

EMERGENCY UNEMPLOYMENT COMPENSATION EXTENSION ACT OF 1977

MARCH 28 (legislative day FEBRUARY 21), 1977.—Ordered to be printed

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

REPORT

[To accompany H.R. 4800]

The Committee on Finance, to which was referred the bill (H.R. 4800) to extend the Emergency Unemployment Compensation Act of 1974 for an additional year, to revise the trigger provisions in such act, and for other purposes, having considered the same, reports favorably thereon with amendments and an amendment to the title and recommends that the bill as amended do pass.

I. SUMMARY OF THE BILL

Extension of emergency program.—H.R. 4800, as passed by the House, would extend the Emergency Unemployment Compensation Act for 1 year to March 31, 1978. It would modify the act to provide a maximum of 13 weeks of emergency benefits (which combine with the 39 weeks of regular and extended benefits for a total of 52 weeks of unemployment benefits). Under the Finance Committee bill, the program would continue in operation until December 31, 1977. No new applications for payments would be taken after September 30, 1977. However, individuals who qualified for payments prior to that time could continue to receive payments until their eligibility period ends, but not later than the end of the year.

State and labor market area triggers.—The House bill would retain the requirement that the program be in effect only where the insured unemployment rate equals or exceeds 5 percent, and it would make that trigger applicable on a labor market area basis as well as on a State-by-State basis. Under the Finance Committee bill, benefits would be paid only in States where the insured unemployment rate is more than 5 percent.

General revenue financing.—The committee bill includes, with a technical amendment, the provisions of the House bill under which the cost of emergency unemployment compensation paid after March, 1977 would be met from general revenues without the present law requirements that the costs ultimately be met from the Federal Unemployment tax.

Refusal of suitable work.—The committee bill includes provisions requiring an individual to accept suitable employment. The committee provision would prohibit the payment of emergency compensation to an individual who refuses a job unless:

- (1) the job is vacant solely because of a labor dispute;
- (2) as a condition of being employed the worker would have to join a company union or refrain from joining any bona fide labor organization;
- (3) the wages or conditions of work are substantially less favorable than those which prevail in the locality for similar work;
- (4) the job poses an unreasonable threat to the individual's health, safety, or morals;
- (5) the job involves traveling an unreasonable distance to work;
- (6) the job pays a lower gross wage than the individual's unemployment compensation; or
- (7) the applicant is in an approved training program.

These provisions substitute for provisions of the House bill related to the acceptance of employment.

Active job search.—The committee bill, like the House bill, would prohibit the payment of emergency compensation for any individual who cannot show that he is actively seeking work. To meet this requirement an individual would have to provide tangible evidence that he has engaged in a systematic and sustained effort to obtain work during the week for which he is claiming benefits.

Teachers.—The committee bill would allow States to deny unemployment compensation to teachers during brief mid-year vacation periods in cases where the teacher was employed by the school system immediately before the start of the vacation and has reasonable assurance of that employment continuing at the conclusion of the vacation. (Present law prohibits payments for periods between school years when the teacher has reasonable assurance of a job for the following year.)

In addition, employment as a substitute teacher would not qualify an individual for unemployment compensation if the individual is not employed as a teacher on at least 45 separate days.

Repayment of State loans.—The cost of regular State benefits for the first 26 weeks of unemployment and half of the cost of extended benefits for the next 13 weeks are met through State unemployment taxes. The Federal unemployment trust fund, however, includes a loan account against which States may draw advances if they are unable to meet their benefit costs out of the State accounts. Permanent law requires that these advances be repaid within approximately two years. If a State has an outstanding loan on January 1 of two successive years and does not repay that loan by November of that second year, the Federal Government automatically begins to recoup the loan by raising the effective Federal unemployment tax rate on employers in the State.

Legislation enacted in 1975 provided a moratorium (effective for 3 specific years, 1975, 1976 and 1977) in the case of States which satisfy certain conditions which show that they have taken the necessary action to enable them to repay the loans within a reasonable period of time. The committee bill, like the House-passed bill, would add 1978 and 1979 to the years which may be disregarded in applying the repayment provisions for such States.

Other amendments.—The committee bill also includes several additional amendments which would:

(1) reduce from 26 to 13 weeks the minimum period of time for which an emergency benefit period would be in effect;

(2) provide that an individual's entitlement to emergency compensation would end 2 years after the end of the benefit year for which regular benefits were paid;

(3) clarify the provisions of present law which prohibit the payment of unemployment compensation to aliens who work illegally in the United States;

(4) defer until 1979 the time when States would have to bring their laws into conformity with the requirements of the Unemployment Compensation Amendments of 1976 if the State legislature does not meet in regular session during 1977;

(5) clarify the provision of present law which relates to the right of groups of local governments to elect to meet the cost of unemployment compensation on a reimbursement basis; and

(6) defer for 6 months the reporting dates for the National Commission on Unemployment Compensation.

II. GENERAL EXPLANATION OF THE BILL

A. EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM

EXTENSION OF EMERGENCY PROGRAM

(Section 101 of the committee bill)

Under permanent law, workers who become unemployed can qualify for up to 26 weeks of regular benefits under State financed programs. When unemployment levels are high, either nationally or in specific States, up to 13 weeks of additional benefits may be paid under the Federal-State Extended Unemployment Compensation Act. Half the cost of these benefits is met from the Federal unemployment payroll tax and half the cost is met from State unemployment taxes. In December, 1974, Congress enacted a temporary program of emergency unemployment benefits for workers who exhaust their entitlement to both regular and extended benefits.

The emergency benefits program, as extended and modified in 1975, provides the following:

26 weeks of additional benefits (combined maximum of 65 weeks) in States with 6 percent or higher insured unemployment rate;

13 weeks of additional benefits (combined maximum of 52 weeks) in States with insured unemployment rate below 6 percent but at least 5 percent;

No emergency benefits in States with insured unemployment rate below 5 percent (maximum under regular and extended program is 39 weeks).

Under present law, the emergency unemployment compensation program expires as of March 31, 1977 so that in all States there would be a maximum of 39 weeks of benefits payable to unemployed workers. The committee bill would provide a further temporary extension of the emergency benefits program. Under the extension proposed in the committee bill, emergency benefits could continue to be paid until December 31, 1977. The maximum duration of emergency benefits would be limited to 13 weeks (a combined maximum under all programs of 52 weeks) and the program would be in effect only in States with insured unemployment rates of 5 percent or more. No new applications for benefits under the emergency program could be accepted under the committee bill after September 30, 1977. That is, if an individual's first week of potential benefit eligibility under the emergency program would be a week ending after September 30, 1977, he could not be paid benefits. However, an individual already getting emergency benefits as of the last week ending on or before September 30 could continue to get those benefits beyond that date (but not beyond December 31, 1977).

