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**Here is practical aid for a pressing 1933 problem.**

**Mr. Douglas considers virtually all the problems involved in the drafting and administration of an unemployment insurance law.**

**After outlining the reasons which necessitate the adoption of unemployment insurance, this book questions whether voluntary action is enough and discusses in detail the features which should characterize the scope of the act, the conditions of eligibility for benefit, the amount and nature of the benefits, the contributions, the administrative and insurance problems involved.**

**The objections to insurance are also considered as well as the constitutional problems involved.**



**STANDARDS OF UNEMPLOYMENT  
INSURANCE**

**THE UNIVERSITY OF CHICAGO PRESS  
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**STANDARDS OF  
UNEMPLOYMENT INSURANCE**

**By**

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*Professor of Economics, The University of Chicago*



**THE UNIVERSITY OF CHICAGO PRESS**  
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## PREFACE

The severity of the present depression is causing Americans to consider unemployment insurance with a more concerned and open mind than was the case a few years ago. Despite the opposition which the proposal still arouses there are signs which indicate that there may be, within the next decade, a fairly extensive application of this principle by our state and national governments. It has seemed to me appropriate therefore to prepare this little book as a means both of outlining what a properly managed system of unemployment insurance would do and also of working out what the precise features of such a system should be. The legislative and administrative problems connected with unemployment insurance are indeed difficult but they do not seem to me to be insoluble and I hope that this book may make the issues involved clearer and at the same time may point to their solution.

It will be noticed that, in view of present conditions, I favor joint contributions by both employers and workers rather than by the employers alone as is provided in the pioneer Wisconsin act and that instead of separate plant reserves, as in that state, I strongly prefer a centralized non-profit making state fund jointly administered by representatives of the workers and employers. The reasons for this position are fully described in the text. But I should like to make it clear that I regard the Wisconsin act as very much better than nothing and that I believe that state is entitled to great credit for its readiness to pioneer. Interestingly enough, however, the report and recommended bill prepared by the Ohio Commission on Unemployment Insurance is along a substantially similar line to that which is advocated in this book.

I am indebted to many individuals and organizations for aid in gathering material and in clarifying the many issues involved. As Acting Director of the Swarthmore Unemployment Study in 1930, I profited greatly from my associations as I did also with the New York and Pennsylvania Committees on Unemployment, appointed



by Governors Roosevelt and Pinchot and with which I served as Economic Adviser and Secretary respectively. The John Simon Guggenheim Foundation was good enough to award me a travelling fellowship which enabled me to study on the ground the operation of most of the European systems. While abroad, I received unflinching and courteous cooperation from many individuals among whom I should particularly like to thank Mr. T. S. Chegwidden, of the British Ministry of Labour, Dr. Melchior Palyi, of the Deutsche Bank, Professor Corado Gini, of the University of Rome, and Drs. Faustio Pitigliani and Ernesto Campese, of Rome. I have been fortunate also in the aid which my colleagues, notably, Miss Mollie Ray Carroll, Miss Mary Gilson, and Professor Arthur H. Kent have given and for the criticism on certain portions of the manuscript by my friend and former student, Dr. N. A. Tolles of Mount Holyoke College. My assistant, Mrs. Erika Schoenberg has aided me in numerous ways, including the preparation of the index. Dean Edith Abbottt has been extremely kind in the encouragement which she has given in the preparation of the book and for aid in its publication. But most of all I am indebted to my wife for her constant encouragement and help.

PAUL H. DOUGLAS

Chicago, December 15, 1932

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## APPENDIX A

### THE WISCONSIN UNEMPLOYMENT COMPENSATION ACT OF 1931

#### CHAPTER 20, LAWS OF SPECIAL SESSION 1931

**SECTION 1. LEGISLATIVE INTENT.** (1) The legislature intends through this act to make it certain that by July 1, 1933, at least a majority of the employes of this state will enjoy the protection of fair and adequate systems of unemployment compensation. The largest organization of employers in the state having declared it to be the intention of its members voluntarily to establish unemployment fund systems, it is the intent of the legislature to give employers a fair opportunity to bring about the purposes of this act without legal compulsion. If by June 1, 1933, the employers of not less than one hundred seventy-five thousand employes have voluntarily established plans which comply with the standards prescribed in section 108.15 of this act, then the compulsory system provided for in section 2 shall not take effect; otherwise, it shall take effect July 1, 1933. Should this provision for any reason be held invalid it is the intent of the legislature that the compulsory plan shall take effect July 1, 1933.

**SECTION 2.** A new chapter and a new section are added to the statutes to read:

#### CHAPTER 108

##### UNEMPLOYMENT RESERVES AND COMPENSATION

**108.01 PUBLIC POLICY DECLARATION.** As a guide to the interpretation and application of this chapter the public policy of this state is declared as follows:

(1) Unemployment in Wisconsin has become an urgent public problem, gravely affecting the health, morals and welfare of the people of this state. The burden of irregular employment now falls directly and with crushing force on the unemployed worker and his family, and results also in an excessive drain on agencies for private charity and for public relief. The decreased and irregular purchasing power of wage earners in turn vitally affects the livelihood of farmers, merchants and manufacturers, results in a decreased demand for their products, and thus tends partially to paralyze the economic life of the entire state. In good times and in bad times unemployment is a heavy social cost, now paid mainly by wage earners. Industrial and business units in



Wisconsin should pay at least a part of this social cost, caused by their own irregular operations. To assure somewhat steadier work and wages to its own employes, a company can reasonably be required to build up a limited reserve for unemployment, and out of this to pay unemployment benefits to its workers, based on their wages and lengths of service.

(2) The economic burdens resulting from unemployment should not only be shared more fairly, but should also be decreased and prevented as far as possible. A sound system of unemployment reserves, contributions and benefits should induce and reward steady operations by each employer, since he is in a better position than any other agency to share in and to reduce the social costs of his own irregular employment. Employers and employes throughout the state should cooperate, in advisory committees under government supervision, to promote and encourage the steadiest possible employment. A more adequate system of free public employment offices should be provided, at the expense of employers, to place workers more efficiently and to shorten the periods between jobs. Education and retraining of workers during their unemployment should be encouraged. Governmental construction providing emergency relief through work and wages should be stimulated.

(3) A gradual and constructive solution of the unemployment problem along these lines has become an imperative public need.

108.02 DEFINITIONS. As used in this chapter:

(a) "Commission" shall mean the industrial commission.

(b) "Workmen's compensation act" shall mean sections 102.01 to 102.35.

(c) "Employe", except where the context clearly shows otherwise, shall mean any person who is employed by an employer and in an employment subject to this chapter, or who has been so employed within the last six months; provided, that an independent contractor shall be deemed an "employer", and that all persons employed by subcontractors under him shall be deemed his "employes" for the purposes of this chapter.

(d) "Employer", except where the context clearly shows otherwise, shall mean any person, partnership, association, corporation (or legal representative of a deceased person, or a receiver or trustee of a person, partnership, association or corporation), including this state and any municipal corporation or other political subdivision thereof, who or whose predecessor in interest has for four months or more within the preceding calendar year employed ten or more persons in employments subject to this chapter. There shall be included in such calculation all persons thus employed by the employer throughout the entire state, and all of the several places of employment maintained within Wisconsin by the employer shall be treated as a single "employer" for the purposes of this chapter; provided, moreover, that where any employer, either directly or through a holding company or otherwise, has a majority control or ownership of otherwise separate business enterprises employing persons in Wisconsin, all such enterprises shall be treated as a single "employer" for the purposes of this chapter.

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(e) An "employment," except where the context shows otherwise, shall mean any employment, during any week, in which all or the greater part of the person's work is performed within Wisconsin, under any contract of hire, express or implied, oral or written, including all contracts entered into by helpers and assistants of employes, whether paid by employer or employe, if employed with the knowledge actual or constructive of the employer; except that for the purposes of this chapter an "employment" shall not include:

1. Employment as a farm laborer;
2. Employment in the personal or domestic service of an employer at his home;
3. Employment on a governmental unemployment relief project, approved as such by the commission;
4. Employment as an elected or appointed public officer;
5. Employment by a governmental unit on an annual salary basis;
6. Employment as a teacher in a private or public school, college or university for the regular term for which such school, college or university is in session;
7. Employment of a person who is unable or unwilling to work normal full time and who, before accepting a part-time job, has registered at his district public employment office as a "part-time worker", in such written form as the commission may prescribe; provided, however, that for the purposes of this chapter no person shall be treated as a "part-time worker" who customarily works half or more than half the full-time hours per week which prevail in such establishment for full-time employes.
8. Employment by railroads engaged in interstate transportation and employment in logging operations.

(f) An employe's "weeks of employment" by an employer shall mean all those weeks during each of which the employe has performed any services at all for the employer.

(g) "Benefits" shall mean the money allowance payable to an employe as compensation for his wage losses due to unemployment as provided in this chapter.

(h) "Wages" shall mean what is customarily meant by the term, except that it shall include bonuses and the reasonable value of board, rent, housing, lodging, or similar advantage received from the employer.

(i) An employer's "full-time hours per week" shall be determined for each general class of his employes (classifying together all those usually employed on substantially the same schedule of weekly hours). The commission shall calculate an employer's full-time hours per week, applicable to all his employes of the given class, by averaging the weekly hours worked by the majority of such employes for each week during the preceding calendar year in which such prevailing hours were forty or more; provided that, in cases where it finds that the above method cannot reasonably and fairly be applied, the commission may adopt such other comparable method or methods of determining an em-

ployer's full-time hours per week as it deems reasonable and suitable under this chapter.

(j) An employe's "average weekly wage" shall mean the weekly earnings such employe would average from the particular employer if employed that number of full-time hours per week of such employer which is applicable to such employe. Accordingly each employe's "average weekly wage" shall be calculated by multiplying such applicable full-time hours per week by the employe's average earnings per hour from such employer. Each employe's earnings per hour (averaged for one hundred or more hours of employment, so far as possible) shall for this purpose be calculated at such times and in such manner and in accordance with such suitable rules as the commission may prescribe with a view to determining benefits under this chapter.

(k) "Fund" shall mean the unemployment reserve fund established in section 108.16.

(l) "Employer's account" shall mean the separate unemployment reserve account of an employer with the above fund.

(m) "Reserve per employe" shall refer to the status of an employer's account at the beginning of a calendar month. It shall be calculated by dividing the net amount such employer's account then has (or would have if all contributions due under this chapter had been paid) by the maximum number of employes subject to this chapter employed by such employer in any week during the preceding six months.

(n) "Administration fund" shall mean the fund established in section 108.20.

108.03 PAYMENT OF BENEFITS. (1) Benefits shall be paid by the commission to each unemployed employe from his employer's account in the fund under the conditions and in the amounts stated in this chapter; except that employers exempted under subsection (2) of section 108.15 shall pay benefits directly to their unemployed employes under the conditions and in the amounts stated in the plan approved by the commission as the basis for the exemption.

(2) No benefits shall become payable from any employer's account, nor shall any employer's benefit liability begin to accrue under section 108.06, until one year after he has begun to make the regular and continuing contributions required of him under this chapter, except as otherwise provided in subsection (5) of section 108.15 and subsection (8) of section 108.16; provided, that at the end of such year period each employer's benefit liability shall begin to accrue and benefits shall accordingly become payable from his account.

(3) The commission shall determine or approve the time and method of payment of benefits.

108.04 ELIGIBILITY FOR BENEFITS. (1) No employe shall be deemed eligible for benefits for partial or total unemployment unless he gives the notification of such unemployment required under subsection (1) of section

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108.08, or unless such notification is waived by the commission in accordance with such section.

(2) No employe shall be deemed eligible for benefits on account of either partial or total unemployment during any calendar week unless such employe was physically able to work and available for work whenever with due notice called on by his employer to report for work. Nor shall any employe be deemed eligible for benefits for total unemployment for any calendar week in which he has suitable employment, as defined in subsection (6) of this section; provided, that nothing in this section shall render an employe ineligible for total unemployment benefits for any calendar week on the ground that such employe is employed on a governmental unemployment relief project under section 108.25.

(3) An employe shall be deemed partially unemployed in any calendar week, and shall at once be eligible for benefits for such partial unemployment, whenever his week's wages are less than the amount of weekly benefit to which he would be entitled under this chapter if totally unemployed.

