

SENATE  
COMMERCE & LABOR  
COMMITTEE

Minutes of Meeting  
Tuesday, April 26, 1977

The meeting of the Commerce and Labor Committee was held on April 26, 1977, in Room 323 at 5: 10 P.M.

Senator Thomas Wilson was in the chair.

PRESENT: Senator Wilson  
Senator Blakemore  
Senator Ashworth  
Senator Bryan  
Senator Close  
Senator Hernstadt  
Senator Young

OTHERS

PRESENT: See attached list.

The Committee considered the following:

S.B. 308 REQUIRES CONTINUING EDUCATION FOR REAL ESTATE BROKERS  
AND SALESMEN. (BDR 1022)

CHAIRMAN WILSON told the Committee that he had an amendment from the Assembly on this bill. He reminded the Committee that they passed this bill specifying the educational requirements for real estate brokers and retained the basic discussion with the Commission but said that any institution could offer a college equivalent course, but the course need not be credited toward a baccalaureate degree. The Assembly amended the bill to provide that it would not be college accredited, but just accredited by any institution.

After discussion, SENATOR CLOSE moved to concur with the Assembly.

Seconded by SENATOR YOUNG.

Vote: In favor of concurring: SENATORS CLOSE, WILSON BLAKEMORE, YOUNG and HERNSTADT. SENATORS ASHWORTH and BRYAN were absent at this vote.

A.B. 71 INCREASES MINIMUM WAGES FOR EMPLOYEES IN PRIVATE  
EMPLOYMENT. (BDR 53-146)

Mr. Stan Jones, Labor Commissioner, offered Exhibit A to the Committee for consideration. He appeared in

support of A.B. 71. Refer to Tape 1 for his testimony.

Mr. Lou Paley, NFL-CIO, appeared before the Committee in support of A.B. 71. Refer to Tape 1 for his testimony. He stated that someone should be able to speak in support of this but the people are working and cannot come in and express their reactions.

Mr. Stan Jones said the increasing of the State's minimum wage is going to have no impact whatsoever on the average weekly wage of the State of Nevada that the Office of Employment Security determines.

SENATOR HERNSTADT, appearing as a witness on this bill, stated that he is in opposition to this bill. Refer to Tape 1 for full comments.

A.B. 406 PROVIDES FOR EXTENSION OF UNEMPLOYMENT COMPENSATION BENEFITS TO CERTAIN PUBLIC, AGRICULTURAL AND DOMESTIC EMPLOYEES. (BDR 53-692)

Mr. Daryl Capurro, Nevada Motor Transport Assn., Nevada Franchised Auto Dealers Assn., indicated that he failed to make one comment on this bill when the Committee accepted testimony on this bill on April 22nd. He stated he feels there should be an amendment to provide that anyone who is retired and drawing retirement or pension benefits should be excluded from coverage under unemployment compensation. Refer to Tape 1 for full testimony. He indicated some of these people are so highly skilled that they will end up drawing the full 52 weeks of unemployment on top of their pensions or retirement benefits.

SENATOR BLAKEMORE asked about the man taking early retirement. Mr. Capurro indicated that many of these people are not really holding themselves out. It is a situation where it is absolutely the most perfect in the world, they would rather draw the unemployment benefits and their pension than go back to work.

SENATOR YOUNG asked if Mr. Capurro had any suggested language. He indicated he did not.

The area Mr. Capurro has addressed is a very difficult one, according to Mr. McCracken, and that is why the Federal legislation did not propose any wording to put

into the state laws and commissioned a committee to study this. He said when you start excluding people from benefits by virtue of having an income for which many have donated or contributed themselves, it gets to be very complex. Refer to Tape 2 for full testimony.

Mr. Hyatt explained the Federal legislation to the Committee. He stated the Congress put an effective date of October 1, 1979 for the effective legislation that deals with drawing unemployment compensation and a pension at the same time. He said the reason they did, and the reason that Nevada did not consider it mandatory in this Session of the Legislature, is because the Legislature will convene again before the effective date of that requirement. The requirement as set out was blanket. Anyone drawing a pension had to have unemployment insurance reduced on a dollar to dollar basis. In subsequent consideration, the Congress put the effective date to October 1, 1979, and appointed the commission to study this problem. The problem is not as simple as Mr. Capurro has pointed out. He thinks there is a legal problem in the case of an individual who contributes 1/2 into a retirement system. Why should his benefits be reduced because he is receiving back part of the money he contributed?

Mr. Hyatt said generally, the recommendation of the department (about 3 sessions ago) was that an individual who voluntarily retires cannot draw an unemployment compensation benefits based on the wages he received from that employer.

