

# **TEMPORARY DISABILITY INSURANCE**

**Stefan A. Riesenfeld  
Professor of Law  
University of California**

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## FOREWORD

The Legislative Reference Bureau presents this report on a temporary disability insurance program for the State of Hawaii as authorized by Act 198, Session Laws of Hawaii 1967. It is with both pride and pleasure that we note Professor Stefan A. Riesenfeld's authorship of the study on behalf of the Bureau. Professor Riesenfeld, Emanuel S. Heller Professor of Law at the University of California, is an international authority on social legislation; among his other significant contributions to the State is a 1963 Study of the Workmen's Compensation Law in Hawaii which formed the basis for comprehensive revision of the Workmen's Compensation Law in 1963.

He has been assisted in the preparation of this Report by Wayne Minami, Carroll Taylor, and Patricia Putman, from the Bureau staff.

Many persons have contributed information, data, and consultative services during the course of preparing the Study. Special acknowledgment is owed for the assistance and cooperation of Robert Hasegawa, Director of Labor and Industrial Relations; Walter Quisenberry, Director of Health; William G. Among, Director of Social Services; Robert Schmitt, State Statistician; Mark Briggs of the Insurance Division of the Department of Regulatory Agencies; the Hawaii Employers Council; the Board of Underwriters of Hawaii; the AFL-CIO; the Hawaii Sugar Planters' Association; the New Jersey Department of Labor and Industry, Division of Employment Security; the New York Workmen's Compensation Board and State Insurance Fund; the California Research and Statistics Section and Chief Counsel of the Department of Employment; the Puerto Rico Department of Labor; the U. S. Department of Health, Education and Welfare; and the Health Insurance Association of America.

Herman S. Doi  
Director

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# INTRODUCTION

## Scope, Organization and Sources of the Report

Act 198 of the Session Laws of Hawaii 1967 requested a study to be conducted under the auspices of the Legislative Reference Bureau dealing with disability compensation and compulsory health insurance programs.

The Act provided that the study should include, but not be limited to the following areas:

- (a) The need and advisability of enacting a compulsory disability compensation law . . . in the State of Hawaii;
- (b) The extent of income loss due to nonoccupational illness or injury;
- (c) The incidence and duration of such illness or injury;
- (d) The extent and experience of such programs in other states;
- (e) The effects of alternative provisions on eligibility, coverage, financing, underwriting, and administration for such programs; and
- (f) The cost of such alternative provisions.

As can be seen from the enumeration of these six items a study of formidable breadth and depth was requested. A report of similar scope was compiled apparently only once before, in the State of New York in 1948. It was published in 1949 by the New York Department of Labor as Special Bulletin 224 under the title "Studies in Disability Insurance". It was authored by Messrs. Robert Tilove, Winston Dancis and Abraham J. Berman, then officials in the Division of Research and Statistics of the New York Department of Labor.

In view of the specific mandate of the legislature to study the extent and experience in other states and because of the fact that such experience permits, and is indispensable for, general conclusions as to the incidence and duration of nonoccupational illness and injury in the labor force this report consists of three main parts: (1) an analysis of the statutes establishing temporary disability insurance programs in other states and the experience with such programs; (2) a study of the scope of protection of that type in Hawaii under existing voluntary programs of various types and the adequacy of such protection; and (3) conclusions as to the

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need and advisability of enacting legislation establishing a compulsory program and proposals for the form and extent of such protection.

It has been found advisable to deal with the issues of compulsory disability insurance and compulsory health insurance separately and limit this report to temporary disability insurance. The reasons for this separation are both analytical and practical in character. Temporary disability insurance is an income maintenance program, usually providing for benefits measured by prior earnings; health insurance conversely is designed to minimize the costs of medical and hospital care, and provides benefits measured primarily by the cost of the services needed. The chief connection between the two programs is that the needs met thereby stem from the same cause: sickness or injury. As a result studies of the two programs would have to investigate totally different data and follow a totally different methodology.

To be sure, it was not overlooked that the two programs are economically interrelated. To the extent that cost factors are material, priorities and choices may ultimately have to be made. Nevertheless, except for the ultimate conclusions as to the allocation of funds, the two programs are so different that it was thought preferable to conduct two independent studies. Even in New York where voluntary plans of disability insurance may include medical, surgical and hospital benefits, the value of these benefits as compared with the wage replacement benefits in 1966 was only approximately 16 per cent of the total plan benefits.

The study has relied on a number of annual data published by various departments of the United States Government and of the state governments in Hawaii as well as in California, New Jersey, New York and Rhode Island. In addition a number of special governmental reports and private studies have been utilized.

Current data on the temporary disability programs operating in California, New Jersey, New York and Rhode Island which have been used throughout this study are:

California, Department of Employment, California  
Unemployment Compensation Disability Fund, Report  
of the Actuaries, Together with Statistical Handbook  
on Disability Insurance for Calendar Years 1963, 1964,  
1965, 1966, 1967.

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State of New Jersey, Division of Employment Security,  
Annual Report for the Years 1963, 1964, 1965, 1966.

State of New York, Workmen's Compensation Board, Summary  
of Board Activities for 1963, 1964, 1965, 1966, 1967.

Rhode Island, Department of Employment Security, 28 Annual  
Report, 1963 and Statistical Fiscal Digests for 1964,  
1965, 1966, 1967.

Special studies which were found valuable and are frequently  
relied upon are:

California, Final Report of the Joint Committee on  
Unemployment Compensation Disability Insurance (1965).

Osborn, Compulsory Temporary Disability Insurance in  
the United States. S. S. Huebner Foundation for  
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U. S. Department of Labor, Women's Bureau, Bull. 290, 1965,  
Handbook on Women Workers (1965).

U. S. Department of Labor, Women's Bureau, Bull. 272,  
Maternity Benefit Provisions for Employed Women (1960).

# **PART I**

## **Chapter I**

### **SURVEY OF LEGISLATION IN OTHER JURISDICTIONS**

At present special legislation providing for temporary disability benefits exist in five jurisdictions: California, New Jersey, New York, Rhode Island and the Commonwealth of Puerto Rico. The Rhode Island act was the first statute of this kind, dating back to 1942. It was followed by California in 1946, New Jersey in 1948, New York in 1949 and Puerto Rico in 1968. The five acts vary a great deal in structure and philosophy. Any conclusions based on the experience in the four states where the program has been operating must therefore take careful account of the important differences between the existing systems. The following analysis of the laws of California, New Jersey, New York and Rhode Island as well as of the Commonwealth of Puerto Rico is made for the double purpose of examining the various forms which disability benefits legislation has taken and of identifying cost factors which affect the statistical experience in these states.

It should be noted, in addition, that in Hawaii<sup>1</sup> as well as in Alaska, Delaware, Idaho, Maryland, Massachusetts,<sup>2</sup> Montana, Nevada, Tennessee and Vermont benefits are payable for illness or disability during unemployment. These states thus can be said to possess temporary disability insurance for the unemployed although similar statutory protection is not extended to workers in current employment.

#### **California**

California was the second state of the Union to provide for cash benefits payable to employees unemployed due to disability. The original act establishing "a system of unemployment compensation disability benefit payments" was enacted in 1946,<sup>3</sup> in the form of an amendment to the Unemployment Insurance Act. In 1949 an act provided for additional benefits during hospitalization.<sup>4</sup> The statutes governing unemployment compensation disability-benefits (hereafter referred to as UCD-benefits) became part of the Unemployment Insurance Code<sup>5</sup> when that Code was established in 1953,<sup>6</sup> coupled with a thorough revision of the provisions included therein.

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As the statutory history indicated, the system providing for UCD-benefits was integrated closely with that governing unemployment compensation benefits. Thus coverage, eligibility and the scale and method of computation of weekly benefits were subject to the same rules<sup>7</sup> and the two programs were administered by the same agency: The California Employment Stabilization Commission.<sup>8</sup> The 1946 act, however, established a separate fund, designated as Unemployment Compensation Disability Fund, in which, inter alia, the employees' contributions imposed by the new law<sup>9</sup> were to be collected and which was charged with the payment of the UCD-benefits.<sup>10</sup> Moreover, payment of these benefits was not chargeable against the employer's reserve account.<sup>11</sup> In the course of time the tie-up between unemployment compensation benefits and unemployment compensation disability benefits was greatly loosened. Originally the entitlement covered disability resulting in inability to work whether occurring during employment or unemployment, and the payment of benefits was not segregated on that score. In 1947, however, a separate account was established in the Disability Fund, called the "extended liability account", and payments of UCD-benefits for disability commencing after termination of employment was charged to this account.<sup>12</sup> The account was suppressed in 1961 and replaced by an account designated as Unemployed Disabled Account.<sup>13</sup> The extended liability account was credited with the earnings of the employees' contributions collected prior to the enactment of the law establishing UCD-benefits and, if the status of the account necessitated such action, with assessments to be made against employers who had covered their employees under an approved voluntary plan not exceeding .03 per cent of the taxable wages and an equivalent credit against the contributions of the employers contributing to the Unemployment Compensation Disability Fund.<sup>14</sup> As a result it has become customary in California<sup>15</sup> to differentiate between "regular" benefits (whether "basic benefits" or "hospital benefits") and benefits (whether "basic benefits" or "hospital benefits") for the unemployed disabled. The latter category, however, includes persons whose disability commences while engaged in noncovered employment.

California law provides for two forms of coverage with respect to the payment of UCD-benefits: state plan coverage and voluntary plan coverage.<sup>16</sup> Voluntary plan coverage in lieu of state plan coverage requires approval by the Director of Employment. Approval is depending upon a compliance with a set of conditions, inter alia, with the requirement that the rights afforded to the covered employees are greater than those afforded by state plan coverage and that the approval of the plan will not result in a substantial

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selection of risk adverse to the Disability Fund.<sup>17</sup> Because of the stringency of the prohibition of the adverse risk selection, as construed by the Director,<sup>18</sup> private carriers have practically withdrawn from the field in California, and existing approved voluntary plans are primarily of the self-insured type.<sup>19</sup>

Disability benefits for the disabled unemployed, including persons who suffer disability during noncovered employment and who do not receive benefits under a voluntary plan,<sup>20</sup> are covered by the state plan (disabled unemployed sector).

Compulsory coverage under the California Unemployment Insurance Code Division 1, Part 2 (Disability Compensation) extends to all employment covered for purposes of unemployment compensation benefits and, in addition, to service in agricultural labor.<sup>21</sup> Employment constituting the basis for compulsory coverage thus consists of any service performed for wages or under any contract of hire with a private employer, except service (not in connection with the operation of a hospital<sup>22</sup>) which is exempt from taxes under the Federal Unemployment Tax Act,<sup>23</sup> such as service for any corporation and community chest, fund or foundation operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes or other purposes set forth in the Internal Revenue Code sec. 501(c)(3) and exempt from federal income tax,<sup>24</sup> service for any other organization exempt from federal income tax, if the remuneration for such service is less than \$50 per quarter,<sup>25</sup> service not in the employer's trade or business, unless the cash remuneration paid for such service per quarter is \$50 or more and such service is performed by a person regularly employed for that purpose by the employer,<sup>26</sup> domestic service in a private home, local college club or fraternity or sorority chapter,<sup>27</sup> service in certain family employment,<sup>28</sup> and service performed by a student in the employ of a school where he is enrolled.<sup>29</sup> Service in the employ of the United States government or of any instrumentality of the United States is exempt from coverage, except service in the employ of instrumentalities of the United States which Congress has permitted to be subjected to such coverage.<sup>30</sup> Likewise not subject to compulsory coverage is any service performed in the employ of a state, political subdivision thereof, or state instrumentality, except service in the employ of a public housing administration agency or service in connection with a hospital operated by a hospital district.<sup>31</sup> Service in connection with the operation of a hospital thus is covered even if the employer is a public entity in the nature of a hospital district or a charitable organization.

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California provides for elective coverage of employers or services not subject to compulsory coverage,<sup>32</sup> especially of non-profit organizations,<sup>33</sup> of the state with respect to employees other than employees holding civil service or permanent tenure provisions<sup>34</sup> and of political subdivisions and government instrumentalities of the state.<sup>35</sup> In addition California offers elective coverage to self-employed individuals<sup>36</sup> and to employers with respect to their own services.<sup>37</sup> The elective coverage for UCD-benefits of employers for their own service and of the self-employed has been quite popular, but resulted in a huge operating deficit.<sup>38</sup>

Eligibility for UCD-benefits is predicated on the condition that the employee during the four calendar quarters constituting his disability base period has earned at least \$300 in covered employment.<sup>39</sup> The disability base period is fixed according to the so-called "uniform method", and varies according to the months in which the "disability benefit period"<sup>40</sup> commences, if the employee has not an unexpired benefit year for unemployment compensation benefits. In the case that such unexpired benefit year is running, it is the base period applicable to the unexpired benefit year.<sup>41</sup>

The weekly benefit amount is determined by means of a statutory table on the basis of the earnings from covered employment in that quarter of the base period in which the claimant had the highest wages.<sup>42</sup> The table has been revised from time to time to keep in step with rising living costs and wages,<sup>43</sup> but its basic structure has been the same since 1953. The table consists of three portions, establishing a minimum weekly benefit amount, a maximum weekly benefit amount and intermediate benefit amounts in steps of one dollar between these two limits. The minimum benefit amount applies to earnings in the highest quarter ranging from \$75.00<sup>44</sup> to an amount considerably larger than that figure. The maximum benefit amount applies to all earnings above a fixed amount, the so-called maximum effective highest quarter wage. The interval between the upper margin of the wage bracket to which the minimum weekly benefit amount applies and the maximum effective highest quarter wage is divided into the appropriate number of wage brackets in increments of \$25.00 and to each of these wage brackets is allocated the respective weekly benefit amount, obtained by adding the requisite steps of one dollar to the minimum benefit amount. Currently, a minimum benefit amount of \$25.00 is allocated to the bottom wage interval between \$75.00 and \$524.99 of highest quarter wages. It is followed by 61 weekly benefit amounts, increasing, in steps of one dollar, from \$26.00 to \$86.00 and allocated to corresponding wage brackets,



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increasing by \$25.00 from bracket to bracket and ranging from \$525.00 to \$2,049.99. Finally at the highest quarter wage of \$2,050 the maximum benefit of \$87.00 per week is reached. From October 1, 1965 to September 25, 1968 the table was identical with the present table, but the maximum effective highest quarterly wage was pegged at \$1,875 and the maximum weekly benefit was set at \$80.00. A corresponding table applied from 1963 to 1965, except that the maximum effective highest quarterly wage was \$1,625 and the maximum weekly benefit was \$70.00, subject, however, to an extension of the table by administrative action.<sup>45</sup> From 1961 to 1963 the minimum weekly benefit amount was \$10.00, allocated to highest quarter wages from \$75.00 to \$149.99. The ceiling was reached at a highest quarter wage of \$1,625, with a maximum weekly benefit of \$70.00. Hence, translating the table into ratios between benefits and wages, the ratio under the table of 1968 fluctuates <sup>46</sup> between 64.38 per cent<sup>47</sup> and 54.54 per cent,<sup>48</sup> while under the table of 1965 and 1963 the ratio decreased from 64.38 per cent<sup>49</sup> to 54.77 per cent and 55.20 per cent<sup>50</sup> respectively, and under the table of 1961 the ratio ranged from 95.33 per cent<sup>51</sup> to 55.20 per cent.<sup>52</sup>

Of course, the California benefit formula produces many inequitable and sometimes absurd results; but despite the severe criticism leveled against the formula by the Joint Committee on Unemployment Compensation Disability Insurance of the California Legislature<sup>53</sup> the structure of the formula was retained despite its discrimination against steady workers.

The duration of benefit payments for any one period of disability is limited by ceilings on the maximum benefit amount. This amount may not exceed a sum equal to 26 times the weekly benefit amount and in no case may the aggregate of the benefit payments for any one period of disability exceed an amount equal to one-half of the individual's base period wages.<sup>54</sup> The second branch of the durational limitation was inserted into the law in 1965. Between 1953 and the effective date of that amendment no such restriction existed. The effect of this additional upper limit on the duration of benefits is that the number of potential weekly payments for any one disability period may vary from 6 to 26.<sup>55</sup> Two consecutive periods of disability due to the same or related cause and separated by a period of not more than fourteen days count as a single period.<sup>56</sup> Unless counted as one period, two distinct periods of disability may occur within any 52 calendar weeks period, each subject to the statutory durational limitations (based on the applicable disability base period)<sup>57</sup> and a separate waiting period, if required. No special limitations exist for pregnancy cases. California excludes pregnancy from coverage,

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except illness following a termination of pregnancy and still existing after 28 days subsequent to such termination.<sup>58</sup>

California requires a waiting period of seven consecutive days except in cases of disability causing confinement in a hospital.<sup>59</sup>

As mentioned before in addition to the "basic benefits", available in all cases of disability, the California program provides for hospital benefits<sup>60</sup> in the amount of \$12.00 per day for each day not in excess of 20 days in any one disability benefit period, during which a covered employee is confined in a hospital pursuant to orders of his physician. Hospital benefits amounted to 13.8 per cent of the total regular liability of the state fund in 1966.<sup>61</sup> Hospital benefits are not subject to any waiting period or to the limitation based on one-half of the base period earnings.

The program of regular benefits, i.e., basic benefits and hospital benefits for individuals who suffer disability during covered employment, is financed exclusively by means of employees' contributions.<sup>62</sup> The normal rate of contribution is 1.00 per cent of the employee's wages.<sup>63</sup> The upper limit of the taxable wage base was fixed at \$7,400 per year in 1965, having been \$4,100 during the calendar year 1962, \$4,600 during the calendar year 1963, \$5,100 during the calendar year 1964 and \$5,600 during the first part of calendar year 1965.<sup>64</sup> The rate of contribution for self-employed individuals and of employers with respect to their own disability is set at 1.25 per cent.<sup>65</sup>

As has been stated before, California permits substitution of state plan coverage by voluntary plans, but approval of voluntary plan coverage depends on compliance with a series of conditions:<sup>66</sup>

- (a) Benefits payable as indemnification for wage loss must be segregated from other benefits and designated as "unemployment compensation disability benefits".
- (b) Rights afforded to the covered worker must be greater than those provided by state plan coverage.
- (c) Plan coverage must be open to all employees in any separate establishment of the employer within the state.
- (d) A majority of the employees in any such establishment must have consented to the plan.

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- (e) The plan must provide for insurance coverage with an authorized carrier or must be properly self-insured.
- (f) The employer must have consented to the plan and agreed to make the requisite payroll deductions, if such deductions are stipulated in the plan.
- (g) The plan must provide for the inclusion of future employees.
- (h) The plan must remain in effect for at least one year and continue thereafter, unless properly terminated by proper notice either by a majority of the employees or by the employer.
- (i) The plan must not result in higher contribution rates of the employees for the benefits under the voluntary plan than would be required for identical benefits under the state plan.
- (j) The plan will not result in a substantial selection of risks adverse to the Disability Fund.

The Department of Employment has issued elaborate regulations specifying the minimum required provisions that must be included in a voluntary plan so as to qualify it for approval, especially provisions which assure that the plan provides in all respects coverage identical to that afforded by the state plan.<sup>67</sup> In addition the Department has set forth in detail the conditions which must be met by an insurance carrier to obviate substantial selection of risks adverse to the Fund.<sup>68</sup> The regulation has been upheld by the California Supreme Court.<sup>69</sup>

A plan which has been consented to by 85 per cent of the employees to whom a plan is available becomes applicable to all employees, present or future, if the employer or 75 per cent of the employees who have consented to the plan so elect, except to such employees who reject the plan either at the time of its adoption or, in the case of future employees, prior to or at the time of their employment.<sup>70</sup>

The administrative costs arising out of the approval and the supervision of voluntary plans are covered by assessment of the employers covered by such plans, prorated according to the wages of the covered employees.<sup>71</sup> In the case of insured plans liability for such assessment is imposed on the respective carrier.<sup>72</sup>

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The program affording disability benefits to employees suffering disability while unemployed or in noncovered employment provides for the same basic and hospital benefits as the program establishing "regular" benefits for individual suffering disability while in covered employment.<sup>73</sup> The conditions for eligibility, computation of the weekly benefit amount and duration of benefits are identical for both sectors of the state plan, with the qualification that the base period for the disabled unemployed is the base period applicable to the unemployment benefits.<sup>74</sup> There exists, however, an important difference in the method of financing such benefits. The program of disability benefits for the unemployed disabled is in part supported by special contributions imposed upon employers subject to voluntary plans or, where applicable, upon the insurance carriers insuring such plans.<sup>75</sup> The contribution rate is now fixed at .12 per cent of the taxable wages paid to employees covered by a voluntary plan,<sup>76</sup> after being fixed at .15 per cent during the calendar year 1962, .13 per cent during the calendar year 1963 and .12 per cent for the periods thereafter. The contributions are credited to the unemployed disabled account, which is also credited with an equal percentage of the taxable wages paid to employees covered by the regular state plan coverage.<sup>77</sup> It may be remembered that the "unemployed disabled account" was established in 1961, replacing the old "extended liability account".<sup>78</sup> The unemployed disabled account is charged with basic and hospital benefits payable to persons whose covered employment had terminated prior to the onset of the disability and also with the costs of the administration of this program.<sup>79</sup>

In view of the fact that California's program is primarily employee-financed, the law is less restrictive against duplication of benefits than other systems. While concurrent receipt of unemployment compensation benefits and UCD-benefits is not permitted,<sup>80</sup> the UCD-benefit program will supplement benefits payable for temporary disability under workmen's compensation system by paying the difference between the regular UCD-benefits and the applicable workmen's compensation benefits.<sup>81</sup> In 1967 supplementary benefits of that type amounted to an estimated \$3.154 million.<sup>82</sup> If an employer pursues a wage-continuation policy not crystallized in an approved voluntary plan, the amount of disability benefits payable is limited by the rule that the daily benefits, together with the wages for such day, may not exceed 1/7 of the weekly wage immediately prior to such disability.<sup>83</sup> Hospital benefits are not affected by wage-continuation programs.<sup>84</sup> It has been estimated that existence of nonintegrated wage-continuation programs results in a postponement of the utilization of the state plan in a substantial number of

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cases and that this utilization postponement may reduce the regular benefits load of the state program by as much as 10 to 12 per cent.<sup>85</sup> Of course, to that extent the state fund receives contributions without an equivalent statistical risk.<sup>86</sup>

### New Jersey

In New Jersey (like in California and Rhode Island) the Temporary Disability Benefits Law<sup>87</sup> is supplementary to the Unemployment Compensation Law<sup>88</sup> and is administered by the Department of Labor and Industry, Division of Employment Security.<sup>89</sup>

The New Jersey act provides for alternative forms of coverage for disability during employment. It establishes a state plan<sup>90</sup> but permits coverage by private plans in lieu of state plan coverage, provided that the weekly benefits payable under such plan for any week of disability are "at least equal" to the weekly benefit amount payable by the state plan, that the duration of benefit payments under such private plan is "at least equal" to the duration of benefit payments under state plan coverage, and that certain other conditions are complied with.<sup>91</sup> In addition, benefits for disability during unemployment are regulated and administered separately, pursuant to section 4(f) of the Unemployment Compensation Law.<sup>92</sup>

Benefits under the state plan are paid from the State Disability Benefits Fund<sup>93</sup> which is also charged with the payment of benefits for disability during unemployment under the above-mentioned section 4(f) of the Unemployment Compensation Law.<sup>94</sup> Apart from the general account covering the benefits and contributions under state plan coverage, there are maintained in the Fund two separate accounts, designated respectively as "administration account"<sup>95</sup> and "unemployment disability account".<sup>96</sup>

Coverage for purposes both of benefits and contributions under the Temporary Disability Benefits Law is congruent with that under the Unemployment Compensation Law. Thus, a "covered individual"<sup>97</sup> under the Temporary Disability Benefits Law is an employee who is in employment covered by the Unemployment Compensation Law with an employer subject to that Law. Until January 1, 1969, compulsory coverage under the Unemployment Compensation Law and under the Temporary Disability Benefits Law was restricted to private<sup>98</sup> employers who in each of 20 different weeks, whether consecutive or not, during the calendar year had in employment four or more

Table 1

STATE PLAN (REGULAR LIABILITY) AND VOLUNTARY PLAN COVERAGE IN CALIFORNIA  
1963-67

Year	S T A T E   P L A N		V O L U N T A R Y   P L A N S				
	Average Number of Covered Employees	Amount of Taxable Payrolls	All Types			Self-Insured	Insured
			Average Number of Covered Employees	Amount of Taxable Payrolls	% of Covered Employees to Total	% of Covered Employees to Total	% of Covered Employees to Total
1963	4,134,200	16,537,000,000	318,000	1,389,000,000	7.1	6.1	1.0
1964	4,259,300	18,349,000,000	325,000	1,554,000,000	7.1	6.1	1.0
1965	4,423,500	23,021,000,000	326,300	1,894,000,000	6.9	5.8	1.1
1966	4,660,200	24,633,000,000	385,000	2,309,000,000	7.6	6.1	1.4
1967	4,764,900	25,564,000,000	407,800	2,521,000,000	7.9	6.5	1.4

Source: Adjusted from California, Department of Employment, California Unemployment Compensation Disability Fund, 1965 and 1966, Report of the Actuaries, Part IV (1965, p. 15; 1966, p. 24), Statistical Handbook, Tables 2 and 5, and Report of the Actuaries, 1967, Tables 2, 30, 31.

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individuals at least for some portion of day.<sup>99</sup> Beginning with the indicated date, private employers of one or more individuals in covered employment are subject to compulsory coverage.<sup>100</sup> Employment for purposes of compulsory coverage excludes agricultural labor, domestic service in a private home, family employment, employment with a charitable or educational corporation and certain other specified services.<sup>101</sup> There is no special exemption of casual employment. Optional coverage may be elected under the Unemployment Compensation Law<sup>102</sup> but apparently not under Temporary Disability Benefits Law.

Eligibility for disability benefits under state plan coverage is predicated on the condition that the employee during the fifty-two calendar weeks preceding the week of the onset of the disability has earned not less than \$15.00 in covered employment from a covered employee for at least seventeen weeks.<sup>103</sup> Eligibility for benefits for disability during employment extends to individuals who are out of covered employment for less than two weeks.<sup>104</sup>

The benefit scale under the Temporary Disability Benefits Law is identical with that under the Unemployment Compensation Law.<sup>105</sup> From July 1, 1961 to January 1, 1968 the benefits were computed on the basis of a statutory table<sup>106</sup> which divided average weekly wages<sup>107</sup> ranging from \$18.01 to \$98.00 into thirteen wage brackets of varying scope and allocated to each such bracket a weekly benefit amount increasing in steps of one dollar from \$11.00 to \$49.00. The minimum benefit amount for average weekly wages of \$18.00 or less was fixed at \$10.00; the maximum weekly benefit amount for weekly wages of \$98.01 or more was fixed at \$50.00. Within the table the ratio of benefits to wages varied between 61.07 per cent and 50 per cent.<sup>108</sup> Beginning with January 1, 1968 the benefits are increased to a flat 66.67 per cent of the average weekly wage, subject to a minimum of \$10.00 and to a maximum of 50 per cent of the statewide average weekly remuneration paid to workers by employers subject to the Unemployment Compensation Law.<sup>109</sup> This maximum is currently \$62.00 per week.

Computation of the average weekly wage for the purposes of the Temporary Disability Benefits Law is made on the basis of an alternative method.<sup>110</sup> Either it is the amount derived by dividing a covered individual's total wages earned from his most recent covered employer during the eight weeks preceding the week of the onset of the disability by the number of weeks of employment with such employer, but not counting the wages and the weeks when such earnings were less than \$15.00 per week; or, if this method of

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computation yields an amount less than the individual's average weekly earnings in all covered employment during the weeks within such eight-week period in which the earnings from that employment were \$15.00 or more, then by dividing the earnings from all covered employers during the respective weeks by the number of such weeks.

For any period of disability commencing after January 1, 1968 the maximum duration of benefit payments is either 26 weeks or, if shorter, the number of weeks, including a portion of a week, which corresponds to an aggregate of weekly benefit payments in the amount of  $\frac{1}{3}$  of the employee's total wages during the fifty-two calendar weeks immediately preceding the calendar week preceding the week in which the period of disability commenced.<sup>111</sup> Prior to January 1, 1968 benefits of maximum duration extended for 26 weeks or, if less,  $\frac{3}{4}$  of the number of weeks during the fifty-two consecutive calendar weeks preceding the calendar week of the onset of the disability in which the employee earned at least \$15.00 from covered employment.<sup>112</sup> In other words since January 1, 1968 the maximum duration of benefits varies from  $\frac{17 \times 15}{3 \times 10} = 8.5$  weeks to 26 weeks, according to the predisability earnings record, whereas prior thereto the range was from  $\frac{17 \times 3}{4} = 12.75$  weeks to 26 weeks.

Special durational limitations exist for disability due to pregnancy. New Jersey accords disability benefits in pregnancy case "for any period of disability due to pregnancy or resulting childbirth, miscarriage, or abortion. . .existing during the four weeks immediately before the expected birth of child, and the four weeks following the termination of the pregnancy."<sup>113</sup> The statute, however, fails to protect employees against being dismissed by reason of pregnancy. This, therefore, is frequently done since the experience rating system which extends to the employer's contributions to the State Disability Benefits Fund<sup>114</sup> constitutes a powerful incentive for such action. As a result an inflated number of disability benefits for pregnancy cases appear as benefits for disability during unemployment.<sup>115</sup>

New Jersey law requires a waiting period of seven days for each period of disability.<sup>116</sup> However, two periods of disability due to the same or related cause or condition and separated by a period of not more than fourteen days shall be considered as one continuous period of disability, provided that the individual during this period has returned to the employ of his prior employer.<sup>117</sup> Beginning with January 1, 1968 the waiting period will be retroactively compensated, if the disability lasts four weeks or more.<sup>118</sup>



## SURVEY OF LEGISLATION IN OTHER JURISDICTIONS

The state plan is operated on the basis of a contributory system of financing. Each employee who is covered by the state plan contributes to the State Disability Benefits Fund at the rate of .50 per cent of his wages from covered employment,<sup>119</sup> not exceeding \$3,000 per annum until January 1, 1968 and thereafter not exceeding \$3,600 per annum.<sup>120</sup> The normal rate of contributions by employers is .25 per cent of the same wage base.<sup>121</sup> There may be modifications of this rate based both on the employer's separate experience<sup>122</sup> and on the status of the Fund as a whole.<sup>123</sup> The law permits a reduction of the employers rate of contribution to a minimum of .10 per cent of the wage base or an increase to a maximum of .75 per cent.<sup>124</sup> In addition, employers covered by the state plan pay the share allocable to them of the administrative costs directly attributable to maintaining separate disability benefits accounts for employees under the state plan.<sup>125</sup>

Private plan coverage may be substituted for state plan coverage under conditions specified in the Law in considerable detail.<sup>126</sup> Private plan coverage may be provided by means of contracts with insurance carriers, collective bargaining agreements or specific undertakings by employers as self-insurers.<sup>127</sup> Substitution of private plan coverage in lieu of state plan coverage depends upon the previous approval of the Division of Employment Security.

Approval is conditioned upon compliance with six requirements:<sup>128</sup>

1. Subject to certain exceptions, the private plan must cover all employees of the employer against any disability to which the state plan extends. The plan may, however, exclude one or more classes of employees except a class or classes determined by age, sex, race or wage level, if such exclusion results in substantial adverse risk selection disadvantaging the state plan;
2. Eligibility requirements for benefits may not be stricter than those of the state plan;
3. The weekly benefit payments and the duration of benefit payments must be at least equal to those provided by the state plan.
4. The employees may not be required to make greater contributions under the private plan than they would have to make under the state plan for identical benefits;

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5. The duration of the coverage under the private plan must extend to the same period after termination of the employment as under the state plan, except where an employee shifts to another employer;
6. A majority of the employees have to have agreed to such private plan coverage, unless the employees are not required to contribute to the costs of the private plan.

A private plan may, however, provide for additional and supplementary benefits.<sup>129</sup>

Employers who have provided for approved private plan coverage must contribute to the State Disability Benefits Fund, to be credited to the administration account, their share in the administrative cost directly attributable to the supervision and operation of the private plans.<sup>130</sup> The contributions are computed on the basis of the taxable wages paid to the employees covered by the private plans. The rate of contribution may not exceed .02 per cent of such wages.<sup>131</sup>

As indicated before, the program (whether under the state plan or approved private plans) of disability benefits for employees in current or recent employment is separate and distinct from the program of benefits for disability during unemployment (the so-called section 4(f) benefits). This program provides for disability benefits for unemployed individuals who are not covered individuals within the definition of the Temporary Disability Benefits Law.<sup>132</sup> Eligibility requirements and the computation of the benefits are governed by the Unemployment Compensation Law,<sup>133</sup> but the benefits are paid from the State Disability Benefits Fund<sup>134</sup> and are not charged against the employers unemployment experience accounts.<sup>135</sup> The benefits for disability during unemployment are charged against the separate unemployment disability account<sup>136</sup> in the State Disability Benefits Fund. This account is credited with the income from interest and investment allocable to the \$50,000,000 received at the start of the program;<sup>137</sup> in addition it is credited with an amount not exceeding .02 per cent of the taxable wages covered by the state plan<sup>138</sup> and a corresponding assessment against employers based on taxable wages paid to employees under private plan coverage.<sup>139</sup> The costs of the administration are charged to the administrative account and borne in appropriate shares by the private plan employers and state plan employers.<sup>140</sup> At present this program shows a heavy deficit.<sup>141</sup>

The New Jersey act contains fairly stringent provisions against duplication of benefits. An individual may not receive

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benefits for disability commenced during current employment if he receives or is entitled to benefits under any applicable workmen's compensation or occupational disease law except for permanent or partial disability previously incurred.<sup>142</sup> Disability benefits payable under the state or a private plan are reduced by any amount paid concurrently under any governmental or private retirement, pension or permanent disability benefit or allowance program to which the employee's most recent employer has contributed on his behalf.<sup>143</sup> If the employer maintains a wage continuation program, such continued wages and disability benefits together may not exceed the disabled employee's regular wages prior to the disability.<sup>144</sup> The total benefits for unemployment and disability during unemployment may not exceed one and one-half of the maximum benefits to which the employee would be entitled under either program.<sup>145</sup>

There is a continuing trend in New Jersey toward state plan coverage. State plan coverage is predominantly chosen by the smaller employers. Moreover there is a steady increase in split coverage.

The following table indicates the number of employers, the number of employees and the taxable wages under by state plan coverage, private plan coverage and split plan coverage since 1959.

### **New York**

In New York (in difference from other jurisdictions having comparable legislation) the Disability Benefits Law<sup>146</sup> is supplementary to the Workmen's Compensation Law<sup>147</sup> and is administered by the Workmen's Compensation Board.<sup>148</sup>

Like New Jersey, the New York law differentiates between benefits for disability during employment<sup>149</sup> and for disability while unemployed.<sup>150</sup> The New York law provides for two types of coverage: "statutory coverage"<sup>151</sup> and "plan coverage".<sup>152</sup> In contrast to New Jersey, New York has not established a special state fund for the payment of disability benefits of employees suffering disability during employment. Statutory coverage denotes merely a standard form of coverage for which plan coverage may be substituted provided it complies with certain minimum requirements established by the Board and is "accepted" as "at least as favorable".<sup>153</sup> New York, however, does maintain a separately financed Special Fund<sup>154</sup> to pay benefits, in the form of statutory benefits, to individuals suffering disability while unemployed<sup>155</sup>

Table 2

STATE AND PRIVATE PLAN COVERAGE IN NEW JERSEY  
1959-1967

Year <sup>1</sup>	Number of Employers			Number of Jobs			Taxable Wages <sup>1</sup>		
	Private Plans	State Plan	Split Coverage	Private Plans	State Plan	% State Plans	Private Plans	State Plan	% State Plans
1959	12,988	42,498	890	920,815	616,147	40.1	2,938,661,403	1,812,809,083	38.2
1960	13,144	44,812	948	933,890	649,485	41.0	2,834,974,550	1,875,427,319	39.8
1961	12,822	46,168	996	912,392	662,637	42.1	2,791,174,325	2,121,631,344	43.2
1962	11,774	47,949	1,095	885,790	742,668	45.6	2,734,546,628	2,255,557,261	45.2
1963	11,180	49,085	1,156	867,345	780,290	47.4	2,704,008,812	2,362,960,605	46.6
1964	10,483	50,563	1,121	846,996	821,720	49.2	2,689,816,719	2,577,498,135	48.9
1965	10,195	52,190	1,115	844,144	896,682	51.5	2,822,496,054	2,794,412,809	49.7
1966	10,395	52,488	1,051	871,859	951,202	52.2	2,848,453,590	2,998,311,352	51.3
1967	10,048	53,747	1,090	881,750	989,856	52.9			

Source: State of New Jersey, Division of Employment Security, Annual Report 1966 and 1967, Table 36.

<sup>1</sup>Number of Jobs and Number of Employers are given for the second calendar quarter of the respective year. The taxable wages are reported for the respective fiscal year commencing during the calendar year, i.e. 1959 means fiscal year 1959-1960.

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or to employees whose employer has failed to provide for the payment as provided by the act or who do not receive benefits because of insolvency of the carrier.<sup>156</sup>

The employer must provide the statutory benefits or plan benefits, accepted as "at least as favorable", by one of a variety of ways: by insurance with the State Insurance Fund or with a private carrier authorized to write accident and health insurance in New York, through approved self-insurance, or by being a party to a collective bargaining agreement providing for the statutory or at least as favorable plan benefits and constituting an accepted "existing" or "new" plan.<sup>157</sup>

Coverage in New York is regulated independently of coverage under the Workmen's Compensation Law or the Unemployment Insurance Law. Compulsory coverage is provided for employees<sup>158</sup> of private employers<sup>159</sup> who render service in covered employment.<sup>160</sup> Covered employment excludes (apart from employment with public authorities, railroads and maritime employers) agricultural employment, casual employment, family employment, the first forty-five days of extra-employment of individuals not regularly in employment, part-time employment of students regularly enrolled in institutions of learning and part-time employment of their spouses by educational institutions.<sup>161</sup>

Although the statutory definition of "employment" is limited to any "employment in any trade, business or occupation carried on by an employer", it follows from another section<sup>162</sup> that domestic or personal employment in a private home is likewise covered. In the case of employees in personal or domestic employment in a private home, however, the respective employer is only subject to compulsory coverage upon expiration of four weeks following the employment of four or more such employees on each of at least thirty days in any calendar year,<sup>163</sup> whereas other employers are covered upon expiration of four weeks following the employment of one or more individuals in covered employment.<sup>164</sup> Originally the statute required employment of four or more employees in all types of employment as condition of coverage, but gradually the requisite number of employees in other than domestic employment was reduced to three, after January 1, 1960, two, after January 1, 1961, and one, after January 1, 1962.<sup>165</sup> The terms casual employment and extra-employment are defined in greater detail by administrative regulation.<sup>166</sup>

Voluntary coverage is open to public authorities and private employees employing employees in other than covered employment.<sup>167</sup>

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Eligibility for benefits for disability during employment is acquired by service for wages in covered employment with one or more covered employers for at least four consecutive work weeks immediately preceding disability or termination of such employment or by service for wages in covered employment during the work period usual to and available during four consecutive weeks in any trade or business in which the individual is regularly employed and in which hiring from day to day is the usual employment practice.<sup>168</sup> Eligibility may also be acquired by regular employment with a single employer on a work schedule less than the employer's normal work week on the twenty-fifth day of such regular employment.<sup>169</sup>

Eligibility continues for the first four weeks after the termination of such employment, but such eligibility during the first four weeks of unemployment does not extend beyond the fifth day on which the employee performs work for remuneration or profit; except that if the employee either during such four weeks returns to covered employment or returns to the same employer after an agreed leave of absence or vacation without pay, he becomes eligible for benefits with respect to such employment without any qualifying work period.<sup>170</sup> Similarly an employee who returns to covered employment after a period of unemployment during which he was eligible or entitled to "disability benefits during unemployment" or "unemployment insurance benefits", becomes eligible without further qualifying work period.<sup>171</sup>

The rate of weekly benefit payments for statutory benefits is fifty per cent of the employees average weekly wage.<sup>172</sup> The maximum amount of weekly benefits is now fixed at \$65, having been fixed at \$55 between July 1, 1965 and June 30, 1968 and at \$50 between July 1, 1960 and June 30, 1965. The minimum amount is \$20, except that employees with average weekly wages of less than \$20 may only receive benefits in the amount of their average weekly wage.<sup>173</sup> Benefits for a disabled employee who is concurrently eligible for benefits in covered employment with more than one employer shall be entitled to benefits computed on the basis of his average wage in all such employments, prorated on the basis of the respective average weekly wage payments.<sup>174</sup>

Normally the computation of the average weekly wage is predicated upon the wages received from the last employer or from concurrent last employers for a period of eight weeks or a portion thereof immediately preceding the commencement of the disability.<sup>175</sup>

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If the employee claims that the average weekly wage predicated on an employment period of less than eight weeks with his last employer as his last concurrent employers does not fairly represent is normal average weekly wage, the proper amount may be obtained by taking into consideration all wages paid in covered employment by all employers during such eight-week period.<sup>176</sup> The chairman is empowered to prescribe reasonable deviations from the statutory method of computing average weekly wage for special classes of employees.<sup>177</sup>

The duration of statutory benefits is limited to a period of twenty-six weeks during a period of fifty-two consecutive calendar weeks or during any one period of disability.<sup>178</sup> The disability must not be caused by or arise in connection with a pregnancy, except any period of disability occurring after return to covered employment for a period of two consecutive weeks following termination of such pregnancy.<sup>179</sup>

Like the other jurisdictions, New York provides for a statutory waiting period of one week.<sup>180</sup> Successive periods of disability caused by the same or related injury or sickness are deemed to be a single period of disability if separated by an interval of less than three months.<sup>181</sup>

Statutory coverage or plan coverage may be financed by a combination of employees' and employers' contributions. In the case of statutory coverage the employees' contributions may not exceed .5 per cent of the employee's wages and not be greater than thirty cents a week.<sup>182</sup> The maximum earnings base for employees contributions thus is limited to \$3,120 per year. This is considerably less than the maximum effective annual wage for benefit purposes which is now \$5,720. The difference between the actual cost of statutory coverage and the amount contributed by the employee is borne by the employer<sup>183</sup> and will vary according to the method by which the employer provides the coverage, i.e. self-insurance, insurance with the state insurance fund, or insurance with a commercial carrier, organized as mutual, or stock corporation or as reciprocal insurer.<sup>184</sup> In the case of plan coverage employees contributions may exceed the statutory maximum for statutory coverage, provided that the employees have agreed to higher contributions and that the higher rate is reasonably related to the value of the benefits as determined by the chairman of the State Workmen's Compensation Board.<sup>185</sup> Actually, according to the data available for 1966,<sup>186</sup> contributions were deducted from 62.71 per cent of all

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employees subject to disability benefits coverage. 41.37 per cent made contributions for statutory coverage and 21.34 per cent for plan coverage. Of the 37.29 per cent of the covered employees who did not have to make contributions, 13.15 per cent were under statutory coverage and 24.14 per cent under plan coverage. Of the employees who were covered by self-insurance of their employers only 17.65 per cent had to contribute to their coverage, of whom 6.35 per cent of the total had statutory coverage.

Like California and New Jersey, New York permits substitution of plan coverage for statutory coverage. But New York differs radically in the extent in which plan coverage may deviate from statutory coverage. Continued existing or new plans "may be accepted by the chairman as satisfying the obligation to provide for the payment of benefits under [the Disability Benefits law] if such plan or agreement provides benefits at least as favorable as the disability benefits provided by this [act] and does not require contributions of any employee or of any class or classes of employees in excess of the statutory amount. . . except by agreement and provided the contribution is reasonably related to the value of the benefits as determined by the chairman".<sup>187</sup> Implementing these statutory standards for acceptability of plan coverage the Board has issued detailed regulations and rules construing the clause "at least as favorable" and determining the method of evaluating plan benefits, and the benefits to be considered in such evaluation.<sup>188</sup>

Regulation 41, as amended in 1965, predicates acceptability of voluntary plans on two set of conditions:

- (1) that the aggregate employee benefits, including cash benefits and other benefits directly related to disability are equivalent to or greater than the statutory benefits as determined by the evaluation methods prescribed by the Chairman,<sup>189</sup> and
- (2) that the cash disability benefits meet the minimum requirements set forth in the Regulation.<sup>190</sup>

The minimum requirements relate to

- (a) the weekly benefit rate
- (b) permissible waiting periods



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(c) duration of benefit payments

(d) aggregate value of cash disability payments

The acceptable minimum weekly cash benefit varies according to average weekly wage upon which it is based:

\$33, if the employee receives an average weekly wage of \$66 or more;

50 per cent of the average weekly wage, if it ranges from \$44 to \$65.99;

\$22, if the employee receives an average weekly wage between \$40 and \$43.99;

\$20, if the average weekly wage ranges from \$20 to \$39.99;

the average weekly wage, if such wage is less than \$20.

In other words the acceptable minimum weekly cash benefit cannot be less than the statutory benefit, unless the average weekly wage of the employee exceeds \$66. (\$3,432 per annum).<sup>191</sup>

The acceptable plan waiting period may not exceed the statutory waiting period.<sup>192</sup>

The duration of cash disability payments must be at least thirteen weeks for a period of fifty-two consecutive calendar weeks, except that in plans which provide for full wage continuation the period may be reduced to a length of eight weeks.<sup>193</sup>

The aggregate amount of all cash disability benefits of the employee<sup>194</sup> must be actuarially equivalent to at least sixty per cent of the statutory benefits.<sup>195</sup>

A plan, to satisfy the statutory duty of the employer, must comply with the statutory conditions of eligibility and post-employment coverage.<sup>196</sup>

The evaluation of weekly cash disability benefits and the evaluation of noncash disability benefits such as hospital, surgical or other medical benefits are governed by Rules 10 and 11. Factors determining the actuarial value of cash benefits are:

(a) maximum duration of benefits during a period of fifty-two consecutive weeks or a single period of disability; (b) the length

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of the required waiting period, if any; (c) the benefit rate.<sup>197</sup> Since the actuarial value of cash disability benefits must be at least sixty per cent of the actuarial value of the statutory benefits, the actuarial evaluation of these factors and various combinations thereof (in terms of the statutory benefits valued at 100) is the crux of the matter. Of course, the statistical basis for all actuarial evaluation is the morbidity experience as gathered from operative systems.

