SECRETARY OF LABOR
WASHINGTON, D.C. 20210

MAY - 3 2006

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

Enclosed for consideration of the Congress is a draft bill entitled the "Unemployment Compensation Program Integrity Act of 2006." The bill would make important changes to the federal-state unemployment compensation (UC) system to reduce improper UC payments, enhance program integrity, and provide states flexibility to carry out innovative demonstration projects.

This draft bill would implement proposals included in the President's Fiscal Year 2007 Budget and further efforts through the President's Management Agenda to eliminate improper payments. Specifically, the draft legislation includes provisions that would:

-- *Strengthen states' incentives to recover UC benefit overpayments and employer contributions by permitting states to use a portion of recovered funds for the reduction of fraud and errors and detection of nonpayment of required contributions.* Currently, all recoveries of overpayments and contributions must be used to pay UC benefits. Allowing states to retain a small portion of recovered funds to reduce fraudulent and erroneous payments and to detect employer fraud and evasion of required employer contributions is a cost-effective strategy to permit states to continue and expand these efforts.

-- *Enlist debt collection agencies in the recovery of overpayments and delinquent employer UC taxes.* States would be permitted to allow debt collection agencies to retain a portion of the amounts they recover of UC fraud overpayments and employer taxes that states have been unable to collect through their own efforts. To prevent abuse or unfair tactics, private debt collectors would be required to adhere to all requirements of the Fair Debt Collection Practices Act.

-- *Impose a penalty for UC fraud.* States would be required to impose a minimum 15-percent penalty on fraudulent overpayments and use the proceeds for improper payment reduction. The State of Washington has imposed such a penalty and has seen a dramatic increase in overpayment collections as a result.

-- *Charge employers when their actions lead to overpayments.* In determining whether an individual is eligible for UC, states rely on information provided by employers. When this information is not provided on a timely basis or is inaccurate, ineligible individuals may receive benefits. States would be required to charge an employer's experience rating account for UC benefits improperly paid due to the employer's actions in those

cases where the employer has established a pattern of failing to adequately respond to state requests for information. This will encourage prompt and accurate responses to state requests for eligibility information.

-- *Collect delinquent UC overpayments, uncollected employer contributions, and associated penalties and interest through garnishment of tax refunds.* Under current law, individuals' Federal tax refunds are used to offset delinquent child support obligations, debts owed to Federal agencies, and state income tax debts. Delinquent UC debts would be added to the list of debts that could be offset by Federal income tax refunds.

-- *Include the date individuals start work in the information reported to the National Directory of New Hires to facilitate identification of fraudulent UC claims.* Under current law employers must submit information relating to newly hired employees to the state directory of new hires, which subsequently transmits the information to the National Directory of New Hires. While most employers include the "start date" in the information provided, there is no requirement for its inclusion. However, when state UC agencies conduct matches with the National Directory the "start date" is often critical to determining whether an individual is improperly receiving UC benefits. Therefore, this proposal would include the start date as part of the information to be submitted to the directories.

In addition, the bill would provide states the opportunity to request waivers of certain federal requirements in order to carry out innovative demonstration projects to accelerate the reemployment of UC claimants or to improve the effectiveness of the state in carrying out administrative activities under the UC program.

Finally, the bill would also permit more flexible use of state funds in the state's clearing account prior to transfer to the Unemployment Trust Fund; clarify that support obligations that may be deducted from a non-custodial parent's UC includes obligations owed to the custodial parent in addition to the obligations owed to the children ; clarify the eligibility of certain Federal employees for UC; provide greater flexibility with respect to the Advisory Council on Unemployment Compensation; and make state law applicable for determining what constitutes suitable work in certain situations under the federal-state extended benefit program.

This draft legislation would implement a mandatory savings proposal in the President's FY 2007 Budget. The Department estimates this bill would produce net scorable savings of $1.738 billion over 5 years, and $3.774 billion over 10 years. In addition, although these effects are not scorable, the bill would produce indirect savings in the form of further reductions in improper UC payments and also lower state unemployment taxes. The Department estimates the net effect of this proposal, including the direct and indirect effects, would reduce Federal spending by $2.184

billion over 5 years and $4.989 billion over 10 years, and would result in tax reductions of $188 million over 5 years and $2.246 billion over 10 years.

I urge the Congress to give prompt and favorable consideration to this bill. I have also enclosed a statement in explanation of the bill.

The Office of Management and Budget has advised that there is no objection to the transmittal of this draft bill to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

Elaine L. Chao

Enclosures

EXPLANATORY STATEMENT FOR THE UNEMPLOYMENT COMPENSATION PROGRAM INTEGRITY ACT OF 2006

The "Unemployment Compensation Program Integrity Act of 2006" would make important changes to the federal-state unemployment compensation (UC) system that would reduce erroneous payments of UC, require penalties for claimant fraud and employer fault, improve collections of overpayments and contributions, and otherwise improve state administration. In addition, the legislation would allow states to request waivers of certain federal requirements in order to implement innovative demonstration projects relating to the UC program.

Section 1 of the bill provides that the short title is the "Unemployment Compensation Program Integrity Act of 2006".

Section 2 of the bill provides flexibility to states in using unemployment fund moneys for integrity purposes. Under current federal law, all overpayments of UC benefits, and all payments of UC contributions (or payments in lieu of contributions) by employers that are collected by a state must be deposited in the state's unemployment fund where they may be used only for the payment of UC. (Sections 3304(a)(3) and (4) of the Federal Unemployment Tax Act (FUTA) and sections 303(a)(4) and (5) of the Social Security Act (SSA).) Section 2 amends these limitations in two ways.

