JOINT HEARING OF SENATE COMMERCE & LABOR COMMITTEE AND ASSEMBLY LABOR & MANAGEMENT COMMITTEE.

March 18, 1975

SENATE COMMERCE & LABOR COMMITTEE:

MEMBERS PRESENT: Senator Echols (Chairman)
Senator Blakemore (Vice-Chairman)
Senator Bryan
Senator Foote
Senator Monroe
Senator Sheerin
Senator Raggio

MEMBERS ABSENT: None

ASSEMBLY LABOR & MANAGEMENT COMMITTEE:

MEMBERS PRESENT: Assemblyman Banner (Chairman)
Assemblyman Moody (Vice-Chairman)
Assemblyman Benkovich
Assemblyman Schofield
Assemblyman Getto(Excused for short segment)
Assemblyman Hayes(Excused for short segment)

MEMBERS EXCUSED: Assemblyman Barengo

The hearing was called to order at 4:02 P.M. by Senator Echols for the purpose of discussing A.B. 2-3-4-5-50-303-304-329-337-364-365-366-367-368-369-370-371-372-403-404-405-419-425-426-427-428 & 429.

Senator Echols introduced the Committees to the audience, and apologized for the delay in convening, which was unavoidable. He stated that the meeting was to consider a very comprehensive of proposals; that the Legislature had been in session for 60 days, and that there was much of the legislation under consideration that the Committees were just not getting a look at. He said that they were very disturbed that the audience and the Committees had not seen copies of some of the proposals before the hearing, but that there were times when that was the way the Legislative process worked. He gave a quick resume of the way things were going to be handled, and some of the things they were going to try to do. He asked that the representative of the Nevada Industrial Commission address himself to the proposals, and inform the audience, as well as the Committees, as to the thrust of the proposals, as briefly as possible. He hoped that it would take approximately one hour, and at the end of that time, the Committees would take testimony from the persons who had traveled a considerable distance to testify. Computing that it would then be approximately 6 P.M., he said that the meeting would break for an hour or so, and then resume in the evening; or, if it was necessary, be continued on Thursday, March 20.

The first speaker was John Reiser, Chairman of the Nevada Industrial Commission, and he stated that the legislation he would like to review had been recommended by the Governor's Labor and Management Advisory Board, and that this Board had discussed much of the legislation with labor and management representatives around the State. He said that all of the legislation was not yet available in printed form; that some of the bills had just been introduced that day and the day before in the Assembly, and that, if it was agreeable to the Committees, he would like to go through the bills that had been printed, and were available to everyone; and made the following comments.

Re: A.B. 364

This bill was recommended in order to take care of technical changes in the procedures. In Line 16, the proposal is to change $15,600.00 to $24,000.00 per annum, as a base for collecting premiums from the employer. That salaries are approaching the $15,600.00 mark, and in order for rates to remain stable, with everything else being equal, the base should increase with increasing salaries. That, if the change is not made, the rates will tend to change as they hit this upper limit on the payroll collection.

Senator Raggio suggested that it would be helpful, if not essential to the audience and the Committees for Mr. Reiser to outline this so-called NIC package that they had heard so much about. He asked Mr. Reiser if he had said that the legislation had been reviewed of both labor and management? He said that if Mr. Reiser would go through the proposals first, and tell the assemblage what problems the fund was having, and what had to be done to make the fund solvent, and what the NIC was trying to accomplish with this over-all package, then they could look at the various bills individually.

Mr Reiser agreed that this was an excellent approach, and stated that he would review the entire package, and then come back to the individual bills, so that everyone would not get bogged down in detail.
He stated that the entire NIC operation was reviewed by a subcommittee of the Legislature, headed by Senator Carl Dodge, and much was reviewed in the area of rehabilitation and public safety programs. That many of the proposals had been suggested by the Governor's Advisory Board, and discussed them as follows:

1--In the field of public safety.
2--Changes in coverage.
3--Changes in compensation benefits.
4--Changes to implement effective administration.

A.B. 403 In the area of public safety, there were some changes in the Occupational Safety and Health Act. He stated that the Committee had been furnished with a 2-page technical summary, prepared by Mr. Ralph Langley, and that he was sure Mr. Langley would be happy to answer any questions that anyone might have.

The changes are in health, public safety, and for charges of discrimination that have been brought against employers. Most of the changes are mandated by the Federal monitors who are looking over our State operation. Basically, these changes are housekeeping changes. Mr. Reiser agreed to answer any questions, and come back to them when he discussed the individual bills.

Senator Echols said that he thought the people would like to know exactly what the NIC is pointing for in all of these areas; public safety, coverage, compensation benefits, and what you term "effective administration".

A.B. 360 & 409 Mr. Reiser stated that the objectives in the safety area is to reduce the disabling injuries, and of course, the fatalities; and that industrial fatalities were down approximately 19%, as a result of their safety program, for the first fiscal year. That this was the first time in 9 years there had been a reduction in disabling injuries. He stated that several things contributed to this improvement, in addition to the operation of O.S.H.A., for example, the reduction in the speed limit to 55 MPH. That, as a result of action taken by the 1973 Legislature, the State Mining Inspector was now operating alongside the O.S.H.A. inspectors in the NIC building; that the advantage of having them together since January 5, is really beginning to show dividends. He said that the State Mining Inspector reviews every claim that comes through regarding mining, just as the O.S.H.A. inspectors review every claim that comes through in their field, and that each claim in followed through from the introduction of the claim, through the inspection, and right on through to its conclusion.

Regarding the 2 Mining Inspector bills that are being considered in another Assembly Committee are part of the recommended changes recommended by the labor and management interests around the state and, generally, by the labor and management people in the mining industry, along with William DuBois, the State Mining Inspector.

In the area of coverage, the recommendations are:

A.B. 425 1--to eliminate occupational and numerical exemptions, and to permit the optional coverage of self-employed individuals.

He stated that this bill had been completed by the bill drafters and would probably be introduced to the Assembly on March 19. He stated that this bill has been difficult to draft, because of the self-employed provision, and that they had spent a great deal of time going through the statutes to see how a self-employed individual could be covered, and yet not be an employee.

2--Eliminating occupational exemptions would bring in some of the occupations such as agriculture and some hazardous occupations, which have been elective in the past.

3--In numerical exemptions, it would bring in all employees, including those working for the smaller employers.

He stated that when the NIC priced the rates for coverage on self-employed individuals, they found that if they did not put in some restrictions, such as limiting the coverage to Nevada residents, and requiring physical examinations, the price of the coverage would be prohibitive to these individuals. That these restrictions were the basic difference between the Assembly Bill that would be introduced March 19, and the bills that had been drafted prior to the hearing.

In the area of full coverage of all occupationally-related illnesses, he said that Nevada was one of the few states in the country, if not the only one, that did not have some limited coverage on heart disease. That A.B. 425 would provide coverage for only those heart disease cases where medical evidence, and other evidence, demonstrated that there was an aggravation on the job, and contributing factors arising out of the course of employment.

A.B. 428 Regarding the compensation benefits, he stated that the recommendations are that the principle of individual equity be extended to include more employees. He made the following points:

1--In 1973, the Legislature increased benefits considerably, to about $459.00 a month for "permanent total disability".

2--Regarding "temporary partial disability, the recommendation is that they go from $485.00 a month, the present maximum benefit, to approximately $760.00 a month. Only the employee who is earning over the state monthly average would be affected. In other words, the people who now earn $1100.00 a month are entitled to $485.00 a month. Under this recommendation, they would be entitled to 2/3 of their monthly salary, or $760.00 a month. This brings the maximum benefit to 100% of the average state monthly wage. We are also looking at a bill that is before the National Congress that concerns these recommendations.

A.B. 368 3--Regarding the "death benefit", the proposal is that the death benefit be raised from $650.00 for burial expenses, to approximately $1200.00. The $650.00 figure has been in force so long that it is no longer adequate to cover even a reasonable burial expense.

A.B. 368 4--Regarding the "educational" part of this bill, it provided for benefits to survivors beyond the age of 18. The present law provides benefits until they reach the age of 18, and the proposal would continue those benefits until they reach the age of 22, if they are enrolled in a full-time educational institution.

The next bill is part of the Governor's recommendations and his budget suggestions. It is a retroactive benefit funded by the General Fund. It would provide an increase over and above that paid by the NIC.(a 20% increase. The 1973 Legislature passed an Assembly bill providing for a 10% increase, and this would be a 10% increase on top of that.

