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ASSEMBLYMAN THOMAS F. COWAN, SR. (ACTING CHAIRMAN): Good morning, ladies and gentlemen. I would like to call this meeting to order. I am Assemblyman Tom Cowan, sitting in for the Chairman of the Assembly Labor Committee, Joseph Patero, who is unavoidably detained today, due to a very heavy commitment, and he will not be here.

The other member of the Committee here today is Assemblyman Jimmy Zangari from Essex County. To my left is our staff member, Daniel Ben-Asher. To my extreme right is Henry Geller, Assistant Director of the Division of Unemployment and Disability Insurance of New Jersey.

This is the third in a series of public hearings around the State, which the Assembly Labor Committee has been conducting on the subject of unemployment compensation in New Jersey. It is a continuation of the Committee's efforts to solicit suggestions from the public, as well as from the representatives of business and labor, on ways to improve this State's program of providing short-term assistance to deserving workers during periods of genuine joblessness.

When your name is called, please come up to give your testimony. It would be most helpful, for the purpose of assembling an official transcript of this hearing, that you have a written statement to present; that you furnish copies of it to the Committee members and hearing stenographer. Anyone who has not already expressed an interest in speaking here today, and wishes to do so, can give his or her name, and affiliation, if any, to Mr. Ben-Asher on my left. If you have a written statement to present, which is of any significant length, please try to summarize it, and the entire statement will be made part of the official record.

Also, we ask you to limit your remarks to no more than five or ten minutes. Without any further comment, I would like to introduce the Mayor of Burlington Township here. I believe he would like to say a few words, before we commence with the hearing.

F R A N K J. C A U L F I E L D: Acting Chairman Assemblyman Thomas Cowan, your fellow Assemblyman and colleague, Assemblyman Jimmy Zangari, and your staff member, I, as the Mayor, Frank J. Caulfield, of the Township of Burlington, welcome you to Burlington Township, the land of acres of opportunity. It is an honor and it is a pleasure to have such distinguished guests in our small town, and small municipality. The Township is at your disposal, and it is our pleasure to have you in attendance in such magnitude of assembly. Thank you very much.

ASSEMBLYMAN COWAN: Thank you, Mayor. Our first witness will be Mr. Robert Bognar, and Ms. Susan Fogarty, New Jersey Hospital Association.

R O B E R T B O G N A R: Thank you, Mr. Chairman. The New Jersey Hospital Association has 124 member hospitals. The Unemployment Compensation Claims Administration provides service to 31 of the above non-profit hospitals and 33 non-profit homes for the aged. This represents coverage of 25,000 full time equivalent employees under the New Jersey Unemployment Insurance law. In 1979, we reimbursed to the Division of Unemployment and Disability Insurance over \$1.7 million paid in benefits to former employees of hospitals and homes for the the aged participating in our program.

We would first like to address the subject of graduate nurses. Regulations of the New Jersey State Board of Nursing hold that if a graduate of either a licensed practical nurse or registered nurse program fails two consecutive examinations, such individual is prohibited from working in a nursing capacity until he or she subsequently takes and passes the next licensing examination. It often happens that there are no other positions open to the graduate nurse, and the graduate nurse and hospital are left with no alternative but to sever the employer-employee relationship. The end result is an unemployed person and a hospital getting penalized by one state agency for complying with the regulations of another, the Division of Unemployment. In most cases, the hospital becomes liable for total benefits paid to the individual in such situations. Although we recognize that the claimant has no control over the situation - that is, failing the examination two consecutive times - neither does the employer, the hospital in these cases. We feel that it was not the intention of the writers of the New Jersey Unemployment Compensation Law to require hospitals to pay unemployment benefits in such instances.

We respectfully submit that a separation of this nature should be subject to the "voluntary quit" disqualification which we will discuss in a short time.

Next, we would like to speak on the issue of separation from work due to pregnancy. In May of 1979, the New Jersey Temporary Disability Benefits Law conformed with the pregnancy amendments to Title VII of the Civil Rights Act of 1976. Conformity required making no distinction between pregnancy and other illnesses for the purpose of paying benefits. Prior to conforming with the Act, women disabled due to pregnancy were receiving benefits for the four weeks before, and the four weeks following termination of the pregnancy. Benefits could be extended in cases involving complications.

Under New Jersey's Unemployment Law, a woman who leaves her job solely due to pregnancy is specifically exempted from disqualification. In all other cases, individuals who leave work for personal reasons are disqualified for doing so. Not only is this exemption unfair, but it is inconsistent with the state's Temporary Disability Benefits Law.

We respectfully submit that the exemption pertaining to pregnancy separations be deleted from the current statute.

We would next like to talk about misconduct disqualifications. We feel that the current six-week waiting period which attaches to a separation from work due to misconduct is simply not adequate. This is illustrated by a survey we made in 1977.

The survey covered a cross-section of hospitals throughout the State. The results are as follows:

The misconduct disqualification was imposed in 100 claims surveyed. After a disqualification period of six weeks passed, a total of 1,669 weeks of benefits were paid on the surveyed claims for an average amount of 16.69 weeks paid per claim.

Another measure of the disqualification's inadequacy is demonstrated by the number of weeks paid. In the survey, 64% of total benefits available were paid to claimants discharged for misconduct.

Misconduct is defined as a willful disregard of the employer's best interests. This means that the claimant is willfully causing his own discharge and his unemployment is of his own volition. However, the employer is being penalized in such instances, as is shown by these figures.

Based on the results of our survey, and what we have seen in the past, we feel that the necessity to change the law in this matter is clearly evident.

Regarding refusal of suitable work, under the current law, a four-week waiting period is imposed for refusal of suitable work. This is merely a deferment of benefit eligibility providing no reduction of potential eligibility for full benefits.

An unemployed person who is offered or referred to suitable work has the opportunity to end his or her unemployment. Should this person decline such an opportunity, his continuing unemployment is directly attributable to this decision; that is, the decision not to accept or apply for the suitable work. Such behavior is tangible evidence of the claimant's unavailability or unwillingness to work. It becomes clear to us at this point that such a situation is analogous to a voluntary separation from employment, because the continued unemployment is a direct consequence of the claimant's decision not to work. Accordingly, we see no conflict in treating a refusal of suitable long-term employment in the same manner as that of a voluntary quit.

Current law provides that no deferral of benefits be imposed upon individuals who refuse suitable work involving "substantially less favorable" wages, hours, or other conditions. Since the words "substantially less favorable" are open to varying interpretations, our proposed revision provides a uniform definition. The new provisions would discourage individuals from refusing a suitable job involving up to a 10% wage reduction during the first four weeks of unemployment; a 20% reduction in the next six weeks, and a 30% reduction after ten weeks. A change in a former work shift would not be considered substantially less favorable after eight weeks of unemployment.

Regarding the voluntary quit statute, under New Jersey's current law, it is not a rare occurrence for an employer to finance all the benefits paid to a former employee who quit his job for personal reasons. And, we hear this time after time from our hospitals. This is caused in part by the relatively easy remedy the law prescribes for relief of this disqualification. Being able to requalify for benefits after earning four times one's weekly benefit amount, substantially weakens the disqualification's intended severity and fosters an inequity felt by many employers.

For the above matters involving voluntary quits, discharges for misconduct, and refusals of suitable work, we propose the following uniform penalty: Disqualification would begin with the week of the quit, discharge, or refusal of suitable work, and continue until the individual becomes re-employed, works ten weeks in covered employment, and earns in this employment at least ten times the weekly benefit rate. His maximum total benefits would be reduced by an amount equal to ten times his weekly benefit rate.

We feel adoption of these provisions would be conducive to long-term employment and would relieve the original employer of a substantial amount

of liability. And, about fraud, under the existing law, an individual who frequently fraudulently receives benefits is disqualified for a period of seventeen weeks. In addition, maximum potential benefits are reduced by an amount equal to seventeen times the individual's weekly benefit rate, and a fine of \$20 is imposed for each week the individual collected benefits fraudulently. Yet, some Unemployment Compensation recipients continue to cheat the system by working while claiming benefits or by secretly discouraging suitable work offers. That current penalties are insufficient is clearly demonstrated by the fact that \$3.1 million in Unemployment Compensation fraud benefits were uncovered in New Jersey.

Fraud in the Unemployment Compensation system robs everyone and the utmost efforts should be invoked to eliminate it. Under the proposed revisions, individuals found guilty of fraud would pay back the benefits fraudulently obtained, plus a penalty of 20% of that amount, or would be disqualified from receiving benefits for one year from the date of discovery of the fraud. The Director of the Division of Unemployment Compensation would no longer have the discretion of waiving repayment - as is currently in the statute. The current fine, \$20 per week, which penalizes low-income more than high-income recipients, would be replaced by a fine of 20% of the claimant's weekly benefit amount.

These stiffer penalties would have the double benefit of cutting down on the incidence of fraud while at the same time generating more revenue to the State in fines and repayment.

The last point we would like to talk about is the Board of Review policy on unemployment claims and administrative hearings. Under the current Board of Review Policy, the right to obtain information from the opposing party is reserved for claimants, single proprietorships, attorneys, third-year law students, and law school graduates operating under a supervised program. The effect of this policy has been the production of many incomplete case records and the fostering of the defeatist attitude on the part of employers. Incomplete records result because the employer's role is limited to that of answering questions posed by the examiner. He is not permitted to either question the claimant or raise an issue pertinent to the matter. This is important because the examiner will sometimes forget to ask a key question or cover a critical point and the resulting decision is thus based on a set of incomplete facts. When an employer sits through a hearing and leaves with the feeling that the forthcoming decision will be based on information which is either inaccurate or incomplete, his attitude towards the unemployment compensation appeals process turns sour. We are hard pressed to answer questions like: What good does it do to document, to counsel, to investigate before taking action; these things that you tell us to do to save money on unemployment compensation claims, when we can't even get the information on the record? We feel that changing the appeals questioning procedure is the answer to this question.

Although we believe this restriction to be a problem for all involved in the unemployment compensation appeals process, we feel it is acutely manifested in terms of its effects on non-profit employers such as hospitals and homes

for the aged. With ever-tightening scrutiny by state and federal agencies on spending, the expense incurred in retaining legal counsel for such matters would be at best viewed with consternation; and, in any case, would be prohibitive. The recent policy change which grants representation rights to third year law students and law school graduates offers no relief either. The policy effectively covers only those who qualify for free legal aid.

A point of irony in this situation is that the hearing examiner, the factual adjudicator, is not required to be an attorney and in most cases is not a member of the bar.

The Unemployment Compensation Claims Administration of the New Jersey Hospital Association is the designated agent for members of the Unemployment Compensation Reserve Fund. The Hospital Association is a non-profit entity, as are all the members of our Fund. As the members' agent, we have a direct interest in every claim because it is our obligation to insure that all charges incurred are legitimate and that in the case of questionable claims, all avenues are pursued. In this light, we suggest that a policy be adopted which would permit us to question the claimant or hospital witness either directly or through the examiner. If the examiner thought our question had merit, it would be directed to either the claimant or the employer, as we so requested. If he felt the question had no relevance, it would be at his discretion to disregard it. The ability to ask questions under such conditions would not guarantee a favorable decision for the employer since any answer received could prove unfavorable as well as favorable. The important things are that the issue would be covered, would in many instances negate further appeals, and would restore the confidence employers should have in the Unemployment Compensation appeals process.

In fact, until the present policy was adopted approximately three years ago, hearings were conducted in the manner proposed above, and still are in New York and Pennsylvania as well as most other states.

We thank you for the opportunity of presenting the foregoing proposals and we urge your serious consideration of them.

I would just like to say that you might recognize that a lot of our proposals are very close to those of Mr. Muth of the New Jersey Business and Industry Association, and we fully support all the provisions in A-1035. Thank you.

ASSEMBLYMAN COWAN: Thank you Mr. Bognar.

Are there any questions?

ASSEMBLYMAN ZANGARI: No questions.

ASSEMBLYMAN COWAN: Thank you, Mr. Bognar. The next witness will be Donald Thomas, Personnel Supervisor from Wheaton Glass. Is he here? (No response)
Edward Fitzpatrick, President of the Toms River School Bus Drivers Association.

EDWARD FITZPATRICK: Good morning, Mr. Chairman. I appreciate the opportunity to be here today to speak to you on behalf of the Toms River School

Bus Drivers Association. I am Ed Fitzpatrick a school bus driver for the Toms River School System. I am also President of the Toms River School Bus Drivers Association. I am here to tell you that the school bus drivers of New Jersey urge you to take action to correct the current inequity in unemployment insurance. The status quo is especially capricious in our occupation.

I am sure you are familiar with the general complaint that the present arrangement works in favor of some people and against others. If your employer is the school district, you are ineligible for jobless pay during the summer layoff, but if you work for a contractor hired by the school district, you can collect summer benefits.

You are sitting about a dozen miles from the Lenape Regional High School District, which is a glaring example of this inequity. Lenape has one of the largest bus operations in South Jersey. Some of these buses are operated by drivers employed by the school district. Others are employed by the Meredith Bus Company retained by the school board to provide bus services.

Thus, some of the Lenape school district's bus drivers are eligible for unemployment benefits during the summer layoffs. Others are not. That is people doing the same job in the same school district. Yet existing law treats them differently.

I must point out to you, however, that both groups pay unemployment taxes. The bite from their paychecks is the same whether they are the fortunate ones covered during the summer layoff or the unfortunate ones who are presently ineligible. Yet one group is eligible for summer coverage and one is not.

In New Jersey, there are many bus drivers in both categories. It is clearly unfair that members of one pool can apply and receive jobless pay while others - their twins in employment - cannot.

Legislation has been introduced that can correct this inequity. I urge you to enact it into law for all the members I represent are asking that you do that too. I want to thank you for the opportunity to come before you to express our views. Thank you very much.

ASSEMBLYMAN COWAN: Mr. Fitzpatrick, thank you. Are there any questions from the Committee?

ASSEMBLYMAN ZANGARI: No questions.

ASSEMBLYMAN COWAN: The next witness will be a George Norcross, President of the Camden-Gloucester, AFL-CIO.

G E O R G E N O R C R O S S: Good morning. My name is George Norcross, President of the Camden-Gloucester Central Labor Council, AFL-CIO. Before I start---

ASSEMBLYMAN COWAN: George, before you start, I would just like at this time to welcome one of our colleagues who represents this district, Assemblyman Herman Costello.

ASSEMBLYMAN COSTELLO: Thank you, Mr. Chairman. I am sorry I am late. I got lost. (Laughter)

MR. NORCROSS: Before I start my testimony, I would like to express my appreciation to Assemblyman Patero, Assemblyman Cowan, Assemblyman Zangari, and also Assemblyman Costello for giving your time to hold these public hearings on unemployment insurance. The subject is very important to our affiliated organizations and the thousands of members we represent in the AFL-CIO.

On behalf of these organizations and our members, I would like to state that organized labor will not permit 40 years of legislative effort in making the unemployment compensation program a meaningful one to be gutted at this time.

We are vitally concerned that under the guise of preventing plants from leaving New Jersey, employer organizations are lobbying for changes in U. C. benefit law which will reduce payments to lower-paid workers, which will render ineligible large numbers of the unemployed and which in no way will persuade employers to stay here, once they have decided to pick up stakes and relocate to greener pastures.

It should be clear that with unemployment compensation an infinitesimal cost compared with the total operating expenses of business, decisions to remain in New Jersey or leave our State do not rest with this particular program.

We have seen the RCA Company, which is a big name among employers in this area, close a plant in Memphis, Tennessee where unemployment benefits are much less than New Jersey, and lay off close to 4,000 workers because the greener pastures they sought were located in Taiwan. There they could engage labor for 25¢ an hour, a minute fraction of what their labor costs were in Tennessee.

The same thing holds true for New Jersey. Companies are relocating in the sunbelt and overseas, not because of excessive unemployment insurance costs here, but because they expect to save millions of dollars in wage differentials, in pension and vacation liabilities of long-service employees, et cetera.

The reason I have tried to put this problem in proper perspective is that legislative decisions on unemployment insurance should be based on the fulfillment of its purpose and not on threats that business will leave if we try to maintain decent standards in our State in accordance with our traditions of taking care of our unemployed, our disabled, our retirees, et cetera, and our work force.

Certainly we can never compete with Taiwan, Singapore, Hong Kong, Haiti, or Timbuktu, for that matter, in trying to reduce our standards to their levels.

Certainly we should not want to make New Jersey into another Alabama, Mississippi, Georgia or the Carolinas which have traditionally been depressed industrial areas brought into the 20th Century during the Administration of President Franklin Delano Roosevelt, which electrification of Southern homes and provision of low-cost electricity under a program known as TVA, as well as other advances were made, out of the pockets of taxpayers of New Jersey and other industrial states.

For these reasons, we are especially appalled that the New Jersey Chamber of Commerce and other employer organizations are making a critical issue of reducing benefits of unemployed lower-paid workers.

