

PUBLIC HEARING

before
New Jersey Legislature.
ASSEMBLY, COMMITTEE ON LABOR
RELATIONS,

ON

Assembly Bills Nos. 1288, 1315, and
Assembly Committee Substitute for Assembly
Bill 1047 -

[Re unemployment compensation benefits and
changes with respect to the Temporary
Disability Benefits Law]

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185 W. State Street
Trenton, N. J.

December 8, 1970
Senate Chamber
State House
Trenton, New Jersey

MEMBER OF COMMITTEE PRESENT:

Assemblyman Robert K. Haelig,
Chairman

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PUBLIC HEARING

before
The Joint Legislative
Assembly Committee on Labor
Relations

ON

Assembly Bills Nos. 1368, 1315, and
Assembly Committee Substitute for Assembly
Bill 1312
[The amendments, communication facilities and
changes with respect to the temporary
disability benefits law]

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December 8, 1970
Senate Chamber
State House
Trenton, New Jersey

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TRENTON, N. J.

MEMBER OF COMMITTEE PRESENT

Assemblyman Robert J. Harris

Chairman

1970

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ASSEMBLYMAN ROBERT K. HAELIG, JR. [Chairman]: I am going to start the public hearing now.

My name is Robert Haelig. I am an Assemblyman representing District 7-A in Middlesex County and the Chairman of the Assembly Committee on Labor Relations.

I expect two additional members of my Committee to be here. But since the hour is getting late, I think we ought to start the hearing.

The hearing today is on the general subject of the extension of unemployment compensation benefits to 39 weeks in accordance with the specification set forth in the Federal statutes on unemployment compensation. And we will also hear any testimony that any of the witnesses wish to present in connection with the changes that will be recommended by the Labor Relations Committee with respect to the Temporary Disability Benefits Law.

The specific bills that are under consideration by the Committee are: Assembly Bill 1288, which was introduced back on October 8th; and the proposed bills which are Assembly Committee Substitute for Assembly Bill 1047 and Assembly Bill No. 1314, both of which are printed and were introduced yesterday; and another bill, which is Assembly Bill No. 1315, which is a consolidation of the two bills which I just mentioned, which was also introduced yesterday. Now I recognize that this bill has not been printed yet. So the hearing will be based on general testimony on the general subjects which I outlined previously.

We have a total of five witnesses who have indicated that they wish to testify on these subjects today.

The first witness will be Mr. Joel R. Jacobson, representing the United Automobile Workers.

J O E L R. J A C O B S O N: Assemblyman Haelig, my name is Joel R. Jacobson. I am the Director of Community Relations for Region 9 of the United Automobile Workers Union.

It is a tradition whenever a witness appears before

a public hearing to say he is happy for the opportunity to be heard. I want to assure you I am happy for the opportunity to be heard, but I must question whether the opportunity is necessary, at least in so far as the legislation dealing with the extended unemployment benefits is concerned.

A-1288, the bill that was in my hand when the hearing was called, is enabling legislation to permit New Jersey to participate in a Federal program of extended unemployment compensation benefits, with the Federal government sharing half the cost. The statute cites conditions under which New Jersey jobless workers can receive 13 weeks additional benefits. New Jersey qualifies under both the specifications contained within the Federal statute and the question occurs to me if the Federal Congress should determine that there are conditions of high unemployment in New Jersey which enable them to participate in a program in which the Federal government will share, why is it necessary to hold a public hearing? Why don't we just do it?

I think this question becomes even more pertinent when we analyze the legislative history of the employment security amendments of 1970, which was H.R. 14705, the Federal statute which is being triggered by A 1288 or its successor A 1315.

The Ways and Means Committee of the House of Representatives passed the extended benefits on November 10, 1969. Three days later, November 13th, the entire bill passed the House of Representatives, with the extended unemployment compensation benefit provision contained therein. On March 26th, the Senate Finance Committee reported on the same issue, again with the same Federal provision. On April 7th, this passed the United States Senate. On May 5th, the Joint Senate-House Conference Report came forth with the same provision contained therein. On July 23rd, the House passed the Conference Report. On August 4th, the Senate passed the Conference Report. And in the middle of August,

President Nixon signed the bill into law.

My point is, with the legislation extending back one year in duration, it appears to me quite odd that nobody in the New Jersey Legislature was prepared to introduce an enabling bill as soon as this particular statute became law of the Federal government.

On Monday, August 31st, the United Automobile Workers passed a resolution urging the New Jersey Legislature to pass triggering, enabling legislation. One day later on September 1st, we mailed a letter to every member of the Legislature, informing them of the Federal statute, declaring New Jersey's eligibility, and urging passage of this bill in the September session.

The New Jersey Legislature met six times: on September 14th, on September 17th, on September 21st, on September 28th, on October 5th, and October 8th. In not one of these six sessions was any action taken to trigger the Federal bill. It is our suspicion that there were undue and unnecessary delaying tactics, as a result of which New Jersey workers who would have been eligible to participate in this program lost a minimum of \$8 million in benefits.

Aside from the moral problem of providing benefits for long-term unemployed workers, we find that many of the members of our union and other unions are victims of a hostile administration - a hostile Federal administration - which has been able to present the miracle of a wartime economy, spiralling inflation, and at the same time, high unemployment.

