APRIL 9, 1975

The meeting was called to order by Chairman Robinson at 4:10 P.M.

MEMBERS PRESENT: Mr. Benkovich
Mr. Demers
Mr. Harmon
Mr. Hickey
Mr. Moody
Mr. Schofield
Mr. Getto
Mr. Chairman

MEMBERS ABSENT: Mr. Wittenberg - excused

SPEAKING GUESTS: Larry McCracken - Employment Security Department
James R. Henderson - Employment Security Department
Jack Hiatt - Employment Security Department
Robert Long - Employment Security Department
Jim Hanna - Employment Security Department
Lou Paley
Bill Gibbens - The Gibbens Company, Inc.
Rowland Oakes - Associated General Contractors
Raymond Bohart - Federated Employers of Nevada, Inc.
Robert F. Guinn - Nevada Franchised Auto Dealers and Nevada Motor Transport Association
Ernie Newton - Nevada Transportation Association
John O. Morman - Northern Nevada Building Trades Council
Dale Beach - Operating Engineers Local #3
Delio Granata - carpenter

Mr. McCracken submitted supplemental testimony to the committee regarding AB 495. This testimony answered some of the questions put to Mr. McCracken during the April 7 meeting regarding quarterly meetings of the Rural Manpower Services Advisory Council and the provision in AB 495 for consultant services. Quarterly meetings are in the bill to comply with a Federal mandate and consultants are provided for so that the Council would be provided with full access to information. He added that funds, if expended, to secure consulting services, will be Federal dollars. His complete testimony is attached hereto.

Discussion then turned to AB 473 which was carried over to this meeting from the meeting on April 7. This measure provides:

Comprehensive changes in Unemployment Compensation Law.

James Henderson, the Chairman of the Advisory Council of the Employment Security Department, then spoke. He explained that the Council is made up of nine members - three members of labor, three members of management and three members of the public.

He gave some background on the development of this package from 1973 forward. On November 1972, the Council notified the Employment Security Director that the tax base would have to go to 2.7% as

the Trust Fund was being depleted and could not meet the solvency test. The same condition was in effect in 1973 and in 1974. In 1974, the Council realized that the Trust Fund was in very serious conditions and suggested that the staff present the Council with their predictions for the future. In 1974, the Council again recommended a tax base of 2.7%. Recommendations from the staff were received and the question came up as to whether the Council had statutory authority to come before the Legislature and recommend legislation for correction of what the Council felt were errors in the present law. Counsel confirmed as did the Attorney General that the Council did have this statutory authority to make recommendations. The Council worked on these recommendations for over a year and came out with what is now known as this package and the Council feels it is the best that they can recommend for legislation. Mr. Henderson then submitted to the committee a summary that the Council went through for these proposed changes in the law. They are in accordance with AB 473 as it is now written. This summary is attached hereto.

He said there had been criticism about the denial of benefits. Mr. Henderson said these proposals do not deny benefits. The only denial of benefits would be by the claimant, i.e. if he voluntarily quits, or falls into one of the lawful categories of misconduct, then his benefits are denied. The law itself does not deny them, his actions deny them. He addeded that when the Council voted on this, the only member that did not vote in favor of it was Mike Pisanello (representing labor) who abstained from voting - he did not vote for or against it. All other members voted in favor of the entire package.

Mr. Henderson said the Trust Fund is in a very serious condition. As of 8 A.M. April 9, 1975, the Trust Fund balance is down to approximately $9,000,000 and the Department is today paying out benefits in the amount of $600,000.

Mr. Hickey asked if there was a definition of "misconduct" and who determines if cases are actually misconduct. Mr. McCracken said the staff has been making these determinations and that they have volumes of precedence. Presently, benefits are not denied, they are delayed until after a waiting period has been served. Generally, misconduct is an action by an employee that the employee knows is disadvantageous to the employer. It can range from not showing up at work, being drunk on the job or wrecking a piece of equipment.

Mr. Hiatt described the "base period" as being the five completed calendar quarters preceeding a quarter in which the claim is filed. For example, a claim filed today would have a base period with the four quarters ended December 31 of last year. He said presently the date of disqualification begins with the date of the discharge or separation from employment, not necessarily when the claim is filed. The proposed amendment is that it begin the week in which the claim is filed. The benefit amount is determined by his high quarter earnings and is 1/25th of that amount. Present

law requires he have 33 times his weekly benefit amount in his total base period in order to be eligible for any benefits.

Mr. Long said the fiscal impact from the provision that disqualification for voluntary quits beginning with the date the claim is filed would be approximately 7% or $3,500,000.00. This figure is based on the current rate of payout.