(4) An employe shall be deemed totally unemployed in any calendar week when he performs no services whatsoever for his current employer during such week. An employe thus unemployed shall be eligible for benefits for total unemployment for each week of total unemployment occurring subsequent to a waiting period of two such weeks. No benefit shall be or become payable for this required waiting period, but not more than two such weeks of waiting period per employer shall be required of any employe in any twelve months in order to establish his eligibility for total unemployment benefits under this section. The commission may approve, in an approved voluntary unemployment benefit plan, such longer or shorter waiting period as will comply with the requirements of subsection (2) of section 108.15.

(5) An employe shall not be deemed eligible for any benefits for total unemployment based on his past weeks of employment, and no such benefits shall be payable to the employe, under any of the following conditions:

- (a) If he has lost his employment through misconduct;
- (b) If he has left his employment voluntarily without good cause attributable to the employer;
- (c) During any period for which he has left and is out of employment because of a trade dispute still in active progress in the establishment in which he was employed;
- (d) For any period during which he is out of employment because of an act of God affecting his place of employment;
- (e) If he has received in wages fifteen hundred dollars or more during the twelve months preceding the date on which he became totally unemployed;
- (f) If he is ordinarily self-employed, but has been temporarily (for not more than five months) employed in an employment subject to this chapter and can, at the termination of such temporary employment, reasonably return to his self-employment;

(g) If he attended a school, college or university in the last preceding school term, and has been employed by his employer only during the customary summer vacation of schools, colleges and universities.

(6) A claimant shall no longer be eligible for total unemployment benefits and the liability of his past employers to pay him such benefits based on his past employment shall cease for any period after he has without good cause refused to accept suitable employment when offered to him, or has failed to apply for suitable employment when notified by the district public employment office. Suitable employment shall mean either employment in his usual employment or other employment for which he is reasonably fitted, regardless of whether it is subject to this chapter; provided such employment is in the vicinity of his residence or last employment, and gives him wages at least equal to his weekly benefit for total unemployment or provides him work for at least half the number of hours normally worked as full time in such occupation or establishment; and provided, further, that whenever in any specific case the commission finds that it is impracticable to apply any of the foregoing standards, the commission may apply any standard reasonably calculated to determine what is suitable employment.

(7) Nothing in this section shall require an employe to accept employment; nor shall any employe forfeit his right to benefits by refusing to accept employment under either or both of the following conditions:

(a) In a situation vacant in consequence of a stoppage of work due to a trade dispute;

(b) If the wages, hours and conditions offered be not those prevailing for similar work in the locality or are such as tend to depress wages and working conditions.

(8) No employe shall be deemed eligible to receive benefits under this chapter on account of any period of partial or total unemployment unless such employe has been a resident of Wisconsin for the two years preceding the beginning of such period of unemployment or has been gainfully employed in the state for forty weeks within such two-year period; provided, that an employe's ineligibility under this subsection shall modify his employer's benefit liability only as specifically provided in subsection (5) of section 108.06.

**108.05 AMOUNT OF BENEFITS.** (1) Each eligible employe shall be paid benefits for total unemployment at a rate of ten dollars a week or fifty per cent of his average weekly wage, whichever is lower; except that when fifty per cent of such wage is less than five dollars a benefit of five dollars a week shall be paid.

(2) The benefit payable for partial unemployment in any week shall be the difference between the eligible employe's actual wages for the week and the weekly benefit to which he would be entitled if totally unemployed.

(3) Benefits shall be paid to each employe for the calendar weeks during which he is totally or partially unemployed and eligible for benefits; but no employe shall ever receive in any calendar year more than ten weeks of benefit

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for total unemployment, nor more than an equivalent total amount of benefits either for partial unemployment or for partial and total unemployment combined.

(4) The amount of benefits payable to any eligible employe shall be limited also by the benefit liability of his employer's account, as provided in sections 108.06 and 108.07.

**108.06 BENEFIT LIABILITY OF EMPLOYER'S ACCOUNT.** (1) An employer's account shall be liable to pay benefits to an employe in the ratio of one week of total unemployment benefit (or an equivalent amount of partial unemployment benefit) to each four weeks of employment of such employe by such employer within the fifty-two weeks preceding the date on which such employe last performed services for such employer. But no liability for the payment of benefits to an employe shall accrue unless the employe has been employed more than two weeks by the particular employer within such preceding year, or, in the case of an employe employed on a fixed monthly salary, unless the employe has been employed more than one month by the particular employer within such preceding year.

(2) In no case shall an employer's account remain or be liable to pay benefits to an employe for any unemployment occurring more than six months after the date on which such employe last performed services for such employer.

(3) No employer's account shall at any time be liable to pay benefits beyond the current resources his account has, or would have if all contributions due under this chapter had been paid.

(4) The liability of any employer's account to pay benefits, for weeks of partial or total unemployment occurring within or mainly within any calendar month, may be reduced, depending on the adequacy of such account at the beginning of such month. Such adequacy shall be determined at the beginning of each month, on the basis of the net "reserve per employe" which the employer's account then has, or would have if all contributions due for payment under this chapter had been paid. (Whenever during any month the maximum benefit payable from an employer's account for any week of total unemployment is reduced hereunder, this reduced maximum shall also be observed in calculating the benefits payable from that account for partial unemployment during that month.) In each calendar month an employer's account shall be liable to pay the benefits otherwise due his eligible employes for their weeks of unemployment occurring within such month only in accordance with the following schedule:

(a) When its reserve at the beginning of the month amounts to fifty dollars or more per employe, the account shall be liable for and shall pay in full all valid benefit claims for unemployment during the month;

(b) When such reserve amounts to over forty-five dollars but less than fifty dollars, all such valid benefit claims shall be paid, except that no eligible claimant shall receive for total unemployment a benefit of more than nine dollars per week;

(c) When such reserve amounts to over forty dollars but less than forty-five dollars, no claimant shall receive a benefit of more than eight dollars per week;

(d) For each further periodic drop of five dollars in the reserve per employe, there shall be a corresponding further drop of one dollar in the maximum benefit per week payable to any claimant for total unemployment.

(5) Any employe who has neither been a resident of Wisconsin for the past two years nor been gainfully employed in the state for forty weeks within such two-year period, and who is, therefore, under subsection (8) of section 108.04 ineligible to receive benefits under this chapter, shall be known as "a nonqualified employe". Whenever such a nonqualified employe loses his employment, under conditions other than those enumerated in subsection (5) of section 108.04, his employer's account shall be at once liable to pay in lieu of benefits to such person a lump sum amount to the commission. This payment shall be made at the rate of five dollars for each four weeks of employment of such person by such employer during the period of employment just ended; but not more than five dollars shall be so payable for each five dollars reserve per employe in the employer's account at the beginning of the current calendar month. The employer's liability under this subsection shall be reported by him and shall be determined in amount in accordance with suitable rules to be prescribed by the commission. The amount found to be due shall in each such case be paid over from the employer's account into the administration fund established by section 108.20.

**108.07 LIABILITY OF SUCCESSIVE EMPLOYERS.** (1) When an employe is employed by more than one employer within any twelve-month period the payment of benefits due such employe for total unemployment shall be made from the successive employer's accounts in inverse order to such successive employments. Until the last employer liable shall have met or been unable further to meet his benefit liability to an eligible employe no previous employer shall be due to pay benefits to such employe.

(2) When an eligible employe becomes employed in an employment or by an employer not subject to this chapter, such employment, except as provided in section 108.25, shall postpone but not terminate the liability of any former employer to pay benefits to such employe; provided, however, that if the employe fails to return to regular work offered him in his former employment by the written request of his former employer, made in good faith and not inconsistent with subsection (7) of section 108.04, such employe's right to benefits from such former employer shall be extinguished.

**108.08 NOTIFICATION.** (1) Any claimant of benefits must give notice of his unemployment at the public employment office for the district in which he is or was last employed, within such time and in accordance with such rules as the commission may prescribe. Thereafter he shall give notice of the continuance of his unemployment as frequently and in such manner as the com-

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mission may prescribe. But the notification prescribed under this subsection may, as to any case or class of cases, be waived by the commission for good cause (including administrative feasibility), provided the commission finds that no party in interest will be prejudiced by such waiver.

(2) The commission may require from any or each employer notification of the partial or total unemployment of his employees, within such time, in such form, and in accordance with such rules as the commission may prescribe.

**108.09 ESTABLISHMENT OF CLAIMS.** (1) Claims for benefits shall be filed with the superintendent of the public employment office for the district in which the claimant is or was last employed, or with a deputy of the commission designated for the purpose. Claims shall be filed within such time and in such manner as the rules of the commission may prescribe.

(2) If a claim appears to the superintendent or deputy invalid he shall reject the claim; if it appears valid he shall state the amount of benefits apparently payable to the claimant while eligible. In either case he shall notify the claimant in writing, giving his reasons. If the claimant is dissatisfied he may, within a time limit after notification to be set by the commission, have recourse to the method set up in section 108.10 for settling disputed claims.

(3) If a claim appears to the superintendent or deputy valid he shall notify the liable employer in writing of the amount of benefits apparently payable thereunder. If the employer does not contest the claim, within a time limit after notification to be set by the commission, the amount of benefits stated by the superintendent or deputy shall, subject to the limitations set up in this chapter, become payable to the claimant from such employer's account and shall be so paid by the commission. If the employer wishes to contest the claim, he may, within a time limit to be set by the commission, have recourse to the method set up in section 108.10 for settling disputed claims.

**108.10 METHOD OF SETTling DISPUTED CLAIMS.** (1) The manner in which disputed claims shall be presented, the reports thereon required from employers, and the conduct of hearings shall be governed by rules and regulations to be adopted by the industrial commission.

(2) Disputed claims, whether involving employers exempted under section 108.15 or those contributing to the fund, shall be decided in the first instance by the superintendent of the district public employment office or by a deputy of the commission designated for the purpose.

(3) Within a time limit after notification to be set by the commission either the employer or employe may take an appeal from any decision of the superintendent or deputy, to an appeal board to be appointed in each employment office district by the industrial commission. Such district appeal board shall consist of one employer or representative of employers, one employe or representative of employes, and one person who is not an employer, employe or representative of either.

(4) Decisions of a district appeal board shall be reviewable by the com-



mission or its representative upon appeal of either party within a time limit and in accordance with other rules and regulations to be laid down by the commission. The commission may authorize a commissioner or an examiner to hear such cases and to make decisions under rules to be adopted by the commission.

(5) Either party, if dissatisfied with the decision of such commissioner or examiner, may petition the industrial commission to review it as a commission. Such petition shall be in writing specifying in detail the particular errors alleged. If no such petition is filed within ten days from the date when a copy of the decision of the commissioner or examiner was mailed to the last known address of each party in interest such decision shall be considered the decision of the industrial commission, unless set aside, reversed or modified by such commissioner or examiner within such time. Within ten days after the filing of any such petition the commission shall, on the basis of the evidence previously submitted in such case, affirm, reverse, set aside or modify such decision, or direct the taking of additional testimony. Any decision made by the commission shall, if not modified or changed by it within twenty days, become the final decision of the commission and shall then be subject to judicial review on the same grounds and in the same manner as decisions of the industrial commission under the workmen's compensation act may be reviewed.

(6) The commission shall have the power to remove or transfer the proceedings pending before a commissioner or examiner; and may on its own motion set aside, modify or change any decision, whether made by a superintendent or deputy, by a district appeal board, by a commissioner or examiner, or by the commission as a body, at any time within twenty days of the date hereof if it shall discover any mistake therein or upon the grounds of newly discovered evidence.

(7) In the discharge of their duties under this section, the superintendent of any district public employment office, any member of a district appeal board, and any member, examiner or duly authorized employe of the industrial commission shall have power to administer oaths to persons appearing before them, and by subpoenas (served in the manner in which circuit court subpoenas are served) to compel attendance of witnesses and the production of books, papers, documents and records necessary or convenient to be used by them in connection with any disputed claim.

(8) A full and complete record shall be kept of all proceedings in connection with a disputed claim and all testimony shall be taken down by a stenographer appointed by the commission.

**108.101 MODIFIED PROCEDURE.** The commission may modify the procedure prescribed in sections 108.08, 108.09 and 108.10, with a view to such establishment and determination of claims against employers exempted under section 108.15, as will be suitable to such cases and fair to the parties in interest.

