

Legislative History for Connecticut Act

HB6385	PA 176	1985
House	1837-1861	(25)
Senate	1924-1937, 1945-1946	(16)
Labor	493-494, 536-540	(7)

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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS

1985

VOL. 28

PART 6

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House of Representatives

Tuesday, March 26, 1985

none, will staff and guests please come to the well of the House. An immediate roll call will be ordered. The Clerk will please announce the roll.

CLERK:

The House of Representatives is now voting by roll. All members please return to the Chamber immediately. The House of Representatives is voting by roll. All members please return to the Chamber immediately.

DEPUTY SPEAKER BELDEN:

Have all the members voted and is your vote properly recorded? Staff and guests please stay in the well of the House.

The Clerk please announce the tally.

CLERK:

House Bill No. 6334 as amended by House "A".

Total number voting	146
Necessary for passage	74
Those voting yea	145
Those voting nay	1
Those absent and not voting	5

DEPUTY SPEAKER BELDEN:

House Bill 6334 as amended by House "A" is passed.

CLERK:

Calendar No. 120, Substitute House Bill No. 6385,

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File No. 132, AN ACT CONCERNING THE BASIS FOR DENIAL OF UNEMPLOYMENT COMPENSATION BENEFITS. Favorable Report of the Committee on Labor and Public Employees.

REP. O'NEILL: (98th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. O'Neill of the 98th

REP. O'NEILL: (98th)

I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER BELDEN:

The motion is for acceptance of the Joint Committee's Favorable Report and passage of the bill.

Will you remark, sir?

REP. O'NEILL: (98th)

Yes, sir. This is an act concerning the basis for denial of unemployment compensation. The bill would prohibit the Connecticut Labor Department from using departmental policy letters to determine the eligibility for unemployment benefits, of any claimant who files a claim on or after July 1, of 1986.

Any such determination would have to be based solely on statutory language and regulations. The

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department now issues policy letters advising unemployment officers of how particular circumstances effect eligibility for unemployment benefits, and suggesting specific lines of inquiry that should be pursued when making the eligibility decisions.

Under the bill, unless a statute directly addresses an issue as a policy letter does, the department would have to either adopt regulations on matters they now address with policy letters or make eligibility determinations without some or all of the information contained in the letters.

Mr. Speaker, for some particular period of time there have been no real direct regulations concerning exactly what the criteria would be for determining eligibility. There have been policy letters. Policy letters are not subject to freedom of information. This would make it unified on a statewide basis.

Now I also know that under a recent court decision the department is mandated to make public policy letters, and put in the type of an index system. I believe that a law would be much more firmer. I believe that this particular bill would make it a matter of law as of July 1, of 1986, the regulations would be in in fact, in place.

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DEPUTY SPEAKER BELDEN:

Thank you, sir.

REP. ADAMO: (116th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Adamo of the 116th.

REP. ADAMO: (116th)

Thank you, Mr. Speaker. Sir, ladies and gentlemen, with regard to the bill, with the greatest respect to my Chairman, Mr. Speaker, I question the need, especially with the appointment of the FOI, the freedom of information.

There was recently a case, Thompson versus Perrara, whereas the settlement of that case was in fact, that we print the policy letters and make them available to all of the unemployment officers. However, if that's insufficient and there's a need for regulations, I still find the file copy to be absent of a mandate for regulations, and on that line, I would ask the Clerk to please call LCO 5709, and read, please.

DEPUTY SPEAKER BELDEN:

Will the Clerk please call and read LCO 5709, which will be designated House "A".

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CLERK:

present House Amendment Schedule "A", LCO No. 5709,

offered by Rep. Adamo, et al.

present In line 1, strike out "section 1." and before the word "For" insert "(a)"

present Strike out lines 9 and 10 in their entirety and in lieu thereof insert a new subsection (b) as follows:

DEP. ADAMO: "(b) On or before July 1, 1986, the labor commissioner shall adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, which establish all necessary criteria for the determination of a claimant's eligibility for unemployment compensation benefits."

REP. ADAMO: (116th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Adamo.

REP. ADAMO: (116th)

I move adoption of the amendment.

DEPUTY SPEAKER BELDEN:

The motion is for adoption. Would you remark, sir?

REP. ADAMO: (116th)

Just briefly, Mr. Speaker. Our greatest concern

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was that in the interim period knowing our regulation process and how long it might take, there could possibly be a void, a void where the policy letters were not in place, and where regulations were not in place. This amendment simply mandates the formulation of those regulations simultaneous with the doing away of the policy letters. I would move its adoption.

DEPUTY SPEAKER BELDEN:

Thank you, sir. Is there any other debate on House "A"?

REP. O'NEILL: (98th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. O'Neill.

REP. O'NEILL: (98th)

Mr. Speaker, I think that's a very nice little amendment, however it's not needed. The commissioner according to the statutes 31-250 already has the authority to adopt regulations, and practically speaking he must adopt these regulations once this particular bill is passed, so there's no need for the amendment that Rep. Adamo was requesting.

REP. ADAMO: (116th)

Mr. Speaker.

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DEPUTY SPEAKER BELDEN:

Rep. Adamo.

REP. ADAMO: (116th)

Clearly the commissioner has the right and the obligation to formulate the regulations, however, the bill doesn't mandate it, and we could wind up with a situation that on July, or June 30, 1986, he hasn't done so, but the bill does away with the policy letters. Then what guidelines would we have? Would each and every office just helter skelter rule in its own way? This simply puts in place a mandate to formulate those regulations in a timely fashion, along with the bill in doing away with the policy letters. I see no harm to it. I just think it makes a good bill better.

REP. O'NEILL: (98th)

Through you, Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. O'Neill.

REP. O'NEILL: (98th)

Suppose on July 1, 1986 he does not make regulations, then what?

DEPUTY SPEAKER BELDEN:

Is that a question, sir?

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REP. O'NEILL: (98th)

A question to the proposer of the amendment.

