

NATIONAL COMMISSION ON UNEMPLOYMENT  
COMPENSATION

---

SEPTEMBER 21 (legislative day, JUNE 21), 1979.—Ordered to be printed

---

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

## REPORT

[To accompany H.R. 3920]

The Committee on Finance, to which was referred the bill (H.R. 3920) to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

## I. SUMMARY OF THE BILL

The National Commission on Unemployment Compensation was established by the 1976 Unemployment Compensation Amendments. Under the committee bill, the final reporting date for the Commission would be changed from July 1, 1979 to July 1, 1980. The bill also provides that the members of the Commission will be compensated at the GS-18 rate (\$182 per day) for time actually spent on Commission business. Another provision of the bill would exempt the Commission from requirements that their reports to Congress and certain of their requests for information or data be approved by the Office of Management and Budget.

## II. GENERAL DISCUSSION OF THE BILL

## COMPENSATION OF MEMBERS OF NATIONAL COMMISSION

## (SECTION 1 OF THE BILL)

The National Commission on Unemployment Compensation was established by the Unemployment Compensation Amendments of

1976 which were enacted on October 20, 1976. The Commission was to consist of 13 members, 7 appointed by the President and 3 each by the Speaker of the House of Representatives and the President Pro Tempore of the Senate. The Commission has been in operation since March of 1978. The original legislation allowed for the payment of travel expenses (including per diem subsistence payments) but did not authorize the payment of any compensation to members of the Commission.

Inasmuch as the members of the Commission are expected to devote and have devoted a significant amount of time to attending Commission meetings, the committee believes it is appropriate that they receive compensation for the time spent. The committee bill would permit such compensation at a daily rate not exceeding the equivalent of GS-18 on the Federal general schedule, effective for services performed after March 1, 1978. This amounts to approximately \$182 per day at present. Compensation would be payable for time actually spent on Commission business (including travel time) and would not be payable to any Commission members who are otherwise employed on a full-time basis by the Federal Government.

#### REPORTING DATES FOR NATIONAL COMMISSION

##### (SECTION 2 OF THE BILL)

The 1976 legislation establishing the National Commission on Unemployment Compensation specified that the final report of the Commission was to be sent to the President and to the Congress no later than January 1, 1979, with an interim report to the Congress due by March 31, 1978. Because of delays in appointing the Presidential members of the Commission and in designating a Chairman, a 6-month deferral of the reporting dates was requested, and legislation providing that deferral was enacted in April 1977. Further delays in appointing and organizing the Commission occurred, however, with the result that the first meeting of the Commission was not held until March 1978. The Commission has subsequently submitted reports in November 1978 and July 1979, but has not submitted its final report. Under present law, the Commission expires after September 30, 1979. Under the bill, the final reporting date is extended to July 1, 1980. Interim reports are required as the Commission deems appropriate.

#### EXEMPTION FROM CLEARANCE BY OFFICE OF MANAGEMENT AND BUDGET

##### (SECTION 3 OF THE BILL)

The National Commission on Unemployment Compensation was created by act of Congress as a temporary body to study several aspects of the unemployment program and to provide the Congress with its findings and recommendations with a view toward assisting the Congress in the development of future legislation. The Commission is not, therefore, comparable to an executive branch agency. In fact, it is composed substantially of individuals selected by the Congress.

In view of the purpose and composition of the Commission, the committee feels it would be inappropriate to subject the Commission to clearance by the Office of Management and Budget either for the information it may request from individuals and agencies or for the reports it may submit to the Congress. Under the Federal Reports Act, Federal agencies seeking identical information from 10 or more individuals or other agencies are required to obtain prior clearance from the Office of Management and Budget. In addition, existing executive branch guidelines (OMB Circular A-19) require that formal communications with the Congress be cleared by that agency. The committee bill would exempt the Commission from the Federal Reports Act and would also provide that any reports it makes to Congress shall be made directly and without clearance.

EXTENSION OF EXCLUSION OF ALIEN FARMWORKERS FROM THE FEDERAL UNEMPLOYMENT TAX

(SECTION 4 OF THE BILL)

Until January 1, 1980, alien farmworkers who are admitted to the United States pursuant to section 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act are excluded from the Federal unemployment tax. Also, such alien farmworkers are not counted in determining whether a farmer has enough employees (10 workers in 20 weeks) or has paid enough wages for agricultural services (\$20,000 in any quarter) to make him subject to the Federal unemployment tax. The bill extends this exclusion to January 1, 1982, but provides that services performed by such alien workers would be counted in determining whether an employer is subject to the Federal unemployment tax for his other farmworkers.

