UNEMPLOYMENT COMPENSATION

HEARING

BEFORE THE

SUBCOMMITTEE ON HUMAN RESOURCES

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTH CONGRESS

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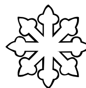

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UNEMPLOYMENT COMPENSATION

THURSDAY, SEPTEMBER 7, 2000

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON HUMAN RESOURCES,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:07 a.m., in room B–318, Rayburn House Office Building, Hon. Nancy L. Johnson (Chairman of the Subcommittee) presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON HUMAN RESOURCES

FOR IMMEDIATE RELEASE CONTACT: (202) 225–1025
August 31, 2000
No. HR–24

Johnson Announces Unemployment Compensation Hearing

Congresswoman Nancy L. Johnson (R–CT), Chairman, Subcommittee on Human Resources of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on reform of the Unemployment Compensation (UC) system. The hearing will take place on Thursday, September 7, 2000, in room B–318 Rayburn House Office Building, beginning at 10:00 a.m.

Oral testimony at this hearing will be from invited witnesses only. Witnesses will include representatives from the U.S. Department of Labor, the business community, State government, and organized labor. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

BACKGROUND:

The UC program provides benefits to unemployed workers who have a history of employment. Within a broad Federal framework, each State designs its own benefit program and imposes taxes on employers to pay for regular unemployment benefits. A Federal tax is also imposed on employers to fund the Federal parts of the system, including State and Federal administration, the U.S. Employment Service which helps unemployed workers find new jobs, loans to States with bankrupt programs, and half of extended unemployment benefits for workers in States with very high levels of unemployment. All funds are kept in Federal trust funds that are part of the unified Federal budget.

In February of this year, the Subcommittee held a hearing that covered both introduced legislation and proposals to reform and improve the UC program. Major provisions of these proposals included eliminating the temporary 0.2 percent surcharge on the Federal Unemployment Tax Act (FUTA) taxes paid by employers, allowing more workers to qualify for unemployment benefits, providing incentives for States to improve the solvency of their benefit accounts, making the extended benefits program more accessible, and helping State programs get more money back from the FUTA taxes paid by their employers.

Both before and since that hearing, a coalition of groups with an interest in UC, consisting of representatives from the Administration, organized labor, the business community, and the States, has met to work out a consensus reform proposal and is now prepared to present this proposal to the Subcommittee.

In announcing the hearing, Chairman Johnson stated: “The unemployment program currently provides real peace of mind to millions of hardworking Americans. However, it is also a system in need of reform and improvement. I am committed to preserving and strengthening these benefits for workers. That is why it is so encouraging that a broad coalition of interested parties has now developed a proposal to make these much needed reforms. This is a unique opportunity for the Subcommittee to learn more about this proposal.”

FOCUS OF THE HEARING:

The hearing will focus on the UC reform proposal developed by a broad coalition of interested parties.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Any person or organization wishing to submit a written statement for the printed record of the hearing should submit *six (6) single-spaced copies of their statement, along with an IBM compatible 3.5-inch diskette in WordPerfect or MS Word format, with their name, address, and hearing date noted on a label, by the close of business*, Thursday, September 21, 2000, to A.L. Singleton, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Human Resources office, room B–317 Rayburn House Office Building, by close of business the day before the hearing.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be submitted on an IBM compatible 3.5-inch diskette WordPerfect or MS Word format, typed in single space and may not exceed a total of 10 pages including attachments. **Witnesses are advised that the Committee will rely on electronic submissions for printing the official hearing record.**

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4. A supplemental sheet must accompany each statement listing the name, company, address, telephone and fax numbers where the witness or the designated representative may be reached. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press, and the public during the course of a public hearing may be submitted in other forms.

Note: All Committee advisories and news releases are available on the World Wide Web at "http://waysandmeans.house."

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202–225–1721 or 202–226–3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Chairman JOHNSON. Welcome. The hearing will come to order. Unfortunately, the Subcommittee has a bill on the floor and a number of other things going on so we are going to have to move right through. Those who have come to testify, thank you very much.

As always let me start by welcoming our guests. Not only are you distinguished but you have achieved something that the Subcommittee greatly admires. That is a bipartisan agreement on a very important policy issue. So I commend all of you from labor, business, State administrators and the Administration for working hard to formulate a very interesting and promising proposal to reform the Unemployment Compensation Fund. We look forward to hearing your comments today and having a little opportunity to gain a better understanding of the depth of your proposal.

Ben and I are going to make only brief statements so that we will have a chance to maximize our questioning time on a complicated day. Thank you.

[The opening statement follows:]

Opening Statement of Chairman Nancy L. Johnson, a Representative in Congress from the State of Connecticut

I begin as always by welcoming our distinguished guests. Not only are our guests distinguished, but they have worked together for over a year to achieve something that this Subcommittee greatly admires—bipartisan agreement on an important policy proposal. I commend each of you, representing labor, business, State administrators, and the Administration, for working so hard to formulate this very interesting and significant proposal on reform of the nation's Unemployment Compensation program.

The purpose of our hearing today is to provide your Coalition with a forum to carefully explain your proposal and to answer questions members of our Subcommittee have about the proposal. Ben Cardin and I are going to make only brief opening statements because we have a bill on the House Floor later this morning and we want to give you the maximum time possible to explain your proposal.

The biggest question before this Subcommittee is whether we intend to take action on the Coalition proposal this Fall. The major reason we are conducting this hearing the first week back from recess is that we want to talk both with our witnesses and among ourselves about the feasibility of trying to enact legislation this Fall based on the Coalition proposal. We must all begin with the realization that even under the best of circumstances, it would be very difficult to enact legislation of this magnitude in just four weeks.

Even so, the problems of the Unemployment Compensation system are serious. We need more money for administration. We need more money for the U.S. Employment Service. We need more State control of administrative funding and the Employment Service. And many of us think we need to allow benefits to workers who are available only for part-time work and to create a better trigger for the Extended Benefits program.

My intention is to learn as much as we can about the Coalition proposal this morning and then decide, based on today's testimony and questioning, and of course on consultation with my colleagues on both sides of the aisle, what our next step should be.

Mr. CARDIN. Thank you, Madam Chair. It might seem strange to some that we are here today to discuss Unemployment Insurance when the number of jobless Americans is lower than it has been anytime in the last 30 years. However, despite the low unemployment rate it is worth remembering that 2 million Americans still depend upon Unemployment Insurance every week and many more require services to upgrade or change their job skills.

Furthermore, none of us should be under the delusion that we have repealed the business cycle. Madam Chair, I can tell you an experience that I had when I was Speaker of the Maryland General Assembly, and we thought things were going rather well and we hit a bump in the road and all of a sudden our Unemployment Insurance funds were inadequate to deal with the problems of our re-

cession. It required a special session of the General Assembly and a lot of pain for our State in order to overcome.

And as the name suggests, the Unemployment Insurance system is one of our best insurance policies to counter the negative effects of an economic slow down. I am, therefore, very pleased to see the major stakeholders in the UI system including groups representing workers, business, the States and the Federal Government have agreed to a comprehensive plan to improve the program. One of the most important contributions of the consensus proposal is the recognition that there are unnecessary barriers now standing between low wage workers and UI coverage.

The GAO currently is assessing the extent of this problem but its preliminary data suggests that workers earning eight dollars or less an hour are only one-half as likely to receive UI when they become unemployed compared to higher wage workers, even when working for a similar length of time. To address this inequity the consensus UI plan would require States to use the most current work information when making eligibility decisions. It would make the extended benefit program more sensitive to changes in the economy and would prevent States from denying UI benefits to otherwise eligible part-time workers solely because they are seeking part-time rather than full-time employment.

This last provision is very similar to legislation I introduced called the Parity for Part-Time Workers Act. Its purpose is to prevent discrimination against workers who have earned the right to benefits based on part-time employment. To help States finance the cost of the coverage improvements, which will help more than 500,000 laid off workers every year, the plan suggests slowly reducing the amount of funds in the Federal UI loan account and then providing the proceeds to the States' UI systems. As long as such proposals leaves adequate resources in the fund to respond to recession, this approach warrants our careful consideration.

The consensus UI proposal also recommends new financing structures for the administration of both the UI and Employment Services System. The impetus for this proposal is easily identified, the growing shortfall between the administrative needs of the State employment security agencies and the level of funding appropriated by Congress. A bipartisan group of this committee's members have already expressed its concern about this funding shortfall in a letter to the Appropriations' committee. So I think it is safe to say that there is a fair amount of sympathy here for addressing this issue.

Finally, Madam Chair, let me talk about the acceleration of the repeal of the 0.2 percent FUTA surcharge. I agree that it is time that this tax repeal has come, as long as such changes occur in context to comprehensive plans to improve the UI system. The debt for which the surtax was designed to reimburse has long since been paid, so we should take this opportunity to provide employers with a $1.75 billion annual tax cut.

Madam Chair, I look forward to hearing from our witnesses today and hopefully working out consensus bipartisan legislation that can move forward the recommendations of this task force. And I yield back my time.

[The opening statement of Hon. Mark Foley follows:]

Opening Statement of Hon. Mark Foley, a Representative in Congress from the State of Florida

Madam Chairwoman, I know that the issues we are discussing today are of great importance to all Americans and especially to those Americans who need to access Unemployment Compensation benefits in times of need. But there is another area of Unemployment Compensation that I hope we will also direct our attention to in the future and this is the Federal Unemployment Tax Act of 1986 as it relates to Native American Tribes. As sovereign bodies, it is only right that federally recognized tribes receive equitable treatment under the provisions of the 1986 Act.

Under current provisions of the law, the fifty States and federally tax-exempt organizations are permitted a reimbursable rate while Native American tribes are treated as private entities and are compelled to pay unemployment taxes at a flat rate. The result is millions of tribal dollars that could be used for development, job training, education, housing and any number of other projects that strengthen a tribe's self reliance are taken off the reservation and sent to the government.

Madam Chairwoman, again, I hope that the Committee will take the time to investigate this important issue before the end of the 106th Congress.

Chairman JOHNSON. Thank you. If other members have statements they would like to offer, they can submit them to the record. Let us open our hearing by recognizing first Mr. Raymond Uhalde, the Deputy Assistant Secretary for Employment and Training at the Department of Labor.

STATEMENT OF RAYMOND J. UHALDE, DEPUTY ASSISTANT SECRETARY, EMPLOYMENT AND TRAINING ADMINISTRATION, U.S. DEPARTMENT OF LABOR, ACCOMPANIED BY GRACE KILBANE, ADMINISTRATOR, OFFICE OF WORKFORCE SECURITY

Mr. UHALDE. Thank you. Madam Chairwoman and members of the Subcommittee, I will abbreviate my remarks. Thank you once again for the opportunity to address the Subcommittee on the reform of the Unemployment Insurance and Employment Service programs. With me today is Grace Kilbane, Administrator of the Office of Workforce Security who is the Department of Labor's principal participant in the discussions that led to this historic agreement.

Although your last hearing on this topic was not very long ago, just February 29th, there have been positive developments since then. As you can see, we are all sitting at the same table. That is certainly symbolic of what has happened over this last several weeks. I believe that the last hearing and the efforts of this Subcommittee contributed greatly to the progress that has been made, and I would like to acknowledge and thank you for your role.

I am extremely pleased and excited to be here today because this is a historic event, an event that many believe could not happen. On June 27th, with the participation of the Department of Labor, the Interstate Conference of Employment Security Agencies, UWC, organized labor and representatives from a State-Business Employment Security Reform Coalition reached agreement on the elements of the comprehensive reform proposal that could garner bipartisan support. The Administration believes that the hard work and policy accommodations made by the parties who worked on this proposal have resulted in a package that meets the objectives established for the reform effort. We are eager to work with Con-

gress to move this forward to enactment and work out the technical details.

As you know, reform of the UI and ES systems has been a topic of discussion at the national level for some time. My prepared statement outlines many of these efforts. This proposal sets a sound framework to secure program reform and adequate funding because it addresses the major concerns of the partners and stakeholders, and, we anticipate, will garner broad and bipartisan support. This is a unique agreement in the history of these programs. The advantages of this proposal include: helping about 600,000 more of today's workers each year, especially women and low-wage workers, access unemployment benefits—without increasing State taxes in the near term; ensuring that about 600,000 more unemployed workers annually receive the reemployment services they need; improving the recession readiness of the UI program; cutting employers' Federal unemployment taxes by $1.75 billion per year—nearly $13 billion over the next 7 years; and providing adequate resources to fund the program service needs for UI and Employment Services within the one-stop system of America's Workforce Network.

My written testimony describes why the Administration believes this proposal meets the objectives of the reform effort. The key features include making extended benefits more responsive during recessions, expanding benefits to many part-time workers, making more recent wages available for determining benefit eligibility, repealing the 0.2 percent Federal unemployment tax surcharge and improving administrative funding.

Changing the budget structure presents challenges for both the Congress and the Administration, but we recognize, as you do, that these programs have unique features, a separate dedicated Federal payroll tax is levied to fund their administration. When the Federal accounts in the UTF exceed their ceilings, these "surplus" funds are distributed to State accounts in the UTF, can be used for administration, and are from the mandatory side of the budget. The benefit side of the UI program is self-financing through State taxes; many other federally supported social benefit programs are fully financed by Federal taxes.

We believe these unique features justify moving the funding for these programs out from under the discretionary caps to the mandatory side. We would add that if such changes are made, we believe it is essential that the proper budgetary review and accountability exercised by the department and Congress continue. I also note that the Senate Appropriations Committee acknowledged the problem of UI benefits being classified as mandatory while operational costs are discretionary, and included report language in the fiscal year 2001 budget seeking a solution to this problem with the authorizing committees.

Clearly this is an ambitious package of proposals, and we recognize the challenges that face us in making these reforms a reality. Time is short, and there is much legislative business to be completed. However, with the work group's enthusiasm and bipartisan support, we believe that it should be possible to achieve enactment this year. We pledge to work with the Congress, this committee in crafting legislation to secure these reforms this year.

Before closing I want to thank you, Madam Chair and members of the Subcommittee, for your support in this very important endeavor and also for your request to Appropriations Subcommittee Chairman Porter urging the Subcommittee to provide increased funding for the administration of our Nation's employment security system.

Madam Chair, this concludes my formal remarks and I look forward to testimony of my colleagues, and I will be glad to respond to some questions.

[The prepared statement follows:]

Statement of Raymond J. Uhalde, Deputy Assistant Secretary, Employment and Training Administration, U.S. Department of Labor

Madam Chair and Members of the Subcommittee:

Thank you once again for the opportunity to address the Subcommittee on reform of the Unemployment Insurance (UI) and employment service (ES) programs. Although your last hearing on this topic was not very long ago—just February 29th—there have been positive developments since that time. As you can see, we are all sitting together today instead of on separate panels. I believe that the last hearing and the efforts of this Subcommittee contributed greatly to the progress that has been made, and I would like to acknowledge and thank you for that.

I am here today to testify on a proposal developed by a broad group of stakeholders in the UI and ES system that I believe was presented to you early last month and now is in the process of being converted to legislative language. With me today is Grace Kilbane, Administrator of the Office of Workforce Security, who was the Department of Labor's principal participant in the discussions that resulted in this agreement.

I am extremely pleased to be here today because this is an historic event—an event that many believed could not happen. On June 27, the Interstate Conference of Employment Security Agencies (ICESA), UWC, and organized labor, with the participation of the Department of Labor, reached agreement on the elements of a comprehensive reform proposal that they believed could garner bipartisan support. I realize that there is a long way to go, but the Administration believes that the hard work and policy accommodations made by the parties who worked on this proposal have resulted in a package that meets the objectives established for the reform effort, and we are committed to working with Congress to move this forward and work out the technical details.

I will begin with some brief background comments on the importance of the UI and ES programs for America's Workforce Network—which is the brand name we use to identify workforce investment activities administered through the Department—and then discuss the reform effort.

BACKGROUND ON THE UI AND ES PROGRAMS

UI is the primary source of temporary, partial wage replacement for eligible unemployed workers—it literally helps put food on the table. It is also the Nation's leading automatic stabilizer during economic downturns—according to our analysis for every $1.00 spent on benefits, the economy gains $2.15. Even in this unprecedented economic expansion, the UI system helps about 7 million workers annually bridge the financial gap between jobs, and will pay an estimated $22 billion in benefits in fiscal year (FY) 2000. During recessions, these benefit payments soar as UI plays its role of stabilizing the economy in communities hard hit by unemployment.

The UI program operates as a Federal-State partnership under which Federal law defines broad requirements for the UI program and State law sets forth most benefit provisions and the State tax structure. The UI program is administered in connection with the ES program which helps unemployed workers and others find jobs and assists employers in finding new workers. In program year 1998 (the latest data available), 17.3 million job seekers contacted ES offices to obtain services.

The UI and ES programs are major partners in the One-Stop delivery system that was established by the landmark, bipartisan Workforce Investment Act of 1998. This new system was designed in partnership with employers, labor organizations, education, and community groups. Each of the participating One-Stop partner programs make certain applicable core services (e.g., skill assessments and job search assistance) available through the One-Stop system. As a result of WIA, the labor exchange services provided by the ES have been revitalized and integrated into the

One-Stop system. In fact, ES is the “backbone” of the One-Stop system. Its services are available to all jobseekers and employers. It provides a major share of the operating costs of One-Stop centers nationwide. Finally, the ES offers electronic tools that were unimaginable just 10 years ago. For example, America’s Job Bank provides the public with access to about 1.7 million job vacancies on a daily basis, allows job seekers to develop and post resumes on the Internet and employers to review those resumes.

REFORM EFFORTS

Reform of the UI and ES systems has been a topic of discussion at the national level for some time. As you know, Congress authorized the bipartisan Advisory Council on Unemployment Compensation in 1991. The Council issued findings and recommendations in 1994, 1995, and 1996 that concerned many of the same issues addressed by this reform proposal.

This Administration’s efforts to reform the UI and ES programs began in early 1998 with legislation proposed by the Administration as a “down payment” on more comprehensive reform and we were pleased that the legislation was introduced on a bipartisan basis by Representatives Levin, English, and Rangel. But these reform efforts, like others initiated by only one of the partners or stakeholders of this system, were not successful because they were neither sufficiently comprehensive nor did they have sufficiently broad-based stakeholder support.

The reform effort continued in mid–1998, with the Department of Labor convening 65 dialogue sessions throughout the country to provide the public opportunities to offer suggestions for reform; over 3,800 individuals participated. What we heard from employers, workers, and State officials in these sessions informed development of principles for reform which were articulated in the President’s proposed budgets for FY 2000 and 2001.

In these budgets, the President committed the Administration to working with stakeholders and Congress to develop a comprehensive, bipartisan legislative proposal of system reforms centered on the following five principles:

- expand coverage and eligibility for benefits;
- streamline filing and reduce tax burden where possible;
- emphasize reemployment;
- combat fraud and abuse; and
- Improve administration.

To meet this considerable challenge, ICESA convened a workgroup comprised of employer and worker representatives, State agency and Department of Labor officials which has been meeting for over a year. Subsequent to the Subcommittee’s February 29 hearing on reform, the ICESA-convened workgroup was joined by another group representing a coalition of States and employers, and since that time group members made intensive efforts to reach a comprehensive agreement.

THE REFORM AGREEMENT

On June 27, a group representing the ICESA-convened workgroup and the State-business coalition reached agreement on a comprehensive proposal for UI and ES reform. This proposal sets a sound framework to secure program reform and adequate funding for services to workers and employers because it addresses the major concerns of the partners and stakeholders and, we anticipate, will garner broad and bipartisan support. This is a unique agreement in the history of these programs. The advantages of this proposal include:

- helping about 600,000 more of today’s workers, especially women and low-wage workers, access unemployment benefits—without increasing State taxes in the near term;
- ensuring that about 600,000 more unemployed workers receive the reemployment services they need;
- Improving the recession readiness of the UI program;
- cutting employers’ Federal unemployment taxes by $1.75 billion per year—nearly $13 billion over the next seven years; and
- providing adequate resources to fund the program service needs for UI and ES within America’s Workforce Network.

We believe that the proposal addresses all of the principles presented in the President’s budgets for FY 2000 and 2001, and I would like to take a few moments to tell you why the Administration believes this proposal meets the objectives laid out for the reform effort.

• Make extended benefits available sooner during recessions. The proposal lowers the extended benefit (EB) trigger rate to 4 percent insured unemployment from the current 5 percent threshold. This trigger rate was increased from 4 percent to 5 percent in 1982, and in the recession of the early 1990s only 10 States met that 5 percent trigger. In reaction to this limited economic response, a special Federal program was enacted that made benefits available in all States, not just those that had higher unemployment. We believe that this reform element will improve the responsiveness of EB in future economic downturns, will target benefits where they are most needed, and as a result will also be less costly to the Federal budget.