DEPUTY SPEAKER BELDEN:

Rep. Adamo, would you care to respond?

REP. ADAMO: (116th)

Could you repeat that please. I'm sorry, sir.

DEPUTY SPEAKER BELDEN:

Rep. O'Neill, would you please repeat your question.

REP. O'NEILL: (98th)

Yes. Suppose that on July 1, 1986 the Labor Commissioner does not adopt regulations, then what would occur?

DEPUTY SPEAKER BELDEN:

Rep. Adamo, would you care to respond?

REP. ADAMO: (116th)

I believe that we would be still under the jurisdiction and the coverage of the policy letters until such time as those regulations were in fact adopted.

REP. O'NEILL: (98th)

Then, through you, sir, how is that any different than what we proposed in the bill?

DEPUTY SPEAKER BELDEN:

Rep. Adamo, would you care to respond?

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REP. ADAMO: (116th)

I see a difference in the fact that the bill does not mandate the adoption of regulations. I just think it's a cleaner bill with the adoption being mandated. The bill clearly is ambiguous at this point, and doesn't really mandate the adoption of regulations. I think we have to cover that aspect of it.

DEPUTY SPEAKER BELDEN:

Rep. O'Neill, you have the floor, sir.

REP. O'NEILL: (98th)

I find that this bill, to my way of thinking and to the way of thinking of the attorneys that drafted the bill, made it specific. It's not ambiguous in any way. However, being in a very benevolent mood today, if Rep. Adamo wishes to have this, I'm not going to fight it.

REP. EMMONS: (101st)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Emmons of the 101st.

REP. EMMONS: (101st)

Mr. Speaker, through you a question to the proponent of the amendment.

DEPUTY SPEAKER BELDEN:

Please frame your question.

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REP. EMMONS: (101st)

Rep. Adamo, in one of the questions that you were responding to, I wanted to clarify if what I heard was correct. If before July 1, 1986, or by July 1, 1986 the commissioner does not adopt regulations to establish the criteria, was your response, then we would continue to be guided by the policy letters for all decisions after July 1, 1986?

DEPUTY SPEAKER BELDEN:

Rep. Adamo, would you care to respond?

REP. ADAMO: (116th)

Yes, Mr. Speaker. Through you, yes, I believe that's exactly where we would be. We would have to use that as a guidance.

DEPUTY SPEAKER BELDEN:

Rep. Emmons, you have the floor.

REP. EMMONS: (101st)

Mr. Speaker, it seems to me that we were adopting this bill, originally, to force the Commissioner of Labor to adopt regulations and not use policy letters. Now, if we adopt this amendment what we're then saying, if he doesn't adopt regulations before July 1, '86, he may continue to use his policy letters.

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So I don't see what we're accomplishing at all, because the man hasn't wanted to adopt regulations since he's been in office, so in essence we're going to do nothing, once we adopt this amendment, because if he does nothing, the status quo continues on.

DEPUTY SPEAKER BELDEN:

Rep. Emmons, is that a question?

REP. EMMONS: (101st)

Yes, Mr. Speaker, I think it was a question, as to whether in fact when July 1, 1986 occurs, and the commissioner has not adopted regulations, do we continue to guide unemployment compensation by policy letters, according to his interpretation of his amendment?

DEPUTY SPEAKER BELDEN:

Rep. Adamo, would you care to respond?

REP. ADAMO: (116th)

Mr. Speaker, on examination of the file, my reading would be, that in the event that regulations were not formulated, the policy letters would in fact be gone. There would be no guidance. That's our fear. This simply puts in place a mandate to make sure that the commissioner, in fact formulates the regulations and formulates them in a timely fashion.

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DEPUTY SPEAKER BELDEN:

Rep. Emmons, you have the floor, ma'am.

REP. EMMONS: (101st)

Thank you, Mr. Speaker. I think his correction of his previous response asserting that the policies would not be in effect as of July 1, 1986, answers my problems.

DEPUTY SPEAKER BELDEN:

Is there any other discussion on House "A"?

REP. JAEKLE: (122nd)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Jaekle.

REP. JAEKLE: (122nd)

Mr. Speaker, actually I've read the file and the amendment, and I think the amendment makes some sense, but I would like to pursue the line of questioning to the proponent of the amendment, please, and I have a question, through you.

DEPUTY SPEAKER BELDEN:

Please frame your question, sir.

REP. JAEKLE: (122nd)

I would like it clear, what happens if the Labor Commissioner, if this amendment passes, fails to adopt

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regulations by July 1, 1986?

DEPUTY SPEAKER BELDEN:

Rep. Adamo.

REP. ADAMO: (116th)

Through you, sir. It's, as I just stated earlier, Rep. Jaekle, it's a situation where there would be no policy letters in place. There just wouldn't be any policy letters in place, and there would be no written guidance, so I think we'd be doing what I said earlier, helter skelter, each office making his own decision. I think that's very critical.

DEPUTY SPEAKER BELDEN:

Rep. Jaekle.

REP. JAEKLE: (122nd)

Thank you. I agree that the policy letters, in accordance with the file copy would no longer be used as criteria to determine eligibility. My question really, and I don't think it's been answered, is if the amendment passes, requiring the Labor Commissioner to adopt regulations by July 1, 1986, and he fails to, what happens? Does he go to jail? Is there a monetary fine? Do you bring a court action to compel adoption of regulations? What happens if the regulations are not

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adopted by July 1, 1986? Through you, Mr. Speaker.

DEPUTY SPEAKER BELDEN:

the Rep. Adamo.

REP. ADAMO: (116th)

being Through you, Mr. Speaker, the commissioner would be violation of the General Statutes, because this mandates him very clearly to adopt those regulations by July 1, 1986.

DEPUTY SPEAKER BELDEN:

co Rep. Jaekle.

REP. JAEKLE: (122nd)

And through you, Mr. Speaker. The commissioner would be in violation of the statute. Is there a penalty for the commissioner failing to adopt the regulations? Through you, Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Adamo, would you care to respond?