First, the section permits states to use up to 5 percent of each overpayment recovered to augment administrative funding to deter, detect and recover benefit overpayments. If a state elects this option, it would be required to deposit such amounts in a special state fund that is dedicated to these purposes. Similarly, the section permits states to use up to 5 percent of

employer contributions (or payments in lieu of contributions) collected as a result of an investigation by the state to augment administrative financing to carry out activities relating to deterring and detecting employer fraud and evasion of required employer contributions, including the activities implementing the SUTA Dumping Prevention Act of 2005. ("SUTA" refers to state unemployment tax acts.) If the state decides that any amounts it deposits in these special funds are not needed for the designated purposes, the state may transfers these amounts to its account in the Unemployment Trust Fund

Second, the section allows states to permit a debt collection agency to keep up to 25 percent of any amount collected by the collection agency on a fraud overpayment or delinquent employer contribution. Although several states have explored using these collection agencies, current federal law has impeded greater use of this method since it prohibits the collection agency from keeping any portion of any amount collected. Use of this method will be limited to cases where states have exhausted their own recovery efforts and at least three years has elapsed since the establishment of the debt. Thus, the amendment is limited to hard-to-collect debt that otherwise would not be collected at all.

The amendment also stipulates certain protections, similar to those applicable to the Internal Revenue Service as provided by section 6306 of the Internal Revenue Code as amended by Public Law 108-357, to avoid any abuses by the debt collection agency. These include requirements that the debt collector is prohibited from committing any act or omission which employees of the state agency are prohibited from committing in the performance of similar collection services; that the debt collector is prohibited from using subcontractors for certain

purposes unless approved in writing by the state; and that the debt collector must agree to adhere to the provisions of the Fair Debt Collection Practices Act and, where applicable, state law governing debt collection.

The section finally provides that, if a state elects to use either of these new options, the option will also be applied to the administration by the state of federal unemployment benefit programs such as UC for former federal and military personnel and Temporary Extended Unemployment Compensation. This requirement recognizes that the increased integrity efforts on the part of the states will also benefit the federal UC programs they administer. The percent of recoveries retained under these federal programs could not exceed the percent retained for state recoveries.

Section 3 amends the SSA to require states to assess a penalty of not less than 15 percent of the amount overpaid on any claim for benefits that is determined due to the claimant's fraud. The states would be required to immediately place the amounts paid as a result of the penalty in a special state fund from which amounts may be withdrawn solely for activities that involve deterring, detecting, or collecting erroneous payments. As a result of this amendment, individuals who have defrauded the system - who are frequently required to do no more than repay the fraudulently received benefits - will be penalized and the penalty will be used in a way that will result in improved program integrity. If the state decides that any amounts it deposits in this special fund are not needed for the designated purposes, the state may transfer these amounts to its account in the Unemployment Trust Fund.

This section also provides that as a condition for administering federal unemployment compensation programs states will also assess a penalty on individuals receiving overpayments under such programs due to fraud, and also deposit those amounts in the state fund used to carry out program integrity activities.

Section 4 amends the FUTA to prohibit states from relieving an employer of benefit charges due to a benefit overpayment if the employer has caused the overpayment by failing to provide timely or adequate information in response to a request from the state UC agency and if the employer has established a pattern of failing to respond timely or adequately to such requests. In determining whether an individual is eligible for UC, states rely on information provided by employers. When this information is not received on a timely basis or is inaccurate, an ineligible individual may receive benefits. When UC is paid, the benefits are "charged" to an employer's experience rating account, which generally means the employer's contribution rate will increase. However, employers may be relieved of charges when an overpayment is declared or collected, even if the overpayment was caused by the employer's failure to timely or accurately respond to requests for information from the state. Under the amendment, if the state determines the overpayment was the employer's fault due to failure to respond timely or adequately to an agency request for information and that the employer has a pattern of failing to respond timely or adequately to such requests, the employer's account may not be relieved of charges. This is intended to encourage employers to promptly and accurately respond to state requests for information.

Section 5 amends the Internal Revenue Code to authorize the U.S. Department of the Treasury to recover overpayments of UC benefits, uncollected contributions, and associated penalties and interest, through offsets from federal income tax refunds. The Treasury Offset Program is a government-wide debt matching and payment offset system that works by matching a database of delinquent debts owed to various government agencies against federal income tax refunds.

Section 6 would provide states with the opportunity to carry out innovative demonstration projects relating to the UC program that would assist in accelerating the reemployment of UC claimants or improving the effectiveness of the state in carrying out administrative activities. Specifically, this section authorizes the Secretary of Labor to grant waivers requested by the states of certain federal requirements in order to assist the states in implementing time-limited UC demonstration projects.

The section would amend FUTA to authorize procedures for requesting and approving waivers of certain federal requirements relating to UC programs. This amendment also specifies the requirements that may be waived. The amendment would authorize the Secretary of Labor to waive: (1) the requirements of FUTA and the SSA regarding the immediate deposit of moneys received in the unemployment fund of each state into the Federal Unemployment Trust Fund; (2) the requirements of FUTA and the SSA that money withdrawn from the unemployment fund of the state solely be used for the payment of UC as defined by those Acts; (3) the requirement of FUTA that the employer's contribution rate be assigned on the basis of experience and other factors directly related to unemployment risk, and (4) the requirement of the SSA that the state

must provide for methods of administration that are reasonably calculated to insure full payment of UC when due, except that the Secretary may not waive any method of administration related to prompt determination and payment of claims or due process of law.

A current effect of these four federal requirements is to preclude states from implementing alternative approaches to assisting UC claimants. For example, the limited definition of UC precludes states from using their unemployment funds to provide forms of assistance that may help to accelerate reemployment, such as wage supplements. The experience rating requirement precludes states from using unemployment tax incentives for employers to promote hiring of workers collecting UC. The immediate deposit and the methods of administration requirements may preclude other innovations.