So my question is: Why is it necessary to hold a public hearing on something which is simply a legislative trigger for a Federal statute?

We certainly urge you, Mr. Haelig, and your Committee to recommend that this statute with its provision for extending the unemployment benefits for 13 weeks be passed immediately when the Legislature reconvenes on Thursday and Monday.

Now I am aware by virtue of reading the newspapers that the Chamber of Commerce will be testifying here and will be making several points. If the newspaper reports of their testimony are accurate, the Chamber of Commerce is inaccurate. And I would like to just anticipate two or three things and to set forth our position with regard to these items.

According to the newspaper story, the Chamber of Commerce claims that the reserve ratio has sustained a disastrous decline and the fund is at the point where it is actuarially unsound.

I would like to give you a copy, if I can find it, of Table II of the 1970 report of the Division of Employment Security, concerning the reserve ratio, which is the status of the fund - and I will give this to you when I am finished. For 1969, the reserve ratio was 6.087 and since 1961 that is the second highest level of the reserve ratio at that point. So if the fund is actuarially unsound, it has been unsound for the last ten years and I am unaware of any great disaster that has prevailed. The fact is that the fund is now healthier than it has been for eight out of the last ten years.

The second argument they raise is that employers are sustaining too high a level of taxation as a result of the formula. I would like to point out that the effective employer rate for the year 1969 was 2.01 and that is the lowest rate since 1959, eleven years.

So the argument that the employer's rate is too high is inaccurate. The facts show it has been higher for each of eleven of the last twelve years. I think that point can be set aside.

I would also like to point out that the contribution by workers to the fund for the last year amounted to \$19 plus million, which was the highest annual amount of workers' contributions in the entire history of the Unemployment Compensation Law, the highest in the history of our fund.

So we have the combination of a stable reserve ratio, higher and increasingly higher worker contributions, lower employer rate, and it ill behooves the Chamber of Commerce, faced with such statistics, if it can recognize them, to recommend that there be a diminution of employment compensation paid to unemployed workers or any opposition set forth to its extender.

The UAW is hopeful that Governor Cahill and the Legislature will replace the callous, delaying tactics which have prevailed until now with compassion and pass the unemployment extender so that New Jersey's unemployed workers will receive their sorely-needed benefits during these difficult days of soaring inflation and high unemployment. I thank you very much.

ASSEMBLYMAN HAELIG: Just one question, Mr. Jacobson: Is it your opinion that had the Legislature adopted Assembly Bill No. 1288 at an earlier session, the bill would have done what it was supposed to do?

MR. JACOBSON: I have been told that there are technical deficiencies in the bill and not being a lawyer, I can't answer that question.

I do say that there was ample notice to the Legislature that this unemployment extender would be available to them and that the Legislature should have been ready and had drafted and ready for introduction a bill which would have triggered the Federal statute immediately upon the renewal of the session in September and that that bill should have passed the first two or three days of that particular session.

ASSEMBLYMAN HAELIG: Thank you very much, Mr. Jacobson.

Let me state for the record that my Committee, which is composed of members of both political parties, has attempted to a man to maintain a strictly neutral attitude on the legislation which comes before us. Our responsibility is to the public interest and only to the public interest, and we don't attempt to favor one side of the coin over the other.

Subsequent to the introduction of Assembly Bill No. 1288, we became convinced after discussions with members of the Governor's administration, with representatives of the special interests involved and with the original sponsors of the bill that the legislation was technically deficient and that it wouldn't have done what it was supposed to do, and the bill which was introduced yesterday by the same sponsors, incidentally, is one which is drafted in a different manner. I felt that the public hearing was necessary - and no member of my Committee disagreed with my attitude on this point - simply to clear the air and get on record the opinions of the various interests involved.

It is our intention, after we are able to consider the information which we are receiving today, to make a timely judgment on that information and pass whatever legislation we feel is in the public interest.

The next witness will be Mr. David Lloyd, representing the State Employer Legislative Committee.

D A V I D L L O Y D: Mr. Haelig and members of the Assembly Committee on Labor Relations: My name is David Lloyd. Mr. Ted Peirone, who is Chairman of the Subcommittee on Social Insurance of the State Employer Legislative Committee was unable to make it today and I am appearing on his behalf.

The State ELC agrees that it is important to aid those wage earners, who though ready, willing and able to work, have lost their jobs in a period of high labor surplus and who need financial help for longer than the present 26 weeks now provided under the state's unemployment compensation program. Recognizing that new federal law, passed on August 10, 1970, provides for extended unemployment benefits on a 50-50 federal-state cost basis, the State ELC recommends that New Jersey join in this program starting January 1, 1971. Since economic conditions may warrant more immediate use of the extended benefits program, we see no good reason for delaying further New Jersey's entry into the program.