It would affect survivors, widows and children, who were injured before 1973. This would increase the $167.00 a month the widow is receiving under the old law, and bring it up to a little over $200.00 a month. The present proposal would increase the benefit 20% for the life of the individual; the 1973 bill only increased the benefit 10% for two years. This propssal would increase the benefit 20% for the total working lifetime of the widow's children, and the permanent total disability pensioners that are affected.

A.B. 371 Under effective administration, the proposals are that an "Uninsured Account" be created, which would allow the employee to take NIC coverage, even though his employer may have failed to purchase the mandatory coverage from the Industrial Commission; and to bring suit against his employer, through the Industrial Commission. This bill should be considered along with the bill that provides a "criminal penalty" for employers who do not chase the mandatory coverage.

A.B. 426 Another provision in that "criminal penalty" bill is that the Commission be allowed to stop compensation, and recoup any payments made to someone who has misrepresented facts, as a basis for receiving compensation.

A.B. 427 Regarding the "limited lump sum" on "permanent partial disability", there is a recommendation that has been made to the Commission by a number of people who have also gone to their individual Legislators, asking that there be a limited lump sum for those workers who have small awards; for the reason that so many people have financial problems following their injury. One of the proposals is that the Commission be allowed to pay up to 12% on "permanent partial disability" in a lump sum. This would affect about 2,000 awards per year, and would allow the benefit to be paid in a lump sum, rather than over the working lifetime of the individual. The 1973 session provided legislation that raised "permanent partial disability" approximately 54%, and in doing so they provided that the benefits be paid over the working lifetime of the individual. The"limited lump sum" proposal would give the individual the option of taking a lump sum which would be, in some cases, far less that they would receive if they took their benefits over their working lifetime. For the older workers, some of them would have an advantage by taking a lump sum, rather than over the balance of their working lifetime.

A.B. 304 & 372 Another statute that has been recommended is to handle a problem that the NIC attorneys refer to as the "Witt versus Jackson" problem. It is a California case. To give a simple example: If the employer is operating negligently, and a third party hits one of our claimants, and causes serious injury; under the present statute, either the employee or the Commission, or both, can take action against the negligent third party and, if they are successful in recovering, that negligent third party is responsible for paying for that injury that they caused. Under the present law, the employer or the NIC is not entitled to any recovery against that negligent third party, if the injury occured in the course of employment. We think that this bill will take care of that.

A.B. 405 Regarding the "silicosis" proposal", it is one that eliminates the requirement that during the last two years the person must suffer injurious exposure. We know that a person does not contract silicosis today, and become permanently disabled tomorrow. Silicosis is a progressive disease. Persons who are working at light employment now are under pressure to take "permanent disability" if they have to be termed "permanently disabled" within two years of the time that it was discovered that they were suffering from silicosis. This has not been much of a problem to this point, because we have had court interpretation, but this bill will just clear up the statute.

A.B. 364 To go back, in A.B. 364, many of the States have gone to unlimited payroll. We do not think that this is equitable, so we have recommended that the base be raised from $15,600.00 to $24,000.00.

A.B. 364 In addition, there is a proposal regarding "athletic and social events". This is that an employer not be responsible for "off the job" injuries, in connection with soft ball teams, bowling teams, etc., that they sponsor for their employees. They wish to continue to sponsor these things, but do not wish to be responsible.

A.B. 367 The next proposal is to eliminate "temporary total disability" limitation. There is a limit of $100.00 a month now, and there is only one person I have seen, as long as I have been with NIC, that has gone over the $100.00 a month. This is more of a "housekeeping" proposal than anything else, and is a no-cost item, because when most persons hit that $100.00 a month, they are ready for a "permanent total disability" determination, or a "permanent partial disability" determination.

A.B. 366 The next item is equitable "husband and wife" benefits. In 1973, the Legislature eliminated most of the distinction between "widows and widowers", but thereis something that I think all of us missed. This proposal is to treat the husband the same as the wife, in the case of an industrial fatality, and to pay them both the same benefits.

A.B. 370 The next item is to adjust the limit on claims for disease or death. The limit now has been "4 months from the date of the disease". We are suggesting that it be changed to "90 days from the date of knowledge of the disease". This is in line with the silicosis proposal. A person may contact a disease 20 years previously, and only recently discovered that they have it. We do not think that anyone can be required to report a fact, before they might have received knowledge of that fact. This, again, is more of a housekeeping procedure.

A.B. 404 Regarding A.B. 404, the next item is to change one word that eliminates the words "office buildings" from our authority to invest in buildings. The Legislative Committee that studied this report in 1972, recommended that we take a hard look at the rehabilitation programs operated by the Canadians, and a few of our own States.

A.B. 404 (cont) In doing so, we have found more hazardous occupations in the Canadian systems that we looked at, and yet lower rates. The conclusion is that they are doing a better job rehabilitating injured workers. Since that time, the 1973 Legislature implemented the Rehabilitation Authority, and we have built a staff to work with injured workers. We now have Registered Nurses, Claims Examiners, and Rehabilitation Counsellors to see that we can give injured workers the best possible care. The next step that has been recommended by the Advisory Board is that we provide a comprehensive rehabilitation center, that anyone who is injured on the job can be referred to. A center where neurosurgeons, orthopedic surgeons, physical therapists, gymnasts, and if necessary, psychiatrists can work together as a team to give the utmost of benefit to the injured worker. This is the way that most of these systems work within their Centers, and the outlook is very encouraging. Double and triple amputees are returning to work in 90 days. This is an entire new outlook. Up to now, we have been talking about increased benefits to injured workers; but now we are talking about people who are motivated, being helped to return to work, and not drawing benefits, or at least, drawing decreased benefits.

A.B. 365 The next item is a proposal that allows the Commission to pay for ambulance service, or transportation; to allow an injured worker to obtain medical treatment, without the employer having to pay for it on the spot. This proposal just allows the Commission to go ahead and pay for that service, and then bill the employer.

A.B. The next item is to clarify the waiting period before medical benefits can be paid. The existing statute requires a waiting period of 5 days, but there is another statute that allows us to pay emergency medical benefits from the first day, and this proposal just clarifies that we can pay from the first day from when the injury occurred.

A.B. 429 The next item is to provide coverage for volunteers. This item provides that the Commission can provide coverage, at a deemed wage of $100.00 a month, to valid volunteer organizations. We have had many requests for this type of coverage, as some of these people are not "earning a salary" as such, but are instead working for scholarships, etc. The employers have asked us to provide this coverage to eliminate the possibility of lawsuits.

There are still two proposals in the drafting stage:

1--The "medical appeals board", which is not favored by labor or management because, if we have the specialists doing an adequate job of helping the injured worker, there will be no need for an appeal to a medical board.

2--The proposal for "extra-territoriality". Basically, this requires that an employee be allowed to file either in the state where he was injured or in the state where he was hired. In a bill before National Congress now, this will become mandatory, if that bill passes.

A.B. 419 The next proposal is that the employer be required within 6 days of his knowledge of any injury, to report such injury to the NIC. We think that this will help eliminate any delay in payment of benefits. We ask our employees at NIC to attempt to make the benefit payment within 14 days, but about 35% of the reports do not come in until about 10 days after the date of the injury, so this proposal would help us to expedite the benefit payments, and avoid unnecessary criminal penalty.

Senator Echols stated that Mr. Reiser had given what seemed to be a very comprehensive over-view, and he thought that now the Committees should hear from the people who had traveled from out of town; that the local lobbyists, Commission members, and the Committees could get together at any time, without any inconvenience.

A.B. 329 The first person to testify was Doris Rose, against A.B. 329 which provides for payment of attorney's fees. She spoke from a prepared statement, a copy of which is hereby attached, and made a part of this record. (Attachment 1)

Senator Echols again admonished the persons testifying, informing them that the Committee had to address themselves to specific legislation, and asked them to please identify the piece of legislation they were testifying in regard to.

The next person to testify was Mary Lois Novack, as called by Senator Echols, but she asked that her attorney, John Coffin of Coffin and Nicholls, be allowed to speak for her.

Mr. Coffin spoke at length from a prepared statement, which is hereby attached, and made a part of this record. He stated that his law firm had many clients who were claimants in cases against the NIC, and he had several years of experience in these cases. (See Attachment 2)

A.B. 427 Senator Raggio asked Mr. Coffin if he was familiar with the provisions of A.B. 427.

