

107TH CONGRESS
2D SESSION

H. R. 4373

To amend the Federal Unemployment Tax Act and the Social Security Act to modernize the unemployment insurance system, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 16, 2002

Mr. McDERMOTT (for himself, Mr. WYNN, Mrs. CHRISTENSEN, Ms. KAPTUR, Mr. FROST, Mr. GEORGE MILLER of California, Mr. BONIOR, Mr. STARK, Mr. KUCINICH, Ms. LEE, Mr. UDALL of New Mexico, Mr. JACKSON of Illinois, Mr. ACEVEDO-VILÁ, and Mrs. MINK of Hawaii) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Federal Unemployment Tax Act and the Social Security Act to modernize the unemployment insurance system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; ETC.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Keep America Working Act of 2002”.

6 (b) **TABLE OF CONTENTS.**—

Sec. 1. Short title; etc.

TITLE I—RESTORING INSURANCE ELIGIBILITY IN AN EVOLVING
ECONOMY

- Sec. 101. Expansion of circumstances under which unemployment compensation is payable.
- Sec. 102. Expansion of unemployment tax wage base.
- Sec. 103. Determinations of whether individuals are employees for purposes of employment taxes.
- Sec. 104. Repeal of determination of employer's liability for certain employment taxes.
- Sec. 105. Effective dates.

TITLE II—INCREASING JOB MOBILITY AND ENCOURAGING
ADEQUATE COMPENSATION

- Sec. 201. Separation from work due to a move relating to spouse's or domestic partner's new principal place of work not a bar to receiving unemployment compensation; replacement ratios for lower paid workers who become unemployed.

TITLE III—ENSURING SOLVENCY AND PREPARING FOR
RECESSION

- Sec. 301. Increase and decrease in earnings credited to State accounts when States meet or fail to meet funding goals.
- Sec. 302. Amendments to trigger provisions of extended benefit program.
- Sec. 303. Eliminate special Federal eligibility requirements for extended compensation.

TITLE IV—IMPROVED LABOR AND WORKFORCE DATA; IMPROVEMENTS IN ADMINISTRATIVE FUNDING FOR AND MEASURING ACCESS TO THE UNEMPLOYMENT SYSTEM

- Sec. 401. Data and reporting requirements.
- Sec. 402. Funding for administration of State unemployment compensation, State systems of public employment offices and veterans employment service programs.

1 **TITLE I—RESTORING INSUR-**
2 **ANCE ELIGIBILITY IN AN**
3 **EVOLVING ECONOMY**

4 **SEC. 101. EXPANSION OF CIRCUMSTANCES UNDER WHICH**
5 **UNEMPLOYMENT COMPENSATION IS PAY-**
6 **ABLE.**

7 (a) IN GENERAL.—Subsection (a) of section 3304 of
8 the Internal Revenue Code of 1986 (relating to approval
9 of State unemployment compensation laws) is amended by
10 striking “and” at the end of paragraph (18), by redesignig-

1 nating paragraph (19) as paragraph (28), and by insert-
2 ing after paragraph (18) the following new paragraphs:

3 “(19) compensation shall not be denied to an
4 individual solely because such individual is seeking
5 only part-time work, if—

6 “(A) such individual otherwise qualifies for
7 unemployment compensation, based wholly or
8 mostly on part-time work; and

9 “(B) the part-time work sought by such in-
10 dividual generally requires at least 20 hours per
11 week;

12 “(20) compensation is payable to an eligible in-
13 dividual in an amount which is not less than the
14 amount determined by applying a base period ending
15 at the close of the calendar quarter most recently
16 completed before the date of the individual’s applica-
17 tion for benefits;

18 “(21) except as provided in paragraphs (6) and
19 (13), compensation shall not be denied in such State
20 to any otherwise eligible individual solely on the
21 basis that such individual is a seasonal worker;

22 “(22)(A) if any individual leaves employment
23 because of sexual harassment, for purposes of deter-
24 mining such individual’s eligibility for compensation
25 for any subsequent week for which such individual

1 meets the State law requirements relating to avail-
2 ability for work and active search for work, such in-
3 dividual shall be treated as having left such employ-
4 ment for good cause, and

5 “(B) for purposes of subparagraph (A), ‘sexual
6 harassment’ shall be considered to have been shown
7 upon the demonstration of facts sufficient to estab-
8 lish a prima facie case that the individual involved
9 was victimized by sexual harassment in violation of
10 title VII of the Civil Rights Act of 1964;

11 “(23) if any individual leaves employment be-
12 cause of loss of adequate child care for a dependent
13 child under the age of 13, for purposes of deter-
14 mining such individual’s eligibility for compensation
15 for any subsequent week for which such individual
16 meets the State law requirements relating to avail-
17 ability for work and active search for work—

18 “(A) such individual shall be treated as
19 having left such employment for good cause,
20 and

21 “(B) any failure to return to such employ-
22 ment or to otherwise meet such State law re-
23 quirements, while the lack of such child care
24 continues, shall be disregarded;

1 “(24) if any individual leaves employment be-
2 cause the individual is a victim of domestic violence,
3 for purposes of determining such individual’s eligi-
4 bility for compensation for any subsequent week for
5 which such individual meets the State law require-
6 ments relating to availability for work and active
7 search for work—