The proposed legislation would provide that disqualification begins at date of separation and that there would be no roll-back. They feel if there is a delay in filing, the claimant has something more important to do and does not really require these funds. This provision applies to voluntary quits. Mr. Hiatt said most disqualifications are for voluntary quits.

With regard to the provision that disqualification for misconduct shall begin with the date a claim is filed, Mr. Long said this would result in a 3% savings to the fund or $1,500,000.00. This is based on the current payout. There was a question as to how misconduct is established, Mr. Hiatt commented that if an employee quits, no one but him knows better why he quit so it is up to him to establish that he quit for good cause. Also, if an employee is discharged, no one but the employer knows better why he was discharged and the burden is on the employer to determine if the employee was discharged for misconduct. About one out of four charges for misconduct are sustained. During the month of February, there were 1200 determinations on misconduct and only 287 were sustained.

With regard to the provision that a claimant who has been discharged for misconduct and who subsequently became employed shall be disqualified if he has not earned at least five times his weekly benefit amount since the time he was discharged for misconduct, Mr. McCracken commented that presently, if an employee is discharged for misconduct, he need only get another job for one day, then be laid off in order to void the disqualification. Mr. Hiatt added that it has been becoming more and more apparent that there are more claims filed for two or three days work that is really work that the individual would not reasonably be expected to seek and in each case it occurred when there was disqualification on a previous job and this effectively eliminates any disqualification Mr. Hiatt went on to say that an individual is supposed to be paid benefits for unemployment that is not due to his own fault. He should not be receiving benefits for that period of time that he is unemployed due to actions of his own. This is the reason for this provision.

Mr. Hiatt said the standard period of disqualification is eleven weeks for discharge due to misconduct. The total entitlement is 26 weeks so disqualification could result in only 15 weeks of benefits and having to wait eleven weeks before an individual could collect them. Presently, an individual must wait the eleven weeks but after that collects his entire entitlement of 26 weeks. Mr. Hiatt said this may seem harsh but such an individual could still collect extended benefits after collecting his regular benefits for the 15 weeks if he found it impossible to get a job after these 15 weeks.

Mr. Hiatt said his department believes that if a penalty is justified, it should be effective.

With regard to the increase of the taxable wages to 3%, Mr. Henderson said the 3% would be charged to those employers with poor experience ratings and to new employers. Mr. McCracken commented that there are 14,500 employers in the State of Nevada and 1/3 of these would pay a tax rate of less than 2.7%. Presently the rate for everyone is 2.7%. With the passage of this package, it would go to a maximum of 3% and go to the usage of experience ratings. This would encourage employers to maintain a good rating so they would receive the lower rate. Mr. McCracken said overall, employers would not be paying any more money into the fund, it would just be distributing the amount based on each employers experience rating. The total amount that will actually be assessed to the employer will be the same. He went on to say that by having a maximum rate with a low tax base, all are paying the same and there is an inequity for those with a good experience rating. However, by spreading the tax base out and by increasing the tax rate, we can have an effective experience rating system still generating the same amount of money into the fund in order for it to function. The point is that over time, the fund must bring in a certain amount and the question is, who should pay these monies and in what proportions.

Mr. Rowland Oakes of the Associated General Contractors commented to a statement that construction companies on a whole have the worst experience ratings saying that the record will show that the construction industry contributed more money than it took out. He said they pay their share of the load. They are at the maximum rate and they make the maximum contribution.

Mr. Getto asked if the rate could go down below the 2.7%. Mr. McCracken said they predict that 1/3 or more of the employers would drop below the 2.7% and it could conceivably go down to 6/10 of 1% of the base.

Mr. Long said at the present time 20% of the benefits paid are not charged to individual accounts. This portion comes out of a pooled fund and in effect, all employers share the cost of these benefits. Presently, discharge for misconduct or voluntary quits are not charged to the individual employer. This measure, however, provides that all of these would be charged to the individual employer. This eliminates the Non-Charges because they are very costly to administrate and inequitable to industry. Nevada was the last state to include this provision in its State laws and Mr. Long felt we could be the first State to make amends and eliminate it. With these provisions, the employer would be charged for these types of discharges or quits but he would benefit by the amount of weeks that won't be paid because of the effective disqualification. Mr. Long said up to 50% will not be paid now if there is a disqualification but the items that were previously non-charges will now be charged to the individual employer.

Mr. Long said that since this legislation is so late in being heard it will probably only be applicable to half the year. He added that there are some technical amendments that need to be made. One of those is to have the solvency test suspended for the third and fourth quarter of 1975. He explained that the solvency level is the amount of money which must be in the Fund by law before any reduced rates can be allowed. This year, the test required $38,000,000. Next year the requirement should be approximately $45,000,000.

