

Unemployment Compensation: Coverage in the Federal-State System, 1935-1976

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Abstract of Thesis

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Historians have not yet detailed the story of unemployment compensation. This thesis takes up one element of the story – coverage – to expand existing understanding. The narrative evaluates which groups of workers were covered over time, how groups of workers came to be included, and how the federal-state system functioned. Beginning with the creation of the federal-state unemployment insurance program by the Social Security Act of 1935 through the 1976 federal Unemployment Compensation Amendments that closed in large part gaps in coverage, this thesis examines coverage under federal and state legislation using Maryland as a case study of the state level. Tracing the expansion of coverage and unemployment compensation policy at both the state and federal levels with focus on economic and political developments during the period 1935 to 1976, this narrative highlights the complicated federal-state relationship, the role of the federal government in coverage expansion, and the fact reform of the unemployment compensation system followed its own course.

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Introduction

Every month the percentage and number of Americans filing for unemployment makes the news, and in the current economy, Americans and the stock market react accordingly. Unemployment and unemployment compensation, ideas firmly engrained today, have distinctive histories that highlight their comparatively recent origins. Unemployment compensation began in 1935 as part of a historic social welfare program – the Social Security Act of 1935.

Historians have not yet told the story of unemployment compensation in detail; this thesis begins to expand existing understanding by taking up how unemployment compensation coverage changed between 1935 and 1976. Since unemployment compensation is ultimately about providing protection to workers who get laid off from their jobs, evaluating which groups of workers were covered over time is a good place to start a more intensive look at unemployment compensation. Because unemployment compensation as initiated by the Social Security Act of 1935 is a federal-state partnership, this thesis examines coverage provisions under federal and state legislation. To provide a richer, more focused account, Maryland is used as a case study on the state level.

There is little historical literature on the topic of unemployment compensation itself, and the literature that does exist focuses on the period leading up to the Social Security Act of 1935. Three works on unemployment forming the base of historical knowledge are Daniel Nelson's *Unemployment Insurance: The American Experience, 1915-1935*, John Garraty's *Unemployment in History: Economic Thought and Public Policy*, and Udo Sautter's *Three Cheers for the Unemployed: Government and*

Unemployment before the New Deal. As Nelson's and Sautter's subtitles suggest, these stories customarily end in 1935, at the very moment that the modern unemployment compensation program goes into operation. Other historical works on social policy and the American welfare state more generally include discussion of unemployment compensation, such as Edward Berkowitz and Kim McQuaid's *Creating the Welfare State* and Michael B. Katz's *The Price of Citizenship* and *In the Shadow of the Poorhouse*, but these discussions are typically brief. Works such as *Unemployment Insurance in the United States: The First Half Century* by Saul J. Blaustein with Wilbur J. Cohen and William Haber and *Federal-State Relations in Unemployment Insurance: A Balance of Power* by Murray Rubin, both published by the W. E. Upjohn Institute for Employment Research, are informative and valuable resources, but do not provide a historical narrative.

Unemployment compensation is a highly visible piece of the American welfare state, and to understand where the current system came from and how it developed it is imperative to evaluate its components and change over time. This thesis helps to illuminate issues in modern social policy. The history of unemployment compensation is interesting because, not only is it a prominent component of the American welfare state, but it remains a largely unexamined topic. Unemployment compensation has periodically been embroiled in divisive debates, but has been relatively free of the political turmoil that has characterized other social welfare programs, such as Aid to Families with Dependent Children (AFDC) and Social Security. Its development, including coverage expansion, has been slow and undergone less significant reform than other pieces of social welfare. Further, reform of the unemployment compensation program followed its own rhythm separate from broader developments of the welfare state.

From the outset, unemployment compensation in the United States has traditionally been regarded as having two purposes. The first is to provide temporary and partial replacement of lost wages due to involuntary unemployment for workers with a prior attachment to the labor force. The second purpose is to maintain purchasing power and stabilize the economy, such as during recessions and economic downturns.

The American unemployment compensation system is a federal-state partnership. The key step in the establishment of the system in the United States was the unemployment provisions of the Social Security Act of 1935. Then subsequent action by the states completed the structure. Under Title IX of the Social Security Act, the system works via a tax offset approach in which employers who pay contributions under a federally-approved state unemployment compensation law receive credit for their contributions up to 90 percent of the federal tax. The remainder is used to pay administrative costs. Beginning in 1936, the uniform federal payroll tax rate on employers was 1 percent (the federal tax for old age insurance began in 1937). The federal unemployment tax then increased to 2 percent in 1937 and 3 percent in 1938. Title III provides for federal administrative grants to the states. As this narrative demonstrates, in this federal-state partnership, a great deal was left to the states in the establishment of their state unemployment compensation programs.

This thesis begins by providing a brief history of unemployment compensation before the Social Security Act of 1935. The narrative then moves to focus on unemployment compensation coverage at the federal and state levels between 1935 and 1976. The first four chapters focus on the federal side and the next three chapters deal with the state side, primarily through use of a case study of Maryland's unemployment

compensation program. The narrative as a whole discusses the changes that took place at the federal level, how Maryland responded to federal inducement, and how Maryland at times acted on its own initiative to alter coverage. Ultimately, the story focuses on broad trends in coverage under the federal-state system and more specifically on what happens at the federal level and in Maryland.

During the early period of unemployment compensation, individuals at the federal level and those in Maryland were cautious and focused on long-term solvency and viability. Thus, Maryland enacted only the minimum federal requirements in its coverage provisions. Although the most significant changes to unemployment compensation coverage took place in the 1970s in the wake of federal legislation, there were a number of changes to coverage provisions in the war and postwar eras. Debates and efforts to expand coverage were not stagnant and coverage did expand during these years, though not as significantly as other programs, such as Social Security, or as it would in the 1970s. Often these efforts were undercut by economic and political priorities and divisive debates over other issues in the unemployment system. The major gaps in unemployment compensation coverage closed with the Unemployment Compensation Amendments of 1976. The only major remaining excluded groups were small farm employers and domestic household workers (which remain largely outside the system).

Unemployment Compensation Before the Social Security Act of 1935

The United States was not entirely unfamiliar with unemployment compensation before the Social Security Act of 1935. In addition to public relief and charity, company, joint employer-employee, private trade union plans, and voluntary unemployment benefit

programs formed the nation's unemployment compensation system in the early twentieth century. In 1916, not only did the Dennison Manufacturing Company of Massachusetts establish the first employer-initiated unemployment plan in the United States, but Massachusetts introduced the first state unemployment compensation bill, modeled on Britain's act. These early initiatives, workers' compensation, European unemployment insurance measures, and interest, although often limited, of politicians, reformers, and businessmen throughout the twenties, constitute the precedents for the unemployment insurance program that began in 1935. In 1932, Wisconsin became the first state to enact legislation, and by the time the Social Security Act passed, California, New Hampshire, New York, and Utah had also adopted unemployment insurance laws. Within the decade all states participated in a federal-state unemployment compensation system.¹

Wisconsin owes its importance in the early history of unemployment compensation to the fact that many early influential leaders came from the state, including Edwin E. Witte, Arthur J. Altmeyer, Paul A. Raushenbush, and other students of University of Wisconsin economics professor John R. Commons. The 1932 Wisconsin Unemployment Compensation Act covered employers with ten or more employees who worked for four months or more in a year. It exempted some groups of workers, including farm workers, railroad employees in interstate commerce, logging workers, and government employees. Wisconsin was not the only state interested in

¹ This section is based on Edward Berkowitz and Kim McQuaid, *Creating the Welfare State: The Political Economy of Twentieth-Century Reform*, 2nd ed. (New York: Praeger, 1988); Saul J. Blaustein [with Wilbur J. Cohen and William Haber], *Unemployment Insurance in the United States: The First Half Century* (Kalamazoo, MI: W.E. Upjohn Institute for Employment Research, 1993); Elizabeth Brandeis, "Old Age Pensions and Unemployment Compensation," in *History of Labor in the United States, 1896-1932*, John R. Commons, vol. 3 (New York: MacMillan, 1935); Daniel Nelson, *Unemployment Insurance: The American Experience, 1915-1935* (Madison: University of Wisconsin Press, 1969); Paul A. Raushenbush and Elizabeth Brandeis Raushenbush, *Our "U.C." Story, 1930-1967* (Madison, WI: 1979); Edwin E. Witte, "Major Issues in Unemployment Compensation," Vol. 1: Unemployment Compensation, Unpublished CES Studies, Social Security Online, <http://www.ssa.gov/history/reports/ces/ces1witte1.html>.

unemployment compensation. Seventeen states introduced bills in 1931. In 1931, New York Governor Franklin Roosevelt invited six other governors to meet and explore the possibilities of simultaneous action. The Interstate Conference on Unemployment Insurance developed out of this conference. The fear that new taxes on industry would drive business to other states explains in large part the reluctance of states to enact legislation without assurance other states would do the same and the absence of state legislation. Federal legislation, including the 1935 Social Security Act, aimed at easing the problem of interstate competition.

On February 5, 1934, Senator Robert F. Wagner of New York and Representative David J. Lewis of Maryland introduced the Wagner-Lewis bill, the precursor to the Social Security Act's provisions on unemployment compensation, although not the only bill of the period addressing unemployment insurance. Drafted by Paul Raushenbush at Secretary of Labor Frances Perkins's request, the bill covered employers having ten or more employees who worked for at least twenty weeks of the year. This meant that employers with ten or more workers for twenty weeks would be subject to taxation. The bill excluded government employees, agricultural labor, domestic service, teachers, physicians, surgeons, interns, and nurses, among others. Ultimately the Wagner-Lewis bill was abandoned after divisions developed and the Roosevelt administration sought more comprehensive social insurance legislation for 1935. On June 8, 1934, in the midst of deliberations over the Wagner-Lewis bill, Roosevelt sent a message to Congress on the possibilities for a comprehensive social insurance system. Roosevelt noted, "This is not an untried experiment. Lessons of experience are available from States, from industries and from many Nations of the civilized world. The various types of social insurance are

interrelated; and I think it is difficult to attempt to solve them piecemeal. Hence, I am looking for a sound means which I can recommend to provide at once security against several of the great disturbing factors in life – especially those which relate to unemployment and old age.”² Although the Wagner-Lewis bill did not pass, the bill aided in the understanding of unemployment compensation by Roosevelt’s cabinet-level Committee on Economic Security (CES) that was responsible for developing the administration’s social security proposal.

The final report of the CES to the President called for coverage of all employers employing four or more employees for “a reasonable period of time (any 13 weeks of the taxable year for example),” opposed exclusions of specific industries, and supported a separate nationally administered system for railroad employees and maritime workers.³ Although the CES did not wish for the exclusions of particular industries, it did note that compulsory coverage of some groups was problematic, including small businesses and the self-employed. The committee noted the difficulties of the British system with seasonal workers, and recommended coverage be limited to unemployment occurring during a worker’s usual season of employment. Under this type of provision, a worker could not claim benefits during summer months if not usually employed during those months. Unemployment compensation was to benefit wage earners and salaried employees, thereby excluding a number of groups. CES executive director Edwin E. Witte advised to take caution when including groups that could not easily be brought into the system. Administrative difficulties and the fact that some groups of employees would

² Franklin D. Roosevelt, Message to the Congress Reviewing the Broad Objectives and Accomplishments of the Administration, June 8, 1934, *The Public Papers and Addresses of Franklin D. Roosevelt, 1934* (New York: Random House, 1938), 3:291.

³ Report of the Committee on Economic Security, Report to President Franklin Roosevelt, Jan. 1935, Social Security Online, <http://www.ssa.gov/history/reports/ces/ces.html>.

draw an undue share of benefits were reasons not to attempt universal coverage at the outset. Workers' compensation and labor laws had also traditionally excluded groups such as agricultural and domestic workers. Groups such as government employees were exempted because the federal government could not tax the states. In Witte's view, there were no good reasons to exclude other groups, such as religious and charitable organizations. There is also some indication a few groups did not wish to be covered and pay unemployment taxes.

The administration's economic security bill followed the recommendations of the CES and extended a federal payroll tax to all employers employing four or more workers in each of at least thirteen weeks. The bill exempted federal and state governments. This bill, considered by Congress in early 1935, underwent substantial modification.

These precedents of the federal Social Security Act of 1935 have been detailed in the historical literature. What happened after enactment of the Social Security Act, both at the federal and state levels, has not been given adequate treatment in this literature. Covering 1935 to 1976, this thesis begins with the federal side and then turns to a case study of Maryland to understand what happens regarding unemployment compensation coverage. This thesis now turns to the Social Security Act of 1935 and its implementation.

Chapter 1 The Social Security Act of 1935

The federal-state system of unemployment insurance began with the Social Security Act of 1935. Discussion of unemployment compensation coverage in this system necessarily begins with the federal side and the Social Security Act. A product of its historical moment, the Act reflected the thoughts held by policymakers, reformers, and other key players on coverage. As in the history of many other social policies, once coverage provisions were established, they were difficult to alter or abandon altogether. Ultimately in the case of unemployment compensation, the engine of expansion was slow.

The Social Security Act of 1935

In preparing a bill for Congress, the Roosevelt administration took the recommendations of the Committee on Economic Security (CES). However, the coverage provisions in what ultimately became the Social Security Act of 1935 differed significantly from the CES's original proposal. Let us begin discussion of this process with hearings conducted by the House Ways and Means Committee and the Senate Finance Committee in January and February 1935. During the course of these hearings, individuals testified regarding unemployment compensation, coverage, the radical Lundeen bill that proposed universal coverage, and the previously introduced Wagner-Lewis bill. A number of those testifying, such as I. Amter of the National Unemployment Council, Herbert Benjamin of the National Council for Unemployment and Social Insurance, and David Gordon of the AFL Committee for Unemployment

Insurance, opposed the Wagner-Lewis bill and Economic Security Act because of its exclusions and approved of the Lundeen bill. For example, Benjamin testified: “Genuine social insurance must undertake to safeguard all who are subject to economic hazards. The Wagner-Lewis bill, on the contrary, devotes itself to excluding the largest possible numbers from any and all benefits. ... [the Lundeen bill] embodies the principle that no one who is in need of such protection shall be denied social insurance benefits. It includes workers in all occupations and industries, whether they be industrial, agricultural, professional, or commercial workers, regardless of race, nationality, place of residence, religious or political opinion.”¹ The testimony of Amter and Gordon resembled that of Benjamin, discussing their opposition to the Wagner-Lewis bill because of its discriminatory impact on particular groups, such as immigrants, blacks, and seasonal and domestic workers.²

NAACP representative Charles H. Houston echoed these sentiments. Houston discussed the social security bill where “from a Negro’s point of view it looks like a sieve with the holes just big enough for the majority of Negroes to fall through.”³ Regarding unemployment compensation, Houston commented “If we follow the history of the workmen’s compensation acts, we know that two great classes of workers who will be excluded from the benefit of unemployment insurance; they are agricultural workers and domestic workers. Again, 3 out of every 5 Negro workers drop through the holes of the

¹ *Economic Security Act: Hearings on H. R. 4120 Before the Comm. on Ways and Means*, 74th Cong. p. 593 (1935) (statement of Herbert Benjamin, Representing the National Council for Unemployment and Social Insurance).

² This section is based on Blaustein, *Unemployment Insurance*; H.R. 4120, 74th Cong. (Jan. 17, 1935) [Roosevelt administration Economic Security Draft Bill]; The Social Security Bill, H.R. Rep. No. 74-615 (Apr. 5, 1935).

³ *Economic Security Act: Hearings on S. 1130 Before the Comm. on Finance*, 74th Cong. p. 641 (1935) (statement of Charles H. Houston, Washington, D.C., representing the National Association for the Advancement of Colored People).

sieve.”⁴ Political scientist Robert C. Lieberman traces unemployment insurance from 1935 to the “urban crisis” of the 1960s, arguing “The institutional structure of Unemployment Insurance has played a role in the political and economic isolation of black Americans.”⁵ The questions of race and the exclusion of agricultural and domestic workers continue to spark debate.

Unemployment compensation coverage paralleled that of old age insurance as it related to the decision to exclude particular groups of workers, notably agricultural and domestic workers, due to perceived administrative and tax collection difficulties. Discussion of old age insurance and perceived tax collection difficulties naturally would have influenced feelings toward unemployment insurance. Members of the CES and the Roosevelt administration were the source of these exclusions from old age insurance in the 1935 Social Security Act. Witte explained how officials in the Treasury Department, and particularly those in charge of internal revenue collections, objected to such coverage “on the score that it would prove administratively impossible to collect payroll taxes from agricultural workers and domestic servants.”⁶ These Treasury officials convinced Secretary of the Treasury Henry Morgenthau, Jr. that the bill must be amended to make it administratively feasible. On February 5, 1935 before the House Ways and Means Committee, Morgenthau argued for the exclusion of casual, domestic, and agricultural workers. Morgenthau explained, “Now, even without the inclusion of these three classes of workers, the task of the Treasury in administering the contributory tax collections would be extremely formidable. If these three classes of workers are to be included,

⁴ Ibid, p. 646 (statement of Charles H. Houston).

⁵ Robert C. Lieberman, *Shifting the Color Line: Race and the American Welfare State* (Cambridge: Harvard University Press, 1998), 178.

⁶ Edwin E. Witte, *The Development of the Social Security Act: A memorandum on the history of the Committee on Economic Security and drafting and legislative history of the Social Security Act* (Madison: University of Wisconsin Press, 1963), 153.

however, the task may well prove insuperable – certainly, at the outset.”⁷ Here, in a manner that would be characteristic of unemployment compensation as well, officials called for a cautious, incremental approach, so as not to threaten the entire system.

Morgenthau was not the only person advocating the exclusion of groups based on administrative difficulty at these hearings. At the state level, administrators had already reached the same conclusions. Representing New York Governor Herbert Lehman and the committee that had prepared an unemployment insurance bill under consideration by that state’s legislature, New York State Industrial Commissioner Elmer F. Andrews testified before the Senate Finance Committee. The New York plan excluded farm labor, and Andrews recommended the federal bill do the same. Andrews explained, “We feel that at least at the inauguration of the unemployment insurance plan that farm labor should be exempted because to bring this class under the law would add too greatly to the administration difficulties and expenses causing an undue drain upon the unemployment fund.... Very informally, I might say that we do not think as an administrative expedient it is wise to include farm employees and we feel that it would be very difficult to pass the bill in New York State were farm labor included.”⁸ This line of reasoning concerning administrative difficulty and state opposition to including some groups of workers led to the exclusion of groups of American workers from unemployment insurance. Citing administrative reasons for the numerous unemployment insurance exemptions, and, defining an employer as employing ten or more workers for at least twenty weeks, an

⁷ *Economic Security Act: Hearings on H. R. 4120 Before the Comm. on Ways and Means, 74th Cong.* p. 902 (statement of Henry Morgenthau, Jr., Secretary of the Treasury).

⁸ *Economic Security Act: Hearings on S. 1130 Before the Comm. on Finance, 74th Cong.* p. 719 (statement of Elmer F. Andrews, New York City, State Industrial Commissioner of New York).

April 5, 1935 House report resembled the Social Security Act that would ultimately be signed into law.

Edwin Witte recounted the reasons for changes. Regarding unemployment compensation coverage exclusions of the Ways and Means Committee, “Agricultural labor and domestic services were excluded as a matter of course. The exclusion of the crews of vessels on the navigable waters of the United States was suggested by Mr. Beaman, the chief draftsman of the House, on the ground that it would be difficult to collect the federal tax if vessels were included.”⁹ On the change to ten or more employees in twenty weeks from the original four or more employees in thirteen weeks, Witte noted, “This change provoked considerable discussion and was made largely at the instance of Congressman Fuller [Claude Fuller (D-Arkansas)], who wanted the canneries in his district to be exempted. An important factor in this connection was the fact that the Wagner-Lewis bill of the preceding Congress applied to employers of ten or more during twenty weeks of the year. Congressman Cooper [Jere Cooper (D-Tennessee)], one of the most influential majority members of the Ways and Means Committee, was the chairman of the subcommittee which conducted hearings on the Wagner-Lewis bill and it was he who suggested that the pending bill should be changed to provide the same coverage as the measure of the preceding Congress.”¹⁰

The Senate restored the provision of the original administration bill making the federal tax applicable to employers of four or more workers who worked for at least thirteen weeks in the employer’s establishment. The Senate committee expanded the exemptions of charitable, religious, and educational institutions to include hospitals and

⁹ Witte, *The Development of the Social Security Act*, 132.

¹⁰ *Ibid*, 132.

children's' home-finding societies. It also struck out the exemption of maritime crews, as Witte reported, "on the recommendation of the chairman, to have something to trade with in conference."¹¹ The Social Security Act of 1935 was thus a compromise on the various proposals for unemployment compensation coverage provisions. The federal tax applied to employers of eight or more employees at some time in each of twenty or more weeks, and the occupational exclusions remained.

The 1935 Social Security Act specified coverage, and states did the same. The Act compelled states to cover at a minimum employment covered by the federal tax. However, states could choose to be more liberal in their coverage than federal law. A "small majority" of state laws, including Maryland's, copied federal coverage of employers with eight or more employees in each of at least twenty weeks.¹² Generally, initial state laws matched the coverage provisions of the 1935 Social Security Act. Additional provisions mostly centered on exclusions, such as agricultural labor, domestic service, government employment, maritime employment, and nonprofit organizations. Many states adopted other policies. For example, the District of Columbia covered employers of one or more at any time, nine states covered employers of one or more in twenty weeks, and a small number of states covered employers of four or more. Several states deviated from the federal coverage exclusions and, with time, these deviations increased. Notably, many states, including Maryland, covered smaller firms well before the Federal Unemployment Tax applied to these businesses.

¹¹ Ibid, 141.

¹² Blaustein, *Unemployment Insurance*, 162.

Implementation

In the years following the Social Security Act of 1935, two administrative units housed the federal unemployment compensation program. The Social Security Board conducted its work through the Bureau of Unemployment Compensation, while coordination with state employment offices by the Department of Labor operated through the United States Employment Service. This federal side paired with the state side. Each state enacted its own unemployment compensation legislation following the Social Security Act. Therefore the federal-state partnership involved multiple components that had to function in harmony to ensure the system as a whole provided benefits for the nation's unemployed.¹³

The system encompassed the federal Social Security Board, the Department of Labor, state unemployment compensation boards, state employment offices, employers, and workers. Further, every state law was different. State laws disagreed on a number of issues. The major points of difference were the number of weeks during which an unemployed person could draw benefits, amount of benefits, waiting period, qualifying rules, worker contributions and their amounts, and amount of payroll tax.

¹³ This section is based on Arthur J. Altmeyer, *The Formative Years of Social Security* (Madison: University of Wisconsin Press, 1966); Berkowitz, *America's Welfare State*, 32-38; Blaustein, *Unemployment Insurance*, 161-171; Raushenbush and Raushenbush, *Our U.C. Story*; Second Annual Report of the Social Security Board, 1937, H.R. Doc. No. 75-474 (1938); "Unemployment Compensation Laws Vary In States," *The Sun*, Feb. 26, 1937; Frank S. Hopkins, "New Program For Maryland's Jobless: State Agency Will Pay Benefits, But Will Find Jobs, Too," *The Sun*, Oct. 31, 1937; "Tax Yields \$3,250,000: Initial Collection of Pay-Roll Levy Concluded Here," *The Sun*, Apr. 2, 1937; Draft Bills for State Unemployment Compensation of Pooled Fund and Employer Reserve Account Types, Prepared by the Social Security Board, Rev. Ed., Jan. 1937 (Government Printing Office, 1937), box 101, General Subject File 1933-1941, Secretary Frances Perkins, Office of the Secretary, General Records of the Department of Labor, Record Group 174, National Archives at College Park, College Park, MD.; "A Comparison of State Unemployment Compensation Laws, Bureau of Unemployment Compensation," Prepared by the Legislative Reference Section of the Division of Legislative Aid and Approval, Oct. 1, 1937; box 101; General Subject File, 1933-1941; Secretary Frances Perkins; Office of the Secretary; General Records of the Department of Labor, RG 174; NACP.

