Calendar No. 1390

89TH CONGRESS
2d Session

SENATE

REPORT
No. 1425

UNEMPLOYMENT INSURANCE AMENDMENTS OF 1966

REPORT

OF THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

TOGETHER WITH

MINORITY VIEWS

TO ACCOMPANY

H.R. 15119

A BILL TO EXTEND AND IMPROVE THE FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM

AUGUST 2, 1966.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
66-682 O WASHINGTON : 1966

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AUGUST 2, 1966.—Ordered to be printed

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

REPORT

together with

MINORITY VIEWS

[To accompany H.R. 15119]

I. SCOPE OF THE BILL

The proposals embodied in H.R. 15119 would provide major improvements in the Federal-State unemployment compensation program. The bill is the product of the broadest and most intense review Congress has given to the unemployment compensation program since it was enacted in 1935 as part of the Social Security Act.

The unemployment compensation program has assisted millions of men and women in overcoming the hardships of involuntary unemployment. It has also furnished a stability to the national economy that has helped to moderate, and on occasion perhaps to avert, economic recessions.

The changes in the program which would be made by the bill would extend coverage to additional jobs, establish a permanent program of extended benefits to exhaustees during periods of high unemployment, furnish the States a procedure for obtaining judicial review of certain determinations of the Secretary of Labor, improve the financing of the program, provide additional State requirements as to benefit amount, duration, eligibility and disqualification, and make other changes to strengthen and improve the Federal-State unemployment compensation program.

II. SUMMARY OF COMMITTEE AMENDMENTS

The Committee on Finance amended the House bill in six respects. Four of these, relating to benefit standards, extended benefits, coverage of small firms, and the taxable wage base, involve substantive changes. The fifth and sixth committee amendments are technical changes. They insure benefits for individuals engaged in multistate employment and provide uniform duration for extended benefits triggered by a national "on" indicator. These six amendments are outlined in this part. They are described more fully in other parts of this report.

(*a*) *Benefit requirements.*—The committee added benefit standards to the requirements of the Federal Unemployment Tax Act (FUTA) which must be complied with by the States if their employers are to receive the full Federal tax credit of 2.7 percent. The standards relate to benefit amount, duration, and eligibility.

1. *Benefit amount.*—The amount of unemployment compensation payable must be at least 50 percent of the individual's average weekly wage up to 50 percent of the State average wage.

2. *Duration.*—Benefits must be payable for at least 26 weeks to each individual who had 20 weeks of employment (or its equivalent).

3. *Eligibility.*—No worker may be required to have more than 20 weeks of employment (or its equivalent) in his base period to qualify for benefits.

(*b*) *Extended benefits.*—The structure of the House extended benefit plan is retained but the financing provisions are modified so that the Federal Government will pay the entire cost out of the Federal portion of the unemployment tax. Under the House bill the cost of this program would have been shared equally by the Federal Government and the States.

(*c*) *Tax rate and wage base.*—The Federal unemployment tax rate increase to 3.3 percent (from 3.1 percent) provided by the House bill is retained. However, the wage base increase to $3,900 is made effective for 1968 rather than 1969, as under the House bill, and the further increase in the wage base in 1972, under the committee amendment, is to $4,800 rather than to $4,200.

(*d*) *Small firms.*—The House provision extending coverage to employers of one or more workers during each of 20 weeks in a calendar year or employers with payrolls of $1,500 in a calendar quarter was deleted by the Committee on Finance. By this action, the provision of present law which limits coverage to employers of four or more workers during each of 20 weeks in a calendar year is retained.

(*e*) *Multistate workers.*—States will be required to participate in interstate wage combining arrangements which utilize the unused wage credits in transferring States which fall within the base period of the paying State.

(*f*) *National extended benefit period.*—This amendment insures that when a national extended benefit period is triggered "on" shortly after a State extended benefit period is triggered "on," the national period will continue for 13 weeks in all States. Under the House bill the national period might not have been uniform in all States.

III. SUMMARY OF THE PRINCIPAL PROVISIONS OF THE BILL AS AMENDED

A. Changes in coverage

Today approximately 49.7 million jobs (including those of Federal employees, ex-servicemen, and railroad workers) are protected by unemployment compensation. Approximately 15 million jobs are not covered. Nearly 7 million of the workers not covered are in the employ of State or local governments and, except for about one-half million employees in State universities and hospitals are unaffected by the bill. Of the approximately 8 million remaining workers not presently covered, your committee's bill would extend coverage to about 1.8 million, effective January 1, 1969. Thus, 2.3 million workers would be newly covered by the committee's bill.

The following are the groups of workers to whom coverage would be extended by the bill:

1. *Changed definition of employee.*—Approximately 200,000 additional workers would be covered by adopting the definition of employee which is used for old age, survivors, and disability insurance (OASDI) program purposes, with a modification. Those affected by this change are persons who are not considered employees under common law rules, such as certain agent-drivers and outside salesmen. The concept of employee as adopted by the bill differs from that of the OASDI program in that it does not apply to full-time life insurance salesmen and persons who work in their homes on materials which are furnished by another (if they are not employees under common law).

2. *Agricultural processing, etc., workers.*—Approximately 200,000 additional workers would be covered by adopting the definition of "agricultural labor" that applies to the OASDI system, with a modification. Included among the newly covered workers would be those working in processing plants where one-half or more of the commodities handled were not produced by the plant operator. Under the bill, processing activities of a cooperative organization in processing raw commodities would be excluded as agricultural if more than half of such commodities were produced by its farm operator members.

3. *Employees of nonprofit organizations and State hospitals and institutions of higher education.*—Approximately 1.9 million employees of nonprofit organizations and State hospitals and State institutions of higher education would be brought under the unemployment compensation system. Coverage would not be extended to certain of these employees, however, such as a duly ordained or licensed minister of a church; employees of a church; employees of schools other than institutions of higher education; teachers, research personnel, and principal administrators in an institution of higher education; and physicians and similarly licensed medical personnel of a hospital. However, nurses would be covered under the program.

Nonprofit organizations must be allowed the option of either reimbursing the State for unemployment compensation attributable to service for them or paying the regular State unemployment insurance contributions. They would not be required to pay the Federal portion of the unemployment tax. A separate effective date would allow the States to put the reimbursable option into effect at any time after December 31, 1966.

The extension of coverage would apply only to nonprofit organizations that employ four or more workers in 20 weeks during a calendar year.

Exclusion of certain students.—A new exclusion from coverage is provided by the bill for students employed under specified work-study programs arranged by the schools they attend, effective January 1, 1967.

B. Additional requirements for unemployment compensation programs

States would be required to amend their laws, effective not later than January 1, 1969, in order to obtain approval by the Secretary of Labor for the purpose of tax credits for employers, to provide that—

1. *Work requirement.*—A beneficiary must have had work since the beginning of his benefit year in order to obtain unemployment compensation in his next benefit year (prohibiting the so-called "double dip" which allows a worker to draw full benefits in 2 successive years following a single separation from work);

2. *Cancellation of wage credits.*—The wage credits of a worker may not be canceled or benefit rights totally reduced by reason of a disqualifying act other than discharge for misconduct connected with his work, or fraud in connection with a claim for compensation, or by reason of receipt of disqualifying income such as pension payments. But a State could, for example, disqualify a worker for the duration of a period of unemployment following a disqualifying act, such as a voluntary quit, so long as the worker's benefit rights are preserved for a future period of involuntary unemployment during the benefit year;

3. *Worker training.*—Compensation may not be denied to workers who are undergoing training with the approval of the State unemployment compensation agency; and

4. *Interstate and multistate claims.*—Compensation may not be denied or reduced because a claimant lives or files his claim in another State. In addition, the State must participate in an interstate arrangement for combining wages or employment. Workers whose rights to benefits are determined under such arrangement will have such rights determined on the basis of their unused wage credits in all the States if they are within the base period of the paying State.

C. Benefit requirements

In order for employers in a State to receive the full 2.7 percent tax credit, a State must meet the following requirements with respect to benefit amount, duration, and eligibility:

(*a*) *Benefit amount.*—Weekly benefit amount must be at least 50 percent of the individual's average weekly wage, or 50 percent of the statewide average wage, whichever is less.

(*b*) *Duration.*—Any worker who has 20 weeks or more of base period employment (or equivalent) shall be entitled to not less than 26 times his weekly benefit amount.

(*c*) *Eligibility.*—No worker may be required to have more than 20 weeks of employment (or equivalent) in his base period to qualify for benefits.

D. Judicial review

Under existing law a decision of the Secretary of Labor that a State law or State administration of its law does not meet the requirements of the Federal law is final. There is no specific provision in the law allowing a State to appeal such a decision to a court.

The bill would furnish to a State a procedure for appealing a decision of the Secretary to a U.S. Court of Appeals within 60 days after the Governor of the State has been notified of an adverse decision by the Secretary. Findings of fact by the Secretary would be conclusive upon the court "unless contrary to the weight of the evidence." The provision would be effective upon enactment.

E. Federal-State extended unemployment compensation program

The bill would establish a new permanent program which would require the States to enact laws, that would have to take effect beginning with calendar year 1969, to pay extended benefits during periods of high unemployment to workers who exhaust their basic entitlement to unemployment compensation.

The Federal Government would pay the entire costs of the program out of the proceeds of the Federal portion of the unemployment tax.

These benefits would be paid to workers only during an "extended benefit" period. Such period could exist, beginning after December 31, 1968, either on a National or State basis by the triggering of either a national or State "on" indicator.

National extended benefit period.—An extended benefit period on a national basis would be established if (a) the seasonally adjusted rate of insured unemployment for the Nation as a whole equaled or exceeded 5 percent for each month in a 3-month period and (b) during the same 3-month period the total number of claimants exhausting their rights to regular compensation (over the entire period) equaled or exceeded 1 percent of covered employment for the Nation as a whole. There is a national "off" indicator if the rate of insured unemployment remained below 5 percent for a month or if the number of claimants exhausting their rights to compensation added up to less than 1 percent for a 3-month period.

State extended benefit period.—An extended benefit period would be established for an individual State (a) if the rate of insured unemployment for the State equaled or exceeded, during a moving 13-week period, 120 percent of the average rate for the corresponding 13-week period in the preceding 2 calendar years and (b) if such rate also equaled or exceeded 3 percent. There is a State "off" indicator if either of these conditions was not satisfied.

An extended benefit period would terminate in a State only by reason both of a National and a State "off" indicator.

Benefits.—During an extended benefit period, whether established by National or State conditions, the State must provide each eligible claimant with extended compensation, at the individual's regular weekly benefit amount (including dependents allowances), equal to one-half his basic entitlement, but not more than 13 times such weekly benefit amount, or the difference between his regular compensation and 39 times such weekly benefit amount, whichever is the lesser. The Federal Government will pay the cost of these required payments. The State may provide more benefits, but at its own expense.

F. Financing

The bill would increase the rate of tax under the Federal Unemployment Tax Act from the present 3.1 percent of taxable wages to 3.3 percent, effective with respect to wages paid in calendar year

1967 and thereafter. (No change would be made in the 2.7-percent credit allowed to employers in the States.)

The taxable wage base under the act would be increased from the present $3,000 per year to $3,900 per year, effective with respect to wages paid in calendar years 1968 through 1971, and to $4,800 in 1972 and thereafter.

The bill in effect increases the net Federal unemployment tax from 0.4 to 0.6 percent. A portion of the net Federal tax would be put into a separate new account in the unemployment trust fund to finance the extended benefits program established by the bill.

G. Other provisions

The bill also contains provisions to—

1. *Research and training of personnel.*—Authorize funds to conduct research relating to the unemployment compensation system and to train unemployment compensation personnel and prospective personnel;

2. *Certification date.*—Change from December 31 to October 31 of each year the date with respect to which the Secretary of Labor certifies to the Secretary of the Treasury that the State laws and administration meet the requirements of the Federal Unemployment Tax Act;

3. *Administrative expenses.*—Extend for another 5 years the time within which the States could expend for administrative purposes funds returned to them as excess Federal tax collections;

4. *New employers and treatment in certain employment.*—(1) Permit the States to reduce the tax rates of new employers (to not less than 1 percent) during the first 3 years they are under the unemployment compensation program and (2) provide for enforcement of existing prohibitions against unequal treatment of maritime and other employment with respect to which the Federal Government has a special jurisdictional interest.

IV. GENERAL DISCUSSION

A. Coverage

The bill would extend coverage under the Federal-State unemployment compensation system to about 2.3 million of the approximately 15 million wage and salary workers not now covered. The extension would bring the total number of workers covered by unemployment insurance (including the Federal programs for railroad workers, Federal civilians and ex-servicemen) to about 52 million, nearly 81 percent of all wage and salary workers.

Coverage would be extended by changing the definitions of "employee" and of "agricultural labor" and by requiring States to provide coverage for certain employees of nonprofit organizations and of State hospitals and institutions of higher education. Table 1 gives a breakdown of the additional employees covered under the House and the Finance Committee versions of the bill.

TABLE 1.—*Estimate of number of employers and employees added to coverage by H.R. 15119, as passed by the House and as amended by the Finance Committee*

[In thousands]

Coverage	Federal Unemployment Tax Act				State unemployment insurance laws			
	House bill		Committee bill		House bill		Committee bill	
	Employers	Employees	Employers	Employees	Employers	Employees	Employers	Employees
Employers of 1 or more in 20 weeks, or wages paid of $1,500 or more in a calendar quarter	1,060	2,115	0	0	580	1,200	0	0
Definition of agricultural labor	(1)	205	(1)	205	(1)	190	(1)	190
Definition of employee	.....	360	.....	360	.....	210	.....	210
Nonprofit organizations	0	0	0	0	17	1,360	17	1,360
State hospitals and institutions of higher education	0	0	0	0	1	500	1	500
Total	1,060	2,680	0	565	598	3,460	18	2,260

(1) Information not available.

Source: Department of Labor, Bureau of Employment Security.

Still excluded would be employees of local governments, most State employees, agricultural workers, domestic workers in private homes, and workers in establishments which do not have at least 4 workers in at least 20 weeks in a year.

Effective dates.—The coverage provisions would generally be made effective for wages paid after December 31, 1968. The delay in the effective date is to permit States ample time to amend their laws to apply the State tax to all employers who will be subject to the Federal tax.

(1) *Definition of employer.*—

Present law.—Present Federal law excludes employers who do not have at least four or more individuals in each of 20 different calendar weeks in a calendar year.

House bill.—The House bill would have broadened the definition of employer in the Federal Unemployment Tax Act (sec. 3306(a) of the Internal Revenue Code of 1954) to include all employers who, with respect to a calendar year, paid wages of $1,500 or more in any calendar quarter or employed at least one individual in employment, as defined, for some portion of a day in each of 20 different calendar weeks during the year.

Finance Committee amendment.—The Committee on Finance deleted this provision of the House bill. The effect of this action is to retain the existing law under which the Federal unemployment tax will apply only with respect to employers who have four or more employees in each of 20 different weeks in the year. Under the Finance Committee amendment the States will remain free to extend coverage of their unemployment compensation systems to employees of small firms in whatever manner local conditions warrant. At present 25 States already cover smaller firms, extending coverage to 1.4 million workers of the 3 million employed in these firms in all States.

During hearings on this bill before the Committee on Finance testimony was received that the House provision would particularly harm small retail merchants. This was stated to be so because the retail trade is becoming increasingly dependent upon part-time em-

ployees. Many of these are housewives and students who are not fully in the labor market. Generally speaking, and for varying reasons, these employees could not qualify for unemployment benefits.

The primary and most apparent practical effect of extending coverage to employers of one or more persons would be to add a substantial burden of additional tax expense and bookkeeping costs to small retailers. Extending coverage to employers of one or more persons, it should also be noted, will greatly increase administrative costs per employee.

The committee was also advised that in one State special exemptions are provided for businesses with less than 4 employees located in towns with less than 10,000 population. The legislature of that State found that extension of the State tax would impose tax and recordkeeping burdens on small employers where history demonstrated that unemployment was almost nonexistent.

For these reasons the committee concluded that coverage of these small firms and their employees was a matter best left to the judgment of State legislatures. The committee is confident that where coverage in this area is warranted the States will recognize their responsibility and provide it.

(2) *Definition of employee.*—

Present law.—Under existing law the term "employee" includes an officer of a corporation and any individual who, under the usual and customary common law rules defining the employer-employee relationship, has the status of an employee. In the old-age, survivors, and disability insurance program, there have been added to this definition certain categories of occupations in which individuals, not employees under the usual common law rules, perform services and occupy a status not materially different from those who are employees under such rules. Among the occupations so included are: agent drivers and commission drivers engaged in the distribution of meat, vegetable, fruit or bakery products, beverages other than milk, or laundry or dry-cleaning services, full-time life insurance salesmen, homeworkers, and traveling or city salesmen.

Proposed change.—Your committee like the House committee believes that the agent and commission drivers and traveling and city salesmen because of the nature of their work should be brought under the unemployment compensation system. The bill, therefore, provides that "employee," for the purposes of the Federal Unemployment Tax Act shall have the same meaning as for purposes of the Federal Insurance Contributions Act, except for the reference to life insurance salesmen and industrial homeworkers.

The exception of life insurance salesmen will not have a great impact on coverage under the Federal Unemployment Tax Act, since the act already has a special exclusion for commission insurance agents and solicitors remunerated solely by way of commission. In this connection, the committee considered the question of whether a commission insurance salesman ceased to be "remunerated solely by way of commission" if he is provided with certain non-taxable fringe benefits including group insurance. Your committee noted the fact that the cost of these benefits is specifically excluded from the definition of "wages" in section 3306(b). It is the committee's conclusion, therefore, that there is no intention on the part of the Congress for the provision of such tax-free fringe benefits to upset

the exclusion of insurance salesmen remunerated solely by way of commission.

The proposed Federal definition of "employee" would not cover individuals engaged in house-to-house selling other than the agent drivers and commissioned drivers mentioned previously. The Federal coverage status of such workers would continue to be determined under common-law rules.

The fact that some workers covered by the proposed definition will be remunerated by commissions will present no new problem. Agencies administering the unemployment insurance program are accustomed to dealing with the problems of covering commission salesmen, including the problems involved in determining their eligibility for benefits.

Number of jobs included.—About 360,000 persons (other than life insurance salesmen and homeworkers) are presently included under the definition of "employee" in the Federal Insurance Contributions Act but are not presently included under the definition in the Federal Unemployment Tax Act. They would be covered by the latter act under your committee's bill. Since around 150,000 of the 360,000 workers are covered by unemployment insurance in the States which do not limit "employee" to the common law test, the net result of the change will be to add about 210,000 workers to the number with unemployment insurance protection. There will be virtually no additional employers covered by this section of the bill, however, since employers of these workers use other workers who are now covered under the unemployment compensation system.

(3) *Agricultural labor.*—

Present law.—In general, present law excludes from coverage all service performed on a farm (defined to include plantations, ranches, nurseries, ranges, greenhouses, and orchards), in connection with cultivating the soil or harvesting any agricultural or horticultural commodity or in connection with the operation and maintenance of a farm and its equipment. Also excluded are borderline agricultural activities such as the production of maple sirup, maple sugar, and naval stores; mushroom growing; poultry hatching; cotton ginning; the operation of irrigation systems used exclusively for farming purposes; postharvesting services performed in the employ of a farmer; services performed in the employ of a farmers' cooperative; and, in the case of fruits and vegetables, services performed in the employ of a commercial handler.

Proposed change.—Your committee's bill, like the House bill, would extend coverage to some of the now excluded borderline agricultural employment other than the production of naval stores and the ginning of cotton. Included for example would be services performed off the farm in the hatching of poultry. Also included would be services performed in connection with the operation or maintenance of an irrigation system for profit.

The bill would extend coverage to services performed in the employ of commercial handlers in preparing fruits and vegetables for market. Postharvesting processing services performed in the employ of the operator of a farm would be excluded if the operator produced over one-half of the commodity processed. These services performed in the employ of a group of farm operators or a cooperative organization

of which farm operators are members would be excluded if the member operators produced more than one-half of the commodity processed.

Number of jobs included.—It is estimated that about 205,000 additional jobs would be made subject to the Federal Unemployment Tax Act by this provision of the bill.

(4) *State law coverage of certain employees of nonprofit organizations and of State hospitals and State institutions of higher education.*—

Present law.—Under existing Federal law, services performed for nonprofit religious, charitable, educational and humane organizations, and for a State and its political subdivisions are exempt from unemployment compensation coverage. Some of the employees of these organizations and of State and local governments have special employment protection, and very little risk of unemployment. Other employees, particularly in the nonprofessional occupations, have a real risk of unemployment.

Your committee does not want to change the present Federal tax status of these nonprofit organizations, but it is concerned about the need of workers for protection against wage loss from unemployment.

Proposed change.—Unemployment insurance protection for certain employees of nonprofit organizations would be achieved by making State law coverage of services by such employees a requirement for tax credit under the Federal Unemployment Tax Act. A further requirement is that the States give each of these organizations the option of reimbursing the State for unemployment compensation attributable to service with it, in lieu of paying contributions under the normal tax provisions of State law. This reimbursement method of financing is, in effect, a form of self-insurance.

It appears that these organizations may have somewhat less than the average risk of unemployment. While it seems appropriate that certain of their workers should have protection against unemployment, your committee believes it is also appropriate that these organizations should not be required to share in the costs of providing benefits to workers in profitmaking enterprises. Under the reimbursement method, a nonprofit organization whose workers experience no compensated unemployment in a year would have no unemployment insurance costs for that year.

The reimbursement method is now permitted for coverage of State and local government employees. States have not, however, been able to extend it to other organizations because of the Federal experience-rating standards in section 3303 of the Federal Unemployment Tax Act. Under these standards, the additional tax credit of all employers in a State would be lost if the State permitted a reduced rate not based on experience to any "person." Government units are not "persons" as defined for this purpose, but nonprofit organizations are.

While broad use of the reimbursement method would destroy the insurance concept of unemployment insurance, its extension to the exempt nonprofit organizations could be effected without creating any problem for the system and appears warranted in light of the special considerations they customarily receive.

States would not be required to cover all services for all nonprofit organizations. They could continue to exclude nonprofit organiza-

tions which do not employ at least four workers in 20 weeks, and the following:

1. Service for a church or for an organization operated primarily for religious purposes and controlled or supported by a church or churches.
2. Service by ministers and members of religious orders, if the services are in the course of their religious duties.
3. Service in educational institutions not institutions of higher education.
4. Service for institutions of higher education performed by individuals employed in an instructional, research, or principal administrative capacity.
5. Service for hospitals, and medical research organizations operating in conjunction with hospitals, by physicians, dentists, osteopaths, chiropractors, naturopaths, and Christian Science practitioners, and by individuals employed in an instructional or research capacity.
6. Service performed by "clients" of sheltered workshops.
7. Service performed by an individual receiving work-relief or work-training in a program assisted or financed by any Government agency.

The workers who would be required to be covered are engaged in performing many activities comparable to those performed by employees of profitmaking businesses. They are, for example, janitors and scrubwomen, electricians, carpenters and machinists, clerks and typists, waitresses, cooks and dishwashers, nurses, orderlies, elevator operators, accountants and bookkeepers, and individuals in many other occupations. While they may have somewhat less risk of unemployment than the average presently covered worker, such evidence as is available indicates that they do have a real risk of unemployment and that, therefore, they are in need of insurance against wage loss from unemployment.

In addition to requiring coverage for certain nonprofit employment, your committee's bill, like the House bill, would require each State to cover services for State institutions of higher education and State hospitals, with the same exceptions as are applicable to nonprofit hospitals and colleges. This State coverage will provide equitable treatment as between these institutions and private nonprofit institutions engaged in similar activities.

The coverage provided is only of services which are excluded solely because they are performed for a nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1954, or because they are performed for a State or for an instrumentality of one or more States. Existing provisions of the Federal Unemployment Tax Act which exclude services by student nurses and interns, students employed by the school they are attending, and services for less than $50 a quarter are not changed.

As in the past, States are free to go beyond Federal coverage and bring under the State law any additional groups the State legislature considers appropriate. The reimbursement method may be applied to any organization exempt from the Federal tax by reason of section 3306(c)(8) of the Code and to any State or local government.

The resulting increase in State coverage is estimated to be as follows:

TABLE 2

	Nonprofit organizations	State hospitals and institutions of higher education
Number of employing units	17,000	1,000
Number of employees	1,360,000	500,000

Source: Department of Labor, Bureau of Employment Security.

(5) *Exclusion of students in certain work-study programs.*—It has come to the attention of your committee that there is a growing trend in schools and colleges toward requiring a combination of outside work experience with formal classroom study. In some of these programs, students enrolled at an institution alternate between full-time class study and full-time outside employment on a quarter or semester basis. In other programs the students spend a portion of each day or divide their time on a weekly basis between classroom attendance and outside work. These work-study programs are integrated into the regular school curriculum and form a part of a formalized full-time educational program.

Students enrolled in these work-study programs usually engage in employment of the type which is covered under the unemployment compensation system. The wages paid to these students are therefore subject to the Federal tax under present law. Your committee does not believe that work which is part of an integrated full-time work-study curriculum involves the kind of employer-employee relationship that should be covered by the unemployment insurance system. In some cases the employer may utilize these students in part as a contribution toward the operation of the educational program. Your committee, like the Committee on Ways and Means of the House, believes that the schools might have more success in persuading employers to participate in cooperative education plans if the wages paid to the sudents were not taxable.

For these reasons the bill provides a new exclusion from the definition of employment in the Federal Unemployment Tax Act applicable to services of a full-time student in a program which combines academic instruction with work experience if the institution he attends certifies to the employer that such service is an integral part of the work-study program.

