

MINUTES

COMMITTEE: COMMERCE

DATE: Thursday, March 29, 1973

MEMBERS PRESENT: Messrs Prince, Demers, Robinson, Hafen, Capurro, Torvinen and Wittenberg

MEMBERS ABSENT: Messrs Bickerstaff and Dini

GUESTS: See attached list

The meeting was called to order by Chairman Prince at 3:40 p.m. He asked for Committee approval of a resolution* regarding the Rural Electrification Act asking President Nixon to retain the 2% interest rate on loans. Mr. Demers moved for passage, Mr. Hafen seconded the motion. Voting "aye" were Messrs Prince, Demers, Robinson, Hafen, and Wittenberg. Voting "nay" were Messrs Torvinen and Capurro.

Regarding AB 867, a bill prohibiting detachable pop tops on beverage containers, Mr. Demers moved to pass the bill and amend it to become effective July 1, 1974. Mr. Hafen seconded the motion. The motion was unanimously passed.

Regarding AB 746 limiting issuance of nonrestricted state gaming licenses, Mr. Torvinen moved that the bill be indefinitely postponed. Mr. Demers seconded the motion. The motion was unanimously passed.

Regarding AB 740 providing guidelines for retaining certain funds under public works contracts, Mr. Demers moved to pass the bill deleting Sections 3 and 4. Mr. Capurro seconded the motion. All Committee members with the exception of Mr. Wittenberg voted "aye". Mr. Capurro agreed to prepare the amendment.

Regarding AB 736 requiring bids on public works projects estimated to cost over \$10,000, Mr. Capurro suggested requesting a letter from both the Clark and Washoe County Public Works Departments expressing their opinions, along with the opinion of the Attorney General as to a procedure to follow on bids on public works projects and if they have intentions of increasing their departments for new work. Mr. Capurro agreed to draft this letter requesting this information. Mr. Robinson moved to indefinitely postpone the bill and authorize Mr. Capurro to direct this letter to the Counties. Mr. Torvinen seconded the motion. All Committee members with the exception of Mr. Demers voted "aye".

As Chairman Prince was called from the meeting, Mr. Wittenberg, as Vice-Chairman, assumed the chair. He called for discussion on the unemployment bills, AB 686, 687, 688, 689, 690, 691, 692. See Mr. Robert Archie's testimony attached as Exhibit "A". Mr. Archie is Executive Director of the Employment Security Department. Mr. Capurro asked Mr. Archie that since the Federal Government pays 100% of the administration costs of his department, is the \$225,000 fund at all included in their scrutinies when they audit his funds. Mr. Archie stated that it is considered, but it is also a State fund and that State auditors receive copies of this audit. Mr. Capurro further stated that "I think part of this problem is that this is one of the largest funds in the State and perhaps the Legislature should have more accountability of this fund". Mr. Archie stated that this fund has been very important to him at times when the Federal Government does not come through. "This money is penalty and interest money and if this fund cut, allocations must come from the general fund." Mr. Archie continued by saying that \$5,000 to \$7,000 are the largest expenditures that have been made from the fund at one time and sometimes it takes 3 years for them to be reimbursed by the Federal Government. He expects an increase of \$120,000 in his costs next fiscal year because of increases in State salaries and that he might have to lay people off. He intended to use this fund for covering this increased cost. (See Exhibit "B" for Mr. Archie's chart of Comparison of Receipts, Disbursements and Nevada Unemployment Trust Fund Balances.) He further stated that he now receives approximately \$2,000 per month which goes into this fund in penalties and interest.

Mr. Robert Long of the Employment Security Department spoke on the unemployment bills. His testimony is attached hereto as Exhibit "C".

Mr. Jack Hiatt, Chief of Benefits, doesn't feel it possible for claimants to report to an office every week, as specified in AB 692. He stated that their office sends representatives to out-lying areas every four weeks to check on claimants. "As this bill is written now, we couldn't have itinerant points as such. Everyone would have to report to the claims office." He stated that a mail claim operation is used in between their visits and that it has been very effective; that Nevada is the only state using it. He also stated that the average duration of unemployment has not been effected by the mail claims operation and that the average period of unemployment is 13.7 weeks.

