STATE OF NEW JERSEY

Cash Sickness Benefits

FOURTH REPORT OF THE STATE COMMISSION ON POST-WAR ECONOMIC WELFARE

Compliments of
NEW JERSEY STATE CHAMBER OF COMMERCE
605 BROAD STREET
NEWARK 2, N. J.

OTHER PUBLICATIONS BY THE
NEW JERSEY COMMISSION ON POST-WAR ECONOMIC WELFARE

A New Jersey Program for the Post-War Period, FIRST REPORT OF THE STATE COMMISSION ON POST-WAR ECONOMIC WELFARE, submitted to the Governor and the Legislature, February 28, 1944 (Trenton, 1944).

Legislative Supplement to a New Jersey Program for the Post-War Period (Trenton, June, 1944).

Labor Security in the Post-War Period, Unemployment Compensation, Workmen's Compensation, Migrant Workers, SECOND REPORT OF THE STATE COMMISSION ON POST-WAR ECONOMIC WELFARE, submitted to the Governor and to the Legislature, January 29, 1945 (Trenton, 1945).

Legislative Supplement to the Second Report of the Commission on Post-War Economic Welfare, Labor Security in the Post-War Period (Trenton, May 10, 1945).

Unemployment Compensation Benefits in Reconversion, THIRD REPORT OF THE STATE COMMISSION ON POST-WAR ECONOMIC WELFARE (Trenton, February 28, 1946).

STATE OF NEW JERSEY

Cash Sickness Benefits

FOURTH REPORT OF THE STATE COMMISSION ON POST-WAR ECONOMIC WELFARE

[Laws of 1943
Chapter 192
as amended]

A Report to the 170th Legislature, Submitted as Directed by Assembly Concurrent Resolution No. 3 (1946)

TRENTON, NEW JERSEY
APRIL 9, 1946

State of New Jersey

STATE COMMISSION ON POST-WAR ECONOMIC WELFARE

[*Laws of 1943*, ch. 192, as amended by *Laws of 1944*, ch. 94]

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NEW JERSEY COMMISSION ON POST-WAR ECONOMIC WELFARE

STATE HOUSE, TRENTON, NEW JERSEY

April 9, 1946.

To the Governor and the Legislature of New Jersey:

There is transmitted herewith the fourth *Report* of the Commission on Post-War Economic Welfare, established by Chapter 192 of the Laws of 1943, as amended.

This *Report* is in response to Assembly Concurrent Resolution No. 3, passed by the 1946 Legislature and directed to the *Commission* as follows:

> "The State Commission on Post-War Economic Welfare hereby is directed to make a study of the establishment of an 'Unemployment Sickness Compensation Fund' and a system of unemployment sickness compensation benefits in this State in, or substantially in, the form prescribed in the proposed act of the Legislature annexed hereto, or in such other form as said commission may determine to be for the best interests of the State, and to report thereon to the Legislature at its present session."

Under the terms of this resolution, the Commission has examined the merits of a publicly *operated* system of unemployment sickness compensation benefits (as in the proposed act now before the Legislature), and a publicly *supervised* program (as provided in the proposed bills in the appendix of this *Report*), and recommends the adoption of a publicly *supervised* program.

The considerations upon which this decision is based are as follows:

First: The conditions accompanying the economic results of non-occupational accident and sickness benefits vary greatly among industries and among companies within each industry. A publicly supervised program offers the suitable flexibility to meet these needs.

Second: The employment relationship is vitally affected by the scope and character of a cash sickness benefit program. Companies which wish to extend additional effort to minimize the financial hazards of accident and illness among employees should be permitted to have the advantages in personal relationships that accompany such effort.

Third: Government should not intervene in the employment relationship unless the need and conditions are beyond the capacity of private enterprise. Thirty years experience in New Jersey with workmen's compensation justifies confidence in the ability of private enterprise to administer effectively a sickness benefit program.

Fourth: A publicly *operated* program which of necessity must offer minimum benefits tends to establish the maximum benefits. This is because the cost of offering benefits, beyond those provided in the publicly operated plan, is so great per dollar of benefit that employers are discouraged in attempting to provide additional benefits.

* * *

The proposed plan included in this *Report* requires that each employer "pay or cause to be paid" the stated minimum cash sickness benefits. In order to provide for the cost of such benefits it is proposed that each employee contribute ½ of 1% of earnings up to $46 per week, and that the respective employers be required to contribute any cost in excess of the employee contribution. Any employer desiring to bear the entire cost of cash sickness benefits would be enabled to waive his employee's contribution.

An employer may provide for the payment of benefits through any one of three alternatives:

1. An employer may establish financial responsibility to the satisfaction of the Unemployment Compensation Commission, which will administer the proposed program, and upon consent of the Commission

may provide for the payment of cash sickness benefits as a current operating expense, or in any other manner convenient to the employer.

2. An employer may insure with a private carrier duly authorized to transact business in this State, or provide for the payment of benefits through an employee benefit association approved by the Commission.

3. An employer who has not elected to use either of the foregoing alternatives is required to hold the employees' contributions in a trust fund which he shall maintain pursuant to regulation of Unemployment Compensation Commission; and into which he is required to pay an equal amount representing his own contribution to this trust fund. Such an employer may not waive the employee contribution without the consent of the Unemployment Compensation Commission.

* * *

In order to offset the cost of the proposed program to employers and to employees, it is proposed that adjustments be made in the rates of contribution now required for unemployment compensation purposes. These adjustments are of three kinds; the *first*, is a uniform reduction in the unemployment compensation tax of all employers of three-tenths of 1%, but this reduction would continue in effect only so long as the unemployment compensation fund exceeds 15% of the aggregate taxable payroll in the State.

A *second* adjustment, of a permanent kind, would increase the number of rate groups for experience rating from the present four groups to ten groups. Stated another way, the difference between experience rates now assignable is nine-tenths of 1%. The Commission's proposal would insert intermediate rates at intervals of three-tenths of 1% with a minimum experience rate of three-tenths of 1% and a maximum normal rate of 3%. This new maximum represents a reduction from the present penalty rate of 3.6%.

A *third* adjustment also permanent in unemployment compensation taxes would extend experience rating to employees. To this end it is proposed that each employee shall contribute for unemployment compensation at a rate equal to one-third of the contribution rate of his employer, but in no event more than the present

1%. Assuming an average employer contribution rate of 1.7% (as last year), this proposal would mean that employees would be required to contribute at an average rate of approximately 0.5%. Together with the proposed 0.5% contribution for cash sickness benefits, the aggregate employee contribution for both benefits will thus be substantially the same as the present employee contribution of 1% for unemployment compensation alone.

Further adjustments to protect the solvency of the unemployment compensation fund are developed in the *Report*, and various tables are included indicating the effect of the proposed changes on the fund. The Commission is convinced that the proposed plan is both timely and practical and commends it to the favorable consideration of the Legislature.

Respectfully submitted,

COMMISSION ON POST-WAR ECONOMIC WELFARE.

Cash Sickness Benefits

With the most difficult period of economic reconversion about to be successfully closed, New Jersey may well take inventory of its provisions for a secure and healthy people. This State, which has taken the lead among progressive states of the Nation in adopting social security legislation, is now providing a broad range of protection against the individual hazards of unemployment, old age, occupational accidents, and basic financial need. These various programs have been studied and appraised by this *Commission* over the past three years, and legislation has been recommended (and enacted) where appropriate.[1]

Early in the *Commission's* investigations, it became apparent that the State's unemployment compensation program was deficient with respect to the event of sickness. While it provides benefits to replace wage loss caused by lack of a job, it offers no relief where wage loss is suffered because of inability to perform the duties of a job interrupted by illness. In brief, it appears to the *Commission* that the sick individual has a greater need for replacement of lost wages than the well person. But there is no statewide provision for such replacement unless the loss is related to an occupational injury or disease (workmen's compensation).

The *Commission* began to hold private hearings on this question in the Fall of 1944, at which employer and labor groups presented their respective views and suggestions. In transmitting a legislative supplement to its Second Report, entitled *Labor Security in the Post-War Period,* under date of May 10, 1945, this *Commission* stated:

"The *Commission* also has under consideration the matter of cash benefits for unemployment caused by sickness upon which we will report separately. This matter is closely related fiscally and administratively to the *Commission's* recommendations relat-

[1] State of New Jersey, Commission on Post-War Economic Welfare, *First Report: A New Jersey Program for the Post-War Period* (Trenton: 1944) pp. 63-68; also *Second Report: Labor Security in the Post-War Period* (Trenton: 1945) passim; also *Third Report: Unemployment Compensation Benefits in Reconversion* (1946).

ing to unemployment compensation. It has been deferred, however, in order to gain the benefit of some experience under a liberalized benefit formula as well as to permit further study of various proposals for State, Federal or private plans."

With the advent of V-J Day shortly thereafter, this *Commission* could not even consider recommending new social security legislation in the face of what was then the greatest economic uncertainty. The *Commission* also became occupied with other matters, such as the recently published study and report on unemployment compensation benefits in reconversion. Now that much of the uncertainty of the readjustments of reconversion has been dispelled, cash sickness benefits again become a timely matter for public attention.

Character of the Need

The necessity of some compulsory plan of cash benefits to replace wage loss caused by illness seems to be generally assumed. The character of this need, however, actually depends upon two factors:

(1) the prevalence and incidence of illness among employed people; and

(2) the extent to which wage loss caused by illness can be or is already compensated without public action.

There are only two principal sources of basic information on the prevalence and incidence of sickness,[1] the reports of the *Committee on the Costs of Medical Care,* 1928-31, and the reports of the *National Health Survey,* 1935-36, conducted by the U. S. Public Health Service in co-operation with the Works Progress Administration. The results of these surveys with respect to disabling illness, in particular, afford an indication of the probable nature and extent of the cash sickness benefits problem. Tables I and II each taken from the Committee on the Costs of Medical Care, permit at least these conclusions:

[1] For a compilation of available data from many sources, see Social Security Board, Bureau of Research and Statistics, Bureau Memorandum No. 51, by Hellen Hollingsworth and Margaret C. Klein, *Medical Care and Costs in Relation to Family Income: A Statistical Source Book Including Selected Data on Characteristics of Illness* (Washington, D. C.: 1943).

TABLE I

Disabling Illnesses: Number Per 100 Wage Earners and Salaried Workers[1] Aged 15-64 and Percentage Distribution of Disabling Illnesses by Duration, for Each Family Income Group and Sex, in a 12-Month Period, 1928-31

[6,405 Wage Earners and Salaried Workers in 8,639 White Families]

Income Group	Disabling Illnesses Per 100 Wage Earners and Salaried Workers Lasting— 1-365 days	1-2 days	3-5 days	6-8 days	9-11 days	12-17 days	18-24 days	25-45 days	46-75 days	76-349 days	350-365 days[2]	Percentage Distribution of Disabling Illnesses Lasting— All	1-2 days	3-5 days	6-8 days	9-11 days	12-17 days	18-24 days	25-45 days	46-75 days	76-349 days	350-365 days[2]
Both Sexes																						
Less than $1,200 ...	36.1	5.5	6.7	6.1	3.1	4.1	3.7	3.2	1.7	1.2	0.7	100.0	15.1	18.6	16.9	8.6	11.3	10.3	8.9	4.8	3.4	2.1
1,200-1,999	36.7	8.1	8.1	6.5	3.1	3.7	2.2	2.5	1.4	.8	.2	100.0	22.2	22.2	17.7	8.4	10.2	5.9	6.9	3.7	2.2	.6
2,000-2,999	35.6	8.9	7.3	6.7	2.9	3.6	2.0	2.5	.6	.8	.2	100.0	25.1	20.5	18.8	8.3	10.2	5.6	7.1	1.8	2.1	.5
3,000-4,999	34.8	8.5	7.9	6.3	2.1	5.0	2.2	1.7	.7	.4	..	100.0	24.5	22.7	18.2	5.9	14.3	6.3	4.9	2.1	1.1	..
5,000-9,999	31.6	6.9	5.1	6.4	3.6	4.6	2.3	1.5	1.0	.3	..	100.0	21.8	16.1	20.2	11.3	14.5	7.3	4.8	3.2	.8	..
10,000 or more	40.8	2.8	7.0	7.0	5.6	7.0	7.0	2.8	1.4	..	..	100.0	7.0	17.2	17.2	13.8	17.2	17.2	7.0	3.4	..	..
Males																						
Less than $1,200 ...	34.9	5.4	6.5	6.2	3.1	3.7	3.1	3.2	1.8	1.3	0.7	100.0	15.5	18.5	17.6	8.8	10.5	8.8	9.3	5.1	3.8	2.1
1,200-1,999	35.5	7.7	7.8	6.6	3.0	3.7	2.1	2.2	1.4	.9	.2	100.0	21.6	21.9	18.5	8.5	10.4	5.8	6.2	3.9	2.6	.6
2,000-2,999	35.7	8.7	7.8	6.7	2.7	3.7	1.9	2.6	.6	.8	.1	100.0	24.5	21.8	18.7	7.6	10.5	5.3	7.4	1.8	2.0	.4
3,000-4,999	33.8	8.1	8.3	6.2	1.9	4.1	2.4	1.9	.8	.2	..	100.0	24.0	24.4	18.3	5.6	12.2	7.1	5.6	2.3	.5	..
5,000-9,999	29.8	5.8	4.4	5.5	3.3	4.0	3.3	2.2	1.5	..	..	100.0	19.5	14.6	18.3	11.0	13.4	11.0	7.3	4.9	..	..
10,000 or more	37.0	4.3	4.3	6.5	6.5	2.2	10.9	..	2.2	..	..	100.0	11.8	11.8	17.6	17.6	5.9	29.4	..	5.9	..	..
Females																						
Less than $1,200 ...	42.1	5.6	7.9	5.6	3.2	6.3	7.1	3.2	1.6	0.8	0.8	100.0	13.2	18.9	13.2	7.5	15.1	17.0	7.5	3.8	1.9	1.9
1,200-1,999	45.6	11.7	10.9	5.8	3.6	4.0	2.9	5.1	1.1	..	.4	100.0	25.6	24.0	12.8	8.0	8.8	6.4	11.2	2.4	..	.8
2,000-2,999	35.5	10.0	4.6	6.9	4.2	3.1	2.7	1.9	.8	.8	.4	100.0	28.3	13.0	19.5	12.0	8.7	7.6	5.4	2.2	2.2	1.1
3,000-4,999	37.8	9.8	6.7	6.7	2.6	7.8	1.6	1.0	.5	1.0	..	100.0	26.0	17.8	17.8	6.8	20.5	4.1	2.8	1.4	2.8	..
5,000-9,999	35.6	9.3	6.8	8.5	4.2	5.9	..	..	..	.8	..	100.0	26.2	19.0	23.8	11.9	16.7	..	..	..	2.4	..
10,000 or more	48.0	..	12.0	8.0	4.0	16.0	..	8.0	..	..	..	100.0	..	25.0	16.7	8.3	33.3	..	16.7	..	..	..

[1] Excludes housewives, farm operators, farm laborers, and professional and business persons.
[2] Includes a few illnesses lasting more than survey period.
Source: Social Security Board, op. cit. supra, page 2, Bibliography item 20(CCMC).