8 “(A) such individual shall be treated as
9 having left such employment for good cause,
10 and

11 “(B) any failure to return to such employ-
12 ment or to otherwise meet such State law re-
13 quirements while the risk of further domestic
14 violence is significant shall be disregarded;

15 “(25) the State law provides for the distribution
16 to unemployed individuals information packets ex-
17 plaining unemployment insurance eligibility condi-
18 tions in that State;

19 “(26) the State periodically reviews and adopts
20 the best practices of other States in addressing con-
21 tract and temporary worker issues, including—

22 “(A) clarifying the definitions of employee
23 and independent contractor,

24 “(B) specifying employer liability for pay-
25 roll taxes,

1 “(C) licensing, bonding, or regulating the
2 employee leasing industry, and

3 “(D) the strategic targeting of audits;

4 “(27) compensation shall not be denied in such
5 State to any otherwise eligible individual solely on
6 the basis that such individual was employed at the
7 applicable minimum wage for not less than 20 hours
8 a week for 30 weeks in the base period; and”.

9 (b) UNEMPLOYMENT COMPENSATION NOT REDUCED
10 BY EXEMPT TRUST ROLLOVERS.—Paragraph (15) of sec-
11 tion 3304(a) of such Code is amended by inserting “(other
12 than a rollover described in section 402(c), 403(a)(4),
13 403(b)(8), 408(d)(3), or 457(e)(16))” after “periodic pay-
14 ment” the first place it appears.

15 **SEC. 102. EXPANSION OF UNEMPLOYMENT TAX WAGE BASE.**

16 (a) IN GENERAL.—Paragraph (1) of section 3306(b)
17 of the Internal Revenue Code of 1986 is amended by strik-
18 ing “\$7,000” and inserting “the contribution and benefit
19 base (as determined under section 230 of the Social Secu-
20 rity Act)”.

21 (b) DECREASE IN FUTA TAX RATE.—Section 3301
22 of such Code is amended by striking “equal to—” and
23 all that follows through “thereafter;” and inserting “equal
24 to 5.59 percent”.

1 **SEC. 103. DETERMINATIONS OF WHETHER INDIVIDUALS**
2 **ARE EMPLOYEES FOR PURPOSES OF EM-**
3 **PLOYMENT TAXES.**

4 (a) **REPEAL OF PRIOR AUDIT SAFE HARBOR WITH**
5 **RESPECT TO DETERMINATIONS OF EMPLOYMENT STA-**
6 **TUS.—**

7 (1) **IN GENERAL.—**Paragraph (2) of section
8 530(a) of the Revenue Act of 1978 is amended by
9 striking subparagraph (B) and redesignating sub-
10 paragraph (C) as subparagraph (B).

11 (2) **CONFORMING AMENDMENTS.—**Section
12 530(e) of such Act is amended—

13 (A) in paragraph (2) by striking subpara-
14 graph (A) and redesignating subparagraphs (B)
15 and (C) as subparagraphs (A) and (B), respec-
16 tively,

17 (B) in paragraph (4)(B) by striking “sub-
18 paragraph (A), (B), or (C)” and inserting “sub-
19 paragraph (A) or (B)”.

20 (b) **REPEAL OF PROHIBITION AGAINST REGULA-**
21 **TIONS AND RULINGS ON EMPLOYMENT STATUS.—**Section
22 530 of the Revenue Act of 1978 is amended by striking
23 subsection (b).

1 **SEC. 104. REPEAL OF DETERMINATION OF EMPLOYER'S LI-**
2 **ABILITY FOR CERTAIN EMPLOYMENT TAXES.**

3 (a) IN GENERAL.—Section 3509 of the Internal Rev-
4 enue Code of 1986 is repealed.

5 (b) CLERICAL AMENDMENT.—The table of sections
6 for chapter 25 of such Code is amended by striking the
7 item relating to section 3509.

8 **SEC. 105. EFFECTIVE DATES.**

9 (a) IN GENERAL.—Except as provided by subsection
10 (b), the amendments made by this title—

11 (1) shall take effect on January 1, 2003, and

12 (2) in the case of sections 103 and 104, shall
13 apply to periods beginning after December 31, 2002.

14 (b) EXCEPTION.—In the case of any State the legisla-
15 ture of which has not been in session for at least 30 cal-
16 endar days (whether or not successive) between the date
17 of the enactment of this Act and December 31, 2002, the
18 amendments made by section 101 shall take effect 30 cal-
19 endar days after the first day on which such legislature
20 is in session on or after January 1, 2003.

1 **TITLE II—INCREASING JOB MO-**
2 **BILITY AND ENCOURAGING**
3 **ADEQUATE COMPENSATION**

4 **SEC. 201. SEPARATION FROM WORK DUE TO A MOVE RE-**
5 **LATING TO SPOUSE'S OR DOMESTIC PART-**
6 **NER'S NEW PRINCIPAL PLACE OF WORK NOT**
7 **A BAR TO RECEIVING UNEMPLOYMENT COM-**
8 **PENSATION; REPLACEMENT RATIOS FOR**
9 **LOWER PAID WORKERS WHO BECOME UNEM-**
10 **PLOYED.**

11 (a) REVENUES FROM INDIVIDUAL INCOME TAXES
12 ATTRIBUTABLE TO UNEMPLOYMENT COMPENSATION TO
13 BE CREDITED TO UNEMPLOYMENT ACCOUNTS OF QUALI-
14 FYING STATES.—

15 (1) IN GENERAL.—There is hereby appro-
16 priated to accounts of certified States in the Unem-
17 ployment Trust Fund (as described in section 903 of
18 the Social Security Act (42 U.S.C. 1103)) amounts
19 equivalent to the amount of tax liabilities under
20 chapter 1 of the Internal Revenue Code of 1986
21 which is attributable to the application of section 85
22 of such Code to payments from such accounts.