B. Provisions required to be included in State laws

As a condition for approval of a State law and credit against the Federal tax for a State's employers, section 3304(a) of the Internal Revenue Code of 1954 now requires that the State law contain certain provisions deemed a necessary part of the Federal-State unemployment insurance system. To the six requirements now set forth in section 3304(a), the House bill adds several new provisions, each of them made necessary by the growth of certain practices and trends which have developed in the unemployment insurance system. Your committee agrees with the House as to the desirability of these new provisions. However, it proposes to amend and improve the

requirement added by the House bill concerning the application of State laws to interstate claims and multistate workers.

(1) *Requalifying requirement.*—The bill would require that, as a condition for granting Federal tax credit, State laws must provide that an individual who has received benefits during 1 benefit year be required to have worked since the beginning of that benefit year in order to qualify for benefits in a succeeding benefit year.

Payment of benefits in 2 successive benefit years following a single separation from work (the "double dip") is a much criticized and illogical aspect of State benefit formulas. It is made possible by provisions which, for administrative reasons, provide a lag between the end of the period used to measure a worker's past attachment to the labor force and wage credits for monetary entitlement—the base period—and the period during which rights based on such wage credits may be used—the benefit-year. If the lag is long or the qualifying wages needed for monetary entitlement are low, the wages or employment in the lag period may be enough to establish a new benefit year and a new period of benefit entitlement with no intervening employment. In such cases, the absence of a special provision requiring employment subsequent to the beginning of a worker's first benefit year allows a new period of benefit payments not based upon a new separation from employment.

The requirement of intervening employment is met by about one-half of the State unemployment insurance laws, the desired result being achieved either by a special provision requiring intervening employment or because little or no lag exists between base period and benefit year. Other States would have until January 1, 1969, to adopt an appropriate provision.

The bill does not specify how much work is to be required or whether it has to be in covered employment. Your committee agrees with the House that these matters should be left to the States. The amount of requalifying employment required in the present requalifying provisions of State laws is sometimes expressed in dollar terms, and sometimes as a multiple of the weekly benefit amount. It is not always limited to covered employment, since this requirement serves a somewhat different purpose than the basic monetary qualifying requirement.

(2) *Limitation on cancellation or total reduction of benefit rights.*—Your committee's bill, like the House bill, would, except in cases of misconduct, fraud or receipt of disqualifying income, such as pension payments, prohibit the practice, in cases of disqualifications under some State law provisions, of completely canceling the "wage credits," or base period earnings, on which the monetary entitlement of an individual is based, or of canceling, or totally reducing, the monetary entitlement so derived.

This requirement is directed solely to the preservation, in all but the excepted cases, of some portion of an individual's monetary entitlement for his benefit year, the "bank account" of benefits against which, if otherwise eligible, he can draw. The requirement would affect only those few States which cancel wage credits or totally reduce benefits.

The provision would not restrict State authority to prescribe the conditions under which a claimant would be "otherwise eligible." For example, benefits are not now—and would not under the proposal

be—paid for a week of unemployment unless the claimant were available for work. It would not prevent a State from specifying the conditions for disqualification, such as, for refusing suitable work, for voluntarily quitting, for unemployment due to a labor dispute in the worker's plant, etc. It would not preclude "duration of unemployment" disqualifications in which a disqualified claimant is prevented from drawing compensation unless and until he is reemployed for some specified period or earns some specified amount, and is again unemployed for reasons which are not disqualifying. It would not preclude disqualifications which only postpone the receipt of benefits for a specified or flexible number of weeks or which, in addition to the postponement, reduce monetary entitlement by the number of weeks of the postponement or by a specified amount. Such reductions, however, may not be the equivalent of a total elimination of the original monetary entitlement.

It is recognized that there will be many instances in which the application of a State disqualification may result in the nonreceipt of benefits by claimants. A claimant's failure to obtain new employment to discharge a "duration of unemployment" type of disqualification could have the same end result as a total reduction of benefit rights even though his "bank account" remained to his credit, and was not reduced. Similarly, the application of a disqualification after a benefit payment series had begun, even if it involved a less than total reduction of initial monetary entitlement, could nevertheless involve a total reduction of the remaining monetary entitlement.

Your committee agrees with the House that the disqualification provisions of State laws should be devised so as to prevent benefit payments to those responsible for their own unemployment, without undermining the basic objective of the unemployment insurance system to provide an income floor to those whose unemployment is beyond their control. Severe disqualifications, particularly those which cancel earned monetary entitlement, are not in harmony with the basic purposes of an unemployment insurance system. Most disqualifications under State law provisions are applied for voluntary terminations without good cause (frequently cause must be attributable to an employer), or for refusals of suitable work. Such a situation may represent an error in judgment on the part of a worker, and often results from circumstances over which he has no control. The penalty for a disqualifying act should not be out of proportion to the disqualifying act.

Excepted from the limitation are disqualifications because of the individual's misconduct connected with his work or because of fraud in connection with a claim for benefits, and reductions in benefits by reason of the individual's receipt of certain types of income. The kinds of income which are deducted from an individual's weekly benefit consist of employer pensions, social security benefits and workmen's compensation—payments which can be considered as wage loss replacement. The exception of fraud or work-connected misconduct does not reflect an expression on the part of your committee as to the desirability of cancellation of wage credits for these causes. Rather, like the Committee on Ways and Means of the House, the Committee on Finance intends merely to apply no special restrictions on State provisions in these areas.

(3) *Training requirement.*—In our complex industrial society, training in occupational skills has become so important to the employability of the individual that your committee believes it is necessary to act to remove those impediments to training which remain in our unemployment insurance system. Less than half of our State unemployment insurance laws permit training of the individual for new work while he is drawing unemployment benefits, even though retraining is frequently a necessary prerequisite to the obtaining of employment. Your committee, like the House committee, believes that the application of the provisions of State laws relating to availability for work, active search for work, or refusal to accept work should not be used to discourage benefit claimants from entering training approved by State agencies. Therefore, the bill would prohibit State laws from denying benefits for any week because the individual is in training with the approval of the State agency, or because of the application to a worker, during a training week, of requirements of availability for work, active search for work, or refusal to accept work.

The individual who is taking a training course which the agency approves as an appropriate step toward his reemployment has indicated his interest in getting a job. It is not enough to say that benefits will not be denied solely because the claimant is taking training, if he is expected to continue to look for work, and to interrupt his training because of offers of work. The worker may very well not be able to give proper attention to the training if he must spend part of his time looking for work, and if he must keep himself in readiness to quit his course any time a job is offered to him.

While unemployment insurance payments are not intended to be training allowances, the unemployment insurance system should not exert financial pressure on a worker to discourage him from accepting training. The problem does not often arise in training situations sponsored under the provisions of the Manpower Development and Training Act, or other Federal laws which provide a training allowance in lieu of unemployment insurance. Many local, State and Federal training programs are available, however, to which unemployment insurance claimants could be referred with advantage to themselves and to the unemployment insurance system, were it not for the fact that their entitlement to unemployment compensation would be jeopardized or eliminated.

(4) *Interstate and multistate requirements.*—Unemployment insurance for multistate workers, or for workers who move from one State to another, has, in the past, been handled through voluntary interstate benefit agreements among the States, including the servicing of claims and, in some instances, the combining of wage credits. Except for those instances in which a diversity of State base periods and benefit years has operated to create inequities for some workers—notably in construction and entertainment occupations—the system has worked reasonably well and has enabled the Federal Government to avoid the necessity of entering the extremely complex field of unemployment insurance for interstate workers. Present Federal statutes are silent on this subject.

Recent developments in this field—including actual provisions in the unemployment insurance laws of three States—represent a trend which, if continued, could undermine the purpose of the interstate benefit agreements and indeed the Federal-State system itself. State

law provisions which reduce the benefits, or otherwise penalize workers who reside in States other than the State in which they worked and earned their right to benefits, are not only inequitable to the individual claimant and injurious to the proper functioning of the unemployment insurance system but inhibit a very desirable mobility among workers on which much of our economic health depends.

A serious defect in the present system of voluntary interstate benefit agreements, containing undesirable implications for the Federal-State system, is the method of dealing with the problems of multistate workers whose wages are subject to the provisions of more than one State law. States have tried to deal with this problem through voluntary arrangements for combining wage credits in more than one State. However, several States do not subscribe to such arrangements, and even those States which subscribe to the agreements require that the individual's wages can be combined only if they are in the applicable base period of the paying State or in that part of the base period of a transferring State that overlaps the base period in the paying State. The multiplicity of State base periods and benefit years is so great and their variances so wide that the individual worker often either gets no benefits at all or a very much lower benefit than he should. The worst effects and the most frequent incidence of loss of protection occur among the highly skilled, highly motivated, and highly mobile workers who work for several employers in several States in the course of a year, following and seizing employment opportunity whenever and wherever it occurs, but it also affects many workers who work in several States for the same employer.

Your committee believes that Federal action is necessary at this time. We agree with the House amendment which provides that the compensation to which a worker is entitled may not be denied or reduced solely because he files a claim or resides in another State. In addition, we have added an amendment to require that States shall participate in wage combining arrangements, approved by the Secretary of Labor, which shall base an individual's eligibility for unemployment benefits and his benefit amounts on all covered wages earned during the base period of the State under the law of which he files his claim notwithstanding the fact that contributions on a part of such wages may have been paid to other States with different base periods. This committee amendment makes clear that employment in a State may not be used more than once to obtain unemployment compensation.

C. Additional credit based on reduced rate for new employers

State experience-rating provisions have developed on the basis of the additional credit provisions of the Federal Unemployment Tax Act. The Federal law up to 1954 allowed employers additional credit for lower rates of contribution only if the rates were based on not less than 3 years of "experience with respect to unemployment or other factors bearing a direct relation to unemployment risk." This requirement was modified in 1954 by an amendment which authorized the States to extend experience-rating tax reductions to employers who had not been subject to the State law long enough to have their rates computed on the normal basis, provided it was based on the experience they had had, but in no event less than 1 year. Because of the ways in which "experience" is measured under State laws, an

employer may have been paying taxes for much longer than a year before he has the required year of experience. Nor do all States provide for reduced rates based on less than 3 years' experience.

Until an employer has the period of experience specified in the State law, he is not eligible for a reduced rate. Consequently, new employers would have to pay a State tax rate of at least 2.7 percent (the standard rate is higher than 2.7 percent in some States) on their taxable payroll during the first year or more of coverage under the program.

At the same time, the average employer with enough experience to be rated will be paying a substantially lower tax. In order to lessen the financial impact of unemployment taxes on new employers, both the House bill and the committee bill provide that States may assign reduced rates—but not less than 1 percent—to such employers before they become eligible for an experience rate. The bill does not specify how much rates are to be determined for such employers, but leaves this decision to the State legislature. It is not necessary to assign the same rate to all new employers. For example, the State could decide to assign new employers the average rate applicable to the industry in which they are engaged if such rate is not less than 1 percent.

D. Credits allowable to certain employers

Section 3305 of the Federal Unemployment Tax Act, which deals with employment over which the Federal Government has particular jurisdiction, provides that a State may apply its unemployment tax to certain employers (including certain Federal instrumentalities and certain maritime employers) if the State meets certain conditions. These conditions are generally intended to assure that there is no discrimination against these employers in terms of contributions nor against their workers in terms of benefits. The present Federal law, however, contains no enforcement provision for failure to comply with these conditions.

Insofar as Federal instrumentalities are concerned, your committee was advised that no State, now or in the past, has failed to provide the equal treatment prescribed by section 3305 of the Federal Unemployment Tax Act.

Your committee was advised, however, that a problem exists with respect to maritime workers in at least two States, one of them covering more than two-thirds of the maritime employment on the Great Lakes. In this case the State law treats these seamen differently, for benefit purposes, than other seasonal workers.

The bill would provide that if the Secretary of Labor finds that a State law does not meet any of the conditions of section 3305 for a category of employers, or that in the application of the State law there has been a substantial failure to comply with any of such conditions the Federal unemployment tax liability of employers in that category is to be determined without allowance of any tax credit for taxes paid by such employers under the law of such State. Your committee, like the Ways and Means Committee of the House, recognizes that this condition to the allowance of tax credit is more limited than the one used for the requirements of section 3304, which denies all tax credit to all employers in the State. It agrees that the more limited provision of the bill is appropriate because it would

deny tax credit for a State tax imposed under conditions contrary to those specified in the authority to tax which is granted in this section.

The section makes clear that a Secretary's finding under this new subsection is a finding which the State may appeal to the court under the judicial review procedure established in the bill.

E. Judicial review

The right to judicial review of administrative action is traditional in our jurisprudence to protect against arbitrary interpretation or application of the law. Congress has recognized its importance by enacting, in addition to the judicial review provisions of the Administrative Procedure Act of 1946, numerous statutes providing specifically for court review of certain of the decisions arrived at by the agencies that administer statutes providing grants to the States. Included among these statutes is one enacted in 1965 providing States an opportunity to appeal certain determinations of the Secretary of Health, Education, and Welfare under the public assistance provisions of the Social Security Act.

Whenever the Secretary of Labor determines that a State law or the manner in which such law is administered fails to meet the requirements of title III of the Social Security Act or the Federal Unemployment Tax Act, he is required to withhold certification for grants or for tax credit, as the case may be. Thus, if he acts under title III of the Social Security Act, all funds for administering the State's employment security program would be withheld. Similarly, if he acts under the Federal Unemployment Tax Act, there would be a denial of normal or additional credit, or both, as the case may be, against the Federal unemployment tax to the employers in the State involved. Existing Federal law contains no provision authorizing a State to obtain judicial review of these decisions of the Secretary.

The bill contains provisions affording the States the right to obtain judicial review of the findings of the Secretary of Labor which would result in the denial of certification for payment to a State of costs of administration or the denial of certifications relating to tax credit to employers in the State. Such provisions, although different in some respects from those contained in other statutes, bring title III of the Social Security Act and the Federal Unemployment Tax Act in line with other recent enactments of the Congress.

Under the bill, the States may seek judicial review of findings of the Secretary of Labor by petitioning for such review of the U.S. Court of Appeals for the District of Columbia or the Federal court of appeals for the circuit in which the State is located within 60 days after the Governor of the State has received notice of an adverse finding by the Secretary. There is in effect a stay of the Secretary's action during the appeal period, but after judicial proceedings have commenced only the court may decide whether interim relief is warranted, what such relief should be and the conditions upon which it shall be granted.

The review would go both to questions of law and questions of fact. Findings of fact by the Secretary, unless contrary to the weight of the evidence, are to be conclusive. The judgment of the court of appeals is to be subject to review by the Supreme Court of the United States. Judicial proceedings are, upon the request of the Secretary or the State involved, to have a preference on the calendar of the reviewing court.

F. Administration

Your committee agrees with several improvements and technical amendments in the existing provisions for administration of the unemployment insurance program proposed by the House bill.

(1) *Amounts available for administrative expenditures.*—Present law (section 901(c)(3) of the Social Security Act) puts a ceiling on the proportion of Federal Unemployment Tax Act revenue which is authorized to be appropriated for State administrative expenses. The ceiling is expressed as 95 percent of net receipts estimated on the basis of a Federal tax rate of 0.4 percent.

Your committee proposes to retain the substance of this provision, and continue to limit the authorization for financing State administrative costs to 95 percent of the estimated amount of net Federal taxes collected for administration. To do this, in view of the proposals in sections 206 and 301 to increase the net Federal tax rate from 0.4 percent to 0.6 percent, and to set aside an adequate amount for financing the Federal costs of the extended benefits program, requires modification in the language of title IX, relating to employment security financing. It is proposed that the administrative grant ceiling of 95 percent be calculated on the basis of five-sixths of net Federal Unemployment Tax Act collections at a 0.6-percent rate, with appropriate adjustments in 1968 and 1972 when the taxable wage base is increased.

(2) *Unemployment compensation research program and training grants for unemployment compensation personnel.*—The bill would direct the Secretary of Labor to conduct research in the field of unemployment compensation and related areas, and to provide for training unemployment insurance staff. Appropriations for these purposes are authorized.

(*a*) *Unemployment compensation research program.*—While a reporting program developed under title III of the Social Security Act, and individual State research programs, provide significant data about unemployment compensation, there are a number of areas in which the state of present knowledge about the unemployment compensation program throughout the country can be improved.

There is increasing need for information on a uniform and coordinated basis, particularly in the area of manpower and income maintenance. The need for such a uniform research program was recognized in the Temporary Extended Unemployment Compensation Act of 1961 which provided for collecting a substantial amount of information about the long-term unemployed who benefited under the provisions of that act.

Your committee agrees with the House that unemployment compensation research should be a continuing, coordinated effort, which would make it possible to analyze much more adequately than now the operations and effects of provisions of State and Federal laws.

Accordingly, the bill would authorize, for the fiscal year ending June 30, 1967 and for each fiscal year thereafter, appropriation of such sums as may be necessary to carry out the unemployment compensation research program, and to make public promptly the results of such research.

(*b*) *Training grants for unemployment compensation personnel.*—There is a need for additional training of present staff and adequate preparation of future staff of the State employment security agencies.

The need has resulted in part from the number of programs administered by such agencies and in part from the complexity of many of the provisions of State laws that they administer. Training in the basic concepts of unemployment compensation needs to be undertaken or augmented to assure proper and consistent administration and enforcement of the State and Federal laws and skills need to be developed or expanded in the specific procedures to cope with the heavy flow of day-to-day work.

To meet this need, both versions of the bill would authorize appropriations to the Secretary for training personnel in the administration of the unemployment compensation program, amounting to $1 million for the fiscal year 1967, and such sums as may be necessary for future years.

From the sums so appropriated, the Secretary is directed to provide, directly and through State agencies or through grants to or contracts with public or nonprofit private institutions of higher learning, training for present and prospective unemployment compensation personnel. The Secretary may arrange with such institutions of higher education for special courses or seminars and may establish fellowships or traineeships. The Secretary is authorized to prescribe necessary safeguards to assure repayment of such fellowships or traineeships by individuals who fail after training to serve in the program.

(3) *Use of certain amounts for payments of expenses of administration.*—Your committee's bill, like the House bill, would extend for another 5 years the period during which amounts transferred from the employment security administration account in the unemployment trust fund to State accounts, pursuant to section 903 of the Social Security Act, may be used by the States for payment of expenses of administration.

The provision for transferring Federal Unemployment Tax Act collections in excess of administrative and loan fund needs was enacted in 1954. Excess funds were to be distributed at the end of the fiscal year. Within 5 years after any money was so distributed, it could be used for employment security administrative expenses under certain conditions, including specific State legislative authority. After that date, it would be used only for benefit purposes.

In 1954, it was anticipated on the basis of past experience that funds would be credited to the States almost every year. Since then, there have been several changes in the situation, such as the much greater increase in administrative costs than in revenue, demands on the loan fund and the creation of the employment security administration account which must be built up to a prescribed level before funds can be credited to the States. Consequently, funds were credited to the States only in the 3 calendar years 1956, 1957, and 1958. (See table 3 for State totals of amounts credited.) No additional credits are anticipated for at least the next several years.

TABLE 3.—*Amounts credited to State unemployment trust fund accounts as Reed Act tax excesses*

	July 1, 1956	July 1, 1957	July 1, 1958	Total
Total	$33,376,030.98	$71,195,220.32	$33,453,482.08	$138,024,733.38
Alabama	363,917.03	845,564.36	401,051.58	1,610,532.97
Alaska	43,344.78	97,760.37	45,660.23	186,765.38
Arizona	151,031.60	335,743.12	171,030.31	657,805.03
Arkansas	176,351.63	371,989.91	173,730.69	722,072.23
California	3,206,479.17	6,860,286.95	3,284,316.32	13,351,082.44
Colorado	230,101.38	538,035.84	262,318.81	1,030,456.03
Connecticut	657,714.45	1,395,810.35	654,942.63	2,708,467.43
Delaware	119,561.65	272,445.98	117,992.60	510,000.23
District of Columbia	186,092.48	383,070.63	176,890.38	746,053.49
Florida	490,993.50	1,231,825.25	640,119.90	2,362,938.65
Georgia	503,928.55	1,134,062.90	534,237.31	2,172,228.76
Hawaii	81,925.36	168,969.78	82,714.55	333,609.69
Idaho	87,633.81	186,417.19	86,837.89	360,888.89
Illinois	2,386,449.29	5,075,821.98	2,359,421.57	9,821,692.84
Indiana	974,221.47	2,077,087.16	952,285.23	4,003,593.86
Iowa	332,160.94	734,101.40	340,180.09	1,406,442.43
Kansas	289,064.37	625,072.89	292,266.95	1,206,404.21
Kentucky	369,689.77	769,370.32	360,825.76	1,499,885.85
Louisiana	426,159.44	924,624.83	458,902.82	1,809,687.09
Maine	152,664.44	335,984.50	153,400.33	642,049.27
Maryland	555,412.60	1,173,767.00	551,066.13	2,280,245.73
Massachusetts	1,256,930.65	2,598,142.41	1,203,537.37	5,058,610.43
Michigan	1,847,064.47	3,757,600.36	1,702,450.18	7,307,115.01
Minnesota	532,977.94	1,140,546.46	538,699.47	2,212,223.87
Mississippi	153,861.19	358,283.10	171,758.95	683,903.24
Missouri	768,936.87	1,656,772.09	775,403.45	3,201,112.41
Montana	99,893.57	210,684.17	93,696.36	404,274.10
Nebraska	162,275.28	355,356.02	163,062.33	680,693.63
Nevada	75,686.76	144,531.48	69,767.49	289,985.73
New Hampshire	118,140.80	240,974.69	112,437.32	471,552.81
New Jersey	1,380,440.15	2,860,839.58	1,337,607.03	5,578,886.76
New Mexico	109,565.85	237,532.61	120,006.51	467,104.97
New York	4,244,089.48	8,933,096.68	4,253,234.46	17,430,422.62
North Carolina	595,802.33	1,332,344.72	617,333.45	2,545,480.50
North Dakota	43,740.87	104,901.02	51,053.47	199,695.36
Ohio	2,340,669.22	4,794,370.34	2,208,984.35	9,344,523.91
Oklahoma	291,234.71	643,050.89	296,767.44	1,231,053.04
Oregon	321,589.94	771,219.51	342,904.00	1,435,713.45
Pennsylvania	2,675,381.81	5,489,496.77	2,543,761.15	10,708,639.73
Puerto Rico				
Rhode Island	103,763.19	446,436.89	291,454.35	841,654.43
South Carolina	285,873.33	601,349.74	291,845.83	1,179,068.90
South Dakota	47,633.91	109,748.27	51,204.09	208,586.27
Tennessee	466,434.87	1,031,220.54	479,538.65	1,977,194.06
Texas	1,295,317.76	2,945,240.12	1,412,652.33	5,653,210.21
Utah	132,358.82	280,701.42	134,347.77	547,408.01
Vermont	54,600.20	124,104.55	56,952.67	235,657.42
Virginia	477,481.60	1,073,517.81	515,956.27	2,066,955.68
Virgin Islands				
Washington	545,202.10	1,110,595.11	531,694.55	2,187,491.76
West Virginia	300,254.71	668,583.87	321,000.85	1,289,839.43
Wisconsin	722,623.22	1,529,533.68	704,670.84	2,956,827.74
Wyoming	51,307.67	106,103.71	49,507.02	206,945.40

Source: Department of Labor, Bureau of Employment Security.

In 1963, when the 5-year period for the administrative use of credited funds had expired for 1956 and 1957 credits and was about to expire for those of 1958, the period was extended to 10 years. The effect of the provision in the bill would be to increase the period to 15 years after funds were credited.

These credits have been used by the States primarily to construct buildings for use in the employment security program. By using these funds, States have been able to obtain more satisfactory facilities then would otherwise have been possible. Because these funds spent for building construction can be repaid from current grants for rental, they become available again to construct additional buildings, but only within the period specified.

(4) *Change in certification date.*—Under present law, an employer subject to the Federal unemployment tax is allowed to take normal credit against such tax if the State is certified pursuant to section 3304 (c) of the Internal Revenue Code of 1954, and he is allowed to take additional credit against his Federal tax if the State law experience-rating provisions are certified pursuant to section 3303(b) of the code. Such certifications are made each year on December 31 by the Secretary of Labor to the Secretary of the Treasury. If the Secretary of Labor fails to make such a certification, employers who pay contributions to the State are not entitled to normal or additional credit, or both, as the case may be.

Because of the short lag between the date of certification of State laws (December 31) and the date the Federal unemployment tax return is due (the January 31 immediately following), it is most difficult for the Treasury Department, in the event of the denial of certification of any State, to take the steps necessary to give effect to the denial without seriously burdening taxpayers and the Internal Revenue Service. Under our self-assessment system of tax collection, tax credits are claimed by eligible taxpayers on their tax returns. The return form and the instructions preferably should show the credits that are allowable. Approximately 2 months have been needed for the printing and distribution of the unemployment tax return. Your committee has recognized this time schedule in allowing the States up to November 10 of a taxable year to make the restoration authorized by the Temporary Unemployment Compensation Act of 1958, with the expectation that the return form will show any credit reduction resulting from failure of a State to make the restoration. Your committee believes that there should be effective and reasonable standby procedures for the denial of tax credits (or for the reduction of credits where the new benefit requirements are not met) in the case that any State is not certified. Accordingly, the date for the certification of State laws will be moved froward from December 31 to October 31, beginning in calendar year 1967.

Although certifications made on October 31 will attest that the State has met Federal requirements during the period from November 1 of the preceding calendar year to October 31 of the current year, the certifications will authorize the allowance of the appropriate tax credits for the full 12 months of the current calendar year; i.e., for the period from January 1 through December 31 of the year in which the certifications are made. For example, if the law of State X is certified on October 31, 1969, for the period November 1, 1968, to October 31, 1969, employers who paid contributions to State X during calendar year 1969 would be authorized to take an appropriate credit against their Federal tax for 1969. If the law of State X were subsequently amended so that for the months of November and December 1969 it failed to meet Federal requirements, and if certification were denied on October 31, 1970, a corresponding tax credit for 1970 would not be allowable.