TABLE II

Disabling Illnesses: Percentage Distribution of Wage Earners and Salaried Workers[1] Aged 15-64 by Days of Disabling Illness, for Each Family Income Group and Sex, in a 12-Month Period, 1928-31

[6,405 Wage Earners and Salaried Workers in 8,639 White Families]

Income Group	Number of Persons	Total	Percentage Distribution of Persons by Number of Days of Disabling Illness: None	1-2	3-5	6-8	9-11	12-17	18-24	25-45	46-75	76-349	350-365[2]
Both Sexes													
Less than $1,200	870	100.0	73.7	3.7	3.4	4.1	2.3	2.4	3.6	3.1	1.5	1.5	0.
1,200-1,999	2,445	100.0	71.9	4.4	6.2	4.8	2.5	3.2	2.1	2.2	1.5	1.0	.2
2,000-2,999	1,740	100.0	71.9	6.0	5.0	5.2	2.4	2.8	2.0	3.0	.8	.7	.1
3,000-4,999	862	100.0	71.9	5.8	6.3	4.7	1.9	4.3	2.2	1.9	.8	.2	..
5,000-9,999	411	100.0	74.9	4.4	3.2	6.1	1.9	4.1	1.0	2.7	1.5	.2	..
10,000 or more	77	100.0	64.9	1.3	5.2	6.5	2.6	5.2	7.8	3.9	2.6	..	..
Males													
Less than $1,200	731	100.0	74.6	3.7	3.4	3.7	2.3	2.3	3.4	2.7	1.5	1.7	0.7
1,200-1,999	2,159	100.0	72.3	4.5	5.8	4.7	2.6	3.2	2.1	1.9	1.6	1.1	.2
2,000-2,999	1,474	100.0	71.9	5.8	5.3	5.1	2.4	3.1	2.0	2.9	.7	.7	.1
3,000-4,999	654	100.0	71.9	6.1	6.3	4.6	1.5	3.8	2.6	2.3	.8	.1	..
5,000-9,999	284	100.0	75.3	3.9	3.9	5.3	1.8	2.8	1.4	3.5	2.1	..	.
10,000 or more	46	100.0	63.0	2.2	2.2	6.5	4.4	4.4	13.0	..	4.3	..	..
Females													
Less than $1,200	139	100.0	69.1	3.6	3.6	6.5	2.2	2.9	4.3	5.0	1.4	0.7	0.7
1,200-1,999	286	100.0	68.5	3.5	8.7	5.2	2.5	2.8	2.4	4.5	1.1	.4	.4
2,000-2,999	266	100.0	72.2	7.5	3.4	5.6	2.3	1.5	1.5	3.8	1.1	.7	.4
3,000-4,999	208	100.0	72.1	4.8	6.2	5.3	2.9	5.8	.9	.5	1.0	.5	..
5,000-9,999	127	100.0	74.0	5.5	1.6	7.9	2.3	7.1	..	.8	..	.8	..
10,000 or more	31	100.0	67.7	..	9.7	6.4	..	6.5	..	9.7	..	..	..

[1] Excludes housewives, farm operators, farm laborers, and professional and business persons.
[2] Includes a few illnesses lasting more than survey period.
Source: Social Security Board, op. cit. supra, page 2, Bibliography item 20(CCMC).

1. The great majority of wage earners and salaried workers have no disabling illness during the year.

2. In the income groups below $2,000, females show a somewhat greater tendency toward disabling illness, but in the higher income groups there is no substantial difference between male and female. (In other studies, women generally have been found to have considerably more sickness than men.[1])

3. While the majority of disabling illnesses last less than eight days, and entail minor wage loss, a very substantial percentage of illnesses exceed this duration and impose serious economic strains. It is known that this is particularly true in the older age groups.

4. The longest duration of illness, however, is found among the lowest income groups.

5. In all income groups, from 10% to 15% of the number of people at work may be expected to suffer disabling illness of a week or more each year. (The *average* disability among the entire population is at least 7.7 days of disability per person.[2])

The experience of private group insurance carriers conforms with the above experience in that disabling illness of more than one week's duration is found to occur among 15% of the covered employees each year. It also shows that the incidence of sickness is markedly greater in the older age groups. Of particular importance, intercompany experience does not vary significantly with size of firm insured.[3]

While the prevalence of illness is thus apparent, it is impossible to predict its incidence with respect to particular individuals. Where illness is accompanied by wage loss, morever, the average individual either cannot or does not provide sufficient savings to meet ordinary current expenses in addition to the emergency expenses of illness. It is the purpose of this report to determine the desirability, and the feasibility, of action by government to require the spreading of the risk and cost of such wage loss.

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[1] Selwyn D. Collins, *Cases and Days of Illness Among Males and Females with Special Reference to Confinement to Bed.* Public Health Reports, Vol. 55, No. 2 (Jan. 12, 1940), pp. 47-93.

[2] ibid.

[3] Gilbert W. Fitzhugh, "Recent Morbidity Upon Lives Insured Under Group Accident and Health Policies and Premiums Based Thereon," in *Transactions of the Actuarial Society of America, Vol.* XXXVIII, Part 2, No. 98, pp. 354-383 (October, 1937).

Existing Provisions for Sickness

The economic consequences of illness are now covered by two different types of assurance: one type provides for payment of the cost of illness itself as in hospitalization, medical and surgical, plans; the other type provides for protection of current income and is unrelated to the direct cost of an illness, such as cash sickness benefits based upon a percentage of wages, recognized as separate and distinct from the general problem of health insurance,[3] and with which we are here primarily concerned.

A considerable variety of privately financed provisions for cash benefits in the event of nonoccupational sickness or accident, now exists in the form of formal and informal "wage continuation" plans, employer and joint employer-employee sickness plans, private insurance carrier plans, negotiated union contract provisions, union sickness funds, mutual benefit societies and others. Many of these existing plans combine wage loss protection with hospitalization, medical and surgical payments as well as death benefits to dependents. A remarkably large number of employees appear to be covered by one or more of these voluntary plans.

The Social Security Committee of the New Jersey State Chamber of Commerce, having conducted a survey of all employers of 25 or more, has submitted the following tabulation of its results:

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[3] See Advisory Committee on Health Insurance (appointed by Order in Council P. C. 836, Feb. 5, 1942) *Report: Health Insurance* (Dominion of Canada, House of Commons, Sess. 1943, Special Committee on Social Security: 1943) Ch. V.

Social Security Committee

New Jersey State Chamber of Commerce

Summary of Tabulation

Total companies replying	1,159
Number of employees	447,168
Companies having a program	801
Number of employees	415,664
Companies not having a program	350
Number of employees	30,473
Companies anticipating the adoption of a program	8
Number of employees	1,031

Number of employees eligible		327,886
Salaried employees	108,056	
Wage earners	208,598	
Wage and salaried workers not classified separately	11,232	
Number of employees protected		308,521
Salaried employees	104,404	
Wage earners	193,088	
Employees not classified	11,029	

Employees Eligible and Protected Under a Program

(By Size of Company and Employment Classification)

Size of Company	*Salaried Employees*		*Wage Earners*		*Employees Not Classified Separately*	
	Eligible	*Protected*	*Eligible*	*Protected*	*Eligible*	*Protected*
Under 50	2,700	2,165	3,165	2,843	67	54
50 to 99	3,395	3,175	5,852	5,389	137	137
100 to 249	6,386	6,139	16,210	14,202	358	358
250 to 499	6,092	5,742	15,256	13,755	979	889
500 to 999	7,629	7,264	13,588	12,233	....	....
1,000 to 2,499	18,494	17,168	43,978	39,611	1,325	1,325
2,500 to 4,999	12,875	11,922	34,804	30,456	8,366	8,266
5,000 to 9,999	7,175	7,149	14,939	14,891	....	....
10,000 and over	43,710	43,645	60,836	59,708	....	....

Method of Carrying Benefit Programs

Uninsured	
Employees eligible	118,880
Employees protected	118,601
Insured	
Employees eligible	192,578
Employees protected	174,876
Employee Benefit Association	
Employees eligible	14,999
Employees protected	13,737
Other Method	
Employees eligible	1,429
Employees protected	1,307

Percentage Paid by Employer for Program

100%	
Number eligible	184,753
Number protected	183,721
50% to 99%	
Number eligible	77,538
Number protected	69,622
1% to 49%	
Number eligible	55,757
Number protected	48,722
0% (Costs paid by employees only)	
Number eligible	9,838
Number protected	6,456

From the viewpoint of the smaller employer, it might be well to note that the above results appear to be somewhat heavily weighted on the side of larger establishments, the average size of return showing about 386 employees.

In general, the survey did not attempt to go into the extreme detail required for a description of the character of benefits available under these voluntary plans. The data, therefore, supply no

information as to the amount or duration of benefits, although it is known that many individual employers have very liberal benefit schedules. The significant fact is, however, that security against wage loss caused by sickness is already widely available throughout industry in one form or another, and the trend is continuing. For example, in a survey by the Bureau of Labor Statistics, it is reported:[1]

> "Paid sick leave is provided in approximately 350 of 5,000 union agreements examined in the Bureau's files. About 250 of these 350 agreements contain detailed information; the others merely state that existing policies shall be continued, or otherwise fail to specify details. The present report is based on information provided in 50 paid-sick-leave plans, covering production workers in manufacturing industries and over 200 plans covering workers in nonmanufacturing industries.
>
> "Only in public utilities, and among radio technicians, and newspaper office and editorial workers are paid-sick-leave provisions in agreements the rule rather than the exception. Such leave is frequently provided, however, in agreements covering retail and wholesale trade, warehousing, and office and professional, and State, county, and municipal workers, as well as those employed in the airframe and petroleum production and refining industries. Though not widely prevalent, paid-sick-leave provisions are also found in some metals, machinery, automobile, professional and scientific instruments, laundry and dry-cleaning, trucking, telephone and telegraph, street and railway industries, as well as in agreements covering building-service employees. . . . To an increasing extent, labor unions are now bargaining to obtain paid sick leave. Although the inclusion of such a provision in a union agreement usually indicates a new concession, in a few instances it represents a contractual agreement for a policy already established by the management."

Popular opinion also overwhelmingly favors the extension of some form of social security legislation to protect against the hazards of illness.[2] Particularly in the lower income levels, where the frequency of nonoccupational illness seems to be greatest, people suffer most severely from the economic effects of wage loss. Since it is an accepted public policy to protect the individual against wage loss caused by involuntary unemployment, it seems desirable to fill the gap in this protection by meeting the hazards of inability to work caused by sickness. The public interest in

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[1] U. S. Bureau of Labor Statistics, *Bulletin No. 832; Sick-Leave Provisions in Union Agreements* (Washington, D. C., 1945), p. 2.

[2] Commission on Post-War Economic Welfare, *Transcript of Public Hearing on A. C. R. No. 3* (Mimeo.: Trenton, March 8, 1946), passim; and see *Appendix B*, Brief of the Transcript.

social and economic security and stability is as much served in the one case as in the other.

While the progress made in supplying protection against wage loss caused by illness through voluntary programs adopted by employers has been great, the need for the extension of such protection is so great as to warrant the establishment of some form of uniform minimum standard coverage. Given sufficient time, the voluntary programs might very well be extended greatly, but there would always remain a significant number of people for whom either no provision has been made or for whom inadequate provision has been made. The establishment of a minimum standard and its enforcement is essentially a function which must be performed by government, in whatever manner benefits may be provided. It remains to determine the best method by which such minimum benefits may be provided and financed.

Proposed Benefit Programs

Consideration of alternative benefit programs begins quite generally with a desire to build upon the many voluntary plans already in operation. Thus A. C. R. No. 3 (1946) contains a section permitting "contracting out." A recently enacted California law to provide unemployment compensation disability benefits contains a similar provision (California Unemployment Ins. Act, Art. 10, as added by L. 1946, Ch.—). Even the more insistent proponents of a publicly operated program recognize the practical need to build upon what we already have. Thus Professor Edwin E. Witte who has served as consultant to the U. S. Social Security Board, has declared:[1]

> "On this problem it must be noted that most of the advocates of a national public health program would prefer to develop such a program without having to take the existing plans into consideration. Many of the outstanding weaknesses in compulsory health insurance as it has functioned in England to date are directly traceable to the fact that the governmental system incorporated a great variety of pre-existing voluntary systems, functioning through the friendly societies. Considering the problem realistically, however, it seems clear that any national public health program must take account of the existing voluntary plans and assign them a part of this program. What this should be opens a broad vista of possibilities."

[1] "Basic Considerations in Medical Care and Health Insurance," in U. S. Chamber of Commerce, *Health Insurance in America* (Addresses at the Second National Conference on Social Security, Jan. 1945), Ch. III, p. 15.

Nothing in any plan thus far proposed (including A. C. R. No. 3) has overcome the weakness pointed out by Prof. Witte, where the plan is in part operated as a State fund and in part privately financed. Experience with workmen's compensation has proved that wherever a public insurance fund and private insurance operate side by side there is a clear tendency for the public fund to be sought only by those risks which would have to pay more or be unacceptable for private coverage. This factor is recognized in the new California act which sets up as one of the conditions of approval of a voluntary plan, that "(h) The approval of the plan or plans will not result in a substantial selection of risks adverse to the Disability Fund."

Such provisions for a mixed plan seem to offer more of a pious hope than an administrative objective. But they do indicate the fundamental problem in any plan which is not uniformly financed on either a private or a public basis. One state investigating Commission, in Massachusetts, has rejected all proposals for compulsory cash sickness benefits, partly because of inability to make the initial choice between a public and private plan.[1] In New Hampshire, after several years' study, a state commission has recommended legislation to establish minimum standards of compulsory coverage for the operation of privately financed plans.[2]

Private vs. Public Plans

The only State fund plan now in operation is the Rhode Island plan.[3] It has been in operation since 1943 and the results have been decidedly unsatisfactory. Charts I and II show that benefit claims run contrary to normal seasonal trends in private insurance, and that the Fund will be unable to pay benefits for long at the present rate of income and benefit payments. The benefit schedule follows U. C. and the entire cost is sought to be met from a 1% employee contribution (diverted from U. C.). While the administration (by the U. C. B.) has sought to reverse the unfavorable claims record no substantial improvement is yet noticeable.

In connection with a public plan, in might be noted that federal legislation such as contemplated by the Wagner-Murray-Dingell bill, would leave no room for any state-sponsored sickness benefits.

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[1] Commonwealth of Massachusetts, State Advisory Council of the Division of Employment Security, *Report on Sickness Benefits,* Senate Doc. No. 10 (Nov. 1, 1944), pp. 42-46.

[2] State of New Hampshire, Commission on Disability Benefits, *Report to His Excellency Robert O. Blood, Governor of New Hampshire* (Concord, N. H., 1941); same author, *Supplemental Report to His Excellency Robert O. Blood, Governor of New Hampshire* (Concord: 1943); same author, *Report to His Excellency Charles M. Dadc, Governor of New Hampshire* (Concord: Jan. 1945). The last noted report included the latest proposed legislation for compulsory private plans meeting stated minimum standards.

[3] The recent California law referred to in the text is also to be operated as a state fund similar to Rhode Island.