• Expand benefits to part-time workers. This element will ensure that most part-time workers who lose their jobs will be able to qualify for benefits while they seek new part-time work. In most States laid-off part-time workers are not eligible for benefits solely because they are not looking for full-time work. We believe that this does not reflect the importance of part-time work in today's labor market and is inequitable since unemployment taxes have been paid on these workers' wages. These workers must meet the same requirements with respect to their wages and work history as other workers who qualify for benefits under this proposal. We believe this provision, in combination with the next, would help 600,000 workers gain access to unemployment benefits.

• Make more recent wages available for determining benefit eligibility. This element would require that States use wage data for the most recently completed quarter in making benefit eligibility determinations when unemployed workers would not otherwise qualify for benefits and when the data have been received by the State agency from employers. Currently in many States some unemployed workers do not qualify for benefits simply because their work and earnings are too recent and, although reported to the States, are not entered into automated systems. We believe that this time lag should not result in denial of benefits and that improved technology will help to make wage data available more quickly.

• Repeal the 0.2 percent Federal Unemployment Tax Act (FUTA) surcharge. The 0.2 percent FUTA surcharge long ago fulfilled the purpose for which it was originally enacted—to pay back loans that were made to States in the 1974–75 recession. The remaining permanent 0.6 percent tax aligns program revenue with program need and avoids build up of balances in the Federal accounts in the unemployment trust fund (UTF) beyond apparent need. We believe that in the context of this comprehensive proposal the 0.2 percent should be eliminated in 2001. This change would save employers $1.75 billion annually.

• Improve funding for UI and employment services. The proposal would establish statutory funding formulas for UI, ES and Veterans' Employment and Training Services, which would determine the national total amount available each year for these activities. The formulas would reflect projected workloads and make adjustments for inflation. This funding would be moved from the discretionary to the mandatory side of the budget.

State administration of the UI and ES programs have been under-funded for too long due to Federal budget rules and constraints. Under-funding is affecting services to unemployed workers in a number of ways: benefit payment and appeals timeliness have declined; benefit overpayments have increased; and services were provided to only one-third of UI beneficiaries who were identified as likely to exhaust benefits and in need of reemployment services under State worker profiling systems. In addition, States are spending an increasing amount, about $250 million a year, to supplement Federal funding to keep local offices open and UI and ES services available statewide—especially in rural communities. We believe that these programs—which are of vital importance to the labor force and the economy—should be adequately funded.

Expanded services and improved administrative funding would include:

• new tools to detect and prevent fraud and overpayments; ability to provide universal core services through the One-Stop system so that more WIA funds can be targeted to intensive and job training services;

• Increased audits of employers, eligibility reviews of claimants, and other integrity activities;

• the provision of a significant proportion of the reemployment services necessary to meet the President's commitment to make such services universally available to all who need them; and

• adequate funding for the administration of UI, ES, and Veterans' Employment and Training Services.

Changing the budget structure presents challenges for both the Congress and the Administration, but we recognize, as you do, that these programs have unique features:

- A separate, dedicated Federal payroll tax is levied to fund their administration.
- When Federal accounts in the UTF exceed their ceilings, these "surplus" funds are distributed to State accounts in the UTF, can be used for administration, and are from the mandatory side of the budget.
- The benefit side of the UI program is self-financing through State taxes; many other federally supported social benefit programs are fully financed by Federal taxes.

We believe these unique features justify moving the funding for these programs from the discretionary to the mandatory side of the budget for purposes of the Budget Enforcement Act.

I would also note that the Senate Appropriations Committee acknowledged the problem of UI benefits being classified as mandatory while operational costs are discretionary, including report language in the FY 2001 budget seeking a solution to this problem.

Clearly this is an ambitious package of proposals, and we recognize the challenges that face us in making these reforms a reality. Time is short, and there is much legislative business to be completed, but with bipartisan support, we believe that it should be possible to achieve enactment this year. We recognize the budget challenges this proposal faces. However, we believe that these challenges can be met successfully, and the Administration is committed to achieving these reforms within a balanced fiscal framework.

I believe I have touched on the five major provisions in the package, but there are changes that we have not discussed today. We look forward to working with Congress on these issues as well, which include topics such as: needed privacy protections as we address fraud and abuse, particularly related to access to the National Directory on New Hires; streamlined tax filing; and improved administrative procedures.

In sum, we believe this proposal sets a sound framework for securing reform and meets the Administration's objectives for reform of the employment security system. We pledge to work with the Congress in crafting legislation to secure these reforms. I am encouraged by the workgroup's enthusiasm and your leadership, and sincerely hope that we will cap this historic event with the passage of a reform bill by year's end.

Before closing, I want to thank you, Madam Chair, and Representatives English, McCrery, Cardin, and Levin for your request to Appropriations Subcommittee Chairman Porter urging the Subcommittee to provide increased funding for the administration of our Nation's employment security system. Funding a larger portion of each State's projected total workload in the base grant at the beginning of the year will certainly enhance State operations. We would also like to thank the members of the Subcommittee for the bipartisan interest you have shown in the sponsorship of a reform bill that reflects the efforts of the workgroup.

Madam Chair, this concludes my formal remarks. I look forward to the testimony of my colleagues, and I will be glad to respond to any questions you or Members of the Subcommittee may have.

Chairman JOHNSON. Thank you very much, Mr. Uhalde.

Mr. Gross.

STATEMENT OF ROBERT C. GROSS, PRESIDENT, INTERSTATE CONFERENCE OF EMPLOYMENT SECURITY AGENCIES, INC., AND EXECUTIVE DIRECTOR, UTAH DEPARTMENT OF WORKFORCE SERVICES

Mr. GROSS. Madam Chair, Members of the Subcommittee, thank you for the opportunity and the invitation to be here. My name is Robert Gross. I am currently serving as the President of the Interstate Conference of Employment Security Agencies on a part-time basis and full-time serve as the Executive Director of the Utah Department of Workforce Services. ICESA or the Interstate Conference of Employment Security Agencies, Madam Chair, just to refresh your memory, generally serves the State's workforce service agencies in general and in particular those State agencies respon-

sible for the Employment Security programs consisting of Unemployment Insurance and the Employment Service.

A growing number of States are also linking or tying to those efforts welfare-to-work provisions or the entire area of welfare reform, including my own State of Utah, States such as Wisconsin, Ohio and so on.

As Mr. Uhalde indicated, and as I believe members of the Subcommittee are well aware, we do believe that we have achieved what we would refer to as an historic compromise in terms of bringing these four broad constituency groups together to essentially effect a workable solution to today's problems and challenges with the Unemployment Insurance Administration and Employment Service systems.

You have copies of my prepared testimony. I would like to spend the balance of my time essentially addressing particularly the concerns from the aspects of State administrators. As Mr. Uhalde indicated there are four broad provisions that make up this compromise. One, improved administrative funding for both Unemployment Insurance and the Employment Service. Two, repealing the 0.2 surtax and reducing employer tax filing burdens. Three, expanding eligibility to low-income, part-time workers, and former welfare recipients. And four, improving certain technical aspects of the program.

As I indicated the most important part of this compromise for State administrators is certainly the adequacy of administrative funding. In terms of what this particular compromise would do is it would insure adequate administrative funds for Unemployment Insurance. Many States are currently experiencing shortfalls in their Unemployment Insurance administration. They have essentially gone to their State legislatures in which general funds from those States have been appropriated to supplement the Unemployment Insurance administration system. This compromise would restore integrity to that funding system and allow States to move into ever greater technological advantages and changes which serve today's employers and job seekers. In particular, such things as Unemployment Insurance call centers and other kinds of technology are greatly and rapidly facilitating the interchange and exchange in terms of today's workers and employers.

A second major component that I want to talk about is the impact that this would have on adequate funding for the Employment Service which has been grossly underfunded since at least the 1980s. Now, as Mr. Cardin indicated, the question often arises why do we need adequate funding at a time of perhaps our lowest unemployment in many years? And Madam Chair, I would indicate that now is the time to make the investment but I would also point out the critical nature of the Employment Service and the constituent groups that it serves. It is essentially the backbone of what we call the one-stop delivery service system.

Madam Chair, you may recall that a couple of months ago I was invited to testify on the status of today's one-stop centers under the Workforce Investment Act since its adoption in 1998. We are finding from discussions among State administrators a complete linkage and an unqualified necessity to look at the Employment Service as the backbone of today's emerging workforce development sys-

tem. Without adequate funding for the Employment Service, that system is simply crippled and is not performing as effectively as it otherwise could.

This particular compromise program will restore the integrity of that funding and allow us to make the complete linkage of the spectrum of job seekers from those people who are leaving welfare roles to those employees who may be unemployed through no fault of their own and are collecting Unemployment Insurance. A portion of the Employment Service funding will be dedicated to reemployment services so that unemployed workers will be served as well as supplementing the funding available under the Workforce Investment Act or at least leveraging with that funding to insure adequacy of the job connection function which is now important in our emerging one-stop service delivery system.

I guess I would indicate in conclusion, Madam Chair, that this is an anomaly as far as States are concerned, and it is an interesting anomaly. As we look at the funding that is currently available in terms of the taxes paid by employers or employees depending on how you view that, and we look at the amount of money available currently the view I believe that States and many of our States' governors share is that Congress is inequitably impounding those funds for other purposes and under this particular compromise, those funds would be restored and the integrity of the Unemployment Insurance and Employment Service systems would be adequately served.

Thank you for the opportunity of being here and thank you for your continued support.

[The prepared statement follows:]

Statement of Robert C. Gross, President, Interstate Conference of Employment Security Agencies, Inc., and Executive Director, Utah Department of Workforce Services

Madame Chair and Members of the Subcommittee on Human Resources, I am Robert C. Gross, President of the Interstate Conference of Employment Security Agencies (ICESA) and Executive Director of the Utah Department of Workforce Services. Thank you for inviting me to testify today on behalf of ICESA and its 53 State and territorial members. ICESA represents State workforce agencies in general and the Unemployment Insurance (UI) and Employment Service (ES) programs in particular. Virtually all of our State members administer the full array of workforce services; many also administer welfare-to-work programs and some administer other public assistance programs, such as TANF, under the jurisdiction of the Subcommittee on Human Resources.

I want to thank and commend the Chair for scheduling a hearing on the historic comprehensive UI and ES reform package worked out this summer by business, labor, States, and the Federal government. When I last testified on UI and ES reform on February 29, 2000, I thought we had reached an impasse. Employer representatives wanted a repeal of the Federal Unemployment Tax Act (FUTA) 0.2 percent surtax, but could not agree to UI eligibility expansions. Employee representatives could not agree to repeal the FUTA 0.2 percent surtax without including UI eligibility expansions in the package. However, at your urging, we went back to the table and were able to reach an agreement in our workgroup on June 27, 2000. Since then, we have been explaining the agreement to our constituents and others, and gaining support almost daily.

Today, I want to describe the most important components of the reform package from the perspective of ICESA, and then I want to address two major issues.

The ICESA Leadership Supports Fully the UI and ES Reform Package

The ICESA leadership supports fully the comprehensive UI and ES reform package. It is a balanced package that takes into account the interests of business, labor, States, and the Federal government. It reflects the very nature of a compromise. There are elements that each of the parties likes, and there are elements that each

of the parties dislikes. As a whole, however, all of the parties in our workgroup support this package.

The comprehensive UI and ES reform package has four main components:

- Improving administrative funding of UI and employment services.
- Repealing the FUTA 0.2 percent surtax and reducing employer tax filing burden.
- Expanding UI eligibility for low-wage workers, part-time workers, and former welfare recipients.
- Improving certain technical and administrative aspects of the UI program.

Improving Administrative Funding of State UI Programs and Funding of the ES Program

The most important component of this package for State administrators and ICESA is improving administrative funding for UI and funding of employment services.

Administrative Funding of State UI Programs

Improving administrative funding of State UI programs includes:

- Fully funding State administration of State UI programs.
- Enacting a statutory formula based on workload and cost for determining the total amount available to States for administration of State UI programs.
- Distributing funds available to States for UI administration under current law, which delegates to the Secretary of Labor the authority to determine the funds States need for "proper and efficient" administration of UI.

According to preliminary U.S. Department of Labor (USDOL) estimates, the package would provide about $2.52 billion for the administration of State UI programs if it were in effect in fiscal year 2001. This is about $275 million more than the estimated amount under current appropriations levels. This total amount would fund the "proper and efficient" administration of State UI programs as required by the Social Security Act. It also would allow States to reallocate to other State priorities nearly $120 million per year of their own funds they have appropriated to fill the gap between what is needed to administer UI and what is currently provided. Since 1994 when ICESA first began surveying States about their efforts to fill this funding gap, States have spent nearly $600 million on State administration of UI programs. We can only imagine what States could have done with these funds if they had not been forced by Federal under-funding to spend these amounts on administration of State UI programs.

With additional resources to properly and efficiently administer the UI program, States would be able to better serve UI claimants and employers. For example, States could meet the demand for more and better service delivery channels, including telephone call centers and the internet. Additional resources are also needed to rebuild aging Unemployment Insurance information technology systems to ensure the timely determination of eligibility and payment of claims as well as detection of fraudulent claims to preserve the integrity of the system. And, to hasten UI claimants' return to work, States need to expand the worker profiling initiative to better connect unemployed workers to necessary reemployment services.

The statutory formula for determining the total amount available to States for administration of State UI programs would be updated to adjust for under funding of UI workloads and "real" or inflation-adjusted costs since fiscal year 1995. Beyond fiscal year 2000, this revised base amount would be indexed to inflation and projected workload, measured by the number of covered employers and the number of covered workers claiming benefits. As under current law, additional amounts would be available if unemployment rose above projected levels during the year.

The amount available to States for administration of State UI programs would be distributed among the States according to current law. Title III of the Social Security Act delegates the authority to the Secretary of Labor to distribute these funds to States. Further, the Act states the formula must be based on population of the State, an estimate of covered employment in the State, the cost of proper and efficient administration of the State UI law, and "such other factors as the Secretary of Labor finds relevant." In addition, ICESA is forming a workgroup to work with USDOL in the next few months to update the methods the Department uses to execute this authority.

Funding for Employment Services

Improving funding of employment services includes:

- Restoring the purchasing power of ES grants to levels reached in the late 1980s.

• Enacting a statutory formula for determining the total amount available for State ES programs based on the size of the civilian labor force and cost of administration.

• Distributing funds available to States for the ES program based on the current formula in the Wagner-Peyser Act that uses State shares of the civilian labor force and unemployment.

According to preliminary USDOL estimates, restoring the purchasing power of ES grants to levels reached in the late 1980s requires an initial increase of about 40 percent to about $998 million if the package were in effect in fiscal year 2000. This increase is comparable to the increase authorized under the business-State coalition bill (H.R. 3174) introduced by Mr. McCrery last year. These sums would pay for services for employers looking for qualified workers and workers searching for work through the new local one-stop career centers created by the Workforce Investment Act (WIA). In addition, this will allow States to reallocate to other State priorities nearly $140 million per year of their own funds that they have appropriated to fill the gap in what is needed to provide these critical services and what is currently made available. Since 1994, ICESA surveys show States have spent over $1 billion in State funds to provide employment services, labor market information, and other services for employers and workers.

As States have aggressively sought to implement their one-stop employment and career centers, local flexibility adapted to local labor market conditions has been an essential principle. However, as service delivery systems have been retooled, one truth has emerged anywhere you go—the core function of the one-stop system is "job connection." That is, at the very heart of a one-stop center is the ability of an employer to find an individual who is ready for work and can play a productive role in that business.

Only one funding source supports the core function, job connection, and is universal—all customers can access it regardless of income or household size. It is the Wagner-Peyser Employment Service. The Employment Service literally serves as the "heart" of the one-stop employment center. The rest of the one-stop employment center cannot function as an integrated, cohesive whole without the Employment Service functioning properly.

In addition, one-fourth of the increase in funding for employment services, or about $74 million, would be earmarked for reemployment services for UI claimants. State administrators want to assure employers that sufficient amounts will be spent on reemployment of UI claimants in suitable jobs. This would benefit workers by helping them go back to work sooner in good jobs, and it would cut UI costs and employer taxes by reducing UI claims and the average duration of unemployment. The amount available for State ES programs would be distributed by the current formula in the Wagner-Peyser Act. Under this formula, two-thirds of the funds are distributed based on State shares of the total civilian labor force and one-third of the funds is distributed based on State shares of total unemployment.

State officials have been disappointed and baffled by the lack of support in the Nation's capitol for employment services for employers and workers. Outside of the U.S. Capitol and inside State capitols, there is so much support that States have filled part of the resource gap with their own funds. Why has this happened? We asked a few States, and here are some of the answers:

• North Carolina added nearly 20 percent to its Federal grants in fiscal year 1999 to avoid closing local offices in communities across the State. Also, this supplemental State funding allowed the State to fill 130 positions providing job search assistance to workers.

• Iowa imposed an administrative surcharge on employers in the State to avoid closing local offices. These supplemental State funds added nearly 25 percent to the Federal grants in fiscal year 1999, and currently finance 56 of the 71 local offices in Iowa. With this surcharge expiring in June 2001, Iowa faces either extending the surcharge on employers or closing most of the local offices that deliver services to constituents in the State.

• South Carolina added nearly 15 percent to its Federal grants in fiscal year 1999. Employers in South Carolina strongly supported this supplemental State funding as an investment in reemployment services. The South Carolina Employment Commission said these reemployment services would save the State $3 for every $1 spent. The savings was derived from reduced UI benefit duration and taxes paid as a result of new employment.

Repealing the FUTA 0.2 Percent Surtax and Reducing Employer Tax Filing Burden

As I testified in February, the Federal government has collected excessive Federal unemployment taxes for sometime. This package corrects this problem by repealing

the unnecessary FUTA 0.2 percent surtax. The ICESA leadership supports repealing the FUTA 0.2 percent surtax and reducing employer tax filing burden as part of this package.

Expanding Eligibility

The ICESA leadership compromised on one of ICESA's most important principles when it agreed with business, labor, and the Federal government to establish certain Federal mandates expanding UI eligibility as part of the package. ICESA members believe eligibility for State UI programs should be determined in individual State UI laws, not Federal law. However, the ICESA leadership told the workgroup it could agree with Federal UI eligibility expansions if business and labor could agree, and the eligibility expansions were part of a comprehensive reform package that met States' program funding goals. Because the comprehensive package meets States' goals, the ICESA leadership supports the eligibility expansions as part of the package.

Improving Certain Technical and Administrative Aspects of the UI Program

The ICESA leadership supports the technical amendments in this package that improve the operation of the Unemployment Trust Fund specifically and State UI programs generally. Granting State UI programs access to the National Directory of New Hires (NDNH) is an important provision. As I testified in February, this provision will help States reduce UI overpayments to individuals who have not informed the UI program that they have gone back to work and are no longer eligible for UI benefits. I am pleased the House of Representatives passed this provision last year in the "Fathers Count" bill.

Madame Chair, ICESA, its Federal partner, and business and worker representatives are very proud of this proposed comprehensive UI and ES program reform. Please pass this historic reform package this year.

Thank you.

Chairman JOHNSON. Thank you, Mr. Gross.

Mr. Smith?

STATEMENT OF DAVID A. SMITH, DIRECTOR, DEPARTMENT OF PUBLIC POLICY, AMERICAN FEDERATION OF LABOR-CONGRESS OF INDUSTRIAL ORGANIZATIONS

Mr. SMITH. Madam Chair, members of the Subcommittee, I am delighted to be here today representing the AFL–CIO and delighted to be here with Ray and Bob and Chuck to sing the same song. I am reminded at times like this, of a time when I worked on the other side of Capitol Hill. I approached Senator Bumpers one night, he was managing a debate. I asked him how long he thought it would go on and his answer was that he did not know because while everything has been said but not everybody has said it. I am going to try to avoid saying what Ray and Bob have said and simply associate myself with it.

We were here in February and addressing this same subject and I suggested to the Committee that at that point it looked very difficult to come to an agreement. An enormous amount of hard work and, Madam Chairman, a lot of that work occurred, at your urging has gone on since then.

We have reached an agreement, an agreement that actually gives me a chance to use an arcane construct I learned in graduate school and never figured out how to use. Economists talk about pareto optimality. It is that moment where you cannot make anybody better off without making somebody else worse off. I think this agreement fits that description. None of us have achieved everything in this agreement that we came to the table seeking. There

still will be work to do for this Subcommittee, and for all of us, but the agreement carefully balances a set of important objectives. It enhances eligibility. It improves funding. It secures that funding. It allows the Employment Service to do the important job that it has to do both for our members and for Chuck's colleagues. This is an historic deal.

We appreciate your support and look forward to being able to celebrate enactment later this fall. Thank you.

[The prepared statement of follows:]

Statement of David A. Smith, Director, Department of Public Policy, American Federation of Labor-Congress of Industrial Organizations

On behalf of the American Federation of Labor-Congress of Industrial Organizations, (AFL–CIO), I want to thank you for holding this hearing to discuss the historic agreement between labor, business, State governments and the Department of Labor (DOL) that we all believe will result in dramatic reforms to the Unemployment Insurance (UI) and Employment Services (ES). It is a carefully balanced approach that will make many more workers eligible for UI benefits at a vulnerable economic time in their lives, and provide all workers facing unemployment with services that will help them get back to work sooner at good jobs. I am especially pleased to be here with colleagues from all of the stakeholder groups whose hard work over many years made this agreement possible.