Mr. Jim Oliver of the ESD stated that 5.8% of the work force in Nevada is unemployed and that this is the lowest it has been in years; that it is 5.3 in Reno, but much higher

in Southern Nevada.

Chairman Prince stated that he felt a man should earn 10 times his weekly benefits before receiving benefits from an employer contributing to the fund, or a "covered" employer. Mr. Oliver agreed with this.

Mr. Rowland Oakes representing the Association of General Contractors stated that he was in favor of AB 686; that it was agreed upon by both labor and management; that Mr. Prince's suggestion is not in the bill regarding "covered" employers and this is favored by his organization.

Mr. William Gibbons of the Gibbons Co., Inc., business consultants representing approximately 200 Nevada companies, is glad to know the Department does not oppose AB 686; that it is a fairer solvency test. He feels that all pensions should be totalled and off-set against unemployment (AB 690) benefits. He also feels that if an employer has knowledge/ of an employee receiving benefits other than unemployment or receiving them in the future, he should pay the unemployment tax on that employee, but this would necessitate the changing of other laws. He feels that number 2 should be amended because there are very few cases where an employer would not know if outside income exceeded unemployment benefits. However, he feels that military retirement benefits would be almost meaningless and insignificant.

Regarding AB 691, he agrees with the Department because the burden of proof for discharge for good cause is always on the claimant. In number 2 of Section 1, delete "in all cases" and add: "this Section and under Chapter 612.475", thereby releasing the employer of liability.

Regarding AB 692, he is in favor of both parts; reporting to the office weekly, (rural areas should have some amended provision), and higher earnings required before re-qualifying from a "covered" employer. Mr. Hiatt, speaking again on AB 691 disagreed with Mr. Gibbons, stating that the employee has nothing to lose or gain, so the burden of proof should be on the employer; that this would make it very difficult to protect the fund.

Mr. Prince gave an example of his experience with an employee who changed positions "for good cause" and yet his account was charged even though the man claimed he could not return to employment with Mr. Prince because he would have to travel too far.

Assembly

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Mr. Ernest Newton of the Nevada Taxpayers Association, stated that in AB 687, he feels this is a substantial fund which has never been audited by the State of the Federal government; that these funds are appropriated to the Executive Director of the Employment Security Department to spend for any purpose that he sees fit to cover expenses which the Federal Government will not pay; that the fund is completely out of hand. He suggested that Section 5 on page 3 be changed or taken out. Mr. Torvinen suggested providing a specific number of dollars reverting to and becoming part of an unemployment fund. Mr. Capurro asked what difference does it make where the money comes from if it is needed. And would a Legislative audit satisfy Mr. Newton.

Regarding AB 688, Mr. Newton doesn't feel there is much appetite for a person having to take a job when he is over-qualified; that the program should make it more interesting for people to work than receive unemployment compensation; that AB 688 would not solve any problem because of the high benefit rate in the State.

Regarding AB 689, he urges the Committee to consider it favorably. On line 7, the \$5 should be deleted; that this is a step in the right direction to get people off the rolls. Regarding AB 690, he felt that this was the result of people in the Department complaining that there are people retiring from highly paid jobs and drawing unemployment. In AB 690, sub-sections 2 and 3, a dollar-for-dollar reduction, would help solve some problems. Sub-section 3 should be deleted regarding the spouse of an individual receiving \$500 or more per month disqualifying the individual from receiving benefits; that it is probably unconstitutional and against public policy.

Chapter 612.385 which is substantially the same language as 612.380 refers to employees discharged for misconduct; that it is difficult to find jobs for these people; that there should be non-charge benefits if the employee is convicted of a crime. He feels an amendment should be included disqualifying a person when he is discharged for misconduct or it could just apply to persons convicted of crimes. Mr. Archie stated that regarding Mr. Newton's comments on 612.385 and AB 690, there are presently laws to cover these situations; that a man cannot be denied compensation until he is found guilty.

Assembly

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Mr. Robbins Cahill representing the Nevada Resort Association, agreed with the previous statements on AB 686, stating that it is the most important of all these bills. Regarding AB 689, he has no objections to the bill if the \$5.00 is taken out but nothing beyond that; he agrees with the Departments' statements on AB 690; that the provisions of AB 117 from the last session (Exhibit D attached) could be included. He also agreed with the second part of AB 692 requiring ten times the basic weekly benefit.