Under the legislation they are pushing, they want an individual who now earns \$150 a week and would therefore draw \$100 unemployment insurance under the present law to be cut to \$75.

Since the majority of those on unemployment insurance make less than maximum, it is clear that this 25% reduction in benefits will represent

windfall profits to New Jersey employers while the unemployed will suffer with a cut in benefits which is absolutely unconscionable.

Every month, our organization receives figures from the Bureau of Labor Statistics on the cost of living. For January, that figure shows a cost of living rate for 1980 of 18%. How can employers expect unemployed workers to suffer a cut of \$25 a week in unemployment insurance and be able to take care of themselves, let alone their families when the cost of living takes another bite of close to 20% out of that same income.

Our Council represents many skilled workers and we do endorse legislation which would raise the maximum from its present \$123 to a figure closer to \$165 by changing the formula from 50% of average weekly wage to 2/3 of that wage.

However, in all good conscience, we cannot possibly endorse legislation which would raise benefits for higher-paid workers based on reductions in benefits for those who earn less than \$185 a week.

This the Chamber of Commerce Bill would accomplish and I might add at a savings to employers of over \$25 million a year.

We believe that those who draw maximum unemployment benefits are clearly entitled to increases under the 2/3 formula. At the same time, however, we believe that those who receive less than maximum weekly benefits should maintain their 2/3 of their average weekly pay, especially in this time of runaway cost of living and inflation.

We are also opposed to legislation which would make a person who is discharged suffer a 10-week loss of unemployment insurance benefits, reducing that individual to only 16 weeks' benefits and also requiring a 10-week waiting period without any income whatsoever before the individual could qualify for U.C. benefits.

This is the type of punitive legislation which an industrial state like New Jersey has carefully avoided in the past because as a labor representative we know that many discharges are unjust and improper and the worker should not be made to suffer doubly with the loss of his job and the loss of benefits as well.

The Chamber Bill would also require workers to be employed 26 weeks in a benefit year in order to qualify for benefits.

Qualification is based on 20 weeks under the present law. Organized labor seeks to improve this by allowing workers in industries such as the building trades to qualify under a formula which used to be part of the law, known as the 1/3 formula. This would allow high-paid workers who make higher earnings in less than 20 weeks, but who are then laid off to collect, to get maximum benefits because of their high earning rate.

We are also opposed to the Chamber's punitive proposals against those who quit who then get other jobs and are laid off from those jobs. Here again, the Chamber bill would reduce their benefit weeks to 16 in place of the 26 weeks which they now would be entitled to.

We also have our doubts concerning the wisdom of changing the "suitable work" requirements from the present standards which the Department of Labor enforces. We have confidence that the continuation of suitable work interpretations

under present procedures are fair and equitable while under the Chamber of Commerce Bill they would exact unjust penalties from workers who try to connect with jobs in their own skills and at their customary rate of pay.

We believe that 1980 should not be a year where the unemployment insurance law is emasculated. We believe that the law should be strengthened to pay higher benefits in this period of record inflation. We believe that dependency benefits should be added into the law. We believe that the waiting week should be eliminated. We believe that workers should have the right to choose to be represented at appeal hearings by non-attorneys, people such as union representatives.

These are forward-looking steps which we hope your Committee will recommend in place of retrogression.

I would like to add that in the event any additional information is required or necessary, Charles Marciante, and the entire AFL-CIO are available to provide whatever information, or additional input, you might require. I sincerely thank you for the opportunity to appear here this morning.

ASSEMBLYMAN COWAN: Thank you very much, George. We certainly appreciate your input, and your thoroughly prepared statement. Of course, I am sure that you, or most of the public that is here this morning, are aware that these two bills were introduced basically so you would have something to start with. Unless these bills are put in, in order to follow through our process, and be pushed through, that no one has a chance. As you can see, this is our third hearing. You mentioned in your testimony the building trades. I would just like to bring to everyone's attention at this time also that a request has been made by the President of the AFL-CIO, Mr. Marciante, concerning a special hearing for the building trades in the State, and having talked to the Chairman earlier today, he anticipates setting up a meeting for that. We will also be holding a hearing sometime in the very near future in Atlantic City to deal further with the seasonal employees. I just want to emphasize that point with you and the rest of the people in the audience today, that these bills were not introduced, just to follow through, but to give us a basis, which you are doing, and everyone is trying to do at this point in time.

Are there any questions?

ASSEMBLYMAN ZANGARI: Not at this time.

ASSEMBLYMAN COSTELLO: No.

ASSEMBLYMAN COWAN: Thank you, Mr. Norcross. Our next witness will be Arthur Wagner, Vice-President, Eastern Division, James E. Frick, Incorporated.

A R T H U R W A G N E R: My name is Arthur Wagner. I am the Vice-President of Eastern Division, James E. Frick, Incorporated. We are presently representing in excess of 250 New Jersey Corporations in handling their unemployment cost control. Many of the items that we will discuss this morning, or that I will outline this morning, have been incorporated into the New Jersey State Chamber of Commerce Bill that went earlier in the year, and I had some input into that, therefore I will agree with that in most instances. I would like to take this time to thank everyone on the Committee for the opportunity to outline these determinations.

The initial set up for unemployment was to pay qualified workers who are out of work through no fault of their own, and for this reason, I think the New Jersey Unemployment Compensation Law should reflect that in the meaning, way back in the 1930's. The items I think we should look at are as follows: The benefit formula should be reduced from 2/3 to 1/2 for a maximum of the 66-2/3% statewide weekly wages. The reason being, in this day and age with the taxes the way they are, people who are on unemployment have no real incentive to get back into the job market. It is very easy for them to sit by and just keep receiving the benefits and not have any problems with it at all.

The waiting week, as it presently stands, is very effective, and I feel that the waiting week, as well as the employers in my jurisdiction, should be continued and stay exactly as it is.

The eligibility requirements should be a little tighter controlled. We tend to have people coming in, and mailing in and getting their checks. They should be forced to report weekly, so that the incentive is there to become re-employed and start earning and making funds, and eliminating themselves from unemployment. Recently we had to have a pension offset. I think it is a good item, definitely, and it should be dollar for dollar, whereby the employer has in fact established a valid pension plan and is paying these employees out of the company's funds.

The monetary requirements in the State of New Jersey are considerably lower, considering the rest of the States in the country, and for that reason, I feel that 26 base weeks up from the present 20 would be required. The earnings of \$30 per week should be increased to \$40, especially in this day of inflationary times, and the elimination of the \$2200 earnings test we now presently have.

As for disqualifications, the categories are divided into three, voluntary quits, discharge for cause, and a lack of work. While neither my company nor any of the companies we represent want to penalize people who are actually entitled to unemployment benefits, we do think that when there are disqualifications, such as for voluntary quits, and for the misconduct connected with work, there should be a stricter penalty, one of which should be that the person should be disqualified until they earn ten times the weekly benefit amount, and a ten-week penalty, and reduce the benefits to ten times the weekly benefit rate. This would eliminate the ten weeks off the other end, reducing the basic 26 weeks of income to 16. The idea is that the person is out of work through no fault of their own, and it is really a company nice guy attitude to deliver the money from their own fund. This is actually creating a higher tax rate later on right out of corporate profits.

The other item I would like to add to this is that non-charging be issued in cases of voluntary quits and discharges for cause. They have a separate fund set up whereby the employers would pay in a certain portion of their tax to spread out through the entire State. There is no need for an employer who has had somebody work for them for two years, and the person terminates, and goes to work somewhere else, and in two weeks starts collecting benefits. Why should those benefits be taken out of their own fund?

The misconduct connected with work should be considered the same as a voluntary quit for disqualification.

The next item is the fraud penalty. The present 17 week penalty should be lengthened to one year; 17 weeks for fraud is kind of a small slap on the wrist. People should realize this is a little more important item than we are likely to concern ourselves with. As for representations at hearings, presently only a corporate officer or an attorney is now permitted to cross-examine. I think this should be expanded to any employees who are subject to New Jersey Unemployment Law or their representatives should be able to cross-examine. We go through a lot of time and effort and training of people on how to document, prepare for the hearings, and people will get a little nervous, and they need a little help along the way, and at this point they are not allowed to have any help other than an attorney. It would enable the hearing process to be cut down. It would cut the workload down that the people now have. That is the basis of my testimony this morning. I appreciate the opportunity to provide my views.

ASSEMBLYMAN COWAN: Thank you. Are there any questions?

ASSEMBLYMAN ZANGARI: Yes. You made one comment that there is no incentive for a person unemployed to go back to work; that he would rather receive unemployment. I don't know of anybody today that could live with the high cost of living and inflation. I think if anybody could get bona fide employment, the choice would be to go to work rather than collect unemployment.

ASSEMBLYMAN COSTELLO: Mr. Cowan, I have no questions, but I would like to comment. Perhaps this would be an appropriate time to say that I am here in a dual capacity. I am here as a representative of my employer who does have some concern and a few grievances relative to the unemployment compensation situation, but we are dealing in specifics. Mr. Wagner has addressed himself to some of the concerns of my employer, and I am hopeful when the testimony is typed up, and we do receive a copy of this I am going to take it back, and I think if it is any consolation to you, I hope that some of these concerns have to deal with some of the violations that we feel exist, and I have to agree with my employer. Perhaps it can be addressed through some further consideration when the bills come through the Assembly.

I am sorry to digress, but I thought it was an appropriate time, rather than go before the Committee at some time later in the day. I would just be repeating what Mr. Wagner has said on behalf of my employer. So, I appreciate your comments. You have saved me the trouble. Thank you very much.

ASSEMBLYMAN COWAN: Mr. Geller.

MR. GELLER: No comment.

ASSEMBLYMAN COWAN: Thank you very much. Our next witness will be Thomas F. Foy, Assistant to the President of the New Jersey State AFL-CIO. (No response)

In the absence of Mr. Foy, next we will hear from Maureen Thomas, President of the Toms River Schools Cafeteria Workers Association.

M A U R E E N T H O M A S: I am Maureen Thomas, a cafeteria worker in the Toms River School System and President of the Toms River Schools Cafeteria Workers Association. I, too, urge you to extend unemployment coverage to

all nonprofessional employees of the public schools. I am not going to point out to you, as Mr. Fitzpatrick did, the inequities within the system. My message to you is that school employees who are jobless during the summer need coverage every bit as much as anyone else losing income because of seasonal layoff.

At present, nonprofessional employees of school districts are the only group of seasonal workers who are denied the right to collect benefits when they are laid off seasonally, only school employees are forbidden to collect unemployment compensation.

I hear a lot of arguments against granting us this coverage, and I would like to respond to some of them.

One objection is that it would cost money. Of course it would cost money. It costs money to give protection to auto workers, farm workers, steel workers, construction workers, and everyone else already eligible for jobless coverage. No other group of workers has been required to wait until a time when it would cost no money. If they were, they would all still be waiting, and no one would be covered. The state simply must accept that there will be a cost and get on with the job.

Another objection is that it would cost a lot of money to put us under coverage. I dispute some of the estimates that I have heard. These estimates fail to take certain realities into account. One of these realities is that anyone refusing suitable work would automatically be disqualified from coverage. Another is that many school employees have steady jobs they return to every summer.

A third is that most school employees laid off in the summer are low-pay people. The opponents claim that we would luxuriate on maximum jobless benefits. In most cases, this is not so. Some of our people earn below the minimum wage. Many of us have weekly earnings averaging between \$60 and \$90. The fact, then, is that many school workers wouldn't get even half the maximum benefit already available to seasonal workers in high-pay industries.

I repeat - that it is discriminatory to exclude one group of seasonal workers from jobless-pay coverage and that many of the arguments being used against including us are inaccurate or off-base.

We need to be covered. We deserve to be covered. We are already paying for coverage. It is unfair to deny us this benefit any longer. Thank you for this opportunity to express my views.

ASSEMBLYMAN COWAN: Thank you. Are there any questions at all from the Committee?

ASSEMBLYMAN ZANGARI: No questions.

ASSEMBLYMAN COSTELLO: No.

ASSEMBLYMAN COWAN: Thank you. Now, if Mr. Foy is present, we will hear from Mr. Foy, please.

T H O M A S P. F O Y: Assemblyman Cowan, Assemblyman Zangari, Assemblyman Costello, staff member, and members of the public. My name is Thomas Foy, and I am Legislative Counsel to the New Jersey State AFL-CIO. I also enjoy the privilege of serving as municipal attorney for the Township of Burlington and have the occasion of having invited you to Burlington Township to conduct

this hearing. I am pleased that the Committee could come here. I echo the Mayor's welcome.

On behalf of the New Jersey State AFL-CIO President Charles A. Marciante, Secretary-Treasurer Edward B. Pulver, and the 750,000 affiliate member workers in organized labor in New Jersey, I wish to present this testimony regarding the proposed unemployment compensation law reform your Committee is undertaking. This Committee is holding hearings on the future of unemployment compensation in New Jersey at what must be considered a critical juncture in our State and nation's economic history. Nearly every reputable economic analyst is predicting that America is on the verge of a recession that will add immeasurably to unemployment roles. Experts in New Jersey are predicting an almost nine percent unemployment rate by year's end. It is clear, then, that your ultimate decisions regarding our unemployment compensation system will have a great impact on the lives and purchasing power of a sizeable percentage of our state's population. In reaching those decisions, we urge you to act not only with economic prudence, but with a healthy dose of human compassion as well.

This Committee already has before it the recommendations of the management groups - Assembly Bill 1035 - which are decidedly not compassionate, and those of the State Employment Security Council, which, while offering some reform, labor feels do not go far enough in eliminating existing inequities within the U. C. system. Considering the nation's bleak economic outlook, we feel this is not an appropriate time to either reduce benefits, limit the number of recipients, or maximize eligibility requirements.

However, the New Jersey State AFL-CIO would like to recommend several revisions to the unemployment compensation system for this Committee to consider. We feel they will result in an improved system that is more responsive to the needs of workers who are unemployed through no fault of their own.

First, we recommend that any reform provide benefits equal to 75% of the individual's weekly wage, subject to a maximum of 75% the statewide average weekly wage - \$184.50. The present maximum of one-half the state's average weekly wage - \$123 - is unquestionably insufficient in this time of uncontrolled inflation when the cost of basic necessities - energy, food, housing - have become oppressive even for the gainfully employed.

Second, we urge you to provide dependency allowances of \$10 for the first dependent, and \$5 for each of the next two dependents, with a maximum of three dependents. Organized labor feels that dependency allowances should be granted in addition to the basic benefit rate, and not just to partially offset a reduced benefit schedule as recommended by the Employment Security Council.

Thirdly, we urge you to eliminate the working week and make benefits payable for each compensable week, beginning with the initial filing of a claim. Such action has already been initiated in 12 states and has been approved by the U. S. Department of Labor. We feel that attitude that a recently unemployed worker has sufficient resources to tide him over for one or two weeks is outmoded in this time of spiraling 18%-plus inflation rates.

Further, we urge you to provide unemployment compensation eligibility for non-professional school employees during the summer shut down. I certainly

echo the sentiments of the people from the Toms River School Bus Drivers Association and Cafeteria Employees. They spoke eloquently about their particular problem. Non-professionals, such as bus drivers, tradesmen hired directly for temporary employment, et cetera, currently cannot qualify for benefits during summer months, even though they pay into the fund, are available for work, and have been laid off through no fault of their own. However, their counterparts in private industry whose services are contracted for by the Board of Education are able to collect. The inequity is obvious. The Council's recommendation that educational institutions be required to guarantee future employment merely through a "written assurance" is clearly not binding and is inadequate.

Further, we urge you to restore the one-third alternative benefit formula prior to 1974, wherein a worker who has a comparatively high weekly rate of earnings, but only over a short-term period is able to qualify for additional benefit weeks. Under the alternative formula, an individual's total wages are divided by one-third to produce an amount which is then used to compute a weekly rate. Experience has demonstrated that deletion of this provision has impacted severely and adversely on those workers able to earn high wages during short-term periods of work.

Employees who are locked out of work because of labor disputes should be eligible to qualify for Unemployment Compensation benefits since they are unemployed through no fault of their own and are available for work. Employers often use the lock-out technique as a device to bring union representatives under their thumb. Such unfair labor practices should be rewarded or condoned.

We urge that you permit both interested parties - claimant and employer - before appeal tribunals and board of review hearings to be represented by non-attorneys, if they so choose. These representatives should have the same rights as attorneys, including the right to cross-examine. The present arrangement is overly restrictive and expensive.

We urge you to establish legal remedies to protect the unemployment trust fund and its employees, when an employer moves out of the State. Those workers who are not represented by unions currently lose their pension, health insurance and other benefits when their employer leaves New Jersey.

In general, the State AFL-CIO supports other existing eligibility requirements, as well as existing penalties for misconduct and fraud. We would respectfully urge this Committee to resist management efforts to toughen eligibility requirements to such an excessive extent that they would unduly disqualify large numbers of workers who are now able to collect.