G. Benefit requirements

As passed by the House, H.R. 15119 would not have imposed any requirements on the States as to the level or duration of benefits or the basic qualification for benefits.

Your committee is convinced, however, that any realistic program to improve the Federal-State unemployment insurance system must

assure at least a minimum level of benefit adequacy which must be met by a State for full tax credit for its employers. Moreover, States which already have taken steps to provide effective programs for their workers need to be protected by minimum Federal requirements which not only assure adequate benefits for unemployed workers throughout the country, but also preclude unfair interstate tax competition. Conflicting views were presented during hearings on the bill as to the extent to which the differences in unemployment insurance taxes actually influence business decisions on the location or expansion of plants. Despite this conflict in testimony the committee is convinced that the fear of such competition does discourage State legislative action to improve unemployment benefits.

The original and intended purpose of the Federal unemployment tax was to eliminate such fears of interstate competitive tax disadvantages as a deterrent to State action, and thus to encourage all States to enact unemployment insurance laws. A uniform tax (of 3 percent of total wages) was imposed on employers in all States, with provisions permitting an offset against 90 percent of that tax for contributions paid (or excused under experience-rating provisions) under an approved State law. In actual practice, the program has cost much less than the 2.7 percent of covered payroll as estimated in the 1930's. (The 90 percent credit assured the States of revenues equal to this estimated average cost.) The combined Federal and State unemployment tax paid by most employers today is considerably less than the nominal current rate of 3.1 percent of taxable payroll. Moreover, in the absence of any Federal requirements regarding benefit levels, tax reductions can be obtained in some States by providing inadequate benefits to the unemployed workers in the State. Efforts in State legislatures to amend benefit provisions to keep them abreast of wage hikes are often hampered by the fear that such action will put employers at a disadvantage in competition with employers in other States which have not improved their benefits. Congress should not permit the States to compete with each other to see which can do the least for their workers. Yet, that is largely the effect of today's uncoordinated system.

Your committee believes, therefore, that the establishment of Federal minimums for the primary factors of program adequacy has become an appropriate action for the Federal partner in the unemployment insurance program. Indeed, it has become an essential action if the Federal Government is to properly perform its historical function of insulating the States from each other while establishing programs of adequate benefits for their unemployed workers.

In fixing these minimum standards the Committee on Finance is not unmindful of the improvements in benefit amounts and duration which many State legislatures have recently enacted. The committee commends these States for recognizing and meeting their responsibilities. However, despite these improvements benefits still lag in their relationship to wages. We express to the States our hope that they will continue to upgrade their unemployment compensation programs and not view the minimum standards set by this bill as evidencing any congressional determination that they represent the optimum level of unemployment compensation. We urge those States whose benefit levels already exceed these minimum standards

not to frustrate our intention to leave the question of benefit adequacy as completely in State control as is consistent with our concept of Federal responsibility. We urge those States whose benefit levels fall below the minimum standards not to stop when they meet the new requirements but to conscientiously examine the need for still more adequate unemployment compensation and to provide the higher levels they find best suited to their own industrial structure and economic conditions.

The primary factors which determine the adequacy of protection given by unemployment insurance are the measure of past labor force attachment required to qualify for benefits, the amount of the weekly payment, and the duration of the benefits. The requirements for each of these factors are set in terms of minimums and equivalents to continue State freedom in determining how past attachment and average wages are to be measured, and what the actual wage replacement is to be when a worker becomes unemployed.

The requirements are not absolutes which a State must meet in order to participate in the Federal-State program. A State which provides benefits below these levels will continue to receive Federal grants for administrative expenses, and its employers will continue to receive some tax credit for their State taxes. Their credit, however, will be limited to the actual cost, over a 4-year period, of the benefits being paid. Stated differently, employers in a State which meets the requirements would continue to receive the full 2.7-percent credit against their Federal taxes, even though they might be paying only 1 percent and the State benefit costs averaged only 2 percent. On the other hand, if the State did not meet the benefit requirements, the credits of its employers would be limited to its average cost. The employer paying a 1-percent rate in a State with an average cost of 2 percent would, thus, continue to get a tax credit higher than the taxes he actually paid although he would no longer enjoy the full 2.7-percent credit. If the State's average costs were 2.7 percent, its employers would get the full Federal credit whether or not the benefit requirements were met.

Qualifying requirement

The purpose of a qualifying requirement in unemployment insurance is to limit the program's protection to regular members of the labor force. It should be high enough to eliminate workers with insignificant past employment, without eliminating workers regularly attached to the labor force who at some time during the last year have been out of work or have worked in noncovered jobs. The Committee on Finance believes that 20 weeks of employment in the 1-year base period, or its equivalent in terms of wages, is a clear indication of the worker's past attachment to the labor force. Thus, the bill provides that no more can be required for a worker to be qualified for benefits. States which wish to meet special State situations and qualify workers who have worked less than 20 weeks, or have lower earnings, may continue to do so. Each State can select for itself the way in which it will measure past attachment.

Weekly benefit amount

The weekly payment to the unemployed worker is the central factor of the unemployment insurance program—its reason for being.

From the beginning of the program the goal has been to provide an unemployed worker with a minimum of half the weekly wages he earned while he was employed—except for a small minority of those with the highest incomes. In 1939, when benefits began, 49 of the 51 existing jurisdictions under the program had maximum weekly benefits of 50 percent or more of the State's or territory's average weekly wage. (See table 4, p. 26.)

In 1939 the maximum weekly benefit in most States was $15, the average weekly wage nationally was about $23, and only about 25 percent of the beneficiaries were paid at the maximum. Today these relationships are vastly altered. The maximum unemployment benefit is generally less than $50, the national average wage is about $110, and in October to December 1965 about 42 percent of all claimants, and 59 percent of the men, were eligible for the State maximum. In 11 States, even a worker earning $80 a week would not receive half his own wages. This is demonstrated substantially by table 5, page 28.

Every State now replaces a lower percent of the wage of the average worker than it did in 1939. This is true even when the unemployment compensation is measured against after-tax earnings of today's workers.

Your committee recognizes the differences in State economies and State wage levels. For this reason the benefit requirement is not set in terms of a dollar amount to be provided in all States, but rather as a percentage of the average wage in the State.

It requires that each eligible individual who earned the State average weekly wage or less must be entitled to a weekly benefit which represents at least 50 percent of his average weekly wage. The maximum weekly benefit amount can be no less than 50 percent of the average wage in the State.

There are now 5 States which provide a maximum somewhat higher than 50 percent of the average wage, and 33 which provide at least some workers with more than 50 percent of their own individual wage. Your committee commends these States and urges them to continue to provide more than the minimal protection, and encourages other States to join them.

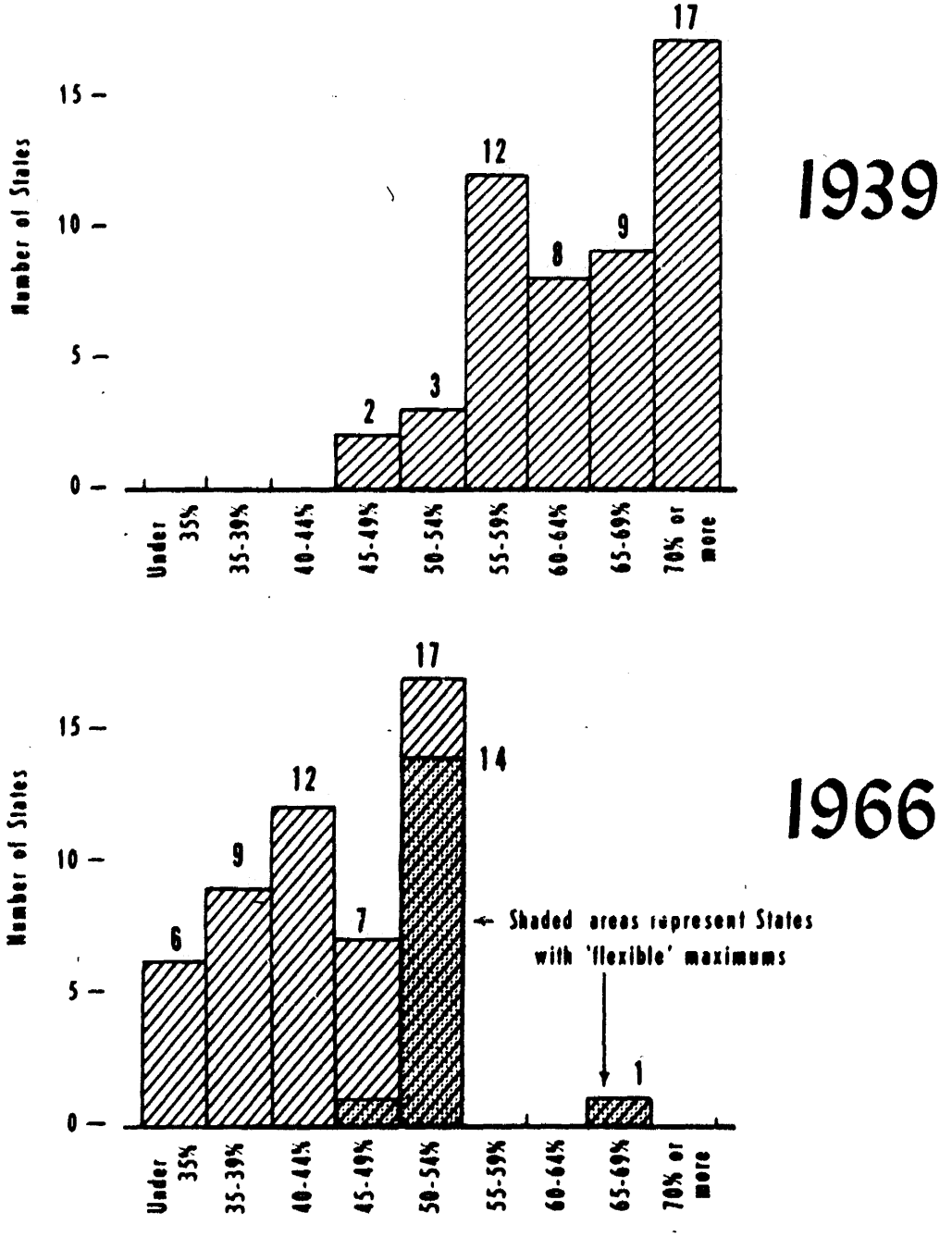
Duration

The goal of the program is to provide benefits for a long enough period that most claimants will have found new jobs before their benefits are exhausted.

The new requirement in the committee bill under which persons who have had 20 weeks or more of work in the base year are entitled to 26 weeks of benefits should greatly reduce the number of unemployed workers who exhaust all their benefit rights while still jobless. A State which permits workers to qualify with fewer than 20 weeks of work can provide such workers with a shorter period of protection. A State which wishes to provide benefits for more than 26 weeks can limit those extra weeks to workers with more than 20 weeks of work. Thus the principal of variable duration of benefits is retained in the States and at the same time recognition is given to the increasing Federal responsibility in this area growing out of greater labor mobility and shifting patterns of employment across State boundaries.

TABLE 4

Maximum Weekly Benefit Amounts Are Relatively Much Lower Than Earlier Levels



Ratio of maximum weekly benefit amount to State average weekly covered wage

There are two additional reasons for establishing a requirement for the duration of benefits. If higher weekly benefit payments are required without a requirement on duration, the result may be to provide workers with the same potential amount of benefits, but pay it in fewer weeks. The duration requirement prevents the States from adopting this course of action. Moreover, some consistency in regular State duration is necessary for satisfactory operation of the extended benefits program provided by the bill.

H. Federal-State extended unemployment compensation program

(1) *Need for the program.*—For the most part, our Federal-State unemployment insurance system is designed to take care of short-term unemployment. In periods of economic recession, when substantial numbers of workers in a State or in the Nation experience unemployment which extends beyond the periods for which they are protected under State laws, the resulting uncompensated unemployment has a serious impact not only upon the workers and their families, but on the purchasing power and economic health of the community in which they live, and of the entire Nation.

Twice within the last 8 years, in 1958 and 1961, Congress has enacted laws that provided for the extension of unemployment compensation on a temporary basis to deal with already existing recessions. While these programs were beneficial, and helped to offset the effects of high unemployment on unemployed workers and on the Nation's economy, your committee, like the Committee on Ways and Means of the House, is concerned with the defects inherent in this ad hoc approach to a problem which experience has shown recurs from time to time. A program enacted under the pressure of an emergency situation, in a recession which has already been underway for some time, is less effective than a program designed to take effect as soon as the need arises, and which ends as soon as the need no longer exists.

The Committee on Finance agrees with the House that a carefully devised reserve program, which would be "triggered in" as soon as economic conditions warrant and which would end when the need has passed, is highly desirable addition to the Federal-State unemployment insurance program. Accordingly, we have approved provisions in the House bill which would establish a permanent program of extended benefits in periods of high unemployment for workers who exhaust their basic entitlement to unemployment compensation. The Committee on Finance also agrees that extended compensation should be paid under the provisions of State laws, but unlike the House, we believe the problems of high unemployment of long duration in recession conditions cannot be attributed to economic conditions within a single State and thus can properly be considered a financial responsibility of the Federal Government. This is the theory upon which the 1961 extended benefit program, also financed fully by the Federal Government, was approved.

TABLE 5.—*Entitlement to maximum weekly benefit amount (WBA) for new insured claimants,[1] by sex, by State, October to December 1965*

State	Average weekly wage in covered employment fiscal year 1965	Maximum WBA [2]		Minimum weekly wage required for maximum WBA [3]	Percent of new insured claimants entitled to maximum basic WBA [4] October to December 1965		
		Amount	Percent of average weekly covered wage		All claimants	Men	Women
Total	$107.58				42	59	14
Maximum basic WBA of 50 percent or more of average weekly covered wage:							
Arkansas	75.61	$38	[5] 50	$76	28	42	10
California	122.49	65	53	[6] 135	37	50	4
Colorado	102.36	51	[5] 50	84	68	83	19
District of Columbia	109.04	53	[5] 50	92	37	49	18
Hawaii	96.13	55	[7] 57	104	31	54	7
Idaho	92.44	48	[5] 52½	94	58	67	6
Iowa	98.07	49	[5] 50	83	54	73	15
Kansas	97.88	47	[5] 50	89	47	63	14
New Hampshire	90.10	49	54	(3)	16	28	3
North Carolina	81.59	42	51	(3)	7	14	2
North Dakota	92.55	46	[5] 50	90	64	70	7
Rhode Island	93.30	47–59	[5] 50–63	84	43	65	16
South Carolina	80.33	40	[5] 50	78	24	41	11
Utah	97.74	48	[5] 50	94	54	74	6
Vermont	90.34	45	[5] 50	89	37	53	10
Wisconsin	108.06	56	[5] 52½	111	25	38	2
Wyoming	94.11	47	[5] 50	89	56	73	10
Maximum basic WBA of 40 to 49 percent of average weekly covered wage:							
Alabama	90.71	38	42	75	57	71	13
Arizona	104.78	43	41	81	57	70	25
Connecticut	114.48	50–75	44–66	99	42	63	12
Delaware	118.86	50	42	96	38	54	9
Georgia	88.51	35	40	66	42	64	26
Kentucky	94.35	40	42	76	46	63	16
Louisiana	97.98	40	41	75	48	57	19
Maryland	99.40	48	48	87	46	62	14
Massachusetts	102.58	50–(2)	49–(2)	[6] 119	19	35	3
Missouri	106.71	[8] 45	[8] 42	85	41	67	14
Nebraska	93.51	[8] 40	[8] 43	70	65	85	32
New Jersey	116.96	50	43	99	32	50	8
New York	118.24	55	47	109	[10] 31	[10] 47	[10] 9
Oregon	106.05	44	41	(3)	59	74	18
Pennsylvania	104.55	45	43	86	51	76	13
South Dakota	85.91	36	42	66	68	79	26
Tennessee	88.40	38	43	74	34	56	14
Virginia	90.22	36	40	68	26	41	6
Maximum basic WBA below 40 percent of average weekly covered wage:							
Alaska	167.91	45–70	27–42	(3)	66	72	28
Florida	92.71	33	36	65	50	69	27
Illinois	117.45	42–70	36–60	[9] 78–139	[4] [10] 54	[4] [10] 66	[4] [10] 32
Indiana	111.88	40–43	36–38	[9] 75–81	[4] 66	[4] 80	[4] 39
Maine	87.19	34	[7] 39	(3)	43	53	29
Michigan	129.97	43–72	33–55	[9] 77–130	[4] [10] 49	[4] [10] 62	[4] [10] 23
Minnesota	103.96	38	[7] 37	(3)	56	66	31
Mississippi	77.77	30	39	58	51	65	32
Montana	94.30	34	36	66	70	85	25
Nevada	119.33	41–61	34–51	77	71	83	41
New Mexico	95.88	36	38	68	59	68	22
Ohio	117.16	42–53	36–45	82	70	83	22
Oklahoma	96.93	32	33	62	47	64	22
Puerto Rico	54.63	20	37	38	55	62	45
Texas	97.45	37	38	70	50	63	24
Washington	114.07	42	37	(3)	47	58	16
West Virginia	105.44	35	33	(3)	42	52	9

[1] Excludes persons claiming benefits under the programs for Federal employees and ex-servicemen.

[2] Maximum WBA payable during October-December 1965. When 2 figures are shown the higher includes maximum allowances for dependents (in Massachusetts, maximum augmented amount may not exceed claimant's average weekly wage).

[3] Figures shown represent the actual average weekly wage (full-time weekly wage in Colorado) required by State law to qualify for the maximum WBA or, where applicable, the amount of wages required in highest

For this reason, and because of the financial burden which would be placed on States in upgrading their programs to meet the new benefit requirements added by the committee's amendments, your committee believes that the House action, requiring States to bear half of the costs of extended benefits in recession periods for individuals unemployed longer than 26 weeks, is not warranted and would impose extra burdens upon the employers of the affected States. Conscious as well of the fact that recession conditions result in greatly increased drains on State unemployment insurance funds for benefits for the vastly increased number of individuals in their first 26 weeks of unemployment, your committee recommends that the permanent extended benefit program for recession conditions be wholly financed from the Federal portion of the unemployment tax.

Your committee's bill provides that, as a condition for any tax offset under the Federal Unemployment Tax Act, a State unemployment compensation law must provide extended unemployment compensation during periods of high unemployment (as defined in the bill) to persons who have exhausted their rights to regular compensation and who have no rights under any State or Federal unemployment compensation law or any other similar Federal law, such as the Trade Expansion Act of 1962. The Federal Government would pay the cost of extended compensation and would reimburse the States for the cost of regular compensation they might pay in excess of 26 weeks in a benefit year, to the extent such regular compensation is paid within an extended benefit period.

The periods of high unemployment during which extended compensation must be paid are established in terms of the unemployment situation in an individual State, or nationally. Your committee recognized that a single State may be experiencing problem unemployment even though the Nation as a whole is not in a period of high unemployment. But when unemployment and exhaustion of compensation are high nationally, the extra protection should be available nationally.

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quarter divided by 13 weeks. In States basing weekly benefit on amount of annual wages, no figures are given owing to lack of comparability.

[4] Excludes dependents' allowances paid as a supplement to the maximum basic WBA in Alaska, Connecticut, Massachusetts, Nevada, Ohio, and Rhode Island; includes claimants at the maximum for each family class or size in Illinois, Indiana, and Michigan where the maximum WBA varies with the number of dependents.

[5] Maximum WBA is automatically adjusted annually (semiannually in Colorado and Wisconsin) to the percentage of wages shown; for period of this table, District of Columbia and Kansas last adjusted maximum WBA January 1965 and remaining States in July 1965, based on average weekly wage in covered employment during 12-month period ending 6 months prior to effective date.

[6] In California and Massachusetts the maximum WBA is less than ½ the minimum weekly wage required to qualify for it (representing 48 and 42 percent, respectively).

[7] Maximum WBA will be adjusted annually to 66⅔ percent of wages in Hawaii and 50 percent in Maine effective Jan. 2 and Apr. 1, 1966, respectively. The fixed maximum in Minnesota will be raised to about 45 percent of wages July 1, 1966. On those dates, Maine and Minnesota will adopt a benefit formula relating claimant's benefit more directly to his weekly wage.

[8] Amount reflects the higher of 2 maximum WBA's payable during the quarter, the higher becoming effective Oct. 13 in Missouri and Nov. 18 in Nebraska; percentages shown reflect both maximums.

[9] The higher of the 2 figures shown represents the average weekly wage required to qualify for the maximum WBA including maximum allowances for dependents.

[10] Represents percent of beneficiaries (1st payments) at maximum WBA in Illinois, Michigan, and New York.

NOTE.—A weekly benefit equal to at least half the weekly wage of claimants who qualify for a benefit below the maximum WBA and those who barely qualify for the maximum is generally accepted by most States. However, some States provide weekly benefits equal to more than half a claimant's weekly wage. The highest proportion of wage loss replaced is in Colorado which compensates for 60 percent of a claimant's weekly wage loss up to the maximum WBA followed by Iowa (59 percent); the District of Columbia and Nebraska (58 percent); and Maryland, Michigan, Rhode Island, and South Dakota (55 percent). In these States and others which compensate for ½ or more, claimants who qualify for the maximum are generally assured a benefit equal to at least half their wage until their weekly wage is more than twice the maximum WBA. In all States, claimants whose weekly wage exceeds an amount equal to twice the maximum WBA are compensated for less than half their weekly wage loss.

(2) *Substance of the extended unemployment compensation program.*—Title II of your committee's bill is the Federal-State Extended Unemployment Compensation Act of 1966.

The requirements as to the amount of extended compensation which a State must provide, the periods during which it must be provided, and the other conditions which must be met are spelled out in this part of the bill. To assure that the Federal-State extended unemployment compensation program provided by the title is incorporated into State unemployment insurance laws, and that extended compensation will be payable by States in periods of either State or National recessions, adoption of the program is made a condition for the approval of State laws and credit against the Federal tax for a State's employers. This is accomplished by adding a requirement that a State must enact appropriate legislation as a condition for the approval of its laws under section 3304(a) of the Internal Revenue Code of 1954.

The extended unemployment compensation is intended to protect workers still unemployed and unable to find jobs when their compensation under the regular unemployment compensation program, including the program for Federal employees and ex-servicemen, is exhausted. The extended unemployment compensation, however, is not intended to replace payments under other wage-loss programs such as the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, and the Railroad Unemployment Insurance Act.

In general, an individual has exhausted his rights under State law when he has received all the compensation allowable to him in the benefit year, or when his benefit year expires and he does not have the necessary earnings or employment to establish another benefit year immediately. For this purpose, an individual is considered to have exhausted his rights if he has received all the compensation payable on his monetary determination even though an appeal is pending with respect to other wages. In States which have special seasonal benefit restrictions, a worker is considered to have exhausted his benefit rights when he can draw no further compensation during the off season even though seasonal rights may exist which he can claim when the season begins. Since extended compensation is generally payable under the same terms and conditions as regular compensation, extended compensation based on seasonal wage credits would not be payable during the off season. If, however, the worker also had nonseasonal wage credits on which he could draw compensation during the off season, he could, if he had exhausted such compensation, be paid the appropriate proportion of his extended benefit rights based on his nonseasonal wage credits.

(3) *Individual's compensation account.*—The amount of extended compensation available to an eligible individual is 50 percent of the total regular compensation, including dependents' allowances, payable to him during his benefit year, but not to exceed either 13 times his average weekly benefit amount or 39 times his average weekly benefit amount reduced by the regular compensation paid (or deemed paid) during his benefit year, whichever is the lesser. These limitations, of course, relate only to the extended benefits paid from Federal funds. They do not limit in any way a State's freedom to provide more compensation if it is financed exclusively by the State.

The weekly benefit amount paid under the extended compensation program would be equal to the average weekly benefit received by the worker (including allowances for dependents) before he exhausted his benefits.

In computing an individual's total extended compensation amount, the amount of regular compensation payable is determined before any reduction of benefit rights by reason of a disqualification, but such reductions are deemed to be regular compensation paid. For example, if a worker was entitled to 26 weeks of regular compensation but was given a 6-week disqualification and equivalent reduction in benefit rights, and then exhausted his remaining 20 weeks, he would have potential extended compensation of 13 rather than 10 times his regular weekly benefit amount; he would be considered to have exhausted 26 weeks of regular compensation at the end of the 20-week period of compensation payments following the 6-week disqualification.

(4) *Extended benefit period.*—The periods of high unemployment during which extended unemployment compensation must be payable are called extended benefit periods. An extended benefit period begins with the third week after the week with respect to which the prescribed level of unemployment—described as National or State "on" indicators—is reached. Such an interval is the minimum period needed to compile data and determine the rates of unemployment.

Once an extended benefit period begins it must last at least 13 weeks, and no extended benefit period can be started by a State indicator until 14 weeks after the close of a prior extended benefit period in such State. Determinations as to the beginning and ending of extended benefit periods must be published in the Federal Register.

Any individual's period of eligibility for extended unemployment compensation is limited to the weeks in his benefit year which begin in an extended benefit period; if his benefit year ends within an extended benefit period, and he does not have the necessary wages or employment to start a new benefit year, the eligibility period also includes the next 13 (or fewer) weeks which begin in such extended benefit period. Extended unemployment compensation is not payable to anyone for a week of unemployment which begins after the end of an extended benefit period.