TABLE 1.—STATE INSURED UNEMPLOYMENT RATES FOR EMERGENCY BENEFITS, MARCH 5, 1977

Below 5 percent (regular and extended benefits only, 39 week maximum)	5 to 5.9 percent (emergency benefits up to 52d week)	6 percent and over (emergency benefits up to 65th week until March 31, 1977, up to 52d week under committee bill)
Arizona..... 4.85	Hawaii..... 5.20	Alabama..... 6.57
Colorado..... 3.51	Maryland..... 5.68	Alaska..... 12.42
District of Columbia..... 3.42	Minnesota..... 5.54	Arkansas..... 7.03
Florida..... 4.35	Missouri..... 5.90	California..... 6.51
Georgia..... 4.70	New Mexico..... 5.16	Connecticut..... 7.23
Indiana..... 4.00	North Carolina..... 5.40	Delaware..... 6.40
Iowa..... 4.32	North Dakota..... 5.90	Idaho..... 6.84
Kansas..... 3.93	Wisconsin..... 5.35	Illinois..... 6.50
Louisiana..... 4.51		Kentucky..... 6.36
Mississippi..... 4.98		Maine..... 9.31
Nebraska..... 3.43		Massachusetts..... 6.44
New Hampshire..... 4.06		Michigan..... 7.78
Ohio..... 4.81		Montana..... 6.75
Oklahoma..... 4.06		Nevada..... 7.04
South Carolina..... 4.91		New Jersey..... 8.92
South Dakota..... 3.75		New York..... 7.39
Texas..... 2.15		Oregon..... 7.27
Utah..... 4.94		Pennsylvania..... 8.47
Virginia..... 3.23		Puerto Rico..... 19.65
Wyoming..... 2.59		Rhode Island..... 8.83
		Tennessee..... 6.47
		Vermont..... 8.15
		Washington..... 9.01
		West Virginia..... 8.12

DURATION OF PROGRAM AND TRIGGERING PROVISIONS

(Section 102 of the committee bill)

Individual duration of benefits.—Under present law, emergency benefits are paid in an entire State whenever the insured unemployment rate in the State is above 5 percent. When the rate is 5 percent, an additional 13 weeks of benefits are payable; and when the rate is at least 6 percent, 26 weeks of emergency benefits are payable. The House bill would limit the maximum duration of emergency benefits payable to any individual after March 31 to 13 weeks in all States where the program is in effect. The program would be in effect under the House bill in any State with an insured unemployment rate of 5 percent or more. The committee bill retains these provisions of the House bill which provide for a maximum of 13 weeks of entitlement in all States with 5 percent or higher insured unemployment.

Area triggers.—The House bill, in addition to making the emergency benefits program applicable to all States with 5 percent or more insured unemployment, would have also provided for the program to trigger on in certain local areas.

The Secretary of Labor would have designated areas where 13 weeks of emergency benefits would be paid when the insured unemployment rate in the area is at least 5 percent. The bill defined an "area" as either (1) a labor market area or part of a labor market area located within a State or (2) as all parts of a State not located within a labor market area. While the bill did not define the meaning of areas with any precision, but left their designation largely to the Secretary of Labor, each area would have been a contiguous population center of 250,000 or more population.

Testimony received by the committee from the Department of Labor and the State administrators of the programs indicated the near impossibility of administering a program which would go into effect in separate labor market areas. In view of the difficulties in implementing such a change and the temporary nature of the program, the committee bill provides that the program continue to go into effect on a statewide basis only.

Minimum State duration.—Under present law, when an emergency benefit period begins in a State (because the insured unemployment rate rises above 5 percent) emergency benefits will continue to be payable in that State for a minimum of 26 weeks even if the insured unemployment rate declines below 5 percent at an earlier date. Since the committee bill proposes to reduce the maximum individual entitlement from 26 weeks to 13 weeks, the minimum duration of emergency benefit periods in individual States would also be reduced under the committee bill from 26 weeks to 13 weeks. The House bill does not contain a comparable provision.

TABLE 2.—BENEFIT PAYMENTS UNDER UNEMPLOYMENT COMPENSATION PROGRAMS: PRESENT LAW AS MODIFIED BY COMMITTEE BILL

[In billions of dollars]

	Fiscal year—								
	1974	1975	1976	July- Septem- ber 1976	1977	1978	1979	1980	1981
Regular State benefits.....	4.9	9.9	10.3	2.1	9.3	8.6	7.8	6.1	6.0
Extended benefits.....	.3	1.2	2.8	.8	2.1	1.9	.6	.4	.4
Emergency benefits.....		.7	3.2	.5	1.6	.1			
Total.....	5.2	11.8	16.3	3.4	13.0	10.6	8.4	6.5	6.4

FUNDING OF EMERGENCY COMPENSATION

(Section 103 of the committee bill)

A committee amendment would eliminate the requirement that the cost of emergency compensation paid after March 1977 ultimately be repaid to the Treasury out of Federal unemployment tax receipts. The costs of the program for the period prior to April 1977 which have been paid by transfers from the general funds of the Treasury would still be a repayable, interest free loan to the Unemployment Trust Fund. The committee amendment is similar to the amendment which passed the Senate as part of the 1975 Emergency Compensation Extension Act and, although technically different, carries out the intent of a provision of the House-passed bill. The technical change is made in order to avoid the need for a new appropriation of funds which have already been appropriated for this program. The technical amendment is also necessary since the bill would otherwise be subject to a point of order under the Congressional Budget Act.

JOB SEARCH AND ACCEPTANCE OF EMPLOYMENT AS A CONDITION OF ELIGIBILITY FOR EMERGENCY BENEFITS

(Section 104 of the committee bill)

Active job search requirements.—Unemployment benefits, including emergency unemployment benefits, are intended to provide a source of income for individuals who are employable and are looking for work. While active pursuit of reemployment should, thus, be required of all individuals drawing unemployment compensation, the committee believes it is appropriate to provide a specific Federal requirement in the case of individuals who are receiving Federally funded benefits and who have exhausted up to 39 weeks of benefit entitlement under the regular and extended programs. Accordingly, the committee bill includes a provision (also in the House bill) under which an emergency benefits recipient would have to provide tangible evidence that he has engaged in a systematic and sustained effort to obtain work during the week for which he is claiming benefits.

Acceptance of employment.—The House-passed bill also contained a provision which was intended to preclude the payment of emergency benefits to people who refuse suitable jobs. The committee bill includes a similar provision with a somewhat broader definition of what would constitute suitable employment and with other modifications which, in the view of the committee, would make the provision more effective.

Under permanent law, unemployment insurance benefits are ordinarily payable for a maximum of 26 weeks with provision for an additional 13 weeks of benefits in times of high unemployment. The purpose of providing longer benefit duration during periods of high unemployment is that in such periods it may reasonably be assumed that it will take somewhat more time for a worker to find a new job.

One of the purposes of the unemployment insurance program is to make it possible for workers who are displaced from jobs to spend a reasonable amount of time searching for new work which is consistent with their experience and abilities. It is generally considered desirable, both from the point of view of the individual worker and from the point of view of society, to have such a system which permits the matching of employment opportunities to the skills and aptitudes of those seeking jobs.

It is thus entirely consistent with the purposes and objectives of the unemployment insurance system that workers not be required, as soon as they become unemployed, to accept the first available job without regard to whether it is consistent with their background. Similarly, it is reasonable to expect that it will take some time for a worker to find a job which is consistent with his background and that he should make an effort to find such a job before consideration is given to training him for a new type of work.

After an unemployed worker has received benefits for 39 weeks, however, the committee believes that he should broaden his job search.

Emergency benefits, like regular unemployment insurance benefits, are intended to be paid to individuals who are involuntarily out of work during the period when they are looking for another job. Consequently, the rules which apply under the regular State programs also apply under the emergency benefits program, and benefits are denied to individuals who are not available for work or who refuse to accept appropriate employment opportunities. Existing Federal law provides three limitations on the type of jobs which States can require individuals to accept as a condition of receiving unemployment benefits. The statute specifies that States cannot require workers to take a job:

- (1) which is vacant solely because of a labor dispute;
- (2) if as a condition of being employed the worker would have to join a company union or would have to refrain from joining any bona fide labor organization; or
- (3) in which the wages or conditions of work are substantially less favorable than those which prevail in the locality for similar work.

