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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 requre 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 adminis-

tration 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.

[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 partici-

pating 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 em-

ployment 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

* * * * * * *

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) 3⅓7 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

* * * * * * *

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

* * * * * * *

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) * * *

* * * * * * *

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 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.*

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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 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".

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TITLE X—GRANTS TO STATES FOR AID TO THE BLIND

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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) 3⅓7 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) $^{3}/_{37}$ 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) $^{3}/_{7}$ 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

* * * * * * *

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 amcunt 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.

* * * * * * *

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—

* * * * * * *

(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).

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[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.

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ACT OF OCTOBER 30, 1972

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

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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.*".

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FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970

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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.

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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 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.

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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.

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.

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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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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".

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PUBLIC LAW 93–647

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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.*

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