Chart I

Seasonal Claim Variation in Cash Sickness Benefits
Comparative Experience of Rhode Island State Fund and Six Major Insurance Companies
Average of Same Months in Two Successive Years, July, 1943—June 30, 1945
JANUARY = 100

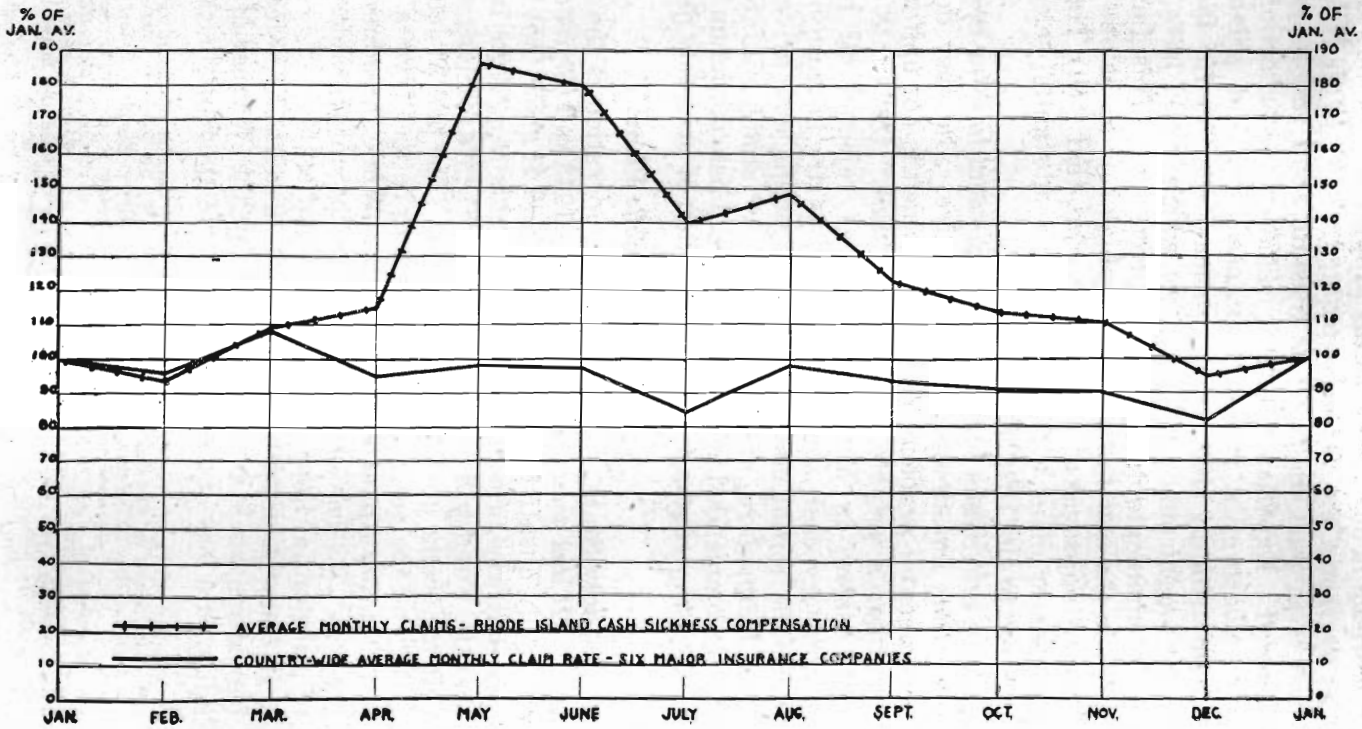
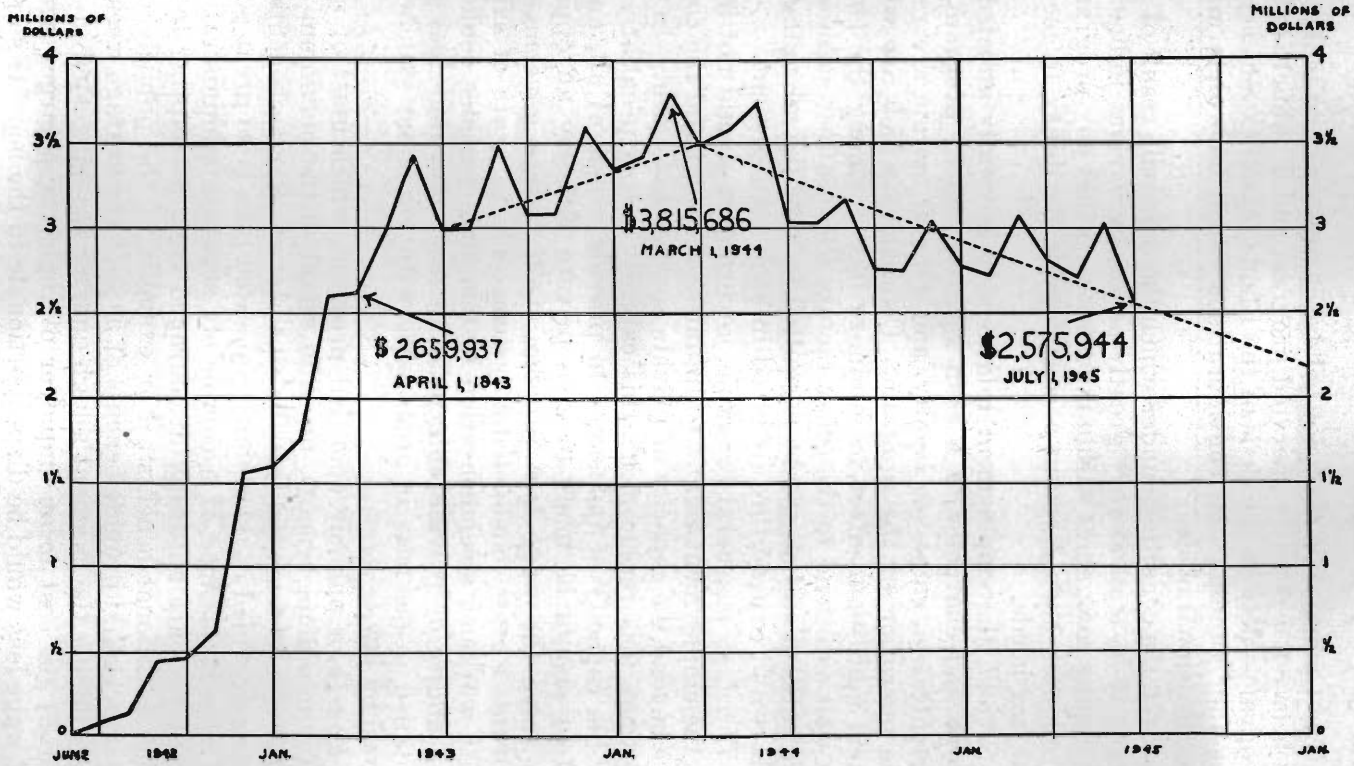


Chart II

Rhode Island Cash Sickness Compensation Plan

Course of State Fund—June, 1942 to July, 1945



Conclusions and Recommendations

The Commission does not believe it necessary to make a choice as between a publicly operated program and a publicly supervised program solely on the basis of the Rhode Island experience. There are four fundamental considerations which have determined the Commission's choice:

First, the conditions under which the economic result of sickness needs to be treated vary greatly as among various industries and as among companies within industries, so that any program which is adopted should retain a considerable flexibility to meet these varying needs.

Second, the employment relationship is vitally affected by the scope and character of a cash sickness benefit program in that absenteeism, employee loyalty, and general morale are related to the operation of the program. Companies which are willing to exert additional effort to minimize illness among the employees as well as attend to the other factors which affect sickness rates, are entitled and should be permitted to have the advantage of the effort and expenditure involved in such management.

Third, as a general principle, government should not intervene in the employment relationship unless the need and the conditions are beyond the capacity of private enterprise to meet. In the case of wage loss replacement, this capacity seems peculiarly related to the capacity of industries to provide wages at all, and every effort should be made to give private industry an opportunity to solve the wage loss problem itself before government substitutes a state monopolistic system. Thirty years of experience with workmen's compensation in this state justifies confidence in the ability of private enterprise to meet the wage loss problem entailed in sickness in accordance with minimum standards laid down by law.

Fourth, a publicly operated program, which must of necessity offer minimum benefits, tends to establish the maximum benefits. This results from the fact that the cost of offering benefits beyond those provided in the publicly operated plan is so great per dollar of benefit, because of a completely separate administration, that employers are naturally discouraged from attempting to provide such additional benefits. For example, if the publicly operated system should provide benefits of 59% of the average weekly earnings during the claimant's high quarter (as suggested in A. C. R. No. 3) the cost to an employer of replacing a larger percentage of wage loss would be disproportionate to the benefits so provided because of the separate administrative cost necessarily involved in each claim.

These considerations persuade the Commission that a publicly operated plan such as suggested by A. C. R. No. 3 is unacceptable. As opposed to the publicly operated plan suggestion in A. C. R. No. 3, the Commission recommends the establishment of a publicly supervised system of minimum standard benefits which, the Commission believes will adequately provide the essential protection against wage loss caused by illness.

Schedule A gives a comparison of the principal features of the proposed publicly supervised plan as compared with the publicly operated plan suggested in A. C. R. No. 3. The Commission is not unaware that in some voluntary plans there are certain peculiarities which must be adjusted if they are to be satisfactorily adapted to a publicly supervised system of minimum standard benefits.

The principal difficulty of past proposals of this kind has been their non-continuous nature on one hand, and the failure to provide any cash sickness benefits during unemployment on the other. The feature of the proposed publicly supervised plan which carries over for a thirty-one day period the coverage enjoyed by an employee with his former employer will in practically all cases be sufficient to bridge the transition between jobs. For the occasional case in which illness occurs during unemployment, the proposal to add to our unemployment compensation law a so-called Maryland amendment appears to meet the need. The Commission is informed by the director of the Maryland employment security agency that no more than 1% of that state's claimants require the protection afforded by such a provision, but even the small number of people affected by a like experience in New Jersey would be adequately protected.

There may be occasions, particularly in industries where job changes are normally frequent, upon which the individual employee might not be covered by the proposed publicly supervised plan. The principal industry of this kind to which the Commission's attention has been called is the construction industry. It is believed, however that conditions in this industry are not unlike conditions in the garment industry in so far as wage loss because of illness is concerned. In the latter industry, full coverage of all union employees has been achieved under an existing voluntary program whereby employers pay to a trustee a flat percentage of wages which the trustee accepts to pay for group insurance for all union members. Such an arrangement, subject to collective bargaining, could very well meet the needs of those employed in the construction and similar industries and in that event give them better coverage than that afforded employees generally under any known proposal.

Schedule A

Comparison of Principal Features of A. C. R. No. 3 and Proposed Sickness Benefit Plan

	A. C. R. No. 3	Proposed Plan
Employer Option	Either have employees covered under State insurance fund, or provide own plan. Coverage same as U. C.	Pay or cause to be paid benefits at least equal to statutory minima, by setting up trust fund, insuring, or by demonstrating financial responsibility. Coverage same as U. C.
Employee Eligibility	Same as under U. C.; base year earnings of at least $150.	As soon as employed with a covered employer in at least one day in each of four weeks with total wages of at least $48; average weekly wage may not fall below $12.00 for continuing coverage.
Effect of Job Transfer	Eligibility remains so long as minimum base period earnings remain. But amount of benefits may be reduced to minimum by delay in applying.	Carry-over of last employer's protection for 31 days.
Benefits: Amount:	1/22 of high quarter earnings, with maximum of $22.	Approximately 50 per cent of average weekly wages immediately prior to disability; with maximum of $22; additional amounts readily available if employer desires.
Duration:	13 weeks maximum in single benefit year. Separate private insurance contract may provide additional duration, but is costly.	13 weeks maximum for each period of disability, but no more than 13 weeks in any year for disability due to same or a related cause or condition.
Maternity:	No benefits during or on account of pregnancy or parturition. Separate provision not feasible.	No benefits for disability due to pregnancy or parturition are required; but these benefits are frequently made part of voluntary programs with little additional cost.
Waiting Period	1 week in each spell or period of sickness.	Same.
Additional Benefits	None required	Adopt "Maryland amendment" to U. C. law to allow sickness benefits during unemployment if claimant has initially registered for work.
Finance	Employee contribution only—by diversion of 1 per cent U. C. tax.	Joint contributory with limit of 0.5 per cent by employees, which employers may waive. Reduction in U. C. rates to offset these charges in part at least. Where employers elect to insure, the cost probably will average 1 per cent of payroll.

The proposed plan requires that each employer "pay or cause to be paid" the stated minimum cash sickness benefits. In order to provide for the cost of such benefits it is proposed that each employee contribute ½ of 1% of earnings up to $46.00 per week, and that the respective employers be required to contribute any cost in excess of the employee contribution. Any employer desiring to bear the entire cost of cash sickness benefits would be enabled to waive his employees' contribution.

An employer may provide for the payment of benefits through any one of three alternatives:

1. An employer may establish financial responsibility to the satisfaction of the Unemployment Compensation Commission, which will administer the proposed program, and upon consent of the Commission may provide for the payment of cash sickness benefits as a current operating expense, or in any other manner convenient to the employer.
2. An employer may insure with a private carrier duly authorized to transact business in this State, or provide for the payment of benefits through an employee benefit association approved by the Commission.
3. An employer who has not elected to use either of the foregoing alternatives is required to hold the employees' contributions in a trust fund which he shall maintain pursuant to regulations of the Unemployment Compensation Commission, and into which he is required to pay an equal amount representing his own contribution to this trust fund. Such an employer may not waive the employee contribution without the consent of the Unemployment Compensation Commission.

In order to offset the cost of the proposed program to employers and to employees, it is proposed that adjustments be made in the rates of contribution now required of employers and employees for unemployment compensation purposes. These adjustments are of two kinds; the first is a uniform reduction in the unemployment compensation tax of all employers, of 3/10 of 1%, but this reduction would continue in effect only so long as the unemployment compensation fund exceeds 15% of the aggregate taxable payroll in the State.

Assuming a two billion dollar taxable payroll, this would mean that the first proposed reduction, to which we will refer as "fund solvency credit," would be allowed so long as the State's unemployment compensation fund exceeds $300,000,000.

The second adjustment would increase the number of rate groups for experience rating from the present four groups to ten groups. Stated another way, the difference between experience rates now assignable is 9/10 of 1%. The Commission's proposal

would insert intermediate rates at intervals of 3/10 of 1% with a minimum experience rate of 3/10 of 1% and a maximum rate of 3%. This new maximum rate represents a reduction from the present penalty rate of 3.6%. In no event would any employer's rate be less than 3/10 of 1% including the fund solvency credit.

It is anticipated that the average cost of insuring with a private carrier for cash sickness benefits to those employees who elect to insure, will be about 1% of taxable payroll, and the entire unemployment compensation tax rate structure is accordingly lowered by 6/10 of 1% so as to offset the average cost of insurance to employers.

The third proposed adjustment in unemployment compensation taxes would extend experience rating to employees. To this end, it is proposed that each employee shall contribute for unemployment compensation at a rate equal to ⅓ of the contribution rate of his employer, but in no event more than the present 1%. Assuming an average employer contribution rate of 1.7% (as last year), this proposal would mean that employees would be required to contribute at an average rate of approximately 0.5%. Together with the proposed 0.5% contribution for cash sickness benefits, the aggregate employee contribution for both benefits will thus be substantially the same as the present employee contribution of 1% for unemployment compensation alone.

Further adjustments are also proposed to protect the solvency of the unemployment compensation fund more securely than the law now affords. Table 3 indicates the proposed new tax rate structure for unemployment compensation including each of these several recommendations.

Table 4 shows the estimated effect on the annual income of the unemployment compensation fund. From that table it appears that at present contribution rates, and with employer experience rate distribution of 1944 (rates lower than those likely to be achieved in any future year) the annual income from employer contributions was $51.7 million dollars. The effect of the proposed rates, including the fund solvency credit, would reduce this to $33.9 million dollars, a reduction of approximately $18,000,000.

The effect on the unemployment compensation fund of proposed employee experience rating is shown in Tables 5 and 6. In the latter table the current fund income at 1944 payroll levels is shown as $28.2 million dollars, which would be reduced under the proposed plan, including the fund solvency credit, to $11.3 million

dollars, a reduction of approximately $17,000,000. Together with the reduction attributable to adjustment of employer rates this would mean a total reduction in fund income of $35,000,000, as compared with a total fund income in 1944 of $80.0 million dollars.

While this reduction in current income might appear large, it would not continue in the stated amount if the unemployment fund went down to $300,000,000. The tables show that under such circumstances the proposed "normal contribution rates" would reduce the fund income an estimated $11,000,000 in the case of employers and an estimated $14.6 million dollars in the case of employees, a total of $25.6 million dollars. The pattern of these changes is shown in Charts III and IV. The proposed reduction in current fund income is less than the $28.2 million dollar reduction in fund income which would result under Assembly Concurrent Resolution No. 3 or under any proposal to divert the full 1% employee contribution from unemployment compensation to the purposes of cash sickness benefits. The Commission is advised that the unemployment compensation fund would still remain one of the strongest in the country after the proposed adjustments. (See Table 7.)

Full details of the Commission's proposals appear in the attached draft bills.

