or because he resides in another State (or such a contiguous country) at the time he files a claim for unemployment compensation;

(B) the State shall participate in any arrangements for the payment of compensation on the basis of combining an individual's wages and employment covered under the State law with his wages and employment covered under the unemployment compensation law of other States which are approved by the Secretary of Labor in consultation with the State unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation in such situations. Any such arrangement shall include provisions for (i) applying the base period of a single State law to a claim involving the combining of an individual's wages and employment covered under two or more State laws, and (ii) avoiding duplicate use of wages and employment by reason of such combining;

(10) compensation shall not be denied to any individual by reason of cancellation of wage credits or total reduction of his benefit rights for any cause other than discharge for misconduct connected with his work, fraud in connection with a claim for compensation, or receipt of disqualifying income;

(11) extended compensation shall be payable as provided by the Federal-State Extended Unemployment Compensation Act of 1970;

[(12) each political subdivision of the State shall have the right to elect to have compensation payable to employees thereof (whose services are not otherwise subject to such law) based on service performed by such employees in the hospitals and institutions of higher education (as defined in section 3309(d)) operated by such political subdivision; and, if any such political subdivision does elect to have compensation payable to such employees thereof (A) the political subdivision shall pay into the State unemployment fund, with respect to the service of such employees, payments (in lieu of contributions), and (B) such employees will be entitled to receive, on the basis of such service, compensation payable on the same conditions as compensation which is payable on the basis of similar service for the State which is subject to such law.]

(12) no person shall be denied compensation under such State law solely on the basis of pregnancy or termination of pregnancy;

(13) all the rights, privileges, or immunities conferred by such law or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal such law at any time.

(b) NOTIFICATION.—The Secretary of Labor shall, upon approving such law, notify the governor of the State of his approval.

(c) On October 31 of each taxable year the Secretray of Labor shall certify to the Secretary each State whose law he has previously approved, except that he shall not certify any State which, after reasonable notice and opportunity for hearing to the State agency, the Secretary of Labor finds has amended its law so that it no longer contains the provisions specified in subsection (a) or has with respect to the

12-month period ending on such October 31 failed to comply substantially with any such provision in such subsection. No finding of a failure to comply substantially with any provision in paragraph (5) of subsection (a) shall be based on an application or interpretation of State law (1) until all administrative review provided for under the laws of the State has been exhausted, or (2) with respect to which the time for judicial review provided by the laws of the State has not expired, or (3) with respect to which any judicial review is pending. On October 31 of any taxable year after 1971, the Secretary shall not certify any State which, after reasonable notice and opportunity for hearing to the State agency, the Secretary of Labor finds has failed to amend its law so that it contains each of the provisions required by reason of the enactment of the Employment Security Amendments of 1970 to be included therein, or has with respect to the 12-month period (10-month period in the case of October 31, 1972) ending on such October 31, failed to comply substantially with any such provision. *On October 31 of any taxable year after 1976, the Secretary shall not certify any State which, after reasonable notice and opportunity for a hearing to the State agency, the Secretary of Labor finds has failed to amend its law so that it contains each of the provisions required by reason of the enactment of the Unemployment Compensation Amendment of 1975 to be included therein, or has with respect to the 12-month period ending on such October 31, failed to comply substantially with any such provision.*

(d) NOTICE OF NONCERTIFICATION.—If at any time the Secretary of Labor has reason to believe that a State whose law he has previously approved may not be certified under subsection (c), he shall promptly so notify the governor of such State.

(e) CHANGE OF LAW DURING 12-MONTH PERIOD.—Whenever—

(1) any provision of this section, section 3302, or section 3303 refers to a 12-month period ending on October 31 of a year, and

(2) the law applicable to one portion of such period differs from the law applicable to another portion of such period,

then such provision shall be applied by taking into account for each portion the law applicable to such portion.

(f) DEFINITION OF INSTITUTION OF HIGHER EDUCATION.—For purposes of subsection (a)(6), the term 'institution of higher education' means an educational institution in any State which—

(1) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) is legally authorized within such State to provide a program of education beyond high school;

(3) provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized occupation; and

(4) is a public or other nonprofit institution.

* * * * * *

SEC. 3306. DEFINITIONS.

[(a) EMPLOYER.—For purposes of this chapter, the term "employer" means, with respect to any calendar year, any person who—

[(1) during any calendar quarter in the calendar year or the preceding calendar year paid wages of $1,500 or more, or

[(2) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least one individual in employment for some portion of the day.]

(a) EMPLOYER.—For purposes of this chapter—

(1) IN GENERAL.—The term "employer" means, with respect to any calendar year, any person who—

(A) during any calendar quarter in the calendar year or the preceding calendar year paid wages of $1,500 or more, or

(B) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least one individual in employment for some portion of the day.

For purposes of this paragraph, there shall not be taken into account any wages paid to, or employment of, an employee performing domestic services referred to in paragraph (3).

(2) AGRICULTURAL LABOR.—In the case of agricultural labor, the term 'employer' means, with respect to any calendar year, any person who—

(A) during any calendar quarter in the calendar year or the preceding calendar year paid wages of $5,000 or more for agricultural labor, or

(B) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least 4 individuals in employment in agricultural labor for some portion of the day.

(3) DOMESTIC SERVICE.—In the case of domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, the term "employer" means, with respect to any calendar year, any person who during any calendar quarter in the calendar year or the preceding calendar year paid wages in cash of $600 or more for such service.

(4) SPECIAL RULE.—A person treated as an employer under paragraph (3) shall not be treated as an employer with respect to wages paid for any service other than domestic service referred to in paragraph (3) unless such person is treated as an employer under paragraph (1) or (2) with respect to such other service.

(b) WAGES.—For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(1) that part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) equal to [$4,200] *$8000* with respect to employment has been paid to an individual by an employer during any calendar year, is paid to such individual by such employer during such calendar year. If an employer (hereinafter referred to as successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment equal to [$4,200] *$8000* to such individual during such calendar year, any remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer;

(2) the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of—

(A) retirement, or

(B) sickness or accident disability, or

(C) medical or hospitalization expenses in connection with sickness or accident disability, or

(D) death;

(3) any payment made to an employee (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement;

(4) any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for such employer;

(5) any payment made to, or on behalf of, an employee or his beneficiary—

(A) from or to a trust described in section 401(a) which is exempt from tax under section 501(a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or

(B) under or to an annuity plan which, at the time of such payment, is a plan described in section 403(a), or

(C) under or to a bond purchase plan which, at the time of such payment, is a qualified bond purchase plan described in section 405(a);

(6) the payment by an employer (without deduction from the remuneration of the employee)—

(A) of the tax imposed upon an employee under section 301 (or the corresponding section of prior law), or

(B) of any payment required from an employee under a State unemployment compensation law;

(7) remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business;

(8) any payment (other than vacation or sick pay) made to an employee after the month in which he attains the age of 65, if he did not work for the employer in the period for which such payment is made;

(9) remuneration paid to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217; [or]

(10) any payment or series of payments by an employer to an employee or any of his dependents which is paid—

(A) upon or after the termination of an employee's employment relationship because of (i) death, (ii) retirement for disability, or (iii) retirement after attaining an age specified in the plan referred to in subparagraph (B) or in a pension plan of the employer, and

(B) under a plan established by the employer which makes provision for his employees generally or a class or classes of his employees (or for such employees or class or classes of employees and their dependents),

other than any such payment or series of payments which would have been paid if the employee's employment relationship had not been so terminated[.]*; or*

(11) remuneration for agricultural labor paid in any medium other than cash.

(c) EMPLOYMENT.—For purposes of this chapter, the term "employment" means any service performed prior to 1955, which was employment for purposes of subchapter C of chapter 9 of the Internal Revenue Code of 1939 under the law applicable to the period in which such service was performed, and (A) any service, of whatever nature, performed after 1954 by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, and (B) any service, of whatever nature, performed after 1971 outside the United States (except in a contiguous country with which the United States has an agreement relating to unemployment compensation [or in the Virgin Islands]) by a citizen of the United States as an employee of an American employer (as defined in subsection (j)(3)), except—

[(1) agricultural labor (as defined in subsection (k));]

(1) agricultural labor (as defined in subsection (k)) unless—

(A) such labor is performed for a person who—

(i) during any calendar quarter in the calendar year or the preceding calendar year paid remuneration in cash of $5,000 or more to individuals employed in agricultural labor (not taking into account labor performed before January 1, 1979, by an alien referred to in subparagraph (B)), or

(ii) on each of some 20 days during the calendar year or the preceding calendar year, each day being in a different calendar week, employed in agricultural labor (not taking into account labor performed before January 1, 1979, by an alien referred to in subparagraph (B)) for some portion of the day (whether or not at the same moment of time) 4 or more individuals; and

(B) such labor is not agricultural labor performed before January 1, 1979, by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a) (15) (H) of the Immigration and Nationality Act;

(2) domestic service in a private home, local college club, or local chapter of a college fraternity or sorority *unless performed for a person who paid in cash remuneration of $600 or more to individuals employed in such domestic service in any calendar quarter in the calendar year or the preceding calendar year;*

* * * * * * *

(j) STATE, UNITED STATES, AND [CITIZEN] *AMERICAN EMPLOYER.*—For purposes of this chapter—

[(1) STATE.—The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

[(2) UNITED STATES.—The term "United States" when used in a geographical sense includes the States, the District of Columbia, and the Commonwealth of Puerto Rico.]

(1) STATE.—The term "State" includes the District of Columbia the Commonwealth of Puerto Rico, and the Virgin Islands.

(2) UNITED STATES.—The term "United States" when used in a geographical sense includes the States the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(3) AMERICAN EMPLOYER.—The term "American employer" means a person who is—

(A) an individual who is a resident of the United States,

(B) a partnership, if two-thirds or more of the partners are residents of the United States,

(C) a trust, if all of the trustees are residents of the United States, or

(D) a corporation organized under the laws of the United States or of any State.

An individual who is a citizen of the Commonwealth of Puerto Rico *or the Virgin Islands* (but not otherwise a citizen of the United States) shall be considered, for purposes of this section, as a citizen of the United States.

(o) SPECIAL RULE IN CASE OF CERTAIN AGRICULTURAL WORKERS.—

(1) CREW LEADERS WHO ARE REGISTERED OR PROVIDE SPECIALIZED AGRICULTURAL LABOR.—For purposes of this chapter, any indivi-

dual who is a member of a crew furnished by a crew leader to perform agricultural labor for any other person shall be treated as an employee of such crew leader—

(A) if—

(i) such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or

(ii) substantially all the members of such crew operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

(B) if such individual is not an employee of such other person within the meaning of subsection (i).

(3) OTHER CREW LEADERS.—For purposes of this chapter, in the case of any individual who is furnished by a crew leader to perform agricultural labor for any other person and who is not treated as an employee of such crew leader under paragraph (1)—

(A) such other person and not the crew leader shall be treated as the employer of such individual; and

(B) such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his behalf or on behalf of such other person) for the agricultural labor performed for such other person.

(3) CREW LEADER.—For purposes of this subsection, the term "crew leader" means an individual who—

(A) furnishes individuals to perform agricultural labor for any other person,

(B) pays (either on his behalf or on behalf of such other person) the individuals so furnished by him for the agricultural labor performed by them, and

(C) has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person.

* * * * * * *

SEC. 3309. STATE LAW COVERAGE OF [CERTAIN] SERVICES PERFORMED FOR NONPROFIT ORGANIZATIONS [AND FOR STATE HOSPITALS AND INSTITUTIONS OF HIGHER EDUCATION] *OF GOVERNMENTAL ENTITIES*

(a) STATE LAW REQUIREMENTS.—For purposes of section 3304 (a)(6)—

(1) except as otherwise provided in subsections (b) and (c), the services to which this paragraph applies are—

(A) service excluded from the term "employment" solely by reason of paragraph (8) of section 3306(c), and

[(B) service performed in the employ of the State, or any instrumentality of the State or of the State and one or more other States, for a hospital or institution of higher education located in the State, if such service is excluded from the term

"employment" solely by reason of paragraph (7) of section 3306(c); and]

(B) service excluded from the term "employment" solely by reason of paragraph (7) of section 3306(c); and

(2) the State law shall provide that an organization (or group of organizations) which, but for the requirements of this paragraph, would be liable for contributions with respect to service to which paragraph (1)(A) applies may elect, for such minimum period and at such time as may be provided by State law, to pay (in lieu of such contributions) into the State unemployment fund amounts equal to the amounts of compensation attributable under the State law to such service. The State law may provide safeguards to ensure that organizations so electing will make the payments required under such elections.

(b) SECTION NOT TO APPLY TO CERTAIN SERVICE.—This section shall not apply to service performed—

(1) in the employ of (A) a church or convention or association of churches, or (B) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(2) by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

[(3) in the employ of a school which is not an institution of higher education;]

(3) in the employ of a governmental entity referred to in paragraph (7) of section 3306(c), if such service is performed by an individual in the exercise of his duties as—

(A) an elected official, or an appointed official, if such appointed official serves a specific term established by law or is not required to perform services on a substantially full-time basis;

(B) a member of a legislative body, or a member of the judiciary, of a State or political subdivision thereof;

(C) a member of the State National Guard or Air National Guard; or

(D) an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

(4) in a facility conducted for the purpose of carrying out a program of—

(A) rehabilitation for individuals whose earnings capacity is impaired by age or physical or mental deficiency or injury, or

(B) providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market,

by an individual receiving such rehabilitation or remunerative work;

(5) as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any Federal

agency or an agency of a State or political subdivision thereof, by an individual receiving such work relief or work training; and

[(6) for a hospital in a State prison or other State correctional institution by an inmate of the prison or correctional institution.]

(6) by an inmate of a custodial or penal institution.

(c) NONPROFIT ORGANIZATIONS MUST EMPLOY 4 OR MORE.—This section shall not apply to service performed during any calendar year in the employ of any organization unless on each of some 20 days during such calendar year or the preceding calendar year, each day being in a different calendar week, the total number of individuals who were employed by such organization in employment (determined without regard to section 3306(c)(8) and by excluding service to which this section dos not apply by reason of subseetion (b)) for some portion of the day (whether or not at the same moment of time) was 4 or more.

[(d) DEFINITION OF INSTITUTION OF HIGHER EDUCATION.—For purposes of this section, the term "institution of higher education" means an educational institution in any State which—

[(1) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

[(2) is legally authorized within such State to provide a program of education beyond high school;

[(3) provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized occupation; and

[(4) is a public or other nonprofit institution.]

