

REDUCTION OF TEMPORARY ADDITIONAL FEDERAL UNEMPLOYMENT TAX AND AUTHORIZATION OF EM- PLOYMENT SECURITY ADMINISTRATIVE EXPENSES

MAY 9, 1963.—Ordered to be printed

Mr. BYRD of Virginia, from the Committee on Finance,
submitted the following

REPORT

[To accompany H.R. 4655]

The Committee on Finance, to whom was referred the bill (H.R. 4655) to amend title IX of the Social Security Act with respect to the amount authorized to be made available to the States out of the employment security administration account for certain administrative expenses, to reduce the rate of the Federal unemployment tax for the calendar year 1963, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

At the end of the bill insert the following:

SEC. 4. Notwithstanding section 901(c)(1)(A) of the Social Security Act, the limitation on the amount authorized to be made available for the fiscal year ending June 30, 1963, for the purposes specified in such section 901(c)(1)(A) is hereby increased to \$407,148,000.

I. SUMMARY

The bill, as amended by the committee, makes four changes involving the unemployment compensation system:

1. The bill reduces the extra Federal unemployment tax attributable to the Temporary Extended Unemployment Compensation Act of 1961, from 0.4 to 0.25 percent with respect to wages paid in 1963. This will make the combined net Federal unemployment tax for 1963 wages 0.65 percent (apart from any reduced credit provisions that might apply in particular States).

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2. The bill substitutes for the \$350 million limitation on grants to the States to cover the administrative costs of unemployment compensation and the employment service, a flexible ceiling of 95 percent of the estimated receipts under the regular 0.4 percent net Federal unemployment tax. Applied to fiscal year 1964, this ceiling will be about \$460 million.

3. The bill extends from 5 to 10 years the period during which States may obligate, for administrative purposes, certain funds transferred from excess Federal tax collections.

4. The committee amendment increases the ceiling on amounts which may be granted to States for administrative expenses for fiscal year ending June 30, 1963, from \$400 million to \$407,148,000. The administration has indicated that it has no objection to the provisions of the bill.

II. GENERAL EXPLANATION

A. *Reduction in the rate of unemployment tax on 1963 wages*

Under the Temporary Extended Unemployment Compensation Act of 1961, a program of extended unemployment benefits was provided to deal with the heavy unemployment occurring in 1961 and early 1962. These benefits were paid from general funds of the Federal Treasury. In that act, it was provided that the net Federal unemployment tax of 0.4 percent would be increased to 0.8 percent on 1962 wages and 1963 wages. (This net tax is the amount of the Federal unemployment tax, after the application of the unreduced credits.)

The extra 0.4 percent tax imposed in these 2 years under the 1961 act is to be returned to the general funds of the Treasury to the extent of advances made for payment of benefits under the Temporary Extended Unemployment Compensation Act of 1961.

At the present time, it appears reasonably certain that the amount of tax collected by a 0.4 percent additional rate on 1963 wages when added to the extra tax collected on 1962 wages will be considerably in excess of the amount spent in extended benefits in 1961 and 1962. Your committee, like the House, considers it desirable to reduce the extra tax collection. Under the bill, the extra tax imposed on employers with respect to 1963 wages is reduced from 0.4 to 0.25 percent, making the combined net rate 0.65 percent. This tax on 1963 wages is payable by the end of January 1964.

The Department of Labor has estimated that in the absence of this legislation, the proceeds of extra tax in excess of the amount spent for extended benefits in 1961 and 1962 would be \$174 million. The net tax reduction occasioned by reducing the extra rate from 0.4 to 0.25 percent for 1963 wages will be approximately \$182 million, depending upon the exact level of taxable wages during 1963. Whatever the actual amount of collections on 1963 wages may be, it is contemplated that no additional tax will be imposed on wages for 1964 or subsequent years to repay advances involved under the Temporary Extended Unemployment Compensation Act of 1961.

