

Senate

COMMERCE AND LABOR COMMITTEE

May 2, 1975

The meeting was called to order in Room #213 at 1:15 p.m. on Friday, May 2, 1975, with Senator Gene Echols in the chair.

PRESENT: Senator Gene Echols
Senator Richard Blakemore
Senator William Raggio
Senator Margie Foote
Senator Gary Sheerin
Senator Warren Monroe
Senator Richard Bryan

OTHERS PRESENT: See Exhibit A

S.B. 591: Makes various changes to statutory provisions regulating veterinarians.

Jack Walther, veterinarian in Reno, testified in favor of the bill. This bill is a revision of the vet's existing practice act. The bill is the end product of the Nevada State Veterinarian's Association, which really just updates the existing act. It also provides for the veterinarian's assistant, which is something new in veterinarian medicine. These people assist the vet in his work. They go through a two-year training program and would be registered through the state board of veterinarians. Mr. Walther introduced Dr. John O'Horrd and Dr. Roger Mauer, who were with him.

Senator Monroe asked if this was the cowboy paramedic bill. Senator Blakemore said no, that was h's bill, S.B. 342, Senate Bill 342 provided for the veterinarians assistants also. Mr. Walther said that these people are being graduated and are now looking for work. Mr. Walther felt they should have a certain amount of control over him.

Senator Raggio asked what an animal technician did. Mr. Walther said this was a two year program and they study basic nutrition, assist in surgery and anesthesiology. Mr. Walther said they would be the equivalent of the veterinary nurses. He said there was a need for these people since there is a limitation on the number of people that can be vets. Senator Raggio asked what the justification was for waiving the exam for people who have five years experience. Mr. Walther said they will have to at least appear before the board. Their thought was that there are already existing assistants who have worked for vets for five years or more who are experienced and have actually had the same training from the vet. He said these people are probably more qualified than a person who has gone to the school.

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Senator Monroe asked if this bill created another group other than those mentioned in Senator Blakemore's bill, S.B. 342. Mr. Walther said they were the same thing. Senator Monroe asked if they shouldn't call them the same thing in both bills. Senator Raggio said he couldn't make the two bills compatible and asked what the difference was. Senator Monroe said they should call them veterinary assistants in S.B. 591 if that is what they are called in S.B. 342. Mr. Walther said it has been his understanding that S.B. 342 was going to be held until S.B. 591 was presented. The committee explained that no one had ever come in to testify on S.B. 342 and it had been passed out of committee. Senator Blakemore said these two bills were needed in the small counties. In Tonopah they have people practicing but not being paid because it is illegal. He also gave some examples of a woman practicing in Tonopah who has helped quite a few animals in that area. Senator Blakemore said the problem was resolved in S.B. 342, if they at sometime wish to move on it. Senator Raggio said it didn't seem like they needed both bills. He said S.B. 342, which they passed, gave the board the right to adopt regulations to certify these people, set the educational requirements, to set the procedures, etc. Mr. Walther said S.B. 591 was just tied in with their veterinary practice act. He said the primary purpose of S.B. 591 was to update their practice act and was included because they felt there was a need for this area.

Senator Raggio asked where S.B. 342 was and if it should be killed. Senator Bryan said it had been voted on in the Senate and was now in the Assembly. Senator Blakemore said there would be a conflict notice if they were both passed, but he said the conflict could be corrected now with S.B. 591. Senator Raggio said they were not compatible bills. Discussion of this followed. It was decided to have Mr. Walther find out what had happened to S.B. 342 in the Assembly and report back to the committee later in the afternoon.

A.B. 156: Requires refund of buyer's deposit in certain cases.

Joe Lawler, Consumer Affairs, testified. He said he had no opposition to the bill and that he has spoken to Bob Guinn, who also has no opposition.

The committee recessed at 2:00 p.m. for the Senate Session. The meeting was called to order again at 4:25 p.m.

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Senator Blakemore said S.B. 342 was in the Assembly Committee on Commerce, but it has not yet been heard over there. He suggested that the two bills be merged and they could have one hearing in the Assembly on it.

Senator Foote said the salary of the board would have to be changed to make it uniform with what other boards are receiving. Mr. Walther stated they would have no objection to that change.

Senator Blakemore moved to do pass.
Senator Monroe seconded the motion.
The vote was unanimous with Senator Bryan absent.

A.B. 156: Joe Lawler had indicated there was no opposition as far as he knew. The committee discussed the bill briefly and it was decided to get further testimony from Mr. Pete Kelley, Nevada Retailers Association.

S.B. 542: Provides for certification and regulation of landscape architects.

Senator Raggio indicated he had the amendments to the bill. He showed them to the committee for their approval. There was a brief discussion about the amendments.

S.B. 372: Exempts banks and certain loan associations from usury law.

Fran Breen, Nevada Bankers Association, testified. Mr. Breen had two amendments which he proposed to the committee. They are attached and will be labeled EXHIBIT B AND EXHIBIT C. Mr. Breen said he had spent a few hours putting these amendment together. The two proposals do have a triggering device in them. One amendment would apply to everyone and the other would apply to regulated lenders only. He said the bankers have no particular preference as to either one. He said there could be some problems if the bill is adopted that would apply to everyone. He said that was really not a problem which concerns the bankers to a great degree

Bob Sullivan, President of Valley Bank, explained the proposed amendments to the committee. He stated they had come up with a Bank of America prime rate of 9 percent. Their position has always been that their business is governed by the national economy. They used Bank of American - largest bank in the world - but it wouldn't matter which bank anyone used. He stated there is no possible way that any bank in Nevada would any influence on what rate Bank of America is going to set, so they are not using a rate they would have any influence over whatsoever. Bank of America's rate is determined by the supply and demand of money. Senator Echols asked if this prime rate would be readily available to the general public. Mr. Sullivan said yes. He said the prime rates as quoted by the banks are quoted in the Wall Street Journal.

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Senator Blakemore said he had some hangups about this proposed amendment which would include everyone. He asked if this wouldn't open it up to shylocking and wouldn't that just be making it legal. He said these were some of the problems he knew Senator Dodge was having with the bill. Mr. Sullivan said this is the objection the bankers have to that proposal. However, practically speaking, the bankers are in a position where they are not going to argue. Mr. Sullivan thought that it was not good legislation to take the lid off everyone. Senator Monroe said he objected to including everyone. He agreed with the remarks Senator Dodge made on the Senate Floor about the widow who has \$100,000 to loan out. She becomes a very important source of loan money when bank rates go up. She can loan at 7 or 8 percent and make money available to people who are in need of it. Senator Monroe said he didn't want to see this source of money dried up. Discussion followed.

Senator Bryan asked Mr. Sullivan to comment on giving the controller, the state treasurer and two appointees the authority to lift the rate. Mr. Sullivan said the concern that he has there is that the two appointees must be bankers. When it gets to the point that it should be raised, Mr. Sullivan said the two bankers are not going to have any problems voting that it should be. He said then you get into a situation where you have three politicians - the governor, the treasurer and the controller. He said they would be trying to make a business decision based upon politics, and that would never work. He said the money decisions cannot be made based upon politics, but they must be based on the supply and demand of money. Mr. Sullivan didn't think it would be fair to put those three elected officials on the spot of taking the usury law off the state of Nevada. Senator Bryan said by the same reasoning they are asking the Legislature to do the same thing. Senator Bryan said he thought they all recognized they needed some relief. Mr. Sullivan said they were asking for an outside influence that doesn't have anything to do with politics. He said that Bank of American is worth approximately \$50,000,000,000 and all the state banks in Nevada are worth \$2,000,000. That means Bank of America is 25 times larger than the banks in Nevada. Mr. Sullivan stated Nevada would have no influence upon what prime rate they are going to set.