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Chapter 62—TIME AND PLACE

* * * * * * *

SEC. 6157. PAYMENT OF FEDERAL UNEMPLOYMENT TAX ON QUARTERLY OR OTHER TIME PERIOD BASIS.

[(a) GENERAL RULE.—Every person who for the calendar year is an employer (as defined in section 3306(a)) shall—

[(1) if the person

[(A) during any calendar quarter in the preceding calendar year paid wages of $1,500 or more, or

[(B) on each of some 20 days during the preceding calendar year, each day being in a different calendar week, employed at least one individual in employment,

compute the tax imposed by section 3301 for each of the first three calendar quarters in the calendar year, and

[(2) if paragraph (1) does not apply, compute the tax imposed by section 3301—

[(A) for the period beginning with the first day of the calendar year and ending with the last day of the calendar quarter (excluding the last calendar quarter) in which such person becomes such an employer, and

[(B) for the third calendar quarter of such year, if the period specified in subparagraph (A) includes only the first two calendar quarters of the calendar year.

The tax for any calendar quarter or other period shall be computed as provided in subsection (b) and the tax as so computed shall, except as otherwise provided in subsections (c) and (d), be paid in such manner and at such time as may be provided in regulations prescribed by the Secretary or his delegate.]

(a) GENERAL RULE.—Every person who for the calendar year is an employer (as defined in section 3306(a)) shall—

(1) if the person is such an employer for the preceding calendar year (determined by only taking into account wages paid and employment during such preceding calendar year), compute the tax imposed by section 3301 for each of the first 3 calendar quarters in the calendar year on wages paid for services with respect to which the person is such an employer for such preceding calendar year (as so determined), and

(2) if the person is not such an employer for the preceding calendar year with respect to any services (as so determined), compute the tax imposed by section 3301 on wages paid for service with respect to which the person is not such an employer for the preceding calendar year (as so determined)—

(A) for the period beginning with the first day of the calendar year and ending with the last day of the calendar quarter (excluding the last calendar quarter) in which such person becomes such an employer with respect to such services, and

(B) for the third calendar quarter of such year, if the period specified in subparagraph (A) includes only the first two calendar quarters of the calendar year.

The tax for any calendar quarter or other period shall be computed as provided in subsection (b) and the tax as so computed shall, except as otherwise provided in subsections (c) and (d), be paid in such manner and at such time as may be provided in regulations prescribed by the Secretary or his deleaate.

(b) COMPUTATION OF TAX.—The tax for any calendar quarter or other period referred to in paragraph (1) or (2) of subsection (a) shall be computed by multiplying the amount of wages (as defined in section 3306(b)) paid in such calendar quarter or other period by 0.5 percent. In the case of wages paid in any calendar quarter or other period during [1973, the amount of such wages shall be multiplied by 0.58 percent in lieu of 0.5 percent] *a calendar year to which paragraph (1) of section 3301 applies, the amount of such wages shall be multiplied by 0.7 percent in lieu of 0.5 percent.*

(c) SPECIAL RULE FOR CALENDAR YEARS 1970 AND 1971.—For purposes of subsection (a), the tax computed as provided in subsection (b) for any calendar quarter or other period shall be reduced (1) by 66⅔ percent if such quarter or period is in 1970, and (2) by 33⅓ percent if such quarter or period is in 1971.

(d) SPECIAL RULE WHERE ACCUMULATED AMOUNT DOES NOT EXCEED $100.—Nothing in this section shall require the payment of tax with respect to any calendar quarter or other period if the tax under

section 3301 for such period, plus any unpaid amounts for prior periods in the calendar year, does not exceed $100.

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SOCIAL SECURITY ACT

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TITLE III—GRANTS TO STATES FOR UNEMPLOYMENT COMPENSATION ADMINISTRATION

* * * * * * *

PAYMENTS TO STATES

SEC. 302. (a) The Secretary of Labor shall from time to time certify to the Secretary of the Treasury for payment to each State which has an unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act such amounts as the Secretary of Labor determines to be necessary for the proper and efficient administration of such law during the fiscal year for which such payment is to be made. *The amounts certified by the Secretary of Labor under the preceding sentence for payment to any State shall not include amounts which are attributable to the administration of the State law with respect to services to which section 3306(c)(7) of the Federal Unemployment Tax Act applies.* The Secretary of Labor's determination shall be based on (1) the population of the State; (2) an estimate of the number of persons covered by the State law and of the cost of proper and efficient administration of such law; and (3) such other factors as the Secretary of Labor finds relevant. The Secretary of Labor shall not certify for payment under this section in any fiscal year a total amount in excess of the amount appropriated therefor for such fiscal year.

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TITLE IX—MISCELLANEOUS PROVISIONS RELATING TO EMPLOYMENT SECURITY

* * * * * * *

EMPLOYMENT SECURITY ADMINISTRATION ACCOUNT

Establishment of Account

SECTION 901. (a) * * *

* * * * * * *

Administrative Expenditures

(c)(1) * * *

* * * * * * *

(3)(A) For purposes paragraph (1)(A), the limitation on the amount authorized to be made available for any fiscal year after June 30, 1970, is, except as provided in subparagraph (B) and in the second sentence of section 901(f)(3)(A), an amount equal to 95 percent of the amount estimated and set forth in the budget of the United States Government for such fiscal year as the amount by which the net receipts during such year under the Federal Unemployment Tax Act will exceed the amount transferred under section 905(b) during such year to the extended unemployment compensation account.

(B) The limitation established by subparagraph (A) is increased by any unexpended amount retained in the employment security administration account in accordance with section 901(f)(2)(B).

(C) Each estimate of net receipts under this paragraph shall be based upon [a tax rate of 0.5 percent] *(i) a tax rate of 0.5 percent in the case of any calendar year for which the rate of tax undersection 3301 of the Federal Unemployment Tax Act is 3.2 percent, and (ii) a tax rate of 0.7 percent in the case of any calendar year for which the rate of tax under such section 3301 is 3.4 percent.*

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EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT

Establishment of Account

SEC. 905. (a) * * *

Transfers to Account

(b)(1) Except as provided by paragraph (3), the Secretary of the Treasury shall transfer (as of the close of July 1970, and each month thereafter), from the employment security administration account to the extended unemployment compensation account established by subsection (a), an amount determined by him to be equal, in the case of any month before April 1972, to one-fifth, and in the case of any month after March 1972, to one-tenth, of the amount by which—

(A) transfers to the employment security administration account pursuant to section 901(b)(2) during such month, exceed

(B) payments during such month from the employment security administration account pursuant to section 901(b)(3) and (d).

If for any such month the payments referred to in subparagraph (B) exceed the transfers referred to in subparagraph (A), proper adjustments shall be made in the amounts subsequently transferred. [In the case of any month after March 1973 and before April 1974, the first sentence of this paragraph shall be applied by substituting "thirteen fifty-eighths" for "one-tenth".] *In the case of any month after March 1976 and before April of the first calendar year to which paragraph (2) of section 3301 of the Federal Unemployment Tax Act applies, the first sentence of this paragraph shall be applied by substituting "five-fourteenths" for "one-tenth".*

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TITLE XI—GENERAL PROVISIONS AND PROFESSIONAL STANDARDS REVIEW

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PART A—GENERAL PROVISIONS

DEFINITIONS

SEC. 1101. (a) When used in this Act—

(1) The term "State", except where otherwise provided, includes the District of Columbia and the Commonwealth of Puerto Rico, and when used in titles IV, V, VII, XI, and XIX includes the Virgin Islands and Guam. *Such term when used in titles III, IX, and XII also includes the Virgin Islands.* Such term when used in title V also includes American Samoa and the Trust Territory of the Pacific Islands. In the case of Puerto Rico, the Virgin Islands, and Guam, title I, X, and XIV, and title XVI, (as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972) shall continue to apply, and the term "States" when used in such titles (but not in title XVI as in effect pursuant to such amendment after December 31, 1973) includes Puerto Rico, the Virgin Islands, and Guam.

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TITLE XII—ADVANCES TO STATE UNEMPLOYMENT FUNDS

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ADVANCE TO STATE UNEMPLOYMENT FUNDS

SECTION 1201. (a)(1) Advances shall be made to the States from the Federal unemployment account in the Unemployment Trust Fund as provided in this section, and shall be repayable, without interest, in the manner provided in sections 901(d)(1), 903(b)(2), and 1202. An advance to a State for the payment of compensation in any [month] *3-month period* may be made if—

(A) the Governor of the State applies therefor no earlier than the first day of the [preceding month] *month preceding the first month of such 3-month period*, and

(B) he furnishes to the Secretary of Labor his estimate of the amount of an advance which will be required by the State for the payment of compensation in such [month] *3-month period.*

(2) In the case of any application for an advance under this section to any State for any [month] *3-month period*, the Secretary of Labor shall—

(A) determine the amount (if any) which he finds will be required by such State for the payment of compensation in such [month] *3-month period*, and

(B) certify to the Secretary of the Treasury the amount (not greater than the amount estimated by the Governor of the State) determined under subparagraph (A).

The aggregate of the amounts certified by the Secretary of Labor with respect to any [month] *3-month period* shall not exceed the amount which the Secretary of the Treasury reports to the Secretary of Labor is available in the Federal unemployment account for advances with respect to such [month] *3-month period.*

(3) For purposes of this subsection—

(A) an application for an advance shall be made on such forms, and shall contain such information and data (fiscal and otherwise) concerning the operation and administration of the State unemployment compensation law, as the Secretary of Labor deems necessary or relevant to the performance of his duties under this title,

(B) the amount required by any State for the payment of compensation in any [month] *3-month period* shall be determined with due allowance for contingencies and taking into account all other amounts that will be available in the State's unemployment fund for the payment of compensation in such [month] *3-month period*, and

(C) the term "compensation" means cash benefits payable to individuals with respect to their unemployment, exclusive of expenses of administration.

(b) The Secretary of the Treasury shall, prior to audit or settlement by the General Accounting Office, transfer from the Federal unemployment account to the account of the State in the Unemployment Trust Fund the amount certified under subsection (a) by the Secretary of Labor (but not exceeding that portion of the balance in the Federal unemployment account at the time of the transfer which is not restricted as to use pursuant to section 903(b)(1)).

* * * * * * *

ACT OF JUNE 6, 1933

AN ACT To provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes

* * * * * * *

SEC. 5. (a) There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts from time to time as the Congress may deem necessary to carry out the purposes of this Act.

(b) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State which (i), except in the case of Guam [and the Virgin Islands], has an unemployment compensation law approved by the Secretary under the Federal Unemployment Tax Act and is found to be in compliance with section 303 of the Social Security Act, as amended, and (ii) is found to be in compliance with the Act of June 6, 1933 (48 Stat. 113), as amended, such amounts as the Secretary determines to be necessary for the proper and efficient administration of its public employment offices.

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63-248—75——7

FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970

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TITLE II—FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION PROGRAM

* * * * * * *

PAYMENT OF EXTENDED COMPENSATION

State Law Requirements

SEC. 202. (a) (1) For purposes of section 3304(a) (11) of the Internal Revenue Code of 1954, 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 [the Virgin Islands or] 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 have terminated by reason of the expiration of the benefit year with respect to which such rights existed.

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EXTENDED BENEFIT PERIOD

Beginning and Ending

SEC. 203. (a) * * *

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National "On" and "Off" Indicators

[(d) For purposes of this section—

[(1) There is a national "on" indicator for a week if for each of the three most recent calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all States equaled or exceeded 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the month in question).

[(2) There is a national "off" indicator for a week if for each of the three most recent calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all States was less than 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the month in question).

Effective with respect to compensation for weeks of unemployment beginning before December 31, 1976, and beginning after December 31, 1974 (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a national "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if the phrase "4.5 per centum." contained in paragraphs (1) and (2), read "4 per centum."]

(d) For purposes of this section—

(1) There is a national "on" indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all States equaled or exceeded 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period).

(2) There is a national "off" indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all States was less than 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period).

State "On" and "Off" Indicators

[(e) For purposes of this section—

[(1) There is a State "on" indicator for a week if the rate of insured unemployment under the State law for the period consisting of such week and the immediately preceding twelve weeks—

[(A) equaled or exceeded 120 per centum of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and

[(B) equaled or exceeded 4 per centum.

[(2) There is a State "off" indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, either subparagraph (A) or subparagraph (B) of paragraph (1) was not satisfied. Effective with respect to compensation for weeks of unemployment beginning before July 1, 1973, and beginning after the date of the enactment of this sentence (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State "off" indicator ending any extended benefit period shall be made under this subsection as if paragraph (1) did

not contain subparagraph (A) thereof. Effective with respect to compensation for weeks of unemployment beginning before January 1, 1974, and beginning after the date of the enactment of this sentence (or, if later, the date established pursuant to State law), the State by law may provide that the determination of whether there has been a State "off" indicator ending any extended benefit period shall be made under this subsection as if paragraph (1) did not contain subparagraph (A) thereof and may provide that the determination of whether there has been a State "on" indicator beginning any extended benefit period shall be made under this subsection as if (i) paragraph (1) did not contain subparagraph (A) thereof; (ii) the 4 per centum contained in subparagraph (B) thereof were 4.5 per centum, and (iii) paragraph (1) of subsection (b) did not contain subparagraph (B) thereof. In the case of any individual who has a week with respect to which extended compensation was payable pursuant to a State law referred to in the preceding sentence, if the extended benefit period under such law does not expire before January 1, 1974, the eligibility period of such individual for purposes of such law shall end with the thirteenth week which begins after December 31, 1973. Effective with respect to compensation for weeks of unemployment beginning before March 31, 1977, and beginning after December 31, 1973 (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if paragraph (1) did not contain subparagraph (A) thereof.]

(e) For purposes of this section—

(1) There is a State "on" indicator for a week if the rate of insured unemployment (seasonally adjusted) under the State law for the period consisting of such week and the immediately preceding twelve weeks equaled or exceeded 4 per centum.

(2) There is a State "off" indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, paragraph (1) was not satisfied.

For purposes of this subsection, the rate of insured unemployment for any [13] *thirteen*-week period shall be determined by reference to the average monthly covered employment under the State law for the first four of the most recent six calendar quarters ending before the close of such period.

PAYMENTS TO STATES

Amount Payable

SEC. 204. (a) (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 under the State law.

