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EMPLOYMENT SECURITY AMENDMENTS OF 1969—H.R. 14705

ISSUES AND CONSIDERATIONS

COMMITTEE ON FINANCE
UNITED STATES SENATE
RUSSELL B. LONG, *Chairman*

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About 58.0 million jobs are now covered by the unemployment compensation system; 16.7 million jobs are not covered. More than half of those not covered are in State and local governments; the bill does not affect coverage of these jobs (except for about 725,000 jobs in State universities and hospitals). The bill extends coverage to about 4.5 million jobs not now covered.

Small Firms.—Present Federal law applies only to employers who have 4 or more workers in their employ during 20 weeks of the current or preceding calendar year. H.R. 14705 would extend Federal coverage, beginning in 1972, to employers of one or more workers during the 20 weeks; any employer paying wages of at least $800 during any quarter of the current or preceding calendar year would also be covered even if he did not meet the 20-week test. This provision would extend the Federal tax for the first time to 1,258,000 employers and 2,554,000 jobs However, since many of these jobs are already covered under State laws, unemployment compensation coverage would be extended for the first time to only 1,266,000 additional workers. Sec. 101 (pp. 1–3)

Definition of Employee.—The bill would amend the definition of employee to bring it closer to the definition used in the old-age, survivors, disability, and health insurance program. Under this provision, coverage would be extended to 210,000 traveling and city salesmen, and agent and commission drivers engaged in the distribution of meats, vegetables, fruits, bakery products, beverages (other than milk), and laundry and dry cleaning services. Sec. 102 (pp. 3–4)

Agricultural Processing Workers.—In general, agricultural jobs are now excluded from the Federal unemployment compensation law. The bill would extend coverage to 190,000 maple sugar workers, workers engaged in off-the-farm mushroom growing and poultry hatching, and workers in processing plants where more than half the commodities processed are not produced by the plant operator. Sec. 103 (p. 4)

Nonprofit Organizations.—The bill would extend unemployment compensation coverage to 1,935,000 employees of nonprofit organizations. Nonprofit organizations would be required to be covered only if they employ 4 or more persons during 20 weeks in the Sec. 104 (pp. 5–12)

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current or preceding calendar year. The nonprofit organizations would have to be allowed the option of either reimbursing the State fund for unemployment insurance attributable to them or paying the regular State unemployment taxes. They would not be required to pay the Federal unemployment tax.

However, coverage would not have to be extended to the following:

Churches and religious organizations operated for a religious purpose;
Clergymen and members of religious orders;
Elementary and secondary schools;
Faculty and administrative personnel in institutions of higher education;
Clients employed in rehabilitation facilities or sheltered workshops (though staff employed in these facilities would be covered);
Individuals receiving Government assisted work-relief or work training; and
Inmates of correctional institutions employed in a hospital connected with the institution.

Sec. 104 (pp. 4–12)

State Hospitals and Institutions of Higher Education.—The bill would require States to extend coverage to 725,000 employees of State hospitals and institutions of higher education. No Federal tax would be required; the State could finance the coverage either by reimbursing actual benefit costs or through payments equivalent to taxes.

Sec. 105 (pp. 12–13)

Employment Outside the United States.—The bill would broaden the definition of employment to include work performed abroad by a U.S. citizen for an American employer. Employment in Canada would be excluded since reciprocal arrangements already exist with that country. The provision would extend coverage to 160,000 individuals. However, no worker could receive benefits except by registering at a local employment office in the United States and by reporting in person to claim unemployment benefits.

Sec. 106 (pp. 13–15)

Exclusions from Coverage.—The bill would provide three new exclusions from coverage under Federal law:

1. Service performed by spouses of students employed by a school, college or university under a program of assistance to the student;
2. Students under 22 employed in a work-study program; and
3. Services by individuals employed in hospitals in which they are also patients.

Sec. 107 (p. 15)

These services could continue to be covered under State law if the State so chooses.

Accrued Leave of Servicemen.—Under present law, an exserviceman is considered to be employed during the period for which he received accrued leave fol-

lowing the termination of his military service. The bill would repeal this provision of the Federal law, leaving it up to State law to determine how such cases would be treated.

TABLE 1.—EXTENSION OF COVERAGE UNDER HOUSE-PASSED BILL

	Covered for the first time under Federal law		Covered for the first time under State law	
	Employers	Jobs	Employers	Jobs
Small firms	1, 258, 000	2, 554, 000	627, 000	1, 266, 000
Definition of employee	(1)	360, 000	(1)	210, 000
Agricultural processing workers	(2)	205, 000	(2)	190, 000
Nonprofit organizations			18, 000	1, 935, 000
State hospitals and institutions of higher education			1, 000	725, 000
Employment outside the United States	(1)	160, 000	(1)	160, 000
Total	1, 258, 000	3, 279, 000	646, 000	4, 486, 000

[1] Nearly all the employers involved are already covered because of other employees.
[2] Not available.

Issues and Considerations

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Sec. 101 (pp. 1–3)

1. Small Firms.—The bill passed by the House in 1965 would have extended coverage to employers of one or more workers during 20 weeks of a year; any employer paying wages of at least $1,500 during one quarter would also have been covered even if he had not met the 20-week test. The purpose of this alternative test, according to the House committee report, was "to assure coverage of large-scale employing operations conducted in fewer than 20 weeks in any one calendar year." An employer would be covered under the present House-passed bill if his quarterly payroll exceeded $800, about the amount received in 3 months by one employee paid the minimum wage for full-time work.