Mr. Henderson commented that this package has been presented to the Federated Employers of Southern Nevada, it has been presented to a public meeting of the Chamber of Commerce of Las Vegas, it has been presented to the Homebuilders of Southern Nevada and to the Nevada AGC Chapter and each one of these associations have endorsed this package.

Mr. McCracken stated that when the balance of the Fund reached $8,500,000 the maximum amount of weekly benefits that will be paid to any individual will be $20.00 until fund reaches $10,000,000. Mr. Henderson said if the fund reached a level of only an amount equal to the benefits paid in one week, the department would have to go to the Federal Government for a loan. That loan would have to be paid back from the trust fund in a period of two years. There is no interest for this type of Federal loan. The fund is in such a precarious position that it could reach the $8,500,000 level within 30 days.

Mr. Hanna said it is difficult to give exact dollar savings for each of these proposals to the fund because of the rapidly changing economic conditions. He said the provision for 1 1/2 times high quarter earnings and disqualification for misconduct and voluntary quits will tend to affect the fund by a 15% savings. He said this was a bit distorted for this year since it would not go into effect until July 1. He said it was estimated that benefits paid out will decrease approximately $2,000,000 under this plan and the department would be paying out approximately $50,000,000 this year. He added that it does not appear that solvency can be attained before the next 4 to 5 years. He said this package does provide that the fund will be self-sustaining over time. He said the fund has not actually been solvent for the past three years.

Mr. Hanna explained how the level of solvency was determined. It involved three factors: 1. The worst experience (risk ratio) 2. The longest duration during last ten years 3. Applies these figures to the current level of unemployment in the State. i.e. Beneficiaries x duration = total number of checks paid. This formula of the past is compared to the present work force.

Mr. McCracken then submitted some amendments to AB 473. These amendments are attached hereto. He said they were only technical changes that make no change in the bill as it now reads.

Mr. Henderson added that Mr. Cahill who represents the major resort hotels in Southern Nevada had to leave but he is in support of this package.

Mr. Bill Gibbens then spoke. He said he would like to go on record as being 100% in approval of this package as presented. He said the purpose of this package was to try to save the Fund for deserving claimants - people who become unemployed through no fault of their own - and to stop the drain on the Fund by those people who are unemployed through their own actions. He said he was most interested in the concept of experience ratings so an employer has an incentive to establish a good rating. He went on to say that this package was presented to the Northern Nevada Personnel Association and they endorse it.

Rowland Oakes spoke again saying he appears before the committee in favor of this package as presented with two suggestions:

1. On page 3, line 6, he felt new employers should be charged at the rate of 3.3% or 3.5% (whichever the department felt appropriate) because it is the feeling that the established employers have an investment in the fund and that the new employers have the obligation to pay more into it until they obtain their experience ratings.

   (Mr. Hanna said this would have a substantial affect on the fund since 1/3 of the 14,000 employers in the State are not yet eligible for experience ratings although many of these are just small employers. It takes three years in order for an employer to get an experience rating.)

2. On page 6, line 29, he felt it to be unfair to tie the employers to a percentage of the weekly wage. This would provide for the continuous flow of increased money into the fund even in times when it was unnecessary. He felt the department should come up with whatever base they need but he objects to a floating base because he was afraid monies might be funded that was not needed.

Raymond Bohart then spoke representing the Greater Las Vegas Chamber of Commerce, the Federated Employers Association and the Home Builders of Southern Nevada. He said they have examined this package in their legislative committee meetings and although there has been some dissention in looking at the increased economy, in looking at the entire package and the aspect that it is directed toward financial responsibility for the Fund and that it will re-establish experience ratings and the advantages they see in tightening up some of the blatant loopholes for drawing against this Fund, they endorse this package as it is prepared without deletion or addition thereto. He said they are satisfied that the end result will be financial responsibility for the fund and a fair and equitable system in drawing benefits.

Mr. Guinn then spoke saying he did not want to give the impression of being opposed to this package but posed the question of what would happen if nothing was done at all. He said it was his impression that the 2.7% on $4,200 base would be continued for

Nevada employers and if we reach the point where we have to borrow from the Federal Government, there is no interest, but you add .3% per year to that until you pay it back i.e. .3% on $4200, then .6% on $4200, then .9% on $4200, etc. until it is paid. He then spoke of those many employers who will be paying the 3.0% and since solvency is not expected to be reached right away, these people would go to 3.5% and then add a 10% increase in base wages because of inflation and apply these figures to $6400 for next year. This would mean this employer goes from $113.40 to $224.00. He said if you do nothing, it would be 1982 before this premium would reach $226.00 which is what it will reach next year under this bill. He said there will be many employers in this State that will have their premiums double in the next two years and he felt they would be much better off if nothing was done. He said he calculated that if you left it alone over the next 8 years and experience the .3% penalty on the Federal base, you would end up paying $1,382 per employee in that period of time. If you go to AB 473 and lock the base in at $6400 and not have any increases over the next 8 years, the cost will be $1,742 per employee plus if there is a 5% inflation factor, he will be paying $2090 as opposed to $1382. He said there will be many employers that will be jolted heavily. He said he was prepared to support this package across the board but he did not like to see these employers locked in to the 66 2/3 floating base. He said there are a number of other states that have done nothing and are borrowing funds from the Federal Government and he added if unemployment continues at this high rate, the Federal Government is going to have to reexamine this entire procedure.