For employers, each employer paid taxes on wages up to a certain figure (called the taxable wage base). Contribution rates generally applied to the total wages paid during the first few years of the program. The Federal Unemployment Tax inaugurated in the Social Security Act first applied to 1936 covered payrolls. Employers in states with federally-approved unemployment insurance laws in 1936 would offset the state contributions they paid that year against the federal tax up to the allowed 90 percent. If a state passed an unemployment insurance program and the employer contributed to it, then the federal government effectively forgave the new tax. This was the tax offset feature of the system. Contributions to the state unemployment fund offset the federal tax. The standard rate at which employers contributed (before experience rating) equaled the maximum tax credit allowed, or 90 percent of the federal tax rate. In 1936, this federal tax rate was 1 percent. The rate rose to 2 and 3 percent in 1937 and 1938 respectively. In Maryland, the unemployment compensation program was financed by taxes on payrolls starting January 1, 1936. The contribution rate, or the percentage of wages, of employers was 0.9 percent in 1936, 1.8 percent in 1937, and 2.7 percent beginning in 1938. Thus, the contribution rate in Maryland was the typical rate of 90 percent of the federal tax. The initial tax collection period ended on April 1, 1937. Maryland employers, such as Bethlehem Steel's Sparrows Point Shipyard, one of the state's largest employers, who had paid the state tax were given an offset credit of 90 percent against the 1 percent federal payroll tax, which was also due April 1.

Laid off workers, after losing their jobs, registered with the state employment agency. They had to go to state employment offices and file a claim for unemployment benefits. The office verified the worker met the qualifications and the process of a

worker receiving weekly benefits began. To qualify, a worker must have earned a certain number of weeks of pay in the previous year. The average was fifteen weeks. The program could aid only workers who had earned credits in the course of recent employment. The aim of the system was to provide temporary benefits to recently laid off workers, tiding them through a short period of unemployment. The state agency, such as the Maryland State Employment Service, worked to find employment for the worker as well as administer the state's unemployment compensation program. Generally, state officials attempted to find suitable employment that matched the worker's occupation. In many states, there was a waiting period, the average of which was two to three weeks. In Maryland, a laid off worker of Bethlehem Steel out of work for two weeks would be entitled to a week's benefit for the third week. Weekly benefit rates, established by the states themselves, were usually set at 50 percent of the worker's full-time weekly wage up to \$15. These early benefit rates ranged from \$5 to \$8.50 at the minimum to \$15 to \$18 at the maximum. The maximum duration of benefits ranged from twelve to twenty weeks among the states, with most states at sixteen weeks. In Maryland, as of August 31, 1937, unemployment compensation covered 50 percent of wages and the weekly benefit amount ranged from \$15 at the maximum to \$5 or three-quarters of wages, whichever was less, at the minimum. Maryland provided up to sixteen weeks of benefits. While these basic operations took place within the states, the federal level worked, in coordination with the states, to implement, administer, and improve the federal-state system during the early years of unemployment compensation.

After the Social Security Act, one of the first tasks of the new federal Social Security Board was to help states develop unemployment compensation plans to qualify

for the tax offset as soon as Congress appropriated funds. As few states had enacted legislation and none had started paying benefits, there was little experience in unemployment compensation on which states could build. In its efforts to aid states in their enactment of satisfactory state unemployment compensation legislation, the Social Security Board distributed draft bills. The Social Security Board provided two model bills, one for pooled fund legislation (where employers' contributions were made to one large state-wide pooled fund) and the other for employer reserve legislation (where there were individual employer reserve accounts within the state fund), designed to meet the minimum standards of the Social Security Act for state unemployment compensation laws. The initial work on these draft bills, which were periodically revised, began in January 1935 as Congress considered the social security bill. During this time, on behalf of the CES, Arthur Altmeyer, of the Wisconsin Industrial Commission, Assistant Secretary of Labor beginning in 1934, chairman of the CES technical board, and Social Security Board member beginning in 1935 and later chairman (beginning in 1937), asked Paul Raushenbush, an intellectual leader in the Wisconsin movement, to help prepare draft bills. Along with the help of Merrill Murray, also of the Wisconsin movement (which called for individual employer reserves), and Altmeyer, Raushenbush worked on drafting these bills. According to Raushenbush, "They felt they had to have something concrete to suggest to any state which might want to legislate unemployment compensation – in anticipation of the Social Security Bill becoming law. Further, in dealing with members of Congress they would have to be able to say, 'This is not just a vague possibility. We have a concrete draft which any state can use.' So they really had 'promises to keep.'"¹⁴ In February 1935, states received copies of the bills.

¹⁴ Raushenbush and Raushenbush, *Our U.C. Story*, 203.

Designed to be merely suggestive, the draft bills presented states with alternatives in drafting legislation. The Social Security Board felt this approach “is in keeping with the policy of the Social Security Board of recognizing that it is the final responsibility and the right of each State to determine for itself just what type of legislation it desires and how it shall be drafted.”¹⁵ The definitions section that outlined coverage was the most important. The draft bills left the term “employer” open to the states. The Social Security Board left two blank spaces in which states would specify the number of employees and number of weeks, with an alternative provision as well. Thus, states could elect what sizes and types of firms to be covered under state legislation. A state electing to cover firms of one or more employees at any time would likely cover more workers than a state electing to cover firms of eight or more employees employed in each of at least twenty weeks. This section of the draft bills used the same general method of determining coverage as Title IX of the federal Social Security Act, under which the federal tax is levied for unemployment compensation. The Social Security Act’s Title IX adopted the basis of coverage as eight or more employees during twenty or more different days, with each day being in a different calendar week. The Social Security Board noted that if states desired more inclusive coverage, they could choose to lower the number of employees or lower the number of weeks. To avoid a possible burden on employers, states could also elect to have employers maintain weekly rather than daily employment records.

Under the definition of “employment” were the specific coverage exclusions. The draft bill excluded agricultural labor, domestic service in a private home, and service in the employ of a son, daughter, or spouse and that by a child under the age of twenty-one

¹⁵ Draft Bills for State Unemployment Compensation.

in the employ of a father or mother. Also omitted under the draft bill were federal and state government employment and service performed as an officer or member of the crew of a vessel on the navigable waters of the United States. In addition, workers of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, were excluded. The draft bill noted agricultural labor, domestic service, employment as a crewmember, and family employment were exempt from federal tax, but that a state might elect to deviate from the federal recommendations in the draft bill and cover agricultural labor, domestic service, and family employment. This could be accomplished by simply not including the exclusionary provisions in their state legislation. Further, federal law excluded state employees, but state legislation could elect to cover these employees, or even the less regular of these employees, by adopting provisions doing such. Regarding the provision excluding employment for religious, charitable, scientific, literary, or education purposes, states could again elect to cover all of these groups or select which groups they wished to cover, such as religious but not charitable, by altering the provision accordingly. The federal-state unemployment compensation system created by the 1935 Social Security Act gave states the freedom to experiment and enact the type of legislation best suited for their state; however, the system's tax offset mechanism offered no incentive for states to broaden coverage beyond that of the federal Act.

In drafting legislation, states used the provisions set out in the Social Security Act of 1935 and recommendations in the draft bills. States also took the liberty of determining for themselves their precise type of legislation and definitions of coverage.

Many states covered businesses with eight or more employees, with the number of weeks varying, and others covered five, four, three, and even one or more employees. The exclusions adopted varied by state as well. All states except the District of Columbia omitted agricultural labor. In addition, all states left domestic service in private homes out of the unemployment compensation system. New York excluded domestic service unless four individuals in domestic service were employed within a fifteen-day period. The vast majority of states elected to follow federal precedent or recommendation, with a few states electing to cover additional groups of workers or adopting different, often more specific, exclusionary provisions. Wisconsin, a forerunner in unemployment compensation in the United States, was one such state whose legislation differed more significantly from other states, often electing to omit coverage exemptions or alter provisions. This thesis later examines the unemployment compensation programs in Wisconsin and Maryland following the 1935 Social Security Act.

Federal Debates in the Late Thirties

The late thirties saw debate, controversy, and legislation introduced at the federal level to extend coverage under the federal-state unemployment compensation program. Like discussions taking place in the states, Congress discussed the definitions relating to coverage exclusions, such as that of “agricultural labor” under Title IX of the Social Security Act. The 1939 amendments to the Social Security Act clarified many definitions relating to coverage exclusions. Aside from the issue of coverage, unemployment compensation was of more general interest as the Depression wore on, the so-called “Roosevelt recession” hit, and unemployment rose in 1937 and 1938. Some members of

Congress even hoped to alter the nature of the system and called for states to begin payments earlier than scheduled.¹⁶

In the late thirties, the Social Security Board offered its own recommendations. The Board recommended the extension of old age insurance to large-scale agriculture, domestic service, and nonprofit organizations, and for unemployment insurance coverage to coincide with that of old age insurance, with the exceptions of small-scale agriculture and federal employment. As Altmeyer relayed, agriculture still posed administrative difficulties, and federal employment was not viewed as urgent. The Board also called for the inclusion of employers of one or more. Roosevelt transmitted these recommendations to Congress in 1939 as it took up the Social Security Act. However, the House Ways and Means Committee devoted little attention to unemployment compensation. Despite Altmeyer's calling for broader inclusion, the committee was generally against the extension of coverage under old age insurance or unemployment insurance. Benefits, financing, and welfare, as opposed to social insurance, preoccupied the politics of 1939. Thus, unemployment compensation coverage provisions as originally enacted in 1935 proved difficult to liberalize.

Though unemployment compensation was a familiar issue before the Social Security Act of 1935, when the Act passed it was unknown how quickly states would

¹⁶ This section is based on Altmeyer, *The Formative Years of Social Security*; Edward D. Berkowitz, *America's Welfare State: From Roosevelt to Reagan* (Baltimore: Johns Hopkins University Press, 1991); Blaustein, *Unemployment Insurance*; Raushenbush and Raushenbush, *Our "U.C." Story*; Social Security Board, Proposed Changes in the Social Security Act: A Report of the Social Security Board to the President and to the Congress of the United States, Dec. 30, 1938, Social Security Online, <http://www.ssa.gov/history/reports/38ssbadvise.html>; *Administration of State Unemployment Compensation Laws: Hearings on H. R. 5482 Before the Comm. on Finance, 76th Cong.* (1939); Arthur J. Altmeyer, Chairman, Social Security Board, address before the Interstate Conference of Unemployment Compensation Agencies, Washington, DC, Oct. 20, 1938; box 100; General Subject File, 1933-1941; Secretary Frances Perkins; Office of the Secretary; General Records of the Department of Labor, RG 174; NACP.

enact legislation. By the end of 1939, every state had an unemployment compensation program and was paying benefits to laid off workers. The work of the Social Security Board (as well as the tax offset feature) in part accounts for the prompt and decisive attention granted to unemployment insurance.

This chapter is one of missed opportunity to enact a more inclusive unemployment compensation program in the 1930s. However, this idea is complicated. There was little experience in the United States with unemployment compensation. Wisconsin, the first state to enact legislation and the pioneer in this field did not elect to have universal coverage. Both the federal and state levels stressed caution. Focus was on long-term solvency and viability, and a determination to avoid some of the problems plaguing the British system (a precedent to action on unemployment insurance in the United States). The incremental nature of coverage expansion moved slowly. Once the 1935 federal coverage provisions were in place, as is the case with other pieces of social policy, they were difficult to change. However, with time changes were enacted. After the Social Security Act of 1935, the next major legislative milestone in coverage under the federal-state system passed in 1954.

Chapter 2 Federal Coverage in the War and Postwar Eras

The story of unemployment compensation coverage was one of incremental expansion throughout the war and postwar eras. These years reflected war and postwar prosperity and witnessed the continued deference to state control. Although the most significant federal extensions of coverage took place after 1969, unemployment compensation policy was by no means stagnant in the postwar era. A number of important changes were made to coverage at the federal level between 1947 and 1969. These changes broadened coverage and the scope of the federal-state system.

In the war and postwar eras, federal policy extended unemployment compensation to veterans and ex-servicemen. Beginning with the 1944 “GI Bill of Rights,” Congress ultimately adopted a permanent program in 1958. There was some activity regarding unemployment compensation coverage in the late 1940s; however, these changes were not major milestones. In 1954, Congress brought smaller firms and federal civilian employees into the system. The extension to smaller firms altered the original 1935 coverage of employers of eight or more workers to those employing four or more. The 1960s, and especially the latter part of the decade, saw continued efforts to extend coverage. Many of these proposed changes were later adopted in 1970 federal legislation.

At the state level, with the exception of extending coverage to smaller firms, most states did not liberalize coverage provisions until compelled to by federal policy. Maryland exemplifies this tendency. Maryland extended coverage to smaller firms before federal legislation, but did not extend coverage to other excluded groups of workers before changes on the federal side. As most states chose not to broaden

coverage to more workers prior to federal incentive, activity at the federal level was of great consequence. Regardless of Congress's failure to significantly liberalize coverage, the war and postwar eras were far from silent on the issue of unemployment compensation, coverage, and the nature of the federal-state program.

World War II and Unemployment Compensation

1940, the first year in which the unemployment compensation program was functioning in all states, marked the beginning of the nation's conversion to a war economy. Changeover to a war economy led to some short-term unemployment; however, with time unemployment almost disappeared and labor shortages developed. Throughout the war years, President Roosevelt, Arthur Altmeyer, and the Social Security Board continued to call for improvements to the Social Security Act and the unemployment compensation system. Despite these calls for changes, including expansion of coverage under unemployment compensation, the war preoccupied Roosevelt, Congress, and the public. Although there were some modifications to the system during the war, including the nature of the federal-state partnership, not surprisingly the window for major change in coverage provisions never opened.¹

Although changes were not made at the federal level to unemployment compensation coverage, there was interest in expanding coverage. In his January 3, 1941 annual budget message, Roosevelt stated, "I deem it vital that the Congress give consideration to the inclusion in the old-age and survivors insurance system and the

¹ This section is based on Altmeyer, *The Formative Years of Social Security*, 118-151; Blaustein, *Unemployment Insurance*, 176-181.

unemployment compensation system of workers not now covered.”² In his January 1942 budget message, Roosevelt again prescribed an increase in coverage, citing that the social security program as developed in 1935 was intended eventually to cover more Americans. Again, Congress did not act on this recommendation, and the Roosevelt administration did not prepare or support a bill implementing the recommendation. The Roosevelt administration continued to call for expansion throughout the war. Though continued interest in expanding coverage under social security programs, including unemployment insurance, and continued failure to implement any policies characterized the war years, these years were also marked by concern for the return of service members and unemployment.

In his July 28, 1943 fireside chat, Roosevelt called attention to the need to plan for the return of veterans, stating, “Among many other things we are, today, laying plans for the return to civilian life of our gallant men and women in the armed services. They must not be demobilized into an environment of inflation and unemployment, to a place on a bread line, or on a corner selling apples. We must, this time, have plans ready - instead of waiting to do a hasty, inefficient, and ill-considered job at the last moment.”³ This statement recognized the lived historical precedent of the Depression. As his later signing of the 1944 “GI Bill of Rights” indicates, Roosevelt was committed to service members, postwar employment, and economic stability.

The war years marked a period of strain in the federal-state relationship.

Although federal reorganization in 1939 consolidating the Social Security Board’s

² Franklin D. Roosevelt, The Annual Budget Message, Jan. 3, 1941, *The Public Papers and Addresses of Franklin D. Roosevelt, 1940* (New York: Macmillan Company, 1941), 656.

³ Franklin D. Roosevelt, “The Massed, Angered Forces of Common Humanity Are on the March... The First Crack in the Axis Has Come” – Fireside Chat on the Progress of the War and Plans for Peace, July 28, 1943, *The Public Papers and Addresses of Franklin D. Roosevelt, 1943* (New York: Harper and Brothers, 1950), 333.

Bureau of Unemployment Compensation and the Department of Labor's United States Employment Service into the Bureau of Employment Security (of the new Federal Security Agency) improved relations with state agencies, relations became stressed because of increasing criticism by the Social Security Board of state benefits and administration as well as debates regarding nationalization. After the attack on Pearl Harbor, Roosevelt transferred state employment offices to the federal government for the duration of the war to concentrate on nationwide manpower mobilization and the national defense program. Roosevelt's ability to take such an act and federalize employment services came from a proviso in a 1941-1942 appropriation bill granting \$62,500,000 to the Social Security Board to cover the cost of grants to the states for unemployment compensation administration. The proviso stated "Provided further, that such portion of this appropriation, as may be necessary shall be available to the Social Security Board for all necessary expenses incurred by the Board, including personal [sic] services in the District of Columbia and elsewhere, in connection with the operation of employment office facilities and services essential to expediting the national-defense program."⁴ Arthur Altmeyer recalled the frustration of state officials on the measure, "I was bitterly denounced by state officials for having surreptitiously secured the inclusion of a proviso in an appropriation bill which enabled the President to act so swiftly."⁵ In his memoir, Altmeyer avowed "I have no regrets over my decision not to consult with the state officials."⁶

Clearly, the federal-state partnership was not operating smoothly. State officials alleged that Altmeyer and the Social Security Board secured the 1941 proviso as part of

⁴ In Altmeyer, *The Formative Years of Social Security*, 130-131.

⁵ Altmeyer, *The Formative Years of Social Security*, 130.

⁶ *Ibid*, 131.

their desire to federalize the unemployment insurance system. Altmeyer maintained the record did not support the accusation. States rightly confronted the Social Security Board and their federal partners with wishing to nationalize the entire unemployment compensation system. In a 1942 report, the Social Security Board declared it was “convinced that nothing less than a national uniformly operated employment service, sustained by an adequate and soundly financed Federal unemployment insurance system will meet the needs of the period immediately following the war and the longer-range objectives of Social Security.”⁷ These feelings of distrust and bitterness toward one another and debates over a federal system of unemployment insurance escalated throughout the war years.

World War II brought low unemployment, no change to coverage despite continued recommendations, federalization of state employment offices, and deteriorating federal-state relations. These years, with their high employment, saw the buildup of reserves, leading to the almost universal adoption of experience rating by states to lower taxes, and benefit improvements in some states. (The purpose of experience rating was to rate employers on the basis of their experience so that employers would stand on their own records of employment and lay offs. Contribution rates, after a period of time, correspond to employers’ experience in providing steady work and with good experience lead to a reduction in contribution rate.) From these turbulent war years, the subsequent years witnessed some federal changes to coverage, including extensions to veterans, smaller firms, and federal civilian employees, and continued developments in federal-state and interstate relations.

⁷ In Blaustein, *Unemployment Insurance*, 179.

Federal-State Relations

The federal-state partnership was one of both cooperation and contention in the postwar years. It is useful to understand the foundation of the partnership responsible for benefits to the nation's unemployed. A series of federal reorganizations took place during the war and early postwar years, but ultimately, in 1949, the unemployment insurance and employment service components of the Bureau of Employment Security were transferred to the Department of Labor. These frequent reorganizations had unsettling effects on federal organization and work. However, other than the collection of taxes and maintenance of the trust fund, which the Treasury Department handled, in 1949 the Department of Labor held the entirety of the federal unemployment and employment services. Support for the states with unemployment legislation and the review of state laws for their conformity with federal law remained the major functions of the federal unemployment services. In addition to reviewing state legislation, the federal government made recommendations to the states. For example, in November 1940, the Social Security Board noted benefits in Maryland were considerably lower than in the nation as a whole. The Social Security Board recommended changes to wage levels, benefits, and the distribution formula to coincide more with that of Pennsylvania and Massachusetts, which the board noted had industrial compositions similar to that of Maryland. The Board further recommended the extension of coverage to employers of one or more workers. In the earlier years of the unemployment compensation system, the federal government in large part led the states. During the postwar years states grew more confident in their programs and relied less on federal services and advice. The model state bills were periodically written for use by the states throughout this history.

Amendments in federal law typically led to amendments in state laws, and the Department of Labor provided guidance, including manuals, legislative policy guides, and explanatory letters to states. State laws were subject to federal review, and periodically there were ensuing debates and negotiations. Though the availability of federal assistance to the states and general welcoming of such assistance indicates federal-state cooperation, periodic negotiations between the two entities strained the partnership.⁸

There was also federal-state and interstate cooperation on the substance of state laws, administration, and successful state programs. Federal staff, some of whom came from state agencies, collected and shared information of the administration and practices of successful state programs. Further, the influential Interstate Conference of Employment Security Agencies collaborated with the Department of Labor and states. The conference held regional meetings and worked with state agencies. States also had to cooperate with one another in formulating and administering interstate agreements. For example, workers could live and work in different states and receive benefits. With special federal unemployment compensation programs in the postwar era, such as for veterans, federal civilian employees, as well as temporary benefit extensions, administered by state agencies, there was further necessary cooperation in the federal-state partnership. There also developed a further reporting, including statistical, and evaluation of state activities at the federal level, which influenced the development of Department of Labor and federal initiatives, including federal legislative proposals.

⁸ This section is based on Blaustein, *Unemployment Insurance*; Background for Suggested Legislative Changes in Maryland, Nov. 1940; box 109; State Files 1935-1940; Chairman's Files, 1935-1942; Records of the Office of the Commissioner; Records of the Social Security Board; Records of the Social Security Administration; RG 47; NACP.

Ultimately the federal-state unemployment compensation partnership was one of both necessary manifold cooperation and conflict.

Economy, Unemployment, Politics, and Social Insurance in the Postwar Era

The 1950s and 1960s were overall a period of unprecedented expansion of the United States economy. As historian James Patterson writes, “The prosperity of the period broadened gradually in the late 1940s, accelerated in the 1950s, and soared to unimaginable heights in the 1960s. ... By almost any standards of measurement the postwar economic power and affluence of the United States were indeed amazing.”⁹ However, there were several recessions between 1947 and 1969, such as in 1949, 1954, 1958, and 1961. Even in the worst of these recession years, the overall unemployment rates did not come close to those seen during the Depression. Not only were there changes to the postwar economy, but there were also changes in public opinion regarding acceptable courses to manage the economy. In the postwar era, Americans thought differently about the economy and government. The majority of Americans believed economists and “experts” had the ability to manage the economy, government deficits were necessary at times, and the government had a duty to fight unemployment. It was in this context of unimaginable economic growth and temporary recessions that the federal government, states, experts, reformers, the public, and other stakeholders debated unemployment compensation and social insurance in the postwar era.¹⁰

⁹ James T. Patterson, *Grand Expectations: The United States, 1945-1974* (New York: Oxford University Press, 1996), 61.

¹⁰ This section is based on Berkowitz, *America's Welfare State*; Berkowitz and McQuaid, *Creating the Welfare State*; Blaustein, *Unemployment Insurance*; Michael B. Katz, *The Price of Citizenship: Redefining the American Welfare State* (New York: Metropolitan Books, 2001); Patterson, *Grand Expectations*.

The Korean War in the early 1950s had a mixed impact on the American economy. Increases in defense spending boosted the gross national product, and accelerated the boom psychology, while at the same time increasing the risk of inflation. Nevertheless, postwar prosperity increased more in the period 1950 to 1954 than it had between 1945 and 1948. Due to the Eisenhower administration's fiscal restraint, prices were relatively stable after the inflationary years of the Korean War. More good things followed. In addition to a reduction in poverty throughout the 1960s, the 1960s were the longest period of uninterrupted economic growth in United States history (at least until the 1990s). However, while the economy seemed healthy overall, worries of economic instability and concerns over unemployment financing persisted throughout the late 1960s. The economic outlook and optimism of the postwar era ended with the downturn of the economy beginning in 1973.