In 1966, the Finance Committee deleted the provision requiring extension of coverage to small firms on the grounds that it would be particularly harmful to small retail merchants, many of whose employees worked only part time and could not qualify for unemployment benefits. The Committee report stated:

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

If the Committee desires to require extension of coverage to small firms, it may wish to consider increasing the minimum quarterly payroll under the alternative test from $800 to at least the $1,500 level of the House bill in 1966.

The effect of various proposals is shown in Table 2 below:

TABLE 2.—COVERAGE OF SMALL FIRMS

Proposal	Covered for the first time under Federal law		Covered for the first time under State law	
	Employers	Jobs	Employers	Jobs
Employer with:				
1 employee at any time	1,889,000	3,118,000	1,089,000	1,683,000
1 employee in at least 20 weeks or $800 quarterly payroll	1,258,000	2,554,000	627,000	1,266,000
1 employee in at least 20 weeks or $1,500 quarterly payroll	999,000	2,302,000	490,000	1,132,000

2. Large Farms.—The original Administration unemployment compensation bill proposed extending coverage to farms employing 4 or more employees in at least 20 weeks during a calendar year. In his testimony before the Finance Committee, the Secretary of Labor indicated that the Administration would accept an extension of coverage to farms employing 8 or more persons in at least 26 weeks during a calendar year. Of their three suggested amendments to the House-passed bill, the Administration attaches highest priority to extension of coverage to large farms.

Opponents of unemployment insurance coverage for agricultural workers contend that agricultural employers would have to pay State taxes at the highest rates in view of their unemployment experience, but that even these rates would not pay the full cost of coverage, and benefits to farm workers would thus be partially subsidized by non-agricultural employers. Advocates of extending coverage to large farms argue that large farms show a businesslike pattern of fairly stable employment.

Table 3 shows the number of employers and workers affected under various alternative coverage proposals.

TABLE 3.—COVERAGE OF AGRICULTURAL EMPLOYMENT

Proposal	Estimated average number of—		Percent of all—	
	Employers	Employees	Employers	Employees
1 employee at any time in the year	1,300,000	1,281,000	100	100
4 or more employees in at least:				
20 weeks	65,000	425,000	5	33
26 weeks	64,000	424,000	5	33
39 weeks	56,000	413,000	4	32
8 or more employees in at least:				
20 weeks	25,000	296,000	2	23
26 weeks	23,000	276,000	2	22
39 weeks	20,000	252,000	2	20
10 or more employees in at least:				
20 weeks	24,000	284,000	2	22
26 weeks	10,000	265,000	1	21
39 weeks	9,000	232,000	1	18
15 or more employees in at least:				
20 weeks	15,000	255,000	1	20
26 weeks	7,000	232,000	1	18
39 weeks	6,000	192,000	(1)	15

[1] Less than 0.5 percent.

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3. Institutions of Higher Education.—The House-passed bill extends unemployment insurance coverage to institutions of higher education, but excludes individuals "employed in an instructional, research, or principal administrative capacity." The Labor Department recommends that these persons *not* be excluded from coverage. Sec. 104 (pp. 5–12)

The American Council on Education in its testimony before the Finance Committee agreed with the Labor Department that faculty and related personnel should be covered by unemployment insurance, but they felt that extension of coverage should be accompanied by another amendment. They recommend that Federal law state specifically that faculty members and related personnel not be considered unemployed during the summer, a semester break, a sabbatical period, or a similar period during which the employment relationship continues. (The House-passed bill permits each State to decide how employees of higher educational institutions are to be treated during the summer period.)

TABLE 4.—EMPLOYMENT IN HIGHER EDUCATIONAL INSTITUTIONS

	State	Nonprofit	Total
Total employment	580, 000	431, 000	1, 011, 000
Individuals employed in an instructional, research, or principal administrative capacity (excluded from House-passed bill)	215, 000	172, 000	387, 000
Covered under House-passed bill	365, 000	259, 000	624, 000

4. County and Municipal Hospitals and Higher Educational Institutions.—Though the House-passed bill extends coverage to State and nonprofit hospitals and higher educational institutions, it does not extend coverage to similar county and municipal institutions. The exclusion apparently was made because of constitutional restrictions in some States which have been interpreted to prohibit extension of coverage to county and municipal employees. The Committee may wish to consider extension to county and municipal hospitals and higher educational institutions, with an additional grace period for States with constitutional restrictions interfering with such coverage on the date of enactment of the bill.

The number of employees affected are shown in table 5 below:

TABLE 5.—DISTRIBUTION OF EMPLOYMENT IN HOSPITALS AND HIGHER EDUCATIONAL INSTITUTIONS

	Hospitals	Institutions of higher education [1]	Total
Nonprofit	1, 377, 000	431, 000	1, 808, 000
State	360, 000	580, 000	940, 000
Subtotal	1, 737, 000	1, 011, 000	2, 748, 000
County and municipal	357, 000	79, 000	436, 000
Total	2, 094, 000	1, 090, 000	3, 184, 000
Covered in House bill (percent)	83	57	74

[1] Includes individuals employed in an instructional, research, or principal administrative capacity (excluded in the House-passed bill).

Section and page of House bill

Sec. 104, new Code sec. 3309(b)(5) (p. 8)

5. Sheltered Workshops.—In requiring extension of coverage to nonprofit organizations, the House-passed bill (like both House and Senate bills in the 89th Congress) specifically excludes from the requirement handicapped persons who are "clients" of sheltered workshops. This exclusion is opposed by both the National Federation for the Blind and the American Council for the Blind.

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The position of the former group is reflected in identical amendments introduced by Senator Fannin (printed amendment 507), and Senator Hartke (printed amendment 550). The effect of the amendments would be to require extension of coverage to sheltered workshops. This amendment would affect an estimated 100,000 handicapped persons employed in about 1,500 sheltered workshops.