Mr. Lou Paley, representing the AFL-CIO, stated that he had no opposition to AB 686, but objected to AB 687, 688, 689, 690, 691. AB 692 is agreeable to him but a person should be employed by a "covered" employer. He feels employees discharged for misconduct should not receive benefits; that the fund is being charged for these benefits; he feels that some people are getting a "free ride" and that the records of the Department should be subpoenaed; that the construction industry is willing to help pick up some of the costs charged against the fund; that the employers' rates are not going up and the fund is being depleted.

Mr. Larry Tripp of the Ponderosa Hotel presented a letter he wrote to the Employment Security Department with copies to various casino clubs in Reno concerning the difficulty he has in finding people who want to work. (See attached Exhibit "E"). He feels that something is basically wrong with the law; that he knows of people on his payrolls who are also on unemployment; that there is wide-spread fraud; that social security number checks are made only every three months; that he favors AB 688 requiring employees to accept employment for which they may be over-qualified. Mr. Archie stated that enforcement would be better if employers would cooperate with his office and stated that some employers will not hire over-qualified employees for fear the new employee will take his job.

Mr. Don Chestnut, President of Local 124 of the United Steel Workers from Kennecott, stated that the union opposes AB 688, 690, and 691; that AB 690 would depend upon where a claimant resided in the State. "If 100% of the people were working, 1/10 of 1% might be cheating".

Mr. Tom Jones of McGill representing Local 233 of the United Steel Workers, stated his opposition to AB 688 because there are not too many jobs available in White Pine County; that he would not have an opportunity to look for a

suitable job if he was required to take a job as a dishwasher under this proposed bill. He feels that AB 691 is unreasonable; that the employer really has the final word on why an employee left a job; that he opposes AB 691 because it is too easy for an employer to say that an employee was discharged because of misconduct. "I hope this doesn't become law". He also opposed sub-section 3 of AB 690.

Mr. Gibbons gave an example of a high school student applying and being given approval for compensation.

Chairman Prince adjourned the meeting at 6:00 p.m.

Respectfully submitted,

PHYLLIS BERKSON, Attache

AGENDA FOR COMMITTEE ON COMMERCEDate Thurs., Mar 29 Time 4:00 p.m. Room 222

<u>Bills or Resolutions to be considered</u>	<u>Subject</u>	<u>Counsel requested*</u>
AB 686	Revises "solvency test" of the unemployment compensation fund;	
AB 687	Abolishes Employment Security Fund and creates Employment Security Revolving Fund;	
AB 688	Restricts circumstances under which claimant for unemployment benefits may refuse suitable employment;	
AB 689	Reduces amounts of earnings deductible from unemployment compensation benefits;	
AB 690	Restricts eligibility for unemployment compensation benefits;	
AB 691	Requires the claimant to show that he voluntarily left his most recent employment for good cause in order to qualify for unemployment benefits;	
AB 692	Restricts conditions under which claimant may receive benefits under Unemployment Compensation Law.	

*Please do not ask for counsel unless necessary.

TESTIMONY

AB 687

ABOLISHES ESF FUND, CREATES REVOLVING FUND

MR. CHAIRMAN AND MEMBERS,

I AM Robert Archie REPRESENTING THE EMPLOYMENT SECURITY DEPARTMENT ~~AND~~
~~ROBERT ARCHIE.~~

THE EMPLOYMENT SECURITY DEPARTMENT OPPOSES THE PROPOSED CHANGES INDICATED
IN AB 687.

THE ESF FUND, IF APPLIED TO THE UC FUND, WOULD NOT HELP THE PROBLEM OF
SOLVENCY OF THE UC FUND, AS THE ESF FUND IS LESS THAN 1% OF THE CURRENT
BALANCE OF THE UC FUND, WHICH IS NOW IN EXCESS OF \$24,702,000.

IN ADDITION TO THIS, THE \$225,000 CURRENTLY IN THE ESF FUND WOULD LAST
ONLY APPROXIMATELY TWO DAYS AT NEVADA'S CURRENT RATE OF BENEFIT PAYMENT
EXPENDITURE WHICH IS AVERAGING \$111,107.59 PER DAY.