Senator Raggio said he would like to have someone speak to the amendment Senator Bryan proposed. His amendment refers to the Director of the Department of Commerce, who is

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not an elected official, but an appointed one. Senator Raggio asked if they had the same objections to the Director as to the State Board of Finance. Senator Raggio said the amendment they just discussed would have a cap and would be limited. He asked for comments on that. He also asked for comments about taking the cap off completely. Senator Raggio said he was also concerned about putting into statute a reference to Bank of America prime rate. Also, Mr. Sullivan had told Senator Raggio that there is no real prime rate. He asked Mr. Sullivan to address himself to that also.

Mr. Sullivan said Senator Bryan's amendment says that the Director of the Department of Commerce has the right to set a rate or to take the lid off. Mr. Sullivan said you have two situations there. He said if you set this statute for 100 years, you are talking about 25 or more persons being the head of the Department of Commerce. The other situation is that you must have a hearing. Mr. Sullivan said if you attempted during the money crisis of 1974, to have hearing, assuming reasonable notice is one week, and prime rate was going up during July, August and September of this year. What you would have done is had a notice of a hearing. By the time you got to a hearing, notice of the next hearing would be out because the rate would have gone up again. He said you would have just gone to a hearing every week. Mr. Sullivan said the point he made to Senator Raggio about whether there was a true prime rate was in the opinion of the bankers, the only thing that the public ever reads is what the public prime rate is. When the prime rate first started going up, one of the banks tried to jump the rate. President Nixon stepped in and said they couldn't do that. Mr. Sullivan explained what a compensating balance is. He said that means when you have a true prime rate of 8 percent, you have no compensating balance and you have a true prime rate of 8 percent. If you leave the prime rate at 8 percent and charge your customer 20 percent compensating balance, so that if affect you loaned them 80 percent of the dollars. The true rate would then be 10 percent because they borrowed 80 dollars on the 100. Mr. Sullivan said that is never published. Mr. Sullivan discussed the compensating balance further.

Senator Echols said he would never go for putting all that pressure on one person such as the Director of the Department of Commerce. He thought the responsibility should be given to three people where the majority would have to reach a decision.

Mike Melner, State Commerce Director, testified. Mr. Melner said he was not afraid of doing this if it were the wish of the Committee. Mr. Melner said if what the committee wants is someone to make the decision, then it seemed that it should be tied tighter to something. He said it should be a combination of what is in the proposed amendments by the banks and others. Instead of the Director making the decision, he would certify that certain events have occurred and that the interest rate has reached a particular level. He would examine it and certify. Mr. Melner said he was also nervous about referring to Bank of America in the statutes. He said if they want to tie it to something, there must be national economic indicators that it could be tied to. He also thought Senator Bryan's amendment could be tightened so that its not really a decision making process. He also thought it could be exempted from Chapter 233.B so they don't have the weight of the hearings.

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Mr. Melner said he didn't know if you could relate this to loansharking. Senator Blake-more said they were already clandestine. Mr. Melner said he thought they would remain so. He did say he was caught in the middle of the situation. He said he was not afraid to take it, but he didn't really want it. Mr. Melner said he could assure Mr. Sullivan and Mr. Breen that he has people on his staff that know as much about money as they do, if not more.

Senator Bryan asked what his observation would be about the state board of Finance making the decision. Mr. Melner said the problem with the State Board of Finance is that they don't meet regularly. He said any way they did it would compound the problems with the State Board of Finance, and again, you are going to have elected officials on the spot. Senator Bryan said another suggestion was the Division of Banking. Mr. Melner said they don't regulate the savings and loan associations. He said the banks and the savings and loans are competitive industries and he didn't think it would work out. He stated again he was not sure they should put Bank of American or prime rate in the statutes. Mr. Sullivan said they would agree to putting in the lowest prime rate published in the Wall Street Journal. Senator Raggio said they wanted to stay away from commercial naming in the statutes. He asked if there weren't some governmental standards they could go by. Mr. Sullivan said the problem there is that they are regulated by the government. There was discussion about the wording that would be in the bill. Most of the committee members suggested wording and all of it was discussed. Mr. Sullivan said they would have to have a rate certainty or no one would know what the rate is.

Senator Bryan asked what Mr. Sullivan's reaction would be to Mr. Melner's proposal about certification. Mr. Sullivan said he would have no objection to that if someone would come up with what the standards are. Senator Bryan asked what if they gave Mr. Melner the discretion to make a determination as to what the prime rate is without making any reference to any institution. He asked if there were other factors in the money market, other than prime rate, which could be objectively ascertained so when it reaches a certain level the mechanism becomes evoked rather than by adversary proceeding. Senator

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Raggio said to carry that a little further, how often do they publish a list of bank standings. He also asked who published it. Mr. Sullivan said the banks publish it themselves probably once a year.

Senator Raggio asked what if they set a standard without referring to specific banks. Mr. Sullivan said they would accept that. Senator Raggio said you could take the average of the five largest banks. Mr. Sullivan said it would be more acceptable to them if you said the lowest rate instead of the average. The reason is so that you would have a rate that is certain. Senator Raggio said there was a suggestion that there be some fixed limit above the rate. He asked Mr. Sullivan what he would suggest. Mr. Sullivan said the problem that bothers him is that would be legislating that they make loans only to prime rate customers. Senator Raggio said it was his opinion that many of the legislators do not agree with the open-end or taking off the limit altogether. They want some kind of limit. Mr. Melner said if Bank of America is at 12 percent, they would allow the banks in Nevada four points above that. Discussion followed about this.

Mary Gojack, State Senator, testified next. She stated she did not like the proposed amendments, did not like lifting the usury ceiling at all and she intended to fight the whole bill. She stated that her position was that the usury ceiling does not necessarily need to be lifted. She said the point she was trying to make on the floor earlier was the reason there is not enough supply of money in Nevada is because they have a monopoly. She asked why they were not paying the legal limit on passbook savings so they could get money in. Senator Gojack said there were only two banks in Nevada that do this - Nevada National and Security. She said they challenged her sources on the floor. Senator Gojack stated her sources were the bank corporation statements themselves, plus the "American Banker" which is their daily trade magazine. She stated it cost \$1.25 per day because they don't want everyone buying it. Some of the other sources are the New York Times, The Wall Street Journal, and the Los Angeles Times.

Senator Gojack stated there were ten corporations in the country that paid no federal income taxes in 1973. Western Bank Co. was one that didn't; they own First National and are based in Los Angeles. Senator Gojack stated she thought they should be asking why they didn't pay any federal income tax. She showed the committee a map showing the states where they have holdings, and out of those states there are only two with a higher usury limit than the State of Nevada - Utah and California. The rest of the states either have a 10 or 12 percent usury limit. Senator Raggio said if that was so, he had been given misinformation. He said he was under the impression that as far as corporations there is a usury and that there is no limit. Senator Gojack said they were talking about from one to five hundred rates. She said that was the reason they get razzle-dazzle because the bankers know the legislators don't know as much about banking as they do. She showed the committee another chart from the Federal Reserve Bank Booklet, August 1974. Senator Raggio said the committee was informed that all the adjoining states had either taken off the usury limit as far as financial institutions. Senator Gojack told him to look at the chart. She said they were all exemptions. She said they have a basic usury rate which is listed in one column and then the exemptions are listed on the other side of the chart. Another point is that Missouri, which has had an 8 percent usury limit until January of 1975, finally raised it up to 10 percent. They did this after a year's study.