SENATOR WILSON asked if it is within the Legislature's jurisdiction to disqualify the man who retires from going on unemployment the day he retires. (Federal government will not make their decision for 2 years.)

SENATOR CLOSE asked what other areas are we dealing with - give us the facts - tell us what we have to face - let's not come up with a new problem every week.

SENATOR WILSON followed by asking if there are any areas contained in the bill wherein we are not required to comply.

Mr. Hyatt stated they had asked the Federal solicitor what the position of the Federal government was going to be with regard to this provision where it did not

Senate

have an effective date until October 1, 1979. His opinion was that Legislatures this year would not be out of conformity if they did not respond to that particular section of the law.

In response to a question by SENATOR BRYAN, Mr. Hyatt indicated the Legislature is required to act on all of the bill with the exception of the retirement and the school item. Also the Assembly put in a disclaimer to nullify the act if it found unconstitutional.

SENATOR BRYAN asked what would happen if the State failed to pass this. Mr. McCracken stated he had been assured that the sanction against the state would be in this form: "That we would be out of conformity with the Federal law, there would be no offset credit for employers because our unemployment system would not be in conformity and therefore the 2.7 offset would not be allowed and all employers would pay 3.4% to the Federal Government, where now they pay the difference between 2.7% and 3.4%."

SENATOR YOUNG asked Mr. McCracken if we would be jeopardizing anything if we provided that the person coming directly off retirement cannot collect until they have qualified the necessary number of quarter or months or whatever.

Mr. Hyatt indicated that he believed that would be good legislation.

CHAIRMAN WILSON asked Mr. McCracken to prepare some amendatory language to cover the retiree and the school bus driver or other persons in the same classification. Mr. McCracken indicated that he had the language on the bus driver and had asked that it be put in A.B. 407 instead of 406 and would ask the same consideration be given on the retiree going into A.B. 407.

A.B. 407 AMENDS VARIOUS PROVISIONS RELATING TO ADMINISTRATION OF UNEMPLOYMENT COMPENSATION. (BDR 53-871)

The Committee considered amendments on A.B. 407. See Exhibit B.

Mr. McCracken wanted resolved the "in lieu of notice" which was stricken in the first amendment that went to the bill drafter. He believes "in lieu of notice"

Senate

is most important and suggested the wording at the bottom of the April 21, 1977 memo. "A person is disqualified for benefits for any week with respect to which he receives either severance pay or wages in lieu of notice". (Exhibit B-1)

SENATOR BRYAN moved that in terms of at least resolving the section 3 controversy, that the Committee adopt the proposed language of Mr. McCracken's amendment.

Seconded by SENATOR HERNSTADT.

Vote: Unanimous.

Requested that the memo be made part of the record so that the legislative intent is fully known.

Mr. McCracken moved to the transfer of experience rating, page 6, line 8 (handout dated April 19, 1977, Exhibit B-2). SENATOR ASHWORTH moved that both these amendments at this point be accepted. SENATOR WILSON asked if anyone had any problem with the amendment.

Mr. McCracken discussed a third amendment (see Exhibit B-3).

The fourth amendment will deal with the pensioner. Mr. McCracken directed to develop language. SENATOR WILSON indicated that the only amendment the Committee is ready to make a decision on now is the fourth one.

SENATOR WILSON advised Mr. Hyatt as follows: Unless the Federal Government by its act requires us to pay unemployment benefits to the person who retires, we want to take that out of the bill.

SENATOR WILSON summarized thoughts of Committee as follows: If a man retires and gains employment, he then qualifies for unemployment compensation by virtue of the length of that employment after retirement, and then he loses his job, he can nevertheless qualify for unemployment compensation. However, he is not eligible for unemployment compensation simply because he comes off employment and retires.

CHAIRMAN WILSON asked the Committee to signify their agreement by saying yea. Vote was unanimously in favor.

SENATOR ASHWORTH moved that Committee accept all the three previous amendments discussed.  
Seconded by SENATOR HERNSTADT.  
Vote: Unanimous.

Mr. Hyatt left the Committee room to prepare amendment #4.

Mr. Hyatt returned to Committee with the amendment requested covering retired persons. It is as follows:  
"The wages paid by an employer to an employee who enters into retirement may not be used as base period wages in determining the eligibility for benefits for that employee." (See Exhibit B-4)

Motion was made by SENATOR BRYAN to amend and DO PASS A.B. 407.  
Seconded by SENATOR YOUNG.  
Vote: Unanimous.

See Exhibits B-5 and B-6 for additional information.