This provision will not have any effect on the reduced credits on employers in particular States that might be occasioned by the necessity of restoring moneys made available under the Temporary Unemployment Compensation Act of 1958 or under title XII of the Social Security Act, the so-called Reed loan fund. Under the provisions of present law, the effective Federal unemployment tax in a number of States can rise over the next several years because of reduced credits arising out of unrestored funds. Table 1 shows the Federal unemployment tax rate that will apply in each State under the bill and assuming no changes in present law regarding reduced credits related to restorable amounts under temporary extended unemployment compensation and title XII.

TABLE 1.—Federal unemployment tax rates—Present law (after credits and assuming no restoration of 1958 temporary unemployment compensation or title XII amounts by States)

(In percent)

	1963 wages, payable January 1964				1964 wages, payable January 1965				1965 wages, payable January 1966				1966 wages, payable January 1967				
	Basic	TEUC, 1961	TUC, 1958	Title XII	Total	Basic	TUC, 1958	Title XII	Total	Basic	TUC, 1958	Title XII	Total	Basic	TUC, 1958	Title XII	Total
Alabama	0.4	0.25	0.15		0.8	0.4	0.3		0.7	0.4	0.45		0.85	0.4			0.4
Alaska	.4	.25	.15	0.45	1.25	.4	.3	0.6	1.3	.4	.45	0.75	1.6	.4		0.9	1.3
Arizona	.4	.25			.65	.4			.4	.4			.4	.4			.4
Arkansas	.4	.25	.15		.8	.4	.3		.7	.4			.4	.4			.4
California	.4	.25	.15		.8	.4	.3		.7	.4			.4	.4			.4
Colorado	.4	.25			.65	.4			.4	.4			.4	.4			.4
Connecticut	.4	.25			.65	.4			.4	.4			.4	.4			.4
Delaware	.4	.25	.15		.8	.4	.3		.7	.4			.4	.4			.4
District of Columbia	.4	.25			.65	.4			.4	.4			.4	.4			.4
Florida	.4	.25			.65	.4			.4	.4			.4	.4			.4
Georgia	.4	.25			.65	.4			.4	.4			.4	.4			.4
Hawaii	.4	.25			.65	.4			.4	.4			.4	.4			.4
Idaho	.4	.25			.65	.4			.4	.4			.4	.4			.4
Illinois	.4	.25			.65	.4			.4	.4			.4	.4			.4
Indiana	.4	.25	.15		.8	.4	.3		.7	.4	.45		.85	.4			.4
Iowa	.4	.25			.65	.4			.4	.4			.4	.4			.4
Kansas	.4	.25			.65	.4			.4	.4			.4	.4			.4
Kentucky	.4	.25			.65	.4			.4	.4			.4	.4			.4
Louisiana	.4	.25			.65	.4			.4	.4			.4	.4			.4
Maine	.4	.25			.65	.4			.4	.4			.4	.4			.4
Maryland	.4	.25	.15		.8	.4	.3		.7	.4	.45		.85	.4			.4
Massachusetts	.4	.25	.15		.8	.4	.3		.7	.4	.45		.85	.4			.4
Michigan	.4	.25	.15	.3	1.1	.4	.3	.45	1.15	.4	.45	.6	1.45	.4	0.6	.75	1.75
Minnesota	.4	.25	.15		.8	.4	.3		.7	.4			.4	.4			.4
Mississippi	.4	.25			.65	.4			.4	.4			.4	.4			.4
Missouri	.4	.25			.65	.4			.4	.4			.4	.4			.4
Montana	.4	.25			.65	.4			.4	.4			.4	.4			.4
Nebraska	.4	.25			.65	.4			.4	.4			.4	.4			.4
Nevada	.4	.25	.15		.8	.4	.3		.7	.4			.4	.4			.4
New Hampshire	.4	.25			.65	.4			.4	.4			.4	.4			.4
New Jersey	.4	.25	.15		.8	.4	.3		.7	.4	.45		.85	.4			.4
New Mexico	.4	.25			.65	.4			.4	.4			.4	.4			.4
New York	.4	.25	.15		.8	.4	.3		.7	.4	.45		.85	.4			.4