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**108.11 AGREEMENT TO CONTRIBUTE BY EMPLOYEES VOID.** (1) No agreement by an employe or by employes to pay any portion of the contributions required under this chapter from employers shall be valid. No employer shall make a deduction for such purpose from wages. Any employe claiming a violation of this provision may, to recover wage deductions wrongfully made, have recourse to the method set up in section 108.10 for settling disputed claims.

(2) But nothing in this chapter shall affect the validity of voluntary arrangements whereby employes freely agree to make contributions to a fund for the purpose of securing unemployment compensation additional to the benefits provided in this chapter.

**108.12 WAIVER OF BENEFIT VOID.** No agreement by an employe to waive his right to benefits or any other rights under this chapter shall be valid.

**108.13 ASSIGNMENT.** No claim for benefit under this chapter or under any approved voluntary unemployment benefit plan shall be assignable before payment, but this provision shall not affect the survival thereof; nor shall any claim for benefit awarded, adjudged, or paid, be subject to be taken for the debts of the party entitled thereto.

**108.14 ADMINISTRATION.** (1) This chapter shall be administered by the industrial commission.

(2) The commission shall have power and authority to adopt and enforce all rules and regulations which it finds necessary or suitable to carry out the provisions of this chapter. All such rules and regulations shall be published in the state's official newspaper and shall take effect ten days after such publication. A copy of such rules and regulations shall be delivered to every person making application therefor. The commission may require from employers, whether subject to this chapter or not, any reports on employment, wages, hours and related matters which it deems necessary to carry out the provisions of this chapter.

(3) The commission may appoint, employ and pay as many persons as it deems necessary to administer and to carry out the purposes of this chapter, and may make all other expenditures of any kind which it deems necessary or suitable to this end. But it shall not pay to any member of a district appeal board more than five dollars of compensation per day of services.

(4) The commission may create as many employment districts and district appeal boards and may establish and maintain as many free public employment offices as it deems necessary to carry out the provisions of this chapter. The commission shall have power to finance either partly or completely such public employment offices as it deems necessary under this chapter, from the funds appropriated to the commission for its expenses under this chapter, whether or not the political subdivision in which such office is located agrees to pay or does pay any part of the expenses of such office.

(5) The commission shall appoint advisory employment committees, by local districts or by industries or for the whole state, consisting in each case of one or more representatives each of employers, employes and the public, who shall assist the commission, without compensation but with reimbursement of necessary expenses, in administering and carrying out the purposes and provisions of this chapter.

(6) It shall be one of the purposes of this chapter to promote the regularization of employment in enterprises, localities, industries, and the state. The commission, with the advice and aid of its advisory employment committees, shall take all appropriate steps within its means to reduce and prevent unemployment. To this end the commission may employ experts, and may carry on and publish the results of any investigations and research which it deems relevant, whether or not directly related to the other purposes and specific provisions of this chapter. At least once a year the commission shall compile and publish a summary report stating the operations and status of each employer's account or other unemployment reserve and covering such other material as it deems significant in connection with the operations and purposes of this chapter.

108.15 EXEMPTION. (1) The commission shall exempt, from the provisions of this chapter, except sections 108.12, 108.14, 108.15, 108.19, 108.21, 108.22 and 108.24, any employer who guarantees, under a plan approved by the commission, to all his eligible employes (and to each new eligible employe who is continued in employment after a probationary period of one month), in advance for a stated one-year period, at least forty-two weeks of work or wages, for at least thirty-six hours in each such week, if satisfied that the employer can and will make good such promise under all circumstances. The words "eligible employe" in this subsection shall mean an employe who if unemployed would not be barred from eligibility for benefits by any of paragraphs (e), (f) and (g) of subsection (5) of section 108.04 or by subsection (8) of section 108.04.

(2) The commission shall exempt, from the provisions of this chapter, except sections 108.03, 108.04, 108.07, 108.101, 108.12, 108.13, 108.14, 108.15, 108.19, 108.21, 108.22, 108.23, 108.24, 108.25 and 108.26, any employer or group of employers submitting a plan for unemployment benefits which the commission finds: (a) makes eligible for benefits at least the employes who would be eligible for benefits under the compulsory features of this act; (b) provides that the proportion of the benefits to be financed by the employer or employers will on the whole be equal to or greater than the benefits which would be provided under the compulsory features of this act; and (c) is on the whole as beneficial in all other respects to such employes as the compulsory plan provided in this act. If under such a plan any contributions are made by employes, the accounts of the plan shall be so kept as to make clear what proportion of the benefits is financed by the employer or employers, and what proportion by the employes. If under such a plan any contributions are made by em-

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ployes, the commission may require that such employes be represented, by representatives of their own choosing, in the direct administration of such plan, and the commission may take any steps necessary and appropriate to assure such representation to contributing employes.

(3) No employer or group of employers exempted under this section shall be permitted to insure the liability to pay benefits or wages in any insurance company; and if such employer or employers enters or enter into an agreement for any form of insurance coverage such action shall automatically operate as a revocation of such exemption.

(4) As a condition of granting exemption, the commission may require the employer or group to furnish such security as the commission may deem sufficient to assure payment of all promised benefits or wages, including the setting up of proper reserves. Such reserves and other security and also the manner in which an exempted employer carries out his promises of benefits or employment shall be subject to inspection and investigation by the commission at any reasonable time. If the commission shall deem it necessary it may require an exempted employer to furnish additional security to assure fulfillment of his promises to his employes.

(5) If an exempted employer or group of employers fails to furnish security satisfactory to the commission, or fails to fulfill the promises made to employes, or wilfully fails to furnish any reports that the commission may require under this chapter, or otherwise to comply with the applicable portions of this chapter and the rules, regulations and orders of the commission pertaining to the administration thereof, the commission may, upon ten days' notice and the opportunity to be heard, revoke the exemption of such employer or group.<sup>1</sup>

(8) The rules and regulations for the government of such plan must be submitted to and approved by the commission. A plan, so approved, shall when put into effect, constitute a contract between each employer and every other employer participating in that plan, and between the employer or employers on the one hand, and, on the other hand all employes who come under it; and shall not thereafter be abandoned or modified without the approval of the commission. Provided that, at any time after five years from and after the passage of this act, the commission may, on the petition of any interested party, or on its own motion, and after public hearing, modify any such plan to conform to the standards then provided by the law for approved voluntary unemployment benefit plans.

108.16 UNEMPLOYMENT RESERVE FUND. (1) For the purpose of carrying out the provisions of this chapter there is established a fund to be known as the "Unemployment Reserve Fund", to be administered by the state without liability on the part of the state beyond the amount of the fund. This fund shall consist of all contributions and moneys paid into and received

<sup>1</sup> Certain sentences which follow in the act are omitted here.

by the fund pursuant to this chapter and of properties and securities acquired by and through the use of moneys belonging to the fund.

(2) A separate account shall be kept by the industrial commission with each employer contributing to said fund, and this separate employer's account shall never be merged with any other account except as provided in subsection (3) of this section.

(3) Whenever two or more employers in the same industry or locality desire to pool their several accounts with the fund, with a view to regularizing their employment by cooperative activity, they may file with the commission a written application to merge their several accounts in a new joint account with the fund. If in its judgment the plan has merit, the commission shall establish such a joint account, provided that the several employers each accept such suitable rules and regulations not inconsistent with the provisions of this chapter as may be drawn up by the commission with reference to the conduct and dissolution of such joint accounts.

(4) All contributions payable to the unemployment reserve fund shall be paid to the industrial commission, and shall daily be paid over by the commission to the state treasurer and credited to the unemployment reserve fund. Payments from said fund shall be made upon vouchers of the industrial commission. The state treasurer shall be ex officio the treasurer and custodian of the unemployment reserve fund. He shall give a separate and additional bond conditioned upon his faithful performance of these duties.

(5) The unemployment reserve fund shall be invested by the annuity and investment board in the readily marketable obligations of the United States of America, of any of its forty-eight state governments including this state, and of any city, county or other governmental subdivision of this state, all having a maturity of not over five years from the date of purchase. The investments of the fund shall be so made that all the assets of the fund shall always be readily convertible into cash when needed. When so directed by the industrial commission, the board shall dispose of securities belonging to the fund to secure cash needed for the payment of benefits. All expenses of the annuity and investment board in the investment of the unemployment reserve fund shall be paid from the interest earnings of said fund, as provided in subsection (1) of section 20.725.

(6) All net earnings on moneys belonging to the unemployment reserve fund shall be credited thereto, and shall, at the close of each fiscal year, be apportioned by the commission equitably to the several employers' accounts.

(7) If any employer shall become exempted under section 208.15, or shall cease to be subject to this chapter, or shall permanently go out of business in this state (except as provided in subsection (8) of this section), such employer shall, upon the expiration of six months (or prior thereto if he shall furnish surety satisfactory to the commission for the payment of benefits becoming due under this chapter during the remainder of such six-month period) receive the balance then standing to his credit in the fund.

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(8) If any employer shall transfer his business in whole or in part or shall otherwise reorganize such business, the successor in interest is hereby required to take over (in proportion to the extent of such transfer, as determined for the purposes of this chapter by the commission) the resources and liabilities of such employer's account, and to continue without interruption the payment of all contributions and benefits which would have been due for payment under this chapter in case such employer had continued in business without such transfer or reorganization.

108.17 PAYMENT OF CONTRIBUTIONS. (1) On and after the first day of July, 1933, contributions shall accrue and shall become payable by each employer then subject to this chapter in accordance with its provisions. Thereafter contributions shall accrue and become payable by any employer on and after the date on which he becomes newly subject to this chapter.

(2) All contributions required under this chapter from employers shall be paid to the industrial commission, at such times and in such manner as the commission may prescribe, except as provided otherwise in the case of employers exempted under section 108.15.

108.18 CONTRIBUTIONS TO THE UNEMPLOYMENT RESERVE FUND. The contribution regularly payable by each employer into his account with the fund shall be an amount equal to two per cent per annum of his payroll. (In order that reserves shall be built up for all employes potentially eligible to benefits, "payroll" shall include all wages, salaries and remuneration paid to employes subject to this chapter; except that it shall not include the amount paid to an employe or officer employed on a contractual basis for a fixed period at a fixed monthly salary, which will aggregate at least fifteen hundred dollars if said period is less than twelve months, or amount to at least fifteen hundred dollars per annum if such period is twelve months or more, provided such contract is duly reported to the commission by the employer; nor shall it include any salary or wage of three hundred dollars or more per month.) During an employer's first two years of contribution payments, and whenever thereafter his account amounts to less than fifty-five dollars reserve per employe, the employer shall make contributions to the fund at the rate of two per cent per annum on his payroll. If the employer has been continuously subject to this chapter during the two preceding years, the rate of contributions may be reduced or suspended under the following conditions:

(1) Whenever the employer's account amounts to fifty-five dollars but less than seventy-five dollars reserve per employe, such employer shall pay contributions to the fund at the rate of one per cent per annum on his payroll.

(2) Whenever and while the employer's account has a reserve per employe of seventy-five dollars or more, no contributions to the unemployment reserve fund shall be required of such employer.

108.19 CONTRIBUTIONS TO THE ADMINISTRATION FUND. Each employer subject to this chapter, including every employer exempted under

section 108.15, shall regularly contribute to the unemployment administration fund created in section 108.20 at the rate of two-tenths of one per cent per annum on his payroll as defined in section 108.18. But the commission may prescribe at the close of any fiscal year such lower rates of contribution under this section, to apply to classes of employers throughout the ensuing fiscal year, as will in the commission's judgment adequately finance the administration of this chapter, and as will in the commission's judgment fairly represent the relative cost of the services rendered by the commission to each such class.

**108.20 UNEMPLOYMENT ADMINISTRATION FUND AND APPROPRIATION.** (1) To finance the administration of this chapter and to carry out its provisions and purposes there is established the "Unemployment Administration Fund." This fund shall consist of all contributions and moneys paid to the industrial commission for the administration fund as provided in subsection (5) of section 108.06, and in sections 108.19 and 108.22.

(2) All amounts received by the commission for such fund shall daily be paid over to the state treasurer and credited to the unemployment administration fund, and, as provided in section 20.573 of the statutes, are appropriated to the commission for the administration of this chapter.