The actuarial evaluation of various combinations of different benefit periods, benefit ratios and waiting periods was worked out for the New York Disability Law in 1949 by a committee of actuaries on the basis of G. W. Fitzhugh, Recent Morbidity Upon Lives Insured Under Group Accident and Health Policies and Premiums Based Thereon, 38 Transactions of the Actuarial Society 354 (1937) and certain modifications required by more recent indications relative to the relationship between thirteen weeks and twenty-six weeks plans.<sup>198</sup> The evaluation was incorporated in a set of tables which were predicated on the statutory benefits as originally fixed by the New York act.

In 1959 the actuarial evaluations were revised in the light of the more recent published morbidity experience, especially M. D. Miller, Group Weekly Indemnity Continuation Study, 3 Transactions of the Society of Actuaries 31 (1951). The results were again distributed over a set of tables which had the same basic structure as the prior tables but reflected the extension of the statutory benefits which had occurred meanwhile.<sup>199</sup>

The current actuarial evaluations are contained in Tables For Evaluation of Plan Benefits Under the Disability Benefits Law, July 1, 1960, published by the New York Workmen's Compensation Board.<sup>200</sup> Of particular importance are Tables I and II. Table I allocates relative values to various combinations of benefit rates and benefit durations (50.0 per cent to 51.99 per cent for twenty-six to twenty-nine weeks being valued at one hundred since this is the combination of the statutory plan.) Table II allocates bonus credits to waiting periods of less than seven days differentiating between accident and sickness cases. The combination 7/7 of course is entitled to no credit, as this is the statutory system. Table III, finally, allocates bonus credits to extra cash disability payments for limited periods in order to evaluate plans with changing benefit levels.

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The description of the New York system of evaluating plan benefits is given only for the purpose of illustrating the feasibility of a system which evaluates the deviations from a standard scheme in a simple and administrable manner.

As stated before, New York maintains a distinct and separately financed program of benefits for persons suffering disability during unemployment.<sup>201</sup> Actually, the program covers two distinct classes of disabled unemployed: (a) unemployed individuals who are qualified to receive unemployment insurance benefits but become ineligible for benefits because the disability renders them no longer able and available,<sup>202</sup> and (b) unemployed individuals who are not eligible for unemployment insurance benefits because of lack of qualifying wages, but who deserve disability benefits in view of a sufficient accumulation of wage credits, by amount and duration, in covered employment, although the employment terminated more than four months prior to the onset of the disability.<sup>203</sup> Sufficient wage credits to entitle the second class of unemployed individuals to disability benefits are acquired by the receipt of wages of at least \$13 in each of twenty calendar weeks during the last thirty weeks in covered employment. For either class the onset of the disability must occur more than four weeks after termination of covered employment and within twenty-six weeks following such termination. In the case of unemployed individuals in current unemployment insurance benefits status, no additional waiting period needs to be served. In the case of unemployed individuals not qualified for unemployment insurance benefits, it is necessary that a waiting period of seven days has expired and that such waiting period falls within the requisite twenty-six-week period. If these conditions are met, the weekly benefit amounts for either class as well as the duration of benefits is determined in the same manner as in the case of disability benefits of the employed.<sup>204</sup> Benefits for unemployed individuals in current unemployment insurance benefits status are subject to the additional durational limitation that they are payable only for each week for which unemployment insurance benefits would have been received. The benefits for the disabled unemployed are paid from a Special Fund for Disability Benefits.<sup>205</sup> This fund was originally accumulated by matched employers' and employees' contributions.<sup>206</sup> It is now replenished, whenever it sinks below a statutory level, by assessments on the carriers insuring liability under the Disability Benefits Law. The basis of these assessments is the average payroll of the covered employees insured by the carrier during the preceding three years, limited to amounts per employee not exceeding \$3,000 per annum.<sup>207</sup>

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The New York act contains detailed rules against duplication of benefits. Anti-duplication provisions apply in the cases of receipt of benefits under a governmental or employer financed private program providing benefits in cases of overlapping permanent disability, of receipt of unemployment insurance benefits and of receipt of benefits for employment-connected disability.<sup>208</sup> Ineligibility for disability benefits likewise is imposed if the employee receives from his employer or from a fund to which the employer has contributed, remuneration or maintenance equal to or greater than the benefits available under the Disability Law.<sup>209</sup>

Since New York permits plan coverage which may, within the limits described above, curtail the potential duration of benefits and on the other hand increase the utilization rates by shortening the waiting periods, it is to be expected that plan coverage will result in a higher number of claims per one hundred employees covered, a shorter average duration of claims and, since plan coverage especially by self-insurers often provides for a higher weekly benefit amount than statutory coverage, higher average weekly benefits. A table showing the comparative experience under statutory and plan coverage for the years 1963-1966 demonstrates that these expectations are borne out by the facts.

The shorter average duration of claims reflects two operating factors. On the one hand, the reduction of the waiting period found especially in self-insured plans admits many claims for disability of short duration and thereby depresses the average. On the other hand, the average is also depressed by the fact that under plan coverage the maximum benefit duration is frequently reduced, thus resulting in an increase in exhaustion rates. Unfortunately, New York experience with respect to exhaustion of benefits is not available.

## Rhode Island

Rhode Island possesses the oldest, most liberal and therefore costliest temporary disability benefits law<sup>210</sup> among the four states that are the pioneers in this type of legislation. Rhode Island's law is highly integrated with its Employment Security Act<sup>211</sup> and administered by the Department of Employment Security.<sup>212</sup> It is monopolistic in character permitting only the statutory coverage which is financed and insured by means of employees' contributions paid into a special state fund, designated as Temporary Disability Insurance Reserve Fund.<sup>213</sup>

Table 3

Utilization Rates, Average Duration  
and Average Weekly Benefit  
Under Statutory and Plan Coverage in New York  
1963-1966

		Statutory Coverage	Plan Coverage
1963	Claims per 100 employees	6.53	22.59
	Average Duration	7.13 weeks	3.21 weeks
	Average Weekly Benefit	\$36.27	\$58.05
1964	Claims per 100 employees	6.25	22.23
	Average Duration	7.25 weeks	3.25 weeks
	Average Weekly Benefit	\$37.61	\$59.45
1965	Claims per 100 employees	6.28	21.25
	Average Duration	7.20 weeks	3.32 weeks
	Average Weekly Benefit	\$37.72	\$61.30
1966	Claims per 100 employees	6.15	20.72
	Average Duration	7.40 weeks	3.35 weeks
	Average Weekly Benefit	\$39.61	\$62.98

Source: Compiled from State of New York, Workmen's Compensation Board, Summaries of Board Activities for 1964-1967, Tables 15 or 16, respectively.

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Coverage under the Temporary Disability Insurance Act is nearly identical with that under the Employment Security Act.<sup>214</sup> It extends to all employees in covered employment with private employers, and to individual performing services in the employ of the state of Rhode Island and its instrumentalities, except elected officials, members of the faculties of state schools, colleges or universities and certain other specified classes of persons.<sup>215</sup> Cities, towns or instrumentalities thereof may elect to become subject to the act with respect to all or certain classes of employees, except specified categories, or employees of their highway departments or departments of public works.<sup>216</sup> Employees of instrumentalities of the United States are covered to the extent permitted by federal legislation.<sup>217</sup> Covered employment excludes agricultural labor,<sup>218</sup> domestic service in a private home,<sup>219</sup> family employment as defined in the Federal Unemployment Tax Act,<sup>220</sup> service in the employ of an organization organized exclusively for charitable, scientific, educational or assimilated purposes,<sup>221</sup> services for other nonprofit organizations, if the quarterly remuneration is less than \$50,<sup>222</sup> and service not in the course of an employer's (other than a corporate employer's) trade or business, if such service is occasional, incidental and irregular.<sup>223</sup> Services in the employ of hospitals is covered, even if it is operated by a nonprofit or governmental organization.<sup>224</sup> Employees depending for healing upon prayer or spiritual means are exempt.<sup>225</sup>

Eligibility depends on compliance with certain earnings requirements during the base year preceding the unemployment caused by sickness. The earnings requirements are stated in an alternative way: either earnings of \$20.00 for each of 20 weeks during the base period or earnings of \$1,200 within the base period regardless of the number of weeks of employment.<sup>226</sup> The base period is the 52 consecutive calendar weeks period ending with the second week immediately preceding the week containing the day as of which a claim for benefits is filed.<sup>227</sup>

The weekly benefit rate is 55 per cent of the average weekly wage.<sup>228</sup> The weekly benefit may not be less than \$12.00 nor exceed 50 per cent of the average weekly wage paid to individuals covered by the act during the preceding calendar year.<sup>229</sup> Rhode Island pays additional dependents' allowances of \$3.00 per week for each dependent, not exceeding an aggregate of \$12.00 per week.<sup>230</sup> The average weekly wage is computed on the basis of the total earnings from covered employment during the base period.<sup>231</sup>

## SURVEY OF LEGISLATION IN OTHER JURISDICTIONS

The maximum duration of benefit payments is fixed by an alternative limit. The maximum number of weeks during a benefit year is either equal to three fifths of the number of weeks in covered employment rounded off to the next highest interger or 26 weeks whichever is the lesser period.<sup>232</sup> Benefit year (except in cases where a benefit year is already in effect) are the 52 calendar weeks commencing with the week containing the day as of which a claim is filed.<sup>233</sup> Special durational limitations apply to sickness resulting from pregnancy.<sup>234</sup> Benefits for unemployment caused by pregnancy are available during six weeks prior to the date of the expected childbirth or beginning with the week in which actual childbirth takes place and may not extend for more than 14 weeks. The limitations do not apply to unusual complications arising as a result of childbirth.

If the benefit year terminates prior to the end of a week throughout which he is unemployed owing to sickness the employee may receive benefits for the whole week, provided his benefit credits are not exhausted.<sup>235</sup>

Rhode Island requires service of a 7-day waiting period which is dependent upon the filing of a claim for benefits.<sup>236</sup> Only one waiting period needs to be served during any one benefit year, regardless of the number of spells of illness.<sup>237</sup> If a second benefit year immediately follows a previous benefit year during the last week of which the employee received disability benefits no waiting period for such new benefit year is required.<sup>238</sup> In the case of pregnancy benefits no waiting period is required, if the employee has not served such period prior to the beginning of the 14 weeks' period.<sup>239</sup>

The rate of employees' contributions to the Temporary Disability Insurance Reserve Fund are fixed at one per cent of his wages, not exceeding \$4,800 in any calendar year.<sup>240</sup>

The Rhode Island act contains no provisions against duplication of benefits except that entitlement to unemployment compensation benefits disqualifies an employee from entitlement to disability benefits.<sup>241</sup>

Since Rhode Island requires no waiting period for second claims and does not segregate claims of disabled unemployed, it may be expected that the experience will show a high utilization rate. The average duration of claims should be the composite result of two opposing factors: the liberal limits for pregnancy

## TEMPORARY DISABILITY INSURANCE

claims and the inclusion of claims of the unemployed disabled should tend to increase the average duration; the absence of waiting period for second claims conversely should result in a decrease of the average duration. On balance the average duration is neither high nor low, especially because of the durational limitations based on requisite earnings and length of employment during the base period. The following table exhibiting the Rhode Island experience is in accord with this expectation.

### Commonwealth of Puerto Rico

The Commonwealth of Puerto Rico is the newest member of the club, having adopted a Disability Benefits Act in 1968.<sup>242</sup> The new statute is essentially an adaptation of the law of New Jersey, modified so as to intermesh to the fullest extent possible with the Employment Security Act of the Commonwealth.<sup>243</sup> Accordingly, the Puerto Rican statute regulates extensively state plan coverage,<sup>244</sup> but permits substitution of voluntary plan coverage under specified conditions, quite similar to those required in New Jersey.<sup>245</sup> The state plan is financed by contributions of the employees and employers to a specially created Disability Benefits Fund.<sup>246</sup> The Puerto Rican Act accords benefits for employees who suffer disability while unemployed or not in covered employment, provided that they acquired eligibility by reason of prior covered employment. In order to equalize the burden of such coverage, voluntary plans must assume a proportional share of the costs.<sup>247</sup>

The Puerto Rican provisions governing coverage for the purposes of the Disability Benefits Act are duplications of identical provisions in the Employment Security Act. Coverage is either compulsory<sup>248</sup> or elective.<sup>249</sup> The Puerto Rican Disability Benefits Act covers only employers who during any day within the current or preceding calendar year has or has had in employment four or more individuals though they did or do not work simultaneously.<sup>250</sup> The definition of covered employment and the exclusions therefrom are the more or less standard provisions of the American employment security acts. Thus, the Puerto Rican Disability Benefits Act exempts agricultural labor,<sup>251</sup> domestic service in a private home,<sup>252</sup> service outside the course of the employer's trade or business, except when the cash remuneration paid for such service is \$50 or more per quarter and such service is performed by an individual regularly employed by the employer for such service,<sup>253</sup> family employment,<sup>254</sup> service in the employ of an organization created exclusively for religious, charitable, scientific or educational



Table 4

RHODE ISLAND  
T.D.I. EXPERIENCE  
1963-1967

Year	Covered Jobs <sup>1</sup>	Taxable Payrolls <sup>2</sup> (in \$1,000)	Benefits Paid <sup>3</sup> (\$)	No. of Compensated Claims	Weeks Compensated <sup>4</sup>	Utilization Rate <sup>5</sup>	Cost as % of Payroll <sup>6</sup>	Average Duration (Weeks)	Average Weekly Benefit (\$)
1963	231,847	731,594	10,181,294	39,288	311,735	169.5	1.39	7.9	32.66
1964	235,652	820,958	10,393,547	38,279	309,443	162.4	1.27	8.1	33.58
1965	244,819	930,174	11,032,762	40,614	318,553	165.9	1.19	7.8	34.63
1966	255,668	1,005,600	12,128,435	43,931	341,532	171.8	1.21	7.8	35.51
1967	--	1,060,917	13,231,624	44,540	358,661	--	1.25	8.1	36.90

Source: Rhode Island, Department of Employment Security, Statistical and Fiscal Digests for Years 1964-1967, and Annual Report 1963.

<sup>1</sup>On the basis of employment security coverage.

<sup>2</sup>100 x net taxes received (1% contribution rate).

<sup>3</sup>On net basis.

<sup>4</sup>On gross basis.

<sup>5</sup>Number of compensated claims/1,000 covered jobs.

<sup>6</sup>Benefits/taxable payroll.

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purposes,<sup>255</sup> service performed as employee of a school, college or university by a student enrolled and regularly attending classes in such school, college or university<sup>256</sup> and service by an individual engaged in fishing, except fishing for salmon and halibut for commercial purposes.<sup>257</sup> Employment with public entities is exempt, but services with agencies and instrumentalities of the Commonwealth or municipalities which operate in private capacity are covered.<sup>258</sup> Employers who are not subject to compulsory coverage with respect to all or some of their employees may elect coverage.<sup>259</sup>

Eligibility for benefits requires that the employee has earned at least \$150 in covered employment during his base year.<sup>260</sup> Base year means the first four of the last five consecutive calendar quarters preceding his disability period.<sup>261</sup> If the employee does not qualify under this requirement but if he becomes disabled during an unexpired benefit year established under the Employment Security Act, his base year will be the applicable base year under that act. In that event, however, his disability benefits may not be paid for more than 12 weeks.<sup>262</sup>

The weekly benefit rate is determined on the basis of a statutory table.<sup>263</sup> The table consists of two parts, one covering earnings ranging from \$150 during the base year to \$3,200 during that period, the other covering base period earnings between \$3,200 and \$7,800. Earnings above \$7,800 are not reflected in benefits.

Between \$3,200 and \$7,800 the weekly benefits increase in steps of one dollar from \$32 to \$78. In other words the weekly benefit is 1 per cent of the base year earnings in even dollar amounts, if such earnings are \$3,200 or above. In the earnings brackets between \$150 and \$3,200, the weekly benefit is predicated upon the highest quarterly earnings during the base year, subject to additional requirements with respect to total base period earnings. The minimum weekly benefit (for highest quarter earnings of at least \$37.50 and total base period earnings of at least \$150) is \$7. The weekly benefit amounts increase in steps of one dollar. For highest quarterly earnings of \$312.01 and above, each increase of one dollar in weekly benefits corresponds to an increase of \$26 in highest quarter wages and of \$30 in total base period wages. The lower part of the table corresponds to the benefits table in the Employment Security Act.<sup>264</sup> For base period earnings between \$3,200 and \$7,800 the benefit rate is 52 per cent.

The maximum duration of benefits is fixed by two limits: the disabled employee is entitled to benefits for a period not

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exceeding either twenty-six weeks during any consecutive 52 calendar weeks period or, if shorter, the number of weeks corresponding to an aggregate benefit amount equal to one-half of the earnings in covered employment during the base period. In addition the maximum duration is fixed at 12 weeks, if a benefit year established under the Employment Security Act is utilized. Thus the maximum duration may vary between 10.7 and 26 weeks. Finally the duration of disability benefits and unemployment compensation benefits together during any consecutive 52 calendar weeks period may not exceed 26 weeks.

No special durational limitations exist for pregnancy cases since the act excludes disability due to pregnancy, except for disability occurring subsequent to the expiration of two consecutive weeks following resumption of covered employment.<sup>268</sup>

The new Puerto Rican legislation provides for a waiting period of three days for each spell of disability.<sup>269</sup> Different periods of disability occasioned by the same illness or accident or related thereto, however, are deemed to be a single period if separated by an interval of less than ninety days.<sup>270</sup> Moreover, if the employee is hospitalized on the order of a physician or health officer, the benefits are payable from the first day of such hospitalization.<sup>271</sup>

The program is financed by equal contributions of the employers and covered employees.<sup>272</sup> The contribution rate is fixed at one per cent of the wages in covered employment not exceeding \$7,800 per employee. The employee's contribution and the employer's contribution are of equal amount, i.e., .5 per cent each. Employers may assume responsibility for all or part of the employees' share.<sup>273</sup>

The Secretary of Labor may reduce the rate of contribution in equal proportions, if an actuarial study shows that the rates are actuarially redundant.<sup>274</sup>

The Puerto Rican law contains a series of provisions against duplication or pyramiding of benefits. An employee is ineligible for benefits for any period during which he receives unemployment compensation benefits.<sup>275</sup> Concurrent receipt of workmen's compensation benefits and temporary disability insurance benefits is permitted only to the extent that the compensation benefits are less than the disability benefits.<sup>276</sup> Moreover the aggregate of compensation benefits and supplementary temporary disability insurance benefits may not exceed one-half of the wages from covered employment during the base period.<sup>277</sup> This disqualification does

## TEMPORARY DISABILITY INSURANCE

not apply to compensation payments for permanent partial disability incurred prior to the nonwork connected temporary total disability.<sup>278</sup>

Temporary disability insurance benefits are likewise not payable if the employee is entitled to benefits for permanent total disability under the Social Security Act of the United States, to maintenance and cure under admiralty law, to indemnification under the Federal Employees' Liability Act, to benefits under the Puerto Rican Social Security Act, to benefits under the Puerto Rican Social Security Act for Chauffeurs, or to disability benefits under any other applicable statute.<sup>279</sup>

It has already been mentioned that consecutive receipt of unemployment compensation benefits and temporary disability insurance benefits may not exceed 26 weeks in any consecutive 52 weeks' period.<sup>280</sup>

Special rules apply where wage continuation programs are present. If the employer continues to pay full wages during a period of disability, the employer may be substituted for the employee with respect to the payment of disability benefits.<sup>281</sup> If the employee receives payments less than full wages from the employer or from a fund to which the employer has contributed, the employee may receive disability benefits only to the extent that the sum of such payments do not exceed his regular weekly wage immediately prior to the disability.<sup>282</sup>

As has been mentioned at the beginning of the discussion of the Puerto Rican Act, substitution of voluntary plan coverage for state plan coverage is permitted under specified conditions which are similar to, though slightly more exacting than, those required under the New Jersey Law. Approval of voluntary plans requires that the plan:

1. Accords benefits which are in every respect more favorable to the employees than those provided by state plan coverage;
2. Covers all employees of the employer, or a reasonably selected class of them;
3. Does not require higher employee contributions than the state plan, except to the extent that the contributions are commensurate with greater benefits;

## SURVEY OF LEGISLATION IN OTHER JURISDICTIONS

4. Is insured with a licensed carrier or properly self-insured;
5. Is accepted by a majority of the employees, if they are required to contribute to the costs;
6. Provides benefits for former employees during periods of disability, during periods of unemployment, or during service in noncovered employment, within limits fixed by the Secretary of Labor;
7. Provides for payment of a proportional share, as determined by the Secretary of Labor, of the costs borne by the Disability Benefits Fund for the payment of benefits to individuals who suffer disability while unemployed or employed in noncovered employment;
8. Observes all conditions or makes all payments to the Disability Benefits Fund, determined by the Secretary of Labor as necessary to prevent an actuarial disadvantage resulting from the establishment of a private plan;
9. Complies with any other requirement deemed to be desirable by the Secretary of Labor to protect the integrity of the disability benefits program and the solvency of the Fund;
10. Pays for a proportionate share of the administrative expenses of the Fund in connection with the private plans.<sup>283</sup>

In addition, an employer or insurance carrier must supply all necessary periodic reports required by the Secretary of Labor and must furnish the employees with information on their eligibility in the form prescribed by regulation of the Secretary.

The utilization of private plan coverage will depend to a large extent on the stringency of the forthcoming regulations. The powers of the Secretary of Labor in this respect are, indeed, formidable.

## **Chapter II**

### **EXPERIENCE IN CALIFORNIA, NEW JERSEY, NEW YORK AND RHODE ISLAND: CASE LOADS AND NET COSTS**

#### **Explanation of the Terms and Quantities Measuring Experience**

Experience with temporary disability insurance as reflected in case loads and costs is the result of a number of widely differing factors. These factors can be classified as legal and nonlegal in character.

**A. Legal factors affecting case loads and costs are:**

- (1) waiting periods,
- (2) limitations on maximum duration,
- (3) inclusion or exclusion of normal pregnancies,
- (4) benefit formulae (relating to the rate of benefit payments as well as floors and ceilings),
- (5) eligibility, and
- (6) occupational scope of coverage.

**B. Nonlegal factors are:**

- (1) age,
- (2) sex,
- (3) ethnic background,
- (4) climatic conditions,
- (5) wage bracket, and
- (6) employment status (employed - unemployed).

Studies have shown that the combined effects of these nonlegal factors are quite marked.<sup>1</sup> It is, however, difficult to allocate definite actuarial values to them individually although some of the factors can be reduced to statistical expectancies.

In the following analysis only the statewide composite experiences are used, without further attempts to isolate experiences of subgroups, with the exceptions of the pregnancy issue and, where possible, the differentiation between the employed and the unemployed.

## EXPERIENCE

In order to place the experiences of the different state systems on common denominators, certain significant quantities and ratios have been used which permit meaningful comparison. They are the following concepts:

(a) Cost as percentage of the taxable payroll

In view of the facts that benefits are predicated upon past earnings and that the systems are financed in most cases by contributions based on the earnings of the covered workers, the expenses may be expressed in terms of cost per \$100 of the taxable payroll. Since the number of covered workers, as well as their wage scales, are subject to changes, comparisons of the actual aggregate costs in different years or different states would not furnish meaningful data, whereas costs per \$100 of taxable payroll provide comparable figures as they filter out much of the effects of inflationary trends or changes in the size of the labor force.

(b) Number of compensated claims per 1,000 covered workers

The costs of a system consist of the total amounts paid on all claims; or, expressed differently, the costs are equal to the number of claims multiplied by the average amount paid per claim.

The number of compensated claims per 1,000 covered workers expresses the rate of utilization. This rate provides a useful quantity for purposes of comparison since it gives an idea both of the magnitude of the need for protection and the scope of protection afforded by different systems.

Obviously, writing periods decrease utilization rates and increase the average duration of compensable sickness since they filter out brief illnesses which terminate prior to the termination of the waiting period.

(c) The average duration of and the average amount paid per claim are likewise significant figures as they permit meaningful comparisons of the effect which statutory limitations on the types of disabilities covered exert upon the scope of the protection and the costs of the system.

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- (d) One of the most important concepts in the field of disability insurance is that of the discontinuation expectancy. Since diseases are of various length, the statistical expectancy that an illness will continue beyond a certain date is of great statistical importance and measures again both the need for, and costs of, protection. Generally speaking, most sicknesses are of short duration, but certain diseases may stretch over many weeks. It is important to estimate quantitatively what portion of the labor force will not be adequately protected if coverage ceases before illnesses have terminated.

### The California Experience

As discussed in chapter I, California segregates the benefit experience of persons suffering disability while working in covered employment ("regular liability") from the experience of eligibles who suffer disability while technically unemployed or working in noncovered employment ("unemployed disabled benefits"). Benefits are of two types: wage loss benefits ("basic" benefits) and hospital benefits. Coverage may be under the state plan or under voluntary plans.

The experience analyzed is the state plan experience with basic benefits both for regular liability and for the disabled unemployed. The experience under voluntary plans (whether with basic benefits or hospital benefits) and under the state plan with hospital benefits is not analyzed in detail because this report does not relate to hospital benefits and does not contemplate an approach to voluntary plans comparable to that in California.

It should be remembered, however, that voluntary plan coverage in California is insignificant as compared with state plan coverage. The table included in the discussion of California law (Table 1) shows that voluntary plan coverage in 1967 extended only to 7.9 per cent of the covered labor force, 6.5 per cent being in the form of self-insurance and 1.4 per cent in the form of insurance with private carriers.

Some comments on the experience with hospital benefits in California, however, are necessary because they permit important inferences on the significance of the experience data relating to basic benefits.



## EXPERIENCE

The Reports of the Actuaries on the California Unemployment Compensation Disability Fund indicate that the utilization rates of hospital benefits are very substantial and that the number of recipients of hospital benefits equals to a large proportion the number of recipients of basic benefits. Table 5 shows the number of compensated claims for basic benefits and for hospital benefits in the years 1963-1967, both for "regular liability" and for "unemployed disabled", and expresses the ratio of the numbers of both types of claims. Undoubtedly, the vast majority of recipients draw hospital benefits and basic benefits concurrently, but there is no complete overlap, as might be thought, since persons eligible for hospital benefits are freed from the waiting period requirement otherwise applicable to basic benefits. Studies of the California Department of Employment show that 11 per cent of the claims for hospital benefits terminating in 1966 did not involve concurrent receipt of basic benefits and that 95 per cent of these hospital benefits only cases consisted of recipients who received wages from their employers.<sup>2</sup>

The fact that persons eligible for hospital benefits need not serve the one-week waiting period for basic benefits has important effects on utilization rates, average duration and the total costs of basic benefits. These effects must be kept in mind in comparing the California data with experience from other states. The dispensation with the waiting period requirement in the case of illnesses requiring hospitalization may not only extend the period during which basic benefits are paid (and thus increase the average duration) but conversely entail the inclusion of short-term illnesses that otherwise would be filtered out by the waiting period requirement and thus increase the number of compensated claims and decrease the average duration. It is difficult to express the net result in exact quantities.

Dr. Sinai, Dr. Thomas and Mr. Wheeler studied the waiting periods served and the duration of hospitalization for a sample of 4,752 recipients under state plan coverage during 1961.<sup>3</sup> Their findings (which are summarized in Tables 6 and 7) show that a large proportion (63.4 per cent) served no waiting period whatsoever and that only 11.8 per cent served the full seven days. In 2,896 of the 4,752 studied state plan cases (60.9 per cent), hospitalization terminated on or before the seventh day. It must not be concluded, however, that this 60.9 per cent is the percentage of illnesses of a duration of less than seven days that are included in the California experience owing to the dispensation with a waiting period for cases requiring hospitalization. Actually, the percentage of such short-term illness must be substantially less than that figure for the reasons that (a) disability may exist even after discharge from the hospital, and

Table 5

BASIC AND HOSPITAL BENEFITS CLAIMS IN CALIFORNIA<sup>1</sup>  
1963-1967

Year	Regular Liability Claims			Unemployed Disabled Claims		
	Basic Benefits	Hospital Benefits	Hospital Benefit Claims as % of Basic Benefit Claims	Basic Benefits	Hospital Benefits	Hospital Benefit Claims as % of Basic Benefit Claims
1963	366,900	268,600	73.2	51,300	32,100	62.6
1964	382,000	278,100	72.8	54,400	33,800	62.1
1965	388,200	276,900	71.3	54,500	33,300	61.1
1966	415,600	282,700	68.0	50,000	31,000	62.0
1967	427,200	286,400	67.0	55,900	34,000	60.8

Source: California, Department of Employment, California Unemployment Compensation Disability Fund, Report of the Actuaries, 1967, Tables 9, 10, 11 and 12.

<sup>1</sup>Claims = compensated claims. Derived by dividing total weeks compensated by the average duration per claim.

Table 6

## NUMBER OF HOSPITALIZATIONS BY WAITING PERIODS AND COVERAGE

Waiting Period (Days)	All Cases		State Plan				Voluntary Plans			
			Employed		Unemployed		Self-Insured		Carrier-Insured	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total	6,035	100	4,210	100	542	100	119	100	1,164	100
0	4,072	67.5	2,688	63.8	323	59.6	96	80.7	965	82.9
1	538	8.9	410	12.8	59	10.9	8	6.7	61	5.2
2	291	4.8	247	5.9	18	3.3	2	1.7	24	2.1
3	218	3.6	161	3.8	24	4.4	5	4.2	28	2.4
4	133	2.2	97	2.3	19	3.5	1	.8	16	1.4
5	97	1.6	74	1.7	12	2.2	1	.8	10	.9
6	62	1.0	50	1.2	7	1.3	--	--	5	*
7	624	10.3	483	11.5	80	14.8	6	5.0	55	4.4

Source: Sinai, Thomas, and Wheeler, Disability Insurance in California, Bureau of Public Health Economics, Research Series No. 11, University of Michigan, Table 34, p. 146.

\*Less than .5 per cent.

Table 7

## NUMBER OF HOSPITALIZATIONS, BY COVERAGE AND DAYS OF HOSPITAL, DISABILITY BENEFITS

Hospital Benefit Days	All Cases			S t a t e P l a n						V o l u n t a r y P l a n s					
				Employed			Unemployed			Self-Insured			Carrier-Insured		
	Number	Percent		Number	Percent		Number	Percent		Number	Percent		Number	Percent	
Totals	6,035	100	100	4,210	100	100	542	100	100	119	100	100	1,164	100	100
1 day	369	6.1		237	5.6		32	5.9		12	10.1		88	7.6	
2	744	12.3		515	12.2		25	4.6		17	14.3		187	16.1	
3	655	10.9		448	10.6		42	7.8		15	12.6		150	12.9	
4	598	9.9		426	10.1		50	9.2		11	9.2		111	9.5	
5	548	9.1		388	9.2		38	7.0		10	8.4		112	9.6	
	2,914		48.3	2,014		47.8	187		34.5	65		54.6	648		55.7
6	458	7.6		337	8.0		32	5.9		13	10.9		76	6.5	
7	413	6.8		285	6.8		41	7.6		6	5.0		81	7.0	
8	337	5.6		243	5.8		29	5.3		9	7.6		56	4.8	
9	250	4.1		186	4.4		18	3.3		2	1.7		44	3.8	
10	209	3.5		150	3.6		20	3.7		4	3.4		35	3.0	
	1,667		27.6	1,201		28.5	140		25.8	34		28.6	292		25.1
11	151	2.5		107	2.5		15	2.8		--			29	2.5	
12	146	2.4		106	2.5		10	1.8		4	3.4		26	2.2	
13	115	1.9		82	2.0		14	2.6		1	.8		18	1.5	
14	85	1.4		61	1.4		8	1.5		2	1.7		14	1.2	
15	93	1.5		66	1.6		14	2.6		2	1.7		11	1.0	
	590		9.7	422		10.0	61		11.3	9		7.6	98		8.4
16	77	1.3		57	1.3		9	1.7		--			11	1.0	
17	64	1.0		45	1.1		8	1.5		--			11	1.0	
18	54	.9		40	.9		5	.9		--			9	.8	
19	47	.8		32	.8		9	1.7		--			6	.5	
20	584	9.7		399	9.5		123	22.7		5	4.2		57	4.9	
	826		13.7	573		13.6	154		28.4	5		4.2	94		8.1
over 20	38	.6		--			--			6	5.0		32	2.7	
	38		.6	--			--			6		5.0	32		2.7

Source: Sinai, Thomas, and Wheeler, Disability Insurance in California, Bureau of Public Health Economics, Research Series No. 11, University of Michigan, Table 35, p. 148.

## EXPERIENCE

(b) the continuation table for days of hospitalization may include a significant number of cases in which hospitalization commenced only at the end of the waiting period. Nevertheless, it must be concluded that the California figures for the number of recipients of basic benefits under the state plan (and the utilization rates based thereon) include a substantial percentage of claims for disabilities of less than one week's duration. In 1953 the California Department of Employment (Division of Research and Statistics) estimated that basic benefit payments to hospitalized disabled during the first 7 days of disability requiring hospitalization amounted to 5.1 per cent of the total load.<sup>4</sup>

In assessing the California experience data it is also necessary to realize that the effect of wage continuation policies of the employer not only reduces the potential number of hospitalized recipients of basic benefits but extends also to the non-hospitalized disabled eligible for basic benefits. It does not seem reasonable, however, to extend the 11 per cent figure which applies to recipients of "hospital benefits only" to non-hospitalized disabled.<sup>5</sup> This latter class of claimants is subject to a one-week waiting period, and it is not known to what extent wage continuation policies are available to such potential beneficiaries.

At any rate, in evaluating the California experience data relating to basic benefits, it must be kept in mind that they reflect factors operating in opposite directions: they include disabilities of less than one week duration (tending to inflate the utilization rates and total costs) and they exclude potential claimants benefited by wage continuation plans (tending to depress the utilization rates and total costs). It would seem, however, that the impact of the coverage of brief disabilities requiring hospitalization substantially outweighs the effect of the opposing factors.

With these cautionary observations in mind, we proceed to a discussion of the California experience with basic benefits under state plan coverage shown in Tables 8 (employed disabled) and 9 (unemployed disabled).

Table 8 shows that during the years 1963-1967 the utilization rates for basic benefits under state plan coverage have been fairly constant, fluctuating between 87.7 and 89.7 workers per 1,000 covered jobs. Similarly, the average duration of basic benefit claims has remained equally constant, fluctuating between 7.1 and 7.4 weeks. The slight decrease in 1966 and 1967 reflects the effect of the additional durational limitation (50 per cent of base year earnings), introduced in 1965.<sup>6</sup> The most significant changes during the period analyzed relate to costs as percentage of the payroll. While this

Table 8

## CALIFORNIA

STATE PLAN EXPERIENCE: REGULAR LIABILITY (EMPLOYED DISABLED)  
(BASIC BENEFITS)  
1963-1967

Year	Covered Jobs (000)	Taxable Payrolls (in \$1,000,000)	Benefits Paid (in \$1,000)	No. of Compensated Claims <sup>1</sup>	Weeks Compensated	Utilization Rate <sup>2</sup>	Cost as % of Payroll <sup>3</sup>	Average Duration (Weeks)	Average Weekly Benefit (\$)
1963	4,134.2	16,537	135,593	366,900	2,642,000	88.7	.82	7.2	51.33
1964	4,259.3	18,349	148,696	382,000	2,827,000	89.7	.81	7.4	52.59
1965	4,423.5	23,021	154,836	388,200	2,873,000	87.7	.67	7.4	53.90
1966	4,660.2	24,633	162,093	415,600	2,951,000	89.0	.66	7.1	54.94
1967	4,764.9	25,564	172,700	427,200	3,076,000	89.6	.68	7.2	56.15

Source: California, Department of Employment, California Unemployment Compensation Disability Fund,  
Report of the Actuaries, 1967, Tables 2, 5 and 9.

<sup>1</sup>Weeks compensated/average duration.

<sup>2</sup>Number of compensated claims/1,000 covered jobs.

<sup>3</sup>Benefits paid/taxable payrolls.

Table 9

CALIFORNIA  
EXPERIENCE FOR UNEMPLOYED DISABLED: BASIC BENEFITS  
1963-1967

Year	No. of Unemployed (Estimated <sup>1</sup> )	No. of Eligibles <sup>2</sup>	Benefits Paid (\$)	No. of Compensated Claims <sup>3</sup>	Weeks Compensated	"True" Utilization Rate <sup>4</sup>	Utilization Rate Per No. of Unemployed <sup>5</sup>	Average Duration (Weeks)	Average Weekly Benefit (\$)
1963	267,132	337,200	26,869,000	51,300	564,000	152.1	192.04	11.0	47.65
1964	275,058	345,200	30,073,000	54,400	609,000	157.5	197.78	11.2	49.40
1965	280,238	354,800	31,760,000	54,500	621,000	153.6	194.48	11.4	51.13
1966	247,220	311,900	28,287,000	50,000	525,000	160.3	202.25	10.5	53.84
1967	258,635	334,700	31,288,000	55,900	565,000	166.9	216.13	10.1	55.39

Source: California, Department of Employment, California Unemployment Compensation Disability Fund, Report of the Actuaries, 1967, Tables 1, 2 and 11.

<sup>1</sup> Estimated as no. of jobs covered x rate of unemployment, as reported in California, Department of Employment, California Unemployment Compensation Disability Fund, Report of the Actuaries, 1967, Tables 1 and 2.

1963 - 4,452.2 x 6.0

1966 - 5,045.3 x 4.9

1964 - 4,584.3 x 6.0

1967 - 5,172.7 x 5.0

1965 - 4,749.8 x 5.9

<sup>2</sup> Eligibles: persons not in covered employment eligible for disability benefits.

<sup>3</sup> Derived by dividing number of weeks compensated by average duration per claim.

<sup>4</sup> Number of compensated claims/1,000 eligibles.

<sup>5</sup> Number of compensated claims/1,000 unemployed.

## TEMPORARY DISABILITY INSURANCE

percentage was .82 and .81 per cent for 1963 and 1964, the figure decreased to .67, .66 and .68 per cent for 1965, 1966 and 1967. This decrease is the result of the increase in the statutory maximum of the taxable wage base from \$4,600 for 1963 and \$5,100 for 1964 to \$5,600 for the first part of 1965 and to \$7,400 for the period thereafter.<sup>7</sup> The benefit ceilings during that period increased from \$70 to \$86.<sup>8</sup> The figures show the importance of a proper balance<sup>9</sup> between maximum benefits and maximum taxable wages.

Table 9 contains comparable data relating to the basic benefits experience of the disabled unemployed. That table shows that utilization rates and average duration of compensable illness is much higher for the unemployed than the employed. The concept of utilization rate as applied to the unemployed disabled requires some comments. The most accurate expression of utilization rates is number of compensated claims per 1,000 eligibles. This would be a "true" utilization rate. Unfortunately, the states other than California do not report on that basis. Hence, it was thought to be desirable to express the utilization rates of employed disabled as number of compensated claims per 1,000 covered jobs.<sup>10</sup> Parallel with that figure, the utilization rates for unemployed disabled are computed as number of compensated claims per number of unemployed allocable to 1,000 covered jobs. It must be understood that this figure introduces two substantial distortions: it excludes persons in non-covered employment who may also be eligible for basic benefits and it includes unemployed who are not eligible. The magnitude of the error thus introduced can be seen from a comparison of the two columns comparing "true" utilization rates (based on the number of eligibles) and estimated utilization rates (based on the number of unemployed allocable to covered jobs).

It is, however, clear, that regardless of the method of computation, the utilization rates in regard to basic benefits is far higher for the disabled unemployed than for the disabled employed (regular liability) under the state plan. Equally marked is the greater average duration of claims for basic benefits of the unemployed disabled than of the employed disabled.<sup>11</sup> Hence, it must be concluded that coverage of persons who are not active members of the labor force when suffering disability increases the average cost per covered person substantially.

The phenomenon of the proportionately greater cost of disability coverage for the unemployed than for the employed has long been known to observers of the experience data.<sup>12</sup> The proportionate increase in costs owing to higher utilization and longer duration is not offset by the slightly lower average weekly benefit amounts.



## EXPERIENCE

The explanation of this phenomenon rests on the various factors which determine disability costs in general: general health, age, sex and motivation of the eligibles are all elements which are closely linked to the general economic status of the recipient. Whatever its causes, this disparity in costs must be taken into account in devising an adequately financed system.

### **The New Jersey Experience**

As stated in the section analyzing the statutory provisions, New Jersey, like California, segregates the benefit experience of persons who suffer disability while employed with a covered employer or while being separated from such employment for less than two weeks from that of persons who suffer disability while otherwise entitled to unemployment insurance benefits and receive benefits under the Unemployment Compensation Act. Both benefits under the Temporary Disability Benefits Law and under the Unemployment Compensation Law are wage replacement benefits; New Jersey does not accord hospital benefits. Until 1967 the benefits were computed on the basis of a weighted table; beginning with January 1, 1968, a uniform wage displacement rate of 66.67 per cent applies, subject to a ceiling fixed at 50 per cent of the statewide average weekly wage.

Essential characteristics of the New Jersey experience are:

- (a) A generally applicable waiting period of seven consecutive days (subject to retroactive elimination after the fourth week of compensable sickness after January 1, 1968);
- (b) Inclusion of normal pregnancy cases causing disability for a period of four weeks preceding the expected birth and of four weeks following the termination of pregnancy;
- (c) Anti-duplication provisions, including a limitation that restricts benefit amounts paid in addition to wages paid under wage continuation plans to a sum which, together with the remuneration received from the employer, does not exceed the predisability wages;
- (d) Recognition of private plans providing for at least equal benefits, subject to the condition that the plans may not exclude classes of employees determined by the age, sex, race, or wage level of such employees, if such

## TEMPORARY DISABILITY INSURANCE

exclusion results in a substantial adverse risk selection to the detriment of the state plan.<sup>13</sup>

Table 10 shows the New Jersey experience under state plan coverage of employed disabled for the years 1963-1967. As indicated in Table 2, appended to the discussion of New Jersey law in the preceding section, state plan coverage was chosen in 1967 by 84.2 per cent of all covered employers and extended to 52.9 per cent of all covered workers and to 51.3 per cent of all covered payrolls. In other words, private plans are established primarily by large employers. The extent to which a risk selection adverse to the state plan results from this situation or other factors connected with firm size cannot be assessed with precision. Nevertheless, in view of the anti-adverse selection rules, it may be assumed that the magnitude of the effects of adverse risk selection factors will not be very pronounced.

Table 10 indicates that the utilization rate in New Jersey is substantially lower than that prevailing in California and, conversely, that the average duration is substantially longer in New Jersey than in California. While several factors might contribute to this apparent discrepancy, the main explanation rests on the factor that in California, disabilities requiring hospitalization are not subject to a waiting period and that therefore a substantial proportion of sickness of less than a week are covered, while in New Jersey sicknesses of less than a week's duration are excluded, resulting statistically in a lower utilization rate and a greater average duration.

Table 11 indicates the experience for disabled unemployed, which is segregated in New Jersey as it is in California. The data in Table 11 show that the utilization rates of the unemployed are considerably higher than the utilization rates of the employed and are comparable in magnitude to those found in California. On the other hand, the average duration of sickness of the unemployed does not vary substantially from that of the employed, differing in that respect from the experience in California.

For a correct appraisal of the New Jersey data, however, it must be remembered that the New Jersey experience includes disability resulting from normal pregnancy cases for a maximum period of eight weeks. Because of the experience rating provisions applicable to employers' contributions to the state plan, it has become the practice in New Jersey to separate pregnant women from their employment at least six weeks prior to the expected childbirth, with the result that liability for pregnancy disability benefits shows up in the experience of the unemployed rather than that of the employed.<sup>14</sup>

Table 10

NEW JERSEY  
STATE PLAN EXPERIENCE  
(EMPLOYED DISABLED)<sup>1</sup>  
1963-1967

Year	Covered Jobs <sup>2</sup>	Taxable Payrolls (in \$1,000)	Benefits Paid (\$)	No. of Compensated Claims	Weeks Compensated	Utilization Rate <sup>3</sup>	Cost as % of Payroll <sup>4</sup>	Average Duration (Weeks)	Average Weekly Benefit (\$)
1963	780,290	2,272,915	17,305,152	58,465	461,388	74.9	.76	7.9	37.51
1964	821,720	2,418,444	18,704,720	59,077	491,270	71.9	.77	8.3	38.07
1965	896,682	2,657,512	20,780,005	66,193	533,283	73.8	.78	8.1	38.97
1966	951,202	2,837,572	22,481,190	69,605	567,341	73.2	.79	8.2	39.63
1967	989,856	3,059,000	24,569,330	72,194	608,715	72.9	.80	8.4	40.36

Source: New Jersey, Division of Employment Security, Annual Report 1967, Tables 33, 34 and 35.

<sup>1</sup>Includes a portion of total pregnancy claims.

<sup>2</sup>New Jersey, Division of Employment Security, Annual Reports, 1963-1967, Table 34 (1963-65), Table 35 (1966, 1967).

<sup>3</sup>Number of compensated claims/1,000 covered jobs.

<sup>4</sup>Benefits paid/taxable payroll.