III. BUDGETARY IMPACT OF THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970 and sections 308 and 403 of the Congressional Budget Act, the following statements are made about the budgetary impact of the bill. The total cost of the National Commission on Unemployment Compensation for a 2-year period is estimated to not exceed \$8.4 million. The Commission expects to have spent or obligated \$3.8 million by September 30, 1979. The Congressional Budget Office has estimated the cost of the bill to be \$0.2 million for pay to Commission members, \$3.8 million for Commission operations, and a \$3 million loss in Federal unemployment tax revenue.

The committee accepts these estimates but notes that it has been informed that all Commission expenditures including the pay of the Commissioners are funded through certain CETA funds which may be expended at the discretion of the Secretary of Labor. These funds are already appropriated and presumably would be utilized for some other purpose if the Commission were not extended. Accordingly, the committee estimates that the enactment of this bill will have no net impact on budget authority or outlays.

The estimate of the Congressional Budget Office appears below:

CONGRESSIONAL BUDGET OFFICE,  
U.S. CONGRESS,  
*Washington, D.C., September 21, 1979.*

HON. RUSSELL B. LONG,  
*Chairman, Senate Finance Committee,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 3920, a bill to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE

*September 21, 1979.*

1. Bill No.: H.R. 3920.

2. Bill title: To amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes.

3. Bill status: As ordered reported by the Senate Finance Committee on September 21, 1979.

4. Bill purpose: The bill has four sections.

Section 1 authorizes pay for members of the National Commission on Unemployment Compensation who are not full-time officers of the United States. Compensation shall apply with respect to services performed on or after March 1, 1978. The effective date of this provision is October 1, 1979.

Section 2 extends the due date for the final report from July 1, 1979 to July 1, 1980. Since the commission terminates 90 days after the submission of the final report, this effectively extends the commission for 1 year.

Section 3 provides for an exemption of national commission from requirements for Office of Management and Budget clearance.

Section 4 extends a provision from January 1, 1980 to January 1, 1982, excluding agricultural services performed by certain alien workers from the Federal Unemployment Tax (FUTA).

Sections 1, 2 and 4 have budgetary implications.

5. Cost estimate: Pay to Commission members (by fiscal years, in millions of dollars).

Estimated cost:

1979	-----	0
1980	-----	.2
1981	-----	0
1982	-----	0
1983	-----	0
1984	-----	0

**Extension of Commission (by fiscal years, in millions of dollars).**

**Estimated cost:**

1979	-----	0
1980	-----	3.8
1981	-----	0
1982	-----	0
1983	-----	0
1984	-----	0

**Revenue loss due to the exclusion of certain aliens from the Federal unemployment tax (by fiscal years, in millions of dollars).**

**Revenue and budget authority:**

1979	-----	0
1980	-----	-1
1981	-----	-2
1982	-----	0
1983	-----	0
1984	-----	0

<sup>1</sup> Negligible.

Revenue to the Unemployment Trust Fund translates into available Budget Authority; a reduction in revenues will therefore result in a corresponding reduction in Budget Authority.

The costs of this bill fall within budget function 600.

6. Basis of estimate: The estimate of pay to commission members assumes 22 meetings between March 1978 and September 1979 and 9 meetings between October 1979 and June 1978. It is assumed that each meeting requires 3 days and that 12 commission members are paid \$182 per day.

It is estimated that the commission spent \$3.8 million in fiscal year 1979. A similar cost is anticipated in 1980 with the one year extension.

Funding in fiscal year 1979 was from \$8.4 million in discretionary CETA funds. It is anticipated that fiscal year 1980 funding will be from the same source. No additional appropriations will be needed.

The revenue loss resulting from exempting certain legal aliens assumes 15,000 aliens per year with average earnings of \$3,000 per year. The tax rate assumed is 3.4 percent (2.7 percent average State tax rate and 0.7 Federal unemployment tax rate). This yields an estimate of \$1.5 million revenue loss per year. It has been assumed that two-thirds of this will occur in fiscal year 1980.

7. Estimate comparison: None.

8. Previous CBO estimate: An estimate was provided on June 4, 1979 for H.R. 3920 as ordered reported by the Committee on Ways and Means. The \$3.8 million estimated cost for extending the commission was not included in this estimate.