**108.21 RECORD AND AUDIT OF PAYROLLS.** Every employer, whether exempted or not, shall keep a true and accurate employment record of all his employes, whether qualified and eligible to unemployment benefits or not, and of the hours worked for him by each and of the wages paid by him to each employe, and shall furnish to the commission upon demand a sworn statement of the same. Such record shall be open to inspection by the commission or its authorized representatives at any reasonable time.

**108.22 COLLECTION OF CONTRIBUTIONS IN CASE OF DEFAULT.** If any employer whether exempted or not shall default in any payment required of him under this chapter he shall become additionally liable for interest on such payment at twelve per cent per annum from the date such payment became due, such interest to be paid to the administration fund. If after due notice this payment plus interest at twelve per cent per annum is not made, it shall be collected by a civil action in the name of the state, the defaulting employer to pay the costs of such action. The payment originally due shall be paid to the commission, and credited, as may be proper in each case, either to the fund and to the defaulting employer's account or to the administration fund. The interest thus collected shall be paid to the administration fund.

**108.23 BANKRUPTCY.** In the event of bankruptcy or insolvency of any employer, unpaid claims for benefits and unpaid amounts due the fund under this chapter or to a fund or reserve under any approved voluntary unemployment benefit plan shall have the same preference as is accorded in subsection (1) of section 103.38 to unpaid claims for compensation or compensation insurance.

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**108.24 PENALTIES.** (1) Any person who wilfully makes a false statement or representation to obtain any benefit or payment under the provisions of this chapter, either for himself or for any other person, or to lower any contribution required of him, and any employer who makes a deduction from the wages of any employe in order to pay any portion of the contribution required of such employer under this chapter, shall upon conviction be deemed guilty of a misdemeanor and be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not longer than thirty days, or by both such fine and imprisonment; and each such false statement and each such deduction from wages shall constitute a separate and distinct offense.

(2) Any employer who wilfully refuses or fails to pay any contribution required of him under this chapter, and any person who wilfully and unlawfully fails or neglects to appear or to testify or to produce books, papers and records, as required at any hearing under this chapter, shall upon conviction be deemed guilty of a misdemeanor and be fined not less than twenty-five dollars nor more than one hundred dollars, or be imprisoned in the county jail not longer than thirty days, or be punished by both such fine and imprisonment; and every day of such refusal, failure or neglect shall constitute a separate and distinct offense.

(3) On complaint of the commission the fines specified in this section may be collected by the state in an action for debt.

### **108.25 USE OF UNEMPLOYMENT RESERVE FOR PUBLIC WORKS.**

(1) If the state or any of its political subdivisions during a period of unemployment either directly or through a contractor provides work which in the opinion of the commission is an unemployment relief measure and which conforms to standards of wages and conditions prescribed by the commission, such work shall be deemed suitable employment within the meaning and subject to the limitations of subsection (6) of section 108.04; provided, that an employe who accepts such work for any calendar week in which he would otherwise be totally unemployed and eligible for benefits shall be entitled to receive such benefits in the form of wages paid him for such governmental work. To this end the state or subdivision giving such work and wages to such employe in any calendar week shall receive his benefits for such week, for the purpose of partially financing such employe's work and wages on such governmental unemployment relief project.

(2) Benefits payable under this section to an employe in the form of wages from this state or a political subdivision for work on a relief project shall cease, as provided in subsection (6) of section 108.04, for any period after such employe has without good cause failed to apply for suitable employment other than such governmental work when notified, or has refused to accept suitable employment other than such governmental work when offered him.



**108.26 VOCATIONAL EDUCATION.** When any employe is unemployed and eligible for benefits under this chapter, he may be recommended by the superintendent of the district employment office to attend vocational or other school during his unemployment. If he attends school under conditions approved by such superintendent and does satisfactory work in his classes he shall be eligible for an additional benefit of one dollar per week, to be paid from the administration fund. The education shall be furnished at public expense and any fee which may customarily be charged for attendance at such classes must be paid by the town, village or city in which such employe resides.

**108.27 SEPARABILITY OF PROVISIONS.** If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

**20.573 UNEMPLOYMENT ADMINISTRATION FUND.** All moneys paid to the industrial commission and deposited by it with the state treasurer pursuant to section 108.20 are appropriated to the industrial commission for the performance of the functions of the commission under chapter 108 including its conduct of public employment offices and its other efforts to regularize employment; to pay the compensation and expenses of appeal boards and the expenses of advisory employment committees; and to pay allowances stimulating education during unemployment. Any balance remaining in this fund at the close of any fiscal year shall not lapse but shall remain available for the purposes herein specified.

**SECTION 3. VOLUNTARY SYSTEMS OF UNEMPLOYMENT COMPENSATION.** (1) In accordance with the legislative intent expressed in section 1 the compulsory features of section 2 and section 5 of this act shall not take effect until July 1, 1933, nor shall they take effect on that date if the commission finds that on or before June 1, 1933, employers then employing in the aggregate at least one hundred seventy-five thousand employes as defined in section 108.02 shall have established plans previously approved by the commission as plans which would be entitled to exemption under section 108.15 of the compulsory act.

(2) At any time after the taking effect of this act employers may submit to the industrial commission voluntary plans for guaranteed employment or for unemployment compensation. If, after investigation, the commission is satisfied that a plan thus submitted would be entitled to exemption under section 108.15 of the compulsory act, the commission shall give its written approval of such plan, and such approval shall apply for the purposes of the present section of this act.\*

(5) If the compulsory plan shall not come into operation, the industrial commission shall continue its supervision over the voluntary plans of unem-

\* Paragraphs 3 and 4 are omitted.

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ployment compensation established in this state. It shall be the duty of the commission to keep itself informed regarding the operations of such voluntary plans and it shall include pertinent statistics regarding such plans in its biennial reports.

**SECTION 5.<sup>3</sup>** The industrial commission may establish such free employment offices as it may deem necessary to carry out the purposes of chapter 108. All expenses of such offices, or all expenses not defrayed by the county, city, town or village in which an office is located, shall be charged to the appropriation to the industrial commission provided in section 20.573.

Assembly: Ayes 63; Noes 15.

Senate: Ayes 19; Noes 9; Paired 2.

<sup>3</sup> Sections 4 and 6 are omitted and also certain sentences in Section 5.

## APPENDIX B

### THE REPORT OF THE INTERSTATE COMMISSION ON UNEMPLOYMENT INSURANCE

The Interstate Commission on Unemployment Insurance, composed of the representatives of the Governors of the States of New York, Ohio, Massachusetts, Pennsylvania, New Jersey, and Connecticut, has the honor of presenting the following report of its findings and recommendations.

#### I. FINDINGS AND RECOMMENDATIONS

We regard unemployment as it exists in the United States today as a many-sided problem. It seems to us unlikely that any single measure now adopted, without further experimentation and experience, can cope successfully with all forms of unemployment, or with the total period of unemployment, or even with all of the unemployed. The most substantial progress in dealing with the total problem of unemployment consists, we believe, in making provision for the persistent unemployment and irregularity of operation which is so characteristic of American industry. By a general attack on the problem at this point it should prove possible to assess responsibility for avoidable irregularity and to afford ownership and management incentives for the regularization of production and, hence, the reduction of unemployment.

This method of approach to the problem of unemployment would rapidly yield comprehensive data on the relation between the numbers of regular working men, on the one hand, and, on the other, of casuals and unemployables. With such information at hand, the task of formulating a national unemployment program designed to meet the grave emergencies of prolonged depressions would become much more practicable than it is at the present time.

As the first important step in creating constructive unemployment machinery, we are strongly of the opinion that measures proposed should combine the greatest possible simplicity in principle and practice and should look forward to the progressive stabilization of conditions of employment. With this goal in mind we, therefore, recommend:

1. The compulsory establishment of State-wide systems of unemployment reserves.

We are not unmindful of the progress which individual firms and groups of employers have made in this country with plans of voluntary unemployment reserves. From their activities much has already been learned concerning the

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problems of unemployment compensation in American industry. But, in spite of this encouraging advance, the fact remains that the total of voluntary unemployment insurance now in force in the United States affects only a small fraction of the work force of the nation.

It is our conviction that no substantial increase in the coverage of employees and that no widespread adoption of insurance by the most unstable of our industries can be expected in the predictable future unless the establishment of reserve funds is made obligatory through legislation.

2. The payment by each employer of a contribution amounting to 2 per cent of his payroll.

We have canvassed carefully the arguments for and against the payment of contributions, or premiums, by employes; and we have in mind provisions for unemployment, in addition to those proposed here, which might well be financed in part by contributions from employes. But in view of the moderate terms of our proposal the greatest share of the burden of unemployment would still be borne by the workers whose benefits under the plan would be considerably less than the wages he would have continued to receive if employed. The employe should not, in our judgment, be required to reduce his earnings further by the payment of contributions into unemployment reserves. A further important reason for not recommending contributions by the employes is that a purpose of our proposal is to encourage the adoption of measures of prevention.

The employers' financial liability under our plan should operate as a continuous incentive to prevent unemployment so far as practicable. To reduce this liability, therefore, by placing part of the burden on his employes would likewise reduce the incentive to undertake preventive measures.

### PAYMENTS BY EMPLOYERS

3. The payments made by each employer shall constitute the unemployment reserve of his firm and shall be so treated in the accounts.

This proposal differs radically from the European plans of unemployment insurance in which contributions from all employers and all industries flow into a single common pool. It has been widely recognized even by sympathetic critics of European practice that the pooling of reserves has had unfortunate results. The irregular industries enabled to draw benefits for their unemployed workmen from the common pool may be thus tempted to shift the responsibility and cost of their own unemployment to the more stable and profitable industries.

In so far, then, as unemployment is due to careless or indifferent management, or to the failure to take proper precautions for the future, the pooling of reserves may have the effect of perpetuating such uneconomic practice and may, in consequence, fail to offer the incentives to regularization for which many of the advocates of unemployment insurance had hoped. Many of these diffi-

culties may indeed be attacked by setting up industrial, in contrast to national, unemployment reserves and by adjusting the contributions of individual employers within each industry to their unemployment experience. While we recognize the merits of such a plan, in the interests of simplicity of administration and progress in stabilization, we propose that each company assume responsibility, limited by the amount of its contributions, for the unemployment of its own work force.

4. The maximum rate of benefit shall be 50 per cent of an employe's wage, or \$10 a week, whichever is lower; and the maximum period of benefit shall be ten weeks within any twelve months. Employes who suffer unemployment by reason of short-time employment shall be eligible for benefits whenever their week's wages are less than 60 per cent of their average weekly wage, but the benefit for partial unemployment shall not exceed the difference between the wage actually received and 60 per cent of the employe's average weekly wage. In no case, however, shall the benefit of a part-time employe exceed \$10 a week.
5. The financial responsibility of an employer shall be strictly limited by the amount of his unemployment reserve.

We regard this provision as a prerequisite to the sound development of any plan of compulsory unemployment insurance. Failure to limit liability of the reserve funds is the first and most radical departure from accepted insurance principles and constitutes an open invitation to supplement contributed funds with subsidies from the government or other sources. The adoption of such practices has been the rock on which foreign unemployment insurance schemes have split; and they have been responsible for the commingling of insurance and relief funds, which is now so universally deplored by all students of this problem.

To safeguard the principle of limited liability we propose further that, when the employers' reserve at the beginning of any month is less than \$50 per employe, the maximum rate of benefit be proportionately reduced.

#### RESERVE LIMITED

6. When the accumulated reserve per employe shall exceed \$50, the employer's contribution shall be reduced to 1 per cent of his payroll; and, when the reserve has reached \$75, he shall make no further contributions to the fund until the reserve again falls below \$75 per employe.

The purpose of this provision is to offer employers effective incentives for the exercise of control over fluctuations in employment. We have considered the advisability of providing for a system of experience rating, whereby the contributions of employers would from time to time be adjusted to their actual unemployment experience.

The immediate adoption of experience rating we regard as premature. Mod-

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erate and experimental incentives to regularization are afforded in our proposal to reduce the premium when the reserve per employe exceeds \$50. With the accumulation of experience and much more accurate data on unemployment rates than we now have, it should prove possible to use merit rating and refined methods of adjusting premiums to unemployment rates.

