PROPOSALS FOR REDUCING THE COSTS OF FEDERAL/ STATE UNEMPLOYMENT COMPENSATION PROGRAMS

HEARING

BEFORE THE

SUBCOMMITTEE ON UNEMPLOYMENT AND RELATED PROBLEMS

OF THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

NINETY-SIXTH CONGRESS

FIRST SESSION

OCTOBER 1, 1979

Printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE

83-247 O WASHINGTON : 1979 HG 96-43

COMMITTEE ON FINANCE

RUSSELL B. LONG, Louisiana, *Chairman*

HERMAN E. TALMADGE, Georgia
ABRAHAM RIBICOFF, Connecticut
HARRY F. BYRD, Jr., Virginia
GAYLORD NELSON, Wisconsin
MIKE GRAVEL, Alaska
LLOYD BENTSEN, Texas
SPARK M. MATSUNAGA, Hawaii
DANIEL PATRICK MOYNIHAN, New York
MAX BAUCUS, Montana
DAVID L. BOREN, Oklahoma
BILL BRADLEY, New Jersey

ROBERT DOLE, Kansas
BOB PACKWOOD, Oregon
WILLIAM V. ROTH, Jr., Delaware
JOHN C. DANFORTH, Missouri
JOHN H. CHAFEE, Rhode Island
JOHN HEINZ, Pennsylvania
MALCOLM WALLOP, Wyoming
DAVID DURENBERGER, Minnesota

MICHAEL STERN, *Staff Director*
ROBERT E. LIGHTHIZER, *Chief Minority Counsel*

SUBCOMMITTEE ON UNEMPLOYMENT AND RELATED PROBLEMS

DAVID L. BOREN, Oklahoma, *Chairman*

BILL BRADLEY, New Jersey
JOHN H. CHAFEE, Rhode Island

CONTENTS

ADDITIONAL INFORMATION

PROPOSALS FOR REDUCING THE COSTS OF FEDERAL/STATE UNEMPLOYMENT COMPENSATION PROGRAMS

MONDAY, OCTOBER 1, 1979

U.S. SENATE,
SUBCOMMITTEE ON UNEMPLOYMENT
AND RELATED PROBLEMS,
COMMITTEE ON FINANCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:15 p.m., in room 2221, Dirksen Senate Office Building, Hon. David L. Boren (chairman of the subcommittee) presiding.

Present: Senator Boren.

[The press release announcing this hearing and the excerpt from Finance Committee print 96-26 and the opening statement of Senator Dole follow:]

Press Release # H-61

PRESS RELEASE

FOR IMMEDIATE RELEASE
September 19, 1979

UNITED STATES SENATE
COMMITTEE ON FINANCE
SUBCOMMITTEE ON UNEMPLOYMENT
AND RELATED PROBLEMS
2227 Dirksen Senate Office Bldg.

FINANCE SUBCOMMITTEE ON UNEMPLOYMENT AND RELATED PROBLEMS TO HOLD HEARINGS ON PROPOSALS FOR REDUCING COSTS OF THE FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAMS

Senator David L. Boren (D.,Ok.), Chairman of the Finance Subcommittee on Unemployment and Related Problems, today announced that the Subcommittee will hold a hearing on proposals to bring about cost-reducing improvements in the Federal-State programs of unemployment compensation.

The hearing will be held starting at 2:00 p.m. on Monday, October 1, 1979 in Room 2221 Dirksen Senate Office Building.

Chairman Boren noted that the expenditures of the Federal-State unemployment compensation program are a substantial element in the Federal budget, and that the Congress has an obligation to continually review that program to assure that it operates effectively and that any unnecessary costs are eliminated. He pointed out that a list of possible cost-saving measures which might be considered has been prepared by the staff of the Committee on Finance. This list is attached as an appendix to this press release. Chairman Boren stated that the Subcommittee would be pleased to receive the views of witnesses concerning those proposals and any other proposals for reducing program costs.

Requests to testify.--Chairman Boren stated that witnesses desiring to testify at the hearing must make their requests to testify to Michael Stern, Staff Director, Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, not later than the close of business on Tuesday, September 25, 1979. Witnesses who are scheduled to testify will be notified as soon as possible after this date as to when they will appear. If for some reason the witness is unable to appear at the time scheduled, he may file a written statement for the record in lieu of the personal appearance. Chairman Boren also stated that the Subcommittee strongly urges all witnesses who have a common position or the same general interest to consolidate their testimony and to designate a single spokesman to present their common viewpoint to the Subcommittee. This procedure will enable the Subcommittee to receive a wider expression of views than it might otherwise obtain.

Legislative Reorganization Act.--Chairman Boren stated that the Legislative Reorganization Act of 1946 requires all witnesses appearing before the Committees of Congress to "file in advance written statements of their proposed testimony and to limit their oral presentation to brief summaries of their argument." Senator Boren stated that, in light of this statute, the number of witnesses who desire to appear before the Subcommittee, and the limited time available for the hearings, all witnesses who are scheduled to testify must comply with the following rules:

(1) All witnesses must include with their written statements a summary of the principal points included in the statement.

(2) The written statements must be typed on letter-size paper (not legal size) and at least 100 copies must be delivered to

Room 2227, Dirksen Senate Office Building, not later than 5:00 P.M. Friday, September 28, 1979.

(3) Witnesses are not to read their written statements to the Subcommittee, but are to confine their oral presentations to a summary of the points included in the statement.

(4) All witnesses will be limited in the amount of time for their oral summary before the Subcommittee. Witnesses will be informed as to the time limitation before their appearance.

Witnesses who fail to comply with these rules will forfeit their privilege to testify.

Written statements.--Persons not scheduled to make an oral presentation, and others who desire to present their views to the Subcommittee, are urged to prepare a written statement for submission and inclusion in the printed record of the hearing. Written testimony for inclusion in the record should be typewritten, not more than 25 double-spaced pages in length and mailed with 5 copies to Michael Stern, Staff Director, Senate Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, not later than October 1, 1979.

P.R. # H-61

EXCERPT FROM FINANCE COMMITTEE PRINT 96-26

C. Various Proposals for Consideration

On August 6, 1979, the Finance Subcommittee on Unemployment and Related Problems announced its intention to hold hearings on various proposals which might be considered to improve the Federal-State unemployment compensation program in ways which would strengthen the budgetary situation by reducing unnecessary costs. The staff of the committee has compiled a list of proposals which, among others, might be considered in those hearings. These proposals are listed below together with estimates of the annual savings which might be expected to result from each proposal. These estimates were developed for the committee by the Department of Labor. It should be pointed out that these estimates indicate a full year savings impact at an assumed total unemployment rate of approximately 7 percent. Because the unemployment program's costs are highly sensitive to the rate of unemployment, the estimates could be expected to be somewhat different at higher or lower unemployment rates. In addition, it should be noted that many of the proposed changes might require the enactment of State legislation for implementation so that the full savings impact would not be likely until a year or so after the enactment of Federal legislation.

The proposals listed below have been compiled by the staff for the purpose of providing information to the subcommittee, to those who may wish to testify at the hearings planned by the subcommittee, and to other interested persons. These proposals have not been reviewed or approved by the subcommittee or any member thereof.

1. Require disqualification for duration of unemployment for voluntary quits, discharge for misconduct, and refusal of suitable work.—When an unemployed worker has voluntarily left his job without good cause, has been discharged for misconduct, or has refused what the State agency considers a suitable job offer for him, he becomes ineligible for benefits. However, in many States the disqualification is lifted after a period of time. Other States continue the disqualification for the duration of unemployment. A recent research study by SRI International concluded that the average length of unemployment tends to be lower in States which impose disqualification for the duration of unemployment. Consideration could be given to requiring all States to utilize this rule.

Estimated annual savings.—$0.3 billion.

2. Require that States not pay benefits beyond 13 weeks to an individual refusing any reasonable job offer.—The unemployment compensation program exists to provide protection against income loss during periods of involuntary unemployment. Generally, a worker qualifies for up to 26 weeks of benefits if he was laid off from work for reasons other than his own misconduct or his own voluntary decision to quit and if he remains ready, willing, and able to accept new employment. For the benefit of both the worker and the labor market, newly unemployed workers are not required to take any available job but are permitted to seek a job which reasonably matches their previous experience, training, and earnings level. After seeking such work unsuccessfully for a reasonable period of time, however, individuals may be required to seek jobs not meeting their full qualifications as a condition of continued benefit eligibility. Consideration could be given to establishing a Federal requirement that States not continue benefits beyond 13 weeks unless, at that point, the unemployed individual is willing to accept any job which meets minimum standards of acceptability (such as basic health and safety standards, compliance with the Federal minimum wage, and acceptability under existing Federal standards). A similar requirement was included in the legislation extending the now expired Emergency Unemployment Compensation Act of 1974.

Estimated annual savings.—$0.2 billion.

3. Require that States not pay benefits on the basis of predictable layoffs from seasonal employment.—The main objective of the unemployment program is to provide security for workers against the sudden loss of income which occurs when they are unavoidably laid off. It could be argued that it is inconsistent with this objective to pay benefits to workers whose layoff is a regularly recurring and predictable event because of the seasonal nature of that employment. In extending unemployment coverage to State and local government workers, Congress addressed this problem as it applies to school employees by providing for the denial of benefits during regularly scheduled periods of nonwork. The 1976 amendments also provided for denying benefits to professional athletes during the offseason. Consideration could be given to requiring States to establish a seasonal employment exclusion of general applicability as a few States have done already. For example, employment for firms with a pattern of seasonal layoffs could be excluded from consideration in determining benefit eligibility during the offseason unless the unemployed person was fully employed during the same offseason in the prior year.

Estimated annual savings.—No estimate yet available.

4. Require all States to establish a 1-week waiting period.—Most States do not now pay benefits for the first week of unemployment on the basis that requiring a "waiting week" before benefit eligibility starts provides an important incentive to immediately undertake a search for reemployment (or even to find ways to avoid being laid off). Consideration could be given to requiring that the 1-week waiting period be incorporated into all State programs.

Estimated annual savings.—$0.1 billion.

5. Provide increased assistance to States in control of error and fraud.—In the past, when benefit costs were almost entirely borne from State imposed taxes, there has not been a highly visible Federal concern over the need to control the extent of error, fraud, and abuse in State unemployment programs. Given the increased impact of these programs on the Federal budget and the increasingly large direct Federal contribution to benefit costs through the extended benefit program and other programs involving Federal funding, consideration might now be given to providing additional aid and incentives for improved State administration in these areas. Elements which could be considered might include Federal aid in establishing computerized quality control systems and the reduction of Federal payments under the various federally funded parts of the program to the extent that errors are determined to exceed certain minimum levels.

Estimated annual savings.—$0.1 billion.

6. Eliminate the national trigger for the extended benefit program.—Under existing law, an additional 13 weeks of benefits over and above the usual maximum duration of 26 weeks for regular State unemployment benefits become payable in times of high unemployment. Fifty percent of the costs of these extended benefits are paid from the proceeds of the Federal unemployment tax. The basis for the extended benefits program is that unemployed workers may reasonably be expected to find themselves unable to obtain employment for a longer period of time when jobs are scarce as indicated by high levels of unemployment. Consequently, the law requires States to participate in the extended benefits program when insured unemployment levels in the State have increased by at least 20 percent (measured against the 2 prior years) and an absolute insured unemployment rate of 4 percent has been reached. The law also, however, requires that all States implement the extended benefit program when the national insured unemployment rate reaches a level of 4.5 percent. This "national trigger" can result in adding 3 months of benefit duration in a State which has experienced neither a particularly high level of unemployment nor any relative growth in unemployment levels. In such States there would, therefore, seem to be no particular basis for assuming that unemployed workers required additional benefit duration in order to find new work. Consideration could be given to deleting this national trigger so that extended benefits would be payable only in those States where economic conditions indicated a need for the additional duration.

Estimated annual savings.—At the 7 percent total unemployment rate assumption used for estimating the savings of these proposals, this item would produce no savings since the national trigger would not be effective. At an 8.6 percent total unemployment rate, this item would reduce program costs by $1.3 billion.

7. Permit States to establish optional extended benefit trigger at higher insured unemployment levels.—Under present law, States which are not required to participate in the extended unemployment compensation program under the mandatory trigger provisions (because the "20 percent higher" factor is not met) may elect to opt into program when the State insured unemployment rate reaches a level of 5 percent. States do not, however, have the option of triggering the program only at a higher level (such as 6 percent). Consideration might be given to providing States this additional flexibility.

Estimated annual savings.—Up to $0.4 billion depending on economic conditions over a period of years.

8. Provide incentives for Federal agencies to contest improper benefit claims.—An important element of the unemployment compensation program in the States is the experience rating system which provides a strong incentive for employers to avoid unnecessary employee turnover and to monitor claims for unemployment to assure that improper awards are not being made by the State agency. Federal agencies do not have a similar incentive in the case of their employees since benefit costs are funded through a separate account not chargeable to the individual agency. Consideration could be given to requiring each agency, as a part of its annual budget request, to provide information

concerning the amount of benefits paid to its former employees in the prior year and its expectations for the coming year. In addition, the Labor Department could be charged with a continuing analysis of the agency experience and could be required, in its annual budget submissions, to include information concerning any agencies with unusually high benefit charges.

Estimated annual savings.—Less than $0.05 billion.

9. Modify trade adjustment assistance program to provide same benefit amount as regular program.—The trade adjustment assistance program provides additional benefits to workers who become unemployed as a result of import competition which causes a decline in the sales or production of their employers. Under existing law, adjustment assistance is provided in the form of both higher benefits than would be payable under regular unemployment compensation programs and a longer duration of benefits (generally 52 weeks as opposed to 26 weeks under regular State programs). While the impact of import competition may justify a longer duration of benefits on the basis that many similar firms in a given area could be simultaneously impacted so that it would take a longer time for workers in the affected industry to find new work, there does not appear to be a similar rationale for providing a higher level of benefits than are provided to workers losing other types of jobs. Consideration could be given to modifying the program by continuing the additional benefit duration but limiting benefit levels to those of the regular State unemployment compensation program.

Estimated annual savings.—$0.1 billion.

10. Require States to pay interest on funds borrowed from Federal accounts.—Under present law, State benefit costs are paid from the proceeds of State unemployment taxes which are deposited in the State accounts of the unemployment trust fund. If a State account drops to a level where the State will be unable to meet its benefit obligations, a loan to meet the shortfall is made from the Federal unemployment account. (If the Federal unemployment account proves inadequate, it in turn borrows from the general fund of the Treasury.) In each case, the loans that are made bear no interest. Once a loan is made to a State under this provision, the State has between 23 and 35 months to make repayment. At the end of that period, Federal collection action begins by reducing the Federal tax credit otherwise available to employers in the State. Even so, no interest or other penalty applies. (Because of the severe impact of the recent recession, States with outstanding loans were given 3 additional years to make repayment during which no action is being taken to effect collection.) Since these loans are provided on an interest-free basis, there is little incentive for States to make repayment any sooner than they have to. The Federal Government, however, is actually paying interest on these balances since they represent an increase in the public debt. A change in the law could be considered to increase State incentive to repay outstanding loans as quickly as possible by charging interest on any loan balance outstanding at a rate equal to the going rate of interest on Federal securities.

Estimated annual savings.—$0.4 billion.

11. Provide for reduction of benefits when the unemployed individual is receiving a pension based on recent employment.—When the 1976 amendments to the unemployment laws were under consideration by Congress, concern was expressed over the situation in which an individual who is in fact retired rather than unemployed may receive unemployment benefits at the same time that he is receiving retirement pension. The law was amended to provide for a dollar-for-dollar reduction in unemployment benefits by the amount of any pension concurrently payable to the individual. Because of concern that the provision may have been too broadly drawn, the effective date was set in the future to permit time for study and that effective date was subsequently further extended to March 31, 1980. The interim report of the National Commission on Unemployment Compensation recommended that the provision be repealed. As an alternative to this proposal, consideration could be given to making the provision effective with a modification meeting the most serious objections by limiting the reduction to pensions based in whole or part on employment within the 2 years preceding the date of unemployment.

Estimated annual savings.—$0.3 billion (as compared with repeal recommended by the National Commission).

OPENING STATEMENT
OF SENATOR DOLE
BEFORE THE SENATE COMMITTEE ON FINANCE
SUBCOMMITTEE ON UNEMPLOYMENT AND RELATED PROBLEMS

October 1/2, 1979

MR. CHAIRMAN, YOUR EFFORTS TO FIND RESPONSIBLE WAYS TO REDUCE THE COSTS OF THE UNEMPLOYMENT COMPENSATION PROGRAM WHILE MAKING IT MORE EFFECTIVE ARE SINCERELY APPRECIATED. YOU ARE TO BE COMMENDED FOR PROVIDING A FORUM FOR THE DISCUSSION OF COST SAVING PROPOSALS, SUCH AS THOSE PREPARED BY THE COMMITTEE STAFF.

IN YOUR HEARING LAST MONTH ON LEGISLATION TO EXTEND THE NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION, I MADE THE OBSERVATION THAT I WOULD OPPOSE RECOMMENDATIONS FROM THE COMMISSION FOR FEDERAL STANDARDS TO EXPAND THE SCOPE OF THE UNEMPLOYMENT COMPENSATION PROGRAM. I WOULD PREFER TO LEAVE ANY BENEFIT OR ELIGIBILITY DETERMINATIONS TO THE STATES BECAUSE THEY RAISE MOST OF THE TAXES TO MEET BENEFIT PAYMENTS UNDER THE PROGRAM. HOWEVER, I BELIEVE WE ARE FACED WITH A UNIQUE SITUATION WHICH CALLS FOR FEDERAL ACTIONS TO LIMIT PROGRAM COSTS AND MAKE OTHER IMPROVEMENTS THAT WILL PROTECT THE UNEMPLOYED WITHOUT GIVING THEM THE INCENTIVE TO REMAIN ENEMPLOYED UNNECESSARILY.

THE UNIQUE SITUATION TO WHICH I REFER IS THE CURRENT FINANCIAL DILEMMA FACED BY THE UNEMPLOYMENT COMPENSATION PROGRAM. THE STATES HAVE OUTSTANDING TRUST FUND LOANS OF $5 BILLION WHICH THEY BORROWED TO MEET BENEFIT OBLIGATIONS.

THE FEDERAL TRUST FUND IS LIABLE TO GENERAL REVENUES FOR $8.2 BILLION AS A RESULT OF THE EXTENDED AND EMERGENCY BENEFIT PROGRAMS. GIVEN CURRENT FEDERAL BUDGET PROBLEMS AND THE EFFORTS OF CONGRESS TO ELIMINATE THE FEDERAL DEFICIT, IT IS INCUMBENT ON THE CONGRESS TO ASSIST THE STATES TO FIND WAYS TO PUT THEIR UNEMPLOYMENT COMPENSATION PROGRAMS BACK IN THE BLACK. WE ALSO NEED TO MAKE OTHER CHANGES TO ELIMINATE THE FINANCIAL PROBLEMS OF THE FEDERAL TRUST FUND.

IT IS PARTICULARLY IMPORTANT TO NOTE THAT THOSE STATES WHICH HAVE HAD TO BORROW FROM THE FEDERAL TRUST FUND, AND WHICH STILL HAVE OUTSTANDING LOANS, HAVE NOT ALWAYS TAKEN ADVANTAGE OF ADMINISTRATIVE TOOLS TO LIMIT ELIGIBILITY. IF THESE STATES ARE UNWILLING TO INCREASE UNEMPLOYMENT TAXES TO MEET THE HIGH BENEFIT OBLIGATIONS WHICH RESULT FROM THEIR LIBERAL PROGRAMS, THEN THE CONGRESS HAS AN OBLIGATION TO PROVIDE THEM THE INCENTIVE TO TIGHTEN UP THEIR PROGRAMS AND REDUCE THEIR COSTS.

BEFORE I CLOSE MY REMARKS, I WOULD LIKE TO OFFER ONE PROPOSAL WHICH IS NOT AMONG THE STAFF SUGGESTIONS BEFORE US. MY PROPOSAL WOULD PROHIBIT THE STATES FROM PAYING UNEMPLOYMENT BENEFITS TO STRIKERS. I DO NOT BELIEVE CONGRESS EVER INTENDED TO ALLOW UNEMPLOYMENT COMPENSATION BENEFITS TO BE PAID TO STRIKERS. PAYMENT OF SUCH BENEFITS FUNDAMENTALLY ALTERS THE EQUITABLE AND DELICATE BALANCE OF POWER BETWEEN LABOR AND

MANAGEMENT THAT IS THE KEYSTONE OF OUR NATIONAL LABOR POLICY. FURTHERMORE, UNEMPLOYMENT BENEFITS SHOULD BE LIMITED TO THOSE WHO REALLY NEED THE HELP, SUCH AS INDIVIDUALS WHO HAVE BEEN LAID OFF OR WHOSE JOBS HAVE BEEN ELIMINATED, NOT PAID TO THOSE WHO HAVE VOLUNTARILY CHOSEN TO STOP WORKING.

AGAIN, MR. CHAIRMAN, I THANK YOU FOR YOUR INTEREST IN BRINGING FISCAL RESPONSIBILITY TO STATE UNEMPLOYMENT PROGRAMS AND FOR PROVIDING THIS OPPORTUNITY FOR THE DISCUSSION OF COST-SAVING PROPOSALS WHICH CAN MAKE THAT A REALITY.

Senator BOREN. We will go ahead and commence the hearing at this point. There might be other member of the subcommittee who will be joining us, but we will proceed ahead.

We will be operating under a rule of 10 minutes for those who are making presentations before us today, and then we will follow up with questions. So I would appreciate it if you would try to confine your testimony to within 10 minutes in terms of your opening statements; and if you have statements that last longer than that, if you wish to summarize them, we will put them in the record in full.

The purpose of today's hearing is to receive testimony concerning proposals to reduce costs of the unemployment insurance program. A list of possible cost-saving measures has been developed by the staff and is attached to the press release announcing this hearing. We solicit your views on these proposals as well as any additional ideas you have for reducing program costs.

The Senate has instructed the Finance Committee to reduce expenditures within its jurisdiction by $1.4 billion for fiscal year 1980. While this task may be a difficult one, I welcome it. You may be assured that I will be doing my part in helping the Finance Committee achieve its goal.

In order to meet this goal, the committee must look carefully at each program within its jurisdiction. Waste must be eliminated. Top-heavy bureaucracy must be reduced. Priorities must be realined so that programs serve their intended purpose.

It is our purpose today to begin looking at the unemployment insurance program. Benefits in fiscal year 1979 totaled approximately $10 billion, and about $2 billion was spent for administration. Out of a total labor force of 100 million people, 83 million are covered by this program, with total wages of nearly $560 billion.

Financially, the program is still suffering from the mid-1970's recession. Loans to States remain at $5 billion, and loans to the Federal trust funds exceed $8 billion. It is crucial that we get our financial house in order.

In light of these facts and the original intent of the UI program to protect American workers from financial ruin due toloss of employment through no fault of their own, is it reasonable for benefits to be paid to persons who voluntarily quit or refuse to accept suitable work? Is it reasonable for this program to subsidize predictable layoffs from seasonal employment or to pay strikers?

Should the national unemployment rate mandate extended benefits in a State where the rate remains low? Is there sufficient justification to pay higher benefits for a longer duration to persons in certain categories of employment? Should Federal agencies be required to account for benefits paid to its former employees? Is it reasonable for UI benefits to subsidize retirement pensions?

It is my hope that we will hear opinions on these and other questions from today's witnesses and those who are submitting written testimony.

I would say I am convinced that substantial savings can be made from my own experience with the program in Oklahoma. In the mid-1970's we found that 60 percent of the claims filed were from people who had voluntarily quit work or would have been fired for good cause. Under our law at that time, they were merely required to wait for 7 weeks and then they would qualify for benefits.

In April of 1977 the balance in the Oklahoma trust fund was $10 million, not enough to pay 1 month's benefits. After we changed the law to make ineligible, to disqualify those who voluntarily quit or who had been fired for good cause, the trust fund rose within 24 months to $150 million, the highest in the State's history. At the same time eligibility was tightened, benefits for those eligible were increased. So we had this increase in our trust fund of from $10 million to $150 million while we were raising benefits from 55 percent of the average covered weekly wage to 62 percent, soon to go to 66⅔ percent; and at the same time taxes were reduced this past year for over 30,000 Oklahoma employers.

So I think this demonstrates that changes can be made which will bring economies in the program and this will be the focus of these hearings, to look at these possibilities and other suggestion that will come from the witnesses before us.

Our first witness this afternoon will be Mr. Lawrence E. Weatherford, Deputy Assistant Secretary of Labor for Employment and Training.

We are happy to have you here. You may proceed.

STATEMENT OF HON. LAWRENCE E. WEATHERFORD, DEPUTY ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING, U.S. DEPARTMENT OF LABOR, ACCOMPANIED BY ROBERT EDWARDS, ADMINISTRATOR, UNEMPLOYMENT INSURANCE SERVICE AND THE EMPLOYMENT TRAINING ADMINISTRATION

Mr. WEATHERFORD. Thank you. I have a statement. I will go through part and read it.

I have with me Bob Edwards, the Administrator of the Unemployment Insurance Service of the Employment Training Administration.

I want to thank you today for the opportunity to be here to talk with you about these measures you have under consideration for the unemployment insurance program.

Mr. Chairman, the administration has taken the position that no substantive unemployment insurance legislation ought to be enacted until the National Commission on Unemployment Compensation, established by Public Law 94-566, the Unemployment Compensation Amendments of 1976, has issued its final report.

This position is based on the many interrelationships that exist in the Federal-State unemployment compensation program that make it difficult to isolate individual areas and concentrate on them alone. We do not believe a piecemeal approach is appropriate. We concur, however, that modification of the pension provision is a matter that needs to be dealt with immediately, because under current law a change will take place March 31, 1980, if Congress takes no new action, and the Commission has already made its recommendation on this issue.

Despite this general objection, Mr. Chairman, we have reviewed each of your proposals for reducing costs of the program in terms of minimum adverse impact on the integrity of the program. While the adoption of these proposals would result in long-term savings to the Federal-State unemployment compensation program, only six could provide any possibility of savings in fiscal year 1980. Four others, which require changes in both the Federal law and all State laws, are unlikely to be in place early enough in fiscal year 1980 to cut costs; and one proposal—to require States to pay interest on loans borrowed from the Federal Government—would require a change in terms and conditions of existing loans to the States in order to provide any immediate savings.

In two of the six proposals where savings potentially could be realized in fiscal year 1980, the savings probably would not be realized.

First, the elimination of the national trigger in the extended benefit program would save money in fiscal year 1980 only if the insured unemployment rate—IUR—goes as high as 4.5 percent. This is equivalent to a total unemployment rate of about 7.3 percent. Our current projections do not show unemployment reaching that level.

I will make a change in the testimony because I alleged that the Congressional Budget Office had the same one, and I believe we found that to be different today.

Senator BOREN. Yes; the CBO, I believe, does postulate a rate that may exceed that figure. So there could be some savings if the CBO were correct.

Mr. WEATHERFORD. Second, allowing States to adopt a trigger for optional extended benefits higher than the five percent IUR may not result in immediate savings. It is unlikely that many State legislatures would opt for the higher trigger in a year when unemployment levels are anticipated to be rising.

At this point, Mr. Chairman, I would like to discuss individually each of the options listed by the subcommittee for consideration. The first one, relating to disqualification of individuals for the duration of their unemployment following a voluntary quit, a discharge for misconduct, or a refusal of suitable work, is one that has already received serious consideration by the States and that we are studying carefully.

Historically, the Department of Labor has recommended that States adopt periods of disqualification of a fixed number of weeks, but State enactments have run contrary to this recommendation. Since October 1974, the number of States that have a disqualification for the duration of the unemployment spell has increased from 34 to 43 for voluntary quits, from 20 to 43 for discharges for either

misconduct or gross misconduct, and from 19 to 28 for refusals of suitable work.

In the other 10 States, an individual who voluntarily leaves his job is subject to a disqualification that lasts only for a specified number of weeks; however, this period could continue for as long as 10 weeks in six States, and even up to 25 weeks in two of them.

It is possible, as a result of the variation among State laws, that a disqualification for the duration of the unemployment could be satisfied sooner than the disqualification for a period of time.

For example, a claimant in Texas who is disqualified for as long as 25 weeks for voluntarily leaving his or her job could be serving this disqualification for many weeks longer than a similarly situated claimant in a State that disqualifies only for the duration of the unemployment. This example, we believe, demonstrates the complexity of a national standard in this area.

Mr. Chairman, voluntary actions by State legislatures in the past 5 years have increased the use of duration disqualifications. We believe any Federal action in this area should await a careful analysis by the Commission.

The second proposal would require claimants to accept any job, regardless of prior experience, after the 13th week of benefits. This proposal would result in an individual not being able to preserve his or her job skills. We believe that the kind of work considered suitable should expand as the period of unemployment lengthens. This is a concept all States already put into practice through their own regulations and procedures. We do not believe, however, that a Federal standard should be imposed in this area without the benefit of the Commission's analysis and recommendations.

Congress did enact a Federal standard requiring an individual to accept any job which met certain minimum standards in the extension of the Federal Supplemental Benefits—FSB—program, but the standard did not become effective until after the 39th week of benefits. At that time the individual was receiving benefits funded by general revenues rather than by the Federal-State unemployment compensation system.

Claimants receiving benefits beyond the 39th week under general revenue funded special programs such as FSB are in a different situation than claimants in the 13th week of the regular program.

The third proposal mandates the establishment of seasonality provisions in all State laws. Although States have been free to adopt such provisions since the beginning of the program, no State has adopted one in the past 35 years, and 17 of the States that once had such provisions have repealed them. This State resistance to seasonality provisions is due to the difficulty of administering them.

Our own experience in administering the between-terms denial for school employees has also shown that it is extremely difficult and costly to administer provisions of this nature.

The fourth proposal is to require all States to establish a 1-week waiting period prior to receiving benefits. This change will not result in any improvement in the unemployment insurance system. All but 12 States now require a waiting week, and 9 of them allow an individual to be compensated for the week after he or she has received benefits for a specified number of weeks.

It should be noted that there will be no savings in cases where individuals exhaust their benefits. No Federal standard on the waiting week should be enacted prior to the Commission's report.

In addition to the above comments, Mr. Chairman, we would also point out that these four proposals would require action by State legislatures to implement.

The fifth proposal is to provide assistance to States in controlling fraud and overpayments. We have already spent a good amount of money in improving the automation of our processing in the States, to do two things: To improve our ability to detect fraud and, second, to improve our collection of taxes from the delinquent employers.

The sixth, as I said before, we do not believe there would be savings here because the trigger would not go on in 1980.

The seventh proposal is to allow States to trigger in extended benefits at insured unemployment levels higher than 5 percent. Currently there are 38 States that have opted for the 5-percent waiver provision and the option remains open for the other States. We believe this proposal requires a more extensive analysis and consideration of alternatives such as replacing the present 120 percent requirement with a seasonally adjusted rate.

We expect the Commission to study this area.

The eighth proposal, dealing with Federal agencies, Mr. Chairman, we are looking at this one on our own. We are having a study in which we are trying to determine how much it costs to do that. We do have some feeling about that one, in support of that. We would not have the results of that study that we have started until June.

With respect to the ninth proposal, which is the trade adjustment payment of benefits at the unemployment insurance level, Mr. Chairman, we would oppose that at this time because this is a very sensitive area that covers many areas other than the unemployment insurance program.

I think your committee has had under consideration changes in the trade program, and we believe that in view of the current level of benefits all over the country that there is a lot of validity to keep the trade program benefit levels the same as they are now.

Finally, as I indicated, the last two areas, which is the interest on the loans, we certainly have some interest in that, but we have got those $5 billion out there that we shouldn't change the conditions on.

The last proposal, on pensions, Mr. Chairman, we support that proposal and we have so testified over on the House side on a bill that they have under consideration.

Thank you, Mr. Chairman.