REP. ADAMO: (116th)

Through you, Mr. Speaker, no there is not. DEPUTY SPEAKER BELDEN:

Rep. Jaekle.

REP. JAEKLE: (122nd)

Actually I don't have trouble with the amendment.

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I think the whole purpose of the file copy was to encourage the adoption of regulations and not relying on the policy letters.

I was concerned, however, that the amendment was being sold as mandating these regulations being adopted, and yet we're being told if the commissioner fails to obey a law there's no penalty, there's no sanction. I don't see any harm in the amendment, and I think there would be, at the very least, a strong incentive for the commissioner to adopt regulations, and I will support the amendment.

REP. STOLBERG: (93rd)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Stolberg.

REP. STOLBERG: (93rd)

Mr. Speaker, I would thank the Majority Leader for his understanding. There is a nuance of difference, of course. While there's no legal penalty, commissioners or agency heads, who do not comply with statutes, do earn some political wrath in this Chamber, and I think that is a price that can be exacted, and I think most of them would attempt to avoid that.

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DEPUTY SPEAKER BELDEN:

Thank you, sir. Is there any other debate on House "A"? If not, I will try your minds. All those in favor of passage of House "A", please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER BELDEN:

All opposed, nay.

REPRESENTATIVES:

No.

DEPUTY SPEAKER BELDEN:

The ayes have it. House "A" is adopted, and ruled technical. Is there further debate on the bill as amended by House "A"?

REP. KINER: (59th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Kiner.

REP. KINER: (59th)

Mr. Speaker, I'd like to ask the House Chairman of the Labor Committee a number of questions if I may, and hopefully he can allay some of my fears.

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Question number one, through you, Mr. Speaker, how long does it take for the regulatory process to wind its way from the commissioner to the committee and so forth?

DEPUTY SPEAKER BELDEN:

Rep. O'Neill, would you care to respond?

REP. O'NEILL: (98th)

In what way are you talking about?

DEPUTY SPEAKER BELDEN:

Rep. Kiner, could you clarify your question.

REP. KINER: (59th)

Through you, Mr. Speaker, how long does it take for regulations to be promulgated?

REP. O'NEILL: (98th)

I would assume by July 1, 1986. Through you, sir.

DEPUTY SPEAKER BELDEN:

I would just ask that the members please wait until I say their names so that the transcript will like we know who's talking. Rep. O'Neill, would you care to respond?

REP. O'NEILL: (98th)

Yes, through you. I would assume that it varies from agency to agency, however, with this particular bill and amendment it will be by July 1, 1986, which will be

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approximately one year from now.

DEPUTY SPEAKER BELDEN:

Rep. Kiner, you have the floor, sir.

REP. KINER: (59th)

Mr. Speaker, I'm not too sure that answers my question, but let me proceed from there. Let me give the House Chairman a hypothetical example here, or scenario of where I have a problem area. Suppose now, through you, Mr. Speaker, the policy of the Labor Department is to, in regards to determining availability, the claimant has to make four contacts.

And let's just say now that a recent case has just been -- a judgment has been rendered on a case. Now it states, only two contacts need be made to determine whether or not a claimant is available for work. If that claimant goes out, makes two contacts, he in fact has satisfied the judgment of the court, but now the policy letter, or now this law goes into effect, the regulations say four contacts, so there's a gap now between the time a decision is rendered. There's a time gap where perhaps the federal laws have been changed, and the regulations are promulgated.

What happens during that gap of time? Is there a

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mechanism for emergency regulations? If so, how long does that process take? Through you, Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. O'Neill, would you care to respond?

REP. O'NEILL: (98th)

Yes. Let me see if I can get together in my own mind exactly what you're asking. The policy letter says that you must make four contacts. Some judicial case says that it's all right to make two contacts. Are you talking about prior to July 1 of 1986, or at the present time, sir?

DEPUTY SPEAKER BELDEN:

Rep. Kiner, would you clarify the question.

REP. KINER: (59th)

Mr. Speaker, we'll say this law is now in effect. It's now 1986. The regulations, if you will, no longer policy letters, the regulations now state, four contacts. But the court decision has said two contacts. This gentleman, or this claimant is now going out, abiding by the letter of the law, although this judgment by the courts, yet they are now in opposition to what the regulations are. This man, this claimant tries to collect unemployment comp, and then Labor Department will

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say, but the regulations state you've got to make four contacts.

How long of a period of time does it take for these regulations to take? With a policy letter, there was no problem. It could be done simultaneously. The judgment was rendered today. The policy letter goes out, the next day, a day later, whatever. There's no gap in time. There's now, there could be a large gap in time where people might be denied unemployment compensation benefits, might be given benefits that are not due them. I can see a major problem developing, where there will be many, there could conceivably be much litigation, because of this change in the law, that we are asking for today.

DEPUTY SPEAKER BELDEN:

Rep. O'Neill, I think he's clarified his question, and also debated the issue slightly, but would you care to respond?

REP. O'NEILL: (98th)

He certainly has. I believe, sir, through you, that he's asking if there's a question of conflict between the statutes of the State of Connecticut and a judicial decision by the court. I assume that a higher court will make the decision one way or the other, as to

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which will sustain, either the lower court or the regulations as promulgated in the statute.

DEPUTY SPEAKER BELDEN:

Rep. Kiner, you have the floor, sir.

REP. KINER: (59th)

Mr. Speaker, I'm still confused, and I thank the Chairman of the committee for attempting to give his impressions, or an answer to my query, but the answer still has not been given. What happens during that framework of time between the change in the laws, the change in taxes or whatever, and the time that it takes to get regulations passed.

We can be dealing with a six month time frame here. I guess with emergency regulations you might be dealing with a 30 day time frame. Again, I am not that astute or knowledgeable on regs and review, but there is a time frame involved and all I'm asking for, is what happens during that gap of time between the time that the law changes, between the change in federal law, a change in the law of the state because of a judicial decision and the time it takes for regulations to be passed.