In order to obtain a waiver, the Governor of a state would be required to submit an application to the Secretary of Labor that addresses, among other things, why the federal requirement needs to be waived to operate the demonstration, the goals relating to the waiver and the expected programmatic outcomes, including how the waiver will assist in accelerating the reemployment of UC claimants or improve the effectiveness of the state in carrying out administrative activities under the UC program, and how the state will conduct an impact evaluation of the demonstration. The application must also provide assurances, accompanied by detailed analysis, that the demonstration would not result in any net costs to the state's unemployment fund compared to the outlays and revenues incurred or received by such fund over the period of the demonstration if the demonstration was not conducted..

The application would also describe how the State will evaluate the demonstration and

determine whether the goals and outcomes are achieved. Finally, the application would also include assurances that the state will provide the Secretary with such reports as the Secretary may request relating to the demonstration.

The waivers would be approved for an initial period of up to two years, and could be extended upon application of the Governor. However, all waivers granted under this authority would terminate not later than 5 years after the date of enactment of this Act.

This section also includes a conforming amendment to the SSA. Since some of the requirements that may be waived pursuant to the authority provided under the FUTA amendment described above are contained in the SSA, this amendment clarifies that such provisions are subject to that waiver provision. This amendment also allows the federal grant funds that are provided to states under the SSA for the administration of the UC program to be used in carrying out the UC demonstration project relating to the waiver, including evaluation of the project.

In sum, this section would provide an important opportunity for states to implement innovative approaches to the UC program. The use of waiver authority was instrumental in developing and testing effective approaches in reforming the welfare system. By providing an opportunity to implement alternative approaches to assisting individuals receiving UC and to improve the administration of the UC program, the authority contained in this section could also lead to significant innovation and benefits to the federal-state UC system.

Section 7 of the bill amends FUTA to permit a more flexible use of state unemployment fund moneys in a state's clearing account before such funds are transferred to the Unemployment Trust Fund. In all states, employer contributions are deposited in a clearing account. Under

current law, states are required to transfer all moneys received in this clearing account immediately to their accounts in the Unemployment Trust Fund and to use such moneys only for the payment of UC. Section 7(a) allows states to retain moneys in their clearing account and to use earnings credits or actual interest earnings on such moneys to pay reasonable charges for banking services associated with the clearing account. This is consistent with treatment of a state's benefit payment account under the Cash Management Improvement Act of 1990. In addition, section 7(b) amends applicable provisions in the Internal Revenue Code to provide that states may retain funds in their clearing accounts to assist in covering the costs for services in which the bank receives and processes remittances it receives directly from employers. This will allow states to take advantage of state-of-the-art banking services, which will accelerate the deposit of employer contributions. This provision is effective upon enactment. Finally, section 7(c) amends title XII of the SSA to provide that amounts retained as compensating balances are not to be considered for purposes of determining a state's eligibility for advances to pay UC or administrative expenses, providing the flexibility for states to maintain such balances to cover banking costs.

Section 8 amends title IV-D of the SSA to require, as a condition of the state's child support enforcement grant, that the date the individual starts work (that is, the first day of earnings) be included in the information reported by all employers to the state directory of new hires. The state directory would, as it already does with respect to the current information reported on new hires, transmit this information to the National Directory of New Hires.

The state and national directories of new hires were established under Title IV-D of the

SSA for the purposes of locating individuals who were delinquent in paying child support. State UC agencies have found the state directory of new hires to be extremely useful in identifying individuals who fraudulently claim UC benefits after they have returned to work and, pursuant to an amendment enacted in 2004, states are now beginning to use the National Directory of New Hires for this purpose. The National Directory allows states access to a wider universe of employers, including federal agencies and multi-state employers who report all new hires to a single state.

However, the effectiveness of this system is limited because not all employers report the date when an individual actually started work, which is critical in determining whether the individual was improperly receiving UC benefits. As a result, in reviewing UC claims, states must contact each employer directly to determine the date the individual actually started work. In some cases, investigations may not be pursued because of the lack of this start date. The Department's Office of Inspector General has recommended amending federal law "to require employers to report a new hire's first day of earnings." This amendment implements that recommendation. This section also contains a conforming amendment relating to the format for reporting to the directory, and a transition period to provide states with sufficient time to incorporate this new element.

Section 9 amends section 303(e) of the SSA, pertaining to the disclosure of UC information for purposes related to support obligations enforced under section 454 of the SSA, and the intercept of these obligations from UC. The Department of Labor interprets the current section as being limited only to child support obligations, thereby excluding support obligations

for custodial parents enforced under these plans. The amendment would make the section applicable to support obligations for the custodial parent of such child. The result would be that the state UC agency would, under the conditions contained in section 303(e), be required to disclose to the child support enforcement agency information about UC claimants owing support obligations to custodial parents, and to deduct from UC obligations owed custodial parents, as well as support obligations owed the children.

Section 10 amends section 908 of the SSA, pertaining to the Advisory Council on Unemployment Compensation. Current law requires that the Secretary of Labor convene a new Council every four years. The amendments provide that the Secretary may periodically convene a Council and provides the Secretary the authority to define the scope of any such Council.

Section 11 of the bill repeals subparagraph (E) of 5 U.S.C. 8501(1), which pertains to eligibility of federal employees for UC. Paragraph (E) excludes from UC coverage an individual "excluded by regulations of the Office of Personnel Management from the operation of subchapter III of chapter 83 (governing retirement coverage for federal employees) of this title because he is paid on a contract or fee basis." No similar exclusion is applicable to private sector or other public (state and local government) employees paid on a contract or fee basis even though they may be performing the same or similar job duties. The repeal ensures the same treatment among all workers.