A.B. 181 REQUEST ONE WEEK WAITING PERIOD BEFORE CLAIMANT IS ENTITLED TO RECEIVE UNEMPLOYMENT COMPENSATION BENEFITS. (BDR 53-351)

Mr. McCracken indicated he had sent Senator Hernstadt memos relative to the concept he had on reimbursement of a waiting week. See Exhibit C. Senator Hernstadt advised Mr. McCracken's memo relative to his idea did not accurately convey it, therefore, it should be disregarded.

Mr. McCracken discussed his memo entitled "Legislative Request." See Exhibit C. He indicated we must pay back 7.6 million dollars to the Federal government beginning November 1978. He discussed memo dated April 21, 1977, on A.B. 181 (see Exhibit C), memo dated April 22, 1977, on Requested Data on Disqualification (see Exhibit C), and memo dated April 26, 1977 entitled A.B. 181, Waiting Week (Exhibit C).

SENATOR HERNSTADT explained his possible amendment:  
"Any individual in a benefit year who uses 4 weeks or less of unemployment compensation benefits would be given that 1 week waiting period."

There was some discussion on this suggested amendment. Refer to Tape 4. There was some discussion on voluntary quit and misconduct by Senator Young with Mr. McCracken.

Senate

A.B. 344 CHANGES QUALIFICATIONS FOR BOARDS OF MEDICAL SERVICE CORPORATION. (BDR 57-1015)

Dr. Dick Rottman, Insurance Commissioner, appeared before the Committee asking for a do pass on A.B. 352. There was some discussion with the Committee on A.B. 344.

Motion was made by SENATOR CLOSE to DO PASS on A.B. 344.  
Seconded by SENATOR BRYAN.  
Vote: Unanimous.

A.B. 352 PLACES REQUIREMENTS ON LIFE AND HEALTH INSURANCE ADMINISTRATORS. (BDR 57-1016)

Dr. Dick Rottman advised that this law was needed because there is no good regulatory mechanism for governing the trust that sells group life or group health - primarily the group health. It has developed into a real ripoff. Trust will be set up to sell multiple employer group plans primarily aimed at small employers. sold health insurance and the current trend of this is that the plans are insured. This bill would give us a handle on the Trust Administrator. Will be able to license the administrators the same as we license the insurance agents.

Discussed the bonding requirement.

Amendment: \$5,000.00 to \$10,000.00 (line 26) and bond to run to benefit of State.

SENATOR BRYAN moved to amend and DO PASS.  
Seconded by SENATOR HERNSTADT.  
Vote: Unanimous except for SENATOR YOUNG who abstained.

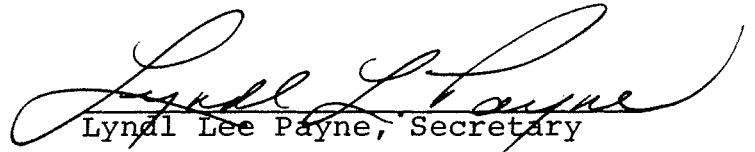
A.B. 457 PERMITS USE OF REAL PROPERTY AS COLLATERAL FOR INSTALLMENT LOANS. (BDR 56-1141)

Mr. Al Whittenberg and Mr. George Angel discussed the rates of this bill and the CPI.

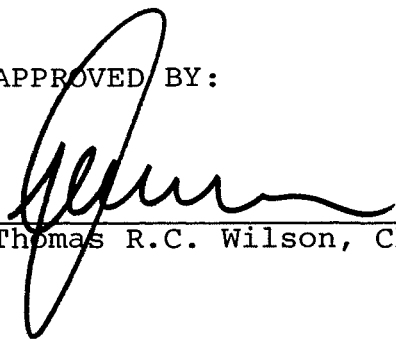
Commerce & Labor Committee  
April 26, 1977  
Page Eight.

There being no further business the meeting was adjourned at  
7:00 P.M.

Respectfully submitted,

  
Lyndi Lee Payne, Secretary

APPROVED BY:

  
Thomas R.C. Wilson, Chairman





SENATE

AGENDA FOR COMMITTEE ON COMMERCE & LABOR  
Tuesday

Date April 26, 1977 Time 5:00 P.M. Room 213

Bills or Resolutions  
to be considered

Subject

Counsel  
requested\*

A. B. 71

Increases minimum wages for employees  
in private employment (BDR 53-146)

ADMINISTRATIVE MEETING

2637

*Exhibit*

ANNUAL FAMILY POVERTY INCOME:

PERSONS PER FAMILY 3.5 = \$5,050.00 PER YEAR

PERSONS PER FAMILY 4.0 = 5,500.00 PER YEAR

PERSONS PER FAMILY 5.0 = 6,400.00 PER YEAR

PERSONS PER FAMILY 6.0 = 7,300.00 PER YEAR

PERSONS PER FAMILY 7.0 = 8,200.00 PER YEAR

(SOURCE: US DEPARTMENT OF LABOR)

AVERAGE NUMBER OF HOURS PER WEEK = 36.2

(SOURCE: US DEPARTMENT OF LABOR)

HOURS PER YEAR FROM WEEKLY AVERAGE = 1882

AVERAGE MANUFACTURING HOURLY WAGE, NEVADA = \$5.51 PER HR.