THE AVERAGE GROWTH OF THE ESF FUND IS LESS THAN \$2000 PER MONTH, THEREFORE,
THIS WOULD CONTRIBUTE LESS THAN 1/10 OF 1% TO THE UC FUND REVENUES PER YEAR.
THIS FUND IS NECESSARY AND ESSENTIAL TO THE ADMINISTRATION OF THE EMPLOYMENT
SECURITY AGENCY AS IT IS USED FOR EMERGENCY SITUATIONS WHEN IT IS NOT
ALLOWABLE TO USE FEDERAL FUNDS OR IN SITUATIONS WHEN STATE FUNDS MUST BE
USED AND THE AGENCY WILL LATER BE REIMBURSED BY FEDERAL FUNDS. EXAMPLES OF
THIS ARE:

1. EMERGENCY FACILITY REPAIRS WHERE WE DO NOT HAVE SPECIFIC WRITTEN FEDERAL APPROVAL.
2. THE EMPLOYMENT SECURITY AGENCY HAS BEEN ADVISED BY THE DEPARTMENT OF LABOR THAT SALARY AND LAW CHANGES THAT WILL AFFECT THE EMPLOYMENT SECURITY AGENCY IN NEVADA FOR FY 1973 MAY POSSIBLY NOT BE REIMBURSED TO THE AGENCY WITH FEDERAL FUNDS DUE TO AN OVERALL SHORTAGE OF CONTINGENCY MONEY. IN CASE OF AN EMERGENCY SITUATION OF THIS NATURE, THE PENALTY AND INTEREST FUND WOULD HAVE TO BE USED FOR PAYMENT OF SALARIES; AS THE EXPENSE WOULD ALREADY HAVE BEEN INCURRED AND MUST BE PAID TO THE EMPLOYEES. ANTICIPATED COST OF \$120,000 FOR 6 MONTHS.
3. DUE TO SERIOUS CUTBACKS IN FEDERAL FUNDING IN GRANTS, IT MAY BECOME NECESSARY IN FY 1974 FOR THE AGENCY TO PAY FROM THE EMPLOYMENT SECURITY FUND RENTAL EXPENSE FOR OFFICES THAT ARE CURRENTLY BEING OCCUPIED IN CARSON CITY. THIS WOULD COST THE AGENCY IN EXCESS OF \$70,000 PER YEAR. IF THESE MONIES WERE NOT AVAILABLE TO THE AGENCY, THEN THE AGENCY WOULD HAVE TO REQUEST EMERGENCY FUNDING FROM THE STATE GENERAL FUND.

THERE IS AN APPARENT ERROR IN THE BILL:

1. AB 687 AS WRITTEN CREATES A REVOLVING FUND WHICH REPLACES THE EMPLOYMENT SECURITY FUND. THERE IS NO INDICATION OF HOW MUCH MONEY IS TO BE IN THE REVOLVING FUND, OR WHERE INITIAL MONIES COME FROM TO CREATE THE REVOLVING FUND.
2. AS WRITTEN, AB 687 IS NOT CLEAR ON PAGE 2, LINES 11 AND 12, AS TO WHO SHALL AUTHORIZE EXPENDITURES FROM THE REVOLVING FUND.

Ex B

State of Nevada
 Employment Security Department

COMPARISON OF RECEIPTS, DISBURSEMENTS, AND
 NEVADA UNEMPLOYMENT TRUST FUND BALANCES

FEBRUARY 29, 1972 - FEBRUARY 28, 1973

Receipts, Disbursements and Fund Balances	TOTALS	
	From January 1, 1937	
	To 2/29/72	To 2/28/73
RECEIPTS		
Contributions Collected	\$181,933,396	\$202,699,247
Interest Earned on Trust Fund	18,482,041	19,835,640
Federal Excise Tax Credit	282,607	282,607
TOTALS	\$200,698,044	\$222,817,494
DISBURSEMENTS		
Benefit Payments	\$170,939,003	\$194,442,122
Extended Benefit Payments-State	1,349,109	2,630,877
TOTALS	\$172,288,112	\$197,072,999
TRUST FUND BALANCES		
Nevada Unemployment Trust fund	\$ 28,409,932	\$ 25,744,495 *