Senator BOREN. You say on the pensions you support that?

Mr. WEATHERFORD. Yes, sir; we would want to talk to you about the language of that. Just from an administrative standpoint we would like to see you deal with base period employers rather than 2 years, because it would serve basically the same purpose and fit in better the way the States operate now.

Senator BOREN. Let me ask this question on the trade adjustment assistance: I realize there may be some political justification for this, but if a person is unemployed they are unemployed,

whether it be due for whatever the reason, whether it is due to some trade-related reason or some basic lack of competitive position in the industry that they are working, some layoff is required for whatever reason, it is still an economic dislocation; and if the purpose of the program is simply to try to help the person who through no fault of their own has been laid off work, why should we say that a person who is laid off work because of something related to trade is entitled to higher benefits? They have the same costs; they are both laid off work through no fault of their own; why should there be a special program for trade-related layoffs?

Mr. WEATHERFORD. Mr. Chairman, we went back and looked at the Finance Committee's language when they put this into the act before. I think they focused on the fact that in most of these cases the areas and the industries were tremendously hard hit and for long periods of time.

I think, in trying to find a way to justify that, it seemed to me that workers who are faced with that problem are not the same as workers who are faced with the normal seasonal layoffs between jobs, short-term unemployment. They might be better able to handle that with the regular insurance program than you would with a worker who is faced with long-time adjustment in trying to adjust because of trade activities.

One of the things that troubles us here is the relationship between the Federal Government taking action and laying the standards on this particular program, versus the concept that we normally believe in, of having State action.

Senator BOREN. Of course, the Federal Government, while we modified the trade laws, you know, Congress may modify purchasing or something else from some particular area that would cause a layoff that would be just as severe in something like the aerospace industry or something else; and Congress or the Government would be just as much responsible for it as if they changed the tariff level.

That is what seems to me to be a little inconsistent, in providing special benefits for any one category.

Mr. WEATHERFORD. We have, as you know, a number of programs that have come out in the last 3 years—the Redwood Act, airline deregulation, others, where we have the same sort of situation.

Senator BOREN. It sets a precedent, doesn't it?

Mr. WEATHERFORD. Yes, sir; it certainly does.

Senator BOREN. Let me ask you this: How many States totally disqualify people who voluntarily quit?

Mr. WEATHERFORD. Mr. Chairman, I want to answer that, that there are 43 States, I believe.

Senator BOREN. That totally do, they don't just go to a waiting period?

Mr. WEATHERFORD. The disqualification for the duration of the unemployment.

Senator BOREN. So all but seven States do that?

Mr. WEATHERFORD. I believe 10. We have three: the District of Columbia, the Virgin Islands, and Puerto Rico are included. We use 53 as our number.

Senator BOREN. I see. So there has been quite a movement toward that in terms of States following that enactment?

Mr. WEATHERFORD. Yes, sir; I said in the testimony there that I believe the number has increased substantially over the last 4 or 5 years. There has been a tendency to go to that.

Senator BOREN. Do you know what States have not? Are they the larger States, in terms of expenditures, who have not moved to that?

Mr. WEATHERFORD. Mr. Chairman, I think I can find that for you here. I believe Alaska, Colorado, the District of Columbia, Kansas, Michigan, Nebraska, Texas, the Virgin Islands, West Virginia, and Wyoming. So it is kind of a mix in there.

Senator BOREN. Some lower and some higher unemployment.

Do you have any other suggestions that you might offer to us? I might say in all candor, it is a little disheartening when we have a program of this size, and you are involved in the administration of it, that you are urging us to go slowly on most of these areas. It is hard to believe we could not find some areas that wouldn't be good targets for savings in a program this large, where we are spending $2 billion a year even on the administration of the program, and much, much more than that, of course, in terms of benefits.

Do you have any other situations that we might follow in terms of areas that might not have been mentioned at all by the staff for cutting costs?

Mr. WEATHERFORD. Mr. Chairman, I certainly appreciate what is your disappointment in us not joining you. One of the things that troubles us a little here, as I indicated, is the study commissioned, and our relationship with the States when you look at it just for fiscal year 1980. It seems to me that we need to be careful about taking steps to reduce benefits to workers who are basically entitled to them.

Our basic feeling is that we don't have high enough benefits now for about 40 percent of the workers in the country that lose their jobs through no fault of their own. Probably the area where we can do the most good is in the administration of the program; and since we were hit in the last recession, we have devoted some additional resources, administrative staff, to the area of trying to determine who is eligible for benefits.

We have shown some marked changes in the record. For example, if I can just use one here, in 1975 we had a disqualification rate that ran about 1 week per 1,000. We doubled that over the last 2 or 3 years since that period of time.

In the area where we talked to claimants about their eligibility, we have doubled the disqualification rate, not just in weeks but in terms of disqualification.

We have some places around the country in the States where their eligibility requirements are pretty loose, and there is some question in a lot of people's minds as to whether they really indicate attachment to the labor force or not. I think it is in those areas, and one of the things that gives us trouble is coming down with something that when you operate a decentralized system, laying a requirement on them to do something about it, disqualification is an area where States have generally made some progress.

Senator BOREN. Do you try to track, for example, when States—and I am reciting the Oklahoma experience—when States make changes in the law, and changes in terms of qualifications, and

these result in financial changes in the status of the fund—increased and improved reserves, the ability to pay increased benefits; or, on the other hand, if it has a negative effect, the change has a negative effect, in terms of financial soundness and benefit structures, et cetera—do you attempt to track these down, so we can begin to try to benefit from the fruitful experiences and experiments by States?

Mr. WEATHERFORD. Mr. Chairman, we review each State's law. As you know, we have to certify them for conformity with the overall Federal law; and it gives us the opportunity to keep up with what is going on in the States. They are required to give us a copy; and we have a comparison. It is an in-depth comparison and lists all of the various ones.

We have done some research on the law changes. We have some research now being conducted on the last amendments to the Federal law that require States to cover agricultural workers, household workers, et cetera. We do some of that, but I suspect not nearly as much as we should.

We are beginning what we call a longitudinal study, that we have not had in the past, that will let us track a sample of claimants throughout the country. It is a byproduct of operations; and we hope within the next 3 or 4 years to have in place a system where we can measure the State impact as well as the national impact of any sort of changes in the system. But we don't have that in place yet.

Senator BOREN. Well, I would urge you to try to track these more closely; and I understand the work of the Commission in this area, and that you are urging us to have the full results of the Commission's work. I supported extending the Commission; but I would hope that this would not keep the Department from going out and taking a close look at areas where you feel you can come forward with suggestions, because, as I said, we are trying to make savings this year if at all possible, and while we are coming into a period of potentially high unemployment—we hope that prediction does not come through, but it could—I think that is all the more reason for us to try to make sure that we don't waste any money that we can avoid wasting. Then we will be able adequately to take care of the people truly unemployed, without having to increase these huge outstanding loans that are already there.

Well, I appreciate your testimony very much; and the remainder that you did not read we will place in the record.

[The prepared statement of Mr. Weatherford follows:]

STATEMENT OF LAWRENCE E. WEATHERFORD
DEPUTY ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING
BEFORE THE
SUBCOMMITTEE ON UNEMPLOYMENT AND RELATED PROBLEMS
COMMITTEE ON FINANCE
UNITED STATES SENATE

October 1, 1979

Mr. Chairman and Members of the Subcommittee:

I want to thank you for the opportunity to appear before you today to testify on a variety of measures affecting the unemployment insurance program.

In general, Mr. Chairman, the Administration has taken the position that no substantive unemployment insurance legislation ought to be enacted until the National Commission on Unemployment Compensation, established by P.L. 94-566, the Unemployment Compensation Amendments of 1976, has issued its final report. This position is based on the many interrelationships that exist in the Federal-State unemployment compensation program that make it difficult to isolate individual areas and concentrate on them alone. We

do not believe a piecemeal approach is appropriate. We concur, however, that modification of the pension provision is a matter that needs to be dealt with immediately because under current law a change will take place March 31, 1980 if Congress takes no new action, and the Commission has already made its recommendation on this issue.

Despite this general objection, Mr. Chairman, we have reviewed each of your proposals for reducing costs of the program in terms of minimum adverse impact on the integrity of the program. While the adoption of these proposals would result in long-term savings to the Federal-State unemployment compensation program, only six could provide any possibility of savings in FY 80. Four others, which require changes in both the Federal law and all State laws, are unlikely to be in place early enough in FY 80 to cut costs, and one proposal--to require States to pay interest on loans borrowed from the Federal Government--would require a change in terms and conditions of existing loans to the States in order to provide any immediate savings.

In two of the six proposals where savings potentially could be realized in FY 80, the savings probably would not be realized. First, the elimination of the national trigger in the extended benefit program would save money in FY 80 only if the insured unemployment rate (IUR) goes as high as 4.5 percent. This is equivalent to a total unemployment rate of about 7.3 percent. Neither the Congressional Budget Office's nor the Administration's current projections show unemployment reaching this level.

Second, allowing States to adopt a trigger for optional extended benefits higher than the 5 percent IUR may not result in immediate savings. It is unlikely that many State legislatures would opt for the higher trigger in a year when unemployment levels are anticipated to be rising.

At this point, Mr. Chairman, I would like to discuss individually each of the options listed by the Subcommittee for consideration. The first one, relating to disqualification of individuals

for the duration of their unemployment following a voluntary quit, a discharge for misconduct, or a refusal of suitable work, is one that has already received serious consideration by the States and that we are studying carefully.

Historically, the Department of Labor has recommended that States adopt periods of disqualification of a fixed number of weeks, but State enactments have run contrary to this recommendation. Since October 1974, the number of States that have a disqualification for the duration of the unemployment spell has increased from 34 to 43 for voluntary quits, from 20 to 43 for discharges for either misconduct or gross misconduct, and from 19 to 28 for refusals of suitable work. In the other 10 States an individual who voluntarily leaves his job is subject to a disqualification that lasts only for a specified number of weeks; however, this period could continue for as long as ten weeks in six States and even up to 25 weeks in two of them.

It is possible, as a result of the variations among State laws, that a disqualification for the duration of the unemployment could be satisfied sooner than the disqualification for a period of time. For example, a claimant in Texas who is disqualified for as long as 25 weeks for voluntarily leaving his or her job could be serving this disqualification for many weeks longer than a similarly situated claimant in a State that disqualifies only for the duration of the unemployment. This example, we believe, demonstrates the complexity of a national standard in this area. Mr. Chairman, voluntary actions by State legislatures in the past five years have increased the use of duration disqualifications. We believe any Federal action in this area should await a careful analysis by the Commission.

The second proposal would require claimants to accept any job regardless of prior experience after the 13th week of benefits. This proposal would result in an individual not being able to

preserve his or her job skills. We believe that the kind of work considered suitable should expand as the period of unemployment lengthens; this is a concept all States already put into practice through their own regulations and procedures. We do not, however, believe that a Federal standard should be imposed in this area without the benefit of the Commission's analysis and recommendations.

Congress did enact a Federal standard requiring an individual to accept any job which met certain minimum standards in the extension of the Federal Supplemental Benefits (FSB) program, but the standard did not become effective until after the 39th week of benefits. At that time the individual was receiving benefits funded by general revenues rather than by the Federal-State unemployment compensation system. Claimants receiving benefits beyond the 39th week under general revenue funded special programs, such as FSB, are in a different situation than claimants in the 13th week of the regular program.

The third proposal mandates the establishment of seasonality provisions in all State laws. Although States have been free to adopt such provisions since the beginning of the program, no State has adopted one in the past 35 years and 17 of the States that once had such provisions have repealed them. This State resistance to seasonality provisions is due to the difficulty of administering them.

Our own experience in administering the between-terms denial for school employees has also shown that it is extremely difficult and costly to administer provisions of this nature. An attempt to administer a seasonality provision nationally could be expected to generate at least as many complaints, and possibly many more, than have arisen from the restrictions that currently apply to school employees. In addition, one study we have on seasonality indicates that, at least in one State, it costs more to administer than it saves.

It is clear, Mr. Chairman, that States have found that the adoption of a seasonality provision does not adequately do what it is intended to do, that is, limit benefits to individuals whose unemployment cannot be anticipated. This factor, coupled with the desire of employers engaged in seasonal pursuits to maintain a steady workforce when needed, has dampended the desire of State legislatures to adopt seasonality provisions. Most States have dealt with the seasonality question through the use of qualifying requirements that require a claimant to have substantial attachment to the workforce before being eligible for unemployment benefits.

The fourth proposal is to require all States to establish a one-week waiting period prior to receiving benefits. This change will not result in any improvement in the unemployment insurance system. All but 12 States now require a waiting week, and nine of them allow an individual to be compensated for the week after he or she has received benefits for a specified number of weeks. It should be noted that there will be no savings in cases where individuals exhaust their benefits. No Federal standard on the waiting week should be enacted prior to the Commission's report.

In addition to the above comments, Mr. Chairman, we would also point out that these four proposals would require action by State legislatures to implement. As a result, it is unlikely that action could be taken in time to save money in FY 80.

The fifth proposal is to provide assistance to States in controlling fraud and overpayments. Providing such assistance to the States is an objective towards which we have been and are currently working. We have devoted a substantial amount of money and effort to computerizing State operations by funding an automated means of cross matching claims against employment records. In addition, we are placing increased emphasis on State collections from delinquent employers. More needs to be done not only to reduce fraud but also to slow down the increasing delinquency rate of employers. Any system, however, that uses an incentive approach to administrative financing should carefully analyze all possible adverse effects before adopting such a method. The Commission is studying the entire area of administration.

The sixth proposal is to eliminate the national trigger in the extended benefit program. This is a major legislative change which should not be considered in the absence of the Commission's report. We would point out, however, that had the national trigger not been in place during the 1975-1977 recession period, two States would not have paid extended benefits at all.

The seventh proposal is to allow States to trigger in extended benefits at insured unemployment levels higher than 5 percent. Currently there are 38 States that have opted for the 5 percent waiver provision and the option remains open for the other States. We believe this proposal requires a more extensive analysis, and consideration of alternatives such as replacing the present "120 percent" requirement with a seasonally adjusted rate. We expect the Commission to study this area.

The eighth proposal is to provide an incentive for Federal agencies to contest improper benefit

claims. Before adopting this suggestion we believe the Subcommittee should first weigh all the additional costs involved, both to Federal agencies and State employment security agencies, to determine whether there would be sufficient savings involved after the expenses are deducted. In light of a recent GAO report recommending this, the Department of Labor has initiated action under which a contract will be let to determine the additional administrative costs that would be incurred. Results of this study will be available in June 1980.

The ninth proposal is to provide recipients of benefits under the trade adjustment assistance program with the same weekly benefit amount available under the unemployment insurance system, and to pay such benefits to trade adjustment assistance claimants only after they have exhausted their unemployment insurance. Such a reduction should only be addressed in the overall context of the trade adjustment assistance program, which

will come before the Congress for reauthorization prior to its expiration in 1982. We do not believe such a change should be considered in isolation at this time.

We have legitimate concern for the objective of the tenth proposal which is to require States to pay interest on funds borrowed from the Federal Government, but we believe that any consideration of this proposal should recognize that the loans now outstanding as a result of deferral--$5 billion among 17 States-- are in a special category. In adopting the loan provision, Congress carefully considered that States would have unanticipated economic problems. The Congress responded by adopting a means of coping with these problems that worked well until recently when there was a totally unanticipated drain on State funds. Congress, recognizing the unprecedented drain, authorized the States to defer repaying their loans, thereby negating any motivation a State would have to make an early repayment. Since

this is the last year deferrals are allowed, the normal payback provisions of the Federal law will begin next year and could substantially reduce the amount of loans currently outstanding. This would go a long way towards alleviating the problem. Consideration must be given to the question of whether it would be an injustice to pass legislation at this time to correct a problem that resulted from temporary legislation allowing States to delay repayment.

The final proposal is to provide for a reduction in unemployment benefits when an individual is receiving a pension based on recent employment. We support this proposal, but recommend that "recent employment" be interpreted to mean a pension based on employment with an unemployment insurance base-period employer. The proposal, as written, would go back two years and require States to alter their procedures to verify pensions received from employers six months to a year prior to the normal base period. While this can be done, it would

53-247 O - 79 - 3

be less costly administratively to limit the deductions to pensions received from employers within the State's existing base period.

Before closing, Mr. Chairman, I would like to express my concern for making changes in the unemployment compensation program while comprehensive studies are under way of the entire program and its future direction. We believe we should wait and see what the National Commission on Unemployment Compensation will recommend. This Commission was established by Congress to review the entire unemployment insurance system and make recommendations of what the relationship should be between the States and Federal Government. We ought to review the Commission's recommendations on what that relationship should be before proceeding further with additional Federal standards.

I thank you for this opportunity to express my views and would be happy to answer any questions.

Senator BOREN. Our next witness is Mr. S. Martin Taylor, the president of the Interstate Conference of Employment Security Agencies, Inc., and director of the Michigan Employment Security Commission.

Mr. Taylor, we are very glad to have you with us.

STATEMENT OF S. MARTIN TAYLOR, PRESIDENT, INTERSTATE CONFERENCE OF EMPLOYMENT SECURITY AGENCIES, INC., DIRECTOR, MICHIGAN EMPLOYMENT SECURITY COMMISSION, ACCOMPANIED BY SANDI BATES, RESEARCH DIRECTOR, INTERSTATE CONFERENCE

Mr. TAYLOR. Thank you very much.

Senator BOREN. And your associate, if you would like to——

Mr. TAYLOR. Yes, I have with me Sandi Bates, the research director for the Interstate Conference of Employment Security Agencies.

I am president of ICESA and director of the Michigan Employment Security Commission. My testimony today is presented as president of the Conference, whose membership is comprised of employment security administrators of the 50 States, Puerto Rico, the Virgin Islands, and the District of Columbia.

In addition to other duties and responsibilities, our membership administers a UI system in this country.

We have submitted to the committee staff copies of our written statement of 20 pages. I would like to summarize it.

Senator BOREN. Fine; we will place that full statement in the record.

Mr. TAYLOR. Thank you.

I would like to touch on three points, Senator.

First of all, I would like to talk a little bit about the Federal Unified Budget. No. 2, I would like to discuss ICESA's formal position against increased Federal standards; and, third, ICESA's formal positions with respect to the 11 items that you are considering today.

First of all, we have serious questions about the validity of including within the Federal unified budget, the State unemployment insurance trust funds.

We have difficulty understanding a State program, financed by State taxes, operating under essentially a State law, being included within the Federal budget. Again, there is some difficulty with us accepting the notion that how much a given State pays out in unemployment insurance impacts on the Federal budget process.

Now, it is our opinion that items Nos. 1 through 6, and 11, are calculated to reduce costs under the Federal unified budget. That seems to be the rationale, the motivation, for it, as I think you stated at the outset.

Given the fact that we have difficulties supporting that concept, the concept of the trust funds being contained within the Federal Unified Budget, we would be opposed to those measures as cost saving items, because we would think that some serious consideration ought to be given to continuing to keep the State UI trust funds within the Federal unified budget.

Second, the Conference is four square against increased Federal standards. We have tried to be fairly consistent about that. We are

against increased Federal standards when those proposed standards are what one calls liberal, or what one would call conservative, either way, we think increased Federal standards are not needed at this time.

It is our opinion that the States are in a better position to determine, according to their economic situation, their business cycles, their employment, the demographics of their State, how their unemployment insurance system should be structured.

It is our opinion, therefore, that items Nos. 1 through 4, and 11, represent Federal standards and we are therefore opposed to them on that basis. So at least on items Nos. 1 through 4, and 11, for two reasons, we have serious questions about the propriety of those proposals.

With respect to our formal position, as I think you are aware, we take polls and we pass resolutions at our midyear and annual meetings on specific items. I will try to very quickly run through our positions from that standpoint; and I think you will note there will be, obviously, some overlapping or duplication.

First of all, items Nos. 1 through 4, and 11: As I said, we have taken formal polls and passed formal resolutions, whereby, ICESA is opposed to those particular items on the basis of increased Federal standards and the process of reducing the Federal unified budget.

With respect to item 5——

Senator BOREN. Let me ask you there, however, a majority of the States in the association have, at the State level, enacted several of these?

Mr. TAYLOR. That is correct.

Senator BOREN. In other words, a voluntary quit has been adopted by a majority of the States; those refusing to accept reasonable or suitable employment, a large portion of the States, or over half, have accepted that——

Mr. TAYLOR. That is right.

Senator BOREN [continuing]. And seasonal employment.

Now, would you comment on that? We heard the comment from the Department of Labor a minute ago.

Mr. TAYLOR. About seasonal employment?

Senator BOREN. Yes. There seems to be movement away from that?

Mr. TAYLOR. One of the things we cite in our paper is that—take, for example, schoolteachers—we have denial periods between regular semesters; that is based on the concept that a teacher is paid annual salary; it is calculated for 12 months.

The fact of the matter is, they simply don't get paid for 3 months and they do not work for 3 months, but the base salary is considered for the whole year. In many, many other industries, you have seasonal layoffs where there is no consideration given to those seasonal layoffs in compensation.

For example, within an auto industry, a classic example, model changeover layoffs; you know that a certain number of workers are going to be laid off every year, generally in July or August, but there is no telling who exactly will be laid off or how long it will be; and compensation for those workers is precisely the same.

So an argument cannot be made that such layoffs have been considered when the compensation levels have been set. So we think that the individual States are best suited to determine whether they have some particular type of seasonal work, where there ought to be a denial period. But to have a blanket denial period, we think, would be terribly inequitable.

Senator BOREN. So you are saying the States are in a better position to tell where compensation has been planned and on an annual basis, and seasonal layoffs are a part of that compensation, as with teachers or whether it fits the autoworker picture, where you cannot plan ahead?

Mr. TAYLOR. That is correct.

Senator BOREN. Are teachers and professional athletes covered by the congressional enactment?

Mr. TAYLOR. Just teachers; yes, and professional athletes.

Senator BOREN. Are there any other groups that from your experience or that of those in other States that you have heard fit particularly in the category of not being paid seasonally, but where it is considered a part of their annual compensation?

Mr. TAYLOR. Not that I know of; not that I can recall; no, sir.

Senator BOREN. Excuse me.

Mr. TAYLOR. With respect to item 5, which deals with Federal aid to States, increased Federal aid to States for benefit payment control—and I guess I should point out this is an area of fraud and overpayment, et cetera—we are in full support of this measure. We have, via our efforts over many, many years, through the budget process, argued for increased staff and increased assistance to lower our error rates and effect restitution, et cetera. We feel in this area of benefit payment control that we are underfunded and we need more staff for investigation, prosecution, restitution.

Senator BOREN. Is that staff estimate a realistic one, that we would save $100 million through that process?

Mr. TAYLOR. Oh, yes, sir; $100 million nationally through better and more efficient staff, yes. In fact, in my own individual State we ran some systems to detect overpayment of all sorts, whether by error or fraud or otherwise—it is all the same in terms of dollars—and we were alarmed at how much and at how—well, at how much can be done to reduce those errors.

But it simply requires staff. But we think it pays for itself. We think we can show that to you, where it would more than pay for additional expenditures.

With regard to items 6 and 7, item 6 deals with eliminating the national EB trigger, and item 7 would permit States to alter the State EB trigger, extended benefits. We have no recent formal position; however, as president I am quite certain that we would support item 7, which would allow a State to alter its EB trigger. That would be consistent with our position that we can best determine when we have an unemployment problem.

With regard to item 6, I am very uncertain as to that—that is the elimination of the national trigger—but I would say this, that we would be more than willing to poll our members and to share those results with you.

Senator BOREN. I would appreciate that. As I understand now, once the trigger—once you reach the average national rate it is

triggered in all States, whether or not those States have as high an unemployment rate, so you may have an 8 percent overall national unemployment rate, but State X may only have 3 percent, yet it is triggered in State X as well as in the other States?

Mr. TAYLOR. The majority of our members might argue with you. They may feel a State trigger might have a more targeting effect as to where the real problem is. We would be happy to do that.

Senator BOREN. I realize that not to trigger it would give rise to the argument in some States of, "We are not getting our fair share of the dollars." But overall, if you didn't know where you were going to be ahead of time, you might be more in favor of it in terms of philosophy.

I would appreciate that, if you could do that, and supply it; that would be helpful to the full committee at the time they bring this up for consideration.

Mr. TAYLOR. We will discuss it with your staff and proceed to do that.

With regard to item 8 that dealt with providing certain incentives to Federal agencies or departments as employers to better police the UC system, we have no formal position on that, but I am again quite certain that we would support that effort.

One of the key aspects to the unemployment insurance system is the full participation, not only by the claimant and by the agency, the unemployment insurance agency, but also by the employer. And the employer in this case is the Federal department.

If Federal departments had an idea about how much they were paying in unemployment insurance, they may have more incentive to give us wage and separation information to challenge claims, et cetera.

So we think, while it is good in the private sector, it ought to be good here. So we would support that, I am quite certain.

With regard to item 9, that is an item that would say that the trade readjustment weekly benefit amounts would equal the State weekly benefit amounts, and we would have no direct, formal position, except for the fact ICESA generally has favored and gone on record as supporting one UI system.

We are cognizant, however, of perhaps the need for Federal UI programs, a program to cover unemployment due to national decisions; and if that is the decision of Congress, so be it.

But what we would urge you to do is to give a close look at seeing if you couldn't have one consolidated Federal program.

Senator BOREN. In other words, instead of saying we will pick out this industry or that——

Mr. TAYLOR. Yes, the airline industry, et cetera. Yes, sir, so if something could be done in that area, it would be a great help in the administration and the equity in it.

With respect to item 10 dealing with interest on loans from State trust funds, we do have in this regard a formal position favoring interest on future loans.

Now the tenth item that you are considering, I read that to mean loans and interest period. We would be in favor of interest on loans in the future.

Senator BOREN. In other words, not making it retroactive to States?

Mr. TAYLOR. That is correct.

Senator BOREN. Well, I think you make a good point on that. Was that fairly overwhelmingly adopted by your association in terms of prospective?

Mr. TAYLOR. What the members saw, Senator, was perhaps there was a need, certainly there was a minority against it, but the majority felt this would perhaps provide an incentive to a State to raise its taxes, to perhaps reassess its program, to try to reduce costs, et cetera, so it could pay back its loan a little earlier, when a delay in paying it back is costing more money.

So we have supported that concept.

Senator BOREN. I am in sympathy with what you say in terms of prospective instead of retroactive application.

From my own association with State government, we have all been troubled with that, with one agency applying retroactive rules.

Mr. TAYLOR. That is a very quick highlight of the testimony we have.

Senator BOREN. We appreciate it. I think I have asked my questions pretty much as we have gone along. I hope it hasn't disrupted the flow of your testimony.

I appreciate the testimony very much. We will put the full text in the record and appreciate your taking the time to be with us today.

Mr. TAYLOR. Thank you.

[The prepared statement of Mr. Taylor follows:]

Statement by S. Martin Taylor, Director of the

Michigan Employment Security Commission and President,

Interstate Conference of Employment Security Agencies

INTERSTATE CONFERENCE OF EMPLOYMENT SECURITY AGENCIES

SUMMARY

The Interstate Conference advocates a strong Federal-State partnership which utilizes the commitment of both partners to ensure that the unemployment insurance system in the United States accomplishes its mission effectively and efficiently. We remain committed to the notion that each State must responsibly review its particular labor market and enact unemployment insurance laws which fairly protect the rights of both the workers and employers in the State. To this end, the Interstate Conference urges the Subcommittee to consider the following:

- The recommendations embodied in items 1; 2, 3, 4, 7, and 11 would establish Federal requirements for State laws. We believe provisions of this type should originate in the States through consultation with the employers and workers in the State, rather than as a result of Federal legislation. These recommendations would require legislation in a minimum of thirteen States or jurisdictions and we estimate that such legislation could not reasonably occur in all cases prior to 1981.

- We concur in general with the recommendations contained in items 5, 8, 9 and 10. There is evidence that improvements in benefit payment control can be made through increased staffing. Any encouragement that can be provided to Federal agencies in supplying prompt and accurate separation and wage information will improve not only the timeliness of payments to claimants, but will also reduce the costs of the program. Trade Readjustment Assistance should be more consistent with the regular unemployment insurance program. Finally, interest on future loans, especially in conjunction with a fiscally sound reinsurance program, is both reasonable and justified.

- The elimination of the national trigger for the extended benefit program does not seem to acknowledge the impact of higher levels of national unemployment and the concept that the risks of high national unemployment should be shared. We would oppose the elimination of the national trigger for extended benefits.

The Interstate Conference maintains the strong belief that one of the most effective ways to reduce the costs of the unemployment insurance program is to wisely invest administrative dollars, thereby improving the ability of the States to provide prompt and proper services to claimants, while assisting both the unemployed and other job seekers to find employment.

INTERSTATE CONFERENCE OF EMPLOYMENT SECURITY AGENCIES

INTRODUCTION

The Interstate Conference of Employment Security Agencies is pleased to have the opportunity to submit views on Chairman Boren's proposals for modifying the unemployment insurance program. The membership of the Interstate Conference includes the Employment Security Administrators from the fifty States, Puerto Rico, the Virgin Islands and the District of Columbia. As the individuals responsible for the employment security programs in the States, we are dedicated to the improvement of the unemployment insurance program, the Employment Service and the many other employment programs which are administered by the State employment security agencies.

The Interstate Conference of Employment Security Agencies welcomes the opportunity to review the unemployment insurance program, and we are particularly interested in considering any measures which will reduce the costs of this important system, while improving its quality and service to the unemployed. We are reminded, when reviewing measures which would change the program, that the balance between the State and Federal governments in creating and administering the unemployment insurance system is unique in all the many arrangements that exist in our nation. We are convinced that it is the very uniqueness of the Federal-State partnership that gives the unemployment insurance program its strength to withstand the demands that it has faced for the past forty years. At the same time, it is this same partnership that by its very nature, requires careful consideration of Federally mandated changes in the program, which will then have to be enacted by the fifty-three jurisdictions. The original notion that the States must each knowledgably review their own special labor market configurations and enact unemployment compensation laws, within broad Federal guidelines, which would best serve the unemployed workers and the employers in that

labor market, still must be considered by each of us when reviewing changes in the Federal requirements for this program. It is in light of the special relationship between the State, the Congress and the Federal executive branch that we present our views to the Subcommittee.

COMMENTS ON THE SPECIFIC ITEMS

Item 1

The first item for consideration by the Subcommittee would require that benefit claimants be disqualified for the duration of their unemployment when they were determined to have voluntarily quit, to have been discharged for misconduct, or refused an offer of suitable work. Currently, thirty-five States have some form of duration disqualification for workers who have voluntarily quit their jobs without good cause. In reviewing the various requirements for requalifying under current disqualification provisions, it is clear that the States involved have considered a wide range of factors, including the amount of earnings relative to the weekly benefit amount, the numbers of weeks of work after being disqualified, and the issue of whether the work is in covered employment or not. Similarly, thirty States have some kind of duration disqualification for workers discharged for misconduct, and twenty-six States disqualify claimants for refusing suitable work without good cause, for the duration of their unemployment.

The Interstate Conference of Employment Security Agencies believes the duty to determine the type of disqualification provisions for voluntarily quitting, being discharged for misconduct or refusing suitable work is the responsibility of the State, in response to the workers and employers in that State. The labor market conditions in one State will and do differ significantly from those in another State. While it may be very reasonable

to deny claimants for the duration of their unemployment in a State which is experiencing an expanding economy and has many alternative job opportunities, it may inequitable to require disqualifications beyond 15 or 20 weeks in other States with more restricted job opportunities. The question that each State must answer is whether there is a point at which a person who may have become unemployed due to his own actions, but who has remained unemployed over a long period of time, eventually becomes unemployed through no fault of his own because the labor market can not provide job openings. The Interstate Conference subscribes to the notion that each State is in the best position to determine the answer to that question and to recommend the appropriate type of disqualification for the situations we are considering.