In practice, however, many States have added additional criteria under which individuals may refuse jobs without losing their eligibility to receive unemployment benefits. The usual criteria involve the degree of risk to the claimant's health, safety, and morals; his physical fitness; his prior training, experience, and earnings; the length of his unemployment and his prospects for securing regular work in his customary occupation; and the distance of the work from his residence. These criteria are designed to protect workers against mandatory requirements that they accept work that might be injurious to them and also to assure that workers will have a reasonable opportunity to obtain work which is commensurate with their experience and abilities.

For the reasons described earlier, the committee agrees that there are valid purposes to be served in an unemployment insurance program by including criteria such as these under which workers may refuse certain types of jobs during at least the earlier stages of their unemployment. The committee feels, however, that after 39 weeks of unemployment a person should realize that work tailored to his particular abilities and experience is simply no longer available in that

community. The committee believes that in these circumstances an individual who wishes to remain in that community and continue drawing unemployment benefits should be required to take any reasonable job opportunity that is available (unless he is participating in a training program).

The House-passed bill contained a provision which was intended to preclude the payment of emergency benefits to people who refuse suitable jobs. The determination of which individuals the provision would apply to and the exceptions to what would be suitable work would have required complex administrative procedures in the States, and, in the opinion of the committee, could in some cases be less effective than the provisions of State law which apply to applicants for regular unemployment compensation.

The committee, therefore, substituted for the provisions of the House bill a requirement similar to a provision which passed the Senate as part of the 1975 extension of the emergency program (but did not become law). Under this provision, as a condition of eligibility for emergency unemployment benefits, an individual could not refuse any job offer which does not conflict with the three basic Federal limitations described above, which does not pose any unreasonable threat to the individual's morals, health, or safety, taking into account his physical condition, which does not involve his traveling an unreasonable distance to work and which does not pay a gross wage less than his emergency compensation. However, any other State criteria such as the amount of his previous earnings or type of work experience which permit an individual to refuse an available job would not be applicable.

The committee does not intend to establish a new set of federally imposed job suitability criteria. In evaluating the appropriateness of an employment opportunity under this provision, each State would continue to apply the criteria it uses at present to determine whether a job poses an undue threat to the individual's health or safety or is inappropriate in view of his physical condition. The States would also continue to apply the three federally mandated conditions in the same way as they do for regular unemployment benefits.

States would be expected to base their determination of reasonable distance to a job on the labor market conditions in the area and the range of typical commuting distances for the types of jobs involved. It is the committee's intent that an individual could decline employment if his commuting time would be more than one-half hour greater than the commuting time commonly required for individuals in his community.

In summary, if an individual is not participating in a training program, he could not continue to be eligible for benefits after 39 weeks if he refuses a job offer. However, he may not be required to take a job:

- (1) which is vacant solely because of a labor dispute;
- (2) if as a condition of being employed the worker would have to join a company union or would have to refrain from joining any bona fide labor organization;
- (3) in which the wages or conditions of work are substantially less favorable than those which prevail in the locality for similar work;

- (4) which poses an unreasonable threat to the individual's morals, health, or safety;
- (5) which involves traveling an unreasonable distance to work; or
- (6) which pays less in gross wages than the amount of his weekly emergency compensation.

States would be required to refer applicants for emergency benefits to any jobs which are suitable for them under these special criteria to the extent that such jobs are available. And, every applicant would be required to demonstrate that he was actively seeking work, not only in his regular occupation but every place where there are apt to be job openings which he could fill.

FRAUD AND RECOVERY OF OVERPAYMENTS

(Section 105 of the committee bill)

The committee bill makes no change in the provision of the House-passed bill which would establish new statutory authority and procedures pertaining to the treatment of fraud and erroneous payments under the Emergency Unemployment Compensation program. Any individual who obtains emergency compensation by means of a false statement, or failure to disclose information, or causes another to do so will be disqualified in accordance with the corresponding provisions of the State Unemployment Insurance law. The section also requires that the State recover any overpayments made to individuals. Recovery may be waived when an overpayment was received without fault of the individual, and recovery would be contrary to equity and good conscience. States would otherwise be required to offset overpayments against future assistance or benefits payable under any other Federal unemployment compensation or allowance programs.

The provision creates a Federal penalty for fraud in connection with the Emergency Unemployment Compensation program. The generally applicable Federal penalty for fraud authorized by 18 U.S.C. 1001—a fine of up to \$10,000 and a prison term of up to 5 years—would apply to this program. In addition, the individual could be denied any further benefits under the program.

MODIFICATION OF STATE AGREEMENTS

(Section 106 of the committee bill)

The committee bill makes no change in the provisions of the House bill which provide for implementation of changes made by the bill. Following the precedent of prior law the States have the option of entering into an agreement with the Secretary of Labor to put the amendments into effect. Each State would be required to enter into a modification of its present agreement within 3 weeks after the Secretary of Labor proposes the modification to the State. Should a State not desire to enter into a modification of its present agreement, the Secretary is directed to terminate the agreement with the State so that the Emergency Unemployment Compensation program in that State would expire with the last week which ends on or before March 31, 1977, as it would under the present law.

TERMINATION OF INDIVIDUAL ENTITLEMENT

(Section 107 of the committee bill)

Under the present law an individual's period of entitlement to emergency benefits continues until he either exhausts his benefit rights or works long enough to requalify for regular benefits. In a few cases this means that an individual whose entitlement to regular benefits ended several years ago may still have potential entitlement to emergency benefits. For example, an unemployed individual who gave up looking for work and returned to school as a full-time student could still qualify for emergency benefits should he return to the labor market. Because situations like this can occur, the State agencies are required to keep some files active for many years after an individual last worked.

In order to simplify administration of the program the committee bill contains an amendment to terminate an individual's entitlement to emergency benefits two years after the end of the benefit year for which regular benefits were payable. The House bill contains no comparable provision.

B. OTHER PROVISIONS

FEDERAL LOANS TO STATE UNEMPLOYMENT ACCOUNTS: ADDITIONAL TIME FOR REPAYMENT

(Section 201 of the committee bill)

Federal law provides that States may obtain advances from the Federal unemployment account in the trust fund when their own State accounts have insufficient funds to meet benefit obligations. These advances constitute interest-free loans which must be repaid after two years. If the loans are not repaid within the prescribed two-year period, the Federal unemployment tax rate on employers in the affected State, is, in effect, automatically increased each year until the loan has been recaptured through these increased taxes.

There are now 24 States which have outstanding loans of this type (totaling \$4.4 billion). Recent loan activity is summarized in table 3 below.