23 (2) TRANSFERS.—The amounts appropriated
24 by paragraph (1) to any such account shall be trans-
25 ferred from time to time (but not less frequently

1 than quarterly) from the general fund of the Treas-
2 ury on the basis of estimates made by the Secretary
3 of the Treasury, in consultation with the Secretary
4 of Labor, of the amounts referred to in such para-
5 graph. Any such quarterly payment shall be made on
6 the first day of such quarter and shall take into ac-
7 count unemployment compensation estimated to be
8 received from such account during such quarter.
9 Proper adjustments shall be made in the amounts
10 subsequently transferred to the extent prior esti-
11 mates were in excess of or less than the amounts re-
12 quired to be transferred.

13 (3) CERTIFIED STATES.—For purposes of this
14 subsection, the term ‘certified State’ means a State
15 for which a certification under subsection (d) is in
16 effect.

17 (4) REPORTS.—The Secretary of the Treasury
18 shall submit annual reports to the Congress on—

19 (A) the transfers made under this sub-
20 section during the year, and the methodology
21 used in determining the amount of such trans-
22 fers and the account to which made, and

23 (B) the anticipated operation of this sub-
24 section during the next 5 years.

1 (b) CONDITIONS FOR APPROVAL OF STATE LAWS.—
2 The Secretary of Labor shall (for purposes of this section)
3 approve any State law submitted to the Secretary under
4 this section, within 30 days of such submission, which the
5 Secretary finds provides that—

6 (1) compensation shall not be denied to any in-
7 dividual by reason of such individual's separating
8 from employment, if—

9 (A) that separation is related to a change
10 in such individual's spouse's place of residence
11 in connection with the commencement of work
12 by the spouse (as an employee or as a self-em-
13 ployed individual) at a new principal place of
14 work;

15 (B) the spouse's new principal place of
16 work satisfies the condition under subsection
17 (c)(1) of section 217 of the Internal Revenue
18 Code of 1986 (relating to the minimum dis-
19 tance required, between a taxpayer's former
20 residence and new principal place of work, in
21 order to qualify for a moving expenses deduc-
22 tion under such section); and

23 (C) the separating individual has both the
24 former residence and the new residence as his
25 principal place of abode; and

1 (2) in the case of any individual who becomes
2 entitled to receive compensation from such State,
3 and whose average weekly wages (for the period on
4 the basis of which such individual qualifies for such
5 compensation, determined without any limitation on
6 amount) do not exceed 50 percent of the average
7 weekly wages subject (determined without any limi-
8 tation on amount) to contributions under the unem-
9 ployment compensation law of such State (as deter-
10 mined by the Secretary based on the data the Sec-
11 retary considers most appropriate), compensation
12 shall be computed in a manner that results in a
13 wage replacement ratio for such individual that is at
14 least equal to the sum of—

15 (A) 50 percent, plus

16 (B) $\frac{1}{4}$ of 1 percent times the percentage
17 by which such individual's average weekly
18 wages (for the aforementioned period) are less
19 than the average weekly wages subject to con-
20 tributions under the unemployment compensa-
21 tion law of such State (as so determined).

22 The condition under paragraph (2) shall not be considered
23 met if, in order to satisfy such paragraph, the State modi-
24 fies its State law in a way that, as determined by the Sec-
25 retary, has the general effect of reducing the replacement

1 ratio for individuals whose average weekly wages equal or
2 exceed the 50 percent threshold described in such para-
3 graph, except for good cause shown.

4 (c) NOTIFICATION.—The Secretary of Labor shall,
5 upon approving such law for purposes of this section, no-
6 tify the governor (or, if none, the chief executive officer)
7 of the State of the Secretary’s approval.

8 (d) CERTIFICATION.—On October 31 of each year,
9 the Secretary of Labor shall certify to the Secretary of
10 the Treasury each State whose law the Secretary of Labor
11 has previously approved for purposes of this section, ex-
12 cept that the Secretary of Labor shall not certify any
13 State which, after reasonable notice and opportunity for
14 hearing to the State agency, the Secretary of Labor finds
15 has amended its law so that it no longer contains the pro-
16 visions specified in subsection (b) or has with respect to
17 the 12-month period ending on such October 31 failed to
18 comply substantially with either provision of such sub-
19 section.

20 (e) NOTICE OF NONCERTIFICATION.—If at any time
21 the Secretary of Labor has reason to believe that a State
22 whose law the Secretary has previously approved for pur-
23 poses of this section may not be certified under subsection
24 (d), the Secretary shall promptly so notify the governor
25 (or, if none, the chief executive officer) of such State.