"On" and "off" indicators.—An extended benefit period must exist in all States whenever there is a national "on" indicator. In the absence of a national "on" indicator of high rates of insured unemployment and exhaustions nationally, an extended benefit period in an individual State can be triggered by the State level of unemployment.

Nationally, there is an "on" indicator when the rate of insured unemployment, seasonally adjusted, has equaled or exceeded 5 percent for each of the 3 most recent completed calendar months, *and* the number of claimants exhausting their benefits during such 3-month period totals at least 1 percent of covered employment. As soon as either of these conditions is not met, the national indicator is "off."

This trigger would have provided extended compensation on a national basis from the last week of March 1958 through February 28, 1959, and from the last week of January 1961 through February 3, 1962. (See Table 6, p. 33.) In both instances, these extended payments would have begun and ended earlier than the payments which actually became available under the two temporary programs. Like the House Committee on Ways and Means your committee

believes that the earlier availability of the payments during a period of high unemployment would be economically advantageous, and that payments after the end of such a period are unnecessary and costly.

An extended benefit period begins in any State when, for any 13-consecutive-week period, the insured unemployment rate in the State was 20 percent or more higher than the average for the corresponding period of the 2 preceding calendar years, provided the current rate equaled or exceeded 3 percent of covered employment. The State trigger would continue to be "on" as long as both of these conditions were met. Because the State trigger is based on a comparison of rates in corresponding 13-week periods in 3 successive years, seasonal adjustment of the rates is unnecessary. The 3-percent rate is provided to prevent triggering in situations in which the insured unemployment rate, while 20 percent or more higher than the average for the same periods in the preceding 2 years, is nevertheless low and representative of nonrecession conditions.

In 1958, State "on" indicators would have preceded the national "on" indicator in about 43 States. The State indicator would have remained "on" after the national indicator was "off" in about 14 States As indicated in Table 6, in 1961, there were about 30 States where the State "on" indicator would have led the national one, and only 1 where the State period would have remained in effect longer than the national.

(5) *Payments to States.*—The Federal Government will pay the entire cost of the extended unemployment compensation required under this title out of the proceeds from the Federal portion of the unemployment tax. To avoid discouraging States from providing regular compensation for longer than 26 weeks the Federal Government will also reimburse regular compensation in excess of 26 weeks in a benefit year, if such regular compensation is paid during an extended benefit period.

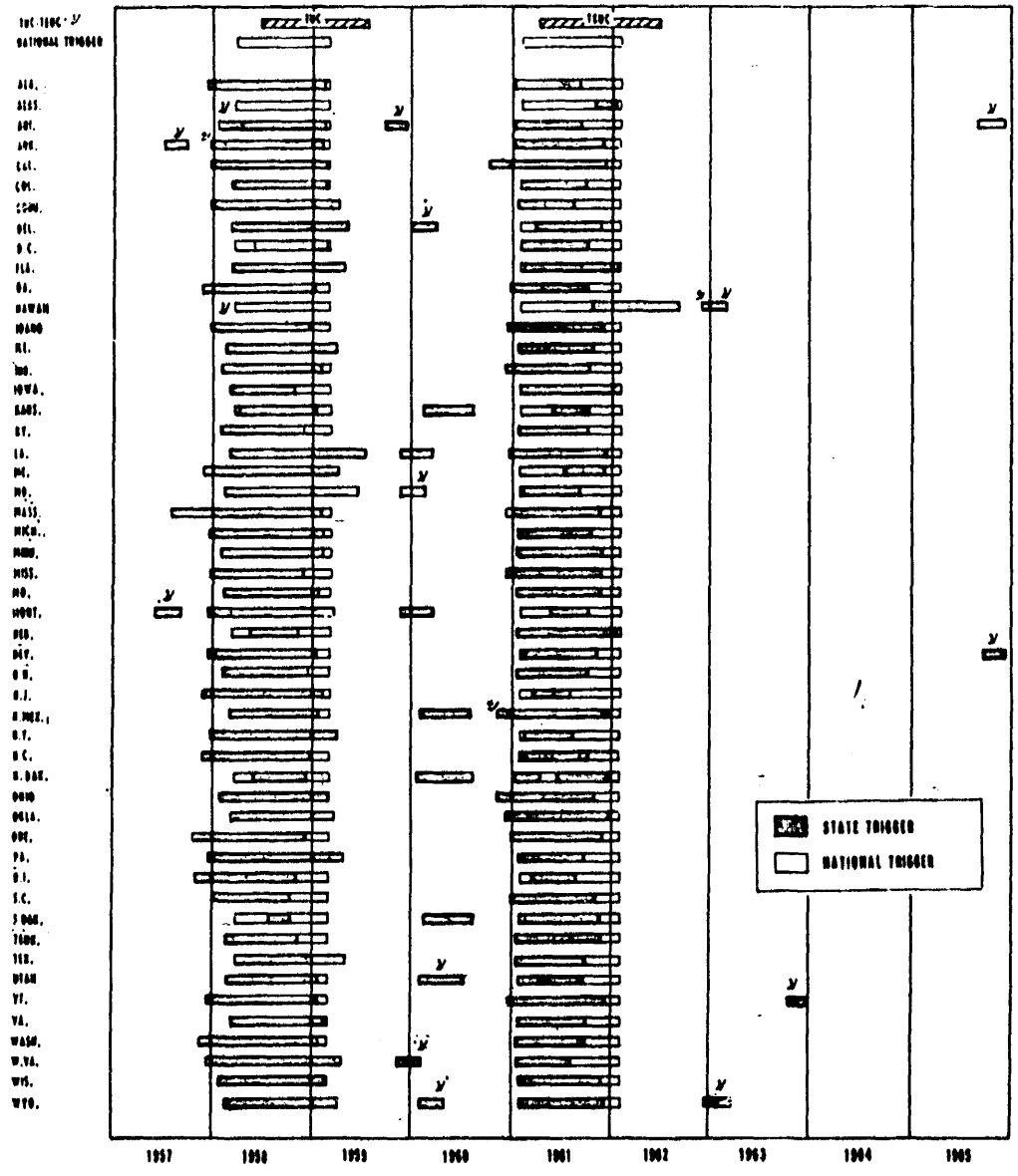
For example, if a claimant was entitled to 36 weeks of regular compensation and had received 26 of those weeks when the extended benefit period began, he would be entitled to 10 more weeks of regular compensation, and, if the extended benefit period continued, to 3 weeks of extended unemployment compensation. The Federal Government would reimburse the cost of the last 10 weeks of regular compensation as well as the 3 weeks of extended compensation.

In addition, if a State provides additional compensation to exhaustees in periods of high unemployment or in response to individual State needs the Federal Government will consider that any such additional benefits paid for weeks in an extended compensation period are extended compensation for which the Federal Government will bear the cost. For example, if State A had been paying additional compensation under its own program for 6 weeks when an extended benefit period as defined in this title began, and a worker had exhausted 20 weeks of regular compensation and had received 6 weeks of State additional compensation before the extended benefit period began, the Federal Government would consider his remaining 4 weeks of State additional benefits as part of the 10 weeks of Federal extended benefits otherwise payable. A State would thus not be penalized for providing its own program of extended benefits.

TABLE 6

EXTENDED BENEFIT PERIODS UNDER TITLE II OF H.R. 15119

ESTIMATED FOR 1957-1965



1/ Temporary Unemployment Compensation Act (TUC) extended benefits from June 19, 1958, to July 1959; Temporary Extended Unemployment Compensation Act (TEUC) extended benefits from April 1961 to June 1962.

2/ Data for Alaska and Hawaii for 1957-60 not available.

3/ Extended benefit period continued to meet 13-week minimum requirement.

4/ Start of extended benefit period delayed until the 14th week after end of prior extended benefit period.

SOURCE: STATE EMPLOYMENT SECURITY AGENCIES
DES-U.S. DEPARTMENT OF LABOR

(6) *Extended unemployment compensation account.*—Your committee's bill deletes the current section 905 of the Social Security Act (which dealt with the financing of the TEUC program in 1961) and replaces it with a new section 905 which establishes a new book account in the trust fund to be called the extended unemployment compensa-

tion account. For fiscal year 1968, one-sixth of the net Federal tax collections would be transferred to this account from the employment security administration account; for fiscal years 1969 through 1972, one fourth would be transferred to this account; and for fiscal years after 1972, one-third would be so transferred. These amounts would be transferred on a monthly basis. If, on any June 30, the balance in this account exceeds the greater of $1 billion or an amount equal to 0.4 percent of *all* earnings in employment covered by State unemployment insurance laws, the excess would be transferred to the Federal unemployment account as of each June 30.

Your committee believes that the building up, in times of prosperity, of a fund which would be immediately available for expenditure without further legislative action as soon as an economic recession occurs, is a sound approach to the problem of financing an extended benefits program as well as an extension of the principle upon which our present Federal-State unemployment insurance system is based. The balance chosen to be maintained in the fund is based on the application of the provisions of this title to the experience of previous recession periods. Since the liabilities of the program are related to wage levels and past employment levels, flexibility is achieved by setting the balance at a percentage of total wages paid in employment covered by State unemployment insurance laws, with $1 billion being considered as the minimum safe amount. It is estimated that by June 30, 1968, 0.4 percent of total covered wages would be approximately $1.06 billion.

Your committee's bill also authorizes repayable non-interest-bearing advances to the extended unemployment compensation account, if necessary. The purpose of this authorization for advances is to provide against the possibility of a recession period occurring before the fund has been built up to the desired level or extending for a period long enough to exhaust the account.

The bill also changes the existing provision with respect to the disposition of annual excess Federal tax collections, if any, by providing that whenever any excess is available from the administration account, it should be first available to the new extended unemployment compensation account. Any portion of such excess not needed to bring the balance in the latter account to the specified statutory limit would be available, as is now provided, to the Federal unemployment account, then to the employment security administration account, then to repay Federal advances to the new extended unemployment compensation account, then to repay advances to the Federal unemployment account, and finally to the State accounts in the unemployment trust fund.

(7) *Effective dates.*—The Federal tax to finance this program will become payable on wages paid after December 31, 1966, and will be collected in January 1968.

No extended benefit period may begin with a week beginning before January 1, 1969. The new requirement that a State must amend its laws to comply with the provisions of this title of the bill applies to the taxable year 1969 and taxable years thereafter.

I. Financing

The bill provides revenue for the extended unemployment compensation account and additional funds needed for administration of the employment security program by increasing both the Federal unemployment tax rate and the portion of the employer's payroll

subject to the tax. The rate of the tax under the Federal Unemployment Tax Act would be increased from the present rate of 3.1 percent of taxable wages to 3.3 percent effective with respect to wages paid in calendar year 1967 and thereafter.

The taxable wage base under the act would be increased from the present base which covers the first $3,000 of wages paid to an individual during the calendar year to the first $3,900 with respect to wages paid in calendar years 1968–71. The first $4,800 becomes taxable beginning in calender year 1972. The provision for offset credit against the Federal tax remains unchanged (90 percent of 3 percent; i.e., 2.7 percent of taxable payroll). Thus, the *net* Federal unemployment tax would be increased from the present 0.4 percent to 0.6 percent of taxable wages.

In the case of fiscal year 1968, one-sixth of the net Federal tax (the equivalent of 0.1 percent of taxable wages) would be deposited in the newly established "extended unemployment compensation account" to provide funds for financing the costs of the extended benefit program. The remaining five-sixths of the net Federal tax (the equivalent of 0.5 percent of taxable wages) would provide funds for financing the administrative costs of the employment security program. Because funds derived from the increase in the taxable wage base to $3,900 will not become available until the fiscal year 1969, 0.5 percent of taxable wages up to $3,000 will be required for financing the costs of administration in fiscal 1968.

For fiscal years 1969 through 1972 three-fourths of the net Federal tax (the equivalent of 0.45% of taxable wages) will be allocated for the cost of administration and one-fourth (the equivalent of 0.15% of taxable wages) will be transferred to the extended unemployment compensation account. For fiscal year 1973 and thereafter two-thirds of the net Federal tax (the equivalent of 0.4% of taxable wages) will be allocated for the costs of administration and one-third (the equivalent of 0.2% of taxable wages) will be transferred to the extended unemployment compensation account. The annual excess, if any, of the portion of the tax earmarked for administration over the amounts actually required for financing the costs of administration would also be transferred to the extended unemployment compensation account. The bill also provides for a limitation on the size of the latter account and for the use of any excess.

There has been a recurring problem in recent years of providing adequate funds for administration of the employment security system as salaries of State agency personnel and other costs have increased faster than revenue under the present tax rate and base. When the Congress last considered this problem, it increased the tax rate from 3 to 3.1 percent beginning with calendar year 1961. It now appears more appropriate to increase both the rate and the base so the impact of the increase is more equitably spread between higher wage and lower wage employers.

There is an immediate problem of providing adequate funds for the administration of the unemployment insurance and employment service programs in the States. The portion of the tax increase that will be available for administrative expenses will result in an increase in the amount that would otherwise be available for fiscal 1968 and should provide the immediate relief needed.

The longer range problem should not be dealt with solely through an increase in the tax rate. The present $3,000 taxable wage base has

not been changed since it was first set in 1939. At that time the effect of the limitation, which was imposed for the purpose of establishing the same taxable wage base under the social security and unemployment compensation programs, was negligible. Wages were then at a level at which 98 percent of the total payroll of liable employers was taxable. As wages have increased without a change in the $3,000 limit, the proportion of employers' total payrolls which is taxable has steadily decreased. At present a little more than 50 percent of total payroll is taxable and many employers are paying a tax on as little as one-third or one-fourth of their total payrolls. The tax is thus becoming more nearly a per capita tax than a wage-related payroll tax. The low-wage employer is contributing disproportionately to the financing of the administrative cost of the program.

While your committee wishes to avoid a precipitate increase in the taxable wage base, it believes that the present base has become unrealistic. Consequently, the bill would provide an increase to $3,900 beginning with calendar year 1968 and another increase to $4,800 beginning with calendar year 1972. The first increase is deferred until 1968 to provide adequate time for State legislatures to take appropriate action to increase the wage base under the State laws and make other changes in the financing provisions of State laws. The further increase in the base in 1972 is a recognition of the need to make the relationship between taxable wages and total wages of workers subject to the tax more realistic.

The increases in the wage base will serve not only to provide needed funds for administrative financing, but also will make it possible for the States to improve their benefit financing. The broadened base upon which State taxes will be levied should permit a wider range of rates under State experience-rating provisions while also assuring a greater year-to-year stability in tax rates.

Because your committee has recommended complete Federal financing of the extended benefit program, in lieu of the 50-percent reimbursement of State costs contained in the House bill, with no increase in the tax rate proposed by the House, a taxable wage base increase somewhat greater than that proposed in the House bill is required.

TABLE 7.—*Estimated FUTA collections under H.R. 15119 as amended and under current provisions, fiscal years 1968–73*

[Collections in millions]

Taxable (calendar) year	Taxes collected during (fiscal year)	Current law [1] estimated collections	Proposed under H.R. 15119, as amended [2]			
			Wage base	Estimated tax collections		
				Total	Currently covered employment	Newly covered employment [3]
1967	1968	$544	$3,000	$816	$816	.....
1968	1969	560	3,900	1,020	1,020	.....
1969	1970	572	3,900	1,046	1,038	8
1970	1971	584	3,900	1,070	1,062	8
1971	1972	596	3,900	1,100	1,092	8
1972	1973	608	4,800	1,317	1,308	9

[1] Net Federal tax of 0.40 percent on a $3,000 wage base.
[2] Net Federal tax of 0.60 percent on specified wage base, beginning with taxable year 1967.
[3] Represents taxes from proposed extension of Federal coverage, effective Jan. 1, 1969 (agricultural processing and change in definition of employee).

Source: Department of Labor, Bureau of Employment Security.

TABLE 8.—*Estimated FUTA collections under H.R. 15119 as amended allocated for financing extended benefit program and employment security administration, fiscal years 1968–73*

[In millions of dollars]

Fiscal year	Total collections at 0.6 percent (I)	Amount available for financing of— Extended benefits [1] (II)	Amount available for financing of— Employment Security Administration [2] (III)	Statutory limitation on appropriation for State administrative grants (95 percent of col. III) (IV)
1968	816	136	680	646
1969	1,020	255	765	727
1970	1,046	262	784	745
1971	1,070	268	802	762
1972	1,100	275	825	784
1973	1,317	439	878	834

[1] Represents amounts equivalent to 0.1 percent of taxable payroll for fiscal year 1968, 0.15 for fiscal years 1969–72, and 0.2 for fiscal year 1973 and thereafter to be deposited in extended unemployment compensation account for financing costs of extended benefit program.

[2] Represents amounts equivalent to 0.5 percent of taxable payroll for fiscal year 1968, 0.45 percent for fiscal years 1969–72, and 0.4 for fiscal year 1973 and thereafter for financing Federal and State employment security administrative costs. Annual excess of collections over amounts required for administrative expenses to be transferred to extended unemployment compensation account.

Source: Department of Labor, Bureau of Employment Security.

TABLE 9.—*Comparison of estimated FUTA collections under committee version and House version of H.R. 15119, fiscal years 1968–73*

[In millions of dollars]

Fiscal year	Tax collections at 0.6 percent: (A) Committee bill	(B) House bill	Difference (A minus B)	Amounts available for financing of— Extended Benefits: (A) Committee [1] bill	(B) House [2] bill	Difference (A minus B)	Employment Security Administration: (A) Committee [3] bill	(B) House [4] bill	Difference (A minus B)
1968	816	816	.....	136	136	.....	680	680	.....
1969	1,020	840	+180	255	140	+115	765	700	+65
1970	1,046	1,092	−46	262	182	+80	784	910	−126
1971	1,070	1,116	−46	268	186	+82	802	930	−128
1972	1,100	1,146	−46	275	191	+84	825	955	−130
1973	1,317	1,236	+81	439	206	+233	878	1,030	−152

[1] Represents amounts equivalent to 0.1 percent of taxable payroll for fiscal year 1968, 0.15 for fiscal years 1969–72 and 0.2 for fiscal year 1973 and thereafter to be deposited in extended unemployment compensation account for financing costs of extended benefit program.

[2] Represents amounts equivalent to 0.1 percent of taxable payroll to be deposited in extended unemployment compensation account for financing Federal share of costs of extended benefit program.

[3] Represents amounts equivalent to 0.5 percent of taxable payroll for fiscal year 1968, 0.45 percent for fiscal years 1969–72 and 0.4 for fiscal year 1973 and thereafter for financing Federal and State employment security administrative costs. Annual excess of collections over amounts required for administrative expenses to be transferred to extended unemployment compensation account.

[4] Represents amounts equivalent to 0.5 percent of taxable payroll for financing Federal and State employment security administrative costs. Annual excess of collections over amounts required for administrative expenses to be transferred to extended unemployment compensation account.

Source: Department of Labor, Bureau of Employment Security.

V. SECTION-BY-SECTION EXPLANATION OF THE BILL

The first section contains a short title of the bill—the "Unemployment Insurance Amendments of 1966." The remainder of the bill is divided into three titles, title I being divided into several parts, as follows:

Title I—In General.
- Part A—Coverage.
- Part B—Provisions of State Laws.
- Part C—Judicial Review.
- Part D—Administration.
- Part E—Benefit Requirements.

Title II—Federal-State Extended Unemployment Compensation Program.

Title III—Financing.

TITLE I—IN GENERAL

PART A—COVERAGE

SECTION 101. DEFINITION OF EMPLOYEE

Subsection (a) of section 101 of the bill amends section 3306(i) of the Internal Revenue Code of 1954 (relating to the definition of employee).

Under existing section 3306(i) the term "employee" includes an officer of a corporation but does not include an individual (exclusive of any such officer) who, under the usual common law rules relating to the employer-employee relationship, has the status of an independent contractor or is not an employee under such common law rules.

New section 3306(i) provides that for purposes of the Federal Unemployment Tax Act the term "employee" has the meaning assigned to such term by section 3121(d) of the Federal Insurance Contributions Act except that subparagraph (B) (relating to full-time life insurance salesmen) and subparagraph (C) (relating to certain homeworkers) of section 3121(d)(3) are not to apply. Thus, except in the case of full-time life insurance salesmen and homeworkers who are included as employees for purposes of the Federal Insurance Contributions Act solely by reason of section 3121(d)(3) (B) or (C) of the code, the same individuals will be employees for purposes of both the Federal Insurance Contributions Act and the Federal Unemployment Tax Act.

Section 3121(d), in paragraphs (1), (2), and (3) thereof, provides three separate and independent tests for determining who are employees. If an individual is an employee under any one of the tests, he is considered an employee whether or not he is an employee under any of the other tests.

Paragraph (1) of section 3121(d) provides that any officer of a corporation is an employee. Under paragraph (2) of such section, the term "employee" includes any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee.

Under paragraph (3) of section 3121(d), individuals in four specified groups who are not employees under the usual common law rules are employees for purposes of the Federal Insurance Contributions

Act if the conditions described below are met. The four groups involved are—

(A) Agent-drivers or commission-drivers who are engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or drycleaning services, for their principals.

(B) Full-time life insurance salesmen.

(C) Certain home workers.

(D) Certain traveling and city salesmen.

New section 3306(i) expressly provides that in determining who are employees for purposes of the Federal Unemployment Tax Act, subparagraphs (B) and (C) of section 3121(d)(3) shall not apply. Accordingly, new section 3306(i) makes no change, for purposes of the Federal Unemployment Tax Act, in the status of full-time life insurance salesmen and home workers. Such individuals are employees under new section 3306(i) only if under the usual common law rules applicable in determining the employer-employee relationship they have the status of employees.

Your committee has considered the appropriate treatment of insurance salesmen. Under section 3306(c)(14), the unemployment tax does not apply to commissions earned by insurance salesmen if payment for their services is "solely by way of commission." Your committee believes this provision to mean that insurance salesmen's commissions will not be made taxable merely because of the receipt of remuneration which itself would not be subject to the unemployment tax, such as group term life insurance. As so interpreted, this provision reflects the intent of Congress in enacting it and does not require amendment.

An individual is included in the category of a traveling or city salesman only if he is engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

The mere fact that an individual is an agent-driver or commission-driver or a traveling or city salesman does not in itself make such person an employee under new section 3306(i) of the code. In order for an individual to be an employee under paragraph (3) of section 3121(d) the following prescribed conditions must also be met:

(1) The contract of service must contemplate that substantially all of the services are to be performed personally by such individual.

(2) The individual must not have a substantial investment in facilities used in connection with the performance of the services (other than the investment in facilities for transportation).

(3) The services must be part of a continuing relationship with the person for whom the services are performed and not be in the nature of a single transaction.

Subsection (b) of section 101 of the bill makes a technical amendment to section 1563(f)(1) of the code (relating to surtax exemption in case of certain controlled corporations) by changing the section reference in the definition of the term "employee" from section 3306(i) to paragraphs (1) and (2) of section 3121(d). Thus, the term "em-

ployee" for purposes of section 1563 means any officer of a corporation or any individual having the status of employee under the usual common law rules applicable in determining the employer-employee relationship.

Subsection (c) of section 101 of the bill provides that the amendment made by subsection (a) of section 101 is to apply with respect to remuneration paid after December 31, 1968, for services performed after such date.

SECTION 102. DEFINITION OF "AGRICULTURAL LABOR"

Subsection (a) of section 102 of the bill amends section 3306(k) of the Internal Revenue Code of 1954 (relating to the definition of "agricultural labor").

New section 3306(k) provides that for purposes of the Federal Unemployment Tax Act the term "agricultural labor" has the meaning assigned to such term by section 3121(g) of the Federal Insurance Contributions Act with an exception discussed below.

Section 3306(k) of existing law contains four numbered paragraphs. Paragraph (1) relates to service performed on a farm, in the employ of any person, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife. Paragraph (2) relates to service performed in the employ of the owner, tenant, or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major portion of the service is performed on a farm. Paragraphs (1) and (2) of section 3121(g) of the code (to which new section 3306(k) refers) are the same as paragraphs (1) and (2) of existing section 3306(k). Therefore, new section 3306(k), by reference to section 3121(g), continues without change the provisions of law contained in paragraphs (1) and (2) of existing 3306(k).

Paragraph (3) of existing section 3306(k) includes as agricultural labor the following services even though not performed on a farm: Services performed in connection with the production or harvesting of maple sirup or maple sugar or any commodity defined as an agricultural commodity in section 15(g) of the Agricultural Marketing Act, as amended, or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes.

Paragraph (3) of existing section 3306(k), although comparable in many respects to paragraph (3) of section 3121(g), includes as agricultural labor certain services which do not constitute agricultural labor under section 3121(g)(3). Paragraph (3) of section 3121(g) includes as agricultural labor only services performed in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Agricultural Marketing Act, as amended, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals,

reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes. Thus, new section 3306(k) will exclude from the definition of agricultural labor services performed in connection with the production or harvesting of maple sap, or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry, unless such services are performed on a farm (as defined in section 3121(g)). Accordingly, services performed in connection with the operation of a hatchery, if not operated as part of a poultry or other farm, will be covered employment.

Paragraph (4) of existing section 3306(k) includes as agricultural labor service performed in the handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity, provided such service is performed as an incident to ordinary farming operations or, in the case of fruits and vegetables, as an incident to the preparation of such fruits and vegetables for market. Thus, under existing section 3306(k), service of the prescribed character performed with respect to fruits or vegetables in the employ of any person constitutes agricultural labor, provided such service is performed as an incident to the preparation of such fruits or vegetables for market; and such service with respect to all other agricultural or horticultural commodities constitutes agricultural labor, if the service is performed as an incident to ordinary farming operations.