AVERAGE GAMING HOURLY WAGE, NEVADA = \$4.17 PER HR.

HOTELS, GAMING AND RECREATION INDUSTRIES EMPLOY THE LARGEST NUMBER OF PEOPLE. (SOURCE: EMPLOYMENT SECURITY DEPARTMENT)

MINIMUM HOURLY WAGE REQUIRED TO REACH LOWEST POVERTY FAMILY INCOME IS \$2.68 PER HOUR, OR 49 PERCENT OF AVERAGE HOURLY MANUFACTURING WAGE, OR 64 PERCENT OF AVERAGE HOURLY RATE FOR HOTELS, GAMING AND RECREATION. ( $2.68 \times 1882 = \$5,043.76$ ) THESE STATISTICS ARE ALREADY MORE THAN 6 MONTHS OUTDATED; CURRENT ESTIMATES ARE 3 TO 5 PERCENT HIGHER.

RECEIVED - 12 - 76.  
SEP 14 1976

LABOR COMMISSIONER

Dear Mr. Jones,

Upon reading the article in the Sun today about the Base pay and the not being voters, I would like to mention the fact , weather we vote or not we do all have to eat and try to live decently and how can you do this on \$ 2.30 per.

People who draw huge salaries get a cost of living raise frequently, while the persons making the min. wage that really need it, never get it.

Until recently I have had to support myself and Son on the Min. wage and a lot of the time we did not eat. at age nine he mowed yards to help out then he sold news papers also, because he did not want to be on welfare. I tried to tell him we would have a lot more on welfare and food stamps , but he said No: This is his second year of going to school and working eight hrs. a day five days a week and going to school.

I work for a casino, and who makes more money than the casinos ? but thats all they will pay.

If the Min. wage was raised enough, people like us could buy some of the things we need so badly which in turn would help our sick economy.

It is no wonder there are so many people on welfare, and food stamps, they come out way ahead. can you blame them?

How about it? Give the little guy a cost of living raise.

Respectfully

  
Violet M. Vita

3304 Crawford

N. Las Vegas, Nev. 89030

# Cost Of Living Increase 'Kills' 80-Year-Old Woman

(C) 1975 New York Times News Service

ST. PETERSBURG, Fla. — When Mrs. Elsie Defratus could no longer afford the cost of living, she died.

She was nearly 80 years old, and she had survived somehow for a long, long time on her meager widow's pension, frugally measuring it against the rising prices, scrimping and scraping and skipping meals, making do with less and less each day until finally, on a recent morning at an ancient hotel in this city, she crumpled quietly on the floor of her dark and tiny apartment.

She weighed 76 pounds. An autopsy found no trace of food in her shrunken stomach.

"Malnutrition," the coroner concluded.

"Surrender," sighed an elderly friend. "She just stopped believing tomorrow would be better."

Both may have been right, but in any case the small, emaciated woman has become the ultimate victim of inflation. Her extremity had gone as far as it could go.

For millions of other Americans, inflation's effect has been not as extreme, but it is hurting deeply nonetheless.

From one end of the country to the other, in rural hollows and small-town slums, in prairie reservations and mountain enclaves and city ghettos, it attacks the poor, the elderly, those on fixed incomes. Sometimes, it leaves them, like Mrs. Defratus, both hungry and hopeless.

Robert Davis sat at his kitchen table in the tiny dinette of his housing project apartment in Little Rock recently, talking with his wife and some visitors about the way he believes other people see him.

"I don't think they think much of me," he said, staring at his mud-caked, high-top shoes. "I mean, they don't think I've amounted to much as a man. Used to be, I didn't much care what they thought, but nowadays — well, I don't know. Maybe they're right."

Davis is a 40-year-old black man who works more than 40 hours almost every week on a construction crew and earns slightly more than \$2 an hour. Occasionally he takes odd jobs

on Saturdays to supplement his weekly earnings.