1 (f) DEFINITIONS.—For purposes of this section—

2 (1) the terms “State”, “State law”, “State
3 agency”, “compensation”, and “week” have the re-
4 spective meanings given such terms under section
5 205 of the Federal-State Extended Unemployment
6 Compensation Act of 1970;

7 (2) the terms “wages” and “contributions”
8 have the respective meanings given such terms under
9 section 3306 of the Internal Revenue Code of 1986;

10 (3) the term “wage replacement ratio” shall
11 have such meaning as the Secretary of Labor shall
12 by regulation prescribe consistent with the purposes
13 of this section; and

14 (4) the term “spouse” shall include a domestic
15 partner, as defined under regulations of the Sec-
16 retary of Labor.

17 **TITLE III—ENSURING SOLVENCY**
18 **AND PREPARING FOR RECES-**
19 **SION**

20 **SEC. 301. INCREASE AND DECREASE IN EARNINGS CRED-**
21 **ITED TO STATE ACCOUNTS WHEN STATES**
22 **MEET OR FAIL TO MEET FUNDING GOALS.**

23 (a) IN GENERAL.—Section 904 of the Social Security
24 Act (42 U.S.C. 1104) is amended by adding at the end
25 the following new subsection:

1 “Increase and Decrease in Amount of Earnings Allocated
2 to State Accounts When States Meet or Fail to Meet
3 Funding Goals

4 “(h)(1) If the average daily balance in a State ac-
5 count in the Unemployment Trust Fund for any calendar
6 quarter exceeds the funding goal of such State, the
7 amount otherwise creditable to such account under sub-
8 section (e) for such quarter shall be increased by the inter-
9 est premium on such excess. If the average daily balance
10 in such a State account for any calendar quarter is less
11 than the funding goal of such State, the amount otherwise
12 creditable to such account under subsection (e) for such
13 quarter shall be decreased by the interest penalty.

14 “(2) Paragraph (1) shall not apply with respect to
15 any interest premium or interest penalty to the extent that
16 such application would result in an increase or decrease
17 of more than \$2,500,000 in the amount creditable to any
18 State account for any calendar quarter.

19 “(3) For purposes of this subsection, the term ‘inter-
20 est premium’ means, for any calendar quarter—

21 “(A) with respect to the State with the largest
22 percentage value of excess of the average daily bal-
23 ance in the State account in the Unemployment
24 Trust Fund over the funding goal of such State,

1 one-half of one percent of the amount of such ex-
2 cess, and

3 “(B) with respect to each other State, the prod-
4 uct of—

5 “(i) the amount of the excess of the aver-
6 age daily balance in the State account in the
7 Unemployment Trust Fund over the funding
8 goal of such State, and

9 “(ii) the percentage which bears the same
10 ratio to one-half of one percent as—

11 “(I) the percentage value of such ex-
12 cess, bears to

13 “(II) the percentage value of the ex-
14 cess of the State referred to in subpara-
15 graph (A).

16 The Secretary shall make appropriate adjustments in the
17 interest premium for any calendar quarter if the aggregate
18 interest premiums payable for such quarter exceed the ag-
19 gregate interest penalties for such quarter.

20 “(4) For purposes of this subsection, the term ‘inter-
21 est penalty’ means, for any calendar quarter—

22 “(A) with respect to the State with the largest
23 percentage value of excess of the funding goal of
24 such State over the average daily balance in the
25 State account in the Unemployment Trust Fund,

1 one-half of one percent of the amount otherwise
2 creditable to such account under subsection (e), and

3 “(B) with respect to each other State, the prod-
4 uct of—

5 “(i) the amount otherwise creditable to
6 such account under subsection (e), and

7 “(ii) the percentage which bears the same
8 ratio to one-half of one percent as—

9 “(I) the percentage value of the excess
10 of the funding goal of the State over such
11 average daily balance of such State, bears
12 to

13 “(II) the percentage value of such ex-
14 cess of the State referred to in subpara-
15 graph (A).

16 “(5) For purposes of this subsection, the term ‘fund-
17 ing goal’ means, for any State for any calendar quarter,
18 the average of the unemployment insurance benefits paid
19 by such State during each of the 3 years, in the 20-year
20 period ending with the calendar year containing such cal-
21 endar quarter, during which the State paid the greatest
22 amount of unemployment benefits.

23 “(6) For purposes of this subsection, the term ‘per-
24 centage value’ means—

1 “(A) with respect to any excess of the average
2 daily balance in a State account in the Unemploy-
3 ment Trust Fund over the funding goal of such
4 State, the percentage which such excess bears to
5 such funding goal, and

6 “(B) with respect to any excess of such funding
7 goal over such average daily balance, the percentage
8 which such excess bears to such funding goal.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) AMOUNTS CREDITED TO STATE AC-
11 COUNTS.—Subsection (e) of section 904 of the So-
12 cial Security Act (42 U.S.C. 1104(e)) is amended in
13 the first sentence by inserting “(as modified by sub-
14 section (h))” after “a proportionate part”.

15 (2) INTEREST RATE ON REPAYMENT OF AD-
16 VANCES DETERMINED WITHOUT REGARD TO INTER-
17 EST PREMIUMS OR PENALTIES ON AMOUNTS CRED-
18 ITED TO STATE ACCOUNTS.—Subparagraph (A) of
19 section 1202(b)(4) of such Act (42 U.S.C.
20 1322(b)(4)) is amended by inserting “(determined
21 without regard to section 904(h))” after “preceding
22 calendar year”.