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Senator Gojack said she realized that some banks were not making money. She said the reason was because they have over-extended themselves in the real estate market. In the case of Western Bank Co. they got out of \$50,000,000 loss by paying no federal income tax.

Senator Gojack said in testimony before the committee, Mr. Crouch said that the statutory interest limit makes it impossible for Nevada banks and savings and loans to compete in tight money times with institutions in California, Utah and most other states which have no such limits. Senator Gojack said she didn't know what they were talking about when they said statutory interest limit. She said other states do have limits. Senator Blake-more said she took that out of context. Senator Sheerin said what they are talking about is when the rates of interest are so high. Senator Gojack asked how high and said she had yet to hear a figure. Senator Gojack said even the financial wizards on the East Coast say they don't know and are in disagreement. She asked if they were supposed to just open it up. Senator Sheerin said that's why they are talking about it in committee.

Senator Raggio asked if there was any change in the chart because it is dated August of 1974. Senator Gojack said there may be. Senator Raggio said he was looking at some of the sister states. Arizona indicates a basic rate of 10 percent but they have an exception of loans over \$5,000 for corporations. He also explained what it was in California. Senator Gojack said that's what they should be talking about. She said there were legitimate arguments for exemptions. Senator Raggio said that is what the initial bill provided for. Senator Gojack said there were some exemptions, but they are not spelled out. Senator Raggio said the original bill had the same thing as California - that savings and loans, banks and credit unions would be exempt from the usury limit. He said that is the bill that is on the floor right now. Senator Raggio said the committee was told that in practically all states the financial institutions were either exempt from usury laws.

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Senator Raggio said they were led to believe this, but the chart Senator Gojack showed him there were a number of exemptions. Senator Gojack said there were some very good arguments for not having any usury limits, and she said she was willing to go along with some of those arguments. She said the things that bother her the most is the unwillingness to speak to the other side of the issue. Senator Gojack wanted to know if they were, in fact, going to make more money available as they have said they are to the small borrower. She asked if she would still have money to build her house and if her builder would still be able to get money. She cited one construction company that has always borrowed their money from Union Bank in California. She said Union Bank pays 5 percent on a straight passbook savings. Senator Gojack said she was no expert in this, but she was elected to represent the people and that is why she was there. Senator Raggio said they were all there for that reason.

Senator Raggio said he frankly was persuaded to support the amendment Senator Bryan proposed. He said he was concerned about there being some kind of control and he said he asked the same questions. Senator Raggio said that was his concern on this was that he wanted to do what will be helpful to the economy. He said he was not there to help the banks or some other financial institution. He said if Senator Gojack or anyone else had a suggestion, he was going to listen.

Senator Gojack read from an article from "Consumer Credit in the United States - Report of the National Commission on Consumer Finance." Rate ceiling policy measures recommended: "Rate ceilings in many states restrict supply of credit and eliminate credit worthy borrowers from consumer credit markets. Some seek out less desirable alternatives such as low quality credit sellers and illegal lenders. Furthermore, many borrowers who are not rejected pay rates have charged higher than they would be charged in workably competitive markets. This situation could be changed by eliminating rate ceilings and relying on competition to insure that borrowers pay reasonable rates for the use of credit. But the statistical evidence considered here indicates that competition cannot be relied upon at this point in time to establish rates at reasonably competitive levels in many states. Raising rate ceilings in some areas where markets are highly concentrated would merely allow suppliers to raise prices accept somewhat higher risks but remain secure within the legal or other barriers which assure them that their market power and monopoly profits will not be diluted. Clearly, then, rate ceilings cannot be eliminated until workably competitive markets exist. But reasonably competitive markets cannot be expected to exist where low rate ceilings have driven many competitors from the market. In some instances, higher rate ceilings must be accompanied by policies to insure that new competitors enter into the market. The Commission recommends that each state evaluate competitiveness of its market before considering raising or lowering rate ceilings at present levels. It has been noted that low rate ceilings appear to inhibit the availability of credit most heavily in the personal loan market and most significantly in the higher risk, higher rate portion of that market served by consumer finance companies. Since those states with low rate ceilings tend to be those with highly concentrated markets, the Commission urges that any policy regarding eliminating or raising rate ceiling in licensed lending be accompanied by implementing policies previously recommended to foster vigorous competition."

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Senator Bryan said assuming the conclusions of that study are valid, in the twilight days of the session, they are confronted with the problem of developing some legislative policy, whether it be self-executing or by virtue of delegation of authority to Mr. Melner or someone else, to cover the contingency which might occur. He said some of the members of the committee were trying to develop a responsible approach to cover them in the interim in case these conditions which Mr. Sullivan and others addressed, do materialize. He said it was not responsible for them to adjourn without doing something. Senator Gojack said she still hadn't heard the banks say whether or not they are willing to raise the interest they are will to pay their small depositors, which would encourage savings. She said credit unions right now are getting by on about 9 and 1/2 percent. She did say they are on a tax exempt status so they are in a different competitive situation than the banks, but they are paying 5 and 1/2 percent plus an insurance policy, which amounts to over 6 percent on a straight passbook saving. She said she had never heard any of them yet say why they are not willing to pay what their legal limit is. Another thing is why were the banks able to make a profit if they were hurting so bad. Senator Echols said one thing that was mentioned to the committee is that banks make loans to banks. He said the profits don't all come from loans. Senator Gojack said if they change anything is that going to change.

Senator Gojack said she talked to some bankers in Utah on Tuesday, and they are saying that their money is going to Nevada, in spite of their 18 percent. Senator Raggio asked if she meant that depositors are putting their money over here. Senator Gojack said investors. The idea is that that money would not leave the state if that ceiling is lifted, but in a state such as Utah, where it is high - 18 percent, plus the exemptions - their money is still leaving the state. Senator Echols asked where she got this information from. Senator Gojack said from some bank people in Utah, by telephone. Senator Echols said it was logical that they would tell her this so she could stop the banks in this state from paying the rates they are paying in Utah. He said that would be to

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their advantage. Senator Gojack said she didn't think he was lying to her.

Senator Raggio said that Senator Gojack commented that there is a monopolistic situation in the state. He asked her why she said that. Senator Gojack said because its based on studies that are all documented. She stated they didn't have the competition as far as the money supply is concerned. She said there was intrabank competition, but there are only eight banks in Nevada. Other markets for example, have a lot of other sources that the borrower can go to, which Nevada does not have. She stated these were not her figures, but were well-documented studies.