New Jersey's unemployment compensation system has played a significant role in helping thousands of temporarily unemployed workers weather difficult economic times in dignity. This Committee has a responsibility to maintain and upgrade the system as a progressive force for good in our state's social life. Thank you for the opportunity to testify. I will be happy to answer any questions you might have.

ASSEMBLYMAN COWAN: Thank you, Tom. Are there any questions from the Committee members?

ASSEMBLYMAN ZANGARI: I have no questions.

ASSEMBLYMAN COSTELLO: No, sir.

ASSEMBLYMAN COWAN: Thank you. Mr. Raymond Auger.

R A Y M O N D A U G E R: My name is Raymond Auger. I am new in this area, and I want to talk about a case that involves my small company directly. I am not against unemployment insurance, but I am against those who profit from the unemployment insurance at the expense of small businessmen like myself.

In August, 1979, my wife and I bought a store. Since then, the lady who was the co-owner of the store has been receiving unemployment insurance. The lady in question was not receiving a salary, although she was the manager of the store, since April 1, 1979. Since then she has been receiving monthly allowances of \$98 a week. Now, I believe this is not in the spirit of unemployment insurance benefits. The lady has been receiving \$400,000 in payments at settlement, principle and interest, since then on the store with her husband, and they are soon to open a store next to us, but in January she expressly told me she was not eager to open because she didn't want to go back to work.

I believe, gentlemen, that this is a case where unemployment should not be given. I don't know at all if it is legal, since I am new in the area, in New Jersey. I don't know if it is allowed by the law. If it is not allowed, I hope this is corrected. If it is allowed, I hope the case is studied, so that people who have money cannot receive more money in addition, when they have sufficient wealth to live very easily.

On the other hand, I hope that people who deserve unemployment insurance to help them through a short period of time get through a hardship and meet their bills receive it, and I hope that those who don't deserve it, because they have other incomes, should be cut off entirely, and if it is illegal, they should be prosecuted for it. Thank you.

ASSEMBLYMAN COWAN: Thank you. Perhaps at this time Mr. Geller would like to respond to some of the points that were made here.

MR. GELLER: Mr. Auger, was this an individual operation, or was it a corporate entity? Do you know?

MR. AUGER: She was co-owner; she was a shareholder of the company.

MR. GELLER: Have you appealed?

MR. AUGER: I was not aware of this. I was very, very busy with the company. I am still extremely busy. I was talking with a member of the panel here last week, and I was invited to make a presentation.

MR. GELLER: Mr. Auger, there is some doubt about the payment of benefits. If you will see me later, I will make an investigation and give you a full report.

MR. AUGER: Thank you very much.

ASSEMBLYMAN COWAN: Mr. Geller serves as our Department expert. He travels to all our Committee hearings and he is the expert in the field. If you do have any problems at all, please speak to him.

MR. AUGER: I don't know if it is legal. But, if it is legal, I don't think it makes sense for somebody who receives an income to receive, on top of that, unemployment insurance. I bought the store, not in order to give unemployment insurance to the sellers of the store. To me, that doesn't make sense. Now, I am not even taking a salary from the store, and I am paying for somebody who sold the store to me. I think it is ridiculous, whether it is legal or not.

MR. GELLER: It merits looking into, in any case. Thank you.

ASSEMBLYMAN COWAN: Thank you. That is a very pointed argument you bring up.

Our next witness will be David Pagenkopf, Stauffer Chemical Company.

D A V I D P A G E N K O P F: Gentlemen, my name is David Pagenkopf. I am the Personnel Manager for Stauffer Chemical Company in Yardville, New Jersey.

If no other changes were made to the Unemployment Compensation Law, I believe a giant step forward would be made if the law was amended to deny unemployment compensation benefits to those who are discharged for misconduct. It is my understanding that the law was established to provide temporary income to those who lost their jobs through no fault of their own. There are too many people who are collecting unemployment compensation benefits after having engineered their own discharge. There are too many people who are working only the required number of weeks to become eligible for benefits - I believe that is currently 17 weeks - before they begin to lose time from work, come to work late, or simply perform their jobs in an unsatisfactory manner, whatever is needed to establish themselves as unsatisfactory employees. Ultimately it becomes necessary for them to be dismissed from their jobs. They wait the five or six weeks, so-called penalty period, and then collect the same maximum number of weeks of benefit as the unfortunate people who are laid off through no fault of their own, many of whom want work, need work, and deserve work.

I don't see the equity in this, and I don't think this was the original intent of the unemployment compensation law. To protect the employees who are discharged for misconduct, I think it is essential that employers be required to document the reasons for these discharges, but I believe there should be language added into the law that if this documentation is sufficient and hearing officers are convinced that the discharge has been for misconduct, then unemployment compensation benefits should be denied without any five or six week waiting period involved.

That is all I have. Thank you.

ASSEMBLYMAN COWAN: Are there any questions?

ASSEMBLYMAN ZANGARI: No questions.

ASSEMBLYMAN COWAN: Thank you very much. Our next witness will be Joan Lowe.

J O A N L O W E: I too appreciate your allowing us to speak before your Committee. My name is Joan Lowe. I am general manager of a small office in New Jersey, Safeguard Business Systems. I am making a specific reference to two experiences that we had, a point Mr. Wagner made in his talk with you.

We had two employees that left our employ and left the State of their own choice. One left to go to California to start a new life with her husband, and the other left to go to law school in Wisconsin. The first person took a Christmas job in a department store, worked a few weeks, and then was laid off, and collected unemployment insurance. The second person left law school, took a job, left that job, and she too collected unemployment insurance. Both of these experiences were charged against our rating.

We felt that we were willing to hire them back, and that if they were to be allowed to collect unemployment insurance it should not have been charged against us. We have provided stable employment for several years in each case. I would like to recommend that if you feel that people have to collect unemployment when they quit a job that perhaps the experience should be charged against the job where they are laid off.

The point should be made that when people quit their job, they have some responsibility for the actions they do take. That is our experience, and I hope you will give it some attention in your new law.

ASSEMBLYMAN COWAN: Thank you.

MR. GELLER: Would you mind if I got the details of your company, so I can investigate the two incidents.

MS. LOWE: Yes, I will. Thank you.

ASSEMBLYMAN COWAN: Thank you. Our next witness will be Henry Rowan, President, Inductotherm Industries, Inc.

H E N R Y M. R O W A N: Gentlemen, my name is Henry M. Rowan. I am President of Inductotherm Industries. We employ about 1500 people in New Jersey. I represent that segment of industry that must compete with similar industries in other states, and in other countries.

Free money - that which represents no work - is a destructive element in any society. It is the root of inflation, destroying the purchasing power of savings, insurance, pensions, et cetera. It attracts the kind of people who seek "free money", thus multiplying the destructive effects. It attracts the kind of businesses that can thrive on these funds - businesses that need part-time employees who will work at low wages as long as "free money" is available when they are out of work.

The added costs drive away the more legitimate businesses, reducing the job opportunities for industrious people.

It renders the work force in a country that promotes "free money" less competitive than a country that does not, thus making the goods from the other countries appear cheaper. As Americans buy these "cheaper" goods, this increases the need for more "free money." The public picks up the tab in taxes and through inflation, and the quality of life that we set out to improve is actually reduced.

Unemployment compensation is one of the sources of "free money," and thus one of the destructive forces, and as such, has still another unique destructive force of its very own. When people are no longer concerned with losing their jobs, they no longer prepare for their jobs. They do not care as much or try as hard. They produce less and thus reduce the standard of living.

Yet, I do not suggest that unemployment compensation be eliminated but rather recognize it for what it does and keep it in balance with the ability of our society to support it.

The purposes are noble: it makes funds available for those who are between jobs or cannot find work; and it should maintain the purchasing power, and thus maintain the economy through minor recessions, preventing recessions from feeding on themselves and becoming major depressions.

How, then, can New Jersey's Unemployment Compensation Plan maintain these noble purposes without suffering the destruction that free money can cause in a society?

The key lies in recognizing that the more free money that is available and the freer it is, the more destructive it becomes. The program, then, must be moderated and controlled to promote its purposes and yet subdue its destructiveness.

Some axioms to a successful system may be of interest to the Committee. It must never be more attractive, under any circumstances, not to work and draw unemployment than it is to work.

At two-thirds of wages - and the legislators want to raise this limit - one spouse in a two wage-earner family paying taxes which can reach the 33% bracket can have more spending money from unemployment than from wages. With no taxes, no transportation, no lunches, no child care expenses, time to shop more astutely, time for household maintenance, time to prepare foods more economically, yes even time to garden, a couple would be financially ahead, way ahead, to maintain one full-time wage earner and have the other work six months and draw "free money" the other six months.

It must never be possible for a business to reduce its labor cost by hiring people at low rates for six months of work and then six months of "layoff." People who want this furlough - and the free money that goes with it - will work for less, and the business pays only 5% more in unemployment taxes than the amount paid by a company with the best record - 6.2% versus 1.2%.

It must never be possible for an employee to quit his job and still collect benefits. We had, for example, a young \$18,000 a year accountant who quit, resigning because he was not satisfied with his year-end bonus. We tried for a week to persuade him to stay, but he insisted on leaving, and still went to the unemployment office and persuaded them to pay him \$1,000 in benefits while he was unemployed. One thousand dollars in public funds was wasted, taking from the working people in the state. It was only on the third appeal that the decision was reversed and the Commissioner of Labor and Industry was still left with the choice as to whether or not to recover the funds.

I think that is an example of the abuses and the ease with which one can quit a job and still collect benefits.

Unemployment benefits should never augment other funds. An employee who receives any form of severance pay, whether it be from a vesting pension fund, a vacation pay, or direct severance pay, should not be entitled to unemployment until those funds are exhausted at the unemployment rate. At Inductotherm we provide a profit sharing trust which serves as a pension fund to those who stay for many years, and serves a severance pay for those who leave early. We have had people leave and draw \$15,000 or \$20,000 from this fund as severance pay and still were entitled to draw unemployment funds from the public.

Unemployment should never be touted as a "right" which a worker buys and pays for through "contributions." The amount a worker pays himself, one-half of one percent of pay up to \$34.50 a year, is insignificant compared to the amount received as compensation when he is out of work.

And, yet, how many people do you hear say "Well, it is my right; I have paid for it, and therefore, I might as well enjoy it."

Unemployment should never be paid to anyone for whom work is available, and by work I mean any work. Why should the public have to work and earn money and give it to someone else for whom work is available, but who finds that work is distasteful? When employers need people for cleaning, laboring on a farm or elsewhere, why should they be deprived of help while the unemployed live on the public?

Those are the axioms, and now for some remedies:

1. Reduce the benefit to what it is supposed to be - subsistence, not substitute funds. We have heard a lot today about substitute funds.
2. Make funds available only where there is need. Total family income should be considered.
3. Charge the employer a much larger portion of the cost he imposes on the public through his employment practices. By that I mean, if a company has a very poor employment experience rate, he should pay a premium for it, and those companies with a good history, or a good record should benefit far greater than the 5% differential that exists in law.
4. Bar a man who quits a job from receiving unemployment benefits for a long, long time, and protect the employer from the costs of the unemployment benefits. As it is now, a man can quit a job, get a temporary transient job for a few weeks, and then collect full unemployment benefits for 26 weeks, mostly against the original employer. But in reality it is against the public.
5. Require that anyone receiving unemployment benefits spend full time job hunting - eight hours a day, just as the workers who are providing the "free money" have to spend eight hours a day earning the money to pay him. Have him submit a written report logging his time and reporting on his visits and interviews.
6. Have any potential employer who offers a job to an unemployed worker report the offer to the unemployment office. Refusal to take the job should start disqualification proceedings.
7. Pay no compensation where severance pay is provided until the severance pay is exhausted at the compensation rate. Give the company paying the severance credit for these benefits through reduced unemployment taxes.

Some of these measures seem severe, but I think the problem is severe. Our inflation is overwhelming. Our taxes are reaching intolerable level. Some "play" the system and some companies "play" the system. Others relax and

and enjoy the system, because it is available. Competition from other countries are selectively destroying American industries. The watch industry in the U. S. died years ago. I don't believe there are any watches made in the U.S. A. The electronics are made elsewhere. The textile industry has moved overseas. Steel mills have closed and we may be on the verge of losing a good part of our auto industry.

A state which promotes broad and generous programs will attract people who exploit the programs driving away the most industrious people and the companies that need these people.

New Jersey can improve the quality of life for its people by increasing the rewards for real performance, by providing a climate where industrious, hard-working people can earn their dues without having to carry the cost of those who do not.

Thank you for allowing me to appear here.

ASSEMBLYMAN COWAN: Thank you. Are there any questions?

MR. GELLER: I would like to make a few comments. Number one, with respect to a person who is receiving a pension, there is a federal act which provides for reducing the benefits of an individual by the amount of pension he or she receives. This goes into effect April 1st. There is a draft bill before the legislature which provides for New Jersey's conforming with this law. I think you should know about that.

MR. ROWAN: May I comment on that? I believe that is true with regard to a retiring person and his pension. I am speaking about the 35 or 40 year old individual who is not retiring but leaving a job, taking with him the vested interests in a fund of \$15,000 or \$20,000 and then going on unemployment in order to provide additional funds.

ASSEMBLYMAN COWAN: You are talking about profit sharing. That is what you have mentioned here. I was just wondering myself in relationship to this, when you mentioned profit sharing, is that part of an annuity that would be considered a pension?

MR. ROWAN: It can be.

ASSEMBLYMAN COWAN: Is it in your fund?

MR. ROWAN: It is used for many purposes, including a pension rather than an annuity. It can be used for educating children; it can be used for endless emergencies, and it provides funds when an employee leaves, even though it is long before retirement time.

ASSEMBLYMAN COWAN: So, am I interpreting this correctly then, that an individual has a choice in your employ to have a pension, profit-sharing, or to have an annuity?

MR. ROWAN: I believe--- Yes, that is right. He can put it in an annuity.

MR. GELLER: With respect to the Commissioner of Labor and Industry having a choice whether to recover the funds, where the claimant has received benefits, it is only practical where a person dies or where that person is totally disabled; the Commissioner otherwise does not waive the recovery of the funds. As a matter of fact, when such overpayments are made, especially fraudulently, we file COD's, certificates of debt, or liens against the property;

and in cases involving any large sum, we almost always investigate it, even though there is no fraud involved. So, we are very active in collecting such overpayments.

MR. ROWAN: I am very glad to hear that. We have written to ask about that, and have not yet received a reply. That was some weeks ago.

MR. GELLER: In all likelihood, there will be no waiver.

MR. ROWAN: I would hope so.

MR. GELLER: Now, the Social Security Act which provided for the unemployment insurance programs in the 53 jurisdictions throughout the country made a very strong point that unemployment benefits should be available to people not on the basis of need, but on the basis of right, so we don't have insurance.

MR. ROWAN: The State has no choice.

MR. GELLER: We don't have a choice.

MR. ROWAN: That is unfortunate.

MR. GELLER: With respect to your point five, I thought it might be interesting to you, with respect to the responsibilities or the authority of the legislature or our department to cope with these situations, we periodically ask the claimant to maintain a record of where he looked for work, what job offers were made, the type of demands he made with respect to employment, and we interview these people to determine what progress and what actions he or she has taken with respect to finding a job.

MR. ROWAN: On that one, I have been to a hearing after an individual has been unemployed for a good many weeks, and the employee had four jobs in several weeks that they had applied for, and none of them were suitable. I don't think four jobs in several weeks represents any attempt at all to find work. Therefore, I don't think that provision in the rules is policed properly. I think the real sincere, genuine effort to find work should be required. I think you will find that many times a few applications in several weeks is considered adequate to maintain their unemployment benefit status.

MR. GELLER: That would depend upon the claimant's experience, training, background, availability of jobs. I don't know the individual case. So, I can't comment.

One more point, the department has a form called BC-6, and that form provides a vehicle for any employer who has offered a claimant a job, and if that claimant refuses that job, we would like to know about it, so that we can interview that claimant and find out why he or she had refused that job. We would be very happy to provide you with copies of those forms, so that we can get your cooperation. I am sure you would like to do that.

MR. ROWAN: We sure would. I am sure many other industries don't know of the form or the practice. It could be very helpful in reducing unemployment.

MR. GELLER: We are eager to get that information.

ASSEMBLYMAN COSTELLO: Mr. Rowan, it seems that we have all hit on this profit-sharing program. Do the employees share in the cost of that? Do they contribute in any way in this profit-sharing plan with Inductotherm?

MR. ROWAN: No. That is a company contribution solely.

ASSEMBLYMAN COSTELLO: Thank you. Let me just comment, Assemblyman Cowan, that I am delighted that Mr. Rowan was here today. I have had numerous occasions to be in his company, and on several occasions we have discussed the problems as he envisions them in the State of New Jersey. I have always

taken his comments to be constructive. I welcome the opportunity to discuss them with him. I am delighted that he has shown up here today to offer us his comments.