"It wasn't hardly ever enough," he said. "Not with nine kids at home. But there was a time there not too far back when we were sort of looking up. Now, I don't see nothing but down." —

As he talked, his wife, 38, quietly prepared dinner for the family, a meal consisting of chicken soup, some crackers, milk for the younger children and coffee for the older ones.

She cannot remember a single moment in all of her life, she said, when she was not lacking something she really needed.

Davis said: "I always thought that the way I could work — I'm a right strong man — what we'd make it some way. Now, tell the truth, I don't think we can."

In the last few months, their utility bills have gone from \$8 to \$21 each month, the result of a rate increase by the local

power company. The cost of their groceries has risen from about \$60 a week to more than \$100, even when Mrs. Davis buys less than she believes they need.

A few weeks ago, with several auto loan installments long overdue, they chose to pay for their food and their water and their lights and their shelter, and the finance company repossessed their second-hand car.

# Social Security increases

By CHRIS CONNELL

WASHINGTON (AP) — If you're among the 35.5 million Americans who receive Social Security or Supplemental Security Income, there's a silver lining to the latest cloud over the consumer price index. You're going to get a cost of living increase.

The index, which measures inflation, soared at an 18 per cent annual rate during the first quarter of 1977, the biggest three-month leap in two years. But government economists think it will moderate to about 6 per cent by year's end.

The index also rose 5.9 per cent from the first quarter of 1976, and that means that the 33.4 million Social Security recipients and 4.3 million aged and disabled SSI recipients can count on an extra 5.9 per cent in their checks starting July 1.

Those increases will cost Social Security \$5.3 billion during the fiscal year that ends Sept. 30, 1978. The financially troubled trust expects to pay out a total of about \$22 billion next year. The SSI increase, paid from general tax funds, will cost \$255 million.

The cost-of-living increase, which is automatic when the index rises more than 3 per cent in a year, will mean \$23 extra each month for the average elderly couple, both of whom are on Social Security and now draw \$377 a month.

An average retired worker living alone will get a \$13 increase, raising his monthly benefit to \$234.

Consumer prices rose six-tenths of 1 per cent last month — an annual rate of 7.2 per cent — following jumps of 1 per cent in February and eight-tenths

MEMORANDUM

STATE OF NEVADA  
EMPLOYMENT SECURITY DEPARTMENT

*Exhibit B ①*

Senator Thomas R. C. Wilson, Chairman  
Commerce and Labor Committee

DATE April 21, 1977

FROM Lawrence O. McCracken, Executive Director

SUBJECT A.B. 407

In response to some inquiries from Committee members concerning the deletion of the wording "severance pay does not include any payment which an employee has earned by contract or employer policy," the following explanation is offered:

Essentially severance pay awards are allowed in rare labor contracts which accrue under seniority clauses, of which there are relatively few. Deletion of the last sentence of NRS 612.420, as suggested in the amendment and as stated in A.B. 407 as written, would not cause any serious impact.

Also, the Committee recently considered an amendment to NRS 612.420, Page 2, line 34, by placing a period after "pay" and deleting the words "in lieu of notice." This accomplished the opposite of the Committee's intention as explained in the attached memo.

To resolve both of the above issues, a revised amendment is suggested to NRS 612.420 to read as follows:

"A person is disqualified for benefits for any week with respect to which he receives either severance pay or wages in lieu of notice."

gjm

Attachment

## MEMORANDUM

STATE OF NEVADA  
EMPLOYMENT SECURITY DEPARTMENTSenator Thomas R. C. Wilson, Chairman  
Commerce and Labor Committee

DATE April 20, 1977

FROM Lawrence O. McCracken, Executive Director

SUBJECT AB 407

The following information is furnished for your consideration with respect to an amendment to this bill which would delete the words "in lieu of notice" from NRS 612.420 as amended by AB 407:

The problem which the Employment Security Council was addressing in AB 407 as originally drafted was that severance pay and wages in lieu of notice, while representing the same kind of payment, could not be treated equally under the law. The law, as now written, takes no notice of severance pay, permitting the denial of benefits only for periods covered by receipt of wages in lieu of notice. Severance pay and wages in lieu of notice are, in practically every case, payments made to an employee for which no service is rendered. In reporting these payments to the department, our experience has been that employers refer to these payments interchangeably as either severance pay or wages in lieu of notice.

Wages in lieu of notice are very different from "wages" as defined in NRS 612.190. The major difference being that in the case of wages under the law generally, this is understood to mean remuneration paid for personal services; whereas, wages in lieu of notice are payments in the case where there is no personal service rendered. Of course, no person is entitled to receive benefits for any period during which they have earned wages as defined in NRS 612.190.

