TEMPORARY DISABILITY INSURANCE PROGRAM

Bulletin No. 120

LEGISLATIVE COMMISSION
OF THE
LEGISLATIVE COUNSEL BUREAU
STATE OF NEVADA

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SENATE CONCURRENT RESOLUTION NO.36 (1973)

SENATE CONCURRENT RESOLUTION--Directing the legislative commission to study various programs of temporary disability insurance and the possibility of enacting such a program in Nevada. File No. 103

WHEREAS, Enacting a program of temporary disability insurance for the residents of this state is a desirable but complex program; and

WHEREAS, Nevada lacks experience in developing and implementing a temporary disability insurance program; and

WHEREAS, Several of Nevada's sister states have adopted some form of temporary disability insurance, and knowledge of their experience may aid Nevada in developing an adequate program; and

WHEREAS, The full cost of implementing such a program can not be determined without further study; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the legislative commission is directed to make a comprehensive study of the problems that may be encountered in developing and implementing a program of temporary disability insurance including the expected costs, the alternatives of legislation providing for a program operated by the state or a program operated by private insurers and the experience of our sister states who have enacted similar programs, and to report the results of such study and any recommendations for proposed legislation to the 58th session of the Nevada legislature.

PREFACE

The 1973 session of the Nevada legislature passed Senate Concurrent Resolution No. 36 directing the Legislative Commission to study the problems that may be encountered in developing and implementing a temporary disability insurance program in Nevada. The following individuals were selected as subcommittee members:

Randall V. Capurro Chairman	Assembly Member
Richard E. Blakemore	Senate Member
Stanley J. Drakulich	Senate Member
Archie Pozzi, Jr.	Senate Member
James J. Banner	Assembly Member
Roger Bremner	Assembly Member
Eileen B. Brookman	Assembly Member
Richard K. McNeel	Assembly Member

The subcommittee, in its first meeting, determined that the primary objective of its work was to determine if a need existed in Nevada for temporary disability insurance and, if that need were great enough, the subcommittee would devote itself to devising the best possible program of temporary disability insurance to fulfill that need.

The subcommittee held public hearings in Elko, Ely, Las Vegas and Reno, Nevada. Also, due to the complexity involved in developing and implementing a disability program, a technical hearing was held in Las Vegas on temporary disability insurance. Expert witnesses were invited to attend and testify on the advantages, disadvantages, costs and differences among disability programs.

The subcommittee would like to thank the Clark County Board of Commissioners, the Washoe County Board of Commissioners, the Stockman's Hotel in Elko and the Sheriff's Department in Ely for the courtesy and facilities provided the subcommittee for these public hearings. Also, special thanks go to Mr. Frank Young from the American Life Insurance Association, Mr. Jack O'Day from the Insurance Economic Society of America and Mr. Robert H. Long from the Employment Security Department of Nevada for providing testimony on the technical aspects of temporary disability insurance.

It is hoped that the results and the recommendations of this study will be helpful to the members of the 1975 legislature in determining what course of action they should follow regarding temporary disability insurance in Nevada.

Carson City, Nevada
September 1974

SUMMARY AND RECOMMENDATIONS

The issue of whether government should insure for nonoccupational injuries and illnesses of its working force, i.e., temporary disability insurance (TDI) has been repeatedly before the Congress, state legislatures and in one instance at the polls. The Congress, in this review of TDI, determined that the need was not great enough to necessitate legislation and has, therefore, left TDI to the states to determine their own needs for this type of legislation. To date, the majority of state legislatures have considered and rejected TDI. Presently, there are five states with a TDI program. These states are California, Hawaii, New York, New Jersey and Rhode Island. Hawaii, in 1969, was the first state to enact a disability law since 1950. The other states enacted their disability laws in the 1940's.

TDI in Nevada has been a controversial issue for the past 4 decades. During the 1973 legislature, two bills were introduced to adopt either a monopolistic, state operated program, or a mandatory, privately operated program. Both of these bills died in committee; however, Senate Concurrent Resolution No. 36 was introduced and passed, authorizing a study on developing and implementing a TDI program in Nevada.

The subcommittee appointed by the Legislative Commission to conduct this study held public hearings in various parts of the state and also held a technical hearing.

The study is divided into five sections. The introduction section basically defines TDI, the various types of disability insurance programs and the states which have adopted them and the various funding approaches to TDI. The background section is primarily oriented toward the history of TDI in Nevada; it also covers the general trend toward TDI in other state legislatures, as well as presenting the main reasons put forth for the failure of this type of legislation's being enacted by other states. The section titled "findings" presents the facts found by the subcommittee in its public and technical hearings as well as what it considered to be some of the problem areas in developing and implementing a temporary disability insurance program. The final section of this study recommends to the legislature a proposed temporary disability insurance law.

A recap of the subcommittee's recommendations are as follows:

1. We recommend that the question of whether or not there should be a TDI program in Nevada be submitted to a referendum vote by the legislature.

2. The TDI program that the 58th Session of the Nevada Legislature should consider for referendum should be a mandatory, privately operated program.

3. The TDI program submitted for referendum should be equally funded by employees' and employers' contributions for statutory benefits.

4. The TDI program, if approved by the voters, should be administered by a new division within the Employment Security Department.

5. The division to be established to administer the TDI program, if approved by the voters, should be supported by the general fund until such time as the legislature can review both the effects and administration of the temporary disability insurance program.

6. The initial general fund appropriation of $500,000 is recommended for the implementation of a temporary disability insurance program in Nevada.

7. The effective date of the TDI program should be 1 year after voter approval so as to allow sufficient time for an orderly implementation.

I. Introduction

Temporary disability insurance or TDI, as it is commonly referred to, can be defined as a statutory program of income replacement of loss of wages for a worker who has become disabled by nonoccupational illness or injury. Temporary disability insurance is short term protection, up to 26 weeks, of wage replacement varying from one-half to two-thirds of average weekly wages for a worker until he is back on the job or until long term coverage under Social Security takes over after 5 months.

A worker can suffer loss of wages in one of three ways. A worker can lose his job, can become sick or injured on the job or can become sick or injured off the job. All of the states provide insurance programs to alleviate the hardships resulting from the worker's losing his job--unemployment compensation insurance--or when a worker becomes sick or injured on the job--workmen's compensation insurance.

In the case of sickness and injuries suffered off the job, income loss protection may be provided by (1) the worker's purchasing individual or group insurance policies; (2) employer's providing, through self-insurance or purchased insurance, cash benefits or paid sick leave; or (3) unions, fraternal societies and mutual benefit associations' providing temporary disability benefits to members. Insurance protection as mentioned above is the result of voluntary action of either the employer, employee, unions, or a combination of them.

Insurance protection may also come about as the result of a compulsory TDI law. This is the case in five states--California, Rhode Island, New York, New Jersey and Hawaii. Also, there is a compulsory TDI program in Puerto Rico and a federal program for railroad employees.

The temporary disability insurance program a state adopts will vary depending on the legislation enacted. Basically, mandatory temporary disability insurance legislation can be categorized into three programs. These programs are:

1. A monopolistic state program.

2. A private program.

3. A combination of the first two.

A monopolistic state program is an exclusive, government operated program. Under this program there is an exclusive temporary disability insurance fund. All contributions are paid to the state fund and all benefits are paid from the state fund. Rhode Island is the only state with a monopolistic state program. The only other program that is monopolistic in nature is that of the railroad industry. This was enacted by the Federal Government.

A private program allows the employer the option in providing benefits to his employees either by contracting with insurance companies or the employer elects to be self-insured. The plan an employer provides must meet the minimum requirements as set by the state law. A state agency exercises general supervision over the private program to insure that the program meets the minimum requirements. The State of Hawaii has adopted this plan. In Hawaii, however, there is a small state fund which is used to provide disability benefits to the unemployed workers who become sick or injured and also to provide benefits to workers whose employers have failed to comply or have gone bankrupt.

The third temporary disability insurance program a state may choose to enact is one which permits the employer the choices of contracting with a private insurance carrier, self-insuring or insuring through a state fund. States adopting this type of a program are California, New York and New Jersey. In this program, the state fund can be competitive with private insurance companies, such as in New York, whereas, in California and New Jersey, it is not. Due to this fact, the majority of employers in these states now insure through the state fund.

Funding of a mandatory temporary disability insurance program is dictated by statute and is generally based on a percentage assessment of wages up to a fixed amount. The assessment against workers' wages can be paid by the worker, by the employer or both. In the case where both employer and employee contribute, the employee's share cannot exceed the statutory rate.

II. Background

Temporary disability insurance legislation has been introduced in the Nevada legislature frequently since 1945. In that time there have been five senate bills and eight assembly bills introduced. The majority of these bills died in committee. On one occasion, however, legislation for temporary disability insurance in Nevada did successfully pass the legislature. This was Assembly Bill No. 222, passed by the 43rd Session of the Nevada Legislature. Although this bill passed the legislature, it failed to become law because it was vetoed by the Governor. The Governor's main concern with this legislation was the strong possibility that it would destroy the unemployment compensation program presently in Nevada.

Even though temporary disability insurance has not been enacted in Nevada for its workers, Nevada does provide temporary disability insurance for those workers who become disabled while unemployed. This measure was adopted in 1945 and is known as the "Maryland amendment." This amendment modified the unemployment insurance statutory provision that a claimant must be able to work. The modified provision stated that no claimant will be considered ineligible for unemployment benefits by reasons of illness or disability occuring (1) after he has filed a claim and registered for work and (2) if he has not refused work which would have been suitable but for his disability.