23 (c) REPORT.—Not later than 6 months after the date
24 of the enactment of this Act, the Secretary of Labor shall
25 submit to the Congress a report recommending sources of

1 funding for the crediting of interest premiums under sub-
2 section (h) of section 904 of the Social Security Act (42
3 U.S.C. 1104), as added by this section, in the event that
4 the imposition of interest penalties under such subsection
5 is insufficient to fund such premiums.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to calendar years beginning after
8 December 31, 2004.

9 **SEC. 302. AMENDMENTS TO TRIGGER PROVISIONS OF EX-**
10 **TENDED BENEFIT PROGRAM.**

11 (a) LOWERING OF EXTENDED BENEFIT “ON” INDI-
12 CATOR.—Section 203(d) of the Federal-State Extended
13 Unemployment Compensation Act of 1970 (26 U.S.C.
14 3304 note) is amended—

15 (1) in paragraph (1)(B), by striking “5 per cen-
16 tum” and inserting “4 per centum”, and

17 (2) in the first sentence following paragraph
18 (2)—

19 (A) by striking “5” and inserting “4”, and

20 (B) by striking “6” and inserting “5”.

21 (b) ALTERNATIVE TRIGGER.—Section 203(f) of such
22 Act is amended—

23 (1) by striking “(f)(1)” and all that follows
24 through “section—” and inserting the following:

1 “(f)(1) Effective with respect to compensation for
2 weeks of unemployment beginning after December 31,
3 2002, for purposes of this section—”; and

4 (2) in the last sentence of paragraph (1), by
5 striking “Notwithstanding the provision of any State
6 law described in this paragraph,” and inserting
7 “Notwithstanding any other provision of this sub-
8 section,”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply for purposes of determining wheth-
11 er there are State “on” or “off” indicators for weeks be-
12 ginning on or after January 1, 2003.

13 **SEC. 303. ELIMINATE SPECIAL FEDERAL ELIGIBILITY RE-**
14 **QUIREMENTS FOR EXTENDED COMPENSA-**
15 **TION.**

16 (a) IN GENERAL.—Section 202(a) of the Federal-
17 State Extended Unemployment Compensation Act of 1970
18 (26 U.S.C. 3304 note) is amended by striking paragraphs
19 (3) through (7).

20 (b) CONFORMING AMENDMENT.—Section 202(a)(2)
21 of such Act is amended by striking “Except” and all that
22 follows through “title, the” and inserting “The”.

23 (c) EFFECTIVE DATE.—

24 (1) IN GENERAL.—Except as provided in para-
25 graph (2), the amendments made by this section

1 shall apply in the case of compensation paid to indi-
2 viduals during eligibility periods beginning on or
3 after January 1, 2003.

4 (2) SPECIAL RULE FOR CERTAIN STATES.—In
5 the case of any State the legislature of which has
6 not been in session for at least 30 calendar days
7 (whether or not successive) between the date of the
8 enactment of this Act and January 1, 2003, the
9 amendments made by this section shall apply in the
10 case of compensation paid to individuals during eli-
11 gibility periods beginning after the end of the first
12 session of the State legislature which begins on or
13 after January 1, 2003.

14 **TITLE IV—IMPROVED LABOR**
15 **AND WORKFORCE DATA; IM-**
16 **PROVEMENTS IN ADMINIS-**
17 **TRATIVE FUNDING FOR AND**
18 **MEASURING ACCESS TO THE**
19 **UNEMPLOYMENT SYSTEM**

20 **SEC. 401. DATA AND REPORTING REQUIREMENTS.**

21 (a) IN GENERAL.—The Secretary of Labor shall take
22 such actions as may be necessary to ensure that, by the
23 deadline specified in subsection (c), the reports required
24 to be submitted by each State under section 303(a)(6) of

1 the Social Security Act (42 U.S.C. 503(a)(6)) shall include
2 the following:

3 (1) WAGE REPLACEMENT RATIOS.—The aver-
4 age wage replacement ratio of claimants receiving
5 unemployment compensation from the State during
6 the period covered by the report, determined in a
7 manner consistent with section 201(f)(3).

8 (2) EFFICIENCY AND CONVENIENCE OF THE
9 APPLICATION PROCESS.—The relative ease or dif-
10 ficulty with which claimants are able to obtain un-
11 employment compensation for which they are eligible
12 from the State, including—

13 (A) whether information clearly explaining
14 the claims process is provided or readily avail-
15 able;

16 (B) the amount of time generally required
17 to process a claim for unemployment compensa-
18 tion; and

19 (C) measures to accommodate the needs of
20 claimants whose predominant language is not
21 English.

22 (3) INELIGIBILITY DESPITE SUBSTANTIAL AT-
23 TACHMENT TO WORKFORCE.—The extent to which
24 individuals are, despite having substantial attach-

1 ment to the workforce, ineligible for unemployment
2 compensation for any of the following reasons:

3 (A) Noncreditability of seasonal employ-
4 ment.

5 (B) Failure to earn the amount of wages
6 or to work for the period of time required dur-
7 ing the individual's base period.

8 (C) Voluntary separation from employment
9 compelled by serious illness of a relative or an-
10 other family-related exigency.