Section 12 of the bill repeals a requirement under the Federal-State Extended Unemployment Compensation Act of 1970 that authorizes the Extended Benefits (EB) program. Under current law, an individual whose job prospects are "not good" must accept "suitable work" as defined in that Act. The purpose of this requirement is to encourage individuals experiencing long-term unemployment to expand their job search beyond their usual occupations. However,

the Act provides that the individual will not be disqualified from refusing (or failing to apply for) "suitable work" *unless*, among other things, the work was offered in writing or listed with the state employment service. This requirement does not fit with the reality of the modern labor market because most jobs are neither offered in writing nor listed with the state employment service. As a result of repealing this limitation, states would apply their own provisions of law concerning how jobs are offered.

Section 13 of the bill provides the Secretary of Labor the authority to issue operating instructions or regulations necessary to implement the amendments made by the Unemployment Compensation Program Integrity Act of 2006.

Section 14 provides that the provisions of the Act are effective upon the date of enactment, unless otherwise specified.

A BILL

To provide States with flexibility in using unemployment fund moneys for purposes of reducing erroneous payments from such fund and increasing collections; to require penalties for claimant fraud and employer fault; to permit recovery of erroneous payments and collection of unpaid contributions through offsets from Federal income tax refunds, to provide States with flexibility in carrying out demonstration projects, to improve State administration, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unemployment Compensation Program Integrity Act of 2006".

SEC. 2. PERMISSIBLE USES OF UNEMPLOYMENT FUND MONEYS FOR PROGRAM INTEGRITY PURPOSES.

(a) WITHDRAWAL STANDARD IN THE INTERNAL REVENUE CODE.—Section 3304(a)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(a)(4)) is amended—

(1) in subparagraph (E), by striking "and" after the semicolon;

(2) by inserting after subparagraph (F) the following new subparagraphs—

"(G) of those payments of benefits from a State's unemployment fund that are determined to have been made in error and are subsequently recovered by the State, the State may, immediately following receipt of such recovered amount, deposit a percent of such recovered amount, as specified in State law (but not to exceed 5 percent) in a fund in the State from which moneys may be withdrawn for--

"(i) the payment of costs of deterring, detecting, and collecting erroneous payments to individuals, or

"(ii) payment to the Secretary of the Treasury to the credit of the state's account in the Unemployment Trust Fund;

"(H) a State may permit a public or private debt collection agency to retain an amount, not to exceed 25 percent of each payment of debt collected by such agency, provided that—

"(i) such debt is limited to delinquent employer contributions and to

erroneous payments from the State unemployment fund that the State agency has determined to be due to fraud;

"(ii) prior to referring any debt to the collection agency, the State agency has pursued its own collection efforts and has determined that further efforts would be ineffective in collecting such debt, except that no debt may be referred to the collection agency until the expiration of the three-year period commencing on the date the debt was first established; and

"(iii) in the case of a private debt collection agency, the State has entered into a contract with the collection agency under which the collection agency —

"(I) is prohibited from committing any act or omission which employees of the State agency are prohibited from committing in the performance of similar collection services;

"(II) is prohibited from using subcontractors to contact debtors, provide quality assurance services, or compose debt collection notices, except with the prior, written approval of the State; and

"(III) agrees to adhere to the provisions of the Fair Debt Collection Practices Act (15 U.S.C. 1692, et seq.), and, where applicable, State law governing debt collection; and

"(I) of those payments of contributions (or payments in lieu of contributions) that are collected as a result of an investigation and assessment by the State agency, the State may, immediately following receipt of such payments, deposit a percent of such payments, as specified in State law (but not to exceed 5 percent) in a fund in the State from which moneys may be withdrawn for—

"(i) purposes relating to implementation of provisions of State law implementing Section 303(k) of the Social Security Act or other provisions of State law relating to employer fraud or evasion of contributions, or

"(ii) payment to the Secretary of the Treasury to the credit of the state's account in the Unemployment Trust Fund.".

(b) DEFINITION OF UNEMPLOYMENT FUND.—Section 3306(f) of the Internal Revenue Code of 1986 (26 U.S.C. 3306(f)) is amended by striking all that follows "(exclusive of expenses of administration)" and inserting ", except as otherwise provided in section 3304(a)(4), title III of the Social Security Act, or any other provision of Federal law;".

(c) WITHDRAWAL STANDARD IN SOCIAL SECURITY ACT.—Section 303(a)(5) of the Social Security Act (42 U.S.C. 503(a)(5)) is amended by striking all that follows ", exclusive of expenses of administration," and inserting "except as otherwise provided in this section, section 3304(a)(4) of the Internal Revenue Code of 1986, or any other provisions of Federal law; and".

(d) IMMEDIATE DEPOSIT REQUIREMENTS.—

(1) INTERNAL REVENUE CODE REQUIREMENT.— Section 3304(a)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(a)(3)) is amended to read as follows—

"(3) all money received in the unemployment fund shall immediately upon such receipt be paid over to the Secretary of the Treasury to the credit of the Unemployment Trust Fund established by section 904 of the Social Security Act (42 U.S.C. 1104), except for—

"(A) refunds of sums erroneously paid into such fund;

"(B) refunds paid in accordance with the provisions of section 3305(b);

"(C) amounts deposited in a State fund in accordance with subparagraph (G) or subparagraph (I) of section 3304(a)(4); and

"(D) amounts retained by debt collection companies in accordance with section 3304(a)(4)(H);".

(2) SOCIAL SECURITY ACT REQUIREMENT.— Section 303(a)(4) of the Social Security Act (42 U.S.C. 503(a)(4)) is amended by striking the parenthetical and inserting in its place "(except as otherwise provided in this section, section 3304(a)(3) of the Internal Revenue Code of 1986, or any other provisions of Federal law)".