The main thrust to enact temporary disability legislation has come primarily from labor groups. Because of this interest, and the legislature's inability to enact TDI legislation, the 1957 session of the Nevada legislature passed Senate Resolution No. 18, which directed the Legislative Counsel Bureau to study the feasibility and desirability of a disability benefit law for the State of Nevada. This study, Bulletin No. 33, which was published in December 1958, presented arguments for and against TDI. The problems of disability's causing economic hardship, the status of a voluntary plan versus a monopolistic plan, the effects on the economy, a new tax issue for employees and possibly employers, a compulsory program coordinated with unemployment insurance and the basic features of different TDI programs were all presented in this report. The purpose of this study was to provide the 1959 session of the Nevada legislature with a better understanding of a temporary disability insurance. Since this study, temporary disability insurance has been before the legislature during various sessions, with the greatest interest being shown during the 1973 session.

This interest was generated not only by some legislators and various lobbyist groups but also by the Governor. The Governor, in his State of the State Message, called for temporary disability insurance as one of his major recommendations. Even with this additional interest, the legislature was not able to gain a clear-cut mandate from the people as to whether or not it should enact a disability compensation law. It was, therefore, decided to study this problem again and report back to the 1975 legislature.

Nevada has not been alone in this area of having failed to enact temporary disability insurance legislation. According to the April 27, 1973, "Insurance Economic Survey" published by the Insurance Economic Society of America, there have been over 300 bills introduced in 30 state legislatures which have also rejected this legislation. This is also pointed out by the fact that only Hawaii, in 1969, has enacted legislation for a temporary disability insurance program, whereas, the other states, California, Rhode Island, New York and New Jersey, had adopted their disability programs prior to 1950.

As can be seen, TDI legislation has been a constant companion of state legislatures since the early 1940's. The main reasons for failure of this type of legislation have been: (1) the growth of voluntary private plans in the United States (it is estimated that two-thirds of all wage-earning and salaried employees are now under public and private plans); (2) the deficit balances over the past years in states which presently have monopolistic programs or a combination of monopolistic and private programs. Rhode Island posted a $3.4 million deficit in 1971 and it is anticipated that it will post a like deficit in 1972. California has posted eight deficits out of the last 15 reported years amounting to $183 million.[1]

An important factor leading to the establishment of temporary disability insurance in California, Rhode Island and New Jersey, which should be mentioned, was that each of these states had a surplus of funds in its unemployment compensation fund. The surplus in each of these states was generated from a tax imposed on the worker by each state at the time the Unemployment Compensation Act was enacted in 1937. An amendment to the Social Security Act passed in 1946 authorized the use of an equal amount of unemployment compensation funds as paid by the worker into the fund for disability benefits. In electing this option, California started its disability program with a $306 million fund, Rhode Island, with $28 million, and New Jersey, with $230 million. It should be noted that 13 states required workers to contribute to the unemployment compensation fund, but only the above states chose to have a disability program.

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1 Insurance Economic Survey, Insurance Economic Society of America, April 27, 1973.

III. Findings

The public hearings held on temporary disability insurance in Elko, Ely and Las Vegas were not well attended, even though there was considerable advance notice through press releases and correspondence to businesses, labor organizations, employees' associations and employer associations. The majority of people attending these hearings were labor representatives except in Ely where business representatives were in the majority. The final public hearing, held in Reno, was well attended by both labor and business representatives. The subcommittee, however, received very little testimony from individual employers at any of the public hearings held throughout the state. The attendance of these individuals would have greatly helped in determining if a mandatory disability insurance program in Nevada is really desired. The only contribution received from the individual employee came from union representatives. Since not all unions appeared or expressed their opinions as to the desires of their members and since, in Nevada, not all employees are represented by unions, a clear-cut demand for a mandatory TDI program was not ascertained.

Union leaders who did attend clearly indicated they were in favor of a mandatory state operated temporary disability insurance program. The proposals for funding the temporary disability program were split between total employee contribution and employer-employee contributions on a 50-50 basis.

Management leaders, on the other hand, clearly indicated they were not in favor of a mandatory temporary disability insurance program, but prefer the status quo. A variety of arguments were made by each side in favor of its position. Labor unions stressed that the coverage now offered by various unions, employers and fraternal groups to workers varied extensively in cost and benefits. The workers in most need of disability insurance were not covered and misunderstandings between labor and management resulted when negotiating disability insurance coverage.

Management felt that TDI coverage encouraged workers to be off work. Labor would prefer to remove this particular item from the bargaining table in that it felt the responsibility

for insuring the economic stability of its work force rested with the state. Also, the state could provide coverage for its workers at a much lower cost by having a greater base to spread the risk. Management, on the other hand, said that a state operated program would require a large bureaucracy to administer the program, thus creating another level of government which would eventually result in greater costs to taxpayers. A mandatory program would not be flexible enough to meet the needs of each individual employer. Also, due to the standardization of coverage, it was felt that abuses of the program would be greater. A mandatory program would eventually require the employer to pay the total contribution as is the case with industrial insurance and unemployment insurance. Mandatory programs would remove freedom of choice from employers in providing the programs they felt best suited for their employees. A mandatory program would add additional fuel to increase the present growing inflation problem.

The above-mentioned reasons by each side are but a few of the arguments put forth in regard to a mandatory temporary disability insurance program.

In addition to the public hearings held for general discussions on TDI, a technical hearing was held in Las Vegas, Nevada, for the purpose of determining what problems might be encountered in establishing a temporary disability program in Nevada.

The testimony received was basically the same as presented to the joint hearing of the Senate Commerce and Labor Committee and Assembly Labor and Management Committee at the 57th Session of the Nevada Legislature.

The testimony presented was a brief comparison of the bills introduced at the last session of the legislature; the arguments put forth for a monopolistic state plan and private plan; an overview of the financial problems in the states with disability plans; and the estimated cost for a state operated plan.

The legislation introduced last session provided for two approaches to a mandatory disability program. One concerns a monopolistic state plan and the other, a private plan. The testimony given at the hearing centered on the differences between these two programs. These differences as presented are as follows:

	Monopolistic State Plan	Private Plans
COVERAGE	Private employers of one or more employees (same as for unemployment compensation).	Same
EXCLUDED	Same as for unemployment compensation.	Same
BENEFIT STRUCTURE	7-day waiting period.	Same
	26 weeks' duration per benefit year.	Same
	Maximum weekly benefit formula: 50 percent of state average weekly wage (same as for unemployment compensation which at the time of consideration was $77 per week).	Same
	No maternity benefits.	Same
	Medical certificate required.	Same
ELIGIBILITY	Same as for unemployment compensation.	Same
TAXABLE WAGE BASE	State average weekly wage x 52 weeks ($8,100).	Same
EMPLOYEE CONTRIBUTION	1 percent of taxable wage base (maximum $81 per year).	Up to 0.5 percent of taxable wage base but not in excess of cost of state benefits (maximum $40.50 per year).

	Monopolistic State Plan	Private Plans
EMPLOYER CONTRIBUTION	None.	Balance of cost of plan.
CONTRIBUTIONS PAYABLE	Beginning July 1, 1973.	Beginning January 1, 1974.
BENEFITS PAYABLE	Beginning April 2, 1974.	Beginning January 1, 1974.
CREDIT FOR EXISTING PLANS	No, except for those plans with at least matching benefits which were in existence prior to July 1, 1972.	Yes, credit given for the actuarial equivalents of existing or subsequently established sick pay or wage continuation plans. Recognizes long and short term disability plans. Coverage provided through insurance or on a self-insured basis.
EXPERIENCE RATING	None.	Yes.
ADMINISTRATION	A new division in the Employment Security Department which would operate as a small insurance company, i.e., collect and account for employee contributions, invest funds received, administer claims and pay benefits.	A small division in the Employment Security Department to check employer plans for compliance with statutory benefits (or equivalent) and also to hear complaints filed by employees for nonpayment of benefits.

Monopolistic State Plan	Private Plans
	Employers and insurance carriers would administer program and make benefit payments.

Testimony was also presented listing the arguments put forth regarding each plan. These arguments were:

Monopolistic State Plan	Private Plans
1. Creates new bureaucracy, many additional state employees needed.	1. No new bureaucracy, few new state employees needed.
2. Disrupts existing employee benefit plans, many of which may provide greater total benefits and under which employers may pay part or all of the cost.	2. Utilizes existing employee benefit plans and encourages the development of new plans, insured and self-insured.
3. Only statutory benefits are recognized.	3. Equivalency tables permit total flexibility of employee benefit plans and recognize different benefit levels and structures, including short term and long term disability coverages.
4. Employee-pay-all basis (1 percent of state average annual wage).	4. Employee may be charged up to 0.5 percent of state average weekly wage, but not to exceed the cost of state benefits. Employer pays balance of cost of plan.

	Monopolistic State Plan	Private Plans
5.	State fund makes all benefit payments.	Employers and insurance carriers make all benefit payments.
6.	Complaints filed with the state.	Complaints filed with employers or insurance carriers. Employers, if dissatisfied, can change carriers or go self-insured. Disputed claims filed with state.
7.	Uniform, flat 1 percent rate regardless of risk. No experience rating, no dividends.	Flexible rate commensurate with the risk involved. Preliminary estimate of going-in rates range from 0.55 percent to 1.35 percent of covered payroll depending on the particular risk, with a probable overall average rate of about 0.9 percent of covered payroll. Subsequent rate adjustments, via dividends or experience rating, as experience indicates.
8.	State must establish a little insurance company to collect premiums, make claims investigations and pay benefits. Will also have to make and manage investments.	Fits into existing premium collection, claims handling and benefit payment procedures. No investment problems.
9.	State fund may go bankrupt if emerging claims and expenses are greater than expected or if actual employee contributions are less than expected.	No change of insolvency.