North Carolina	.4	.25		.65	.4			.4	.4			.4	.4			.4
North Dakota	.4	.25		.65	.4			.4	.4			.4	.4			.4
Ohio	.4	.25		.65	.4			.4	.4			.4	.4			.4
Oklahoma	.4	.25		.65	.4			.4	.4			.4	.4			.4
Oregon	.4	.25		.65	.4			.4	.4			.4	.4			.4
Pennsylvania	.4	.25	.15	.95	.4	.3	.3	1.0	.4	.45	.45	1.3	.4	.6		³ 1.0
Puerto Rico	.4	.25		.65	.4			.4	.4			.4	.4			.4
Rhode Island	.4	.25	.15	.8	.4	.3		.7	.4	.45		.85	.4	.6		1.0
South Carolina	.4	.25		.65	.4			.4	.4			.4	.4			.4
South Dakota	.4	.25		.65	.4			.4	.4			.4	.4			.4
Tennessee	.4	.25		.65	.4			.4	.4			.4	.4			.4
Texas	.4	.25		.65	.4			.4	.4			.4	.4			.4
Utah	.4	.25		.65	.4			.4	.4			.4	.4			.4
Vermont	.4	.25		.65	.4			.4	.4			.4	.4			.4
Virginia	.4	.25		.65	.4			.4	.4			.4	.4			.4
Washington	.4	.25		.65	.4			.4	.4			.4	.4			.4
West Virginia	.4	.25	.15	.8	.4	.3		.7	.4	.45		.85	.4	.6		1.0
Wisconsin	.4	.25		.65	.4			.4	.4			.4	.4			.4
Wyoming	.4	.25		.65	.4			.4	.4			.4	.4			.4

¹ Title XII repayment rate will increase by 0.15 percent each year through taxable year 1970 when the rate will be 1.9 percent.

³ Pennsylvania and Michigan rates for taxable years following 1966 will be only the basic 0.4 percent.

Source: U.S. Department of Labor, Bureau of Employment Security.

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B. Increased ceiling

The Social Security Act authorizes (in sec. 901(c)) appropriations from the Federal unemployment tax collections for grants to the States for the administration of their unemployment compensation laws and for the operation of employment offices. The total amount of these grants is limited in the Social Security Act to \$350 million. This ceiling was temporarily raised to \$385 million for fiscal year 1961; to \$415 million for fiscal year 1962; and to \$400 million for fiscal year 1963.

The cost of administration of unemployment compensation laws and employment services rises over time partly from increased normal workloads due to expanded coverage of employers and workers and partly from increased costs of goods and services. For example, average salary rates of State agency employees are higher as the result of increases required to keep the salaries of such employees comparable to the salaries of other State government employees.

Your committee, like the Committee on Ways and Means of the House, is concerned that every effort be made to control expenditures in this program, but it recognizes that the costs of administering these employment security programs in the States will tend to rise in relation to the growing labor force and increasing costs. For this reason, the bill contains a flexible ceiling which is related to the wage base for the Federal unemployment tax. The bill limits the amount that may be appropriated in a fiscal year to 95 percent of the amount estimated to be collected during that fiscal year under a net Federal unemployment tax rate of 0.4 percent. This is the permanent net rate under present law, apart from temporary additions or reduced credits. This 95 percent ceiling is equivalent to 0.38 percent of the wage base for purposes of the Federal unemployment tax (95 percent times 0.4 percent).

The new authorization ceiling will first be applicable to the fiscal year 1964, and for that year it will be related to an estimate made by the Secretary of the Treasury within 30 days after the enactment of this bill. In future fiscal years, the ceiling will be computed from the appropriate tax estimate shown in the Budget document.

This provision is, of course, only a ceiling. An annual appropriation is still required and this appropriation could be fixed below the ceiling depending on the actions of the appropriation committees and the Congress.

C. Committee amendment

The committee added a single amendment to the House bill. This amendment increases from \$400 million to \$407,148,000 the ceiling on amounts which may be granted to the States for the fiscal year ending June 30, 1963. The purpose of this amendment is explained in the following letter received by the committee from the Department of Labor:

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE UNDER SECRETARY,
Washington, D.C., May 8, 1963.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BYRD: In connection with your committee's consideration of H.R. 4655, a bill which would amend title IX of the Social Security Act with respect to the amount authorized to be made available to the States for employment security administration, I should like to recommend consideration of the enclosed amendment. The proposed new section of the bill would increase the limitation on State grant appropriations for fiscal year 1963 from the present \$400 million to \$407,148,000.