Although the postwar era is commonly recognized for its great economic prosperity, unemployment did occur and was a concern throughout the period. As World War II ended, defense spending cutbacks naturally ensued. As military personnel were to return to civilian life, some economists feared around eight million people could be unemployed by early 1946, roughly 13 percent of the labor force. To those who lived through the Depression, unemployment was a continuing fear and concern in the postwar era. Much of this fear never materialized. Despite recessions in 1949, 1954, 1958, and 1961, overall unemployment was low, particularly in the years 1948, 1953, 1957, 1965, and 1969. Unemployment was estimated at 1.9 percent of the civilian labor force in 1945, and while the years immediately following World War II were marked by years of higher unemployment rates, in 1947 unemployment started to decline and 1948 was a year of

low unemployment at 3.8 percent. Unemployment was slightly under 4 percent from 1946 through 1948. The 1950s, with the exception of the periodic recessions such as that in 1958 when unemployment averaged 6.8 percent, also saw low unemployment. 1953 and 1957 were years of low unemployment, at 2.9 and 4.3 percent respectively. In the 1960s, although unemployment among teenagers rose, overall unemployment stayed low. Overall unemployment fell from 4.5 percent in 1965 to 3.5 percent in 1969, the lowest since the Korean War. Unemployment rose from 3.6 percent to 4.9 percent between 1968 and 1970, and rising unemployment, especially among minorities and baby boomers seeking work, characterized the end of the postwar economy.

Politics can not be divorced from discussion of changes to the economy, unemployment compensation, social insurance, or the American welfare state in the postwar period. It is critical to have not only a historical context of the economy and unemployment, but also of politics. Generally speaking, interest group liberalism that led to turf wars and political stalemate characterized politics after 1945. In the late 1940s and early 1950s congressional majorities repeatedly flip-flopped. In 1946, Republicans gained control of both houses of Congress for the first time since 1930, only to lose control to the Democrats in 1948. In 1952, the Republicans again won control of Congress (although, again, only for one term).

In his Fair Deal proposals, President Truman called for a more progressive tax system, increasing the minimum wage, national medical insurance, federal aid to education, and the broadening of Social Security, to name just a few issues on his domestic agenda. Truman generally opposed acts that would increase the size of the federal bureaucracy, but did make these domestic recommendations. Cast as a moderate

Republican, President Eisenhower sought to decrease the role of government and decrease spending, but without mindlessly slashing programs. The Eisenhower administration left the New Deal intact and took part in enacting reforms and expansions in social welfare policy, as administration support for the Social Security Amendments of 1954 revealed. As this thesis later demonstrates, Eisenhower-era Republicanism was important in the evolution of unemployment compensation. In the 1954 midterm elections, Democrats recaptured both houses of Congress and held congressional majorities in the 1960 and 1964 elections.

Enmeshed in postwar politics were continued debates over welfare, social insurance, and the development of the American welfare state. President Truman preserved the welfare state's all-encompassing definition during his tenure. As historian Michael Katz points out, Truman counted old age insurance and unemployment insurance among the "major social welfare trust funds" in his annual 1948 budget message.¹¹ In this 1948 annual address, Truman called for the extension of unemployment compensation coverage to employers of small businesses and as many other groups as feasible. President Eisenhower accepted a few moderately liberal acts, including an expansion in Social Security in 1954. Eisenhower acknowledged "Should any political party attempt to abolish Social Security, unemployment insurance, and eliminate labor laws and farm programs, you would not hear of that party again in our political history."¹² Still, American social insurance was fragmented and incomplete. With some parts national and other parts state, and some both, the system was poorly coordinated and left

¹¹ Harry S. Truman, Annual Budget Message to the Congress, Fiscal Year 1949, Jan. 12, 1948, *Public Papers of the Presidents of the United States: Harry S. Truman, 1948* (Washington, DC: Government Printing Office, 1964).

¹² In Robert Griffith, "Dwight D. Eisenhower and the Corporate Commonwealth," *American Historical Review* 87 (Feb. 1982): 102, in Patterson, *Grand Expectations*, 272.

whole categories of individuals to depend on public and private charity.

Although unemployment compensation did not see extensive changes to coverage, another quintessential social insurance measure always referenced in the course of unemployment coverage debates, Social Security, did expand. The Social Security amendments of 1950 and 1954 brought coverage to many farmers, domestic workers, and small businesses. As Edward Berkowitz and Kim McQuaid explain, “Few precedents existed for collecting a payroll tax from the self-employed who, by definition, had no payroll,” however, “World War II marked a watershed in the federal government’s ability to collect taxes from almost everyone.”¹³ In 1948, an advisory council studied Social Security and reported back the technology of tax collection allowed for the expansion of Social Security to cover the self-employed. Though coverage under old age insurance expanded in the 1950s, the same expansions were not made to unemployment insurance in the prosperous postwar era. As a joint federal-state program, unemployment compensation did not necessarily follow the federal social security program.

Not only is unemployment compensation part of a larger program of social security and public social insurance, but it is also part of the broader contexts of the economy and politics. For example, benefits paid out and contributions paid in under unemployment compensation correspond to economic cycles. Benefit claims are highest during economic downturns, when government revenues are lowest. Overall the development of unemployment compensation after the Social Security Act of 1935 and the subsequent passage of state laws reflected the development of war and postwar prosperity. Unemployment legislation and debates over coverage reflected not only economic cycles, but the more general state of the economy, American workers,

¹³ Berkowitz and McQuaid, *Creating the Welfare State*, 179.

unemployment, and politics at any given time. Ultimately, changes in coverage and federal-state relations were products of the historical moment.

Veterans: From the GI Bill to Permanent Coverage

With the return of 12.1 million military personnel to civilian life, unemployment and the postwar economy were not concerns taken lightly. Years before the war came to a close, President Roosevelt, Congress, veterans' organizations, and the public were concerned with the fates of unemployed veterans after the war, those workers who withdrew from the civilian labor force for a period of military service and then faced the difficulties of finding civilian work after the war's conclusion. Discussion at the federal level began on this topic not long after the war began. In the 1944 GI Bill, World War II veterans received what amounted to a special program of unemployment compensation. Unemployment compensation was subsequently provided to servicemembers in the Korean War in 1952 and on a permanent basis in 1958. Although not strictly unemployment insurance, compensation for veterans functioned similarly.¹⁴

As attention shifted to postwar planning in 1943 and 1944, a principal fear was that the economy would recede into its prewar Depression era state once the stimulus of wartime mobilization and production was removed. People feared the return of the massive unemployment of the Depression. This fear led to the enactment of the Servicemen's Readjustment Act, the "GI Bill," in June 1944. As part of the rights consciousness characteristic of the era, the GI Bill promised veterans government aid in

¹⁴ This section is based on Altmeyer, *The Formative Years*; Berkowitz and McQuaid, *Creating the Welfare State*; Blaustein, *Unemployment Insurance*; Patterson, *Grand Expectations*; Raushenbush and Raushenbush, *Our "U.C." Story*; Davis R. B. Ross, *Preparing for Ulysses: Politics and Veterans During World War II* (New York: Columbia University Press, 1969).

buying homes, higher education, starting businesses, retirement, disability, and unemployment. The American Legion sponsored the bill, and Paul Raushenbush of Wisconsin was asked to attend a meeting of the group's employment committee regarding approval of unemployment compensation versus dismissal pay. Raushenbush, in his "U.C. Story," relayed the intention to administer the GI Bill just as the state law. State agencies did not want veterans believing they could just claim benefits for fifty-two weeks without looking for work. There was the idea that these veterans might become future state claimants, and states did not want to give them the wrong idea of unemployment compensation's true nature. Instead, state agencies wanted to encourage veterans and unemployed workers to get back to work on some job and not remain on unemployment rolls.

Few spoke against the bill and its increase in federal welfare costs. Title V of the Act provided federal servicemen's "readjustment allowances." These cleverly terms "readjustment allowances," which removed some of the stigma of being unemployed, aided veterans unemployed or self-employed after being discharged. With major postwar problems anticipated, the allowances took pressure off state unemployment funds. Lasting from 1944 to 1950, more than eight million veterans took advantage of this "52-20" provision of the GI bill, which provided twenty dollars per week for up to fifty-two weeks of unemployment or, for self-employed veterans, one hundred dollars per month less any net profit. State unemployment agencies administered the program on behalf of the federal government. Readjustment allowances under the GI Bill were not the only measure taken during this wartime and immediate postwar period. The Social Security Amendments of 1946 provided readjustment benefits to seamen on ships controlled by

the War Shipping Administration. Unemployment among this group of workers was high after the war.

By 1952 concern for Korean War veterans culminated in the creation of a program of unemployment compensation for these veterans as well. The Veterans' Readjustment Assistance Act of 1952 provided benefits of twenty-six dollars a week for up to twenty-six weeks. This program was more closely coordinated with state unemployment compensation than the earlier readjustment allowances, as additional terms of state laws where veterans drew benefits applied. In 1954 claims peaked, averaging eighty thousand weekly, and nearly \$108 million was paid out. After nearly eight years, the program ended in January 1960.

From these two temporary unemployment compensation programs for veterans came the enactment of a permanent program in 1958. Characteristic of most social programs, temporary changes to unemployment compensation tended to become permanent. The Ex-Servicemen's Unemployment Act of 1958 amended Title XV of the Social Security Act, a title created in 1954 establishing compensation for federal civilian employees, to provide the same protection. Congress enacted this measure because a large number of Americans would serve a period of military service and many of them would subsequently become unemployed after discharge. As with other forms of unemployment compensation, benefits were paid in accordance with state laws, but money for the program came from general revenues. When it took effect, the program covered about 2.6 million ex-service members. During the first years of the program, benefit claims averaged roughly fifty-five thousand per week. Thus, from the 1944 readjustment allowances of the GI Bill to the enactment of a permanent program for ex-

service members in 1958, unemployment compensation moved to cover a group of workers outside the civilian labor force. The federal-state partnership worked to aid veterans as they attempted to readjust and find employment in the civilian labor force.

The Late 1940s and Early 1950s

In addition to the 1944 GI Bill, 1952 Korean veterans program, and the extension of coverage to maritime workers in 1946, the immediate postwar period was not without additional debates on unemployment compensation. By the late 1940s, many recognized the program's shortcomings with regard to coverage and benefits. About half of states covered employers of eight or more as dictated in the 1935 Social Security Act, and few states elected to cover additional groups of workers. States largely did not extend additional coverage outside of federal legislation. The immediate postwar period saw criticism of the unemployment compensation program and the broader Social Security system, investigations into the programs, such as that authorized by the House in 1945, repeated attempts to amend programs, and conflicting attitudes among the Social Security Board, state employment officials, employers, and other stakeholders. During the early 1950s, many debates, bills, congressional hearings, proposals, and calls for action on unemployment compensation coverage occurred.¹⁵

The courts also affected coverage under unemployment compensation in the late 1940s. In its 1947 decision in *United States v. Silk*, the Supreme Court ruled the language of the 1935 Social Security Act permitted a broader interpretation of "employee." The issue at hand concerned workers who fell between the clear distinctions

¹⁵ This section is based on Altmeyer, *The Formative Years*; Blaustein, *Unemployment Insurance*.

of a wage or salaried employee and a self-employed or independent contractor. The workers in question here included outside salespeople, those working on a commission basis, barbers, beauticians, taxi or truck drivers owning their own equipment, and various types of home workers. The 1935 Social Security Act had not adequately defined the term “employee.” Early federal regulators adopted a narrow definition based on the common law “master-servant” relationship. In 1947 the Court ruled a broader interpretation could be applied to the 1935 Act. In 1948, Congress passed an amendment over Truman’s veto limiting the definition of “employee” to an employee under the common law “master-servant” rule, retroactive to 1939. Although some state laws used a broader definition, coverage was withdrawn from workers in states whose laws followed the federal definition. Federal coverage was therefore withdrawn from around five hundred thousand workers. From these years of limited modifications to unemployment compensation, the early 1950s brought about renewed attention, debate, and action on unemployment compensation.

Early 1950s Changes

Coverage under Social Security received attention during these years of debate over coverage changes to the unemployment compensation system. Notably, coverage expansions in the old age and survivors insurance program preceded and informed discussions on unemployment compensation coverage. The Social Security Act of 1935 excluded groups of workers, such as agricultural workers and the self-employed, from both OASI and unemployment insurance on the basis of administrative difficulty. Expansion of Social Security coverage spurred discussion of expanding unemployment

compensation coverage; many called attention to the liberalization of OASI coverage in arguing for coverage extensions under unemployment compensation.¹⁶

The early 1950s witnessed the expansion of Social Security coverage to a number of previously excluded groups. Congress extended coverage to the majority of the self-employed in 1950, a key breakthrough that led to further OASI coverage expansions in the 1950s to agricultural and domestic workers. In 1950, however, coverage under unemployment insurance did not broaden alongside that of Social Security. In fact, the only major coverage expansions came in 1954, for employees of smaller firms and federal civilian employees. However, several key features must be remembered. For example, OASI is a federal program and unemployment insurance is a federal-state program, and states wielded a great deal of power over its politics. The views of state representatives, state employment agencies, and the Interstate Conference of Employment Security Agencies were instrumental to federal debates. There is also a key difference between the elderly and laid off workers. Older Americans have a permanent interest in Social Security, whereas laid off workers are temporary and looking to resume employment. Especially during the prosperous years of the 1950s, this difference between the two programs is important to remember. Further, in the 1950s, with the elderly receiving payments and increased benefits, Social Security became a popular program.

President Truman repeatedly called on Congress to improve the unemployment compensation system, including the liberalization of coverage. President Eisenhower continued these calls for greater coverage. Presidential addresses in the early 1950s, as

¹⁶ This section is based on Altmeyer, *The Formative Years*; Berkowitz and McQuaid, *Creating the Welfare State*; Larry W. DeWitt, Daniel Béland, and Edward D. Berkowitz, *Social Security: A Documentary History* (Washington: Congressional Quarterly Press, 2008).

well as other bodies such as periodically created advisory councils, routinely recommended expansions to Social Security and unemployment compensation. It is in this context of an overall prosperous economy, changes in OASI coverage, and these regular calls for coverage expansions that proposals for including small businesses, federal civilian employees, and agricultural labor in the unemployment compensation system were made. Coverage was ultimately extended to the first two of these groups in 1954.

Small Businesses and Federal Civilian Employees

By the early 1950s there were repeated requests to broaden unemployment compensation to firms of one or more employees and federal civilian employees. There was a prolonged history of trying to extend coverage to employers of one or more workers since 1939. In 1948, when the federal tax still only applied to employers of eight or more, twenty-nine states, including seven of the ten largest states (by covered employment), covered smaller firms. Seventeen states covered employers of one or more. Following the 1954 federal extension to employers of four or more in twenty weeks, all states covered four or more, or smaller. There was a small rise over the ensuing years in the number of states covering one or more so that by 1971, shortly before the application of the federal tax to employers of one or more, nearly half of states had moved to cover this group.¹⁷

¹⁷ This section is based on Altmeyer, *The Formative Years*; Blaustein, *Unemployment Insurance*; David L. Stebenne, *Modern Republican: Arthur Larson and the Eisenhower Years* (Bloomington: Indiana University Press, 2006), ix-xi, 99-101, 111; "Insurance Or Doles," *The Washington Post*, June 22, 1944; "Time To Compromise," *The Washington Post*, Aug. 10, 1944; "Merchant Seamen," *The Washington Post*, Aug. 21, 1944; C. P. Trussell, "More Cuts Made in Conversion Bill: Ways and Means Committee Bans Social Security Coverage for Federal Workers," *New York Times*, Aug. 24, 1944; "Unemployment

Federal civilian employees were also a group of workers to which coverage was extended in 1954 whose inclusion was debated for many years before 1954. After the number of federal civilian employees rose during the New Deal and World War II eras, unemployment compensation for federal civilian workers became a concern. Although demobilization reduced the number of federal workers, the Korean War increased this number again. The increase in the overall federal civilian workforce after the New Deal and the reductions in federal civilian personnel after wars contributed to the attention to the welfare of laid off federal workers.

In 1944, in the debates over postwar adjustment, the rival George and Kilgore demobilization bills, for Senator Walter F. George (D-Georgia) and Senate Finance Chairman Harley M. Kilgore (D-West Virginia) respectively, called for the expansion of unemployment compensation to federal civilian warworkers. Senator George favored protection for all federal employees, including departmental workers. Ultimately House and Senate conferees became deadlocked on the issue of whether federal employees should be covered by unemployment compensation. After a plea by President Truman in 1945, Senator Kilgore offered a bill supplementing state funds, increasing benefits, and

Compensation,” *New York Times*, Sept. 14, 1944; Associated Press, “Bill Widens Jobless Pay,” *The Washington Post*, July 18, 1945; “Unemployment Compensation,” *New York Times*, Sept. 4, 1945; Robert C. Albright, “Jobless Bill Faces Death In Congress: Federal Workers May Also Lose Aids Included in Act,” *The Washington Post*, Sept. 9, 1945; Berkowitz, *America’s Welfare State*; “Truman Asks Jobless Pay Rise, Coverage of 6 Million More: Rise in Jobless Pay Proposed,” *The Washington Post*, Apr. 7, 1950; Jerry Kluttz, “The Federal Diary: Report to House Group Points Out Need for Unemployment Pay,” *The Washington Post*, Dec. 13, 1950; “Unemployment Insurance,” Report to the Committee on Ways and Means From the Subcommittee on Unemployment Insurance, Jan. 2, 1951 (1951); *Unemployment Insurance: Hearings on H.R. 3391, H.R. 4133, H.R. 6174 H.R. 6954, H.R. 7277 Before a Subcomm. of the Comm. On Ways and Means, 82nd Cong.* (Mar.-May 1952); *Unemployment Insurance: Hearings on H. R. 3531 and H. R. 3530, H. R. 2261 Before the Committee on Ways and Means, 83rd Cong.* (Apr. 1953); Congressional Action on Major Economic Recommendations of the President, 1954, Materials Prepared for the Joint Committee on the Economic Report by the Committee Staff, 83rd Cong. (1954) (Joint Committee Print); *Unemployment Insurance: Hearings on H.R. 6537, 6539, 7054, 8857, and 8585, Before the Comm. On Ways and Means, 83rd Cong.* (June 1954); Cong. Rec. (June-Aug. 1954); H. R. Rep. No. 83-2001 (June 29, 1954); S. Rep. No. 83-1794 (July 12, 1954).

expanding coverage. This bill was similar to the one Kilgore worked on in 1944. The bill included coverage of federal workers, agricultural processing workers, and employees of firms of one or more. The Kilgore bill went further than a bill introduced in the House by Chairman of the Ways and Means Committee Robert Doughton (D-North Carolina), which among other things did not include coverage of agricultural processing workers. Many state officials and members of Congress opposed the bill, although much of the opposition was not directed at government employee sections.

This was the early postwar legacy of whether to include federal civilian employees and smaller firms, as well as other groups of workers, in the unemployment compensation system. In April 1950, Truman asked Congress to consider program changes and extending coverage to an additional six million workers. These workers included employees of small firms, federal civilian employees, industrial workers connected with agriculture, and some workers employed on a commission basis. In echoing calls made in earlier addresses and messages, Truman urged Congress to act in 1950 so states could enact their own laws when most state legislatures met in 1951. Massachusetts Democrat and future Speaker of the House John McCormack introduced legislation to carry out the program. As happened repeatedly in the early 1950s, congressional hearings concerning unemployment compensation commenced, and the legislative efforts to broaden coverage fell apart.

At hearings in December 1950 before the Subcommittee on Unemployment Insurance chaired by Aime J. Forand (D-Rhode Island) of the House Ways and Means Committee, the Department of Labor presented the administration's proposed revisions of the unemployment compensation system. The administration called for the extension

of coverage to small firms by removing the limitation to employers of at least eight or more, redefinition of agricultural labor to cover approximately two hundred thousand “border-line workers, particularly, in postharvesting services,” and a plan for unemployment insurance for federal civilian employees.¹⁸ Representative Forand demonstrated a commitment to social welfare, serving as chief of the Rhode Island division of soldiers’ relief and commandant of the state soldiers’ home in the mid-1930s and later introducing the first serious Medicare bill in 1957.

Robert C. Goodwin, director of the Department of Labor’s Bureau of Employment Security, supported unemployment compensation coverage of federal civilian employees. In an argument heard frequently throughout the early 1950s regarding extending coverage to federal employees, Goodwin explained how these workers relied on retirement fund withdrawals and accrued annual leave after being dismissed from federal employment. Department officials worried about this use of retirement funds. Annual leave payments would also be reduced as a result of congressional action mandating leave earned during the year to be taken or lost by June 30.

In a report to the House Committee on Ways and Means, the Forand subcommittee recommended abandoning the restriction of coverage based on number of employees and changes to the definition of employment. The subcommittee noted the questions raised regarding if and how unemployment benefits should be provided for federal employees. At the end of its report, the subcommittee remarked on the current preoccupation with international problems and the thorough and protracted examination

¹⁸ “Unemployment Insurance,” Report to the Committee on Ways and Means From the Subcommittee on Unemployment Insurance, Jan. 2, 1951 (Washington: Government Printing Office, 1951), 1.

needed of the Department of Labor proposals. In addition to supporting continued study, the Forand Subcommittee on Unemployment Insurance suggested that changes to unemployment compensation would not earn a high enough spot on the agenda to see favorable action. Hence, in the atmosphere of the Korean War, nothing happened.

The year 1952, during which Republicans won control of Congress (although only until 1954), saw more hearings on unemployment compensation before the House Ways and Means Subcommittee on Unemployment Insurance. In addition to the Department of Labor's proposal to extend benefits to ex-servicemen introduced by Representative Franklin D. Roosevelt, Jr. (D-New York), the 1952 hearings discussed bills issued by Forand and Wilbur D. Mills (D-Arkansas) extending coverage to small firms of one or more employees at any time. Secretary of Labor Maurice J. Tobin continued the department's support for extending coverage to smaller firms. The Secretary cited that the reasons for excluding these workers on administrative feasibility in 1935 no longer held. States had extended coverage to smaller firms with no serious administrative difficulties and, further, the federal Social Security program had successfully covered smaller firms. This reasoning of extending coverage to employees of small businesses, those employing one or more, was supported repeatedly by those testifying, including organized labor and the Interstate Conference of Employment Security Agencies. There was a general consensus that extending coverage to employers of one or more was long overdue and owed to workers of small firms as a right just as it was extended to larger firms.

That is not to say there was no opposition. Frank B. Cliffe representing the United States Chamber of Commerce voiced the Chamber's opposition. Cliffe, using

arguments hailing back to the debates in 1935, argued for the retention of states to do as they saw fit for their states. Cliffe testified: “It is estimated that the provision would add about 10 percent to the number of employees, but add 100 percent to the number of employers – thus vastly increasing the problems of State and Federal administration, collection, and record keeping, without bringing in much Federal revenue.”¹⁹

Although the issue of extending coverage to small firms received general support, there was significant debate about other provisions of the bills, especially the bill proposed by Mills. One of the larger issues concerned funds and what to do with excess collections of taxes, including whether to return them to states for administrative purposes or to make them available to states in the form of grants or interest-free loans. As evidence of the eventual fate of these 1952 attempts to modify the unemployment compensation program, including broadening coverage, at the conclusion of Wilbur J. Cohen’s testimony, Representative Forand stated “I believe the result of these hearings will prove that the entire Social Security Act should be looked into, and many changes made in what I might term an omnibus bill,” continuing on to state, “Frankly, it looks to me now as a result of these hearings and these discussions that the only thing this subcommittee is able to do at this session of the Congress is the exploration that we have done so far rather than hope that we will be able to bring in legislation.”²⁰ Thus, coverage for employees of small businesses and the federal government stalled yet again.

In what was becoming an annual tradition, hearings were again held in April 1953.