We would urge the Subcommittee to consider the effects of requiring that each State establish a duration disqualification for voluntary quits, discharges for misconduct and refusals of suitable work. We would also ask the Subcommittee to recognize that the application of a Federally mandated duration disqualification would ignor the differences in the various labor markets and would perhapes treat some claimants inequitably in a given labor market.

Item 2

The second item under study by the Subcommittee would require that States deny benefits beyond thirteen weeks to a benefit claimant refusing any reasonable job offer. The definition of reasonable job offer presented for consideration would require that the job meet basic health and safety standards, complies with the Federal minimum wage and is acceptable under existing Federal standards. This definition is similar to the requirements included in the Emergency Unemployment Compensation Act of 1974. While most

States agree that there should be a period of time during which a newly unemployed person is allowed to search for work similar to his last employment, most States also currently require that claimants expand their availability for work as the length of their unemployment increases. We know of no State which currently requires that benefit claimants accept any offer of work, under the definition provided, after thirteen weeks. Furthermore, there is a signficant difference between the application of a requirement that individuals who have been unemployed for thirty-nine or more weeks, under the Emergency Unemployment Compensation Act of 1974, accept any reasonable offer of work and the suggestion that this type of requirement be effective after thirteen weeks of unemployment.

The Interstate Conference of Employment Security Agencies has long argued that the basic responsibility for financing and administering the regular unemployment insurance program, generally considered to include up to a maximum of twenty-six weeks of benefits, rests with the State and the State's employers and workers. While it has been our position that benefits beyond the regular program should be the responsibility of the State and Federal governments, we agree that there may be legitimate reasons for the Federal partner to impose requirements on the receipt of those benefits. Based on these beliefs, we would suggest that it should be the State which determines the definition of suitable work during the first twenty-six weeks of unemployment.

We urge the Subcommittee to oppose the suggestion that any reasonable offer of work, as defined, become grounds for a denial of benefits after thirteen weeks of unemployment. Again, we emphasize that the variation in labor market conditions from State to State alone, makes such a requirement highly inequitable in many States. Additionally, we believe

the States must be given the responsibility for determining the application of work search requirements and the definition of suitable work during spells of unemployment covered under the regular State unemployment insurance programs.

Item 3

The third item under consideration by the Subcommittee would require that States deny benefits to workers who become unemployed due to predictable, seasonal layoffs. We concur with the statement that "the main objective of the unemployment insurance program is to provide security for workers against the sudden loss of income which occurs when they are unavoidably laid off." We would suggest that workers who are employed in seasonal industries can not avoid being laid off any more than can other workers in year-round industries. Typically, the workers facing predictable, seasonal layoffs do not know which of their group will be laid off, do not know when they will be laid off or for how long they will be without work.

We must add immediately that there are other, equally important, objectives of the unemployment insurance program. Among these is the fact that the payment of unemployment insurance benefits to workers in a given community ensures the stability of the work force during periods of economic downturn in that community. The employers in each State are contributing taxes to the State trust fund to guarantee that there will be benefits available to their workers, thereby allowing those workers to remain within the local labor force and to return to work as it becomes available. Most States utilize the availability requirements of their laws, their knowledge of the characteristics of local labor markets and some forty or more years of experience to review the application of work seach requirements to those unemployed due to seasonal layoffs.

A comparison is offered between the denial of teachers who are between regular semesters of school and other seasonal workers. We suggest that the primary motivation for denying teachers between terms is that teachers obtain yearly contracts with compensation meant to be sufficient to sustain them during the summer months. However, seasonal workers, who are laid off every year for short periods, do not receive higher wages to compensate for the periods during which they are unemployed. Furthermore, there are many types of seasonal labor markets which are nearly without employment opportunities during short periods between the high employment seasons, making the stabilizing effect of unemployment insurance benefits essential to those labor markets.

We urge the Subcommittee to consider the stabilizing effects of unemployment insurance benefits to a community during seasonal slowdowns and to recognize that each State provides principles of availability for work which are applied to each individual claimant in testing the nature of his unemployment and the ability of the labor market to provide him with work. Further, we urge the Subcommittee to oppose the blanket denial of benefits to workers who are laid off to due predictable, seasonal downturns, since those individuals are suffering an unavoidable loss of wages through no fault of their own.

Item 4

The fourth item the Subcommittee will consider would require that all States establish a one-week waiting period. Currently, forty States provide that claimants shall serve a one-week waiting period prior to receiving their first benefit check. It is our understanding that the original purpose of the waiting week was simply to allow for sufficient time to organize the information required to establish the claimant's monetary and personal eligibility. In fact, the earliest waiting periods

were for four weeks, rather than one week. However, as administrative procedures have improved, there is less need to provide the one-week period in which to establish the initial claim for benefits. We should point out that claimants are only required to serve one waiting week per benefit year, in part because once the claim has been established, there is no difficult administrative procedure required to re-open the claim. The fact that many States have recently eliminated or are considering eliminating the waiting week from their current law is the result of the improved technology which allows for the more rapid and efficient establishment of a new claim for benefits.

The Interstate Conference of Employment Security Agencies again would argue that the decision to retain the waiting week principle within a State unemployment insurance program is the responsibility of the State, with consultation from the employers and workers in that State. We would urge the Subcommittee to oppose the recommendation that the waiting week be required in each State law.

As a general comment regarding the first four items, may we point out to the Subcommittee that while each is estimated to result in decreased benefit costs, those cost savings could not be attained until such time as each State has passed conforming State legislation. It is our understanding that the Subcommittee is particularly interested in identifying measures which would result in cost savings during FY 1980. With the current scheduling of State legislative sessions, that would mean that several States would not be in a position to pass any of these measures until 1981. The earliest possible date we could anticipate that the estimated savings would be realized would then be in 1981 or 1982. Additionally, recent experience with the problems involved in obtaining conforming legislation in the States, after the passage of P.L. 94-566, highlights the serious nature of requiring

the States to enact provisions set forth in Federal statutes. While we agree that Congress must provide certain broad, conceptual principles which will shape the unemployment insurance system, we are concerned that the measures we are reviewing today are extremely specific and perhaps more appropriately handled through State initiated legislation.

Item 5

The fifth item being considered by the Subcommittee would provide increased assistance to the States for controlling error and fraud in the unemployment insurance program. Any system of the magnitude of the unemployment insurance system in the United States will be subject to some error and some fraud. Especially since the 1974-75 recession, there has been increased attention focused on abuse of the unemployment insurance system. However, we wish to state from the outset, that we are not convinced that error or fraud is rampant in this system. On the contrary, we would suggest that the general level of error in the payment of benefits is extremely low and is evidence of the sound management policies which are used in the States. Furthermore, when errors are made, the overpayments are generally recovered. Currently, the National Commission on Unemployment Compensation is conducting a study of overpayments resulting from both errors and fraud in the unemployment insurance system. We welcome such a review and look forward to their analysis and recommendations for improving benefit payment control procedures.

During the last several years, the Interstate Conference has requested additional funding from Congress to increase the staffing in both the benefit payment control and eligibility review programs. These two programs, when operating at a reasonable capacity, have assisted the States in ensuring that benefit claimants are meeting the basic personal eligibility requirements during each week they are filing and that each claimant is

receiving his proper benefit amount. While in FY 1978 the Congress provided the States with additional funds to increase the staffing for these valuable programs, the Department of Labor and the Office of Management and Budget have only increased the staffing for these programs while decreasing the staffing for other equally important elements of the benefits processing program. We maintain that adequate staffing for each of the broad-band functions of the program, i.e. for the initial claims, additional claims, non-monetary determinations and appeals processes, in conjunction with adequate staffing for benefit payment control and eligibility review will greatly reduce the current level of error in the system. It is our view that the expenditure of administrative dollars to ensure adequate staffing is one of the best investments government can make and that there will be significant savings to the system due to reduced error and abuse in benefit programs.

The Subcommittee Study Materials suggest that Federal aid might be provided to establish computerized quality control systems and that other Federal aid might be withheld in cases where there were high levels of error. We concur that computerized quality control systems may be desirable, and in fact, there are many States exploring a newly developed system called the Master Recovery System. This software package is available to those States that have the computer hardware to utilize the program. However, not all States are currently in a position to consider the use of additional program packages, since their level of automation is being used to its capacity. The entire issue of automation in the States is being carefully reviewed by both the Interstate Conference and the Department of Labor's Employment and Training Administration. We would be delighted to work with the Subcommittee and the Department of Labor to find ways of improving benefit payment control through the use of computerized quality control systems.

With regard to the concept of withholding other types of Federal funding in an effort to provide incentives to the States to reduce error, we would favor the concept of providing incentives but we are certainly unsure that the suggested method would prove viable. The existing funding mechanisms for the unemployment insurance program and indeed the employment security program, is extremely restrictive. There is no State in the nation which is able to maintain their staffing at the levels they believe are required to do a completely adequate job of serving the unemployed and the job seekers who visit the local offices throughout the country. We would suggest that rather than withholding funding, that the Subcommittee consider the notion of increasing staffing levels, measuring the improved benefit payment control activities which could then take place, and rewarding those States which have improved by continuing to supply adequate staffing. Again, we would point out that the investment of administrative dollars will, we believe, yield decreases in outlays due to error or fraud.

Therefore, the Interstate Conference of Employment Security Agencies supports the recommendation that increased assistance be made available to control error and fraud in the unemployment insurance system. We would suggest that the application of that assistance be focused on improved staffing and possibly computerization of quality control systems where the States can accept such automation efforts. We would oppose the withholding of Federal funding but support the provision of additional funding and maintenance of that funding in States which can improve their benefit payment control efforts.

Item 6

The sixth item for consideration would eliminate the national trigger for the extended benefit program. Under current law, when the national unemployment rate reaches 4.5 percent, the national trigger is "on" and

the extended benefits program becomes available throughout the nation for thirteen weeks. As you know, the Interstate Conference provided a great deal of input during the creation of the extended benefit program. It was believed that when the national unemployment rate met or exceeded 4.5 percent that there was sufficiently wide-spread unemployment to warrent the payment of additional benefits to affected workers throughout the country. Furthermore, the concept of a national trigger recognizes that at higher levels of national unemployment, we must all share in the risks being faced by a large group of unemployed workers.

While it is true that the workers in many States will not necessarily be experiencing the same high levels of unemployment as the workers in other States during any given period of national extended benefits, it is also true that frequently workers in particular industries throughout the nation may be especially hard-hit when the national unemployment rate reaches 4.5 percent. The extended benefits program is intended to provide benefits to persons who have exhausted their regular benefits and have, through no fault of their own, remained unemployed. Each State provides careful procedures for reviewing each claimant's availability for work and examines the work search efforts made by claimants as their periods of unemployment lengthen. We maintain that when extended benefits are available that claimants who are legitimately unemployed, due to restricted labor market conditions, are receiving those benefits.

One question that occurs to us in reviewing this proposal is would there actually be savings as a result of eliminating the national trigger for extended benefits? Many State laws use language which requires that extended benefits be paid when one of several conditions occurs, and one of the conditions is that the national unemployment rate has reached

or exceeded 4.5 percent. That is, in these States, it is not necessary for the Secretary of Labor to announce that the national trigger is "on", only that the national unemployment rate be 4.5 percent or higher. Other States might be motivated to enact provisions in their laws which would trigger on extended benefits at the 4.5 percent national unemployment rate level, regardless of the presence of a national trigger. In any event, the question is will there actually be significantly fewer States paying extended benefits when the national unemployment rate has reached 4.5 percent? If the answer is no, and most States would begin paying extended benefits when that national rate reaches 4.5 percent, there would not be a great reduction of benefit outlays.

The Interstate Conference of Employment Security Agencies believes that the States have sufficient controls within their programs to ensure that claimants receiving extended benefits are legitimately eligible to receive them. We would oppose the elimination of the national trigger because we believe when the national unemployment rate meets or exceeds 4.5 percent, there is serious unemployment occuring in the nation. We would also suggest that recent efforts by the Department of Labor to improve the sensitivity of the national trigger formula to changes in the unemployment rate, may reduce the length of time that extended benefits are available. This will mean that the States, using their own State triggers, will be responding to the unemployment rates within their own labor markets more often, and that fewer States with lower unemployment rates will be paying extended benefits.

Item 7

The seventh item under consideration by the Subcommittee would permit the States to establish optional extended benefit triggers in the State

at a higher insured unemployment level. Under this measure, States would be allowed to set the State trigger levels above the current level of 5.0 percent, providing flexibility to the State to determine which level is most suitable for their labor market. The Interstate Conference of Employment Security Agencies is on the record as favoring State flexibility in determining policy in the regular programs. While we have no formal position which addresses the concept of allowing the States to establish a State trigger level at other than 5.0 percent, we would support the further examination of this concept. It is conceivable that some State trigger levels realistically could be established at a level higher than 5.0 percent and still accomplish the purposes of the extended benefit program. However, we believe that further study of the effects of higher trigger rates should be made and a review of potential limits to the level of increase be considered.

Item 8

The eighthitem under consideration by the Subcommittee will provide incentives for Federal agencies to contest improper benefit claims. The Interstate Conference would welcome a greater participation from Federal agencies in the claims process. Not only is there little incentive for a Federal agency to contest claims, but also there are no incentives for Federal agencies to provide even the most basic wage and separation information in a prompt fashion. As you know, the States are required to pay claimants their first benefit checks within a standard amount of time established by the Secretary of Labor. It is nearly impossible for the States to pay claimants who have Federal wages in a timely manner, because we are not able to obtain the necessary wage information from these agencies for weeks at a time. In addition, these agencies do not respond

to requests to verify the reason for separation, resulting in the payment of benefits to claimants who may not be qualified to receive them.

The Interstate Conference of Employment Security Agencies encourages the Subcommittee to review the problems that the States experience with Federal agencies and to provide incentives for improved cooperation.

Item 9

The ninth item under study would modify the trade adjustment assistance program to provide the same benefit amounts as the regular unemployment insurance program. It is pointed out in the Study Materials that currently recipients of trade readjustment assistance payments receive higher benefits than other unemployed persons in the same labor market. The Interstate Conference believes that the creation of special programs for special groups of workers is not desirable. We have favored the concept of one unemployment insurance system which provides protection against the loss of wages and assistance in finding re-employment. However, we also recognize that there is growing concern over the impacts of certain national policy decisions on particular groups of workers.

The Interstate Conference suggests that some consideration be given to establishing one, unified, Federal unemployment assistance program created to meet the genuine needs of workers who are unemployed due to changes in national policy over which they have no control. Such a program could provide benefit payments for longer periods of time, thereby ensuring the worker has sufficient opportunity to search for work in his local area. In addition, such a program could provide intensive job search assistance, testing, counseling, training opportunities and relocation assistance. We remain available to the Subcommittee to explore this possibility further and recommend a review of all the special adjustment programs prior to modifying any one of them.

Item 10

The tenth item the Subcommittee is reviewing would require the States to pay interest on funds borrowed from Federal accounts. Under the current law, loans have been interest free and there have been extensions available to the States to provide additional time in repaying these loans. Because of the severe impact of the 1974-75 recession, we have held that these actions were reasonable. The Interstate Conference has also been involved in many studies of the fiscal condition of the State trust funds. After many years of work, we are convinced that there must be serious consideration given to enacting a method of reinsuring the unemployment insurance system during and immediately after periods of catastrophic unemployment.

To this end, we have supported continuous effort to find the best reinsurance plan available and we fully support H.R. 3937 which provides such a plan. In addition, we have providedour support for H.R. 4007, which will allow the States to repay a portion of any debt they may have from State trust funds under certain, specified conditions. The portion would be the same amount that would have been paid by the employers in that State, had the FUTA tax credit been reduced. This type of flexibility is essential. We also favor the assessment of interest on loans made in the future to the States from Federal accounts. We have suggested that no interest be charged during the first year of indebtedness, but that escalating interest be assessed during additional years.

The payment of interest on loans will not result in cost savings. If it is anticipated that interest will be assessed against and paid for from the State trust funds under current law, this will result in a shifting of existing revenue from one account to another. That is to say, since the

State trust funds are part of the Federal Unified Budget, interest assessed against amounts owed from the State trust funds to the Federal Unemployment Account, will all be revenue that is already within some account of the Federal budget. If, however, the intention is to require that the employers in the States which are in debt be assessed additional taxes to pay interest, then the interest received by the Federal government would be new revenue. As was true in several other items we have discussed, State legislation would be required before the employers in a given State could be assessed additional taxes to pay for interest on either current or future loan balances.

The Interstate Conference of Employment Security Agencies would support consideration of the application of interest to loans made to the States in the future. We would pleased to offer our assistance to the Subcommittee in determining the best system of interest payments that might be applied in the future. We would be opposed to the assessment of interest against currently outstanding loans. It is our strong belief that without a fiscally sound reinsurance plan, it would be extremely unfair to assess interest against those States currently in debt.

Item 11

The eleventh and final item under study by the Subcommittee today, would provide for the reduction of benefits when the unemployed individual is receiving a pension based on recent employment. This measure would require that pensions or retirement pay based on employment during the two preceding years be deducted from unemployment compensation benefits. This recommendation is different from the current law, enacted in P.L. 94-566, and from the recommendations of the National Commission on Unemployment Compensation. While we find the reduction of benefits only if the retirement pay is based on recent employment far more equitable and reasonable than current law,

we continue to oppose the enactment of a Federal requirement that all States provide for the same type of pension deduction statute. As we stated earlier, we contend that the State, through consultation with its employers and workers, must examine its own labor market and enact appropriate legislation. We believe this applies as well in the case of a pension deduction provision as it does in the case of disqualification provisions, waiting week provisions and otehr specific, detailed provisions affecting unemployment compensation programs.

Recently, the Interstate Conference presented testimony to the House Subcommittee on Public Assistance and Unemployment Compensation (Ways and Means Committee) regarding the pension deduction provision of P.L. 94-566 and the bill, H.R. 4464 which would eliminate this requirement from the Internal Revenue Code of 1954. We have attached a brief background paper submitted to the House Subcommittee for your review.

CONCLUSIONS

The Subcommittee has asked for our recommendations for other methods by which the costs of the unemployment insurance program could be reduced. We would reiteriate a point we made earlier. The Interstate Conference is convinced that a most expedient way to reduce the costs of the unemployment insurance program is to ensure that there are sufficient administrative dollars available to provide adequate, efficient and proper claims services to the unemployed, thereby reducing errors and the potential for abuse; and to provide job search assistance, counseling, testing, training and job development services to unemployed workers. We strive to improve our programs and to assist the unemployed worker to become reemployed as soon as possible. With the proper staffing, we are certain we could improve our ability to accomplish our mission

effectively and in a cost-efficient manner. The investment of administrative dollars could very well result in improved program efficiencies and cost savings beyond those anticipated from the suggested measures that we have been discussing today.

The Interstate Conference of Employment Security Agencies commends the Subcommittee for their efforts to review these measures and to identify those which will result in reduced costs for the unemployment insurance system. We stand ready to provide the Subcommittee with any further assistance we can in developing these points further or in discovering other methods for reducing costs. The Interstate Conference appreciates this opportunity to share our views with the members of the Subcommittee and we hope that we have been of some assistance in explaining our positions.

Comments by

Interstate Conference of Employment Security Agencies, Inc.

This paper is submitted on behalf of the Interstate Conference of Employment Security Agencies, Inc. (ICESA) an organization of the State Employment Security Administrators of the fifty States, the District of Columbia, Puerto Rico and the Virgin Islands. The purpose of this submission is to express the views of the ICESA on H.R. 4464 which eliminates the requirements established by P.L. 94-566 that retirement pay, including social security, be deducted from unemployment insurance (UI) benefits beginning in April 1980.

It is easy for us to understand that the decision to require the deduction of pensions from unemployment insurance benefits was an attempt to prevent what has come to be called the "double dip." Receiving both retirement pay and unemployment insurance benefits simultaneously, especially if the employer is both providing the pension and is chargeable for the unemployment insurance benefits, raises questions of both fairness to the employer and labor market attachment by the individual. However, the current language of Section 3304 (paragraph 15) of the IRS Code is extremely broad, requiring the reduction of any unemployment benefits by the amount of a pension or any other form of retirement pay during any week that an individual would be eligible to receive both types of benefits. Pensions received from an employer not chargeable for the UI benefits; social security benefits (even if the wages on which the UI benefits are based were earned after retirement) and pensions to which the employee contributed would all be deducted from UI benefits. Also included would be individual retirement plans such as Keough and the Individual Retirement Account (IRA) which are paid for entirely by the retiree. Had the individual simply put his money into a savings account rather than a retirement plan, the proceeds would not affect his UI benefits. We believe that there are conditions under which pensions should be deducted from unemployment insurance benefits but that there are also conditions under which such deductions are not appropriate.

The fundamental question we must ask ourselves is whether all conditions under which an individual is receiving a form of retirement pay, and under which an individual is also eligible for unemployment compensation, should be subject to the same treatment. That is, is there a difference between a recently retired individual who would receive both unemployment insurance and pension benefits from the same employer, and another individual who reentered the labor force after retiring and became eligible for benefits entirely separate from the retiring employer? We would suggest that there is a continuum of conditions under which both unemployment and retirement benefits could be available to a given individual and that under some of these conditions, the reduction of unemployment compensation by retirement benefits is inequitable and punitive.

Unemployment insurance is intended to enable a worker to maintain his standards of living during a spell of unemployment by replacing a portion of lost wages. The right to unemployment insurance should not be affected by the amount of property one owns or by other sources of income one might have. A worker who has established a standard of living with certain fixed costs based on both retirement income and wages needs the replacement of those lost wages as much as any other workers. The right to replacement of lost wages when one is unemployed through no fault of one's own, rather than the demonstration destitution, distinguishes unemployment insurance from public assistance. A worker who has established his attachment to the labor force by sufficient earnings, is involuntarily unemployed and meets appropriate work search requirements should not be denied the right to replacement of lost wages simply because he also receives retirement income.

The requirement that UI benefits be reduced by the amount of retirement income singles out one source of income (and thus one group of people) while other sources of income such as rental property, stocks and bonds do not affect UI benefits. Older people whose only source of income is pensions or social security are those most likely to be working to supplement their retirement income. Many retired

people have been forced back into the labor market by inflation. The current plight of those living on fixed incomes is well known. The loss of wages to these older workers is no less devastating than lost wages to any other worker. When individuals such as these do return to the labor force after retirement, earning wage credits from employers who are entirely distinct from the retiring employer and then become unemployed, the reduction of their unemployment benefits is, we believe, unfair.

Prior to P.L. 94-566 each State was responsible for establishing its own law regarding the relationship of UI and retirement benefits. This State law could reflect the economic conditions, social philosophy, and labor market configuration of each State. It is this ability to tailor to individual State needs which has been a fundamental part of the Federal/State partnership in administering the UI program. The establishment of Federal requirements such as the pension deduction provision erodes the partnership concept which has served both parties well. The Interstate Conference of Employment Security Agencies believes that the continuation of this partnership is vital to employers and workers of this country and opposes the weakening effect of the broad Federal requirement for deduction of pensions from unemployment insurance benefits.

Currently more than two-thirds of the States have provisions in their State laws regarding the receipt of pensions relative to UI benefits. These laws establish various conditions under which pensions are deducted from UI benefits. The majority deduct when pensions are received from a base period employer. Some deduct one-half if the employee matched his employer's contributions. Others treat the pension as earnings, and an established amount of such earnings are disregarded before deduction from UI benefits are made. Clearly in the States' view the various conditions under which one might be receiving a pension and also qualify for UI benefits, deserve different treatment.

The Interstate Conference of Employment Security Agencies supports a return to the States of responsibility for development of appropriate methods of treating retirement income. However, an alternative, and less broad, Federal requirement regarding pensions would be preferable to allowing the current provision to take effect. We suggest the following alternatives for consideration.

1) A pension might be deducted only if the employer from whose employ the individual retired is also chargeable for the UI benefits. This presents the "double dip" situation in which the employer is both paying an individual a pension and being charged for UI benefits at the same time. Two other conditions could apply to this alternative. One, that the employer must have contributed at least 50% to the pension and two, that if an individual returns to work for the same employer after retirement, drawing both wages and a pension, that UI benefits based on wages earned during this later period of employment not be subject to reduction.

2) Pensions could be treated as "earnings" and subject to the same amount of earnings disregard in current State laws. That is, some amount of earnings or retirement income would be disregarded with the remainder subject to deduction. For example, many States provide that an individual may earn a certain amount (often a percent of the weekly benefit) without affecting his UI benefits - any earnings in excess of that amount are deducted from the weekly benefit.

3) A base amount such as the maximum social security benefit amount could be established as an amount to be disregarded for UI purposes. The amount of any pension in excess of this amount could be deducted.

Some believe that the inequities that exist in the current pension deduction provision are justified by the dollar "savings" it will bring about. These savings may be largely an illusion. The funds "saved" are trust fund dollars earmarked

for the payment of UI benefits and can be used for no other purpose. Many pensions are already deducted, particularly those of the double-dip type, through State laws. The pensions affected, should the current provision take effect in April 1980, will be in large part those of workers who need wages plus their pensions in order to meet their living costs. We believe the reduction of UI benefits to this group will result in increases in federal outlays for food stamps and other public assistance payments. We do not believe that the inequitable treatment of older workers brought about by the pension deduction provision of PL 94-566 will actually result in a more balanced budget.

In summary, the Interstate Conference of Employment Security Agencies fully supports H.R. 4464. The current provisions enacted in P.L. 94-566, in our view, are too broad and will treat the older worker in an inequitable and punitive fashion. The majority of the State Unemployment Compensation laws already provide for the reduction of unemployment insurance benefits under conditions which project the rights of the employer. We urge that the States continue to be responsible for reviewing the details of their own State laws on such matters as the reduction of benefits by retirement benefits. Lastly, we are certain that the current provision will result in many older workers turning to other sources of public assistance which will not result in the desired reduction in Federal outlays.

We appreciated the opportunity to share these views with the Subcommittee on Public Assistance and Unemployment Compensation. We sincerely hope that H.R. 4464 will be reported favorably and that its swift passage will be encouraged.

Senator BOREN. I might say, if there are others present, not witnesses today but who would like to submit written testimony to us, you are certainly invited to do so.

I think our next testimony will be presented in panel form: Mr. Dankosky, assistant legislative director, Pennsylvania Chamber of Commerce, on behalf of the Council of State Chambers of Commerce; and you are accompanied by Mr. Brown.

We also have Mr. Sam Dyer here, if you would like to come on up, and he is vice president for tax management.

We are pleased to have you all here. We will start with Mr. Dankosky and then have Mr. Dyer present his comments. We will see how it goes. I may interrupt you with questions. We will see how the spirit leads us here. Why don't you proceed?

STATEMENT OF JOHN W. DANKOSKY, ASSISTANT LEGISLATIVE DIRECTOR FOR THE PENNSYLVANIA CHAMBER OF COMMERCE, ON BEHALF OF EMPLOYEE BENEFITS AND RELATIONS COMMITTEE, COUNCIL OF STATE CHAMBERS OF COMMERCE, ACCOMPANIED BY WILLIAM R. BROWN, PRESIDENT, COUNCIL OF STATE CHAMBERS OF COMMERCE

Mr. DANKOSKY. Mr. Chairman, the Council of State Chambers of Commerce is an organization comprised of 34 State and regional chambers of commerce organizations. We appreciate the opportunity of appearing before your subcommittee to share our thoughts regarding unemployment compensation.

The Council has historically opposed Federal benefit standards; however, we find ourselves pleasantly surprised by the ideas being considered by this committee.

Too often we have been placed in the position of opposing Federal benefit standards which would put an unwarranted financial burden on the States. We do mean what we say, however: We oppose Federal benefit standards. Although the ones proposed by this subcommittee are one that, if enacted, could be beneficial to State programs, we still believe that it is best that individual States be allowed to make the decision regarding these items.

For example, in Pennsylvania we have a disqualification for the duration of unemployment for a voluntary quit. The Pennsylvania chamber has had legislation introduced that would stop payment of benefits to a person refusing a reasonable job offer. We have not addressed the problem of seasonal employment but we have introduced legislation to establish a 1-week waiting period.

We do appreciate the committee's concern regarding the unemployment compensation system and applaud the direction in which the committee is heading.

While we do not recommend that the Federal Government impose Federal benefit criteria, we do think that this committee should insist that the National Commission consider these items. There may be some doubt that a National Commission report would provide an incentive for States to make changes, and yet the National Commission Report on workers 'compensation generated substantial State action.

The council supports the proposals to provide increased assistance to States in control of error and fraud. This type of assistance

can insure that State programs pay benefits to those truly deserving.

We also believe that a national trigger for extended benefits should be eliminated. If extended benefits are needed in a State, it is not necessarily true that an adjoining State is also in need of making these additional payments. The idea that a certain level of national unemployment required all States to take the same action makes little sense to us.

We think that the committee is on the right track in bringing trade adjustment assistance programs into line with the State UC program. We think that this should be done both in terms of benefits and duration. It makes little sense that two unemployed neighbors should receive different benefits even though they may have been earning the same amount of money, merely because they qualify for different programs.

We do not believe that interest should be charged on current loans; however, if Congress decides that this should be done, we believe some allowances should be made for the States. For example, interest should be waived if it is shown that the State is taking appropriate legislative action to insure a proper balance in the fund.

We also feel that interest should not be charged if the State system generates a surplus of at least 20 percent of the highest level of debt until the debt is repaid.

We also believe that when interest rates are being levied provision should be made to freeze the benefits in the State and to disallow any further increases until the debt is repaid.

I can speak now from some personal experience, representing a business association in the State that owes the largest debt.

It is my observation that the reason to charge interest is to provide an incentive for the State to bring its system into balance and to provide a solution that would both reduce out go and increase revenues. I can say, unequivocally, that the Pennsylvania business community has done just that. In 1976 the Pennsylvania Chamber of Commerce testified before the State Senate's Labor and Industry Committee. At that time it was considering increasing our State tax base from $4,200 to $6,000. We endorsed an increase to $5,000 but only if it was accompanied by some commensurate changes in the benefit structure. This was turned down by our State legislature.

In 1977 we lobbied in favor of State legislation to increase the State wage base to $6,000, to keep our law in line with the 1976 Federal changes.

This year the Pennsylvania Chamber of Commerce has drafted and introduced in both the Pennsylvania House and Senate legislation which would make adjustments to the benefit schedule, but it would also increase employer taxes by $220 million.

The Pennsylvania business community is on record in support of a balanced unemployment compensation program. We recognize our obligations as employers and we are willing to pay our fair share in increased taxes.

How much more can we do besides advocating increased taxes on business? We interpret the payment of interest as a device to try to prompt States to action, but yet interest would fall on employers,

the very people in Pennsylvania that are attempting to solve the problem.

The Pennsylvania business community is not the problem. The past administration turned a deaf ear when we warned of the insolvency of the UC system. Labor has been adamant in its objection to any changes whatsoever in the benefit system. Tomorrow our Governor will address a joint session of our House and Senate to outline his legislative priorities. At this time I do not know what type of solution will be offered.

The Pennsylvania business community is faced with a staggering burden to repay our debt. We will start to pay higher Federal taxes in 1980. In 1980, if the Chamber's plan is adopted, the increase in State and Federal taxes would be $300 million. By 1985 that increase, both in State taxes and Federal repayment of the loan, will be $700 million.

So, you see, the Pennsylvania business community has made a sizable financial commitment to try to put the UC system on a sound financial footing. The addition of interest to our loan would only exacerbate our financial problem.

Senator BOREN. Let me ask you a question there. I gather from what you said there has been no real action in terms of overhauling the system in Pennsylvania then since the large amount of money became due and owing?

Mr. DANKOSKY. Yes, sir, you are correct. We have consistently warned of the problem we are having. We have been trying to have legislation passed. But I guess I could almost forgo the rest of my comments here just by responding to your question. The idea of charging interest is to try to get the program back in order. The very people in Pennsylvania trying to solve the problem are the employers. We don't have any help coming from the labor organizations and to date we haven't found out from our administration just which ways they want to go.