He went on to comment on page 6, line 45, where there is a provision for monetary penalty on the employers fund for certain violations. He did not see the logic in penalizing the fund for violations of the law. If it is a criminal offense such as a misdemeanor, then slap him with a misdemeanor.

With regard to locking in, Mr. Henderson said that although there has been some testimony asking that employers not be locked in, the Fund is already locked in on a 50% benefit and each year the average weekly wage is going up and the benefit goes up with it. In 1971, the average maximum benefit was $47 while the maximum benefit today is $85. So, the Trust Fund is locked into what has to be paid out.

Mr. Oakes said he felt the Legislature should set by statute the tax rate and the tax base and look at it every two years to see if adjustment was necessary but he was not in favor of giving the department an "open check book".

Mr. Ernie Newton of the Nevada Taxpayers Association said he concurred with Mr. Guinn and Mr. Oakes. He said AB 473 was designed to increase the tax income (contributions) of the fund by about $9,000,000 per year. The fund currently is in a cash deficit position that is approximately $10,000,000 per year. He said he could see no improvement in the solvency of the fund as a result of AB 473. He said it would get into a balance income-outgo position within eighteen months but

he could see nothing in the bill that will improve solvency of the fund unless there is a drastic decrease in unemployment and a subsequent decrease in payouts and increase in the number contributing to the fund. He added that his figures may be a bit distorted due to economic conditions but that they were reasonably accurate last November and December. He said he did not have any objection to the bill basically as it was written. He said it would amount to a 43% increase in cost to the employer over what they are currently paying within 18 months. This is based on the fact that the base will go to $5800 - $6800. The rate will go to an average of 2.7% for the last half of 1975 and an average rate of 3.2% for all employers in all of 1976 and possibly all of 1977. That increase of 43% is hoped to balance the income with the outgo and that is all at the expense of the employer. He said he thought it was time to look at inequitable benefit provisions that have resulted in the current legal insolvency of the fund. He urged the consideration with this bill some other measures that will provide some methods to help to bring back legal solvency. He said he could see no purpose for experience ratings beyond the one year unless something is done to provide some buildup in total assets of the fund. He said it would be the height of irresponsibility to provide only enough money (which is what he felt was all AB 473 would do) to pay currently outgoing benefits. He felt it was the responsibility of the Legislature to provide for more than a balance of income and outgo so the fund will get back to legal solvency.

Mr. Paley then spoke. He said he could not support this package He felt if it were passed, Nevada would have the worst unemployment compensation law as far as the employer is concerned. He felt the contribution was beyond the 50% required and he did not think it was justified. He felt the committee appointed by the Governor consisting of 5 members from labor and 5 from management could come up with a more equitable package. He commented that in 1963 Governor Sawyer vetoed a measure providing for the same things with regard to voluntary quits. When asked by the committee if he could furnish them with some alternatives to those provisions which he felt he could not live with, Mr. Paley said he would get with the Employment Department and see what could be worked out.

The representatives from the Employment Security Department stated that AB 537, AB 549 and AB 555 were not bills recommended by their Department but rather by individuals. Mr. Henderson read into the record a letter from the State of Nevada Office of the Attorney General stating that the Employment Security Council has the authority to recommend legislation to the Legislature.

Mr. John Morman spoke in opposition to one part of the bill and that was the change in the formula for becoming eligible to draw benefits. He said he did not understand why, as proposed in this bill, $7,500,000 was to be taken from the unemployed worker and at the same time with the experience ratings, amounts paid by employers would be decreased when we are experiencing such a high rate of unemployment. He said he thought the purpose of this fund was to provide funds during periods of unusual unemployment such as we are going through at this time.

He went on to say that in the construction industry there is currently an unemployment rate of between 25% and 45%. The provisions in this bill would increase the amount that an unemployed construction worker would have to make in his base period by 300% in order to be eligible to draw benefits. Under the present law, he has to make around $2800 to become eligible to draw benefits. This bill under the 1 1/2 times provision would require the average construction worker to make between $7500 and $8000 during his base period in order to become eligible. This is being done at a time when unemployment is great, jobs are scarce and after you get a job, it may last only a short time and he felt this would be doing a great injustice to the unemployed by passing this measure.