A more restrictive amendment was proposed in testimony by the American Council for the Blind. This organization's proposal would require extension of unemployment insurance coverage to all facilities certified to fill purchase orders of the Federal Government by the Committee on Purchases of Blind-made Products (a group established by Federal law). In effect, this proposal would extend coverage to virtually all sheltered workshops employing the blind, but no other workshops. There are 79 such facilities employing 5,000 blind and partially sighted workers.

The Administration unemployment compensation bills in 1965 and 1969, the House-passed bills in 1966 and 1969, and the Senate-passed bill in 1966 all excluded sheltered workshops from the provision extending coverage to nonprofit organizations.

These are the major considerations leading to the exclusion:

A. The work itself was not deemed to be of a type for which unemployment insurance protection was appropriate, in that it was not subject to economic fluctuation or similar market conditions which influence employment and unemployment in the normal labor market.

B. The individuals employed in such facilities were being afforded unneeded and uneconomic employment, or "make work," as a form of compensation for their handicaps; or they were being afforded, at public expense, a form of therapy and training.

C. The clients of a sheltered workshop, if their relationship to the workshop were severed, would not ordinarily meet the requirement of State law that an individual be considered eligible to receive unemployment insurance only if he "is physically and mentally able to work and available for work." Many State laws, in addition to this requirement, also require that the individual "actively seek work in the regular labor market" and "be willing to accept any suitable work." These provisions of State law themselves might prevent unemployed sheltered workshop employees from receiving benefits even if there were no bar to coverage in Federal law.

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The Labor Department would support extension of coverage to sheltered workshops, but feels that this would only be a first step toward actual receipt of benefits. Changes in unemployment compensation statutes in some States and changes of attitude in administration of the unemployment insurance program would be necessary to assure that disabled individuals unemployed after working in a sheltered workshop would be considered "able and available" for employment.

2. PROVISIONS REQUIRED TO BE INCLUDED IN STATE LAWS

House-Passed Bill

Sec. 121, new Code sec. 3304 (a)(7)–(9) (pp. 15–17)

The States would be required by January 1, 1972, to change their laws to conform to the following four new requirements:

Work Requirement.—A beneficiary would be required to have had work after the beginning of his benefit year in order to obtain unemployment compensation in his next benefit year (prohibiting the so-called "double dip" which allows a worker to draw benefits in two successive benefit years following a single separation from work).

Worker Training.—Compensation could not be denied to workers who are undergoing training with the approval of the State agency.

Interstate and Combined Wage Claims.—Compensation could not be denied or reduced because a claimant lives or files his claim in another State or in a contiguous country with which the United States has an agreement with respect to unemployment compensation. States would also be required to participate in arrangements, approved by the Secretary of Labor in consultation with the State unemployment compensation agencies, for combining an individual's wages and employment covered under more than one State law for the purpose of assuring the prompt and full payment of compensation in such situations. Such arrangements would include provision for applying a single base period (expected to be the base period of the paying State) and for avoiding the duplicate use of such wages and employment.

Cancellation of Wage Credits.—Generally, the wage credits of a worker could not be cancelled or his benefit rights totally reduced except in case of discharge for misconduct connected with his work, fraud in claiming benefits, or receipt of disqualifying income (such as pension payments). A State could, however, consider a worker ineligible for benefits while he is unemployed after voluntarily quitting—as long as his benefit rights are preserved for a future period of

involuntary unemployment during his benefit year. The State could also reduce a worker's benefit rights for a disqualifying act so long as his original benefit entitlement was not wiped out.

Section and page of House bill

Issues and Considerations

1. Interstate and Combined Wage Claims: Canada, Maine, and New Hampshire.—Both House and Senate bills in the 89th Congress involved interstate claims; the House-passed bill this year, however, goes further in one respect: it would prohibit a State from denying or reducing unemployment compensation to a resident of Canada. Only Maine and New Hampshire are significantly affected by this new provision, since all other States near the Canadian border already have reciprocal agreements with Canada which fulfill the requirement of the House-passed bill. Particularly affected would be the pulp and paper companies in Maine and New Hampshire, which seasonally employ significant numbers of Canadian residents. Since benefits are not payable to unemployed Canadians who worked in Maine and New Hampshire, the experience rating of companies in those two States are not affected by the unemployment of Canadians. A similar problem exists for residents of these States who work in Canada.

The State unemployment commissions in both States oppose the requirement in the House-passed bill; the Labor Department strongly supports the House provision.

Sec. 121, new Code sec. 3304(a)(9)(A) (p. 16)

3. EXTENDED UNEMPLOYMENT COMPENSATION PROGRAM

House-Passed Bill

The House-passed bill would establish a new permanent program to pay extended benefits during periods of high unemployment to workers who exhaust their basic entitlement to regular State unemployment compensation (including benefits to Federal civilian workers and ex-servicemen). As a condition of Federal approval of the State's unemployment insurance program, a State would be required to establish the new program by January 1, 1972. The Federal government and the States would share the costs of the new program equally.

These extended benefits would be paid to workers only during an "extended benefit" period. Such a period could exist, beginning in 1972, either on a national or State basis by the triggering of either the national or the State "on" indicator. Before 1972, a State legislature could provide extended benefits on the basis of the State "on" and "off" indicators alone, with Federal sharing of costs.

Title II (secs. 201–207) (pp. 32–43)

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National "On" and "Off" Indicators.—There would be a national "on" indicator when the seasonally adjusted rate of *insured* unemployment for the whole Nation equals or exceeds 4.5 percent in each of the three most recent calendar months. There would be a national "off" indicator when the seasonally adjusted rate of *insured* unemployment for the whole Nation is below 4.5 percent in each of the three most recent calendar months.