¹⁹ *Unemployment Insurance: Hearings on H.R. 3391, H.R. 4133, H.R. 6174, H.R. 6954, H.R. 7277 Before a Subcomm. of the Comm. on Ways and Means, 82nd Cong. p. 282 (1952) (statement of Frank B. Cliffe, Vice President and Chief Financial Officer, H. J. Heinz Co., Pittsburgh, PA, Representing the Chamber of Commerce of the United States).*

²⁰ *Unemployment Insurance: Hearings on H.R. 3391, H.R. 4133, H.R. 6174, H.R. 6954, H.R. 7277 Before a Subcomm. of the Comm. on Ways and Means, 82nd Cong. p. 534 (1952).*

These hearings did not concern coverage; rather they focused on the issues of financing, whether to award grants or loans to states in economic trouble, and what to do with excess funds. Again, the issue of expanding coverage took a backseat to the more pressing issues related to program financing.

In 1954, the moderate Republican President Eisenhower called for reform to strengthen the economy and modernize unemployment insurance. In his January 1954 State of the Union address, Eisenhower urged “Protection against the hazards of temporary unemployment should be extended to some 6½ millions of workers, including civilian Federal workers, who now lack this safeguard. Moreover, the Secretary of Labor is making available to the states studies and recommendations in the fields of weekly benefits, periods of protection and extension of coverage.”²¹ The same sentiments were expressed in Eisenhower’s January 28, 1954 Economic Report to Congress. Eisenhower recommended extension of coverage to 2.5 million federal civilian employees, two hundred thousand workers engaged in the processing, packing, storing, and delivering of agricultural products (and not farm workers), and employees of businesses of fewer than eight workers. Eisenhower also recommended states cover workers employed by state municipalities and their political subdivisions. Although President Eisenhower called for these coverage changes and the Joint Economic Committee approved the President’s legislative recommendations, Congress ultimately acted to broaden coverage to federal civilian employees and employers of four or more in each of twenty weeks, but exclude agricultural workers.

In 1954, the tradition continued with hearings and attempts at legislation, this time

²¹ Dwight D. Eisenhower, Annual Message to the Congress on the State of the Union, Jan. 7, 1954, *Public Papers of the Presidents of the United States: Dwight D. Eisenhower, 1954* (Washington, DC: Government Printing Office, 1960), 19.

meeting success. These hearings considered four bills regarding coverage expansion. Three of the bills introduced in the House, by Forand, Noah M. Mason (R-Illinois), and John D. Dingell, Sr. (D-Michigan), extended coverage to federal civilian employees. A bill introduced by House Ways and Means Chairman Daniel A. Reed (R-New York), the administration's bill, covered employers of one or more and some agricultural workers. Again, there was a general consensus to broadening coverage. Often noting the enduring nature of one or more of the proposals and their continued support, groups including the American Federation of Labor, American Federation of Government Employees, and Civil Service Commission again supported legislation. Other groups strongly opposed legislation and efforts to extend coverage, including the National Small Businessmen's Association. Some expressed various hesitations and objections regarding coverage changes. These included some congressmen who berated Department of Labor representatives with questions and concerns, including Representatives Richard M. Simpson (R-Pennsylvania), Jere Cooper (D-Tennessee), Victor A. Knox (R-Michigan), and Thomas B. Curtis (R-Missouri), the Interstate Conference of Employment Security Agencies, and Frank Cliffe of the Chamber of Commerce. James B. Carey of the Congress of Industrial Organizations went so far as to argue the extensions of coverage proposed were not sufficient; state laws were not sufficient, and increased federal involvement was needed. Many of the same arguments regarding increasing coverage resurfaced.

Representatives of the Department of Labor presented the administration's unemployment compensation bill. Under Secretary of Labor Arthur Larson, who had assumed his position in April 1954, testified for the Department of Labor on the

administration bill, introduced by Representative Reed. The Eisenhower administration suggested four principal recommendations on unemployment compensation in its January 1954 Economic Report to Congress. These were the extension of coverage under federal unemployment tax to employers of one or more and certain workers in the processing of agricultural products, extension of unemployment insurance to federal civilian employees, and changes to allow employers to get the benefit of experience rating after one year instead of three years.

Arthur Larson had a close relationship with President Eisenhower and became an influential person in politics in the 1950s. He held three major posts in the Eisenhower administration. He served as Under Secretary of Labor beginning in 1954, then became director of the United States Information Agency in 1956, and finally chief presidential speechwriter in 1957-1958. Historian David L. Stebenne explores the philosophy and public policy positions of Eisenhower-era Republicanism, an earlier version of “compassionate conservatism,” in his biography of Larson. Larson and Eisenhower used the label “Modern Republican” to describe their moderately conservative views.

In the early 1950s, Larson established himself as an expert on the American social insurance system, including its shortcomings and needed reforms. He stressed compassion and the need to remember the human consequences of failing to provide social insurance. As opposed to more conservative Republicans, Larson firmly believed neither unemployment insurance nor Social Security should be handled solely by private insurance, savings, and charity. The unpredictable contingencies of unemployment insurance necessitated a public system. Larson also thought states rightly held responsibility for administering the program because the required reserves were

relatively small and states' obligations were not of such long duration that they would significantly interfere with interstate movement. The views of "Modern Republican" Larson on whether the federal government should operate the program not surprisingly differed from more conservative Republicans and from passionate New Deal liberals (who favored federal administration). As Under Secretary of Labor, Larson brought the compassionate conservatism and public policy positions of the moderate Eisenhower to debates over unemployment compensation coverage.

In the course of Larson's testimony, and particularly on the issue of states' rights and extending coverage to employers of one more, members of Congress interrogated Larson. Larson argued for the inclusion of workers of small businesses as a matter of right, necessity, and straightforwardness. Calling attention to reductions in federal civilian employees and their reliance on accrued annual leave and refunds from retirement accounts after separation from federal employment, Larson argued for unemployment protection for these workers. Larson called for the inclusion of certain workers employed in the processing of agricultural products. These workers were not farm laborers. Larson stated this extension would be simply adopting for the most part the old age and survivors' insurance definition of agricultural labor. The testimony and questioning of Larson was extensive and reflected a great deal of commitment to changes to unemployment compensation and coverage provisions as well as a great deal of uncertainty and opposition.

In the testimony of the Department of Labor, questions of family, welfare, and developing second-class workers influenced understanding of unemployment compensation and the need to extend coverage. Larson called for the inclusion of as

many workers as administratively possible. In his testimony on behalf of the Department of Labor in favor of recommendations from the Eisenhower administration, Larson spoke to the threat of developing two classes of American workers,

We are in serious danger, in this country, of dividing our working people into first-class and second-class employees. The first-class employees are those who have insured protection against income loss from unemployment and the like. The second-class employees are those who are excluded from these kinds of protection. When the first-class employees loses his job for economic or other reasons, he can go in and collect his insured weekly benefits without any loss of self-respect. When the second-class employee loses his job and is without income, he has to go on relief, or beg from his relatives. He has to submit to a means test and to the humiliation that attaches to the status of being a public charge in the community. I do not believe the people of this country will accept this discrimination as a permanent arrangement. The extensions proposed by these bills must come sooner or later. They are, in fact, long overdue.²²

Larson also raised a topic that had periodically arisen concerning the intentions of the 1935 framers and Social Security Act. Many proponents of unemployment compensation reform, including Larson, drew attention to the original intent of framers of the 1935 Social Security Act to eventually extend coverage to additional workers and argued 1954 was the time to make some of these changes.

Since the first debates over a federal-state partnership in unemployment compensation began, the notion of administrative burden was a major force. In 1954, the concept of administrative difficulty was still at play. Blyth Emmons, representing the National Small Businessmen's Association, opposed the administration's bill for many reasons, including the burden placed on small businesses. Citing opposition to the measure by the House Ways and Means Committee since 1939, Emmons argued small

²² *Unemployment Insurance: Hearings on H.R. 6537, H.R. 6539, H.R. 7054, H.R. 8857, H.R. 8585 Before the Comm. on Ways and Means, 83rd Cong. p. 57 (1954) (statement of Hon. Arthur Larson, Under Secretary of Labor, Accompanied by Merrill G. Murray, Assistant to the Director, Bureau of Employment Security, Philip Booth, Chief, Division of Program Policy and Legislation, Unemployment Insurance Service, Bureau of Employment Security, and George F. Rohrlich, Chief, Division of Actuarial and Financial Services, Bureau of Employment Security, Department of Labor).*

employers were not involved with interstate competition, the original motivation for federal involvement in a federal-state system. The measure violated state rights and placed a burden on businesses. James E. Keys, executive director of the National Society of Public Accountants, also opposed the administration bill for its taxation and recordkeeping burden.

There was also a concern with understanding the nature of employer-employee relationships in small businesses before taking action in extending coverage. Members of Congress, looking to understand the testimony from the Department of Labor and the administration's proposals, sought answers to the nature of the relationship between small business owners and their employees, especially those employing only one or two workers. Before needlessly broadening coverage to workers already cared for by their employers, members of Congress wished to understand the relationships in these small businesses and how the needs of these workers differed with those in larger industries. For example, Congressman John W. Byrnes (R-Wisconsin) questioned Arthur Larson on this point. Byrnes, who practiced law and served as special deputy commissioner of banking for Wisconsin and then state senator before being elected to Congress, submitted a dissenting view on the later successful 1954 bill based in part on his belief that coverage should remain at employers of eight or more as in the 1935 Social Security Act. Byrnes asked Larson, "There is a question in my mind as to whether in the situations where there is only one employee, there is a need for unemployment compensation for an employee who happens to be in that situation. It seems to me that that is questionable because there is an entirely different kind of relationship between an employer and

employee in a 1 or 2-man shop as opposed to shops where there are 8, 9, or 10 and up.”²³

As in the case of administrative difficulty, an understanding of the intentions and desires of the states was again important in these proceedings. Members of Congress and others testifying drew attention to the diverse geographic and economic factors important to states and federal legislation regarding coverage. These individuals questioned why some states covered eight or more while some covered one or more, four or more, or any other number, why some covered at any time and others in twenty weeks, and why had some states elected to automatically cover one or more after federal legislation.

Again, as the previous discussion highlights, the long-standing concern with federal-state relations was important in 1954. Newell Brown of the Interstate Conference of Employment Security Agencies supported the administration bill, but with two conditions. The federal-state program and the balance between the two entities concerned Brown. Brown testified the states in the conference believed the balance in the original 1935 Social Security Act was the proper one and supported the administration bill with its efforts to increase coverage, but only if the federal-state balance was maintained.

On the issue of extending coverage to federal civilian workers, testimony highlighting the reliance of these workers on retirement withdrawals and annual leave to tide them over resurfaced. Testimony from the Department of Labor and American Federation of Government Employees, as well as that from the Civil Service Commission, discussed reductions in government personnel and their subsequent use of accrued annual leave and retirement withdrawals during unemployment. Much of this testimony reiterated that heard throughout the early 1950s as individuals and groups called for the

²³ Ibid.

extension of unemployment compensation to federal civilian employees.

Among the various bills related to unemployment compensation introduced in 1954, two bills drew the most attention. The first, the Forand-Douglas bill was introduced by Representative Forand and cosponsored by 86 other Democratic House members, including Congressman Edward A. Garmatz of Maryland, on June 3, 1954. Senator Paul H. Douglas (D-Illinois), with nearly a dozen cosponsors, introduced the bill in the Senate. As an economist, author, professor, scholar, and politician, Douglas had a long-standing interest in unemployment. For example, in 1931, while an economics professor at the University of Chicago, Douglas published *The Problem of Unemployment*. His bill was more comprehensive in scope and attempted to usher in significant changes to the unemployment compensation program. This bill failed largely as a result of its comprehensiveness and threats to federalize unemployment compensation. The major provisions of the Forand bill instituted national payment standards for states, payment duration lasting no less than 39 weeks (only four states provided 26 weeks at the time), disqualification standards prohibiting states from unfairly denying benefits, coverage to resemble the old age and survivors insurance program with employers of one or more at any time during the taxable year to be covered, and changes to financing. Forand and supporters of his bill contended the bill represented the wishes of the Eisenhower administration (although the administration wished to encourage states to enact more liberal payment and duration standards). Backers of the Forand bill did not support or reluctantly supported a bill introduced by Representative Reed.

The Reed bill extended coverage to employers of four or more in any 20 weeks, extended coverage to federal civilian employees, extended the merit-based experience

rating benefits to be based on one year of experience as opposed to three years under the present law, and eliminated the quarterly installment provision that many did not take advantage of and added administrative cost. These were the four main changes in the unemployment compensation program introduced by Reed on behalf of the administration. These changes were deemed practical and feasible without denying the importance of state and local variations in employment conditions, and therefore the importance of states in making the decisions to reduce coverage to firms smaller than four employees. As Reed stated during House debate, “There is a twilight zone where needed flexibility can only be maintained through State action. It may be appropriate that unemployment protection be extended into this fringe area, but such extension should be left to State determination in the light of local variations in employment patterns. This problem does not exist to any appreciable extent with respect to the extension of coverage to employers of four or more.”²⁴ The issue of federal civilian employee coverage was not opposed.

Representative Forand, reflecting from his own bill, proposed two amendments to the Reed bill. Forand offered amendments that, if adopted, would dictate to states the amounts to be paid in benefits and the number of weeks benefits were to be paid. Both amendments were rejected, but did receive support from some members of the House. In including their supplemental, and largely dissenting, views on the Reed bill, Forand and four other House members charged the Reed bill was “a feeble token gesture serving as a gloss to cover the absence of a program,” and revealed “an unwillingness to take the kind of action that is demanded by the present serious economic situation and by the defects and inadequacies that have undermined the effectiveness of unemployment insurance as a

²⁴ Vol. 100 Cong. Rec. House p. 10,964 (July 8, 1954).

weapon against rising unemployment.”²⁵ In concluding their supplementary statement, these five House members argued, “This Congress is about to go home to face millions of unemployed workers. It will go with empty hands, so far as meeting their needs for unemployment insurance payments adequate as to weekly amounts and number of weeks’ duration. They have asked us for bread, paid for on insurance principles; we are about to give them a stone. We recommend adoption of the provisions of H. R. 9430 [Forand bill], which is the only practical way to implement President Eisenhower’s recommendations that payments be increased in amount and extended in number of weeks’ duration. Again, for practical purposes, President Eisenhower’s overall legislative program has been abandoned by his own party.”²⁶ The Forand-Douglas bill, which included benefit standards and coverage to resemble that of Social Security, failed, while the Reed bill proceeded to the Senate. This bill included coverage for workers of employers of four or more employees in twenty weeks and federal civilian employees.

In the Senate, a few amendments were proposed. The first amendment, offered by Senate Millikin (R-Colorado) at the suggestion of Arthur Larson, was accepted and agreed to by Reed of the Ways and Means Committee without conference. The amendment avoided a potential duplication of coverage under federal and state laws for certain seamen. Senator Johnson of Colorado proposed moving the effective year to 1956 instead of 1954 to give states and employers time to institute changes. A compromise was quickly reached on 1955. This compromised amendment was agreed to by Reed. Thus, federal civilian employees and employers with between four and eight employees (those not covered by state laws) were brought into the unemployment

²⁵ *Extending and Improving the Unemployment Compensation Program*, H.R. Rep. No. 83-2001, at p. 19 (June 29, 1954).

²⁶ *Ibid.*

compensation system after twenty years of little change in the federal-state system, years of extended debates, and ultimately passage and enactment of federal legislation in 1954. With economic downturn and recession in 1954, Congress at last worked to enact changes to unemployment insurance, “a valuable first line of defense against economic recession.”²⁷

In broadening coverage to smaller firms, which many states had already elected to cover, 1.4 million additional jobs became covered under state laws. In extending coverage to federal civilian employees, to be financed out of general revenues with benefits paid in accordance with the law of the state in which the federal employee last worked, almost 2.2 million federal civilian jobs were covered in 1955. Although federal employee unions strongly objected to the provision that benefits would be paid in accordance to state laws, they ultimately accepted and supported legislation when it became clear they would not get any better. The number of federal civilian employees covered increased in later years as federal employment expanded. Despite this extension of coverage, only a small percentage of federal employees filed claims.

In signing the first major expansion to unemployment compensation coverage since 1935 on September 1, 1954, the same day as he signed the Social Security Amendments of 1954, President Eisenhower remarked, “This law assures almost four million additional workers that they will have the same type of income protection, when temporarily unemployed, as do those now covered by the system. Almost one-and-a-half million of these workers are employees who were not covered under the previous Act because their employers did not hire eight or more workers; this new Act gives protection

²⁷ Economic Report of the President, H. Doc. No. 83-289 (1954). Transmitted to Congress Jan. 28, 1954.

to those whose employers hire *four* or more workers. Thanks to this new law, moreover, more than two million Federal civilian workers now will enjoy the same kind of unemployment insurance coverage available to workers in many private industries.”²⁸ Eisenhower praised the improvements made in 1954 to old age and survivor’s insurance as well as those to unemployment insurance and then called on state legislatures to continue the federal initiative. Eisenhower remarked, “But much remains to be done. I hope that next winter state legislatures will supplement the action of the Congress by passing certain unemployment insurance measures of their own. Through such action our citizens might expect larger benefits and longer duration of benefits, and employees of state and local governments might gain inclusion in unemployment insurance systems established by those governments. This action would affect a total of about 4.2 million additional workers throughout the nation.”²⁹ Initiatives to extend unemployment compensation coverage brought about the inclusion of employees of smaller businesses and federal civilian employees in 1954 in the first major expansion of coverage since the Social Security Act of 1935.

Debate over the unemployment compensation system and coverage continued in the later years of the postwar era. While Congress granted coverage to employees of smaller businesses (those with four or more workers) and federal civilian employees, groups of workers remained outside the scope of unemployment compensation. With a complicated federal-state partnership, debates and issues (such as over financing, coverage, and benefit standards) retained interest in unemployment compensation at the

²⁸ Dwight D. Eisenhower, Statement by the President Upon Signing Bill To Extend and Improve the Unemployment Insurance Program, Sept. 1, 1954, *Public Papers of the Presidents of the United States: Dwight D. Eisenhower, 1954* (Washington, DC: Government Printing Office, 1960), 803.

²⁹ *Ibid.*

federal level. Federal debates continued throughout the postwar and change came slowly to the program. Federal officials continued to struggle to persuade Congress to alter the system and states maintained their control over the program.

Chapter 3 Continued Federal Debates in the Postwar Era

After the successful initiative for employees of smaller businesses and federal civilian employees in 1954, debates continued at the federal level in the late 1950s and 1960s on the federal-state unemployment compensation program and coverage for American workers. This period largely reflected more of the same. States continued to exert control over the system as contentious issues over benefit standards derailed attempts to liberalize coverage. Not until the very end of the postwar period would Congress enact another measure expanding coverage.

The years after the 1954 federal coverage extensions witnessed the same stalling tendencies as the earlier postwar period. Beginning in 1954, President Eisenhower annually recommended the extension of coverage to employers of one or more employees as well as other groups not yet covered. He also annually urged states to cover state and local government employees. Presidents Kennedy and Johnson carried on this trend with periodic calls to reform unemployment compensation and expand coverage, though with perhaps less frequency and urgency. Bills including coverage extensions continued to be introduced and Congress continued to conduct hearings. Hearings were most often held by the powerful House Ways and Means Committee, chaired by Wilbur Mills beginning in 1957 after his predecessor Jere Cooper of Tennessee died, and periodically by the Senate Finance Committee. Mills generally favored reform of the unemployment compensation system and sought to take the middle road between opposing forces.

During hearings, stakeholders continued to testify in expected manners. Representatives of administrative departments generally favored administrative proposals and called for the extension of coverage. Organized labor advocated for more uniform national standards, including those for benefit amounts, duration, and eligibility requirements. Representatives of unions of the now united AFL-CIO were concerned with not only states' rights, but with state responsibilities toward workers. Business interests continued to oppose efforts to expand coverage. The Interstate Conference of Employment Security Agencies regularly met and conducted polls of its members. Congress took great interest in the Interstate Conference and their polls, even deferring legislative activity until the next session to wait for the next meeting and polling of the conference. The conference's poll results on bills as a whole and on individual provisions of bills affected, and perhaps even determined, the fate of proposed legislation. The majority of state agencies continued to oppose federal standards. Agencies related to public welfare advocated for extensions in unemployment compensation to aid their own efforts and funds. Of course there were individual deviations within these groups of stakeholders, but generally testimony proceeded as expected.

Throughout the 1950s, Congressman Aime Forand maintained his interest in unemployment compensation and social insurance. His home state of Rhode Island was among those few states starting to cover state government workers in the mid-1950s and experienced high levels of unemployment in select areas of employment common to New England, including in the textile industry. Forand continued to push for liberalization and coverage extensions throughout the postwar period. He favored the abandoning of a

bill's unpopular provisions to allow the passage of the bill's remaining provisions that had sufficient support.

At issue in the continued debates over unemployment compensation were concerns largely unrelated to coverage expansions yet critical to the failure of legislation. Larger concerns often took top priority on the agenda, leaving other changes to the unemployment compensation system for a later time. For example, with the 1957-1958 economic downturn, during which unemployment averaged 6.8 percent, Congress worked to secure temporary benefit extensions for those who had exhausted their unemployment benefits but remained without a job. The Eisenhower administration credited unemployment compensation with preventing the recession from becoming a depression. Issues with controversial provisions of unemployment compensation bills also undermined efforts to expand coverage. Perhaps the most controversial issue of the era was that of benefit standards, namely standards for weekly benefit amounts and the duration of benefits. This issue was highly divisive and doomed to failure bills that included benefit standards. This basic story repeated itself numerous times in the postwar decades.

The Employment Security Amendments of 1965: Failed Attempts at Federal Coverage Expansion in 1965-1966

In 1965, the Johnson administration generated unemployment compensation proposals that were comprehensive in scope and extended coverage to employers of one or more at any time, nonprofit organizations, large agricultural employers, and other excluded groups. Ultimately these proposals did not join these years' other impressive,

important, and liberal domestic agenda items in enactment. In many regards the attempts to extend coverage in 1965 and 1966 followed the trend seen throughout the postwar period in which the administration routinely recommended changes to the unemployment compensation system, bills were prepared and introduced, the House Ways and Means Committee conducted hearings, and ultimately action would stall over divisive issues. Congress could have broadened federal coverage in 1966; however, many of these proposals were not adopted until 1970.¹

In August 1965, the House Ways and Means Committee conducted extensive hearings on three types of unemployment compensation bills. One bill introduced by Chairman Wilbur Mills, and introduced in the Senate by Eugene J. McCarthy (D-Minnesota) and ten others, was the administration proposal for comprehensive reform of the unemployment compensation system, including coverage expansions. The other two types of bills addressed converting extended benefits for those unemployed who had exhausted their benefits into a permanent program (from their temporary status as initiated in 1958) and judicial review of the administrative findings of the Secretary of Labor (a procedure whereby a state employment security agency could obtain court review of a conformity or compliance decision made by the Secretary of Labor on the state's unemployment compensation law). Members of Congress introduced and discussed multiple bills on each of these two latter types during extensive 1965 hearings. A total of 113 witnesses testified on the administration bill, the Employment Security Amendments of 1965. Reflecting the groups typically represented at hearings on unemployment compensation, these witnesses included representatives of labor, business, nonprofit organizations, and state governments and agencies. Representatives of the

¹ This section is based on Blaustein, *Unemployment Insurance*.

Departments of Labor, Agriculture, Commerce, and Treasury, a handful of members of Congress, as well as a few academicians testified. Generally speaking, labor, nonprofit organizations, state officials, academicians, the executive departments, and individual members of Congress and business expressed support for the administration proposal, while representatives of business (including the Baltimore Chamber of Commerce), state officials, a Congressman, and individual employers opposed the measure. Thus, the usual stakeholders debated unemployment compensation, and expressed many of the usual arguments on proposed coverage changes.