(2) No payment shall be made to any State under this subsection in respect of compensation for which the State is entitled to reimbursement under the provisions of any Federal law other than this Act.

(3) In the case of compensation which is sharable extended compensation or sharable regular compensation by reason of the provision contained in the last sentence of section 203(d), the first paragraph of this subsection shall be applied as if the words "one-half of" read "100 per centum of" but only with respect to compensation that would not have been payable if the State law's provisions as to the State "on" and "off" indicators omitted the 120 percent factor as provided for by Public Law 93–368 and by section 106 of this Act.

(4) 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 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.

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DEFINITIONS

SEC. 205. For purposes of this title—

(1) The term "compensation" means cash benefits payable to individuals with respect to their unemployment.

(2) The term "regular compensation" means compensation payable to an individual under any State unemployment compensation law (including compensation payable pursuant to 5 U.S.C. chapter 85), other than extended compensation and additional compensation.

(3) The term "extended compensation" means compensation (including additional compensation and compensation payable pursuant to 5 U.S.C. chapter 85) payable for weeks of unemployment beginning in and extended benefit period to an individual under those provisions of the State law which satisfy the requirements of this title with respect to the payment of extended compensation.

(4) The term "additional compensation" means compensation payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors.

(5) The term "benefits year" means the benefit year as defined in the applicable State law.

(6) The term "base period" means the base period as determined under applicable State law for the benefit year.

(7) The term "Secretary" means the Secretary of Labor of the United States.

(8) The term "State" includes the District of Columbia [and], the Commonwealth of Puerto Rico, *and the Virgin Islands.*

(9) The term "State agency" means the agency of the State which administers its State law.

(10) The term "State law" means the unemployment compensation law of the State, approved by the Secretary under section 3304 of the Internal Revenue Code of 1954.

(11) The term "week" means a week as defined in the applicable State law.

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SECTION 102 OF THE EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1974

FEDERAL-STATE AGREEMENTS

SEC. 102. (a) * * *

(b) Any such agreement shall provide that the State agency of the State will make payments of emergency compensation—

(1) to individuals who—

(A) (i) have exhausted all rights to regular compensation under the State law;

(ii) have exhausted all rights to extended compensation, or are not entitled thereto, because of the ending of their eligibility period for extended compensation, in such State;

(B) have no rights to compensation (including both regular compensation and 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; and

(C) are not receiving compensation with respect to such week under the unemployment compensation law of ⟦the Virgin Islands or⟧ Canada,

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TITLE 5, UNITED STATES CODE

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Chapter 85—UNEMPLOYMENT COMPENSATION

SUBCHAPTER I—EMPLOYEES GENERALLY

SEC.
8501. Definitions.
8502. Compensation under State agreement.
8503. Compensation absent State agreement.
8504. Assignment of Federal service and wages.
8505. Payments to States.
8506. Dissemination of information.
8507. False statements and misrepresentations.
8508. Regulations.

SUBCHAPTER II—EX-SERVICEMEN

SEC.
8521. Definitions; application.
8522. Assignment of Federal service and wages.
8523. Dissemination of information.
8524. Accrued leave.
8524. Accured leave.*
8525. Effect on other statutes.

Subchapter III—Certain Public Service Employees

8531. Definitions.
8532. Payments to States.

Subchapter I—EMPLOYEES GENERALLY

§ 8501. Definitions

For the purpose of this subchapter—

(1) * * *

* * * * * * *

(6) "State" means the several States, the District of Columbia, ⟦and⟧ the Commonwealth of Puerto Rico, *and the Virgin Islands*; ⟦and⟧

(7) "United States", when used in a geographical sense, means the States⟦.⟧*; and*

(8) "base period" means the base period as defined by the applicable State unemployment compensation law for the benefit year.

* * * * * * *

§ 8503. Compensation absent State agreement

(a) * * *

⟦(b) In the case of a Federal employee whose Federal service and Federal wages are assigned under section 8504 of this title to the Virgin Islands, the Secretary, under regulations prescribed by him and on the filing of a claim for compensation under this subsection by the Federal employee, shall pay the compensation to him in the same amounts, on the same terms, and subject to the same conditions as would be paid to him under the unemployment compensation law of the District of Columbia if his Federal service and Federal wages had been included as employment and wages under that law. However, if the Federal employee, without regard to his Federal service and Federal wages, has employment or wages sufficient to qualify for compensation during the benefit year under that law, then payments of compensation under this subsection may be made only on the basis of his Federal service and Federal wages.⟧

⟦(c)⟧*(b)* A Federal employee whose claim for compensation under subsection (a) ⟦or (b)⟧ of this section is denied is entitled to a fair hearing under regulations prescribed by the Secretary. A final determination by the Secretary with respect to entitlement to compensation under this section is subject to review by the courts in the same manner and to the same extent as is provided by section 405(g) of title 42.

⟦(d) For the purpose of this section, the Secretary may—

⟦(1) use the personnel and facilities of the agency in the Virgin Islands cooperating with the United States Employment Service under chapter 4B of title 29; and

⟦(2) delegate to officials of that agency the authority granted to him by this section when he considers the delegation to be necessary in carrying out the purpose of this subchapter.

[For the purpose of payments made to that agency under chapter 4B of title 29, the furnishing of the personnel and facilities is deemed a part of the administration of the public employment offices of that agency.]

§ 8504. Assignment of Federal service and wages

Under regulations prescribed by the Secretary of Labor, the Federal service and Federal wages of a Federal employee shall be assigned to the State in which he had his last official station in Federal service before the filing of his first claim for compensation for the benefit year. However—

(1) if, at the time of filing his first claim, he resides in another State in which he performed, after the termination of his Federal service, service covered under the unemployment compensation law of the other State, his Federal service and Federal wages shall be assigned to the other State; *and*

(2) if his last official station in Federal service before filing his first claim, was outside the United States, his Federal service and Federal wages shall be assigned to the State where he resides at the time he files his first claim [; and].

[(3) if his first claim is filed while he is residing in the Virgin Islands, his Federal service and Federal wages shall be assigned to the Virgin Islands.]

§ 8505. Payments to States

(a) Each State is entitled to be paid by the United States [an amount equal to the additional cost to the State of payments of compensation in accordance with an agreement under this subchapter which would not have been made by the State but for the agreement.] *with respect to each individual whose base period wages included Federal wages an amount which shall bear the same ratio to the total amount of compensation paid to such individual as the amount of his Federal wages in his base period bears to the total amount of his base period wages.*

* * * * * * *

§ 8506. Dissemination of information

(a) Each agency of the United States and each wholly or partially owned instrumentality of the United States shall make available to State agencies which have agreements under this subchapter, or to the Secretary of Labor, as the case may be, such information concerning the Federal service and Federal wages of a Federal employee as the Secretary considers practicable and necessary for the determination of the entitlement of the Federal employee to compensation under this subchapter. The information shall include findings of the employing agency concerning—

(1) whether or not the Federal employee has performed Federal service;

(2) the periods of Federal service;

(3) the amount of Federal wages; and

(4) the reasons for termination of Federal service.

The employing agency shall make the findings in the form and manner prescribed by regulations of the Secretary. The regulations shall include provision for correction by the employing agency of errors and omissions. [Findings made in accordance with the regulations are final and conclusive for the purpose of sections 8502(d) and 8503(c) of this title.] This subsection does not apply with respect to Federal service and Federal wages covered by subchapter II of this chapter.

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SUBCHAPTER II—EX-SERVICEMEN

§ 8521. Definitions; application

(a) For the purpose of this subchapter—

(1) "Federal service" means active service, including active duty for training purposes, in the armed forces which either began after January 31, 1955, or terminated after October 27, 1958, if—

(A) that service was continuous for 90 days or more, or was terminated earlier because of an actual service-incurred injury or disability; and

(B) with respect to that service, the individual—

(i) was discharged or released under conditions other than dishonorable; and

(ii) was not given a bad conduct discharge or, if an officer, did not resign for the good of the service;

(2) "Federal wages" means all pay and allowances, in cash and in kind, for Federal service, computed on the basis of the pay and allowances for the pay grade of the individual at the time of his latest discharge or release from Federal service as specified in the schedule applicable at the time he files his first claim for compensation for the benefit year. The Secretary of Labor shall issue, from time to time, after consultation with the Secretary of Defense, schedules specifying the pay and allowances for each pay grade of servicemen covered by this subchapter, which reflect representative amounts for appropriate elements of the pay and allowances whether in cash or in kind; and

(3) "State" means the several States, the District of Columbia, [and] the Commonwealth of Puerto Rico, *and the Virgin Islands.*

(b) The provisions of subchapter I of this chapter, subject to the modifications made by this subchapter, apply to individuals who have had Federal service as defined by subsection (a) of this section.

§ 8522. Assignment of Federal service and wages

Notwithstanding section 8504 of this title, Federal service and Federal wages not previously assigned shall be assigned to the State [or to the Virgin Islands, as the case may be] in which the claimant first files claim for unemployment compensation after his latest discharge or release from Federal service. This assignment is deemed as assignment under section 8504 of this title for the purpose of this subchapter.

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Subchapter III—CERTAIN PUBLIC SERVICE EMPLOYEES

§ 8531. Definitions.

For purposes of this subchapter—

(1) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(2) "compensation" has the meaning given to such term by section 8501(4) of this title;

(3) "qualified public service job" means any public service job funded with assistance provided under the Comprehensive Employment and Training Act of 1973;

(4) "public service wages" means all pay and allowances, in cash and in kind, for services performed in a qualified public service job; and

(5) "base period" has the meaning given to such term by section 8501(8) of this title.

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§ 8532. Payments to States.

(a) Each State is entitled to be paid by the United States with respect to each individual whose base period wages included public service wages an amount which shall bear the same ratio to the total amount of compensation paid to such individual as the amount of his public service wages in his base period bears to the total amount of his base period wages.

(b) Each State shall be paid the amount to which it is entitled under subsection (a) in the manner prescribed by subsections (b) and (c) of section 8505 of this title.

(c) Money paid a State under this subchapter may be used solely for the purposes for which it is paid. Money so paid which is not used for these purposes shall be returned, at the time specified by the Secretary of Labor, to the Treasury of the United States and credited to current applicable appropriations, funds, or accounts from which payments to States under this subchapter may be made.

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IX. SUPPLEMENTAL VIEWS OF HON. JAMES A. BURKE, CHARLES B. RANGEL, ABNER J. MIKVA, AND HAROLD E. FORD

We support the Unemployment Compensation Bill, H.R. 10210, but feel that the bill leaves unresolved one of the most serious problems confronting the unemployment compensation program—a grossly inadequate benefit structure.

This year the Department of Labor estimates that 18.6 million workers will receive unemployment compensation benefits. In 1976, the estimate is that 18.4 million jobless workers will receive benefits.

The estimate of benefit payments in 1975 are in excess of $16.0 billion and for 1976 benefit payments are expected to exceed $17.0 billion.

These billions of dollars are spent quickly by jobless workers for food, rent, clothing, transportation, and other essentials. These high velocity dollars protect and help not only jobless workers and their families, but also the overall economy of the communities where jobless workers live, the state in which they are located, and the national economy. In this manner, the unemployment compensation system functions as an economic stabilizer.

However, the unemployment compensation system has fallen short of full effectiveness and will continue to fall short unless the benefit structure of the program is placed on a solid foundation. It is unfortunate that H.R. 10210 failed to provide a solution to the inadequate and inequitable benefit structure of the program.

The inadequacy of the present weekly benefit structure of the program was called to the attention of the states by President Eisenhower in 1954. Since that time, every administration has urged improvement on the part of the states; the results have been disappointing. The concept of a 50 percent individual wage replacement benefit has almost vanished from the program. It has become instead a flat benefit scheme for most jobless workers.

In 1973, the average weekly wage in covered employment was $163.97, but the average weekly unemployment compensation benefit paid was only $64.20. This represents an average weekly benefit payment equal to a mere 39.2 percent of the average weekly wage in covered employment. This situation continued to deteriorate and in 1974 it was worse. During 1974, the average weekly wage in covered employment was $176.60, but the average weekly unemployment compensation benefit paid was a mere $64.25. This represented only 36.4 percent of the average weekly wage in covered employment.

The fundamental and basic concept that wage loss restoration for an individual worker should be one-half his or her own average weekly wage has been accepted since the system was established. However, all state programs have maximum benefit amounts, or ceilings, on individual weekly benefit amounts. These maximums were designed to apply only to high wage workers. Because they have remained fixed at low

levels, however, they now prevent significant numbers of workers from receiving benefits equal to one-half their former weekly wage.

This Committee had an opportunity to vote on a proposal that would require each state to provide each jobless worker claiming benefits with a weekly benefit amount equal to 50 percent of the individual's former weekly wage, with a limit on the amount of the weekly benefit payable under the state program equal to 66⅔ percent of the statewide average weekly wage for that state's covered workers. This was a very modest proposal.

This proposal did not require that any worker receive a benefit equal to more than 50 percent of former weekly wages, but it would effectively insure that all states replace one-half the wage loss of the majority of jobless workers.

A benefit adequacy requirement has been supported by every President since 1954. This administration included the benefit standard discussed above in the bill it introduced in this Congress. Congress has mandated a higher level of weekly benefit payments to trainees in manpower programs who have no work experience—40 times the federal or state minimum wage rate, whichever is higher (the federal minimum wage is $2.10 per hour at this time) plus $5 per dependent over two and up to four dependents, a weekly benefit of $104 is possible—and to workers adversely affected by the trade policy of the United States, 70 percent of former weekly wages up to a maximum equal to the national average manufacturing weekly wage which is $176 at this time. These maximum weekly benefit amounts are far superior to unemployment compensation maximums.

While the Congress has been developing these weekly benefit formulas to provide adequate income support to special groups of jobless workers, the states have deliberately eroded the relationship of weekly benefits to wage loss in the unemployment compensation program.

In 1939, the maximum weekly benefit as a percent of the average weekly wage was 66⅔ percent or more in 22 states and 75 percent or more in 12 states. In 1975, the number of states in the 66⅔ percent category had dropped to 8 and the number of states in the 75 percent or more category plummeted to zero.

This dramatic shift in the benefit structure of the program is the major reason the relationship of the weekly benefit amount to wages has disappeared from the program for many workers. During the second quarter of 1974, one-half or more of the eligible claimants qualified for the maximum weekly benefit amount in 13 states, and in a few states more than 60 percent of jobless claimants qualified for the maximum benefit. This situation is far worse at this time because lay-offs have reached higher and higher up the job ladder since June 1974.