After reviewing Assembly Bill 1288, we find this bill does not provide for the proper financing required. We favor instead Assembly Bill 1315, Introduced by Assemblyman Robert Littell, for the following reasons:

1. We agree that extended benefits should be financed by the present experience rating system. Employers who continue to provide steady employment even during times of high unemployment should not be forced to bear the costs of employers with constant seasonal lay-offs. Further, the importance of experience rating as a tool which promotes policing of the law must not be underestimated. Thus, extended benefits should be charged against an employer's account in the same manner that regular benefits are charged. We further suggest that since the federal government has set the wage base at \$4,200 starting January 1, 1972, the unemployment compensation tax schedule should be adjusted downward in order that the income reach the proper level when combined with the federal government upward change in the wage base.
2. A private pension plan offset, used in 33 other states, should be included, especially since the 13 extra weeks of benefits would be an added windfall not originally intended by the law. Those under 65 years of age involuntarily pensioned should be excluded from a pension offset until age 65.
3. A fixed benefit amount of \$75 a week should be set, instead of the present 66 2/3% of average wages up to 50% maximum as mandated by

S 400 of 1967; or we feel that the formula in A 1315 should be used.

In conclusion, we have a true concern for the unemployed worker, especially in a period of high unemployment. To do the job right, we respectfully urge passage of A 1315. We thank you for this opportunity to present our views.

ASSEMBLYMAN HAELIG: Thank you very much, Mr. Lloyd.

The next witness will be Mr. Charles Marciante, representing the New Jersey State AFL-CIO.

C H A R L E S H. M A R C I A N T E: May I express my appreciation and the appreciation of the New Jersey State AFL-CIO for the opportunity to appear before you in support of Assembly Bill No. 1288, subsequently changed to A 1315. We do not totally agree with the changes made in A 1315. We realize that there were some technical difficulties with 1288. However, we do find that the importance of our people receiving benefits transcends the importance at this time of ratings.

I would like to comment on A 1288 because we did play a part in its drafting.

The bill would provide the opportunity for New Jersey to take advantage of the funds made available by the Federal Government for an extension of Unemployment Compensation benefit periods for 13 weeks in addition to the present 26 weeks presently provided by our law. There should be no necessity for me to emphasize the desperate need of the unemployed people of the State for an extension of their benefit periods in this time of difficulty. There is widespread unemployment due to a period which may be characterized as a condition of economic recession. While it is generally stated that the percentage of unemployment today is approximately 6 per cent, this percentage is far exceeded in several sections of our State, especially in the highly industrialized areas.

From the latest figures that I have been able to obtain, we have found that there are approximately 170,000

unemployed in New Jersey who had been gainfully employed.

The condition of our unemployed persons today is such as will require most of them to seek welfare assistance unless we provide additional unemployment benefits under the Unemployment Compensation Act. If this should happen, our State or Municipal Treasuries may be forced to pay out by way of welfare even more than the \$14,000,000.00 which it is contemplated this bill would cost, only half of which would be paid by our Unemployment Compensation Fund, and none of which by our State or Municipal Treasuries.

We do not regard this issue as a partisan matter. It is a matter which transcends politics and requires the favorable consideration of all persons of whatever political faith.

The bill would permit the Commissioner of Labor and Industry to enter into an agreement authorized by the "Federal-State Extended Unemployment Compensation Act of 1970" under which individuals who have exhausted their unemployment benefit rights would be covered for an additional thirteen (13) weeks. The cost would be equally divided between the Federal Government and the State Unemployment Compensation Fund.

The Commissioner of Labor and Industry has estimated the cost of such plan as being in the neighborhood of \$14,000,000.00, half of which would be paid by our Fund and half of which by the Federal Government.

Our present Unemployment Compensation Fund is almost \$500,000,000.00. The amount of which we would pay would equal only \$7,000,000.00 ---- an insignificant amount compared to the size of our Fund. Yet, this amount would tide over many persons who are unemployed and desperately in need of some sort of support. They are persons who have been connected with the labor market

and whose unemployment is due not to their own fault but to the present economic unrest.

We of the State AFL-CIO regard it as the duty of all citizens to support Assembly Bill No. 1288 and to use a very small part of our enormous Unemployment Compensation Fund to provide these benefits for our unemployed workers who are not only willing but anxious to get back to work as soon as there is employment available for them.

We, therefore, urge this Committee to act upon this bill immediately as a priority measure in order to provide the benefits required.

We also make a very strong request that action be taken at the latest date of January 1, 1971, because the unemployment rolls are increasing at a very astronomical rate. It is indeed frightening to all citizens of our State who desperately need this protection.

Thank you, sir.

ASSEMBLYMAN HAELIG: Thanks very much, Mr. Marciante.

The next witness is Mr. John Bachalis, representing the New Jersey Manufacturers Association.

J O H N J. B A C H A L I S: Thank you, Mr. Haelig. My name is John J. Bachalis. I am Vice President of New Jersey Manufacturers Association.

I certainly appreciate the fact, Mr. Haelig, that your Committee saw fit to postpone the hearing from last week. Otherwise I would have found myself in the very unfortunate position of not being able to talk to a program which I believe deserves the consideration of all the best material we can get.

Unfortunately I don't have a prepared statement. I have prepared some notes since the receipt of some of the new bills that were around yesterday.

One of the disturbing factors, I believe, in this overall picture is that we are facing in our Temporary Disability Benefits Program, a potential bankruptcy. I don't believe I have to stress that too much because it is very obvious

that the fund by the end of this year will be approximately \$20 to \$24 million out of its \$104 million in prior periods. The fact that it is sustaining such a large loss, of necessity means that your Labor Relations Committee and the Legislature must do something to correct that outgo or the obligations that it has assumed under that act will not be able to be met.