The administration proposal would add roughly 4.6 million workers into the system, from the roughly 15 million jobs not covered under state laws. Secretary of Labor Willard Wirtz noted the remaining 10.5 million workers were largely state and local government employees. Under the proposed bill, coverage would be extended to about 700,000 agricultural workers on 78,000 farms using three hundred man-days of hired farm labor in any quarter of the year and roughly 200,000 workers in agricultural processing and other industrial-type agricultural work (through the adoption of a new definition used by old age, survivors, and disability insurance). Coverage would also be granted to about 1.8 million employees of firms of one or more workers at any time, about 1.7 million employees of nonprofit religious, charitable, and education organizations, and certain groups of workers excluded because they did not fall under the master-servant rule (the basic premise of which is that the employer is responsible for the employee). These latter 250,000 workers included those employed as drivers distributing particular products and certain groups of salesmen (again through a change to the definition to parallel OASDI). Some nonprofit workers were excluded, specifically those

handicapped workers in sheltered workshops, workers in government-assisted training or relief projects, ministers, members of religious orders, part-time religious workers paid less than fifteen dollars a week, some students, and workers receiving less than fifty dollars a quarter. There were also provisions allowing states to finance the benefits for nonprofit organizations as their legislatures saw fit.

Very few outside representatives of employers raised objections to extending coverage under the unemployment compensation program to more workers. It was largely accepted that doing so was both administratively feasible and needed by American workers not only facing periodic unemployment but permanent replacement by new technology. Concerning broadening coverage to employers of one or more at any time, union representatives, nonprofit organizations, and six state officials supported this provision. Others favored covering one or more, but wished for there to remain the limitation of in twenty weeks or some other work or earnings limitation. Multiple people proposed to limit the extension to workers in at least twenty weeks while a few others advocated for a different form of limitation. Paul Raushenbush of the Wisconsin Employment Security Agency, continuing his long career in the field of unemployment insurance, advocated to limit the extension on the basis of annual payroll. Twelve witnesses opposed coverage of small businesses of one or more employees under any circumstances. Nine of these were representatives of employers. In line with previous debates over extending coverage to smaller firms, these witnesses based their opposition primarily on the tax burden on small businesses.

Support for expanding coverage to nonprofit organizations came from unions, the American Nurses' Association, and nonprofit organizations. These groups pointed out

that many workers, especially unskilled workers, of these organizations did not differ from workers in profitmaking bodies. Although workers of nonprofit organizations may be less subject to unemployment, they did still experience unemployment. The support from organizations rested on ethical concerns and on the condition that coverage would, as stated in the administration bill, come with the option of coverage on a reimbursement basis.

Other groups argued against the extension of coverage to employees of nonprofit organizations. The American Hospital Association opposed coverage of nonprofit nongovernmental hospitals because of the continued exemption of governmental hospitals and the unjustified cost of \$125 million in taxes when there was little involuntary unemployment. Others objected to the specific terms of the nonprofit coverage provisions. These included representatives of the American Federation of the Blind, the New York Advisory Council, the Methodist Board of Social Concern, the American Council on Education, the National Catholic Welfare Conference, and the Girl Scouts. These groups called for either the inclusion or exclusion of specific groups of nonprofit workers, such as handicapped workers in sheltered workshops (the American Federation of the Blind called for inclusion), clergymen and part-time workers for religious organizations (the Methodist Board of Social Concern called for inclusion), faculty and other professional staff, students, and students' spouses (the New York Advisory Council, American Council on Education, and the National Catholic Welfare Conference all called for exclusion), and seasonal workers (the Girl Scouts called for exclusion). Some nonprofit organizations, such as the Girl Scouts, American Council on

Education, and National Catholic Welfare Conference, called for exemption from the 0.55 percent federal tax.

The third major group of workers the 1965 administration bill sought to broaden coverage to was agricultural labor. The bill limited coverage to large firms that were essentially industrial in nature. For those supporting coverage of agricultural labor, this distinction was important. A representative of the National Advisory Committee on Farm Labor discussed the illogic of distinguishing between agricultural and industrial workers, as well as the committee's preference for a provision lower than three hundred man-days per quarter. Those testifying agreed that agricultural workers needed coverage arguably more than any other group, with possible exception of domestic workers. Some argued that unemployment compensation coverage would help farm employers obtain needed labor. The director of the California Department of Industrial Relations testifying on behalf of California Governor Edmund Brown expressed that national standards would aid problems of non-agricultural and interregional agricultural competition faced by California farmers. Economist William Haber of the University of Michigan, who like Raushenbush had an extended interest and involvement in unemployment compensation programs, noted that agriculture was industrialized and "most, if not all, the agricultural workers proposed to be covered by the bill are already covered by the OASDI program....Several State surveys have shown that such coverage is feasible administratively and would not be unduly expensive."²

Twelve employer representatives, two state officials, and Congressman J. J. Pickle from Texas opposed coverage of agricultural workers (the latter believing many of

² *Unemployment Compensation: Hearings on H.R. 8282, Part 3, Before the Comm. on Ways and Means, 89th Cong.* p. 984 (1965) (statement of William Haber, Dean, College of Literature, Science, and the Arts, University of Michigan).

the bill's provisions to be unnecessary and unwise). Some state officials believed the stipulation of three hundred man-days of hired farm labor during a calendar quarter did not strictly limit coverage to large farms. J. J. Miller, representing the National Council of Agricultural Employers and California Agricultural Producers Labor Committee, testified that any action relating to agricultural workers should wait for the results of a California study due in 1967. Miller argued that adequate studies on the impact of coverage were needed, Congress should allow time to evaluate the effect of other changes to agriculture, and Congress should leave the problem to state legislatures. This typified business interests contending government action is improper and unwise in order to maintain the more advantageous status quo. Miller and other representatives of farm employers testified that nonagricultural employers would assume in large part the high cost of farm labor coverage. There was also concern among this group that coverage would cause an increase in the prices of farm products, which would result in increased foreign competition. American Farm Bureau Federation representative Matt Triggs piled up the farm employer organization's objections to expanding coverage. Not only were agricultural workers not regularly attached to the labor force, but employers would have to pay taxes in connection to their employment. Further, when eligible workers claimed benefits, they would place a heavy drain on state funds. Interstate migrant workers would become eligible and present major problems of administration for states. The costs to farm employers would be great since very few would be able to improve their experience ratings to see a reduction of their tax rates. Other recommendations were made regarding agriculture as well. For example, a representative of the Hawaii Unemployment Compensation Study Committee recommended that any extension of coverage to

agricultural workers should assure a state's right to enact provisions to address the seasonal characteristics of agriculture within a state. Other less significant recommendations were made regarding coverage, such as the one made by AFL-CIO Building Services Employees International Union representative Anthony Weinlein calling for the inclusion of state and local government employees.

Not surprisingly, some spoke to the effect of the administration proposal on the federal-state relationship and state rights. Naturally there were two opposing sides on the issue. On one side, the administration bill represented an unnecessary and destructive extension of federal control. If enacted, the bill would destroy the federal-state partnership, which had been instituted with the 1935 Social Security Act to respond to local needs. Continuing a tradition of opposing major expansions of federal involvement in the unemployment compensation program, Raushenbush argued that the combined effects of the administration bill would result in federalization of state programs. Although Raushenbush believed the bill's coverage provisions were generally appropriate, he dwelled on the danger of the bill to American democracy,

Do not take H.R. 8282 lightly. This is a place where the road really forks-for American democracy and for free competitive enterprise. The existing cooperative Federal-State system of employment security has worked well, on the whole. It has combined State responsibility and action with some measure of Federal action, to provide a nationwide system of State laws. No adequate case has been made for tossing that whole system on a centralized scrap heap. Continued State responsibility in this field is vital to a sound balance between our State and National Governments, and to the functioning of back-home democracy. This country is too big and Washington is too far away for average citizens to help control a uniform national system, no matter how closely it affects their daily lives.³

³ *Unemployment Compensation: Hearings on H.R. 8282, Part 2, Before the Comm. on Ways and Means, 89th Cong.* p. 649 (1965) (statement of Paul A. Raushenbush, Director, Unemployment Compensation Department, Wisconsin Industrial Commission).

On the other side, some state officials, such as Raymond F. Male of New Jersey, saw no contradiction between national action and minimum national standards and maintenance of the federal-state partnership. Thus, fear of national action threatened advances in social insurance.

In the Johnson administration's comprehensive 1965 proposal, the most controversial elements related to minimum benefit standards, especially weekly benefits. In March 1966, the House Ways and Means Committee heard the recommendations from the Interstate Conference of Employment Security Agencies after the conference's January meeting and polling of members. State agencies largely favored broadening coverage to nonprofit organizations and agricultural processing workers. Agencies also opposed select provisions, including federal standards for benefit requirements. In June 1966, the House Ways and Means Committee reported out a bill, the Unemployment Insurance Amendments of 1966, which included coverage extensions, though somewhat modified. The bill also included other modified proposals from the 1965 bill, but did not include minimum benefit standards or federal grants to states for excess costs (defined as benefit costs in excess of 2 percent of total wages), both of which were opposed by the majority of state agencies. After the House passed the bill and sent it to the Senate, the Senate Finance Committee held its own hearings in July 1966. Johnson administration officials recommended restoring some of its original proposals, including benefit standards. The Senate did adopt a bill with benefit standards, although not identical to that desired by the Johnson administration. No agreement was reached during the House-Senate conference in October 1966, largely as a result of the issue of benefit standards. House committee members opposed benefit standards provisions, and the administration

and others in favor of benefit standards felt so strongly about the matter that they would not remove the benefit standards to allow passage of the rest of the legislation. Many of the bill's provisions, including coverage extensions, were adopted in 1970 legislation, which did not include benefit standards.

While the 1965-1966 attempts to broaden coverage failed, the bills in many ways represented the deep divisions over unemployment compensation. For example, debates over state benefit provisions and temporary extended benefits incapacitated and diverted interest in expanding coverage. However, that is not to say proposed coverage changes were not divisive issues.

The years immediately following the legislative attempts of 1965 and 1966 saw largely more of the same. As this narrative has shown, the war and postwar prosperity impacted the development of federal and state unemployment compensation after 1935. The period from 1935 until the 1960s demonstrated a trend toward state and local responsibility and the federal government's continued deference to state control. As the federal government managed Social Security, states administered unemployment compensation without real impingement from the federal government. The freedom to experiment and enact legislation as states deemed fit, as well as the era's prosperity and large reserve funds, led to the adoption of experience rating, lowering of tax rates, and inadequate benefits by states. During the postwar period, despite repeated attempts, federal officials failed to convince Congress to reform the system and impose more federal control. Unemployment compensation in the postwar period saw continued debates as the program navigated the complicated waters of federal versus state prerogatives, but ultimately the program remained a state-run endeavor throughout the

period. Coverage provisions reflected these trends. Coverage provisions in states did expand throughout the war and postwar period; however, many states did not broaden coverage, with the exception of smaller businesses, to excluded groups of workers until federal legislation encouraged such behavior at the state level. Maryland demonstrated this trend. Aside from the federal programs for veterans and ex-service members, the 1954 federal legislation bringing smaller employers and federal civilian employees into the federal-state system was the only major coverage expansion in the postwar era. However, the year 1969 began a successful reform impulse resulting in a second major set of changes in federal unemployment compensation coverage.

Chapter 4 Major Expansions in Federal Coverage, 1969-1976

In the early years of the 1970s the economic outlook drastically changed as the postwar era came to an end and recession and inflation came to characterize the 1970s. During this period of economic change from postwar prosperity to recession and stagflation, Congress passed expansions to unemployment compensation coverage in the 1970s.

After 1969, there were an increasing number of federal requirements imposed on state unemployment insurance laws. These included increased coverage requirements. Federal legislation in 1970 and 1976 closed the major gaps in coverage that persisted throughout the 1960s so that the unemployment compensation system covered nearly all wage and salary workers. This legislation brought employees of small firms, nonprofit organizations, state and local governments, and large farms into the system. The only significant groups left uncovered were small farm employers and domestic household workers. When the second round of federal coverage expansions, the Unemployment Compensation Amendments of 1976, went into effect in 1978, the federal-state unemployment compensation program covered an estimated 78 percent of wage and salaried employees.

The Employment Security Amendments of 1970

From the last serious debates in 1966, President Nixon asked the Department of Labor to take up the issue again in 1969. Nixon endorsed the department's findings and

the need for reform, the administration repackaged President Johnson's 1965-1966 proposals, and Congress took up the issue of unemployment compensation again in the 1960s. Federal debates beginning in 1969 and the ensuing Employment Security Amendments of 1970 constituted the first of two major rounds, the other in 1976, of federal expansions to unemployment compensation coverage in the 1970s.¹

In 1969, the Nixon administration prepared a bill, which was introduced by Ways and Means Committee Chairman Wilbur Mills and Representative John W. Byrnes (R-Wisconsin). On July 8, 1969, as Congress took up the administration bill, Nixon relayed his commitment that "The best time to strengthen our unemployment insurance system is during a period of relatively full employment."² In his message, Nixon stated "Over 57 million workers are protected by unemployment insurance. However, almost 17 million are not covered: more than half of these are employees of State and local governments. The last extension of coverage was enacted during the Eisenhower Administration, when 6 million additional workers were included; there is a clear social need today to cover as many more employees as we can."³ As part of this social need, Nixon further stated "The

¹ This section is based on Blaustein, *Unemployment Insurance*; Summary and Explanation of H.R. 12625, "Employment Security Amendments of 1969," as Prepared by the Department of Labor, H.R. Doc., 91st Cong. (July 8, 1969) (Committee Print); Summary of Testimony Presented to the Committee on Ways and Means by Public Witnesses Who Appeared at Hearings on Unemployment Compensation, 91st Cong. (Oct. 1969) (Confidential Committee Print); "Aid for Jobless Backed in House: Unemployment Insurance Coverage to Be Widened," *New York Times*, Oct. 15, 1969; William Chapman, "Ways and Means Votes Extended Compensation," *The Washington Post, Times Herald*, Oct. 30, 1969; Richard Nixon, Annual Message to the Congress: The Economic Report of the President, Feb. 2, 1970, *Public Papers of the Presidents of the United States: Richard Nixon, 1970* (Washington: Government Printing Office, 1971), 68-75; *Unemployment Compensation: Hearings on H.R. 14705 Before the Comm. on Finance*, 91st Cong. (1970); Employment Security Amendments of 1970, S. Rep. No. 91-752 (Mar. 26, 1970); Summary of Major Provisions of Public Law 91-373, The Employment Security Amendments of 1970, H.R. Doc. (Nov. 1970) (Committee Print); Legislative Analysis, The Pending Unemployment Compensation Amendments, H.R. 14705 as Passed by the House of Representatives, American Enterprise Institute for Public Policy Research (Dec. 30, 1969).

² Material Prepared by the Department of Labor Including Data and Tables, H.R. Doc., 91st Cong. (Sept. 30, 1969) (Committee Print).

³ Ibid.

present gaps in coverage work a disproportionate hardship on minority workers, since a higher percentage of the 4,800,000 are non-white, compared to the entire labor force.”⁴

The proposed administration bill extended coverage to farmers employing four or more workers in twenty weeks, workers in borderline agricultural activities, and some salesmen and delivery workers. The bill also required states to provide coverage to workers in state hospitals and nonprofit, charitable, and higher educational institutions with four or more employees in twenty weeks. These employers would be given the choice between paying contributions or reimbursing the unemployment compensation fund for benefits paid to their workers. The bill also proposed other changes to the unemployment compensation system, including extended benefits during periods of high unemployment, improving administration through training and research, and reforms to financing provisions. The administration argued coverage for small firms presented no administrative problems (as thirteen states and Social Security were already covering small firms) and offered protection to workers with the same risks of unemployment as those in large firms. Secretary of Labor George P. Schultz reasoned that coverage for large farms was long overdue and any administrative problems were no greater than challenges currently faced by states in the operation of their programs. Further, by amending the definitions of “agricultural labor” and “employee” in the law, workers engaged in agricultural processing for an employer other than a farmer would be protected because these jobs were more industrial than agricultural.

The most controversial issue in the House Ways and Means Committee was coverage, especially the inclusion of farm workers. Naturally, small business and agricultural interests opposed bringing their workers into the system. During the course

⁴ Ibid.

of hearings conducted by the committee, stakeholders made well-rehearsed arguments. The AFL-CIO favored coverage expansions (and even wished to see further extensions), while the United States Chamber of Commerce opposed all provisions broadening coverage. Some stakeholders, including the Interstate Conference of Employment Security Agencies, favored some provisions as offered in the 1966 bill rather than those in the 1969 bill. The Interstate Conference supported the changes to the definition of “employee,” but opposed, like the farm employers’ American Farm Bureau Federation, changes to the definition of “agricultural labor.” Other groups, such as the National Farmers Organization, favored inclusion of agricultural labor but called for particular changes to the provisions.

In October 1969, the House Ways and Means Committee approved the administration bill and its coverage expansions, but left out 400,000 farm workers the administration wished to cover. After Representative John C. Watts (D-Kentucky) produced seven proxy votes against including farm workers, in mid-October the committee rejected the administration plan to include this group of workers. Republican National Committee chairman Representative Rogers C. B. Morton (R-Maryland), who represented Maryland’s conservative and predominantly rural Eastern Shore, was one of those proxies. In 1970, the Senate took up the “clean bill” out of the House, authored by Mills and Byrnes, and debates continued over coverage.

In Nixon’s February 2, 1970 annual Economic Report, the President again supported unemployment compensation legislation. Notably, this legislation would increase coverage, encourage states to improve benefits, and provide federal financing of extended benefits if unemployment exceeded 4.5 percent for three consecutive months.

Later in February, the Senate Committee on Finance conducted hearings on the new bill based on that passed by the House in late 1969. At these hearings, Secretary of Labor George P. Schultz again testified. Schultz believed the Nixon administration's original 1969 proposal to be better than the House bill and supported three major modifications, two of which concerned coverage. Schultz called for the inclusion of large farms and professors, instructional, research, and principal administrative staff of nonprofit and state institutions of higher education. Another Nixon administration representative, Assistant Secretary of the Treasury for Economic Policy Murray L. Weidenbaum, concurred with sentiments that the nation's unemployment compensation system had fallen behind and was in need of reform. Weidenbaum testified there were no problems relating to agricultural tax collection. Other stakeholders continued their routine demands.

Advocates of farm workers wanted these workers back into the proposed reforms, while advocates of small business wanted these workers out. Calling the Secretary of Labor's proposals "impractical and unworkable," Matt Triggs of the American Farm Bureau Federation again testified to the temporary and casual nature of agricultural employment, the high costs of benefits, the need for further study, and administrative difficulties.⁵ Representative B. F. Sisk (D-California), whose district included many farmworkers, advocated for agricultural inclusion. The AFL-CIO endorsed Representative Sisk's remarks and called for the inclusion of agricultural workers, domestic workers, and public employees (to be implemented like that for federal employees). As was the case throughout the history of unemployment compensation,

⁵ *Unemployment Compensation: Hearings on H.R. 14705 Before the Comm. on Finance, 91st Cong, p. 202 (1970) (statement of Matt Triggs, Assistant Legislative Director, American Farm Bureau Federation).*

labor adamantly opposed occupational exclusions. Other groups, many of them related to agriculture, also supported the testimony of Sisk. During these Senate hearings, the Chamber of Commerce again opposed federal compulsion, including that regarding coverage. The Interstate Conference of Employment Security Agencies testified and again divulged the results of its polls. Conference representatives reported that 80 percent of state employment security agencies voted to approve the 1970 “clean bill” out of the House, the subject of the Senate hearings.

The bill reported out of the Senate added farm workers back in and took small business employees out. The Senate removed the extension of coverage to small business employers of one or more workers because of tax burden, bookkeeping costs, administrative costs, and because the many part-time workers of these firms would not qualify for benefits. The Senate decided this coverage should be left to state legislatures to decide. The committee amendment on agricultural employees granted coverage to large farms and argued that since OASDI already covered these workers they could also be covered under unemployment compensation. The conference committee ultimately sided with the House. The committee dropped farm workers from coverage and added most small business employees in. These actions outraged many liberals in both houses who sought coverage for agricultural workers.

On August 10, 1970, President Nixon signed the Employment Security Amendments. The principal changes to coverage under the federal-state unemployment compensation system as a result of these amendments regarded small businesses, agricultural processing workers, state hospitals and state higher education, and nonprofit organizations. Congress extended coverage to small businesses with one or more

employees during twenty weeks in a calendar year (or if the employers paid at least \$1,500 during any calendar quarter of the year) and eliminated the federal exclusion of certain categories of agricultural processing employment. This 1970 federal legislation required states to cover all state hospitals and institutions of higher education. It also required states to cover nonprofit organizations that employed four or more, but continued the exclusion of churches, religious organizations, and primary and secondary schools.

The Employment Security Amendments of 1970 required states to offer nonprofit employers the option of covering their benefit costs either through the usual state unemployment compensation tax provisions or through reimbursement of benefit costs. For state hospitals and higher education, this coverage change equalized treatment because nonprofit hospitals, colleges, and universities were covered employment. The provision also prohibited eligibility for unemployment benefits during summer and between terms if an employee had a contract to return to work. With the constitutional issues at stake here, under these changes coverage became a requirement for the federal approval of state laws. The federal tax was not applied to nonprofit organizations or state governments. Coverage of their employees was accomplished by making it a requirement for state law. Failure of a state to do so would sacrifice federal approval of the law and the credit offset allowed against the federal tax for all the state's other covered employers. In addition to the more significant coverage reforms, there were other changes as well, such as the extension of coverage to outside salesmen and commission drivers, in 1970. As mentioned previously, many of these coverage extensions, such as those to nonprofit institutions, also necessitated detailed exclusions of

particular subsets of these workers. Many of these changes were made by modifying OASDI definitions. In total, nearly five million workers were added to the roughly sixty million already covered under the unemployment compensation system. Ultimately, the Employment Security Amendments of 1970 were the first of two rounds of coverage expansions at the federal level during the 1970s. Congress returned to the issue with the 1976 Unemployment Compensation Amendments.

The Seventies

From the postwar era's prosperity and optimism, the 1970s were years of economic hardship and skepticism toward government. The year 1973 marked the end of the postwar and beginning of "the Seventies." With the end of Vietnam, the oil crisis (which led to recession), Watergate, and the resignation of Vice President Spiro Agnew, 1973 was the beginning of something different. Many Americans remember the energy crisis and gas lines of the seventies just as they can draw up iconic images of bread lines during the Depression. One of the signature features of the seventies was its lengthy miserable economic situation. From the protracted prosperity of the 1960s, the economy in the 1970s declined and is remembered for its "stagflation," or conditions of high inflation and high unemployment.⁶

During the first recession of the seventies from March 1973 until March 1975, the unemployment rate rose from 4.8 percent in 1973 to 8.3 percent in 1975. Another recession followed beginning in 1978 and unemployment eventually topped 9.2 percent.

⁶ This section is based on Edward D. Berkowitz, *Something Happened: A Political and Cultural Overview of the Seventies* (New York: Columbia University Press, 2006), 1-31, 53-71, 81-99; Peter N. Carroll, *It Seemed Like Nothing Happened: America in the 1970s* (New Brunswick: Rutgers University Press, 1990). *It Seemed Like Nothing Happened* first published in 1982.

Like unemployment, inflation remained high throughout the seventies. The economic problems of the seventies affected almost every home. Throughout this period, administrations attempted to handle inflation, unemployment, and the deterioration of the United States economy.

Expansion of federal unemployment compensation coverage in the 1970s differs from understanding of the American welfare state during the seventies. Each program under the umbrella of the welfare state developed in individual ways. The period between 1965 and 1972 were important in terms of domestic legislation. In 1972, Congress expanded Social Security and Medicare and initiated the Supplemental Security Income (SSI) program for the needy elderly, blind, and disabled. But, then, as historian Edward Berkowitz writes, the window for expanding the welfare state closed. During the seventies, roughly the years 1973 to 1981, federal social welfare programs restrained expansion of the welfare state. However, during the 1970s the policy window for reform and coverage expansions of the unemployment compensation system was open and legislators modified the program.