Dale Beach then spoke saying he thought there were already enough rules and regulations the unemployed have to be subjected to. He said it is ridiculous to spend so much time going down to the Employment Security Department and waiting around when you could be out looking for a job.

Delio Granata, an unemployed carpenter, also spoke in opposition to the bill citing how construction workers who work perhaps only a few days a week would be especially hurt by this type of bill.

Chairman Robinson then recessed the hearings on AB 473 until the next meeting at 3:00, Friday, April 11. Meeting adjourned at 7:00 P.M.

Respectfully submitted,

Joan Anderson, Secretary

GUEST REGISTER

COMMERCE COMMITTEE

DATE: 4/9

ROWLAND OAKES ASSOC GEN CONTR X

NAME	REPRESENTING	PLEASE CHECK IF YOU WISH TO SPEAK
MERLE SNIDER	RENO MUSICIANS	X
Charles Connerley	Carpenters	X
Betty Litster	IBEW Local 2347	
George Govtick	EMPLOYMENT SECURITY DEPT LAS VEGAS	
Ron O'Connell	CHAMBER OF COMMERCE	
Louda Drew	I.B.E.W. Local 2247 Clerk Cy C-P-E	
George D. La Grange	Home Lumber Co. of Nevada	
Raymond A. Robert	Federated Employers of Nevada Inc	X
[illegible]	Joe's Transportation, Inc.	
Stuart Griffith	Las Vegas News Agency	
Marge Delonen	Ace American Van Stg	
L. F. Pierce	Pierce Glass Co.	
James Oliver	ESD	
[illegible] Fletcher	Public	
John L. Griffin	Public	
Debie Mannato	carpenters	X
Gail Bishop	operating Engineers	X

GUEST REGISTER

COMMERCE COMMITTEE

DATE: _____

NAME	REPRESENTING	PLEASE CHECK IF YOU WISH TO SPEAK
John Stalla	Local Union 1245 IBEW	
John H Pruitt	LOCAL 971	
Rene Canessa	" "	
Leslie Riley	" "	
Harold Knudson	N. Nev Central Labor Council	
Lumo J Bertolali	Carp. Local 971	
John Madole	Assoc. Gen. Contractors	
Robert F Guinn	Nevada Franchised Auto Dealers Nev. Motor Transp. Assn.	✓
Wm R Gibbens	The Gibbens Co. Inc	✓
Timothy A Lord	The Gibbens Co. Inc.	
E. L. Newton	NTA	✓
R E Cahill	Nev Resort Assoc	✓
Jerry Riggs	Operating Eng. Local #3	
Dale Beard	Oper Eng Local #3	
Paul B Weir	Oper Eng Local #3	
Walter Bonn	Oper Eng. Local #3	

Walter Drew Empl Sec Dep't ?
Robert Wong " " " ?
Jack Keith " " ?
Jim Hanna " " "
Robert Butler " " "
John R. Kimball member of Ctte, adv. Comm. on Agency
John O. Mormal Northern Nevada Building Trades Council
Holbrook Hawes - AFL-CIO - Carson City no
STAN WARREN NEVADA BELL
DARYL E. CAPURRO NMTA AND NFADA
L.K. Fitzgerald - United Transportation Union - no.

SUPPLEMENTAL TESTIMONY FOR AB 475 APRIL 9, 1975

AN ACT RELATING TO THE UNEMPLOYMENT COMPENSATION LAW; CHANGING COUNCIL NAME TO RURAL MANPOWER SERVICES ADVISORY COUNCIL; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO.

I AM LAWRENCE O. McCRACKEN, EXECUTIVE DIRECTOR OF THE NEVADA EMPLOYMENT SECURITY DEPARTMENT.

I AM OFFERING FOR THE COMMITTEE'S CONSIDERATION SUPPLEMENTAL TESTIMONY WHICH ADDRESSES TWO QUESTIONS RAISED BY THE COMMITTEE DURING MY TESTIMONY BEFORE YOU ON APRIL 7, 1975, RELATIVE TO AB 475.

THE COMMITTEE QUESTIONED THE NEED FOR THE (STATE FARM LABOR) RURAL MANPOWER SERVICES ADVISORY COUNCIL TO MEET ON A QUARTERLY BASIS.

THE NEED FOR QUARTERLY MEETINGS EMANATES FROM THE BASE OF POLICIES AND REGULATIONS PROMULGATED BY THE FEDERAL GOVERNMENT, SPECIFICALLY THE DEPARTMENT OF LABOR. THE PURPOSE OF THESE REGULATIONS IS TO ADEQUATELY MEET THE RESPONSIBILITIES OF THE DEPARTMENT OF LABOR AS MANDATED BY THE COURT ORDER ISSUED BY THE U. S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA REGARDING SERVICES TO MIGRANTS AND OTHER FARMWORKERS (NAACP VS BRENNAN, CIVIL ACTION #2010-72). THE ORDER OF THIS COURT FILED ON AUGUST 13, 1974, REQUIRES THAT PROPER AND SUFFICIENT SERVICE BE PROVIDED TO RURAL RESIDENTS, SPECIFICALLY FARMWORKERS AND MIGRANTS.