MR. ROWAN: Thank you very much.

ASSEMBLYMAN COWAN: Thank you. Our next witness will be Fred Moriuchi.

F R E D M O R I U C H I: My name is Fred Moriuchi. We have a family operated farm in Moorestown. I think we have welcomed several of the legislators through the Department of Agriculture to visit with us on their tours. I probably have seen you also earlier this year in the Assembly itself.

On our farm there is myself and my father and one foreman to actively take care of 550 acres of apples and peaches. My wife Caroline does the office work, with a part-time assistant. In the normal year, that means we harvest 100,000 bushels of apples and approximately 70,000 bushels of peaches. There are some years we have a little bit more, and other years we don't have that many. All this fruit is raised for the fresh market. By necessity this fruit is all hand-picked. When the fruit leaves our farm, there are no blemishes detectable in the fruit.

There are other jobs that also necessitate hand work, such as planting, and we will trim each individual peach tree, so that the peaches are within no more than five or six inches of each other. That is every limb on every tree. We have to do this in order to get adequate marketable sizes of the fruit. We also prune during the winter and pack our fruit also.

In 1979 we counted 210 people and that was to do the work of approximately 40 or 50 people. I would like to emphasize that we have work year-round in our type of operation. Farmers have just recently been covered by this State Unemployment Insurance, and we are slowly and painfully becoming aware of the processes of the administration.

I guess I have five basic questions or points of concern. First, I wonder what accounts for different treatments of seemingly identical cases, and are then all these cases based on the facts as they are presented? Secondly, what information can be obtained from an employee before he leaves our farm that would be recognized and acceptable to state unemployment insurance, to show that that individual left work voluntarily in order to re-locate for personal reasons or perhaps a death in the family, or something like that, or for the fact that the individual thought that the weather was too hot or the work was a little too difficult.

All this would be with the understanding that we have work available and we are actively looking for people to do the work that this person would leave. Third, if a worker does collect benefits, how can we recall these individuals if they are out of state? I have been told that we have one case where an individual collected, and I offered the information over the phone, and I asked what I could do to get the person back, because he did leave for personal reasons. He wanted to go home at Christmastime. How could I get that individual to come back? I had work available and I was told I had little recourse since he was out of State.

Fourth, what do we do with a claim that comes directly from out of state? Most of our claims come through the interstate claims bureau, I believe,

and I have gotten specific requests for information from Texas, and New York and also from Puerto Rico. Those that are from Puerto Rico are in Spanish. I have had to return them. In the same vein, I wonder what checks are made to prevent an individual from collecting in two states. Usually claimants file in both Brooklyn and in northern New Jersey.

And, lastly, for us, it is an irritation to fill out a form for an individual that has worked one day or even less. From our personal point of view, we are a small business, family farm. When we fill these forms in, it is usually done after our normal work day. I guess we might be a little more easily irritated in the evening. Specifically, I had one case where there were two brothers who left exactly the same time. They both worked the same length of time. They went home to Puerto Rico, and filed the same form. We got these forms, filled them out, and sent them back with identical information. One man immediately got a benefit determination, and started to collect. I guess he collected \$1220. To that effect, when we saw that charge on our account, we sent a letter to the Division of Unemployment, and we were sent back a letter that said that the individual is no longer living in New Jersey. The law does not prohibit an individual from moving out of this area of previous employment. If he or she is in the labor market, is able to work and is actively seeking work in the new area, the claimant is entitled to receive unemployment benefits that are chargeable to the base year employer. Such an individual will no longer be required to be available for a recall to a job from which he has been separated in the area of prior residence. This man was a resident of Puerto Rico, and he went home to be home at Christmas, but once he started to collect, we didn't see him until he collected everything he could.

Now, we filled out a form for the man's brother, and a benefit determination came through, but there was another determination of an out of state claim, and on the 29th of January, 1979, he was rejected, and also in March, 1979, his appeal was rejected again. But, in September of 1979, after the man had returned to work for us, and had been working for two, two and a half or three months, there was a reversal of the two earlier rejections. We were not ever informed that such a hearing, or whatever it was, was to be conducted, and the man collected \$1220 in benefits, and he received in the mail a pile of checks like this from Trenton, and as soon as he got his checks, he left our employ, and paid for tickets for himself, and I think he took his brother and his two cousins with him and they returned to Puerto Rico. So, it is a situation like that that I find very hard to reconcile.

We would like to see anything which is fair. When there is no work, and a man can't find work, that is one thing. But, if there is work available, and he is leaving work, I think that is not proper.

Now, in conclusion I would like to say that there are five different points or questions that I have, and possibly you could study them further and find something that could be incorporated in your deliberations. I would also like to emphasize that it has taken one individual from my operation to do something that we never had to do before. That is another added expense that we have, and we, like any other businessman, are trying to hold down

our costs. But, we are unlike a lot of other businesses in that agriculture is solely dependent upon the price that is established in the marketplace. Apples are grown throughout the country and throughout the world. Peaches are grown in various sections of the country. If the supply is not there, then the price of fruit goes up. But, normally, with apples, there is one area of the country that is doing quite well. We are not getting any more for our apples this year than we did last year, or the year before that.

With that, I would like to close and say that we have always had work available and are always happy to take these men back, but it seems difficult to get them back once they have started to collect.

ASSEMBLYMAN COWAN: How many people do you employ?

MR. MORIUCHI: Right now we have about 25 men and women.

ASSEMBLYMAN COWAN: How seasonal is that?

MR. MORIUCHI: Right now we are packing and doing our pruning outside. We will be pruning year-round, right after we finish harvest. We could keep twenty people going all the time.

ASSEMBLYMAN COWAN: At your peak season you employ somewhere in the neighborhood of how many?

MR. MORIUCHI: Fifty, possibly more, depending on the crop. It is always hard to tell. But, like I said, we had to go through over 200 people in order to satisfy our needs. We are lucky in that we did not lose any of our crop because of the lack of help. There is only about a 12-hour period in which peaches are ready to be picked. If you are too early, you don't have peaches mature enough for the market, and they will be rejected, and if you wait longer than that, you are going to end up with soft peaches you cannot ship, and we cannot eat that many peaches.

ASSEMBLYMAN COWAN: Are there any further questions?

MR. GELLER: May I make a comment?

ASSEMBLYMAN COWAN: Yes, Mr. Geller, I wish you would.

MR. GELLER: Originally, the Social Security Act did not provide for the coverage of agricultural workers. When the Social Security Act was amended, it became mandatory that each of the states conform, so that New Jersey had no choice. In order that we get the administrative funds from the Federal Government, our law and our administration must conform with the Federal law and the standards set forth by the United States Department of Labor. So, in that area we have no choice.

With respect to inconsistencies, we don't know inconsistencies really exist until we know all the facts in the case. Even though there may be two brothers working on the same farm, in your case, when they were interviewed in Puerto Rico, or any other state, they may have given a different picture. In other words, they may have been unavailable for work; they may have been ill, or there may have been numerous reasons why one person may not receive benefits. Apparently, the brother who had exactly the same picture did get benefits. So, we would have to see the cases. I am very curious and interested to look at those cases. I may be able to take some corrective action, or at least will try.

It is possible - we must belong with the other 52 jurisdictions to what is called an interstate compact. So, if an individual has worked for you and, say, goes to Wisconsin, when that individual files a claim in Wisconsin,

if he is not entitled to a maximum entitlement, he may combine his work experience in Wisconsin with that of New Jersey to get a maximum claim. So, it is conceivable that a person could work in New York, New Jersey, and combines his work experience to get a maximum entitlement.

We do cross-match with adjacent states. In other words, we cross-match payment with New York State and with Pennsylvania, but we do not cross-match across the country. However, the law provides for stiff penalties for fraudulent collecting, and prohibits the payment of benefits simultaneously for more than one State. There are penalties provided for an individual who does try to collect in that manner.

MR. MORIUCHI: There is no recourse for an individual who goes to Puerto Rico. I presume it is difficult to get work there. If they can't get work and they start to collect, there is no recourse for me to get a man back?

MR. GELLER: You can try to get him back. The question is, what is suitable work? That would have to be determined in each case. Now, at one time it was considered that a person who left his job in New Jersey to go to Puerto Rico - the unemployment rate was so high at that time - that we considered everybody who left to go to Puerto Rico in those days also there was a big problem getting a job on the west coast, I think, in the airplane industry, especially in the State of Washington, and northern California. We denied benefits on that basis, when a person left New Jersey to return home where there were no job opportunities. We were reversed by the courts, and our knuckles were hit, because we were not permitted to deny benefits. Every case must be decided on its individual merits.

I would like to speak with you later to go into your cases.

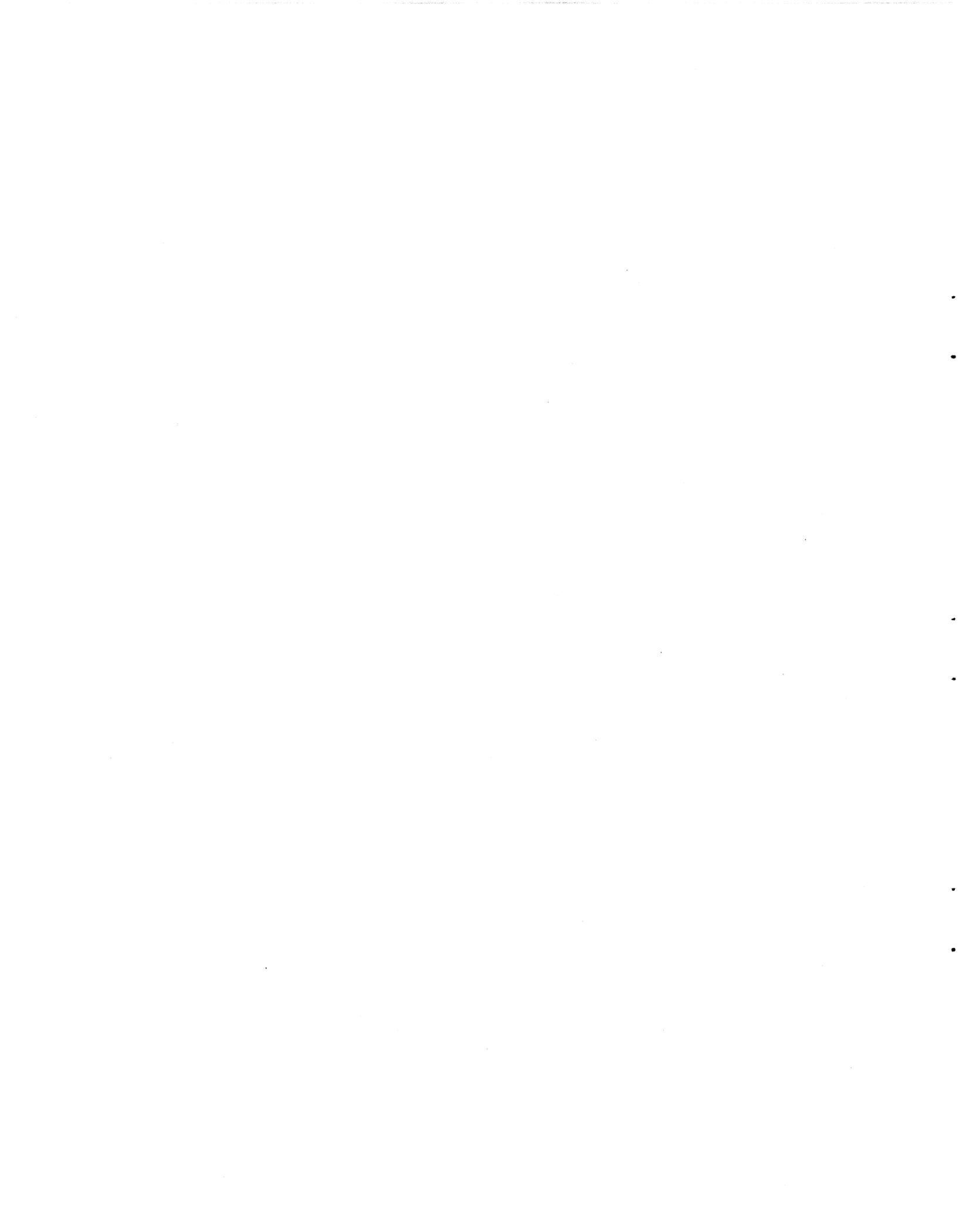
ASSEMBLYMAN COWAN: Thank you, Mr. Geller.

ASSEMBLYMAN COSTELLO: Fred, I know that the problem is a serious one in south Jersey and I know you are here speaking on behalf of a lot of other farmers, and what have you. Hopefully, they won't take this problem lightly. After the discussions we have had here today, I think we have some answers - for me, anyway - to take back to those in other parts of our State, in various industries, et cetera.

I am delighted that you showed up representing that group of people, and hopefully this problem can be solved. I have had this problem brought to my attention before. I am sure they are not coming from Puerto Rico here, and we are not filing any claims with Puerto Rico. They are not working down there and coming up here looking for work. Again, I want to thank you for coming out today.

ASSEMBLYMAN COWAN: Thank you very much. At this time, we will recess for approximately an hour and a half. We will be back at two-thirty. We still have eight to ten witnesses to speak. We will stay following our luncheon break until we hear everyone. Thank you.

(Whereupon a luncheon recess was taken.)



AFTERNOON SESSION:

ASSEMBLYMAN COWAN: At this time we will reconvene the hearings. I would call upon Donald Thomas, Personnel Supervisor from Wheaton Glass Company. (No response)

Thomas G. Green, State Affairs Committee Chairman, South Jersey Chamber of Commerce.

T H O M A S G. G R E E N: My name is Thomas G. Green, Director of Personnel for Spectron Corporation, located in Moorestown, New Jersey. Today, I am here as Chairman of the State Affairs Committee of the South Jersey Chamber of Commerce.

The Chamber is an autonomous organization, made up of some 500 business, professional and individual members who are dedicated to establishing and maintaining a favorable climate for business in Burlington, Camden and Gloucester counties.

We, in the Chamber, are concerned with some of the negative elements in the State's economic ledger. Among these are the Unemployment Insurance Program and the way in which it is administered by the Employment Security Division of the Department of Labor and Industry.

The entire program includes many areas about which we are troubled. Principal among these is the concern that unemployment insurance has contributed to the erosion of the "work ethic" which is one of the integral elements of any economy. The Chamber agrees that reasonable cash support should be available to those who have lost their jobs through circumstances beyond their control, but it appears that the Unemployment Insurance Program has created a "disincentive factor" which competes rather successfully against employment.

Indeed, former Governor William T. Cahill, in his testimony at the recent Conference of Economic Priorities of Job Creation stated "one of the most discouraging situations in our state is the unreasonable cost of unemployment compensation . . . in most cases, the liberal benefits replace such a high proportion of take-home pay that there is little incentive to seek or accept employment until all benefits have been exhausted."

A generous law and lax implementation underlie the liberality of New Jersey's unemployment compensation program. Among the most obvious practices requiring a change are those relating to misconduct, voluntary quits, and refusal to accept suitable work.

In cases of misconduct, the present practice is to disallow benefit payment for a period of six weeks. If the intent of the disqualification period is punitive, then there should be a further definition of the term misconduct, with a clear distinction between misconduct and gross misconduct - stealing. There should be separate penalties for each, too. For instance, in cases of misconduct, disqualification for up to six weeks, and a reduction of potential benefits as much as six times the weekly benefit rate are appropriate. In cases of gross misconduct, we recommend disqualifications for a full year.

The same concept should be applied to voluntary quits. A voluntary quit for good cause should trigger a benefit disqualification period of four weeks and potential benefits should be reduced by four times the weekly benefit

rate. Where there has been voluntary quit without good cause, however, the benefit disqualification should continue until the individual has earned ten times the weekly benefit rate. It is imperative that administration of the unemployment compensation program does not encourage the irresponsible to abuse the system.

Another factor that fosters unemployment is the right of the claimant to "suitable work", with a disqualifying period of only four weeks. Work is defined as "suitable" for an individual on the basis of "the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, his customary occupation . . ."

The Chamber believes that the claimant should be required to consider a wider range of related work. The requirements for seeking work should be stricter and the claimant should produce documentary evidence that he has really tried. The person who refuses suitable work should be disqualified until he earns ten times the weekly benefit rate, and potential benefits should be reduced by ten times the weekly benefit rate.

There is another area where there is a subtle form of abuse and that is in the granting of unemployment compensation to those employees who have left the payroll because of a company's mandatory retirement policy. At present, pension income recipients are treated the same as any other unemployed claimants. The original intent of the law, however, was not to supplement a pensioner's income during the first year of his retirement. The law should be amended to provide that those accepting pension payments are presumed to have withdrawn from the labor force and are therefore ineligible for unemployment.