State "On" and "Off" Indicators.—There would be a State "on" indicator when the rate of insured unemployment for the State is at least 4 percent and when it equals or exceeds, during a moving 13-week period, 120 percent of the average rate for the corresponding 13-week period in the preceding two calendar years. There would be a State "off" indicator when either of these two conditions is not satisfied.

Extended Benefit Period.—An extended benefit period in a State would begin with the third week after a week for which where is a national "on" indicator or a State "on" indicator, whichever first occurred. The period would end with the third week after the first week for which there is both a national and a State "off" indicator. However, an extended benefit period would have to last at least 13 weeks.

Benefits.—During either a national or State extended benefit period, the State would be required to provide each eligible claimant with extended compensation at the individual's regular weekly benefit amount (including dependents' allowances). Benefits under the Federal-State program would be limited to not more than 13 weeks. A State which provides benefits not required under the bill would not be reimbursed by the Federal Government for any part of the cost of the addititional benefits.

Issues and Considerations

1. *Wholly Federal vs. Federal-State Program.*—The House-passed bill (like the 1966 House bill) provides for 50 percent Federal funding of the extended benefit program. The Finance Committee in 1966 provided 100 percent Federal funding of the program on the grounds that "the problems of high unemployment of long duration in recession conditions cannot be attributed to economic conditions within a single State and thus can properly be considered a financial responsibility of the Federal Government." (1966 Committee report, p. 27) Another reason cited by the Committee for its amendment was the financial burden which would be placed on employers in a State during a recession period if the State had to pay half of the extended benefit costs.

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Senator McCarthy has introduced an amendment (printed amendment 502) to make the extended benefit program wholly Federally financed. The amendment would require the States to establish extended benefit programs by 1972.

The original Administration bill also provided a fully Federally funded extended benefit program. Their bill differed from the McCarthy amendment by requiring no State legislative action; the new program could thus become effective upon enactment. The Labor Department suggests that if the Committee wishes to provide full Federal funding the program should become effective upon enactment and not require State legislative action.

A 100% Federally funded extended benefit program would increase the cost of the bill by 0.05 percent of payroll (using a $4,200 wage base).

2. Temporary Federal program.—In testifying before the Committee, the Secretary of Labor stated: "It should be noted . . . that the House-passed program does not have to be in effect in all States until January 1, 1972, in order to give State legislatures time to act. This Committee may wish to consider filling this gap by a temporary national program."

3. "On" and "Off" Indicators.—The unemployment indicators triggering an extended benefit period in the House-passed bill differ from those in the 1966 Finance Committee bill. It takes a lower level of national unemployment to begin a national benefit period, and a lower level of unemployment to end one. In other words, a national extended benefit period will begin sooner and end later under the House-passed bill than it would have under the 1966 Finance Committee bill. On the other hand, an extended benefit period in a State will begin later and end sooner under the House-passed bill than it would have under the 1966 Finance Committee bill. The specific indicators under the two bills are contrasted below:

Sec. 203(d) (pp. 36–37)

	1966 Finance Committee bill	1969 House-passed bill
National "on" indicator.	Insured unemployment rate of 5 percent (seasonally adjusted) for 3 consecutive months *and* the number of claimants exhausting their benefits during the 3-month period totals at least one percent of covered employment.	Insured unemployment rate of 4.5 percent (seasonally adjusted) for 3 consecutive months.
National "off" indicator.	Insured unemployment rate below 5 percent (seasonally adjusted) in most recent month *or* the number of claimants exhausting their benefits during the most recent 3-month period totals less than 1 percent of covered employment.	Insured unemployment rate below 4.5 percent (seasonally adjusted) for 3 consecutive months.
State "on" indicator.	Insured unemployment rate for 13-week period at least 3 percent *and* at least 120 percent of rate for same period in 2 preceding years.	Insured unemployment rate or 13-week period at least 4 percent *and* at least 120 percent of rate for same period in 2 preceding years.
State "off" indicator.	Insured unemployment rate for 13-week period below 3 percent *or* below 120 percent of rate for same period in 2 preceding years.	Insured unemployment rate for 13-week period below 4 percent *or* below 120 percent of rate for same period in 2 preceding years.

The insured unemployment rate (seasonally adjusted) in February of this year was 2.8%. This is much lower than the total unemployment rate (seasonally adjusted) of 4.2% for February, which includes uninsured persons. The two rates are shown in Table 6 below.

TABLE 6.—INSURED AND TOTAL UNEMPLOYMENT

[In percent]

	Insured unemployment rate (seasonally adjusted)	Total unemployment rate (seasonally adjusted)
1969:		
January	2.1	3.4
February	2.1	3.3
March	2.1	3.4
April	2.0	3.5
May	2.0	3.5
June	2.1	3.4
July	2.2	3.5
August	2.2	3.5
September	2.2	3.8
October	2.2	3.8
November	2.3	3.5
December	2.3	3.5
1970:		
January	2.5	3.9
February	2.8	4.2

Although a substantial rise in unemployment will have to take place before a national extended benefit period is triggered, several States are already approaching the State "on" indicator. States whose average insured unemployment has exceeded 4% in the most recent available 13-week period include:

Alaska	Oregon
California	Puerto Rico
Idaho	Rhode Island
Maine	Utah
Montana	Washington
New Jersey	West Virginia

It is unlikely, however, that more than a few of these States meet the additional test that unemployment is more than 120% of the rate for the same period in the 2 preceding years.

4. FEDERAL BENEFIT STANDARDS

Legislative Action in the 89th Congress

The House-passed bill in the 89th Congress, like the House-passed bill now before the Committee, contained no provisions setting minimum Federal benefit standards for State unemployment compensation programs.