Mr. Coffin replied that he was familiar with the bill, and that in two respects, he considered it inadequate.

1--In A.B. 427, a provision states "for awards up to 12%". In the past, he had represented several clients who, being disabled in the course of their employment, wanted to go to some sedentary activity that they were able to do. A lot of them wanted to get a job in their own business. That, under this provision, if a man wanted to buy a small business, he is precluded; as 12% won't buy anything.

Senator Raggio stated that while on the subject of A.B. 427 he would like to ask Mr. Reiser of the NIC to explain what the rationale for the 12% figure was, and how it was arrived at.

Mr. Reiser replied as follows:

A.B. 427 1--Any person with a 12% or greater impairment is eligible for the "second injury account" which was passed by the 1973 Legislature. The "second injury account" allows an employer to return an employee to work, with limited liability. The employer might be opposed to a $100,000.00 potential disability, where under the 12% provision, he would only be subject to a $1,000.00 disability. It is an incentive to help our rehabilitation counsellors and the employers to return these people to work. The NIC realizes that the initial costs, including attorney's fees, have been a burden to many people, but since 1973 there has been an "escalator clause" in the law, which provides a 54% increase in the "permanent partial disability" benefits that people are entitled to. That if the "limited lump sum" were much larger than 12%, people who took it would be cutting themselves out of a great deal of money that they might need to live on in future years. Since 1973, every time that wages go up, so do the benefits, because of this escalator clause. One thing that the NIC is concerned about; and that they are going to have to have an extensive "public information program" regarding is; that some of the younger workers, even taking the 12%, and receiving, for example, five or six thousand dollars, instead of the twenty-five thousand or thirty thousand that they would have been entitled to, if they had taken their benefits over their working lifetime.

Senator Raggio stated that he, Senator Bryan, and Senator Monroe were concerned about the wording, and quoted from the bill, "a claimant injured after July 1973, and incurring an impairment that does not exceed 12%, may elect to receive his compensation in a "lump sum payment", calculated at 50% of the average monthly wage for each 1% of disability, less any "permanent partial disability" benefits already received.

Mr. Reiser replied with the following example: Let us take someone with a 10% "permanent partial disability". I have worked this out myself, and I believe I would be entitled to about $25,000.00 over my working lifetime, or I could take $5,700.00 as a lump sum, immediately. By taking the $5,700.00, I would give up the 50% for the rest of my working lifetime. This goes back to 1973, and anyone injured after that time could elect to receive their compensation in either one of these ways. Those who have already received one or two annual payments, would have those annual payments deducted from their total compensation.

Senator Monroe remarked that there seemed to be a conflict between A.B. 2, which provided for a payment of up to 20%, and A.B. 427, which provided for a payment of 12%.

Mr. Reiser answered that A.B. 2 was also considered by the Labor and Management Advisory Board, but is an alternative to A.B. 427.

Senator Monroe, at the request of several people, asked Mr. John Coffin, of Coffin and Nicholls, if he was a registered lobbyist, or was just a witness at the hearing.

A.B. Mr. Coffin replied that he was not a lobbyist, registered or otherwise; that he would like to finish his answer to Senator Raggio's question regarding the provisions of A.B. 427. The second provision in the bill that he particularly did not like, and which was enacted by the 1973 Legislature, at the behest of the NIC, was the elimination of "other factors". That when a committee, a claims board, or the Commission meets, it meets to decide a claimant's disability. That the elimination of "other" factors completely negates the importance of a person's occupation. That the claimant is taken on a "whole body" basis, according to American Medical Association guides. He thought that the adoption of a "blanket standard" like this was inherently unfair. That the loss of a hand to him, as a lawyer, would be of fairly minor consequence, but to a watchmaker, or someone who makes their living mostly with their hands, it would be a tragedy, that it would kill that type of person, economically. He stated that this matter had come up time and time again in the hearings he had appeared at before the NIC, and that it was basically and grossly unfair.

A.B. 427 Going back to the "limited lump sum" provision in A.B. 427, he stated that a person is given an award to help them, and if they can make better use of the award by taking a lump sum and buying a small business, or whatever, he thinks they should be given that opportunity.

Mr. Raggio stated that Mr. Coffin was talking about the provisions of NRS 616.105, which have already been adopted; that it was already in the law, and A.B. 427 does not change that.

Mr. Coffin replied that he realized that, but that he was particularly concerned with the way Mr. Reiser explained A.B. 427, when he stated that a claimant would have the option to take a "lump sum", but at a considerable reduction.

Senator Raggio said that what he wanted to make clear was that A.B. 427 does not change the present law, which does preclude the consideration of "other factors".

Mr. Coffin replied that he thought it should do so. That he thought "other factors" and "a lump sum" should both be provided. That there are cases before the Nevada Supreme Court which will probably not be heard for another year, and these cases concern the claimant's ability to appeal to the District Court. He stated that he knows that "on paper it looks better if all of the administrative procedures are kept within one administrative body" but he does not think this is fair for the following reasons:

1--On the claims level at NIC, the claims people are under Mr. Reiser. They meet with people as claimants, and make them an offer, based on the medical evidence.

2--If they are not satisfied with what they are offered, they then meet with the Commissioner. The Commissioners have two diametrically opposed responsibilities. On the one hand, they are charged with the responsibility of building up the "fund," and Mr. Coffin remarked that he had seen in the newspaper where the "fund" had been built up by 12-1/2 million dollars this year. On the other hand, they are obligated to pay out of that "fund" in making awards to claimants. He said it was just as if he and Senator Raggio were involved in an accident, that Senator Raggio agreed that he should pay Mr. Coffin an award, and then Mr. Coffin let Senator Raggio decide how much he should receive. He thinks that the Commissioners are in a position of inherent conflict, and it is unfair to them and unfair to the people of the State of Nevada to put them in this perplexing position.

3--The next step, under the 1973 legislation, is to go to the independent Hearing Officer, rather than have a "trial de novo" in a court of law. The present Hearing Officer, he believes, is doing a fine job, but that he is housed at NIC, he serves at the pleasure of the Governor, and that there are too many political connections present to make sure that he is truly an "independent" Hearing Officer. He believes that the lawyers handling cases for NIC claimants would be much better off with an "independent" trial judge and jury.

4--The Commissioners claim that a "trial de novo" would take too much time. You have heard Mrs. Rose, who was injured in March of 1973. She was released by her Doctor in May of 1973. Her first hearing at NIC was February, 1974, almost 9 months later. Her second hearing was in March, 1975, 11 months later. He stated that he could have gotten her case to court in Washoe County in 6 months.

Mr. Coffin said that he would like to make one other comment on what Mr. Reiser said when he referred to the bills in question as a "labor-management package". There are thousands of people in the state who are not covered in this group, and he surmises, but has no proof, that between labor and management, NIC has been a throw-away issue, because he does not think that individual claimants have received any benefit from labor and management recommendations to the NIC, in the past several years.

His one last comment was on the O.S.H.A. connection with NIC. One of his clients was present who had come down from Ely. He stated that he was forced against his will, and against his protests, to work in a hazardous area while working for Kennecott Copper. The scaffolding did fail, he was injured, and he asked for an investigation. He was informed by the NIC that they could do nothing. That he had run into this problem with clients before, in regards to Kennecott Copper. That he would like to present to the Committee a list of approximately 10 pages of defects that O.S.H.A. found when they "got into the act". He submitted to the Committees that this should be a "state" problem, and that the NIC should be empowered to handle these problems as they come up, rather than have the federal people come in and give this kind of an edict to a Nevada employer.

A.B. 329 Senator Monroe asked Mr. Coffin how he felt about A.B. 329, which provides that the NIC should pay the attorney's fees for claimants, and the attorney, if he is not satisfied with the fee that the NIC approves, can go to the District Court and ask for a higher fee.

Senator Monroe asked Mr. Coffin if he did not think that the NIC should also be able to go to court, if they did not like the fee; if it should not be a 2-way deal.

Mr. Coffin replied that the NIC itself is setting the fee, and that he did not think that there would be an instance where they would be dissatisfied with their own judgment.

Senator Monroe asked Mr. Coffin if he thought it would be all right for the Commission to take an attorney to court to force him to represent a client, for the fee that they set? Would not Christmas come every day for the attorneys of this state, if the people of the District Court could decide what the fee should be for an attorney to represent a claimant?