You will remember on February 29, 2000, I along with my colleagues representing the States and business frankly testified that despite the tremendous need for comprehensive UI/ES reform legislation, we had been unable to reach a consensus. Ultimately, however, the recognition of each of us that this opportunity may not present itself again in the near future has brought us to a place where key goals were achieved and modest concessions made resulting in the proposal we discuss today.

Even during this period of relatively good economic health the Federal-State partnership that is the basis of UI and ES does not adequately addresses the needs of unemployed workers or employers seeking new workers. Although worker advocates did not achieve all of the changes to the UI/ES program that we believe are necessary to serve workers well in the new economy, the eligibility enhancements are significant advancements, especially when coupled with administrative funding to provide "proper and efficient" services to those workers. On balance this is a strong package and puts the program on a strong footing for the next century.

Worker advocates have long fought for changes in the UI/ES system that would make more workers, especially low wage workers, eligible for UI benefits, and for adequate funding for ES programs to provide services to those workers to help them get back to work as soon as possible. Because the package before us takes significant steps towards meeting those goals, the AFL–CIO strongly supports the proposal and urges Congress to move the bill in its entirety before the current session ends.

Eligibility Expansion

The proposal includes three significant expansions of worker eligibility: Using a worker's most recent wages to determine eligibility; coverage of part-time workers seeking part-time work; and reforms that make the Extended Benefit (EB) program more responsive to economic downturns. These three eligibility enhancements will provide economic stability for low-wage workers, their families and communities, and also provide a bridge to re-employment services to help workers find a new job.

For far too long, many U.S. workers has been denied eligibility for UI benefits despite the fact that they have a strong attachment to the workforce. As wages have fallen and work patterns became increasingly irregular, the old monetary requirements for UI benefits no longer accurately reflect a worker's commitment to work. The most significant bar to UI eligibility is the failure of many States to use wage and employment information from the most recently completed quarter of worker, instead counting the first four of the last five quarters worked, to determine minimum monetary eligibility. This method discounts a worker's most recent wages, which is usually the period when workers make the most money. With only 11 States using the most recent earnings to calculate eligibility, more workers are denied eligibility for UI benefits for this reason than any other criteria. The comprehensive proposal makes it a conformity requirement for States to use the most recent wages to calculate monetary eligibility when a worker fails to qualify under an alternative calculation. DOL will provide administrative funding for the cost of

technology changes making it easier for employers to report and State agencies to post accurate wage and employment information. Some 6 percent of the unemployed , estimated by DOL at 320,000 workers annually, will become eligible for UI benefits because of this provision.

In the recent publication *The State of Working America, 2000–2001*, the Economic Policy Institute reports that 17 percent of all workers were employed on a part-time basis in 1999, including 3.3 million who wanted full-time work but could not find it. Currently, most State eligibility standards do not reflect this working relationship. The prohibition against part-time worker eligibility in most States has had a dramatically detrimental effect on the eligibility of women, who comprise 68 percent of all part-time workers. Only 13 States currently pay benefits to part-time workers seeking part-time work, even though in many instances, workers are confined to part-time work not by choice, but by the dictate of employers or dependent care obligations. The comprehensive reform proposal would require all States to pay UI benefits to part-time workers seeking suitable and comparable part-time work who are otherwise eligible for benefits. DOL estimates that 260,000 workers currently ineligible under State UI programs would be eligible for benefits under this provision.

The proposal addresses the trigger for the Extended Benefit (EB) program prior to a recession by adjusting the EB trigger to better reflect economic downturns. Moving the EB trigger to 4 percent of a State's Insured Unemployment Rate will enable 730,000 additional workers to receive EB under's situation similar to the last recession, while also streamlining eligibility requirements to mirror those in the standard UI program. The last time Congress attempted to provide a temporary fix of the EB trigger during the middle of the recession, additional benefits were paid in all States, some of which were not facing as severe an economic situation as others. This band-aid approach was far more expensive than fine tuning the EB trigger to target funds to States hardest hit during a recession.

States will not have to raise employer taxes or raid other State funds to pay for these eligibility enhancements. The proposal uses the funds from a special Reed Act distribution to offset the cost of the eligibility enhancements during the first 5 years of the proposal.

Administrative Finance Reform

The first item in the proposal that was unanimously agreed upon by all the parties was the decision to move UI/ES administrative funding to the mandatory side of the budget. The longstanding bargain that was struck by those who proposed the UI/ES system years ago was meant to ensure that workers would receive the help they needed to find jobs as quickly as possible in order to minimize benefit costs and pressure on employer taxes has been compromised by severe under funding. To equal the FY 85 appropriation adjusted for inflation, FY 99 spending would have to be over $1.2 billion. ES staffing levels have dropped more than 50 percent. During the same period that the civilian labor force grew by approximately 20 percent. UI as well as ES funding has been flat for the last 5 years. This inadequate level of funding has destabilized State infrastructures and compromise service quality. As highly trained ES staff have been laid-off, States have closed offices, and adopted methods of service where UI claimants often never speak directly to an ES worker during the entire time they are eligible for UI benefits and service. In person assistance for job seekers has declined substantially—replaced by automated systems, which may usefully augment certain services, but are hardly a substitute for personal assistance for unemployed workers.

Expansion of UI eligibility to hundreds of thousands of workers will not be meaningful unless it is accompanied by full funding for UI and ES programs. This is especially important to those hundreds of thousands of newly eligible workers who can serve as a ready trained and available source of workers for employers with openings to fill. The proposal uses a formula for distribution of administrative funding that is based on workload, which will result in States that provide good, comprehensive services to workers receiving additional funds to support their work. The AFL–CIO supports increased resources for the employment service to rebuild the system because we recognize the importance of these services to business and to the workers who want and need more effective help finding new employment.

The remainder of the package includes provisions that either the AFL–CIO has either been noncommittal about in the past (such as technical amendments allowing States to access the Directory of New Hires to track UI claimants), or even opposed, such as repeal of the .02 percent employer surtax. These provisions would not be supported individually, or in a different package. However, because the proposal includes significant advancements in worker eligibility and administrative financing, the AFL–CIO is fully supportive of this proposal in its entirety.

Again, the AFL–CIO strongly States its support for the comprehensive UI/ES reform proposal, and we look forward to working with the Subcommittee towards passage and implementation of reforms that are essential to U.S. workers.

Chairman JOHNSON. Thank you, Mr. Smith.
Mr. Yarbrough?

STATEMENT OF CHUCK YARBROUGH, CHAIRMAN, BOARD OF DIRECTORS, UWC-STRATEGIC SERVICES ON UNEMPLOYMENT & WORKERS' COMPENSATION, AND DIVISION PERSONNEL MANAGER, TYSON FOODS, INC., SPRINGDALE, ARKANSAS

Mr. YARBROUGH. Thank you. Good morning. It is certainly exciting to be here today and this is a privilege to be back before this Committee.

Madam Chairman and members of the Committee, my name is Chuck Yarbrough. I am Division Human Resource Manager for Tyson Foods. I am testifying today on behalf of UWC which is Strategic Services of Unemployment and Workers' Compensation. I am proud to serve as Chairman of the UWC Board, which was founded in 1933 and is the only business organization specializing exclusively in public policy advocacy on national Unemployment Insurance and Employment Services.

I am a 25-year user of the system. I think it is extremely important to realize that the unemployment and Employment Services that are out there are definitely needed in this day and time for the war on workers, trying to get folks in to work and trying to work. And using this agency and using the services is what a lot of us that are Federal contract employers must do and want to do. And so we are excited about the opportunity.

I will tell you that when we came together in a meeting after your urging for us to get back together we had to check a few egos at the door. We had to leave a few agenda items outside and as I said we were loosely holding hands. And today I think we basically got our arms almost on each other's shoulder marching forward trying to come to you seeking reform.

I do have some I guess history as far as using. I have served as the National Employers Council representative of Region VI working with the Secretary, Department of Labor of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas and feel like as a user of the system and hopefully, as Chairman of UWC, will say that after coming to the last hearing we realized that maybe we were the ones that needed to extend out and ask for us to sit back down at the table together.

And with a lot of encouragement and a lot of support by Grace and Bob and other folks where we actually sat down and I think hammered out an excellent agreement. It is something that we feel like that we can support as a group. I would like to begin by reviewing the development and say that when we sat down together as UWC, DOL, ICESA and organized labor we knew we had to come to an agreement.

Time is short. This is the opportunity that we need to move forward. This is the time to fix it because it is really not at a point

in time that unemployment is such a high level that we are using the dollars. This is time to really take a good hard look at it and dissect the problem. Unfortunately, the current system is not working effectively. Workers are underserved, employers are over-taxed and we are only getting about 50 percent, whichever side you want to look at that, of the dollars returned that are paid up here.

Because of the chronic underfunding of the agencies, we are in the midst of a labor work shortage, collecting more weeks of unemployment benefits at employer expense. The States are reaching into their own general revenues, employer pockets or levying add-on taxes and making up the shortfall for FUTA fund.

The good news is we have a chance and historic opportunity to enact a joint comprehensive UI reform package and therefore improve the efficiency and streamline the system. Now, for jobless workers reducing taxes on employers and alleviating the financial pinch on State administrators. And that is what we call a win-win-win situation around this table.

A couple of things that this does is, of course, eliminates the 0.2 percent FUTA tax, 1.6 billion savings for a year to employers. It improves the UI/ES funding. If we do not get this turned around, my State alone I know is asking for additional taxes and additional money to provide the funding. We are looking at a lay-off of full-time, permanent people working in the agency just to be able to afford cost of living increases. That is sad. My particular company because of a lack of funding, we have actually written checks for rent to keep the Employment Services open in the State of Texas and east Texas just so we had a local office that could provide the Employment Service to our company as well as many others in that small community.

Finally, on top of paying higher taxes many employers have been forced to expend additional resources of Employment Service that they have already paid for through FUTA but have not received. Lots of employers have opened up Employment Services with their own money. You cannot drive up and down Main Street, America, finding help wanted signs everywhere but yet the Employment Service, the place where we should be sending people, the cornerstone of the one-stop is definitely underfunded.

The ES partnership and one-stop will insure employers' input in decisions about using additional ES fund and increased ES funding will also aid in implementing the Workforce Investment Act. We will see Reed Act distributions back to normal. We will see dedicated funding for reemployment services strictly for UI claimants to help them get back to work sooner, increased access to the National New Hire database. We feel like that will definitely help prevent some fraud. Reduce tax complication costs. And the joint comprehensive ES/UI reform package also contains UI benefits expansion, previously opposed to in this package but we believe they are acceptable as part of this comprehensive package.

My grandfather reminded me do not forget where you come from and in my career in human resources we have used the Employment Service. And I am here today to tell you that we need to continue to use those services and we need proper funding to help those people do what they do best and that is serve as a labor exchange for those people seeking.

Thank you very much for the opportunity to be here today.
[The statement of Mr. Yarbrough follows:]

Statement of Chuck Yarbrough, Chairman, Board of Directors, UWC-Strategic Services on Unemployment & Workers' Compensation, and Division Personnel Manager, Tyson Foods, Inc., Springdale, Arkansas

Good morning, Madam Chairman and members of the committee. My name is Chuck Yarbrough, and I am Division Personnel Manager for Tyson Foods, Inc., the nation's leading producer, processor and marketer of poultry and poultry based food products, as well as other convenience food products.

I am testifying on behalf of UWC—Strategic Services on Unemployment & Workers' Compensation. I am proud to serve as the Chairman of the UWC Board of Directors. UWC, which was founded in 1933, is the only business organization specializing exclusively in public policy advocacy on national Unemployment Insurance and employment services (UI/ES) and workers' compensation issues. UWC is intimately acquainted with UI laws; our research arm, the National Foundation for Unemployment Compensation & Workers' Compensation, publishes numerous materials on UI, including the annual Highlights of State Unemployment Compensation Laws. In addition to UWC, I have extensive experience with UI/ES issues through the National Employers Council (NEC). I served as NEC's elected representative for employers in the Department of Labor's Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas). In this capacity, I represented employers before the Department of Labor (DOL) and State employment security (ES) administrators.

UWC supports a strong UI/ES program through which employers provide fair and affordable insurance benefits for a temporary period of time to workers with a strong attachment to work who are temporarily and involuntarily jobless when suitable work is no longer available. UWC believes that a sound UI program is best embodied through the State UI/ES system, with a limited Federal role where uniformity of State law is considered essential.

UWC has a long history as the voice of business on UI/ES reform. UWC led the Coalition for Employment Security Financing Reform, a coalition of more than 100 business organizations and 32 States who supported H.R. 3174, the Employment Security Financing Reform Act, introduced by Rep. Jim McCrery with 35 bipartisan co-sponsors.

I would like to begin by reviewing developments on UI reform subsequent to the hearing in this Subcommittee on February 29, 2000. As you will recall, at the hearing Chairman Johnson urged that all interested parties—business, States, labor unions and DOL—come together on one proposal. Late last spring, when it became clear that H.R. 3174 would not move forward this year, UWC approached DOL and requested that we meet in order to craft a compromise on UI reform. A workgroup consisting of representatives from UWC, DOL, ICESA and organized labor convened in May. After intense discussions, the work group reached consensus on a package of comprehensive UI and ES reforms. Subsequently, UWC's UI Committee and Board of Directors actively debated the package and voted to support it.

UWC believes that the swift enactment of the joint comprehensive UI reform proposal is essential to strengthen the Federal-State (UI/ES) system and the workers and employers whom it is designed to serve. The comprehensive UI reform proposal will improve the method by which Federal Unemployment Tax Act (FUTA) taxes are collected and funds are provided to administer the State UI and ES programs. This proposal will fix serious problems with the State UI and ES system resulting from the Federal government's failure to provide adequate funding, and it will also provide funds needed to implement the Workforce Investment Act.

Unfortunately, the present UI/ES system is not working effectively. Workers are under-served, employers are over-taxed, and State UI/ES agencies are under-funded. Under the current system the Federal government collects 100 percent of (FUTA) receipts but returns only 50 percent to the States.

Because of the chronic under-funding of UI/ES agencies, workers in the midst of a labor shortage are collecting more weeks of unemployment benefits—at employer expense—and States are reaching into their own general revenues—and employer pockets—by levying add-on taxes to make up for the shortfall in FUTA funds coming back to the States.

The good news is that we now have at hand a historic opportunity to enact H.R. 3174 the joint comprehensive UI reform package and thereby improve efficiency and streamline the system by funding UI/ES administrative costs. This funding is necessary to improve services for jobless workers, reduce taxes on employers, and alleviate the financial pinch on State administrators. Now that's what I'd call a "win-win-win" situation.

Under the joint comprehensive UI/ES reform package, the 0.2 percent FUTA surtax will expire at the end of this year rather than the year 2007. UI/ES funding will be moved to the mandatory side of the budget, and statutory funding formulas will be used to determine the national total amount available each year. The formulas will reflect workload, and funding levels will be adjusted for inflation. These formulas, in conjunction with the fiscal controls currently utilized by State UI/ES agencies, will ensure increased accountability for the funding given to the States.

In addition, FUTA and State unemployment taxes will be payable no more often than quarterly, and the FUTA tax form will be simplified. This approach will reduce unnecessary paperwork.

Specific advantages to employers in of H.R. 3174the joint comprehensive UI/ES reform proposal are as follows:

Elimination of 0.2 Percent FUTA Surtax

Employers will save $14 per worker per year, starting in 2001. Aggregate savings will be $1.6 billion or more per year (a total of $12.8 billion through calendar year 2007). Under current law, the Federal Unemployment Tax Act (FUTA) rate is 0.8 percent. This rate is 25 percent too high as the result of a 0.2 percent "temporary" surtax which is no longer needed and which is now being collected only because inclusion of FUTA surpluses in the unified Federal budget allows the Federal government to meet budget targets for other spending programs. Federal law expressly limits the use of FUTA funds to UI/ES functions spelled out by statute. The practice of counting FUTA funds for spending on other programs, leaving only an IOU and an accounting entry behind, is contrary to the very reason why Congress placed these funds in the Unemployment Trust Fund in the first place. In effect, the budget rules allow the misuse of FUTA funds for purposes unrelated to the UI/ES system.

Congress originally imposed the 0.2 percent FUTA surtax in 1976 to pay for a temporary Federal program of supplemental benefits for workers who had exhausted the 6 months of regular State UI and the 3 month extension under the permanent Extended Benefits (EB) program. Although we believe the supplemental extension should never have been an employer obligation in the first place, the deficit created by this program was retired in 1987, yet the surtax has been extended until 2007.

Improved UI/ES Administrative Funding

To serve its customers effectively, UI/ES agencies must be efficiently administered. In recent years, this goal has been frustrated. Employers pay more than enough in FUTA taxes to provide proper funding. FUTA revenue is legally dedicated to funding the operations of State UI/ES administrative agencies and paying for 50 percent of the permanent EB program. Nevertheless, in practice the budget laws and the appropriations process force State UI/ES administration to compete for funding against other programs that are funded from general revenues. As a result, appropriations for State UI agencies have been severely inadequate, leading to a reduction in services for workers and employers. Failure to provide adequate UI/ES funding, in turn, results in indirect State tax increases.

As a business organization, UWC understands the importance of balancing the Federal budget, but the budget rules are fatally flawed as applied to UI/ES financing, creating unintended adverse consequences. The inadequate Federal grants have directly increased the State tax burden on employers—and Federal budget outlays—in several ways. Employers have been required to pay a second, third, and fourth time—quadruple taxation. This indirect taxation comes about partly because the average UI claim duration is longer (and thus benefit costs are higher) than necessary.

For example, inadequate funding to combat fraud and abuse and provide reemployment services also adds to results in workers collecting additional weeks of UI benefits. DOL estimates that UI claims on average now last 2 weeks longer than expected in this tight labor market.

Another indirect tax arises because many States have been forced to dip into their own general revenues or impose new add-on payroll taxes on employers—above and beyond the State tax used to finance UI benefits—to make up some of the shortfall in FUTA funding from Washington. As ICESA has reported, since 1994, States have spent more than $1.6 billion of their general revenue. Most of the resulting additional tax burden falls on employers.

Finally, on top of paying higher State taxes, many employers are forced to expend additional resources for employment services they paid for through FUTA but did not receive because States have been forced to close offices and eliminate employment counselors and other services. For example, Tyson Foods has actually paid the rent to keep the local employment service office open in Carthage, Texas.

The joint comprehensive UI reform package begins will correct this situation. UI/ES funding will be moved to the mandatory side of the Federal budget, and statutory funding formulas will be used to determine the amount of funding. The first year the formulas are implemented (estimated to be fiscal year 2002), funding will increase by approximately $450 million for UI and $240 million for ES. The increased funding will reduce or eliminate the need for separate add-on State taxes for administration. Dedicating part of ES resources to UI claimants will reduce UI claim duration by getting unemployed workers employed sooner. If average duration is reduced by one week, annual savings are approximately $1.5 billion at current unemployment rates. Increased funding for ES will provide additional services to employers, UI claimants and others in the labor market. Increased funding for UI will increase accuracy and quality of UI benefit payments, which will result in fewer under/overpayments. Increased funding for UI administration will also increase "integrity" activities—e.g., periodic eligibility reviews of claimant work search activities and benefit payment control activities, which in turn will help claimants make realistic assessments of what they need to do to return to work. ES partnership in One-Stops will ensure employer input into decisions about use of additional ES funds. The increased ES funding will also aid in implementing the Workforce Investment Act.

Reed Act Distribution Returns to Normal

The joint comprehensive UI/ES reform package returns about $5 billion in excess FUTA dollars to State UI trust funds from 2002 to 2007. These funds will reduce the State UI payroll tax burden and provide additional funds for improved administration. When the FUTA accounts are all at their statutory maximum, as they are today and into the foreseeable future, a law known as the "Reed Act" requires any surplus to be distributed into the State UI benefits accounts. However, instead of making this disbursement, under current law the Reed Act distribution has been limited to $100 million a year. Consequently FUTA funds are building up despite the statutory ceilings.

Dedicated Funding for Re-employment Services for UI Claimants

The comprehensive UI/ES reform proposals provides approximately $74 million dedicated for re-employment services for UI claimants. Employers believe this provision is a very important piece of the proposal, as it will aid in getting UI claimants—who traditionally are often the last to receive re-employment services—back to work sooner.

Increased Access to National New Hire Database

Consistent with similar provisions in the Fathers Count Act (H.R. 3073) introduced by Chairman Nancy Johnson, State UI/ES agencies will have multistate access to the National Directory of New Hires. This proposal provides a powerful new tool for States to prevent, detect and recover overpayment of UI benefits to workers who have returned to work, at no additional burden to employers.