TABLE III

Employer Contribution Rates

Comparison of Present and Proposed Unemployment Compensation Contribution Rates
(According to Reserve Ratio Groups as of December 31, 1944)

Ratio of Employer Reserve to Taxable Payroll as of Dec. 31, 1944	*Actual Full 1944 Taxable Payroll (Thousands)*	*Present Contribution Rates*	*Proposed Contribution Rates*				
			Normal: Fund Is More Than 7½% But Less Than 15% of Taxable Payroll	*Fund Is Less Than 2½% of Taxable Payroll*	*Fund Is More Than 2½% But Less Than 5% of Taxable Payroll*	*Fund Is More Than 5% But Less Than 7½% of Taxable Payroll*	*Fund Exceeds 15% of Taxable Payroll*
0% and Under	$42,345	3.6%	3.0%	3.6%	3.6%	3.3%	2.7%
0% to 4.99%	124,212		2.7	3.3	3.3	3.0	2.4
5% to 5.99%	59,283	2.7	2.4	3.0	3.0	2.7	2.1
6% to 6.99%	341,583		2.1	2.7	2.7	2.4	1.8
7% to 7.499%	245,601						
7.5% to 7.99%	285,123		1.8	2.7	2.4	2.1	1.5
8% to 8.99%	271,008	1.8	1.5	2.7	2.1	1.8	1.2
9% to 9.99%	417,804		1.2	2.7	1.8	1.5	.9
10% to 10.99%	307,707		.9	2.7	1.5	1.2	.6
11% to 11.99%	200,433	.9	.6	2.7	1.2	.9	.3
12% and Higher	383,928		.3	2.7	.9	.6	.3
Unrated	143,973	2.7	2.7	2.7	2.7	2.7	2.7
Total	$2,823,000						

TABLE IV

Employer Contributions

Comparison of Actual and Proposed Unemployment Compensation Fund Income Based upon 1944 Actual Taxable Payroll

(In Thousands of Dollars)

Ratio of Employer Reserve to Taxable Payroll as of Dec. 31, 1944	*Actual Full 1944 Taxable Payroll (Thousands)*	*At Present Contribution Rates*	*At Proposed Contribution Rates*				
			Normal: Fund Is More Than 7½% But Less Than 15% of Taxable Payroll	*Fund Is Less Than 2½% of Taxable Payroll*	*Fund Is More Than 2½% But Less Than 5% of Taxable Payroll*	*Fund Is More Than 5% But Less Than 7½% of Taxable Payroll*	*Fund Exceeds 15% of Taxable Payroll*
0% and Under	$42,345	$1,524	$1,270	$1,524	$1,524	$1,397	$1,143
0% to 4.99%	124,212		3,354	4,099	4,099	3,726	2,981
5% to 5.99%	59,283	20,808	1,423	1,778	1,778	1,601	1,245
6% to 6.99%	341,583		7,173	9,223	9,223	8,198	6,148
7% to 7.499%	245,601		9,553	14,330	12,737	11,145	7,961
7.5% to 7.99%	285,123						
8% to 8.99%	271,008	17,531	4,065	7,317	5,691	4,878	3,252
9% to 9.99%	417,804		5,014	11,281	7,520	6,267	3,760
10% to 10.99%	307,707		2,769	8,308	4,616	3,692	1,846
11% to 11.99%	200,433	8,029	1,202	5,411	2,405	1,804	601
12% and Over	383,928		1,152	10,366	3,455	2,304	1,152
Unrated	143,973	3,887	3,887	3,887	3,887	3,887	3,887
Total	$2,823,000	$51,779	$40,862	$77,524	$56,935	$48,899	$33,976

TABLE V

Worker Contribution Rates

Comparison of Present and Proposed Unemployment Compensation Contribution Rates

(According to Reserve Ratio Groups as of December 31, 1944)

Ratio of Employer Reserve to Taxable Payroll as of Dec. 31, 1944	*Actual Full 1944 Taxable Payroll (Thousands)*	*Present Contribution Rates*	*Proposed Contribution Rates*				
			Normal: Fund Is More Than 7½% But Less Than 15% of Taxable Payroll	*Fund Is Less Than 2½% of Taxable Payroll*	*Fund Is More Than 2½% But Less Than 5% of Taxable Payroll*	*Fund Is More Than 5% But Less Than 7½% of Taxable Payroll*	*Fund Exceeds 15% of Taxable Payroll*
0% and Under	$42,345	1%	1.0%	1.0%	1.0%	1.0%	.9%
0% to 4.99%	124,212	1	.9	.9	1.0	1.0	.8
5% to 5.99%	59,283	1	.8	.9	1.0	.9	.7
6% to 6.99%	341,583	1	.7	.9	.9	.8	.6
7% to 7.499%	245,601	1	.6	.9	.8	.7	.5
7.5% to 7.99%	285,123	1					
8% to 8.99%	271,008	1	.5	.9	.7	.6	.4
9% to 9.99%	417,804	1	.4	.9	.6	.5	.3
10% to 10.99%	307,707	1	.3	.9	.5	.4	.2
11% to 11.99%	200,433	1	.2	.9	.4	.3	.1
12% and Over	383,928	1	.1	.9	.3	.2	.1
Unrated	143,973	1	.9	.9	.9	.9	.9

TABLE VI

Worker Contributions

Comparison of Actual and Proposed Unemployment Compensation Fund Income Based upon 1944 Actual Taxable Payroll

(In Thousands of Dollars)

Ratio of Employer Reserve to Taxable Payroll as of Dec. 31, 1944	*Actual Full 1944 Taxable Payroll (Thousands)*	*At Present Contribution Rates*	*At Proposed Contribution Rates*				
			Normal: Fund Is More Than 7½% But Less Than 15% of Taxable Payroll	*Fund Is Less Than 2½% of Taxable Payroll*	*Fund Is More Than 2½% But Less Than 5% of Taxable Payroll*	*Fund Is More Than 5% But Less Than 7½% of Taxable Payroll*	*Fund Exceeds 15% of Taxable Payroll*
0% and Under	$42,345	$423	$423	$423	$423	$423	$381
0% to 4.99%	124,212	1,242	1,118	1,118	1,242	1,242	994
5% to 5.99%	59,283	593	474	534	593	534	415
6% to 6.99%	341,583	3,416	2,391	3,074	3,074	2,733	2,049
7% to 7.499%	245,601	2,456	3,184	4,777	4,246	3,715	2,654
7.5% to 7.99%	285,123	2,851					
8% to 8.99%	271,008	2,710	1,355	2,439	1,897	1,626	1,084
9% to 9.99%	417,804	4,178	1,671	3,760	2,507	2,089	1,253
10% to 10.99%	307,707	3,077	923	2,769	1,539	1,231	615
11% to 11.99%	200,433	2,044	401	1,804	802	601	200
12% and Over	383,928	3,840	384	3,455	1,152	768	384
Unrated	143,973	1,440	1,296	1,296	1,296	1,296	1,296
Total	$2,823,000	$28,230	$13,620	$25,449	$18,771	$16,258	$11,325

TABLE VII

Social Security Yearbook, 1944

1944 Contribution Data

Fund Dec. 31, 1944	Contribution Rate[1] 1943	1944	1945[4]		1944 Contributions	Per Cent Weeks	Per Cent Total Payroll
840,376,000	2.7	2.7	1.7	New York	$226,672,000	64.6	10.3
624,141,000	2.28	2.1	2.1	Calif.	170,345,000	72.1	11.8
563,254,000	2.7	1.2	1.4	Penna.	85,118,000	83.5	11.0
395,280,000	1.87	1.9	1.7	N. J.	83,188,000	109.3	14.1
258,949,000	1.6	1.2	—	Mich.	53,576,000	43.0	6.7
200,328,000	1.28	.9	.9	Mass.	28,043,000	44.8	7.8
13,849,000	.8	.7	.6	Dela.	1,207,000	46.0	8.3
110,567,000	2.01	1.6	1.2	Md.	25,123,000	58.2	10.1
465,266,000	1.36	1.2	1.0	Ill.	80,003,000	59.6	9.9
162,010,000	1.97	1.8	1.6	Ind.	36,387,000	65.1	8.7
57,534,000	1.41	1.2	1.1	Va.	9,314,000	70.8	8.1
138,144,000	1.42	1.2	.9	Texas	25,128,000	73.2	7.3
62,019,000	1.76	1.7	1.4	W. Va.	11,689,000	76.3	8.9
153,851,000	1.79	1.6	1.0	Wisc.	42,066,000	81.2	11.1
424,593,000	1.48	1.5	1.4	Ohio	79,151,000	82.3	9.4
63,052,000	2.7	2.7	2.7	R. I.	14,792,000	112.8	13.7
77,795,000	2.18	2.0	1.9	Ky.	12,337,000	115.9	13.7
6,952,000	2.7	2.7	2.7	Alaska	2,301,000	116.7	9.7
61,571,000	2.31	2.2	2.0	Oregon	16,346,000	122.5	8.6
6,071,927,000	1.77[2]	1.6[3]	1.5[5]	51 Juris.	1,317,050	71.1	10.0

[1] Exclusive of employee contributions, voluntary payments and war risk contributions.
[2] 40 States with experience rating.
[3] 42 States with experience rating.
[4] *Source:* Employment Security Activities, January, 1946.
[5] 45 States with experience rating.

Chart III

Employer Contributions

Pattern of Present and Proposed Unemployment Compensation Fund Income Based Upon 1944 Experience

(Cumulative Amounts, by Present and Proposed Rate Groups)

See Table IV for Exact Amounts

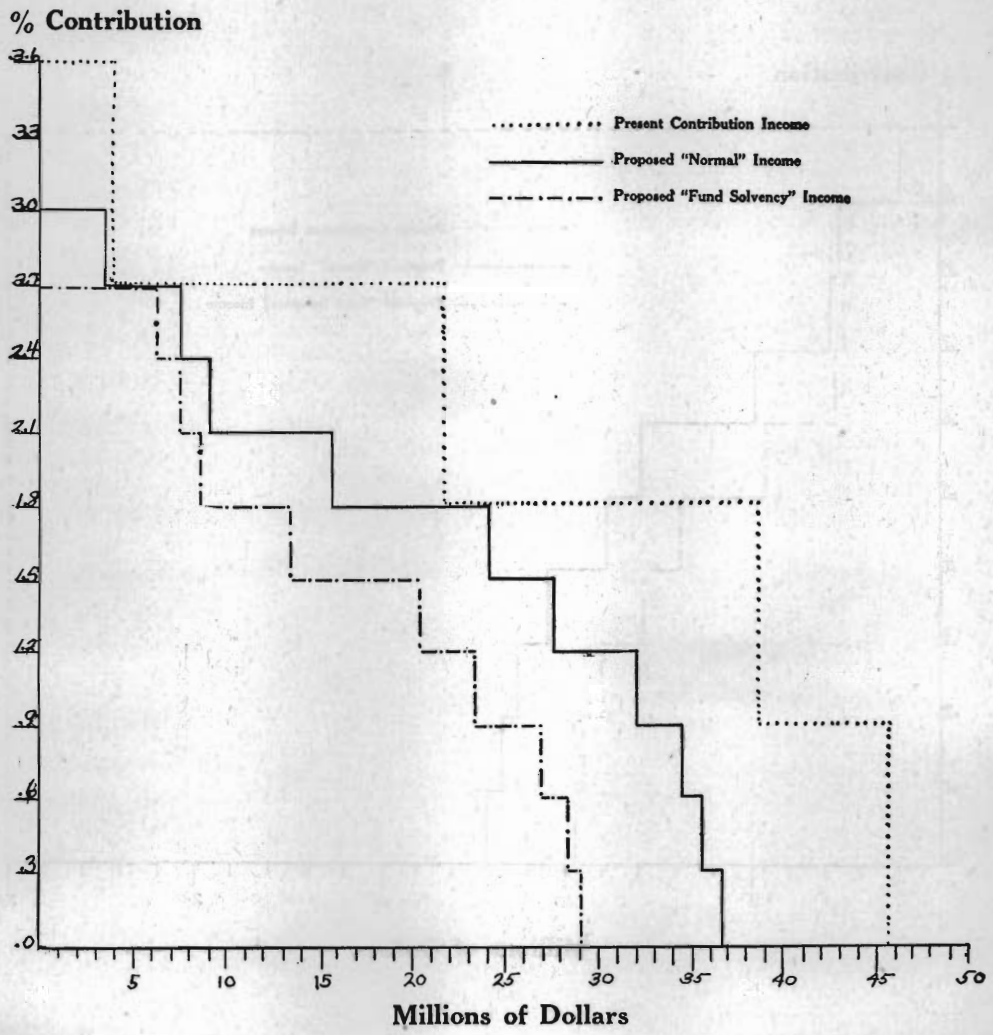


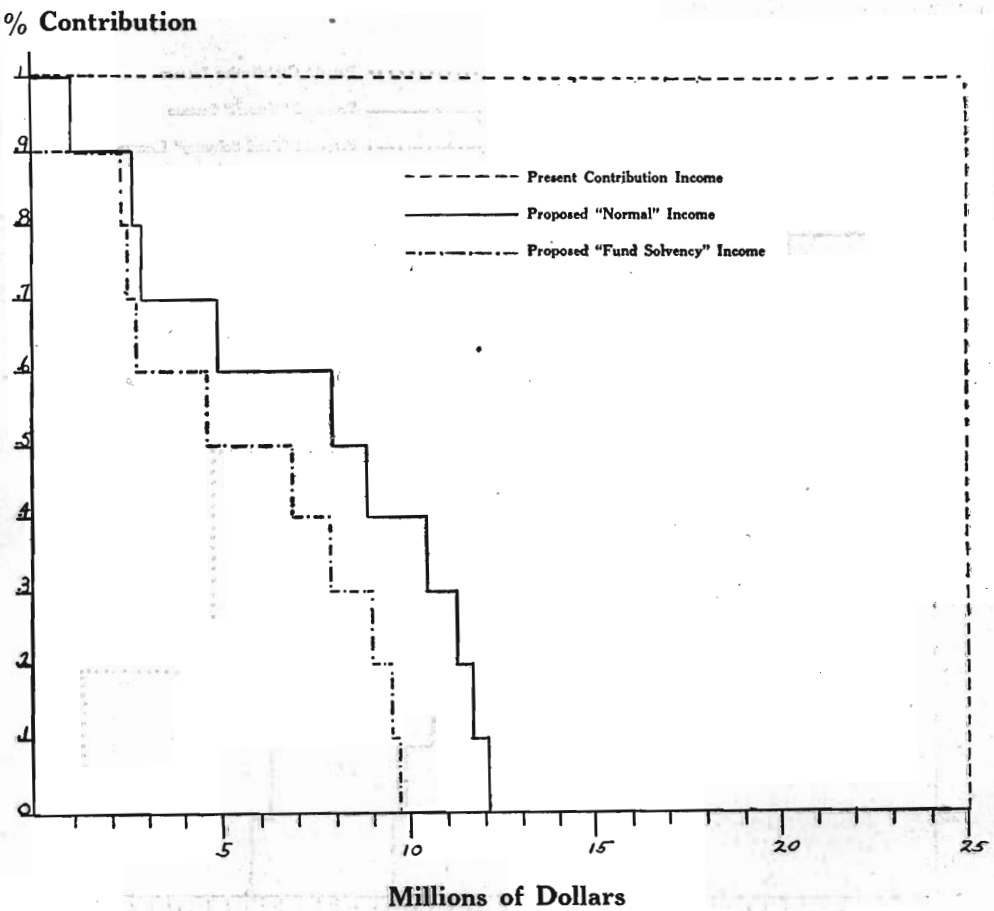
Chart IV

Worker Contributions

Pattern of Present and Proposed Unemployment Compensation Fund Income Based Upon 1944 Experience

(Cumulative Amounts, by Present Single Rate Group and Proposed Rate Groups at One-third of Employer Rates)

See Table VI for Exact Amounts



APPENDIX A

Bill No. 1: Nonoccupational Accident and Sickness Benefits Law

STATE OF NEW JERSEY

INTRODUCED

By

Referred to

AN ACT to provide for the establishment of a system for the payment of nonoccupational accident and sickness benefits to certain employees; prescribing the liability of employers and employees thereunder; and providing penalties for violations of this act.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Short title. This act shall be known and may be cited and referred to as the "Nonoccupational Accident and Sickness Benefits Law."

2. Purpose. This act shall be liberally construed as remedial legislation enacted upon the following declarations of public policy and legislative findings of fact:

The public policy of this State, already established, is to protect employees against the suffering and hardship generally caused by involuntary unemployment. But the unemployment compensation law provides benefit payments to replace wage loss caused by involuntary unemployment only so long as an individual is "able to work, and is available for work," and fails to provide any protection against wage loss suffered because of inability to perform the duties of a job interrupted by illness. Nor is there any other comprehensive and systematic provision for the protection of working people against loss of earnings due to nonoccupational sickness or accident.