As a matter of fact, tomorrow our Governor is going to address a joint session of our House and Senate and is going to lay out his legislative priorities. What program he is going to put for unemployment compensation I am not sure. But the problem is this: If you charge interest on employers that is going to fall only on the people trying to solve the problem. And to be perfectly candid, what will happen is that the Pennsylvania legislature, at least some people there, will say, well, the Federal Government did this to you; we didn't. I think this is something we have to take into consideration.

Another thing I would like to bring out is it is not uncommon for the people trying to do the most to get hit the hardest by the mallet. We just had hearings about 1 month ago regarding conformity, whether our State law conforms with the Federal law. Now the Federal people say we don't conform with respect to reimbursable employers, like the school districts, and yet if they find we are out of conformity, who will be the people to be penalized? The private employers.

We would lose our entire FUTA tax credit, $600 million, not because of anything we did but because there are some esoteric changes that the Federal people would like to make in the reimbursable section. So all I am saying is, I know it sounds as though I

am apologizing for the State and I guess in a way I have to because I represent the State or at least one component of it, but the people I represent have been trying to solve the problem.

Now if the Federal Government wants to do something to try to bring all sides to the bargaining table, you got us at the bargaining table. We are sitting there. We just don't have anyone to talk to.

Senator BOREN. I understand your frustration in having gone through the same thing in trying to change the structure, the qualification structure if we are going to improve benefits. It is a very difficult thing to do.

Mr. DANKOSKY. I just might say under the legislation we have introduced, we would pay increased State taxes and also have some benefit reductions. The combination of increased State taxes and the loss of our FUTA tax credit, will total about $300 million by 1980. And by 1985 it will be $700 million in increased dollars that we are now saying that we are willing to pay. I don't know how much further a business organization can go or any group can go to say we are trying to solve the problem. I think we have taken a very responsible position, at least the business community has in the State of Pennsylvania.

We have a tremendously difficult political situation there. I guess that is all I have to say on that subject, sir.

Senator BOREN. In the future do you think that having interest charged on the sums that are owing would provide this additional leverage to perhaps at least cause action in the States that would be similarly affected?

Mr. DANKOSKY. The charging of the interest could only be used as leverage if it impacts on all parties equally. If you are only going to charge interest and shall we say levy it by increasing the Federal tax, well, then you have only created leverage on one group of people. In other words——

Senator Boren. Holding the benefits down is the other part of it you are saying?

Mr. DANKOSKY. Well really if you want to use interest as a lever, it has to work on both groups or else you only have one group who wants to come to the table. That is where we are right now.

Senator BOREN. I understand. That is a good point. I have never understood why labor would not be very strongly in favor of changing some of the elements of the benefit structure itself because I think that the kinds of people who belong to labor organizations are not the most likely kinds to abuse the system. And in a sense you are depleting the reserves available for their membership when they are genuinely laid off by allowing some of these abuses to continue.

Mr. DANKOSKY. Sir, I am in complete agreement with you. If you ever discover the answer to that question, please forward it.

Senator BOREN. I think we would all like to have that answer.

Mr. Dyer.

STATEMENT OF SAM DYER, VICE PRESIDENT, TAX PLANNING, FEDERATED DEPARTMENT STORES, CHAMBER OF COMMERCE OF THE UNITED STATES, ACCOMPANIED BY MICHAEL J. ROMIG, DIRECTOR, HUMAN RESOURCES AND EMPLOYEE BENEFITS SECTION, CHAMBER OF COMMERCE OF THE UNITED STATES

Mr. DYER. Thank you.

My name is Sam Dyer. I am vice president of tax planning for the Federated Department Stores. I have worked on unemployment compensation legislation at both the Federal and State level. I have served on the Federal Advisory Council on Unemployment Compensation; the national chamber's unemployment compensation committee and that of the American Retail Federation and California Taxpayers Association among others. I am accompanied by Michael Romig who is director of the national chamber's human resources and employee benefits section.

We appear on behalf of the national chamber. We appreciate the opportunity to present these views.

Chairman Boren has noted that the expenditures of the Federal-State unemployment compensation program are a substantial element in the Federal budget, and that the Congress has an obligation to continually review that program to assure that it operates effectively and that any unnecessary costs are eliminated. As such a list of possible cost-saving measures which might be considered has been prepared by the staff of the Committee on Finance.

The Finance Committee staff proposals raise three issues: One, should the Congress abandon the Federal-State unemployment insurance partnership by taking from the States control over critical questions of benefit amount, duration, and conditions for benefit eligibility; two, are these proposals improvements over current law; three, what budget impact will these proposals have on fiscal year 1980 spending?

In our written testimony, we attempt to analyze all of the eleven staff proposals by answering the above questions for each proposal.

I would like to give you a general reaction to all of the proposals and submit our written statement for the record.

First, five of the proposals, Nos. 1, 2, 3, 4, and 11, are Federal benefit standards. We would oppose congressional enactment of any legislation to require the States to amend their laws to comply with these requirements. This is not to say that we oppose the unemployment conpensation concepts inherent in these proposals. Hence, the business community would support these changes to State laws if they were being done voluntarily by the States.

Second, the remaining proposals are, in our opinion, appropriate subjects for congressional action. We would support enactment of all but No. 10 which would require the States to pay interest on loans from the Federal FUTA account. We are presently studying this suggestion before taking a policy position.

Third, the budgetary——

Senator BOREN. Let me ask that perhaps in your study of this, going back to what Mr. Dankosky said, that you might focus on whether or not a difference of position was prospective or whether or not there should be other sections with it such as no increase in benefits as long as a State is not in compliance. That would be very

helpful if you could focus on that and when you do reach a conclusion, to let the committee know your feelings.

Mr. DYER. We will. We will take these items up in the next meeting——

Mr. ROMIG. Senator, I would just note our study of the financing of unemployment compensation is much broader than just the question of attaching interest to any loans. We are actually looking at suggestions for cost reinsurance and some of the other ideas such as, what conditions ought to be attached to any loans, when they should come into play and whether we should have a mandatory or voluntary form of reinsurance backup.

Mr. DYER. Our third comment, the budgetary impact on fiscal year 1980 spending may not be as great as suggested by U.S. Department of Labor estimates. Because several of the proposals will require State legislation as well as Federal legislation, there can be little if any savings in the current fiscal year. Proposals 1, 2, 3, 4, 7, and 11 fall into this category. Only proposals 5, 6, and 9 seemingly offer any opportunity for immediate savings.

Fourth, we also recommend that the proposal No. 8 can be improved if the Congress would direct the Secretary of Labor to give more attention to the requirement under current law that States must use an experience-rating method for raising funds.

In recent years the Department's enforcement of this requirement has been lax and, consequently, most States are now "noncharging" a considerable number of claims. This has hindered employer self-policing of claims and caused costs to rise unnecessarily.

Before closing it may be well to take a moment to explain our consistent opposition to the Federal benefit standards proposed by the staff. We are and we will remain convinced of the superiority of State judgments on important matters such as the amount and duration of benefits, conditions of benefit qualifications, offsets against benefits and related matter. If there are problems with these areas and the judgments made by the States, then the proper forum for their resolution is within the State not the Congress.

Senator BOREN. Let me ask you in terms of 1 through 4 and 11, do you have positions on those by a State-by-State basis? Would you favor the adoption of those if they were voluntarily enacted by States?

Mr. DYER. Yes, sir, I think we would probably favor all if they were voluntarily adopted by the States.

Mr. BROWN. If I might add there, as the Council of State Chambers of Commerce we plan to call these staff recommendations to the attention of all our State members and urge them to give serious consideration to modify their State laws along these lines. So we do plan to take specific action to try to follow up on your suggestions.

Mr. ROMIG. We do provide a service to our member companies in that we do take a look at what is happening throughout the States and try to call attention to some of the innovative changes that have been occurring in some of the States. The various State chambers and business associations can plug these into their legislative campaigns.

Senator BOREN. I think this has been very helpful and I understand the ambivalence. I guess we will say that you might feel in

looking at some of these suggestions in terms of traditional policy which I think has foundation and merit in it in terms of leaving these matters to the States. I would imagine you are not usually confronted by proposed Federal standards that would save money either. This may be rather unique and perhaps one of the reasons for the historical position of the chamber.

We hope this will not be arbitrary. We hope looking at the proposed standards that actually save money will not be such an unusual thing and will be repeated in the future. But I can certainly understand the positions being espoused here and skepticism about Federal standards. They have almost been a companion word; I guess we would say, for increased benefits, increased taxes and less stringent standards in the past.

I appreciate the testimony from all of you.

[The prepared statements of the preceding panel follow:]

STATEMENT
on
PROPOSALS FOR REDUCING COSTS
of
FEDERAL-STATE UNEMPLOYMENT COMPENSATION
before the
SUBCOMMITTEE ON UNEMPLOYMENT & RELATED PROBLEMS
of the
SENATE COMMITTEE ON FINANCE
for the
CHAMBER OF COMMERCE OF THE UNITED STATES
by
Samuel Dyer

My name is Sam Dyer. I am Vice President of Tax Planning for the Federated Department Stores. I have worked on unemployment compensation legislation at both the federal and state level. I have served on the Federal Advisory Council on Unemployment Compensation; the National Chamber's Unemployment Compensation Committee and that of the American Retail Federation and California Taxpayers Association among others. I am accompanied by Michael Romig who is director of the National Chamber's Human Resources and Employee Benefits section.

We appear on behalf of the Chamber's 88,000 members and the views we express represent the policy positions of the Chamber.

SUMMARY

The Finance Committee staff proposals raise three issues:
(1) Should the Congress abandon the federal-state unemployment insurance partnership by taking from the states control over critical questions of benefit amount, duration and conditions for benefit eligibility? Because we believe that a better unemployment compensation system can be achieved through the flexibility of state autonomy than through a uniform, federally-controlled system, we recommend against enactment of the five benefit standards among the staff proposals even though each would lower unemployment costs for employers. We concur with Congressional action on the remaining proposals.

(2) Are these proposals improvements over current law? We conclude that most of the proposals would result in a better federal-state unemployment insurance program. Some are appropriate changes for enactment by the Congress while others are areas best reserved to the states. Most importantly, stronger

requirements for experience-rating and more attention to claimant control will do more to reduce costs than many of the proposals advanced by the Finance Committee staff.

(3) What budget impact will these proposals have on FY 80 spending? We conclude that most will have little or no impact on FY 80 UC spending.

VARIOUS PROPOSALS FOR CONSIDERATION

The Finance Subcommittee on Unemployment and Related Problems announced its intention to hold hearings on various proposals which might be considered to improve the Federal-State unemployment compensation program in ways which would strengthen the budgetary situation by reducing unnecessary costs. The staff of the committee has compiled a list of proposals which, among others, might be considered in those hearings. These proposals are listed below together with the Chamber's response to each.

STAFF PROPOSAL #1:

> *1. Require disqualification for duration of unemployment for voluntary quits, discharge for misconduct, and refusal of suitable work.*—When an unemployed worker has voluntarily left his job without good cause, has been discharged for misconduct, or has refused what the State agency considers a suitable job offer for him, he becomes ineligible for benefits. However, in many States the disqualification is lifted after a period of time. Other States continue the disqualification for the duration of unemployment. A recent research study by SRI International concluded that the average length of unemployment tends to be lower in States which impose disqualification for the duration of unemployment. Consideration could be given to requiring all States to utilize this rule.
>
> *Estimated annual savings.*—$0.3 billion.

CHAMBER RESPONSE:

The Chamber opposes federal legislation to achieve this action by the States. Such legislation would be a federal benefit standard and, as such, would represent a major departure from the basic federal-state unemployment compensation relationship, in which important decisions on how to raise funds and how to pay out these funds in benefits have been reserved to the states.

When Congress, spurred by the business depression and massive unemployment, enacted the Social Security Act in 1935, it was faced with choosing between a state-administered system and a federally run-program. Instead, it chose to create a federal-state undertaking, with areas of responsibility clearly defined. Federal law resulted in all states establishing and operating jobless pay programs under broad federal rules. State legislatures and state administrative bodies were given the responsibility for shaping the program to localized conditions and for making them work, with wide latitude in determining the rules of eligibility for benefits, the levels of benefits and their duration.

Three principal reasons were advanced in 1935 for leaving the states the responsibility for developing unemployment compensation programs largely as they saw fit. First, flexibility was needed so that the states could experiment to find the most effective ways of making a program work. Second, leaving broad discretionary authority with the states would permit each state to develop a program best fitted to its own economic characteristics. Third, it was thought that all matters in which uniformity was not absolutely essential should be left to the states.

Thus far, with few exceptions, Congress has not disturbed the basic federal-state relationship characterizing the unemployment compensation system. It has rejected numerous proposals to federalize completely or to remake state programs through the use of federally-dictated standards. In doing this, Congress reaffirmed the validity of the original decision that a better unemployment compensation system can be had through the flexibility of the federal-state arrangement than through a uniform, federally-managed or controlled system. We see no evidence of any change in Congressional sentiment.

We see no need for federal benefit standards. Our opposition to federal benefit standards applies equally to all forms including those generally viewed as favorable to the interests of employers. We are, and will remain, convinced of the superiority of state judgements on important matters such as the amount and duration of benefits, conditions of benefit qualification, offsets against benefits, and related matters, if there are problems with the

judgements made by these states, then the proper forum for their resolution is within that state, not the Congress.

(2) We would encourage our membership to support state legislation to accomplish this result in those states which now permit payment of benefits following a voluntary quit, discharge for cause or refusal to accept suitable employment. The proposal could be improved if it required a "significant" period of re-employment before becoming eligible once again.

(3) This proposal would offer no budgetary savings in FY 1980 because of the time lag required by state legislatures to consider and enact this provision.

STAFF PROPOSAL #2:

2. Require that States not pay benefits beyond 13 weeks to an individual refusing any reasonable job offer.—The unemployment compensation program exists to provide protection against income loss during periods of involuntary unemployment. Generally, a worker qualifies for up to 26 weeks of benefits if he was laid off from work for reasons other than his own misconduct or his own voluntary decision to quit and if he remains ready, willing, and able to accept new employment. For the benefit of both the worker and the labor market, newly unemployed workers are not required to take any available job but are permitted to seek a job which reasonably matches their previous experience, training, and earnings level. After seeking such work unsuccessfully for a reasonable period of time, however, individuals may be required to seek jobs not meeting their full qualifications as a condition of continued benefit eligibility. Consideration could be given to establishing a Federal requirement that States not continue benefits beyond 13 weeks unless, at that point, the unemployed individual is willing to accept any job which meets minimum standards of acceptability (such as basic health and safety standards, compliance with the Federal minimum wage, and acceptability under existing Federal standards). A similar requirement was included in the legislation extending the now expired Emergency Unemployment Compensation Act of 1974.
Estimated annual savings.—$0.2 billion.

CHAMBER RESPONSE:

(1) We oppose this proposal if offered in the form of federal legislation because it, too, represents a federal benefit standard.

(2) We would urge our membership to support state legislation to accomplish this in those states not now disqualifying persons for refusing suitable work. In our opinion, an individual who refuses suitable work should be

disqualified immediately whether this be in 3rd or the fourteenth week. Moreover, the definition of suitable work should become more stringent as joblessness extends.

(3) Again there can be little budgetary impact on FY 80 because of the time required for state legislation.

STAFF PROPOSAL #3:

3. Require that States not pay benefits on the basis of predictable layoffs from seasonal employment.—The main objective of the unemployment program is to provide security for workers against the sudden loss of income which occurs when they are unavoidably laid off. It could be argued that it is inconsistent with this objective to pay benefits to workers whose layoff is a regularly recurring and predictable event because of the seasonal nature of that employment. In extending unemployment coverage to State and local government workers, Congress addressed this problem as it applies to school employees by providing for the denial of benefits during regularly scheduled periods of nonwork. The 1976 amendments also provided for denying benefits to professional athletes during the offseason. Consideration could be given to requiring States to establish a seasonal employment exclusion of general applicability as a few States have done already. For example, employment for firms with a pattern of seasonal layoffs could be excluded from consideration in determining benefit eligibility during the offseason unless the unemployed person was fully employed during the same offseason in the prior year.

Estimated annual savings.—No estimate yet available.

CHAMBER RESPONSE:

(1) This too is a federal benefit standard which we would oppose if offered as federal legislation.

(2) Whether to pay benefits to seasonal workers is a difficult decision best left to individual states. Of concern to most employers is that where seasonal payments are made the seasonal employer does not pay the full cost of the benefits.

(3) We doubt if this proposal would have any FY 80 budget impact.

STAFF PROPOSAL #4:

4. Require all States to establish a 1-week waiting period.—Most States do not now pay benefits for the first week of unemployment on the basis that requiring a "waiting week" before benefit eligibility starts provides an important incentive to immediately undertake a search for reemployment (or even to find ways to avoid being laid off). Consideration could be given to requiring that the 1-week waiting period be incorporated into all State programs.
Estimated annual savings.—$0.1 billion.

CHAMBER RESPONSE:

(1) This too would be a federal benefit standard which we would oppose if offered as federal legislation.

(2) Most states now require a one week waiting period and we would support establishment of a waiting period in those few states not now requiring one.

(3) This too would have little budgetary impact on FY 80.

STAFF PROPOSAL #5:

5. Provide increased assistance to States in control of error and fraud.—In the past, when benefit costs were almost entirely borne from State imposed taxes, there has not been a highly visible Federal concern over the need to control the extent of error, fraud, and abuse in State unemployment programs. Given the increased impact of these programs on the Federal budget and the increasingly large direct Federal contribution to benefit costs through the extended benefit program and other programs involving Federal funding, consideration might now be given to providing additional aid and incentives for improved State administration in these areas. Elements which could be considered might include Federal aid in establishing computerized quality control systems and the reduction of Federal payments under the various federally funded parts of the program to the extent that errors are determined to exceed certain minimum levels.
Estimated annual savings.—$0.1 billion.

CHAMBER RESPONSE:

(1) Congressional and Administration budgetary decisions over the last two decades have hindered state efforts to control error and fraud. By simply revising the allocation of current FUTA administrative funds, states can devote more resources to UC claimant control and abuse.

For example, Nevada found, in 1978, that for each dollar spent on claimant control, they saved $6.50 in benefits. Employers would enthusiastically support any program yielding these returns.

(2) No state legislation is necessary.

(3) Savings could result in FY 80 and significantly more than estimated by the Department of Labor.

STAFF PROPOSAL #6:

6. Eliminate the national trigger for the extended benefit program.—Under existing law, an additional 13 weeks of benefits over and above the usual maximum duration of 26 weeks for regular State unemployment benefits become payable in times of high unemployment. Fifty percent of the costs of these extended benefits are paid from the proceeds of the Federal unemployment tax. The basis for the extended benefits program is that unemployed workers may reasonably be expected to find themselves unable to obtain employment for a longer period of time when jobs are scarce as indicated by high levels of unemployment. Consequently, the law requires States to participate in the extended benefits program when insured unemployment levels in the State have increased by at least 20 percent (measured against the 2 prior years) and an absolute insured unemployment rate of 4 percent has been reached. The law also, however, requires that all States implement the extended benefit program when the national insured unemployment rate reaches a level of 4.5 percent. This "national trigger" can result in adding 3 months of benefit duration in a State which has experienced neither a particularly high level of unemployment nor any relative growth in unemployment levels. In such States there would, therefore, seem to be no particular basis for assuming that unemployed workers required additional benefit duration in order to find new work. Consideration could be given to deleting this national trigger so that extended benefits would be payable only in those States where economic conditions indicated a need for the additional duration.

Estimated annual savings.—At the 7 percent total unemployment rate assumption used for estimating the savings of these proposals, this item would produce no savings since the national trigger would not be effective. At an 8.6 percent total unemployment rate, this item would reduce program costs by $1.3 billion.

CHAMBER RESPONSE:

(1) We concur. Elimination of the national trigger is long overdue. Experience to date has revealed that in many instances the national trigger was activated by joblessness in just a few states. Thus even states where jobs were plentiful were forced to extend benefits.

(2) Only Congress can effect this change.

(3) The budgetary impact in FY 80 would depend on the level of insured unemployment.

STAFF PROPOSAL #7:

7. Permit States to establish optional extended benefit trigger at higher insured unemployment levels.—Under present law, States which are not required to participate in the extended unemployment compensation program under the mandatory trigger provisions (because the "20 percent higher" factor is not met) may elect to opt into program when the State insured unemployment rate reaches a level of 5 percent. States do not, however, have the option of triggering the program only at a higher level (such as 6 percent). Consideration might be given to providing States this additional flexibility.

Estimated annual savings.—Up to $0.4 billion depending on economic conditions over a period of years.

CHAMBER RESPONSE:

(1) We concur. Both this proposal and the preceding are federal requirements upon the states which have required payment of benefits against the wishes of some states.

(2) Congressional action is necessary before the states can act.

(3) The impact on FY 80 is not likely to be great since state legislation is also necessary.

STAFF PROPOSAL #8:

8. Provide incentives for Federal agencies to contest improper benefit claims.—An important element of the unemployment compensation program in the States is the experience rating system which provides a strong incentive for employers to avoid unnecessary employee turnover and to monitor claims for unemployment to assure that improper awards are not being made by the State agency. Federal agencies do not have a similar incentive in the case of their employees since benefit costs are funded through a separate account not chargeable to the individual agency. Consideration could be given to requiring each agency, as a part of its annual budget request, to provide information

concerning the amount of benefits paid to its former employees in the prior year and its expectations for the coming year. In addition, the Labor Department could be charged with a continuing analysis of the agency experience and could be required, in its annual budget submissions, to include information concerning any agencies with unusually high benefit charges.

Estimated annual savings.—Less than $0.05 billion.

CHAMBER RESPONSE:

(1) Experience rating is a proven tool which provides a strong incentive to stabilize employment and to monitor claims. Federal agencies could reduce their costs if more attention was centered on their experience.

(2) Despite federal requirements on the states to raise UC funds via experience rating, the Department of Labor has been allowing the states to non-charge a growing amount of their benefit costs. This has seriously undermined experience rating in every state. Thus we would urge this Committee to direct the Secretary of Labor to increase his attention to this federal requirement.

(3) Considerable savings beyond Department estimates would likely result from increased employer attention to UC costs.

STAFF PROPOSAL #9:

9. Modify trade adjustment assistance program to provide same benefit amount as regular program.—The trade adjustment assistance program provides additional benefits to workers who become unemployed as a result of import competition which causes a decline in the sales or production of their employers. Under existing law, adjustment assistance is provided in the form of both higher benefits than would be payable under regular unemployment compensation programs and a longer duration of benefits (generally 52 weeks as opposed to 26 weeks under regular State programs). While the impact of import competition may justify a longer duration of benefits on the basis that many similar firms in a given area could be simultaneously impacted so that it would take a longer time for workers in the affected industry to find new work, there does not appear to be a similar rationale for providing a higher level of benefits than are provided to workers losing other types of jobs. Consideration could be given to modifying the program by continuing the additional benefit duration but limiting benefit levels to those of the regular State unemployment compensation program.

Estimated annual savings.—$0.1 billion.

CHAMBER RESPONSE:

(1) We concur. The Chamber has consistently maintained that joblessness due to imports is no different from joblessness due to domestic considerations. Thus there can be no justification for paying higher benefits for longer periods to trade-impacted workers. Similar considerations apply to workers in other industries (rails and forestry) where special benefits are available.

(2) Legislation is now before the Finance Committee to increase the trade adjustment benefits. We urge you to reject it and enact the staff proposal.

(3) We suspect that considerably more savings than projected by the Department could be realized in FY 80.

STAFF PROPOSAL #10:

10. Require States to pay interest on funds borrowed from Federal accounts.—Under present law, State benefit costs are paid from the proceeds of State unemployment taxes which are deposited in the State accounts of the unemployment trust fund. If a State account drops to a level where the State will be unable to meet its benefit obligations, a loan to meet the shortfall is made from the Federal unemployment account. (If the Federal unemployment account proves inadequate, it in turn borrows from the general fund of the Treasury.) In each case, the loans that are made bear no interest. Once a loan is made to a State under this provision, the State has between 23 and 35 months to make repayment. At the end of that period, Federal collection action begins by reducing the Federal tax credit otherwise available to employers in the State. Even so, no interest or other penalty applies. (Because of the severe impact of the recent recession, States with outstanding loans were given 3 additional years to make repayment during which no action is being taken to effect collection.) Since these loans are provided on an interest-free basis, there is little incentive for States to make repayment any sooner than they have to. The Federal Government, however, is actually paying interest on these balances since they represent an increase in the public debt. A change in the law could be considered to increase State incentive to repay outstanding loans as quickly as possible by charging interest on any loan balance outstanding at a rate equal to the going rate of interest on Federal securities.

Estimated annual savings.—$0.4 billion.

CHAMBER RESPONSE:

This proposal is currently under study by the National Chamber.

STAFF PROPOSAL # 11:

11. Provide for reduction of benefits when the unemployed individual is receiving a pension based on recent employment.—When the 1976 amendments to the unemployment laws were under consideration by Congress, concern was expressed over the situation in which an individual who is in fact retired rather than unemployed may receive unemployment benefits at the same time that he is receiving retirement pension. The law was amended to provide for a dollar-for-dollar reduction in unemployment benefits by the amount of any pension concurrently payable to the individual. Because of concern that the provision may have been too broadly drawn, the effective date was set in the future to permit time for study and that effective date was subsequently further extended to March 31, 1980. The interim report of the National Commission on Unemployment Compensation recommended that the provision be repealed. As an alternative to this proposal, consideration could be given to making the provision effective with a modification meeting the most serious objections by limiting the reduction to pensions based in whole or part on employment within the 2 years preceding the date of unemployment.

Estimated annual savings.—$0.3 billion (as compared with repeal recommended by the National Commission).

CHAMBER RESPONSE:

(1) We would oppose this proposal if offered as federal legislation since we view it as federal benefit standard.

(2) A provision for the coordination of unemployment compensation and pension benefits exists in the laws of 38 states. We believe the other states should adopt similar provisions.

This concludes our presentation. We would be happy to answer questions raised by our testimony. Thank you.

COUNCIL OF STATE CHAMBERS OF COMMERCE
WASHINGTON RESEARCH OFFICE:
499 S. CAPITOL ST., S.W. • SUITE 412 • WASHINGTON, D.C. 20003 • (202) 484-8103

SUMMARY OF COMMENTS BY JOHN DANKOSKY
October 1, 1979

The Council of State Chambers of Commerce, an organization comprised of 34 State and regional chamber of commerce organizations, has consistently in the past opposed Federal intervention in State programs.

For this reason we cannot support proposals such as:

Require disqualification for duration of unemployment for voluntary quits, discharge for misconduct, and refusal of suitable work.

Require that States not pay benefits beyond 13 weeks to an individual refusing any reasonable job offer.

Require that States not pay benefits on the basis of predictable layoffs from seasonal employment.

Require all States to establish a one-week waiting period.

We agree that these proposals would most probably result in cost savings and applaud the Committee's efforts in this area. We do not, however, feel that Federal requirements placed upon the State are in the best interest of the unemployment compensation system.

We are also not in agreement with the proposal which reads:

Require States to pay interest on funds borrowed from Federal accounts

We feel that a change of policy at this point would not be fair to the States. We do, however, have an alternative to this proposal in the text of our statement which we hope the Committee will take note of.

We heartily support the proposals which read:

Provide increased assistance to States in control of error and fraud.

Eliminate the national trigger for the extended benefit program.

Permit States to establish optional extended benefit trigger at higher insured unemployment levels.

Provide incentives for Federal agencies to contest improper benefit claims.

Modify trade adjustment assistance program to provide same benefit amount as regular program.

We believe these proposals to be sound, that they do not represent Federal intervention in State domains and that they most probably would result in substantial savings in the long-run.

Again, we applaud the Committee's efforts and would volunteer the services of the Council of State Chambers of Commerce in exploring any cost-saving measures. It is our intention to distribute most of the proposals to our member State organizations and urge that they seek enactment of the measures at the State level.

TESTIMONY OF JOHN DANKOSKY ON BEHALF OF THE
EMPLOYEE BENEFITS AND RELATIONS COMMITTEE OF THE
COUNCIL OF STATE CHAMBERS OF COMMERCE
BEFORE THE
SUBCOMMITTEE ON UNEMPLOYMENT AND RELATED PROBLEMS
SENATE FINANCE COMMITTEE
OCTOBER 1, 1979

Mr. Chairman, Members of the Subcommittee, my name is John Dankosky, Assistant Legislative Director for the Pennsylvania Chamber of Commerce. I am appearing before you today on behalf of the Employee Benefits and Relations Committee of the Council of State Chambers of Commerce. With me is William R. Brown, President of the Council of State Chambers of Commerce. I would like to thank the Subcommittee for providing us with the opportunity to testify on the unemployment compensation cost-saving proposals drawn up by the Finance Committee staff.

The Council of State Chambers of Commerce is an organization comprised of 34 State and regional Chambers of Commerce organizations. We, as an organization, have been long time advocates of the principle that States have an indispensable role in the present unemployment compensation system and that nothing should be done to lessen that role. We have stated before numerous commissions as well as Congressional committees our belief that any loss of authority by the States to the Federal government would not be in the best interest of the unemployment compensation system and all parties involved in that system. In the past we have always opposed any legislation or proposals which we felt would infringe upon the States' powers as they now exist in this area. We must, at this time, reiterate our stand and state that we are flatly opposed to any proposal which would diminish the role or authority of the States in the area of unemployment compensation.

Addressing specifically the proposals drawn up by the Finance

Committee staff and now before us, we find ourselves surrounded by completely unfamiliar circumstances. It has been our past experience in presenting testimony to address issues or proposals in the unemployment compensation area which we have believed would not only infringe upon the States' authority but were also not in the best interests of the employer, the unemployment compensation system or the country as a whole. Our past experience shows us that proposals in the unemployment compensation area have concentrated mainly upon ways to expand the system by adding costly provisions to the existing system or revamping the present system in a way which would lessen State authority and, as a result, become more costly. It is indeed refreshing to be addressing proposals which are aimed at cost-savings. We applaud the Committee for its thoughtful considerations in this area and express our hope that the Committee shall continue to work toward solving the severe financial difficulties now plaguing the unemployment compensation system.

We regret, however, that we cannot support all of the proposals before us because of the involvement by the Federal government that several of the proposals would require. Specifically, the proposals which read:

> Require disqualification for duration of unemployment for voluntary quits, discharge for misconduct, and refusal of suitable work.
>
> Require that States not pay benefits beyond 13 weeks to an individual refusing any reasonable job offer.
>
> Require that States not pay benefits on the basis of predictable layoffs from seasonal employment.
>
> Require all States to establish a 1-week waiting period.

We feel that all four of these proposals have a great deal of merit and agree that if enacted would most probably be cost-saving

measures. We cannot, however, support these proposals at the Federal level. All four proposals represent Federal intrusion into State functions which we feel would have an adverse effect upon the unemployment system in the long-run. We would most probably be strong supporters of these proposals were they made at the State level.

We feel the Federal government's main function in the unemployment system should be that of providing assistance to the States when that assistance is requested by the States. For that reason we support the proposals which read:

> Eliminate the national trigger for the extended benefit program.
>
> Permit States to establish optional extended benefit trigger at higher insured unemployment levels.

We feel the States should have the ability to design and administer their programs as they feel necessary and in a way in which the elected representatives in those States view as in the best interest of their States. By eliminating the national trigger for the extended benefits program and also by permitting States to establish optional extended benefit triggers at higher insured unemployment levels we feel the unemployment compensation system would be improved. Allowing States more authority in these areas will give States some of the tools necessary for them to build a better unemployment compensation system and a system which better fits the needs of each individual State.

The elimination of the national trigger should be an area of particular interest to all those who are interested in improving the current unemployment system because of the way the national trigger can distort that system. As the system now stands, extended benefits can be triggered on nationally by high unemployment in a few highly industrialized States. This triggering on forces States which may

have had absolutely no increase in unemployment into the extended benefits program. This triggering on, in our opinion, should be a State decision.