I think that is a concern of mine, and that is a concern that is not addressed, I think, by this particular

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piece of legislation, and that's my major problem, Mr. Speaker, and through if the House Chairman can allay my fears on that, I would really have no problem voting on this piece of legislation.

DEPUTY SPEAKER BELDEN:

Rep. O'Neill, would you care to respond?

REP. O'NEILL: (98th)

I thought I had allayed your fears, however, I have not. But I think that you are coming up to a point where you're going to introduce an amendment to clarify the fears that you have, and I would like to see what those fears are, expressed in writing so that maybe I'll be able to answer your previous question more thoroughly. Through you.

DEPUTY SPEAKER BELDEN:

Rep. Kiner, you still have the floor, sir.

REP. KINER: (59th)

Mr. Speaker, the amendment was just brought over to me. It hasn't been filed yet. If the gentleman wants to PT the bill and give me an opportunity to show it to him, I will. If that's what he's asking for. If not, I'd just like him to answer the question. Thank you.

DEPUTY SPEAKER BELDEN:

Rep. O'Neill, can you further respond to Rep.

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Kiner's last question?

REP. O'NEILL: (98th)

I think if there are regulations in effect at the particular time, the regulations would be the ones which would hold. I do not want to PR anything at this time. If there is an amendment, I'd be fine to look at the amendment, or PT it until I review it, but I don't see any amendments here at the present time.

I believe I've answered the concerns that the former chairman has.

DEPUTY SPEAKER BELDEN:

Rep. Kiner, you still have the floor, sir.

REP. KINER: (59th)

Through you, Mr. Speaker, the gentleman would like to PT the bill so I can show him my amendment, I'd be more than happy to sit down with the House Chairman. If on the other hand, he'd prefer to move along with the other bill in front of us, again I have no option on that except to say that I indeed I have a problem.

DEPUTY SPEAKER BELDEN:

The House will stand at ease for just a moment until parties concerned can get copies of the amendment.

The House will come back to order. We're

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apparently addressing House Bill 6385 as amended by House "A". Is there further debate on the bill as amended?

REP. O'NEILL: (98th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. O'Neill.

REP. O'NEILL: (98th)

I move passage of the bill as amended.

DEPUTY SPEAKER BELDEN:

Hearing no further debate, will staff and guests please come to the well of the House. The machine will be opened.

The Clerk will announce a roll call.

CLERK:

The House of Representatives is now voting by roll. All members please return to the Chamber immediately. The House of Representatives is voting by roll. All members please return to the Chamber immediately.

DEPUTY SPEAKER BELDEN:

Have all the members voted and is your vote properly recorded? If so, the machine will be locked. The Clerk will please take a tally.

The Clerk please announce the tally.

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CLERK:

House Bill No. 6385, as amended by House "A".

Total number voting 150

Necessary for passage 76

Those voting yea 149

Those voting nay 1

Those absent and not voting 1

DEPUTY SPEAKER BELDEN:

House Bill 6385, as amended by House "A" is
passed. Will the Clerk please return to the Calendar 112.

CLERK:

Calendar 112, Substitute House Bill No. 5211, File
No. 124, AN ACT CONCERNING RESIDENT STATE POLICEMEN.
Favorable Report of the Committee on Public Safety.

REP. JAEKLE: (122nd)

Mr. Speaker.

DEPUTY SPEAKER BELDEN

Rep. Jaekle.

REP. JAEKLE: (122nd)

May this item be referred to the Committee on
Appropriations.

DEPUTY SPEAKER BELDEN:

The motion is to refer Calendar 112 to

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explaining it. Is there any objection to placing this on the Consent Calendar? Hearing none, the item is placed on the Consent Calendar.

SENATOR MILLER:

Thank you Mr. President.

THE CLERK:

Page 19, Calendar 414, Substitute for Senate Joint Resolution 43, File 570, RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION CONCERNING THE POWER OF REFERENDUM, Favorable Report of the Committee on Government Administration and Elections.

THE CHAIR:

Senator Lovegrove.

SENATOR LOVEGROVE:

Thank you Mr. President. I would like to ask that this Bill be PR'd.

THE CHAIR:

Any objection to PRing this item? Hearing none, it is PR'd.

THE CLERK:

Page 2 of the Calendar, Calendar 159, Substitute for House Bill 6385, File 132, 192, AN ACT CONCERNING THE BASIS FOR DENIAL OF UNEMPLOYMENT COMPENSATION BENEFITS, as amended

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by House Amendment, Schedule A, Favorable Report of the
Committee on Labor and Public Employees.

THE CHAIR:

Senator Hampton.

SENATOR HAMPTON:

Thank you Mr. President. I move acceptance of the
Committee's Joint Favorable Report and passage of the Bill
as amended by House Amendment, Schedule A.

THE CHAIR:

Wish to remark? There are Amendments, I'm sorry.
Clerk will call the first Amendment.

THE CLERK:

Senate Amendment, Schedule A, LCO 6412 introduced by
Senator Hampton.

THE CHAIR:

Senator Hampton.

SENATOR HAMPTON:

Mr. President, that Amendment has been withdrawn.

THE CHAIR:

Senate A is withdrawn.

THE CLERK:

Senate Amendment, Schedule B, LCO 6413.

THE CHAIR:

Senator Matthews.

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SENATOR MATTHEWS:

Thank you Mr. President. Members of the Circle, this Bill as you may recall earlier, set up a program--or I guess this was not taken up before, was it Senator Hampton? This is the first time. What it does is it sets up a program for setting regulations in the Labor Department and the Amendment provides that, as it states, that the proposed regulations, after notice of intent to adopt such regulations has been published pursuant to the provisions of Chapter 54 of the General Statutes and that it will be done before January 1st, 1986 and the Commissioner shall publish the notice of intent to adopt the regulations which then shall be effective on July 1st, 1986.