Section and page of House bill

The bill reported by the Finance Committee in 1966 required State programs to meet these minimum benefit standards in order for employers in the State to receive the full 2.7% Federal tax credit:

1. Any worker would have to be eligible for benefits if he had 20 weeks of employment (or its equivalent in terms of wages) in the one-year base period;
2. Unemployment benefits would have to be equal to at least 50% of a worker's average wages, up to a maximum benefit of not less than 50% of the average wage in the State; and
3. Any worker with 20 weeks of employment in the one-year base period would have to be provided at least 26 weeks of unemployment benefits.

On the Senate floor, the third standard was changed to require States to provide at least 26 weeks of benefits to any worker with 39 (rather than 20) weeks of employment in the one-year base period. In addition, the States were provided an alternative test of benefit adequacy in lieu of these three benefit standards. Under the alternative, the State would have to show that under its benefit formula, at least 65 percent of all persons in covered employment in the prior year would have received benefits equal to at least 50% of their average wages had they become unemployed, and at least 80% would have been eligible to receive benefits for 26 weeks had they become unemployed.

Issues and Considerations

1. McCarthy Amendment.—Senator McCarthy has introduced an amendment (printed amendment 489) setting benefit standards similar to those passed by the Senate in 1966 (but without the alternative test of benefit adequacy). Specifically, the McCarthy Amendment would require State programs to meet these minimum benefit standards in order for employers to receive the full 2.7% Federal tax credit:

A. Work Requirement for Eligibility.—Any worker with 20 weeks of employment in the one-year base period would have to be able to qualify for unemployment benefits.

B. Benefit Level.—Unemployment benefits would have to be equal to at least 50% of a worker's average wages, up to a maximum benefit of not less than 50% of the average wage in the State.

C. Duration of Benefits.—Any worker with 39 weeks of employment in the one-year period would have to be able to qualify for at least 26 weeks of unemployment benefits.

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Since the McCarthy Amendment would also result in an increase in benefits paid under the extended benefit program, it would require additional financing.

2. Ribicoff Bill.—Senator Ribicoff has introduced a bill (S. 3421) setting Federal standards related to benefit levels. Under the Ribicoff Bill, the Federal unemployment tax credit would be reduced in a State unless the unemployment program in that State met *one* of these three minimum benefit standards:

A. At least 70% of the employees insured during the previous year would have been eligible (had they become unemployed) for benefits equal to at least 50% of their average wages; or

B. At least 80% of the unemployed workers actually receiving benefits during the previous year received payments equal to at least 50% of their average wages; or

C. The State's benefit formula provides benefits equal to at least 50% of a worker's average wages up to a maximum benefit of not less than 50% of the average wage in the State.

Though the bill provides States with three alternatives, it would be expected that almost all States would choose the third one, which is virtually the same as the benefit level standard in the 1966 Finance Committee bill and in the McCarthy Amendment. Few States would be willing to risk losing a portion of the Federal tax credit based on criteria which could not be measured until it was too late to take remedial action. However, it is possible that a State (especially one which provides dependents' allowances) might prefer a benefit adequacy standard linked to actual experience rather than one based on the State's benefit formula.

3. Benefit Levels—Most States already have benefit formulas providing benefits equal to at least 50% of a worker's average wages. However, all States place a limitation on weekly benefits, and it is this limitation that in 30 States prevents workers from actually receiving benefits half as large as their average wages. Thus in the last quarter of 1969, 47 percent of the unemployment benefit claimants in the Nation qualified for maximum amounts allowable under State laws.

Table 7 below shows the impact on the States of the benefit standard in the McCarthy Amendment and in the third alternative under the Ribicoff Bill.

TABLE 7.—IMPACT ON STATES OF A BENEFIT STANDARD REQUIRING BENEFITS EQUAL TO 50 PERCENT OF WORKER'S WAGES WITH A MAXIMUM BENEFIT NOT LESS THAN 50 PERCENT OF AVERAGE WAGES IN STATE

A. States meeting both requirements

State:	*Maximum benefit as a percentage of State average wages*	State—Continued	*Maximum benefit as a percentage of State average wages*
Arkansas	50	New Mexico	50
Colorado	60	North Dakota	50
Connecticut	60	Puerto Rico	50
District of Columbia	50	Rhode Island	50
Hawaii	66⅔	South Carolina	50
Idaho	52½	Utah	50
Iowa	50	Vermont	50
Kansas	50	Virginia	55
Maine	52	Washington	50
Maryland	51	Wisconsin	52½
New Jersey	50	Wyoming	50

B. States not meeting both requirements

State	State benefit formula is too low	State maximum is too low	1968 average weekly wages	State maximum	Percent of average weekly wages
Alabama		X	$107	$47	44
Alaska	X	X	193	60	31
Arizona		X	121	50	41
California	X	X	141	65	46
Delaware		X	137	55	40
Florida		X	112	40	36
Georgia		X	109	49	45
Illinois		X	138	45	33
Indiana		X	131	40	31
Kentucky		X	112	52	46
Louisiana		X	120	50	42
Massachusetts	X		121	62	51
Michigan		X	151	46	31
Minnesota		X	122	57	47
Mississippi		X	97	40	41
Missouri		X	126	57	45
Montana	X	X	107	42	39
Nebraska		X	108	48	44
Nevada		X	132	47	36
New Hampshire	X		109	60	55
New York		X	141	65	46
North Carolina	X		100	50	50
Ohio		X	137	47	34
Oklahoma		X	114	38	33
Oregon	X	X	123	55	45
Pennsylvania		X	123	60	49
South Dakota		X	98	41	42
Tennessee		X	106	47	44
Texas		X	117	45	38
West Virginia	X	X	123	49	40