	Monopolistic State Plan	Private Plans
10.	Coverage for employees delayed 9 months even though employees are paying contributions in order to establish a fund.	Coverage for employees begins immediately upon payment of premiums.
11.	No general revenue cost to state, all expenses paid by fund supported by employee contributions.	General revenue costs for supervision of plan offset by increased insurance premium tax revenues.

The testimony presented regarding the financial problems in the states with disability plans stated that states having a monopolistic program or a combination state and private program were posting large deficits. The only reason they were able to continue the program was because they began their program with a surplus of funds. The Department of Employment Security was asked to testify on Senate Bill 194 (monopolistic program). This bill, if enacted, would charge them with the responsibility of administering a monopolistic state operated program.

The testimony presented basically outlined the overall financial magnitude of a disability plan in Nevada. The following is a table prepared by the Employment Security Department showing the significant data for such a program. The data developed were based on a relationship between California temporary disability program and Nevada's unemployment insurance figures. The estimated figures are for fiscal years 1974 and 1975.

Temporary Disability Insurance Program Cost
Based on Senate Bill 194

	Fiscal Year 1974	Fiscal Year 1975
Covered Workers	208,000	225,000
Average Annual Wage	$8,880	$9,300
Taxable Wage (Million)	$1,514	$1,695
Contribution (Million)	$15.14	$16.95
Beneficiaries (estimated Number of Claims)	20,176	21,825
Payable Benefit Weeks (average duration of claims is 7.89 weeks)	159,390	172,417
Average Weekly Benefit	$ 66	$ 70
Total Benefits Paid (Million)	$10.52	$12.07

The above table does not include the cost of administration. It is estimated that the cost for administration is 4 to 6 percent of contribution.

In reviewing the testimony received during the public hearings, it was the general consensus that there was a definite need for a disability program. This decision centered on two major reasons. They were:

1. The majority of workers who presently do not have temporary disability insurance, sick leave benefits or cash benefits are the low income workers. It is this group which is most in need of disability coverage.

2. The level of voluntary disability coverage provided by some employers or being purchased by some workers is not adequate.

Even though this need existed, especially for nonunion workers, uncertainty was expressed as to whether the majority of workers wanted a mandatory or voluntary disability program. It had been hoped that the public hearings would have resolved this issue. The general public, however, was absent at the public hearings. Those in attendance, primarily labor and management leaders, simply restated their stance for or against TDI, which was already known.

The real problem which faced the subcommittee and past legislatures was, do the citizens of Nevada want a mandatory disability program?

This issue of whether there should be a TDI program in Nevada has been before the legislature for many years and probably could be for many years to come. We feel this question should be decided. Therefore, our recommendation to the 58th Session of the Nevada Legislature is that it determine whether or not a TDI program in Nevada should be submitted to a vote of the people.

Since our recommendation is to submit to referendum whether or not there should be a TDI program in Nevada, consideration was given as to which approach would be best to follow in developing a TDI program to submit to the voters.

If a mandatory TDI program is to be instituted in Nevada, the subcommittee determined that the private plan concept should be adopted. Therefore, the second recommendation to the 58th Session of the Nevada Legislature is that the TDI program to be submitted to referendum should be a private TDI program similar to the proposed legislation in this study.

The main reasons for this recommendation of a private plan were threefold:

1. A monopolistic state plan would require all employers to insure with the state even if they had a private plan actuarily equal to or better than the statutory program. Presently, Nevada's population is not large enough to support both a state funded program and a privately funded program. Therefore, the creation of a monopolistic state program would be very disruptive to the existing private plans.

2. Maintaining the financial stability of existing monopolistic state operated programs has been a continual battle between bankruptcy and solvency. Also, states which have both a state program and a private program have eventually settled on a state program. The reason for this is explained in the introduction of this study.

3. The public hearings conducted indicate a private program would receive greater acceptance since it would be a compromise program. Labor's basic interest was the assurance that TDI would be mandatory for all Nevada employees and in this connection it preferred a monopolistic, state operated program. Management's basic interest on the other hand, was the assurance that there would be no infringement on private enterprise. Although all employers would be required to insure their employees, the system allowed some latitude in insuring with either a private insurance carrier or in becoming self-insured.

Additional recommendations by the subcommittee to the 58th Session of the Nevada Legislature are:

1. The TDI program submitted to referendum should be funded equally by employees and employers for statutory benefits.

2. The administration needed to plan, implement, direct, coordinate and enforce the TDI laws, if approved, would be accomplished by a new division within the Employment Security Department. This division would be operated with general fund support until such time as the legislature can review the disability program.

The majority of provisions in the disability laws which have been enacted, whether it be a monopolistic or private plan, are basically noncontroversial and standard inclusions. There are, however, a few provisions such as coverage, program financing, weekly benefit amount and pregnancy which were items of discussion during the public hearings.

The following is a synopsis of each of the above provisions. This synopsis briefly explains the provision and the testimony given during the public hearings.

(a) Coverage

Coverage determines whether or not an employer must participate in the disability program. Also, it dictates if an employee must participate.

Presently, in all states with a disability program, employers must participate if they have one or more workers and/or a payroll in excess of a given amount during a quarter or year. Also, coverage defines which employees are excluded automatically, which can elect to be excluded and which can choose to participate.

At the public hearings, concern was expressed by employers having less than five employees. This concern centered on the problems of cost and the time presently needed to complete reports already forced upon them by mandatory government programs. Should a mandatory disability program be enacted there will be an additional requirement for their time and funds associated with this new program. Another drain on their time and funds is the fact that the Federal Government is considering enacting a national health insurance program.

They pointed out that these additional requirements for time and funds forces them to raise prices in order to stay in business. In some instances, they stated that even increases in prices will not guarantee they will remain in business since they may no longer be competitive.

It should be mentioned that it is normally the small employer who does not or cannot provide any form of wage replacement to his workers for nonoccupational injury or sickness, and it is normally the employees of these employers who cannot afford to protect themselves.

(b) Financing

The financing provision is a controversial item since someone or some group must pay for the benefits received and for the administration of the program. The financing of a disability plan is predicated on a fixed percentage of the workers' average weekly or average annual wage. The contribution can be paid by the employee, employer, or both, depending on the provision in the disability law. In the event both employer and employee participate, the maximum amount an employee can pay is usually set at a given percentage, normally five-tenths of 1 percent.

Discussion at the public hearings regarding financing of benefits varied from total payment of contributions (premiums) by the employee to total payment by the employer. The latter was mentioned only because some employers presently offer voluntary TDI programs and pay the total contribution for their employees. Labor representatives were divided in their opinions on who should pay for benefits. Their main concern was the passage of a disability law and, if the only way to enact a disability law would be for the employee to pay all, then this would be what they would support.

Management stated that whenever the cost of a program in which it was required to participate increased, this cost without fail was passed on to it; therefore, again, it opposed a mandatory disability program.

(c) Benefits

The benefit formula identifies qualifying wages or employment, benefit year, base period, weekly benefit amounts, duration and waiting period. The weekly benefit amount sets the minimum and maximum dollar amount a sick or injured employee can receive as wage replacement.

There was considerable discussion by labor on the level of weekly benefits. Labor felt that, should a disability law be enacted, the amount a sick or injured worker receives should be at least 50 percent of the average weekly wage. The 50 percent level was determined to be the minimum amount on which an employee could exist until he was able to return to work. This amount was not indicative of all the labor groups testifying. Some groups felt that the benefit level should be as high as that in California where, presently, the maximum amount a sick or injured worker can receive is $119.

Management, on the other hand, was concerned that if the weekly benefit amount an individual receives was too high, this would encourage the employee to take advantage of the program, thus increasing its cost to stay in business.

(d) Pregnancy

The inclusion of the pregnancy provision as a compensable disability was an issue discussed at all the public hearings. The position an individual took regarding pregnancy primarily focused on his or her age. Basically, opponents argue pregnancy, in most cases, is a voluntary disability; and, second, pregnancy, when included as a compensable disability, causes a financial drain on the disability fund which must be offset by higher contributions to maintain its financial stability. Proponents argue pregnancy is a temporary disability and exclusion is discriminatory.

Presently, pregnancy is a compensable benefit in New Jersey, Rhode Island and Hawaii. New Jersey limits its benefits to 8 weeks--4 weeks before birth and 4 weeks after birth. Rhode Island limits benefits to no more than $250 for eligible individuals. Hawaii treats pregnancy the same as any other disability. New York and California do not provide disability benefits for normal pregnancy.

The inclusion of pregnancy benefits in any TDI program must be based on legal as well as fiscal considerations. The cost of the program, if benefits for normal pregnancy are included, is substantially greater. Statutory and judicial mandates, however, may require pregnancy benefits if a TDI program is established.

In 1972 the Equal Employment Opportunity Commission, pursuant to its authority under Title VII of the Civil Rights Act of 1964, prohibited sexual discrimination in TDI programs. This regulation is being widely contested. In April 1974, a United States District Court in Virginia upheld this regulation. (Gilbert v. General Electric Co., 142-72-R, U.S.D.C., E.D. Virginia.) This case is now before the United States Court of Appeals, 4th Circuit, on appeal.