Other proposals we could support would be:

> Modify trade adjustment assistance program to provide same benefit amount as regular program.
>
> Provide incentives for Federal agencies to contest improper benefit claims.

The August 28, 1979 GAO report entitled "Unemployment Insurance Inequities and Work Disincentives in the Current System" documents our belief that were there a modification in the trade adjustment assistance program as stated in the proposal above, it would increase the incentive for those unemployed as a result of import competition to find new employment. To carry the proposal one step beyond solely benefit levels we would also support a shorter duration of benefits in this area for the same reasons. We feel, however, that any modification in the program should not result in a change in the present system for financing the program.

Our support for the second above proposal is also based upon our belief that this proposal contains the language which if used more at the Federal level could be of greatest value to the States. The idea behind providing incentives we feel is sound and an area that Federal, indeed even State, administrators should spend more time investigating. We support the idea of providing incentives for Federal agencies to contest improper benefit claims and would like to see more incentive programs throughout the entire unemployment compensation system.

We cannot support the proposal which reads:

> Require States to pay interest on funds borrowed from Federal accounts.

It is our belief that to now charge interest on monies which were borrowed with the understanding that there would be no interest is unfair to the States. We recognize, however, that some States must at some point make greater efforts to repay these loans. If this committee should decide that the only conceivable way to emphasize to those States the necessity of making repayments should be to start charging interest on the loan balances, we should like to suggest an alternative method of doing that which, we believe, would be more equitable to all parties involved.

The alternative would be to allow the interest to be waived if the State made legislative changes that would develop an appropriate balance between income and outgo. The appropriate balance should be one which would generate a surplus of at least 20% of the highest level of debt until the debt is paid back. This would allow the State to pay back the loan in 5 years. The appropriate balance would be left to the discretion of the State and would be developed by reducing benefits, increasing taxes, or a combination of the two.

It would be advisable to include also a provision which would require a State to freeze all benefit amounts at the then current levels if the total outstanding debt was in excess of a certain percent of total payroll, such as one half of one percent (as an example, the maximum benefit amount etc. could not be increased if the debt was .5%). This requirement could be waived if legislation was enacted to reduce other benefits to at least the same extent. This requirement would force the State legislators to look to both sides of the formula in determining a proper balance and prevent them from allowing benefits to increase which would require even greater taxes on employers during periods in which the State program is having serious fiscal problems.

This approach would also encourage States that are in debt to review their laws for possible changes and to carefully examine their benefit structure to determine if reductions are warranted. In many cases the States could incorporate the proposals suggested by this Committee for reducing costs. In addition, the State could decide that other areas affecting benefits should also be changed or that it would be more appropriate to make these other changes rather than the above mentioned proposals.

This approach leaves the greatest amount of latitude to the States for developing a fiscally sound system which establishes a proper balance between taxes and benefits. We believe this is a proper approach in our Federal/State unemployment compensation sytem as the States would not be required to meet certain benefit standards. At the same time it places the necessary burden on the State to pay back the debt in a reasonable length of time.

We hope the Committee will consider this as an alternative to flat interest charges should interest itself ever be deemed necessary.

In summation I would like to again state our support for the Committee in its efforts to make the unemployment compensation system a more cost-efficient system. I would also like to offer the services of the Council of State Chambers of Commerce should that be the desire of the Committee. We strongly favor any cost-saving measures provided these measures do not entail Federal edicts to the States and do not represent an intrusion upon the rights of the States to develop and administer their own unemployment compensation programs. We feel that most of the proposals at hand are a step in the right direction and, for that reason, intend to distribute those proposals among our member State organizations and urge that steps be taken to have most of the proposals implemented at the State level.

Senator BOREN. Our next witness is Mr. James D. McKevitt, Washington counsel, National Federation of Independent Business.

STATEMENT OF JAMES D. "MIKE" McKEVITT, WASHINGTON COUNSEL, NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Mr. MCKEVITT. Thank you.

Senator BOREN. We are glad to have you with us here today.

Mr. MCKEVITT. Thank you. It is nice to be here.

Senator BOREN. These are not unfamiliar surroundings to you I gather. You were formerly a member of the Congress. Very pleased to have you with us.

Mr. MCKEVITT. Very pleased to have you here from the great State of Oklahoma, Senator. I appear here on behalf of our 585,000 members, and I think if they know I was here today and you were holding this hearing that they would be dumbfounded and very pleasantly surprised. I think what Oklahoma has done is a step in the right direction and I think what is good for Oklahoma is good for the country so far as procedures——

Senator Boren. You know the Chairman has to agree with that.

Mr. MCKEVITT. Well, I say it because, I will give you the background. I think we have gone way beyond the original intent of the unemployment compensation laws as proposed by Lafaulet and Cousins from Michigan. Lafaulet was from Wisconsin and Cousins was from Michigan. I was involved, I was a district attorney before I went to Congress. Before that I was assistant attorney general in Colorado for 9 years. I had occasion to try over 500 cases involving unemployment compensation and workmen's compensation before industrial commissions and before district courts including the Supreme Court across the street where we had an interesting case there.

But I did it for 9 years. I reflect on that and I also reflect on the concern of our members. Because we have everything from sole proprietors to manufacturers who have 200 or 300 employees. And OSHA is minutia compared to their concern about the abuse of unemployment compensation. Payroll taxes, for example, we do surveys periodically of our members and we found, for example, payroll taxes, the impact of it has jumped from fourth to first just in the last year.

Of course, one of the impacts there is the tremendous amount of money that is going out in unemployment compensation and the abuses of it, the setups. I will elaborate on those in a minute. I know at first blush maybe you say we shouldn't go with more Federal standards. I am familiar with the concerns of the associations of directors for the various departments of employment. But I wonder maybe if we shouldn't fight fire with fire. How many standards do we have on benefits for example? You look back at the history of this thing, start with—it started with coverage of eight or more employees and then it went to four or more and then one or more. And then we get into the politics of it. You have a background in law. You know the politics, whether it is an administrative tribunal, a hearing officer, whether it is a district court judge, a trial judge or even an appellate court in this regard.

And we have seen this rush to pay out the benefits over the years. And we have gone way beyond. And I would therefore like to comment on some of your proposals here. For example, on requiring the disqualification for the duration of unemployment for voluntary quits and discharge for misconduct and refusal of suitable work? Yes, sir. I think unless we have some arbitrary standards—you know it is easy to say let us have more studies. I don't know why we need more studies. We have more case law on this question than you can shake a stick at. We have more impact on costs and breakdowns now than you can shake a stick at. And we have more politics. We have the referee for example who feels sorry for the person because they have a meritorious claim and it goes from 7 to 13 weeks and they play around with it in their infinite wisdom.

On all of this discretionary qualification I think we ought to set some standards.

And I think one of them ought to be right across-the-board disqualification.

So far as 13 weeks on reasonable job offers? Yes, sir. One of the things our employers, our members get set up with is the setup pattern where they come in and work for a certain period of time, a statutory entitlement, and then they sort of phase down until they are laid off. They are pros at it. And we see a lot of that. You saw, for example, you mentioned the business about those drawing unemployment benefits. Those figures I am sure are true all over the country. And it is the old setup. It is discouraging to small business employers because in fact they are labor intensive. They create jobs for entry-level markets. And they see a lot of kids today who are patterning themselves in the structure where they force themselves into a layoff and they then do what they call rolling the employer and then they go for the full shot. And I think something has to be done about that.

So far as seasonal employment is concerned, I think that should be left to the States for this reason. You have auto workers—teachers were the big issue in our State because the school districts look at the State and say OK, let us pay on a 9-month basis and we will roll the State fund for the other 3. That is in effect what they do. That is not only with teachers but some of the big corporations for example, the coal companies will do it too. They see the supplemental unemployment benefits. So who gets hit? It is the little small businessman or woman because their experience rating goes up—I mean their charge goes up because the fund goes down. So there is a lot of people, whether it is some big corporations or whether it is school boards or what have you that do roll this fund. Something has to be done about it.

On the other hand from a seasonal aspect, take my State of Colorado. You are going to have a tremendous impact on Vale or Aspen or the other ski areas if we don't allow the seasonal thing the way it is now or the beet sugar. And I think maybe that is a unique problem to each State.

On the week waiting period. Most States have it so why don't they all have it? There is too much of this rush to judgment. I have seen and—there is an employer here in the District of Columbia, whammo, you get a notice for example—I mean how many employers can even test it because of the way they roll you through it real

quick. I have contested them where justified. They have also here paid some benefits out and so it has been drawn from the general fund.

Well, 1 week here and 1 week there adds up, doesn't it? As the result I think there should be some requirements there.

Now then I don't know why we need any more studies on fraud. Take the State of Colorado for example, and I am sure it is true in most cases, they say. Well, you know, we are going to go after the delinquency of the employers as well. You take the field section, which covers the employers. There are tons of auditors out there checking all the time. I remember when I served as assistant attorney general in Colorado, there was one person who had no investigative background in the fraud section. Minutia I say. And I challenge the Department of Labor to show that that has increased that much today than existed 10 years ago.

Fraud is a dirty word within the department of employment. Let us get the benefits out they think, but to heck with the fraud.

You get the problem like I did as a district attorney. You try a case in front of the people and say you are going to do something about this person. They cheated the State of Colorado. They needed the money. You know, it is tough to try one on a criminal basis. It has to be done on a disqualification basis.

A national trigger? Yes, we support it.

Federal agencies and claims? You bet. We would try the Federal cases—and in my 9 years I don't think I had more than four cases because they play cozy on that one. The Federal supervisor is not going to make an issue because they say that is no skin off my tail so why should I worry about it. So they just go out and roll the Federal UCC benefits. And it is a complicated procedure too, the way it is now.

You do the hearing before the State hearing officer and then you go in the Federal district court. The Federal district judge is up there for life in his own world. And he says, "I am not going to mess with unemployment compensation." It is too cumbersome from that standpoint but there has to be something done like, as I mentioned in our testimony, on the standards level of users then you do now with agencies so far as utilization of space. Maybe the same should be done on benefits as well. There has to be some way to change that.

So far as trade adjustment, what is the difference between international and domestic competition? We have a tremendously, highly competitive domestic situation as well, I don't see the difference there.

On interest, yes, we support the interest provision. Maybe there should be some consideration given to retrospectivity but we strongly support that.

On the pensions I saw many abuses on that. They get near retirement and so forth, they do the roll and they get the double dipper. They get the pension and the unemployment benefits.

So far as standards, you got to have tighter practices because, as I say, the politics of the benefits section, the referee, the industrial section and the courts all play a part.

The other thing is this. Mistakenly the department of employment is often called the department of unemployment. It may be a freudian slip but not malice aforethought.

It was because of the fact they saw it strictly as unemployment benefits. What were the departments created for? To create jobs. And yet for example as late as last week speaking in Denver I spoke to the head of the department out there and she said we are being cut down more and more as far as placement, as far as getting people out into the work sector. And something has to be done about that because there is a poor attitude there.

Whether it is Federal stance or what have you, let us work more to get these people back to work because there are a lot of them who want to work but there are a lot who don't and who know how to put their fingers and walk them through the yellow pages and come up with four or five contacts and that is as far as they go. That is their search for work. And it is Mickey Mouse.

There is something else I think you ought to look into. We have a case pending with one of our members in Hawaii right now. You have say two employers and the person works for one employer for 30 weeks, he quits. He goes to work for another employer. He works for him for 6 weeks and is fired because he is goofing off on the job. You hold a hearing and you notice this last employer in for the benefit hearings. The first employer is never brought into it. All he gets is the notification that his benefits are—his benefit section is being charged and the fund is being charged as well. That is an interesting case.

Senator BOREN. Now say that again. The first employer——

Mr. MCKEVITT. Within the benefit year——

Senator BOREN. And he does what?

Mr. MCKEVITT. He leaves the first employer. He separates because of his own cause. There is no question about unemployment benefits. Oftentimes the classic case is he will leave to take the better job in quotes. He takes the better job in quotes——

Senator BOREN. And then gets fired or quits?

Mr. MCKEVITT. He gets fired or quits, and the second employer does not contest the benefits.

Senator BOREN. And then that charges back against the first employer?

Mr. MCKEVITT. It goes back against all the employers in the chain over the benefit year.

Senator BOREN. How frequent is that occurrence?

Mr. MCKEVITT. I wish I knew because the problem is you don't hear the hue and cry.

Senator BOREN. No.

Mr. MCKEVITT. Except from Lex Brody in Honolulu, one of our members who is a tire dealer out there and he has taken it to the Federal district court out there. That case is pending right now on constitutional grounds, on lack of notice, on improper taxation. And I think that is an interesting issue.

Senator BOREN. Do all States follow the same practice?

Mr. MCKEVITT. I don't know if they do or not at the present time.

Senator BOREN. Let me ask our director from Michigan here, the president? Does this vary from State to State?

Mr. TAYLOR. It varies from State to State. In many situations after the credits, the last separated employer is exhausted, you go to the next separated employer, you go to the issue of separation and you might impose a disqualification then in some States.

Senator BOREN. Do you have any idea of how many States would follow this practice being followed in Hawaii?

Mr. TAYLOR. I don't know. I can find out for you. I can get you that information.

Senator BOREN. Do you do that in Michigan?

Mr. TAYLOR. We look at each separation, yes.

Senator BOREN. So you don't do what they do in Hawaii?

Mr. TAYLOR. We do not do what this gentleman is talking about.

Mr. MCKEVITT. Finally what it goes to is attitude. I think there are a lot of well intentioned State employers out there. I know. I worked with them for 9 years. They want to do the right thing. But they see the attitude manifested upon them by the department of employment. And I think there has to be a sense of resolution come out of the Congress to impart to them of enough is enough, let us get back the theory of Lafaulet and Cousins on this particular matter. That is all I have.

Senator BOREN. Thank you.

We will look into the last question you raised. That is a new problem for me.

Mr. MCKEVITT. The last thing I can say, and I reiterate our members are madder than hell about what is going on with unemployment compensation benefits in this country.

Senator BOREN. I think I met a few of your members out as I have traveled around the State of Oklahoma and I can attest that is the case. There is much concern on this. We hear about welfare abuse and about other abuses of the Federal programs, but abuse of the unemployment system as I have traveled around talking to citizens is the first thing brought up by more people than the abuse of any other Federal program.

I appreciate your testimony.

Mr. MCKEVITT. Thank you.

[The prepared statement of Mr. McKevitt follows:]

NFIB National Federation of Independent Business

STATEMENT OF

James D. "Mike" McKevitt

WASHINGTON COUNSEL
NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Before: Senate Finance Committee's Subcommittee on Unemployment and Related Problems

Subject: Reducing Costs of Federal-State Unemployment Compensation Programs

Date: October 1, 1979

Mr. Chairman, NFIB, on behalf of its 585,000 small and independent business members appreciates this opportunity to express its views on cost-reduction improvements in Federal-State Unemployment Compensation programs. Few issue areas possess greater interest for small business. Not only are payroll taxes of which Unemployment Compensation is one, the largest single tax paid by a majority of small employers, but also the small entrepreneur's sense of justice is often outraged when he sees the unemployment system being utilized for non-intended purposes. For example, in the Southeastern United States, over 14% of respondents believed the unemployment tax was the one in greatest need of reform (contrasted to over 50% for FICA and only 16% for business income taxes). [1] Thus, NFIB commends the Chairman and the Subcommittee for examining a number of issues related to the program, and hopes that additional issues will be examined at a subsequent date.

The staff has listed several potential areas for reform. In no particular order, NFIB gives its support to the following:

1. Requiring States to pay interest on funds borrowed from Federal accounts - Since 1972, twenty-two States and three other jurisdictions [2] have received advances from the Federal Unemployment Account. As of June 30, 1979, fifteen States and three other jurisdictions have outstanding obligations totaling over $5 billion.

1/ an unpublished study conducted by Professor Mark Weaver at the University of Alabama.

2/ District of Columbia, Puerto Rico and the Virgin Islands.

States (and other jurisdictions) which borrow from the Federal unemployment account not only benefit because the loans are interest free, but benefit also because repayment is in cheaper, inflated dollars. This results in a shift of the actual costs of unemployment compensation for many States with a subsequent incentive system focused on longer paybacks, more frequent borrowing, less State efficiency and economy, etc. These consequences of the "interest free" policy are not desireable.

Much has been made recently over Federal aid to States when States have been running surpluses and the Federal government huge deficits. States have countered that view arguing the situation is temporary and no longer applicable. To NFIB that discussion is moot for present purposes. The relative financial condition of governments is not the issue, but whether "free" money with its perverse incentive structure should be given State unemployment funds.

2. Provide incentives for Federal agencies to contest improper benefit claims -- a problem in coming to grips with the Federal budget is that true costs are often inadvertently disguised costs thereby eliminating any buresucratic incentive to reduce and cutting Congressional abilities to locate unnecessary costs. One notable example of attempts to alleviate the problem was the institution of Standard Level Users Charges (SLUC) on the space occupied by Federal agencies. The concept was to isolate an agency's space costs so that both the agency and the Congress had some idea of the total expense. That principal is valid for Federal agency unemployment costs.

Unless the true unemployment cost is revealed to both agency heads and the Congress, there is little incentive to challenge unjust claims. Such costs are not currently available on a comparative basis. That situation should be corrected.

3. Provide increased assistance to States in control of error and fraud -- Prior to my arrival in Washington, I had spent nine years as an Assistant Attorney General for the State of Colorado with responsibility for the Department of Employment.

In those years, I saw first hand the deemphasis on fraud and error control. The attitude, imposed by the Department of Labor, was 'shove the money out the door and worry about other things later'. That approach unfortunately undermines public confidence in unemployment compensation and discriminates against the taxpayer-employer as well as the bona fide unemployed.

Between 1975 and 1978, we have seen a substantial increase in benefit overpayments (fraud and non-fraud) as a percentage of benefits paid. Further, we are witnessing a vast discrepancy among the States. The national median of fraud cases per 1,000 first payments (July, 1977 - June, 1978), for example, was 12.86. But in South Dakota the figure was 65.81 while in West Virginia the figure stood at 0.80.

It is implicit in a Federal-State program that the Federal government has a right to expect any financial transfers (or credits) by which a program is funded to be administered efficiently. Thus, NFIB agrees that incentives should be provided to eliminate error and fraud. However, we also believe those incentives should involve no direct payments to the States, but a loss of some assistance in proportion to non-effort. In that manner, Federal costs are not increased; States which are currently doing well are proportionately rewarded for their efforts; and States which fail to properly admister Federal resources are penalized.

4. Modify trade adjustment program to provide same benefit amount as the regular program -- the distinction between an individual losing his job due to foreign competition or losing his job due to domestic competition is at best artifical for benefit level purposes. While the extended duration of the benefit is arguable, it is not fair to the persons unemployed for "domestic" reasons, to small employers who wish to hire them and cannot because of benefit levels, and to States who should have the right to determine benefit levels. The purpose of unemployment compensation is to give the worker a cushion when he loses his job until he can locate another. Whether he loses his job for domestic or foreign reasons has no bearing on the matter.

5. Eliminate the national trigger for the extended benefit program -- The "national trigger" fails to consider differences in relative State economic conditions, and fails to allow States to make their own determinations of the needs for their particular State. For example, in November, 1976, when the national tragger was "on", four States (Nebraska, Texas, Virginia, and Wyoming) had insured unemployment rates of less than 2.0. Eight States (Alaska, Maine, Michigan, Nevada, New Jersey, Pennsylvania, Vermont, and Washington) had rates over 5.0. These States represent considerably different circumstances.

The national trigger is inappropriate as it compels States to take action that may have no relevance to their particular condition.

In a real sense, however, NFIB faces a quandry in addressing many of the specific issues raised in Committee Print 96-26. The direction these alternatives take are courses we would like to see pursued. But small business are concerned with the increasing propensity of the Federal government to preempt State prerogatives -- for good or ill. We note, for example, staff alternatives such as "Require that States not pay benefits beyond 13 weeks to an individual refusing any reasonable job offer", or "Require that States not pay benefits on the basis of predictable lay offs from seasonal employment". These are proposals with which we concur in their ends, but we have some difficulties with the means. NFIB is not arguing that a legitimate Federal interest is absent. After all, the Federal government does have a responsibility to see that its resource share of the program is spent within parameters it considers acceptable. But we are arguing that by "requiring" States to take these actions, the Federal government is overstepping.

Instead, we suggest that the Federal government refuse to pay a share for such benefits by reducing employer credits in proportion to the costs such unacceptable practices create. Allow the States to continue paying such benefits if they desire; that is their prerogative. But the Federal government doesn't have to extend credit for payment of those benefits; that is its prerogative.

The difference between the staff proposals and what we are suggesting may seem more semantic than anything else, yet our proposals allow the States their legitimate interest and allows the Federal government its. That is important and well worth and subtle distinctions made.

Thank you.

Senator BOREN. Our last witness today, last but not least, is Mr. C. H. Fields, assistant director, National Affairs Division, American Farm Bureau Federation.

We are very pleased to have you with us.

STATEMENT OF C. H. FIELDS, ASSISTANT DIRECTOR, NATIONAL AFFAIRS DIVISION, AMERICAN FARM BUREAU FEDERATION

Mr. FIELDS. Thank you, Senator.

I would ask that my full statement be entered into the record. I will try to summarize.

Senator BOREN. We will put the full statement in the record.

Mr. FIELDS. We are concerned that the unemployment compensation program is being widely abused by employers, employees, and State and Federal governments. Too many perceive it as a welfare program. The Congress by extending benefits to 65 weeks, providing supplementary benefits, encouraging easy and excessive borrowing from the Fund, and providing general revenue funds to finance excessive benefits through the Fund, has made the program exactly that in the minds of many.

Fraud and abuse are widespread in the program and have been exposed time and again by the news media and by investigations undertaken by State governments. It takes many ingenious forms such as misrepresentation of the facts in filing claims; filing claims in more than one jurisdiction; receiving benefits while gainfully employed or receiving a retirement income; liberal interpretations of which jobs a claimant should be allowed to refuse and still collect benefits; and many others.

Some employers who have normal layoff periods of 2 or 3 months each year take advantage of the program, calculating that payment of the maximum tax in a particular State is less expensive than employing people on a year-round basis.

We believe the original concepts of the Act of 1935 are as sound today as they were then. We oppose federalization of this program. We favor leaving it to the States to decide eligibility, amount and duration of benefits and other such fundamental policy questions. We oppose any legislation at the national level to mandate a cost-share program among the States or to set any Federal minimums for eligibility and benefits. The experience rating system should be left intact. We believe this committee and the Congress as a whole should act with great restraint in imposing reforms on the States.

Senator BOREN. What then is the appropriate Federal role? Just providing part of the money?

Mr. FIELDS. Well, I think there is a proper role in maybe advising the States or maybe providing some of the incentives that the Congress does not now provide or the reverse so that the States will have some incentive to carry out reforms.

Senator BOREN. How could you do that?

Mr. FIELDS. Well, I am going to come to that.

Senator BOREN. Excuse me, go ahead.

Mr. FIELDS. At the same time, the Congress must take resolute steps to bring the program under control so as to reduce its excessive burden on employment. The recent report of the General Accounting Office makes it clear that unemployment benefits in

many States are so liberal that payments represent about 64 percent of a recipient's net income while employed.

GAO recommends that the Congress consider taxing unemployment benefits under the Federal income tax as a means of increasing the incentive to work rather than to collect unemployment benefits. This recommendation deserves serious consideration.

We believe this committee should concentrate on reversing previous actions that have: One, made it too easy for the States to borrow from the Fund without interest; two, provided for the waiver of penalties for late repayment; three, liberalized the trigger for extended and supplementary benefits; and four, led to the use of several billion dollars from general revenue to replenish the bankrupt Fund. All of these actions, while adopted with the best of motives, have led to a debasement of the program.

The financial solvency of this program must be restored and costs brought into line by reforms at the State level. Oklahoma and other States have demonstrated that commonsense reforms and a tighter administration of the program can greatly reduce fraud and abuse, reduce costs to employers, and at the same time, improve benefits to those workers who are truly in need of assistance.

There is little incentive for the States to undertake these reforms unless the Congress makes it clear that the day of easy access to the Fund and liberal subsidization from general revenue is at an end.

We had hoped that the National Commission on Unemployment Compensation would conduct an unbiased and thorough study of this program and recommend to the States specific ways to reform the program, reduce fraud and abuse, and reduce costs. Judging from the preliminary report of the Commission, however, the majority of the Commission seems to be more interested in federalizing the program and in liberalizing benefits.

If the Commission members do not yet clearly perceive that one of their mandates from the Congress is to recommend ways of reducing fraud and abuse and the cost of the program, this committee should find a way to get that message to them.

We doubt, however, that we can afford to await the final report of the Commission. As we have suggested, there is some backtracking the Congress itself can undertake that would get the attention of the States and cause them to become much more interested in reform.

We were hopeful the Commission would give careful and fair consideration to some problems which the agricultural community has faced since being brought under the program. We refer to the matter of employers being taxed under the program for seasonal workers, particularly full-time students, who never qualify for benefits; the fact that family-farm corporations are forced to pay the tax on the owners of the farm who are technically employees of the corporation but who never qualify for benefits; and the limited-period exemption for temporary foreign workers who also never qualify for benefits

We would leave it to the States to decide these issues on their merits. They cannot exercise this judgment if Federal law requires the taxation of wages paid to such persons.

We commend this committee for the attention it is giving to reform of the unemployment compensation program and the emphasis on finding ways of reducing costs to employers. As we all know, those costs are really borne by the consumers and this means that we all have a stake in the operation of this program.

We appreciate the opportunity to present Farm Bureau's views.

Senator BOREN. Thank you very much. I appreciate your testimony. I think you have tied in your testimony well to some of the other suggestions, the charging of interest and other things that might provide leverage to the States.

I also agree with you in your comments about the Commission and when Mr. Cowen and representatives of the Commission appeared here earlier I think the point was forcefully made to them that we expected them to look at balanced recommendations. Reforms, as I said to them then, are not things that cost more money. I think the average citizen doesn't feel that way about it. I know I don't feel that way about it. We think of a reform as going to make something more efficient and save money. And we expect them to change directions somewhat and change the course somewhat in the work of the Commission.

And I think that has been very forcefully brought home to them not only by myself but by other members of the full committee.

I would urge if you do have other suggestions and you think of other suggestions to ways in which we could provide additional leverage and encouragement to the States, you let me and the committee know about these suggestions.

Mr. FIELDS. As you know, we are fairly new in this program. We were brought into it a couple of years ago. So we are learning. But I can assure you that we are going to be even more aggressive in the future in our interest in recommendations on this program, because it is becoming a major cost of operation on our farms.

Senator BOREN. I appreciate your testimony. I do understand again the philosophical feelings and I share this feeling to some degree, this wanting to leave it at the State and local level to solve the problem, this realizing that Federal intervention historically, at least in the last 15 or 20 years has been as much in the wrong direction, perhaps more in the wrong direction than in the right direction, which further enhances our feeling we don't want to see interference with the local decisionmaking and yet the need to get on to the business of bringing the system under control some way in terms of total cost.

Mr. FIELDS. We have got to get the States' attention some way or another.

Senator BOREN. We are going to have to. If we can find a way to do that without imposing direct controls, why I think that would be a happy solution for all of us but we need to really turn our attention to that.

Thank you very much.

I appreciate the testimony given by all of those who have appeared today. I am sorry that the other two members of the committee were not able to be with us. I know one was in another committee meeting but was going to try to be here. But I can assure you they both have deep interest in it as do members of the full committee. And the testimony that has been given here today

will be read and considered by members of the full committee I can assure you, because we are giving great attention now to trying to find ways to reduce the cost of this program and to head it in the right direction for the future.

If there are others present as I said in the beginning, we would like to submit written testimony to us in the next few days, it would be most welcome if you do so. We would solicit that testimony.

If there are no other witnesses today, the hearing will stand in recess.

[The prepared statement of Mr. Fields follows:]

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION
TO THE SUBCOMMITTEE ON UNEMPLOYMENT AND RELATED PROBLEMS
OF THE SENATE COMMITTEE ON FINANCE
RE WAYS TO REDUCE THE COST OF UNEMPLOYMENT COMPENSATION

Presented by
C.H. Fields, Assistant Director, National Affairs

October 1, 1979

Farm Bureau is a voluntary, nongovernmental organization of more than 3 million families in 49 states and Puerto Rico, representing farmers and ranchers who produce every agricultural commodity produced on a commercial basis in the United States.

Unemployment taxation and compensation is a relatively new concern of farmers and ranchers who pay more that $7 billion annually in cash wages. We believe that only about one-third of all farmers and ranchers hire anyone other than members of their families. Until January 1978, only a small number of agricultural employers provided unemployment protection to their employees on a voluntary basis. We estimate that the Act as now written covers about one-half of the hired workers on farms which are employed by 15 to 20 percent of all farmers and ranchers. Thus, the unemployment compensation program is a matter of economic interest to about one-fifth of all farmers and ranchers and of considerable general interest to all of them as responsible citizens and taxpayers.

We are concerned that the unemployment compensation program is being widely abused by employers, employees, and state and federal governments. Too many perceive it as a welfare program. The Congress, by extending benefits to 65 weeks providing supplementary benefits, encouraging easy and excessive borrowing from the Fund, and providing general revenue funds to finance excessive benefits through the Fund, has made the program exactly that in the minds of many.

Fraud and abuse are widespread in the program and have been exposed time and again by the news media and by investigations undertaken by state governments. It takes many ingenious forms such as misrepresentation of the facts in filing claims; filing claims in more than one jurisdiction; receiving benefits while gainfully employed or receiving a retirement income; liberal interpretations of which jobs a claimant should be allowed to refuse and still collect benefits; and many others. Some employers who have normal layoff periods of two or three months each year take advantage of the program, calculating that payment of the maximum tax in a particular state is less expensive than employing people year-round.

We believe the original concepts of the Act of 1935 are as sound today as they were then. We oppose federalization of this program. We favor leaving it to the states to decide eligibility, amount and duration of benefits, and other such fundamental policy questions. We oppose any legislation at the national level to mandate a cost-share program among the states or to set any federal minimums for eligibility and benefits. The experience rating system should be left intact. We believe this Committee and the Congress as a whole should act with great restraint in imposing reforms on the states.

At the same time, the Congress must take resolute steps to bring the program under control so as to reduce its excessive burden on employment. The recent report of the General Accounting Office makes it clear that unemployment benefits in many states are so liberal that payments represent about 64 percent of a recipient's net income while employed. About 25 percent of recipients replace 75 percent of their employment incomes with unemployment benefits. While seven percent actually are better off with unemployment benefits than when receiving wages on the job.

GAO recommends that the Congress consider taxing unemployment benefits under the federal income tax as a means of increasing the incentive to work rather than to collect unemployment benefits. This recommendation deserves serious consideration.

However, we disagree with GAO's recommendations that the Congress mandate the reduction of unemployment compensation by the amount of a claimant's retirement income and establish a uniform methodology for determining compensation.

Instead, we believe this Committee should concentrate on reversing previous actions that have (1) made it too easy for the states to borrow from the Fund without interest; (2) provided for the waiver of penalties for late repayment; (3) liberalized the trigger for extended and supplementary benefits; and (4) led to the use of several billion dollars from general revenue to replenish the bankrupt Fund. All of these actions, while adopted with the best of motives, have led to a debasement of the program.

The financial solvency of this program must be restored and costs brought into line by reforms at the state level. Oklahoma and other states have demonstrated that commonsense reforms and a tighter administration of the program can greatly reduce fraud and abuse, reduce costs to employers, and at the same time, improve benefits to those workers who are truly in need of assistance.

There is little incentive for the states to undertake these reforms unless the Congress makes it clear that the day of easy access to the Fund and liberal subsidization from general revenue is at an end.