Reduced Tax Compliance Costs

The FUTA tax is not only too high, but compliance is needlessly complex and burdensome. The joint comprehensive UI/ES reform package will reduce the complexity and burden by 1) prohibiting collection of FUTA or State UI taxes more often than quarterly; 2) simplifying the complex FUTA tax form without affecting the amount of tax or changing the definitions of wages and employment; and 3) enabling the Federal government and States to share information which will remove an impediment to allowing employers to file combined Federal and State wage reports.

The joint comprehensive UI/ES reform package also contains UI benefit expansions. UWC previously opposed these expansions, but believes that they are acceptable as part of this comprehensive reform package. The benefit expansions have been crafted in a way that minimizes the burden on employers. The specific benefit expansions and their impact on employers are as follows:

Federal Extended Benefits (EB) Requirements

The joint comprehensive UI/ES reform package will repeal special eligibility requirements for EB claimants. It allows States to establish and use their own eligibility requirements instead.

The joint comprehensive UI/ES reform package will also restore the standard State EB "trigger used until 1981. It does not change the other optional triggers or use the Total Unemployment Rate (TUR), which would be opposed by employers.

Use of More Recent Wages

In most States, workers who are otherwise eligible may be denied UI benefits simply because earnings reported by the employees are too recent and have not been entered into the automated data systems used by State agencies. The joint comprehensive UI/ES reform package responds to this administrative problem and improves the fairness perception for these workers who must wait a quarter to receive benefits. As crafted, the provision will not impose an additional administrative burden on employers. Moreover it will not require States or employers to use affidavits or wage requests unlike many "alternative base period" (ABP) proposals. It gives States more latitude, as it does not dictate a specific ABP or procedures. It does not change frequency or deadlines for reports. Nor does it change benefit calculations. To assist in covering the cost of system modifications necessary to effectuate this provision, the joint comprehensive UI/ES reform package gives "technology grants" to States.

UI Benefits for Part-Time Workers

The joint comprehensive UI/ES reform package will require States to pay UI benefits to otherwise eligible unemployed workers who (1) have met monetary eligibility requirements on the basis of their part time work and (2) are seeking and available for suitable and comparable part time work. The purpose of this provision is to eliminate the disqualification of a part time worker solely for being unavailable for full time work.

UWC believes the benefit expansions have been drafted to minimize Federal intrusion in areas traditionally and appropriately the province of the States. Funding adjustments in the package will provide financing to States, to ensure no State will need to raise UI taxes in the near future to cover the costs of these benefit expansions.

CONCLUSION

Employers, who finance the UI program through Federal and State payroll taxes, regard UI as an integral part of the array of the employee benefits they provide. Because employers pay for UI, UI costs are a part of business overhead. UWC believes it is important to keep UI costs as low as possible consistent with its basic goals: prompt return to suitable work by workers with a strong work attachment who lose their jobs through no fault of their own, as the result of action taken by their employer in managing its workforce. By design, UI allows such workers to collect benefits partially replacing wages during short-term unemployment, while they are able to work and are actively seeking suitable full-time employment. How much work constitutes "attachment," what percentage of lost income is sufficient "partial wage replacement," how long is "short-term," what makes unemployment "involuntary," and which work is "suitable," are all key issues that bear on the cost of the program to employers. We believe these questions are best resolved by each State under its own UI statute, in light of its own needs and economic circumstances.

UWC advocates responsible funding for the UI system and opposes over-taxation. Payroll taxes for UI should be at the minimum level necessary to provide the protections promised, because unnecessary taxes harm corporate competitiveness in the United States. It is especially important for the counter-cyclical UI program to be mindful of this principle, because benefit improvements instituted during periods of low unemployment could create damaging cost increases when the economic cycle turns, as it eventually will.

UWC supports a strong UI/ES system and the concept of a Federal-State partnership, under which the UI system has been a general success. However, the present UI/ES system is not working effectively. The Federal budget process as now applied to FUTA taxes and UI/ES administrative funding is detrimental to a sound, efficiently administered program. The joint comprehensive UI/ES reform package was developed with these concerns in mind. It is the most expedient and workable way to fix some of the most significant problems facing the UI/ES system.

Today the UI program is not perceived to be in a "crisis" mode. Consequently, this is the most propitious time to institute meaningful reforms that can improve service for jobless workers, save money for the Federal government, free resources for the States, and reduce the tax burden on employers. I therefore urge that you actively work to enact the joint comprehensive UI/ES reform proposal on a bipartisan basis. It is sound public and fiscal policy, and we respectfully urge you to support and actively work for its speedy enactment.

Chairman JOHNSON. I thank the panel very much for their comments and congratulate you on your hard work. Honestly, in February it did not look possible and I am very pleased to have you back here with a proposal that you agree on. Personally, I want to see our job service become not just a job placement bureau but an arm of government capable of helping people develop their careers. So it is not just a job but the next job and the next job and linking an advisory capacity that enables people to link training and career development.

So I do consider this a very important initiative but I do also consider it a first step. As one also who really deeply believes in the importance of parents being home with their children, I think we as a Nation have to do a much better job supporting part-time work. And for a part-timer to be compelled to be available for work full-time because their part-time job is eliminated is really a disservice not only to that person but to the concept of raising strong children.

So I think both the part-time compensation aspect of this proposal and the new links that it will provide to our Workforce Investment Act and welfare reform are extremely important. Although I think the latter links may not be adequate.

There are a couple of questions that I want to pursue and then I am going to turn it over. I am trying to keep each of us to five minutes in questioning so we will get through everybody that is here at least once. I do have a deadline but I can let others go on after that.

But very briefly, first of all, very shortly in terms of the business community do you have letters of endorsement of this proposal from, for instance, small business organizations, the chamber, other business organizations?

Mr. YARBROUGH. UWC is a recognized authority on Unemployment Insurance and a lot of the companies have asked us to carry this ball for them. So as far as actual letters, we have educated those people and currently have no opposition that I am aware of. A lot of questions about expansions and things of that nature but everybody realizes it is a comprehensive package.

Chairman JOHNSON. We will need to plumb that.

Mr. YARBROUGH. Yes.

Chairman JOHNSON. On the same line, Mr. Smith, have you had any contact with the non-union workers segment in terms of their interest in this proposal?

Mr. SMITH. I think, Madam Chair, all workers were represented on the stakeholder group, colleagues representing workers in general participated in the development of the compromise. We have not had any contact with unorganized workers because it is hard to do that. But I cannot imagine that the show of support that you have gotten from women's organizations, from organized labor, and from both users of the system and beneficiaries of the system do not speak very broadly for the amount of support out here.

Chairman JOHNSON. We do need to plumb that issue, both those matters. Mr. Uhalde, does the Administration have any views on moving this funding from discretionary to mandatory?

Mr. UHALDE. The Administration supports moving it from the discretionary side, out from under the discretionary caps, to the mandatory side, but wants to do it in a manner where budget review and accountability are maintained. So the details of the how to do that, to determine those mechanisms, are to be worked out.

Chairman JOHNSON. So they do have some refinements that they would like to see in that section of the bill?

Mr. UHALDE. Yes.

Chairman JOHNSON. Have those been shared with the other members of the working group?

Mr. UHALDE. We have spoken verbally. We have nothing in writing at this time, but that is something to be worked out.

Chairman JOHNSON. At this point in the session I would advise you to get things in writing.

Mr. UHALDE. We are working very hard, but it is a historic move to get the Administration to move in this direction.

Chairman JOHNSON. Yes, I appreciate that. There are a couple of bigger issues I want to raise. There are some industries that are using the Unemployment Compensation system as back-up income for laid off workers whom they will need to rehire and we know that. Could these companies incur any extra costs for taking advantage of the system for this purpose as opposed to other employers who really take advantage of it only when they have to layoff permanently?

In other words, there are companies who use this for seasonal income for employees that they actually do not want rehired by other people. And we know that. We know that these companies sometimes send out clear messages to the Employment Service not to place their employees in other jobs because they really want them back.

Now I am not saying this is illegitimate. First of all, there are a lot of family needs that lead people to be more comfortable and be more capable of handling seasonal work but I wonder whether in thinking this through you have thought through any greater obligation of an employer who wants to use the system that way than the employer who does not want to use the system that way?

Mr. YARBROUGH. Madam Chairman, there are other programs like shared work programs where folks might be having a retooling of a plant or redoing something new inside their facility and they do not want to lose that core worker and, therefore, they allow that person to draw out of their unemployment account while they are off, while that tooling change is being made or for short turn downs.

The point is that all of those dollars are charged to that employer's account. His experience rating and all of his taxes that he pays are based upon that. So anyone that uses the system in the means, methods in which you are describing, their experience ratings are greatly impacted and affected on how many more dollars——

Chairman JOHNSON. I do appreciate that, Mr. Yarbrough. Sorry to cut you off but I want to stay to my five minutes too. I do appreciate the experience rating and how that affects employers who do that. Nonetheless, where there is a pattern of seasonal use have you had any discussion about whether or not the experience rating actually ought to be upped for those employers who repeatedly year

after year have a certain pattern of lay-off and reemployment? The answer to that I assume is no so let us go on. But I think this is a significant issue and I just wanted to raise it.

Another significant issue that I want to be sure to raise, there are several others but I will not have time to raise them all, is one of the problems with the current unemployment system is that it is very different from a number of our other systems in the sense that you actually have the right to receive unemployment for a certain number of weeks. And while there are requirements that you must be available to work and demonstrate that you are looking for work, we all know that those requirements can be met artificially.

So if we are going to open the program to part-time workers and move into an age in which everyone's skills are going to have to grow, have you given any thought to an obligation for unemployed people to participate in any kind of job training until they do find a job? In other words, is the old system of yes, you can draw unemployment and do nothing really in anyone's interest anymore? Or if you are not able to find another job or if there is not a job at your pay level, is there any obligation to participate in education programs or training programs?

And have you made any improvement in this bill in enforcing our ability to implement the availability to work requirements? They are going to be harder to implement when we include part-timers. So what thought did you give to how we oversee availability of work requirements? How have you thought about that time of unemployment in the context of all workers' needs for employment improvement?

Now, go back to the seasonal worker and if those seasonal workers had an opportunity to receive unemployment benefits while receiving training they may not go back to that seasonal job. They might go to a higher paying job—or a higher paying part-time job. Did you try to address this issue of implementing the availability for work requirements and linking that to skill development?

Mr. UHALDE. Madam Chairman, this was a central feature of the conversation and the proposal addresses that. There is a provision for worker profiling and reemployment services which requires that workers as they apply for Unemployment Insurance are profiled and determined whether or not they are likely to exhaust their benefits and whether they will, therefore, need reemployment services in order to avoid that.

Currently, about 2.2 million workers or claimants are judged in need of reemployment services based on this profiling. And the problem is the funding for reemployment services has been able to take care of about a third of those workers. This proposal in addressing the reemployment services would make sure that the large majority of those workers who are profiled, essentially identified ahead of time as likely to exhaust and needing assistance, will be able to get the services.

Chairman JOHNSON. Yes. Thank you very much. That is very helpful. My time has run out. I have also been told by the staff that the lights were not done properly so I really am overtime. So we will come back to this issue of profiling and how it could perhaps be better employed. Mr. Cardin?

Mr. CARDIN. Thank you, Madam Chair. And let me join with you in offering my congratulations to those that are at the table, the stakeholders not only for your testimony today, which I found very helpful, but for the hard work that you did in bringing consensus in this area.

UI has been an area that historically has been very difficult to reach agreement between the different stakeholders. So we congratulate you on that. And we have a rather large attendance of our Subcommittee here which I think speaks well to this issue. There is a lot of interest. And I hope that we can get this package moving, but it is a package and I would just urge you in dealing with your constituencies to make it very clear that this package comes together as a package and if you start fooling around with any of the different parts, there will be no opportunity to enact legislation this year.

I particularly just want to make one observation as to the people that are affected, and I agree with Mr. Smith that all workers are going to be benefitted by this recommendation, but particularly women who make up a larger percentage of the part-time workers, and the lower wage workers. I think this proposal is going to be particularly beneficial to them, and I think we should acknowledge that.

I want to deal with one part of the proposal. The package deals with administrative costs. It deals with removable barriers and reimbursing the States for the cost of those removable barriers and the permanent removal of the 0.2 percent surtax. But on the changing from the discretionary to mandatory spending there seems to be broad consensus that we do not want it subject to the budget caps. I am somewhat concerned by what you mean by budgetary review and the purpose for budgetary review.

I think all of us agree that Congress needs to oversight whether the formula is correct and whether the dollar amounts are correct for reimbursing the States or the administrative costs of the programs. I am not exactly sure what benefit, other than perhaps the internal politics of this institution would be served by subjecting this to an annual appropriation review. And I would just appreciate your thoughts as to what is meant by adequate budgetary review. If you are referring to review by Congress on oversighting the formula, you have my complete understanding and support, but if you are talking about subjecting the States to some form of an annual appropriation, I would like to be convinced as to why that is necessary.

Mr. UHALDE. Mr. Cardin, I do not have the details of that. As I told Madam Chair, I do not have the language to provide but there is an interest beyond establishing one time the formula, interest in making sure and having some ability for the Congress to be able to review whether those funds are appropriate and adequate for purposes and whether there are other special needs. For example, are there special technology needs that need to be funded additionally and so forth. The important feature of the Administration's commitment is that we need to get them out from under the caps. We need to adequately fund the system which we acknowledge has not been done either on UI or the Employment Services for a number of years.

Mr. CARDIN. We are in agreement on that. We are in agreement. I guess my concern is that we do not set up a system that subjects the States to unnecessary Congressional politics unrelated to the performance of the UI administrative system.

Mr. UHALDE. I do not believe that is the intention at all. There will be an extensive review, as currently exists between the department and the States, of the expenditures as we release monies on a quarterly basis to States and whether they need additional funds. And that process about proper expenditure will continue.

Mr. CARDIN. We will come back to that because I am very concerned that we do not overdo and make this too bureaucratic on how these funds are going to end up being released.

The second point I would raise, and just get anyone's thoughts on this as to whether there was any thought given by the stakeholders. There is a system to reimburse the States for the cost of removing these barriers by reducing the Federal cap and then getting those funds back to the States. I take it in some cases States would then have monies freed up or in some cases we might be reimbursing more than the cost. Was there any thought given that the States should have some expectation of using these funds in this area to improve the solvency of their UI systems?

Mr. UHALDE. I will also let some of the others discuss this. It is true that some of the benefit extensions already exist in some States. So in the reduction of the cap on the FUA account and the distribution back to the States, some of those States may be able to use that money to improve their solvency. But I cannot say that there was a requirement as to how beyond the benefit extensions the funds would be used. Maybe some of my colleagues would know.

Mr. GROSS. I might respond, Mr. Cardin, that the interest of the States as you might imagine do vary on this. And the States as Mr. Uhalde suggested are in various kinds of condition in terms of the adequacy of their funding in particular area.

In attempting to represent the States, and there were a number of us at the table that attempted to do so, we tried to take in the divergence of opinions and needs of the States as part of forging this compromise. I would suggest to you that I think some of your assumptions are correct. But as I indicated in my verbal testimony where one State may benefit, for example, from the provisions of Unemployment Insurance administrative funding additions in the area of technology another State may use those funds for something else.

Mr. CARDIN. But the States are going to have extra revenues and they have a problem on solvency on their funds currently. It would be useful if some of that money was used to improve solvency; wouldn't it?

Mr. GROSS. Yes. But there is nothing in the recommendations to deal with that. A considerable amount of discussion took place and there was I think a tacit understanding that, again, those questions in the attempt and spirit of attempting to reach a compromise there were some issues, while they were discussed, they were essentially taken off the table for purposes of this compromise with the tacit understanding that the general framework and structure of the system would remain intact in terms of State authority.

Mr. CARDIN. It would seem to me something should be in the legislation to at least raise the expectation that States that are getting extra resources then have problems of solvency should be working to improve their solvencies. Thank you, Madam Chair.

Chairman JOHNSON. Thank you. Mr. McCrery?

Mr. MCCRERY. Well, here we are again. And I have to say I like my proposal better but I do congratulate all the participants in this effort in getting together what appears to be a reasonable proposal, although there are some questions I think that need to be answered.

One, Mr. Smith, let me start with you. I would like to know what you did not get in this? You said that if anybody gets anything else, the whole thing falls apart. Can you list for me some things that you would like to have that you did not get?

Mr. SMITH. Sure. Some of the things that were on our list, Mr. McCrery, and still are frankly, mandatory solvency standards for State funds. We would like to see the taxable wage base raised. We would like to see UI benefits available more generally for circumstances where an employee leaves for family health or dependent care reasons. Those were some of the issues where we hoped that this agreement might make progress where it did not.

And as I said in both in my written and verbal testimony I think we are in a situation where had we pressed, and made any of those do or die issues, this agreement would have fallen apart. And I think my colleagues can probably recite a similar list.

Mr. MCCRERY. Well, for some of those things that you mentioned indicate a desire to get the UI benefit up. And it seems to me that by mandating that we include part-time workers you risk in some States dampening the enthusiasm for raising benefits for full-time workers because isn't this going to cost something? I mean if we expand this, if we mandate that all States cover part-time workers, isn't it going to cost something to employers?

Mr. SMITH. Well, employers and employees already pay Unemployment Insurance premiums for their employees. We were more concerned at the end of the day at extending the reach of the system to larger numbers of men and women and as Representative Cardin points out a disproportionate number of women are currently excluded from benefits.

Our primary objective was extending benefits to those millions. Some 30 million part-time workers are potentially affected who the system does not currently serve adequately. It is not as if these workers do not pay taxes and their employers do not pay taxes. They already do so there is both a justice issue but there is also a dealing with the realities of our new economy issue.

The pattern of attachment to the labor force is changing. There are more workers who are employed part-time. There are more workers who are employed for short periods of time, serial employment, contract work. It is important to update the system to reflect those realities. And again, extending the reach of the benefits was our priority rather than extending the value of the benefits. It does not mean that we would not like to do that and we will not come back and raise those issues at another time.

Mr. MCCRERY. And I appreciate that and I appreciate your being frank about that being a higher priority than raising benefits gen-

erally. But somebody else maybe can answer my question. Don't we expect this proposal to cost employers when we mandate in all States that part-time workers are covered? Won't that cost employers in terms of their UI taxes?

Mr. UHALDE. Mr. McCrery, the two issues, one, in the aggregate, the proposal is designed such that there is money that would be distributed out of the Federal unemployment account so that States would not have to raise taxes in order to be able to do this expansion of benefits or access to the benefits. However, it is true that for any individual employer who disproportionately uses part-time workers, because of the experience rating nature of the system, will eventually pay higher taxes because of that. But that is the part of this system that is right if you accept the fact that part-time workers are, in fact, a major part of this economy, are, in fact, having taxes already paid on their behalf, are laid off through no fault of their own and, but for the fact that they are part-time, qualify in every other respect for benefits, then they ought to be able to get their benefits. And the experience rating would hit those who hire part-time workers disproportionately harder.

Mr. SMITH. Ray is absolutely right but it would only affect employers who hired and laid off part-time workers disproportionately. And the experience rating is not affected by whether or not the worker is part-time or full-time but by whether or not the employer lays off workers.

Mr. MCCRERY. Madam Chair, I have a lot more questions and I would like to explore this a little bit longer but I will wait until the second round.

Chairman JOHNSON. I appreciate the gentleman doing that. I would like to get through once. But the issue he raises and the response, Mr. Uhalde, that you gave him, the experience rating hitting equally whether it is a part-time layoff or a full-time layoff is an issue we do need to address, I mean in fairness. So that is one. And we will try to get through everyone.

I am going to have to leave at 10 after for a few minutes but Mr. English is going to take over because there are a lot of questions and we need to get through them. Next I will recognize Mr. Coyne.

Mr. COYNE. I have no questions.

Chairman JOHNSON. Mr. Foley?

Mr. FOLEY. Thank you very much, Madam Chairman. First, I would just like to remind the Committee an issue that is important to me and that is Federal Unemployment Tax Act of 1986 as it relates to Native American tribes. And we discussed it at the last hearing and I hope the Committee will continue to give consideration for exempting them from the taxes much like we do for Federal agencies and State agencies.

The questioning that was just taking place on the unemployment, the rating if you will and the concern I have at least from a part-time position, UPS for instance probably hires a great deal of people in the seasonal months, Christmas, for shipping purposes, to help packaging because of the volume if you will of orders that will occur around that period. In fact, when I was in high school a lot of my friends would go to UPS for two, three, four six weeks prior to Christmas. And it was substantially good income for them.

A large company like that obviously would then put those people out of work if you will after the season.

How will that affect somebody like UPS's rating in insurance purposes, if these potential part-timers become eligible for the benefits as if they were full-time? Maybe Mr. Smith can help?

Mr. SMITH. I cannot help, Mr. Foley, with the details of any particular company but the example of seasonal work and of a couple weeks here or there really is not much affected by this proposal. The people who will be affected by this proposal are the some 30 million full-time part-time workers.

And the language here gets a little awkward but there are today slightly in excess of 17 percent, 18 percent of all workers who are permanent part-time workers. Three and a half million I think, Ray, of those workers suggest that they would rather work full-time and are looking for full-time employment but that still leaves a very large number of people who by their choice, or because of family obligations, or because of employer preference are permanently working part-time. That is who this proposal would affect; those men and women currently pay into the system.