The debates and developments regarding the economy, unemployment, and the welfare state took place in the political arena. The economy, inflation, and unemployment were presiding concerns. President Nixon, whose party failed to control either the House or the Senate, had to accommodate, and at times try to divide, the Democratic Congress. In 1972, Democrats held their congressional majority and in 1974 brought in a Democratic landslide victory. 1974 also witnessed the demise of the powerful Wilbur Mills. Before the seventies, the House Ways and Means Committee seldomly operated through subcommittees and Mills sought assistance from the executive

branch in legislating. Representative Al Ullman (D-Oregon) became the new chair beginning in 1975. During the seventies, congressional reform brought about more public hearings and subcommittees, such as the Subcommittee on Unemployment Compensation.

During the seventies, just as it had during the periodic recessions of the 1950s, unemployment compensation again proved to be a lifesaver for American workers and their families. At the same time as unemployment benefits aided Americans laid off from work, increased unemployment placed tremendous pressure on the system. This forced its imperfections into bold relief and prompted many calls for reform. For example, many criticized experience rating, arguing that tax rates or the annual earnings ceilings against which the taxes were assessed, or both, were too low to provide adequate funds during periods of high unemployment. This left state and federal funds low. States borrowed from the federal fund at no interest, and the federal trust fund in turn borrowed from general revenues. Critics argued that once the system was financed by general revenues it was no longer actuarially sound as an insurance system and was instead a welfare system. Others had different concerns, such as the higher tax rates on employers due to experience rating once they began lay offs, benefit levels were too low, and the duration of benefits was not long enough. Generally though, as unemployment rose, the approval of unemployment compensation and its effect on American families and the economy rose.

Round Two: The Unemployment Compensation Amendments of 1976

The thrust of the 1976 federal Unemployment Compensation Amendments began with the 1970 Employment Security Amendments. The major changes to unemployment compensation coverage as a result of the 1976 amendments concerned agricultural workers, state and local government employees, nonprofit elementary and secondary school employees, and some domestic workers. The most significant change in 1976 regarded agricultural workers. The amendments extended coverage to hired farm labor of large employers, defined as those with ten or more workers in at least twenty weeks of the year or with payrolls of at least twenty thousand dollars in a calendar quarter. Aliens admitted as farm labor for a limited time were excluded. The 1976 federal legislation granted coverage to state and local government employees, with some exceptions, and eliminated the exclusion of nonprofit elementary and secondary school employees. Domestic household workers of employers who paid wages totaling at least one thousand dollars for such work in any calendar quarter were also granted coverage in 1976. These 1976 modifications to the federal-state unemployment compensation system were effective in 1978.⁷

⁷ This section is based on Blaustein, *Unemployment Insurance*; Congressional Budget Office, "Unemployment Compensation: A Background Report," Dec. 8, 1976; Subcomm. on Unemployment Compensation, Information to Accompany H.R. 10210, H.R. Doc., 94th Cong. (Oct. 31, 1975) (Committee Print); *Unemployment Compensation Issues: Hearings Before the Subcomm. on Unemployment Compensation* (Feb. 19, 1976); *Hearings on H.R. 12572, H.R. 10210, H.R. 12438 Before the Comm. on Rules* (Mar. 30, 1976); *Hearings to Extend and Modify the Federal Supplemental Benefits and Special Unemployment Assistance Programs Before the Subcomm. on Unemployment Compensation, 94th Cong.* (Apr. 28-30, 1976); *Hearings on H.R. 10210, H.R. 9719, H.R. 13367 Before the Comm. on Rules* (June 3, 1976); "House Votes Jobless Pay Expansion," *The Washington Post*, July 21, 1976; *Unemployment Compensation Amendments of 1976: Hearings on H.R. 10210 Before the Comm. on Finance, 94th Cong.* (Sept. 8-9, 1976); The Unemployment Compensation Amendments of 1976, J.R. Rep. No. 94-1745 (Oct. 1, 1976) (Conf. Rep.); W. Curtis Riddle, "State sues over unemployment-pay law," *The Sun*, Nov. 30, 1977. From the General Records of the Department of Labor, RG 174, NACP: Box 201, Records of Sec. James D. Hodgson 1970-72, Office of the Secretary; Box 6, Michael H. Moskow 1972-74, Records of the Assistant Secretary of Labor for Policy, Evaluation and Research; Box 12, Abraham Weiss 1974-1977, Records of

During the early seventies, the Department of Labor was interested in and researched unemployment compensation policy issues and expanding coverage to additional groups of workers. It sought to stabilize the labor force and create conditions for workers, such as those in agriculture, similar to those enjoyed by industrial workers. Further, federal advisory councils on unemployment insurance, which often included a Labor Department representative among its employer, employee, and public members, placed a proposal to broaden unemployment insurance coverage to additional workers, notably farm workers, on the legislative agenda.

The Department of Labor was also responsible for a study, mandated by Congress in the 1970 Employment Security Amendments, of the feasibility of agricultural coverage. This study came after the failed administration attempt to extend coverage to farm workers in the 1970 federal legislation. With the cooperation of twelve land-grant colleges and state employment security agencies, the study involved eighteen states and roughly 50 percent of hired farm workers. In 1973, Secretary of Labor Peter J. Brennan sent letters to House Speaker Carl Albert, Vice President Agnew, House Ways and Committee Chairman Mills, and Senate Finance Committee Chairman Russell B. Long regarding the study. These letters relayed the study results, confirming “(1) relatively few large farm employers account for a substantial portion of the farm work force, (2) the costs of providing unemployment insurance protection to farm workers are not prohibitive either to farm employers or to the UI system as a whole. In most States the

Assistant Secretary of Labor for Policy Evaluation, and Research; Paul J. Fasser, Jr., Deputy Assistant Secretary for Manpower and Manpower Administrator, to Secretary of Labor, Release of Study Results on Unemployment Insurance Coverage for Farm Workers, Mar. 12, 1973, box 45, General Subject Files 1973, Secretary Peter J. Brennan, Office of the Secretary; Secretary of Labor Peter J. Brennan to House Speaker Carl Albert, box 45, General Subject Files 1973, Secretary Peter J. Brennan, Office of the Secretary; “Unemployment Insurance for Workers on Large Farms is Feasible, Secretary Brennan Says,” news release, box 45, General Subject Files 1973, Secretary Peter J. Brennan, Office of the Secretary; Box 27, Abraham Weiss 1974-1977, Records of Assistant Secretary of Labor for Policy Evaluation, and Research.

agricultural sector would be self-supporting, that is, contributions from farm employers would, on the average, be sufficient to cover the benefits paid to involuntarily unemployed farm workers, and (3) employers currently subject to the UI tax would be insignificantly affected in 16 of the 18 States studied, and not greatly affected in California and Florida with respect to increased taxes.”⁸ During the early years of the 1970s, not only was there continued federal interest in expanding coverage, but the Department of Labor study requested by Congress determined coverage of large farm employers, defined as those with four workers in twenty weeks or a quarterly payroll of \$5,000, was feasible.

In addition to the renewed attention to federal unemployment coverage in the late 1960s and 1970, the immediate course resulting in the 1976 Unemployment Compensation Amendments included 1974 emergency legislation. The Special Unemployment Assistance (SUA) program, enacted through Title II of the Emergency Jobs and Unemployment Assistance Act in December 1974, provided benefit support to unemployed workers unable to draw unemployment benefits for certain reasons, including their exclusion from coverage. The same idea was tried with 1958 temporary extension of benefits legislation but was dropped. This temporary program covered roughly 11.9 million workers not covered by the nation’s permanent unemployment compensation system. These were largely state and local government employees, farm workers, and domestic workers. Therefore, for many of the groups excluded from the permanent program, these workers were able to obtain benefits on a basis similar to that of federal-state unemployment insurance until 1978, when many of these groups were

⁸ Brennan to Albert, box 45, General Subject Files 1973, Secretary Peter J. Brennan, Office of the Secretary, RG 174, NACP.

then covered under the 1976 federal reforms. Like previous federal unemployment benefit programs, federal general revenues financed the SUA benefit payments. The Special Unemployment Assistance program was central in the debates and passage of federal unemployment compensation coverage changes in 1976. Not only was the SUA program a temporary measure, but passage of the program in effect marked the acceptance of its coverage provisions.

President Ford's 1976 Economic Report to Congress addressed the SUA program and unemployment compensation coverage. The report stated, "Potential coverage of workers has been extended under the regular programs, from 59 percent of all workers in 1950 to 81 percent in 1974, because industrial coverage was made broader in 1954 and 1972 and because of a decline in the proportion of the labor force in the major remaining sectors not covered: agriculture, self-employment, and unpaid employment in a family business. As a result of special unemployment assistance, coverage was extended to the approximately 12 million wage and salary workers not covered by a regular program, primarily State and local government, farm, and domestic workers. Only the 8 million self-employed and unpaid workers in family businesses are not now covered by a regular or temporary program. The Administration has proposed legislation that would bring 6 million additional wage and salary workers, now covered by SUA, under the regular State programs so that their employers will contribute to the unemployment insurance trust fund."⁹

In 1975, the House debated and passed a bill that expanded unemployment compensation coverage under the permanent federal-state system. Representative James C. Corman (D-California), chairman of the Subcommittee on Unemployment

⁹ Economic Report of the President, Jan. 1976.

Compensation of the House Ways and Means Committee was a key player in the history of this bill. The bill granted coverage to agricultural workers of employers with four or more workers in twenty weeks or who paid \$5,000 in wages in any calendar quarter. It also covered domestic workers of employers who paid \$600 or more in any quarter and state and local government employees (with the exception of elected or appointed officials, members of a legislative body or the judiciary, members of the National Guard or Air National Guard, emergency disaster workers, and inmates). The bill also extended coverage to employees of nonprofit elementary and secondary schools and contained changes to financing and benefit provisions.

The House justified these coverage changes in habitual ways. The experience of states that had already elected to cover farm workers, the extension of Social Security taxes, and the Department of Labor's study all demonstrated the administrative feasibility of extending coverage to farm workers. This coverage amendment would grant more than three-fifths of hired farm workers (roughly 710,000 jobs) unemployment benefits should they lose their jobs, but only made 7 percent of farm employers (about 69,000) subject to the federal unemployment tax. The House bill covered domestic service in a private home, local college club, or local chapter of a college fraternity or sorority if the employer paid \$600 or more during any calendar quarter. The basis of this extension was that in states that did cover domestic service, records demonstrated that these workers had a substantial labor force attachment. The provision broadened coverage to 400,000 workers, or about 27 percent of domestic service. The amount \$600 was set to exclude those who employed a single day worker each week. The bill sought state and local government coverage to protect roughly 600,000 jobs in state government and 7.7 million

jobs in local government. Many states had already elected to cover all or part of state government employment, and a few had elected to cover local government workers.

During the early months of 1976, Corman repeatedly explained the House bill. The first objective of the bill was to provide coverage under the permanent unemployment compensation system to nearly all wage and salary workers and eliminate the need for the SUA program. The second objective was to restore solvency to the system at both the state and federal levels. During the course of debates over the Unemployment Compensation Amendments, the two most controversial issues were raising the taxable wage base and covering government employees.

The House bill was ultimately stalled in late 1975 because of new procedures dealing with the Budget Committee. Not only did these new procedures stall the House bill to 1976, but they also delayed the effective date of the program. This meant that the SUA program needed to be extended to cover this additional year. Corman introduced legislation doing so and ultimately the measure passed. As also evidenced by Ford's 1976 Economic Report, there was a sense that the House Unemployment Compensation Amendments needed to be passed as quickly as possible so that workers covered under SUA would become part of the permanent program and eliminate the use of federal general revenues to cover these groups under the SUA program. As Corman relayed during House hearings before his own subcommittee, "Now, the people we are talking about in SUA, the farm workers, the public employees and domestics, you remember the reason we put them into our bill under regular coverage is so we could phase out SUA more rapidly. If we have not accomplished that next year, then the political question is: Will Congress decide to cut them off, and my guess would be that we will not decide that,

but that we will continue until the new bill becomes effective.”¹⁰ Knowing that once a measure was in place, even if temporary, it was difficult to abandon, Corman recognized the need to pass the House bill quickly. Corman further stated, “I suspect that if the folks who oppose covering farm workers and public employees succeed in having them taken out of the regular program, that then will be great pressure to continue SUA, but I think they won’t succeed in that. I think we will bring them all in and treat them like we do the other workers, probably, but anyway, that is moot if we accept the premise that we won’t get that bill through this year.”¹¹

Ultimately the bill that passed out of the House and on to the Senate covered 8.9 million workers not previously covered. It covered agricultural labor for employers who employed four or more workers in each of twenty weeks or paid \$10,000 or more in wages in a calendar quarter (altered in the House from \$5,000 in quarterly wages to \$10,000 in quarterly wages). The bill also covered domestic workers of employers who paid \$600 or more in any calendar quarter, employees of state and local governments with some exceptions, and professional employees in primary and secondary education. The House had narrowly defeated, by 212 to 186, an amendment omitting state and local government workers. The provision to add state and local government employees was controversial, but ultimately the House bill included these workers.

The Department of Labor accepted these changes to the House bill. The administration proposal called for coverage to agricultural workers of employers of four or more workers in twenty weeks or who paid \$5,000 in wages during any quarter. This would have covered about 60 percent of all farm workers and the largest 7 percent of

¹⁰ *Unemployment Compensation Issues: Hearings Before the Subcomm. on Unemployment Compensation* (Feb. 19, 1976).

¹¹ *Ibid.*

farm employers. The House amendment to \$10,000 in quarterly wages reduced the coverage to the largest 6 percent of employers and 59 percent of workers. This change was minor to the Department of Labor. From the administration proposal of extending coverage to domestic workers where payment was \$500 or more per quarter to the House amendment to \$600 per quarter, the department similarly thought the change minor. The Department of Labor also supported the House bill's provisions regarding nonprofit primary and secondary education and state and local government employment. These provisions were actually the original proposals when the bill was being drafted but were abandoned by the Department of Labor for less comprehensive coverage out of fear of opposition. The department accepted the House's coverage expansions for these groups.

In September 1976, the Senate Finance Committee, chaired by Senator Russell B. Long (D-Louisiana), took up the House bill. The House bill passed in the Senate with amendments to the bill's coverage provisions. The Senate struck out coverage of agricultural and domestic workers. The conference agreement added both groups back in but changed the terms. The agreement covered agricultural labor for farm employers of ten or more workers in each of twenty weeks or those who paid at least \$20,000 in wages in any calendar quarter. The conference agreement on domestic service granted coverage to domestic workers of employers who paid at least \$1,000 to these workers. Regarding state and local government employees, the Senate amendment was the same as the House except that it changed an exclusion under the provision. The conference committee adopted the Senate amendment. The Unemployment Compensation Amendments of 1976, approved on October 20, 1976, extended coverage under the permanent federal-state unemployment compensation system to agricultural workers of large employers,

household domestic workers, state and local government employees, and employers of nonprofit elementary and secondary schools. Effective January 1, 1978, with the Special Unemployment Assistance program ending December 31, 1977, these federal amendments were the culmination of the federal drive to broaden coverage beginning in the late 1960s and the second round of federal coverage expansions.

The story of these 1976 amendments does not end with their passage however. The provision to extend coverage to state and local government employees was a contentious issue in Congress, and after enactment of the amendments, states followed suit. No less than seven states, and 1,258 towns, cities, and municipalities, including Maryland sued the federal government (the other states included Alaska, Missouri, New Hampshire, New Mexico, South Carolina, and Nebraska).

The Employment Security Amendments of 1970 and the Unemployment Compensation Amendments of 1976 largely closed the gaps in coverage, with the exception of workers on small farms and domestic workers, remaining after the 1954 federal changes. The Unemployment Compensation Amendments brought to a close the second wave in major federal changes to coverage. Together, the 1970 and 1976 legislation brought many employees of small businesses, nonprofit organizations, state and local government, large farm employers, and domestic household employers into the federal-state unemployment compensation system. Coverage expansion was a gradual process at both the federal and state levels. Some states pioneered coverage extensions, but many major advances followed federal legislation. From this story of coverage at the federal level beginning with the Social Security Act of 1935 through major revisions in

1954, 1970, and 1976 (as well as the inclusion of groups such as ex-service members),
this thesis now turns to what happened in the states.

Chapter 5 Wisconsin and Maryland Following the Social Security Act of 1935

Unemployment compensation began with the Social Security Act of 1935 as a federal-state partnership in which states enacted legislation reflecting their own interests. This chapter moves from examining the federal level to how the states, and particularly Maryland, responded to the Social Security Act. Like the federal level, Maryland's enactment of unemployment compensation legislation in some ways resembled a missed opportunity to pass more inclusive legislation. However, given the limited experience in the field and conventional wisdom stressing caution and long-term viability, the substance of Maryland's law is not surprising.

Unemployment Compensation in Wisconsin Following the 1935 Social Security Act

Wisconsin was unlike any other state in 1935. It had passed an unemployment compensation law, the first state to do so before the Social Security Act of 1935. Because of the state's general commitment to pioneering work in the field of state unemployment compensation, Wisconsin holds a unique place in the history of unemployment compensation in the United States.¹

A January 1936 Wisconsin Industrial Commission publication framed the Wisconsin law with: "Wisconsin's law requires contributions solely by employers, for several stated reasons. No such law can attempt to compensate all types of unemployment or to pay benefits indefinitely. Compensation can be paid only for a

¹ This section is based on Raushenbush and Raushenbush, *Our U.C. Story*; Nelson, *Unemployment Insurance*, 7-10, 22-23; A Comparison of State Unemployment Compensation Laws.

limited number of weeks, to those workers who have been employed by industry but are laid off during slack periods. Unemployment of this kind is like a job injury. It is essentially an industrial rather than a personal hazard. American accident compensation laws have universally treated work injuries as a cost of production, by requiring industry to pay for them. In the same way irregular employment has been recognized as an industrial hazard, and the cost of paying benefits for laid-off workers has been assessed against employers.”² Unemployment compensation in Wisconsin was viewed as a necessary form of workers’ insurance, in the same vein as workers’ compensation (which also operated on the principles of insurance with employer contributions and experience rating).

The Wisconsin system initially covered employers of eight or more employees within eighteen weeks of the calendar year, changed to seven or more in 1937, and then six or more beginning in 1938. Wisconsin allowed non-profit organizations, excluded under the definition of “employer,” the option of becoming subject to the law. Unlike all of the other states, Wisconsin, New Hampshire, and Ohio did not exclude the service of a child or spouse or by a child under the age of twenty-one for a parent from coverage. Wisconsin was also unique in barring a number of other groups generally not excluded by any other state. These included teachers or officers in public schools or colleges (the District of Columbia also excluded this group) and students during a vacation period or working not more than four hours daily or employed by a school or employer as part of the student’s education. Wisconsin also excluded railroad workers in interstate commerce, casual labor, those in logging operation, golf caddies, and newsboys. Thus, Wisconsin, by nature of having some experience in unemployment compensation and an

² Raushenbush and Raushenbush, *Our U.C. Story*, 218-219.

important role in the development of the federal-state system, enacted legislation often different from, including more specific coverage provisions, than other states.

Since Wisconsin enacted legislation before the 1935 Social Security Act and was a pioneering force in the field, it is worthwhile to examine what happened in Wisconsin following the Social Security Act. Wisconsin's unique history and experience with unemployment compensation prior to the Social Security Act naturally differs from that of other states. The early debates and evolution of unemployment insurance in Wisconsin influenced the development and substance of programs at both the federal and state levels. Wisconsin was unlike the typical story of unemployment compensation in the states, which this thesis will explore in the case of Maryland.

Once the Social Security Act was introduced in Congress in January 1935, Wisconsin took steps in anticipation of its passage. One of these steps was to delay the start of state unemployment benefits. The Act dictated that payments could not begin until after two years of contributions. Paul Raushenbush maintained this provision resulted from the idea of individuals at the federal level that states need to be cautious about adequately funding their programs, including delaying payments for two years after beginning to collect contributions, and keeping benefit payments low. Raushenbush noted "So the emphasis on modest beginnings and conservative actions did not come solely from the states. It came partly from federal people who were interested in adequate programs but realized that solvency was absolutely essential, if the U.C. program was not going to be discredited in this country as being like the British 'dole.'"³ World War I and its postwar depression placed increasing pressure on the British system of unemployment insurance, which had only been enacted in 1911. The system expanded

³ Ibid.

multiple times to include nearly all laborers in 1920. Beginning in 1921, Britain extended the benefit duration for workers who had exhausted their benefits and had no recourse except charity. American opponents of unemployment insurance termed this the “dole.” Parliament continued to amend its legislation and by 1927 benefits were nearly indefinite in duration and not related to contributions. The histories of other European unemployment insurance systems parallel the British degeneration to the dole, notably Germany. American reformers and legislators studied the European systems during the early years of development and implementation of the American system of unemployment insurance.

Therefore, there was a great emphasis on ensuring reserves were sufficient to pay for the first years of benefits, and this in turn persuaded Wisconsin to alter its legislation and delay the start of benefits. The state had planned on starting to pay benefits in July 1935; however, the federal two-year requirement would mean that Wisconsin employers would not get federal tax credit unless Wisconsin changed its law. Thus, Wisconsin changed its law on this point and after passage of the Social Security Act in August 1935, in all ways necessary to comply with federal requirements.

Issuing the first check in the United States from a state unemployment compensation fund on August 17, 1936 to Neils B. Ruud, more than a year before other states began benefit payments in January 1938, Wisconsin marked an important moment in the history of unemployment compensation. From July 1936 through October 1938, during its four years of contributions and two years of benefit payments, Wisconsin issued 1,173,249 checks, amounting to \$10,647,907 in benefits, to those out of work. By

the end of 1938, Wisconsin covered more than 10,000 employers and insured 450,000 workers against the hazards of unemployment.

Maryland: Early History, Drafting, and Implementation of Unemployment Compensation

The story in Maryland provides a more typical view at the development of unemployment compensation in the United States. The Social Security Act of 1935 compelled Maryland to enact legislation. However, the state also had an interest in doing so before the Act. In the early thirties, Maryland took an interest in unemployment compensation, with committees working on the issue, organizations advocating for legislation, and the state legislature considering bills. A bill in 1933, covering employers of three or more and excluding farm labor, domestic service, employment in interstate commerce, employment on a relief project, and employment lasting less than four weeks, passed the lower house, but lost by four votes in the Senate. Though some in Maryland called for legislation, the state's story is one of difficulty and contention over the specifics of its unemployment compensation program.⁴

⁴ This section is based on Altmeyer, *The Formative Years of Social Security*; Lavinia Engle, Chairman, Civil Service Reform Committee, House of Delegates, Annapolis, MD, to Perkins, letter, Apr. 7, 1933; box 101; General Subject File, 1933-1941; Secretary Frances Perkins; Office of the Secretary; General Records of the Department of Labor, RG 174; NACP; "Harry W. Nice (1877-1941), Biographical Series, Archives of Maryland, <http://www.msa.md.gov/msa/speccol/sc3500/sc3520/001400/001481/html/msa01481.html>; Frank F. White, Jr., *The Governors of Maryland 1777-1970* (Annapolis: The Hall of Records Commission, 1970), pp. 265-268 at <http://www.msa.md.gov/megafile/msa/speccol/sc3500/sc3520/001400/001481/html/bio2.html>; Second Annual Report of the Unemployment Compensation Board, State of Maryland, to His Excellency Herbert R. O'Connor, Governor, Baltimore, MD, 1938; container 41b, section 8, range 6, deck 2; Government Publications; Maryland State Archives; Franklyn Waltman, Jr., "Leader Sought By Democrats For Maryland: Other Victories in State Help Console Party for Ritchie Defeat," *The Washington Post*, Nov. 9, 1934; Associated Press, "Idle Insurance For Maryland Is Broadened: 45,000 Will Be Eligible in Program Effective Jan. 1," *The Washington Post*, Dec. 28, 1937; "Changes Social Security Plans: Group Of Bills Passed By Legislature Await Governor's Action: Three Men To Be Heads Of Unemployment Insurance System," *The Sun*, Apr. 8, 1937; Sixth Annual Report of the Unemployment Compensation Board, State of

Republican Governor of Maryland Harry W. Nice played a key role in the politics of unemployment compensation. Born on December 5, 1877 to Methodist preacher Henry W. Nice and Drucilla Arnold Nice, Harry Nice had a career in public service, including service as governor from 1935 to 1939, and then reentered private law practice until his death in 1941. In 1934, in his second campaign for governor, Nice challenged his long-time political rival Democratic Governor Albert C. Ritchie. The four-term Democratic governor lost the race because of intraparty factionalism, his failure to fully embrace the New Deal, and his actions regarding a lynching on the Eastern Shore. Taking office in 1935, Nice's immediate concerns were with solving the problems of employment and relief. Like other states, Maryland faced the problem of inadequate sources of unemployment relief. As Maryland's third Republican governor, and the first Republican governor in the previous two decades, challenges beset Nice's time as governor. His term was shaped by the Depression, the state's financial difficulties, conflicts with the Democratic legislature, and a lack of leadership on Nice's part.