In Geduldig v. Aiello, 42 L.W. 4905, No. 73-640 (June 17, 1974), the U.S. Supreme Court held that the denial of TDI benefits during normal pregnancy by the State of California did not violate the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution. The court did not hold that California could deny the pregnancy benefits. It held only that there was no violation of the Equal Protection Clause. This case has no effect on Gilbert v. General Electric Co.

The subcommittee after much deliberation voted to exclude pregnancy as a compensable disability in the recommended temporary disability insurance program.

The reasons leading to this decision were:

1. The inclusion of a pregnancy provision would increase the cost of the temporary disability insurance program by as much as 25 percent, or approximately $5 million.

2. The cost to provide pregnancy benefits must be borne by all working people.

3. Pregnancy is neither a sickness nor an accident.

4. The recent Supreme Court decision regarding pregnancy as previously stated.

5. The inclusion of a pregnancy provision at this time would seriously jeopardize the passage of a needed temporary disability insurance program.

In summary, the problems encountered in developing a TDI program are (1) what type of program is best suited for Nevada and (2) what provisions should be included in the program adopted.

(e) Implementation

The executive branch will be charged with the responsibility of implementing, administering, regulating and enforcing the temporary disability insurance law if it is enacted. The problems the executive branch would encounter would depend, to a certain extent, on the thoroughness of the legislature in writing the law setting forth the temporary disability insurance program, the financial support for implementation and, possibly, for the first year or so, administration and the timetable for implementation.

The technical hearing on TDI in Las Vegas did not bring out the problems which might be encountered in implementing a disability program. In order to gain some insight on some of the problems on implementing a disability program, information was requested from those states having a TDI program.

The information provided by those states having enacted disability laws prior to 1950 did not pertain to implementation problems, but rather to historical changes and current problems. Hawaii, which enacted its disability law in 1969, did provide information relating to its implementation problems.

Also, information was requested from the Nevada Industrial Commission and the Employment Security Department regarding the implementation of a TDI program. It was felt that these two agencies could provide some insight since they administered similar programs.

This study will not list in detail the implementation problems. As with any law, it is when the law becomes operational that the problems become apparent. The problems, of course, that cause real concern to the executive branch are those which require legislative action to correct. As a matter of interest, however, and to emphasize one key problem, the following general information is given.

Hawaii divided the implementation of its disability law into two phases: the planning phase and the operational phase. The planning phase began with the passage of the disability law and ended on the statutory date the disability program was to be operational. The period of time for this phase was 6 months. It was this short timespan which proved to be the critical factor in the implementation of a viable disability program. This is illustrated by the following conclusions taken from "Report on Temporary Disability Insurance Implementation" prepared by the State of Hawaii, which reads, "* * * the department was hardpressed to meet the legal timetables. Ideally, an organizational scheme should first be finalized, key staff members hired, rules promulgated, and the various coordinating and various administrative functions carried out. As it turned out, a number of actions were carried on simultaneously, which usually would be sequentially developed. Therefore, some unfortunate and unavoidable backtracking resulted, which contributed to some confusion. We believe that <u>one year</u> to organize and implement a new program of the magnitude of the TDI program would be ideal."

The second phase of implementation, the operational phase, as presented in Hawaii's "Report on Temporary Disability Insurance Implementation," represents the period in which the division became fully staffed, internal procedures were developed and numerous problems were identified.

The implementation problems, as pointed out by the Hawaii study and the Employment Security Department, have been reviewed and noted and the proposed TDI program for Nevada has been constructed accordingly.

In order to facilitate a smooth implementation of Nevada's temporary disability insurance program, if approved by the voter, the subcommittee is recommending a general fund appropriation of $500,000. Any funds remaining at the end of the implementation phase, which is 1 year, will revert back to the general fund.

The category breakdown of the $500,000 general fund appropriation is as follows:

Salaries	$165,000
Travel	10,000
Operating	300,000
Training	5,000
Equipment	20,000
Total	$500,000

The above amounts were estimated by reviewing the implementation cost for Hawaii's program. Its cost for this phase was $465,532.

In summary, and provided that the referendum for a temporary disability program is approved, the legislature can assist the executive branch in implementing and administering a disability program by providing it with adequate time, funds and a workable law.

(f) Estimated Costs of TDI Program

The estimated cost for the mandatory, privately operated temporary disability insurance program as recommended by this study is as follows:

Pertinent Data and Costs	1978
Covered workers	250,000
Average annual wage	$ 10,000
Taxable wage (million)	2,147
Revenue generated by 1 percent assessment (.5 employee and .5 employer) (million)	21.47
Beneficiaries	24,249
Average weekly payment	80
Average duration of benefits (weeks)	8
Cost of benefits (million)	15.52

The data presented above is for fiscal year 1978. Fiscal year 1978 would be the first full year of operation for the temporary disability insurance program if approved by the voter. Also, the data presented is based only on the minimum statutory benefits of the recommended temporary disability insurance program.

SUMMARY--Enacts Nevada Temporary Disability Benefit Law, subject to approval by voters. Fiscal Note: Yes. (BDR 53-48)

AN ACT providing for temporary disability benefits; requiring coverage for employees; providing penalties; providing for a referendum by the voters at the 1976 general election; making an appropriation; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 53 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 58, inclusive, of this act.

Sec. 2. This chapter may be cited as the Nevada Temporary Disability Benefit Law.

Sec. 3. The protection of employees from the hardship generally resulting from wage loss due to work-incurred injury or involuntary unemployment of an economic nature has long been established public policy. The purposes of this protection are to maintain consumer purchasing power, to relieve the serious menace to the health, morals and welfare of the people resulting from insecurity and loss of earnings and to reduce the need for public assistance. Loss of earnings results in

hardship whether such loss is due to involuntary unemployment, work-incurred injury, or nonoccupational illness or accident. In harmony with this long-established public policy, it is the policy and purpose of this chapter to provide workers in Nevada protection against hardship resulting from wage loss due to the inability to perform the duties of a job because of nonoccupational illness or accident. This legislation is specifically designed not to impede the growth of voluntary plans which afford additional protection to employees. To effectuate the policy and purpose as herein declared, this chapter shall be liberally construed.

Sec. 4. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 5 to 18, inclusive, of this act have the meanings ascribed to them in such sections.

Sec. 5. With respect to any individual, "benefit year" means the 52-consecutive-week period beginning with the first day of the first week with respect to which the individual first files a valid claim for temporary disability benefits. A subsequent benefit year is the 1-year period following a preceding benefit year, beginning:

1. With the first day of the first week of disability with respect to which the individual files a subsequent claim for temporary disability benefits; or

2. With the first workday following the expiration of the preceding benefit year if a disability for which temporary disability benefits are payable during the last week of the preceding benefit year continues and the individual is eligible for further benefit payments.

Sec. 6. "Calendar week" means the period of 7 consecutive days from Sunday to Saturday, inclusive, or the equivalent thereof as the executive director may prescribe by regulation.

Sec. 7. "Calendar quarter" means the period of 3 consecutive calendar months ending on March 31, June 30, September 30 or December 31, or the equivalent thereof as the executive director may prescribe by regulation, but excluding any calendar quarter or portion thereof which occurs prior to January 1, 1977.

Sec. 8. "Contributions" means the amounts of money authorized by this chapter to be withheld from employees' wages for the payment of temporary disability benefits.

Sec. 9. "Department" means the employment security department.

Sec. 10. "Disability" means total inability of an employee to perform the duties of his employment caused by accident or sickness, other than an accident or sickness which is compensable under chapter 616 or 617 of NRS. Disability does not include total inability of an employee to perform the duties of her employment caused by pregnancy, but does include a total disability resulting from illness produced by complications of pregnancy or termination of pregnancy.

Sec. 11. "Employee" means an individual engaged in employment for an employer under a contract of hire, either express or implied.

Sec. 12. "Employer" means:

1. Any employing unit which for any calendar quarter has paid or is liable to pay wages of $225 or more, and which employs during such period one or more persons in an employment subject to this chapter.

2. Any individual or employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this chapter.

3. Any individual or employing unit which acquired the organization, trade or business, or substantially all of the

assets thereof, of another employing unit if the employment record of such individual or employing unit subsequent to such acquisition, together with the employment record of the acquired unit prior to such acquisition, both within the same calendar quarter, would be sufficient to constitute such employing unit as an employer subject to this chapter under subsection 1.

4. Any other employing unit which has elected pursuant to section 38 of this act to become fully subject to this chapter and which election has not been terminated.

Sec. 13. "Employing unit" has the meaning attributed to that term in chapter 612 of NRS.

Sec. 14. "Employment" has the meaning attributed to that term in chapter 612 of NRS.

Sec. 15. "Executive director" means the executive director of the employment security department.

Sec. 16. "Individual in current employment" means an individual who performed regular service in employment within 14 days prior to the onset of the sickness or to the accident causing disability and who would have continued in or resumed employment except for such disability.

Sec. 17. "Wages" has the meaning attributed to that term in chapter 612 of NRS.

Sec. 18. "Weekly benefit amount" means the amount payable under this chapter for a period of continuous disability throughout a calendar week. If the period of disability or the initial or terminal portion thereof is shorter than a calendar week, the benefit amount payable for that portion shall be the weekly benefit amount multiplied by a fraction having the number of workdays lost during the portion of the week for the numerator and the number of regular workdays of the employee during a calendar week for the denominator.

Sec. 19. 1. Any individual in current employment who suffers disability resulting from accident or sickness, except accident or disease compensable under the provisions of chapter 616 or 617 of NRS or any other applicable workmen's compensation law, is entitled to receive temporary disability benefits in the amount and manner provided in this chapter.