Finally, there are a number of inadequacies in the administration of the program which make the system even more difficult for the employer to cope with:

- Cash penalties for failure to respond within 7 days when the problem was caused by incomplete information from the State originally or by poor mail service;
- Errors on claims;
- Incorrect charges against reserves where the claimant has worked for more than one employer;
- Absence of local office phone numbers on the BC-2 form;
- Failure to computerize the system at all levels, which leads to delays, mistakes and, perhaps, fraud.

As businessmen, we are very much aware that an economy is healthy only when all of its parts are healthy. We do not like to see people - consumers - without jobs. When someone is unavoidably out of work, it makes sense that business, through a state-run insurance program, should help to tide him over. Business and government as partners, however, must work together on a continuing basis to ensure that excesses and abuses do not creep into that insurance system.

The proposals that we have made today are not harsh. We simply want to make certain that the New Jersey unemployment insurance program, already more than \$650 million in debt to the Federal Government, is run as carefully, as prudently, and as efficiently as it can be. To do less would be a disservice

to the people of this State.

Two identical bills introduced in this legislative session, would, in our opinion, go a long way to correct the inequities currently prevalent in the unemployment compensation system. These measures are Assembly 1035, introduced by you Mr. Paterno and Senate 942 sponsored by Senator Bedell.

The South Jersey Chamber of Commerce supports this legislation and would be happy to work with your Committee to see that A-1035 and S-942 are enacted into law.

Thank you for your attention and the opportunity to present this statement.

ASSEMBLYMAN COWAN: Are there any questions or comments?

ASSEMBLYMAN COSTELLO: I would like to point out again that the Chamber does represent three different counties, Camden, Burlington and Gloucester. It does cover a good deal of South Jersey, and I am again delighted to see you here today.

MR. GELLER: May I make a comment? With respect to the BC-2, that is the request for separation information.

MR. GREEN: Correct.

MR. GELLER: We feel it is in your interest that requests be made in writing, to protect your interests. I think most telephone calls are practically futile. The volume of calls is so great in local offices and the persons answering your phone calls will not be able to look at the record, so it is in your interest to put it in writing, so that if there is an appeal in order, an appeal will be filed for you. If there is an error, then there is a record of your objection so that we will try to correct it.

MR. GREEN: May I respond to that? I don't disagree with what you are saying about that, and I think that is a worthwhile observation. However, there are times when that BC-2 form is not available on a timely basis, and it is sometimes helpful if we could make immediate contact with the office, whether we are in need of additional information, or to let them know that there is information on its way, and would avoid some penalties and other misunderstandings being filed.

MR. GELLER: Well, actually, it is in the telephone book. We would like to discourage the telephone calls. Did I convey the point I wanted to make? We have limited lines. We are limited by the amount of phones we have, so that if we tie up our lines with the phone calls, we are not going to give you as good a service as we might. We can readily put that telephone number down, but the chances are that everybody would lose that, instead of putting their objections in writing.

There is one more point. Failure to computerize the system at all levels, I think is what you said.- That is our objective. Again, there are limited funds, problems which are peculiar to every large organization. We have 165,000 employers subject to the law in New Jersey. There are practically almost 3 million people served by the law. It takes a long time to get a sophisticated, de-centralized system working, and computerized. We are aiming toward that objective.

As a matter of fact, we have introduced a very sophisticated system of fraud control. We have five fraud offices geographically located throughout

this state, one in Vineland, one in Trenton, Jersey City, Newark, and Paterson. We are going after these people who are collecting benefits fraudulently. We have worked very closely with the Division of Criminal Justice of the Attorney General's Office. We meet with them.

As a matter of fact, several weeks ago we had a three-day seminar for our investigators in conjunction with the Division of Criminal Justice to make sure that we know all the new rules. The criminal code has been changed, so we have updated ourselves with respect to that, and all the methods of improving our investigations. We are headed in the right direction. It takes us time. Thank you. I appreciate your suggestions.

ASSEMBLYMAN COWAN: There is one other thing, Mr. Green, in your statement concerning the pension and the collection of unemployment compensation. I believe Mr. Geller mentioned it earlier - I don't know if you were here or not - April 1, we have an offset coming in, too.

Thank you very much. Our next witness will be Walter Ellis and James Furlong from the New Jersey Farm Bureau.

J A M E S F U R L O N G: Mr. Chairman, and members of the Committee, my name is Jim Furlong, and I am here today representing the New Jersey Farm Bureau, an organization of 4000-plus farm families in New Jersey. Our membership is entirely voluntary and is made up of most of the commercial farmers in New Jersey representing from the smallest family-operated farm consisting of only a few acres of specialty crops to farms consisting of several hundred acres and hiring huge numbers of farm workers.

I would like to begin by expressing to the Committee my sincere appreciation for this public hearing on this most important subject. We are confident that this series of hearings will help to air the various concerns farmers have with the unemployment compensation law.

The purpose of the unemployment compensation law found in note 3 of the State Statute 43:21-1 states: "Unemployment compensation law was enacted to ameliorate the plight of workers who, through no fault of their own, become unemployed, and who are able, willing and available for work, not to allow benefits for physical conditions or illnesses disabling persons from performing work. New Jersey Farm Bureau policy is in agreement with this purpose, and states in part, "Unemployment compensation is a just and necessary aid to individuals who find themselves without means of earning a livelihood due to circumstances beyond their control." However, the New Jersey Farm Bureau feels that in the area of employing seasonal agricultural workers there is and continues to be an alarming rise in the abuse of unemployment compensation benefits.

We would at this time like to call your attention to examples of how we feel the system is being abused.

1. An individual is employed for the majority of the harvest season by Employer A. He leaves, on his own when work is still available, to work for employer B. He is employed by Employer B. just long enough to earn four times the benefit rate, which qualifies him for unemployment compensation benefits. The individual then leaves Employer B, files for benefits and is awarded compensation. However, these benefits are charged to the account

of Employer A who had work available when this individual left of his own free will.

2. (a) An individual fulfills the obligations of the 28-week Glassboro Services Association contract but leaves on his own when work is still available. He files for and is awarded benefits based on completing the contract time frame. We feel that the contract should be separated from the Unemployment Compensation Law in that completing the contract obligation does not qualify an individual to collect benefits when work is still available.

(b) An individual is employed in the spring of 1978 through the fall of 1979. He leaves on his own while work is still available. He files for unemployment benefits. The initial decision rendered is that he is not eligible. One hour later, the employer is notified that the individual is eligible to collect benefits as he has fulfilled the contract. This period of employment has involved several contract periods. As stated in 2(a) above, Farm Bureau feels that the contract should be separated from the unemployment compensation law in that completing the contract obligation does not qualify an individual to collect benefits when work is still available.

3. Prior to agriculture coming under the unemployment compensation law workers would leave for Puerto Rico on their own for short periods of time, when work was available. However, they would return. Now that agriculture is included in the unemployment compensation law, the workers will leave for Puerto Rico when work is available, file for benefits and will not return. The farmer employer is paying the benefits, the labor supply is diminished and the harvest will suffer.

4. Unemployment compensation appeals hearings are held in the locale close to the claimant. During the harvest season it is next to impossible and unreasonable to expect the farmer employer to leave the farm to attend these appeal hearings.

Farm Bureau feels this is a hardship on behalf of the farmer employer and urges that provisions be made in the law to accept testimony in writing.

The foregoing examples all add unnecessarily to our farmers cost of production. New Jersey farmers are thus put at a competitive disadvantage so far as other producing areas are concerned. Because of the unique marketing system in agriculture, seldom if ever is the producer able to recover these extra costs.

These extra costs are generated by higher unemployment payroll cost compared to other states.

In conclusion, we would hope that one thing would be kept in mind - agriculture, along with the agri-business and food distribution industries in New Jersey, is still one of the largest industries in the state and is very important and vital to the future existence of this state, and in our opinion, the future of New Jersey depends greatly upon a sound agriculture.

And due to the unique nature of our business we stand ready to provide additional input that will result in reform of the unemployment compensation law.

We appreciate and thank you for the opportunity you have granted us to make our concerns known.

ASSEMBLYMAN COWAN: Are there any comments or questions?

MR. GELLER: This problem with respect to completion of the contract, we have met with representatives of the Farm Bureau before the law was instituted for covering agricultural workers, and the interpretations of the Appellate bodies are that once the contract has been completed, it is no longer a matter of voluntary leaving. That is not the issue. It is a matter of offer of new work. Now, if the offer of new work is suitable, then there is the question of whether that person has refused a suitable job. It has to be pursued on that basis. It is not a voluntary leaving. This is set forth by Federal standards, and by the concurrence of our Appellate bodies. So, this is your issue, and this is the manner in which you would have to contest those cases.

MR. FURLONG: Yes, sir.

MR. GELLER: Now, testimony in writing. Actually, we have to abide by the rules of the Supreme Court in New Jersey, and also by the standards of the Federal Government. There is no opportunity for rebuttal. When you have a written statement and you do not attend personally at the hearing, then the individual--- In other words, the claimant can do the same thing, and the other side is not able to provide a rebuttal. That is another standard that we have to provide. You could put it in and be considered. But it cannot be accepted as fact unless it can be rebutted. An opportunity for rebuttal is provided.

MR. FURLONG: I was wondering, sir, if we could ask for input to reform that particular section, and if there could be something worked out, because it is unreasonable to ask the farmer to leave, especially during the harvest season.

MR. GELLER: I believe if you talk to the manager in charge of the scheduling of these hearings for the Appellate body, some consideration can be given to you. I suggest that you try it. I can't promise you that can be done, but I think you should try it.

ASSEMBLYMAN COWAN: Thank you. Our next witness will be Leni-Anne Riotto.

L E N I - A N N E R I O T T O: Good afternoon, gentlemen. My name is Leni-Anne Riotto. I am Treasurer of the North Jersey Chapter of the Coalition of Labor Union Women and Alternate Delegate to the CLUW National Executive Board. I earn my living as a full-time secretary.

I am here today to speak on behalf of the needs of working women. There are approximately 41 million working women in the work force today, 40% of all women over the age of 16. This also accounts for 41% of the work force. The number of women in the work force has doubled since 1950, accounting for 3/5 of the total increase in the civilian labor force. Nine out of ten women today will work at some point during their lifetime.

Most women are in the labor force because of necessity. Nearly 2/3 of all working women are single, widowed, divorced or separated, or have spouses earning less than \$7,000 a year.

Of all American families, 1 in 8 are female headed - 25% of Black families are female-headed. There are 7.5 million women head of households.

Frequently, where working women are not the sole support, it is their income that raises the family above poverty level.

The myths about why women work are the basis for paying women lower salaries, keeping women out of high-paying jobs and relegating women to a low economic status. Women earn 57¢ for every dollar a man earns.

The fact remains that most women work because they must - a message that must be conveyed in order that women be taken seriously as committed employees and rewarded as such.

Unemployment affects women in a far greater proportion than men. In 1975, during the recession, 8% of all working women - 12% of Black working women - were unemployed as compared to 6% of men. Women accounted for 44% of all those unemployed.

Due to past discrimination, women are the first affected in time of layoff. Also, because of occupational segregation, we often fall below the maximum coverage of unemployment compensation benefits.

It is sad that now the Chamber of Commerce Bill intends to further penalize us by cutting the less than maximum unemployment compensation benefits to a 50% of earnings formula as opposed to the 2/3 formula now in effect.

To base this on the fact that women provide a secondary income is not only discriminatory, but the facts are wrong. Women no longer work for "pin money." We are not working for a new washer or some jewelry. We are working to put food on the table.

Prince Charming on a white charger is no longer a realistic viewpoint. Marriage is not an option to working for women today. More women are working and for a longer period of time. Women now average 23 years in the work force.

We deserve the same benefits for working and the same benefits when unemployed as are necessary for the traditional breadwinners because now we too are earning the bread and are not working for cake.

Also, an extremely necessary change in unemployment compensation legislation would be the provision for dependency benefits. Almost 50% of all women with children under 18 are in the labor force. As it is, a goodly portion of a working mother's salary must go for child care, how are these children to be provided for when their mother is out of work and actively seeking employment to put decent food on the table.

I would also recommend the reduction in penalties for "voluntary quit" and "dismissal for good cause." In many instances, a woman is forced to quit or is dismissed due to discriminatory promotion procedures and many times the seldom-discussed issue of sexual harassment on the job. To leave these women without an income for six weeks is only abetting the crime that caused them to leave the job in the first place.

I believe it is time to make improvements in the unemployment compensation system in New Jersey and to make these improvements over and above what is now provided, not at the expense of women and minorities who have too long been classified as second-class citizens.

Thank you.

ASSEMBLYMAN COWAN: Any questions or comments? (No response) If not, I thank you very much. Next we will have Harriet Bremner.

H A R R I E T B R E M N E R: My name is Harriet Bremner and I am the Personnel Manager of Campbell Foundry Company in Harrison, New Jersey.

New Jersey's original law, much needed during the decade 1930-1940, governing unemployment compensation stated that it was an act to compensate those individuals who had lost their job through no fault of their own. It was to provide support, without loss of dignity and pride to those unaccustomed to the resort of "public relief" or welfare.

Dignity would be retained because a small contribution had been made by the individual to the fund from which benefits would be drawn.

For a moment let us examine this contribution at today's scale.

Payment to the fund is based on earnings up to \$6900 each. Maximum possible payment by you and by me is \$39 per year, or one-half of 1%. However, based on his record, the employer pays up to 6.2% on the same \$6900 or a possible \$427.80 per year per person.

At today's rates an employee could conceivably start working at age 17, be in the labor market to age 70, for 53 years. If he worked 26 1/2 years or one-half of his possible working life, he would pay \$1033.50 into the fund. He could then be unemployed working one year, and then collecting one year, for 26 1/2 years, and collect a possible \$84,747. What a burden on New Jersey's employers.

Our shop rules are specific concerning attendance. They are agreed to in the company union contract and have been since 1958. It is spelled out that latenesses or absences within a 26-week work period are cause for disciplinary action consisting of: 1) a warning, 2) suspension, 3) possible discharge.

For being excused there are extenuating circumstances. A flat tire on the way to work or a dead battery, went to the dentist or the doctor and one has a note to prove it, no charge is made against the record.

The Company-Union Agreement spells out that three days absence without notice to the company during regular office hours is a voluntary quit. Yet time after time ex-employees collect benefits based on an appeals examiner stating the person "didn't mean to quit" or "did not quit," and therefore is eligible.

I have several examples with me of what appear to be abuses of the original intent of the act.

First is the most recent. Warned due to lateness in December, 1978.

Suspended due to absence in January, 1979.

Again warned due to lateness in July, 1979.

Suspended due to absence on September 29.

Terminated January 8, 1980 for aggravated absenteeism.

He did not work the three days following New Year's day, nor did he notify us of his reason for not doing so. Thereby he failed to qualify for twelve hours holiday pay. Monday the 7th he was again absent without notice and his card was pulled. On the 8th he appeared in my office at 10 A. M. wanting to know why his card was out of the rack, as he had been told by a friend. He had received a pay on December 28 but claimed he had no money to get to work on January 7, no explanation for the previous week. His brother had loaned him the money to find out why his card was pulled, but had no answer as to the reason for not borrowing

money the previous day or week to get to work.

Instead of having to go to work, this man will collect \$3198 at a rate of \$123 per week based on 46 weeks work.

He appealed the decision of six week waiting period because in his opinion he was only out one day, the other three, he stated, he forgot about work.

Case #2, during a "lay-off," September 26, 1975, all affected employees were given unemployment compensation forms and notified to keep the company advised of their whereabouts for one full year. One year is allowed by contract to maintain seniority during a layoff providing union dues are paid.

As expected, one employee who was receiving benefits was sent a return to work letter by certified, return receipt mail. It was sent to him at the address of record; the post office forwarded it to another, but it was unclaimed there and returned to us. The second address was the employee's wife's home but she neither accepted the letter for him, nor gave a forwarding address. Later events showed him to have gone south and although he claimed to have applied for interstate benefits, no proof was presented at any hearing and the unemployment office had no such record. On behalf of my company I had the certified mail to show our efforts, but at the appellate hearings he was awarded benefits based on this statement. "Your employer has not been definite about denying the fact that you did notify them of the address change." How more definite could we have been when we showed all the addresses of record? Was he really ready, willing and able to work?

Several weeks ago one former employee stated at a hearing that he only came to work for us for four weeks so that he could collect against his former employer because "I was mad at him; that is why I quit."

Our experience with many, but not all people from government aid programs has been a case of a good employee for six months who then is suddenly absent, late, or refuses to do the work assigned, then is terminated and collects benefits as long as possible, next telephones to see if they can have their job back.