11 (D) Inability to accommodate changes in
12 terms or conditions of employment imposed by
13 the employer, such as in the work schedule.

14 (4) ADDITIONAL INFORMATION.—Such addi-
15 tional information as the Secretary of Labor may re-
16 quire based on the recommendations described in
17 subsection (b).

18 (b) JOINT REVIEW PANEL.—

19 (1) ESTABLISHMENT.—There is established a
20 joint review panel (hereinafter in this subsection re-
21 ferred to as the “panel”) composed of the Secretary
22 of Labor (who shall also serve as chairman), the
23 Commissioner of the Bureau of Labor Statistics, the
24 Comptroller General of the United States, and 2 or

1 more individuals designated by the Secretary of
2 Labor to represent the States.

3 (2) FUNCTION.—Within 1 year after the date
4 of the enactment of this Act, the panel shall prepare
5 a written report on uniform reporting requirements,
6 to be followed by the States under such section
7 303(a)(6), which will permit meaningful comparisons
8 with respect to the following aspects of the various
9 States' unemployment compensation systems:

10 (A) Coverage and eligibility by earnings
11 level, type of employment, age, and ethnicity.

12 (B) The elements of labor market attach-
13 ment.

14 (C) The extent and reasons for nonmone-
15 tary disqualification.

16 (D) Labor market information (Federal,
17 State, and local).

18 (E) The quality, efficiency, and cost of
19 program administration (Federal, State, and
20 local).

21 (c) IMPLEMENTATION.—

22 (1) IN GENERAL.—The reporting requirements
23 described in paragraphs (1) through (4) of sub-
24 section (a) shall apply with respect to any report
25 (and supporting information in connection there-

1 with) the deadline for which, as established under
2 section 303(a)(6) of the Social Security Act, is later
3 than 2 years after the date of the enactment of this
4 Act.

5 (2) ACCOUNTABILITY.—In the event that the
6 requirements described in subsection (a)(4) cannot
7 be fully implemented within the time required under
8 paragraph (1), the Secretary of Labor shall promptly
9 submit a written report to the Congress to that
10 effect, including the reasons for the delay, the meas-
11 ures which have been or which are being taken to
12 achieve compliance, and the date by which the Sec-
13 retary expects that compliance will be achieved.

14 **SEC. 402. FUNDING FOR ADMINISTRATION OF STATE UNEM-**
15 **EMPLOYMENT COMPENSATION, STATE SYSTEMS**
16 **OF PUBLIC EMPLOYMENT OFFICES AND VET-**
17 **ERANS EMPLOYMENT SERVICE PROGRAMS.**

18 (a) IN GENERAL.—Paragraph (1) of section 901(c)
19 of the Social Security Act (42 U.S.C. 1101(c)(1)) is
20 amended by striking all that precedes clause (i) of sub-
21 paragraph (B) and inserting the following:

22 “(c)(1)(A) There are hereby appropriated out of the
23 employment security administration account for each fis-
24 cal year—

1 “(i) the amount determined under subsection
2 (g) for such year for assisting the States in the ad-
3 ministration of their unemployment compensation
4 laws as provided in title III (including administra-
5 tion pursuant to agreements under any Federal un-
6 employment compensation law),

7 “(ii) the amount determined under subsection
8 (h) for such year for providing reemployment serv-
9 ices, including administering the work test for the
10 State unemployment compensation system and pro-
11 viding job finding and placement services, to unem-
12 ployment compensation claimants,

13 “(iii) the amount determined under subsection
14 (i) for such year for the establishment and mainte-
15 nance of systems of public employment offices in ac-
16 cordance with the Wagner-Peyser Act (29 U.S.C. 49
17 et seq.), and

18 “(iv) the amounts determined under sections
19 4103A(a)(1) and 4104(a)(1) of title 38 of the
20 United States Code for such year for carrying out
21 sections 4103A and 4104 of such title, respectively.

22 The Secretary of Labor may reserve not more than 0.4
23 percent of the funds appropriated under clauses (i) and
24 (ii), respectively, for any fiscal year to carry out national
25 activities that benefit the Federal-State unemployment

1 compensation system as a whole, are interstate or
2 multistate in nature, or are more efficiently and effectively
3 performed on a centralized basis.

4 “(B) There are hereby authorized to be made avail-
5 able for expenditure out of the employment security ad-
6 ministration account for each fiscal year such amounts
7 (not in excess of the limit provided by paragraph (4) with
8 respect to subparagraph (A)(iii)) as the Congress may
9 deem appropriate for the necessary expenses of the De-
10 partment of Labor for the performance of its functions
11 under—”.