Senator Blakemore asked how many banks there were in other states that were comparable in size to Nevada, population-wise. Senator Gojack said Alaska has the highest concentration, Delaware second, Idaho third, Nevada fourth; then it goes Rhode Island, Arizona, Washington, Oregon, South Carolina and North Carolina. Low correlation states are led by Montana, Indiana, Wisconsin, Kansas, Oklahoma, Iowa, Minnesota, Texas, and Illinois. She said a lot of it has to do with whether or not they allow state-wide branching, unit branching or no branch banking at all with independent banks. Some of the other money sources that are available in other credit markets include commercial banks, savings and loans, insurance companies, mutual savings banks, mortgages companies, sales finance companies, personal finance companies, credit unions, real estate investment trusts, bond credit agencies, retailers and individuals. Senator Gojack said a lot of the problem is the state wide branch banking. Senator Echols asked if it ever occurred to her that the concentration might be because of the usury rate. Senator Gojack said if you look at the chart, she didn't think that was the reason for it. She said part of the problem is that they just haven't had any competition. Senator Blakemore said that struck a sensitive chord with him because without branch banking, there wouldn't be any banking in Tonopah. Senator Gojack said that wasn't true, because they could have unit banking. Senator Blakemore asked her if she thought there was enough money in Tonopah to afford that. Senator Gojack said yes. She said there were a lot of other states with the same population figures as Nevada that have unit banking or limited branching

Senator Echols asked Mr. Sullivan to address himself to the reason why the banks don't pay what they can legally on passbook savings. Mr. Sullivan said there is no possible way he could give them the answer why the other banks are not paying. He said his bank, Valley Bank, was not because they are either looking for savings or for a rate. He said if you are looking for a rate of interest, they can legally pay five percent. If you put your money into a time deposit, you receive five and a half percent. Mr. Sullivan said they tell their customers to put their money in a time deposit. Mr. Sullivan discussed this briefly.

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Senator Gojack said one comment made this morning about labor support of this bill, it was her understanding that nationally the AFL-CIO has taken a position against this kind of legislation. Lou Paley, AFL-CIO, said they didn't favor the bill.

Senator Gojack said there are objective people available who could have come into to testify. Senator Raggio asked who she would suggest. Senator Gojack said she would suggest Tom Cargill, Department of Economics, University of Reno. He has told Senator Gojack that he would come and answer questions and help out in any way he could. Senator Echols asked if he was an educator. Senator Gojack said she didn't know. Senator Echols said that unless Mr. Cargill had been out in the market, he probably wasn't too familiar. Senator Gojack and Senator Echols discussed this briefly.

Mr. Sullivan said he didn't understand why Senator Gojack was all of a sudden single-shotting the banks. He said all the savings and loan associations are paying 5 and a quarter. Senator Gojack said the reason was because the banks have been the most outspoken on the bill. She also stated she didn't feel they had given the whole matter enough study. Senator Raggio asked if she was saying they just do nothing. Senator Gojack said she was not suggesting they do nothing; however, they have known since last fall that they were going to have to deal with this problem. She wanted to know why there had not been a study done on this to look at it in depth. She stated she would rather not act on the bill at all than have to take it the way it is being ramrodded through. Senator Raggio said he would tend to agree with Senator Gojack. He said he had made his position known that he thought the bankers, etc., had dropped the ball in not getting this information out to the public. The committee and Senator Gojack discussed having a biennium study on finances.

At this time there was a break at 7:00 p.m. for dinner. The meeting began again at 8:15 p.

A.B. 219: Makes certain provisions on wages, hours, and working conditions apply uniformly to employees without regard to sex.

Senator Monroe said he would like to amend the bill to eliminate the coffee breaks. The committee discussed this, and it was the general consensus that they coffee break should be left in. It was discussed whether to change the wording from "shall" to "may" so that it would be up to the employer.

Senator Sheerin said he did want to put some kind of exception in for the gaming, because

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they work 20 minutes and are off 20 minutes. Senator Monroe said if you start making exceptions, they list would be endless. Senator Raggio said this law had been in existence for women all along and they hadn't had any problem with it. He said they could come under the waiver like anyone else.

Bob Guinn, Nevada Automobile Association, testified. He said there was one major exemption in the federal law that would apply to the people he represents. On page 2, line 42, it exempts drivers, driver's helpers, loaders and mechanics. He listed the other exemptions in this section. All are major exemptions to the federal law that have been copied in the state law. The exemption that is not there is any salesman, partsman or mechanic primarily engaged in selling or servicing automobiles, trucks or farm machinery that is employed by a nonmanufacturing institute, primarily engaged in selling such vehicles or implements to ultimate purchaser. There is a similar provision for salesmen engaged in selling trailers, boats or aircraft. Mr. Guinn said he would like them to consider putting in the exemption for a major industry which appears in the federal law. This would be an exemption from the overtime provisions.

Mr. Guinn said there other exemptions in the federal law which were not listed in the state law and he listed them for the committee. Senator Raggio asked if those applied to people in interstate commerce. Mr. Guinn said it applies to anyone that the Fair Labor Act applies to. Senator Raggio asked why they had to cover it in the state law when it is covered in the federal law. Mr. Guinn said the problem is this bill calls for time and a half after eight hours and these people are exempt from that overtime provision in the federal law. Mr. Guinn said the state law will apply. Senator Raggio said under the federal law automobile salesmen are exempt. He asked if they weren't covered in the state law, would they still be exempt. Mr. Guinn said no because A.B. 219 will compel the employer to pay time and a half to them. Senator Raggio said they couldn't preempt federal law. Mr. Guinn said there was no provision in the federal Fair Labor Standards Act for payment of time and a half after eight hours to anyone. There is only time and a half after 40 hours. He said they must be written in if they are going to be considered. Discussion followed about the language that would be used for this exemption. The language from the federal law is: "Any salesman, partsman, or mechanic primarily engaged in selling or servicing automobiles, trucks or farm implements." Mr. Guinn said they could take out the language "if he is employed by a nonmanufacturing establishment" because they don't have that in the State.

Senator Monroe moved to amend and do pass.

Senator Blakemore seconded the motion.

The vote was unanimous with Senators Bryan and Foote absent.

Senators Blakemore, Sheerin and Monroe had previously been appointed a subcommittee to discuss the NIC package. They reported as follows:

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A.B. 364: Revises certain provisions of Nevada Industrial Insurance Act and Nevada Occupational Diseases Act.

Senator Blakemore said as he understood the conversation, after Mr. Reiser carefully explained the bills to those that had questions, those persons did understand. He said that Jack Kenny had remarked that they wanted this to last only two years. It was explained to Mr. Kenny that it would last only two years anyway. Senator Raggio said he was not at the meeting, but he had talked to Mrs. Leisek on the phone. Mrs. Leisek represents the Southern Nevada Home Builders. Mrs. Leisek told Senator Raggio they were under the impression that the subcommittee was considering \$21,000 instead of \$24,000, and that it would be tied to the employee. The language on Page 3, Section 5, it changes specifically to tie it to the employer. Mrs. Leisek's concern is that it be tied to the employee, not the employer, whatever the limit is. Senator Raggio said he was telling the committee this because he didn't want the impression created that everyone was in agreement. After a brief discussion, it was learned that Mrs. Leisek had not been in attendance at the subcommittee's meeting. It had, in fact, been another woman, whom Senator Blakemore had confused with Mrs. Leisek. Discussion about this followed.

Mr. Reiser explained to Senator Raggio about how the limit works and how the rates are determined.

Senator Sheerin stated that he left the subcommittee meeting early and didn't know if everyone was in complete agreement. He said the next day Jack Kenny came to him and told Senator Sheerin they were willing to concede to \$24,000, if they limit it to two years and have an interim committee look at it. Senator Sheerin said that Mr. Kenny did not go into the weekly rates or the employer versus employee. Senator Echols said that Mr. Kenny came to him and made the same representation. Senator Monroe said that they had had a meeting with the duly appointed representatives and had reached a conclusion. He said he thought they should stick with those conclusions. Discussion followed.