The additional \$7,148,000 is the amount of a supplemental budget request now before the Budget Bureau. It represents costs incurred under the contingency language in the appropriation act, which provides additional funds for increases in unemployment insurance workloads, changes in State laws, and State salary increases not foreseen at the time of the initial appropriation action. Such costs, plus the added postage resulting from the combination of increased workloads and higher postal rates, exceed the \$15 million contingency fund by \$7,148,000.

As you know, the ceiling and the appropriation for fiscal year 1963 are both fixed at \$400 million. While we do not know, of course, whether any supplemental request will be approved, or in what amount, it is desirable that there be an appropriate increase in the ceiling to accommodate the situation.

The Bureau of the Budget advises that there is no objection to this amendment.

Sincerely yours,

JOHN F. HENNING,
Under Secretary of Labor.

D. Increased period of availability of Reed fund credits

Title IX of the Social Security Act provides under certain circumstances that amounts collected from the Federal unemployment tax in excess of administrative expenses and certain fund obligations shall be transferred to State accounts. The law permits the transferred funds to be used for administrative expenses, with certain restrictions, including a requirement that the money be specifically appropriated by the State legislature and obligated within 5 years of the date on which it was credited to the State's account. As a matter of fact, these funds have been expended primarily for construction of office buildings for the employment security programs.

No excess funds have been transferred to the States under this provision since July 1, 1958, and no transfers are anticipated in the next few years. The 5-year period for obligation of the last of the funds heretofore transferred for administrative purposes ends on June 30, 1963. In the absence of legislation, the funds not obligated by that date would only be available for benefit payments. The proposed extension of the 5-year obligation period to 10 years will permit these funds to be available for the completion of building programs in a number of States.

III. CHANGES IN EXISTING LAW

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

SOCIAL SECURITY ACT

EMPLOYMENT SECURITY ADMINISTRATION ACCOUNT

Establishment of Account

SEC. 901. (a) There is hereby established in the Unemployment Trust Fund an employment security administration account.

* * * * *

Administrative Expenditures

(c)(1) There are hereby authorized to be made available for expenditure out of the employment security administration account for the fiscal year ending June 30, [1961] 1964, and for each fiscal year thereafter—

(A) such amounts (not in excess of [\$350,000,000 for any fiscal year] *the limit provided by paragraph (3)*) as the Congress may deem appropriate for the purpose of—

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

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

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

(B) such amounts as the Congress may deem appropriate for the necessary expenses of the Department of Labor for the performance of its functions under—

(i) this title and titles III and XII of this Act,

(ii) the Federal Unemployment Tax Act,

(iii) the provisions of the Act of June, 1933, as amended,

(iv) subchapter II of chapter 41 (except section 2012) of title 38 of the United States Code, and

(v) any Federal unemployment compensation law, except the Temporary Unemployment Compensation Act of 1958, as amended.

The term "necessary expenses" as used in this subparagraph (B) all include the expense of reimbursing a State for salaries and other expenses of employees of such State temporarily assigned or detailed duty with the Department of Labor and of paying such employees for travel expenses, transportation of household goods, and per diem in lieu of subsistence while away from their regular duty stations in

the State, at rates authorized by law for civilian employees of the Federal Government.

(2) The Secretary of the Treasury is directed to pay from the employment security administration account into the Treasury as miscellaneous receipts the amount estimated by him which will be expended during a three-month period by the Treasury Department for the performance of its functions under—

(A) this title and titles III and XII of this Act, including the expenses of banks for servicing unemployment benefit payment and clearing accounts which are offset by the maintenance of balances of Treasury funds with such banks,

(B) the Federal Unemployment Tax Act, and

(C) any Federal unemployment, compensation law with respect to which responsibility for administration is vested in the Secretary of Labor.