Table 11

NEW JERSEY  
EXPERIENCE 1963-1967  
DISABLED UNEMPLOYED

Year	No. of Unemployed (Estimated <sup>1</sup> )	Benefits Paid (\$)	No. of Compensated Claims	Weeks Compensated	Utilization Rate <sup>2</sup>	Average Duration (Weeks)	Average Weekly Benefit (\$)
1963	107,096	5,534,282	18,433	148,085	172.1	8.0	37.37
1964	101,792	5,695,046	18,869	150,611	185.4	8.0	37.81
1965	88,782	5,545,841	17,840	145,794	200.9	8.2	38.04
1966	80,215	5,447,897	17,095	139,611	213.1	8.2	39.02
1967	84,222	5,882,500	18,176	149,095	215.8	8.2	39.45

Source: New Jersey, Division of Employment Security, Annual Report 1967, Table 34.

<sup>1</sup>The estimate is based on the product of jobs covered x rate of unemployment as reported in New Jersey, Annual Reports of Division of Employment Security.

1963 - 1,647,635 x 6.5

1964 - 1,668,716 x 6.1

1965 - 1,740,826 x 5.1

1966 - 1,823,061 x 4.4

1967 - 1,871,606 x 4.5

<sup>2</sup>Number of compensated claims/1,000 unemployed.

## EXPERIENCE

Table 12 contains the experience with respect to pregnancy benefits and the distribution of such benefits between the state plan and the program for disabled unemployed. The table shows that in 1967, only 25.2 per cent of the total number of cases covered by the state plan and the unemployed disabled program appear in the experience of the former while the balance is borne by the latter. Moreover, the average duration of the disability due to pregnancy of the unemployed is consistently greater than that of the employed.

Since the employment practices relating to pregnant women thus results in an "excess load" of pregnancy cases in the experience of the program for the unemployed disabled, an attempt has been made to eliminate the pregnancy cases from the tables showing the experience of the state plan and of the program for the unemployed disabled (Tables 13 and 14) and then to redistribute the pregnancy cases to the respective plans on the assumption that but for the firing practices of the employers, the ratio of the number of pregnancy cases borne by the state plan and of such cases borne by the unemployed disabled program would be the same as for the nonpregnancy cases: this ratio can be computed from the number of recipients shown in Tables 13 and 14.

Table 13, which presents state plan experience after elimination of the pregnancy experience, shows that the removal of that component results in a slight reduction of the utilization rates, a slight increase in the average duration of the covered disability and a moderate decrease in the cost per payroll ratio, results that are to be expected from such adjustment.

In trying to reallocate the excess load of the pregnancy cases to the proper coverage types, i.e., state plan, private plans and unemployed disabled program a threshold difficulty arises from the fact that the experience of the private plans in New Jersey is not known; the only explored fact is the number of jobs covered separately by the state plan and by the private plans.

One method of reallocation of the pregnancy cases, therefore, is based on the assumption that both private plans and the state plan contribute to the excess load of the unemployed disabled program and that the relative size of their contributions is proportional to the number of jobs covered by each. A further assumption is made that the number of pregnancy cases which are actually compensated by the private plans equals the number of such cases that are compensated by the state plan multiplied by a factor which equals the ratio between private plan coverage and state plan coverage.

Table 12

NEW JERSEY  
PREGNANCY RECIPIENTS  
1963-1967

Year	State Plan					Benefits for Disabled Unemployed				
	No. of Compensated Claims	Weeks Compensated	Benefits Paid (\$)	Average Duration (Weeks)	Average Weekly Benefit (\$)	No. of Compensated Claims	Weeks Compensated	Benefits Paid (\$)	Average Duration (Weeks)	Average Weekly Benefit (\$)
1963	3,070	20,047	664,108	6.53	33.13	10,893	77,811	2,823,403	7.14	36.29
1964	3,262	21,680	726,201	6.65	33.50	11,346	80,756	2,955,656	7.12	36.60
1965	3,413	22,608	773,780	6.62	34.23	11,045	81,968	3,004,219	7.42	36.65
1966	3,713	24,279	849,489	6.54	34.99	11,125	82,587	3,119,760	7.42	37.78
1967	3,890	25,726	922,599	6.61	35.86	11,514	86,407	3,338,273	7.50	38.63

Source: New Jersey, Division of Employment Security, Annual Report 1967, Table 37.

Table 13

## NEW JERSEY

STATE PLAN EXPERIENCE WITH PREGNANCY COVERAGE ELIMINATED  
1963-1967

Year	Covered Jobs	Taxable Payrolls (in \$1,000)	Benefits Paid (\$)	No. of Compensated Claims	Weeks Compensated	Utilization Rate <sup>1</sup>	Cost as % of Payroll <sup>2</sup>	Average Duration (Weeks)	Average Weekly Benefit (\$)
1963	780,290	2,272,915	16,641,044	55,395	441,341	70.99	.732	7.97	37.71
1964	821,720	2,418,444	17,978,519	55,815	469,590	67.92	.743	8.41	38.29
1965	896,682	2,657,512	20,006,225	62,780	510,675	70.01	.753	8.13	39.18
1966	951,202	2,837,572	21,631,701	65,892	543,062	69.27	.762	8.24	39.83
1967	989,856	3,059,000	23,646,731	68,304	582,989	69.00	.773	8.54	40.56

Source: Adjusted from New Jersey, Division of Employment Security, Annual Report 1967,  
Tables 34 and 37.

<sup>1</sup>Number of compensated claims/1,000 covered jobs.

<sup>2</sup>Benefits paid/taxable payroll.

Table 14

## NEW JERSEY

DISABLED UNEMPLOYED EXPERIENCE WITH PREGNANCY COVERAGE ELIMINATED  
1963-1967

Year	No. of Unemployed (Estimated) <sup>1</sup>	Benefits Paid (\$)	No. of Compensated Claims	Weeks Compensated	Utilization Rate <sup>2</sup>	Average Duration (Weeks)	Average Weekly Benefit (\$)
1963	107,096	2,710,879	7,540	70,274	70.4	9.32	38.58
1964	101,792	2,739,390	7,523	69,855	73.9	9.29	39.22
1965	88,782	2,541,622	6,795	63,826	76.5	9.39	39.82
1966	80,215	2,328,137	5,970	57,024	74.4	9.55	40.83
1967	84,222	2,544,227	6,662	62,688	79.1	9.41	40.59

Source: Adjusted from New Jersey, Division of Employment Security, Annual Report  
1967, Tables 34 and 37.

<sup>1</sup> See footnote 1, Table 11 for the method of estimating the number of unemployed.

<sup>2</sup> Number of compensated claims/1,000 unemployed.



## EXPERIENCE

Perhaps an explanation of the steps taken in the "three-way adjustment" of the data for 1967 may best serve to illustrate the method followed.

In 1967 the ratio of private plan coverage to state plan coverage was  $\frac{47.1}{52.9} = .8904$ . Hence, the total number of compensated pregnancy cases is assumed to be  $11,514 + 3,890 + (3,890 \times .8904) = 18,868$ . The factor with which this number must be multiplied in order to get the "proper" number of pregnancy cases allocable to state plan coverage is:

$$\frac{1}{1 + .8904 + \left[ \frac{6,662}{68,304} \right]^{15}} = .503$$

Accordingly, the number of pregnancy cases allocable to the state plan in 1967 is  $18,868 \times .503 = 9,491$ . Since the state plan experience already included 3,890 cases, the experience must be adjusted by adding data representing the expected experience for the additional 5,601 cases. On that basis, the total number of recipients indicated in Table 10 would have to be increased by 5,601 cases, i.e., to 77,795 with a corresponding adjustment of the figures indicating number of weeks compensated ( $608,715 + 5,601 \times 6.61 = 654,738$ ) and the amounts of benefits paid ( $24,569,330 + 922,599 \times \frac{5,601}{3,890} = 25,897,873$ ). This means that the total adjusted load of pregnancy cases of the state plan equals  $922,599 \times \frac{9,491}{3,890} = \$2,251,142$ . In other words, the properly adjusted load of pregnancy cases allocable to the state fund increases the benefits paid from \$23,646,731 without pregnancies to \$25,897,873 with pregnancies or by 9.5 per cent.

The data for other years are contained in Table 15. Of course, different results obtain if it is assumed that private plans carry their proper share of pregnancies and that the redistribution is to be made solely on the basis of the experience of the state plan and the unemployed disabled program. The results following from that assumption appear in Table 16.

Comparison of Tables 15 and 16 shows that the latter assumption (i.e., that all the pregnancy cases causing the "excess load" on the unemployed disabled program derive from state plan coverage) results in shorter average duration of the claims, but produces (1) higher utilization rates, (2) greater costs per payroll, and (3) the conclusion that the pregnancy cases load the system between 14 and 16

Table 15

## NEW JERSEY

STATE PLAN EXPERIENCE  
1963-1967Adjusted to Include Appropriate Share of Pregnancy Claims  
(3 Ways Adjustment)

Year	Covered Jobs	Taxable Payrolls (in \$1,000)	Benefits Paid (\$)	No. of Compensated Claims	Weeks Compensated	Utilization Rate <sup>11</sup>	Average Duration (Weeks)	Cost as % of Payroll <sup>12</sup>	Added Cost of Pregnancy Coverage <sup>13</sup>
1963 <sup>1</sup>	780,290	2,272,915	18,097,541	63,130 <sup>6</sup>	491,851	80.9	7.8	.80	8.8%
1964 <sup>2</sup>	821,720	2,418,444	19,825,974	64,110 <sup>7</sup>	524,752	78.0	8.2	.82	10.3%
1965 <sup>3</sup>	896,682	2,657,512	21,960,793	71,401 <sup>8</sup>	567,746	79.6	8.0	.83	9.8%
1966 <sup>4</sup>	951,202	2,837,572	23,711,250	74,982 <sup>9</sup>	602,511	78.8	8.0	.84	9.6%
1967 <sup>5</sup>	989,858	3,059,000	25,897,873	77,795 <sup>10</sup>	645,725	78.6	8.3	.85	9.5%

Source: Computed from Tables 10, 11, 12 and 13 of this Report.

- <sup>1</sup>Adjusted total of pregnancy claims: 17,371  
<sup>2</sup>" " " " " : 17,978  
<sup>3</sup>" " " " " : 17,673  
<sup>4</sup>" " " " " : 18,239  
<sup>5</sup>" " " " " : 18,868  
<sup>6</sup>Number of pregnancy cases: 7,735 (12.3% of total number of compensated claims)  
<sup>7</sup>" " " " : 8,295 (12.9% " " " " " " )  
<sup>8</sup>" " " " : 8,621 (12.1% " " " " " " )  
<sup>9</sup>" " " " : 9,090 (12.1% " " " " " " )  
<sup>10</sup>" " " " : 9,491 (12.2% " " " " " " )  
<sup>11</sup>Number of compensated claims/1,000 covered jobs.  
<sup>12</sup>Benefits paid/taxable payroll.  
<sup>13</sup>Benefits for pregnancy cases allocable to state plan as a percentage of non-pregnancy state plan benefits.

Table 16

## NEW JERSEY

## STATE PLAN EXPERIENCE

1963-1967

Adjusted to Include Appropriate Share of Pregnancy Claims of Unemployed  
(2 Ways Adjustment)

Year	Covered Jobs	Taxable Payrolls (in \$1,000)	Benefits Paid (\$)	No. of Compensated Claims	Weeks Compensated	Utilization Rate <sup>1</sup>	Average Duration (Weeks)	Average Weekly Benefit (\$)	Cost as % of Payroll <sup>2</sup>	Added Cost of Pregnancy Coverage <sup>3</sup>
1963	780,290	2,272,915	19,299,468	67,685	521,595	86.74	7.71	37.00	.849	16.0%
1964	821,720	2,418,444	20,844,108	68,688	555,183	83.59	8.08	37.54	.862	15.9%
1965	896,682	2,657,512	22,963,612	75,826	597,053	84.56	7.87	38.46	.864	14.8%
1966	951,202	2,837,572	24,744,229	79,497	632,035	83.58	7.95	39.15	.872	14.4%
1967	989,856	3,059,000	26,974,546	82,339	675,773	83.18	8.21	39.92	.882	14.1%

Source: Computed from Tables 10, 11, 12 and 13 of this Report.

<sup>1</sup>No. of compensated claims/1,000 covered jobs.

<sup>2</sup>Benefits paid/taxable payroll.

<sup>3</sup>Benefits for pregnancy cases allocable to state plan as a percentage of non-pregnancy state plan benefits.

Table 17

## NEW JERSEY

PREGNANCY CLAIMS EXPERIENCE AS % OF AGGREGATE  
 STATE PLAN PLUS DISABLED UNEMPLOYED EXPERIENCE  
 1963-1967

Year	Number of Compensated Claims			Benefits Paid		
	All Compensated Claims	Pregnancy	%	All Benefits (\$)	Pregnancy Benefits (\$)	%
1963	76,898	13,963	18.16	22,839,434	3,487,511	15.27
1964	77,946	14,608	18.74	24,399,766	3,681,857	15.09
1965	84,033	14,458	17.21	26,325,846	3,777,999	14.35
1966	86,700	14,835	17.11	27,929,087	3,969,249	14.21
1967	90,370	15,404	17.05	30,451,830	4,260,872	13.99

Source: Compiled from Tables 12, 13 and 14 of this Report.

## EXPERIENCE

per cent. Conversely, the three-way adjustment leads to figures that lie between the actual experience shown in Table 10 and the extreme adjustment incorporated in Table 16.

According to Table 15 the cost of limited pregnancy coverage adds an additional load of about 10 per cent, and produces an average cost per payroll ranging between .80 and .85. It may be concluded that the table with the three-way adjustment is probably closer to reality than the table with two-way adjustment, because it is more consistent with the Rhode Island experience.

### **The New York Experience**

The New York experience reflects the particular structure of the system of protection established by the disability benefits law of that state.

There is no state fund except the Special Fund for Disability Benefits which is responsible for benefit payments to persons who either are unemployed and, but for the disability, would be entitled to unemployment benefits under the New York unemployment insurance law or are unemployed and are not eligible for benefits under the unemployment insurance law because of lack of qualifying wages but have nevertheless evidenced their continued attachment to the labor market.

The New York law differentiates between statutory coverage and plan coverage. Statutory coverage provides that eligibility commences after four weeks with a particular employer and continues for four weeks after termination, except that in the case of a change of employers, the liability of the new employer attaches immediately and the former employer is relieved. The statutory waiting period is one week. Maximum duration of benefit payments is limited to 26 weeks during any period of disability or during a period of 52 consecutive weeks. The benefits rate is 50 per cent of the average weekly wage, subject to a maximum of \$55 per week and a minimum of \$20, unless the average weekly wage is less than that amount, in which case the benefits are 100 per cent of such wage.

Plan coverage may differ from statutory coverage, provided it is "at least as favorable" and provides for cash disability benefits, meeting specified minimum standards as to eligibility, waiting period, duration and benefit rate. Thus, the plan must provide for a duration of benefit payments of at least thirteen weeks and may not increase the requirements of eligibility or the waiting period.

## TEMPORARY DISABILITY INSURANCE

Both statutory coverage and plan coverage may be in the form of insurance with a licensed carrier or self-insurance. In practice, most self-insurance is plan coverage and not statutory coverage. Thus, in 1966, disability benefit coverage was provided by 687 self-insurers for 890,136 employees, 84.8 per cent of whom were protected by plan coverage.

Table 18 shows the ratio between statutory coverage and plan coverage and, in addition, the share of carrier insurance and self-insurance for both types of coverage, by numbers of covered employees as well as by amounts of covered payrolls.<sup>16</sup> The table indicates that the ratio between statutory coverage and plan coverage shows a tendency to increase slightly in favor of statutory coverage and that in 1966 statutory coverage amounted to 54.52 per cent of the total by numbers of covered employees and 53.17 per cent by amounts of covered payrolls. While only 4.45 per cent by numbers of employees and 4.59 per cent by amounts of payroll of the total statutory coverage were in form of self-insurance, the corresponding percentages for plan coverage amounted to 29.65 and 28.61, respectively.

Table 19 shows the aggregate experience (carrier as self-insurance) of statutory coverage for the years 1963-1966. The table shows a slightly descending value of the utilization rate (65.3 to 61.5 per 1,000 covered employees) and a slightly increasing value of average duration (7.13 weeks to 7.40 weeks). In assessing the significance of the magnitude of these figures on a comparative basis, it must be kept in mind that New York excludes pregnancy from coverage. The value of the average duration also reflects the fact that New York requires a full one-week waiting period for all cases of disability benefits, whether or not hospitalization is required and whether or not the disability is due to a second spell of disability during a period of one year. The table shows further that during the period covered, the costs as percentage of the covered payroll varied between .596 and .625. In evaluating these figures on a comparative basis it must be borne in mind, on the one hand, that in New York the ratio between benefits and wages being fixed at 50 per cent is lower than in California or New Jersey and on the other hand, that the computation is on the basis of the covered payrolls which in New York include only the first \$3,000 of each employee's earnings.

Of particular significance is a comparison between the experience under statutory coverage (summarized in Table 19) and under plan coverage (summarized in Table 20). Plan coverage must provide for a duration of cash benefits of not less than thirteen weeks but may otherwise depart substantially from the statutory coverage, e.g., by dispensing with, or shortening of, waiting periods or by providing for higher

Table 18  
STATUTORY AND PLAN COVERAGE IN NEW YORK  
1963-1966  
(Payrolls, Number of Employees, Type of Insurance)

Year	S t a t u t o r y   C o v e r a g e				P l a n   C o v e r a g e				Plan as % of Total
	Total Payroll	Carrier Insurance	Self-Insurance	Self-Insurance as % of Total	Total Payroll	Carrier Insurance	Self-Insurance	Self-Insurance as % of Total	
1963	\$7,736,010,676	\$7,360,535,988	\$375,474,688	4.85	\$7,450,389,260	\$5,573,225,312	\$1,877,163,948	25.20	49.06
1964	8,124,551,096	7,754,998,039	374,553,057	4.61	7,282,089,161	5,363,229,419	1,918,859,742	26.35	47.25
1965	8,522,768,600	8,127,778,500	394,990,100	4.63	7,556,421,600	5,514,071,200	2,042,350,400	27.03	47.00
1966	8,799,662,600	8,396,050,700	403,611,900	4.59	7,749,134,500	5,532,254,200	2,216,880,300	28.61	46.83

Year	No. of Employees	Carrier Insured	Under Self-Insurance	Self-Insurance as % of Total	No. of Employees	Carrier Insured	Under Self-Insurance	Self-Insurance as % of Total	Plan as % of Total
1963	2,728,673	2,604,920	123,753	4.54	2,499,437	1,832,128	667,309	26.70	47.81
1964	2,857,534	2,733,028	124,506	4.36	2,420,646	1,744,182	676,464	27.95	45.86
1965	2,974,533	2,842,122	132,411	4.45	2,488,513	1,775,103	713,410	28.67	45.55
1966	3,051,074	2,915,354	135,720	4.45	2,544,828	1,790,412	754,416	29.65	45.48

Source: New York, Workmen's Compensation Board, Summary of Board Activities 1965-1967, Tables 14 and 15 in 1965 Summary, Tables 15 and 16 in 1966-1967 Summaries.

Table 19

## NEW YORK

EXPERIENCE 1963-1966  
STATUTORY COVERAGE

Year	Covered Jobs	Taxable Payrolls (\$)	Benefits Paid (\$)	No. of Compensated Claims	Weeks Compensated	Utilization Rate <sup>1</sup>	Cost as % of Payroll <sup>2</sup>	Average Duration (Weeks)	Average Weekly Benefit (\$)
1963	2,728,673	7,736,010,676	46,082,161	178,314	1,270,604	65.3	.596	7.13	36.27
1964	2,857,534	8,129,551,096	48,699,504	178,612	1,294,923	62.5	.599	7.25	37.61
1965	2,974,533	8,522,768,600	50,700,872	186,775	1,344,213	62.8	.595	7.20	37.72
1966	3,051,074	8,799,626,600	55,000,307	187,539	1,388,419	61.5	.625	7.40	39.61

Source: New York, Workmen's Compensation Board, Summary of Board Activities 1965-1967,  
Tables 14 and 15 in 1965 Summary, Tables 15 and 16 in 1966-1967 Summaries.

<sup>1</sup>No. of compensated claims/1,000 covered jobs.

<sup>2</sup>Benefits paid/taxable payroll.



Table 20

NEW YORK  
EXPERIENCE 1963-1966  
PRIVATE PLAN COVERAGE

Year	Covered Jobs	Taxable Payrolls (\$)	Benefits Paid (\$)	No. of Compensated Claims	Weeks Compensated	Utilization Rate <sup>1</sup>	Cost as % of Payroll <sup>2</sup>	Average Duration (Weeks)	Average Weekly Benefit (\$)
1963	2,499,437	7,450,389,260	105,351,943	564,664	1,814,989	225.9	1.41	3.2	58.05
1964	2,420,646	7,282,089,161	103,876,695	538,015	1,747,284	222.3	1.43	3.2	59.45
1965	2,488,513	7,556,421,600	107,653,557	528,857	1,756,202	212.5	1.42	3.3	61.30
1966	2,544,828	7,749,134,500	111,495,890	527,316	1,770,228	207.2	1.44	3.4	62.98

Source: New York, Workmen's Compensation Board, Summary of Board Activities 1965-1967, Tables 14 and 15 in 1965 Summary, Tables 15 and 16 in 1966-1967 Summaries.

<sup>1</sup>No. of compensated claims/1,000 covered jobs.

<sup>2</sup>Benefits paid/taxable payroll.

## TEMPORARY DISABILITY INSURANCE

cash benefits. Table 20 indicates that extensive use has been made of such features, entailing higher percentage costs of such plans. The data for 1966 show considerably higher utilization rates (207.2 as compared with 61.5) and much shorter average duration of benefit payments per case (3.4 weeks as compared with 7.4 weeks). The percentage cost of plan coverage as compared with statutory coverage is more than twice as high, being 1.44 per cent as compared with .625 per cent. The divergence is especially pronounced if only the experience of the plan coverage of self-insurers is considered. According to the available data for 1966, the utilization rate of self-insured plan coverage was 42.3, the average benefits duration 2.0 weeks, the average weekly benefit \$84.40, and the cash benefits cost per covered payroll 2.43 per cent, as compared with a utilization rate of 61.5, an average duration of 7.4 weeks, an average weekly benefit of \$39.61 and a benefit cost per payroll of .625 per cent for aggregate statutory coverage. These figures show that self-insurers pursue to a large extent a sick leave or wage continuation policy, at least for the early days of illness.

The New York experience data of the Special Fund for Disability Benefits, shown in Table 21, likewise reveals marked departures for corresponding experience with disability benefits for unemployed in other states. In New York the statutory coverage for employed disabled extends to the first four weeks of unemployment; moreover, the unemployed disabled must serve a separate waiting period which is independent of, and separate from, the waiting period for unemployment compensation benefits. As a result, the New York utilization rate for unemployment disability benefits chargeable to the Special Fund is considerably lower than the utilization rate for benefits of the employed disabled, being only 22-25 per thousand. This stands in sharp contrast to the analogous data for California and New Jersey where the experience of the unemployed is either reported in a totally separate fashion or where the post-separation coverage of the regular program is much more limited and where the waiting period for unemployment benefits includes that for disability benefits. Conversely, in New York as in the other states, the average duration of benefit payments to unemployed disabled exceeds consistently and substantially that of benefit payments to employed disabled.

### **The Rhode Island Experience**

The Rhode Island system is monolithic in structure: it does not permit any coverage other than the statutory system; does not differentiate between disabled employed and disabled unemployed; and allocates the total burden to the monopolistic Temporary Disability Insurance Reserve Fund.

Table 21

NEW YORK

SPECIAL FUND EXPERIENCE (UNEMPLOYED DISABLED)  
1963-1967

Year	No. of Unemployed <sup>1</sup>	Benefits Paid (\$)	No. of Compensated Claims	Weeks Compensated	Utilization Rate <sup>2</sup>	Average Duration (Weeks)	Average Weekly Benefit (\$)
1963	277,090	1,951,840	6,191	52,457	22.3	8.5	37.21
1964	248,074	2,261,075	6,325	59,352	25.5	9.4	38.10
1965		2,898,343	6,059	74,615		12.3	38.84
1966	235,028	2,686,675	5,236	64,403	22.3	12.3	41.72
1967		2,792,405	5,137	65,838		12.8	42.41

Source: New York, Workmen's Compensation Board, Summary of Board Activities, 1967, Table 12.

<sup>1</sup>Computed by multiplying the number of covered jobs with the rate of unemployment for the particular year as reported by the Annual Reports of the New York Department of Labor.

1963: 5,228,110 x 5.3

1964: 5,278,180 x 4.7

1965: 5,463,046 x

1966: 5,595,902 x 4.2

1967:

<sup>2</sup>No. of compensated claims/1,000 unemployed.

## TEMPORARY DISABILITY INSURANCE

The weekly benefit rate is 55 per cent of the average weekly wage but may be increased by dependents' allowances of \$3 for each dependent though not exceeding \$12 per week per disabled recipient. Pregnancy is covered for a period of six weeks prior to the expected childbirth and of eight weeks after the termination of pregnancy. A waiting period of seven days is required only for the first spell of illness during any consecutive period of 52 weeks but not for any subsequent spell of sickness during such year. The taxable wage base is limited to \$4,800 per year. The maximum weekly basic benefits may not exceed 50 per cent of the average weekly wage received by all individuals covered by the act during the preceding year.

As a result of these factors, it must be expected that the experience of Rhode Island shows a high utilization rate, high percentage of costs per payroll and an average duration which reflects the effects of two opposing factors: on the one hand the extended coverage of pregnancy and the longer duration of illnesses of unemployed disabled and on the other hand the short second spells of illness covered in Rhode Island.

Table 4 substantiates the expected results. In 1966 the utilization rate was 171.8 of the covered employees, the average duration was 7.8 weeks and the cost as percentage of payroll 1.21. The high utilization rates are largely due to three factors: the inclusion of pregnancy claims, the removal of waiting periods for subsequent spells of illnesses and the inclusion of the claims of the unemployed. Table 22 shows that in 1967 the number of pregnancy claims were 9.46 per cent of the total. Table 23 shows that during the same period the number of subsequent claims constituted 21.84 per cent of the total and that the preponderant majority, amounting to 18.03 per cent of the total, were for different illnesses.

The relatively high costs of benefits per payroll (1.25 per cent in 1967) are primarily due to the high utilization rates and the high average duration of claims. Since the average weekly benefit in 1967 was \$36.90 and therefore less than in the other jurisdictions, the relatively low limits of the taxable payroll do not seem to contribute substantially to the unfavorable cost per payroll ratio, but this result is primarily caused by the extended duration of pregnancy coverage and the inclusion of the experience of the unemployed.

Table 22

## RHODE ISLAND

PREGNANCY RECIPIENTS AS % OF TOTAL RECIPIENTS  
1963-1967

Year	All Recipients	Pregnancy Recipients	%
1963	39,288	3,988	10.15
1964	38,279	3,940	10.29
1965	40,614	3,897	9.60
1966	43,931	4,264	9.71
1967	44,540	4,215	9.46

Source: Rhode Island, Department of Employment  
Security, Statistical and Fiscal Digests  
for Years 1964-1967 and Annual Report 1963.

Table 23

RHODE ISLAND  
 SUBSEQUENT RECIPIENTS AS % OF ALL RECIPIENTS  
 1963-1967

Year	All Recipients	Subsequent Recipients (All Types)	%	Subsequent Recipients (Different Illness)	%
1963	39,288	8,403	21.39	6,938	17.66
1964	38,279	7,876	20.58	6,418	16.77
1965	40,614	8,658	21.32	7,182	17.68
1966	43,931	10,032	22.84	8,348	19.00
1967	44,540	9,726	21.84	8,032	18.03

Source: Rhode Island, Department of Employment Security, Statistical and Fiscal Digests for Years 1964-1967, and Annual Report 1963.

## EXPERIENCE

### Synopsis of the Four States Experience

It is thought to be helpful to present the experience in the four states having operating systems in a synoptic and synthetic fashion, focusing on the three values that epitomize the principal facets of each system: utilization rate, average duration and cost per \$100 payroll.

Table 24 shows that the average duration varies between 7.2 weeks in California and 8.4 in New Jersey (unadjusted). While the composition of the labor force and the wage scales are without doubt contributory factors to this divergence, another primary factor is the absence in California of waiting periods in cases requiring hospitalization. In New Jersey, which has the highest average duration, the inclusion or exclusion of pregnancy does not materially affect the average duration since the duration of pregnancy coverage (8 weeks) coincides nearly with the average. The low value in New York is harder to explain. It should be noted, however, that the figure given is the composite experience of statutory coverage under carrier insurance and self-insurance and that the average duration of claims under carrier-insured statutory coverage is 7.6 weeks, i.e., slightly higher than the value for the aggregate experience. At any rate a program with a strict one-week waiting period may expect an average duration of 8 to 8.5 weeks.

Table 24 shows variances in utilization rates ranging from a low 61.5 per thousand employees (in New York) to a high 89.6 per thousand employees (in California) and 172.0 (in Rhode Island). As has been pointed out before, the effect of the absence of a waiting period for a substantial number of claims as in California and Rhode Island is largely responsible for this wide spectrum of rates. The experience in New York and New Jersey shows that under a strict one-week waiting period system without pregnancy coverage, a utilization rate between 60 and 70 per thousand employees may be expected, subject to an increase of 14 per cent if pregnancy is included.

Finally, Table 24 shows that the cost per \$100 payroll varies between .63 (New York) to .80 (New Jersey) and 1.25 (Rhode Island). Moreover, the cost per \$100 payroll in New Jersey would be .85 if the necessary adjustments for pregnancy coverage are made. Undoubtedly, one of the most significant factors affecting the cost per \$100 payroll figure is the relationship between the benefit formula and the maximum taxable wage base. The low New York figure is principally due to the fact that the total wage base and not merely a portion thereof, determined by the maximum taxable wage base, is chosen as the denominator. In California the sharp increase in

Table 24

SYNOPSIS OF 1967 EXPERIENCE IN  
CALIFORNIA, NEW JERSEY, NEW YORK AND RHODE ISLAND  
EMPLOYED DISABLED

(State Plan or Statutory Coverage)

State	Average Duration (Weeks)	Utilization Rate (Per 1,000 Employees)	Cost Per \$100 Payroll
California	7.2	89.6	.68
New Jersey, unadjusted	8.4	72.9	.80
New Jersey, without pregnancy	8.5	69.0	.77
New Jersey, adjusted pregnancy	8.3	78.6	.85
New York	7.4 <sup>1</sup>	61.0 <sup>1</sup>	.63 <sup>1</sup>
Rhode Island	8.1	[172.0] <sup>1</sup>	1.25

Source: Tables 4, 8, 10, 13, 15 and 18 of this Report.

<sup>1</sup>Estimated on 1966 basis.



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the maximum taxable wage base in 1964 depressed the cost per payroll ratio from .82 to .68. New Jersey has an abnormally low taxable wage base, being only \$3,000 per year, although the maximum effective wage per annum for benefit purposes at that time was \$5,200. If a proper relationship between benefit formula and maximum taxable wage base is selected, the cost of a system providing for a normal one-week waiting period might be roughly about .70 without pregnancy coverage and .85 with pregnancy coverage, subject to further adjustments necessitated by the composition of the labor force, occupational distribution and prevailing wage rates.

### **Morbidity Experience in California and New Jersey: Continuance Tables; Exhaustions**

In the previous discussion the gross experience with compensable disability in other jurisdictions was presented and expressed in terms showing its frequency (utilization rate) and severity (average duration).<sup>17</sup> The experience considered was the composite experience of the total work force subject to the standard coverage in the particular jurisdictions. No attempt was made at an analysis of the physiological or occupational composition of the work force and the effect of biological, economic or cultural factors on the aggregate experience. The primary focus was the attempt to arrive at meaningful comparisons of the data discussed in the light of the legal factors determining the structure of the governing insurance system.

While frequency rates and severity rates based on the gross experience data are valuable for a number of meaningful conclusions, a much deeper insight in the incidence and severity of morbidity can be gained if the morbidity experience is compiled in the form of a continuance table.<sup>18</sup> Such a table shows the actual distribution of varying durations of disability among the persons who have suffered disability during a representative period, e.g., one year. Unfortunately, even continuance tables, although the most valuable existing tool for measuring morbidity, are subject to inherent deficiencies and limitations that must be understood at the outset.<sup>19</sup>

In the first place, credible data are available only for compensated disability, i.e., data for persons who have claimed and received disability payments. As a result, such data reflect the effects of various waiting periods, durational limitations of various type and the deterring effects of complying with the necessary formalities. It is statistically verified that these restraints affect the incidence of compensable morbidity and that an acceptable generalization for the distribution of disability disregarding the conditions of compensability is subject to severe limitations. Moreover, the heterogeneity

## TEMPORARY DISABILITY INSURANCE

of other factors further limits the actuarial reliability of composite experiences.<sup>20</sup> Although these observations apply particularly to disability insurance with private carriers, they pertain to a certain extent also to compulsory disability insurance with a state fund although it eliminates or minimizes the effects of "selection".

In spite of these limitations on the possibility of unqualified generalizations, continuance tables based on the California and New Jersey experience should be of great utility and fortunately are available for comparatively recent exposures. A table showing the number of basic claims by compensated duration for regular liability in California during 1964 is published in the Final Report of the Joint Committee on Unemployment Compensation Disability Insurance (1967),<sup>21</sup> and a similar table showing the duration of payments of the cases compensated by the state plan in New Jersey during the same year is included in the analysis by the New Jersey Department of Labor and Industry of Temporary Disability Cases in New Jersey in 1964.<sup>22</sup> The California table is based on 381,214 claims while the New Jersey table is predicated upon 58,570 claims. Table 25 shows the California continuance table as derived from the actual number of compensated cases (columns (2) and (3)) and as reduced to a radix of 100,000 (columns (4) and (5)). Table 26 presents a similar (though unfortunately condensed) table for New Jersey as derived from the actual number of compensated state plan claims and as expanded to a radix of 100,000. Columns (3) and (5) show the number of remaining claimants at the beginning of the number of compensated weeks indicated in column (1). Columns (6) and (7) show the percentage of claims terminating during the period indicated in column (1) and the cumulative percentage of terminated claims. A comparison of Tables 25 and 26 shows, e.g., that at the end of the eighth week of compensation in California, 69.1 per cent of the total number of claims have terminated while in New Jersey the corresponding percentage is 64.5 per cent.

In Graph 1, Tables 25 and 26 are translated into curves in order to represent the data in a form better suited to visual perception. The graph shows, for example, that the median duration of compensable claims in California in 1964 was 4.3 weeks whereas in New Jersey it was 5.4 weeks. The difference in the shape of the curves is in part due to the fact that the New Jersey experience includes a proportion of normal pregnancy claims while this is not the case in California. Moreover, the graph represents compensated periods of disability. Since California does not have a uniform waiting period of one week but includes a substantial number of claims with no, or shorter, waiting periods (hospitalization cases), the California curve shows a much sharper decline during the first weeks of compensation than the corresponding curve for New Jersey.

Table 25  
CONTINUANCE TABLE  
CALIFORNIA  
(Regular liability, basic benefit claims)  
1964

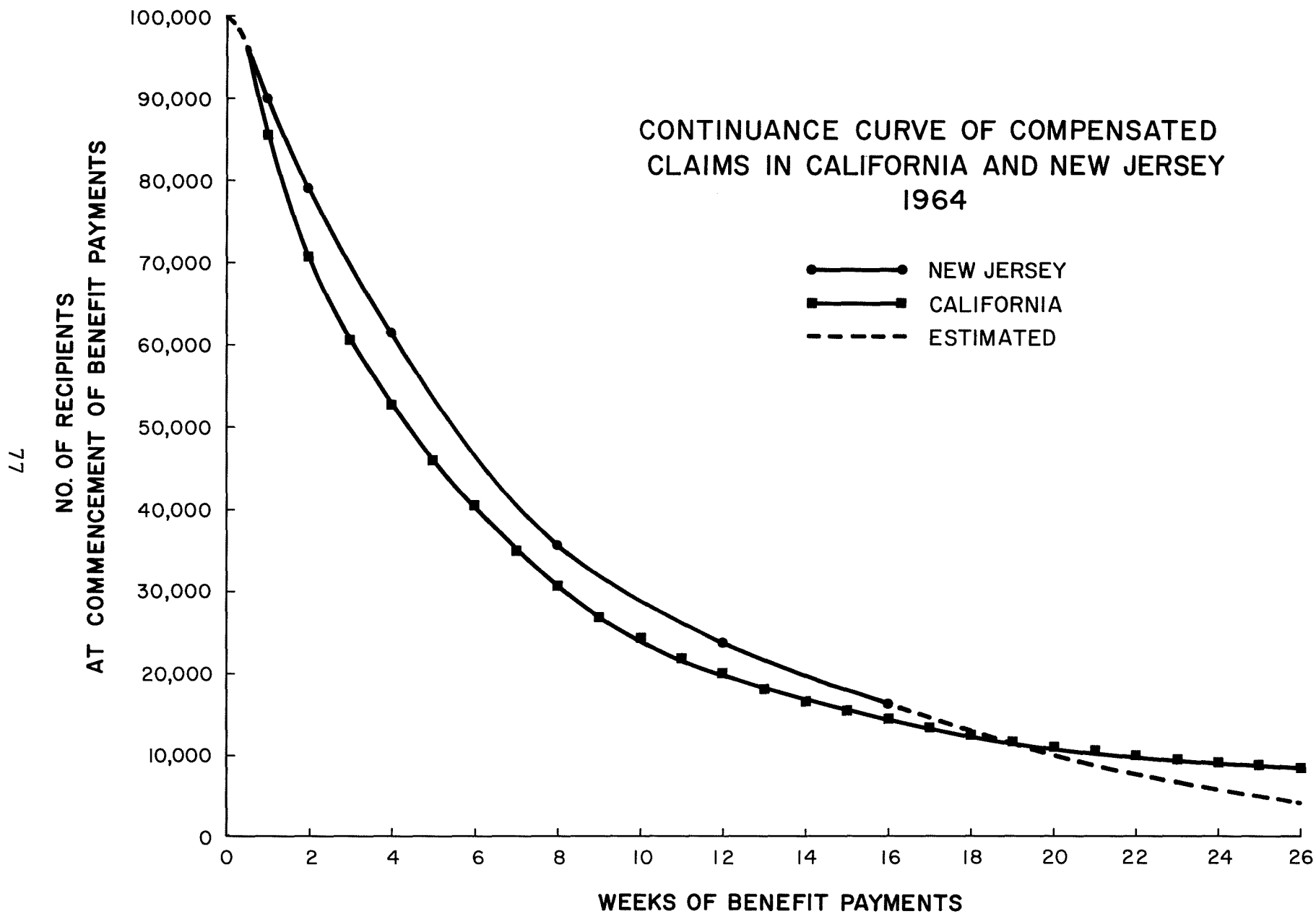
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Weeks Compensated	No. of Claims	No. of Recipients at Beginning of Period	No. of Claims with Radix 100,000	No. of Recipients at Beginning of Period with Radix 100,000	% of Total	Cumulative %
0- 1	54,802	381,214	14,376	100,000	14.4	14.4
1- 2	55,804	326,412	14,639	85,624	14.6	29.0
2- 3	39,401	270,608	10,336	70,985	10.3	39.3
3- 4	30,147	231,207	7,908	60,649	7.9	47.2
4- 5	25,531	201,060	6,698	52,741	6.7	53.9
5- 6	21,851	175,529	5,732	46,043	5.7	59.6
6- 7	20,286	153,678	5,322	40,311	5.3	64.9
7- 8	16,155	133,392	4,238	34,989	4.2	69.1
8- 9	14,911	117,237	3,912	30,751	3.9	73.0
9-10	10,413	102,326	2,732	26,839	2.7	75.7
10-11	8,475	91,913	2,223	24,107	2.2	77.9
11-12	7,361	83,438	1,931	21,884	1.9	79.8
12-13	7,081	76,077	1,858	19,953	1.9	81.7
13-14	5,694	68,996	1,494	18,095	1.5	82.2
14-15	4,614	63,302	1,210	16,601	1.2	84.4
15-16	4,191	58,688	1,099	15,391	1.1	85.5
16-17	3,416	54,497	896	14,292	.9	86.4
17-18	3,275	51,081	859	13,396	.9	87.3
18-19	2,836	47,806	744	12,537	.7	88.0
19-20	2,401	44,970	630	11,793	.6	88.6
20-21	2,115	42,569	555	11,163	.6	89.2
21-22	2,022	40,454	530	10,608	.5	89.7
22-23	1,744	38,432	458	10,078	.5	90.2
23-24	1,779	36,688	467	9,620	.5	90.7
24-25	2,063	34,909	541	9,153	.5	91.2
25-26	32,846	32,846	8,616	8,616	8.6	99.8

Source: Joint Committee on Unemployment Compensation Disability Insurance,  
Final Report (1965), Table 7, p. 68.

Table 26  
CONTINUANCE TABLE  
NEW JERSEY  
(State Plan)  
1964

(1)	(2)	(3)	(4)	(5)	(6)	(7)
Weeks Compensated	No. of Claims	No. of Recipients at Beginning of Period	No. of Claims with Radix 100,000	No. of Recipients at Beginning of Period with Radix 100,000	% of Total	Cumulative %
0- 1	5,768	58,570	9,848	100,000	9.8	9.8
1- 2	6,438	52,802	10,992	90,152	11.0	20.8
2- 4	10,202	46,364	17,418	79,160	17.4	38.2
4- 8	15,375	36,162	26,251	61,742	26.3	64.5
8-12	6,894	20,787	11,771	35,491	11.8	76.3
12-16	4,325	13,893	7,385	23,720	7.4	83.7
16-26	9,568	9,568	16,336	16,336	16.3	100.0

Source: New Jersey, Department of Labor and Industry, Division of Employment Security, Temporary Disability Cases in New Jersey in 1964, Table 34, p. 65.



## TEMPORARY DISABILITY INSURANCE

Another, though less marked, factor in the shape of the curves is the existence of different rules as to maximum benefits and the resulting exhaustions. Until 1965 the maximum duration of benefits in California was determined by fixing the maximum amount at "26 times [the employee's] weekly benefit amount"<sup>23</sup> whereas in New Jersey a double limit prevailed, 26 weeks or 3/4 of the number of weeks of employment during the base period, whichever is lesser, i.e., the limit varied between 12.75 and 26 weeks according to the case.<sup>24</sup> As a result, some of the claims ended not because of the cessation of the disability but because of the termination of the compensability.

In California, however, even prior to the amendment of 1965 which introduced an alternative limit consisting of one-half of the base period wages, no completely uniform 26-week maximum duration applied. In a small number of cases the duration of compensation was less than 26 weeks despite the continuance of the disability, and in others it exceeded the 26-week mark. The first alternative occurs occasionally in cases where a claimant is concurrently entitled to workmen's compensation benefits and disability benefits; the second alternative occurs when a wage continuation plan results in a reduced weekly benefit and therefore permits a longer duration.<sup>25</sup> In 1964 1,204 claimants out of a total of 381,214 (.3 per cent) received benefits in excess of 26 weeks.<sup>26</sup>

In California the exhaustion rate for 1964 was 8.5 per cent.<sup>27</sup> In 1965 it increased to 8.7 per cent and in 1966 to 9.6 per cent. The reason for the latter increase was primarily the fact that in 1966 the effect of the alternative limitation predicated on base period wages made itself fully felt.

In New Jersey exhaustion of benefits due to receipt of the statutory maximum has traditionally been due to a two-fold limitation: 26 weeks or a ceiling on the benefit amount, whichever duration is shorter. From 1952 to 1967 the ceiling was fixed at 3/4 of the number of weeks of employment during the base year, with a minimum of 12.75 weeks. According to data compiled for 1964 and 1965, the exhaustion rates for the two years were 8.64 per cent and 8.46 per cent, respectively (5,079 and 5,589 cases).<sup>28</sup> The data do not segregate the cases which terminated prior to 26 weeks as a result of the exhaustion of monetary rights and the cases which terminated as a result of the expiration of the 26-week maximum benefit period. Moreover, they do not include the effect of the special limitation of 8 weeks for pregnancy benefits. In extrapolating the continuance curve after 16 weeks, it is artificially assumed that, in 50 per cent of the cases reported as terminated, termination was due to exhaustion of maximum

## EXPERIENCE

benefits terminated by reason of the 26-week limitation. Hence at the end of the 26th week, 2,540 cases (= 4,337 with radix 100,000) are extrapolated as having been cut off by reason of the 26-week limit.

The curves representing the discontinuance data permit important conclusions on the effect of durational limitations. The curve for the California experience during 1964 shows, e.g., that a 13-week maximum would leave 18.1 per cent of the claimants exposed to uncompensated portions of disability and deprive them of benefits for 596,164 weeks or 21.1 per cent of the total number of weeks of compensation constituting the California experience during that year. In other words, a durational limit of 13 weeks exposes a substantial number of persons suffering disability to a great hardship.

It may be mentioned that the New York studies in 1948 estimated that extension of maximum benefits from 13 to 26 weeks would increase the cost by 20 per cent.<sup>29</sup> According to the California data, this cost increase would be 26.7 per cent.<sup>30</sup> An explanation for this significant discrepancy seems to be possible on the ground that the New York estimates were based on adjusted Rhode Island and insurance industry data for a different period. Moreover, the industry data show the effects of favorable selection.