TABLE 3.—ADVANCES TO STATES FROM FEDERAL UNEMPLOYMENT ACCOUNT

[In millions of dollars per calendar year]

States	1972	1973	1974	1975	1976	Through Mar. 15, 1977	Total
Connecticut.....	\$31.8	\$21.7	\$8.5	\$190.2	\$111.0	\$63.0	\$426.2
Washington.....		40.7	3.4	50.0	55.3		149.4
Vermont.....			5.3	23.0	9.2	6.6	44.1
New Jersey.....				352.2	145.0	125.7	622.9
Rhode Island.....				45.8	20.0	4.5	70.3
Massachusetts.....				140.0	125.0		265.0
Michigan.....				326.0	245.0	15.0	586.0
Puerto Rico.....				35.0	22.0	10.0	67.0
Minnesota.....				47.0	76.0	39.0	162.0
Maine.....				2.4	12.5	6.5	21.4
Pennsylvania.....				173.8	379.1	248.0	800.9
Delaware.....				6.5	14.0	12.1	32.6
District of Columbia.....				7.0	26.6	15.8	49.4
Alabama.....				10.0	20.0	20.7	50.7
Illinois.....				68.8	446.5	206.1	721.4
Arkansas.....					20.0	8.0	28.0
Hawaii.....					22.5		22.5
Nevada.....					7.6		7.6
Oregon.....					18.5		18.5
Maryland.....					36.1	19.5	55.6
Montana.....					1.4	7.9	9.3
New York.....						155.8	155.8
Florida.....						12.0	12.0
Ohio.....						1.9	1.9
Total.....	31.8	62.4	17.2	1,477.7	1,813.3	978.1	4,380.5

¹ Actual loans received—\$465,000,000; less repayment—\$38,800,000; total—\$426,200,000.

An amendment enacted in 1975 suspends for 3 years (1975, 1976, 1977) the provision under which the Federal unemployment tax is automatically increased to recapture any loan to a State which remains unpaid after 2 years. However, the suspension applies only in States where the Secretary of Labor makes a finding that the State has examined and taken any appropriate action with respect to the structure of its unemployment compensation program, including its financing, which, in the light of existing and anticipated economic conditions, can be expected to result in an actuarially sound program capable of repaying within a reasonable time the amount advanced from the Federal account.

In its 1975 report the committee indicated that it was not its intent to prescribe what specific steps a State should take to restore fiscal soundness to its unemployment compensation program, but that the Secretary of Labor is required to evaluate individually the efficacy of each State's actions in accomplishing the purposes of the committee bill.

Since that time the Secretary of Labor has issued regulations stating the actions a State must take in order for him to consider it as having taken appropriate action. The regulations (20 CFR 601.5 (b)) define appropriate action as:

(i) Amendment of its unemployment compensation law, effective in or prior to the taxable year with respect to which the finding is made, or effective at the beginning of the succeeding taxable year, increasing the State's unemployment tax rate, increasing the State's unemployment tax base, or changing the State's experience rating formula, or a combination of such changes, so as to be estimated by the Secretary to achieve for the taxable year with respect to which the finding is made or for the period following the effective date of the amendment—

(A) An average employer tax rate, computed as a percentage of the total wages in employment covered by the State's unemployment compensation law, which exceeds the State's average annual benefit cost rate, computed as a percentage of the total wages in employment covered by the State's unemployment compensation law, for the ten calendar years immediately preceding the year with respect to which the finding is made; and

(B) An effective minimum employer tax rate which is not less than 1.0 percent of the wages of any employer which are subject to tax under the Federal Unemployment Tax Act for the same year; and

(C) An effective maximum employer tax rate which exceeds 2.7 percent of the wages of any employer which are subject to tax under the Federal Unemployment Tax Act for the same year, or provision for no reduced rate of contributions for any employer subject to the State unemployment compensation law; or

(ii) (A) Amendment of its unemployment compensation law increasing the State's unemployment tax rate, increasing the State's unemployment tax base, or changing the State's experience rating formula, or a combination of such changes, so as to be estimated by the Secretary of Labor to result in increasing contributions to the State's unemployment fund, for the taxable year with respect to which the finding is made, and the allocation from such increased contributions of a sum sufficient to make the repayment in the amount and within the time limit prescribed in paragraph (f) (2) (ii) (B) of this section; and

(B) Repayment to the Treasury of the United States, for credit to the Federal unemployment account in the Unemployment Trust Fund, prior to November 10 of the taxable year with respect to which the finding is made, of an amount equal to the amount of the additional tax which would be payable by all taxpayers subject to the unemployment compensation law of the State for that taxable year if the reduction in total credits prescribed by section 3302(c) (3) of the

Internal Revenue Code of 1954 for that taxable year was applied without regard to the amendment added by section 110(a) of the Emergency Compensation and Special Unemployment Assistance Extension Act of 1975. The amount determined under the preceding sentence shall be reduced by the amount of any additional tax payable for that taxable year by taxpayers subject to the unemployment compensation law of the State by reason of the reduced credit provisions of section 3302(c) (3) of the Internal Revenue Code of 1954, as amended by section 110(a) of the Emergency Compensation and Special Unemployment Assistance Extension Act of 1975.

On the basis of these regulations the Secretary of Labor has made determinations affecting the 1977 tax rate in three States—Connecticut, Washington, and Oregon. Only one State, Connecticut, qualified for the deferral. For 1978, a new determination will need to be made for these three States and for an additional 10 States, the District of Columbia and Puerto Rico (the States listed in the 1975 columns of table 3).

Because the unfavorable economic conditions seem likely to continue longer than anticipated last year, the committee concurs in decision of the House to extend this moratorium on the payment of additional taxes for two more years. The committee expects, however, that the Secretary of Labor will encourage each State to repay its loan as quickly as possible.

DEFERRED EFFECTIVE DATES FOR KENTUCKY

(Section 301 of the committee bill)

The Unemployment Compensation Amendments of 1976 placed a number of new requirements on State unemployment compensation programs. These requirements (such as the one that State and local Government employees be covered under the program) are generally effective as of the beginning of 1978. The State of Kentucky, however, is the only State that does not have a scheduled meeting of its legislature during 1977; Kentucky will consequently be unable to make the necessary changes in State law to comply with these requirements. The committee bill like the House bill permits that State to defer compliance until 1979.

ILLEGAL ALIENS

(Section 302(a) of the committee bill)

The House bill contains a technical correction to the provisions of present law intended to prevent the payment of unemployment compensation to illegal aliens who work in the United States. The present provision prevents the payment of benefits to certain Canadian and Mexican residents who legally work in the United States. The amendment which would be made by the bill is intended to permit benefits to be paid to these people. However, the determination whether benefits are paid these people would be based on their status at the time the benefits are claimed rather than on their status at the time the work was performed.

The committee amendment, therefore, modifies the House-passed provision so that benefits would not be paid to an individual who was illegally working at the time he earned his eligibility for benefits.

**LOCAL GOVERNMENT FINANCING OF UNEMPLOYMENT
COMPENSATION**

(Section 302(b) of the committee bill)

The committee bill makes no change in the provisions of the House bill designed to make clear that groups of local governments are to be provided the same options as to how unemployment compensation will be financed as are provided to single governmental units.

TEACHERS

(Section 302(c) of the committee bill)

The House-passed bill contained a provision which made technical changes in the provisions of present law which prohibit the payment of unemployment compensation to teachers and other school employees during vacation periods. The committee bill would expand this provision to preclude the payment of unemployment compensation for brief vacation periods during the school year, but only if the teacher was employed immediately before the vacation began and has reasonable assurance of continuing employment after the vacation is over. In addition, the committee bill would prohibit the payment of unemployment compensation based on employment as a substitute teacher unless the individual had at least 45 days of employment as a substitute teacher in his base period.

**REPORTS OF NATIONAL COMMISSION ON UNEMPLOYMENT
COMPENSATION**

(Section 303 of the committee bill)

The committee bill makes no change in the provisions of the House-passed bill which would provide a 6-month delay in the reports of the National Commission on Unemployment Compensation authorized by the Unemployment Compensation Amendments of 1976. The 1976 law requires the Commission to submit an interim report by March 31, 1978 and its final report by January 1, 1979. Because of unanticipated delays in setting up and funding the Commission, section 303 of this bill moves the submission dates for both reports forward six months. The interim report of the Commission will then be due September 30, 1978 and the final report July 1, 1979.