The deterioration of the system in these states from a wage-related income maintenance program to a flat benefit payment scheme—a majority of workers receiving identical benefit amounts—is directly attributable to the failure of the state legislatures to modernize the benefit structure of the program. Minimum federal benefit standards, similar to present federal standards related to taxes, experience rating, and administration, are needed to modernize and improve the program.

Unemployment insurance benefits will not even begin to meet the basic needs of jobless workers and their families unless the individual

weekly benefit amount replaces not less than 50 percent of the worker's full-time weekly wage. Individual benefits of at least 50 percent of weekly wage loss are needed to cover the most essential non-deferrable living expenses. It is time the states were required to meet this level of benefit adequacy. An income reduction of more than 50 percent is too great a burden to place on jobless workers in this nation who are unemployed through no fault of their own.

We are convinced a modern unemployment compensation system must meet national needs and minimum federal standards are a fundamental requirement to assist and guide the states in developing a program to meet this objective.

James A. Burke,
Charles B. Rangel,
Abner J. Mikva,
Harold E. Ford.

X. DISSENTING VIEWS OF HON. OMAR BURLESON, JOE D. WAGGONNER, JR., AND J. J. PICKLE

The unemployment compensation program of this country has worked very well since its inception in 1935 as a front-line defense against recession and depression. Those Americans who have lost their jobs because of downturns in the economy have been able to turn to the insurance fund, created by employers, to tide them over while they are seeking a new job, or until their old job reopened. The system has worked well because it has had the cooperation of employers and employes and has been a cooperative state-federal system.

During the last five years, however, the Congress has taken steps which we feel are not in the best interest of the system. Because of the prolonged economic slump, which has been very severe in some regions, the present system allows a recipient to draw unemployment benefits for up to 65 weeks—almost a year and a half. As unemployment has skyrocketed in the last 2 and a half years due to the energy boycott, world commodity shortage and numerous other factors, the state employment services have barely been able to process the claims which millions of jobless Americans have filed. There has been neither time nor money to investigate claims for validity. We are concerned that there are numerous instances of fraud involved with the program which is costing employers and ultimately, consumers, millions of dollars.

1. The bill which the committee has passed increases the present wage base from $4,200 to $8,000. Naturally, all of us are concerned about the solvency of the overall program since now some 16 states are borrowing from the federal fund. But we fear that this 90 per cent increase in the base is too much and too soon. We supported an amendment in the committee, offered by Rep. Pickle, which would have brought the system out of the red in the same period of time, five years, which the committee bill does. The Pickle amendment raises the base to $6,000 and escalates the effective federal rate to 0.8 per cent. We feel that this is a more equitable way to replenish the depleted fund without overly punishing the employers who support the unemployment compensation system.

2. It is estimated that the imposition of an $8,000 base will cost employers more than $6 billion in unemployment taxes annually. This comes at a time when this Congress has tried to reduce the burdensome tax load on both individuals and businesses. Therefore, this increase, which might have been spent on new plant production and other job-producing capital investments, will be funneled into unemployment taxes.

3. We feel that such a high base should not be implemented because it is simply not needed in those numerous states which have good employment situations and solvent funds. Those states whose funds are in the red may raise their bases if they deem it necessary. In fact,

since the $4,200 base went into effect in 1972, 16 states have elevated their bases above the federally-required minimum. We really feel that it would be best to leave the states this option but in the spirit of compromise, and out of every desire to see the system operating on a balanced basis, we have endorsed the $6,000 base.

There is another important reason why we feel adjusting the rate is preferable to making an astronomical escalation in the base: a much higher base penalizes the steadier industries and employers and favors the seasonal employer. For example, if employer A paid his workers $200 per week for 26 weeks, their annual earnings would be $5,200. Employer B pays his workers $150 weekly for 52 weeks, with yearly earnings at $7,800. Increasing the base from $4,200 to $8,000 would increase Employer B's tax liability 3.6 times more than Employer A because B's taxable amount would increase only by $1,000 while A's would increase by $3,600. So, the impact falls most heavily on the annual wage, regardless of the hourly or monthly pay.

4. We also feel compelled to oppose the committee's proposal regarding the extended benefit program. The committee's bill will provide payments for weeks 27 through 39 in the states when the following conditions are met: (1) there is a seasonably adjusted national insured unemployment rate of 4.5 per cent, based on the most recent 13 week period, or (2) the seasonally adjusted insured rate is 4.0 per cent, based on the most recent 13 week period.

Of course, all states and jurisdictions covered under the unemployment compensation are now paying extending benefits and will continue to pay them as long as the national insured rate of employment rate continues to be above 4.5 per cent. Currently, the national insured rate of unemployment is 6.5 per cent.

But we are hopeful that the future will bring a brighter economic picture and that the national unemployment figure will gradually decline. This is why we feel that the figures of 4.5 per cent nationally and 4 per cent statewide are unrealistically low. If these averages are written into the permanent law, then those numerous states whose insured unemployment rate (IUR) is now below 4.0 percent will be subsidizing those states who will be "triggered in" permanently by this low trigger percentage. Extended benefit costs would be about three times greater than under the present program. A recent study conducted for the Department of Labor illustrated what would have occurred during the period from 1957 to 1973 if the 4 per cent trigger had been in effect. In 17 states, a trigger would have been paid more than 50 per cent of the time. On the other hand, such trigger will virtually eliminate some states from any participation in the extended program. Colorado, the District of Columbia, Nebraska and South Dakota would never trigger in, while Texas, Virginia, and Iowa would trigger in 2 per cent of the time, or less. In terms of funds paid under the Extended Benefit system, H.R. 10210 would perpetuate the inequities. California which has slightly less than 10 per cent of employment in the U.S., would get nearly one-fifth of all payments. But Virginia, Texas, Kansas, and South Carolina would get virtually nothing—even though their combined employment is greater than that of California.

Obviously, those cities which are bankrupt will have to borrow from state funds, many of which are already insufficient themselves.

Unemployment compensation was established as an insurance program—we must not allow it to degenerate into a public assistance program. Some may feel that recipients should receive their benefits based on need. But this concept will do damage to the insurance principle in the system. Benefits have always been geared to a recipient's earnings and we think that this system should be retained.

If we expand the wage base too quickly we are running the risk of driving many small firms out of business and ultimately, to more unemployment. One of the biggest factors in the failures of small business has been their inability to anticipate and meet their tax load.

Our continuation toward extending benefits, where they have little relationship to work experience, is moving the program away from unemployment insurance and moving it toward a welfare system.

Employers (and employees alike) are already paying 5.8 percent in social security taxes and face an increase next year. Other employer costs are escalating. We may be approaching the point where it is becoming too expensive to go into business.

We oppose this bill in a sincere effort to keep the program solvent while destroying its basic elements.

OMAR BURLESON.
JOE D. WAGGONNER, JR.
J. J. PICKLE.

XI. ADDITIONAL VIEWS OF REPRESENTATIVES WILLIAM A. STEIGER AND BILL FRENZEL

We support enactment of the Unemployment Compensation Amendments of 1975 (H.R. 10210) as reported by the Committee on Ways and Means, and in particular, urge support for the increase in the taxable wage base contained in this Bill.

The reason is simple. In 1976 we will spend $18.3 billion on Unemployment Compensation. We will collect $9.1 billion. Our U.C. Trust Fund is already in deficit. We have spent the money. We must now pay the bills. Even with the tax increases called for in this Bill the Federal Unemployment Trust Fund will not be solvent until 1981.

Revenues for this program are generated by taxes imposed on employers pursuant to the Federal Unemployment Tax Act (FUTA). The tax is based on payrolls at a rate of 3.2 percent of the first $4,200 in wages. Employers receive a credit of 2.7 percent against their Federal tax for participating in approved State unemployment compensation programs; thus they pay a 0.5 percent net Federal tax. Each employer's State tax rate depends on his or her unemployment experience rating.

Funds generated by these taxes are used solely to finance the U.C. system. They were sufficient for that purpose until 1972 when high unemployment rates depleted U.C. accounts in several States and forced them to borrow to continue operation. At the present time sixteen States are in the red and reliable estimates indicate that unless additional revenues are produced, another fifteen State unemployment funds will be insolvent by the end of next year.

The Federal Unemployment Account and the Extended Unemployment Compensation Account are both depleted and projections indicate that absent some tax increase, the Federal Trust Fund will have a deficit of $6.2 billion in 1978. The situation clearly calls for action.

Prior to 1940 there was no limitation on taxable wages; total wages were taxable. In that year a $3,000 wage base was adopted primarily because of the existence of a similar base in the Social Security program. The use of similar bases in both programs was intended to facilitate employers reporting for tax purposes. It should be noted that at that time $3,000 represented 92.8 percent of total wages. The base was not increased until 1972 when the current $4,200 base became effective which now represents 48 percent of total wages.

Serious inequity has resulted from the use of low-wage bases. At the Federal level, low-wage industries pay a disproportionate percentage of the total tax, while high-wage industries enjoy a lower effective tax rate on their total payroll.

The administrative costs of operating the unemployment compensation system and the system of public employment offices, as well as

the Federal share of extended and supplemental benefits, which are also financed solely with these revenues, are therefore supported by low-wage employers to an unfair degree.

Employers who pay wages of $4,200 a year or less pay FUTA taxes on 100 percent of their payrolls. Employers who pay annual wages of $8,400 pay taxes on no more than half of their total payrolls. While the first group of employers pay a tax rate under FUTA of 0.5 percent both nominally and effectively, the second group, paying FUTA at 0.5 percent, is in fact paying an effective tax rate of 0.25 percent or less.

The same inequitable distribution of the tax burden occurs at the State level, where contributions are used to finance basic and half of extended benefit payments and where the greatest portion of the total of unemployment taxes are collected. The inequities are intensified by the State experience rating system. "Negative balance" employers, that is, those employers whose annual contributions to the State fund fall short of equaling the annual benefits paid to their ex-employees, are "negative balance" employers in spite of the fact they are taxed at the State's highest contribution rate. These employers may remain "negative balance" employers because their tax rate is applicable to a small percentage of actual wages paid.

An increase in the State taxable wage base does not necessarily means that a State's tax yield will increase. If a State does not need additional tax revenues it can raise its base and adjust its tax rate structure accordingly.

For example, if a State now collects an average employer tax rate of 1.5 percent of taxable wages on a $4,200 base, it can restructure its tax schedule downward to produce the equivalent total dollar tax yield on an $8,000 base, and put that restructured tax schedule in effect when the higher taxable wage base becomes effective. Under this Bill, the higher Federal taxable wage base would not become effective until January, 1977 and in the interim the States could act to adjust their tax rate structures as required.

One of the principal reasons for a higher State taxable wage base is to reallocate employer tax burdens on a more equitable basis—and thereby permit the experience rating system to operate properly. Therefore, it is important to note that while a State's total tax yield may remain approximately the same (in those States which do not need increased revenues) some employers may pay lower, and others higher, total tax dollars.

It has been suggested that the taxable wage base should be increased by two steps from its present level to $6,000 in 1977 and $8,000 in 1979 to ease the impact of the increase. We disagree.

Any change in the wage base is disruptive to the experience rating system. Many systems will require 3 years experience to work out the disruptions. Staggering the increase in the base will only mean that experience rating systems will be disrupted for 5 years instead of three.

The costs and administrative burdens associated with these disruptions ought not be undertaken anymore frequently than necessary. Therefore, it is best for the systems to go to the necessary wage base immediately. This is particularly so in light of the fact that, as mentioned earlier, increases in the wage base do not automatically require increased taxes.

The increased wage base contained in H.R. 10210 is distasteful to us, but it will (1) make our fund solvent by 1981, (2) help States improve their funds, (3) improve equity for low-wage employers, and (4) cause the least disruption to experience rating system.

WILLIAM A. STEIGER.
BILL FRENZEL.

XII. DISSENTING VIEWS OF REPRESENTATIVES H. T. SCHNEEBELI AND DONALD D. CLANCY

We oppose enactment of the Unemployment Compensation Amendments of 1975, primarily because of the steep increase provided in the bill relative to the taxable wage base. We voted against the bill in the committee and intend to do so on the floor.

Presently, the Federal taxable wage base—that portion of an individual's wages which are subject to this employer tax—is $4,200. This bill would increase that base to $8,000, effectively January 1, 1977. In our view that is too large a tax increase to be effected in one step. We would have preferred to increase the wage base to $6,000 in 1977 and then moved it to $8,000 in 1979 because we believe that a phased increase would have softened the blow for those who pay this tax.

During the committee's consideration of this bill an amendment was offered that would have phased in this increase in the wage base, but it was rejected. Under the amendment the Federal Unemployment Trust Fund, as well as the State Trust Funds, would have become solvent in 1982 as opposed to 1981 as would be the case under the bill as reported, a delay of only one year. Such a delay is clearly warranted in these economically sluggish times.

Let us emphasize that absent the steep increase in the taxable wage base we would have supported the bill. It accomplishes many worthy goals and imposes no unwarranted Federal standards on the Federal-State Unemployment Compensation program.

H. T. SCHNEEBELI.
DONALD D. CLANCY.

XIII. DISSENTING VIEWS OF REPRESENTATIVES JOHN J. DUNCAN, BILL ARCHER, PHILIP M. CRANE, JAMES G. MARTIN, AND L. A. (SKIP) BAFALIS

We concur with the substance of the views submitted by Mr. Schneebeli and our colleagues regarding the proposed increase in the taxable wage base. At the same time we feel it necessary to further elaborate on our own opposition to this measure.

The expanded coverage afforded by this Bill will prove to be extremely costly and administratively unworkable. As reported by the Ways and Means Committee expanded coverage under H.R. 10210 will cost an estimated $1.4 billion additional dollars in fiscal year 1978. More than two-thirds of that amount, or $950 million, will be attributable to the coverage of employees of State and local governments, and will be totally borne by State and local taxpayers. Except in those States which have elected to cover State and local employees under their permanent programs, these employees are covered under the temporary Special Unemployment Assistance (SUA) program. SUA is funded entirely out of Federal general revenues and is due to expire December 31, 1976.

Proponents of including State and local employees under the present program do so on the basis that SUA ought not be renewed. Replacing one ill-advised program with another is not a desirable course.