Additionally, I am astonished and can't help but wonder what the portent of Mr. Jacobson's comment was to the effect the employees contributed \$19 million this year. The total benefit payoff for 1970 is going to be in the area of \$235 million. Looking at it in that light, it is obvious that large sums of money are needed to maintain that program. And with that \$235 million, apparently we are going to have a loss in our Unemployment Compensation Fund this year of about \$15 million. Additionally on top of that, it is urged that we include the payment of extended unemployment compensation benefits.

I heard Mr. Marciante say the estimate is about \$14 million. But also yesterday, I heard that the estimate was about \$24 million. Unfortunately, not having sufficient time to make any computations of my own, I have been listening to others, and I have even heard a third estimate that the cost is about \$18 million. So it must be somewhere between \$14 and \$24 million or, depending upon the seriousness of the unemployment in the coming year, perhaps even higher. Who knows? At this point I don't feel myself expert enough to say. But assuming an \$18 million loss there, what we are talking about is a potential loss of \$53 million to the two funds.

Now our Association does not back away in its concern for the unemployed from either the AFL-CIO, the UAW or any other interested group. We are as much concerned with the unemployed as any interest in this State and it probably indicates one of the biggest reasons why we have

been advocates for a strong, good business climate so that we can get the jobs in New Jersey to put our unemployed to work.

Of course, since this is the kind of money we are talking about and the Legislature is additionally also seeking moneys to find ways of bailing out our financial crisis-ridden cities, your problem is quite a staggering one. It is a big one. Of course, in view of the fact that the state, itself, is going to have a deficit in the area of \$100 million, as alleged by our Governor, the problem is even more staggering. What we are looking for now is a bundle of money. And if the tax revenues are dropping as they appear to be in some instances, for example, in the sales tax area, then perhaps our crisis is not underestimated. But it is one that certainly does require a good, over-all review of everything that we are going to do even affecting not just the over-all state revenues but also the revenues that must be raised to finance these funds.

I am also impressed by the fact that if we are suffering losses of this extent and if we were to think in terms of even increasing the wage base as it is under the Federal act, that probably is not going to be totally adequate. I must agree to some extent that with respect to our problem in the unemployment compensation area, we do have some room for maneuverability under the tax structure, so that undoubtedly more money can be raised next year when the wage base must be increased to \$4200. I think perhaps that situation is not imminently as critical as that under the TDB. But it is one that should bear watching and consideration in any move that we make.

I can't envision any circumstances with more portent to move this Legislature to act in areas which would most substantially protect the future solvency of our several funds.

First, it would seem to me necessary to reject A-1288. That bill has been around a while and it appears to be

inconsistent with the general indications of what the Federal statute seeks to do. We were one of the advocates before the House Ways and Means Committee testifying in favor of an extended benefits program, one-half to be financed by the Federal government and one-half by the states. But at the same time, we also want the control of the "turn on" of the State "on" indicators to be determined by reason of the economic circumstances within the State. And A 1288 just does not do that. In fact, it doesn't mention any responsibilities other than that which are determined at the Federal level. We are substantially opposed to having any kind of dictation coming down to the states from the Federal government in that particular area. Therefore, we would oppose A-1288.

I haven't had too much time to review A-1315, but it does seem to be a great deal more consistent with some of the statutes in some of the other states and in some of our sister states; they have used data that is very similar to the language in these states. I haven't had time to compare them but as time goes on, I certainly will. It would seem if we are to consider an extended benefits program, that might be it. Provisions should be somewhat similar to that.

Ideally I am a little disturbed by Assembly Bill 1315 by reason of the fact that it incorporates changes for the temporary disability benefits law and the unemployment compensation program in the same bill. It seems to me that the ideal here would be to separate the TDB law from the unemployment compensation law. The two programs are very different in purpose, coverage and liabilities. And the financing structure, while temporarily adequate for UC, as I have said, is wholly inadequate for the temporary disability benefits fund. It would seem to me that separation would enable the Legislature to deal with the individual requirements of each program.

It is interesting too, in financing of several states in TDB particularly, you find in states such as California

where it is 100 per cent supported by the employees, you do not have a pregnancy provision. Why we have that in our particular law is beyond me. It would seem that it would be a necessary and prudent exercise on the part of the Legislature to find some way of minimizing the effect of benefit payments in that area which do not seem to fit the criteria of unexpected disability.

I might add that in the State of Rhode Island, which is also employee financed, you have a specific maximum which is established there and that seems to be a prudent course if it cannot in fact be totally eliminated.

One of the concerns we have had ever since the enactment of S-400 was that the program, so unwisely adopted, had introduced a certain amount of runaway costs, particularly in the benefit formula. We would urge that it be restructured and that the maximum amount, if it cannot be fixed, at least some method introduced so that it does not proceed at the pace it is. Now it is greatly exceeding many of the states with whom we must be in competition.

In dealing with this extended benefit program, I believe we should consider the essential purpose of a program of unemployment compensation. It should be, I believe, constructed in such a way as to afford every practical aid and incentive toward the larger purpose of employment stabilization. In that respect, I believe that benefit payments so made should be experience rated. I note that that is a factor in A 1315 and also that it is a factor in A 1346, another late starter yesterday which made it impossible to completely analyze.