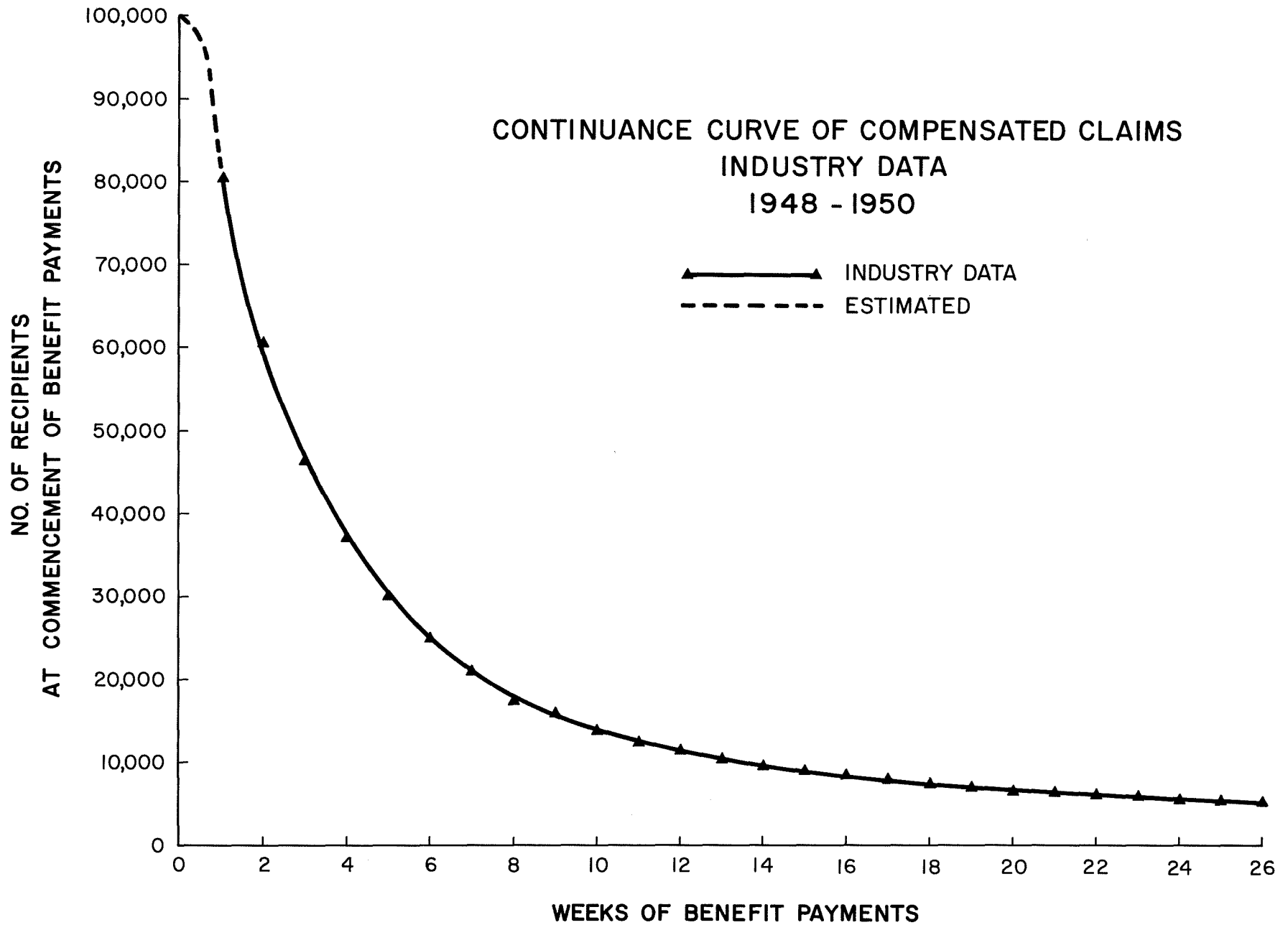
A discontinuance table based on industry data compiled in 1948-1950<sup>31</sup> and constructed by the Bureau of Employment Security was used in the presentation by Mr. Blaustein before the Hawaii Legislature during the 1967 session. The table is in part reproduced in Table 27, columns (1) to (3). The table is adjusted to a radix of 100,000 after the first week of disability, whether compensated or not. In order to make the table more comparable to the California experience, it was recompiled with a radix of 100,000 for the initial number of claims (columns (4), (5), (6), (7)). The table and the curve plotting it show that the experience represented thereby had a distinctly more favorable durational distribution than was the case for the California or New Jersey experience in 1964. Thus a cut-off at the end of the 26-week period affected only 5.4 per cent of the disabled workers while a cut-off at 13 weeks affected only 10.6 per cent of the workers, reducing the compensable weeks by only 18.0 per cent of the total.

It is believed that the continuance tables based on the California and New Jersey experiences are more reliable for current statewide estimates than the table used by the United States Department of Labor.

Table 27  
CONTINUANCE TABLE  
GROUP INSURANCE DATA  
1948-1950

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Weeks Compensated	No. of Claims	No. of Recipients at Beginning of Period	No. of Claims (Radix 100,000 at Beginning)	No. of Recipients at Beginning of Period (Radix 100,000 at Beginning)	% of Total	Cumu- lative %	% of Total After 1 Week	Cumu- lative %
0- 1	24,300	124,300	19,549	100,000	19.5	19.5	--	--
1- 2	24,599	100,000	19,790	80,451	19.8	39.3	24.6	24.6
2- 3	17,832	75,401	14,346	60,660	14.3	53.6	17.8	42.4
3- 4	11,649	57,569	9,372	46,315	9.4	63.0	11.7	54.1
4- 5	8,383	45,920	6,744	36,943	6.7	69.7	8.4	62.5
5- 6	6,231	37,537	5,013	30,199	5.0	74.7	6.2	68.7
6- 7	4,693	31,342	3,776	25,215	3.8	78.5	4.7	73.4
7- 8	3,639	26,648	2,928	21,438	2.9	81.4	3.6	77.0
8- 9	2,883	23,009	2,319	18,511	2.3	83.7	2.9	79.9
9-10	2,319	20,126	1,866	16,191	1.9	85.6	2.3	82.2
10-11	1,872	17,807	1,506	14,326	1.5	87.1	1.8	84.0
11-12	1,531	15,935	1,232	12,820	1.2	88.3	1.5	85.5
12-13	1,254	14,404	1,009	11,588	1.0	89.3	1.3	86.8
13-14	1,039	13,150	836	10,579	.8	90.1	1.0	87.7
14-15	860	12,111	692	9,743	.7	90.8	.9	88.6
15-16	720	11,251	579	9,051	.6	91.4	.7	89.3
16-17	610	10,531	491	8,472	.5	91.9	.6	89.9
17-18	526	9,921	423	7,981	.4	92.3	.5	90.4
18-19	460	9,395	370	7,558	.4	92.7	.5	90.9
19-20	411	8,935	331	7,188	.3	93.0	.4	91.3
20-21	366	8,524	294	6,858	.3	93.3	.4	91.7
21-22	335	8,158	270	6,563	.3	93.6	.3	92.0
22-23	313	7,823	252	6,294	.3	93.9	.3	92.3
23-24	293	7,510	236	6,042	.2	94.1	.3	92.6
24-25	274	7,217	220	5,806	.2	94.3	.3	92.9
25-26	256	6,943	206	5,586	.2	94.5	.3	93.2
26-60	6,687	6,687	5,380	5,380	5.4	99.9	6.7	99.9





## TEMPORARY DISABILITY INSURANCE

### **Morbidity Experience in California and New Jersey: Effect of Sex, Age and Wage Level**

There is agreement among the students of disability insurance on the observation that disability rates--relating to frequency as well as severity--vary distinctly, according to the sex, age and wage level of the covered workers. Of course, the disability measured is compensated disability.

Unfortunately, it is not easy to determine to what extent each of these three factors is responsible for the demonstrable correlation. This is due to the fact that there is a correlation between the sex of the worker and the attained wage level and that there are no recent published data on the sex, age, and wage distribution of the covered work force. Hence, it is impossible to present recent and detailed data on the effects of sex, age, and wage level on the frequency rates although the effect of these factors on average duration is capable of further significant analysis.

According to the experience compiled between 1948 and 1950 by the insurance industry under private group insurance,<sup>32</sup> the claim costs under a so-called 8-8-26 plan<sup>33</sup> for a universe consisting solely of female insured (including a six-week pregnancy coverage) were 1.89 times the claim costs incurred by a wholly male group. Under an 8-8-13 plan the corresponding ratio was 2.19. The difference in claim costs was due to higher frequency rates as well as to greater average duration of disability for the female group, although the difference in frequency rates was the primary factor for the aggregate cost difference.<sup>34</sup>

The analysis of the 1964 experience under the New Jersey state plan<sup>35</sup> shows a similar picture. Although female workers constituted only 29.9 per cent of the total covered labor force (i.e., covered by the state plan and the private plans), female claimants were responsible for 58.2 per cent of the number of all claims compensated under the state plan, for 60.6 per cent of the total number of weeks thus compensated and for 53.8 per cent of the total amount of the benefits paid under the state plan. In other words, assuming that the female component of the working force covered by the state plan has the same ratio to the male component as the female component of the total covered work force has to the male component (which is not necessarily true because of possible adverse selection),<sup>36</sup> the frequency rate of female claims was 138.8 per thousand as compared with 42.5 per thousand for males; in other words the frequency of female

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claims was 3.3 times as high than that of male claims. If pregnancy claims are omitted, male claims constituted 44.5 per cent of the total number of claims, and female claims constituted 55.5 per cent. Translated into frequency rates, the frequency rate of male claims would remain at 42.5 per thousand, while the frequency rate for female claims would be reduced to 124.5 per thousand but still would be 2.9 times that of male claims.

Average duration of benefits paid, likewise, was more favorable for male claimants (7.9 weeks) than for female claimants (8.7 weeks, if pregnancy claims are included and 9.0 weeks, if they are excluded).

Despite the fact that male claimants had a much smaller utilization rate than female claimants and a distinctly more favorable severity experience, they received 46.2 per cent of all benefits while female claimants received 53.8 per cent. Disregarding pregnancy benefits, the male share would increase to 48.2 per cent and the female share correspondingly decrease to 51.8 per cent. The reason for the relatively greater share of the male workers in the total benefits disbursed is the higher wage level of employed men. The average weekly benefit for male claimants under the 1964 New Jersey experience was \$44.86 while female recipients collected only an average weekly benefit of \$34.14 (\$34.07 if pregnancy coverage is eliminated).<sup>37</sup>

In conclusion, the New Jersey experience shows that the proportion of women workers (even disregarding the pregnancy claims) substantially affects the cost of the program. The causes may be sex, wage level, type of occupation, or a combination of all three.

The California experience for 1964 confirms many of the conclusions possible from the New Jersey experience but in some respects shows striking departures. According to the data available, the proportion of female workers in the total work force covered by the state plan in 1964 was 35.1 per cent.<sup>38</sup> Since the average covered employment subject to the state plan in 1964 was 4,259,300 workers, it is assumed that the average number of covered male and female workers was 2,764,290 and 1,495,010, respectively.

The experience in California in 1964 was analyzed by the Joint Committee report of 1967,<sup>39</sup> but the analysis was made on the basis of samples rather than the total actual experience. The ratio of male claimants to female claimants (state plan, basic claims, regular liability) was estimated as  $\frac{57.71}{42.29}$ .<sup>40</sup> The actual number of compensated claims of that type in 1964 was 382,000 (see Table 8). Hence, the

## TEMPORARY DISABILITY INSURANCE

frequency rate of male claims was  $\frac{382,000 \times 57.71}{2,764,290} \times 1,000 = 79.8$  per thousand, while the frequency rate of female claims was  $\frac{382,000 \times 42.29}{1,495,010} \times 1,000 = 108.1$  per thousand. In other words, in California the frequency rate of claims by female workers exceeded that of male claims by only 35.5 per cent.

The average duration of basic benefit payments to employed males was calculated at 6.92 weeks while the corresponding duration for female recipients was 7.66 weeks.<sup>41</sup> The average weekly benefit amount of male beneficiaries was \$60.69, of female beneficiaries \$45.17.<sup>42</sup> In California, as in New Jersey, women workers' share of the total benefits paid was less than the claims ratio alone would suggest: male claimants received 62.4 per cent of all benefits paid, female claimants 37.61 per cent.

Both the California and New Jersey experiences show that age affects the average duration of benefit payments and that the age composition of the covered labor force is an important factor in the aggregate costs of disability insurance. The lengthening of the average duration of benefit payments with increasing age is observed for both male and female claims.

Table 28 shows the average duration of claims in California and New Jersey, computed by age groups and sex, with the elimination of the pregnancy claims in New Jersey. The data prove that the age of the claimants, whether male or female, bears a distinct correlation to the average duration of their claims and that the difference between male and female average durations disappears, or is the smallest, at both ends of the spectrum.

California data seem to demonstrate that there is also a correlation between age and frequency rates.<sup>43</sup>

It is likewise demonstrable that wage levels exert an important effect on the average duration of benefit payments or, at least, show a significant correlation with average duration. This holds true for male as well as female recipients. Both California and New Jersey data support this proposition.

The California study classified male and female recipients into workers with base period earnings of less than \$4,000 and workers with base period earnings of \$4,000 and more. It also divided both categories into age groups. The findings showed that the difference

Table 28

AGE AND AVERAGE DURATION OF CLAIMS (WEEKS)  
CALIFORNIA AND NEW JERSEY  
EMPLOYED DISABLED  
1964

	<u>Under 25</u>		<u>25-44<sup>3</sup></u>		<u>45-54</u>		<u>55-64</u>		<u>65 and Above</u>	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
California <sup>1</sup>	5.14	4.69	5.68	7.17	7.06	7.96	8.94	9.16	11.81	12.59
New Jersey <sup>2</sup>	5.76	6.31	6.36	8.41	7.82	9.40	9.53	10.31	13.69	13.07

<sup>1</sup>Computed from Joint Committee on Unemployment Compensation Disability Insurance, Final Report, Table 17, at p. 80 (1967).

<sup>2</sup>Computed, with exclusion of pregnancy, from State of New Jersey, Department of Labor and Industry, Division of Employment Security, Temporary Disability Insurance Cases in 1964 (Research Series No. 19), Tables 23, 24, 14 and 15 (1967).

<sup>3</sup>The New Jersey data permit a further breakdown of the second column:

<u>25-34</u>		<u>35-44</u>	
<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>
6.00	7.80	6.58	8.71

## TEMPORARY DISABILITY INSURANCE

in average duration of claims by male and female disabled in different age groups tended to be greatly minimized or even reversed if the earning levels of recipients are taken into account. The results of the California study are tabularized in Table 29. They were summarized by the report with the sentence:

When employment status and base period wages are held constant, there is very little difference in average duration between male and female claimants.<sup>44</sup>

The New Jersey study presented the relation between average weekly benefits and average duration of disability for male and female recipients.<sup>45</sup> Again the data show that there is an inverse correlation between average weekly benefits and average durations. In other words, since the average weekly benefit depends on the wage level, the analysis proves that the claims of low-wage earners are subject to a greater average duration. Table 30 shows the relation for both male and female claimants. The values for each income level indicate the perhaps surprising result that in all wage brackets, except in the highest, the average duration of benefit payments of women is more favorable than that of men. Unfortunately, it was not possible to eliminate the pregnancy claims from the data for each category. Since, however, the eight-week limitation on pregnancy benefits tends to decrease rather than increase the average duration in categories for which the average duration without pregnancy claims exceeds eight weeks, the comparative value of the table is not affected, except perhaps in the highest wage bracket. The New Jersey data show, however, that in the highest wage bracket, only 309 out of 4,765 claims were pregnancy claims. Hence, the inclusion of this type of claim is not material. Apparently, the highest wage bracket is reached by women only at an age where pregnancies are no longer common.

Both the California and New Jersey data convincingly demonstrate that, paradoxical as it may sound, money is a more potent factor than sex in the morbidity experience. The principle unquestionably holds true with respect to severity (average duration). It appears also to apply, at least to some extent, to frequency.<sup>46</sup> The observed higher frequency rates for unemployed disabled likewise seem to support this supposition although the different rules as to waiting periods may weaken the force of this argument.

In the light of the arguments advanced above, the discrepancy between the California and New Jersey frequency rates for female and male claimants may become less perplexing than they are at first blush.

Table 29

EFFECT OF WAGE ON AVERAGE DURATION (WEEKS)  
 BY SEX AND AGE  
 CALIFORNIA EMPLOYED DISABLED  
 1964

Income	Under 25		25-44		45-54		55-64		65 and Above		Composite	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Under \$4,000	5.6	4.8	7.1	7.6	8.6	8.6	10.9	9.7	13.0	12.8	8.1	8.0
\$4,000 and above	4.5	4.1	5.3	6.4	6.7	7.0	8.3	8.2	11.0	11.9	6.5	6.9

Source: Joint Committee on Unemployment Compensation Disability Insurance,  
 Final Report, Table 17, at p. 80 (1967).

Table 30

## NEW JERSEY

EFFECT OF WAGE (AS REFLECTED IN WEEKLY BENEFIT RATE) ON DURATION (WEEKS)  
 BY SEX  
 EMPLOYED DISABLED  
 1964

Sex	Under \$20	\$20-\$24	\$25-\$29	\$30-\$34	\$35-\$39	\$40-\$44	\$45-\$50
Male	13.88	11.40	11.07	10.19	9.36	8.36	7.35
Female	11.03	10.02	9.54	9.12	8.24	8.00	7.72

Source: State of New Jersey, Department of Labor and Industry, Division of Employment Security, Temporary Disability Insurance Cases in 1964 (Research Series No. 19), Table 40, at p. 74 (1967).



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It may be recalled that in New Jersey the frequency rate of female claims more than doubled that of male claims while in California the frequency rate of female claims exceeded that of male claims by only 35 per cent.

### FREQUENCY RATES

(Number of Claims per 1,000 Workers)

	<u>Male</u>	<u>Female</u>
California	79.8	108.1
New Jersey	42.5	124.5

Apparently, the higher frequency rate of male claims in California is due to the fact that California dispenses with a waiting period in hospitalization cases which are often caused by accidents. Women suffer fewer accidents than men. The higher frequency rate of female claims in New Jersey may be attributable as much to lower wage rates or age, as to sex only. In addition, factors contributing to the difference may be found in the possible adverse selection attributable to private plans, occupational conditions and climate.

Moreover, the data support a further conclusion: even if the benefit formula is not constructed in such a manner as to be weighted in favor of the low-wage earners (as is, for instance, the benefit formula under the OASDHI system), it nevertheless operates in favor of the low-income groups because these groups have a much more unfavorable experience than the insured in the higher wage brackets. A recent study by the California Department of Employment of a 1966 sample analyzing the relation between net benefit costs and contributions (loss ratios) for a sample of claimants segregated by age, sex and wage bracket<sup>47</sup> strikingly shows this factor.

Although the discussion of the effects of age, sex and wage level on the demands on the system has revealed perplexing and divergent factors, one conclusion seems to be inescapable:

The average duration of claims is strikingly related to the income level: the lower the income level, the longer the duration of disability. Hence, systems which limit duration significantly discriminate against low-wage earners and deny protection where it is most needed.

## PART II

### Chapter III

#### SCOPE AND ADEQUACY OF EXISTING PROTECTION IN HAWAII

During the fiscal year 1968 the total labor force in Hawaii consisted of 295,750 persons. Of this number, 285,050 were actively employed. 28,450 members of the active labor force were self-employed or domestic and family workers. The remaining 256,600 persons were subject to Unemployment Insurance coverage. 34,250 were federal employees, 33,250 state government employees, 178,100 were in private nonagricultural employment, and the remaining 11,000 were agricultural workers.<sup>1</sup>

The proportion of women workers in Hawaii is not known with precision. According to a survey conducted in 1965,<sup>2</sup> women constituted 37.1 per cent of the labor force (including governmental employees) in the City and County of Honolulu. Eliminating governmental employees from the computation, the proportion of the female component in the total work force was 39.8 per cent. Textile and apparel manufacturing (2,100 workers) had the highest proportion of women workers, 90.5 per cent, followed by the service industry (32,300 workers) with 58.7 per cent, finance, insurance and real estate (11,450 employees) with 45.9 per cent and wholesale and retail trades with 44.7 per cent. At that time the share of women in the national labor force was 37.3 per cent.<sup>3</sup> Although since that time the percentage has not changed significantly on the national level,<sup>4</sup> the same conclusion cannot be drawn for Hawaii, in view of the rapid expansion of the service industry. Probably the present share of women in the private civilian labor force in Hawaii is around 40 per cent.

The current scope and structure of the protection of the Hawaiian labor force in private employment against occupational disability, either by sick leave programs or private insurance (both group and individual) cannot be ascertained with complete precision. Fairly reliable estimates, however, can be made on the basis of a detailed survey conducted in 1964/1965 by the Department of Labor and Industrial Relations,<sup>5</sup> hereafter called the Department Survey; a Survey of Employee Benefit Plans in Hawaii compiled by the Hawaii Employers Council,<sup>6</sup> hereafter called Council Survey; and additional information imparted by the Health Insurance Association of America. In addition, excellent material for comparative purposes is contained in various studies of the Office of Research

## SCOPE AND ADEQUACY OF EXISTING PROTECTION

and Statistics of the United States Department of Health, Education and Welfare, especially the survey by Kolodrubetz, Employee-Benefit Plans in 1966.<sup>7</sup>

In order to examine the scope and structure of the existing protection against nonoccupational disability in an orderly and easily comprehensible fashion, the analysis is divided into two stages: Stage one investigates solely the numerical extent to which some type of protection is provided; stage two deals with the structure and the adequacy of that protection.

### **How Many Employees Have "Some" Kind of Protection Against Loss of Income Owing to Off-the-Job Sickness or Accident?**

The starting point of the investigation must be the survey conducted by the Department of Labor and Industrial Relations in 1964/1965, mentioned above. It was impossible, and probably unnecessary, to duplicate that effort even though the Department Survey left some troublesome unanswered questions.

The Department Survey was based on a questionnaire drafted by the Department and mailed to 1,774 firms, representing 238 large establishments (100 and over employees), 524 medium-sized enterprises (20 to 99 employees) and 1,012 small businesses (less than 20 employees). The Department received 1,044 replies from 185 large firms, 311 from medium-sized enterprises and 548 from small employers. The replies covered 73,000 workers in private industry and agriculture. The results of the sample were extrapolated to the work force in private industry as of October, 1964, i.e., 160,410 workers.

The Department Survey covered only plan protection, i.e., sick leave programs and group insurance but excluded individual disability policies. Sick leave coverage comprised both "formal" programs and "discretionary" programs. On the basis of the replies and the extrapolation to the larger universe, the Department concluded that:

89,510 employees had formal sick leave protection,  
13,170 employees had discretionary sick leave protection, and  
12,980 employees were enrolled in group insurance.<sup>8</sup>

To obtain the total number of workers with some plan protection, it is not possible to simply add these figures and conclude that 115,660 employees were protected since many of 12,980 with group

## TEMPORARY DISABILITY INSURANCE

insurance were also covered by a sick leave program and are already included in those totals. Unfortunately, the Department Survey failed to ascertain specifically the extent of overlap between sick leave and group insurance, i.e., to ascertain the extent of integrated sick leave and group insurance.

There are, however, some clues as to the extent of integrated plans. The Department Survey disclosed that 256 firms employing 4,268 workers had only disability insurance while 289 firms with 17,482 employees had "joint" coverage.<sup>9</sup> In interpreting the possible significance of this statement, hasty conclusions must be ruled out. The fact that 256 firms with 4,268 workers had only group insurance coverage does not signify that all of their 4,268 had such coverage. Some firms cover only a portion of their work force by group insurance. Similarly, the statement that 289 firms with 17,482 workers had joint coverage does not permit the conclusion that all or most of these workers had integrated coverage. It is evident from the number of workers involved<sup>10</sup> that a portion of them had solely sick leave coverage while another portion most likely had solely group insurance coverage and that only a third portion had combined sick leave/group insurance protection. On the other hand, the extent of the combined or integrated coverage must have been quite substantial. Policies covering 600 employees specified expressly that they commenced payments only upon expiration of sick leave; policies covering 1,310 workers had waiting periods of 30 days and over; and policies covering 2,240 workers had waiting periods of between 8 and 29 days.<sup>11</sup> Thus, the conclusion is suggested that at least 4,000 out of the 12,980 workers had combined coverage. This estimate is buttressed by the Council Survey in 1966 which found that of the group insurance policies taken out by 63 companies covering 6,106 employees, "most plans are supplementary to the regular noninsured company paid sick leave for its employees".<sup>12</sup> Similarly, the Health Insurance Association of America reported that of 70 group insurance policies covering Hawaii employers, at least 20 had waiting periods between 30 and 90 days and therefore were probably part of an integrated plan.<sup>13</sup> Consequently, it must be concluded that at least 4,000 of the 102,680 workers having formal and discretionary sick leave also had group insurance and, therefore, that 111,660 workers (89,510 + 13,170 + 8,980) had some plan protection. The converse of this is that 160,410 - 111,660 = 48,750 workers in private industry or 30.4 per cent, had no plan protection whatsoever.

It is not sure whether the discretionary type of sick leave can be considered as real protection. The United States Department of Health, Education and Welfare, for instance, does not

## SCOPE AND ADEQUACY OF EXISTING PROTECTION

count discretionary plans as true income-loss protection.<sup>14</sup> On that basis, the number of workers without formal plan protection would increase to 61,920 or 38.6 per cent. Even on that basis, Hawaii would grant considerably better protection than the other states that do not have compulsory temporary disability legislation. Protection by means of voluntary group insurance and sick leave in all states except California, New Jersey, New York and Rhode Island extended only to 53.1 per cent of the labor force in private industry.<sup>15</sup>

The question remains whether substantial additional protection was provided by means of individual disability policies. According to data furnished by the insurance industry, 28,582 individual disability insurance policies were taken out by Hawaii policy-owners in 1965.<sup>16</sup>

Unfortunately no details as to the type of coverage furnished by these policies are given. First of all, it is likely that at least a portion of these policies did not extend at all to temporary disability but covered only permanent disability, i.e., disability that has existed for 26 weeks before benefit payments commence. Such policies are not uncommon, especially among policies of the individual type. Moreover, there is no reason to assume that all policy buyers had active employment status as the market for such policies includes students and housewives. But even if it is assumed that the preponderant majority of these 28,582 individual disability policies covered temporary disability and were taken out by persons in active employment, the remaining number would still have to be distributed over the whole labor force or at least that portion thereof that was not already covered by the 12,980 group policies, i.e., self-employed, government workers and employees in private employment, i.e., for the year 1964/1965-- $249,850^{17} - 12,980 = 237,870$  persons. There is no reason to assume that only or primarily the self-employed or employees in private employment without any sick leave or group protection were the beneficiaries of such policies. In fact, there is no reason to infer that even a substantial number of the persons in private employment without any protection, i.e., the 30.4 per cent mentioned above, were covered by this type of protection. Individual disability policies are comparatively expensive, and the totally unprotected workers are primarily employed in the 6,460 small firms without any form of coverage listed in the Department Survey,<sup>18</sup> and presumably at low wage rate. Hence, it cannot be concluded that consideration of the roughly 28,500 individual policies outstanding in 1964 requires

## TEMPORARY DISABILITY INSURANCE

a significant modification of the result reached with respect to the numerical extent of formal protection at that time.

Finally it must be inquired to what extent the picture has changed since the date when the Department Survey was compiled. According to information supplied by 97 carriers<sup>19</sup> writing 89.6 per cent of the premium value of accident and health insurance policies in Hawaii, group policies written in 1967 covered 32,229 persons and individual policies 42,458 persons.

Unfortunately again, no details were obtained as to the type of coverage furnished by these policies. Again, the principal problem arising at the threshold, is the question whether all these policies provided protection in cases of temporary disability or whether a significant number of them were restricted to permanent total disability only, i.e., beginning after a waiting period of 180 days. According to a sample taken in January 1968, six out of 70 group policies (constituting the sample) required a waiting period of 180 work days.<sup>20</sup>

Even assuming that 90 per cent of the 32,229 persons covered by group disability policies (or 29,006) were employees covered against the whole or some portion of temporary disability, i.e., disability of less than 26 weeks, the number must be distributed over the labor force as it existed 1967/1968. During that period, the active labor force totalled 285,050 persons, consisting of 28,450 self-employed and domestic and family workers, 178,100 employees in private nonagricultural employment, 11,000 workers employed in self-insured agriculture, 33,250 state government employees and 34,250 federal employees, representing a net increase of 40,587 workers over the 244,463 persons in active employment during the calendar year 1964 (26,550 self-employed and domestic and family workers, 152,731 employees in private industry other than agriculture, 10,733 employed in self-financed agriculture and 54,449 state and federal government employees). Evidently the increase of approximately 16,000 in reported group insurance against temporary disability (from 12,980 in 1964 to roughly 29,006 in 1967) must be distributed over four categories of workers:

- (a) New workers employed in private firms having group insurance in 1964;
- (b) Group protection of government employees who were not included in the 12,980 figure since the Department Survey was concerned with only group protection of employees in private employment in 1964;<sup>21</sup>

## SCOPE AND ADEQUACY OF EXISTING PROTECTION

- (c) Workers newly covered by integrated plans and previously covered only by formal sick leave; and
- (d) Workers formerly not covered by any formal plan.

Obviously category (b) which was not accounted for in the 1964 census should constitute an important portion of the 29,006 workers estimated to have group temporary disability insurance since government employers have tended to enroll in group plans. Categories (a) and (c) likewise must constitute a sizable segment since there is an increased preference for combined coverage. Accordingly, it is most unlikely that category (d) has proportionately diminished to a significantly greater extent than is indicated in the 1965 survey.

As a result, it is estimated that 35 per cent<sup>22</sup> of the work force in private industry is still without any formal plan protection against temporary disability.

The reported existence of 42,458 individual disability policies in 1967 does not compel a revision of this conclusion. In the first place a substantial proportion of individual policies are undoubtedly taken out by the self-employed. Secondly, individual policies are to a large extent policies against permanent disability. Finally, since this type of coverage is comparatively extensive, there is no reason to assume that many workers heretofore totally unprotected have not purchased this type of protection against temporary disability.

### **Do the Employees Who Have "Some" Formal Protection Have "Adequate" Protection?**

The conclusion that 65 per cent of the workers in private industry have "some" protection does not signify that they have adequate protection. Of course, the standards of adequacy are neither self-evident nor absolute. They involve judgment in the light of measured need. It seems, however, fairly plain that adequate protection must meet two requirements:

- (1) It must be available without eligibility conditions which unduly postpone protection and thereby make it illusory;
- (2) It must be of sufficient duration so as not to be cut off when it is most needed.

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Plans which condition protection on length of service beyond, at the most, four weeks violate principle (1). Plans which do not provide for income maintenance to the disabled for at least thirteen, if not twenty-six, weeks violate principle (2).

Principle (2) requires further explanation. It is based on the experience with disability insurance in California, New Jersey, New York and Rhode Island, and refer particularly to the data relating to average duration and the continuance tables constructed on the basis of the California and New Jersey experience.

The experience shows that under an 8-8-26 plan or a modified 1-8-26 plan (California), the average duration of illness varied between 7.1 and 8.4 weeks.

### SYNOPSIS OF AVERAGE DURATION

Year	California	New Jersey	New York	Rhode Island
1963	7.2	7.9	7.1	7.9
1964	7.4	8.3	7.3	8.1
1965	7.4	8.1	7.2	7.8
1966	7.1	8.2	7.4	7.8
1967	7.2	8.4	---	8.1

These figures are composite average values without differentiation according to age, sex and wage levels. For some categories (female, higher age groups), they move up considerably and may fall in the 11 to 13-week range. Since average values are the product of longer and shorter claims, a substantial number of claims exceed 13, and even 26, weeks. Analysis of the California experience shows that a reduction of the maximum benefit duration from 26 weeks to 13 weeks exposes 18 per cent of all recipients to uncompensated periods of disability, ranging from 1 day to 91 days and deprives the insured of 21 per cent of the monetary value of their protection (as compared with a 26-week plan). It is no answer to say that only 9 per cent of all insured become recipients and that 18 per cent of 9 per cent means that less than 2 per cent of the work force are actually hurt by that curtailment. What it really means is that each insured member of the insured work force is exposed to a 1:60 risk that his protection will terminate while he is still disabled. Two per cent of a work force of 195,000 (the potential coverage in Hawaii) are 3,900 breadwinners. Moreover, the class consists of women, older workers and workers in the lower earning brackets.



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Still shorter maximum durations increase the specter of uncompensated periods of disability at an accelerated rate. A glance at the California discontinuance curve makes this evident. Disability coverage of not more than 4 weeks would leave 52 per cent of the disabled workers with uncompensated portions of their disability period, and the average deficit would amount to 8.47 weeks.

On the basis of these standards, therefore, the disability coverage in Hawaii is far from being adequate. The Department Survey of 1964/1965 showed that of the 50,160 workers who were covered by sick leave plans with fixed length per year, only 7,290 workers were entitled to 3 weeks and more.<sup>23</sup> The preponderant majority (42,870) had maximum durations ranging from 1 to 3 weeks.

Of the 38,980 workers subject to plans with sick leave coverage on a progressive scale, 4,070 were subject to a maximum of 2 weeks, and a total of 12,265 were subject to a maximum not exceeding 9 weeks.<sup>24</sup>

In 62.8 per cent of the sick leave plans, no accumulation was permitted.<sup>25</sup>

It must be concluded, therefore, that 65,035 out of the 89,510 workers covered by sick leave plans in 1964/1965 had no adequate protection by these plans alone. In 4,000 cases it must be assumed that the deficiency was cured by integrated plans.

Hence, the picture in 1964/1965 was this: 98,490 workers out of 160,410 in private industry had some formal plan coverage. But that coverage could be deemed adequate only with respect to 33,455 employees, or 21 per cent of the total labor force in private industry. Even that is a generous estimate as it ignores overly stringent eligibility requirements as to period of service in a substantial number of the insured plans.

Happily, it can be recorded that since 1966, the existing protection against disability has been markedly improved with respect to a substantial segment of the work force as a result of recent collective bargaining agreements. However, great gaps still exist in the protection accorded by these new agreements. Moreover, the improvement benefited, for the most part, only categories of employees who already had a certain degree of formal protection.

## TEMPORARY DISABILITY INSURANCE

The Hawaii Employers Council supplied the text of current collective bargaining agreements applying to 287 firms (or firm divisions) employing 34,585 workers. Out of this universe, 265 firms provided some type of disability protection while 22 firms, employing 975 workers, did not include sickness protection in their agreements. Two hundred and thirty firms with a work force of 25,727 employees accorded sick leave only, while the agreements of 35 firms with a work force of 7,883 employees contained provisions with respect to disability insurance.<sup>26</sup>

In the case of 17 of the 35 firms, employing 6,341 workers (primarily affiliated with I.L.W.U.), the disability insurance provided in the collective agreement was group insurance against permanent disability, requiring a 26-week waiting period. Agreements applying to 17 other firms, employing 1,539 workers (mostly affiliated with the A.F.L.-C.I.O.), provided group insurance against all or the second half of short-term disability. In the case of one firm, with three employees, the agreement failed to identify the nature of the group policy. The group insurance applicable to 11 out of the second group of 17 firms employing 960 workers was characterized as "long-term disability insurance" and commenced benefits only after the 13th week of illness. One of these firms (with 13 employees) provided only optional group insurance, without monetary obligation on its part. The 11 policies covering 960 workers constitute the real advance in group insurance coverage since the 1964/1965 census. Whether that number permits extrapolation to the whole labor force in private industry is extremely doubtful since it is the result of a new bargaining pattern pursued by the A.F.L.-C.I.O. unions.

Progress in the sick leave provisions extended to all three aspects thereof:

maximum duration per year,

progressive scale by length of service,

cumulation provisions.

As a result, accumulated sick leave of workers with long service may extend to 12 weeks, but entitlement to that much sick leave is quite rare. Provisions for cumulative leave permitting accumulation of 12 weeks or more were found only in agreements with 25 firms (including a large proportion of hospitals).

## SCOPE AND ADEQUACY OF EXISTING PROTECTION

In all but three cases, group disability insurance supplemented sick leave provisions but left in most instances a substantial intervening gap. Thus in the I.L.W.U. negotiated agreements, the existing gap is usually 20 weeks, even with the maximum permitted accumulation. The only substantial exception applies to production workers of the companies in the pineapple industry and to the clerical workers of two of them (5,685 in all). In these instances, workers with service of 10 years or more are entitled to sick leave up to 26 weeks (10 weeks with full pay, 16 with half-pay) followed by permanent disability insurance where appropriate.

A comparison of these data with the results of the findings of the Survey of Employee Benefit Plans in Hawaii,<sup>27</sup> published in 1966, confirms the conclusion that the progress in group insurance protection against temporary disability has been modest at best. The Council Survey was based on plans submitted by 246 companies employing 62,060 persons. According to the Council Survey, 63 companies provided sickness disability insurance or income protection other than sick leave. Thirty-nine firms covered all employees, while 21 firms covered clerical and salaried employees only and three firms covered production employees only. The insurance plans of these firms covered 6,106 employees or 56 per cent of their total work force of 10,983. Unfortunately, the Survey did not differentiate between temporary and permanent disability coverage.

Even taking account of the difference in character and size of the sample studied by the Council Survey and the Legislative Reference Bureau sample, consisting of recent collective bargaining agreements applicable to 287 firms and 34,585 of their employees, no spectacular increase in insurance against temporary disability is revealed. Our sample revealed a net increase of 1,777 workers (7883-6106) with insurance coverage since 1966, despite the smaller number of firms providing such plan (35 as compared with 63). Nevertheless, it must be kept in mind that only 1,539 of the workers included in our sample had insurance coverage extending to any part of the first 26 weeks of disability and 960 of these were covered by the new long-term plan with benefits commencing after a 12-week waiting period. There is no reason to surmise that the situation in the firms not covered by our sample would be substantially improved.

Statistics compiled by the Department of Social Services buttress the findings of this survey. During February 1968, 49 of 470 applicants for welfare (10.4 per cent) gave acute illness as the reason:

## TEMPORARY DISABILITY INSURANCE

21 were then unemployed and had no sick leave,

10 were then unemployed and had exhausted their sick leave,

3 were considered employed, but had no sick leave,

2 were considered employed, but had exhausted their sick leave, and

13 were ill, but did not indicate their employment status.

On the basis of this evidence, it must be concluded that the existing protection against temporary disability is quite inadequate and calls for legislative action.

## Chapter IV

### MYTH AND TRUTH IN TEMPORARY DISABILITY PROTECTION

It is pertinent to review assertions frequently made to prove that legislative action is unnecessary or, at any rate, inadvisable. Perhaps it is not inappropriate to couch this review in Myth and Truth Terms.

1. Disability protection has made steady and spectacular progress, rendering legislative meddling unnecessary. In an article entitled "Income-Loss Protection Against Illness", 1948-1966,<sup>1</sup> its author A. M. Skolnik (an official of the Department of Health, Education and Welfare), surveyed the relative increase of the labor force in the United States and compared it with the increase in voluntary protection by formal sick-leave and voluntary group insurance, including insurance against permanent disability. He compiled the following data:

<u>Year</u>	<u>Labor Force (in thousands)</u>	<u>With Protection</u>	
		<u>Number (in thousands)</u>	<u>Per Cent of Total</u>
1954	31,400	15,000	47.8
1956	34,200	16,400	48.0
1958	33,600	16,000	47.6
1960	34,300	16,800	49.0
1962	35,900	17,300	48.2
1964	38,100	18,500	48.6
1965	40,000	19,500	48.7
1966	41,000	20,800	50.7

He arrived at the following conclusion:

. . .The coverage provisions in the four states (California, New York, New Jersey and Rhode Island), which are similar to the unemployment insurance laws of those states cover most employees in industrial and commercial firms. They generally do not cover hired farm workers (except in California), domestic service workers, or employees of governments and nonprofit organizations. Despite these exemptions, the overwhelming majority of wage and salary workers in these states are protected against short-term sickness.

In jurisdictions without temporary disability insurance laws a different picture emerges. In 1966, about half of the private wage

## TEMPORARY DISABILITY INSURANCE

and salary force in states without laws (excluding railroad employees) had some type of sickness benefit protection. As the . . . tabulation shows, such protection has shown hardly any growth in the last decade as the number of protected workers has little more than kept up with increases in the private labor force.<sup>2</sup>

Subsequent revisions of the 1966 data<sup>3</sup> showed a slight improvement to 51.1 per cent coverage.

The degree of protection, measured by the proportion of the total wage loss which is compensated by formal sick leave or group insurance, or both, has shown a greater improvement over the years, but the growth is likewise very modest. Mr. Skolnik estimated that the per cent of income-loss of wage and salary workers in private industry compensated by formal plans in states which do not have compulsory temporary disability laws amounted to 17.4 per cent in 1966 as compared with 14.5 per cent in 1954.<sup>4</sup> The improvement was due in a greater degree to improved sick leave plans than to improved group insurance protection. Sick leave in 1954 accounted for 42.9 per cent of the benefits provided by voluntary plans, while in 1966 the percentage had risen to 45.0 per cent.<sup>5</sup> In Hawaii the improvement of the protection by formal sick leave plans would be considerably greater.

There is an apparent disturbing discrepancy between the data reported and relied upon by the Office of Research and Statistics of the Department of Health, Education and Welfare and data published by the Health Insurance Institute.<sup>6</sup> The data of the Office of Research and Statistics indicate that the number of workers in private industry protected against temporary disability by group insurance and formal sick leave rose from 24.7 million in 1956 to 29.3 in 1966<sup>7</sup> (i.e. by 18.6 per cent), while the Health Insurance Institute records for the same period an increase of the "number of persons with loss of income protection" through group policies from 20.9 million to 28.7 million (37.3 per cent).<sup>8</sup> (The labor force in the United States excluding the self-employed grew during the period in question by 21.1 per cent.)<sup>9</sup> According to the Health Insurance Institute data, the number of persons with loss of income protection grew at a faster rate than the United States labor force while according to the Health, Education and Welfare data, this was not the case.

This apparent discrepancy is explainable on three grounds or a combination of them, viz.

- (a) That the greater rate of growth of the number of persons with income loss protection by group insurance than that

## MYTH AND TRUTH

of workers in private industry protected in such manner is due to coverage of other segments of the labor force, e.g. government employees;

- (b) That the Health Insurance Institute data include types of policies not included in the Health, Education and Welfare census;
- (c) That there is a true discrepancy between the Health, Education and Welfare and the Health Insurance Institute data.

There are many reasons to conclude that all three grounds are present but that grounds (a) and (b) play a large part in the picture.

Both the Health, Education and Welfare and Health Insurance Institute data include group policies covering only permanent disability, i.e. disability that becomes compensable only after a waiting period of 26 weeks. This type of policy lately has had a great deal of appeal to government employees.<sup>10</sup> Moreover, "loss of income protection" as counted in the Health Insurance Institute data seems to include also group life policies which contain clauses that the face amount is payable either in installments or in a lump sum if the worker becomes totally and permanently disabled.<sup>11</sup> Policies of that type have regained popularity in recent years. Finally, the Office and Research and Statistics of the Department of Health, Education and Welfare has registered disagreement with early data relied upon by the Health Insurance Institute.<sup>12</sup>

As a result, it must be concluded that there is no reason to assume that the growth in group insurance against temporary disability or in sick leave plans covering workers in private industry has progressed at the rate suggested (by careless analysis) by the Health Insurance Institute data or that a speedy closure of the gap in protection can be anticipated in the near future.

2. The repeal of the Washington compulsory disability compensation law by popular referendum in 1949 proves that the people do not want regimentation of this type. A thesis like that based on the Washington repeal is hard to refute since it involves so many political and economic imponderables. On its face the Washington measure was not more burdensome than the

## TEMPORARY DISABILITY INSURANCE

California Act after which it was patterned. The Washington statute<sup>13</sup> provided for alternative state fund or voluntary plan coverage. The state fund was financed solely by employee contribution, fixed at one per cent of the first \$3,000 of the employee's wages. Private plan coverage was not permitted to increase the employees' burden. Professor Grant Osborn commented subsequently on the lesson to be learned from the Washington referendum:<sup>14</sup>

. . . There is evidence, however, that the voters in the Washington referendum were not well informed on the issues. The opposition, comprised primarily of insurance companies and employer groups, was well financed. They used many billboards, newspaper ads and premium notice enclosures emphasizing the additional wage deduction which passage of the bill would entail. In addition, it is reported that important labor groups, which did not oppose the bill in committee, opposed it during the referendum for political reasons. On the other hand, the Washington State Federation of Labor, the supporter of the bill, was reportedly handicapped in its campaigning by inadequate financing. Consequently, the results are probably not a reliable indication of the public's attitude.

It could also be argued with equal cogency that the fact that the people in California, New Jersey, New York and Rhode Island have retained their acts proves their merit, especially since the labor force in these states represents roughly a quarter of the total national labor force. It is not believed, however, that controversies on that level contribute much to informed judgment.

3. Compulsory temporary disability insurance imposes excessive burdens on the public and threaten to bankrupt the economy. Obviously, vague terms like "excessive" or "back-breaking" cannot be reduced to valid quantitative expressions. Even the absolute amount of the annual costs of adequate coverage is a more or less meaningless figure since it depends on the size of the labor force and the benefit rate. The only meaningful way to consider the annual costs of a system of compulsory disability insurance is to reduce it to a relative quantity, as, for instance, cost per covered worker, or cost as a percentage of the covered payroll, or cost as a percentage of the annual gross state product (presently estimated at \$2.9 billion<sup>15</sup>).