We question the wisdom of forcing costs of this magnitude on State and local governments when they are already pressed to meet their financial needs. If Congress is going to mandate this type of coverage it ought not force other governmental units to raise the necessary taxes.

The trigger provisions of H.R. 10210 are also disturbing. When the Extended Benefit Program is triggered on, benefit weeks 27 through 39 are available to a U.C. claimant and funded on a 50–50 State-Federal basis. Under current law the program triggers on for the entire country when the seasonally adjusted National insured unemployment rate (IUR) reaches 4.5 percent for three consecutive months. Also the program triggers on for an individual State, without regard to the National unemployment situation, if that State's IUR has averaged 4 percent for any 13 consecutive week period and the IUR exceeds 120 percent of the State average IUR for the corresponding 13-week period in the two preceding years.

Clearly, these trigger provisions are not perfect and Congress has waived or suspended portions of the State trigger provisions on eight separate occasions. But even with shortcomings the present trigger provisions are superior to those contained in this Bill.

As reported, H.R. 10210 would impose a State trigger of 4.0 percent

(seasonally adjusted) for a moving 13-week period in place of the present dual requirement.

One survey of the impact of the proposed 4 percent seasonally adjusted trigger applied the proposal over the period 1957 to 1973. During the 17-year period surveyed, 17 jurisdictions would have been paying extended benefits for more than 50 percent of the time.

Percent of Time Triggered On Under 4.0 Proposal

Jurisdiction	*Percent*	*Jurisdiction*	*Percent*
Alaska	94	New York	57
Arkansas	54	North Dakota	52
California	72	Oregon	67
Idaho	62	Pennsylvania	55
Maine	70	Puerto Rico	75
Massachusetts	64	Rhode Island	69
Montana	66	Vermont	60
Nevada	77	Washington	80
New Jersey	71		

At the same time the 4.0 percent trigger would virtually eliminate 6 States and the District of Columbia from participating in the Extended Benefits Program. The following table compares what would have resulted under present law and the proposal during the period from 1957 to 1973:

Jurisdiction	Present law percent of time triggered "on"	Proposed percent of time triggered "on"
Colorado	4	0
District of Columbia	0	0
Iowa	6	1
Nebraska	4	0
South Dakota	6	0
Texas	3	2
Virginia	4	1

This inequity among jurisdictions, in our view, is unwarranted; the 120 percent factor in present law would be preferable.

We have serious reservations concerning the extension of coverage to agricultural labor. Due to the seasonal nature of farming, employment instability is inherent in agriculture. Seasonal fluctuations characteristic of the industry make it exceedingly difficult to determine when a farm worker is unemployed. Is such a worker "unemployed" for the entire off season? We think not. Yet this Bill would simply extend coverage to agricultural labor with no further guidance, and this will prove to be a difficult industry to accommodate to the present system.

The coverage of agricultural labor as outlined in the Bill will cost $150 million in fiscal year 1978 and while an equal amount would be spent if Congress were to extend the Special Unemployment Assistance program, the costs under SUA would have been borne by the Federal Treasury. Under H.R. 10210 these costs will be carried by farm operators and then passed on to supermarket consumers, not a comforting prospect.

These are the principal reasons for our opposition to this Bill.

John J. Duncan.
Bill Archer.
Philip M. Crane.
Jim Martin.
L. A. Bafalis.

XIV. MINORITY VIEWS OF HON. WILLIAM M. KETCHUM

I voted against this bill because I believe it may well end up worsening the problems of unemployment which it sets out to cure. It imposes a very onerous burden upon employers at a time when business is struggling to recover from a severe recession, a burden which is greater than necessary to restore the unemployment compensation system to solvency.

There is no question that the present near-bankruptcy of the unemployment insurance system requires an increase in both the wage base and the rate of taxation. I was prepared to vote for any reasonable increase in both. But the Committee bill increases the wage base by 90%, from $4200 to $8000, and throws in a .2% increase in the rate as well, a rise in the rate of 40%. This combination is simply more than I believe our employers can bear. Let me list the increased costs of this program to a few major companies: Ford Motor Company—$40 million; Youngstown Steel—$1.6 million; Kaiser Industries—$6.7 million; Eastman Kodak—$7 million. Similar figures exist for other companies.

What particularly concerns me is the impact upon small businesses and those with a marginal profit. I believe we must look carefully to see if these are businesses whose doors we shall force to close as a result of this new Federally mandated cost of operation. If there are companies that go under, as I suspect, employees will be thrown out of work, thus adding to the unemployment problem we are supposedly trying to solve.

Another unpleasant side-effect of this legislation could well be another round of inflation, as those businesses who are able to increase their prices to consumers to offset the escalating costs of unemployment taxes. When this happens the American people may wake up to the fact that all of us are indirectly picking up the tab for the unemployment insurance program.

I believe that the Congress should take another hard look at the Unemployment Insurance program and decide the direction we want to take in the future. With the massive increase in the length of time a person may receive unemployment benefits, and the high rate of benefits, we are losing all relation to an insurance system, and turning unemployment insurance into an income maintenance program. This trend would have become far worse had the amendment providing for federal benefit standards been adopted, but it is still alarming.

Finally, I object to the rule under which this bill will be considered on the House floor, precluding any amendments. I must state once again my belief that the 398 other members of the House who do not serve on the Ways and Means Committee deserve to have an input into our legislation. Denial of this right effectively disenfranchises their constituents.

This bill is another example of seeking to make the nation's employers bear the cost of our social welfare programs. It is far too expensive for the fragile economy to bear, and could add more misery to our citizens' lives. I urge my colleagues to reject it.

WILLIAM M. KETCHUM.

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H. R. 10210

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the nineteenth day of January, one thousand nine hundred and seventy-six

An Act

To require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Unemployment Compensation Amendments of 1976".

TITLE I—EXTENSION OF COVERAGE PROVISIONS

PART I—GENERAL PROVISIONS

SEC. 111. COVERAGE OF CERTAIN AGRICULTURAL EMPLOYMENT

(a) NONCASH REMUNERATION.—Section 3306(b) of the Internal Revenue Code of 1954 (defining wages) is amended by striking out "or" at the end of paragraph (9), by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(11) remuneration for agricultural labor paid in any medium other than cash.".

(b) COVERAGE OF AGRICULTURAL LABOR.—Paragraph (1) of section 3306(c) of such Code (defining employment) is amended to read as follows:

"(1) agricultural labor (as defined in subsection (k)) unless—

"(A) such labor is performed for a person who—

"(i) during any calendar quarter in the calendar year or the preceding calendar year paid remuneration in cash of $20,000 or more to individuals employed in agricultural labor (not taking into account labor performed before January 1, 1980, by an alien referred to in subparagraph (B)), or

"(ii) on each of some 20 days during the calendar year or the preceding calendar year, each day being in a different calendar week, employed in agricultural labor (not taking into account labor performed before January 1, 1980, by an alien referred to in subparagraph (B)) for some portion of the day (whether or not at the same moment of time) 10 or more individuals; and

"(B) such labor is not agricultural labor performed before January 1, 1980, by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.

SEC. 112. TREATMENT OF CERTAIN FARMWORKERS.

(a) GENERAL RULE.—Section 3306 of the Internal Revenue Code of 1954 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(o) SPECIAL RULE IN CASE OF CERTAIN AGRICULTURAL WORKERS.—

"(1) CREW LEADERS WHO ARE REGISTERED OR PROVIDE SPECIALIZED AGRICULTURAL LABOR.—For purposes of this chapter, any individual who is a member of a crew furnished by a crew leader to perform agricultural labor for any other person shall be treated as an employee of such crew leader—

"(A) if—

"(i) such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or

"(ii) substantially all the members of such crew operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

"(B) if such individual is not an employee of such other person within the meaning of subsection (i).

"(2) OTHER CREW LEADERS.—For purposes of this chapter, in the case of any individual who is furnished by a crew leader to perform agricultural labor for any other person and who is not treated as an employee of such crew leader under paragraph (1)—

"(A) such other person and not the crew leader shall be treated as the employer of such individual; and

"(B) such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his behalf or on behalf of such other person) for the agricultural labor performed for such other person.

"(3) CREW LEADER.—For purposes of this subsection, the term 'crew leader' means an individual who—

"(A) furnishes individuals to perform agricultural labor for any other person,

"(B) pays (either on his behalf or on behalf of such other person) the individuals so furnished by him for the agricultural labor performed by them, and

"(C) has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.

SEC. 113. COVERAGE OF DOMESTIC SERVICE.

(a) GENERAL RULE.—Paragraph (2) of section 3306(c) of the Internal Revenue Code of 1954 (defining employment) is amended to read as follows:

"(2) domestic service in a private home, local college club, or local chapter of a college fraternity or sorority unless performed for a person who paid cash remuneration of $1,000 or more to individuals employed in such domestic service in any calendar quarter in the calendar year or the preceding calendar year;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.

SEC. 114. DEFINITION OF EMPLOYER.

(a) GENERAL RULE.—Subsection (a) of section 3306 of the Internal Revenue Code of 1954 (defining employer) is amended to read as follows:

"(a) EMPLOYER.—For purposes of this chapter—

"(1) IN GENERAL.—The term 'employer' means, with respect to any calendar year, any person who—

"(A) during any calendar quarter in the calendar year or the preceding calendar year paid wages of $1,500 or more, or

"(B) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least one individual in employment for some portion of the day.

For purposes of this paragraph, there shall not be taken into account any wages paid to, or employment of, an employee performing domestic services referred to in paragraph (3).

"(2) AGRICULTURAL LABOR.—In the case of agricultural labor, the term 'employer' means, with respect to any calendar year, any person who—

"(A) during any calendar quarter in the calendar year or the preceding calendar year paid wages of $20,000 or more for agricultural labor, or

"(B) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least 10 individuals in employment in agricultural labor for some portion of the day.

"(3) DOMESTIC SERVICE.—In the case of domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, the term 'employer' means, with respect to any calendar year, any person who during any calendar quarter in the calendar year or the preceding calendar year paid wages in cash of $1,000 or more for such service.

"(4) SPECIAL RULE.—A person treated as an employer under paragraph (3) shall not be treated as an employer with respect to wages paid for any service other than domestic service referred to in paragraph (3) unless such person is treated as an employer under paragraph (1) or (2) with respect to such other service."

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 6157 of such Code (relating to payment of Federal unemployment tax on quarterly or other time period basis) is amended to read as follows:

"(a) GENERAL RULE.—Every person who for the calendar year is an employer (as defined in section 3306(a)) shall—

"(1) if the person is such an employer for the preceding calendar year (determined by only taking into account wages paid and employment during such preceding calendar year), compute the tax imposed by section 3301 for each of the first 3 calendar quarters in the calendar year on wages paid for services with respect to which the person is such an employer for such preceding calendar year (as so determined), and

"(2) if the person is not such an employer for the preceding calendar year with respect to any services (as so determined), compute the tax imposed by section 3301 on wages paid for serv-

ices with respect to which the person is not such an employer for the preceding calendar year (as so determined)—

"(A) for the period beginning with the first day of the calendar year and ending with the last day of the calendar quarter (excluding the last calendar quarter) in which such person becomes such an employer with respect to such services, and

"(B) for the third calendar quarter of such year, if the period specified in subparagraph (A) includes only the first two calendar quarters of the calendar year.

The tax for any calendar quarter or other period shall be computed as provided in subsection (b) and the tax as so computed shall, except as otherwise provided in subsections (c) and (d), be paid in such manner and at such time as may be provided in regulations prescribed by the Secretary."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.

SEC. 115. COVERAGE OF CERTAIN SERVICE PERFORMED FOR NONPROFIT ORGANIZATIONS AND FOR STATE AND LOCAL GOVERNMENTS.

(a) GENERAL RULE.—Subparagraph (B) of section 3309(a)(1) of the Internal Revenue Code of 1954 (relating to State law requirements) is amended to read as follows:

"(B) service excluded from the term 'employment' solely by reason of paragraph (7) of section 3306(c); and".

(b) EXCLUSION OF CERTAIN GOVERNMENT EMPLOYEES.—

(1) CERTAIN EMPLOYEES.—Paragraph (3) of section 3309(b) of such Code (relating to certain services to which section 3309 does not apply) is amended to read as follows:

"(3) in the employ of a governmental entity referred to in paragraph (7) of section 3306(c), if such service is performed by an individual in the exercise of his duties—

"(A) as an elected official;

"(B) as a member of a legislative body, or a member of the judiciary, of a State or political subdivision thereof;

"(C) as a member of the State National Guard or Air National Guard;

"(D) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or

"(E) in a position which, under or pursuant to the State law, is designated as (i) a major nontenured policymaking or advisory position, or (ii) a policymaking or advisory position the performance of the duties of which ordinarily does not require more than 8 hours per week;".

(2) INMATES.—Paragraph (6) of such section 3309(b) is amended to read as follows:

"(6) by an inmate of a custodial or penal institution.".

(c) TECHNICAL ADJUSTMENTS.—

(1) Subparagraph (A) of section 3304(a)(6) of such Code is amended by striking out "except that" and all that follows down through ", and" at the end thereof and inserting in lieu thereof the following: "except that—

"(i) with respect to services in an instructional research, or principal administrative capacity for an educational insti-

tution to which section 3309(a)(1) applies, compensation shall not be payable based on such services for any week commencing during the period between two successive academic years (or, when an agreement provides instead for a similar period between two regular but not successive terms, during such period) to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms, and

"(ii) with respect to services in any other capacity for an educational institution (other than an institution of higher education) to which section 3309(a)(1) applies, compensation payable on the basis of such services may be denied to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, and".

(2) Subsection (d) of section 3309 of such Code is hereby repealed.

(3) The section heading of section 3309 of such Code is amended to read as follows:

"SEC. 3309. STATE LAW COVERAGE OF SERVICES PERFORMED FOR NONPROFIT ORGANIZATIONS OR GOVERNMENTAL ENTITIES.".

(4) The table of sections for chapter 23 of such Code is amended by striking out the item relating to section 3309 and inserting in lieu thereof the following:

"Sec. 3309. State law coverage of services performed for nonprofit organizations or governmental entities.".

(5) Section 3304 of such Code is amended by adding at the end thereof the following new subsection:

"(f) DEFINITION OF INSTITUTION OF HIGHER EDUCATION.—For purposes of subsection (a)(6), the term 'institution of higher education' means an educational institution in any State which—

"(1) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

"(2) is legally authorized within such State to provide a program of education beyond high school;

"(3) provides an educational program for it which awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized occupation; and

"(4) is a public or other nonprofit institution."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to certifications of States for 1978 and subsequent years, but only with respect to services performed after December 31, 1977.