Governor Nice had an interest in unemployment compensation, and in his inaugural address on January 9, 1935, listed such legislation as a priority of the new administration. He stated that old age pensions and unemployment insurance were subjects "for immediate legislation, and machinery must be set up, so that, in case of future unemployment, there will be some plan, already in effect, whereby relief can be afforded without the necessity of other calls upon the taxpayer to provide ways and means to meet such emergencies. A system of insurance against unemployment,

Maryland, Baltimore, MD, 1942; container 41b, section 8, range 6, deck 2; Government Publications; Maryland State Archives; Unemployment Compensation Law, State of Maryland, 1941; container 31, section 7, range 3, deck 2; Governor (Miscellaneous), 1919-1938, Gov. Ritchie, Gov. Nice; Government Publications; Maryland State Archives.

predicated upon some insurance basis, should be provided.”⁵ Nice wasted no time in taking up the task. In November 1934, Governor-elect Harry Nice appointed a committee to draft unemployment compensation legislation for the state of Maryland. The historical record does not point to coordination with Congress, including Maryland Representative David Lewis, an expert on social insurance legislation on the House Ways and Means Committee, or the CES, but Nice and officials in Maryland would likely have been aware of these parallel developments.

Chaired by long-time leader in the state fight for unemployment compensation Simon E. Sobeloff, this committee, which included the vice president of the Maryland Federation of Labor and a former president of the Baltimore Association of Commerce, was “reasonably nonpartisan, nonsectarian and interracial, all without sacrificing the vital necessity of expert representation.”⁶ During this time, Sobeloff was a young lawyer actively engaged in city and state politics. In the 1950s and early 1960s, he served as United States solicitor general and judge (first as associate and then as chief judge) in the United States Court of Appeals, Fourth Circuit. The committee recommended universal coverage with only small firms of less than three employees excluded. Backed by Governor Nice, a bill moved to the legislature for consideration, where it was defeated. Thus, Maryland continued to fail in enacting unemployment compensation legislation.

Maryland followed other states in its failure to enact legislation in 1935 and its scrambling at the end of 1936 to pass legislation. In addition to the lack of experience on which to build, people questioned the constitutionality of federal or state unemployment

⁵ Inaugural Address of Governor Harry W. Nice Before the General Assembly of Maryland 1935, Annapolis, Jan. 9, 1935; container 31, section 7, range 3, deck 2; Governor (Miscellaneous), 1919-1938, Gov. Ritchie, Gov. Nice; Maryland State Archives, Annapolis, MD.

⁶ “Mr. Nice Steps Out,” *The Washington Post*, Nov. 29, 1934.

legislation. As of June 30, 1936, only ten states and the District of Columbia had laws. By July 1937, by which time the Supreme Court had upheld the constitutionality of unemployment legislation, all states had enacted legislation. Writing of “the cost of procrastination,” *The Washington Post* admonished states for their failure to enact legislation in 1936 and hastily working to enact legislation before the end of the year to get credit for the federal payroll taxes collected in 1936. Surprised that only sixteen states and the District of Columbia qualified to receive benefits from payroll collections as of November 30, 1936, the article took special note of Maryland: “In some states, such as Maryland where discussion and study of unemployment insurance proposals have been extended over a considerable period, last-minute efforts to qualify for tax credits do not necessarily mean that the resultant law will be a product of careless drafting and inadequate planning.”⁷

Governor Nice again appointed a committee chaired by Sobeloff to prepare a bill, based on the committee’s failed bill of the previous session, to be submitted to a special session of the Maryland legislature called by Nice to convene on December 15, 1936. The governor believed the legislature could pass the bill in a mere five days, and president of the Senate Lansdale G. Sasser and speaker of the House of Delegates Emanuel Gorfine concurred with the governor. Contemporary reports noted “Enactment of such legislation, confidently predicted by Senate and House leaders as a matter requiring but a ‘few days’ of consideration, will mean a saving to the State of about \$3,000,000 in social security taxes collected during 1936.”⁸ Ultimately a bill did pass,

⁷ “The Cost of Procrastination,” *The Washington Post*, Nov. 30, 1936.

⁸ “Security Bill Session Called by Gov. Nice: Legislature to Meet Dec. 15 to Enact Law to Save \$3,000,000 in Taxes,” *The Washington Post*, Nov. 28, 1936.

and Nice sent Maryland's unemployment compensation bill to the Social Security Board in late December for approval.

The Maryland unemployment compensation measure was far from universal in coverage and met only the minimum federal requirements. Opposition from business interests, led by the Baltimore Association of Commerce, succeeded in diminishing the bill to meet only the minimum federal standards. A hint of the opposition is evident in Nice's public statements. In a December 8, 1936 message to the general assembly, Nice commented: "Objection is raised in some quarters that if we in Maryland go beyond the absolute requirements demanded by the Federal Act, it will put our industries in a disadvantageous competitive position in relation to other states. These arguments are always used in opposition to social legislation. Whatever basis there was for these fears when competing states had no unemployment insurance laws whatever, there is scant ground for such fears now."⁹ Despite Nice's comments, the Maryland unemployment compensation bill, "built on the wrecked remnants of a measure offered to the special session by a committee named by Gov. Nice and headed by Simon E. Sobeloff," adhered strictly to the federal minimums.¹⁰ The original bill of Sobeloff and the governor's committee would have exceeded the federal requirements.

In submitting the law to the Social Security Board for its review and approval, Nice explained to the Board, "In explanation of the form of the Unemployment Compensation Law, I may state that it follows closely the provisions of the model Act providing a pooled fund system recommended by your Board including the recent

⁹ Message of Governor Harry W. Nice to the General Assembly of Maryland, Extraordinary Session, Annapolis, Dec. 8, 1936; container 31, section 7, range 3, deck 2; Governor (Miscellaneous), 1919-1938, Gov. Ritchie, Gov. Nice; Government Publications; Maryland State Archives.

¹⁰ Associated Press, "Measure Sent To Washington For Inspection: Maryland Act Meets Only the Minimum Federal Requirements," *The Washington Post*, Dec. 13, 1936.

amendments thereto.”¹¹ The Maryland Unemployment Compensation Law, approved by the Social Security Board on December 22, 1936, followed the draft bills in enacting the federal minimums established by the Social Security Act of 1935. Thus, the very first Maryland Unemployment Compensation Law set coverage to employers of eight or more in twenty weeks and excluded such groups as government employees, agricultural labor, those in domestic service, crew members, and employees of religious, charitable, and educational institutions. This act covered roughly 340,000 workers employed by 6,637 employers.

From the 1936 Maryland law that met only the minimum federal requirements, Maryland legislation expanded coverage in the late thirties. For the years 1936 and 1937, Maryland covered employers of eight or more in twenty weeks. In April 1937, the Maryland legislature passed House Bill No. 2 and amended the state unemployment compensation act to cover employers of four or more in twenty weeks, effective January 1, 1938. This bill was one of numerous others pertaining to the state’s unemployment compensation law waiting for action by Governor Nice in April 1937. This coverage change brought an additional 45,000 workers into the system. Executive secretary of the Maryland Unemployment Compensation Board Stephen Cromwell remarked this extension would most likely present difficulties, as newly covered employers would be unfamiliar with unemployment compensation laws and taxes.

This broadening of coverage to four or more resembles the decisions in other states to cover smaller firms. As already discussed, states elected to cover smaller firms than federal legislation mandated, and many made these decisions well before

¹¹ Harry W. Nice, Governor of Maryland, to Frank Bane, Executive Director, Social Security Board, Dec. 17, 1936; box 2; Commissioner’s Decisions, 1935-1963; Office of the Commissioner; Records of the Social Security Administration, RG 47; NACP.

amendments to federal unemployment compensation. The federal payroll tax would not apply to employers of four or more until 1954. The amendment to increase coverage was not the only one proposed in 1937. Roughly a dozen bills dealing with unemployment compensation were introduced, with about half a dozen “of minor character” becoming law. The extension of coverage to smaller firms, those employing four or more, in 1937 also was not the last call for coverage of smaller firms. By 1942, there were bills to further liberalize the state’s unemployment compensation program and the governor recommended extension to employers of one or more at any time.

The Maryland story also parallels the histories of federal and state unemployment compensation legislation in another manner. By 1941, after only a handful of years, the Maryland law included additional and expanded definitions related to coverage. The term “agricultural labor” had a lengthy definition, detailing what constituted agricultural labor, including that on a farm, in the employ of an owner, tenant, or operator of a farm, employment connected with production of maple sugar, maple syrup, or other agricultural commodities, and such. “Farm” and other terms were necessarily detailed as well. Domestic service expanded from that just in a private home, to also include that in local college clubs or local college fraternity or sorority chapters. Other workers were excluded under these new definitions, including those under the age of eighteen in the delivery or distribution of newspapers, students, insurance agents, those involved in the collection of dues, colleges, and others. These coverage changes were commonplace as states gained experience with unemployment compensation. Thus, by the start of the World War II era, Maryland, like many other states, had enacted unemployment compensation legislation and subsequently amended its coverage provisions. These

amendments included changes and more specific definitions dictating coverage as well as the extension of coverage to smaller firms.

By the end of 1939, every state had enacted legislation and begun paying benefits. Although the Social Security Act of 1935 exempted groups of workers from coverage, the tendency in the states in the years after 1935 was to amend these provisions to include certain groups of workers. Some included occupational groups previously excluded, while others such as Maryland extended coverage to smaller firms, as opposed to employers of eight or more as dictated in the federal Act. Although many states, including Maryland, faced prolonged challenges in drafting and enacting state unemployment compensation laws and consistently debated and amended their state legislation, ultimately all states were partners in the federal-state system by the end of the thirties.

Like the federal level in the 1930s, this chapter is one of a missed opportunity for Maryland to enact a more inclusive unemployment compensation program. However, there was little experience in the United States with unemployment compensation. Wisconsin, the pioneer in this field, did not elect to institute universal coverage. Both the federal and state levels stressed caution and focused on long-term solvency and viability. Once the initial coverage provisions were in place, change was slow. States of course made assorted changes to their state legislation, but regarding coverage the engine of expansion moved slowly.

Chapter 6 Postwar Coverage in the States

By the postwar period, state unemployment compensation programs were well established, and as a result of World War II, well funded. Coverage expansion was a gradual process after 1935, with some states being pioneers in this area but with the majority of advances following federal legislation. In general, employment covered by state programs rose in the postwar period. Maryland exemplifies these developments.

Unemployment Compensation and Coverage in the States

By 1948, state unemployment insurance programs were well established and refocused on postwar adjustment and combating unemployment. As a result of high employment and low unemployment during World War II, state programs were also well funded. During the postwar era, state programs developed principally in response to federal amendments and, to varying degrees, in response to economic and labor market developments. Some state programs changed more significantly, more often, and more rapidly than others. With time, further legislative and programmatic differences developed between states. States increasingly turned away from federal guidance as they developed more experience with and confidence in their programs and administration. According to Saul J. Blaustein, employment covered by state unemployment insurance rose by 60 percent between 1948 and 1969. Except for the early trend of including

smaller firms, almost all major expansions of coverage under state laws came in response to changes to federal law. Maryland followed this tendency.¹

A small handful of states elected to cover occupational groups excluded from federal legislation, in addition to small businesses, but the majority of states opted to restrict coverage in accordance with federal legislation. Without reason to extend coverage before federal legislation, in most states, including Maryland, coverage of groups such as agricultural labor and domestic service was negligible. The majority of states had at least some coverage of state and local government workers in the postwar era. By the 1970s when federal legislation expanded coverage for state and local government employees, Maryland had required coverage for some groups of state government employees and permitted other state and local entities to do so as well. Most states followed the federal legislative definitions of agricultural labor, and therefore largely excluded this group of workers. Only three states, Arkansas, Hawaii, and New York, elected to cover some domestic service employment until induced to by federal amendment in 1976. Only six states covered employment by nonprofit organizations prior to 1970s federal amendments. Alaska, Colorado, Connecticut, the District of Columbia, Hawaii, and New York elected to cover this group of workers, and California offered voluntary coverage to employers on a self-financing, reimbursement basis. All states provided for partial benefits to encourage workers to take part-time employment when they could. The story of Maryland's coverage of these occupational groups parallels these trends seen nationwide. Maryland did not have one of the largest

¹ This section is based on Blaustein, *Unemployment Insurance; Unemployment Compensation Amendments of 1976: Hearings on H.R. 10210 Before the Comm. on Finance, 94th Cong.* (1976).

unemployment programs in the nation (nor one of the smallest) and it was also not remarkable for any pioneering approach to coverage.

A Typical Story: Unemployment Coverage under Maryland Law

In 1936 and 1937, under the state's original unemployment compensation law, Maryland covered employers with eight or more employees in twenty weeks. In Maryland, like the federal government and the states generally, the administration of its law was guided by the work of an advisory council with an equal number of employers, employees, and the public. With recommendations from the advisory council, state Unemployment Compensation Board, and the governor, sessions of the Maryland General Assembly would make periodic amendments to the original law. In April 1937, the Maryland legislature amended its law to cover employers of four or more in twenty weeks, effective in 1938.²

² This section is based on Sixth Annual Report of the Unemployment Compensation Board, State of Maryland, 1942; Unemployment Compensation Board, Tenth Annual Report to His Excellency William Preston Lane, Jr., Governor of Maryland, 1947; Twelfth Annual Report of the Employment Security Board, Maryland, 1949; Employment Security Board, Thirteenth Annual Report to His Excellency William Preston Lane, Jr., Governor of Maryland, 1949; Employment Security Board, Fourteenth Annual Report to His Excellency Theodore R. McKeldin, Governor of Maryland, Fiscal Year 1950; Employment Security Board, Fifteenth Annual Report to His Excellency Theodore R. McKeldin, Governor of Maryland, Fiscal Year 1951; Nineteenth Annual Report of the Employment Security Board, Maryland, Fiscal Year 1955; Employment Security Board, Twentieth Annual Report to His Excellency Theodore R. McKeldin, Governor of Maryland, Fiscal Year 1956; Annual reports located in container 41b, section 8, range 6, deck 2; 'Unemployment Compensation Board (Annual Report) 1937-1946 to Employment Security Board (Annual Report) 1947-1956; Government Publications; Maryland State Archives, Annapolis, MD. Committee on Employment Problems in Maryland, to study the problems of unemployment in Maryland, interim report to Governor J. Millard Tawes; container 38, section 6, range 3, deck 2; Executive Commissioners, Committees, Task Forces and Advisory Boards (Reports), 1961-1962; Maryland State Archives. Maryland Lists Readjustment, Jobless Pay," *The Washington Post*, Dec. 15, 1946; Wes Barthelmes, no title, *The Washington Post*, Jan. 3, 1955; Herb Thompson, "Jobless Pay Law Enacted In Maryland," *The Washington Post*, June 14, 1958; "Unemployment Tops 62,000 in Maryland," *The Washington Post*, Dec. 20, 1960; "Maryland Jobless Study Group Named," *The Washington Post*, Jan. 2, 1962. J. Millard Tawes (1894-1979), Biographical Series, Archives of Maryland.

During the 1940s, other changes occurred in Maryland's unemployment compensation program. During World War II, Maryland, like other states, saw increases in the unemployment compensation fund as a result of high employment and decreases in claims and benefits paid as a result of low unemployment. With fears of postwar unemployment, in August 1945, Stephen Cromwell, director of Maryland's Unemployment Compensation Board, stated "We have enough money to pay 300,000 unemployed the maximum benefit of \$20 per week for 20 weeks – and still have a small surplus. And the picture will hardly become that grim."³ Like most other states in the postwar era, these conditions led to debates and reforms related to financing, reductions to tax rates, liberalization of benefits, reductions in contribution rates of employers with good experience rating, and reductions in the minimum number of years required for experience rating benefits.

In 1941, as was done frequently by Maryland, the federal government, and other states, Maryland altered, expanded, and added to its definitions, including those of "agricultural labor," "farm," and "domestic service." As states and governments gained experience in creating and administering unemployment insurance, these definitions grew increasingly complex. By 1942 there were bills to further liberalize the Maryland law, including increasing benefits and the duration of weeks in which benefits could be paid, and Governor Herbert R. O'Connor recommended and supported the extension of coverage to employers of one or more at any time. These efforts were ultimately successful and, beginning in 1945, coverage was extended to employers of one or more.

³ Rene J. Cappon, "128 Million Idle-Aid Fund Viewed Ample in Maryland," *The Washington Post*, Aug. 30, 1945.

The collection of taxes began in 1945; however benefits for the unemployed were available beginning in 1946.

Maryland saw increased unemployment in the initial postwar period. However, during the second half of 1946, due to an exhaustion of benefits by the unemployed and some increases in employment, the rate of unemployment dropped in Maryland. In the late 1940s, unemployment compensation in Maryland encountered difficulties, and drew criticism for the administration and effectiveness of the program. In 1949 a new provision of the Maryland unemployment compensation law was adopted allowing for dependents' allowances. The amendment provided a payment of two dollars per dependent child under the age of sixteen, up to four children. In the late 1940s, as characteristic throughout the Maryland program, the Baltimore area represented approximately 75 percent of the industrial facilities of the state.

By far the largest groups of claimants in Maryland were employees displaced from the state's manufacturing industries. Episodic changes in these industries and the labor market produced challenges for the Maryland program. For example, in the early summer of 1949, an employment situation developed in the Cumberland area. Nearly seven thousand workers entered the labor market as a result of cut backs at a textile plant. These sorts of recurring changes in Maryland's industries in the postwar period kept the unemployment program continually responding to employment developments.

The 1950s saw fluctuations in Maryland unemployment. In 1950, unemployment was high in Maryland and benefit payments reached the highest level in the Maryland program's history. Benefit payments in the city of Baltimore accounted for 64 percent of the total state payments. However, Allegany County, with a county seat in Cumberland,

experienced the highest unemployment in proportion to the labor force in any area in 1949-1950, with roughly 25 percent of the labor force unemployed. Areas in western Maryland, including Allegany County, suffered chronic economic depression and some of the highest unemployment rates in Maryland. In 1951, with Korea and rearmament, Maryland again saw high employment. With the defense industry and increased employment, a labor shortage developed in skilled, technical, and professional occupations. Increased industrial activity took workers from Maryland farms, and migrant workers were used to a greater extent than previous years for the harvesting and canning of crops in 1951. The postwar era in Maryland saw repeated fluctuations in unemployment and changes to industries as a result of economic and labor force developments.

In June 1955, after the 1954 extension of coverage to federal civilian workers, it was estimated that 74.3 percent of Maryland's employed labor force of 902,500 workers earned wages from industries covered by the federal-state unemployment compensation program. However, major groups remained excluded under Maryland law, including 72,000 state and local government employees, roughly 65,000 agricultural workers (including farm owners and operators), 34,500 domestic workers, 28,000 employees of nonprofit organizations (such as hospitals, religious organizations, certain private schools, and nongovernmental social agencies), and 68,900 self-employed workers. By 1955, the Maryland unemployment compensation law stated that employers excluded from mandatory coverage could elect to provide unemployment benefits for their workers. Not surprisingly, few establishments elected to take advantage of this provision. The year 1956 saw generally high industrial production and economic expansion. Employment

rose, with the exception of agricultural employment that had seen a downward trend in Maryland over the past several years. Wage and salaried workers accounted for roughly 80 percent of employees in the state. There had been increases in both nonmanufacturing and manufacturing employment during the postwar period. In manufacturing, the primary metals (producing metal products), nonelectrical machinery, shipbuilding, aircraft, apparel, and chemical industries rose, while nonmanufacturing employment, particularly construction (such as industrial plant expansions, highway projects, and schools) also rose. The growth of suburban developments in Maryland led to a demand for expanded facilities and helps explain the rise in employment in transportation, utilities, retail trade, and service industries during this period. There were also moderate increases to state and local government employment and a small decline in federal employment. As employment increased in the mid 1950s, the unemployment fund increased.

During the postwar period, Maryland entered into agreements with the federal government to participate in federal programs of unemployment compensation. In 1945, as a result of the 1944 GI Bill, Maryland cooperated in covering service members. From September 1944 through June 1946, Maryland received 69,059 original claims from veterans. Maryland unemployed veterans received \$51,451,114 in unemployment compensation and readjustment payments from August 17, 1945, when the Baltimore war plants started mass layoffs, to December 7, 1946. As a result of the Social Security Act amendments in 1946 and the temporary program for maritime employees of the federal War Shipping Administration, Maryland worked as partner in federal programs.

In 1955, after federal legislation in 1954, Maryland cooperated in the extension of coverage to federal civilian employees. Of the roughly 2.5 million federal civilian

employees brought into the unemployment compensation system, 225,000 of these were in the metropolitan Washington area. Exclusive of areas adjoining Washington, the Civil Service Commission listed 48,299 federal civilian employees in Maryland. State agencies administered the program and were reimbursed by the federal government for the amount of benefits paid and administrative costs. In 1954, during federal hearings and debates, Congressman Edward Garmatz of Maryland provided a brief note on Baltimore and Maryland unemployment compensation, stating, “with the closing of the Army Signal Depot in Baltimore, the shipyards with not much more than skeleton forces, and the many other layoffs in the city due to the business recession, the unemployment situation is quite serious and the unemployment compensation is proving entirely inadequate.”⁴ Representative Garmatz cosponsored the 1954 Forand bill extending coverage to federal civilian employees. In 1954 House hearings on unemployment compensation, Garmatz stated that, in addition to needed federal intervention in increasing minimum benefit standards, in the Baltimore area “the arbitrary slashing of many Federal Government functions resulted in heavy reductions in force during the past year, and those people – many of whom had devoted years of service to the Federal Government – had absolutely no cushion to fall back on, such as is provided other workers by unemployment compensation.”⁵ Garmatz argued for modifications to the federal-state unemployment system in 1954, a year of recession and increased unemployment.

⁴ Vol. 100 Cong. Rec. House p. 8,104 (June 11, 1954).

⁵ Vol. 100 Cong. Rec. House p. 8,104 (June 11, 1954). Also in *Unemployment Insurance: Hearings on H.R. 6537, H.R. 6539, H.R. 7054, H.R. 8857, H.R. 8585 Before the Comm. on Ways and Means, 83rd Cong.* (1954) (statement of Edward A. Garmatz, Representative in Congress from the State of Maryland).