As has been shown before, the costs of a system (apart from structural differences) are the product of three actuarial quantities: frequency, average duration of benefit payments, and average benefit amount. Each of these quantities reflects the composition of the work force by age, sex and wage level as well



## MYTH AND TRUTH

as other factors, such as occupational distribution, climate, ethnic differences, etc.<sup>16</sup>

Thus, it is not without hazards to rely on experiences gathered from other systems as the basis for precise cost estimates. Professor Osborn has warned against such an endeavor:

The experience of commercial insurers in this country and of the compulsory programs in Europe indicates that even if the data gathered prior to the inauguration of an insurance scheme for disability are reliable, they may not be wholly relevant, since the risk seems to develop its essential characteristics subsequent to insuring.<sup>17</sup>

It is equally hazardous to rely on data collected by the National Health Survey. The figures reported for "time lost from work among currently employed workers" are understated since they do not reflect accurately illnesses of long duration.<sup>18</sup> This is primarily due to the sampling techniques employed and, in particular, to the definition of "currently employed" as a person who "at any time during the two-week period prior to the interview either worked at or had a job or business."<sup>19</sup> Obviously a person who was ill throughout the two weeks would not be sure whether or not he had a job. Moreover, the Survey presents data which do not reflect the effects of compensability,<sup>20</sup> including the impact of waiting periods.<sup>21</sup> The unreliability of the National Health Survey for cost estimates has been frequently noted by commentators<sup>22</sup> although the improved techniques of the Survey have minimized the discrepancies.<sup>23</sup> Certainly the data compiled are valuable for certain adjustments.

The National Health Survey for 1958/1959 indicated that the average number of work-loss days in Oahu was 5.0 for both sexes, or 4.9 for males and 5.2 for females<sup>24</sup> while for the same period on the mainland, it was 6.3.<sup>25</sup> The relative low work-loss figures in Oahu were attributed to the work-loss records of Japanese workers whose average work-loss was 43.5 per cent less than for Caucasians and 38.3 per cent less than for persons classified as all other races.<sup>26</sup> The average number of work-loss days for the whole United States during 1963/1964 showed an improvement over the 1958/1959 data: 5.5 days for both sexes (5.6 for men, 5.3 for females).<sup>27</sup>

Probably the safest way for estimating the average number of compensated disability days per covered worker is to rely on the California, New Jersey, New York and Rhode Island experience, taking into account the structural differences of the systems.

## TEMPORARY DISABILITY INSURANCE

Table 31 shows the average number of compensated days of disability per insured worker under the existing systems in the four states. The New Jersey data also show adjustments made for the exclusion of pregnancy claims or the inclusion of pregnancy claims with elimination of the effects of premature termination of pregnant workers.

The Rhode Island data are more than twice as high as in the other states because of the inclusion in coverage of the unemployed, the longer duration of pregnancy coverage, and the elimination of waiting periods for subsequent spells of sickness.

The New Jersey data, even with the adjusted inclusion of additional pregnancy claims, are lower than comparable data in California, probably because of the absence of a waiting period in California for claims requiring hospitalization and the larger proportion of women in the California work force. The New Jersey data show that pregnancy coverage increases the average number of days of compensated disability per covered worker by about 12 per cent.

On the basis of the adjusted experience in California and New Jersey, it is estimated that the average duration of compensated disability per covered worker in private industry under a 8-8-26 plan will be in the neighborhood of 4.20 days if pregnancy is not covered and 4.70 days if pregnancy is covered. Assuming, at current wage rates (average weekly wage of \$108), an average weekly benefit of \$70, the total current annual cost for the private sector of Hawaii would be  $190,000 \times .6 \times 70.00 = \$7,980,000$  if pregnancy is excluded and  $190,000 \times .67 \times 70.00 = \$8,911,000$  if pregnancy is included. To this amount, 10 per cent for costs of administration should be added, resulting in the total gross cost of a 8-8-26 plan for workers in private industry of \$8,780,000 without pregnancy coverage and \$9,810,000 if pregnancy is included.<sup>28</sup> It is estimated that the higher proportion of women in the Hawaii labor force and their lower average weekly wage would cancel each other in effect.

Translated into costs as a percentage of taxable payroll, this computation would result in a net cost of  $\frac{1}{52} \times .6 \times .67 = 77$  cents per hundred dollars of taxable payroll if pregnancy is not included, or 86.3 cents per hundred dollars of taxable payroll if pregnancy is included.

Table 31

AVERAGE NUMBER OF DAYS OF COMPENSATED DISABILITY  
PER COVERED WORKER  
IN CALIFORNIA, NEW JERSEY, NEW YORK AND RHODE ISLAND  
1963-1967

	California (State Plan)	New Jersey (State Plan)			New York	Rhode Island
		Actual Experience	Pregnancy Eliminated	Adjusted Pregnancy Load		
1963	4.47	4.14	3.96	4.41	3.26	9.41
1964	4.65	4.18	4.00	4.47	3.17	9.19
1965	4.55	4.16	3.97	4.43	3.16	9.11
1966	4.43	4.18	4.00	4.43	3.19	9.77
1967	4.52	4.30	4.12	4.57		

Source: Computed from Tables 4, 8, 10, 13 and 18 of this Report.

## TEMPORARY DISABILITY INSURANCE

These estimates are supported by the New Jersey<sup>29</sup> and California experience<sup>30</sup> relative to costs as percentage of taxable payroll. In 1967 the net costs in New Jersey as percentage per payroll were 77.3 cents per \$100 taxable payroll if pregnancy is excluded and 85 cents per \$100 taxable payroll if adjusted pregnancy coverage is included. In California the net costs in 1967 were only 68 cents per \$100 taxable payroll.

Hence, a contribution rate of 1.1 per cent of the taxable payroll should adequately finance an 8-8-26 plan with 8 weeks duration of pregnancy coverage.

It seems that 1.1 per cent of taxable payroll is not an excessive load. Moreover, it should be realized that the figures given are the total costs of an 8-8-26 plan with 8 weeks pregnancy coverage. If credit is given for the actuarial value of that portion of the 8-8-26 plan coverage which is already provided by existing formal sick leave and group insurance plans, the costs of the additional protection would be proportionately reduced.

4. Experience in California and Rhode Island has shown that the state funds in these states are in perpetual trouble and verging on bankruptcy. It is true that the compulsory plans in California and Rhode Island met with serious difficulties during their existence.

In California extreme dangers threatened in 1964 and 1965. The principal reason was the lack of correlation between the maximum benefits and the taxable wage base. While the maximum weekly benefit amounts were increased several times (in 1961, 1963, and 1965 and 1968) in order to keep pace with the increase in wages, the maximum taxable wage base was not increased proportionately, resulting in a growing imbalance between income and outgo. Moreover, the cash flow provisions which allowed quarterly payments for all employers added to the predicament. Remedial legislation in 1965 alleviated the situation. Obviously, the maximum benefits payable and the taxable wage base both must keep pace with changes in wage scales. Since 1965, the California fund balance has continually increased each year.<sup>31</sup>

In Rhode Island serious difficulties occurred during the early stages of the program owing to over-generous pregnancy benefits and the heavy load created by the inclusion of the unemployed in the coverage of the Act without provisions for separate financing.

## MYTH AND TRUTH

Legislation restricting pregnancy coverage in 1946 and the transfer of funds from the unemployment account under the Knowland amendment temporarily remedied the plight. Nevertheless, the Rhode Island Fund has been constantly underfinanced since 1955,<sup>32</sup> and unless the taxable wage base (which at present is only \$4,800) and the contribution rate (which is 1.0 per cent despite the inclusion of the unemployed) are appropriately increased, more troubles can be predicted.

There is, however, nothing inherent in these difficulties, so long as the system is properly policed and the legislature does not grant benefits in excess of the financing covering their actuarial costs.

# PART III

## Chapter V

### RECOMMENDATIONS

The preceding part of the report has developed minimum standards for adequate protection against income loss caused by temporary disability resulting from accident and illness and has arrived at the finding that these standards are not satisfied, at least substantially, by existing arrangements. Hence, it is concluded that there is definite need for the enactment of a compulsory temporary disability insurance law.

In view of the progress of existing voluntary arrangements towards filling the existing need, at least in part, it seems desirable that legislation introducing compulsory temporary disability compensation does not totally replace the existing arrangements, but, to the extent that is practicable and feasible, leaves the existing arrangements unaffected and capable of further growth.

It is therefore recommended that the legislature enact a compulsory temporary disability insurance law having the following features:

1. Coverage extends to temporary disability due to sickness or accident and is on the 8-8-26 plan, i.e., requiring the expiration of a waiting period of one week in all cases and extending to a maximum of 26 weeks.
2. Coverage includes pregnancy of a wage earner who is a regular member of the labor force, subject to a durational limitation of 8 weeks (4 weeks prior to the expected delivery and 4 weeks after the termination of pregnancy).
3. Coverage extends to workers in current employment (including 2 weeks after the termination of employment), leaving unemployed disabled to the present program under section 93-28(c), Revised Laws of Hawaii 1955.
4. Coverage extends to all employees, including workers employed in agriculture and by the state or local governments, but excludes casual employment, family employment and domestic service in a private home.

## RECOMMENDATIONS

5. Weekly benefits are provided in an amount that constitutes an adequate replacement of the wages lost by reason of the off-the-job disability. Two important policy considerations, however, place a practical limitation on the weekly benefit amounts. In the first place, they must be less than the weekly benefit amounts payable for on-the-job disability. Otherwise the benefit level would create a serious danger to the financial integrity of the system. Secondly, they must be less than the take-home pay of the worker in order to offer a monetary inducement to return to the job. At present tax rates (assuming four exemptions), a wage replacement of 62.0 per cent would not exceed 80 per cent of the take-home pay until a weekly wage of \$290 or more is reached.
6. No absolute minimum for the weekly benefit amount is established. If the average weekly wage is \$25 or more, the weekly benefit amount is 62.0 per cent of such amount. If the average weekly wage is less than \$25, the weekly benefit is the average weekly wage or \$15.50, whichever is the smaller amount.

The permissible maximum of the weekly benefit amount is self-adjusting. The maximum effective weekly wage (i.e., the wage which is reflected in the benefit formula) constitutes one fifty-second of the product obtained by multiplying the average annual wage in the State, as determined under section 93-21(b), Revised Laws of Hawaii 1955, with the factor 1.45. If the amount so computed exceeds \$181.45 (corresponding to a weekly benefit of \$112.50), the self-adjusting feature terminates and the weekly benefit amount is frozen, unless the maximum weekly benefit for total disability payable under the Workmen's Compensation Act is increased beyond that amount.

7. Benefits are payable from a newly created State Disability Fund, except to the extent that benefits are payable under a sick leave plan or group insurance plan approved for credit by the Director of Labor and Industrial Relations.
8. The fund is financed by equal contributions of employers and employees totaling 1.1 per cent of the taxable wages, subject to a self-adjusting maximum equaling 1.45 times the annual average wage as determined under section

## TEMPORARY DISABILITY INSURANCE

93-21(b), Revised Laws of Hawaii 1955. Contributions are payable monthly by employers of more than 50 employees and quarterly by other employers.

9. Contributions are payable on the pooling-of-risks principle. No merit rating is introduced. The pooling principle extends to pregnancy. Male workers and employers of a predominantly male work force are subject to contributions for pregnancy coverage.
10. Group insurance and formal sick leave plans are entitled to credit on the contribution rate to the extent that the coverage provided duplicates state plan coverage. Credit is computed on the basis of the estimated and, subsequently, actual experience with respect to the total covered work force in the State. Discrimination on the basis of age, sex or income is prohibited.
11. Employers or their insurance carriers are obligated to compile and furnish to the Director of Labor and Industrial Relations the data necessary to compute the total state experience (wages, number of workers receiving benefits after a one-week waiting period, days compensated, amount of benefits paid), as prescribed by regulation of the director.
12. The Director of Labor and Industrial Relations establishes an appropriate wage reporting system as needed for the proper administration of the Act.
13. Contested claims against the state fund, employers or insurance carriers, or disputes concerning credit for private plan coverage shall be determined in a manner similar to the determination of benefit claims or contribution rates under the Hawaii Employment Security Law.
14. The Director of Labor and Industrial Relations is in charge of the execution of the Act and is vested with broad powers to issue regulations assuring a fair, practicable and efficient execution of the program.

(See Appendix A for suggested legislation to implement these recommendations.)



## Chapter VI

### COMMENTS

1. The basic coverage is of the 8-8-26 type. This signifies that the disabled employee must serve a seven-day waiting period for each independent spell of disability, regardless whether the disability is caused by accident or sickness and regardless whether it is a second or subsequent independent spell of sickness during a consecutive 52-week period. The maximum duration of benefits during any benefit year is 26 weeks. The 26-week maximum duration is chosen for the reason that in the majority of cases a disability which has continued for that period of time will be a permanent disability as defined in 42 U.S.C.A., section 423(c) (2) (A) and entitle the wage earner to benefits under the federal OASDHI system. Conversely, a shorter maximum duration (e.g., 13 weeks) would leave nearly 20 per cent of all workers entitled to benefits with uncompensated portions of continued disability.

The report does not recommend at this time a shorter or no waiting period for either sickness or accident for the reasons that coverage of sicknesses of a duration of less than a week constitutes a very heavy burden on the system and that the greatest need of protection exists for wage loss caused by disability of a duration of more than a week.

Protection against wage loss during the first seven days is provided by most existing sick leave plans and remains a legitimate objective of collective bargaining. After some experience with the operation of the Act is gained, the legislature, however, should consider alleviation of possible hardships caused by the one-week waiting period requirement by enacting one or a combination of the following measures:

- (a) retroactive payment of compensation for wage loss during the first week of disability, after the disability has continued for two weeks after the expiration of the waiting period,
- (b) elimination of the waiting periods for second and subsequent spells of illness during the benefit year,
- (c) elimination of the waiting period in cases of accident or hospitalization,

## TEMPORARY DISABILITY INSURANCE

- (d) reduction of the waiting period to three days in cases of illness.

For the time being it has been thought advisable to keep the net benefit cost of the plan to a maximum of 1.0 per cent of the taxable payroll. Since the recommended plan includes pregnancy benefits, a reduction of the waiting period would involve a hazard to the 1.0 per cent contribution rate.

A higher rate should not be required, pending the investigation of the need for compulsory insurance against medical, surgical and hospitalization expenses.

2. The system recommended is neither a monopolistic system as existing in Rhode Island, nor a totally self-insured or carrier-insured system as existing in New York. It is a combined state fund or self- and carrier-insured system as it exists in California, New Jersey and Puerto Rico. It is, however, unique in that it does not require an all-or-nothing choice but permits dove-tailing of private and state fund coverage through the mechanism of a credit system. This obviates the necessity of a transitional truncated coverage as was experienced in New Jersey during the early period of their system. It is expected that gradually private coverage will extend to the whole risk insured under the Act. On the other hand, credit is given only for duplicate coverage, not for equivalent coverage as in New York.

The credit system will involve certain administrative difficulties and a change-over from "request" wage reporting to continuous wage reporting. It is, however, believed that the credit system which involves certain actuarial calculations is capable of smooth and manageable administration.

The advantage of the system recommended is that it accords to employers the possibility to insure part of the risk with commercial carriers and part of the risk with the state fund if they so desire, or to carry some of the risk as self-insurers and insure the remainder with a commercial carrier. The system aims at the greatest degree of flexibility consistent with the bare-bone protection required by the Act.

In order to avoid an accentuated danger of selection adverse to the state fund, the credit must be computed on the basis of the total experience in the State.

## COMMENTS

3. Contributory financing is recommended because the same method is followed for the financing of permanent disability under the OASDHI system. Also, the other states except California require contributory financing. A wholly employee-financed scheme like that existing in California would impose too heavy a burden on the employees in view of the increase of the social security taxes. Likewise, it seems to be unwarranted to place the whole burden on the employers by statutory mandate. Of course, employers may assume a greater share or all of the costs by collective bargaining agreement.
4. The coverage provided envisages continuous coverage for persons in current employment, regardless of changes in jobs. It conforms to the greatest extent possible to the earnings pattern of the employee. Continuous coverage commences when a newcomer or re-entrant has been in the labor market for at least one consecutive month or earned \$400 and continues until the employee becomes unemployed or withdraws from the labor market. Current employment status is not interrupted by seasonal or intermittent work patterns although no benefits are payable for periods of sickness during which the employee would not have had weekly earnings.

The pattern of the operations of the employer must be taken into account in the application of the credit system. Generally, the shift in jobs from a privately insured employer to an employer contributing to the state fund will result in a change of the entity liable for benefit payments. In the case of a seasonal or intermittent employer, however, it may occur that the employee was not disabled at the time of the temporary cessation of his job but was prevented by intervening disability from resuming his job. In such case, the state fund will be liable for benefits if the private plan of the employer only covers disability the onset of which occurred during actual work activities of the employee. In that case, the plan of the employer is not entitled to full credit since it does not cover the contingency that some of the employees may be prevented from returning to work. Hence, the employer and the employees of such employer must contribute to the State Disability Fund that portion of the 1.1 per cent rate which corresponds to the duration of the period during which the employee otherwise would have worked. The director determines the details by regulation executing this policy.

## TEMPORARY DISABILITY INSURANCE

5. Coverage does not extend to disabled unemployed. Their benefits and entitlement remain subject to the Employment Security Law. To avoid gaps in protection, an employee is considered currently employed for a period of 2 weeks following termination of the employment.
6. The recommendations include coverage of disability produced by pregnancy. Pregnancy may disable a breadwinner from staying on the job just as much as disease or accident. In order to minimize the financial burden on the system, it is necessary to limit the benefits to an 8-week period and, in addition, to require that the employee has been in the labor market for one year.

In order to prevent the avoidance of the pregnancy risk by privately insured employers through premature termination of the employment (as is the practice in New Jersey), termination of the employment of a pregnant employee prior to the commencement of the 4-week pre-delivery coverage will not relieve the employer of his liability, unless he had good cause to terminate employment other than the pregnancy.

7. Benefits of disabled workers earning average weekly wages of \$25 and above are computed as 62.0 per cent of their average weekly wage. This rate of compensation is selected to maintain a sufficient differential against the rate of compensation for on-the-job injuries in order to deter loading of claims compensable under the Workmen's Compensation Law onto the system of compensation for disability due to non-work connected causes.

A uniform percentage of 62.0 per cent can be maintained for all wage brackets until an average weekly wage of \$290 or more is reached. At that point, a benefit rate of 62.0 per cent would exceed 80 per cent of the take-home pay (assuming four exemptions) and should decrease. However, the weekly benefit amount at that wage bracket would be \$179.80, well in excess of the recommended maximum benefit amount.

The recommended maximum benefit amount is of the self-adjusting type. Amounts of average weekly wages exceeding a sum equaling one fifty-second of the product obtained by multiplying the average annual wage in the State as determined under section 93-21(b), Revised Laws of Hawaii 1955, with the factor 1.45 are not included.

## COMMENTS

The self-adjusting feature is subject to a limitation dictated by the policy that the weekly benefits for nonoccupational disability must not exceed weekly benefits for temporary disability under the Workmen's Compensation Act. At present the maximum weekly benefit for work-connected disability is \$112.50. As a result, the self-adjustment stops when the maximum weekly benefits for nonoccupational disability reach \$112.50. This is the case when the average state wage reaches \$6,507.20. At that point  $1.45 \times \$6,507.20 = \$9,435.40$ , corresponding to a weekly wage of \$181.45.

Once the average state wage reaches \$6,507.20, the maximum benefit remains pegged at \$112.50 until the legislature increases the maximum benefit for temporary disability under the Workmen's Compensation Law. If the legislature lifts the ceiling upon benefits for disability benefits under the Workmen's Compensation Law, the maximum weekly benefit for nonoccupational disability would automatically increase.

Assuming that the present tax rates continue, the weekly benefit rate should be decreased to less than 62.0 per cent, if the maximum effective weekly wage ever exceeds \$290 (corresponding to a maximum benefit amount of \$179.80).

7. If a benefit formula is desired that is more weighted in (bis) favor of the low-wage earners and diminishes the rate of compensation for recipients in the higher wage brackets, a system is recommended which starts with a compensation rate of 62.5 per cent and reduces the rate gradually as the higher wage levels are reached. Such a system (based on tax savings allowing only for 2 exemptions) might be the following:

Benefits of disabled workers earning average weekly wages of less than \$24 receive weekly benefits in the amount of their average weekly wage but not more than \$15.

Benefits of workers earning average weekly wages of \$24 and above are computed as a percentage of their average weekly wage. The percentage is fixed at 62.5 per cent for average weekly wages between \$24 and \$150. For average weekly wages in excess of \$150 and not exceeding \$170, it is fixed at 62 per cent of the total average weekly wage, and for average weekly wages in excess of \$170 and not exceeding \$190, at 61.5 per cent of the total. (See Appendix B for suggested legislation to implement this alternative.)

## TEMPORARY DISABILITY INSURANCE

The weekly benefit, however, may not exceed \$112.50 so long as the maximum weekly benefit for total disability under workmen's compensation is kept at \$112.50. This point is reached when the average weekly wage of the worker amounts to \$182.90. This corresponds to an average annual wage in the State of \$6,559.20 ( $\$6,559.20 \times 1.45 = \$9,511$  which is the annual wage yielding a weekly wage of \$182.90). So long as the average annual wage of the State is less than \$6,560, the maximum weekly benefit would not reach the upper limit dictated by the relation between benefits under this law and workmen's compensation.

8. The director needs broad regulatory powers, in particular to:
  - (a) make appropriate rules assuring that benefit payments to intermittent and seasonal workers conform to the earnings pattern of the claimant, and
  - (b) to determine, on the basis of appropriate continuance tables, the net benefit costs for various durations of benefits for the purpose of credit allocation.

## FOOTNOTES

### Part I Chapter I

1. Section 93-28(c), Revised Laws of Hawaii 1955.
2. In Massachusetts the protection is limited to only one week in any benefit year. The other states do not make such durational restriction.
3. Cal. Stats., First Ex. Sess. 1946, ch. 81 (1947 Cal. Stats., p. 101).
4. Cal. Stats. 1949, ch. 951, p. 1722.
5. Unemployment Insurance Code, Division 1, Part 2, secs. 2601-3271.
6. Cal. Stats. 1953, ch. 308, p. 1457.
7. Act to establish a system of unemployment compensation disability benefits, Cal. Stats., First Ex. Sess. 1946, ch. 81 (1947 Cal. Stats., p. 101, secs. 151, 203, 206(c)).
8. Unemployment Insurance Act, 1935, sec. 6(a), as amended by Cal. Stats. 1943, ch. 1093, sec. 1, p. 3032.
9. Act to establish a system of unemployment compensation disability benefits, Cal. Stats., First Ex. Sess. 1946, ch. 81 (1947 Cal. Stats., p. 101, sec. 404).
10. Id. secs. 300-308.
11. Id. sec. 153.
12. Unemployment Insurance Act, sec. 309, par. 1, as added by Cal. Stats. 1947, ch. 274, sec. 1.
13. Cal. Unemployment Insurance Code, sec. 3012(b), as amended in 1961.
14. Unemployment Insurance Act, sec. 309, pars. 2-4, as added by Cal. Stats. 1947, ch. 274, sec. 1.
15. See the section "Statistical Handbook" on Disability Insurance, compiled by the California Department of Employment and published annually as part of the Report of the Actuaries on the California Unemployment Compensation Disability Fund.
16. Cal. Unemployment Insurance Code, secs. 3251-3271.
17. Cal. Unemployment Insurance Code, secs. 3254(a) and (i). These subsections are implemented by Cal. Administrative Code, Title 22, secs. 3254-1 and 3254(i)-2.
18. Cal. Administrative Code, Title 22, sec. 3254 (i)-2.
19. Statistical Handbook, op. cit. supra note 3, Tables 30 and 31.
20. Cal. Administrative Code, Title 22, sec. 3254-1(h).
21. Cal. Unemployment Insurance Code, sec. 2606(a) and (b), as added in 1961.
22. The words in the parenthesis are included in view of an amendment of 1965, Cal. Stats. 1965, ch. 1435, sec. 5, which provided for compulsory coverage of hospital employees for UCD-benefits, even though the hospital is operated by a non-profit corporation.
23. 26 U.S.C.A. secs. 3301-3309.
24. 26 U.S.C.A. sec. 3306(c)(8); Cal. Unemployment Insurance Code, sec. 634.
25. 26 U.S.C.A. sec. 3306(c)(10)(A); Cal. Unemployment Insurance Code, sec. 641(a).
26. 26 U.S.C.A. sec. 3306(c)(3); Cal. Unemployment Insurance Code, sec. 640.
27. 26 U.S.C.A. sec. 3306(c)(2); Cal. Unemployment Insurance Code, secs. 629, 639.
28. 26 U.S.C.A. sec. 3306(c)(5); Cal. Unemployment Insurance Code, sec. 631.
29. 26 U.S.C.A. sec. 3306(c)(10)(B); Cal. Unemployment Insurance Code, sec. 642.
30. Cal. Unemployment Insurance Code, sec. 632; 26 U.S.C.A. sec. 3305(b) and (c). The permission granted by 26 U.S.C.A. sec. 3305(b) and (c) extends only the requirement by state law of contributions to an unemployment fund and thus apparently excludes contributions to the Unemployment Compensation Disability Fund.
31. Cal. Unemployment Insurance Code, secs. 633, 605, 2606.1. Compulsory coverage extends also to service by a blind or physically handicapped worker in the California Industries for the Blind, Id., sec. 605.5.
32. Cal. Unemployment Insurance Code, secs. 701, 702, 704.
33. Cal. Unemployment Insurance Code, sec. 711.
34. Cal. Unemployment Insurance Code, sec. 709.
35. Cal. Unemployment Insurance Code, sec. 710.
36. Cal. Unemployment Insurance Code, sec. 708.5.
37. Cal. Unemployment Insurance Code, sec. 708(a) and (b); sec. 708(b) permits to restrict elective coverage to UCD-benefits only.
38. California, Department of Employment, California Unemployment Compensation Disability Fund, Report of the Actuaries for Calendar Year 1966, pp. 19-20.
39. Cal. Unemployment Insurance Code, sec. 2652.
40. Cal. Unemployment Insurance Code, sec. 2608.
41. Cal. Unemployment Insurance Code, secs. 2610, 2611.
42. Cal. Unemployment Insurance Code, sec. 2655.
43. The table originally contained in Unemployment Insurance Code, 1953, sec. 2655 was amended, *inter alia*, in 1961, 1963 and 1965, and 1968, Cal. Stats. 1961, ch. 2154; Cal. Stats. 1963,

- ch. 1864; Cal. Stats. 1965, ch. 745; Cal. Stats. 1968, First Ex. Sess., ch. 5.
44. The lower limit of \$75 is derived from the earnings requirement of \$300 during the base year.
  45. Cal. Unemployment Insurance Code, sec. 2655.5, repealed in 1965.
  46. The limits of fluctuation are computed from the lower end of the wage bracket corresponding to the first weekly benefit amount following the minimum amount and the upper end of the wage bracket next to the maximum effective highest quarterly wage.
  47.  $\frac{26 \times 52}{525 \times 4}$
  48.  $\frac{86 \times 52}{2049.99 \times 4}$
  49.  $\frac{26 \times 52}{525 \times 4}$
  50.  $\frac{79 \times 52}{1874.99 \times 4}$  and  $\frac{69 \times 52}{1624.99 \times 4}$  respectively
  51.  $\frac{11 \times 52}{150 \times 4}$
  52.  $\frac{69 \times 52}{1,624.99 \times 4}$
  53. California, Joint Committee on Unemployment Compensation Disability Insurance, Final Report, p. 34 (1967).
  54. Cal. Unemployment Insurance Code, sec. 2653.
  55. The 26-week limitation is not an absolute time limit. Since the statute sets the ceiling in terms of amounts rather than weeks, some workers may receive benefits for more than 26 weeks, if they did not receive the full weekly benefit amounts because of wage continuation plans. The number of such workers, however, is small. In 1964 only 1,204 out of a total of 381,214 (.3 per cent) workers suffering compensable disability received benefits in excess of 26 weeks, California, Joint Committee on Unemployment Compensation Disability Insurance, Table 7, at p. 68 (1967).
  56. Cal. Unemployment Insurance Code, sec. 2608.
  57. Cal. Unemployment Insurance Code, sec. 2703.
  58. Cal. Unemployment Insurance Code, sec. 2626. Benefits are payable only after the expiration of the requisite waiting period, i.e., 35 days after the termination of the pregnancy.
  59. Cal. Unemployment Insurance Code, secs. 2627(b) and 2802.
  60. Cal. Unemployment Insurance Code, sec. 2801.
  61. California, Department of Employment, California Unemployment Compensation Disability Fund, Report of the Actuaries for Calendar Year 1966, pp. 25, 27, 29, 31.
  62. Cal. Unemployment Insurance Code, sec. 2901 in conjunction with secs. 984 and 985.
  63. Cal. Unemployment Insurance Code, sec. 2901 in conjunction with sec. 984.
  64. Cal. Unemployment Insurance Code, sec. 985, as amended by Cal. Stats. 1961, ch. 2154 and Cal. Stats. 1965, ch. 745.
  65. Cal. Unemployment Insurance Code, sec. 2901 in conjunction with sec. 984.
  66. Cal. Unemployment Insurance Code, secs. 3251, 3254, 3260.
  67. Cal. Administrative Code, Title 22, sec. 3254-1(a)-(g).
  68. Cal. Unemployment Insurance Code, sec. 3254(i)-2.
  69. Pitts v. Perluss, 58C. 2d 824, 377 P. 2d 83 (1962).
  70. Cal. Unemployment Insurance Code, sec. 3257.
  71. Cal. Unemployment Insurance Code, sec. 3269, as amended in 1961.
  72. Cal. Unemployment Insurance Code, sec. 3259.
  73. In 1967 hospital benefits for disabled unemployed amounted to 11.62 per cent of the total benefits payable for that sector, Statistical Handbook, Table 13.
  74. Cal. Unemployment Insurance Code, sec. 2611.
  75. Cal. Unemployment Insurance Code, sec. 3252(b).
  76. Idid.
  77. Cal. Unemployment Insurance Code, sec. 3252(b) and sec. 3012(b).
  78. Supra text to note 11.
  79. Cal. Unemployment Insurance Code, sec. 3012(b).
  80. Cal. Unemployment Insurance Code, sec. 2628.
  81. Cal. Unemployment Insurance Code, sec. 2629.
  82. Statistical Handbook, Table 20.
  83. Cal. Unemployment Insurance Code, sec. 2656. An amendment of 1968 specified that overtime is not considered in determining the pre-disability wage, Cal. Stats., First Ex. Sess. 1968, ch. 100.
  84. Cal. Unemployment Insurance Code, sec. 2801.
  85. California, Department of Employment, California Unemployment Compensation Disability Fund, Report of the Actuaries for Calendar Year 1966, p. 11.
  86. Idid.
  87. N.J. Rev. Stat. secs. 43:21-25 through 43:21-56.
  88. N.J. Rev. Stat. secs. 43:21-1 through 43:21-24.
  89. Statistical information on the operation of the law may be gleaned from the annual reports



- of the Division of Employment Security of the State of New Jersey, especially the reports for 1966 and 1967. In addition a detailed analysis of the experience during 1964 was published in 1967 under the title Temporary Disability Insurance Cases in New Jersey in 1964, New Jersey, Department of Labor and Industry, Division of Employment Security, Research Series No. 19.
90. N.J. Rev. Stat. secs. 43:21-37 to 43:21-42.
  91. N.J. Rev. Stat. secs. 43:21-32 to 43:21-36.
  92. N.J. Rev. Stat. sec. 43:21-4(f), as amended in 1948.
  93. N.J. Rev. Stat. sec. 43:21-46.
  94. N.J. Rev. Stat. secs. 43:21-4(f)(2), 43:21-46(b).
  95. N.J. Rev. Stat. sec. 43:21-46(a).
  96. N.J. Rev. Stat. sec. 43:21-46(b).
  97. N.J. Rev. Stat. sec. 43:21-27(b).
  98. N.J. Rev. Stat. sec. 43:21-19(i)(7)(D) and (E).
  99. N.J. Rev. Stat. sec. 43:21-19(h)(1).
  100. N.J. Rev. Stat. sec. 43:21-19.5.
  101. N.J. Rev. Stat. sec. 43:21-19(i)(7)(A), (B), (C), (F) and (G) to (O).
  102. N.J. Rev. Stat. sec. 43:21-8(c).
  103. N.J. Rev. Stat. sec. 43:21-41(b), in conjunction with N.J. Rev. Stat. sec. 43:21-27(i).
  104. N.J. Rev. Stat. sec. 43:21-27(b).
  105. N.J. Rev. Stat. sec. 43:21-40.
  106. N.J. Rev. Stat. sec. 43:21-3(c)(1).
  107. The "average weekly wage" is determined differently for the purpose of computing disability benefits from the way in which the average weekly wage is determined for the purpose of determining either unemployment benefits or disability benefits during unemployment, N.J. Rev. Stat. sec. 43:21-27(j) as contrasted with sec. 43:21-19(u). The formula for determining the average weekly wage for the purpose of computing disability benefits is discussed infra text to and following call to ftn. 110.
  108. \$11.00 and \$49.00 respectively  
\$18.01      \$98.00
  109. N.J. Rev. Stat. sec. 43:21-3(c)(2).
  110. N.J. Rev. Stat. sec. 43:21-27(j) in conjunction with sec. 43:21-27(i).
  111. N.J. Rev. Stat. sec. 43:21-38, in conjunction with Regulation 30.01(b).
  112. N.J. Rev. Stat. sec. 43:21-38(b), as amended by N.J. Laws 1952, ch. 188, sec. 3, p. 680.
  113. N.J. Rev. Stat. sec. 43:21-39(e), as amended by N.J. Laws 1961, ch. 43, sec. 11, in conjunction with sec. 42:21-29. Prior to July 1, 1961 no disability benefits were allowed for pregnancy cases.
  114. N.J. Rev. Stat. sec. 43:21-7(e).
  115. See the comments to that effect in New Jersey, Division of Employment Security, Annual Report, 1967, p. 29. During 1967 benefits were paid under the state plan for 3,890 disability claims based on pregnancy, while claims for disability during unemployment due to pregnancy totaled 11,541.
  116. N.J. Rev. Stat. secs. 43:21-38 and 43:21-39(a).
  117. N.J. Rev. Stat. sec. 43:21-27(g).
  118. N.J. Rev. Stat. secs. 43:21-38 and 43:21-39(a).
  119. N.J. Rev. Stat. secs. 43:21-7(d)(1) and (2)(B).
  120. N.J. Rev. Stat. sec. 43:21-7(b)(2).
  121. N.J. Rev. Stat. sec. 43:21-7(e)(1).
  122. N.J. Rev. Stat. sec. 43:21-7(e)(3)(B). New Jersey employs the so-called reserve-ratio formula for determining the experience.
  123. N.J. Rev. Stat. sec. 43:21-7(e)(3)(E). The State Disability Benefits Fund received from the State Unemployment Compensation Fund \$50,000,000 which were collected from employees prior to the enactment of the Temporary Disability Benefits Law in 1948, N.J. Rev. Stat. sec. 43:21-47.
  124. N.J. Rev. Stat. sec. 43:21-7(e)(3)(D) and (E).
  125. N.J. Rev. Stat. sec. 43:21-48(c).
  126. N.J. Rev. Stat. sec. 43:21-32.
  127. Idid.
  128. Idid.
  129. N.J. Rev. Stat. sec. 43:21-36.
  130. N.J. Rev. Stat. sec. 43:21-46(a), in conjunction with sec. 43:21-48.
  131. N.J. Rev. Stat. sec. 43:21-48(b).
  132. N.J. Rev. Stat. sec. 43:21-4(f)(1)(F).
  133. N.J. Rev. Stat. sec. 43:21-4(f)(1). The program provides for limited benefits in case of disability during unemployment due to pregnancy, N.J. Rev. Stat. sec. 43:21-4(f)(1)(B).
  134. N.J. Rev. Stat. sec. 43:21-4(f)(2).
  135. Idid.
  136. N.J. Rev. Stat. sec. 43:21-46(b).

137. N.J. Rev. Stat. sec. 43:21-46(b).
138. Idid.
139. Idid.
140. N.J. Rev. Stat. sec. 43:21-46(a), in conjunction with sec. 43:21-48(b). The assessment of the private plans for the cost of administration directly attributable to the supervision and operation of approved plans and for their proportionate share of the cost of administration of the 4(f) program may not exceed a total of .02 per cent of the covered taxable wages. Actually the requisite amount exceeds the statutory maximum, see New Jersey, Division of Employment Security, Annual Report, 1966, p. 29.
141. During 1965 the amount from investment credited to the Unemployment Disability Account was \$1,447,910. In addition thereto it received a credit from the disability contributions under the state plan of \$536,132 and from the unemployment disability deficiency assessment against private plans of \$540,763. Against this total credit of \$2,524,805 there was a charge for benefits paid of \$5,371,183 amounting to a deficit of \$2,846,378, see New Jersey, Division of Employment Security, Annual Report, 1966, p. 29.
142. N.J. Rev. Stat. sec. 43-21-30.
143. Idid.
144. N.J. Rev. Stat. sec. 43-21-39(h).
145. N.J. Rev. Stat. sec. 43:21-3(d)(2).
146. N.Y. Laws 1949, ch. 600, adding sections 200 to 242 to the Workmen's Compensation Law.
147. N.Y. Laws 1913, ch. 816.
148. Statistical information on the operation of the Disability Benefits Law may be gleaned from the annual Summary of Board Activities, especially New York (State), Workmen's Compensation Board, Summary of Board Activities for the years 1962-1967.
149. N.Y. Disability Benefits Law, sec. 204-206.
150. N.Y. Disability Benefits Law, sec. 207.
151. N.Y. Disability Benefits Law, sec. 204.
152. N.Y. Disability Benefits Law, sec. 211(4) and (5).
153. N.Y. Disability Benefits Law, sec. 211(4) and (5), in conjunction with New York (State), Workmen's Compensation Board, Workmen's Compensation Law and Rules and Regulations Promulgated Thereunder, Regulation 41 and Rule 10.
154. N.Y. Disability Benefits Law, sec. 214.
155. N.Y. Disability Benefits Law, sec. 207.
156. N.Y. Disability Benefits Law, sec. 213.
157. N.Y. Disability Benefits Law, sec. 211; implemented by Regulation 6 (plan); Regulations 31-33 (existing plans); Regulation 36 (new plan); Regulations 41-49 (existing and new plans); Regulation 71 (insurance contract); Regulations 81-89 (self-insurance); Rules 10-15 (evaluation of plan benefits); Rule 21 (self-insurance).
158. N.Y. Disability Benefits Law, sec. 201(5).
159. N.Y. Disability Benefits Law, sec. 201(4).
160. N.Y. Disability Benefits Law, sec. 201(6).
161. N.Y. Disability Benefits Law, sec. 201(5) and (6).
162. N.Y. Disability Benefits Law, sec. 202(2). See also Regulation 3 (defining employment).
163. N.Y. Disability Benefits Law, sec. 202(2).
164. N.Y. Disability Benefits Law, sec. 202(1).
165. N.Y. Laws 1949, ch. 600; N.Y. Laws 1959, ch. 312; N.Y. Laws 1960, ch. 790; N.Y. Laws 1961, ch. 119.
166. Regulation 3(g)(6) and (7).
167. N.Y. Disability Benefits Law, sec. 212.
168. N.Y. Disability Benefits Law, sec. 203, first sentence, in conjunction with Regulation 52(a) and (b).
169. N.Y. Disability Benefits Law, sec. 203, fourth sentence, in conjunction with Regulation 52(c).
170. N.Y. Disability Benefits Law, sec. 203, second sentence, in conjunction with Regulation 52 pars. 1 and 2.
171. N.Y. Disability Benefits Law, sec. 203, third sentence, in conjunction with Regulation 53.
172. N.Y. Disability Benefits Law, sec. 204(2), as amended by N.Y. Laws 1968, ch. 831.
173. Idid.
174. N.Y. Disability Benefits Law, sec. 204(2), last sentence.
175. N.Y. Disability Benefits Law, sec. 201(13) par. 1, sentence 1, in conjunction with Regulation 109(a), (b) and (c).
176. N.Y. Disability Benefits Law, sec. 201(13), par. 2, in conjunction with Regulation 109(d).
177. N.Y. Disability Benefits Law, sec. 201(13) par. 1, last sentence.
178. N.Y. Disability Benefits Law, sec. 205(1).
179. N.Y. Disability Benefits Law, sec. 205(3).
180. N.Y. Disability Benefits Law, sec. 204(1), first sentence.
181. N.Y. Disability Benefits Law, sec. 204(2), second sentence.
182. N.Y. Disability Benefits Law, sec. 209(3).

183. N.Y. Disability Benefits Law, sec. 210.
184. N.Y. Disability Benefits Law, sec. 211(1), (2) and (3).
185. N.Y. Disability Benefits Law, sec. 211(4) and (5).
186. New York (State), Workmen's Compensation Board, Summary of Board Activities, 1967, Table 15.
187. N.Y. Disability Benefits Law, sec. 211(4) and (5).
188. Regulations 8 and 41; Rules 10 to 13.
189. Regulation 41(a)(1) and (c).
190. Regulation 41(a)(2) and (b)(1) to (4).
191. Regulation 41(b)(1).
192. Regulation 41(b)(2).
193. Regulation 41(b)(3).
194. Only cash benefits to the employee are evaluated; other benefits, including dependents benefits are not counted, Regulation 8, Rules 12 and 13.
195. Regulation 41(b)(4).
196. Regulation 42.
197. Rule 10(a).
198. Report on Evaluation of Disability Plans (type-written, dated 12/23/49), kindly furnished by H. L. Federman, Director of Disability Benefits, State of New York, Workmen's Compensation Board.
199. Report of Committee to Study the Tables for Evaluation of Plan Benefits, 1959 (typewritten).
200. Distributed as DBIC #15.
201. N.Y. Disability Benefits Law, sec. 207, as amended in 1964.
202. N.Y. Disability Benefits Law, sec. 207(1), as amended in 1964.
203. N.Y. Disability Benefits Law, sec. 207(2), as amended in 1964.
204. N.Y. Disability Benefits Law, sec. 207(1) and (2).
205. N.Y. Disability Benefits Law, sec. 214.
206. N.Y. Disability Benefits Law, sec. 214(1).
207. N.Y. Disability Benefits Law, sec. 214(2).
208. N.Y. Disability Benefits Law, sec. 206(1)(a)-(c).
209. N.Y. Disability Benefits Law, sec. 205(6).
210. Rhode Island Temporary Disability Insurance Act, R.I. Gen. Laws sec. 28-39-1 to 28-41-32.
211. R.I. Gen. Laws secs. 28-42-1 to 28-44-61.
212. R.I. Gen. Laws sec. 28-39-10.
213. R.I. Gen. Laws sec. 28-39-7.
214. R.I. Gen. Laws sec. 28-39-2(5), (6) and (8).
215. R.I. Gen. Laws sec. 28-39-2(6), in conjunction with sec. 28-42-13 and 14.
216. R.I. Gen. Laws sec. 28-39-2(5), (6) and (8), in conjunction with sec. 28-42-15.
217. R.I. Gen. Laws sec. 28-42-8(5).
218. R.I. Gen. Laws sec. 28-42-8(1).
219. R.I. Gen. Laws sec. 28-42-8(2).
220. R.I. Gen. Laws sec. 28-42-8(4).
221. R.I. Gen. Laws sec. 28-42-8(7).
222. R.I. Gen. Laws sec. 28-42-8(10).
223. R.I. Gen. Laws sec. 28-42-8(11).
224. R.I. Gen. Laws sec. 28-39-2(8).
225. R.I. Gen. Laws sec. 28-40-2.
226. R.I. Gen. Laws sec. 28-41-11.
227. R.I. Gen. Laws sec. 28-39-2(11) and (13).
228. R.I. Gen. Laws sec. 28-41-5(A).
229. R.I. Gen. Laws sec. 28-41-5(A).
230. R.I. Gen. Laws sec. 28-41-5(C).
231. R.I. Gen. Laws sec. 28-39-2(21).
232. R.I. Gen. Laws sec. 28-41-7. As a result the maximum duration may vary from 12 weeks to 26 weeks, if the wage qualification was based on the 20/20 requirement under the alternative qualification even shorter maximum durations may occur.
233. R.I. Gen. Laws sec. 28-39-2(13).
234. R.I. Gen. Laws sec. 28-41-8.
235. R.I. Gen. Laws sec. 28-41-10 in conjunction with sec. 28-39-2(19).
236. R.I. Gen. Laws sec. 28-41-12(1) and (2).
237. R.I. Gen. Laws secs. 28-41-12(1), 28-41-9(C).
238. R.I. Gen. Laws sec. 28-41-12(3).
239. R.I. Gen. Laws sec. 28-41-8(a).
240. R.I. Gen. Laws sec. 28-40-1.
241. R.I. Gen. Laws sec. 28-41-13.
242. P.R. Disability Benefits Laws of 1968.
243. 29 L.P.R.A. sec. 701 et seq.