TABLE 4.—WEEKLY STATE UNEMPLOYMENT COMPENSATION BENEFITS FOR TOTAL UNEMPLOYMENT

State	Weekly benefit amount ¹		Required total earnings in base year ²		Minimum work in base year (weeks) ³	
	Minimum	Maximum	Average (fiscal year 1976)	For minimum benefit		For maximum benefit
Alabama.....	\$15	\$90	\$66	\$525	\$3,491	20
Alaska.....	¹ 23	¹ 120	80	750	8,500	20
Arizona.....	15	⁴ 85	72	562	2,906	20
Arkansas.....	15	100	62	450	3,169	20
California...	30	104	69	750	3,308	
Colorado.....	25	116	83	750	11,961	
Connecticut....	¹ 20	¹ 174	76	600	4,640	
Delaware.....	20	125	76	720	4,500	
District of Columbia.....	¹ 14	148	96	450	5,069	20
Florida.....	10	82	63	400	3,240	20
Georgia.....	27	⁴ 90	65	972	3,240	20
Hawaii.....	5	120	82	150	3,600	14
Idaho.....	17	99	68	520	3,185	20
Illinois.....	15	¹ 135	90	1,000	3,168	20
Indiana.....	35	115	64	500	2,850	20
Iowa.....	20	116	83	600	2,410	20
Kansas.....	25	101	67	750	3,030	20
Kentucky.....	12	87	66	344	2,736	20
Louisiana.....	10	90	65	300	2,700	
Maine.....	17	119	60	900	1,977	20
Maryland.....	¹ 13	89	73	360	3,168	20
Massachusetts..	¹ 20	¹ 162	75	1,200	4,186	
Michigan.....	¹ 18	¹ 136	92	350	3,150	14
Minnesota.....	18	113	76	648	4,050	18
Mississippi.....	10	80	49	360	2,880	20
Missouri.....	15	85	72	450	2,550	20
Montana.....	12	97	63	455	3,769	20
Nebraska.....	12	80	67	600	2,100	20
Nevada.....	16	94	72	528	3,488	
New Hampshire..	14	95	64	600	7,800	20
New Jersey.....	20	104	77	600	4,080	20
New Mexico.....	17	83	58	521	2,731	
New York.....	20	95	74	600	3,780	20
North Carolina..	15	105	62	565	4,076	20
North Dakota....	15	107	62	600	4,280	20

TABLE 4.—WEEKLY STATE UNEMPLOYMENT COMPENSATION BENEFITS FOR TOTAL UNEMPLOYMENT—Continued

State	Weekly benefit amount ¹			Required total earnings in base year ²		Minimum work in base year (weeks) ³
	Minimum	Maximum	Average (fiscal year 1976)	For minimum benefit	For maximum benefit	
Ohio.....	¹ \$16	¹ \$161	\$81	\$400	\$6,401	20
Oklahoma.....	16	93	58	500	3,588	20
Oregon.....	28	102	67	700	8,120	18
Pennsylvania....	¹ 18	¹ 141	85	440	5,240	20
Rhode Island....	¹ 31	120	71	920	3,620	20
South Carolina..	10	103	62	300	3,978	20
South Dakota....	19	89	63	590	2,826	20
Tennessee.....	14	85	60	504	3,060	20
Texas.....	15	63	54	500	2,325	20
Utah.....	10	110	72	700	2,954	19
Vermont.....	15	96	68	600	3,820	20
Virginia.....	20	103	67	720	3,708	20
Washington.....	17	102	74	1,550	2,619	⁴ 16
West Virginia....	14	128	59	700	13,250	
Wisconsin.....	23	126	81	748	4,600	16
Wyoming.....	10	95	69	800	2,350	20
Puerto Rico.....	7	60	42	150	1,800	20

¹ Amounts include dependents' allowances in 11 States which provide such allowances (in the case of minimum benefits the table assumes 1 dependent).

For a worker with no dependents the maximum weekly benefits in these States are: Alaska: \$90; Connecticut: \$110; Illinois: \$106; Indiana: \$69; Massachusetts: \$101; Michigan: \$97; Ohio: \$95; Pennsylvania: \$125; and Rhode Island: \$100.

² In some States larger total earnings may be required in order for the benefits to be paid for the maximum number of weeks. See table 3.

³ Number of weeks of work in base year required to qualify for minimum benefits. "20" denotes that State directly or indirectly requires work in at least 2 quarters of the base year.

⁴ Alternative requirement is 600 hours of employment.

Note: Data in table correct as of February 1977.

III. BUDGETARY IMPACT OF THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970 and section 308 of the Congressional Budget Act of 1974, the following statements are made relative to the budgetary impact of the bill. According to the estimates furnished to the committee by the Department of Labor, the bill would result in additional benefit payments of \$470 million in fiscal year 1977 and \$120 million in fiscal year 1978. The fiscal year 1977 costs of the bill are consistent

with the allocation report of this committee in connection with the Third Concurrent Resolution on the Budget for fiscal year 1977. The provision of the bill relating to deferral of State loans has no determinable effect on revenues. To the extent that a State qualifies for a deferral by reason of improving the financing of the State program, any revenue loss attributable to the nonimposition of the automatic Federal tax increases should be offset by the increased revenues generated as a result of the changes made by the State. The revenue impact of the provision for general revenue financing of emergency benefits during the remainder of calendar year 1977 will not take place until more than 5 years in the future. The bill will not result in budget authority or outlays constituting financial assistance to State or local governments.

The following estimate of the cost of the bill was prepared by the Congressional Budget Office:

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 4800 (Senate Version).

2. Bill title: Emergency Unemployment Compensation Extension Act of 1977.

Bill purpose: This bill is designed to achieve the following objectives:

(A) Extends the Federal Supplemental Benefits (FSB) program through September 30, 1977; however, claims filed by then can continue to be paid through December 31, 1977;

(B) Limits to 13 the maximum number of additional weeks of unemployment compensation payable to unemployed workers who exhaust regular and extended benefits in States with insured unemployment rates of 5 percent or higher; and reduces from 26 to 13 weeks the minimum period of time for which an FSB benefit would be in effect;

(C) Requires FSB claimants to "actively engage in seeking work" although claimants are not required to take a job that pays a lower gross wage than the individual's unemployment compensation;

(D) Provides for Federal general revenue financing of FSB paid after March 31, 1977; and

(E) Delays for two additional years, until January 1, 1980, the provisions in Federal law which provide for the automatic recoupment of outstanding Federal unemployment insurance loans to States.

4. Cost estimate: (dollars in millions):

	Fiscal year—	
	1977	1978
FSB program costs	492	192
Work provision offset	4	2
Total	488	190

5. Basis for estimate: The costs associated with the FSB extension are extremely difficult to estimate. The rather short period of time that the program has been in effect, combined with the lack of reliable historical States unemployment data, all make estimates of the FSB program a complex task.