SEC. 116. EXTENSION OF FEDERAL UNEMPLOYMENT COMPENSATION LAW TO THE VIRGIN ISLANDS.

(a) AMENDMENT OF THE SOCIAL SECURITY ACT.—Paragraph (1) of section 1101(a) of the Social Security Act is amended by inserting after the first sentence the following new sentence: "Such term when used in titles III, IX, and XII also includes the Virgin Islands.".

(b) AMENDMENTS OF THE INTERNAL REVENUE CODE OF 1954.—

(1) Section 3306(c) of the Internal Revenue Code of 1954 (defining employment) is amended by striking out "or in the Virgin Islands" in the portion of such section which precedes paragraph (1) thereof.

(2) Section 3306(j) of such Code is amended to read as follows:

"(j) STATE, UNITED STATES, AND AMERICAN EMPLOYER.—For purposes of this chapter—

"(1) STATE.—The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

"(2) UNITED STATES.—The term 'United States' when used in a geographical sense includes the States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

"(3) AMERICAN EMPLOYER.—The term 'American employer' means a person who is—

"(A) an individual who is a resident of the United States,

"(B) a partnership, if two-thirds or more of the partners are residents of the United States,

"(C) a trust, if all of the trustees are residents of the United States, or

"(D) a corporation organized under the laws of the United States or of any State.

An individual who is a citizen of the Commonwealth of Puerto Rico or the Virgin Islands (but not otherwise a citizen of the United States) shall be considered, for purposes of this section, as a citizen of the United States.".

(c) AMENDMENT RELATING TO THE FEDERAL EMPLOYMENT SERVICE.—Section 5(b) of the Act entitled "An Act to provide for the establishment of a national employment system and for cooperation with the States for the promotion of such system, and for other purposes", approved June 6, 1933 (29 U.S.C. 49d(b)), is amended by striking out "Guam and the Virgin Islands" and inserting in lieu thereof "Guam".

(d) AMENDMENTS RELATING TO EXTENDED AND EMERGENCY BENEFITS.—

(1) Section 202(a)(1) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by striking out "the Virgin Islands or".

(2) Paragraph (8) of section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended to read as follows:

"(8) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.".

(3) Section 102(b)(1)(C) of the Emergency Unemployment Compensation Act of 1974 is amended by striking out "the Virgin Islands or".

(e) AMENDMENTS RELATING TO FEDERAL UNEMPLOYMENT COMPENSATION.—

(1) Paragraph (6) of section 8501 of title 5, United States Code, is amended to read as follows:

"(6) 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands; and".

(2) Section 8503 of title 5, United States Code is amended—

(A) by striking out subsections (b) and (d);

(B) by redesignating subsection (c) as subsection (b); and

(C) by striking out "subsection (a) or (b)" in subsection (b) (as so redesignated) and inserting in lieu thereof "subsection (a)".

(3) Section 8504 of title 5, United States Code, is amended—

(A) by adding "and" at the end of paragraph (1);

(B) by striking out "; and" at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) by striking out paragraph (3).

(4) Paragraph (3) of section 8521 of title 5 United States Code, is amended to read as follows:

"(3) 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands."

(5) Section 8522 of title 5, United States Code, is amended by striking out "or to the Virgin Islands, as the case may be,".

(f) EFFECTIVE DATES.—

(1) SUBSECTIONS (a), (c), AND (d).—The amendments made by subsections (a), (c), and (d) shall take effect on the later of October 1, 1976, or the day after the day on which the Secretary of Labor approves under section 3304(a) of the Internal Revenue Code of 1954 an unemployment compensation law submitted to him by the Virgin Islands for approval.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply with respect to remuneration paid after December 31 of the year in which the Secretary of Labor approves for the first time an unemployment compensation law submitted to him by the Virgin Islands for approval, for services performed after such December 31.

(3) SUBSECTION (e).—The amendments made by subsection (e) shall apply with respect to benefit years beginning on or after the later of October 1, 1976, or the first day of the first week for which compensation becomes payable under an unemployment compensation law of the Virgin Islands which is approved by the Secretary of Labor under section 3304(a) of the Internal Revenue Code of 1954.

(g) TRANSFER OF FUNDS.—The Secretary of Labor shall not approve an unemployment compensation law of the Virgin Islands under section 3304(a) of the Internal Revenue Code of 1954 until the Governor of the Virgin Islands has approved the transfer to the Federal Unemployment Trust Fund established by section 904 of the Social Security Act of an amount equal to the dollar balance credited to the unemployment subfund of the Virgin Islands established under section 310 of title 24 of the Virgin Islands Code.

PART II—TRANSITIONAL PROVISIONS

SEC. 121. FEDERAL REIMBURSEMENT FOR BENEFITS PAID TO NEWLY COVERED WORKERS DURING TRANSITION PERIOD.

(a) GENERAL RULE.—If any State, the unemployment compensation law of which is approved by the Secretary under section 3304(a) of the Internal Revenue Code of 1954, provides for the payment of compensation for any week of unemployment beginning on or after January 1, 1978, on the basis of previously uncovered services, the

Secretary shall pay to the unemployment fund of such State an amount equal to the Federal reimbursement for any compensation paid for a week of unemployment beginning on or after January 1, 1978, to any individual whose base period wages include wages for previously uncovered services.

(b) Previously Uncovered Services.—For purposes of this section, the term "previously uncovered services" means, with respect to any State, services—

(1) which were not covered by the State unemployment compensation law, at any time, during the 1-year period ending December 31, 1975; and

(2) which—

(A) are agricultural labor (as defined in section 3306(k) of the Internal Revenue Code of 1954) or domestic services referred to in section 3306(c)(2) of such Code (as in effect on the day before the date of the enactment of this Act) and are treated as employment (as defined in section 3306 (c) of such Code) by reason of the amendments made by this Act, or

(B) are services to which section 3309(a)(1) of such Code applies by reason of the amendments made by this Act.

(c) Federal Reimbursement.—

(1) In general.—For purposes of this section, the Federal reimbursement for compensation paid to any individual for any week of unemployment shall be an amount which bears the same ratio to the amount of such compensation as the amount of the individual's base period wages which are attributable to previously uncovered services which are reimbursable bears to the total amount of the individual's base period wages.

(2) Reimbursable services.—For purposes of determining the amount of the Federal reimbursement for compensation paid to any individual for any week of unemployment, previously uncovered services shall be treated as being reimbursable—

(A) if such services were performed—

(i) before July 1, 1978, in the case of a week of unemployment beginning before July 1, 1978; or

(ii) before January 1, 1978, in the case of a week of unemployment beginning after July 1, 1978; and

(B) to the extent that assistance under title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was not paid to such individual on the basis of such services.

(3) Denial of payment.—No payment may be made under subsection (a) to any State in respect of any compensation for which the State is entitled to any reimbursement under the provisions of any Federal law other than this Act or the Federal-State Extended Unemployment Compensation Act of 1970.

(d) Experience Rating of Certain Employers.—The unemployment compensation law of any State may, without being deemed to violate the standards set forth in section 3303(a) of the Internal Revenue Code of 1954, provide that the experience-rating account of any employer shall not be charged for the compensation paid to any individual whose base period wages includes wages for previously uncovered services which are reimbursable under subsection (c)(2) to the extent that such individual would not have been eligible to receive such compensation had the State law not provided for the pay-

ment of compensation on the basis of such previously uncovered services.

(e) CERTAIN NONPROFIT EMPLOYERS.—The unemployment compensation law of any State may provide that any organization which elects to make payments (in lieu of contributions) into the State unemployment compensation fund as provided in section 3309(a)(2) of the Internal Revenue Code of 1954 shall not be liable to make such payments with respect to the compensation paid to any individual whose base period wages includes wages for previously uncovered services which are reimbursable under subsection (c)(2) to the extent that such individual would not have been eligible to receive such compensation had the State not provided for the payment of compensation on the basis of such previously uncovered services.

(f) PAYMENTS MADE MONTHLY.—Payments under subsection (a) shall be made monthly, prior to audit or settlement by the General Accounting Office, on the basis of estimates by the Secretary of the amount payable to such State for such month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior month were greater or less than the amounts which should have been paid to such State. Such estimates may be made on the basis of such statistical, sampling, or other methods as may be agreed upon by the Secretary and the State.

(g) DEFINITIONS.—For purposes of this section—

(1) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(2) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(3) BENEFIT YEAR.—The term "benefit year" means the benefit year as defined in the applicable State unemployment compensation law.

(4) BASE PERIOD.—The term "base period" means the base period as defined by the applicable State unemployment compensation law for the benefit year.

(5) UNEMPLOYMENT FUND.—The term "unemployment fund" has the meaning given to such term by section 3306(f) of the Internal Revenue Code of 1954.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the general fund of the Treasury such sums as may be necessary to carry out the purposes of this section.

SEC. 122. TRANSITIONAL RULES IN CASE OF NONPROFIT ORGANIZATIONS.

(a) CREDIT FOR PRIOR CONTRIBUTIONS.—Section 3303 of the Internal Revenue Code of 1954 (relating to conditions of additional credit allowance) is amended by adding at the end thereof the following new subsection:

"(g) TRANSITIONAL RULE FOR UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976.—To facilitate the orderly transition to coverage of service to which section 3309(a)(1)(A) applies by reason of the enactment of the Unemployment Compensation Amendments of 1976, a State law may provide that an organization (or group of organizations) which elects, when such election first becomes available under the State law with respect to such service, to make payments (in lieu of contributions) into the State unemployment fund as provided in section 3309(a)(2), and which had paid contributions into such fund under the State law with respect to such service performed in its employ before the date of the enactment of this subsection, is not

required to make any such payment (in lieu of contributions) on account of compensation paid after its election as heretofore described which is attributable under the State law to such service performed in its employ, until the total of such compensation equals the amount—

"(1) by which the contributions paid by such organization (or group) on the basis of wages for such service with respect to a period before the election provided by section 3309(a)(2), exceed

"(2) the unemployment compensation for the same period which was charged to the experience-rating account of such organization (or group) or paid under the State law on the basis of such service performed in its employ or wages paid for such service, whichever is appropriate.".

(b) TECHNICAL AMENDMENT.—Section 3303(f) of such Code (relating to transition to coverage of certain services) is amended by striking out "which elects, when such election first becomes available under the State law," and inserting in lieu thereof "which elects before April 1, 1972,".

(c) EFFECTIVE DATES.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. The amendment made by subsection (b) shall take effect on January 1, 1970.

TITLE II—FINANCING PROVISIONS

SEC. 211. INCREASE IN FEDERAL UNEMPLOYMENT TAX WAGE BASE AND RATE.

(a) INCREASE IN WAGE BASE.—Paragraph (1) of section 3306(b) of the Internal Revenue Code of 1954 (defining wages) is amended by striking out "$4,200" each place it appears and inserting in lieu thereof "$6,000".

(b) INCREASE IN TAX RATE.—Section 3301 of such Code (relating to rate of Federal unemployment tax) is amended to read as follows:

"SEC. 3301. RATE OF TAX.

"There is hereby imposed on every employer (as defined in section 3306(a)) for each calendar year an excise tax, with respect to having individuals in his employ, equal to—

"(1) 3.4 percent, in the case of a calendar year beginning before the first calendar year after 1976, as of January 1 of which there is not a balance of repayable advances made to the extended unemployed compensation account (established by section 905(a) of the Social Security Act); or

"(2) 3.2 percent, in the case of such first calendar year and each calendar year thereafter;

of the total wages (as defined in section 3306(b)) paid by him during the calendar year with respect to employment (as defined in section 3306(c)).".

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (C) of section 901(c)(3) of the Social Security Act is amended to read as follows:

"(C) Each estimate of net receipts under this paragraph shall be based upon (i) a tax rate of 0.5 percent in the case of any calendar year for which the rate of tax under section 3301 of the Federal Unemployment Tax Act is 3.2 percent, and (ii) a tax rate of 0.7 percent in the case of any calendar year for which the rate of tax under such section 3301 is 3.4 percent.".

(2) The last sentence of section 905(b)(1) of such Act is amended to read as follows: "In the case of any month after March 1977 and before April of the first calendar year to which paragraph (2) of section 3301 of the Federal Unemployment Tax Act applies, the first sentence of this paragraph shall be applied by substituting 'five-fourteenths' for 'one-tenth'.".

(3) The last sentence of section 6157(b) of the Internal Revenue Code of 1954 is amended to read as follows: "In the case of wages paid in any calendar quarter or other period during a calendar year to which paragraph (1) of section 3301 applies, the amount of such wages shall be multiplied by 0.7 percent in lieu of 0.5 percent.".

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1977.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to remuneration paid after December 31, 1976.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

SEC. 212. DENIAL OF CERTAIN PAYMENTS UNDER THE EXTENDED UNEMPLOYMENT COMPENSATION PROGRAM.

(a) IN GENERAL.—Subsection (a) of section 204 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new paragraph:

"(4) 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 1954 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.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to compensation paid for weeks of unemployment beginning on or after January 1, 1979.

SEC. 213. ADVANCES TO STATE UNEMPLOYMENT FUNDS.

(a) ADVANCES TO BE MADE FOR 3-MONTH PERIODS.—Paragraph (1) of section 1201(a) of the Social Security Act is amended—

(1) by striking out "any month" and inserting in lieu thereof "any 3-month period";

(2) by striking out "the preceding month" and inserting in lieu thereof "the month preceding the first month of such 3-month period"; and

(3) by striking out "such month" and inserting in lieu thereof "each month of such 3-month period".

(b) APPLICATIONS.—Paragraph (2) of such section 1201(a) is amended—

(1) by striking out "any month" each place it appears and inserting in lieu thereof "any 3-month period", and

(2) by striking out "such month" each place it appears and inserting in lieu thereof "each month of such 3-month period".

(c) Section 1201(b) of such Act is amended—

(1) by inserting "in monthly installments" immediately after "transfer" where it first appears therein, and

(2) by adding at the end thereof the following new sentence: "The amount of any monthly installment so transferred shall not exceed the amount estimated by the State to be required for the payment of compensation for the month with respect to which such installment is made.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 214. PRORATION OF COSTS OF CLAIMS FILED JOINTLY UNDER STATE LAW AND SECTION 8505 OF TITLE 5, UNITED STATES CODE.