Another long term employee retired on company disability pension applied for unemployment compensation benefits and was found eligible due to the fact of "involuntary leaving." Naturally we appealed but he was found "fully able to work without any undue restriction, due to the fact that his attorney stated he had applied for workers compensation only to protect his client's interest. He did not state that two days prior to the benefits hearing he had filed a claim, for his client, with the second injury fund. He collected 26 weeks benefits and soon after died of a massive heart attack, related to the heart condition for which he was on our disability pension.

A long term employee was absent due to an alleged injury. He telephoned on September 9 on Friday to say, "I'll be in on Monday as I am released by all my treating doctors." He did not appear that Monday nor did he appear all week or all the next week, nor did he call in. On September 23 he was sent a letter stating that he had violated the contract, the three day voluntary quit clause. Due to his length of service he had been allowed two weeks to contact us but was now off the payroll. He appealed the local office decision that he had failed to maintain the employer-employee relationship.

In spite of a copy of the contract at the hearing, the examiner stated "the claimant did not voluntarily leave. There is no misconduct with the separation." The Appellate Division agreed with the examiner.

Recently a female clerk left work to accompany her husband when he took a job in another state. She expected to collect benefits against my employer. She left voluntarily, without good cause attributable to her work. Therefore, why should we or any employer pay for benefits that would most likely be used in house hunting, settling down in a new community and possibly some natural sightseeing.

Usually in a situation where a company transfers the chief wage earner, the spouse necessarily goes along to maintain the family unit, which is the right thing to do, but why penalize the second employer? He had no say in the matter whatsoever.

We have many other examples of those who, we believe, do not qualify for benefits, but collect anyway. Today I believe I have presented a sufficient number to show that changes are needed.

ASSEMBLYMAN COWAN: Thank you. Are there any comments?

MR. GELLER: Yes. I note that in most of your cases the original decision of the local office was denial or disqualification. I do want to make clear to all of those present here, that the Appellate bodies are independent bodies. They work on the basis of the facts obtained under oath in the hearings. I gather, from the way the seriousness with which you take your job and your dedication, that you have appeared at all these hearings.

MS. BREMNER: Yes, I have.

MR. GELLER: I don't know whether you have been represented by an attorney.

MS. BREMNER: I have appeared alone and also with an attorney.

MR. GELLER: And you had an opportunity to present facts. So that these cases are decided by these persons, as with a judge. I think, insofar as our operational activities in the Department, we have found that your objections were valid. Apparently, what happens is, new facts are introduced at the Appellate hearings, and there are reversals or modifications of the original decisions.

But, bear in mind, there are more stages than those that you have described. In the local office, before we make a decision where there is an issue involved, we give you an opportunity to present your case. Apparently you have done that. And, then, there is the appeal tribunal. There is no charge involved. Administratively, the next level is the Board of Review. If you are not satisfied with any of those decisions, you have recourse to the Appellate Division of the New Jersey Superior Court, the New Jersey Supreme Court, and then the United States Supreme Court. I know it is quite expensive to do that, but there is always an opportunity for getting corrective action.

I am sympathetic with your problems, but where a person goes to another state, that person has a right to go to the other state. For the most part, where a person leaves his or her job for a reason not attributable to the work, that person is disqualified. At one time it was considered acceptable and the person was paid if the spouse joined the husband in the new state. That person who just leaves for that purpose should be disqualified. Of course, the disqualification period is limited. If a person gets a job nearly four times his or her weekly

benefit rate, then there is no more disqualification.

MS. BREMNER: May I state that one of the main issues that I tried to raise would be ignoring the contractual part of the company union agreement for the three day absenteeism.

MR. GELLER: Well, basically our precedents provide for actually violating the rules of the company. I would have to look at the case.

By the way, you said the Campbell Foundry. I have always been impressed - and it is an interesting side comment - as you look at the manhole covers, 99 out of 100 say Campbell Foundry. Have you ever noticed that? I am glad to have met you.

MS. BREMNER: Thank you.

ASSEMBLYMAN COWAN: We did have a hearing up in Hudson County. I didn't know if you were aware of that.

MS. BREMNER: I had other pressing business on that day. It was a nice trip down today.

ASSEMBLYMAN COWAN: Our next witness is Art Mayer.

A R T M A Y E R: Thank you, gentlemen. First of all, I must apologize for my lack of proper dress. It was on very short notice that I found out about the meeting. I am the principle of Double A Auto Parts located in Cherry Hill, New Jersey. I am a member and past Vice-President of the New Jersey Automotive Jobs Association; I am a member and former President of the South Jersey Automotive Jobs Association, and I am not here to speak officially. I am here to speak for what I see, the empty seats out there. There doesn't seem to be any merchants here. We have some very fine people who have proposed some needed reforms. My purpose today is not to propose any reforms, but on the other end of it, enlighten the Committee on some of the things that are happening in the field which should be considered.

Now, I think the definition of a small businessman in Washington is anyone who employs 500 people or less. That makes the entrepreneurship, the partnership, the merchant who maybe has ten or less people so miniscule that they don't get much attention. There are a lot of us when we come together as a group, but they are not here for two reasons. One of the reasons is the practices of the Division of Taxation, which none of you gentlemen here have any responsibility for. But, it has produced a distaste for government rules, regulations, and without really any well-worn path of appeal. It has tended to make the merchant a thief. He is stealing from the State.

Before I go any further, is there any chance that I may be involved in some self-incrimination unintentionally? Can anything be held against me?

ASSEMBLYMAN COWAN: I do not think so, not unless you are perjuring yourself.

MR. MAYER: No, I am not perjuring myself, but I am not saying what I do but what I see.

First of all, I have been an employer for twenty years. My accountant tells me that the rate that I have is the lowest rate. He didn't think it went that low. Well, there is a reason for that. We tend to employ people we want, and when we have them, they tend to want to stay because we coddle them pretty good, I guess. There have only been two cases in twenty years that I can remember where I was charged with unemployment compensation. They are very similar

to the ones we have been talking about today. One case goes back over fifteen years when I let an outside salesman go, because he just didn't produce the business he ought to. He went to work as a cashier at the paramutuel track, and he would follow the track around, from Garden State to Atlantic City to Freehold, and so forth, but there was a period of time, when he was seasonally unemployed, when all the tracks were closed. And, when the tracks were closed, he applied for unemployment compensation, and I was the one who was charged for it, because there was no one else open. I was naive at that time. I shrugged my shoulders and figured, well, what the heck. I have a more recent case that has come up just last year. In late August of '78 an employee of ten years had left us who was a truck driver. His doctor advised him that due to his poor health at the time, he should not be lifting anything over twenty pounds. It is difficult in the auto parts business to confine a man's duty to that, but we were willing to give him some kind of light duty work. He was 67 and decided to retire anyhow. He took upon himself a job as a crossing guard in Haddon Heights Township, and as of June 10th or 12th of last year, whatever it was, he was unemployed because school had let out. He applied for unemployment compensation, and I was charged. Well, I didn't think I ought to be on that one. I talked to Miss Susan Reed at the Camden Office and explained the situation to her, and she said, "Well, it didn't really make any difference, Mr. Mayer, because that is just the way the law is."

I have written a letter to Trenton. It is a brief letter. In there I said Johnson was laid off by the police department as a crossing guard for the summer vacation period. It was understood he was to be rehired in the fall. Why must I be charged? Sandra Katz answered that with this reply, "This is in reply to your communication regarding charges to your company for the above-named claimant. On this individual's regular unemployment claim dated September 25, 1978, the benefit year began September 25, 1978, and ended September 23, 1979. Under the law, employment subsequent to the claim date is considered benefit year employment. All charges are posted against base year employers and not against the benefit year employers. On re-opening the claim in June, 1979, you as the base year employer were chargeable in the benefit year. The charges are shown and proper, since they are computed on base year earnings as reported by you. We hope the above information answers your inquiry. Very truly yours, Sandra M. Katz."

So, really, I had no effective way of appealing that, the way I see it. And, I was charged with it. I don't understand why I should be charged, especially when I had told Ms. Reed that Mr. Johnson was still available for employment to us. We were willing to give him light duty work if he would come back. Well, she said, "The job is here." But that is the way that went.

I am going to drop that for a minute and give you my observations, what I see as a wholesaler among the people I do business with who are retailers and merchants. First of all, I have to admit that the young people today are one heck of a lot smarter than I was when I was their age. They seem to be able to find ways to make monies available to them without working. I think I was a graduate of the 52-70 Club when I got out of the service in 1946, but that was about it. And, then I went to school from there. If we take a look at the person that is employed by my customer, he is generally a high school dropout. He goes to work in a gas station pumping gas and perhaps picking up a better knowledge of how to change tires, how to tune up a car, how to do a brake job, and so forth. Pretty

soon after he gets some time in and becomes valuable to my customer, he leaves and then gets unemployment compensation, and then the cycle starts over again. The people I do business with don't have a complete vacuum between their ears. It doesn't take them long to figure out, well, maybe we ought to work on these people as uncontracted laborers or under the table, if you will. So, this is what is happening now that is producing a situation where revenues are not coming in to the State, including the fees that are due to this particular group. In addition to the young people who are paid under the table we also have retirees who are willing to work for less than the minimum wage because the cost of living is so high, and these people are working. I see that.

Now, the businessman does not want to come here. He wants to keep as low a profile as he can. And, he just doesn't feel as though he wants to expose himself perhaps to the degree that he ought to, which is the second reason why I see that we have all the empty seats out here for the largest group of business people in the State of New Jersey.

I would like to address one remark to what Mr. Geller said. Now, he used the form BC-6 which is the form used--- This is the form that the claimant takes and lists the places where he has gone to seek employment. Is that the correct form? I would like to address myself to that form, whatever form number that is. It is the form that the claimant receives that has perhaps 20 lines on one side and maybe 30 or 40 on the other and he ostensibly has to go out and see if he can find himself a job before he is eligible. All right, now, that particular form is filled out by the claimant, not by the business person or perspective employer that he or she seeks for employment. So, what happens? I am using "she" just as an example. She will go to her favorite gas station and say, "How about if I use your name for a job;" or, how about her favorite grocery store, or she might have some friends or neighbors whose names get put down in her own handwriting. I don't believe that the bureau has either the funds or the ability to enforce this seeking of employment. Perhaps, I have been called maybe once or twice, but not in a good many years where I have had actual people come in and say, "Do you have any help; are you hiring," or words to that effect. And I give them the okay to use my name as a perspective employer.

I believe that is being flagrantly violated by the claimant, in addition to the other practices, as I have said. One more thing, we did have a Committee in operation about two years ago in the way of fact finding or fact gathering on abuses in unemployment compensation. I don't want to go into hearsay on them, but there is one in particular that sticks out in my mind. There was a young fellow who was discharged for stealing, and yet he was allowed to receive unemployment compensation for that. There are many others, but I would like to maybe, if you like, have our President address a letter to you, Assemblyman Cowan, on more findings of that particular Committee.

ASSEMBLYMAN COWAN: Yes, if you would, I think that would be very satisfactory.

MR. MAYER: The only other thing I have to say is, I am a first generation American and one of the legacies that my parents left me before they died was the fact that even though taxes were always there, you paid your taxes for the privilege of living in this country, and it was still a lot better than living anywhere else in the world. Since then I never minded paying taxes. That is all I have to say.

ASSEMBLYMAN COWAN: Thank you. Are there any questions.

ASSEMBLYMAN COSTELLO: That was a very good statement.

MR. MAYER: Thank you. It was extemporaneous with just a few notes that I put together this morning. I would like to say that I am concerned, as many of our members are in our association.

ASSEMBLYMAN COWAN: Thank you. The next witness is Earl Emmons.

E A R L E M M O N S: Good afternoon. I am Earl Emmons, the President of Emmons Willowbrook Farm Incorporated, a dairy farm that operates 500 acres. We have a store on our farm where we retail our milk, and we have two trucks on the road to deliver. We have quite a few part-time girls in our store, and this seems to be mostly our bone of contention. They quit for most any reason. The one I have in mind is a girl whose family moved out of state. We had one girl whose family moved to Maine. She applied for unemployment. We went over to the office and contested it. When we did, it was turned down, and I understand from a previous year that this often happens. But, the second time around, we didn't even know about it. To me this is not what the law was set up to do. I don't think any of you people in the legislature would go along with anything like this.

Also, we had a worker who was over marking time on his time card. Also, he had riders in the truck with him, which is against our rules and regulations for insurance purposes, and we laid him off, and he gets unemployment. Again, it seems to me these are cases whereby--- The law was not set up for this purpose in our minds.

When the money runs short, they notify us and we have to put more money in the kitty. We are a small operation. It is a small business, a family corporation trying to make a living. It kind of goes against our grain a little bit when you see these things happening.

Another thing is, we just can't find help for farm labor. When you talk about unemployment it kind of bugs you when you try to hire somebody and you can't get them. Of course, we have a dairy farm with 150 cows. They look at the cows and they know they have to be milked seven days a week, and they turn the other way. I have done it for 65 years, but some of the rest of them don't want to do it for 65 minutes.

I feel that the benefits are sometimes charged to the wrong party. They can leave us, go somewhere else and work to finish out their time, and get this. I am very much surprised that there are not more people here today. Everybody we talk with in our small business is really griping about what is going on.

I guess I have enough spunk to come down and make a few points when something like this is going on. I am in favor of unemployment insurance to those who really deserve it. I would certainly not fight it on that basis. But, when it is not our fault, then something is wrong. The job is still there, and they quit, then I don't think they should be able to collect unemployment insurance. I am sorry I was not prepared better, but I saw the ad in the paper about the hearing, and I just wanted to be here. Thank you for your time.

ASSEMBLYMAN COWAN: Thank you. We are holding these hearings throughout the State in order to get input from all people involved, and that would include both the employer and employee.

Are there any questions?

ASSEMBLYMAN COSTELLO: I have a question. Mr. Emmons, I purposely waited until you came forward. I guess there are a few others representing the farm industry. Do you feel that if some of these laws were tightened up, that situations you have indicated, and others preceding you have also indicated, whereby people say, "Why should I work when I can quit and go out and get a job" would become somewhat an impossibility?

You did say that you have had problems keeping employees. Would that relieve your problem somewhat?

MR. EMMONS: Yes. I think so. The main thing that bothers us so much is, we get a person who thinks that if you can't do anything else you can farm. But, we do have to train people. There is a certain training period. And we pay them while we are training them, and then they work just a number of weeks and out they go, you know. I know you fellows have businesses, so you know it is really rough. This year we just saw in the paper again, where one percent of our payroll this year will be added to what we paid last year. Am I correct on that, to make up the deficit, or whatever it is? It is going to make almost \$4000 for us. We are a small business.

ASSEMBLYMAN COWAN: When you say you are a small business, how many people do you employ?

MR. EMMONS: Usually about 14 or 15.

ASSEMBLYMAN COWAN: Year-round.

MR. EMMONS: Yes.

ASSEMBLYMAN COSTELLO: Are the people that leave in a certain age bracket?

MR. EMMONS: Yes, the younger ones.

ASSEMBLYMAN ZANGARI: Would they be leaving for reasons of seeking a better type of employment, maybe not so strenuous, or more money? Wouldn't they be leaving for just cause in many instances?

MR. EMMONS: Most of the time they don't give us a reason. Working in the store is not hard work.

ASSEMBLYMAN ZANGARI: How would we know, as legislators, that these people are leaving for no good reason and that you have a job available for these people? We can't tie somebody down just looking for something that is going to benefit them in the future.

MR. EMMONS: And I would not stand in anybody's way.

ASSEMBLYMAN ZANGARI: So, how can we say this should be charged to a general revenue fund, when in fact these people are looking for a better way of living?

MR. EMMONS: I guess I can't answer that.

ASSEMBLYMAN COWAN: We all aspire to that in this country.

MR. EMMONS: Yes, that is right. I would never stand in someone's way.

ASSEMBLYMAN ZANGARI: The general testimony as I see it here, and as we have been hearing around the State, is many people do seek employment, but this would apply to those who are making close to the minimum wage who just can't live with the inflationary costs today and are seeking a better way of life by seeking a job where they are going to make more money, and unfortunately maybe the job they are going to is much more strenuous. Maybe they wish they could go back to what they had at first.

MR. EMMONS: We have had this happen several times, but we have someone in their place already. We can't control that, you see. Thank you.

ASSEMBLYMAN COWAN: Thank you. Our next witness will be Harvey D. Habeck.

H A R V E Y D. H A B E C K: Good afternoon. I am speaking about two aspects, the employee and the employer aspect of it. This comes from a law that will go into effect the first of April concerning the ineligibility of retirees to collect unemployment compensation or disability compensation.

I have written to Congressman Forsythe and Senator Bradley concerning this and the fact that the State of New Jersey is one of two states that the employee contributes to his unemployment compensation. In that respect, I have been retired personally for twelve years. I have never drawn unemployment. I hope I never have to. However, I contribute to unemployment, and maybe the reason why I am a retiree is because of the security it had to offer me for my future. To me if I lost my job and I had to live on my retired pay, I could not hack it. There is no way I could hack it, whereas, somebody working next to me could go out and get sick, and he would receive the same pay on disability and unemployment while he could go look for additional employment.