State extension

The major costs of the bill are the extension of unemployment compensation to States with insured unemployment rates of 5 percent or more who can obtain a maximum of 13 additional weeks of benefits under this extension. To estimate unemployment costs, CBO has developed a series of multiple regression equations which functionally relate the caseloads of the Regular, Extended Benefit (EB), and FSB programs to a series of independent variables.^a For this estimate, the FSB program caseload was functionally related to the EB program caseload as Equation (1) illustrates:

$$(1) \text{ Log FSB}_m = 3.16476 + .5510212 \times \text{Log EB}_{m-3}$$

where:

Log FSB_m = Log FSB monthly caseload

Log EB_{m-3} = Log EB monthly caseload lagged three months

R² = .82

D.W. = 1.85

S.E. = .09543

Unemployed workers in most States who have exhausted their benefits and are still unemployed move to the FSB program, and as a result, the FSB program is related on a lag basis to the EB program. The average weekly benefit is projected by increasing the most current actual FSB benefit amount by the same percentage increase as that associated with the regular program weekly benefit. The regular program weekly benefit is projected through a regression equation which functionally relates the average weekly benefit to the consumer price index. The results of this statistical analysis predict the total costs of FSB if all States were participating in the program. However, adjustments have to be made to account for States which will trigger off FSB (go below the 5 percent insured rate) and the reduction in benefit weeks from 26 to 13.^b Accounting for these latter two factors, costs are reduced to \$502 million for the second half of fiscal year 1977 and \$196 million for the first quarter of fiscal year 1978.

In addition, the reduction in the maximum duration a State can be triggered on to FSB (from 26 to 13) will result in some marginal cost savings. The Department of Labor has estimated that a small number of States which have relatively small FSB caseloads will be affected by this provision.^c

^a For a more detailed discussion, see "Estimating Outlays for Unemployment Compensation Programs", CBO Technical Analysis Paper No. 1, October 27, 1976.

^b For more detail, see "Estimating Outlays for Unemployment Compensation Programs", *Ibid.*, pp. 17-20, as well as *Extending and Modifying the Federal Supplemental Benefits and Special Unemployment Assistance Programs*, "The Cost Estimates of Various Bills", Hearings Before the Subcommittee on Unemployment Compensation of the Committee on Ways and Means, House of Representatives, 94th Congress, April 28-30, 1976, pp. 10-18.

^c Among the States affected are Arizona, Maryland, Minnesota, North Dakota, Utah, and Wisconsin.

The Department of Labor's savings factor of 2 percent was used for this estimate. The FSB program costs in fiscal year 1977 are then reduced to \$192 million and \$192 million in fiscal year 1978.

Work provision

This provision requires FSB claimants to actively engage in seeking work in order to receive FSB. For this provision, CBO accepted the midpoint of the Department of Labor estimated range of savings which comes to \$4 million in savings in fiscal year 1977 and \$2 million for the first quarter of fiscal year 1978.

6. Estimate comparison: The marginal differences between the CBO and Department of Labor cost estimates for fiscal year 1977 are due to differing estimating methodologies for predicting FSB caseloads.

[In millions of dollars]

	Fiscal year—	
	1977	1978
CBO.....	488	190
DOL.....	486-484	(¹)

¹ Not available.

7. Previous CBO estimate: H.R. 4800 on March 15, 1977 for the House Ways and Means Committee. The House bill was estimated to be higher by \$100 million in fiscal year 1977 and \$336 million in fiscal year 1978. The House FSB extension is more costly than the Senate version because it: (1) includes area triggers; (2) extends FSB for 1 year from March 31, 1977 to March 31, 1978; and (3) has the State trigger for FSB on for a maximum of 26 weeks as compared to the Senate maximum of 13 weeks.

8. Estimate prepared by Robert F. Black.

9. Estimate approved by James L. Blum, Assistant Director for Budget Analysis.

IV. VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote by the committee to report the bill. The bill was ordered reported by the following rollcall vote: In favor: 13 (Senators Long, Talmadge, Ribicoff, Byrd, Nelson, Bentsen, Hathaway, Haskell, Matsunaga, Moynihan, Dole, Roth, and Danforth). Opposed: 3 (Senators Curtis, Hansen, and Laxalt).

V. REGULATORY IMPACT

In accordance with paragraph 5 of rule XXIX of the Standing Rules of the Senate, the following statement of the regulatory impact of the bill is made.

The basic purpose of the bill is to continue in effect the existing emergency unemployment compensation. The regulations continuing the program should be little more than a notice to the 50 States, Puerto Rico, and the District of Columbia that the program is to be continued for an additional 9 months. In addition, the bill will require the States to be more diligent in evaluation of the circumstances under which an individual may refuse a job offer and continue to receive emergency unemployment compensation. As a result, additional regulations may be needed informing the States, Puerto Rico, and the District of Columbia of the actions they will need to take. This, however, will require no additional recordkeeping by individual employers. Any additional reports required by individual employers as to whether individuals refused job offers will depend on the number, if any, of additional job referrals and whether the States now enforce the similar requirements in State law.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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 *italics*, existing law in which no change is proposed is shown in *roman*):

Emergency Unemployment Compensation Act of 1974, as Amended

Short Title

Section 101. This Act may be cited as the "Emergency Unemployment Compensation Act of 1974".

Federal-State Agreements

Sec. 102. (a) Any State, the State unemployment compensation law of which is approved by the Secretary of Labor (hereinafter in this Act referred to as the "Secretary") under section 3304 of the Internal Revenue Code of 1954 which desires to do so, may enter into and participate in an agreement with the Secretary under this Act, if such State law contains (as of the date such agreement is entered into) a requirement that extended compensation be payable thereunder as provided by the Federal-State Extended Unemployment Compensation Act of 1970. Any State which is a party to an agreement under this Act may, upon providing thirty days' written notice to the Secretary, terminate such agreement.

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

(1) to individuals who—

(A) (i) have exhausted all rights to regular compensation under the State law;

(ii) have exhausted all rights to extended compensation, or are not entitled thereto, because of the ending of their eligibility period for extended compensation, in such State;

(B) have no rights to compensation (including both regular compensation and extended compensation) with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law; and

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada,

(2) for any week of unemployment which—

(A) begins in—

(i) an emergency benefit period (as defined in subsection (c) (3)), and

(ii) the individual's period of eligibility (as defined in section 105(2)); or

(B) begins in an individual's additional eligibility period (as defined in section 105(4)) **[.]**; *except that no payment of emergency compensation shall be made to any individual for any week of unemployment which begins more than two years after the end of the benefit year for which he exhausted his rights to regular compensation.*

(c) (1) For purposes of subsection (b) (1) (A), an individual shall be deemed to have exhausted his rights to regular compensation under a State law when—

(A) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period; or

(B) his rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(2) For purposes of subsection (b) (1) (B), an individual shall be deemed to have exhausted his rights to extended compensation under a State law when no payments of extended compensation under a State law can be made under such law because such individual has received all the extended compensation available to him from his extended compensation account (as established under State law in accordance with section 202(b)(1) of the Federal-State Extended Unemployment Compensation Act of 1970).

(3) (A) (i) For purposes of subsection (b) (2) (A), in the case of any State, an emergency benefit period—

(I) shall begin with the third week after a week for which there is a State "emergency on" indicator; and

(II) shall end with the third week after the first week for which there is a State "emergency off" indicator.

(ii) In the case of any State, no emergency benefit period shall last for a period of less than [26] 13 consecutive weeks, and no emergency benefit period which began prior to January 1, 1976, shall end prior to such date.

(iii) When a determination has been made that an emergency benefit period is beginning or ending with respect to any State, the Secretary shall cause notice of such determination to be published in the Federal Register.