244. P.R. Disability Benefits Law sec. 3 and 8.

245. P.R. Disability Benefits Law sec. 5.

246. P.R. Disability Benefits Law sec. 8(a) and (b).

247. P.R. Disability Benefits Law sec. 5(a)(8).

248. P.R. Disability Benefits Law sec. 2, definitions of "Employer", "Employment", "Wages".

249. P.R. Disability Benefits Law sec. 2(h)(6); 2(j)(4); 7(e)(1) and (2).

250. P.R. Disability Benefits Law sec. 2(h)(1).

251. P.R. Disability Benefits Law sec. 2(j)(6)(A).

252. P.R. Disability Benefits Law sec. 2(j)(6)(B).

253. P.R. Disability Benefits Law sec. 2(j)(6)(C).

254. P.R. Disability Benefits Law sec. 2(j)(6)(G).

255. P.R. Disability Benefits Law sec. 2(j)(6)(Q).

256. P.R. Disability Benefits Law sec. 2(j)(6)(D).

257. P.R. Disability Benefits Law sec. 2(j)(6)(F).

258. P.R. Disability Benefits Law sec. 2(i)(1) and (j)(6)(I).

259. Supra, text to note 8 and ftn. 249

260. P.R. Disability Benefits Law sec. 3(b)(1), first sentence.

261. P.R. Disability Benefits Law sec. 3(b)(1), second sentence.

262. P.R. Disability Benefits Law sec. 3(b)(2).

263. P.R. Disability Benefits Law sec. 3(d).

264. P.R. Disability Benefits Law sec. 3(d), last par.

265. P.R. Disability Benefits Law sec. 3(c)(1).

266. P.R. Disability Benefits Law sec. 3(b)(2).

267. P.R. Disability Benefits Law sec. 3(f)(8).

268. P.R. Disability Benefits Law sec. 3(f)(2).

269. P.R. Disability Benefits Law sec. 3(c)(1).

270. P.R. Disability Benefits Law sec. 3(b)(3).

271. P.R. Disability Benefits Law sec. 3(c)(2).

272. P.R. Disability Benefits Law sec. 8(a) and (b).

273. P.R. Disability Benefits Law sec. 8(b), last par.

274. P.R. Disability Benefits Law sec. 8(e).

275. P.R. Disability Benefits Law sec. 3(h)(1).

276. P.R. Disability Benefits Law sec. 3(h)(2)(i).

277. Idid.

278. P.R. Disability Benefits Law sec. 3(h)(2)(iii).

279. P.R. Disability Benefits Law sec. 3(h)(3).

280. Supra text to note 26.

281. P.R. Disability Benefits Law sec. 3(g).

282. P.R. Disability Benefits Law sec. 3(f)(5).

283. P.R. Disability Benefits Law sec. 5(a).

## Chapter II

1. Studies on the effect of age, sex, wage bracket and employment status in California are contained in Sinai, Thomas, Wheeler, Disability Insurance in California, University of Michigan, School of Public Health, Bureau of Public Health Economics, Research Series No. 11, Vol. 1, pp. 86-121 (1965); Final Report, California, Joint Committee on Unemployment Compensation Disability Insurance, pp. 42-45 (1967). A comparable study for New Jersey is Temporary Disability Insurance Cases in New Jersey in 1964, New Jersey, Department of Labor and Industry, Division of Employment Security, Research Series No. 19 (1967).
2. California, Department of Employment, California Unemployment Compensation Disability Fund, Report of the Actuaries for Calendar Year 1966, p. 11.
3. Sinai, Thomas and Wheeler, pp. 144-149.
4. California, Department of Employment, Research and Statistics, Report 425 N #11 (1953).
5. A different conclusion seems to be reached in the Report of the Actuaries, op. cit. supra note 2, pp. 10 and 11.
6. Cal. Unemployment Insurance Code, sec. 2653, as amended in 1965. The effect of this limitation is estimated to have resulted in a reduction of benefits by \$5.6 million out of a total of \$190.3 million, Report of the Actuaries, op. cit. supra note 2, p. 22.
7. See supra discussion of California law, text to ftn. 64,
8. See supra discussion of California law, text to ftn. 45,
9. It is extremely difficult to express the proper relation between the benefit formula and the tax base in actuarial terms, especially since the California benefit formula is based on highest quarter earnings. In 1967, the maximum effective wage of workers with regular and uniform wages equals  $\$1,875 \times 4 = \$7,500$ ; the maximum taxable wages are \$7,400 per year. In 1963 when the cost per taxable payroll was .82, the maximum effective annual wage was  $\$1,625 \times 4 = \$6,500$ , while the maximum taxable payroll was only \$4,600. Hence, it can be concluded that an approximate equality between maximum effective wage and maximum taxable payroll is necessary in order to keep benefit formula and cost distribution in proper relation.

10. The following table indicates the difference between utilization rates on the basis of eligibility and on the basis of covered jobs as relating to regular basic liability and state plans for 1963-1967:

Year	Eligibility Basis	Covered Jobs Basis
1963	97.3	88.7
1964	98.2	89.7
1965	96.0	87.8
1966	97.9	89.0
1967	97.3	89.6

As might be expected (since not all covered workers are eligible because of the earnings requirements) the "true" utilization rates are about 10 per cent higher than utilization rates on the covered jobs basis.

11. Table 8, column 8 and Table 9, column 8.
12. New York (State), Department of Labor, Division of Research and Statistics, Studies in Disability Insurance, Special Bulletin No. 224, p. 138 (1949), citing Falk, Sanders and Federman, Disability Among Gainfully Occupied Persons, Federal Security Agency, Social Security Board, Bureau of Research and Statistics, Bureau Memorandum No. 61 (1945).
13. New Jersey, Department of Labor and Industry, Division of Employment Security, New Jersey Employment Security Handbook, Regulation 40.01.
14. See the statement to that effect in New Jersey, Department of Labor and Industry, Division of Employment Security, Temporary Disability Insurance Cases in New Jersey in 1964, p. 116.
15. The last fraction is the number of the non-pregnancy claims experienced by the unemployed disabled program divided by the nonpregnancy claims experienced by the state plan.
16. According to information obtained from the State Insurance Fund (letter of September 18, 1968), the Fund underwrites only statutory coverage. In 1966 it underwrote 10.6 per cent of the carrier-insured statutory coverage by numbers of employees and 9.7 per cent by covered payroll (the first \$3,000 of each employee's earnings). (Letter included in Appendix.)
17. On the concepts of frequency and severity as applied to disability, especially compensable disability, see also the explanations in Tilove, Dancis and Berman, Studies in Disability Insurance, New York (State), Department of Labor, Division of Research and Statistics, Special Bulletin 224, p. 131 (1949).
18. About the construction and functions of continuance tables in the field of health insurance, see Dickerson, Health Insurance, pp. 501, 507 (Rev. ed. 1963).
19. See in particular, Huebner and Black, Life Insurance, p. 413 (6th ed. 1964).
20. See the findings to that effect in the classical studies by Fitzhugh, "Recent Morbidity Upon Lives Insured Under Group Accident and Health Policies and Premiums Based Thereon," 38 Transactions of the Actuarial Society of America, 354, at 359-369 (1937); Miller, "Group Weekly Indemnity Continuation Table Study," 3 Transactions of the Society of Actuaries, 31 at 33-36 (1951).
21. California, Joint Committee on Unemployment Compensation Disability Insurance, p. 68.
22. Ibid., p. 65.
23. Cal. Unemployment Insurance Code, sec. 2653.
24. See supra, discussion of New Jersey law, at fn. 112.
25. See California, Joint Committee on Unemployment Compensation Disability Insurance, p. 119.
26. Ibid., p. 68.
27. California, Department of Employment, California Unemployment Compensation Disability Fund, Report of the Actuaries for Calendar Year 1967, Table 9, p. 44.
28. Letter from Walter J. Charier, Chief of Research and Statistics, New Jersey Division of Employment Security (letter included in Appendix), January 9, 1969.
29. Tilove, Dancis and Berman, p. 143.
30. A 26.7 per cent loading is equivalent to 21.1 per cent of the final total ( $\frac{1}{1-21.1} = 1.267$ ).
31. The data utilized are apparently the same data utilized by the Miller study, Miller, "Group Weekly Continuation Table Study," and subject to the limitations discussed in the study.
32. See the analysis by Miller, p. 51, Table VIII.
33. 8-8-26 is a plan which has a waiting period of 7 days both for accident and illness claims and provides for a duration of 26 weeks.
34. The average duration of female claims under an 8-8-26 plan was 6.10 weeks for accident claims and 6.39 weeks for sickness claims. The corresponding average duration for male claims were 5.30 and 5.41 weeks, respectively. See Miller, Table IIIA, pp. 42 and 43. In other words the average duration was about 13 per cent higher for females than for males. As a result the primary factor of the discrepancy in claim costs is the difference in frequency rates, see also Fitzhugh, p. 370.
35. New Jersey, Department of Labor and Industry, Division of Employment Security, Temporary Disability Insurance Cases in New Jersey in 1964, pp. 3, 5, 7.
36. Unfortunately, the true proportion of female workers covered by the state plan could not be estimated more accurately, since detailed data for the experience under private plans are not compiled.
37. If the state plan data are adjusted for a proper share in the pregnancy cases loaded upon the unemployment account, see supra Table 15, the frequency rate for female claims would have increased to 158.2 per 1,000 and the female

## Part II Chapter III

claims would have constituted 61.36 per cent of all claims compensated and absorbed 56.31 per cent of all benefits paid, although women constituted only 29.9 per cent of the insured work force.

38. California, Department of Employment, California Unemployment Compensation Disability Fund, Report of the Actuaries for Calendar Year 1967, "Statistical Handbook," Table 3, p. 31.
39. California, Joint Committee on Unemployment Compensation Disability Insurance.
40. From data published, Idid., Table 8, p. 69.
41. From data published, Idid., Table 17, p. 80.
42. From data published Idid., Table 23, p. 91.
43. The study by Sinai, Thomas and Wheeler, which was published in 1965 attempted to determine the relation between age and sex on frequency rates on the basis of a one per cent random sample of the population insured in 1960 under the California Act. They correlated the number of insured in each age group in that sample with the number of beneficiaries in 1961 within the respective age group. They found that there was an apparent correlation between age and frequency rates and that the frequency rates reached their peak for male recipients in the 55-64 age group, while the age group 44-54 showed the highest frequency rate for female claimants, op. cit. supra, Table 22, p. 109. The data suffer from some distortion, owing to the fact that the "All Plans" and "State Plan" figures include unemployed claimants. A portion of the table is reproduced on the following page as Table 1.
44. California, Joint Committee on Unemployment Compensation Disability Insurance, p. 81. The report found that the composite average duration of claimants with less than \$4,000 annual income was 8.1 weeks for males and 8.0 weeks for females, while in the \$4,000 and more wage bracket the respective average durations were 6.5 and 6.9 weeks, Idid. at p. 51.
45. New Jersey, Department of Labor and Industry, Division of Employment Security, Temporary Disability Insurance Cases in 1964, Table 40, p. 74.
46. Sinai, Thomas and Wheeler, examined the correlation between earning levels and frequency rates for both sexes on the basis of the wage distribution indicated by a one per cent sample of the work force insured in 1960 under the California Act, Table 23, p. 109. They found that the frequency rates ascended both for female and male claimants until an annual weekly wage of \$90-109 was reached and then descended again. The frequency rate of female claimants in each wage bracket, except one, significantly outran that of male claimants. Again, the inclusion of unemployed claimants produced a certain degree of distortion. Part of Table 23 is reproduced on page 128.
47. See page 129.
1. Information received from the Department of Labor and Industrial Relations.
2. Hawaii, Governor's Commission on the Status of Women, Report, p. 41 (1966).
3. U.S., Women's Bureau, 1965 Handbook on Women Workers, Table 1, p. 6.
4. In 1967 the total civilian labor force in the U.S. was 77,347 million workers, of whom 28,360 (36 per cent) were female, Statistical Abstracts of the U.S. 1968, Table No. 310, p. 215.
5. Department of Labor and Industrial Relations, Research and Statistical Office, Disability Insurance Coverage in Hawaii (1965). Hereafter cited as Department Survey.
6. Hawaii Employers Council, Kolodrubetz, "Employee Benefit Plans in 1966," Research Report (August 1966), (Survey of Employee Benefit Plans in Hawaii). Hereafter cited as Council Survey.
7. 31 Social Security Bulletin, April 1968, 23.
8. Department Survey, Tables 3 and 9, p. 3 and p. 6. Unfortunately the Department failed to differentiate between permanent and temporary disability. 1,315 people had policies requiring a waiting period of 30 or more days (Table P, p. 45) and some of their policies may have been permanent disability policies, i.e., policies commencing payment after a waiting period of 180 days.
9. Department Survey, Table D, p. 22.
10. The work force of firms with joint coverage was estimated at 17,482, but the total group disability insurance extended only to 12,987 workers.
11. Department Survey, Table 11, p. 7.
12. Council Survey, pp. 75, 76.
13. Letter from David Robbins, then Assistant Director, of Statistics and now Director of Statistics, Health Insurance Association of America, dated February 29, 1968. (Letter included in Appendix.)
14. See e.g., Kolodrubetz, Tables 1 and 2, pp. 26 and 27; Skolnik, "Income-Loss Protection Against Illness, 1948-1966," 31 Social Security Bulletin, January 1968, 3.
15. In 1964 the total labor force in private industry employed in the United States, with the exception of California, New Jersey, New York and Rhode Island, was 38.04 million. Protection by means of voluntary group insurance and formal sick leave programs extended to 20.2 million, i.e., 53.10 per cent, leaving 46.90 per cent without protection. The data are compiled from Kolodrubetz, Tables 1 and 2, pp. 26, 27, corrected by exclusion of the labor force in private industry (including agriculture) in the four states mentioned, computed on the basis of Survey of Current Business, July 1967, Table 6.3, Statistical Abstracts of the United States 1965, Table No. 307, and U.S., Department of Agriculture, Agricultural Statistics 1965, Table 647.

Table 1

Table 22. Number of Beneficiaries, 1961,  
per 1,000 Insured Persons, 1960,  
by Plan Coverage, Age, and Sex

Age Groups	All Plans			State Plan		
	All Beneficiaries	Male	Female	All Beneficiaries	Male	Female
Total	98	86	124	94	80	118
Under 25	49	42	60	39	35	46
25-34	81	67	114	71	56	103
35-44	107	84	150	103	78	143
45-54	124	106	160	124	103	158
55-64	150	153	142	148	150	144
65 and over	137	142	121	139	147	121

The findings of Sinai, Thomas and Wheeler are confirmed by a sample study conducted by the Division of Research and Statistics, California State Department of Employment with respect to 1966 data (letter of January 21, 1969). See Table below.

Table 2

Table 22a. Number of Beneficiaries 1966 (Regular Liability)  
per 1,000 Insured Persons with State  
Plan Coverage, by Age and Sex

Age Groups	All Beneficiaries	Male	Female
Total	67	62	76
Under 40	43	39	49
40-44	85	73	105
45-49	95	81	117
50-54	106	96	124
55-59	116	114	120
60 and over	115	121	103

Table 3

Table 23. Number of Beneficiaries, 1961, per 1,000 Insured Persons, 1960, by Plan Coverage, Average Annual Wage, and Sex, 1960

Weekly Wage	All Plans			State Plan		
	All Beneficiaries	Male	Female	All Beneficiaries	Male	Female
Total	98	86	124	94	80	118
Less than \$10	28	21	35	28	21	34
\$ 10- 29	62	44	80	64	47	81
30- 49	97	68	127	103	72	130
50- 69	123	88	156	125	90	160
70- 89	130	101	168	124	98	159
90-109	125	110	170	121	107	164
110-129	114	110	161	106	102	144
130-149	104	103	135	90	88	111
150-169	95	93	118	81	81	90
170-189	82	83	72	73	73	69
190 and over	80	80	101	75	74	101

The findings of Sinai, Thomas and Wheeler are substantially confirmed by a subsequent sample study of the 1966 experience, the results of which were communicated by Mr. Roche, Chief of Research and Statistics, California Department of Employment, in a letter of January 21, 1969. The study shows the following correlations:

Table 4

Table 23a. Number of Beneficiaries 1966 (Regular Liability) per 1,000 Insured Workers with State Plan Coverage by Average Annual Wage and Sex

Annual Wage	All Beneficiaries	Male	Female
Total	67	62	76
Less than \$3,000	40	30	50
\$3,000 - \$3,599	92	65	117
3,600 - 4,099	100	74	125
4,100 - 4,299	104	78	129
4,300 - 4,599	105	81	131
4,600 - 5,099	107	90	128
5,100 - 5,599	106	91	127
5,600 and over	87	83	112



Table 5

Loss Ratio (Benefits ÷ Contributions)  
of State Plan Recipients (Regular Liability)  
by Age, Sex and Wage-Bracket, 1966

Wage Bracket	Total			Under 40			40-44			45-49		
	Combined	Male	Female	Combined	Male	Female	Combined	Male	Female	Combined	Male	Female
Under \$3,000	1.282	1.055	1.523	.750	.588	.945	1.908	1.575	2.145	2.218	1.963	2.376
\$3,000 - \$3,599	1.143	.937	1.338	.670	.547	.810	1.293	.943	1.542	1.495	1.145	1.725
3,600 - 4,099	1.111	.917	1.304	.615	.490	.760	1.242	.971	1.417	1.652	1.237	1.923
4,100 - 4,299	1.121	.975	1.261	.608	.533	.691	1.486	1.183	1.654	1.737	.978	2.461
4,300 - 4,599	1.014	.885	1.159	.572	.483	.680	1.485	1.222	1.710	1.414	1.108	1.690
4,600 - 5,099	1.008	.936	1.094	.585	.513	.681	1.142	.904	1.322	1.560	1.277	1.861
5,100 - 5,599	.916	.817	1.066	.485	.404	.630	1.137	1.149	1.126	1.319	1.058	1.545
Over \$5,600	.561	.529	.823	.303	.278	.546	.498	.445	.905	.592	.545	.894
All Brackets	.771	.639	1.182	.454	.358	.757	.770	.565	1.399	.905	.678	1.566

Wage Bracket	50-54			55-59			60 and Over		
	Combined	Male	Female	Combined	Male	Female	Combined	Male	Female
Under \$3,000	2.383	2.092	2.604	2.620	2.606	2.631	2.546	2.499	2.612
\$3,000 - \$3,599	1.967	1.567	2.249	1.994	2.188	1.860	2.267	2.188	2.355
3,600 - 4,099	1.853	1.455	2.192	1.809	1.643	1.971	2.808	3.005	2.587
4,100 - 4,299	1.679	1.184	2.064	1.555	1.693	1.449	2.724	3.651	1.920
4,300 - 4,599	1.463	1.072	1.830	1.487	1.542	1.419	2.228	2.482	1.878
4,600 - 5,099	1.681	1.689	1.674	1.350	1.372	1.320	2.166	2.467	1.650
5,100 - 5,599	1.298	1.139	1.492	1.322	1.190	1.554	2.226	2.299	2.051
Over \$5,600	.743	.718	.907	1.021	1.013	1.077	1.541	1.568	1.360
All Brackets	1.059	.866	1.659	1.291	1.181	1.633	1.888	1.854	1.992

16. Letter from John Hanna, General Counsel, Health Insurance Association of America, dated February 1, 1968.
17. Hawaii, Department of Labor and Industrial Relations, Report of the 26th Year, Fiscal Year July 1, 1964-June 30, 1965, p. 1.
18. Department Survey, Table 2, p. 2.
19. Fifty-four carriers responded collectively (see letter of January 20, 1969 from David Robbins, Health Insurance Association of America) and 43 responded directly to the Legislative Reference Bureau.
20. Letter from David Robbins, supra, note 13.
21. Obviously more than 12,980 persons were protected by group insurance in 1964, since that figure covers only workers in private industry. The insurance industry has not supplied data showing the whole number of persons in Hawaii covered by group policies.
22. The estimated decrease from 38.6 per cent to 35 per cent allows for a greater improvement than is shown in the national picture, where the unprotected persons between 1964 and 1966 decreased only from 50.1 per cent to 48.9 per cent; see Kolodrubetz, Table 2, p. 27.
23. Department Survey, Tables 7 and J, pp. 5 and 34.
24. Ibid., Tables 7 and K, pp. 5 and 36.
25. Ibid., Table 8, p. 6.
26. See following page.
27. Council Survey, p. 75-6.
7. Kolodrubetz, Table 1, p. 26.
8. Health Insurance Institute, 1967 Source Book, p. 19.
9. From 59,299,000 to 71,805,000 (Survey of Current Business, July 1957, Table 26 and Table 6.3).
10. According to Kolodrubetz, the total number of employees in private industry that were protected in 1966 against disability by formal sick leave and group insurance amounted to 29.3 million individuals. This figure included (a) workers covered solely by group insurance, (b) workers covered solely by sick leave and (c) workers covered by combined sick leave and group insurance plans. Since, according to the industry's data (Health Insurance Council, The Extent of Voluntary Health Insurance in the United States as of December 31, 1966, p. 26, at least 4 million workers in private industry had either exclusive or combined sick leave protection, it must be concluded that a substantial number of the 28.7 million persons reported to be covered by private group disability insurance policies in 1966 were public employees.

Similar results are arrived at by Skolnik, (at p. 7) who estimates that 2.6 million workers in private industry in 1966 were covered exclusively by sick leave plans. At the most, then, 26.7 million workers in private industry could have been protected by group insurance policies (29.3-2.6). But the Health Insurance Institute reports that a total of 28.7 million employees (both public and private) were covered by group policies. The remaining 2 million workers (28.7-26.7) must have been public employees.

#### Chapter IV

1. Skolnik, "Income-Loss Protection Against Illness, 1948-1966," Social Security Bulletin, January 1968, 3.
2. Ibid., p. 6.
3. Kolodrubetz, "Employee-Benefit Plans in 1966," 31 Social Security Bulletin, April 1968, Table 2, p. 27.
4. Skolnik, Table 8, p. 12.
5. Computed from data given by Skolnik, Table 4, p. 10 and Table 8, p. 12. Benefits paid in 1954 under sick leave plans in states not having compulsory disability insurance laws amounted to \$201 million or 42.9 per cent of the total of \$468 million provided by group protection, while in 1966 the amount of sick leave benefits had increased to \$509 million or 45.0 per cent of the total of \$1,130 million provided by group plans. As can be seen from the text sick leave benefits increased from \$201 million to \$509 million (253.2 per cent), while group insurance benefits increased from \$267 million to \$621 million (232.5 per cent).
6. Health Insurance Institute, 1967 Source Book of Health Insurance Data.
11. About this type of policy, see Williams and Heins, Risk Management and Insurance, pp. 414, 415 (1964); Dickerson, Health Insurance, p. 362 (1963).
12. "Growth in Protection Against Income Loss from Short-Term Sickness: 1948-56," 21 Social Security Bulletin, January 1958, 18.
13. Wash. Laws 1949, ch. 235.
14. Osborn, Compulsory Temporary Disability Insurance in the United States, p. 59 (1958). The quoted passage is part text and part footnote. For ease of quotation the footnote is inserted in the text.
15. Hawaii, The Executive Budget for the Fiscal Year 1969-70, Part II, EO-3.
16. Important for estimates of the extent of temporary disability in Hawaii are: U.S., Department of Health, Education and Welfare, Health Statistics from the U.S. National Health Survey, "The Hawaii Health Survey, October 1958-September 1959," Series C-No. 3 (1960); Hawaii, Department of Health, Work-Loss and Morbidity Among Usually Working Persons, Hawaii Health Survey Report No. 3 (1962) (results of a State-Federal survey conducted on Oahu from October 1958 to September 1959); U.S., Department of Health, Education and Welfare, National Center for Health Statistics, Disability Days, United States - July 1963 - June 1964 Series 10 No. 24 (1965).

SURVEY OF COLLECTIVELY BARGAINED  
PROTECTION FOR NONWORK RELATED  
DISABILITIES IN HAWAII (1968)

	<u>Total</u>	<u>No Coverage</u>	<u>Sick Leave Only</u>	<u>D I S A B I L I T Y     I N S U R A N C E</u>					<u>Unknown</u>
				<u>Total</u>	<u>Disability Insurance Only</u>	<u>Sick Leave and Disability Insurance</u>	<u>Permanent Disability Only<sup>1</sup></u>	<u>Temporary Disability<sup>2</sup></u>	
Firms	287	22	230	35	3	32	17	17 <sup>3</sup>	1
Employees	34,585	975	25,727	7,883	248	7,635	6,341	1,539 <sup>3</sup>	3

Source: Collective bargaining agreements provided by the Hawaii Employers Council.

<sup>1</sup>Benefits commence only after 26 weeks have elapsed from the date of disability.

<sup>2</sup>Benefits available for at least some portion of the first 26 weeks following the date of disability.

<sup>3</sup>Eleven firms employing 960 workers had group insurance policies with a 13-week waiting period.

17. Osborn, p. 5 (emphasis added).

18. This conclusion is demonstrated by the data supplied by the Hawaii Department of Health on the basis of the Hawaii Health Surveillance Program, for the period April 1, 1964-March 31, 1967. According to the records compiled, 10,007 currently employed workers reported 4,057 work loss days during the month preceding the interview. The distribution was as follows:

Number of Work Days Lost	Number of Workers Involved	Total Number of Workdays Lost
1	176	176
2	176	352
3	105	315
4	51	204
5	101	505
6	20	120
7	35	245
8	16	128
9	1	9
10	36	360
12	6	72
13	4	52
14	23	322
15	14	210
16	3	48
17	2	34
18	1	18
19	2	38
20	8	160
21	7	147
22	4	88
23	2	46
25	2	50
28	3	84
30	5	150
31	4	124
TOTAL	807	4,507

Obviously the sample does not reflect accurately the annual days of disability of persons who were sick throughout the month preceding the interview and also had been sick prior to that month. Moreover, since a month has normally only 22-23 workdays, the reports of greater workday losses per month show misunderstanding of the question asked. Hence the finding of 4.86 work loss days per year ( $4,507 \times 12$ ) cannot be relied upon for actuarial (10,007) cost estimates.

19. See Disability Days, note 16, p. 2 and p. 52.

20. Professor Osborn explains the discrepancy between data relating to uncompensated disability and data relating to compensated disability as follows: "First, when accurate records are kept, many illnesses are reported which would otherwise be overlooked. Disability surveys often rely upon the memory of the respondent which may be inaccurate. Second, when workers know that their income will not be terminated by illness, they will often stay home and draw benefits, whereas, without sick pay benefits they would have felt compelled to stay on the job. Third, malingering, though overstressed by many, is a factor to be considered in the insuring of disability," Osborn, p. 5.

21. It is extremely difficult to estimate the effect of waiting periods and to correlate data collected by means of a survey with data collected under systems of compensated disability with waiting periods. An early estimate of the Division of Research and Statistics of the California Department of Employment (Report 425N #11, February 19, 1953) concluded that abolition of a waiting period for a system having a one-week waiting period would increase the load of the system by 50.7 per cent.

22. See especially Washington (State), Disability Compensation Study, p. 8 and 9 (1946); Osborn, p. 5; Hawaii, Department of Health, Work Loss and Morbidity.

23. Disability Days, note 16, p. 52.

24. Hawaii, Department of Health, Work Loss and Morbidity, p. 5.

25. U.S., Department of Health, Education and Welfare, Health Statistics from the U.S. National Health Survey, "Selected Health Characteristics by Area. . . United States, July 1957-June 1959," Series C. No. 6, Table 4, p. 17. The average work loss in the Middle-Atlantic States (N.Y., N.J.) was 6.7; in the Pacific States, 6.1.

26. Hawaii, Department of Health, Work Loss and Morbidity, p. 4. Since 1958, the proportion of Japanese in the labor force has decreased from 32.5 per cent to 29.8 per cent (i.e. by 8.3 per cent), while the share of Caucasians, having the heaviest work loss experience, has increased from 25.5 per cent to 28.4 per cent (i.e. by 11.4 per cent). Preliminary estimates by the Department of Planning and Economic Development (1969).

27. Disability Days, note 16, Table 5, p. 16.

28. The costs of coverage for government workers are not calculated since the necessary data for such computation is not available.

29. See our Tables 13 and 15.

30. See our Table 8.

31. California, Department of Employment, California Unemployment Compensation Disability Fund, Report of the Actuaries for Calendar Year 1967, Sections B-D, p. 2-10.

32. Rhode Island, Department of Employment Security, 1957 Statistical and Fiscal Digest, p. 28.

# A BILL FOR AN ACT

TO ESTABLISH THE HAWAII TEMPORARY DISABILITY INSURANCE LAW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1       SECTION 1. The Revised Laws of Hawaii 1955, is amended by  
2 adding a new chapter to be appropriately designated and to read as  
3 follows:

## "CHAPTER

### TEMPORARY DISABILITY INSURANCE

#### PART I. SHORT TITLE; PURPOSE; DEFINITIONS

6       Sec.   -1. Short title. This chapter shall be known as the  
7 Hawaii Temporary Disability Insurance Law.

8       Sec.   -2. Findings and purpose. A large portion of the  
9 labor force of this State annually is disabled from pursuing gainful  
10 employment by reason of nonoccupational sickness or accident and as  
11 a result suffers serious loss of income. In approximately ten per  
12 cent of the cases such sickness or accident can be expected to  
13 cause disability of more than one week's duration. More than two-  
14 fifths of the employees in private employment have either no fixed  
15 legal protection against wage loss from disabling nonoccupational  
16 sickness or accident, or only protection for a period of one work  
17 week or less; more than one-third of the workers covered by formal  
18 sick leave plans are not protected against disability extending  
19 beyond two work-weeks. In most cases existing plans exclude dis-  
ability resulting from pregnancy. Since the hardship for workers

1 and their families mounts with the extension of the duration of the  
2 disability from whatever cause, there is a need to fill the existing  
3 gaps in protection and to provide benefits to individuals in current  
4 employment that will afford to them reasonable compensation for wage  
5 loss caused by disabling nonoccupational sickness or accident where  
6 the disability is temporary in nature and exceeds the period of one  
7 work-week. This legislation is designed not to impede the growth  
of voluntary plans which afford additional protection.

8 This chapter shall be liberally construed in the light of the  
9 stated reasons for its enactment and its declared purpose.

10 Sec. -3. Definitions generally. As used in this chapter,  
11 unless the context clearly requires otherwise:

12 (1) "Benefit year" with respect to any individual means the  
13 one-year period beginning with the first day of the first week of  
14 disability with respect to which the individual first files a valid  
15 claim for temporary disability benefits. A subsequent benefit year  
16 is the one-year period following a preceding benefit year, beginning  
17 either (A) with the first day of the first week of disability with  
18 respect to which the individual files a subsequent claim for temporary  
19 disability benefits, or (B) with the first work-day following the  
20 expiration of the preceding benefit year if a disability for which  
21 temporary disability benefits are payable during the last week of  
the preceding benefit year continues and the individual is eligible  
for further benefit payments.

22 (2) "Contributions" mean the money payments required by this  
23 chapter to be made into the state disability compensation fund by  
employers and employees.

24 (3) "Department" means the department of labor and industrial  
25 relations.

1 (4) "Director" means the director of labor and industrial  
2 relations.

3 (5) "Disability" means total inability of an employee to perform  
4 the duties of his employment caused by sickness or accident other  
5 than a work injury as defined in section 97-3. Disability includes  
6 total inability of an employee to perform the duties of her employ-  
ment caused by pregnancy.

7 (6) "Employer" means any individual or type of organization,  
8 including the State, any of its political subdivisions, any instrumentality  
9 of the State or its political subdivisions, any partnership, association,  
10 trust, estate, joint stock company, insurance company, or corporation,  
11 whether domestic or foreign, or receiver or trustee in bankruptcy, or  
12 the legal representative of a deceased person, who has one or more  
individuals in his employment during any day or portion of a day.

13 (7) "Employment" and "employed" means service, including service  
14 in interstate commerce, performed for wages under any contract of  
15 hire, written or oral, express or implied, with an employer, except  
as otherwise provided in sections -4 and -5.

16 (8) "Wages" mean all remuneration for services from whatever  
17 source, including commissions and bonuses, and the cash value of  
18 all remuneration in any medium other than cash but not including  
19 tips or gratuities paid directly to an individual by a customer of  
20 his employer and not accounted for by the individual to his employer.

21 The director may issue regulations for the reasonable determina-  
22 tion of the cash value of remuneration in any medium other than cash.

23 Wages do not include the amount of any payment specified in  
section 93-11.

24 (9) "Weekly benefit amount" means the amount payable under  
25 this chapter for a period of continuous disability throughout a

1 calendar week. If the period of disability or the initial or  
2 terminal portion thereof is shorter than a calendar week, the  
3 benefit amount payable for that portion shall be the weekly  
4 benefit amount multiplied by a factor consisting of a quotient  
5 having the number of work-days lost during that portion of the  
6 week for the enumerator and the number of regular work-days of  
the employee during a calendar week for the denominator.

7 Sec. -4. Place of performance. (a) "Employment" includes  
8 an individual's entire service, performed within or both within  
9 and without this State if

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

11 (2) The service is not localized in any state but some of  
12 the service is performed in this State and (A) the individual's  
13 base of operation, or, if there is no base of operation, the place  
14 from which such service is directed or controlled, is in this State;  
15 or (B) the individual's base of operation or place from which the  
16 service is directed or controlled is not in any state in which some  
part of the service is performed but the individual's residence is  
in this State.

17 (b) The term "employment" also includes all service performed  
18 by an officer or member of the crew of an American vessel on or in  
19 connection with such vessel; provided that the operating office  
20 from which the operations of the vessel operating on navigable waters  
21 within or within and without the United States is ordinarily and  
22 regularly supervised, managed, directed, and controlled is within  
this State.

23 Sec. -5. Excluded services. "Employment" as defined in  
24 section -3 does not include the following service:  
25



(1) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, performed in any calendar quarter by an individual if the cash remuneration paid by the employer for such service is less than \$225;

(2) Service not in the course of the employer's trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for the service is \$50 or more and the service is performed by an individual who is regularly employed by the employer to perform the service. An individual shall be deemed to be regularly employed to perform service not in the course of the employer's trade or business during a calendar quarter only if (A) on each of some twenty-four days during the quarter the individual performs the service for some portion of the day, or (B) the individual was regularly employed (as determined under clause (A)) by the employer in the performance of the service during the preceding calendar quarter;

(3) Service performed on or in connection with a vessel not an American vessel, if the individual performing the service is employed on and in connection with the vessel when outside the United States;

(4) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including service performed as an ordinary incident thereto, except (A) the service performed in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States), and (B) the service performed in connection with a vessel of ten net tons or less (determined in the

manner provided for determining the register tonnage of merchant vessels under the laws of the United States) by an individual who is employed by an employer who, for some portion in each of twenty different calendar weeks in either the current or preceding calendar year, had in his employ one or more persons performing the service, whether or not the weeks were consecutive and whether or not the same individuals performed the service in each week, and (C) service performed in connection with the catching or taking of salmon or halibut for commercial purposes;

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

(6) Service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this chapter.

(7) Service performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more such states or political subdivisions; and any service performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such service, exempt from the tax imposed by section 3301 of the Internal Revenue Code of 1954;

(8) Service with respect to which temporary disability compensation is payable for sickness under a temporary disability insurance system established by an act of Congress;

(9) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501 of the Internal Revenue Code of 1954, if (A) the remuneration for such

1 service is less than \$50, or (B) the service is performed by a  
2 student who is enrolled and is regularly attending classes at a  
3 school, college, or university, or (C) the service is performed by  
4 a duly ordained, commissioned, or licensed minister or licensed  
5 minister of a church in the exercise of his ministry or by a  
6 member of a religious order in the exercise of nonsecular duties  
7 required by the order;

8 (10) Service performed in the employ of a voluntary employees'  
9 beneficiary association providing for the payment of life, sick,  
10 accident, or other benefits to the members of the association or  
11 their dependents, if (A) no part of its net earnings inures (other  
12 than through such payments) to the benefit of any private share-  
13 holder or individual, and (B) eighty-five per cent or more of its  
14 income consists of amounts collected from members and amounts  
15 contributed by the employer of the members for the sole purpose of  
16 making such payments and meeting expenses;

17 (11) Service performed in the employ of a voluntary employees'  
18 beneficiary association providing for the payment of life, sick,  
19 accident, or other benefits to the members of the association or  
20 their dependents or their designated beneficiaries, if (A) admission  
21 to membership in the association is limited to individuals who are  
22 officers or employees of the United States government, and (B) no  
23 part of the net earnings of the association inures (other than through  
24 such payments) to the benefit of any private shareholder or individual;

25 (12) Service performed in the employ of a school, college, or  
university, not exempt from income tax under section 501 of the  
Internal Revenue Code of 1954, if the service is performed by a  
student who is enrolled and is regularly attending classes at the  
school, college, or university;

1       (13) Service performed in the employ of an instrumentality  
2 wholly owned by a foreign government, if: (A) the service is of  
3 a character similar to that performed in foreign countries by  
4 employees of the United States government or of an instrumentality  
5 thereof; and (B) the United States Secretary of State has certified  
6 or certifies to the United States Secretary of the Treasury that  
7 the foreign government, with respect to whose instrumentality  
8 exemption is claimed, grants an equivalent exemption with respect  
9 to similar service performed in the foreign country by employees  
of the United States government and of instrumentalities thereof;

10       (14) Service performed as a student nurse in the employ of a  
11 hospital or a nurses' training school by an individual who is  
12 enrolled and is regularly attending classes in a nurses' training  
13 school chartered or approved pursuant to state law; and service  
14 performed as an intern in the employ of a hospital by an individual  
15 who has completed a four years' course in a medical school chartered  
or approved pursuant to state law;

16       (15) Service performed by an individual for an employing unit  
17 as an insurance agent or as an insurance solicitor, if all such service  
18 performed by the individual for the employing unit is performed for  
remuneration solely by way of commission;

19       (16) Service performed by an individual under the age of eighteen  
20 in the delivery or distribution of newspapers or shopping news, not  
21 including delivery or distribution to any point for subsequent  
22 delivery or distribution;

23       (17) Service covered by an arrangement between the department  
24 and the agency charged with the administration of any other state  
25 or federal unemployment compensation law pursuant to which all  
services performed by an individual for an employing unit during

1 the period covered by the employing unit's duly approved election,  
2 are deemed to be performed entirely within the agency's state;

3 (18) Service performed by an individual who, pursuant to the  
4 Federal Economic Opportunity Act of 1964, is not subject to the  
5 federal laws relating to unemployment compensation.

6 Sec. -6. "Individual in current employment". (a) "Individual  
7 in current employment" means:

8 (1) An individual who performed regular service in employment  
9 immediately or not longer than two weeks prior to the onset of the  
10 sickness or to the accident causing disability and who would have  
11 continued in or resumed employment except for such disability.

12 (2) An individual in covered employment whose employment pattern  
13 consists in whole or in part of periods of intermittent or seasonal  
14 employment and who because of disability due to sickness or accident  
15 is unable to continue such pattern.

16 (3) In the case of pregnancy, an individual who performed regular  
17 service in employment at the beginning of the pregnancy and whose  
18 employment was not terminated for reasons other than the pregnancy.

19 (b) The director may issue regulations defining current employ-  
20 ment consistent with the principles set forth in subsection (a) and  
21 the declared policy that unemployed individuals whose disability due  
22 to sickness or accident occurs during a period of unemployment shall  
23 remain entitled to benefits under chapter 93 and that individuals  
24 whose disability due to sickness or accident renders them unable to  
25 continue to perform services in their existing employment or to  
pursue their customary employment pattern shall receive benefits  
under this chapter.

26 Sec. -7. Average weekly wage. (a) The "average weekly wage"  
for the purpose of computing the weekly benefit amount shall be

determined in the following manner:

(1) Where the current employment is regular, and not intermittent or seasonal, the average weekly wage shall be the amount of the weekly wages earned by the individual in the last week prior to his disability.

(2) Where the current employment is irregular and intermittent the average weekly wage shall be the average weekly wage earned by the individual during a representative period prior to the disability rendering the individual unable to continue in such employment.

(3) Where the current employment is seasonal in nature the average weekly wage shall be the average weekly wage earned during such seasonal employment, having due regard for the ineligibility for temporary disability benefits, prescribed by section -24, during the period between seasons with respect to periods of sickness and incapacity due to accidents that commenced in such interval. The director may issue regulations for a fair and equitable determination of the average weekly wage consistent with the policy set forth in section -20(b).

(b) In the case of concurrent employment with two or more employers, the average weekly wage shall be computed on the basis of the total wages earned from all such employers, according to the principles set forth in subsection (a).

## PART II. TEMPORARY DISABILITY BENEFITS

### Sec. -20. Establishment of temporary disability benefits.

(a) Any individual in current employment who suffers disability resulting from accident, sickness, or pregnancy, except accident or disease connected with or resulting from employment as defined in section 97-3 or any other applicable workmen's compensation law,

1 shall be entitled to receive temporary disability benefits in the  
2 amount and manner provided in this chapter.

3 (b) It is the policy of this chapter that the computation and  
4 distribution of benefit payments shall correspond, to the greatest  
5 extent feasible, to the wage loss expected on the basis of the  
earnings pattern of the employee prior to his disability.

6 Sec. -21. Weekly benefit amount. Benefits shall be paid  
7 weekly in the amount set forth in this section.

8 (1) If the average weekly wage of the employee is less than  
9 \$25, the weekly benefit amount shall be equal to the average weekly  
10 wage but not more than \$15.50.

11 If the average weekly wage of the employee is \$25 or more, the  
12 weekly benefit amount shall be sixty-two per cent of the average  
weekly wage rounded off to the nearest \$.10.

13 (2) If the average weekly earnings of the employee exceed an  
14 amount equal to one fifty-second of the product obtained by multiply-  
15 ing the amount of the average annual wage in Hawaii, as determined  
16 pursuant to section 93-21(b) by the factor 1.45, such excess shall  
17 not be included in the computation of the weekly benefit amount.

18 (3) Notwithstanding any provision in paragraphs (1) and (2)  
19 to the contrary, the weekly benefit amount shall not exceed the  
maximum weekly benefit specified in section 97-30.

20 Sec. -22. Duration of benefit payments. (a) Temporary  
21 disability benefits shall be payable for any period of disability  
22 following the expiration of the waiting period required in section

-23.

23 The duration of benefit payments shall not exceed twenty-six  
24 weeks for any period of disability or during any benefit year.

(b) If the disability is due to pregnancy, temporary disability benefits shall be payable during the four weeks immediately prior to the expected birth of the child and during the four weeks following the termination of the pregnancy, without expiration of any other waiting period. If the pregnancy or termination of pregnancy produces complications resulting in sickness causing disability, the duration of benefit payments shall be governed by subsection (a).

Sec. -23. Waiting period. No temporary disability benefits shall be payable during the first seven consecutive days of any period of disability. Consecutive periods of disability due to the same or related cause and not separated by an interval of more than two weeks shall be considered as a single period of disability.

Sec. -24. Periods of sickness or incapacity caused by accident not deemed periods of disability. An employee is not entitled to temporary disability benefits for periods of sickness or incapacity due to accident during which he would not have earned wages from employment according to the schedule of operations of his employer or his prior earnings pattern, but an employee is entitled to benefits for any period of disability during which, but for the disability, he would have resumed his prior employment or, according to his prior earnings pattern, earned wages from employment.

Sec. -25. Eligibility for benefits. An individual is eligible to receive temporary disability benefits, other than for disability due to pregnancy, if he has been in current employment for a period of at least one month or earned wages of at least \$400 during the year preceding the benefit year.



1       An individual may establish a subsequent benefit year if he  
2 has been in current employment or earned wages of at least \$400  
3 during or after the termination of the preceding benefit year.

4       An individual is eligible to receive temporary disability  
5 benefits during a period of disability due to pregnancy if she  
6 has been a member of the labor force for at least one year prior to  
7 the commencement of the pregnancy. An individual is deemed to be  
8 a member of the labor force if she is regularly employed or employed  
9 throughout the seasonal periods customary in her type of work.

10       Sec.    -26. Care by physician or equivalent required. (a)  
11 An individual shall be ineligible to receive temporary disability  
12 benefits with respect to any period during which he is not under the  
13 care of a person duly licensed to practice medicine or surgery,  
14 naturopathy, dentistry, chiropractic, or podiatry, who shall certify,  
15 in the form and manner specified by regulation of the director, the  
16 disability of the claimant, the probable duration thereof or the  
17 expected date of delivery, and such other medical facts within his  
18 knowledge as required by regulation.

19       (b) This section shall not apply to an individual who, pursuant  
20 to the teachings, faith, or belief of any group, depends for healing  
21 upon prayer or other spiritual means. In that case the disability,  
22 the probable duration thereof, and any other pertinent facts required  
23 to be certified by regulation of the director shall be certified, in  
24 the form and manner specified by the regulation, by a duly authorized  
25 or accredited practitioner of such group.

26       Sec.    -27. Ineligibility in certain cases. An individual  
27 shall not be eligible to receive temporary disability benefits:

28       (1) For any period of disability commencing at a time at which  
29 he would be disqualified from receiving benefits under the Hawaii

1 Employment Security Law by reason of unemployment due to a stoppage  
2 of work existing because of a labor dispute for the duration of such  
3 disqualification.

4 (2) If the director finds that the individual has knowingly  
5 made a false statement or representation of a fact or knowingly  
6 failed to disclose a material fact in order to obtain benefits  
7 under this chapter to which he is not otherwise entitled. The  
8 ineligibility shall be for a period determined by the director, but  
9 shall not exceed the period of disability with respect to which the  
10 false statement or representation was made or the nondisclosure  
11 occurred.

12 (3) For any period of disability due to willfully and in-  
13 tentiously self-inflicted injury or to injury sustained in the  
14 commission of a criminal offense specified in title 31.

15 Sec. -28. Duplication of benefits not permitted. No  
16 temporary disability benefits shall be payable for any period of  
17 disability for which the employee is entitled to receive:

18 (1) Weekly payments from his employer or any other person under  
19 a wage continuation plan or any other arrangement providing payments  
20 during disability caused by nonoccupational sickness or accident,  
21 financed in whole or at least half by the employer, or under any  
22 rule of law entitling him to maintenance and cure, if such payments  
23 are equal or greater than the benefits provided by this chapter, but  
24 the employee shall be entitled to the difference between such payments  
25 and the benefits under this chapter, if such payments are less than  
the benefits provided by this chapter.

(2) Weekly benefits under the Employment Security Law or similar  
laws of this State or of any other state or of the United States, or

1 under any temporary disability benefits law of any other state or  
2 of the United States.

3 (3) Weekly disability insurance benefits under 42 U.S.C.A. sec.  
4 423.

5 (4) Weekly benefits for total disability under the Workmen's  
6 Compensation Law of this State or any other state or of the United  
7 States, except benefits for permanent partial or permanent total  
8 disability previously incurred. If the claimant does not receive  
9 benefits under such workmen's compensation law and his entitlement  
10 to such benefits is seriously disputed, the employee, if otherwise  
11 eligible, shall receive temporary disability benefits under this  
12 chapter, but the temporary disability fund or any other person pro-  
13 viding such benefits shall be subrogated, as hereinafter provided,  
14 to the employee's right to benefits under the workmen's compensation  
15 law for the period of disability for which he received benefits under  
16 this chapter to the extent of the benefits so received.