This year I will be contributing the amount of \$69 to unemployment and disability. My employer is contributing the amount of \$500 and some dollars in my behalf. However, he is contributing for me, because I have worked, but yet I cannot touch one penny of it. If you break it down, it runs to 27¢ an hour on a 40-hour week. The times have been coming on. We have been talking about the volunteer army not working. I think the reason why it will never work is that during the time of war when they need you, they will give it to you. But, after it is all over with, and they have used you, instead of giving you what you have worked for, they continually try to take stuff away.

Now, I don't feel that I should have to pay. It is not the \$69; it is the principle of the thing. I don't think that my employer should have to pay \$500 a year in my behalf, that I could never touch, because I am drawing retired pay from the service. Now, when I was in the service, I am talking about drawing pay of \$60 and \$70 a month. I am talking about after ten years of service with a wife and a couple of children and having a pay of \$240 a month. Yes, I volunteered to stay on. However, after I completed four years, three months before I was to get out, the Korean War started. They said, "Truman says you have another year." Well, during World War II --- It was not a year; it was for the duration. So, I re-enlisted, and I had ten years in, and I stayed in, and I got all types of promises, free medical, et cetera. I moved into the Burlington Township area because of the availability of Fort Dix and Maguire to receive the benefits that I worked for at reduced pay, a hell of a lot reduced pay.

Fort Dix, as far as medical treatment goes, forget it. It is just not available. You can't get it. Everything that they promised you is now being reneged. Okay, they want us to try and solicit people to join the service. As long as you are in the service, they will take care of you. As soon as you are out of the service, they want to forget you, because now you are costing money. This is what you worked for all the time. Today, a recruit can go in and start at \$500 a month. They are now finally paying a decent wage. But, how about us poor folks during the war and so forth that got the minimum wage. There are a lot of people that I have met since I have been retired that say they wish they would have stayed, but they also resent the fact that I am drawing retirement

pay now. This is the part that I am looking at, not only the employer's standpoint, but if we are ineligible to draw it, then I don't believe we should have to pay it. For that matter, I don't think our employer should have to pay it either. Because if we are not eligible to draw it, why should it have to be paid.

This is the point I wanted to make here today.

ASSEMBLYMAN COWAN: I just would like to make the statement, without interrupting your testimony, that you are unique in the sense that you are a distinguished person who has served our country, and unfortunately you are trying to stabilize yourself in our economy to earn a living, and yet because of these two factors, you are unable, as you say, according to the Federal law which will become effective April 1st, to benefit from anything that is done here. It certainly doesn't appear to me to have any basis in fact of equitable justice at all.

But, you are still in the labor market, and meeting, I would assume, all the requirements for work. If you wish to continue, please do.

MR. HABECK: Well---

ASSEMBLYMAN COWAN: I would like you to submit a statement to the Committee, because, as I say, you are unique. You are the only one who has brought up this point very well.

MR. HABECK: Thank you, but this is the reason why I want to state it, because I am willing to pay my taxes, but I want to get what I am paying for. I guess that would be the best way to summarize the whole situation. I think that my employer is entitled to the same dollar for dollar.

MR. BEN-ASHER: Was your pension a contributory pension?

MR. HABECK: No, it was not. In other words, you re-enlisted and so forth; you would come in at \$50 a month.

MR. BEN-ASHER: It was not taken out of your pay?

MR. HABECK: My God, they did not pay us enough to take anything out.

MR. BEN-ASHER: For those who were contributing to their pension, there is Federal legislation now which would modify the April 1st requirement to the extent that an individual would get some credit for that amount that he had paid into his own pension. However, that is still working its way through Congress.

MR. HABECK: The main thing is, I don't mind paying it. I hope I never have to draw it. But, if I am going to have to pay it, then I want to be able to harvest some of that. That is to me like planting a seed. If I am a farmer, I want to harvest what I plant. I just don't want it to go down the drain. I don't see why my employer should have to pay for it. I think then it would be beneficial to an employer to hire a retiree that he doesn't have to pay unemployment out.

ASSEMBLYMAN COWAN: That is true. Anyone else?

ASSEMBLYMAN COSTELLO: This is a federal law that we are talking about.

MR. HABECK: Yes, it is.

ASSEMBLYMAN COSTELLO: And you have mentioned that you corresponded with your Congressman and your Senator.

MR. HABECK: Right.

ASSEMBLYMAN COSTELLO: You did receive a response.

MR. HABECK: I most definitely received a response, and the one I received from Senator Bradley was very impressive in that he went through it very thoroughly. He stated that the State of New Jersey is one of only two states out of fifty

that the employee is contributing to his unemployment. This is what makes it unique. This is why I am here.

ASSEMBLYMAN COSTELLO: I don't want to belabor the point, but I was curious as to what you received. I would certainly check that out for my own edification.

ASSEMBLYMAN COWAN: Three states right now. As a clarification, there is Alabama, Alaska, and New Jersey.

ASSEMBLYMAN COSTELLO: What does that mean, Mr. Chairman, that we are one of three states where the employee contributes.

ASSEMBLYMAN COWAN: He contributes part of the unemployment.

ASSEMBLYMAN COSTELLO: In other words, the other states do not.

ASSEMBLYMAN COWAN: No.

MR. HABECK: No, that is my point.

ASSEMBLYMAN COSTELLO: I would like to draw an analogy. It is ironic. This is the second time I have heard in the past six months where veterans and those who are on pension pay into the fund, and it is mandated that they participate on a fair share basis, and yet they do not reap any benefit. One item has to do with auto insurance. I was shocked to learn that they pay into a fund, something like \$55 for one car. If you have two cars, and there is only one member of your family that drives, you still have to pay \$55 on both cars. In the event that an accident should happen, or you are disabled- you are retired anyway- so you cannot collect any money, but you still have to pay that \$55. We are trying to do something about that in the State, dealing with the veterans, and those who didn't serve but are retired, the pensioners.

It seems that most of them are discriminatory, but nonetheless, they say it is the law and you must participate and pay that money.

MR. HABECK: This is the body of law that is supposed to be able to change these things. That is the reason I am here.

ASSEMBLYMAN COSTELLO: Well, we can't change the federal law.

MR. HABECK: But it is a start.

ASSEMBLYMAN COSTELLO: I appreciated your comments very much.

MR. HABECK: Thank you.

ASSEMBLYMAN COWAN: Thank you very much. Our next witness will be Howard Buck.

H O W A R D B U C K: Good afternoon. My name is Howard Buck. I want to thank you for letting me come up here. I am employed by CPO Trucking out of Delanco. I am a truck driver. I too am retired from the service. I retired in the mid-sixties, when we were not getting anything for pay. My retirement pay right now is less than what a private draws in the Army today. But, along the same lines as what the previous witness here has mentioned, I too cannot draw any unemployment, and yet I am paying a mandatory \$68 that these people require that I pay plus what my employer pays. This is the same thing as telling me, "Hey, you, contribute \$100 to this man's re-election fund or I will break your arm." That is exactly what they are telling me. Why? This is my question to you, why.

ASSEMBLYMAN COWAN: You are asking me?

MR. BUCK: Yes.

ASSEMBLYMAN COWAN: Unfortunately, I cannot give you a very comprehensive answer, except for what has been stated here, that we do come under federal regulations and federal law. We are mandated to comply with that.

MR. BUCK: I don't know, I am paying so many taxes here in this state that it is getting kind of sickening. I am paying taxes upon taxes that are already paid. I am paying an income tax, a sales tax, a property tax, and yet when I make out my state income tax return, I can't deduct anything off that income tax - no way, shape, or form- other than the \$2000 that I can take off as a personal exemption.

Now, I am paying taxes on the tax dollar I spend on sales tax, on property tax, on everything else, and this is unconstitutional.

ASSEMBLYMAN COWAN: Our aide has a question.

MR. BEN-ASHER: Are you aware that out of the money that you make as contributions, that only \$34.50 is for unemployment, and the other \$34.50 is for disability insurance.

MR. BUCK: For disability insurance, what disability insurance? I don't fall back on you people for disability.

MR. BEN-ASHER: Your company.

MR. BUCK: My company is paying it; I am not paying it.

MR. BEN-ASHER: Well, then your company is picking up your share; you are only payin \$34.50. That is the maximum that is allowed in taxes against an employee for unemployment compensation purposes.

MR. BUCK: Even so, I am still not able to draw one red dime if I am out of work. And, on my retired pay, I wouldn't be able to make a go of it. So, why have something shoved down my throat? That is exactly what they are doing to me, and it is unconstitutional, as far as I am concerned.

ASSEMBLYMAN COWAN: You and the previous witness have made your point very well. I am sure, as Mr. Habeck, you have probably pursued it further with your legislators also.

MR. BUCK: I had written letters. I was only aware of the fact that there were two states. I didn't know about Alabama. You people have enlightened me on that.

ASSEMBLYMAN COWAN: We are certainly glad that you testified here, so we know this inequity exists.

MR. BUCK: The inequity has existed for many years, as far as what these people are paying in this State as far as a retired person is concerned. The Retirement Committee at Fort Dix has brought this to the attention of the State Legislature many times.

ASSEMBLYMAN COWAN: That is what these hearings are for right now.

MR. BUCK: The only thing is, what they are telling us at most of these hearings is, legislation is pending; don't hold your breath. That is exactly what they are telling us.

ASSEMBLYMAN COWAN: Unfortunately, we are not as quick as the tax structure is, but we do hope to achieve something. Thank you.

ASSEMBLYMAN COSTELLO: There are a couple of bills on that. I think one was introduced by Senator Yates.

ASSEMBLYMAN COWAN: There are a number of bills introduced now into the present Legislature. We will come forth with something, and I am sure it

will meet with the agreement of both Houses in the State, and I assume, if it is properly prepared, and everything is put into it that should be, that we would have the Governor sign it. But, this would not in any sense affect what you people are faced with, because that has to be done on a federal basis. Thank you.

MR. BUCK: Thank you, Mr. Cowan.

ASSEMBLYMAN COWAN: Our next witness will be Elaine Young.

E L A I N E Y O U N G: Assemblyman Cowan, and others present, I am Elaine Young, and I represent People Care. We are a private health care agency in Brielle, New Jersey. We provide health services of a temporary nature. We have approximately 70 to 80 employees on our weekly payroll. However, we have employed in the past year over 400 persons. Therefore, from this figure you know our rate of attrition is very high.

When our future employees are interviewed, we clearly state that we cannot guarantee a 40-hour week, but we are a temporary health care provider. We pick up where medicare leaves off before the homemaker comes in. We are private. We are not subsidized by any insurance plan. Therefore, with the inflated costs of health care, which I am sure you are all aware, there are very few people who can employ or afford full-time health care employees.

Each week we receive, from unemployment forms which we must return in seven days. I have just learned that there is a fee if this form is not returned in seven days. However, some forms, we will receive two forms on the same day and perhaps one will be dated the third of the month and the other will be dated the eighth of the month. So, there is a discrepancy in how these forms are mailed out and we do return them as soon as possible. This is something that I do feel needs investigation.

The second thing, we call many of our employees; as a matter of fact, we have a twenty-four hour call service. I have personally sat down and called thirty or forty people before I can find one person who is willing to go to work. And they say, no, they can't work; they are taking a full-time job. I am glad they have a full-time job. I am in favor of this. I highly recommend the upward movement, and I highly recommend in completing their education and improving their education. I have personally tried to afford them every opportunity to do this. However, they will tell us they are taking a full-time job, but what happens, as soon as they work there long enough, we get an unemployment form, and we, as their first employer, are then charged with their unemployment. I wonder about that. Is that really the way to encourage these young people to improve their education?

We are a part-time agency, as I have said, and many of our nurses work for other agencies. They would have to in order to survive. I agree with this. However, frequently when one person has a need for many LPN's and registered nurses, so do others. Therefore, we will call them, and they are all busy. But, then suddenly no one is busy and we are all charged with the unemployment. I mean, it is a very temporary, fluctuant type of thing. I just wondered if there is any legislation that is pending for the part-time employer. Is there anything we can do about this?

Now, also I have some benefit determinations here with me. We had one employee who worked for us for two weeks. She earned \$97.50. However, our agency

is being charged with \$176. I mean, this sounds like dollars and cents when I hear about all these large employers employing so many people.

I have another one here who worked for us four weeks, earned \$162 and we are charged with \$213. Now, you know these are things which I question, and I am happy to have this opportunity to speak to you, and having heard Mr. Geller, I certainly will be very busy writing some letters to some of these people and seeing what I can find out. Because as I said before, I am new, and I am enjoying it, and I would like to see these young people doing more work, and work that is more beneficial to them. Therefore, I don't think that offering them unemployment is necessarily helping them to pursue a higher goal. Thank you.

ASSEMBLYMAN COSTELLO: You asked a question about legislation.

MS. YOUNG: Yes.

ASSEMBLYMAN COSTELLO: I am not aware of any dealing with part-time employees in situations like this. That is a problem.

MS. YOUNG: You know, we can't promise them this, and we don't do it. It is very difficult, because this is what is happening.

ASSEMBLYMAN ZANGARI: Did you say that you were a subsidized agency?

MS. YOUNG: No, we are not subsidized; we are entirely private. Thank you.

ASSEMBLYMAN COWAN: You have raised some very good points, and we now have them on record, and they will be followed up.

MS. YOUNG: I am sorry I didn't come better prepared.

ASSEMBLYMAN COWAN: I am glad to hear your comments concerning Mr. Geller. Perhaps we are doing some good, although we are not in the Executive Branch ourselves.

MS. YOUNG: We will all be writing letters.

ASSEMBLYMAN COWAN: Our final witness would be Lilyan Leopold.

L I L Y A N L E O P O L D: I am sorry I have nothing written. I didn't realize that was required. My name is Lilyan Leopold. I am the Business Manager of St. Mary's Hall. We are a small private school in Burlington. Our roots go back before the Civil War. We are a small employer. We have some problems that apply to all small employers and some that are unique to schools, and some even more to private schools.

Our entire payroll is under 50 employees. That counts part-time bus drivers, kitchen help and teachers. We have only been in the unemployment system since January 1, 1978, when non-profit organizations were first covered. Since that time, and with such a small staff we have had a lot of problems when you consider that we are only talking about a total of 50 people. Recently we had two voluntary terminations, a teacher and a maintenance man. They both left us. We didn't want to lose either one. They both chose to quit. They both got subsequent jobs, one with a family-owned business. They both quit for reasons we don't know and were never told. They terminated from those employers and we are charged the bulk of the unemployment. It doesn't seem right that we should be charged at all. A lot of people have said that.

It seems to me that we have no obligation to these people once they have voluntarily left their employ. And, not only that, we have no recourse. We are not invited to the hearing, not being the employer who terminated them, and we don't even get a notice as to why they were terminated. We just pay.

They voluntarily left. In one case, particularly the one where they got a job with the family-owned business, it almost seems like if you know somebody and you can work for them part-time, that is a good way to leave a job and collect unemployment. We had another teacher who had an ill mother and had to resign voluntarily and she collects nothing. I am not saying she should, but it just doesn't seem right that because she doesn't have a connection to get a little job where she could be laid off--- But, since she didn't choose to be dishonest, she is not collecting. But there are those who get a job only because they know shortly they will be laid off, and able to collect. That just doesn't seem right.

We had to dismiss another maintenance man for excellent cause. Someone else called it gross misconduct. There was no hearing; there was no question but that we had every right to dismiss him. Why are they penalized six weeks? Why should they be allowed to collect at all? Some employee who chooses to leave collects nothing. Should any employee who wants to leave a job therefore do something grossly out of line, wait six weeks and collect something? What are you encouraging? I am sure that there are cases of extenuating circumstances or someone who does misconduct and maybe it is not terrible, and maybe there should be some penalty. But, for gross misconduct, why should a person collect unemployment benefits at all? We just don't see this.

Unfortunately, we had to lay off some teachers, find teachers, but we had to reduce staff. If you are aware, most teachers have contracts, and once you lay off a teacher, if they don't have a new contract to go to, they are entitled to collect unemployment. However, they are entitled to collect over the summer. A normal teacher who has a contract to go back in September cannot collect over the summer. They are exempt. Of the teachers we laid off, come September 1, all of them had contracts somewhere, except for one. That is the one that is entitled to collect unemployment insurance. They were legitimately laid off. The others collected over the summer period. They worked just the same as those teachers we retained. The teachers we kept who went back to work September 1 had the summer off too. I think there should be something in the law that teachers are not unemployed until--- Teachers who finish out the year in June are not unemployed until September 1. Do you get what I am saying?

ASSEMBLYMAN COWAN: Yes; yes.