We believe another thing you should do here is provide that beneficiaries should be somewhat closely screened and we are concerned here not just with the payment of benefits but with the fact that our Employment Service through its several functions can and should exert increased efforts to place persons in employment or, in the alternative, give them the benefit of the specialized

services of which they are capable.

I believe in some respects we should have some determinations under our Unemployment Compensation law which do not attempt to completely maintain that a man has only one skill, his prior employment. We have some of these problems in our Temporary Disability Benefits Law where a person is unable to perform his last work and he is considered disabled. It is entirely possible that the person might be very physically capable of performing all of his duties outdoors, or if not performing his particular job, could perform another job. Perhaps some of these items should be looked at in eliminating some of the problems we have in both of those laws.

Additionally we would also recommend since we are dealing with the long-term unemployed that we should find some means of acknowledging the fact that certain persons who are retired are in fact long-term unemployed but involuntarily unemployed. To that extent, we believe there should be a pension offset of the private or other kinds of pension programs or disability benefit programs to which the employer has contributed against any payments of extended unemployment benefits. And in most cases, I think you will probably find that the unemployment compensation benefit will be much higher than the amount of the monthly benefit under any of those private pension programs.

These are a few of the views I have managed to put together, Mr. Haelig. I hope we can give you the benefit of our fuller comments at a later time. Thank you very much.

ASSEMBLYMAN HAELIG: Thanks very much, Mr. Bachalis.

The next witness will be Mr. Sylvester Gillen, representing the New Jersey State Chamber of Commerce.

S Y L V E S T E R F. G I L L E N: Before we start, at the top of page 2 of my prepared statement there is a reference to Public Law 91-373. That was passed August 10, 1970. We would just like to add the date that it was approved.

My name is Sylvester F. Gillen. I am Chairman of the Social Security Committee of the New Jersey State Chamber of Commerce. Our statement today is presented by the State Chamber on behalf of its thousands of members in the State of New Jersey. It will be consistent with the basic policy enunciated by the State Chamber as recommended by the Chamber's Social Security Committee and approved by the State Chamber's Board of Directors.

As we understand it, the hearing was called by the Chairman of the Assembly Committee on Labor Relations to consider Assembly Bill No. 1288. Obviously, from some of the prior testimony, A-1315 is also in for the same kind of consideration. A-1288 seeks to authorize agreements between the New Jersey Commissioner of Labor and Industry and the United States Secretary of Labor to provide "temporary" unemployment compensation. It is similar to the law passed in New Jersey in 1958 when New Jersey entered into agreements with the Federal government to provide for temporary unemployment compensation during the 1958-59 recession. Although this bill purports to implement in New Jersey the extended benefits program enacted this year by the Congress, now Public Law 91-373 - and the point I added, August 10, 1970 - it cannot accomplish that result. The new Federal law establishes a "permanent" extended unemployment compensation benefits program which may be enacted by a State Legislature in advance but which must be enacted by the Legislatures of all states by January 1, 1972.

The Federal law provides "permanent" extended unemployment benefits during stipulated periods of "high" unemployment, but A-1288's title describes these benefits as "temporary". The bill, therefore, in our judgment, fails on this point.

It fails, moreover, in its substance because it calls for an agreement between the United States Secretary of Labor and the New Jersey Commissioner of Labor and Industry to effectuate an extended benefits program. The Federal law, however, does not provide for such an agreement.

In our view, therefore, the Legislature must consider a new approach if it intends to establish a permanent program of extended unemployment compensation benefits prior to January 1, 1972.

We are firmly convinced that in tackling this problem, the Legislature should more than merely implement a single section of Public Law 91-373 -- that portion which deals with extended unemployment compensation benefits.

There are other provisions of the Federal law which we are convinced should properly be considered.

But even more important is the fact that there are long-standing ills in the New Jersey Unemployment Compensation program that cry for correction and which were so important as to warrant inclusion in last year's Republican party platform from which I quote:

"NEW LEADERSHIP TO EXPAND OUR ECONOMY

* * * * *

"Further revision of the unemployment compensation and workmen's compensation laws to eliminate inequities and to increase financial soundness of the funds is essential. A thorough reexamination of the temporary disability insurance fund is needed immediately to correct blunders made by the 1966-1967 Democratic Legislature. The Democrats enacted certain provisions which have caused a disastrous decline in reserves to the point where the fund is today actuarially unsound."

* * * * *

If the Assembly and the Senate should go no further now than to enact an extended unemployment compensation benefits program and go no further now in correcting presently existing provisions in the unemployment compensation law that are obviously one-sided, costly and harmful (and have been that way during the last three years since S-400 has been effective) businessmen in this State will, unfortunately, be led to the conclusion that the Legislature and the Administration have lost interest in the social insurance problems confronting business and industry.

We urge that this Legislature not make the same mistake that was made by the Legislature in 1967 when it provided inordinately high benefits, other drastic liberalizations of the law and merely increased the wage base. It should be apparent to this committee and the Legislature that the drastic financial crisis facing the State Temporary Disability Benefits program is a direct result of the improvident actions taken by the 1967 Legislature. We suggest that the 1970 Legislature should not emulate the unwise actions of the past.