Each of you I believe has received a fiscal note on it in which it's identified that there would be a \$15,000 amount involved. I would like to comment on that briefly to you and that is in this way the Bill that's in the file itself indicates as follows. For any claim filed on or after July 1st, 1986, the determination of a claimant's eligibility for unemployment and so forth, shall be based solely on the provisions of Chapter so and so. On and after July 1st, 1986 which is exactly what the Amendment that I'm providing says. In Section b, it reads, on or before July 1st, 1986, the Labor Commissioner shall adopt regulations in accordance with

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what is to be done. Now I have indicated in my Amendment that I would like to see the Labor Commissioner show the intent, the Labor Commissioner show published notice of intent to adopt regulations before January 1st, 1986, but it still adheres to the July 1st, 1986 for the regulations to be adopted.

Therefore, I cannot understand why it would cost \$15,000 if both Bills, both Bills or the Amendment and the Bill stated that July 1st, 1986 is when those regulations shall be adopted. It makes--there is no reason for this \$15,000 to be in there at this point. If it takes no money to do this on July 1st, 1986 with the file copy, it seems to me that there is no reason for it to be done on mine because mine says adopt them on July 1st, 1986.

I would like to have the Bill passed without our consideration of the \$15,000 involved with it and I would make that motion a part of my Amendment.

THE CHAIR:

Further remarks on Amendment, Schedule B? Senator Hampton.

SENATOR HAMPTON:

Mr. President, I hate to go against my colleague, but I have to stand and object to this Amendment. If we go with the House Amendment as was passed in the House, on the Consent

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Calendar, these regulations can be done without costing any money. If we change the date and go from July to January, then the fiscal analysis tells us that the Labor Department will have to hire additional personnel in the amount of \$15,000 to do the 122 policy letters. The timeframe to get these done between July and January I don't believe that it is necessary to go that route and to spend \$15,000 when they're going to be written as the Labor Commissioner has said, as the law requires him to do, and I would urge rejection of this Amendment.

THE CHAIR:

Senator Harper.

SENATOR HARPER:

Thank you Mr. President. I would join with Senator Hampton in urging rejection of the Amendment. As to the point Senator Matthews made as to why file copy doesn't have a fiscal note and this does, it's clear to me that the Amendment we're discussing would condense the amount of time in which this process has to begin and the Labor Department not being prepared, would clearly have to put on additional staff. If this Amendment passes, I think whether or not its integrity is in question or not, it should, by appropriate process, go to the Appropriations Committee and it appears that in asking for adoption of the Amendment,

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Senator Matthews is asking that that appropriate process be circumvented and I think and I agree with Senator Hampton, we're better off without it but if it passes, I will then subsequently ask that it be referred to the Appropriations Committee where other Bills which such fiscal notes go.

THE CHAIR:

Wish to remark further? Senator Matthews.

SENATOR MATTHEWS:

Mr. President, I understand that the reading of this situation was as both Senator Harper and Senator Hampton have indicated, but in reading the Bill clearly it does not identify that there is any difference between the Amendment which I'm presenting and the one that they're talking about in terms of the need to have the adoption of the regulations available on July 1st, 1986. If it is necessary for this Bill to go to Appropriations for the funds, I will accept that. I am merely pointing out that I think we can save that money, but if it's the desire of the Circle to go ahead with it that way the money will be available, hopefully in Appropriations. I have no objection to sending it there.

Now, I think that the reason for this is that on January 1st, 1986, if the Labor Commissioner will present, as requested in here, and shall publish the notice of intent to adopt regulations between now and January 1st of 1986, that

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intention must be presented as of that date. It is not saying anything more than that and as of July 1st, 1986, whether it be in this Bill or the Amendment I am providing, it still has to be available as adopted on July 1st, 1986. There's no reason for us to--the money part, as I see it. If you feel it's necessary, fine.

Now, let me continue to explain. If this Amendment does not go through the potential for these regulations to be adopted on July 1st, 1986 become vastly less possible because by going to Regulation Review it has to go through a certain procedure and that procedure takes some time. If it is done as of July 1st, 1986, there is no way possible in the eyes of my feeling about it, that the regulations can definitely be adopted there unless we say so and if we do it by saying to them on January 1st, 1986 the intent must be there, they still can proceed right straight along and on July 1st, 1986, just as the Bill says in the Bill that came up in the file, that then the same date is in existence.

Now, if you wait until that point to try to get through Regulation Review, it's not going to happen. And I ask you to consider that as an important point in trying to get this through. It's a fair and equitable request and I think one that should be adopted. If you need to have the money, I

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will take the risk of sending it to Appropriations because my feeling is that no matter if it takes that money, if Appropriations will not give it to us, so be it. But if they will give it to us then we can meet the point that we think is important and that is to get the January 1st intent from the Labor Department and the July 1st adoption of the regulations.

And I think this is a reasonable request and one that meets all the needs. There is no pressure put on anybody. All they do on January 1st is say that they intend to do this. We're not pushing them in any way. All I'm saying is there it is. And on July 1st, whether again--I say again, whether it's the Amendment or the other Bill, it has to be there, but I'm asking for the intention to have this by the Labor Department stated as of January 1st so they can move along and we know that they're doing it. Thank you very much.

THE CHAIR:

Will you remark further? Senator Smith.

SENATOR SMITH:

Yes Mr. President. I believe that Senator Matthews has presented a logical format and proceedings that he would like to see followed and I would respectfully recommend to the members of the Circle that they support Senator Matthews'

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Amendment.

THE CHAIR:

Will you remark further? Senator Hampton.

SENATOR HAMPTON:

Thank you Mr. President. May I impose upon the Circle to read a paragraph of what the law does. On or after July 1st, 1986, the determination of a claimant's eligibility for unemployment compensation benefits shall be based solely on the provisions of Chapter 5-67 of the General Statutes, and any regulations adopted pursuant thereto.