Section and page of House bill

4. Qualifying Work Requirement.—Seventeen States would have to make minor modifications in State law to meet the requirement of the McCarthy Amendment of providing some benefits to any worker with 20 weeks of employment in the one-year base period:

California	Oregon
Hawaii	South Dakota
Illinois	Utah
Maine	Vermont
Massachusetts	Virginia
Nebraska	Washington
New Hampshire	West Virginia
North Carolina	Wyoming
North Dakota	

5. Duration of Benefits.—Thirteen States do not now meet the requirement of the McCarthy Amendment of providing at least 26 weeks of benefits to any worker with 39 weeks of employment in the one-year base period:

Alaska	Rhode Island
Florida	South Dakota
Georgia	Texas
Idaho	Utah
Indiana	Virginia
Montana	Wyoming
Puerto Rico	

6. Saxbe Duration of Benefit Amendment.—The Committee also has before it an amendment introduced by Senator Saxbe (printed amendment 506) which presents a kind of Federal duration of benefit requirement. The Saxbe Amendment would not permit the payment of unemployment compensation under the extended benefit program until at least the 20th week of unemployment after the first week in which compensation is received. Under the amendment, if an employee was entitled to only 15 weeks of benefits under State law, he would have to go five weeks without benefits before he would be able to receive compensation under the extended benefits program. The following 43 States would be affected by the Saxbe Amendment:

Alabama	Illinois
Alaska	Indiana
Arizona	Iowa
Arkansas	Kansas
California	Kentucky
Colorado	Louisiana
Delaware	Maine
District of Columbia	Massachusetts
Florida	Michigan
Georgia	Minnesota
Idaho	Mississippi

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	Missouri	Rhode Island
	Montana	South Carolina
	Nebraska	South Dakota
	Nevada	Tennessee
	New Jersey	Texas
	New Mexico	Utah
	North Dakota	Virginia
	Oklahoma	Washington
	Oregon	Wisconsin
	Pennsylvania	Wyoming
	Puerto Rico	

5. FINANCING PROVISIONS

House-Passed Bill

Title III (Secs. 301–305) (pp. 44–55)

The net Federal tax, which is presently 0.4% of covered payroll, would be increased to 0.5%, beginning January 1, 1970 (this represents an increase in the Federal tax rate from 3.1% to 3.2%). The taxable wage base under the Federal Unemployment Tax Act would be increased from $3,000 to $4,200 for calendar years 1972 and thereafter. (In 1966, the Finance Committee and the Senate voted to raise the taxable wage base to $4,800.)

The full additional 0.1% Federal tax due on wages paid in 1970 and 1971 would be earmarked for the extended benefit program. Subsequently, one-half of the additional 0.1% tax would be earmarked for the extended benefit program until the Federal extended unemployment compensation account reached $750 million (or, if larger, ⅛% of covered payroll). Generally, the remainder of the increased revenues, as under existing law, will be available for the Federal and State costs of administering the unemployment compensation program (see table 8 below).

TABLE 8.—USE OF REVENUES UNDER H.R. 14705

[In millions of dollars]

	Total revenues	Allocated to-	
		Extended benefits	Administrative costs
Fiscal year:			
1970	$740	$14	$726
1971	970	194	776
1972	1,035	177	858
1973	1,290	129	1,161
1974	1,345	135	1,210
1975	1,395	140	1,255

Section and page of House bill

Borrowing From General Revenues.—Present law authorizes borrowing with interest from general revenues when Federal unemployment tax collections are insufficient to meet State administrative costs, and interest-free borrowing when the loan fund (the Federal Unemployment Account) is insufficient to meet State requests for advances for benefit payments. The House-passed bill authorizes interest-free borrowing from general revenues when the funds in the extended benefit account are insufficient to pay the Federal government's half of the extended benefit costs. Under the House bill, the general revenues would be repaid "at such times as the amount in the extended unemployment compensation account is determined by the Secretary of the Treasury, in consultation with the Secretary of Labor, to be adequate for such purpose."

Use of Revenues.—Present law establishes several earmarked Federal accounts under the unemployment insurance provisions of the Social Security Act; the House-passed bill would create an additional account. Table 9 below compares the sources, uses, and limitations on funds in these accounts under present law and under the House-passed bill.

TABLE 9.—USE OF FEDERAL UNEMPLOYMENT TAX REVENUES

PRESENT LAW	HOUSE-PASSED BILL
1. *The Employment Security Administration Account* receives all Federal unemployment tax revenues initially. Funds from this account are used for grants to the States for the cost of administering the unemployment compensation program.	1. *The Employment Security Administration Account* would receive 80% of Federal unemployment tax revenues in 1970 and 1971 and 90% of these revenues thereafter. Funds from this account would be used, as under present law, for grants to the States for administrative costs. This account could not build up beyond 40% of the current congressional appropriation for grants to States (in 1970, the 40% limit would be $290 million). 2. *The Extended Unemployment Insurance Account* would receive 20% of Federal tax revenues in 1970 and 1971 and 10% thereafter. Funds from this account would pay half the cost of the extended benefit program. This account could not build up beyond the greater of $750 million or .125% of total wages in the previous year. 3. If one of these two accounts is at the maximum but the other