To resolve this question, I suggest NRS 612.420 be amended to read as follows:

An individual shall be disqualified for benefits for any week with respect to which he receives either severance pay or wages in lieu of notice. Severance pay shall not include those payments which an employee has earned by contract or employer policy.

bam



## MEMORANDUM

STATE OF NEVADA  
EMPLOYMENT SECURITY DEPARTMENT*Exhibit B*

②

TO Senator Thomas R. C. Wilson, Chairman  
Commerce and Labor Committee DATE April 19, 1977

FROM Lawrence O. McCracken, Executive Director SUBJECT AB 407

In accordance with our discussion of this bill before your Committee yesterday evening, the following amendment is suggested, beginning on page 6, line 11:

The experience record of an employer may be transferred to a successor employer as of the effective date of the change of ownership if:

- a. The successor employer acquires the entire or a severable and distinct portion of the business or substantially all of the assets, of the employer; and
- b. The successor employer notifies the Employment Security Department of the acquisition in writing within 90 days from the date of the acquisition; and
- c. The employer and successor employer submit a joint application to the executive director requesting the transfer; and
- d. The joint application is approved by the executive director. The joint application shall be submitted within one year after the date of issuance by the department of official notice of eligibility to transfer.

bam

## MEMORANDUM

STATE OF NEVADA  
EMPLOYMENT SECURITY DEPARTMENT*Exhibit B*  
*(3)*TO: Senator Thomas R. C. Wilson, Chairman  
Commerce and Labor Committee

DATE April 21, 1977

FROM: Lawrence O. McCracken, Executive Director

SUBJECT AB 407

Recommended wording for an amendment to AB 407 requested by Committee members concerning denial of benefits to school employees during brief vacation periods is provided. This denial applies to professional school employees at all levels and nonprofessional school employees at the elementary and secondary levels. For example, a custodian at the university level cannot be denied benefits during brief vacation periods if he is in fact unemployed.

This amendment is linked to the between term denials of Section 20 of AB 406 which are permitted by PL 94-566. The vacation period denial is permitted by PL 95-19 which amends the provisions of PL 94-566. The bills and amendments presented to the Legislature have been drafted to deny benefits to the extent provided by these Public Laws.

The suggested amendment would read:

Benefits based on service in an instructional, research, or principal administrative capacity for an educational institution; or in any other capacity for an educational institution other than an institution of higher education shall be denied to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such service in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such service in the period immediately following such vacation or holiday recess.

It should be noted that when this department gave testimony on AB 406 at a hearing before the Assembly Committee on Labor, the statement was made that it was not possible to include the prohibition which is in the above amendment. Since that time, however, specifically on April 12, Public Law 95-19 was approved by the President which in part gives to the states the option to exercise the prohibition which the above amendment addresses.

Finally, it would seem highly advisable, because of the extremely technical nature of this amendment and its other linkages to existing and proposed laws, to have the bill drafter consult with department staff when incorporating this amendment in NRS Chapter 612.

sa

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Exhibit B  
- 4

Amendment to AB 407



The wages paid by an employer to an employee who enters into retirement may not be used as base period wages in determining the eligibility for benefits for that employee.

MEMORANDUM

STATE OF NEVADA  
EMPLOYMENT SECURITY DEPARTMENT

TO Senator Thomas R. C. Wilson, Chairman  
Commerce and Labor Committee

DATE April 21, 1977 *E. Schubert*

FROM Lawrence O. McCracken, Executive Director

SUBJECT A.B. 407 *B-5*

In response to some inquiries from Committee members concerning the deletion of the wording "severance pay does not include any payment which an employee has earned by contract or employer policy," the following explanation is offered:

Essentially severance pay awards are allowed in rare labor contracts which accrue under seniority clauses, of which there are relatively few. Deletion of the last sentence of NRS 612.420, as suggested in the amendment and as stated in A.B. 407 as written, would not cause any serious impact.

Also, the Committee recently considered an amendment to NRS 612.420, Page 2, line 34, by placing a period after "pay" and deleting the words "in lieu of notice." This accomplished the opposite of the Committee's intention as explained in the attached memo.

To resolve both of the above issues, a revised amendment is suggested to NRS 612.420 to read as follows:

"A person is disqualified for benefits for any week with respect to which he receives either severance pay or wages in lieu of notice."

gjm

Attachment

## MEMORANDUM

## STATE OF NEVADA

## EMPLOYMENT SECURITY DEPARTMENT

Senator Thomas R. C. Wilson, Chairman

Commerce and Labor Committee

DATE April 20, 1977

FROM Lawrence O. McCracken, Executive Director

SUBJECT AB 407

The following information is furnished for your consideration with respect to an amendment to this bill which would delete the words "in lieu of notice" from NRS 612.420 as amended by AB 407:

The problem which the Employment Security Council was addressing in AB 407 as originally drafted was that severance pay and wages in lieu of notice, while representing the same kind of payment, could not be treated equally under the law. The law, as now written, takes no notice of severance pay, permitting the denial of benefits only for periods covered by receipt of wages in lieu of notice. Severance pay and wages in lieu of notice are, in practically every case, payments made to an employee for which no service is rendered. In reporting these payments to the department, our experience has been that employers refer to these payments interchangeably as either severance pay or wages in lieu of notice.