2. It is the policy of this chapter:

(a) That the computation and distribution of benefit payments shall correspond to the greatest extent feasible to the employee's wage loss due to his disability;

(b) That an employee shall not be entitled to temporary disability benefits for periods of disability during which he would not have earned wages from employment according to the schedule of operations of his employer; and

(c) That an employee is entitled to benefits only for periods of disability during which, but for the disability, he would have earned wages from employment.

Sec. 20. 1. An individual's weekly benefit amount for any benefit year shall be an amount equal to one twenty-fifth of his total wages for employment by employers during the quarter of his base period in which such total wages were highest, but not less than $16 per week, nor more than the maximum weekly benefit amount determined as follows: On or before the 1st day of July of each year, the total wages reported for the preceding calendar year by employers subject to the provisions of this chapter shall be divided by the average of the 12 mid-month totals of all workers in employment for employers as reported in such year. The average annual wage thus obtained shall be divided by 52 and the average weekly wage thus determined shall be rounded to the nearest cent. Fifty percent of such average weekly wage, rounded to the nearest higher multiple of $1, if not a multiple of $1, shall constitute the maximum weekly benefit amount.

2. Such maximum weekly benefit amount as determined on or before July 1 of each year shall be paid to individuals whose benefit year commences on or after July 1 of such year and prior to July 1 of the following year.

Sec. 21. No temporary disability benefits may be paid during the first 7 consecutive calendar days of any period of disability. Consecutive periods of disability resulting from the same or related cause and not separated by an interval of more than 2 weeks shall be considered as a single period of disability.

Sec. 22. Except under a plan qualifying pursuant to paragraph (d) or (e) of subsection 1 of section 28 of this act, temporary disability benefits are payable for any period of disability following the expiration of the waiting period required in section 21 of this act, and the duration of benefit payments shall not exceed 26 weeks for any period of disability or during any benefit year.

Sec. 23. An individual is eligible to receive temporary disability benefits under the provisions of this chapter if he has been in employment for at least 14 weeks during each of which he has received remuneration in any form for 20 or more hours and earned wages of $400 during the 4 completed calendar quarters immediately preceding the first day of disability.

Sec. 24. 1. An individual is ineligible to receive temporary disability benefits with respect to any period during which he is not under the care of a licensed physician, surgeon,

osteopath, dentist, chiropractor or licensed practitioner of traditional Chinese medicine or acupuncture, who shall certify the disability of the claimant, the probable duration thereof and such other medical facts within his knowledge as may be required.

2. This section does not apply to an individual who, pursuant to the teachings, faith or belief of any group, depends for healing upon prayer or other spiritual means. In that case the disability, the probable duration thereof, and any other pertinent facts required shall be certified by a duly authorized or accredited practitioner of such group.

3. The proof of disability duly certified by a person licensed to practice medicine, surgery, dentistry, chiropractic, osteopathy, traditional Chinese medicine or acupuncture, or an authorized or accredited practitioner of any group which depends for healing upon prayer or other spiritual means shall be submitted by such certifying person to the disabled employee within 7 working days after the date on which the employee was examined and found disabled. If the certifying person fails to submit the required proof within 7 working days, the executive director, upon notification by the insurer, may levy a penalty of $25 for each delinquent certification where the

certifying person fails to show good cause for his failure to file on time.

Sec. 25. An individual is not eligible to receive temporary disability benefits:

1. For any period of disability during a stoppage of work existing because of a labor dispute.

2. If the individual has knowingly made a false statement or representation of a fact or knowingly failed to disclose a material fact in order to obtain benefits under this chapter to which he is not otherwise entitled. The period of ineligibility shall not exceed the period of disability with respect to which the false statement or representation was made or the nondisclosure occurred.

3. For any period of disability due to willful, intentional and self-inflicted injury or to injury sustained in the commission of a criminal offense set forth in Nevada Revised Statutes.

4. For any day of disability during which the employee performed work for remuneration or profit.

Sec. 26. No temporary disability benefits may be paid for any period of disability for which the employee is entitled to receive:

1. Weekly benefits under chapter 612 of NRS or similar laws of any other state or of the United States, or under any temporary disability benefit law of any other state or of the United States.

2. Weekly disability insurance benefits under 42 U.S.C. § 423.

3. Weekly benefits for total disability under chapter 616 or 617 of NRS or similar laws of any other state or of the United States, except benefits for permanent partial or permanent total disability previously incurred. If the claimant does not receive benefits under such other law and his entitlement to such benefits is seriously disputed, the employee, if otherwise eligible, is entitled to receive temporary disability benefits under this chapter, but any insurer, employer or the special fund providing such benefits is subrogated to the employee's right to benefits under such other law for the period of disability for which he received benefits under this chapter and to the extent of the benefits so received.

4. Indemnity payments for wage loss under any applicable employers' liability law of this state or of any other state or of the United States. If an employee has received benefits under this chapter for a period of disability for which

he is entitled to such indemnity payments, any insurer or employer providing such benefits is subrogated to the employee's right to such indemnity payments in the amount of the benefits paid under this chapter.

Sec. 27. No assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this chapter is valid, and such rights to benefits are exempt from levy, execution, attachment, garnishment or any other remedy whatsoever provided for the collection of debt. No waiver of any exemption provided for in this section is valid.

Sec. 27.5. An employee whose employment is terminated while receiving temporary disability benefits shall continue to receive such benefits under the terms and conditions of this chapter as if such termination had not occurred.

Sec. 28. 1. An employer or an association of employers shall secure temporary disability benefits to their employees in one or more of the following ways:

(a) By obtaining and maintaining an insurance plan approved by the commissioner of insurance for the payment of temporary disability benefits with any insurer authorized to transact disability insurance in this state.

(b) By depositing and maintaining with the state treasurer securities or the bond of a surety company authorized to

transact business in this state, satisfactory to the executive director, securing the payment by the employer of temporary disability benefits directly to his employees as they may become entitled to receive such payments under the terms of this chapter.

(c) By furnishing satisfactory proof to the executive director of his or its solvency and financial ability to pay the temporary disability benefits provided in this chapter. If the executive director is satisfied as to such solvency and financial ability, no insurance, security or surety bond shall be required and the employer shall make payments directly to his employees as they may become entitled to receive such payments under the terms of this chapter.

(d) By a plan entitling employees to cash benefits or wages during a period of disability in existence on the effective date of this chapter. If the employees of an employer or any class or classes of such employees are entitled to receive disability benefits under a plan or agreement which remains in effect on January 1, 1978, the employer, subject to the requirements of this section, is relieved of responsibility for making provision for benefit payments required under this chapter until the earliest date determined by the executive

director for the purposes of this chapter, upon which the employer has the right to discontinue the plan or agreement or to discontinue his contributions toward the cost of the temporary disability benefits. Any such plan or agreement may be extended, with or without modification, by agreement or collective bargaining between an employer or employers or an association of employers and an association of employees, in which event the period for which the employer is relieved of such responsibility shall include the period of extension. A plan under which the employer may by his sole act terminate at any time, or with respect to which he is not obligated to continue for any period to make contributions, may be accepted by the executive director as satisfying the obligation to provide for the payment of benefits under this chapter if the plan or agreement provides benefits at least as favorable as the disability benefits required by this chapter and does not require contributions of any employee or of any class or classes of employees in excess of the amount authorized in section 30 of this act, except by agreement, and if the contribution is reasonably related to the value of the benefits as determined by the executive director. The executive director may require the employer to enter into an agreement in

writing with the executive director that until the employer has filed written notice with the executive director of his election to terminate such plan or agreement or to discontinue making necessary contributions toward the cost of providing benefits under the plan or agreement, he will continue to provide for the payment of the disability benefits under the plan or agreement. Any plan or agreement referred to in this paragraph may be extended, with or without modification, if the benefits under the plan or agreement as extended or modified are found by the executive director to be at least as favorable as the disability benefits required by this chapter.

(e) By a new plan or agreement. On or after January 1, 1978, a new plan or agreement with an insurer may be accepted by the executive director as satisfying the obligation to provide for the payment of benefits under this chapter if the plan or agreement provides benefits at least as favorable as the disability benefits required by this chapter and does not require contributions of any employee or of any class or classes of employees in excess of the amount authorized in section 30 of this act, except by agreement, and if the contribution is reasonably related to the value of the benefits as determined by the executive director. Any such plan or

agreement shall continue until written notice is filed with the executive director of intention to terminate the plan or agreement, and any modification of the plan or agreement shall be subject to the written approval of the executive director.

2. During any period in which any plan or agreement or extension or modification thereof authorized under paragraph (d) or (e) of subsection 1 provides for payments of benefits under this chapter, the responsibility of the employer and the obligations and benefits of the employees shall be as provided in the plan or agreement or its extension or modification rather than as required under this chapter.

3. If any plan or agreement authorized under paragraph (d) or (e) of subsection 1 covers less than all of the employees of a covered employer, the requirements of this chapter apply with respect to his remaining employees not covered under the plan or agreement.

4. As used in paragraphs (d) and (e) of subsection 1, "benefits at least as favorable as the disability benefits required by this chapter" means the temporary disability benefits under any plan or agreement whose component parts, including:

(a) Waiting period for illness or accident;

(b) Duration of benefits; and

(c) Percentage of wage loss replaced,

add in total to cash benefits or wages which are determined by the executive director to be at least as favorable as the disability benefits required by this chapter. The commissioner of insurance shall establish a set of tables showing the relative value of different types of cash benefits and wages to assist the executive director in determining whether the cash benefits and wages under a plan are at least as favorable as the temporary disability benefits required by this chapter.