Their employers pay into this system. They are subject to the same labor market vicissitudes that full-time employers are. They are a critical part of our economy and the UI system ought to pay attention to them. Ray can help me here but with respect to the occasional couple weeks work at Christmas time or busy order time, the arrangement would not create additional burdens for companies where those were the employees that we are talking about. UPS does have a large number of full-time part-timers and depending on their experience rating they might be affected.

Mr. FOLEY. Could it have an adverse affect on a company willing to hire part-time workers if it does cause their experience ratings to go up? Could that diminish the number of part-time full-time jobs that may be available in the market place?

Mr. SMITH. No, I think we need to remember here that it is not the part-time, full-time ratio that affects their experience rating. It is laying people off. To the extent that the experience rating is in part designed to deter an employer from using the system in precisely the way that the chair described, as sort of a sink to pick up labor costs that they do not want to pay during a slack period of time.

The experience rating system is designed to deter that behavior. Perhaps we need to take a look at it and see whether or not it does it adequately. But we should not assume I think that the choices of either employees for full or part-time work or of employers for how they manage their work force are very much likely to be affected by the Unemployment Insurance system. That is a relatively small fraction of overall labor costs and generally these costs do not drive hiring or layoff decisions.

Mr. FOLEY. Let me also underscore the concerns of Mr. Cardin as expressed relative to solvency because I believe when we were here in February the testimony from Connecticut was they were still paying out bonds as it related to the 1990–1991 recession that was experienced in their State and we were concerned about any additional unfunded commitments or liabilities that would be involved with that.

Now if we are going to have Federal resources available it would be my hope that we would, in fact, solidify the financial underpinnings of their system before they go on a spree of buying technology or other things in order to make themselves competitive. And that is a concern. Now, Mr. Gross, can you quickly, I know my yellow light is on, tell us how this proposal is different from those discussed on the February 29th hearing?

Mr. GROSS. Essentially, in the February 27th hearing, Mr. Foley, there were a number of issues that the four constituents were still at variance with, primarily with respect to the eligibility of workers, which we have just been discussing and a number of other provisions. And essentially at the direction or as a result of comments of the Chair and others on the Subcommittee we essentially got back together as has been indicated and we are willing in the spirit of compromise to lay aside our differences recognizing that this package does not achieve many of the complete or concrete objectives that we all have or that we each have individually but in the spirit of compromise it achieves the things that we are outlining for you today.

So I guess the easiest way to say that would be that we were not in agreement on February 27th on some key provisions and we are today.

Mr. FOLEY. Thank God for palm pilots. It was February 29th.

Mr. GROSS. 29th. Leap year. I beg your pardon.

Mr. SMITH. We were not in agreement on the 27th either.

Mr. GROSS. June 27th is the date that sticks in my mind which was the day we reached our compromise. Thank you very much. Madam Chair?

Chairman JOHNSON. Mr. English?

Mr. ENGLISH. Thank you, Madam Chair. Madam Chair, this is a very positive development to have these four very diverse viewpoints coming before us. In speaking with a fair degree of unanimity the proposal that they have put before us I think is a solid move in the right direction and I think is achievable.

I would like to though ask about a number of issues that have not been focused on today. And first of all, I would like to associate myself with Mr. Foley's remarks. I think at some point it would be appropriate that we take a look at the status of Native American tribes as sovereigns and the way they are treated under the Unemployment Insurance system.

But there are a number of other issues that have not come up here that I would like to get some response on. I like the idea of codifying the availability of an alternate base year as one of the ways to extend part-time workers the opportunity to participate in the UC system and not be excluded arbitrarily because of one aspect of their work history. But I also am concerned about the potential cost to certain kinds of employers of the reporting requirements that might be imposed.

And Mr. Yarbrough, for example, I suspect many retailers might be concerned if some States were permitted to move to an alternate base year. Did anyone look at the potential costs to certain kinds of employers of allowing this option?

Mr. YARBROUGH. There were lots of discussions over that, but in the spirit of compromise we felt like that if you will notice in the

proposal using the information that is most current. You have large employers who file their information electronically and therefore, it is more readily available to the system. You have a lot of small employers who still go through the quarterly process of filing with their local bookkeeper in getting their taxes paid.

We did not look at the alternative base period because we felt like it was probably going to be a deal killer in the retail area and a lot of other areas but we felt like the right thing to do was make the information that is currently in the system available to those people in determining their benefit.

Mr. ENGLISH. And in ratifying the idea of quarterly reporting you as a group have moved away from a position previously expressed by the administration that there should be monthly reporting. Many of us viewed this as actually a one-shot revenue source to plug a hole in the budget. Mr. Uhalde, is the Administration now comfortable with the idea of sticking with the quarterly reporting?

Mr. UHALDE. Yes.

Mr. ENGLISH. Good answer. One of the proposals made years ago by the Advisory Committee on Unemployment Insurance, and I would like you all to comment on the extent to which you looked at some of their past recommendations, was to impose new requirements on States that in order to benefit from the system that States would be required to maintain an actuarially sound balance in their UC funds in order to take full advantage of Federal support in the event of a downturn.

Mr. Gross, you are here representing States. Was this proposal or was this idea explored at all in your discussions?

Mr. GROSS. Mr. English, let me indicate that a number of proposals were explored over nearly a 2-year period of time. Essentially the process worked this way. We began with essentially identifying all of the issues.

Mr. ENGLISH. Can I focus you, Mr. Gross, specifically did the group explore the idea of imposing any new requirements on States to maintain actuarially sound reserves?

Mr. GROSS. Yes. We looked at a number of those provisions. The State administrators I think collectively are steadfastly against the imposition of a lot of new kinds of actuarial reporting requirements or review requirements. And again in working our way through essentially all of these provisions those were among the things that were left on the table essentially by the various parties.

Mr. ENGLISH. My time has expired. Madam Chairman, I appreciate your indulgence and I will have further questions. Thank you, Mr. Gross.

Chairman JOHNSON. Thank you. Mr. Lewis?

Mr. LEWIS of Kentucky. Thank you, Madam Chairwoman. Mr. Smith, I think you touched on this a little while ago with Mr. Foley. But can you give me a clear definition of part-time work, what the definition would be? How many hours are we talking about? Is it 20 hours, 30 hours? Is it an average of a 12-month period?

Mr. SMITH. There is not a precise, of course, national definition of part-time work. Those definitions now exist State-by-State.

What we are looking for here is a system, Mr. Lewis, which treats permanent part-time employment for purposes of deter-

mining eligibility in a way that is comparable to and equivalent to the way in which permanent full-time employment is treated. Those workers have the same relationship to the system, have the same relationship to their employer's contributions to the system and we believe ought to be treated in an evenhanded way. We are not arguing that part-time workers ought to get full-time benefits. We are arguing that part-time workers ought to get benefits which are appropriate to the number of hours that they put in on a permanent basis in this economy.

Mr. LEWIS of Kentucky. Thank you.

Chairman JOHNSON. Mr. Levin?

Mr. LEVIN. Thank you.

Chairman JOHNSON. Not a member of the Subcommittee but you were a member of the Subcommittee during the consideration of this issue in the past and we are pleased to have you with us.

Mr. LEVIN. Glad to be here. I appreciate the chance to participate. I hope we can seize the moment here of a coming together.

And let me just say one thing. We sometimes confuse low wage and part-time workers. And I think we should realize they are not one and the same. A number of us asked GAO for an analysis of UI benefits for low-wage workers and the study has not come out, their full-scale final analysis, but preliminarily it can be said that based on their study of data, and I take it was the most recent available, the low-wage workers were nearly twice as likely to be unemployed as higher-wage workers and they were only one-half as likely to be receiving UI benefits.

So part of what you have worked on is an attempt to address this issue as well as the needs of part-time workers who often cannot receive benefits because they have to, as I understand it in many States, say that they are seeking full-time work though they were working part-time and for family reasons are not able to work full-time.

And I will close because we have to vote because I think Mr. McCrery as usual has asked a salient question of Mr. Smith. And I would like to if I might supplement the answer in terms of what this agreement does not cover. For example, the Extended Benefit Programs, there has been some agreement here that would move it along but I think we found out in the last recession how inadequate the Extended Benefit Program is. And we were forced as a result to come back here time after time rather painfully to improve the system. And I think it is just one example of why this consensus is a step forward but there are some unresolved issues out there.

And lastly, I would like to say that I think one of the important aspects of this consensus is that it once again reemphasizes the importance of the Employment Service's program. I think in this time of prosperity we have forgotten how important and effective Employment Service can be for employers and employees. And there has been some diminution in its effectiveness in some places. And I think that what we have before us is an urgent statement that we need to have an effective set of services in time of prosperity but surely we need to prepare for the day which will come sooner or later when we do not have the high level of employment that we have today.

So, Mrs. Johnson, I think your hearing today is really of critical importance and I hope it will spark re-attention to this issue to act on what has come out of these discussions with the help of this Subcommittee as well as our continuing to work on some of the larger unresolved structural issues. Thank you very much.

Chairman JOHNSON. Thank you, Mr. Levin. And I would like to say since I will have to go as we proceed with other questions, and Mr. English did go vote so he can come back and we can keep moving, that I appreciate the difficulty of your coming together around this package. It is also true that we are elected and this package has to serve all the States and so it is unlikely that it will move forward with no change.

We will certainly work with all of you to make sure that the changes are harmonious with your thinking but as you have seen from the questioning there are very big matters at stake in this program and in this bill. And the way business is done here in Washington is that if we do a major bill in a subject matter area we do not work on it again for five years. That is just the way it is whether it is daycare or whether it is welfare. So we will not come back to this for awhile and that is why we really do need to look more carefully at the impact of experience rating on employers for part-time people. Is there a way we should be modifying that to reduce the impact? There is a role in any economy for very temporary part-timers. We now have built into our economy sort of a permanent part-time employment system and it is that permanent part-time employment system that we want to include in the Unemployment Compensation system.

I would generally say some of us are not nearly as knowledgeable as you are about the interaction of all the requirements to be eligible for unemployment and the way you have structured that for part-time employees. So we do need to look at the part-time employee issue. That is why I asked you, I would have loved it if you said yes, here is a letter from NFIB saying we agree absolutely, here is a letter from so and so. So we do need to see these letters. We do need to see that this will serve the non-union sector as well as you think it will serve the union sector because after all, that is America.

So I think there are issues we need to get into. I think this issue of seasonal employment and the use of the Unemployment Compensation system for actually an alternate wage base, it is not illegitimate. We ought to recognize it but if that is the way you want to use it, maybe you ought to be contributing more. So what is that trigger? Is it a pattern of 2 years of seasonal pattern of layoffs that is similar in 2 years then your experience rating, your tithe goes up?

So let us look at those things. Are there ways that we should be responding? It is perfectly legitimate for employers to use Unemployment Compensation as an alternate wage but they ought to be paying more than the employer who is trying desperately. I have manufacturers in my district who have people paint the walls just to keep them employed during a downturn, even during those awful years in Connecticut of the early 1990s.

So those guys ought not to have to share the burden of sectors that are consciously using the Unemployment Compensation as an

alternate wage base during seasonal layoffs. And we are going to see more and more of this with part-time employees because a lot of part-time permanent employees are seasonal employees-at least that is my experience, cafeteria workers in schools and things like that. So we will have to get into some of those issues.

I am interested in this issue of coordination of services between the Workforce Investment Act and TANF. In many States that coordination has not been adequate. Are you doing anything in this bill to force better coordination? In the States where there has been the best coordination welfare reform has worked best. In the States where there has been the least coordination, welfare reform has worked poorly.

Mr. GROSS. Madam Chair, I think the thing that this bill, while it does not directly impact that or offer mandates on States, the thing that it does do is provides adequate funding for the Employment Service. And as I have previously testified and testified as well again today in a State like Utah which has, in fact, consolidated its TANF or assistance related services with the traditional workforce development system including employment security, we are finding, as has been indicated I think by my colleagues as well as myself, that the employment exchange or labor exchange or job connection, however you want to refer to that, is critical to that spectrum and that population to be served as well as others. And by simply providing adequate funding we will begin to address some of the issues that you refer to in terms of not only reemployment services but that next job beyond just an entry level job. Those are the kinds of things currently that the Employment Service in virtually every State is unable to get itself involved in currently.

Chairman JOHNSON. Thank you very much, Mr. Gross. And thanks to all of you for your determination and tenacity. And we look forward to working with you and I will turn the chair over to Mr. English. Thank you.

Mr. ENGLISH [presiding]. Thank you, Madam Chair. One of the questions that I wanted to pose to you as a group has to do with an issue that has come up occasionally in the past and too often has been excluded from the discussions of structural reform in the UC system. That is the taxation of employment compensation benefits.

As all of you are aware in 1986 for the first time we started to treat UC benefits as taxable. The system was not originally designed for UC benefits to be taxed and as a result many people who became unemployed subsequently discovered that they had a large tax liability the following year in lieu of withholding. Some have proposed as a solution, and I know this is an option for States now, the withholding of part of the UC benefits. But as I said UC benefit levels were set with the idea that they would not be taxable.

This is to me a very difficult issue and one that I think needs to be resolved by restoring the tax exempt status of UC benefits. I know that in the past both labor and business organizations have come out in favor of making UC benefits tax-free. Other organizations have not taken a position. My question to you as a group is, was the taxation of UC benefits one of the issues that you considered as part of your discussion? Or is it something outside of the

purview of what you were looking at and something that could be yet addressed at another forum? Who would like to start?

Mr. GROSS. I will respond, Mr. English. Yes, it was considered, discussed at some length. When we weighed the relative advantages and disadvantages of including this I believe that we came out with the conclusion that the relative costs of that sort of enactment and repeal was just something that we were not interested in, while we were interested in it we were not interested in making it a part of this package. We just thought it was too problematic.

Mr. ENGLISH. You were concerned primarily about revenue loss?

Mr. GROSS. That is right.

Mr. ENGLISH. Okay.

Mr. UHALDE. About $3–4 billion a year.

Mr. ENGLISH. Right. That is one of those things that might be called reckless in a certain context, although with the surplus we are running I would probably be less concerned but I take your point. It is something that would certainly attach a very substantial cost to a UC reform package. Would any of the rest of you like to comment on it? Were there any other reasons why you felt obliged——

Mr. YARBROUGH. No other reasons other than the budget constraints. I mean we are in support of the elimination of that. That is nothing more than taxing employer benefit for folks who really, truly need it at the time in which needed and then it seems like when they get right back on their feet in the safety net, here comes the tax again in another form in which most people do not anticipate.

Mr. ENGLISH. Mr. Smith?

Mr. SMITH. As you know, Mr. English, we have long supported repeal of the tax liability on unemployment benefits. We continue to have that position and hope we will be able to address it as you all consider other tax measures. But the cost concerns drove it off the table for the stakeholders group.

Mr. ENGLISH. Very good. Were there any other issues that you would care to bring before us that were a point of discussion and where there was substantial support but for one reason or another you were reluctant to include them as part of this package?

Mr. SMITH. Let me very briefly, I indicated in response I think it was to Mr. Foley's question some of the things that we had put on the table at the beginning of these conversations a couple of years ago that did not find their way into the agreement. I could expand on that list but I would hesitate to, Mr. English. I really want to echo something that Mr. Cardin and Mrs. Johnson said, this package was very carefully put together and with enormous difficulty individually and collectively. I do not think I would be doing justice to the process if I started to detail all the things I was unhappy about.

Mr. ENGLISH. Sure.

Mr. SMITH. This is an important historic agreement that makes progress on a number of issues which all of us care deeply about and I think that is why we are all here today saying essentially the same thing. This package is not entirely satisfactory to any of us but it makes such important progress on major issues that we are asking you to join us in taking it and enacting it as drafted.

Mr. ENGLISH. Mr. Smith, do you know of any labor organizations which have specifically registered concerns about any element of this package?

Mr. SMITH. No, I do not and we have consulted very widely with our affiliates during the process, both during the process of discussion and subsequent to the agreement in June. So it is not only that I do not know, Mr. English, but I think I can say that there is no opposition from any part of organized labor. And again there are things which some of us wish had been in here and are not but we have agreed that this package ought to go forward.

Mr. ENGLISH. Mr. Yarbrough, are you aware of any in the employer community who have so far registered a strong objection to any components in this package or reservations about the package as a whole?

Mr. YARBROUGH. Let me just say that there probably are some. I think the point being that we took this package in its entirety back to our constituents in our group and there were some bumps but we did get commitment from our Subcommittees. We did get commitment from our board to go forward in support. So although maybe this quilt of colors is weaved together by thorns, and there might be some things that we all do not agree upon, we do think that as from an employer community and UWC that we are in support of this package in its entirety.

There are things that we would like to see. There are things that we do not necessarily agree with in some of the expansion areas but here is the real cost. The cost is integrity. The cost is in credibility. The cost is in the number of dollars that are not getting back to the States to provide service to the employer community and to those employees who are seeking job opportunities. The real cost is the dollars that are not coming back currently. And if we do not make some change and if we do not hold hands together to move forward for some change, the system is never going to have the status that it had in the past nor the status that it deserves in its future of the one-stop and bringing the labor exchange together.

Mr. ENGLISH. Mr. Gross, are you aware of any State governments or State administrations, any of your colleagues who have registered any concerns or reservations with regard to this agreement?

Mr. GROSS. In all honesty, Mr. English, yes. There are States which have expressed concerns. And I would echo the sentiments of my colleagues if you look at the timing in which we achieved the compromise of this package and the fluid nature of the way this package sort of rolled forward, we have been in the education of our constituents' process at the same time we have been discussing this with members of staff, members of Congress and so on. So yes, there are State administrators or those in the States who have expressed concerns. We are dealing with those concerns. And as we go through that education process what we find again is that most of our State administrators understand that what we have achieved here is a compromise. We did not get everything we wanted, neither did anybody else at this table.

Mr. ENGLISH. And a final question, Mr. Uhalde, has the Administration shared this proposal with the Advisory Committee on Un-

employment Insurance and have you received any reaction from them?

Mr. UHALDE. That was the commission, I believe, chaired by Dr. Norwood?

Mr. ENGLISH. That may be. It is a statutory committee that exists. It was created under the Federal Unemployment Tax Act.

Mr. UHALDE. I do not know. The commission is defunct. We did not continue funding the commission. We have had conversations with Dr. Norwood and some of the members of it during the course of the process. We did put on the table during the 2 years of discussion all 100 or so ACUC recommendations as part of the dialogue we conducted around the country and the conversation with the stakeholders.

Mr. ENGLISH. I appreciate knowing that. I guess my final question has to do with services for employees who have been laid off and who are looking for work. You may have already answered this question in another context but I appreciate your patience. Under this proposal how would coordination be advanced between the Employment Service, the Workforce Investment Act and TANF? That to me is a very important issue and I wonder if any of you would like to speak to how this proposal would improve that interaction?

Mr. UHALDE. Let me address a couple aspects and my colleagues can certainly add. A key feature for welfare reform and this proposal is the coverage for part-time workers; welfare recipients oftentimes are emerging in the labor market and taking part-time work as their first steps; this is great, but sometimes those first or second jobs are lost. If they do not have access back to the regular labor market systems including Unemployment Insurance benefits, the alternative is to fall back to the welfare system. We believe that this system will keep people in labor markets and labor market systems.

Secondly, as Bob mentioned, with the limited funding in the Employment Service, in the one-stop systems what has happened is that TANF dollars and other Workforce Investment Act dollars have been diverted to labor exchange to supplement the ES. And it has been shorting the training that can be provided to welfare recipients, dislocated workers and the like. So with this proposal, more training would result in the other programs, too, I believe.

Mr. ENGLISH. Would you like to add to that, Mr. Gross?

Mr. GROSS. I would only add again that the provisions do provide a portion of the funds for the Employment Service would go toward reemployment activity, specifically for unemployed workers.

And I would just add to what Mr. Uhalde suggested again representing all of the States but particularly coming from a State which has consolidated the TANF or assistance functions as part of an overall consolidation of welfare reform with other employment and workforce development systems that the whole thing is really emerging and changing in terms of the continuum as far as employees. Just as you have heard us all collectively and individually testify this morning definitions in terms of part-time workers and such other things have changed dramatically with the workforce as it is emerging today.

I would just add that the most fundamental difference that we have found in assistance programs under welfare reform is essen-

tially the focus on employment. And so if you consider the backbone of the system, the welfare reform system as employment you can readily understand the linkage between the Employment Service and the activities that are generated. And as Mr. Uhalde said we are finding increasingly States which are using and leveraging dollars back and forth in allowable ways to supplement the shortfall in the Employment Service.

Mr. ENGLISH. That is an excellent perspective and I thank you. And I would like to yield to Mr. McCrery who I understand has a number of additional questions.

Mr. MCCRERY. Thank you, Mr. Chairman. I think the Chairwoman, Ms. Johnson, summed up what I was getting to on the question of industries that do regularly hire part-time workers on a seasonal basis and I think we do have to look at the impact of this proposal on those industries. It may be that there is nothing we can do about that. But I think it clearly will be a cost imposition on those industries. And certainly if anybody wants to discuss that further, feel free.