Mr. Coffin replied that he did not think so, for the following reason: That any attorney who represents an NIC claimant is forced to be involved in so many hassles, and that he thought the NIC would become more efficient because, instead of hauling claimants and attorneys down for 4 or 5 hearings per claim, as they do now, he thought they could limit it to 1 or 2 hearings, and he thought that the passage of the bill would encourage them to do so.

Senator Echols said that he would like to make one observation at this time. Senator Monroe had referred to it when he asked Mr. Coffin if he was a "registered lobbyist". He told Mr. Coffin if he was at the hearing representing anyone other than himself, he was required to register, but that testifying at the hearing on the behalf of his clients was not lobbying. However, if he was talking to Legislators in the hall about legislation, he was acting as a lobbyist, and the Senator would recommend that he register, and eliminate the confusion. That just during the last week, there had been several instances where some people had been challenged very severely.

Senator Echols then stated that the Committee was faced with a disturbing thing. That there were a lot of people who had come from Las Vegas and the northern part of the State to testify, and it was obvious that the Committees were not going to be able to finish the hearing, and that he would like to hear from the people who would not be able to return, if there was no objection to that.

A lady then testified from the audience without giving her name. She said that she had not been able to find an attorney to handle her husband's claim against the NIC, after making 30 phone calls to find one. She said that she, and probably many other people in attendance, did not understand all the technicalities that had been discussed, but just wanted to present their cases to the Committees.

Senator Echols tried to clarify matters for her by saying that all of the bills before the hearing would go back into Chairman Banner's Assembly Labor and Management Committee for hearings, since they were Assembly Bills and, after being processed there, would come before the Senate Commerce and Labor Committee for hearings and to be acted upon. Basically, the purpose of the Joint Hearing was to obtain a large over-view of what the bills under discussion were all about. He complimented John Reiser, of the NIC, on the effectiveness with which he had explained the bills. He said, again, that he believed the people testifying at the hearing should address themselves to specific pieces of legislation, and commented that, if that were done, everyone would be a lot better informed. He also said that the hearing would probably be continued for an hour or two after dinner.

Senator Echols then gave Mr. Raymond Bohart permission to speak on behalf of the people present from southern Nevada.

Mr. Bohart stated that he was the managing director of the Federated Employers of Nevada, and was a "registered" lobbyist. He made the following points:

1--There had been reference made earlier in the hearing to 20-odd labor and management bills, and in behalf of the dozen or so employers in the audience at the hearing who had flown up at their own expense, he expressed their concern about these bills. Since the employers are the ones who would be paying the bill for whatever bills were passed, he thought that they were properly concerned.

2--He stated that they found it very difficult to address themselves to the Committee regarding the bills before the hearing, since as of March 13, the bills were only up to A.B. 385, and they were now up to A.B. 429, and some of the bills had been passed out to them as they entered the room. That there had been an implication that there were, roughly, four more bills yet to come.

3--That it was impossible for them to discuss legislation that they had not even, or only barely, seen. That they could not possibly give any meaningful testimony.

4--He suggested that the bills be allowed to move back into the Assembly where they originated, and that the people he represented be given at least a week to study the bills before they attempted to give any individual testimony on them. That it was impossible for them to give the Committees any intelligent feedback on the bills without having time to study them.

5--That, to his knowledge, the management interests he represented in the southern part of the state knew nothing about any bills that were coming out of the NIC.

Senator Bryan asked Mr. Bohart if he was indicating that the bills had not specifically received the approval of the Federated Employers of Nevada.

Mr. Bohart answered that, starting with A.B. 403, he had not even seen them previous to the hearing. That he was not representing everyone present from Southern Nevada, that many individuals were present themselves, but merely wanted him to make it clear that they were not familiar with the legislation and wanted time to study it, before they testified on it.

Senator Raggio remarked that the Committees had just received copies of some of the bills as they walked in the door also, but that there had been so much talk about this so-called NIC package, that he wondered if Mr. Bohart had any preliminary comments that he might give the hearing about the over-all thrust of the program, so that they might have some guidance, as they considered them bill-by-bill. He asked if there was any position that Mr. Bohart's group had taken.

Mr. Bohart stated that his occupation at the present time caused him to be engaged in "collective bargaining", and he found that it was always unwise to comment until you know everything that you are talking about. That, at this time, he did not care to take any position on the "package" until he knew what the entire "package" contained.

Senator Echols asked if the Committees could have a list of the membership of the Federated Employers of Nevada. Mr. Bohart said that he would be most happy to give the Committee members a list, and that Mr. John Yoxen, at the hearing representing the Las Vegas Chamber of Commerce, had just reminded Mr. Bohart that he was speaking for the 1,000 members of that Chamber.

A.B. 364

Mary Leisek, representing the Southern Nevada Home Builders Association, was the next speaker, and she made the following points on A.B. 364.

1--On lines 20 thru 23 on page 3, she read the original wording of the law. "In determining the total amount paid for services performed during the year, the maximum amount earned by any one employee during the year, shall be deemed to be $15,600.00".

2--She then quoted from the NIC rule (Regulation #16), and asked the Committees to please note the difference in the wording between the statute and the NIC regulation, "For the purpose of considering workmen's compensation premiums, it is the first $15,600.00 paid to an employee during a calendar year, by an employer". She asked the Committees to note that nowhere in the statute does it refer to an employer, only an employee.

3--The NIC, through what they call their "labor and management" committee, is now trying to close the door, by saying that each employer will now pay this premium instead of the amount being based on what the employee actually earns.

A.B. 364 (cont)

4--What we have is a situation where if an employee is working for one employer for 6 months, at an annual salary of $15,600.00 and then goes to work for another employer, the second employer has to start paying premiums on his salary, all over again.

5--The people she represents believe that the employer in this case is being unfairly treated, and so is the employee, because the employee's benefits are not increased, although the amount paid in on him, following this thesis, could be based on as much as $31,200.00.

6--She stated that they were very much opposed to the $24,000.00 figure, but that they would like an amendment to the bill regardless of what figure was finally arrived at, that a weekly maximum be paid, so that it would never exceed for all the collective employees more than would be paid on any one employee, over the 1 year.

7--What the NIC is asking for, in their opinion, is that the premium be paid by all the employers, and there would be no limit on that, only on the employee's earnings. That they were asking that, whatever amount is finally arrived at, there is a "weekly maximum" put on that amount.

Senator Raggio asked whether it mattered if there was a "weekly maximum" or an "annual absolute maximum"?

Mrs. Leisek replied that it did matter, for the following reason: Based on the $15,600.00 figure we have right now, the weekly maximum would be $300.00 a week, and if an employer doesn't know whether the employee was going to stay with him for the entire year, say that he is now earning $400.00 a week and the way the employer has to pay the premiums, he has to pay on the first $15,600.00, so he could be paying on a salary in excess of $300.00 a week, so it is essential that there be a "weekly maximum". If there are 13 weeks in a quarter, and the employee is earning $400.00 a week, the employer would be over-paying on his premiums by $1300.00, and yet the employee is not covered in excess of the 13 weeks that he worked. He never has been, and it was her contention that the NIC has been illegally collecting the monies that they have been collecting, and that they are now trying to "close the door".

Senator Monroe asked for clarification of Mrs. Leisek's statement.

Senator Raggio stated the law presently says that the premium should be paid up to a maximum of $15,600.00. Some employer may hire an employee, and he may earn $15,600.00 in 6 months. Then, if he leaves and goes to work for another employer, the way she is interpreting the law, he may earn another $5,000.00 or $6,000.00, and by his new employer paying premiums on him also, the employers are paying on as much as $20,000.00 or $21,000.00, or whatever his total wages might be, merely because he changed employers.

Senator Monroe stated that he didn't know what Mrs. Leisek was talking about. Senator Raggio explained they way they were interpreting the law, that an employee could earn $15,600 working for one employer in six months. Then if he leaves and goes to work for another employer, he may earn another $5,000 or $6,000 and by his new employer paying premiums on him also, the two employers are paying as much as $21,000 in total wages merely because he changed employers. Senator Raggio then asked Mr. Reiser if this was the case. Mr. Reiser replied that he had requested a legal opinion from his staff and they did find there had been cases where this had happened. There are potential abuses but it has happened. The $24,000 figure per employer is a clarification of this. The situtation where we don't interpret it that was is where one employer pays the $15,600 and then the employee goes to work for another employer in a hazardous industry, for example, crop dusting, and makes another $20,000. Mr. Reiser said they thought the illogical conclusion of this thing is that the crop duster should pay no premium even though there is high risk exposure. Under the bill, as it is drafted, there would be a requirement that every employer pay for these $100 units of exposure up to the maximum whether it be $15,600 or $24,000.