Therefore, we cannot urge too strongly that, in any consideration of an extended benefits program, the Legislature should, at the same time, correct the glaring inequities in the present law.

Taking all of these factors into consideration, here is what the Chamber recommends:

1. -- Modify the Benefit Formula

The individual benefit formula adopted by the Legislature with the passage of S-400 (Chapter 30, Laws of 1967) provides unemployment compensation benefits equal to 66 2/3% of a claimant's average gross weekly wage. For many claimants, this results in a replacement of better than 82% of their take-home pay. For example, a claimant who had average earnings of \$100.01 takes home \$80.66. --

The present benefit schedule provides a weekly benefit of \$67.00 -- equal to 83% of his take-home pay.

In considering the relationship of the take-home pay to the level of benefits provided by the present law we should recognize that take-home pay is determined by considering only those items on which withholding is required such as: a single exemption for income tax, social security tax, and unemployment compensation and temporary disability taxes required to be withheld under State law. However, if we add such things as the cost of going to work, lunches, clothing, transportation and so on it is very evident that the benefits provided under the present law are inordinately high.

Malingering has always existed in the unemployment compensation program but when unemployment benefits are paid at this near real wage level there is a much stronger incentive for this abuse.

There are many other sound reasons why the present benefit formula should be revised.

-- It is completely out of line with the practice in all other states -- nowhere else in the United States is $66 \frac{2}{3}\%$ of an individual's average weekly wage replaced. Only three states even replace more than 60% of wages at the lowest benefit level.

-- At present nineteen states specifically peg their schedules or formulas to provide a 50% wage replacement at the higher levels, fourteen of these providing a 50% individual benefit formula at all wage levels.

-- The great majority of states provide an individual benefit formula of 50% or 52% of the claimant's wage. Many of the states replacing 52% use quarterly wages as a base for

computation and, according to the United States Department of Labor, this higher percentage is intended to compensate for some unemployment which the claimant may have had in the quarter. New Jersey, on the other hand, does not include any weeks of unemployment in its computation base. A 50% benefit schedule in New Jersey, therefore, would compensate claimants here as liberally as they are compensated in most other states.

-- It provides a higher wage replacement than is contained in the vast majority of labor-negotiated supplemental unemployment benefit plans.

2. -- A Pension Offset is needed

The establishment of the Federally-imposed extended benefits program underscores our belief that a pension offset should be enacted. We think the time has come for action on this issue. With the extended benefits program, pensioners will be able to draw a full 39 weeks unemployment compensation. This is clearly beyond the purposes of an unemployment compensation program.

The Declaration of State Public Policy, in New Jersey's Unemployment Compensation Law, emphasizes that the act is designed to provide for the payment of cash benefits only to avoid economic insecurity due to involuntary unemployment which is held to be a serious menace to the health, morals and welfare of the people of New Jersey. The law specifically limits or bars the receipt of unemployment compensation payments by claimants who are also in receipt of income from certain other sources -- part time earnings, remuneration in lieu of notice, or duplicate benefits paid under the temporary disability insurance and workmen's compensation programs.

There is no rational basis for permitting the receipt of both unemployment compensation and pension income concurrently. Each is designed to provide income for totally different and unrelated circumstances. The unemployment compensation program is designed only to compensate for short term unemployment experienced by those workers who are genuinely attached to the labor force. The old age disability and survivors' insurance program (Federal social security) and private pension plans, in contrast, are designed to provide income to a person after retirement from the active labor force and for an indeterminable period of time. Such completely divergent objectives make concurrent payment of unemployment compensation benefits and retirement income indefensible and unwarranted.

Those who framed the Federal Social Security Act fully recognized this situation. The report of The Advisory Council to the Committee on Economic Security specifically states that "unemployment during which . . . other cash benefits are received" is one of the "types of unemployment not benefited" under the unemployment compensation program.

The Committee on Economic Security, which developed the Social Security Act (encompassing both unemployment compensation and O.A.S.D.I.), made this same point in its report on January 17, 1935, by stating ". . . protection against old age dependency is needed to prevent the unemployment compensation system from compensating for old age risks which are outside its compass".

"And the Congress of the United States, for the first time, took cognizance of this important principle in 1961. Senate Report No. 69, March 15, 1961 (accompanying HR 4806 "The Temporary Extended Unemployment Compensation Act of 1961") had this to say on the subject:

"Information has come to the attention of the Committee to the effect that in many instances individuals who are no longer

connected with the labor force nonetheless continue to draw unemployment compensation even though they are concurrently drawing retirement benefits under a retirement plan, either public or private, to which employers make contributions. For example: instances have been brought to our attention of individuals who have concurrently received civil service benefits, social security benefits, and unemployment compensation. Your committee does not believe such an individual is connected with the labor force and therefore he should not receive the temporary extended unemployment compensation provided by this bill. Accordingly, the House Bill has been amended to provide that the temporary extended unemployment compensation provided by this bill shall be reduced by amounts received under retirement plans"

And the amendment was included in the Federal Bill when it was finally passed by the Congress and signed by the President of the United States.