FUND INCREASE
 FUND DECREASE

Transactions					
12 Months Ending		3 Months Ending		Month of	
2/29/72	2/28/73	2/29/72	2/28/73	FEB. 1972	FEB. 1973
\$11,437,200	\$20,765,851	\$1,804,345	\$3,127,687	\$1,040,394	\$1,637,366
1,793,138	1,353,599	409,181	341,573	-	-
73,061	-	-	-	-	-
\$13,303,399	\$22,119,450	\$2,213,526	\$3,469,260	\$1,040,394	\$1,637,366
\$20,746,753	\$23,503,119	\$8,008,941	\$7,057,595	\$2,839,223	\$2,374,325
1,349,109	1,281,768	439,550	-145	170,179	-31
\$22,095,862	\$24,784,887	\$8,448,491	\$7,057,450	\$3,009,402	\$2,374,294
\$ 8,792,463	\$ 2,665,437	\$6,234,965	\$3,588,190	\$1,969,008	\$ 736,928

*Includes reimbursable Federal extended benefits of \$204,637.51.

Also includes reimbursable Federal emergency compensation of \$12,541.64.

March 12, 1973

[Handwritten signature]

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Ex B

SB - 686

The department believes this change in the solvency test is acceptable.

It would presently require 32 1/2 million in the trust fund as compared to over 48 million that would be required by the existing test. There is now 25 million in the fund.

I would like to make sure it is understood that this change in the solvency test will do nothing to correct the basic problem with the fund, which is the result of a flexible benefit and a fixed wage base.

Until something is done to correct this problem the provisions in the law to allow employers reduced rates based on favorable experience is in permanent jeopardy.

SB - 688

The section of the present law for which this proposal would be substituted is common in most, if not all the laws of the other states. This provision now in the law follows the original drafts of State Unemployment Insurance laws prepared in the 30's. It considers the degree of risk to a claimants health, safety, and morals, his prior earnings, his length of unemployment and his customary occupation. All these considerations are ignored by AB 688.

There are some occupations lawful in at least parts of Nevada that I would not like to see persons forced into merely because they had the experience and physical capacity to perform.

This would be a bad bill for employers as well as claimants because it would require individuals to accept work for which they were way over-qualified but in which they would be likely to underperform. Certainly there is nothing wrong with working as a busboy or change girl or dishwasher, as examples, but I question whether it would be in anyone's best interests to require any able bodied individual to accept such work without considering their other qualifications based on such things as prior experience and earnings.

Ex. C

I presume the purpose of this bill is to provide incentive for persons to accept part time work. We doubt that it would have much effect because it doesn't make that much of a change.

An employed person who makes \$75.00 in part time earnings now gets a benefit check for \$7.00. Under this bill he would get an additional \$17.50 or a total check in addition to his earnings of \$24.50. However, it is a step in the right direction, we believe, and the department has no objection to the bill except one:

It would be both administratively burdensome and inequitable to retain the flat amount of \$5.00 disregarded for partial unemployment and the 75% figure. The straight percentage figure at whatever level would be both easier to compute and more importantly have the same relative impact on claimants whether their WBA was \$16.00 or \$77.00 or something in between.

SB - 690

Sub-Section 3 of this proposal would have the effect of canceling wage credits in every case where it was applied. As such, it would violate federal standards and if approved, would cause Nevada to be out of conformity with federal requirements. This is so because it imposes a condition of entitlement unrelated to the fact or cause of unemployment.

Sub-Section 2 of this proposal is, we believe, much too broad and as a result would unjustly subject many individuals to penalty. For example, military retirees, even those on disability retirement, would be permanently barred from receiving unemployment benefits no matter how many years they worked in covered employment subsequent to their military retirement. Nor does it distinguish between voluntary and involuntary retirement.

There is no state that presently has a total and blanket disqualification of this sort. Many states do consider such payments as disqualifying income and thus as an offset against Unemployment Insurance.

We would suggest that the committee consider an alternative such as AB 117 introduced but not approved at the 1971 session. Essentially, that bill proposed to disqualify from benefits only those persons receiving retirement payments in excess of \$100.00 per month from a program contributed to by their base period employers.