Section b, on or before July 1st, 1986, the Labor Commissioner shall adopt the regulations in accordance with the provisions of Chapter 54 of the General Statutes which establishes all necessary criteria for the determination of a claimant's eligibility for unemployment compensation benefits.

It seems to me that this Bill addresses the problem. It says that the Commissioner shall adopt, after July 1st, 1986. Senator Matthews wants to change that to January 1st but by changing it to January 1st, we're saying we're willing to pay \$15,000 to hire someone else to write the regulations for 121 regulations simply because for that six months. All of us have talked about saving money, reducing taxes and now

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we are very willing to spend \$15,000 more, to hire someone to come and write regulations that are going to be done by July 1st, '86 anyway. I think it's wrong. I think we're going against all of the work that the Labor Committee has done. The vote in the Labor Committee all have supported this. We have worked with the Labor Commissioner. He has assured us that he will do this and yet, for a matter of six months and \$15,000 we want to force him to go out and hire someone to do this.

I think it's ludicrous. I don't believe that any of the things that we're doing are going to have anymore effect if it's done in January or if it's done in July. All we're trying to do, as I see it, is to say to the Commissioner of Labor whom I have known for many years and have worked with for many years, we don't believe you when you tell us you're going to do something. I can say to you that I have worked with the Commissioner for many years and I have never had him tell me that he was going to do something that he didn't do.

I urge that we defeat this Amendment.

THE CHAIR:

Senator Harper.

SENATOR HARPER:

Mr. President, when the vote is taken, I request that

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it be taken by Roll.

THE CHAIR:

Senator Matthews for the third time, with leave of the chamber.

SENATOR MATTHEWS:

Thank you Mr. President. Mr. President, I am not in any way questioning the integrity of the Labor Commissioner whom I think I have worked with and have known as long or perhaps longer than Senator Hampton and I've always found him to be as Senator Hampton says, a man of his word. This has nothing to do with what we talk about in terms of a person's integrity.

What I am pointing out to you is that if we are in a position to identify that on January 1st the Labor Commissioner can state the intent of their people to go ahead, there is actually no reason to hire somebody, as Senator Hampton says, at \$15,000 if that's what they would prefer to do, I'm willing to have it go to Appropriations. But all I'm saying is that they can do the same thing as Senator Hampton is talking about, with no money, if that's not necessary in my own mind and I don't think it's necessary anywhere, but if it is, so be it, but then the Committee, whoever is going to do it can start anytime they wish. They

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have the same time element as the Bill says. The only element is that because I'd like to see the intention stated on January 1st of the adoption of the Amendment that I'm presenting, is so that the regulation review situation can be handled as it proceeds along, and if that's a fair and reasonable thing to do I think we ought to do that. If we do wait until the July 1st, the adoption of regulations may or may not be available because there can be changes in the regulations; there can be the rejection of them and what happens with the intent of them on January 1st is that some of those things may be done sooner and it will be more readily available on July 1st, 1986. I encourage you to support the Amendment.

THE CHAIR:

Clerk please make an announcement for an immediate Roll Call. Clerk please make an announcement for an immediate Roll Call.

THE CLERK:

An immediate Roll Call has been ordered in the Senate.
Will all Senators please return to the chamber. An immediate Roll Call has been ordered in the Senate. Will all Senators please return to the chamber.

THE CHAIR:

Question before the chamber is a motion to adopt

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Amendment Schedule B, LCO 6413. The machine is open. Please record your vote. Has everyone voted? The machine is closed. Clerk please tally the vote.

The result of the vote:

10 YEA

24 NAY

The Amendment is defeated.

Senator Hampton on the Bill.

SENATOR HAMPTON:

Thank you Mr. President. What this Bill does is that it prohibits the Labor Department from using Department policy letters to determine the eligibility for unemployment compensation benefits. Any such determination would have to be based solely on statutory language and regulations.

What we have done is that we will start writing, or the Labor Department will start writing regulations. They will go through the process of being approved by the Regulations Review Committee and become effective for the first time as far as the Labor Department is concerned, and by doing it this way, the fiscal note is any additional administrative work due to the writing of the regulations. It is anticipated to be minimal and absorbed within existing resources of the agency and I urge passage of the Bill.

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THE CHAIR:

Any objection to this Bill being placed on the Consent Calendar?

SENATOR HAMPTON:

Thank you Mr. President.

THE CHAIR:

Hearing no objection, the item is placed on the Consent Calendar.

THE CLERK:

Page 4, Calendar 280, Senate Bill 421, File 394, AN ACT CONCERNING CONFIDENTIALITY OF PATIENT RECORDS, Favorable Report of the Committee on Public Health.

THE CHAIR:

Senator Gunther.

SENATOR GUNTHER:

I'd like to move recommitment to the Committee on Public Health, Mr. President.

THE CHAIR:

The motion is to recommit. Is there any objection? Without objection, so ordered.

THE CLERK:

Page 4, Calendar 281, Senate Bill 422, File 396, AN ACT CONCERNING THE PEER GROUPING OF HOSPITALS PROSPECTIVE PAYMENT SYSTEM, Favorable Report of the Committee on Public

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them to report these with the same vehicle, to water companies if so desired and if there is no objection, I would move that this item be placed on the Consent Calendar.

THE CHAIR:

Any objection? Hearing none, so ordered. Is that it? Clerk please make an announcement for an immediate Roll Call pertaining to the Consent Calendar.

THE CLERK:

An immediate Roll Call on the Consent Calendar has been ordered in the Senate. Will all Senators please return to the chamber. An immediate Roll Call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the chamber.

THE CHAIR:

Please give your attention to the Senate Clerk who will read all the items that have been referred to the Consent Calendar.

THE CLERK:

Page 2, Calendar 159; page 7, Calendar 344; page 12, HB 6385 SB 872
HB 7716, HB 6333, HB 7375 HB 7736, HB 7785, HB 6323
Calendar 396, 397, 398; page 13, Calendar 401, 402, 407 and
HB 5929 SB 532 SB 382, SB 867
409; on page 14, Calendar 412; on page 17, Calendar 176, 179,
HB 5780
64.