In June 1958, Maryland became the first state to enact legislation taking advantage of a temporary federal extension of unemployment benefits. The measure allowed states to enter into an agreement with the federal government for a thirteen-week extension of benefits for those workers who had exhausted their unemployment benefits but remained unemployed. The bill was promptly signed by Governor Theodore McKeldin, extending the Maryland limit of twenty-six weeks to thirty-nine weeks under the new measure. Like most other states, Maryland would become a partner to the federal government in multiple undertakings, including the administration of federal unemployment compensation programs for service members and federal civilian employees beginning in the postwar era.

During the 1960s, Maryland's unemployment and employment divisions were concerned particularly with unemployed out-of-school youth, unemployed older workers (aged 40 to 65) with decreased prospects of finding employment, and workers displaced by automation and technological changes. Facing the potential of major problems with rising layoffs and unemployment, especially among these groups, Governor J. Millard Tawes sought to tackle the problem of unemployment. Elected in 1958, when Maryland had not yet been able to discard the effects of that year's recession, Tawes aimed to attract new industries and reduce unemployment in the state. Tawes relayed he had been told the problem of unemployed youth, aged 16 to 21, was "potentially the most explosive in America today."⁶ In the 1960s, Maryland focused on how to ensure employment, for example with youth and education programs, and on unemployment and manufacturing. Other debates centered on increases in weekly benefits and the number of weeks in which benefits may be paid. The 1960s saw little attention to broadening

⁶ "Maryland Jobless Study Group Named," *The Washington Post, Times Herald*, Jan. 2, 1962.

unemployment compensation coverage under Maryland law, unless compelled to by federal legislation.

In general, the Maryland unemployment compensation program was more liberal than other state laws, although not the most liberal, but did have strict disqualifications of workers. Like most other states in the war and postwar eras, there were periodic calls for liberalization, extension of benefits, coverage expansions, and reforms to unemployment compensation funds and financing. Similar to action at the federal level and in many states, Maryland made few significant changes to coverage, and made those changes gradually between 1935 and 1968. Beginning in 1969, states would be compelled to enact further coverage expansions as a result of federal incentive and compulsion.

Chapter 7 Maryland and the State Side in the 1970s

In the 1970s, federal legislation compelled states to amend their unemployment compensation programs and extend coverage to more workers. The federal-state unemployment insurance system that began with the Social Security Act gradually expanded after its initiation in 1935. In the thirty years following the Social Security Act, states enacted, expanded, and altered their programs. The broadening of coverage to more workers was a gradual process. Some states were pioneers, but the majority of advances to state legislation came as a result of changes to federal legislation compelling states to make the same changes. Between 1969 and 1976, states modified their programs to coincide with expansions at the federal level.

The major gaps in coverage were closed, for the most part, by federal legislation in the 1970s. The only significant groups left uncovered were workers of small farm employers and domestic household service. With the exception of extending coverage to small businesses before compelled to by federal legislation, states did not make significant changes to coverage provisions prior to the federal government.

The State Side in the Late Postwar Era and Early 1970s

Largely, states did not enact significantly different coverage provisions than that of federal legislation dictating the application of the federal unemployment tax. Except for earlier inclusion of workers of smaller firms, nearly all significant coverage

expansions under state laws came as a result of changes to federal legislation. During the postwar period and early 1970s, this was the story at the state level.¹

In 1948, when federal tax applied to employers of eight or more workers, twenty-nine states covered smaller firms. Seventeen covered employers of one or more employees. Following the federal expansion of coverage to employers of four or more workers in 1954, all states covered businesses of four or more or smaller. During the following years, some states moved to cover employers of one or more. By 1971, shortly before the federal Employment Security Amendments of 1970 extending coverage to employers of one or more employees were to take effect, nearly half the states had already done so. The 1970 federal amendments broadened coverage to employers of one or more workers during twenty weeks or with a quarterly payroll of \$1,500. After this 1970 legislation, some states continued to go beyond federal legislation and extend coverage to employers of one or more in fewer than twenty weeks or with less than \$1,500 in quarterly payroll.

State laws generally followed federal provisions related to agricultural labor. Following changes to federal coverage during the 1970s, states amended their laws to reflect federal reforms. Unlike small businesses, few states had gone beyond federal minimum coverage for agricultural labor during the history of unemployment compensation in the United States.

Regarding nonprofit organizations, only six states covered this type of employment before the federal amendments in 1970. The 1970 legislation extended coverage to nonprofit employers of four or more workers in twenty weeks. Federal law

¹ This section is based on Blaustein, *Unemployment Insurance*, 275-278; Murray Rubin, *Federal-State Relations in Unemployment Insurance: A Balance of Power* (Kalamazoo, MI: The W. E. Upjohn Institute for Employment Research, 1983).

excluded employment by a religious organization. After the 1970 amendments, some states elected to broaden coverage to nonprofit organizations of one or more employees. As required by the federal government, all states granted nonprofit organizations the option of reimbursing for benefit costs as opposed to contributing under the regular state insurance tax program. States followed federal law in not covering employment by colleges and universities of students, and many states excluded employment by these institutions of the spouses of students as well. Most states also excluded student nurses and interns employed by hospitals. Equalizing treatment, many of these state exclusions applied to both public and nonprofit schools and hospitals.

Most states had some coverage of state and local government workers before federal legislation required their coverage in 1970 and 1976. Twenty-nine states granted coverage to most state employment without federal incentive, and eight states covered local government on a mandatory basis (and others covered on a voluntary basis). After federal reforms in the 1970s, coverage was extended to state government employees, with some exceptions (such as elected or appointed officials, members of the National Guard, and temporary emergency employees). As required by federal law, states provided local governments the option of reimbursing for benefits paid to unemployed workers.

The federal Unemployment Compensation Amendments of 1976 covered employers of domestic household workers if the cash wages paid totaled at least one thousand dollars in a calendar quarter. Before 1976, only three states covered any type of domestic service. After 1976, a very small number of states covered domestic employment with smaller quarterly payrolls. Other states elected to include non-cash compensation as applying to the one thousand dollar quarterly payroll requirement.

The definitions of “employee” and the employer-employee relationship, like coverage provisions, were left to the states. However, federal law influenced the provisions adopted by states. Most states expanded their definitions of “employee” and conceptions of the employer-employee relationship beyond the master-servant rule. Most states also excluded workers, such as real estate agents, who worked on a commission basis. State laws also exempted self-employed workers because of the difficulty in determining this type of worker’s unemployment status. These were the general patterns taking place in states during the late postwar period and early 1970s. Their actions related to coverage largely responded to federal initiative. The story of Maryland typified these patterns.

The Case of Maryland

Coverage provisions under Maryland’s program remained relatively fixed throughout the postwar era. As previously discussed, beginning in 1945, Maryland’s law covered employers of one or more workers and the state began collecting taxes from these employers (with benefits to laid off workers beginning in 1946). Prior to federal legislation in the 1970s, the state required coverage for some groups of state government employees and permitted other state and local entities to do so as well. Maryland, like most other states, exempted agricultural workers, nonprofit organizations, and domestic workers. In largely omitting these significant groups of workers from its unemployment compensation program, electing to cover small businesses, and covering some

government employees, the case of Maryland resembled unemployment compensation coverage throughout the states.²

In the opening years of the 1970s, Maryland conducted a study of agricultural employment in the state and the impact of extending unemployment insurance to agriculture. Maryland initiated this study as a result of federal activity and requests for research from the 91st Congress during the first years of the 1970s. The state was one of fifteen states beginning research to compile information about groups excluded from unemployment insurance.

The Maryland study reported that the majority of farms in Maryland, known for its dairy, cash grain, tobacco, and poultry farms, were family owned with self-employed and unpaid family workers accounting for the bulk of the farm labor force. According to the 1969 United States Census of Agriculture, the number of farms in Maryland decreased by 17 percent, from 20,760 to 17,181 farms, from 1964 to 1969. One of the main reasons for this decrease, as the authors of the study explained, was technological innovation, which enabled larger farms to increase production while reducing labor costs. Smaller farms were unable to take advantage of these innovations and were gradually absorbed by the larger farms. The 1969 census also indicated that the average size of Maryland farms increased 6 percent during that same five-year period. Further, during the period 1964 to 1969, the total acreage of land used for farming decreased by 377,254 acres. The authors believed much of this decline was due to Maryland's rapidly growing

² This section is based on Roger C. Covey and A. Stewart Holmes, *Economic Impact of Extending Unemployment Insurance to Agriculture*, Misc. Publication 825, Nov 1972; container 35, section 10, range 5, desk 2; Government Publications; Maryland State Archives, Annapolis, MD; "Unemployment Taxes on Employers," *The Sun*, Apr. 9, 1972; "Unemployment Compensation Data," *The Sun*, Jan. 13, 1973; "Higher Taxes for Employers," *The Sun*, Jun. 27, 1973; Weldon Wallace, "State jobless increase 50% over year," *The Sun*, Nov. 29, 1974; Weldon Wallace, "State joblessness is double 1973's," *The Sun*, Dec. 21, 1974; Fred Barbash, *The Washington Post*, Dec. 27, 1974; Fred Barbash, "Md. Nearly Drained of Jobless Aid," *The Washington Post*, Dec. 31, 1975

population and urban sprawl. Much of this expansion converted land from farming to housing developments, shopping centers, and highways.

A reduction in the number of farm workers coincided with the decline in the number of farms. According to the United States Department of Agriculture Statistical Reporting Service, the average number of employed farm workers in Maryland decreased from 57,000 in 1960 to 32,000 in 1970. Self-employed and unpaid family labor declined by 13,000 people over this period. The number of hired farm workers, both regular and seasonal, diminished by 12,000 workers. The authors of the study maintained that the number of year-round farm workers in Maryland had deteriorated so rapidly between 1960 and 1970 due to the consolidation of farms, development of farm machinery requiring more skilled workers, and better paying jobs in other industries. Although the average hourly wage rates of Maryland farm workers increased between 1965 and 1970, the rates remained among the lowest in the state.

The study estimated that if Maryland instituted universal coverage of agricultural workers, 2,900 employers and 19,000 workers would be covered. The study noted that agriculture would be self-supporting in the sense that contributions from agricultural employers would more than cover the benefits that would have to be paid out of the fund as a result of agricultural coverage. These developments in Maryland speak to the federal initiatives to cover to larger agricultural employers and agricultural enterprises whose work was more industrial in nature.

In the early 1970s, as the economy declined and unemployment rose, a number of issues took precedence in the unemployment compensation system. Not surprisingly, financing and funds were of great concern. Maryland, like the rest of the nation,

experienced high unemployment. Of course, while Maryland experienced high unemployment in the early years of the 1970s, along with the rest of the nation, and saw increased criticism brought about by this unemployment, many workers in Maryland (and across the nation) remained ineligible for benefits. These included local government employees, elementary and secondary school teachers, and agricultural employees.

Due to the nature of experience rating, high unemployment led to unfavorable employment records, and thus higher tax rates. Employers of industries hit particularly hard, such as in the steel, electronics, and electrical and transportation equipment manufacturing industries, saw the highest increases in contribution rates. The Bethlehem Steel plant at Sparrows Point was one such corporation noted in news accounts for its mass layoffs, causing a flood of applicants for unemployment compensation benefits.

Between the end of 1973 and the end of 1974, unemployment compensation claims rose more than 50 percent in Maryland. In this same period, there was a 152 percent increase in the benefits paid out to unemployed workers. The Maryland Employment Security Administration argued for tax rate increases to employers. The administration maintained these tax rate increases were necessary to maintain the solvency of Maryland's program. By the end of 1975, Maryland had experienced fourteen months of record benefit payments to unemployed workers and the program, like many other states, was nearly broke. The large increase in taxes paid by many employers was needed to keep the program operating.

In the meantime, Maryland joined other states in borrowing money from the federal government to continue paying benefits. By 1975, states borrowed from the federal trust fund, which borrowed from general revenues to keep the system operating.

As a result of these financing issues exacerbated by the economic downturn and high unemployment, some criticized Maryland's administration, taxation, insufficient staffing, and delayed benefit payments. The case of Maryland here again typifies the experiences of the majority of other states. Not surprisingly, states and the federal government were under pressure to reform the unemployment compensation system as a result of the test the 1970s economic downturn posed to the system.

The late postwar and early 1970s were challenging years for the Maryland unemployment compensation program. High unemployment during the 1970s economic downturn brought out shortcomings in the state's program and strained its funds and operations. In addition to facing economic woes, employers faced rising tax rates because of worsened experience ratings. Many workers, aside from those not covered by the system, exhausted benefits and relied on the enactment of extended benefits. Further, the economy and unemployment stressed state employment agencies responsible for unemployment compensation as their offices dealt with more claims for extended periods of time.

Federal-state relations continued to be critical in the operation of the system as Congress enacted extended benefits and the Special Unemployment Assistance (SUA) program that covered workers not under the existing federal-state system. These relations at times grew strained as the federal level took action during the 1970s. For example, Maryland joined other states in suing the federal government after coercive federal legislation compelled states to cover state and local government employees. The 1970s were formidable years for the unemployment compensation system, which had remained relatively steady throughout the prosperous postwar era.

Maryland, like most other states, responded to federal changes to coverage provisions by amending its own laws. With the exception of employees of small businesses and some state government employees, Maryland in large measure acted in response to federal initiatives when it came to which occupational groups were covered in the federal-state unemployment compensation system. From the institution of its program in December 1936 using federal minimums, Maryland expanded its coverage to include smaller businesses in 1937 (to employers of four or more workers) and 1945 (to one or more). The state also required some coverage of state government employees and permitted other entities the option. With these exceptions, Maryland waited on federal incentive to bring additional groups of workers into the system. Like most other states, Maryland ultimately followed federal initiative and serves as a standard case of federal-state unemployment compensation.

Conclusion

The federal-state unemployment compensation system and decisions to cover or exclude particular groups of workers changed with time. From the Social Security Act of 1935 to the Unemployment Compensation Amendments of 1976, the joint system gradually protected more workers. In times of economic hardship and high unemployment, the unemployment compensation system provided laid off workers with weekly benefits to tide them and their families through temporary unemployment. The efficacy of the system in swinging into action during the recessions of 1958 and the seventies led many to credit the program with saving the nation from spiraling into depression. The federal-state partnership does not just aim to protect workers and their families, but functions to maintain purchasing power and avert disaster. The unemployment compensation system continues to function in this manner today. Thus, despite criticisms leveled toward state and federal administration, funds, financing, coverage, and benefits, many praise the nation's system of unemployment compensation during periods of economic hardship.

The Social Security Act of 1935 created this federal-state partnership, and, like the substance of the 1935 Act, the program's subsequent developments were products of their time. From the economy, unemployment, politics, and developments in Social Security to World War II, the growth of the federal government, and the decline in agriculture, changes to the occupational groups covered under the system reflected the current state of the nation. Further, once coverage provisions were established, either by

Congress or state legislatures, they were difficult to alter or abandon. As in many other American institutions, the engine of expansion moved slowly.

In large measure, states chose to follow the federal coverage provisions that dictated the employers subject to the federal unemployment tax. The federal level of this story is important to understanding the history of coverage under the federal-state system. Changes to coverage at the federal level came incrementally. Not all federal programs were part of the federal-state insurance system, but some were funded by general revenues (as opposed to employer contributions based on employment records) and administered by the states. One such example was compensation for veterans and ex-service members. Starting with the 1944 GI Bill and then the 1952 Korean veterans program, the federal government ultimately moved to institute a permanent program in 1958. This was not the only program of this type. The 1954 extension to federal civilian employees is another example.

Federal legislative activity in 1954 marked one of two major milestones in coverage. Congress granted coverage to federal civilian employees and workers of smaller firms (those employing four or more workers) in 1954. This marked the first significant piece of federal legislation amending coverage provisions. The second major milestone came with 1970 and 1976 federal legislation. The 1970 Employment Security Amendments extended coverage to employers of one or more employees, agricultural processing, state hospitals and state higher education, and nonprofit organizations of four or more employees (excluding churches, religious organizations, and primary and secondary schools). The 1976 Unemployment Compensation Amendments granted coverage to primary and secondary schools, large farm employers, state and local

government, and some domestic household workers. These two pieces of federal legislation marked the second significant expansion in coverage under the federal-state system.

In the interim between 1954 and 1970, Congress debated unemployment compensation and coverage, but failed to pass significant amendments. Beginning in 1950 and continuing through the postwar era, members of Congress introduced comprehensive bills on behalf of the administration. Many of these bills attempted to secure federal minimum benefit standards, increased coverage, and grants to states with high costs. President Johnson's 1965-1966 attempts (a precursor to the successful 1970 federal legislation) were not new. But the proposals were the most comprehensive, going further than previous administrations and including several new changes. This period demonstrates the ability of other highly contentious issues, such as federal requirements on state benefit provisions, to doom legislation. However, some coverage reforms were a contentious issue in their own right. By and large, due to the nature of the unemployment compensation system, states, as typified by the case of Maryland, followed federal initiatives regarding coverage provisions. The exceptions were smaller businesses and state government, which the majority of states covered before federal compulsion.

During the course of this history there are a number of stakeholders. These included the states, state employment agencies, and the Interstate Conference of Employment Security Agencies. These groups wielded a great influence over developments. Two others were the opposing forces of business, with representatives such as the Chamber of Commerce and the American Farm Bureau Federation, and labor, through the AFL-CIO and other unions. These groups testified in highly expected

manners throughout this history. Another group involved in this story was administration representatives, such as the Department of Labor. As was the case with agricultural labor, the Department of Labor often facilitated research on unemployment compensation. In Congress, many important players emerged from this story. These included Robert Wagner (D-New York), Aime Forand (D-Rhode Island), Daniel Reed (R-New York), John Byrnes (R-Wisconsin), Wilbur Mills (D-Arkansas), and James Corman (D-California), to name just a few. Other individuals, such as Edwin Witte and Arthur Altmeyer were central to the development of unemployment insurance in the United States. In Maryland, individuals such as Simon Sobeloff and their work can not be undervalued.

Ultimately the story of unemployment compensation coverage from 1935 to 1976 is one of caution and preoccupation with long-term viability and solvency. The issue of feasibility is central to this story. The administrative and tax burdens on employers and states by including particular groups of workers were central concerns. For example, the threat of burdening the system by including farm workers prompted Congress to mandate a study organized by the Department of Labor in the 1970s. It is also a story of both cooperation and contention between the two partners, the states and the federal government. Nearly every issue related to unemployment compensation is a federal-state issue. Disagreements over federal and state prerogatives, local responsibility, “states’ rights,” and the notion of addressing the national problem of unemployment underlie many debates. In order for this social insurance system to function and provide benefits to unemployed Americans, the two partners had to function in harmony.

Social Security, another quintessential modern American institution, is also important to this story. Simultaneously created by the Social Security Act of 1935, comparison between unemployment insurance and the Social Security program were unavoidable. OASDI was fundamentally a different program and its coverage developed on a different course. Reform of the unemployment compensation program ultimately followed its own rhythm, one often different from general estimates of the welfare state. However, stakeholders in this story repeatedly drew on the developments and history of Social Security in their appraisals of the federal-state unemployment compensation system. In some ways, it resembled incremental policymaking by analogy. Not only are unemployment insurance and Social Security two highly visible components of the American welfare state, but both programs shared a common legislative history in the 1935 Social Security Act that made them inseparable for many.

The federal-state unemployment compensation system is a fundamental component of the public safety net comprised of social insurance and public assistance. Its development and coverage of particular groups of workers reflected economic, social, and political conditions during the period 1935 through 1976. From the GI Bill's readjustment allowances to take pressure off the state systems to the postwar era's low unemployment, growing unemployment funds, and declining tax rates, the historical moment influenced the development of the system. With stagflation in the 1970s, the major gaps in unemployment compensation coverage closed as most workers became covered by this highly visible component of the American welfare state. As a piece of historical narrative, this thesis has traced the development of coverage provisions at both

the state and federal levels from 1935 to 1976 in hopes of explaining just one piece of the underreported story of the federal-state unemployment compensation system.

Bibliography

- Altmeyer, Arthur J. *The Formative Years of Social Security*. Madison: University of Wisconsin Press, 1966.
- Berkowitz, Edward and Kim McQuaid. *Creating the Welfare State: The Political Economy of Twentieth-Century Reform*, 2nd ed. New York: Praeger, 1988.
- Berkowitz, Edward D. *America's Welfare State: From Roosevelt to Reagan*. Baltimore: Johns Hopkins University Press, 1991.
- . *Something Happened: A Political and Cultural Overview of the Seventies*. New York: Columbia University Press, 2006.
- Blaustein, Saul J. [with Wilbur J. Cohen and William Haber]. *Unemployment Insurance in the United States: The First Half Century*. Kalamazoo, MI: W.E. Upjohn Institute for Employment Research, 1993.
- Carroll, Peter N. *It Seemed Like Nothing Happened: America in the 1970s*. New Brunswick: Rutgers University Press, 1990. First published in 1982.
- Commons, John R. *History of Labor in the United States, 1896-1932*. New York: MacMillan, 1935.
- DeWitt, Larry W., Daniel Béland, and Edward D. Berkowitz. *Social Security: A Documentary History*. Washington: Congressional Quarterly Press, 2008.
- Douglas, Paul H. and Aaron Director. *The Problem of Unemployment*. New York: Macmillan, 1931.
- Garraty, John A. *Unemployment in History: Economic Thought and Public Policy*. New York: Harper & Row, 1978.
- General Records of the Department of Labor. Record Group 174. National Archives at College Park, College Park, MD.
- Government Publications. Maryland State Archives, Annapolis, MD.
- Katz, Michael B. *In the Shadow of the Poorhouse: A Social History of Welfare in America*, rev. ed. New York: BasicBooks, 1996. First published 1986.
- . *The Price of Citizenship: Redefining the American Welfare State*. New York: Metropolitan Books, 2001.

- Lieberman, Robert C. *Shifting the Color Line: Race and the American Welfare State*. Cambridge: Harvard University Press, 1998.
- Nelson, Daniel. *Unemployment Insurance: The American Experience, 1915-1935*. Madison: University of Wisconsin Press, 1969.
- Patterson, James T. *Grand Expectations: The United States, 1945-1974*. New York: Oxford University Press, 1996.
- Public Papers of the Presidents of the United States: Dwight D. Eisenhower, 1954*. Washington, DC: Government Printing Office, 1960.
- Public Papers of the Presidents of the United States: Harry S. Truman, 1948*. Washington, DC: Government Printing Office, 1964.
- Public Papers of the Presidents of the United States: Richard Nixon, 1970*. Washington: Government Printing Office, 1971.
- Rauschenbush, Paul A. and Elizabeth Brandeis Rauschenbush. *Our "U.C." Story, 1930-1967*. Madison, WI: 1979.
- Records of the Social Security Administration. Record Group 47. National Archives at College Park, College Park, MD.
- Ross, Davis R. B. *Preparing for Ulysses: Politics and Veterans During World War II*. New York: Columbia University Press, 1969.
- Rubin, Murray. *Federal-State Relations in Unemployment Insurance: A Balance of Power*. Kalamazoo, MI: The W. E. Upjohn Institute for Employment Research, 1983.
- Sautter, Udo. *Three Cheers for the Unemployed: Government and Unemployment before the New Deal*. New York: Cambridge University Press, 1991.
- Stebenne, David L. *Modern Republican: Arthur Larson and the Eisenhower Years*. Bloomington: Indiana University Press, 2006.
- The Public Papers and Addresses of Franklin D. Roosevelt, 1943*. New York: Harper and Brothers, 1950.
- The Public Papers and Addresses of Franklin D. Roosevelt, 1934*. New York: Random House, 1938.
- The Public Papers and Addresses of Franklin D. Roosevelt, 1940*. New York: Macmillan Company, 1941.

Witte, Edwin E. *The Development of the Social Security Act: A memorandum on the history of the Committee on Economic Security and drafting and legislative history of the Social Security Act.* Madison: University of Wisconsin Press, 1963.