Mr. UHALDE. Mr. McCrery?

Mr. MCCRERY. Yes?

Mr. UHALDE. If I might just add on that point, those provisions that apply to what States have for full-time workers governing seasonal aspects would also apply equally to part-time workers. For example, individuals, I think the example was given, hired over the Christmas season—students would be returning to school, whether they are hired part-time or full-time, they would not then be eligible.

Workers hired for a short period of time often do not qualify monetary. Also other seasonal provisions of State law would apply to part-time as they do full-time. So there are protections already built in the part-time work and 13 States already have part-time coverage. So we can look to those for some experience and guidance on this.

Mr. MCCRERY. What has been the experience in those 13 States that allow part-time workers to qualify, since you brought it up, what has been the experience in those 13 States?

Mr. GROSS. I was just going to indicate that we have heard, in terms of the agency that represents all States, no substantial problems in and among those States.

Mr. MCCRERY. It is easy for the State to say there is no problem but what about the industries that are affected; what has been their experience?

Mr. YARBROUGH. I guess I would like to say that we realize especially in the retail field there is a lot of folks that are going to be entering and leaving, especially in peak times of year, back-to-school sales.

Mr. MCCRERY. Or maybe they are working part-time most of the year and then in that peak season they work full-time.

Mr. YARBROUGH. They work full-time. And I think what we need to say here is that there are attachments to the workforce. And there are as we say whenever folks are going to leave and then become eligible, they are going to still be seeking comparable work.

If that employer has been offering a 20-hour work week, a 30-hour work week, in order for that person to be eligible they are still

going to need to be seeking employment of that same type of work. And they are not going to receive maybe a full-time benefit that a 40-hour person is going to receive but they are going to receive a reduced benefit. And there are dollars being paid into the system currently to make sure at the same tax rate for that individual as it would be for a full-time person.

We need to be aware that the employer community is offering signing bonuses. They are offering full-time medical benefits to folks that are working in a normally perceived temporary-type work area or a part-time work area. I think that we have to be aware that there are a lot of folks that have been recruited to the workforce today that were normally not even involved in the workforce. We have got a lot of employers that are providing shared work or job sharing or different types of activities out there that when those people lost their job due to no fault of their own they had no safety net. They had nothing to fall back upon.

Now I think in a lot of areas that there is a need for that type of benefit. And we need to be aware of that. We do not believe that we answer all questions with our compromise. In fact, we left several questions unanswered on the table. We do not necessarily feel good about that but I will say that I feel like that the cost to the system, the loss of credibility because of no dollars being funded back in there for people who use the system the extended dollars that not only retail but hospital groups, employer manufacturer groups are spending additional dollars out of their own budgets and their own pockets because we cannot get dollars out of the system back to do what needs to be done.

Mr. MCCRERY. Don't get me wrong, I am not pooh-poohing this whole thing. I think it is incumbent on us though to explore these questions that you did not answer and at least get some information on the table before we move forward because this is a fairly substantial break with traditional Unemployment Insurance at the Federal level. So don't get me wrong. There are a lot of good things in this proposal. And I am not saying that the part-time worker mandate is a bad thing. I just think we need to talk about it openly and see who is going to be disadvantaged, if anybody, and to what extent and is there anything we can do about that.

Let us go to the alternative base period. This is something that we discussed in February. I do not know that we have clarified it very much since that discussion. I still have some concerns about that. I agree that we ought to allow the States to use the latest available information. Do we define in this legislation what types of information can be used by a State or is it just general, is it wide open, can an employee just provide information that he has got pay stubs or whatever it might be and can the State rely on that until it gets more official documentation from the employer? What are we using here?

Mr. UHALDE. The proposal does not dictate any particular base period. It does say that they have to use the wage record, the automated wage record that is available. It does not require the States or prohibit them—it doesn't require States to say go after pay stubs or call the employer or make any additional efforts on that.

Mr. MCCRERY. So the State has to have something from the employer; is that what you are saying?

Mr. UHALDE. Yes, sir.

Mr. MCCRERY. An official work record from the employer to base the calculation on. Okay. So really, correct me if I am wrong, it sounds like in your legislation we are merely giving the States the opportunity to collect data faster from employers and use that if they want to?

Mr. GROSS. Yes. Mr. McCrery, one of the discussion points, and I think my colleagues may have their own perspectives but again speaking from the State's perspective one of the things that drove us in terms of this discussion point was what will this do in terms of the administrative burden and how fair would that be to not only the State administrators but to employers as well as workers. And the key point I think on behalf of States is that we believe this is a self-correcting issue over time with technology and the other kinds of wage records and wage information availability. And I think that we achieved a fairly broad consensus as a discussion point among the four constituency groups and that is the reason that the discussion more or less turned the way it did in terms of this particular area.

Mr. MCCRERY. Can you tell me exactly what the legislation does with respect to the alternative base period? Does it mandate that the States do this or is it an option?

Mr. UHALDE. It requires that the States use wages in employment from the most recently completed quarter under certain conditions. It also provides $60 million to assist States with the cost of technology to be able to do this. As Mr. Gross said, we think this is soluble with the technology. Once wage record information is available to the State, then they would be required to use it.

Mr. MCCRERY. So we are giving $60 million to the States to help them with this conversion. What about employers; are they going to be required to do anything in terms of technology or anything to hasten their getting the information to the States?

Mr. GROSS. There are no additional requirements for employers under this provision.

Mr. MCCRERY. So you are saying under this provision the employers can do exactly what they are doing now?

Mr. GROSS. Yes.

Mr. MCCRERY. They do not have to speed up their reporting?

Mr. GROSS. No.

Mr. ENGLISH. Would the gentlemen yield?

Mr. UHALDE. Beyond delinquency I mean they have to adhere to the regular reporting——

Mr. ENGLISH. Would the gentlemen yield?

Mr. MCCRERY. Sure, be glad to.

Mr. ENGLISH. Mr. Gross, on that point would there be an opportunity for States to individually step in and impose any additional reporting requirements; and was that discussed within your group?

Mr. GROSS. Yes, I believe there would be an opportunity and it was discussed.

Mr. ENGLISH. I thank the gentlemen.

Mr. MCCRERY. Is that possible under current law?

Mr. GROSS. Yes.

Mr. MCCRERY. So you do not change current law with respect to this?

Mr. GROSS. No, we do not, not in this area.

Mr. SMITH. Just briefly on this point, Mr. McCrery. The obligation is to use the most current available data. The commitment is to assist States in acquiring and installing the technology that makes that the best data available. This is a virtuous circle. There is no reason, and you and I talked about this in February, to the extent that we have data available to us and can improve our ability to use the most recent wage records we should, and it will have an eligibility impact. There is no question about that. But we ought not to think about that as an additional cost but as finally the system being able to catch up with the work that people have already performed.

Mr. MCCRERY. Yes. I do not disagree. We do need to acknowledge that there will be an additional eligibility because of this but I think the rationale is sound. So I do not have any problem with it, unless we cause some burdens on the employer community that they do not currently have, then I would have to have some concerns about that.

Mr. YARBROUGH. I would just like to say it is important to realize that the part-time provision is indeed going to increase some costs. And we need more information to see how much that is going to impact especially those people that use part-time. But I think companies like Penney's, Wal Mart, folks like that that use part-time folks also use a lot of full-time people. And we realize there are going to be some cost impact upon those people.

But hopefully what is gained here is that the number of dollars that are going to come back are going to positively impact the system because currently as I might have mentioned earlier it is losing credibility. It is not getting the dollars back in the system upon the timely manner in which it needs to be there.

Mr. MCCRERY. Yes. And I am sure Penney's and Wal Mart and all those folks would agree with you on that. I do not think they have any quarrel with the States being underfunded and the administration of their services.

Mr. YARBROUGH. Right. Definitely, and we would agree too.

Mr. MCCRERY. They just do not want to have to pay the bill for improving those services. And you can understand that. What is the trend? We have 13 States now that include part-time workers. Is there a trend that is out there? What has been the rate of States changing their law to include part-time workers? Do you know, Mr. Smith?

Mr. SMITH. I do not know the answer to the pace as which it has occurred, Mr. McCrery. We can try to find that out for you.

[The following was subsequently received:]

PART-TIME WORKERS

Eligibility of part-time workers for Unemployment Insurance (UI) is an administrative determination based on the application of State law, rules (or regulations), and court decisions. For this reason, a review of State laws alone will not give an accurate account of which States pay part-time workers. Therefore, the Advisory Council on Unemployment Compensation undertook a survey of all State UI agencies in 1994 to determine how States treat part-time workers. The survey results showed that part-time workers who meet the monetary eligibility requirements are:

- eligible in only 13 States (CO, DE, FL, IA, LA, NE, NY, PA, PR, RI, SD, VT, WY);
- precluded from receiving UI in 31 States; and

- may or may not (varies with specific circumstances) be eligible in 9 States.

The Department of Labor has not discerned any changes in the eligibility of part-time workers since the 1994 survey.

Note: Total of States adds to 53–50 States, plus DC, PR, and VI.

Mr. MCCRERY. Finally, let me just talk about the trust funds for a moment because there is some concern about how this mandating the distribution to the States will affect the trust funds. Are you all satisfied, and particularly I guess Mr. Smith, since labor has traditionally expressed concern about the soundness of the trust funds and so forth. Are you satisfied that this legislation does not imperil the soundness of the system?

Mr. SMITH. Two answers, Mr. McCrery. Yes, we are satisfied that the legislation does not imperil the State funds, and we are concerned that the legislation does not go as far as we would have liked to go toward a mandatory solvency requirement. That is one of the issues I mentioned earlier. It is something that remains on the table for all of us and all of you.

Mr. MCCRERY. But you are satisfied with this?

Mr. SMITH. That this proposal does not jeopardize and, in fact, will strengthen both the solvency and the capacity of the system in the ways that Mr. Yarbrough and Mr. Gross have talked about.

Mr. MCCRERY. The only other concern I have is the formula for distribution. It is somewhat different from my bill and I have not had a chance to really dive into the particulars of your approach but I am told that the States will receive a distribution that will serve as a base period and then that will be increased by inflation. It will not necessarily be determined by the factors that currently determine the distribution; is that right?

Mr. UHALDE. I think what you just described is the formula in determining the aggregate amount for each year.

Mr. MCCRERY. For the trust funds?

Mr. UHALDE. For distributions say on Unemployment Insurance administrative costs. There would be a base amount, and then it would be increased each year based on aggregate workload and an inflation indicator. I thought you were starting your question with the distribution formula back to the States?

Mr. MCCRERY. Yes.

Mr. UHALDE. From that aggregate amount. And maybe one of the others would like to comment on that formula.

Mr. GROSS. There was considerable discussion both about the formula in terms of—your question specifically is about distribution and I think what this bill would do is essentially leave in place the current distribution methodology, although there are concerns that the four constituent groups or the parties at the table have and there are a couple of areas where we intend to work in reviewing that methodology. In terms of the distribution it leaves pretty much in place the current distribution.

Mr. MCCRERY. Okay. Then I misunderstood the information I was given because I thought you had a different formula for distribution to the various States but if you do not, then I do not have that concern. Thank you very much, gentlemen, for your participation here and your work on this product.

Mr. ENGLISH. Mr. Camp?

Mr. CAMP. Thank you, Mr. Chairman. I know some of these questions have been asked before and I am coming in a little late to this hearing but I do have a concern, and whoever thinks it is appropriate chime in here, please.

I am a little concerned about the part-time work issue and the definition of eligibility for Unemployment Compensation and particularly as that relates to seasonal workers, especially in agricultural areas where we have a lot of seasonal workers. Could somebody comment on how you think this compromise might affect those issues or this legislation?

Mr. UHALDE. I think some of the discussion we had previously, first, that the provisions in State laws now that govern seasonal activity amongst full-time workers would also apply typically in States for part-time workers as well. And things like students working and then returning to school typically they are not eligible whether they work full-time or part-time. So I think those provisions would apply. Also to the extent that the work is of such a short duration that does not qualify again whether it is full-time or part-time under base period monetary requirements. Those would apply as well.

Mr. SMITH. We have, Mr. Camp, as you suspected talked about this at some length. I would just make two points quickly. This proposal catches up with an important reality in the labor force and that reality is the emergence and persistence of permanent part-time employment for a variety of reasons. Both the demands on the business side, in many cases the schedule preferences of workers and because the system was designed with an architecture that assumed that most of us worked full-time permanently it left an important hole that has grown in its urgency to repair as the pattern of labor force attachment has changed. And the coverage of part-time workers goes a long way to curing the problem of lack of eligibility for that large group of people.

But it is important just to underscore what Ray Uhalde said. The casual attachment to the labor force, whether it is permanent or part-time is not affected by this proposal. So when my daughter comes home from school and works at a store for a couple of weeks over Christmas her eligibility is not changed or employers' liability is not changed. Nothing happens to the system whether or not she works 4 hours a day or 12 during that period.

Mr. CAMP. Thank you. Thank you, Mr. Chairman.

Mr. ENGLISH. Thank you. Would anyone else like to inquire? If not, I would like to thank the panel. This has been an excellent presentation and certainly has brought some focus to a very important issue that I hope we will be able to move quickly forward on. And I thank all of you for participating.

The meeting is adjourned.

[Whereupon, at 11:55 a.m., the hearing was adjourned.]

[Submissions for the record follow:]

Statement of the American Federation of State, County and Municipal Employees (AFSCME)

The American Federation of State, County and Municipal Employees (AFSCME) submits the following statement in support of the Unemployment Insurance (UI) and Employment Service (ES) reform package. AFSCME has 1.3 million members

who work in Federal, State, county and local government offices, health care and educational institutions and other non-profit agencies across the country. Our members include the State employees who process unemployment benefits, adjudicate claims, collect employer taxes and help workers find jobs and employers find workers. We also represent a broad cross section of the American workforce from doctors to engineers, home health aides to school crossing guards, and clerical personnel to laborers.

AFSCME is proud to have been one of the organized labor representatives to the stakeholder dialogue process that produced agreement in June on this bipartisan consensus package of reforms to the nation's employment security system. The package would look different if we had written our own reform, and we continue to oppose some individual parts of the package—especially the Federal unemployment surtax (FUTA surtax) repeal—as freestanding proposals outside of comprehensive reform. Nonetheless, we think the package strikes a fair balance among the interests of all of the parties, contains important improvements for workers and should be enacted this year.

The UI/ES reform package is the product of over a year of negotiations among parties that have deep policy and ideological differences. Our discussions were not always easy and at times threatened to break down. Ultimately, the compelling need to strengthen this vital employment security system led us to set aside our ideological differences in the interest of seeking a pragmatic consensus that respects the primary interests of each stakeholder. While this process may be novel at the Federal level, it is in fact, a familiar one at the State level where UI changes frequently move as part of a package in which business and labor each gain policy changes.

For AFSCME and organized labor, the benefit enhancements are a critical part of the UI/ES reform package. Workers have been slow to reap the benefits of the healthy economy, and recipiency rates still stand at an historically low level of about one-third of all unemployed workers. In contrast, as State trust fund balances surged, employers have realized automatic tax reductions through the experience rating system and have secured additional tax cuts through State legislatures.

The inclusion of the benefit enhancements provides reasonable balance in the reform package to the surtax repeal sought by employers and will allow workers to share more equally in the fruits of the current economic expansion. These enhancements include the following improvements to the extended benefits program, base period changes and part-time worker provisions:

- *Extended Benefits (EB)—Effective July 1, 2002, the Federal EB program would activate sooner during economic downturns with the lowering of the required Insured Unemployment Rate (IUR) trigger from five percent to four percent. In addition, Federal work search requirements, which were imposed in the early 1980s, would be eliminated, and the Federal program would conform to State law in each State.*

Impact—In the early 1990s recession, extended benefits were paid in only 10 States. The proposed trigger would have activated the program in 15 States, making EB available to an additional 730,000 workers and getting an additional $1.4 billion to workers and the economy during the peak year of unemployment and reducing the need to enact a special Federal supplemental benefits program.

- *Using more recent based period wages—Otherwise eligible workers can be denied benefits simply because their most recent earnings are not considered, or their earnings are not yet entered into automated systems. Since most States count the first four of the last five completed* quarters of earnings to determine eligibility, up to 6 months of a worker's most recent earnings may not be counted, depending on when that worker files for benefits. Under the proposal, the Department of Labor will provide technology improvement grants to accelerate access to wage and employment information. Effective January 1, 2003, if individuals are initially ruled ineligible, and the State agency has received more recent information from employers, the State must use that information to determine eligibility. In most cases, the most recent completed quarter of earnings will be available.

Impact—An estimated 320,000 more workers per year will receive benefits under current economic conditions. Individuals most affected would be workers in low-wage, high turnover or seasonal employment, including those in construction and service sector jobs, and low wage single women with children who have entered the workforce as a result of welfare reform.

- *Part-time workers—Effective July 1, 2002, States will be required to pay UI to otherwise eligible laid off part-time workers who seek suitable and comparable part-time work under provisions of State law. Most States currently deny benefits to individuals who are not seeking full-time work, even if they had worked part-time and met State earnings requirements for eligibility.*

Impact—An estimated 260,000 more workers, many of them low-wage and women workers, annually will receive benefits in the current economy.

The provisions strengthening Federal financing of State unemployment insurance and employment service operations are a goal sought by all of the stakeholders, and agreement on increasing funding levels and converting the financing from discretionary to mandatory spending was achieved early in our discussions.

Underfunding had reached a critical stage in recent years and threatened to destabilize both State operations and the longstanding political consensus on the appropriate Federal and State roles in the system. For example, ES funding has been flat funded for five years and, at $762 million, is $15.7 million *less than* the 1985 appropriation. ES staffing levels dropped more than 50 percent, while the civilian labor force grew by approximately 20 percent since 1985. UI funding has been flat for the last five years as well.

Continued deterioration of State operations drove some States to use their own money to shore up the system even as Federal Unemployment Trust Fund surpluses grew and were used to offset Federal spending on other programs. It was not without good reason that some of them concluded that nothing short of devolution was the answer even though organized labor strongly opposed that solution.

The bipartisan consensus package breaks the stalemate created by ideological disagreement among States, labor, and business on a solution to the underfunding problem. It is also a necessary companion to the benefit enhancements. The agreement assures States that they will have enough money to process a larger unemployment claims workload. It also shores up the employment service, thus strengthening the long-standing consensus shared by business and labor that unemployment insurance claimants will receive help returning to work as quickly as possible.

The UI/ES reform proposal creates a rational way to spend UI Trust Fund dollars in contrast to the arbitrary way in which the Federal Government now sets funding levels, which produces amounts well below what the system needs and ever increasing Trust Fund balances to offset spending elsewhere. UI and ES [including Veterans Employment and Training Service (VETS)] appropriations will be based on statutory funding formulas to determine the national total amount available each year. The formulas will adjust annually for changes in workload and inflation, and funds will be provided automatically instead of being subject to the annual appropriations process.

The reform proposal creates a new dedicated appropriation for reemployment services to UI claimants in order to restore the ability of the employment service to administer the program's job search requirements, commonly known as the UI "work test." States currently do not have the resources to administer a meaningful work test and provide targeted reemployment services to UI claimants.

The combination of the targeted funding and the general strengthening of the employment service infrastructure will allow States to rebuild key functions that have been eliminated as a result of severe underfunding. These include a staff of employer representatives who used to maintain a network of relationships with employers in local communities to help serve their workforce needs as well as personalized assistance for unemployed workers seeking new jobs.

In addition, to the benefit enhancements and administrative financing provisions, the reform package also simplifies employer filings and repeals the unemployment surtax, a key objective of business which organized labor has strongly opposed for over a year. We made this concession in the context of this reform package because we believe that the final package is reasonable and fair.

While the time remaining in this session of Congress is short, we have a historic chance to revitalize and modernize an important part of our economic fabric. We urge you to seize this opportunity and pass this historic reform proposal this year.

NATIONAL GOVERNORS' ASSOCIATION
WASHINGTON, DC 20001–1512
September 6, 2000

The Honorable Nancy L. Johnson
Chair, Subcommittee on Human Resources
Committee on Ways and Means
U.S. House of Representatives
2113 Rayburn House Office Building
Washington, D.C. 20515

Dear Madam Chair:

As your Subcommittee considers proposals to reform the Unemployment Compensation (UC) system, we want to share with you the position of the National Governors' Association on this issue. During our annual meeting this summer, we approved an "Employment Security System Policy." A copy of our policy is attached for your review and possible inclusion for the record at your Subcommittee hearing on this matter.

Sincerely,

GOVERNOR JIM HODGES
Chair
Committee on Human Resources

GOVERNOR BOB TAFT
Vice Chair
Committee on Human Resources

Enclosure: HR–35. Employment Security System Policy

National Governors' Association

H.R.–35. EMPLOYMENT SECURITY SYSTEM POLICY*

The Governors support a national system administered by the States, of unemployment benefits, employment service, and labor market information. Such a system of benefits serves an important public function to unemployed workers, job seekers, and the nation's business community.