17 (5) Indemnity payments for wage loss under any applicable  
18 employers' liability law of this State, or of any other state or of  
19 the United States. If an employee has received benefits under this  
20 chapter for a period of disability for which he is entitled to such  
21 indemnity payments, the temporary disability fund or any other person  
22 providing such benefits shall be subrogated to the employee's right  
23 to such indemnity payments in the amount of the benefits paid under  
24 this chapter as hereinafter provided.

25 Sec. -29. No assignment of benefits; exemptions from attach-  
26 ment, etc. No assignment, pledge, or encumbrance of any right to  
27 benefits which are or may become due or payable under this chapter  
28 shall be valid; and such rights to benefits shall be exempt from levy,  
29 execution, attachment, garnishment, or any other remedy whatsoever

1 provided for the collection of debt. No waiver of any exemption  
2 provided for in this section shall be valid.

3 PART III. INSURANCE WITH TEMPORARY DISABILITY FUND

4 Sec. -30. Temporary disability fund established. There  
5 is established in the treasury of the State as a special fund, separate  
6 and apart from all public moneys or funds of the State, a temporary  
7 disability fund which shall be administered by the director exclusively  
8 for the purposes of this chapter. All contributions pursuant to this  
9 chapter shall be paid into the fund and all benefits payable under  
10 this chapter shall be paid from the fund. The fund shall consist of  
11 (1) all contributions collected pursuant to this chapter, together  
12 with any interest thereon; (2) all fines and penalties collected  
13 pursuant to this chapter; (3) all moneys collected by way of sub-  
14 rogation; (4) interest earned on any moneys in the fund; (5) any  
15 property or securities acquired through the use of moneys belonging  
16 to the fund; (6) all earnings of such property and securities; and  
17 (7) all other moneys received for the fund from any source.

18 Sec. -31. Management of the fund. The director of finance  
19 shall be the treasurer and custodian of the temporary disability  
20 fund and shall administer the fund in accordance with the direction  
21 of the director of labor and industrial relations. All moneys in  
22 the fund shall be held in trust for the purposes of this chapter only  
23 and shall not be expended, released, or appropriated or otherwise  
24 disposed of for any other purpose. Moneys in the fund may be deposited  
25 in any depository bank in which general funds of the State may be  
deposited but such moneys shall not be commingled with other state  
funds and shall be maintained in separate accounts on the books of  
the depository bank. Such moneys shall be secured by the depository  
bank to the same extent and in the same manner as required by the

1 general depository law of this State; and collateral pledged for  
2 this purpose shall be kept separate and distinct from any other  
3 collateral pledged to secure other funds of this State. The  
4 director of finance shall be liable for the performance of his  
duties under this section as provided in chapter 35.

5 Sec. -32. Disbursements from the fund. Expenditures of  
6 moneys in the temporary disability fund shall not be subject to any  
7 provisions of law requiring specific appropriations or other formal  
8 release by state officers of money in their custody. All benefits  
9 and refunds shall be paid from the fund upon warrants drawn upon  
10 the director of finance by the comptroller of the State supported  
by vouchers approved by the director.

11 Sec. -33. Investment of moneys. With the approval of the  
12 department the director of finance may, from time to time, invest  
13 such moneys in the temporary disability fund as are in excess of the  
14 amount deemed necessary for the payment of benefits and refunds for  
15 a reasonable future period. Such moneys may be invested in bonds of  
16 any political or municipal corporation or subdivision of the State,  
17 or any of the outstanding bonds of the State, or invested in bonds  
18 or interest-bearing notes or obligations of the State (including  
19 state director of finance's warrant notes issued pursuant to  
20 chapter 34), or of the United States, or those for which the faith  
21 and credit of the United States are pledged for the payment of  
22 principal and interest, or in federal land bank bonds or joint stock  
23 farm loan bonds. The investments shall at all times be so made  
24 that all the assets of the fund shall always be readily convertible  
25 into cash when needed for the payment of benefits. The director of  
finance shall dispose of securities or other properties belonging to  
the fund only under the direction of the director of labor and  
industrial relations.

1           Sec.     -34. Temporary disability benefits to be paid by  
2 temporary disability fund, and financed by equal contributions of  
3 employers and employees. (a) Temporary disability benefits shall  
4 be paid from the temporary disability fund, except to the extent  
5 that such benefits are payable under private plans approved for  
6 reduction of contributions as provided in part IV. Except for good  
7 cause shown, no temporary disability benefits shall be payable with  
8 respect to any period of disability, or portion thereof, which  
9 antedates the filing of the claim with respect thereto by two weeks.  
10 It is deemed to be good cause if a claim for benefits under this  
11 chapter is made subsequent to the rejection of a claim for the same  
12 disability made under the Workmen's Compensation Law of this State  
13 or any other workmen's compensation law; provided that the claim  
14 under this chapter is filed within one week after such rejection  
15 has become final.

16           (b) The payment of such temporary disability benefits and the  
17 costs of the administration of this chapter shall be financed by  
18 means of equal contributions of the individuals in current employment  
19 and of the employers of such individuals, based upon and measured by  
20 the wages in employment earned by and payable to these individuals.

21           Nothing in this chapter shall be deemed to prevent the employer  
22 by collective bargaining agreement or otherwise to assume the payment  
23 of all or a portion of the employees' share of the contributions.

24           Sec.     -35. Rate of contribution, maximum weekly wage base.

25           (a) Subject to the limitation set forth in subsection (b) the rate  
of contribution of each employee shall be .55 per cent of the weekly  
wages earned by him in employment and the rate of contribution of each  
employer shall be .55 per cent of the weekly wages payable by the  
employer to each of his employees with respect to employment.

1 (b) Weekly wages for the purposes of this section shall not  
2 include remuneration in excess of one fifty-second of the average  
3 annual wage in the State as determined for the preceding year pursuant  
4 to section 93-60(b) multiplied by the factor 1.45 (maximum weekly  
5 wage base for contributions). The director shall cause this amount  
6 to be published annually prior to the first day of January following  
the determination.

7 (c) Where an employee is in the concurrent employment of two  
8 or more employers the total wages upon which the contributions of the  
9 employer and the employee are calculated shall not exceed the maximum  
10 weekly wage base for contributions as prescribed in subsection (b).

11 The maximum weekly wage base applicable to each of the con-  
12 current employers shall be the amount obtained by multiplying the  
13 maximum weekly wage base applicable to a single employer with the  
14 quotient obtained by dividing the weekly wage payable to the employee  
15 by such concurrent employer by the sum of the weekly wages payable  
16 by all concurrent employers. The share of the employee's contribution  
17 to be withheld from the weekly wages payable by each of his concurrent  
employers pursuant to section -36 shall be equal to the amount of  
the employer's contribution.

18 The employee shall furnish each of his concurrent employers with  
19 a written statement of the weekly wages payable in each concurrent  
20 employment.

21 (d) In accordance with the rules applicable under section  
22 -36, the director shall prescribe the manner in which overpayments  
23 resulting from disregard or misapplication of subsections (b) and (c)  
24 shall be refunded to the employees or employers and deficiencies be  
25 collected.

1        Sec.    -36. Payment of contributions; duty of employer to  
2 withhold employees' contributions. (a) The contributions of the  
3 employers shall become due and payable by each employer in such  
4 manner and at such intervals and dates as prescribed by regulation  
5 of the director. To secure an adequate flow of cash the director  
6 may require more frequent payments from employers having a substantial  
7 number of employees than from employers having a limited number of  
employees.

8        The provisions of the Hawaii Employment Security Law relating  
9 to assessment of contributions, collection of delinquent contributions,  
10 priorities in the administration of insolvent estates, penalties for  
11 delinquency, appeals, compromise, and refund and adjustments shall  
be applicable to the employers' contributions under this chapter.

12        (b) The contributions of the employees shall be deducted and  
13 withheld from their wages by their employers and shall be paid to  
14 and for the benefit of the temporary disability fund as prescribed  
15 by regulation of the director. Unless a different rule is prescribed  
16 by regulation of the director, the withholding period shall be equal  
17 to the pay period of the respective employee. The contributions so  
18 withheld shall be paid over by the employer in such manner and at  
19 such intervals and dates as prescribed by regulation of the director.  
20 All employees' contributions deducted and withheld from their wages  
21 under this subsection by the employer shall be held in trust for  
the temporary disability fund.

22        Every employer shall furnish to each employee at the end of  
23 each quarter or at other intervals and dates as prescribed by regula-  
24 tion of the director or at the termination of his employment a written  
25 statement showing the period covered by the statement, the wages paid  
by the employer to such employee during such period, and the amount  
of the contributions deducted and withheld in respect of such wages.



1        If any employer fails, neglects, or refuses to deduct and  
2 withhold from the wages paid to the employee or to pay over the  
3 contributions required by this chapter, the employer, and if the  
4 employer is a corporation, the responsible officer of the corpora-  
5 tion also, shall be liable to pay the required amount as provided  
6 in section 121-19.

7        The employees' contributions required to be withheld and  
8 deducted from their wages by their employers shall be treated as  
9 employers' contributions and be subject to the provisions of the  
10 Employment Security Law relating to the collection of employers'  
11 contributions (including penalties), unless the context of these  
12 provisions or of the provisions of this chapter provide otherwise.

13        Every person required to withhold and pay over employees'  
14 contributions under this chapter is relieved of liability for, and  
15 upon the claim and demand of any other person for, the amount so  
16 withheld or paid over.

17        An employee from whose wages amounts greater than required  
18 by this chapter have been withheld by his employer and paid to and  
19 for the benefit of the temporary disability fund shall be entitled  
20 to a refund of such excess as prescribed by regulation of the  
21 director.

22        Sec.    -37. Adjustment of contribution rate. The combined  
23 contribution rate of 1.1 per cent prescribed in section    -35 is  
24 based on the expectation that 1.0 per cent of the portion of the  
25 payrolls subject to contributions will cover the net benefit costs  
of the program and that .1 per cent is needed for the administration  
of the chapter.

      If the benefit experience shows that the amount of 1.0 per cent  
is either inadequate to cover the prospective benefit costs or is

1 greater than needed to cover such benefit costs on the basis of  
2 sound actuarial practice the director, by regulation, may increase  
3 the combined contribution rate for succeeding periods. The increases  
4 so authorized shall not exceed a total contribution rate (including  
5 the portion for administrative expenses) of 1.2 per cent or fall  
6 below .95 per cent.

7     • If adjustments exceeding these limits are indicated the director  
8 shall make a report to that effect to the legislature.

9     Sec.    -38. Subrogation rights if employee entitled to  
10 workmen's compensation benefits or indemnity under employers' liability  
11 acts. If an individual has received benefits under this chapter  
12 during a period of disability for which benefits for total disability  
13 under the Workmen's Compensation Law of this State or of any other  
14 state or of the United States are subsequently awarded or accepted  
15 in any agreement or compromise, the temporary disability fund shall  
16 be subrogated to the individual's right to such benefits in the  
17 amount of the benefits paid by the fund.

18     To protect its subrogation rights to benefits payable under the  
19 Workmen's Compensation Law of this State the disability compensation  
20 fund shall file a claim with the division of workmen's compensation  
21 in the department and notify the insurer or the employer, if self-  
22 insured, of its claim and thereupon the temporary disability fund  
23 shall have a lien against the amounts payable as benefits for dis-  
24 ability under the Workmen's Compensation Law in the amount of the  
25 benefits paid under this chapter during the period for which benefits  
for disability under the Workmen's Compensation Law have been accepted  
or awarded as payable. The agreement or award shall include a provision  
setting forth the existence and amount of such lien.

1 (b) If an individual has received benefits under this chapter  
2 during a period of disability for which he is entitled to receive  
3 indemnity payments for wage loss under any applicable employers'  
4 liability law of this State or of any other state or of the United  
5 States, the temporary disability fund shall be subrogated to the  
6 individual's right to such indemnity in the amount of the benefits  
7 paid under this chapter and may assert its subrogation rights in  
any manner appropriate under such acts or any rule of law.

8 Sec. -39. Subrogation rights against third parties. If an  
9 individual who has received benefits under this chapter is entitled  
10 to recover damages from a third person who is responsible for the  
11 sickness or accident causing the disability, the temporary dis-  
12 ability fund shall be subrogated to, and have a lien upon, the  
13 rights of the individual against the third party to the extent that  
14 the damages include wage loss during the period of disability for  
15 which temporary disability benefits were received in the amount of  
such benefits.

16 If the individual commences an action against such third party,  
17 the individual shall notify the temporary disability fund of the  
18 action and the court in which it is pending. The temporary disability  
19 fund may join as party plaintiff or claim a lien on the amount of any  
20 judgment recovered by the individual in such action to the extent of  
21 its subrogation rights. If the individual does not commence the  
22 action within nine months after the commencement of the sickness or  
23 the date of the accident causing the disability, the temporary  
24 disability fund may commence such action, but the individual shall be  
25 entitled to join the action and be entitled to any surplus over the  
amount to which the temporary disability fund is subrogated.

## PART IV. RECOGNITION OF PRIVATE PLANS

1                   PART IV. RECOGNITION OF PRIVATE PLANS  
2           Sec.     -40. Substitute coverage under private plans; reduc-  
3 tion of contribution rates. (a) When a private plan entitles  
4 employees to cash benefits or wages during a period of disability  
5 during which the employees would be entitled to benefits under this  
6 chapter, except for the provisions prohibiting duplication of  
7 benefits, the private plan shall be approved by the director as  
8 substitute coverage and for a reduction of the contribution rate  
9 under the conditions and to the extent specified in the following  
10 sections, and the temporary disability fund shall thereupon be  
11 relieved from the payment of benefits to the extent that the same  
12 benefits are provided by the private plan.

13           (b) The reduction of the contribution rate shall apply equally  
14 to the employer's and the employees' contributions regardless of  
15 whether and to what extent the employees share the cost of the  
16 private plan.

17           Sec.     -41. Private plans qualifying for substitute coverage.  
18 (a) Private plans which may qualify for substitute coverage are  
19 contractual arrangements whereby an employer, group of employers,  
20 trust fund, or insurer, authorized to transact the business of life  
21 insurance, disability insurance, general casualty insurance, or  
22 surety insurance in this State is obligated to pay wages or cash  
23 disability benefits to individuals who suffer disability as defined  
24 in this chapter by reason of nonoccupational sickness or accident  
25 or of pregnancy.

26           (b) Private plans as defined in subsection (a) may be established  
27 by employers or group of employers either by written contractual  
28 arrangements between the employer or group of employers and their  
29 employees that form part of their employment contracts or pursuant

1 to a collective agreement between an employer or group of employers  
2 and a union or association representing the employees.

3 (c) Where an employer files a plan with the director for the  
4 purpose of qualification for reduction of the contribution rate due  
5 to overlap in which he undertakes the payment of wages or cash  
6 benefits to his employees in current employment in case of disability  
7 due to nonoccupational sickness or accident or to pregnancy, the  
8 filing of the plan shall establish a definite and directly enforce-  
9 able legal obligation to such employees.

10 (d) Where an employer, group of employers, or trust fund  
11 undertakes the payment of wages or other cash benefits in case of  
12 disability due to nonoccupational sickness or accident or to  
13 pregnancy, the director, as a condition of his approval of the  
14 plan as substitute coverage and for reduction of the contribution  
15 rate, shall require that such payment is secured by:

16 (1) Furnishing satisfactory proof to the director of solvency  
17 and financial ability to pay the wages or cash benefits provided  
18 by the plan; or

19 (2) Depositing and maintaining with the state director of  
20 finance security, satisfactory to the director of labor and  
21 industrial relations, securing the payment by the employer, group  
22 of employers, or trust fund of the wages or cash benefits provided  
23 by the plan.

24 Sec. -42. Computation of reduction of contribution rate.

25 (a) Credit for substitute coverage shall be computed by determining  
the ratio between the expected net benefit costs of the plan benefits  
that duplicate the benefits provided by this chapter and the expected  
net benefit costs of the benefits provided by this chapter. This  
credit measures the applicable reduction.

1 (b) The expected net benefit costs shall be determined by  
2 means of a continuance table developed on the basis of the  
3 experience in this State. Until sufficient data relating to the  
4 experience under this chapter are collected the applicable table  
5 shall be compiled from the relevant experience in other states  
6 having compulsory temporary disability insurance law. The con-  
7 tinuance table representing the experience under this chapter shall  
8 be compiled from the total experience in this State. The director,  
9 by regulation, shall require employers, insurance carriers, or  
10 other persons paying benefits under private plans approved for  
11 substitute coverage to report all benefits paid for periods of  
12 disability covered by this chapter and all other information deemed  
13 necessary to compile the total experience under this chapter.

12 (c) In determining the extent to which credit shall be allo-  
13 cated to private plans for coverage duplicating coverage under this  
14 chapter account shall be taken of:

- 15 (1) The maximum duration of benefits payable under the plan;  
16 (2) The rate of benefit payments;  
17 (3) The inclusion or exclusion of pregnancy benefits;  
18 (4) The requirement of waiting periods in excess of the statutory  
19 waiting period;

20 (5) Coverage or not of periods of disability commencing or  
21 continuing after termination of employment where such coverage is  
22 provided by this chapter.

23 The director may refuse to allow credit to the extent that  
24 the allowance of credit would be impracticable or inequitable. No  
25 credit may be allowed for coverage or benefits that are not provided  
by this chapter.

The director may issue regulations for the fair and practicable  
administration of the credit system.

1 (d) If a private plan fails to include pregnancy coverage the  
2 payment of pregnancy benefits shall be made from the temporary dis-  
3 ability fund and the employer and all employees, regardless of sex,  
4 covered by the plan remain liable for an aliquot share of the contri-  
5 butions to the fund.

6 In order to protect the integrity of the system of pooling of  
7 risks the director may deny full credit for pregnancy coverage accorded  
8 by a plan if the proportion of female employees covered by the plan is  
9 substantially less than the proportion of female employees in the labor  
10 force covered by this chapter.

11 (e) The reduction of the contribution rate shall not apply to  
12 that portion of the total contribution rate which is designed to  
13 provide funds for the administration of this chapter, including the  
14 costs of administering the approval and supervision of private plans.  
15 This portion is determined as .1 per cent of the payrolls, excluding  
16 that portion which exceeds the maximum amount counted for the computa-  
17 tion of contributions.

18 Sec. -43. Conditions for approval of private plans as sub-  
19 stitute coverage and for credit on contribution rate. (a) The director  
20 shall approve a private plan as substitute coverage and for credit on  
21 the contribution rate upon application made by the employer in the form  
22 and manner prescribed by regulation of the director.

23 (b) Approval shall be granted only if the director finds that:

24 (1) The plan does not require a rate of contribution by employees  
25 greater than that required under this chapter for the same benefits  
26 and that the employer shares at least half of the costs of the plan;

27 (2) In the case of a plan established pursuant to a collective  
28 bargaining agreement, the plan accords benefits to all employees  
29 covered by the agreement, and in all other cases the plan has been  
30 made available to all individuals employed by a participating

1 employer in employment covered by this chapter or to all individuals  
2 employed at any one distinct and separate establishment maintained  
3 within the State by a participating employer, and that in all these  
4 cases the plan does not provide for restrictions or exclusions by  
5 reason of sex, age, wage level, race, color, or ancestry or pre-  
existing physical or mental conditions;

6 • (3) In the case where employees are required to contribute,  
7 the plan is established pursuant to a collective bargaining agreement,  
8 or in all other cases, the plan is approved by a majority of all  
9 individuals employed by a participating employer in employment  
10 covered by this chapter or of all individuals employed at any one  
11 distinct and separate establishment maintained within the State by  
a participating employer;

12 (4) The plan provides for the inclusion of future employees;

13 (5) The plan will be in effect for the duration of the collective  
14 bargaining agreement establishing the plan or, if established other-  
15 wise, for a period not less than one year and thereafter continuously,  
16 unless the participating employer or a majority of all of the  
17 employees employed by him in covered employment or at a distinct  
18 and separate establishment maintained by him within the State have  
19 given notice to terminate the plan as of the next anniversary of the  
20 effective date of the plan, such notice to be effective only if a  
copy thereof has been filed with the director at least thirty days  
21 before that date;

22 (6) The plan provides for the payment of wages or cash benefits  
23 for the entire period specified by the plan with respect to any dis-  
24 ability due to nonoccupational sickness or accident which commenced  
25 when the individual suffering the disability was employed with a  
participating employer and, if the plan provides for the payment of  
wages or cash benefits during a specified period before or after



1 the termination of pregnancy, such payment is due to any individual  
2 whose pregnancy commenced while she was in employment with a  
3 participating employer and whose employment was not terminated for  
4 reasons other than the pregnancy;

5 (7) The plan fulfills any other conditions prescribed by  
6 regulation of the director which is found necessary to assure that  
7 the approval of the plan as substitute coverage and for credit  
8 on the contribution rate does not deprive an individual of his  
9 statutory benefits or result in the payment of benefits from the  
10 temporary disability fund without equivalent contributions to the  
11 fund by the individual and his employer.

12 Sec. -44. Limit of allowable credit to compensate for  
13 adverse selection. If the director finds that the net benefit costs  
14 of the coverage insured by the temporary disability fund exceed sub-  
15 stantially the net benefit costs of the total coverage under this  
16 chapter, he may by regulation limit the credit allowable for sub-  
17 stitute coverage under private plans to compensate for the selection  
18 of risk adverse to the temporary disability fund resulting from the  
19 approval of substitute coverage.

20 Sec. -45. Concurrent employment by several employers providing  
21 for substitute coverage. (a) If the employee is in concurrent employ-  
22 ment with two or more employers having plans approved as substitute  
23 coverage, the employee shall receive the benefits provided by each  
24 plan, except that the plans may provide that the benefits payable  
25 under each plan shall be prorated according to the wages received  
from each employer so as not to exceed the maximum benefits payable  
under this chapter on the basis of the combined wages.

(b) If the employee is in concurrent employment with two or  
more employers, not all of whom have private plans approved as  
substitute coverage, the employee shall receive the benefits provided

1 by each private plan, except that the plans may provide that the  
2 benefits payable may be prorated according to the wages received  
3 from each employer so as not to exceed the maximum benefits payable  
4 under this chapter on the basis of the combined wages. The  
5 temporary disability fund shall provide the benefits payable under  
6 this chapter on the basis of the wages payable by those of the  
7 concurrent employers who have not provided substitute coverage, but  
8 it shall be relieved from such liability to the extent that the  
9 employee receives under the private plans the maximum amount of  
10 benefits payable under this chapter on the basis of the combined  
11 wages.

12 Sec. -46. Subrogation rights of persons obligated under  
13 approved private plans. The person obligated to pay benefits under  
14 a private plan approved as substitute coverage shall have the sub-  
15 rogation rights provided in sections -38 and -39 to the  
16 extent of the benefits so paid by him.

17 Sec. -47. Determination of disputed benefit claims under  
18 approved private plans. Disputes with respect to claims for benefits  
19 under private plans shall be determined as provided in part V. If  
20 such dispute cannot be determined speedily, the referee may order  
21 that the temporary disability fund pay disability benefits not in  
22 excess of the benefits provided under this chapter and be subrogated  
23 to the claim of the employee under the private plan.

#### 24 PART V. DETERMINATIONS

##### 25 A. Claims for Benefits from the Temporary Disability Fund

26 Sec. -50. Filing of claims. Claims for benefits shall be  
27 filed with the department in accordance with regulations prescribed  
28 by the director.

1           Sec.    -51. Determinations in general. A determination upon  
2 a claim filed pursuant to section    -50 shall be made promptly by  
3 an official of the department authorized to make a determination upon  
4 claims and shall include a statement as to whether and in what amount  
5 the claimant is entitled to benefits for the period with respect to  
6 which the determination is made and, in the event of a denial, the  
reason therefor.

7           Sec.    -52. Reconsideration of determination. (a) In the  
8 absence of appeal and within ten days after mailing or delivery of  
9 notice of the original determination made pursuant to section    -51,  
10 the director may, for good cause, on his own motion or upon applica-  
11 tion of any party, reconsider the determination. Upon an application  
12 for reconsideration, the director shall promptly reconsider the  
13 determination or, on his own motion, transfer the application to the  
14 referee. The transfer shall likewise be effected upon request of  
15 the party applying for reconsideration; provided the request is made  
16 before the party's receipt of notice of the reconsidered determina-  
17 tion. Upon transfer the application shall be deemed to constitute  
an appeal, as of the date of the application, from the original  
determination.

18           (b) At any time within one year from the date of a determina-  
19 tion with respect to wages upon which benefits are computed, the  
20 director on his own motion may reconsider the determination if he  
21 finds that wages of the claimant pertinent to the determination  
22 but not considered in connection therewith have been newly dis-  
23 covered or that benefits have been allowed or denied or the amount  
24 of benefits fixed on the basis of a nondisclosure or misrepresenta-  
25 tion of a material fact.

1 (c) At any time within two years from the end of any week with  
2 respect to which a determination allowing or denying benefits or  
3 waiting-period credit has been made, the director on his own motion  
4 may reconsider the determination if he finds that the benefits or  
5 waiting-period credit were allowed or denied as a result of non-  
disclosure or misrepresentation of a material fact.

6 (d) At any time within one year from the end of any week with  
7 respect to which a determination allowing or denying benefits or  
8 waiting-period credit has been made, the director on his own motion  
9 may reconsider the determination if he finds that an overpayment, due  
10 to reasons other than fraud, has occurred.

11 (e) In any case in which the director is authorized by this  
12 section to reconsider any determination but the final decision in  
13 the case has been rendered by a referee or court, the director may  
petition the referee or court to issue a revised decision.

14 Sec. -53. Appeal pending when redetermination issued. In  
15 the event that an appeal involving a determination or a prior re-  
16 determination is pending as of the date a redetermination thereof  
17 is issued, the appeal, unless withdrawn, shall be treated as an  
appeal from the redetermination.

18 Sec. -54. Notice of determinations. Notice of a determina-  
19 tion or redetermination upon a claim shall be promptly given to the  
20 claimant, by delivery thereof or by mailing the notice to his last  
21 known address.

22 Sec. -55. Appeal tribunal. Appeals from determinations and  
23 redeterminations with respect to claims for temporary disability  
24 benefits from the temporary disability fund shall be heard by an  
25 impartial referee for disability benefits appeals, who shall serve  
as the appeal tribunal.

1           Sec.     -56. Appeals, filing and hearing. The claimant may  
2 file an appeal from a determination or redetermination at the office  
3 of the department in the county in which the claimant resides or  
4 in the county in which the claimant was employed prior to his dis-  
5 ability, within ten days after the date of mailing of the notice  
6 to his last known address, or if the notice is not mailed, within  
7 ten days after the date of delivery of the notice to him. The appeal  
8 shall be heard in the county in which the appeal is filed; provided  
9 that the director may by regulation provide for good cause for the  
10 holding of a hearing in another county and may provide for the taking  
11 of depositions. Unless the appeal is withdrawn with the permission  
12 of the referee, the referee after affording the parties reasonable  
13 opportunity for a fair hearing shall make findings and conclusions  
14 and on the basis thereof affirm, modify, or reverse the determination  
15 or redetermination. The appellant shall be promptly notified of the  
16 decision of the referee and shall be furnished with a copy of the  
17 decision and the findings and conclusions in support thereof and the  
18 decision shall be final and shall be binding upon him unless a pro-  
19 ceeding for judicial review is initiated by him pursuant to section

20           -58; provided that, within the time provided for taking an appeal  
21 and prior to the filing of a notice of appeal, the referee may reopen  
22 the matter, upon the application of the director or the appellant,  
23 or upon his own motion, and thereupon may take further evidence or  
24 may modify his decision, findings, or conclusions. In the event the  
25 matter is reopened the referee shall render a further decision in  
the matter, either reaffirming or modifying his original decision,  
and notice shall be given thereof in the manner hereinbefore provided.  
The time to initiate judicial review shall run from the notice of  
such further decision if the matter has been reopened.

1           Sec.    -57. Procedure. The representatives of the depart-  
2           ment authorized to make determinations upon claims and the referee  
3           shall not be bound by common law or statutory rules of evidence or  
4           by technical rules of procedure, but any hearing or appeal before  
5           the same shall be conducted in such manner as to ascertain the sub-  
6           stantial rights of the parties. The director shall adopt reasonable  
7           regulations governing the manner of filing appeals and the conduct  
8           of hearings and appeals, consistent with this chapter and with chapter  
9           6C. No person shall participate on behalf of the director in any  
10          case in which the person has a direct or indirect interest. A  
11          record shall be kept of all testimony and proceedings in connection  
12          with an appeal, but the testimony need not be transcribed unless  
13          further review is initiated. Witnesses subpoenaed pursuant to this  
14          section shall be allowed fees at a rate fixed by the department and  
15          fees of witnesses subpoenaed on behalf of the department or any  
16          claimant shall be deemed part of the expense of administering this  
17          chapter.

18          Sec.    -58. Conclusiveness of determinations and decisions.  
19          Except insofar as reconsideration of any determination or redetermina-  
20          tion is had under section    -52, any right, fact, or matter in  
21          issue, directly passed upon or necessarily involved in a determina-  
22          tion or redetermination which has become final, or in a decision  
23          on appeal under section    -56 which has become final, shall be  
24          conclusive for all the purposes of this chapter as between the  
25          claimant and the director.

26          Sec.    -59. Judicial review. The claimant or the director  
27          may obtain judicial review of the decision of the referee in the  
28          manner provided in chapter 6C, by instituting proceedings in the  
29          circuit court of the circuit in which the claimant resides or in

1 which the claimant was last employed. The proceedings shall be  
2 heard in a summary manner and shall be given precedence over all  
3 other civil cases except proceedings arising under the Employment  
4 Security Law and the Workmen's Compensation Law of the State.  
5 Proceedings for review by the supreme court may be taken and had  
6 in the same manner as is provided for a review of a judgment of  
7 a circuit court. No bond shall be required as a condition of  
8 initiating a proceeding for judicial review or initiating proceed-  
9 ings for review by the supreme court. Upon the final termination  
10 of any judicial proceeding, the referee shall enter an order in  
11 accordance with the mandate of the court.

12 Sec. -60. Representation. In any proceeding for judicial  
13 review pursuant to section -59, the director may be represented  
14 by the attorney general or by any qualified attorney who is employed  
15 by the department for such purpose in conformity with section 9-2.

16 Sec. -61. Payment of benefits. Benefits shall be paid  
17 promptly in accordance with a determination or redetermination. If  
18 an application for reconsideration is duly made or an appeal is duly  
19 filed, benefits with respect to weeks of disability not in dispute  
20 and benefits payable pursuant to a determination or redetermination in  
21 any amount not indispute shall be paid promptly regardless of any  
22 reconsideration or appeal. If a determination or redetermination  
23 allowing benefits is affirmed in any amount by the referee, the  
24 benefits shall be paid promptly from the temporary disability fund  
25 regardless of any further appeal, and no injunction, supersedeas,  
or stay suspending the payment of such benefits shall be issued by  
any court, but if such decision is finally reversed, benefits shall  
not be paid for any subsequent weeks of disability involved in the  
reversal.

1           Sec.     -62. Recovery of benefits paid. (a) Any person who  
2 has received any amount as benefits under this chapter to which he  
3 was not entitled shall be liable for such amount unless the over-  
4 payment was received without fault on the part of the recipient  
5 and its recovery would be against equity and good conscience. Notice  
6 of redetermination in such cases shall specify that the person is  
7 liable to repay to the fund the amount of overpaid benefits, the  
8 basis of the overpayment, and the week or weeks for which such  
benefits were paid.

9           (b) The person liable shall, in the discretion of the director,  
10 either repay such amount to the director for the temporary disability  
11 fund or have the amount deducted from any future benefits payable  
12 to him from the fund under this chapter within two years after the  
13 date of mailing of the notice of redetermination or the final decision  
on an appeal from such redetermination.

14           (c) In any case in which under this section an individual is  
15 liable to repay any amount to the director for the benefit of the  
16 fund, the amount shall be collectible without interest by civil  
17 action in the name of the State by the attorney general.

18           B. Claims for Benefits Under Private Plan

19           Sec.     -63. Initiation and determination of claims for benefits  
20 under private plans. (a) If the claim of an employee for benefits  
21 under a private plan approved for substitute coverage is disputed by  
22 the person or trust obligated to pay benefits under the plan, the  
23 employee may file a claim for benefits under the private plan with the  
24 director in the form and manner prescribed by regulation of the  
25 director. Notice of the claim shall be served upon the person or trust  
obligated in the form and manner prescribed by regulation of the  
director.



1 (b) The matter shall be heard by a referee appointed by the  
2 director pursuant to the Employment Security Law. The proceedings  
3 shall be conducted in the same manner as is provided for appeals  
4 by sections -55 and -56.

5 (c) The decision of the referee shall be final and conclusive  
6 between the parties unless proceedings for judicial review are  
7 instituted in the circuit court in the circuit in which the claimant  
8 resides pursuant to section 6C-14 and all further proceedings shall  
thereafter be had in accordance with chapter 6C.

9 (d) A decision awarding benefits which has become final or which  
10 has been appealed but as to which no order has been made by the  
11 referee or the circuit court that the appeal should operate as a  
12 supersedeas or stay, may be enforced in the manner prescribed in  
13 section 97-100 for the enforcement of decisions awarding compensation  
under the Workmen's Compensation Law.

14 C. Determinations Relating to Substitute Coverage

15 Sec. -64. Disputes relating to the approval of substitute  
16 coverage and credit allowance. In the case that a party applying  
17 for approval of a private plan as substitute coverage and for allow-  
18 ance of credit on the contribution rate is aggrieved by the determina-  
19 tion, he may file an objection and the matter shall be heard and  
20 determined by the director or referee assigned to the case in the  
21 manner required for contested cases by chapter 6C. The decision  
shall be subject to judicial review and further appeal to the supreme  
22 court as prescribed by chapter 6C.

23 D. Determinations Relating to  
24 Wage Withholding

25 Sec. -65. Disputes between employers and employees relating  
to withholding of wages. In the case that there is a dispute between

1 the employee and the employer relating to the withholding of wages  
2 as contributions to the temporary disability fund either party may  
3 file with the director a petition for determination of the amount  
4 to be withheld.

5 The matter shall be determined by an officer of the department.  
6 If either party is dissatisfied with the determination he may petition  
7 for redetermination and thereupon the petition shall be transferred  
8 to the referee who shall render a decision following the procedure  
9 required by chapter 6C as prescribed by regulation of the director.

10 The decision shall be subject to judicial review and further  
11 appeal to the supreme court as prescribed by chapter 6C.

#### 12 PART VI. ADMINISTRATION

13 Sec. -70. Administration by the director. The director of  
14 labor and industrial relations shall be in charge of the administra-  
15 tion of this chapter.

16 The director may adopt, amend, or repeal such rules and regula-  
17 tions as he deems necessary or suitable for the efficient, fair, and  
18 equitable administration of this chapter.

19 Sec. -71. Supplementary application of Employment Security  
20 Law. Except as otherwise provided or inconsistent with this chapter  
21 the Employment Security Law shall govern the application and enforce-  
22 ment of this chapter."

23 SECTION 2. There is appropriated out of the general revenues  
24 of the State of Hawaii, not otherwise appropriated, the sum of  
25 \$400,000, or so much thereof as may be necessary, for the purposes  
of this Act.

SECTION 3. Notwithstanding the adoption of Act 16, Session Laws  
of Hawaii 1968, this Act shall have full force according to its  
intent. Upon the taking effect of this Act or the Hawaii Revised  
Statutes, whichever occurs later, this Act shall be construed to be

1 in amendment of or in addition to the Hawaii Revised Statutes, all  
2 references in this Act being construed to refer to the applicable or  
3 corresponding provisions of the Hawaii Revised Statutes.

4 The Revisor of Statutes may reword and renumber the references  
5 in this Act and make such other formal or verbal changes as may be  
6 necessary to conform with the Hawaii Revised Statutes.

7 SECTION 4. This Act shall take effect upon its approval,  
8 except that contributions shall be collected starting on

9 and that benefits shall become payable for periods of  
10 disability commencing on

11 INTRODUCED BY: \_\_\_\_\_  
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## APPENDIX B

### Proposed Alternate Section -21

Sec. -21 bis. Weekly benefit amount. Benefits shall be paid weekly in the amount set forth in this section.

(1) If the average weekly wage of the employee is less than \$24, the weekly benefit amount shall be equal to the average weekly wage but not more than \$15.

If the average weekly wage of the employee is \$24 or more but not in excess of \$150, the weekly benefit amount shall be sixty-two and one-half per cent of the average weekly wage rounded off to the nearest \$.10.

If the average weekly wage of the employee is \$150 or more but not in excess of \$170, the weekly benefit amount shall be sixty-two per cent of the average weekly wage rounded off to the nearest \$.10.

If the average weekly wage of the employee is \$170 or more but not more than \$190, the weekly benefit amount shall be sixty-one and one-half per cent of the average weekly wage rounded off to the nearest \$.10.

If the average weekly wage of the employee is \$190 or more but not more than \$220, the weekly benefit amount shall be sixty-one per cent of the average weekly wage rounded off to the nearest \$.10.

If the average weekly wage is \$220 or more, the weekly benefit amount shall be sixty per cent of the average weekly wage rounded off to the nearest \$.10.

(2) If the average weekly earnings of the employee exceed an amount equal to one fifty-second of the product obtained by multiplying the amount of the average annual wage in Hawaii, as determined pursuant to section 93-21(b) by the factor 1.45, such excess shall not be included in the computation of the weekly benefit amount.

(3) Notwithstanding any provision in paragraphs (1) and (2) to the contrary, the weekly benefit amount shall not exceed the maximum weekly benefit specified in section 97-30.

## APPENDIX C

### Correspondence Part I. With Insurance Industry

#### HEALTH INSURANCE ASSOCIATION OF AMERICA

CHICAGO · NEW YORK · WASHINGTON

John P. Hanna  
*General Counsel*

Chicago Office  
332 South Michigan Avenue  
Chicago, Illinois 60604

6 November 1967

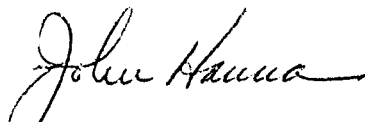
Mr. Harry G. Albright  
Secretary  
Board of Underwriters of Hawaii  
P. O. Box 3916  
Honolulu, Hawaii

Dear Harry:

With further reference to your letter of September 18 requesting information concerning voluntary disability insurance and hospital and medical insurance in Hawaii, I am forwarding two charts. The first indicates number of people covered from 1955 through 1966, and the second indicates benefits paid from 1956 through 1965. This material was prepared by Mr. David Robbins, our Assistant Director of Statistical Research.

Please let me know when we can be of further assistance. I will hope to see you early next month during the NAIC meeting.

Cordially yours,

  
General Counsel

JPH/pt

Enclosures

cc: Mr. Scott C. Brainard  
Mr. Lambert K. Wai  
Mr. Franklin H. Young

NUMBER OF PEOPLE COVERED BY  
PRIVATE HEALTH INSURANCE IN HAWAII  
1955 - 1966

Type of Coverage (000 omitted)

<u>Year</u>	<u>Hospital Expenses</u>	<u>Surgical Expenses</u>	<u>Medical Expenses</u>	<u>Major Medical Expenses*</u>	<u>Disability Income*</u>
1955	186	175	146	N. A.	N. A.
1960	305	298	275	29	23
1961	377	371	345	43	30
1962	418	410	386	52	32
1963	435	428	402	51	41
1964	476	446	423	54	42***
1965	500	467	442	51	48
1966	550**	482**	445**	51**	72

\* Insurance companies only

\*\*Excludes people 65 and older. Such persons are covered by Medicare.

Source: HIAA

\*\*\* As an illustration of the extent of coverage, the State Department of Labor and Industrial Relations, in its report entitled "Disability Insurance Coverage in Hawaii" October 1965, showed 102,680 workers (64% of the labor force) were covered by sick leave plans. Thus the total of over 144,000 workers out of the then total labor force of 160,000 (exclusive of government workers) would mean that over 90% were covered for sick leave or disability insurance benefits. Some workers undoubtedly had two types of coverage; the 90% figure should be reduced because of such duplication, whatever the amount may be.

BENEFITS PAID\* BY PRIVATE  
HEALTH INSURANCE IN HAWAII  
1956 - 1965

<u>Year</u>	<u>Total</u>	<u>Insurance Cos</u> (000 omitted)	<u>Other Insurers</u>
1956	\$7,093	\$3,190	\$3,903
1960	12,708	4,659	8,049
1961	18,949	5,008	13,941
1962	21,906	4,941	16,965
1963	24,039	5,326	18,713
1964	26,674	5,877	20,797
1965	31,968	6,534	25,434

\*Benefits for disability income and hospital-medical expenses.

Source: HIAA

January 24, 1968

Mr. Paul E. Singer  
Vice President and Actuary  
Continental Casualty Company  
Continental Center  
310 South Michigan Avenue  
Chicago, Illinois 60604

Dear Paul:

As you may know, there is currently under active consideration in the state of Hawaii a proposal for a compulsory cash sickness program. The Legislative Reference Bureau of the state of Hawaii has engaged Doctor Stefan Riesenfeld to conduct a study of this subject. In connection with this study, Doctor Riesenfeld recently visited us to discuss his needs for certain actuarial and statistical information.

Among other things, Doctor Riesenfeld would like information concerning the levels of benefits contained in group disability insurance policies currently in force in Hawaii. Our annual survey of group health insurance indicates that your company has such business in force in the state. Would it be possible for you to provide me with some indication of the benefit levels provided by the group disability policies which you have in force in Hawaii. We would particularly like information on the following:

1. Waiting periods
2. Duration of benefits
3. Amounts of indemnity provided

If at all possible, we would appreciate the receipt of the foregoing information within the next two weeks.

Sincerely yours,

David Robbins  
Assistant Director of  
Statistical Research

DR:elb  
cc: Mr. George Davis  
Mr. John P. Hanna



# HEALTH INSURANCE ASSOCIATION OF AMERICA

CHICAGO   '   NEW YORK   '   WASHINGTON

John P. Hanna  
*General Counsel*

Chicago Office  
332 South Michigan Avenue  
Chicago, Illinois 60604

16 February 1968

Dr. Stefan A. Riesenfeld  
Legislative Reference Bureau  
University of Hawaii  
2425 Campus Road  
Honolulu, Hawaii 96882

Dear Dr. Riesenfeld:

Thank you for your letter of January 25. I too am sorry that I didn't know sooner about your New York visit or that you could not stop over in Chicago. We are pleased that you could visit with Messrs. Robbins and Davis.

In looking once again at the provisions of Hawaii Act 198, Laws 1967, the study appropriation to the University of Hawaii, my understanding is reconfirmed that the initial direction to the Legislative Reference Bureau was to study the need and advisability for Compulsory Disability and/or Compulsory Health Insurance Programs. It was also our understanding, as indicated in your letter, that your visit to our office included the purpose of gathering data necessary to determine whether a need for a compulsory plan exists.

I was most surprised, therefore, (if I understand Mr. Robbins' report correctly) that you apparently had already decided a need existed and were only interested in industry assistance in devising a compulsory program. As you no doubt are aware, the Health Insurance Association of America, its member companies, and other insurance organizations have for many years been interested in, and have given study to the problems of compulsory insurance systems, along with the need for and advisability of such systems. I think it is unfortunate, therefore, that we were not able to offer our information and experience on this vital question for your serious study and evaluation.

With specific reference to Hawaii, the dramatic increase in persons covered by disability and health insurance, particularly since 1964, is compelling evidence that coverage through private enterprise ought not be supplanted by compulsory governmental plans.

Dr. Stefan A. Riesenfeld  
16 February 1968  
Page Two

Please be assured of our continued desire to cooperate with you in providing any information which may be of assistance to you in your study.

Cordially yours,

John Hanna

General Counsel

JPH/pt

# UNIVERSITY OF HAWAII

---

Legislative Reference Bureau

May 9, 1968

Mr. John P. Hanna  
Health Insurance Association  
of America  
332 South Michigan Avenue  
Chicago, Illinois 60604

Dear Mr. Hanna:

Your letter of February 16, 1968 reached me when I was just leaving for Auckland (N. Z.) to serve as visiting professor there. I returned to Honolulu only two days ago and I am rereading the communications from the insurance industry, among them your letter. I am surprised and a little chagrined about the fact that you were informed "that [I] had already decided a need existed and [was] only interested in industry assistance in devising a compulsory program". This was and is not a correct interpretation of my position.

What I was concerned with primarily was the number of employees who are disabled to work because of nonoccupational illness or accident for periods varying from one week to twenty-six weeks and the protection available for such employees. I tried to gain information relating on this issue from the experience both under the existing state disability compensation laws and under voluntary insurance programs. I was also interested in the costs of such protection, since I believe that the costs of a program cannot be totally disregarded in assessing the need for it.

Least of all have I decided to recommend that coverage through private enterprise ought to be supplanted by compulsory programs.

I am most anxious to have the "dramatic increase in persons covered by disability and health insurance" of which you speak so emphatically broken down into its elements, such as:

Mr. John P. Hanna

-2-

May 9, 1968

Waiting periods  
Duration of protection  
Amount of benefits  
Cost of protection  
Exhaustion rates, etc.

Unfortunately, the industry so far has not produced much helpful information and seems to prefer to focus on the spectre of compulsion or socialism rather than to come forward with ideas about arrangements which permit the growth of private plans without leaving substantial segments of the labor force with no or inadequate protection.