MS. LEOPOLD: If they finish the contract year until September, I can't go back and say, "Well, so and so had a contract somewhere else." I mean, I may in the summer have heard that one of the teachers got a job somewhere, but I can't come and say I definitely knew it, or I have any evidence that they got this other job, but September 1 they were working somewhere.

The contracted teacher who is laid off is not unemployed until September 1; they are really not. One of the reasons, even if I found out they had another job to go to, I couldn't even go and say to unemployment, "I know they are going to be working," is because there is at least a three-month lag in the reports I get from the State telling me who is collecting against me. By that time they are in another state, or they are no longer collecting, because we are talking about October, and I am just hearing what they collected the last week in June. There is such a severe lag time. We are required to send the form back to the State in seven days, but the State takes three or four months to tell me who is collecting against me. If I wanted to make an objection, or if I had information

that they had another job to go to, I don't even have that opportunity. By the time I know about it, it is too late. They have moved; they have gone.

These to me seem to be flaws in the administration and in the law. There are flagrant abuses. I recently ran a want ad in the newspaper for a maintenance man. I got a lot of calls. But, I got one from a man who would not give his name until he asked me if I take out social security. I said, 'Of course, we take out social security. I said, "Why do you even ask." He said, "While he is on unemployment, they check if he works somewhere that takes out social security, and he knew that schools could be exempt from social security." He was looking for, in other words, an under the table job. So, I said, "No, we don't do that." He started to quote me the law. I said to him, "You know, I never heard this." And he quoted me all the law. This man was like a lawyer. He knew all the types of businesses that legally don't have to be under social security. Then he knew all kinds of other businesses like gas stations where they pick up people from time to time and just pay them cash and don't talk about it. He said to me, "Well, do you have summer maintenance work and all that." And I said, "Yes." He said, "Well, why don't you just come down to the unemployment office in Burlington and you can get men who are there collecting." He said others will come down and take people from the unemployment office and offer them jobs.

He would not give me his name, and I cannot tell you who he was, but he is telling me that this is what is happening.

ASSEMBLYMAN COWAN: I think that is a point that has been brought out at our previous hearings, that fraud in most cases cannot exist without two parties participating. Of course, we are always glad to hear an employer come forth and state the fact that they would not participate in it.

MS. LEOPOLD: But, I feel we are also paying - all of us as employers and taxpayers - for this kind of thing; people know they are collecting. He said to me, if I need help I should go to the unemployment office. It is unbelievable.

These are the problems we have had. The fact that we are so small and have this--- Basically we don't even have a big turnover rate. A lot of people stay with us for years. It just seems to me that we are not alone. We are not the only ones having these kinds of problems. There is talk among some of the schools that since we are a non-profit organization, that there is talk about getting out, which seems a shame, because there is a real value to the unemployment system. But, it just should not be abused. The law has to correct some; and then administration has to see that the laws are enforced.

ASSEMBLYMAN COWAN: Thank you.

ASSEMBLYMAN COSTELLO: I have one question, your teacher contract, is that for nine months or twelve months?

MS. LEOPOLD: We pay them twelve months.

ASSEMBLYMAN COSTELLO: What does your contract read?

MS. LEOPOLD: It reads that they have to work for us until the last day of school. But, we pay them in July and August, and that did not disqualify them.

ASSEMBLYMAN COSTELLO: They ask for twelve equal pays, and not nine.

MS. LEOPOLD: They don't have a choice. Our teachers have to take twelve pays. They don't even have a choice. They were collecting their full

salary from us July and August and that did not disqualify them for unemployment at the time. But, that didn't even matter except that all teachers, even those who are paid in nine months, it is the same amount of money.

ASSEMBLYMAN COSTELLO: Right, but I am talking about the teacher, come September 1, they are going to another job, and they have applied.

MS. LEOPOLD: That happens now.

ASSEMBLYMAN ZANGARI: Ms. Leopold, on the form for verification of employment, from a previous employer to have the last 26 weeks, what he made and so forth, is there a box there to indicate whether you want to appeal?

MS. LEOPOLD: If we are the first employer, and they--- How could we appeal?

ASSEMBLYMAN ZANGARI: On that form, that is where you have the right to appeal, whether you want that employee to collect or not, and if you want to challenge it.

MS. LEOPOLD: They asked us why, to give a reason.

ASSEMBLYMAN ZANGARI: It is on the form itself. I think there are thirteen boxes there. You will note that on the far left-hand corner of that form, there is a box that you can check which says you may challenge.

MS. LEOPOLD: The initial form?

ASSEMBLYMAN COSTELLO: No, not that one.

MS. LEOPOLD: Also, it says, "Why did you let them go." And, we say, they voluntarily terminated. We don't even know the name of the subsequent employer.

ASSEMBLYMAN COWAN: Of course, you were here when Mr. Geller was here; is that correct. And, I would assume that his offer is open. If you would follow up on that, he can help you.

MS. LEOPOLD: Except this is legal.

ASSEMBLYMAN COWAN: Of course, none of us want to get tied into the technicalities of the law itself, because we are not really that familiar with it that we can give you an answer or a certain determination. However, what I would suggest is that you do contact Mr. Geller, and in particular with the case that you mentioned where you are paying people and they are also declared eligible for collecting unemployment benefits. It just doesn't seem that it should be. That is not the purpose of unemployment.

MS. LEOPOLD: My point to you is that the law should be, the previous employer--- A person who voluntarily leaves surrenders all claim against the previous employer. That should be in the law. The rest is administration, but it should be in the law that once you voluntarily leave, the previous employer is not charged at all. He chose to leave. Of course, it is money to even replace these people in training, and so forth. Everyone else has said this.

ASSEMBLYMAN COWAN: Thank you. I think then our final witness would be John Flemer.

J O H N W. F L E M E R: Ladies and gentlemen, my name is John W. Flemer and I am the First Vice President of the New Jersey Association of Nurserymen. I am pleased to be able to talk to you today and make observations regarding the New Jersey Unemployment Compensation law.

The concept of providing income for workers who lose their employment through no reason they can control is a sound one, and one with which New Jersey

nurserymen and farmers can agree. However, we see certain shortcomings in the law, as it is administered, and we wish to make the following four recommendations.

In the first place, we request that the Department of Labor and Industry change its interpretation of the Unemployment Compensation law so that eligibility for unemployment compensation truly depends on the "lack of work" rather than the "end of the contract." Specifically, New Jersey's nursery employers frequently obtain workers from the Commonwealth of Puerto Rico under the Wagner-Peyser Clearance Procedure, whose employment is covered by a contract negotiated between New Jersey employers and the Secretary of Labor of Puerto Rico. The contract provides for many things such as acceptable housing standards, three hot meals a day, instant coverage by a medical insurance group plan, specified wages per hour, representation of the worker by the Department of Labor of Puerto Rico and, on the completion of 28 weeks of work, free roundtrip transportation between Puerto Rico and New Jersey. We believe the Department of Labor and Industry has erroneously interpreted the law to permit individuals who have completed 28 weeks of work to collect unemployment compensation benefits without disqualification even though they have voluntarily left the work which they have been performing for 28 weeks and which continues to be available under the same pay rates and conditions as it was previously. Because of the seasonal nature of nursery work, nurserymen can provide employment from around March 1st until around December 10th. The Department has interpreted the law to allow our skilled workers who arrive on March 1st to voluntarily leave on September 13th - 28 weeks later - and return to Puerto Rico and collect unemployment benefits as though they had been laid off, when in fact their jobs were continually available until December 15th; their employers were caused hardship to recruit and train new workers and additionally penalized by the accumulation of charges to their reserve accounts. In the opinion of nurserymen, unemployment benefits should be available to workers who are unemployed because of lack of work but those workers should be disqualified who leave continuing work voluntarily preferring to leave the area and collect unemployment benefits. Clearly, the latter case is contrary to the intent of the law.

In the second place, New Jersey nursery employers feel that charges should not be made to an employer's reserve account for workers who have voluntarily left, obtained other employment, and have subsequently been involuntarily separated due to causes not attributable to work. For example, an employee may voluntarily quit work from a nursery employer and obtain work elsewhere, only to be discharged from the second employment after he has earned four times his weekly benefit amount. After the limit of benefits have been charged to the second employer, the first employer is subjected to charges to his reserve account because of the worker's continued collection. We feel that these benefits should be charged to the fund in general, rather than the first employer. This happens, I understand, in Pennsylvania and Wisconsin, and should be made part of New Jersey law.

Thirdly, we feel the limit of disqualification of a worker discharged "for cause" should be longer than six weeks and, in any case, that the discharging employer should not be charged with benefits paid to the discharged employee. We feel that the disqualification should be permanent rather than limited to six weeks for such discharges as fighting on company property, destruction of company property, theft and dishonesty, improper and intolerable conduct, drinking

on duty and so forth. We feel disqualification for these reasons should be permanent. If this is unobtainable, the disqualification should be for more than six weeks. In any case, charges should not be made to the discharging employer, his reserve account, but rather to the State fund.

Last, but not least, New Jersey nurserymen feel that a worker who has been under the contract agreement between New Jersey employers and the Secretary of Labor of Puerto Rico, and collecting because of lack of work, should be disqualified if he fails to respond to recall at the start of the following season. In the case of my company, we have had workers who have come up from Puerto Rico each year for many years. Last year we invited them to return at the beginning of our active season once again under the 1979 agreement. When they failed to appear on the recall date, we protested that benefits should not be paid to them after the recall date since they had not accepted our offer of work. The Division of Unemployment and Disability Insurance claims that an individual is not required to be available for recall to a job from which he has been separated in the area of prior residence. This interpretation does not take into account the fact that free transportation is provided to such workers, free housing and the low cost board, that the worker is in the pattern of obtaining employment in New Jersey under contract and finally that a very significant percentage of the workers who continued to be eligible did actually return to our employment a few weeks after the recall date. By that time, our season was almost over and the lack of experienced workers had caused hardship to us.

There are other shortcomings New Jersey nurserymen see in the unemployment compensation system, and we would like to discuss these at greater detail with the Committee if this is possible. We have only mentioned the abuses and misinterpretations which we feel are paramount. We appreciate the opportunity to present this testimony and will be pleased to meet at a later date with representatives of the Legislature or the Division to try to resolve these problems. Thank you very much for your attention.

ASSEMBLYMAN COWAN: Of course, Mr. Flemer, we would certainly be interested in anything more that you have to present to us, because that is why we are here, to further the study. You can also contact Mr. Geller at any given time.

You bring up something here, so far as a contract with the Secretary of Puerto Rico, and I wonder if perhaps that is something that could be handled privately by the industry themselves rather than something being done through the legislative process. The law exists. I realize there may be something there as far as interpretation and in the determinations of some of these cases that may be a problem. But, when you hire someone on a contract for 28 weeks, shouldn't there be some proviso in that contract that you could handle that yourself within the industry?

MR. FLEMER: It is mainly an interpretive thing, I think, on behalf of the Department here rather than a contract matter.

ASSEMBLYMAN COWAN: In your first point, as far as the contract itself is concerned, it is the interpretation, of course, I understand that, as to the 28 weeks that you actually hire them for. What I am saying is, perhaps there can be some proviso with an option, or whatever it may be - and not being in the practice of law myself, I am not sure about this - but maybe you could put

something in that contract yourself, so you can meet the requirements, so to speak, and these people will still be required to recall, or staying on at this point in time in your employ.

MR. FLEMER: The problem, as I see it, is, for instance, the letter from Commissioner Horn to the General Manager of the Glassboro Service Association says, "Our interpretation of the unemployment compensation law is that once a contract expires there is no longer an obligation for the worker to remain on the job."

ASSEMBLYMAN COWAN: You see, this is what I am saying. The contract should require the employees to be employed for a period of time. Of course, if that is a problem within the industry, then you have to barter with the Secretary. I don't know whether you have explored that or not. That is what I am asking you.

MR. FLEMER: There is no other interest on the part of the Secretary to get such wording in. But, the law depends upon the availability of work, not on a contract; doesn't it?

ASSEMBLYMAN COWAN: Basically it does.

MR. FLEMER: It is to give some support to people who have no means of support, and in our situation we have work, and they have the means of earning a livelihood. And, just because there is a contract which is mainly to provide that they are not stranded in New Jersey, that is a whole different field. That has nothing to do with unemployment, as far as I can see. When they do leave in December, we say, "Lack of work." And, they go home and collect. We help them collect.

ASSEMBLYMAN COWAN: Yes, but are they permitted to stay on after this 28-week period?

MR. FLEMER: Oh, yes. There is no obligation for them to leave, whatsoever.

ASSEMBLYMAN COWAN: And, there are a good number of them that stay on?

MR. FLEMER: Yes.

ASSEMBLYMAN COWAN: And you can selectively discharge at that time.

MR. FLEMER: We can selectively discharge any time for non-performance of work or something like that. But, the problem is the availability of work. There is still a lot of work available from September until December.

ASSEMBLYMAN COWAN: Well, why wouldn't you extend your time past the 28-weeks?

MR. FLEMER: Sure; we offer employment.

ASSEMBLYMAN COWAN: That is the point I am trying to get across here. Many times industry itself, and the individuals in our country, look to keep things within the private structure, rather than put them on a legislative basis whereby they become statute, and again everyone starts crying about regulations.

MR. FLEMER: But, it is the interpretation. I think the law clearly doesn't provide that somebody is laid off just because they finish the 28-week contract if the work is still existing. It is their interpretation of the division that this constitutes a layoff, and it is not a layoff.

ASSEMBLYMAN ZANGARI: Assuming that you would alter your contract to read 36 weeks employment from March until December, whatever you have stated here, would it be difficult for you to recruit these same people?

MR. FLEMER: You would get into a problem because many of these workers are in fact not receiving work after 28 weeks. It is in fact a layoff situation because the crops are done - under tomatoes or beans or asparagus, or what have you. And, the contract provides for payments for a time not worked, a guaranteed payment.

ASSEMBLYMAN ZANGARI: So that in essence what you are saying is, in the event that you do have good weather conditions that you could employ, but it does not necessarily mean that you could employ everyone that you have here for the amount of time that you stated in your testimony.

MR. FLEMER: We can, being a longer season, but this contract applies to a whole lot of farmers who have a shorter season, and they have to pay if they don't provide the full 28 weeks work, they have to provide what is called combined.

ASSEMBLYMAN ZANGARI: So, which way would it be cheaper, for these people to pay the unemployment rate, or to pay these people again in order to secure the employment of these people for the length of time that is required to keep the industry moving?

MR. FLEMER: I am not complaining about the rates and the payments, so much as losing valuable help at a time when we really need it.

ASSEMBLYMAN COSTELLO: Are you suggesting that the contract should vary just from 28 weeks? Maybe a more realistic figure would be 31 or 32 weeks, something like that?

MR. FLEMER: Yes, with a termination date. That is what I would like to see, but that could not go for other farmers.

ASSEMBLYMAN COWAN: That is all interstate. This is just my point. I don't want to get into anything that would deal with the contract, not being an attorney. Perhaps it might be something that could be resolved within the industry itself.

MR. FLEMER: Sure, or within the department.

ASSEMBLYMAN COWAN: All right, thank you. Are there any questions?

ASSEMBLYMAN COSTELLO: I have no questions, but I would like to make a comment.

ASSEMBLYMAN COWAN: Thank you, Mr. Flemer.

ASSEMBLYMAN COSTELLO: I would just like to say I have asked for the privilege of offering a final comment, in order to fulfill my dual purpose here today. It will only take a moment, if you will grant me that privilege.

It has been a long day, and I would like the record to show that I am responsible to someone, the time is about four-thirty, and I want to thank you for coming down to this part of the State, Burlington County. There has been some question as to whether or not this is South Jersey. This is South Jersey. It isn't often that a Committee will come down. I want to thank you and your staff for coming down and extending an opportunity to those in this portion of the State to testify. I did notice, however, there were quite a few who traveled down from Hudson County.

One of the advantages of being the final speaker is, anything you might have had to say has already been said, and for me to repeat the concerns of my employer, which is the Burlington County Bridge Commission, would simply be redundant. Hopefully, when you read some of this testimony it will help to resolve some of

these abuses that we are all concerned about, and in doing so you will make my employer happy. With that I would like to close, and again thank you for coming down.

ASSEMBLYMAN COWAN: Herman, it has been our pleasure to be here. Although it may seem like a lengthy day, I am sure we on the Committee have found it very interesting. Despite what some people may think, I believe we have had some very good input here today. It was certainly a pleasure to be here, particularly in your new municipal complex.

ASSEMBLYMAN COSTELLO: This is not mine. This belongs to the Township. I live in the neighboring community, Burlington City.

ASSEMBLYMAN COWAN: I meant that in the plural sense. It certainly shows that in the rural areas of our state, so to speak, there is tremendous potential for growth and development, and we all look forward to that in all of our industries, despite the fall off that we have had in the past few years, fortunately, in the collection of unemployment benefits by our participants in the labor force.

Thank you.

(HEARING CONCLUDED)