5. Any decision of the executive director rendered pursuant to this section with respect to the amount of security required, refusing to permit security to be given or refusing to accept a plan or agreement as satisfying the obligation to provide for the payment of benefits under this chapter is subject to review on appeal in conformity with the provisions of this chapter.

6. In order to provide the coverage required by this chapter for employers otherwise unable to obtain or provide such coverage, the commissioner of insurance shall, after consultation with the insurers licensed to transact disability insurance

in this state, approve a reasonable plan or plans for the equitable apportionment among such insurers of employer applicants for such insurance who are in good faith entitled to, but are unable to procure, such insurance through ordinary methods. When such a plan has been approved, all such insurers shall subscribe thereto and participate therein; but the commissioner of insurance shall not, for insurance issued or in connection with any such plan or plans, require or allow the use of premium rates which are either inadequate or excessive in relation to the benefits to be provided. Any employer applying for such insurance or any insured under such plan and any insurer affected may appeal to the commissioner of insurance from any ruling or decision of the manager or committee designated to operate such plan. All orders of the commissioner of insurance in connection with any such plan are subject to judicial review as provided in chapter 679B of NRS.

7. All insurers shall, in a form prescribed by the executive director, notify employer applicants who are unable to procure the required insurance through ordinary methods of the availability of the plan described in subsection 6.

Sec. 29. If payment of disability benefits is provided for in whole or in part by insurance pursuant to paragraph

(a), (d) or (e) of subsection 1 of section 28 of this act, the employer shall forthwith file with the executive director, in form prescribed by the executive director, a notice of his insurance together with a statement of benefits provided by the policy. If an employer or insurer fails to file the notice of insurance within 30 days after purchase of insurance, the director may levy a penalty of not more than $25 for each delinquent notice, unless good cause for failure to file can be shown by the employer or insurer.

Sec. 30. 1. An employer may deduct and withhold contributions from each employee of not more than 50 percent of the cost of providing temporary disability benefits under this chapter, including the administrative costs of the employer incurred in providing benefits pursuant to paragraph (b) or (c) of subsection 1 of section 28 of this act. The employer shall provide for the balance of the cost of providing temporary disability benefits under this chapter. Unless a different rule is prescribed by the executive director, the withholding period shall be equal to the pay period of the respective employee.

2. An employee shall not be required to contribute any portion of the assessment against his employer required pursuant to section 39.6 of this act.

3. The contributions of the employees deducted and withheld from their wages by their employer shall be held in a separate fund or be paid to insurance carriers as premiums for the purpose of providing the benefits required by this chapter.

4. The executive director may prescribe by regulation the reports and information necessary to determine the cost of providing temporary disability benefits under this chapter, especially in the case of self-insurance, and determine the procedures for the determination of such cost.

5. The executive director shall adopt regulations providing that an employee with multiple employers shall not be required to make contributions for temporary disability insurance benefits which he would not receive pursuant to the terms of this chapter.

Sec. 31. Benefits provided under this chapter shall be paid periodically and promptly and, except as to a contested period of disability, without any decision by the executive director. The first payment of benefits shall be paid to the employee within 14 days after the filing of required proof of claim. Thereafter, benefits are due and payable every 2 weeks. The executive director may determine that benefits may be paid monthly or semimonthly if wages were so paid, and may

authorize deviation from the requirements of this section to facilitate prompt payment of benefits. If an employer or insurer fails to make the first payment of benefits within 14 days after the filing of required proof of claim, the director shall, unless good cause can be shown, require the employer or insurer to pay such benefits plus an additional 10 percent of the benefits due and payable to the employee.

Sec. 31.5. No employer or insurer shall deny disability benefits to an employee without first submitting a copy of the notice of denial to the department. The department shall review the denial within 10 days of the receipt of the notice. If the department finds the denial erroneous, without proper legal basis or without sufficient evidence to support it, the department shall request the employer or insurer to reconsider its action in denying disability benefits. If upon reconsideration the employer or insurer again decides to deny disability benefits, the employee and the department shall be so notified. The employee shall have the right to appeal the denial of disability benefits.

Sec. 32. 1. If an individual has received temporary disability benefits under this chapter during a period of disability for which benefits under chapter 612, 616 or 617 of NRS or under the workmen's compensation law of any other state

or of the United States are subsequently awarded or accepted in any agreement or compromise, the employer, the association of employers or the insurer providing such temporary disability benefits is subrogated to the individual's right to such benefits in the amount of the benefits paid under this chapter.

2. To protect its subrogation rights to benefits payable under chapter 616 or 617 of NRS, the employer, the association of employers or the insurer providing temporary disability benefits shall file a claim with the Nevada industrial commission, and thereupon the employer, the association of employers or the insurer providing temporary disability benefits has a lien against the amounts payable as benefits for disability under chapter 616 or 617 of NRS in the amount of the benefits paid under this chapter during the period for which benefits for disability under chapter 616 or 617 of NRS have been accepted or awarded as payable. The agreement or award shall include a provision setting forth the existence and amount of such lien.

3. If an individual has received benefits under this chapter during a period of disability for which he is entitled to receive indemnity payments for wage loss under any applicable

employers' liability law of this state or of any other state or of the United States, the employer, the association of employers or the insurer providing temporary disability benefits is subrogated to the individual's right to such indemnity in the amount of the benefits paid under this chapter and may assert its subrogation rights in any manner appropriate under such acts or any rule of law.

Sec. 33. 1. If any individual who has received benefits under this chapter is entitled to recover damages from a third person who is responsible for the illness or accident causing the disability, the employer, the association of employers or the insurer providing disability benefits is subrogated to, and has a lien upon, the rights of the individual against the third party to the extent that the damages include wage loss during the period of disability for which temporary disability benefits were received and in the amount of such benefits.

2. If the individual commences an action against such third party, the individual shall notify his employer of the action and the court in which it is pending. The employer, the association of employers or the insurer providing disability benefits may join as party plaintiff or claim a lien on the amount of any judgment recovered by the individual in

such action to the extent of its subrogation rights. If the individual does not commence the action within 9 months after the beginning of the illness or the date of the accident causing the disability, the employer, the association of employers or the insurer providing temporary disability benefits may commence such action, but the individual may join the action and if he so joins is entitled to any surplus over the amount to which the employers, the association of employers or the insurer is subrogated.

Sec. 34. 1. If an employer fails to comply with section 28 of this act he is liable to a penalty of not less than $25, or of $1 for each employee, for every day during which such failure continues, whichever sum is greater, to be recovered in an action brought by the executive director in the name of the state. Any amount collected shall be paid into the disability benefits fund created by section 39 of this act. The executive director may, in his discretion and for good cause, remit all or any part of the penalty in excess of $25 or in excess of the amount of any benefits due and payable as the result of the failure to comply with section 28 of this act, whichever sum is greater, if the employer in default forthwith complies with section 28 of this act. The attorney general or any district attorney or attorney

employed by the department shall prosecute such action if so requested by the executive director.

2. If any employer is in default under section 28 of this act for a period of 30 days, he may be enjoined by the district court of the county in which his principal place of business is located from carrying on his business at any place in the state so long as the default continues. Such action for injunction shall be prosecuted by the attorney general or any district attorney or attorney employed by the department if so requested by the executive director.

Sec. 35. 1. Every policy of insurance issued by an insurer of an employer pursuant to this chapter which covers the liability of the employer for temporary disability benefits shall cover the entire liability of the employer to his employees imposed by the provisions of this chapter, and shall contain a provision setting forth the right of the employees to enforce in their own names, either by filing a separate claim with the insurer or by making the insurer a party to the original claim, the liability of the insurer for the payment of the disability benefits. Payment in whole or in part of disability benefits by either the employer or the insurer is, to the extent thereof, a bar to recovery by an employee against the other of the amount so paid.

2. All insurance policies shall be approved by the commissioner of insurance.

Sec. 36. No policy of insurance against liability arising under this chapter may be canceled until at least 10 days after notice of intention to cancel such policy, on a date specified in the notice, has been filed with and served on the executive director and the employer. If the employer is canceling the policy of insurance, he shall serve such notice on the insurer and the executive director.

Sec. 37. If any dividend is paid or any premium refunded under any policy of insurance against liability arising under this chapter, the excess, if any, of the aggregate dividends or premium refunds under such policy over the aggregate expenditures for insurance under such policy made from funds contributed by an employer or by an association of employers, including expenditures made in connection with the administration of such policy, shall be applied for the benefit of the employees of the employer or the employers in the association of employers. For the purpose of this section and at the option of the policyholder, "policy" may include all group life and health insurance policies of the policyholder.

Sec. 38. 1. An employer not otherwise subject to this chapter, including any agency of the State of Nevada and any

political subdivision of the state, may file with the executive director a written notice that a majority of the individuals in his employ have elected coverage under this chapter.

2. With the written approval of such election by the executive director, such employer shall become an employer subject to this chapter to the same extent as all other employers, as of the date stated in such approval, for a period of not less than 2 calendar years, and shall cease to be subject to this chapter as of January 1 of any calendar year subsequent to such 2 calendar years only if at least 30 days prior to such January 1 it has filed with the executive director a written notice of termination of coverage.

3. Individuals in the employ of any employing unit which files an election of coverage shall be given a reasonable opportunity to file objections thereto or be heard thereon prior to the executive director's approval of such election.