Paragraph (4) of section 3121(g) relates to the same type of services as are referred to in paragraph (4) of existing section 3306(k) but applies different tests for determining whether services of the prescribed character constitute agricultural labor. Under paragraph (4)(A) of section 3121(g), the term "agricultural labor" includes service performed in the employ of the owner-operator, tenant-operator, or other operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity in its unmanufactured state, provided such operator produced more than one-half of the commodity with respect to which such service is performed. Such paragraph (4)(A) contains three tests for determining whether certain services constitute agricultural labor; namely, the status of the person for whom the service is performed, the state of the commodity with respect to which the service is performed, and the extent to which such commodity was produced by the operator in whose employ the service is performed. To constitute agricultural labor under such paragraph (4)(A), the service must be performed in the employ of the operator of the farm. Further, service of the prescribed character with respect to an agricultural or horticultural commodity constitutes agricultural labor only if the service is performed with respect to such commodity in its unmanufactured state. In addition, where service of the prescribed character is performed in the employ of the operator of a farm, such service does not constitute agricultural labor unless such operator produced more than one-half of the commodity with respect to which the service is performed.

Paragraph (4)(B) of section 3121(g) relates to services described in paragraph (4)(A) of such section which are performed in the employ

of a group of operators of farms (other than a cooperative organization). Under new section 3306(k), paragraph (4)(B) of section 3121(g) is inapplicable in determining whether services constitute agricultural labor for purposes of the Federal Unemployment Tax Act. However, under new section 3306(k) services described in paragraph (4)(A) of section 3121(g) which are performed in the employ of a group of operators of farms (or a cooperative organization of which such operators are members) constitute agricultural labor for purposes of the Federal Unemployment Tax Act if the service is performed with respect to an agricultural or horticultural commodity in its unmanufactured state and the group of operators (or, in the case of a cooperative organization, the operators who are members) produced more than one-half of the commodity with respect to which the service is performed. For this purpose a cooperative organization is to be treated as such whether or not it is incorporated and whether or not it is a farmers' cooperative exempt from income taxation under section 521 of the code.

Subparagraph (C) of paragraph (4) of section 3121(g) provides in effect that service of the prescribed character performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption does not constitute agricultural labor under subparagraph (A) or (B) of such paragraph (4). Existing section 3306(k)(4) contains a similar provision.

Paragraph (5) of section 3121(g) includes as agricultural labor service not in the course of the employer's trade or business or domestic service in a private home of the employer, if such service is performed on a farm operated for profit.

As used in existing section 3306(k), the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards. The term "farm" is similarly defined in section 3121(g).

Section 102(b) of the bill provides that the amendment made by section 102(a) is to apply with respect to remuneration paid after December 31, 1968, for services performed after such date.

SECTION 103. STATE LAW COVERAGE OF CERTAIN EMPLOYEES OF NONPROFIT ORGANIZATIONS AND OF STATE HOSPITALS AND INSTITUTIONS OF HIGHER EDUCATION

Section 103 of the bill amends section 3304(a) of the Internal Revenue Code of 1954 by inserting a new paragraph (6) providing that to be approved (for purposes of the credits against the Federal unemployment tax) a State law must cover certain employees of nonprofit organizations and State hospitals and institutions of higher education.

Subparagraph (A) of the new paragraph (6) requires the State law to provide for payment of unemployment compenstaion on the basis of service to which new section 3310(a)(1) of the code (added by sec. 103(b)(1) of the bill) applies in the same amount, and on the same terms and conditions as other service covered by such law. Subparagraph (B) requires the State to permit benefit-reimbursement

payments (in lieu of "contributions") into the State unemployment fund with respect to the service covered by this provision.

New section 3304(a)(6) requires a State law, as a condition of approval for tax credit under section 3304, to provide for payment of unemployment compensation, on the basis of service by certain employees of nonprofit organizations and State institutions of higher education and hospitals, under the same conditions of eligibility, benefit amount, etc., as State law provides for other covered services. It also requires the State to permit the nonprofit organization to elect to make payments on a reimbursement basis rather than paying the State unemployment tax required of other employers. No Federal tax is imposed on the employment covered under this section of the bill.

Subsection (b)(1) of section 103 of the bill adds a new section 3310 to chapter 23 of the code to define State law coverage requirements for purposes of section 3304(a)(6).

Section 3310(a)(1) describes the required coverage as (A) service excluded from the term "employment" for purposes of the Federal tax solely because it is performed in the employ of a religious, charitable, educational or other nonprofit organization described in section 501(c)(3) of the code which is exempt from income tax under section 501(a) of the code; and (B) service performed in the employ of a State or instrumentality of one or more States for a hospital or institution of higher education if such service is excluded solely by reason of paragraph (7) of section 3306(c) of the code. Coverage under subparagraph (B) does not extend to employees of political subdivisions of a State (or to instrumentalities of such subdivisions).

Section 3310(a)(2) requires State law to permit the nonprofit organizations, or groups of such organizations, to elect (for such minimum period and at such time as may be prescribed by State law) to make payments in lieu of contributions into the State unemployment fund equal to the amount of unemployment compensation attributable to service covered by new section 3310(a)(1)(A). It authorizes a State to provide safeguards (such as a requirement that bond be furnished) to insure that such payments will be made.

Section 3310(b) excludes the following services from coverage under section 3310:

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

This paragraph excludes services of persons where the employer is a church or convention or association of churches, but does not exclude certain services performed for an organization which may be religious in orientation unless it is operated primarily for religious purposes and is operated, supervised, controlled, or principally supported by a church (or convention or association of churches). Thus, the services of the janitor of a church would be excluded, but services of a janitor for a separately incorporated college, although it may be church related, would be covered. A college devoted primarily to preparing students for the ministry would be exempt, as would a novitiate or a house of study training candidates to become members of religious orders. On the other hand, a church-related (separately incorporated) charitable organization (such as, for example, an orphanage or a home

for the aged) would not be considered under this paragraph to be operated primarily for religious purposes.

(2) Service performed by ministers of churches in the exercise of their ministry and members of a religious order in performing the duties required by such order.

(3) Service performed in the employ of educational institutions other than institutions of higher education.

Paragraph (3) excludes coverage of educational institutions below the level of colleges, universities, junior colleges, and similar institutions. The test of an institution of higher education generally would be whether the applicants for admission are required to have a high school education or the equivalent, and whether the institution's courses are accepted for credit toward a degree at other institutions of higher education. Thus, all primary and secondary schools and most preparatory schools would be excluded.

(4) Service performed in the case of institutions of higher education by individuals employed in an instructional, research, or principal administrative capacity.

Services by the faculty of covered institutions of higher education are excluded by paragraph (4), as well as services by persons employed by such institutions in a research capacity. Thus, for example, a person directing a research project and those of his staff engaged directly in performing the research are excluded, although service of other employees, such as an electrician engaged in wiring a project under the direction of a researcher, is covered. Paragraph (4) also excludes services performed by an individual employed by such an institution in a principal administrative capacity. This would exclude not only the officers of the institution such as the president and the board of directors but also other individuals who do not have title as officers of the institution but who serve in a principal administrative capacity. The services performed by the individual rather than the title he holds should determine whether or not he is excluded. Neither providing a title nor withholding it should affect the exclusion. Ordinarily, it would apply to business managers, deans of a college, deans, associate deans, university relations directors, controllers, development officers, chief librarians, assistant librarians, and registrars, if they perform principal administrative functions. The exclusions under paragraph (4) apply whether the institution of higher education is a nonprofit or a State institution.

(5) Service performed in the case of a hospital (or certain medical research organizations) by a physician, dentist, osteopath, chiropractor, naturopath, or Christian Science practitioner, or in an instructional or research capacity.

The paragraph (5) exclusion applies whether the hospital is a nonprofit or State institution.

(6) Service performed in a facility conducted for the purpose of carrying out a program of (*a*) rehabilitation for individuals whose earning 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 readily be absorbed in the competitive labor market. The exclusion applies only to the services performed by an individual receiving the rehabilitation or remunerative work under the program.

(7) Service performed 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. The exclusion applies only to services performed by an individual receiving the work relief or work training.

Section 3310(c) excludes from the new section 3310 service performed in the employ of nonprofit organizations which during the calendar year do not employ, on each of 20 days each day in a different calendar week, four or more individuals.

Section 3310 relates to requirements which the State law must meet. Federal law does not prohibit any State from extending coverage on a broader basis.

Section 103(c) of the bill amends section 3303 of the code by adding a new subsection (e) which permits a State to permit nonprofit organizations described in section 501(c)(3) of the code, both those required to be covered and those which the State may cover if it wishes, to elect (in lieu of paying contributions) to pay into the State fund amounts equal to the unemployment compensation attributable under the State law to service performed in the employ of such organizations. The State law may provide that a group of the described organizations may elect the reimbursement method with respect to service in the employ of the members of the group.

Section 103(d) of the bill provides effective dates. Subsections (a) and (b), which relate to State law requirements, apply with respect to certifications of State laws for 1969 and subsequent years, but only with respect to service performed after December 31, 1968. Subsection (c), which relates to the permissive reimbursement method of payment, takes effect January 1, 1967. Thus, it will apply to 1967 and subsequent years.

SECTION 104. STUDENTS ENGAGED IN WORK-STUDY PROGRAMS

Subsection (a) of section 104 of the bill amends paragraph (10) of section 3306(c) of the Internal Revenue Code of 1954 (relating to the definition of employment) by adding a new subparagraph (C). New subparagraph (C) excepts from the term "employment" service performed by an individual who is enrolled at a college, high school, or other educational institution (within the meaning of section 151(e)(4) of the code) as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such institution has certified to the employer, as defined in section 3306(a) of the code, that such service is an integral part of such program.

Although such service need not tie in directly to the academic instruction portion of the program, it must constitute part or all of the required work experience portion of the program and the institution must certify to the employer that the service is an integral part of that program. This new exclusion applies only to work-study programs in which a student spends a substantial portion of his time receiving instruction.

Subsection (b) of section 104 of the bill provides that the amendment made by subsection (a) of section 104 is to apply with respect to remuneration paid after December 31, 1966.

PART B—PROVISIONS OF STATE LAWS

SECTION 121. PROVISIONS REQUIRED TO BE INCLUDED IN STATE LAWS

Section 121(a) of the bill amends section 3304(a) of the Internal Revenue Code of 1954 to add new paragraphs (7), (8), (9), and (10) which require new provisions to be included in State laws if they are to be certifiable under section 3304(c).

Under new paragraph (7), the State law must provide that an individual who has received compensation during his benefit year must have had work since the beginning of such year in order to qualify for unemployment compensation in his next benefit year. The State law is to specify how much work he must have had and whether or not it had to be in covered employment.

Under new paragraph (8), the State law must provide that compensation shall not be denied to any individual by reason of cancellation of his 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 unemployment compensation, or receipt of disqualifying income (such as receipt of a pension). This provision would not prevent a State from postponing or reducing an individual's rights for such causes as voluntary quit or refusal of suitable work so long as the disqualification did not cancel his wage credits or totally reduce his benefit rights. Thus a State could postpone benefits for a fixed period (e.g., 6 weeks), for a flexible period (e.g., 4 to 10 weeks), or for the duration of the worker's unemployment and until he had returned to work and earned a specified amount of money. Similarly, a State law may provide for a reduction of the worker's benefit rights but not for a total reduction of such rights. This paragraph does not affect other requirements, such as the requirement that to receive compensation for a week of unemployment the individual must be available for work.

Under paragraph (9), the State law must provide that unemployment 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. Denial of compensation for causes other than those specified is not prohibited by this provision.

Under paragraph (10)(A), the State law must provide that compensation shall not be denied or reduced to an individual solely because he files a claim in another State or because he resides in another State at the time he files a claim for unemployment compensation.

Under paragraph (10)(B), the State law must provide for participation by the State in arrangements for combining employment or wages in more than one State, approved by the Secretary of Labor, and for basing the individual's eligibility for benefits, his weekly benefit amount and the maximum benefits payable to him, under any such arrangement, on his employment or wages (wage credits) in the base period of the paying State (a State under whose unemployment compensation law the individual has filed a claim for benefits and in which he has base period wage credits insufficient to entitle him to any benefits or to less than maximum annual benefits), whether or not they are in the base period of a transferring State (a State, other than

the paying State, in which the individual has insufficient wage credits to qualify for benefits, and which transfers to the paying State a record of such individual's wage credits, any part of which is used by the paying State to determine the individual's rights under the arrangement). Wage credits that have been used in the computation of any individual's benefit rights in a transferring State may not thereafter be transferred to a paying State. Similarly, wage credits that have been transferred to a paying State and used under a wage combining arrangement may not thereafter be available for use in the transferring State.

Under section 121(b) of the bill, these new requirements of State law take effect January 1, 1969, and apply to the taxable year 1969 and subsequent taxable years.

SECTION 122. ADDITIONAL CREDIT BASED ON REDUCED RATE FOR NEW EMPLOYERS

Section 122(a) of the bill amends section 3303(a) of the code to permit a State law to assign reduced rates (not less than 1 percent) to new employers on any basis the State deems appropriate until such employers have been subject to the State law for a period of time sufficient to compute on a 3-year basis the reduced rates permitted by paragraphs (1), (2), or (3) of section 3303(a).

Section 122(b) provides that this amendment applies with respect to taxable years beginning after 1966.

SECTION 123. CREDITS ALLOWABLE TO CERTAIN EMPLOYERS

Section 123 of the bill adds a new subsection (j) to section 3305 of the code. The new subsection (j) provides that any person required (pursuant to a permission granted by sec. 3305) to make contributions to an unemployment fund under an approved State law is not to be entitled to the credits permitted, with respect to the unemployment compensation law of a State, by subsections (a) and (b) of section 3302 against the tax imposed by section 3301 for any taxable year after 1967, if, on October 31 of such taxable year the Secretary of Labor certifies to the Secretary of the Treasury his finding, after reasonable notice and opportunity for hearing to the State agency, that the unemployment compensation law of such State is inconsistent with any one or more of the conditions on the basis of which such permission is granted or that, in the application of the State law with respect to the 12-month period ending on such October 31, there has been a substantial failure to comply with any one or more of such conditions. For purposes of section 3311 of the code (judicial review), a finding of the Secretary of Labor under new section 3305(j) is to be treated as a finding under section 3304(c) of the code.

PART C—JUDICIAL REVIEW

SECTION 131. JUDICIAL REVIEW

Section 131(a) of the bill amends title III of the Social Security Act by adding a new section (sec. 304) which provides for judicial review of findings by the Secretary of Labor under section 303 of such act which would result in his failure to certify a State for pay-

ments with respect to the administration of the State law under section 302 of the Social Security Act. The State may, within 60 days after notice to the Governor of the State of the Secretary's action, file a petition for review of such action in either the U.S. court of appeals for the circuit in which such State is located or with the U.S. Court of Appeals for the District of Columbia. The clerk of the court is directed to transmit a copy of the petition to the Secretary of Labor. Thereupon the Secretary of Labor is to file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28, United States Code.

Subsection (b) of the new section 304 provides that the findings of fact by the Secretary of Labor, unless contrary to the weight of the evidence, are to be conclusive, but the court, for good cause shown, may remand the case to the Secretary of Labor to take further evidence. The Secretary may thereupon make new or modified findings of fact and may modify his previous action. He is to certify to the court the record of the further proceedings. Such new or modified findings of fact are likewise to be conclusive unless contrary to the weight of the evidence.

Subsection (c) of the new section 304 provides that the court is to have jurisdiction to affirm the action of the Secretary of Labor or to set it aside, in whole or in part. Judgment of the court is to be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

Subsection (d) of the new section 304 provides that the Secretary of Labor is not to withhold any certification for payment to any State under section 302 until the expiration of the 60-day period within which the State may petition for review or until the State has filed such a petition, whichever is earlier. The commencement of judicial proceedings does not stay the Secretary's action but the court may grant interim relief if warranted, including stay of the Secretary's action and such relief as may be necessary to preserve status or rights.

Subsection (e) of the new section 304 provides that any judicial proceedings under the section shall be entitled to, and, upon request of the Secretary of Labor, or the State, shall receive a preference and shall be heard and determined as expeditiously as possible.

Section 131(b)(1) of the bill amends chapter 23 of the code by adding at the end thereof a new section 3311 providing for judicial review of findings by the Secretary of Labor under section 3303(b), section 3304(c), or section 3309(a) pursuant to which he is required to withhold a certification under either of such sections. Except that the provisions relate to certifications under section 3303(b), section 3304(c), or section 3309(a), the provisions as to judicial review are the same as those provided in the amendment made by section 131(a) of the bill.

Section 131(b)(2) of the bill amends subsection (c) of section 3304 of the code to conform the subsection to the new section 3311 (relating to judicial review), and to the change in certification date made by section 144 of the bill. In addition, section 3304(c) is amended to provide that on October 31 of 1969 or of any taxable year thereafter the Secretary of Labor is not to certify any State which, after reasonable notice and opportunity for hearing to the State agency, the Secretary finds has failed to amend its law so that it contains the provisions specified in subsection (a) of section 3304 added by the

Unemployment Insurance Amendments of 1966, or has with respect to the 12-month period (10-month period in the case of October 31, 1969) ending on such October 31, failed to comply substantially with any such provision.

Subsection (c) of section 131 of the bill provides that the amendments made by section 131 are to take effect on the date of the enactment of the bill but that in applying section 3304(c) (as amended by subsection (b)) with respect to taxable year 1966, certifications shall be made on December 31 in lieu of October 31.

PART D—ADMINISTRATION

SECTION 141. AMOUNTS AVAILABLE FOR ADMINISTRATIVE EXPENDITURES

Section 901(c)(3) of the Social Security Act limits the authorization of amounts to be made available for expenditure out of the employment security administration account each fiscal year for the purpose of assisting the States in the administration of their unemployment compensation laws and the operation of public employment offices. The existing limit is 95 percent of the estimated net receipts for the fiscal year under the Federal Unemployment Tax Act. For this purpose, estimates of net receipts are based on a tax rate of 0.4 percent.

Section 141(a) of the bill continues the same limitation in the case of fiscal year 1967. It would amend section 901(c)(3), however, so that, in the case of fiscal year 1968, the limit would be 95 percent of five-sixths of the estimated net receipts for the fiscal year under the Federal Unemployment Tax Act, in the case of fiscal years 1969 through 1972, the limit would be 95 percent of three-fourths of the net receipts during any year under the Federal Unemployment Tax Act, and, in the case of any fiscal year after 1972, the limit would be 95 percent of two-thirds of the net receipts during such year under the Federal Unemployment Tax Act.

Section 141(b) would provide that, for this purpose, estimates of net receipts would be based on a tax rate of 0.4 percent in the case of any fiscal year prior to 1968, and of 0.6 percent in the case of fiscal year 1968 or any fiscal year thereafter. (For change in tax rate, see sec. 301 of the bill.)

SECTION 142. UNEMPLOYMENT COMPENSATION RESEARCH PROGRAM AND TRAINING GRANTS FOR UNEMPLOYMENT COMPENSATION PERSONNEL

Section 142 of the bill amends title IX of the Social Security Act by adding new sections 906 and 907.

Section 906(a)(1) directs the Secretary of Labor to establish a continuing and comprehensive program of research to evaluate the unemployment compensation system. Such research is to include (but not be limited to) a program of factual studies covering the role of unemployment compensation under varying patterns of unemployment, the relationship between the unemployment compensation and other social insurance programs, the effect of State eligibility and disqualification provisions, and the personal characteristics, family status, employment background and experience of claimants. The results of such studies are to be made public. Section 906(a)(2) directs the Secretary of Labor to establish also a program of research

to develop information as to the effect and impact of extending coverage to excluded groups. Such information is to be made public.

Section 906(b) authorizes the appropriation for the fiscal year ending June 30, 1967, and for each fiscal year thereafter of such sums as may be necessary to carry out the purposes of section 906. From the sums appropriated the Secretary may provide for the conduct of such research through grants or contracts.

Section 907 relates to training grants for unemployment compensation personnel. Section 907(a) authorizes an appropriation of $1 million for the fiscal year ending June 30, 1967, and such sums as may be necessary for each fiscal year thereafter, for training personnel in the administration of the unemployment compensation program.

Section 907(b)(1) directs the Secretary (from the sums appropriated) (A) to provide (directly and through State agencies or through grants to, or contracts with, public or nonprofit private institutions of higher learning) for training personnel who are employed or are preparing for employment in the administration of the unemployment compensation program including claims determinations and adjudication, (B) to provide (directly or through grants to, or contracts with, public or nonprofit private agencies or institutions) for special courses of study or seminars of short duration (not to exceed 1 year) for training of such personnel, and (C) to provide (directly or through grants, to or contracts with, public or nonprofit private institutions of higher learning) for establishing and maintaining fellowships or traineeships for such personnel at such institutions, with such stipends and allowances as may be permitted by the Secretary of Labor.

Section 907(b)(2) authorizes the Secretary of Labor, to the extent he finds such action necessary, to prescribe requirements to assure that any individual will repay the amounts of his fellowship or traineeship received under section 907(b) to the extent such individual fails to serve, for the period prescribed by the Secretary, with a State agency or with the Federal Government, in connection with administration of any State employment security program. The Secretary is authorized, however, to relieve any individual of his obligation to so repay, in whole or in part, whenever and to the extent that requirement of such repayment would, in his judgment, be inequitable or would be contrary to the purposes of any of the programs established by section 907.

SECTION 143. USE OF CERTAIN AMOUNTS FOR PAYMENT OF EXPENSES OF ADMINISTRATION

Title IX of the Social Security Act provides under certain circumstances that amounts collected under the Federal unemployment tax in excess of administrative expenditures and certain fund obligations are to be transferred to the accounts of the States. Under section 903(c) of the Social Security Act the amounts transferred to the States are to be used for the payment of unemployment compensation except that for a period of 10 years after the transfer these amounts may be used for the administration of the State law and public employment offices. The effect of section 143 of the bill is to extend this period to 15 years after the transfer was made.

SECTION 144. CHANGE IN CERTIFICATION DATE

Section 3302 of the Internal Revenue Code of 1954 provides credits against the Federal unemployment tax for contributions paid into State unemployment funds under the law of a State which has been certified under section 3304 of the code for the taxable year and for amounts that would have been paid but for the allowance of a reduced rate under provisions of the State law which have been certified for the taxable year. Under existing law these certifications are made on December 31 of each year.

The effect of the amendments made by subsections (a) through (f) of section 144 of the bill is to change the certification date from December 31 to October 31, and, in general, to provide that a certification is to be based on the 12-month period ending on such October 31 rather than on the period ending on December 31.

Subsection (g) of section 144 of the bill adds a new subsection (e) at the end of section 3304 of the code. Under the new subsection (e), whenever any provision of section 3302, 3303, or 3304 of the code refers to a 12-month period ending on October 31 of a year and the law applicable to one portion of such period differs from the law applicable to another portion of such period, such provision is to be applied by taking into account for each such portion the law applicable to such portion.

The application of the new subsection (e) may be illustrated by applying it in conjunction with the amendments made by section 121 of the bill. Section 121 provides for several new State law requirements for certification of State laws. These requirements are to take effect January 1, 1969, and to apply to the taxable year 1969 and taxable years thereafter. In applying these new provisions for the 12-month period ending on October 31, 1969, for purposes of the taxable year 1969, the Secretary of Labor will apply the law without these new requirements for the period November 1, 1968, through December 31, 1968, and will apply the law with these new requirements for the period January 1, 1969, through October 31, 1969.

Under subsection (h) of section 144 of the bill, the amendments made by this section are to apply to the taxable year 1967 and taxable years thereafter.

PART E—BENEFIT REQUIREMENTS

SECTION 151. CERTIFICATION AND REQUIREMENTS

Section 151 of the bill amends the Internal Revenue Code of 1954 by renumbering present section 3309 and inserting a new section 3309.

Section 3309(a) requires the Secretary of Labor, on October 31, 1968, and October 31 of each calendar year thereafter, to certify to the Secretary of the Treasury each State whose law he finds is in accord with the requirements of section 3309(c), has been in accord with such requirements for substantially all of the 12-month period ending on such October 31 (except that for 1968, it is the 4-month period ending on October 31), and which has complied substantially with such State law requirements during such period. Before the Secretary of Labor may withhold his certification to the Secretary of the Treasury, he must afford reasonable notice and opportunity for hearing to the

State agency. If the Secretary withholds certification of any State under this subsection, within 10 days thereafter he is required to notify the Secretary of the Treasury of the reduction in the credit allowable to taxpayers subject to the unemployment compensation law of such State.

Section 3309(b) requires the Secretary of Labor to notify promptly the Governor of any State which he has reason to believe may not be certified under subsection (a).

Section 3309(c) sets forth the requirements as to State benefits which must be met by a State, with respect to benefit years beginning after June 30, 1968, if employers in that State are to receive full tax credit against the Federal unemployment tax for contributions paid to the State.

Section 3309(c)(1)(A) provides that the qualifying employment or wage requirements in the State law cannot exclude from benefits workers who have had 20 weeks of employment (or the equivalent as provided in subsection (c)(4)) in a 1-year base period.

Section 3309(c)(1)(B) requires the State law to provide for individuals who meet the State qualifying requirement a weekly benefit amount of at least 50 percent of the individual's average weekly wage, up to the State maximum weekly benefit amount (exclusive of allowances with respect to dependents).

Section 3309(c)(1)(C) requires the State law to provide for eligible claimants having 20 weeks of base period employment (or the equivalent) with potential duration in a benefit year of at least 26 times the individual's weekly benefit amount.

Section 3309(c)(2) requires that the State maximum weekly benefit amount (exclusive of allowances with respect to dependents) to be no less than 50 percent of the statewide average weekly wage most recently computed before the beginning of any benefit year which begins after June 30, 1968.

Section 3309(c)(3) provides that in determining whether an individual has 20 weeks of employment, there must be counted as a week any week in which the individual earned at least 25 percent of the statewide average weekly wage.