To further encourage experiments with the prevention and reduction of unemployment, we recommend exemption of firms or groups of firms which have set up reserve funds providing benefits equal to or greater than those enumerated in the foregoing proposals.

7. The State shall act as the custodian, investor and disbursing agent of the reserve funds.

For this purpose there should either be created an Unemployment Commission of three members, representing labor, industry, and the public, charged with establishing the system of unemployment reserves and with its continuing administration; or, where there already exists a State Industrial Commission similarly constituted, it should administer the unemployment compensation plan. The cost of administering the plan should, we believe, be assumed by the State. Expenses of the States would not be increased by the total cost of administration since the Unemployment Administration would take over functions now performed by existing agencies.

The cost, in particular, of collecting and publishing employment and other industrial statistics, and of administering the public employment offices is not additional, since it is now incurred by existing State agencies.

### STATE SERVICE EXTENSION ASKED

8. The State shall take prompt steps to extend its public employment service.

No system of unemployment insurance can accomplish its purposes without a properly organized and efficiently operated system of employment exchanges. The States represented on this commission now have public employment offices. We recommend that the existing employment bureaus be put under the jurisdiction of the employment administration. In order, however, that the work of the employment exchanges be not hampered and the staff burdened with duties growing out of the payment of unemployment benefits, it is important that the employment exchanges be operated as a separate division coordinate with a division of insurance.

All of the staff of the employment bureaus should be under the classified civil service, with tenure not subject to political changes. Trade associations administering the unemployment reserves for their industries and organizations of employers and employes who maintain and operate approved unemployment insurance plans by collective agreements may operate their own employment bureaus and offices for the payment of benefits. Such industry

offices must be under the general supervision of the State employment service and subject to its general rules.

9. The unemployment authority shall create stabilization agencies.

The most effective measures for achieving greater stabilization of employment cannot obviously be accomplished by a single firm. Every effort should, therefore, be made by the unemployment administration to encourage co-operative action between firms and industries. To this end the unemployment administration should set up advisory committees of employers and employes and should have experts instructed to formulate plans to promote the regularization of employment in individual plants, localities, industries and the State.

## II

The recommendations we have made constitute the principles on which, in our judgment, the features of a sound State unemployment compensation act should rest. The drafting of a model act we have regarded as beyond our province, since the specific acts proposed in several States may differ widely in detail, while adhering to the same underlying principles. In general, we urge the application of unemployment compensation to the largest possible number of employes, exclusive of agriculture and employes normally, earning more than \$200 a month. Efforts to regularize the employment of labor in small establishments are so important that we recommend including under the terms of the act all employers of six or more workers.

We have not attempted to summarize in this report the great literature which has grown up on European and American experience with many types of unemployment insurance and reserves. Useful summaries, descriptive and critical, are now readily available in this country for students of the problem and for all other interested persons. The well-known difficulties of insolvency and abandonment of basic contractual, insurance obligations which the European and some American schemes have encountered, particularly in the post-war phase of their history, have received our close attention and have been an important factor in directing our search for proper principles of unemployment compensation. We have been much influenced in our thinking by the profound and constructive interest among American business men in problems of stabilization and in forms of unemployment compensation which combine relief with incentives to prevention.

We are conscious of the fact that our proposals are extremely modest and moderate. It is not, in our judgment, sound to impose an onerous burden of cost on American industry. The measures adopted now can, we recognize, only incidentally serve to mitigate the effects of severe and prolonged industrial depression. It may well be that the unemployment of long depressions can be met only by the creation of extraordinary reserve funds raised from contributions by employers, labor and the Federal Government. We are clear, how-

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ever, that the type of measures we propose constitute a constructive attack on the problem.

### SIMPLE SYSTEM ADVOCATED

Dealing with the chronic irregularity and unemployment of our industry will not only ameliorate the lot of the unemployed but will also, in time, point the way to further devices for strengthening the available machinery of unemployment relief and prevention. At the best, there will for some time remain a residuum of unemployed who must continue to look for assistance to the agencies of private and public charity. With the establishment and extension of unemployment compensation plans, however, we should be taking the first steps in reducing the wastes and damage to self-respect which characterize our present disorderly methods of handling the unemployed; and we should have put ourselves in the position of applying more scientific methods to the treatment of the total problem of unemployment.

Our subcommittee on the cost of unemployment insurance investigated the possible costs of various types of such insurance. It found that available unemployment data, particularly with reference to the frequency and duration of spells of unemployment, were so unsatisfactory that estimates of cost were virtually useless. With compensable unemployment strictly defined and circumscribed, as it is in the provisions submitted in this report, it is possible to estimate that the cost of unemployment compensation should not exceed a per cent of the pay roll.

We have finally explored the suggestion that there be created an interstate unemployment authority charged with setting up an interstate administration of unemployment compensation. It is our reasoned judgment on this matter that the best combined and separate interests of the States, participating in this inquiry, will be served by recommending to them the adoption of a practicable and simple type of unemployment compensation, whose cost should not seriously disturb the prevailing competitive relationship of industries doing business within the boundaries of those States.

The adoption by the six States of a system of unemployment reserves, similar to the plan here proposed, would constitute a great step forward in the joint consideration and handling of interstate industrial problems. The pressing need for an intelligent unemployment program, revealed once more by our experience during the past two years, should hasten the favorable consideration of a moderate and practicable proposal for constructive experiment.

INTERSTATE COMMISSION ON UNEMPLOYMENT INSURANCE  
LEO WOLMAN, *Chairman*, New York  
CHARLES R. BLUNT, New Jersey  
A. LINCOLN FILENE, Massachusetts  
C. A. KULP, Pennsylvania



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## APPENDIX B

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W. M. LEISELSON, Ohio  
W. J. COUPER, Connecticut

### RESERVATIONS BY W. M. LEISELSON

The representative of the Governor of Ohio has signed this report; but he takes exception to any implications in it that an insurance system with pooling of contributions may not be better than a plan of separate, plant reserves. In addition to the recommendations here contained he would recommend experiments with State unemployment insurance funds that included contributions from employes as well as from employers, and that pooled all the reserves after the manner of workmen's compensation insurance.

## APPENDIX C

### THE OHIO UNEMPLOYMENT INSURANCE BILL<sup>1</sup>

Section 1. DECLARATION OF PUBLIC POLICY. As a guide to the interpretation and application of this act the public policy of the state is declared as follows:

a. Distress from unemployment has become a serious menace to the health, safety, morals and welfare of the people of the state of Ohio. Because insurance or reserves have not been provided in times of plentiful employment for the support of unemployed employees and their families during periods of unemployment and depression, poverty, distress and suffering have spread throughout the state; and the taxpayers have been unfairly burdened with the cost of supporting able-bodied workers laid off by their employers until such time as they would again be needed. Farmers and rural communities, particularly, are unjustly burdened with increased taxation for the support of industrial workers at the very times when agricultural incomes are reduced by lack of purchasing power in the urban markets. In years of prosperity, as well as depression, expenditures of private and public charity organizations for the relief of the unemployed and their families fluctuate according to the fluctuations in unemployment; and in every period of severe unemployment, private charity funds for the care of the unemployed are inadequate. Demands are, therefore, made and pressure exerted for the appropriation of funds from the treasuries of local and state governments. Increasing sums are appropriated and paid out in the form of the "dole" in order that suffering and starvation may be avoided, thereby unduly increasing the expenditure of said governments, making taxes unduly burdensome, and undermining and threatening to destroy the initiative, responsibility, self-reliance and self-respect of the individual unemployed and of their families.

b. As these grave dangers to the citizenship and to the state became increasingly evident, the general assembly (Session of 1931) authorized the governor to appoint a commission "to investigate the practicability and advisability of setting up unemployment reserves or insurance funds to provide against the risk of unemployment, and to recommend what form of legislation if any may be wise or suitable to Ohio . . . and which may seem to offer the best preventive remedy to avoid future distress and suffering such as is being undergone by our citizens who are unable to find work through no fault of their own." This commission after extended investigations found and reported:

<sup>1</sup> From the *Report of the Ohio Commission on Unemployment Insurance* (1932), pp. 67-80.

(1) That charities, both private and public, although helpful, are inadequate, inappropriate, unscientific methods of dealing with the distress of capable workers who are unemployed through no fault of their own;

(2) That public charitable support for such able-bodied unemployed and their families is unwise and unsound as a public policy because it means the payment of doles from public treasuries, makes such relief and doles a political issue, resulting in burdensome increases in governmental expenditures and weakening of the moral fibre of the population;

(3) That lack of voluntary provision by businesses, corporations and individuals for the eventuality of unemployment, and the exhaustion of such savings as are provided, bring about an unfair and unjust distribution of the inevitable costs of unemployment; that industry and commerce are relieved of the expense of maintaining their labor reserves, and this expense is met partly by diverting charity funds from the sick, the maimed, the mentally and physically defective, the widowed women and the orphaned children for whom such charity funds are properly intended, but mainly by shifting the burden to the taxpayers, and to landlords, grocers, butchers and other tradesmen who are under the necessity of carrying the unemployed; that in addition, great numbers of city industrial workers are forced out into the rural districts to live on their farm relatives or to produce agricultural commodities in competition with farmers who are already suffering from low prices caused by over-supplied markets;

(4) That, in spite of all such provisions for dealing with distress from unemployment as have been made, many families have been broken up and children taken from their parents to be placed in institutions and foster homes because of lack of employment of the breadwinners; other thousands are left without adequate food, clothing and shelter, and are forced to beg for the same in soup kitchens, bread lines, public relief depots and public lodging houses; that in many communities these conditions have led to protest demonstrations accompanied in some cases by rioting and violence;

(5) That these dangers to the peace, safety and health of the communities of the state are aggravated by the fear of those who have employment that they too will soon be without work and without resources, who therefore contract their purchases, which action in turn is reflected in additional unemployment and further reductions in consumption;

(6) That these dangers and fears cannot be avoided unless foresighted provision for the unemployed and their families is made in times of plentiful employment on a comprehensive scale by industry and commerce, as well as by individuals, in the form of compulsory

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insurance that will be state-wide in scope; that such insurance is the only method by which the number and the need of the employed can be accurately known and the available opportunities for re-employment reliably ascertained; and that such insurance, to which employees as well as employers contribute, is the most satisfactory method of avoiding distress from unemployment and preventing the weakening of individual character, self-reliance and self-respect.

c. In view of these findings of fact, the considered judgment of the general assembly is that the compelling power of the state must be used to secure the thrift and foresight that are necessary on the part of the whole working population, to induce industry and commerce to bear their fair share of the cost of idle labor as they do of idle property, and to establish, maintain and operate the system of unemployment insurance hereinafter provided for.

### Section 2. UNEMPLOYMENT INSURANCE FUND.

a. There is hereby created an unemployment insurance fund (hereinafter called the fund) to be administered by the state of Ohio without liability on the part of the state beyond the amounts paid into and earned by the fund. This fund shall consist of all premiums and money paid into and received by the fund as provided by this act; of property and securities acquired by and through the use of moneys belonging to the fund; and of interest earned by the fund. The fund shall be used to pay benefits as provided by this act, the entire cost of administration including salaries, the cost of public employment bureaus and all other expenditures necessary for the proper execution of the provisions of this act.

b. Custodian. The treasurer of the state shall be the custodian of the fund and all disbursements therefrom shall be paid by him upon vouchers authorized by the unemployment insurance commission hereinafter provided for, and signed by any two members thereof; or, such vouchers may bear the facsimile signatures of the members of the commission printed thereon, and the signature of the deputy or other employee of the commission charged with the duty of keeping the account of the fund and with the preparation of vouchers for the payment of benefits to the persons entitled thereto. The treasurer of state shall give a separate and additional bond, in such amount as may be fixed by the governor, and with sureties to his approval, conditioned for the faithful performance of his duties as custodian of the fund. Such bond shall be deposited with the secretary of state and kept in his office.

c. Deposits. The treasurer of state is hereby authorized to deposit any portion of the fund not needed for immediate use, in the same manner and subject to all provisions of law with respect to the deposit of state funds by the treasurer; and all interest earned by such portion of the fund as may be deposited by the state treasurer in pursuance of authority herein given, shall be collected by him and placed to the credit of the fund.

d. Investments. The commission shall have the power to invest any of the surplus or reserve belonging to the fund in securities as follows:

(1) Bonds or other obligations of the United States or of the state of Ohio;

(2) Bonds or other interest bearing obligations of any county, city, village, school district or other legally constituted political taxing subdivision within the state of Ohio, provided such county, city, village, school district or other subdivision has never defaulted in the payment of the principal or interest of any of its bonds or other interest bearing obligations;

(3) Any bonds issued by any bank, organized under the provisions of the Act of Congress, known as the Federal Farm Loan Act, approved July 17, 1916, and amendments thereto;

that all securities so purchased shall forthwith be placed in the possession of the treasurer of state. The treasurer of state shall honor and pay all vouchers drawn on the fund by the commission for the payment of such securities upon delivery of said securities to him, provided there is attached to such vouchers a certified copy of a resolution of the commission authorizing the purchase of such securities. The commission may sell any of said securities and the treasurer of state shall make delivery thereof upon like resolution, and the proceeds of any such sale shall be paid by the purchaser to the treasurer of state upon delivery of said securities.