In determining the expenses taken into account under subparagraphs (B) and (C), there shall be excluded any amount attributable to the Temporary Unemployment Compensation Act of 1958, as amended. If it subsequently appears that the estimates under this paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Secretary of the Treasury in future payments.

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

(A) in the case of the fiscal year ending June 30, 1964, an amount equal to 95 percent of the amount estimated by the Secretary of the Treasury as the net receipts during such fiscal year under the Federal Unemployment Tax Act, and

(B) in the case of any fiscal year thereafter, an amount equal to 95 percent of the amount estimated and set forth in the Budget of the United States Government for such fiscal year as the net receipts during such year under the Federal Unemployment Tax Act.

Each estimate of net receipts under this paragraph shall be based on a tax rate of 0.4 percent. The Secretary of the Treasury shall report his estimate under subparagraph (A) to the Congress within 30 days after the date of the enactment of this paragraph. Such report shall be printed as a House document.

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AMOUNTS TRANSFERRED TO STATE ACCOUNTS

In General

SEC. 903. (a) * * *

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Use of Transferred Amounts

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

(2) A State may, pursuant to a specific appropriation made by the legislative body of the State, use money withdrawn from its account in the payment of expenses incurred by it for the administration of

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its unemployment compensation law and public employment offices if and only if—

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

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

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

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

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

* * * * *

FEDERAL EXTENDED COMPENSATION ACCOUNT

Establishment of Account

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

Transfers to Account

(b) The Secretary of the Treasury shall transfer (as of the close of each month in the calendar years 1963 and 1964), from the employment security administration account to the Federal extended compensation account established by subsection (a), an amount determined by him to be equal to 50 percent (*with respect to the calendar year 1963*), or $\frac{1}{2}$ (*with respect to the calendar year 1964*), of the amount by which—

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

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

If for any such month the payments referred to in paragraph (2) exceed the transfers referred to in paragraph (1), proper adjustments shall be made in the amounts subsequently transferred.

INTERNAL REVENUE CODE OF 1954

CHAPTER 23—FEDERAL UNEMPLOYMENT TAX ACT

Sec. 3301. Rate of tax.

Sec. 3302. Credits against tax.

Sec. 3303. Conditions of additional credit allowance.

Sec. 3304. Approval of State laws.

Sec. 3305. Applicability of State law.

Sec. 3306. Definitions.

Sec. 3307. Deductions as constructive payments.

Sec. 3308. Instrumentalities of the United States.

Sec. 3309. Short title.

SEC. 3301. RATE OF TAX.

There is hereby imposed on every employer (as defined in section 3306(a)) for the calendar year 1961 and for each calendar year thereafter an excise tax, with respect to having individuals in his employ, equal to 3.1 percent of the total wages (as defined in section 3306(b)) paid by him during the calendar year with respect to employment (as defined in section 3306(c)), after December 31, 1938. In the case of wages paid during the [calendar years 1962 and 1963] *calendar year 1962*, the rate of such tax shall be 3.5 percent in lieu of 3.1 percent. *In the case of wages paid during the calendar year 1963, the rate of such tax shall be 3.35 percent in lieu of 3.1 percent.*

SEC. 3302. CREDITS AGAINST TAX.

(c) LIMIT ON TOTAL CREDITS.—

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

(2) If an advance or advances have been made to the unemployment account of a State under title XII of the Social Security Act before the date of the enactment of the Employment Security Act of 1960, then the total credits (after applying subsections (a) and (b) and paragraph (1) of this subsection) otherwise allowable under this

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section for the taxable year in the case of a taxpayer subject to the unemployment compensation law of such State shall be reduced—

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

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

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

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

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

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

(i) 2.7 percent, exceeds

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

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

(i) the 5-year 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.

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

(1) RATE OF TAX DEEMED TO BE 3 PERCENT.—In applying subsection (c), the tax imposed by section 3301 shall be computed at the rate of 3 percent in lieu of [3.1 percent (or, in the case of the tax imposed with respect to the calendar years 1962 and 1963, in lieu of 3.5 percent)] *the rate provided by such section.*

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