Subsequently some interesting facts were revealed by a research study prepared some time after the temporary Federal act expired. That study by the Bureau of Research and Statistics in the New Jersey Division of Employment Security revealed that in a four quarter composite sample, 18.3% of the beneficiaries under the TEUC Act were receiving retirement pensions. Of this group 9.7% were receiving social security only and 8.6% were receiving either both social security and private pension payments or private pension payments alone. This latter group, the 8.6% group, had their benefits reduced under the Federal law by the amount of their private pension payments.

We suggest, therefore, that legislation be adopted in this State to accomplish these objectives:

1. To permit individuals whose retirement income is less than their weekly unemployment compensation benefit entitlement, to receive the difference between retirement income and their weekly unemployment compensation benefit.
2. To prevent individuals who receive retirement income in an amount which exceeds their weekly unemployment compensation benefit entitlement, from collecting unemployment compensation at the same time.

Nothing in this proposal would prevent a retired worker from filing a claim for unemployment compensation benefits. It only means that he would have deducted from his weekly unemployment benefit payment any duplicate income received under a chargeable employer's pension program. Ineligibility for unemployment compensation benefit payments would occur only when the duplicate income payments equal or exceed his unemployment benefit amount. If duplicate payments are less than the claimant's weekly unemployment benefit amount, he would be permitted to collect the difference.

We emphasize that this proposal would apply only where a chargeable employer has contributed toward the cost of the pension being received by the claimant.

If I may go off the record for just a moment, I happen to be retired myself, and I feel so strongly about this. I think this is a very, very important thing. Over the years I have seen many cases where people on retirement, like me, who had no intention of accepting a full time job go down and claim Unemployment benefits. You go in at age 65 and you claim these benefits and you look at the kind of jobs that are in keeping with your prior experience and ability, and not many of them get the jobs that they had before so they automatically become qualified. When you add another period of benefits under the Extended Unemployment Benefit Program, I think we find that even though the percentage of people involved is relatively small, the dollars involved are quite significant because these are the people who stay on for the maximum period of time.

We are aware of the contention that workers have contributed to the Fund and therefore should be permitted to draw benefits after being retired. We do not agree with this reasoning since it permits the use of the unemployment compensation trust fund by a select group of individuals as a source of supplemental pension income. Further, the arithmetic doesn't make sense. Assuming forty years of contribution on the present wage base, an individual would only contribute a total of \$360 and for that he could be paid \$1794. If we consider the effect of the extended unemployment compensation program, then he could draw up to \$2691.

The New Jersey Temporary Disability Benefits Law now provides that disability benefits shall be reduced by the amount paid concurrently under any governmental or private retirement or pension program to which his most recent employer contributed.

Thirty-three states have enacted pension offset legislation.

New Jersey should do likewise.

I think too, as an added comment, every once in a while the question is raised: If we have this under the Temporary Disability Benefits Program, why don't we have it under the Unemployment Compensation Act? And I think the answer is that the Temporary Disability Benefits Program is a newer program and, therefore, it represents a more up-to-date and advanced thinking than was in effect at the time the original Unemployment Compensation Program went into effect.

3. -- Increase in the Taxable Wage Base

Public Law 91-373 requires all states to increase their taxable wage base to \$4200 effective January 1, 1972. The imposition of the increased wage base would, in our judgment, result in unnecessarily high unemployment compensation taxes. We strongly believe that the unemployment compensation program's taxes should be adjusted to provide adequate revenues but also recognize the larger base on which such taxes are determined. We therefore recommend that the reserve ratios both for individual experience rated accounts and for the determination of the State fund factor be revised to avoid the undesirable effect on employers of a decrease in reserve ratios while paying taxes on the higher wage base. This is a complicated subject and we would be glad to provide more information at an appropriate time. But I am sure you recognize the tax contribution rate of an individual employer is related to two things: the condition of the State Unemployment Compensation Fund and also the credits that he has in his own individual account.

Since the individual account is based on taxable wages during the higher of the last three or five years, it is obvious that when you increase the wage base, you suddenly put a larger base on which his taxes are computed. So he pays taxes first on a higher base. Then in addition to that, he finds that he has a smaller reserve ratio. So he can get hit two ways. When that happens, there is provided in the law a 3/10ths of 1 per cent increase in taxes that he

must pay. We think this should be carefully considered at any time when the wage base is increased.

In line with this recommendation we make one further suggestion. The minimum tax rate on employers should be reduced from 4/10 of 1 per cent to 3/10 of 1 per cent. This is only the most ideal situation where this would come about.

4. -- Financing The Program

In order to pay for New Jersey's share of the extended benefits costs, we recommend (a) that they be financed by the experience rating system and (b) that these benefits be charged against employers' accounts in the same manner that regular benefits are charged.

There are many reasons why extended benefits should be financed through the experience rating system and charged to employers' accounts.

- 1) The long-range preservation of a sound unemployment compensation system requires the active interest of employers in the amount and duration of benefits, eligibility, disqualification provisions and efficient administration of that system. This interest includes assistance to the Division of Employment

Security in policing claims and the shaping of legislative thinking on the program.