(a) GENERAL RULE.—Section 8505(a) of title 5, United States Code, is amended to read as follows:

"(a) Each State is entitled to be paid by the United States with respect to each individual whose base period wages included Federal wages an amount which shall bear the same ratio to the total amount of compensation paid to such individual as the amount of his Federal wages in his base period bears to the total amount of his base period wages."

(b) TECHNICAL AMENDMENT.—Section 8501 of title 5, United States Code, is amended by striking out "and" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(8) 'base period' means the base period as defined by the applicable State unemployment compensation law for the benefit year."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with regard to compensation paid on the basis of claims for compensation filed on or after July 1, 1977.

TITLE III—BENEFIT PROVISIONS

SEC. 311. AMENDMENTS TO THE TRIGGER PROVISIONS OF THE EXTENDED PROGRAM.

(a) NATIONAL "ON" AND "OFF" INDICATORS.—Subsection (d) of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended to read as follows:

"(d) For purposes of this section—

"(1) There is a national 'on' indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all States equaled or exceeded 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period).

"(2) There is a national 'off' indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all States was less than 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period).".

(b) STATE "ON" AND "OFF" INDICATORS.—Subsection (e) of section 203 of such Act is amended to read as follows:

"(e) For purposes of this section—

"(1) There is a State 'on' indicator for a week if the rate of insured unemployment under the State law for the period consisting of such week and the immediately preceding twelve weeks—

"(A) equaled or exceeded 120 per centum of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and

"(B) equaled or exceeded 4 per centum.

"(2) There is a State 'off' indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, either subparagraph (A) or subparagraph (B) of paragraph (1) is not satisfied.

Effective with respect to compensation for weeks of unemployment beginning after March 30, 1977 (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State 'on' or 'off' indicator beginning or ending any extended benefit period shall be made under this subsection as if (i) paragraph (1) did not contain subparagraph (A) thereof, and (ii) the figure '4' contained in subparagraph (B) thereof were '5'; except that, notwithstanding any such provision of State law, any week for which there would otherwise be a State 'on' indicator shall continue to be such a week and shall not be determined to be a week for which there is a State 'off' indicator. For purposes of this subsection, the rate of insured unemployment for any thirteen-week period shall be determined by reference to the average monthly covered employment under the State law for the first four of the most recent six calendar quarters ending before the close of such period.".

(c) Effective Date.—The amendment made by subsection (a) of this section shall apply to weeks beginning after December 31, 1976, and the amendments made by subsection (b) of this section shall apply to weeks beginning after March 30, 1977.

SEC. 312. PREGNANCY DISQUALIFICATIONS.

(a) General Rule.—Paragraph (12) of section 3304(a) of the Internal Revenue Code of 1954 (relating to requirements for approval of State unemployment compensation laws) is amended to read as follows:

"(12) no person shall be denied compensation under such State law solely on the basis of pregnancy or termination of pregnancy;".

(b) Technical Amendment.—Subsection (c) of section 3304 of such Code (relating to certification of State unemployment compensation laws) is amended by adding at the end thereof the following new sentence: "On October 31 of any taxable year after 1977, the Secretary shall not certify any State which, after reasonable notice and opportunity for a hearing to the State agency, the Secretary of Labor finds has failed to amend its law so that it contains each of the provisions required by reason of the enactment of the Unemployment Compensation Amendments of 1976 to be included therein, or has with respect to the 12-month period ending on such October 31, failed to comply substantially with any such provision.".

(c) Effective Date.—The amendments made by this section shall apply with respect to certifications of States for 1978 and subsequent years.

SEC. 313. REPEAL OF FINALITY PROVISION.

(a) GENERAL RULE.—Section 8506(a) of title 5, United States Code, is amended by striking out the fifth sentence.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to findings made after the date of the enactment of this Act.

SEC. 314. DENIAL OF UNEMPLOYMENT COMPENSATION TO ATHLETES, ILLEGAL ALIENS, AND RECIPIENTS OF RETIREMENT BENEFITS.

(a) GENERAL RULE.—Subsection (a) of section 3304 of the Internal Revenue Code of 1954 (relating to requirements for approval of State unemployment compensation laws) is amended by redesignating paragraph (13) as paragraph (16) and by inserting after paragraph (12) the following new paragraphs:

"(13) compensation shall not be payable to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods);

"(14)(A) compensation shall not be payable on the basis of services performed by an alien unless such alien is an individual who has been lawfully admitted for permanent residence or otherwise is permanently residing in the United States under color of law (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act),

"(B) any data or information required of individuals applying for compensation to determine whether compensation is not payable to them because of their alien status shall be uniformly required from all applicants for compensation, and

"(C) in the case of an individual whose application for compensation would otherwise be approved, no determination by the State agency that compensation to such individual is not payable because of his alien status shall be made except upon a preponderance of the evidence;

"(15) the amount of compensation payable to an individual for any week which begins after September 30, 1979, and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment, which is reasonably attributable to such week;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to certifications of States for 1978 and subsequent years, or for 1979 and subsequent years in the case of States the legislatures of which do not meet in a regular session which closes in the calendar year 1977.

TITLE IV—NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

SEC. 411. NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION.

(a) ESTABLISHMENT OF COMMISSION.—There is established a National Commission on Unemployment Compensation (hereinafter in this section referred to as the "Commission") which shall consist of thirteen members who shall be appointed as follows:

(1) Three members appointed by the President pro tempore of the Senate.

(2) Three members appointed by the Speaker of the House of Representatives.

(3) Seven members appointed by the President.

In making appointments under the preceding sentence, the President pro tempore of the Senate, the Speaker of the House of Representatives, and the President shall consult with each other to insure that there will be a balanced representation of interested parties on the Commission. The Commission shall consist of at least one representative of labor, industry, the Federal Government, State government, local government, and small business. The President shall designate one of the members to serve as Chairman of the Commission. Seven members shall constitute a quorum. Any vacancies in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(b) DUTIES OF THE COMMISSION.—The Commission shall study and evaluate the present unemployment compensation programs in order to assess the long-range needs of the programs, to develop alternatives, and to recommend changes in the programs. Such study and evaluation shall include, without being limited to—

(1) examination of the adequacy, and economic and administrative impacts, of the changes made by this Act in coverage, benefit provisions, and financing;

(2) identification of appropriate purposes, objectives, and future directions for unemployment compensation programs; including railroad unemployment insurance;

(3) examination of issues and alternatives concerning the relationship of unemployment compensation to the economy, with special attention to long-range funding requirements and desirable methods of program financing;

(4) examination of eligibility requirements, disqualification provisions, and factors to consider in determining appropriate benefit amounts and duration;

(5) examination of (A) the problems of claimant fraud and abuse in the unemployment compensation programs (B) the adequacy of present statutory requirements and administrative procedures designed to protect the programs against such fraud and abuse and (C) problems of claimants in obtaining prompt processing and payment of their claims for benefits and any appropriate measures to relieve such problems;

(6) examination of the relationship between unemployment compensation programs and manpower training and employment programs;

(7) examination of the appropriate role of unemployment compensation in income maintenance and its relationship to other social insurance and income maintenance programs;

(8) conduct of such surveys, hearings, research, and other activities as it deems necessary to enable it to formulate appropriate recommendations, and to obtain relevant information, attitudes, opinions, and recommendations from individuals and organizations representing employers, employees, and the general public;

(9) review of the present method of collecting and analyzing present and prospective national and local employment and unemployment information and statistics;

(10) identification of any weaknesses in such method and any problem which results from the operation of such method;

(11) formulation of any necessary or appropriate new techniques for the collection and analysis of such information and statistics; and

(12) examination of the feasibility and advisability of developing or not developing Federal minimum benefit standards for State unemployment insurance program.

(c) Powers of the Commission.—

(1) Hearings.—The Commission, or, on the authorization of the Commission, any subcommittee or members thereof, may, for the purpose of carrying out the provisions of this section, hold such hearing, take such testimony, receive such evidence, take such oaths and sit and act at such times and places as the Commission may deem appropriate and may administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or members thereof.

(2) Staff.—Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(A) appoint and fix the compensation of an executive director, and such additional personnel as he deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the executive director may not receive pay in excess of the maximum annual rate of basic pay in effect for grade GS–18 of the General Schedule under section 5332 of such title and any additional personnel may not receive pay in excess of the maximum annual rate of basic pay in effect for grade GS–15 of such General Schedule, and

(B) obtain temporary and intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(3) Contracts.—The Commission is authorized to negotiate and enter into contracts with organizations, institutions, and individuals to carry out such studies, surveys, or research and prepare such reports as the Commission determines are necessary in order to carry out its duties.

(d) Cooperation of Other Federal Agencies.—

(1) Information.—Each department, agency, and instrumentality of the Federal Government is authorized and directed to

furnish to the Commission, upon request made by the Chairman, and to the extent permitted by law, such data, reports, and other information as the Commission deems necessary to carry out its functions under this section.

(2) SERVICES.—The head of each department or agency of the Federal Government is authorized to provide to the Commission such services as the Commission requests on such basis, reimbursable and otherwise, as may be agreed between the department or agency and the Chairman of the Commission. All such requests shall be made by the Chairman of the Commission.

(3) DEPARTMENT OF LABOR.—The Department of Labor shall provide support for the Commission and shall perform such other functions with respect to the Commission as may be required by the provisions of the Federal Advisory Committee Act.

(e) PAY AND TRAVEL EXPENSES.—

(1) MEMBERS SERVE WITHOUT PAY.—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(f) INTERIM REPORT.—The Commission shall transmit to the Congress not later than March 31, 1978, an interim report.

(g) FINAL REPORT.—The Commission shall transmit to the President and the Congress not later than January 1, 1979, a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable.

(h) TERMINATION.—On the ninetieth day after the date of submission of its final report to the President, the Commission shall cease to exist.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. REFERRAL OF BLIND AND DISABLED INDIVIDUALS UNDER AGE 16, WHO ARE RECEIVING BENEFITS UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM, FOR APPROPRIATE REHABILITATION SERVICES.

(a) IN GENERAL.—Section 1615 of the Social Security Act is amended to read as follows:

"REHABILITATION SERVICES FOR BLIND AND DISABLED INDIVIDUALS

"SEC. 1615. (a) In the case of any blind or disabled individual who—

"(1) has not attained age 65, and

"(2) is receiving benefits (or with respect to whom benefits are paid) under this title,

the Secretary shall make provision for referral of such individual to the appropriate State agency administering the State plan for voca-

tional rehabilitation services approved under the Vocational Rehabilitation Act, or, in the case of any such individual who has not attained age 16, to the appropriate State agency administering the State plan under subsection (b) of this section, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the services made available to him under such plan.

"(b)(1) The Secretary shall by regulation prescribe criteria for approval of State plans for—

"(A) assuring appropriate counseling for disabled children referred pursuant to subsection (a) and their families,

"(B) establishment of individual service plans for such disabled children, and prompt referral to appropriate medical, educational, and social services,

"(C) monitoring to assure adherence to such service plans, and

"(D) provision for such disabled children who are 6 years of age and under, or who have never attended public school and require preparation to take advantage of public educational services, of medical, social, developmental, and rehabilitative services, in cases where such services reasonably promise to enhance the child's ability to benefit from subsequent education or training, or otherwise to enhance his opportunities for self-sufficiency or self-support as an adult.

"(2) Such criteria shall include—

"(A) administration—

"(i) by the agency administering the State plan for crippled children's services under title V of this Act, or

"(ii) by another agency which administers programs providing services to disabled children and which the Governor of the State concerned has determined is capable of administering the State plan described in the first sentence of this subsection in a more efficient and effective manner than the agency described in clause (i) (with the reasons for such determination being set forth in the State plan described in the first sentence of this subsection);

"(B) coordination with other agencies serving disabled children; and

"(C) establishment of an identifiable unit within such agency which shall be responsible for carrying out the plan.

"(c) Every individual age 16 or over with respect to whom the Secretary is required to make provision for referral under subsection (a) shall accept such services as are made available to him under the State plan for vocational and rehabilitation services approved under the Vocational Rehabilitation Act; and no such individual shall be an eligible individual or eligible spouse for purposes of this title if he refuses without good cause to accept services for which he is referred under subsection (a).

"(d) The Secretary is authorized to pay to the State agency administering or supervising the administration of a State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act the costs incurred under such plan in the provision of rehabilitation services to individuals referred for such services pursuant to subsection (a).

"(c)(1) The Secretary shall, subject to the limitations imposed by paragraphs (2) and (3), pay to the State agency administering a State plan of a State under subsection (b) of this section, the costs incurred

each fiscal year which begins after September 30, 1976, and ends prior to October 1, 1979, in carrying out the State plan approved pursuant to such subsection (b).

"(2)(A) Of the funds paid by the Secretary with respect to costs, incurred in any State, to which paragraph (1) applies, not more than 10 per centum thereof shall be paid with respect to costs incurred with respect to activities described in subsection (b)(1) (A), (B), and (C).

"(B) Whenever there are provided pursuant to this section to any child services of a type which is appropriate for children who are not blind or disabled, there shall be disregarded for purposes of computing any payment with respect thereto under this subsection, so much of the costs of such services as would have been incurred if the child involved had not been blind or disabled.

"(C) The total amount payable under this subsection for any fiscal year, with respect to services provided in any State, shall be reduced by the amount by which the sum of the public funds expended (as determined by the Secretary) from non-Federal sources for services of the type involved for such fiscal year is less than the sum of such funds expended from such sources for services of such type for the fiscal year ending June 30, 1976.

"(3) No payment under this subsection with respect to costs incurred in providing services in any State for any fiscal year shall exceed an amount which bears the same ratio to $30,000,000 as the under age 7 population of such State (and for purposes of this section the District of Columbia shall be regarded as a State) bears to the under age 7 population of the fifty States and the District of Columbia. The Secretary shall promulgate the limitation applicable to each State for each fiscal year under this paragraph on the basis of the most recent satisfactory data available from the Department of Commerce not later than 90 nor earlier than 270 days before the beginning of such year."

(b) PUBLICATION OF CRITERIA.—The Secretary shall, within 120 days after the enactment of this subsection, publish criteria to be employed to determine disability (as defined in section 1614(a)(3) of the Social Security Act) in the case of persons who have not attained the age of 18.