Any suggestions or information which you care to supply to help me in carrying out the arduous task of assessing the status of the present protection in terms of a sound goal will be most welcome. I assure you that neither the Bureau nor I have reached any definite conclusions as to whether, or what type of, legislation is needed, and that any information and experience which you will offer and which goes beyond broad generalities will be seriously studied and evaluated.

Very sincerely yours,

Stefan A. Riesenfeld  
Professor of Law

SAR:my

# HEALTH INSURANCE ASSOCIATION OF AMERICA

CHICAGO , NEW YORK , WASHINGTON

Robert R. Neal, *General Manager*

INFORMATION AND RESEARCH DIVISION  
J. F. Follmann, Jr., *Director*

New York Office  
750 Third Avenue  
New York, New York 10017

February 29, 1968

Dr. Stefan A. Riesenfeld  
Legislative Reference Bureau  
University of Hawaii  
2425 Campus Road  
Honolulu, Hawaii 96882

Dear Dr. Riesenfeld:

In keeping with your request of last January, we asked ten of the larger writers of group disability insurance in Hawaii for information concerning the benefit levels provided in the group policies which they have in force in Hawaii (see example of request enclosed). We have received information from six companies, and the results are shown in the attached tabulation.

May I invite your attention to the following matters concerning the attached statistics:

1. The waiting periods are tied into any formal paid sick leave plan which the employer may have. According to our information, the very large majority of firms in Hawaii have such a paid sick leave plan. This is partly reflected by the waiting periods shown in the attachment. Note, for example, that 28 of the 70 cases have waiting periods of thirty days or more and have benefit durations of two years or more.
2. We are unable, from the statistics reported to us, to indicate the number of insureds applicable to the 70 group cases described. We have been told, however, that the cases range in size from firms with three employees to one with 319 employees.

It is hoped that this information will be of assistance to you. Should you have questions, or other requests, please do not hesitate to get in touch with us.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "David Robbins".

David Robbins  
Assistant Director of  
Statistical Research

DR:ler

cc: Mr. John P. Hanna  
Mr. John O'Day  
Mr. Carroll Callaway  
Mr. George Davis

Encs.

Representative Group Disability Insurance  
Cases In Force In Hawaii, January, 1968

<u>Number of Cases</u>	<u>Waiting Period (days)</u>		<u>Duration of Benefits</u>		<u>Amount of Benefit</u>
	<u>Accident</u>	<u>Sickness</u>	<u>Accident</u>	<u>Sickness</u>	
5	0	7	13 wks.	13 wks.	70% of salary
6	0	7	26 wks.	26 wks.	2/3 of salary
3	1	4	13 wks.	13 wks.	\$60 per wk.
2	1	4	26 wks.	26 wks.	\$75 per wk.
1	1	7	26 wks.	26 wks.	2/3 of salary
4	1	8	26 wks.	26 wks.	\$52 per wk.
8	1	8	26 wks.	26 wks.	\$75 per wk.
2	1	20	5 yrs.	2 yrs.	up to \$1000 per month
1	1	20	to age 65	to age 65	" " "
1	1	20	life	2 yrs.	" " "
1	1	20	life	to age 65	" " "
1	7	7	13 wks.	13 wks.	\$25 per wk.
1	8	8	26 wks.	26 wks.	\$60 per wk.
1	14	14	5 yrs.	1 yr.	70% of salary
2	15	15	26 wks.	26 wks.	\$100 per wk.
1	15	15	52 wks.	52 wks.	\$70 per wk.
2	15	15	52 wks.	52 wks.	\$100 per wk.
1	30	30	23 mos.	23 mos.	70% of salary
1	30	30	5 yrs.	5 yrs.	60% of salary
2	30	30	to age 65	to age 65	2/3 of salary
1	30	30	life	2 yrs.	up to \$600 per month
2	30	30	life	5 yrs.	65% of salary
2	30	30	life	to age 65	2/3 of salary
1	31	31	26 wks.	26 wks.	\$80 per wk.
1	31	31	52 wks.	52 wks.	\$82 per wk.
1	60	60	to age 65	to age 65	2/3 of salary
2	60	60	life	to age 65	2/3 of salary
1	61	61	104 wks.	104 wks.	\$190 per wk.
1	90	90	to age 65	5 yrs.	60% of salary
1	90	90	to age 65	to age 65	2/3 of salary
3	90	90	to age 65	to age 65	up to \$1000 per month
1	90	90	life	to age 65	65% of salary
1	90	90	life	life	2/3 of salary
1	180	180	5 yrs.	2 yrs.	up to \$400 per month
1	180	180	to age 65	5 yrs.	60% of salary
1	180	180	to age 65	to age 65	1% of group life insurance
1	180	180	to age 65	to age 65	50% of salary
1	180	180	to age 65	to age 65	60% of salary
1	180	180	life	5 yrs.	65% of salary

V. J. SKUTT  
CHAIRMAN OF THE BOARDS

*Mutual*  
**OF OMAHA**  
D. D. ULFERS, PRESIDENT



*United*  
**OF OMAHA**  
GALE E. DAVIS, PRESIDENT



HOME OFFICE... OMAHA, NEBRASKA

JESS A. HART  
GENERAL AGENT

MUTUAL UNDERWRITERS, LTD.  
830 ALA MOANA BLVD.  
P. O. BOX 3147  
HONOLULU, HAWAII 96802  
TELEPHONE 586-966

LAMBERT K. WAI  
EXECUTIVE MANAGER

February 8, 1968

Dr. Stefan Reisenfeld  
c/o The Legislative Bureau of Hawaii  
Honolulu, Hawaii

Dear Doctor:

Here is a copy of a letter that I received from the Health Insurance Association of America. I believe you will find it self-explanatory.

Please excuse my delay in getting this information to you but I thought that it would be helpful to check our own agency's records regarding the number of self-employed. I had our records checked through two trays of policyowners (alphabets A through part of C) who have disability income policies with us and find that 81.4% of all disability income policies are on employees. Conversely, 19.6% are on self-employed. The sampling covered 931 disability income policies.

I believe the records will show that we (the Mutual of Omaha agency) writes the largest volume of this type of business in the state.

Sincerely,

*Lambert K. Wai*  
Lambert K. Wai  
Executive Manager

LKW/yl  
encls.

MUTUAL OF OMAHA INSURANCE COMPANY • UNITED BENEFIT LIFE INSURANCE COMPANY



# HEALTH INSURANCE ASSOCIATION OF AMERICA

CHICAGO   '   NEW YORK   '   WASHINGTON

John P. Hanna  
*General Counsel*

Chicago Office  
332 South Michigan Avenue  
Chicago, Illinois 60604

February 1, 1968

Mr. Lambert K. Wai  
Executive Manager  
Mutual Underwriters, Ltd.  
830 Ala Moana Boulevard  
P. O. Box 3147  
Honolulu, Hawaii 96802

Dear Lambert:

Please excuse the delay in responding to your letter of December 21. Some rather significant events here have kept us from responding earlier.

On January 15, Dr. Riesenfeld called at the New York Office of the Association to discuss with Dave Robbins of our office and George Davis of the LIAA the availability of various statistical data. Paragraph 4 of your December 21 letter requested information concerning "equivalents". I understand George Davis is sending such information directly to Dr. Riesenfeld. I'm asking him to also send you a copy.

You also asked in your letter how many of the 28,582 (the 1966 figure is 29,527) persons having individual policies are self-employed, since Dr. Riesenfeld indicated those persons should not be included in determining the extent of employee coverage. An answer to this question should be prefaced by stating what facts are known and what variables are unknown.

We do have statistics indicating

- 1) 29,527 persons with individual disability coverage in 1966;
- 2) 42,065 persons with group disability coverage in 1966;

These figures reflect data developed from a survey of all companies licensed to write health insurance in the United States and reflect an increase in total persons covered by insurance from some 42,000 in 1964, 48,000 in 1965, to 71,592 in 1966. Companies responding to the survey questionnaire wrote

99% of the group health insurance and over 80% of the individual health insurance written in the United States. The validity of these survey results are attested to by, among other things, their use by the United States Federal Government in the Statistical Abstract of the United States. They are also utilized by the United States Department of Health, Education and Welfare and the Social Security Bulletins of that Department.

- 3) 102,680 employees covered by sick leave plans in 1965 out of a then non-governmental labor force of 160,000;

(From a survey conducted by the Hawaiian Department of Labor and Industrial Relations published in October 1965.)

- 4) 172,000 civilian non-governmental, non-agricultural employees (excluding the self-employed) in 1966;

(Data published by the United States Bureau of Labor Statistics. United States Statistical Abstract, 1966.)

- 5) 23,500 self-employed persons in 1966.

(Data published by the United States Bureau of Labor Statistics. United States Statistical Abstracts, 1966.)

The relevant unknown variables include:

- 1) the number of persons with duplicate disability coverage;
- 2) the number of self-employed persons with individual disability policies.

Dr. Riesenfeld's concern deals with the second unknown and without a precise survey there is no way to determine this factor except to make reasonable assumptions. Even if we were to use the most unreasonable and extreme assumption that all of the 23,500 self-employed persons have individual policies, there would still be 150,772 employees covered by disability insurance or sick leave plans - over 87% of the labor force.

Mr. Lambert K. Wai  
February 1, 1968  
Page 3

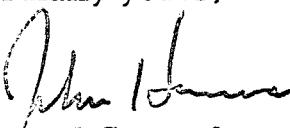
The opposite assumption, that none of the 23,500 self-employed have individual policies leads to the conclusion that there are 174,272 covered persons in a labor force of 173,000 - an excess of 100% of the labor force, or some 1,272 persons with duplicate coverage.

Obviously the true facts lie somewhere in between. That is, somewhere between 90% and 100% of the total labor force has disability coverage. Some workers undoubtedly had two types of coverage and, therefore, the 90% to 100% of the total labor force with disability coverage should be reduced by some amount because of such duplication. In any case, certainly no demonstrable need for a state compulsory system exists.

We have searched without success for a reference in O. D. Dickerson's book indicating a 38% figure for disabilities of less than one week duration. Dave Robbins is of the opinion that the 75% figure is correct. If anything, it is slightly too low. For example, data from the 1964 Commissioner's Disability Table provided somewhat higher percentages and is based on experience under individual policies. Although this Table was constructed for the calculations of reserves, as you know, it does indicate numbers of lives disabled from date of disablement for given ages. At age 42, for example, approximately 85% of active lives return to employment within a week. Thus, the statement that most periods of disability are of short duration is valid.

Please let us know where we may be of further assistance and I certainly will get a complete response to you more promptly.

Cordially yours,

  
General Counsel

JPH/lll

cc: Mr. Harry G. Albright  
Mr. John B. O'Day

**Mutual**  
**OF OMAHA**  
D. D. ULFERS, PRESIDENT



**United**  
**OF OMAHA**  
GALE E. DAVIS, PRESIDENT



HOME OFFICE... OMAHA, NEBRASKA

JESS A. HART  
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830 ALA MOANA BLVD.  
P. O. BOX 3147  
HONOLULU, HAWAII 96802  
TELEPHONE 586-966

LAMBERT K. WAI  
EXECUTIVE MANAGER

January 22, 1968

Dr. Stefan Reisenfeld  
% Legislative Bureau of Hawaii  
Honolulu, Hawaii

Dear Dr. Reisenfeld:

In response to your inquiry on various costs, Mr. Richard Erdenberger, FSA, Vice President and Chief Actuary of Mutual of Omaha Insurance Company, has offered the following:

7-day deductible	\$11.96	annual per \$10 weekly benefit	
0-deductible	\$15.95	" " " " " "	(1 1/3 factor)
3-day deductible	\$14.95	" " " " " "	(1 1/4 factor)

Then, you asked for some costs of several other deductible periods, in the event there was a possibility of correlating this type of a program with existing 2 or 3 week company sick-leave programs. Mr. Erdenberger submits the following in this regard:

14-day deductible	\$ 8.97	annual per \$10 weekly benefit	(3/4 factor)
21-day deductible	\$ 5.98	" " " " " "	(1/2 factor)

For your information, the rates above do not include maternity benefits and were arrived at by utilizing the data in the Society of Actuaries (1965 Reports of Mortality and Morbidity Experience". The pure claim costs for a 7-day deductible, for 26 weeks, is estimated at 20¢ a year for each \$1.00 of monthly benefit. In order to allow for complete non-selective underwriting and the female content (estimated between 31% to 41%), a 15% rate-up needs to be assessed. In addition, the administrative cost would call for an additional 20%. Putting together all of these factors, we arrive at the following:

- \$10 a week is the same as \$43.33 per month.
- At 20¢ for each \$1.00 of monthly benefit, this amounts to \$8.67 (.20 x 43.33).
- Adjusting 15% for non-selective underwriting and female content would produce a pure claim cost of \$9.97 (1.15 x 8.67).
- Adding administration expenses brings the cost to over \$11.96 (9.97 x 1.20) per \$10 weekly benefit.

*Lambert K. Wai*  
Lambert K. Wai  
Executive Manager

LKW:dm

# UNIVERSITY OF HAWAII

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Legislative Reference Bureau

November 29, 1968

Gentlemen:

The Legislative Reference Bureau, pursuant to Act 198, Session Laws of Hawaii 1967, is currently conducting a study into the extent of both disability income (loss of time) and hospital, medical, surgical insurance coverage within the State of Hawaii. Unfortunately, the annual statements submitted to the Hawaii Insurance Commissioner do not indicate how much of the Hawaiian Accident and Health business is disability income and how much is hospital, medical, surgical insurance.

We recognize that some of your policies might provide combined disability income and hospital, medical, surgical coverage. Where this occurs, please estimate how much of the premiums and benefits should be allocated to disability income and how much to hospital, medical, surgical insurance.

Your assistance in completing the attached questionnaire will be greatly appreciated. I thank you for your cooperation and I am,

Sincerely yours,



Herman S. Doi  
Director

HSD:CT:my  
Enc.

### HAWAIIAN ACCIDENT AND HEALTH BUSINESS

If an exact figure is not available, an approximation will be satisfactory. Since we would like the information as soon as possible, and since we want it to be uniform, 1967 calendar year figures should be used.

#### Group Accident and Health (excluding Credit A & H)

1. How much of your Hawaiian Group A & H premiums can be attributed to disability income (loss of time) insurance? \$ \_\_\_\_\_
2. How much of your Hawaiian Group A & H benefits can be attributed to disability income insurance? \$ \_\_\_\_\_
3. Approximately how many people are covered by such group disability policies? \_\_\_\_\_
4. How much of your Hawaiian Group A & H premiums can be attributed to policies covering either hospital, medical or surgical expenses? \$ \_\_\_\_\_
5. How much of your Hawaiian Group A & H benefits can be attributed to hospital, medical or surgical insurance? \$ \_\_\_\_\_
6. Approximately how many people are covered by such group hospital, medical or surgical policies? \_\_\_\_\_

#### Individual Accident and Health (excluding Credit A & H)

1. How much of your Hawaiian Individual A & H premiums can be attributed to disability income (loss of time) insurance? \$ \_\_\_\_\_
2. How much of your Hawaiian Individual A & H benefits can be attributed to disability income insurance? \$ \_\_\_\_\_
3. Approximately how many people are covered by such individual disability income policies? \_\_\_\_\_
4. How much of your Hawaiian Individual A & H premiums can be attributed to policies covering hospital, medical or surgical expenses? \$ \_\_\_\_\_
5. How much of your Hawaiian Individual A & H benefits can be attributed to hospital, medical or surgical insurance? \$ \_\_\_\_\_
6. Approximately how many people are covered by such individual hospital, medical or surgical policies? \_\_\_\_\_

Note: If Credit A & H comprises a significant proportion of your Hawaiian Group or Individual A & H business, please submit those figures separately for each question.

# HEALTH INSURANCE ASSOCIATION OF AMERICA

CHICAGO · NEW YORK · WASHINGTON

LESLIE P. HEMRY, *President*

STATISTICS AND CONTROL DIVISION  
David Robbins, *Director*

New York Office  
750 Third Avenue  
New York, New York 10017

January 20, 1969

Mr. Herman S. Doi  
Director  
University of Hawaii  
Legislative Reference Bureau  
2425 Campus Road  
Honolulu, Hawaii 96822

Dear Mr. Doi:

A number of our member companies have asked us to collate the responses to the questionnaire which you distributed with your letter of November 29, 1968. We are pleased to be of assistance in this regard.

Enclosed herewith is a statistical table containing the results received to date from 44 insurance companies which have thus far directed information to our attention. These 44 companies write 78.5% of the private health insurance premiums in Hawaii. A listing of these companies is attached.

Please note that the number of companies shown for the various lines in the enclosed table is less than the 44 which are included in the overall responses. This is due to a combination of the following factors:

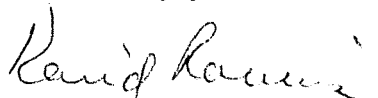
1. Some companies reported only with respect to group insurance or individual insurance, and
2. Some companies could provide information with respect to premiums but could not provide information with respect to benefits--particularly, as between disability insurance and hospital-surgical-medical insurance.

May we also invite your attention to the fact that the enclosed statistics represent coverage provided by insurance companies. For this reason, the statistics considerably understate the actual extent to which persons in Hawaii enjoy a measure of protection against the costs of health care and the loss of earned income. Thus, the enclosed data, in addition to providing statistics for only a portion of the health insurance written by insurance companies, excludes figures on persons with health care coverage through Blue Cross, Blue Shield, and similar plans.

With respect to coverage against the loss of earned income, it is our understanding that a significant proportion of the Hawaiian population enjoys protection under formal paid sick-leave programs. Such self-insurance would not be included in the statistics collected from insurance companies.

We hope to be in touch with you at a later date with additional statistics that may be received from other companies in response to your recent inquiry. In the interim, if we can be of any additional assistance, please do not hesitate to get in touch with us.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "David Robbins".

David Robbins  
Director of Statistics  
and Controller

DR:ler  
Enc.



## Health Insurance In Hawaii, 1967

### Group Health Insurance (excludes Credit)

Disability income premiums (23 co's)	\$1,299,042
Disability income benefits (20 co's)	653,102
People insured, disability income (22 co's)	29,893
Hospital-Surgical-Medical premiums (21 co's)	3,558,836
Hospital- Surgical-Medical benefits (21 co's)	3,385,789
People insured, hospital-surgical-medical (21 co's)	69,956

### Individual Health Insurance (excludes Credit)

Disability income premiums (35 co's)	\$2,748,792
Disability income benefits (30 co's)	986,320
People insured, disability income (35 co's)	39,209
Hospital-Surgical-Medical premiums (35 co's)	1,015,651
Hospital-Surgical-Medical benefits (31 co's)	472,727
People insured, hospital-surgical-medical (36 co's)	29,734

# UNIVERSITY OF HAWAII

---

Legislative Reference Bureau

January 24, 1969

Mr. David Robbins  
Director of Statistics and Controller  
Health Insurance Association  
of America  
750 Third Avenue  
New York, New York 10017

Dear Mr. Robbins:

Mr. Doi has supplied me with your letter of January 20, 1969 containing information relating to the health and disability policies written by 44 carriers in Hawaii during 1967.

Your information indicates that group disability income policies covered 29,893 persons and individual policies of that type, 39,209 persons.

Unfortunately, the questionnaire did not differentiate between policies which have a 180-day waiting period, those which have a 90-day waiting period, and those which have shorter waiting periods. I would be most grateful if you could supply me with a break-down into at least these three categories.

Since we received replies directly from 61 carriers, could you identify the 44 carriers covered by your reply so that we may eliminate any duplication.

I am most grateful for your assistance.

Very sincerely yours,

Stefan A. Riesenfeld  
Professor of Law

SAR:my

# HEALTH INSURANCE ASSOCIATION OF AMERICA

CHICAGO · NEW YORK · WASHINGTON

LESLIE P. HEMRY, *President*

STATISTICS AND CONTROL DIVISION

David Robbins, *Director*

New York Office

750 Third Avenue

New York, New York 10017

January 31, 1969

Dr. Stefan A. Riesenfeld  
Professor of Law  
University of Hawaii  
Legislative Reference Bureau  
2425 Campus Road  
Honolulu, Hawaii 96822

Dear Dr. Riesenfeld:

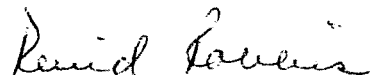
This is in reply to your letter of January 24 with respect to the statistics provided to us by 44 insurance companies. A listing of the 44 companies included in these data was enclosed with my letter of January 20 but has evidently gone astray. I am enclosing a duplicate of that listing.

As you indicated, the questionnaire prepared by Mr. Doi did not request information concerning waiting periods and, therefore, such statistics are not available from the material which these 44 companies submitted to me.

Some months ago, at your request, I did initiate a special survey of insurance companies with disability coverage in force in Hawaii. That special survey requested information concerning waiting periods as well as duration of benefits. For your convenience, I am enclosing a copy of the results of that special survey in the event that, by chance, it might not previously have reached you.

It is hoped the foregoing and enclosed information will be of assistance. If I can be of further help, kindly get in touch with me.

Sincerely yours,



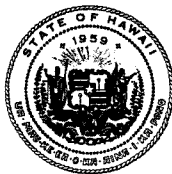
David Robbins  
Director of Statistics  
and Controller

DR:ler  
Encs.

44 Insurance Companies Writing Private Health Insurance In Hawaii

Aetna Life  
All American Life and Casualty  
Allstate Insurance  
American Casualty  
American Health & Life  
American United Life  
Bankers Life, Iowa  
Business Men's Assurance  
California Western  
Combined Insurance Company of America  
Confederation Life  
Connecticut General Life  
Continental Casualty  
The Equitable Life  
Federal Life & Casualty  
First Insurance Company of Hawaii  
General American Life  
Home Life  
John Hancock  
Lincoln National  
Massachusetts Mutual  
Metropolitan Life  
Mutual Benefit Life  
Mutual of Omaha  
Mutual Protective Insurance  
National Casualty  
New York Life  
North American Life  
Occidental Life  
Pacific, Guardian of Hawaii  
Pacific Mutual Life  
Physicians Mutual Insurance  
Provident Mutual Life of Philadelphia  
The Prudential  
Resolute Insurance Group  
St. Paul Fire and Marine  
St. Paul Mercury  
Security Life of Denver  
Standard Insurance - Oregon  
The Travelers  
Union Mutual Life  
United Benefit Life  
United States Life  
World Insurance

JOHN A. BURNS  
GOVERNOR



Robert K. Hasegawa  
~~AGRICULTURE~~  
DIRECTOR  
Robert C. Gilkey  
~~RESEARCH~~  
DEPUTY DIRECTOR

STATE OF HAWAII

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

825 MILILANI STREET  
HONOLULU, HAWAII 96813

January 25, 1968

Mrs. Patricia Putman  
c/o University of Hawaii  
Legislative Reference Bureau  
2425 Campus Road  
Honolulu, Hawaii 96822

Dear Mrs. Putman:

This is in reply to your request for certain information regarding our past investigations which may be helpful in your study of disability insurance.

You requested information on average statewide annual wages for all industries by industrial segments for the past five years. We are forwarding to you copies of our annual Employment and Payrolls publications for the years 1962-1966. These publications present such information in detail.

Regarding information on the extent of collective bargaining agreements in the area of disability insurance and illness benefits, we regret that we do not have this information. However, our report Disability Insurance Coverage in Hawaii (October 1965) contains a number of tables (such as Appendix Tables E and M) which provide data on formal sick leave by size-of-firm group and major industry. The term "formal sick leave", as used in this report, refers to written definite provisions regarding sick leave, as in union contract. But the actual number of union contracts is unknown.

You also wanted to know if we had data correlating sick leave with a number of variables, such as cumulative sick leave benefits, size group, industry, minimum employment requirement, and duration of benefits. The only readily available correlated data that we have is to be found in the report Disability Insurance Coverage in Hawaii. Although the basic data is included in the initial questionnaire, which we have on hand, we would require several months to obtain it because we would have to recode the questionnaires in depth.

Our Research and Statistics Office has data on all unemployment insurance claims filed in calendar year 1967 with respect to which unemployment benefits were paid while the claimant was ill or disabled. This data includes the claimant's place of residence, weekly unemployment benefit

January 25, 1968

amount, number of weeks compensated by unemployment benefits, number of weeks compensated with respect to illness or disability, and total amount of unemployment benefits paid. For your information, we compiled the following items from this data:

No. of Claimants:	
Illness only	412
Disability only	84
With both illness and disability	46
	<u>542</u>
No. of weeks compensated:	
Illness only	1,263
Disability only	222
With both illness and disability:	
Weeks for illness	144
Weeks for disability	129
	<u>1,758</u>
Amount of benefits paid:	
Illness only	\$61,271
Disability only	<u>10,157</u>
With both illness and disability:	
Amount for Illness	7,773
Amount for disability	6,796

Please let us know if you are interested in any other information on these particular claimants.

We would be interested in hearing from you concerning your progress in the study. Do not hesitate to contact us if we can be of further assistance.

Very truly yours,



Robert K. Hasegawa  
Director of Labor and  
Industrial Relations

Enclosures

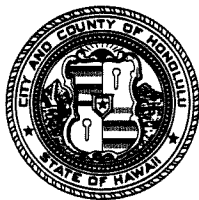
STATE EMPLOYEES  
INCIDENCE OF SICK LEAVE IN 1967

661

Department	Number of Employees December 1967	Duration of Sick Leaves									Exhausted Sick Leave
		1 work day	2 work days	3 work days	4 work days	5 work days	6 work days	7 work days	8 work days	9-182 work days	
Accounting and General Services	554	644	369	171	100	57	17	20	13	74	7
Agriculture	242	137	76	46	21	11	2	5	2	25	0
Attorney General	69	6	3	4	5	1	2	2	4	12	0
Budget and Finance	101	126	49	31	10	6	4	1	2	2	0
Defense	118	139	65	22	12	12	0	0	1	18	2
Education <sup>a</sup>	10,424	14,675	5,348	1,889	904	587	180	134	93	832	390
Hawaiian Home Lands	37	17	23	13	4	0	0	0	0	7	0
Health	1,670	2,486	1,240	637	279	165	76	62	42	255	35
Labor and Industrial Relations	347	438	419	81	43	20	10	12	2	24	3
Land and Natural Resources	432	360	212	84	40	36	9	7	4	31	4
Personnel Services	43	63	23	10	4	2	2	0	1	7	0
Planning and Economic Development	68	58	33	16	4	8	0	2	0	4	0
Regulatory Agencies	108	110	69	27	4	11	4	1	3	14	2
Social Services	941	1,613	574	284	151	97	27	21	18	113	8
Taxation	347	494	289	98	49	23	14	5	5	41	1
Transportation	1,232	2,088	910	431	200	152	48	30	26	204	33
University of Hawaii <sup>b</sup>	990	1,668	737	320	151	91	41	24	16	125	8
Judiciary Branch	450	568	204	91	52	30	7	9	1	51	0
TOTAL	18,173	25,690	10,643	4,255	2,033	1,309	443	335	233	1,839	493
PER CENT		54.9	22.8	9.1	4.3	2.8	0.9	0.7	0.5	3.9	1.1

<sup>a</sup>Includes classified and certificated personnel.

<sup>b</sup>Classified personnel only.



NEAL S. BLAISDELL  
MAYOR

RICHARD N. MOSSMAN  
DIRECTOR OF CIVIL SERVICE

CIVIL SERVICE COMMISSION

HAROLD S. Y. HEE  
WM. W. PATY, JR.  
RAY N. TANAKA  
HIROO W. MIYAGI


CITY AND COUNTY OF HONOLULU  
DEPARTMENT OF CIVIL SERVICE  
HONOLULU, HAWAII 96813

January 10, 1968

Mr. Herman S. Doi, Director  
Legislative Reference Bureau  
University of Hawaii  
225 Campus Road  
Honolulu, Hawaii 96822

We are pleased to be of some assistance in providing you with sick leave usage data for the City. Since the 1967 figures will not be available until February, we are giving you, on the attached sheets, data for the 1966 calendar year. We regret that part of the information you requested is not readily available primarily because the data is keyed on an organizational basis.

If we can be of further assistance to you, please contact Don Botelho of this department.

  
RICHARD N. MOSSMAN  
Director of Civil Service

attachments



MEMBER  
PUBLIC PERSONNEL ASSOCIATION



Department of Civil Service  
City and County of Honolulu  
January 10, 1968

1. Number of Employees (December 1966) . . . . . 6,438
2. Number of Female Employees (December 1966) . . . . . 824
3. Number of Employees on Maternity Leave (1966) . . . . . 18
4. Incidence of Sick Leave by Length of Absence - 1966

MONTH	D A Y S								
	1	2	3	4	5	6	7	8	More than 8 days
January	536	342	183	108	89	34	27	24	115
February	591	338	173	120	76	46	28	18	123
March	535	432	287	207	134	72	47	40	169
April	580	382	242	154	144	69	38	30	131
May	379	230	125	76	79	34	18	12	86
June	486	291	162	86	67	41	22	15	106
July	485	290	138	99	60	30	14	12	114
August	581	320	217	93	77	38	28	26	117
September	537	327	189	106	52	43	35	27	118
October	611	385	225	120	82	41	24	35	117
November	612	383	180	125	58	29	30	17	114
December	529	396	217	131	70	38	33	10	113
Total	6462	4116	2338	1425	988	515	344	266	1423

DAYS OF ABSENCE	NO. OF APPLICATIONS	%	MANDAYS LOST	%
1 - 4	14,341	80.22	28,092	45.16
5 - 8	2,113	11.82	12,872	20.69
9 - 12	636	3.56	6,621	10.64
13 - 16	290	1.62	4,180	6.72
17 - 20	238	1.33	4,550	7.31
21 - 24	236	1.32	5,255	8.45
25 & Over	23	.13	640	1.03
TOTALS	17,877	100.00	62,210	100.00
1965	16,835		56,260	
Increase over 1965	1,042		5,950	

CITY AND COUNTY OF HONOLULU  
SUMMARY OF TIME LOST DUE TO SICK LEAVE  
(Excluding Industrial Accidents)  
Calendar Year 1966

DEPARTMENT	Total Man-days Available	Total Man-days Lost	Time Lost in %	Range (Month)		Average S. L. Per Empl. In Days	
				Low %	High %	Month	Year
Auditoriums	12,319	646	5.24	1.63	8.74	1.05	12.56
Board of Water Supply	151,476	5,329	3.52	2.22	5.20	.72	8.68
Building	91,841	2,908	3.17	1.26	4.38	.66	7.96
Civil Service	14,096	301	2.14	.35	4.47	.44	5.31
Corporation Counsel	8,792	160	1.82	.66	4.14	.37	4.45
Finance	56,381	1,618	2.87	1.43	4.40	.60	7.21
Fire	226,353	6,772	2.99	1.98	4.42	.82	9.82
Health	64,431	3,227	5.01	2.64	6.50	1.03	12.31
Hon. Redev. Agency	12,055	332	2.75	1.48	7.26	.58	6.93
Medical Examiner	2,761	33	1.20	.00	9.74	.25	2.95
Oahu Civil Defense	1,757	47	2.68	.00	8.16	.56	6.71
Office of the Mayor	13,667	237	1.73	.62	3.32	.36	4.32
Parks and Recreation	143,418	4,587	3.20	2.03	4.29	.65	7.81
Planning	19,548	456	2.33	.79	4.30	.47	5.69
Police	249,948	8,961	3.59	2.91	4.31	.75	8.98
Prosecuting Attorney	5,904	71	1.20	.22	3.41	.28	3.33
Public Schools Cust.	136,227	5,618	4.12	2.84	5.16	.86	10.29
Public Works	380,032	18,314	4.82	3.64	6.69	1.00	11.98
Royal Hawaiian Band	9,745	632	6.49	1.17	13.59	1.20	14.44
Traffic	39,057	1,783	4.57	3.02	6.07	.94	11.32
Urban Renewal	4,545	178	3.92	.32	9.09	.84	10.11
TOTALS	1,644,353	62,210	3.78	0.00	13.59		
AVERAGES							9.81

CITY AND COUNTY OF HONOLULU  
SUMMARY OF TIME LOST DUE TO SICK LEAVE  
(Excluding Industrial Accidents)  
Calendar Year 1967

DEPARTMENT	Total Man-days Available	Total Man-days Lost	Time Lost in %	Range (Month)		Average S. L. Per Empl. In Days	
				Low %	High %	Month	Year
Auditoriums	13,661	604	4.42	2.31	7.39	.88	10.50
Board of Water Supply	151,997	5,069	3.33	2.28	3.92	.68	8.16
Building	82,045	2,450	2.97	1.39	3.70	.61	7.27
Civil Service	14,152	329	2.32	.75	4.20	.48	5.74
Corporation Counsel	8,636	147	1.70	.42	3.87	.34	4.05
Finance	52,202	1,288	2.47	1.92	3.29	.50	6.02
Fire	239,238	8,523	3.56	2.40	5.82	1.03	12.30
Health	65,497	2,448	3.74	2.25	6.25	.75	9.05
Hon. Redev. Agency	15,064	351	2.33	1.48	3.43	.48	5.75
Medical Examiner	2,739	40	1.46	1.65	8.64	.30	3.63
Oahu Civil Defense	1,703	45	2.64	.62	11.69	.37	4.47
Office of the Mayor	20,557	440	2.14	1.31	3.30	.44	5.29
Parks and Recreation	157,495	5,505	3.50	1.99	3.93	.71	8.49
Planning	19,150	467	2.44	1.25	4.30	.49	5.90
Police	270,567	9,196	3.40	3.11	3.88	.70	8.42
Prosecuting Attorney	6,016	164	2.73	.94	7.60	.55	6.58
Public Schools	92,095	3,874	4.21	3.24	5.46	.58	6.96
Public Works	371,927	19,009	5.13	4.17	5.80	1.02	12.27
Royal Hawaiian Band	10,168	463	4.55	2.61	6.01	.84	10.08
Traffic	42,022	2,056	4.89	3.28	6.93	.98	11.80
Urban Renewal	4,252	108	2.54	.79	5.60	.51	6.16
TOTALS	1,641,183	62,576	3.81	.42	11.69		
AVERAGES							9.84



S. E. SENIOR  
CHAIRMAN

STATE OF NEW YORK  
WORKMEN'S COMPENSATION BOARD  
50 PARK PLACE  
NEW YORK, N.Y. 10007

H. L. FEDERMAN  
DIRECTOR OF DISABILITY BENEFITS

February 14, 1968

Mr. Herman S. Doi, Director  
University of Hawaii  
2425 Campus Road  
Honolulu, Hawaii 96822

Dear Mr. Doi:

This is in reply to your letter of February 2, 1968 addressed to Gen. Senior.

Enclosed are copies of two bulletins:

1. DBIC #15 to which are attached Tables for Evaluation of Plan Benefits and a copy of Reg.41.

Section 211.5 requires that plans provide benefits "at least as favorable" to be acceptable. A plan of benefits with a score of 100 points or more is deemed to be "at least as favorable" as statutory benefits.

Regulation 41 contains important criteria in determining whether benefits are "at least as favorable".

2. DBIC #6 to which are attached tables of employee contributions which exceed statutory contributions for plan benefits.

Section 211.5 does not permit employee contributions in excess of statutory amount except by employee agreement and provided the employee contributions required are reasonably related to the value of the benefits being provided as determined by the Chairman.

Those tables are used to determine whether employee contributions in excess of statutory amount, for disability benefits greater than statutory benefits, are acceptable.

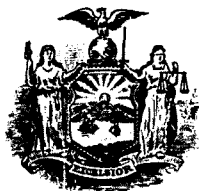
If you have any additional questions, do not hesitate to write to me.

Very truly yours,

A handwritten signature in dark ink, appearing to read "R. H. Hedema", with a long horizontal flourish extending to the right.

Director  
Disability Benefits

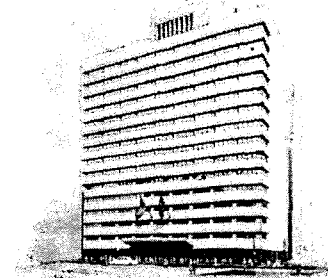
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# The State Insurance Fund

199 CHURCH STREET • NEW YORK, N. Y. 10007 • 964-7100

JAMES J. CARROLL  
Executive Director



IN REPLY PLEASE REFER TO

ACTUARIAL DEPARTMENT  
September 18, 1968

Mr. Wayne Minami, Assistant Researcher  
Legislative Reference Bureau  
University of Hawaii  
2425 Campus Road  
Honolulu, Hawaii 96822

Dear Mr. Minami:

I am pleased to reply to your letter of September 11 addressed to Chairman William L. Fanning, according to which you desire to know how much of the disability insurance in New York is underwritten by The State Insurance Fund. I assume that the disability insurance to which you refer is for coverage of off-the-job incurred accident or illness.

The State Insurance Fund has confined its writings in this field to the provision of the exact benefit required by the New York Disability Benefits Law under which payment is made (1) after a waiting period of 7 days, (2) for a maximum of 26 weeks, (3) in the amount of 50% of earnings, (4) at a maximum weekly rate, in calendar year 1966, of \$55.00, and (5) excluding benefits in maternity cases. Private carriers write this type of "precisely statutory" coverage and, in addition, other coverage under which the benefits are for the most part enriched above those specified in the Disability Benefits Law. Complete information relating to the extent of the latter coverage is not available in this office.

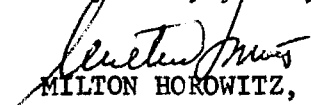
For "precisely statutory" coverage, the following figures covering calendar year 1966, the latest available, are supplied:

Item	All Carriers	State Fund	Ratio (%)
	1966	1966	State Fund to All Carriers
Average Number of Employees Covered	2,748,475	290,839	10.6
Amount of Covered Payroll .....	\$7,955,879,366	\$768,966,307	9.7

Covered payroll is defined as the first \$3,000 of earnings of each employee during the calendar year.

I trust that this information will be helpful to you.

Very truly yours,

  
MILTON HOROWITZ,  
Principal Actuary

MH:RS

# The State Insurance Fund

199 CHURCH STREET  
NEW YORK, N.Y. 10007  
(212) 964-7100

*Specialists in Workmen's Compensation and Disability Benefits Insurance*

VIA AIR MAIL

ACTUARIAL-ACCOUNTING DEPARTMENT

February 11, 1969

Professor Stefan A. Riesenfeld  
Legislative Reference Bureau  
University of Hawaii  
2425 Campus Road  
Honolulu, Hawaii 96822

Dear Professor Riesenfeld:

The following information relating to The State Insurance Fund's disability benefits operations is supplied in response to your letter of January 6, 1969:

Earned Premiums - Calendar Year				
1964	1965	1966	1967	1968
\$4,812,435	\$5,070,441	\$5,239,132	\$5,283,329	\$5,799,686


Loss Ratios - Calendar Year				
1964	1965	1966	1967	1968
76.5%	76.4%	80.4%	86.1%	84.0%

Rates per \$100 of Payroll Limited to \$60 per Employee per Week - Effective July 1					
	1964	1965	1966	1967	1968
Male	\$ .54	\$ .54	\$ .54	\$ .54	\$ .62
Female	.85	.85	.74	.74	.79

As I advised Mr. Minami in my letter of September 18, 1968, The State Insurance Fund confines its writings in the disability benefits field to "precisely statutory" coverage. The nature of this coverage was set forth in my letter to him of that date.

I trust that this information will be helpful to you.

Very truly yours,

  
MILTON HOROWITZ,  
Principal Actuary

MH:RS

## DEPARTMENT OF EMPLOYMENT

SACRAMENTO 95814



. October 3, 1968

REFER TO:

53:17:imw

- Stefan A. Riesenfeld, Consultant  
Legislative Reference Bureau  
University of Hawaii  
2425 Campus Road  
Honolulu, Hawaii 96822

Dear Mr. Riesenfeld:

COVERAGE OF EMPLOYEES OF FEDERAL INSTRUMENTALITIES AND  
NATIONAL BANKS BY CALIFORNIA UNEMPLOYMENT INSURANCE  
CODE DIVISION 1, PART 2, (U.C.D. BENEFITS)

You have inquired, "whether the coverage under Sections 2606 and 632 of the California Unemployment Insurance Code has been construed to include services in the employ of a national bank or other U. S. instrumentality".

In the administration of our Disability Insurance Program, we have not construed these services to be in covered employment. We have not considered the permission granted by 26 U.S.C.A S.3305(b) and (c) to impose contributions to "an unemployment fund", as extending to contributions to the Unemployment Compensation Disability Fund.

Sincerely,

MAURICE P. MC CAFFREY, CHIEF COUNSEL

BY: JAMES R. GRIFFITH, COUNSEL

HIRE THROUGH THE STATE EMPLOYMENT SERVICE

208





State of New Jersey  
DEPARTMENT OF LABOR AND INDUSTRY  
DIVISION OF EMPLOYMENT SECURITY

JOHN FITCH PLAZA  
TRENTON, NEW JERSEY 08625

Telephone: 292-2121

EDWARD J. HALL  
DIRECTOR



CHARLES F. REILLY  
DEPUTY DIRECTOR

January 9, 1969

Mr. Stefan A. Riesenfeld  
Professor of Law  
Legislative Reference Bureau  
University of Hawaii  
2425 Campus Road  
Honolulu, Hawaii 96822

Dear Mr. Riesenfeld:

In reference to your letter of December 31 to Mr. Eugene Ranucci and confirming our telephone conversation of January 2 concerning statistics of New Jersey Temporary Disability Insurance experience, annual exhaustion data for calendar years 1963 to 1968 are attached.

The figure of 53,712 awarded cases published in the 1964 Annual Report was incorrect, since it did not include cases which had originally been declared ineligible and omitted favorable decisions on claims which had been initially forwarded to the Private Plan and Disability During Unemployment sections. The series was revised and corrected data appear in 1965 and subsequent Annual Reports. The difference between the correct 1964 figure of 59,077 awarded cases given in the 1967 Annual Report and 58,570 cases appearing in Research Series No. 19 is due to the fact that the latter statistic covers cases with first day of disability in calendar year 1964, while the Annual Report figure counts cases according to date of award.

Very truly yours,

Walter J. Chartier, Chief  
Research and Statistics

Attachment

EXHAUSTIONS OF NEW JERSEY STATE PLAN DISABILITY INSURANCE CLAIMS  
AS A PERCENTAGE OF AWARDED CASES, CALENDAR YEARS 1963-1968

<u>Year</u> (1)	<u>Exhaustions 1/</u> (2)	<u>Awarded 2/ Cases</u> (3)	<u>Exhaustion 3/ Percentage</u> (4)
1963	4,786	58,465	8.25%
1964	5,079	59,077	8.63
1965	5,589	66,193	8.46
1966	5,578	69,605	8.05
1967	6,480	72,194	9.00
1968	9,815	83,500	10.54

1/ Exhaustion is defined as utilization of the maximum benefit entitlement of the individual. From 1963 through 1967 maximum benefit entitlement was determined as three-quarters base weeks (weeks with earnings of \$15 or more in covered employment) times weekly benefit amount. During 1968 the maximum benefit entitlement was one-third total wages or 26 times the weekly benefit amount, whichever is the lesser.

2/ Awarded Case is defined as a claim filed to begin a new period of disability, on which determination is made to authorize payment. The count for a given year is based on determinations made in that year. Exhaustions in column (2) are not strictly comparable to awarded cases in column (3) since they are not a subpopulation; some exhaustions in a given period are related to awarded cases in the prior period.

3/ Six-year average exhaustion percentage related to total exhaustions and awarded cases is 8.82%.

Bureau of Research and Statistics  
January 9, 1969

NOTE: Page 67 of attached excerpts from 19th Annual Report itemizes exhaustion experience due to monetary rights and due to 26 week limitation.

STATE OF NEW JERSEY  
DEPARTMENT OF LABOR AND INDUSTRY  
DIVISION OF EMPLOYMENT SECURITY

BUREAU  
OF  
STATE PLAN DISABILITY BENEFITS

REPORT  
*excerpted from*

19TH ANNUAL REPORT  
OF THE  
DIVISION OF EMPLOYMENT SECURITY

MARCH 1956

<u>Claim</u> <u>Number</u>	<u>Males</u> <u>Under</u> <u>Fifty</u>	<u>Males</u> <u>Over</u> <u>Fifty</u>	<u>Females</u> <u>Under</u> <u>Fifty</u>	<u>Females</u> <u>Over</u> <u>Fifty</u>	<u>All Groups</u>	
First	6,355	4,330	11,056	3,538		25,279
Second	1,036	994	2,497	960	5,487	
Third	310	314	856	425	1,905	
Fourth	134	142	371	193	840	
Fifth	54	71	163	75	363	
Sixth	46	39	69	45	199	
Seventh	22	22	34	19	97	
Eighth	9	7	21	11	48	
Ninth	2	5	4	5	16	
Tenth	3	2	2	2	9	
Eleventh	3	-	2	-	5	
Twelfth	1	-	-	-	1	8,970
Totals	7,975	5,926	15,075	5,273		34,249

The analysis hereunder of the 8,970 claimants who filed compensable claims in the year 1954 and had previously filed claims between January 1, 1949 and December 31, 1953, shows a breakdown of the claims filed by these "repeaters."

Claimants with one claim in "D" date year who had filed previous claims in former years	8,290
Claimants with two claims in "D" date year	631
Claimants with three claims in "D" date year	45
Claimants with four claims in "D" date year	3
Claimants with five claims in "D" date year	1
Total	8,970

#### Analysis of Terminations

Terminations are defined as cases closed out in individual claimant ledgers for any of the reasons below cited. The analysis covers the disability year 1954 and shows the end results of all disabilities which commenced between January 1 and December 31, 1954, with payments completed either in 1954 or 1955. Obviously, the disability year of 1955 is not subject to analysis until 1956.

Benefits Exhausted (Monetary Rights)	3,438
Benefits Exhausted (26 Weeks Limitation)	257
Known Recoveries	22,564
Presumed Recoveries (Claims Abandoned)	5,995
Benefits Denied by Administrative Decisions	1,561
Deceased	434
	34,249