### Section 3. PREMIUMS.

a. On and after the first day of January, 1934, premiums for insurance in the fund shall accrue and become payable by every employer and employee subject to this act and in accordance with its provisions. All premiums payable to the fund shall be paid to the commission, at such times and in such manner as the commission shall prescribe, and shall promptly be paid over by the commission to the treasurer of state who shall credit same to the fund.

b. Employers' Premiums. Every employer subject to this act shall in the month of January, 1934, and thereafter at such intervals as the commission may determine and require, pay into the fund the amount of premiums fixed by this act, and by the commission as authorized by this act, for the employment or occupation of the employer. Until January 1, 1937, the contributions or premiums regularly payable by every employer into the fund shall be an amount equal to two per cent per annum of his payroll. Thereafter the premium to be paid by each employer shall be determined by the classification, rules and rates made and published by the commission; and every employer shall thereafter pay at regular intervals fixed by the commission such premiums into the fund as may be ascertained to be due from him by applying the rules of the commission; provided that the premium for an employer shall in no case amount to

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less than one per cent per annum or more than three and one-half per cent per annum of such employer's payroll.

c. **Classifications of Employments.** For the purpose of establishing the premiums to be paid by employers on and after January 1, 1937, the commission shall investigate, group and classify employments, industries and occupations with respect to the degree of the hazard of unemployment in each, shall determine the risk of unemployment on the basis of the employment record and the fluctuations in the payroll of each employer, and shall fix the rate of premium to be paid by each employer on an actuarial rating at the lowest possible figures consistent with the maintenance of a solvent insurance fund with reasonable reserves and surplus, but within the limitations of maximum and minimum rates of contribution by employers stipulated in Section 3b. The commission shall have the power to apply that form of rating system which, in its judgment, is best calculated to merit or individually rate the risk most equitable for each employer, predicated upon the record of employment and the fluctuation in payrolls of such employer, and to encourage the prevention of unemployment; and shall develop fixed and equitable rules controlling same.

d. **Self-insuring Employers.** When the necessary investigations to establish risks of unemployment and classifications of employment as provided in the preceding paragraph have been made, and when premiums based on a merit rating system as therein prescribed have been fixed and published, the commission shall prepare a special report to the legislature on the question whether, in its judgment, it is desirable or not to permit individual employers to carry their own insurance against unemployment and to pay the benefits prescribed by this act directly to their unemployed employees without insuring such payments in the unemployment insurance fund. The statistical and other evidence on which the commission bases its judgment in the said special report shall be submitted with the report, together with recommendations of measures necessary to safeguard the contributions of employees, as well as to guarantee the benefits to be paid by employers in the event that self-insurance is permitted.

e. **Employees' Premiums.** Every employee whose employment is subject to the provisions of this act shall pay into the fund a sum equal to one per cent of all wages received by him in such employment, and the employer shall deduct such amount and shall pay the same into the fund under such regulations and at such intervals as the commission may determine and require. No agreement by an employee to pay any portion of the premium, or other payment required to be made by his employer for the purpose of providing benefits, shall be valid; and no employer shall make a deduction for such purpose from the wages or salary of any employee. But nothing in this act shall affect the validity of voluntary arrangements by which employees individually or collectively agree to make contributions for the purpose of securing benefits in addition to those provided by this act.

**Section 4. BENEFITS.** Every employee who has contributed to the fund the premiums provided for in this act shall be eligible to receive benefits as compensation for loss of wages due to total or partial unemployment, and benefits shall be paid by the commission in the amounts and subject to the conditions stipulated in this act.

**a. Qualifications.** No employee shall be entitled to any benefits unless he or she

(1) has been employed by employers subject to this act and has paid the premiums provided herein for a period of not less than twenty-six weeks within the twelve months preceding the date of the application for benefits, or unless he has been so employed and paid said premiums for a period of forty weeks during the two years preceding date of application;

(2) is capable of and available for employment, and unable to obtain work in his usual employment or any other employment for which he is reasonably fitted including employments not subject to this act, or is suffering loss of wages by reason of partial unemployment amounting to more than forty per cent of his average weekly wages;

(3) has registered at an employment office or other registration place maintained or designated by the commission, or has otherwise notified the commission of his unemployment in accordance with its rules respecting notification.

**b. Disqualifications.** No benefits shall be payable to any unemployed employee who has lost his employment or has left his employment by reason of a strike or lockout in the establishment in which he was employed, as long as such strike or lockout continues; or whose unemployment has been directly caused by an act of God; or who becomes unemployed by reason of commitment to any penal institution; or who fails or refuses to report to the commission or its designated agencies from time to time as required by its rules; or who refuses to accept an offer of employment for which he is reasonably fitted. Provided, however, that no unemployed employee otherwise qualified to receive benefits shall lose the right to benefits by reason of a refusal to accept employment if

(1) acceptance of such employment would deny to such employee his right to refrain from joining a labor organization or his right to retain membership in and observe the lawful rules of a labor organization; or

(2) there is a strike or lockout in the establishment in which the employment is offered; or

(3) the employment is at an unreasonable distance from his residence, having regard to the character of the work he has been accus-

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tomed to do, and travel to the place of employment involves expense substantially greater than that required for his former employment, unless the expense be provided for; or

(4) the wages, hours and conditions offered are substantially less favorable to the employee than those prevailing for similar work in the locality, or are such as tend to depress wages or working conditions.

c. **Waiting Period.** (1) An employee suffering total unemployment shall be eligible for benefits for unemployment occurring subsequent to a waiting period of three weeks and no benefits shall be or become payable during this required waiting period; but no more than three such weeks of waiting period shall be required of any employee in any twelve months in order to establish his eligibility for total unemployment benefits under this act; except that employees who have been discharged for just cause and those who have voluntarily quit their employment without just cause, and thereafter are unable to secure other employment, shall have a waiting period of six weeks during which no benefits shall be payable.

(2) An employee suffering partial unemployment shall be eligible for benefits for each week of such partial unemployment after a waiting period such that the loss of wages in such partial unemployment is equal to three weeks of total unemployment. No benefits shall be or become payable for this required waiting period, but no more than a total of three weeks in any twelve months shall be required as a waiting period for any such employee.

(3) The waiting period both for total and for partial unemployment shall commence on the day the employee registers as unemployed at an employment office or other place of registration maintained or designated by the commission or on the day that he has otherwise given notice of his unemployment in accordance with the rules of the commission.

d. **Amount of Benefits.** Benefits shall be payable on account of each week of total unemployment after the specified waiting period at the rate of fifty per cent of the employee's average weekly wages as shown by premiums paid by him, but not to exceed a maximum of fifteen dollars per week. In cases of partial unemployment where by reason of part-time employment there is loss of wages amounting to more than forty per cent of weekly wages, benefits shall be paid as in cases of total unemployment, except that the amount of such benefits shall be as follows:

where part time employment results in loss of weekly wages in excess of 40% but less than 55%,	benefits shall be 10% of average weekly wages
55% " " " 70%,	" " " 20% " " " "
70% " " " 85%,	" " " 30% " " " "
85% or more,	" " " 40% " " " "

In cases where average weekly wages amount to more than \$30 per week, these percentages shall be calculated on the basis of \$30.



e. **Limitations and Adjustment of Benefits.** The total benefits to which an employee shall be entitled in any consecutive twelve months whether for partial unemployment or total unemployment, or partial and total unemployment, shall not exceed sixteen times his benefit for one week of total unemployment. In the event of general and extended unemployment such that the reserve of the fund is reduced below a proper actuarial basis, the commission shall have authority to declare an emergency, and thereupon to borrow funds from whatever source obtainable on the security of the resources of the fund, and/or to adjust the benefits; either in their weekly amount or in the length of time for which they should be paid, until such time as the fund is restored to a sound and actuarial basis.

f. **Benefits Suspended.** When an employee eligible to benefits under this act becomes employed in an employment or by an employer not subject to this act, his right to benefits shall be suspended. If such employee becomes totally unemployed within six months of his employment by his last previous employer subject to this act, his right to benefits shall recommence upon registration and expiration of the waiting period. If an employee undertakes such uninsured employment during the three weeks waiting period it shall not affect the running of such period if such employment continues for two weeks or less.

g. **Invalid Waiver and Assignment.** No agreement by an employee to waive his right to benefits under this act shall be valid; nor shall benefits under this act be assigned, released or commuted, and such benefits shall be exempt from all claims of creditors and from levy, execution and attachment or other remedy for recovery or collection of a debt, which exemption may not be waived.

h. **Benefits in Seasonal Employment.** Whenever in any employment it is customary to operate only during a regularly recurring period or periods of less than one year in length, then the rights to benefits shall apply only to the longest seasonal period or periods which the best practice of such industry or class of employment will reasonably permit. The commission shall ascertain and determine, or redetermine after investigation and due notice, such seasonal period or periods for each such seasonal employment. Until such determination by the commission, no employment shall be deemed seasonal. When the commission has determined such seasonal period or periods, it shall also fix the proportionate number of weeks of employment and payment of premiums required to qualify for benefits in place of the 26 weeks stipulated in Section 4 a-1, and the proportionate number of weeks for which benefits may be paid.

i. **Casual or Short-time Employment.** Any employer desirous of employing additional employees for short-time work only, and without liability for premiums and benefits for such employees, may secure permission from the commission for such employment, which shall thereupon be deemed casual employment and exempted from the provisions of this act. The commission shall make and publish rules governing the exemption of such casual employ-

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ment. But no such employment shall be exempted from the provisions of this act by virtue of this section, unless express permission shall have been granted by the commission, nor in any case if the employment shall continue for a period of more than four weeks.

Section 5. ADMINISTRATION. This act shall be administered by the unemployment insurance commission of Ohio.

a. Unemployment Insurance Commission. (1) There is hereby created an unemployment insurance commission of Ohio, to be composed of three members appointed by the governor with the advice and consent of the senate. Not more than one of the appointees to such commission shall be a person who, on account of his previous vocation, employment or affiliations, can be classed as a representative of employers, and not more than one of such appointees shall be a person who, on account of his previous vocation, employment or affiliations, can be classed as a representative of employees; and not more than two of the members of said commission shall belong to the same political party. No commissioner shall hold any position of trust or profit, or engage in any occupation or business interfering or inconsistent with his duties as a member of said commission; and no commissioner shall serve on any committee of any political party.

(2) The members of the commission shall be appointed by the governor within thirty days after the date this act becomes effective; one of which members shall be appointed for the term of two years; one member for four years; and one member for six years; and thereafter as their terms expire the governor shall appoint one member for the term of six years. Vacancies shall be filled by appointment by the governor for the unexpired term. The governor at any time may remove any member of the commission for inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office.

(3) Each of the members of the commission shall receive an annual salary of six thousand dollars, payable in the same manner as the salaries of other state officers are paid. Before entering upon the duties of his office, each member shall take the constitutional oath of office and shall swear or affirm that he holds no position upon any committee of a political party, which oath or affirmation shall be filed in the office of the governor. Each member of the commission shall give a bond in the sum of ten thousand dollars, which bond shall be approved by the governor and filed with the treasurer of state. All employees or deputies of the commission receiving or disbursing funds shall give bond to the state in amounts and with surety to be approved by the commission.