THIS PROPOSED CHANGE TO AB 475 ADDRESSED THE RESPONSIBILITY OF THE COUNCIL TO MONITOR THE PROVISIONS OF SUCH SERVICES AND ACT AS A KNOWLEDGEABLE ADVISORY BOARD TO THE EMPLOYMENT SECURITY DEPARTMENT. THE PROVISION FOR QUARTERLY MEETINGS ESTABLISHES AS A MATTER OF LEGAL RECORD THE INTENT OF MY DEPARTMENT TO BE IN FULL COMPLIANCE WITH THE COURT ORDER.

THE COMMITTEE QUESTIONED THE NEED FOR THE (STATE FARM LABOR) RURAL MANPOWER SERVICES ADVISORY COUNCIL TO ENGAGE IN THE CONTRACTING FOR CONSULTANT SERVICES UPON APPROVAL OF THE EXECUTIVE DIRECTOR. THE SCOPE OF INVOLVEMENT NOW REQUIRED OF THIS COUNCIL REQUIRES THAT THEY WILL HAVE ACCESS TO INFORMATION NECESSARY FOR THE PROPER CONDUCT OF THEIR BUSINESS. SUCH INFORMATION, WHENEVER POSSIBLE, WILL BE MADE AVAILABLE TO THE COUNCIL FROM WITHIN EMPLOYMENT SECURITY DEPARTMENT EXISTING RESOURCES AS WELL AS THROUGH OTHER AGENCIES OF STATE AND FEDERAL GOVERNMENT.

THE NEED FOR CONSULTANT SERVICES ALTHOUGH REMOTE IS INCLUDED IN THE PROPOSED REVISION TO AB 475 TO PROVIDE FULL ACCESS OF INFORMATION TO THIS COUNCIL. FUNDS, IF EXPENDED TO SECURE CONSULTING SERVICES, WILL BE FEDERAL DOLLARS.

HENDERSON

A.B. 473

0616

~~0740~~

1974
Employment Security Council
Legislative Proposals

April 9, 1975

Qualifying Wages - 1½ Times High Quarter Earnings
NRS 612.375 (4)
Page 1 - Line 25

Provides that claimant must earn total wages in his base period equal to 1½ times his high quarter earnings to qualify for benefits.

Disqualification - Voluntary Quits
NRS 612.380
Page 2 - Line 15

1. To provide that disqualification for voluntary quits shall begin with the date a claim is filed.

2. To provide that a claimant who has voluntary quit, and who subsequently became employed, shall be disqualified if he has not earned at least 5 times his weekly benefit amount since the voluntary quit took place.

3. To provide that a claimant who has been disqualified for a voluntary quit shall have his total benefit amount reduced by the number of weeks of disqualification, not to exceed 1/2 his total benefit entitlement.

Disqualification - Misconduct
NRS 612.385
Page 2 - Line 31

1. To provide that disqualification for misconduct shall begin with the date a claim is filed.

2. To provide that a claimant who has been discharged for misconduct, and who subsequently became employed, shall be disqualified if he has not earned at least 5 times his weekly benefit amount since the time he was discharged for misconduct.

3. To provide that a claimant who has been disqualified for misconduct shall have his total benefit amount reduced by the number of weeks of disqualification, not to exceed one-half his total benefit entitlement.

Increase Maximum Tax Rate
NRS 612.540 and NRS 612.550 (2) and (6)
Page 2 - Line 48
Page 4 - Line 35
Page 5 - Line 47

To provide that the maximum rate for employers eligible for experience rating be increased to 3% of taxable wages.

Taxable Wage Base - 66-2/3% of Average Wage
NRS 612.545
Page 3 - Line 26

Provides that the taxable wage base be equal to 66-2/3% of the average annual wage as determined on the previous July 1.

Non-Charges - Elimination
NRS 612.550 (4b)
Page 5 - Line 7

To eliminate non-charging to employers' accounts of benefits paid to claimants whose separation from that employment was due to a voluntary quit or discharge for misconduct.

Solvency Test Suspended for One Year
Page 5 - Line 48
Solvency Tax - .5%
Page 6 - Line 21
NRS 612.550 (7)

1. To suspend the solvency test so that experience rating will be in effect for the third and fourth quarters of calendar year 1975.