THE CHAIR:

Any changes, omissions? The machine is open. Please

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record your vote. Senator Streeter. Has everyone voted?
The machine is closed. Clerk please tally the vote.

The result of the vote:

34 YEA

0 NAY

The Consent Calendar is adopted.

Senator Casey, do you wish to be recognized?

SENATOR CASEY:

Yes Mr. President. For the second and third Roll
Call votes of the day I was on legislative business in the
House. I wonder if I could be recorded in the affirmative?

THE CHAIR:

The record will so note. Further points of order or
announcements? Senator Richard Johnston.

SENATOR RICHARD JOHNSTON:

Thank you Mr. President. There will be a short meeting
of the Judiciary Committee right after the session adjourns.

THE CHAIR:

Thank you. Any other announcements? Senator Larson.

SENATOR LARSON:

Thank you Mr. President. I'd just like to remind
members of the Circle that the game on the 17th, that evening,
even if you don't play or participate, you are certainly

**JOINT
STANDING
COMMITTEE
HEARINGS**

**LABOR
AND
PUBLIC
EMPLOYEES
PART 2
363-726**

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MS. CARPENTER: Yes, I am.

REP. GELSI: Do you have the same bill that I have? Do you have LCO 499?

MS. CARPENTER: (Inaudible)

REP. GELSI: That's what I was going to say. I don't have any line 29. Okay.

SEN. HAMPTON: Okay, thank you. Any other questions? Ladies and gentlemen, let me make an announcement. There's a change in the public hearing time on March 12. We have it listed as 10:00. It now is going to be 9:00, on the 12th because we are going to be going into session on that day, and so if that effects any of you, to make sure that you know it.

Instead of killing 45 minutes or so, what I would like to do is just simply go into public hearing and we can start with individuals who have signed up. If they aren't here, I'll just simply go to the next one and then we'll go back if someone shows up. The first on the public hearing is Louise Linsky.

MS. LOUISE LINSKY: Sen. Hampton, members of the committee, thank you. My name is Louise Weintraub Linsky. I'm coming to you today without my 14 unemployment cases. I would like to speak in favor of committee bill 6385 which would prohibit the determination of eligibility for unemployment compensation based on Labor Department policy letters. I would like to cite just two examples of where I have come face to face with a policy decision vs. the way the law is written; one regarding suitable work and one regarding what used to be considered constructive quit or one act of misconduct. The constructive quit or act of misconduct was a case in 1982 in which a maintenance worker when hired was told at the specific facility that had very tight security and was under federal regulations. If they were caught stealing, they would be terminated, one act. He accepted employment. At weekly meetings it was discussed. He saw other employees fired for the same act. He once asked if he could take something out of the garbage that was broken and take it home and was told by the client representative that nothing leaves the facility. He picked up some keychains off the floor one day and put them in his pocket and was

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MS. LINSKY: (continued)

caught walking off the property. It was on film. In 1982 when that case was brought to the appeals division because he won in the initial hearing, he was denied benefits but not unwillful, because it wasn't in the law anymore but the appeals referee used what was called constructive quit. He constructively quit his job because he knew under no circumstances he would be terminated. I had a similar case eight months ago and I lost because I was told off the record that the policy no longer was that constructive quit could not be used anymore, that that interpretation was not acceptable anymore, that the fact that he was caught stealing, that he admitted it, that he saw other people stealing, had nothing to do with anything.

My other case is suitable. The law states that suitable work shall mean either employment in his usual occupation or field of work, where he is reasonably fitted, that it is a reasonable distance and they list all sorts of other things. I had an employee that worked for me for two years. He then left to get another job and lost it after a month. I heard about it and offered him rehire, the same job, at a higher rate of pay, the same hours. It was a second shift so he could look for other work on a first shift if he wanted to. He didn't have to accept that work. He was awarded benefits. I went to the referee again and said the law states suitable means all these things and he said we're told that the interpretation is that he's got to be given x number of weeks or months to look for a higher paying job if he so desires. I said but that's not in the law. He said but that's the way we're told to interpret it.

I feel this is unjust. I feel you legislators have written a law and that it should be adhered to. Thank you for your time.

SEN. HAMPTON: Any questions? Thank you, Ms. Linsky. I'm glad you didn't bring your packet. Robert Tessier.

MR. ROBERT TESSIER: Good morning, Sen. Hampton, members of the committee. This morning I would like to testify on committee bill 856. Someone else from our organization, New England Health Care Employees Union, will be here a little bit later to testify on committee bill 83. Committee bill 856, "An Act Establishing a Study of the Cost of Workmen's Compensation for State Employees".

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MR. CANTY: (continued)

we hired a consultant to help us go through with a process and the intent was not specific that this person was going to be here to discourage union activity or to prevent an election from being won by a union. There's probably an appeal process there that this hospital who is denied reimbursement under this rule can go and say, we brought this consultant or attorney in there just to help us to understand the collective bargaining on the ramifications of it. I think it works both ways. I don't see where there's a problem either way in that respect.

REP. O'NEILL: Is Mr. Cooperman here? Is there anybody else who would like to speak concerning what we have on the subject matter for discussion today.

Page 3, Mr. Ginsberg. Please, Sir. Elliott Ginsberg.

MR. ELLIOTT GINSBERG: Thank you, Mr. Chairman. Members of the Committee, my name is Elliott Ginsberg and I'm the Executive Director of the Legal Services Training and Advocacy Project in Hartford. And what I would like to speak to you today on is the Bill No. 6385, a bill which would basically change the situation in Connecticut from the Department using policy letters to providing regulations and statutes.