Senator Echols said that underlying all of this was a problem with private insurance companies wanting to take over the workmen's compensation. Senator Raggio said that Mr.

problem
not done

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May 2, 1975
Commerce and Labor Committee

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Reiser knew his concerns from way back. Senator Raggio said he did not believe in the concept of paying more for one employee than the annual maximum wage. There was discussion about this, after which Mr. Reiser explained to Senator Raggio about how the maximum works.

Senator Blakemore moved do pass.
Senator Monroe seconded the motion.
The vote was four to one. Senator Raggio voted no. Senators Bryan and Foote were absent.

A.B. 366: Removes sex distinction from provision of Nevada Industrial Insurance Act establishing conclusive presumption of total dependence of spouse upon an injured or deceased employee.

Senator Blakemore moved do pass.
Senator Monroe seconded the motion.
The vote was unanimous with Senators Bryan and Foote absent.

A.B. 368: Increases workmen's compensation benefits for burial expenses and extends period compensation will be paid to surviving children if enrolled in vocational or educational institution.

Senator Blakemore moved do pass.
Senator Monroe seconded the motion.
The vote was unanimous with Senators Bryan and Foote absent.

A.B. 371: Permits employee to elect compensation under the provisions of chapters 616 or 617 of NRS when his employer has failed to provide mandatory coverage.

John Reiser, Nevada Industrial Commission, spoke briefly about the bill. He said it was their responsibility to make sure every employer has the mandatory coverage. If an employee worked for an employer, who in violation of the law didn't take out coverage, he would be covered by this act.

Senator Blakemore moved do pass.
Senator Monroe seconded the motion.
The vote was unanimous with Senators Bryan and Foote absent.

A.B. 403: Makes certain changes in Nevada Occupational Safety and Health Act.

Ralph Langley, Nevada Industrial Commission, spoke briefly about the bill. See attached explanation, which will be labeled EXHIBIT D.

In section 7, the inclusion of the mine inspector will be left in because of the approval of A.B. 360. They are proposing an amendment to put this section back in the bill. (This explanation is not contained in the handout.) Upon Mr. Langley's completion of the explanation of the bill, the following action was taken:

over

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Senator Blakemore moved to amend and do pass.

Senator Monroe seconded the motion.

The vote was unanimous with Senators Bryan and Foote absent.

A.B. 419: Places time limitation on employer for reporting an industrial injury to commission.

This bill puts in a requirement for reporting an accident within six working days following receipt of knowledge by the employee. The employer is responsible for reporting to the Commission.

Senator Blakemore moved do pass.

Senator Monroe seconded the motion.

The vote was unanimous with Senators Bryan and Foote absent.

A.B. 426: Provides for forfeiture of industrial insurance benefits obtained by false statements and provides penalties for employers' failure to provide compensation.

Senator Raggio moved to rescind the action previously taken on April 8, 1975, whereby this committee erroneously moved do pass on A.B. 426 because the bill was not properly referred to this committee.

Senator Monroe seconded the motion.

The vote was unanimous with Senators Foote and Bryan absent.

A.B. 427: Allows certain injured employees to elect lump sum payment of industrial compensation benefits.

Senator Raggio moved do pass.

Senator Blakemore seconded the motion.

The vote was unanimous with Senators Bryan and Foote absent.

A.B. 428: Revises definitions of average monthly wage and extends ²¹³use of other definitions.

Senator Blakemore moved do pass.

Senator Monroe seconded the motion.

The vote was unanimous with Senators Bryan and Foote absent.

A.B. 4: Enlarges right of employees to be treated by physician of choice under Nevada Industrial Insurance Act.

Bob Alkire, Kennecott Copper Corporation, stated that this applied to only about six companies. These are x-medical companies. This means that under the statutes, if you chose to provide medical services, you have to meet the state statutory minimum or exceed it. Kennecott does meet those requirements, Mr. Alkire said. Mr. Alkire said they pay all the medical bills that NIC would normally pay. Mr. Alkire said in the last 12 months they have had 159 patient visits to other cities. He said they will send anyone anywhere.

Senator Blakemore asked if this was in the collective bargaining agreement. Mr. Alkire said it is in their hospital-medical-surgical plan, which is part of the collective bargaining agreement. Mr. Alkire said this was in Chapter 616.415 about the compensation only claims.

Senator Blakemore asked what if they exempted out the companies that have collective bargaining agreements that meet their standards. Senator Raggio said they would be wiping out the bill if they did that.

After much discussion about the bill it was decided to hold it until the sponsor of the bill could be conferred with.

There being no further business, the meeting was adjourned at 11:00 p.m.

Respectfully submitted:

Kristine Zohner
Kristine Zohner, Committee Secretary

APPROVED BY:

Gene Echols
Senator Gene Echols, Committee Chairman

SENATE Commerce + Labor COMMITTEE

ROOM # 213

DAY Friday

DATE May 2, 1975

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NAME	ORGANIZATION	ADDRESS	PHONE NUMBER
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*NOTE: PLEASE PRINT ALL THE INFORMATION CLEARLY.

JACK O. WALTHER P.V.M. 2450 QUICIC' RENO

John L. O'Hara, DVM - Box 1209 - Reno 784-6401

ROGER A. MAUER DVM 2000 E. CAREY N.L.V. NEVADA 89033

JOE LAWLER CONS. AFF. DIV. NYE BLDG 885-4340

GINO DELCARLO N.B.A. I.E. FIRST RENO 322-6911

WALLIE WARREN " " " " "

F.R. BREEN N.B.A. 232 COURT RENO 786-7600

Mary Hojack, Senator

Jordan J. Crouch N.B.A. Box 2493 Reno

Commerce NYE BLDG CC

Suggested Amendment to SB372

It is suggested that Subsection 3 of Section 1 of SB372 be amended as follows:

1. The present language be deleted.
2. The following language be substituted therefor:

"In the event that the daily prime rate as published by the Bank of America exceeds 9%, then this section shall not apply to any interest rates on any loans executed during the time or times that the said Bank of America prime rate exceeds 9%. The date of the execution of the loan documents shall determine whether the maximum interest rate of 12% per annum shall apply. The interest rate stated in the loan documents when this section is not applicable shall apply for the life of the said loan or any modifications or revisions or extensions thereof, whether or not during the term of the loan the said Bank of America prime rate may descend to 9% or less; provided, however, that all loans executed at a rate ^{which would violate Section 1 of this Act, and it is provided} in excess of 12% per annum shall provide that there shall be no prohibition against early payment of the said loan and shall provide that there shall be no prepayment penalty.

This would apply to everyone.

"In the event that the daily prime rate as published by the Bank of America exceeds 9%, then this section shall not apply to any interest rates charged by any bank, building and loan association or savings and loan association, mortgage company, credit unions, pension trust funds, purchase money mortgages or purchase money deeds of trust of real property located in this state, or any contract of sale of real property located in this state on any loans executed during the time or times that the said Bank of America prime rate exceeds 9%. The date of the execution of the loan documents shall determine whether the maximum interest rate of 12% per annum shall apply. The interest rate stated in the loan documents when this section is not applicable shall apply for the life of the said loan or any modifications or revisions or extensions thereof, whether or not during the term of the loan the said Bank of America prime rate may descend to 9% or less; provided, however, that all loans executed at a rate which would violate Section 1 of this act had it applied, shall provide that there shall be no prohibition against early payment of the said loan and shall provide that there shall be no prepayment penalty.