12 (b) FUNDING FORMULAS.—Section 901 of the Social
13 Security Act (42 U.S.C. 1101) is amended by adding at
14 the end the following:

15 “Amounts Appropriated for Administrative Costs of
16 State Unemployment Compensation Programs

17 “(g)(1) For fiscal year 2003 and each fiscal year
18 thereafter, the amount appropriated for funding costs of
19 administering State unemployment compensation pro-
20 grams under subsection (c)(1)(A)(i), shall be the sum of—

21 “(A)(i) the amount determined under this
22 clause for the prior fiscal year (except that in deter-
23 mining funding for fiscal year 2003, the amount for
24 the prior fiscal year shall equal \$789) multiplied by
25 the projected change in the gross domestic product

1 price index for the fiscal year for which the deter-
2 mination is being made, multiplied by

3 “(ii) the projected average weekly number of in-
4 dividuals filing claims for compensation (within the
5 meaning of section 85(b) of the Internal Revenue
6 Code of 1986) for such fiscal year, except that an
7 individual shall not be included in such number sole-
8 ly by reason of filing a claim for assistance under
9 section 410(a) of the Robert T. Stafford Disaster
10 Relief and Emergency Assistance Act (42 U.S.C.
11 5177(a)); and

12 “(B)(i) the amount determined under this
13 clause for the prior fiscal year (except that in deter-
14 mining the funding for fiscal year 2003, the amount
15 for the prior fiscal year shall equal \$138) multiplied
16 by the projected change in the gross domestic prod-
17 uct price index for the fiscal year for which the de-
18 termination is being made, multiplied by

19 “(ii) the average quarterly number of employers
20 subject to State unemployment compensation laws
21 projected for such fiscal year.

22 “(2) In addition to the amounts determined under
23 paragraph (1) for a fiscal year, if the weekly average of
24 insured unemployed individuals for such fiscal year (as
25 projected using the economic assumptions released by the

1 President during such fiscal year under section 1106 of
2 title 31, United States Code, and excluding the same
3 claimants as are excluded under paragraph (1)(A)(ii)) ex-
4 ceeds the projection used in such paragraph (1)(A)(ii),
5 then additional amounts shall be appropriated under sub-
6 section (c)(1)(A)(i) for funding the costs of administering
7 the State unemployment compensation programs equal
8 to—

9 “(A)(i) the amount determined under this sub-
10 paragraph for the prior fiscal year (except that in
11 determining funding for fiscal year 2003, the
12 amount for the prior fiscal year shall equal \$298)
13 multiplied by the projected change in the gross do-
14 mestic product price index for the fiscal year for
15 which the determination is being made, multiplied by

16 “(ii) the difference between the weekly average
17 of insured unemployed individuals (as measured
18 using the most recent economic assumptions re-
19 leased by the President during such fiscal year) and
20 the weekly average of insured unemployed individ-
21 uals projected under paragraph (1)(A)(ii) for such
22 fiscal year.

23 The additional amounts made available pursuant to this
24 paragraph for a fiscal year shall be available to be allo-
25 cated to the States only to the extent that the projected

1 weekly average of insured unemployed individuals for such
2 fiscal year, as referred to in the preceding sentence (in
3 the matter preceding subparagraph (A)) exceeds the pro-
4 jection used in paragraph (1)(A)(ii).

5 “Amounts Appropriated to States for the Provision of
6 Reemployment Services

7 “(h) For fiscal year 2003 and each fiscal year there-
8 after, the amount appropriated for funding costs of pro-
9 viding reemployment services to unemployment compensa-
10 tion claimants under subsection (c)(1)(A)(ii) shall be—

11 “(1) the amount determined under this para-
12 graph for the prior fiscal year (except that in deter-
13 mining funding for fiscal year 2003, the amount for
14 the prior fiscal year shall equal \$11.10) multiplied
15 by the projected change in the gross domestic prod-
16 uct price index for the fiscal year for which the de-
17 termination is being made, multiplied by

18 “(2) the projected number of payments of un-
19 employment compensation representing first weeks
20 compensated in a benefit year for such fiscal year.

21 “Amounts Appropriated for Administration of State
22 Public Employment Offices

23 “(i) For fiscal year 2003 and each fiscal year there-
24 after, the amount appropriated for funding the costs of

1 administering the State system of public employment of-
2 fices under subsection (e)(1)(A)(iii) shall be—

3 “(1) the amount determined under this para-
4 graph for the prior fiscal year (except that in deter-
5 mining funding for fiscal year 2003, the amount for
6 the prior fiscal year shall equal \$7.30) multiplied by
7 the projected change in the gross domestic product
8 price index for the fiscal year for which the deter-
9 mination is being made, multiplied by

10 “(2) the projected average monthly number of
11 individuals in the civilian labor force for such fiscal
12 year.

13 “Calculation of Appropriated Amounts by the Secretary
14 of Labor

15 “(j) For purposes of subsections (g), (h) and (i)—

16 “(1) each projection shall be made by the Sec-
17 retary of Labor using the economic assumptions re-
18 leased by the President for such fiscal year, during
19 the preceding fiscal year, under section 1106 of title
20 31, United States Code, except as otherwise pro-
21 vided under subsection (g)(2) or (h)(2), and

22 “(2) the projected change in the gross domestic
23 product price index for the fiscal year for which the
24 determination is being made shall equal the sum of
25 1 and the quotient of the percent change in the

1 gross domestic product price index projected for
2 such fiscal year divided by 100.

3 “Special Rules Relating to Use of Amounts Appropriated

4 “(k)(1) Amounts appropriated under paragraphs
5 (1)(A)(i)–(ii) and (6) of subsection (c) with respect to a
6 fiscal year shall remain available for obligation by the
7 States during such fiscal year and the first quarter of the
8 following fiscal year, except that funds used for automa-
9 tion acquisitions shall remain available for obligation by
10 the States through the end of the second fiscal year fol-
11 lowing the fiscal year in which such funds are appro-
12 priated.