The prevalence and incidence of nonoccupational sickness and accident among employed people is greatest among the lower income groups, who either cannot or will not voluntarily provide out of their own resources against the hazard of earnings loss caused by nonoccupational sickness or accident. Disabling sick-

ness or accident occurs throughout the working population at one time or another, and approximately fifteen per centum (15%) of the number of people at work may be expected to suffer disabling illness of more than one week each year.

It is deemed desirable and necessary to fill the gap in existing provisions for protection against the loss of earnings caused by involuntary unemployment, by extending such protection to meet the hazard of earnings loss due to inability to work caused by nonoccupational sickness or accident. It has been found that existing voluntary plans for the payment of cash sickness benefits cover less than one-half of the number of working people of this State who are now covered by the unemployment compensation law, and that even this degree of voluntary protection affords uneven, unequal and sometimes uncertain protection among the various voluntary benefit programs.

Adequate protection against earnings loss caused by nonoccupational sickness or accident, which can recognize the great variety of industrial conditions and employer-employee relationships throughout the State, can best be provided through a State supervised system of compulsory minimum standard cash temporary disability benefits. In this manner, the achievement of protection against the economic hazard, suffering and insecurity entailed in loss of earnings resulting from nonoccupational accident or sickness, can give full recognition to the many measures which employers and employees have already developed and utilized for this purpose, and can encourage the further development of such measures under a system of State supervision within which new measures of this character may be devised and operated.

The foregoing facts and considerations require that there be a uniform minimum program providing in a systematic manner for the payment of reasonable benefits to replace partially such earnings loss, in order to maintain consumer purchasing power, relieve the serious menace to health, morals and welfare of the people caused by the loss of earnings, and reduce the necessity for public relief of needy persons. In the interest of the health, welfare and security of the people of this State, such a system, enacted under the police power, is hereby established, requiring the payment of reasonable cash benefits to eligible employees suffering actual loss of earnings as a result of accident or illness which is not compensable under the workmen's compensation law.

3. Definitions. As used in this act, unless the context clearly requires otherwise:

(a) The term "Commission" means the Unemployment Compensation Commission.

(b) The term "employer" shall have the meaning set forth in section four.

(c) The term "employment" shall have the meaning set forth in section five.

(d) The term "covered employer" shall have the meaning set forth in section six.

(e) The term "covered employee" shall have the meaning set forth in section nine.

(f) The term "wages" means all remuneration paid by an employer for employment, including commissions and bonuses and the cash value of all compensation payable in any medium other than cash, except commissions, bonuses and other contingent remuneration when paid less frequently than quarterannually.

(g) The term "average weekly wages" shall have the meaning set forth in section twelve.

(h) The term "nonoccupational accident or sickness" means any accident or sickness as a result of which (i) no benefits are payable under any workmen's compensation law, occupational disease law, or similar legislation, of this State or of any other State or of the Federal Government, and (ii) there is an actual loss of earnings suffered by a covered employee for which benefits are payable under the provisions of this act.

(i) The term "calendar quarter" means a period of three consecutive calendar months ending with March thirty-first, June thirtieth, September thirtieth, or December thirty-first.

(j) The term "work week" means a period of seven consecutive days ending on the last day of a weekly payroll period, except that for employees not paid on a weekly basis and for employees for whom there is no established payroll period the term "work week" means a period of seven consecutive days ending with Sunday or such other period of seven consecutive days as the commission may by regulation prescribe or approve upon the application of an employer.

(k) The term "State" means a State of the United States of America, or Alaska, Hawaii, or the District of Columbia.

4. Employers. The term "employer" means any individual or type of organization, including any partnership, association, trust,

estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January first, one thousand nine hundred and forty-six, had in its employ one or more persons performing services for it within this State. All persons performing services within this State for any employer which maintains two or more separate establishments within this State shall be deemed to be employed by a single employer for all the purposes of this act. Each person employed to perform or to assist in performing the work of any agent or employee of an employer shall be deemed to be employed by such employer for all the purposes of this act, whether such person was hired or paid directly by such employer or by such agent or employee; *provided,* the employer had actual or constructive knowledge of the work.

5. Employment. (a) The term "employment" means service, including service in interstate commerce, performed for remuneration or under any contract of hire, written or oral, expressed or implied.

(b) The term "employment" shall include a person's entire service, performed within or both within and without this State if:

(1) The service is localized in this State; or

(2) The service is not localized in any State but some of the service is performed in this State, and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State, or (ii) the base of operations or place from which such service is directed or controlled is not in any State in which some part of the service is performed, but the person's residence is in this State.

(c) Services performed within this State but not covered under subsection (b) hereof shall be deemed to be employment if contributions are not required and paid with respect to such services under an unemployment compensation law of any other State or of the Federal Government.

(d) Services not covered under subsection (b) hereof, and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other State or of the Federal Government, shall be deemed to be employment if the person per-

forming such services is a resident of this State and the commission approves the election of the employer for whom such services are performed that the entire service of such person shall be deemed to be employment; *provided,* written objections on the part of a substantial proportion of such persons affected are not presented to the commission within ten days following the filing of such election.

(e) Service shall be deemed to be localized within a State if:

(1) The service is performed entirely within such State; or

(2) The service is performed both within and without such State, but the service performed without such State is incidental to the person's service within the State, for example, is temporary or transitory in nature or consists of isolated transactions.

(f) Services performed by a person for renumeration shall be deemed to be employment unless and until it is shown to the satisfaction of the commission that:

(1) Such person has been and will continue to be free from control or direction over the performance of such services, both under his contract of service and in fact; and

(2) Such service is either outside the usual course of the business for which such service is performed, or such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(3) Such person is customarily engaged in an independently established trade, occupation, profession or business.

(g) The term "employment" shall not include:

(1) Agricultural labor;

(2) Domestic service in a private home;

(3) Service performed by a person in the employ of his son, daughter or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(4) Service performed in the employ of this State or of any political subdivision thereof or of any instrumentality of this State or its political subdivisions;

(5) Service performed in the employ of any other State or its political subdivisions, or of the Federal Government, or of an instrumentality of any other State or States or their political subdivisions or of the United States;

(6) Services performed in the employ of a corporation, community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, literary, hospital, benevolent, philanthropic, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(7) Services performed in the employ of fraternal beneficiary societies, orders, or associations operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and providing for the payment of life, sick, accident or other benefits to the members of such society, order, or association, or their dependents;

(8) Services performed as an officer or other employee of any building and loan association of this State, except where such services constitute the principal employment of the individual; services performed as an officer or other employee of any building and loan association where such association is a member of the Federal Home Loan Bank System; services performed as an officer or other employee of any bank which is a member of the Federal Reserve System;

(9) Service with respect to which unemployment compensation is payable under the Railroad Unemployment Insurance Act (52 Stat. 1094).

(10) Service performed by agents of insurance companies, exclusive of industrial life insurance agents, or by agents of investment companies, who are compensated wholly on a commission basis. The term "investment company," as used herein, means any company as defined in paragraph 1.a of chapter three hundred and twenty-two of the laws of one thousand nine hundred and thirty-eight entitled "An act concerning investment companies, and supplementing Title 17 of the Revised Statutes by adding thereto a new chapter entitled 'investment companies'."

(11) Services performed by real estate salesmen or brokers who are compensated wholly on a commission basis.

6. Covered employers. The term "covered employer" means: (a) Any employer who for some portion of a day, but not necessarily simultaneously, in each of twenty different weeks, whether or not such weeks are or were consecutive, within either the cur-

rent or the preceding calendar year (subsequent to the calendar year one thousand nine hundred and forty-five), has or had in employment, four or more persons (irrespective of whether the same persons are or were employed in each such day);

(b) Any employer who acquired the organization, trade or business, or substantially all the assets thereof, of another employer who at the time of such acquisition was a covered employer;

(c) Any employer who subsequent to December thirty-first, one thousand nine hundred and forty-five, acquired the organization, trade or business, or substantially all the assets thereof, of another employer and who, if treated as a single unit with such other employer, would be a covered employer under subsection (a) of this section;

(d) Any employer who subsequent to December thirty-first, one thousand nine hundred and forty-five, together with one or more other employers, is owned or controlled (by legally enforcible means or otherwise), directly or indirectly by the same interest, or who owns or controls one or more other employers (by legally enforcible means or otherwise), and who, if treated as a single unit with such other employer or interest, would be a covered employer under subsection (a) of this section;

(e) Any employer who has elected pursuant to section six of this act to become a covered employer;

(f) Any other employer who, as of January first, one thousand nine hundred and forty-seven, is subject to the unemployment compensation law in respect of any period commencing on or including such date, provided such employer shall not become a covered employer pursuant to this subsection if he files a written notice to that effect with the commission prior to December twentieth, one thousand nine hundred and forty-six; or

(g) Any employer who, having become a covered employer under subsections (a), (b), (c), (d), (e), or (f), hereof, has not, under section eight of this act, ceased to be a covered employer.

7. Elections to become covered employers. Any employer, not already a covered employer, who files written application with the commission to become a covered employer for not less than two calendar years, shall become a covered employer, subject to the following conditions:

(1) Such employer is an employer subject to the unemployment compensation law or simultaneously files written application with the commission to be an employer subject to such law; *provided,*

that such an application shall constitute an application to become a covered employer under this act.

(2) If the employer is an employer subject to the unemployment compensation law, the commission shall approve such election by such employer to become a covered employer; *provided,* written objections on the part of a substantial proportion of the persons affected are not presented to the commission within ten days following the filing of such election.

(3) If the employer shall simultaneously file an application to be an employer subject to the unemployment compensation law, the commission's action on such application shall constitute an approval or disapproval, as the case may be, of the employer's election to become a covered employer under this act.

(4) An employer becoming a covered employer upon the approval of such an application shall be subject to the provisions of this act to the same extent as other covered employers.

8. Dates of commencement and termination of status as covered employers. (a) The date an employer becomes a covered employer shall be determined as follows:

(1) Any employer becoming a covered employer pursuant to the provisions of subsection (b) of section six shall become a covered employer on the date he acquired the organization, trade or business of substantially all the assets thereof, of another employer, or on January first, one thousand nine hundred and forty-seven, whichever is the later date.

(2) Any employer becoming a covered employer pursuant to the provisions of subsection (a), (c), (d), or (e) of section six shall become a covered employer on the first day of the second calendar month following the calendar month in which occurs the last of the conditions whereby such employer meets the requirements of that one of said subsections by virtue of which such employer becomes a covered employer, or on January first, one thousand nine hundred and forty-seven, whichever is the later date; *provided,* that in cases coming under subsection (e) of section six, the date of the actual approval by the commission of the application to become a covered employer shall be deemed the last of the conditions referred to herein.

(3) Any employer becoming a covered employer pursuant to the provisions of subsection (f) of section six shall become a covered employer on January first, one thousand nine hundred and forty-seven.

(b) A covered employer shall cease to be a covered employer upon written application filed with the commission, subject to the following conditions:

(1) Such application, to be effective as of the first day of the calendar year, shall be filed with the commission prior to the first day of February of such year;

(2) The employer on such first day of a calendar year is not a covered employer pursuant to the provisions of subsection (a), (b), (c), or (d) of section six; and

(3) Such employer simultaneously files written application with the commission for termination of coverage under the unemployment compensation law and such coverage is terminated pursuant thereto.

9. Covered employees. (a) A person shall become a covered employee of an employer on the day on which all of the following requirements are first met:

(1) the employer is a covered employer;

(2) such person is actively at work in employment with the employer; and

(3) such person has been actively at work in employment with the employer for at least some portion of a day in each of the four immediately preceding work weeks, and during such weeks has earned from the employer wages totaling at least forty-eight dollars ($48.00).

(b) A person who becomes a covered employee of an employer shall be deemed, for the purposes of this act, to remain a covered employee of such employer until the occurrence of the first of the following events:

(1) the expiration of thirty-one days after (i) termination of his employment with the employer, or (ii) commencement of a period of at least thirty-one days' absence from active work in employment with the employer due to lay-off, leave of absence, retirement, or other cause; *provided,* that, in the case of both (i) and (ii), persons returning to active work in employment with the employer within six months after the day they were last so actively at work shall, if the entire period of absence was due to disability but otherwise only if the employer so elects, be immediately reinstated as covered employees of the employer, notwithstanding clause (3) of subsection (a) above;

(2) such person's average weekly wages from the employer become less than twelve dollars ($12.00);

(3) the employer ceases to be a covered employer.

In no case, however, shall any employee not actively working in employment with an employer be deemed to remain a covered employee of such employer after becoming a covered employee of another employer.

10. Benefits. Each employer shall pay, or cause to be paid, disability benefits to each person who, while a covered employee of such employer, suffers a nonoccupational accident or sickness resulting in his total disability to perform the duties of his employment with such employer, and continues to be so disabled for a period of not less than eight consecutive days. Such disability benefits shall commence with respect to the eighth consecutive day of such disability and shall be payable with respect to such day and each day thereafter that such person continues to be so totally disabled, but in no case shall benefits be payable with respect to any one period of disability, or with respect to two or more successive periods of disability due to the same or a related cause or condition and each commencing while a covered employee of the employer, for more than thirteen weeks. Two or more periods of disability shall be considered successive if and only if separated by less than four consecutive work weeks of active work in employment at the employee's normal working hours.

Notwithstanding the foregoing provisions of this section, no benefits shall be payable under this act to any person (a) for more than thirteen weeks for all disability in any twelve-months' period due to the same or a related cause or condition; (b) for any period during which such person is not under the care of a legally licensed physician; (c) for any period of disability due to pregnancy or resulting childbirth, miscarriage, or abortion; (d) for any period of disability due to willfully and intentionally self-inflicted injury, or to injury sustained in the perpetration by the claimant of a high misdemeanor; (e) for any period during which the claimant performs any work for remuneration or profit; (f) for any period of disability commencing while such person is not a covered employee of the employer; nor (g) for any period of disability commencing prior to January first, one thousand nine hundred and forty-seven.

11. Amount of benefits. The weekly amount of the disability benefits payable to a person in accordance with section ten shall be determined by the following table on the basis of his average weekly wages from the employer, determined in accordance with

section twelve, immediately prior to the date of commencement of the period of total disability for which benefits are payable:

Average Weekly Wages from Employer	*Weekly Amount of Disability Benefits*
$12.00 to $14.00, inclusive	$7.00
14.01 to 16.00, inclusive	8.00
16.01 to 18.00, inclusive	9.00
18.01 to 20.00, inclusive	10.00
20.01 to 22.00, inclusive	11.00
22.01 to 24.00, inclusive	12.00
24.01 to 26.00, inclusive	13.00
26.01 to 28.00, inclusive	14.00
28.01 to 30.00, inclusive	15.00
30.01 to 32.00, inclusive	16.00
32.01 to 34.00, inclusive	17.00
34.01 to 36.00, inclusive	18.00
36.01 to 38.00, inclusive	19.00
38.01 to 40.00, inclusive	20.00
40.01 to 42.00, inclusive	21.00
42.01 and over	22.00

The amount of the benefits for each day of total disability for which benefits are payable shall be one-seventh of the corresponding weekly amount of the disability benefits.

12. Determination of average weekly wages. During any calendar quarter which immediately succeeds a calendar quarter in which a covered employee was paid wages by an employer for at least some portion of a day in each of at least four different work weeks, the average weekly wages of such covered employee from such employer shall, while he so remains a covered employee of the employer, be determined by dividing the total wages paid him by the employer during the immediately preceding calendar quarter by the corresponding number of work weeks for which he was paid such wages for at least some portion of a day in each of the respective work weeks. In the case of covered employees paid semimonthly or monthly, such corresponding number of work weeks by which such total wages are to be divided shall not include any work week which if included would increase the total number of such work weeks to more than thirteen, unless such total wages paid to the covered employee are with respect to a period which includes at least five days of such work week.

During any calendar quarter which does not immediately succeed a calendar quarter in which a covered employee was paid wages by an employer for at least some portion of a day in each of at least four different work weeks, the average weekly wages of such covered employee from such employer shall, while he so remains a covered employee of the employer, be determined as one-fourth of the total wages paid him by the employer for the four work weeks immediately preceding the date he became a covered employee; *provided, however,* that if such covered employee is a former covered employee who has been immediately reinstated upon re-employment or return from more than thirty-one days' absence from active work, the average weekly wages of such covered employee shall be in the same amount as his average weekly wages as last previously determined.