2. To provide for a solvency tax of .5% if the trust fund does not meet the solvency requirement, for calendar years after 12/31/75.

Employer Penalty
New Section - NRS 612
Page 6 - Line 43

Provides penalty for false statements made by employers concerning termination of a claimant's employment.

Provides for cancellation of wage credits from employer involved when claimant is discharged for gross misconduct.

McCRACKEN

~~1743~~ 0619

ASSEMBLY BILL 473

The above bill represents the efforts of the Nevada Employment Security Council to improve the Unemployment Insurance system, and to provide permanent solutions to current financing difficulties. The major provisions of the bill and their estimated impact are listed below:

BENEFIT ELIGIBILITY

As the following table indicates, the overall effect will be to reduce benefit payments by approximately 15 percent.

Provision	Percent Reduction In Benefits
a. Requires base period earnings be 1 1/2 times high quarter earnings.	-5%
b. Reduces benefit entitlement for voluntary quits.	-7%
c. Reduces benefit entitlement for termination due to misconduct.	-3%
d. Provides disqualification measure for gross misconduct.	--
TOTAL	-15%

Taking into account the fact that the bill is not expected to be enacted until July 1, 1975, the estimated reduction in benefit payments for calendar year 1975 is $2.0 million.

EMPLOYER CONTRIBUTIONS

The three elements dealing with employer contributions are (1) the introduction of a flexible tax base set at 66 2/3 percent of the average annual wage, (2) an increase in the maximum allowable tax rate for rated employers from 2.7 percent to 3.0 percent, and (3) the introduction of a 0.5 percent solvency tax. While overall percentages cannot be assigned to the above due to the fact they will vary estimates of their impact for the current time period can be developed.

Due to administrative decisions to maintain the average tax rate at 2.75 percent and limit the increase in the tax base ($5,800) to wages earned after July 1, 1975 with a credit provided for the first $4,200 earned during the first half of the year, the estimated increase in contributions on wages paid during calendar year 1975 is 15 percent or $4.2 million.

- During 1976, the increase (over what would have been paid under the existing system) is estimated at 45 percent resulting from a $6,100 tax base and an average tax rate of 3.25 percent (2.75 + 0.5 solvency tax). The value of the solvency tax is that it avoids the necessity of taxing all employers at a flat rate and consequently provides a permanent system of experience rating.

ADMINISTRATIVE PROCEDURES

The two provisions dealing with the administration of the program are (1) penalties for employers who file false or misleading information, and (2) elimination of non-charging as it relates to base period employers. The major impact of the proposed penalty will be on an employer's experience rating and not on contributions in general. While the elimination of base period employer non-charges will have no effect on overall contribution levels, it will have a significant impact on individual employer tax rates. As the following table indicates, the service industry is the major benefactor of non-

FISCAL YEAR 1974

Industry	Percent of Benefits	Percent of Non-Charges
Mining	1.2	1.9
Construction	22.2	2.7
Manufacturing	4.7	6.5
Transportation, Communication, and Public Utilities	3.5	5.4
Trade	16.7	13.1
Finance, Insurance, and Real Estate	4.0	2.9
Services	45.8	65.0
Government	.4	.3
Miscellaneous	1.5	2.2
	100.0	100.0

charging accounting for approximately 65 percent of the total. In addition to saving the Department approximately $125,000 per year to administer this portion of the law, the major effect the elimination of non-charges will have will be to increase tax rates in those industries and employer accounts where a significant portion of benefits are non-charged, and to reduce them where non-charges are not a major factor.

While there is no question that over time the combined provisions of this bill will bring the UI Trust Fund to required solvency levels, it does not provide any immediate solutions to current financial difficulties. In essence, this stems from the severity of the current situation and not from any deficiencies in the bill itself. In assessing this statement, it should be realized that the current situation results from a financial imbalance stemming from the actions of the 1971 legislature which has been severly compounded by the current economic situation. Unfortunately, the enactment of AB 473 will come at a time when the Fund is virtually depleted.

The two immediate concerns facing the UI program are the possibility of (1) reducing benefit amounts as per NRS 612:370, and (2) being forced to borrow from the Federal UI Trust Fund. Of the two, item (1) by far is the most serious. The current statutes require that when the Trust Fund drops to $8.5 million the Department will be required to reduce all benefit payments to $20 per week. This section of the law was enacted when states did not have the option to borrow from the Federal government when fund levels were low, and, unfortunately, was not depleted when this option became available. In addition to having a disastrous effect on both claimants and the economy in general, the section would be virtually impossible to implement.

While AB 493 will delete this provision, if passed, there is a possibility that due to differences in flow of income and disbursement, the $8.5 million will be recorded as of the end of April, 1975. While the influx of first quarter contribution (due in April) will temporarily relieve this situation, it is virtually certain the Fund will drop below the $8.5 million during the latter part of 1975 and the first part of 1976. As such, it is imperative this provision of the law be deleted.