Section 3309(c)(4) describes the equivalent of 20 weeks of employment. In a State which uses high quarter wages it is the total base period wages equal to 5 times the statewide average weekly wage, and either 1½ times the individual's high quarter earnings or 40 times his weekly benefit amount, whichever is appropriate under the State law.

Section 3309(d) contains necessary definitions.

(1) The term "benefit year" means a period as defined in State law except that it shall not exceed 1 year beginning subsequent to the end of an individual's base period.

(2) The term "base period" means a period as defined in State law but it shall be 52 consecutive weeks, 1 year, or 4 consecutive calendar quarters ending not earlier than 6 months prior to the beginning of an individual's benefit year.

(3) The term "high quarter wages" means the amount of wages for services covered under the State law paid to an individual in the quarter of his base period in which such wages were highest, irrespective of the limitation on the amount of wages subject to contributions under such State law.

(4) The term "individual's average weekly wage" means an amount equal to (A) one-thirteenth of an individual's high quarter wages in a State which bases eligibility on high quarter wages paid in the base period, or (B) in any other State, the amount obtained by dividing the total amount of wages (irrespective of the limitation on the amount of wages subject to contributions under the State law) paid to such individual during his base period by the number of weeks in which he performs services in employment covered under such law during such period.

(5) The term "statewide average weekly wage" means an amount computed by the State agency at least once each year on the basis of aggregate amount of wages, irrespective of the limitation on the amount of wages subject to contributions under such State law, reported by employers as paid for services covered under such State law during the first 4 of the last 6 calendar quarters prior to the effective date of the computation, divided by a figure representing 52 times the 12-month average of the number of employees in the pay period which includes the 12th day of each month during the same 4 calendar quarters, as reported by such employers.

Thus, there is a uniform method of computing the statewide average weekly wage on the basis of information currently available from required reports. The aggregate remuneratiou paid during the year to all individuals covered under the State law is divided by 52 to convert it to a weekly basis, and then divided by the average number of persons employed at midmonth periods. The resulting figure is the amount paid to an average worker while working in a covered job.

SECTION 152. LIMITATION OF CREDIT AGAINST TAX

Section 152(a) amends section 3302(c) of the Internal Revenue Code of 1954 by adding at the end thereof a new paragraph (4). Under such new paragraph if the State unemployment compensation law has not been certified on October 31 pursuant to section 3309(a) (added by sec. 151 of this bill), then the total credits otherwise allowable under section 3302 for the taxable year in which such October 31 occurs in the case of a taxpayer subject to the State law are reduced by the amount by which 2.7 percent exceeds the 4-year benefit cost rate applicable to such State for such taxable year.

Section 152(b) amends section 3302(c)(3)(C)(i) by substituting the term "4-year" for the term "5-year."

Section 152(c) amends the heading and the substance of section 3302(d)(5) to relate to the 4-year benefit cost rate and the computation thereof instead of to the 5-year benefit cost rate and the computation thereof. The computation would take into account the increases in the taxable wage base made by section 301 of this bill.

TITLE II—FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION PROGRAM

SECTION 201. SHORT TITLE

Section 201 provides that title II of the bill may be cited as the "Federal-State Extended Unemployment Compensation Act of 1966".

SECTION 202. PAYMENT OF EXTENDED COMPENSATION

Section 207 of the bill adds a new paragraph (11) to section 3304(a) of the Internal Revenue Code of 1954. Effective for the taxable year 1969 and subsequent taxable years, the new paragraph (11) in effect provides that a State law will be certified as meeting the requirements for employers to receive credits against the Federal unemployment tax only if the State law provides that extended compensation will be payable as provided in title II of the bill. Section 202 contains the basic provisions required to be included in the State laws.

(*a*) *State law requirements.*—The first sentence of paragraph (1) of section 202(a) states that the 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 (for a discussion of an individual's eligibility period, see the explanation of section 203(c) of the bill), to individuals who—

(A) have exhausted all rights to regular compensation under the State law, and

(B) with respect to such week, have no rights to regular compensation under any State unemployment compensation law (including compensation payable pursuant to title XV of the Social Security Act) and no rights to compensation under any other Federal law (such as the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, or the Automotive Products Trade Act of 1965).

The second sentence of paragraph (1) explains when an individual is deemed to have exhausted his rights to regular compensation under a State law for purposes of the first sentence of that paragraph. An individual has exhausted such rights when either (1) no payments of regular compensation can be made under the State law because such individual has received all regular compensation available to him based on wage credits for his base period, or (2) his rights to such compensation have terminated by reason of the expiration of the benefit year with respect to which such rights existed.

An exhaustion by reason of the expiration of a benefit year will, in effect, apply only where the benefit year ends within an extended benefit period and only with respect to the next 13 (or fewer) weeks (after the end of the benefit year) which begin in such extended benefit period (see sec. 203(c)). In such a case, the amount established in the individual's compensation account under section 202(b) and the amount of the extended compensation for which the State will be paid by the Federal Government under section 204(a) will be determined with respect to such benefit year.

Subsection (a)(2) provides that, except where inconsistent with the provisions of title II of the bill, the terms and conditions of the State law which apply to claims for (and payment of) regular compensation shall apply to claims for (and payment of) extended compensation.

(*b*) *Individuals' compensation accounts.*—Subsection (b)(1) of section 202 of the bill requires the State to establish, for each eligible individual who files an application for extended compensation, an extended compensation account with respect to the individual's benefit year. The amount established in such account is to be the least of the following: (A) 50 percent of the total amount of regular

compensation (including dependents' allowances) payable to him during the benefit year, (B) 13 times his average weekly benefit amount, or (C) 39 times his average weekly benefit amount, reduced by the regular compensation paid (or deemed paid) to him during such benefit year. Subsection (b)(2) provides, for purposes of subsection (b)(1), that an individual's weekly benefit amount for a week is the amount of regular compensation (including dependents' allowances) for total unemployment payable to such individual for such week.

SECTION 203. EXTENDED BENEFIT PERIOD

(*a*) *Beginning and ending.*—Subsection (a)(1) of section 203 of the bill provides that an extended benefit period is to begin with the third week after whichever of the following weeks first occurs: (A) a week for which there is a national "on" indicator, or (B) a week for which there is a State "on" indicator.

Subsection (a)(2) provides that such period shall end with the third week after the first week for which there is both a national "off" indicator and a State "off" indicator. National "on" and "off" indicators are described in subsection (d). State "on" and "off" indicators are described in subsection (e).

(*b*) *Special rules.*—Subsection (b)(1) provides that no extended benefit period in a State shall last for a period of less than 13 consecutive weeks, but where an extended period begins by a national "on" indicator, such period shall last not less than 13 consecutive weeks after the third week following the "on" indicator. It provides also that no extended benefit period may begin by reason of a State "on" indicator before the 14th week after the close of a prior extended benefit period with respect to such State (whether such prior period began by reason of a State "on" indicator or a national "on" indicator).

The relationship of subsection (b)(1) to subsection (a) of section 203 may be illustrated by the following example. Assume that, in the case of State X, there is a State "on" indicator for week 1. Assume further that there is a national "on" indicator for week 2, a State X "off" indicator for week 10 and subsequent weeks, and a national "off" indicator for week 11 and subsequent weeks. In this case, the extended benefit period for State X begins with week 4 (subsection (a)(1)) and ends with week 17 (13 weeks after the third week following the national "on" indicator) even though there was both a national "off" indicator and a State "off" indicator for week 11 and subsequent weeks (subsection (a)(2) as modified by subsection (b)(1)(A)).

In the above case, no new extended benefit period for State X may begin, by reason of a State X "on" indicator, before week 31 (subsection (b)(1)(B)). If, however, there were a national "on" indicator for week 22, for example, a second extended benefit period for State X would begin with week 25.

Subsection (b)(2) provides that when a determination has been made that an extended benefit period is beginning or ending with respect to a State (or all the States), the Secretary of Labor is to cause notice of such determination to be published in the Federal Register.

(*c*) *Eligibility period.*—Subsection (c) provides that an individual's eligibility period for extended compensation under the State law is to consist of the weeks in his benefit year which begin in an extended

benefit period and, if his benefit year ends within such extended benefit period, the next 13 (or fewer) weeks which begin in such extended benefit period.

The operation of section 203(c) may be illustrated by the following examples:

Example 1: Assume that an extended benefit period begins with week 30 and ends with week 50 of individual X's benefit year under the unemployment compensation law of a State. With respect to extended compensation payable under the law of that State, X's eligibility period will be weeks 30 through 50, inclusive, of his benefit year.

Example 2: Assume that an extended benefit period begins with week 41 of individual Y's benefit year under the unemployment compensation law of a State and lasts for 20 weeks. With respect to extended compensation payable under the law of that State, Y's eligibility period will be weeks 41 through 52 of his benefit year and the immediately following 8 weeks.

Of course, the mere fact that a week of unemployment begins in an individual's eligibility period does not entitle that individual to extended compensation; he must meet the other requirements (such as those of section 202(a)) as well. For instance, in example 2 above Y would not be entitled to extended compensation for a week of unemployment occurring in the 8 weeks immediately following his benefit year if a new benefit year had been established for him.

(*d*) *National "on" and "off" indicators.*—Subsection (d)(1) provides that there is a national "on" indicator for a week if (A) 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 5 percent (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), and (B) the total number of claimants exhausting their rights to regular compensation under all State laws during the period consisting of such 3 months equaled or exceeded 1 percent of average monthly covered employment under all State laws for the first four of the most recent six calendar quarters ending before the beginning of such period.

Subsection (d)(2) provides that there is a national "off" indicator for a week if either (A) for the most recent calendar month ending before such week, the rate of insured unemployment (seasonally adjusted) for all States was less than 5 percent (determined as provided in paragraph (1)(A) for purposes of the "on" indicator), or (B) paragraph (1)(B) (relating to the number of claimants exhausting their rights to regular compensation) was not satisfied with respect to such week.

(*e*) *State "on" and "off" indicators.*—Subsection (e)(1) provides that there is a State "on" indicator for a week if the rate of insured unemployment under the State law for the 13-week period consisting of such week and the immediately preceding 12 weeks (A) equaled or exceeded 120 percent of the average of such rates for the corresponding 13-week period ending in each of the preceding 2 calendar years, and (B) equaled or exceeded 3 percent.

Subsection (e)(2) provides that there is a State "off" indicator for a week if, for the 13-week period consisting of such week and the

immediately preceding 12 weeks, either subparagraph (A) or subparagraph (B) of paragraph (1) was not satisfied. For purposes of subsection (e), the rate of insured unemployment for any 13-week period is to 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 13-week period.

(*f*) *Rate of insured unemployment; covered employment.*—Subsection (f)(1) defines the term "rate of insured unemployment" for purposes of subsections (d) and (e). It means the percentage arrived at by dividing (A) a numerator consisting of the average weekly number of individuals filing claims for weeks of unemployment with respect to the specified period, by (B) a denominator consisting of the average monthly covered employment for the specified period.

In each fraction used in establishing the rate of insured unemployment, the "specified period" used in the numerator will differ from the "specified period" used in the denominator and must be ascertained by reading the applicable provisions of subsection (d) or (e) (as the case may be) of section 203. For example, assume that a question has arisen as to whether or not the rate of insured unemployment is such that there is a national "on" indicator for a week beginning in March of Year 3. The requirement of section 203(d)(1)(A) will be met if the rate of insured unemployment (seasonally adjusted) for December of Year 2, for January of Year 3, and for February of Year 3, equaled or exceeded 5 percent. The 'specified period" for each numerator is the month in question (December, January, or February, as the case may be). The "specified period" for denominator purposes is (1) with respect to December, the period beginning April 1 of Year 1 and ending March 31 of Year 2, and (2) with respect to January and February, the period beginning July 1 of Year 1 and ending June 30 of Year 2.

The basis for the reports by State agencies necessary for the operaion of subsections (d), (e), and (f) of section 203 shall be uniform for all States.

Subsection (f)(2) provides that determinations under subsection (d) (national "on" and "off" indicators) are to be made by the Secretary of Labor in accordance with regulations prescribed by him.

Subsection (f)(3) provides that determinations under subsection (e) (State "on" and "off" indicators) are to be made by the State agency in accordance with regulations prescribed by the Secretary of Labor.

SECTION 204. PAYMENTS TO STATES

(*a*) *Amount payable.*—Subsection (a)(1) of section 204 of the bill requires the Federal Government to pay to each State an amount equal to the sum of (A) the extended compensation, and (B) the reimbursable regular compensation, paid to individuals under the State law (that is, the unemployment compensation law of the State approved by the Secretary of Labor under section 3304 of the code). Subsection (a)(2) provides, however, that no payment is to be made to any State under section 204 in respect of compensation to the extent that the State is entitled to reimbursement therefor under the provisions of any Federal law other than the bill. Thus, for example, payment would not be made in respect of compensation to the extent the State is entitled to reimbursement under title XV of the Social Secu-

rity Act, the Manpower Development and Training Act of 1962, the Trade Expansion Act of 1962, or the Automotive Products Trade Act of 1965.

(*b*) *Reimbursable regular compensation.*—Subsection (b) describes reimbursable regular compensation. It is regular compensation paid to an individual for a week of unemployment (1) if such week is in the individual's eligibility period, and (2) to the extent that the sum of such compensation, plus the regular compensation paid (or deemed paid) to him with respect to prior weeks of unemployment in the benefit year, exceeds 26 times (and does not exceed 39 times) the average weekly benefit amount (including allowances for dependents) for weeks of total unemployment payable to such individual under the State law in such benefit year. Compensation is "deemed paid" to an individual when, for example, he was disqualified for a specified number of weeks and his total compensation was reduced by his weekly benefit amount times the number of weeks for which he was disqualified.

(*c*) *Payment on calendar month basis.*—Subsection (c) provides that there shall be paid to each State (either in advance or by way of reimbursement as may be determined by the Secretary of Labor) such sum as the Secretary estimates the State will be entitled to receive under title II of the bill for each calendar month, reduced or increased, as the case may be, by any sum by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. The Secretary's estimates may be made upon the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency.

(*d*) *Certification.*—Subsection (d) directs the Secretary of Labor to certify, from time to time, to the Secretary of the Treasury for payment to each State the sums payable to such State under section 204 of the bill. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, is directed to make payment to the State in accordance with such certification by transfers from the extended unemployment compensation account to the account of the State in the unemployment trust fund (see sec. 206).

SECTION 205. DEFINITIONS

Section 205 contains definitions for the purposes of title II of the bill.

(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 title XV of the Social Security Act), other than extended compensation and additional compensation.

(3) The term "extended compensation" means compensation (including additional compensation and compensation payable pursuant to title XV of the Social Security Act) payable to an individual for weeks of unemployment beginning in an extended benefit period under those provisions of the State law which satisfy the requirements of

title II of the bill 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 "benefit 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.

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

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

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

SECTION 206. EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT

Section 206(a) amends title IX of the Social Security Act by striking out present section 905 and inserting new section 905, which establishes the "extended unemployment compensation account".

Section 905(a) establishes the extended unemployment compensation account in the unemployment trust fund to be maintained as a separate book account for purposes of section 904(e). Under section 904(e), the unemployment trust fund is invested as a single fund, but the Secretary of the Treasury credits to each book account on a quarterly basis its proportionate part of the earnings.

Section 905(b)(1) requires the Secretary of the Treasury at the end of January 1968 and each month thereafter to transfer from the employment security administration account to the extended unemployment compensation account an amount equal, in the case of calendar year 1968, to one-sixth, in the case of calendar years 1969, 1970, 1971, and 1972, one-fourth, and in the case of any calendar year thereafter, one-third, of the amount by which transfers of amounts equal to the Federal unemployment tax from the general fund under section 901(b)(2) exceed monthly payments (to cover tax refunds) made under section 901(b)(3) and repayments (additional tax attributable to reduced credits) made under section 901(d). The effect of this provision is to transfer in the case of the calendar year 1968 one-sixth, in the case of calendar years 1969 through 1972 one-fourth, and in the case of succeeding calendar years one-third, of the net Federal unemployment tax into the extended unemployment compensation account. Section 905(b)(1) also provides authority to make necessary bookkeeping adjustments.

Section 905(b)(2) provides for transfers at the end of fiscal years beginning after June 30, 1967, of any excess amounts in the employment security administration account to the extended unemployment compensation account until the balance in such account reaches whichever of the following is greater: (*a*) $1 billion, or (*b*) the amount equal

to four-tenths of 1 percent of total wages subject (determined without any limitation on amount) to contributions under all State unemployment compensation laws. Thus this amount would not be limited by the taxable wage base under State or Federal law.

Section 905(c) makes funds in the extended unemployment compensation account available for transfer to the States as provided in section 204(d) of title II of the bill to pay to the States the cost of the extended unemployment compensation program.

Section 905(d) provides for transfer of any amounts exceeding the limits provided by subsection (b)(2) from the extended unemployment compensation account to the Federal unemployment account.

Section 905(e) authorizes the appropriation (as repayable advances) of necessary sums to provide for the transfers to pay the States the cost of the extended unemployment compensation program.

Section 206(b)(1) of the bill amends section 901(f)(3) of the Social Security Act, to provide that any excess in the employment security administration account not transferred to the extended unemployment compensation account, the Federal unemployment account, or both shall be retained in the employment security administration account up to a specific limit.

Section 206(b)(2) amends section 902(a) of the Social Security Act, to provide that any excess in the employment security administration account first be used to bring the extended unemployment compensation account to the limits established by section 905(b)(2) before it is transferred to the Federal unemployment account.

Section 206(b)(3) amends section 1203 of the Social Security Act, to provide that any excess in the employment security administration account after the application of section 901(f)(3) be used to first reduce the balance of advances under section 905(e), and then any balance of advances to the Federal unemployment account.

SECTION 207. APPROVAL OF STATE LAWS

Section 207 of the bill amends section 3304(a) of the code by inserting a new paragraph (11) so as to require a State law to provide that extended compensation is to be payable as provided by title II of the bill (the Federal-State Extended Unemployment Compensation Act of 1966).

SECTION 208. EFFECTIVE DATES

Subsection (a) of section 208 of the bill provides that in applying section 203, no extended benefit period may begin with a week beginning before January 1, 1969.

Subsection (b) provides that section 204 (relating to Federal payments to States of the cost of the extended unemployment compensation program) is to apply with respect to weeks of unemployment beginning after December 31, 1968.

Subsection (c) provides that the amendment made by section 207 (relating to State law requirement) is to apply to taxable years after 1968.

TITLE III—FINANCING

SECTION 301. INCREASE IN WAGE BASE AND TAX RATE

Subsection (a) of section 301 of the bill amends section 3306(b)(1) of the Internal Revenue Code of 1954 (relating to the definition of "wages"). It amends section 3306(b)(1) by increasing the maximum annual limitation on an individual's wages subject to tax under the Federal Unemployment Tax Act from $3,000 to $3,900 with respect to remuneration paid after December 31, 1967, and from $3,900 to $4,800 with respect to remuneration paid after December 31, 1971.

Under the amendments made by subsection (a), the existing $3,000 limit is retained through calendar year 1967. The limit is increased to $3,900 for calendar years 1968, 1969, 1970, and 1971 and the limit is increased to $4,800 for calendar year 1972 and succeeding calendar years.

Subsection (b)(1) of section 301 of the bill amends section 3301 of the Internal Revenue Code of 1954 (relating to the rate of tax under the Federal Unemployment Tax Act) to increase the excise tax imposed on each employer (as defined in sec. 3306(a) of the code). The rate is increased from 3.1 percent of total wages (as defined in sec. 3306(b) of such code) to 3.3 percent, effective with respect to wages paid after 1966.

Subsection (b)(2) provides that the amendments made by subsection (b)(1) shall apply with respect to the calendar year 1967 and calendar years thereafter.

VI. CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule 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

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CHAPTER 6—CONSOLIDATED RETURNS

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Subchapter B—Related Rules

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PART II—CERTAIN CONTROLLED CORPORATIONS

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SEC. 1563. DEFINITIONS AND SPECIAL RULES.

* * * * * * *

(f) OTHER DEFINITIONS AND RULES.—

(1) EMPLOYEE DEFINED.—For purposes of this section the term "employee" has the same meaning such term is given [in section 3306(i)] *by paragraphs (1) and (2) of section 3121(d)*.

* * * * * * *

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 1961 and for each calendar year thereafter an excise tax, with respect to having individuals in his employ equal to 3.1 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)) after December 31, 1938. In the case of wages paid during the calendar year 1962, the rate of such tax shall be 3.5 percent in lieu of 3.1 percent. In the case of wages paid during the calendar year 1963, the rate of such tax shall be 3.35 percent in lieu of 3.1 percent.]

SEC. 3301. RATE OF TAX.

"There is hereby imposed on every employer (as defined in section 3306(a)) for the calendar year 1967 and for each calendar year thereafter an excise tax, with respect to having individuals in his employ equal to 3.3 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)) after December 31, 1938.

SEC. 3302. CREDITS AGAINST TAX.

(a) CONTRIBUTIONS TO STATE UNEMPLOYMENT FUNDS—

(1) The taxpayer may, to the extent provided in this subsection and subsection (c), credit against the tax imposed by section 3301 the amount of contributions paid by him into an unemployment fund maintained during the taxable year under the unemployment compensation law of a State which is certified [for the taxable year] as provided in section 3304 *for the 12-month period ending on October 31 of such year.*

(2) The credit shall be permitted against the tax for the taxable year only for the amount of contributions paid with respect to such taxable year.

(3) The credit against the tax for any taxable year shall be permitted only for contributions paid on or before the last day upon which the taxpayer is required under section 6071 to file a return for such year; except that credit shall be permitted for contributions paid after such last day, but such credit shall not exceed 90 percent of the amount which would have been allowable as credit on account of such contributions had they been paid on or before such last day.

(4) Upon the payment of contributions into the unemployment fund of a State which are required under the unemployment compensation law of that State with respect to remuneration on the basis of which, prior to such payment into the proper fund, the taxpayer erroneously paid an amount as contributions under another unemployment compensation law, the payment into the proper fund shall, for purposes of credit against the tax, be deemed to have been made at the time of the erroneous payment. If, by reason of such other law, the taxpayer was entitled to cease paying contributions with respect to services subject to such other law, the payment into the proper fund shall, for purposes of credit against the tax, be deemed to have been made on the date the return for the taxable year was filed under section 6071.

(b) ADDITIONAL CREDIT.—In addition to the credit allowed under subsection (a), a taxpayer may credit against the tax imposed by section 3301 for any taxable year an amount, with respect to the unemployment compensation law of each State certified [for the taxable year] as provided in section 3303 *for the 12-month period ending on October 31 of such year* (or with respect to any provisions thereof so certified), equal to the amount, if any, by which the contributions required to be paid by him with respect to the taxable year were less than the contributions such taxpayer would have been required to pay if throughout the taxable year he had been subject under such State law to the highest rate applied thereunder in [the taxable year] *such 12-month period* to any person having individuals in his employ, or to a rate of 2.7 percent, whichever rate is lower.

(c) LIMIT ON TOTAL CREDITS.—

(1) The total credits allowed to a taxpayer under this section shall not exceed 90 percent of the tax against which such credits are allowable.

(2) If an advance or advances have been made to the unemployment account of a State under title XII of the Social Security Act before the date of the enactment of the Employment Security Act of 1960, then the total credits (after applying subsections (a) and (b) and paragraph (1) of this subsection) otherwise allowable under this section for the taxable year in the case of a taxpayer subject to the unemployment compensation law of such State shall be reduced—

(A) in the case of a taxable year beginning on January 1, 1963 (and in the case of any succeeding taxable year beginning before January 1, 1968), as of the beginning of which there is a balance of such advances, by 5 percent of the tax imposed by section 3301 with respect to the wages paid by such taxpayer during such taxable year which are attributable to such State; and

(B) in the case of any succeeding taxable year beginning on or after January 1, 1968, as of the beginning of which there is a balance of such advances, by an additional 5 percent, for each such succeeding taxable year, of the tax imposed by section 3301 with respect to the wages paid by such taxpayer during such taxable year which are attributable to such State.

At the request (made before November 1 of the taxable year) of the Governor of any State, the Secretary of Labor shall, as

soon as practicable after June 30 or (if later) the date of the receipt of such request, certify to such Governor and to the Secretary of the Treasury the amount he estimates equals .15 percent (plus an additional .15 percent for each additional 5-percent reduction, provided by subparagraph (B)) of the total of the remuneration which would have been subject to contributions under the State unemployment compensation law with respect to the calendar year preceding such certification if the dollar limit on remuneration subject to contributions under such law were equal to the dollar limit under section 3306(b)(1) for such calendar year. If, after receiving such certification and before November 10 of the taxable year, the State pays into the Federal unemployment account the amount so certified (and designates such payment as being made for purposes of this sentence), the reduction provided by the first sentence of this paragraph shall not apply for such taxable year.