13 “(2) Amounts reserved by the Secretary of Labor
14 under the second sentence of subsection (c)(1)(A) may be
15 obligated in contracts, grants, or agreements with non-
16 State entities.

17 “(3) Amounts appropriated under paragraph (1)(A)
18 and paragraph (6) of subsection (c) may be used by the
19 States to fund integrated employment service and unem-
20 ployment compensation automation efforts notwith-
21 standing the cost allocation principles prescribed under
22 Office of Management and Budget Circular No. A–87.”.

23 (c) FUNDING FOR IMPROVED TECHNOLOGY TO AS-
24 SIST IN DETERMINING BENEFIT ELIGIBILITY.—Section
25 901(c) of the Social Security Act (42 U.S.C. 1101(c)) is

1 amended by adding at the end the following new para-
2 graph:

3 “(6) In addition to amounts provided under para-
4 graph (1)(A)(i)–(ii), there is hereby appropriated out of
5 the employment security administration account
6 \$60,000,000 for fiscal year 2003 for the purpose of assist-
7 ing States in funding technology and other costs that ac-
8 celerate access to wage and employment information in
9 order to determine eligibility for unemployment compensa-
10 tion.”.

11 (d) CONFORMING AMENDMENTS.—

12 (1) PAYMENTS TO STATES FOR REEMPLOYMENT
13 SERVICES.—Section 302 of the Social Security Act
14 (42 U.S.C. 502) is amended by adding at the end
15 the following:

16 “(d) The Secretary of Labor shall from time to time
17 certify to the Secretary of the Treasury for payment to
18 each State such amounts as the Secretary of Labor deter-
19 mines appropriate for providing reemployment services, in-
20 cluding administering the work test for the State unem-
21 ployment compensation system and providing job finding
22 and placement services, to claimants for unemployment
23 compensation.”.

1 (2) EXPENDITURE OF FUNDS FOR REEMPLOY-
2 MENT SERVICES.—Section 303(a)(8) of the Social
3 Security Act (42 U.S.C. 503(a)(8)) is amended—

4 (A) by inserting “subsections (a) and (b)
5 of” after “pursuant to”; and

6 (B) by inserting before the semicolon at
7 the end the following: “and the expenditure of
8 all moneys received pursuant to section 302(d)
9 of this title solely for the purposes and in the
10 amounts found necessary by the Secretary of
11 Labor for providing reemployment services to
12 claimants for unemployment compensation”.

13 (3) REPLENISHMENT OF FUNDS NOT USED FOR
14 REEMPLOYMENT SERVICES.—Section 303(a)(9) of
15 the Social Security Act (42 U.S.C. 503(a)(9)) is
16 amended—

17 (A) by inserting “subsections (a) and (b)
18 of” after “pursuant to”; and

19 (B) by inserting before the semicolon at
20 the end the following: “and the replacement,
21 within a reasonable time, of any moneys re-
22 ceived pursuant to section 302(d) of this title
23 which, because of any action or contingency,
24 have been lost or have been expended for pur-
25 poses other than, or in amounts in excess of,

1 those found necessary by the Secretary of
2 Labor for providing reemployment services to
3 claimants for unemployment compensation”.

4 (4) REPEALS.—The following provisions of the
5 Social Security Act are repealed:

6 (A) Paragraph (3) of section 901(c).

7 (B) The second sentence of section
8 901(f)(3)(A).

9 (5) AMOUNT OF AUTHORIZATION UNDER THE
10 WAGNER-PEYSER ACT.—

11 (A) Section 901(c)(4) of the Social Secu-
12 rity Act (42 U.S.C. 1101(c)(4)) is amended—

13 (i) by striking “paragraphs (1)(A)(ii)
14 and” and inserting “paragraph”;

15 (ii) by striking “the proportion of the
16 total cost of administering the system of
17 public employment offices in accordance
18 with the Act of June 6, 1933, as amended,
19 and of”; and

20 (iii) by striking the last sentence.

21 (B) Section 901(c)(1)(B) of the Social Se-
22 curity Act (42 U.S.C. 1101(c)(1)(B)) is amend-
23 ed by moving clauses (i) through (v) 2 ems to
24 the left, and by striking clause (iii) and insert-
25 ing the following:

1 “(iii) the Wagner-Peyser Act (29 U.S.C. 49 et
2 seq.),”.

3 (6) APPROPRIATION REFERENCE IN THE WAG-
4 NER-PEYSER ACT.—Section 5 of the Wagner-Peyser
5 Act (29 U.S.C. 49d) is amended—

6 (A) by striking all that precedes subsection
7 (b) and inserting the following:

8 “SEC. 5. (a) The amounts available to carry out sec-
9 tions 1 through 13 of this Act shall be appropriated in
10 accordance with section 901 of the Social Security Act.”;

11 (B) by striking subsection (b); and

12 (C) by redesignating subsection (c) as sub-
13 section (b).

14 (e) BUDGET JUSTIFICATION.—No funds may be ex-
15 pended under the amendments made by this section unless
16 the Secretary of Labor includes in the Department of La-
17 bor’s annual budget justification to Congress a detailed
18 description of the specific activities for which the funds
19 made available by such amendments have been used in the
20 prior and current years (if applicable) and the activities
21 and costs planned for the budget year.

22 (f) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to fiscal year 2003 and subsequent
24 fiscal years.

○