As indicated above, the Fund is expected to drop to a low level during the December 1975-March 1976 period (due to the differences in income and disbursement flows) necessitating borrowing from the Federal UI Trust Fund. Given the current economic situation, it appears a loan of approximately $5 million will be required. Once past this period, the full impact of the financing provision of AB 473 will come into play and fund levels will assume a definite upward trend.

In spite of the upward trend in the Fund level, it appears it will be at least 3-5 years before the Fund meets its statutory solvency level. The relatively long time period is required due to the fact the Fund is starting virtually from zero (the estimated solvency requirement in calendar year 1975 is $45 million), and the solvency level generally increases with time. In essence, a Fund level in the neighborhood of $60 million will be required before solvency is achieved.

MEMORANDUM

STATE OF NEVADA
EMPLOYMENT SECURITY DEPARTMENT

0745

TO Chairman, Committee on Commerce
Nevada State Assembly

DATE April 9, 1975

0622

FROM Lawrence O. McCracken, Executive Director

SUBJECT Assembly Bill 473

The following technical amendments are requested with respect to Assembly Bill 473:

1. After line 47, page 2, add another section to delete 612.475(6)(7).

   The purpose of this change is to delete a section of the law which is no longer applicable in accordance with the change already in this bill which eliminates rulings. (See beginning on line 7, page 5 and attached.)

2. On lines 26 and 27, page 3, change to read instead of "after December 31, 1974," to "after June 30, 1975."

   The purpose of this change is to make it clear that the increase in the tax base will only apply to calendar quarters beginning with the second half of 1975.

3. On line 44, page 3, change the reference to NRS 612.50 to read NRS 612.550.

   The purpose of this change is merely to correct a typo in the bill as originally drafted.

4. Beginning on line 1, page 3, delete the following: "Each employer who is or becomes subject to the law before the first day of the first calendar quarter after February 25, 1965 shall pay contributions at a rate of 2.7% until such time as he qualifies for a rate under NRS 612.550."

   The purpose of this change is merely to delete a reference in the law that is now meaningless. (Recommended by Bill Drafter's office.)

5. On line 49, page 5, after the words "per cent for the," add "third and fourth quarters of."

   The purpose of this change is to make it clear that the newly assigned contribution rates resulting from approval of this bill will apply during 1975 only to the third and fourth quarters.

bam

he is eligible to receive payment for the period covered thereby. If it is determined that the insured worker is not eligible to receive benefits or is disqualified for any week or weeks, he shall be promptly furnished with a written notice of such determination, which will give the reasons for the determination and the length of the disqualification.

[6:129:1937; renumbered 6.4:129:1937 and A 1951, 339]

612.475 Notice to employer.

1. The most recent employing unit of any unemployed claimant shall be notified of the first claim filed by the unemployed claimant following his separation.

2. The notice of claim filing shall contain the claimant's name and social security account number and may contain the reason for separation as given by the claimant, the date of separation, and such other information as is deemed proper.

3. Upon receipt of a notice of claim filing the employing unit by whom the claimant was last employed shall within 10 days of the date of mailing of the notice of claim filing submit to the employment security department any facts which may affect the individual's rights to benefits.

4. Any employing unit that receives such a notice of claim filing shall be permitted to protest payment of benefits to the unemployed claimant, provided such protest is filed within 10 days of the notice of claim filing.

5. Any employing unit which has filed a protest in accordance with the provisions of this section shall be notified in writing of the determination arrived at by the executive director or his deputy and such notice shall contain a statement setting forth the right of appeal.

6. Any base period employer who is notified under the provisions of NRS 612.460 that a claimant is an insured worker, and any employing unit which receives a notice of claim filing under the provisions of this section, shall within 10 days of the mailing of such notice, or, if both notices are mailed to any employing unit, within 10 days of the date of mailing of the earlier of such notices, submit to the employment security department any facts disclosing whether the claimant separated from his employment voluntarily and without good cause or was discharged from such employment for misconduct in connection with such employment. The employment security department shall consider such facts together with any information in its possession and promptly issue its ruling to the employer as to the cause of the termination of the employment of the claimant. Appeals may be taken from such rulings in the manner provided for appeals taken from determinations on benefit claims.

7. No ruling given a base period employer under the provisions of this section may constitute a basis for the disqualification of any claimant, but a determination by the employment security department under the provisions of this section may constitute a ruling.

TO BE DELETED

[6:129:1937; renumbered 6.5:129:1937 and A 1951, 339; A 1955, 698]—(NRS A 1959, 920)

612.480 Redeterminations.

1. The executive director or a representative duly authorized to act