I'm not sure how many of the committee members are aware of a lawsuit that was brought by Legal Services in 1979. The name of the lawsuit was Thompson versus Ferraro. And that lawsuit was brought on behalf of a number of people statewide in federal court in New Haven. The basis of the lawsuit was a failure by the administrator to establish and basically produce written standards for a uniform applicability of the unemployment system. As a result of the lawsuit, the state entered into an agreement with Legal Services lawyers to provide a number of packages whereby they would look at all policy letters, put them into some order, create tables of contents and basically provide, I think, the most up to date usage and system that they have so that there is in fact uniformity throughout the state on all of the issues. The four issues that they have agreed to under an order and it was accepted by the court were basically the willfulness misconduct, voluntary leaving, refusal to work, and ability to work. The wilfulness misconduct package has been produced. It is out in the

MR. GINSBERG: (continued)

field. It is being used by the Department and by its local offices and in fact is available to the public and I think from our perspective has been a very worthwhile endeavor and a very good result of the lawsuit.

It is my understanding that as of the 1st of April of this year, that is less than a month, the final three packages which have gone through tremendous revision by the Department will be produced and printed in their final form and out to the field. That is to say, voluntary leaving, refusal to work, inability to work. As I said, these packages have been produced as a result of that court decision and basically have had a lot of time spent. And what I think has been attempted to do is provide, not through regulation, but through policy, the most up to date and comprehensive system in terms of what in fact goes on in the unemployment compensation offices.

It is a suit that was brought against the administrator. I must tell you it is only against the administrator and the commissioner. It is not obviously against the appeals division since it is not technically part of the Labor Department. But it was one so that each person in the state would have provided for them a very similar sit-down hearing when they went in initially to ask for unemployment compensation. I would say that since one of the packages is already out in the field and three will be out in the field in less than a month, have not in effect really been used to see what in fact the system will create, whether there will be discrepancies between each of the offices or whether some people, in fact, the committee may want to read them and decide that this isn't the way they just think unemployment ought to be handled in the state.

But it's certainly, the October 1, 1985 deadline is much too soon so see whether in fact the system that we've created under this lawsuit really does work. I would say that from our experience the one on willfulness misconduct has worked and we expect that the other three will work simply because as part of the agreement, Legal Services lawyers sat down with the state in the AG's office and spent many, many hours drafting and redrafting, looking at all the old policy letters, updating ones that needed to be updated, throwing out those that did not make sense so that there is in fact a very specific body of law that

MR. GINSBERG: (continued)

the Labor Department will now use in determining unemployment compensation. It is not as if there are loose letters flying around the Department, floating where anybody can just pick one up and say this is what it is. The state will have a definitive document of what in fact is the policy of the Department vis a vis unemployment. Certainly in all those four areas by April 1st.

I would say that if in fact the committee believes that it needs to do something, that is to say, it does not wish the state to use policy letters as the basis of forming decisions, then it would need more than the certainly three or four months to basically put into place a regulation system that will cover the entire unemployment system. I think that the October 1st deadline is really unrealistic given the massive amount, I can tell you just briefly this page is, it's like 40 or 50 pages, is just on willful misconduct. And there is a separate package of equal length on each of the four. So we're talking of 200 to 300 pages of policy that would have to be rewritten into that regulation form because the basis, as I said, the basis of the lawsuit was that there was nothing the Department had produced for availability to recipients of what in fact was going to be used when they went in for a hearing.

I would imagine that as of October 1st they had better have another system in place because simply the same question will arise. What are the standards that are going to be used. I don't know very honestly whether the Department can produce in regulation form given the processes of the regulations itself in terms of having to go through the AGs and then go through Regs Review, by October 1st a system that will provide the 200 pages worth of documentation that everyone certainly under that court order is now entitled to have.

Again, it's more a sense that this not something that most people know about. I'm not sure how many members of the committee knew about it or know about it. I would be more than happy to answer any questions. But as I said, I think the October 1st deadline, if the committee chooses to go into regulation form is just not realistic given the bulk of the material that somebody has to produce by that deadline. Certainly a year later would be, for a number of reasons, one to see how it works in terms of whether the system we

MR. GINSBERG: (continued)

have does in fact work, and two, if we need to produce regulations, then that's sufficient time to write them. Thank you.

UNIDENTIFIED: Mr. Ginsberg, what out of what we talked about today, can you give me a very, very brief, just some information concerning what have you defined as willfulness misconduct.

MR. GINSBERG: In the willful misconduct, and again, the table of contents includes the general provisions and that's on Pages 1-5, absenteeism, citizenship, competition, constructive coworkers, date of separation, dishonesty, falsification, fighting, garnishment, hearings, insubordination, intoxicification, labor disputes, labor disputes for discharge, for retirement, larceny in the third degree, notice, performance, public relations, rescissions, safety, suspension, tardiness, union activities, union membership, and violation.

I must say that when we went through this, we went through them from top to bottom and again, unless you're from the Department if anyone's here to speak to it, the person that people have been using in working with is Janet Chiler from the Department and from the AGs. I can imagine, I can give you quickly, if you wish, in terms of refusal to work, I haven't got the table of contents in front of me, but basically it will be as specific on each of those areas. And so what is in fact given to the Department and given in terms to the local offices is a document that they have in front of the exactly what the policy is. The attempt by us was that to basically make sure that it was being uniformly, that the unemployment compensation system was being uniformly dispensed among the state.

I can tell you, if you wish to, a specific item and read you the policy letter, but I wanted to impress that it was not just a general willful misconduct is. It is very, very specific and there are pages on each specific item with a policy letter that determines what in fact the Department's position is on each of those items.

UNIDENTIFIED: Mr. Ginsberg, can you make available to the members of the committee the fruits of your labor?

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MR. GINSBERG: Sure. I can do that. As I said, I know, it is my understanding that willful misconduct will be in the final draft.

UNIDENTIFIED: I mean the whole package.

MR. GINSBERG: Okay. Yes.

REP. O'NEILL: Any other questions? Thank you very much. Anyone else care to add anything. Thank you.

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