4. Every employing unit which files an election of coverage or a notice of termination of coverage shall post and maintain printed notices of such election or termination on his premises, of such design, in such numbers and at such places as the executive director may determine to be necessary in order to give timely notice thereof to persons in his service.

5. The executive director may terminate the approval of the election of any such employer at any time upon 30 days' written notice. Political subdivisions that have elected coverage for employees of hospitals and institutions of higher education may not have such election terminated by the executive director. Any such political subdivision may terminate coverage in the manner provided in subsection 2 of this section.

Sec. 39. 1. There is hereby created in the state treasury a special fund to be known as the disability benefits fund consisting of any moneys appropriated from the general fund for the purposes of this section, any fines and penalties imposed pursuant to this chapter, together with any interest earned thereon and any assessments made by the executive director pursuant to section 39.6 of this act.

2. The state treasurer shall be the custodian of the fund, shall administer such fund in accordance with the directions of the executive director and issue his warrant upon it in accordance with such regulations as the executive director prescribes.

3. All moneys payable to the fund, upon receipt thereof by the executive director, shall be forwarded to the state

treasurer who shall immediately deposit them in any bank or public depository in which general funds of the state may be deposited. Moneys in this fund shall not be commingled with other state funds but shall be maintained in a separate account on the books of the depository.

4. All warrants issued by the state treasurer for disbursements from the fund shall bear the signature of the state treasurer and the countersignature of the executive director, or his duly authorized agent for that purpose. Expenditures of moneys in the fund are not subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody.

5. Temporary disability benefits shall be paid from the disability benefits fund to an employee who is entitled to receive temporary disability benefits but cannot receive such benefits because of the bankruptcy of his employer or because his employer is not in compliance with this chapter. The executive director may require an individual claiming benefits under this section to file proof of disability and other proof reasonably necessary for the executive director to make a determination of eligibility and benefit rights under this section. The executive director may establish reasonable

procedures for determining prorated benefits payable with respect to disability periods of less than 1 week.

6. Any individual claiming benefits under this section whose claim is rejected in whole or in part by the executive director is entitled to review and has all the rights with respect to disputed claims provided in this chapter. In any appeal or civil action under this section, the executive director may be represented by any qualified attorney employed by the executive director and designated by him for this purpose, or by the attorney general at the executive director's request.

Sec. 39.5. An employer to whom the department has sent a request for wage and employment information for an employee claiming benefits against the special fund for disability benefits shall complete and file such information within 7 days from the date the request was sent. If an employer fails to file such information in 7 days, the executive director shall levy a penalty of not more than $25 for each delinquent request. The executive director may waive the penalty after a showing by such employer that such filing could not be made on the prescribed date therefor owing to conditions over which he had no control.

Sec. 39.6. 1. Each employer shall, from July 1, 1977, to December 31, 1977, contribute on a monthly basis to the establishment of the special fund provided for in section 39 of this act, at the rate of 0.2 percent of the wages paid his employees. In determining his contribution an employer shall not utilize that portion of an employee's weekly wage which exceeds the average weekly wage as determined in section 20 of this act. The employer shall pay such contributions to the executive director for a given month on or before the 30th day of the next succeeding month.

2. When the balance of the special fund falls below $500,000 as of December 31 of any year after 1977, a levy shall be assessed and collected in the next calendar year from employers.

3. Each year the director shall determine the amount, if any, of the levy to be paid by each employer pursuant to subsection 2, and shall give notice of the levy on or before May 1 of the year in which the levy is assessed. The amount of the levy shall be paid on or before June 30 following notification.

4. The amount of the levy against each employer pursuant to subsection 2, shall be determined as the product of the

wages paid by the employer multiplied by a factor which is the ratio of the amount by which the balance in the special fund was less than $500,000 on the preceding December 31 to total wages paid by all employers.

Sec. 39.7. If an employer fails to pay the assessment required by section 39.6 of this act within 30 days after the end of the month for which payment is due, the executive director shall levy a penalty of at least $25 but not more than 10 percent of the assessment due against such employer. The executive director may, in his discretion and for good cause, remit all or any part of the penalty in excess of $25 if the employer promptly complies with the provisions of section 39.6 of this act.

Sec. 40. 1. Appeals involving a dispute over the amount of benefits or the denial of benefits shall be heard by an impartial referee who is employed by the department and appointed as a referee by the board of review.

2. Except as provided in subsection 1, appeals from any decision, ruling or regulation of the executive director shall be heard by the board of review.

Sec. 41. 1. There is hereby created a board of review consisting of three members appointed by the governor. The first appointments shall be for terms of 2, 3 and 4 years

respectively, and thereafter each appointment shall be for a term of 4 years. One member shall be representative of labor, one member shall be representative of employers and one member shall be representative of the public.

2. Vacancies shall be filled by appointments by the governor for the unexpired terms.

3. The governor may, at any time after notice and hearing, remove any member of the board of review for cause.

4. Each member shall be paid at the rate of $25 per day of active service, and shall receive traveling expenses and subsistence allowances in the amounts specified in NRS 281.160.

5. The executive director shall provide the board of review and the referees with proper facilities and assistants for the execution of their functions.

Sec. 42. 1. Any claimant disputing the amount of benefits or the denial of benefits may file an appeal in the form and manner prescribed by the board of review. Such appeal must be filed within 10 days of the date of payment or denial unless such 10-day period is extended for good cause shown.

2. Any person affected by any decision, ruling or regulation of the executive director may file an appeal in the form and manner prescribed by the board of review. Except as provided in subsection 1, such appeal must be filed within 20

days of the date of the decision, ruling or regulation unless such 20-day period is extended for good cause shown.

3. An appeal pursuant to this section or section 44 of this act shall be deemed to be filed on the date it is delivered to the department, or if it is mailed, on the postmarked date appearing on the envelope in which it was mailed, if postage is prepaid and the envelope is properly addressed to one of the offices of the department.

4. Any employer, insurer or employee whose rights may be adversely affected may be permitted by the referee or the board of review, as the case may be, to intervene in the appeal.

5. Withdrawal of the appeal may be permitted by the referee or board of review at the appellant's request if there is no coercion or fraud involved in the withdrawal.

Sec. 43. 1. A reasonable opportunity for a fair hearing shall be promptly afforded all parties.

2. The referee or board of review shall inquire into and develop all facts bearing on the issues and shall receive and consider evidence without regard to statutory and common law rules. In addition to the specific issues raised, the tribunal may consider all issues affecting a claimant's rights to benefits.

3. All records that are material to the issues shall be included in the record and considered as evidence.

4. A record shall be kept of all testimony and proceedings in an appeal, but testimony need not be transcribed unless further review is initiated.

5. After a hearing the tribunal shall make its findings promptly, and on the basis thereof affirm, modify or reverse the determination being appealed. Each party shall be promptly furnished with a copy of the decision.

6. Except for reconsideration pursuant to section 53 of this act, this decision shall become final 10 days after the decision has been mailed to each party's last-known address or otherwise actually delivered to such parties. Such 10-day period may be extended for good cause shown, and the hearing tribunal, within the time for taking an appeal and before further review is sought, on motion of any party or the executive director or on its own motion, may reopen the matter and thereupon may take further evidence and may affirm, modify or reverse its original decision. If the matter has been so reopened, the hearing tribunal shall render a further decision, and the time to initiate further review shall run from the date of mailing or delivery of such further decision.

Sec. 44. 1. Any party may appeal from a referee's decision to the board of review as a matter of right. Such appeal shall be in the form and manner prescribed by the board of review, and shall be filed within 10 days after the referee's decision has become final.

2. The board of review on its own motion may initiate a review of a referee's decision within 20 days after the date of mailing the decision.

3. The board of review may affirm, modify or reverse the findings or conclusions of the referee solely on the basis of the evidence previously submitted or upon the basis of such additional evidence as it may direct to be taken.

4. Each party, including the executive director, shall be promptly furnished a copy of the decision and the supporting findings of the board of review. The decision shall become final 10 days after the date of mailing or notification thereof.

Sec. 45. 1. Within 10 days after the decision of the board of review has become final, any party aggrieved thereby may secure judicial review thereof by commencing an action in the district court of the county wherein the appealed claim or claims were filed for a review of such decisions, in which action any other party to the proceedings before the board of review shall be made a defendant.

2. In such action, a petition which need not be verified, but which shall state the grounds upon which a review is sought, shall be served upon all parties and the board of review.

3. The board of review shall within 20 days certify and file with the court originals or true copies of all documents and papers and a transcript of all testimony taken in the matter, together with the board of review's findings of fact and decision therein. The board of review may also in its discretion certify questions of law involved in any decision.

4. In any judicial proceedings under this section, the finding of the board of review as to the facts, if supported by the evidence and in the absence of fraud, is conclusive and the jurisdiction of the court is confined to questions of law.

5. Such actions, and the questions so certified, shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under chapter 616 of NRS.

6. An appeal may be taken from the decision of the district court to the supreme court of Nevada in the same manner, but not inconsistent with the provisions of this chapter, as is provided in civil cases.

7. It is not necessary in any judicial proceeding under this section to enter exceptions to the rulings of the board of review, and no bond is required for entering such appeal.

8. Upon the final determination of such judicial proceeding, the board of review shall enter an order in accordance with such determination.

9. A petition for judicial review shall not act as a supersedeas or stay unless the board of review or the court so orders.

Sec. 46. 1. The board of review, for cause, may remove or transfer to another referee or to itself any appeal pending before a referee.