TABLE 9.—USE OF FEDERAL UNEMPLOYMENT TAX REVENUES

PRESENT LAW	HOUSE-PASSED BILL
	account is not, the excess from the one at the maximum is transferred to the one that is not.
2. Any amounts not needed for current administrative costs are transferred to the *Federal Unemployment Account*, to be used for loans to States for unemployment benefits. The loan fund could not build up beyond 0.4% of State taxable wages (the limit is currently $700 million).	4. If both accounts are at the maximum, the excess is transferred to the *Federal Unemployment Account*, to be used (as under present law) for loans to States for unemployment benefits. The loan fund could not be built up beyond the greater of $550 million or .125% of total wages in covered employment in the previous year.
3. If the Federal Unemployment Account (loan fund) is at the limit, excess funds are transferred to the Employment Security Administration Account until that account builds up to $250 million.	
4. Once this $250 million limit on the administration account is reached, excess funds must be used to pay back any outstanding advances of general revenues from the Treasury.	5. Once all the limits are reached, excess funds must be used to pay back any outstanding advances of general revenues from the Treasury (except advances to the extended benefit account).
5. If there still are any excess funds, they are transferred to the accounts of the States in the Unemployment Trust Fund for benefit payments or, under certain circumstances, administrative costs.	6. If it is anticipated that there will be any excess funds beyond this, the Secretary would have to report to the Congress, with a recommendation for appropriate action. If no legislative action is taken, excess funds are transferred to the accounts of the States in the Unemployment Trust Fund for benefit payments or, under certain circumstances, administrative costs.

The rules for distribution of funds not needed to meet current administrative costs have been largely academic in recent years since virtually all revenues were used for administration.

The effect of the modifications in the House-passed bill is to use the excess funds to build up reserves in the administration account for the first time, at the expense of the loan fund (which has not been used in the past decade).

The distribution of revenues by account under the House-passed bill is shown in table 12. Even if no extended benefits are paid in the next five years, no

additional funds would be available for the loan fund until 1974. No excess funds would be available for transfer to the State accounts in the Unemployment Trust Fund before 1974.

The limitations on the various accounts under present law and under the House-passed bill are shown in table 13.

TABLE 12.—DISTRIBUTION OF FEDERAL UNEMPLOYMENT TAX REVENUES UNDER HOUSE-PASSED BILL IF THERE IS NO EXTENDED BENEFIT PERIOD BEFORE 1976

[In millions of dollars]

	1970	1971	1972	1973	1974	1975
1. Tax collections	$740	$970	$1, 035	$1, 290	$1, 345	$1, 395
2. Interest earnings	27	33	40	60	74	81
3. Total revenues	767	1, 003	1, 075	1, 350	1, 419	1, 476
4. Administrative costs	700	765	897	895	988	1, 096
5. Balance	67	238	188	455	421	380
6. Distribution of balance:						
(a) Administration account	52	36	−5	304	39	36
(b) Extended benefit account	15	202	193	151	189	----
(c) Loan fund					32	42
(d) State accounts					161	302
7. Balance in accounts on July 1:						
(a) Administration account	52	88	83	387	426	462
(b) Extended benefit account	15	217	410	561	750	750
(c) Loan fund	550	550	550	550	582	614
(d) Total	617	855	1, 043	1, 498	1, 758	1, 826

TABLE 13.—LIMITATIONS ON VARIOUS ACCOUNTS UNDER PRESENT LAW AND UNDER THE HOUSE-PASSED BILL

[In millions of dollars]

	Current balance	1970	1971	1972	1973	1974	1975
Administration account:							
Present law		$250	$250	$250	$250	$250	$250
House-passed bill		290	310	367	408	426	462
Extended benefit account:							
House-passed bill		750	750	750	750	750	750
Loan fund:							
Present law	$576	700	736	772	808	844	880
House-passed bill	550	550	550	550	550	582	614

Issues and Considerations

1. Administration Financing Proposal.—The Secretary of Labor proposed that the Finance Committee modify the financing provisions of the House-passed bill to shift from a tax rate increase to a wage base increase:

	1970–71		1972 to 1974		1975 and thereafter	
	Net tax rate (percent)	Wage base	Net tax rate (percent)	Wage base	Net tax rate (percent)	Wage base
Present law	0.4	$3,000	0.4	$3,000	0.4	$3,000
House-passed bill	.5	3,000	.5	4,200	.5	4,200
Administration proposal	.5	3,000	.4	4,800	.4	6,000

Projected Federal revenues under present law, the House-passed bill, and the Administration proposal are shown in table 10 below; the use of revenues under the Administration proposal is shown in table 11.

TABLE 10.—FEDERAL UNEMPLOYMENT TAX REVENUES

[In millions of dollars]

Fiscal year	Present law	House-passed bill	Administration proposal
1970	$725	$740	$740
1971	776	970	970
1972	826	1,035	1,100
1973	765	1,290	1,133
1974	795	1,345	1,185
1975	825	1,395	1,285

TABLE 11.—USE OF REVENUES UNDER ADMINISTRATION PROPOSAL

[In millions of dollars]

Fiscal year	Total revenues	Allocated to—	
		Extended benefits	Administrative costs
1970	$740	$14	$726
1971	970	194	776
1972	1,100	183	917
1973	1,133	113	1,020
1974	1,185	119	1,066
1975	1,285	129	1,156

2. Borrowing From General Revenues.—The Committee may wish to consider amending the House bill to require that before any funds may be transferred to State accounts, any outstanding interest-free advances which have been made from general funds to the extended benefit account must be repaid.

Section and page of House bill

6. OTHER PROVISIONS

House-Passed Bill

Judicial Review.—Under existing law, there is no specific provision allowing a State to seek judicial redress of an adverse decision by the Labor Department. The bill sets forth specific procedures for such court review. Sec. 131 (pp. 19–24)

Labor Standards Provision.—The labor standards provision of present law does not permit a State to deny unemployment compensation to a claimant who refuses to accept a position: Sec. 131(b)(2) (p. 23)

1. Which is vacant due directly to a strike, lockout, or other labor dispute;
2. If the wages, hours, or other conditions of the work offered are substantially less favorable than those for similar work in the locality; or
3. If, as a condition of being employed, he would be required to join a company union or resign from or refrain from joining a bona fide labor organization.