Upon request by an employer, the commission shall approve a different basis for the determination of average weekly wages for covered employees of such employer, or any class or classes thereof determined by conditions pertaining to their employment, if it finds that such different basis will not unfairly discriminate against any class of employees. Such different basis may include provision for postponement of the effective date of any change in the average weekly wages of a covered employee, provided the new determination takes effect not more than one month after the end of the calendar quarter last completed.

No change in the average weekly wages of a covered employee during any period of total disability shall affect the amount of any disability benefits payable with respect to such period of total disability.

13. Contributions of covered employees; trust funds. In consideration of the benefits provided for by this act, on and after January first, one thousand nine hundred and forty-seven, each covered employee shall contribute, to the extent hereinafter provided, toward the cost of such benefits, *provided,* that the employer may at his option and the approval of the commission waive part or all of such contributions and any amount so waived shall not be required to be contributed hereunder. Notwithstanding any other provision of law, it shall be lawful for the employer to collect such contributions from his covered employees by deduction from wages or otherwise. If the employer fails to collect such contributions or any part thereof at the time wages are paid or at or before the time wages are paid for the next succeeding payroll period, the employer shall be deemed to have waived such

contributions in the amount and to the extent that such contributions or part thereof shall not have been collected.

Any employer who shall not have established his financial responsibility for the payment of benefits provided for by this act to the satisfaction of the commission, and who shall not have provided for payment of such benefits (i) under a policy or policies of insurance issued by insurers duly authorized to transact business in this State or (ii) by payments to a benefit association, approved by the commission, for providing such benefits, shall establish and maintain a trust fund for the payment of benefits. Such an employer shall not waive employee contributions without the consent of the commission. The employer shall pay into such trust fund, at the end of each payroll period, all contributions received, collected or withheld on account of covered employees, together with an additional amount to be contributed by the employer equal to the aggregate of such contributions by covered employees. Such trust funds shall be deposited in a bank or banking institution of this State, subject to such regulations as to deposits and withdrawals as the commission shall prescribe, or shall be invested in securities authorized by the laws of this State for the investment of funds of trustees. Such trust funds shall be applied for the sole purpose of paying the benefits provided for by this act; and such trust funds applied toward the payment of premiums under policies of insurance providing such benefits issued by insurers duly authorized to transact business in this State or paid to a benefit association, approved by the commission, for providing such benefits, shall be deemed to have been applied in accordance with this section. It shall be unlawful for the employer or any agent of the employer to apply such funds for any purpose other than as prescribed herein.

In the event of the bankruptcy or insolvency of the employer or the dissolution or winding up of the affairs of the employer, or the appointment of a receiver or trustee, or assignment for the benefit of creditors, such trust funds shall not be deemed to be an asset of the employer available for creditors. Any employer acquiring the organization, trade or business, or substantially all of the assets thereof, of an employer holding such trust funds shall thereupon be substituted as successor trustee therefor, subject to all the provisions and limitations of this section with respect to the deposit, investment and application of such trust

funds. The balance of any such trust funds held by any person who shall have ceased to be an employer having persons in employment for a period of one year shall be paid to the commission for its use in defraying the expense of administration of this act; which funds shall not lapse but shall be continuously available to the commission; *provided,* that the commission, upon application by any person holding such trust funds, may permit such person to continue to hold such trust funds if it shall appear to the commission that there is likelihood that such person will have persons in employment within a reasonable time thereafter, or that all contingent liabilities under this act have not been satisfied.

Nothing contained in this section shall be construed to limit the liability of the employer to pay the benefits provided for by this act.

The contributions of a covered employee toward the cost of the benefits to be provided for by an employer shall, subject to the foregoing provisions with respect to waiver of contributions or part thereof at the option of the employer, be the lesser of (i) one-half of one per centum (½ of 1%) of his wages from such employer, and (ii) twenty-three cents ($0.23) weekly, forty-six cents ($0.46) biweekly, fifty cents ($0.50) semimonthly, or one dollar ($1.00) monthly, according to the frequency with which such employee is paid by such employer. The commission shall by regulation prescribe equivalent contributions in lieu of the foregoing, for covered employees paid other than on a weekly, biweekly, semimonthly or monthly basis.

14. Alternative plans; wage continuance; additional benefits. An employer may, subject to the approval of the commission, establish a plan of benefits for his covered employees differing from those required by this act as to waiting period for benefits, amount of benefits, length of the period for which benefits are payable, which shall be deemed to comply with the requirements of this act if (i) the aggregate amount of the benefits payable under such plan to each covered employee during any period of disability due to nonoccupational accident or sickness is not less than the aggregate amount of benefits required by this act for such period, and (ii) the contributions required under such plan of covered employees do not exceed those set forth in section thirteen. Nothing in this act shall be construed to confer upon any person any right to payments under such a plan for any period of disability in excess of the aggregate amount of benefits required by this act in respect of such period of disability, nor shall this act

affect the terms and conditions under which the payment of any such excess benefits shall be made, or to recovery thereof.

The continuance of the payment of all or part of wages to a covered employee and payment of annuities, pensions or permanent disability benefits or allowances under a policy or program of the employer from whose service the employee was retired, during a period of total disability of such employee due to nonoccupational accident or sickness shall, to the extent of such payment, be deemed payment of benefits under this act.

Nothing in this act shall be construed to prohibit the establishment by an employer of a supplementary plan or plans providing for the payment to employees, or to any class or classes thereof, of benefits in addition to the benefits required by this act, or to prohibit the collection or receipt of additional voluntary contributions from employees toward the cost of such additional benefits. The rights, duties and responsibilities of all interested parties under such supplementary plans shall be unaffected by any provision of this act.

15. Nonduplication of benefits. No benefits shall be required under this act for any period with respect to which benefits are paid or payable under any unemployment compensation law of this State or of any other State or of the Federal Government. No benefits shall be required under this act for any period with respect to which benefits, other than benefits for permanent partial disability previously incurred, are paid or payable under any workmen's compensation law, occupational disease law, or similar legislation, of this State or any other State or of the Federal Government. Disability benefits otherwise payable to an employee hereunder may be reduced by the amount of any primary insurance benefits which are being paid to such employee under Title II of the Federal Social Security Act, in accordance with such regulations as the commission shall prescribe.

The commission is hereby authorized and directed to make available to any employer or insurer, on request, any information in connection with a claim for unemployment compensation that is material to the making or determination of a claim against such employer or insurer for benefits hereunder.

16. Notice and proof of claim. Written notice of nonoccupational accident or sickness on which a claim for benefits under this act is based shall, within ten days after the commencement of the period of total disability resulting from such accident or sickness, be furnished the employer or insurer by the person claiming

benefits. Proof of such disability shall be furnished to the employer or insurer not later than thirty days after the commencement of the period for which such proof is furnished. When requested by the employer or insurer, such proof shall include certification of total disability by the attending physician, or a record of hospital confinement. Failure to furnish notice or proof within the time or in the manner above provided shall not invalidate or reduce any claim if it shall be shown to the satisfaction of the commission not to have been reasonably possible to furnish such notice or proof and that such notice or proof was furnished as soon as reasonably possible.

A person claiming benefits under this act shall, when requested by the employer or insurer, submit himself at intervals, but not more often than once a week, for examination by a legally licensed physician designated by the employer or insurer. In all cases of physical examination of a female claimant, the examination shall be made by a female physician, if the claimant so requests. All such examinations by physicians designated by the employer or insurer shall be without cost to the claimant and shall be held at a reasonable time and place. Refusal to submit to such a requested examination shall disqualify the claimant from all benefits from the date of such refusal.

17. Nonapplicability to certain individuals. Any employee who adheres to the faith or teachings of any church, sect, or denomination, and who in accordance with its creed, tenets, or principles depends for healing upon prayer or spiritual means, in the practice of religion, shall be exempt from this act upon filing with the commission and with his employer a statement, in such form as the commission shall by regulation prescribe, waiving any and all benefits under this act. Thereupon such employee shall be exempt from any liability to contribute toward the cost of such benefits, and his employer shall be exempt from any liability to pay, or cause to be paid, any benefits to such employee under this act.

18. Review. If a person claiming benefits shall be unable to agree with the employer or insurer as to benefits hereunder, such claimant may, within one year after the beginning of the period for which benefits are claimed, file a complaint with the commission which shall conduct such investigation, including informal hearings, as it deems proper. Such complaint shall be filed in writing in a form satisfactory to the commission. The commission shall have the authority to make procedural rules and regulations providing for a fair and impartial hearing, and shall desig-

nate one or more hearing officers. If the issues raised by the complaint are not settled, the hearing officer shall conduct a hearing upon due notice to the claimant, the employer and the insurer, if any, at which any party in interest shall have the right to appear. At such hearing evidence, exclusive of ex parte affidavits, may be produced by any party, but the hearing officer, in conducting the hearing, shall not be bound by the rules of evidence. All proceedings at such hearing shall be recorded, but need not be transcribed unless the order on the disputed claim is to be reviewed. The hearing officer shall make a determination of facts, and an order disposing of the issues presented, which shall be final and binding on the claimant, the employer and the insurer. Any party in interest feeling aggrieved by action of the hearing officer may within thirty days after the hearing officer's order and not thereafter apply to the Supreme Court for a writ of certiorari to review his determination; in such event the record of the proceedings shall be transcribed and the entire record of the disputed claim shall be duly certified to the Supreme Court. The cost of recording and transcribing the proceedings, and of the preparation of such record, shall constitute a cost of administering this act.

19. Fees of attorneys and medical witnesses. In any proceeding had as the result of a complaint filed with the commission as provided in section eighteen of this act, the hearing officer may (i) if an award of benefits is made to an employee, allow a reasonable fee, not exceeding twenty per centum (20%) of the amount of the award, to the attorney, if any, representing the employee, payable by the employer or insurer, and (ii) allow reasonable appearance fees to medical witnesses, the payment of which may be assessed wholly or in part against the employee, the employer or the insurer as the hearing officer shall determine. Except for amounts thus allowed, it shall be unlawful for an attorney or any other person to ask for, contract for, or receive, directly or indirectly, any charge for services in securing or attempting to secure any benefits hereunder, or for a medical witness to make any charge for an appearance at a hearing held pursuant to section eighteen of this act.

20. Records and reports. Each employer shall keep true and accurate employment records, containing such information as may reasonably be prescribed by the commission. Such records shall be open to inspection by the commission or its authorized representative at any time during ordinary business hours for the purpose of ascertaining whether such employer is a covered employer and, if so, whether such employer is complying with the provisions

hereof. Information thus obtained shall not be published or open to public inspection (other than to public employees in the performance of their public duties) in any manner revealing the employee's or employer's identity, but any claimant at a hearing before the commission or a hearing officer shall be supplied with information from such records to the extent necessary for the proper presentation of his claim.

21. Rights in payments. Benefits payable hereunder shall have the same preferences against the assets of an employer as are now or may hereafter be allowed by law for a claim for unpaid wages for labor, and shall not be assignable or subject to levy, execution, attachment or other process for satisfaction of debts.

22. Administration. It shall be the duty of the executive director of the commission to administer this act with the advice of the commission; to appoint and fix the compensation of members of the staff subject to the approval of the commission and subject to the provisions of subsection (d) of section 43:21–11 of the Revised Statutes; and to make such expenditures as are necessary in the discharge of his functions hereunder as provided for in the budget to be approved annually by the commission.

23. Penalties. (a) Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit hereunder, either for himself or for any other person, shall be liable to a fine of not less than twenty dollars ($20.00) nor more than fifty dollars ($50.00), the amount thereof to be determined by and paid to the commission. Upon refusal to pay such fine, the same shall be recovered in an action at law by the commission in the name of the State of New Jersey. If in any case liability for the payment of a fine as aforesaid shall be determined, any person who shall have received any benefits hereunder by reason of the making of such false statements or representations or failure to disclose a material fact, shall pay to the employer or insurer, as the case may be, an amount equal to the sum of any benefits hereunder received from such employer or insurer by reason thereof, and such person shall not be entitled to any benefits under this act for any disability occurring prior to the time he shall have discharged his liability hereunder to pay such fine, if any, and to reimburse the employer or insurer.

(b) Any employer or any officer or agent of any employer or any other person who makes a false statement or representation knowing it to be false or knowingly fails to disclose a material

fact, to prevent or reduce the benefits to any person entitled thereto, shall be liable to a fine of not less than twenty dollars ($20.00) nor more than two hundred dollars ($200.00), the amount thereof to be determined by and paid to the commission. Upon refusal to pay such fine, the same shall be recovered in an action at law by the commission in the name of the State of New Jersey.

(c) Any person who shall willfully violate any provision hereof or any rule or regulation made hereunder, for which a fine is neither prescribed herein nor provided by any other applicable statute, shall be liable to fine of not less than twenty dollars ($20.00) nor more than two hundred dollars ($200.00), the amount thereof to be determined by and paid to the commission. Upon refusal to pay such fine, the same shall be recovered in an action at law by the commission in the name of the State of New Jersey.

(d) Any fine received by the commission under this section shall be used by it for defraying the expense of administration of this act, which funds shall not lapse but shall be continuously available to the commission.

24. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be unconstitutional, invalid or inoperative, in whole or in part, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. To the extent that any provision of this act shall not have been so adjudged unconstitutional, invalid or inoperative, such provision shall be enforced and effectuated.

25. Effective date. This act shall take effect immediately.

STATEMENT

This bill provides for the payment of cash benefits to employees who are unable to work because of nonoccupational accident or sickness and thereby suffer a loss of earnings.

The provisions of the workmen's compensation law and of the unemployment compensation law do not cover employees who are disabled by nonoccupational accident or sickness. This bill is proposed to meet the existing need for benefits to replace, in part, the wages and salaries of employees unable to work because of such

disability. In recognition of this need many employers have already made provision for cash benefits through salary continuance plans during sickness or other privately financed sickness plans. Plans of such nature will be permitted to be continued under the bill. This legislation would establish a statutory minimum scale of benefits as set forth in the bill, and do so within the framework of private enterprise and without creating new taxes or a new State function other than supervision. The cost of providing for the payment of benefits will be shared between employers and employees.

Under companion bills, similar benefits would be provided to the unemployed who have registered for work; further amendments of the unemployment compensation law would be made to mitigate the expense of providing disability benefits under this bill; and the group insurance law would be amended to permit all covered employers to insure their sickness benefit liabilities which this bill establishes.

STATE OF NEW JERSEY

INTRODUCED

By

Referred to

AN ACT concerning unemployment compensation, amending sections 43:21–4, 43:21–7 and 43:21–8 of the Revised Statutes, and supplementing chapter twenty-one of Title 43 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 43:21–4 of the Revised Statutes is amended to read as follows:

43:21–4. An individual, totally or partially unemployed, shall be eligible to receive benefits with respect to any week only if it appears that:

(a) He has registered for work at, and thereafter continued to report at, an employment office in accordance with such regulations as the commission may prescribe, except that the commission may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which the commission finds that compliance with such requirements would be oppressive, or would be inconsistent with the purpose of this act; *provided,* that no such regulation shall conflict with subsection (a) of section 43:21–3 of the Revised Statutes.

(b) He has made a claim for benefits in accordance with the provisions of subsection (a) of section 43:21–6 of this Title.

(c) He is able to work, and is available for work; *provided,* that no claimant shall be considered ineligible in any week of unemployment for failure to comply with the provisions of this subsection if such failure is due to an illness or disability which occurs after he has registered for work with respect to a period of unem-

ployment including such week and no work which would have been considered suitable at the time of his initial registration has been offered after the beginning of such illness or disability.

(d) Prior to the first week for which he claims benefits in any benefit year he has been totally or partially unemployed for a waiting period of one week in that benefit year. No week shall be counted as a week of unemployment for the purposes of this subsection:

(1) if benefits have been paid, or are payable, with respect thereto;

(2) unless the individual fulfills the requirements of subsections (a) and (c) of this section.

(3) He has within his base year earned wages of not less than one hundred fifty dollars ($150.00).