2. The parties to any appeal so removed or transferred by the board of review shall be given a full and fair hearing on the original appeal.

Sec. 47. In the board of review's discretion and upon its order, when the same or substantially similar evidence is material to the matter in issue with respect to more than one individual, the same time and place for considering all such appeals may be fixed, hearings thereon jointly conducted, a single record of the proceedings made, and evidence introduced with respect to one proceeding considered as introduced in the others if no party is prejudiced thereby.

Sec. 48. No person may participate as a referee or on the board of review in any case in which he is an interested party. The chairman of the board of review may designate an alternate to serve in the absence or disqualification of any member thereof. The chairman shall act alone in the absence or disqualification of the other members and their alternates.

Sec. 49. The board of review may be represented in a judicial action to which it is a party by:

1. Any qualified attorney employed by the board of review, the Nevada industrial commission, the employment security department or the insurance division of the department of commerce and designated by the board for this purpose; or

2. The attorney general, at the board's request.

Sec. 50. If an issue on appeal involves a determination as to whether the disability resulted from occupational or nonoccupational causes, thereby being compensable either under chapter 616 or 617 of NRS or under this chapter, a copy of the final decision on this issue shall be filed with the Nevada industrial commission and made a part of the record of any proceedings involving a claim for the same disability under chapter 616 or 617 of NRS.

Sec. 51. Benefits shall be paid promptly and in accordance with any decision. If an application for reconsideration is

duly made or if a petition for judicial review is duly filed, benefits with respect to weeks of disability not in dispute and benefits payable in any amount not in dispute shall be paid promptly regardless of any reconsideration or appeal.

Sec. 52. 1. Any person who has received any amount as benefits under this chapter to which he was not entitled is liable for such amount unless the overpayment was received without fault on the part of the recipient and its recovery would be against equity and good conscience.

2. The person liable shall, in the discretion of the board of review, either repay such amount or have the amount deducted from any future benefits payable under this chapter. Repayment may only be required if such action is taken within 2 years after the date of mailing of the notice of reconsideration or the final decision on an appeal from such reconsideration.

Sec. 53. 1. At any time within 1 year from the date of a final decision with respect to wages upon which benefits are computed, the board of review may reopen the decision if it finds that wages of the claimant pertinent to the decision but not considered in connection therewith have been newly discovered or that benefits have been allowed or denied or

the amount of benefits have been fixed on the basis of nondisclosure or misrepresentation of a material fact, and make a redetermination denying all or part of any benefits previously allowed or allowing all or part of any benefits previously denied.

2. At any time within 1 year from the end of any week with respect to which a final decision allowing or denying benefits has been made, the board of review may reopen any such decision on the grounds of error, mistake or additional information and make a redetermination denying all or part of any benefits previously allowed or allowing all or part of any benefits previously denied.

3. At any time within 2 years from the end of any week with respect to which a final decision allowing or denying benefits has been made, the board of review may reopen any such decision on the grounds of nondisclosure or misrepresentation of a material fact and make a redetermination denying all or part of any benefits previously allowed or allowing all or part of any benefits previously denied.

4. Notice of any redetermination under this section shall be promptly furnished to the claimant and any other person entitled to receive the original decision. In the event that repayment of any overpayment may be ordered as a result

of such redetermination, the notice shall state the person who may be liable to make repayment, the amount and basis of any overpayment and the week or weeks for which such benefits were paid.

5. In any redetermination under this section in which the final decision was issued by a court, the board of review shall petition the court to issue a revised decision.

Sec. 54. In case of a dispute between the employee and the employer relating to the withholding of wages, either party may file with the board of review a petition for determination of the amount to be withheld. The decision of the board is final.

Sec. 55. The board of review may, after notice and hearing in accordance with chapter 233B of NRS, adopt, amend, revise and repeal such rules and regulations as it deems necessary or suitable to govern the manner of filing appeals and the conduct of hearings and appeals consistent with the provisions of this chapter.

Sec. 56. Any person who shall willfully violate any provision of this chapter or any order, rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for

which a penalty is neither prescribed herein nor provided by any other applicable statute, is guilty of a misdemeanor.

Sec. 57. Except as to matters under the jurisdiction and supervision of the commissioner of insurance, and except as to matters within the purview of the board of review, the executive director shall enforce the provisions of this chapter. The executive director may appoint such assistants and such clerical, stenographic and other help as may be necessary for the proper enforcement of this chapter, if consistent with the provisions of chapter 282 of NRS, and if within the limits of legislative appropriations. The executive director shall, after notice and hearing in accordance with chapter 233B of NRS, adopt, amend, revise and repeal such rules and regulations as he deems necessary or suitable for the proper enforcement of this chapter.

Sec. 58. If this act is approved by the voters and subsequently becomes effective, it may be amended or repealed by the people by initiative petition or by an act of the legislature performed at regular or special session. This act was not presented to the voters pursuant to the referendum provisions of article XIX of the constitution of the State of Nevada or chapter 295 of NRS.

Sec. 59. NRS 612.215 is hereby amended to read as follows:

612.215 1. The employment security department shall be administered by a full-time salaried executive director, who shall be appointed by the governor and whose term of office shall be at the pleasure of the governor.

2. The executive director of the employment security department shall receive an annual salary in an amount determined pursuant to the provisions of NRS 284.182.

3. The executive director shall have full administrative authority with respect to the operation and functions of the unemployment compensation service , [and] the state employment service [.] and the temporary disability insurance program provided by sections 2 to 58, inclusive, of this act.

4. The executive director shall devote his entire time and attention to the business of his office and shall not pursue any other business or occupation or hold any other office of profit.

Sec. 60. NRS 612.220 is hereby amended to read as follows:

612.220 1. The executive director shall administer this chapter [as the same now exists or may hereafter be amended.] and sections 2 to 58, inclusive, of this act.

2. He shall have power and authority to adopt, amend or rescind such rules and regulations, to employ, in accordance

with the provisions of this chapter [,] and sections 2 to 58, inclusive, of this act, such persons, make such expenditures, require such reports, make such investigations, and take such other action as he deems necessary or suitable to that end. Such rules and regulations shall be effective upon publication in the manner, not inconsistent with the provisions of this chapter [,] and sections 2 to 58, inclusive, of this act, which the executive director shall prescribe.

3. The executive director shall determine his own organization and methods of procedure in accordance with the provisions of this chapter [.] and sections 2 to 58, inclusive, of this act.

Sec. 61. NRS 612.230 is hereby amended to read as follows:

612.230 1. For the purpose of insuring the impartial selection of personnel on the basis of merit, the executive director shall fill all positions in the employment security department, except the post of executive director, from registers prepared by the personnel division of the department of administration, in conformity with such rules, regulations and classification and compensation plans relating to the selection of personnel as may from time to time be adopted or prescribed by the executive director for the employment security department.

2. Subject to the provisions of chapter 284 of NRS, the executive director shall select all personnel either from the first five candidates on the eligible lists as provided in this chapter, or from the highest rating candidate within a radius of 60 miles of the place in which the duties of the position will be performed. The executive director is authorized to fix the compensation and prescribe the duties and powers of such personnel, including such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of the duties under this chapter [,] and sections 2 to 58, inclusive, of this act, and may delegate to any such person such power and authority as he deems reasonable and proper for its effective administration.

3. The executive director may, in his discretion, bond any person handling moneys or signing checks.

4. The executive director shall classify positions under this chapter and sections 2 to 58, inclusive, of this act, and shall establish salary schedules and minimum personnel standards for the positions so classified. He shall devise and establish fair and reasonable regulations governing promotions, demotions and terminations for cause in accordance with such established personnel practices as will tend to promote the morale and welfare of the organization.

5. Notwithstanding the provisions of NRS 284.343, the executive director may grant educational leave stipends to officers and employees of the employment security department if all of the costs of such educational leave stipends may be paid from federal funds.

Sec. 62. NRS 612.235 is hereby amended to read as follows:

612.235 1. Not later than December 1, 1956, and December 1 of every second year thereafter, the executive director shall submit to the governor a report covering the administration and operation of this chapter and sections 2 to 58, inclusive, of this act, during the preceding biennium and shall make such recommendations for amendment to this chapter and sections 2 to 58, inclusive, of this act, as he deems proper.

2. Such reports shall include a balance sheet of the moneys in the fund [,] provided by this chapter, in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserves shall be set up by the executive director in accordance with accepted actuarial principles on the basis of statistics or employment business activity and other relevant factors for the longest possible period. Such reports shall also include a balance sheet of the moneys in the special fund provided by section 39 of this act.

Sec. 63. 1. There is hereby appropriated from the general fund in the state treasury to the employment security department the sum of $500,000 for the purpose of implementing the temporary disability insurance program.

2. Any of the moneys appropriated by subsection 1 which are not used for the implementation of the temporary disability insurance program provided by sections 2 to 58, inclusive, of this act, shall revert to the general fund.

Sec. 64. 1. This act shall be presented to the people of the State of Nevada for their approval at the general election to be held in November 1976, and shall only become effective if approved by a majority of the voters voting on this proposal at such election.

2. If this act does receive the approval of the voters, as provided in subsection 1, then this act shall become effective:

(a) For purposes of developing the administrative structure and procedures for the implementation of the temporary disability insurance program, including the appropriation of funds as provided in section 63 of this act, on December 1, 1976.

(b) For assessing employers for the establishment and maintenance of the special fund, as provided in section 39.6 of this act, on July 1, 1977.

(c) For all other purposes, on January 1, 1978.