Exhibit C

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Apply only to regulated lenders

SECTION	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 contra 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.	Check A.B. 360, change to 618.315
	8	618.325 Housekeeping-delete "as consultants or representatives".	
None	618.335	If A.B. 360 is acted upon favorably (See page 11, line 47) this section will be deleted.	See NRS 616.181-Chapter 41.031-.0
	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 confiendeitality of trade secrets.	Requirement to meet Indices of 19 & 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	Federal legislative reievew letter
	15	618.435 Housekeeping-replace "director" with "department".	

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Exhibit D

Exhibit D

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	DELETE THIS SECTION	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". <u>Also delete reference to 618.485.</u>	
27	618.615	Housekeeping-update of review board language.	Bill drafter update.
28	618.625	Housekeeping-change "commission" to "department".	
XXX 0-31-32	618.???	Entitles employee access to records of exposure to toxic materials or harmful physical agents. Also stipulates that employers must 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

(REPRINTED WITH ADOPTED AMENDMENTS)

SECOND REPRINT

A. B. 156

ASSEMBLY BILL NO. 156—COMMITTEE ON COMMERCE

JANUARY 30, 1975

Referred to Committee on Commerce

SUMMARY—Requires refund of buyer's deposit in certain cases.
Fiscal Note: No. (BDR 52-232)

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

AN ACT relating to trade regulations and practices; requiring the refunding of the buyer's deposit in certain cases; and providing other matters properly relating thereto.

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

- 1 SECTION 1. Chapter 598 of NRS is hereby amended by adding
- 2 thereto a new section which shall read as follows:
- 3 1. *As used in this section:*
- 4 (a) *"Consumer goods" means goods used or bought for use primarily*
- 5 *for personal, family or household purposes.*
- 6 (b) *"Deposit" means money or any other thing of value used as a*
- 7 *downpayment, partial payment, earnest money or security.*
- 8 (c) *"Retail installment contract" has the meaning ascribed to it in NRS*
- 9 *97.105.*
- 10 2. *Except as provided in subsection 3, in all consumer goods transac-*
- 11 *tions where a buyer makes a deposit prior to the performance of a retail*
- 12 *installment contract, the seller shall return the deposit if the retail install-*
- 13 *ment contract is not performed.*
- 14 3. *If the seller specially orders consumer goods, the seller may retain*
- 15 *that portion of the deposit made prior to the performance of the retail*
- 16 *installment contract which compensates the seller for any loss sustained*
- 17 *in selling the specially ordered goods, if:*
- 18 (a) *The seller has not breached any of the provisions of the contract;*
- 19 *and*
- 20 (b) *The contract is not performed.*
- 21 4. *Any deposit made by a buyer shall be refunded if the performance*
- 22 *of a contract for the purchase of consumer goods is contingent upon the*
- 23 *buyer's obtaining:*
- 24 (a) *Credit;*

(REPRINTED WITH ADOPTED AMENDMENTS)

FIFTH REPRINT

A. B. 219

ASSEMBLY BILL NO. 219—ASSEMBLYMEN FORD, BANNER, BENKOVICH, JEFFREY, MANN, MOODY, HAYES, LOWMAN, PRICE, WAGNER, BARENGO AND SCHOFIELD

FEBRUARY 5, 1975

Referred to Committee on Labor and Management

SUMMARY—Makes certain provisions on wages, hours and working conditions apply uniformly to employees without regard to sex. Fiscal Note: No. (BDR 53-634)

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

AN ACT relating to employees in private employment; making certain provisions on wages, hours and working conditions apply uniformly to employees without regard to sex; providing for time and one-half payment for overtime work by certain employees; prohibiting certain acts by employers; providing penalties; and providing other matters properly relating thereto.

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

- 1 SECTION 1. Chapter 608 of NRS is hereby amended by adding
- 2 thereto the provisions set forth as sections 2 to 12, inclusive, of this act.
- 3 SEC. 2. *As used in this chapter, unless the context requires otherwise:*
- 4 1. "Employee" includes both male and female persons.
- 5 2. "Employer" includes every person, firm, corporation, partnership,
- 6 stock association, agent, manager, representative or other person having
- 7 control or custody of any employment, place of employment or any
- 8 employee.
- 9 3. "Professional" means pertaining to an employee who is licensed
- 10 or certified by the State of Nevada for and engaged in the practice of law
- 11 or any of the professions regulated by chapters 623 to 645, inclusive, of
- 12 NRS.
- 13 SEC. 3. The legislature hereby finds and declares that the health and
- 14 welfare of workers and the employment of persons in private enterprise
- 15 in this state are of concern to the state and that the health and welfare
- 16 of persons required to earn their livings by their own endeavors require
- 17 certain safeguards as to hours of service, working conditions and com-
- 18 pensation therefor.
- 19 SEC. 4. It is unlawful for any person, firm, association or corporation
- 20 or for any agent, servant, employee or officer of any such firm, associa-
- 21 tion or corporation to employ, cause to be employed or permit to be

A. B. 364

ASSEMBLY BILL NO. 364—COMMITTEE ON
LABOR AND MANAGEMENT

MARCH 5, 1975

Referred to Committee on Labor and Management.

SUMMARY—Revises certain provisions of Nevada Industrial Insurance Act and Nevada Occupational Diseases Act. Fiscal Note: No. (BDR 53-1115)

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

AN ACT relating to workmen's compensation; increasing the maximum pay deemed to be received by certain corporate officers; eliminating compulsory coverage for a working member of a partnership; expanding "employee" to include members of county and local departments, boards, commissions, agencies and bureaus who receive less than \$250 per month compensation; declaring that an employee injured while participating without pay in an athletic or social event sponsored by his employer is not entitled to compensation; and providing other matters properly relating thereto.

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

- 1 SECTION 1. NRS 616.055 is hereby amended to read as follows:
2 616.055 "Employee" and "workman" are used interchangeably in
3 this chapter and shall be construed to mean every person in the service of
4 an employer under any appointment or contract of hire or apprenticeship,
5 express or implied, oral or written, whether lawfully or unlawfully
6 employed, and include, but not exclusively:
7 1. Aliens and minors.
8 2. All elected and appointed paid public officers.
9 3. Members of boards of directors of quasi-public or private corpora-
10 tions while rendering actual service for such corporations for pay.
11 4. Officers of quasi-public or private corporations who receive pay
12 as provided in the charter or bylaws of the corporation for service per-
13 formed, provided that a paid corporation officer shall be deemed for the
14 purposes of this chapter to receive a minimum pay of \$3,600 per annum
15 and a maximum pay of ~~[\$15,600]~~ \$24,000 per annum irrespective of
16 the provisions of a corporation charter or bylaws.
17 5. [A working member of a partnership receiving wages, irrespec-
18 tive of profits from such partnership.
19 6.] Lessees engaged in either mining or operating reduction plants;
20 provided:
21 (a) That such lessees shall be deemed employees of the lessor and for

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FIRST REPRINT

A. B. 366

ASSEMBLY BILL NO. 366—COMMITTEE ON
LABOR AND MANAGEMENT

MARCH 5, 1975

Referred to Committee on Labor and Management

SUMMARY—Removes sex distinction from provision of Nevada Industrial Insurance Act establishing conclusive presumption of total dependence of spouse upon an injured or deceased employee. Fiscal Note: No. (BDR 53-1117)

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

AN ACT relating to the Nevada Industrial Insurance Act; removing sex distinction from provision establishing conclusive presumption of total dependence of spouse upon an injured or deceased employee; and providing other matters properly relating thereto.