(B) (i) For purposes of subparagraph (A), there is a State "emergency on" indicator for a week if (I) there is a State or National "on" indicator for such week (as determined under subsections (d) and (e) of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970), and (II) the rate of insured unemployment in such State for the period consisting of such week and the immediately preceding twelve weeks equaled or exceeded 5 per centum.

(ii) For purposes of subparagraph (A), there is a State "emergency off" indicator for a week if the rate of insured unemployment in such State for the period consisting of such week and the immediately preceding twelve weeks is less than 5 per centum.

(d) For purposes of any agreement under this Act—

(1) the amount of the emergency compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to him during his benefit year under the State law; and

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall (except where inconsistent with the provisions of this Act or regulations of the Secretary promulgated to carry out this Act) apply to claims for emergency compensation and the payment thereof.

(e) (1) Any agreement under this Act with a State shall provide that the State will establish, for each eligible individual who files an application for emergency compensation, an emergency compensation account.

(2) Subject to the provisions of paragraph (3), the amount established in such account for any individual shall be equal to the lesser of—

(A) 100 per centum of the total amount of regular compensation (including dependents' allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation, or

(B) twenty-six times his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year.

(3) Notwithstanding paragraph (2), the total amount of emergency compensation payable to any individual for weeks of unemployment which begin in a 5-per centum period (as defined in section 105(5)), or which end after March 31, 1977, shall not exceed the lesser of—

(A) 50 per centum of the total amount of regular compensation (including dependents' allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation, or

(B) thirteen times his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year.

(4) The amounts determined under paragraphs (2) and (3) with respect to any individual shall each be reduced by the amount of any assistance paid to such individual under title II of the Emergency Jobs and Unemployment Assistance Act of 1974 for any weeks of unemployment in the 65-week period preceding the first week of unemployment with respect to which compensation is payable to such individual under this Act.

(f) (1) No emergency compensation shall be payable to any individual under an agreement entered into under this Act for any week beginning before whichever of the following is the latest:

(A) the first week which begins after December 31, 1974,

(B) the week following the week in which such agreement is entered into, or

(C) the first week which begins after the date of the enactment of this Act.

(2) No emergency compensation shall be payable to any individual under an agreement entered into under this Act [for any week ending after March 31, 1977.]—

(A) for any week ending after September 30, 1977, or

(B) in the case of an individual who (for a week ending before September 30, 1977) had a week with respect to which emergency compensation was payable under such agreement, for any week ending after December 31, 1977.

[(g) Notwithstanding the preceding provisions of this section, emergency compensation shall not be payable for any week to an individual who is not a participant in a training program which is approved by the Secretary if—

[(1) the State determines that there is a need for upgrading or broadening such individual's occupational skills and a program which is approved by the Secretary for such upgrading or broadening is available within a reasonable distance and without charge to the individual for tuition or fees, and

[(2) such individual is not an applicant to participate in such a program.]

(g) (1) Notwithstanding the preceding provisions of this section, emergency compensation shall not be payable to an individual for any week—

(A) during which he is not a participant in a training program which is approved by the Secretary if—

(i) the State determines that there is a need for upgrading or broadening such individual's occupational skills and a program which is approved by the Secretary for such upgrading or broadening is available within a reasonable distance and without charge to the individual for tuition or fees, and

- (ii) such individual is not an applicant to participate in such a program;
- (B) after the first week (in the individual's period of eligibility) during which such individual failed or refused without good cause, to apply for available employment within his capabilities or to accept any bona fide offer of employment; or
- (C) during which he fails to actively engage in seeking work.
- (2) For purposes of paragraph (1)(B), failure or refusal of an individual to accept employment shall be considered to be with good cause only if—
- (A) the position offered is vacant due directly to a strike, lock-out, or other labor dispute;
- (B) 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) 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;
- (D) the worksite of such position is located at an unreasonably great distance from such individual's residence;
- (E) such position involves an unacceptably high risk to the health, safety, or morals of the individual;
- (F) at the time such individual fails or refuses to accept such position, he is a participant in a training program approved by the Secretary or approved by the State agency; or
- (G) the gross average weekly remuneration payable to such individual for the position does not exceed the individual's average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year.
- (3) For purposes of paragraph (1)(C), an individual shall be treated as actively engaged in seeking work during any week if—
- (A) the individual has engaged in a systematic and sustained effort to obtain work during such week, and
- (B) the individual provides tangible evidence to the State agency that he has engaged in such an effort during such week.
- (h) Any agreement under subsection (a) shall provide that, in the administration of this Act, States shall make provision for referring applicants for benefits under this Act to any available employment opportunities within their capabilities which are not positions of the type specified in paragraph (2) of subsection (g).

Payments to States Having Agreements for the Payment of Emergency Compensation

Sec. 103. (a) There shall be paid to each State which has entered into an agreement under this Act an amount equal to 100 per centum of the emergency compensation paid to individuals by the State pursuant to such agreement.

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

(c) Sums payable to any State by reason of such State's having an agreement under this Act shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this Act for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which would have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

Financing Provisions

Sec. 104. (a) (1) Funds in the extended unemployment compensation account (as established by section 905 of the Social Security Act) of the Unemployment Trust Fund shall be used for the making of payments to States having agreements entered into under this Act.

(2) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this Act. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as established by section 905 of the Social Security Act) to the account of such State in the Unemployment Trust Fund.

(b) There are hereby authorized to be appropriated, without fiscal year limitation, to the extended unemployment compensation account, [as repayable advances (without interest),] such sums as may be necessary to carry out the purposes of this Act. Amounts appropriated [as repayable advances] and paid to the States under section 103 *with respect to weeks of unemployment ending prior to April 1, 1977*, shall be repaid, without interest, as provided in section 905 (d) of the Social Security Act.

Definitions

Sec. 105. For purposes of this Act—

(1) the terms "compensation", "regular compensation", "extended compensation", "base period", "benefit year", "State", "State agency", "State law", and "week" shall have the meanings assigned to them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970;

(2) the term "period of eligibility" means, in the case of any individual, the weeks in his benefit year which begin in an extended benefit period or an emergency benefit period, and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such extended benefit period or in such emergency benefit period;

(3) the term "extended benefit period" shall have the meaning assigned to such term under section 203 of the Federal-State Extended Unemployment Compensation Act of 1970;

(4) the term "additional eligibility period" means the thirteen-week period following the week in which an emergency benefit period ends in a State, as determined under section 102(c) (3); but no individual shall have an additional eligibility period unless

there was payable to him in such State, for the week in which such emergency benefit period ended, either emergency compensation under this Act or extended compensation under the Federal-State Extended Unemployment Compensation Act of 1970;

(5) the term "5-per centum period" means a period in a State which begins with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such first week and the immediately preceding twelve weeks is less than 6 per centum and which ends with the second week after the first week in which the rate of insured unemployment in the State for the period consisting of such first week and the immediately preceding twelve weeks equals or exceeds 6 per centum; except that no 5-per centum period shall begin in any State prior to the fourteenth week after the last week in a preceding 5-per centum period in such State;

(6) the term "rate of insured unemployment" means the percentage arrived at by dividing the average weekly number of individuals filing claims for weeks of unemployment with respect to the specified period (as determined on the basis of the reports made by the State agency to the Secretary) by the average monthly covered employment for the specified period;

(7) the rate of insured unemployment for any thirteen-week period shall be determined by reference to the average monthly covered employment under the State law for the first four of the most recent six calendar quarters ending before the close of such period; and

(8) determinations with respect to the rate of insured unemployment in a State shall be made by the State agency in accordance with regulations prescribed by the Secretary.