(e) APPLICATION TO FEDERAL PAYMENTS.—

(1) IN GENERAL.— As a condition for administering any of the unemployment compensation programs of the United States described in paragraph (2) as an agent of the United States, the State shall, with respect to erroneous payments made under such programs by the State, use the authority provided under subparagraphs (G) and (H) of section 3304(a)(4) of the Internal Revenue Code of 1986 in the same manner as such authority is used with respect to erroneous payments made under the State unemployment compensation law. With respect to erroneous Federal payments recovered consistent with the authority under subparagraph (G) of such section, the State shall immediately deposit the same percentage of the recovered payments into the same State fund as provided in the State law implementing that section.

(2) DEFINITION.— For purposes of this subsection, an "unemployment compensation program of the United States" means—

(A) unemployment compensation for Federal civilian employees under 5 U.S.C. 8501, et seq.;

(B) unemployment compensation for ex-servicemembers under 5 U.S.C. 8521, et seq.;

(C) trade readjustment allowances under sections 231-233 of the Trade Act of 1974;

(D) disaster unemployment assistance under 42 U.S.C. 5177(a); and

(E) any Federal temporary extension of unemployment compensation due to high unemployment.

SEC. 3. MANDATORY PENALTY ASSESSMENT ON FRAUD CLAIMS.

(a) IN GENERAL.—Section 303(a) of the Social Security Act (42 U.S.C. 503(a)) is amended—

(1) in paragraph (10), by striking the period and inserting "; and"; and

(2) by adding the following new paragraph—

"(11)(A) At the time the State agency determines an erroneous payment from its unemployment fund was made to an individual due to fraud committed by such individual, the assessment of a penalty on the individual in an amount of not less than 15 percent of the amount of the erroneous payment, and

"(B) The immediate deposit of all assessments paid pursuant to subparagraph (A) in a fund in the State from which moneys may be withdrawn for—

"(i) the payment of costs of deterring, detecting, and collecting erroneous payments to individuals from the State unemployment fund, or

"(ii) payment to the Secretary of the Treasury to the credit of the state's account in the Unemployment Trust Fund.".

(b) APPLICATION TO FEDERAL PAYMENTS.— As a condition for administering any of the unemployment compensation programs of the United States (as defined in section 2(e)(2) of this Act) as an agent of the United States, if the State determines that an erroneous payment was

made by the State to an individual under any such program due to fraud committed by such individual, the State shall assess a penalty on such individual and deposit any such penalty received in the same manner as the State assesses and deposits such penalties under provisions of State law implementing section 303(a)(11) of the Social Security Act as added by subsection (a).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to erroneous payments established after the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 4. PROHIBITION ON NONCHARGING DUE TO EMPLOYER FAULT.

(a) IN GENERAL.—Section 3303 of the Internal Revenue Code (26 U.S.C. 3303) is amended by striking subsections (f) and (g) and inserting after subsection (e) the following new subsection—

"(f) A State law shall be treated as meeting the requirements of subsection (a)(1) only if such law provides that an employer's account shall not be relieved of charges relating to an erroneous payment from the State unemployment fund if the State agency determines that the employer, or an agent of the employer, was at fault for failing to respond timely or adequately to the request of the agency for information relating to the claim for compensation and if the employer or agent has established a pattern of failing to respond timely or adequately to such requests.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for erroneous payments established after the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 5. COLLECTION OF PAST-DUE, LEGALLY ENFORCEABLE STATE UNEMPLOYMENT COMPENSATION DEBTS.

(a) IN GENERAL.—Section 6402 of the Internal Revenue Code (26 U.S.C. 6402)) is amended by redesignating subsections (f) through (k) as subsections (g) through (l), respectively, and by inserting after subsection (e) the following new subsection:

"(f) COLLECTION OF PAST-DUE, LEGALLY ENFORCEABLE STATE UNEMPLOYMENT COMPENSATION DEBTS.—

"(1) IN GENERAL.—Upon receiving notice from any State that a person owes a past-due, legally enforceable State unemployment compensation debt to such State, the Secretary shall, under such conditions as may be prescribed by the Secretary—

"(A) reduce the amount of any overpayment payable to such person by the amount of such unemployment compensation debt;

"(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State and notify such State of such person's name, taxpayer identification number, address, and the amount collected; and

"(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a past due, legally enforceable State unemployment compensation debt. If an offset is made pursuant to a joint return, the notice under subparagraph (B) shall include the names, taxpayer identification numbers, and addresses of each person filing such return.

"(2) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection—

"(A) after such overpayment is reduced pursuant to—

"(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment;

"(ii) subsection (c) with respect to past-due support;

"(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency; and

"(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b).

If the Secretary receives notice from a State or States of more than one debt subject to paragraph (1) or subsection (e) that is owed by a person to such State or States, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

"(3) NOTICE; CONSIDERATION OF EVIDENCE.— No State may take action under this subsection until such State—

"(A) notifies the person owing the past-due legally enforceable State unemployment compensation debt that the State proposes to take action pursuant to this section;

"(B) provides such person at least 60 days to present evidence that all or part of such liability is not past-due or not legally enforceable;

''(C) considers any evidence presented by such person and determines that an amount of such debt is past-due and legally enforceable; and

''(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid and that the State has made reasonable efforts to obtain payment of such unemployment compensation debt.

''(4) PAST-DUE, LEGALLY ENFORCEABLE STATE UNEMPLOYMENT COMPENSATION DEBT.—For purposes of this subsection, the term 'past-due, legally enforceable State unemployment compensation debt' means the following debts which have become final under the law of a State certified by the Secretary of Labor pursuant to section 3304 of the Internal Revenue Code and which remain uncollected—

"(A) overpayments of unemployment compensation;

"(B) contributions due the unemployment fund of a State for which the State has determined the individual to be liable; or

"(C) any penalties and interest assessed on the amounts described in subparagraphs (A) and (B).