Mr. Reiser said if he implied that he had talked to every labor and management individual in the state, he certainly should correct that. The Labor and Management Advisory Board was appointed by the Governor to work with them and try to screen out some problems with draft legislation before the bills are introduced for consideration by the legislature. A question of importance on A.B. 364 is "What is the effect going to be on the rates?" Across the country this maximum considered payroll has been increased so the limit does not artificially increase the employer's rates. If you hold to the $15,600 in an inflationary period, salaries are going up and that's going to increase your rates. It doesn't make any difference to the industrial commission whether you collect on the $15,600 or the $24,000. If you collect on the $15,600, the employer is going to ask a very good question, "why are my rates going up even though my experience rating is good?" The problem is that the exposure is going up/ Suppose your units are $100 units and exposure is hold down artifically. Mr. Reiser said that they suggest that the payroll limit be raised so the rates won't be artificially increased. Mr. Reiser said he thought this is the type of thing which you requested an explanation for.

Senator Bryan said the thing that irritates and embarrasses him personally, as a legislator, is that when Mr. Reiser came and suggested having a hearing on all of this, we agreed to have it today. Senator Bryan said it was his understanding that even though some of the bills were not out of the bill drafters office, their contents had been distributed around the state, to union officials and employers. Senator Bryan pointed out that the testimony revealed that sizable numbers of employers had not even heard of some of these proposals and had never seen them. Senator Bryan felt it was a shambles and that there had been no intelligent input to the committees. He said there were considerable numbers of people who had been inconvenienced by having to leave their jobs, etc. Senator Bryan felt that for future reference somebody should make sure the line of communication is open to let these people know so they can attend. Mr. Reiser said he had notified these people that had expressed an interest in the legislative package in very general terms. He said they had had phone calls and letters on some of these bills, such as OSHA, as late as the day before the hearing. Ralph Langle was there. He said these things were as irritating to them as they are to the committee, but when you operate a department like these, you have mandates from all kinds of people, including the federal government. They've come up with problems that they have to react to. He said they didn't like it any better than the employers and the committee. Mr. Reiser said he agreed that it wasn't an acceptable situation.

Senator Raggio said these were agency bills. Mr. Reiser said they were not only agency bills. These were drafted as agency bills, but they were in rough form. Senator Raggio said that's what he meant. He asked if they were requested in September and October. Mr. Reiser said they were requested in September and October but the bills before the committee now are very different, from those submitted by the NIC in October. They involved a tremendous amount of input from the Labor and Management Advisory Board. Most of the things that Mr. Reiser discussed are Nevada Labor and Management modifications of what they submitted in September and October. Mr. Reiser said they tried to get comments and recommendations by everyone that would be affected and mofidy this proposed legislation to consider the criticisms and suggestions of labor and management. Mr. Reiser said if they can screen these things out so they are more than an academic version of the improvements that the agency considers necessary, then they perform in better service. Mr. Reiser said they were no longer agency bills as far as he was concerned. They are bills recommended by the Governor's Labor and Management Advisory Board. They have received an additional screening by labor and management groups.

Senator Raggio asked who they meant when they said they had received additional screening by labor and management. Mr. Reiser said these are individuals who have volunteered much time and effort to develop suggestions for improvement in NIC operations. He said this was the type of thing they had tried to react to. Mr. Reiser said they have individual Nevada labor and management groups that say this needs to be changed in order to be effective and be supported by their group. Mr. Reiser said they tried to prepare these drafts so that they are worthy of the agency recommendation.

Senator Raggio said he would welcome some general opinions on these bills or if someone had some specific suggestions, he would be willing to listen. He felt the committee needed to look at these bills as a whole unit. There was general discussion among the committee members along these lines.

Chairman Banner made the following remarks: He said he wanted to make his position clear about what happened. He said he came up with part of his bills, A.B 2, 3, 4, and 5, which have been laying around here for about two months. A.B. 303, 304, 50, 329, and 327, he has worked with Mr. Barengo on. They have been around a long time and everyone has had time to review them. The last thing thing that has happened because I was coming in with the entire labor and management package. Then people kept coming to him and saying they had other bills that were more comprehensive and asked him to hold off on his bills until they could see how these go. Mr. Banner said he was aksed to come up with an NIC package and when he got here, Senator Echols and Mr. Banner took it up to bill drafting for NIC. Mr. Banner said they were doing NIC's work for them. Mr. Banner said he didn't have any more pressure than anybody else to get these drafts out. So through the Assembly committee he has been trying to get these drafts out as fast as he could. Mr. Banner said he was hurrying today to get these in. His reason is that he wants to be around when his bills come through because he is going to be standing there testifying. Mr. Banner said he had been trying to get something done and that was why he was there.

Burt Leavitt testified next. He said that industrial insurance is one of the most important things in our work. He said it was a right of everyone to have this. He spoke about a letter he had received from NIC and read from them. The letter will be made a part of the record. Mr. Leavitt said he had received the letter only two days before the hearing and thought the communications procedure should be reviewed. He felt when you have one organization that has a monopoly you have trouble. He also felt people should have a choice of coverage. Senator Raggio asked Mr. Leavitt if he knew anything about the employment security package. Mr. Leavitt said he didn't know about it.

Roland Oakes, Associated General Contractors and a member of the Labor Management Advisory Board, testified next. He said that if these people that said they had not been notified it was the fault of their staff. This package was discussed at the general meeting of the Associated General Contractors and was approved. He also happens to serve on the Labor Management Committee appointed by theGovernor and there is no package on employment security as of the date of the hearing. Senator Raggio and Mr. Oakes discussed this employment security package.

Mary Novak testified next. She said she was in pain right then and was there to represent herself. She said NIC had been rude and had harrassed her. She said she asked for an NIC paper right away after here first accident and did not get it. Six weeks later she worked as a waitress and fell again under the same conditions. Mrs. Novak said they started telling her exactly what to do. She said she called in pain and asked for help and they made here worse. She said she made requests for change of doctors and never got it. Mrs. Novak said they should have bills to protect the patients they have. She said she was speaking not only for herself but for others in the same condition. She said she got an attorney that has been kind to her and treated her right.

Tom White testified next. He said he was as good a man as anyone who walks and when he cannot decided what to do with his own money that he received as a result of his injury, he didn't know what was wrong. He can no longer do his job because of the injury. He said he believed any other insurance company would pay you off and not just give you a little bit like NIC did. Mr. White said if a person is on Rehabilitation they should be on the budget but as long as a man stands free and as long as he considers himself to be a man, then let him make his own decision. Mr. White went into a different field. This is at one third the pay but he said he had his pride and dignity and there is no price for that.

Attorney Warren Goedert, law firm of Rice and Goedert, testified next. A copy of his statement is attached for the record. Senator Raggio asked when the trial about the appeals officer was to be heard in the Supreme Court. Mr. Goedert said it would be in December of 1975. The opening brief has been filed; the responding brief is prepared and he thought the time to file is at the end of the month. The oral arguement may be heard earlier but that will not be done until all the briefs are in. Senator Raggio said that he resisted that provision and also the one on the panel of physicians. Mr. Goedert said he did remember. Senator Monroe asked if this decision is upheld will this rule out the administrative procedures act as far as the appeals officer is concerned. Mr. Goedert said this would apply only to NIC cases.

Ralph Rush testified next. Attorney Coffin represented him. When Mr. Rush first got hurt his left eye was operated on but he did not have the right equipment. He requested NIC to send him to a specialist. They did not and he lost his left eye. There was a delay of eight or nine months and he could not get any help. He retained John Coffin after this.

Joyce Pederson testified next. Her husband is the injured person but she is the one who has had all the harrassment, not only from NIC but from the doctor. No one was willing to give them any support. The attorneys cannot keep on working for nothing. Her husband had a back injury received in December of 1973. He was under a doctor that released him for light duty only. He is 35 years old. He is a moving and storage driver. She is a heart patient. Mrs. Pederson said she called NIC two days in a row and they said they could not find her husband's record. After she was given this excuse they told her the doctor had not sent her husband's records. She was told this week after week. Mrs. Pederson said this day was the most useless day for people in their condition. She said that she asked to pick her husband's check up because there is a lot of mail

trouble in Sun Valley. The NIC said yes she could pick up the check. When she went down there they had mailed the check out. It was a trip to Carson City for nothing. NIC also said they wouldn't pay for his first doctor bills. She said she had contacted Mrs. Gojack and Mr. Banner about this problem and thanked them for their help.