AB - 691

All this bill would do is to recognize in the law what has always been department practice. The burden of proof has always been on the claimant to establish that he left his most recent work for good cause.

In the interests of fairness, if this bill is approved, you might want to make a similar addition to Section 385. That would provide that the burden of proof that a claimant was discharged for misconduct is always on the employer. Such a change would also have no real effect as a practical matter, because this too has always been the departments practice.

As a matter of information the claimant when he quits, for what he considers a good cause, and the employer when he has discharged a claimant for what he considers misconduct, do an equally good job, or bad job as one may view it, of proving their case. About 2/3 of the protests resulting from each situation are denied.

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Ex. D

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A. B. 117

ASSEMBLY BILL NO. 117—MESSRS. PRINCE,
SWACKHAMER AND SWALLOW

FEBRUARY 1, 1971

Referred to Committee on Labor and Management

SUMMARY—Disqualifies a person who voluntarily retires from receiving
unemployment compensation. Fiscal Note: No. (BDR 53-357)



EXPLANATION—Matter in *italics* is new; matter in brackets [] is
material to be omitted.

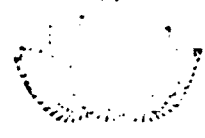
AN ACT relating to unemployment compensation; disqualifying a person who
retires under an established retirement program and receives retirement pay-
ments of a certain amount from receiving such compensation based on wages
paid by the contributing employer; and providing other matters properly relat-
ing thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

- 1 SECTION 1. Chapter 612 of NRS is hereby amended by adding
- 2 thereto a new section which shall read as follows:
- 3 1. *An individual who enters into retirement under an established*
- 4 *retirement program contributed to by his employer and who* (under such
- 5 *program) is receiving retirement payments in excess of \$100 per calendar*
- 6 *month in the form of an annuity, pension or other type of pay for retire-*
- 7 *ment shall not be entitled to any* (unemployment compensation based on
- 8 *wages paid him by such employer for services performed prior to such*
- 9 *retirement.*
- 10 2. *The provisions of subsection 1 do not apply to:*
- 11 (a) *Receipt of OASI benefits under the Federal Social Security Act, as*
- 12 *amended; or*
- 13 (b) *Military retirement benefits.*

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6-1-71

Ex. E



PONDEROSA HOTEL & CASINO

515 SOUTH VIRGINIA STREET RENO, NEVADA 89501

March 23, 1973

Mr. Robert Archie
Executive Director
Employment Security Department
70 West Taylor Street
Reno, Nevada 89502

Dear Mr. Archie:

I am enclosing herewith XEROX copy of the ads for help that appeared this morning in the Reno Journal. You will note that the large casinos and small casinos therein mentioned are desperately in need of help - all types of help. We are always in the same situation.

I am in constant touch with many of the employers in this county and we are, I am sure, practically unanimous in feeling that the real difficulty is the fact that people do not want to work. You, I notice, admit that some of the unemployed can send in a card or a note to the effect that they are still looking for employment and they are kept on your unemployment roll; also that the unemployment fund has been in jeopardy because of the huge demands made on it that have been granted.

What is the answer to this picture? We have a constant parade of people accepting jobs and they will work two or three days and in the event that we will not give them a draw, they quit or make it so uncomfortable for us that we have to terminate them. You question them and they will frankly admit that they work a few days one place and a few days another place. It would seem to me that somewhere something must be done to remedy this situation. We are all desperately continually endeavoring to get help and yet the state maintains that there is a huge unemployed force of people that can't find employment. That obviously is not true. Something is basically wrong not only with the law but with the administration thereof.

Very truly yours,

PONDEROSA HOTEL & CASINO

BY L. E. Tripp
L. E. TRIPP, President/c

LET:sr

- cc: The Honorable Mike O'Callaghan
- Mr. Pete Carr, Sparks Nugget
- Mr. Les Kofoed, Gaming Industry Assoc:
- Mr. Chuck Munson; Harrah's
- Mr. J. C. Jordan, Harolds
- Mr. Al Ferrari, Holiday Hotel
- Charles Mapea, Mapea Hotel
- Mr. Eric's Prim; Primadonna Club