For purposes of any State law which refers to an extension under Federal law of the duration of benefits under the Federal-State Extended Unemployment Compensation Act of 1970, this Act shall be treated as amendatory of such Act.

Extension of Waiver of 120-Percent Requirement for Purposes of Extended Compensation Program

Sec. 106. The last sentence of section 203(e) (2) of the Federal-State Extended Unemployment Compensation Act of 1970, as amended, is amended by striking out "April 30, 1975" and inserting in lieu thereof "December 31, 1976".

Temporary Reduction in National Trigger

Sec. 107. Section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new sentence: "Effective with respect to compensation for weeks of unemployment beginning before December 31, 1976, and beginning after December 31, 1974 (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a national 'on' or 'off' indicator beginning or ending any extended benefit period shall be made under this subsection as if the phrase '4.5 per centum', contained in paragraphs (1) and (2), read '4 per centum'."

Provision for Financing Temporary Reduction in National Trigger

Sec. 108. Section 204(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new paragraph:

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

Recovery of Overpayments

Sec. 109. (a) *If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of emergency compensation under this Act to which he was not entitled, such individual—*

(1) shall be ineligible for further emergency compensation under this Act in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) (1) In the case of individuals who have received amounts of emergency compensation under this Act to which they were not entitled, the State is authorized to require such individuals to repay the amounts of such emergency compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(A) the payment of such emergency compensation was without fault on the part of any such individual, and

(B) such repayment would be contrary to equity and good conscience.

(2) The State agency may recover the amount to be repaid, or any part thereof, by deductions from any emergency compensation payable to such individual under this Act or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the three-year period after the date such individuals received the payment of the emergency compensation to which they were not entitled, except that no single deduction may exceed 50 per centum of the weekly benefit amount from which such deduction is made.

(3) *No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.*

(c) *Any determination by a State agency under subsection (a) or (b) shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.*

INTERNAL REVENUE CODE OF 1954

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Subtitle C—Employment Taxes

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CHAPTER 23—FEDERAL UNEMPLOYMENT TAX ACT

* * * * *

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 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 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 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, 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) (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 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 of 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 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.

The provisions of the preceding sentence shall not be applicable with respect to the taxable year beginning January 1, 1975, or any succeeding taxable year which begins before January 1, [1978] 1980, and, for purposes of such sentence, January 1, [1978] 1980, shall be deemed to be the first January 1 occurring after January 1, 1974, and consecutive taxable years in the period commencing January 1, [1978] 1980, shall be determined as if the taxable year which begins on January 1, [1978] 1980, were the taxable year immediately succeeding the taxable year which began on January 1, 1974.

(3) If the Secretary of Labor determines that a State, or State agency, has not—

(A) entered into the agreement described in section 239 of the Trade Act of 1974, with the Secretary of Labor before July 1, 1975, or

(B) fulfilled its commitments under an agreement with the Secretary of Labor as described in section 239 of the Trade Act of 1974,

then, in the case of a taxpayer subject to the unemployment compensation law of such State, the total credits (after applying subsections (a) and (b) and paragraphs (1) and (2) of this section) otherwise allowable under this section for a year during which such State or agency does not enter into or fulfill such an agreement shall be reduced by 15 percent of the tax imposed with respect to wages paid by such taxpayer during such year which are attributable to such State.

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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 of the Treasury to the credit of the Unemployment Trust Fund established by section 904 of the Social Security Act (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 3309(a)(1) applies, in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to such law except that—

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

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

(iii) *with respect to any services described in clause (i) or (ii), compensation payable on the basis of such services may, if the State law so provides, be denied to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period prior to such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period following such vacation period or holiday recess, and*

(iv) *with respect to services performed by substitute teachers in an instructional, research, or principal administrative capacity for an educational institution to which section 3309 (a) (1) applies, compensation payable on the basis of such services may be denied to any individual who is paid on a per diem basis and is employed for less than 45 days in a base period (as defined by State law), and*

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

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

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

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

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

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

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

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

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

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

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

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

(15) the amount of compensation payable to an individual for any week which begins after September 30, 1979, and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar period is payment which is based on the previous work of such individual shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment, which is reasonably attributable to such week;

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

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SEC. 3309. STATE LAW COVERAGE OF SERVICES PERFORMED FOR NONPROFIT ORGANIZATIONS OR GOVERNMENTAL ENTITIES.

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

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

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

(B) service excluded from the term "employment" solely by reason of paragraph (7) of section 3306(c); and

(2) the State law shall provide that a governmental entity or any other organization [or group of organizations] or group of governmental entities or other organizations which, but for the requirements of this paragraph, would be liable for contributions with respect to service to which paragraph (1) 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 governmental entities or other organizations so electing will make the payments required under such elections.

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UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976

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TITLE I—EXTENSION OF COVERAGE PROVISIONS

PART I—GENERAL PROVISIONS

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SEC. 115. COVERAGE OF CERTAIN SERVICE PERFORMED FOR NON-PROFIT ORGANIZATIONS AND FOR STATE AND LOCAL GOVERNMENTS.

(a) GENERAL RULE.— * * *

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[(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to certifications of States for 1978 and subsequent years, but only with respect to services performed after December 31, 1977.]

(d) Effective Date.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply with respect to certifications of States for 1978 and subsequent years; except that—

(A) the amendments made by subsections (a) and (b) shall only apply with respect to services performed after December 31, 1977; and

(B) the amendments made by subsection (c) shall only apply with respect to weeks of unemployment which begin after December 31, 1977.

(2) In the case of any State the legislature of which does not meet in a regular session which closes during the calendar year 1977, the amendments made by subsection (c) shall only apply with respect to weeks of unemployment which begin after December 31, 1978 (or if earlier, the date provided by State law).

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TITLE III—BENEFIT PROVISIONS

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SEC. 312. PREGNANCY DISQUALIFICATIONS.

(a) GENERAL RULE.—* * *

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[(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to certifications of States for 1978 and subsequent years.]

(c) *Effective Date.*—

(1) *Except as provided in paragraph (2), the amendments made by this section shall apply with respect to certifications of States for 1978 and subsequent years.*

(2) *In the case of any State the legislature of which does not meet in a regular session which closes during the calendar year 1977, the amendments made by this section shall apply with respect to the certification of such State for 1979 and subsequent years.*

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TITLE IV—NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

SEC. 411. NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION.

(a) ESTABLISHMENT OF COMMISSION.—* * *

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(f) INTERIM REPORT.—The Commission shall transmit to the Congress not later than [March 31] *September 30*, 1978, an interim report.

(g) FINAL REPORT.—The Commission shall transmit to the President and the Congress not later than [January 1] *July 1*, 1979, a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable.

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TITLE V—MISCELLANEOUS PROVISIONS

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

(a) IN GENERAL.—* * *

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[(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to certifications of States for 1978 and subsequent years, but only with respect to services performed after December 31, 1977.]

(c) *EFFECTIVE DATE.*—

(1) *Except as provided in paragraph (2), the amendments made by this section shall apply with respect to certifications of States for 1978 and subsequent years, but only with respect to services performed after December 31, 1977.*

(2) *In the case of any State the legislature of which does not meet in a regular session which closes during the calendar year 1977, the amendments made by this section shall apply with respect to the certification of such State for 1979 and subsequent years, but only with respect to services performed after December 31, 1978.*

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