Fred Crick testified next. He lives in Reno and was a TV cameraman at KOLO. He fell off a ladder in the line of work. The ladder was rickety and should have been banned from anybody using it. He fell and had surgery on his neck. When he was injured he only hurt for about ten minutes. About a month later problems started. He went to three doctors and then to NIC. They turned him down. No questions were asked by his private insurance company. He submitted his forms and they sent back everything was fine. He started getting money and had his surgery. During this time he was still trying to contact NIC. Now he is stiff necked from his fusion. On his private insurance forms he stated he thought it was NIC. He was then cut off from his private insurance. NIC is still denying his claim.He had a hearing March 18 with NIC. At the hearing another thing came up. Because of lack of money he went to music two nights a week at a club in California. He felt he was being degraded and has to crawl to people who are not his peers. He his now a janitor because that is all he can handle. He said to get Reiser and his bunch out and straighten up NIC or call it Nevada Industrial Rip-Off.

Jack Kenny, Home Builders of Southern Nevada, testified next. He wanted to know what the fiscal impact was giong to be. Senator Bryan asked what kind of information he had received on this hearing. Mr. Kenny did not answer but did ask who served on the Labor and Management Advisory Board. He also said they were not represented. Senator Monroe said he had received a telegram a couple of days before the hearing from the Southern Nevada Home Builders protesting a couple of these bills. Mr. Kenny said they sent it but they just got a letter saying to be here on the 18th and there were a bunch of bills to be heard. That was last week but as far as any of the preliminary negotiations they have not been a part of them.

Robert Brown testified next. He lives in East Ely and works for Kennecott. He was hurt working under protest. He wanted to know why the NIC didn't investigate the accidents because if they did they would find that a lot of laws are being violated.

Burt Farrell testified next. Mr. Farrell lives in Lyon County and had an industrial accident on July 5, 1973. He said he understood that as of July 1 they cut out any lump sum payments. He said he had surgery and when he recovered the NIC called him in for a hearing and gave him an award of 5 percent disability. He did not have an attorney at the time. The NIC gave him $206 per year. He was off from July 5, 1973 and went back to work May 14, 1974. Since then he hasn't healed right and he just had another surgery six weeks ago. The average working man, according to Mr. Farrell, would rather get a lump sum than $206 per year. He said to give them a little bit to catch up their bills. Mr. Farrell lost his home, a car and a pick-up. He was also in favor of the bill on attorney's fees. He also had trouble getting his travel pay. When he did get it he had to give $45 out of $147 to the attorney. He also thanked Mr. Banner for listening when he called him on the phone.

Peter Newman testified next speaking for himself. He addressed himself to Senator Monroe's question about attorney's fees that gives control to the court. He felt that should be in there because if it not included in the bill the court has final regulatory power over an attorney's fees, the bill could be used as a sword by the commission on this ground. The NIC traditionally discourages

people from getting attorneys. If the legislature is going to give attorney fees, the commission should not be able to reduce this to an absurdity. He said it was against the law for an attorney to charge more than $10 to a veteran when he is trying to increase his benefits. He said he has handled one charity case. If this provision was not in there the NIC could say they were going to award $10 to the attorneys.

Richard Bortolin, appeals officer of the Nevada Industrial Commission, testified next. He said he had not planned to make any comment but felt there were some remarks that needed to be responded to. He wanted to make it very clear that the law suit in question concerning constitutionality, he did not see or hear any of the three individuals that were brought on in that law suit. In addition, he was sued prior to being appointed by the Governor. So the issue is really one of a pure legal matter. He was refused oral argument in the district court below. He did not wish to make a comment on this case because of the fact that he didn't want to argue this case before the committee. Mr. Bortolin wants this case to go before the Supreme Court. He had an induendo concerning his actions at the NIC. He felt that it was proper that he be housed at NIC's own quarters until the constitutional cloud was removed. He said he would like to get the constitutional question settled because it has been a thorn in his side since its inception. It has done nothing but impede what he has been trying to accomplish at NIC. He tried last summer by bringing a writ of prohibition on to get this matter heard early. It was denied last summer. He had the answering brief in in November. There have been two extensions by the other side. He said he didn't want to argue this case but he did want to make two points very clear. The first one is that the administrative procedures act came into effect in 1967. The facts arising under the last three cases cited by Mr. Goedert came about as a result of facts occurring in 1964. He said he would answer Senator Monroe's questions about whether this would affect other agencies. He said he thought that particular issue is an issue which could be answered most probably, because if judicial review is affected with NIC, that case will be recited by other agencies. Mr. Bortolin just felt there were a few points that should be brought out to the committee that were not exactly the way they appeared.

Senator Raggio said the committee wasn't bound by whether there is a decision or not. They can change the law, in fact, and give a trial du novo. He said the committee was not bound by the court. Mr. Bortolin said he realized that. He said his comment on that was that he would have to get into the merits of the case and argue the case in order to answer that question. Senator Raggio said he wouldn't have to do that and just wanted his comment on whether Mr. Bortolin believed there should be a trial du novo and an appeal to a court. Mr. Bortolin said he struggled with that question for some time. In fact, it was the major question which bothered him as the appeals officer. He said some very good legal minds gave the issue of whether or no the district court should hear the facts completely over again. These legal minds are the same ones that established the administrative procedures act, which was adopted by this state. Mr. Bortolin's answer to Senator Raggio's question is what function will an agency serve if its facts will have to be completely heard again in each and every case. The moderate procedures act has stated that the district could will be confined, as a rule, to substantial evidence and not the weight of the evidence. That is a legal argument. That is the issue in the supreme court. Mr. Bortolin said he didn't know how to answer except to say that he thought the matter has got to be decided by the Supreme Court. He thought that if the appeals officer provision is given all of the powers that a quasi-judicial officer should have at an agency level, he didn't see why he could not administer that workmans disability claim as good as the district court could or maybe even better because of the expertise that is gained by doing it day in and day out. Senator Raggio asked what was wrong with

giving them both. Mr. Bortolin said he had no objection. Senator Raggio said they were after the truth. Mr. Bortolin said he had no qualms with having a review beyond himself. He said that quite frankly he hoped that all of the cases that were presented to him would be presented in the district court. He said his own question was is it necessary for the district court to go into the credibility of witnesses and all of those things that entail the weight of evidence rule as opposed to substantial evidence rule. He said the drafters of the model administrative procedures act thought that would be a duplication of effort, and therein lies the issue which must be determined.

Senator Bryan asked Mr. Bortolin if he as the hearings officer were ever invited to make any comment about any of the bills that were heard. Mr. Bortolin said in a couple of instances he did discuss them. These bills have generally been considered by labor and management and he said he had endeavored to maintain his independence. He said if he discussed a rule with NIC, he may have listened to a point they wished to present, but he has maintained his independence with regards to any of the matters that the bill concerns. Senator Bryan asked if, aside from the labor management package, did Mr. Bortolin have any recommendations to the committee at this time about any changes, etc. Mr. Bortolin said he had prepared a bill which is an appeals officer bill, which he understood has not come out of drafting. He said that at the time the committee discussed this he would go over anything the committee wanted him to. Mr. Bortolin said any bills that are discussed individually, that would be the time to comment.

There being no further business, Senator Bryan moved adjournment.
Senator Monroe seconded the motion.
The motion was unanimous.