Wages in lieu of notice are very different from "wages" as defined in NRS 612.190. The major difference being that in the case of wages under the law generally, this is understood to mean remuneration paid for personal services; whereas, wages in lieu of notice are payments in the case where there is no personal service rendered. Of course, no person is entitled to receive benefits for any period during which they have earned wages as defined in NRS 612.190.

To resolve this question, I suggest NRS 612.420 be amended to read as follows:

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bam

MEMORANDUM

STATE OF NEVADA  
EMPLOYMENT SECURITY DEPARTMENT

*Exhibit  
B-6*

TO Senator Thomas R. C. Wilson, Chairman  
Commerce and Labor Committee DATE April 27, 1977

FROM Lawrence O. McCracken, Executive Director SUBJECT California's Action on Federal Legislation

We have obtained information from our Regional Office in San Francisco regarding the actions taken by the California Legislature with respect to Federal legislation which is contained in AB 406.

There is no indication that California is not going to pass conforming legislation to implement the Federal law requirements in California. A bill providing for that is presently before the California Legislature.

There has been a suit filed by an association of local governments holding that this legislation is state mandated and because it is state mandated, the state legislature should provide the funds to pay the costs. There is present California law which requires the State of California to pay the costs of any legislation mandated by the State Legislature affecting local governments. So far as our Regional Office could inform us, this suit would in no way influence the legislature in passing conforming legislation.

sa

## MEMORANDUM

STATE OF NEVADA  
EMPLOYMENT SECURITY DEPARTMENT*Exhibit C*

TO Senator Thomas R. C. Wilson DATE April 18, 1977  
 FROM Lawrence O. McCracken, Executive Director SUBJECT Legislative Request

The following information is furnished as requested earlier today:

1. Justification for November 30, 1977 Forecasts

As of November 30, 1976, it was estimated that by November 30, 1977, the UI Trust Fund would have approximately \$15.5 million computed as follows:

	<u>1976</u>	<u>Estimated 1977</u>
Beginning Fund Balance	\$ 8.5	\$ 7.5
Contributions	42.9	48.0
Payouts	<u>43.9</u>	<u>40.0</u>
Fund Balance as of November 30	\$ 7.5	\$15.5

Experience to date indicates that, if anything, the estimated ending Fund balance is conservative. For the first four months of the solvency year, contributions exceeded the similar period in the previous year by 39.7 percent, while payouts are down 4.7 percent. In view of these data, it appears the contribution figure is low and that it may actually be in the \$50 million plus range, with the payout figure holding fairly close to the estimate. As such, the Fund balance as of November 30, 1977 may be closer to \$20 million.

2. Solvency Forecast - Underlying Assumptions

The underlying assumptions behind the forecast that the UI Trust Fund will achieve solvency in the mid-1980's is as follows:

- a. No legislative changes.
- b. Average economic growth (i.e., reflecting trends during the 1970's).
- c. An average tax rate of 3.2 percent.

3. Federal Loan - Excluded from Fund Balance

It should be understood that the Fund balance of \$15.5 million at 11/30/77 does not include the federal loan outstanding of \$7.6 million. The total amount in the Fund at 11/30/77, including the \$7.6 million owed the federal government, is projected at \$23.1 million.

bam

Attachment

2650

FIVE-YEAR TRACK RECORD  
OF ESTIMATED FUND BALANCES

<u>Year</u>	<u>Estimate per Advisory Council Charts***</u>	<u>Actual per Comparison Reports</u>
1972	\$33,444,898	\$29,332,685
1973	33,130,686	33,127,878
1974	37,062,833*	29,649,085
1975	5,304,085**	8,432,470
1976	7,562,440	7,482,687

\* Recession

\*\* Increase in taxable wage base from \$4,200 to \$5,800 on July 1, 1975

\*\*\* Estimates made at end of one year to project balance as of November 30 of following year