- 2) Individual employer experience is the key to employer interest. A flat rate tax without incentives or opportunity for reduction dulls the employer's interest.
- 3) Benefits under the new extended program are to be paid at the regular state weekly benefit amount and are subject to the same eligibility and disqualifying provisions in the state law as regular benefits. Assistance by the affected employers in policing these claims for extended benefits is equally important as in claims for regular benefits.
- 4) An extension of 13 weeks in the maximum duration of benefits under the new law does not mean that the average duration will increase 13 weeks. During the two previous extension periods in New Jersey the average duration increased only about seven weeks. If it is sound to experience rate the first 26 weeks of benefits, why is it not sound to also experience rate these additional weeks? Obviously, it is.
- 5) There is nothing sacred in limiting experience rating to the first 26 weeks of benefits. Initially, New Jersey paid benefits of \$15 for a maximum of 16 weeks. This duration was gradually increased over the years to 18 weeks, and finally to 26 weeks -- all under an experience rating system affording employers a reasonable opportunity to control the increased costs of the program.

While we are on the subject of charging benefits, we should recognize that there is one segment of employers who would not pay their fair share of the cost of extended benefits -- these are the deficit employers, whose employees draw more in unemployment compensation benefits than their employer pays into the fund. The claimants who had been employed by deficit employers are entitled to the same consideration as any other employee and they are getting it. But the employer, since he is now paying the maximum rate of tax, will get off scot-free while all other employers will be paying their fair share of the cost of extended benefits. For this reason we believe that, in addition to charging of benefits to individual employer accounts, the Legislature should increase the maximum tax rate. Thus, all employers will share in the costs of the extended benefits program.

Now in conclusion, I think we are all aware of situations where in the past the Legislature, because of political expediency, has enacted certain changes in the law with full knowledge that further changes were necessary and desirable. As a result we have in New Jersey an unemployment and temporary disability benefit law that is far more liberal than any similar law in any other state and which places New Jersey employers in an unenviable position in competing with those in nearby industrial states. Certainly anything so one-sided cannot be to the benefit of workers. It is our recommendation that the Legislature in enacting extended benefits should also recognize and correct those areas which will improve the stability of the trust funds. Our recommendations are modest, will have relatively little impact initially on those claiming benefits but will be of great financial help in the years to come.

I appreciate very much the opportunity on behalf of the State Chamber to appear and to make this statement.

Quite beyond that, I would like to comment that we were in no way in this presentation questioning or saying that

the reserve for unemployment compensation in the State is unsound, as one of the previous witnesses indicated we were. We are not testifying to that.

I think that the fund is not as healthy as it might be. In fact, the Division of Employment Security in their last annual report said that a relatively small increase in compensable unemployment to 4 per cent could reduce the fund by \$30 million in a single year.

So while we are not taking any issue with the size of the fund, I think it is a fact that with the \$477 million that was in the unemployment trust fund at the close of 1969 and perhaps a loss this year, it isn't the most healthy fund. But I don't think by any means it is in any drastic financial problem.

This is not true, however, with the temporary disability benefits fund. There there is some definite need for some prompt action to correct the downward trend in losses. In this connection, we think too that the limitation on pregnancy benefits would be most helpful. We think too that the clarification of the waiting week, which has always been a source of problems, so that we really mean three weeks instead of two weeks and one day, would be very helpful.

Thank you very much.

ASSEMBLYMAN HAELIG: Thanks very much, Mr. Gillen.

Is there anyone else who wishes to testify before this public hearing?

MR. DORN: May I make a comment or two, Assemblyman?

ASSEMBLYMAN HAELIG: If you like, yes. Will you, please, state your name and that of your association.

P E T E R D O R N: My name is Peter Dorn. I am Secretary of the New Jersey State Chamber of Commerce.

I just have two comments.

Number one, we were not aware until yesterday of the introduction of Assembly 1315. Nor were we aware that the extended benefits program and the financing of the temporary disability benefits program would be considered

in the same bill.

So I would like to echo and perhaps emphasize a little stronger Mr. Gillen's statement with respect to that Temporary Disability Benefits Program. I think the Legislature has a responsibility to take a hard look at the uneconomic, discriminatory - and parenthetically I would suggest that the Ladies' Liberation League please note that - and very costly pregnancy features in the Temporary Disability Benefits Law.

You may recall that the State of Rhode Island was facing the same problem that the State of New Jersey now is facing and the State of Rhode Island decided to put a \$250 limitation on the amount of pregnancy benefits that could be paid to an individual.

We are convinced that the four weeks before pregnancy is not an economic nor practical method of payment. But we think at the very least the Legislature should provide a ceiling of not more than \$300 for pregnancy benefits.

And we think too it is about time the Legislature corrected a major goof that was made in Senate 400 in 1967 when a misinterpretation of the retroactive features of the Temporary Disability Benefits Law was made. It was clearly the intention - and the public hearing will show it - that the idea was to pay retroactive payment of the waiting week and temporary disability after the individual had been disabled for a full four weeks. But by interpretation, not yet determined by the court, it is now three weeks and one day. We think certainly those two items ought to be considered simultaneously with any passage of legislation financing the Temporary Disability Benefits Program and providing for extended benefits. Thank you.

ASSEMBLYMAN HAELIG: Thank you very much, Mr. Dorn.

Does anyone else wish to be heard at this time? If not, may I say that I think all of the testimony was quite constructive and my Committee intends to review it

on Thursday.

I want to thank all of the witnesses who testified
and now I would like to declare the public hearing closed.

[Hearing Adjourned]