9. Estimate prepared by: Charles Seagrave.

10. Estimate approved by:

C. G. NUCKOLS  
(For James L. Blum,  
Assistant Director for Budget Analysis).

#### IV. REGULATORY IMPACT OF THE BILL

In compliance with paragraph 5 of rule XXIX of the Standing Rules of the Senate, the following statement is made about the regulatory impact of the bill. The bill extends the life of a Commission

(and makes certain other changes with respect to the Commission). However, that Commission under both existing law and the bill exists solely for the purpose of studying the unemployment compensation program and has no authority to regulate any individuals or businesses. The committee believes that the enactment of the bill will, therefore, have no regulatory impact nor any impact on the personal privacy, economic status, or paperwork burdens of any individuals or businesses.

#### V. VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made concerning the vote of the committee to report the bill:

The bill was ordered reported by a voice vote.

#### VI. CHANGES IN EXISTING LAW

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

#### SECTION 411 OF THE UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976

#### TITLE IV—NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

#### SEC. 411. NATIONAL COMMISSION ON UNEMPLOYMENT COMPEN- SATION.

(a) **ESTABLISHMENT OF COMMISSION.**—There is established a National Commission on Unemployment Compensation (hereinafter in this section referred to as the "Commission") which shall consist of thirteen members who shall be appointed as follows:

- (1) Three members appointed by the President pro tempore of the Senate.
- (2) Three members appointed by the Speaker of the House of Representatives.
- (3) Seven members appointed by the President.

In making appointments under the preceding sentence, the President pro tempore of the Senate, the Speaker of the House of Representatives, and the President shall consult with each other to insure that there will be a balanced representation of interested parties on the Commission. The Commission shall consist of at least one representative of labor, industry the Federal Government, State government, local government, and small business. The President shall designate one of the members to serve as Chairman of the Commission. Seven members shall constitute a quorum. Any vacancies in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(b) **DUTIES OF THE COMMISSION.**—The Commission shall study and evaluate the present unemployment compensation programs in order to assess the long-range needs of the programs, to develop alternatives, and to recommend changes in the programs. Such study and evaluation shall include, without being limited to—

(1) examination of the adequacy, and economic and administrative impacts, of the changes made by this Act in coverage, benefit provisions, and financing;

(2) identification of appropriate purposes, objectives, and future directions for unemployment compensation programs; including railroad unemployment insurance;

(3) examination of issues and alternatives concerning the relationship of unemployment compensation to the economy, with special attention to long-range funding requirements and desirable methods of program financing;

(4) examination of eligibility requirements disqualification provisions, and factors to consider in determining appropriate benefit amounts and duration;

(5) examination of (A) the problems of claimant fraud and abuse in the unemployment compensation programs (B) the adequacy of present statutory requirements and administrative procedures designed to protect the programs against such fraud and abuse and (C) problems of claimants in obtaining prompt processing and payment of their claims for benefits and any appropriate measures to relieve such problems;

(6) examination of the relationship between unemployment compensation programs and manpower training and employment programs;

(7) examination of the appropriate role of unemployment compensation in income maintenance and its relationship to other social insurance and income maintenance programs;

(8) conduct of such surveys, hearings, research, and other activities as it deems necessary to enable it to formulate appropriate recommendations, and to obtain relevant information, attitudes, opinions, and recommendations from individuals and organizations representing employers, employees, and the general public;

(9) review of the present method of collecting and analyzing present and prospective national and local employment and unemployment information and statistics;

(10) identification of any weaknesses in such method and any problem which results from the operation of such method;

(11) formulation of any necessary or appropriate new techniques for the collection and analysis of such information and statistics; and

(12) examination of the feasibility and advisability of developing or not developing Federal minimum benefit standards for State unemployment insurance program.

(c) **POWERS OF THE COMMISSION.**—

(1) **HEARINGS.**—The Commission, or, on the authorization of the Commission, any subcommittee or members thereof, may, for the purpose of carrying out the provisions of this section, hold

such hearing, take such testimony, receive such evidence, take such oaths and sit and act at such times and places as the Commission may deem appropriate and may administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or members thereof.

(2) **STAFF.**—Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(A) appoint and fix the compensation of an executive director, and such additional personnel as he deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the executive director may not receive pay in excess of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of such title and any additional personnel may not receive pay in excess of the maximum annual rate of basic pay in effect for grade GS-15 of such General Schedule, and

(B) obtain temporary and intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(3) **CONTRACTS.**—The Commission is authorized to negotiate and enter into contracts with organizations, institutions, and individuals to carry out such studies surveys, or research and prepare such reports as the Commission determines are necessary in order to carry out its duties.