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

- 1 SECTION 1. NRS 616.510 is hereby amended to read as follows:
2 616.510 1. The following persons shall be conclusively presumed to
3 be totally dependent upon an injured or deceased employee:
4 (a) A **[wife]** *spouse* upon a **[husband]** *spouse* whom **[she]** *the*
5 *spouse* has not voluntarily abandoned at the time of the injury.
6 (b) **[A husband, mentally or physically incapacitated from wage earn-**
7 **ing, upon a wife whom he has not voluntarily abandoned at the time of**
8 **the injury.]**
9 **[(c)]** A natural, posthumous or adopted child or children, whether
10 legitimate or illegitimate, under the age of 18 years, or over that age if
11 physically or mentally incapacitated from wage earning, there being no
12 surviving parent. Stepparents may be regarded in this chapter as parents
13 if the fact of dependency is shown, and a stepchild or stepchildren may
14 be regarded in this chapter as a natural child or children if the existence
15 and fact of dependency are shown.
16 2. Questions as to who shall constitute dependents and the extent of
17 their dependency shall be determined as of the date of the accident or
18 injury to the employee, and their right to any benefit shall become fixed
19 as of such time, irrespective of any subsequent change in conditions, and
20 the benefits shall be directly recoverable by and payable to the dependent
21 or dependents entitled thereto, or to their legal guardians or trustees.
22 3. The presumptions of this section shall not apply in favor of aliens
23 who are nonresidents of the United States at the time of accident, injury
24 to, or death of the employee.

A. B. 368

ASSEMBLY BILL NO. 368—COMMITTEE ON
LABOR AND MANAGEMENT

MARCH 5, 1975

Referred to Committee on Labor and Management

SUMMARY—Increases workmen's compensation benefits for burial expenses and extends period compensation will be paid to surviving children if enrolled in vocational or educational institution. Fiscal Note: Yes. (BDR 53-1107)

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

AN ACT relating to workmen's compensation; increasing the burial benefits and extending the period compensation will be paid to surviving children if enrolled full-time in a vocational or educational institution; and providing other matters properly relating thereto.

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

- 1 SECTION 1. NRS 616.615 is hereby amended to read as follows:
2 616.615 If an injury by accident arising out of and in the course of
3 employment causes the death of an employee in the employ of an
4 employer, within the provisions of this chapter, the compensation shall
5 be known as a death benefit, and shall be payable in the amount to and
6 for the benefit of the following:
- 7 1. Burial expenses. In addition to the compensation payable under
8 this chapter, burial expenses not to exceed [~~\$650.~~] \$1,200. When the
9 remains of the deceased employee and the person accompanying the
10 remains are to be transported to a mortuary or mortuaries, the charge of
11 transportation shall be borne by the commission, subject to its approval,
12 provided, such transportation shall not be beyond the continental limits
13 of the United States.
 - 14 2. Widow. To the widow, 66 $\frac{2}{3}$ percent of the average monthly
15 wage. [~~Of the deceased.~~] This compensation shall be paid until her death
16 or remarriage, with 2 years' compensation in one sum upon remarriage.
 - 17 3. Widower. To the widower, 66 $\frac{2}{3}$ percent of the average monthly
18 wage. [~~Of the deceased employee.~~] This compensation shall be paid until
19 his death or remarriage, with 2 years' compensation in one sum upon
20 remarriage.
 - 21 4. Children who survive a widow or widower.

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FIRST REPRINT

A. B. 371

ASSEMBLY BILL NO. 371—COMMITTEE ON LABOR AND MANAGEMENT

MARCH 5, 1975

Referred to Committee on Labor and Management

SUMMARY—Permits employee to elect compensation under the provisions of chapters 616 and 617 of NRS when his employer has failed to provide mandatory coverage. Fiscal Note: Yes. (BDR 53-1109)

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

AN ACT relating to workmen's compensation; permitting certain employees who have suffered injuries or contracted occupational diseases to elect coverage under chapters 616 and 617 of NRS when their employer has failed to provide mandatory coverage; and providing other matters properly relating thereto.

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

- 1 SECTION 1. Chapter 616 of NRS is hereby amended by adding
- 2 thereto a new section which shall read as follows:
- 3 1. If an employee who has been hired and who is regularly employed
- 4 in this state suffers an accident or injury arising out of and in the course
- 5 of his employment, and his employer has failed to provide mandatory
- 6 industrial insurance coverage, the employee may elect to receive compen-
- 7 sation under the provisions of this chapter by:
- 8 (a) Filing a written notice of his election with the commission; and
- 9 (b) Making an irrevocable assignment to the commission of his right of
- 10 action against the uninsured employer.
- 11 2. Any employer who has failed to provide mandatory coverage
- 12 required under the provisions of this chapter shall not escape liability in
- 13 any action brought by the employee or the commission by asserting any
- 14 of the defenses enumerated in subsection 1 of NRS 616.300 and the pre-
- 15 sumption of negligence set forth in subsection 2 of NRS 616.300 is appli-
- 16 cable.
- 17 SEC. 2. Chapter 617 of NRS is hereby amended by adding thereto a
- 18 new section which shall read as follows:
- 19 1. If an employee who has been hired and who is regularly employed
- 20 in this state contracts an occupational disease arising out of and in the

(REPRINTED WITH ADOPTED AMENDMENTS)

SECOND REPRINT

A. B. 403

ASSEMBLY BILL NO. 403—COMMITTEE ON
LABOR AND MANAGEMENT

MARCH 14, 1975

Referred to Committee on Labor and Management

SUMMARY—Makes certain changes in Nevada Occupational Safety and
Health Act. Fiscal Note: No. (BDR 53-1014)

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

AN ACT relating to occupational safety and health; broadening the scope of the Nevada Occupational Safety and Health Act; changing the responsibilities of the director and the department of occupational safety and health in carrying out certain administrative functions; requiring certain reports to be filed by an employer; requiring enactment of additional regulations for employee protection; deleting certain provisions relating to hearings; providing employees and former employees with access to certain records; and providing other matters properly relating thereto.

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

- 1 SECTION 1. NRS 618.095 is hereby amended to read as follows:
2 618.095 "Employer" means:
3 1. The State of Nevada, any state agency, county, city, town, school
4 district or other unit of local government;
5 2. Any public or quasi-public corporation;
6 3. Any person, firm, corporation, partnership or association; and
7 4. Any officer [, agent, manager, representative or other person who
8 has control] *or management official having direction* or custody of any
9 employment [, place of employment or of any] *or employee.*
10 SEC. 2. NRS 618.135 is hereby amended to read as follows:
11 618.135 "Order" means any decision, rule, regulation, direction,
12 requirement or standard of the department or any other determination
13 arrived at or decision made by the department under the safety *and*
14 *health* provisions of this chapter.
15 SEC. 3. NRS 618.145 is hereby amended to read as follows:
16 618.145 "Person" means any individual, firm, association, partner-
17 ship, corporation, [or] company [.] *or public agency.*
18 SEC. 4. NRS 618.195 is hereby amended to read as follows:
19 618.195 1. Each state agency and local government shall establish

(REPRINTED WITH ADOPTED AMENDMENTS)