We had hoped that the National Commission on Unemployment Compensation would conduct an unbiased and thorough study of this program and recommend to the states specific ways to reform the program, reduce fraud and abuse, and reduce costs. Judging from the preliminary report of the Commission, however, the majority of the Commission seems to be more interested in federalizing the program and in liberalizing benefits.

If the Commission members do not yet clearly perceive that one of their mandates from the Congress is to recommend ways of reducing fraud and abuse and the cost of the program, this Committee should find a way to get that message to them.

We doubt, however, that we can afford to await the final report of the Commission. As we have suggested, there is some backtracking the Congress itself can undertake that would get the attention of the states and cause them to become much more interested in reform.

We were also hopeful the Commission would give careful and fair consideration to some problems which the agricultural community has faced since being brought under the program. We refer to the matter of employers being taxed under the program for seasonal workers, particularly full-time students, who never qualify for benefits; the fact that family-farm corporations are forced to pay the tax on the owners of the farm who are technically employees of the corporation but who never qualify for benefits; and the limited-period exemption for temporary foreign workers who also never qualify for benefits. We would leave it to the states to decide these issues on their merits. They cannot exercise this judgment if federal law requires the taxation of wages paid to such persons.

We commend this Committee for the attention it is giving to reform of the unemployment compensation program and the emphasis on finding ways of reducing costs to employers. As we all know those costs are really borne by consumers and this means that we all have a stake in the operation of this program.

We appreciate the opportunity to present Farm Bureau's views.

[Whereupon, at 8:35 p.m. the hearing was adjourned.]
[By direction of the chairman, the following communications were made a part of the hearing record:]

National Governors' Association

Otis R. Bowen, M.D.
Governor of Indiana
Chairman

Stephen B. Farber
Executive Director

September 28, 1979

The Honorable David L. Boren, Chairman
Subcommittee on Unemployment and
Related Problems
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On behalf of the National Governors' Association, I wish to register serious concern regarding a series of proposed unemployment insurance cost-saving measures being considered by your Subcommittee. While several of the proposals included in your September 19 press release have merit, I am extremely disturbed by the prospect of sudden federal intervention in areas of the UI program that have traditionally been subject to state jurisdiction.

NGA supports the efforts of the President and the Congress to control federal expenditures and to work toward a balanced federal budget. It would be inappropriate, however, for Congress to undertake sweeping changes in the state-federal unemployment insurance system based solely on federal budget considerations.

If enacted, several of the proposals being considered by your Subcommittee would fundamentally alter the state-federal partnership in the UI program by setting federal standards for benefit eligibility and disqualification provisions of state UI laws. In view of the profound effects these proposals would have on state laws and state UI programs, I believe Congress would be ill-advised to act precipitously on these changes.

I am aware that the Senate Finance Committee faces the immediate challenge of reducing costs to meet the ceilings of the fiscal 1980 budget resolution. However, many of the UI proposals being considered would require state legislative action, which cannot reasonably be expected in time to effect FY 1980 cost savings. Since the National Commission on Unemployment Compensation has already committed itself to a thorough review of the proposals developed by the Senate Finance Committee staff, I strongly encourage your Subcommittee to defer legislative consideration of those measures affecting state UI laws until the National Commission has completed its study and deliberations.

I regret that time constraints do not permit me to present formal testimony at your October 1 Subcommittee hearing. However, I am forwarding an NGA staff analysis of the UI cost-saving proposals for your review and consideration. I look forward to working with you and other members of your Subcommittee in the future.

Sincerely,

J. Joseph Garrahy

Governor J. Joseph Garrahy, Chairman
Committee on Human Resources

cc: Hon. Claiborne Pell
Hon. John Chafee
Members of the Senate Finance Committee

Enclosure

NGA STAFF ANALYSIS AND COMMENTARY REGARDING SENATE FINANCE SUBCOMMITTEE PROPOSALS FOR REDUCING COSTS IN THE UNEMPLOYMENT INSURANCE PROGRAM

Introduction:

On August 6, 1979, Senator David L. Boren, Chairman of the Senate Finance Subcommittee on Unemployment and Related Problems, published a series of proposals for reducing costs in the federal-state unemployment insurance program. At the September 5 Subcommittee hearing on extension of the National Commission on Unemployment Compensation, Senator Boren requested that the Commission review the cost-saving proposals as part of its overall review of the UI system. Commission Chairman Wilbur J. Cohen responded affirmatively to Senator Boren's request, and on September 6 published the proposals in the Federal Register, requesting public comments by October 1, 1979. On September 19, Senator Boren announced a Subcommittee hearing on the proposals to be held on October 1, 1979.

The current examination of UI cost reductions is being undertaken, in large measure, as part of broader efforts within the Congress to reduce expenditures in the Fiscal Year 1980 budget. Since state UI trust funds are deposited in the federal treasury and contained in the unified federal budget, increases in state UI revenues (from employer payroll taxes) or reductions in benefits paid to unemployed workers under state laws contribute directly to a reduced federal budget deficit. However, the ability of Congress to legislate immediate cost savings in state UI programs is limited by the fact that state legislative action is required

to implement changes in benefit levels, claimant eligibility requirements, employer contribution rates, claimant disqualification provisions, and a broad range of other UI provisions which determine overall program costs.

Due to the relatively short time between the publication of the Senate Finance Committee cost-saving proposals and the announcement of hearings, neither the NGA Committee on Human Resources nor its Subcommittee on Employment and Training has had an opportunity to formally review these proposals and respond to Senator Boren and the National Commission. The analysis and comments presented below were prepared by NGA staff and will be reviewed by the NGA Subcommittee on Employment and Training at its next meeting.

Analysis and Commentary:

. The format which follows presents a summary of each cost-saving proposal developed by the staff of the Senate Finance Committee (underlined), followed by NGA staff comments in response to the proposal. The full text of the proposals appears in Senate Finance Committee Print 96-26 and in the September 6, 1979 Federal Register (Vol. 44, No. 174, pp. 52053-55).

1. Require disqualification for duration of unemployment for voluntary quits, discharge for misconduct, and refusal of suitable work (estimated annual savings - $0.3 billion).

   Benefit disqualifications have traditionally been determined in accordance with state UI laws. At the present time, 41 states disqualify individuals who voluntarily leave their employment from receiving benefits for the duration of their unemployment (most states require re-employment for a

specified period of time in order for the individual to re-qualify). Some 29 states disqualify claimants for the duration of their unemployment when the separation was due to misconduct, and 25 states have a "duration of unemployment" disqualification for claimants refusing an offer of suitable work.

All states provide penalties of one type or another for voluntary quits, refusal of suitable work, and employee misconduct. Those states which do not diqualify the individual for the duration of unemployment postpone benefits or reduce benefits (or both--that is, disqualify the claimant for a specified period of time and reduce the total benefit amount the claimant can receive). But the legal definitions of what constitutes a "voluntary quit", discharge for misconduct, and "suitable work" vary from state to state, and have been subject to extensive interpretation by state courts.

NGA's current policy position recognizes the need for states to have flexibility in setting benefit and eligibility standards for UI that are responsive to local labor market conditions and prevailing values and norms within each state. It should be noted that federal law currently prohibits states from totally disqualifying claimants in these categories (hence many states have adopted re-employment requirements). The imposition of mandatory federal requirements in the disqualification area would substantially limit state flexibility to balance disqualification provisions against other benefit

provisions (weekly benefit amounts, eligibility provisions, benefit durations, etc.) within the overall framework of the state's UI law.

Realization of cost savings from this proposal requires state legislative action.

2. Require that states not pay benefits beyond 13 weeks to an individual refusing any reasonable job offer (estimated annual savings - $0.2 billion).

As defined by the Senate Finance Committee staff a reasonable job offer means, "any job which meets minimum standards of acceptability (such as basic health and safety standards, compliance with the Federal minimum wage, and acceptability under existing Federal standards)." State disqualification provisions currently apply to individuals refusing any offer of suitable work, which is generally defined to take account of the worker's skills, training, previous experience, and earnings. Nearly all states provide for a gradual tightening of work requirements (either legislatively or administratively) as the duration of unemployment increases.

An underlying objective of unemployment insurance has been to preserve the occupational skills of workers during temporary periods of unemployment. Requiring a skilled worker to accept a minimum wage job after 13 weeks of unemployment would substantially change this underlying philosophy. In addition,

the reasonableness of this proposed requirement depends greatly on the condition of the local labor market, specific industry sectors, and the national economy.

Again, the definition of what constitutes "suitable work" and the establishment of work test requirements for UI recipients has traditionally been subject to state jurisdiction. State legislative changes would be required to effect cost savings from this proposal.

3. Require that States not pay benefits on the basis of predictable layoffs from seasonal employment (estimated annual savings - no estimate available).

At the present time, only a few states have seasonal exclusions for categories of workers other than those for which benefit denials were mandated by federal law in 1976 (i.e., certain school employees and professional athletes). Difficulties in defining seasonal employment in such a way as to avoid inequities among similar classes of employees have led many states to repeal seasonal exclusions. Because of the experience-rating of employer UI taxes, seasonal employers generally pay higher UI taxes than non-seasonal (year-round) employers. Some have argued that the availability of UI during the off-season is reflected in reduced wage costs for seasonal employers, relative to what they would otherwise pay.

In the past, federal legislation has moved state programs in the direction of expanding UI coverage of workers and employers. This proposal moves in the opposite direction and would limit state flexibility to tailor benefit eligibility provisions to their particular employment mix. The effects on workers would differ considerably from state to state, depending greatly on differences in climate (e.g., the severity of winters, etc.).

4. Require all States to establish a 1-week waiting period (estimated annual savings--$0.1 billion).

At the present time, 12 states have no "waiting week" requirement for individuals who are unemployed through no fault of their own. Nine states provide for an initial waiting week, but provide retroactive benefits for that week after a specified period of time. There is no clear evidence that the existence or non-existence of a waiting week requirement has a significant influence on employee incentives to return to work. The concept of a waiting week was designed originally to meet the administrative time requirements for the processing of claims. With advent of computers, a number of states have eliminated waiting week requirements.

Changes in state laws would be required to implement this proposal.

5. Provide increased assistance to States in control of error and fraud (estimated annual savings - $0.1 billion).

Currently available national statistics on error and fraud in the UI system reflect an error rate in benefit payments of less than one percent and a "fraud" rate amounting to about 0.5 percent. Considering state agencies processed more than 19 million new claims and paid benefits totalling more than $9 billion last year, these error and fraud rates are remarkably low. The Committee staff proposal to penalize states that exceed certain minimum error rates by witholding federal administrative funds hardly seems warranted, given these statistics. However, the proposal to assist states in establishing computerized benefit payment control systems deserves serious consideration as a way of further reducing fraud and error in the payment of benefits. In addition, experiments with increased staff devoted to benefit payment control in selected jurisdictions have demonstrated a substantial return in dollars saved relative to the increase in dollars spent for administration of this function. The cost-effectiveness of increasing staff resources for benefit payment control should therefore be considered in any efforts to further reduce error and fraud in the UI system. State legislative action would not be required to implement this recommendation.

6. Eliminate the national trigger for the extended benefit program (estimated annual savings - no cost savings at 7 percent national unemployment rate; $1.3 billion savings at 8.6 percent total unemployment rate).

Under present law, extended benefits (generally, benefits from the 27th through the 39th week of insured unemployment) are "triggered on" in a state based on either the state insured

unemployment rate or the national insured unemployment rate (measured for a floating 13-week average). The national trigger is currently tied to a national average rate of insured unemployment of 4.5 percent, and was designed to extend benefit durations in all states during periods of high national unemployment (typically, during national recessions). The argument for eliminating the national trigger is that some states do not experience unusually high levels of unemployment, even when insured unemployment for the nation as a whole exceeds the 4.5 percent threshold. From an economic standpoint, elimination of the national trigger for extended benefits would diminish the counter-cyclical effects of the EB program on the national economy. It also fails to address the problem of serious pockets of unemployment in specific localities or industries within states that do not experience unusually high aggregate rates of insured unemployment during national recessions.

A number of questions have been raised with regard to the responsiveness of the current trigger mechanisms for the extended benefits program, and the National Commission on Unemployment Compensation is currently examining the triggers to identify possible improvements.

Because of differences in the way state UI laws are written, some states would be required to adopt legislative changes to implement this proposal, while others simply reference federal law (and would not require amendments).

7. Permit States to establish optional extended benefit trigger at higher insured unemployment levels (estimated annual savings - up to $0.4 billion depending on economic conditions over a period of years).

In general, NGA supports the need for state flexibility in determining benefit durations. However, the implications of optional state triggers for federal sharing of extended benefit costs need to be carefully explored, as do equity considerations for workers and employers in the various states. This proposal deserves further consideration by the National Commission and others.

Cost savings from this proposal would depend on state legislative action.

8. Provide incentives for Federal agencies to contest improper benefit claims (estimated annual savings - less than $0.05 billion).

A number of state employment security agencies have experienced difficulties in obtaining information and responses from federal agencies in processing UI claims for federal employees. Requiring federal agencies to document their UI costs as part of the annual budget process is a suggestion which merits consideration as an "incentive mechanism" for responsible federal management of unemployment compensation for federal employees. This proposal does not involve the need for changes in state laws.

9. Modify trade adjustment assistance program to provide same benefit amount as regular program (estimated annual savings - $0.1 billion).

NGA has previously registered concern regarding the proliferation of special worker assistance programs and has suggested the need for the National Commission on Unemployment Compensation and the National Commission on Employment Policy to study the feasibility of consolidating a number of these programs (trade adjustment assistance, California redwoods, airline deregulation, etc.). In part, these special programs have developed in response to the perceived inadequacy of regular state UI programs to address the unique unemployment problems of particular categories of displaced workers. NGA suggests the need for a thorough review of these programs with a view toward consolidation.

State legislation is not required to implement this proposal.

10. Require States to pay interest on funds borrowed from Federal accounts (estimated annual savings - $0.4 billion).

NGA strongly supports implementation of a reinsurance program that will reimburse states for a portion of excess benefit costs incurred during periods of high national unemployment. While NGA does not have a formal policy position which speaks to an interest requirement, the NGA Working Group on Unemployment Insurance has recommended an interest requirement for

future loans be considered only in the context of a national reinsurance program. Interest requirements for loans to state trust funds have been posed as an alternative to mandatory federal standards for state fund solvency provisions, and as an incentive for adequate state financing of normal (non-recession) benefit costs.

Since interest on loans would presumably be paid from state trust funds, which are currently a part of the federal budget, it is difficult to see how this proposal would result in projected cost savings.

11. Provide for reduction of benefits when the unemployed individual is receiving a pension based on recent employment (estimated annual savings - $0.3 billion, as compared with repeal of current pension offset requirement).

Current federal law adopted in 1976 requires a dollar-for-dollar offset of unemployment benefits for any pension income concurrently payable to the individual. This requirement has resulted in widely recognized inequities, and has created serious problems in terms of state laws. As noted by the Senate Finance Committee staff in the text of this proposal, the National Commission on Unemployment Compensation has recommended repeal of the federal pension offset requirement (thereby permitting state laws to govern the treatment of pension income for purposes of unemployment insurance). As an alternative, the Senate Finance Committee staff proposal would modify the

current federal requirement by limiting the reduction to pensions based in whole or part on employment within the two years preceding the date of unemployment. This proposal would address the most serious objections to the current requirement, but would perpetuate a federal pension offset standard for state UI laws. Since a number of states have adopted the total offset requirement mandated by the 1976 Amendments, state legislative changes would be required to implement the two-year limit.

STATE OF MICHIGAN

WILLIAM G. MILLIKEN, Governor

DEPARTMENT OF LABOR

309 N. WASHINGTON, BOX 30015, LANSING, MICHIGAN 48909

C. PATRICK BABCOCK, Director

September 27, 1979

The Honorable David L. Boren, Chairman
Subcommittee on Unemployment Insurance
and Related Problems
440 Russell Office Building
Washington, D.C. 20510

Dear Senator Boren:

I am writing for the purpose of submitting comments on the "Proposals for Reducing Costs and Improving the Budgetary Status of the Unemployment Program" being considered by your subcommittee. It is my understanding that these proposals are being considered at this time in an effort to determine if their implementation would produce cost savings which would help to balance the federal budget in fiscal year 1980.

The attached comments are presented in two parts. The first part consists of general comments on the advisability of considering these options at this time. The second part consists of specific comments on the merits, or lack thereof, of the individual proposals.

Because of the extremely short notice provided, these comments constitute our initial reactions to the proposals. Many of the proposals have tremendous implications for the federal-state unemployment insurance system. Extensive analysis will be required to fully assess their merits.

Thank you for the opportunity to provide input into these important deliberations.

Sincerely,

C. Patrick Babcock

C. Patrick Babcock
Director

attachment

Comments by
C. PATRICK BABCOCK, DIRECTOR
MICHIGAN DEPARTMENT OF LABOR

on

"PROPOSALS FOR REDUCING COSTS AND IMPROVING THE BUDGETARY STATUS OF THE UNEMPLOYMENT PROGRAM"

Submitted to the

SUBCOMMITTEE ON UNEMPLOYMENT INSURANCE
AND RELATED PROBLEMS

October 1, 1979

Introduction

The Senate Finance Subcommittee on Unemployment Compensation and Related Problems is considering a number of proposals designed to reduce the costs of the federal-state unemployment insurance program. The immediate purpose for consideration of these proposals is to determine if their implementation would produce cost savings which would help to balance the federal budget in fiscal year 1980. The following comments constitute the initial reactions of the Michigan Department of Labor to these proposals. A complete assessment of the merits of the proposals will require additional analysis.

General Comments

The consideration of these proposals at this time is inappropriate for several reasons:

1) It is not wise to act precipitously on provisions which would have such a large impact on the unemployment insurance system. Implementation of many of these proposals would fundamentally change the character of the federal-state unemployment insurance relationship. Despite this, interested parties were given little more than a week to prepare comments for the subcommittee's consideration. In addition, the National Commission on Unemployment Compensation has agreed to include a review of these proposals in its work plan. It would be more appropriate to delay congressional consideration until

the recommendations of the National Commission have been developed, and until interested parties have had the opportunity to fully analyze the proposals.

2) It is inappropriate to manipulate the balance of a self-contained trust fund in order to balance the federal budget. Increases or decreases in the balance of the federal unemployment insurance trust fund have no bearing on the amount of general revenue funds available to the federal government to effect its various purposes. While the inclusion of this balance in the calculation of the overall federal deficit may or may not make sense from an accounting perspective, it is entirely irrational from a programmatic perspective. It fosters the unfortunate illusion that by reducing state unemployment benefit costs, more money can somehow be made available for other federal programs. In reality, cost savings in state unemployment programs do nothing but improve the fiscal status of the unemployment insurance trust fund. They have no effect on the real availability of money for other federal programs.

This is not to say that ways to reduce the costs of unemployment insurance should not be thoroughly explored. Public policy makers have a clear responsibility to examine ways in which the objectives of the unemployment insurance system can be achieved at the least possible cost. However, these efforts should not be confused with efforts to reduce the federal deficit.

3) The implementation of these proposals would constitute the imposition of federal benefit and eligibility standards on state programs. Not all the proposals fall into this category, but many of them do. The imposition of such standards would signal a major change in the balance of federal and state responsibilities, and should be looked at in this larger context, not just in the narrow context of attempting to reduce state benefit costs. In this larger context, it would be inconsistent to maintain that it is proper for the federal government to impose standards in the areas of disqualifications, suitable work, and the waiting period, without also accepting the role of the federal government in setting standards in the area of benefit adequacy , benefit duration, qualifying requirements, etc. In other words, instead of considering a few select standards in isolation, it would be more appropriate to consider the entire issue of federal eligibility and benefit standards, and to address the entire range of possible standards. In this context, the

subcommittee should consider separate consideration of those proposals which do and do not constitute federal benefit and eligibility standards. This would allow for serious discussion of the merits of those proposals which do not constitute federal benefit and eligibility standards, without becoming embroiled in the controversy over the appropriateness or inappropriateness of federal standards.

Comments on Specific Proposals

Proposal 1: Require disqualification for the duration of unemployment for voluntary quits, discharge for misconduct, and refusal of suitable work.

Comments

Consideration of this proposal is inappropriate for two reasons.

First, as stated in the general comments, the issue of federal benefit and eligibility standards should be dealt with in a comprehensive manner, to allow for a full understanding of the implications of such a change, and consideration of the entire range of possible standards.

Second, this proposal focuses exclusively on the cost-saving aspect of disqualifications, and ignores a wide variety of other important considerations. For instance, it does not address the question of what constitutes a voluntary quit, refusal of suitable work, or misconduct. It would be inconsistent to mandate a uniform length of disqualification without also mandating uniform definitions of disqualifying acts.

Proposal 2: Require that states not pay benefits beyond 13 weeks to an individual refusing any reasonable job offer.

Comments

The general concern being addressed by this proposal is a legitimate one - i.e. the need to encouraging more aggressive work search activities and a lowering of job expectations as the duration of unemployment lengthens. The method of addressing the issue suggested by the proposal is totally unacceptable, however.

This proposal, like the first proposal, constitutes the imposition of an arbitrary federal standard in an area of decision-making that has traditionally been left to individual states. Hence, it should only be considered in the overall context of applying federal standards to all aspects of eligibility determination and benefit levels.

This proposal emphasizes the need for cost savings to the exclusion of all other considerations. Forcing unemployed individuals to either accept minimum wage jobs or fact a loss of benefits after 13 weeks of unemployment, would be tantamount to limiting the duration of benefits to 13 weeks. Not even the most conservative critics of unemployment insurance have ever publicly advocated a 50 percent reduction in the standard duration of regular benefits. The reference to more stringent tests of labor force attachment in the Emergency Unemployment Compensation Act of 1974 is irrelevant, since those tests were imposed after 39, as opposed to 13, weeks of unemployment.

The precise methods for defining suitable work have been subject in each state to extensive judicial and administrative interpretation. State programs currently take into consideration the length of an individual's unemployment when determining the suitability of a particular job offer. However, this determination is made on a case by case basis. A large number of factors are taken into consideration, including the degree of risk to the worker, the physical fitness of the worker, the individual's prior training, experience, and earnings, the condition of the local labor market, the individual's length of unemployment, and the distance of the work from the claimant's residence. This proposal would eliminate the ability of all states to make decisions that are sensitive to individual conditions, and substitute instead an arbitrary and simplistic standard that would make any work suitable if it paid the minimum wage and came after 13 weeks of unemployment.

Fortunately, there are legitimate ways to strengthen the effectiveness of the work test that do not involve the arbitrary limitation of benefit rights inherent in this proposal. These include new ways of managing the enforcement of the work test between Employment Service (ES) and Unemployment Insurance (UI) personnel. The subcommittee is referred to

an April 5, 1978 report of the General Accounting Office, entitled "Unemployment Insurance - Need to Reduce Unequal Treatment of Claimants and Improve Benefit Payment Controls and Tax Collections". This report examines a number of new work test procedures which increased the effectiveness of the work test. In one project in Oregon, the new procedures produced a 30% decrease in active claims. The subcommittee should investigate the possibility of effecting similar changes nationally in order to improve the effectiveness of the work test.

Proposal 3: Require that states not pay benefits on the basis of predictable layoffs from seasonal employment.

Comments

There are several reasons for opposing a federally-mandated restriction on the payment of benefits to seasonal workers. Principal among these is the impossibility of satisfactorily determining the labor market status of claimants solely on the basis of their previous occupation. This proposal would write into law an assumption that anyone laid off from an industry with significant seasonal fluctuations in employment is unavailable for, and not seeking, additional unemployment. This assumption is patently untrue in a large number of cases. While the determination of availability for work is difficult in the case of seasonal workers, (especially in one-industry towns), this difficulty is not sufficient justification for the inequities that would result from the implementation of this proposal.

Proposal 4: Require all states to establish a one-week waiting period.

Comments

The waiting period was originally instituted for two reasons: first, to reduce the costs of the program in order to provide for longer duration; and second, to allow time for the processing of claims. The length of the waiting period has gradually decreased through the history of the program. Currently, all but 12 states have a waiting period of one week. Nine of the states with waiting periods provide for retroactive compensation if the spell of unemployment extends beyond a certain length of time.

The fact that a large number of states still have waiting periods reflects more of an unwillingness to make changes in state laws that will increase costs, than a conscious policy decision in favor of a waiting period. The number of states with non-compensable waiting periods has steadily declined since the initial years of the program.

The subcommittee proposal offers the increased incentive to find work in the first week of unemployment as a reason for federally requiring a waiting week. We are not aware of any studies demonstrating that the waiting week has a significant effect on early job search. The suggestion that a waiting week will provide an incentive for workers "to find ways to avoid being laid off" is also questionable, and only serves to perpetuate the unsupportable myth that most unemployment is not involuntary, but is somehow the "fault" of the laid off worker.

Proposal 5: Provide increased assistance to states in the control of error and fraud.

Comments

The provision of additional assistance to states for controlling error and fraud is highly desirable. The restrictions on staff increases for the UI and ES programs has greatly limited the ability of states to pursue anti-fraud and error activities.

Proposal 6: Eliminate the national trigger for the extended benefits program.

Comments

This proposal would have several undesirable consequences. Primary among them would be the elimination of extended benefits in pockets of

very high unemployment in states that would not trigger on through the state trigger. National recessions tend to produce extreme levels of unemployment in particular locations (such as depressed urban centers), and in particular industry sectors (such as durable goods). These areas of high unemployment frequently occur in states where the state-wide insured unemployment rate is not high enough to trigger on the extended benefits program. This difficulty could potentially be addressed, (assuming the availability of reliable data), by using labor market area unemployment rates, instead of state-wide unemployment rates, to trigger the program. This would make the program more responsible to specific concentrations of high and extended unemployment.

Proposal 7: Permit states to establish optional extended benefit triggers at higher insured unemployment levels.

Comments

To the extent that the current 5.0% IUR trigger is optional, it would seem appropriate to give states the additional flexibility of establishing this optional trigger at a higher IUR level. However, the nature of the state trigger must be considered in the context of whether or not there is a national trigger. The current state triggers were developed to be used in conjunction with a national trigger. Any consideration of changes in the national trigger should be accompanied by a thorough assessment of the subsequent adequacy of the existing state triggers.

Proposal 8: Provide incentives for federal agencies to contest improper benefit claims.

Comments

While this proposal does not directly affect state programs, it does warrant state support. Many large firms follow the practice of "internal experience rating" whereby the burden of the unemployment tax is distributed among the firm's various units in proportion to the benefit experience of those units. Such a practice serves to make individual managers more conscious of the effect that their actions have on the firm's overall unemployment costs. Implementation of such a practice within the federal government would therefore have some potential for reducing federal unemployment costs.

Proposal 9: Modify the trade adjustment assistance program to provide the same benefit amount as regular state programs.

Comments

There are a number of special worker assistance programs that have been developed to provide supplemental benefits for specific instances of unemployment. These include programs established by the Trade Expansion Act of 1962, the Redwood National Park Act of 1978, and the Airline Deregulation Act of 1978. Instead of focusing exclusively on one aspect of one of these programs, it would be more appropriate for the subcommittee to consider ways of consolidating the wide variety

of special programs in an effort to reduce inconsistencies and inequities produced by the current fragmentation of programs.

The higher benefit levels provided for in the Trade Adjustment Assistance program reflect the successful response of a national constituency to perceived inadequacies and inequities in state benefit levels. To the same extent that there is a lack of rationale for TAA benefits being higher than regular state benefits, there is a substantial lack of rationale for having 52 different benefit standards throughout the unemployment system. It would be inappropriate, therefore, to recommend reductions in the amount of TAA benefits without first examining the adequacy of state benefit levels.

Proposal 10: Require states to pay interest on funds borrowed from federal accounts.

Comments

This proposal would be acceptable only if it is tied to a program of national reinsurance designed to provide reimbursement to states for some portion of recession-related unemployment insurance costs. The financing systems of state trust funds, even under the best conditions, are not designed to provide revenues capable of supporting catastrophic levels of unemployment similar to those that occurred in the 1974-1975 recession. A reinsurance program would provide the financial support needed by especially hard hit states. With this additional support, it

would be reasonable to require interest payments from debtor states. In the absence of this support, however, requiring interest payments would only serve to further threaten the fiscal integrity of an already weakened system.

Proposal 11: Provide for the reduction of benefits when an unemployed individual is receiving a pension based on recent employment.

Comments

The Michigan Department of Labor has supported repeal of the federal pension offset provision scheduled to go into effect in April of 1980. Michigan's own law provides for the limited offset of pensions financed by a chargeable base period employer, and pro-rates the amount of the pension that is offset, by the amount of employee contribution to the pension.

American Federation of State, County & Municipal Employees, AFL-CIO
140 PARK PLACE • NEW YORK, N.Y. 10007
Telephone: 766-

district council 37

JOSEPH ZURLO
President

VICTOR GOTBAUM
Executive Director

JAMES CORBETT
Secretary

ARTHUR TIBALDI
Treasurer

Vice Presidents
James Butler
John Crumady
Albert Diop
Fannie Fine
Michael Gentile
Oscar Honig
Charles Hughes
Richard Izzo
Dorine Julius
Joseph Molinari
Frank Morelli
Vincent Parisi
Rebeca Schmidt
Helen Smith
Joseph Sperling

Associate Directors
Edward J. Maher
Lillian Roberts

Deputy to the Executives
Seymour Mann

October 1, 1979

David Boren, Chair
U.S. Senate Subcommittee
for Unemployment and Related Problems
2221 Dirksen Office Building
Washington, D.C.

Re: Consideration of Proposals For change in Unemployment System

Dear Senators:

We wish to make it a matter of record that this Union strongly urges your sub-committee not to consider the eleven proposals before you concerning unemployment insurance and trade adjustment assistance at this time.

As you are no doubt aware, the National Commission on Unemployment Compensation has been making an extensive study of the operation of Unemployment Insurance System on a nationwide basis. They have heard testimony from numerous parties, this Union among them, and have received lengthy and thorough written testimony from many sources.

They will be condidering, based on this vast accumulation of knowledge, the very proposals that are before you, having sought nationwide comment upon them. Apart from the fact that it is a waste of our members' money to have this duplication of hearings, transcripts, and findings, it also may serve to undercut the good work of the Commission.

Our members' resources are not as great as those of Senators. They cannot afford a duplication of effort of the kind you are now embarking upon.

We strongly urge that you await the findings of the Commission before embarking upon hearings and deliberations upon the proposals before you.

Very truly yours,

Lillian Roberts

Lillian Roberts
Associate Director

LR/CM/pm
opeiu:153
afl-cio
cc: Julie Dominick
Municipal Labor Committee
818 18th Street N.W.
Suite 750
Washington, D.C.

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW

DOUGLAS A. FRASER, PRESIDENT EMIL MAZEY, SECRETARY-TREASURER

VICE-PRESIDENTS

ATHOUSE • KEN BANNON • ROBERT WHITE • IRVING BLUESTONE • ODESSA KOMER • MARC STEPP • MARTIN GERBER

REPLY REFER TO
[illegible] STREET, N. W.
WASHINGTON, D. C. 20006
TELEPHONE: (202) 000-0000

September 28, 1979

SEN. DAVID BOREN

Hon. David L. Boren, Chairman
Subcommittee on Unemployment
and Related Problems
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The International Union, UAW, on behalf of its more than 1.5 million active members and more than 300,000 retirees wishes to comment on the Subcommittee's consideration of proposed changes in the Unemployment Insurance system. We would appreciate it if this letter would be made a part of the hearing record for the Subcommittee's October 1 hearing on this issue.

For several years there has been, as the Subcommittee is well aware, a growing national debate on the Unemployment Insurance program. That debate was fueled by the large deficits incurred by many states in their U.I. accounts as a result of the deep recession of 1974-1975. As a result of the growing concern about these matters, and with attention to both financing mechanisms and benefit levels, the Congress created a National Commission on Unemployment Compensation (NCUC), the life of which has just been extended. Indeed, the Commission is at this very moment preparing a response to the 11 proposals which are the subject of your hearing.

