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STATEMENT

on the

PROPOSED EXTENDED UNEMPLOYMENT COMPENSATION BENEFITS PROGRAM

presented before the

COMMITTEE ON LABOR RELATIONS

at the

Public Hearing in the Senate Chambers
State House, Trenton, N. J.
Tuesday, December 8, 1970

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SOCIAL SECURITY COMMITTEE

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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, this hearing has been called by the Chairman of the Assembly Committee on Labor Relations to consider Assembly Bill No. 1288. That bill 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 1958-1959 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, 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 the 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, 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 are 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 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 <u>less</u> 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 <u>exceeds</u> 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.

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.

3. -- Increase 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.

In line with this recommendation we make one further suggestion. The minimum tax rate on employers should be reduced from 4/10 of 1% to 3/10 of 1%.

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 <u>average</u> 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.

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