''(5) REGULATIONS.—The Secretary shall issue regulations prescribing the time and manner in which States must submit notices of past-due, legally enforceable State unemployment compensation debt and the necessary information that must be contained in or accompany such notices. The regulations shall specify the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied. The regulations may require States to pay a fee to the Secretary, which may be deducted from amounts collected, to reimburse the Secretary for the cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure. The regulations may include a requirement that States submit notices of past-due, legally enforceable State unemployment compensation debt to the Secretary via the Secretary of Labor in accordance with procedures established by the Secretary of Labor. Such procedures may require States to pay a fee to the Secretary of Labor to reimburse the Secretary of Labor for the costs of applying this subsection. Any such fee shall be established in consultation with the Secretary of the Treasury. Any fee paid to the Secretary of Labor may be deducted from amounts collected and shall be used to reimburse the appropriation account which bore all or part of the cost of applying this subsection.

''(6) ERRONEOUS PAYMENT TO STATE.—Any State receiving notice from

the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State).''.

(b) DISCLOSURE OF CERTAIN INFORMATION TO STATES REQUESTING REFUND OFFSETS FOR PAST-DUE LEGALLY ENFORCEABLE STATE UNEMPLOYMENT COMPENSATION DEBT. —

(1) Paragraph (10) of section 6103(l) of the Internal Revenue Code of 1986 is amended by striking ''(c), (d), or (e)'' each place it appears and inserting ''(c), (d), (e) or (f).''

(2) Paragraph (10)(A) of section 6103(l) of the Internal Revenue Code of 1986 is amended by inserting '', to officers and employees of the Department of Labor and its agent for purposes of facilitating the exchange of data in connection with a request made under subsection (f) of section 6402,'' after ''section 6402''.

(3) The heading of paragraph (10) of section 6103(l) of the Internal Revenue Code of 1986 is amended by striking ''subsection (c), (d), or (e) of section 6402" and inserting ''subsection (c), (d), (e) or (f) of section 6402''.

(c) CONFORMING AMENDMENTS.—

(1) Section 3304(a)(4) of the Internal Revenue Code of 1986, as amended by section 2 of this Act, is further amended—

(A) in subparagraph (H), by striking "and" after the semicolon;

(B) in subparagraph (I), by inserting "and" after the semicolon; and

(C) by adding at the end the following new subparagraph:

"(J) with respect to amounts of past-due legally enforceable unemployment compensation debt collected under the authority of section 6402(f)—

"(i) amounts may be deducted to pay any fees authorized under such section; and

"(ii) the penalties and interest described in section 6402(f)(4)(C) may be transferred to the appropriate State fund into which the State would have deposited such amounts had the

individual owing the debt paid such amounts directly to the State;".

(2) Paragraph (3) of section 6103(a) of the Internal Revenue Code of 1986 is amended by inserting "(10)," after "(6),".

(3) Paragraph (4) of section 6103(p) of the Internal Revenue of 1986 is amended

(A) in the matter preceding subparagraph (A), by striking "(l)(16)," and inserting "(l)(10), (16),";

(B) in subparagraph (F)(i), by striking "(l)(16)," and inserting "(l)(10), (16),";

(C) in the matter following subparagraph (F)(iii)—

(i) in each of the first two places it appears, by striking "(l)(16)," and inserting "(l)(10),(16),",

(ii) by inserting "(10)," after "paragraph (6)(A),", and

(iii) in each of the last two places it appears, by striking "(l)(16)" and inserting "(l)(10) or (16)" .

(4) Subsection (a) of section 6402 of the Internal Revenue Code of 1986 is amended by striking "(c), (d), and (e)," and inserting "(c), (d), (e) and (f)".

(5) Paragraph (2) of section 6402(d) of the Internal Revenue Code of 1986 is amended by striking "and before such overpayment is reduced pursuant to subsection (e)" and inserting "and before such overpayment is reduced pursuant to subsections (e) and (f)".

(6) Paragraph (3) of section 6402(e) of the Internal Revenue Code of 1986 is amended in the last sentence by inserting "or subsection (f)" after "paragraph (1)".

(7) Subsection (g) of section 6402 of the Internal Revenue Code of 1986, as redesignated by subsection (a), is amended by striking "(c), (d) or (e)" and inserting "(c), (d), (e) or (f)".

(8) Subsection (i) of section 6402 of the Internal Revenue Code of 1986, as redesignated by subsection (a), is amended by striking "subsection (c) or (e)" and inserting "subsection (c), (e) or (f)".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective as to refunds payable under section 6402 of the Internal Revenue Code of 1986 on or after the date of enactment.

SEC. 6 WAIVERS OF CERTAIN FEDERAL REQUIREMENTS IN ORDER TO CARRY OUT UNEMPLOYMENT COMPENSATION DEMONSTRATION PROJECTS.

(a) WAIVERS OF REQUIREMENTS RELATING TO UNEMPLOYMENT COMPENSATION.—Chapter 23 of the Internal Revenue Code of 1986 (26 U.S.C. 3301-3311) is amended by—

(1) redesignating section 3311 as section 3312;

(2) inserting after section 3310 the following new section:

"SEC. 3311.WAIVERS OF CERTAIN REQUIREMENTS IN ORDER TO IMPLEMENT UNEMPLOYMENT COMPENSATION PROGRAM DEMONSTRATIONS.