(d) **COOPERATION OF OTHER FEDERAL AGENCIES.**—

(1) **INFORMATION.**—Each department agency, and instrumentality of the Federal Government is authorized and directed to furnish to the Commission, upon request made by the Chairman, and to the extent permitted by law, such data, reports, and other information as the Commission deems necessary to carry out its functions under this section.

(2) **SERVICES.**—The head of each department or agency of the Federal Government is authorized to provide to the Commission such services as the Commission requests on such basis, reimbursable and otherwise, as may be agreed between the department or agency and the Chairman of the Commission. All such requests shall be made by the Chairman of the Commission.

(3) **DEPARTMENT OF LABOR.**—The Department of Labor shall provide support for the Commission and shall perform such other functions with respect to the Commission as may be required by the provisions of the Federal Advisory Committee Act.

(e) **PAY AND TRAVEL EXPENSES.**—

[(1) **MEMBERS SERVE WITHOUT PAY.**—Except as provided in paragraph (2), members of the Commission shall serve without pay.]

(1) **PAY.**—

(A) *IN GENERAL.*—*Members of the Commission who are not full-time officers or employees of the United States shall*



*be paid compensation at a rate not to exceed the per diem equivalent of the rate payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which they are engaged in the performance of services for the Commission.*

*(B) OFFICERS OR EMPLOYEES OF THE UNITED STATES.—Except as provided in paragraph (2), members of the Commission who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Commission.*

(2) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703[(b)] of title 5 of the United States Code.

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

*(f) INTERIM REPORTS.—The Commission shall, from time to time, transmit to the President and the Congress such interim reports as the Commission deems appropriate.*

(g) FINAL REPORT.—The Commission shall transmit to the President and the Congress not later than July 1, [1979,] 1980, a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable.

(h) TERMINATION.—On the ninetieth day after the date of submission of its final report to the President, the Commission shall cease to exist.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

*(j) EXEMPTION FROM REQUIREMENTS FOR OFFICE OF MANAGEMENT AND BUDGET CLEARANCE.—*

*(1) FEDERAL REPORTS ACT.—The requirements of chapter 35 of title 44, United States Code, shall not apply to the Commission.*

*(2) REPORTS TO CONGRESS.—Any reports submitted to the Congress by the Commission shall be submitted directly to the Congress and shall not be subject to any requirements for clearance of reports by the Office of Management and Budget.*

---

SECTION 3306 OF THE INTERNAL REVENUE CODE OF 1954

Subtitle C—Employment Taxes

\* \* \* \* \*  
 CHAPTER 23—FEDERAL UNEMPLOYMENT TAX ACT  
 \* \* \* \* \*

## SEC. 3306. DEFINITIONS.

(a) EMPLOYER.—For purposes of this chapter—\* \* \*

\* \* \* \* \*

(c) EMPLOYMENT.—For purposes of this chapter, the term “employment” means any service performed prior to 1955, which was employment for purposes of subchapter C of chapter 9 of the Internal Revenue Code of 1939 under the law applicable to the period in which such service was performed, and (A) any service, of whatever nature, performed after 1954 by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, and/(B) any service, of whatever nature, performed after 1971 outside the United States (except in a contiguous country with which the United States has an agreement relating to unemployment compensation) by a citizen of the United States as an employee of an American employer (as defined in subsection (j) (3)), except—

(1) agricultural labor (as defined in subsection (k)) unless—

(A) such labor is performed for a person who—

(i) during any calendar quarter in the calendar year or the preceding calendar year paid remuneration in cash of \$20,000 or more to individuals employed in agricultural labor (【not taking into account labor performed before January 1, 1980, by】 *including labor performed by an alien referred to in subparagraph (B)*), or

(ii) on each of some 20 days during the calendar year or the preceding calendar year, each day being in a different calendar week, employed in agricultural labor (【not taking into account labor performed before January 1, 1980, by】 *including labor performed by an alien referred to in subparagraph (B)*) for some portion of the day (whether or not at the same moment of time) 10 or more individuals; and

(B) such labor is not agricultural labor performed before January 1, 【1980】, 1982, by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a) (15) (11) of the Immigration and Nationality Act;

\* \* \* \* \*

○