The Governors are concerned with inefficiencies in the current system of collecting taxes from employers to support the employment security system and in the current system of distributing administrative funds. Under current law, States collect taxes to support program benefits, while the Internal Revenue Service collects taxes to support program administration and certain extended benefits programs. Over the past several years, the return of taxes paid from States to fund important employment security services has decreased to an average of only 51 percent, with some States receiving back as little as 32 percent.

In addition, the Governors are concerned that the "temporary surtax" of 0.2 percent, enacted in 1976, is still being collected today despite the fact that Federal trust funds have extraordinary balances-more than $30 billion by the end of fiscal 2000-and not all of the funds are being used for the purposes for which they were collected. Program flexibility has also been reduced by the fiscal 2000–2002 restrictions on Reed Act funds, which can only be used for administering the unemployment compensation law. These funds should be distributed to the States pursuant to the original intent of the Reed Act with maximum flexibility to also support the Employment Security System.

The Governors' legislative priorities include repealing the Federal Unemployment Tax Act (FUTA) surtax, preserving protections for workers, funding administration adequately, promoting reemployment, reducing fraud and abuse, increasing State flexibility, ensuring economic stabilization, and improving efficiency in FUTA tax collection.

The Governors are aware of and support discussions aimed at reaching consensus among workers, employers, and State and Federal entities to develop comprehensive recommendations for Congress to address these priorities and inadequacies in the current system.

The Governors call on Congress and the President to enact comprehensive legislation that is consistent with the Governors' priorities.

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* Identical to Policy EDC–17. The Committee on Human Resources and the Committee on Economic Development and Commerce have joint jurisdiction over this policy.

Time limited (effective Annual Meeting 2000-Annual Meeting 2002).Adopted Annual Meeting 1996; revised and reaffirmed Annual Meeting 1998; revised Annual Meeting 2000.

Statement of the National Payroll Reporting Consortium

The members of the National Payroll Reporting Consortium (NPRC) appreciate the opportunity to submit this statement for the record of the Subcommittee's September 7, 2000, hearing concerning unemployment compensation reform.

NPRC supports the comprehensive Unemployment Insurance (";UI") / Employment Services (";ES") proposal recently presented to the Subcommittee by the joint government (Federal and State) / business / labor workgroup (";Workgroup"). We commend the unprecedented cooperative effort by these groups, and believe that the reforms proposed by the Workgroup are critical for the future of the UI and ES programs.

NPRC represents businesses providing payroll processing and employment tax services directly to employers. NPRC members (";reporting agents") serve more than 800,000 employers with a combined total of more than 35 million employees, process payroll for more than one-third of the private sector workforce, and are responsible for paying more than 25 percent of all Federal payroll taxes received from private industry by the Treasury. The following companies are members of NPRC: Automatic Data Processing, Inc.; Advantage Business Services Holdings, Inc.; Ceridian Corporation; Compupay, Inc.; Federal Liaison Services, Inc.; Fidelity Employer Services Company LLC; Interpay, Inc.; Intuit, Inc.; Paychex, Inc.; Payroll People, Inc.; Primepay, Inc.; ProBusiness Services, Inc.; and Zurich Payroll Solutions, Ltd.

This country's UI system is complex, inefficient and costly for business and government to administer, and our organizations have long supported its reform. By strengthening funding for UI and ES programs, modernizing UI benefits to reflect today's workforce, and streamlining employer UI filing requirements, we believe that the Workgroup proposal appropriately balances the interests of business, labor, the Federal Government, and State governments alike, and would significantly improve the operation of the UI system for all involved. The Workgroup's efforts in this matter have produced an important proposal, and we encourage the Subcommittee to act expeditiously to promote its enactment.

The following describes some of the major complexities of current UI tax administration faced by employers and highlights some of the benefits of the Workgroup's reform proposal.

I. Current Tax Collection System

The current UI tax collection system involves a two-tier process to collect the Federal Unemployment Tax Act (FUTA) and State Unemployment Insurance (SUI) tax. This process includes the calculation and payment of the tax at two levels of government, and the determination of an "offset credit" as part of an annual reconciliation of State and Federal UI taxes paid. This annual reconciliation is filed with the IRS Form 940.

Under the current tax structure, employers make FUTA and SUI tax deposits on a quarterly basis. The 6.2 percent FUTA tax (which includes the 0.2 percent "surtax") is reduced by the offset credit for States with laws conforming to Federal requirements (currently all 53 UI jurisdictions). The offset credit allows 5.4 percent of the FUTA tax to be offset by qualifying SUI tax paid with respect to a covered employee. This complex structure was intended to provide an inducement for States to participate in the UI program. The manner in which the credit is calculated on Form 940 also was intended to provide the Federal Government sufficient data to impose the full Federal tax on employers in States that fall out of conformity with the program.

The primary purpose of Form 940 is to allow the Federal Government to track what employers would owe if States did not have conforming programs. This determination can be made without the complex reconciliation of an employer's State and Federal UI tax payments provided on Part II of the form.

The same information collected from employers in Part II of Form 940 is provided electronically by the States to the IRS in an annual summary by employer of wages reported and UI taxes paid. Additionally, the 1996 welfare reform bill (PRWORA) requires the States to report wage information quarterly to the Federal new hire directory. These alternative sources of employee wage information, along with other redundancies, allow for the simplification of Form 940.

II. The Workgroup Proposal

The Workgroup's proposal embodies the goals first set forth in 1998 at the commencement of its dialogue: expand coverage and eligibility for benefits; streamline filing and reduce tax burden where possible; emphasize reemployment; combat fraud and abuse; and improve administration. While our organizations' interests are especially focused on streamlining tax filing, we are also supportive of the rest of the goals of the proposal.

The following provisions of the Workgroup proposal are of particular interest to our organizations:

A. Provide for quarterly collection of FUTA and State UI taxes.

Before reaching agreement on this proposal as part of the Workgroup, the Administration had on several occasions proposed changing Federal law to require monthly UI collection rather than the quarterly schedule currently set forth in regulations. This would have increased from 8 to 24 the number of UI payment deadlines imposed on virtually every employer. NPRC, other employer organizations, and States have repeatedly expressed strong opposition to this acceleration proposal. This acceleration proposal is fundamentally inconsistent with streamlining the operation of the UI system and reducing paperwork and regulatory burdens. Further, imposing monthly collection of Federal and State UI taxes would have generated only a one-time artificial revenue increase for budget-scoring purposes and real, every year increases in both compliance costs for employers and collection costs for State unemployment insurance administrators. Congress has recognized the many weaknesses in this proposal and has consistently refused to enact it. As such we very much appreciate that as part of this Workgroup proposal, the Administration has directly reversed its position and agreed to support a statutory requirement that would prescribe quarterly collection of both FUTA and State UI taxes.

B. Simplification of IRS Form 940.

Form 940 is likely the most complex employment tax form with which employers have to comply. The IRS has estimated that employers take an average of 12 hours and 31 minutes to complete and file the FUTA tax return on Form 940. Thus, annual compliance costs associated with FUTA reporting for the six million FUTA-paying employers easily exceed $1 billion. By amending the Federal Unemployment Tax Act to reflect the current taxing practices in all States, the proposal would allow the IRS to simplify significantly Form 940 without the need for State law changes. Specifically, since all States currently have a maximum rate of at least 5.4 percent, amending FUTA to make the 5.4 percent maximum rate a conformity requirement would make certain calculations unnecessary, and allow for the elimination of five columns from the Form 940 based on this change alone.

C. Enable the Federal Government and States to share information to remove an impediment to allowing employers to file combined Federal and State wage reports.

By amending Federal law to permit the disclosure of minimal IRS information to State tax agencies for combined Federal and State employment tax reporting, the proposal would remove the major statutory impediment to consolidated Federal and State employment tax reporting.

D. Repeal the 0.2 percent FUTA surtax.

Congress imposed the "temporary" 0.2 percent FUTA surtax in 1976 to pay for supplemental unemployment benefits for unemployed workers who had exhausted their six-month State unemployment benefits and their three months of extended benefits. The deficit created by the supplemental benefit was retired in 1987, but the FUTA surtax was recently extended until 2007. In recognizing that the FUTA surtax achieved its purpose and is no longer necessary to pay for supplemental benefits, the proposal would repeal the 0.2 percent FUTA surtax.

NPRC believes that the consideration of comprehensive restructuring of the UI system offers an important opportunity to improve the UI/ES system in general, and, specifically, to simplify the tax administration aspects of the system. We appreciate that each party to these discussions had different reform priorities and that every party had to make concessions to achieve a balanced compromise. The political challenges of reforming the UI system are complex, and the issues are often arcane. While our national UI system is not in crisis, we encourage the Congress to use this balanced proposal to make valuable improvements in the system. It is unfortunate that, in the past, employers, workers and government have only focused on the UI system in times of economic crisis and high unemployment. Our organization believes that we should utilize the opportunity created by our current strong economic condition to improve and modernize the system so that it will be strength-

ened for times of future need. The NPRC supports the enactment of the Workgroup's carefully crafted compromise and looks forward to working with the Subcommittee in this endeavor.

Statement of the National Retail Federation

RETAIL INDUSTRY COMMENTS ON PROPOSED UNEMPLOYMENT COMPENSATION (UC) REFORM PROPOSAL

On behalf of the U.S. retail industry, the National Retail Federation (NRF) would like to take this opportunity to express its concern with the Unemployment Insurance-Employment Service Reform Proposal that is the subject of today's hearing. As background, NRF is the world's largest retail trade association with membership that comprises all retail formats and channels of distribution including department, specialty, discount, catalogue, Internet and independent stores. NRF members represent an industry that encompasses more than 1.4 million U.S. retail establishments, employs more than 22 million people—about 1 in 5 American workers—and registered 1999 sales of $3.1 trillion. In its role as the retail industry's umbrella group, NRF also represents 32 national and 50 State associations in the U.S.

While the Human Resources Subcommittee and Chairwoman Nancy Johnson (R–CT) should be commended for holding a hearing on the status of the Unemployment Compensation (UC) system and ways to improve and reform the current program, the joint proposal developed by the Conference of Employment Security Agencies, organized labor, the Department of Labor, and the Strategic Services on Unemployment & Workers' Compensation (UWC) could drain valuable UC resources and impose significant burdens on employers, and leaves many critical questions unanswered. Moreover, the retail industry believes that many of the issues addressed in this proposal, including eligibility and benefit level threshold determinations, are best left to the States to decide rather than being imposed by Washington D.C.

Given the broad implications of this proposal, the retail industry encourages Members to consider all possible consequences, intended or not, before moving forward with legislation in this area. Several provisions in this "compromise" proposal should be more thoroughly vetted among industry groups before additional Congressional action is taken. Areas of concern include, among others:

Changing the Eligibility of Part-Time Workers

One aspect of this proposal that concerns not only retailers, but any industry that faces seasonal fluctuations in their part-time workforce, is substantial payroll cost increases due to unforeseen or unintended consequences. Under this proposal, part-time workers who decide to put in more hours during a "peak season" (e.g. the November-December holiday period) could actually become eligible for unemployment benefits once they return to their normal hourly workload in January, sapping UC system resources from those who truly need this assistance and placing a significant burden on employers. In many States, the determination for claims under UI for *weekly benefit awards* (WBA) are based on an individual's *high quarter earnings*. Increased hours during the peak season make this quarter's wages noticeably higher than wages for the other three quarters (the rest of year) and would result in an individual qualifying for an artificially inflated WBA. During such peak seasons part-time employees work additional hours thus increasing their wages in the 4th quarter. For example, if a person only worked 20-hour weeks in the first three quarters of a year, and then decided to work 30-hour weeks in the 4th quarter (holiday season), their WBA payout could be based on their 4th quarter earnings. Once this employee returned to their normal 20-hour workweek in January, they could actually become eligible to receive UC benefits, even though they are currently employed and as long as they remain available for part-time work. In addition to their hourly part-time pay, they could also receive UI benefits for the "cut" in hours they voluntarily undertook as they continue to work.

There are many questions that must be answered before this proposal moves forward. For example, what is the requirement for part-time work? Is it 20 hours, 30 hours, or 22.5 (the average of the 12-month base period)? Will States look at the hours worked to determine benefits such as the high quarter of earnings that then means the claimant would have to be seeking a 30-hour part-time job to receive benefits? Many retailers determine their part-time jobs based on sales, averaging between 15 to 25 hours. If a claimant seeks a 20-hour workweek job, could they refuse such a position and still collect benefits? What defines part-time work and how will this proposal impact those employees who resume a 20-hour work week?

Alternative Base Period

This proposal also provides a new alternative base period for unemployment insurance (UI) eligibility. This could significantly drain UC resources and could impose a substantial administrative burden on employers trying to respond to wage verification requests. There are a number of questions in this area that must also be answered before legislation moves forward. For example, what documentation would be used to provide wage and employment information? How would such information be verified? This proposal also includes language stating, "nothing in this paragraph shall be construed to prohibit a State from using any additional wage or employment information considered by such State for monetary eligibility." It is unclear what this language means. It appears States can still utilize other information. Does it mean that if a claimant provides wage information that States can then use this information until the employers wage information is reviewed? If so, how would differences in base period wages be handled, especially if the claimant is already receiving benefits?

Economic Impact

Under this proposal, it is estimated that an additional 320,000 workers would receive $800 million in benefits due to the change in alternative base period eligibility. In addition 260,000 additional part-time workers would qualify for $320 million in benefits. These estimates are based on current economic assumptions. It is unlikely, unfortunately, that this period of economic growth will continue indefinitely. In order to understand the true ramifications of this proposal, it would be beneficial to know the projections for claims, benefits, administration costs, and the associated State tax rate increases during more traditional levels of unemployment as well as during levels of high unemployment. Utilizing unrealistic assumptions will only lead to further strain on the UC system and place additional burdens and costs on employers in the future.

Retailers appreciate the time and effort the Subcommittee, Members of Congress, and the participants in today's hearing have spent on this important issue. There are several provisions in the proposal that would increase the efficiency of today's UC system. However, the retail industry submits that there are a number of critical issues that must be resolved before any legislative action is taken on this UC reform proposal.

RHODE ISLAND DEPARTMENT OF LABOR AND TRAINING
CRANSTON, RI 02920–4407
September 19, 2000

A.L. Singleton, Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Singleton:

I wish to express my support for the comprehensive Employment Service and Unemployment Insurance (ES/UI) Reform Legislation that was heard in your committee on September 7, 2000. Please include this letter in the written record of the hearing.

Enactment of the Unemployment Insurance/Employment Service reform package is especially critical to the funding base and service capacity of the Rhode Island Department of Labor and Training. The reform package was developed as a bipartisan effort that included business, labor and State workforce agency representatives, working closely with the United States Department of Labor. The core elements of the resultant comprehensive, bipartisan reform proposal are these:

- Reduce employer taxes by repealing the temporary 0.2 percent Federal surtax
- Establish statutory formulas for aggregate Unemployment Insurance and Employment Service grants to States and make them mandatory instead of discretionary
- Improve the Extended Benefits program which activates during recessions
- Expand eligibility for workers who only have recent earnings or who work part time
- Reduce fraud and abuse and help States manage their trust funds more efficiently

- Reduce employer wage reporting and tax filing burden

We fully endorse the compromise ES/UI reform package, knowing that it will benefit employers and our job-seeking customers, and will improve the administration of our core programs of Unemployment Insurance and the Employment Service. It is my hope that after reviewing all the available information and hearing testimony from expert witnesses, you will be convinced, as I am, that these items warrant your support.

Thank you for the opportunity to comment on this very important legislative proposal.

Sincerely,

LEE H. ARNOLD, DPA
Director

Statement of the Screen Actors Guild, Bethesda, MD

The members of the Screen Actors Guild appreciate the opportunity to submit testimony before the Committee on Ways and Means, the Subcommittee on Human Resources regarding "Unemployment Compensation Reform." We submit these comments on behalf of colleagues in the entertainment industry, in particular the senior performers represented by the Screen Actors Guild, and the American Federation of Television and Radio Artists.

The reforms which you will consider will affect unemployment insurance policy and will have a direct impact on the lives of many Americans, including members of the Screen Actors Guild. We submit this testimony to bring to your attention a problem which adversely affects senior members of the entertainment community. We believe that this problem is the result of certain unintended consequences of Section 3304 of the Federal Unemployment Tax Act. We need your help in dealing with these consequences.

Our senior members find themselves in a predicament which is the result of a combination of factors. These factors include the unique nature of entertainment work, the rules of our pension plan, and the current interpretation of Federal law.

While some actors are financially well off, most are not. Entertainment professionals work many short-term jobs and face prolonged periods of unemployment. Like many other hard-working Americans, some senior members of the entertainment community have earned a modest pension after working twenty or more years. Still, these actors have years of productive work ahead of them and often continue to seek roles portraying senior citizens in a positive, active and vigorous light. There is a harsh penalty for those who continue to work.

Performers are participants in various multi-employer pension plans which were established through collective bargaining. Under the terms of those plans, a worker who has met the minimum requirements to qualify for benefits can take normal retirement at age 65, or an early retirement option with reduced benefits at as early as age 55.

However, it is very common for a performer once they have begun to receive a modest monthly pension, to continue to seek work in motion pictures or television. When such work is obtained, the performer's employer will, in compliance with the collective bargaining agreement, contribute to the pension plan. Under the plan's rules, such contributions will result in an increase in the performer's monthly pension check. Subsequently, while the performer has met the qualifications for unemployment benefits, Section 3304 of the Federal Unemployment Tax Act requires that an individual's unemployment insurance benefit be offset by the pension benefit when:

1.The person works for any employer-member of a multi-employer unit which contributed to the pension, and
2.where that work results in an increase in benefits.

Section 3304 of FUTA as currently interpreted reduces the total amount of the unemployment benefit not by the amount of the pension increase, but by the total amount of the pension. The penalty for accepting short-term work is indeed severe, and harsh.

For example, assume that as a result of a short-term acting job, a worker's monthly pension benefit increases by $7, from $400 to $407 per month. Also assume that the determined unemployment insurance benefit is equal to $450 per month. Under current law, the monthly unemployment benefit of $450 would be reduced by $407, leaving a net benefit of only $43 per month.

We would respectfully suggest to the Committee that a reasonable approach would be to limit the unemployment benefit offset to the amount of the pension increase. Section 3304 of the Federal Unemployment Tax Act must be clarified. The statute refers to identical base-period employers, but does not mention multi-employer plans. Actors, writers and other workers in the television and motion picture industries are participants in various multi-employer pension plans. The pension offset rule was designed to discourage individuals from going back to work for the same company which employed them previously. The law did not contemplate an adverse effect on people such as performers who receive a pension increase for the same pension plan, not the same company. The current dilemma is unique to the entertainment industry because these individuals work well beyond normal retirement age and work for the same multi-employer plan. Under current interpretation, these workers are returning to the same company, when in fact, they are merely seeking short-term work in a diverse industry with many employers. Our recommended change enjoys bipartisan support.

We are also submitting for the record the results of our efforts to resolve this issue administratively through the Department of Labor. We thank the members of the Committee for the opportunity to bring this issue to your attention.

[Attachments are being retained in the Committee files.]

Statement of the Society for Human Resource Management

Madam Chair and Members of the Subcommittee:

The Society for Human Resource Management (SHRM) is the leading voice of the human resource profession. SHRM provides education and information services, conferences and seminars, government and media representation, online services and publications to 140,000, professional and student members throughout the world. The Society, the world's largest human resource management association, is a founding member of the North American Human Resource Management Association (NAHRMA) and a founding member of the world federation of Personnel Management Associations (WFPMA). On behalf of NAHRMA, SHRM also serves as president of WFPMA.

On February 29, 2000, SHRM filed testimony with this Subcommittee supporting the swift enactment of H.R. 3174, the bipartisan Employment Security Financing Reform Act. In the testimony, SHRM explained that "H.R. 3174 is essential to strengthening the State unemployment insurance and employment services (UI/ES) system and the workers and employers whom it is designed to serve." The Society urged the members of this Subcommittee to "actively work to enact H.R. 3174 on a bipartisan basis." SHRM also expressed opposition to the Administration's proposal as presented in the Unemployment Compensation Amendments of 1999, H.R. 1830.

SHRM is a member of the Coalition for Employment Security Financing Reform, an informal coalition of business organizations and 32 States that has been working over the last year and a half with organized labor and Administration representatives to discuss the possibility of a consensus legislative proposal on overall unemployment insurance reform. SHRM also serves on the Board of Directors for UWC-Strategic Services on Unemployment & Workers' Compensation.