(3) If an advance or advances have been made to the unemployment account of a State under title XII of the Social Security Act on or after the date of the enactment of the Employment Security Act of 1960, then the total credits (after applying subsections (a) and (b) and paragraphs (1) and (2) of this subsection) otherwise allowable under this section for the taxable year in the case of a taxpayer subject to the unemployment compensation law of such State shall be reduced—

(A)(i) in the case of a taxable year beginning with the second consecutive January 1 as of the beginning of which there is a balance of such advances, by 10 percent of the tax imposed by section 3301 with respect to the wages paid by such taxpayer during such taxable year which are attributable to such State; and

(ii) in the case of any succeeding taxable year beginning with a consecutive January 1 as of the beginning of which there is a balance of such advances, by an additional 10 percent, for each such succeeding taxable year, of the tax imposed by section 3301 with respect to the wages paid by such taxpayer during such taxable year which are attributable to such State;

(B) in the case of a taxable year beginning with the third or fourth consecutive January 1 as of the beginning of which there is a balance of such advances, by the amount determined by multiplying the wages paid by such taxpayer during such taxable year which are attributable to such State by the percentage (if any) by which—

(i) 2.7 percent, exceeds

(ii) the average employer contribution rate for such State for the calendar year preceding such taxable year; and

(C) in the case of a taxable year beginning with the fifth or any succeeding consecutive January 1 as of the beginning of which there is a balance of such advances, by the amount determined by multiplying the wages paid by such taxpayer during such taxable year which are attributable to such State by the percentage (if any) by which—

(i) the [5-year] *4-year* benefit cost rate applicable to such State for such taxable year or (if higher) 2.7 percent, exceeds

(ii) the average employer contribution rate for such State for the calendar year preceding such taxable year.

(4) If the unemployment compensation law of a State has not been certified for a twelve-month period ending on October 31 pursuant to section 3311(a), then the total credits (after applying subsections (a) and (b) and paragraphs (1), (2), and (3) of this subsection) otherwise allowable under this section for the taxable year in which such October 31 occurs in the case of a taxpayer subject to the unemployment compensation law of such State shall be reduced by the amount by which 2.7 percent exceeds the four-year benefit cost rate applicable to such State for such taxable year in accordance with the notification of the Secretary of Labor pursuant to section 3311(a).

(5) 4-YEAR BENEFIT COST RATES.—For purposes of subsection (c)(4) and subparagraph (C) of subsection (c)(3), the four-year benefit cost rate applicable to any State for any taxable year is that percentage obtained by dividing—

"(A) One-fourth of the total compensation paid under the State unemployment compensation law during the four-year period ending at the close of the first calendar year preceding such taxable year, by

"(B) The total of the remuneration subject to contributions under the State unemployment compensation law with respect to the first calendar year preceding such taxable year. 'Remuneration' for the purpose of this subparagraph shall include the amount of wages for services covered under the State law irrespective of the limitation of the amount of wages subject to contributions under such State law paid to an individual by an employers during any calendar year beginning with 1968 up to $3,900, and beginning with 1972, up to $4,800; for States for which it is necessary, the Secretary of Labor shall estimate the remuneration with respect to the calendar year preceding the taxable year."

* * * * * * *

(d) DEFINITIONS AND SPECIAL RULES RELATING TO SUBSECTION (c).—

* * * * * * *

[(5) 5-YEAR BENEFIT COST RATE.—For purposes of subparagraph (C) of subsection (c)(3), the 5-year benefit cost rate applicable to any State for any taxable year is that percentage obtained by dividing—

[(A) one-fifth of the total of the compensation paid under the State unemployment compensation law during the 5-year period ending at the close of the second calendar year preceding such taxable year, by

[(B) the total of the remuneration subject to contributions under the State unemployment compensation law with respect to the first calendar year preceding such taxable year.]

* * * * * * *

SEC. 3303. CONDITIONS OF ADDITIONAL CREDIT ALLOWANCE.

(a) STATE STANDARDS.—A taxpayer shall be allowed an additional credit under section 3302(b) with respect to any reduced rate of contributions permitted by a State law, only if the Secretary of Labor finds that under such law—

(1) no reduced rate of contributions to a pooled fund or to a partially pooled account is permitted to a person (or group of

persons) having individuals in his (or their) employ except on the basis of his (or their) experience with respect to unemployment or other factors bearing a direct relation to unemployment risk during not less than the 3 consecutive years immediately preceding the computation date;

(2) no reduced rate of contributions to a guaranteed employment account is permitted to a person (or a group of persons) having individuals in his (or their) employ unless—

(A) the guaranty of remuneration was fulfilled in the year preceding the computation date; and

(B) the balance of such account amounts to not less than 2½ percent of that part of the payroll or payrolls for the 3 years preceding the computation date by which contributions to such account were measured; and

(C) such contributions were payable to such account with respect to 3 years preceding the computation date;

(3) no reduced rate of contributions to a reserve account is permitted to a person (or group of persons) having individuals in his (or their) employ unless—

(A) compensation has been payable from such account throughout the year preceding the computation date, and

(B) the balance of such account amounts to not less than five times the largest amount of compensation paid from such account within any one of the 3 years preceding such date, and

(C) the balance of such account amounts to not less than 2½ percent of that part of the payroll or payrolls for the 3 years preceding such date by which contributions to such account were measured, and

(D) such contributions were payable to such account with respect to the 3 years preceding the computation date.

For any person (or group of persons) who has (or have) not been subject to the State law for a period of time sufficient to compute the reduced rates permitted by paragraphs (1), (2), and (3) of this subsection on a 3-year [basis,] *basis* (*i*) the period of time required may be reduced to the amount of time the person (or group of persons) has (or have) had experience under or has (or have) been subject to the State law, whichever is appropriate, but in no case less than 1 year immediately preceding the computation date, *or* (*ii*) *a reduced rate (not less than 1 percent) may be permitted by the State law on a basis other than as permitted by paragraphs (1), (2), and (3).*

(b) CERTIFICATION BY THE SECRETARY OF LABOR WITH RESPECT TO ADDITIONAL CREDIT ALLOWANCE—

(1) On [December 31 in each taxable] *October 31 of each calendar* year, the Secretary of Labor shall certify to the Secretary the law of each State (certified [with respect to such year] by the Secretary of Labor as provided in section 3304 *for the 12-month period on such October 31*) with respect to which he finds that reduced rates of contributions were allowable with respect to such [taxable year] *12-month period* only in accordance with the provisions of subsection (a).

(2) If the Secretary of Labor finds that under the law of a single State (certified by the Secretary of Labor as provided in section 3304) more than one type of fund or account is maintained, and

reduced rates of contributions to more than one type of fund or account were allowable with respect to any [taxable year] *12-month period ending on October 31*, and one or more of such reduced rates were allowable under conditions not fulfilling the requirements of subsection (a), the Secretary of Labor shall, on [December 31 of such taxable year] *such October 31*, certify to the Secretary only those provisions of the State law pursuant to which reduced rates of contributions were allowable with respect to such [taxable year] *12-month period* under conditions fulfilling the requirements of subsection (a), and shall, in connection therewith, designate the kind of fund or account, as defined in subsection (c), established by the provisions so certified. If the Secretary of Labor finds that a part of any reduced rate of contributions payable under such law or under such provisions is required to be paid into one fund or account and a part into another fund or account, the Secretary of Labor shall make such certification pursuant to this paragraph as he finds will assure the allowance of additional credits only with respect to that part of the reduced rate of contributions which is allowed under provisions which do fulfill the requirements of subsection (a).

(3) The Secretary of Labor shall, within 30 days after any State law is submitted to him for such purpose, certify to the State agency his findings with respect to reduced rates of contributions to a type of fund or account, as defined in subsection (c), which are allowable under such State law only in accordance with the provisions of subsection (a). After making such findings, the Secretary of Labor shall not withhold his certification to the Secretary of such State law, or of the provisions thereof with respect to which such findings were made, for any [taxable year] *12-month period ending on October 31* pursuant to paragraph (1) or (2) unless, after reasonable notice and opportunity for hearing to the State agency, the Secretary of Labor finds the State law no longer contains the provisions specified in subsection (a) or the State has, with respect to such [taxable year] *12-month period*, failed to comply substantially with any such provision.

(c) DEFINITIONS.—As used in this section—

(1) RESERVE ACCOUNT.—The term "reserve account" means a separate account in an unemployment fund, maintained with respect to a person (or group of persons) having individuals in his (or their) employ, from which account, unless such account is exhausted, is paid all and only compensation payable on the basis of services performed for such person (or for one or more of the persons comprising the group).

(2) POOLED FUND.—The term "pooled fund" means an unemployment fund or any part thereof (other than a reserve account or a guaranteed employment account) into which the total contributions of persons contributing thereto are payable, in which all contributions are mingled and undivided, and from which compensation is payable to all individuals eligible for compensation from such fund.

(3) PARTIALLY POOLED ACCOUNT.—The term "partially pooled account" means a part of an unemployment fund in which part of the fund all contributions thereto are mingled and un-

divided, and from which part of the fund compensation is payable only to individuals to whom compensation would be payable from a reserve account or from a guaranteed employment account but for the exhaustion or termination of such reserve account or of such guaranteed employment account. Payments from a reserve account or guaranteed employment account into a partially pooled account shall not be construed to be inconsistent with the provisions of paragraph (1) or (4).

(4) GUARANTEED EMPLOYMENT ACCOUNT.—The term "guaranteed employment account" means a separate account, in an unemployment fund, maintained with respect to a person (or group of persons) having individuals in his (or their) employ who, in accordance with the provisions of the State law or of a plan thereunder approved by the State agency,

(A) guarantees in advance at least 30 hours of work, for which remuneration will be paid at not less than stated rates, for each of 40 weeks (or if more, 1 weekly hour may be deducted for each added week guaranteed) in a year, to all the individuals who are in his (or their) employ in, and who continue to be available for suitable work in, one or more distinct establishments, except that any such individual's guaranty may commence after a probationary period (included within the 11 or less consecutive weeks immediately following the first week in which the individual renders services), and

(B) gives security or assurance, satisfactory to the State agency, for the fulfillment of such guaranties, from which account, unless such account is exhausted or terminated, is paid all and only compensation, payable on the basis of services performed for such person (or for one or more of the persons comprising the group), to any such individual whose guaranteed remuneration has not been paid (either pursuant to the guaranty or from the security or assurance provided for the fulfillment of the guaranty), or whose guaranty is not renewed and who is otherwise eligible for compensation under the State law.

(5) YEAR.—The term "year" means any 12 consecutive calendar months.

(6) BALANCE.—The term "balance," with respect to a reserve account or a guaranteed employment account, means the amount standing to the credit of the account as of the computation date; except that, if subsequent to January 1, 1940, any moneys have been paid into or credited to such account other than payments thereto by persons having individuals in their employ, such term shall mean the amount in such account as of the computation date less the total of such other moneys paid into or credited to such account subsequent to January 1, 1940.

(7) COMPUTATION DATE.—The term "computation date" means the date, occurring at least once in each calendar year and within 27 weeks prior to the effective date of new rates of contributions, as of which such rates are computed.

(8) REDUCED RATE.—The term "reduced rate" means a rate of contributions lower than the standard rate applicable under the State law, and the term "standard rate" means the rate on the basis of which variations therefrom are computed.

(d) VOLUNTARY CONTRIBUTIONS.—A State law may, without being deemed to violate the standards set forth in subsection (a), permit voluntary contributions to be used in the computation of reduced rates if such contributions are paid prior to the expiration of 120 days after the beginning of the year for which such rates are effective.

(e) PAYMENTS BY CERTAIN NONPROFIT ORGANIZATIONS.—A State may, without being deemed to violate the standards set forth in subsection (a), permit an organization (or group of organizations) described in section 501(c)(3) which is exempt from income tax under section 501(a) to elect (in lieu of paying contributions) to pay into the State unemployment fund amounts equal to the amounts of compensation attributable under the State law to service performed in the employ of such organization (or group).

SEC. 3304. APPROVAL OF STATE LAWS.

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

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

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

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

(4) all money withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment compensation, exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund and refunds paid in accordance with the provisions of section 3305(b); except that—

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

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

(5) compensation shall not be denied in such State to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(A) if the position offered is vacant due directly to a strike, lockout, or other labor dispute;

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

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

(6)(A) compensation is payable on the basis of service to which section 3310(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, and

(B) payments (in lieu of contributions) with respect to service to which section 3310(a)(1)(A) applies may be made into the State unemployment fund on the basis set forth in section 3310(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 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;

(9) 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);

(10)(A) compensation shall not be denied or reduced to an individual solely because he files a claim in another State or because he resides in another State at the time he files a claim for unemployment compensation;

(B) the State shall participate in arrangements for combining employment in, and wages paid in, more than one State, approved by the Secretary of Labor, and the eligibility of any individual for unemployment compensation, his weekly benefit amount and the maximum benefits payable to him, under any such arrangement, shall be based on the individual's employment or wages paid, or both, in (i) the paying State and (ii) any transferring State as if such employment or wages were in the base period of the paying State: Provided, however, that employment or wages that have been used in the computation of any individual's eligibility for unemployment compensation in a transferring State shall not thereafter be transferred to a paying State, nor shall employment or wages that have been transferred to a paying State and used under any wage combining arrangement be thereafter available for use in the transferring State;

(11) extended compensation shall be payable as provided by the Federal-State Extended Unemployment Compensation Act of 1966; and

[(6)] *(12)* 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) CERTIFICATION.—On [December] *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 [such taxable year] *the 12-month period ending on such October 31* failed to comply substantially with any such provision [and such finding has become effective]. [Such finding shall become effective on the 90th day after the governor of the State has been notified thereof, unless the State has before such 90th day so amended its law that it will comply substantially with the Secretary of Labor's interpretation of the provision of subsection (a), in which event such finding shall not become effective.] No finding of a failure to comply substantially with the provision in State law specified in paragraph (5) of subsection (a) shall be based on an application or interpretation of State law with respect to which further administrative or judicial review is provided for under the laws of the State. *On October 31 of 1969 or of any taxable year thereafter, 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 the provisions specified in subsection (a) added by the Unemployment Insurance Amendments of 1966, or has with respect to the 12-month period (10-month period in the case of October 31, 1969) ending on such October 31 failed to comply substantially with any such provision.*

(d) NOTICE OF NONCERTIFICATION.—[If, at any time during the taxable year,] *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 such portion the law applicable to such portion.

SEC. 3305. APPLICABILITY OF STATE LAW.

(a) INTERSTATE AND FOREIGN COMMERCE.—No person required under a State law to make payments to an unemployment fund shall be relieved from compliance therewith on the ground that he is engaged in interstate or foreign commerce, or that the State law does not distinguish between employees engaged in interstate or foreign commerce and those engaged in intrastate commerce.

(b) FEDERAL INSTRUMENTALITIES IN GENERAL.—The legislature of any State may require any instrumentality of the United States (other than an instrumentality to which section 3306(c)(6) applies), and the individuals in its employ, to make contributions to an unemployment fund under a State unemployment compensation law approved by the Secretary of Labor under section 3304 and (except as provided in section 5240 of the Revised Statutes, as amended (12 U.S.C., sec. 484), and as modified by subsection (c)), to comply otherwise with such law. The permission granted in this subsection shall apply (A) only to the extent that no discrimination is made against such instrumentality, so that if the rate of contribution is uniform upon all other persons subject to such law on account of

having individuals in their employ, and upon all employees of such persons, respectively, the contributions required of such instrumentality or the individuals in its employ shall not be at a greater rate than is required of such other persons and such employees, and if the rates are determined separately for different persons or classes of persons having individuals in their employ or for different classes of employees, the determination shall be based solely upon unemployment experience and other factors bearing a direct relation to unemployment risk; (B) only if such State law makes provision for the refund of any contributions required under such law from an instrumentality of the United States or its employees for any year in the event such State is not certified by the Secretary of Labor under section 3304 with respect to such year; and (C) only if such State law makes provision for the payment of unemployment compensation to any employee of any such instrumentality of the United States in the same amount, on the same terms, and subject to the same conditions as unemployment compensation is payable to employees of other employers under the State unemployment compensation law.

(c) NATIONAL BANKS.—Nothing contained in section 5240 of the Revised Statutes, as amended (12 U.S.C. 484), shall prevent any State from requiring any national banking association to render returns and reports relative to the association's employees, their remuneration and services, to the same extent that other persons are required to render like returns and reports under a State law requiring contributions to an unemployment fund. The Comptroller of the Currency shall, upon receipt of a copy of any such return or report of a national banking association from, and upon request of, any duly authorized official, body, or commission of a State, cause an examination of the correctness of such return or report to be made at the time of the next succeeding examination of such association, and shall thereupon transmit to such official, body, or commission a complete statement of his findings respecting the accuracy of such returns or reports.

(d) FEDERAL PROPERTY.—No person shall be relieved from compliance with a State unemployment compensation law on the ground that services were performed on land or premises owned, held, or possessed by the United States, and any State shall have full jurisdiction and power to enforce the provisions of such law to the same extent and with the same effect as though such place were not owned, held, or possessed by the United States.

* * * * * * *

(f) AMERICAN VESSELS.—The legislature of any State in which a person maintains the operating office, from which the operations of an American vessel operating on navigable waters within or within and without the United States are ordinarily and regularly supervised, managed, directed and controlled, may require such person and the officers and members of the crew of such vessel to make contributions to its unemployment fund under its State unemployment compensation law approved by the Secretary of Labor under section 3304 and otherwise to comply with its unemployment compensation law with respect to the service performed by an officer or member of the crew on or in connection with such vessel to the same extent and with the same effect as though such service was performed entirely within such State. Such person and the officers and members of the crew

of such vessel shall not be required to make contributions, with respect to such service, to the unemployment fund of any other State. The permission granted by this subsection is subject to the condition that such service shall be treated, for purposes of wage credits given employees, like other service subject to such State unemployment compensation law performed for such person in such State, and also subject to the same limitation, with respect to contributions required from such person and from the officers and members of the crew of such vessel, as is imposed by the second sentence (other than clause (B) thereof) of subsection (b) with respect to contributions required from instrumentalities of the United States and from individuals in their employ.

(g) VESSELS OPERATED BY GENERAL AGENTS OF UNITED STATES.—The permission granted by subsection (f) shall apply in the same manner and under the same conditions (including the obligation to comply with all requirements of State unemployment compensation laws) to general agents of the Secretary of Commerce with respect to service performed on or after July 1, 1953, by officers and members of the crew on or in connection with American vessels—

(1) owned by or bareboat chartered to the United States, and

(2) whose business is conducted by such general agents.

As to any such vessel, the State permitted to require contributions on account of such service shall be the State to which the general agent would make contributions if the vessel were operated for his own account. Such general agents are designated, for this purpose, instrumentalities of the United States neither wholly nor partially owned by it and shall not be exempt from the tax imposed by section 3301. The permission granted by this subsection is subject to the same conditions and limitations as are imposed in subsection (f), except that clause (B) of the second sentence of subsection (b) shall apply.

(h) REQUIREMENT BY STATE OF CONTRIBUTIONS.—Any State may, as to service performed on or after July 1, 1953, and on account of which contributions are made pursuant to subsection (g)—

(1) require contributions from persons performing such service under its unemployment compensation law or temporary disability insurance law administered in connection therewith, and

(2) require general agents of the Secretary of Commerce to make contributions under such temporary disability insurance law and to make such deductions from wages or remuneration as are required by such unemployment compensation or temporary disability insurance law.

(i) GENERAL AGENT AS LEGAL ENTITY.—Each general agent of the Secretary of Commerce making contributions pursuant to subsection (g) or (h) shall for purposes of such subsections, be considered a legal entity in his capacity as an instrumentality of the United States, separate and distinct from his identity as a person employing individuals on his own account.

(j) DENIAL OF CREDITS IN CERTAIN CASES.—Any person required, pursuant to a permission granted by this section, to make contributions to an unemployment fund under a State unemployment compenstaion law approved by the Secretary of Labor under section 3304 shall not be entitled to the credits permitted, with respect to the unemployment compensation law of a State, by subsections (a) and (b) of section 3302 against the tax imposed by section 3301 for any taxable year after Decem-

ber 31, 1967, if, on October 31 of such taxable year, the Secretary of Labor certifies to the Secretary his finding, after reasonable notice and opportunity for hearing to the State agency, that the unemployment compensation law of such State is inconsistent with any one or more of the conditions on the basis of which such permission is granted or that, in the application of the State law with respect to the 12-month period ending on such October 31, there has been a substantial failure to comply with any one or more of such conditions. For purposes of section 3311, a finding of the Secretary of Labor under this subsection shall be treated as a finding under section 3304(c).

SEC. 3306. DEFINITIONS.

* * * * * * *

(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 [$3,000] *$3,900* [1] with respect to employment has been paid to an individual by an employer during any calendar year, is paid to such individual by such employer during such calendar year. If an employer (hereinafter referred to as successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employes 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 [$3,000] *$3,900* [1] 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;

* * * * * * *

(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 any service, of whatever nature, performed after 1954 by an employee for the person employing him, irrespective of the citizenship or residence of either, (A) within the United States, or (B) on or in connection with an American vessel or American aircraft under a contract of service which is entered

[1] Effective with respect to remuneration paid after December 31, 1967. Effective with respect to remuneration paid after December 31, 1971, the $3,900 amount is changed to $4,800.

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, except—

* * * * * * *

(10) (A) service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) (other than an organization described in section 401(a)) or under section 521, if the remuneration for such service is less than $50, or

(B) service performed in the employ of a school, college, or university, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university [;], *or*

(C) service performed by an individual who is enrolled at an educational institution (within the meaning of section 151(e)(4)) as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such institution has certified to the employer that such service is an integral part of such program;

* * * * * * *

[(i) EMPLOYEE.—For purposes of this chapter, the term "employee" includes an officer of a corporation, but such term does not include—

[(1) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an independent contractor, or

[(2) any individual (except an officer of a corporation) who is not an employee under such common law rules.]

(i) EMPLOYEE.—For purposes of this chapter, the term "employee" has the meaning assigned to such term by section 3121(d), except that subparagraphs (B) and (C) of paragraph (3) shall not apply.

* * * * * * *

[(k) AGRICULTURAL LABOR.—For purposes of this chapter, the term "agricultural labor" includes all service performed—

[(1) on a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife;

[(2) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

[(3) in connection with the production or harvesting of maple sirup or maple sugar or any commodity defined as an agricultural commodity in section 15(g) of the Agricultural Marketing Act, as amended (46 Stat. 1550, § 3; 12 U.S.C. 1141j), or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry, or in connection with the ginning of

cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes; or

[(4) in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.]

(k) AGRICULTURAL LABOR.—For purposes of this chapter, the term "agricultural labor" has the meaning assigned to such term by subsection (g) of section 3121, except that for purposes of this chapter subparagraph (B) of paragraph (4) of such subsection (g) shall be treated as reading:

"(B) in the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in subparagraph (A), but only if such operators produced more than one-half of the commodity with respect to which such service is performed;".

* * * * * * *

[SEC. 3309. SHORT TITLE.

This chapter may be cited as the "Federal Unemployment Tax Act."]

SEC. 3309. BENEFIT REQUIREMENTS

SEC. 3309. (a) CERTIFICATION.—On October 31, 1968, and October 31 of each calendar year thereafter, the Secretary of Labor shall certify to the Secretary each State whose law he finds is in accord with the requirements of subsection (c) and has been in accord with such requirements for substantially all of the 12-month period ending on such October 31 (except that for 1968, it shall be the 4-month period ending on October 31) and that there has been substantial compliance with such State law requirements during such period. The Secretary of Labor shall not withhold his certification to the Secretary unless, after reasonable notice and opportunity for hearing to the State agency, he finds that the State law is not in accord with the requirements of subsection (c) or has not been in accord with such requirements for substantially all of the 12-month period ending on such October 31 (except that for 1968, it shall be the 4-month period ending on October 31) or that there has been a failure to comply substantially with such State law requirements during such period. For any State which is not certified under this subsection on any October 31, the Secretary of Labor shall within 10 days thereafter notify the Secretary of the reduction in the credit allowable to taxpayers subject to the unemployment compensation law of such State pursuant to section 3302(c)(4).

(b) NOTICE TO GOVERNOR OF NONCERTIFICATION.—
If at any time the Secretary of Labor has reason to believe that a State may not be certified under subsection (a) he shall promptly notify the Governor of such State.

(c) REQUIREMENTS.—

(1) WITH RESPECT TO BENEFIT YEARS BEGINNING ON OR AFTER JULY 1, 1968.—

(A) the State law shall not require that an individual have more than 20 weeks of employment (or the equivalent as provided in subsection (4)) in the base period to qualify for unemployment compensation;

(B) the State law shall provide that the weekly benefit amount of any eligible individual for a week of total unemployment shall be (i) an amount equal to at least one-half of such individual's average weekly wage as determined by the State agency, or (ii) the State maximum weekly benefit amount (exclusive of allowances with respect to dependents) payable with respect to such week under such law, whichever is the lesser;

(C) the State law shall provide for an individual with 20 weeks of employment (or the equivalent) in the base period, benefits in a benefit year equal to at least 26 times his weekly benefit amount.

Any weekly benefit amount payable under a State law may be rounded to an even dollar amount in accordance with such State law.

(2) The State maximum weekly benefit amount (exclusive of allowances with respect to dependents) shall be no less than 50 percent of the Statewide average weekly wage most recently computed before the beginning of any benefit year which begins after June 30, 1968.

(3) In determining whether an individual has 20 weeks of employment, there must be counted as a week, any week in which the individual earned at least 25 percent of the Statewide average weekly wage.

(4) For the purpose of subsections (c)(1)(A) and (C), the equivalent of 20 weeks of employment in a State which uses high-quarter wages is total base period wages equal to five times the Statewide average weekly wage, and either one and one-half times the individual's high-quarter earnings or forty times his weekly benefit amount, whichever is appropriate under State law.

(d) DEFINITIONS.—

(1) "benefit year" means a period as defined in State law except that it shall not exceed one year beginning subsequent to the end of an individual's base period.

(2) "base period" means a period as defined in State law but it shall be fifty-two consecutive weeks, one year, or four consecutive calendar quarters ending not earlier than six months prior to the beginning of an individual's benefit year.

(3) "high-quarter wages" means the amount of wages for services performed in employment covered under the State law paid to an individual in that quarter of his base period in which such wages were highest, irrespective of the limitation on the amount of wages subject to contributions under such State law.