SECOND REPRINT

A. B. 419

ASSEMBLY BILL NO. 419—COMMITTEE ON LABOR
AND MANAGEMENT

MARCH 18, 1975

Referred to Committee on Labor and Management

SUMMARY—Places time limitation on employer for reporting an industrial
injury to commission. Fiscal Note: No. (BDR 53-1111)EXPLANATION—Matter in *italics* is new; matter in brackets [] is
material to be omitted.AN ACT relating to industrial insurance; placing a time limitation on an employer
for reporting an industrial injury to the commission; providing a penalty; and
providing other matters properly relating thereto.*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

- 1 SECTION 1. NRS 616.340 is hereby amended to read as follows:
2 616.340 1. It is the duty of every employer within the provisions of
3 this chapter, immediately upon the occurrence of an injury to any of
4 his employees, to render to the injured employee all necessary first aid,
5 including cost of transportation of the injured employee to the nearest
6 place of proper treatment where the injury is such as to make it reason-
7 ably necessary for such transportation.
8 2. The employer or his agent shall [forthwith] within 6 working days
9 following receipt of knowledge of an injury to an employee, notify the
10 commission in writing of the accident. [, giving:
11 (a) The name of the injured employee.
12 (b) The nature of the accident.
13 (c) Where and by whom the injured employee is being treated.
14 (d) The date of the accident.]
15 3. The commission may pay the costs of rendering such necessary
16 first aid and transportation of the injured employee to the nearest place
17 of proper treatment if the employer fails or refuses to pay the costs. The
18 commission may charge to and collect from the employer, as reimburse-
19 ment, the amount of the costs incurred by the commission in providing
20 such first aid and transportation services to the injured employee.
21 4. Any employer who fails to comply with the provisions of subsec-
22 tion 2 may be fined not more than \$100 for each such failure.
23 SEC. 2. This act shall become effective on July 1, 1975, at 12:01 a.m.

A. B. 426

ASSEMBLY BILL NO. 426—COMMITTEE ON
LABOR AND MANAGEMENT

MARCH 18, 1975

Referred to Committee on Labor and Management

SUMMARY—Provides for forfeiture of industrial insurance benefits obtained by false statements and provides penalties for employers' failure to provide compensation. Fiscal Note: No. (BDR 53-1112)

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

AN ACT relating to industrial insurance; providing for forfeiture of benefits obtained by false statements; providing penalties for failure of employers to provide and secure compensation; and providing other matters properly relating thereto.

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

- 1 SECTION 1. NRS 616.630 is hereby amended to read as follows:
2 616.630 1. **[If any]** Any employer within the provisions of NRS
3 616.285 **[shall fail]** who fails to provide and secure compensation
4 **[under the terms of]** as required by this chapter **[, he shall be fined**
5 not more than \$500 for each offense.] *shall be guilty of a gross mis-*
6 *demeanor.*
7 2. If the commission or interested employee **[shall complain]** *com-*
8 *plains* to the district attorney of any county that an employer in his
9 county has violated the provisions of this section, it shall be the manda-
10 tory duty of the district attorney to investigate the complaint. If, after
11 investigation, he **[shall find]** *finds* that the complaint is well founded, he
12 shall prosecute the employer for the offense.
13 3. If the commission or interested employee **[shall complain]** *com-*
14 *plains* to the attorney general **[of any neglect of any district attorney in**
15 **the premises,]** *that the district attorney has neglected the duty imposed*
16 *by subsection 2,* it shall be the mandatory duty of the attorney general
17 to investigate the complaint. If, after investigation, he **[shall find]** *finds*
18 that the complaint is well founded, he shall forthwith institute proceed-
19 ings against the district attorney as for a misdemeanor or to remove him
20 from office.
21 4. The duty of the district attorney and of the attorney general shall
22 be enforced as to procedure in the same manner as is provided in the

A. B. 427

ASSEMBLY BILL NO. 427—COMMITTEE ON
LABOR AND MANAGEMENT

MARCH 18, 1975

Referred to Committee on Labor and Management

SUMMARY—Allows certain injured employees to elect lump sum payment of industrial compensation benefits. Fiscal Note: No. (BDR 53-1110)

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

AN ACT relating to industrial insurance; allowing certain injured employees whose impairment does not exceed 12 percent to elect lump sum payment of certain compensation benefits; providing method of computation; and providing other matters properly relating thereto.

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

- 1 SECTION 1. NRS 616.605 is hereby amended to read as follows:
2 616.605 1. Every employee, in the employ of an employer [.]
3 within the provisions of this chapter, who is injured by an accident arising
4 out of and in the course of employment is entitled to receive the compen-
5 sation provided in this section for permanent partial disability. As used
6 in this section "disability" and "impairment of the whole man" are
7 equivalent terms.
8 2. The percentage of disability shall be determined by the commis-
9 sion. The determination shall be made by a physician designated by the
10 commission, or board of physicians, in accordance with the current
11 American Medical Association publication, "Guides to the Evaluation of
12 Permanent Impairment."
13 3. No factors other than the degree of physical impairment of the
14 whole man shall be considered in calculating the entitlement to perma-
15 nent partial disability compensation.
16 4. Each 1 percent of impairment of the whole man shall be compen-
17 sated by monthly payment of 0.5 percent of the claimant's average
18 monthly wage. Compensation shall commence on the date of [determina-
19 tion of the degree of permanent impairment by the commission] *the*
20 *injury or the day following termination of temporary disability compen-*
21 *sation, if any, whichever is later*, and shall continue on a monthly basis
22 for 5 years [.] or until the 65th birthday of the claimant, whichever is
23 later.

A. B. 428

**ASSEMBLY BILL NO. 428—COMMITTEE ON
LABOR AND MANAGEMENT**

MARCH 18, 1975

Referred to Committee on Labor and Management

**SUMMARY—Revises definition of average monthly wage and extends use
of other definitions. Fiscal Note: Yes. (BDR 53-1106)**

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

**AN ACT relating to workmen's compensation; revising the definition of average
monthly wage and extending use of other definitions.**

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

- 1 SECTION 1. NRS 616.027 is hereby amended to read as follows:
- 2 616.027 "Average monthly wage" means the lesser of:
- 3 1. The monthly wage actually received *or deemed to have been*
- 4 *received* by the employee on the date of the accident or injury to the
- 5 employee [; or] *excluding remuneration from:*
- 6 (a) *Employment not subject to the Nevada Industrial Insurance Act of*
- 7 *the Nevada Occupational Diseases Act;*
- 8 (b) *Employment specified in NRS 616.255 or 617.180; and*
- 9 (c) *Employment for which coverage is elective, but has not been*
- 10 *electd; or*
- 11 2. [The] *One hundred fifty percent of the state average weekly wage*
- 12 *as most recently computed by the employment security department*
- 13 *during the fiscal year preceding the date of the injury or accident, multi-*
- 14 *plied by 4.33.*
- 15 SEC. 2. NRS 617.020 is hereby amended to read as follows:
- 16 617.020 1. Unless a different meaning is clearly indicated by the
- 17 context, *the definitions hereinafter set forth and the definitions set forth*
- 18 *in chapter 616 of NRS for additional terms and phrases* shall govern the
- 19 construction and meaning of the terms and phrases used in this chapter.
- 20 2. Unless the context otherwise requires, a word used in this chapter
- 21 in the singular number shall also include the plural. The masculine gen-
- 22 der shall also include the feminine and neuter.