The preceeding portion of the minutes of the Joint Hearing, held on March 18, 1975, with the Assembly Labor Committee and the Senate Commerce and Labor Committee are:

Respectfully submitted:

Kristine Zohner,
Secretary

CTION	PARAGRAPH	WHY/WHAT CHANGED	WHY/WHO REQUIRED CHANGE
1	618.095	Clarifying definition of "employer".	Federal legislative review letter
2	618.135	Housekeeping-"and health"	
3	618.145	Adds "public agency" to definition of person considered an employer.	Federal legislative review letter
4	618.195	Housekeeping-[on or before July 1, 1974].	Bill drafter update.
5	618.255	Housekeeping-"safety and health representative".	State Personnel Division wants "consultant" used only for contract positions.
6	618.295	Establishing six month time limit for temporary standards.	Agreed to in final review prior to approval of State Plan
7	618.315	Delete reference to inspector of mines to allow for intra-NIC coordination of safety and health activities.	
8	618.325	Housekeeping-delete "as consultants or representatives".	
9	618.345	Establishes time period for reporting of fatal or catastrophic accidents to DOSH.	Agreed to in final review prior to approval of State Plan
10	618.365	Add language to review board procedures to protect confidentiality of trade secrets.	Requirement to meet Indices of 1902 & Fed. legislative review letter
11	618.375	Housekeeping-"and health".	
12	618.385	Housekeeping-"and/or healthful".	
13	618.395	Amended to include lessor as responsible person.	
14	618.425	Add language to advise employees when department determines an imminent danger does not exist.	Federal legislative review letter
15	618.435	Housekeeping-replace "director" with "department".	
16	618.445	Strengthened to include language for protection of employees discriminated against for filing a complaint and spells procedures to be followed.	Federal legislative review letter

17	618.465	Housekeeping- change "he shall" to "the department shall".	Bill drafter update.
18	618.475	Housekeeping-replace "director" with "department".	
19	618.485	Clarifies hearing procedures and stipulates that contest hearing be held before review board.	Federal legislative review letter.
20	618.535	Housekeeping-"and health"	
21	618.545	Housekeeping-delete "an inspector" add "a department representative".	Federal legislative review letter.
22	618.555	Add reference to Section 545.	
23	618.575	Housekeeping-update of review board language.	Bill drafter update.
24	618.585	" " " "	" "
25	618.595	" " " "	" "
26	618.605	Housekeeping-change "appeal" to "appeal or contest" and "commission" to "review board".	
27	618.615	Housekeeping-update of review board language.	Bill drafter update.
28	618.625	Housekeeping-change "commission" to "department".	
29	618.???	Entitles employee access to records of exposure to toxic materials or harmful physical agents. Also that employers myst notify employees that they have been or are being exposed to toxic materials at levels exceeding prescribed standards and employer to advise employee of action being taken to correct the condition.	Federal legislative review letter.

Attachment 1

Exhibit I
AB329

1355 Granite Drive
Reno, Nevada

March 10, 1975

Senator Floyd Lamb
Carson City, Nevada

Dear Senator Lamb:

"Justice, Humanity Equity"

These three strong words are borne on the great seal of the Nevada Industrial Commission on the wall of the lobby of the Commission Building in Carson City.

However, after experiencing almost futile interaction with the Nevada Industrial Commission I feel compelled on behalf of myself and the other citizens of the State of Nevada to bring to your attention the many inadequacies and injustices of the Nevada Industrial Commission. Unless someone has had an actual claim against the Nevada Industrial Commission and has gone through what I and many others have gone through as a result of an on-the-job injury, one can't possibly know how frustrating and difficult the N.I.C. is to deal with.

First of all, the average citizen is neither aware nor is informed during this process of his or her rights under N.I.C. I soon found out that it is absolutely necessary that an N.I.C. claimant be represented by a qualified attorney. A few citizens, having undergone a serious injury, can afford to hire an attorney on an hourly basis. The attorneys have to get paid so that those few that will handle an N.I.C. case have to take such cases on a percentage basis. I think this is basically unfair because N.I.C. has their claim adjusters and their attorneys paid for but they do not provide the same for the claimants who really need it.

and not all attorneys will accept such cases

When someone has had an industrial injury and has been on N.I.C. compensation for awhile they get seriously behind in all their bills.

All NIC clients should know the rights of judicial process.

As I understand the law the way it now is, N.I.C. will not pay the claimant a lump sum award at the end of their claim but metes out the award in yearly installments until the claimant is 65 years old. Of course, N.I.C. paid no interest on the award nor do they pay any extra for the inflation as years go by. Additionally, the money is most needed as soon as the injured workman has been released to go back to work because by that time he has built up a large number of debts. Unless someone has a tremendously good job to go back to, they simply can't make it under the present N.I.C. system.

This entire process takes many months. For instance, I was hurt in March, 1973, released at the end of May, 1973, had my first hearing in February, 1974 and a second hearing in February, 1975. During this long time span no compensation was forthcoming from N.I.C. so that the claimant can't possibly get caught up financially. I still is ~~under~~ not settled

In my own case, out of desperation I finally went to an attorney. My attorney informed me that I was fortunate that my accident had occurred before July of 1973 because after that date claimants under N.I.C. have no right to appeal the decision of the Nevada Industrial Commission to the courts. The only relief available now, if one doesn't like what the Commission awards them, is to go to a "independent" hearing officer who happens to have his office in the N.I.C. building and who happens to hold his hearings at the N.I.C. building.

~~all claimants should have right to judicial process to the~~ from NIC funds

Another interesting little fact is that the N.I.C. Commission not only makes the final awards to the claimants under N.I.C., but has responsibility for increasing the N.I.C. funds. This seems to me to be a total conflict of interest.

Up to the present few persons have taken the interest to initiate or question constructive changes in the policies or procedures of the Nevada Industrial Commission. However, it behooves us all to see that N.I.C. adequately serves all those Nevadans for which it was set up to serve, and to provide the services for which Nevada employers contribute so that their employees are protected. Let's make the words "Justice Humanity Equity" really have meaning for people who fall under the Nevada Industrial Commission

Sincerely,

Doris J. Rose

The NIC tends to make a client feel like a second class citizen. And are sometimes discriminated as some by medical practitioners & personnel since NIC discounts their fees & the above.

LADIES AND GENTLEMEN:

I'm coming to speak to you for the reason that I have a large N.I.C. practice and have seen the operation of N.I.C. on a level that is probably not visible to you as legislators. I have a large N.I.C. practice, not by choice but by default, in that most lawyers in the State of Nevada will not take on an N.I.C. case. I have continued to take N.I.C. cases only for the reason that without the assistance of a lawyer an N.I.C. claimant in this State has little or no chance of receiving equitable treatment. I state this advisedly after practicing before the Nevada Industrial Commission for over 8 years.

My 8 years in practicing before the Nevada Industrial Commission has absolutely convinced me that claimants before the Commission absolutely need legal assistance. It is a bit paradoxical that we provide legal assistance for those who are accused of, and in most cases have committed a crime, but do not provide legal assistance for those whose only fault is having suffered an accident causing an injury while they were working within the course and scope of their employment.

As an example of the need for legal assistance, I cite the case of Ralph Rush, a man in his early 60's who has worked all of his life. Mr. Rush was a heavy duty mechanic and in August of 1973 got some metal shavings in his eye while he working on the job. Mr. Rush went to an opthalmologist in Reno who advised him that he needed surgery for a detatched retina and that facilities for such an operation were only available in San Francisco. The Nevada Industrial Commission was also advised of this fact and a request was made by the opthalmologist in Reno to send Mr. Rush down to San Francisco to obtain the surgery. The doctor in Reno advised N.I.C. that unless this was done, Mr. Rush stood a very good chance of losing the sight of his eye. N.I.C. refused the doctor's request for the

referral to San Francisco.

At that point Mr. Rush sought legal help and with the lawyer's assistance was able to immediately obtain permission from N.I.C. to go down to San Francisco to have the necessary work done. Unfortunately, however, that permission came too late and as a consequence Mr. Rush lost his eye. The doctor in San Francisco made a straightforward statement that had he been able to operate at the time the Reno eye doctor first wanted to send Mr. Rush to San Francisco, he would have been able to save a portion of the vision and the eyeball itself for Mr. Rush. Had Mr. Rush been able to obtain legal counsel at the outset of his claim, he would have been able to get N.I.C.'s permission to seek medical attention in San Francisco and his eye would have been saved.

Another example of the need for attorneys is the case of a lady who suffered a back injury and reached a stable condition at the end of 1974. N.I.C. made a tentative award to her pending a final discussion with her doctor and her attorney. In late January of 1975, this lady suffered a flare-up of her conditions and her doctor wrote to N.I.C. requesting that the claim be opened for medical attention. The lady was unable to work and has been since that time.

N.I.C. has agreed to send the lady down to their own clinic in Las Vegas, Nevada, but pending the time in which the lady is to go to Las Vegas, N.I.C. has refused to give her any kind of compensation. This lady's husband is disabled, which fact is known to N.I.C. The lady herself is disabled so there is absolutely no money coming in to that household. Without the assistance of counsel, this lady has no chance of being able to feed herself or meet any of her obligations.