Under the "Knowland Amendment," no finding of a failure to comply substantially with the labor standard requirement shall be based on an application or interpretation of State law with respect to which further administrative or judicial review is provided under the laws of the State. H.R. 14705 would modify and clarify this provision by providing that no finding of a failure to comply would be based on an application or interpretation of State law until all administrative review afforded by the State law has been exhausted, or the time allowed by State law for appeal to a State court has expired, or judicial review pending in a State court has been completed. (There was no comparable provision in the House or Senate bills in the 89th Congress.)

Reduced Tax Rates for New Employers.—The bill would modify the Federal experience-rating standard to permit States to assign reduced unemployment tax rates (though the rates could not be less than 1%) with respect to newly covered employers on a basis other than experience with unemployment. Present law permits tax rate reductions only when based on at least one year of experience with unemployment. Sec. 122 (p. 17)

Research, Training, and Federal Advisory Council.—The bill contains provisions establishing a Federal unemployment compensation research program, a Sec. 141 (pp. 24–28)

Section and page of House bill

Federal program to train unemployment compensation personnel, both Federal and State, and a Federal Advisory Council on Unemployment Compensation to review the operation of the Federal-State program and to make recommendations for its improvement.

Sec. 303(a) (pp. 44–48)

Employment Service Financing.—The bill would provide that the amount authorized to be made available out of the employment security administration account for any fiscal year after June 30, 1972, is to reflect the proportion of the total cost of administering the system of public employment offices as the President determines is an appropriate charge to the employment security administration account. The President's determination would take into account such factors as the relationship between employment subject to State unemployment compensation laws and the total labor force, the number of unemployment compensation claimants and the number of job applicants, and such other factors as he deems relevant. The purpose of this provision is to limit the use of revenues derived from the Federal unemployment tax to employment service costs related to unemployment compensation administration.

Sec. 142 (pp. 28–32)

Change in Certification Date.—Under present law, the Secretary of Labor certifies to the Secretary of the Treasury on December 31 that State unemployment compensation laws meet the requirements of Federal law. The House-passed bill changes the annual certification date from December 31 to October 31.

Comparison With 1966 Finance Committee Bill

Sec. 131 (pp. 19–24)

1. Judicial Review:—The judicial review provisions of the House-passed bill differ from those in the 1966 Finance Committee bill in the following respects:

1966 FINANCE COMMITTEE BILL	1969 HOUSE-PASSED BILL
(*a*) The findings of fact by the Secretary of Labor shall be conclusive unless contrary to the weight of the evidence.	(*a*) The findings of fact by the Secretary of Labor shall be conclusive if supported by substantial evidence.
(*b*) The commencement of judicial proceedings shall not stay the Secretary's action, but the court may grant interim relief if warranted.	(*b*) The commencement of judicial proceedings shall stay the Secretary's action for a period of 30 days, and the court may thereafter grant interim relief if warranted.

Section and page of House bill

2. Training Program.—The authorization for a training program in the House bill is broader than the comparable provisions in the bill in the 89th Congress: Sec. 141 (pp. 25–27)

1966 FINANCE COMMITTEE BILL	1969 HOUSE-PASSED BILL
(a) Authorized Labor Department (directly, through State agencies, or through contracts with institutions of higher education) to provide training programs and courses for persons occupying or preparing to occupy positions in the administration of the unemployment compensation program; authorized fellowships and traineeships for persons trained.	(a) Same, except also authorizes contracts with "other qualified agencies, organizations, or institutions."
	(b) Authorizes development of training materials and provision of technical assistance to States in operating training programs.
	(c) Authorizes interchange of Federal and State unemployment compensation personnel.

Section and page of House bill

3. Federal Advisory Council.—The House-passed bill establishes a Federal Advisory Council and authorizes $100,000 annually to cover the cost. An advisory council which used to be concerned with unemployment compensation already exists in the Labor Department; this group is expected in the future to devote most of its time to manpower development programs. Sec. 141, new sec. 908, SSA (pp. 27–28)

Issues and Considerations

1. Research Program.—The authorization for a research program in the House-passed bill is similar to the comparable provision of the 1966 Finance Committee bill. However, the House bill directs that in developing information on the effect and impact of extending coverage to excluded groups, "first attention" is to be given "to domestic workers in private households." The Committee may wish to delete this language from the House bill. Sec. 141 (pp. 24–25)

2. Training program.—The House-passed bill says that the Secretary "may" require persons receiving fellowships or stipends to repay the cost if they fail to serve in the employment security program for a suitable period of time. The Committee may wish to consider making this provision mandatory. Sec. 141 (pp. 26)

Section and page of House bill

7. EFFECTIVE DATE

House-Passed Bill

Sec. 121(b) (p. 17)

All provisions in the House-passed bill placing requirements on the States were made effective January 1, 1972. Since the House acted on the bill in November 1969, this would have allowed two years, during which each State legislature would have met at least one time.

Sec. 301, 302 (p. 44)

The tax rate increase under the House bill would have begun in January 1970, while the increase in the wage base from $3,000 to $4,200 would be effective in January 1972.

Sec. 141 (pp. 24–28)

Authorizations for research, training, and a Federal Advisory Council begin with fiscal year 1970.

Issues and Considerations

1. All States except three (Kentucky, Louisiana, and Virginia) have legislative sessions in 1971 during which unemployment compensation legislation may be considered. The Committee may wish to retain the effective dates in the House-passed bill but make special provision that States whose legislatures do not meet in 1971 will have until 90 days after the next session of the legislature to meet the requirements of the bill.

2. It is suggested that the authorizations for research, training, and a Federal Advisory Council begin with fiscal year 1971.

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