"(a) IN GENERAL.—In order to assist States in the implementation of demonstration projects relating to the unemployment compensation program, consistent with the purposes described in subparagraphs (A) and (B) of subsection(c)(3), the Secretary of Labor may approve a request to waive the requirements specified in subsection (b) pursuant to an application submitted by the Governor of a State in accordance with subsection (c).

"(b) REQUIREMENTS SUBJECT TO WAIVER.—Pursuant to this section, the Secretary of Labor may waive the requirements of—

"(1) section 3304(a)(3) and section 303(a)(4) of the Social Security Act (42 U.S.C 503(a)(4)), to permit an exception to the requirement that all moneys received in the unemployment fund of the State immediately upon such receipt be paid over to the Secretary of the Treasury;

"(2) section 3304(a)(4) and section 303(a)(5) of the Social Security Act (42 U.S.C 503(a)(5)), to permit an exception to the requirement that money withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment compensation;

"(3) section 3303(a)(1), to permit an exception to the requirement that reduced rates be assigned on the basis of experience or other factors bearing a direct relation to unemployment risk; and

"(4) section 303(a)(1) of the Social Security Act (42 U.S.C 503(a)(1)), to permit exceptions to the requirement that State law provide for methods of administration reasonably calculated to insure full payment of unemployment compensation when due, except that the Secretary may not waive any method of administration related to the prompt determination and payment of claims or due process of law.

"(c) APPLICATION FOR WAIVERS.—The Governor of any State desiring to obtain a waiver under this section shall submit an application to the Secretary of Labor at such time, in such manner, and including such information as the Secretary of Labor may require, which at a minimum shall include--

"(1) a description of the demonstration project relating to unemployment compensation program for which the waiver is being requested, including the authorization under State law for conducting the demonstration project and the time period during which such demonstration project would be conducted;

"(2) identification of the requirements to be waived, consistent with subsection (b), and a description of how such requirements impede the implementation of the project described in paragraph (1);

"(3) a description of the goals relating to the waiver and the expected programmatic outcomes if the waiver is granted, including how the waiver will assist in—

"(A) accelerating the reemployment of individuals who establish initial eligibility for unemployment compensation under a State's law; or

"(B) improving the effectiveness of the State in carrying out administrative activities under the State unemployment compensation program;

"(4) assurances, accompanied by detailed analysis, that the demonstration will not result in any net costs to the State's unemployment fund compared with the outlays and revenues that would be incurred or received by such fund over the period of the demonstration project if the State had not participated in the demonstration project;

"(5) a description of the manner in which the State will conduct an impact evaluation, using a control or comparison group or other valid methodology, of the demonstration project described in paragraph (1) and determine whether the goals and outcomes described in paragraph (3) are achieved; and

"(6) assurances that the State will provide any reports relating to the waivers granted under this section and the related demonstration project as the Secretary may require.

"(d) DURATION OF WAIVERS.—A waiver approved by the Secretary of Labor under this section shall not exceed two years, except that—

"(1) upon application by the Governor of a State, the duration of a waiver may be extended; and

"(2) the period to which any waiver applies must terminate no later than the date five years from the date of enactment of this Act.

"(e) REVIEW AND APPROVAL OF WAIVER APPLICATIONS.—The Secretary of Labor shall notify the State whether the application for waiver has been approved or denied within 90 days of receipt of a complete application, and provide public notice of the decision through the web site of the Department of Labor or other appropriate means within 10 days of the notification of the State.

"(f) REVOCATION OF WAIVERS —The Secretary of Labor may revoke a waiver if the Secretary determines that the State has not complied with the terms and conditions related to the granting of the waiver.".

(b) AMENDMENT TO TITLE III OF THE SOCIAL SECURITY ACT.—Title III of the Social Security Act (42 U.S.C. 501-504) is amended by inserting after section 304 the following new section—

"SEC. 305. WAIVERS OF CERTAIN REQUIREMENTS IN ORDER TO IMPLEMENT UNEMPLOYMENT COMPENSATION PROGRAM DEMONSTRATIONS.

"(a) WAIVERS AUTHORIZED.—Waivers of the requirements of paragraphs (1), (4) and (5) of section 303(a) may be approved by the Secretary of Labor in accordance with the provisions of section 3311 of the Federal Unemployment Tax Act (26 U.S.C. 3311).

"(b) COSTS OF ADMINISTERING DEMONSTRATIONS ALLOWABLE.—The costs of operating a demonstration project relating to waivers approved under section 3311 of the Federal Unemployment Tax Act (26 U.S.C. 3311), including the costs of evaluating such project, shall, for purposes of this title, be treated as being necessary for the proper and efficient administration of the State law.".

SEC. 7. STATE USE OF COMPENSATING BALANCES AND INTEREST EARNED ON CLEARING ACCOUNT TO PAY ASSOCIATED BANKING COSTS.

(a) IMMEDIATE DEPOSIT REQUIREMENT.—Section 3304(a)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(a)(3)), as amended by section 2 of this Act, is further amended—

(1) in subparagraph (C), by striking "and" after the semicolon;

(2) in subparagraph (D), by inserting "and" after the semicolon;

(3) by adding at the end the following new subparagraph:

"(E) such portion of the money as may be necessary to generate earnings credit or actual interest earnings sufficient to pay reasonable charges for banking services related to such money and for services provided by a bank in connection with the receipt and processing of direct remittances from employers;".

(b) WITHDRAWAL STANDARD.—Section 3304(a)(4) of such Code (26 U.S.C. 3304(a)(4)), as amended by sections 2 and 5 this Act, is further amended—

(1) in subparagraph (I), by striking "and" after the semicolon;

(2) in subparagraph (J), by inserting "and" after the semicolon; and

(3) by adding at the end the following new subparagraph:

"(K) earnings credit or actual interest earnings on money not immediately paid over to the Secretary of the Treasury pursuant to paragraph (3) may be used to pay reasonable charges for banking services related to money received in the unemployment fund and for services provided by a bank in connection with the receipt and processing of direct remittances from employers;".