## MEMORANDUM

STATE OF NEVADA

EMPLOYMENT SECURITY DEPARTMENT

Senator Thomas R. C. Wilson, Chairman  
Commerce and Labor Committee

DATE April 21, 1977

FROM Lawrence O. McCracken, Executive Director

SUBJECT A.B. 181

In considering the recent testimony on the above Bill, it appears the major issue is centered around (1) my testimony that the Fund is recovering as was predicted, and will have a balance (exclusive of the \$7.6 million set aside to repay the federal loan) of \$15.5 million as of November 30, 1977, and (2) testimony that the Fund is in trouble and needs the additional boost that would be provided by a waiting week. If my interpretation of the issue is correct, perhaps a reasonable compromise would be to amend A.B. 181 on page 2, line 17 to read:

5. He has been unemployed for a waiting period of 1 week during his benefit year, but;
  - a) Such 1 week waiting period shall only apply if on November 30, 1977, the benefit payment trust fund balance is less than \$15.5 million;
  - b) Such 1 week waiting period will only be required if a person is unemployed between January 1, 1978, and June 30, 1979.
  - c) For the purpose of determining the waiting period, a week of unemployment is any week in which he earns less than the amount of his weekly benefit.

Should the Trust Fund balance be less than expected, because of an unforeseen economic downturn or other phenomenon, a 1 week waiting period would minimize increased payouts. Should the Fund progress as anticipated, a 1 week waiting period and its impact could be reconsidered during the next legislative session.

gjm

## MEMORANDUM

STATE OF NEVADA

EMPLOYMENT SECURITY DEPARTMENT

*Exhibit C*

Senator Thomas R. C. Wilson, Chairman

Commerce and Labor Committee

DATE April 22, 1977

FROM Lawrence O. McCracken, Executive Director

SUBJECT Requested Data on Disqualificati

During calendar year 1976, 12,400 individuals were disqualified for voluntary quit or misconduct, of which 9,000 were for voluntary quit. On the average, these individuals were disqualified from drawing benefits for 11 weeks, and in addition had their total entitlement reduced by this same amount (i.e., 11 weeks times their weekly benefit amount = total reduction in entitlement).

Staff estimate that 60 percent of the above claimants served their disqualification period and came back to draw. The reduction in entitlement resulting from AB 473 produced a savings of approximately \$3.0 million. Had the reduction in entitlement been 100 percent, payouts would have been reduced by an estimated additional \$4.0 million. It should be noted that while Federal law prohibits a total reduction in entitlement except for issues involving gross misconduct, a number of states reduce entitlement down to as low as one week.

If it is the Committee's desire to proceed with legislation increasing the reduction in entitlement, I suggest that it be limited to the issue of voluntary quit. Misconduct is very subjective (e.g. firing an employee because he was five minutes late to work), and its inclusion would undoubtedly create a number of inequities. Revising the amendment to include only issues of voluntary quit, would reduce the estimated reduction in benefit payout from \$4.0 million to \$2.8 million.

sa

2653

*Exhibit C*

MEMORANDUM

STATE OF NEVADA

EMPLOYMENT SECURITY DEPARTMENT

Senator Thomas R. C. Wilson, Chairman

Commerce and Labor Committee

TO  
FROM Lawrence O. McCracken, Executive Director

DATE April 26, 1977

SUBJECT AB 181 - Waiting Week

There have been some initial discussions that a compromise may be acceptable to both sides. The concept would be to let AB 181 die and place an amendment on AB 407 denying benefits to those who quit their most recent employment without good cause. Such disqualification to continue until remuneration in covered employment is earned equal to or exceeding the claimant's weekly benefit amount in each of ten weeks.

The savings to the fund are estimated to be between 1.5 and 2 million dollars annually.

Attached is the proposed amendment.

sa

Attachment

PROPOSED AMENDMENT TO SECTION 612.380

612.380 [Leaving most recent work voluntarily without good cause. An individual shall be disqualified for benefits for the week in which he has filed a claim for benefits, if he has left his most recent work, or the work immediately preceding his most recent work, if he has not earned at least five times his weekly benefit amount following the work immediately preceding his most recent work, voluntarily without good cause, if so found by the executive director, and for not more than 15 consecutive weeks thereafter, occurring within the current benefit year, or within the current and following benefit year, as determined by the executive director according to the circumstances in each case. The total benefit amount, during his current benefit year, shall be reduced by an amount equal to the number of weeks for which he is disqualified multiplied by his weekly benefit amount, provided no benefit amount shall be reduced by more than one-half the amount to which such individual is otherwise entitled.]

Voluntary Leaving. - An individual is ineligible for benefits for the week in which he voluntarily left his most recent employment without good cause and until he earns remuneration in covered employment equal to or exceeding his weekly benefit amount in each of 10 weeks.