2. Section 43:21–7 of the Revised Statutes is amended to read as follows:

43:21–7. (a) Payment. (1) On and after December first, one thousand nine hundred and thirty-six, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this chapter, with respect to wages payable for employment (as defined in subsection (i) of section 43:21–19 of this Title) occurring during such calendar year, except that for the month of December, one thousand nine hundred and thirty-six, such contributions shall accrue and become payable with respect to wages payable for employment during the month of December, one thousand nine hundred and thirty-six. Such contributions shall become due and be paid by each employer to the commission for the fund in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent ($0.00½) or more, in which case it shall be increased to one cent ($0.01).

(b) Rate of contribution. Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment *(provided, however,* that if the Federal Social Security Act be at any time amended to permit such construction thereof by the Federal Social Security Act or by this chapter, the term "wages" as used in this subsection (b) and in

subsection (c), below, shall, from and after the date when such amendment to the Federal Social Security Act shall become effective, mean all remuneration for employment except that part of such remuneration in excess of three thousand dollars ($3,000.00) thereof paid by any employer to any employee with respect to employment during any calendar year):

(1) Ten and eight-tenths per centum (10 8/10%) with respect to employment during the month of December, one thousand nine hundred and thirty-six; *provided,* that if the total of such contributions at such ten and eight-tenths per centum (10 8/10%) rate equals less than nine-tenths of one per centum (9/10 of 1%) of the annual payroll of any employer for the calendar year one thousand nine hundred and thirty-six, such employer shall pay, not later than January twenty-fifth, one thousand nine hundred and thirty-seven, an additional lump-sum contribution with respect to employment for such one month's period beginning December first, one thousand nine hundred and thirty-six, equal to the difference between nine-tenths of one per centum (9/10 of 1%) of his annual payroll of the calendar year one thousand nine hundred and thirty-six and the total of his contributions at such ten and eight-tenths per centum (10 8/10%) for such one month's period beginning December first, one thousand nine hundred and thirty-six; *and provided further,* that the total of such contributions with respect to employment for such one month's period beginning December first, one thousand nine hundred and thirty-six, shall not exceed nine-tenths of one per centum (9/10 of 1%) of such employer's annual payroll for the calendar year one thousand nine hundred and thirty-six; *provided, further,* that if the Federal Social Security Act be amended or an extension thereunder be granted to permit payment of the tax on payrolls provided in section nine hundred one (1), at a date later than January thirty-first, one thousand nine hundred and thirty-seven, the commission may, by regulation, postpone to a later date the required payment of contributions as provided in this subsection.

(2) One and eight-tenths per centum (1 8/10%) with respect to employment during the calendar year one thousand nine hundred and thirty-seven;

(3) Two and seven-tenths per centum (2 7/10%) with respect to employment during the calendar years one thousand nine hundred and thirty-eight, one thousand nine hundred and thirty-nine, one thousand nine hundred and forty and one thousand nine hundred and forty-one; and

(4) With respect to employment after December thirty-first, one thousand nine hundred and forty-one, the percentage determined pursuant to subsection (c) of this section.

(c) Future rates based on benefit experience:

(1) A separate account for each employer shall be maintained and this shall be credited with all the contributions which he has paid on his own behalf on or before January thirty-first of any calendar year with respect to employment occurring in preceding calendar years. But nothing in this chapter shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him into the fund either on his own behalf or on behalf of such individuals. Benefits paid to any individual on or before January thirty-first of any calendar year with respect to unemployment in preceding calendar years, except benefits paid with respect to any period during which the individual is suffering illness or disability but is not ineligible for benefits pursuant to the provisions of subsection (c) of section 43:21-4 of this Title, shall be charged against the account of each of the employers with whom such individual accrued the wage credits constituting the basis of such benefits, in the same proportion as such wage credits with each such employer bear to such wage credits with all such employers.

(2) The commission may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(3) Each employer's rate shall be two and seven-tenths per centum (2 7/10%), except as otherwise provided in the following provisions. No employer's rate shall be other [less] than two and seven-tenths per centum (2 7/10%) unless and until there shall have been three calendar years throughout which any individual in his employ could have received benefits if eligible.

(4) Each employer's rate for the twelve months commencing [January] July first of any calendar year shall be determined on the basis of his record up to the beginning of such calendar year. If, at the beginning of such calendar year, the total of all his contributions, paid on his own behalf, for all past years exceed

the total benefits charged to his account for all such years, his contribution rate shall be:

(A) [One and eight-tenths] Two and four-tenths per centum [(1 8/10%)] (2 4/10%), if such excess equals or exceeds [seven and one-half] five per centum [(7½%)] (5%), but is less than [ten] six per centum [(10%)] (6%) of his average annual payroll (as defined in paragraph (2), subsection (a) of section 43:21–19 of this Title):

(B) [Nine-tenths of one] Two and one-tenth per centum [(9/10 of 1%)] (2 1/10%) if such excess equals or exceeds [ten] six per centum [(10%)] (6%), but is less than seven per centum (7%) of his average annual payroll [.];

(C) One and eight-tenths per centum (1 8/10%), if such excess equals or exceeds seven per centum (7%), but is less than eight per centum (8%) of his average annual payroll;

(D) One and five-tenths per centum (1 5/10%), if such excess equals or exceeds eight per centum (8%), but is less than nine per centum (9%) of his average annual payroll;

(E) One and two-tenths per centum (1 2/10%), if such excess equals or exceeds nine per centum (9%), but is less than ten per centum (10%), of his average annual payroll;

(F) Nine-tenths of one per centum (9/10 of 1%), if such excess equals or exceeds ten per centum (10%), but is less than eleven per centum (11%) of his average annual payroll;

(G) Six-tenths of one per centum (6/10 of 1%), if such excess equals or exceeds eleven per centum (11%), but is less than twelve per centum (12%) of his average annual payroll;

(H) Three-tenths of one per centum (3/10 of 1%), if such excess equals or exceeds twelve per centum (12%) of his average annual payroll.

If the total of his contributions, paid on his own behalf, for all past periods, or for the past one hundred twenty consecutive calendar months, whichever period is more advantageous to such employer for the purposes of this paragraph, is less than the total benefits charged against his account during the same period, his rate shall be three [and six-tenths] per centum [3 6/10%)] (3%).

(5) [No employer's rate for the period of twelve months commencing January first of any calendar year shall be less than two and seven-tenths per centum (2 7/10%), unless the total assets of the fund, excluding contributions not yet paid at the beginning of such calendar year, exceed the total benefits paid from the fund within the last preceding calendar year; and no employer's rate shall be less than one and eight-tenths per centum (1 8/10%) unless such assets at such time were at least twice the total benefits paid from the fund within such last preceding year.]

(A) If on March thirty-first of any calendar year the balance in the Unemployment Trust Fund equals or exceeds five per centum (5%) but is less than seven and one-half per centum (7½%) of the total taxable wages reported to the commission as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July first following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by three-tenths of one per centum (3/10 of 1%) over the contribution rate otherwise established under the provisions of paragraph (4) of this subsection. If on March thirty-first of any calendar year the balance of the Unemployment Trust Fund is less than five per centum (5%) of the total taxable wages reported to the commission as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July first following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by six-tenths of one per centum (6/10 of 1%) over the contribution rate otherwise established under the provisions of paragraph (4) of this subsection; *provided,* that if on such March thirty-first, such balance is less than two and one-half per centum (2½%) of such total taxable wages, the contribution rate so effective, of any employer, shall be not less than two and seven-tenths per centum (2 7/10%); *provided, further,* that the contribution rate of any employer increased pursuant to the provisions of this subparagraph, when so increased, shall not exceed three and six-tenths per centum (3 6/10%).

(B) If on March thirty-first of any calendar year the balance in the Unemployment Trust Fund equals or exceeds fifteen per centum (15%) of the total taxable wages reported to the commission as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July first following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by three-tenths of one per centum (3/10 of 1%) under the contribution rate otherwise established under the provisions of paragraph (4) of this subsection; *provided*, that in no event shall the contribution rate of any employer be reduced to less than three-tenths of one per centum (3/10 of 1%).

(d) Contribution by workers. (1) Each worker shall contribute to the fund [one per centum (1%) of his wages paid] on the wages paid to him by an employer with respect to his employment which occurs after December thirty-first, one thousand nine hundred and [thirty-seven] forty-six, and after such employer has satisfied the conditions set forth in subsection (h) of section 43:21–19 of this Title with respect to becoming an employer[.], at a rate equal to one-third of the contribution rate in effect with respect to the employer paying such wages; *provided*, that such employee's contribution rate shall not exceed one per centum (1%). Each employer shall, notwithstanding any provisions of law in this State to the contrary, withhold in trust the amount of his workers' contributions from their wages at the time such wages are paid, shall show such deduction on his payroll records, shall furnish such evidence thereof to his workers as the commission may prescribe, and shall transmit all such contributions, in addition to his own contributions, to the office of the commission in such manner and at such times as may be prescribed. If any employer fails to deduct the contributions of any of his workers at the time their wages are paid, or fails to make a deduction therefor at the time wages are paid, for the next succeeding payroll period, he alone shall thereafter be liable for such contributions, and for the purposes of section 43:21–14 of this Title, such contributions shall be treated as employer's contributions required from him. As used in this chapter, except when the context clearly requires

otherwise, the term "contributions" shall include the contributions of workers pursuant to this section; the term wages as used in this subsection (d) means all remuneration for employment, except that such term shall not include that part of such remuneration in excess of the first three thousand dollars ($3,000.00) thereof paid by any employer to any employee with respect to employment during any calendar year.

(2) If an individual does not receive any wages from the employing unit which for the purposes of this chapter is treated as his employer, or receives his wages from some other employing unit, such employer shall nevertheless be liable for such individual's contributions in the first instance; and after payment thereof such employer may deduct the amount of such contributions from any sums payable by him to such employing unit, or may recover the amount of such contributions from such employing unit or in the absence of such an employing unit, from such individual, in a civil action for debt; *provided,* proceedings therefor are instituted within three months after the date on which such contributions are payable. General rules shall be prescribed whereby such an employing unit may recover the amount of such contributions from such individuals in the same manner as if it were the employer.

(3) Every employer who has elected to become an employer subject to this chapter or to cease to be an employer subject to this chapter, pursuant to the provisions of section 43:21–8 of this Title, shall post and maintain printed notices of such election on his premises, of such design, in such numbers, and at such places as the executive director may determine to be necessary to give notice thereof to persons in his service.

(4) Contributions by workers, payable to the commission as herein provided, shall be exempt from garnishment, attachment, execution, or any other remedy for the collection of debts.

3. Section 43:21–8 of the Revised Statutes is amended to read as follows:

43:21–8 (a) Any employing unit which is or becomes an employer subject to this chapter within any calendar year shall be subject to this chapter during the whole of such calendar year.

(b) Except as otherwise provided in subsection (c) of this section, an employing unit shall cease to be an employer subject to this chapter only as of the first day of January of any calendar year, if it files with the commission, prior to the first day of Feb-

ruary of such year, a written application for termination of coverage, and the commission finds that there were no twenty different days, each day being in a different week within the preceding calendar year, within which such employing unit employed four or more individuals in employment subject to this chapter. For the purpose of this subsection, the two or more employing units mentioned in paragraph (2) or (3) or (4) of subsection (h) of section 43:21–19 of this Title shall be treated as a single employing unit. No application for termination of coverage hereunder shall be approved unless the commission has theretofore or simultaneously approved, as of the same effective date, such employer's application for termination of status as a covered employer under the "Nonoccupational Accident and Sickness Benefits Law."

(c) (1) An employing unit, not otherwise subject to this chapter, which files with the commission its written election to become an employer subject hereto for not less than two calendar years, shall, with the written approval of such election by the commission, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval; *provided,* that the commission shall not approve such election by such employing unit to become an employer subject hereto if written objections on the part of a substantial proportion of the individuals in the employ of such employing unit are presented to the commission within ten days following the filing of such election, and shall cease to be subject hereto as of January first of any calendar year subsequent to such two calendar years, only if at least thirty days prior to such first day of January, it has filed with the commission a written notice to that effect. No election to become an employer shall be approved unless the commission has theretofore or simultaneously approved an election filed on behalf of the same employing unit, to become a covered employer under the provisions of the "Nonoccupational Accident and Sickness Benefits Law." Likewise, the commission shall not approve any written notice to cease to be subject to this chapter unless theretofore or simultaneously it approves, as of the same effective date, an application filed on behalf of the same employing unit, to terminate status as a covered employer under the "Nonoccupational Accident and Sickness Benefits Law." An election to become an employer hereunder and a written notice to cease to be subject

to this chapter shall constitute, respectively, an application to become a covered employer under the "Nonoccupational Accident and Sickness Benefits Law" and an application to cease to be a covered employer thereunder.

(2) Any employing unit for which services that do not constitute employment as defined in this chapter are performed, may file with the commission a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this chapter for not less than two calendar years; *provided,* written objections on the part of a substantial proportion of such individuals affected are not presented to the commission within ten days following the filing of such election. Upon the written approval of such election by the commission, such services shall be deemed to constitute employment subject to this chapter from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January first of any calendar year subsequent to such two calendar years, only if at least thirty days prior to such first day of January, such employing unit has filed with the commission a written notice to that effect.

4. Notwithstanding any other provision of this act, the contribution rate of each employer established or effective January first, one thousand nine hundred and forty-six for the calendar year one thousand nine hundred and forty-six and the contribution rate of each employee of one per centum (1%) shall be effective in respect to the entire calendar year one thousand nine hundred and forty-six. The contribution rates of employers which would otherwise be effective July first, one thousand nine hundred and forty-six with respect to the year commencing July first, one thousand nine hundred and forty-six and ending June thirtieth, one thousand nine hundred and forty-seven, shall be suspended in respect to the period commencing July first, one thousand nine hundred and forty-six and ending December thirty-first, one thousand nine hundred and forty-six and shall be fully effective in respect to the period commencing January first, one thousand nine hundred and forty-seven and ending June thirtieth, one thousand nine hundred and forty-seven.

5. This act shall take effect immediately with the exception of section one, which shall take effect January first, one thousand nine hundred and forty-seven.

STATEMENT

This is a companion bill to the proposed "nonoccupational accident and sickness benefits law." This bill, by amendment of the present requirement that a claimant must be able to work and available for work, would provide for the payment of unemployment compensation benefits to unemployed persons who have initially registered for work and subsequently become disabled.

The proposed amendment is similar to a change in the Maryland law, adopted last year, and now reported to be operating satisfactorily.

Bill 3: Amendments to the Group Health and Accident Insurance Law

INTRODUCED

By

Referred to

AN ACT to amend "An act concerning health and accident insurance, supplementing chapter thirty-eight of Title 17 of the Revised Statutes, and repealing section 17:18–7 of the Revised Statutes," approved August second, one thousand nine hundred and thirty-nine (P. L. 1939, c. 305).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section two of the act of which this act is amendatory is amended to read as follows:

2. Eligible groups. No policy of group accident, group health or group accident and health insurance shall be issued or delivered in this State unless the policy conform to the description and complies with the requirements contained in one of the following paragraphs:

(a) A policy issued to an employer, who shall be deemed the policyholder, covering not less than twenty-five employees of such employer, and covering, except as hereinafter provided, only all employees of such employer or all of any class or classes thereof determined by conditions pertaining to employment, for amounts of insurance based upon some plan which will preclude individual selection; *provided,* that the policy may be issued covering less than twenty-five employees if such policy provides only the benefits of the Nonoccupational Accident and Sickness Benefits Law. For the purposes of this paragraph, the term "employer" shall include the trustee or trustees of a fund, established by employer members of a trade or business association, and maintained by contributions of such employers for the sole benefit of employees of such contributing employers. If the premium is paid by the employer and employees jointly, or by the employees, the group shall comprise not less than seventy-five per centum (75%) of all

employees of not less than seventy-five per centum (75%) of any class or classes of employees determined by conditions pertaining to the employment;

(b) A policy issued to and in the name of an incorporated or unincorporated association of employees, which shall be deemed the policyholder, and which association has a constitution and by-laws and has fifty or more members and is organized and maintained in good faith for purposes other than that of obtaining insurance, and has been so organized and maintained for a period of not less than two years prior to the issuance of such policy or contract, and where the members covered by such contract are not less than seventy-five per centum (75%) of all the members of such association. If membership in such association is confined to employees of one employer, its affiliates or subsidiaries, no policy or contract of group accident, group health or group accident and health insurance may be issued to such association unless the qualifications for membership in such association are determined by conditions pertaining to the employment, the amounts of insurance are based on a plan precluding individual selection, and not less than seventy-five per centum (75%) of all employees eligible for membership in such association are insured.