While our preferred approach to unemployment insurance reform would be the swift enactment of H.R. 3174, SHRM also recognizes that due to the widespread interest in the unemployment insurance system and the need for support from all involved parties, a consensus proposal, such as the one developed by the coalition, is highly desirable. The compromise proposal developed by the Coalition for Employment Security Financing Reform, the Administration and organized labor currently contains the following provisions:

- repeal of the FUTA .2 percent surtax
- shifting the unemployment insurance administration and employment security (ES) funding from a discretionary spending item to the mandatory side of the Federal budget
- expanding unemployment insurance benefits to include part time workers
- guaranteed funding for extended benefit (EB) funding with lower EB triggers
- require States to pay UI benefits to otherwise eligible unemployed workers who have met monetary eligibility requirements on the basis of their part time work and are seeking and available for suitable and comparable part time work. The purpose of this provision is to eliminate the disqualification of a part time worker solely for being unavailable for full time work

• simplifying the FUTA tax form without requiring changes in State law or an additional tax

• FUTA funds in excess of caps would flow into State trust funds granting States access to the National Directory of New Hires for UI fraud investigations

• administrative financing reform with funding distributed to States according to a formula

The full text of the Society's Board-approved position on the important issue of overall unemployment insurance reform is attached to this statement. (See attachment #1.) This position also includes a statement that addresses the Administration's Birth and Adoption Unemployment Compensation Rule (BAA-UC).

SHRM found it unsettling and surprising that, during the September 7, 2000 hearing on overall unemployment reform hearing, a related and highly controversial issue—the Administration's Birth and Adoption Unemployment Compensation (BAA-UC) Rule—did not receive a single mention by any of the participants. This is troublesome since allowing the misdirection of unemployment benefits for family and medical leave or other non-employment benefit purposes has a direct bearing on the unemployment insurance system and could undermine progress achieved through any type of UI reform legislation. SHRM member Kimberly Hostetler eloquently described the negative implications of the Administration's BAA-UC rule during the March 9, 2000 hearing before this subcommittee.

SHRM is extremely concerned about the impact of the BAA-UC or baby UI rule on the unemployment insurance system and has taken a leadership role in urging Congressional opposition to the measure. We have commended Subcommittee Chair Nancy Johnson for her leadership in opposing the Administration's proposal. A Letter to all SHRM members from the Chairman of the Society's Board of Directors was published in the May issue of *HR News* commending Subcommittee Chair Nancy Johnson for her courageous actions to protect Unemployment Insurance trust funds from the Administration's "Baby-UI" raid. (See attachment #2.)

While SHRM strongly agrees that paid leave is a desirable benefit and encourages its members to provide a whole host of work-life benefits to employees, including leave for the birth or adoption of a child, we take strong exception to the approach taken in the BAA-UC rule. We strongly disagree with the President's May 23, 1999 statement that, through the BAA-UC: "We can do this in a way that preserves the soundness of the unemployment insurance system and continues to promote economic growth." May 23, 1999 Statement of President William J. Clinton at Grambling State University.

Unfortunately, despite tremendous opposition and amid enormous controversy, the Administration has chosen to finalize the BAA-UC rule through the regulatory back door. The rule became effective on August 14, 2000. States may now move forward to raid their unemployment insurance trust funds to provide paid family leave. Accordingly, SHRM has joined with the U.S. Chamber of Commerce and the LPA, Inc. to file a lawsuit in Federal district court challenging the legality of the ill-conceived proposal. A press release announcing our lawsuit is attached. (See attachment #3). While we expect that the rule will soon be struck down in court, the Administration's actions in this area have had a direct bearing on ability of parties to address issues related to the overall unemployment reform system and should not be ignored.

We agree with Subcommittee Chairman Nancy Johnson's characterization of the unemployment reform compromise as a "very interesting and significant" proposal on reform of the nation's unemployment compensation program. Rarely do such diverse interests form agreement on issues of such magnitude. As characterized during the hearing, the agreement is clearly an impressive product of compromise and contains elements that the parties would not support separately or outside of this delicately crafted agreement.

However, given statements made by Subcommittee members during the September 7, 2000 hearing, we understand that members of Congress are expected to make some changes to the delicately crafted coalition compromise agreement. Accordingly, SHRM would like to express the following specific comments on the various elements of the proposal for your consideration as you finalize legislation in this important area.

1.SHRM finds the provision that repeals the FUTA .2 percent surtax as a particularly attractive element of the agreement. In 1976, Congress established the 0.2 percent "temporary" surtax to pay a debt arising from repeated supplemental extensions of unemployment benefits. This "temporary" tax has been extended numerous times and is now scheduled to continue until December 31, 2007. SHRM has historically supported the repeal of the FUTA 0.2 percent surtax and supports the provision in the coalition agreement and other pending legislation that would quickly accomplish this important goal.

2.SHRM is pleased that the new coalition proposal will fix serious problems with the State UI and employment security (ES) system resulting from the Federal Government's failure to provide adequate funding. SHRM supports proposals to allow for faster and more efficient employment security services and to shift decision making closer to home where unemployment services/training can be customized to local conditions. SHRM supports the efficient collection of employment taxes and is pleased that the new proposal does not accelerate FUTA and State unemployment tax collections since they would impose unnecessary paperwork burdens.

3.SHRM believes tax dollars that employers pay to finance America's employment security system should not be used to artificially offset the Federal deficit. Accordingly, SHRM is pleased with the provision in the agreement that shifts the unemployment insurance administration and ES funding from a discretionary spending item to the mandatory side of the Federal budget. Although the Federal budget is now described as balanced, some of that balance has been achieved over the years by offsetting balances in trust funds, including those within the employment security system. Consequently, employer payroll taxes are underwriting Federal general revenue and providing funds for domestic spending unrelated to employment security.

During the September 7, 2000 hearing Administration spokesperson Ray Uhalde expressed support for moving program funding from the discretionary to the mandatory side of the budget for purposes of the Budget Enforcement Act. We are pleased with this development and are interested in the Administration's desire for "proper budgetary review" and how the details of that review will be worked out.

4.SHRM has historically opposed mandated benefits as a policy issue and has some reservations with the agreement's provision expanding unemployment insurance benefits to include part time workers. Given our concerns in this area, SHRM would like to see the final legislative language on the full compromise and be afforded the opportunity to review the final proposal with our members in the context of the overall package prior to passage.

Conclusion

SHRM commends all parties for their good faith efforts to forge a compromise proposal on unemployment insurance reform since such a proposal is certainly needed. We only wish that the Administration had exercised such good faith in the development of the BAA-UC proposal since it has a direct impact on the soundness of the overall unemployment insurance system and the reforms discussed in this hearing. Since the two issues are inherently related, ultimately, a better process with the latter would have resulted in more goodwill toward the former.

Thank you for the opportunity to express our views on the important issue of unemployment insurance reform compromise legislation. We hope that you will contact Julia Bellinger at (703) 535–6061 if you have any questions regarding the Society's position on unemployment insurance reform as you work to finalize legislation in this area.

Attachments: 1. SHRM Position Statement on Unemployment Expansion and Reform

2.Letter to SHRM Members from the Chair, SHRM Board of Directors as Published in May 2000 HR News

3.Press Release on the Lawsuit on the BAA-UC (Birth and Adoption-Unemployment Compensation) Rule

Attachment #1

July 2000

Society for Human Resource Management

POSITION STATEMENT ON UNEMPLOYMENT INSURANCE EXPANSION AND REFORM

Issue: Policymakers are considering landmark unemployment insurance (UI) proposals that would change the nature of the UI program.

Background: For more than 60 years, employers have paid payroll taxes to fund programs collectively known as the Employment Security System. The program is a Federal-State partnership that provides four major programs:

- Employment Services,
- Unemployment Insurance,
- Veterans' Employment Services, and
- Labor Market Information

The programs are operated by State Employment Security Agencies (SESAs) using Federal grants financed from a Federal payroll tax on employers. In addition,

States collect a separate payroll tax for the State to finance unemployment insurance benefit payments. The Federal Government establishes the overall legal framework, provides technical assistance, collects and allocates funds for administration and provides oversight. States provide services to customers and establish laws for the collection of State unemployment taxes and payment of benefits.

The Employment Security System is founded on a "compact," by employers, workers and the State and Federal government through which employers provide financing through payroll taxes. Workers receive unemployment benefits along with reemployment services to shorten their spells of unemployment. Employers also receive services to assist them in meeting their needs for skilled workers.

Although the Federal budget is now described as balanced, some of that balance is believed to have been achieved over the years by offsetting balances in trust funds, including those within the employment security system. Consequently, employer payroll taxes are underwriting Federal general revenue and providing funds for domestic spending unrelated to employment security.

In 1976, Congress established the 0.2 percent "temporary" surtax to pay a debt arising from repeated supplemental extensions of unemployment benefits. This "temporary" tax has been extended numerous times and is now scheduled to continue until December 31, 2007.

SHRM Position:

Changes are needed to improve efficiencies in the Unemployment Insurance (UI) program. Unemployment Insurance reform can be accomplished without taking away any legal protections or benefits for workers under current law and without creating unnecessary burdens on employers. Legislation is crucial to reduce burdensome paperwork for employers, promote efficiencies in returning UI claimants to work, weed out fraud, and promote greater government accountability and efficiency in the use of FUTA funds. Many of the tax dollars that employers pay to finance the nation's Employment Security System are being used to artificially offset the Federal deficit. For example, in 1997 alone, employers paid over $6 billion in FUTA taxes and only $3.5 billion came back to pay for programs. The remaining $2.5 billion is being used to artificially offset the Federal deficit.

States should determine the circumstances under which unemployed workers collect benefits under State Employment Security programs and how much they receive. However, the fundamental nature and purpose of the UI system should not be changed to allow individuals who are not unemployed to collect funds from the Unemployment Insurance Trust Fund. The UI Trust Fund should be reserved for involuntarily unemployed individuals who are able and available to work, and should not be diverted for other purposes, regardless of the merits of that purpose. Allowing States to divert funds away from unemployed individuals is short sighted and would inappropriately change the fundamental nature and purpose of the UI system. Allowing the misdirection of unemployment benefits for family and medical leave or other non-employment benefit purposes will shred the safety net that the unemployment insurance system is designed to provide to workers.

SHRM supports proposals to allow for faster and more efficient employment security services and to shift decision making closer to home where unemployment services/training can be customized to local conditions. SHRM supports the efficient collection of employment taxes and opposes proposals to accelerate FUTA and State unemployment tax collections due to the unnecessary paperwork burdens that would be imposed. Moreover, SHRM believes tax dollars that employers pay to finance America's employment security system should not be used to artificially offset the Federal deficit.

SHRM opposes the extension of the 0.2 percent FUTA surcharge because it represents a breach in the 1976 congressional commitments that the tax would be temporary.

Attachment #2

SHRM CHAIR LAUDS REPRESENTATIVE FOR STAND ON ISSUE OF USING UI FUNDS ON FAMILY LEAVE

LETTER FROM THE CHAIR

To SHRM Members:

Political honesty is an uncommon virtue in an election year. It is all too rare that we witness a courageous action from politicians on sensitive issues.

Such action occurred in March in a House Ways and Means subcommittee hearing chaired by Rep. Nancy Johnson, R-Conn., on a key HR issue—Family and Medical

Leave Act expansions. Throughout the hearing, Johnson, a moderate Republican and vocal supporter of the original Family and Medical Leave Act (FMLA), strongly criticized the U.S. Department of Labor for issuing a proposed rule that would allow States to raid their unemployment insurance (UI) trust funds for workers on family leave.

Throughout the televised hearing, Congresswoman Johnson took the stand that "the implementation of the Family and Medical Leave Act has revealed some serious problems" that have been ignored by the Labor Department and said that it is irresponsible to expand the act without addressing the existing problems. She refused to allow the threat of election-charged rhetoric to disguise bad policy. She explained her strong record of commitment to family issues and that she would not allow the issue to be portrayed as "I like children and you don't. I like women and you don't." She cut beyond the rhetoric and described the Labor Department's lack of FMLA oversight as "shockingly irresponsible" and "unthoughtful."

By sheer coincidence, the evening after the hearing I was on my way to speak to a senior HR group in the congresswoman's State when I received a phone call from SHRM Executive Vice President and COO Susan Meisinger, SPHR. She told me of Johnson's courageous statements and the success of SHRM member Kimberley Hostetler's testimony and, within minutes, I was sharing the news with the HR executives who were Johnson's constituents.

The human resource profession is scoring major victories in Congress. As a profession, we have demonstrated that we can act and react to shape the laws that affect our daily lives and those of the workers and employers we serve. The SHRM-founded FMLA Technical Corrections Coalition's work has borne tremendous fruit. We have now had five congressional hearings with numerous SHRM members providing expert testimony documenting the FMLA's unintended consequences.

The SHRM staff, the SHRM-founded FMLA coalition and numerous SHRM members have demonstrated tremendous commitment to our profession with these legislative successes. However, it goes beyond this. At the heart of these actions is a driving desire to get beyond the rhetoric to improve the workplace for employees and employers alike. We thank Congresswoman Nancy Johnson for her courage to do the same.

MICHAEL J. LOTITO, SPHR
Chair
SHRM Board of Directors

Attachment #3

SHRM DENOUNCES CLINTON'S NEW PAID

FAMILY LEAVE RULE BY ANNOUNCING HISTORIC LAWSUIT

Alexandria, VA, June 12, 2000—The Society for Human Resource Management (SHRM) today announced its intention to file a lawsuit in the D.C. District Court to stop the Administration's new rule that will allow States to dip into Unemployment Insurance Trust Funds for paid family leave. Joining in the lawsuit is LPA and the U.S. Chamber of Commerce.

SHRM has coordinated business community opposition to the effort since May of 1999. Since that time, individual human resource professionals have sent thousands of comments to the Department of Labor and Congress warning that the rule was illegal and urging that the proposal be withdrawn.

"It is astounding that the Administration would finalize this rule after receiving strong warnings from Congress, and reportedly their own attorneys, that this back door attempt is likely to be struck down in court," said the SHRM Chair, Michael J. Lotito, SPHR. In several DOL internal documents discovered recently, the department's Solicitor's Office reportedly discusses the department's decision to circumvent legislative action saying that, "the court is likely to invalidate such a DOL regulation as an arbitrary agency action."

The rule allows States to use their unemployment insurance (UI) trust funds to pay workers taking leave for the birth or adoption of a child. SHRM urges State legislators to freeze any State legislative actions until the issue is settled in court. "The Department has clearly exceeded its authority in attempting to push through this rule when it will most certainly be struck down. States acting abruptly could find themselves in a situation where they are out of conformity with unemployment insurance law, subjecting employers to significant payroll tax increase," Lotito.

"SHRM has made stopping this executive branch rule a top priority," said SHRM's Executive Vice President and COO, Susan R. Meisinger, SPHR. "This action is necessary given the costly nature of the new rule."

In February, SHRM submitted extensive comments to the Labor Department warning that the "back door Family and Medical Leave Act expansion" is "not only illegal, but it is inappropriate given the documented problems with the Act's existing implementing regulations and interpretations."

"As it already stands, human resource professionals face significant challenges in complying with the FMLA, as demonstrated in five congressional hearings on the matter," said Lotito.

In addition, States which may move forward to implement such a program face the possibility of insolvency, thereby jeopardizing the individuals whom the system was designed to protect—the unemployed. An indication that the DOL is not concerned with insolvency issues, it notes in its rule slated to be published this week, that "we have never interpreted Federal law to require 'solvency'."

DOL ATTEMPTS TO DEFLECT PAID LEAVE LAWSUIT

Groups Resolve to Continue the Fight to Preserve Jobless Program

Washington, D.C., August 31, 2000—In a tacit acknowledgment of the weakness of its case, the U.S. Department of Labor is attempting to deflect the legal challenge brought by the Society for Human Resource Management (SHRM); LPA, Inc; and the U.S. Chamber of Commerce to its Birth and Adoption Unemployment Compensation (BAA-UC) program through procedural maneuvering.

The lawsuit, filed in late June, is an effort to overturn the regulation that allows States to dip into their unemployment insurance (UI) trust funds to pay workers taking leave for the birth or adoption of a child. Instead of attempting to resolve the legality of a program in which it claims there is widespread interest, DOL has filed a motion to dismiss the case, claiming it is not "ripe" because no State has yet acted.

"We are extremely disappointed in the Department's position that an employer must be harmed before a court can decide that it acted illegally," said SHRM President and CEO, Michael R. Losey, SPHR. "If the Department is so confident in the legality of its position, why is it engaging in delay tactics?"

"In promulgating BAA-UC, the Department claimed it was something the States were clamoring for," said Jeffrey C. McGuiness, President of LPA, Inc. "If that is the case, why doesn't the Department want to address the question of legality as soon as possible? We feel confident we will inevitably prevail. Cluttering up the case with procedural hurdles only delays the inevitable."

"No amount of legal motions or procedural delays can hide the facts in this case," said Randel Johnson, Chamber Vice President of Labor and Employee Benefits. "The Clinton Administration is unlawfully jeopardizing a critical program for laid-off workers to subsidize people who already have jobs. If this Administration wants to provide paid leave to employees away from their work, it should finance it honestly—not rob a fund that has been paid for by employers and set aside for unemployed workers."

By dictating a fundamental change in the country's jobless assistance program, the challenged regulation circumvents Congress, and breaks a 65-year-old covenant between the government and the jobless, according to the plaintiffs. In addition, this move marks a departure from the original Family and Medical Leave Act (FMLA) as passed in 1993, which rejected proposals requiring employers to pay employees taking family leave. Reportedly, DOL's own lawyers have advised that this action is of questionable legality and would likely be struck down in court.

LPA is a public policy advocacy organization representing human resource executives. Collectively, LPA members employ more than 12 percent of the U.S. private sector workforce.

The U.S. Chamber of Commerce is the world's largest business federation representing more than three million businesses and organizations of every size, sector and region.

Statement of the Hon. Bob Taft, Governor, State of Ohio

Thank you for the opportunity to submit a statement expressing my strong support for repeal of the "temporary" Federal Unemployment Tax (FUTA) surcharge and reforms to the employment security financing system to provide full funding for the unemployment insurance and employment service programs.

Reform of this system is an issue that is extremely important to employers, workers and States administering unemployment insurance and employment service programs. I was pleased to testify before the Ways and Means Committee in June of

1999 and to submit a statement to this subcommittee in February of this year in support of badly needed reforms to this system.

The FUTA surcharge was enacted by Congress in 1976 to provide funds to reimburse depleted trust fund accounts that have long since been restored. The Tax Relief Act of 1997 extended this surcharge much longer than necessary through the year 2007.

The current system overtaxes employers and underfunds the unemployment insurance program and employment services which are critical to provide needed access to jobs and support for families in the workforce of the new century.

In 1997, 49 of the 53 States and jurisdictions received less in administrative funding than their employers paid in FUTA taxes—many States significantly less. Since 1990, less than 58 cents of every employer FUTA tax dollar has been returned in administrative funding for States.

An examination of the taxes paid by employers in comparison to administrative funds provided to the States paints a compelling picture. From 1993 to 1998, annual FUTA tax collections increased from $4.23 billion to $6.45 billion while administrative funding was cut from $3.81 billion to $3.47 billion. Although the latest data is only available through 1998, the trend line has continued in 1999 and 2000, further diminishing the percentage return of employer taxes to the States each year.

This grossly inadequate return to the States is striking, as is the unjustified continuation of the "temporary" surcharge. In Ohio, where we receive 39 cents on the dollar, the lack of adequate funding has required the closing of local offices, reductions in staff, and the use of State general revenue to make up for cuts in Federal funds.

Not only is there no justification for the continuation of the FUTA .2 percent surcharge to fund the system, but the funds appropriated are insufficient to meet the costs of supporting the State adequately in administering the unemployment insurance and employment service programs. Ohio employers are paying too much in FUTA taxes, and the differential between the amount of Federal administrative funds appropriated and actual costs of administration by the States continues to increase.

We must do a better job of supporting State efforts to ensure the ability of American families to adjust to the demands of the workforce in the coming century by providing adequate funding for employment services for those who become unemployed. In Ohio, we have merged the Bureau of Employment Services and the Department of Human Services into the Department of Job and Family Services to develop the comprehensive system we need to address workforce development.

We need a system which properly funds States for administration, minimizes the tax burden on employers, and provides States with the flexibility to design and effectively run workforce development systems.

Since 1997, a coalition of 32 States and more than 100 State and national employer organizations representing hundreds of thousands of employers have joined together to seek reform of employment security financing. The Western Governors Association and the Southern Governors Association have passed resolutions urging reform of the system, and the National Governors' Association has adopted a policy statement outlining specific areas where reform is needed.

Congressman McCrery and Senator DeWine have been instrumental in bringing the need for reform to the attention of Congress by introducing legislation earlier this session. Their efforts and those of the reform coalition have now been joined with reform initiatives from representatives of organized labor and the United States Department of Labor to develop a bi-partisan reform proposal.

The bi-partisan proposal now under consideration was crafted to address appropriate administrative funding levels and employer taxes. The proposal includes provisions to:

- Repeal the .2 percent FUTA surcharge;
- Provide adequate dedicated funds for administration of unemployment insurance, public employment services and veterans employment services; and
- Streamline employer tax reporting requirements to reduce employer reporting burdens and the costs of administration.

I urge you to favorably consider this bi-partisan proposal for reform.