(4) "individual's average weekly wage" means an amount computed equal to (A) one-thirteenth of an individual's high-quarter wages, in a State which bases eligibility on high-quarter wages paid

in the base period or (B) in any other State, the amount obtained by dividing the total amount of wages (irrespective of the limitation on the amount of wages subject to contributions under the State law) paid to such individual during his base period by the number of weeks in which he performed services in employment covered under such law during such period.

(5) "statewide average weekly wage" means the amount computed by the State agency at least once each year on the basis of the aggregate amount of wages, irrespective of the limitation on the amount of wages subject to contributions under such State law, reported by employers as paid for services covered under such State law during the first four of the last six completed calendar quarters prior to the effective date of the computation, divided by a figure representing fifty-two times the twelve-month average of the number of employees in the pay period which includes the twelfth day of each month during the same four calendar quarters, as reported by such employers.

SEC. 3310. STATE LAW COVERAGE OF CERTAIN SERVICE PERFORMED FOR NONPROFIT ORGANIZATIONS AND FOR STATE HOSPITALS AND INSTITUTIONS OF HIGHER EDUCATION.

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

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

(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 a State, or any instrumentality of one or more States, for a hospital or institution of higher education, 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 an educational institution which is not an institution of higher education;

(4) in the case of an institution of higher education, by an individual employed in an instructional, research, or principal administrative capacity;

(5) in the case of a hospital (or in the case of a medical research organization directly engaged in the continuous active conduct of medical research in conjunction with a hospital), by an individual as a physician, dentist, osteopath, chiropractor, naturopath, or Christian Science practitioner, or by an individual employed in an instructional or research capacity;

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

(A) rehabilitation for individuals whose earning 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; and

(7) 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.

SEC. 3311. JUDICIAL REVIEW.

(a) IN GENERAL.—Whenever under section 3303(b), section 3304(c) or section 3309(a) the Secretary of Labor makes a finding pursuant to which he is required to withhold a certification under such section, such State may, within 60 days after the Governor of the State has been notified of such action, file with the United States court of appeals for the circuit in which such State is located or with the United States Court of Appeals for the District of Columbia a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary of Labor. The Secretary of Labor thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28, United States Code.

(b) FINDINGS OF FACT.—The findings of fact by the Secretary of Labor, unless contrary to the weight of the evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary of Labor to take further evidence, and the Secretary of Labor may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive unless contrary to the weight of the evidence.

(c) JURISDICTION OF COURT; REVIEW.—The court shall have jurisdiction to affirm the action of the Secretary of Labor or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certioruri or certification as provided in section 1254 of title 28, United States Code.

(d) STAY OF SECRETARY OF LABOR'S ACTION.—

(1) The Secretary of Labor shall not withhold any certification under section 3303(b), section 3304(c) or section 3309(a) until the expiration of 60 days after the Governor of the State has been notified of the action referred to in subsection (a) or until the State has filed a petition for review of such action, whichever is earlier.

(2) The commencement of judicial proceedings under this section shall not stay the Secretary's action, but the court may grant interim relief if warranted, including stay of the Secretary's action and including such relief as may be necessary to preserve status or rights.

(e) PREFERENCE.—Any judicial proceedings under this section shall be entitled to, and, upon request of the Secretary or the State, shall receive a preference and shall be heard and determined as expeditiously as possible.

SEC. 3312. SHORT TITLE.

This chapter may be cited as the "Federal Unemployment Tax Act."

THE SOCIAL SECURITY ACT

* * * * * * *

TITLE III—GRANTS TO STATES FOR UNEMPLOYMENT COMPENSATION ADMINISTRATION

Appropriations

Section 301. The amounts made available pursuant to section 901(c)(1)(A) for the purpose of assisting the States in the administration of their unemployment compensation laws shall be used as hereinafter provided.

Payments to States

Sec. 302. (a) The Secretary of Labor shall from time to time certify to the Secretary of the Treasury for payment to each State which has an unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act such amounts as the Secretary of Labor determines to be necessary for the proper and efficient administration of such law during the fiscal year for which such payment is to be made. The Secretary of Labor's determination shall be based on (1) the population of the State; (2) an estimate of the number of persons covered by the State law and of the cost of proper and efficient administration of such law; and (3) such other factors as the Secretary of Labor finds relevant. The Secretary of Labor shall not certify for payment under this section in any fiscal year a total amount in excess of the amount appropriated therefor for such fiscal year.

(b) Out of the sums appropriated therefor, the Secretary of the Treasury shall, upon receiving a certification under subsection (a) pay, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, to the State agency charged with the administration of such law the amount so certified.

Provisions of State Laws

Sec. 303. (a) The Secretary of Labor shall make no certification for payment to any State unless he finds that the law of such State, approved by him under the Federal Unemployment Tax Act, includes provision for—

(1) Such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance

of personnel standards on a merit basis, except that the Secretary of Labor shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due; and

(2) Payment of unemployment compensation solely through public employment offices or such other agencies as the Secretary of Labor may approve; and

(3) Opportunity for a fair hearing, before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied; and

(4) The payment of all money received in the unemployment fund of such State (except for refunds of sums erroneously paid into such fund and except for refunds paid in accordance with the provisions of section 3305(b) of the Federal Unemployment Tax Act), immediately upon such receipt, to the Secretary of the Treasury to the credit of the Unemployment Trust Fund established by section 904; and

(5) Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation, exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund and refunds paid in accordance with the provisions of section 3305(b) of the Federal Unemployment Tax Act: *Provided*, That 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: *Provided further*, That the amounts specified by section 903(c)(2) 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; and

(6) The making of such reports in such form and containing such information, as the Secretary of Labor may from time to time require, and compliance with such provisions as the Secretary of Labor may from time to time find necessary to assure the correctness and verification of such report; and

(7) Making available upon request to any agency of the United States charged with the administration of public works, or assistance through public employment, the name, address, ordinary occupation and employment status of each recipient of unemployment compensation, and a statement of such recipient's rights to further compensation under such law; and

(8) Effective July 1, 1941, the expenditure of all moneys received pursuant to section 302 of this title solely for the purpose and in the amounts found necessary by the Secretary of Labor for the proper and efficient administration of such State law; and

(9) Effective July 1, 1941, the replacement, within a reasonable time, of any moneys received pursuant to section 302 of this title, which, because of any action or contingency, have been lost or have been expended for purposes other than, or in amounts in excess of, those found necessary by the Secretary of Labor for the proper administration of such State law.

(b) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that in the administration of the law there is—

(1) a denial, in a substantial number of cases, of unemployment compensation to individuals entitled thereto under such law; or

(2) a failure to comply substantially with any provision specified in subsection (a);

the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such denial or failure to comply. Until the Secretary of Labor is so satisfied, he shall make no further certification to the Secretary of the Treasury with respect to such State: *Provided*, That there shall be no finding under clause (1) until the question of entitlement shall have been decided by the highest judicial authority given jurisdiction under such State law: *Provided further*, That any costs may be paid with respect to any claimant by a State and included as costs of administration of its law.

(c) The Secretary of Labor shall make no certification for payment to any State if he finds, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law—

(1) That such State does not make its records available to the Railroad Retirement Board, and furnish to the Railroad Retirement Board at the expense of the Railroad Retirement Board such copies thereof as the Railroad Retirement Board deems necessary for its purposes; or

(2) That such State is failing to afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law.

Judicial Review

Sec. 304. *(a) Whenever the Secretary of Labor—*

(1) finds that a State law does not include provisions meeting the requirements of section 303(a), or

(2) makes a finding with respect to a State under subsection (b) or (c) of section 303,

such State may, within 60 days after the Governor of the State has been notified of such action, file with the United States court of appeals for the circuit in which such State is located or with the United States Court of Appeals for the District of Columbia a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary of Labor. The Secretary of Labor thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Secretary of Labor, unless contrary to the weight of the evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary of Labor to take further evidence, and the Secretary of Labor may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive unless contrary to the weight of the evidence.

(c) The court shall have jurisdiction to affirm the action of the Secretary of Labor or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(d) (1) The Secretary of Labor shall not withhold any certification for payment to any State under section 302 until the expiration of 60 days after the Governor of the State has been notified of the action referred to in paragraph (1) or (2) of subsection (a) or until the State has filed a petition for review of such action, whichever is earlier.

(2) The commencement of judicial proceedings under this section shall not stay the Secretary's action, but the court may grant interim relief if warranted, including stay of the Secretary's action and including such relief as may be necessary to preserve status or rights.

(e) Any judicial proceedings under this section shall be entitled to, and, upon request of the Secretary or the State, shall receive a preference and shall be heard and determined as expeditiously as possible.

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TITLE IX—MISCELLANEOUS PROVISIONS RELATING TO EMPLOYMENT SECURITY

Employment Security Administration Account

Establishment of Account

Section 901. (a) * * *

* * * * * * *

Administrative Expenditures

(c)(1) There are hereby authorized to be made available for expenditure out of the employment security administration account for the fiscal year ending June 30, 1964, and for each fiscal year thereafter—

(A) such amounts (not in excess of the limit provided by paragraph (3)) as the Congress may deem appropriate for the purpose of—

(i) assisting the States in the administration of their unemployment compensation laws as provided in title III (including administration pursuant to agreements under any Federal unemployment compensation law, except the Temporary Unemployment Compensation Act of 1958, as amended),

(ii) the establishment and maintenance of systems of public employment offices in accordance with the Act of June 6, 1933, as amended (29 U.S.C., secs. 49–49n), and

(iii) carrying into effect section 2012 of title 38 of the United States Code;

* * * * * * *

(3) For purposes of paragraph (1) (A), the limitation on the amount authorized to be made available for any fiscal year is—

(A) in the case of [the] fiscal year [ending June 30, 1964] *1967*, an amount equal to 95 percent of the amount estimated

[by the Secretary of the Treasury] *and set forth in the Budget of the United States Government* as the net receipts during such [fiscal] year under the Federal Unemployment Tax Act; [and]

(B) in the case of [any] fiscal year *1968* [thereafter], 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 *five-sixths* of the net receipts during such year under the Federal Unemployment Tax Act;

(C) in the case of any fiscal year after fiscal year 1968 and before fiscal year 1973, 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 three-fourths of the net receipts during such year under the Federal Unemployment Tax Act; and

(D) in the case of any fiscal year after fiscal year 1972, 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 two-thirds of the net receipts during such fiscal year under the Federal Unemployment Tax Act.

Each estimate of net receipts under this paragraph shall be based on a tax rate of 0.4 percent *in the case of any fiscal year prior to 1968, and of 0.6 percent in the case of fiscal year 1968 or any fiscal year thereafter.* The Secretary of the Treasury shall report his estimate under subparagraph (A) to the Congress within 30 days after the date of the enactment of this paragraph. Such report shall be printed as a House document.

Determination of Excess and Amount To Be Retained in Employment Security Administration Account

(f)(1) The Secretary of the Treasury shall determine as of the close of each fiscal year (beginning with the fiscal year ending June 30, 1961) the excess in the employment security administration account.

(2) The excess in the employment security administration account as of the close of any fiscal year is the amount by which the net balance in such account as of such time (after the application of section 902(b)) exceeds the net balance in the employment security administration account as of the beginning of that fiscal year (including the fiscal year for which the excess is being computed) for which the net balance was higher than as of the beginning of any other such fiscal year.

(3) If the entire amount of the excess determined under paragraph (1) as of the close of any fiscal year is not transferred [to the Federal unemployment account] *to the extended unemployment compensation account, to the Federal unemployment account, or both,* there shall be retained (as of the beginning of the succeeding fiscal year) in the employment security administration account so much of the remainder as does not increase the net balance in such account (as of the beginning of such succeeding fiscal year) above $250,000,000.

(4) For the purposes of this section, the net balance in the employment security administration account as of any time is the amount in such account as of such time reduced by the sum of—

(A) the amounts then subject to transfer pursuant to subsection (d), and

(B) the balance of advances (plus interest accrued thereon) then repayable to the revolving fund established by subsection (e).

The net balance in the employment security administration account as of the beginning of any fiscal year shall be determined after the disposition of the excess in such account as of the close of the preceding fiscal year.

Transfers Between Federal Unemployment Account and Employment Security Administration Account

Transfers to Federal Unemployment Account

Sec. 902. (a) Whenever the Secretary of the Treasury determines pursuant to section 901(f) that there is an excess in the employment security administration account as of the close of any fiscal year, there shall be transferred (as of the beginning of the succeeding fiscal year) to the Federal unemployment account [the total amount of such excess] *the portion of such excess remaining after the application of section 905(b)(2)* or so much thereof as is required to increase the amount in the Federal unemployment account to whichever of the following is the greater:

(1) $550,000,000, or

(2) The amount (determined by the Secretary of Labor and certified by him to the Secretary of the Treasury) equal to four-tenths of 1 per centum of the total wages subject to contributions under all State unemployment compensation laws for the calendar year ending during the fiscal year for which the excess is determined.

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Amounts Transferred to State Accounts

In General

Sec. 903. (a) (1) * * *

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Use of Transferred Amounts

(c)(1) Except as provided in paragraph (2), amounts transferred to the account of a State pursuant to subsections (a) and (b) shall be used only in the payment of cash benefits to individuals with respect to their unemployment, exclusive of expenses of administration.

(2) A State may, pursuant to a specific appropriation made by the legislative body of the State, use money withdrawn from its account in the payment of expenses incurred by it for the administration of its unemployment compensation law and public employment offices if and only if—

(A) the purposes and amounts were specified in the law making the appropriation,

(B) the appropriation law did not authorize the obligation of such money after the close of the two-year period which began on the date of enactment of the appropriation law,

(C) the money is withdrawn and the expenses are incurred after such date of enactment, and

(D) the appropriation law limits the total amount which may be obligated during a fiscal year to an amount which does not exceed the amount by which (i) the aggregate of the amounts transferred to the account of such State pursuant to subsections (a) and (b) during such fiscal year and the [nine] *fourteen* preceding fiscal years, exceeds (ii) the aggregate of the amounts used by the State pursuant to this subsection and charged against the amounts transferred to the account of such State during such [ten] *fifteen* fiscal years.

For the purposes of subparagraph (D), amounts used by a State during any fiscal year shall be charged against equivalent amounts which were first transferred and which have not previously been so charged; except that no amount obligated for administration during any fiscal year may be charged against any amount transferred during a fiscal year earlier than the [ninth] *fourteenth* preceding fiscal year.

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[Federal Extended Compensation Account

[Establishment of Account

[**Sec. 905.** (a) There is hereby established in the Unemployment Trust Fund a Federal extended compensation account. For the purposes provided for in section 904(e), such account shall be maintained as a separate book account. There are hereby authorized to be appropriated, without fiscal year limitation, such amounts as may be necessary to make the payments of compensation provided by sections 3 and 8 of the Temporary Extended Unemployment Compensation Act of 1961 and the reimbursements provided by section 4 of such Act. The amounts so appropriated shall be transferred from time to time to the Federal extended compensation account on the basis of estimates by the Secretary of the Treasury after consultation with the Secretary of Labor of the amounts required to make such payments and reimbursements. Amounts so transferred shall be repayable advances (without interest), except to the extent that such amounts are used to make the payments of compensation provided by sections 3 and 8 of the Temporary Extended Unemployment Compensation Act of 1961 to individuals by reason of the exhaustion of their rights to unemployment compensation under title XV. Such repayable advances shall be repaid by transfers, from the Federal extended compensation account to the general fund of the Treasury, at such times as the amount in the Federal extended compensation account is determined by the Secretary of the Treasury, in consultation with the Secretary of Labor, to be adequate for such purpose.

[Transfers to Account

[(b) The Secretary of the Treasury shall transfer (as of the close of each month in the calendar years 1963 and 1964), from the employment security administration account to the Federal extended compensation account established by subsection (a), an amount determined by him to be equal to 50 percent (with respect to the calendar

year 1963), or 5/13 (with respect to the calendar year 1964), of the amount by which—

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

[(2) 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 paragraph (2) exceed the transfers referred to in paragraph (1), proper adjustments shall be made in the amounts subsequently transferred.

[Transfers to State Accounts

[(c)(1) The Secretary of the Treasury shall transfer (as of December 31, 1963), from the Federal extended compensation account to the accounts of the States in the Unemployment Trust Fund, the balance in the Federal extended compensation account as of such date. Such balance shall be determined by deducting from the amount in the account on December 31, 1963, the amount of the outstanding advances made to such account pursuant to subsection (a).

[(2) Each State's share of the balance to be transferred under this subsection—

[(A) shall be determined by the Secretary of Labor and certified by him to the Secretary of the Treasury before that date on the basis of reports furnished by the States to the Secretary of Labor before December 1, 1963, and

[(B) shall bear the same ratio to the balance in such account as of December 31, 1963, as (i) the amount of wages subject to contributions under such State's unemployment compensation law during 1961 and 1962 which have been reported to the State before May 1, 1963, bears to (ii) the total of wages subject to contributions under all State unemployment compensation laws during 1961 and 1962 which have been reported to the States before May 1, 1963.

[Termination of Account

[(d) Except as provided by subsection (c), no transfer to or from the Federal extended compensation account shall be made after December 31, 1964.]

Extended Unemployment Compensation Account

Establishment of Account

Sec. 905. *(a) There is hereby established in the Unemployment Trust Fund an extended unemployment compensation account. For the purposes provided for in section 904(e), such account shall be maintained as a separate book account.*

Transfers to Account

(b)(1) The Secretary of the Treasury shall transfer (as of the close of January 1968, 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 calendar year 1968, to one-sixth, in the case of any calendar year after 1968 and prior to 1973, one-fourth, and, in the case of any calendar year after 1972, one-third, 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.

(2) Whenever the Secretary of the Treasury determines pursuant to section 901(f) that there is an excess in the employment security administration account as of the close of any fiscal year beginning after June 30, 1967, there shall be transferred (as of the beginning of the succeeding fiscal year) to the extended unemployment compensation account the total amount of such excess or so much thereof as is required to increase the amount in the extended unemployment compensation account to whichever of the following is the greater:

(A) $1,000,000,000, or

(B) the amount (determined by the Secretary of Labor and certified by him to the Secretary of the Treasury) equal to four-tenths of 1 per centum of the total wages subject (determined without any limitation on amount) to contributions under all State unemployment compensation laws for the calendar year ending during the fiscal year for which the excess is determined.

Transfers to State Accounts

(c) Amounts in the extended unemployment compensation fund shall be available for transfer to the accounts of the States in the unemployment trust fund as provided by section 204(d) of the Federal-State Extended Unemployment Compensation Act of 1966.

Transfers to Federal Unemployment Account

(d) If the balance in the extended unemployment compensation account as of the close of any fiscal year exceeds the greater of the amounts referred to in subparagraphs (A) and (B) of subsection (b)(2), the Secretary of the Treasury shall transfer (as of the close of such fiscal year) from such account to the Federal unemployment account an amount equal to such excess. In applying section 902(b), any amount transferred pursuant to this subsection as of the close of any fiscal year shall be treated as an amount in the Federal unemployment account as of the close of such fiscal year.

Advances to Extended Unemployment Compensation Account

(e) There are hereby authorized to be appropriated to the extended unemployment compensation account, as repayable advances (without interest), such sums as may be necessary to provide for the transfers referred to in subsection (c).

Unemployment Compensation Research Program

Sec. 906. (a) The Secretary of Labor shall—

(1) establish a continuing and comprehensive program of research to evaluate the unemployment compensation system. Such research shall include, but not be limited to, a program of factual studies covering the role of unemployment compensation under varying patterns of unemployment, the relationship between the unemployment compensation and other social insurance programs, the effect of State eligibility and disqualification provisions, the personal characteristics, family situation, employment background and experience of claimants, with the results of such studies to be made public; and

(2) establish a program of research to develop information (which shall be made public) as to the effect and impact of extending coverage to excluded groups.

Authorization of Appropriations

(b) There are hereby authorized to be appropriated for the fiscal year ending June 30, 1967, and for each fiscal year thereafter such sums as may be necessary to carry out the purposes of this section. From the sums authorized to be appropriated by this subsection the Secretary may provide for the conduct of research authorized by this section through grants or contracts.

Training Grants for Unemployment Compensation Personnel

Sec. 907. (a) In order to assist in increasing the effectiveness and efficiency of administration of the unemployment compensation program by increasing the number of adequately trained personnel, there are hereby authorized to be appropriated for the fiscal year ending June 30, 1967, the sum of $1,000,000, and for each fiscal year thereafter such sums as may be necessary for training such personnel.

(b)(1) From the sums authorized to be appropriated by subsection (a) the Secretary shall provide (A) directly and through State agencies or through grants to or contracts with public or nonprofit private institutions of higher learning, for training personnel who are employed or preparing for employment in the administration of the unemployment compensation program, including claims determinations and adjudication, and (B) directly or through grants to or contracts with public or nonprofit private agencies or institutions, for special courses of study or seminars of short duration (not in excess of one year) for training of such personnel, and (C) directly or through grants to or contracts with public or nonprofit private institutions of higher learning, for establishing and maintaining fellowships or traineeships for such personnel at such institutions, with such stipends and allowances as may be permitted by the Secretary.

(2) The Secretary may, to the extent he finds such action to be necessary, prescribe requirements to assure that any individual will repay the amounts of his fellowship or traineeship received under this subsection to the extent such individual fails to serve, for the period prescribed by the Secretary, with a State agency or with the Federal Government, in connection with administration of any State employment security program. The Secretary may relieve any individual of his obligation to so repay, in whole or in part, whenever and to the extent that requirement of such

repayment would, in his judgment, be inequitable or would be contrary to the purposes of any of the programs established by this section.

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TITLE XII—ADVANCES TO STATE UNEMPLOYMENT FUNDS

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Advances to Federal Unemployment Account

Sec. 1203. There are hereby authorized to be appropriated to the Federal unemployment account, as repayable advances (without interest), such sums as may be necessary to carry out the purposes of this title. Whenever, after the application of section 901(f)(3) with respect to the excess in the employment security administration account as of the close of any fiscal year, there remains any portion of such excess, so much of such remainder as does not exceed the [balance] *balances* of advances made pursuant to *section 905(e) or* this section shall be transferred to the general fund of the Treasury and shall be credited against, and shall operate to reduce, [such balance of advances] *first the balance of advances under section 905(e) and then the balance of advances under this section.*

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VII. MINORITY VIEWS

In the consideration of this bill (H.R. 15119) the committee by a majority of one vote adopted an amendment to the bill, as reported, which would provide Federal standards relating to the eligibility, amount, and duration of benefits payable to unemployed workers of State programs. No justification exists for this radical departure in the basic concept of the Federal-State unemployment insurance program. On the contrary, a review of the 30-year history of this legislation conclusively demonstrates that without the heavy hand of Federal intervention, the individual States have adopted, modified, improved, and expanded their unemployment insurance programs to meet the peculiar conditions of each State so as to produce a better program than would have resulted if the States had been held to rigid Federal benefit standards.

We feel the adoption of the Federal benefit standard is not progressive, but regressive. The standard will reverse the progress the program has experienced, to the detriment of the great majority of covered workers. If the recommendations of the Johnson administration on unemployment compensation are an indication of the kind of Federal regulation we may expect, the capacity of the unemployment insurance program to meet the needs of our workers will experience a steady decline.

The committee's amendment could require extensive revisions in the unemployment insurance programs in all of the 50 States, in order to conform to one or more of the new Federal standards relating to eligibility, benefit amount, or duration periods.

In order to meet the Federal benefit eligibility standards imposed by the Senate amendment, 22 States would be required to amend their laws. Thirty-three States will be required to amend their laws to increase the maximum weekly benefit amounts payable. Additionally, 46 States will be required to increase the duration of their benefits payable for individuals who have 20 or more weeks base-period employment (or the equivalent). The States are required to make these amendments in order to secure the benefits of the tax credit provisions of Federal law.

In addition, the Senate amendment will force the States to use their resources to provide increased benefits for individuals now receiving the largest benefit amounts, at the expense of poorer workers and families with dependents—those with the fewest deferable expenditures.

The State's freedom to prescribe the periods over which beneficiaries will draw benefits has been an integral part of our Federal-State system for the last 30 years. The trend in State legislation has been to adopt a "variable duration period," correlating the length of the benefit period to the amount of base-period employment of the claimant.

The committee's bill will require all States to provide 26 weeks of benefits to any individual who has 20 weeks of base-period employment (or an equivalent where other formulas are applicable).

The imposition of a Federal standard relating to the "duration period" over which benefits are payable will also have a disruptive effect on State laws.

In order to fit this requirement into the present benefit schedules, such drastic amendments of State duration periods will be required that the practical effect will be to force the States to abandon variable benefit periods.

The argument for a uniform benefit period is based on the theory that individuals with a smaller amount of base-period employment have just as much need for unemployment compensation benefits as individuals with a higher degree of base-period employment. If this is the objective of requiring 26 weeks of benefits for 20 weeks of base-period employment, the means are not adapted to the ends. Resources how being used to provide shorter benefit periods for workers with less than 20 weeks of base-period employment may be needed to meet the new standard. When the cost of maintaining a proportionate benefit schedule after adoption of the new standard is added, many States may be forced to eliminate benefits to workers who have less than 20 weeks of base-period employment. Ironically, a Federal standard ultimately will reduce benefits for those with smaller base-period employment—the very group it is ostensibly designed to help.

These problems, resulting from the precipitous action taken by the majority, will disrupt the unemployment compensation laws in all of the 50 States. It will impair the program's ability to meet the needs of our unemployed workers, for whom the program, as managed by the States, has been a bulwark during the past 30 years. For the reasons we have stated, we strongly recommend that the Senate delete the provisions providing Federal benefit standards relating to amount and duration.

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THRUSTON B. MORTON.
FRANK CARLSON.
CARL T. CURTIS.
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