Another area in which citizens of our State are prejudiced by the current laws is the area where they are called down to N.I.C. for discussion of settlement of their claims. The Nevada Industrial Commission maintains a staff of trained and experienced insurance adjusters. These people deal with

this field on a daily basis and are quite competent at their work. Most of the claimants coming before the Nevada Industrial Commission in contract have no training in advocacy and in many cases are barely literate. They cannot adequately express themselves nor can they adequately argue against the assertions of the claims people at N.I.C. whose primary purpose seems to be to preserve the fund at N.I.C.

The system at the Nevada Industrial Commission as it now stands is tantamount to an automobile accident situation in which an injured party first deals with the claims adj uster for the insurance company until an agreement can obviously not be worked out between them. Then the insurance carrier is asked to settle the dispute between themselves and the claimant. I think that this would not be tolerated were this the system for the settlement of claims of private insurance carriers and I don't think that it should be tolerated with claims against the Nevada Industrial Commission.

Another extremely distasteful aspect of N.I.C. arises out of the 1973 legislation offered by N.I.C. in which there is a prohibition against paying a claimant a lump sum settlement.

The time of an injured man's greatest need is when he is back on his feet and can either return to his former job or take on a new job in another field which, usually pays him less than his previous job. The current rate for paying claimants' compensation under N.I.C. is 2/3rds of their normal salary based on a maximum of $749.00 per month. It is a fact of our existence that most of us spend all but 5 to 10% of our net earnings. After being out of work for many months and receiving 66-2/3rds % of normal pay, most N.I.C. claimants are far behind in their obligations. Many N.I.C. claimants have lost their homes, their cars and their real estate while on compensation under N.I.C. Yet, under the 1973 legislation, no lump sums can be awarded any N.I.C. claimant. Instead, the claimant is paid on an annual basis in equal increments from the time of the settlement of his claim until he reaches

65 years of age.

Not only does this system cause a great deal of paper work at the Industrial Commission and completely avoids helping the injured workman when he most needs it, but is completely inequitable to him because of the inflationary factors that are a part of our existence. For example, if an injured workman were 55 years old and were awarded a disability percentage which totaled $10,000 he should receive payments of $1,000 per year until he is 65. Assuming an inflationary factor of 10% per year, which has been the case for the last several years, the injured workman would receive $1,000 his first year which would have a full $1,000 buying power. In the 5th year he would again receive $1,000 which would have only $656 in buying power. By the 10th year the $1,000 annual payment would only have $380 of buying power. Nor does the Nevada Industrial Commission pay interest on awards that they make. Thus, it is again a rip-off of the injured workman, Because only for the benefit of the people concerned with building up the industrial insurance fund benefit.

As a result of the 1973 legislation, Nevada Industrial Commission claimants cannot go to the District Court in the event that they are dissatisfied with whatever N. I. C. offers them. The system as it now exists is that when an injured claimant has achieved a stable medical plateau he is called in before the claims department of the Commission where professional people and the N. I. C. doctor interrogate the claimant and then decide what they will offer by way of a permanent-partial disability award. If the claimant is not satisfied with what is offered at that level he can then go to the Commission level hearing at which two of the three Nevada Industrial Commissioners sit in judgment. These gentlemen have the direct conflict of interest in their responsibility for building up the industrial insurance fund and at the same time passing on the awards that are to be paid out of the fund. In the vast majority of cases that I've had experience with, the Commissioners make little or no

change in the award given by the Claims Department. Under the 1973 legislation, the claimant can then go before the 'independent' hearing officer' who is housed at N. I. C., who works with the N. I. C. claims examiners and the Commissioners on a daily basis and who serves at the pleasure of the Governor. Coincidentally, the governor also appoints the chairman of the Commission. It doesn't take a great deal of thinking to realize that if the man appointed by the Governor to serve as the chairman of the Nevada Industrial Commission becomes disenchanted with the independent hearing officer, the chairman of the Commission will be likely to have the ready ear of the Governor if he wants to have the 'independent" officer dismissed.

While I have heard good reports of the present hearing officer, it seems to me to be unwise to guaranteethe independence of ~~this~~ the officer on the character and integrity of the hearing officer now in office. The hearing officer, of course, has the ability and power to not only rubber stamp the Commission level award but to reduce such ~~power~~ award. I think this assumption of Industrial power is probably ~~is~~ unconstitutional and certainly is no guarantee that over 200,000 people in this State covered by the Nevada Industrial Insurance Act have a fair hearing if and when they have an industrial accident which causes them partial or total permanent disability.

Another item which has caused inequities in the Industrial Insurance Act of this State is the elimination of "other factors". Under the current system the disability rating is made according to the AMA Guides For Disability. As an example, if a person has a ruptured disc in his back he is given a certain percentage of disability of "the whole man." This is obviously inequitable for, if a person has a sedentary job the loss of strength and full mobility of his back, while troublesome, will not be crucial to his employment. However, if a man is a carpenter, construction worker or laborer, such an injury could totally disable this man from any occupation that he is

reasonably suited for. Yet N. I. C. continues to push for the maintenance of one standard for all claimants, no matter what their age or profession. It seems ~~[illegible]~~ obvious that if we are to have any equity in the Nevada Industrial Act we must restore other factors so that the people deciding how much assistance an injured workman in this State needs as a result of his industrial accident can look at the particular circumstances of each person who is injured.

Attachment 3

PREPARED STATEMENT FOR JOINT HEARING
on NEVADA INDUSTRIAL ACT

1. A.B. 372, which attempts to deal with the Witt v. Jackson case, fails to take into consideration the fact that Nevada, by statute, has adopted the comparative negligence doctrine. Contributory negligence is not the applicable doctrine in the State of Nevada. Therefore, this bill was hastily conceived and was not given sufficient thought to the complexities of the problems.

2. A.B. 5 is an extremely important bill in that it will raise coverage for those people whose compensation rates have been fixed without regard to the cost of living, increases and subsequent increases in the compensation rates. Specifically, in the case of Mr. McCraken, his compensation of $166 per month would be at least doubled if this bill were to go into effect. There seems to be no question that a human being is unable to survive on $166 per month.

3. A.B. 329 would eliminate the unfairness that results from successful injured claimants who, of necessity, must obtain counsel to assist them in their claims. The system has been and is that the attorney takes a percentage of the award he is ultimately found to be entitled to. In other words, a claimant's compensation is reduced by the amount of his attorney's fee. It is basically unequitable. Our office has obtained in some 21 cases over $400,000 worth of coverage for injured workmen as opposed to the Commissions offer of less then $30,000.

4. A subsequent problem exists with the present constitutional status of the Appeals Officer. The Second Judicial District Court has already ruled the Appeals Officer unconstitutionally endowed. That case is presently pending before the Nevada Supreme Court. The

Legislature has only two courses of action which it may legally follow. (1) Reestablish a workmens right to an independent action in the Courts of this state or (2) pass a resolution amending our constitution to permit the Appeals Officer to exercise judicial functions. The Nevada Industrial Commission is presently exposed to liability on the basis of the Appeals Officer's unconstitutional decisions.

5. A.B. 425. The Nevada Industrial Commission in this bill fails to understand and comprehend the difference between diseases of the heart which result from employment, and accidents which precipitate heart attacks. The concept of A.B. 425, in changing our statutes, is a good one but the bill is unworkably drawn and does not correct the problems which exist in the police and firemans heart bill, NRS 617.457. This office will submit to the Joint Committees a proposed bill which will conform to the law as it exists in other states and in this state.

Warren W. Goedert

WARREN W. GOEDERT
214 STEWART ST.
RENO, NEVADA
329-0103

PROPOSED LEGISLATION

REPEAL subsection 3 of NRS 616.542

REPEAL NRS 616.543

This proposed legislation would bring our statutes into conformity with the Second Judicial District Court decision declaring those statutes unconstitutional, and also bring our statutes into conformity with the Nevada State Constitution. The only other alternative is to pass a resolution for a proposed constitutional amendment. This legislation would keep the Appeals officer but still allow access to the courts for an independent action.

PROPOSED CHANGES TO AB425

Section]. Chapter 617 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. Diseases of the heart, resulting in either temporary or permanent total disability or death are compensable under the provisions of this chapter when produced or aggravated by the distinctive conditions or exertions of the employment.

Section 2. this portion of AB425 is in conformity with the law as written.