(c) CONFORMING AMENDMENT.—Section 1201(a)(3) of the Social Security Act

(42 U.S.C.1321(a)(3)), is amended—

(1) in subparagraph (B), by striking "and" after the comma;

(2) in subparagraph (C), by striking the period and inserting ", and"; and

(3) by adding after subparagraph (C) the following new subparagraph—

"(D) Advances for the payment of compensation shall not be reduced or denied due to the use of any amounts to generate earnings credit or actual interest that are used to pay reasonable charges for banking services and for services provided by a bank in connection with the receipt and processing of direct remittances from employers consistent with paragraphs (3) and (4) of section 3304(a) of the Federal Unemployment Tax Act.".

SEC. 8. REPORTING OF FIRST DAY OF EARNINGS TO DIRECTORY OF NEW HIRES.

(a) ADDITION OF REQUIREMENT.—Section 453A(b)(1)(A) of the Social Security Act (42 U.S.C. 653a(b)(1)(A)) is amended by inserting "the date services for remuneration were first performed by the employee," after "of the employee,".

(b) CONFORMING AMENDMENT; REPORTING FORMAT AND METHOD.—Section 453A(c) of the Social Security Act (42 U.S.C. 653a(c)) is amended by inserting ", to the extent practicable," after "Each report required by subsection (b) shall".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.— Subject to paragraph (2), the amendments made under this section shall take effect six months after the date of enactment of this Act.

(2) COMPLIANCE TRANSITION PERIOD.— If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan under part D of title IV of the Social Security Act to meet the additional requirements imposed by the amendment under subsection (a), the plan shall not be regarded as failing to meet such requirements before the first day of the second calendar quarter beginning after the close of the first regular session of the State legislature that begins after the effective date of such amendment. If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

SEC. 9. DEDUCTION OF OBLIGATIONS FOR CUSTODIAL PARENTS.

(a) AUTHORIZATION TO DEDUCT SUPPORT FOR CUSTODIAL PARENTS FROM

UNEMPLOYMENT COMPENSATION.—

(1) IN GENERAL.—Section 303(e) of the Social Security Act (42 U.S.C. 503(e)) is amended as follows—

(A) by striking "child support obligations" wherever it occurs and inserting "support obligations" and

(B) in the last sentence of paragraph (1), by striking "only includes obligations" and inserting "is limited to obligations established with respect to a child or a custodial parent of such child".

(2) TECHNICAL AMENDMENT.—Section 303(e)(2)(A)(iii)(III) (42 U.S.C. 503(e)(2)(A)(iii)(III)) is amended by striking "section 462(e)" and inserting "section 459(i)(5)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to weeks of unemployment beginning after the end of the 2-year period beginning on the date of the enactment of this Act, except that a State may amend its State law to provide for deducting and withholding amounts from unemployment compensation in accordance with the amendment made by this section before the end of such period.

SEC. 10. ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION.

(a) IN GENERAL.— Subsections (a) through (c) of section 908 of the Social Security Act (42 U.S.C. 1108 (a)-(c)) are amended to read as follows—

"(a) ESTABLISHMENT.—The Secretary of Labor may periodically establish an advisory council to be known as the Advisory Council on Unemployment Compensation (referred to in this section as the "Council").

"(b) FUNCTION.—Each Council shall, to the extent directed by the Secretary of Labor, evaluate specific aspects of the unemployment compensation program, which may include the purpose, goals, effects on economic stabilization (including countercyclical effects), coverage, trust fund solvency, administrative performance, payment integrity and any other aspects of the program as the Secretary of Labor deems necessary.

"(c) MEMBERS.—

"(1) PRESIDENTIAL APPOINTMENTS.--Each Council shall consist of 9 members appointed by the President.

"(2) VACANCY.—A vacancy in any Council shall be filled by

appointment in accordance with paragraph (1).

"(3) CHAIRMAN.—The President shall designate a member of the Council to serve as its Chairman.".

(b) REPORT.—Subsection (f) of section 908 of the Social Security Act (42 U.S.C. 1108 (f)) is amended to read as follows—

"(f) REPORT.— The Council shall submit, at such times as the Secretary of Labor may specify, to the President through the Secretary of Labor reports setting forth its findings and any recommendations the Council determines are appropriate.".

SEC. 11. REPEAL OF PROVISION LIMITING ELIGIBILITY OF CERTAIN FEDERAL EMPLOYEES FOR UNEMPLOYMENT COMPENSATION.

Section 8501(1) of title 5 of the United States Code is amended—

(1) by striking subparagraph (E); and

(2) by redesignating subparagraphs (F) through (L) as subparagraphs (E) through (K), respectively.

SEC. 12. SUITABLE WORK IN THE FEDERAL-STATE EXTENDED BENEFITS PROGRAM.

(a) IN GENERAL.—Section 202(a)(3)(D) of the Federal-Stated Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304(a)(11), preceding note) is amended by—

(1) striking clause (ii); and

(2) redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to weeks of unemployment beginning after the end of the 2-year period beginning on the date of the enactment of this Act, except that a State may amend its State law to provide for the administration of the federal-state extended benefits program in accordance with the amendment made by this section before the end of such period.

SEC. 13. REGULATIONS.

The Secretary of Labor may prescribe any operating instructions or regulations necessary to carry out the provisions of this Act and the amendments made by this Act, to the extent that responsibility for their administration is vested in the Secretary of Labor.

SEC. 14. EFFECTIVE DATES.

Except as otherwise provided, the amendments made by this Act shall be effective on the date of enactment of this Act.