SEC. 502. INCOME OF EACH MEMBER OF MARRIED COUPLE TO BE APPLIED SEPARATELY IN DETERMINING SSI BENEFIT PAYMENTS WHEN ONE OF THEM IS IN AN INSTITUTION.

Section 1611(e)(1)(B)(ii) of the Social Security Act is amended to read as follows:

"(ii) in the case of an individual who has an eligible spouse, if only one of them is in such a hospital, home or facility throughout such month, at a rate not in excess of the sum of—

"(I) the rate of $300 per year (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the one who is in such hospital, home, or facility), and

"(II) the applicable rate specified in subsection (b)(1) (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the other); and".

SEC. 503. PRESERVATION OF MEDICAID ELIGIBILITY FOR INDIVIDUALS WHO CEASE TO BE ELIGIBLE FOR SUPPLEMENTAL SECURITY INCOME BENEFITS ON ACCOUNT OF COST-OF-LIVING INCREASES IN SOCIAL SECURITY BENEFITS.

In addition to other requirements imposed by law as a condition for the approval of any State plan under title XIX of the Social

Security Act, there is hereby imposed the requirement (and each such State plan shall be deemed to require) that medical assistance under such plan shall be provided to any individual, for any month after June 1977 for which such individual is entitled to a monthly insurance benefit under title II of such Act but is not eligible for benefits under title XVI of such Act, in like manner and subject to the same terms and conditions as are applicable under such State plan in the case of individuals who are eligible for and receiving benefits under such title XVI for such month, if for such month such individual would be (or could become) eligible for benefits under such title XVI except for amounts of income received by such individual and his spouse (if any) which are attributable to increases in the level of monthly insurance benefits payable under title II of such Act which have occurred pursuant to section 215(i) of such Act, in the case of such individual, since the last month after April 1977 for which such individual was both eligible for (and received) benefits under such title XVI and was entitled to a monthly insurance benefit under such title II, and, in the case of such individual's spouse (if any), since the last such month for which such spouse was both eligible for (and received) benefits under such title XVI and was entitled to a monthly insurance benefit under such title II. Solely for purposes of this section, payments of the type described in section 1616(a) of the Social Security Act or of the type described in section 212(a) of Public Law 93–66 shall be deemed to be benefits under title XVI of the Social Security Act.

SEC. 504. STATE SUPPLEMENTATION OF BENEFITS UNDER SUPPLEMENTAL SECURITY INCOME PROGRAM.

(a) LIMITATION ON STATE COSTS.—Section 401(a)(2) of the Social Security Amendments of 1972 is amended—

(1) by inserting "(subject to the second sentence of this paragraph)" immediately after "Act" where it first appears in subparagraph (B), and

(2) by adding at the end thereof the following new sentence: "In determining the difference between the level specified in subparagraph (A) and the benefits and income described in subparagraph (B) there shall be excluded any part of any such benefit which results from (and would not be payable but for) any cost-of-living increase in such benefits under section 1617 of such Act (or any general increase enacted by law in the dollar amounts referred to in such section) becoming effective after June 30, 1977, and before July 1, 1979.".

(b) EFFECTIVE DATE.—The provisions of this section shall be effective with respect to benefits payable for months after June 1977.

SEC. 505. ELIGIBILITY OF INDIVIDUALS IN CERTAIN INSTITUTIONS.

(a) IN GENERAL.—Section 1611(e)(1) of the Social Security Act is amended by striking out "subparagraph (B)" in subparagraph (A) and inserting in lieu thereof "subparagraph (B) and (C)"; and by adding at the end thereof the following new subparagraph:

"(C) As used in subparagraph (A), the term 'public institution' does not include a publicly operated community residence which serves no more than 16 residents.".

(b) CONFORMING AMENDMENT.—Section 1612(b)(6) of such Act is amended by striking out "assistance described in section 1616(a) which" and inserting in lieu thereof "assistance, furnished to or on behalf of such individual (and spouse), which".

(c) Repeal of Limitation on Payment.—Section 1616(e) of such Act is repealed.

(d) States To Establish Standards.—Effective October 1, 1977, section 1616(e) of such Act is amended to read as follows:

"(e)(1) Each State shall establish or designate one or more State or local authorities which shall establish, maintain, and insure the enforcement of standards for any category of institutions, foster homes, or group living arrangements in which (as determined by the State) a significant number of recipients of supplemental security income benefits is residing or is likely to reside. Such standards shall be appropriate to the needs of such recipients and the character of the facilities involved, and shall govern such matters as admission policies, safety, sanitation, and protection of civil rights.

"(2) Each State shall annually make available for public review, as a part of the services program planning procedures established pursuant to section 2004 of this Act, a summary of the standards established pursuant to paragraph (1), and shall make available to any interested individual a copy of such standards, along with the procedures available in the State to insure the enforcement of such standards and a list of any waivers of such standards and any violations of such standards which have come to the attention of the authority responsible for their enforcement.

"(3) Each State shall certify annually to the Secretary that it is in compliance with the requirements of this subsection.

"(4) Payments made under this title with respect to an individual shall be reduced by an amount equal to the amount of any supplementary payment (as described in subsection (a)) or other payment made by a State (or political subdivision thereof) which is made for or on account of any medical or any other type of remedial care provided by an institution of the type described in paragraph (1) to such individual as a resident or an inpatient of such institution if such institution is not approved as meeting the standards described in such paragraph by the appropriate State or local authorities.".

(e) Effective Date.—The amendments and repeals made by this section, unless otherwise specified therein, shall take effect on October 1, 1976.

SEC. 506. ELECTION OF LOCAL GOVERNMENTS TO USE REIMBURSEMENT METHOD.

(a) In General.—Paragraph (2) of section 3309(a) of the Internal Revenue Code of 1954 (relating to State law requirements) is amended—

(1) by striking out "an organization" and inserting in lieu thereof "a governmental entity or any other organization",

(2) by striking out "paragraph (1)(A)" and inserting in lieu thereof "paragraph (1)", and

(3) by striking out "that organizations" and inserting in lieu thereof "that governmental entities or other organizations".

(b) Technical Amendment.—Subparagraph (B) of section 3304(a)(6) of such Code is amended by striking out "section 3309(a)(1)(A)" and inserting in lieu thereof "section 3309(a)(1)".

(c) Effective Date.—The amendments made by this section shall apply with respect to certifications of States for 1978 and subsequent years, but only with respect to services performed after December 31, 1977.

SEC. 507. AFDC BENEFITS WHERE UNEMPLOYED FATHER RECEIVES UNEMPLOYMENT COMPENSATION.

(a) In General.—Section 407(b)(2) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (B); and

(2) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) for the denial of aid to families with dependent children to any child or relative specified in subsection (a)—

"(i) if and for so long as such child's father, unless exempt under section 402(a)(19)(A), is not registered pursuant to such section for the work incentive program established under part C of this title, or, if he is exempt under such section by reason of clause (iii) thereof or no such program in which he can effectively participate has been established or provided under section 432(a), is not registered with the public employment offices in the State, and

"(ii) with respect to any week for which such child's father qualifies for unemployment compensation under an unemployment compensation law of a State or of the United States, but refuses to apply for or accept such unemployment compensation; and

"(D) for the reduction of the aid to families with dependent children otherwise payable to any child or relative specified in subsection (a) by the amount of any unemployment compensation that such child's father receives under an unemployment compensation law of a State or of the United States.".

(b) Conforming Provision.—Section 407(d)(3) of such Act is amended by inserting ", for purposes of section 407(b)(1)(C)," before "be deemed".

(c) Effective Date.—The amendments made by the preceding provisions of this section shall be effective with respect to months after (and weeks beginning in months after) the date of the enactment of this Act.

(d) Simplification of Procedures.—Section 407 of the Social Security Act is further amended by adding at the end thereof the following new subsection:

"(e) The Secretary of Health, Education, and Welfare and the Secretary of Labor shall jointly enter into an agreement with each State which is able and willing to do so for the purpose of (1) simplifying the procedures to be followed by unemployed fathers and other unemployed persons in such State in registering pursuant to section 402(a)(19) for the work incentive program established by part C of this title and in registering with public employment offices (under this section and otherwise) or in connection with applications for unemployment compensation, by reducing the number of locations or agencies where such persons must go in order to register for such programs and in connection with such applications, and (2) providing where possible for a single registration satisfying this section and the requirements of both the work incentive program and the applicable unemployment compensation laws.".

SEC. 508. STATE EMPLOYMENT OFFICES TO SUPPLY DATA IN AID OF ADMINISTRATION OF AFDC AND CHILD SUPPORT PROGRAMS.

(a) In General.—Section 3(a) of the Act entitled "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes", approved June 6, 1933 (29 U.S.C. 49b(a)), is amended by adding at the end thereof the following new sentence: "It shall be the further duty of the bureau to assure that such employment offices in each State, upon request of a public agency administering or supervising the administration of a State plan approved under part A of title IV of the Social Security Act or of a public agency charged with any duty or responsibility under any program or activity authorized or required under part D of title IV of such Act, shall (and, notwithstanding any other provision of law, is hereby authorized to) furnish to such agency making the request, from any data contained in the files of any such employment office, information with respect to any individual specified in the request as to (A) whether such individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received by such individual, (B) the current (or most recent) home address of such individual, and (C) whether such individual has refused an offer of employment and, if so, a description of the employment so offered and terms, conditions, and rate of pay therefor.".

(b) Provision for Reimbursement of Expenses.—For purposes of section 403 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information requested of such offices pursuant to the third sentence of section 3(a) of the Act entitled "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes", approved June 6, 1933 (29 U.S.C. 49b(a), by a State or local agency administering a State plan approved under part A of title IV of the Social Security Act shall be considered to constitute expenses incurred in the administration of such State plan; and for purposes of section 455 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information so requested by a State or local agency charged with the duty of carrying out a State plan for child support approved under part D of title IV of the Social Security Act shall be considered to constitute expenses incurred in the administration of such State plan.

TITLE VI—SPECIAL UNEMPLOYMENT ASSISTANCE AMENDMENTS

SEC. 601. EXTENSION OF SPECIAL UNEMPLOYMENT ASSISTANCE PROGRAM.

(a) Section 208 of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended to read as follows:

"TERMINATION DATE

"Sec. 208. Notwithstanding any other provision of this part, no payment of assistance under this part shall be made to any individual with respect to any week of unemployment ending after June 30,

1978; and no individual shall be entitled to any assistance under this part with respect to any initial claim for assistance or waiting period credit which is effective in a week beginining after December 31, 1977.".

SEC. 602. ELIMINATION OF SPECIAL BASE PERIOD FOR PAYMENTS OF SPECIAL UNEMPLOYMENT ASSISTANCE.

(a) Paragraph (1) of section 203(a) of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended by striking out "*Provided*, That" and all that follows down through "; and" at the end thereof and inserting in lieu thereof the following: "*Provided*, That the individual meets the qualifying employment and wage requirements of the applicable State unemployment compensation law in the base period; and, for purposes of this proviso, employment and wages which are not covered by the State law shall be treated as though they were covered, except that employment and wages covered by any State or Federal unemployment compensation law, including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.), shall be excluded to the extent that the individual is or was entitled to compensation for unemployment thereunder on the basis of such employment and wages; and".

(b) Subsection (a) of section 205 of such Act is amended by striking out "law: *Provided*, That" and all that follows down through the period at the end thereof and inserting in lieu thereof the following: "law. For purposes of the preceding sentence, employment and wages which are not covered by the applicable State unemployment compensation law shall be treated as though they were covered, except that employment and wages covered by any State or Federal unemployment compensation law, including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.), shall be excluded to the extent that the individual is or was entitled to compensation for unemployment thereunder on the basis of such employment and wages.".

(c) Subsection (a) of section 206 of such Act is amended by striking out "section 205: *Provided*, That" and all that follows down through the period at the end thereof and inserting in lieu thereof the following: "section 205. For purposes of the preceding sentence, employment and wages which are not covered by the applicable State unemployment compensation law shall be treated as though they were covered, except that employment and wages covered by any State or Federal unemployment compensation law, including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.), shall be excluded to the extent that the individual is or was entitled to compensation for unemployment thereunder on the basis of such employment and wages.".

(d) Subsection (a) of section 210 of such Act is amended—

(1) by striking out "and" at the end of paragraph (5); and

(2) by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) 'special unemployment assistance benefit year' means the benefit year as defined by the applicable State unemployment compensation law; and

"(7) 'base period' means the base period as determined under the applicable State unemployment compensation law.".

(e) The amendments made by this section shall apply with respect to benefit years beginning after December 31, 1976. In the case of any benefit year of an individual which begins after December 31, 1976, for purposes of sections 203(a)(1), 205(a), and 206(a) of the Emergency Jobs and Unemployment Assistance Act of 1974, there shall not

be taken into account any employment and wages to the extent that such individual was entitled on the basis of such employment and wages to assistance under such Act during a benefit year beginning before January 1, 1977.

SEC. 603. DENIAL OF SPECIAL UNEMPLOYMENT ASSISTANCE TO NON-PROFESSIONAL EMPLOYEES OF EDUCATIONAL INSTITUTIONS DURING PERIODS BETWEEN ACADEMIC TERMS.

(a) Section 203 of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended by adding at the end thereof the following new subsection:

"(c) An individual who performs services for an educational institution or agency in a capacity (other than an instructional, research, or principal administrative capacity) shall not be eligible to receive a payment of assistance or a waiting period credit with respect to any week commencing during a period between two successive academic years or terms if—

"(1) such individual performed such services for any educational institution or agency in the first of such academic years or terms; and

"(2) there is a reasonable assurance that such individual will perform services for any educational institution or agency in any capacity (other than an instructional, research, or principal administrative capacity) in the second of such academic years or terms."

(b) The amendment made by subsection (a) shall apply to weeks of unemployment beginning after the date of the enactment of this Act.

SEC. 604. MODIFICATION OF AGREEMENTS.

The Secretary of Labor shall, at the earliest practicable date after the date of the enactment of this Act, propose to each State with which he has in effect an agreement under section 202 of the Emergency Jobs and Unemployment Assistance Act of 1974 a modification of such agreement designed to provide for the payment of special unemployment assistance under such Act in accordance with the amendments made by sections 601, 602, and 603 of this title. Notwithstanding any other provision of law, if any State fails or refuses, within the three-week period beginning on the date the Secretary of Labor proposes such a modification to such State, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreement effective with the end of the last week which ends on or before the last day of such three-week period.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.