The term "employees" as used in this section shall be deemed to include, for the purposes of insurance hereunder, as employees of a single employer, the officers, managers and employees of the employer and of subsidiary or affiliated corporations of a corporation employer, and the individual proprietors, partners and employees of individuals and firms of which the business is controlled by the insured employer through stock ownership, contract or otherwise; *provided,* that in the case of a policy issued pursuant to paragraph (a) to a trustee or trustees of a fund established by employer members of a trade or business association, the term "employees" shall be deemed to include only those persons who bear any of the aforesaid relationships to the contributing employers or any of them, rather than persons who bear any such relationship to such trustee or trustees. The term "employer" as used herein may be deemed to include any municipal corporation or the proper officers, as such, of any unincorporated municipality, or any department of such corporation or municipality determined by conditions pertaining to the employment.

2. Section five of the act of which this act is amendatory is amended to read as follows:

5. Standard provisions. No policy of group accident, group health, group accident and health or blanket accident insurance and no certificate thereunder shall be issued or delivered in this State unless the policy contains in substance all the provisions specified in subsections (a) to (o) following:

(a) A provision that no statement made by the applicant for insurance shall avoid the insurance or reduce benefits thereunder unless contained in the written application signed by the applicant; and a provision that no agent has authority to change the policy or to waive any of its provisions; and that no change in the policy shall be valid unless approved by an officer of the insurer and evidenced by endorsement on the policy, or by amendment to the policy signed by the policyholder and the insurer.

(b) A provision that the policy, the application of the person or association in whose name the policy is to be issued, a copy of which shall be attached to the policy, and the individual applications, if any, of the employees or members, shall constitute the entire contract between the parties and that all statements contained in any such application for insurance shall be deemed representations and not warranties.

(c) A provision that all new employees or new members, as the case may be, in the groups or classes eligible for such insurance must be added to such eligible groups or classes.

(d) A provision that all premiums due under the policy shall be remitted by the employer or employers of the persons insured, by the policyholder, or by some other designated person acting on behalf of the association or group insured, to the insurer on or before the due date thereof with such period of grace as may be specified therein.

(e) A provision stating the conditions under which the insurer may decline to renew the policy.

(f) A provision that the insurer shall issue to the employer, the policyholder, or other person or association in whose name such policy is issued, for delivery to each employee or member, an individual certificate setting forth in summary form a statement of the essential features of the insurance coverage, to whom the benefits thereunder are payable, and in substance the provisions of subsections (g) to (n) inclusive of this section. This subsection shall not apply to blanket accident policies issued pursuant to

subsections (a) and (c) of section four of this act, nor to group accident and health policies providing only the benefits of the Non-occupational Accident and Sickness Benefits Law.

(g) A provision specifying the ages, if any there be, to which the insurance provided therein shall be limited; and the ages, if any there be, for which additional restrictions are placed on benefits, and the additional restrictions placed on the benefits of such ages.

(h) A provision that written notice of sickness or of injury must be given to the insurer within twenty days after the date when such sickness or injury occurred. Failure to give notice within such time shall not invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to give such notice and that notice was given as soon as was reasonably possible.

(i) A provision that in the case of claim for loss of time for disability, written proof of such loss must be furnished to the insurer within thirty days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of such disability must be furnished to the insurer at such intervals as the insurer may reasonably require, and that in the case of claim for any other loss, written proof of such loss must be furnished to the insurer within ninety days after the date of such loss. Failure to furnish such proof within such time shall not invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to furnish such proof and that such proof was furnished as soon as was reasonably possible.

(j) A provision that the insurer will furnish to the person making claim, or to the policyholder for delivery to such person, such forms as are usually furnished by it for filing proof of loss. If the person making claim does not receive such forms before the expiration of fifteen days after the insurer receives notice of any claim under the policy, the person making such claim shall be deemed to have complied with the requirements of the policy as to proof of loss upon submitting within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, character and extent of the loss for which claim is made.

(k) A provision that the insurer shall have the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim under the policy and also the right and opportunity to make an autopsy in case of death where it is not prohibited by law.

(l) A provision that all benefits payable under the policy other than benefits for loss of time will be payable not more than sixty days after receipt of proof, and that, subject to due proof of loss, all accrued benefits payable under the policy for loss of time will be paid not later than at the expiration of each period of thirty days during the continuance of the period for which the insurer is liable, and that any balance remaining unpaid at the termination of such period will be paid immediately upon receipt of such proof.

(m) A provision that indemnity for loss of life of the insured shall be payable to the beneficiary or beneficiaries designated by the insured, other than the policyholder or an officer thereof as such, or if no beneficiary is designated, to such other person or persons as shall be specified in the policy; and that all other indemnities of the policy are payable to the employee or member, except that, at the requests of the employee or member or in the event of his death, payment of benefits to the extent of expenses incurred on account of hospitalization may be made by the insurer to the hospital. If a beneficiary is designated, the consent of the beneficiary shall not be requisite to change of beneficiary or to any other changes in the policy or certificate except as may be specifically provided by the policy.

(n) A provision that no action at law or in equity shall be brought to recover on the policy prior to the expiration of sixty days after proof of loss has been filed in accordance with the requirements of the policy and that no such action shall be brought at all unless brought within two years from the expiration of the time within which proof of loss is required by the policy.

(o) In the case of insurance issued pursuant to subsection (a) of section four of this act, a provision that the company will issue to the policyholder, for delivery to the insured persons, certificates setting forth the name of the insurance company and the essential features of such insurance.

3. This act shall take effect on the first day of January, one thousand nine hundred and forty-seven.

STATEMENT

This is a companion bill to the bill providing for the payment of cash benefits to employees who are unable to work because of nonoccupational accident or sickness.

This bill would make it possible for all subject employers to insure their liabilities for cash sickness benefits under group insurance policies on as economical a basis as possible.

APPENDIX B

BRIEF OF TRANSCRIPT

Hearings Before the Commission on Post-War Economic Welfare, March 8, 1946, on Assembly Concurrent Resolution No. 3 (Feb. 4, 1946) "Unemployment Compensation Sickness Fund"

I. List of Persons and Groups Heard by Commission*

* Page references are to the mimeographed *Transcript of the Hearings*, on file in the State Library. Copies, of which a limited supply is available, may be obtained upon request to the Secretary of the Commission.

II. Summary

All of the persons heard and interests represented favored the principle behind the proposed bill. That is, that there should be cash sickness benefits to compensate (at least in part) for loss of wages due to unemployment caused by sickness. It was not generally agreed, however, that the basis of such payments should be a "monopolistic," compulsory State law. In fact, in the large sense it was clear that the primary issue was the relative merits of a State fund plan vs. a privately financed plan.

Generally, the labor representatives favored a State fund, while management, insurance, and medicine were inclined toward either voluntary action by employers or State action to require only that "cash sickness" benefits be extended to all employees by employers through private plans.

Representatives of both the State Federation of Labor and the C. I. O. indicated that they feel that the 1 per cent unemployment compensation payments that have been made by employees for the last several years should be used to set up the necessary fund for the payment of sick benefits and that regular unemployment compensation payments should be made from employer contributions.

Almost all groups and interests cited specific faults in A. C. R. No. 3 and it was generally agreed that, in its present form, it is not suitable for legislative action. Frequent and strong criticism was levied against Section 8 regarding exemption from the operations of the bill of employers already having plans meeting the requirements of the bill. The subject of adequately policing the plan was also discussed in detail with emphasis on discouraging malingering, etc. Numerous comparisons were made to the present Rhode Island plan.

The differences of opinion expressed by the various interests represented as well as the areas in which there was agreement are set forth below.

A. *Labor*

Favors State Plan

Miss Dubrow, of the C. I. O., and Mr. Marciante and Mr. Parsonnet, of the State Federation of Labor, specifically indicated an inclination to favor a public plan of sickness benefit administered by the U. C. C. Mr. Marciante, however, prefaced his remarks by stating that the Federation is not set on any plan and is interested only in securing legislation that will be most beneficial to the sick workman. Miss Dubrow said, in response to a specific question, that the C. I. O. would consider a private plan if it could be done at lower cost. Both interests stressed the importance of enacting some kind of plan.

Sickness Compensation Fund

Miss Dubrow and Mr. Parsonnet expressed confidence that the 1 per cent contributions of workers would be enough to keep the fund solvent beginning in 1948. Both organizations claimed an understanding that workers' contributions dating back seven years have been labeled for a sickness compensa-

tion fund and expressed alarm that considerable money ($60,000,000) has found its way to Washington where it can never be used to pay cash sickness benefits. They also voiced the opinion that employers' contributions will be sufficient to keep the regular unemployment compensation fund on a solvent basis.

Specific Criticism of Bill

Both labor representatives proposed that maternity cases should be treated as sickness and not disqualified as under the present wording. They pointed to the effect on the health of mothers and children and discounted the excessive drain that such claims have made on the Rhode Island fund because of the large number of women in the wartime labor market and the present high birth rate. Miss Dubrow further noted that the Rhode Island experience has been unusual because of the large numbers of very old and physically ill-equipped persons that have been employed during the war emergency period.

Mr. Parsonnet pointed out a number of other deficiencies in A. C. R. No. 3. He doubted that a 1 per cent administration fund would be enough to provide sufficient administration and investigation. He said that he was very much interested that only genuinely qualified workers should receive the benefits, but was not particularly concerned about malingering and felt that the law could be policed as well as workmen's compensation. He cited the opinion of Professor J. Douglas Brown of Princeton toward Section 8 exempting employers from the operation of the act if on January 1, 1946, they had a satisfactory plan of their own. Professor Brown, he said, is opposed to the section, as is the Federation, because the bill does not affect employers, the language of the section is misleading and workers would often stand to lose where job changes are involved.

He further noted that Sections 5 (a) and 6 (e) combine, apparently unintentionally, to force a two-week waiting period on the sick worker and also make him eligible for a three-dollar bonus to which he is not entitled. He also criticized the unfairness of the law in not compensating a man for time out of work when he is also being compensated for his future inability to secure good employment because of permanent disability. In addition, he remarked that a person could not receive sickness benefits for a part of a week when he also would be "entitled" to unemployment compensation.

B. *Management*

Opposition to State Participation

Three management representatives—Mr. Hickey, Mr. Edinger, and Mr. Roll—expressed opposition to State participation in the sickness benefit plan while Mr. Harper stressed the need for caution in proceeding with the plan and Mr. Salvo warned that the progress of the plan should not be hurried because of its complicated nature. They were agreed, however, that there is a real need for sickness benefits and Mr. Edinger stated that the matter should be left to collective bargaining, as he felt the unions could best manage the plan.

Mr. Hickey was most critical of public management and related the proposal to national socialistic ideology and State paternalism.

Malingering Feared

Mr. Salvo, Mr. Harper, and Mr. Hickey were particularly concerned that the bill might encourage malingering. Mr. Harper said that 50 per cent benefits are too high and Mr. Salvo warned against neurotics and "psychopaths" and complained about the current excessive demands for unemployment compensation while his plants are so very shorthanded. In addition, he explained that a 2 per cent fund was not sufficient to carry a program at his plant even with limited benefits and that it had been abandoned after several years.

Specific Criticisms

Mr. Hickey criticized the proposed bill on several additional points. He expressed the opinion that there is less need for the benefits now than ten years ago and progressively less need as time goes by because of the widespread adoption of private plans which he claims already cover 47 per cent of the workers. He felt that the gap could be closed if the State required private coverage and facilitated or encouraged small employers to work out plans together. He complained that the bill does nothing about the prevention of sickness, does not specify the use to be made of the benefit payments, would lead to more undesirable bureaucracy, impose an unfair collection burden on employers, and would eventually lead to more taxes. He added that the generalities of the bill are unsafe and that there is no provision for permanent disability and alleged that employees do not like the payroll deduction.

Mr. Salvo added a final note of caution in reference to any plan under which employers might have to pay part of the cost. He thought that under such conditions there might be a general reluctance to hire men unless they are 100 per cent fit.

Favor Voluntary Plans

Mr. Waltner, of the State Chamber of Commerce, and Mr. Wollmuth, of the Newark Chamber, both expressed preference for voluntary plans and urged further intensive study of the proposed legislation. Neither representative felt that the proposal in A. C. R. No. 3 is adequate and each pointed to specific shortcomings. Mr. Waltner made several criticisms that have been mentioned above, such as of the eligibility and ineligibility requirements, the waiting period, and desirability of relating benefits to recent wages, and the undesirable aspects of Section 8.

Specific Recommendations

Mr. Waltner specifically recommended that the experience rating principle should be applied to contributions, that costs should be shared by employers and employees, that payment for self-inflicted disability should be guarded against, that the coverage should be as extensive as possible, that benefits

should approximate 50 per cent of recent wages, that the bill should be applicable only to temporary disability and that careful guards against malingering should be instituted. He cited a survey which he claimed indicated that of a 20 per cent sample in New Jersey, 91 per cent of the jobs are with employers who have some kind of sickness coverage.

C. *Insurance Companies*

Cautions Against Rhode Island Plan

Mr. Pike, of the Life Insurance Association of America which represents 90 life insurance companies and 85 per cent of the business in force in the United States, was the principal witness for the insurance business. He said that he favors the principle of sickness compensation but cautioned specifically against following the Rhode Island plan because it is financially insecure, favors malingerers and works against the best interest of the employees. He pointed out that a young woman going to work for the first time would need the benefits as much as or more than an older woman who might be married and not totally dependent on her wages for support and yet, because the bill treats everyone as ex-employees in a sense, she would get little or nothing because she has no previous wage history.

Malingering Under Public Plans

Mr. Pike showed the commission some charts he had prepared which he claimed prove that malingering under a plan like Rhode Island's results in too great a burden on the sickness fund and cannot be properly policed the way private plans are. This was proven he said, by the disproportionately large benefit payments for good summer weather "sickness" compared to winter illnesses. Mr. Waltner, of the New Jersey State Chamber of Commerce, pointed to this same discrepancy and illustrated his point with other charts. Mr. Whittaker, representing the Prudential, noted that private companies pay their claims promptly, but that it would probably take the State months to pay its benefits just as it does with unemployment compensation. He also said that his company only has to *dispute* ½ of 1 per cent of all its claims whereas Mr. Pike said that Rhode Island has to *disapprove* 50 per cent of its claims.

Criticism of Section 8

Mr. Pike drew a different moral from Section 8 than the ones Mr. Parsonnet pointed out. If there were any choice in the matter, employees with low sickness rates would pull out of the public plan because they could finance their own for less than 1 per cent. This would leave the plan loaded with high sickness rate companies and would drive the State into a worse and worse position. This is an argument for requiring employers without private plans to get them. Finally, he proposed that the Legislature should set up minimum benefit requirements with the employer assuming the responsibility and the employees contributing, with proper administrative provisions for policing written into the bill.

D. *Medical Profession*

Problems of Certification Stressed

Dr. Quigley, the executive secretary of the Medical Society of New Jersey, spoke in favor of unemployment benefits for sickness because they have a distinct influence upon recovery and tend to reduce permanent disability. However, he expressed a preference for voluntary plans and warned against over-generosity. He pointed out that certification is a serious problem and should only be entrusted to licensed physicians and not to religious or mental healers. He urged the commission to consult with the society regarding the certification of sickness and of recovery.

E. *Citizen Groups*

Endorse Principle of Plan

Mrs. Merrill, of the New Jersey League of Women Voters, and Miss Walls, of the New Jersey Consumers League, spoke in favor of the proposal in principle and in some detail. Miss Walls commented that the coverage of the plan should be equal for all employers and all employees. She indicated that she had not considered the comparative desirability of a private plan and felt that one might be actuararially more sound. Mrs. Merrill also indicated, in response to direct questioning, that a private plan could possibly be more desirable and added that her group was more interested in the result than the means. She cautioned that care must be taken to avoid possible false demands upon the plan.