The UAW feels most strongly that there should be no legislation fundamentally altering the Unemployment Compensation system until the final report of the National Commission has been presented to the Congress. Consistent with that, we believe that legislative action on the 11 proposals being considered by the Commission would be a setback to the goal of all parties to achieve fundamental reform. It is impossible to predict the nature of the reforms that might ultimately be enacted, but it is clear that a piecemeal response will diminish the likelihood or effectiveness of the final product.

While we acknowledge and respect the right of the Subcommittee to conduct this hearing, we do urge respectfully that no further action be taken on these 11 proposals so that the Congressionally mandated Commission may have a fair opportunity to fulfill its responsibilities. Too often we hear from skeptics about the creation of too many boards, too many studies and too many commissions. Certainly, were the Congress to circumvent a commission which it itself created, those skeptics would be proven right in this instance. We know that you and the other members of the Subcommittee regard the process in a serious and thoughtful vein, and trust that you will not want to undermine the work of the very commission which the Finance Committee helped to create and to renew only recently.

Thank you very much.

Sincerely,

Howard G. Paster
Legislative Director

HGP:cd
opeiu-494

cc: Members of the Subcommittee
on Unemployment and Related Problems

STATEMENT OF THE
INDUSTRIAL UNION DEPARTMENT, AFL-CIO
SUBMITTED TO THE SUB-COMMITTEE ON
UNEMPLOYMENT AND RELATED PROBLEMS
OF THE SENATE FINANCE COMMITTEE
OCTOBER 1, 1979

This statement is submitted in opposition to the approach being taken in Senate proposals as published in the Finance Committee Print 96-26 to ".... improve the Federal-State Unemployment Compensation Program in ways which would strengthen the budgetary situation by reducing unnecessary costs.

The I.U.D. has long favored improvements in the unemployment insurance system (I.U.D. Convention Resolution, September 19, 1979). We also oppose abuse, waste, inefficiency and fraud in the system. But any consideration of proposals undertaken to effect cost savings or to minimize inefficiency and abuse must also we feel strengthen the entire unemployment insurance program.

The ultimate measure of program strength and fulfillment of program purpose will be found in its adequacy to meet the need of workers who are unemployed through no fault of their own.

Not one of the eleven "various proposals for consideration" by this Sub-committee would directly benefit an unemployed worker, excepting the modification of a requirement to reduce benefits by the amount of retirement income. We believe that requirement should be fully repealed as recommended by the National Commission on Unemployment Compensation. Several of the proposals would directly harm the unemployed. All represent what we think to be a piecemeal approach to improvement

of the unemployment insurance system, because each is ultimately justified on the basis of cost reduction to the federal and state governments without regard for the proposals' interrelationships with, and possible negative impacts on, other aspects of the unemployment insurance program. Moreover, there has been no thorough study of these proposals' efficacy or advisability in relation to both program costs and economically induced human suffering.

The I.U.D is surprised at the timing and alleged urgency of this hearing on the Senate proposals. We urge that no action be taken on these proposals, that no such standards be enacted, that no program budget cuts be undertaken or enabled, until the National Commission on Unemployment Compensation submits its recommendations to the President and the Congress for consideration and action. If the mandate of the Commission is extended, as provided for in H.R. 3920 now before the Senate, the Commission's final report and recommendations will be due in July, 1980, just nine months off. However, the Commission may also submit one or more interim reports which could be available even sooner. In the Federal Register, Vol. 44, No. 174, of Thursday, September 6, 1979, the Commission gave notice of its intention to include in its work plan as a matter of priority the proposals now being considered by this Subcommittee. We hope that the members of this Subcommittee will carefully review the Commission's recommendations in relation to the proposals currently being considered, together with Commission recommendations in other areas of the unemployment insurance system.

Deferral of legislative and budget action on the current proposals until the Commission completes its work would assure a necessary opportunity for all interested parties to reflect on and discuss unemployment insurance costs, financing, and

benefit adequacy. Only the most careful attention to the program's purpose can insure the effectiveness of changes, a balancing of interests, and a measure of fairness and equity acceptable to the public, employers and the unemployed. We are certain that the Commission's report will reflect that attention, and that deferral of Congressional action until the report is available will provide the Congress the time needed to consider which improvements should be made.

The United States has entered another period of recession, the third such period of this decade. A recent Administration forecast foresees unemployment rising to an 8.2 percent level by the end of 1980. We believe that to enact legislation bearing on these proposals or to enable budget cuts in the unemployment insurance program that impact on the duration of benefits, the waiting period, disqualification, the extended benefit program, the trade adjustment assistance program, the nature of benefits for the seasonally unemployed and the definition of suitable work is unwarranted. By no means do we feel any of these benefit and eligibility items to involve "unnecessary costs." While each certainly requires significant financing, each is also an extremely essential element of the total unemployment insurance program. With unemployment clearly headed sharply upward, this is no time to adopt changes which would deprive large numbers of jobless workers and their families of the unemployment compensation payments they will desperately need just to meet bare living costs.

Most of the proposals would establish standards that might result in "savings" or conceivably prevent abuse. None provide equity or badly needed benefit increases for unemployed workers. The I.U.D. favors any legitimate means of reducing unemployment insurance program costs, but our primary concern is that far too many workers

do not receive sufficient benefits while they are unemployed and some have no coverage whatsoever. We believe consideration ought to be given to a standard increasing the taxable wage base in order that the system be adequately financed, and to a standard increasing the weekly benefit amount to not less than two-thirds of weekly wages up to not less than three-quarters of the statewide average weekly wage. Were the taxable wage base increased to a level adequate to support the system, it is unlikely that any of these proposals would be entertained. Each of these proposals, if considered as major cost items, could be addressed by adequate financing of the unemployment insurance program. But by no means can these budget cutting proposals be construed as improving the Federal-State program.

Point 9 of the proposal is particularly obnoxious to the I.U.D. This calls for reducing benefits being received under the Trade Adjustment Assistance Program. These unemployed workers have been displaced by the unfair import competition. We believe that the government has an obligation to continue these benefits at present level.

It is repugnant to the I.U D that one of the proposals, that calling for the elimination of the national extended benefit trigger, is presented in such a way as to project greater savings the higher the unemployment level. The Finance Committee Print states that "at an 8.6 percent total unemployment rate, this item would reduce program costs by $1.3 billion." Elimination of the national extended benefit trigger would harm hundreds of thousands of the long-term unemployed if national unemployment figures reached that level. Equity for the long-term unemployed, and realization of the beneficial effects of the counter-cyclical aspect

of the extended benefit program, both require retention of the national trigger. This callous proposal envisions that the worse the economy becomes, and thereby the unemployment picture, the better the budgetary status of federal and state governments. No "improvement" can be found in such a measure. No government, no program, should seek "savings" at a devastating cost to its citizens or intended beneficiaries.

There appears to be no reason, other than budgetary, for consideration of so many aspects of the unemployment insurance system in this hearing. Most of the itemized cuts would not save the federal government a cent. The majority of the proposals involve federal standards for the states that are regressive and taken together they represent the most massive potential change in the unemployment insurance program since the 1976 amendments. For the most part, these proposals represent a major assault on the unemployment insurance system, and as such are deserving of not only study by the National Commission but of Congressional hearings of a duration proportional to the magnitude of their potential impact.

The I.U.D. believes that the costs of the Federal-State unemployment insurance program are more a function of the system working as intended and of human needs being met, and of frequent recessions, than they are a reflection of abuse or inefficiency. Budgetary pressures on the program could and should be relieved not by arbitrary and piecemeal solutions, but by sound program financing.

For these reasons, we urge the members of this Subcommittee to exert leadership to that end, and to take no action on these proposals until the Commission's final report and recommendations become available and appropriate Congressional hearings have been held.

UNEMPLOYMENT COMPENSATION

For more than 40 years unemployment compensation has been the nation's first line of defense against hunger and suffering for millions of jobless workers and their families, particularly in times of recession.

Unfortunately, the unemployment compensation system has become less and less capable of doing its essential job of forestalling poverty for the unemployed and their dependents, because it is based on an ill-matched federal-state sharing of responsibility for a national problem. The system is inadequately financed and provides benefits that are far too low to meet the basic needs of the millions of Americans who must look to it for protection.

The United States has not recovered from the effects of recessions in the early and middle seventies. The unemployment rate continues to hover at 6 percent, a level which has not improved over the last two years. With nearly six million workers unemployed, an anticipated new recession could drive unemployment up to dizzy and cruel heights. Yet, of the twenty-five state unemployment insurance funds becoming insolvent during the period 1975-77 and having to borrow from the Unemployment Trust Fund, twenty remain in debt to the fund. Prospects for loan repayment and regained solvency are uncertain.

Despite these facts, Congress and the states have done little to prepare the unemployment insurance system for the shock of a new recession which would exacerbate the system's financial crisis.

The Unemployment Compensation Amendments of 1976 included some positive features. They extended coverage to nearly all employees of state and local governments and to non-profit elementary and secondary schools. Agricultural and domestic employees were given limited coverage. By 1978, 86 million jobs were covered by unemployment insurance, that is 97 percent of all wage and salary jobs in the nation. Also, the employer's taxable wage base was raised from $4,200 to $6,000, effective in 1978. Beginning in January 1977, the federal unemployment compensation tax rate was increased from 3.2 percent to 3.4 percent. Improvements in federal and state triggers for payment of extended benefits were enacted to make unemployment compensation more responsive to changes in the economy. The 1976 Amendments also established a National Commission on Unemployment Compensation to study the entire unemployment insurance system, especially its financing and adequacy. The Commission

on which organized labor is represented, will report to the President and Congress in March 1980.

But the 1976 Amendments, and other legislation since then have also negatively affected farmworkers, pensioners, and certain classes of taxpayers. The 1976 Amendments extended coverage to large agricultural employers, but provided a temporary unemployment insurance tax exclusion until the end of 1979 to employers importing temporary alien workers under contract, thus creating a competitive disadvantage for U. S. farmworkers at a time when more than 130,000 are unemployed.

Additionally, these amendments required that the states, by April 1980, amend their statutes so as to reduce the amount of a pensioner's or retired person's unemployment compensation benefits by the amount of any pension, retirement pay or annuity income.

Also, the Revenue Act of 1978 provided for the inclusion of unemployment benefits as income for federal tax purposes for certain classes of taxpayers.

Both the pension offset and the federal tax on benefits shift the wage insurance concept toward a needs-related compensation system in contravention of the original and traditional goals and operation of the unemployment insurance system.

Congress in the last two years has failed to enact legislation that would place the unemployment insurance program on a sound financial footing. The Federal Supplementary Benefits program, having expired at the end of January 1978, leaves the long-term unemployed without benefits beyond 39 weeks and the states confronted by potential or continued insolvency if unemployment levels move much higher.

The states in 1977 directed their attention to complying with the new federal law. The expansion of coverage to public employees extended the unemployment insurance program to 600,000 state employees and 7.7 million municipal and county workers. Coverage in some states was extended to 130,000 domestic workers whose employers pay them $1,000 or more in cash during a calendar year. But most states enacted an allowable federal provision to exclude from eligibility both teachers and non-professional school employees who had reasonable assurance of returning to their jobs in the new school year. Some states either adopted or retained a taxable wage base above $6,000, with Puerto Rico taxing all wages.

Because of conforming changes made in 1977, there were few changes made in state unemployment insurance laws in 1978. Three states -- Kentucky, Maryland and Virginia -- increased their maximum weekly benefit amount. New Jersey decreased its maximum weekly benefit. Disqualifying periods for the major causes of disqualification were increased in Colorado, Maryland and Rhode Island. In Louisiana, craft workers who are union members are considered as actively seeking work if they report to the union hall once a week.

Congress and the states, while extending unemployment insurance coverage to major groups of employees in the last two years, have failed to enact legislation that would protect the solvency of the unemployment insurance program. Federal provisions enabling taxation of unemployment insurance benefits and pension offsets for retirees are regressive and amount of means testing in violation of the system's intended protection of workers against a loss of earnings during spells of unemployment beyond their control.

Most states have abdicated their responsibilities to bring benefit standards up to decent levels or to assure fair and effective financing of the program.

THEREFORE, BE IT RESOLVED:

The Industrial Union Department reaffirms its position favoring federalization of the unemployment insurance program. This must include full protection of the job rights and employment conditions of all state employees who administer the program. Federalization would assure the solvency of the program and its adequacy in meeting the needs of the unemployed. Until that goal is realized, we urge Congress to:

(1) enact a minimum federal benefit standard of two-thirds of the worker's wage up to a maximum of three-fourths of the statewide average weekly wage.

(2) extend coverage to all workers now excluded, and enact minimum federal standards for eligibility, disqualification and duration of benefits.

(3) pending development and implementation of a rational and effective long-term extended benefit program, to extend the present maximum 39 week benefit duration to 65 weeks, provide federal financing from general revenue for benefits paid to workers unemployed beyond 39 weeks and reimburse states for disbursements made beyond basic payments for the period January 1975 to January 1978.

(4) repeal legislation that allows pension offsets and taxation of benefits

(5) eliminate the present exemption of agricultural employers from payment of the FUTA tax on alien farmworkers.

American Postal Workers Union, AFL-CIO
817 14TH STREET, N. W., WASHINGTON, D. C. 20005

STATEMENT OF THE
AMERICAN POSTAL WORKERS UNION (AFL-CIO)
CONCERNING PROPOSALS FOR REDUCING
COSTS OF THE FEDERAL-STATE
UNEMPLOYMENT COMPENSATION PROGRAMS
SUBCOMMITTEE ON UNEMPLOYMENT AND
RELATED PROBLEMS
UNITED STATES SENATE
OCTOBER 1, 1979

Mr. Chairman,

For the record, I am Patrick J. Nilan, Legislative Director of the American Postal Workers Union, AFL-CIO, accompanied by Legislative Aide Edward L. Bowley.

We speak in behalf of more than 300,000 postal employees of whom we are the Exclusive National Representative for labor-management relations and collective bargaining with the U.S. Postal Service. Our membership is employed in post offices in all 50 states, the District of Columbia, Puerto Rico, Virgin Islands and Guam.

The American Postal Workers Union is an industrial union representing clerks, maintenance and motor vehicle employees, special delivery messengers and employees at USPS mail despositories, postal data centers and the mail equipment shop.

We appreciate this opportunity to present the views of the American Postal Workers Union, AFL-CIO, concerning Proposals for Reducing Costs of the Federal-State Unemployment Compensation Programs particularly that which would amend the Internal Revenue Code of 1954 to eliminate the requirement that States reduce the amount of unemployment compensation payable for any week by the amount of certain retirement benefits.

Mr. Chairman, the American Postal Workers Union supports HR 4464 which proposes to amend the Internal Revenue Code of 1954 to eliminate the requirement that States reduce the amount of unemployment compensation payable for any week by the amount of certain retirement benefits. As we understand Public Law 94-566, effective March 31, 1980 the amount of compensation payable to an individual for any week which begins after that date and begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual shall be reduced by an amount equal to the amount of such pension which is reasonably attributable to such week.

Further, PL 94-566 established the National Commission on Unemployment Compensation. The Commission was charged with:

> "evaluation of the feasibility and desirability of restricting the eligibility for receipt of unemployment compensation to persons eligible to receive a pension or retired pay, annuity, or any similar periodic payments."

Mr. Chairman, it is extremely difficult for us to rationalize why an individual who has completed 30 or more years as a Postal Worker and has earned his pension as a part of the conditions of his previous employment, later finds it necessary to supplement his pension income, works sufficiently to qualify for unemployment compensation, involuntarily removed and then told his compensation will be reduced by an amount equal to his pension.

(which for a Postal retiree, would in many cases mean zero compensation)

THE RIGHT TO UNEMPLOYMENT COMPENSATION BENEFITS IS BASED SOLELY ON RECENT EMPLOYMENT.

THE RIGHT TO AN INDIVIDUAL'S PENSION IS AN EARNED RIGHT BASED SOLELY ON PREVIOUS EMPLOYMENT.

We might add Mr. Chairman, Postal Workers pay for their benefits. Unlike many workers who enjoy pensions provided in whole by the employer.

Mr. Chairman, another glaring inequity under current conditions is that many state compensation laws differ. These include the extent and nature of work force attachment required for eligibility, the dollar amount of weekly benefits and the number of weeks for which such benefits shall be paid, and the conditions under which an individual may be disqualified or have his right to benefits postponed or curtailed.

The American Postal Workers Union supports the intent of HR 4464 and the Commission's recommendation to repeal Section 3304(a)(15) of Federal Unemployment Tax Act.

Mr. Chairman and members of the Committee, on behalf of our membership we want to express our appreciation for your concerns in this matter and thank you for providing us the opportunity to express our views.

Should you have any questions or if we can be of assistance, we are happy to respond.

REPLENISHING STATE UNEMPLOYMENT TRUST FUNDS FROM GENERAL FEDERAL REVENUES ON THE BASIS OF UNEMPLOYMENT RATES*

My name is William Papier. My titles include Director of Research and Statistics, Ohio Bureau of Employment Services and Secretary, Ohio State Advisory Council for Employment Security. It has been my privilege to serve in both capacities ever since the Ohio Unemployment Compensation Law was originally enacted, in 1936. This statement reflects not only my personal views as an economist, but has also been endorsed by Albert G. Giles, Administrator of the Ohio Bureau, and our State Advisory Council, which represents labor, management, and the public-at-large.

Our subject is "Replenishing State Unemployment Trust Funds from General Federal Revenues, on The Basis of Unemployment Rates." We offer our views on two basic questions: (1) Should general revenues of the federal government be used to replenish state Trust Funds, following widespread, catastrophic drains? and (2) If the answer is "Yes," how should we define catastrophic, in terms of unemployment rates, and allocate federal funds to states?

Our answer to the first question is "Yes." Federal funding following catastrophic unemployment would relieve the states of the necessity for accumulating excessively large reserves to meet occasional unforeseeable

*By William Papier, Director of Research and Statistics, Ohio Bureau of Employment Services. Presented at hearings of National Commission on Unemployment Compensation, Cleveland, Ohio, June 8, 1979.

costs. We realize, of course, that unemployment benefit costs do vary considerably from state to state. We also appreciate the fact that such costs are greatly affected not only by variant economic conditions but also by widely variant state statutes and other non-economic factors.

The state legislatures--presumably reflecting the views of their constituents--are responsible for the statutory aspects of state benefit costs, as well as the solvency of their respective Unemployment Trust Funds. With four decades of experience, however, they should be reasonably aware of prospective costs of benefit provisions they enact--except, perhaps, for times of catastrophe, when factors clearly beyond their control greatly increase such costs. Otherwise, every state legislature should fully fund its own state's benefit provisions. They should not be tempted to anticipate that other states, through federal grants, will substantially fund their benefit costs.

We come now to the question, "What is a catastrophe, and how shall we define it?" Webster defines it as "a momentous tragic event." We can all agree, no doubt, that the Great Depression of the 1930's was such a momentous tragic event. The average rate of unemployment nationally, from 1930 through 1933, was 26 percent! No state had a rate below 17 percent.

Our standards, however, have changed markedly since the Great Depression. This is good, and as it should be. We now think of a total unemployment rate far below 26 percent as catastrophic.

The total unemployment rate represents the number of persons unemployed at a given time, as a percentage of the civilian labor force at the same time. The civilian labor force consists of those either employed

or unemployed. The total unemployment rate is published monthly, with annual averages and breakdowns by state, by the Bureau of Labor Statistics (BLS) of the U.S. Department of Labor. The basic data, however, stem from monthly interviews by staff of the Bureau of the Census, U.S. Department of Commerce. These interviews embrace a sample of 56,000 households throughout the nation. The returns and results are completely independent of and in no way affected by state unemployment insurance laws or their administrations.

The significance of the total unemployment rate, as a measure of catastrophe, has changed considerably since the Great Depression. In the early 1930's, for example, relatively few secondary workers--such as housewives and youths--were in the labor force. Today, however, they represent a significant share of the labor force. The most nearly comparable figure for more recent years is probably the BLS rate of unemployment for heads of households. During the past 16 years the highest unemployment rate for heads of households was 5.8 percent, in 1975. The second highest rate--5.1 percent--was that for 1976. In no other years from 1963 through 1978 did it exceed 4.5 percent.

Your Commission, in its unanimous First Interim Report of November 1978, stated (page 81) that "Reinsurance is designed only to meet catastrophic costs..." Accepting Webster's definition of "catastrophe," we fully support this concept of reinsurance. If the Congress were to utilize the national unemployment rate for heads of households as a measure of catastrophe, the record suggests that at least two of the past 16 years would qualify.

On February 15, 1979 the Interstate Conference of Employment Security Agencies sent to each state administrator a 38-page technical document entitled "A Proposed Revision to the ICESA Reinsurance Financing System." It reached them late in February. It was recommended for adoption at their Midyear Meeting at San Antonio, Texas, on March 15. The proposal was adopted at that Meeting, by Resolution 1. In view of the limited time available for staff study, however, we wonder if its supporters fully realized that this proposal was not reinsurance. It was, in effect, a new cost-equalization plan, designed to distribute the tax burden of several high benefit cost states among all other states. Cost-equalization plans--under which many states heavily subsidize a few--have been introduced periodically by various Congressmen over the past 35 years--and regularly rejected.

We could not and did not support Resolution 1. Although last February's proposal was called "reinsurance," it did not meet either our concept or your Commission's concept of reinsurance. Had it been in effect, federal revenues would have been allocated to selected states for five of the past nine years--1970, 1971, and 1974 through 1976. Can anyone seriously contend that these were all years of catastrophic unemployment? The BLS unemployment rate for heads of households was 2.9 percent in 1970; it reached 3.7 percent in 1971; and it was down to 3.3 percent in 1974. A case can be made, however, for 1975 and 1976--the peak years--with rates of 5.8 and 6.1 percent, respectively.

Another reason why we could not support the February proposal was its reliance on an extremely poor statistical measure--the insured

unemployment rate--to trigger "on" and allocate the so-called reinsurance payments. The insured unemployment rate represents claimants for unemployment insurance under the respective state statutes, as a percentage of workers employed and reported under such statutes. Disregarding limitations of the insured unemployment rate, for the time being, consider how it would be used, under the February proposal, to require some states to substantially subsidize others, through federal grants. Such grants--called "reinsurance payments"--would trigger "on" when either of the two following conditions exists:

1. The national insured unemployment rate for a calendar year, for regular state benefits was at least 4.5 percent; or

2. The national insured unemployment rate for a calendar year, for regular state benefits increased at least 25 percent over the prior calendar year.

Let us assume, for the moment, that a national insured unemployment rate of 4.5 percent is a reasonable indication of catastrophe, justifying reinsurance payments. If so, would a national insured unemployment rate of 3.5 percent or less also justify such payments? The second standard just cited would have triggered "on" federal grants for 1970, when the insured unemployment rate was only 3.4 percent, and again for 1974, when it was only 3.5 percent. The BLS total unemployment rate nationally was 4.9 percent in 1970, and 5.6 percent in 1974. For heads of households the BLS rate was only 2.9 percent in 1970, and 3.3 percent in 1974. Can we honestly call these years of catastrophe, for which federal grants to selected states, called "reinsurance," would be justified?

A national recession of catastrophic proportions would clearly have an impact on every state in our nation. Even the states with relatively low unemployment rates would have had still lower rates, were it not for such a recession. Since every state would be negatively affected, and since taxpayers in every state would be called upon to pay for the proposed federal grants, it seemed reasonable to measure each state's share of the nation's unemployment against its proposed share of so-called reinsurance grants.

Take, for example, the last three years for which such grants would have been made under last February's proposal--1974 through 1976. Using the BLS figures on total unemployment, as published in the 1978 Employment and Training Report of the President, here's what would have happened. For 1974 four states--Michigan, New York, New Jersey, and Massachusetts--would have received nearly three-fourths of the national allocation of so-called reinsurance funds. Yet they accounted for less than one-fourth of the nation's unemployment in 1974.

For 1975 three states--Michigan, New York, and Pennsylvania--would have received 35 percent of the national grant. Yet they accounted for only 20 percent of the nation's unemployment in 1975.

For 1976 three states--Pennsylvania, Illinois, and New Jersey--would have received 45 percent of the national grant--nearly one-half the total available for all states. Yet they accounted for only 14 percent of the nation's unemployment in 1976.

Ohio's share of the nation's unemployment in 1976 was below 5 percent. Illinois' share was even smaller--smaller by half-a-percentage

point. Yet for that year Ohio would have received less than 1 percent of the national grant, while Illinois would have gotten 16 percent!

These amazing discrepancies between state shares of the nation's unemployment and their shares of so-called reinsurance funds are easily explained. Under last February's proposal, the BLS figures on unemployment would play no part in federal fund allocations. The BLS labor force concepts, however, are identical for every state. The figures are processed by experts at every stage, from interviewers to analysts. They are in no way affected by state statutes, state administrations, or other non-economic factors. The federal agencies involved--BLS and the Bureau of the Census--have no financial stake in the results.

The February proposal would allocate federal revenues to states on the basis of their own insured unemployment rates, once the system was triggered "on." What's wrong with the insured unemployment rates? Apart from the fact that the quality of the basic data varies widely from state to state--as noted in the draft report of the National Commission on Employment and Unemployment Statistics--the insured rate does not represent the same thing for every state, either at a given point in time, or for the same state over a period of time. The insured rate is greatly affected by state statutes, by statutory changes, by administrative interpretations, by judicial decisions, and by other factors having little or nothing to do with general economic conditions.

Conceptually, the insured unemployment rate is a poor statistical basis for federal fund allocations to states. In computing a percentage the numerator and denominator of the fraction should always relate to the

same point in time. They should also relate always to the same geographic area. And the denominator should always include the numerator. The BLS unemployment rates meet these basic standards of simple arithmetic. The insured unemployment rates, however, do not. For the insured unemployment rates, persons currently unemployed one week or longer--continued claimants--represent the numerator. But the denominator does not include the unemployed claimants. It is the average number of employed workers covered and reported on state contribution reports, during four successive calendar quarters ending at least two calendar quarters earlier.

The denominator's time lag alone--six months or more behind the numerator--will overstate the insured unemployment rate during a period of prolonged and serious recession. Apart from the lengthy and unavoidable time lag, however, is another factor creating overstatement--failure to include the numerator in the denominator. Let us assume, for example, that every one in the civilian labor force, under a given state's law, is covered. Let us assume also that the total covered labor force is one million. And suppose we assume further than the BLS and state definitions of unemployment are identical. Under these assumptions, with 200,000 unemployed during a year of catastrophic recession, the BLS unemployment rate would be 20 percent. The insured unemployment rate, however, would be 25 percent. Why? Because the unemployed would be measured against 800,000 employed--not against the covered labor force of one million.

The definitions and concepts, of course, are not the same for the BLS figures on the total unemployment rate, and the state figures on the insured unemployment rate. One striking illustration relates to strikers

and others off the payroll, because of labor disputes. In the BLS figures workers off their jobs because of labor-management disputes are counted in the civilian labor force as employed. They are, therefore, in the denominator, thus lowering the total unemployment rate. In sharp contrast, however, covered workers involved in such disputes, not on the payroll, are not reported as employed on state contribution reports. They are not, therefore, counted as employed in calculating the insured unemployment rate. This has the effect of lowering the denominator and thus raising the insured unemployment rate. In two states--New York and Rhode Island--there is a double impact, both factors raising their insured unemployment rates. Not only are strikers and other disputants not included in the denominator, but after a few weeks in those states they are eligible to claim benefits and are, therefore, included in the numerator.

Workers who are partially employed are counted as employed by BLS. This lowers the total unemployment rate. But insured claimants who are partially employed are considered unemployed by the states. This raises the insured unemployment rate.

Although there are other conceptual variations, suppose we consider geographic differences. The BLS figures on the total unemployment rate always relate to state of residence; that is, the civilian labor force, as denominator, represents persons either employed or unemployed who live in a given state. The unemployed, as numerator, represents those who live in the same state. Not so, however, for the insured unemployment rate. For the insured unemployment rate the covered employment figure,

as denominator--stemming from state contribution reports--always relates to the state of employment--not the state of residence. Claimants, on the other hand--in the numerator--include many who live in other states. Under reciprocal interstate arrangements, unemployed claimants can file claims anywhere they like. They often live on one side of a state line and work on the other. Or they can work in one state, and look for jobs when unemployed in another state far beyond commuting distance. Many thousands of claimants file claims, when unemployed, in states other than those in which they previously worked. Thus the insured unemployment rate for a given state stems from a numerator whose unemployed claimants were counted, when employed, in the denominator of another state. A state with many such interstate claimants would have a correspondingly higher insured unemployment rate. Not incidentally, the interstate flow of claimants increases substantially during serious recessions, as in 1975.

Apart from conceptual, arithmetic, and geographic differences in the total unemployment rate and the insured unemployment rate, the latter is affected by other factors, in no way indicative of economic conditions. The statutes, for example, are constantly being amended. But even at a given point in time the insured unemployment rates reflect significant statutory variations among the states. Pennsylvania, for example, has a uniform potential duration of 30 weeks of benefits for total unemployment. At least half-a-dozen states, on the other hand, have an average potential duration of 20 weeks or less. Other factors equal, Pennsylvania would naturally have a higher insured unemployment rate, since claimants can be counted for ten or more weeks longer.

Or consider basic qualifying requirements. In Michigan a claimant can qualify for benefits with no more than 14 weeks of prior employment. In other states, including Ohio, prior employment in 20 or more weeks is required. Again, with other factors constant, Michigan's insured unemployed rate would clearly be higher, since more claimants would be eligible.

Disqualification provisions also vary widely. In some states workers who quit voluntarily without good cause or who were discharged for good cause cannot draw benefits for the duration of their unemployment. In other states they can, after a lapse of several weeks. The second group of states, of course, would have higher insured unemployment rates than the first, with other factors constant.

Without advocating more or less liberal statutes this generalization seems fully warranted: the more liberal the state statute, the higher the insured unemployment rate. Liberal statutes, furthermore, are normally implemented by sympathetic administrations. There are times, however, when conservative statutes are liberally-construed, and vice versa. In any case, the volume of claimants can be and has been influenced by administrative policies, regulations, and interpretations. The insured unemployment rate is correspondingly affected, upward or downward.

Consider further the impact of judicial decisions. Only recently the U.S. Supreme Court upheld the New York statute, which permits payment of unemployment insurance to strikers. If, however, the Court had decided that New York State could not pay such benefits to strikers, its claims volume would be down correspondingly. And so would its insured unemployment rate.

We could go on and on, listing ways in which non-economic factors can and do differently affect the insured unemployment rates of the various states. But enough have been cited, we believe, to document our major point--the insured unemployment rate is a poor statistical basis for measuring economic conditions in the various states. To allocate federal revenues to states on the basis of their insured unemployment rates would be inherently unfair and unwise.

What then, offers a better alternative, for a system of reinsurance consistent with your Commission's definition? The alternative we recommend is implicit in our comments on the BLS labor force and unemployment figures. The BLS concepts are uniform nationally. The arithmetic is sound. State statutes, policies, judicial rulings, and other non-economic factors in no way affect the BLS figures.

The best BLS measure of national economic catastrophe currently available--in terms of unemployment--is, in our opinion, the head-of-household unemployment rate. When the unemployment rate rises very substantially for heads of households--for those who have to support their families and/or themselves--then a state of catastrophe, justifying reinsurance, is indicated.

What should that rate be? We suggest 5 percent. It could be a little lower or a little higher. But once established by federal law it would define the calendar years for which federal grants from general revenues could be fairly and consistently used to replenish state Unemployment Trust Funds. The aggregate dollar amount would also be determined by the Congress.

On what basis, however, should allocations be made to each state? To justify national funding a catastrophe would have a national impact. Every state, to a greater or lesser degree, would be affected. Once defined by the national rate of unemployment for heads of households, and the total amount of federal funding for the given catastrophic year determined by the Congress, each state should thereafter share proportionately. Each state's share of the nation's unemployment--as determined by BLS--should be the basis for allocation of federal general revenues for the given year of catastrophe, and thus replenish all state Unemployment Trust Funds. States hardest hit, as reflected by their percentages of the nation's unemployment during the year of catastrophe, would receive correspondingly high shares of the national allocation for that year. States least affected, of course, would receive correspondingly low shares.