(4) The commission shall choose one of its members as chairman. A majority of the commission shall constitute a quorum to transact business. No vacancy shall impair the rights of the remaining commissioners to exercise all of the powers of the commission, so long as a majority remain. Any investigation, inquiry or hearing which the commission is authorized to hold or undertake may be held or undertaken by or before any one member of the

commission, or by or before one of its deputies, and every order made by a member thereof, or by one of its duly authorized deputies, when approved and confirmed by a majority of the commissioners, and so shown on its record of proceedings, shall be deemed to be the order of the commission.

(5) The commission shall keep and maintain its principal office in the city of Columbus, and such branch offices in other cities of the state as it may find necessary, and shall provide suitable rooms, equipment, supplies, books, periodicals and maps for the same. . . . The commission may hold sessions in any place within the state of Ohio.

b. Duties and Powers of the Commission. In addition to all other duties imposed on the commission and powers granted by the provisions of this act, the commission shall have full power:

(1) To adopt and enforce reasonable rules and regulations relative to the exercise of its powers and authority, and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings; to prescribe the time, place and manner of making claims for benefits under this act, the kind and character of notices required thereunder, the procedure for investigating, hearing and deciding claims, the nature and extent of the proofs and evidence and the method of taking and furnishing same to establish the right to benefits, and the method and time within which adjudications and awards shall be made; to adopt rules and regulations with respect to the collection, maintenance and disbursements of the unemployment insurance funds; and to amend and modify any of its rules and regulations from time to time in such respects as it may find necessary or desirable;

(2) To employ secretaries, deputies, accountants, superintendents of employment districts and offices, clerks, stenographers and other assistants as may be required for the administration of the provisions of this act, and to determine their salaries and duties;

(3) To create such employment districts and to establish, maintain and operate such free employment offices and branch offices as may be necessary to provide for the registration of unemployed persons, for placing them in available employments, and for the proper administration of this act;

(4) To appoint advisors or advisory employment committees, by local districts, or by industries or for the whole state, who shall without compensation but with reimbursement of necessary expenses assist the commission in the execution of its duties;

(5) To require all employers, including employers not otherwise subject to the provisions of this act, to furnish to it from time to time information concerning the amount of wages paid, the number of employees employed, the regularity of their employment, the number of employees hired, laid off and discharged from time to time and the reasons therefor, and the numbers that quit voluntarily; and to require such employers to give other and further information respecting any other facts required for the proper administration of this act;

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(6) To classify generally industries, businesses, occupations and employments, and employers individually, as to the hazard of unemployment in each business, industry, occupation or employment, and as to the particular hazard of each employer, having special reference to the conditions of regularity and irregularity of the employment provided by such employer and of the fluctuations in payrolls of such employer;

(7) To determine, within the limits provided by this act, the premiums rates upon employers subject to this act; and to provide for the levy and collection from all employees and employers subject to this act, of the premiums required for the maintenance of the unemployment insurance fund;

(8) To receive, hear, and decide claims for unemployment benefits, and to provide for the payment of such claims as are allowed;

(9) To promote the regularization of employment and the prevention of unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate and recommend and advise and assist in the establishment and operation, by municipalities, counties, school districts and the state, of prosperity reserves of public works to be prosecuted in times of business depression and unemployment; to promote the re-employment of unemployed workers throughout the state in any other way that may be feasible, and to take all appropriate steps within its means to reduce and prevent unemployment; and to these ends to carry on and publish the results of any investigations and research which it deems relevant.

All duties and powers of the department of industrial relations and of the industrial commission relating to the establishment, maintenance and operation of free public employment offices, and particularly those powers granted to the industrial commission for such purposes under the provisions of Section 871-22 (9) of the general code, are hereby transferred to and vested in the unemployment insurance commission of Ohio.

c. Publication of Rules and Classifications. The commission shall cause to be printed in proper form for distribution to the public its classifications, rates, rules, regulations and rules of procedure and shall furnish the same to any person upon application therefor; and the fact that such classifications, rates, rules, regulations and rules of procedure are printed ready for distribution to all who apply for the same, shall be a sufficient publication of the same as required by this act.

d. Duties of Employers. (1) Every employer shall furnish the commission upon request all information required by it to carry out the purposes and provisions of this act. Every employer receiving from the commission any blank, with direction to fill out the same, shall cause the same to be properly filled out so as to answer fully and correctly all questions therein propounded, and to furnish all the information therein sought, or if unable to do so, he shall give the commission in writing good and sufficient reasons for such failure.

(2) The commission may require that the information herein required to be

furnished shall be verified under oath and returned to the commission within the period fixed by it or law. The commission or any member thereof, or any person employed by it for that purpose, shall have the right to examine under oath any employer, or the officer, agent or employee thereof, for the purpose of ascertaining any information which such employer is required by this act to furnish to the commission. Any employer who shall fail or refuse to furnish such information as may be required by the commission under authority of this section, shall be liable to a penalty of five hundred dollars, to be collected in a civil action brought against said employer in the name of the state. All such penalties, when collected, shall be paid into the fund and become a part thereof.

(3) The information furnished to the commission by employers in pursuance of the provisions of this section, shall be for the exclusive use and information of the commission in discharge of its duties, and shall not be open to the public nor be used in any court in any action or proceeding pending therein unless the commission is a party to such action or proceeding; but said information may be tabulated and published in statistical form, for the use and information of the state departments and the public. Any person in the employ of the commission who shall divulge any information secured by him while in the employ of the commission in respect to the transactions, property, business or mechanical, chemical or other industrial processes of any person, firm, corporation, association or co-partnership, to any person other than the members of the commission, shall be fined not less than one hundred dollars, nor more than one thousand dollars, and shall thereafter be disqualified from holding any appointment or employment by the commission.

(4) Every employer shall keep a true and accurate employment record of all his employees, whether qualified and eligible to benefits or not, and of the hours worked by each such employee and of the wages paid to each, and shall furnish to the commission upon demand a sworn statement of the same. Such record shall be open to inspection by the commission or its authorized representatives at any reasonable time.

(5) It shall be the duty of each member of a firm, and of the president, secretary, general manager and managing agent of every corporation subject to this act, to cause such firm or corporation to comply with the provisions of this act, and any person or any member of such firm or any officer of such corporation referred to in this section who shall neglect or fail to comply with the provisions of this act relating to the making of reports and the payment of premiums to the fund shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars and the costs of prosecution. Such fine when collected shall be paid to the commission and placed in the fund. Each day's refusal on the part of such person, members of such firm or officers of such, to comply with the provisions of this act, after notice to said person, firm or corporation from the commission to comply with same, shall be deemed a separate offense and be punished as herein provided.

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All courts exercising jurisdiction in cases of misdemeanor, including justices of the peace, shall have final jurisdiction of offenses under this section.

e. **Duties of Employees.** Every employee whether totally or partially unemployed, in order to qualify for benefits under this act, must give notice of his unemployment by registering at a public employment office maintained by the commission, or in such other manner and within such time as the rules and regulations of the commission may prescribe. Thereafter he shall give notice of the continuance of his unemployment as frequently and in such manner as the commission may prescribe.

### Section 6. ADJUDICATION OF CLAIMS FOR BENEFITS.

a. **Claims for benefits** shall be filed with the superintendent of the public employment office for the district in which the claimant is or was last employed, or with a deputy of the commission designated for the purpose. Such claims shall be in such form and shall be filed within such time and in such manner as the rules of the commission shall prescribe; and said rules shall also prescribe the form and manner of allowing or disallowing claims for benefits in the first instance, and the method and manner of serving notice of disputed or contested claims, of hearing and deciding the same, and of appealing and deciding appeals on all claims that are disputed or contested. The commission may provide for the hearing of disputed or contested claims by local boards consisting of one employer or representative of employers, one employee or representative of employees, and one person who is neither an employer nor an employee nor a representative of either. The members of such boards shall be appointed by the commission, and the commission shall make rules for the proceedings before such boards and for review or rehearing by the commission or by any commissioner or deputy authorized to hear or review claims under rules adopted by the commission as provided in this act.

b. Each member of the commission, its secretary and all deputies, or any duly authorized representative of the commission shall for the purpose contemplated by this act, have power to administer oaths, certify to official acts, take depositions, issue subpoenas, compel the attendance of witnesses and production of books, accounts, papers, records, documents and testimony.

**Section 7. VIOLATIONS AND PENALTIES.** If any employer, employee or other person shall violate any of the provisions of this act or shall do any act prohibited by this act or shall fail or refuse to perform any duty lawfully enjoined, within the time prescribed by the commission, for which no penalty has been specifically provided, or fail, neglect or refuse to obey any lawful order given or made by the commission, or any judgment or decree made by any court in connection with provisions of this act, for each such violation, failure or refusal such employer, employee, or other person shall be fined not less than fifty dollars, nor more than one thousand dollars for the first offense, and not less than one hundred nor more than five thousand dollars for each

subsequent offense. Every day during which any person, persons or corporation, or any officer, agent or employee thereof shall fail to observe and comply with any order of the commission or to perform any duty enjoined by this act shall constitute a separate and distinct violation of such order or section of this act, as the case may be.

a. Procedure in Cases of Violation. (1) If the commission finds that any person, firm, corporation or association is, or has been at any time after January 1, 1934, an employer subject to the provisions of this act and has failed to comply with the provisions of this act, it shall determine the period during which he or it was such an employer, which finding and determination shall for all purposes of this act be prima facie evidence thereof. The commission shall forthwith give notice of said action to the employer who shall immediately thereafter furnish the commission with a payroll covering the period included in said finding, and shall forthwith pay into the fund the amount of premium determined and fixed by the commission.

(2) If said employer fails, neglects or refuses to furnish such payroll and pay the premium for such period within ten days after receiving such notice, the commission shall then determine the amount of premium due from said employer for the period the commission found him or it to be subject to this act, and shall notify said employer of the amount thereof and shall order the same paid into said fund. If said amount is not paid within ten days after receiving notice, the commission shall certify the same to the attorney general, who shall forthwith institute a civil action against such employer in the name of the state for the collection of such premium. In such action it shall be sufficient for the plaintiff to set forth a copy of the finding of the commission relative to such employer as certified by the commission to the attorney general and to state that there is due to plaintiff on account of such finding of the commission a specified sum which plaintiff claims with interest. A certified copy of such finding relative to such employer shall be attached to the petition and shall constitute prima facie evidence of the truth of the facts therein contained. The answer or demurrer to such petition shall be filed within ten days, the reply or demurrer to the answer within twenty days, and the demurrer to the reply within thirty days after the return day of the summons or service by publication. All motions and demurrers shall be submitted to the court within ten days after the same are filed. As soon as the issues are made up in any such case, it shall be placed at the head of the trial docket and shall be first in order of trial.

(3) Unless said employer shall, within the ten days last aforesaid, execute a bond to the state, in double the amount so found and ordered paid by the commission, with sureties to the approval of the commission, conditioned that he or it shall pay any judgment and cost rendered against him or it for said premium, the court at the time of filing of the petition, and without notice, shall appoint a receiver for the property and business of such employer.<sup>1</sup>

<sup>1</sup> Sections 4, 5, 6, and 7 are omitted.

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b. **Jurisdiction of Commission.** The commission shall have full power and authority to hear and determine all questions within its jurisdiction, and its decisions thereon in each claim shall be final. Provided, however, that any employer or employee aggrieved by an order or decision of the commission may, within fifteen days therefrom, appeal such order or decision to the court of common pleas of the county wherein said appellant is resident or was last employed; and said appeal shall be heard upon a transcript of the proceedings before the commission and said order shall not be modified or reversed unless said court shall find, upon consideration of the record, that it was unlawful or unreasonable. Either party shall have the right to prosecute error from the court of common pleas as in other civil cases.

**Section 8. DEFINITIONS.** As used in this act:

a. "Commission" means the unemployment insurance commission of Ohio.

b. "Employer," except where the context clearly shows otherwise, means any person, partnership, firm, association or corporation who (which) has three or more persons employed in any employment subject to this act. It shall not include the state of Ohio as an employer, nor any municipal or public corporation, nor any political subdivision; nor any farmer; nor any person, partnership, firm, association or corporation to which this act may not apply by reason of any provision of the constitution of the United States or any act of Congress.

c. "Employee," except where the context clearly shows otherwise, means any person, including aliens and minors, employed for hire by an employer in an employment subject to this act, except a person whose employment is not in the usual course of the trade, business, profession or occupation of the employer, and except further any person employed at other than manual labor at a rate of remuneration of two thousand dollars a year or more.

d. "An employment," except where the context clearly shows otherwise, means any employment in which all or the greater part of the employee's work is performed within the state of Ohio, under any contract of hire, express or implied, oral or written, including all contracts entered into by helpers and assistants of employee, whether paid by employer or employee, if employed with the knowledge actual or constructive of the employer; and shall include any trade, occupation, profession or process of manufacture, or any method of carrying on said trade, occupation, profession or method of manufacture in which any person may engage; except that for the purpose of this act it shall not include:

(1) Employment as a farm laborer.