We submit this proposal, Mr. Chairman, as eminently fair, basically sound, and worthy of serious consideration by your Commission.

- * -

TABLE A-1

TOTAL UNEMPLOYMENT, BY STATE, 1974, 1975, AND 1976

State	Unemployment (thousands)			Percent of U.S. Total		
	1974	1975	1976	1974	1975	1976
Total, U.S.	5,262.0	8,088.6	7,475.8	100.0	100.0	100.0
Alabama	78.0	111.0	100.0	1.5	1.4	1.3
Alaska	9.2	10.0	13.0	.2	.1	.2
Arizona	61.7	113.1	93.0	1.2	1.4	1.2
Arkansas	42.6	80.4	62.0	.8	1.0	.8
California	669.0	926.0	889.0	12.7	11.5	11.9
Colorado	46.0	80.0	71.0	.9	1.0	1.0
Connecticut	88.0	133.0	139.0	1.7	1.6	1.9
Delaware	16.6	25.1	23.0	.3	.3	.3
District of Columbia ...	20.0	26.0	30.0	.4	.3	.4
Florida	208.0	366.0	314.0	3.9	4.5	4.2
Georgia	109.0	185.0	179.0	2.1	2.3	2.4
Hawaii	30.7	31.9	39.0	.6	.4	.5
Idaho	17.1	21.4	21.0	.3	.3	.3
Illinois	224.0	357.0	332.0	4.3	4.4	4.4
Indiana	123.0	206.0	148.0	2.3	2.6	2.0
Iowa	28.2	55.8	53.0	.5	.7	.7
Kansas	34.6	48.4	46.0	.7	.6	.6
Kentucky	64.0	103.0	81.0	1.2	1.3	1.1
Louisiana	97.0	106.0	101.0	1.8	1.3	1.4
Maine	29.1	47.1	42.0	.6	.6	.6
Maryland	84.0	128.0	128.0	1.6	1.6	1.7
Massachusetts	190.0	304.0	263.0	3.6	3.8	3.5
Michigan	337.0	488.0	374.0	6.4	6.0	5.0
Minnesota	77.0	107.0	110.0	1.5	1.3	1.5
Mississippi	41.2	75.4	62.0	.8	.9	.8
Missouri	95.0	142.0	133.0	1.8	1.8	1.8
Montana	16.8	20.7	20.0	.3	.3	.3
Nebraska	18.4	27.7	24.0	.3	.3	.3
Nevada	20.7	27.8	27.0	.4	.3	.4
New Hampshire	20.4	34.0	25.0	.4	.4	.3
New Jersey	203.0	333.0	345.0	3.9	4.1	4.6
New Mexico	34.1	44.0	43.0	.6	.5	.6
New York	482.0	729.0	794.0	9.2	9.0	10.4
North Carolina	111.0	217.0	159.0	2.1	2.7	2.1
North Dakota	9.0	9.7	10.0	.2	.1	.1
Ohio	225.0	429.0	369.0	4.3	5.3	4.9
Oklahoma	49.0	83.0	65.0	.9	1.0	.9
Oregon	76.0	110.0	102.0	1.4	1.4	1.4
Pennsylvania	298.0	423.0	406.0	4.9	5.2	5.4
Puerto Rico	117.5	159.2	178.8	2.2	2.0	2.4
Rhode Island	23.3	48.1	35.0	.4	.6	.5
South Carolina	68.0	103.0	87.0	1.3	1.3	1.2
South Dakota	8.3	11.4	11.0	.2	.1	.2
Tennessee	92.0	151.0	110.0	1.7	1.9	1.5
Texas	220.0	294.0	318.0	4.2	3.6	4.3
Utah	26.1	33.6	29.0	.5	.4	.4
Vermont	13.1	19.8	19.0	.2	.3	.3
Virginia	98.0	145.0	136.0	1.9	1.8	1.8
Washington	108.0	147.0	137.0	2.0	1.8	1.8
West Virginia	45.1	57.0	51.0	.9	.7	.7
Wisconsin	94.0	148.0	122.0	1.8	1.8	1.6
Wyoming	5.2	7.0	7.0	.1	.1	.1

Source: Employment and Training Report of President, 1978.

Division of Research and Statistics
Ohio Bureau of Employment Services
Columbus 43216 3-1-79

TABLE A-2

PROPOSED REIMBURSEMENT, BY STATE, 1974, 1975, AND 1976

State	Reimbursement (Millions)			Percent of U.S. Total		
	1974	1975	1976	1974	1975	1976
Total, U.S.	$ 279.5	$3,073.2	$ 806.9	100.0	100.0	100.0
Alabama	...	50.5	6.4	...	1.6	.8
Alaska	3.8	5.3	13.0	1.4	.2	1.6
Arizona	.7	39.9	5.4	.3	1.3	.7
Arkansas	...	31.5	5.9	...	1.0	.7
California	8.3	249.6	86.8	3.0	8.1	10.8
Colorado	.5	9.4	6.3	.2	.3	.8
Connecticut	...	88.4	23.0	...	2.9	2.9
Delaware	1.6	12.7	1.4	.6	.4	.2
District of Columbia	1.0	5.3	2.7	.3	.2	.3
Florida	2.0	30.3	15.3	.7	1.0	1.9
Georgia	2.5	71.9	11.6	.9	2.3	1.4
Hawaii	.4	2.3	3.9	.1	.1	.5
Idaho	...	2.4	.3	...	.1	...
Illinois	...	165.2	128.2	...	5.4	15.9
Indiana	1.3	53.2	...	.5	1.7	...
Iowa	...	7.3	3.6	...	.2	.4
Kansas	...	1.9	...	...	.1	...
Kentucky	...	33.0	1.6	...	1.1	.2
Louisiana	...	1.4	...	...	...	...
Maine	.7	15.9	6.1	.3	.5	.8
Maryland	.7	34.5	1.9	.3	1.1	.2
Massachusetts	29.6	138.6	18.9	10.6	4.5	2.3
Michigan	83.8	372.3	49.5	30.0	12.1	6.1
Minnesota	...	9.7	...	...	.3	...
Mississippi	...	14.2	1.9	...	.5	.2
Missouri	...	49.3	2.3	...	1.6	.3
Montana	1.8	4.3	1.5	.6	.1	.2
Nebraska	.3	4.9	.5	.1	.2	.1
Nevada	2.0	11.6	3.2	.7	.4	.4
New Hampshire	.6	15.9	.3	.2	.5	...
New Jersey	50.0	198.9	81.0	17.9	6.5	10.0
New Mexico	...	3.6	.3	...	.1	...
New York	43.7	322.9	87.2	15.6	10.5	10.8
North Carolina	...	122.0	11.2	...	4.0	1.4
North Dakota	...	...	...	...	...	...
Ohio	3.2	124.4	6.4	1.1	4.0	.8
Oklahoma	...	2.4	...	...	.1	...
Oregon	1.1	40.4	8.9	.4	1.3	1.1
Pennsylvania	6.5	373.0	149.9	2.3	12.1	18.6
Puerto Rico	12.5	26.8	18.7	4.5	.9	2.3
Rhode Island	4.3	29.8	7.2	1.5	1.0	.9
South Carolina	.5	74.2	4.9	.2	2.4	.6
South Dakota	...	.3	.2	...	...	...
Tennessee	...	75.8	4.1	...	2.5	.5
Texas	...	13.4	1.8	...	.4	.2
Utah	...	2.9	...	...	.1	...
Vermont	1.6	9.2	3.1	.6	.3	.4
Virginia	...	19.4	7.6	...	.6	.9
Washington	14.4	34.6	10.7	5.1	1.1	1.3
West Virginia	...	8.8	...	...	.3	...
Wisconsin	...	57.7	2.2	...	1.9	.3
Wyoming	...	.1	.1	...	...	...

Source: Proposed Revision to Reinsurance Financing, February 1979.

[a] Less than .05 percent.

Division of Research and Statistics
Ohio Bureau of Employment Services
Columbus 43216 3-2-79

TABLE A-3

FEDERAL FUNDS STATES WOULD HAVE RECEIVED IF BASED ON THEIR SHARE OF NATION'S TOTAL UNEMPLOYMENT[a] AND AMOUNT THEY WOULD HAVE RECEIVED UNDER PROPOSED REIMBURSEMENT PLAN[b]
1974, 1975, AND 1976
(Millions)

State	1974		1975		1976	
	Total Unemployment	Proposed Reimbursement	Total Unemployment	Proposed Reimbursement	Total Unemployment	Proposed Reimbursement
Total, U.S.[c]	$ 279.5	$ 279.5	$ 3,073.2	$ 3,073.2	$ 806.9	$ 806.9
Alabama	4.2	...	43.0	50.5	10.8	6.4
Alaska	.6	3.8	3.1	5.3	1.4	13.0
Arizona	3.4	.7	43.0	39.9	10.0	5.4
Arkansas	2.2	...	30.7	31.5	6.7	5.9
California	35.5	8.3	353.4	249.6	96.0	86.8
Colorado	2.5	.5	30.7	9.4	7.7	6.3
Connecticut	4.8	...	49.2	88.4	15.0	23.0
Delaware	.8	1.6	9.2	12.7	2.5	1.4
District of Columbia	1.1	1.0	9.2	5.3	3.2	2.7
Florida	10.9	2.0	138.3	30.3	33.9	15.3
Georgia	5.9	2.5	70.7	71.9	19.3	11.6
Hawaii	1.7	.4	12.3	2.3	4.2	3.9
Idaho	.8	...	9.2	2.4	2.3	.3
Illinois	12.0	...	135.2	165.2	35.8	128.2
Indiana	6.4	1.3	79.9	53.2	16.0	...
Iowa	1.4	...	21.5	7.3	5.7	3.6
Kansas	2.0	...	18.4	1.9	5.0	...
Kentucky	3.4	...	40.0	33.0	8.7	1.6
Louisiana	5.0	...	40.0	1.4	10.9	...
Maine	1.7	.7	18.4	15.9	4.5	6.1
Maryland	4.5	.7	49.2	34.5	13.8	1.9
Massachusetts	10.1	29.6	116.3	138.6	28.4	18.9
Michigan	17.9	83.8	184.4	372.3	40.4	49.5
Minnesota	4.2	...	40.0	9.7	11.9	...
Mississippi	2.2	...	27.7	14.2	6.7	1.9
Missouri	5.0	...	55.3	49.3	14.4	2.3
Montana	.8	1.8	9.2	4.3	2.2	1.5
Nebraska	.8	.3	9.2	4.9	2.6	.5
Nevada	1.1	2.0	9.2	11.6	2.9	3.2
New Hampshire	1.1	.6	12.3	15.9	2.7	.3
New Jersey	10.9	50.0	126.0	198.9	37.2	81.0
New Mexico	1.7	...	15.4	3.6	4.6	.3
New York	25.7	43.7	276.6	322.9	85.7	87.2
North Carolina	5.9	...	83.0	122.0	17.2	11.2
North Dakota	.6	...	3.1	...	1.1	...
Ohio	12.0	3.2	162.9	124.4	39.8	6.4
Oklahoma	2.5	...	30.7	2.4	7.0	...
Oregon	3.9	1.1	43.0	40.4	11.0	8.9
Pennsylvania	13.7	6.5	159.8	373.0	43.8	149.9
Puerto Rico	6.1	12.5	61.5	26.8	19.3	18.7
Rhode Island	1.1	4.3	18.4	29.8	3.8	7.2
South Carolina	3.6	.5	40.0	74.2	9.4	4.9
South Dakota	.6	...	3.1	.3	1.2	.2
Tennessee	4.8	...	58.4	75.8	11.9	4.1
Texas	11.7	...	110.6	13.4	34.3	1.8
Utah	1.4	...	12.3	2.9	3.1	...
Vermont	.6	1.6	9.2	9.2	2.1	3.1
Virginia	5.3	...	55.3	19.4	14.7	7.6
Washington	5.6	14.4	55.3	34.6	14.8	10.7
West Virginia	2.5	...	21.5	8.8	5.5	...
Wisconsin	5.0	...	55.3	57.7	13.2	2.2
Wyoming	.3	...	3.1	.1	.8	.1

[a]Based on data in Employment and Training Report of President, 1978. [b]Source: Proposed Revision to Reinsurance Financing, February 1979. [c]May not add to totals due to rounding.

Division of Research and Statistics
Ohio Bureau of Employment Services
Columbus 43216 3-5-79

TABLE A-4

COMPARISON OF EACH STATE'S SHARE OF TOTAL UNEMPLOYMENT[a] WITH EACH STATE'S SHARE OF PROPOSED REIMBURSEMENT[b] 1974, 1975, AND 1976

State	1974		1975		1976	
	Total Unemployment	Proposed Reimbursement	Total Unemployment	Proposed Reimbursement	Total Unemployment	Proposed Reimbursement
Total, U.S.	100.0	100.0	100.0	100.0	100.0	100.0
Alabama	1.5	...	1.4	1.6	1.3	.8
Alaska	.2	1.4	.1	.2	.2	1.6
Arizona	1.2	.3	1.4	1.3	1.2	.7
Arkansas	.8	...	1.0	1.0	.8	.7
California	12.7	3.0	11.5	8.1	11.9	10.8
Colorado	.9	.2	1.0	.3	1.0	.8
Connecticut	1.7	...	1.6	2.9	1.9	2.9
Delaware	.3	.6	.3	.4	.3	.2
District of Columbia	.4	.3	.3	.2	.4	.3
Florida	3.9	.7	4.5	1.0	4.2	1.9
Georgia	2.1	.9	2.3	2.3	2.4	1.4
Hawaii	.6	.1	.4	.1	.5	.5
Idaho	.3	...	.3	.1	.3	...[c]
Illinois	4.3	...	4.4	5.4	4.4	15.9
Indiana	2.3	.5	2.6	1.7	2.0	...
Iowa	.5	...	.7	.2	.7	.4
Kansas	.7	...	.6	.1	.6	...
Kentucky	1.2	...	1.3	1.1	1.1	.2
Louisiana	1.8	...	1.3	...[c]	1.4	...
Maine	.6	.3	.6	.5	.6	.8
Maryland	1.6	.3	1.6	1.1	1.7	.2
Massachusetts	3.6	10.6	3.8	4.5	3.5	2.3
Michigan	6.4	30.0	6.0	12.1	5.0	6.1
Minnesota	1.5	...	1.3	.3	1.5	...
Mississippi	.8	...	.9	.5	.8	.2
Missouri	1.8	...	1.8	1.6	1.8	.3
Montana	.3	.6	.3	.1	.3	.2
Nebraska	.3	.1	.3	.2	.3	.1
Nevada	.4	.7	.3	.4	.4	.4
New Hampshire	.4	.2	.4	.5	.3	...[c]
New Jersey	3.9	17.9	4.1	6.5	4.6	10.0
New Mexico	.6	...	.5	.1	.6	...[c]
New York	9.2	15.6	9.0	10.5	10.4	10.8
North Carolina	2.1	...	2.7	4.0	2.1	1.4
North Dakota	.2	...	.1	...	.1	...
Ohio	4.3	1.1	5.3	4.0	4.9	.8
Oklahoma	.9	...	1.0	.1	.9	...
Oregon	1.4	.4	1.4	1.3	1.4	1.1
Pennsylvania	4.9	2.3	5.2	12.1	5.4	18.6
Puerto Rico	2.2	4.5	2.0	.9	2.4	2.3
Rhode Island	.4	1.5	.6	1.0	.5	.9
South Carolina	1.3	.2	1.3	2.4	1.2	.6
South Dakota	.2	...	.1	...[c]	.2	...[c]
Tennessee	1.7	...	1.9	2.5	1.5	.5
Texas	4.2	...	3.6	.4	4.3	.2
Utah	.5	...	.4	.1	.4	...
Vermont	.2	.6	.3	.3	.3	.4
Virginia	1.9	...	1.8	.6	1.8	.9
Washington	2.0	5.1	1.8	1.1	1.8	1.3
West Virginia	.9	...	.7	.3	.7	...
Wisconsin	1.8	...	1.8	1.9	1.6	.3
Wyoming	.1	...	.1	...[c]	.1	...[c]

[a]Source: Employment and Training Report of President, 1978. [b]Source: Proposed Revision to Reinsurance Financing, February 1979. [c]Less than .05 percent.

Division of Research and Statistics
Ohio Bureau of Employment Services
Columbus 43216
3-2-79

TABLE A-5

DIFFERENCE BETWEEN FEDERAL FUNDS STATES WOULD HAVE RECEIVED BASED ON THEIR SHARE OF TOTAL UNEMPLOYMENT[a] AND AMOUNT THEY WOULD HAVE RECEIVED UNDER PROPOSED REIMBURSEMENT PLAN[b]
1974, 1975, AND 1976
(Millions)

State	1974, 1975, and 1976[c]	1974	1975	1976
Total, U.S.	$ 0	$ 0	$ 0	$ 0
Alabama	+ 1.1	+ 4.2	- 7.5	+ 4.4
Alaska	- 17.0	- 3.2	- 2.2	- 11.6
Arizona	+ 10.4	+ 2.7	+ 3.1	+ 4.6
Arkansas	+ 2.2	+ 2.2	- .8	+ .8
California	+ 140.2	+ 27.2	+ 103.8	+ 9.2
Colorado	+ 24.7	+ 2.0	+ 21.3	+ 1.4
Connecticut	- 42.4	+ 4.8	- 39.2	- 8.0
Delaware	- 3.2	- .8	- 3.5	+ 1.1
District of Columbia	+ 4.5	+ .1	+ 3.9	+ .5
Florida	+ 135.5	+ 8.9	+ 108.0	+ 18.6
Georgia	+ 9.9	+ 3.4	- 1.2	+ 7.7
Hawaii	+ 11.6	+ 1.3	+ 10.0	+ .3
Idaho	+ 9.6	+ .8	+ 6.8	+ 2.0
Illinois	- 110.4	+ 12.0	- 30.0	- 92.4
Indiana	+ 47.8	+ 5.1	+ 26.7	+ 16.0
Iowa	+ 17.7	+ 1.4	+ 14.2	+ 2.1
Kansas	+ 23.5	+ 2.0	+ 16.5	+ 5.0
Kentucky	+ 17.5	+ 3.4	+ 7.0	+ 7.1
Louisiana	+ 54.5	+ 5.0	+ 38.6	+ 10.9
Maine	+ 1.9	+ 1.0	+ 2.5	- 1.6
Maryland	+ 30.4	+ 3.8	+ 14.7	+ 11.9
Massachusetts	- 31.8	- 19.5	- 21.8	+ 9.5
Michigan	- 262.9	- 65.9	- 187.9	- 9.1
Minnesota	+ 46.4	+ 4.2	+ 30.3	+ 11.9
Mississippi	+ 20.5	+ 2.2	+ 13.5	+ 4.8
Missouri	+ 23.1	+ 5.0	+ 6.0	+ 12.1
Montana	+ 4.6	- 1.0	+ 4.9	+ .7
Nebraska	+ 6.9	+ .5	+ 4.3	+ 2.1
Nevada	- 3.6	- .9	- 2.4	- .3
New Hampshire	- .7	+ .5	- 3.6	+ 2.4
New Jersey	- 155.8	- 39.1	- 72.9	- 43.8
New Mexico	+ 17.8	+ 1.7	+ 11.8	+ 4.3
New York	- 65.8	- 18.0	- 46.3	- 1.5
North Carolina	- 27.1	+ 5.9	- 39.0	+ 6.0
North Dakota	+ 4.8	+ .6	+ 3.1	+ 1.1
Ohio	+ 80.7	+ 8.8	+ 38.5	+ 33.4
Oklahoma	+ 37.8	+ 2.5	+ 28.3	+ 7.0
Oregon	+ 7.5	+ 2.8	+ 2.6	+ 2.1
Pennsylvania	- 312.1	+ 7.2	- 213.2	- 106.1
Puerto Rico	+ 28.9	- 6.4	+ 34.7	+ .6
Rhode Island	- 18.0	- 3.2	- 11.4	- 3.4
South Carolina	- 26.6	+ 3.1	- 34.2	+ 4.5
South Dakota	+ 4.4	+ .6	+ 2.8	+ 1.0
Tennessee	- 4.8	+ 4.8	- 17.4	+ 7.8
Texas	+ 141.4	+ 11.7	+ 97.2	+ 32.5
Utah	+ 13.9	+ 1.4	+ 9.4	+ 3.1
Vermont	- 2.0	- 1.0	0	- 1.0
Virginia	+ 48.3	+ 5.3	+ 35.9	+ 7.1
Washington	+ 16.0	- 8.8	+ 20.7	+ 4.1
West Virginia	+ 20.7	+ 2.5	+ 12.7	+ 5.5
Wisconsin	+ 13.6	+ 5.0	- 2.4	+ 11.0
Wyoming	+ 4.0	+ .3	+ 3.0	+ .7

[a]Based on data in Employment and Training Report of President, 1978. [b]Source: Proposed Revision to Reinsurance Financing, February 1979. [c]Plus sign (+) indicates extent to which state would have received more under plan which distributed funds on basis of state's share of nation's total unemployment.

Division of Research and Statistics
Ohio Bureau of Employment Services
Columbus 43216 3-5-79

National Employment Law Project, Inc.
475 Riverside Drive Suite 240 New York, N.Y. 10027 (212) 870-2121
WASHINGTON OFFICE:
CONGRESSIONAL HOUSE
236 Massachusetts Avenue, N. E.
Washington, D. C. 20002

STATEMENT OF THE NATIONAL EMPLOYMENT LAW PROJECT
ON
FINANCE COMMITTEE PROPOSALS FOR
REDUCING COSTS OF FEDERAL-STATE
UNEMPLOYMENT COMPENSATION PROGRAMS

The National Employment Law Project, Inc. ("Project") is the Legal Services Corporation support center that specializes in the employment and unemployment problems of poor and low-income people. Unemployment Insurance is one of the Project's principal areas of concentration.

The Project, on behalf of its clients, opposes the proposed action of the Finance Committee to reduce costs of the Unemployment Insurance system for Fiscal Year 1980.

First the Finance Committee is undercutting the mandate of the National Commission on Unemployment Insurance which was specifically charged to study and report on these budget-cutting proposals in the coming year. Adoption of such major systemic changes prior to the Commission's report indicates little concern for their impact on the unemployed. The Project must underscore this objection due to the fact that the necessity for the enactment of state legislation to implement many of these proposals eliminates any possibility for significant savings in Fiscal Year 1980. Thus, there can be no purpose in taking premature action which can seriously undermine the Unemployment Insurance Program during an ever worsening recessionary period.

Second, the Project would like to briefly comment on the proposed changes.

1) The states will have to disqualify for the duration of unemployment persons who voluntarily quit, were discharged for misconduct or who refuse suitable work. These terms are defined differently by the various states. A total disqualification would, at the very least, have a disparate impact throughout the unemployed population. For example, some states have broader definition of "good cause" for voluntarily quitting, including unsafe working conditions, employment discrimination, and family circumstances, while others disqualify these individuals. In addition, while disqualification for a short period may be appropriate where unemploy-

ment is voluntary, there is a point in a restricted economy where an individual becomes involuntarily unemployed due to the tight labor market. Harsh disqualification penalties are tantamount to punishment for being unemployed. Punishment has no place in an insurance program. An insurance program should disqualify a person only for as long as the risk against, in this case, unemployment, is the result of the worker's voluntary action, not due to economic factors outside his/her control. The Department of Labor has suggested that a maximum six-week disqualification be used since that is the maximum period of unemployment that can be attributed to an individual's actions. Thereafter, weeks of unemployment are attributable to the economy or to the difficulties peculiar to an individual job seeker. This proposal is not consistent with the purpose of the program which is to provide wage replacement to workers who are unemployed through no fault of their own.

2) Benefits shall be denied after 13 weeks where a person refuses a reasonable job offer. This proposal further undermines the central purpose of the program, "partial replacement of wages to the unemployed to enable workers to tide themselves over, until they get back to their old work or find other employment without having to resort to relief." California Dept. of Human Resources Development v. Java, 402 US 121, 131-132 (1971). "Other employment" was defined by the court as "substantially equivalent employment," or, in the program, as "suitable" work. Only work for which an unemployed person is suited by education, training and work experience in his or her usual occupation, skill and health is "suitable." "Reasonable" work, as proposed here, means any job which complies with minimum Federal wage and health standards. At present, no state requires such a downward job search after only 13 weeks. In fact, the Emergency Unemployment Compensation Act of 1974 requires this downward search only after 39 weeks of unemployment. The value of the program is to stabilize the labor market as well as preserve the employment and skills levels of the involuntarily unemployed. This proposal would serve to defeat the program itself.

3) There would be no payment of benefits where there are predictable lay-offs from seasonal employment. This proposal is based on the false assumption that workers can predict and, therefore, assume the risk of seasonal lay-offs. In fact, although lay-offs themselves may be predictable, neither their duration nor which individuals they will effect are predictable. Furthermore, the affected industries require that their work force be stabilized and available to work when they are recalled. These workers are out of work through no fault of their own and they are available for suitable work when that work is offered to them. There is no rational basis for the exclusion of these workers who are in substantially the same position as other workers eligible for benefits. In addition, the Department of Labor has found that the administration of seasonality provisions is difficult and costly. In some cases, it has been more costly than the benefits.

4) A one-week waiting period would be mandatory. The program is intended to provide "prompt" replacement of wages. Waiting periods have existed solely for processing purposes. The trend has been to

shorten or eliminate them. A mandatory waiting period does not provide any added incentive to look for work, it merely punishes the unemployed, particularly the low-income worker, who cannot purchase the basic necessities of life without income. Low-income workers live from pay-check to pay-check. It is false to assume that all such individuals and families can tide themselves over without resort to welfare or private charity as the present law commands.

5) There would be increased assistance to states who control error and fraud. This proposal assumes that the unemployed are defrauding the system. There is little or no evidence of this. Attention in this area must be paid to the delinquency rate of employers.

6) Elimination of the national trigger program. This program is intended to provide supplemental federal benefits during periods of high national unemployment which are the result of national economic factors. Particular industries may suffer nation-wide cutbakcs due to economic conditions which have differing effects on the various states but have similar effects on workers in that industry. This program accounts for economic factors which are beyond the local control of employees and employers. The current fuel crisis, for example, has led to decreased demand for large American cars. Literally thousands of persons working the automobile industry are to be laid off indefinitely. Similarly, plants such as Youngstown Sheet and Tube in Youngstown, Ohio, are closing down due to foreign competition. Thousands of workers are being laid off overnight, without warning. Common sense and equity dictate that persons unemployed throughout the nation for the same economic reasons be treated alike for purposes of the program.

7) States would be allowed to establish higher trigger levels for the extended benefit program. The present trigger levels are set by a percentage increase in the number of persons receiving unemployment insurance, not by the number of unemployed persons. This vastly underrates the problem as it is. There is no justification for eliminating these benefits in a period of increasing unemploymemt.

8) The provision of incentives to federal agencies to contest improper benefit claims focuses again, on litigation and fraud, rather than on the central issues of providing for the legitimate needs of unemployed workers.

9) States would be required to pay interest on funds borrowed from federal accounts. This proposal may have merit if applied prospectively. However, it should be noted that those states such as Michigan and Pennsylvania which require the greatest federal assistance do so because they are hardest hit by the recession and may, therefore, be least able to bear the burden of additional payments. Economic penalties imposed upon the states will be passed on to the workers of those states "through no fault of their own."

10) Reduce benefits where the unemployed person is receiving a pension based on recent employment. The impact of such deductions

will be especially harsh on poor and low income claimants. While social security, company pensions and other earned retirement income are deducted from unemployment insurance under this law, unearned income from dividends on securities, or income from real estate rentals, etc., is not deducted. Moreover, claimants alike in all respects except for the receipt of retirement income must be treated differently under the law. Finally, it presumes, incorrectly, that receipt of retirement income is proof of withdrawal from the labor market. Many workers, forced for health or other reasons, plan nevertheless to continue working: many poor and low income workers must continue to work in order to survive. Indeed, the Social Security Act recognizes this fact by allowing old age insurance recipients to earn supplementary income. For persons with no additional source of income work is often a necessity. What is more, the presumption of withdrawal from the labor force is belied by the many unemployment claimants who, although receiving retirement income, have obtained new jobs. It is only when terminated from these jobs that they seek benefits. The National Commission on Employment and Unemployment Statistics specifically rejected the suggestion that older workers be screened out of labor force data, fearing the"...real risk of excluding many older workers with ties to the labor market...,"Counting the Labor Force, Preliminary Draft Report of the National Commission on Employment and Unemployment Statistics, p. 26 (January, 1979). In sum, retirement income cannot fairly be deducted from unemployment insurance benefits.

11) Qualifying employment would be required for extended benefits. This proposal again raises the issue of variation in state definitions of "qualifying employment" and the resulting disparate impact among the unemployed population as a whole. In particular, new workers, seasonal workers, and low-income workers, the hardest-hit population segments in any recession, are the likely exclusions under either standard of amount of earnings or duration of employment. These workers are no less committed to their work or desirous of employment. There is no justification for excluding the largest pool of disadvantaged workers from the program.

12) The definition of the Insured Unemployment Rate would be modified for purposes of the extended benefits trigger proposal. As indicated above, the insured unemployment rate already underestimates the unemployment rate and consequently, the difficulty of finding jobs in the labor market. Eliminating the long-term unemployed from this count further distorts the economic reality that increased unemployment increases the difficulty of finding suitable work. It is for this reason extended benefits are granted, and, thus all recipients of benefits must be counted.

In conclusion, we urge the Finance Committee to restrain any action of this kind until the Commission has reported its findings. It is unconscionable to jeopardize the Unemployment Insurance Program and the lives of the increasing numbers of unemployed workers in the name of budget-cutting where little real monetary benefits can be realized.

NATIONAL ASSOCIATION OF MANUFACTURERS

RANDOLPH M. HALE
Vice President & Manager
Industrial Relations

October 3, 1979

The Honorable Russell Long
Chairman, Committee on Finance
217 Russell Senate Office Building
Washington, D.C. 20010

Dear Chairman Long:

The National Association of Manufacturers is pleased with the direction of your Subcommittee on Unemployment and Related Problems as it explores cost reduction proposals aimed at restoring the integrity of the Federal-State Unemployment Insurance (UI) system. Chairman Boren is doing an excellent job.

As the Subcommittee, under your overall guidance, seeks to reduce costs in the UI system, I would like to draw your attention to a proposed rule change by the Employment and Training Administration which could prove the biggest cost saving step the Federal Government could take.

On June 15, 1979 the Employment and Training Administration announced in the Federal Register (Volume 44, Number 117, pages 34512-13) a proposed change in the computation of national and state "on" and "off" indicators for the Extended Benefit program.

Currently, the national Insured Unemployment Rate (IUR) is determined by combining regular UI claims with extended benefit claims. Thus, the IUR is not an accurate reflection of unemployment rates throughout the States. The NAM, together with the Associated Industries of Oklahoma, filed a statement with your Subcommittee today on this and other cost saving recommendations.

It is estimated that, had the rule change of eliminating extended benefit claims from the "on" and "off" indicators been in effect since 1974, the savings would now have exceeded $1 billion. Groups on either side of the argument do not dispute this fact. Yet, the Secretary of Labor recently postponed the effective date from October 1 to November 1. The NAM believes the Secretary could postpone the change indefinitely.

The most crucial question we feel is: Can the Federal-State UI programs survive another serious recession with the current formula for computing national Extended Benefit periods?

I hope that the Subcommittee and the Finance Committee will take a hard look at this severe problem. The proposed rule change is necessary if the stability of the UI system is to be maintained.

We appreciate your efforts and time.

Sincerely,

RMH:dab

○