(2) Employment in the personal or domestic service of an employer at his home.

(3) Employment in the service of a common carrier engaged in interstate commerce, subject to the laws of Congress and supervision of interstate commerce commission.



(4) Employment by any governmental unit, or municipal or public corporation, or any political subdivision; or in any employment in a private or parochial school or college where the contract of hire is on an annual salary basis.

(5) Employment as a short-time or casual laborer for a period of less than four weeks, provided that where such short-time or casual labor is employed during four successive weeks or more, it shall be deemed an employment within the scope of this act.

e. "Benefits" means money allowances payable to an employee as insurance or compensation for losses of wages due to unemployment as provided in this act.

f. "Wages" means what is customarily meant by the term, the money rate at which the employee is recompensed under the contract of hire, except that it shall include commissions and bonuses and the reasonable value of board, rent, housing, lodging or similar advantages received from the employer.

g. "Average Weekly Wages" means the weekly earnings that an employee subject to this act would average if he were employed full time, i. e. the full number of scheduled or customary working hours per week in the employment or employments in which he is or was engaged prior to applying for benefits under this act. The commission shall make suitable rules for the purpose of calculating the average wages on the basis of which benefits under the act are to be paid, and for this purpose may average full time earnings over a period of three months or more in order to include reasonable proportions of busy and slack weeks, and may adopt such method or methods of calculating the said average weekly wages as may be suitable and reasonable under this act.

h. "Payroll" means and shall include all wages, salaries and remuneration paid to employees subject to this act.

i. "Total Unemployment," except where the context clearly shows otherwise, means the condition caused by the inability of an employee, who is capable of and available for employment, to obtain work in his usual employment, or in another employment for which he is reasonably fitted, and whose lack of employment causes total loss of wages.

j. "Partial Unemployment" means part-time employment resulting in loss of wages amounting to forty per cent or more of an employee's average weekly wages.

#### Section 9. MISCELLANEOUS PROVISIONS.

a. This act shall take effect upon its passage and publication, but none of the premiums provided for shall be payable by employers or employees until on and after January 1, 1934.

b. The entire cost of the administration of this act, including salaries, cost of public employment bureaus and other expenditures required, shall be paid upon vouchers of the commission out of the unemployment insurance fund. The commission shall set up a separate account in the fund, not to exceed six

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per cent of the total annual income of the fund, to be known as the administrative account, to which all expenditures for the administration of this act shall be charged. Until January 1, 1934, the expense of the unemployment insurance commission in carrying out the provisions of this act shall be paid out of the general revenue of the state not otherwise appropriated. Such expense shall not exceed fifty thousand dollars, and the amount so expended shall be returned to the general revenue fund from the unemployment insurance fund not later than January 1, 1935.

c. The sections of this act and every part of such sections are hereby declared to be independent sections and parts of sections, and the holding of any section or part thereof to be void or ineffective shall not effect any other section or part thereof.

## APPENDIX D

### THE TEXT OF THE REPORT ON UNEMPLOYMENT INSURANCE SUBMITTED BY THE EXECUTIVE COUNCIL TO THE 1932 CONVENTION OF THE AMERICAN FEDERATION OF LABOR<sup>1</sup>

It would be desirable, were it possible, to press for the enactment of one uniform measure for unemployment insurance applicable throughout the United States. But, due to the provisions and limitations of the United States Constitution as interpreted by the courts, since the regulation of manufacture and industry lies primarily within the province of State rather than Federal activity, it is practically impossible to enact constitutional Federal legislation adequately providing for unemployment insurance covering employes engaged in work in the different States.

The American Federation of Labor, therefore, advocates the passage of unemployment insurance legislation in each separate State, and the supplementing of such State legislation by Federal enactments; such, for instance, as bills covering employes engaged in interstate commerce or employed in the District of Columbia or in Federal territories, or such as the bill recently introduced into Congress by Senator Wagner, allowing corporations substantial income-tax credit on their Federal income taxes for such payments as they have made under State laws toward the creation of unemployment reserves.

It is evident that the local conditions of each State vary to such a marked degree that it would be unwise, even were it possible at the present time, to frame a single model bill to be enacted in every State. It is possible, nevertheless, to set forth certain general fundamental principles and standards to which such State legislation should conform. The American Federation of Labor, after mature consideration and discussion, has formulated the following principles which should guide in the framing of State unemployment insurance bills:

1. Every unemployment insurance act should contain specific provisions to protect union members from being obliged to accept work contrary to the rules and regulations of their organizations or employment under conditions such as tend to depress wages or working conditions.

2. Unemployment insurance legislation in this country should be carefully

<sup>1</sup>From the *New York Times* (November 21, 1932). The convention later endorsed this report.

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devised to promote its two primary objectives: (a) the stimulation of more regular employment, insofar as possible, and (b) the payment of unemployment compensation to those who are temporarily out of work through industry's failure to provide steady employment for its working forces.

3. The American Federation of Labor advocates a scheme of unemployment compensation made compulsory by law. Voluntary schemes are unlikely to pervade industry generally, and are frequently open to other serious objections. Only by compulsory legislation can workers be adequately protected.

4. Since unemployment is to a certain extent one of the inevitable incidents of production and must, therefore, be regarded as part of the inescapable cost of industry, it, like other costs of industry, should be paid by industry itself. It therefore follows that, as a matter of principle, no part of the contributions to support unemployment insurance should be paid out of the wages of labor, but the whole should be paid by management as part of the cost of production. The necessary funds should be raised as a charge on industry.

The amount of such contribution must depend upon the local conditions in each State. A minimum contribution must be required sufficient to cover (a) the building up of adequate reserves, (b) the cost of the benefits to be paid under the act and (c) the costs of administration. To cover these costs the American Federation of Labor believes that the contribution rate should be not less than 3 per cent of the total payroll.

The exact percentage, however, must vary in different States and will come to depend upon various actuarial data, which must be carefully collected as a basis for such determination from the experience gained both before and after the passage of the act.

The absence of complete data should not, however, prevent the passage of a law, since the liability of the fund is limited to the amount of the income provided by law. As experience is accumulated it will be possible to determine the income necessary to provide the benefits decided upon in the law.

5. At this time the American Federation of Labor deems it inadvisable to take an irrevocable stand as between the plant reserves system of unemployment insurance embodied in the Wisconsin law and an insurance system such as is under consideration in Ohio and in operation in many European countries.

Whatever plan is adopted, whether based on plant reserves or on a broader basis, we believe that it should be administered by the State and all reserve funds held and invested by the State. We are unalterably opposed to company-controlled unemployment reserves and believe that without State administration, plant reserves will prove but another "company union" device.

We are also of the opinion that, at least at the outset, it is advisable to have but a single unemployment insurance fund (with, if a plant reserves system is adopted, separate accounts for separate employers) and a flat rate of contributions by employers regardless of the industry in which they may be engaged.

Later on, after more accurate data is obtained, occupation, or enterprise

may be scaled according to the hazard of unemployment, but sufficient data are not now available to warrant such classifications at this time.

6. Sound public policy requires that no insurance company in this country be allowed to invade this new field of unemployment compensation. No insurance company is allowed under present State laws to write this class of insurance. The federation believes that this policy is wise and should in no case be abandoned.

7. All funds should be invested in Federal securities or in the bonds of State or municipalities such as have never defaulted in the payment of principal or interest.

8. Insurance in general should cover temporary and involuntary unemployment. Unemployment means the conditions caused by the inability of an employe who is capable of and available for employment to obtain work in his usual employment or in another for which he is reasonably fitted. Nothing in the unemployment compensation act should require an employe to accept employment, nor should any employe forfeit his right to benefits under the act by refusing to accept employment under any or all of the following conditions:

(a) In a situation vacant directly in consequence of a stoppage of work due to a trade dispute;

(b) If the wages, hours and conditions offered are less favorable to the employe than those prevailing for similar work in the locality, or are such as tend to depress wages and working conditions;

(c) If acceptance of such employment would abridge or limit the right of the employe either (1) to refrain from joining a labor organization or association of workmen, or (2) to retain membership in and observe the rules of any such organization or association.

(d) Workers who quit work without good cause or who are discharged for misconduct shall not thereby forfeit benefits beyond a reasonable period.

9. The coverage should be as wide as possible. It should include clerical as well as manual workers. There are, however, certain classes of employment which it may be necessary to exclude from the general operation of the act, and these classes will vary according to local conditions. It would seem that the legislation should approximate, insofar as practicable, the coverage of State workmen's compensation acts. As time goes on, the scope or coverage of the act may well be broadened.

10. The claim of employes to receive unemployment compensation as provided under the act should be clearly recognized as a legal right earned by previous employment within the State. Receipt of unemployment benefits shall in no way entail loss of suffrage or other civil rights. Persons not legal residents of the State and those not citizens of the United States shall not by reason of that fact be disqualified from receiving benefits.

The amount of benefits to be paid and the number of weeks during which they shall be paid must depend upon the local conditions in each State and

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upon the amount of contributions paid into the fund. We are informed, for instance, that under the conditions prevailing in Ohio, a contribution of 3 per cent of the total payroll makes is possible after a waiting period of three weeks per year to pay benefits for a maximum period of sixteen weeks in a year based upon 50 per cent of the normal weekly wages, but not to exceed \$15 a week.

It seems advisable to restrict the payment of benefits to unemployment occurring after a specified waiting period. The length of this waiting period will materially affect the amount of the benefits which can be paid and the length of time during which they can be paid.

Workers who are partially unemployed should receive unemployment compensation at a reduced rate. The exact amount of the reduction will presumably vary in different States. We suggest that a fair principle would be to pay for partial unemployment the amount of the benefit which would be payable in case of total unemployment reduced by subtracting one-half of the amount of the wages actually received.

(a) The administration of the scheme of unemployment compensation and the responsibility for the keeping and investment of the unemployment funds should be in the hands of a State commission. This should be either a special commission created for the specific purpose or an already existing State commission or department of labor.

(b) Both labor and management should have a voice in the administration of unemployment insurance. Advisory committees composed of an equal number of representatives of labor and management will prove very useful and, in some States, local appeal boards similarly constituted will be found desirable.

It should be recognized, however, that workingmen can have genuine representation only through labor organizations. Unless labor can, in effect, through its organization select its own representatives, pretended representation is but a farce.

(c) The cost of the administration of unemployment compensation should be met out of the unemployment fund itself.

(d) The operation of employment exchanges is closely and vitally connected with the administration of unemployment insurance. The commission should take over, supervise and expand public employment exchanges in States where these already exist or in States where none exists should create and operate such exchanges.

(e) The administration regulating the payment of benefits should be decentralized as far as possible. Payments should be made upon claims presented through local agencies, established and supervised by the commission and acting in close cooperation with the public employment offices. Appeals should be allowed to a central authority.

12. Regularization of Employment.—The whole scheme should be so construed as to induce and stimulate so far as possible the regularization and stabilization of employment. This may be effected in various possible ways;

as, for instance, by basing the amount of contributions payable upon some merit-rating scheme or in States not adopting an exclusive State fund by the establishment of separate industry or separate plant funds.

This statement embodies within it certain standards and principles that we believe should be incorporated in unemployment insurance legislation. We suggest, however, that a flexible policy be pursued in all States and that unemployment insurance legislation be secured which will maintain the above standards so far as possible and yet which will accommodate itself to the varying circumstances and conditions in each State. It is essential that the protection of the rights of citizenship and of union membership be maintained in all acts.

Pending the adoption of compulsory State insurance voluntary unemployment schemes should be subject to State regulation. We therefore believe it vital that suitable legislation be enacted to provide for State supervision of all such plans, including as a minimum the deposit of benefit funds in separate trust accounts, whether or not such funds include payments made from employes.

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